

1927.
NEW ZEALAND

NATIVE LAND AMENDMENT AND NATIVE LAND CLAIMS ADJUSTMENT ACT, 1925.

REPORT AND RECOMMENDATION ON PETITION No. 417 OF 1924, OF PETA TIEKIWAI AND OTHERS, AND PETITION No. 90 OF 1925, OF TE WHARE PUHAKI AND OTHERS, RELATIVE TO HINEWHAKI No. 2 BLOCK.

Presented to Parliament in pursuance of the Provisions of Section 34 of the Native Land Amendment and Native Land Claims Adjustment Act, 1925.

Native Department, Wellington, 23rd July, 1927.

Petition No. 417 of 1924 and Petition No. 90 of 1925.

PURSUANT to section 34 of the Native Land Amendment and Native Land Claims Adjustment Act, 1925, I herewith transmit the report of the Court upon these two petitions.

The report recommends no further action be taken in respect of the petitions. It is clear, however, from the report that the investigation of the title was not exhaustive, and that persons entitled were omitted from such title. There was a statutory duty upon the Court to ascertain the rightful owners, and it is hardly an answer to say that it is to be inferred that the ownership was determined by the elders of the tribe. Hinewhaki, containing 229 acres 3 roods, was brought before the Court as a single block, but because there were more than ten owners the Natives asked for two orders, and then stated a different set of grantees and owners for a divided block under the names of Hinewhaki East and West. The surveyor's evidence was that there was great dispute about the survey, and the pegs on the dividing-line were said to have been pulled up.

I am quite satisfied from the evidence that some rightfully entitled have been omitted, and I recommend legislation enabling such persons to be admitted by the Court if it shall find them entitled.

R. N. JONES, Chief Judge.

The Right Hon. the Native Minister, Wellington.

The Native Land Amendment and Native Land Claims Adjustment Act, 1925.

Wairoa Minute-book 37/193.

In the Native Land Court of New Zealand, Tairāwhiti District.—In the matter of the land known as Hinewhaki West (or No. 2); and in the matter of a reference to the Native Land Court under section 34 of the Native Land Amendment and Native Land Claims Adjustment Act, 1925, for inquiry and report as to the matters arising out of petitions Nos. 417 of 1924 and 90 of 1925.

At a sitting of the Court held at Wairoa on the 26th day of February, 1926, and concluded on the 5th day of March, 1926, the Court made inquiry into the above matter, and reports as follows:—

All parties were well represented, and there was a large attendance of interested persons. At the outset the question was raised as to the scope of the inquiry, there being some suggestion that it was merely a preliminary one set up to decide whether or not the title should be reopened. The Court

was very careful to point out that the proceedings might have a very much wider operation. Parliament, by its own Act, had already recognized that a further inquiry was called for, and for that reason the facts should be stated as fully as possible. It was not desirable to limit the proceedings in any way. The Court's function was to inquire and to report to a higher tribunal, which would take whatever action it deemed necessary.

The block contains 97 acres 3 roods 14 perches, and is situated near Wairoa, Hawke's Bay. The title was investigated by the Native Land Court in 1868. Tiopira Kaukau gave evidence, and submitted lists of owners for Hinewhaki East and Hinewhaki West. The boundary-line between the two blocks had been decided upon, and the Court ordered the issue of certificates of title in the case of both blocks. The relative interests were defined by the Court on the 4th June, 1917, after a hearing lasting several days. The block has since been partitioned into thirty-nine subdivisions, all of which have been surveyed. No attempt was made to attack the title until the last few years, when Parliament was petitioned.

The Court is required to report upon two petitions—(1) by Peta Tiakiwai and others, dated 19th October, 1924; (2) by Te Whare Puhaki and others, dated March, 1925.

Lists of names have been submitted of persons on whose behalf inclusion in the title is claimed. It is contended on behalf of the petitioners that in some cases one member of a family was admitted to ownership while another was left out. Descent from the ancestor set up at the original hearing has been proved, and in the case of these people an attempt has been made to establish a right by occupation. Some fifty-eight years have elapsed since the ownership was determined. Some evidence has been tendered, but little of it can be treated as being more than hearsay. The generation of to-day knows practically nothing of the state of affairs existing in 1868, and yet it is suggested that a mistake was then made in omitting certain names from the list submitted to the Court.

In one case the Court is asked to assume that Tiopira Kaukau, together with his daughter and sister, should have been included. It was he who prepared the list. He knew what right he and the other members of his family had. In his evidence in 1868 he said, "This piece of land belongs to me." He left his own name and the names of his daughter and sister out, and put his own name into the list for Hinewhaki East. It is surely presumptuous to suggest now, after the lapse of fifty-eight years, that he made a mistake in leaving these names out. The Court prefers to think that the omission was deliberate.

In some cases it is sought to include the names of people who were dead when the title was investigated, or, in the alternative, the names of their children.

After careful consideration of the statements made in respect of each of the claimants this Court is of opinion that the ownership was determined as the result of an arrangement with which the interested parties were in accord, and that no sufficient grounds have been shown for any alteration in the title.

It is to be noted that even to-day the submitted lists of persons claiming inclusion are not complete, some members of families being included, while their brothers and sisters were not. After the Court had brought this fact out it was explained that the omission was inadvertent. But, as one witness aptly put it, "Motors will not go without benzine." In other words, some people found money for the case and were put into the new lists; others did not and were left out. If the present claimants, or some of them, are now included, there is every probability that their relatives will take similar action, so that finality may be a long way off.

Right by occupation is claimed on behalf of some of the present claimants. There is no doubt but that some of them have occupied for a long period. The Apatari family has evidently done so. But it is necessary to attempt to visualize the position as it existed in 1868. Occupation after that date, even though proved, can confer no right to inclusion in the title. Some of the present claimants were very young children in 1868. It is doubtful, too, whether all of them were born before that year. The three or four years just prior to 1868 were notable for great unrest among the Natives of this district. The Hauhau trouble was just over. Many of them had sought sanctuary in the pas on this block. Some of the occupation was attributable to this fact. But intermittent or casual occupation of this nature cannot be conceded as conferring a title to land. It is particularly to be noted that the persons who were left out in 1868 seem to have raised no protest, nor have their children done so. It is left for the people of to-day—practically two generations later—to discover that a grievance exists.

The block has been subdivided into some thirty-nine subdivisions, and these have been surveyed at a cost of something over £500. Although this fact must not be allowed to prejudice the claimants' position in any way, it is practically certain that a great deal of the survey work will be rendered valueless if the ownership is altered. One small portion of the block is held by its owner under a Land Transfer title.

It is not considered necessary to deal with the various cases in detail. The Court has arrived at the conclusion that the matter was well threshed out in 1868, and that there is every reason to infer that the ownership was determined by the elders of the tribe, who were well aware as to the conditions then existing. It is necessary for the claimants to prove, apart from ancestry, that they had a right to be included in the title at the time of the investigation. In the opinion of this Court they have not succeeded in so doing, and it is recommended that no further action be taken in respect of the petitions.

Enclosed will be found a Land Transfer search of the title, two copies of the evidence taken and of the *whakapapas* and lists submitted, and also the Native Department's file, 1925/343.

As witness the hand of the Commissioner and the seal of the Court.

W. H. BOWLER, Commissioner.

ORDER IN COUNCIL 497.

[Vol. 61, Folio 230.]

Date of title: 15th February, 1913.

Owners: The Tairāwhiti District Maori Land Board.

Description of land: All that parcel of land, containing 97 acres 3 roods 14 perches, situate in the Provincial District of Hawke's Bay, and being the Native Land Court subdivision known as Hinewhaki West Block.

Memorials: This certificate of title is issued under the authority of the Maori Land Claims Adjustment and Laws Amendment Act, 1907, and is subject to the provisions thereof. 1502: Order in Council prohibiting for the period of one year from the 6th August, 1917, all alienations other than those in favour of the Crown. Produced 22nd August, 1917, at 10 a.m. 1628: Order in Council extending Order in Council 1502 for a further period of six months. Produced 5th August, 1918, at 10 a.m. 1659: Order in Council extending Order in Council 1502 for a further period of eighteen months. Produced 18th January, 1919, at 11 a.m. 474: Proclamation taking portion of within land (2 roods 5-3 perches) for road purposes. Produced 14th October, 1920, at 10 a.m. 589: Proclamation taking parts of within land for railway and road in connection therewith. Produced 9th October, 1923, at 3 p.m. 2326: Order vesting Hinewhaki West (or 2), Section 35A, in Wiremu Kaipūhe. Produced 5th November, 1924, at 11.30 a.m. Certificate of title 87/194.

[Extract from Wairoa Minute-book 37/193, &c.]

Place: Wairoa. Commissioner: W. H. BOWLER. Date: 26th February, 1926.

HINEWHAKI No. 2.

Reference to Court, under section 34 of the Native Land Amendment and Native Land Claims Adjustment Act, 1925, for inquiry and report as to the claims and allegations in the undermentioned petitions: Petition 417/1924, by Peta Tiakiwai and others; Petition 90/1925, by Te Whare Puhaki and others.

PETA TIAKIWAI: I appear in support of my own petition.

H. MCGREGOR: I represent the petitioners in Petition 90/1925.

J. H. MITCHELL and MAREKING PERE appear in opposition.

Court explained the nature of the proceedings.

Petitions read in Court.

At the request of Mr. McGregor the case was adjourned until to-morrow in order to allow the parties an opportunity to prepare lists of names of persons claiming admission into the title.

[Folio 196.]

Present and place, the same. Date: 27th February, 1926.

HINEWHAKI No. 2.

[From p. 194.]

H. McGregor and Peta Tiakiwai handed in lists of names of persons whose names were desired to be included. Wepiha Karaitiana also handed in a list, and stated that the persons named therein were not petitioners. Timo Kerehi intimated that he proposed to hand in a list on Monday.

Mr. McGregor: The title to Hinewhaki Block (229 acres, more or less) was investigated in 1868 under the Act of 1867. Tiopira Kaukau handed in the list of names and asked for two orders—one for Hinewhaki East and the other for Hinewhaki West. He submitted a list of Hinewhaki West (or No. 2). The names of Te Waata Karihuka and nine others were ordered to be entered on the certificate of title, and the names of twenty-three others were entered as entitled by virtue of section 17 of the Act, making thirty-three owners in all. (M.B. 1, p. 121.) The relative interests were defined by the Court on the 30th May, 1917. (M.B. 28, p. 249.) The block was partitioned in May, 1918, into thirty-nine subdivisions. The petitioners claim that when the list of names was handed in a number of persons entitled to inclusion were left out.

List 3.

Mere Maupuku is not in the title, but her brother and sister are.

Whakapapa read; not challenged.

MERE TUPAEA (sworn): I am the only child of Mere Maupuku. I am about thirty-eight years of age. I was born on the block. I have been told that my mother lived there when the title was investigated.

Examined by Mr. Mitchell.] I got a portion of Marara Taku's share by succession. My mother had a house on Ohuia—a boarded house, four rooms. It got into disrepair and was pulled down last year. It was built since I was born.

Re-examined by Mr. McGregor.] Our family owned a *wharepuni* at Waitomokia, on the block.

HORIANA TAWHIRI (sworn): I do not know how old I am. I was a child when Hinewhaki was investigated. I remember Mere Maupuku. She lived at Te Uhi, on Hinewhaki. I also lived there. She was much older than I. I think she was married then. Her husband was Te Whareraupo at that time. I know that Mere Maupuku was fully conversant with Court procedure. She left the block at times and lived elsewhere.

List 4.

Whakapapa read ; not challenged.

PAREKURA WHAKAHORO (sworn) : I am about fifty years of age. I do not remember Ripeka, the sister of Paraone Ahireore. She died before I was born. I knew her children. They lived at Taengaohinepane, on Hinewhaki, after the title was investigated.

HEIHEI HEMARA (sworn) : I was born in 1849. I remember Ripeka. She died before the title was investigated. I married her eldest daughter, Paku Whakatope, who would be about the same age as myself. Ripeka's children were young orphans when the land was put through the Court. Ripeka died at Taengaohinepane. She had previously lived there. After her death the children continued to live there, and, when I married Paku, Paraone Ahireore took me there to live. Piharo lived on the land at Pukepoto. His children still live on the block, at Hauariki. Mere Whakatope was adopted by Paora Matuaiti and lived at Upokokotia (not on the block). She is now at Here-taunga. She never lived permanently on the land, but only came there on visits.

Examined by Mr. Mitchell.

Mr. MITCHELL : I refer Court to M.B. 35, p. 374, wherein this witness stated, " Ripeka asked Miriama (Whakina) to give her (Ripeka) that part called Taengaohinepane on No. 2 Block."

To Mr. McGregor.] Miriama is not in the title. She died prior to the investigation.

To Court.] Miriama had the right to Taengaohinepane, not Ripeka. Latter's right was at Pukepoto. Her parents gave Pukepoto to Hamblin (a missionary), and he gave them Waitomokia (on Hinewhaki No. 2) in exchange. Waitomokia was too small, hence the gift by Miriama of Taengaohinepane.

[*Folio 200.*]

Present and place, the same. Date : 1st March, 1926.

HINEWHAKI No. 2—*continued.*

Mr. MCGREGOR : I am finding a difficulty in getting evidence in support of occupation by individuals, as it is so long since the title was investigated.

List 5.

Whakapapa read ; not challenged.

HARETE APATARI (sworn) : I do not know my age. Am receiving a pension. Think my age about seventy. I was at Gisborne when the title was investigated. Henare Apatari died before the title was investigated. He used to live at Omoko, on the block. His cousin, Te Rakato, had a house there. They lived there together. He had a right there. I was born at Whakaahurau. After my father died I lived with my mother at Te Uhi, Omoko, and Hauariki, on the block. When I married, my husband and I lived at Paraone's kainga at Pukepoto. I am living at Hauariki now ; have a house there. I also had another house there before the present one. Henare Apatari was dead when the title was investigated. I presume that we, his children, were not included because we were young. I know that Tipene te Wharangi got into the title through the right of her mother, Taumaha. Her father, Te Wharangi, came from Ngapuhi.

Mr. MITCHELL : No questions.

Mr. MCGREGOR : I do not propose to question witness as to occupation by her brothers and sisters. They had no occupation.

WITNESS (*to Court*) : I did not take any action to have the title reopened until Tiaki Nau's petition went down to Wellington. I have never signed any petition.

List 6.

Whakapapa read ; not challenged.

PAREKURA WHAKAHORO (sworn) : I was born after the title was investigated, but know the history of this land. I learnt it from my elders. Petera Whakahoro was my father. He was an owner. I knew Heni Taura. She is dead. My father told me that she had lived on this land. Her occupation on the block was before I was born. After she was married (before I was born) she went to live elsewhere. Wihia (her father) had lived on Hinewhaki No. 2. I do not know whether he died before or after the title was investigated. Petera derived his interest in the land from his father, Waka, whose interest came from Whinau.

Examined by Mr. Mitchell.] Wihia had a kainga on the block, called Waikorohu. This is included in my subdivision ; therefore Heni Taura should come into my own block.

To Court.] Wihia had two other children, Te Matenga and Peti ; but " motor-cars will not go without benzine," and these two have not helped to finance the case. I admit they have as good a right to inclusion as has their sister, Heni Taura. It is a common practice to leave members of a family out if they do not supply funds. It was usual to put in heads of families as representatives.

List 7.

Whakapapa read ; not challenged.

Mr. MCGREGOR : I will not call any evidence in this case.

List 8.

Whakapapa read ; not challenged.

HORIANA TAWHIRI (sworn) : I appear in the title under the name Wairakau. My mother was Keita te Owai. I remember her death, which occurred after the investigation and after I was married. She and I lived together at Te Uhi, on the block. Her first husband was a pakeha. They lived at Waitomokia (on the block). My half-brother, Rewi Taimana, was born there. I was born at Whakaki, on my father's land. When he died, my mother and I went back to Hinewhaki. Ketua died before the investigation. My father had also died before then. I do not remember Ketua, but I know she had a house at Waitomokia. Hone Kaihote's children all lived at Te Uhi when children. Most of them are dead. None of this family is now there. They are not in the title. Te Kihī Kaihote's child lives on the land now. I remember Huruhuru, the child of Rawinia. Never knew the latter, who was probably dead before I was born. Huruhuru had no occupation. I remember Kiri Pahe-mata. She lived there with Hoeta (who is in title). Kiri was older than I.

Examined by Mafeking Pere.] I am not in Hinewhaki No. 1, but my uncle and niece are. I have an interest in that block by succession.

To Court.] Whakaahurau is on Ohuia No. 3. Ketua had other children besides Keita te Owai. They left issue. They have as good a right to inclusion as I have. Hoeta Kaihue had a fourth child, named Erami Kaihue, who also left children. Erami was alive when the block was investigated. Erami would have as good a right as Kiri. I did not sign the petition.

PAREKURA WHAKAHORO (*in reply to Court*) : Whakaahurau is partly on Ohuia No. 3 and partly on Hinewhaki No. 2.

List 9.

Whakapapa read ; not challenged. (See p. 216—re-examination.)

List 10.

Whakapapa read ; not challenged.

MIRIA MOKAI (sworn) : I appear in the *whakapapa* as Mokai Nau. My age is seventy-four. My mother, Ruiha, died after the title was investigated. She lived at Te Uhi. She married a European named John Lewis. He was my father. When he went away to work she went with him. Ever since my mother died I have lived on the land. She died and is buried there. I knew Miriama. She died after the investigation of the title. She lived at Te Uhi. Our family had a *wharepuni* there. They lived there under their ancestral right. The house was called Te Rauotengaere. Afterwards they had another house, called Kohikohi II, and then another, called Pohootekawiti. All are now non-existent. My present home is at Taniwhanui, on the block. We also had cultivations. Miriama married Matiu Karihuka. He is in the title, and had a right to the land. She lived there with him. Neither Miriama, Riparata, nor Ruiha is in the title. I was at Napier when the title was investigated. I cannot say on what block Whakaahurau is situated.

Examined by Mr. Mitchell.] When my mother married my father they went to Mahia, whaling. My father was afterwards hotelkeeper at Mohaka. I lived with them. I was born at Mahia. I do not now live at the same place at Hinewhaki as my mother did. Riparata and Ruiha did not permanently occupy this land. Wata Karihuka and Matui re-erected the meeting-house Kohikohi II. Wiremu Wiri-hana and Tiaki Nau built Pohootekawiti. I claim a right through Rakai. I never heard that he was only a servant. Wata Karihuka is in the title. His father is in. I do not know why they did not see that the former's mother, Miriama, was not put in.

To Court.] I married Henry Rogers, a European, when I was fifteen, and went to Napier to live. He died. I then married Ratana te Ao. We are now living at Hinewhaki. He has no right there.

List 11.

Whakapapa read ; not challenged.

WIREMU KOPU (sworn) : I was born in 1865, three years before the investigation. I know the history of the land. I remember Hemaïma Tuhi. She died in 1886. She was my grandmother. Wiremu Ngarangiatama was my father. Mihi Rapuke got her interest in the land through Hineaka, not through Te Rangi.

Mr. MCGREGOR : I will withdraw this list.

Afterwards reinstated. (See p. 212.)

List 12.

Whakapapa read ; not challenged.

SAME WITNESS : Pinarete was my mother. Died about 1873. Te Aotea died before I was born.

To Court.] He had three other children by another wife. They lived at Whakapau and sometimes at Te Uhi. I was born at Whakaahurau. I live there now. Pinarete died at Heretaunga. She went there to be married. Pitiera Kopu died in 1867, the year before the title was investigated. One of his children, Ngakora Kopu, is in Hinewhaki No. 1. They lived at Whakaahurau. I am the only surviving issue of Pinarete.

Mr. MITCHELL : No questions.

To Court.] Tihe, the mother of Miriama Tau, married Te Koari. They lived on Paeroa Block, also at Ruataniwha, at Te Wairoa, and at Whakaahurau. Miriama Tau's issue is dead. She left a will, so I got no portion of her interest.

List 13.

Whakapapa read; not challenged.

PAORA HARONGA (sworn): I think my age is sixty-six. I remember my grandmother, Ihipera te Kahe. She told me that she had lived at Whakaahurau. Te Paratene was dead before I was born. I know that he had a house at Whakaahurau, as also did Hirawanui. Mihi Rapuke built on the site of Hirawanui's house. I do not know that Mihi Kaukau ever occupied the land, but Tiopira Kaukau did. He prepared the list of owners, and omitted his own name and that of his daughter.

MR. MITCHELL: No questions.

List 14.

Whakapapa read; not challenged.

HANA WAIROA (sworn): I do not know my age. I may be 100. I remember the investigation of the title. Was married and had had children before then. I am not an owner. I am also known as Wairoa Huka. Taitau died before the investigation. I also remember Tarita. They both lived at Te Uhi, on the block. My mother, Paea Newa, lived at Whakaki, and died about ten years ago, aged about 105. Her husband belonged to Whakaki. I was born at Opouiti (not on the block), but I spent part of my girlhood and part of my married life at Te Uhi (on block). I also lived at Ruata-marahiri (on block). Ropitini te Rito died after the investigation of the title. He and his sisters lived at Te Uhi after the Court sitting. They had no cultivations on the block. Wikitoria had a right to the land, but I cannot say whether Karauria came into the title under his father or under his mother.

Examined by Mr. Mitchell.] Our permanent home is at Awatere (on another block). It was our elders who decided who were to go into the title. We got into no other blocks in the locality. I have lived at Nuhaka for a long time. I went there when my first child was born, about sixty years ago. My mother is buried at Whakaki. Her father came from there.

Re-examined by Mr. McGregor.] Paea Newa got into Ohuia Nos. 3 and 4, but into no other blocks in the locality. I lived at Mahia before the investigation. All of my brothers and sisters lived on the block in their childhood, but none of them has lived there for twenty years or more.

MIHI TE RITO (sworn): I do not know my age. Cannot say whether or not I was born before 1868. My father, Ropitini, died long after the investigation of the title. He lived at Paharakeke and sometimes at Te Uhi. Myself and my brother and sister were not born on the block, but elsewhere.

Examined by Mr. Mitchell.] I know that Karauria and Ropitini had different mothers. Karauria had a full sister called Ohi Paea. She left issue. Ohi did not get into the title directly or by succession. I am an owner by succession to Haimona Hape, a brother of Wikitoria. My present home is at Te Uhi—that is, one of them. I also live at other places at times.

Re-examined by Mr. McGregor.] I do not know whether Taitau got into any lands in this district.

To Court.] I have never signed any petition for inclusion. It is within the last year that it occurred to me that an injustice had been done to us in connection with this block.

[Folio 212.]

Present and place, the same. Date: 2nd March, 1926.

HINEWHAKI No. 2—*continued*.

MR. MCGREGOR: *List 11*.—I withdrew this list yesterday. I now wish it reinstated, and propose to call further evidence.

PAREKURA WHAKAHORO (sworn): I knew Te Paea Hineaka, the child of Hemaima Tuhi. She died about two years ago. Was much older than I. She lived at Whakaahurau, which was her permanent home. Te Paea Hineaka had a right through Te Rangi. Latter died many years ago, long before I was born. Hineaka and Te Rangi were sister and brother. I remember Hemaima Tuhi. Te Kune had the two children named in the *whakapapa*, and also Peta Pakuku. Patehepa was another child of Te Kune. Both are alive. I remember Te Kune. He lived at Whakaahurau, which was the common kainga of the people in those days. Peta Pakuku is still there. The others have married and gone away. He has kept the rights alive.

COURT: And yet he is left out of the list before the Court, while the absentees are in it.

MR. MCGREGOR: I have seen him. He did not want to sign the petition and does not want to press his claim.

WITNESS (*to Court*): I am generally recognized as being well versed in *whakapapas*. When the *whakapapas* were read I have noticed several cases where people have been left out where their brothers and sisters are included in the lists for whom admission is claimed. I do not deny their admission to the title.

List 1.

PETA TIAKIWAI (sworn): The *whakapapa* is given in the petition, but I do not know it from Tauria, and therefore cannot give it in evidence. [*Whakapapa* in List 1A read in Court; not challenged.] Hinepurupurua had three children, I think, besides Te Paea Iho. Te Paea Iho had Peta Tiakiwai, Te Paea Iho II, Te Rauna Hape, Whanui Hape: all four are alive. I was born in 1866. My brothers and sisters were born since the investigation. I claim admission of my list into the title because Paraone Ahiroro had rights by occupation. He got into the title. Hinepurupurua was dead before I was born. Her other children never made any effort to get into the title. She lived at Heretaunga. Te Paea Iho II lives at Heretaunga. Te Paea Iho, named in the list, died many years ago. She is buried on Ohuia No. 4; lived at times at Pukepoto (on the land). I ask leave to include Te Rauna Hape in my list.

To Mr. Mitchell.] I am an adopted child of Hemaima Takirere. Her kaingas were at Gisborne and Whakaki. I do not remember the investigation. I was twelve years old then. When I was a baby my adopting parent took me to Whakaki to live. I still live at Whakaki. Te Paea Iho had no interests at Te Whakaki. Te Rauna was adopted by Hariata Puaha as a baby. Hariata brought her up at Whakaki.

Examined by Mr. McGregor.] I made a mistake in saying I was born in 1866; the correct year was 1856. Te Paea Iho II was born on 5th February, 1865.

To Court.] Te Rauna Hape was born a fairly long time after Te Paea Iho II. I do not know whether or not he was born before the title. I do not know much about him. I do not know how big he was when I first saw him. I was living at Gisborne.

Note.—Witness gave his evidence in a rather unsatisfactory manner. He seems to have very little knowledge appertaining to the matters to which he was referred.

Mr. MCGREGOR: I wish to call a witness in support of this list.

Court: As this is a special inquiry, no objection will be raised, although the procedure is unusual.

TE RAUNA HAPE (sworn): My mother died in 1870. I think I was born in 1867. I was running about when she died.

To Court.] I have never lived on this land, nor has Peta Tiakiwai.

List 2.

Whakapapa read; not challenged.

WEPIHA KARAITIANA: I will call evidence.

TAARE METE (sworn): All of the issue of Pau for whom admission is claimed were alive in 1868. They had a right by ancestry and occupation. I first knew these people in 1865. That was the year in which fighting-pas were erected in this district for protection against the Hauhaus. Te Uhi Pa was rebuilt in that year. I then saw who were living at Te Uhi. Tiopira Kaukau and Ropitini te Rito were the chiefs of the Kihitu Pa, on Ngamotu Block. They and their descendants never lived at Hinewhaki at any time. The hapu name of the people residing at Te Uhi was Ngatikurupakiaka. I was married in 1868 and came to Te Uhi to live with my wife, Wairakau Mete. There were two big houses at Te Uhi, named Kohikohi and Haromi. I know who were living at Whakaahurau. I saw Te Paea Hineaka (List 11) there. I saw Pakitea, Rawinia, and Takahape all at Te Uhi in 1865, and right up to about 1868. After that they went off the block. The descendants of Rakai and Matangirau lived in the Te Uhi Pa permanently.

Examined by Mr. McGregor.] *Re* List 9, I saw Repooma and his wife living at Whakaahurau about 1865. His mother, Heni Potau, was also there. I remember Porora or Mere Porora. Te Teira Whakarara married her about 1866 and took her to live at Mahia.

Examined by Mr. Mitchell.] My permanent home is at Nuhaka, but I frequently came to Wairoa, and was at Waihirere fighting-pa on many occasions. We used to come to that pa for military reasons. The people used to congregate in the pas, as they were afraid of the Hauhaus. Te Uhi Pa was one of the pas at which they used to gather. Kihitu was another. After the Hauhaus troubles were over the people scattered and went back to their own cultivations. I remember Teka Pakitea. He was well versed in Court procedure, but his experience was gained after this block was investigated. When various titles were investigated in the district an arrangement was made whereby the members of Pakitea's family received separate awards in separate blocks, instead of pooling their interests.

To Court.] The first Hauhaus trouble was at Marumaru in 1865. It lasted perhaps a year. Later on there was trouble with Te Kooti. I cannot say when, but about 1868. It is a fact that outsiders took shelter in large pas like Te Uhi during the troubles between 1865 and 1867. It is a fact that some of the visitors while there did assist in cultivating the land. I have no right to Hinewhaki. I know the kainga called Whakaahurau. I consider that it is on the extreme end of Hinewhaki No. 2.

[Folio 221.]

Mr. MITCHELL: I do not propose to call evidence, but will refer the Court to evidence in rebuttal. The action of the petitioners is nothing less than an attempt to override the action of the elders in 1868. They would seem to assert that the elders were ignorant and idiotic. The persons who are entitled to relief are, I maintain, those who have suffered an injustice right up to the present day, and it is for them to prove their case. Hinewhaki Block consisted of three portions. Nos. 1 and 2 were investigated in 1868. No. 3 was set aside as a reserve and was not dealt with until later, when it was awarded to the owners of both Nos. 1 and 2. M.B. 1/121.—Evidence by Tiopira Kaukau is clearly given and was not contradicted. Page 122 (Burton's evidence) refers to the survey. Tiopira gave the boundary between Nos. 1 and 2 in his evidence, and mentions Whakaahurau. It is clear that some people, by arrangement, went into No. 1 and some into No. 2, and evidently there was some feeling between the two factions. Mr. Burton's evidence makes it clear that the Natives knew all about the survey and about the subdivision of the land, and it is not safe to assume that any one was "asleep as to his rights." It can be assumed that if any brother or sister was left out of No. 2 he or she received an interest in No. 1. Of course, this does not apply to more distant relatives. It is a fact that many persons sought sanctuary at Te Uhi during the Hauhaus troubles. Hinewhaki No. 2 was, according to Tiopira Kaukau, set apart for residential purposes. The people entitled to go into the title were the people who had houses and pas there. He did not even include himself. Probably he had no house there.

List 1.—If Paea Iho was alive in 1868 she had no right to go into the title if her elders were alive. It is remarkable, too, that all her children were adopted by people living outside the district. It is to be noted that they have all taken up their residence at Whakaki. Peta Tiakiwai cannot even

trace his ancestry. M.B. 28/231.—Petera Whakahoro: “Hauraki had no right. Paraone’s right came from his mother’s side.” These people in the list never lived on the land, even if they were born in 1868. The fact that Te Paea Iho’s bones were taken from off the block shows that they had no right.

List 2.—An attempt is made to include the names of Pakitea and all of his children, besides his brother and sister. Taare Mete has told the Court of the family arrangement whereby this family’s individual members received separate awards in No. 1, &c. In M.B. 1/122 Wepiha Pakitea (*alias* Te Orakore) received an interest in that block. When Wepiha was succeeded to in No. 1 the surviving brothers of the deceased were appointed to succeed, his own children standing out in their favour. All of the persons now claiming for inclusion are owners by succession to Wikitoria. They only want more shares. It would be an injustice if their request were granted. Owners in occupation would have their holdings reduced. The persons in this list are not resident on the land. The permanent residents on the block, which is already populated by a large number of people, will be seriously prejudiced if their cultivations, &c., are taken from them as a result of strangers coming in.

List 3.—I admit that Mere Maupuke has as good a right to inclusion as Marara and Watene. She may have been left out at the time. But she was a very competent woman. She raised no objection to her non-inclusion, and it seems safe to assume that she was a consenting party. But any injustice that was done to her was put right when she was brought in as a part successor to Marara Taku, who left children. Mere may have been left out because she was then childless. Mere Tupaea is now not living on the land. If she is now included she will jam the children of Marara and Watene off of their holdings.

List 4.—Heihehi Hemara’s evidence (p. 198) makes it clear that Ripeka had no occupation. She was dead when the title was investigated. The alleged gift by Miriama cannot have been recognized in 1868. Neither Miriama nor Ripeka is in the title, which would make it appear that the story of the gift is an invention.

List 5.—M.B. 1/122 makes it clear that Ema Apatari (Apatahi) was selected to represent her family in Hinewhaki No. 1. M.B. 14/66–67.—Wiremu Kaimoana states that Taumaha belonged to Nuhaka, and that her decendants had no right in Hinewhaki No. 2. “The elders put Tipene in through *aroha*. His elder half-brother (Henare) died in 1863.” It is clear from this evidence that the family had no occupation until a long time after Tipene went away from the land. It was many years afterwards that Harete went back there to live. In M.B. 28/228 Paora Koara, a very old man, says, “I gave evidence in 1868, and was conversant, [&c.], at that time.” “A part of the block was given by Matiu to Tipene; Henare to Apatari’s children now occupy this piece.” “Harete Apatari and her daughter occupied after Tipene went back to Ngapuhi.” In M.B. 28/232 Petera Whakahoro admits that Tipene was put into the title through a gift. In M.B. 28/237 Erami Kaihue (seventy years of age) states that he had lived all his life on the block. He says, “Tipene lived under gift.” In M.B. 28/253 Judge Giffedder deals with Timoti. He says, “Tipene’s mother seems to have been a Nuhaka woman. Tipene was brought back and received a gift of land in this block.” Henare Apatari had no right to the land, even if he had been alive when the block came before the Court. It cannot be contended that his children had any right.

List 6.—I have no objection to Heni Taura being allowed to come into the title as long as she is only given a share out of the family interest, but I do object to her coming in and reducing the holdings of others. Any alteration which has that effect will perhaps render valueless survey-work which has cost hundreds of pounds. I do not admit the occupation claimed. It is to be noted, too, that no effort is made to include Wihia’s other children. If Heni Taura is admitted, what security is there that they will not make another effort to upset the title? I am instructed by others of the successors to Petera Whakahoro to strongly object to Heni Taura coming in under Petera’s right.

[Folio 228.]

Present and place, the same. Date: 3rd March, 1926.

HINEWHAKI No. 2—*continued.*

Mr. MITCHELL: *List 7.*—I will now deal with this list.

Mr. MCGREGOR: I ask for leave to withdraw this list.

List withdrawn.

MAPEKING PERE: Hoeta Kaihue and Hone Kaihote were put into the title. They were prominent in the proceedings at the time. The witness has stated that Ketua at that time was already dead. That fact accounts for his non-inclusion. Hoeta Kaihue’s importance probably accounts for the inclusion of two of his children, Teretiu and Kingi. Kiri Pahemata was left out, presumably at the instance of the elders. Apikara Pomare, Kiri’s only child, is already in by succession. It has not been proved that Rawinia’s descendants had occupation. Hone Kaihote and two of his children were put into the title. The others were left out, but they have interests by succession. The arrangement was made by Tiopira Kaukau and the elders, and should not now be attacked.

Mr. MITCHELL: *List 8.*—The members of the Kaihote family have not previously sought admission, but they have endeavoured (M.B. 36/9) to have their father’s interest increased. In M.B. 28/237 Erami Kaihue gives evidence. Although born on the land, he makes no complaint as to his non-inclusion. He evidently respected the arrangement made in 1868.

List 9.—The claimants in this list are very distantly related to Wikitoria and others in the title. It is unreasonable to suggest that such distant relationships should confer a right. Taare Mete’s evidence shows that Porora went to live elsewhere before 1868. This land was intended as a site for residences of persons actually there, and not for absentees. The claimants under this list have not proved occupation. None of these people set up a case when Hinewhaki No. 3 was investigated. It is only now that they make a claim.

List 10.—A previous inquiry *in re* a petition by Tiaki Nau and others has been inquired into (M.B. 35, p. 371). I refer the Court to my address in same book (pp. 378 and 379). We claim that Rakai, the ancestor set up, was a nobody. Ruiha had a European husband, and for years was off the block living with him.

List 11.—I refer the Court to Wiremu Kopu's evidence (p. 206). That witness is a grandchild of Hemaima, and he should be well informed. His evidence is against the inclusion of Te Rangi's descendants. Hemaima Tuhi was one of the grantees in Hinewhaki No. 1. She was alive in 1868. That being the case, if any one of the family was then recognized as entitled it should have been Hemaima, and not her children. Her child, Kune, is also in No. 1 (M.B., pp. 122-123). The people who went into No. 1 should not now attempt to crowd out the owners of No. 2 and so destroy the arrangement made by the elders in respect of the two blocks. It is remarkable that Peta Pakuku, who seems to be the only member of his family who has any occupation, does not make any claim for inclusion. He recognizes that he has no right.

List 12.—The claimants in this case are not very closely related to Miriama Tau, who is in the title. On the definition of the relative interests (M.B. 28/214) Taki Hamana admits that Miriama Tau got in by marriage. When she died she left a will devising her interest back to her husband's relatives. The will was contested, but the Kopu family lost the case. In the same minute-book (p. 252) the Court seems to have assumed that Miriama Tau came into the title by virtue of her marriage. The Kopu family have interests in Hinewhaki No. 1 by succession to Pera Tataramoa. They have leased their interests to Epemiha Pona, and now seek to come into No. 2 to the detriment of the owners of that block.

List 13.—The only point I need stress in this case is that Tiopira Kaukau himself prepared the list. He knew best who had a right. He left himself and his sister out, but saw that they got into No. 1.

List 14.—The persons in this list claim inclusion in the title because Karauria te Iwirori got in. Ohi Paea got into No. 1. She was Karauria's full sister, and was also known as Ohi Hinekino. Watene Huka and the other members are not very closely related to Karauria te Iwirori. In M.B. 28/218 Kingi Karauria gives evidence, but makes no claim through Taitau. I prepared the *whaka-papa* handed in, and know that the right was claimed through Wikitoria. None of the people in this list has any right to Hinewhaki, with the exception of one (Ohi Hinekino), who got in through her mother. They belong to Whakaki, and have never previously attempted to get into the title.

[Folio 241.]

Present and place, the same. Date: 5th March, 1926.

HINEWHAKI No. 2—*continued.*

Mr. MCGREGOR: Tiopira Kaukau, who handed in the list of names in 1868, left out, we contend, the names of some persons who had a right to inclusion. Whether or not he did so as the result of an arrangement we do not presume to say. Since then fifty-eight years have elapsed, and the land has passed through various stages of Court procedure and has been petitioned and surveyed. Parliament has seen fit to authorize this inquiry. The duty of the Court is to ascertain whether those people who have been left out have suffered an injustice. Although I have left out of my lists the names of persons who would also be entitled, it was not my intention to deliberately suppress them. In some cases one brother got into the title while another brother was left out. In these cases we claim that there is no necessity to call evidence, as it must be clear that the right exists. We contend that rights by occupation do not become cold until there has been no occupation for three generations. A son who has not occupied, or who has had little occupation, has an inherited right from his father if the latter had occupied. In some cases it is noted that a father and son have both got into the title. If one brother had occupied and another had not, both would be entitled to go into the title, but on definition of interests one might get a larger share than the other.

List 3.—The evidence as to occupation given by Mere Tupaea has not been contradicted, so it must be assumed that Mere Manupuke had a right by occupation. (Mere Tupaea has $2\frac{1}{2}$ shares in the block. She acquired $1\frac{3}{5}$ shares by succession to Makere Haere, and $1\frac{1}{5}$ shares as successor to Neta Haere, who were two of the successors to Marara Taku.) If it appears to the Court that any injustice done has been removed by this award, I have nothing further to say in support of this list.

List 4.—In M.B. 28/211 Paku Mihaere states, "Ripeka lived there and had permanent occupation." "Her children and grandchildren are still on the block."

List 5.—In M.B. 28/228 Paora Koara's evidence states, "Henare Apatari and Matiu gave this piece [Hauariki] to Tipene before 1868." It may be maintained that Henare Apatari dispossessed himself of his rights by this gift, but it is to be noted that Matiu got into the title. In M.B. 28/230 Petera Whakahoro states, "Tipene had a right of his own. I never heard of any gift before the present case." (M.B. 14, p. 65.—"Through *aro*ha Matiu and others put Tipene in"—M.B. 28/232.) The evidence of this witness is contradictory as to the alleged gift, and should be discounted. It has been stated that Taumaha belonged to Nuhaka. In M.B. 8/111 (Napier) Hirini Whaanga states, "Neither Apatari nor his descendants ever occupied permanently" (at Nuhaka). In the same book (p. 89) Ihaka Whaanga states, "Apatari has no right to his block." [Court: But he did get into the title.] In same book (p. 118) Otene Pomare states, "The children of the Wairoa woman (Te Rauhina) stayed at Wairoa." I maintain that Taumaha belonged to Wairoa as well as to Nuhaka. Henare Apatari's children were admitted into the titles of several blocks in the vicinity of Hinewhaki. In M.B. 28/281 Paora Koara states, "Ema Tari and her father, Henare Apatari, occupied on No. 2, but not on No. 1." [Note.—Ema Tari (or Apatari) got into the title to No. 1.] The claimants under

this list have houses on the block, built since the title was investigated, but are only living there on sufferance. It is claimed that the Apatari family has a right to inclusion by right of ancestry and occupation.

List 6.—

PAEKURA WHAKAHORO (*in reply to Court*): If Heni Taura is admitted, her share should be contributed to by the whole block, and not by myself or my family.

TUAHINE WHAKAHORO: I do not agree to Heni Taura coming in at all. If she is admitted, Paekura should give her a part of his share.

PAEKURA: I am not prepared to do that.

*List 7.—*I am satisfied as to this list, and will not now ask for the inclusion of Erihi Whakina.

List 8.—

Mr. MCGREGOR: In this case I will be satisfied, as to the Kaihote family, if a more equitable arrangement is made as to the shares of the individual members of the family. Two of them are original owners and owners by succession, while the others only come in as successors.

To Court.] The owners of the larger shares are not agreeable to this.

Mr. MCGREGOR: I consider that the families included in this list have been well treated. The only hardship lies in the fact that some get larger shares than others. Ketua was dead before the title was investigated.

*List 9.—*It is admitted that the claimants under this list are not closely related to Wikitoria Mapuna and Ahipene Tamaitimate, who are in the title. Te Paea Ahipene, in M.B. 28, p. 214, states, "Ahipene in the title is my father. Matangirau and his brother (Rakai) owned this pa" (Te Uhi). "Wikitoria Mapuna and Pakitea worked there" (at Te Awahikataka). Pakitea had several children who did not get into the title.

*List 10.—*Erihi Whakina succeeded to her father, Matiu Karihuka, but claims a further interest through her mother, Miriama.

*List 11.—*Te Paea Hineaka was married to Repooma (*List 9*). If latter had a right, his wife may have lived on the land under that right; if not, then we must assume that she herself had a right. My own witness has stated that Te Rangi had no right. If this is correct, Mihi Rapuke must have derived her interest through her father, Te Whio (*List 13*).

*List 12.—*I have nothing to submit to the Court as to occupation by the persons named in this list.

*List 13.—*It is for the Court to decide whether or not the descendants of Te Paratene should be included in the title, and it is important to decide as to the derivation of Mihi Rapuke's interest (*List 11*).

*List 14.—*In Ohuia and Ngamotu these people come in through Taitaui, and it may be assumed that Taitaui also had a right to Hinewhaki No. 2. I am not combating the statement that they had a right through Wikitoria. If the interest did not come through Taitaui, then the children of Paea Nawa had no right.

It has been suggested that the list of owners was settled by arrangement. If the arrangement was inequitable, then it is submitted that it should be set aside. It is a significant fact that those left out are younger members of families. It is very probable that they were not consulted. Many of them would be quite young at the time, but they would be entitled to be put in if their brothers were included. Some people went into No. 2 and some into No. 1. There would have been some amount of justice done if all who were excluded from No. 2 were put into No. 1, but this was not done. We find that in some cases the omission of names has been rectified by succession, but this does not apply to all the persons left out. Most of the occupation is on Hinewhaki No. 2. Nos. 1 and 3 are unsuitable for occupation. It is hard to understand why all of the owners did not go into No. 2, which was a *papakāinga*. It is maintained that an injustice was done when some people who had cultivations on No. 2 were put into No. 1. Over half a century has elapsed before any steps were taken to reopen the title, but this is probably attributable to ignorance as to the proper procedure to be adopted. Occupation since 1868 need not be considered, but those whose elders or who themselves had occupied prior to that year are entitled to go in. If new names are admitted it does not necessarily follow that the subdivisional-survey work will be wasted. If in the opinion of the Court any of the persons now claiming are deemed to be entitled to inclusion, then it is asked that the matter be reopened so far as to allow a reinvestigation of the title, when the people in the title would have to defend their rights.

*List 2.—*WEPIHA KARAITIANA addressed Court. Does not seek inclusion in the whole block, but only in the portions now owned by Wikitoria's and Ahipene's successors.

*List 1.—*PETA TIAKIWAI addressed Court. Asks that people in his list be awarded a portion of Paraone Ahire's share. Had discussed matter with latter, but they were not agreeable.

MAFEKING PERE: If the petitioners are successful in disturbing the title to No. 2 it will become necessary to revise the list for No. 3, which was awarded to the owners of Nos. 1 and 2. If the petitioners are correct, either the owners made a mistake or the Court did. No evidence has been offered that the Court in 1868 departed from its usual procedure, nor was evidence adduced that it was unable to understand the Native customs prevailing in this district. No evidence has been tendered to show that the elders who got into the title used domineering influence over those who were left out. Rather, we find that Tiopira Kaukau, who prepared the list and handed it into Court, deliberately left out his own name and those of his sister and daughter. We maintain that the petitioners have entirely failed to justify their assertion that their exclusion was wrongful. They have failed to establish their claim to equal rights with the owners. In clause 7 of the petition they refer to disputes and fights. If these occurred, how could rights be equal? The effect of their allegiance to the Queen between 1840 and 1868, the leavening process brought about by Christianity (1850-68), the merging-together of fortunes

due to the incursions of the Hauhaus (1865-67), and the lapse of time for two and a half generations, all converged to render it now a task for the very gods to ascertain as to the true occupation of the block. We uphold the original award of the Court and all subsequent orders, whether by way of partition, succession, or otherwise. We submit that the petition under inquiry has not the force to warrant a favourable report.

Mr. MCGREGOR controverted the statement that no evidence had been brought forward to show that the Court of 1868 had departed from its usual procedure. The grievance of the petitioners was not against the Court, but against those who fixed the list in 1868. The Court simply approved the list submitted. We admit that Tiopira Kaukau had every right to leave out his own name, but that he had no right to leave out others. If we have proved that we have a right by ancestry and occupation we are entitled to inclusion.

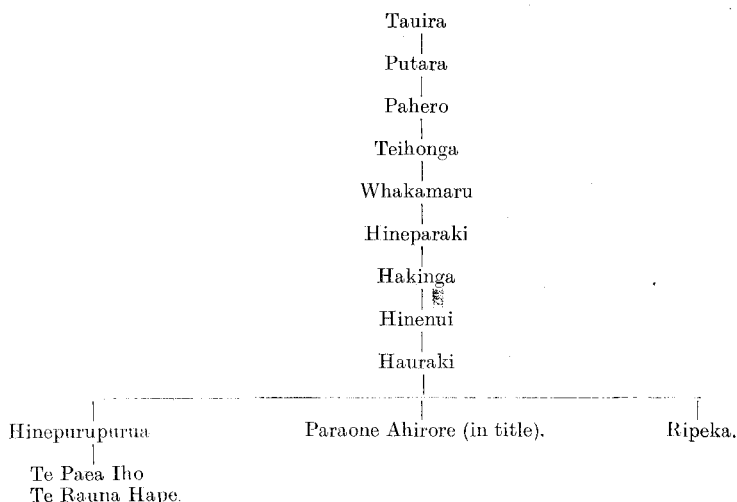
Report to be made to Chief Judge.

Hearing fees charged: McGregor, £6 (paid); Mitchell, £2 (paid); Peta, 10s. (paid); Wepiha, 10s. (paid); Pere, 10s.

HE RARANGI INGOA MO HINEWHAKI 2, 3.

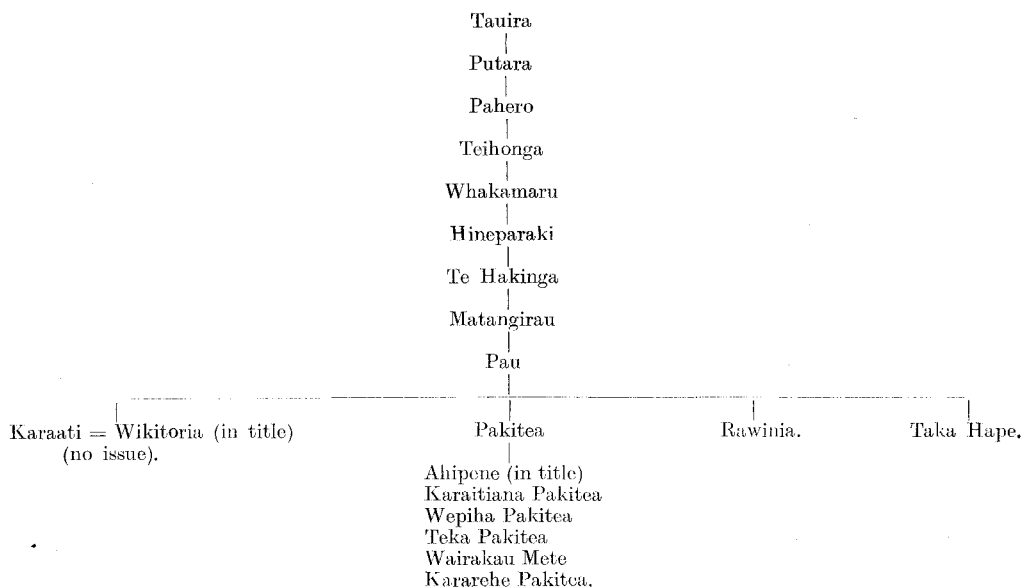
1. Te Paea Iho.
2. Peta Tiakiwai.
3. Te Rauna Hape.

List handed in by Peta Tiakiwai, 27th February, 1926.

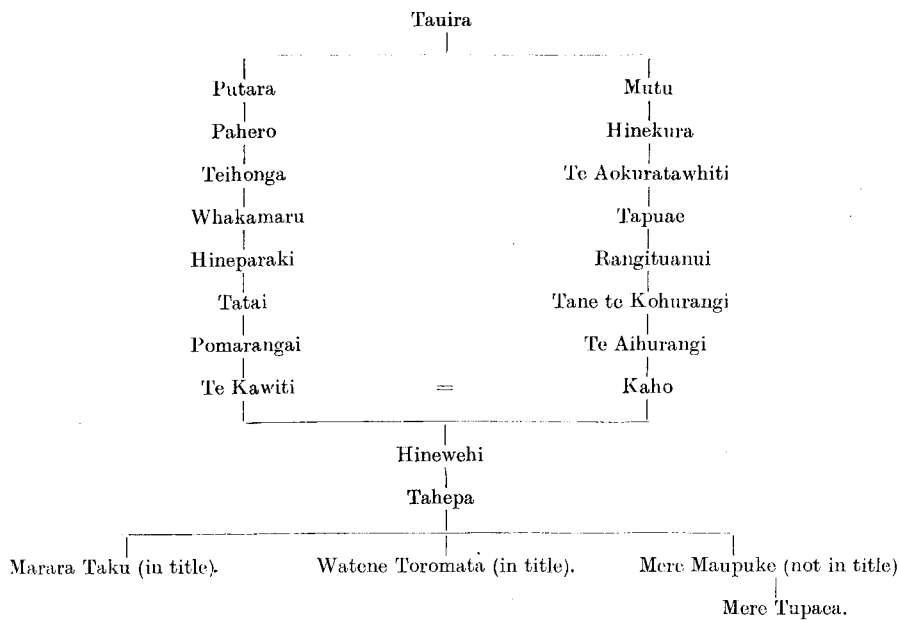


List: Te Paea Iho, Te Rauna Hape.

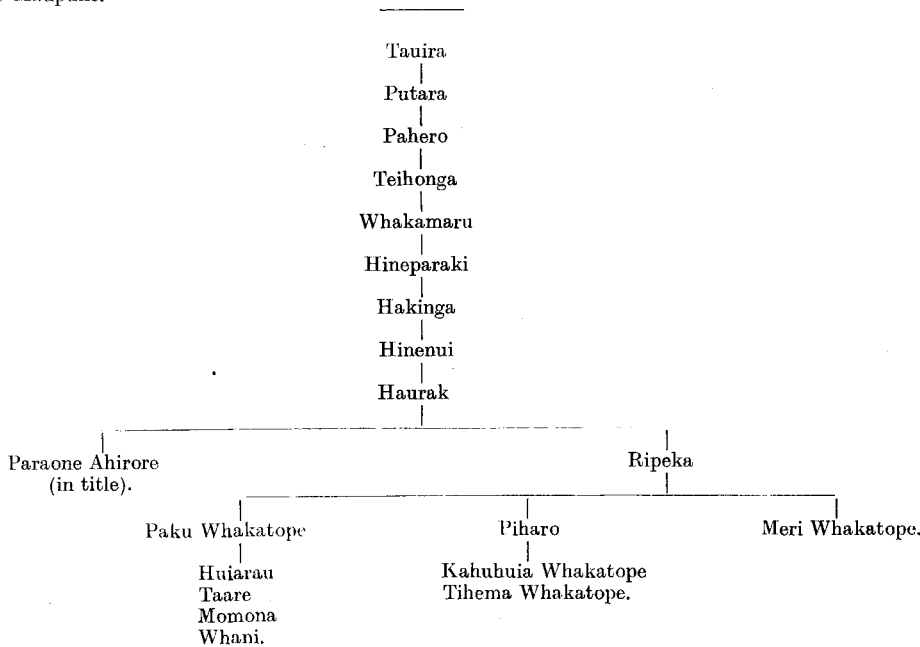
HINEWHAKI No. 2.



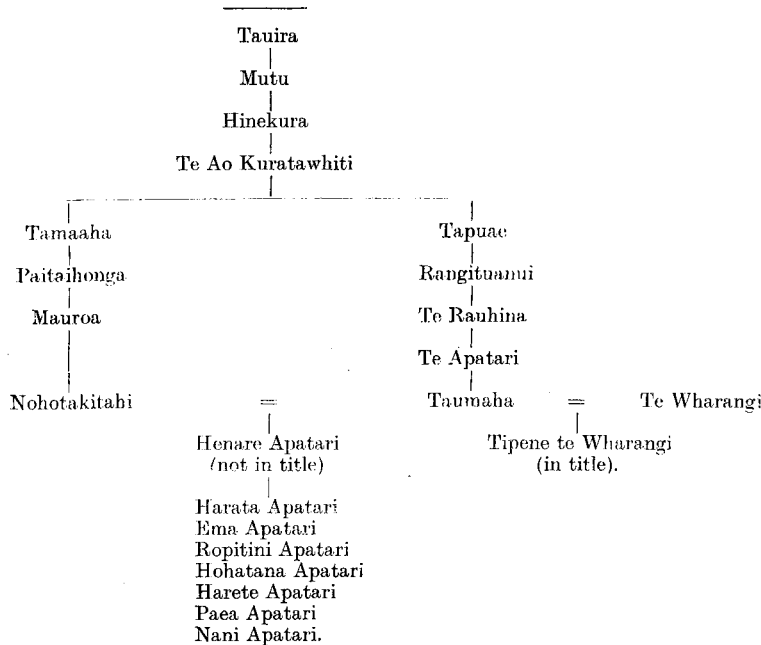
Handed in by Wepiha Karaitiana, 27th February, 1926.



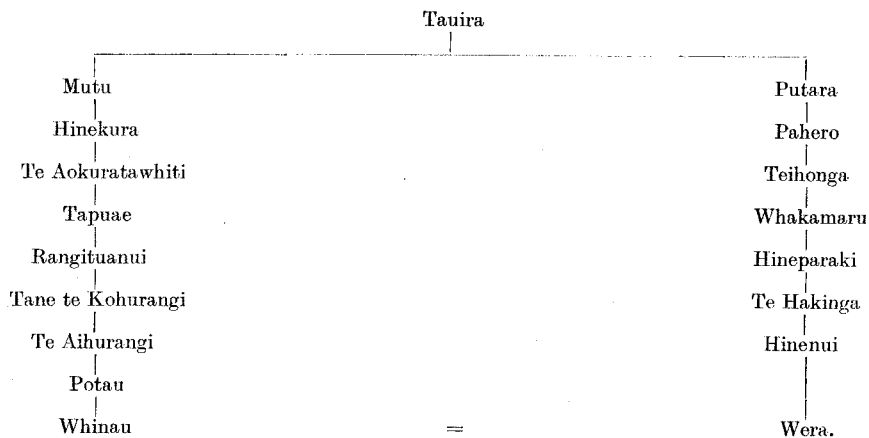
List : Mere Maupuke.



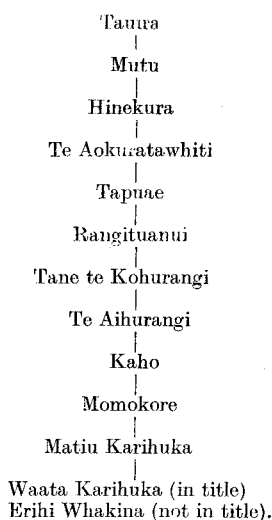
List : Paku Whakatope, Piharo Whakatope, Meri Whakatope.



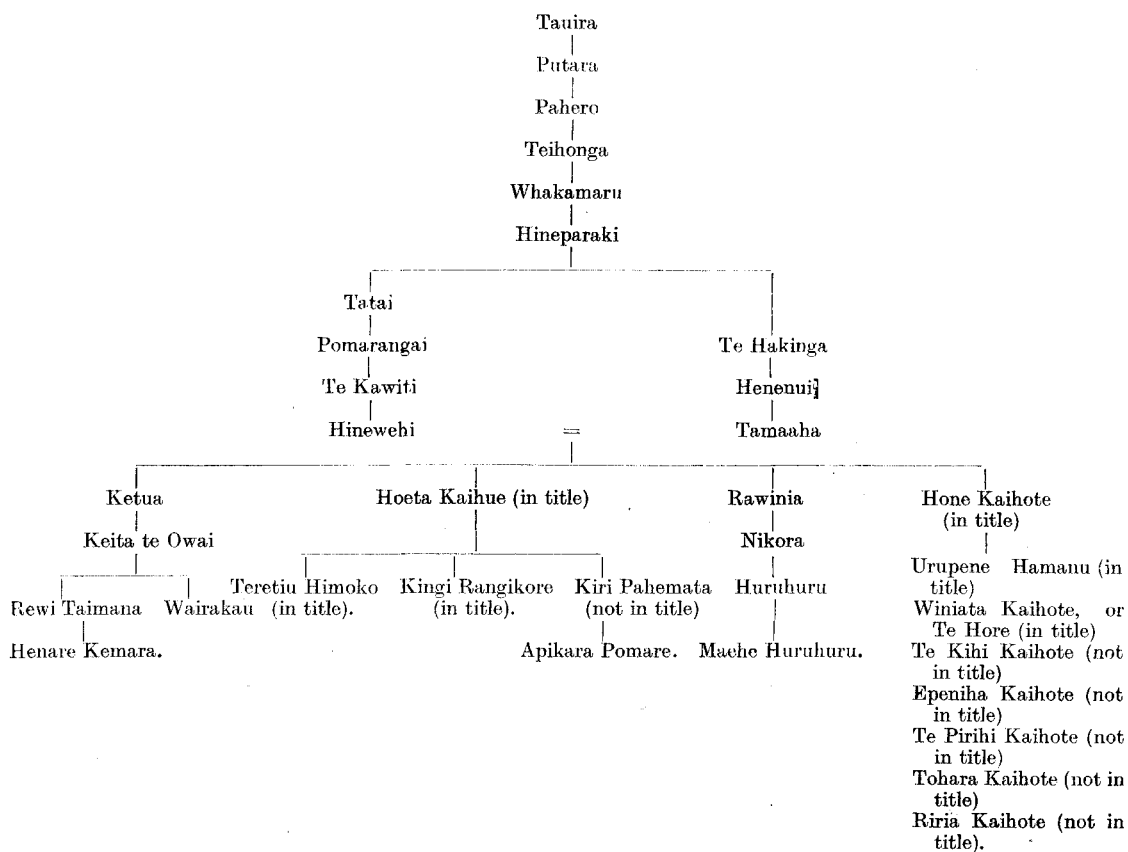
List : Harata Apatari, Ema Apatari, Ropitini Apatari, Hohatana Apatari, Harete Apatari, Paea Apatari, Nani Apatari.



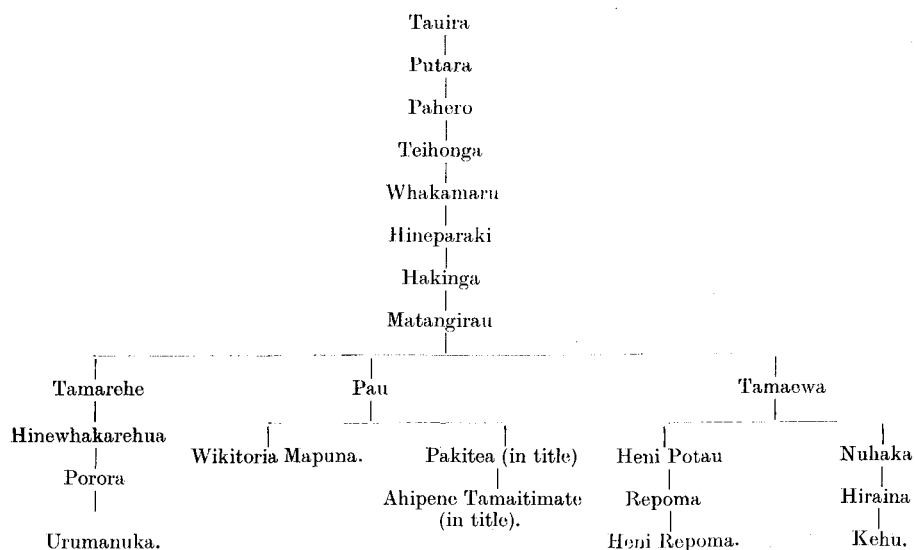
List: Heni Taura.



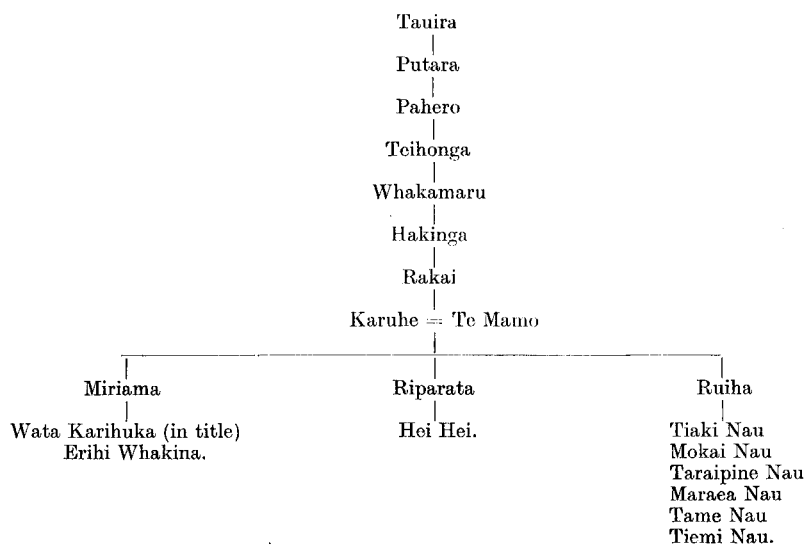
List: Erihi Whakina.
Withdrawn, 3rd March, 1926.



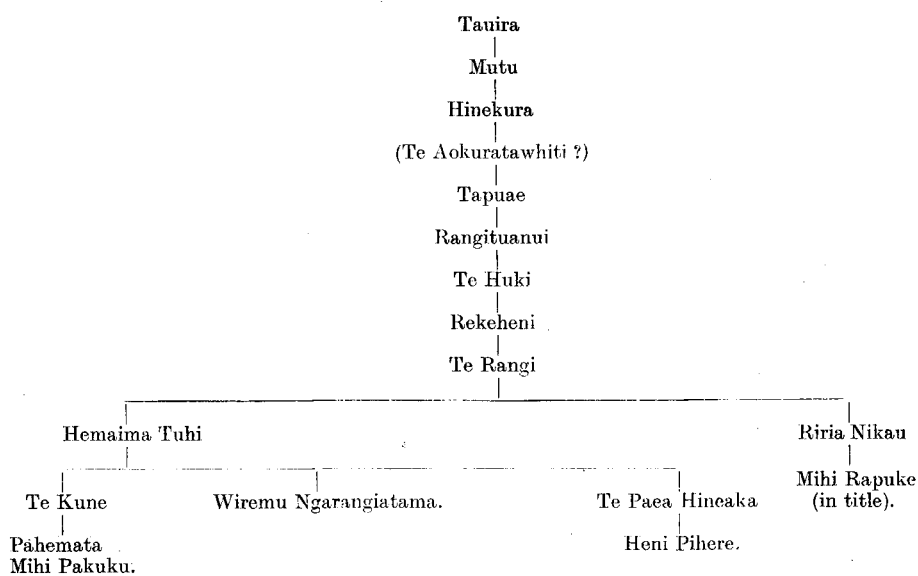
List: Rewi Taimana, Wairakau, Rawinia, Te Kihī Kaihote, Epeniha Kaihote, Te Pirihi Kaihote, Tohara Kaihote, Riria Kaihote, Kiri Pahemata.



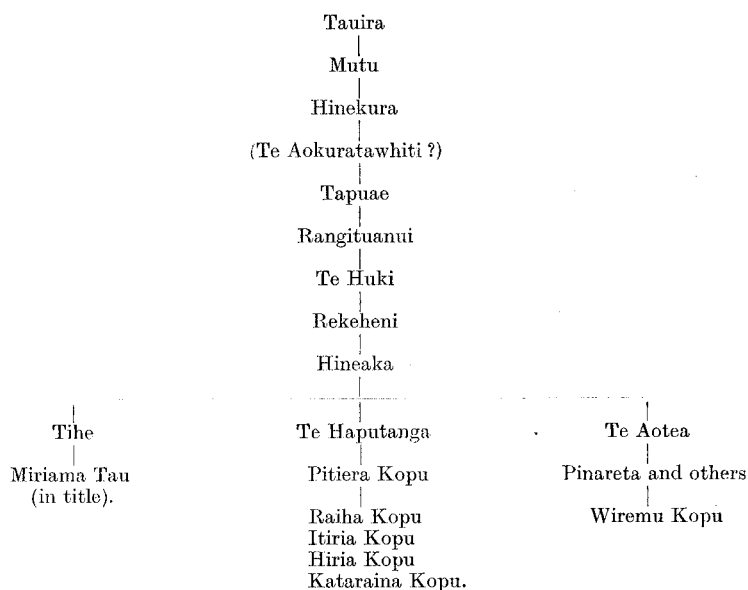
List : Porora, Repoma, Hiraina.



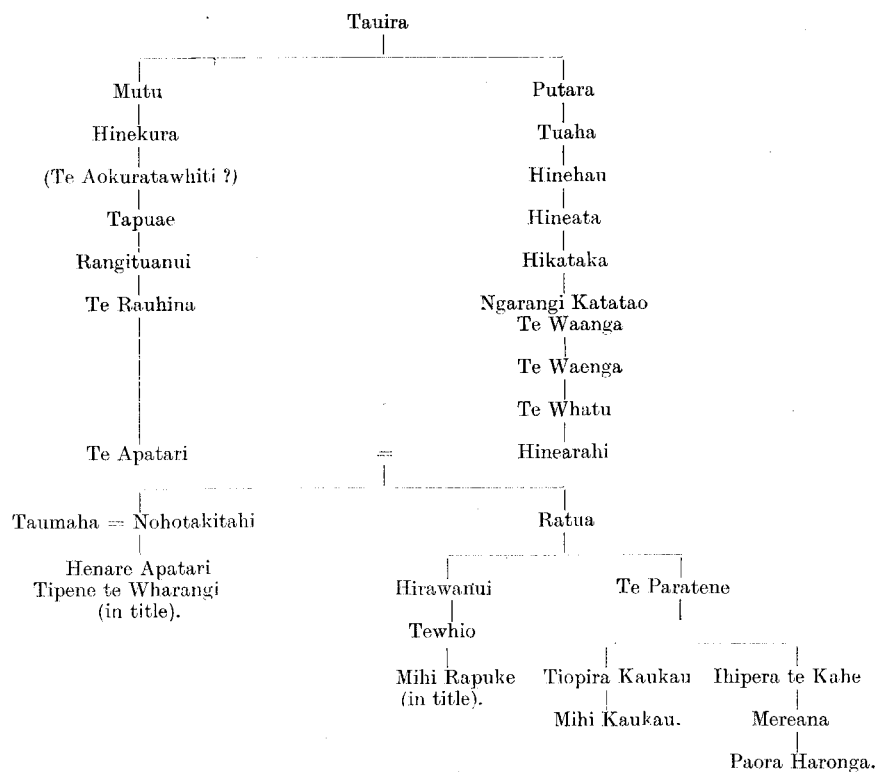
List : Erihi Whakina, Heihei Hemara, Tiaki Nau, Mokai Nau, Taraipine Nau, Maraea Nau, Tame Nau, Tiemi Nau.



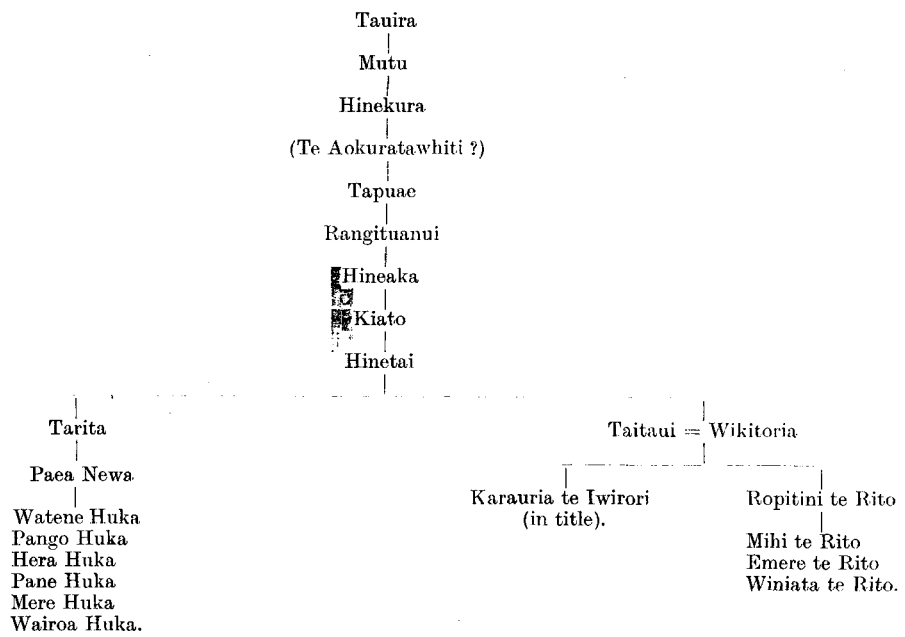
List : Pahemata, Mihi Pakuku, Wiremu Ngarangiatama, Te Paea Hineaka.
 Withdrawn, M.B. 37, page 206 ; reinstated, M.B. 37, page 212.



List : Pitiera Kopu, Raiha Kopu, Itiria Kopu, Hiria Kopu, Pinarete, Kataraina Kopu.



List : Mihi Kaukau, Ihipera te Kahe. (See also List 5.)



List : Watene Huka, Pango Huka, Hera Huka, Pane Huka, Mere Huka, Wairoa Huka, Okeroa Huka, Ropitini te Rito, Winiata te Rito, Emere te Rito, Mihi te Rito.

Approximate Cost of Paper.—Preparation, not given : printing (475 copies), £17 10s.

By Authority : W. A. G. SKINNER, Government Printer, Wellington.—1928.

Price 6d.]