Karamu Reserve.—Succession to Reihana Wahapaukena.

This is a rehearing of a decision given by Judge Scannell on the 23rd January, 1893, appointing Reihana te Uamairangi successor to Reihana Wahapaukena in the Karamu Reserve. The applicant for rehearing is Renata Tauihu, who claims to succeed his nearest-of-kin.

It is admitted that Reihana te Uamairangi was the adopted child of the deceased, and that Renata Tauihu is the nearest-of-kin.

It was argued that the intention of the special Act under which this land is held is that it should be reserved exclusively for the Ngatihori Tribe, and that therefore to allow an adopted child to succeed would tend to defeat that intention. We consider it sufficient answer that both the disputing parties can claim to be members of that tribe.

We think this is a case where the adopted child should share in the succession with the nearest-of-kin, and our award is in favour of Reihana te Uamairangi and Renata Tauihu in equal shares.

Awarua.—Succession to Te Awaawa.

In this case the orders appealed against were in favour of Pura Rora, as adopted child.

The applicant for rehearing is Ani Paki, one of the next-of-kin, for whom Mr. Baldwin appeared, and contended—(1) That, as the title was under "The Native Land Court Act, 1880," at the time the will was made, the will could not affect it; (2) that Pura was not the adopted child of the deceased, but only of deceased's wife Rora; (3) that an adopted child is not entitled to succeed in the absence of an *ohaki;* (4) that the will in this case had not the essentials of an *ohaki;* (5) that the will, either as will or *ohaki*, was illegal, in view of sections 32 and 33 of "The Native Land Administration Act, 1886."

On the other side, it was contended by Mr. Sainsbury and Mr. A. L. D. Fraser—(1) That Pura was the adopted child of Te Awaawa, and that this has been always admitted until it was denied before this Court; (2) that the essentials of an *ohaki* are fully complied with in the case of this will, as it was made with the knowledge of the near relatives, and agreed to by them; (3) that the fact of the land being held under Native custom, and the prohibition contained in "The Native Land Administration Act, 1886," do not affect this case, as the Court will decide according to the rights of the parties under Native custom; (4) that it was the custom among the tribes of the Patea district to admit adopted children to share in the lands of the tribe; (5) that an adopted child is entitled to succeed even when there is no *ohaki*.

The will had been produced in the Court in 1890, but was then given back to Ani Paki, and it was subsequently lost. The lower Court held, however, that it had been satisfactorily proved that the Awarua lands had, in the will, been left to Pura Rora, and this Court sees no reason to dissent from that conclusion.

We hold that the adoption of Pura by Te Awaawa has been proved: this will entitle her to share in the succession. We also think that the will in this case is sufficient as an *ohaki*, is not illegal, and can apply to the Awarua lands. In it Te Awaawa allotted that part of his property which consisted of his interest in Awarua to his adopted child Pura, other lands being allotted to some of the next-of-kin. We consider that this entitles Pura to be appointed sole successor in respect of these lands. The former orders are therefore confirmed.

Otawhao A.—Succession to Hineipaketia, alias *Henerieta te Hei.*

In this case the order appealed against was in favour of Arihi te Nahu and Tangatake as adopted children.

Mr. Loughnan appears for Hori Niania, the applicant for rehearing (since dead), and claims for the next-of-kin, who are second cousins. He states that in the case of succession to Renata Kawepo, in the Pukehamoamoa case, the Court drew a distinction between adopted children and foster-children, and held that full adoption must be proved to give a right to succeed, and contends that in this case it has not been proved that Arihi and Tangatake were adopted in such complete sense as to give them a right to succeed. He also urges that the general opinion is that the claim by adopted children to succeed must be supported by an *ohaki*.

At the former hearing, evidence was given of a conversation between Hineipaketia and Hori Niania, in which Hineipaketia was said to have expressed her wish that her interest in Otawhao should go to Hori Niania: this was claimed to amount to an *ohaki*.

In our opinion the adoption of Arihi was fully proved, and Tangatake is admitted by counsel for Arihi to be entitled to share with her.

The evidence of the alleged conversation between Hineipaketia and Hori Niania is, in our opinion, insufficient, and, were it proved, it would not, we consider, amount to an *ohaki*.

We have already given our views at length on the subject of the Native customs of adoption and *ohaki*, and, in accordance therewith, we hold that the adopted children are entitled to succeed in this case.

The former decision is confirmed.

NATIVE APPEAL COURT.—AWAAWA (DECEASED), APPEAL ON APPOINTMENT OF SUCCESSOR.—OWHAOKO D No. 6 AND RANGIPO-WAIU.

(Before Judges SCANNELL and MAIR.)

Judgment.

THIS is an appeal from a decision of the Native Land Court given on the 7th August, 1895, appointing a successor to Te Awaawa, deceased, and those parts of the grounds of appeal now being dealt with are that Pura Rora, the successor appointed, was not a *bona fide* adopted child of the deceased, Te Awaawa, and consequently has no claim as such according to Native custom, and also that an adopted child has not a claim to the whole of the land unless the adopting parent has so devised in