

SESSION II.  
1921.  
NEW ZEALAND.

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# NATIVE LAND AMENDMENT AND NATIVE LAND CLAIMS ADJUSTMENT ACT, 1920.

REPORT AND RECOMMENDATION ON PETITION No. 307/19, RELATIVE TO SUCCESSION TO HAARE  
POTAKA (DECEASED) IN TAWHITI No. 1 BLOCK.

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*Presented to both Houses of the General Assembly in pursuance of Section 32 of the Native Land  
Amendment and Native Land Claims Adjustment Act, 1920.*

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Office of Chief Judge, Native Land Court, Wellington, 31st October, 1921.

*Re Tawhiti 1E 4 (Haare Potaka, deceased).—Petition 307 of 1919.*

ENCLOSED herewith please find report of Native Land Court pursuant to section 32 of the Native  
Land Amendment and Native Land Claims Adjustment Act, 1920.

I recommend that no further action be taken by the Legislature.

This seems to me a matter that could be rectified by the Court itself under its ordinary powers  
of amendment. The Court minutes leave no doubt as to what the Court's real intention was, and  
the order should accordingly be amended to conform to that intention. Unless there is some  
special reason of which I am not at present aware I will take steps to have this done.

The Hon. Native Minister, Wellington.

R. N. JONES, Chief Judge.

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Maori Land Board Office, Wairoa, 18th October, 1921.

*Re Petition 307 of 1919, of Hoera Potaka, praying for Readjustment of Shares re Tawhiti 1E 4 Block  
(really for a Readjustment of the Shares in the Order appointing Successors to Haare Potaka in  
Tawhiti No. 1).*

I HAVE the honour to report that, in accordance with your reference of the 9th November, 1920, I  
held the inquiry directed therein at a sitting of the Native Land Court at Tokomaru Bay on the  
5th September, 1921.

Hoera Potaka, the petitioner, appeared in person, but none of the other persons appointed  
successors to the interest of Haare Potaka were present at the inquiry, although Kereopa Potaka, one  
of them, was at the Court on the previous day and was aware that the inquiry was coming on. It  
appeared from Hoera Potaka's evidence that Haare Potaka, whose interest in Tawhiti No. 1  
(subsequently on partition located in 1E 4) was the subject of the inquiry, died in 1903 without  
leaving any will or children. His parents were both dead at the time. He had one brother living,  
Hoera Potaka, and the issue of another—viz., Kereopa Potaka, Hone Potaka, Hare Tipua Potaka,  
and Hirim Potaka. Hoera Potaka rightly claims he is entitled to half the interest, and his  
brother's children to the other half between them equally. He alleges, however, that by the order  
of the Court the whole five of them have been appointed equally to the interest, and that he has  
in consequence suffered a loss.

Orders appointing successors to Haare Potaka (deceased) in a number of blocks, amongst them Tawhiti No. 1, were made at Waipiro on the 19th October, 1903. The necessary evidence was given in the case of succession to the deceased in Waipiro No. 1, and is as follows :—

“ *Waipiro No. 1.—Haare Potaka.*

“ KEREOPA POTAKA sworn : Haare Potaka died on 7th March, 1902. He made no will. He left no children. He had two brothers—viz., Eru Potaka and Hoera Potaka. Eru Potaka is dead. He left four children—namely, Kereopa Potaka (m.), Hone Potaka (m.), Haare Potaka (m.), Hirini Potaka (m.). It has been agreed that this share shall be allotted to Hoera Potaka and the children of Eru Potaka equally, all of Waipiro. (No objectors.) Order : Half to Hoera Potaka and half to the children of Eru Potaka.”

In the margin of the minute-book alongside this evidence is the following note, undated :—

“ Letter from Hoera Potaka stating that there had been no agreement as to shares being equal. —(Signed) JOHN BROOKING.”

The following is the minute with regard to the Tawhiti interest :—

“ *Tawhiti No. 1.*—Kereopa Potaka to succeed Haare Potaka. Same evidence ; same order.”

From the minutes it looks very much as if the Court in the first instance appointed them all equally to the Waipiro and all the other interests on the strength of the alleged agreement referred to in the evidence, and subsequently amended the minutes on receiving the letter from Hoera Potaka that there had been no agreement, but omitted to amend the order for Tawhiti No. 1.

The order as drawn up and signed, however, is both inaccurate and ambiguous. It reads as follows :—

“ It is hereby determined that—

“ Kereopa Potaka,	} Sons,
Hone Potaka,	
Haare Tipua Potaka,	
Hirini Potaka, and	
Hoera Potaka,	Brother,

all of Waipiro, aboriginal Natives, are the persons who are entitled to succeed to the estate, share, or interest of and in the said land whereto the deceased died entitled, and it is hereby ordered that the said share shall vest in the above-named successors *equally*.”

The four grouped together are not the sons of the deceased, and it was clearly not the intention of the Court that they should take equally.

The result is that the petitioner, Hoera Potaka, has suffered a loss, in that by the order he has obtained only one-fifth of the deceased's interest instead of one-half to which he is entitled.

Any amendment in the succession order will entail a consequent amendment in the partition order for Tawhiti 1E 4, in which division the interest in question has been located.

JAS. W. BROWNE, Judge.

The Chief Judge, Native Land Court, Wellington.

*Approximate Cost of Paper.*—Preparation, not given ; printing (450 copies), £2.

By Authority : MARCUS F. MARKS, Government Printer, Wellington.—1921.

Price 3d.]