1920.

NEW ZEALAND.

NATIVE LAND AMENDMENT AND NATIVE LAND CLAIMS ADJUSTMENT ACT, 1917.

REPORT AND RECOMMENDATION ON PETITION No. 375/1917, RELATIVE TO SUCCESSION TO KARAKA TE AU (DECEASED) IN TE AKAU B 15 AND 16.

Presented to both Houses of the General Assembly in pursuance of Section 25 of the Native Land Amendment and Native Land Claims Adjustment Act, 1917.

Office of the Chief Judge, Native Land Court, Wellington, 26th August, 1920.

Re *Karaka te Au Succession.—Petition No. 375 of 1917.*

PURSUANT to section 25 of Act No. 25 of 1917, I herewith enclose report of the Native Land Court in the above matter.

In view of the terms of that report, which states that the evidence at the inquiry was not sufficiently strong to warrant a recommendation that the former order should be set aside, annulled, or varied, I have to recommend that no legislation is necessary.

R. N. JONES, Chief Judge.

The Hon. Native Minister, Wellington.

In the Native Land Court of New Zealand.—In the matter of section 25 of the Native Land Amendment and Native Land Claims Adjustment Act, 1917; and in the matter of the succession to Karaka te Au in Te Akau B 15 and 16.

The Native Land Court sitting at Auckland on the 2nd August, 1920, inquired into the merits of the petition of Mere Maiao relating to the appointment of successors to Karaka te Au (deceased), and I beg to report as follows:—

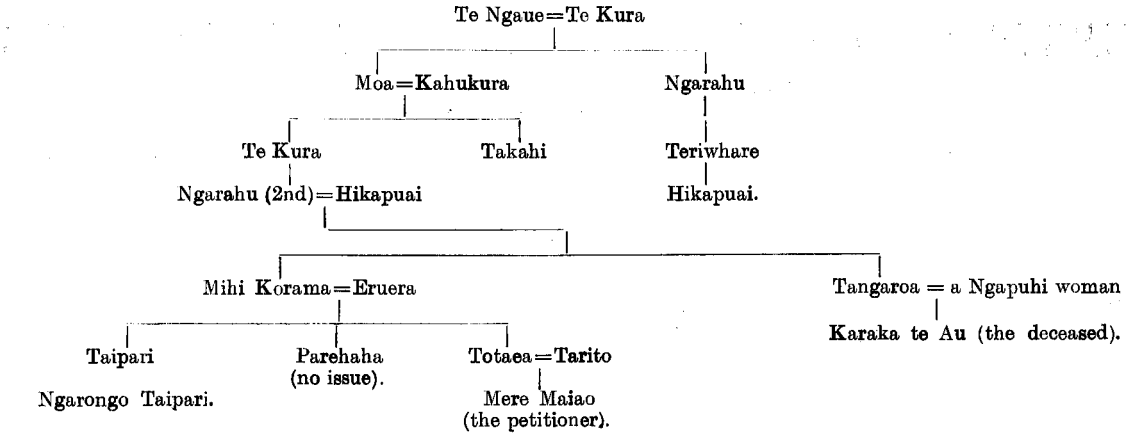
Karaka te Au, one of the owners of Te Akau B 15 and 16, died on the 13th April, 1908, and by a decision of the Native Land Court given in a contested case on the 4th August, 1910, certain successors were appointed. An appeal was lodged by Ngarongo Taipari, a cousin of Mere Maiao, but the appeal was dismissed by the Appellate Court on the 24th August, 1911. Application was made to the Chief Judge under section 50 of the Native Land Act, 1909, for a rehearing of the whole case, on the ground that the Appellate Court did not allow fresh evidence to be called although such could be adduced. Nothing, however, was done; and section 50 having been repealed, the parties who considered themselves aggrieved petitioned Parliament, with the result that legislation was passed empowering the Chief Judge to refer the whole matter to the Native Land Court for inquiry and report.

At the inquiry two witnesses were called, and they mainly corroborated the *whakapapa* given by Pomare Hetaraka in 1910. One of these witnesses is Hohua Haimona, the husband of petitioner, and consequently a very much interested person; and the other an old woman, who stated in cross-examination that she came only to support the claim of Ngarongo and Mere, and admitted that she knew little or nothing about the collateral relations of those named in her *whakapapa*. On the opposing side no evidence was called by Remana Nutana, who appeared on behalf of the successors now in the title.

The evidence given at this inquiry is not of so strong, disinterested, and convincing a nature as to warrant a recommendation that the former order of the Court should be set aside. The question is one of considering which of two conflicting *whakapapa* is correct or is the more probable, and the Appellate Court in its decision says: "In giving his decision in the Court below the Judge stated that the question is whether the *whakapapa* given by Pomare Hetaraka or that given by Wirihana te Aoterangi in 1894 is the correct one. The old *whakapapa* was given, apparently without contradiction, by a witness not concerned in the question of succession, who

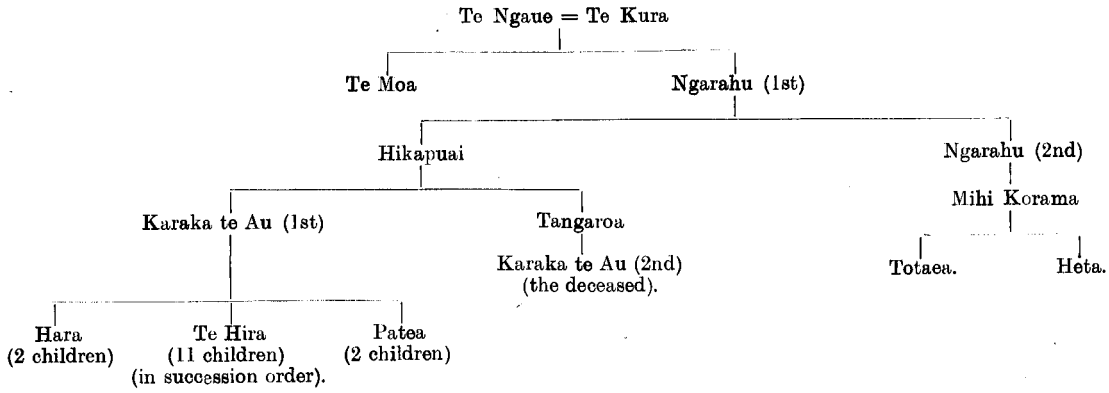
was an expert in *whakapapa*, and it was given on an important occasion in the presence of all the people interested in Te Akau. The Court therefore thinks that it must accept the *whakapapa*. After a perusal of the evidence, and the consideration of the points of similarity and the discrepancies in the various genealogies to which our attention has been directed, we have come to the conclusion that the *whakapapa* given by Wirihana—a disinterested person—before the matter now in dispute arose, and which were accepted by the Courts in 1908 and 1910, is the more probable of the two. We do not see any good reason for disturbing the decision of the lower Court, and the orders appealed from will therefore be affirmed."

It may be said that Wirihana te Aoterangi essayed to give the *whakapapa* of all the original grantees in Te Akau, and amongst others he gave that of the old Karaka te Au. The younger Karaka was then alive, and Remana Nutana (who is now opposing the petitioner) was acting for him in connection with his shares in the block. I attach the conflicting *whakapapa* as exhibits, and have no recommendation to make in the direction of annulment or variation of the existing orders.



This is the *whakapapa* given by Pomare Hetaraka, and supported by Mite Nini Kukutai and Hohua Haimona. The first-named denies, however, that Ngarongo is a child of Taipari. According to the other side Ngarahu (2nd) is the sister of Hikapuai.

Whakapapa as given by Wirihana te Aoterangi and Remana Nutana :—



This is the old *whakapapa* which shows that Ngarahu (2nd) was the sister, not the wife, of Hikapuai.

The Chief Judge, Native Land Court. M. GILFIDDER, Judge.

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