

In the Native Land Court  
of New Zealand  
WAIARIKI DISTRICT

IN THE MATTER of Section 23 of the  
Native Purposes Act, 1938,

AND

IN THE MATTER of Petition No. 14 of  
1937 of Henare Hako and Others .  
praying for a re-opening of the  
title of Hiwarau Block.

AT a sitting of the Court held at Opotiki on the 19th ..  
July 1939 BEFORE John Harvey Esquire, Judge.

UPON REFERENCE by His Honour the Chief Judge of the said  
petition for enquiry the following report is submitted -

1. This land is part of an area confiscated to the Crown ...  
following upon acts of the Maori people in the Opotiki ..  
District which were considered sufficiently grave to warrant ..  
this drastic action against their lands.
2. The following notice, published in the New Zealand .....  
Gazette of the 14th November, 1874, confirms the return ..  
of part of the confiscated area and evidences the award of the  
Compensation Court charged with hearing and determining the ..  
claims of natives to the return of parts of such confiscated ..  
area -

"RAY OF PLEASY DISTRICT - SCHEDULE NO. 14, 1872.

LOT to be granted under the 4th and 6th clauses of "The .....  
Confiscated Lands Act, 1867." The Lot herein specified.  
is to be inalienably assured by a Grant in trust to the ..  
Members of the Upokorehe Tribe whose names are included ..  
in the schedule attached. The right to take lines of ..  
road is reserved.

Upokorehe

Name of Tribe for certain of whose members Grant is made	Names of Trustees	Sex	Rank	Address	Area Acres.	No. and Des- cription of Lot	Local- ity
Upokorehe	Taira Haruru, Hemi Kakitu, Hoeroa, Mamihana, Mita Teharoke, Iraia Kaiponi, Heari Akeake.	M. M. M. M. M. M. M.	Native Chief do. do. do. do. do.	Chiwa do. do. do. do. do.	1073	Hiwarau Block: Bounded on the North by high watermark in Chiwa Harbour from the south of Nukuhou River to Punawai; on the East by a road surveyed from Punawai to the point where it first strikes Nukuhou River; on the South and West by Nukuhou River.	Chiwa

N.B. Lots 1 and 2, Hiwarau Sections, Piteairn's Survey, 25 ..  
acres each, are not included in this block.

**MEMBERS OF THE UPOKOREHE HAPU FOR WHOM NIWARAU BLOCK IS GRANTED.**

MEMBER

- |                   |                     |                         |
|-------------------|---------------------|-------------------------|
| 1. Teira Haruru,  | 9. Wahaika,         | 16. Tamati,             |
| 2. Hemi Kaita,    | 10. Watene Puroata, | 17. Turei,              |
| 3. Hemi Kari,     | 11. Hoani Akeke,    | 18. Papu,               |
| 4. Taitaha Paora, | 12. Iwala Kaipoi,   | 19. Hahi Taikororareka, |
| 5. Horopapa,      | 13. Mita Taharaki,  | 20. Wiremu Hinemua,     |
| 6. Hoopoa,        | 14. Kokeru,         | 21. Hoani Hokoimoko,    |
| 7. Tiopira,       | 15. Ani,            | 22. Warana Hokoimoko.   |
| 8. Hemi Hema,     |                     |                         |

MEMBER

- |                    |                     |                   |
|--------------------|---------------------|-------------------|
| 23. Marara,        | 31. Maria Hu,       | 38. Hahi,         |
| 24. Maria Watene,  | 32. Hara Ngatahoro, | 39. Whakotene,    |
| 25. Hara Katene,   | 33. Wheto,          | 40. Anizerata,    |
| 26. Hironono Tipa, | 34. Rarohira,       | 41. Hara Te Hara, |
| 27. Hara,          | 35. Ripeka,         | 42. Hara,         |
| 28. Hara,          | 36. Hironono,       | 43. Hahi Hoki,    |
| 29. Niwarau Kopua, | 37. Hahana,         | 44. Hahana.       |
| 30. Ani Peka,      |                     |                   |

CHILDREN

- |              |              |              |
|--------------|--------------|--------------|
| 1. Peta,     | 5. Tamati,   | 9. Ngakai,   |
| 2. Hemi,     | 6. Tamati,   | 10. Hahi,    |
| 3. Hara,     | 7. Kararima, | 11. Ani,     |
| 4. Riripoti, | 8. Otutu,    | 12. Hinemua. |

3. On the 17th March, 1898, Judge Johnson gave the following decision upon an application for definition of the relative interests of the 26 persons named in the gazetted list -

"In this case, Te Warana Hokoimoko and others ask for the definition of relative interests in the Niwarau Block, and claim that only thirty persons are entitled to full rights as being really members of the Upokorehe Tribe, to whom they state that the grant of land made by the Government was restricted. They also state that the other twenty-six persons in the title are members of H'Karateha, H'Humapo, Te Kareka and other hapus - not Upokorehe - and that therefore they should get merely nominal interests, as having been included in the title without right.

Mihare Kohua, on behalf of the persons objected to, set up a case, which was afterwards conducted by Hinemua to Peta, who claims that most of the twenty-six persons are really Upokorehe, which is a general name given, in connection with the killing of Taikurero, to the people of a number of hapus in the Ohia district - the descendants of Hara - and objects to several of the thirty persons represented by Te Warana Hokoimoko, as being members of another branch of the Upokorehe - H'Humapo and H'Patu - who have become identified with H'Karateha, and got land at Opahe, etc.

This block - and the island named Hokianga, in its vicinity - formed part of the area confiscated by the Government at the time of the war. It was subsequently awarded by the Compensation Court, in conjunction with Mr. I.A. Wilson, Crown Agent, to fifty-six persons named as being members of the Upokorehe Hapu - as stated in notice published in the N.Z. Gazette of 14th November, 1874, - but the relative interests of those persons were not then defined.

At the outset of this case, the Court explained that, being confiscated land returned by Government to specified individuals, the ancestral title was not involved, but Te Warana Hokonoko was very desirous of bringing out certain matters in support of his claim, and the Court allowed him to proceed.

A good deal of conflicting evidence has been given, but the Court is of opinion that Tapui te Kaka's evidence is reliable, and that the name Upokorehe was a general ... name applied to people of various hapus living in the ... Ohia/Waiotaha district.

Reference has been made to evidence given before ... Judge Beannell in March, 1895, at the hearing of claim to succeed to the interest of Tahi, deceased, in this block. Te Warana Hokonoko laid particular stress on the fact that Mawiri Makawe (who was then alive and gave evidence,) was well versed in genealogies, etc. - but this Court found .. that the evidence he gave distinctly supported the view .. now urged by Te Warana's opponents. Hemi Kaitu was also then alive, and gave evidence, being supported on that ... occasion by Wi te Akeke, who is now - strange to say - on the opposite side!

This Court is of opinion that, when adopting the name Upokorehe as a collective name for the fiftysix persons in the schedule of owners of this block, the Compensation ... Court and Crown Agent did so merely to distinguish a ... certain set of people who had lived in the Ohia/Waiotaha district, and for whose land was to be provided for settlement purposes. The award then made was final and conclusive in favor of the individuals named, and it was not then contemplated that there should be a further inquiry .. with a view to practically the elimination of any who ... could not claim to be ancestrally connected with the ... Upokorehe. It appears to be quite true that a few ... individuals really belonged to outside tribes - such as .. R'kahungau, etc. - but they had become identified with .. the Ohia/Waiotaha people owing to long residence amongst them, and it is to be presumed that in including those ... persons in the schedule, the Compensation Court and Crown Agent were fully aware of their position. So also in ... respect of persons included in other awards - at Opepe ... etc. - this Court assumes that the Compensation Court and Crown Agent were fully cognizant of those matters, and had good reasons for the action they took.

This Court has simply to complete work left ..... unfinished by the Compensation Court - that is, the ..... definition of the relative interests of the owners. If .. such had been done at the time that the list of owners was settled, this Court feels quite sure that all would have .. been treated fairly, and that no attempt would then have .. been made to oust anybody - or to give merely nominal .... interests - more especially such persons as Hemi Kaitu .. and Te Teira Haruru, who were undoubtedly leading men, and who were so regarded by the Compensation Court and Crown .. Agent. To do what has been asked would be simply going .. behind the award of the Compensation Court, and would be .. virtually making a fresh order in favour of a limited .... number of persons - a position which this Court is not ... prepared to take up.

Taking that view, this Court awards three shares to .. each adult male, two shares to each adult female, and one share to each child - as set out in list published in the N.Z. Gazette of 14th November, 1874, - making a total of .. 122 shares - Order accordingly.

In this regard the Court must agree with previous Courts that the identity of HIWARAU has been established and the rights of the petitioners to the shares in the company are as follows:

No.	Owners (Names amplified)	Sex	Shares
1.	(Te) Ani (Kotu)	m.	3
2.	Ani Peka,	f.	2
3.	Ani Merata,	f.	2
4.	Ani,	f.	1
5.	Krana (Akeake),	f.	2
6.	Heni Kakitu,	f.	3
7.	Heni Kuri,	f.	3
8.	Horopapera (Akeake),	m.	3
9.	(Te) Hoeroa (Horokai),	m.	3
10.	Heni Hamu (alias Mu te Hura),	m.	3
11.	Hoani Akeake,	m.	3
12.	Hoani Mokonoko,	m.	3
13.	Hironene Tipa (alias Hiro Tipa),	f.	2
14.	Hinerau Koniha,	f.	2
15.	Hiro Puku,	f.	2
16.	Hohi (Mokonoko),	f.	2
17.	Heni Mokai,	f.	2
18.	Huriana (Moku)	f.	2
19.	Heni (te Whakapae),	f.	1
20.	Hinehou (Hinehou Kotu),	f.	1
21.	Iraia Kaihoni,	m.	3
22.	Kokere (te Ani),	m.	3
23.	Kararaina (Mu),	f.	1
24.	Mita Tahanoki,	m.	3
25.	Mohi Takororareka,	m.	3
26.	Marara,	f.	2
27.	Maria Watene,	f.	2
28.	Mere Katena,	f.	2
29.	Moia (Nui),	f.	2
30.	Maria Mu,	f.	2
31.	Mere Ngutuhore,	f.	2
32.	Mahana (Mahanga Mokonoko),	f.	2
33.	Ngakai (Heperi),	f.	1
34.	Otutu,	m.	1
35.	Papu (Kiripa),	m.	3
36.	Peta (Mokai),	m.	1
37.	Rutu (Haruru),	f.	2
38.	Ruruhira (wawatai),	f.	2
39.	Ripeka (Wahaika),	f.	2
40.	Rea te Mara,	f.	2
41.	Eiripeti (Hangihaehaewaka),	f.	1
42.	Rahi (Krana),	f.	1
43.	Teira Haruru,	m.	3
44.	Taituha Paora,	m.	3
45.	Tiopia,	m.	3
46.	Tamati (Rutangiwhenua),	m.	3
47.	Turei (Rutangiwhenua),	m.	3
48.	Timoti,	m.	1
49.	Tawhi,	m.	1
50.	Wahaika,	m.	3
51.	Watene Pureata,	m.	3
52.	Wiremu Hine (I) ahua,	m.	3
53.	Warana Mokonoko,	m.	3
54.	Wheato,	f.	2
55.	Whakaetona,	f.	2
56.	Waru,	m.	1

Total = 122 Shares

4. According to Mr. Hislop the Conductor for the petitioners before this Court they claim that only the 30 persons named in list No. 1 before Judge Johnson should be retained in the title and that the 26 persons named in List No. 2 should be excluded. These lists were lodged by Te Warana Mokonoko - No. 1 were alleged to be true Upokorehe and No. 2 wrongly described as Upokorehe.

5. In this regard the Court must agree with previous Courts that the identity of Upokorehe hapu remains a matter of doubt. The origin of the name Upokorehe is also in doubt .. and the subject of many conflicting stories. There seems to be a consensus of opinion that the Upoko (head) belonged to one Taikurere but opinion is equally united on the point that others besides the descendants of Taikurere are entitled to be called Upokorehe. Mihirangi Kotu who was called before this Court to give evidence on behalf of the petition and ... whose family are included in List No. 1 said "I cannot trace from Taikurere."

6. On the 22nd March, 1895, Judge Scannell (in the case of succession to one Tawhi Rangī) delivered the following judgment, after hearing in evidence Rimaha te Pahau; Hemi Kakitu; Wi te Akeake; Rawiri Makawa and Mihaera Rshua - all of them elders whose knowledge of the history of this title must have been as nearly complete as it was possible to bring to bear at that time.

"In this case the Court finds it impossible to get satisfactory evidence from either side - The land was .. given to the Upokorehe hapu by the Government but none .. of the witnesses can give us any satisfactory explanation as to who the Upokorehe are or from what source the hapu comes. All we have from which the Court can .. derive any guidance is the fact - admitted by one of .. the witnesses called to support the counter claimants' case - that for four generations at least the mother of the deceased and claimant in the case - and her .. ancestors have lived with Te Upokorehe and at Hiwarau - Under these circumstances the Court is of opinion that the share ought to go to the mother as the nearest of .. kin now living and awards accordingly - the successor .. therefore will be

MERIHU HAORIRI, f.a. Hiwarau. "

7. It appears from the evidence given at the hearing of ... the application for definition of relative interests ... that some persons were included in the list who were from ... outside tribes altogether but who had long occupation at ... Hiwarau.

8. This together with all other material that has been .. searched confirms the Court in the opinion that the ... words "Upokorehe Hapu" and "Upokorehe Tribe" used in the Gazette Notice of 14th November, 1874, cannot be applied in .. derogation of the rights of the persons named as grantees ... from the Crown.

9. It does not appear to the Court that a re-opening of ... this matter is justified as no evidence can now be adduced .. that could enable any tribunal to detect and correct mistakes (if any) made in the root of title to Hiwarau Block.

For the Court

*M. Haoriri*

JUDGE.

EXTRACT FROM OPOTIKI MINUTE BOOK NO. 30.

FOLIO 11 - 18

OPOTIKI: 19th July, 1939.

PRESENT: J. Harvey, Judge.  
H. Roach, Clerk and  
Interpreter.

HIWARAU BLOCK: Petition 14/1937 of Henare Rako and others praying for a reopening of the title. Referred to the Court under Section 23 of the Native Purposes Act 1938.

Mr. Hislop: I appear for the petitioners.

Mr. Hodgson: I am appearing for certain of the people objected to in Clause 4 of the petition - descendants of Hemi Kakitu of Mu te Hura and Kararaina Mu.

Mr. Hei: I am appearing for Hapua Tapae and his group.

Mr. Hislop: Block was confiscated in 1865 - in gazette of 1866 pages 14 and 347 Hiwarau was confiscated. Land taken for settlement. In 1874 title was gone into by Compensation Court. Mr. Wilson Crown Agent - sitting held at Whakatane - leading person before tribunal was apparently Hemi Kakitu. Hemi Kakitu was a Tuhoë living at Waimana. The Upokorehe hapu had ceased to exist as any force having been killed in fights and otherwise decimated. The balance of Upokorehe lived on the shores of Ohiva Harbour. Upokorehe was part of Whakatohea and members of the Whakatohea tribe went out and lived with Upokorehe. Upokorehe derived its name from Taikurere. This man was beheaded and his head dried. Unfortunately the skin round the neck was not properly secured and the face skin wrinkled in the process of drying. We say that the real Upokorehe are the descendants of Taikurere and those only.

The Compensation Court and Mr. Wilson Crown Agent sat at Whakatane and decided the names that should go in this block. Refer to report of Under Secretary to the Native Affairs Committee dated 30th September 1937. (513/73).

Hemi Kakitu was a paramount chief and the Upokorehe no doubt felt diffident about moving for his exclusion. On determination of relative interests in 1898 the Upokorehe tried to get the Court to remedy matters by excluding the strangers (M.B. 16/237 to 339) The Court said it had no power to alter the list of grantees.

Gazette of 1874 page 781 named trustees for the people set out in the schedule.

On determination of relative interests much evidence was taken which bears on this case. Present generation, with exception of one old lady, know very little of the history of lists handed in. It is claimed that only 30 (List 1) were true Upokorehe and that 26 (List 2) should not be in at all. The case for the petitioner is that List 1 of 30 persons should be left in a title and List 2 of persons should be excluded. At the time of definition of relative interests the Upokorehe did not want to evict List 2 but they wanted them given reduced shares. The judgment of the Court dealt with this aspect. The Court took the Upokorehe hapu as including others who lived at Ohiwa. It will be found that many of the strangers who were said to be residents of the Ohiwa district had gone away long before. Court gave three shares to men; two to women; and one to children.

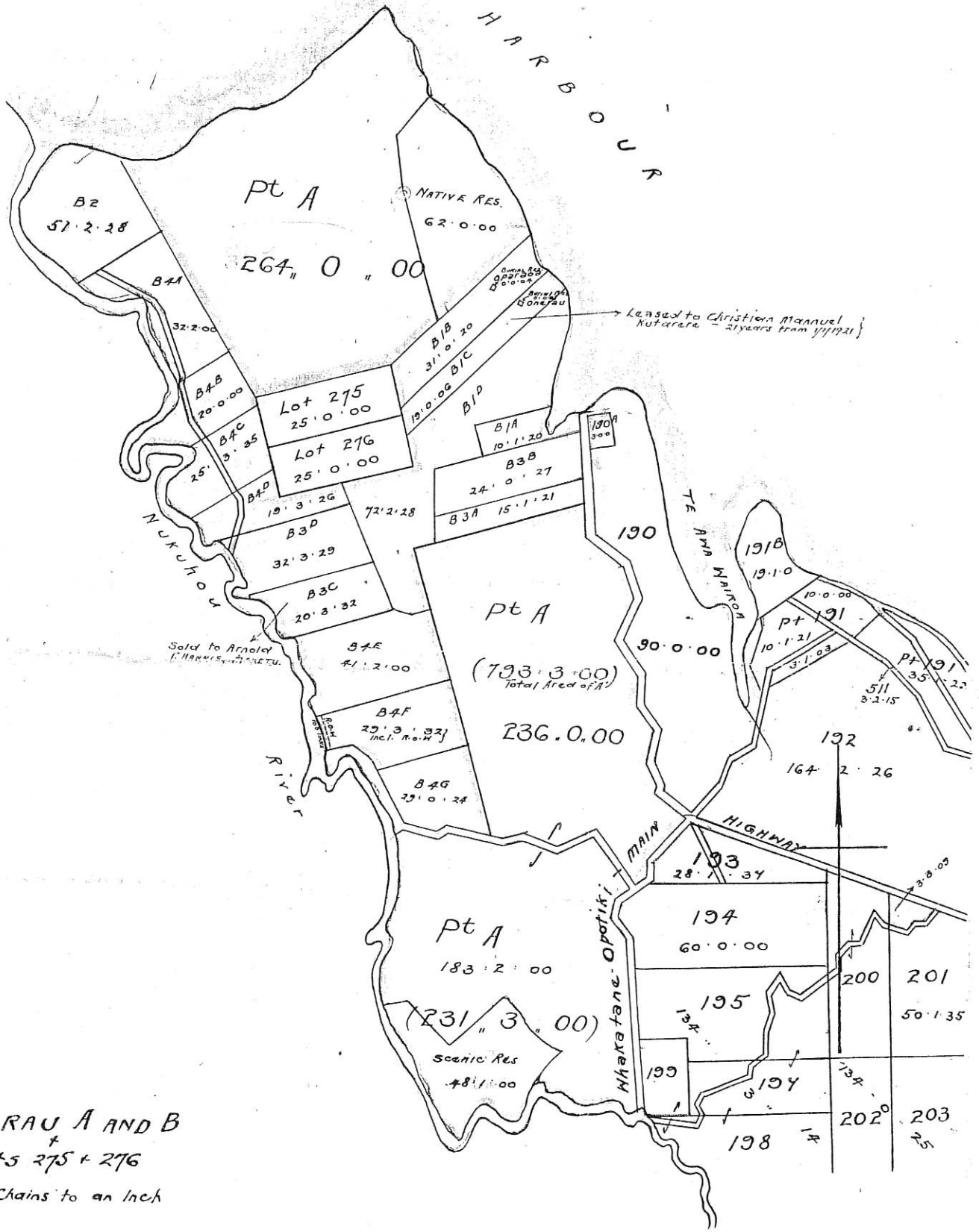
To show how Upokorehe were treated they were supposed to get a grant of Opape 4 and 7. Although Upokorehe were to get their blocks they actually were only given 1/8 of a share as against others who were given full shares for not being Upokorehe. (M.B. 24/51) The order was cancelled and later reinstated. See p.p. 52 Et. req.

It appears that there has been a good deal of shuffling about by the people. People were Upokorehe when it suited them.

We say that List 2 are not Upokorehe and should not be in Hiwarau. If the Court finds they are entitled in Hiwarau then I suggest that they should hand over their Hiwarau interests for the Upokorehe interests

O H I W A

H A R B O U R



HIWARAU A AND B  
 +  
 Lots 275 + 276  
 1/20 Chains to an Inch



in Opape. The Upokorehe people complain they have no land other than Hiwarau and Tahora 2A while outsiders in these blocks have ample other lands.

Mihirangi Moutu - sworn - I do not know how old I am - This land was given to the Upokorehe - The Upokorehe lived at Ohiwa and Waiotahi. My home was on the block and I remember it from my infancy. Hiwarau is a hill and my home was below it - the name of the Kainga was Roimata. I remember when Volkner was killed and the land was given back to us. At the time when Volkner was killed by Mokokoko and his people the Upokorehe were living at Hiwarau and knew nothing of the trouble. They did not take part in the killing of Volkner.

Then the Government of the day confiscated all of the Upokorehe's land. They were not left with even a half acre. Then the Upokorehe people having no land to live on went to Waimana to live. Then Wilson and his soldiers went to Waimana and saw these Upokorehe people living at Waimana. He saw Rakuraku and asked him who these people were. Rakuraku said, "These are the Upokorehe people who lived at Ohiwa - Their land was confiscated and having nowhere to live they came here."

Then Wilson told Rakuraku he had better take these people back to Ohiwa where they came from.

Rakuraku replied "Yes" he would but he would ask Wilson to give back a small portion of the Upokorehe land that had been confiscated for them to live on. And Wilson told Rakuraku he would do this but that Rakuraku should meet him at Ohiwa on Christmas Day. On that Christmas Day Rakuraku met Wilson at Ohiwa and then Wilson kept to his promise and gave back Hiwarau. And Wilson also told Rakuraku that he should stay at Hiwarau and be the leader of Upokorehe. I was at this Christmas Day meeting as a small child with my mother. Then Rakuraku informed Wilson that he could not stay as he was not of Upokorehe but he pointed round and said to Wilson - These are the Upokorehe people. Mokokoko and his

family (Warana and others) did not live at Ohiwa at all. Hemi Kakitu was a Hauhau. When Hemi returned from his wanderings with the Hauhau people he went to Whakatane and submitted his list which was adopted for the Hiwarau Block. He was of Tuhoe - not even of Whakatohea. His hapu was Ngati-Kareti. Upokorehe were never guilty of any "Hara" but their land was confiscated. The only trouble they were blamed for was that surrounding the killing of Volkner.

Mr. Hodgson: I remember the killing of Volkner - cannot say how high I was - not very high. I do remember Pitcairn being murdered. That was why Hemi Kakitu went to the Hauhau's. The Tuhoe killed him at a bush called Uritara. This is not on the Hiwarau block. That was before I was married. I do not know when Wilson went to Hokianga Island. I was a young lady when the list was handed into Wilson. I was not present when Hemi went to Whakatane Court and handed in his list. I do not know of any Upokorehe going away with Te Kooti. I remember Te Kooti - I saw him - He died at Ohiwa - I do not remember him taking any Upokorehe to the Urewera. Tapui te Kaka married Major Swinley - She was not an Upokorehe, she was a Ngati-Kareti and Ngati-Ira. She lived at Ohiwa for a short while. It was the practice in those days for people to visit each other, I cannot trace from Taikurere. He came from Whakatane and was killed by Te Kareti. When Kareti contemplated the head of Taikurere he remarked how wrinkled it was. Taikurere was warned not to come from Whakatane but he did and was killed. Ngati-Kareti's place was at Waioeka. Taikurere was killed at Paparoa on the Ohiwa Harbour. Upokorehe are not descended from Taikurere, they are descended from Raumoa who has no connection with Taikurere. Hemi Kakitu was not a rangatira of Upokorehe. Wi te Akeake was the rangatira of Upokorehe. Te Teira was of Ngati-Kareti and followed Rakuraku from Waimana. I do not know if Te Teira followed Hemi to Whakatane Court. Upokorehe did not object to the inclusion of Hemi Kakitu because there were no men left in the hapu to represent it -

only women were left. I was born at the time and neither my sister nor myself got included in the land. My brother was included. Koroitī, te Toke and Pairama were also excluded. Hemi Kakitu lived on this land but not permanently. He lived at Hokianga with all the rest of the people. We cultivated at Hokianga. Hiwarau has only been cultivated recently. Hemi Kakitu cultivated at Hiwarau in company with the rest of the people. (the old lady is obviously confused.)

Erana Akeake was my mother. We worked for Lawrence on a section at Waiotahi felling cabbage trees. We did not work for Amohaere Lawrence but his father Wi Lawrence. When we had finished his work he ordered us off the land and we went back to Ohiwa. We went to Wainui place at Waimana for a short while for a rest. We did not need Hemi Kakitu's permission to go to Te Hou - it belonged to us.

Mr. Hei: I knew Warana Mōkomoko - Her mother was Hiromena - She was not an Upokorehe - I knew Kimohia. She married Mōkomoko so did Hiromena. They were not Upokorehe. All I know of Hiromena is that her mother went to Tauranga and married a man there. Her mother was of Ngati-Ruamoko and her father of Tauranga. Kimohia is not of Upokorehe proper but of Whakatohea Upokorehe. I do not know her Whakapapa.

Rahi Erana Kotu - sworn - The name Upokorehe originated from Taikurere - I do not know how the name connects with Taikurere. All I know is about when this land was returned. All I know is that the Upokorehe who lived at Ohiwa got the land and all outsiders in the title should be ousted. The trouble with Court started with the Whakatohea people and they were the cause of our losing our land.

Mr. Hislop: That closes the case for the petitioner.

Mr. Hodgson: Will not call evidence as there is none available that would add to that given in 1898. I am prepared to rest our case on the case put up by Rimaha te Pahau and Hemi Kakitu on a succession to Tawhi Rangī which was dealt with by Judge Scannell (Op.7/75 to 88] Refer particularly to finding of Judge at page 88. I rely also on case put up by Mihaere Rehua on definition of relative interests in 1898 (Op. 16/237/339) I refer to comments of

Judge that ancestral title is not involved. In that case Warana Mokokoko contended for present petitioner. He claimed through Taikurere. Refer to passages in evidence as follows:

At page 253	Warana Mokokoko	In answer to assessor.
256	" " "	" " " Rimaha.
284	J.R. Rushton	Mana of Hemi Kakitu.
286	" " "	" " " "
287	" " "	Land returned for survivors from War.
295	" " "	Mana of Hemi Kakitu.
297	" " "	Dead buried on land.
309	Mu te Hura	Virtue of Hemi Kakitu and Te Teira.
307	" " "	Teira principal name.

On legal arguments of application grounds are misconceived. Grant was to certain named persons - grant not issued - a C.T. issued later. Where grant is notified Gazette wording is important. "Name of tribe for certain of whose members grant is made. Quote comments of Judge at P.302 - Such being the case x x x.

Name Upokorehe was merely descriptive and cannot be made to override a list of persons. Upokorehe has been given as name of all persons who lived round Ohiva Harbour. There is nothing to show that any client's "tupunas" were not members of the Upokorehe hapu.

Mr. Hei: I am watching the interests of my clients only. My clients rights have been sustained at all previous sittings. I think petition is the result of a misconception.

Mr. Hislop: I have nothing to add.

Report to be made to the Chief Judge as directed.

*Upokorehe*