to reach the point when it would naturally burst over and through the gravel-bank depends almost entirely upon the rainfall occurring within its catchment area and the height to which rough seas have repaired the previous breach in the gravel-bank.

12. It will thus be seen that the character of these lagoons is the subject of a collection of natural influences, some of them being—

(*a*) The rainfall within the catchment area.

(*b*) The height and substance of the gravel-bank for the time being raised between the lagoon and the open sea.

(*c*) The amount of percolation in either direction which takes place through the gravel-bank.

(*d*) Evaporation of the water of the lagoon.

(*e*) The quantity of salt which becomes incorporated into the waters of the lagoon as a result of—

(1) Salt water, spray, and spume being forced over the top of the gravel-bank during severe storms.

(2) Salt water being forced by a rising tide through the gap in the gravel-bank while such gap remains open or partly open to the sea, and the amount of such salt water that escapes back into the sea as the tide recedes.

(*f*) Any change in the catchment area of the lagoon—as, for instance, a change in the course of a river which fed or becomes a feeder of the lagoon.

13. These lagoons, therefore, are unique in that their waters are not sea-waters, although the sea sometimes has access to them. They are not arms of the sea, although open at times to the sea; and their waters are not tidal waters, although at times tidal influence is felt.

14. The foregoing remarks are not intended to be taken as dogma on the geological formation of this part of the country or as an exhaustive dissertation on the cycle which constituted the watering and dewatering of the Whanganui-o-Rotu. The Court is concerned only with trying to collate and settle to its own satisfaction the available evidence on the class of waters (using the word in its legal sense) those comprising the Whanganui-o-Rotu, fall or at a given time fell.

15. The case put forward on behalf of the Crown at this hearing was as follows:—

In the Native Land Court.—In the matter of the petition *re* Whanganui-o-Rotu.

CASE FOR THE CROWN

1. The claim by the Petitioners that Whanganui-o-Rotu has been reserved by the Crown for the Natives is entirely without foundation. *Vide*, paras. 19 to 23.

The claim is based on a return appearing in the Appendix to the Journals of the House of Representatives for the year 1862 at page 9 (E, No. 10).

This return was prepared by a Mr. Andrew Sinclair, apparently an officer of the Native Department, and as shown by his prefatory letter on page 5, E–10 was compiled with difficulty and on incomplete material.

It purports to be a return showing "general reserves for natives which have been made in cessions of territory to the Crown."

The cession of territory affecting Whanganui-o-Rotu is the conveyance of the Ahuriri Block from the Natives to the Crown dated 17th November, 1851, as set out at page 491, Vol. 2, Maori Deeds, North Island, and if any such Reserve as that claimed it should appear in that Deed.

The Deed nowhere makes any such Reserve.

On the contrary the Deed itself forecloses that this Lagoon or arm of the sea known as Whanganui-o-Rotu was intended by all parties to pass to the Crown (if indeed it was not already Crown property by virtue of the Common Law). *Vide*, paras. 24 to 38.

The Deed does in fact make certain reserves and the first is "the island in the Whanganui-o-Rotu Lake named Roro-o-Kuri."