The appeal was, however, reinstated by the Legislature by section 11 of "The Native Land Claims Adjustment and Laws Amendment Act, 1901," and now comes before us for decision.

Another case has also come before the Native Land Court—viz., Puahue—in which the same question arose, and the evidence then given has been used during the arguments on this appeal, and is now before us.

We have also had the evidence of William McLear, who was called as a witness on behalf of the respondent.

It is unnecessary for us to examine in minute detail the evidence that has been given on the question whether Punia was adopted by Punia Kaikino or not. The view we take of the case as a whole renders that question unimportant. We shall also not attempt to reconcile the discrepancies with which the evidence abounds as to facts and dates. We are of opinion that the relation that existed between Hakiriwhi and Punia was in the nature of an adoption, which, had it continued until the death of Hakiriwhi, might have entitled Punia to succeed to the interests of the deceased; but we are quite satisfied that that relation was determined. For this we rely chiefly on Punia's own evidence, in which she describes her return to her own people with Maori ceremonial and in accordance with Maori custom. Punia seems to have accepted the position. She soon afterwards married a European named Clifford, without taking any steps to obtain Hakiriwhi's consent, and from that time to the death of Hakiriwhi did nothing to suggest that she regarded herself as his adopted child. Although Hakiriwhi on more than one occasion begged her to go and see him, she did not do so. To the end of his life Hakiriwhi seems to have had a strong affection for Punia, and towards the end had some thoughts of making a will in her favour, as appears from the postscript to the last of the three letters that have been produced. No will was made, and the letters are insufficient to establish a renewal of the adoption.

Regarding the case as a whole, we consider the correct view of the evidence is that there was an adoption, which was afterwards revoked.

The decision of the Native Land Court will be varied by striking out the name of Punia, and distributing the half-share among the other successors in proportion to their present interests.

NATIVE APPELLATE COURT.—KARAMU, ETC.—SUCCESSION TO MERE TAKI, DECEASED.

(Chief Judge SETH-SMITH and Judge JONES.)

Judgment delivered 31st January, 1905.

AFTER careful consideration of "The Karamu Reserve Act, 1889," we find nothing in it to oblige us to apply different principles to the determination of succession to the Karamu Reserve from those by which we must be guided in determining the succession to the other blocks before us—viz., the Native Land Court Act of 1894.

The references to succession are contained in sections 13 and 14. Section 13 provides a method of finding successors to alienees who might die before the conveyance referred was executed, and directs the Native Land Court to determine them according to Native custom. Section 14 defines the restrictions under which the original alienees, their successors, and the successors of successors should hold the land. There is nothing to support the suggestion that successors must be members of the Ngatihori, and if that had been the intention of the Legislature it would have been clearly expressed.

The question we have to consider is, what is Maori custom with regard to succession by an adopted child?

We agree with the Native Land Court that no rule can be laid down applicable to all cases in all parts of the country. Each case must be dealt with on its own merits.

In this case we think the merits are with Hinetauaraia, the adopted child of the deceased. There can be no question that if Mere Taki's child had survived her mother she would have been entitled to succeed to the whole of her mother's interest. The circumstances attending the adoption satisfy us that it was the intention of Mere Taki that her adopted child should take the place of her dead child, and that whatever the rights of the true child might be, the adopted child should have the same. If, therefore, as has been said, the intention of the adopting parent is the test by which cases of this kind are to be determined, we have no hesitation in saying that Hinetauaraia ought to take the whole.

The same result will be arrived at if we follow the precedents of the Native Appellate Court where the whole was awarded to an adopted child, but we prefer to rest the decision in this case on what appears to us the manifest intention of the deceased.

We wish it to be clearly understood that we regard the intention of the adopting parent only as one of the determining elements in cases of this kind, not as a necessary ingredient in all cases. We consider it sufficient for the purposes of this case, and there being no definite evidence or ruling to the contrary, we decide this case accordingly.

The decision of the Court as to the interest of Mere Taki in the Karamu Reserve will be annulled, and an order made determining Hinetauaraia to be the successor.

As to the other blocks, we have nothing before us to show that the award of a life interest to Hinetauaraia is in accordance with Maori custom, and it is not based on the law of New Zealand. Those orders will therefore be varied by striking out all reference to the life interest and to the remainder over. The order so varied will determine Hinetauaraia as the successor to the interests of Mere Taki in the several blocks.

We should have been glad if the case had been more fully argued on behalf of the respondents, but we do not think it is at all likely that it would have affected the result.