

1925.

NEW ZEALAND.

NATIVE LAND AMENDMENT AND NATIVE LAND CLAIMS ADJUSTMENT ACT, 1922.

REPORT AND RECOMMENDATION ON PETITION No. 336 OF 1922, OF KARAUARI TIWEKA ANARU,
RELATIVE TO SUCCESSION TO TAKIMOANA (DECEASED).

*Presented to Parliament in pursuance of Section 55 of the Native Land Amendment and Native Land
Claims Adjustment Act, 1922.*

Petition No. 336 of 1922.—Re Takimoana (deceased).

Native Department, Wellington, 14th July, 1925.

PURSUANT to section 55 of the Native Land Amendment and Native Land Claims Adjustment Act, 1922, I enclose herewith report of the Native Land Court herein, and your attention is directed to its recommendation.

It seems undoubted that the deceased died after the commencement of the Native Land Court Act, 1909, leaving children adopted by her according to Native custom. Section 161 of that Act expressly enacts that, save as in that section provided, no adoption in accordance with Native custom, whether made before or after the commencement of the Act, should be of any force or effect, whether in respect of intestate successors to Native land or otherwise. Exception was made in favour of adoptions already registered. That law works hardship in some cases, and undoubtedly does so in this instance. I am, however, unable to recommend its repeal, nor can I support its being waived in this particular case.

The Hon. the Native Minister, Wellington.

R. N. JONES, Chief Judge.

SIR,—

In re *Petition No. 336 of 1922, of Karauri Tiweka Anaru.*

Relative to your reference of above petition to the Court for inquiry and report, I have to state that the petitioner appeared before the Court at Te Kaha on the 25th March last, and proceeded to substantiate the claims and allegations set forth in his petition. Weihana Teramea and Ngamotu Tukaki also appeared, and represented the next-of-kin to the deceased Takimoana.

Paragraphs Nos. 2, 6, 7, 8, 9, 10, 11, 12, and 14 are substantiated by records of the Court.

In support of paragraph No. 5 of petition, a search of the Court records discloses the following facts: In Whangaparaoa No. 3 Block, investigated on the 19th September, 1911, the names of Paretio Pereto (f.), Karauri Tiweka (m., 10), and Te Miro Paratene (f., 2) appear, with Takimoana as trustee for the latter two. In Orete No. 2, investigated on the 12th September, 1910, the same three names appear (Paretio being shown as a minor), with Takimoana as trustee for all three. The name of Tiweka Anaru also appears in this block. In Orete No. 3, investigated on the 13th March, 1916, the names of Paretio Pereto (f.), Karauri Tiweka (m., 16), and Te Miro Paratene (f., 4) appear, with Takimoana as trustee for the latter two. Upon partition of this block the three above persons appear, with Takimoana in her own division, No. 3M. In Te Waiti, investigated on the 9th November, 1913, the names of Karauri Anaru and Te Miro Paratene appear in Takimoana's manuscript list, with Takimoana as trustee for Karauri and Paratene Hiia as trustee for Te Miro. In Matapapa No. 2, investigated on the 23rd September, 1912, the names of Tiweka Anaru, Paretio Pereto, Karauri Anaru, and Te Miro Paratene appear, with Takimoana as trustee for the latter two.

It has been asserted by the petitioner that he and his father, Tiweka Anaru, have no ancestral or occupatory rights to these blocks, and that they were included by Takimoana. This assertion has not been contradicted by the opponents to the petition. The assertion is further strengthened by the fact that none of petitioner's near relatives are included in the above blocks.

Attention is drawn to the important fact that Takimoana was appointed trustee for the minors except in one instance, where Paratene Hiia was appointed trustee for Te Miro Paratene.

With regard to paragraph No. 4 of the petition, petitioner called evidence to show that himself and the three persons named in paragraph No. 2, and another, Kahu Poai by name, were adopted children of the deceased Takimoana, and from this evidence it is clear that the four persons Tiweka Anaru, Paretio Pereto (Wi Tupaea), Karauri Anaru, and Te Miro Paratene were generally recognized as the adopted children of Takimoana. Evidence of the adoption of Kahu Poai and her recognition as an adopted child is not very strong. In particular I consider that it was recognized fully, and never until after deceased's death denied, that Tiweka Anaru was the adopted child of deceased; the same applies in a slightly lesser extent to Paretio Pereto, Karauri Anaru, and Te Miro

Paratene, and there is no doubt in my mind that but for the existence of section 161 of the Native Land Act, 1909, the Court would have awarded the whole of deceased's real and personal property to them. It is to be commented upon that the main witness called by the opponents of the petition was a young man in the early twenties—in fact, he is shown on some of the Court records as still being a minor—and his knowledge of the alleged adoption can only be in the nature of hearsay. Elderly and prominent persons gave evidence in favour of the petitioner, and their evidence must carry considerably more weight than that of the comparatively young people who gave evidence against the alleged adoption.

The allegation in paragraph No. 13 of the petition was not denied by the next-of-kin. There are many recognized adoptions existing in the Whanau-Apanui district, but not one single instance of registration of adoption could be given me.

To briefly sum up: I am of opinion that Takimoana adopted in accordance with Native custom four persons mentioned in the petition, and their adoption by her was recognized by every one in the district, and that as her adopted children the deceased anticipated they would share in her estate. That the next-of-kin also recognized the adopted children is borne out by the fact that upon succession they gave up certain of deceased's interests to them.

I have strongly to recommend that the petition should be entertained, and suitable relief be granted to the petitioner and his co-claimants, Tiweka Anaru, Paretio Pereto, and Te Miro Paratene.

For your information I enclose copies of minutes from various hearings, and a list showing the real estate of deceased, approximate value and distribution under succession order of the Court. I also enclose a copy of Judge Carr's report upon petition when it was previously referred to him.

Yours faithfully,

A. G. HOLLAND, Judge.

His Honour the Chief Judge, Native Land Court, Wellington.

SUCCESSION ORDERS MADE TO TAKIMOANA.

Successors.	Area.	Valuation.	Successors.	Area.	Valuation.
WHANGAPARAOA 2G AND 2H BLOCKS (5s. per acre).			MATAPAPA 2A 2A BLOCK (£5 per acre).		
	A. R. P.	£ s. d.		A. R. P.	£ s. d.
Tiweka Anaru (m.) ..	295 1 0	73 16 3	Popata Mio (m., $\frac{6}{12}$) ..	7 0 25	35 15 8
Paretio Wi Tupaea (f.) ..	295 1 0	73 16 3	Mihi Iwi (f., $\frac{6}{12}$) ..	7 0 25	35 15 8
Karauri Anaru (m.) ..	295 1 0	73 16 3	Pau Appleton (f., $\frac{6}{12}$) ..	7 0 25	35 15 8
Te Miro Paratene (f.) ..	295 1 0	73 16 3	Tauoha Mio (f., $\frac{6}{12}$) ..	7 0 25	35 15 8
WHANGAPARAOA 2M BLOCK (£4 per acre); PAPAHAOA BLOCK (£3 per acre); TE WAITI 2C BLOCK (£1 per acre); ORETE G BLOCK (£10 per acre).			Mihi Tarena (f., $\frac{23}{12}$) ..	24 1 10	121 11 2
	A. R. P.	£ s. d.	Huræ Tiopira (m., 12) ..	12 1 20	61 17 6
Popata Mio (m., $\frac{1}{12}$) ..	35 0 13	196 16 8	Tangira Pohoi (m., 6) ..	6 0 30	30 18 8
Mihi Iwi (f., $\frac{1}{12}$) ..	35 0 13	196 16 8	Mika Eruera (m., 2) ..	2 0 12	10 7 6
Pau Appleton (f., $\frac{1}{12}$) ..	35 0 13	196 16 8	Huræ Tiopira (m., 2) ..	2 0 12	10 7 6
Tauoha Karauna (f., $\frac{1}{12}$) ..	35 0 13	196 16 8	Matekoraha Eruera (m., 2) ..	2 0 12	10 7 6
Mihi Tarena (f., $\frac{1}{12}$) ..	140 1 13	787 6 8	Mihi Eruera (f., 2) ..	2 0 12	10 7 6
Huræ Tiopira (m., $\frac{1}{12}$) ..	70 0 7	393 13 4	Waka Katae (f., 5) ..	5 0 32	26 0 0
Tangira Pohoi (m., $\frac{1}{12}$) ..	35 0 13	196 16 8	POITO 8 BLOCK (£5 per acre).		
Mika Eruera (m., $\frac{1}{12}$) ..	8 3 0	49 4 2		A. R. P.	£ s. d.
Raki Eruera (m., $\frac{1}{12}$) ..	8 3 0	49 4 2	Whare Moana (m.) ..	1 0 0	5 0 0
Mihi Eruera (m., $\frac{1}{12}$) ..	8 3 0	49 4 2	Te Whare Karapaina (m.) ..	1 0 0	5 0 0
Matekoraha Eruera (m., $\frac{1}{12}$) ..	8 3 0	49 4 2	Atamira te Kani (f.) ..	1 0 0	5 0 0
ORETE 3M BLOCK (£5 per acre).			Waitangi Karapaina (m.) ..	1 0 0	5 0 0
	A. R. P.	£ s. d.	Pirihī Karapaina (m.) ..	1 0 0	5 0 0
Paretio Wi Tupaea (f., $\frac{3}{12}$) ..	30 0 0	150 0 0	Te Rua Karapaina (m., 15) ..	1 0 0	5 0 0
Popata Mio (m., $\frac{1}{12}$) ..	3 3 0	18 15 0	Hohepa te Kani (m.) ..	1 0 0	5 0 0
Mihi Iwi (f., $\frac{1}{12}$) ..	3 3 0	18 15 0	Mihi Haruru Tawhai (f.) ..	1 0 0	5 0 0
Pau Appleton (f., $\frac{1}{12}$) ..	3 3 0	18 15 0	WHANGAPARAOA 1B AND 3B BLOCKS (500 acres; £1 10s. per acre).		
Tauoha Mio (f., $\frac{1}{12}$) ..	3 3 0	18 15 0		A. R. P.	£ s. d.
IWIROA 3 AND 8 BLOCKS (£1 per acre); POHATUROA BLOCK (£6 per acre).			Wiremu te Whare ($\frac{1}{12}$) ..	27 3 4	41 13 4
	A. R. P.	£ s. d.	Ahiwaru Waenga ($\frac{1}{12}$) ..	27 3 4	41 13 4
Popata Mio (m.) ..	5 1 0	6 10 0	Hineipoua Waenga ($\frac{1}{12}$) ..	27 3 4	41 13 4
Mihi Iwi (f.) ..	5 1 0	6 10 0	Heni Kamaea ($\frac{1}{12}$) ..	27 3 4	41 13 4
Pau Appleton (f.) ..	5 1 0	6 10 0	Waikohu Waenga ($\frac{1}{12}$) ..	27 3 4	41 13 4
Tauoha Mio (f.) ..	5 1 0	6 10 0	A. B. Watene Waenga ($\frac{1}{12}$) ..	13 3 22	20 16 8
ORETE 2 BLOCK (£5 per acre).			Irihapeti Waenga ($\frac{1}{12}$) ..	13 3 22	20 16 8
	A. R. P.	£ s. d.	Paerau te Kani ($\frac{1}{12}$) ..	41 2 26	62 10 0
Popata Mio ($\frac{1}{12}$) ..	58 1 13	291 13 4	Te Atamira Ranapia ($\frac{1}{12}$) ..	13 3 22	20 16 8
Mihi Iwi ($\frac{1}{12}$) ..	58 1 13	291 13 4	Mihi Haruru ($\frac{1}{12}$) ..	13 3 22	20 16 8
Pau Appleton ($\frac{1}{12}$) ..	58 1 13	291 13 4	Hohepa te Kani ($\frac{1}{12}$) ..	13 3 22	20 16 8
Tauoha Mio ($\frac{1}{12}$) ..	58 1 14	291 13 4	Heni Kamaea te Kani ($\frac{1}{12}$) ..	41 2 26	62 10 0
Mihi Tarena ($\frac{1}{12}$) ..	200 1 14	1,001 13 4	Merika te Kani ($\frac{1}{12}$) ..	41 2 26	62 10 0
Huræ Tiopira ($\frac{1}{12}$) ..	116 2 26	583 6 8	Ngamotu Tukaki ($\frac{1}{12}$) ..	83 1 13	125 0 0
Tangira Pohoi ($\frac{1}{12}$) ..	58 1 14	291 13 4	Te Tane Tukaki ($\frac{1}{12}$) ..	83 1 13	125 0 0
Mika Eruera ($\frac{1}{12}$) ..	14 2 13	72 18 4	MATENGAREKA 3 BLOCK (£2 per acre); ORETE F BLOCK (£8 per acre); PUHUEROA BLOCK (£1 per acre).		
Raki Eruera ($\frac{1}{12}$) ..	14 2 13	72 18 4		A. R. P.	£ s. d.
Matekoraha Eruera ($\frac{1}{12}$) ..	14 2 13	72 18 4	Mihi Tarena (f.) ..	22 0 0	44 0 0
Mihi Eruera ($\frac{1}{12}$) ..	14 2 14	72 18 4	Tiweka Anaru ..	31 0 0	248 0 0
Ruakirikiri Hohepa ($\frac{1}{12}$) ..	11 0 0	55 0 0		84 0 0	84 0 0
Rawinia Ropiha ($\frac{1}{12}$) ..	11 0 0	55 0 0	Totals ..	3,097 3 9	7,999 5 0
Kanarahi Pururangi ($\frac{1}{12}$) ..	11 0 0	55 0 0			

[*Extract from Te Kaha Minute-book 5, Folio 265.*]

6th July, 1922.—H. CARR, Commissioner.

(On adjournment from Opotiki.)

WILL OF TAKIMOANA.

Paretio Wi Tupaea, applicant. *H. Poananga* for applicant. *Mr. Ford* opposing on behalf of next-of-kin.

WILLIAM SYMOND SAUNDERS (sworn): School-teacher, Raukokore, sixteen years. Know Europeans and Maoris well. Remember witnessing will of Takimoana. Mr. Allison was the other witness. He was a much older identity than I; lived near me. That is my signature on will produced. Wrote date "6/4/20" after my signature. Mr. Allison, a J.P. and Postmaster, told me that day that he had been sent for in connection with Takimoana's will. He also said that Takimoana had said that she wished me to accompany him to the house. It was the first I knew of the old lady's illness. But I first learned that Mr. Rutledge had been attending her for some time. About two hours later Mr. Allison called at my house, and we went together to Takimoana's house. The old lady was lying on a bed near the fire, and Paretio was doing the housework. Mr. Allison spoke to Takimoana in Maori. I do not understand Maori, and thought that he was passing a joke with her. She replied. Mr. Allison said in English, "She will soon be all right." Paretio then presented will. Mr. Allison looked at it, then passed it to me. I could not read it, as it was typed in Maori. Will produced appears to be the document. The old lady was again spoken to; she got up on her elbow, reached out her right hand, touched the pen while some one wrote her name. I think, but not certain, that it was Mr. Allison. Then Mr. Allison made a cross, wrote above it "her mark" and his own initials. As far as I can remember that was all. When we left the house Mr. Allison remarked that he thought the old lady would soon be well again. I saw her touch the pen. I signed my name in her presence. Mr. Allison signed his name in her presence also. I also signed in Mr. Allison's presence and he in mine. Should say Takimoana's mind was normal; would not have signed if her mind was otherwise. Never heard that the state of her mind was questioned until much later, from Natives. I had no reason to think otherwise than that she was sane and knew what she was doing. Prior to signing of will there was a conversation between Mr. Allison and testator.

Cross-examined by Mr. Ford.] I do not know what the conversation was. Formed my opinion as to testator's mind from her actions. The only other person in room was a child of eight years, also Paretio and the three of us. Do not know who sent for Mr. Allison; I thought it was to make out a will. Do not know who prepared will. Do not know whether it was explained to Takimoana. As far as I can remember it was Mr. Allison who signed Takimoana's will. Cannot swear to it. Cannot swear that Takimoana understood contents of will before she signed.

JOHN H. D. RUTLEDGE (sworn): Sheep-farmer, Orete, for thirteen years. Knew Takimoana; also European and Maori neighbours. I had been to see her during her illness. I remember giving Takimoana a will; saw her once or twice afterwards. Saw her mind was perfectly normal. I asked her where her pain was and she pointed to her side. I felt pulse. Said nothing further, as I did not wish to disturb her. Gave instructions to Paretio. She understood my question. Her reply was rational.

Cross-examined by Mr. Ford.] Taki appeared to be over seventy-five years. Hers was a bodily sickness. Tendered her about three weeks. Consider she died of heart trouble. Appeared perfectly normal up to last. Do not understand Maori well. Do not think she contracted influenza before she died.

Re-examined by Mr. Poananga.] My knowledge of Maori is sufficient to make myself understood in Maori.

PARETIO WI TUPAEA (sworn): I am a foster-child of Takimoana. Adopted since a child. Takimoana made the will in my favour because I was the only one who looked after her. I used to plough and cultivate for her because no one else would do it. Even when Tiweka's son returned from school he would do nothing even when Takimoana asked him to do it. He said he wouldn't stop. He went back to school. Takimoana said if he wouldn't stop she would not recognize him. Takimoana gave instructions to have will prepared. Takimoana told me to find a good person to draw up the will. I said I knew of no other persons besides lawyers who were capable of making wills. After that I took ill and went to Gisborne to attend Dr. Scott. Takimoana told her to go to Dr. Scott. Mr. Rutledge also advised me to go to Dr. Scott. While in Gisborne I went to Nolan and Skeet; they received instructions from me to prepare the will. When I got the will Nolan and Skeet gave me instructions as to signing will, and the necessary witnesses—J.P., schoolmaster, licensed interpreter, and minister. On my return I gave the will to Takimoana and told her that it was prepared in accordance with her instructions; that all her belongings and lands were left to me. The will produced is the will I refer to. Takimoana said that was what she desired. Takimoana kept the will. She can read a book. She read the will and said that it was what she wished. I was present when the will was signed. I understood what conversation took place between Allison and Takimoana. Mr. Allison asked Takimoana whether the will was hers, and if she understood the will. She told Mr. Allison that it was in consideration of what I had done in looking after her. Prior to that I got the will out of Takimoana's box. She told me to get the will. The box was alongside of her. Mrs. Brown was not in the room. No relative of Takimoana's was present for a month prior to the death. She died 15th April, 1920. I never at any time asked her to make a will. It was of her own volition.

Cross-examined by Mr. Ford.] I am a *tamaiti whangai*—not registered. Perhaps I would not be entitled to succeed except for the will. Deceased was a distant aunt of mine. Do not know deceased's

whakapapa. I am not the only adopted child. There were four of us; myself, Tiweka, Karauri Tiweka, and Te Miro Peretio. I was the only adopted child living with Takimoana at date of death. Te Miro was also there. Do not know how old Karauri was when he left. He was not twenty years old. He was staying with her for about twelve years, including schooling periods. Takimoana sent Karauri to school; she also paid his schooling. Te Miro is about ten years old. He wasn't a year old when Takimoana took him. Te Miro always stayed in Takimoana's house. We both supplied him with clothes. I was quite a baby when Takimoana took me. Takimoana left Te Miro out of will because I was looking after child. Te Miro is my nephew. Takimoana left Karauri out because he never remained with her. I did the cultivating because there were no others there to do it. Do not know why testator did not employ a ploughman. Sometimes a man helped me. I worked because of my filial duty towards her. I did not work for my living. I borrowed money to pay the man who helped me. Takimoana did not always have money. I got money from sale of corn. Takimoana paid her debts from rents and purchase-money—food, not ploughing. Takimoana was about sixty years. Do not know where she learned to read. She could read the Bible and books. Have seen her read testaments. She had a Bible—a Maori Bible. She could read and understand Maori. Allison spoke in Maori, to Takimoana. The will was not read over to her. Allison asked her if she knew the contents of the will. She said she did. I was overworked when I went to Gisborne. Mr. Rutledge sent me. On his advice I went, also Dr. Scott's when he was at Raukokore. Do not know what he prescribed. I instructed Nolan and Skeet to prepare a will as instructed by Takimoana. Nolan and Skeet only told me as to witnesses necessary. Takimoana was all alone one and a half weeks before she died. Mr. Rutledge attended her during her illness. She never expressed any fear that she was going to die.

To Court.] It was about two months before she died that I went to Gisborne. I stayed there about a week or week and half. I wrote the words "Taki Moana" to the will. I wrote it when we were all present.

Re-examined by Mr. Poananga.] Takimoana was there when I wrote her name. The J.P. told me to write it. Takimoana told me to sign.

J. H. D. RUTLEDGE (recalled by Mr. Poananga): I remember Paretio going to Gisborne. It was the result of an examination by Dr. Scott when at Raukokore. It was an ovarian trouble occasioned by overwork. I have seen her ploughing.

HENARE POANANGA (sworn): Solicitor. I obtained certain documents from daughter of Mr. Allison showing a similarity between signature on will and other documents signed by her father.

MR. FORD: Signature of Mr. Allison to will is admitted.

MR. POANANGA: My case is closed.

(Case adjourned until 2 p.m.)

[*Extract from Te Kaha Minute-book 5, Folio 274.*]

WILL OF TAKIMOANA.

WEIHANA DELAMERE (called by Mr. Ford—sworn): Farmer, of Whitianga. Was well acquainted with late Mr. Allison over twenty years. He had no knowledge of the Maori language. About 1912 a will case came before the Court at Raukokore. I opposed will. Allison was a witness. During my cross-examination of Allison I asked him if he had a knowledge of the Maori language. He replied, "Not a bloody word." Evidence on his oath. I have never known him to understand the Maori language. Do not consider, owing to his age, that he could have learnt from that time to the time he died. Allison was a storekeeper, retired. He used a "lingo" understandable by the young Maoris but not by the old Maoris.

Cross-examined by Mr. Poananga.] Most of his customers were Natives. Allison could use certain trade terms. Married a Maori woman who could not speak English. They could understand each other. Do not know whether that fact applied as between Takimoana and Allison. Will case was in connection with Eruera's wife's mother. Opotiki minute-books. Whitianga thirty miles from Raukokore.

To Court.] I am not a licensed interpreter. Mr. Allison could read and write English.

WILLIAM ALLISON (called by Mr. Ford—sworn): Farmer, Raukokore. Believe father an attesting witness. Father's knowledge of Maori was poor—almost nil. He could make himself understood in a sort of a way to my mother, my sister, and myself—in Maori—but not good enough for outsiders to understand. Had to use a bit of Maori and bit of English to the old Maoris. Do not think he could explain the contents of a will in Maori to a Maori. I knew Takimoana; lived very close to her. Do not know anything about her making a will.

Cross-examined by Mr. Poananga.] Father was a J.P. Mother a Maori. Knows no English. I am thirty-seven years of age. Father could say, "*Kui kaore akoe e mohio*"; failing that he used to say "*Taurekareka*." Do not think he would sign a will without appreciating its contents. He probably would sign if he thought it was necessary to sign.

Cross-examined by Mr. Ford.] Do not think father could pick up will [produced] and read it and understand its contents. If the will was in English he could not explain it to Takimoana in Maori. [Witness's evidence was given in English without the aid of an interpreter.]

HUINGA MATE (called by Mr. Ford—sworn): Takimoana could not read or write. I have known her for forty or fifty years. I have never seen her reading. We lived at the one home since we were children. I have never seen her read or write anything. There were no schools here. Testator never went to any school. Never had any instruction from any one in reading.

Cross-examined by Mr. Poananga.] I am a married woman. One of my husbands named Apiata. We all lived same pa. Not in same house. Takimoana also married and lived with her husband. I know Paratene, the husband of Takimoana. He was a religious man—could read Bible. If he had instructed her I would have seen him. I saw her occasionally.

Re-examined by Mr. Ford.] I am prepared to swear that Takimoana could not read.

MIHI TARENA (called by Mr. Ford—sworn): Live Raukokore. Wife of D. Sterling. Have known Takimoana since I was a child—about thirty or forty years. Have lived with Takimoana in her house periodically. I have never seen her read or write. She could not read a book. Do not know how old she was. Do not know anything about this will. Remember the time Takimoana died.

Cross-examined by Mr. Poananga.] Do not know whether Takimoana has any children. She had no children of her own. She never boasted of her ability to read. She did not know how to read or write in matters affecting land. Tiweka used to do the writing. She was ignorant. Paratene knew how to read and write. I cannot say if Paratene taught her. At church service she never read the prayer-book.

TIWEKA ANARU (called by Mr. Ford—sworn): Live Rotorua. Civil servant. Used to live Orete and Raukokore. Takimoana reared me. I was born 1874. She took me from birth. Lived with her up to 1906. I never saw her read a book. She did not know how to read or write. In 1883 I went to college. I returned to her on my vacation. In 1893 I came back and lived with her to 1906, and lived as an adopted child. There were four of us adopted. I was the first. When I returned from school, Paretio was then adopted. When my son Karauri was born he was taken by Takimoana; she gave him that name after her brother. When Karauri grew old enough she sent him to Te Aute, and kept him there. During Karauri's absence at school Te Miro was adopted. Paretio and Te Miro continued to live with testatrix up to time of death. At Orete we all lived together in one house. She could not read the Bible or any other book. Paratene used to read the prayers. I have known Mr. Allison for about thirty years. He was a great friend of mine. I know that he did not know the Maori language. He did not know enough to explain Takimoana's will. He could not read Maori.

Cross-examined by Mr. Poananga.] My wife does not speak English, and I have not troubled to teach her. Paratene died two years before Takimoana. There was a possibility of Paratene teaching his wife.

MR. FORD addressed the Court.

MR. POANANGA addressed the Court.

Decision reserved.

TAKIMOANA (DECEASED)—RESERVED DECISION.

(Delivered Te Kaha, 7th July, 1922.)

The testatrix made her last will, probate of which is not applied for, on the 6th April, 1920. The testatrix died on the 15th April, 1920, suffering from heart trouble.

The will is in Maori, and is attested by competent witnesses under section 134 of the Native Land Act. The testatum clause of the will does not contain the certificate required by subsection (2) of that section—*i.e.* "that one of the competent witnesses satisfied himself that the testatrix understood the effect of the will." This omission does not, under the saving clause of the section, invalidate the will, but the witnesses to the will have to satisfy the Court that they satisfied themselves that the testatrix understood the will.

Mr. W. S. Saunders, one of the witnesses, says in evidence that he had no knowledge of the Maori language. It is admitted that the testatrix could not speak English, and Mr. Saunders could not therefore, and did not, satisfy himself that the testatrix understood the effect of her will. He does not even know whether Takimoana was aware that the document she was signing was her will.

Mr. W. Allison, senior (the other witness), unfortunately died early in the year. Mr. Weihana Delamere and Mr. W. Allison, junior, son of the deceased witness, both testify that the late Mr. W. Allison's knowledge of the Maori language was nil, or at the most a jargon, sufficient only for store purposes trading with Maoris who had some knowledge of English.

The Court is satisfied that Mr. Allison could not have explained the terms of the will to Takimoana, and there is Paretio's evidence to show that the will was not even read over to the testatrix. The propounders therefore do not show that she, Takimoana, knew of her own knowledge, apart from any explanation by the witnesses, what were the contents of the will.

The will is said to have been prepared by Messieurs Nolan and Skeet, solicitors, of Gisborne, admittedly on the instructions of Paretio, the sole beneficiary and executrix named in the will. The will was brought to Takimoana by Paretio, and was kept in a box belonging to deceased, until it was produced by Paretio, on the day of signature.

The Court is satisfied on the evidence that Takimoana could not read or write Maori, and could not therefore have read the will before execution. Paretio says deceased was aware of the contents of the will, and that the will prepared was in accordance with instructions given by deceased to Paretio. Deceased was over seventy-five years of age, and made her will nine days before her death.

The Court is satisfied that the present is a case where, the beneficiary having procured the will to be written, there are suspicious circumstances which make it incumbent on the propounder of the will to remove that suspicion and show there was no undue influence. The Court is of opinion that the propounder of the will has failed to remove that suspicion.

The Court further considers there is no evidence to show that the deceased understood the effect of her will, and no evidence to show that at the time the will was made the deceased was possessed of a sufficient memory to pay due regard to the claims of her various relatives and other foster-children on her bounty. The burden of proof here also rests on the propounder of the will, and that burden has not been discharged.

For these reasons the Court refuses to grant probate of the will, and application is therefore dismissed.

Mr. H. Poananga for applicant. *Mr. A. V. P. Ford* for next-of-kin.

[*Extract from Te Kaha Minute-book 5, Folio 301.*]

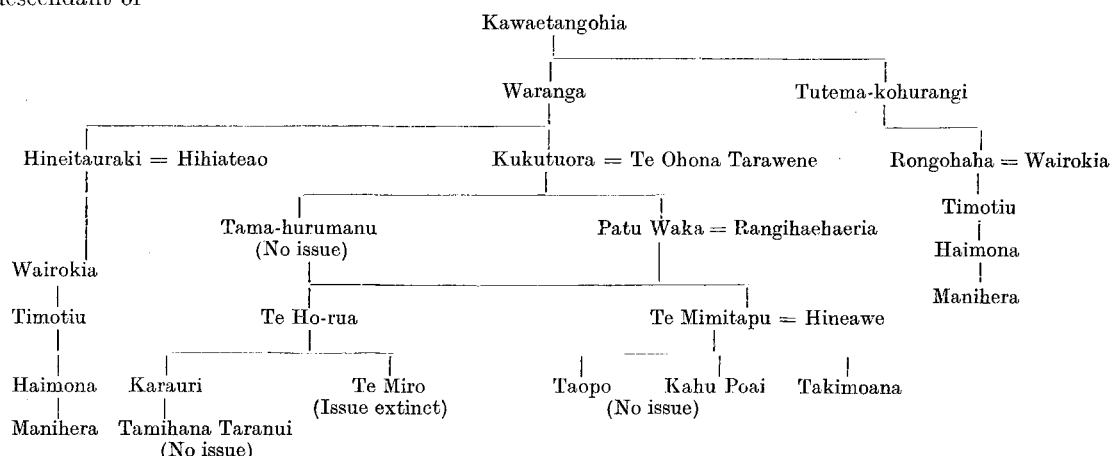
WAIKURA II AND OTHERS.—TAKIMOANA (DECEASED).

Manihera Waiteti and others.

Manihera Waiteti sworn.

(Court decided to take applications in Whangaparaoa 1, 2, 3, and Waikura first.)

MANIHERA: I will trace *whakapapa*. Deceased's right through Te Waranga, who was a descendant of—



Hihiateao died at sea, and Wairokia was adopted by Patu Waka, his cousin. Mimitapu lived at Whangaparaoa. When she died the three children were adopted by my grandparent, Timotiu. Taopo and Kahu Poai, issue both extinct. When Takimoana was young woman my father gave her to a Te Kaha man in marriage. I claim interest by virtue of adoption of Mimitapu by Patu Waka.

(Case adjourned for discussion.)

[*Extract from Te Kaha Minute-book 5, Folio 304.*]

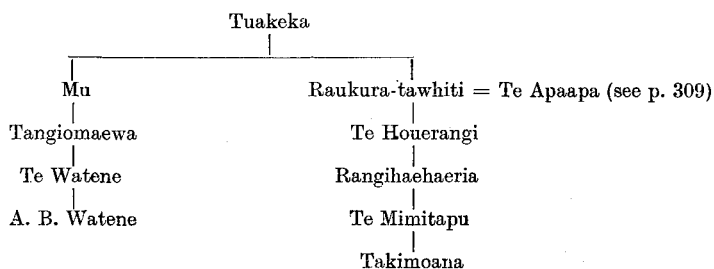
TAKIMOANA (DECEASED)—*continued*.

NGAMOTU TUKAKI: We have agreed to consolidate parties. I represent Mihi Tarena, myself, and others. Have discussed position with Weihana Delamere, and desire a further adjournment.

[*Extract from Te Kaha Minute-book 5, Folio 305.*]

WHANGAPARAOA 1, 2, 3; WAIKURA.—TAKIMOANA (DECEASED).

A. B. WATENE (sworn): I claim an interest. My *whakapapa*, in all blocks:—



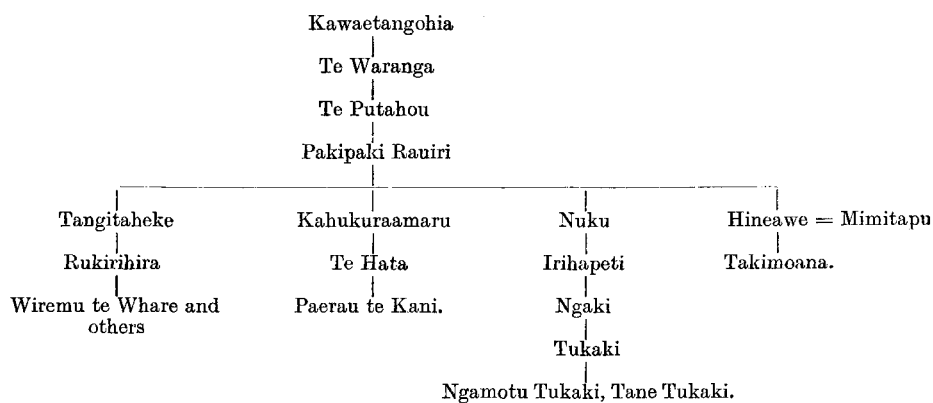
I claim succession in all blocks in addition to Whangaparaoa and Waikura.

(Case adjourned.)

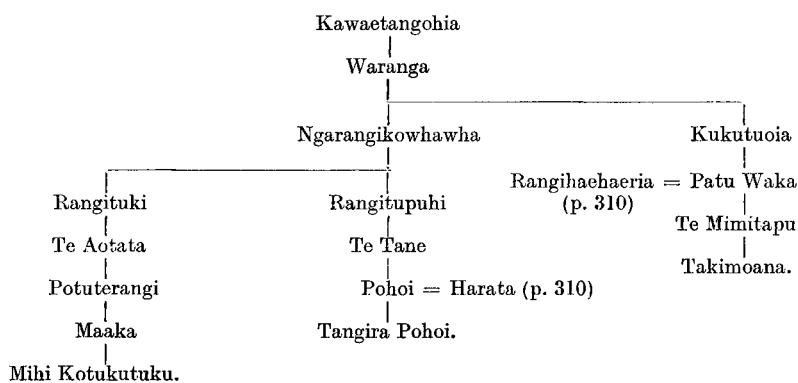
[Extract from *Te Kaha Minute-book 5, Folio 308.*]

TAKIMOANA (DECEASED), SUCCESSION TO—*continued.*

NGAMOTU TUKAKI (sworn): My case is—



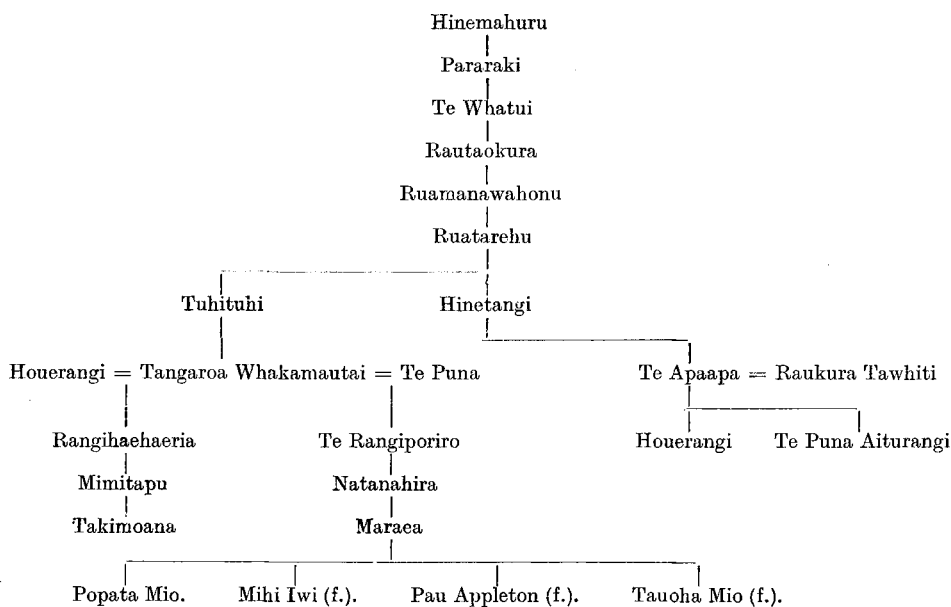
WHAKATANE TARENA (sworn—called by Ngamotu): I also claim an interest.



[Page 309.]

WEIHANA DELAMERE: I call—

POPATA MIO (sworn): I claim interests from Ruatarehu. *Whakapapa* :—



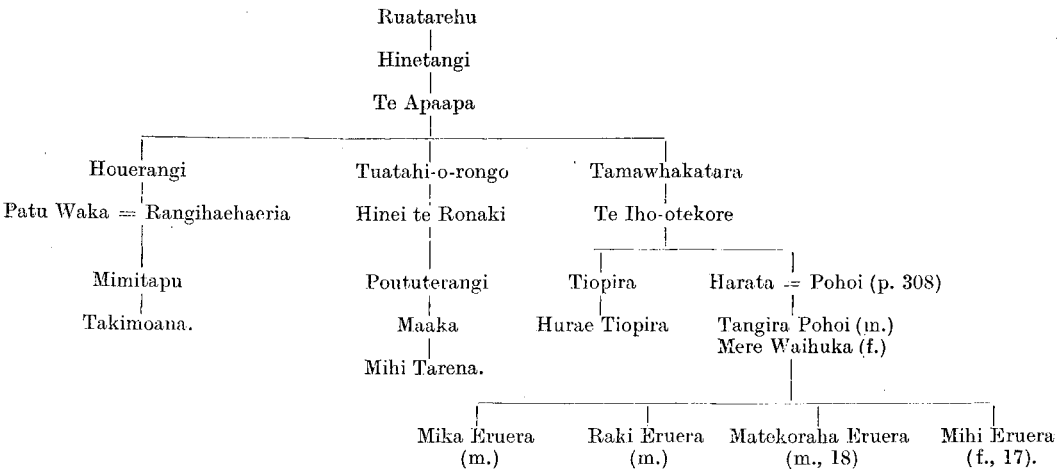
A. B. WATENE (sworn—called upon by Court, as he appeared to be the only claimant who differed from and who opposed all others): I claim all shares and object to opponents' ancestral claims.

Examined by Weihana Delamere.] I admit the correctness of your *whakapapa* as given by Popata.

Examined by Manihera.] I do not desire to connect my descent from Waranga.

The Court considered that the claims to succeed must show connection with the ancestors under which block was awarded, and as A. B. has failed to do so his claims are not entertained and his objections overruled.

WHAKATANE TARENA : I also claim the interests derived through Ruatarehu.



NGAMOTU TUKAKI (as representative of Wai-ranga) : We have met and have decided to recognize the claims of the Whangai, and we give up all our shares to them.

MANIHERA WAITETI (as representative and claimant under Tutemakohurangi) : I also desire to give up my right to the adopted children.

THE COURT stated that as these statements cleared up all disputes in Whangaparaoa 2H and 2G, where the shares were derived through Tutemakohurangi and Wai-ranga, orders (two) will be made in favour of Tiweka Anaru (m., a.), $\frac{1}{4}$; Paretio Wi Tupaea (f., a.), $\frac{1}{4}$; Karauri Anaru (m., a.), $\frac{1}{4}$; Te Miro Paratene (f., 13), $\frac{1}{4}$. Paretio to be trustee.

Case as to Whangaparaoa 2M held over (see p. 313).

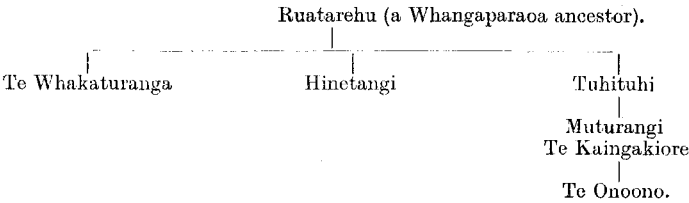
[Extract from Te Kaha Minute-book 5, Folio 313.]

WHANGAPARAOA 2M.—TAKIMOANA.

WEIHANA DELAMERE : Do not propose to call further evidence. Te Apaapa had three wives—Raukura, Kakahukino, and another. Houerangi and Puna full sisters. Latter entitled, therefore, to former's shares. Also claims $\frac{2}{3}$ shares through Tuhituhi.

POPATA MIO (cross-examined by Whakatane Tarena). I was not included in No. 2M under Ruatarehu. Do not know why Takimoana did not include me under Apaapa Raukura, first wife of Apaapa. Do not know that Kohiko was first wife. It may be so. Do not know which of Apaapa's children were included in this block.

MANIHERA WAITITI (called by Whakatane Tarena—sworn) : I know the *whakapapa* of Te Apaapa as given by you. I admit correctness.



If Popata's *whakapapa* or names are in Hohepa Karapaina's list it is correct. If not shown, then *whakapapa* is wrong. Do not know who was Apaapa's first wife.

WHAKATANE TARENA : We claim under our *whakapapa*. Never heard of Puna Aiturangi.

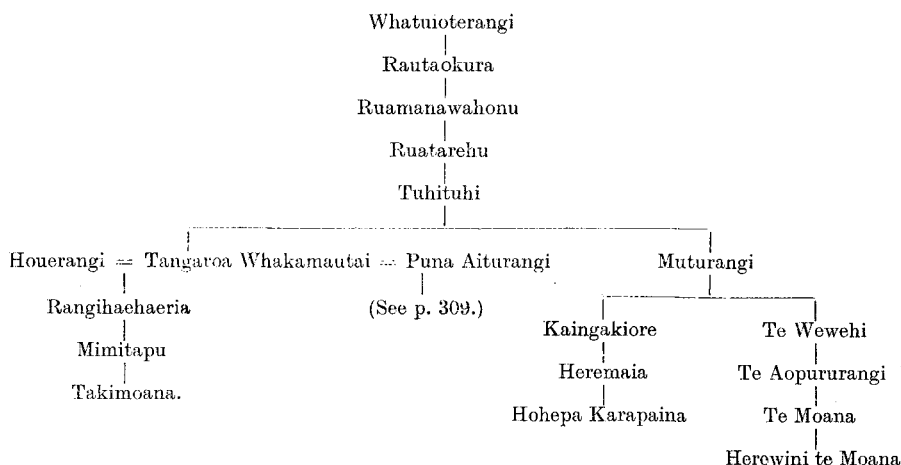
COURT'S DECISION.—The contending claims are those of Popata Mio and Whakatane Tarena, both claiming as next-of-kin under Ruatarehu. The *whakapapas* on each side have not been shown to be wrong, and are therefore accepted as correct. Te Apaapa had four children, and the Court considers those entitled to succeed are the next-of-kin as disclosed, and awards the interest of deceased to descendants of Puna Aiturangi ($\frac{1}{3}$), Tuatahi-o-rongo ($\frac{1}{3}$), Tamawhakatara, ($\frac{1}{3}$).

[Extract from *Te Kaha Minute-book 5, Folio 319.*]

TAKIMOANA (DECEASED).—ORETE 2; ORETE F; ORETE G; ORETE 3M.

Mika Eruera and others applying.

WEIHANA DELAMERE: Our case follows Whangaparaoa 2M.



WHAKATANE TARENA: Our claim is Te Apaapa. Our *whakapapa* is same as given in Whangaparaoa 2M.

THE COURT stated that as far as Orete 3M was concerned the same right existed as in Whangaparaoa 2M, the shares in this block coming through Rangihachaeria and Te Apaapa (see N/Lists on Orete 3 file). Similar order will therefore be made as in Whangaparaoa 2M (pp. 313-14). (See amendment, p. 339.)

Case adjourned; parties consulting as regards Orete 2, F, G.

[Extract from *Te Kaha Minute-book 5, Folio 320.*]

TAKIMOANA.—MATAPAPA 2A 2A; ORETE 2; ORETE G.

WEIHANA DELAMERE: We have discussed takes in these blocks and we agree that award should follow Orete 3M and Whangaparaoa 2M, as the ancestral rights are similar.

WHAKATANE TARENA: Weihana's statement is correct.

MANIHERA WAITETI: I am not concerned.

Three orders as in Orete 3M.

[Page 321.]

ORETE F.—TAKIMOANA.

WEIHANA DELAMERE: I admit Manihera's claim in this block, and withdraw from case on condition that Tiweka Anaru is recognized by Manihera.

WHAKATANE TARENA: I do not object.

MANIHERA WAITETI: We have discussed matter, and whatever claims I have I desire they should go to one of the *tamaiti whangai*—Tiweka Anaru—and ask for an order in his favour.

A. B. WATENE: I also agree, and approve of Manihera's request.

Order to Tiweka Anaru (m.a.).

[Extract from *Te Kaha Minute-book 5, Folio 325.*]

TAKIMOANA.—MATANGAREKA 3; POHUERORO 1; IWIROA 3; IWIROA 8; POHATUROA.

WHAKATANE TARENA (sworn): We have arranged succession in these blocks. Matangareka 3 to go to Mihi Tarena (f., a.) solely; Iwiroa 3, Iwiroa 8, and Pohaturoa to go to Popata Mio (m., a.), Mihi Iwi (f., a.), Pau Appleton (f., a.), and Tauoha Mio (f., a.); Pohueroro 1 to go to Tiweka Anaru (m., a.).

WEIHANA DELAMERE: I confirm arrangement, and ask for orders in accordance therewith.

Five orders accordingly.

[Extract from *Te Kaha Minute-book 5, Folio 339.*]

ORETE 3M.—TAKIMOANA.

WHAKATANE TARENA: We desire to give up our shares in this block to one of the *tamaiti whangai*—i.e., Paretio Wi Tupaea (f.).

Order amended accordingly—as to $\frac{2}{3}$ share only; balance of interest, $\frac{1}{3}$ share, to Popata Mio and three others.

[*Extract from Te Kaha Minute-book 5, Folio 340.*]

TAKIMOANA.—WHANGAPARAOA No. 1B; WHANGAPARAOA No. 3B.

NGAMOTU TUKAKI: We claim these shares under Waranga. N/Lists show interests in 1B through that ancestor. In No. 3B Block 200 shares came through Waranga and 20 through Te Ruatarehu.

WEIHANA DELAMERE: As the shares under Ruatarehu are so small we will give them up on that account only.

THE COURT: It is clear from *whakapapa* (p. 308) that the descendants of Pakipaki are the nearest of kin under Waranga. Award is therefore in their favour.

NGAMOTU: Our side will discuss names and descendants of those not completely shown on *whakapapa*.

WHAKATANE TARENA: We also forgo our claim under Ruatarehu, as a distribution would not be worth while.

(To stand down. To p. 375.)

[*Extract from Te Kaha Minute-book 5, Folio 341.*]

TAKIMOANA.—ORETE 2.

WHAKATANE TARENA: In this block Mihi Tarena wishes to give 11 shares each to—Ruakirikiri Karapaina (m., a.) 11 shares, Rawinia Ropiha (f., a.) 11 shares, Kanarahi Pururangi (f., a.) 11 shares, out of her own $\frac{1}{3}$ interest.

Amendment ordered as desired.

[*Extract from Te Kaha Minute-book 5, Folio 358.*]

TAKIMOANA.—POITO 8.

TE RUAKIRIKIRI KARAPAINA (sworn): Deceased's interest in this block came from my father Hohepa Karapaina. Takimoana had no rights under Kaingakiore, the ancestor under which this block was awarded. Hohepa put her in his list. Ask for interest to revert to those who provided shares—namely: Whare Moana (m., a.), $\frac{1}{8}$; Te Whare Karapaina (m., a.), $\frac{1}{8}$; Atamira te Kani (f., a.), $\frac{1}{8}$; Waitangi Karapaina (m., a.), $\frac{1}{8}$; Pirihi Karapaina 11 (m., a.), $\frac{1}{8}$; Te Rua Karapaina (m., 15), $\frac{1}{8}$; Hohepa te Kani (m., a.), $\frac{1}{8}$; Mihi Haruru Tawhai (f., a.), $\frac{1}{8}$.

WEIHANA DELAMERE (for Mio's): I agree and approve.

POITO 8 (p. 359).

MIHI TARENA: I admit claim.

NGAMOTU TUKAKI: I also approve.

Order to Whare Moana and seven others.

[*Extract from Te Kaha Minute-book 5, Folio 359.*]

MATAPAPA 2A 2A.—TAKIMOANA.

WHAKATANE TARENA: We desire to give 5 shares to Waka Katae from our $\frac{2}{3}$ of interest. We consider that she should have been considered by Popata Mio, but we will give her an interest.

Order amended accordingly: now in favour of—Popata Mio (m.), $6\frac{5}{8}$; Mihi Iwi (f.), $6\frac{5}{8}$; Pau Appleton (f.), $6\frac{5}{8}$; Tauoha Mio (f.), $6\frac{5}{8}$; Mihi Tarena (f.), $23\frac{3}{8}$; Hurae Tiopira (m.), 12; Tangira Pohoi (m.), 6; Mika Eruera (m.), 2; Raki Eruera (m.), 2; Matekoraha Eruera (m., 18), 2; Mihi Eruera (f., 17), 2; Waka Katae (f.), 5: 82 shares.

[*Extract from Te Kaha Minute-book 5, Folio 369.*]

TAKIMOANA.—PAPAHAOA; WAITI 2C.

WHAKATANE TARENA (sworn): Deceased's rights in Papahaoa are through Rangihachaeria (M.B. 1/336). Rights in Waiti 2C: Tamahae = Ruatarehu.

Same orders as in Whangaparaoa 2M.

[*Extract from Te Kaha Minute-book 5, Folio 375.*]

TAKIMOANA.—WHANGAPARAOA 1B; WHANGAPARAOA 3B.

NGAMOTU TUKAKI: The children of Rukirihira are—(1) Wiremu te Whare (m.), $\frac{1}{18}$; (2) Ahiwaru Waenga (m.), $\frac{1}{18}$; (3) Hincipoua Waenga (f.), $\frac{1}{18}$; (4) Heni Kamaea Waenga (f.), $\frac{1}{18}$; (5) Waikohu Waenga (m.), $\frac{1}{18}$; (6) Maihirau Waenga (dead. Issue: Heni Kamaea Waenga (trustee for A. B. Watene Waenga, (m., 11), $\frac{1}{36}$; Hineipoua Waenga (trustee for Irihapeti Waenga), (f., 10), $\frac{1}{36}$).

The children of Te Hata are—(1) Paerau te Kani (m.), $\frac{1}{12}$; (2) Parekura te Kani (dead. Issue: Te Atamira Ranapia (f.), $\frac{1}{36}$; Mihi Haruru (f.), $\frac{1}{36}$; Hohepa te Kani (m.), $\frac{1}{36}$; (3) Heni Kamaea te Kani (f.), $\frac{1}{36}$; (4) Merika te Kani (f.), $\frac{1}{36}$).

The children of Tukaki are—(1) Ngamotu Tukaki (m., a.), $\frac{1}{6}$; (2) Te Tane Tukaki (m., a.), $\frac{1}{6}$. Ask for orders in favour of above-named.

Two orders accordingly. Trustees as per margin.

[Extract from *Te Kaha Minute-book 6, Folio 23.*]

Rotorua, 3rd August, 1922.—H. CARR, Commissioner.

(On adjournment from *Te Kaha.*)

TAKIMOANA (DECEASED), WILL OF.

Application by Paretio Wi Tupaea for rehearing of application for probate of will (which was dismissed by the Court at *Te Kaha*) on the grounds that fresh evidence had since been discovered bearing on the points which decided the Court in reaching its decision.

Rehearing granted, subject to a deposit of £5 being paid to Registrar on or before the 31st August, 1922. All succession orders and grant of letters of administration of the personal estate to remain in abeyance meanwhile.

(See letter from Messrs. Nolan and Skeet, 10/10/22, withdrawing application for rehearing.)

[Extract from *Te Kaha Minute-book 6, Folio 121.*]

Wednesday, 25th March, 1925.—A. G. HOLLAND, Judge.

In re TAKIMOANA (DECEASED).

Matter referred to Court by Chief Judge for inquiry.

Petition by Karauri Tiweka Anaru read out for general information.

KARAURI ANARU: I propose to call evidence in support of my petition, and also show the distant relationship of next-of-kin of deceased. I appear for the four adopted children of the deceased. There was another adopted child who was left out—the fifth adopted child, Kahu Poai; I wish therefore to state that I propose to include Kahu Poai as one of the adopted children. I propose to call evidence to prove our contention as to our adoption. I propose to call—

KOPU ERUETI (sworn): Live at (Omaio) Maraenui. I know Tiweka, Paretio, yourself, Te Miro. I don't know Kahu Poai. I knew Tiweka as the adopted child of Takimoana. I know that from a child Tiweka lived with deceased—up to his marriage he lived with her at Raukokore. He was residing with her when he married. He continued, with his wife, to live with the deceased even till his children were born. He left to enter the Civil Service. All the people of this district know these facts: they are well known, and no one can dispute them. I can't say how many of his (Tiweka's) children were born at Raukokore. I knew Paretio Wi Tupaea. I know also that she lived with deceased. I frequently was at deceased's house and saw her there. Don't know if she went to deceased as a baby. I know that Karauri Tiweka lived with Takimoana from infancy. From the fact that he lived with Takimoana it was understood that he was an adopted child. I know Te Miro Paratene, but can give no information as to her adoption by deceased. I know little of Kahu Poai, and do not know her as an adopted child of deceased. Every one knew Tiweka as the adopted child of deceased. I have no adopted child. Had a stranger come they would certainly have thought that Tiweka was the full son of deceased—he worked for her as a son for his mother. Deceased certainly acted as a mother to Paretio and to yourself.

Examined by Weihana.] Don't remember Takimoana's husband when she adopted Tiweka, but I think it was Karauri. Don't know relationship of Tiweka to Karauri—husband deceased. I know that he was looked upon as the adopted son of Taki, and this I never heard questioned. Never heard of Tiweka as the adopted child of Karauri, but always as the adopted child of Taki. Paratene was the second husband of Taki. Don't know when Paretio first went to live with Taki. Don't know that Paratene was a relation of Paretio's parents. I heard Taki say that Paretio and Tiweka were *tamaiti nana*. Can't say that Te Miro a relative of Taki.

To Court.] Tiweka's parents lived at *Te Kaha* when Taki had him at Raukokore as a baby.

HAKI ROIHANA (sworn): I live at *Te Kaha*. I know Tiweka Anaru—knew him from his birth. Every one in this district knew Tiweka as the adopted child of Taki. He was born at *Te Kaha*. Before he was actually born Taki gave him the name of Tiweka. When Tiweka was born he lived with Taki and her first husband, Hopa Tiweka. He lived with them till he grew up. He married his wife while with Taki. Their children were born there, and the name of Taki's brother Karauri was given to the present Karauri. When Hopa died, Taki married Paratene Hiia. Tiweka still continued to live with them right up to time he joined the Civil Service. I knew Paretio Wi Tupaea. I have heard that she was the adopted child of Taki. Don't know why she was called the adopted child of Taki. Don't know Te Miro. I know Karauri Tiweka. I know him as the adopted child of Taki. Tiweka and you lived with Taki. I know Kahu Poai, the *tungane* of Taki, but I know of no other. The three that I know of as Taki's children are yourself, Tiweka, and Paretio. I have an adopted child. When Taki's second husband died she came to live with Hariata, mother of Tiweka. I have not registered my *tamaiti whangai*. I don't know of any adopted children registered in this district. I heard that Tiweka and others had cultivated the lands of Taki. Don't know that Tiweka is related to Hopa Tiweka.

HOANI TIKI (sworn): I live at Raukokore. I am one of the *kaumatua* of that place. I know Tiweka Anaru—know him as the adopted son of Taki. He lived with Taki. Don't know where Tiweka was born. He came to Taki as a baby. She adopted and looked after him till he grew up and married. It was after his marriage that he left Taki. I know of other adopted children of Taki—Paretio Wi Tupaea, Kahu Poai, and Te Miro Paratene, and Karauri Tiweka. I have heard her say that all these people were her adopted children. I saw Karauri, Paretio, Tiweka, Kahu Poai, and

Te Miro working Taki's lands. I have no children, but I have a *mokopuna whangai*. Not registered. Never heard of any registered adopted child. I wish my lands to go to my *mokopuna whangai*. Taki must have looked upon these children as hers, for she adopted them.

Examined by Weihana.] Tiweka was called after Hopa Tiweka, and was taken as his and Taki's adopted child. When Paratene married Taki they took Paretio as their adopted child. It was Paratene who brought Paretio. Don't know that Paratene related to Paretio.

HIRINI PUHA (sworn): Live at Raukokore. Am one of the *kaumatuas* of that place. Know Tiweka Anaru. I know him as the adopted son of Taki. I think Tiweka was born at Te Kaha. First I saw of Tiweka was at Whangaparaoa. He was then able to walk about. Tiweka lived with Taki up to the time he left to take up other work. He worked with Taki. I know Paretio, Karauri, Te Miro, and Kahu Poai. All these persons were adopted children of Taki. Saw them living with her. Saw them working the old lady's lands—all except Te Miro, who was very young. Taki supported them all. Up to time of Taki's death Paretio and Kahu took care of her. I have no adopted child. Know of adopted children, but never heard of them being registered. Tiweka was Taki's first husband. Second husband was Paratene. Paretio was their adopted child. Karauri was another. His name was given him by Taki, because of her own brother Karauri. Karauri was a brother of Taki; this was the reason for the name. Te Miro was a name from the *whanau* of Taki.

Examined by Weihana.] Don't know Tiweka lived with wife of Te Kohitu. I have heard that the name Tiweka given because of Taki's husband. Never heard directly that Tiweka was Taki's adopted son, but it was well known. Paretio was somewhat grown up when she became Taki's adopted child—say, about eight years of age. Can't say who brought her to be the adopted child. I saw both Tiweka and Paretio living with deceased. My child Kahu has a claim under the petition.

HUINGA MATE (sworn): I live at Orete, Raukokore. I am one of the old women of the place. I knew Taki, also Tiweka. Don't know relationship between them. Taki took Tiweka because of her husband. Her husband took Tiweka. Know Tiweka's parents. Tiweka was able to run about when he was taken. Taki was at Whangaparaoa when Tiweka taken. Tiweka some time with his adopted parents at Whangaparaoa when I saw him. As Tiweka lived with Tiweka I and Taki, you must have lived with them, too. I know Te Miro and Kahu Poai. I heard Paretio adopted child of Taki. She was a baby when she went to her. Karauri lived with Taki because his parents lived with her. I heard Te Miro Paratene was an adopted child of Taki. Kahu Poai lived intermittently with Taki. I heard her spoken of as an adopted child. Te Miro alone was taken by Taki. I saw Taki supporting these children, and later children supporting Taki. I have no *tamaiti whangai*. I heard of one registered adopted child, but the adoption was set aside.

Examined by Weihana.] Don't know of any relationship between Tiweka I and Tiweka II. It was Tiweka I who took Tiweka II as the adopted child of himself and his wife. It was when Paratene married Taki that Paratene brought Paretio as the adopted child of himself and his wife Taki. Never heard Taki and her husbands say they were taking these children as adopted children. Taki drew large rents from lands, of which she owned a lot. Taki could have done without the support of her adopted children.

To Court.] Children were called the *tamariki whangai* of Taki. Tiweka lived with Taki, but left occasionally; the others also; but Paretio lived with Taki always.

HARIATA ANARU, a very old woman (sworn): Live at Te Kaha. I am mother of Tiweka Anaru. Knew Takimoana. I did not send Tiweka my son to Taki. It was Tiweka Hopa and Taki who came and begged Tiweka of me. They took him away before he could walk. They took him as an adopted child (*tamaiti whangai*). Tiweka taken to Whangaparaoa. I have seen him working Taki's lands. I know Paretio. I know her as the adopted child of Taki. Te Miro also I know as an adopted child. Karauri also. Have heard Kahu Poai an adopted child of Taki. Tiweka derived his name from Taki's husband. Paretio derived her name from Taki's side. Karauri derived his name from her husband's side. Te Miro derived her name from Taki; Kahu Poai also, perhaps. Taki has told me these were her adopted children. I know that Taki supported these children as her own. I saw Takimoana at work, and the children were with her. I have an adopted child, but not registered. I have heard of one registered adopted child.

Examined by Weihana.] Tiweka lived for some time with a European named Brown. They went to Napier, and Brown sent him to school at Te Aute. After his schooling he lived with Brown for a short time. It was Brown who adopted him and sent him to school. It was Taki herself who went and got Paretio.

KARAURI ANARU: I have no further witnesses to call.

WEIHANA TERAMEA: I will call—

WHAKATANE TARENA, a comparatively young man (sworn): I live at Raukokore. I know Takimoana, the deceased. I am one of her descendants. I know Tiweka Anaru, Paretio Wi Tupaea, Karauri Anaru, Te Miro Paratene, and Kahu Poai. I deny that these persons are adopted children of Taki. I have never seen Tiweka Anaru working Taki's land, because I was a child at that time. Why Tiweka was called the adopted child of Taki was because of her husband, Tiweka. Tiweka I married my *tipuna* Taki. At that time Hariata was pregnant, and Tiweka gave his name to prospective child. It was thus understood that Tiweka I would adopt Tiweka II. Why Tiweka and Taki lived at Te Kaha—Taki committed adultery with a man called Tamati. They ran away to Te Awanui. Tiweka I and Tiweka II continued to live here. As a settlement between Tiweka I and Taki, Taki was brought back to him by the tribe. They again lived together. They then went to live at Whangaparaoa to be away from further temptation. Ti, sister of Manihera Waititi, and her husband, Cartwright Brown, saw that Tiweka II was growing up, and they took him to their station at Waikura. Tiweka lived with Brown, and was sent by him to school at Te Aute. He stayed at

Te Aute and was educated there. He returned and acted as manager of Waikura Station. He stayed there till he married, and then left. He then returned to Orete to live. I did not see him living at Orete with Taki: I was too small. I saw Karauri living with Taki. It was because of her deceased husband that Taki took Karauri. Tiweka was the one who was taken as a *tamaiti whangai ma raua*. He was taken because of Tiweka I's *aroha* to him. Don't know when Paretio went to live with Taki. I was a child at the time. Paretene Hiia was, I have heard, the second husband of Taki. He was related to Paretio, but I cannot give *whakapapa*. Tamatawhai was the common *tipuna*. No relationship between Paretio and Taki. Te Miro Paratene was a relation to Taki through Te Apaapa. I saw her living with Taki. It is true that she was taken by Taki under her relationship as a *mokopuna*. I know Kahu Poai; also lived at Raukokore. He never lived permanently with Taki, but used to go backwards and forwards—three miles separated his home from that of Taki. He would return to his parents, who lived there. I also lived about three miles from Taki's house. I frequently saw Takimoana. Never heard her say that any of the five persons was her adopted child.

Examined by Karauri.] I heard what I have said from my *pakeke*. I am twenty-four years of age. I can only repeat that it was Tiweka I who took Tiweka II, not Taki. I can't say how long after Tiweka II was taken that Tiweka I died. I was not born then. I know of land in which Taki has included certain of alleged adopted children: that was done out of *aroha*. It is true that these interests came from Taki, but, as I say, it was out of *aroha*. I cannot deny that I may have said I would give up a share to "one of the *tamaiti whangai*." I was at Raukokore when Taki died. I never assisted the old lady because I knew she was drawing large rents. I know nothing of her debts. I did not see deceased while she was ill. It is customary to see a person when ill. I went to the *tangi*; also did Popata. Popata and I were only relatives there.

To Court.] I did not assist in having the will set aside. I was at Tuparoa when will dealt with. My mother, however, was present.

WEIHANA: If Ngamotu does not propose to give evidence I will call him.

NGAMOTU TUKAKI: I propose to give evidence.

WEIHANA TERAMEA (sworn): When Paretio applied first for grant of probate of Taki's will Court sat at Opotiki. Ngamotu, Manihera Waititi, Popata Mio, and Mrs. Appleton were present of deceased's relatives. There were others also, but of a more remote relationship. Tiweka came from Rotorua. He came about deceased's personalty. The relatives, myself, and Tiweka had a meeting, and it was there arranged that I should act in opposing the will. Case did not proceed at Opotiki sitting. Case called on again at Te Kaha. I wired that I would be in attendance. When I arrived I found that Ford, solicitor, was acting against the will. I assisted him. I asked Tiweka what Ford was to be paid. He said, "*Kei te pai noa iho*." Since then I have acted for the next-of-kin. I again attended at Rotorua, when I saw Mr. Ford's bill.

Examined by Karauri.] Next-of-kin instructed me to oppose will. Your father concurred. I stated to Court at Opotiki that I was opposing will.

To Court.] I cannot say about the others, but the term *tamaiti whangai* was applied to Tiweka for certain.

NGAMOTU TUKAKI (sworn): It is true that we, the next-of-kin, met at the Courthouse at Opotiki when first notification of application for probate made. Tiweka was present. We decided that if case was to proceed, then Weihana would act for us. Case did not proceed at that time, but it was understood by us all that Weihana would act. When case set down for Te Kaha, Weihana absent, and Tiweka's friend Ford took the case in Weihana's absence. Tiweka was disappointed because everything was willed to Paretio. He said if will was defeated I should show *aroha* to him. I agreed. The extent of the *aroha* was not stated. After will defeated we came to the determination of the next-of-kin of Takimoana. I received share because of my relationship to her; others also received shares. Although I was aware that he was not the *tamaiti whangai* of Taki, I had agreed to show *aroha* to Tiweka. I may have said he was a *whangai* of Taki, but that is a common term. Tiweka I, husband of Taki, married her and lived at Te Kaha. They had no issue, and sought about for a child to adopt, so they took Tiweka II as their adopted child. Tamati and Taki committed adultery and ran away, leaving Tiweka at the *kainga*. After a time the people brought Tiweka I and Taki together again, but sent them to Whangaparaoa to live. They took Tiweka II with them. Brown, manager for Douglas, married to a Native woman at that time. The Native woman saw that Tiweka and Taki were not getting on well together, and got Tiweka II to visit her. Ultimately Tiweka went to Brown, and was sent by him to school at Napier, subsequently returning to manage Brown's place at Waikura. Brown would not agree to Tiweka's marriage, so Tiweka left. Tiweka worked Taki's lands; subsequently he went away to other employment. Where Tiweka's children were born was not on Taki's land, but at a general settlement. Tiweka I died, and Taki married Paratene. Still they had no children. Paratene brought Paretio as *tamaiti ma raua*. She was brought under the *tika* of Paratene. Te Miro was asked for by Taki; she was a *mokopuna*. Kahu Poai was a *tungane* of Taki's. His name given to present Kahu Poai, who did not live with Taki but only visited her.

Examined by Weihana.] If I were to bring a child and adopt it, it would be said that I and my wife had adopted it, although it was really only myself who had done so. Same applies to other alleged adopted children I have spoken of. Tiweka I and Taki were separated for a year, so I have heard. While they were separated Tiweka II lived with Tiweka I.

Examined by Karauri.] It was because of my *aroha* to Tiweka that I included him in my list. I know of no land given me by Taki. I don't know of any land in which Taki included her *tamaiti whangai*. I am forty-two years of age. What I have said about earlier events I heard from others. I have a *tamaiti whangai*, but not registered. Don't know of any registered adopted children in this district.

(To stand over till to-morrow.)

[Page 137.]

TAKIMOANA.—*continued.*

WEIHANA DELAMERE addressed Court: If petition is favourably recognized the effect of the Act of 1909 will be nullified. It was a European who sent Tiweka to school. No evidence with regard to paragraphs 4 and 5 in petition. No evidence that Taki wished to leave her interests to alleged adopted children equally. Taki did make a will. Only one beneficiary. Evidence is not strong enough to prove adoption of any of the alleged adopted children.

KARAURI ANARU: Parliament has asked for inquiry notwithstanding the provisions of the Act of 1909. *Whakapapa* of next-of-kin not disputed.

Taki included us in her lands although we had no ancestral rights. It was Paretio who supported the old lady in her declining years. None of the next-of-kin assisted her at all. It was the adopted children who were instrumental in upsetting will. Next-of-kin took no action; at first, it was left to us to act. Some of next-of-kin have given their interests to us knowing well that we were the adopted children of deceased.

(Report to be made to Chief Judge.)

Rotorua, 19th October, 1922.

Memorandum for the Under-Secretary, Native Department, Wellington.

Takimoana (deceased): Petition of Karauri Anaru for Relief.

THE matter of succession to Takimoana (deceased) came before the Court at Te Kaha during the month of July, 1922. An application for probate of her will, dated 6th April, 1920, was dismissed and probate refused by the Court, owing to the suspicious circumstances surrounding the preparation of the will, and also because it was not satisfied that the testator, who was illiterate and unable to write, understood the effect of her will.

During the proceedings on succession it was brought to the notice of the Court that Takimoana had four adopted children—the petitioner and those mentioned in paragraph 2; but as the adoption had not been registered or evidence by orders of adoption the Court was unable to entertain their claims.

Takimoana had no children, and the next-of-kin were deemed entitled to her interests, and succession orders were made accordingly as the different rights entitled them. From information gathered at the Court it was learned that Takimoana adopted the petitioners from childhood and reared them as her own, and they in turn worked for her and did all that children should do for their natural parents.

The next-of-kin as found by the Court comprised four distinct parties, three of whom freely recognized the adoptions by giving up some of their shares to the adopted children, and were willing to give up all their shares if all would do the same. The fourth party remained obdurate and refused. It may be mentioned that the relationship of the next-of-kin to Takimoana varied from second cousins once removed to third cousins twice removed.

Although the succession orders referred to comply with the law, I am strongly of opinion that they do not accord with Maori custom as applicable to this case, and I therefore recommend that the prayer of the petitioner be given effect to.

H. CARR, Commissioner.

Approximate Cost of Paper.—Preparation, not given; printing (475 copies), £19.

By Authority: W. A. G. SKINNER, Government Printer, Wellington.—1925.

Price 6d.]