

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. Kaiapo 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 Kaiapo 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 Kaiapo 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