

1942.

NEW ZEALAND.

THE NATIVE PURPOSES ACT, 1935.

REPORT AND RECOMMENDATION ON PETITION No. 344 OF 1934-35, OF WI HAPETA AND OTHERS
PRAYING FOR A REHEARING OF THE APPLICATION FOR PROBATE OF THE WILL OF
NGAKETE HAPETA, DECEASED.

Presented to Parliament pursuant to the provisions of Section 22 of the Native Purposes Act, 1935.

Native Land Court (Chief Judge's Office),
Wellington C. 1, 23rd July, 1942.

Memorandum for the Hon. the NATIVE MINISTER.

NGAKETE HAPETA, DECEASED.

I TRANSMIT to you the report of the Court, made pursuant to section 22 of the Native Purposes Act, 1935, upon Petition No. 344 of 1934-35, of Wi Hapeta and others, concerning the will of Ngakete Hapeta.

In view of the Court's report, I recommend that legislation be enacted empowering the Native Land Court, on application made to it in that behalf within six months from the passing of the enactment, with the formal consent of the persons presently entitled under any succession order made in pursuance of the wills of Ngakete Hapeta and Ani Karo (that consent being given either in writing or in open Court), to cancel any such succession order, and, in its ordinary jurisdiction, to make all new succession orders which may be necessary to give effect to the terms of any arrangement entered into between the persons presently entitled and any other persons being the next-of-kin of Ngakete Hapeta and Ani Karo and those proving descent from the next-of-kin of Ngakete and Ani.

G. P. SHEPHERD, Chief Judge.

HK 17/110, 128, 193, and 209 ; HK 18/256-274.]

In the Native Land Court of New Zealand, Tokerau District.—In the matter of the Native Purposes Act, 1935 ; and in the matter of Petition No. 344 of 1934-35, of Wi Hapeta and others, praying for a rehearing of the application for probate of the will of Ngakete Hapeta, deceased.

To Chief Judge Shepherd, Native Land Court, Wellington.

WHEREAS pursuant to section 22 of the Native Purposes Act, 1935, the claims and allegations made by the petitioners in the above-mentioned petition were referred to the Native Land Court for inquiry and report : Now, therefore, the Court reports as follows :—

Sittings of the Court were held at Utakura on the 19th and 20th days of February, 1940, and on the 18th and 19th days of March, 1940, before Frank Oswald Victor Acheson, Esquire, Judge.

It was found from evidence that the petition really intended to affect not only the lands of Ngakete Hapeta, deceased, but also the lands of his wife, Ani Karo, deceased, whose interests in land had passed or would pass to Ngakete Hapeta under the will of Ani Karo, deceased.

Ani Karo predeceased the husband, Ngakete Hapeta, and under her will probated at the same time—31st July, 1924—Ngakete Hapeta is the sole devisee. The executors to whom probate was granted *re* Ngakete Hapeta, deceased, were also appointed administrators in letters of administration with will annexed *re* Ani Karo, deceased.

It follows that legally the lands of Ani Karo passed to Ngakete Hapeta and thence to the sole devisee of her issue under the will of Ngakete Hapeta, deceased.

The Court finds from the evidence brought before it that there is insufficient ground to actually invalidate the will of Ngakete Hapeta, deceased. Testamentary capacity was not disproved and undue influence was not proved. There was no new evidence brought forward to justify the actual setting aside of the will.

On the other hand, both Ngakete Hapeta and Ani Karo, being Natives of prominence in their time, became possessed of fairly large shares proportionately in the respective family lands, and it seems inequitable to the Maori mind that the next-of-kin of both Ngakete and Ani should be shut right out