

1948
NEW ZEALAND

**REPORT AND RECOMMENDATION ON PETITION No. 31 OF 1944, OF
THOMAS SMILER AND ANOTHER, CONCERNING THE EXCLUSION
OF HINETEARIKI PUNAHAMOA FROM PARTICIPATION IN THE
SHARES AWARDED UNDER TAUPARA IN THE MANGATU
Nos. 1 AND 4 BLOCKS**

*Presented to Parliament in Pursuance of the Provisions of Section 13 of the Maori Purposes
Act, 1944*

Maori Land Court (Chief Judge's Office),
P.O. Box 3006, Wellington C. 1, 15th July, 1948.

Memorandum for the Right Hon. the MINISTER OF MAORI AFFAIRS.

MANGATU NOS. 1 AND 4 BLOCKS

PURSUANT to section 13 of the Maori Purposes Act, 1944, I transmit the report of the Court on the claims and allegations contained in petition No. 31 of 1944, of Thomas Smiler and another, concerning the exclusion of Hineteariki Punahamoa from participation in the shares awarded under Taupara in the Mangatu Nos. 1 and 4 Blocks.

The substance of the petitioners' claim is that the Court, upon investigation, wrongfully refused to admit their mother, Hineteariki Pera or Hineteariki Punahamoa, as an owner under the Whanau-a-Taupara claim in the Mangatu Nos. 1 and 4 Blocks.

The Court has reported, after a full investigation, that in its opinion the petitioners have not established their claim, and that their mother was not entitled to be included as an owner. I recommend that no further action be taken in respect of the claims and allegations in this petition.

D. G. B. MORISON, Chief Judge.

In the Maori Land Court of New Zealand (Tairāwhiti District).—In the matter of the Maori Land Act, 1931, and of section 13 of the Maori Purposes Act, 1944 ; and in the matter of the land known as Mangatu Nos. 1 and 4 Blocks and of a petition, No. 31 of 1944, by Thomas Smiler and another referred to the Court for inquiry and report.

At a sitting of the Court held at Gisborne on the 17th and 18th days of March, 1948, before David Gordon Bruce Morison, Esquire, Chief Judge, and Ivor Prichard, Esquire, Judge.

The Court reports that :—

The petitioners, and persons adversely affected by the claims of the petitioners, were represented before the Court.

In 1881 the Maori Land Court investigated the title to the Mangatu Block, a large block containing approximately 160,000 acres. On this investigation the block was subdivided into several portions, including Mangatu No. 1, containing approximately 100,000 acres, and Mangatu No. 4, containing approximately 6,000 acres. The order on investigation for Mangatu No. 1 was made in the names of twelve trustees, and the names of the persons claimed to be the beneficial owners were recorded in the minute-book. An order was made for Mangatu No. 4 in which the names of the beneficial owners were set out.

By the Mangatu No. 1 Empowering Act, 1893, it was declared that the persons set out in the Schedule to the Act and the successors according to Maori custom of those who had died since the 30th April, 1881, were the owners of Mangatu No. 1. The persons set out in the Schedule appear to be the persons whose names were recorded in the minute-book in 1881.

In 1917, as a result of a petition to Parliament, the Maori Land Court was empowered to inquire and determine what members of the Whānau-a-Taupara Hapu were entitled to be declared to be Maori owners of the Mangatu No. 1 Block and the Mangatu No. 4 Block in addition to the owners declared by the Mangatu No. 1 Empowering Act, 1893, and as to the Mangatu No. 4 Block in addition to the owners set out in the order of 1881.

Proceedings upon this inquiry extended from 1918 to 1922 before the Maori Land Court and the Maori Appellate Court. In these proceedings the Court first of all determined that certain persons of the Whānau-a-Taupara were entitled to be included as owners in Mangatu Nos. 1 and 4. The Court then determined the total number of shares which the original owners as a group, and these new owners as a group, should be entitled to respectively. The Court then proceeded to allot the relative shares to the individual owners within each group.

Early in the proceedings a representative committee was formed to settle the lists of owners for submission to the Court and the relative shares to be awarded. The operations of the committee extended over a lengthy period, and the evidence before this Court showed that persons claiming to be admitted had an opportunity of presenting their claims to the committee.

The claims under these various lists were in due course put before the Court ; the Court adopted the usual practice of hearing argument for and objections, if any, against the various lists before giving its decision. There were appeals against the Court's decision on some of the lists, and when these had been disposed of, the owners and their relative shares became finally determined in the year 1922.

The substance of the petitioners' claim under this petition is that the Court, in these proceedings just referred to, wrongfully refused to admit their mother, Hineteāriki Pera, as an owner under the Whānau-a-Taupara claim, thereby depriving the petitioners of an interest to which they would have succeeded on their mother's death, and they seek to have her admitted as an owner.

Hineteāriki Pera prosecuted her claim for admission, but her claim was disallowed by the Maori Land Court ; an appeal by her against this decision was dismissed by the Appellate Court. It will be seen, therefore, that her claim was fully considered.

The petitioners allege that Hineteariki Pera was a *bona fide* member of the Taupara Hapu and as such was entitled to participate in the Taupara award.

In support of this allegation they claim that she was descended from Taupara through Kuraiteapata, and also through Whakauika, these persons being two children of Taupara ; and that her elders had the occupation necessary to support the ancestral claim. This is the claim which the petitioners' mother put before the Court in 1918. The minutes disclose that she conducted her case with skill and that all the points for and against were clearly appreciated and were argued before the Court.

The Court, in disallowing Hineteariki's claim, decided that descent from Kuraiteapata could give no ancestral right in the Whanau-a-Taupara, as it had already been established in other cases before the Court that through the intermarriage of Kuraiteapata with Whanau-a-Kai no rights remained in Taupara lands to the descendants of Kuraiteapata, who had not become again incorporated in the Taupara people and so established fresh rights under Taupara. As to the claim under Whakauika, the Court decided that Hineteariki had failed to prove the whakapapa set up. She had no evidence but her own to support it, and it was stated that she had obtained her information as to it from one Hipora Niania, whose own whakapapa was severely attacked.

On the other hand, her opponents in those proceedings gave comprehensive whakapapa discrediting those given by her, and showing that in her whakapapa there was a confusion of names in her line from Whakauika. The Court further considered that the claimant pressed her contentions because her half-brothers and two half-sisters were admitted in the lists. In the result, the Court found that Hineteariki was not entitled to any award under the Taupara claims, as the one whakapapa could give no rights, and the other had not been established.

The hearing before this Court took place on the 17th and 18th March, 1948, when the petitioner was represented by Mr. M. Pere, and those opposing the petition by Mr. Scott. The only evidence called in support of the petition was that of the petitioner himself. He produced a whakapapa which he stated was compiled from a book of whakapapas which he had got from his mother. He stated that the list put into the Court by his mother in 1918 was compiled from this book. This whakapapa produced showed the line from Kuraiteapata, but did not include the line from Whakauika. No evidence was produced to attempt to prove this line.

In order to establish occupation, Mr. Pere referred to records to show that Tamaho, an elder of the petitioner in the line from Kuraiteapata, had taken part in the battle of Otuhawaiiki, which was fought against the Whakatohea from the Bay of Plenty. Mr. Pere contended that this battle was fought in defence of the Mangatu lands, and that the presence of Tamaho (being, as he alleged, a Taupara) at the battle constituted occupation and so gave the petitioner's mother occupatory rights.

Mr. Pere alleged that the petitioner's grandmother was an owner in Okahuatiu 1A 3, together with a number of Taupara people, that this block was a Taupara block, and that her presence as an owner established that she was a member of the Whanau-a-Taupara.

The opponents of the petition, in addition to submitting that the petitioners had in no way proved their contentions, advanced certain positive evidence in rebuttal.

They called two witnesses, Rongo Halbert and Waioeka Paraone. Rongo Halbert is a grandson of the well-known Wi Pere. He claimed to be familiar with Taupara history and whakapapas, and his evidence, both in chief and in cross-examination, appeared to be reliable.

Waioeka Paraone was an elderly woman who speaks little English : she was one of the signatories of the Taupara petition of 1917 which resulted in the admission of Whanau-a-Taupara. She claimed to have been specially trained by her elders in Taupara whakapapas. Several relevant whakapapas were given by her from memory. She was one of the witnesses called in support of Captain Pitt's case in 1918.

The Court accepts the evidence of these two as establishing the following matters :—

- (1) That the whakapapa submitted by the petitioners mother in 1918 and now by the petitioner tracing descent from Taupara through Whakauika is wrong.
- (2) That the half-brother and half-sisters of the petitioners mother traced their descent from Taupara through their father, Hami Parehe, and not through their mother, Rina Parewhai, as alleged by the petitioner.

On this evidence and on the previous minutes and judgment, this Court considers that the original judgment is correct in refusing to accept the whakapapa put forward.

As to the claim under Kuraiteapata, Mr. Pere submitted that the presence of Tamaho at the Otuhawaiiki fight, and the inclusion of his daughter, Mere Taiakupe, in the Okahuatiu Block, which he described as a " Taupara " block, proved that the decision of the Court in 1918 was wrong where it held that the descendants of Kuraiteapata had disassociated themselves from Whanau-a-Taupara and that no Taupara rights remained to them. We cannot accept this submission as sound, and therefore find that the petitioner's mother had no right to inclusion in the land under the whakapapa from Kuraiteapata.

Another ground for inclusion put forward by the petitioner's mother in 1918 and by the petitioners in this petition was that the fact that her half brother and sisters were included showed that she should be included. The half brother and sisters are Mihaere Parehe, Rangituake Parehe, and Waara Parehe, their father being Hami Parehe and their mother Rina Parewhai, who was also the mother of the petitioner's mother.

Mr. Pere alleged that the half brother and sisters derived their right through Rina Parewhai, the common parent, and that the father, Hami Parehe, had no Taupara rights.

Mihaere Parehe was an original owner, having been admitted in 1881 through aroha, being the husband of a Wahia woman with large rights. His sisters were admitted under Captain Pitt's list of 1918, and the only supporting whakapapa in which they appear is a whakapapa tracing from Taupara through their father, Hami Parehe. This whakapapa is confirmed by the evidence of Waioeka Paraone before this Court. We are satisfied that the rights of the half brother and sisters came through the father and not through the common mother.

Generally, we might add that, even if the opponents to the petition had not been able at this late date to bring forward these two witnesses, we consider that we would not have been able to arrive at any conclusion different from the above.

As to Hineteariki having had to contend with an experienced conductor in Captain Pitt, the minutes show that she presented her case with an amount of skill and an appearance of much experience in the Courts. If the whakapapa she gave was correct, we feel certain that, with all the public interest there was, she would have found one or more of the many present to have supported it.

We consider, therefore, that the petitioners have not established their claim, and that their mother, Hineteariki Pera, was not entitled to be included in the list of owners of the Mangatu No. 1 Block.

For the Court,

D. G. B. MORISON, Chief Judge.

IVOR PRICHARD, Judge.

To the Chief Judge, Maori Land Court, Wellington.

Approximate Cost of Paper.—Preparation, not given; printing (563 copies), £7 10s.

By Authority: E. V. PAUL, Government Printer, Wellington.—1948.

Price 3d.