

1934.
NEW ZEALAND.

THE NATIVE PURPOSES ACT, 1933.

REPORT AND RECOMMENDATION ON PETITION No. 49,
OF 1932, OF H. McCLUTCHIE,

PRAYING FOR RELIEF IN CONNECTION WITH THE WILLS OF THE LATE
POTENE TUHIWAI AND TURUHIRA 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. 49 OF 1932.—WILL OF TURUHIRA TUHIWAI (DECEASED).

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

As the matter affects the construction of the will of the above-named deceased, I recommend that the Chief Judge be authorized to state a case for the opinion of the Supreme Court as to the proper interpretation of the will under the provisions in that behalf contained in section 71 of the Native Land Act, 1931, with power to carry out the decision of that Court.

R. N. JONES, Chief Judge.

In the Native Land Court of New Zealand, Tairāwhiti District.—In the matter of the estates of Turuhira Tuhiwai (deceased) and Potene Tuhiwai (deceased); and in the matter of Petition No. 49 of 1932, of H. McClutchie, 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.

The petitioner seeks a review of the findings of the Appellate Court (14th April, 1931), where it was decided that the interests obtained by Potene under Turuhira's will were held in trust for the latter's next of kin. A copy of this decision is attached.

No facts not already known to the Appellate Court were recorded before this Court. The petitioner claims that the gift by Turuhira to Potene was absolute; the respondents are equally emphatic that a trust does exist.

The grounds set out in the petition were submitted in argument, and these points are referred for your consideration.

The Chief Judge, Native Land Court, Wellington.

For the Court.
H. CARR, Judge.

POTENE TUHIWAI (DECEASED).

Decision.

In this case the question is raised whether certain interests derived by him from Turuhira Tuhiwai (deceased) pass by Potene Tuhiwai's will. This depends upon the true construction of Turuhira's will, which is written in the Maori language. Turuhira, who was the wife of Potene, predeceased him,