1911.
NEW ZEALAND.

KAIAPOI RESERVE

(REPORT AND EVIDENCE OF ROYAL COMMISSION ON THE).

Presented to both Houses of the General Assembly by Command of His Excellency.

COMMISSION.

ISLINGTON, Governor.

To all to whom these presents shall come, and to Walter Edward Rawson, Esquire, Judge of the Native Land Court of New Zealand: Greeting.

WHEREAS the block of land, containing two thousand six hundred and forty acres, situated in the Provincial District of Canterbury, and known as the Kaiapoi Reserve, was in and after the year eighteen hundred and sixty-two, pursuant to the Acts in that behalf enabling, apportioned and granted to the aboriginal Natives entitled thereto: And whereas the Crown grants issued to such aboriginal Natives provided, *inter alia*, that no disposition of the land included in the grant by way of sale, mortgage, lease, or otherwise should be made without the consent in writing indorsed thereon of the Governor or of some person duly appointed by him or otherwise duly authorized by law in that behalf: And whereas the Native owners under such grants and their successors in title have at various times since the issue of such Crown grants as aforesaid made dispositions by will of the land so granted as aforesaid without such consent being indorsed thereon: And whereas the Supreme Court has decided that such dispositions by will are prohibited by the terms of the grants aforesaid, and are invalid in law; and by reason of such decision the validity of the titles of persons now in possession of such lands has been questioned, and actions have been commenced in the Supreme Court in respect thereof: And whereas it is expedient to appoint a Commission under the Commissions of Inquiry Act, 1908, to inquire into and report upon the circumstances connected with the dispositions by will of any such land and the expediency of validating all or any of such dispositions, and in the meantime to stay all actions and proceedings now commenced or threatened in respect thereof:

Now, therefore, in exercise of the powers conferred on me by the Commissions of Inquiry Act, 1908, and of all other powers and authorities enabling me in that behalf, I, John Poynder Dickson-Poynder, Baron Islington, the Governor of the Dominion of New Zealand, acting by and with the advice and consent of the Executive Council of the said Dominion, do hereby appoint you, the said

WALTER EDWARD RAWSON,

to be a Commission to inquire into and report upon the circumstances connected with the dispositions by will of any of the lands hereinbefore described and subsequent dealings therewith, and the expediency of validating all or any of such wills and all or any of the dispositions made thereby; and you are hereby enjoined to make such suggestions and recommendations as you may consider desirable or necessary with respect to the foregoing matters, and generally with respect to the necessity of legislation in the premises.

And for the better enabling you, the said Commission, to carry these presents into effect, you are hereby authorized and empowered to make and conduct any inquiry under these presents at such times and places in New Zealand as you deem expedient, with power to adjourn from time to time and from place to place as you think fit, and to call before you and examine on oath or otherwise, as may be allowed by law, such person or persons as you think capable of affording you information in the premises; and you are also hereby empowered to call for and examine all such books, documents, papers, plans, maps, or records as you deem likely to afford you the fullest information on the subject-matter of this inquiry, and to inquire of and concerning the premises by all lawful ways and means whatsoever. And, using all diligence, you are required to transmit to me, under your hand and seal, your report and recommendations not later than the thirtieth day of June, one thousand nine hundred and eleven. And you are directed to so frame your report as to facilitate prompt action being taken thereon. And it is hereby declared that these presents shall continue in full force and virtue although the inquiry may not be regularly continued from time to time or from place to place by adjournments. And, lastly, it is hereby further declared that these presents are issued under and subject to the provisions of the Commissions of Inquiry Act, 1908.

Given under the hand of His Excellency the Right Honourable John Poynder Dickson-Poynder, Baron Islington, Governor and Commander-in-Chief in and over His Majesty's Dominion of New Zealand and its dependencies: and issued under the Seal of the said Dominion, at the Government House, at Wellington, this sixth day of April, in the year of our Lord one thousand nine hundred and eleven.

J. Carroll.

Approved in Council.

J. F. Andrews,
Clerk of the Executive Council.

REPORT.

Native Land Court Office, Wellington, 30th June, 1911.

To His Excellency the Governor of the Dominion of New Zealand.

MAY IT PLEASE YOUR EXCELLENCY,—

In exercise of the powers conferred on me by Commission dated the 6th day of April, 1911, and published in the *Gazette* and *Kahiti* of the 13th April last, I have to report that on the 25th April, at Kaiapoi, I commenced the inquiry thereby directed into the circumstances connected with the dispositions by will of lands situated in and forming part of the Kaiapoi Reserve and subsequent dealings therewith. Such inquiry was continued from day to day until the 15th May last.

The facts and circumstances connected with the dispositions by will were not difficult of ascertainment, but I have found it extremely hard to decide on the most suitable method of straightening out the titles to the various sections affected, and, with every desire to do justice to the claims of owners and other persons affected, to suggest some solution of the trouble that will not do great injury to some or other of those interested.

Therefore, to this report, expressing my own views, I have, with the object of enabling others to easily grasp the position, attached the following:—

(1.) Notes of opening addresses of counsel, of evidence taken as to the circumstances affecting the reserves as a whole, and of the closing addresses of counsel (Appendix A).

(2.) Particulars of leases (Appendix B).

(3.) Government valuation of sections in dispute (Appendix C).

(4.) A short report on each such section, setting out the facts and my own conclusions thereon (Appendix D).

Some outline of the history of this Kaiapoi Reserve is necessary to explain the position of the titles at the present day.

In 1848 the New Zealand Land Company purchased from the Maori owners a large tract of country in the Provincial District of Canterbury. This was known as "Kemp's purchase," and the deed of sale contained the following provisions for the benefit of the Maori owners: "*Our places of residence and cultivations are to be reserved for us and our children after us.* And it shall be for the Governor to set apart some portion for us when the land is surveyed, but the greater part of the land is unreservedly given up to the Europeans for ever." The Kaiapoi Reserve, of 2,640 acres, came into being as a consequence of the above provision, the Natives claiming it as a place of residence and cultivation, and, as such, specially reserved from the sale.

In 1859 the late Sir Walter Buller (then Mr. Buller) was instructed to report upon the Kaiapoi and other Native reserves, and did so on the 1st March, 1862 (see Appendix to the Journals of the House of Representatives, 1862, E.-5). He reported that a scheme of subdivision had been agreed on by the Kaiapoi Natives, dividing part of the reserve into 122 sections, the same to be for Natives named in a list attached to his report. He further stated that it should be "a fundamental condition of the proposed grants that the estates and interests created thereby should be entailed so as to make them inalienable to persons of other than the Maori race."

Some 111 grants were subsequently issued in accordance with Mr. Buller's subdivision, each grant containing a clause as under: "Provided that no disposition of the land included in this grant by way of sale, mortgage, lease, or otherwise shall be made without the consent in writing indorsed thereon of the Governor, or some person duly appointed by him or otherwise duly authorized by law in that behalf. Provided also that upon the death of the grantee the Governor may, without prejudice to any sale, mortgage, lease, or other disposition made with such consent as hereinbefore mentioned, direct the succession and dispose of such land in accordance with the provisions of the Intestate Natives Succession Act, 1861, or otherwise according to the law in that behalf for the time being in force." These grants are dated the 19th day of September, 1865, and are headed "Under the Crown Grants Act (No. 2), 1862," though there is no recital in the grants stating under which Act the Governor purported to issue them.

Titles to other portions of the reserve were issued in other ways, at different times, and with varying restrictions.

The Kaiapoi Reserve Act, 1910, and the terms of the Commission, refer only to one class of restriction, but I have thought it advisable to inquire into the title of each section of the reserve, no matter to what restriction it was subject.

It was stated in evidence at the inquiry that the Natives had arranged with Mr. Buller at the meeting held to consider the proposed subdivision of the block that both husbands and wives should be included in the titles, and when, on the distribution of the Crown grants, it was discovered that the names of the women had been omitted, they objected. Thereupon Mr. Buller explained that a mistake had been made, but that it was of no great moment, as the husbands could leave the land to their wives by will, and that this explanation was accepted by them as a satisfactory answer to their complaint.

From this time onwards for many years wills were made without doubt as to their validity—no one ever thought the restrictions would prevent disposition of the land by will. Most of the wills made in early days examined by me contained a devise to the widow or husband of the testator or testatrix. Wills were prepared by Canon Stack, Judges, and other officials of the Native Land Court, and (it is asserted) by one Judge of the Supreme Court, and in fact by all those persons with whom the Maoris came in contact having a knowledge of law and Maori custom, and to whom they would look as persons in authority. Both the Supreme Court and the Native Land Court granted probates of these wills without any question, and nothing occurred until comparatively recent years to cause any doubt in the minds of the devisees or next-of-kin that there was any flaw in the titles to lands taken under these wills.

It was claimed that when the various Native Land Acts were consolidated by the passing of the Native Land Act, 1894, sections 48 and 49 of that Act would seem to the Natives to protect titles derived through wills, and to do away with the necessity of doing more than obtain probate. These sections are as follows:—

Section 48. "Excepting as in section forty-six is provided, or where the Court for some special reason may consider it expedient by succession order to give effect to what it considers to be the real intention of any testator, or to effect a division or distribution amongst several devisees, *no succession order shall issue in respect of any land devised.*"

Section 49. "Upon the title under any succession order becoming ascertained the interest of the deceased Native in the land or personal property comprised therein shall be deemed to have vested in the successor as from the date of the death of such deceased Native, *but subject to the title of the executor under the will*, or administrator of the estate of the deceased Native."

I am unable to say in what year the Native Land Court first expressed to the Natives any doubts as to these restrictions allowing disposition by will of the Kaiapoi lands, but it was not until the practice of devising them had been followed for more than twenty years.

In 1892, in Mutu *v.* The Public Trustee (10 Sup. Ct. L.R. 200) it was held that by the words "inalienable by sale, exchange, mortgage, lease, or other disposition," of section 3 of the South Island Native Reserves Act, 1883, the Legislature did not intend to permit alienation by will. Mutu was a Kaiapoi Native, and there can be no doubt many of the Natives heard of this case, and at cases subsequently heard there it was stated in open Court that wills did not operate over the West Coast (South Island) reserve affected by that section.

Later, in 1895, it was decided in Mahupuku *v.* The A.M.P. Society (13 N.Z. L.R. 246) that inalienable land was not devisable.

Even then there was no certainty that the particular restrictions on these Kaiapoi grants prevented disposition by will, and the question was brought to a head in the following manner: Mikaera Turangatahi died on or about the 14th March, 1892. By his will, dated the 19th September, 1891, he specifically devised section 31 to Henare Whakatau Uru. Probate was granted by the Native Land Court on the 9th October, 1893. Notwithstanding the said devise, application was made to the Native Land Court by Hohepa te Rangi, on behalf of himself and others, claiming, according to Native custom, to be appointed successors to the said Mikaera Turangatahi. The application was opposed on behalf of the said Henare W. Uru, but the Court held that the devise was inoperative by reason of the restrictions; and, by order dated the 9th day of June, 1899, appointed the said Hohepa te Rangi and nine others to succeed to the interest of the deceased. From this order the said H. W. Uru appealed.

Natives petitioned Parliament in 1899, and representatives of those interested under wills and of those claiming as next-of-kin attended on Mr. Seddon, the Premier, who refused to interfere until the question had been definitely decided by the Supreme Court.

On H. W. Uru's appeal coming before the Native Appellate Court, that Court, finding that titles to other sections were affected in the same way, decided to state a case for the Supreme Court's opinion.

After a long interval the case was heard by the full Court, and a decision given on the 1st July, 1904, to the effect that the words "or otherwise" in the restrictions covered an alienation by will, and therefore the Governor's consent was necessary to the validity of any will of these lands. Sir R. Stout, C.J., dissented from this decision, and the Court raised the further question as to whether there was any power to impose the restrictions set out in the grant.

Some time later this matter came before the Native Appellate Court again, a large number of Natives being present, and Hone Maaka appeared for those interested in opposing the wills. After several of the leading Natives had stated their views, the Court (consisting of Judges Edgar and Palmer) adjourned till the afternoon. The Judges then made a statement of the position, and expressed the opinion that it would be necessary to state a further case for the opinion of the Supreme Court. A copy of their statement is attached, from which it appears that the Court was of opinion that the question as to whether a Native could devise these lands or not should not be answered by merely ascertaining the precise legal meaning of the restriction clause in the grant.

A further petition to Parliament by Taituha Hape and others followed some time later asking for validation of these wills on grounds of ancient right, protection of parents against undutiful children, and to enable husbands to make provision for their wives. A copy of this petition is attached. The reply received by the petitioners was that the legality of the restrictions must be settled by the Courts before Parliament could be asked to interfere.

This further question came before their Honours the Chief Justice and Mr. Justice Edwards in 1908 (*In re* Native Land Court Acts (28 N.Z. L.R. 646), when they held that the Governor had had no power to insert these restrictions in the grants. They also held that, in enacting sections 22 and 23 of the Native Reserves Act, 1882, the Legislature evidently having assumed that restrictions against alienation had been lawfully inserted in grants of land under the Native Reserves Act, and it being doubtful whether in enacting those sections under a mistake of law the Legislature had not validated such restrictions, it was the duty of the Native Land Courts to treat them as valid until they were declared invalid by the Supreme Court in proceedings in which all the interested parties were represented.

It will be seen from the foregoing that the question of the validity of the restrictions was still undecided, and it was finally settled by the Court of Appeal in The Attorney-General and others *v.* Te Aika and others (28 N.Z. L.R. 1100) in November, 1909.

The judgment was shortly as follows: That even assuming the restrictions were invalid as being repugnant to the grant, and not authorized by the Acts of 1856 and 1862 (on which point the Court expressed no opinion), the effect of section 5 of the Native Land Act, 1866, and section 22 of the Native Reserves Act, 1882, both of which sections applied to the grants in question—and even if those sections were enacted on the mistaken assumption that such a restriction was validly imposed—was to validate the restrictions and make them lawful; for in those sections the Legislature had expressly recognized the existence of such conditions, assumed that they were valid, and provided machinery for their modification or removal.

This litigation was spread over a period of ten years, and during that time first the successors had ousted those claiming under wills and had gone into possession under their succession orders, then the devisees in some cases had repossessed themselves of the lands, and finally the successors had come into possession again. Leases had been given by devisees and by successors—the tenants did not know to whom they were safe in paying rents—and trouble in many ways had arisen in connection with these lands.

In my opinion it would have been a comparatively easy matter to have dealt with this trouble when it first arose by legislative enactment; but at this date the matter has become so complicated that it is impossible to give anything like general satisfaction, or even to avoid injury to some of the parties.

Upon the opening of the inquiry at Kaiapoi on the 25th April last, Mr. Wright and Mr. Bishop, solicitors, of Christchurch, appeared and intimated that the former would act for those asking that the wills should be validated so as to pass these lands, and the latter for those interested in opposing. These gentlemen were present at all sittings, and were of great assistance.

The course adopted by me was to first hear the addresses of counsel, and evidence led by them in support of their views on the general question as to whether wills should be validated or not, and then to make a separate inquiry into the title of each of the sections (numbering about three hundred) included in the reserve. At the conclusion of this further addresses by counsel were heard, and, as particulars of the various leases and other dealings were not then available, it was arranged with counsel that they should be forwarded later. These particulars I have received, and they are attached hereto.

The conclusion arrived at after a lengthy inquiry was that no hard-and-fast rule could be laid down as a guide to deciding what wills should be validated or not, for the circumstances affecting the sections devised were in many cases entirely different.

I gathered from the evidence that if the Natives' complaint to Mr. Buller as to the omission of the women from the grants had not been met by his answer that they could will the lands the Natives would have insisted on the grants being recalled and amended. The impression given then that these lands could be devised was confirmed by the part taken by different Commissioners and officials of the Native Department in the preparation and execution of these wills, by the Native Land Court making succession orders in accordance with the terms of wills, and by both Supreme Court and Native Land Court granting probate and otherwise acting on them. The Judges granting probate did not intend to convey the impression that Kaiapoi lands passed by will—that was a question that was only raised in the last ten years. Provided that all requisites of execution, &c., had been complied with, the will would be passed for probate. Its effect was another matter altogether.

But that was not the way the Maoris would be likely to regard the granting of probate. In the earlier days, when an owner died leaving a will, a succession order in pursuance of the terms of such will was obtained, and later on, when probates were granted in place of the succession orders, the Natives appear to have regarded them as being orders of the Court vesting the lands in the devisees.

It seems to me that where a person to whom land has been devised has obtained probate, entered into possession, and remained in possession for many years, that the length of time he has held the land should count very much in favour of the validation of the devise under which he claimed. What length of possession should be deemed sufficient ?

The earlier orders made in pursuance of wills are protected by section 432 of the Native Land Act, 1909, which says, " No order of the Native Land Court, Crown grant, or other instrument of title which at the commencement of this Act is within the protection of the Land Titles Protection Act, 1908, shall thereafter, on any grounds whatever, be called in question in any Court or in any proceedings." That is to say, any order made, even if in pursuance of a will, previous to October, 1892, is absolutely protected.

It appears just that the title of a Native under a will, probate whereof was granted prior to that date, which will the Court at that time considered passed the land, and under which the devisee entered into possession without opposition from any one, should be equally protected. Furthermore, as all the Natives claiming in Kaiapoi assented to devisees taking the lands for some years, and the question as to the meaning of the words " or otherwise " was not settled till Uru *v.* Te Rangi was decided in 1904, possession commencing even later than 1892 should be considered as giving good grounds for validating such a devise.

Under the last Native Land Act, if an order has been in existence ten years it is protected except against leave for rehearing granted by the Chief Judge, with the precedent consent of the Governor in Council.

Even where the person in possession had no title, and the land (like this reserve, not under the Land Transfer Act) was restricted from alienation by the terms of the grant, possession for twenty years was deemed to give a good title (see Sampson *v.* New Plymouth Harbour Board, 27 N.Z. L.R. 607 ; Matthews *v.* Box, 28 N.Z. L.R. 402 ; and, as to alienation barred by statute, Earl of Abergavenny *v.* Brace, L.R. 7 Ex. 145).

Here the persons claiming as devisees put forward as their titles wills by previous owners, probate whereof had been granted and possession thereunder assented to for many years. Even when the question of these restrictions came before the Supreme Court it was not definitely settled for some years, and until the matter had been three times before the Court, that the titles of the devisees were bad, and it was not a unanimous decision.

In each case, however, I have carefully considered other matters as well as length of possession, and endeavoured to give full weight to all circumstances in favour of those claiming as devisees, while at the same time giving due consideration to the fact that those claiming under the succession orders are legally entitled as next-of-kin and also to any equities in their favour.

Mr. Wright, in his closing address, suggested that all points that might be raised in favour of the devisees had not been decided. Firstly, it was possible the Court of Appeal had proceeded upon a wrong assumption as to the facts—that this was not a " reserve " out of the land actually sold by the Natives under "Kemp's purchase," but one of the "places of residence and cultivations" specially excepted from the sale. That being the case, he maintained there was not lawful authority for the imposition of the restrictions. I consider the Attorney-General *v.* Te Aika decision covers this.

Secondly, Mr. Wright argued that, it having been laid down in The King *v.* Price (24 N.Z. L.R. 291) that a devise of land restricted against "sale, mortgage, or lease for more than twenty-one years without the consent of the Governor" would pass the property to the devisee ***clear of all restrictions***, therefore a succession order to the estate of a Native dying previous to the coming into operation of the Native Succession Act, 1881, would pass the property to the successor ***clear of all restrictions also***. This he maintained was so by reason of the provisions of section 34 of the Native Land Act, 1865, section 57 of the Native Land Act, 1873, and section 3 of the Intestate Native Succession Act, 1876, which practically stated a succession order should have the same legal effect as a will. I cannot agree with him on this point either, as the reason for the decision in the King *v.* Price was that a will operated as an alienation, whereas a succession order was, under the Acts mentioned, a devolution of the estate according to Maori custom—the order had the same legal effect—*i.e.*, it passed the land to the person found entitled as successor by the Court; but it could not be deemed an alienation. In the words of Richmond, J., in Mahupuku *v.* The A.M.P. Society, "a will operates as a conveyance—that is to say, as an alienation—because it supersedes or interferes with what would otherwise be the course of descent or devolution." Under the Acts mentioned the Court had to ascertain the proper course of descent or devolution according to Maori custom, and make a succession order accordingly. It is not a matter of much importance, for, although I was unable to ascertain the exact date of death, in no case mentioned before me had the first succession order been made before 1883. As to succession orders made in pursuance of the terms of a will, I regard the wills as merely evidence upon which the Court founded its succession orders—no probates granted—and, as it was the orders that passed the lands, they are in the same position where protected by section 432 as other orders made in favour of the next-of-kin, and they do not pass the land clear of restrictions.

For other arguments for and against the validation of the wills I must refer you to the copy of my notes of counsels' addresses, attached hereto.

As regards the various dealings, particulars whereof are attached, Mr. Conlan, of Kaiapoi, solicitor, who appeared for a number of the lessees, maintained that the Natives, having obtained probates, it was, by section 48 of the Native Land Act, 1894, unnecessary to obtain succession orders, and the probates were the only evidence of title. This being so, the lessees had no other course but to pay rents to the executors or devisees; that they did so in all good faith, and no further claim should be allowed against them. He asserted—and I found it to be correct—that, although leases were properly executed after explanation by an interpreter, it had been the custom not to apply for confirmation; that now, by the Native Land Act, 1909, no alienation of Native land has any force or effect until and unless it has been confirmed, and application for such confirmation must be made within a limited time after execution. He strongly urged that South Island dealings should be released from the necessity of being confirmed, but I cannot see my way to recommend that.

I would, however, suggest as follows:—

1. That, as regards dealings with these Kaiapoi lands, neglect to apply for confirmation within the time limited by statute should not bar confirmation if the dealings are otherwise fair and equitable.

2. That all leases which the Native Land Court may think fit to confirm, and which were executed prior to the passing of the Kaiapoi Reserve Act, 1910, and which the Court was satisfied had been obtained in good faith and in the honest belief that the Natives executing the same were the owners or otherwise entitled to deal with the lands comprised therein, should be considered binding on the present owners or persons found to be entitled under any new legislation.

3. That receipts for all rents and other moneys paid in pursuance of such leases, and in good faith, and prior to the passing of the Kaiapoi Reserve Act, 1910, shall be deemed to be binding on the persons found to be entitled as owners, although the persons receiving such rents have since been found or declared not to be entitled; also, the devisees or others who received such payments shall not be sued for their return. This protection only to apply to payments made in respect of rent due and payable up to the passing of the Kaiapoi Reserve Act, 1910.

In this connection, see section 15 of the Maori Land Claims Adjustment and Laws Amendment Act, 1904.

I would further recommend,—

1. That the wills set out in Schedule A hereto be validated so as to pass the respective sections mentioned therein to the devisees, but not clear of restrictions, as laid down in The King *v.* Price.

2. Also, that the succession orders described in Schedule B hereto shall be deemed to be confirmed and validated.

3. Also, that as regards Sections 1, 2, 86A, 86B, and 87, the question as to the proper persons to succeed to the interest of Tiaki Horomona, deceased, the Native Appellate Court should be directed, on the matter coming before them, to make orders in terms of any agreement the parties might arrive at that in the opinion of the Court was fair and equitable; in the event of the parties failing to agree, the Court to decide as if the will of the said deceased had not been validated as to sections restricted against disposition by will, and for such purpose, if necessary to enable a fair apportionment to be made, to cancel any existing orders appointing successors to the said deceased, whether they are included in the outstanding appeal or not.

4. That succession order dated the 10th January, 1911, appointing successors to the interest of Ramari Tau, deceased, in Section 95, should be cancelled, as will of deceased would pass the land. Restrictions do not bar a disposition by will in this case.

5. That the cancellation on the 18th August, 1904, of succession orders dated respectively the 2nd October, 1893, and the 10th September, 1902, for the interests of Heremaia Taunoa, deceased, and Rakera Taunoa, deceased, in Section 97 be confirmed; as also that of succession order for Rakera Purua's interest in Section 55.

6. That succession order dated the 25th October, 1904, for interest of Tutu Tipao in Section 135E be cancelled.

7. That succession order dated the 12th January, 1909, for interest of Mata Kara, deceased, in Section 100 be cancelled.

8. That, in the event of the Native Land Court admitting the will of Makarini Mokomoko, deceased, to probate (application for same having been lodged, but not yet heard), the following succession orders for interests of the said deceased be cancelled:—

Date of Order.	In favour of	Section.
January 6, 1911	Teone Maaka Mokomoko	124
,, ,, ...	,,	130
November 8, 1910	,,	141
,, ,, ...	,,	142

But note particular report as to Section 124, and conveyance to McQuillan therein referred to.

9. That conveyance dated 9th February, 1889, Hapurona Taupata to Ihaia Pohata, of Section 42, be declared invalid.

10. In the closing-hours of the inquiry the question of compensation to persons who might be dispossessed by legislation was raised, and on this point I draw attention to the remarks of both Mr. Bishop and Mr. Wright in their concluding addresses.

There are some cases of particular hardship that I would recommend for consideration:—

First, the position of the lessee of Section 64 as detailed in the report on that subdivision.

Secondly, there has been considerable hardship under the circumstances set out in the particular reports on Sections 75 and 31. All parties concerned in the litigation therein described before the Supreme Court and Court of Appeal have been put to heavy expense. These cases were of the nature of test cases, to ascertain the actual legal position, as requested by the Government. As report on Section 31 shows, judgment has been obtained against one of the devisees for a considerable amount. The Natives are not well off, and this expense has been a heavy burden. Some of the counsel engaged have not yet received payment, and with the papers attached hereto will be found a statement of amount due to one legal firm (see Appendix E). In the particular report on Sections 31 and 104 I suggest that Mikaera Turangatahi's will be not validated as to Section 31, but that the Urus be given a share in Section 104.

Thirdly, there is hardship to Ruita Toitoi Mutu under the circumstances set out in report on Section 81.

For more definite information concerning sections the titles whereof have been disputed see the attached memorandum marked "Particular Report as to Various Sections."

I have, &c.

W. E. RAWSON, Commissioner.

SCHEDULE A.

WILLS TO BE VALIDATED SO FAR AS THEY AFFECT CERTAIN SECTIONS.

Date of Will.	Testator's Name.	Number of Section affected.
July 16, 1879	Manahi Iri	Sections 1, 86B.
Mar. 16, 1897	Henare te Whakaawhi, *alias* Henare Mahuika ..	Section 10.
Nov. 12, 1890	Hareti Toko Hohaia, *alias* Harata Toko te Kotuku	Sections 16, 106.
Oct. 5, 1897	Ani Pi Manahi	Section 16.
Aug. 23, 1897	Hoani Uru	Sections 58, 72.
Sept. 21, 1883	Ihaka Pohawaiki	Section 60.
May 21, 1893	Mata Kara	" 100.
Jan. 22, 1880	Hohaia te Kotuku	" 106.
Mar. 18, 1889	Ramari Tau, *alias* Ramari Puku Rakuraku ..	" 95.
Sept. 15, 1895	Natanahira Waruwarutu	" 134G.

SCHEDULE B.

SUCCESSION ORDERS TO BE CONFIRMED SO FAR AS THEY AFFECT CERTAIN SECTIONS.

Date of Order.	Deceased's Name.	Lands affected.
Sept. 26, 1893	Teoti Paipa	Section 13.
" 14, 1883	Te Haeana Huri	" 23.
Jan. 8, 1887	Horopapera Momo	" 28.
Oct. 17, 1885	Te Teira Turakina	" 32.
Jan. 8, 1887	Te Meihana Tawha	" 49.
Oct. 15, 1885	Harawira Tarakou	" 50.
" 2, 1893	Heremaia Taunoa	" 54.
" 14, 1885	Hori te Maiwhekarea	" 63.
" 30, 1886	Irihapeti te Rato	" 63.
Sept. 16, 1897	Te Kooti te Rato	" 63.
Oct. 15, 1885	Paora Tua	" 80.
Nov. 2, 1885	Te Manihera Te Apehu	" 86.
Oct. 15, 1886	Teoti Wiremu te Hau	" 88.
Dec. 24, 1886	Pita te Hori	" 98.
Oct. 16, 1885	Monika	" 106.
Sept. 14, 1883	Hoani Korako	" 116.
Oct. 15, 1886	Te Koro Matai	" 41.

[NOTE.—Most of these orders are protected by section 432, Native Land Act, 1909.]

APPENDICES.

APPENDIX A.

COPY OF COMMISSIONER'S NOTES OF ADDRESSES OF COUNSEL AND EVIDENCE.

INQUIRY opened.

Commission read in Maori and English.

Mr. Wright: I appear for Natives claiming under wills. I understand there are about seventy-seven or eighty wills. I am prepared to go on with main issue, but Mr. Bishop, for other side, desires adjournment till to-morrow. I would suggest I open now.

Mr. Bishop: I consent to that, and I will reply to Mr. Wright to-morrow on behalf of those opposing wills.

Mr. Wright: Most important question for local Natives; must go back prior to Crown grants. This 2,640 acres was part of Kemp's purchase. This specially reserved from purchase, and held by Natives in common. Afterwards those lands were individualized by Commissioner Buller. Commissioner Buller, in his report, stated that lands should be inalienable to others than the Maori race—

never intended to prevent them alienating between Maoris. Crown grant issued with restrictions to prevent pakehas acquiring lands. Titles were really issued in first instance without restrictions, but on Harrison starting to acquire lands restrictions were placed on the Crown grants. Shortly after issue of grants Maori women who were married applied to Commissioner Buller for land. The Commissioner stated their husbands could leave them land. Right of Maori to make a will is indisputable. Two of original grantees who were present when Commissioner Buller made division will be called by me—Eruera te Aika and Taituha Hape; also an affidavit by one of original grantees that it was a condition that Natives should have power of willing these lands (see Commissioner Buller's letter set out in Appendix to Journals of House, 1862, E.-5, page 103). Such a scheme would meet with approval of Natives, &c. Also, statement of one of chiefs as to being enabled to leave his land to his children at his death. As a result of this arrangement the Maoris always considered their custom of willing their lands had not been taken away. Not thought at that time that restrictions had barred wills by persons acquainted both with law and Maori custom. Officials of Native Land Court prepared wills for the Maoris at that time—Judge Mackay; Rev. Canon Stack; Judge Gresson, formerly of Supreme Court. The Native Land Court ever since 1862 upheld and granted probate of these wills—that is, during period the Land Court had jurisdiction. The Supreme Court also granted probate of these wills. No doubt cast on their validity till 1904; always regarded as valid.

The Commissioner: Questioned in 1899.

Mr. Wright: At any rate, for thirty years no doubt thrown on wills. Then doubt thrown on dispositions by will by wording of Crown grants. Not till late years was it thought the restrictions barred wills, and even then it was not free from doubt. The Maoris presented petition in 1899 or 1900 asking that wills be validated. Reply was that Natives should get law definitely ascertained, and then apply to House for relief. We have ever since been endeavouring to get Court of Appeal to decide matter. The Native Appellate Court stated a case for opinion of Supreme Court in 1904. It came before full Court—Henare Uru *v.* Hohepa te Rangi, 24/390. This came before full Court on the 1st July, 1904 (Sir R. Stout, Edwards, Cooper, Williams, and Denniston, JJ.). Sir R. Stout held Natives had power to dispose by will, but other Judges decided restrictions prevented disposition by will. Some of Judges raised questions as to Governor's power to insert restrictions, and requested further case as to that point. Further case asked to be stated in 1905 or 1906 by Native Appellate Court. Large number of Natives present. Hone Maaka appeared for those claiming under succession orders. Several of old Maoris gave their views (Court comprised of Edgar and Palmer, JJ.). Court adjourned after hearing till afternoon, when judgment given. I supply copy of judgment (see end of this appendix). The Court decided to state case for Court of Appeal, and, in addition, to ask for legislation, as they thought question should not turn upon meaning of precise words in grants, as by them some of lands could be willed and others could not. They stated their opinion that wills to Maoris only should be allowed. The Maoris as a whole approved of Court's suggestion, but nothing appears to have followed on the Judges' recommendations. Some time later Jackson Palmer, J., informed me clause drawn by him to meet case was being considered by Cabinet. Letter put in. Further petition to House by Taituha Hape and others asking for validation of wills on grounds of ancient right natural protection of parents against undutiful children, that husband or wife can leave portion of estate to survivor of them. Copy petition put in. Reply was that legality of restrictions must be settled by Supreme Court before House would interfere. Application then made to Native Department to proceed with case stated by Edgar and Palmer, JJ. Considerable delay. Case heard by Sir R. Stout, C.J., and Edwards, J., in 1908, and they gave no final decision on point, but suggested restrictions bad, and that matter should be properly litigated by action taken for purpose. This meant an action attacking Crown grant, and an Order in Council under Land Titles Protection Act, 1902, obtained. Case came before Court of Appeal in 1909. Judgment of Court, 28 N.Z. L.R. 1100, Attorney-General *v.* Te Aika. Judgment delivered by Cooper, J., for Court shows restrictions were imposed without authority, but that subsequent Act in 1882 (the Reserves Act, 1882, section 22) validated these invalid restrictions—not expressly, but section wide enough to cover this case. It was thus that doubts arising in 1899 were not settled till 1909. Then finally settled that these old-standing wills of forty years back were really invalid, but by the Native Land Act, 1909, it was provided with regard to wills that restrictions did not bar them (see section 136 as to wills of persons dying after Act). Legislation again asked for by Natives. Deputations to various Ministers asking that wills made in past be validated, as merely a technical objection had upset them. Instance—Morris, renting from Mrs. Uru (who took under will), had paid several hundred pounds to her, and then was sued by persons for this rent who claimed under succession orders. Kaiapoi Reserve Act, 1910, passed. Natives now ask Government to validate the wills. Probate duty paid in many instances, and considerable expense incurred. Improvements made under belief land was theirs. Great hardship, as tenants did not know to whom to pay rent. Object to their right to will being taken away. Wills should be validated. Some time ago lands given under Landless Natives Act. A great many precluded from sharing in these lands, because they were assumed to be in Kaiapoi Reserve under these wills that have since been declared invalid. Too late now to obtain shares under Landless Natives Act. They will regard it as a breach of faith if wills are not validated. They ask that the provisions of section 136 of Native Land Act, 1909, shall be deemed to have been in force from time settlement made of this Kaiapoi Reserve. They say those persons appointed to succeed because wills invalid have no equity to the lands—merely a technical objection to the wills. The evidence of Buller's arrangement with Natives is clear and overwhelming. The action of Native Land Court Judges in passing the wills shows that they understood the real intention. That a mere technicality in wording of Crown grants should not prevent the Government from giving these people what, for a great period, the Courts of the land found they were entitled to. They suggest that the wills of which probate granted should be validated subject to valid objections, as in case of European wills. As to wills not brought before Court, it is suggested law should be altered to allow those wills being proved, notwithstanding period of two years has elapsed, subject to other objections, as in case of European wills. They submit succession orders, in case where wills left and proved, should be set aside as having been obtained upon a mere technicality. As to suggestion that these successors have rights which should be protected, I say that if the law was what the Courts for forty years thought it was these people would have no rights. The loss of those claiming under succession orders merely a fractional part of those claiming under wills. Ask that restrictions shall not be deemed to bar any of these wills. This is our main contention, and I will call evidence to support this if allowed so to do.

At Mr. Bishop's request, matter adjourned till 2 p.m. following day.

Mr. Conlan: I appear for European lessees of various sections.

Mr. Bishop: In my opinion, my friend opened vaguely. His request was that all the wills be validated. By section 3, Kaiapoi Reserve Act, 1910, Commissioner has to report not only as to validation of wills, but also as to each and every will. In some cases, no doubt, wills should be validated—where in favour of next-of-kin, for instance. As to "willing" being an indisputable right of Natives, this is quite correct generally speaking; but that they could pass restricted lands such as these is contrary to law and fact. Never meant they could do so. They could not alienate in lifetime, why be able to do so after death. As to Commissioner Buller's report, "that I may leave land to my children in event of my death," I quote this as supporting my contention that Native owners could not will—that land must descend to their children. As to statement that no doubt cast on validity of wills till 1899, this is wrong. First doubt thrown through Supreme Court decision in Mahupuku *v.* A.M.P. Society (13 L.R. 246, 1895). Inalienable land could not be devised (Jan., 1895). Native Land Court Act, giving exclusive probate jurisdiction, came into force same year. Prior to that the probates of Native wills had been granted by Supreme Court, who granted them as a mere matter of form. As a result, the Natives had no knowledge of the proceedings, or what was involved in them, and no notice of the application. Probate from Supreme Court he looked on as final in his ignorance. Much dissatisfaction. As a result of these abuses Native Land Court was given exclusive jurisdiction, and immediately doubt thrown on these wills. Native Land Court began to refuse probate of these wills from 1895, the question never having arisen in a concrete form before. As to imposition of restrictions being without lawful authority, no opinion at all expressed by full Bench in Attorney-General *v.* Te Aika on this point. If they required validating at all they were validated by Native Land Act, 1866, section 5. By this section the Legislature assumed they were valid, and showed a positive intention to give effect to them. Section 136 of Native Land Court Act, 1909, did not recognize right of Natives to will restricted lands. This Act removes all restrictions on alienation of Native lands; that is all. They can now make a valid will. I hope Commissioner recommends that legal rights of clients under decisions of Supreme Court be recognized, and succession orders confirmed. Restrictions were properly imposed, and they prevent disposition by will. See judgment of Cooper, J., in Attorney-General *v.* Te Aika as to course of legislation being connected with historical facts. Reason of restrictions, to prevent impoverishment of Natives by their own improvidence. This would be defeated if they were allowed to will lands. Wills always suspicious, as old Maoris very subject to undue influence. Next-of-kin frequently ignored. Most dangerous to set aside Court of Appeal's decision by legislation. Many orders made because wills had been thrown out. Judgments of other Courts founded on them. Dealings also would be upset that have taken place lately. Probate did not confer title to land mentioned in will. Testators have purported to will something they had no right to will. If wills are validated, my clients lose something highest Courts declare belongs to them; therefore we must be compensated. If we are confirmed in our possession, no question of compensation for other side arises, for they have been enjoying something to which they had no right. Now, however, they ask for something more. It is not fair to alter law for these people who are only one-tenth of those I appear for. I submit only equitable for this Commission to recommend that law should stand, and proper successors be confirmed in their title. For years my people have been kept out of their rights. Those who must suffer should be those who have least legal claim.

Mr. Conlan: In many cases lands devised have been leased to Europeans. Natives had obtained probate. Under Act of 1894 not necessary to obtain succession order where probate granted. Probates were only evidence of titles. Lessees had no other course open but to pay rents to executors mentioned in will. In all cases where rents were paid in good faith to devisees that no further claim should be allowed—section 50, Native Land Act, 1909. Native Land Court order dated back to last succession order. Law under Act of 1894 not quite the same (see section 31). Unfair that dating back of order should render lessee liable to pay rent a second time (see subsection 6, Native Land Court Act, 1909, section 50).

Mr. Wright: I ask for Commissioner's ruling. Because Supreme Court has held wills invalid that we are here to-day. Do you hold that where wills have been made in favour of others than next-of-kin that those wills must be wiped off title?

The Commissioner: Not necessarily so. In my report I must consider the equities of each particular instance.

Mr. Wright: Unjust that law should be strictly followed. Equities should prevail. Wills only upset by merest technicality. If any undue influence brought to bear on the making of will, European law would have thrown it out. Large numbers of owners in some of these small sections.

Mr. Conlan: See section 15, Maori Land Claims Adjustment and Laws Amendment Act, 1904.

EUERA TE AIKA sworn.

To Mr. Wright.] I belong to Kaiapoi Settlement; owning Section 75. Erueti te Huni also a name of mine. I was present when Commissioner Buller distributed these lands. I was present when Mantell came and reserved land. He convened a meeting of Ngai te Ahuri. Reserve surveyed, 2,640 acres, for the men and women and children. Commissioner Buller said reserve should be subdivided. He was some three years going into the matter, and the Crown grants were then sent to Commissioner Tancred, who sent them on to Canon Stack, a Native Commissioner. We went to Christchurch to get our grants, and Wi Ngaihi discovered his wife was not included in his grant, and he complained. He said, "We have something to say as to our property. There is an *ohaki*—this we look on as important." He said this to Mr. Buller. When Mr. Mackay came as Commissioner he himself made out wills for some of the old people—Hakopa Tohitama, Paora Tua, Te Manihera te Apehu. Mr. Stack afterwards said that Mr. Buller had said the restrictions were not made properly—not in accordance with report. Two of Natives wished to sell to Mr. Harrison—Pita te Hori and Horomona Haukeke. Mr. Buller said restrictions were not put in by his report. The right to leave lands by *ohaki* was general amongst Maoris then; it was recognized by Judge Mackay afterwards. Other people objected to our right to will these lands before 1899, where whole matter was brought up about thirteen years ago. Mr. Commissioner Bishop was first to raise the point. I took a section under will, Section 75; or, rather, it was left to my wife by Aperahama te Aika about twenty years ago. Probate was granted by Supreme Court. I paid probate duty, £19, and entered into possession with my wife. We are still in possession, and have spent no money on section beyond the probate duty—no buildings erected. My family should have that land. My wife would be a grandchild of Te Aika. I uphold the Maori right to will their lands, which has been a custom of theirs as long as I can remember. I never heard previously that we had no power to will. All the chiefs of Kaiapoi agreed we had right to will. The question of *ohaki* was discussed by all the chiefs with Mr. Buller, and he consented. It was in reference to these Kaiapoi lands.

Cross-examined by Mr. Bishop.] It was at Kaiapoi at a meeting of Natives that Mr. Buller asked about this question of willing—after the question of subdividing had been settled.

TAITUHA HAPE sworn.

To Mr. Wright.] I am a Native of Kaiapoi, and am Assessor of Native Land Court—an original grantee, Section 119. About 130 grantees. Only a few living now—myself, Te Aika, and Henare Parete te Rangiwhakaputa. On this reserve Buller held his meeting. I was present in 1862. In 1863 I was married. Mr. Buller came to divide the 2,640 acres. Meeting called, and all chiefs attended. It was agreed that both husbands and wives should be included in land. Mr. Buller said the old widows should also be included, and some of them were—six in all. I was not present in 1865 as to trouble with women, but I heard of their objecting to being left out, and what Mr. Buller's explanation was—that husbands should be allowed to devise land to their wives. Difficulty settled that way. After Natives who died left wills. Wills prepared by Judge Mackay or Canon Stack. Cannot mention any prepared by Mr. Buller. Some died in 1868. Probate granted by Supreme Court. No one in those days denied Natives right to will lands. Maoris should have right to dispose of lands by will. I consider wills should be upheld. It was in 1899 I first heard wills were disputed—that is, right to will. Many wills had been made prior to that date in reference to these lands.

Cross-examined by Mr. Bishop.] I am over seventy. I would be about twenty when I attended meeting in 1862. I did not speak, as elders had matter in their hands. I was there all the time, and I went on the survey afterwards, and it lasted till end of 1862. It was agreed women should be included with their husbands. Nothing said about willing these lands at that time. That was afterwards that question arose, when the grants were issued. It arose because some of the women were left out of titles, not because of anything on the grants. I was present at 1859, 1860, 1861, and 1862 meetings with Mr. Buller. Nothing said at 1859 meeting about willing. We did not know then that restrictions were to be placed on lands. I first knew of restrictions quite recently, since matter brought before Courts, when I wished to sell to a pakeha, about sixteen or eighteen years ago. Wills made in 1868 were following out what Mr. Buller had said about leaving land to wives. I have no first-hand knowledge of what Mr. Buller said, as I was not present. When probates first granted successors did not grumble.

Inquiry adjourned till following day.

TAITUHA HAPE on former oath.

To Mr. Bishop.] I left this district in 1863, and was away twenty years. I returned in 1883.

Re-examined by Mr. Wright.] I kept in touch with affairs here all that time. I would have heard if there had been any dissatisfaction with willing of these lands, but I did not hear that there was.

To Mr. Bishop.] I kept in touch with Natives here. We always hear of any troubles or quarrels. I was in Otago, at Taiaroa Heads.

To Commissioner.] There was an interchange of visits by people of this place and Taiaroa Heads at various times. I am very interested in wills being upheld—more than most.

JOHN HOPERE URU sworn.

To Mr. Wright.] I have lived at Kaiapoi all my life, and have always taken keen interest in Native affairs, and in these Kaiapoi lands in particular. In 1848 Ngaitahu sale, excepting kaingas and cultivations—reserves to be set aside. Kaiapoi is one of our kaingas and cultivations. In 1859 Mr. Buller held meeting at Kaiapoi, and made his report, stating that Natives had agreed to individualize lands—woman and husband jointly, spinster with nearest relative—strangers married to local women to share. *Runanga* to decide as to other strangers. In 1899 petition sent to Parliament, and both sides attended on Mr. Seddon. Mr. Seddon would not interfere till Court had decided matter. Same question before Sir J. Ward, and same reply. Never before 1899 heard any grumbling about the willing of these lands. I would have been sure to have heard of it. It all started in Eria Teha case, in 1899. Not aware of any discontent before 1899. I would have been sure to hear if there had been any. We have taken all steps necessary to get decision of highest Court. Native Land Court always regarded previously the devisees as entitled. If it had not been for wills, many would have shared in lands for landless Natives. I heard Judge Edgar say they proposed to ask for legislation, and Judge Palmer agreeing to that course. Jackson Palmer, C.J., later (sitting with Judge MacCormick as an Appellate Court) said he would bring matter before Government again. Willing by *ohaki* an old Native custom. Since Buller's coming we had right and custom of written wills. Judge Mackay, Canon Stack, and Judge Gresson drew up wills for us. Right to will never questioned. Wills now being upset on merest technicality. Great hardship if they are not validated. At present time these 14-acre divisions would be so distributed amongst next-of-kin as to be useless. In case my wife interested in 14 acres, sixty-two owners, smallest share 5/2304 of the whole. This would really be absurd—not worth cost of orders. What I lose as next-of-kin in one instance I would make up under a will in another instance. Section 46/94, provision for rightful successors, I approve of. If wills validated, no injustice done. If they are upset, great injustice. I have seen Hon. J. Carroll and Mr. Ngata; they say, "Let the law be ascertained and then we will take action." We have been put to considerable expense in ascertaining the law.

Cross-examined by Mr. Bishop.] Less injustice by validating wills—no injustice. I hold under a will; so does my wife. Mr. Seddon and also Sir J. G. Ward said, "If any injustice done, then come to us." No indication in favour of which side legislation would go. Two or three hundred people affected. I think equal numbers under wills and succession orders would be affected—perhaps under wills more. I never heard of Mahupuku *v.* A.M.P. Society. Very difficult to apportion rents between numbers of owners in some of these sections. Section C, Moeraki Block, 6 acres, thirty-two owners. Too late now for will-holders to apply under Landless Natives Act.

HENARE WHAKATAU URU sworn.

To Mr. Wright.] I live at Kaiapoi. Native agent. Have put through about twenty or thirty wills for probate under Native Land Court Act. Maoris have right to will lands, and it was recognized in respect of Kaiapoi lands until raised in 1899 in a case I myself was interested in. Uru *v.* Te Rangi taken to Court of Appeal in 1904 or 1905, and have since been endeavouring to get law definitely ascertained. We presented petition in 1899, and another later. Reply was to get Supreme Court's ruling before coming to Parliament for relief. Natives under wills have paid stamp duty, improved lands, &c. The Deputy Commissioner of Stamps always insisted on duty on these lands. The devisees regard themselves as the owners; they could not refund rents collected by them; they have improved lands. I cannot say if some wills not presented for probate owing to state of law. Before 1899 never heard any objection by Natives that these wills should pass these lands. Saves division of sections into ridiculously small shares if wills allowed. Some would only get 1s. rental for their small shares. In only one case was a will made in favour of a European child adopted by a Native—only case where devisee not a Native. About seventy-seven wills affected by the decision of Court of Appeal. Succession orders made to deceased devisees in some cases.

Cross-examined by Mr. Bishop.] I take under a will, also under my mother's will. It means more to me if wills are validated than if they are not. Have practised as a Native agent for seven or eight years. First will I was interested in was in 1899. Not interested in any decided before that date. No application for refund of stamp duty made.

Re-examined by Mr. Wright.] I would also share as next-of-kin in some cases.

TE ONE RENA TE MAMARU sworn.

To Mr. Wright.] I am a Native, residing at Moeraki. Interested in Maori lands for many years. *Ohaki* ancient Maori custom. Before 1899 I never heard any objection to willing these Kaiapoi lands. I would have been sure to hear if there had been any.

Cross-examined by Mr. Bishop.] I hold under a will. I was born at Moeraki, and lived there always. I attend Native Land Courts: that is how I know feeling at Kaiapoi. I have not lived at Kaiapoi.

Re-examined by Mr. Wright.] I own land at Kaiapoi, so hear anything affecting lands there.

To Mr. Bishop.] I am an Assessor. Have prepared wills for Moeraki and Kaiapoi lands.

To Mr. Wright.] That is, for people of Moeraki who have Kaiapoi lands.

KATARAINA URU sworn.

To Mr. Wright.] My husband was one of the original grantees. My name not in grant. I am one of women who attended meeting of Mr. Buller. It was then Mr. Buller said grants should issue in favour of husband and wives. When grants came out they were only in favour of husbands only. We demanded from Government inclusion in title, but were not included till a number were dead.

Q. Was anything said by Mr. Buller about husbands leaving lands to their wives?

A. Mr. Buller said "that when husband died his interest should be given to wife."

Q. Anything said about willing?

A. Mr. Buller said they were to will it to us.

My husband died many years ago. He left a will leaving property to me for life and after to the children. This was following out what Mr. Buller had said. At that time Maoris only knew of *ohaki*. Supreme Court granted probate. I was born at Port Levy; have lived here all my life. I cannot say if there was any grumbling about willing. I would have heard of it if there had been any. Never heard it till last few years.

Cross-examined by Mr. Bishop.] Mr. Buller held several meetings at our place. It was after issue of Crown grants discussion with Mr. Buller *re* willing took place.

Mr. Wright: I close on main case, except that I will call Mr. Wilson later.

JAMES RICKUS sworn.

To Mr. Bishop.] I came to Kaiapoi between 1866 and 1867, and I was given a grant in Kaiapoi. I did not understand I could alienate this land as I liked. It was understood at the time this land was set apart for each of us—wills not mentioned at time, but that lands should fall back to our offspring. I understood I could not will it away from my offspring. Did not hear anything about husbands willing to their wives. Certain amount of talk about *ohaki*. I was mixed up with one *ohaki*. Generally felt amongst grantees that they could not will away Kaiapoi lands. In 1872 I had a lease of 500 or 600 acres here from Natives. I was sued by Rangiora Road Board for rates on this property—about £30. I went to Mr. Joynt, solicitor, to defend for me. Mr. Joynt showed Court that the Kaiapoi grants were restricted, and Court's decision was in my favour, as Native could not alienate. I knew probates had been granted from time to time. Maoris were dissatisfied about it.

Cross-examined by Mr. Wright.] Am a half-caste. I said there was talk about *ohaki*. Will could be made in favour of offspring; their own relations. I do not think there was anything about willing to wives. I do not think there was any right to. I knew grants could not have been mortgaged, because I tried to do so. I cannot account for Judge Mackay making wills. I heard of probates being granted years afterwards. I knew there was a lot of grumbling. I am interested as a successor. I would not swear I heard of dissatisfaction before 1899.

Re-examined by Mr. Bishop.] I think will to my wife would have been no good at all. I was always doubtful of validity of probates.

To Mr. Wright.] Pita te Hori left one property to his wife. I did not oppose it. That was in 1872. Probate not applied for at all, so far as I know. I was not there when will read. Will was partly in my favour, so I did not raise any question about validity of will.

Mr. Bishop: I am going to call an old Maori—Green—a leading man here, well educated and very intelligent; disinterested.

THOMAS EUSTACE GREEN sworn.

To Mr. Bishop.] I am a leading man at Kaiapoi. Always taken a great interest in Native questions, and made a close study of the Maori question. Not in Kaiapoi at time of Mr. Buller's subdivision. I arrived here in 1865. Practically lived here ever since. No provision made for me when subdivision made. No provision made for absentees. Amongst older people when I first came here I never heard any discussion either for or against willing; only after one or two Land Courts had been held here. It cropped up in Land Court that *ohaki* held good—that from then they started to put their last wishes in writing. I do not know of any written document prior to 1868. The general feeling of owners was not in favour of these written wills. A great deal of dissatisfaction shown by the relatives. Relationship amongst Maoris extends to such a distance. Being of one tribe, we are practically all of one family. Sometimes bad feeling caused between different parties. Many of the old Maoris are suspicious of these wills. Before they could be opposed evidence had to be strong. Some of them had very suspicious surroundings; some thrown out by Courts. I think wives deliberately left out. Many single men received the full 14 acres. Husbands had to maintain their wives in accordance with Maori saying that "a wife's living was in her husband." I did not hear of the wives going to Mr. Buller about their being left out of grants. If they had been I think I would have heard it. To validate these wills would affect more successors than devisees would be affected if they were wiped off. There was a petition sent by a few of these supporting wills. We sent in a counter-petition signed by, I think, some hundred. Heard only a dozen or so signed the other petition.

Q. When wills upset by the Court of Appeal, what was feeling?

A. The general feeling was jubilant. A small minority were downcast. I am disinterested to a certain extent. I am opposing validation of wills on general principles. Am a beneficiary under a will.

Cross-examined by Mr. Wright.] I think wills should be swept away as far as real estate is concerned. I take under succession order; one only that I can remember. Some orders under which I may take are held in abeyance; one that I may receive a little benefit from. I know Taituha—a truthful man. In 1865 I arrived in Kaiapoi. I attended all general meetings. Away two or three years, working at a trade in Kaiapoi with Europeans. I lived a number of years near factory on a Maori reserve. I was in touch with all that was going on. I attended all the meetings. There was at these meetings nearly always something said about wills, but no meeting specially called to discuss wills. There were several wills that created a good deal of ill feeling, probably on ground of suspicion of undue influence. One will that prevents my taking a small benefit. As I stated before, Courts upset a few wills because of undue influence. We thought Court knew the law, and when Court passed will we had to accept it. I have made wills for Natives. Some of these fairly recently. Taituha and myself were generally sent for to make their wills. First will I made was many years ago. Cannot remember whose will it was. Petition I said was signed by a hundred was against the general principle of making wills in South Island. No one withdrew name from petition that I know of. Some of the signatories made wills themselves after signing the petition. It is only of recent years that Maoris regard this right to make wills as of great value. Section 32: Order in terms of will. Canterbury Min. Bk. 2, p. 20 (1883). I attended Courts in 1885. I was here then. Main business of Court connected with wills, or, rather, *ohaki*.

JOHN BARRETT sworn.

To Mr. Bishop.] Hone Parete is my Maori name. Am original grantee. I remember Mr. Buller coming here to subdivide reserve; I would be about twenty years old. Mr. Buller came to allocate this land. I went South. Mr. Buller had my name in his list. This was in 1860. That was Mr. Buller's first meeting. I got a Crown grant. I understood I could not transfer it, and that we could only devise it to those entitled to succeed—that is, I had no power to will it away from the successor. I cannot say whether that was the general impression. I heard about the married women going to Mr. Buller because they had been left out of grants. Cannot give date. I was away from Kaiapoi for some years. I returned in 1887. It was after 1887 I heard about the women going to see Mr. Buller. Only hearsay—a rumour. Did not know of it firsthand.

Cross-examined by Mr. Wright.] I was not away altogether from 1860 to 1887. In 1880 I came here. Short visits only between 1860 and 1887. Did not know what was going on here in my absence. I suppose I could will my land to my children. No. 15 is my section. I could, I suppose, leave this to my wife if I wanted to.

Mr. Bishop: Can I close for present, reserving right to call further evidence later on.

Mr. Wright: I object.

After discussion, short adjournment taken to allow of conference between parties and counsel.

On resuming,—

Mr. Bishop: My friend and I have come to an agreement. I will close my evidence on general case now, but we have arranged that Mr. Wilson's evidence should be taken—for him to be examined by the Commissioner, and I to have right of cross-examination, and Mr. Wright to re-examine.

Mr. Wright: I agree.

JOSEPH LOWTHIAN WILSON.

To the Commissioner.] I am a journalist, residing at Kaiapoi since 1862. Since 1863 I have been closely in touch with Kaiapoi Natives. Present at all sittings of Native Land Court and Commissions of inquiry. Inquiry of Smith and Nairn 1879, and A. Mackay's 1888. In 1864, as agent for Mr. J. A. Fitzgerald, who indicated Native policy in 1862, I had frequent interviews with Natives and Canon Stack. At this time I never heard anything about wills. Mr. Fitzgerald's letters and speeches in direction of equal privileges for both races, and same laws as to lands. Mr. Rolleston's views the same—that ultimately same laws for both races. Rev. J. W. Stack arrived here 1859; left in 1899. During that time I heard little or nothing of any question about wills. I know personally Mr. Mackay and Canon Stack prepared some of the wills. Canon Stack gave me impression he had no doubt as to the legality of the wills. Probates have been granted in Native Land Court on many occasions. Canon Stack very high regard for fair dealing, and would not assist in any unfair wills. In many cases he said old men anxious to provide for their wives. I knew older men since 1863. High regard for their character. Do not think they would make wills for any improper purpose. My opinion is grants were accepted in good faith, and never examined for many years. It was suggested in 1864 by Mr. Clark, Protector of Aborigines, that an officer should be detailed to watch over the Natives' interests. For a quarter of a century after 1864 I never heard the question of these wills raised. Not till about 1894 did I hear any question as to wills. The Kaiapoi Natives, at any rate up till then, all recognized willing as a valid means of passing on their lands. They all believed they had the right to will. I never heard that they had any doubt as to their right to will. Canon Stack left Christchurch in 1899, but he left Kaiapoi about 1890, though he kept in close touch with Natives until he left Christchurch.

General case concluded.

Commission adjourned till 2 p.m.

ADDRESSES OF COUNSEL TAKEN AT CLOSE OF INQUIRY INTO TITLES.

Mr. Bishop: Three main points—First, as to legal inability to will; second, as to equities of devisees and next-of-kin; third, as to compensation. Kaiapoi Reserve part of Kemp's purchase, 1848. Indeed, "our residences and cultivations to be reserved for us and our children after us." Native Reserves Act, 1856, gave Commissioner power to impose restrictions (sections 6 and 7). Section 15 gave Commissioner power, with consent of Government, to convey subject to conditions. In 1862 these rights vested in Governor alone (Land Act, 1862, section 9). Section 10, power to make them inalienable. In 1859 partitioned by Buller, and in 1865 and 1868 Crown grant issued. Attorney-General *v.* Te Aika: Court of Appeal found foundation of grant Native Reserves Act, 1862, and Native Reserves Act, 1856. Definite policy: See Cooper, J., in Uru *v.* Te Aika, as to Governor's power to impose restrictions. Mutu *v.* Public Trustee, N.Z. L.R., 12/200, Prendergast, J., see p. 204. Mahupuku *v.* A.M.P. Society, 13 N.Z. L.R. 246: Inalienable, could not be devised; see p. 249, Richmond, J. First devise set aside was in 1899, when probate granted in 1893 was corrected by succession order. Native Land Court bound to do this in view of Mahupuku *v.* A.M.P. I submit that from this time—1899—the Natives knew land did not pass by will. Tika's evidence supports this (Uru *v.* Te Rangi, 24 N.Z. L.R. 390). Judgment of Denniston, J., p. 402. Edwards, J's., judgment: Judges held restrictions definite purpose. Government policy "or otherwise" deliberately placed in grant to prevent disposal by Native to will or otherwise. Attorney-General *v.* Te Aika, p. 548, G.L.R.: Reserve to be for "us and our children after us." Buller reported in favour of "entail." Not an informal technicality, as my friend suggests. Devisee would take by purchase, and would therefore hold land free from all restrictions. Now, as to equity. You have stated wills protected by section 432 would not be disturbed. My remarks only refer to probates granted since 1892. Grant of probate does not give devisee title to land. Section 75: Probate granted in 1892. Court of Appeal set aside probate, and made succession order. Probate granted and succession orders on same day. No probates granted specially, excepting these lands. My friend says wishes of testator should be carried out. Which have greatest claims—his next-of-kin or others ? Even if testator thought he could will land, no equity to devisees for restrictions placed there for a definite purpose. No hardship to devisees if wills upset. They knew they had no right to take—no equity to weigh with legal claims of next-of-kin and their equity. As to drawing of wills, no evidence produced as to what circumstances wills drawn under. Testators may have been advised lands did not pass, or that Governor's consent was necessary first. No will drawn up by a lawyer in actual practice. (Questioned by Mr. Wright.) In nearly every case where probate of will granted since 1892 successors are now in possession under a legal title. Fought for since 1899. Most unjust to deprive them now. As to compensation, if successors are deprived they must be compensated. Only question, who is to pay ? If devisees are deprived, no question of compensation. They have enjoyed fruits of ownership they were not entitled to. Done well already. Government should compensate successors if deprived. Government servants granted the probates. All cases where probates granted since 1892 successors be allowed to retain lawful title, and that in any case where will validated successor be compensated.

Mr. Wright: (1.) Legal claim of persons under wills ; (2) moral claim of persons under wills. Doubt if Court of Appeal not proceeded upon a wrong assumption of the law. Land Titles Act, 1908, validates wills in some cases. Commission not to invalidate valid wills, only to validate invalid wills. Long possession under wills in favour of my clients, not against them, all grantees dying previous to operation of Native Succession Act, 1881. The restrictions are gone, and that there is no legal objection to will of any person taking by succession order to person dying before 1882. King *v.* Price : Restrictions go if will operates. By Intestate Native Succession Act, 1861, section 7, provision for recall of Crown grant on death of grantee, and provision for reissue. In Native Land Act, 1865, section 34, succession order to have same effect as will. Native Land Act, 1873, section 57 : Every such order shall have same effect as a will. In 1876, section 3, as if absolute devisees, Native Land Act, 1881, makes a difference ; gives him some estate. Proposition : Every will of which probate granted passes these restricted lands unless probate specially excepts them ; fullest power to will, but had to get consent of Governor. They were unaware of this, but there is sufficient law in their favour to save them. Crown grant says dispositions must be consented to by Governor, or some person authorized by him. At a very early date this power delegated to Commissioners and to Native Land Court. Wills could be consented to after death of testator, or before it. Uru *v.* Te Rangi, 24 N.Z. L.R., dictum Stout, J., 6398 : Granting of probate by this Court is a consent to the will. Probates have in some cases excepted these lands. Section 46/94 devise sufficient to vest land without succession order. Now, as to moral claim : Diverse restrictions on South Island Natives ; small quantity of land owned by South Island Natives ; works hardships. Kaiapoi Reserves : Four kinds of restrictions. Natives until a few years ago never thought they could not will. Number of wills deal with other reserves than this ; differing restrictions work inequality. Mere Maaka's case : Successors placed in unrestricted lands, and yet come in and claim devisees' gift of the restricted portions. Sections from 1 to 122 do not pass by will, but Section 83 does pass. Section 94 cannot pass. Section 95 can pass by will. The confusion that has arisen has not only been action of Government officials, but practice of this Court. Right to will matter of special agreement between Buller and women of tribe. These lands always could be willed if certain formalities observed. Those formalities were not observed by the Court—by Canon Stack, by Judge Mackay, by Judge Gresson, and others (that is, if Commissioner rules against my legal argument). Judges ask in every case, " Has will been left by deceased ? " Devisees punished because they could not construe " or otherwise." Sir R. Stout, C.J., holds " or otherwise " does not cover a will, and four other Judges say it does. The Maoris, of course, considered they were safe in willing by action of Government servants. Government must compensate. Maoris make compact with Buller, and acted up to it, for Natives did not leave lands to Europeans, but to other Natives ; they have kept this land for themselves. In no instance have they left land to a pakeha. As soon as ever a doubt about leases Maori Land Claims Adjustment and Laws Amendment Act, 1904, protects lessees ; yet the Government does not protect the Maoris. Delay in bringing in remedial legislation. Remedial legislation promised—not necessary to validate succession orders. Therefore the Act is for purpose of validating wills—that is, those wills which ought to be validated. I submit validation of these wills will make for benefit of Maoris of South Island. Succession orders would cut up sections too small. Sixty-four owners in one section. Natives, instead of being interested in a dozen blocks, would have their rights lumped into one. Compensation should be granted to those who have suffered. This my friend says applies to successors. I agree, but applies more forcibly to devisees if dispossessed. Policy referred to by my friend has been weakened. Kaiapoi Natives have carried out what is the present policy of Native Land Act, 1909—willed, but not to Europeans. South Island Natives always been accustomed to dealing more with Europeans. Under Act of 1909, if Maori has not provided for his widow or children in will, then Court can modify will. Has had right since 1894. One solution : Will be validated, and leave it to successors to bring any hardship before Native Land Court, notwithstanding lapse of time.

Statement of Hone Tare Tikao in reference to the Inquiry with regard to the Legality of Wills relating to Restricted Lands.

In the year 1861 the Native reserve at Kaiapoi was divided by Sir Walter Buller. It was arranged between him and the interested Natives that each married man was to receive not less than 10 acres and not more than 26 acres. Sir Walter Buller said that in this allotment the wife was to share equally with her husband. Single women were to get not less than 3 acres and not more than 7 acres each. This partition gave an average of about 14 acres to each man, and 5 acres to each single woman. This arrangement was approved of by all parties interested. Sir Walter stated that the Crown grants would not be issued for two or three years, and also that he was directed by the Governor to say the grants would be issued free of all charges whatever. Mr. Henry Tancred brought these grants to Tuahiwi in 1864 or 1865, and gave them to the respective owners, when the Maoris asked the Rev. J. W. Stack to read out the words of the grant in Maori. Of course, the Maoris were aware of the restrictions made in the grant. At this reading the women, or rather the wives of the men, objected to the terms of the grant, because Sir Walter stated to the meeting that the wife was to have an equal share in the allotment to her husband, and the grant ignored the rights of the wife altogether. The meeting then passed a resolution asking for Sir Walter to return to Tuahiwi to hear the objection of the women to the terms of the grant. He returned, and attended a meeting at the house of Pita te Hori, when Pirihira te Ruapohue made the following statement to him: "You distinctly stated the wives were to have an equal share in land allotted to their husbands, and your Crown grants leaves out the wives." She asked how was her husband entitled to the sole ownership of the land seeing that he was a Native of the North Island, and could only acquire any right through her, the more so as there were no children of the marriage. Buller replied that he knew her husband Akuira was from the North Island, because Buller's book contained his name and that of his hapu, and he explained that the husband's name was put in because according to English law the husband was held superior to his wife. He also said that this land could be left by *ohaki*, which up to that time and for many generations past was the only way the Maoris bequeathed their property; but that it would be better for Maoris to make their wills in the European way, leaving the property to whomsoever they wished. Horina Kaiwhare then spoke. She said her husband belonged to the North Island. Presuming she died first, who would inherit at her husband's death—his relations or hers, providing he left no will. Buller replied in a case of that kind the Court would decide the point, and would take into consideration the equity of the case, and would probably make an order in favour of the wife's relation. Wills were to be made by Maoris of both Islands.

A short time after Commissioner Mackay came to Kaiapoi, to whom the same questions were put, and he agreed with Sir Walter's statement that the Maoris should dispose of their property by will. Then Hunter Brown, who came afterwards, gave the same advice, the Maoris making their will in accordance with the advice.

The Rev. J. W. Stack was then appointed Native Commissioner for the South Island, and he held the position for many years, and was recognized as the adviser of the Maoris. Commissioner Mackay made the first will for the Maoris of Kaiapoi, for which probate was granted by Judge Fenton in 1868, and at the same sitting *ohaki* was granted in the case of Hoani Poutoho to Reone Timoti. From that time many wills were drafted by Stack and Mackay for the Maoris, which were granted by the Court in due course. Wills were continually drafted by myself, Hoani Maaka, Rev. G. P. Mutu, T. Green, and the Assessor of the Native Land Court, and others, to all of which probate was granted. At that time very few Maori wills were sent to the Supreme Court for probate, and Judge Johnson, having found that the Maoris had no legal right to make a will, sent a report to the Government recommending the Government to introduce a Bill giving them the necessary powers.

In 1890 power was given the Supreme Court to grant probate in case of Maori wills, but the Maoris of Kaiapoi and others petitioned the Parliament at its next sitting to vest the power of probate in the Native Land Court. I myself took the petition to Wellington, and appeared before the Native Committee of the House. I pointed out that the cost of probate in the Supreme Court would greatly exceed the value of the property bequeathed, and asked that probate in the case of smaller blocks should be granted by the Native Land Court, reserving lands of considerable value to the consideration of the Supreme Court.

Subsequently a case came before Judge Richmond in connection with the will of Mahupuku, of Wairarapa, who gave judgment against the will, holding that land held under the same title as our Kaiapoi lands are held could not be alienated by will. Acting upon Judge Richmond's decision, the Chief Judge of the Native Land Court directed his Court to pass no more wills for lands held under this title, and to nullify any wills which had been granted heretofore, and to grant titles to the next-of-kin.

Five will cases were brought before Mr. Bishop in 1899, for which probate was granted before, but he threw them out. These wills were to operate on lands at Kaiapoi and elsewhere. As the Parliament was then sitting, Te Aika, Taituha, myself, and others went to Wellington, where, in a conversation with the Chief Judge of the Native Land Court, he advised me to appeal to the higher Land Court, offering to reduce the charge from £5 to £1. I told him I would not agree to this in the face of his instructions to the Judges to block the operation of our wills. I added, further, that our grievance against his Department was grave, and deserved great and careful consideration, in view of the great expense which litigation would entail on us, seeing that some of these wills were passed by his Court thirty-one years ago, and have since been passed in the ordinary way of Court work. On the same day we put our grievance before the Premier (Mr. Seddon), who answered that he would refer the matter to the Crown Law Officer. I was unwilling to bring the matter before the House, as I considered publicity would cause great scandal in connection with the Native Land Court, but I found out then that two petitions were on the table of the House from those Maoris who were opposed to the alienation of land by will. He granted us five days to prepare a counter-petition. I was the speaker for our side before the Native Affairs Committee of both Houses, and asked the Registrar to place before the members of the Committee some of the wills with regard to these lands, and then we petitioned the Committee to pass an Act to ratify the operation of wills already made, and to give us the same right to execute a will which the European has. Wi Pere quite approved of our request, and the more so, seeing that many of the wills were drafted by Messrs. Stack and Mackay, both important Government officials, and to whom the Natives looked for guidance. After this there was a judgment by Judge Mackay. We cannot understand the grounds upon which some of these wills are still granted and some refused. The beneficiaries under some of these wills, and who have received the succession orders, still retain the properties conveyed by the will, and even yet Maoris are now making their wills, which are passed by the Court. In 1899 Mr. Bishop nullified the will of Irai Tehau, and divided his property among the next-of-kin; nevertheless, at a late period, part of this land was given to a child which was adopted by his wife after the death of Irai Tehau. It would be well for all the wills to be examined, and the advice of Taituha Hape taken with regard thereto. He has much knowledge of the circumstances surrounding each. Were I well enough to undertake the duty I could be of great assistance, having been Native land agent for upwards of fourteen years, during which time I became intimately connected with not only the lands, but the rights of the owners. My opinions or statements would not be challenged by any of my Maori people.

There are five points, then, to be considered, and to which I beg to direct your attention.

First, *ohaki* was practised for many generations by our ancestors, and was the only way of leaving property.

Second, the first will and many subsequent wills were drafted for us by officials who were appointed by the Government to teach us and to look after our interests.

Third, That our wills were granted for many years in the ordinary course by the Supreme Court and also the Native Land Court.

Fourth, that afterwards the Supreme Court and the Native Land Court threw out these wills which they had granted before, and others also.

Fifth, that upon whom is this great expense to fall for the mistake of the Government, and for which the Maoris are in no way to blame. The expenses reach back now many years, and there is every prospect of much heavier expenses to be met in the near future.

A copy of this has been sent by me to the Commissioner. H. TARE TIKAO.

COPY OF JUDGMENT IN RE MARY TE AIKA AND ANOTHER.

Judge Edgar: It appears to us that it will be necessary to state a case for the Supreme Court as to whether the Governor has power to insert restrictions in the Crown grant. In the case of Uru *v.* Te Rangi the Court of Appeal clearly indicated in its decision that the Court ought to state a case. Should that Court decide that the Governor had no power to insert restrictions in this grant a large number of titles will be affected—namely, all the cases where a will has been in question. Several of the cases set down for hearing by the present Court are concerned with the question of wills, and will therefore all be affected by the decision to be given by the Supreme Court. It seems to us, therefore, to be proper to defer dealing with all such cases until it is definitely known whether a will is affected or not on these South Island lands. In some cases before the present Court, although a will has been left by the deceased, the dispute is between two rival parties claiming to be entitled as next-of-kin, it having been supposed that the will had no effect owing to the particular wording in the grant. If the parties wish, we will hear and decide these cases between the parties claiming as next-of-kin, but it must be understood that any decision we may give may be liable to be disturbed by the Supreme Court as the Supreme Court decides. We will either hear these cases or adjourn them to a future Court, as the parties may wish. Although we feel compelled to state a case for the Supreme Court, in my opinion this is not the best method of having the matter settled. The Court of Appeal made a further or alternative suggestion—namely, that legislation be passed to set these doubts at rest; and in our opinion this should be done, as what is wanted is not simply a decision upon a special technical point, but that it may be made plain whether or not a Maori can will his interest in these South Island lands. To our mind, the settling of that question should not turn upon the precise wording of the restrictions in the grant. The intention as regards all these restricted lands has been the same—namely, that they shall be reserved for the use and benefit of the Native grantees and their successors; and it does not well carry out that intention when some of such lands can be willed, while others should appear, owing to slightly different wording of the restrictions, to be prohibited. In our opinion it should be made clear by Act if any or all of these lands can be willed. We have therefore decided, as well as stating a case for the Supreme Court upon the special point raised, to make a special recommendation to the Governor through the Chief Judge that legislation be obtained. If this is carried out it may render it unnecessary to go on with the special case to the Supreme Court. The suggestion that we intend to make is that a will be allowed of these restricted lands, but a will to a Maori only, a will to a European being absolutely barred, and therefore that a devisee that takes under a will shall take it under the same restrictions as exist under the original grant, just as he would if a succession order were made in his favour. The Court refers under this matter especially to the case of Rex *v.* Price, which decided that in that case, the interest having been disposed of by will, the restrictions ceased. In our opinion the restrictions ought to continue, and we think that this would carry out the original intention as regards the restricted land—namely, that they be reserved for the grantees and for their successors. The case where a Maori made a will leaving his children and widow landless, or his next-of-kin, that is guarded against by section 46 of the Act of 1894, which empowers the Court to bar the operation of the will for such portion of the estate as the Court considers should be set apart for the next-of-kin. Provision should, of course, be made to protect the titles already decided without dispute. These are the recommendations that we intend to make through the Chief Judge; and, as regards the cases that are before us, it will be for the parties to say whether they want them adjourned or gone on with—that is to say, where the dispute is between two parties claiming as next-of-kin.

Judge Jackson Palmer: If this Court do not now state a case it could not prevent the future Court stating the case. If a future Court sitting here was to go and state a case for the Supreme Court, and that Court decide that the Governor had no power to place such restrictions, they might upset all the work we may do here to-day, and that would cost the Natives a great deal more expense than if we were to do it now. We are sorry that they have been put to this expense of coming, but that is not our fault, and we do not want them to be put to extra expense in the future; that is why we adopt this course.

APPENDIX B.

PARTICULARS OF LEASES OF THE KAIAPOI RESERVE.

Kaiapoi, New Zealand, 24th May, 1911.

DEAR SIR,— Re *Kaiapoi Native Reserve.*

Since writing you this morning we have seen the lessee of Sections 31, 32, 40, 41, and 42.

Re *Section* 31.—Hohepa Te Rangi has received the rent for the whole of this section up to 1st June, 1910; Mrs. Ruika Korako received the rent on behalf of the members of her family from 1st June, 1910, to 1st June, 1911. There are no improvements on this section.

Re *Section* 32.—The rent of this section has been paid to H. W. Uru, Native land agent, Christchurch, to 1st May, 1912, who pays the rent to a Mrs. George, West Coast. There are no improvements on this section.

Re *Section* 40.—Hohepa Teihoka has been paid up to 1st July, 1912; Hineawhea Teihoka (Mrs. Charles Barrett) has been paid up to 1st July, 1911; and £2 has been paid on account of rent for year 1912. There are no improvements.

Re *Section* 41.—The rent of this section has been paid to Mere Martene to 1st May, 1912. No improvements have been made.

Re *Section* 42.—Ihaia Pohata has received the rent of this section up to 1st August, 1912. There are no improvements.

Faithfully yours,

Judge Rawson, Native Land Court, Wellington. PAPPRILL AND CONLAN.

Kaiapoi, New Zealand, 24th May, 1911.

DEAR SIR,— Re *Kaiapoi Native Reserve.*

Herewith we enclose the particulars as required by you of the leases of Sections 10, 11, 16, 31, 32, 35, 40, 41, 42, 47, 50, 51, 52, 54, 55, 57, 59, 61, 75, 71, 81, 89, 95, 97, 100, 106, 110, 113, 116, 120, 121, 124, 130, 139B, 141, 142, 135E, 136F, 137D, and 2B.

We have seen Mr. H. W. Uru with reference to particulars of Sections 85, 86A, 87, and 147, which are leased to Mr. G. B. Rowe, of Rangiora, farmer. We shall supply particulars in a few days.

We have been informed that Section 7 is leased to a man named Herridge, Sections 13 and 44 to a half-caste Maori named Crane, and Section 26 to a man named Fleming.

With reference to the lease of Section 64, the rents of which formed the subject-matter of the Matiu *v.* Morris action, we have not given particulars, as Messrs. Bishop and Gresson are preparing a fresh lease, and we assume that they will give particulars.

We have been informed that Sections 93, 104, and 138C are occupied by Eruera te Aika, the Korako family, and J. H. W. Uru respectively, while Village Lot 15, the only remaining section, is not leased.

In some instances we have not been able to supply the information "as to whom the rents paid and when paid up to" owing to the absence of the lessees interested. We shall, however, supply such information, and any further information if you require it.

We wish to draw your special attention to Sections 51 and 54, on which the lessees have built houses to the value of £200 and £300 respectively. The lessees of these sections have held the land under prior leases for a very long time. Mr. Michael Rowe, the lessee of Section 54, has leased the property for about thirty-seven years. He made no arrangements with the Natives as to compensation for improvements. He mentioned to us that when he took the land first it was a bare section, and, as he was given to understand from time to time by the holders under the will that he could have the land as long as he desired to lease it, he felt safe in building on the land, and by successive leases holding the land during the life of the dwellinghouse thereon. If he is dispossessed of his lease without compensation he will be placed in a very awkward position.

The lessee of Section 51 is in a similar position.

Faithfully yours,
PAPPRILL AND CONLAN.

Judge Rawson, Native Land Court, Wellington.

Kaiapoi, New Zealand, 9th June, 1911.

DEAR SIR,— Re *Kaiapoi Native Reserve.*

Herewith we enclose amended particulars of dealings in Sections 11 and 32 herein; also particulars of Sections 86A, 86B, 86, 87, 85, and 147.

The above particulars were supplied to us by Mr. H. W. Uru, Native agent, Christchurch.

Faithfully yours,

Judge Rawson, Native Land Court, Wellington. PAPPRILL AND CONLAN.

Section 32, Kaiapoi.

Lessors who have signed lease: Riaki Tauwhare and Piripi Tauwhare.
Lessee: Henare Whakatau Uru.
Date of Lease: 17th August, 1908.
Term: Twenty-one years.
Annual rental: £21.
Area of section: 14 acres and 12 perches.
How payable: Yearly, in advance.
To whom rent paid and when paid up to: Riaki Tauwhare and Piripi Tauwhare.
Whether confirmed: Not confirmed.
What improvements: No improvements.
The interest of H. W. Uru in the above lease has been sublet to W. Scoon, of Rangiora, farmer. (Same rental per year.)

Section 11, Kaiapoi.

Lessor who has signed lease: Ruera Rota.
Lessee: Jonathan Brown, farmer, Rangiora.
Date of lease: 1st May, 1901.
Term: Sixteen years.
Annual rental: £15.
Area of section: 14 acres and 22 perches.
How payable: Half-yearly, in advance (1st May and November).
To whom rent paid and when paid up to: Kereopa Harawira, to 1st May, 1911; Simon Harawira, to 1st May, 1912; W. Teuki, to 1st May, 1911; James Rickus, to 31st March, 1913; Peti Huntley and Henare McDonnell, to 1st September, 1910; Ruera Irikapua, to 1st May, 1910.
Whether confirmed: Not confirmed.
What improvements:

Section 85, Kaiapoi.

Lessor who has signed lease: Pohipi Tehua.
Lessee: J. A. O'Neil.
Date of lease:
Term:
Annual rental: £17 10s.
Area of section: 14 acres 1 rood 7 perches.
How payable: Yearly, in advance, from 1st June.
To whom rent paid and when paid up to: Matiria Tehua, Kiri Rehu, Mana Te Ataotu, Rewi Iritoka Kiriini, Rititia Rauriki Tiripo Kiriini, Mere Hepetema Kiriini, Katariini Kumea Kiriini; paid up to 1st June, 1911: Meretini Irikapua; no rent paid to this person so far.
Whether confirmed: Not confirmed.
What improvements: No improvements.
This property was sublet by J. O'Neil to P. Tauwhare, from P. Tauwhare to H. W. Uru, H. W. Uru to G. B. Rowe (present occupier).

Sections 86A and 86B, Kaiapoi.

Lessor who has signed lease: Merehana Retara.
Lessee: J. A. O'Neil.
Date of lease:
Term: Twenty-one years.
Annual rental: £1 2s. 6d.
Area of sections:
How payable: Yearly, in advance.
To whom rent paid and when paid up to: Teone Tene, Piweta, Tiemi and Tieki Horomona.
Whether confirmed: Not confirmed.
What improvements:

Parts Sections 86 and 87, Kaiapoi.

Lessor who has signed lease: Merehana Retara.
Lessee: J. A. O'Neil.
Date of lease: 10th May, 1904.
Term: Twenty-one years, from 1st September, 1903.
Annual rental: £1 2s. 6d. per acre.
Area of sections: 86 and 87, 28 acres 3 roods 3 perches.
How payable: Yearly, in advance, on 1st September.
To whom rent paid and when paid up to: Teone Tene, Piweta, Tiemi and Tieki Horomona; rent paid up to September, 1911. (Tieki Horomona; deceased's family have been paid up to September, 1912.)
Whether confirmed: Not confirmed.
What improvements: Buildings valued at £200.
The interest of J. O'Neil in the above lease was sublet to H. W. Uru, who has since sublet it to George B. Rowe, of Woodend, farmer.

Section 147, Kaiapoi.

Lessors who have signed lease: A. Solomon and Ripeka Horomona.
Lessee: H. W. Uru.
Date of lease:
Term: Ten years.
Annual rental: £8 5s.
Area of section: 7 acres.
How payable: Yearly, in advance, on 8th August.
To whom rent paid and when paid up to: A. Solomon and Ripeka Horomona; August, 1912.
Whether confirmed: Not confirmed.
What improvements: No improvements.

Cathedral Square, Christchurch, New Zealand, 3rd June, 1911.

DEAR SIR,— Re *Kaiapoi Native Reserve.*

We forward herewith particulars of leases to Uru and Shilton of part of Kaiapoi Native Reserve.

Yours faithfully,
DUNCAN, COTTERILL, AND STRINGER.

His Honour Mr. Justice Rawson, Native Land Court, Wellington.

PARTICULARS OF LEASES, KAIAPOI NATIVE RESERVE.

Date.	Deed.	Parties.	Annual Rental. £ s. d.	How payable.	Area, Section, and Number.	Term.
23/3/04	M/Lease (two copies)	Aperahama Horomona and Ripeka Horomona to H. W. Uru	9 0 0	Yearly, in advance, on 1st August in each year	7 acres and 34 perches, Subdivision 147 of Reserve 873, Rangiora Survey District	Ten years, from 1st August, 1903.
23/9/07	D/Lease ..	E. Te Aika to D. C. Shilton	26 5 0	Yearly, in advance, on 1st April in each year	15 acres, Mandeville Lot 74, in Kaiapoi Native Reserve	Seven years, from 1st April, 1907.

Section 10, Kaiapoi Native Reserve.

Lessors who have signed lease: Emeri Kingi, Taituha Hape (as trustee for Tako te Whare).
Lessee: Thomas Arthur Eder, of Woodend, farmer.
Date of lease: About 1st July, 1907.
Term: Ten years, from 1st February, 1908.
Annual rental: £1 15s. per acre.
How payable: Yearly, in advance, on 1st February.
Area of section: 14 acres and 22 perches.
To whom rent paid and when paid up to: To Tako te Whare, or West, to 1st February, 1912; to Hoani Makuika to 1st February, 1913.
Whether confirmed: No.
What improvements: No information.

Section 11, Kaiapoi Native Reserve.

Lessor who has signed lease: Ruera Rota.
Lessee: Jonathan Brown, of Rangiora, farmer.
Date of lease: About 7th December, 1898.
Term: Sixteen years, from 1st May, 1901.
Annual rental: £15.
How payable: Half-yearly, in advance, 1st May and November.
Area of section: 14 acres and 22 perches.
To whom rent paid and when paid up to: Kereopa Harawira, to 1st May, 1911; Himiona Harawira, to 1st May, 1912; W. Teuki, to 1st May, 1911; James Rickus, to 31st March, 1912, and £4 in advance for year 1913; Peti Huntley and Henare McDonnell, to 1st September, 1910.
Whether confirmed: No.
What improvements: No information at present available.

Section 16, Kaiapoi Native Reserve.

Lessors who have signed lease: Raniera Erikana, Harata Tako, Ani Pi Manahi, Taituha Hape.
Lessee: Waata Taituha, of Kaiapoi, aboriginal Native.
Date of lease: 3rd May, 1902.

Term: Ten years, from 1st May, 1902.
Annual rental: £16 10s.
How payable: Yearly payments, in advance, 1st May.
Area of section: 10 acres 1 rood 35 perches.
To whom rent paid and when paid up to: Information not at present available.
Whether confirmed: Not confirmed.
What improvements: No provision made in lease.

By deed made 4th August, 1908, Waata Taituha subleased the above piece of land to Ernest Fantham, of Woodend, farmer.

Section 31, Kaiapoi Native Reserve.

Lessor who has signed lease: Huini Hokopa te Rangi.
Lessee: William Scoon, of Rangiora, farmer.
Date of lease: 6th March, 1906.
Term: Twenty-one years, from 1st June, 1905.
Annual rental: £14 6s. 10d.
Area of section: 14 acres 1 rood 14 perches.
How payable: Yearly, in advance, on 1st June.
To whom rent paid and when paid up to:
Whether confirmed: No. Lease translated by and signed before Mr. H. W. Bishop.
What improvements: No provision made in lease.

Section 32, Kaiapoi Native Reserve.

Lessor who has signed lease: Hira Makarini.
Lessee: William Scoon, of Rangiora, farmer.
Date of lease: 12th June, 1907.
Term: Twenty-one years, from 1st May, 1907.
Annual rental: £1 10s. per acre.
Area of section: 14 acres and 12 perches.
How payable: Yearly, in advance, on 1st May.
To whom rent paid and when paid up to: Information not at present available.
Whether confirmed: Not confirmed.
What improvements: Information not at present available.

Section 35, Kaiapoi Native Reserve.

Lessor who has signed lease: Hemi Pukahu.
Lessee: Jonathan Brown, of Rangiora, farmer.
Date of lease: 13th December, 1899.
Term: Twenty-one years, from 1st May, 1900.
Annual rental: £20.
Area of section: 14 acres.
How payable: Half-yearly, in advance, on 1st May and November.
To whom rent paid and when paid up to: Teone Maaka Mokomoko; 1st May, 1911.
Whether confirmed: Not confirmed.
What improvements:

Section 40, Kaiapoi Native Reserve.

Lessor who has signed lease: Hohepa Teihoka.
Lessee: William Scoon, of Rangiora, farmer.
Date of lease: 13th November, 1906.
Term: Fourteen years, from 1st June, 1906.
Annual rental: £17 10s.
Area of section: 14 acres.
How payable: Yearly, in advance, on 1st July.
To whom rent paid and when paid up to:
Whether confirmed: No. Lease translated by and signed before Mr. H. W. Bishop.
What improvements: No provision made in lease.

Section 41, Kaiapoi Native Reserve.

Lessor who has signed lease: Mere Matene.
Lessee: William Scoon, of Rangiora, farmer.
Date of lease: 1st August, 1905.
Term: Nineteen years, from 1st May, 1907.
Annual rental: £21.
Area of section: 14 acres.
How payable: Yearly, in advance, on 1st May.
To whom rent paid and when paid up to: Information not at present available.
Whether confirmed: Not confirmed.
What improvements: Information not at present available.

Section 42, Kaiapoi Native Reserve.

Lessor who has signed lease: Ihaia Pohata.
Lessee: William Scoon, of Rangiora, farmer.
Date of lease: About 1st July, 1895.
Term: Sixteen years, from 1st August, 1900.
Annual rental: £1 7s. 6d. per acre.
Area of section: 14 acres 2 roods 25 perches.
How payable: Yearly, in advance, on 1st August.
To whom rent paid and when paid up to: Information not at present available.
Whether confirmed: Not confirmed.
What improvements: Information not at present available.

Section 47, Kaiapoi Native Reserve.

Lessors who have signed lease: Rupapera te Uki, Wiorea Uru, Wuia Runga (by her trustee, Samuel Reuben), Hamuera Rupene.
Lessee: Hamuera Rupene.
Date of lease: 11th March, 1911.
Term: Twenty-one years, from 1st June, 1911.
Annual rental: £2 per acre.
Area of section: 14 acres and 8 perches.
How payable: Half-yearly, in advance, on 1st June and December.
To whom rent paid and when paid up to: Information not at present available.
Whether confirmed: Application for confirmation posted Native Land Court, 11/4/11.
What improvements: No improvements.

Section 50, Kaiapoi Native Reserve.

Lessors who have signed lease: Meretini Marawira and Riria Tuini.
Lessee: Michael Rowe, of Tuahiwi, farmer.
Date of lease: 20th December, 1898.
Term: Twenty-one years, from 1st November, 1899.
Annual rental: £1 10s. per acre.
Area of section: 14 acres.
How payable: In advance, on 1st November in each year.
To whom rent paid and when paid up to: To Meretini Harawira and Riria Tuini; to 1st November, 1911.
Whether confirmed: Not confirmed. Translated by and signed before Mr. H. W. Bishop.
What improvements: Lease contains no provision as to improvements.

Section 51, Kaiapoi Native Reserve.

Lessors who have signed lease: Hamuera Rupene, Hohipa Mapu, William Teuki, Hamuera Rupene (as trustee for Mahupuaroa and Wi Oruarea Uru).
Lessee: George Bevington Rowe, Tuahiwi.
Date of lease: 13th July, 1907.
Term: Fourteen years, from 1st November, 1907.
Annual rental: £20 for first three years, £24 for last eleven years.
Area of section: 14 acres and 5 perches.
How payable: In advance, on 1st November in each year.
To whom rent paid and when paid up to: To Hamuera Rupene, to 1st November, 1912; to Hohipa Mapu, to 1st November, 1913; to William Teuki, to 1st November, 1912; to Hamuera Rupene (as trustee for Mahupuaroa and Wi Oruarea Uru), to November, 1912.
Whether confirmed: Not confirmed.
What improvements: G. B. Rowe has built a house on this land which cost £200; house insured for £150.
Lease translated by and signed before Mr. H. W. Bishop.

Section 52, Kaiapoi Native Reserve. (Section 53 is also leased in the same lease.)

Lessors who have signed lease: Matatau Mataua Piki, Maraea Matana Piki, Teone te Matene Piki, Teone te Matene Piki (as trustee for Huka Matene Piki).
Lessee: Michael Rowe, Tuahiwi, farmer.
Date of lease: 5th April, 1911.
Term: Twelve years, from 1st June, 1911.
Annual rental: £1 10s. per acre for first two years, and £2 per acre for last ten years.
Area of section: 52 and 53 contain 14 acres 2 roods 17 perches.
How payable: In advance, on 1st June.
To whom rent paid and when paid up to: Matatau Matana Piki has been paid to 1st June, 1919; Maraea Matana Piki, Teone te Matene Piki, Teone te Matene Piki (as trustee for Huka Matene Piki), paid to 1st June, 1912.
Whether confirmed: Not yet confirmed.
What improvements: £30 buildings and windmill.
Area of Section 52: 12 acres 2 roods 17 perches.

Section 54, Kaiapoi Native Reserve.

Lessors who have signed lease: Hamuera Rupene Kuri, Hamuera Rupene Kuri (as trustee for Mahupuaroa and Wi Oruerea Uru).
Lessee: Michael Rowe, of Tuahiwi, farmer.
Date of lease: 13th July, 1911.
Term: Fourteen years, from 1st June, 1907.
Annual rental: £21.
Area of section: 14 acres and 8 perches.
How payable: In advance, on 1st June in each year.
To whom rent paid and when paid up to: Above lessors, paid to 1st June, 1912.
Whether confirmed: Not confirmed. Translated by and signed before Mr. H. W. Bishop.
What improvements: Six-roomed house, sheds, and other improvements, to value of £300, placed on this property by Michael Rowe at his own expense.

Section 55, Kaiapoi Native Reserve.

Lessors who have signed lease: (1) Hana Tikao (Horomona), 4 acres 2 roods 19 perches; (2) Charles David Barrett (as trustee for Te Wira Elizabeth Barrett, otherwise Hineawhea Te Ihoka), 2 acres 1 rood 10 perches; (3) Hohepa Teihoka, 2 acres 1 rood 9 perches.
Lessee: Michael Rowe.
Date of lease: 17th June, 1909.
Term: Ten years, from 1st June, 1910.
Annual rental: £1 10s. per acre.
Area of section: 13 acres 3 roods 17 perches.
How payable: In advance, on 1st June in each year.
To whom rent paid and when paid up to: Hana Tikao has been paid up to 17th June, 1917, in order to build a room at Rapaki for her sick husband; Hohepa Teihoka, to 1st June, 1913; Charles D. Barrett, to 1st June, 1912; Reoni Timoti, to 1st June, 1910.
Whether confirmed: Confirmed by Judge Gilfedder on 6th April, 1911, as to shares abovementioned.
What improvements. No provision for improvements in lease.

Section 57, Kaiapoi Native Reserve.

Lessor who has signed lease: Henare Manahara.
Lessee: James Judson, of Woodend, farmer.
Date of lease: 1st May, 1898.
Term: Fourteen years, from 1st May, 1898.
Annual rental: £1 5s. per acre.
Area of section: 5 acres 2 roods.
How payable: Yearly, in advance, on 1st May.
To whom rent paid and when paid up to: To Taituha Hape, to 1st May, 1911.
Whether confirmed: Not confirmed.
What improvements: No improvements.

Section 59, Kaiapoi Native Reserve.

Lessor who has signed lease: Arapere te Motukatoa.
Lessee: James Judson, of Woodend, farmer.
Date of lease: Lease not available.
Term: Ten years, from 1st April, 1910.
Annual rental: £1 10s. per acre.
Area of section: 14 acres and 6 perches.
How payable: Yearly, in advance, on 1st April.
To whom rent paid and when paid up to: Tawhanga Eruera; paid to 1st April, 1911.
Whether confirmed: Not confirmed.
What improvements: No improvements.

Section 61, Kaiapoi Native Reserve.

Lessor who has signed lease: William Pokuku.
Lessee: Edward Claude Pateman, of Woodend, farmer.
Date of lease: 1st March, 1896.
Term: Twelve years, from 14th August, 1901.
Annual rental: £1 10s. per acre.
Area of section: 14 acres.
How payable: In advance, on 1st August in each year.
To whom rent paid and when paid up to: Mrs. Pokuku; 1st August, 1911.
Whether confirmed: No.
What improvements: £20 worth of improvements.

Section 71, Kaiapoi Native Reserve.

Lessors who have signed lease: Pohipi te Hua, Meretini Irikapua Rota, Ruera Rota, Martiria Kaurera te Hua.
Lessee: John Morris, Woodend, farmer.
Date of lease: 20th December, 1899.

Term : Twenty-one years, from 30th October, 1899.
Annual rental : £1 10s. per acre.
Area of section : 15 acres.
How payable : Yearly, in advance, on 30th October.
To whom rent paid and when paid up to :
Whether confirmed : No. Lease translated and signed before Mr. H. W. Bishop.
What improvements :

Section 75, Kaiapoi Native Reserve.

Lessors who have signed lease : Mitia Kemara, Rahera Whitau, Kitty te Aika, Ruiha Korako.
Lessee : Robert McQuillan, of Woodend, farmer.
Date of lease : About 1st April, 1910.
Term : Ten years, from 30th March, 1910.
Annual rental : £1 15s. per acre.
Area of section : 14 acres 1 rood 1 perch.
How payable : Yearly, in advance, on 30th April.
To whom rent paid and when paid up to : Paid to lessors to 30th March, 1911.
Whether confirmed : No.
What improvements : No improvements.

Section 81, Kaiapoi Native Reserve.

Lessors who have signed lease : Riria Tipene, of Little River ; and Teone Rewi Koruarua, of Taumutu.
Lessee : James Judson, of Woodend, farmer.
Date of lease : 5th October, 1904.
Term : Fourteen years, from 1st July, 1904.
Annual rental : £18 6s. 9d., payable yearly in advance, on 1st July in each year.
Area of section : 14 acres and 17 perches.
Rent paid up to and to whom : Riria Tipene has been paid up to 31st January, 1912 ; Teone Rewi Koraurau paid up to 31st December, 1911.
Whether confirmed : Not confirmed.
What improvements : No provision for improvements.

Section 89, Kaiapoi Native Reserve.

Lessors who have signed lease : Hera Makarini and James Rickus.
Lessee : James Judson, of Woodend, farmer.
Date of lease : 6th May, 1904.
Term : Fourteen years, from 31st December, 1905.
Annual rental : £1 4s. per acre, payable in advance.
Area of section :
How payable :
To whom rent paid and when paid up to : Hera Makarini died several years ago, and since her death the rent has been paid to James Rickus, Mantell, and Philip George and his mother.
Whether confirmed : Not confirmed.
What improvements : No provision made in lease.
The rent on this section has been paid to 31st December, 1911, to James Rickus, H. D. Mantell, and Philip George.

Section 95, Kaiapoi Native Reserve.

Lessor who has signed lease : Paora Tau.
Lessee : James Judson, of Woodend, farmer.
Date of lease :
Term : About ten years to run.
Annual rental : £1 10s. per acre.
Area of part of section leased : 12 acres 2 roods.
How payable :
To whom rent paid and when paid up to : Rahana Tau, to 1st May, 1915 ; Margaret Manihera, to 1st May, 1912 ; Hana Pohio Rickus, to 1st May, 1914 ; Henare Pohio, to 1st May, 1912 ; Walter Pohio, to 1st May, 1910 ; Emma Pohio Saunders, to 1st May, 1913 ; Annie Pohio, to 1st May, 1912 ; John Pohio, to 1st May, 1914.
Whether confirmed : Not confirmed.
What improvements :

Section 97, Kaiapoi Native Reserve.

Lessors who have signed lease : Teuka Rupapera, Hamuera Rupene, Wi Orurea Uru, Harata Whatahuia, Tipane Wieheina, Irai Tuhuru.
Lessee : Robert McQuillan, of Woodend, farmer.
Date of lease : 18th June, 1910.
Term : Twenty-one years, from 1st September, 1910.

Annual rental: £1 10s. per acre.
Area of section: 14 acres 2 roods.
How payable: In advance, on 1st September, yearly.
To whom rent paid and when paid up to: Lessors paid to September, 1911.
Whether confirmed: Confirmed by Judge Gilfedder on 16th January, 1911.
What improvements: No provision made in lease.

Section 100, Kaiapoi Native Reserve.

Lessor who has signed lease: Pene Tahui.
Lessee: Samuel Gibbs, of Woodend, farmer.
Date of lease: 22nd December, 1905.
Term: Eighteen years, from 4th June, 1906.
Annual rental: £9 7s. 6d.
Area of section: 7 acres 2 roods.
How payable: In advance, on 4th June in each year.
To whom rent paid and when paid up to: To Pene Tahui for about twenty years, no dispute till recently; 4th June, 1911. Rent has also been paid to Rueha Korako, Catherine Rennell, Whareraki Mason, and Ruiha te Hau Korako for two years from 4th June, 1909, to 4th June, 1911.
Whether confirmed: No. Deed translated by and signed before Mr. H. W. Bishop.
What improvements: £12 worth of improvements.
This lessee has paid £18 15s., or two years' rent, twice over, once to devisee and once to successors, 4th June, 1909, to 4th June, 1911.

Section 106, Kaiapoi Native Reserve.

Lessors who have signed lease: Taituha Hape and Waata Taituha.
Lessee: Ambrose Walter Moody.
Date of lease: 10th April, 1899.
Term: Ten years, from 1st May, 1901.
Annual rental: £1 10s. per acre.
Area of section: 14 acres and 3 perches.
How payable: Yearly, in advance.
To whom rent paid and when paid up to: Taituha Hape, to 1st May, 1911.
Whether confirmed: No.
What improvements: None.

Section 110, Kaiapoi Native Reserve.

Lessors who have signed lease: Taituha Hape and Waata Taituha.
Lessee: Ambrose Walter Moody.
Date of lease: 10th April, 1899.
Term: Ten years, from 1st May, 1901.
Annual rental: £1 10s. per acre.
Area of section: 11 acres 2 roods.
How payable: Yearly, in advance.
To whom rent paid and when paid up to: Hana Rickus, to 1st May, 1911; Thomas Goldsmith, to 1st May, 1911; Pirihira Ngamira, to 1st May, 1911; Teone Pohio, to 1st May, 1911; Rakapa Pohio, to 1st May, 1911; Reihana Tau, to 1st May, 1911; Mateku Hoka (Mrs. Fowler), to 1st May, 1911.
Whether confirmed: Not confirmed.
What improvements: None.

Section 113, Kaiapoi Native Reserve.

Lessors who have signed lease: Teone Pohio, Waata Pohio, Hanah Pohio (Rickus), Rakapa Pohio Saunders, Heni Pohio Goldsmith.
Lessee: Ambrose Walter Moody.
Date of lease: 22nd December, 1905.
Term: Fifteen years, from 1st June, 1906.
Annual rental: £1 5s. per acre.
Area of section: 15 acres and 25 perches.
How payable: In advance, on 1st June, yearly.
To whom rent paid and when paid up to: Teone Pohio, to 1st June, 1914; Waata Pohio, to 1st June, 1911; Hanah Rickus Pohio, to 1st June, 1911; Heni Pohio Goldsmith, to 1st June, 1911.
Whether confirmed: No. Translated by and signed before Mr. H. W. Bishop.
What improvements: No improvements.

Section 116, Kaiapoi Native Reserve.

Lessors who have signed lease: Te Hau Korako, Tutuhonuku Korako, Hanah Pohio Rickus and Te Hau Korako (as trustees for Pohio family), Pita Tauwhare, Pita Tauwhare (as trustee for children of Kuikui Tauwhare).

Lessees : William Moody and Walter Byron Moody.
Date of lease : 27th April, 1911.
Term : Five years, from 1st June, 1911.
Annual rental : £1 10s. per acre.
Area of section : 14 acres.
How payable : Yearly, in advance, on 1st June.
To whom rent paid and when paid up to : All lessors have been paid up to 1st June, 1913. Tutuhonuku Korako has been paid to 1st June, 1915.
Whether confirmed : Application being forwarded.
What improvements : No provision.

Section 120, Kaiapoi Native Reserve.

Lessors who have signed lease : Hoani Maaka Mokomoko, Amiria Tainui, Tieki Kona, Hariata te Karuke, Paratene te Uki, Tare Tikao, Maka Mokomoko, Hopa Paura. (Lease not before us ; these names taken from draft ; presume they have signed.—PAPPRILL AND CONLAN.)
Lessee : John Middleton Young, of Woodside, Kaiapoi, farmer.
Date of lease : 6th March, 1893.
Term : Twenty years, from 1st August, 1892.
Annual rental : £12 10s.
Area of section : 6 acres 1 rood.
How payable : Half-yearly, in advance, on 1st August and 1st February.
To whom rent paid and when paid up to : Information not at present available.
Whether confirmed : Not confirmed.
What improvements : Information not at present available.
This information has been taken from a draft of the lease. We have not had an opportunity of seeing the lessee, but we think a man named Clarke is now in possession of the land.—PAPPRILL AND CONLAN.

Sections 121 and 124, Kaiapoi Native Reserve.

Lessor who has signed lease : Makarini Mokomoko Hape.
Lessee : Emma Hicks, of Kaiapoi, widow.
Date of lease : 1st February, 1896.
Term : 121, seventeen years, from 1st May, 1900 ; 124, sixteen years, from 1st May, 1901.
Annual rental : £1 7s. 6d. per acre.
Area of section : 121, 11 acres ; 124, 6 acres 2 roods.
How payable : Yearly, in advance, on 1st May.
To whom rent paid and when paid up to : Information at present not available.
Whether confirmed : Not confirmed.
What improvements : Information at present not available.
The above Sections 121 and 124 have by deed dated 31st July, 1905, been sublet by Mrs. Emma Hicks to John Middleton Young, of Kaiapoi, farmer.

Section 130, Kaiapoi Native Reserve.

Lessor who has signed lease : Makarini Mokomoko.
Lessee : Robert McQuillan, of Woodend.
Date of lease : Lease lost.
Term : Twenty-one years ; about ten years to run.
Annual rental : £1 7s. 6d. per acre.
Area of section : 10 acres 1 rood.
How payable : Yearly, in advance, on 1st September.
To whom rent paid and when paid up to : Makarini Mokomoko has been paid £100 in advance from 1st September, 1909.
Whether confirmed : Not confirmed.
What improvements : None.

Section 135E, Kaiapoi Native Reserve.

Lessors who have signed lease : Wiremu Porete, Ihaia Rehu, Mere Puhewaita Kakahi, and others.
Lessee : Henare Whakatau Uru.
Date of lease : 1st February, 1904.
Term : Ten years, from 30th April, 1904.
Annual rental : £1 8s. per acre, in advance, on 30th April.
Area of section : 50 acres 2 roods.
How payable : Yearly, in advance, on 30th April.
To whom rents paid and when paid up to : Rents paid to all lessors to 1st May, 1911.
Whether confirmed : Not confirmed.
What improvements : No improvements.

Section 136F, Kaiapoi Native Reserve.

Lessors who have signed lease: Charles J. Harden, Riria Weka, Rawiri Te Pakeke Mamaru, Pirihina Wetere Te Kahu, Mere Porete, Henare D. Maire, Mauhara Horomona, M. T. Erueti, Korea Herueti.
Lessee: Taituha Hape; assigned to Robert McQuillan.
Date of lease: 24th March, 1904.
Term: Fourteen years, from 1st May, 1904.
Annual rental: £1 10s. per acre.
Area of section: 44 acres and 30 perches.
How payable: Yearly, in advance, on 1st May.
To whom rent paid and when paid up to: Rent paid to Taituha Hape to 1st May, 1911.
Whether confirmed: Not confirmed. Translated by and signed before Mr. H. W. Bishop.
What improvements:
The lease by the Natives to Taituha Hape was assigned by Taituha Hape to Robert McQuillan by deed of assignment dated 9th June, 1910.

Section 137D, Kaiapoi Native Reserve.

Lessors who have signed lease: Joe Tipa, 18 acres 3 roods 30 perches; John Gregary, 12 acres 2 roods 20 perches; Henare Rehu, 6 acres 1 rood 10 perches; Ihaia Rehu, 6 acres 1 rood 10 perches; lessee could not supply name, 7 acres.
Lessee: Robert McQuillan, of Woodend, farmer.
Date of lease: 1st May, 1904.
Term: Fourteen years, from 1st May, 1904.
Annual rental: £1 10s. per acre.
Area of section: 44 acres and 30 perches.
How payable: Yearly, in advance, on 1st May.
To whom rent paid and when paid up to: To above lessors to 1st May, 1911.
When confirmed: Not confirmed.
What improvements: No improvements.

Section 139B, Kaiapoi Native Reserve.

Lessors who have signed lease: Teone Rena Mamaru and Herewina Kemara Naki.
Lessee: Samuel Gibbs, of Woodend, farmer.
Date of lease: 13th August, 1899.
Term: Ten years, from 1st May, 1904.
Annual rental: £1 7s. per acre.
Area of part of section leased: 18 acres and 27 perches.
How payable: Yearly, in advance, on 1st May.
To whom rent paid and when paid up to: To Teone Rena Mamaru to 1st May, 1914; to Herewina Kemara Naki to 1st May, 1913; and £3 10s. on account rent 1st May, 1914.
Whether confirmed: Not confirmed. Translated by and signed before Mr. H. W. Bishop.
What improvements: £20.
The above particulars refer to part only of Section 139B.

Section 139B, Kaiapoi Native Reserve.

Lessor who has signed lease: Heni Mamaru Pokuku.
Lessee: Samuel Gibbs, of Woodend, farmer.
Date of lease: 20th August, 1903.
Term: Ten years, from 1st May, 1904.
Annual rental: £12.
Area of section: 9 acres 2 roods 25 perches.
How payable: Yearly, in advance.
To whom rent paid and when paid up to: Heni Mamaru Pokuku; 1st May, 1913, and £3 on account of year from 1st May, 1913, to 1st May, 1914.
Whether confirmed: Not confirmed.
What improvements: £6.
The above particulars refer to part only of Section 139B.

Section 141, Kaiapoi Native Reserve.

Lessors who have signed lease: Makarini Mokomoko and Teone Mokomoko.
Lessee: Joseph Byron Moody.
Date of lease: 9th September, 1902.
Term: Ten years, from 23rd August, 1911.
Annual rental: £1 5s. per acre.
Area of section: 14 acres.
How payable: Yearly, in advance, on 23rd August.

To whom rent paid and when paid up to: To Teone Mokomoko to 1st August, 1911, and £10 in advance for following year.
Whether confirmed: Not confirmed. Translated by and signed before Mr. H. W. Bishop.
What improvements:

Section 142, Kaiapoi Native Reserve.

Lessor who has signed lease: Makarini Mokomoko.
Lessee: Joseph Byron Moody, of Woodend, farmer.
Date of lease: 6th April, 1903.
Term: Ten years, from 1st August, 1911.
Annual rental: £1 5s. per acre.
Area of section: 14 acres.
How payable: Yearly, in advance, on 1st August.
To whom rent paid and when paid up to: To Teone Mokomoko to 1st August, 1911, and £10 in advance for year 1912.
Whether confirmed: Not confirmed. Translated by and signed before Mr. H. W. Bishop.
What improvements: No provision in lease.

Section 2B, Kaiapoi Native Reserve.

Lessors who have signed lease: Hera Pita te Atao Tu and Herehana Pohata.
Lessee: Edward Claude Pateman, of Woodend, farmer.
Date of lease: 22nd October, 1894.
Term: Twenty years, from 1st April, 1895.
Annual rental: £30 full rent for first five years, £1 7s. 6d. per acre for remaining fifteen years.
Area of section: 27 acres.
How payable: In advance, on 1st April in each year.
To whom rent paid and when paid up to: Full rent has been paid to Herea te Atao to 1910 and £14 on 1911; Merehana Pohata, full rent to 1908; J. H. W. Uru, full rent to 1915; H. W. Uru, full rent to 1913; Hape Uru, full rent to 1913; Paora Tau, full rent to 1915; Mere Tau, full rent to 1913; Maata Tau, full rent to 1913; Tiripa Hauraraka Maaka full rent to 1913; Epina Maaka, paid up to 1915; Teera Maaka, paid up to 1913; Mere Porete, paid up to 1915; Reita Naihira, paid up to 1913; Iki Fowler, paid up to 1912; Timaima Potango Waiata, paid up to 1912; Mariata Morere, paid up to 1915.
Whether confirmed: No.
What improvements: None.

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213 Hereford Street, Christchurch, 25th May, 1911.

DEAR SIR,—

Re *Section 89, Kaiapoi.*

We enclose herewith agreement for sale and purchase, from Rickus to Judson, of Section 89, Kaiapoi; also conveyance of the same land from Rioki Tauwhare and Rickus to Judson. There was no agreement for sale and purchase from Tauwhare to Judson, but we enclose a receipt dated 8th December, 1910, for £75, given by Tauwhare to Judson on account of purchase-money for this section. Rickus has altogether received £32 10s., so far, as his share.

Re *Section 64, Kaiapoi.*

There is a lease of this section from the successors to William Morris. Date of lease, 17th December, 1910; term, fourteen years from 1st July, 1911; rent, £1 15s. per acre; how payable, yearly in advance. This lease has not yet been confirmed. The rent has been paid by the lessee to ourselves, who are now holding it pending the result of the Commission of inquiry.

Re *Section 113, Kaiapoi.*

We omitted to mention to you that Hana Pohio, one of the successors to Horomona Iwikau in this section, has since the date of the succession order purchased the share belonging to her sister. We regret that we are unable to forward you any documentary proof, but Hana Pohio has gone South, and it is quite impossible to get hold of her.

Yours faithfully,
BISHOP AND GRESSON.

His Honour Judge Rawson, Native Land Court, Wellington.

APPENDIX C.

CERTIFIED COPY OF ENTRIES IN VALUATION ROLL.

Form No. 6A.] Date of valuation: June, 1911.

I HEREBY certify that the following are the present values, as entered in the Valuation-roll, of the property herein described:—

Valuation No.	Description of Property.	Area. A.	R.	P.	Capital Value.	Owner's Interest. Unimproved Value.	Owner's Interest. Value of Improvements.
		A.	R.	P.	£	£	£
4/22	Kaiapoi Native Reserve—						
738	Lot 7, Okaihau Road	15	2	0	465	450	15
Pt. 817	,, 10, ,,	14	0	22	460	450	10
Pt. 602	,, 11, ,,	14	0	22	450	443	7
629	,, 13, ,,	14	1	21	645	435	210
Pt. 630	,, 16, ,,	13	3	35	475	350	125
Pt. 617	,, 26, Rangiora Road	13	3	24	530	518	12
893	,, 31	14	1	15	450	420	30
Pt. 1162	,, 32	14	0	12	515	490	25
Pt. 602	,, 35	14	0	12	567	542	25
Pt. 834	,, 40	14	0	0	460	445	15
814	,, 41	14	1	37	465	445	20
Pt. 1162	,, 42	14	2	25	490	475	15
Pt. 1161/2	,, 44, Waikoruru Road	11	1	20	385	365	20
Pt. 737	,, 47, ,,	14	0	8	510	365	145
Pt. 622	,, 50	14	0	5	364	352	12
623	,, 51	14	0	5	478	336	142
Pt. 622	,, 52, Topito Road	12	2	17	250	225	25
Pt. 622	,, 54, ,,	14	0	8	665	475	190
Pt. 622	,, 55, ,,	13	3	17	490	475	15
Pt. 606	,, 57, Turiwhara Road	5	2	20	185	170	15
Pt. 630	,, 59, Rangiora Road	14	0	6	490	475	15
611	,, 61, ,,	14	0	6	560	540	20
Pt. 613	,, 64, ,,	14	0	6	535	520	15
Pt. 1086	,, 71, Te Pouapatuhu Road	15	0	0	525	510	15
Pt. 747	,, 75, Turiwhara Road	14	1	1	420	400	20
Pt. 606	,, 81	14	0	17	490	475	15
Pt. 893O and 594	,, 85, Topito Road	14	1	7	300	280	20
Pt. 893R	,, 86 (? 86A and 86B)	14	2	4	695	335	360
Pt. 893R	,, 87	14	0	39	355	340	15
Pt. 606	,, 89	14	1	24	362	350	12
Pt. 606	,, 93, School Road	14	0	29	170	155	15
Pt. 606	,, 95	14	0	0	532	500	32
Pt. 625	,, 97, North Road	14	2	0	620	600	20
Pt. 733	,, 100, ,,	7	2	0	300	290	10
1172	,, 104, ,,	14	2	30	620	450	170
Pt. 616	,, 106, ,,	14	0	3	490	478	13
Pt. 616	,, 110, Drainage Reserve	11	2	0	400	385	15
Pt. 616	,, 113, North Road	15	0	25	495	465	30
Pt. 616	,, 116, Church Bush Road	14	0	2	490	475	15
Pt. 1153	,, 120, ,,	17	0	32	630	600	30
Pt. 631	,, 121, School Road	13	3	0	410	395	15
Pt. 631	Bush Parcel Lot 124, School Road	6	2	24	220	210	10
893G	,, 130, Church Bush Road	10	1	0	340	332	8
893Q	,, 147, Topito Road	7	0	34	182	175	7
671	Village Lot 15, School Road	0	1	23	20	20	..
Pt. 612	Kaiapoi 2B, North Road	27	0	0	1,080	1,060	20
732 and 734	Lot 139B	50	2	0	1,390	1,340	50
Pts. 742/3	,, 141	14	0	0	400	385	15
Pts. 742/3	,, 142	14	0	0	400	385	15
728	,, 135E	50	2	0	1,500	1,430	70
729	,, 136F	44	0	30	1,320	1,265	55
730	,, 137D	44	0	30	1,340	1,265	75
731	,, 138C	44	0	30	1,320	1,265	55

F. W. FLANAGAN, Valuer-General.

APPENDIX D.

PARTICULAR REPORT AS TO VARIOUS SECTIONS.

INDEX TO REPORT ON INDIVIDUAL SECTIONS.

SECTION 1.

Title: Crown grant, under the Crown Grants Act, 1862 (No. 2).
Original grantee was Manahi Iri.
Area, 13 acres 3 roods 36 perches.
Restrictions prevent disposition by will.

Manahi Iri died 22nd July, 1894, and, by his will, dated 16th July, 1879, probate whereof was granted on the 4th October, 1897, this section was devised to testator's widow, Ani Pi Manahi, for life, and after her death to Horomona Tahuna, *alias* Tiaki Horomona.

The widow has died, and there is no objection to the validation of this will, all parties admitting that Tiaki Horomona, the beneficiary, was also entitled, as next-of-kin of the deceased, to succeed. On 6th January, 1911, an interlocutory succession order was made in his favour.

Tiaki Horomona died on 9th October, 1903. Left will dated 28th September, 1898, and codicil dated 7th October, 1902, giving lands to all his children excepting one daughter—Mere Maaka; and the testator's widow, Ripeka Horomona, was given life interest in various sections. The sections over which widow was given life interest are, however, not devisable by will.

Probate was granted on 25th April, 1904. An appeal lodged by Rio Nihoniho was dismissed on 21st February, 1906.

Application for succession subsequently made was heard by Native Land Court at Kaiapoi on 10th December, 1908 (South Island Min. Bk. 16, pp. 67 and 125). Court was asked to sanction a family arrangement, the will having directed that Aperahama Horomona should divide the deceased's estate amongst the family excepting Mere Maaka, and orders were made in accordance with this arrangement, Mere Maaka objecting.

She appealed, on the ground that property was restricted from alienation by will, and the Native Appellate Court affirmed another scheme of division. Some of the parties interested do not appear to have been present or represented before the Appellate Court, and a further appeal has been lodged under section 50 of the Native Land Act, 1909, and the deposit fixed as security for costs (£60) has been paid.

In this case the parties interested thought the matter should be left until the case came before the Appellate Court, as they believed a settlement could then be arrived at; but, in the event of the parties failing to come to an amicable agreement, it will depend on, whether this will of Tiaki Horomona has been validated or not, how the Appellate Court will view the matter.

I think in this case will should not be validated. As deceased died before the passing of the Native Land Act, 1909, section 45 of the Native Land Claims Adjustment and Laws Amendment Act, 1901, would allow the Court to give a life interest to the widow if it thought fit; and I also think any rents paid by the lessee to the executors of the will prior to the passing of the Kaiapoi Reserve Act, 1910, should be deemed to be valid payments in satisfaction of rent up to the date of such Act.

SECTION 2.

Title: Crown grant, under the Crown Grants Act, 1862 (No. 2).
Grantee: Horomona Tahuna.
Area, 14 acres and 34 perches.
Restrictions prevent disposition by will.

This section is in very much the same position as Section 1, except that here Horomona Tahuna (*alias* Tiaki Horomona) is the original grantee, and in No. 1 he claims by succession or under will of Manahi Iri, the grantee.

By his will Tiaki Horomona left this particular section to his son Aperahama Horomona, and when, after probate had been granted, succession orders were applied for, he (Aperahama) joined in the family arrangements described previously, agreeing to give up interests in other sections and take No. 2.

As before stated, this arrangement was altered by the Appellate Court, and a further appeal is pending. Matter should be left for the Appellate Court to deal with. If parties cannot agree, will should be taken as not validated. Moneys paid by lessee up to date of passing of the Kaiapoi Reserve Act, 1910, should be taken as valid discharges for rent.

Section 7.

Title: Crown grant, under the Crown Grants Act, 1862 (No. 2).

Area, 15 acres 2 roods.

Grantee: Te Wirihana Kirikau.

Restrictions prevent disposition by will.

The original grantee died in 1894, and on 17th October, 1904, succession order was made in favour of Merehana Retara, the only child of deceased. It was stated at the hearing that deceased had left a will, but that it did not operate over this section. (Min. Bk. 11, p. 94.)

Merehana Retara died 20th April, 1905. Left a will dated 22nd January, 1905, devising this section and others to Margaret Florence Russell (a child of European parentage whom she had legally adopted under the Adoption of Children Act, 1895) and Wiremu Retara (testator's husband) for life; on death of survivor, land to go to proper successors.

Probate of this will was granted on 14th September, 1905, to Henare Whakatau Uru, the executor named in the will, and immediately afterwards succession orders were made for various lands over which will did not operate.

The order for this section was in favour of the following: Teo Tipa, one-sixth; Titahi Tahui, one-twelfth; Teera Tahui, one-twelfth; Retimana Momo, one-eighteenth; Waata Momo, one-eighteenth; Tini Momo, one-eighteenth; Maako Mokomoko, one-sixth; Henare Parete, one-sixth; Horiwia Paratene, one-sixth. It is specially noted on the grant of probate that this and Sections 86A and 87, Kaiapoi, are excepted therefrom.

An appeal was lodged against the grant of probate, but subsequently withdrawn.

The Native Appellate Court has held that an adoption by a Native of a child of European parentage under the Adoption of Children Act, 1895, would entitle such child to succeed, so that if the appeal lodged in this case had been proceeded with the above order would probably have been altered in favour of Florence Margaret Russell. It was withdrawn, however; but before me it was asked that this will should be validated, so as to allow the life interests given to the adopted child and the husband. The husband stated he was unable to earn more than £1 5s. a week, and could not get constant work even at that wage. He has married again, and has three children by his present wife. He will succeed to interests in land of his parents, but at present has nothing except life interests under this will in lands the total rents whereof do not exceed £8 per annum.

As regards the adopted child, the provisions of section 50 of the Native Land Act, 1909, would enable her to have the question of succession inquired into again.

As to the successors named above, some are fairly well off, others are not, but are in a better position than Wiremu Retara.

As it was stated in Court on 17th October, 1904, that will of original grantee did not operate over this section, and in consequence thereof Merehana Retara was appointed successor, it is clear that Merehana knew that her will would not pass these lands. The executor never claimed possession, and the successors have now held the lands for more than five years.

I think this will should not be validated.

Section 10.

Title: Grant under the Crown Grants Act, 1862 (No. 2).

Area: 14 acres and 22 perches.

Restrictions prohibit disposition by will.

Grantee: Henare te Whakaawhi.

Henare te Whakaawhi, otherwise known as Henare Mahuika, died leaving a will dated the 16th day of March, 1897, probate whereof was granted on 20th September, 1897, to Taituha Hape, the executor named in the will. By the will 6 acres of this section were given to Henare Takatowhare, and, in the event of his dying without issue, Emiri Tuturu Mahuika (testator's niece) and her issue were to succeed. The balance of this section was given to Emiri Tuturu Mahuika absolutely, but she is now deceased, and left no will. Testator left no issue. Probate duty, £8 3s. 10d., was paid by the executor; but only a portion of this would be in respect of this section, as lands outside the Kaiapoi Reserve were also devised.

Henare Takatowhare was not only a relation of the grantee's, but was, in addition, his adopted child. Emiri Tuturu Mahuika was grantee's niece. No successors have been appointed either to the original grantee or to Emiri Tuturu Mahuika. The executor received the rents at first, and subsequently the devisees. As the grantee died in 1897 there was no necessity for any registration of the alleged adoption, and, if the same could have been established to the satisfaction of the Court, the adopted child would have been entitled to succeed to the whole of the grantee's lands.

The parties opposing the validation of this will as regards this section stated that the grantee was a North Island Native who was given this section on account of his wedding a Ngaitahu woman. They claimed that one-half of the interest should go to the next-of-kin of the grantee's wife, Neta, the grantee having died without direct issue.

As, in my opinion, Henare Takatowhare, the adopted child of the grantee, would have been entitled to succeed to the whole interest, and as he apparently acquiesced in Emiri being given a share, and more especially as those claiming under the will have been in possession for nearly fourteen years and no succession orders have been made, I suggest that the will of Henare te Whakaawhi, *alias* Henare Mahuika, be validated so far as it affects this section.

Section 13.

Title : Grant under the Crown Grants Act, 1862 (No. 2).
Area : 14 acres 1 rood 21 perches.
Restrictions prevent disposition by will.
Grantee : Teoti Paipa.

On 26th September, 1893, a succession order was made appointing Kiti Paipeta, f.a., of Rapaki, sole successor to Teoti Paipa's interest in this section. From entries in Middle Island Minute-book No. 8, pages 355 to 359, it appears that Teoti Paipeta died on 2nd October, 1891, leaving a will distributing his various lands amongst his children with the exception of one, Makareta Manihera, who was omitted on account of her conduct. Succession orders were apparently made in pursuance of this will, the objections of Makareta Manihera being overruled. She has never appealed, and the order is almost within the protection of the Land Titles Protection Act, 1908, and proceedings under section 50 of the Native Land Act, 1909, could not be taken without the consent of the Governor in Council. The other seven members of the family raised no objection to this order, and are appointed successors in other blocks, in accordance apparently with the terms of the will.

I do not think this order should be interfered with.

Section 16 (also Sections 26 and 44).

Title : Grant under the Crown Grants Act, 1862 (No. 2).
Area : 13 acres 3 roods 35 perches.
Restrictions prevent disposition by will.
Grantee : Haata Toromi.

Succession order, dated 26th October, 1885, appoints following successors to grantee : Raniera Erihana, Hari Rota, Ratimira, half-share ; Hareti Hohaia, Ani Pi Manahi, half-share.

Ani Pi Manahi left a will, but as devisee was next-of-kin there was no objection to validation of this will as regards this section.

Hareti Hohaia also left a will. Died 11th April, 1893. Probate granted by Supreme Court, 11th August, 1893. Will gives this section to Taituha Hape, and "in the event of his death I bequeath it to his wife and to his children." It was asked that this will should be validated on the following grounds : Will was drawn by Canon Stack in 1890. Probate duty paid amounted to £44 16s., and, including this amount, costs of obtaining probate amounted to £100. Taituha's son has erected improvements worth £220, and removal would damage them considerably. The testator was sixty-six or sixty-seven years old at death, and had lived a long time with Taituha as one of his family. She gave him the will after its execution, and he was not aware that Governor's consent was necessary. Taituha paid all expenses of her long illness, funeral, and tombstone.

Taituha and Raniera Erihana leased about 10½ acres to Taituha's son, and the other portion of this section was leased to Mr. Judson. The son has a right by the terms of his lease to remove the house before expiration of his tenancy. It also appears that Taituha's wife found the money for the erection of the house, and that she would not have done this had she or Taituha entertained any doubt as to the validity of the will.

Both Taituha and his wife are related to the testator, Taituha being the nearer of kin. His connection is as under :—

```
Te Whakatiki (first husband) = Te Mihi = Pukurua (second husband).
        |                             |
Te Atua Maki = Totoki.        Te Wera = Tauauwhara.
             |                        |
      Ruru = European.         Harete Toko                Ritea = Kahutara = Niwaniwa.
             |                 (the testatrix).                       |
      Taituha Hape.                                  |                     Hopa Kaukau = Ahu.
                                              Watene = Raruia.                  |
                                                     |           Hana Pateke = Horopapera.
                                              Teone Watene.                     |
                                  Waata Momo.           Retimana Momo.            Tini Momo.
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It appears, however, that Harete Toko obtained her interest in this section not through Te Wera, but through Tauauwhara, so that Taituha would not be entitled to share as one of the next-of-kin. At the time house was erected no subdivision of the section had been made, but it was understood amongst those then deemed to be owners of the section that Taituha Hape was entitled to the portion upon which it had been built. Taituha has been in possession of the land or receipt of the rents ever since 1893.

The area in question is about 4½ acres, being one-fourth of the whole section. No claim was made by the next-of-kin till 1908, when an application to succeed Harete Toko Hohaia, deceased, was put in by Hoani Maaka Hape.

On 16th January, 1909, the Native Land Court awarded the land to the following: Taituha Hape, three-quarter share; Waata Momo, one-twelfth share; Retimana Momo, one-twelfth share; Tini Momo, one-twelfth share. On appeal this order was cancelled, and the matter referred back to the Native Land Court, with directions to ascertain the next-of-kin through the father of deceased, Tauauwhara.

Before the Commission, Waata Momo, mentioned above, stated that, although he had been present when the Native Land Court made the above order, and although he had not appealed, or even raised the question, yet he had been adopted by the deceased, and so was entitled to succeed. He further stated that, owing to his adoption by Harete, his father had left him out of his will. I gathered from this that, while he would not have raised the question of his adoption to defeat Taituha, yet, if succession was to be granted to the other party, he intended to claim under that adoption.

Those opposing the validation of the will point out that of the £100 costs and probate duty paid on account of Harete Hohaia's estate only about one-twelfth can rightly be charged as against this section. Also, that the house referred to had only been built about eight years or so—that is, after the question as to whether these restrictions prevented disposition by will had been raised, and after the Native Land Court had commenced to regard them as barring such dispositions; that the lease referred to will expire on 1st May, 1912, and that it has never been confirmed; that Taituha Hape has Section 119, containing 14½ acres, in his own right, and that his wife has lands; that for fifteen years he has been in receipt of rents and profits rightfully belonging to them; that lands outside the Kaiapoi Reserve pass by the said will to Taituha Hape, or members of his family, and that consequently all his services to the deceased, or payments made on account of her estate by him, have been amply rewarded or satisfied.

In my opinion, this is a case for compromise. In Section 26 Harete Hohaia died possessed of 3 acres 3 roods given by her will in same way as this section. I suggest the will be validated as to this Section 16, but not as to Section 26. In Section 44 Harete had a small interest (about 2 acres), which will should not affect either.

Kaiapoi Section 23.

Title: Crown grant, under the Crown Grants Act, 1862 (No. 2).
Area: 14 acres 2 roods 27 perches.
Restrictions prevent disposition by will.
Grantee: Te Haeana Huri.

Succession order, dated 14th September, 1883, sets out that Te Haeana Huri, having died intestate, and without having made a valid disposal of the said land or any part thereof, it was ordered that the following should succeed: Oriwia Tinako, Mehetapere Ihaia, and Hikana Matena.

From page 225 of South Island Minute-book 1B I take the following copy of Oriwia Tinako's (the only witness) evidence: "I knew Te Haeana Huri, the owner of Kaiapoi No. 23. He is dead. Did not sell. Left a will [produced a document which merely appointed deceased Native Assessor]. Ripene Waipapa wrote a document which was dictated by deceased. Ripene is dead. I was present when the document was written. I heard deceased dictate it. [Will, not signed, dated 4th March, 1867, produced.] I wish an order in favour of self, Mehetapere Ihaia, and Hikana Matena." No objections. Order in favour of the three.

In October, 1910, an application for rehearing of this succession was put in by Rewi I. te Hui Kirini and others under section 50 of the Native Land Act, 1909. The Chief Judge dismissed the application, upon the ground that the relief claimed was forbidden by section 432 of the Native Land Act, 1909, but on the file placed a note ordering matter to be brought before Kaiapoi Reserve Commission. Mr. Bishop, solicitor for those opposing the validation of the wills, withdrew opposition in this case, as order specially set out that it was made on intestacy.

Title as it stands should not be interfered with.

Section 28.

Title: Grant under the Crown Grants Act, 1862 (No. 2).
Area: 13 acres 3 roods 35 perches.
Restrictions prevent disposition by will.
Grantee: Horopapera Momo.

On 8th January, 1887, Retimana Momo was appointed successor to Horopapera Momo, in terms of will. Deceased had left three children—Retimana, Waata, and Tini—but as Retimana subsequently died leaving no issue, all this section has now been awarded to Waata Momo and the descendants of Tini Momo.

The title is therefore correct, and the order above-mentioned is protected by section 432 of the Native Land Act, 1909.

Sections 31 and 104.

Title: Grants under the Crown Grants Act, 1862 (No. 2).
Areas: 14 acres 1 rood 15 perches and 14 acres 2 roods 30 perches respectively.
Restrictions in both cases prevent disposition by will.
Grantee of Section 31: Henare Korako. Grantee of Section 104: Mikaera Turangatahi.

As Mikaera Turangatahi, by succession order dated 13th September, 1883, succeeds to Henare Korako, these two sections both have same owners, and are dealt with as one in this report. Mikaera Turangatahi died on 14th March, 1892, leaving a will dated 19th September, 1891. This will devised

Section 31 to Henare Whakatau Uru and Section 104 to Ruru Uru, and all the rest of his estate to H. W. Uru and Ruru Uru. 7 acres at Te Pou o Patuki mentioned in will as having been "bequeathed to me by my sister" had not in fact been so bequeathed, and did not therefore belong to the testator.

Probate was granted by the Native Land Court on 9th October, 1893, to Henare Whakatau Uru, the executor named in the will, a note being placed on probate by presiding Judge that the 7 acres at Te Pou o Patuki were excepted from the operation of this will.

On 9th June, 1899, the Native Land Court made an order appointing the following successors to Mikaera te Horo (the same person as Mikaera Turangatahi): Hohepa te Rangi, one-third; Mirika, one-third; Wiremu Ratara, Rena Bradshaw, Meri Pari, Katerina Pari, Teone Pari, Kuini Pari, Kiti Ratara, one-third equally.

H. W. Uru appealed against this order on the grounds that the land had been lawfully devised, and that succession orders could not lawfully be granted except to the beneficiaries under the will. The Native Land Court had held that the restrictions barred the operation of the will, and the Native Appellate Court decided to state a case for the opinion of the Supreme Court on this point.

On 1st July, 1904, the Supreme Court held that the will was inoperative, but intimated it had not dealt with question as to whether the restriction had been properly inserted by the Governor.

The history of the litigation has been already set out, and there is no necessity to reiterate it here. Eventually, on the 2nd November, 1908, the Native Appellate Court affirmed the above succession order. Mr. Wright asked that this will should be validated on the following special grounds, in addition to the general grounds referred to at the commencement of this report: That will is very clear and definite, and shows how established custom of willing these lands had become; that it was executed in 1891, and probate granted in 1893, when no one thought of contesting it; that note on probate by Judge, that 7 acres at Te Pou o Patuki were excepted from operation of will, shows that Court intended these other lands to pass under the will; that in December of 1893, two months after probate granted to H. W. Uru, Hohepa te Rangi, the leading man amongst the successors, himself puts in an application for letters of administration or grant of probate, and was informed probate had already been granted to H. W. Uru; that duty has been paid on probate; that it was not until 22nd November, 1898, that Hohepa te Rangi made any objection (on that date he put in what purported to be an application under section 39 of the Native Land Court Act, 1894, and was subsequently advised by the Chief Judge to file applications for succession); that Uru was in possession of lands for a considerable time, then gave up possession, and then went into possession again and is still in possession; has built a house on this land (Section 31), and otherwise improved it; admits successors have also had possession for some time.

In reply, Mr. Bishop, for those claiming under the succession orders, maintained, in addition to general objections previously mentioned, that the mere fact of the Judge making a note on the probate of lands not owned by testator could not be taken as showing that he considered all other lands mentioned in the will passed thereby; that probate granted no title, and was issued by the Native Land Court as a matter of course, so long as will had been properly executed, &c. If the Judge granting the probate had considered these lands had passed by the will, would he have made the succession orders subsequently? That those claiming under the will would not suffer any hardship by being dispossessed, as they had had possession of lands they were not entitled to for some years.

In this case I am faced with this position: that the successors have been put to considerable expense in litigation which has, after hearings in the Native Appellate Court and Supreme Court, resulted in their favour. Would it be equitable to deprive them of the fruits of that success? I do not think so. On the other hand, the Urus, believing themselves legally entitled, have occupied these lands, built a house, and effected other improvements. Had the testator or they themselves been aware that the Governor's consent was necessary, it would no doubt have been obtained, for the testator had no family of his own to consider. The successors found by the Court are nephews and nieces. Expense to Urus also from litigation.

What seems to me a fair division would be to give the Urus the house and, say, 4 acres surrounding it. The Government valuation of Section 31 is—Unimproved, £420; improvements, £30: of Section 104—Unimproved, £450; improvements, £170.

As H. W. Uru and Ruru Uru are married to one another, and the house is on Section 104, which was devised to Ruru Uru, the Native Land Court would require to be empowered to alter the present succession order and include the names of H. W. and Ruru Uru for the share suggested above.

Section 32.

Title: Grant under the Crown Grants Act, 1862 (No. 2).
Area: 14 acres and 12 perches.
Restrictions prevent disposition by will.
Grantee: Te Teira Turakina.

On 17th October, 1885, a succession order was made in favour of Tini Kaiwae Tarapuhi. Minutes (Book 2, folio 20) show clearly that it was made in pursuance of a will. Order is, however, protected by section 432, Native Land Act, 1909.

On 10th June, 1895, a succession order was made appointing Hira Makarini successor to Tini Kaiwae Tarapuhi. Hira Makarini having died, on 17th December, 1908, a succession order was made in favour of Riaki Tauwhare. This was appealed from, the appellant's real object being to upset the original succession order in favour of Tini Kaiwae Tarapuhi. Appellate Court, of course, had no jurisdiction to do this, and the appeal was dismissed, as was a subsequent application to the Chief Judge for a rehearing under section 50 of the Native Land Act, 1909.

Riaki Tauwhare's title is, therefore, unassailable, but before the Commission she stated she was willing to hand over this section to the next-of-kin of the original grantee—whether during her lifetime or afterwards she left to the Commissioner to say. She then stated as follows: "I know there is a dispute as to the next-of-kin of the original grantee. Let the Court settle that."—*The Commissioner:* "If you were given a life interest, and the Native Land Court then settled that land should go to next-of-kin to Te Teira, would that satisfy you?"—*Riaki Tauwhare:* "Yes."

Riaki is an old woman, and I gathered that she had formed the opinion that the next-of-kin to Te Teira were to be found in the persons of her own daughter-in-law and her brothers and sisters. This may or may not be correct.

In any case, I think title should stand as it is. Riaki Tauwhare, under the present law, can will the land in accordance with her own wishes, and there is thus no reason for any recommendation.

Section 34.

Grant under the Crown Grants Act, 1862 (No. 2).

Area: 14 acres and 12 perches.

Restrictions prevent disposition by will.

Grantee: Hakuira.

In this case the only will purporting to affect land is that of Ruera Irikapua Rota, but when probate was granted on 25th April, 1904, this section was specially excepted from its operation.

Mr. Wright stated he would not ask for validation of will so far as this section was concerned, but that was not to prejudice his claims in Section No. 11.

Will should therefore not be validated as regards this Section No. 34.

Section 40.

Grant under the Crown Grants Act, 1862 (No. 2).

Area: 14 acres.

Restrictions prevent disposition by will.

Grantee: Wiremu Naihira.

The grantee died 2nd February, 1903, leaving a will whereby he bequeathed to his foster-son, Marakaia Hape Uru, this section and other lands.

Letters of administration with will annexed were granted to Marakaia Hape Uru and Raita Naihira on the 25th April, 1904, *excepting Sections 19, 40, and 55, Kaiapoi*, for which succession orders were made, as will did not operate.

The succession orders for these sections, 19, 40, and 55, were in favour of the next-of-kin, Hineawhao Teihoka and Hohepa Teihoka, the niece and nephew of the testator, who left no issue himself.

Marakaia Hape Uru claimed to be the adopted child of Wiremu Naihira, but the adoption was not registered, as required by section 50 of the Native Land Claims Adjustment and Laws Amendment Act, 1901.

Marakaia gave evidence before the Commission to the effect that he had lived with Wi Naihira from birth, and had always been treated as a son by the grantee; that he was married while living with him and his wife, and he looked after the grantee till his death, with the exception of about ten months; that the next-of-kin did not assist him, and that they have, without this section, about as much land as he himself has; that he has 3 acres in Kaiapoi—Section 182, worth about £40 an acre; Section 44, 5 acres, worth about £40 an acre; and his mother also has interests in the Kaiapoi Reserve; also has less valuable interests in Henley, Oxford, and Rakaia lands. Worked as a carpenter and also as a labourer, but work difficult to get, and did not make much at it.

On the other hand, the successors by the orders of the Native Land Court are in possession, and have been in possession since death of deceased, under a legal title. They are no better off than the devisee, and, as probate specially excepted these sections, I do not think title should be altered.

Will not to be validated as regards this Section 40.

Note, also, that Makaraia (? Marakaia) Uru has been appointed to succeed Heni Naihira in Section 44, Kaiapoi, and Tauhinahina No. 6.

Section 42.

Grant under the Crown Grants Act, 1862 (No. 2).

Area: 14 acres 2 roods 25 perches.

Restrictions prevent disposition by sale, mortgage, lease, or otherwise without consent of the Governor.

Grantee: Hapurona Taupata.

There is no will in question in this case, but there is a document purporting to be a conveyance, and although matter is really outside scope of my commission I think it advisable to set out the facts.

This conveyance is dated 9th February, 1889, and is made between Hapurona Taupata and Ihaia Pohata. In consideration of natural love and affection, Hapurona grants, conveys, and assures unto Ihaia Pohata this Section 42 absolutely. It is witnessed by H. Belfield Stack, mercantile clerk, Christchurch; E. R. J. Stack; and Wi Naihira Teihoka, and has a plan of the section indorsed, and a translation into Maori by James W. Stack, licensed interpreter. It has neither been confirmed, stamped, or registered, nor has the consent of the Governor been placed upon it.

Hapurona having died in 1897, and the document never having been acted upon, it appears to me that it can have no legal force or effect.

No evidence was brought concerning the document, which was produced by Mr. Wright.

Section 44.

Grant under the Crown Grants Act, 1862 (No. 2).

Area: 11 acres 1 rood 20 perches.

Restrictions prevent disposition by will.

Grantees: Kahaki and Heni Hinewahia.

Grant is unto Kahaki and Heni Hinewahia jointly—to hold unto the said Kahaki and Heni Hinewahia, their heirs and assigns, for ever.

Kahaki, deceased: No will. Succession order, dated 13th September, 1883, in favour of Ani Pi Manahi, Tare Tikao, Te Harete Toko.

Heni Naitura, *alias* Heni Hinewahia, deceased: Succession order, dated 19th August, 1890, in favour of Marakaia Uru. No will.

Both these orders are protected by section 432 of the Native Land Act, 1909.

Ani Pi Manahi, deceased: Probate of will was granted, but succession order made to devisee subsequently 19th January, 1909, as next-of-kin apparently. No question raised before Commission as to this order.

Harete Toko Hohaia, deceased: This deceased left a will, probate whereof has been granted. Particulars of this will are set out in this report dealing with Section 16.

I do not think this will should be validated so far as it affects this section. The Native Land Court made a succession order on 15th November, 1910, in favour of Epiha Maaka, holding that will did not pass this section by reason of the restrictions.

Section 47.

Grant under the Crown Grants Act, 1862 (No. 2).

Area: 14 acres and 8 perches.

Restrictions prevent disposition by will.

Grantee: Reihana Tuohu.

On 17th October, 1885, successors appointed to Reihana Tuohu, deceased, as follows: Rakera Taunoa, one-quarter; Rupene te Muru, one-quarter; Hohepa Henare, one-quarter; Paratene te Uki, one-eighth; Rupapera te Uki, one-eighth.

Rakera Purua, *alias* Rakera Taunoa, died 11th September, 1898, leaving a will, executed two days previous to her death, devising all her real and personal property to Reone Timoti, and directing him to make provision for others named in the will. Letters of administration, with will annexed, were granted to Reone Timoti on 12th June, 1899.

On 12th September, 1902, a succession order was made appointing the following to succeed to Rakera Purua: Hamuera Reupene, one-sixth; Mokopuaroa, one-twelfth; Wi o Rurea, one-twelfth; Rupapera te Uki, one-third; Hohepa Mapu, one-third. Reone Timoti had asked for an order in favour of himself, on ground of adoption by Rakera, but failed to convince the Court apparently.

The land is leased, and rents paid to successors.

As will made as recently as 1898, and probate obtained in 1899, when question of restrictions had been raised amongst people, I do not think this will should be validated so far as it affects this section.

Section 49.

Grant under the Crown Grants Act, 1862 (No. 2).

Area: 14 acres and 5 perches.

Restrictions prevent disposition by will.

Grantee: Te Meihana Tawha.

Succession order, dated 8th January, 1887, in favour of Ruta Meihana, the widow of deceased, was made in pursuance of a will, but there were no objections to this title raised before the Commission, and the order is protected by section 432 of the Native Land Act, 1909.

Section 50.

Grant under the Crown Grants Act, 1862 (No. 2).

Area: 14 acres and 5 perches.

Restrictions prevent disposition by will.

Grantee: Harawira Tarakou.

Succession order made 15th October, 1885, in favour of Meretini Harawira and Riria Tuini, is objected to by children of deceased, who say order should have been as follows: Riria Watene (Tuini), Haimona Harawira, Kereopa Harawira, Roka Maka (the children of grantee, in equal shares).

The order was made by the Court in favour of the above two, in accordance with grantee's will. They are the widow and child of grantee.

Order is within protection of section 432 of the Native Land Act, 1909, and should not be interfered with after this lapse of time.

Section 51.

Grant under the Crown Grants Act, 1862 (No. 2).

Area: 14 acres and 5 perches.

Restrictions prevent disposition by will.

Grantee: Te Muru.

This title is in exactly the same position as Section 47, a succession order, dated 17th October, 1885, appointing the following to succeed Te Muru: Rakera Taunoa, one-quarter; Rupene Te Muru, one-quarter; Hohepa Henare, one-quarter; Paratene te Uki, one-eighth; Rupapera te Uki, one-eighth.

The same question arises as to whether Rakera Taunoa's will should be validated, and, for same reasons as in Section 47, I do not think it should be.

SECTION 52.

Grant under the Crown Grants Act, 1862 (No. 2).

Area: 12 acres 2 roods 17 perches.

Restrictions prevent disposition by will.

Grantee: Matana Piki.

The grantee died on 25th October, 1885, leaving a will, but as succession order for this particular section was made on 7th January, 1887, in favour of the children, the widow, Reita Takuru, does not make any claim herein under the will.

SECTION 54.

Grant under the Crown Grants Act, 1862 (No. 2).

Area: 14 acres and 8 perches.

Restrictions prevent disposition by will.

Grantee: Riwai Kairakau.

On 13th September, 1883, succession order was made appointing Heremaia Taunoa to succeed to the grantee.

On 2nd October, 1893, the following were appointed successors to Heremaia Taunoa: Hamuera Rupene Kuri, Riria Peehi Rupene Kuri (equally). Minutes in Book 8, page 422, clearly show that order was made in pursuance of deceased's will.

An appeal was made in September, 1905, by Hoani Maaka Hape against the order appointing Heremaia Taunoa successor to Riwai Kairakau, and the Native Appellate Court dismissed this on the 2nd November, 1908.

Before the Commission Mr. Bishop objected to the succession order made in pursuance of Heremaia Taunoa's will.

Mr. Wright, for those claiming under that order, raised the point that Commission was not authorized to inquire into cases such as this—where a succession order had been made in pursuance of a will and the time for appeal had lapsed; that Court, by making succession order, had practically validated the will; that fact that title of successors was derived through a succession order was a strong point, especially seeing that order was made so far back as 1893.

Mr. Bishop contended that the Court of Appeal's decision had shown will to be invalid, and that section 3 of the Kaiapoi Reserve Act, 1910, gave Commission power to inquire and report thereon.

I do not think order should be interfered with after this lapse of time.

SECTION 55.

Grant under the Crown Grants Act, 1862 (No. 2).

Area: 13 acres 3 roods 17 perches.

Restrictions prevent disposition by will.

Grantee: Apera Pukenui.

On the 19th October, 1885, the Native Land Court made a succession order appointing the following successors to the above grantee: Wi Naihira Teihoka, Hana Horomona, Rakera Purua. Minute-book 2, page 29, shows shares equal. The previous minutes show that a copy of a will was produced, but that there was considerable discussion as to whether it was a correct copy. Order apparently does not follow the will, but is in favour of next-of-kin and widow of grantee.

I think order should be allowed to stand. It is protected by section 432, Native Land Act, 1909.

Wi Naihira Teihoka also left a will, full particulars whereof are set out under section 40. As probate specially excepted this section, I do not think the will should now be validated so as to pass it.

Succession order has been made (12th September, 1905) for Wi Naihira Teihoka's interest in favour of Hineawhea Teihoka and Hohepa Teihoka. Hineawhea died 5th April, 1909, leaving a will, probate whereof was granted on 10th November, 1910, but at this time it was understood restrictions prevented will operating, and, by consent, order was made in favour of deceased's child. This will should not be validated.

Rakera Purua, one of the successors to the original grantee, also left a will, particulars whereof are mentioned in report on Section 47. A succession order was made for her interest on 12th September, 1902, but was never signed, and is indorsed, "Cancelled.—H. W. BISHOP, Commissioner, 18/8/04."

As in case of Section 47, I do not think will should be validated, but Court left to decide question of persons entitled to succeed. The devisee under will is not the next-of-kin, but in Section 47 he claimed as an adopted child.

SECTION 56.

Grant under the Crown Grants Act, 1862 (No. 2).

Area: 14 acres.

Restrictions prevent disposition by will.

Grantee: Tuini Pihawai.

There are no succession orders on the file, but from Probate File 13 it appears that the grantee died 31st August, 1888, and that application for probate of his will was made by Taituha Hape. The will was returned to applicant for translation, and, although a duly certified translation was sent to the Court, the original will was never returned. Taituha was written to, and informed nothing could be done until will was filed with the Court. Will was not filed, and probate has never been granted. Taituha Hape stated that the will had been produced before Judge Mackay in 1888.

As will was in favour of testator's own children, it is not of any consequence whether will is validated or not, as the Court would appoint the children successors. Will should not be validated.

SECTION 57.

Grant under the Crown Grants Act, 1862 (No. 2).

Area: 5 acres 2 roods 20 perches.

Restrictions prevent disposition by will.

Grantee: Rina te Waipunahau.

On 15th October, 1886, Native Land Court made an order appointing, as successor to the grantee, Hira Toka Mauhara, a niece of deceased, by virtue of a will dated 21st May, 1886. There was no objection raised to this succession order, as Hira appears to have been entitled as next-of-kin.

Hira left a will dated 31st July, 1893, in favour of her husband, Henare Mauhara, for this section; but as he has died without issue, and there is no objection raised to the successors appointed by the Native Appellate Court to succeed to the interest of Hira Mauhara, there is nothing to be gained by validating the will, though Mr. Wright asked it should be done.

Will not to be validated so far as it affects this section.

SECTION 58.

Grant under the Crown Grants Act, 1862 (No. 2).

Area: 14 acres and 6 perches.

Restrictions prevent disposition by will.

Grantee: Arapata Koti.

Succession to above grantee was ordered by Native Land Court on the 14th October, 1885, in favour of John Uru.

Minute-book 2, page 2, shows that this order was made in pursuance of will of deceased, whereby this section was devised to John Uru for life, and after his death to his children, Elizabeth and Johnny Uru, equally. Minute reads: "Order granted accordingly."

Hoani Uru died 5th August, 1898, leaving a will whereby he devised this section and other lands to "my wife Kata Uru for her sole use and benefit, with power to apportion them between our children after her death as she pleases."

Letters of administration of Hoani Uru's estate, with will annexed, were granted to Henare Whakatau Uru on 22nd June, 1899.

No objections to this will were raised before the Commission, though some of next-of-kin were present.

The order of 14th October, 1885, is protected by section 432 of the Native Land Act, 1909, and I see no objection to the validation of Hoani Uru's will.

SECTION 60.

Grant under the Crown Grants Act, 1862 (No. 2).

Area: 14 acres and 6 perches.

Restrictions prevent disposition by will.

Grantee: Ihaka Pohawaiki.

Probate of will of grantee was granted by the Native Land Court on 7th September, 1895, to Hoani Uru, the executor named in the will. All this section was devised to Timaima Whitau, the wife of Here Whitau.

Timaima Whitau stated before the Commission that she was the adopted child of the testator, who had derived his right from his wife. Will was made in 1883, and testator died 1st September, 1894.

No objections were raised to validation of this will, as devisee had been in possession since death of deceased, and no succession orders have been made.

Will should be validated.

SECTION 61.

Grant under the Crown Grants Act, 1862 (No. 2).

Area: 14 acres and 6 perches.

Restrictions prevent disposition by will.

Grantee: Wiremu Poukuku.

Wiremu Poukuku died on 13th July, 1907, leaving a will in favour of his wife, Heni Mamaru Pokuku. This will purports to have been executed by the testator on the 17th January, 1893, and to have been attested by the witnesses on the 29th December, 1901. Letters of administration, with will annexed, were granted to Heni Mamaru Pokuku on the 10th March, 1908—that is to say, after the decision in Henare Whakatau Uru *v.* Te Rangi.

Irihapeti te Koaki appealed, but, with leave of Appellate Court, withdrew her appeal on 16th October, 1908.

A succession order was made on 19th November, 1910, appointing Irihapeti Koaki and thirty-four others to succeed to Wiremu Poukuku's interest in this section, the widow's application for a life interest being refused.

The widow died February, 1911, leaving a will. She had received the rents previous to her death.

Mr. Bishop argued that this was not a case where the will should be validated, as question of restrictions preventing disposition by will had been raised when probate was granted. He maintained that Court never intended this section should be affected by the grant of probate, but merely made the grant for such property as would legally pass under the will.

Mr. Wright stated that in 1910 a Bill was circulated dealing with these matters, which Judge was presumed to have known of: that successors had never been in possession.

I think will should not be validated, and that succession order should stand.

SECTION 63.

Grant under the Crown Grants Act, 1862 (No. 2).

Area: 14 acres and 16 perches.

Restrictions prevent disposition by will.

Grantee: Hori te Maiwhakarea.

Succession order, dated 14th October, 1885, is in favour of Irihapeti te Rato, and was made in terms of will of grantee.

Irihapeti left a will also, but on 30th October, 1886, succession was ordered in favour not only of devisee (the husband), but including with him the sister and nephews of deceased.

On death of the husband (Te Kooti te Rato) a succession order was made (16th September, 1897) in terms of his will. There has been no appeal from this order, and the persons taking seem to have been the next (or very near) of kin of Irihapeti te Rato, deceased.

As no objections have been raised, and orders have stood so long, and persons claiming have been in possession right down to the present, I do not think these orders should be interfered with.

SECTION 64.

Grant under the Crown Grants Act, 1862 (No. 2).

Area: 14 acres and 6 perches.

Restrictions prevent disposition by will.

Grantee: Paora Taki.

Paora Taki died on the 7th December, 1897, leaving a will dated 26th July, 1889, devising this section to Wikitoria Tane, or Denny, and her son Teone te Rangi te Pikitia Denny for ever. Letters of administration, with will annexed, were granted by the Native Land Court on the 9th June, 1899, to John Denny, the husband of Wikitoria—called in will "niece of testator."

On 12th September, 1902, Henare Whakatau Uru, as agent, applied for succession to Paora Taki. He informed Court that will left by deceased did not operate over this land, and that deceased's daughter, Wikitoria Ngaroimata Nohomutu, was alone entitled to succeed. No objectors appeared, and Court made an order as asked. Three days later it appears as if the Court had agreed to hold order over, on request of Mr. Stringer, till question of restrictions definitely settled.

Wikitoria Ngaroimata Nohomutu died on the 2nd January, 1904. Left a will, dated 12th September, 1902, in favour of Rahera Muriwai Uru for all her real and personal estate. This Rahera Muriwai Uru is wife of the H. W. Uru who is mentioned above as informing Court that restrictions prevented disposition by will. It is not, therefore, likely that Rahera thought the will in her favour passed this land. For Mrs. Uru to have a title to this land one will (Paora Taki's) would have to be set aside, and one (Wikitoria's) validated.

Probate was granted of this latter will on 25th April, 1904, after question of power to dispose of these lands by will had been raised.

On 13th September, 1905, the Native Land Court made an order appointing successors to Wikitoria Ngaroimata Nohomutu for this section. Order was subsequently varied to some extent by the Appellate Court, but only as to persons entitled as next-of-kin—some sixty-two successors in all.

If either will ought to be validated, it would, in my opinion, be the earlier one, but I do not think either should be.

There is considerable difficulty as to the lessee's position. The lessee paid rent to the administrator under Paora Taki's will, and was sued in the Magistrate's Court by one of the successors when they entered into possession. Judgment obtained against him at Rangiora for £34 7s. 6d. and costs on the 23rd September, 1910, by an owner of thirteen-forty-eighths of the section. Apparently other successors would also be able to obtain judgments for rent against him. He has already paid once, and his only protection is the claim he would have on a guarantee given by Mrs. Uru to indemnify him. This would not be worth much, as her only income is rent and profits of land. He was forced to pay Mrs. Uru, or Uru would have entered on land. Rents, &c., protected by section 423 of Act of 1909. He has since obtained a lease from the successor, I understand.

I recommend that some relief be granted the lessee.

SECTION 68.

Grant under the Crown Grants Act, 1862 (No. 2).

Area: 15 acres 2 roods 36 perches.

Restrictions prevent disposition by way of sale, mortgage, lease, or otherwise without consent of Governor.

Grantee: Arapata Koti.

Deed of settlement (with consent of Governor) dated 25th November, 1880, appointing Matana Piki and another trustees for Arapata Koti (owner) during his lifetime, and afterwards for Tini Taiaroa and her children. If Tini Taiaroa should have no issue, Matana Piki and another are trustees for descendants of Arapata Koti. Consideration, 10s., paid by trustees to owner. Deed is registered.

No objections raised before Commission.

SECTION 72.

Grant under the Crown Grants Act, 1862 (No. 2).
Area : 15 acres.
Restrictions prevent disposition by will.
Grantee : Hoani Uru.

Hoani Uru died 5th August, 1898, leaving a will devising lands to " my wife, Kata Uru, for her sole use and benefit, with power to apportion them between our children after her death as she pleases."

Letters of administration, with will annexed, were granted to Henare Whakatau Uru on 22nd June, 1899. No succession orders have been made. Widow has always been in possession. Next-of-kin did not raise any objection to Kata Uru being confirmed in her ownership of this section.

This will should be validated so far as it affects this section.

SECTION 75.

Grant under the Crown Grants Act, 1862 (No. 2).
Area : 14 acres 1 rood 1 perch.
Restrictions prevent disposition by will.
Grantee : Aperahama te Aika.

Aperahama te Aika died 13th April, 1889. He left a will dated the 29th day of June, 1887, probate whereof was granted on 13th February, 1892 (save as to 20 acres, part of the Greymouth Native Reserve), to Eruera te Aika. By this will this section was devised to Mere te Aika and Tini Arapata in equal shares. Mere was the daughter-in-law of the deceased, and Tini Arapata claiming to be the adopted child according to Native custom. The adoption of Tini has not been registered, but as the testator died before 31st March, 1902, section 50 of the Native Land Claims Adjustment and Laws Amendment Act, 1901, does not bar her claim.

At the hearing of the application for probate Taituha Hape, in his evidence, stated (Middle Island Minute-book 8A, folio 13), " I am unable to state if there is any restriction in any grant of these lands as to power of disposing by will."

Eruera te Aika (on folio 14, same book) gave evidence as follows : " When the reserve at Rakaia was settled my father, Aperahama te Aika, made provision for the children of my brother, Mohi te Aika—namely, 33 acres between the three children ; also, in Kaiapoi Reserve, 3 acres to two of the children, and 4 acres to one—43 acres altogether in the two blocks. He also included their names in a town section at Ashburton, and in 73 acres at Puharakekenui they hold interests with other Natives. Aperahama made provision for these children ; they did not succeed their father in Kaiapoi Reserve."

Mere te Aika and Tini Arapata entered into possession in 1889, and remained in possession till 1904, when Native Land Court made (20th October, 1904) a succession order in favour of Ruiha Mona te Aika, one-tenth ; Rahera Whitau, one-tenth ; Pari te Aika, one-tenth ; Amiria Kemara, one-tenth ; Tupae Reihana, one-tenth ; Eruera te Aika, one-half.

An appeal was lodged against this order by Mere te Aika and Tini Arapata, the main ground being that the restrictions contained in the Crown grant preventing dispositions by will were not lawfully included in the Crown grant, and were therefore inoperative.

The further history of this section is more particularly set out in the earlier pages of this report, it being the circumstances of this particular section that gave rise to the case of Attorney-General *v.* Te Aika (28 N.Z. L.R. 1100) before the Court of Appeal.

Shortly put, the decision in that case ran as follows : That, even assuming the restrictions were invalid as being repugnant to the grant, and not authorized by the Acts of 1856 and 1862 (on which point the Court expressed no opinion), the effect of section 5 of the Native Land Act, 1866, and section 22 of the Native Reserves Act, 1882, both of which sections applied to this grant—and even if those sections were enacted on the mistaken assumption that such a condition was validly imposed—was to validate the condition and make it lawful.

This result was not arrived at without great expense to both parties. Since date of succession order the successors have been in possession, and have received the rents and profits. Some of them sued Tini Arapata (Mrs. Tregurthen) for £35, being one-half share of rent. Case was undefended, and they obtained judgment (Plaint No. 38/1910, Kaiapoi). This was for rent under lease given by Mere and Tini to Byron Moody, and paid to devisees.

The Native Appellate Court, on 2nd November, 1908, dismissed Mere te Aika and Tini Arapata's appeal, and the successors have now had the rents and profits for seven years.

Shortly, the position now is that after much litigation and heavy expense the title of the successors has been definitely established in the Native Appellate Court by the decisions of the Supreme Court and Court of Appeal, and it is only the passing of the Kaiapoi Reserve Act, 1910, that gives the devisees an opportunity of bringing their claims forward once more.

The great lapse of time between the granting of probate and the making of the application for succession—nearly thirteen years, during the whole of which the devisees had been left in possession—would have inclined me to validate the will. But, as the matter now stands, both parties have had their rights defined by the highest Court in the land, after the issue of an Order in Council consenting to such action, and it would surely be unjust to deprive the successful party of the fruits of their victory. Also, it must now be remembered that the successful party have held this section for nearly seven years, and are entitled to consideration on that ground also.

I do not think will should be validated, but would urge that Government pay the costs of both parties, and consider question of compensation to the devisees.

SECTION 80.

Grant under the Crown Grants Act, 1862 (No. 2).

Area: 14 acres and 22 perches.

R strictions prevent disposition by will.

Grantee: Paora Tua.

Paora Tua died in 1878, leaving no issue. On 15th October, 1885, a succession order was made in favour of deceased's widow, Ritea Paora or Kerepango. Minute-book 2, page 4A, shows order was made in pursuance of will, though form of order is that used on an intestacy.

There has never been any appeal, with the exception of an application made in October, 1910, under section 50 of the Native Land Act, 1909. Order being protected under section 432 of that Act, the application was dismissed.

Ritea Paora died 17th June, 1887, and successors to her were appointed by order dated 9th October, 1893.

I think the first order should not be interfered with after this lapse of time.

SECTION 81.

Grant under the Crown Grants Act, 1862 (No. 2).

Area: 14 acres and 17 perches.

Restrictions prevent disposition by will.

Grantee: Irai Tihau.

Irai Tihau died 12th September, 1891. A will prepared by Canon Stack had been executed by him in 1887, probate whereof was granted by the Native Land Court on the 15th February, 1892, to George Peter Mutu, the executor named in the will. The probate specially excepts the Mikonui Reserve, for which orders had already been made, the executor stating in his evidence (Minute-book 8A, folio 16) this will cannot affect that land. Testator left no issue.

This Section 81, Kaiapoi, was by the will devised to Ruita Toitoi Mutu, but rent derived therefrom was to be paid to Pirihira Tihau during her lifetime.

File shows that there was a certain amount of objection to the granting of probate, but the objection was not pressed before Court. Pirihira Tihau was testator's widow.

Pirihira Tihau took the rents during her lifetime. She died six or seven years ago, and successors, under an order dated 12th June, 1899, then went into possession.

This succession order was appealed against by Teoti Wira Tamaherangi, and on 3rd November, 1908, the Native Appellate Court varied the order, and awarded this section to Teoti Wira Tamaherangi and Hariata Whakatau Morere in equal shares.

James Judson, the lessee, at first paid rents to the life-tenant, Pirihira Tihau, and afterwards to the successors found by the Appellate Court, he having held rents whilst appeal was pending.

It therefore appears that Ruita Toitoi Mutu has never been in possession under the will, though the life-tenant was; that the successors, after appealing, have established their title, and are now in receipt of the rents.

Probate was granted as far back as 1892, and there is no doubt both Court and parties considered that this section passed by the will. This belief was acted upon, the life-tenant going into possession. On the other hand, it is clear that since death of Pirihira Tihau those claiming as successors have held the property, and that Ruita Toitoi Mutu has not.

I do not think title of the successors should be disturbed, but it seems to me a hard case, inasmuch as if Ruita Toitoi Mutu had been depending on an order definitely dealing with this section, instead of upon a probate (which no doubt the Natives considered to be the same as a definite order), her title would have been protected.

SECTION 85.

Grant under the Crown Grants Act, 1862 (No. 2).

Area: 14 acres 1 rood 7 perches.

Restrictions prevent disposition by will.

Grantee: Poihipi te Orahui.

Poihipi te Orahui, otherwise known as Poihipi te Hua, died on 22nd September, 1904, leaving a will (prepared by Canon Stack) dated 22nd July, 1897. Letters of administration, with will annexed, were granted by the Native Land Court on 12th September, 1905. As showing that the Court did not consider will passed this section, a succession order for interest of testator was made by the same Judge two days later. An appeal lodged was subsequently withdrawn.

This section and other lands were devised to the wife of testator, Ria Matiria Kaurera te Hua. She has since died, leaving one son, but not by the grantee Poihipi. The persons entitled under the succession order are in receipt of the rents. Succession orders were also made for Bush Parcel 163, but as restrictions do not prevent disposition by will I will deal with that separately.

As regards this section, will should not be validated.

SECTION 86.

Grant under the Crown Grants Act, 1862 (No. 2).

Area: 14 acres 2 roods 4 perches.

Restrictions prevent disposition by will.

Grantee: Te Manihera te Apehu.

Succession order, dated 2nd November, 1885, in terms of will, in favour of Pene Parekuku and Manahi Iri.

No objection was raised before Commission to this order.

On 18th August, 1890, this section was partitioned as follows: 86A, 7 acres 1 rood 2 perches, Pene Parekuku; 86B, 7 acres 1 rood 2 perches, Manahi Iri.

As to 86A: Pene Parekuku left a will. He died in 1891, and will was never proved, the devisee dying in 1895. Successors to Pene Parekuku, by order dated 20th September, 1897, were Irahapeti Korako and Merehana Retara. Irihapeti Korako died 24th September, 1897. Letters of administration, with will annexed, granted 9th June, 1899. This section 86A and also 86B were devised to Tiaki Horomona and Ripeka Horomona. On 17th October, 1904, succession order to Irihapeti Korako was made in favour of Merehana Retara. The Court was informed of grant of letters of administration, and that land did not pass under them. Merehana Retara died leaving a will, probate whereof was granted on 14th September, 1905, but these sections, 86A and 86B, are excepted from its operation. On same day succession order for interest of above deceased was made, and subsequently amended to read as follows: Teone Tene, one-sixth; Piweta, one-sixth; Tiemi, one-sixth; Tieke Horomona, one-half. Tieke Horomona has since died, leaving a will, the circumstances connected with same being fully set out in report on Section 1.

As to 86B: Manahi Hiri, or Iri, left a will dated 16th July, 1879, probate whereof was granted on 4th October, 1897, to Horomona Tahuna, otherwise Tieke Horomona. Horomona was devisee and also next-of-kin. On his death, leaving a will, probate was granted to Aperahama Horomona, and the further history is fully set out in report on Section 1.

I think, as regards these sections, that order of 2nd November, 1885, should not be interfered with; that wills of Irihapeti Korako and Merehana Retara should not be validated; and that will of Manahi Iri as regards 86B should be validated. As to will of Tiaki Horomona, I make same suggestion as that made in report on Section 1.

SECTION 87.

Grant under the Crown Grants Act, 1862 (No. 2).

Area: 14 acres and 39 perches.

Restrictions prevent disposition by will.

Grantee: Peneamine Parekuku.

This grantee was same person as the Pene Parekuku mentioned in report on Section 86A, the history of which is identical with this.

Therefore, in this case also, I think wills of Irihapeti Korako and Merehana Retara should not be validated, and that will of Tiaki Horomona should be dealt with as in Section 1.

SECTION 88.

Grant under the Crown Grants Act, 1862 (No. 2).

Area: 15 acres.

Restrictions prevent disposition by will.

Grantee: Teoti Wiremu te Hau.

Successors to grantee were appointed by order dated the 15th October, 1886, by virtue of a will dated 30th October, 1883.

No objection to this before the Commission. Order should not be interfered with.

SECTION 89.

Grant under the Crown Grants Act, 1862 (No. 2).

Area: 14 acres 1 rood 24 perches.

Restrictions prevent disposition by will.

Grantee: Moroati Pakapaka.

Moroati Pakapaka died 29th August, 1897, leaving a will, executed the day previous to his death. Will was in favour of Hira Makarini. Letters of administration, with will annexed, were granted to Taituha Hape on the 12th March, 1898. Testator left no issue. On 25th October, 1904, a succession order was made appointing as successors to Moroati in this section the following: James Rickus, one-fourth; Rawiri te Pakeke, one-fourth; Hira Makarini, one-half. Hira Makarini died leaving a will, but application for probate was dismissed on 17th December, 1908. On 19th January, 1909, Riaki Tauwhare was appointed successor to Hira Makarini's interest, in accordance with an agreement arrived at when application for probate was dismissed. Riaki was at that time appointed successor to Hira Makarini's interest in twenty-two other properties. She now asks that above will be validated, so as to give her the whole interest in this section, instead of one-half.

At the hearing before the Commission Ruiha te Aika stated that if it had not been for the will she would have appealed against the succession order, on the ground that she was deceased's next-of-kin through his wife, by whom he got the land; that Rickus had no right to be included in succession.

Mr. Bishop stated that James Rickus and Riaki Tauwhare had agreed to sell to James Judson; that conveyance had been signed, and £75 paid to Riaki and £32 10s. to Rickus out of a total consideration of £322 12s. 3d. for their three-fourths share. Transaction has not yet been confirmed. Price is equal to £30 an acre. Government valuation lately obtained by me is about £26 an acre.

I do not think will should be validated.

SECTION 97.

Grant under the Crown Grants Act, 1862 (No. 2).

Area: 14 acres 2 roods.

Restrictions prevent disposition by will.

Grantee: Reatara.

Successor appointed to interest of Reatara by order dated 13th September, 1883, was Heremaia Taunoa.

On 2nd October, 1893, Rakera Taunoa was appointed successor to Heremaia Taunoa. Minutes (Book 8, folio 423) show that order was made by virtue of will of deceased. (Will dated 6th March, 1885.)

Order is marked "Cancelled.—H. W. BISHOP, Commissioner, 18/8/04."

Probate of Heremaia's will had been granted on the 10th August, 1893. Rakera was wife of testator.

Rakera Taunoa, by her will dated 9th September, 1898, devised her lands to Reone Timoti, and directed him to make provision for certain relatives. Letters of administration, with will annexed, were granted to Reone Timoti on 12th June, 1899.

On 10th September, 1902, Native Land Court appointed successors to Rakera Taunoa, as follows: Mokopuaroa, one-twelfth; Hamuera Reupene, one-sixth; Wi O. Rurea, one-twelfth; Hohepa Mapu, one-third; Rupapera te Uki, one-third. This order is also marked "Cancelled.—H. W. BISHOP, Commissioner, 18/8/04."

I have been unable to find any minutes relating to the cancellation of these orders, but assume that it was on account of Rakera having been included in pursuance of Heremaia Taunoa's will. I do not think there was any power to cancel them.

On 12th September, 1905, a succession order for interests of Heremaia Taunoa was made in favour of some ten persons, including Hamuera Reupene and others in order of 10th September, 1902. This order was affirmed on appeal on 4th November, 1908, but the making of previous orders and their cancellation does not seem to have been brought before Court.

In Section 54, previously reported on, a similar position arose, though there the question raised was as to the succession to Heremaia Taunoa in pursuance of his will.

There is this distinction in this case: First, the succession order to Heremaia has been cancelled as mentioned above; secondly, the question of Rakera Taunoa's will has been introduced; and, thirdly, the Native Appellate Court has confirmed an order of the Native Land Court making a new appointment of successors to Heremaia Taunoa, and by so doing accepting the cancellation of the two previous orders.

Rakera Purua's (or Taunoa's) will is also referred to in connection with Sections 47 and 55.

I think confirmation of the cancellation of the two succession orders referred to above is desirable, and that in this case the will of Rakera Taunoa should not be validated so far as it affects this section. The successors to Heremaia Taunoa have been in possession since 1905, and rents have been received by them for six years. Their title should be confirmed.

SECTION 98.

Grant under the Crown Grants Act, 1862 (No. 2).

Area: 14 acres 1 rood 20 perches.

Restrictions prevent disposition by will.

Grantee: Pita te Hori.

Pita te Hori died, and a succession order was made by the Native Land Court on the 24th December, 1886, in favour of Reita Takuru, by virtue of a will dated 7th August, 1872. This order is protected by section 432 of the Native Land Act, 1909, and on that account an application for leave to appeal under section 50 of that Act has been dismissed.

I do not think order should be interfered with.

SECTION 11.

Grant under the Crown Grants Act, 1862 (No. 2).

Area: 14 acres and 22 perches.

Restrictions prevent disposition by will.

Grantee: Ruera Irikapua.

Ruera Irikapua died 16th September, 1903. Letters of administration, with will annexed, granted to Meretini Irikapua on 25th April, 1904; noted on same, "Excepting Kaiapoi Section 11 and Wairewa No. 887."

An appeal lodged by Bessie Huntly was dismissed for want of prosecution.

On 20th October, 1904, the Native Land Court made a succession order appointing the following to succeed to interests of Ruera Irikapua in this Section: Meretini Irikapua, one-quarter; Matiria te Hua, one-quarter; Tiemi Rikiti, one-quarter; Peti Huntly, one-sixteenth; Henare Macdonald, one-sixteenth; George Alldridge, one-sixteenth; Ani Alldridge, one-sixteenth. Meretini Irikapua appealed, but decision was affirmed on 3rd November, 1908. Meretini was widow of deceased.

On Meretini's death successors were appointed (9th November, 1910), as follows: Riria Watene, Haimona Harawira, Kereopa Harawira, Roka Maaka (equally).

Mr. Wright asked that will of Ruera Irikapua be validated, and that letters of administration be amended so as to include this section; that this was one of first grants of administration on which such an exception was indorsed; that application for letters of administration had been heard previous to decision of Supreme Court in Uru *v.* Te Rangi (July, 1904); that testator was not aware that consent of Governor was necessary; law was not settled at time administration granted—it was not finally decided until decision in Attorney-General *v.* Te Aika in 1909. Asked for validation upon the general arguments previously mentioned in this report.

Mr. Bishop submitted that title being absolutely correct in law, and the successors being in possession for the last seven years, all the equities were on their side, and title as shown by Native

Land Court file should stand. He maintained that question as to the effect of these restrictions had been raised by the decided cases Mutu *v.* Public Trustee (1892) and Mahupuku *v.* A.M.P. Society, and that Native Land Court had been guided by those cases in excepting this section from the operation of the letters of administration.

As successors have been in possession under an absolutely correct title for seven years, I do not think will of Ruera Irikapua should be validated so far as this section is concerned.

SECTION 71.

Grant under the Crown Grants Act, 1862 (No. 2).

Area : 15 acres.

Restrictions prevent disposition by will.

Grantee : Wiremu Pukupukia.

Following successors to grantee were appointed : Ereura Irikapua. Pirihira te Ruapohue, Riria Koeko, Poihipi te Aorahui.

Succession to Riria Koeko, deceased, on 14th September, 1897, to Poihipi te Hua.

Pirihira te Ruapohue died 11th August, 1895. Left a will, and application for probate was put in, but apparently never proceeded with. Succession order was made 10th June, 1899, in favour of Poihipi te Hua, Meretini Irikapua, Matiria te Hua, Ruera Irikapua. Meretini Irikapua at the hearing informed Court, "I do not know if she (Pirihira) made a will ; this land is restricted."

Eruera Irikapua died 16th September, 1903. Letters of administration, with will annexed, granted to Meretini Irikapua on 25th April, 1904 ; noted on same, "Excepting Kaiapoi Section 11 and Wairewa No. 887" ; but this Section 71 was not specially mentioned in will. By will it appears that Section 71 was to go to Meretini Irikapua, though it is not quite clear.

On 18th October, 1904, a succession order for Eruera Irikapua's interest was made in favour of Meretini Irikapua and Matiria te Hua.

Poihipi te Hua, otherwise Poihipi te Aorahui, died 2nd September, 1904. By his will he left his interest in this section to his wife, Ria Matiria Kaurera te Hua. Probate was granted 12th September, 1905, at a time when the validity of these wills had been before the Supreme Court in Uru *v.* Te Rangi.

Succession order was made to Poihipi's interest on 12th September, 1905 (the same day that probate was granted), in favour of Meretini Irikapua and Matiria te Hua. Meretini Irikapua has since died, and successors have been appointed.

Mr. Bishop pointed out that unless section specially mentioned in will, Judge granting probate would not be put on his guard to except it from operation ; that question as to what lands would pass under will were not decided at time probate granted, and could not be so decided, as whole of deceased's lands would not be known or titles thereto be before the Court.

Meretini could scarcely ask for validation of Ruera's will in view of her knowledge in 1899 that land was restricted.

It is clear probate of Poihipi te Hua's will was deemed not to affect this title, as a succession order was made same day.

Wills of Pirihira te Ruapohue, Eruera (or Ruera) Irikapua, and Poihipi te Hua should not, in my opinion, be validated.

SECTION 100.

Grant under the Crown Grants Act, 1862 (No. 2).

Area : 7 acres 2 roods.

Restrictions prevent disposition by will.

Grantee : Ihaka te Apu.

Succession order dated 18th October, 1886, appointing following successor to grantee : Mata Kara, widow of deceased. Grantee had left no issue ; no will.

Mata Kara died in 1892, leaving a will devising this section to Pene Tahui. Probate was granted 26th July, 1893, by Native Land Court. No exception noted thereon. Devisee paid debts, funeral and testamentary expenses of deceased. Will only deals with this one section, and Pene Tahui was in possession till 12th January, 1909—sixteen years.

A succession order to interest of Mata Kara was made on 12th January, 1909, in favour of Katherine Rennell, Whareraki Mason, Tiemi te Rangi, Ruiha te Haukorako. Successors have endeavoured to get the tenant to pay rent to them. Will was registered against deeds title.

On the application for succession to Mata Kara coming before Court Pene Tahui claimed as her foster-child, but Native Land Court decided against him (Vol. 16, folio 94), and in favour of very distant relatives of Mata Kara.

The Court suggested that four of these relatives should be selected for inclusion in the order, and parties agreed.

I think in this case the will of Mata Kara should be validated, as successors are distant relatives. Pene Tahui has been in undisturbed possession for sixteen years ; he had always lived with the testatrix, and looked after her, and was looked on by her as her natural successor.

SECTION 103.

Grant under the Native Reserves Titles Grant Empowering Act, 1886.

Area : 16 acres.

Restrictions : Inalienable by sale or mortgage or by lease for a longer period than twenty-one years.

Grantee : Hakopa Tohuanuku.

This is really a certificate of title, dated 13th December, 1888, to antevest from 19th September, 1865. The restrictions do not prevent disposition by will, so that, although succession order dated 28th October, 1885, to interest of Hakopa was made in pursuance of will, the order is not invalid.

SECTION 106 (ALSO SECTION 110).

Grant under the Crown Grants Act 1862 (No. 2).
Area: 14 acres and 3 perches.
Restrictions prevent disposition by will.
Grantee: Monika.

On 16th October, 1885, Native Land Court made an order appointing Harete Toko successor to Monika after a contest. The decision runs as follows (Minute-book 2, folio 13): "That Hohaia te Kotuku, the living brother of deceased, succeeds to the interest, and that by will proved in the Supreme Court left his interest to Harete Toko. Order granted in favour of Harete Toko in terms of will." The words "living brother" mean "brother living at time of Monika's death."

This is only order on the file, and being within the protection of section 432 of the Native Land Act, 1909, should not be interfered with.

Letters of administration, with will of Harate Toko te Kotuku annexed, were granted by the Supreme Court on the 11th August, 1893, to Taituha Hape. The will gave this section to Taituha Hape and to his wife Mere Taituha and to their children. Will was dated 12th November, 1890.

For grounds on which validation of this will asked, see report on Section 16.

Also, several applications to Court for succession orders have been made, but have all been dismissed; and Taituha Hape has been in possession since 1893, and still is. Land is leased, and rent has always been received by him.

This will of Harete Toko's also purports to affect Section 110, the grantee whereof was Hohaia te Kotuku. Area, 11 acres 2 roods.

Next-of-kin to Hohaia te Kotuku and to Monika (the grantee of Section 106) would be same persons. Successors in Section 110 have an order of the Native Appellate Court, dated 4th November, 1908, in their favour.

As stated above, probate of will of Hohaia te Kotuku was granted by Supreme Court, and letters of administration, with will annexed, of Harete Toko.

Taituha Hape was in possession of this Section 110 also for many years.

I suggest wills of Hohaia te Kotuku and Harete Toko te Kotuku be validated so far as Section 106 is concerned, but not as regards Section 110. This seems to me to be a fair compromise, as successors have been in possession of Section 110 for five or six years, and have been to considerable expense in establishing their claims.

SECTION 109.

Grant under the Crown Grants Act, 1862 (No. 2).
Area: 14 acres 2 roods 20 perches.
Restrictions prevent disposition by will.
Grantee: Hohepa Huria.

Hohepa Huria died 22nd May, 1902. Will made day before in favour of Puneke Huria, Teone Huria, George Huria, Frank Huria, and Mere Huria, some of testator's children. Letters of administration, with will annexed, granted 24th October, 1904. Will directed above children to look after testator's widow during her life, but she is now dead.

Before the Commission it was stated that all members of the family were willing to take equally in accordance with order to that effect made 10th January, 1911.

Will not to be validated as regards this section.

SECTION 111.

Grant under the Crown Grants Act, 1862 (No. 2).
Area: 14 acres and 24 perches.
Restrictions prevent disposition by will.
Grantee: Tamati te Ao.

Order made 13th September, 1883, appointing Horomona Iwikau as successor to grantee.

Horomona Iwikau, by will dated 25th August, 1886, probate whereof was granted on the 15th March, 1893, devised this section to Hira Horomona Pohio. There is no objection to this will, but succession order has since been obtained.

Hira Horomona Pohio left a will dated 30th April, 1890. Probate granted 31st May, 1893. Will devised land to some of her children. An arrangement was come to by the family, and following that arrangement a succession order to Horomona Iwikau's interest was obtained on 11th November, 1910. No objections before me to the confirmation of that succession order, which is in favour of next-of-kin of Hira Horomona Pohio.

The wills of Horomona Iwikau and Hira Horomona Pohio should therefore not be validated so far as this section is concerned.

SECTION 113.

Grant under the Crown Grants Act, 1862 (No. 2).
Area: 15 acres and 25 perches.
Restrictions prevent disposition by will.
Grantee: Horomona Haukeke, *alias* Horomona Iwikau.

Horomona Iwikau, by his will, dated 25th August, 1886, probate whereof was granted on the 15th March, 1893, devised this section to Hohepa Huria. Horomona had died 5th October, 1887.

A succession order was made on 24th October, 1904, appointing as successors to Horomona Iwikau the following: Hannah Pohio Rickus, one-sixth; Teone Pohio, one-sixth; Te Rakapa Pohio Saunders, one-sixth; Heni Pohio Goldsmith, one-sixth; Waata Pohio, one-sixth; Irai Pohio, one-thirty-sixth; Reita Pohio, one-thirty-sixth; Henare Pohio, one-thirty-sixth; Hira Pohio, one-thirty-sixth; Hamiora Pohio, one-thirty-sixth; Horomona Pohio, one-thirty-sixth.

The devisee under Horomona's will died 2nd May, 1902. Probate granted of his will 24th October, 1904, same date and by same Court as above succession order was made by. His will devised this section to some of his own children, leaving others out, but all his children are prepared to share equally in any interest Hohepa Huria may be allowed under Horomona's will.

It is claimed that Hohepa Huria was the adopted child of Horomona Iwikau, but other side object to this statement. It was not mentioned to the Native Land Court when succession order was made, but Hohepa had died previously.

Hohepa Huria was in possession of this land from, at any rate, 1893 till his death in 1902.

£40 duty on both probates, which cover other lands than Kaiapoi reserves.

Mr. Bishop pointed out that the successors to Horomona Iwikau had been in possession for seven years; that order having been made same day that probate granted (24th October, 1904) showed probate deemed not to pass land. Uru *v.* Te Rangi then decided.

Mr. Wright, in reply, said that those in succession order claimed from original grantee—did they say land without owners from 1893 to 1904.

The persons included in the succession order have been given Section 111 as next-of-kin to Horomona. Will devises other lands to Hira Horomona Pohio and Hohepa Huria in equal shares.

Government valuation—£465 unimproved; £30 improvements: total, £495.

Had the successors not been in possession for seven years I would have been inclined to report in favour of these wills being validated. The devisee under Horomona's will has enjoyed a life interest, and his successors will take interests in other lands wills do affect.

I suggest that neither will be validated.

Section 95.

Certificate of title in lieu of grant under Warrant of Governor dated 13th December, 1888, under the Native Reserve Titles Grant Empowering Act, 1886.

Area: 14 acres.

Restrictions: Inalienable by sale or mortgage or by lease for a longer period than twenty-one years.

Grantee: Paora Tua.

Restrictions do not prevent disposition by will.

Succession order to interest of Paora Tua, deceased, made by Native Land Court 14th September, 1883, in favour of Reihana Tau, Ramari Tau, Hira Horomona.

Ramari Tau, *alias* Ramari Puku Rakuraku, died 20th March, 1889, leaving a will dated 19th March, 1889, to her husband, Mohi Rakuraku, and his *mokopuna*, Teiti Manihera.

Letters of administration, with will annexed, granted to Tare Tikao on 7th April, 1893.

On 10th January, 1911, a succession order for interest of Ramari Tau was made, the Court being informed that will was inoperative by reason of the restrictions. Order interlocutory, as Court informed successor willing to stand aside in favour of devisees, and that an inquiry into question of wills was to be held. This succession order should be cancelled.

Section 116.

Grant under the Crown Grants Act, 1862 (No. 2).

Area: 14 acres and 2 perches.

Restrictions prevent disposition by will.

Grantee: Hoani Korako.

Succession order, dated 14th September, 1883, for interest of Hoani Korako in favour of Patehepa Kuikui Korako, Te Reita Kura Korako, Te Hautapunuiotu Korako, Tutehaanuku Korako.

Order was made in pursuance of deceased's will, except that Raihia Hutai's name was omitted at her own request.

Order is protected by section 432 of the Native Land Act, 1909, and should not be interfered with, although Reita Pohio objected before Commission that Patehepa had no right to inclusion, Teone Pere being his father and Hutai his mother. Thomas Green, however, stated that on death of Teone Pere the grantee married Hutai, who was pregnant at the time, and that Patehepa was thus born during the time Teone Pere and Hutai were living together.

Patehepa left a will, dated 24th February, 1906, in favour of his three children. Probate granted 10th March, 1908.

Same persons would be entitled as successors, so no occasion to validate will.

Section 41.

Grant under the Crown Grants Act, 1862 (No. 2).

Area: 14 acres 1 rood 37 perches.

Restrictions prevent disposition by will.

Grantee: Te Koro Maitai.

Te Koro Maitai died 6th May, 1884, and Native Land Court, by succession order dated 15th October, 1886, appointed Mere Hinehou Korako to succeed by virtue of a will dated 26th August, 1878. This order is protected by section 432 of the Native Land Act, 1909.

Deceased left no issue.

An application to succeed to Te Koro Maitai was put in by Hariata Petini on 23rd November. 1908, but as above order had been made the application was dismissed.

In October, 1910, an application for a rehearing was filed by Hariata Petini Morera, under section 50 of the Native Land Act, 1909, but this was dismissed by the Chief Judge as being prohibited by section 432.

Before the Commission the following evidence was given by Hoani Petini Morera : " My wife is next-of-kin. Her name is Hariata Petini Morera (see *whakapapa* on file). She therefore loses this section by will referred to. Also Section 58 (Arapata Koti), Section 105 (Hapakuku Kairua). Section 81 (Irai Tihau), Block G, Moeraki Reserve also. She loses all these through wills. She would not be sole successor in other sections, but is in this one. My wife lives at Kaikoura, and could not come herself ; she is not well."—*Cross-examined by Mr. Wright.*] " This has worked hardship. My wife takes nothing under any will. She would not let Te Wanikau will to her—told him not to—but to leave it to his relations. I have not taken under a will. My wife is not landless—has lands at Kaikoura—perhaps more than 200 acres. I have 308 acres of my own leased. [It appears his wife has one-sixth share in Section 105.] I made a mistake."—*Re-examined by Mr. Bishop.*] " My wife's land at Kaikoura, unimproved, is worth £2 10s. an acre. As it now stands with improvements, £4 10s. an acre."—*By Commissioner.*] " It was only seven years ago my wife learned she was a close relative of deceased, and that is why she did not appeal."

Whakapapa mentioned runs as under :—

- Turakautahi.
  - Pokeka.
    - Hatcatea.
      - Tekoromatua.
        - Taiarorua = Tehikawera.
          - Karara.
            - Hariata Whakatau.
              - Hariata Petini Morera (the applicant).
      - Ruru.
        - Tukunoa.
          - Arama Karaka.
        - Raua.
          - Te Koro Maitai (the grantee).

After this lapse of time order, being protected by section 432, should not be interfered with.

Section 83.

Land Transfer certificate ; originally grant under the Native Reserves Titles Grant Empowering Act, 1886.

Area : 14 acres and 24 perches.

Restrictions do not prevent disposition by will.

Grantee : Hoani Timaru.

One of those taking under succession order to interest of above grantee, Rewi Koruarua, left a will, but application for letters of administration was dismissed. Also, will does not deal with this section.

Title as shown by file is correct.

Section 120.

Grant under the Crown Grants Act, 1862 (No. 2).

Area : 17 acres and 32 perches.

Restrictions prevent disposition by will.

Grantee : Henare Tawhiri.

Succession order for interest of grantee was made by the Native Land Court on 19th October, 1885, in favour of Makarini Mokomoko Hape.

Mr. Wright : Makarini Mokomoko made a will dated 4th September, 1907, which was left to Hoani Maaka to prove. Will was sent to Native Land Court Office, Wellington ; nothing done. Probate never granted, as rules of Court not complied with. By the will this section was devised to grandson of Makarini—Teone Aperira Mokomoko. Makarini died May, 1908. A succession order was made 8th November, 1910, in favour of Teone Maaka Mokomoko, the son of Makarini, the father of the devisee. Teone Maaka Mokomoko executed a conveyance to Walter Taituha, and this conveyance was lately confirmed. All purchase-money has been paid, and Walter Taituha is in possession. Money was paid to Teone Maaka Mokomoko. Cannot ask that Taituha be dispossessed, but as Teone Maaka Mokomoko has other sections some provision should be made by him for devisee. It is obvious application for probate was not proceeded with on account of questions raised as to effect of restrictions. Neither Teone Maaka or Teone Aperira are present. I will ask for confirmation of this will as to other sections, but not as to this.

Mr. Bishop : I acted for the purchaser Taituha, and thought—and still think—title perfectly in order. Conveyance confirmed and registered. Equities all with the purchaser.

I do not think will should be validated as regards this section. At time will executed the question of these restrictions preventing disposition by will had been raised.

Will not to be validated as regards this section.

Section 121.

Grant under the Crown Grants Act, 1862 (No. 2).
Area : 11 acres.
Restrictions prevent disposition by will.
Grantee : Watarauhi Kohiti.
Succession order dated 27th October, 1885, appoints Makarini Mokomoko successor to grantee.
The title to this section is similar to that of Section 120, except that there is no sale in this instance, and no successors to Makarini Mokomoko have been appointed.
As Makarini Mokomoko's will was made as late as 1907, and it was not till 1908 that she died, I do not think it should be validated as regards this section, particularly as application for probate has not been pressed.

Section 124.

Title under the Native Reserves Titles Grant Empowering Act, 1886.
Area : 6 acres 2 roods 24 perches.
Restrictions admit of disposition by will.
Grantee : Makarini Mokomoko.
The grantee died in May, 1908, leaving a will dated 4th September, 1907, by which this section was devised to Teone Aperira Mokomoko, her grandson.
Application for probate was lodged by Hoani Maaka on 24th August, 1908, and a copy of such application is attached to the title-file. The application has not yet been dealt with by the Court, apparently being adjourned on account of the restrictions, question being still before the Court.
On 6th January, 1911, a succession order was made in favour of Teone Maaka Mokomoko, the son of the grantee, who is the father of Teone Aperira Mokomoko, the devisee. (See also under Sections 120 and 121 *re* this will.)
Teone Maaka Mokomoko stated that he had sold this section to Robert McQuillan, and that he had not informed Court will affected this section.
Application has been lodged for confirmation of this transfer, which was signed this year. Application has not yet been heard by Court.
As will would operate over this land, it was pointed out to Teone Maaka that land should have gone to his son Teone Aperira. He said, "Let my son take Section 33, which I own, in satisfaction of his interest that I sold in Section 124 or Section 135. I freely offer that."
A proper search of the title would have put the purchaser on his guard, and surely the Kaiapoi Reserve Act, 1910, was warning enough that titles were insecure. As Teone Maaka Mokomoko has other lands, no doubt purchaser can arrive at some settlement of any claim he may have against him.
I think that if Native Land Court decides to grant probate of the will the succession order should be cancelled.

Section 130.

Certificate of title under the Native Reserves Titles Grant Empowering Act, 1886.
Area : 10 acres 1 rood.
Restrictions admit of disposition by will.
Grantee : Makarini Mokomoko.
This title is exactly the same as that of Section 124, except that there has been no sale.
Succession order dated 6th January, 1911, should be cancelled if Native Land Court decides to grant probate of Makarini Mokomoko's will.

Section 147.

Certificate of title under the Native Reserves Titles Grant Empowering Act, 1886.
Area : 7 acres and 34 perches.
Restrictions admit of disposition by will.
Grantee : Hohaia Tautakihuia.
The Native Appellate Court, on 28th March, 1898, appointed Tiaki Horomona (*alias* Horomona Tahuna) as successor to the grantee.
Tiaki Horomona left a will dated 28th September, 1898, and codicil thereto dated 7th October, 1902 ; he died 9th October, 1903. Probate was granted on 25th April, 1904, to Aperahama Horomona and Ripeka Horomona, the executor and executrix named in the will.
For further information see Section 1.
As will would operate over this section, there is no occasion for any recommendation concerning it.

Village Section 15.

Grant under the Native Reserves Titles Grant Empowering Act, 1886.
Area : 1 rood 23 perches.
Restrictions admit of disposition by will.
Grantee : John Horomona.
This grantee was same person as Tiaki Horomona, whose will has been referred to under Section 1.
As will would operate over this land, there is no occasion for any special recommendation concerning it. Claimants to be left to their legal rights.

SECTION 141 (TE WHEKE).

Order under section 20 of the Native Land Court Act, 1886.
Area: 14 acres.
Restrictions admit of disposition by will.
Grantee: Makarini Mokomoko.
See report on Section 124. This title is exactly similar, except that there has been no sale.
Succession order dated 8th November, 1910, should be cancelled if Native Land Court decides to grant probate of Makarini Mokomoko's will. Application for probate was lodged 24th August, 1908, but has not yet been dealt with.

SECTION 142 (TE WHEKE).

Order under section 20 of the Native Land Court Act, 1886.
Area: 14 acres.
Restrictions admit of disposition by will.
Owner: Hemi Pukahu.
By succession order, dated 11th September, 1902, this land passed to Makarini Mokomoko. On 8th November, 1910, a succession order was made appointing Teone Maaka Mokomoko to succeed to Makarini. Thus this section is in same position as Section 141.
It was stated before the Commission that the original owner, Hemi Pukahu, left a will, but that it was never proved, and there was considerable dispute over this section.
It was agreed that no recommendation should be made, and that legal rights of parties interested should not be interfered with, but this was on the understanding that no order appointing successors to Makarini Mokomoko had been made. That order should therefore be cancelled.

SECTION 134G (KAIAPOI G).

Certificate of title under the Native Land Acts, 1865 and 1867.
Area: 45 acres 1 rood 5·8 perches.
Restrictions: Absolutely inalienable for ever, except for the purposes of subdivision by lease for a period not exceeding fifteen years, or by settlement for the benefit of the grantees, their heirs or successors, appointed under the Native Land Act, 1865.
Owners: Aperahama te Ari, Poko Maru, Teotiwha Pokohiwi, Kerei Korako, Rawiri te Maire, Heriaha te Koreke, Kaea te Kihi.
Natanahira Waruwarutu came into title as successor. Left a will dated 15th September, 1895, probate whereof was granted 9th June, 1899. *Whakapapa* shows next-of-kin:—

Natanahira Waruwarutu.
|
Kataraina Pao.
|
Hutika Huria. — Tini Huria.
|
Takotowhare Rangiroa.

Will left land to Hutika, Tini, and Takotowhare. Tini consents to will being validated; no objection by any one.
Will should be validated.

SECTION 135E.

Title under the Native Land Acts, 1865 and 1867.
Area: 50 acres 2 roods.
Restrictions: Same as 134G.
Owners: Reweti Hape and seven others.
Only question raised in regard to this section concerned the will of Tutu Tipao (one of the original owners), probate whereof was granted on 25th April, 1904. Will devised this land to testatrix's husband, in trust for adopted daughter, Ripeka Teoti Kahu; in event of her death without issue before reaching twenty-one years, then to Horomona Matiu (her husband) for life, and then to next-of-kin to Ripeka Teoti Kahu.
Testatrix died 4th August, 1897. Adopted child would be the correct person to succeed.
A succession order was made in favour of Maaka Anaka and fifteen others for this interest on 25th October, 1904, but apparently no mention made to the Court of the adoption.
It was asked that this will should be validated, and succession order cancelled.
I suggest that the succession order be cancelled, so that the claims of Ripeka Teoti Kahu to succeed as the adopted child of the deceased may be considered; but I do not consider that will should be validated.

SECTION 136F.

Certificate of title under the Native Land Acts, 1865 and 1867.
Area: 44 acres and 3 perches.
Restrictions: Absolutely inalienable for ever, except for the purposes of subdivision by lease for a period not exceeding fifteen years, or by settlement for the benefit of the grantees, their heirs or successors, appointed under the Native Land Act, 1865.
Original owners: Arama Karaka, Tuhau, Hakopa Wakanuku, Horomona Huriwai, Wakena Iki, Hohua Pokohiwi, Watene Toroaruaru.
Succession order for interest of Hakopa Wakanuku, made 20th April, 1887, in favour of Rawiri Manumanu Wakiwaki, grandson of deceased.

Succession order, 20th April, 1887, for interest of Horomona Huruwai in favour of Hira Matiu, Teone Paina Huriwai, and Henare Mauhara Huriwai, daughter and sons of deceased.

Succession order, 20th April, 1887, for interest of Wakena Iki, in favour of Riria Watene.

Succession order, 20th April, 1887, for interest of Hohua Pokohiwi, in favour of Tera Matini and Ria Tikini Pahau.

Succession order, 13th September, 1897, for interest of Hira Matiu, in favour of Teone te Paina Horomona and Henare Horomona, equally.

Succession order, 23rd June, 1899, for interest of Arama Karaka, in favour of Pirihira Weteri te Kahu and Metapere Hatini, equally.

Succession order, 14th March, 1901, for interest of Tera Matini, in favour of Matiu te Hu and Koriana Edwards, equally.

Succession order, 19th April, 1904, for interest of Metapere Hatini, in favour of Robert Tiki Harden, Emily Harden, and Winifred Harden, equally.

Succession order, 17th December, 1908, for interest of Riria Watene, in favour of Reita Weka, Poihipi Watene Kokorau, Mere Hinehou Matene, Wiremu Tipene, and Taika Ira, equally.

Succession order, 11th December, 1908, as varied by Appellate Court 21st July, 1910, for interest of Watene Toroaruaru, in favour of Mana Himiona te Ataotu and eight others.

Succession order, 8th November, 1910, for interest of Irai Tihau, in favour of Te Oti Wira and Hariata Whakatau P. Morera, equally.

This shows orders on file for this section. Four questions arise concerning wills—those of Tera Matini, Riria Watene, Irai Tihau, and Watene Toroaruaru.

First, as to Tera Matini's: Tera Matini died 27th December, 1888, leaving a will dated 8th December, 1888, whereby the Kaiapoi lands were devised to Ria Tikini. Will sets out, "I have no other nearer relation than my aunt, Ria Tikini." Probate of this will was granted on 12th February, 1892, to Hare Kahu, but as such grant ought not to have been made, there being no executor appointed by the will, the Chief Judge annulled it under section 39 of the Native Land Court Act, 1894, and application was sent back to Native Land Court for rehearing. The Native Land Court, on such rehearing, granted letters of administration, with will annexed, on 22nd June, 1899. A succession order for deceased's interest was made on 14th March, 1901, to Matini te Hu and Koriana Edwards. Ria Tikini had possession from Tera Matini's death in 1888 till succession order was made. Ria Tikini, in her evidence, stated that the successors gave her half the rents, but I believe she was confusing this section with Section 134G, in which she is one of the successors. Minutes are not very clear, but it looks as if order in G was made by consent. Will devises other lands to Ria Tikini as well as Kaiapoi. As succession order has stood so long, and successors have been in possession for almost ten years under a proper title, I do not think will should be validated.

As to Riria Watene's will: Riria died 20th January, 1905. Probate of her will was granted on 2nd February, 1907, to her husband, Wanaka Weka, to whom this section was devised. A succession order for interest of deceased was on 17th December, 1908. At the time probate granted the question of the effect of restrictions on wills had been before Courts some time. I do not think will should be validated as regards this section.

As to Watene Toroaruaru's will: Probate was granted 9th October, 1893. Will in favour of his wife, Riria Watene, who is now dead. Succession order was made by Appellate Court 21st July, 1910, varying an order made in 1908 by the Native Land Court. Successors have been in possession since order made. No special reason was given in favour of the validation of this will, and I do not recommend it.

As to Irai Tihau's will: Will is dated 9th April, 1887. Probate granted 15th February, 1892. No special mention in will of this section, but general devise to Pirihira Tihau. Court made succession order to next-of-kin on 8th November, 1910. The successors are in possession, and no special reason given in support of will. (See further particulars contained in report on Section 81.) The devisee, Pirihira Tihau, is dead. I cannot recommend validation of this will as regards this section.

Kaiapoi 137D.

Certificate of title under the Native Land Acts, 1865 and 1867.

Area: 44 acres and 30 perches.

Restrictions: Absolutely inalienable for ever, except for the purposes of subdivision by lease for a period not exceeding fifteen years, or by settlement for the benefit of the grantees, their heirs or successors, appointed under the Native Land Act, 1865.

Owners: Pita Tipa, Anaru Kiriwera, Tatani Tohitu, Teoteo Tipa, Teone Ware, Teoti Kerekere, Teoti Mokomoko.

Only question raised in this case concerned the will of Tatane Tohitu, who died in 1893. Will was dated 19th October, 1891, and devised this land to Riria Manihera and Irihapeti Paiki. Probate was granted on the 29th September, 1893, and devisees entered into possession forthwith, and remained in possession for eleven years, when, on 24th October, 1904, a succession order was made in favour of Hamuera Reupene and twelve others as next-of-kin of deceased.

The successors have been in lawful possession for seven years.

I cannot recommend that will should be validated as regards this section.

Section 138C.

Certificate of title under Native Land Acts, 1865 and 1867.

Area: 40 acres and 30 perches.

Restrictions: Absolutely inalienable for ever, except for the purposes of subdivision by lease for a period not exceeding fifteen years, or by settlement for the benefit of the grantees, their heirs or successors, appointed under the Native Land Act, 1865.

Owners: Teone Hemara, Teoti Kerei Rari, Akaripa Tuoi, Te Herewini Kaipuke, Henare Mauhara, Hoani Kaipuke, Pakaro Rukitapu.

Matters raised concerning this section before the Commission were requests for validation of wills of Hira Mauhara and Watene Toroaruaru.

First, as to Hira Mauhara's will: Hira died August, 1893; left a will, dated 31st July, 1893, whereby this section was given to Temaima Kaipuke Paani ("my grandchild"). Letters of administration, with will annexed, were granted to Henare Mauhara and Teo Pita Tipa on 2nd October, 1894, and this was allowed to stand for more than fourteen years. Finally, on 12th December, 1908, a succession order was made. This order was varied on appeal, when land was awarded to the following persons: Teo Pita Tipa, half-share; Paora Kaipuke, one-sixth share; Porete Mumu, one-sixth share; Temima Kaipuke Poani, one-sixth share. This last is the devisee under the will. It therefore appears that the legal owners are now in possession, and, under the circumstances, I cannot recommend that will be validated.

As to will of Watene Toroaruaru: Fuller particulars are given in report on Section 136F. Succession order in this instance was made on 11th November, 1910, in favour of Tini Korehe, Teoti Wira, Hariata W. P. Morera, Teone Tapiha Pitini Morera, equally. Will was in favour of his wife, Riria Matene, now deceased. I do not think this will should be validated as regards this section.

SECTION 163.

Title under the Native Reserves Titles Grant Empowering Act, 1886.

Area: 4 acres 1 rood 12 perches.

Restrictions: Inalienable by sale or by mortgage or by lease for a longer period than twenty-one years.

Grantee: Riria te Kewene (Riria Koeko Kewene).

Succession order was made on 1st March, 1898, appointing Poihipi te Hua to succeed to the above grantee. Poihipi te Hua died 2nd September, 1904, leaving a will dated 22nd July, 1897, probate whereof was granted on 12th September, 1905. This will, however, makes no reference to this section, nor is there any residuary devise.

On 14th September, 1905, a succession order appointed Kuini Wi Rangipupu and eight others to succeed to Poihipi te Hua. This and a later order on the file seem to be correct, and no objections to them were raised before me. I have reported on this section, as I have heard since that it was intended to question this title.

APPENDIX E.

Christchurch Chambers, Hereford Street, Christchurch, N.Z., 22nd May, 1911.

Attorney-General ex *relation Mere Te Aika and Others* (*Plaintiffs*) *and Ruiha Mono te Aika* (*Defendant*).

SIR,—

At Mr. Hoban's request, who was solicitor for the defendants in this case, and for whom I acted as counsel, and who has never been paid the costs of this action by the relatives, I beg to forward the enclosed bill of costs to you.

I have taken the liberty of approaching you on the subject, as you are aware that the necessity for the recent Commission of inquiry held by you at Kaiapoi arose out of the settlement of law by the judgment of the Court of Appeal in this case.

Yours, &c.,

GEORGE HARPER.

His Honour Judge Rawson, 14 Hawkstone Street, Wellington.

In the Court of Appeal, New Zealand.—Between the Attorney-General, *ex* relation Mere te Aika and Others, plaintiffs, and Ruiha Mono te Aika and Others, defendants.

Cost of the Defendants on Judgment of the Court of Appeal herein.

1909.		£ s. d.	£ s. d.
April.	Supreme Court costs—		
	Preparing and filing statement of defence		8 8 0
	Costs on motion for judgment		2 2 0
Oct.	Court of Appeal costs—		
	Drawing and settling case		7 7 0
	Arguing case to judgment as from a distance		90 0 0
	Disbursements—		
	Filing warrant to defend	0 3 0	
	Filing statement of defence	0 3 0	
	Telegrams	0 2 0	
			0 8 0
			£108 5 0

Chrg. Bill E. and O.E., 20/5/11.—WILLIAM HOBAN, solicitor for defendants.

Approximate Cost of Paper.—Preparation, not given; printing (1,500 copies), £30.

By Authority: JOHN MACKAY, Government Printer, Wellington.—1911.

Price 1s. 3d.