

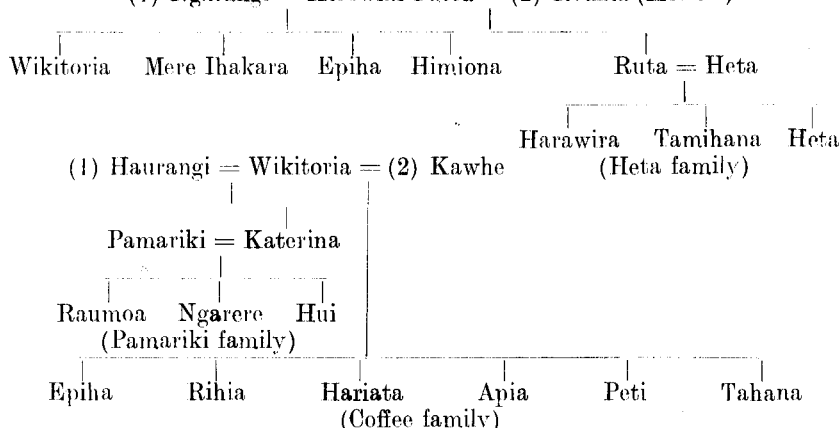
in Council, could ascertain the true owners and put them in the title, together with or without the ten grantees: Provided, however, that the Court could only act as aforesaid in regard to land over which there had been no alienation other than a lease, mortgage, or contract for sale upon which the purchase-money had not been paid.

9. Application under subsection (10) of section 14 aforesaid having been made for an Order in Council for this Wharekauri No. 1 Block, the Orders issued exempted 1A and 1B, among other pieces, from the equitable-owners' clause, and thus protected the Pamariki family. The Coffee (Kawhe) family were entitled to interests in 1A and 1B, but for the reason shown above Judge Edger could not put them into the title; and in any event Raumoa Pamariki had already sold 1B before Judge Edger's Court sat.

10. When Judge Edger sat pursuant to the above-mentioned Order in Council it was found that the Wharekauri No. 1 Block embraced in its area several blocks of land each with a distinct ownership. Among these was the Matarakan Block, containing 3,362 acres.

11. It was admitted by all parties before me that the original owner to this Matarakan Block was Herewini Patea, and that his issue were as shown in the next paragraph.

12. (1) Ngarangi = Herewini Patea = (2) Reuma (Mori)



13. There is no doubt that Herewini Patea's issue were entitled to succeed to his property, and that in ordinary circumstances Judge Edger would have put them all in the title. There is also no doubt that Judge Edger would have put in Tamihana Heta and his brother Harawera into the title but for the fact that Tamihana assured Judge Edger that he had no claim. Tamihana now explains the mistake he made when he misled Judge Edger, and I am satisfied that he and his brother should be included in the title, but the interest awarded them should not be very great.

14. As to the exclusion of Raumoa Pamariki and his two sisters Ngarere and Hui from this title by Judge Edger, I may state, if this Pamariki family had an injustice done to them by Judge Edger in the Matarakau Block, they by their own acts and shrewdness had inflicted graver injustice on the Coffee family in regard to 1A and 1B subdivisions. If a comparison is made of the 3,000-odd acres that were awarded to the six members of the Kawhe family with the 6,000-odd acres awarded to the three members of the Pamariki family, and if the rights of the two families are compared, one wonders why the Pamariki family ever appealed to Parliament instead of remaining quiet.

15. At the close of the hearing the counsel engaged for the Kawhe family (Mr. Martin Luckie) and for the Heta family (Mr. C. B. Morison) intimated at the trial that if it were decided to admit Tamihana Heta and his brother Harawera into the title, that they could agree on the relative interests to be allowed, and that the Chief Judge could be authorized to amend the title for the relative interests so agreed to, and thus save the expense and delay of sending the case on to the Appellate Court for rehearing.

16. After waiting for some months for counsel to come to some such agreement, both counsel attended me on the 7th August, 1915, and intimated that Tamihana Heta demanded half of the block in question, and so no agreement was arrived at.

17. This action of Tamihana will cause the respondents, if an appeal is allowed, very heavy costs in coming to New Zealand to defend the case before the Appellate Court. Tamihana Heta misled Judge Edger or he would have got into the title in the beginning, and thus rendered unnecessary the heavy expenses already incurred by the other side over this case, as well as the expenses of a future trial. He has allowed the position of parties to be materially altered by his neglect and delay in getting the matter reopened, and yet he claims the half of Herewini Patea's estate, though Herewini has four other children who are not by a slave wife, while he (Tamihana) is by a wife from the conquered Moriori race, namely, Reuma.

18. I consider Tamihana Heta should be allowed by statute to appeal against the decision of Judge Edger, but the time for appeal should be limited to the ordinary two months, and he should lose his right of appeal if he does not pay the deposit necessary to cover such cost (if any) as the Appellate Court considers he should pay. The deposit to be fixed by the Chief Judge as in an ordinary appeal.

19. Attached hereto is a copy of the evidence given before me—namely, that of—(a) Tamihana Heta, for his family; (b) Ngarere Pamariki, for her family; (c) Herare Grennell and Tahana Kawhe, for the Coffee family.

Dated this 7th day of August, 1915.

JACKSON PALMER,
Chief Judge.

Approximate Cost of Paper.—Preparation, not given; printing (650 copies), £1 5s.