

hapu; others, while admitting relationship between them, allege that they were in fact distinct hapus. We are of opinion that the evidence before us establishes the fact that the Ngatitupawhenua are a subdivision of the Kaitangata, and that they adopted the name Mitiwai in recent times.

7. Honi Tuhata took part in the migrations from Taranaki to Waikanae and Arapaoa (Picton) between the years 1830 and 1839; and it is contended that he made Arapaoa his permanent home before 1839, and thus lost any right he might have possessed at Waikanae. In opposition to this contention we have the evidence that he took part in the fight at Kuititanga in October, 1839, and was wounded by a gunshot through both thighs. The result of this battle was to establish the Ngatiawa as owners of Waikanae. We have also the evidence of the Bishop of Wellington—the correctness of which we see no reason to doubt—that Honi Tuhata was among the chiefs who welcomed him on his first arrival in Waikanae in November, 1839, and that they (the Bishop and Honi Tuhata) continued to reside in the same pa for a considerable period. The Bishop also vouched to having seen Tuhata at Waikanae on the 1st or 2nd February, 1841, having an entry in his journal which enabled him to fix the date. It is admitted that Honi Tuhata signed the Treaty of Waitangi in Wellington on the 29th April, 1840, under the name “Patuhiki;” and it appears that he went from Waikanae to Wellington for the purpose of signing the treaty and returned to Waikanae immediately afterwards. We find, on referring to the facsimile of the treaty published by the Government in 1877, that Tuhata (or Patuhiki) signed in the presence of Messrs. Williams and Clayton, who, in a footnote, describe him as a principal chief of his tribe. It is further admitted that Tuhata was at Waikanae in 1848, when William King led some of the Ngatiawas back to Waitara; that he came there again about 1855 to take part in avenging the murder of Rawiri Waiaua, which occurred in August, 1854, and again in 1860, when, during a suspension of hostilities in the Waitara war, Tuhata came from Arapaoa and proceeded to Taranaki and took up his abode in the pa on the Onaero Stream, from which he originally came and where he subsequently died.

8. It appears from the evidence of William Jenkins that Honi Tuhata was in Waikanae, and performing acts of authority there in the years 1839, 1840, and 1841. Jenkins is contradicted in one material particular by the witness Boulton. The former states that in 1839 he purchased from the Waikanae Natives, for use at the whaling-station on Tokomapuna, an island near Kapiti, three sheer-legs; that these sheer-legs were cut from a white-pine bush on the Waikanae Block; that he paid Honi Tuhata for them in tobacco and cloth; and that he had special orders from Thomas Evans, the chief headsmen of the whaling-party, to make such payment to Tuhata. The witness Boulton, on the other hand, states that the sheer-legs were purchased by himself from the Whare-roa Natives; that payment was made to a Native named Ropata; and that Jenkins took no part in the transaction. In view of the long period of time that has elapsed since the sheer-legs were bought, it would be difficult to determine which of these two accounts is correct; but, assuming that Boulton's account is true, we do not think that Jenkins's evidence should for that reason be altogether disregarded, although its value would, no doubt, be materially weakened. The witness Knocks also gives important evidence, and is, in our opinion, trustworthy in all material particulars.

9. Immediately after the death of Honi Tuhata, Inia Tuhata, his grandson, and the father of the petitioners, Inia Tuhata and Rangihanu, returned from Taranaki to Waikanae, and continued to reside there until his death in 1871. His children have continued to reside there ever since.

10. Some evidence has been adduced for the purpose of showing that, though Inia Tuhata and his children resided at Waikane, they exercised no rights of property, and circumstances relating to the driving-off of sheep and payment of rent for their grazing, and also the splitting of shingles, have been brought forward as showing that the Tuhatas were treated as interlopers. There are, however, admissions made by some witnesses called to prove these points which tend rather to the conclusion that in these disputes the Tuhatas were successful in maintaining their claims. (See particularly the evidence of Tamihana te Karu.) No question was raised in 1873 as to the right of the petitioners Inia and Rangihanu to be included in the list of owners adopted by the Court. This appears to us to be inconsistent with the contention that Honi Tuhata had abandoned his interest in the land, although the practice of inserting names merely out of *aroha* is not uncommon. The question of abandonment, so far as we are aware, was raised for the first time at the sitting of the Court in 1887.

11. With regard to the extent of the interest of the Tuhatas in this block, something probably depends upon the relationship existing between the Kaitangata and the Ngatitupawhenua. On this point it seems to us material to notice that one of the most active persons in opposing the claims of the Tuhata family—namely, Tamihana te Karu, acknowledged in his evidence that Honi Tuhata and his own father were first-cousins, and that Tuhata's father was the “elder relative.” This seems to show that Tuhata's interest was at least equal to that of other members of the Kaitangata hapu, who ranked as chiefs.

12. Questions have arisen with regard to the effect of an admixture of blood, whether European or from some other Native tribe, in determining the extent of the interests of respective claimants. We are of opinion that these questions are of small importance in this case. We find that, while Wi Parata is a half-caste, Inia Tuhata the elder and his wife were both half-castes; so that any objection arising from an admixture of European blood would apply in some degree to parties on both sides.

13. Having regard to all the evidence that has been brought forward, and particularly to those portions to which we have specially referred, we are of opinion that, in respect of the claim of Inia Tuhata, there is sufficient doubt as to the correctness of the decision of the Native Land Court in 1887 to render further inquiry proper.

14. With regard to the form that such inquiry should take, we are of opinion that a rehearing