

1929.
NEW ZEALAND.

NATIVE LAND AMENDMENT AND NATIVE LAND CLAIMS ADJUSTMENT ACT, 1928.

REPORT AND RECOMMENDATION ON PETITION No. 263 OF 1928, OF PARE TE PUTU,
RELATIVE TO WRONGFUL ALIENATION OF HER MOTHER'S LANDS.

*Presented to Parliament in pursuance of the Provisions of Section 50 of the Native Land Amendment
and Native Land Claims Adjustment Act, 1928.*

Native Department, Wellington, 26th September, 1929.

Petition No. 263 of 1928.—Timata Titoko's Settlement.

PURSUANT to section 50 of the Native Land Amendment and Native Land Claims Adjustment Act, 1928, I transmit herewith the report of the Court upon the allegations contained in the above-mentioned petition.

In view of that report I have no recommendation to make.

R. N. JONES, Chief Judge.

The Hon. the Native Minister, Wellington.

In the Native Land Court of New Zealand, Waikato-Maniapoto District.

Re *Timata Titoko (deceased)*.—Reference by you under section 50/1928 for inquiry and report as to
petition No. 263/1928, by Pare te Putu.

The Chief Judge, Native Land Court, Wellington.

I HELD inquiry herein at Auckland on the 19th November last. Petitioner was represented by Mr. Armstrong, and George Swanson and his children by Mr. Vallance.

The complaint is as to two deeds of settlement executed by the deceased in 1874. The first deed, dated the 1st October, 1874, settled certain lands upon her son George Swanson for life. The second deed, dated the 2nd October, 1874, recites the first and the settlor's desire to settle her reversion in the said lands. It provided for remainder to George Swanson's wife and children; then, upon failure of them or their issue, to William Swanson (the younger) and Charles Swanson (half-brother of George Swanson but not children of settlor) or their issue; then, upon failure of them, to "Mary of Waikato and Ani now residing at Rarotonga." "Mary of Waikato" is the petitioner, while Ani is her half-sister by another husband of the deceased.

William Swanson (the elder) was appointed trustee of the settlement, but in 1886 appointed George Swanson in his stead. The Court file shows you have copies of the two deeds of settlement.

Mr. Vallance stated that he did not dispute paragraphs 1 to 6 of the petition, except that it was denied that petitioner was a natural daughter of William Swanson. No evidence was called, or, I think, could be called, to support this denial after so many years; but I do not regard it as material. Mr. Armstrong stated he admitted the due execution of the deeds and that he could not attack them in law, but he suggested that the terms are such as to raise a strong presumption that deceased did not execute them of her own free will, because her own daughters are postponed to collaterals of George Swanson, her son.

The petitioner then gave evidence at length, the only other witness being her daughter-in-law, Te Puea Herangi. The latter's knowledge is confined to the last twenty years, and went only to show that petitioner and family have been in poor circumstances.

The petitioner's evidence does not bear out the allegations in the petition in some important respects, notably paragraph 7, to which I will refer later. Mr. Armstrong, who prepared the petition, admitted that his instructions were faulty.