



He Pou **Herenga Tangata**
He Pou **Herenga Whenua**
He Pou **Whare Kōrero**

150 YEARS
of the Māori Land Court



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Māori Land Court | Te Kooti Whenua Māori
Ministry of Justice | Te Tāhū o te Ture

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Haere mai rā e te moko tangata, koutou ngā wehi o te whenua.
Hokahōkai ana ō waewae ki te pakirau o tēnei whare,
Awhe mai ana ki te hau kāinga,
Ki te pou herenga tangata, ki te pou herenga whenua, ki te pou whare kōrero
Ki te pae o Te Kooti e.

Ka tūwhera Te Kooti.

Whakamau tahi atu te titiro ki te pae ka riakina, ki te matakūrae
Ki ngā keho rau o tuawhakarere.
Rere tāwheta ki ngā ewe, ki ngā waiū, ki ngā mata kerewhanga.
Takataka pūtai he homai aroha.

Ki te pou herenga tangata, ki te pou herenga whenua, ki te pou whare kōrero
– ka tūwhera Te Kooti!

Whakarongo ake nei ki ngā heihei o te rangi
He aha rā te hau e pupuhi mai nei?
He tāwaho pea? He haupongi pea?
Papahoro ana ngā pari tahataha o taku whenua kura
Tērā te pōkeao ka riakina.

Ko te pou herenga tangata, ko te pou herenga whenua, ko te pou whare
kōrero – ka tūwhera Te Kooti!

Auina rawa ake, ka ao, ka awatea.
E nanawe ake ana ki ngā kuru kōrero,
Kua whakairohia ki ngā pou pou, ki ngā rau angiangi.
Whiua te kōrero, kia mahuta i te pae.

O! I whiwhia, o! I rawea
Herea ki te pou herenga tangata, ki te pou herenga kōrero, ki te pou o tēnei
whare kōrero.

Tāiki ē!



Foreword

Hon Te Ururoa Flavell,
Te Minita Whanaketanga Māori

E aku rahi, e aku nui, e aku rau rangatira mā,
nei rā te mihi kau ana ki a koutou katoa.

The Māori Land Court has had a controversial history. In its early years as the Native Land Court it was vilified for the part it played in alienating millions of acres of Māori land.

In more modern times, however, the jurisdiction of the Māori Land Court has been directed towards promoting the retention, use and development of Māori land as a taonga tuku iho for owners and future generations.

This publication, He Pou Herenga Tangata, He Pou Herenga Whenua, He Pou Whare Kōrero traces the development and operation of the Māori Land Court over the last 150 years.

It starts with the Court's historical foundations and traverses its modern evolution to where it is today. It examines the leadership and the people of the Court noting that today the majority of its staff and judges are Māori. It highlights the unique nature of the Court as reflected in the recognition of its expertise in matters of tikanga Māori such as ahi kā, kaitiakitanga and whāngai.

On the eve of celebrating 150 years of the Māori Land Court, it is timely to note that we are in the midst of reforms to Te Ture Whenua Māori Act 1993.

This is the most significant reform of Māori land law and administration since 1993, and the culmination of 40 years of advocacy by Māori for greater tino rangatiratanga over their whenua.

The reform, which has received both support and criticism, aims to make it easier for Māori land owners to use and develop their land according to their aspirations, whilst recognising the significance of Māori land and ensuring appropriate safeguards for its retention. I have made it a clear priority to keep the public informed and ensure their feedback has helped shape the proposed changes. The intended amendments are designed to provide a strong platform for Māori land owners, to give Māori land owners more autonomy and, if they so choose, support to realise the economic potential of their land.

He Pou Herenga Tangata, He Pou Herenga Whenua, He Pou Whare Kōrero is the first publication of its kind to give readers an insight into the history, people and stories that have made the Māori Land Court what it is today.

I commend it as valuable reading to all New Zealanders.

Hon Te Ururoa Flavell
Minister for Māori Development



Foreword

Wilson Isaac,
Chief Judge of the Māori Land Court

Tēnā koutou rau rangatira mā, koutou ngā ruanuku o tēnā moka, ngā ruahine o tēnā whaitua nei rā te reo aumihī e rere atu nei i runga i ngā hauwhenua o Tāwhiri ki ngā uri o tēnei whenua taurikura o tātou.

Pāorooro te reo poroaki ki uta, ki tai i runga i ngā hau kōkōuri ki a rātou mā i kapohia e te ringa kaha o Aituā whanaungakore, koutou ngā pou o Te Kooti Whenua kua ngaro i te tirohanga kanohi, haere atu rā ki te huinga o te kahurangi e pōhiri nei i a koutou. Ko ngā whetū ki te rangi, ko ngā takahanga waewae ki te whenua, tihei mauriora.

Nei rā te reo aumihī ki a koutou ngā pou herenga kōrero, ngā mātāpunenga o te whakaaro e hāpai nei i tēnei whare kōrero, e whakanui ana i ngā tau 150 o Te Kooti Whenua Māori. Koutou ngā kaihāpai, ngā kaitautāwhi o uki, o nāianeī hoki, nei rā te mihi kauanuanu e rere atu nei ki a koutou, mā o koutou mahi ka toitū Te Kooti Whenua. Tēnā koutou katoa.

This publication celebrates 150 years of the Native Land Court and Māori Land Court, a significant landmark in New Zealand history. It brings into focus the history of the Native Land Court from 1862 to 1947 and the Māori Land Court from 1947 to the present day. It is the oldest specialist court in New Zealand, and one that has transformed itself over the course of its history.

This is a history which is important to the social and economic fabric of New Zealand's society, and equally to New Zealand's legal history. The mihi set out above acknowledges those who have contributed to this history. The contributors to this publication should also be acknowledged for their assistance in producing what is a unique publication for the Court's 150th anniversary.

The publication demonstrates that since its commencement Māori have put a lot of faith in the institution of the Māori Land Court – even though, in its early years, this was not faith which was always deserved. From its beginnings as a mechanism that enabled the acquisition by Pākehā of huge tracts of Māori land, the Court has continued to evolve to the present day when it enables and assists with the retention and utilisation of Māori land by its owners, whānau and hapū.

The Māori Land Court has been here for 150 years and if Māori have their way, it is here to stay. The following words from Te Kooti Arikirangi sums up this sentiment well:

*“Ka kuhu au ki te ture,
Hei matua mō te pani”*

*“I seek refuge in the law,
For it is a parent to the oppressed”*

Wilson Isaac
Chief Judge of the Māori Land Court



Foreword

Andrew Bridgman,
Secretary for Justice and
Chief Executive Ministry of Justice

Hūtia te rito o te harakeke, kei whea te kōmako e kō?

Uia mai ki a au “he aha te mea nui o tēnei ao?”

Māku e kī atu, “he tangata, he tangata, he tangata.”

The modern Māori Land Court exists in an environment that is significantly different to that in which it was created on 30 October 1865, by the General Assembly of the New Zealand Colony under the Native Lands Act 1865.

The Māori Land Court of today is an enduring Court of Record under the provisions of Te Ture Whenua Māori Act 1993. The Court recognises that land is a taonga tuku iho of special significance to Māori, and for that reason, its primary objective is to promote and assist in the retention of Māori land in the hands of its owners and the effective use, management and development of that land by its owners.

Although much has been written about the effect of the Native Land Court, the journey of the modern Court, in particular since the passing of Te Ture Whenua Māori Act 1993, is one that is best described by the people who have served, and who continue to serve, the Court and its clients.

This publication documents the history and people who have made the Māori Land Court what it is today: its judicial officers, the staff and the experiences of the everyday users of the Court.

As an integral part of the Ministry of Justice, the Māori Land Court is a shining example of a group that embodies our mission to provide modern, accessible, people-centred justice services that deliver better outcomes for all New Zealanders.

Nā reira, haere he tau, haere he marama – ko te whenua ka mau tonu. Haere he tau, haere he marama – ko te pae o te Kooti, ka huri, ka huri. Kia whakataukihia te kōrero – “Toitū te whenua, whatungarongaro te tangata”

Andrew Bridgman
Secretary for Justice and Chief Executive
Ministry of Justice

Acknowledgements

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Firstly, we would like to acknowledge the contributions of Professor Richard Boast QC for his historical narrative; Dr Judith Pryor, who compiled the contemporary sections of this publication; and His Honour, Māori Land Court Chief Judge Wilson Isaac for his guidance and support of this project.

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We would also like to acknowledge the graphic design team from Tangerine, the photo researchers and photographers, whose design, layout and photos brought the publication to life.

And finally, we would like to acknowledge and thank the Māori Land Court - the judges and staff, both past and present, who contributed stories and content for this publication. It was our privilege to have been able capture a small part of your journey within this book.

Nō reira e ngā ringa tōhau nui, e ngā ringa rehe, koutou i raranga i ngā aho o Te Kooti Whenua Māori kia noho ai ko tēnei kete kōrero, mokori anō kia rere a mihi ki a koutou katoa. He tika rā te kōrero, nā tāu rourou, nā tāku rourou, i ora ai tēnei kaupapa. Tēnā rā koutou katoa.

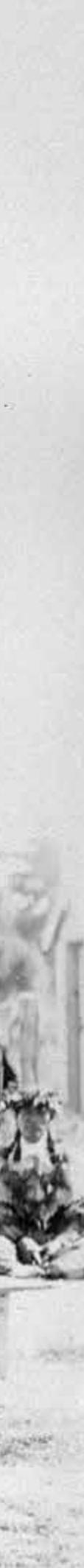




SECTION 1

Historical Foundations of the Court 1862-1890s

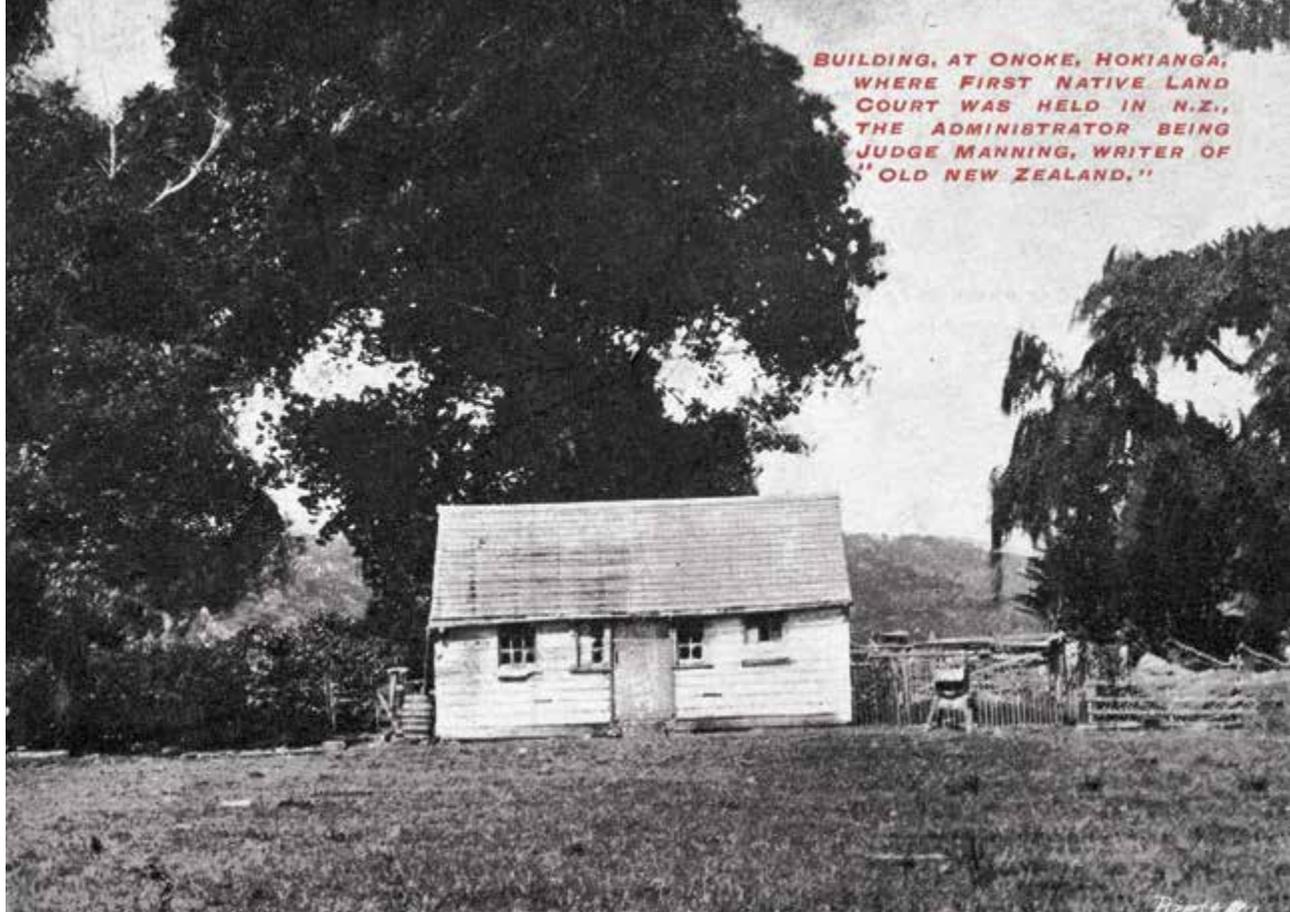
“Ōku waewae kāinga”



1

Historical Foundations of the Court 1862-1890s

Written by R P Boast QC
Professor, Faculty of Law,
Victoria University of Wellington.



Origins of the Court

The Native Land Court, today the Māori Land Court, is New Zealand's oldest and longest-established specialist court. It has a long and intricate history and has been affected by many shifts in direction. Today, the Court is a very different body from its 19th-century ancestor. At the same time, the Court of today preserves many continuities with the past.

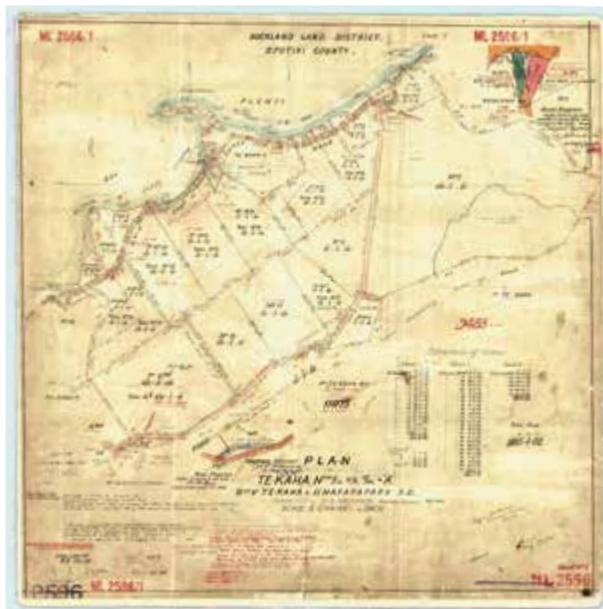
The Court's core jurisdiction concerns the investigation, partition, and regulation of intestate succession to interests in Māori land. Over its history, the Court's jurisdiction has been subject to a number of changes. In 1894 the Court was given jurisdiction to grant probate and letters of administration with respect to Māori people. The Court lost this jurisdiction in 1967. The Native Land Act 1909 gave the Court a power to make adoption orders, but this jurisdiction was transferred to the Magistrate's Court by the Adoption Act of 1955. The Māori

Lands Amendment Act 1967 curtailed the Court's jurisdiction in some key respects. The current 1993 Act (Te Ture Whenua Māori/Māori Land Act 1993), by contrast, saw a significant widening of the Court's jurisdiction.

The Māori Land Court has been a controversial institution in New Zealand history, and many historians have been very critical of it and its judges. It has also been an important focus of recent historical inquiries by the Waitangi Tribunal. In his classic book *Māori Land Tenure* (1977) Sir Hugh Kawharu wrote that the system of Māori land tenure created by the Native Lands Act of 1865 was an 'engine of destruction for any tribe's tenure of land, anywhere' (p 15). In her book *The Treaty of Waitangi* (1987), Claudia Orange argued that the Native Lands Act 1865 'effectively severed the threads of Crown protection and nullified the treaty's second article' (p 179). David Williams' book *Te Kooti*

Tango Whenua: The Native Land Court 1864-1909 (1999) was a generally critical study of the Court, arguing that it was so closely interconnected with government policy that it essentially should not be seen as a Court at all. A different sort of criticism is that developed by Alan Ward in his book *A Show of Justice* (2nd ed, 1995), arguing that Chief Judge Fenton ignored directions from the legislature. Taken together, these criticisms suggest that the Court had damaging effects on Māori land tenure, that its empowering legislation was in breach of the Treaty of Waitangi, that the Court lacked a robust sense of judicial independence, and that at least some of the judges in the 19th century, particularly Chief Judge Fenton, had agendas of their own.

This survey, however, is written primarily to explain how the Court operated, focusing on the role of its judges and assessors, the types of cases that it heard, and some of its principal decisions. The survey is based in part on some new research which has shown that the Court's history is more complex than has sometimes been thought. For example, instances can be found, even in the 19th century, of its judges actively criticising the government and doing their best to protect Māori interests. Nor was the Court's procedure as rigid as has sometimes been suggested: for example adjournments of cases were routine, and at times the Court relied on extrinsic material, including material from other cases and from site visits, as part of its investigative process. It is also important to note, however, that the Court process was undeniably expensive and burdensome for Māori people. As noted above, the Court in the 20th century became in many ways a very different institution from its predecessor. Although there have been many changes over the years to the law relating to Māori land tenure, the Court itself has remained in constant operation since 1865. It is the Native Land Court (it became the 'Māori' Land Court in 1947) which has been a constant factor, and it is the Court which gives the subject of Māori land law its coherence and thematic unity.



A plan of the subdivision of the Te Kaha Block, Ōpōtiki County, Bay of Plenty (1916).

The Māori Land Court originated in a political debate about Māori land issues in the late 1850s, a time when politicians and officials were seeking alternatives to the existing system of Māori land acquisition. The Court derives from the Native Lands Acts of 1862 and 1865, which were a complete reversal of earlier policies. Before 1862, New Zealand law and Crown practice was founded on the basic assumptions, common to British imperial practice in most of its colonies, that Māori people had title to their lands under Māori customary law, and that this customary title could be extinguished only by the Crown and not by private individuals. The underlying legal theory is referred to today as 'Crown pre-emption', and was reflected in Article 2 of the Treaty of Waitangi, local ordinances, and government land purchasing practice. Before 1862, the government had bought large areas of land from Māori by deeds of purchase, and by this means about two-thirds of the country had passed into the hands of the government before the Native Land Court was established. By 1862 nearly all of the South Island had already been acquired by the Crown, as well as large areas of the North Island.

In the late 1850s, this so-called 'pre-emption' system of exclusive Crown purchasing disintegrated, partly as a result of the disastrous purchase of the Waitara block in 1859, which led to the outbreak of war in Taranaki. There was a complicated search for alternatives from around 1859-1862. In August 1862, the colonial government, led by Alfred Domett, brought a new Native Lands Bill before the House of Representatives, which was enacted as the Native Lands Act 1862. This was soon repealed and replaced by the Native Lands Act 1865.

This book commemorates 150 years of the Native Land Court, dating this from the enactment of the Native Lands Act of 1865. Yet the earlier 1862 Act was not without importance. It introduced the basic concepts which were to underpin the much more elaborate 1865 Act. The Preamble to the 1862 Act stated that the new legislation would 'greatly promote the peaceful settlement of the colony and the advancement and civilisation of the natives' if their rights to land were 'assimilated as nearly as possible to the ownership of land according to British law'. The legislation aspired to create a process by which Māori could convert their land from customary tenures to the freehold tenures of English law, using a special Court for this purpose. This Court was the Native Land Court. Section 4 of the 1862 Act allowed the Governor to establish a Court or Courts which had the function of investigating 'who according to Native custom are the



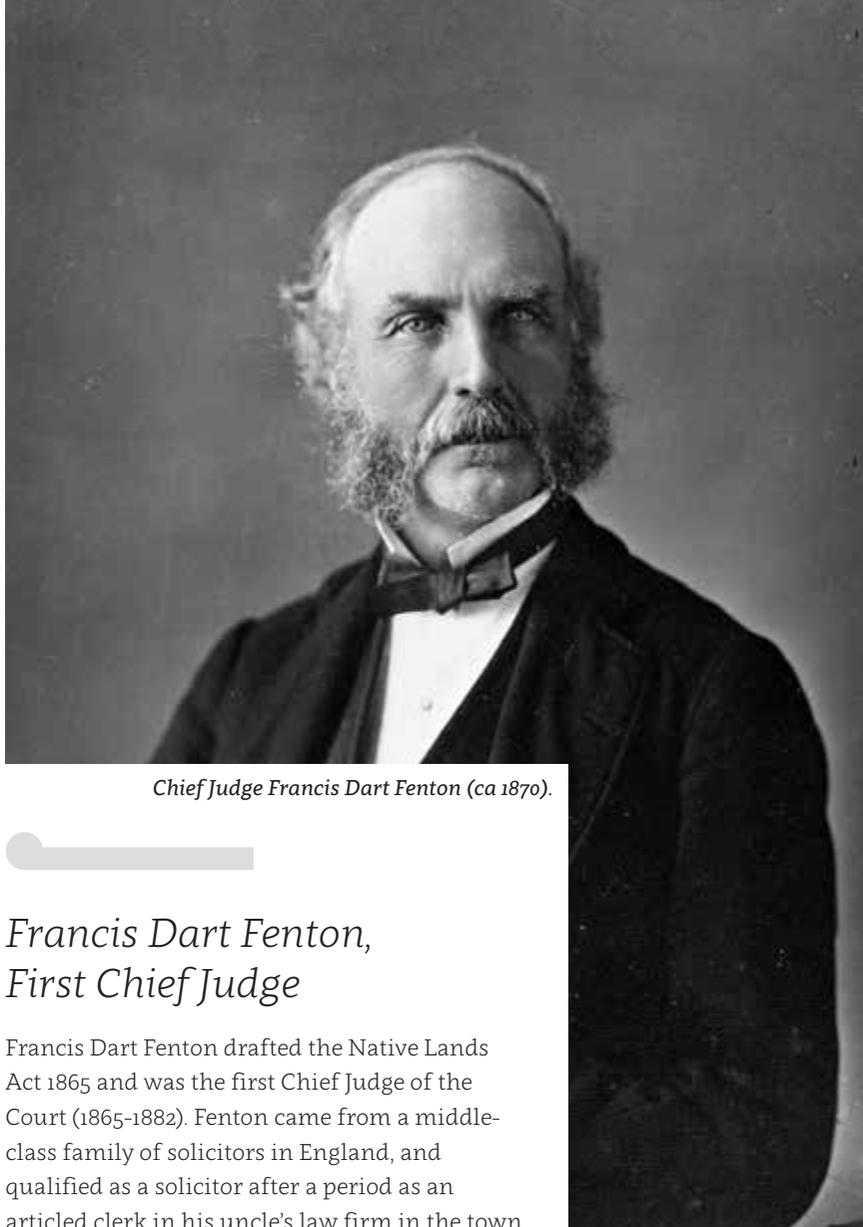
Matakohe Island, Whangārei Harbour (1956).

proprietors of any Native Lands and the estate or interest held by them therein'. Once land had been investigated, it would then be Crown-granted to the owners as fixed by the Court. At this point, the grantees became legal owners under colonial law and could deal with the land as they pleased, including selling it to private buyers if they wished.

In 1864 there were a few sittings of the new body in Northland, presided over by Judge Rogan. Then, in early 1865, the Court was remodelled and began hearing cases on a wider scale under the 1862 Act in parts of Northland and the Coromandel peninsula. These cases typically dealt with small blocks of land, usually on the basis of consent orders. For example, in the first case heard in the Whangārei area, dealing with a block of land known as Matakohe (an island in Whangārei harbour), the chief Te Tirarau asked for the island to be vested in himself as owner under the 1862 Act. The Court asked those present whether they agreed to this, and on being told there was no objection, did as Te Tirarau asked. Cases decided under the 1862 Act were mostly of this kind. But things were about to change.

The Native Lands Acts of 1865 and 1873

In October 1865 the House of Representatives enacted a new Native Lands Act. The 1865 Act was much more detailed than its 1862 predecessor. Section 5 of the 1865 Act provided for the establishment of a judicial body having the status of a Court of record, consisting of 'one Judge ... who shall be called the Chief Judge', as well as 'other Judges' who were to hold office 'during good behaviour' (i.e. the formula used for the superior Courts of record). Under s 23 of the 1865 Act the Court could vest blocks of land in tribes, but only if the block was larger than 5,000 acres. Otherwise the block had to be vested in individual owners, who could not be more than ten people in any single block of land. Thus began the 'ten owners rule', which lasted from 1865 to 1873.



Chief Judge Francis Dart Fenton (ca 1870).

Francis Dart Fenton, First Chief Judge

Francis Dart Fenton drafted the Native Lands Act 1865 and was the first Chief Judge of the Court (1865-1882). Fenton came from a middle-class family of solicitors in England, and qualified as a solicitor after a period as an articled clerk in his uncle's law firm in the town of Huddersfield. He emigrated to New Zealand and briefly became Native Secretary in 1856. He made two circuits of the Waikato in 1857-1858, sending detailed reports to the government on Waikato affairs. Politically, he was a typical mid-Victorian liberal and believed strongly in private property rights and individual titles.

Fenton was committed to the legal ascertainment of Māori land titles by a powerful and independent Court. In this he was personally and politically opposed to Sir Donald McLean, who regarded the investigation of Māori land titles by a Court as impractical. Fenton was a very capable lawyer with a solid legal education, and many of his judgments are intellectually rigorous and show a wide knowledge of the rules of English Common Law and Equity. He also appears to have had a good command of the Māori language, which he

could speak and write fluently. He published an edition of early judgments of the Native Land Court in 1879.

Fenton was from time to time entrusted with special duties and responsibilities by the government. He was, for example, given the responsibility of carrying out some important negotiations with Ngāti Whakaue and other Arawa tribes at Rotorua in 1880. This resulted in the so-called 'Fenton Agreement' between Ngāti Whakaue and the government, which was legislated for in 1881 and which remains of great significance to Ngāti Whakaue today.

Many historians have been critical of Fenton, and he has been accused of ignoring legislation and directives from the government with which he did not agree. On the other hand, he believed strongly in the independence of the Native Land Court and had a number of confrontations with politicians while serving as Chief Judge. Fenton was active in Auckland's theatrical and musical scene, and was on one occasion seen doing a haka in public along with a number of Rotorua Māori chiefs following the successful auction of Māori land leases at Rotorua in 1880. Fenton retired from the bench in 1882 and returned to legal practice as a barrister, even appearing in cases in the Native Land Court. In one case – the partition of Motiti Island – he gave legal submissions to the Court about what he had previously done as judge some years earlier.

**FENTON WAS
COMMITTED TO THE
LEGAL ASCERTAINMENT
OF MĀORI LAND TITLES
BY A POWERFUL AND
INDEPENDENT COURT.**

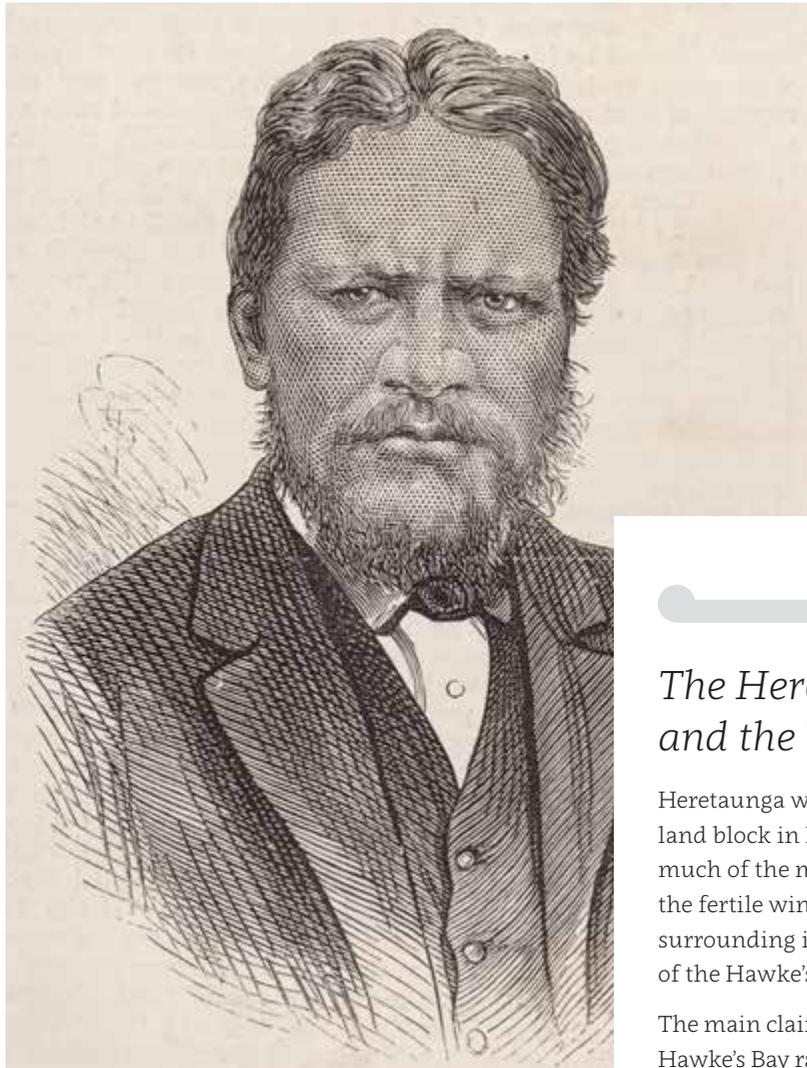


Māori gather at Ahipara for a Native Land Court Hearing.

The 1862 Act had not significantly changed Māori land tenure, but the 1865 Act soon resulted in very significant changes all over the country. The Court began sittings in many parts of the North Island and dealt with large blocks of land. In many areas the Court was still a novelty. When it sat in Wellington for the first time in June 1866 local newspapers had to explain to their readers what the new body was for. The *Wellington Independent* explained that the purpose of the new legislation was 'to open a way by which the natives can obtain individual or collective legal titles to their lands'. On this occasion the Court considered some parcels of land at Pipitea and Te Aro. The *Independent* optimistically predicted that the new Court would lead to improved race relations in Wellington.

The region which experienced the first really rapid changes as a result of the work of the Native Land Court was Hawke's Bay. Quite why Hawke's Bay was so dramatically affected at this early stage in the Court's history is uncertain. It is very clear, however, that a sudden flood of investigations began in Hawke's Bay in

March 1866, leading to rapid tenurial change in the province and a contraction of the area in Māori land ownership as grantees sold their interests to private purchasers. In its first year of operation in Hawke's Bay, the Court dealt with 46 blocks of land totalling 178,264 acres. By 1873, the Court had investigated 648,669 acres of land in Hawke's Bay alone. This was a rapid transformation by any measure. The Court did not sit continuously in the province, but rather in short bursts of a few weeks at a time, mostly in Napier but also in the south Hawke's Bay town of Waipawa. Key Hawke's Bay land blocks investigated at this time included Papakura (3,363 acres), Pētane (10,908 acres) and Heretaunga (20,000 acres). Heretaunga was a notorious case, even at the time, and was widely perceived as a prime example of the way in which valuable districts were allowed to pass into the hands of a small group of private purchasers.



Karaitiana Takamoana (1875).

The Heretaunga Block and the Ten Owners Rule

Heretaunga was a large and important Māori land block in Hawke's Bay, today taking up much of the modern city of Hastings and the fertile wine- and fruit-producing district surrounding it. It is one of the more notorious of the Hawke's Bay 'ten owners' blocks.

The main claimant for the block was the Hawke's Bay rangatira Karaitiana Takamoana, who had earlier formed part of a group of chiefs who had leased the land to a consortium of Pākehā runholders led by Thomas Tanner. The Court's investigation of title began on 15 March 1866 and was heard initially in the Masonic Hall at Napier, with Judge Smith presiding and Te Keene and Te Hemara sitting as Assessors. Karaitiana rested his claim mainly on descent, but also on some recent conquests. He said to the Court that the land should be allocated to himself and Henare Tomoana, another Hawke's Bay chief. However, others present in the Court objected to this course, and following some further discussions the case was adjourned by Judge Smith with no decision having been made.



Henare Tomoana (1873).

The Heretaunga case did not return to the Court until the end of the year (1866), a gap of nearly nine months. The December hearings relating to Heretaunga took place before a differently constituted Court, presided over by Judge Monro, who vested the blocks in ten grantees, including Karaitiana Takamoana and Henare Tomoana.

Once title had been finalised by a Crown grant, the block was leased by the grantees to Tanner and his business associates. The lessees then acquired legal ownership of the block by pressuring the various grantees/lessors to sell. The Heretaunga block created a national scandal, as it was seen as an example of how a 'land ring' could acquire large areas of land to the detriment of small settlers. There were many complaints by local Māori people about Heretaunga to the Hawke's Bay Commission of 1873, but there were no changes to the title and the land remained in Pākehā hands. Tanner was criticised by some of the complainants for dealing with the grantees individually, but Commissioner Richmond, who chaired the 1873 Commission, saw nothing wrong with this. The Heretaunga case made it clear that individual grantees could alienate their shares without obtaining the consent of their co-owners.

The Court also began sitting in other parts of the country as well. In 1868 it heard an important case relating to the Maungatautari block in the southeastern Waikato. In 1867 it heard its first case at Taupō, but due to the armed conflict in the central North Island at this time, sittings in this part of the country continued to be very infrequent. In 1870, the Court investigated the title to the entirety of the Chatham Islands.

It was the Hawke's Bay region, however, which was the main catalyst for further developments in the history of the Native Land Court. The key issue was s 23 of the 1865 Act, which provided that blocks smaller than 5,000 acres could only be awarded to a maximum of ten owners.

Many of them became entangled in debt and for this and other reasons sold their shares to private purchasers, a classic example being the Heretaunga block. Alienation of interests proceeded very rapidly, purchased by land speculators and land brokers such as Frederick Sutton, R D Maney, J H Coleman and others. Crown officials and others became concerned about this rapid loss of land. G S Cooper reported in 1867 that 'the chiefs are allowed, and are indeed sometimes tempted, to take credit without stint from merchants, tradesmen, and often from their own tenants, and this they do with the utmost readiness, and to an extent almost incredible'. In 1872, Hawke's Bay Māori people sent a number of petitions to the government complaining about the effects of the Native Land Court system.

**IN 1872, HAWKE'S BAY
MĀORI PEOPLE SENT A
NUMBER OF PETITIONS
TO THE GOVERNMENT
COMPLAINING ABOUT
THE EFFECTS OF THE
NATIVE LAND COURT
SYSTEM.**

Section 23 of the 1865 Act did allow for blocks larger than ten owners to be vested in favour 'of a tribe by name'. This section could have been used for large Hawke's Bay blocks such as Heretaunga (about 20,000 acres), but was not. In this particular instance the Court probably did not vest the block in a 'tribe by name' because the chiefs seeking title did not ask it to, but merely presented the Court with a list of ten grantees, which Judge Monro did not investigate further. (In fact all the minutes record is the list of names). Examples of the Court vesting a block in a 'tribe by name' are very difficult to find. One case where it did so was the Te Ahuaturanga block in the Wairarapa, a block of 21,000 acres in the Wairarapa, vested by Judge Rogan in the Rangitāne iwi on 8 September 1870. But this was understood at the time to be temporary. The applicants said that they had 'agreed to dispose of this land to the Pakehas' and a few days later the block was reallocated by the Court to ten named owners. It was acquired by the government as part of the Crown's northern bush or Tāmaki purchase of 1871. There may be other examples of blocks being vested in 'tribes', but if so none of these seem to have been permanent, and all the indications are that from 1865-1873 blocks were overwhelmingly vested in individuals, ten or fewer, whether the blocks were smaller than 5,000 acres or not.

The government's response was to set up the Hawke's Bay Commission of 1873, one of the first of the many government-mandated reviews and inquiries into the Court's actions which have been so influential throughout its history. The Hawke's Bay Commission was a bicultural body and comprised four commissioners, two Māori (Wiremu Hikairo, of Rotorua, and Major Te Wheoro, from the Waikato) and two Pākehā (C W Richmond and F E Maning). Richmond, a High Court judge, was the chairman. The Commission heard a great deal of evidence from Hawke's Bay Māori, who mainly criticised the actions of dealers and middlemen rather than the Court as such, complaining that in many instances interests in land had been paid for in liquor, which was illegal at the time, or about Māori chiefs being threatened with imprisonment for debt unless they sold their lands.

The Commission's main report focused on the Court itself, rather than on the settler community, and suggested that new legislation be enacted. Richmond was critical of the Court's practice, as he understood it, of acting only on the evidence before it. Although that was proper practice for ordinary courts of law, the Land Court was in Richmond's view a different kind of institution: 'the judgments of the Native Land Court are what are technically termed judgments in rem, which conclusively ascertain title against all the world'. He was also critical of the effects of the ten owners rule. To Richmond, the main problem was that once the ten owners as fixed by the Court had acquired a Crown-granted legal title, they were able to deal with their interests, including selling them, essentially as they liked without reference to the original customary owners.

**TOWARDS THE END OF
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AS A RESULT OF YET
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CONCEPT OF 'MĀORI
FREEHOLD LAND' BEGAN
TO EMERGE.**

In 1873, the statutory law was changed, abolishing the ten owners rule, and instead requiring that all of the owners be listed in a 'Memorial of Title' on the back of the Court certificate (Native Land Act 1873, s 47). This was probably an improvement on the ten owners rule. But it created a new set of problems. Exactly what sort of interests in the land did the people listed in the memorial of title actually have? They were not exactly legal owners, nor were they exactly customary owners. For some years the ordinary courts of law were clogged with complicated legal questions about the legal interests of persons holding memorials of title. Towards the end of the 19th century, as a result of yet further changes, the concept of 'Māori freehold land' began to emerge, meaning land that had been investigated by the Native Land Court and was under its jurisdiction, but which nevertheless was a freehold title. Unlike most ordinary freehold titles, however, Māori land is usually a multiply-owned freehold. It has long been classed as a 'tenancy in common', where the interests of the co-owners are a heritable estate which will pass to an individual owner's heirs by a will or under the general law relating to intestacies.



Pohaturoa Rock, Atiamuri (ca 1930-1940).

The Court in Operation in the 19th Century

The Native Land Court soon became a busy institution, investigating titles to land all over the country. The Court worked by means of written applications filed in advance by Māori people, for example to have title to their land investigated, to have it partitioned, for relative ownerships to be determined, for equitable owners to be added to the title, and so forth. The Court did not do anything of its own motion. It was, however, sometimes directed by the government or by statute to carry out special inquiries, rehearings, or reinvestigations. The various applications would be collected together, advertised, and then at the actual sittings the Court would work its way through the list. Cases that came up would be heard, or adjourned, or dismissed. The judges saw their task as being to work their way through the case list that had been prepared in advance for the particular sittings. Adjournments were very frequent.



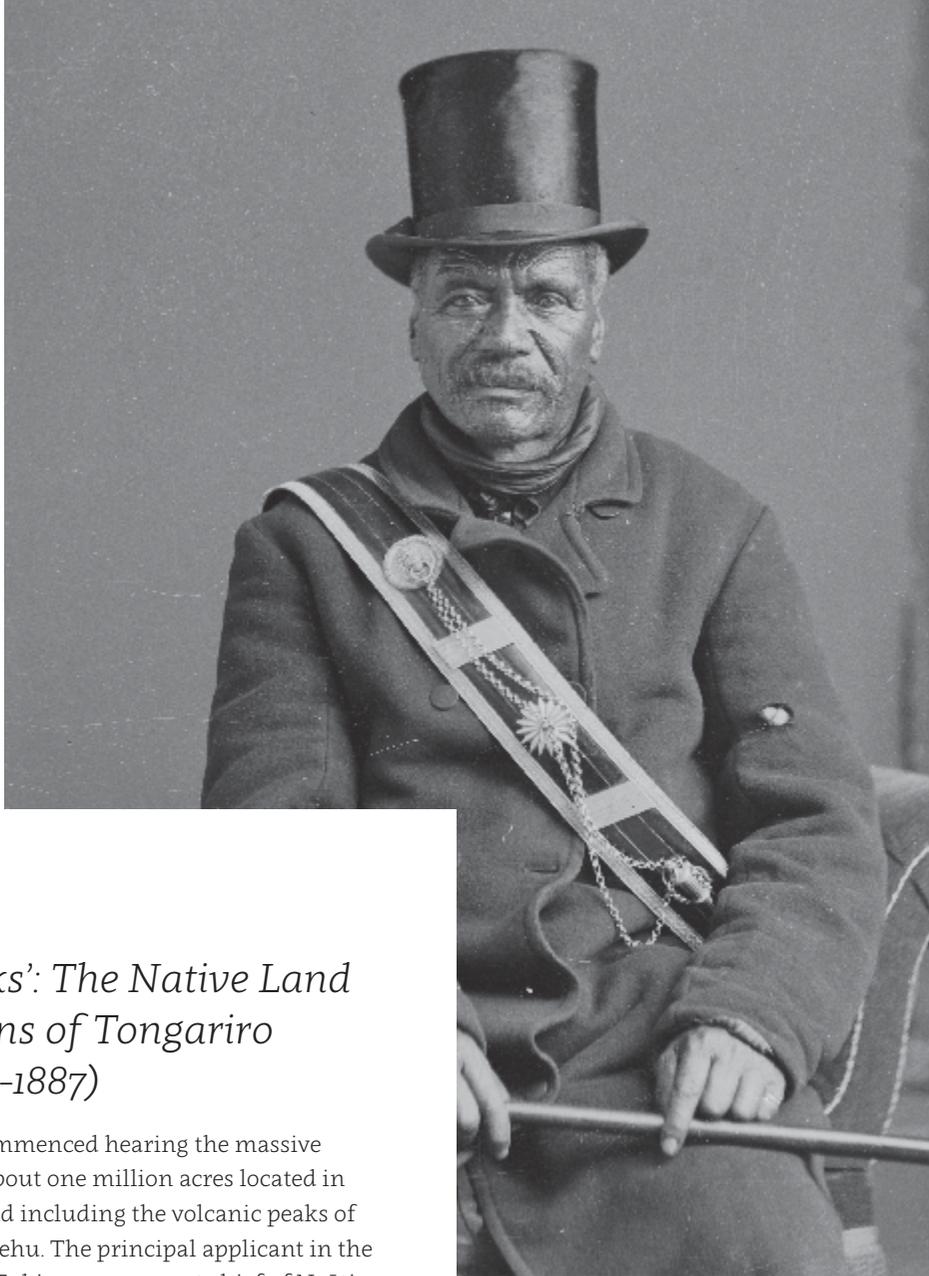
Mokoia Island (ca 1908).

The main type of case that the Native Land Court heard was referred to as an *investigation of title*. In these cases, the Court would hear all of the claims to a particular block and then decide who the correct owners were. The principal criteria applied by the Court in these cases were based on occupation and descent. Groups were usually required to show that they were descended from a recognised ancestor on the block and to prove continuous occupation down to 1840 (although the Court was not always consistent in this). The cases could be very long and intricate, and could sometimes last for months. Often there would be numerous claimants and counterclaimants, some of them claiming the entire block and others only parts of it.

Sifting through the array of claims could be a very difficult task. An example of this complexity was the investigation of title to Mokoia Island in Lake Rotorua, heard in 1916. Judge MacCormick, who heard the case, complained that the Mokoia investigation was ‘about the most unsatisfactory case in this Court’s history’. There some 29 separate claimants and claimant groups, some laying claim to the whole of the island and others only to sections of it, mostly representing sections or hapū of Ngāti Whakauae, Ngāti Uenukukōpako, Ngāti Rangiwewehi, and Ngāti Rangiteaorere. There were many cases of this character, which meant that the case could

take a long time to hear, as the various groups through their lawyers or ‘conductors’ would often want to cross-examine one another at length. The evidence generated could be very voluminous, sometimes filling up hundreds or even thousands of pages of the Court’s minutes. Other cases, however, such as successions, could be very brief.

The largest investigations of title ever heard by the Court took place in 1886, when the formerly independent Rohe Pōtae or King Country was split into three huge surveyed blocks of land: the Rohe Pōtae proper, of 1.6 million acres, Tauponuiatia, of about one million, and Waimarino, of about 500,000 acres. These blocks were investigated in separate hearings at Ōtorohanga, Taupō, and Whanganui. The main case, at Ōtorohanga, was heard by Judge Mair, a former army officer, sitting with the Ngāti Porou chief Paratene Ngata as Assessor. Mair and Ngata presided over the case with great tact and skill, and vested the land mostly in a coalition of claimant tribes who included Ngāti Maniapoto, Ngāti Raukawa, and Whanganui groups. The Tauponuiatia case famously included certain blocks around the peaks of Mounts Tongariro, Ngauruhoe and Ruapehu, allocated to the Crown by the Court in September 1887. These blocks formed the nucleus of what today is Tongariro National Park.



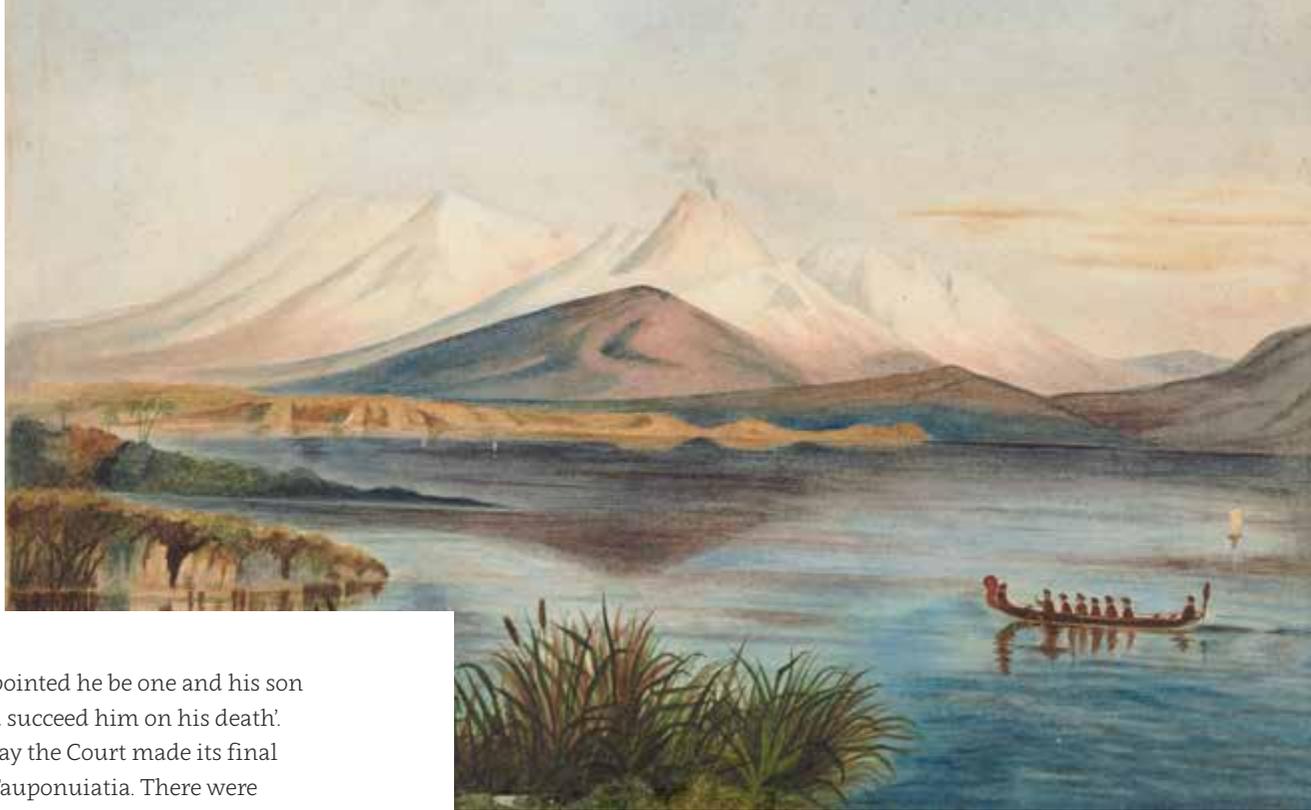
‘The Gift of the Peaks’: The Native Land Court and the Origins of Tongariro National Park (1886–1887)

In 1886 the Native Land Court commenced hearing the massive Tauponuiatia Block, an area of about one million acres located in the centre of the North Island, and including the volcanic peaks of Tongariro, Ngauruhoe, and Ruapehu. The principal applicant in the case was Horonuku Te Heu Heu Tukino, paramount chief of Ngāti Tūwharetoa.

Tauponuiatia was a lengthy and complex investigation, which began in January 1886 and was not finalised until September 1887. This vast area was split into numerous subdivisions as the investigation proceeded, including the Okahukura, Tongariro, and Ruapehu blocks. On 21 and 23 September 1887, on the application of representatives of Ngāti Tūwharetoa, the Native Land Court partitioned the Tongariro No 1 Block into Tongariro 1A, 1B and 1C, Ruapehu 1 into Ruapehu 1A and 1B, and Ruapehu 2 into Ruapehu 2A and 2B. The Court was then asked to vest Tongariro 1A and 1B, and Ruapehu 1A and 1B into the name of Horonuku Te Heu Heu ‘for the purpose of conveying the same to the Crown as the gift for a park’. The last-mentioned blocks created small circular areas around the highest point of Tongariro, around the active volcano of Ngauruhoe, and around the Paretetaitonga peak of Mt Ruapehu.

On 23 September Horonuku Te Heu Heu ‘made an application to the Court that the above blocks be awarded to the Crown, as a gift from himself for the purpose of a national park, and requested that when

*Horonuku Te Heu Heu
Tukino IV (ca 1880–1888).*



the Trustees be appointed he be one and his son Tureiti Te Heu Heu succeed him on his death'. On the following day the Court made its final orders relating to Tauponuiatia. There were 176 blocks in all, 151 of which were awarded to various lists of owners affiliating to Tūwharetoa, and 25 to the Crown. Mostly the Crown awards related to areas purchased or allocated for survey costs, but included also the Ruapehu and Tongariro peaks blocks. In this way the nucleus of the national park, today a UNESCO world heritage site, came into existence.

The full story of the creation of the National Park is, however, much longer and more complicated. The 'gift' blocks were quite small circular areas on the mountaintops. Not all Tūwharetoa people agreed that the land should have been awarded to the Crown, and exactly what Horonuku Te Heu Heu's intentions were is unclear. This was a key issue in the Waitangi Tribunal's *National Park* regional inquiry, on which the Tribunal reported in 2013. The Tribunal concluded, after an exhaustive review of the evidence, that the 'gift' was understood by Horonuku Te Heu Heu to be an offer of a partnership with the Queen as a joint trustee and custodian of the peaks. National parks were a novel idea in 1887, and only one existed elsewhere in the world at the time, Yellowstone National Park in the United States, established in 1872.

Most of the land in the national park was never 'gifted' at any time. Although it was all formerly Māori land, it has come into the Crown's possession by a variety of means. As it happens,

Lake Taupō with Mt Ruapehu, Tongariro, Ngauruhoe and Pihanga in the distance (ca 1800-1860).

the Crown had already acquired a large part of what is today the national park *before* the allocation of the peaks to the government by the Native Land Court in September 1887. On 5 April 1887, the huge Waimarino block, which extends to the Whanganui River but which also included much of the western side of Mt Ruapehu, was partitioned between the Crown and the Waimarino non-sellers. The Crown portion included the part of the block extending up the western side of Mt Ruapehu. The acquisition of the remaining Tauponuiatia peaks blocks (Ruapehu 1B and 2B and Tongariro 1C and 2C) took some time. These blocks had been vested in a number of people, of whom Horonuku Te Heu Heu had been one (he died in 1888). The Crown purchased the remaining peak blocks by its usual method of undivided share buying and did not get a clear title to them for another 16 years. Other parts of the park came into Crown possession by partitions of yet other blocks, including the Rangipo North and Rangiwaea blocks. The National Park was not formally proclaimed until 1907, when 62,300 acres was set aside. Nonetheless, it remains the case that the real nucleus of the park, its most iconic centrepiece, were the high peaks awarded in 1887 and set aside by the partition awards of 24 September 1887.



Hohepa Tamamatu (ca 1870-1880).

The Court did not only hear investigations of title, however. Another important type of case was a *partition*, or the division of a Māori land block into smaller sections. Most Māori land blocks have been repeatedly partitioned and repartitioned since the original investigation of title. Often this was at the request of the owners, who wanted to have their land split up into smaller sections so it could be better managed for farming, or divided into house sites, marae reserves and so on. Sometimes investigation of title and partitioning were simultaneous processes. The Taupouuiatia blocks, discussed above, are an example.

Partitioning was also used during the process of land-purchasing, particularly by the government. After purchasing a number of undivided share interests the Crown would then

apply to the Native Land Court to have the block split into Crown and 'non-seller' portions.

Another important part of the Court's work was making succession orders. If an owner died, his or her heirs had to apply to be entered in the Court titles in the place of the deceased. Usually successions were fairly routine, but matters could get complicated in the case of adoptions, which often created intricate legal and factual problems. The issues with adoptions related often to the status of *whāngai*, or adoptions recognised by Māori custom. Other complexities arose with *ōhāki*, or deathbed declarations, and the status of these with respect to the law of succession. The Native Land Court regarded *ōhāki* as valid dispositions of property according to Māori custom (as shown in the Karamu block case of 1890), provided they could be proved to have been validly made, but in 1895 they were in effect abolished by legislation.

Another important kind of case was the *rehearing*. No formal appellate body was set up until the establishment of the Native Appellate Court in 1894. This Court, today the Māori Appellate Court, was established to hear appeals from the Native Land Court. This did not mean there were no appeals before 1894. Rather, it meant pre-1894 appeals were conducted as rehearings: that is, if the grounds for an appeal were made out, the original case was completely reheard. It was always the practice for a new judge and assessor to be appointed for the rehearing. Rehearings were a very cumbersome and expensive kind of appeal, as much of the evidence had to be heard afresh and new evidence called. Indeed, persons or groups who did not take place in the original case could sometimes participate in the rehearing. There were occasions when the rehearing was much longer and dealt with more evidence than the original investigation. An example is the rehearing of the Rotomahana-Parekarangi block in 1890, which took five months to hear and which was a longer and more complicated case than the original investigation heard in 1887.

Gradually, the Court came to be a familiar and established part of the Māori world. Māori became very used to the Court and its methods of hearing cases and taking evidence. The Court recorded its evidence and judgments in large leather-bound folio books, the 'Minute Books', which today form a vast record of the Court's proceedings. A number of places around the North Island became known as the 'Court towns', where the Court would sit. Sometimes the sessions would last for only a few days, but on other occasions, particularly in the Waikato, Whanganui, Hawke's Bay, and the East Coast, the hearings could last for months. The most famous of the Court towns was the Waikato town of Cambridge. Other important venues were the Hawke's Bay towns of Waipawa and Hastings, the city of Gisborne on the East Coast, Ōtorohanga in the King Country, and Marton in the Rangitikei region. The Court did not usually sit in major metropolitan centres such as Wellington or Auckland.

There were, however, some parts of the country where Māori made determined efforts to exclude the Court for a number of decades: the King Country, the Rotorua region, and the Urewera region. The Court did not begin sitting in the Rotorua region until 1881 and in the King Country until 1886. In the Urewera region, as a result of special legislation enacted in 1896, titles were initially investigated by the Urewera Commission, a special tribunal, rather than by the Native Land Court.



Maungatautari Survey District Map (1933).

'An Inflated Wooden Hamlet': The Land Court at Cambridge

One of the more notorious of the so-called 'Court towns' was the Waikato town of Cambridge. The Court was especially active at Cambridge in the 1880s and would sit there for months at a time, dealing with land blocks in the southern Waikato. Much is known about the Cambridge sittings of the Court, as they were covered in great detail by the *Waikato Times*.

From the coverage in the *Times*, it is clear that the actual Court hearings were just one component of an entire industry of lawyers, land agents, Native agents, conductors, storekeepers, and tavern-keepers. The Court sittings attracted a great deal of business to the town, and other towns were rather jealous of Cambridge's commercial success. In 1883, the *Bay of Plenty Times*, based at Tauranga, commented that 'we would remind our friends

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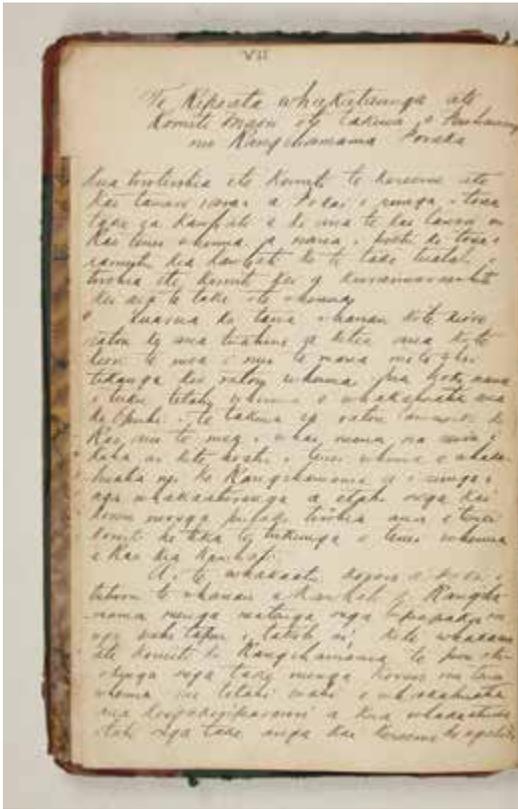
at Cambridge that they have had pretty well a monopoly of Native Land Courts for the last three years, and it is high time that the publicans, storekeepers, and camp followers of that inflated wooden hamlet should rely more in future on their own resources than on those of their neighbours'. Many vitally important cases were heard at Cambridge, including those relating to the Patetere and Tokoroa blocks (1880-1881) and the investigation of Ngāti Kauwhata claims to Maungatautari in 1881.

Many Māori people attended the sittings at Cambridge. In 1881 Major William Mair reported that the task of compiling the census of the Māori population was made even more difficult than usual because so many people were on the road to Cambridge to attend Court sittings. When the Crown's claim to the Patetere block was about to be heard in 1881, the *Waikato Times* reported that over a thousand people would be attending. On 19 February, it was reported in the *Waikato Times* that 'the attendance was very large, and considerable interest appeared to be taken in the proceedings'. But it was not only the Māori community that took an interest. Prominent businessmen from Auckland were often seen in the Court following the proceedings closely. They were there because often the competing parties in the Court were proxies or stand-ins for rival groups of private

purchasers who had purchased interests from particular groups in the hope that their vendors would be successful in the Court. The judges of the Court were well aware of this practice, but could do little about it. Pākehā members of the Cambridge community often came to the Court out of interest or curiosity to hear the recitations of tribal history and to enjoy the repartee and cross-examination.

On occasion, a considerable amount of drinking seems to have happened during the hearings. Successful claimants would often treat people to drinks in the Cambridge taverns. When judgment was given in the Waotu No. 1 case in 1882, the successful parties 'disbursed £100 in liquor, so that the whole place is in a fair way of becoming a scene of dissipation'. On the other hand, the newspapers of the day also drew attention at times to the 'orderly conduct' of the hearings. Drinking and celebrating evidently did not go on all the time.

Nationally prominent barristers such as John Sheehan and Walter Buller came to Cambridge for the sittings and were regularly seen in Court. 'Conductors', who were usually Māori, were also much in evidence. One was Arekatera Te Wera of Raukawa, who conducted many of the South Waikato cases. He seems to have made plenty of money and led a very modern lifestyle in Cambridge. According to one description, 'this distinguished *rangitira* [sic] cut a splendid dash, revelling in champagne, good dinners, fine clothes, horses and saddles for himself, and crinolines, pull-backs, and high-heeled boots in galore for his numerous wives and concubines'. By 1886-1887, most of the large blocks in the south Waikato had been investigated, and Cambridge's days as a bustling Court town seem to have come to an end. 



Native Committee of Pehairangi (Bay of Islands) Region Book (1887).

**THE MINUTE BOOKS
OF THE NATIVE LAND
COURT RECORD A VAST
AMOUNT OF EVIDENCE
ON TRADITIONAL
HISTORY.**

The minute books of the Native Land Court record a vast amount of evidence on traditional history, whakapapa, and the management of such natural resources as forests, birds, and fisheries. In a remarkable passage in his lengthy judgment in the Ōrākei case Chief Judge Fenton drew attention to the particular functions of the records of the Native Land Court:

This Court has no common law to direct its steps by; in fact it has by its own operations to make its common law, and to establish 'year-books' which may in the course of time afford a code of law to which appeal may be made for guidance in deciding all questions which may come before it.

The yearbooks Fenton was referring to were the celebrated records of English law running in an almost complete sequence from the 13th to the 16th century. What is remarkable about Fenton's statement is his evident belief, or hope, that one day the minute books of the Native Land Court might one day serve as the foundation, or raw material, for a 'code of law'. As the yearbooks had laid the foundations of the common law, so, Fenton hoped, a distinctive New Zealand 'common law' might eventually emerge from the raw material of the Land Court records.

The Court and Māori Land Tenure

The principal purpose of the Court was to convert land held on customary tenure over to a remodelled freehold tenure. This process of change was greatly complicated by the emergence of the category of 'memorial' land under the Native Land Act, but by the end of the 19th century, as a result of some additional legal changes, the class of land known as 'Māori freehold land' had taken shape.

The cases that came before the Court were often extremely complex and difficult. On many occasions the Court drew attention to the intractability and complexity of the evidence. 'The investigation occupied 47 days', the Court said in one case relating to a block of land on the Waikato coast, 'the evidence brought forward in each case being very voluminous and of a very conflicting nature'. In the Taheke case (Rotorua region) in 1886, the Court complained that 'the evidence has been of a very conflicting nature'. Such comments were routine. The Court had to have some means of unravelling and adjudicating the complex multi-party claims which constantly confronted it.

There has been a considerable amount of debate amongst historians about the Court's process of inquiring into customary tenures. It was at one time commonly thought that the Court applied in a fairly rigid way a certain number of take, a Māori term meaning something like a foundation of title or a legal cause of action. It was thought that the Court

worked within a fixed number of specific take, such as take raupatu (conquest), take tupuna (descent), and so on. It was also once thought that the Court applied in a no less rigid way the so-called '1840 rule', by which the Court would refuse to recognise changes in customary entitlements that had arisen after 1840 (such as post-1840 occupations or conquests of territory).

As more recent research has shown, however, the Court's practice was in fact relatively pragmatic and flexible. Māori would advance claims to land based on a range of traditional categories and terms, which the Court made little attempt to classify or analyse. For example, when the chief Hamuera Pango claimed the Pukeroa-Oruawhata block at Rotorua for Ngāti Whakaue in 1881, he claimed it on a number of grounds, including 'conquest', 'permanent occupation', 'fortifications', 'burial places', 'altars of my ancestors down to the time of myself', and 'mana over this and the adjacent lands'. The Court noted these grounds of claim in the minutes without comment. Grounds of claim could vary considerably.

The 1840 rule was also applied in a relatively pragmatic way. The Court would, for example, recognise gifts of land as a valid basis of title to land even if the gift had happened after 1840. This happened in the Harataunga block case in 1872. The land at issue in this case was located on the eastern side of the Coromandel Peninsula, and was claimed by the Aitanga-a-Mate section of Ngāti Porou on the basis of a

gift made to them by Ngāti Tamaterā, one of the main iwi of the Hauraki region. The Native Land Court, presided over by Judge Monro, took no issue with the legality of the gift, which was made in 1852, well after 1840: the issue the Court was concerned with was whether the gift was to a particular hapū of Ngāti Porou, or to Ngāti Porou generally.

The Court's main concern with the 1840 rule was to ensure that groups who had moved away from their home territories before 1840 and who had not returned could not claim their former territories in the Native Land Court. For example, North Taranaki groups who had moved to the Kapiti Coast, the Chatham Islands, or the South Island before 1840 and who had not returned could not claim lands in Taranaki. However, they could make claims in the areas they had moved to – as shown, for example, by the awards made by the Court to Ngāti Mutunga of North Taranaki in the Chatham Islands. A complicating factor in such cases was whether a group had completely moved away to a new location, or whether some members had remained behind to maintain a presence in the original home territories. This issue was an important one in numerous cases affecting Ngāti Raukawa claims to lands in the Waikato.



Judge John Rogan (ca 1880).

The Chatham Islands Cases

One of the most important early decisions of the Native Land Court related to the Chatham Islands (Rekohu in the Moriori language, Wharekauri in Māori). The case was heard in June 1870 at Waitangi in the Chatham Islands, with Judge Rogan presiding and Charles Wirikake as Assessor. The case concerned a particularly tragic historical episode.

The Chatham Islands had been inhabited for centuries by the Moriori people, who are closely related to the Māori of mainland New Zealand, but who during centuries of isolation had developed a unique culture and way of life. In 1835-1836, the archipelago was conquered by Ngāti Tama and Ngāti Mutunga groups, who came originally from North Taranaki but who had migrated to what today is Wellington harbour. The conquest resulted in the deaths of many Moriori people, and many of the survivors of the invasion were enslaved.

The Land Court case in 1870 was a contest between Ngāti Mutunga and Moriori. Ngāti Mutunga rested their title on conquest. One of the Ngāti Mutunga chiefs, Rakataau, said that 'we agreed that we should come and take this

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land, we came in a vessel from Port Nicholson [Wellington harbour] and landed in Wangaroa, having arrived in Wangaroa we took possession of the land in accordance with our customs, and we caught the people'. Moriori, by contrast, rested their case on the grounds of ancestral occupation and descent. The Moriori evidence gave graphic details of their sufferings during the conquest of 1835-1836. Ngamunangapaoa Karaka said that about 300 of his people had been killed during the invasion and stated that the Moriori 'were kept in servile bondage until the gospel was preached here; even then the wood and the water were held to be sacred from us'.

The Native Land Court found principally for Ngāti Mutunga, awarding title to this group on the basis of conquest. The Court found that 'Wi Naera Pomare and his coclaimants have clearly shown that the original inhabitants of these Islands were conquered by them and the lands were taken possession of by force of arms and the Moriori People were made subject to their rule'. Moreover, the claimants 'maintained their conquest without having subsequently given up any part of the estate to the original owners'. The bulk of the Islands were allocated to the Ngāti Mutunga claimants. Moriori were allocated a number of reserves. The decision remains a very controversial one, particularly because the Court rested its decision on Māori custom, while in fact Moriori had developed a body of custom which was particular to themselves. Arguably, the Court erred here in applying Māori customary law only, while failing to inquire into and apply Moriori customary law.

The Court is also often said to have had a fixed practice of confining its decisions to evidence given in Court, and of refusing to consider extrinsic material or making independent inquiries. It is generally the case that the Court did indeed base its decisions on the evidence before it. There was a degree of flexibility. Recent research has shown that the Court made site visits to the land at question, usually in company with the parties in the case. Sometimes, the Court's Māori Assessor would travel to the land at issue and inspect it carefully, and would prepare a report that would be copied down in the minutes. The Court would also cross-check what a witness said in evidence given before it with what the same witness had said in earlier cases, using this as a method of testing the reliability of the evidence given in any given case. The Court might also get documents checked in the Archives or refer to historical sources in its judgments.

**CLAIMS BASED MERELY
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Although the idea that the Court applied an unduly rigid approach to the interpretation of evidence is exaggerated, nevertheless the Court certainly did have a basic and very consistent approach to Māori land titles. This was to give particular weight to evidence of occupation. Claims based merely on descent from a particular ancestor with no evidence of occupation were much less likely to succeed. The strongest claims were those supported by evidence both of descent and of occupation. Thus in the Taheke case in 1886 the Court awarded the block to Ngāti Te Takinga because they were able to prove to the Court's satisfaction that Ngāti Te Takinga were descended from those who had played an important role in the conquest of an earlier group named Ngāti Tutea and that they (Ngāti Te Takinga) had occupied the area and were still in occupation of it at the time of the case. In the Nelson Tenth's case in 1892, Ngāti Toa, who had participated in the conquest of the Nelson region before 1840, were denied an interest in the Nelson Tenth's lands because they had – in the Court's view – failed to maintain occupation. The Court allocated the lands to Ngāti Tama, Te Āti Awa, Ngāti Rārua and others who were both conquerors and occupiers.

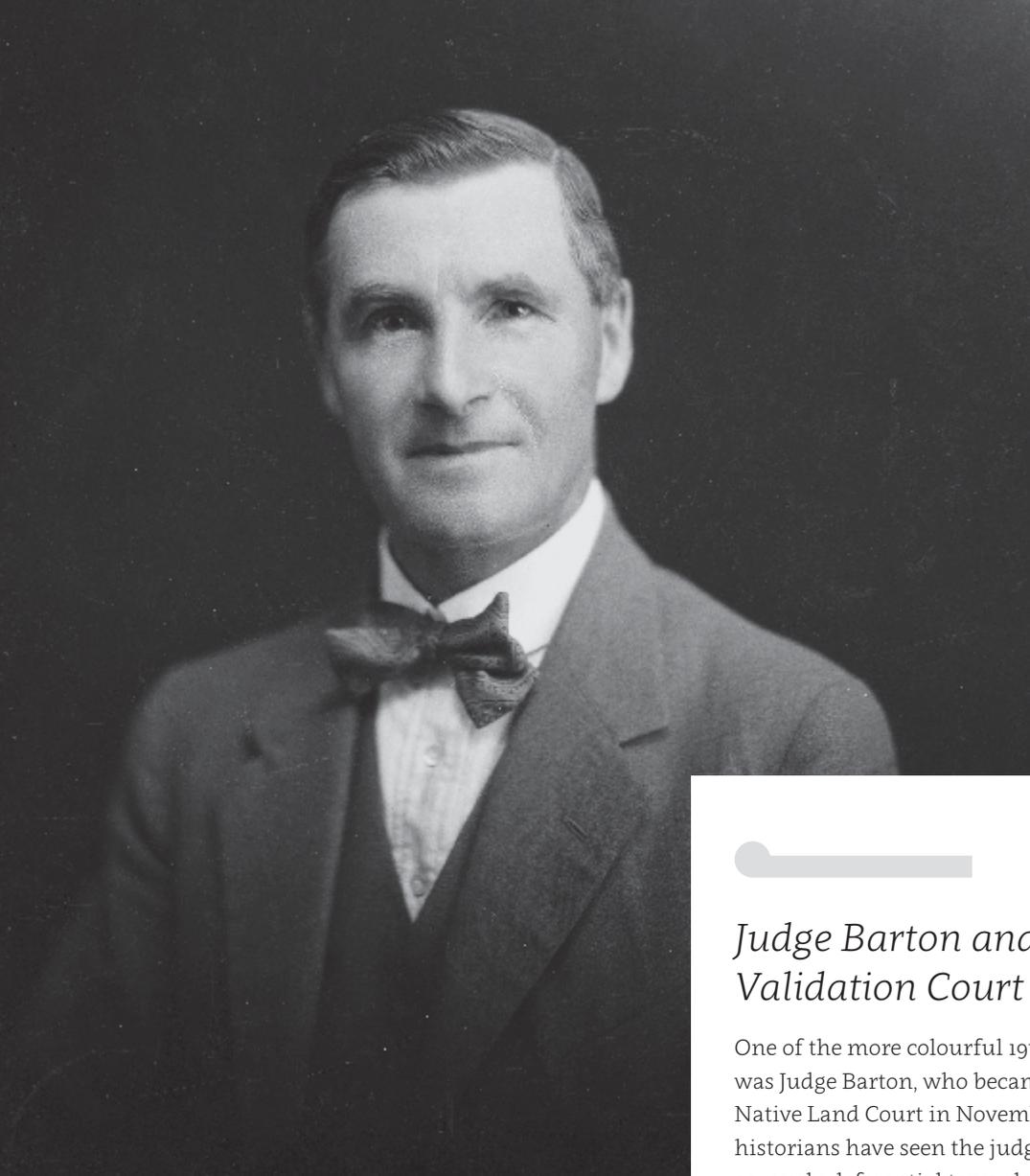


Judges, Assessors and Lawyers in the 19th Century

The keynote of the Māori Land Court bench in the 19th century was its astonishing diversity. Comparatively few of its judges were lawyers. In a survey of the Native Land Court judges carried out for the Waitangi Tribunal in 1994, Bryan Gilling found that only 13 of the 45 judges appointed from 1865-1909 were qualified lawyers. Until this research had been done it was widely assumed that the judges were mostly lawyers and would thus have applied a narrow and legalistic approach to the cases before them. The principal criterion for appointment in the early years of the Court seems to have been some familiarity with the Māori world.

ABOVE: Surveyors camp.

The judges came from a diversity of backgrounds: surveyors, army officers, government land purchase officers, and so on. One of the most important of the 19th century judges, Judge Rogan, was formerly a surveyor, a land purchase officer, a district commissioner and a resident magistrate in the Kaipara area before he became a judge of the Court. He had no legal training, but did have wide experience of the Māori world. The Chief Judges, however, were always qualified lawyers. There were some lawyer judges who were not Chief Judges, such as Judge Barton, who as judge was a vociferous critic of government policy. Some judges had formerly been Army officers who had served with Māori units in the New Zealand wars, including Judges Mair and Gudgeon. The 19th century Land Court judges came from a much more diverse range of backgrounds than did their counterparts in the ordinary courts.



Judge John Saxton Barton (ca 1928).

Judge Barton and the Validation Court

One of the more colourful 19th century judges was Judge Barton, who became a judge of the Native Land Court in November 1888. Some historians have seen the judges of the Court as overly deferential towards the government, but this cannot be said to be the case with Judge Barton.

Barton was Irish, and was an experienced barrister by the time of his appointment. He had practised in Ireland, Victoria, and New Zealand and had been counsel for *Wi Parata Kahukura* in the celebrated *Wi Parata v Bishop of Wellington* case in which Chief Justice Prendergast described the Treaty of Waitangi as a 'simple nullity'. Barton was known for his aggressive courtroom style and on one occasion had been imprisoned by the Supreme Court for contempt of court.

Judge Barton was based at Gisborne and soon became a well-known personality in the town. He took a particular interest in the validation of titles issue and was regarded as something of an expert on the subject. If a somewhat obsessive character, Barton was certainly an

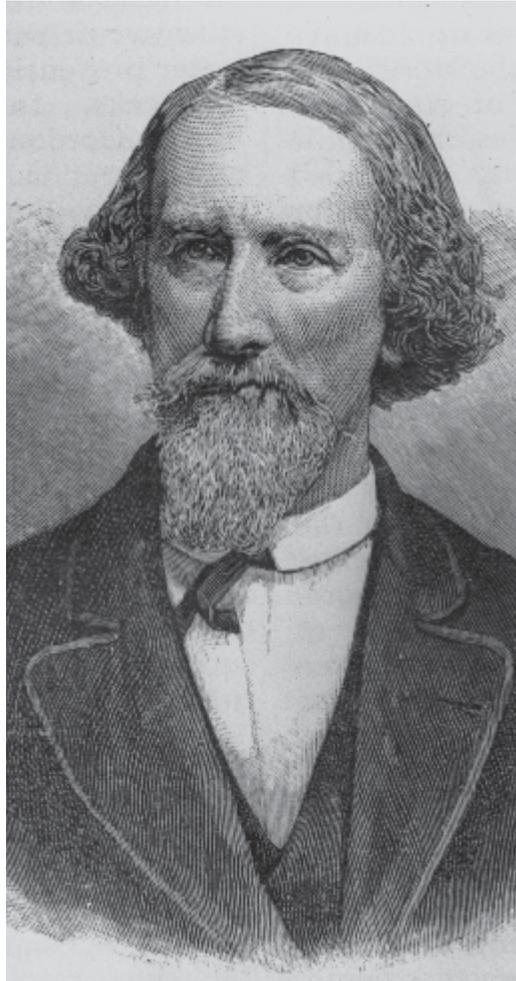
**AFTER HIS
APPOINTMENT TO THE
VALIDATION COURT
JUDGE BARTON KEPT
UP A PUBLIC FEUD WITH
THE GOVERNMENT OVER
THE RESOURCING OF
THE COURT.**

able lawyer and played an important role in the drafting of the Native Land (Validation of Titles) Act 1893. He became the Validation Court judge in 1893, after a certain amount of haggling with the government over his salary. Barton was a highly argumentative person and somewhat prone to picking fights with the government. He seems to have held a low opinion of his fellow judges, on one occasion describing them as 'untrained and unprotected' and as 'selected for their skill in Māori language rather than for any other qualification'. Barton wrote many wordy and elaborate judgments, many of them highly critical of government officials, surveyors, and other people.

After his appointment to the Validation Court Judge Barton kept up a public feud with the government over the resourcing of the Court. On one occasion, he refused to continue hearing cases until a Court clerk had been lawfully appointed. The newspapers of the day followed these and other controversies with such headlines as 'Judge Barton and the Government: The Warfare Continues: Plain Speaking by the Judge' and 'A Judge Strikes Work'. Barton claimed that it was illegal for the same person to serve as Registrar and Court Clerk; after obtaining legal advice, the government responded that this was not illegal at all, and Judge Barton was told to stop complaining. On another occasion, the judge read out aloud in Court correspondence between himself and officials over stoppages from his salary, and went on to complain by letter (published in full in the *Poverty Bay Herald*) that officials had kept up an 'uninterrupted series of contests with me'. He resigned from the bench shortly after this, and was replaced by Judge Batham, who reversed some of his decisions with regard to the East Coast trust lands and other issues.

Life as a Māori Land Court judge could be arduous. Hearings were often at very out of the way places, such as at Waitangi in the Chatham Islands or at Taupō, an isolated place in the 19th century and not at all easy to get to. The hearings of the Rohe Pōtae case at Ōtorohanga, which lasted for three months in the winter of 1886, were especially demanding. According to the Waikato Times, the weather was often 'most inclement and bitterly cold'. The Judge (Mair), the Assessor (Paratene Ngata) and the Court staff 'had to cross a flooded river in a canoe, walk through mud and water, sit for hours on a bench wrapped in ulsters and were only too glad to retire to the shelter of their blankets'.

Usually hearings were reasonably orderly, but sometimes tempers could flare. In the Motiti Island investigation of 1867 Te Maruki, a witness from the Patuwai hapū described his chiefly opponents as liars, saying, 'you can tame the beasts of the field and the birds of the air but not man's tongue'. Deeply offended, the rangatira Wiremu Maihi Te Rangikaheke told the Court that more remarks on these lines would cause those present to take up their guns. The minutes record that 'William Marsh [Wiremu Maihi] stated that a very little would make the assembled Natives take up arms on hearing the statements of the witness Te Maruki'. Fenton adjourned the hearing for a few hours until tempers had cooled, and the case resumed without further incident. Tensions flared at Cambridge in June 1880 when the Court decided on a claim to the Kokako block on the Pātetere plateau, regarded by Ngāti Whakaue and other Arawa groups as within their sphere of influence.



Judge Frederick Edward Manning (1940).

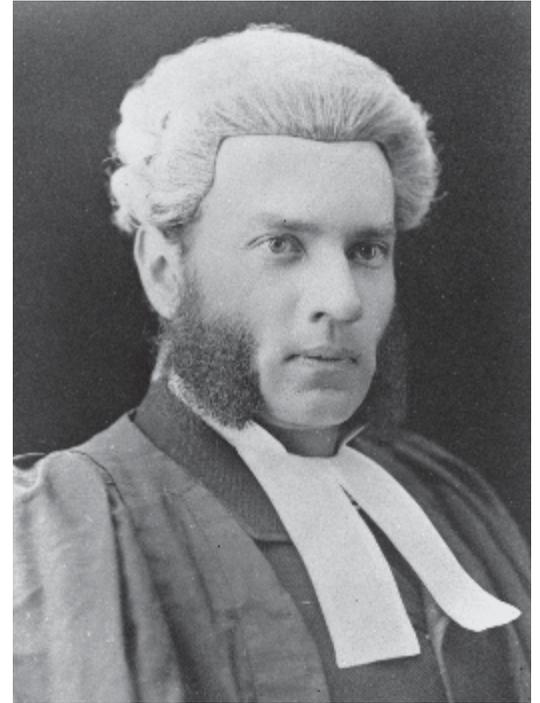


To quote the Waikato Times:

The decision of the Court regarding the Kokako Block has been received with some hostility by the Arawas. The Court was said to be threatened, and from appearances early this morning it was thought best to adjourn till 2 o'clock; the sale of all liquors to the natives in the hotels was stopped. At 2 o'clock the Court was further adjourned till tomorrow. Koreros have been going on all day in front of the public hall, and little prospect of anything like an amicable settlement at close of day was apparent.

But incidents of this kind were not typical.

Some of the judges had literary or scholarly leanings. Judge Maning was a well-known author, who, before becoming a judge, wrote two books which continue to be widely read today, his *History of the War in the North of New Zealand* (1862) and *Old New Zealand* (1863). Judge Fenton edited and published a collection of leading judgments of the Native Land Court in 1879. Judge Wilson wrote a series of articles for the *Auckland Star* on pre-European Māori life, published in 1894 as *Sketches of Ancient Māori life and History*; he also published a biography of the prominent Ngāti Hauā chief Te Waharoa. Judge Gudgeon and Chief Judge Seth Smith were active in the Polynesian Society, established in 1892. Some of the judges had more unusual literary leanings. Judge Wilson published a book on *The Immortality of the Universe* in 1875. In the 20th century Judge Acheson even wrote a successful novel, *Plume of the Arawas*, a romantic adventure story published in 1930. Many judges had some kind of understanding of the Māori language, and some understood it well enough to give oral judgments or draft documents in te reo Māori.



Chief Judge Hugh Garden Seth Smith (ca 1880).

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*Pink and White Terraces
from the shore of Lake
Rotomahana (ca 1880-1886).*

The Life and Times of Judge Edger

One of the most interesting judges of the Liberal era, and an undeservedly forgotten figure, is Herbert Frank Edger, judge of the Land Court from 1894-1909; he also served as one of the Appellate Court judges. He came from a highly intellectual family in Auckland. His sister, Kate, educated at home and at Auckland Grammar School, was the first woman in the British Empire to obtain the degree of Bachelor of Arts. She later acquired an MA and became the founding principal of Nelson College for Girls. Another sister, Lillie, also acquired an MA and became famous for her public lectures on theosophy and Indian religions. Herbert joined the staff of the Native Land Court in 1879 and studied law part-time, as was usual at that time. He was admitted as a barrister and solicitor in 1891 and became a judge in 1894. In 1903 he became chairman of the Waiariki District Māori Land Board. His wife Augusta was active in charitable organisations and the Auckland Choral Society and travelled with her husband when he went to Court sittings in Whangārei, Paeroa, Te Aroha, and other places.

Judge Edger presided over many difficult and complicated cases, including the partition hearings for the Rotomahana-Parekarangi block at Rotorua in 1894 and the rehearing of the much-litigated Poututu block near Gisborne in 1900. He mainly dealt with cases in Northland, Auckland, and the Hauraki region, and also sat on the Appellate Court on numerous occasions. Judge Edger was interested in social and economic issues, and gave public lectures and talks on these subjects. Subjects he wrote about, or lectured on, included 'The Money Question' and 'The Single Tax'. A gifted musician, he performed in public concerts, sometimes with his wife while he was on circuit hearing cases in provincial towns such as Paeroa.

Edger seems to have been well regarded as a judge, and his decision in the Rotomahana-Parekarangi case won wide praise. In 1906 the Native Department was re-established, and Edger became the new departmental Under-Secretary. His tenure of this position, however, was very brief. Appointed in May 1906, he resigned in January 1907 and returned to the Native Land Court bench. Exactly what happened during his brief tenure as head of the Native Department is unclear. His departure was certainly widely reported in the newspapers, but no explanation for his sudden resignation was given. It is likely that Edger and the government had conflicting ideas about Māori land policy.

Edger died in 1909 at the early age of 56. He appears to have been greatly esteemed, and many prominent members of the Māori community were present at his funeral.

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Paratene Ngata (left) and Peter Buck (right) (ca 1922).

The Court sat with Māori assessors for most of the 19th century. The Court's judgments were in theory joint decisions of the judge and the assessor. The assessors were also a diverse group. It was a rule of practice that the assessor in any given case had to be unrelated to any of the parties involved in the hearing. If assessors were believed to have local connections, parties in Court would complain about it. One of the claimants in the 1886 Taheke case alleged that the assessor was related to some of the parties in court and that he had been heard to comment favourably on the cases of some of the parties. The assessor, Honi Kaka, 'indignantly denied' these assertions, and the case continued.

Although there were Māori complaints about the capability and probity of some of the assessors, others were certainly people of great ability who often worked very hard. Paratene Ngata of Ngāti Porou, who was Sir Apirana Ngata's father and certainly a knowledgeable and experienced assessor, worked with Judge Mair on the Rohe Pōtae (King Country) case of 1886 and on a number of the complicated King Country partition cases that followed it. Later, Ngata resigned from the Court, complaining that 'I did the bulk of the work, but my colleague [i.e. Judge Mair] got the big money'. Some assessors became active in the Māori parliamentary movements of the 1890s. An example was Hamiora Mangakahia of Ngāti Whanaunga. He began his career as a conductor of cases in the Native Land Court in Cambridge, and later became an assessor of the Court. He gave detailed evidence about the problems of the Māori land system to the Māori Land Laws Commission of 1891. Later resigning from the Court, he became premier of the

Great Council of the Kotahitanga ('Unity') parliament, and argued that the Māori Land Court should be abolished and all Māori land legislation repealed.

The Native Land Court was a legal process, and this meant that sometimes Māori would need legal assistance to present their cases. One of the many transformations brought about by the Land Court was that it forced Māori into engaging with courtrooms and with lawyers. At various times, however, lawyers were banned from the Native Land Court. The Native Lands Act 1873 provided that 'the examination of witnesses' and 'the investigation of title' was to be carried on by the Court without 'the intervention of counsel'. The ban was removed in 1878, reinstated in 1883, and removed again in 1886. Some lawyers certainly did build up large practices in the Native Land Court. Examples are John Sheehan, Sir Walter Buller and W L Rees. As well as lawyers, paralegals, usually referred to as 'conductors', regularly appeared in the Court. The conductors seem to have been unofficial barristers, usually Māori themselves, who were skilled at presenting cases and cross-examining witnesses. They played a very important role in the hearing of cases and the demanding process of compiling lists of owners to be entered into the Court titles.

Trusts and Equitable Owners

One of the great issues of Māori land law was whether grantees of land under the old 'ten owners' system (1865-1873) had taken their land as trustees or as absolute owners. Although the ten owners system was abolished in 1873, of course many 'ten owners' titles still remained. Indeed, as recent research has shown, in many instances the 'ten owners' system was not even that: many blocks of land were vested in *fewer* than ten owners.

In 1886, an important reform was enacted, styled the Native Equitable Owners Act. This Act, principally the brainchild of John Ballance, Native Minister at the time, was enacted on the assumption that in many instances the former ten owners – or fewer – were in reality trustees. This assumption had become an article of faith by 1886, but it must be said that there is little to show that the Land Court had assumed that ten-owner grantees were trustees at the time the system was actually in place. In one early case, the investigation of the Hikutoto block near Napier (1866), Judge Smith had in fact explained 'the effect of a Crown grant in fee simple as vesting the title absolutely and exclusively in the persons named in the grant'. The ten owners could perhaps have set up an ordinary civil trust if they wanted to, but the general assumption in the late 1860s seems to have been that once the ten received a grant they were legal owners and could act as they liked.

But by 1886 this was no longer the prevailing view, and the 1886 Act was explicitly enacted to allow the Land Court to admit other persons to ten owners block titles. The Act did not convert the former owners, or their successors in title, into trustees, but rather allowed further names to be added to the existing owners once it had been shown that the original ten could be treated as trustees.

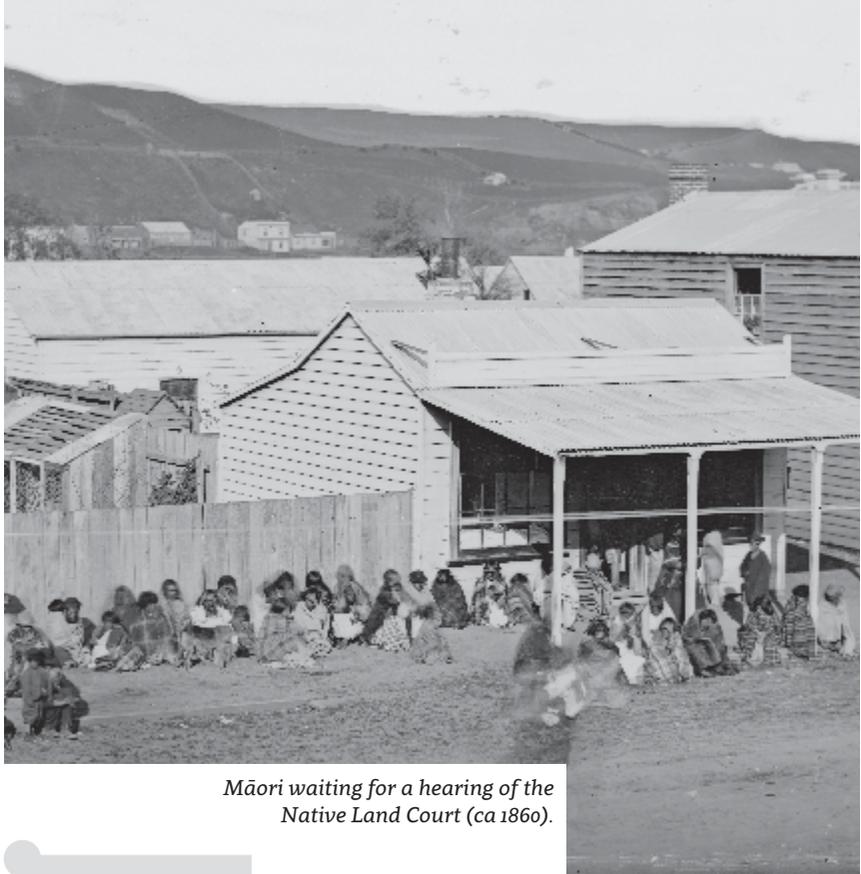
Applications under the Native Equitable Owners Act soon became a very important part of the Court's work. There were a great many cases brought under it, and Equitable Owners decisions litter the Court's minute books for about twenty years after 1886. What is interesting about these cases is that the Court typically did not take much convincing that the original grantees were trustees. Indeed, in many cases this seems to have simply been assumed. In a case relating to the Pukengahu block in Taranaki (1890) Judge Puckey said that under the 1865 Act 'there is no doubt that in many cases the persons holding under the Crown Grant were in reality trustees though no trusts were expressed'.

A good example of the Act in operation is shown by a case relating to the Wharerangi block near Napier, heard in 1900. Wharerangi was originally a reserve set aside within the Ahuriri Crown purchase of 1851. It was investigated by the Native Land Court in 1866 and awarded to just four people. To Judge Edger, reinvestigating the block in 1900, it was obvious

that the four original grantees were trustees: 'the allegation of a trust', he said, 'could not be seriously contested'. Native equitable owners cases were typically not about whether or not the original grantees were trustees – this was often simply treated as obvious – but rather about who should be added in the titles. Cases were not so much about trusts as about the beneficiaries.

This important reform had its limitations, however. It was of little assistance if the ten owners had sold, or partly sold, the block in the interim. An example was the Tauhara North, or Rotokawa, case near Taupō, reinvestigated in 1897. The block had first come before the Court in 1869, where it was vested in just two individuals. The Court in 1897 was in no doubt that these two individuals were trustees, but the problem was that the original grantees had sold large parts of the block to the government, reducing its size from 10,605 acres down to 3,801 acres. The sold portions were now gone, and beyond hope of recovery.

Thus by 1900 there had already been some important changes to the Court's powers and jurisdiction. The ten owners system lasted from 1865-1873, but was then replaced with the memorial of title system in 1873. By the 1890s, a category of land more or less the same as 'Māori freehold land' today had developed. By the end of the 19th century it had become generally assumed by the judges of the Court that many of the ten owners awards had in reality been made on trust. In 1894 a proper appellate court had finally been established, and the older system of rehearings had been ended. A constant throughout this period, however, was rapid alienation of Māori land. Much of it had been bought by private purchasers, but even after 1865 the principal purchaser of Māori land had continued to be the government. And throughout the 19th century the Court had been mainly staffed by judges who lacked legal qualifications.



Māori waiting for a hearing of the Native Land Court (ca 1860).

The Socio-Economic Effects of the Court

One of the main criticisms of the Court process advanced by historians is that the Court's lengthy investigations were extremely costly and disruptive for Māori communities. This certainly was the case.

The costs and expenses were of two main kinds. The Court process generated significant direct costs. Probably the most severe cost of this kind was the expense of surveys. The Court was generally unable to hear any investigation of title case unless the land had been surveyed. For a brief period (1880-1886), the Court was given power to hear cases based on sketch plans rather than full surveys, but this only caused different kinds of problems, and the need for full survey plans was restored by the Native Land Court Act 1886.

Surveys were very expensive, and the Court's requirements relating to surveys were strict. The Court system thrust the cost of surveys directly onto the applicants, who were typically in no position to pay for them. Applicants could ask the government to survey land for them or commission private surveyors themselves, but in either case the surveys required payment.

Surveyors were entitled to apply to the Court for a lien to protect their costs, and discharging the lien often meant that at least some land had to be sold to meet the survey expenses. Survey liens were interest-bearing, adding to the debt burden the process could generate. The government would at times recoup the costs of surveys in land. For example, when the Tauponuiatia block passed through the Court in 1887, 25 separate sections of this vast block were vested in the Crown, some of them to discharge the debt owed to the Crown for surveys (including 20,000 acres of the Pouakani block). Large parts of the Waipaoa Block in the upper Wairoa area were vested in the Crown for survey expenses in 1889; some of this land is today part of Te Urewera National Park.

Hamiora Mangakahia of Ngāti Whanaunga drew attention to the costs of surveys in his evidence to the Rees-Carroll commission of 1891:

Besides, when the Natives get their lands surveyed, the survey of the block will in some cases amount to £500 or £600. That is only for the external boundary. Then come the internal subdivisional surveys, and these amount also to a very large sum, perhaps another £500 or £600.

It was not uncommon, in his view, for the proceeds of land-selling to be entirely absorbed by the costs of the Court process.

Surveyors camp, Rangiwaea (ca 1900-1901).



As well as survey costs, those who participated in the Court process, whether applicants or objectors, had to pay Court fees, which in the event of a long and complex case could be substantial.

The Court system also generated very substantial indirect costs. Sometimes hearings ran on for many months, and it was usual for large numbers of Māori people to congregate in towns such as Cambridge, Hastings, or Whanganui while the hearings took place. It seems that people wanted to be present not necessarily to give evidence, but to ensure that they or their families were not overlooked when lists of names were prepared to be added into the Court titles. Those who could afford to do so would stay in hotels, but more typically Māori people would camp for weeks on end at reserves or on riverbanks, sometimes in winter, and all too often in very unhealthy conditions. Here they had to buy provisions and sustain themselves somehow. Newspapers of the day describe, for example, how Māori people attending Court sittings at Whanganui camped out for weeks on the river bank and were vulnerable to epidemics of scarlet fever and other diseases. The costs and risks were added to by having to be away from homes and cultivations for extended periods.

The buildings used for the cases were often very unsuitable: cramped, dilapidated, and unhealthy. The judges were of course aware of this situation, and complained about it. In a decision given in 1890, Chief Judge Seth Smith wrote in his Tahora rehearing judgment that the Court 'has no appointed buildings in which to hold its sittings, and has often to perform its duties in places which are far from presenting a forensic appearance'. Sometimes the hearings were dismal and depressing affairs. In a letter written in 1882 described a Northland hearing where 'the natives wander about in the mud like chickens that have lost their mother, the whole place is miserable and dirty'. Not all the hearings were like this, but probably many were.





SECTION 2

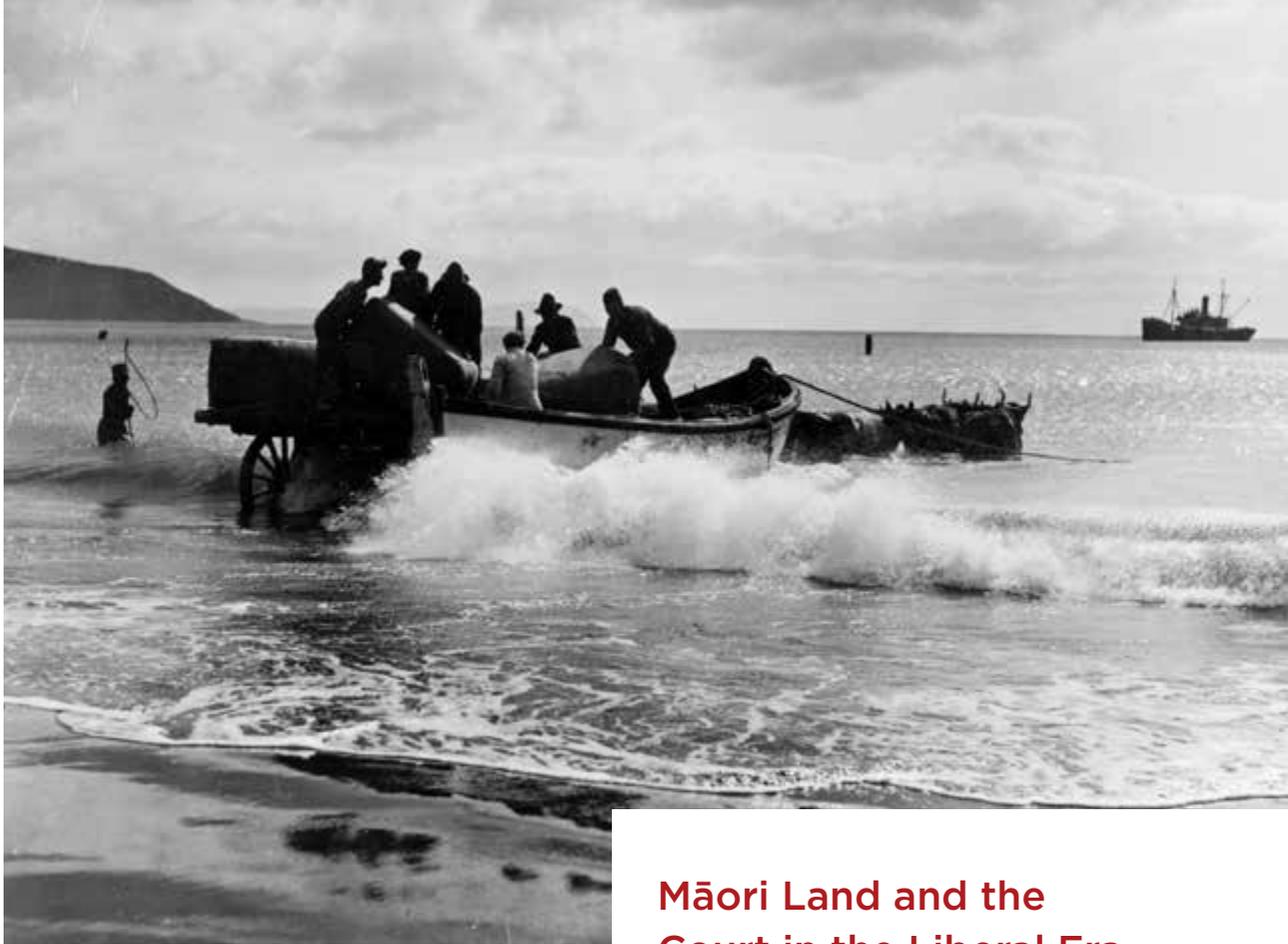
The Evolution of the Court in the 20th Century

*“Toitū te kupu,
toitū te mana,
toitū te whenua”*

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The Evolution of the Court in the 20th Century

Written by R P Boast QC
Professor, Faculty of Law,
Victoria University of Wellington.



Akitio Beach (ca 1910).

Māori Land and the Court in the Liberal Era (1891-1912)

Further complex changes to Māori land law occurred during the period of the Liberal government of 1891-1912 under the premierships of John Ballance, Richard Seddon, and Joseph Ward. The Liberal government was powerfully influenced by contemporary ideas about land and land tenure, including theories that land should be profitably managed by the state in the interests of the nation. Many on the left wing of the Liberal party were interested in even more radical ideas, including land nationalisation, the nationalisation of key resources, and the idea that land should only be granted by the Crown on leasehold tenures.

There were a number of changes to Māori land law during this period. Those that will be considered here are the Rees-Carroll Commission (1891); the establishment of the Native Appellate Court (1894); the reimposition of Crown pre-emption (1894); the establishment of the Validation Court (1893); the enactment

of the Māori Councils and Māori Land Administration Acts (1900); the emergence of the Māori Land Boards (1905); and the enactment of the Native Lands Act 1909.

One of the first actions taken by the Liberal government was to establish a major inquiry into Māori land. The inquiry is usually known as the Rees-Carroll Commission, named after its two most prominent members, the lawyer W L Rees and the Māori Liberal politician James Carroll (Timi Kara). The Commissioners were required to investigate the origins and extent of 'the present defects' relating to Māori land law, and also how Māori land management could be improved in order to 'promote settlement'. The purpose of the inquiry thus fitted with one of the main policies of the Liberal regime, the active promotion of 'close' settlement, meaning denser rural settlement by Pākehā farmers. The report, principally written by Rees, was very critical of the existing system. In a much-quoted passage, the Commission remarked that '[s]o complete has been the confusion both in law and practice become that lawyers of high standing and extensive practice have testified on oath that if the Legislature had desired to create a state of confusion and anarchy in Native-land titles it could not have hoped to be more successful than it has been'.

It heard a great deal of evidence from all over the country, and a number of the judges gave evidence to it, including former Chief Judge Fenton, who was retired by this time, and Judges Ward, Puckey, and Rogan. Sir Robert Stout, later to be Chief Justice, gave evidence that he had been involved 'in a great number of Native cases; and described Māori land law as 'almost chaotic'. He drew attention to the costs of the system, pointing out that the costs Māori faced 'in getting their titles individualised run away in some instances with fully half of the value of the land, and sometimes even more than that'. He added, however, that he was 'not making the slightest charge against the Judges, my remarks being directed against the system'.

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Māori people also gave evidence to the Commission, including key figures such as Hāmiora Mangakāhia and the East Coast chief and politician Wi Pere. Māori mainly complained about the costs, direct and indirect, of the existing system, and pointed out the need for Māori to receive better access to investment finance to better develop their lands and be able to retain them more effectively. These issues were not the main focus of the report when it emerged, however, which focused much more on the insecurities arising from Māori land titles and the role of the state with respect to Māori land purchasing.

In 1894 the Liberals were responsible for a major new statute, the Native Land Court Act of that year. The new legislation gave effect to some of the ideas of the Rees-Carroll Commission. The 1894 Act was a long and very complex enactment, and the debates on the Native Land Court Bill in the House were lengthy and (for many members) tedious: it was reported on 3 October 1894 that 'the debate on the Native Land Court Bill was continued last night in the House and was of a weary nature'. Many politicians were baffled and bored by the whole subject, especially those representing South Island seats, where Māori land issues were no longer of much political importance. In many ways, the 1894 Act continued with what had gone before,



William Lee Rees (ca 1878).



Sir James Carroll (ca 1914).

including the Native Land Court. However, the 1894 Act contained two important innovations: the establishment of the Native Appellate Court and the reimposition of Crown pre-emption.

Section 79 of the 1894 Act provided that there would now be 'a Court of Record, called "The Native Appellate Court," which shall consist of the Chief Judge and such other Judges of the Native Land Court as the Governor may from time to time appoint'. This was an important step, and the Appellate Court, today the Māori Appellate Court, is still in operation and regularly hears appeals from the Land Court. Before this time, all appeals were by way of rehearing. But rehearings had major disadvantages as a method of appeals. They were very cumbersome, and could generate cases that took even longer to inquire into than the original hearings. New parties could become involved in the case, and bring new evidence not heard earlier, but since the rehearing was an appellate hearing there could be no further appeals: a rehearing could not be reheard in ordinary circumstances. The system was made even more complex by a constant torrent of petitions to parliament asking for reinvestigations of various kinds, generating a complex and costly system of investigations, rehearings, reinvestigations and rehearings of the reinvestigations. This led to some blocks become bogged down in litigation for decades, as happened with, for example, the Owhaoko, Mangaohane, and Oruamatua-Kaimanawa blocks, all of them the subject of interminable investigations and reinvestigations in the 1880s and 1890s, in some cases connected with litigation in the ordinary courts.

As the years had gone by, one important function of the Chief Judge came to be the making of preliminary determinations as to whether there should be a rehearing or not. These decisions by the Chief Judge could be quite elaborate in their own right and came to look more and more like appellate decisions. It seemed logical to move from lengthy written review decisions determining whether or not

there should be a rehearing to a more orderly and regular system of appeals as happened in the ordinary courts. In some ways the establishment of an Appellate Court gave effect to existing trends. The establishment of the new appeal body was certainly a progressive step, but it was a very cheap version of an appeal court. No physically separate appeal court with its own judge or judges, or with its own separate premises and staff, was established at the time, and indeed never has been. The Appellate Court only came together at particular times and places whenever an appeal needed to be considered. A number of the judges of the Court added to their duties the responsibility of sitting on the Appellate Court as and when required. No system for reporting the decisions of the Appellate Court in a formal series of law reports was ever set up.

The other new departure in 1894 was the reimposition of Crown pre-emption, which had originally been waived in the Preamble to the Native Lands Act of 1862. The Native Lands Acts had created a complicated system of Māori land titles, and competition between the government and the private sector as purchasers. The government privileged itself as a purchaser in a number of ways. One was to institute a system by which a block being targeted by the Crown as a purchaser could be 'proclaimed', effectively preventing the owners from selling their shares to any private party. Owners in this situation could essentially sell to the government, on the government's terms, or not at all. In the 1880s, there were two major regional pre-emptions, the King Country and the Rotorua region, where private land-purchasing in the entire region was banned, and the only permitted purchaser was the State. In 1894, this was taken to the next logical step by s 117 of the 1894 Act, which provided that 'it shall not be lawful for any person other than a person acting for or on behalf of the Crown' to acquire shares in Māori land. This was a radical and controversial step at the time. There were, however, to be many further changes relating to Crown purchasing of Māori land interests in the 20th century.



Tureiti Tukino Te Heu Heu V (ca 1905).

Another important development in the crowded years of the Liberal government was the establishment of an entirely new Court to deal with disputed Māori land titles. The complexities of the law relating to memorials of title under the 1873 Act led to many legal uncertainties for private parties who had purchased shares in Māori land directly from Māori owners. There had been a great deal of litigation over this subject in the ordinary courts, and there was growing pressure from purchasers for a remedy. This was an increasingly serious problem, shown by the fact that by 1890 there may have been as much as 1,000,000 acres of land in disputed ownership. Judges of the Land Court were themselves very concerned about risky titles. Judge Rogan told the Rees-Carroll Commission of 1891 that in his opinion it was not safe for anyone to buy land deriving from titles awarded by the Native Land Court. Politicians agreed that the solution to the matter was to establish some sort of special body to 'validate' disputed titles, but there was widespread disagreement on what sort of body was needed.

After a number of abortive legal experiments, it was decided to give extended powers to the Native Land Court to validate disputed titles. The objective was not to legitimise fraud, but rather to grant relief from the effects of legal technicalities, which arose all too easily given the increasingly complicated state of Māori land law. The Rees-Carroll Commission had recommended the establishment of a special-purpose body, but this was at first thought to be too expensive and unnecessary. The Native Land Court was given an additional 'validation' jurisdiction by the Native Land (Validation of Titles) Act 1892, allowing the Court to inquire into 'incomplete' alienations, which could be validated providing they were basically bona fide. By this time the Native Land Court already had a backlog of about 13,000 cases, or so W L Rees maintained in a speech he made opposing the Bill in 1892. However, the new powers given to the Court proved very difficult to interpret

and apply, as was shown by an interminable inquiry into the Puhatikotiko block near Gisborne, carried out by Judge Barton in 1893.

This disappointing outcome led to the Native Land (Validation of Titles) Act 1893, which created an entirely new body, the Validation Court. Judge Barton, who had campaigned tirelessly for a new body, was given the job of Validation Court judge. To Barton's chagrin, however, a further change made a number of the ordinary judges of the Native Land Court Validation Court judges as well. The Validation Court was given very wide and sweeping powers, but it only seems to have been an important institution at Gisborne, where it investigated and validated a number of land blocks in the vicinity of the town. Although it did consider a few cases in other areas – including Auckland, Thames, Hastings, New Plymouth, Ōtaki, and Wellington – the hoped-for flood of investigations failed to eventuate.

Native Land Court Judges (1909).



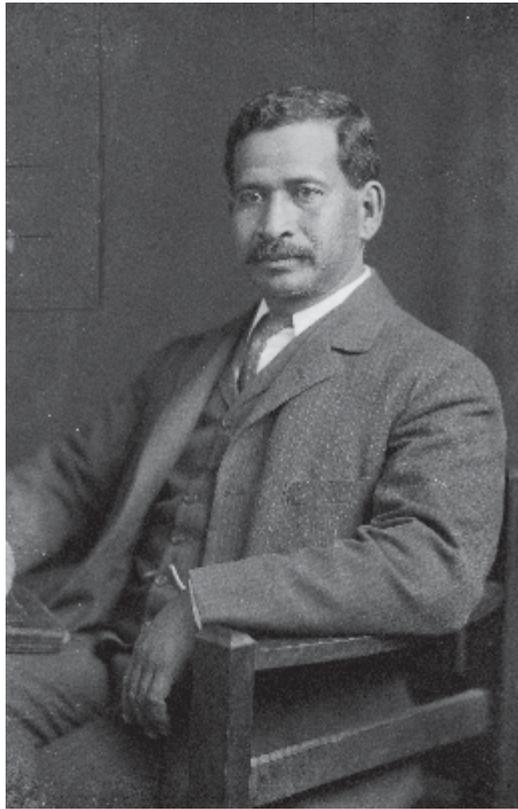
As a result of a legal decision of the Privy Council in 1905, the Validation Court lost most of whatever purposes it might have had, and in 1909 it was finally abolished.

In 1899 James Carroll became Native Minister, the first person of Māori descent to hold the office. He played an important role in the next major step taken by the Liberal regime, the enactment of two highly innovative statutes in 1900: the Māori Councils Act, and the Māori Land Administration Act. The Māori Councils Act devolved a kind of limited self-government to elected Māori councils, which were given power to deal with such matters as liquor licensing, control of public health matters, and the licensing and regulation of tohunga. Lack of central funding greatly limited the Councils' effectiveness; the remaining few were eventually abolished under the 1945 Māori Social and Economic Advancement Act and replaced by new institutions. The Māori Land Administration Act was more concerned with land issues, and had some important consequences for the Native Land Court. This Act set up a number of Māori Land Councils, one Land Council for each Māori land district, which had Māori majorities (either three out of five, or four out of seven). The Māori Land Councils were designed to take over some of the functions of the Native Land Court, but only when so directed by a judge of the Native Land Court. Although this is a matter that requires some further research, the provisions seem to have been a dead letter, true of much of the legislation relating to Māori land across the years. The Māori Land Councils could set aside inalienable papakāinga blocks; the legislation also allowed Māori to transfer land to the Māori Land Councils, which had powers to manage this transferred land ('vested land') on their behalf, borrow money to develop the land, and lease it to settlers.

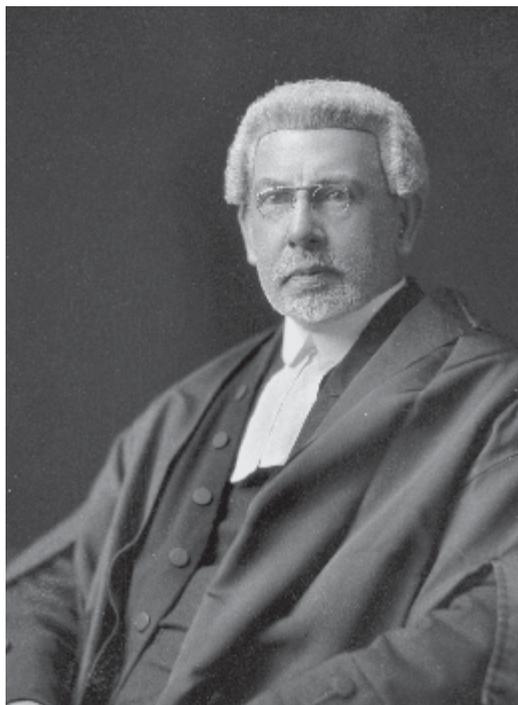
**IN 1905, THE LAND
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This might possibly have worked, but was dependent on Māori being willing to hand their land over to the Māori Land Councils, on the Māori Land Councils having the resources and ability to manage the land, and on Pākehā being willing to acquire land in leasehold rather than freehold from the Māori Land Councils. Māori in some areas were willing to transfer land to the Māori Land Councils, but on the whole the other two preconditions did not apply. The Māori Land Administration Act, as far as it is possible to be certain, seems to have been a complete failure. Māori soon became reluctant to vest land in the Māori Land Councils, but then found themselves compelled to do so under yet further legislative tinkering for failing to pay rates, clear noxious weeds and other peccadilloes.

In 1905, the Māori Land Councils were abolished, and converted into new entities, the Māori Land Boards. These were much more closely aligned with the Native Land Court, and the local Māori Land Court judge often became the President of the Board. This made some of the judges of the Court into something more than judicial officers, giving them a wide range of administrative functions. This was an important step in the conversion of the Native Land Court from a judicial body set up to investigate titles into a kind of quasi-judicial land management agency.



Sir Apirana Turupa Ngata (1914).

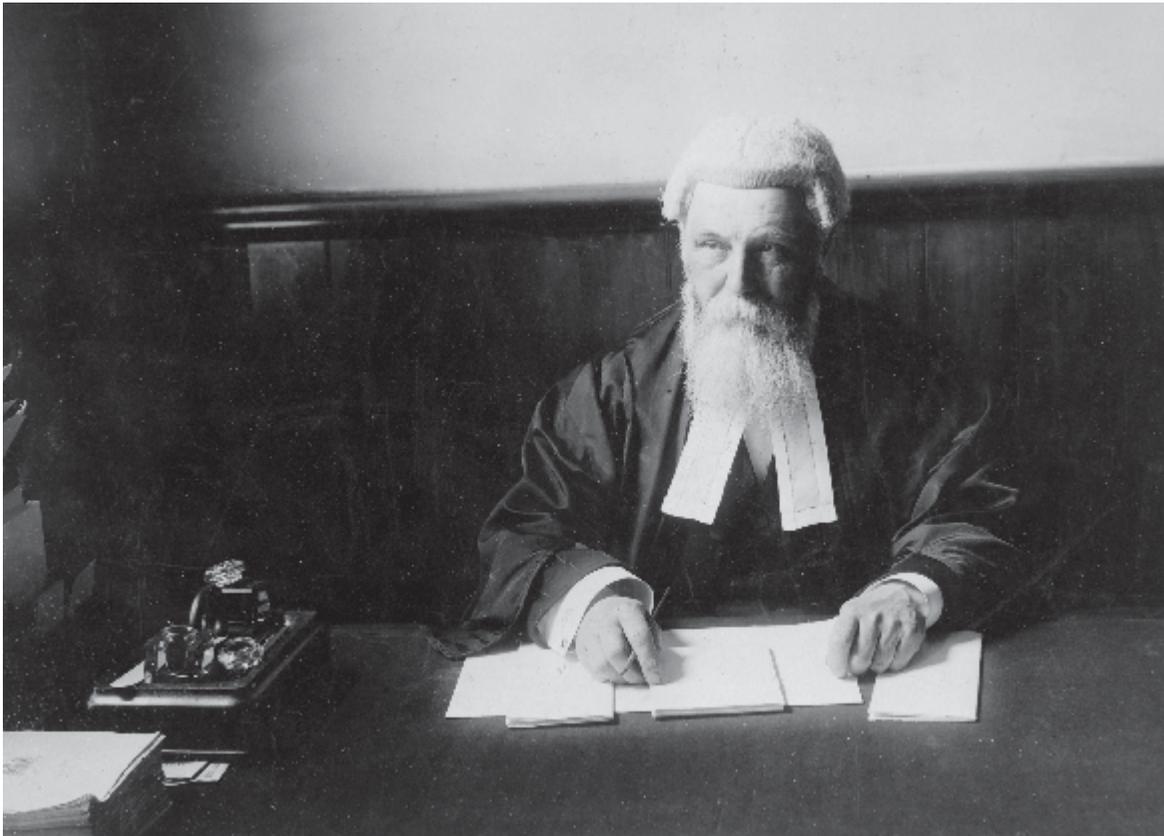


Sir John William Salmond (1924).

Another feature of this further legislative experiment's principal legacy was to create another category of land, and another problem for the future, that of the vested lands. These lands remained a troublesome category, the subject of various investigations and inquiries, until the 1950s. In 1952 the Māori Land Boards were dissolved by the Māori Land Amendment Act of that year, and their assets vested in the Māori Trustee.

The last important step taken by the Liberal government was a massive reform of statutory Māori land law, resulting in the Native Land Act 1909, a comprehensive code of Māori land law. The key architects of this important role were Carroll and his parliamentary under-secretary, A T Ngata. Also important in the reform process was John Salmond, at this time counsel to the Law Drafting Office, later to be Solicitor-General and then a judge of the Court of Appeal. The legislation drew on a fund of ideas discussed by Ngata and Sir Robert Stout, the Chief Justice, in a series of detailed reports on Māori land matters they had prepared in 1907-08. The judges of the Native Land Court were closely involved in this important reform. In September 1909 the judges and presidents of the Māori Land Boards (essentially the same people) came to Wellington at the invitation of Carroll and spent three weeks commenting on Salmond's draft. This was followed by a further conference with the judges, and once the Bill was introduced into the House it was examined in detail by the Native Affairs Select Committee. The Bill was essentially a bipartisan measure, and was steered through the House by Carroll.

The 1909 Act was an important achievement, bringing a great deal of much-needed clarity, and doing away with a complicated and confusing body of statutes. The current statute still owes a great deal to the 1909 Native Land Act. But it was not in the end especially innovative. The Native Land Court remained at the centre of the Māori land system, now supplemented by the Native Appellate Court established in 1894.



Chief Justice Hon Sir Robert Stout (ca 1910).

One important change was the establishment of a new system of formal owners' meetings to deal with Crown and private offers to purchase land. The new Reform Government, however, quickly exempted itself from the requirement to submit purchase offers to meetings of owners by an amending act in 1913.

The 1909 Act also contained a group of provisions dealing with Māori customary title to land. Section 84 of the 1909 Act provided that 'the Native customary title to land shall not be enforceable as against His Majesty the King by any proceedings or in any Court or in any other manner'. The Act excluded from this, however, the ordinary process of title investigation in the Native Land Court, thus making the process of title investigation the only way that Māori customary titles could be recognised in the ordinary law. Section 84 meant that Māori could not, for example, bring civil actions in

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Nireaha Tamaki (ca 1880-1900).

trespass or conversion in the ordinary courts based on Māori customary rights (such as for taking fish or shellfish). Scholars have seen s 84 and its associated provisions as a reaction to two Privy Council decisions relating to Māori land (*Nireaha Tamaki v Baker* [1901] AC 561 and *Wallis v Solicitor-General* [1903] AC 173). There is also some evidence that the purpose of these provisions was connected to cases relating to the Rotorua lakes or to Ahuriri lagoon at Napier. These sections became ss 155-158 of the Māori Affairs Act 1953, but were for the most part repealed by the current Act, Te Ture Whenua Māori Act 1993.

The Liberal period was thus a complex and eventful one, but it was an era which left a confused legacy. The Liberal government had shown itself willing to experiment with new ways of dealing with Māori land matters, at least to some degree, and James Carroll,

although caught in a very difficult political situation, was an able and effective Native Minister. Essentially, however, the willingness of the Liberals to experiment only went so far, and it remained a priority for the government that Māori land should continue to come onto the land market for the government to acquire.

During this complicated era the Land Court had continued to sit, and carry out its usual functions. By around 1900, the core investigation of title jurisdiction had largely been spent, as there was now little land left to investigate, aside from a few isolated blocks. The Court's functions moved away from title investigation to the more humdrum work of dealing with partitions and successions. This did not mean that the Court was any less busy, and in fact there were numerous complaints about the backlog of cases.



The Māori Land Court from 1909 to 1931

The period from 1909-1931 (i.e. between the two major statutes of the Native Land Act 1909 and its counterpart of 1931) is a neglected period in the Māori Land Court's history, but it is clear that it continued to be a busy and important institution during these years. As previously noted, after 1900 investigations of title were no longer an important component of the Court's work. There were a few late investigations, however, but where these did occur the Court's practice was the same as it had always been. Numerous groups would file claims, and the Court would then inquire into them and issue a decision as to who the customary owners were. An important example of a late title investigation is the large Moerangi block (45,000 acres), located on the Waikato coast, which the Court did not finally investigate until 1910. There were also some comparatively late investigations of title in the Taupō region, including the Tokaanu block at the southern end of Lake Taupō, investigated in 1911, and the remote Opawa Rangitoto block, investigated in 1913.

The Court continued to make partition orders, splitting blocks it had already investigated into smaller sub-blocks, and these could often be very complex and time-consuming cases. An example is the partition of the Te Whaiti block in 1910. Te Whaiti had originally been investigated by the first and second Urewera Commissions. In 1912, following the restoration of the Native Land Court's jurisdiction over the Urewera region in 1909, the Court partitioned the Te Whaiti block, dividing it between two related groups, Ngāti Manawa and Ngāti Whare. The case generated a great deal of evidence, but did not in the end point to a clearly defined boundary between the two groups. The Court was obliged to partition the block and reluctantly did so. This case illustrates some of the unforeseen consequences of partitioning. Although the Court allocated the larger part of the block to Ngāti Whare, it later became apparent, once forestry valuations had been done, that the most valuable part of the block had actually been allocated to Ngāti Manawa.

The Crown continued to acquire large areas of Māori land in the period from 1910-1920, particularly in the Urewera region, but also in Hawke's Bay and the King Country. Much of the land acquired by the government from Māori at this time was used to settle returned soldiers. The government still continued with its system of undivided share-buying and partitions, meaning that many blocks had to be partitioned between the Crown and 'non-sellers'. The problem was often one of the location of the 'non-sellers' portion, which could become very contentious. The non-sellers were also burdened with a proportion of the additional survey costs necessary to pay for the surveys of the partitioning of the block. Many blocks became entangled in a process of partition, repartition, and continued Crown applications for survey expenses, necessitating a sequence of hearings in the Court. An example is the Tutira block in Hawke's Bay. Here the government's land purchasing began in 1917, but the final partitions were not made until 1931. There was no single large case dealing with Tūtira at this time, but rather a sequence of partitions, repartitions, applications for survey liens, and repeated adjournments in the Court. The government's land purchasing system operated independently of the Court, but the Court's involvement was necessary at various stages of the process to formalise new boundaries, survey liens, and so on. Much of the Court's work in the period from 1910-1930 was of this kind.

As the investigation of title jurisdiction became less important, other issues took on a new significance. The Court often became involved in cases relating to compensation for public works takings, either under the Scenery Preservation Act (which allowed land to be taken for the purpose of establishing scenic reserves), or under ordinary Public Works legislation. An example is a decision of the Court relating to the Ōkere Falls power station in the Rotorua area (1910). The government had paid compensation for the taking, but it

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was unclear which of the owners it should be paid to, and this was a matter that had to be investigated by the Native Land Court.

There were also many cases in the Court about succession, but a new development was that the Court had been given jurisdiction over probate of Māori wills and the grant of letters of administration for Māori people in 1894. Before this time the Court's jurisdiction over succession was confined to making succession orders following the grant of probate – if the deceased had in fact made a will – in the ordinary courts. The Court's new probate jurisdiction added considerably to its responsibilities, and the judges now had to deal with many complex problems relating to allegations of undue influence over testators and other kinds of questions relating to wills. Section 141 of the Native Land Act 1909 was an equivalent to the Family Protection Act and allowed wills to be challenged in the Court on the basis that the testator had failed to make proper provision for persons he or she was responsible for. The Court heard numerous cases of this kind. Dealing with challenges to wills on the basis of undue influence was a very different kind of legal inquiry from the Court's more usual functions dealing with land titles. The Court lost its probate jurisdiction in 1967. The 1909 Act also gave



Wi Pere.

the Court power to make adoption orders and appoint trustees for Māori individuals unable to manage their own affairs, and to make adoption orders. By the time of the 1931 consolidating Act the Native Land Court was beginning to develop into a general Māori court, its responsibilities now no longer confined to land-related issues but also extending into the ordinary law of succession and some aspects of family law. These other aspects of the Court's work have not received the same degree of attention from historians as its jurisdiction over land-related issues, but a perusal of the minute books from the 1920s and 1930s reveals that a substantial amount of the Court's work had become focused on wills and adoptions.

The Court was also increasingly being used as a kind of commission of inquiry. Many earlier investigations and partitions were revisited by the Court during these years, often under special legislation following petitions made to the Native Affairs Committee at parliament. Two particularly troublesome blocks were the adjoining Tarawera and Tatarakainga blocks in Hawke's Bay. These blocks were originally investigated by the Native Land Court in 1882, but there had been long-standing

dissatisfaction with the outcome. Following numerous petitions legislation was enacted in 1924 requiring the two blocks to be investigated afresh by the Court. The Court reinvestigated Tarawera in 1925 and Tatarakainga in 1927, making many complex changes to the original titles, and the reinvestigations were then followed by appeals to the Appellate Court; these cases, as it happens, failed to resolve all the problems relating to the two blocks. There were numerous other reinvestigations of a similar kind in other parts of the country during this time.

The most important development relating to Māori land in this period was not, however, directly connected with the Native Land Court. For many years, Māori leaders such as Wi Pere had been pointing out the need for access to development credit so that Māori could better utilise their land for farming. Lack of access to credit meant that owners often sold interests in land to generate capital to develop other blocks. Little was done by the state to assist Māori in this respect. In 1920 William Herries, the Native Minister in the Reform government, introduced into parliament legislation establishing a new entity, the Native Trustee,

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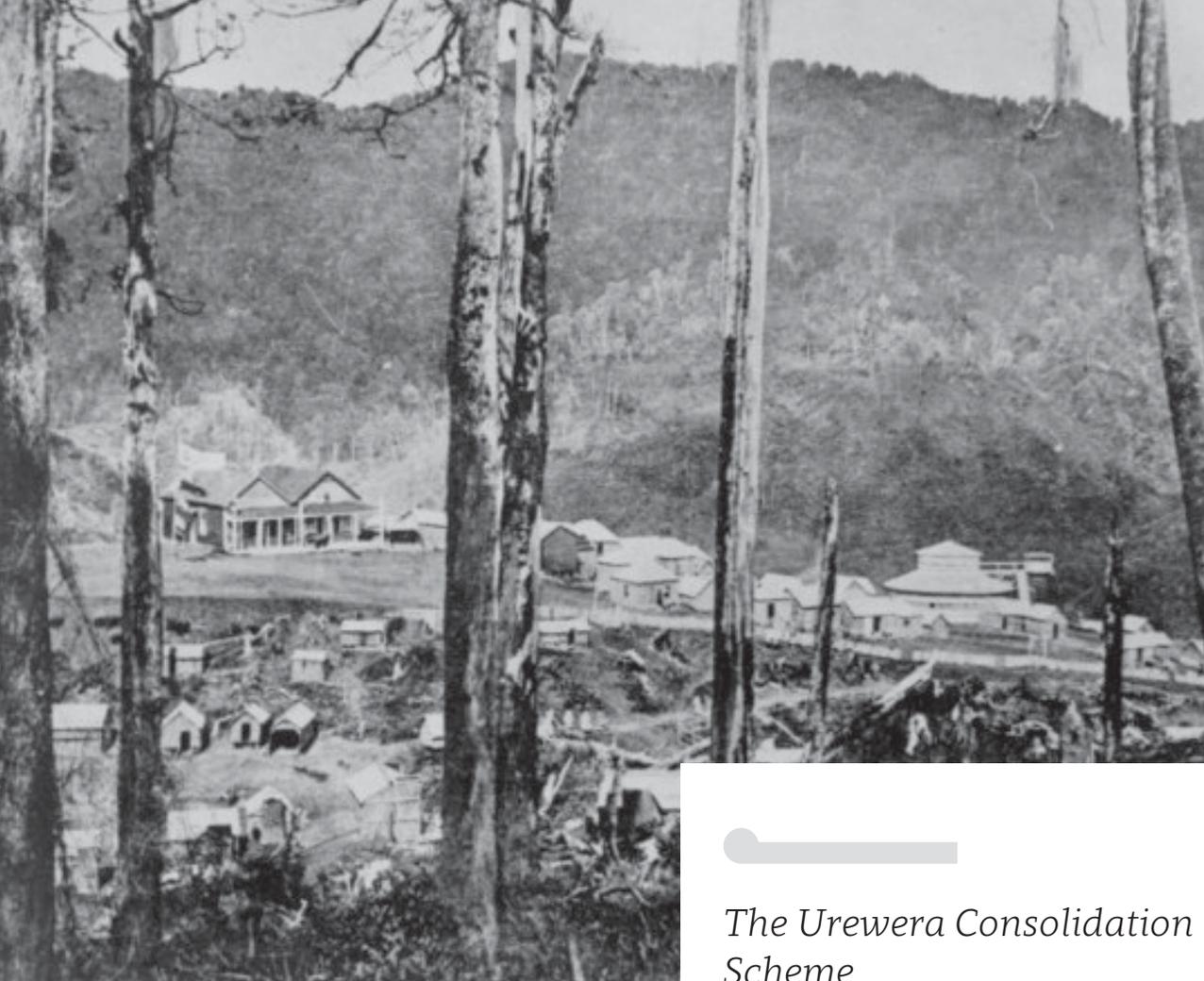
today the Māori Trustee (Native Trustee Act 1920). Such legislation had first been proposed in 1912 in response to some recommendations from the Public Trust Office that the various categories of Māori reserved lands under its administration should be transferred to a new entity. Income from these lands and from some other sources could then be pooled and loaned to Māori to finance land development. The new legislation gave effect to these ideas, and in 1921 W E Rawson, a former judge of the Native Land Court, became the first Native Trustee. The Native Trustee office became active in lending money for land development. The establishment of the Native Trustee was an important step, but of course the money lent was Māori money in the first place. The next step came in 1929, when the government itself became involved in lending money to Māori farmers.

By this time it had become apparent that the titles to many Māori land blocks were becoming very crowded, some blocks having hundreds or even thousands of owners, some possessing very small interests. A number of methods were devised to remedy this. One of these was a consolidation scheme, in which contiguous blocks were grouped together, resurveyed, and

the shareholdings concentrated together to create new titles which better reflected – so it was hoped – the needs of families. The 1909 Act contained comprehensive provisions empowering the Native Land Court to set up consolidation schemes, and in 1911 the first such scheme was set up on the Waipiro Block on the East Coast. This scheme was completed in 1917, and many others were established in other parts of the country.

Consolidation schemes could be beneficial, but they were enormously time-consuming and expensive to establish. They did not offer a permanent solution to the crowded titles problem in any case, only a temporary respite. In some instances consolidation schemes were set up not to benefit the owners as such, but rather to consolidate Crown interests acquired through the purchase of undivided interests. The massive Urewera consolidation, which was commenced in 1919, was principally established to consolidate Crown interests in the Urewera blocks. It was a vast project affecting 44 separate land blocks and required special enabling legislation, the Urewera Lands Act 1921-22.

Consolidation schemes were carried out principally by officials of the Native and Lands Departments, sometimes working in close association with Court staff and registrars. The judicial functions of the Court came into operation at the end of the consolidation scheme, when formal orders were made by the Court consolidating the owners' lists, establishing new blocks, and cancelling old survey boundaries.



Maungapohatu in Te Urewera (December 1908).

The Urewera Consolidation Scheme

Probably the largest consolidation scheme ever carried out was the Urewera Consolidation. The Urewera consolidation scheme takes its origin from the impasse into which Crown purchasing within Te Urewera had fallen by 1920. Despite a very active Crown purchasing programme, the government had not been able to obtain clear title to a single Urewera subdivision, despite the expenditure of a considerable amount of money and the best efforts of the Native Department staff.

In 1921 government officials finalised the details of the Urewera consolidation. The government wished in effect to totally redraw the land tenure map of the entire Urewera region, allocating much of the land to itself (representing the interests it had already purchased) and with the 'non-sellers' regrouped into a number of small new blocks scattered across the region. Special legislation implementing the consolidation was enacted in 1922. Tūhoe and other groups affected by the scheme were very wary, and the project took a number of years to implement. The old block

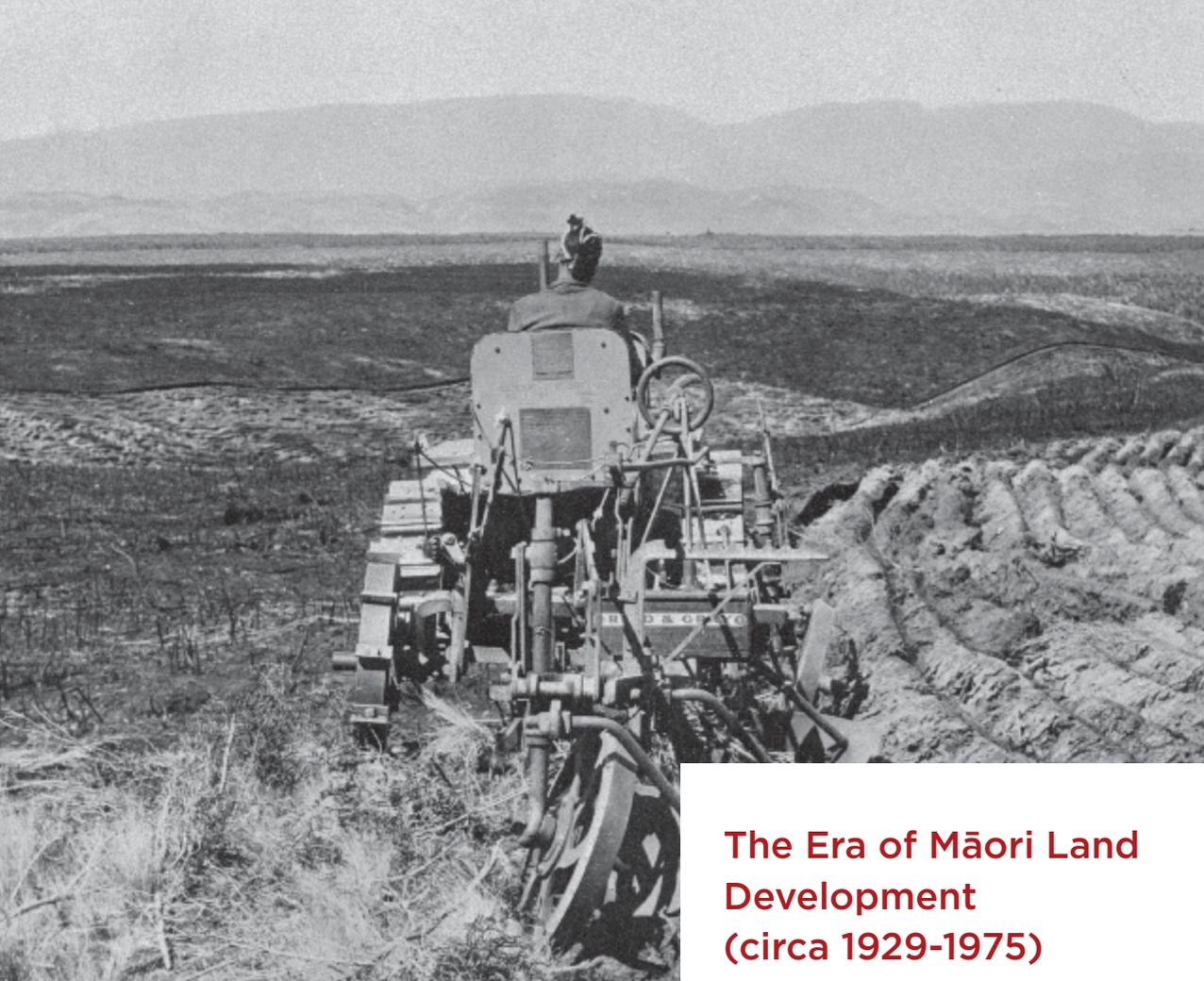
boundaries disappeared, and the interests of the 'non-sellers' were rearranged into 214 new blocks, most of them very small.

The areas allocated to the non-sellers were reduced by a significant extent to pay for roading and survey costs. The exact acreages are hard to quantify due to the scale and complexity of the scheme. The total area of the original Urewera reserve was about 656,000 acres. With the consolidation, about 84 percent of it was awarded to the Crown. When the new blocks were surveyed off there were numerous protests about their location and the roading and survey deductions. The Crown sections were proclaimed as Crown land in June 1927. The remaining blocks had the status of Māori freehold land and were thus subject to the jurisdiction of the Native Land Court.

The Urewera consolidation shows that 'consolidation' was not merely a process of regrouping the interests of owners amongst each other. It could also be embarked on, as here, mainly to consolidate Crown interests, although it did also give the 'non-sellers' blocks of their own, which they were free to use. The government hoped that once its interests had been reorganised and proclaimed as Crown land then its sections could be sold to European farmers. This strategy was unsuccessful in the end, as there was very little interest in acquiring

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land in the steep and isolated Urewera region. Eventually, the Crown areas were formed into Te Urewera National Park in 1954, through which the parcels of Māori freehold land created by the consolidation scheme are now scattered, some of them completely enclosed within the national park boundary. In 2014, as part of a negotiated settlement with Tūhoe signed the previous year, the Te Urewera-Tūhoe Act vested the park in a new Te Urewera Board made up of joint Tūhoe and Crown membership. The 'enclave' blocks (the old 'non-sellers' blocks) however, remain and still have the status of Māori freehold land.



Plough breaking in pumice-land (ca 1930).

The Era of Māori Land Development (circa 1929-1975)

The years from roughly 1930-1970 was the era of large-scale Māori land development by the state. During this period the Court continued in operation as before. Māori land policy from around 1910-1940 was dominated by Sir Apirana Ngata, a law graduate who became Native Minister in the United government led by Sir Joseph Ward, which took office in 1928. Before 1928, Ngata had worked closely with G H Coates, who became Native Minister in 1921. He had also been active in the development and reorganisation of tribal lands in his home region of the East Coast. Ngata believed that Māori people should remain in the countryside to preserve and protect their culture, and that they should be encouraged by the state to become more actively involved in farming and land development. Legislative backing for this programme was provided by s 23 of the Native Lands Amendment and Native Land Claims Adjustment Act 1929. The objectives of

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the legislation were, to quote the language of s 23, 'the better settlement and more effective utilisation of Native land' and to encourage Māori 'in the promotion of agricultural pursuits and of efforts of industry and self-help'. Ngata saw the 1929 legislation as a pivotal turning point, and in an article published in 1940 assessed its importance in the following terms:

In 1929 Parliament, nearly ninety years after the Treaty of Waitangi, assumed direct responsibility for a policy of encouraging and training the Māoris to become industrious settlers under Government direction and supervision. It was the scheme that Carroll and other leaders of the Māori people pleaded for thirty-eight years earlier.

The history of the development schemes is a very complex subject. Ngata particularly wanted Māori people to play an active role in the schemes and to become industrious and prosperous farmers. He saw it as vital not merely to develop land but also to train Māori in the skills necessary to become successful farmers. The development schemes first began in the Rotorua region in the 1930s. Consolidation and land development often had to be done in tandem, because 'development' typically required rearranging areas of Māori land into farming units, which would normally require rearranging land titles. Land development was a well-intentioned policy, but it could sometimes mean heavy-handed control

by the state and a loss of control by the owners over their own properties. Some development schemes were very successful, others less so.

The 1929 legislation was the beginning of a new era for the Native Department. The Department, which had formerly done little more than service the Land Court and carry out the government's land-purchasing requirements, evolved into the large and multi-purpose Department of Māori Affairs, which was at its peak in the 1950s. One of the Department's major functions was the development of Māori land.

The effects of the land development era on the Land Court is not so clear and probably needs further research. Land development meant a much enhanced administrative role for the judges, but that was largely because of the overlap between the Court and the Māori Land Boards in terms of personnel. In 1905, the old Māori Land Councils had been abolished, and their responsibilities transferred to the Māori Land Boards, which were usually run by the judges and registrars of the Court. In 1913 the Boards and the Court were formally merged, in the sense that the local Māori Land Court judge also became the presiding officer of the local Māori Land Board. The Boards had many administrative and advisory functions, and the net effect was to involve the judges in a vast array of administrative responsibilities which were often quite different from those of an ordinary judge.

Ngata's 1929 legislation greatly enhanced the powers and functions of the Boards, and, hence, of the Land Court judges. The Boards could now, for example, purchase and establish farms, buy and sell stock, and enter into mortgages. Some of the judges, notably Judge Harvey in Rotorua and Judge Acheson in Northland, became very active land managers and administrators, working in close association with Māori community leaders at the local level. At Rotorua, Judge Harvey administered a large-scale Māori housing scheme, which at its height included a joinery factory, tile factory, timber yard, bulk-store, and timber-felling on Māori land,



Hon Ernest Corbett, Minister of Māori Affairs presents the Ahuwhenua trophy (27 May 1956).

all administered by Judge Harvey and his staff. These administrative functions were distinct from the ordinary operations of the Court, which continued to deal with successions and partitions as before.

One impact on the Court seems clear: the government's commitment to land development meant that there was a rapid decline in Māori land purchasing by the state. It was now government policy to develop Māori land rather than to purchase it and sell it to Pākehā settlers. The decline in land-purchasing, especially pronounced after 1937, meant that partitioning land between the Crown and 'non-sellers' was no longer an important function for the Court. The Court's role thus became much more focused on issues arising amongst owners than on title investigation and partitioning blocks between owners and the government.

The judges of the Court at this time are another under-researched subject. Some of the judges, for example Judge Acheson, were well-educated – he had a Master's degree in law – and, in his case, at least, was sympathetic to Māori aspirations as well as being keenly interested in Māori ethnography and New Zealand history.

The 19th century Native Land Court judges, as explained earlier, were of diverse backgrounds. This diversity was probably declining by mid-century, with more of the judges being lawyers who had practised in the field of Māori land law. However, even as late as 1931 the Native Land Act of that year required only that the Chief Judge be a barrister or solicitor of the Supreme Court. Section 43(1) of the Māori Affairs Amendment Act 1974 provided that no person other than a barrister or solicitor was eligible for appointment to the Māori Land Court bench.

Other devices were introduced into the legislation in an effort to remedy the problem of crowded titles, including provisions allowing landowners to incorporate, with the incorporation paying a dividend to the owners. The Native Land Court Act 1894 was the first to make provision for incorporations of owners, and there were much more elaborate provisions in the Native Lands Acts of 1909 and 1931 and the Māori Affairs Act 1953. As it was put in the report of the Royal Commission on the Māori Land Courts (McCarthy Commission) of 1980, an 'incorporation functions as a single legal entity



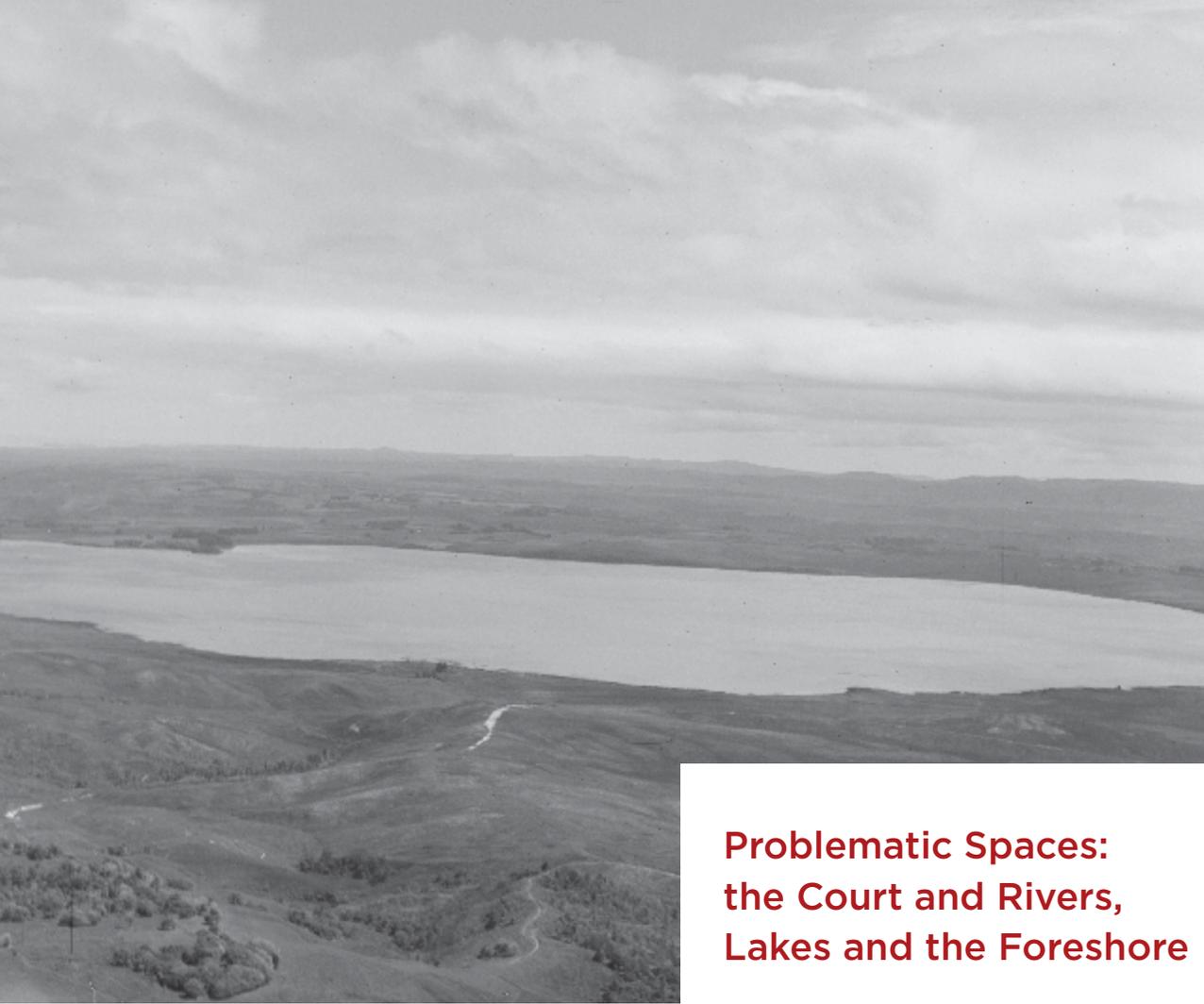
Wairakei Farm Settlement, Taupō (ca 1960).

able to enter into contracts on behalf of an unlimited number who might own the land as tenants in common'. Māori incorporations were – and indeed are – established by orders made by the Māori Land Court. In this way, the Court was given power to establish corporate bodies on the application of the owners, another example of the expansion of its responsibilities. Incorporations hold the land the Court vested in them in trust for the beneficial owners. Following the Court orders, the owners elect a committee of management, which has an array of functions set out in the legislation. The Court's powers were not limited to merely establishing incorporations, however. It had on-going responsibilities to supervise them, and could, for example, appoint auditors or require accounts to be produced. Again, the Court's powers were expanded well beyond those of a 'land court' in any narrow sense of the term to now include the establishment and ongoing supervision of corporate bodies.

Another solution was to give the Māori Land Court jurisdiction to establish various kinds of landowning trust. Trusts are today very popular and are a much more recent device than incorporations. Many Māori people became

familiar with the so-called '438 Trust', a reference to s 438 of the Māori Affairs Act 1953 (today, an ahu whenua trust). A great deal of the day-to-day work of the Māori Land Court today is concerned with the regulation of these landowning trusts. The current Act now provides for five types of Māori trust, mostly concerned with land-related matters, which can only be set up by the Court.

Following World War Two there were some other experiments with dealing with the problems posed by the proliferation of minute interests in Māori land blocks. The most important of these was conversion, provided for by ss 137-154 of the Māori Affairs Act 1953. These provisions prevented the Court from vesting 'uneconomic interests' (not exceeding £25) in beneficiaries. Instead, the legislation required such interests to be vested in the Māori Trustee. The Māori Trustee was given essentially a kind of power of compulsory acquisition: he could on-sell these interests to a restricted class of alienees. Conversion was not a popular initiative amongst the Māori population, but it was to be significantly expanded by the Māori Affairs Amendment Act of 1967.



Lake Ōmāpere (1946).

Problematic Spaces: the Court and Rivers, Lakes and the Foreshore

Many of the more dramatic and interesting cases in the Land Court and Appellate Court in the 20th century have been concerned with lands covered by water: lakes (including the Rotorua lakes, Lake Ōmāpere in Northland, and Lake Waikaremoana), river beds (in particular the bed of the Whanganui River) and the foreshore (most famously in the case of the title investigation to Ninety Mile Beach). The principal issue is whether the Land Court actually has jurisdiction to investigate titles to lands of this kind. Most of the water body cases involved a complicated interplay between the Native/Māori Land Court and the ordinary courts. Exactly why cases relating to lakes, rivers, and the foreshore became so important in the 20th century is uncertain, but one explanation is s 84 of the Native Land Act 1909. By prohibiting actions in trespass and conversion on the basis of customary rights, Māori were in effect forced to bring proceedings seeking territorial claims

over water bodies in the Māori Land Court. Only in this way could they gain protection of freshwater and marine fisheries. If Māori were able to acquire freehold title, for instance, to a lake, then taking fish from the lake could be protected by actions in the ordinary courts; but the question now was whether the Court had jurisdiction over such areas.

With regard to lakebeds, the key issue was the status of large 'navigable' lakes such as Lake Taupō or Lake Wakatipu. It was settled by the Court of Appeal in *Tamihana Korokai v Solicitor-General* (1913) – a case concerned with the beds of the Rotorua lakes – that the Native Land Court did indeed have jurisdiction to investigate the title of the bed of a navigable lake; it was for the Court to decide in any given case whether title had been proved according to Māori customary law. Following the Court of Appeal's decision on jurisdiction, the Arawa iwi brought proceedings in the Native Land Court seeking title to the beds of the Rotorua lakes. The applications were opposed by the Crown, but in the end the issue was resolved by means of a statutory settlement in 1922. The legislation vested the beds of most of the Rotorua lakes in the Crown and established the Arawa District Māori Trust Board, which received income from the Crown and from fishing licences. A similar settlement relating to Lake Taupō was enacted in 1926.

The government remained reluctant to concede that the Land Court had jurisdiction to investigate the title to navigable inland lakes, notwithstanding the *Tamihana Korokai* decision, and continued to oppose claims of this kind. The Crown's position was rejected by Judge Acheson in a case relating to Lake Ōmāpere in the Bay of Islands in 1929. Judge Acheson said that to any Māori the possibility that 'he did not possess the beds of his own lakes' could only be a 'grim joke'. In this case, Judge Acheson held that Māori customary law recognised the ownership of lakebeds, that the Ngāpuhi people owned and occupied the lake as at 1840, and that the title to the lakebed had never been lawfully extinguished.

The last major lakebed case to be fought out in the Native Land Court related to Lake Waikaremoana. The initial title investigation took place in 1918, with title being awarded to the claimants. The Crown appealed the decision, which was not finally heard and determined until 1944. The Crown argued that the original title determination had been made without jurisdiction, but the Appellate Court was unpersuaded and dismissed the Crown's appeal. The Appellate Court thought that the Land Court's jurisdiction was not in doubt:

In the absence of special statutory jurisdiction, the jurisdiction of the Native Land Court is limited to matters which concern native land and native customary land, and in making final orders in respect of Lake Waikaremoana it is clear that the Native Land Court, of necessity, must have considered the lake as being native customary land.

A statutory settlement of the Waikaremoana issue was negotiated some years later; more recently still, these earlier lakebed settlements have all been renegotiated.

Riverbeds are legally more complicated than lakebeds, as a result of section 14 of the Coal Mines Amendment Act 1903, which vested the beds of all 'navigable' rivers in the Crown.

Lake Waikaremoana (September 1902).





Tidal zone, Lampre and Eel Weir, Whanganui river (1921).

Another complication is the common law rule of *ad medium filum aquae*, by which owners of riparian blocks have a title up to the mid-line of the river bed. The most important river-based claims in the Native Land Court in the 20th century related to the Whanganui River. The claimants, representatives of all the Whanganui tribes, sought title to the bed of the river. The application was opposed by the Crown, beginning a legal battle which was to last for 24 years, with the Crown finally getting its way in 1962. The Native Land Court (1939) and the Native Appellate Court (1944), however, both viewed the Crown claim to the title of the riverbed with no sympathy and each Court found for the Māori applicants. The end point of a long series of decisions and inquiries was the decision of the Court of Appeal in *In re the Bed of the Wanganui River* in 1962, which held that there was no separate tribal title to the river bed. The Native Land Court and Native Appellate Court decisions of 1939 and 1944 were lengthy and well-reasoned and, it is safe to say, fit better with modern understandings of the law relating to native title to land than does the decision of the Court of Appeal.

An even more long-standing problem was the issue of the jurisdiction of the Native Land Court over the foreshore, the intertidal zone lying between the high water mark and low

water mark, an extensive and valuable area in New Zealand because of the lengthy coastline. In the 20th century, there were some significant developments in Northland, largely due to the presence of Judge Acheson of the Native Land Court. Acheson, who was sometimes very critical of the actions of politicians and officials, was engaged in a long courtroom battle with Sir Vincent Meredith, Crown solicitor at Auckland, over Māori foreshore claims in Northland. The most significant of these cases was concerned with the Ngakororo mudflats on the Hokianga harbour, ruled on by Acheson in 1941 and appealed by the Crown to the Appellate Court in 1944. In its decision in this case the Appellate Court could see no difference in principle between investigating title to the foreshore and title to any other piece of land:

The Native Land Court's decision as to whether these mud flats are papatupu [uninvestigated] land must rest upon findings of fact. Just as in the investigation of title to customary land, it is necessary for the claimants to establish that the land has descended to them from a tribal ancestor and has been in the continual occupation of the claimants prior to 1840 and down to the date of the investigation.

The last and greatest of the Northland foreshore cases was that relating to Ninety Mile Beach, which only commenced after Acheson had retired from the bench and returned to his native Southland. This case began in the Māori Land Court at Kaitiāia in 1957 before Chief Judge Morison. The case began with applications for investigation of title filed by Mr Waata Tepania of the Te Rarawa people, who claimed that the area between high water mark and low water mark was 'customary land having been under the control and jurisdiction of a Māori, [namely Tohe]', Tohe being a founding ancestor of the Te Rarawa people many centuries previously. One particular issue arising in the case was the management and control of toheroa along the beach. An order was sought vesting the beach in trustees.

D G B Morison (centre) (later Chief Judge Morison) in Wellington with representatives of the Whanganui River tribes for a hearing of the Native Appellate Court (1945).



The claim in the Native Land Court was successful. Chief Judge Morison could not see why a claim to an area below high water mark was different from a claim to any other piece of land: the fact that it was covered and recovered by the tides was irrelevant. Chief Judge Morison thought that the evidence showed clearly that the beach area was owned and managed exclusively in terms of Māori custom, and was used as a 'a major source of food supply'. He concluded that the claim had been made out. The Crown, once again, appealed the decision to the ordinary courts, and it was found both in the Supreme Court and in the Court of Appeal that the Māori Land Court had no jurisdiction to make orders respecting land below the high water mark. In the Court of Appeal it was found that once the Native Land Court had made orders to a coastal block, the customary title to the foreshore was at that point extinguished.

For a number of decades after the Court of Appeal decision in *Ninety-Mile Beach* the issue of the Māori Land Court's jurisdiction over the foreshore subsided on the assumption that it was settled law that the Court could not inquire into titles below high-water mark. In 1997, however, Judge Hingston of the Māori Land

Court decided that the Court did have power to investigate foreshore titles, at least where there had never been a Land Court investigation to any adjacent coastal blocks. The Crown appealed his decision, which resulted ultimately in the Court of Appeal's decision in *Ngati Apa v Attorney-General* (2003). This decision upheld Judge Hingston's decision and finding further that at no time had there been any general extinguishment of Māori customary titles by statute to either the foreshore or the bed of the territorial sea, the area between the low water mark and the territorial sea boundary (12 nautical miles). The effect of this decision was largely overruled by the Foreshore and Seabed Act 2004, which has now in its turn been repealed and replaced by the Marine and Coastal Area (Takutai Moana) Act 2011. The 2011 Act tries to strike a balance between public rights and interests and Māori customary rights relating to the foreshore and seabed.



Te Kao Store (ca 1950).

Judge Acheson and the Far North

One of the most interesting of the 20th century judges of the Court was Frank Oswald Victor Acheson (1887-1948). Acheson was born in Riverton, Southland, and obtained his LLB at Otago University and an LLM at Victoria University College. In 1913 he wrote a long essay on Māori customary law, arguing that this was a clear and comprehensible set of legal rules, an innovative and unusual position to take at that time when the prevailing view in more orthodox legal circles was that Māori custom was based essentially on force. He joined the Native Department in 1914, became a land purchase officer in 1918 – an important and prestigious job at the time – and became a judge of the Native Land Court in 1919. From 1919 he was based at Whanganui, hearing cases at Whanganui and at Tokaanu; in 1924 he became the Tokerau judge and heard many cases all over Northland before his retirement from the bench in 1943.

It was in Northland that Judge Acheson issued a number of highly innovative rulings relating to lakebeds and the foreshore. Typically,

these decisions were appealed by the Crown Solicitor at Auckland, Sir Vincent Meredith, to the Native Appellate Court. Acheson became friendly with many Māori leaders, including Princess Te Puea Herangi of Waikato, Whina Cooper in Northland, and the Te Heu Heu family of Tūwharetoa. Acheson was also involved in the organisation of the ceremonies commemorating the centennial of the Treaty of Waitangi in 1940.

Like some other judges at the time, Acheson was active in various land development projects, including a dairy-farm scheme at Te Kao on the Aupōuri Peninsula. This project resulted in difficult conflicts between Acheson and officials of the Native Department. Acheson, who was politically conservative, disliked the Labour Government which took power in 1935, and relations between Acheson and the Labour Native ministers, Frank Langstone and H G R Mason, were very strained at times. In 1943, he was compulsorily retired from the bench and returned home to Southland, never returning to the North. He became mayor of Riverton in 1947 and died in 1948. Although unpopular with officials and some politicians, Acheson had good relations with many Māori people, and he is well-remembered in Northland to this day. His decisions, controversial at the time, are now recognised as correct statements of the law relating to native title. His views that Māori could claim title to the beds of navigable lakes, and that the Māori customary title to the foreshore had never been extinguished, are now legal orthodoxy.



The Hunn and Prichard-Waetford Reports and their Outcomes

By the 1960s the government had become acutely concerned about the administrative problems associated with Māori land and the Māori Land Court. In 1960 Jack Hunn, at that time acting secretary of the Department of Māori Affairs, wrote a major report on the Department which traversed the whole field of Māori policy, including Māori land. Hunn believed that multiple ownership was a barrier to Māori economic development. 'Everybody's land', he wrote, 'is nobody's land.' Hunn calculated that each year the number of title interests added was equal to about 20 percent of the Māori population. These facts were well-known to the judges of the Court, and indeed to everyone who was well-informed about Māori land, but thinking up a solution to the problem was not easy.

In 1965, there was a further report on Māori land and on the Māori Land Court. The report was authored by Judge Prichard of the Court and Hemi Waetford of the Department of Māori Affairs. Both had a great deal of experience with the practical problems of managing Māori land. Their report

ABOVE: First meeting of the Māori Education Foundation, Parliament Buildings, Wellington. Secretary for Māori Affairs Jack Kent Hunn pictured back left (19 December 1961).

drew attention to interests in Māori land blocks worth only a few pennies at best, and rent payments spread over such an unwieldy array of owners that the administrative and accounting costs for the block cost more than it received in rent. Like Hunn, Prichard and Waetford saw multiple ownership as a major barrier to Māori economic development.

The Prichard-Waetford report has received a great deal of criticism, particularly for some of the solutions that it advocated, but in fact the report was based on solid evidence and the problems the authors described were only too real in the case of many Māori land blocks (not, however, of all of them). Prichard and Waetford were certain that it was 'apparent that the great majority of Māoris [sic] are of opinion



I H Kawharu (later Sir Hugh Kawharu) (1955).

that there must be changes in substance'. Their report recommended a major expansion of compulsory conversion, and proposed that the existing threshold for conversion be raised from £25 to £100. Prichard and Waetford also suggested that special districts be set up in which officials should assume the responsibilities of the Māori Land Court, and that rights of appeal should be restricted.

In May 1966, an important conference on Māori land legislation took place in Auckland, organised by Auckland University and the New Zealand Māori Council. Prominent Māori academics (including Drs Biggs, Hohepa and Kawharu) and various politicians, including Matiu Rata, Labour MP for Northern Māori, took part. Conference participants did not dispute the fact that there were some very serious problems with Māori land administration, but the somewhat coercive remedies proposed by Prichard and Waetford were all rejected. A number of alternative solutions were proposed.

These were however ignored by the government of the day. The following year parliament passed the Māori Affairs Amendment Act 1967. This Act contained some beneficial reforms, including a remodelling of the provisions relating to s 438 Trusts, but it also contained some very coercive changes which made the Act very unpopular with Māori. Changes made at this time were:

- Section 6 of the Act allowed the Registrar to change the status of Māori land owned by up to four owners to General land.
- Part II of the Act set up a new system of 'improvement officers', empowered to inspect Māori land blocks and determine whether action should be taken 'to improve the fitness of the land for effective and profitable use'; this extended to cancelling partition orders and even the alienation of the land (s 17). This part of the Act was, however, a dead letter, and was repealed in 1970.
- Changes were made to the provisions relating to Māori incorporations, by which shares were deemed to be 'personal property' (s 38). The general plan was to make incorporations more like ordinary companies.
- The Māori Land Court lost its probate jurisdiction, which was returned to the Supreme Court (i.e. the High Court). Numerous other changes were made to the provisions governing successions.
- The powers of the Māori Trustee were considerably expanded.
- The provisions relating to Court-established trusts in respect of the ownership and management of Māori land were considerably expanded and improved.



Hon Matiu Rata (ca 1970s).

In 1974, however, there was another important amendment to the Māori Affairs Act. This time the Act was the work of Matiu Rata, Minister of Māori Affairs in the 1972-1975 Labour Government. The 1974 Act reversed many of the unpopular changes made in 1967. The functions of the Department of Māori Affairs were recast, and now included 'the retention of Māori land in the hands of its owners, and its use or administration by them for their benefit'. Changes were made to the law relating to alienations, making Māori freehold land much more difficult to alienate. The conversion fund, set up in 1953 and expanded in 1967, was abolished. The 1974 Act was noteworthy as being based on sustained consultation with the Māori community. Chief Judge Gillanders Scott, Dr Pat Hohepa and Douglas McPhail, solicitor with the Department of Māori Affairs in Rotorua, worked closely with Rata on the new legislation. Rata was also largely responsible for the Treaty of Waitangi Act 1975, which made Waitangi Day into a national public holiday; this Act also established the Waitangi Tribunal.

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The McCarthy Commission, 1980

In 1979 there was yet another inquiry, a Royal Commission on the Māori Land Court and Māori Appellate Court chaired by Sir Thaddeus McCarthy, formerly a president of the Court of Appeal. The Royal Commission conducted a number of public hearings, some of which were held on marae, and received submissions from many Māori organisations and individuals.

The McCarthy Commission reported in 1980. The Commissioners were of the view that the separate system of recording title maintained by the Māori Land Court was no longer necessary or desirable, and that the title records of the Court should be brought under the ordinary Land Transfer Act system as soon as possible. The Commission pointed out there was a considerable diversity of opinion in the Māori community as to whether the Māori Land Court should continue in its present form, be strengthened in some way, replaced by new Māori bodies, or even simply abolished altogether. The Commissioners took the view that once the Court title records had been transferred to the Land Transfer system – which it rather optimistically thought could be done in a decade – the Court could then be dispensed with. For the present, however, the Court should be allowed to continue.

The McCarthy Commission's report reveals something of a clash of philosophies on the role and functions of the Court. Judge E.T. Durie (as he then was) prepared a detailed submission in which he characterised the Court as a unique



Rt Hon Sir Thaddeus Pearcey McCarthy (ca 1970s).

body, both a Court of law and 'Court of social purpose'. He identified a number of the Court's functions, which included providing a means by which Māori people could find out what was happening to their lands and a forum in which this could be discussed, the protection of minority interests, promoting the better use and management of land, and the keeping of proper records. The last of these identifies a pivotal function of the Land Court, and a somewhat unusual one. The Court in the course of the century has developed its own separate system of title records, supplementing the official Land Transfer Act system.

Chief Judge Gillanders Scott made similar arguments to those of Judge Durie to the McCarthy commission. He said that the Court should not play, as he put it, merely a 'hear and determine' role. He too saw the Court as having important social functions. But the commissioners did not agree. The Commission's report claimed that there was an inconsistency in the judges acting as administrators and at the same time insisting on their judicial independence. In their report, they stated unequivocally that the Court should be 'a Court of justice with traditional standing and independence'. This meant, however, that the Court 'must strive to be predominantly a judicial and less of an administrative body'. Why it was so necessary to pare back the Court's functions was not altogether clear. Read with hindsight, however, the McCarthy Commission's report is full of ironies. One of the reasons why it was believed that the Court should become a more strictly judicial body was because '[t]he Department of Māori Affairs is now a large, sophisticated department with strong divisions constructed to cope with many aspects of Māori life including land use and development'. Few could have predicted in 1980, however, that within ten years it was not the Māori Land Court which would disappear but the Department of Māori Affairs.

By 1980, the time of the McCarthy Commission, issues relating to Māori land had become very public and highly politicised. This growing politicisation is an important component of the events of the 1980s. Such matters as the events at Ōrākei (Bastion Point), the Raglan golf course affair and the Land March of 1975 led by Dame Whina Cooper and others all achieved wide publicity. This politicisation became entwined with other questions, including Māori historical grievances, fisheries matters, and most importantly, the status of the Treaty of Waitangi. As events were to prove, the Māori Land Court was set to enter into a new era with its powers and responsibilities in some respects significantly expanded.



Whina Cooper, later Dame Whina Cooper, addressing the Māori Land march at Hamilton (25 September 1975).



Pou being laid in place at Waiwhetu Marae, Lower Hutt (11 September 1985).

The Background to the 1992 Legislation

Te Ture Whenua Māori/Māori Land Act 1993, the current statute, took a long time to emerge. In 1978, a new Māori Land Bill was prepared, which was intended to update the old Māori Affairs Act 1953 and consolidate it with a number of other statutes. The government of the day, however, decided not to proceed with the Bill, and instead invited the New Zealand Māori Council to prepare recommendations on new legislation. The Māori Council released a policy paper in 1983 entitled *Kaupapa: Te Wahanga Tuatahi*, which played an important role in the design of the new Act. The Māori Council's policy paper emphasised the cultural and historic importance of the remaining corpus of Māori land administered by the Māori Land Court. Albeit governed by a statutory tenurial system which was now at some distance from Māori customary law, nevertheless the corpus of Māori freehold land represented land that had been in unbroken Māori ownership since ancient times. It was a heritage that had to be preserved and protected:

[Māori land] provides us with a sense of identity, belonging, and continuity. It is proof of our continued existence not only as people but as the tangata whenua of this country. It is proof of our tribal heritage and kinship ties. Māori land represents turangawaewae.

It was because of this cultural and symbolic significance that alienations of Māori land had to be restricted and a principal objective of any new statute had to be the retention of

Māori land in Māori hands. Māori land was not, however, only of cultural importance. At over 10 percent of the North Island, it was still an immensely valuable estate, if a somewhat diminished one, and for this reason it had to be better managed so as to provide 'even greater support for our people – to provide employment – to provide us with sites for our dwellings – and to provide an income to help support our people and to maintain our marae and our tribal assets'.

In 1984 the Labour Party, led by David Lange, won the general election, and Koro Wetere became Minister of Māori Affairs. The new government soon embarked on a major restructuring of the public sector. There was a sustained effort to minimise the role of the state in economic management. This meant, on the one hand, that government agencies which had employed considerable numbers of Māori people, such as the New Zealand Forest Service and the Ministry of Works, were disestablished. On the other hand, in 1987 the Māori Development Corporation was established, and in 1988 an important state paper on Māori policy, *He Tirohanga Rangapu* (Partnership Perspectives) was released. It proposed that the existing multi-purpose Department of Māori Affairs be phased out and its functions redistributed amongst mainstream departments. It also proposed a major devolution of many responsibilities directly to iwi. In 1989 the Māori Affairs

Members of the New Zealand Māori Council at the Court of Appeal following the conclusion of the so-called 'Lands' case (29 June 1987).



Restructuring Act gave effect to the new policies foreshadowed in 1988. The Department of Māori Affairs was broken up and its functions were divided between what was at that time given the name of Manatū Māori (today Te Puni Kōkiri), a relatively small policy ministry, and an interim body, the Iwi Transition Agency.

At the same time the government was confronted with numerous legal challenges in the ordinary courts relating to the legal status of the Treaty of Waitangi and over natural resources policy (in particular fisheries and forestry) and over the transfer of land and resources to newly-established state-owned enterprises. In most of these cases the Māori plaintiffs succeeded spectacularly in the ordinary courts. A particularly notable Court of Appeal decision was *Māori Council v Attorney-General* case of 1987, the so-called 'Lands' case, which related to state-owned enterprises. Essentially, the decision turned on the interpretation of the State-Owned Enterprises Act 1986 and was in many respects based on the ordinary principles of statutory interpretation. The case was notable, however, for describing the relationship between the Crown and Māori people under the Treaty of

Waitangi as a 'partnership'. Fisheries policy was the biggest and most complex of the natural resources policy issues that arose at this time. Complex legal proceedings challenging aspects of the government's independent transferable quota system of fisheries management were lodged in the ordinary courts, resulting in important statutory settlements in 1989 and 1992. Another significant legal development during this tumultuous period was the rediscovery of the classical common law of native title in the *Te Weehi* decision of 1986 ([1986] 1 NZLR 680).

At the same time Māori land law became, for the first time, a subject of serious academic study. An important milestone was a book published by I.H. Kawharu (as he then was) in 1977, entitled *Māori Land Tenure: Studies of a changing institution*. This intellectually distinguished book, published by Oxford University Press, was the first really thorough analytical study of Māori land law. Kawharu's book had much to say on the changing role of the Land Court and its pervasive importance in Māori land administration. In the 1980s law schools began offering courses in the Māori land law. Among the pioneers was Alex Frame, who set up a course on Māori land law at Victoria University.

The dramatic events of the period from circa 1985 to 1992 tended to marginalise the long-standing problems relating to Māori land, which certainly had not gone away. The issues of lack of access to development credit and multiple ownership continued. The more exciting developments, or at least so they seemed at the time, over common law native title, natural resources – especially fisheries – and the status of the Treaty of Waitangi did not change the underlying realities of Māori land.

Another new development was the establishment of the Waitangi Tribunal in 1975, which began inquiring into the origins of the Native Lands Acts as a Māori grievance (as, for example, in the Ōrākei report of 1986). Sometimes cases in the Māori Land Court developed into Waitangi Tribunal inquiries. An example was the Pouakani block case, which began in the Māori Land Court, but which then turned into an important Waitangi Tribunal inquiry presided over by Judge Russell, investigating in great detail issues relating to boundaries and surveys in the central North Island. The Māori Land Court and the Waitangi Tribunal were complementary bodies with overlapping judicial personnel, but also with quite distinct formal functions.

In 1993 the long-awaited Māori Land Bill was finally enacted. The preamble to the new statute acknowledged the remaining corpus of Māori land as a taonga tuku iho (i.e. as being of special significance) to the Māori people and ‘for that reason’ it was desirable ‘to promote the retention of that land in the hands of its owners, their whānau, and their hapū’. The second objective was ‘to facilitate the occupation, development, and utilisation

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of that land for the benefit of its owners, their whānau, and their hapū’. The Māori Land Court was also referred to in the preamble, and given a particular function of implementing these fundamental concepts: ‘And whereas it is desirable to maintain a court and to establish mechanisms to assist the Māori people to achieve the implementation of these principles’. The 1993 Act also made reference to the Treaty of Waitangi. Although the McCarthy Commission of 1980 had envisaged the disappearance of the Māori Land Court and the Māori Appellate Court within a decade or so, the Courts remained at the centre of the Māori land system under the 1993 Act. Section 6 expressly provided for the Court’s ‘continuation’: ‘[t]here shall continue to be a court of record called the Māori Land Court, which shall be the same court as that existing under the same name immediately before the commencement of this Act’. It can be said that the Māori Land Court took on a new lease of life under the 1993 Act. One aspect of that was a number of cases in the ordinary courts testing the limits of the Court’s jurisdiction over land in local body ownership and the foreshore and seabed.

The Cultural Significance of the Māori Land Court

It may seem odd to draw attention to its 'cultural' significance, but a case can be made that the Court has been – and continues to be – an institution of considerable cultural and indeed intellectual significance in New Zealand history. This significance is many-sided, but arises primarily from the fact that, uniquely, New Zealand has had a special purpose Court concerned with its indigenous population and their land rights that has been in continuous operation for 150 years. There is no equivalent institution in Australia, Canada or the United States.

One aspect of the Court's significance is the judges themselves. New Zealand has had for 150 years a body of specialist judges concerned specifically with Māori issues. Many of the judges have played active roles in anthropological and legal scholarship, and in the formation of public policy. Judges Fenton, Smith, Gudgeon, Mair, and Acheson all contributed to the study of Māori ethnography. Judge Norman Smith published a book on Māori customary law in 1942, one of the few books ever written on the subject. A Court resting its decisions on Māori custom will inevitably generate a body of writing and reflection on Māori customary law.

Yet the cultural significance of the Court is not confined to the scholarly contributions of some of its judges. The greatest cultural legacy of the Court is its own record. From the very beginning the Court kept a careful record

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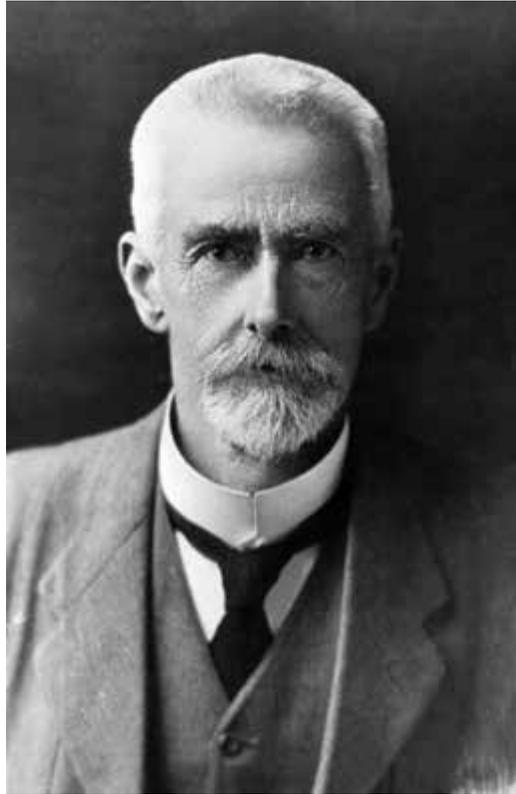
of the evidence that it heard. Although this evidence is not always easy to interpret, and was of course given in the context of litigation in Court, it is nevertheless a corpus of material of incalculable value. The thousands of volumes of the Court's minute books, now freely accessible to anyone interested in perusing them, preserve a vast amount of material relating to Māori culture and history. Only recently have scholars begun to explore this resource in a systematic manner. The importance of the material is shown by the inclusion of the 1865-1900 Land Court minute books in the New Zealand section of UNESCO's 'Memory of the World' register.

In 1990 the minute books were recopied, and the original texts have been placed in safekeeping. The recopied volumes are freely available in the Court's registries and in public collections and libraries, and are in constant use by professional scholars, experts in traditional history and culture, and people researching the histories of their own land blocks and families.

Much historical writing in New Zealand depends heavily on the minute books of the Native Land Court (or of its sister bodies, such as the Urewera Commission). Elsdon Best's classic work *Tuhoe: The Children of the Mist* (1925) was in part based on evidence given to the Urewera Commissions. Literary tribal histories such as John Te H Grace's *Tuwharetoa* (1959) and Don Stafford's *Te Arawa* (1967) also make use of the Court's minute books. Contemporary historians such as Angela Ballara continue to use the Court records as a resource for constructing historical narratives, albeit with a great deal of care and qualification. The Court minute books are also regularly relied on by claimants and by historians in evidence prepared for the Waitangi Tribunal's inquiries.

The judgments of the Native Land Court and Native Appellate Court were never included in the *New Zealand Law Reports*. They were, however, often printed in newspapers or published in pamphlet form, and the judgments now provide a counterpart and supplement to the cases on Māori issues decided by the ordinary Courts and reported in the usual way. Many of the Court's judgments, especially with respect to native title issue and water bodies, have stood the test of time very well.

Much more imponderably, there is the issue of the Court's significance in the formation of modern Māori culture generally, and in the development of New Zealand historical writing and legal culture. This is not easy to assess, but may prove to be one of the most important of the Court's legacies.



Elsdon Best (1931).

Conclusions

There have been many changes in Māori land policy since 1865, but the concept of a specialist Court charged with a special, and in many ways exclusive, jurisdiction over Māori land has always been a constant. If the Court itself has been a constant, however, its jurisdiction has not been. It began as a land titles court, set up to investigate customary titles and facilitate their transformation into Crown-granted titles. It was never envisaged in 1865 that a special category of land would emerge over which the Court would have ongoing control. In 1865 the assumption was that once land had been Crown-granted to Māori, the grantees simply became private landowners, no different from any other. However the establishment of memorials of title in 1873, intermediate between Crown-granted legal titles and customary titles, created a separate category of land altogether, and by the end of the 19th century the modern concept of Māori freehold land had emerged. This meant land in continuous Māori ownership which the Court had investigated and over which it had continuing authority. In fact the very concept of 'Māori land' (strictly speaking, Māori freehold land, at least in most situations) is jurisdictional: it is land subject to the jurisdiction of the Māori Land Court. This means that much land owned by Māori individuals and businesses is not 'Māori land' in this sense, a fact that perhaps not all New Zealanders understand clearly.

The Court's jurisdiction and responsibilities have continued to widen. The Court gained a probate jurisdiction in 1894 and an adoption jurisdiction in 1909. The interconnections between the Court and the Māori Land Boards meant that the judges increasingly became land managers and administrators, and the Court became seen as a forum for managing disputes, resolution of grievances, and the protection of minority interests.

The history of the Court in the 20th century is very complex, and has not been as intensively studied by historians as the earlier phases of its history. Over the course of the 20th century, the issue became what kind of entity the Māori Land Court was, and what it should be. Here there was a diversity of opinion. The Court's judges, who were close to the Māori communities of their regions, on the whole saw the Court as a special kind of body, as a Court of 'social purpose'. Others saw this as anomalous, and favoured turning the Court into a strictly 'judicial' body, with its administrative functions transferred to government agencies. Some Māori saw the Court as outmoded and paternalist, but others did not. The issues came to a head with the McCarthy Commission of 1980, which concluded that the Court should be returned to a more narrowly judicial role. That body's recommendations themselves became irrelevant in the dramatically different climate of the 1980s. The 1980s was a decisive decade, dominated by the reformist agendas of the Lange-Douglas government on the one hand, and growing Māori political assertiveness on the other. Also important was the growing importance of the Waitangi Tribunal, especially after 1984, and a sequence of Māori courtroom victories in the Court of Appeal after 1987. It was out of this new set of circumstances that the current statute came into existence in 1993.

Despite all these changes and complexities, the current Act is still clearly a linear descendant of the original statutes of 1862 and 1865. The Court is a key institution in New Zealand legal history, and is New Zealand's oldest and arguably its most important specialist Court. It is a unique body, with no exact counterparts anywhere else in the world. Its minute books are a record of incalculable historical and cultural importance. While the future of the Court is uncertain, for the 150-year period from 1865-2015, its historical, legal, and cultural significance is undeniable.





SECTION 3

Leadership of the Court 1980-2009

*“Ko te amorangi
ki mua, ko te
hāpai ō ki muri”*

3

Leadership of the Court 1980-2009

Since the 1980s, the Māori Land Court has gone through significant transformational change. Beginning with the transfer of the Māori Land Court to the Department of Justice in 1989, the Court, and its administration in particular, is a much different operation than it was in former years. Crucial to this transformation was the influence of the judiciary and managers who led the legislative and policy reforms that resulted in shaping and modernising the Court administration processes and services offered today.

This section provides an overview of some of the key changes that occurred during the period 1980-2009 and profiles the influential leaders who helped to shape that journey.



Chief Judges 1980-2009

On 1 August 1980 Edward Taihakurei Junior Durie (Rangitāne, Ngāti Kauwhata, Ngāti Raukawa) was appointed as Chief Judge of the Māori Land Court. The first Judge of Māori descent to be appointed, he held the position until 1998 when he was appointed to the High Court of New Zealand. Justice Durie retired in 2006.

During the same period, 1980-1998, the position of Deputy Chief Judge was held by Judge Ashley George McHugh and then, following his retirement in 1994, by Judge Norman Francis Smith.

Joseph Victor Williams (Ngāti Pūkenga, Waitaha and Tapuika descent) was appointed as Chief Judge on 1 December 1999. In September 2008, he too was appointed a Judge of the High Court of New Zealand. Justice Williams is based in Wellington.

ABOVE: Investiture of Judge W Isaac as Chief Judge of the Māori Land Court, Tokomaru Bay (2009).

Judge Wilson Whare Isaac (Ngāi Tūhoe, Ngāti Porou, Ngāti Kahungunu) served as Deputy Chief Judge during the period 1999-2008 and as Acting Chief Judge following Justice Williams' appointment to the High Court, before being appointed to the position of Chief Judge on 13 August 2009. Following his appointment as Chief Judge, Judge Caren Fox (Ngāti Porou, Rongowhakaata) was appointed as Deputy Chief Judge on 20 February 2010.

Since Justice Durie's appointment in 1980, the Chief Judge of the Māori Land Court has normally also held a concurrent appointment as Chairperson of the Waitangi Tribunal. Notwithstanding his appointment to the High Court in 1998, Justice Durie continued to chair the Waitangi Tribunal until the end of his last five-year term in 2004. During that time Justice Williams served as Deputy Chairperson of the Tribunal, then as Acting Chairperson during 2003-2004.



Hon Sir Edward Taihakurei Junior Durie

The Honourable Sir Edward Taihakurei Junior Durie, KNZM (Ngāti Kauwhata, Rangitāne, Ngāti Rangatahi, Ngāti Raukawa) is a key figure in the Court's evolution in the later 20th century.

Prior to graduating with a BA and LLB from Victoria University Wellington in 1964, Justice Durie (as he became) followed his grandfather's interests in Māori land as a member of the Board of Māori Affairs, chair of the Raukawa Tribal Executive of the New Zealand Māori Council and in managing three family farms on Māori land in Manawatu. He first made submissions to the Pritchard-Waetford inquiry on Māori land and to the Māori Affairs Select Committee on the Māori Affairs Amendment Bill, as President of the Māori Student's Association in the early 1960s. As a partner in a legal firm in Tauranga he represented Māori interests in local government planning and advised on the establishment of multi-title Māori land trusts.

There were no Māori serving as Land Court judges when Justice Durie was appointed to the Māori Land Court bench on 15 August 1974, at age 34. This followed the Māori Affairs Amendment Act introduced by Minister Matiu Rata in that year with new proposals for Māori land management. He gave evidence for the judges to the Royal Commission on the Court, which reported in 1980, identifying a number of issues with the quality and timeliness of its application processing and soon after he worked with the New Zealand Māori Council on the preparation of a paper on Māori land reform, which led to eventually to the Māori Affairs Amendment Act 1993. Speaking in 2009, Justice Durie said of that period: 'one had to reform the Court, one had to reform its process, and one had to promote the reform of Māori land law at the same time. One could just see a huge task.'



Former Chief Judges of the Māori Land Court - Justice Joseph Williams and Hon Sir Edward Durie (2008).

From 1980 to 1998 Justice Durie presided over the Court as the 1993 Act was introduced and as it embarked on a wide-ranging programme of modernisation. Legal historian Professor David Williams has commented:

Eddie Durie's work was so important in changing the Court from just administering individualised Māori interests for the benefit of individual Māori owners – and often still alienating them out of the hands of Māori – to a Court which found ways to give expression to a range of means such as whānau trusts to putea trusts to ahu whenua trusts, ways that were not possible before Eddie Durie became Chief Judge.

Throughout this period and beyond, Justice Durie also served as Chairperson of the Waitangi Tribunal (1980-2002) and was responsible for the first of the Tribunal's published reports. Early in his tenure, the Tribunal's jurisdiction was extended back to 1840, enabling historical claims of Treaty breach to be lodged. In a Radio New Zealand interview in the mid-1980s, Justice Durie described the work of the Tribunal as 'laying the track to a far better future,' in spite of the immediate tensions generated by its landmark reports.

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In 1998 he was appointed to the High Court of New Zealand, and served as a Law Commissioner from 2004, eventually retiring in 2006. Following his retirement, Justice Durie led the consultation programme on the formation of tribal authorities, chaired the Foreshore and Seabed Act Review Panel, and advised on developments in the Philippines and the Pacific. As a Land Court judge he had earlier advised the African National Congress and later the new government of the Republic of South Africa on aspects of constitutional and land reform and on institutions for managing historical grievance.

In 2008, Justice Durie was appointed a Distinguished Companion of the New Zealand Order of Merit, later converted to Knight Companion NZM in 2009. Upon his retirement as a judge of the High Court the Governor-General approved the retention of his title as 'The Honourable' Sir Edward Taihakurei Junior Durie on 7 December 2006.

Regarded as a leading legal expert on the Treaty of Waitangi, Justice Durie is currently the chair of the Raukawa District Māori Council, co-chair of the New Zealand Māori Council, and a trustee of the Crown Forestry Rental Trust.



Hon Justice Joseph Victor Williams

The Honourable Justice Joseph Victor Williams (Ngāti Pūkenga, Waitaha, Tapuika) was appointed Chief Judge in 1999 following Justice Durie's elevation to the High Court.

After completing his LLB in 1986, Justice Williams gained an LLM (Hons) in Indigenous Rights Law from the University of British Columbia in 1988. Employed by Auckland firm Kensington Swan, where he built up a specialist unit focusing on Māori clients and Treaty claims, Justice Williams became a partner in 1992. He was a founding partner in Walters Williams from 1994 until his appointment as Chief Judge in 1999. Eager to take the role, he says, 'I didn't really know what it would involve, but I thought it would be a cool new challenge.'

**THE JUDGES AND STAFF
EVERYWHERE I WENT
WERE STUDENTS OF
THE MĀORI COMMUNITY
AND LOVED THE MĀORI
COMMUNITY.**

Justice Williams took up his role with a vision for the Court's future:

My great hope was that the Māori Land Court would grow into the primary jurisdiction for dealing with issues for the re-tooled tribes, as well as being a Māori freehold land adjudicator. As the steady transfer of public assets into iwi hands continued, there would be a need for a Court to deal with whatever issues arose. These would be much better dealt with by a Māori specialist court rather than the general courts, which lacked sufficient skill and insight to judge the issues well.

Justice Williams worked hard to make this vision a reality. 'We made good progress,' he says. 'But there is unfinished business there.'

Then and now, Justice Williams sees the greatest challenge facing the Court as relating to:

the inevitable consequence of hyper-individualisation, which is the creation of tiny interests with little relevance in the lives of Māori landowners. It makes it hard for communities to maintain a meaningful connection. The nature of the ownership system itself made moving forward in a Māori way always very difficult, because it was designed to achieve the opposite effect, of course.

There were some wins along the way, despite these challenges: 'the great thing about being a Māori Land Court judge, is that you ended each day feeling like you've helped someone.'

Especially valuing his colleagues on the bench, Justice Williams recalls:

We were all committed to the raising up of Māori communities, and utilising the Act as much as possible for that purpose. My enduring positive memory is of working with a group of individuals who shared a common good purpose and worked towards it. It made my work easy and a joy.

Justice Williams sees the great value of the Court as its

deep deep knowledge of Māori communities and its evolving knowledge of te reo and tikanga. The judges and staff everywhere I went were students of the Māori community and loved the Māori community. I don't think there's a group of staff or judges in any other jurisdiction who loved their work so much, who felt committed to the mission of the Court, and that's an incredibly valuable thing. I doubt whether people outside the system understand that or what a great taonga it is. I've always thought the Court has a key role to play in unlocking the power of the Māori community if only it could be given that job.

Justice Williams term as Chief Judge ended when he was appointed to the High Court on 15 September 2008.

The Changing Court Administration

As a result of major public sector reforms in 1989, the functions of the former Department of Māori Affairs were devolved to other government departments. On 1 October 1989, the administrative responsibility for the Māori Land Court was formally transferred to the then Department of Justice. This resulted in significant changes for the Court administration.

While the judicial support functions that the administration provided to the Court remained largely unchanged at the time, the transition of the administration to the new infrastructure and administrative systems of the Department of Justice was a huge undertaking. It took some time for the administration to settle in to the new department and its culture.

The devolution of the Department of Māori Affairs also saw a change in the leadership of the Court administration. Chief Registrar Maehe Maniapoto returned to his hometown in Hamilton to take up a key management role in the newly established Iwi Transition Agency and Kemara (Kem) Tukukino, a senior Court Manager from the Wellington District Court, was appointed as the first Chief Registrar under the new regime. Together, Maehe Maniapoto and Kem Tukukino were instrumental in leading the successful transition of the Court to the Department of Justice.

On 1 July 1993, the Department for Courts was created by the government and the Court administration transitioned to the newly formed department.

During that same year, Te Ture Whenua Māori Act 1993 was passed. This new Act significantly changed the focus of the Court to one that embodied the aspirations of Māori by providing a mechanism to promote the retention and



Mike Fryers, Registrar, Māori Land Court, Gisborne (1985-1999).

utilisation of Māori land in the hands of its owners, whānau and hapū. It recognised the principles of the Treaty of Waitangi and acknowledged the role of the Court as a forum through which issues relating to Māori land could be heard and determined.

The Act marked a move away from the centralised management of Māori land through the former District Māori Land Boards and the Board of Māori Affairs under the Māori Affairs Act and promoted the empowerment of owners as direct trustees and managers of their own lands and affairs. It re-established whakapapa ties to land through a preferred class of alienee structure which provided that land could only pass to blood relatives, and importantly, formalised a legal approach to the recognition of whāngai.

These fundamental changes resulted in many changes for the Court administration in terms of the development of new administrative processes and procedures, business rules, training manuals and forms.



Members of the Senior Leadership Team of the Māori Land Court (1995).

In 1995, a scoping report on the future development of the Māori Land Court's administration was commissioned by the Department for Courts. This report highlighted the need to standardise and review the customer services, operating systems and procedures of the Court recommending that changes be made to improve service provision.

John Grant was appointed as Chief Registrar shortly after the scoping report was published in 1995. Under his leadership, a new electronic case management system for the Court administration was developed. Traditionally, the manual processing of Court applications was progressed in a task allocation or silo approach where staff were assigned to complete dedicated parts of the case management process, rather than having responsibility for managing an entire application from receipt through to completion ('end-to-end case processing'). The new case management system was specifically designed to support end-to-end case processing.



Senior Leadership Team of the Māori Land Court (2005).

The Māori Land Information System (MLIS) was launched at the end of 1998 with all new applications received by the Court being processed through MLIS from the beginning of 1999. While it has undergone a number of significant upgrades during its lifetime, MLIS is still the core case, document and land management system used by the Māori Land Court administration today.

In 2000, under the government's 'Closing the gaps for all New Zealanders' policy initiatives, the Court administration established a range

of new services aimed at improving the access to information and advice for Māori. These included: establishing a mobile advisory service; opening an information office to provide better access to services for urban Māori living in the Auckland region; producing a series of information booklets and pamphlets; the release of a new magazine publication, *Te Pouwhenua*; the release of the Māori Land Court National Pānui (the Court's nationally-advertised list of applications set down for hearing); and the development of a Māori Land Court online presence in the form of a new website.

In 2002, the government again undertook a wider departmental review and the following year, the Department for Courts was merged with the Ministry of Justice.

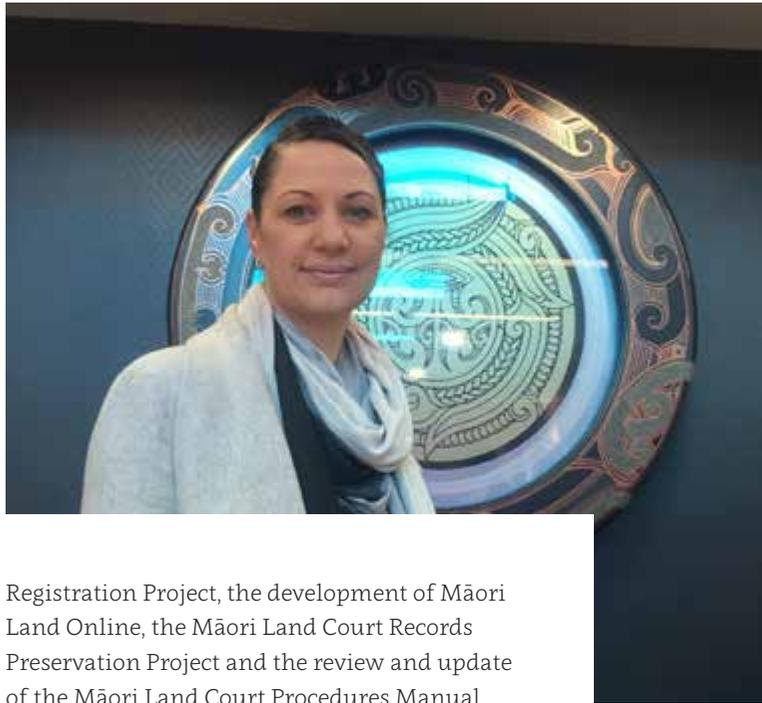
During the period from 2001-2008 the direction of the Court administration's services was strongly influenced by Chief Registrar Shane Gibbons, who was appointed in 2001. During his term as Chief Registrar, Shane was integral in establishing and progressing a number of key initiatives, including the Māori Freehold



Former Chief Registrar Shane Gibbons and his wife Ali Gibbons (2009).



Senior Leadership Team and Managers of the Māori Land Court (2009).



Heather Baggott, General Manager, Special Jurisdictions.

Registration Project, the development of Māori Land Online, the Māori Land Court Records Preservation Project and the review and update of the Māori Land Court Procedures Manual.

In 2004, as part of a structure review that year, the Māori Land Court district offices were clustered into three regions: Region 1, consisting of Taitokerau and Waikato-Maniapoto; Region 2; consisting of Waiariki and Aotea; and Region 3, consisting of Tairāwhiti, Tākitimu, and Te Waipounamu. Each region had a Regional Director (who was also appointed as the Registrar for the Districts within their region).

The regional structure was replaced in 2009 following a further review of the Court administration's structure. This review reinstated local management of the seven districts supported by an expanded National Office structure. The 2009 restructure also saw a couple of key changes: the separation of the management and statutory functions of the Chief Registrar role into two new positions, the Director and a National Operations Manager/Chief Registrar; and the establishment of a dedicated, centralised Specialist Applications team to manage applications to the Chief Judge and appeals.

Tracey Tangihaere (Ngāti Maniapoto, Ngāti Porou) was appointed to the position of Director, Māori Land Court at the end of 2008, while Julie Tangaere was appointed to the position of National Operations Manager and Chief Registrar. Julie is the Court administration's first female Chief Registrar.

Following Tracey Tangihaere's resignation in 2010, Julie Tangaere was appointed as the Director, Māori Land Court. On her appointment, she retained the statutory role of Chief Registrar.

The Court administration today comprises approximately 160 staff located in the seven district offices, the Auckland Information Office and at National Office, Wellington.

As a whole, the Court administration is part of the Special Jurisdictions Unit of the Ministry of Justice. Overseen by General Manager, Heather Baggott, it includes the Māori Land Court and Māori Appellate Court, the Waitangi Tribunal, other specialist courts such as the Employment Court and Environment Court, the Coronial Services Unit and the Tribunals Unit.



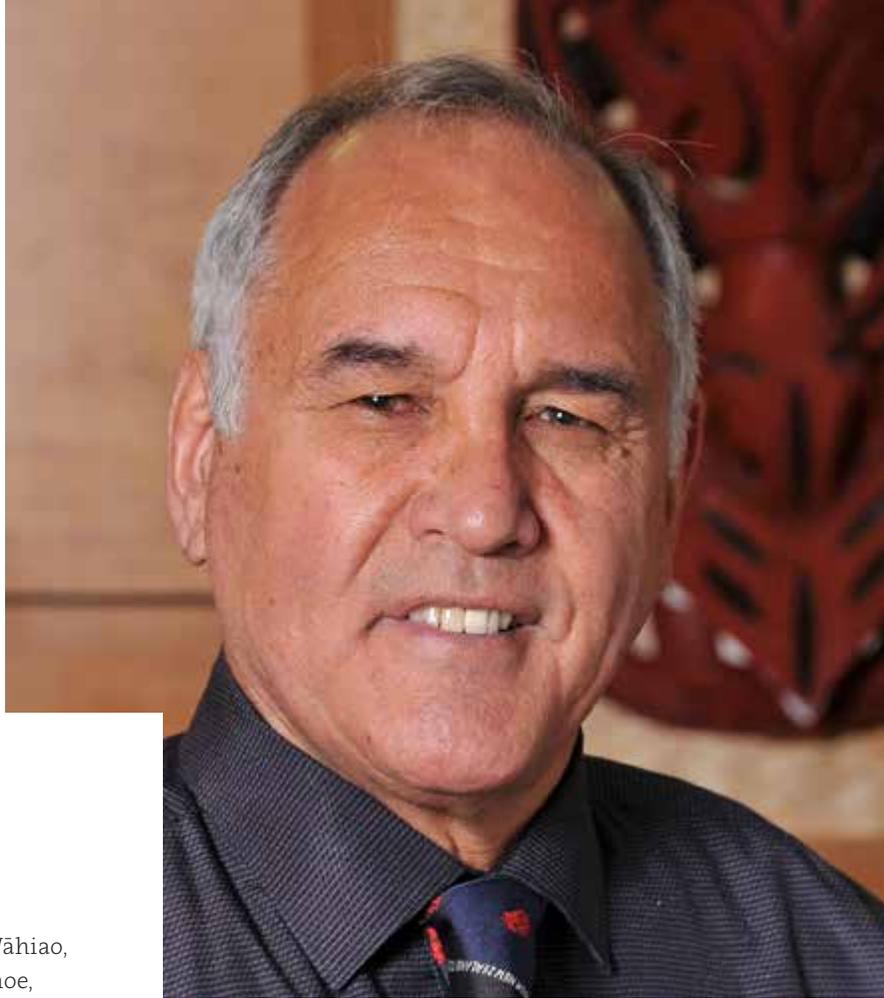
John Grant

Overseeing a transformational period in the Court administration's recent history, John Grant was appointed Chief Registrar on the establishment of the Department for Courts in 1995. Shortly afterwards, oversight of the Waitangi Tribunal Unit was added to his responsibilities.

In light of a report commissioned in 1995 to review the Court administration's operations, one of John's first challenges in taking up his role was to explore options to develop more modern systems and technology, a consistent operating model, and effective leadership for the administration. A key part of the modernisation programme was the development of the Māori Land Information System (MLIS). As well as new technology, a new, flatter organisational structure was introduced, moving the Court to end-to-end, process-based teams focussed on customer service.

By 2000, John's position included general management responsibility for the administration of all the specialist courts and tribunals supported by the Department. 'At the suggestion of Sir Edward Durie, the extended organisation was given the name "Special Jurisdictions" and the title of my position was changed to General Manager Special Jurisdictions,' John recalls. 'Given the extended scope of responsibility, I separated out the role of Chief Registrar in order to maintain it as a stand-alone position focused on the management of the Māori Land Court unit.'

In 2004 John transferred from his role as General Manager Special Jurisdictions to a Principal Advisor role within the Ministry of Justice. Since 2007, he has worked in the Office of Treaty Settlements, and was seconded to Te Puni Kōkiri in 2013 to work on the Te Ture Whenua Māori Act 1993 reforms.



Shane Gibbons

Shane Gibbons (Tūhourangi/Ngāti Wāhiao, Ngāti Whakaue, Ngāti Awa, Ngāi Tūhoe, Te Aupōuri) was appointed to the position of Chief Registrar in 2001 following John Grant's elevation to General Manager, Special Jurisdictions.

Prior to his appointment, Shane had a wide range of experience in the Māori world, as a former district solicitor in both the Tākitimu and Waiariki offices of the Department of Māori Affairs, regional solicitor for Housing Corporation Rotorua, regional manager for the Waiariki Iwi Transition Agency, and general manager of the Te Arawa Māori Trust Board. While working at Te Puni Kōkiri, he was responsible for overseeing amendments to Te Ture Whenua Māori Act 1993 and the Māori Purposes Bill.

At the time of his appointment Shane said he was 'keen to see the Court as the vehicle that re-established the link between te iwi Māori and their whenua, rather than being 'the instrument responsible for severing that link, as had long been the perception. I'm keen

to ensure that the court's function, role, and obligations, are consistent with and meet the desires and aspirations of te iwi Māori.'

Shane's initial key role was to continue with the development of the Court administration's modernisation programme.

During his time as Chief Registrar, Shane oversaw the launch of Māori Land Online (the web portal developed to provide online access to current Māori land block and ownership information) and initiated the GIS capability enhancement project that followed later. He also led the establishment of the Māori Freehold Land Registration Project, the Māori Land Courtroom Refurbishment Projects and the establishment of the Māori Land Court Records Preservation Project.

Shane left the Māori Land Court in 2008, and continues to be busy: in addition to farming, he is currently a consultant with Te Pūmāutanga o Te Arawa and the Tūhourangi Tribal Authority and is also working towards his doctorate.





SECTION 4

The Māori Land Court Today

*“Kua tupu
te pā harakeke”*

4

The Māori Land Court Today

Today, the Court's role can be viewed both as an adjudicator and a facilitator, promoting the retention, use and development of Māori land as a taonga tuku iho by Māori landowners, their whānau, hapū, and their descendants.

This section provides an overview of the current Court, its judiciary, its administrative functions and operations, key features under Te Ture Whenua Māori Act 1993, and resources and technology.

Background

Today Māori land comprises 1,417,834 hectares, approximately 5.3 percent of New Zealand's land mass. 10 percent of the North Island is Māori land, with 22 percent of that land contained within the Waiariki Māori Land Court district, 19 percent in the Tairāwhiti Court district and 29 percent in the Aotea Court district. The largest concentrations of Māori land in New Zealand are in the centre and the East Coast of the North Island with 22 percent of Māori Land falling within the Gisborne region, 18 percent in the Bay of Plenty region, 12 percent in the Hawke's Bay region and 11 percent in the Waikato region.

There are 27,343 individual Māori land titles, and 2.9 million ownership interests in those titles, in New Zealand today. The average size of a Māori land block is 51 hectares, with the smallest 10 percent of blocks averaging 0.0723 hectares and the largest 10 percent averaging 451 hectares.

In order to manage land with multiple owners, management structures such as trusts and incorporations are often established by owners to oversee and direct the use of their land. There are currently 5,835 trusts, 2,276 reservations and 159 incorporations in place over Māori land, covering 1,106,625 hectares or 78 percent of all Māori land. Only 311,208 hectares, or 22 percent of Māori land, have no formal management structure in place.



Māori Land Court Rotorua Hearing, Judge L R Harvey presiding.

**TODAY MĀORI
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**THERE ARE 27,343
INDIVIDUAL MĀORI LAND
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IN THOSE TITLES, IN
NEW ZEALAND TODAY.**

The Court

The kaupapa of the modern-day Māori Land Court, set out in the preamble and sections 2 and 17 of Te Ture Whenua Māori Act 1993, is to recognise Māori land as a taonga tuku iho, to promote the retention of this land in the hands of its owners and their whānau and hapū, and to facilitate the occupation, development and utilisation of the land for the benefit of its owners and their whānau and hapū. The Court is charged with ascertaining and giving effect to the wishes of owners, determining and facilitating the settlement of disputes between owners, ensuring fairness in dealings with the owners of Māori land in multiple ownership, and promoting practical solutions to problems arising in the use or management of Māori land.

The Court is, in the words of former Chief Judge Eddie Durie, a 'court of social purpose', which must attempt:

to find social solutions for the problems that come before it: to settle differences of opinion so that co-owners might exist with a degree of harmony, to seek a consensus viewpoint rather than to find in favour of one, to pinpoint areas of accord, and to reconcile family groups.

In a 2002 submission to the Law Commission as a part of a review of the New Zealand Courts system, the Māori Land Court judiciary noted that the Court 'should probably have been called the Māori Lands and Their Communities Court, for behind every block of land there is a kin group community. It is the relationship between that kin group and the land which gives the Court its work.'



Trisha Vuleta with her son Te Kaponga Vuleta, Māori Land Court, Whanganui.

Over time the Court has certainly become a more Māori court, in which the majority of the judges are Māori and which is predominantly staffed by Māori. The Court is explicitly empowered to enable the retention and utilisation of Māori land by its owners. Throughout the Act the Court is required to recognise and provide for matters arising from tikanga Māori, including ahi kā, kaitiakitanga and whāngai.

Indeed, former Chief Judge, now Justice, Joe Williams has speculated that its functions mean that the Court can be seen as a separate legal system. More recently, he has developed his views on the Court as part of a 'third law' in New Zealand. Tracing Aotearoa's legal systems from the first law of tikanga through the second law of the colonists, in his 2013 Henry Harkness lecture 'Lex Aotearoa', Justice Williams identifies a third law phase:

I think there is a key distinction between law in the colonial period and that of the post-1970s modern period. It is this: where tikanga Māori was recognised during the colonial period, it was recognised only to the extent necessary to succeed in extinguishing it. ... The recognition of custom in the modern era is different. It is intended to be permanent and, admittedly within the broad confines of the status quo, transformative.

Quoting the whakatauki, 'mā te huruhuru, ka rere te manu – give a bird feathers and it will fly', current Chief Judge Wilson Isaac emphasises that the Court as a whole is 'committed to ensuring the aspirations of Māori landowners, their whānau and hapū, are fulfilled now and into the future.'

Functioning as a unified whole to achieve this, the Court is actually made up of two inter-related parts: the Court (or the judiciary) and the Court administration. Both sides work together to provide a seamless service to owners. On the Court or judicial side, judges hear applications brought by owners and make orders and decisions concerning them. On the other side, the Court administration assists both the judges' work and the owners through the provision of case management, Court registry and support services to Māori landowners.

Te Ture Whenua Māori Reforms

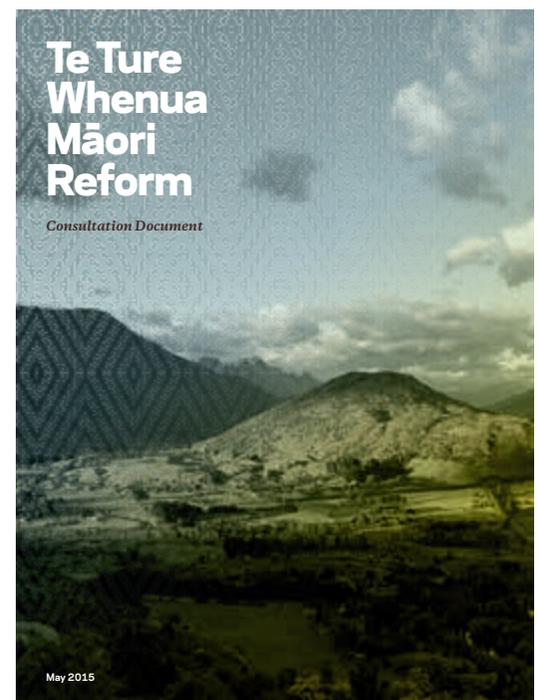
As the Māori Land Court celebrates the significant milestone of 150 years of operation and service, it should also be noted that the Minister for Māori Development, Hon Te Ururoa Flavell, is leading the development of reforms to Māori land law, including the possible replacement of Te Ture Whenua Māori Act 1993 with new legislation. The Minister has noted of the proposal for reform that:

'It is the most significant reform of Māori land law and administration since Te Ture Whenua Māori Act 1993 was passed; and is the culmination of 40 years of advocacy by Māori for greater tino rangatiratanga over their whenua.

That advocacy reminded us that Māori land is a taonga tuku iho. While it is a resource to be used to benefit owners, the interests of current and future generations should also be safeguarded. Furthermore, Māori owned land should be free from obstacles or constraints created by legislation'.

The reform aims to make it easier for Māori land owners to use and develop their land according to their aspirations, while recognising the significance of Māori land and ensuring appropriate safeguards for the retention of Māori land as a taonga tuku iho. It is designed to provide a strong platform for Māori land owners, to give Māori land owners more autonomy, and enable them to realise the economic potential of their land. The reform recognises that appropriate safeguards need to be in place and that the current level of service provided to Māori land owners needs to be maintained and built on.

The reform process is ongoing, with consultation currently taking place between the Minister, a Ministerial Advisory Group, key Māori stakeholders and Māori landowners. Legislation enacting the outcome of the reform process is intended to be introduced to Parliament in 2016. Up-to-date details of the reform process and proposals can be sourced from Te Puni Kōkiri.



Māori Land Court Judiciary

The Māori Land Court judiciary presently consists of the Chief Judge, the Deputy Chief Judge, nine permanent judges and one acting judge. All judges are required to have expertise in Māori land law and experience in te reo Māori, tikanga Māori and the Treaty of Waitangi. Of the current judges presently appointed to the Māori Land Court judiciary, 80 percent are Māori.

Māori Land Court judges exercise judicial functions as set out in the Te Ture Whenua Māori Act 1993. This involves hearing applications concerning a wide range of issues involved in the administration and management of Māori land by the owners, their whānau and hapū. Over 5,500 applications are heard every year.

The roles of the Chief Judge and Deputy Chief Judge in leading the Māori Land Court are also set out in Te Ture Whenua Māori Act 1993. These include the allocation of judicial responsibilities in the various Māori Land Court districts, the administration of appeals to the Māori Appellate Court, the hearing of special applications under section 45 of the Act to correct past Court orders, the management of applications made under the Māori Fisheries Act 2004 and the Māori Commercial Aquaculture Claims Settlement Act 2004, and the management of applications to determine representation of Māori groups under section 30 of the Act.

In exercising its jurisdiction, the Court ensures that decisions affecting Māori land are made having regard to the interests and views of all owners. In an application for the formation of a trust, for example, the Act requires that the Court must be satisfied that the owners have had an opportunity to participate in a decision



Barbaletta Aranui, Clerk of the Court, Māori Land Court, Hastings.

to create that trust, and that the people put forward as trustees are broadly acceptable to the entire ownership. If there are uncertainties, a judge may direct that a meeting of owners take place, for which the Court administration can provide facilitation.

Court hearings are often a conversation between the judge, the land owners and other parties affected by the application before the Court. Legal counsel rarely appear before the Māori Land Court; since 1999, less than 10 percent of applications heard by the Court have been prosecuted through legal counsel. In the majority of cases the owners and other legal parties appear on their own behalf.

Judges are independent and impartial legal experts, and have the ability to sit with kaumātua and pakeke, as experts in tikanga Māori, to assist on an application. All these aspects mean the Court can be less intimidating than other Courts for the people who use it, and it has been described as a true 'peoples' court'.

Court Support

Māori Land Court sittings are held around the country, and each of the seven Māori Land Court district offices has a dedicated courthouse designed to be welcoming to Māori landowners and court users. To date, four have been refurbished to reflect relationships with the local iwi and traditions.



Te Whare o Te Rā

Te Whare o Te Rā, the courtroom for the Māori Land Court, Tairāwhiti District in Gisborne, was opened on 7 September 2007. Members of the community flowed into the streets at the event, which was also attended by several Māori Land Court judges, Ministers, Ministry officials, the Mayor and other local dignitaries.

Local artist Derek Lardelli worked on the cultural presentation for the courtroom, along with architect James Blackburn and Bothwell Construction. At the opening, Derek Lardelli described the significance of the courtroom's design:

'The design on the entrance is called He Maungārongo meaning peace and goodwill to the land. As you enter you are greeted by Karanga, who calls and welcomes you in. The patterns on the ceiling relate to Rangi looking down on Papatūānuku and the design on the carpet signifies one of their numerous children Te Kāōkāo o Rongo – the armpits of Rongo – the god of peace. At the back of the Judges' bench sits Hine Tiaki Whare, which Judge Fox has as her moko kauae. They look after the 'house' – the Court – while listening and giving direction to those who attend Court. The front window of the Courtroom has Hine Tiaki Wai which signifies Māori endeavours in the waters and beyond. Hoe Nukuroa on this same wall are the paddles that help Māori move forward.'

Also speaking at the opening, then Chief Judge Joe Williams acknowledged the Court's past in the district: it came from 'a colonial Court in a somewhat grim colonial building to what we see here today. That speaks to a powerful Māori instinct for the importance of place. It is extraordinarily important that this space be a Māori space.'



Te Whare o Te Rā, Judicial Bench, Māori Land Court, Gisborne.





Māori Land Court Hamilton Hearing, Judge S R Clark presiding.

The Court Process

Initiated by the owners of Māori land or other interested parties, the Court process begins with the filing of an application. The Court administration provides information to owners about Court processes, researches the Court's record, and assists with land owner enquiries.

Once the application is filed, it is then assigned to a case manager. The case manager will check the Court records relating to the land or person identified in the application and prepare a draft submission. The draft submission is then referred to a judge, who may direct further enquiries to be made, or that notice of the application be given to any other people who may be interested in or affected by it.

Formal Court hearings are then usually required. On the hearing day, Court officers are on-site to assist owners and judges. During the hearing, the applicant will be asked to state what the application is about and what they want to achieve. If an application is opposed, the judge will also hear from those opposing, asking them to state their case and produce any evidence required.

At the end of the hearing, the judge may make the order sought by the applicant, adjourn the hearing to another date and/or venue, reserve their decision (i.e. put it aside so they can think about it further, and then write a decision to be issued at a later date), or dismiss the application.



Judge S R Clark and Judge S Te A Milroy, Māori Land Court, Hamilton.



Isa Brownlee, Judges PA, Māori Land Court, Whanganui.

Everything that is said during the hearing is recorded. Once the hearing is over, these recordings are transcribed as the official minutes of the Court sitting. The Court administration then distributes these minutes, and copies of the resulting orders, to the parties concerned.

In the post-hearing phase, staff update the Court record to reflect the outcome of the hearing. This can include the entry and registration of Court orders with LINZ and updating the Māori Land Information System. Once completed, changes are then reflected in Māori Land Online, the free online register of Māori land titles held by the Court, and any registered title held by LINZ.

If one or more parties disagree with the final order of the Court, they may appeal the decision to the Māori Appellate Court. The Māori Appellate Court is made up of three or more judges of the Māori Land Court sitting as a panel, presided over by the most senior judge. Māori Appellate Court decisions may be appealed to the Court of Appeal and, in certain circumstances, to the Supreme Court. —

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COURT.**



Māori Land Court Administration

The Ministry of Justice is primarily responsible for the Court administration which delivers its functions and services through five key areas: front-line Advisory services, dedicated Court services, Land Registry services, Records Preservation, and through its Principal Liaison Officers.

The Māori Land Court administration is made up of approximately 160 staff spread across seven district registries in Whangārei, Hamilton, Rotorua, Gisborne, Hastings, Whanganui and Christchurch; an information office in Auckland; and a national office in Wellington.

ABOVE: Assisting customers in the Research Room, Māori Land Court, Hamilton.

i) Advisory Services

Trained teams of mobile Advisory officers have had a major impact on the way the Court does business. The Advisory Service was established in 2000 to provide specialised advice to Court users and to help people resolve issues around the ownership, use and management of Māori land. Because the teams are mobile, they are able to travel out into communities, helping reduce travel costs for the Court's customers, especially for those who live in remote, rural areas.

Advisory teams help people find out who owns the land, its current status and location, the percentage of their interests, the names of any trustees, and where to find legal documents. They can assist in the completion and filing of applications to the Court, and also assist customers to navigate the information that is also available via Māori Land Online. Mobile advisory and outreach services are provided free to owners.



Waikato Maniapoto Advisory team member Hori Tutaki says:

My main role is to be the first point of contact for our customers. I look at our role as providing support to our customers, from assisting with them with filing full and complete applications, through to education via trustee training to ensure trustees have a good foundation knowledge of their roles and responsibilities so that they can administer their trusts appropriately.



Hori Tutaki assists a customer at the Māori Land Court, Hamilton.

Toni Welsh, who is based in Auckland, agrees:

Advisory is situated at the front end of the journey of an application or enquiry for customers. Having a wide breadth of knowledge to assist whānau is essential, along with being able to communicate in a way they understand. Education is a passion of mine, so I strive to make the complex world of Māori land law and process as simple as possible for customers.



Mana Tomlins and Thaila Kaka review an application, Māori Land Court, Hastings.

ii) Court Services

Ensuring owners' access to justice, the Court Services teams are primarily responsible for the processing of applications. Court Services staff have a key role in liaising between customers and the judiciary, providing support to both. Deputy Registrars, for example, attend Court hearings and assist the Judge with any administrative and technical questions that are raised.



Juanita Hool, Court Services Manager and Deputy Registrar, Māori Land Court, Whangārei.

Waiariki Court Services Team Member and Deputy Registrar Jacinda Flavell explains her role in Court:

I assist owners who attend the Court hearings for their applications. For succession matters, I hold pre-Court hearing interviews with applicants and their whānau and we go through the draft submission. I explain what the hearing will likely involve for succession matters e.g. the judge is likely going to confirm the date of death for this person, and that the correct issue are recorded. In most cases I essentially calm the nerves for those who are very new to our processes.

Established in 2009, the Specialist Applications team, located in Wellington, is responsible for managing all applications and appeals made to the Chief Judge under sections 30, 45, 58 and 59 of the Act. They also manage the delivery of all operational outputs of the Court under the Māori Fisheries Act 2004, the Māori Commercial Aquaculture Settlement Act 2004 and the establishment of Taiapure under the Fisheries Act 1996.

The majority of the applications the team process are lodged under section 45 of the Act. This is an application to the Chief Judge to correct orders as far back as 1865 in situations where errors, omissions or mistakes have been made in the evidence presented to a Registrar or the Court, and the Chief Judge determines that it is necessary, in the interests of justice, to correct this.

Specialist Applications Case Manager Samantha Nepe says her work involves a lot of talking to people in order to 'smooth the road' for them. The importance of this was instilled in her by the people who trained her:

First, focus on the people, on having the rapport with them and providing them with information that they should have to guide them through the Court process. Listen to what they want and provide options for them. If they're happy, then the Court will be happy.



Staff in the Specialist Applications Team, Wellington.



Ministry of Justice: Delivering Modern, Accessible, People-Centred Justice Services

In 2013, the Secretary of Justice and Chief Executive, Andrew Bridgman, set a Ministry-wide goal to reduce service delivery times by 50 percent by 2017. The Court administration developed strategies and set targets to meet these goals. New initiatives were put in place to help streamline services and meet the targets. These included: developing tailored action plans to progress the oldest cases outstanding in the Court; establishing fit for purpose workload modelling and reporting tools; and developing and implementing the electronic lodgement of orders with Land Information New Zealand.

In 2013, the average time it took to complete cases in the Māori Land Court was 510 days. Setting incremental reduction targets for each year to 2017, the Court administration had achieved a reduction target of 30 percent by 30 June 2015. The average time for processing an entire application - from the moment a person 'walks in the door till it's on the shelf' - is now 320 days. Working closely and in collaboration with the judges was crucial to the Court administration's success in achieving these results.

In recognition of the positive performance results achieved in line with the Ministry goal targets the Māori Land Court administration was named 'Special Jurisdictions' Business Unit of the Year' for two consecutive years, in 2013 and 2014.

*Māori Land Court -
Ministry of Justice,
Special Jurisdiction
of the Year 2013 and
2014 Trophies.*



Zeniff Haika, Māori Land Court, Whangārei.

iii) Land Registry Services

The key function of this service is to maintain the current title and ownership record of the Court and the integrity of the title record held by LINZ. In order to do this, Land Registry staff work closely with the Court's record, a repository of current and historical title information concerning Māori land which contains the original title investigations in 1865.

Established in 2009, the current Land Registry service was created to focus the title work of the Court by restricting the number of staff updating the national index to ensure standardisation and accuracy of the Court's electronic records. Working in the Land Registry team involves updating ownership records (transferring ownership from one party to others) and titles information, entering complex amendments generated by section 45 applications, and registering orders with LINZ. Updating the record and registering orders with LINZ is the final stage in the application process, so accuracy is critical.

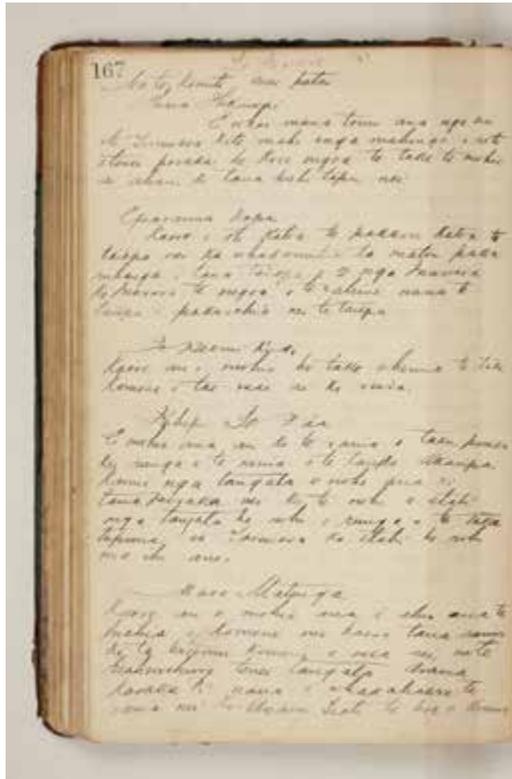
Approximately 40 percent of Court orders require registration with LINZ. What was once a manual registration process has been improved by the transition to electronic lodgement in Landonline, reducing the registration time from up to 30 days to an average of five days.

Aotea Land Registry team members Sue Cook and Marie Waldren both emphasise the importance of this final stage of the application process. Marie says 'it is our duty to ensure that what is presented to the Court is to the applicant's best knowledge, and that our records are correct.' Sue adds: 'maintaining an up-to-date record of integrity is the most important aspect of the job. The Court's strength lies in its record.'

iv) Records Preservation

In order to ensure the safekeeping of the record, Records Preservation Officers were established in each registry of the court in 2009, along with a co-ordinating Information and Records Management Analyst in National Office. Primarily established to ensure compliance with the Public Records Act 2005, the records staff maintain the current and historical record of the Court. This involves the careful care, cleaning and storage of the records, as well as educating various stakeholders about what the record contains and how to effectively research it.

Records relating to Māori land are held in the safe custody of the Registrar of the Court District in which the land is located. The public may inspect the historical record for free at the registry office in which it is located. Where available, the public may also view the electronic record for free.



Page from the Native Committee of Pehhairangi (Bay of Islands) Region Book 1887.

Information and Records Management Analyst Leigh Nicholas says:

The roles of the Record Preservation Officers are unique in the wider Ministry. The fact that we have such roles in the Court re-enforces the historic and cultural value of the current record, not only to the Court, but also to owners of Māori land and their descendants. The record is an important taonga that links us all together, and one that needs to be maintained and looked after for future generations.

v) Principal Liaison Officers

Four of the seven district registries have a Principal Liaison Officer, whose role is to provide a proactive and responsive advice and information to assist Māori landowners to achieve their aspirations in respect of the social, cultural and economic potential of their assets. Principal Liaison Officers actively support Māori landowners to achieve self-governance, and effective management and utilisation of Māori freehold land. Arising from this work, they are also tasked with proactively identifying solutions to inform policy and legislative changes.

Māori land development involves multiple agencies, so Principal Liaison Officers aim to match customers' land aspirations with the relevant information, as well as simplifying and aligning pathways between agencies. The information gathered through this process assists in informing their subsequent applications to the Court; good support enables applications to be processed in a timely and effective way.

Taitokerau Principal Liaison Office Jared Pitman says:

My role has a very broad brief: assisting landowners to develop the tools they need to be successful in their goals; helping educate external agencies so they can deliver suitable services to our common customer; and using the learnings from these engagements to inform Māori land use policy. To be effective, it is important that policy development is driven by customer aspirations and localised to their circumstances.

Key Features of the Current Act

In undertaking its role, the Court's key function is to ensure the retention, development and utilisation of Māori land in the hands of its owners and whānau.

Currently, there are more than 300 different types of applications that can be lodged with the Court. Grouped by similarity, most can be categorised as ownership applications, trusts and incorporations, Māori reservations, title applications, Chief Judge's applications and appeals, and applications relating to the Court's other jurisdictions.

i) Ownership applications

Māori land is often owned by several owners who descend from the same whānau or hapū associated with that land and the area in which it is located. Over the years, interests in the land are transferred to the descendants of the original owners. Under the Act, these interests may only pass to blood relatives who are members of the whānau or hapū associated with that land.

The Court's role is to ensure that the beneficiaries receiving interests are entitled to those interests. It provides a forum through which that association can be challenged and determined, if necessary. In this way, the Court maintains a clear chain of succession from one owner to the next; it also records their whakapapa relationship to each other and to the land.



Māori Land Court Publications, 2010.

An application for succession to interests in Māori land typically requires three key pieces of information: the whakapapa of the deceased, their siblings, their parents and names they are known by; the details of their descendants, including any whāngai they may have had; and the names of any potential Māori land blocks in which they may have interests.

This key information enables the Court staff to verify the interests belong to the deceased. At the same time, it establishes the connection of any descendants or beneficiaries to the deceased and their land.

In determining succession the Court will also consider the contents of any will, any arrangements the family wish to make about how the interests are distributed, and the creation of any whānau trusts. Following succession, if further interests in the name of the deceased are discovered, the original application is used as the basis upon which those interests are transferred.

A unique feature of the Act is its provision for whāngai to succeed. Justice Williams describes whāngai in 'Lex Aotearoa':

In tikanga Māori, the institution of whāngai is a technique for cementing ties among members of whānau and hapū located at different points in the whanaungatanga net, and for ensuring the maintenance of tradition between generations; the latter, by placing young children with elders to be educated and raised in Māori tradition. Thus to be a whāngai in tikanga Māori is not to be abandoned ... it is to be specially selected as someone deserving of the honour. Stranger adoption was completely unheard of and would be considered abhorrent in a system that valued kinship above all else.



Daphne Witoko, Māori Land Court, Rotorua.

The Court is able to determine whether a person is a whāngai of the deceased person, and whether, under the relevant tikanga, whāngai are entitled to succeed. Both situations need to be determined by tikanga, and, if necessary, appropriate kaumātua would usually be consulted. This is one of the reasons why both sides of the Court – the judiciary and the Court administration – need to be grounded in the Māori world.

In the last 10 years the Court has processed, on average, 3,000 ownership applications per year. This yearly average includes 2,000 general successions, 600 further interest successions, and 400 vesting orders.



Myda Mathews, Māori Land Court, Hastings.

ii) Trusts and incorporations

Trusts are a popular way for owners to manage Māori land with multiple owners. Such land is vested in trustees, who are given legal responsibility for managing the land for the benefit of the owners.

There are a range of the trusts which the Court may create. The most popular is the Ahu Whenua trust, which is designed to promote the use and administration of land on behalf of the owners. Whenua Tōpū trusts are iwi- or hapū-based trusts designed to facilitate the use and administration of land for the benefit of a defined class of hapū or iwi. Both Ahu Whenua and Whenua Tōpū trusts are land management trusts, and can be established over one or more blocks of land.

Other kinds of Māori land trust are Kaitiaki trusts, which protect the interests of minors, those with disabilities, or others who are unable to look after their own affairs; Whānau trusts, which enable whānau to protect their collective land interests from further fragmentation and hold these interests for the benefit of the

whānau and their descendants; and Pūtea trusts, which enable the owners of small uneconomic interests to pool their interests together.

Once owners have agreed to set up a trust over their land, they can apply to the Court to establish the trust. Court staff assist owners to file the application, and the advisory teams offer trustee training sessions to help new trustees understand their roles and responsibilities.

Māori incorporations may be established to facilitate and promote the commercial use and administration of Māori freehold land on behalf of the owners. A Māori incorporation can include one or more blocks of Māori freehold land, if at least one of the blocks has more than two owners.

In addition to the Act, Māori Incorporations are also governed by the Māori Incorporations Constitution Regulations 1994. Once a Māori incorporation has been constituted by the Court, owners become shareholders in the incorporation, which then manages its owner share register and affairs independently of the Court. Restrictions continue to apply to the alienation of Māori land held by incorporations.

Over the last 10 years the Court processed an average of 1,400 applications relating to trusts and incorporations per year. It should be noted however that, in this past decade, the Court has only received three applications to establish a Māori incorporation.



Te Kaha 15B Ahu Whenua Trust

Since 2006, Reginald Raihania Waititi (Te Whānau-a-Apanui, Ngāti Porou, Ngāi Tāmanuhiri and Ngāti Awa) has been a responsible trustee for the Te Kaha 15B Ahu Whenua Trust. Located in the township of Te Kaha in the Eastern Bay of Plenty, Te Kaha 15B has 196 beneficial owners. Part of the original Te Kaha Papakāinga block, for which title was issued by the Native Land Court in 1910, the Te Kaha 15 block has been held by the same group of whānau since it was originally created by the Court in 1915.

In recent times, the trust became part of a joint venture kiwifruit orchard operation. The Māori Trustee was appointed, as custodian trustee, in 2001 to assist the trust to set up the joint venture, as the trustees at the time had little commercial experience. As the trustees became increasingly confident in their roles, however, they sought to regain the custodianship of the trust. After a five-year period of negotiation with the Māori Trustee, agreement could not be reached and the parties went to the Court to resolve the issue.

Granted a special hearing in 2011, the trustees argued, successfully, that they were able to manage themselves. A key part of the trust's case was the Act's emphasis on promoting the retention of the land in the hands of owners, their whānau and hapū: 'we were asking the Court to empower us to do that.'

Reginald believes that the Court's deep knowledge and experience was instrumental in a positive outcome for the trust:

The judge knew us (the trustees). Through its long association with other owners and trustees in the area, the Court was intimately aware of the complexities on the ground. The judge knew the whānau dynamics in the area, our whakapapa to each other and to the whenua and our wider whakapapa links to other kiwifruit operations in the area. We had regular reviews with the Court, and the judge was keenly aware of our success and of the ability of the trustees. He was also aware of the new focus of the Māori Trustee after its restructure, and of our desire to take back full control of the trust again. That's ultimately what led to the decision of the Court to re-vest the land in the trustees.

Reginald understands the benefits of having the Court as a 'safety net' as it has 'a key administrative role in maintaining ownership and title information for the trust, and is often the first point of contact for owners. He sees the Court's role today as one of monitoring progress on behalf of all the owners, especially those who are not in regular contact with the block; it 'ensures the taonga that is the whenua can't be lost for future generations.'



Joe Huta assists a customer at the Māori Land Court, Rotorua.

**MĀORI RESERVATIONS
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AND GENERAL LAND
FOR LAND THAT
IS CULTURALLY,
SPIRITUALLY OR
HISTORICALLY
SIGNIFICANT TO MĀORI.**

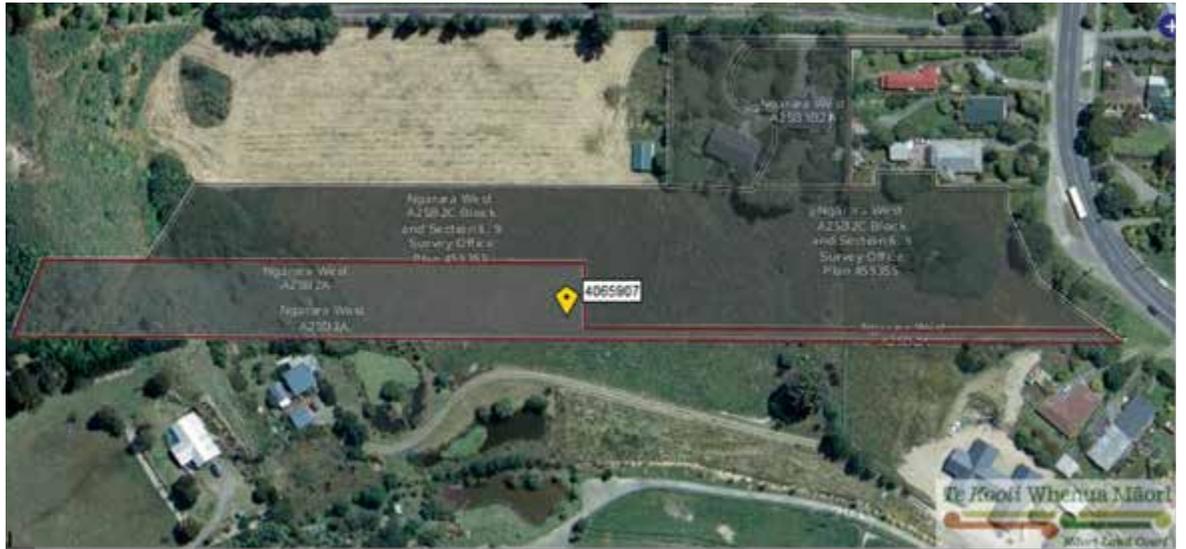
iii) Māori reservations

Māori reservations are a special type of trust that can be established over both Māori freehold and general land for land that is culturally, spiritually or historically significant to Māori. Reservations may be set aside for a number of purposes, including mārae, urupā, wāhi tapu, fishing grounds, recreation grounds, papakāinga housing or kaumātua flats. In addition, a reservation is set aside for the common use and benefit of a defined class of beneficiary. This is usually the owners, but can include the descendants of a tipuna, and hapū members; they can also be any group of Māori, community or the people of New Zealand. Once created, a Māori reservation is inalienable.

For these applications, the Court does not make orders. Instead, the Court makes a recommendation to the Chief Executive of Te Puni Kōkiri to set aside the land, or a part of it, as a Māori reservation. On acceptance of the recommendation, the Court publishes a notice in the New Zealand Gazette proclaiming the reservation. Once gazetted, the Māori reservation is formally established, and the beneficiaries can then appoint trustees to manage it.

In addition to the Act, Māori reservations are also governed by the Māori Reservations Regulations 1994, which sets out the powers and duties of trustees of a reservation and provides, where necessary, intervention by the Court.

Over the past 10 years the Court has processed an average of 100 applications per year relating to the establishment or management of a Māori reservation.



Ngarara West A25B2A Block, Te Moana Road, Waikanae.

Patricia Grace's land

An example of the way in which the Court can assist owners in the protection and retention of their land can be found in the recent case of writer Patricia Grace, who successfully applied to protect her land from being acquired for an expressway.

In 2011, the New Zealand Transport Agency (NZTA) announced their planned route for a proposed four-lane Kāpiti expressway linking the Kāpiti coast to the proposed alternate transmission gully route from Wellington.

Upon review of the planned route, Ms Grace found out that her ancestral land in Waikanae was under threat from the proposed expressway, north of Waikanae River. In response to a community outcry, the NZ Transport Agency (NZTA) changed its initial proposal to a western link designation route joining coastal communities between State Highway 1 and the coast. NZTA made maps for the two optional routes public; both affected Ms Grace's land.

Living in Plimmerton, Ms Grace is the owner of a 5,770 m² (1.4 acre) parcel of land in Te Moana Road, which leads to an urupā. 983 m² of this land would have been affected by the NZTA proposals.

In order to protect her land from being taken, Ms Grace filed an application to the Court to set aside her land as a Māori reservation in 2013, making it inalienable to the Crown. In February 2014, as part of the hearing of her application, Chief Judge Wilson Isaac visited the land, as well as an adjacent block for which Māori reservation status was also sought.



Patricia Grace.

The two blocks of land under consideration have high archaeological value. Near a registered wāhi tapu site, it was likely burials had taken place there.

During the hearing, archaeologist Susan Thorpe told the court that she believed the land was 'at the very heart' of the Tuku Rakau village, an area occupied continuously for at least 500 years. Ms Thorpe also pointed out issues with a proposed plan to monitor the site while roadworks took place. She said it would not be enough to stop damage, as it was almost impossible to detect complex archaeological evidence in this way.

In March 2014, the Court ruled in Ms Grace's favour. Chief Judge Isaac granted her application and recommended her land in Te Moana Rd:

be set apart as a Māori reservation for the benefits of the descendants of Wiremu Parata Te Kākākura ... as a place of cultural and historic significance and as a wāhi tapu site ... This is one of the vestigial blocks of Wi Parata's land remaining in the ownership of his descendants. It has been in continual Māori ownership and control since before 1840. It has special significance not only for the descendants of Wi Parata but also for Te Ātiawa ki Whakarongotai, and has been protected through the generations to the present time. This protection should continue into the future.

Commenting on the decision in the media, Ms Grace said, 'it is very good news. I think our case was very well put.' Her lawyer, Leo Watson noted that it vindicated her 'long struggle to protect her ancestral land.'

iv) Title applications

Title applications involve orders to facilitate the use and occupation of Māori land. They include occupation orders (granting the right to occupy and build on a house site), partitions (one or more owners separating their shares from the other owners to create a separate title), amalgamations (combining two or more blocks into one title), roadways and easements. In each case, the Court must consider the opinions of owners and shareholders, the effect on them and the best overall use and development of the land.

This set of applications also includes alienations. Alienations are land transactions, such as sales, leases, licenses, easements, and gifts where primary control or possession of the land is transferred from the owners to another party. In line with the kaupapa of retention, the Court must confirm all sales or gifting of interests in land outside of the whānau; a registrar can note leases and mortgages in the Court records and vesting orders are issued for the sale or gift of land within the whānau.

The Act sets out a number of further protections in respect of alienation. If land is to be alienated, it must first be offered to what is defined as the 'preferred class of alienee'. This includes children, grandchildren, whanaunga, other owners in the land, and the descendants of any former owner who is or was a member of the hapū associated with the lands.



Savanna Launder, Māori Land Court, Whangārei.

The land can be sold, subject to the approval of the Court, to those who do not fall within the preferred class of alienee. The applicant would, however, need to demonstrate that they have attempted to sell the land at a fair value to people within the preferred class of alienee with no success.

Because of the multiply-owned nature of Māori land, the thresholds for approvals of alienation in the Act are high: owners in common and trustees of a trust must have the consent of at least 75 percent of the beneficial ownership for land to be sold or gifted outside the whānau.

Other title applications include status determinations, title investigations to Māori customary land (in order to convert it to freehold land) and status changes from General to Māori land and vice versa.

Over the last 10 years the Court has processed on average 380 title-related applications and 370 alienation applications per year.

v) Chief Judge's applications and Appeals

Special powers are conferred on the Chief Judge under section 45 of the Act to determine, upon application, if an error, omission or mistake has occurred in the presentation of facts to the Court or a Registrar or by a Registrar. Errors may have occurred because of a flaw in the evidence presented or in the interpretation of the law; it is necessary in the interests of justice to correct this. The Chief Judge can do this in respect of any order, dating right back to the early years of the Court.

These are some of the most complex applications lodged with the Court. Depending on the age of the order at issue, staff are required to retrieve the original records relating to that order and consider the chain of events that have occurred in respect of those interests since the order was made. If successfully proven, an order of the Chief Judge may result in the correction, amendment or cancellation of any order and for the records to be amended as a result.

Over the last 10 years the Court has received an average of 100 section 45 applications.

**OVER THE LAST 10
YEARS THE COURT HAS
RECEIVED AN AVERAGE
OF 28 NOTICES OF
APPEAL TO THE MĀORI
APPELLATE COURT
PER YEAR.**

vi) The Māori Appellate Court

The Māori Appellate Court hears and determines appeals against decisions or determinations of the Māori Land Court.

An appeal can be made by any affected party who has grounds to believe that a judge has made an error in a decision or determination or in the interpretation of evidence or the law that led to that decision. A notice of appeal must be lodged with the Chief Registrar within two months from the date of the Court issues its decision and it must set out details of the basis for appeal. Appeals are heard by three or more judges sitting as the Māori Appellate Court on a quarterly basis during the year.

Over the last 10 years the Court has received an average of 28 notices of appeal to the Māori Appellate Court per year.



Leadership team of the Māori Land Court, Hamilton.

vii) Other jurisdictions

Under the Fisheries Act 1996, Māori Land Court judges may recommend the establishment of a mātaítai or taiapure marine reserve. The Court also has jurisdiction to resolve disputes in respect of the Māori Commercial Aquaculture Claim Settlement Act 2004. In both cases, the Court also has an advisory function, and may appoint external members with specialist knowledge to assist.

In addition to those initiated under the Act, applications may also be brought under any rule or regulation affecting the Court. For example, the Court has jurisdiction under the Protected Objects Act 1975 to resolve ownership issues related to taonga tūturu (objects older than 50 years of cultural significance to Māori). Under the Local Government (Rating) Act 2002 it has jurisdiction to make charging orders for unpaid rates older than six months on Māori land.



Other applications the Court may hear include those for injunctions or rehearings, termination of leases, contract disputes relating to Māori land, enforcement orders, orders for payment of costs, or requests for an assembled owners meeting.

In addition to Te Ture Whenua Māori Act 1993, the Court currently has, or has exercised, special powers granted under a number of Māori Purposes Acts.

Examples of these include the jurisdiction to make determinations as to the beneficiaries of muttonbird interests on the Titi Islands under the Māori Purposes Act 1983, and amalgamating blocks and establishing the Māori Incorporations now know as the Proprietors of Rangatira Point Block and the Proprietors of Hiruharama-Ponui Block under the Māori Purposes Act 1975.

Finally, as part of recent Treaty Settlements, the Court has been granted special jurisdiction to investigate and make determination as to the ownership of former Crown land and to its return to the most appropriate Post-Settlement Governance Entities.

On average the Court receives 5 fisheries-related applications, 12 protected objects claims, 45 injunctions and 40 assembled owners meetings requests per year.



Jodi Edwards, Māori Land Court, Hastings.

Resources and Technology

In order to support its work, the Court has developed two key pieces of technology: the Māori Land Information System and Māori Land Online. In addition, the Māori Freehold Land Registration Project was initiated in 2005 to complete the registration of Māori land titles with LINZ.

i) Māori Land Information System (MLIS)

The MLIS is a custom-designed software application that brings together the Court's case management, land registry and document management functions.

Prior to its development in the 1990s, Māori land information was held in paper-based records at Court offices. It was not always accurate, complete or up-to-date, and was difficult for owners to access. This meant that owners could not always 'see' their land to help inform their decision-making.

**HAVING ACCESS TO
ELECTRONIC RECORDS
TO DO THEIR WORK
ALSO MEANS THAT THE
HARD COPY RECORD IS
PROTECTED.**

As part of a modernisation programme, MLIS was developed, involving three core parts: a national index of all the Māori land title and ownership information in New Zealand; a purpose-designed workflow system for staff to process applications; and the imaging of the Court's records in order to store and access them electronically.

The national index system is a database of the title, ownership, trust, incorporation and memorial schedule information for all current blocks, owners and management structures in the Court's jurisdiction. As applications are processed by the Court, the national index is updated to reflect any changes. Maintaining information for over 28,415 blocks, the index supports 8,000 ownership searches and up to 20,000 changes per month made to its records by Court staff.

The workflow system integrates the Court's case-management system into the national index, allowing staff to register and create electronic files; create Court documents, including orders and minutes; generate reports; manage enquiries and correspondence; and search for blocks, owners, management structures and documents needed for court determinations. Having access to electronic records for staff to work in also means that

the hard copy record is protected, as ongoing handling of the papers and photocopying could damage documents.

Once the national index and workflow functions were completed in 1998, MLIS was formally launched in 1999.

The imaging system of MLIS comprises two types of record: the current record, created through the workflow system since 1999, and the historical record, containing images from the Court's paper record. In the process of considering how to capture and provide access to the historical records, a series of 17 hui were held throughout the country between 17 May and 15 June 1999.

Although those who participated in the hui agreed with the proposal to image the Court's records, they were generally uncomfortable with the database being made available through agencies outside the Court without controls or limits on access. They agreed to two key principles to guide the management of access to records (both paper and electronic): the mana of the records and information comes from iwi, and whakapapa is intrinsically tapu. Participants preferred the Court to remain responsible for the safekeeping of the records in the short to medium term, but, in the long term, they desired the records to be placed in the safekeeping of iwi.

Participants were particularly concerned about increasing web access and requested restricted access to historical and whakapapa records. Based on this feedback, key parts of the historical record were captured through a dedicated imaging project in 2001, but access was restricted to public terminals at offices of the Court.

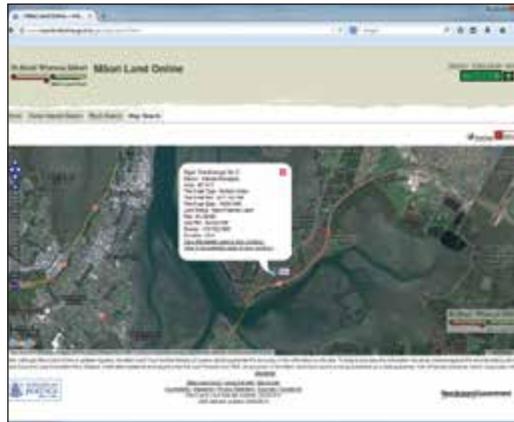
Speaking in 2002, after the imaging process had been completed, then Minister for Courts Matt Robson said:

Just a year ago, Māori land records were kept in 12 million pages of paper records that could only be accessed by travelling to each Māori Land Court Registry, and were managed using paper-based systems designed by Chief Judge Fenton 137 years ago. It could take days of camping at the Court to painstakingly thumb through the precious documents, going back and forth to the records room, relying on card indexes, waiting months for files to be sent from office to office. Those days are over.

At the heart of the changes is the MLIS which contains a computerised index of all Māori land title and ownership information ... This, to the best of our knowledge, is the first and only record of its kind anywhere in the world of the land base of an indigenous people.

ii) Māori Land Online (MLOL)

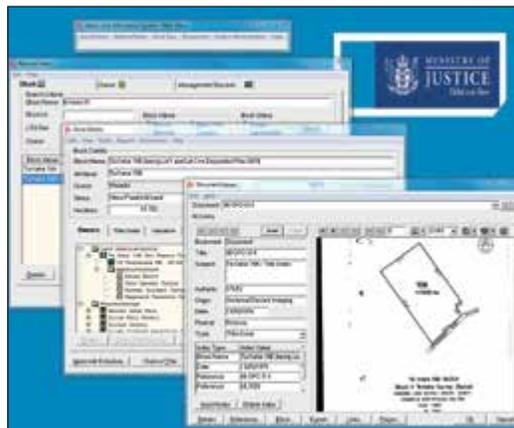
In the 2000 Budget, the Court received funding under the then government's 'Closing the Gaps' policy for a range of initiatives to improve its community outreach services and help build capacity for Māori landowners. In addition to establishing the advisory services team, publishing the national pānui and producing a range of information resources, the Court used the funding to develop MLOL.



Māori Land Online.



Staff in Hamilton using the Māori Land Information System to manage an application.



A screen shot of the Māori Land Information System in action.



Launch of Māori Land Online with GIS functionality 2011.

Launched in 2005, MLOL was initially a text-based website portal that provided a snapshot of the current ownership, trustee, memorial and block information for Māori land from the MLIS National Index. In addition to Māori customary and freehold land, it included information on General land owned by Māori, Crown land reserved for Māori, some Treaty settlement reserves, mahinga kai and fishing rights areas. The site does not provide direct access to the historical record of the Court, which may contain whakapapa or other sensitive information.

Speaking at its launch, then Chief Judge Joe Williams said: 'Māori Land Online is going to turbocharge the reconnection of Māori landowners with their land ... and strengthen cohesion in Māori communities. This is just the beginning.'

In 2010, the Ministry of Justice approved further development to enhance MLOL by including mapping information for Māori land. This enhancement was designed to build on the existing text-based ownership information already provided through MLOL and extending it to include a mapping interface to replace the outdated Te Puni Kōkiri Māori land mapping application, the Māori Land Information Base, which was developed based on 2001 mapping data.

Relaunched in March 2011, it was redeveloped to include a Google Maps interface, providing a greater depth of information that could be accessed and downloaded through customised reports.

There are three main searches that can be done using MLOL: owner interest searches, block searches and map searches. An owner interest search provides information on the interests held by owners and trustees. Block searches reveal information about land blocks, trusts and incorporations, and the location of land held by owners. The map search function provides a visual search of all the land blocks within the Court's jurisdiction, and includes layers for local district and regional councils.

National Operations Manager Julia Marino says:

Māori Land Online is an extension of the service we provide our customers. It gives owners, and other people and organisations interested in Māori Land, a clear understanding of the "who" and "where" aspects of the land. It does this through the medium of a Google look and feel interface, allowing owners to browse through their interests, and view their whenua from the comfort of their own home. Our website sees over 1 million users a year with 85 percent of traffic from New Zealand, 10 percent from Australia, and 5 percent from the rest of the world.

iii) Māori Freehold Land Registration Project (MFLRP)

In April 2005, the Court partnered with LINZ in a five-year project to register all the Court's orders which affected Māori land titles under the Land Transfer Act 1952. The MFLRP aimed to ensure that the title and survey records held by LINZ correctly reflected the records held by the Court and vice versa.

While many Māori land blocks had parent titles issued under the Land Transfer Act there was a significant backlog of orders that required registration to ensure that both registers were correct. When the MFLRP began 11,667 blocks had some type of title issued by LINZ, with 15,261 blocks still requiring registration. In addition, many still had underlying orders affecting ownership requiring registration. The MFLRP's goal was to ensure that titles were issued for all Māori land so that landowners could rely on the same Crown guarantee of title to their land as general landowners.

In 2010, Georgina Te Heuheu, then Minister for Courts, and Maurice Williamson, then Minister for Land Information, announced the MFLRP's successful completion. A total of 27,000 Māori land blocks had been registered with LINZ, representing about 99 percent of the total inventory of Māori freehold land.

Andrea Joseph, Manager Advisory Land Registry and Deputy Registrar, Māori Land Court, Whanganui.



Keri Neho using MLOL to assist customers, Māori Land Court, National Office, Wellington.

Minister Te Heuheu said the MFLRP was highly significant for Māori:

It has resulted in the reversal of anomalies between the Land Transfer registry and the Māori Land Court registry. It creates equal recognition and quality of title for Māori freehold land in the same way as general land. This provides a sound platform for the economic developmental aspirations of Māori landowners.

Minister Williamson said it improved the ability for Māori land owners to set up economic development initiatives where a formal Certificate of Title is required: 'access to finance, title aggregation, easements and access issues can be worked through now land blocks have parcel identification.'

In a paper for the 2012 World Indigenous Housing Conference, Judge David Ambler commented:

One of the least anticipated benefits of the Project is that almost all Māori land titles are now defined by digital title plans which are incorporated within a digital Geographical Information System. Importantly, the land titles and plans are now displayed in Māori Land Online, and are easily accessible to Māori land owners anywhere in the world via the internet.

UNESCO recognition of early Minute Books

While reading the Archives New Zealand newsletter, Court librarian Rachel Kerr noticed a call for submissions for the United Nations Educational, Scientific and Cultural Organisation's (UNESCO) Memory of the World Register. Part of UNESCO's programme established in 1992 to preserve the sometimes fragile state of the world's documentary heritage, the register lists documentary collections that have been endorsed as having world significance and outstanding universal value. Immediately thinking that the Court's early Minute Books would meet the criteria, Rachel talked to Chief Registrar, Julie Tangaere, about initiating the process to get them registered.

In order to meet the requirements for the register, the Court lodged an application supported by three expert referees and Archives New Zealand. Historian and Waitangi Tribunal Member Dr Grant Phillipson described the Minute Books as 'a unique archival source for the indigenous Māori people of New Zealand. They are a repository of the oral tribal histories and whakapapa of most of New Zealand's Māori tribes, recorded at hearings in the 19th and 20th centuries by Native



Rachel Kerr, Māori Land Court Librarian with the UNESCO Certification.

(later Māori) Land Court clerks. Without this unique source, much tribal history and traditional knowledge would have been lost'

Māori researcher Raukurawaihōea Waitai emphasised their value for Māori as an 'avenue for reclaiming one's identity. Of particular interest to many are the genealogies, recounts of significant events, sacred places and old settlement names. The minute books provide a glimpse into the past and a way of life that no longer exists.'

Comprising all the Native Land Court's Minute Books from 1862 to 1900, the majority of the collection is held by Archives NZ in climate-controlled conditions. They were accepted and registered by UNESCO in 2012, joining the Treaty of Waitangi and Women's Suffrage Petition on the New Zealand Memory of the World Register.



Papatūānuku Hui Tākaro

Working for the Court is certainly not a case of 'all work and no play.' A much-anticipated event in the Court's social calendar, the biennial Papatūānuku Hui Tākaro is a sports and social event where Māori Land Court staff, families and friends compete for sports trophies and prizes.

Hosted by a different district each time, Papatūānuku was last held in Wellington. In order to pay for travel and other costs, staff held fundraising activities. For the last tournament, for example, National Office staff held a sponsored 21-kilometre walk from Wellington to Porirua.

Ideally taking place over a long weekend, Papatūānuku begins with a pōwhiri and lasts for two or three days. There are evening events including a quiz, darts and cards, with more active sporting events, including netball, basketball, touch rugby, volleyball and golf during the day. Traditional activities such as waka ama are sometimes included too.

Papatūānuku evolved from the former Department of Māori Affairs tournament Tū Tangata, which, in its time, saw some fierce and very competitive encounters on the rugby fields and netball courts. Teams were often 'stacked' with regional, and sometimes national, representatives, an indication of district pride and serious strategising to win.

ABOVE: National Office participating in the Waka Ama event, Papatūānuku, Gisborne.

Today, the competitive edge is still there, but the Court's tournament is more about participation and whakawhanaungatanga. Waikato Maniapoto District Manager Steve Dodd, who has participated in both Tū Tangata and Papatūānuku, says 'these occasions gave opportunity to mix, to network, to bond and cement friendships. Competition brings out the best in us.'

Taitokerau's Toni Welsh recalls:

One year at Papatūānuku, I jumped onto Waikato's waka to play netball and in one game, the other team were in it to win it, scoring left, right and centre, while we were struggling to get one goal. Half-way through the game we finally scored a goal, and we absolutely lost it, we celebrated, screaming, jumping up and down and hugging each other like we won the grand final. It was sensational. The other team looked at us like we were crazy, but nothing could bring us down.

Going back to Rotorua, where it first began in 1990, the next Papatūānuku will mark its 25th anniversary in 2016.



Staff from the Rotorua office cheer on their teams during the Waka Ama event.



Staff from the Hamilton office take on "Tāki-Pounamu" the combined Hastings and Christchurch Team in Netball.



The Hamilton team run the ball down the sideline in the Touch Rugby event.



The Ray Polamalu Memorial (Registrars) Trophy for overall Papatūānuku winner (currently held by National Office).



The Chief Judge Gillanders Scott 1979 Arohanui Rugby Trophy (currently held by National Office).





SECTION 5

The People of the Māori Land Court

*“E koekoe te tūi,
e te ketekete te kākā,
e kūkū te kererū”*

5

The People of the Māori Land Court

Starting with the judges, this section introduces the people of the Māori Land Court. It then moves on to profile the Chief Registrar and National Office staff, followed by a profile of each of the districts, which highlights the various roles and functions of the court administration.



Judges

Chief Judge Wilson Isaac

(Ngāti Kahungunu, Ngāti Porou, Tūhoe)

What is your background?

My mother's Ngāti Porou and Scottish, and my father is Ngāti Kahungunu and Tūhoe. Gisborne is where I always called home, even though we moved around a lot when I was young, as mum and dad were school teachers.

Dad was a member of various committees of management and a trustee of various trusts. I was taken to land meetings and to the blocks from a young age.

I've kept in contact with the land blocks, as I hunt on them. Whenever I go up there, I always look at the condition of the stock and the fences, and report back to the manager. Even though I'm a judge, I'm still a Māori landowner – and so are my children – and we have maintained a close connection with our family lands.

It's home, basically. Where I am from and where I always return.

What led to you working in this area of law?

I went to Otago University and firstly obtained a BA and enrolled in a post-graduate course to be a school teacher. While I was at Otago, I had a pāua diving license for around the southern coast. When I went home, I went hunting. These two activities have always been a passion. I thought if I started working so early I wouldn't be able to continue with those activities.

So when I returned to start teacher training I got cold feet. I thought 'what can I do that'll keep me at university a bit longer?' I chose law.

When I finished my law degree I went home to Gisborne on a hunting trip and ended up with a job at Burnard, Bull & Co. At the time, Ashley George McHugh was a partner there – he later became the Deputy Chief Judge of the Māori Land Court – and he steered me in the direction of Māori land law.

I practised in Gisborne for 17 years, then I was appointed to Gisborne as a judge in 1994. I became the Deputy Chief Judge in 1999 and the Chief Judge in 2009.

What does your role involve?

I always said that if I became the Chief Judge, I would want to continue doing the work of a Māori Land Court judge at first instance. I wanted to retain a close connection with the staff in the districts, as well as the judges, so I could understand how they were managing their courts and how the people in those areas were finding their experience with the courts. I hope I have achieved that.

The role of the Chief Judge is to head the judicial arm of the Māori Land Court and to ensure the Māori Land Court is operating efficiently and effectively. I attempt to do this by working collaboratively with the judges and the administration.

You're also Chair of the Waitangi Tribunal.

Normally, the Chief Judge of the Māori Land Court also holds the position of Chairperson of the Waitangi Tribunal. As with the Māori Land Court, it's about ensuring that they operate efficiently and effectively for Māori and the Crown. At the moment, I'm presiding over inquiries into the Water claim and the Veterans claim.

I've also presided over district inquiries, including Mōhaka ki Ahuriri, then the Te Tau Ihu and National Park inquiries. In relation to Mōhaka ki Ahuriri, I remember at the time Chief Judge Eddie Durie asked me if I wanted to do a Waitangi Tribunal inquiry and said 'I'll give you a really easy one to do. It won't take you very long. It'll probably take six months.' About ten years later we finished it.

And you're a High Court judge in Niue and the Cook Islands.

Yes. In Niue, we have a number of jurisdictions. We cover land, criminal, civil, domestic, and the coroner's courts. But in the Cooks, we mainly do land work.

It's very similar to New Zealand. The only difference is that the Cook Islands, and particularly the Niue Court, is about 100 years behind us. We're still doing determinations of title as to who owns the land there.

What do you enjoy most about your role?

I enjoy doing the work of a judge both at first instance and on appeal. I enjoy grappling with legal issues and seeing that the Māori owners who bring applications to the Court achieve what they're trying to do.

Dealing with people at the coal-face is satisfying for me. It's very real. The decisions you make affect their lives almost instantly. I always try to make sure that you leave them with an opportunity to go forward, as opposed to leaving a festering sore for their families.

What about the challenging aspects?

Often you have families fighting families. You have applications where brothers and sisters are like mortal enemies. That's hard.

You have people who consider that they have particular rights in land, and they don't. It's always a comedown for them when they realise that although they might have occupied land for a long time, they don't have any ownership rights over it. Once the owners want to exercise those rights, it's very hard for those occupiers to be able to deal with that.

A lot of our Court is like mediation, attempting to arrive at a solution that best fits the owners who are going to continue living and working on the land. It's not just a 'winner-take-all' situation. Unless they come to us and say 'this is it. We've gone far enough. We've exhausted all our attempts at negotiation and discussion, and we're still oceans apart. We need the Court to make a decision.' At that stage, we have to put aside all that mediation and make a decision in terms of the law as to who is right and who is wrong.

What cases stand out for you?

Every case has major importance for the people bringing them, but some cases obviously stand out more than others.

I always remember the Maguire case in Hastings, which started in front of me at first instance. The Hawke's Bay District Council was putting a roadway through Māori land and the owners opposed it. It wasn't just a piece of waste land, it was a productive apple orchard.

The application started as an application for an interim injunction to stop the Hawke's Bay District Council. The lawyer for the Council said 'It's too late, this is all going to be signed off within half an hour at the District Council.' I said, 'We still have half an hour.' I granted the injunction, and there was always a question about whether I had the jurisdiction to do it.

It certainly put the brakes on. They argued about the legalities later and took me on review to the High Court, which overturned my decision.

In the meantime, there were discussions going on between the owners and the district council. The owners appealed the High Court's decision and lost. They went to the Privy Council, which said that it's 'incumbent upon the district council to ensure that they have these discussions with Māori and that if there are alternatives, they've got to use them.' I was found to be wanting in jurisdiction, but the road wasn't built.

Even though the owners lost the battle, they won the war.

How does the Court's past impact on the present?

Its past has a major impact on what's happening now. Essentially, the Court was established to determine owners so the land could be sold to the people coming to colonise New Zealand. That basically took place from the mid-1860s to the early part of the 20th century. Huge chunks of land were lost.

Māori realised that they were becoming landless. They were losing a large part of their mana and identity. During the land marches of the late 1960s and 1970s, Māori were clinging to that identity. As that evolved, so too did the Court.

At that time, we had the 1953 Act, which I worked under as a lawyer. The emphasis had changed from 'sell it' to 'retain it'. A number of amendments along the way had added mechanisms like incorporations and trusts that enabled Māori to utilise and develop their land.

Then came the 1993 Act. The kaupapa of that Act is to retain the land for Māori and their iwi and hapū and to utilise the land for the iwi, hapū and whānau.



Chief Judge Wilson Isaac, Tokomaru Bay (2009).

You've described the Court as 'a Māori Court'.

When I became a judge, there were eight Māori Land Court judges: three Māori and five non-Māori. At the moment, there are ten of us, and there are eight Māori and two non-Māori.

We have judges now who understand tikanga Māori and te reo Māori. Often Judges end up presiding where they practised, and where they're from. They know the local community, and I think the users of the Court feel as if they effectively own us and that we are part of them. It makes things work, in a Māori sense. They know our whakapapa, and we know their whakapapa. That makes it a very uniquely Māori Court.

What are your aspirations for the future of the Court?

I want to see the Court become more Māori, and the use of Māori language become normal, as opposed to the second language used in Court. It's becoming more common but there is a long way to go.

At the moment, we have four courts that have been refurbished in such a way that they reflect their communities and their people. I want to see that developed right across the Māori Land Courts in New Zealand.

I want to see us involved in more matters than land. When I say a Māori Court, that's a court that deals with Māori issues. Most Māori issues are derived from land, entitlement to land affects family issues.

I want to see us get back some of the family jurisdiction in terms of adoptions, because, at times, we have matters referred to us from the Family Court to sort out, including family protection issues. Matters are referred occasionally from the High Court, when they want a Court which understands Māori to deal with a particular situation. We should have the jurisdiction to preside over these issues from the start.

With the current review of Te Ture Whenua, our desire in the Court is to ensure that Māori people are able to meet their aspirations. It's about how you get there, in a real and constructive manner.

What do you think is important for people to know about the Court?

The Court has a fairly dark history, and many of the problems in the Court's history have been before the Waitangi Tribunal over and over again.

I think we've come through that, and we're now reaching into the future. Māori are becoming more Māori.

As that changes, so does the Court. I'd like to see the Court continue as one that is there for Māori people, so they can feel it is their Court.



Deputy Chief Judge Caren Fox

(Ngāti Porou, Rongowhakaata)

What led to your interest in Māori land law?

I began my studies in law in 1982 at Victoria University. I was doing a double degree with Māori Studies.

In the Māori Studies faculty, I met a number of people who were also studying law, including Ani Mikaere, Toni Waho, Joe Williams, who is now a High Court Justice, and Cath Nesus.

Combining the two fields, we came to a greater understanding of how law fits with Māori society and history. That group became influential in setting up the first Māori Law Students group.

We were lucky enough to have, as our lecturer in Māori land law at the time, Dr Alex Frame, followed by Professor Richard Boast. I consider both to be experts on the historical nature of our land court. Dr David Williams had a huge influence on us. The last person I want to mention is Dr Paul McHugh. He explained why the Native Land Court process was so important in changing customary title to a title that could be recognised in the current legal system – some say assimilated into it.

Those years were formative for me.

What is your role as Deputy Chief Judge?

I was appointed as a Māori Land Court judge in 2000, and Deputy Chief Judge in 2010. It is my role to assist the Chief Judge as much as possible in the administration of the Court.

In my first year as deputy, for example, I worked on the Māori Land Court Rules 2011. They cover the detail of what needs to happen for each application before and after it's filed. They also deal with notice and other procedures concerning the conduct of proceedings before the Court.

It's my role to undertake any work delegated by the Chief Judge, particularly section 45 applications. I'm also responsible for facilitating the further legal education of the judges. We organize seminars and wānanga to make sure the judges keep abreast of law in our jurisdiction, what is happening in Māori society, and developments in industries such as farming, fisheries and forestry.

A week in Court involves long days with limited breaks. An Environment Court case or Waitangi Tribunal urgency will consume a large percentage of time, as does judgment writing and Tribunal historical reports. Sometimes the workload requires weekend time and/or longer hours.

You're also a member of the Waitangi Tribunal.

I've presided over a number of historical and contemporary inquiries, and am currently presiding over the Muaūpoko priority claim and the Porirua ki Manawatū historical claims.

A Tribunal report can make a real and meaningful difference for the claimants and the Crown. The Central North Island report, for example, assisted both the Crown and Māori parties in completing the Kāingaroa Forest settlement. It was satisfying to that Tribunal panel that we could provide a report that was the platform for such a major settlement. I was invited to the Tūwharetoa and Crown celebration, which was very memorable. It was wonderful to see the power of the CNI tribes in their unity and leadership.

And you're an alternate Environment Court judge.

I've been an alternate Environment Court judge since 2009, sitting on 1-2 cases a year. I'm usually asked to provide expertise on Māori issues. This is an important and growing area of law for Māori people. Everybody in the Māori world is affected by this legislation. In order to protect their assets, or develop their land, Māori need to have knowledge of the Resource Management Act as much as other New Zealanders.

What do you enjoy about your role?

The variety of work and the people.

I piloted a scheme for two years in my district, which involved sitting with kaumātua. I thought it was really important for them to understand what we do in detail. The reaction to having kaumātua in the courtroom

assisting with procedure and tikanga provided reassurance for people and was very positive. We have some tremendous elders, who are natural dispute resolution facilitators. They bring tikanga elements to bear on an application that not all the judges – including myself – have the same depth of expertise in.

It's also very positive work. I'm not a 'black letter lawyer'. I try to respond to the circumstances of a case. If the law cannot be of assistance, then I have to be rigorous about applying it. But where the law allows, and if it helps to resolve things, I take a route that leads to results that all parties can live with. It's an honour to do this work, and very humbling.

What are the challenges?

There are many. Structurally, all the judges work tirelessly with the Registry staff to maintain the best possible service for Māori. Moving to an electronic system has improved efficiency and we are pleased that last year we were able to reduce application time to below 90 days. However, the effort involved in doing that has taken a toll and we struggle to ensure all our judges take their leave entitlements.

On a case management basis, we sometimes have tense moments in Court. On one occasion, for example, a Deputy Registrar was threatened by a gentleman with a tokotoko. In another incident, one brother punched another while he was giving evidence. One application involved significant allegations of abuse against family members by a whāngai applicant. That was probably the first time they had had an opportunity to vent those issues. It actually resulted in agreement about the legal issues. But it was a sad and very overwhelming case.

In this role, you have to be able to work out the real reason that people are in dispute. More often than not, it's not because of the legal issues. They tend to be more about family relationships. A common scenario is where people receive shares when they shouldn't because they are not related by blood to the

owner or the land. During such cases they may talk about everything else, but the real issue is that 30 years ago Cousin Jim left all his land to his wife's child.

What are some of your memorable moments?

I often get served warrants for my arrest by the sovereignty people of Gisborne and Ōpōtiki. They come in and say, 'How are you Caren?' Yeah, sorry to interrupt sis, but I have to do this'. They'll slap the warrants down in front of me, then leave, saying 'sorry about that'. You have to have a sense of humour about it. Some people think I should be firm, but we're not in a Court where that needs to happen. I think people should be able to express their views, as long as they don't interrupt the running of the Court. These people wait politely and serve me when there is a break in proceedings.

A highlight was the opening of the Courthouse in Gisborne. It was great to have such a lot of support from the community. The Courthouse was overflowing with people into the street. We had some major cultural experts involved with the opening – some of whom are now deceased.

My moko kauae was based on the artwork in the courtroom. They were both unveiled at the same time. It's not a traditional tā moko. It was designed by the artist Derek Lardelli to reflect the land and the sea of Tairāwhiti. I do waka ama, so I'm on the sea and rivers a lot.

What is your view of the Court's past?

In the early years, even though it was a Court designed to assimilate Māori land title, it was run by people who had some understanding of Māori culture. The first judges worked with Māori assessors and interpreters, such as Paratene Ngata in Tairāwhiti.

After 1900, for a long time, judges were appointed who didn't have to have Māori expertise. Some did. Harold Carr, who is famous on the East Coast for the amount of work he did in Māori communities, is an example. But he was the exception rather than the rule.



Hone Taumaunu and Deputy Chief Judge Caren Fox, Gisborne.

There was a change in attitude with the appointment of Sir Edward Durie in 1974. More Māori judges or judges with empathy were appointed. Then there was the rise of the Waitangi Tribunal and eventually the Te Ture Whenua Māori 1993 Act was enacted.

It's important to see the history of the Court in this overall context. It has been an instrument where Māori title was fought for, lost and gained. But, since 1974, it has also been the main reason why we still have significant land pockets in some parts of the country.

For me, working on Māori land issues is central to understanding the Māori position as New Zealand's indigenous people.

What is your view of the Court's future?

In my view, the Court should remain the primary body dealing with the mediation and adjudication of Māori land disputes. It should remain people-centred, and be enabled to make greater use of lay people such as kaumātua. We should be able to facilitate opportunities for mediation without it being compulsory so that the people themselves have the opportunity to resolve their disputes without Court intervention. But where there are real issues between people, then they should have the opportunity to bring that to a Court. That is fundamental to property ownership.



Judge Patrick Savage

(Ngāti Porou)

Judge Patrick Savage worked in general litigation until 1974, when he became the Crown solicitor for the Bay of Plenty. After 20 years in that role, he felt he needed a change from the crimes with which he was used to dealing. After working with Māori trusts and incorporations, which he found fascinating, Judge Savage was appointed to the Māori Land Court bench in 1994.

Currently Deputy Chairperson of the Waitangi Tribunal, he is also the Chief Justice of Niue and a High Court judge for the Cook Islands. Niue and the Cook Islands have similarities to his work in the Māori Land Court. These include dealing with collective ownership and with land as a pivotal driver in decision-making. In the Tribunal, he has presided over hearings for the kiwifruit export and radio spectrum claims. Judge Savage found his most challenging work presiding over the Tribunal's Te Urewera District Inquiry, which took 10 years and has released five volumes of its report to date.

Judge Savage enjoys the informality of the Māori Land Court. Rather than acting 'like a machine processing evidence' and deciding the fate of those in front of him, he has conversations with

the people who come to Court and aims to help them achieve what they are there to do. 'It's about creatively finding solutions for them.'

Judge Savage says that judges work hard to foster the principles and kaupapa of the Act, having particular regard for the fact that land is a taonga tuku iho. When there is a case before the Court, he uses his discretion to have care for other parties to an application: the tūpuna of the parties and the generations that come after them: 'a judge has to carry that with them all the time'.



Judge Layne Harvey

(Ngāti Awa, Rongowhakaata, Te Aitanga-a-Māhaki, Te Whānau-a-Apanui, Ngāti Kahungunu ki Te Wairoa)

Judge Layne Harvey has been interested 'in our land and our communities, from as long as I can remember, as part of my upbringing with my grandparents'. However, it was not until his grandmother died in 1988 that he began to take a direct interest in researching his land and whakapapa. 'When she died, we had to undergo a succession process and from that moment forward I have had constant dealings with the Māori Land Court in both private and professional capacities.'

From Māngere College, Judge Harvey went on to complete an LLB and an MComLaw in Commercial Law from the University of Auckland, with a thesis on 'The Treaty Claims Settlement Process'. He maintained his association with the Faculty of Law for 25 years as a teacher and mentor for Māori students. Judge Harvey practised for 10 years as a lawyer with Simpson Grierson and Walters Williams, where he became a partner.

Appointed to the Māori Land Court bench in September 2002, Judge Harvey is based in Rotorua and is a resident judge for the Aotea and Tākitimu districts. He enjoys the

'engagement with our owners and their communities in what is often a joint effort to find solutions to the challenges that can sometimes confront them. It is not always simply a case of one side wins and one side loses. Owners of Māori land, their whānau and hapū, invariably have ongoing relationships to maintain or otherwise, so a solutions-focused approach must always take into account the nature of those links.'

Judge Harvey is a presiding officer for the Waitangi Tribunal in the Taihape district inquiry. He was awarded an honorary doctorate in Māori development 'for exceptional service to his iwi and to Māori, and for outstanding contribution to education' from Te Whare Wānanga o Awanuiārangi in April 2015. Currently he is a Visiting Judicial Fellow at AUT Law School where he is enrolled in a PhD programme on how Māori land laws affect owners and their hapū.



Judge Stephanie Milroy

(Ngāi Tūhoe, Te Arawa)

Judge Stephanie Milroy was interested in law from a young age. 'That interest was reinforced by the fact that I wanted to assist Māori people; a career in the law seemed to me to offer an opportunity to do that.'

After graduating from Auckland University with an LLB in 1982, she worked as a law clerk at Māori Affairs in Manukau City: 'that gave me experience of a lot of the problems urbanised Māori were facing'. While subsequently working at Harkness Henry and Co in Hamilton, she first appeared in the Māori Land Court. In 1986, she came into contact with the Waitangi Tribunal when her father, Professor Wharehuia Milroy, and Hirini Melbourne asked her to assist them to file the initial claim on behalf of the Tūhoe people.

Judge Milroy has been the resident judge for the Waikato Maniapoto district since she was appointed in 2002. Her first sitting was particularly memorable, as the pānui had been accidentally doubled and there were twice as many cases set down at the same time: 'some were quite contentious – that was a baptism by fire.'

Formerly the Deputy Chair of the Waitangi Tribunal, Judge Milroy finds Tribunal work 'the most interesting and the most challenging work that anyone in the legal profession can undertake'. Not only does a judge guide the progress of an inquiry, they must also drive the report writing process 'in order to complete a report that is of sufficient quality to provide sound advice to the Crown and claimants when they enter settlement negotiations'.

Judge Milroy sees being in court and dealing directly with the people as the most important part of her job. 'It is the point at which the people can speak to me directly to put their concerns as they see them. It gives me the opportunity to listen and to provide them with as much help as the law permits.'

She particularly enjoys this contact with the people. 'It is also very rewarding to see when your decisions or assistance have been taken on board and the people can see a path forward.' One of the main challenges, however, is that 'there is only so far that the Court can go to assist owners'.



Judge David Ambler

Growing up amongst the Māori communities of the South Hokianga (Opononi and Waitemarama), Judge David Ambler always had an interest in te reo Māori and the Māori world. Graduating in 1990 with a BA in Māori Studies and an LLB (Hons), Judge Ambler went to work at Kensington Swan, where he met Joe Williams, who encouraged his interest in Māori land law.

Acting for Māori trusts and incorporations, and representing claimants in Waitangi Tribunal inquiries, Judge Ambler specialised in a range of Māori land issues at East Brewster in Rotorua between 1992 and 2006. In 2006, he was appointed to the Māori Land Court bench and to the Tribunal's Te Rohe Pōtae inquiry as presiding officer. Fluent in te reo, Judge Ambler is one of Taitokerau's resident judges.

Taitokerau faces particular challenges of serious poverty, distance from markets, and a range of social issues: 'most of the land is held on a small scale. Housing is a big issue, not only in the establishment of papakāinga, but also with issues arising from established ones. That can get complicated when it's someone's grandparents' house and relatives with small ownership interests want to live there.'

Nonetheless, Judge Ambler enjoys engaging with the people, 'particularly lay people, who can't afford lawyers. They generally do an outstanding job as advocates in their own right. There's a large degree of understanding of how the law works and what tools are available.' Landowners should have realistic expectations, however: 'they need to understand that land ownership is more of a responsibility than a benefit. Because of the scale of many of the blocks, they're not going to turn into high-performing commercial farms.'

Judge Ambler finds it fulfilling to bring order and certainty to difficult situations: 'there is a tendency to play down the importance of having a forum where people can get a clear-cut answer. When people file an application, they will generally have attempted to resolve the issue by hui. If they haven't, the Court will send them back to do so. It's only when that process fails to produce a consensus that the Court performs an adjudicatory role. Invariably, Māori owners want certainty because of debates taking place; the Court's ability to provide an answer is more valued than people might realise.'



Judge Craig Coxhead

(Ngāti Makino, Ngāti Awa, Ngāti Pikiao, Ngāti Maru)

Judge Coxhead considers himself privileged to be a Māori Land Court judge, as ‘there are so many opportunities to assist our people in positive ways’.

After working in private practice for McCaw Lewis Chapman and as a senior law lecturer at Waikato University, Judge Coxhead was appointed to the Māori Land Court bench in 2008. Currently based in Rotorua, he is also the presiding officer for the Waitangi Tribunal’s Te Pāparahi o Te Raki inquiry. In addition, he is a judge in Niue, where he sees some parallels with Māori land matters in New Zealand.

Like all the judges, a significant part of Judge Coxhead’s work involves making sure applications are ready to be heard in Court. This can involve a lot of preparation as the Court is primarily used by lay litigants. Judge Coxhead particularly acknowledges the Court staff’s work in this respect: beyond their work in getting files ready for Court, staff advertise meetings of owners, facilitate meetings - which are ‘sometimes not easy to facilitate and normally always in the weekend’ - and provide reports for the Court.

In Court, an important part of his role is to help people come to the best solutions for themselves. While he is sometimes called upon to make decisions, ‘a lot of the work is about facilitating parties to get to where they want to get to’. It’s a harder option to work with people to find lasting solutions, but it’s also what makes the work enjoyable for him. ‘We have so many opportunities to ensure our decisions have positive outcomes – setting up a trust, or amending trust deeds so people can enter into a new development venture is but one example.’

Acknowledging that the Court can sometimes be seen as paternalistic, Judge Coxhead says this is why judges need to be cautious about dictating to people what’s best for them. ‘That’s why we work towards people making their own decisions, it is our job to help them get there.’



Judge Stephen Clark

(Ngāti Maniapoto, Ngāti Hauā ki Taumarunui)

After completing secondary school at Melville High School in Hamilton, Judge Stephen Clark spent two years at Waikato University in 1983 and 1984. While there, he initially thought about becoming a secondary school English teacher, but 'at the last minute I decided to apply to Law School at Auckland'.

Judge Clark was first employed at Auckland law firm Sellar Bone & Partners. Returning to Hamilton in 1990, he spent 18 years at McCaw Lewis Chapman, where he became a partner in 1996. There, he acted on a number of Māori Land Court, Māori Appellate Court and Waitangi Tribunal cases 'to the point where that work became a major part of my practice'.

As a former litigator, Judge Clark has always enjoyed the 'theatre of Court and the passing parade of people with their many and varied aspects of life'. While his role as a judge is now different, Court days 'are always interesting'.

Judge Clark believes the most important contribution a Judge can make, 'particularly at first instance, is to decide matters as efficiently as possible. People who go to Court want their matters dealt with. Even when matters are in

dispute, parties want their matters addressed as quickly as possible and we can contribute by being efficient in Court and in our case management of files and production of reserved decisions.'

Preparation for Court is essential to an efficient sitting day 'as it enables me to go into Court with a sense of confidence that I am usually aware of the issues that may arise before me'.

In Court, Judge Clark aims to 'facilitate the settlement of disputes via discussion, settlement conference, the use of Court-ordered hui, the use of Principal Liaison Officers, or mediation. If the parties can come to a resolution of their dispute without the Court imposing a decision that is an important contribution I can make. If I am ultimately called upon to make decisions I believe it is important that I make them efficiently and clearly articulate the reasons why I am doing so.'

Since 2009 Judge Clark has also been an Alternate Environment Court Judge.



Judge Sarah Reeves

(Te Ātiawa)

Judge Sarah Reeves was appointed to the Māori Land Court in September 2010 and presides in Te Waipounamu district. She has practised in New Zealand, Rarotonga, Singapore and Hong Kong, specialising in commercial and property law.

Judge Reeves has presided over a number of urgent inquiries in the Waitangi Tribunal, including the MV Rena inquiry in 2014. This inquiry required a response within tight time frames; an interim report was issued within two weeks to inform Cabinet decision-making. She is also a High Court judge in Niue and, in 2014, participated in a Pacific Judicial Development Programme workshop on family violence. 'As Māori Land Court judges, we get to do a fantastic range of work. Time management is often the biggest challenge. That's why it's important to work collaboratively, to harness the efforts of those who support you.'

'Learning on the job' in the Māori land jurisdiction, she has found balancing tikanga with Court processes a challenge: 'Māori whānau dynamics are complex. You have to understand what the tikanga of a relational group is, and the whakapapa links between people.'

Nonetheless, Judge Reeves enjoys the problem-solving aspects of her role. 'In this jurisdiction, you have the opportunity to really engage with applicants,' she says. 'For instance, a situation such as a succession application where a will has left all the land interests to one person at the exclusion of others. You can explain what the options are. The whānau go away and think about it and often come back with a sharing arrangement such as a whānau trust. I enjoy those outcomes. People have some control over their own solutions – it's not always a Court-imposed outcome.'

Being able to assist Māori achieve their aspirations for their whenua and presiding over Treaty claims is a great honour for Judge Reeves. 'It is a role and responsibility that I don't exercise lightly, and I hope to continue that service for some time to come.'



Judge Michael Doogan

Judge Michael Doogan graduated from Massey University with a Bachelor of Arts in 1983 and from the University of Otago with a Bachelor of Laws in 1986. He commenced work as a judges' clerk in Hamilton in 1986 and worked in both private practice and local government in Wellington before moving to England in 1990.

Between 1990 and 1995 Judge Doogan worked in private practice in England, before returning to New Zealand to work with Simpson Grierson in Wellington.

In 1998 Judge Doogan joined the Crown Law Office's Treaty Issues and International Law Team, gaining extensive experience in both the Waitangi Tribunal and Māori Land Court. From 2005 until his appointment Judge Doogan was in practice as a barrister sole in Wellington.



Judge Miharo Armstrong

(Te Whānau-a-Apanui)

Judge Armstrong comes from Whanarua Bay near Te Kaha. Raised in Rotorua, he and his family had a close relationship with the Te Arawa community: ‘my parents both instilled important values of being part of – and helping – the community and supporting Māori whānau, hapū and iwi. I also grew up believing in the principle that people should be treated fairly. I still hold on to those values today.’

Graduating from Waikato University in 2001, Judge Armstrong was a partner at Aurere Law from 2010 to 2014, before being appointed to the Māori Land Court bench. He currently lives in Whangārei with his wife and two daughters. Together with Judge Ambler, he has the principal responsibility for hearing and determining applications filed in, or adjourned to, the Te Taitokerau district.

Judge Armstrong emphasises the significance of Māori land as a taonga tuku iho: ‘the land connects Māori to their history, their tūpuna, their whānau, hapū and iwi. It is part of Māori identity. It is extremely important that this relationship is recognised and promoted in everything the Court does.’

While issues over land can lead to disputes, Judge Armstrong comments: ‘I always encourage whānau to talk to each other and where possible to try and resolve disputes by agreement. I may even suggest solutions to try and create a “win-win” situation for the whānau involved. This is not always appropriate and in some cases I simply have to make a decision. In doing so, I aim to produce a fair and balanced result according to the law which will help to bring finality for all parties.’

What Judge Armstrong enjoys most is being able to help and assist Māori landowners. ‘We are making decisions every day that assist and enable Māori to succeed, occupy, utilise and develop their whenua and it is very rewarding to be part of that.’



Judge Glendyn (Nick) Carter

Born in 1935 at Matamata, Judge Glendyn Carter went to school at Matamata Primary and Hamilton High School. 'At that time, Latin was a compulsory subject for a Bachelor of Law degree. I made law an option by taking Latin when I went to High School.'

Qualifying with an LLB in 1960, Judge Carter went to work as a solicitor for State Advances Corporation in 1961. He was then appointed office solicitor for the Department of Māori Affairs in 1962, when the Māori Land Court was serviced by that department.

In 1966, Judge Carter took up a position with Low Chapman & Carter in Te Kuiti, where he specialised in Māori land law. In 1989, 'I was invited by the Deputy Chief Judge to let my name go forward for appointment as a judge. I was duly appointed as resident judge for the Waikato Maniapoto Māori Land District stationed in Hamilton.'

Judge Carter was seconded to Samoa in 1991 and spent three months there as Chief Judge of the Titles Court and as acting Chief Justice. He has also held a warrant as a judge of the Cook Islands and Niue and has sat on appeals in both jurisdictions.

As well as sitting on Waitangi Tribunal panels, Judge Carter worked on the revision of the Māori Land Court Rules 1994 and helped draft the Māori Land Court Rules 2011. He instigated the typing of Court minutes 'instead of recording them in longhand in cumbersome minute books'. This led to the adoption of this practice by the Court as a whole.

Judge Carter has enjoyed seeing people successfully coming before the Court seeking orders to help them develop their land. 'It is most satisfying to put people at their ease in the Court and to assist them obtain the orders sought'

One of Judge Carter's most memorable moments was presiding over a special sitting of the Court at Turangawaewae Marae as the Crown handed back lands, including Hopa Hopa Army base and Taupiri Mountain, in part satisfaction of Tainui Land Claims.

Judge Carter retired on 30 April 2002. He has since held a Temporary Warrant and continues to exercise his judicial duties when called upon so to do.



Judge Carrie Wainwright

Currently holding warrants for both the Māori Land Court and District Court, Judge Carrie Wainwright has most recently been working on the Whanganui land inquiry of the Waitangi Tribunal. Previously she spent 10 years as a judge in the Māori Land Court and then moved to sit in the District Court. Judge Wainwright says the two jurisdictions are incomparably different. She liked the greater flexibility and informality of the Māori Land Court and Waitangi Tribunal, which enabled her to sit down with co-owners of Māori land, and with Tribunal claimants, to help them navigate the judicial processes.

Judge Wainwright, along with current Deputy Chief Judge Caren Fox, was one of the first two female judges appointed to the Māori Land Court bench in 2000. She was a partner at Buddle Findlay, and practised as a litigation lawyer for 13 years before her appointment. As well as her work on circuit as a Māori Land Court judge, Judge Wainwright was very active in the Waitangi Tribunal, where she served for six years as the Deputy Chairperson and one year as Acting Chairperson (2008-9). One of the most rewarding elements of this work was learning and using te reo Māori me ōna tikanga.

A feature of Judge Wainwright's time on the Māori Land Court bench was a move towards mediating conflicts on marae in preference to conducting an adversarial process:

The best thing I brought to bear on my work was the ability to work with people to solve relationship problems that had become an obstacle to their effective use of their land. In Court, these problems manifest as legal issues. But when you burrow into them, the reason people come to Court is that there are intractable conflicts between them, and they run out of options to deal with them themselves.

Believing 'working together with wider whānau to find a practical path to do things differently' was the optimal way to deal with issues that often arise from multiple ownership of Māori land, she encountered no situation that was not soluble by sitting down and working with the parties to the dispute.

As a Pākehā woman, there were always aspects of her role that Judge Wainwright found challenging. Acknowledging that she comes to the Māori world as a student, she says:

Because there are things you understand to a certain level, you remain conscious that there are questions that may be asked of you and challenges that will really have you scrambling for a completely satisfactory answer. It makes you humble – and grateful for all the many occasions when people are welcoming, respectful, and generous with their hospitality and their knowledge.

Being a Māori Land Court judge, she says, is 'a role that puts you in the way of many experiences that few Pākehā get to enjoy. It's a terrific privilege.'



Staff of the Māori Land Court, National Office, Wellington.

Chief Registrar and National Office

PROVIDING BUSINESS INTELLIGENCE AND ADVICE TO THE DIRECTOR AND THE WIDER MINISTRY, NATIONAL OFFICE IS THE REPORTING HUB FOR THE COURT.

National Office Profile

Formally re-established in 2009, National Office is the strategic and operational link between the Court and the wider Ministry of Justice. Since its inception, it has undergone several changes in structure, each time seeing common services – including service design, IT, planning and finance functions – returned to the Ministry.

Headed by the Director of the Māori Land Court, Chief Registrar Julie Tangaere, National Office is co-located with the Waitangi Tribunal in Wellington. While it is geographically located within the Aotea district, it provides overall strategic and operational support for the whole Court. The Court's Senior Management Team also includes National Operations Manager Julia Marino, who oversees operational service delivery nationally through the regional network. Some National Office roles – such as

that of Advisor Cultural Strategy Patrick Hape and Business Services Manager Darin Tuariki – are shared between the Court and the Tribunal.

Providing business intelligence and advice to the Director and the wider Ministry, National Office is the reporting hub for the Court and develops the strategic plan governing the Court administration's overall direction and focus. With a 'whole-of-Court' view, its staff support the operational functions of the Court through legislative and regulatory advice to the Chief Registrar, business support for the National Operations Manager, support for the Court's work in the districts, service improvement, and management of the Court's records and information. National Office has a close working relationship with the Court judiciary and Chief Judge's Chambers' staff. The Specialist Applications team, who manage applications for the Chief Judge and Māori Appellate Court, are also based in National Office.

A core part of National Office's role is managing key relationships with the Special Jurisdictions group and other officials of the Ministry of Justice, and also the Minister for Māori Development, (through Te Puni Kōkiri), who retains primarily responsibility for the Te Ture Whenua Māori Act 1993.



Interview with Julie Tangaere

(Ngāti Kahungunu, Ngāti Tūwharetoa, Ngāi Tūhoe)

Director and Chief Registrar

What is your background?

I was born and raised in Hastings in the Hawke's Bay. I grew up around a large extended Māori and Chinese family, so I was raised in a blended culture. Eating boil-up with white rice and lambtails with soya sauce was the norm for us.

When I was about 7 years old we moved to a state housing area of town where a local Mongrel Mob family lived one house away. My family lived there for over 20 years. When we were young kids, we accepted everyone in our neighbourhood at face value. Sure, when I got older I knew that the activities of some of our neighbours were probably not the same things that my family did, but I don't remember ever feeling threatened or unsafe and I had a great childhood.

My parents sacrificed owning their own home for my sisters and me to have a good education. My Dad was a farm hand and labourer and my Mum was a kitchen hand at the time. Pooling all their spare money and with the help of a local Catholic priest, they enrolled me at St Joseph's Māori Girls College in Napier. I was a

fulltime boarder there even though the school was only 20 minutes away. My three sisters later followed me and at one point, my parents were paying for three of us to be at St Joseph's at the same time with no assistance from grants or scholarships.

Knowing how much my parents had sacrificed for me gave me the motivation to make something of myself once I finished school. Living in a low socio-economic part town I also got to see first hand the effects of unemployment, social health issues and welfare dependency, and that led me to thinking about a career helping Māori.

After nine months at the local Polytech on a nursing course that wasn't for me, I wrote to the local Department of Māori Affairs office in Hastings and asked for a job. A week later, I was called in for an interview and I was taken on for an initial six months on a fixed term. That was the beginning of my career in the public service, which, by September 2015, spanned 30 years, primarily in the Māori Land Court in Hastings and Wellington.

In 2002 I completed a Graduate Diploma in Public Sector Management, and then studied for a Masters of Business Administration (MBA) at Massey University, which I completed in 2006. I did both these degrees while still working fulltime and managing a busy household. I have to say that it was a torturous few years.



Māori Land Court Senior Management Team, Wellington (2009-2011).

Do you have interests in Māori land?

My mother and I are the trustees of my father's whānau trust and I am a beneficiary of the trust. The whānau trust has interests in three Māori Land Court districts – Tākitimu, Aotea and Waiariki – and involves 80 different individual land interests. Some of those interests are very small shares. Others, particularly those interests in Tūwharetoa around Tūrangi on the other hand, have generated annual dividends for the Trust over the last 20 years.

What is your role in the Court?

My role is Director and Chief Registrar. It's a senior management role responsible for the overall operations and strategic leadership of the Māori Land Court business unit.

In my role, I act as a conduit between the Ministry of Justice, the Māori Land Court administration and the Judiciary. To do that, you have to constantly have your hands on the pulse of things and have exceptional relationship and stakeholder management skills. You have to be articulate and be prepared to go out there and bat for the business and leverage off projects, initiatives and any opportunities that will increase the capability, capacity and resources available to improve our



Steve Gunson, Julie Tangaere, Heather Baggott and Julia Marino, Wellington.

services to Māori landowners and customers. It's often a challenging, but very rewarding, space to work in. You sometimes have to accept that you're not going to achieve everything you set out to do, but what's important to me is giving it my best shot.

Because it's a strategic role, you also have to be able to clearly articulate and promote the Ministry's strategy and vision and make the connections and linkages for staff so that they can see how every person in the Māori Land Court contributes to that strategy. This on its own is a big job!

The statutory role of Chief Registrar is an appointment under Te Ture Whenua Māori Act 1993. My primary roles are the administration of the Māori Land Court Special Aid Fund, the appointment of Registrars and Deputy Registrars and ensuring the administration's legislative compliance with the provisions of the Act.

In addition, I am also the Director of the Waitangi Tribunal Unit at the moment and that makes my job really busy too. At times, it feels like I'm a headless chook and there are days when I could have endless meetings in a row for both business units so I've had to learn

to swap hats very quickly at times. But the experiences I have gained while working in the Tribunal have been invaluable and I enjoy the diversity of the issues and challenges of that particular Unit.

What do you enjoy about your role?

I enjoy the fact that I'm able to interact with a whole lot of people in my job. I think that what we do is really important for whānau, hapū and iwi and I'm very lucky that I get to engage with a diverse range of people across the Court, across Justice, and with other agencies to help shape and influence policy for Māori.

I also like the fact that the Māori Land Court has a very whānau-oriented, tikanga-based culture. We have many long-term staff in the Court who have devoted their entire working careers to the Māori Land Court. Their customers are often 'their own', so in many ways the staff are actively helping their own whānau, hapū and iwi to progress applications and enquiries through the Court in order to meet owner aspirations and outcomes. It's a really satisfying process to be a part of.

What are the challenges?

We are always challenged by the broader government's expectation to reduce public spending. It filters down to the business unit in terms of needing to think smarter, being innovative and doing things differently with less.

Stretch goals were identified by the Ministry to reduce the time to deliver services by 50 percent by 2017. For the administration, that meant having to take a really focused look at the way in which we processed our cases to see what we could do to actively manage those to completion. The strategies we've implemented to reduce our aged cases in particular have made a huge difference. We had a goal up until 30 June this year to reduce the average age of our cases by 30 percent and we got to 31 percent. That speaks of the commitment and hard work of staff and judges to proactively progress these cases during what have been quite difficult and challenging fiscal times.

What are your personal highlights?

Since I started as Director in 2010, what has really pleased me has been seeing how the Court administration has transformed in terms of its productivity and performance, and today is recognised as a high performer within the Ministry of Justice. We've attempted to make incremental changes over time and as a result of a focus on leadership, communication and engagement I think that we've developed a positive working culture in the Māori Land Court.

Being awarded 'Special Jurisdiction Business Unit of the Year' for two consecutive years in 2013 and 2014 has definitely been a highlight for me. Those awards represented a huge amount of great work from staff across the whole country. They were also a reflection of the close working relationships we have with the judges. Their willingness to collaborate with the administration to work actively on reducing our aged cases was integral to our success and contributed to the positive performance results that led to us receiving these awards.

The launch and release of Māori Land Online with its new GIS capability in 2011, was another highlight for me. This project was quite a long time in development, but the benefit in terms of broader range information for our customers was well worth the time and effort.

A further highlight was the completion of the Māori Freehold Land Registration Project in 2010. It had a very protracted time frame and it was a very complex and large project to line up the Court's title register with the land transfer registers, so it was great to have completed that work.

What is your view of the Court's past?

Our past has been quite chequered and I don't defend the Court's past. It is what it is. What I focus on here and now though is to make sure that that's not the perception that people have of our current services going forward. I was encouraged by the positive feedback received at the recent consultation hui on the legislative reforms. We received feedback about the value that our customers place on our experienced, expert staff and the services and advice they provide. It reaffirmed what I've always known – that our staff are the best at what they do.

What are your aspirations for the future?

It would be for the Court administration to be agile, ready and prepared to adapt to whatever changes and opportunities that might be presented in the future. We know that the current Te Ture Whenua Māori legislative reforms will likely result in changes and my hope is that we will all be ready to proactively respond to that when it happens.



Patrick Hape

(Ngāti Kahungunu, Ngāi Te Rangikoianake)

Advisor, Cultural Strategy

All Patrick Hape wants to do is 'spread the love for te reo and tikanga Māori'. Passionate about both, Patrick's overall aim is to normalise their use within the business.

Starting as a part-timer in 2008, Patrick saw the Court as a culturally safe environment in which to work with his passions and learn more about the public sector environment. A core part of his current role is to develop and implement an overall cultural strategy for both the Court and Waitangi Tribunal. Unexpected events can, however, suddenly take priority. If someone passes away, for example, he will immediately prepare a speech for the tangi: 'to me, that seems very Māori.'

His role is about understanding how te reo and tikanga are used in work-related contexts. At Tribunal hearings, for example, a tikanga issue might arise when the Claims team is setting up on a marae: 'What do you do if Auntie says you can't take water into the wharenuī? How do you manage that?' Patrick helps the team come to a solution that respects the tikanga of the marae and ensures that the Tribunal has what it needs.

One of Patrick's favourite memories comes from a training role-play, in which he played a grandson helping his Nanny set up a reservation for an urupā. Following their application through a mock Court run by Judge Reeves, Patrick and his 'Nanny' were greeted and guided by Court staff through the process. During the mock case, however, the Chief Judge interrupted, saying 'I'm her older brother, and I don't agree with this!' While it threw the performers, the unplanned interruption showed what could really happen in Court.

Patrick often fields requests from the wider Ministry for cultural support. These enable him to build relationships, and champion te reo and tikanga more widely. 'We know how to walk in the Māori world. How do we translate that into a way our colleagues understand? How do we bring the two worlds together?' And it works both ways: 'how do I make Māori people feel safe with Pākehā coming on to marae?'

Relationships are central to his role, and Patrick values those he has with his colleagues. 'It sounds clichéd', he comments, 'but we're whānau. That's what I really enjoy about working here.'



Hineko Kingi

(Te Aitanga-a-Māhaki)

Information Advisor, National Office

Before coming to work for the Māori Land Court in 2010, Hineko was studying for a Bachelor's degree in Health majoring in Psychology. Upon completing her degree, she worked for 8 months as a research assistant for Health Services Research Centre until she got a permanent job with the Court as an administration assistant.

Hineko currently works as an Information Advisor for the Court and Waitangi Tribunal, a role she has been in since 2011: 'I co-ordinate the monthly pānui of court sittings for the Māori Land Court, as well as assisting with information services for the Court and Tribunal. This includes maintaining the website, and updating booklets and forms.' She also provides administrative support and front line reception services at National Office.

Each week is varied for Hineko, and can include 'small projects given to me by my manager or the Operations Managers for the Court or Tribunal, updating mailing lists or the website, consolidating the pānui, and dealing with members of the public on the phone and over the counter.' She says 'sometimes customers can

come in frustrated and irritated with the process. That can be difficult to deal with'. Overall, however, Hineko finds the work rewarding, particularly 'when I am able to help someone, whether it is a customer or a staff member.'

While performing her tasks, Hineko enjoys learning more about the interesting applications that come through the Court, and she particularly enjoys working in a Māori environment: 'I have learnt so much from the weekly te reo classes. Although it is a part of my professional development, it is also personally really important to me.' Hineko also enjoys other training opportunities such as wānanga and haerenga. 'One haerenga I remember was when I first started working here, we went on a trip to Matiu island where an expert told us about the history of the island. We spent the day exploring the island and hearing stories about the harbour.'

Like other staff, Hineko looks forward to the biennial Papatūānuku tournament. 'It gets quite competitive, but it's really cool getting to meet people you have only really communicated with by email, in a social setting.'



Specialist Applications Team, Māori Land Court, National Office, Wellington.

Specialist Applications

The Specialist Applications team is responsible for managing the delivery of all operational outputs of the Court relating to the Māori Fisheries Act 2004 and the Māori Commercial Aquaculture Settlement Act 2004. They manage processes for all applications and appeals to the Chief Judge under sections 30, 45, 58 and 59 of the Act.

Applications to the Chief Judge require in-depth research to establish whether an error has occurred, the extent of any error, and what remedy may be available to the Chief Judge. Often taking more time than routine applications, they involve locating and researching historical files and documents, and putting together a report and recommendation for the Chief Judge, applicant and all affected parties. Responses are then referred to the Chief Judge for directions.



Kura Barrett

(Ngāti Maniapoto, Ngāti Manawa)

Manager, Specialist Applications

Kura Barrett's grandfather's frustrating experiences with the Court on his regular visits from Australia inspired her to find work there. 'I wanted to contribute to making the Court more accessible to lay people, and to ensure people have the information they need to lodge applications, to help people understand the Court processes, and to promote a service where customers were treated fairly and with respect.'

After completing a law degree, Kura joined the Court as an Advisory Officer in 2005. She worked as an Advisory Manager in Te Waipounamu for two years and has been in her current role since 2009. Kura says 'each member of the team is passionate about and engaged with the work we do.' She also values the opportunity to research the historical record of the Court: 'the minutes are a taonga tuku iho recording the whakapapa of the land and the people'.

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Samantha Nepe

(Ngāi Tāmanuhiri, Ngāti Porou)

Case Manager, Specialist Applications

Before she started at the then Department of Māori Affairs in 1988, Sam Nepe worked at a range of jobs: 'I was out in the fields, and in the shearing sheds all over the North and South Island.' While she enjoyed it, she took the opportunity to join Māori Affairs because it was about 'helping landowners with their whenua.' Since then she has also worked as a Corrections officer at Rimutaka prison, with Gisborne Police and District Council. In 2001, an advisory role opened up at the Court's National Office and Sam successfully applied for it.

Sam started her current role in 2009, after a restructure of the Court saw the establishment of the Specialist Applications team. Often working with the Court record to research section 45 applications, Sam acknowledges its wairua. The record must be handled with care as it contains references to the deceased and their whakapapa: 'A karakia is done every morning and evening for the staff while working with the record.'

The role of case manager involves a number of different tasks, ranging from research to event management for Court sittings, which usually

involve lawyers. 'It can be overwhelming sometimes. You have to remember you're a team, and to ask for help when you need it.'

Sam enjoys providing assistance to customers: 'I like talking to people. I listen to them, pick out the bits that will shorten their enquiry, and help identify what options are available to them. Some will know about the Court. A lot don't know anything, so you have to start from the beginning.' Sam helps people prepare for the Court hearings, sometimes holding 'mock Courts' with families to get them used to what will happen in the real thing. 'Just be calm and talk about your mother and your father', she reassures people. 'And do a karakia before you go in.'

Sam acknowledges those who came before her at Māori Affairs and the Court for their knowledge given to both her and her son, whom she describes as a 'Māori Land Court child': 'I love my job. I love all that comes with it, knowing that you have helped people out as best as you can and seeing them walk out with smiles on their faces is enough for me.'



Judicial Support staff from Chief Judge's Chambers, Wellington.

Judicial and Administrative Support

Sitting outside the operational side of the Court, led by the Chief Registrar, staff support for the judges sits with the Court's judicial arm, with reporting lines direct to Heather Baggott, General Manager, Special Jurisdictions at the Ministry of Justice.

Staff in the Chief Judge's Chambers support the Chief Judge and any visiting judges. Its management is shared between the roles of Chambers Manager, currently held by Sandra Edmonds, and Judicial Administrator, Francis Cooke.

Judges' Personal Assistants are responsible for organising the schedule for their respective judges, arranging travel and other requirements, managing correspondence and typing documents as required. Court support staff in the districts assist the judges in Court, and on marae and site visits.

**STAFF IN THE CHIEF
JUDGE'S CHAMBERS
SUPPORT THE CHIEF
JUDGE, AND ANY
VISITING JUDGES.**



Sandra Edmonds

(Whanganui, Te Āti Haunui-a-Pāpārangī, Ngāpuhi)

Chambers Manager, Wellington

Sandra Edmonds started working for the Court as a Case Manager in the Aotea District. It was not long before her case management skills were recognised and her name put forward for the role of Deputy Registrar, which she took on with enthusiasm. Born and raised in Whanganui, she still acknowledges her beginnings in Aotea, having relocated to Wellington with her family in 2007.

Sandra initially applied to work for the Court because promoting Māori development aligned with her personal values and desire to make a difference. An opportunity arose to continue working for the Court when she moved to Wellington, first as a Personal Assistant for Judge Wainwright, a former Deputy Chairperson of the Waitangi Tribunal, then for Chief Judge Isaac. Working as a PA allowed her the flexibility to study for a commerce degree at the same time.

Initially seconded to her current role in 2011, Sandra became permanent in 2012. Her main responsibilities are to provide leadership and support to the Judges PAs, administrative support to the judiciary, and ensure Chambers

runs smoothly. She's also seen as a conduit to the Minister's office for the Chief Judge: 'I have to keep my finger on the pulse as to what is going on in the Māori Land Court and the Waitangi Tribunal, and be aware of the Chief Judge's priorities for both. I keep involved and up-to-date so that our team can contribute to their goals.'

Sandra stresses the importance of having good professional relationships in her role. 'You have to have the right personality, high integrity and professionalism to provide effective support not only to the judges but, just as importantly, to the staff. We're very fortunate that our judges are leaders both in the Court and within their own whānau, hapū, and iwi. It shows their connectedness to the whenua and the people.'

Sandra emphasises that Chambers is just one part of the larger Court organisation and its purpose: 'we are working for the people, and it's the people that matter most.' She adds, 'we have indigenous courts from around the world coming to learn from Māori. It shows how special this jurisdiction is.'

The Districts

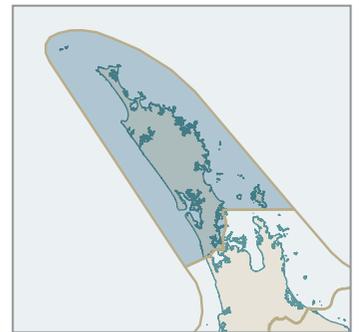


Taitokerau District

Serving New Zealand's northern most region, the Taitokerau district boundaries stretch from Mangawhai on the east coast to Kaipara Harbour on the west coast – including Māori freehold land within Auckland, north of the Tāmaki River – and north to North Cape, just north of Cape Rēinga.

The district covers a land area of approximately 1,750,000 hectares. Of that, 149,318 hectares is Māori land. Māori land in Taitokerau comprises a high number of relatively small blocks that are less than 5 hectares, coupled with a low number of structures managing them. Housing and other 'passive' uses, including eco-tourism, permaculture, bee-keeping, small-scale agriculture and farming, are the predominant land-use preferences among most landowners.

According to the 2006 census, the Māori population in the region was 43,530, representing 77 percent of the total New Zealand Māori population. The region is young, with half the Māori population under the age of 23.4 years. Taitokerau has the largest Māori population in the country and, in Ngāpuhi, the largest tribal population.



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Ngā Wharetapu o Ngāpuhi.



Judiciary and staff of the Māori Land Court, Whangārei.

Predominantly a pre-Treaty settlement environment, Taitokerau is a politically active region. There is a strong hapū movement in Taitokerau based on the desire to self-govern in accordance with the 1835 Declaration of Independence and Te Tiriti o Waitangi.

Taitokerau is served from a district office in Whangārei, with staff working in the field to support owners in utilising and developing their land, and an information office based in Ellerslie, Auckland. Commenting on the latter, district manager Don Cameron says, 'my team in the Auckland Information Office often misses out on any accolades. They provide a service not just to the Taitokerau District, but also to the other six districts throughout the country. Without access to any manual record, they rely solely on the accuracy of the electronic record and that can at times be extremely challenging.'



Staff of the Māori Land Court, Auckland Information Office.



Don Cameron

District Manager and Registrar,
Taitokerau

Born and bred in Whanganui, Don Cameron began working for the Department of Māori Affairs there in 1983. 'Having studied Māori through secondary school and gaining School Certificate and University Entrance Māori, a position with the Māori Affairs Department appealed.'

When the department was restructured in 1989, he went to work for Wrightson NMA for a year, before taking a position back in the Court in 1990. Don believes that working for the Court is always about the customer: 'seeing owners' aspirations satisfied through the Court process is extremely rewarding.'

Don was appointed to the District Manager role in Whangārei in 2011, after 21 years in Whanganui. In addition to managing 22 staff in Whangārei, he manages a team of four in the Auckland Information Office: 'I feel extremely fortunate to be part of an office with a wonderful team culture.'

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Jared Pitman

(Patuharakeke)

Principal Liaison Officer, Taitokerau

Jared Pitman became interested in working for the Court because of circumstances within his own whānau: 'I realised that I needed to know more about Māori land tenure to do my part in looking after the land handed down to us.'

Jared's role as a Principal Liaison Officer provides assistance to owners in the realisation of their aspirations. He uses the knowledge he gains to work on improving policies and practices that affect Māori landowners. 'Māori land development is complex, as it involves multiple agency cross-overs at legislative, policy and service levels. I have a role in simplifying and aligning pathways between agencies. For our landowners there is sometimes an element of "hand-holding" through the process.'

Relationship management is an important aspect of Jared's role. He meets with landowners, whānau, hapū and established steering groups about their land-use aspirations and projects. He enjoys seeing such projects, like

papakāinga housing, through from beginning to end. He also engages external stakeholders for project support, and runs workshops with local authorities to develop cross-agency best practice.

Jared sees most of the challenges in his work as institutional. 'It upsets me that our customers have so many hoops to jump through to exercise their basic rights as Māori landowners.' Identifying, addressing and eliminating these institutional barriers are important parts of his work.

One of Jared's most memorable moments came on a remote site visit. He and some of the old people in the group became lost after getting separated from the main group: 'the old people are having the time of their lives. They are 70+ year olds on an adventure, tramping and laughing their way down steep terrain and through waterways as if they were 10 year olds. They say they haven't walked their land like this since they were kids. They even begin discussing amongst themselves the design of the hut they intend to build to stay in overnight.' Eventually, 'they are rescued against their will. They look sad that the fun's coming to an end.'



Tainui Noble

*(Ngāpuhi, Ngāti Whātua, Ngātiwai,
Tainui, Tūwharetoa)*

District Administrator, Taitokerau

Tainui Noble has been working for the Court for 25 years. Initially coming in for two weeks work experience, her first job was as a junior typist in the typing pool, which 'was not bad considering I couldn't even type!'

Since then, Tainui has worked in nearly all areas of the Court. From Senior Typist, she became a Receptionist, Administration Clerk, Clerk of the Court and Judge's PA. She worked on the Māori Freehold Land Registration Project when it was first initiated, and as a Case Manager in Court Services for two years, before assuming the role of District Administrator in 2009.

Tainui sees her job as fundamental to the office operating: 'from the first staff member that swipes themselves into the office in the morning, turns on the lights, logs into their computer, writes a case note, prints a minute, posts a letter, answers the phone, accepts an application, to the last one out, the role of a District Administrator underlines the whole working day. I always tell our staff that if I'm doing my job correctly, then they should never notice.' Increasing fiscal constraints mean

Tainui often has to think of creative solutions to operational problems, 'or just getting in there and doing the job myself', earning her the nickname 'Bob', as in 'Bob the Builder.'

The most enjoyable part of her role is 'the people, without a doubt! We've had some real characters come through our doors. It never ceases to amaze me the amount of passion people have for their whenua, for their whānau, for their whakapapa. The Māori Land Court is all about that connection.'

Describing it as very whānau-orientated, Tainui particularly values the 'unique' work environment in the Court: 'I've had the privilege of growing up with some of my workmates. Watching them have tamariki and watching those tamariki have tamariki of their own.' She adds 'it also comes through from our customers – that whānau connection. This is often the driver behind making that push to get the job done, it's the driver behind the passion I have for my job.'



Toni Welsh

(Ngāpuhi, Te Roroa, Ngāti Whātua, Ngāti Porou, Ngāti Manawa, Ngāi Tūhoe, Te Arawa, Ngāti Tūwharetoa, Ngāti Kahungunu)

Advisory Officer, Auckland Information Office

Toni Welsh was born, raised, educated, worked and lived all her life in Tāmaki Makaurau: ‘it is home for me and many other urban Māori, as we seek to reconnect to other home-lands through our whakapapa.’

Toni started working for the Court in 2007 as an advisory officer in the Auckland Information Office based in Ellerslie. Her role is to provide information and education services to Māori landowners. A typical week for Toni involves providing customers with ‘kanohi ki te kanohi assistance and guidance with applications, enquiries, education workshops, promoting free services, and trying to provide a simple, timely and positive experience’.

As the advisory officers are at the ‘front end of the journey of an application or enquiry for customers, Toni sees it as essential that she has a wide breadth of knowledge to assist

them. Equally important is her ability ‘to communicate this kōrero in a manner that whānau understand’.

Among Toni’s personal highlights is assisting people to reconnect with their whenua: ‘I have sat with many urban Māori who have been trying to find their connection to the whenua, but have been unsuccessful. When you are able to provide minimal guidance and encouragement that has assisted them in finding the connection to their tūpuna whenua, the transformation is epic. To play a small part in that transformation is a very humbling experience.’

Toni enjoys the variety of work in her role, as well as working with customers: ‘I love to help people, it is in my blood, I will try my best all day every day to help people progress.’



Waikato-Maniapoto District

Including most of the Tainui rohe and Tauranga Moana, Waikato Maniapoto district extends from the Bombay Hills and Port Waikato in the north, along the western coastline south to Mōkau, eastward embracing the King Country, through to the Kaimai Ranges, the Hauraki plains and returning northwards to the Coromandel Peninsula.

The district covers a land area of approximately 2,200,000 hectares, which contains 124,495 hectares of Māori land. There are 12 Māori Customary Land Titles within the district, comprising 48 hectares, and 3,716 Māori Freehold Land Titles comprising 124,225 hectares.

According to the 2006 census, the Māori population in the region was 65,394, representing 11.6 percent of the total New Zealand Māori population.

Waikato is the seat of the Kingitanga and throughout the year there are significant events based around this institution. Māori in this district retain strong links to their land and culture, as is evidenced by the significant number of marae, kōhanga reo, kura kaupapa Māori and wharekura.



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Judiciary and staff of the Māori Land Court, Hamilton.

Agriculture is a major driver of the Waikato economy; 30 percent of all dairy herds in New Zealand are found here. Forestry, manufacturing and horticulture are major drivers in the Western Bay of Plenty economy, and Tauranga port is the largest export seaport in New Zealand.

There are a number of Māori incorporations and Māori land trusts engaged across a broad spectrum of these activities. Examples include Maraeroa C Incorporation, involved in forestry, tourism and a ginseng initiative; Te Awanui Huka Pak, which is a collective of Māori land trusts which grow and export kiwifruit to the Asian market; and Tiroa E and Te Hape B Trust, a beef and lamb farm. Papakāinga development is also a specific feature within the district.

Judge Stephanie Milroy and Judge Stephen Clark preside in Waikato Maniapoto District.



Ko Ngā Pou Manu.



Steven Dodd

(Te Arawa, Ngāti Whakaue, Ngāti Pīkiao)

Acting District Manager, Waikato
Maniapoto

Initially beginning work for the Department of Māori Affairs in 1988, Steve Dodd moved into the Court in 1989. Over those 27 years, he has held many roles, from Alienations Officer to Acting National Operations Manager (under a previous structure), and now Acting District Manager.

New to his role in Waikato Maniapoto, Steve's job is to manage the administrative operation 'to ensure our staff have the opportunities and facilities to provide an excellent service to our people'. Steve sees it as important to be people-focussed, as 'we hold such valuable taonga for our people. Some of the historical records we hold cannot be found elsewhere. Some of the very old information is handwritten accounts of historical events as told by our old people. I have seen many people moved to tears of joy or sadness, when reading some of the information contained therein, that directly relates to their whakapapa, or history.'

The most rewarding part of Steve's work is 'a smile or a handshake from a satisfied client. I have had the pleasure many times of seeing and hearing from people who have come away from an interaction with our court very happy.'

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Hori (George) Tutaki

(Ngāti Rereahu, Ngāti Maniapoto, Ngāti Ruanui)

Advisory Team Member, Waikato Maniapoto District

Better known as Hori, George Tutaki came from a farming background before joining the Court. 'I was also part of the University of Waikato Television Unit which made a number of Kiwisport and educational videos and a TV3 news cameraman.'

In 1997, Hori completed a Bachelor of Education and a Diploma of Teaching at the University of Waikato. Shortly afterwards, he started working for the Waikato Maniapoto Court on a short-term contract quality assuring images of the Court records before they were loaded onto MLIS.

In 2001, Hori became a permanent member of the Operations team, now known as Court Services. 'I sort of fell into working for the Court as my partner (now wife) was already an Operations team member and it seemed like an exciting and vibrant environment to work in.'

Hori worked in Court Services for 13 years and shifted to his current position in 2013. In this role, he is 'the first point of contact for our customers. I conduct all of our clinics and trustee training sessions in our region.'

Each clinic day is divided into two parts: the morning sessions are one-on-one meetings to field enquiries or fill out applications. The second part of the day is dedicated to trustee training. 'We have a fantastic response from our customers. My clinics can be booked with appointments almost a month ahead so they are well patronised. Our customers appreciate our presence in the regions, as it makes our services readily available to those who may not be able to travel to our main regional offices.'

The most important part of Hori's role is providing support to the Court's customers so they can make informed decisions. 'In order for our customers to fully utilise the judicial system they need to understand how to access it – without that knowledge they feel disempowered. Our customers respond better to meeting kanohi ki te kanohi as it makes them feel valued that we respect them enough to spend time talking to them as an individual.'

Hori enjoys meeting people and providing education sessions. 'As an ex-teacher, I love trustee training sessions and mixing humour with practical examples. The payoff I get is watching a customer's expression change when they have learnt something new. It helps that they love a bit of tongue-in-cheek humour.'



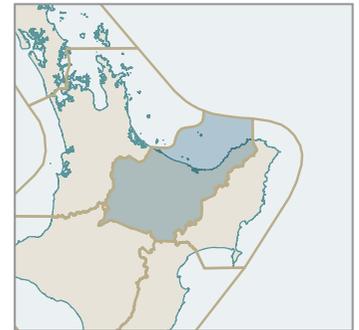
Waiariki District

Extending from beyond Cape Runaway north to encompass White Island then west to Te Puke, Waiariki district continues south to Taumaranui and then east through Taupō to include the Urewera Ranges and Lake Waikaremoana. It includes Ōpōtiki, Matamata, Rotorua and North Taupō.

The district covers a land area of approximately 1,936,270 hectares. Of that, 340,179 hectares is Māori land. Within the district, there are three customary land titles totalling less than ten hectares and nearly 5,200 Māori freehold land titles covering 314,000 hectares. About 284,000 hectares of these lands have management structures; there are nearly 30,000 hectares in 2789 land blocks that do not. These blocks are defined by survey lines that were largely drawn in straight lines, ignoring customary boundaries that would have followed the natural contours and features such as river-banks and ridgelines.

According to the 2006 census, the Māori population in the region was 67,662, representing 12 percent of the total New Zealand Māori population. 9.6 percent of people in Waiariki speak te reo.

The district includes the waka traditions of Mātaatua, Te Arawa and Tainui (me Ngaitai). The stories of Waiariki and its waka, iwi and hapū connections were encapsulated in Ngā Kōrero o Nehe mō Te Kooti Whenua Māori Rotorua, compiled for the Court by the late Mauriora Kingi MNZM. This work became the mandate and foundation for



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340,179 hectares is Māori land.

In 2006 the Māori population in the region was 67,662 representing 12% of the total New Zealand Māori population.

discussions within the Ministry, with judges, the community, architects, designers and the carvers from the Institute of Māori Arts and Crafts for the renovation and reshaping of the courtroom in 2006.

District Manager Graeme Vercoe says, 'the development of our courtroom in Rotorua as a carved and culturally safe house that acknowledges our iwi and hapū affiliations across the region stands out as my highlight. The handiwork of our staff of the day is evident in the whāriki amongst the whakairo that tell the origin and relationship stories of the people served by our Court. Everyone came to join with our judges for the special sitting of the Court to open the facility – that was a proud moment.'



Judiciary and staff of the Māori Land Court, Rotorua.

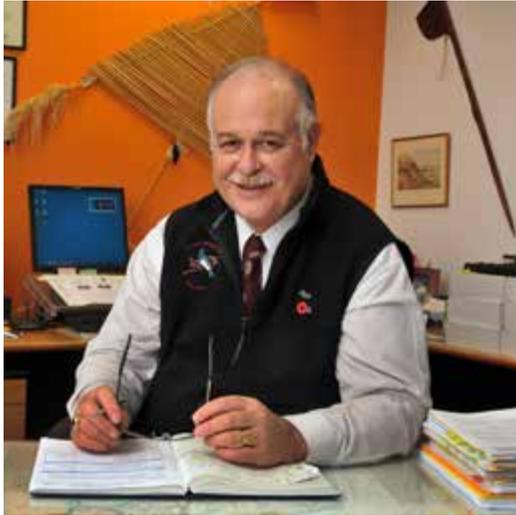


Tukutuku Panel on Judicial Bench, Rotorua.

Waiariki trusts

Waiariki district is notable for the number of trusts and incorporations established to administer Māori land. Currently there are 2,215 of these structures: 28 incorporations, 1,568 Ahu Whenua trusts, 552 Māori Reservations, 57 whānau trusts, nine Whenua Tōpū trusts and one Pūtea trust. Covering 305,887 hectares, the blocks administered by trusts and incorporations total 89 percent of the district, leaving 33,485 hectares of lands not vested in a trust. This compares with 76 percent in Aotea district and 60 percent in Taitokerau.

With a high concentration of developed Māori land and a relatively high Māori demographic, Waiariki has large blocks with many owners, making management structures an ideal way to manage the land.



Graeme Vercoe QSM

(Ngāti Pikiao, Ngāti Tūhoe, Ngāti Tai ki Torere, Whakatōhea)

District Manager and Registrar, Waiariki

Joining the Court 10 years ago, district manager Graeme Vercoe is responsible for the services required to support the judges and the provision of information services for Māori landowners. As the Registrar for Waiariki, he attends to the statutory, legal compliance and technical functions of the Court and oversight of the registry practices, systems and processes. Graeme sees the 'stewardship of the Court Record and the transmission of Māori land titles for registration with the New Zealand Land Registrar' as critical to this.

Graeme acknowledges those registrars and their staff who came before those currently working there. 'The ground work for what we deliver today was built by our predecessors and we can only hope that the way the story they started and grew over these many years has met with their approval.'

Commenting on the uniqueness of the Court, Graeme says 'our Court provides a model instrument of example and hope for many indigenous people around the world. Tihei mauriora!'

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Jacinda Flavell

(Ngāti Rangiteaorere, Ngāti Uenukukōpako)

Court Services Team Member and Deputy Registrar, Waiariki

Jacinda Flavell was already familiar with the Court when she started working there in 2003, because her kuia and whānau regularly used it to look after their land interests in Rotorua and Taupō. In fact, her kuia urged her to apply for the job at the Court: 'when I was successful in securing the position, my kuia was absolutely ecstatic.'

As a Court Services team member and Deputy Registrar, Jacinda prepares applications prior to a Court hearing, ensuring all the necessary information is available to make a judgment and liaising with parties to make sure they know what is happening. She attends Court hearings and assists the judge with any questions about the lodgement of information relating to applications, and advisory training clinics.

Jacinda assists owners in a number of ways. For succession matters, for example, she holds pre-Court hearing interviews with applicants and their whānau, going through their draft submission to explain what the hearing will involve: 'in most cases I essentially calm the

nerves for those who are very new to our processes.' Jacinda particularly enjoys assisting kaumātua and kuia: 'due to being brought up as whāngai of my beloved kuia, I have an affinity for helping our old people when and where I can.'

Jacinda has many highlights from her work with the Court. She particularly remembers the whanaungatanga when she began: 'At that time several of my colleagues had already been with the Court for over 20 years, and I feel blessed in learning "the old ways" while being encouraged to adapt some new strategies in my work.'

Another highlight was participating in the refurbishment of the Courtroom: 'I love the idea of being able to tell my mokos that I wove some of the tukutuku panels in the Māori Land Court room in Rotorua. I feel privileged to have had a hand in their creation.'

Tukutuku Panel, Waiariki District.



Ileen Graham

(Ngāti Raukawa, Ngāi Tūhoe, Ngāti Porou)

Judges' Personal Assistant and Deputy Registrar, Waiariki District

The youngest of six siblings, Ileen Graham grew up in the country: 'my father taught at the Rūātoki Māori District High School and my mother was the Postmistress.' At school she had simple dreams: 'I thought I would stay home forever and my father would give me money.' However, she experienced 'a pretty big shock to the system when one day my parents dragged me off to Rotorua for a job interview with the Department of Māori Affairs in 1982!' Unsuccessful at that job because she couldn't type, Ileen eventually found work as a clerk in 1983 at the Gisborne Māori Affairs office: 'I still couldn't type but they gave me a job because I could speak Māori.'

Ileen has now been the Judges' PA based in Rotorua for 10 years: 'ironically I have ended up in a role with a lot of typing – practising "the quick brown fox jumped over the lazy dog" a thousand times soon honed that skill'. A typical week involves typing, organising judicial diaries and travel, and 'connecting the dots' between the application process and what the

judges require. Ileen says her role today 'is very different from when I first started and from when I worked as a Court clerk in the 1990s. As a clerk, I had more direct interaction with our Māori landowners. As a PA, there is very little direct contact with them.'

Since she has been working for the Court, Ileen has seen a significant change in the use of te reo Māori. 'The judicial bench of 12 all speak and/or understand te reo Māori. When I first joined the Court there were few staff and judges who could speak te reo let alone understand it. I think this change has been the most beneficial for our landowners.'

Ileen enjoys networking with colleagues in other districts and 'discussing the highs, the lows, the good times and the bad with like-minded people. The Māori Land Court staff are my working family.' She finds everything about her job rewarding: 'I enjoy the job I do, I am happy to serve the people I work for and I enjoy the people I work with. It is all part of the fabric that makes up me.'



Tairāwhiti District

Starting north at Pōtikirua, the boundaries of Tairāwhiti end south at the Mōhaka river and run inland to Matawai and down to Tuai at Waikaremoana.

Tairāwhiti district covers a land area of approximately 1,200,000 hectares, much of which is steeply dissected hill country. Of that, 275,823 hectares is Māori land. There are currently 5,515 blocks under the Court's jurisdiction. Tairāwhiti has more incorporations than most districts; some, like the Mangatū Incorporation, are very successful.

According to the 2006 census, the Māori population in the region was 24,555, representing 4.3 percent of the total New Zealand Māori population. Gisborne has the highest percentage of Māori population at 44.3 percent (19,758), compared to a national average of 14.9 percent.

The district covers a large land-base with many titles. Some of these are very small and they are clustered around townships up and down the coastline. District manager Liz South comments that it 'makes for interesting communication with our customers. The cell connection around the district is minimal and many of our customers do not have the internet. Isolation is our biggest challenge.'

Chief Judge Wilson Isaac and Deputy Chief Judge Caren Fox preside in Tairāwhiti.



The Tairāwhiti district covers a land area of approximately 1,200,000 hectares.

275,823 hectares is Māori land.

In 2006 the Māori population in the region was 24,555 representing 4.3% of the total New Zealand Māori population.

Hinetiakiwhare.





Judiciary and staff of the Māori Land Court, Gisborne.

Consolidation schemes

Tairāwhiti had many land titles that were subject to consolidation schemes, which ran from the 1930s and finished with the Manutuke Scheme in 1970. Introduced by Sir Apirana Ngata, the policy aimed to create more economic shareholdings for owners so they could get a better return from their land.

Consolidation meant gathering the interests of owners in many blocks, then allocating them larger interests in fewer blocks, with the same value. In each consolidation scheme the opportunity was taken to clear all fees and unpaid rates and to make the new consolidated holdings conform to the demands of agriculture in regard to optimum size, access, and water supply. Block boundaries were changed to make them more economic to run.

The positive aspect of consolidation was that it reduced the number of shareholders in blocks and gave owners a larger shareholding. It also made it easier to lease the blocks. Even today, owners have fewer blocks with bigger shares, making administration easier than it would be if consolidation had not happened. It did, however, mean disappointment for those owners who lost their ties with the whenua when they were no longer owners in certain blocks. Liz South comments, 'these schemes have some very unique qualities, but they are not always liked by our owners.'

Tairāwhiti Management Team.



Liz South

District Manager and Registrar,
Tairāwhiti

Liz South began working for the Māori Affairs Department Court upon leaving school. Her first role was as a Ledger Machinist, 'long before computers became part of our everyday life'. She started her current role in an acting capacity in May 2012 and became permanent in June 2013. Having worked in a range of roles, Liz can 'roll up my sleeves and assist when times are hard, especially when staffing numbers are down.'

In her time with the Court, Liz has seen 'a huge change in our emphasis on a customer focus.' She believes 'if the people of our district are happy with us then we collectively have done what we have been paid for. It is a privilege to be part of that.'

Liz acknowledges the collective efforts of the past and present staff in the district: 'we are one team. We go with the flow, we have our differences but at the end of the day we are a successful team. I alone have not made this happen, it is many people before me and with me now.'

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Keith Bacon

Court Services Manager and Deputy Registrar, Tairāwhiti

For Keith Bacon, helping people is the most rewarding part of his work. Whether it is seeing through applications that have taken years of negotiation with the owners or showing people where their land is on Māori Land Online, Keith enjoys seeing people get what they need.

After completing school in 1974, Keith joined the Court when it was still part of 'some place called Māori Affairs', and has been there ever since. Since 1995, he has been in a team management role. In this role, he is responsible for managing the overall delivery of case management services to both the judiciary and the customers and, more often than not, he provides subject matter expertise for complex applications requiring in-depth and time-consuming research. Keith fields calls from surveyors, solicitors and customers seeking assistance as well as supporting and training staff.

Keith acknowledges that his work helps drive case management services and that he has 'a team that is quite knowledgeable about many aspects of Māori land and we strive to do a good job to keep our customers happy.'

Keith sees the most important part of his role as seeing to the needs of owners of Māori land, helping them to solve problems and providing assistance to help them complete what they are trying to achieve. For some areas, particularly the consolidation schemes, people would not be able to trace the ownership of land without the team's help: 'it is not easy for someone coming in off the street to work their way through our record to find what they are looking for.'

Keith also deals with the frustrations that owners experience in trying to administer their land. Unfortunately, as Keith acknowledges, 'ownership in land has got to the point where not many people get benefit from the land other than knowing they have ancestral ties to it. In some cases it actually costs them to be owners in land.' He adds, 'there is much to be done in the future, trying to sort out how to deal with the increasing number of owners in the land with their ever-diminishing shareholdings.'

Looking back over his career in the Court, Keith comments, 'The Māori Land Court has been a very interesting place to work. I have enjoyed it, and I love helping the owners.'



Tākitimu District

Bounded by the Mōhaka River in the north and encompassing the Wairarapa in the south, Tākitimu's western boundaries are formed by the ranges from Te Hāroto south to the Ruahine and Tararua ranges. The district is spread over Hawke's Bay and Wairarapa, taking in the three main urban areas of Napier, Hastings and Masterton. Catering to a largely rural population, it includes the smaller centres of Waipukurau, Waipawa, Dannevirke, Woodville, Eketāhuna, Pahiatua, Carterton, Greytown, Martinborough and Featherston.

The Tākitimu district covers a land area of approximately 1,936,492 hectares. Of that, 88,401 hectares is Māori land. There are 1,379 Māori Freehold land blocks in Tākitimu with 431 blocks being administered by an Ahu Whenua Trust. Only 4.6 percent of the land in the district is held in Māori freehold land tenure.



The Tākitimu district covers a land area of approximately 1,936,492 hectares.

88,401 hectares is Māori land.

In 2006 the Māori population in the region was 37,737 representing 6.7% of the total New Zealand Māori population.

Staff of the Māori Land Court, Hastings.



According to the 2006 census, the Māori population in the region was 37,737, representing 6.7 percent of the total New Zealand Māori population.

The geographic spread of the district poses some challenges for Māori landowners, who must travel from within the district to either Masterton or Hastings to have their applications heard in the Court. The Tākitimu Advisory Team currently caters for owners that are unable to make the journey into Hastings. Monthly clinics are held in the Wairarapa that service the Pahiatua, Dannevirke and Featherston areas. Clinics are held every two weeks in Masterton.

The Tākitimu Māori Land Court has a strong relationship with the Māori Trustee, Te Puni Kōkiri, iwi and other community-based organisations. In addition, the court engages with the 10 local authorities within the district, whose different policies and district plans impact on Māori land and its use. A joint effort between the Court, Te Puni Kōkiri, Housing NZ Corporation and Hastings District Council, for example, resulted in a Papakāinga Development Guide. The guide defined the process for developing a papakāinga and provided whānau with a resource to support them in realising their aspirations.

There is no resident judge in Tākitimu. It is, however, served principally by Judge Layne Harvey in Hastings and Judge Michael Doogan in the Wairarapa.

**MONTHLY CLINICS
ARE HELD IN THE
WAIRARAPA THAT
SERVICE THE PAHIATUA,
DANNEVIRKE AND
FEATHERSTON AREAS.**

Carved panel representing Kahungunu.





Joy Scott

(Ngāti Kahungunu)

District Manager and Registrar,
Tākitimu

Hailing from Wairoa in the northern Hawkes Bay, Joy Scott's interest in working for the Court stemmed from her background studying law, and through her previous role at the Wairoa District Council. Appointed to her current role in 2008, Joy has been district manager and registrar for six years. She manages the operational activities of the Court and is responsible for a staff of 11.

Joy sees the maintenance and accessibility of the district's record as 'integral to the provision of a quality customer service as kaitiaki of this taonga'. In addition, she sees communication and collaboration as 'the hallmarks of quality customer service; their absence has sunk many a waka.'

Seeing staff as the key to providing a good service, Joy aims to empower them to find solutions for themselves, which can be rewarding for customers and staff alike: 'the customer is the centre of everything we exist to do. They are the measure of have we got it right.'

SEEING STAFF AS THE
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THEMSELVES.



Dr Trevor Le Lievre

Records Preservation Officer, Tākitimu

Dr Trevor Le Lievre has been the Records Preservation Officer in the Hastings Court since 2010. He began working with the Court as part of the Māori Freehold Land Registration Project. While working on the project, Trevor enjoyed researching the history of local land blocks and learning more about Māori land legislation. He came to appreciate the importance of maintaining the Court's record in good condition, and to have good systems in place for its storage and retrieval.

Trevor considers it a privilege to be the kaitiaki of the Court record. This is what keeps him enthusiastic about some of his more mundane tasks: 'jobs like removing dry mould from aged documents, dismantling files and inserting damaged documents into protective polypropylene sleeves is not everyone's cup of tea. You need to maintain a clear sense of the bigger picture – the contribution you are making for posterity – to sustain you.'

One of the highlights of Trevor's role is assisting tangata whenua to access their early history. Māori researchers regularly use the court record to learn about their ancestry and historical connection to the whenua.

Serendipitous finds are another highlight: 'each time you open a file you can never be sure what awaits you. On one occasion I was undertaking conservation work on some of the alienation files for the Rakautatahi blocks in the foothills of the Ruahine Ranges in the Takapau district. I grew up out at Takapau and my late dad and his brother leased Māori land up there – I vaguely remember going up there as a young kid. In the early days they did a lot of breaking in – removing stumps for ploughing and the like. As I was arranging some lease documents I recognised my surname – and right there were leases signed in my own father's hand – what an awesome find!'

Trevor believes the record should be readily accessible to Māori and others: 'there is no sense in keeping the record behind a locked door – it is part of this.'



The record

One of the main functions of the Court is to establish and record succession to land shares after an owner has passed away. Originally written in longhand on paper, contemporary technology now electronically records Court hearings, which are word-processed verbatim by a specialist team and stored on a Court database. Technology has not, however, superseded the hardcopy record, which is still the definitive Court record.

The Minute from each case is printed onto quality bond paper, signed by the presiding judge and then bound into volumes for posterity. Any corrections to Court Minutes or Orders (separate documents which give legal effect to the judicial pronouncement for each case) are made on these hardcopy records first, which is crucial when technology fails.

Historical Records stored at the Māori Land Court, Rotorua.

The Court holds several other types of record besides Minutes and Orders. For instance, the Court had the jurisdiction to issue probate for wills involving Māori land until 1967, and also to approve adoptions until 1963; the adoption file series is one of the few records not publicly available, requiring a request under the Adoption Act 1955 or the Adult Adoption Information Act 1985. Block Order files contain chronological historic land block records dating from original Crown grants of title, and includes subsequent partitions, alienations and ownership successions up until the early 1980s. Alienation files hold documents recording land alienations. Other documents and correspondence relating to transactions, such as land taken for public works and setting aside land for the purpose of a reservation, are contained in the Correspondence files.

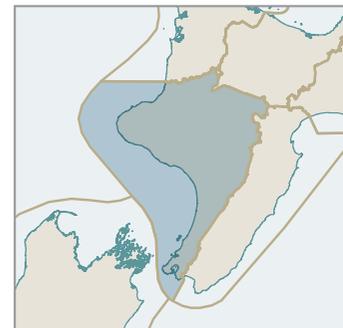
Court Minutes and Orders are publicly accessible at computer terminals located in each of the Courts.



Aotea District

Starting from the Mōkau River, the boundaries of Aotea district then head east to Lake Taupō at the Waihaha River, across Lake Taupō to Rangitāiki, then south along the Ruahine and Tararua Ranges to Palliser Bay. The district includes all of Taranaki, Whanganui, Rangitikei and Wellington.

The district covers a land area of approximately 1,284,284 hectares. Of that, 414,964 hectares is Māori land. Aotea is one of the largest Māori Land Court districts. It takes around two and a half hours to reach the boundaries of the district from Whanganui, where the district office is based. There are some sizeable lakes in the region, including Lakes Taupō, Rotoaira and Horowhenua.



The Aotea district covers a land area of approximately 1,284,284 hectares.

414,964 hectares is Māori land.

In 2006 the Māori population in the region was 113,523 representing 20% of the total New Zealand Māori population.

Staff of the Māori Land Court, Whanganui.





Carved panel representing Kupe.

According to the 2006 Census, the Māori population in the region was 113,523, representing 20 percent of the total New Zealand Māori population.

There are some large trusts and incorporations in the district, including Parininihi ki Waitōtara and Ātīhau-Whanganui Incorporations, and the Lake Taupō Forest and Wellington Tenths Trusts.

The Aotea district interacts with 18 local authorities on behalf of Māori landowners. Each have different policies, which can be confusing for owners. District Manager Blair Anderson sees this as an important area to be involved in when local planning takes place. He cites the example of owners who have been unable to develop their land into papakāinga housing because of the zoning restrictions in place in the relevant plans. Until the plans are reviewed and the zoning changed, owners are restricted in what they can do if their land is zoned 'rural'.

Judge Layne Harvey presides in Aotea district.

Aotea's leadership approach

District Manager Blair Anderson believes that the key to leadership is really knowing your staff: 'if you know staff, and their families, and take an active interest, that's the key to leadership. That goes up the tree, as well as down.' Blair knows his colleague's children, and their mokopuna, well, and they are welcome in the office, especially during school holidays.

Good staff relationships enabled Blair and the Aotea district management team to introduce a district rotation policy in 2013, which saw most of the staff change their roles. Blair sees this as a way of 'future-proofing' the district: 'it's about getting people prepared for working under different management styles and learning new roles, then whatever the organization looks like, they can put their hand up for any role.' Some staff were initially cautious about change; however, Blair met with each affected staff member individually to address their concerns and reassure them that support would be provided during the transition.

In the first rotation, 75 percent of staff experienced changes. Even those who did not change roles at least changed teams so they could experience a different leadership style. In the second rotation, a further 25 percent of staff changed. Blair expects that all staff will be back in their substantive roles by January 2016: 'some have found another home in their changed roles. It's also meant we now have good back-up – if someone is ill, there's always a wide range of people to choose from to fill their role.'

Caroline Green, Court Services Manager and Deputy Registrar, Māori Land Court, Whanganui.





Blair Anderson

(Te Ātiawa, Ngāti Raukawa, Te Āti Haunui-a-Pāpārangī, Ngārauru, Ngāti Ruanui, Ngāti Maniapoto, Ngāti Pāoa)

District Manager and Registrar, Aotea;
Registrar, Waikato-Maniapoto

Blair Anderson started working for the Court in February 1986. He has worked at other government agencies since then, but has always come back to the Court because he enjoys the variety of work and the interesting people with whom he gets to work. 'There's a sense of whānau,' he says. 'We bicker like siblings but we will back each other when needed. That's what I love about working for this organisation.' Blair sees Aotea's key strengths as 'the relationships with our people right throughout the district.'

Blair is proud of how far his district has come since the 1980 Royal Commission report found issues with the way the district worked. 'Over time, management and staff have driven ourselves to be the best we can. When things don't seem to be going well, we remind ourselves how far we've come.'

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Pirihira Cribb

(Whanganui iwi, Te Arawa)

Court Support, Aotea District

Most of Piri Cribb's working life has been spent in iwi organisations, interspersed with time in government agencies. She jokes that working for the government is 'a bit of respite from the flogging you get within your own iwi organisation!'

Piri loves working for the Court and has worked in the Aotea district office for five years. She had four fixed-term contracts over 18 months – and even had a farewell – before she successfully applied for the permanent Court Support role. What attracted her to that role was the ability to 'enhance our people's experiences in the courtroom'. She felt the importance of this first hand, as her mother had gone through the Court process many years before not fully understanding it: 'that led to me wanting to do something here, because I wasn't able to for mum.'

In her Court Support role, Piri works closely with Judge Harvey. This means working to the highest standards: 'I know if I'm not pedantic, it will get thrown back at me with red marks all over the place!' She also enjoys talking with

the judge about significant Māori issues: 'I'm opinionated and interested in what happens in the greater Māori nation. Though it probably bores my colleagues at lunch.'

The primary part of Piri's role is to keep the judge and Court safe, especially on marae and site visits, by managing relationships, making sure she talks to the right people and following tikanga. Piri found she worked so well with Judge Harvey over the past three years that they developed 'an unsaid telepathic understanding' about how to manage expectations on an application.

Piri finds Court work very moving. In one application – a land exchange for a public work – a 'Nanny came to Court and wanted to apologise to her moko and tell them she had tried really hard to hold on to the last bit of Māori land they had.' Piri was crying as she typed the minutes: 'I found that really hard. But I'm learning not to take it so personally, not everything is my crusade.'



Marie Waldren

*(Te Ātiawa, Ngāti Tūwharetoa,
Te Āti Haunui-a-Pāpārangi)*

Land Registry Team Member and
Deputy Registrar, Aotea

Marie Waldren's first experience of the Court came when she was still a child and went to Court to hear the succession orders made for her mother's land. At the time, she wondered what she was doing there. Years later, Marie looked up the minutes for the hearing and found a reference to herself as a child there.

She began working for the Court after the Department of Māori Affairs was devolved in the 1980s. Colleagues had recommended the Court as a good place to work, 'plus those working for the Court were excellent social-wise.'

Created in 2009, her current role in Land Registry involves updating ownership and trust records for Māori land blocks, including inputting new successors, working out their shares, and sending Court orders to large trusts and incorporations for updating. The final step in the process is registering all Court orders with LINZ.

The most challenging part of Marie's role is ensuring that Court records are correct. Acknowledging that mistakes can sometimes happen whether by omission of the facts or through transcription errors, she says 'we're dealing with whakapapa here, with a family's life and history, it's important to get it right.' Another challenge is ensuring that the decimal values of shares are correct, as any mistakes can affect all of the shares.

Marie believes that a 'good listening ear' is essential to working in the Court: 'sometimes people will tell you things that they probably don't tell their kids. It must be so hard for a person to come in and say, "my mother forgot me".' Although she does not have as much interaction with owners in her current role, people still come in and ask for her help.

Marie says 'I enjoy everything about my role as I started from the bottom and have worked my way through to the end of the process.' She has also enjoyed being able to bring her daughter – and now moko – into the office: 'we welcome kids here all the time. And I love the camaraderie amongst the staff. It's part of our culture in Aotea.'



Sue Cook

Land Registry Team Member and
Deputy Registrar, Aotea

Working in a typing pool of 12, Sue Cook joined the then Department of Māori Affairs straight from school in 1970: 'for those old enough to remember, these were the Gliding On days – there were high staff numbers and everything was done manually.'

After having her children, she came back on contract in 1986 to enter ownership records into MAIA, the original Māori land computer system. Once Māori Affairs was devolved, she became a permanent data entry operator with the Māori Land Court, updating ownership and title records from Court orders.

In the late 1990s, Sue worked in Wellington for 15 months on various projects for the new Māori Land Information System (MLIS) and was the product tester for the national index system prior to release into production. She moved from there to case management work, and, in 2009, to the Land Registry team where she works entering orders on MLIS and registering them with LINZ.

Sue enjoys all aspects of her job from data entry to researching the historical record as part of the Chief Judge's applications. These

applications involve identifying all the successors, recalculating the shares and taking them off other blocks. All the physical records need to be amended once this work is done. While there can be 'spreadsheets everywhere' with one of these applications, it is 'very satisfying to solve the mystery.'

Sue loves working with the record, saying 'my role has gone from being just a job, to a passion for the record.' She adds: 'The Court's strength lies in its record. It's our responsibility to get it right.'

What Sue finds most memorable about working for the Court is the friends she has made. 'Our head typist from the late 1970s was very ill and five of her ex-typing pool surprised her with a visit. She maintained it was just the best weekend and spurred her to fight on for a few more months. Sadly she passed away in January this year.' There were also 'a lot of personal relationships in the old days as it was a very social time, resulting in quite a number of marriages within the office!'



Te Waipounamu District

Covering the largest land area of the Māori Land Court districts, Te Waipounamu's boundaries cover the entire South Island, as well as Stewart Island (Rakiura), the Chatham Islands (Rēkohu or Wharekauri) and Titi (Muttonbird) Islands. Of its approximately 16,715,185 hectares, 81,143 hectares is Māori land.

According to the 2013 Census, the Māori population in the region was 83,796, representing 14 percent of the total New Zealand Māori population. Half of the Māori population in the region is under the age of 23.2 years.

With only one office in Christchurch, there is a lot of travelling involved for both the Court and owners. At times, the physical distance from the rest of the Court can be a challenge for staff based in Te Waipounamu.

One of the biggest challenges for the Court administration is the completion of parts of the Ngāi Tahu Claims Settlement Act 1998. This includes provisions dealing with the South Island Landless Natives Act (SILNA) lands, the Titi Islands, and the Ngāi Tahu Ancillary Claims (NTAC) Settlement blocks. A trust was appointed to administer the NTAC blocks after the settlement and produced lists of owners for them. However, the lists were provided without whakapapa evidence to support them. This means the Court still has to work out the whakapapa that determines the lists. Due to the frequent duplication of names down the generations, this work can be particularly slow and painstaking. The Court works closely with Ngāi Tahu's Whakapapa Unit on these applications.



The Te Waipounamu district covers a land area of approximately 16,715,185 hectares.

81,143 hectares is Māori land.

In 2006 the Māori population in the region was 83,796, representing 14% of the total New Zealand Māori population.



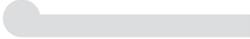
Staff of the Māori Land Court, Christchurch.

After the earthquakes of 2010 and 2011, Court services for Te Waipounamu carried on within a few weeks: district staff prepared for Court sittings in Dunedin, Invercargill and the Chathams. District Manager Carol Smith comments, 'we didn't do anything in Christchurch for a while. But the good thing is that we don't need to sit in a courtroom. The Court sat at rugby clubrooms, workingmen's clubs. As a mobile Court, we could carry on and do our work.' Carol believes 'the Event' also helped the wider Ministry realise what an essential service the Court provides.

Judge Sarah Reeves presides in Te Waipounamu.



Carved panel representing Aoraki Mauka.



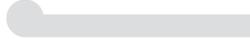
SILNA

In 1906, around 4,000 Māori received approximately 57,000 hectares of land under the South Island Landless Natives Act (SILNA) to live on and use. From 1886 to 1906, the Crown investigated their interests, surveyed most of the blocks of land, and conducted allocation ballots for individuals put forward by iwi leaders. One of the significant features of the SILNA lands is that they were allocated to Māori outside of the area they came from, meaning that beneficiaries do not necessarily whakapapa to the land, as they do elsewhere in the country.

The Crown completed its work on most of these blocks before SILNA was repealed in 1909, but four blocks of land remained for which ownership was not finalised. These blocks - Hawea/Wanaka, Whakapoai, South Westland, Port Adventure and Toi Toi – were the subject of early Waitangi Tribunal claims. The Ngāi Tahu settlement provided processes for the redress of the remaining SILNA land. For the Hawea/Wanaka and South Westland claims, the Crown offered alternative land to replace the original reserves.

The first step in providing this redress was the identification of the owners of the remaining blocks. Essentially a verification exercise, the Court continues to engage with the Whakapapa Unit to confirm their lists of beneficiaries.

Two of the blocks included in the settlement – Hawea/Wanaka and Toi Toi - still require work to complete the lists of beneficiaries. Investigations for the remaining blocks have not yet commenced due to resource constraints.



Titi Islands

Rakiura Māori have rights to gather muttonbirds on 36 islands, known as the Titi Islands, around Stewart Island. They can harvest chicks each year from 1 April to 31 May. Under the Titi (Muttonbird) Islands Regulations 1978, people can arrive from 15 March to prepare for the season. Harvesting the birds has a huge cultural and economic significance: muttonbirds are used for food, trade, and for their feathers and down.

Rakiura Māori's muttonbirding rights were guaranteed by the 1864 Deed of Cession of Stewart Island. 18 of the Titi Islands are termed Beneficial Islands, to which only certain Rakiura Māori families have joint ownership and right of access. Since the Ngāi Tahu Claims Settlement Act 1998, the remaining 18 are known as the Rakiura Titi Islands.

Rakiura Māori must have a succession order from the Court entitling them to a beneficial interest for rights to bird on the islands under the regulations. Rights are restricted to those who can trace direct blood descent from previous rights-holders.





Carol Smith

(Ngāti Pikiao, Tūhourangi me Ngāti Wāhiao, Ngāi Te Rangī, Ngāti Ranginui)

District Manager and Registrar,
Te Waipounamu

Carol Smith started working at the Court straight out of high school in 1985. As a temporary clerk checking printouts from its computer database, the first derivation search she ever did confirmed her aunt's whakapapa: 'it was awesome to be able to see how we were related to one another.'

District Manager since 2008, Carol ensures her team has the time and resources to meet their strategic and operational plans. She is also responsible for training in the Court, working closely with the Ministry's Performance Capability Team.

Carol enjoys 'being able to help our customers find out about their land, connecting them with whānau and sometimes providing them with their whakapapa.' The most rewarding part of her job is 'hands down the people I work with. The culture of the Court is whakawhanaungatanga and this is reflected in how we interact with one another and our customers.'

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SOMETIMES PROVIDING
THEM WITH THEIR
WHAKAPAPA.



Tim Hill

Court Services Manager and Deputy Registrar, Te Waipounamu

Tim Hill has dealt with land all his working life. Before coming to the Court six years ago, he worked for LINZ for twelve years. While there, he enjoyed working with a range of people – customers, genealogists, lawyers, and surveyors – and doing historical research into land issues. Changes at LINZ meant he no longer had as many opportunities to do the work he loved, so he applied to work for the Court.

Unsure what to expect coming from LINZ, Tim says that as a Pākehā he has learned a lot of new things, starting with the mihi whakatau held to welcome him on his first day: ‘there’s definitely a cultural leap from LINZ in this environment. It’s a steep learning curve, and it’s still going on.’

Starting in Land Registry, Tim was able to draw on his previous experience to work at the Court’s interface with LINZ registering Māori land titles. Following a short time in records preservation, Tim became Court Services Manager in 2012.

Unlike most other Court districts, there are no team leaders in Te Waipounamu, so Tim’s role involves a lot of team leadership: checking submissions before they go to the Court, dealing

with technical and HR matters, and providing support to the judges as required. A particularly enjoyable part of his role is consolidating records from different districts, and making inaccessible information more widely available.

Tim has regular contact with customers: ‘I really enjoy that. It’s the only way you can really know what’s going on and what the issues are.’ In the last few years, he has noticed a change in the way people view the Court: ‘it’s getting more positive. The historical baggage is dropping away. In the last few months, going to the TTWMA reform meetings, people are realising what’s past is past. Some still have a negative view. But many see the effort the Court goes to in order to support them and their work.’

Tim also enjoys the varied nature of the work and the frequent new challenges: ‘I love working for the Court. People stick around a long time because they love working here. It’s like a second home – the people you work with are family.’



He Kōrero Whakamutunga

Final Reflections

Looking back over the span of the Court's history charted in this publication, it is clear that we have come a long way over the past 150 years. While the government is signalling change for the future, those of us who have invested many years of dedicated service in the Court are keen to ensure that the Māori Land Court continues to be an important institution for Māori landowners, communities and families across Aotearoa. I look forward to being part of that future.

Ka whakamaua ngā kōrero ki te pou herenga tangata, ki te pou herenga whenua, ki te pou whare kōrero. Ū te pou, māia te pou, te pou ka toko i te kōrero "ko Papatūānuku te matua o te tangata".

*Hui te mārāma, hui te ora
Hui ē,
Tāiki e!*

Julie Tangaere
Director and Chief Registrar
Māori Land Court

I

Appendix:

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**Information gathered from interviews, discussions,
phone conversations and/or email exchanges with:**

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Deputy Chief Judge Caren Fox	Jacinda Flavell
Judge Patrick Savage	Ileen Graham
Judge Layne Harvey	Steve Gunson
Judge Stephanie Milroy	Patrick Hape
Judge David Ambler	Tim Hill
Judge Craig Coxhead	Justine Huriwai
Judge Stephen Clark	Rachel Kerr
Judge Sarah Reeves	Hineko Kingi
Judge Michael Doogan	Trevor Le-Lievre
Judge Miharo Armstrong	Julia Marino
Judge Glendyn (Nick) Carter	Racheal McGarvey
Judge Carrie Wainwright	Richard Moorsom
Chief Registrar Julie Tangaere	Samantha Nepe
Jeff Abbott	Leigh Nicholas
Michael Allen	Tainui Noble
Blair Anderson	Ryan O'Leary
Keith Bacon	Jared Pitman
Kura Barrett	Joy Scott
Professor Richard Boast QC	Carol Smith
Don Cameron	Liz South
Michaela Coleman	Hori Tutaki
Sue Cook	Graeme Vercoe
Francis Cooke	Taiawhio Waititi
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II

Appendix:

List of Illustrations

This appendix lists all illustrations used throughout the publication.

The Ministry wishes to thank those photographers who visited regional offices to capture images related to the Court, and all those who have consented to the use of, or contributed, images for this publication. We also wish to acknowledge Ryan O’Leary for his research of historical images.

Mihi and Forewords:

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ii	Stock Image from Māori Land Court Publication Imagery Archive “Koru” (2010)
iv	Hon Te Ururoa Flavell, Minister for Māori Development Te Minita Whanaketanga Māori. Image used with permission of Te Puni Kōkiri, Wellington (2015)
v	Chief Judge Wilson Whare Isaac, Chief Judge of the Māori Land Court (2014)
vi	Andrew Bridgman, Secretary for Justice and Chief Executive, Ministry of Justice (2013)

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9-10	Ngati Kahungunu tribe signing over ownership of Lake Wairarapa to the Crown. Original photographic prints and postcards from the file print collection, Box 17 Ref: PAColl-7489-85. Alexander Turnbull Library, Wellington, New Zealand. http://natlib.govt.nz/records/22408095
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12	‘ML 2596/1, Sheet 1 - Imperial Survey Plan of Te Kaha Nos 1-15, A and C, Blk V Te Kaha and Blk II Haparapara Survey Districts, dated 27 September 1916’, Appendix to Search of Te Kaha Roadway Block, Parcel Identification Number 4139408, being Copenhagen Link Road ref: ML 2596, Land Information New Zealand, Wellington (Land Information database, Māori Land Court National Office, Wellington)
13	Whangarei Harbour, Northland, including Matakoho (Limestone Island). Whites Aviation Ltd: Photographs. Ref: WA-41768-F. Alexander Turnbull Library, Wellington, New Zealand. http://natlib.govt.nz/records/30654415
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16	Scene at Ahipara on Māori Land Court day showing W J Reid house on the right. Ref: 1/2-026780-F. Alexander Turnbull Library, Wellington, New Zealand. http://natlib.govt.nz/records/23021921
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21	Pohaturua rock near Atiamuri. Whites Aviation Ltd: Photographs. Ref: WA-10257-G. Alexander Turnbull Library, Wellington, New Zealand. http://natlib.govt.nz/records/23203382
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28	Image capture of a page from the Native Committee of Pewhairangi (Bay of Islands) Region Book 1887 held by the Māori Land Court, Taitokerau District, Whangārei (30/04/2014)
30	Wrigglesworth, James Dacie, 1836-1906. Wrigglesworth, J D (Wellington) fl 1863-1900: Portrait of John Rogan 1823-1899. Ref: PA2-1973. Alexander Turnbull Library, Wellington, New Zealand. http://natlib.govt.nz/records/23139793
33	Survey camps. Photographer: Hubert Earle Girdlestone, 1879-1918. PA1-0-1225-15. H E Girdlestone Collection, Alexander Turnbull Library, Wellington, New Zealand.
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- 40 Peter Buck studying Paratene Ngata making an eel basket. Ramsden, Eric: Photographs relating to Ramsden and his family and Māori subjects. Ref: 1/2-037930-F. Alexander Turnbull Library, Wellington, New Zealand.
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- 42 Group of people sitting in a line outside a shop in the Wanganui area, possibly waiting for a land court hearing. Harding, William James, 1826-1899: Negatives of Wanganui district. Ref: 1/1-000013-G. Alexander Turnbull Library, Wellington, New Zealand. <http://natlib.govt.nz/records/22639428>
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- 43 Survey camp, Rangiwaea. Photographer: Hubert Earle Girdlestone, 1879-1918. Photo taken 1900-1901. PA1-0-1225-15. H E Girdlestone Collection, Alexander Turnbull Library, Wellington, New Zealand.
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47	Loading wool bales on to a boat at Akitio Beach. Ref: 1/2-100441-F. Alexander Turnbull Library, Wellington, New Zealand. http://natlib.govt.nz/records/23066356
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51	1909 Native Land Court Judges Conference (photo supplied and used by permission of Tairawhiti Museum, Gisborne) - Accessed online at: http://www.teara.govt.nz/en/photograph/36144/native-land-court-judges-1909 on 21/10/2015
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54	Chief Justice Robert Stout. Original photographic prints and postcards from file print collection, Box 5. Ref: PAColl-5800-59. Alexander Turnbull Library, Wellington, New Zealand. http://natlib.govt.nz/records/22705348
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67	Lake Waikaremoana. Blue album. Ref: PA1-0-042-46-1. Alexander Turnbull Library, Wellington, New Zealand. http://natlib.govt.nz/records/22355056
68	Lamprey and eel weir, Whanganui River. McDonald, James Ingram, 1865-1935: Photographs. Ref: PA1-q-257-76-2. Alexander Turnbull Library, Wellington, New Zealand. http://natlib.govt.nz/records/22751574
69	Representatives of the Whanganui River tribes and their solicitor D G B Morison, Dominion Museum, Wellington. Maynard, Margaret A: Photographs of Judge D G B Morison and representatives of the Whanganui River tribes. Ref: PAColl-2427-1. Alexander Turnbull Library, Wellington, New Zealand. http://natlib.govt.nz/records/22692836
70	Photographer: T Ransfield, fl 1950s, Interior of the Te Kao store, Northland. F-39776-1/2, Alexander Turnbull Library, Wellington, New Zealand.
71	First meeting of the Māori Education Foundation at Parliament Buildings, Wellington. Evening post (Newspaper. 1865-2002): Photographic negatives and prints of the Evening Post newspaper. Ref: PAColl-7796-41. Alexander Turnbull Library, Wellington, New Zealand. http://natlib.govt.nz/records/23157255 Secretary for Māori Affairs Jack Hunn, is far left in the back row.
72	Mr O H Kawharu (later Sir Hugh Kawharu). Negatives of the Evening Post newspaper. Ref: EP/1955/1553-F. Alexander Turnbull Library, Wellington, New Zealand. http://natlib.govt.nz/records/23171069
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74	Sir Thaddeus Pearcey McCarthy. Negatives of the Evening Post newspaper. Ref: 1/4-023760-F. Alexander Turnbull Library, Wellington, New Zealand. http://natlib.govt.nz/records/22698938
75	Images from top of page: Whina Cooper addressing Māori Land March at Hamilton. Heinegg, Christian F, 1940-: Photographs of the Māori Land March. Ref: 35mm-87529-13-F. Alexander Turnbull Library, Wellington, New Zealand. http://natlib.govt.nz/records/22700614 Giblin, Ross, fl 1980s-2000s. The first of ten carved pou being laid in place during the Waiwhetu Marae's 25th birthday celebrations at Lower Hutt - Photograph taken by Ross Giblin. Further negatives of the Evening Post newspaper. Ref: EP/1985/4066/19a-F. Alexander Turnbull Library, Wellington, New Zealand. http://natlib.govt.nz/records/22622823
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88	Hon Justice Joseph Victor Williams - former Chief Judge of the Māori Land Court, now Judge of the High Court (15/08/2008)

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- 90 Michael Joseph Fryers - former Registrar, Tairāwhiti District, Māori Land Court 1985 - 1999 (Reproduction of photograph hanging at the Māori Land Court - Gisborne) (11/09/2015)
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176	Jacinda Flavell, Court Services Team Member and Deputy Registrar - Māori Land Court, Waiariki District, Rotorua (29/07/2015)
177	Tukutuku Panel - Māori Land Court, Waiariki District, Rotorua (28/07/2015)
178	Images from top of page: Tairāwhiti Māori Land Court District Boundary (24/09/2015) Māori Artwork entitled “Hinetiakiwhare” - Māori Land Court Courtroom - Māori Land Court, Tairāwhiti District, Gisborne (17/07/2015)
179	Staff of the Māori Land Court, Tairāwhiti District, Gisborne with Deputy Chief Judge Fox (back row second from right) (17/07/2015)
180	From left to right, Elizabeth (Liz) South, District Manager and Registrar, Terei (Godfrey) Pohatu, Manager Advisory Land Registry and Deputy Registrar, Keith Bacon, Manager Court Services and Deputy Registrar and Sandra MacGregor, Team Leader and Deputy Registrar - Māori Land Court, Tairāwhiti District, Gisborne (17/07/2015)
181	Keith Bacon, Manager Court Services and Deputy Registrar - Māori Land Court, Tairāwhiti District, Gisborne (17/07/2015)
182	Images from top of page: Tākitimu Māori Land Court District Boundary (24/09/2015) Staff of the Māori Land Court, Tākitimu District, Hastings (09/06/2015)

183	Carved Panel representing the eponymous ancestor Kahungunu – hanging in the Courtroom of the Māori Land Court, Tākitimu District, Hastings (09/06/2015)
184	Jocelyn (Joy) Scott, District Manager and Registrar - Māori Land Court, Tākitimu District, Hastings (01/06/2015)
185	Dr Trevor Le Lievre, Records Preservation Officer, Māori Land Court, Tākitimu District, Hastings (01/06/2015)
186	Linda Tawhai-Mullen, Records Preservation Officer in the records room of the Māori Land Court, Waiariki District, Rotorua (28/07/2015)
187	Images from top of page: Aotea Māori Land Court District Boundary (24/09/2015) Staff of the Māori Land Court, Aotea District, Whanganui (14/07/2015)
188	Images from top of page: Carved Panel Representing the eponymous ancestor Kupe in the reception area of the Māori Land Court, Aotea District, Whanganui (14/07/2015) Caroline Green, Court Services Manager and Deputy Registrar - Māori Land Court, Aotea District, Whanganui (14/07/2015)
189	Blair Anderson, District Manager - Māori Land Court, Whanganui and Registrar - Māori Land Court, Aotea and Waikato-Maniapoto Districts (14/07/2015)
190	Pirihira Cribb, Court Support Team Member - Māori Land Court, Aotea District, Whanganui (14/07/2015)
191	Marie Waldren, Land Registry Officer and Deputy Registrar, Māori Land Court, Aotea District, Whanganui (14/07/2015)
192	Suzanne (Sue) Cook, Land Registry Officer and Deputy Registrar, Māori Land Court, Aotea District, Whanganui (14/07/2015)
193	Te Waipounamu Māori Land Court District Boundary (24/09/2015)
194	Images from top of page: Staff of the Māori Land Court, Te Waipounamu District, Christchurch (04/09/2015) Carved Panel Representing Aoraki Mauka (Mt Cook), formerly displayed in the Courtroom of the Māori Land Court, Te Waipounamu District, Christchurch (28/05/2009)
196	Carol Smith, District Manager and Registrar, Māori Land Court - Te Waipounamu District, Christchurch (04/09/2015)
197	Tim Hill, Manager Court Services and Deputy Registrar, Māori Land Court - Te Waipounamu District, Christchurch (04/09/2015)

He Kōrero Whakamutunga – Final Reflections

Page	Reference
198	Julie Tangaere, Director and Chief Registrar - Māori Land Court, Wellington (18/09/2015)

III

Appendix:

*Māori Land
Update –*

*Ngā Āhuatanga
o te Whenua*

June 2015 | Pipiri 2015

This update is issued annually by the Office of the Chief Registrar, Māori Land Court | Te Kooti Whenua Māori as part of the ongoing efforts to help inform and assist owners, organisations and government agencies about the characteristics of Māori Customary and Māori Freehold Land.

Māori Customary Land Titles:

Rohe	#	Area (ha)
Taitokerau	5	38.5573
Waikato Maniapoto	12	48.2919
Waiariki	1	8.0937
Tairāwhiti	1	1.6313
Tākitimu	1	0.2124
Aotea	15	659.1240
Te Waipounamu	0	0.000
Total	35	755.9106

Māori Freehold Land Titles:

Rohe	#	Area (ha)
Taitokerau	5,405	147,928.8388
Waikato Maniapoto	3,727	124,159.1323
Waiariki	5,113	305,887.6350
Tairāwhiti	5,347	270,279.8789
Tākitimu	1,360	87,954.2904
Aotea	3,995	414,359.3767
Te Waipounamu	2,361	66,509.2186
Total	27,308	1,417,078.3707

Trusts

(Note: The term trusts includes all types of management structure, including Ahu Whenua Trusts, Whenua Tōpū Trusts, Pūtea Trusts, Māori Incorporations and non-Māori Land Court created structures or organisations, but it does not include agencies or agents).

Rohe	# Trusts	# Blocks with Trusts	# Blocks no Trusts	Area vested (ha)	Area not vested (ha)
Taitokerau	1,095	1,492	3,918	88,814.9986 (60%)	59,152.3975 (40%)
Waikato Maniapoto	1,304	1,651	2,088	95,558.6466 (77%)	28,648.7776 (23%)
Waiariki	2,215	2,477	2,637	273,410.8053 (89%)	32,484.9234 (11%)
Tairāwhiti	1,318	1,676	3,672	219,480.1547 (81%)	50,801.3555 (19%)
Tākitimu	514	589	772	70,086.7102 (80%)	17,867.7926 (20%)
Aotea	1,238	2,055	1,955	316,606.2198 (76%)	98,412.2809 (24%)
Te Waipounamu	586	1,385	976	42,668.0999 (64%)	23,841.1187 (36%)
Total	8,270	11,325	16,018	1,106,625.6351 (78%)	311,208.6462 (22%)

Other Statistics

Blocks without trusts have an average size of 17 ha and average 39 owners;

Blocks with a trust have an average size of 109 ha and average 210 owners;

Overall an average Māori land block has a size of 51 ha and 99 owners;

The total number of ownership records in all blocks is 2,956,863.

Management Structure Details

Rohe	Total	Māori Incorporations	Ahu Whenua Trusts	Māori Reservations	Whenua Tōpū Trusts	Pūtea Trusts	Other Trusts
Taitokerau	1,095	15	487	579	1	0	13
Waikato Maniapoto	1,304	16	976	289	3	0	20
Wairariki	2,215	28	1,568	552	9	1	57
Tairāwhiti	1,318	63	962	261	5	0	27
Tākitimu	514	5	391	105	4	0	9
Aotea	1,238	23	819	367	10	0	19
Te Waipounamu	586	9	426	123	2	0	26
Total	8,270	159	5,629	2,276	31	1	171

The total number of Whānau Trusts nationally is 9,948

The total number of Kaitiaki Trusts nationally is 2,876

Exclusion List

In total 952 blocks covering an area of 67,011.2731 ha have been excluded from this update and are considered as Other Status Types or are Blocks pending internal review.

Disclaimer

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