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An appeal was lodged against the grant of probate, but subsequently withdrawn.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