

1934.

NEW ZEALAND

THE NATIVE PURPOSES ACT, 1933.

REPORT AND RECOMMENDATION ON PETITION No. 53,
OF 1933, OF TE ATARANGI TUKINO.PRAYING FOR RELIEF *IN RE* THE WILL OF THE LATE POTENE TUHIWAI.*Presented to Parliament in pursuance of the Provisions of Section 27 of the Native Purposes Act, 1933.*

Chief Judge's Office, Native Land Court, Wellington, 14th August, 1934.
The Hon. Native Minister, Wellington.

PETITION No. 53 OF 1933.—WILL OF POTENE TUHIWAI (DECEASED).

PURSUANT to section 27 of the Native Purposes Act, 1933, I transmit herewith the report of the Court upon this petition.

In view of that report I have no recommendation to make with regard to the above petition.

R. N. JONES, Chief Judge.

In the Native Land Court of New Zealand, Tairāwhiti District.—In the matter of the estate of Potene Tuhiwai (deceased) and of Petition No. 53 of 1933 of Te Atarangi Tukino, praying for relief and referred to the Court pursuant to section 27 of the Native Purposes Act, 1933, for inquiry and report.

At a sitting of the Court held at Te Araroa on the 14th day of April, 1934, before HAROLD CARR, Esquire, Judge.

THE Court begs to report that,—

All parties were present and represented.

Potene Tuhiwai died without issue on the 12th August, 1928, leaving a will dated the 19th February, 1925; probate whereof being granted on the 18th April, 1929. Testator had interests of his own and obtained others by succession to his late wife, Turuhira. The annexed schedule shows these interests.

Under Potene's will the Wharekahika (6B 1, 8c, 10A 1, 18M) and the Matakaoa blocks were devised to Henare McClutchie and all the other blocks to petitioner Atarangi (Tukino).

When the matter first came before the Court in 1929 (on probate) McClutchie gave up to petitioner the Wharekahika 18M and 8c interests, while the petitioner gave up to certain of her relatives some of the interests she had derived.

Pursuant to section 35 of the Act of 1929 the orders of 1929 came under review. The Appellate Court held that the interests Potene had derived under the will of his wife were held in trust in favour of her next of kin.

The Native Land Court reheard the matter of succession *de novo*, irrespective of all arrangements, and made orders—

(1) As far as testator's shares were concerned—to his devisees.

(2) As far as the interests he obtained under his wife's will—to her next of kin.

Petitioner alleges that the will was wrongfully obtained and was not in accordance with testator's statements to her. She also alleges that when succession orders were made in 1929 she refrained from contesting the validity of the will because she had come to an agreement with the other beneficiary (McClutchie) whereby she obtained the Wharekahika 18M and 8c Blocks.

A clarifying of the position by the Court in 1931 when it commenced proceedings *de novo* deprived petitioner of the benefits under the arrangement with McClutchie. As she could not revise or renew the agreement she now desires to attack the will.

No evidence was forthcoming to support any allegation that the will was obtained under suspicious circumstances. Both witnesses are men of high repute—Mr. Hei is a solicitor and licensed interpreter, and Mr. Anderson a commercial traveller. If petitioner in 1929 was willing to suppress her objection, she should for ever remain silent.

For the Court.

The Chief Judge, Native Land Court, Wellington.

H. CARR, Judge.

Approximate Cost of Paper.—Preparation, not given; printing (390 copies), £1.

By Authority: G. H. LONEY, Government Printer, Wellington.—1934.

Price 3d.]

