

New Zealand.



CONSOLIDATED: 1931 No. 32.

ANALYSIS.

<p>Title. Preamble.</p> <ol style="list-style-type: none"> 1. Short Title. 2. Duration of Kaiapoi Reserve Act, 1910, extended. 3. Native Appellate Court to review report of Commissioner. 4. Appellate Court may validate testamentary disposition of Kaiapoi Reserve. 5. Retrospective operation of validation. 6. Appellate Court may make succession orders in pursuance of validated will. 7. Appellate Court may make succession orders in pursuance of valid will. 	<ol style="list-style-type: none"> 8. Former alienations not affected in certain cases. 9. Payment of moneys in hands of Public Trustee. 10. Applications to Appellate Court. 11. Constitution of Appellate Court. 12. Orders of Appellate Court to supersede judgments of Supreme Court or Court of Appeal. 13. Appellate Court may amend or cancel existing orders. 14. Kaiapoi Reserve Act, 1910, not to operate after validation of titles.
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1912, No. 25.—*Local.*

AN ACT to make Provision for the Validation of Titles to the Kaiapoi Reserve. Title.
[7th November, 1912.]

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 subdivided into numerous sections: And whereas certain aboriginal Natives were, by grants from the Crown, orders of the Native Land Court, or otherwise, entitled to the ownership in fee-simple of such sections: And whereas such sections, or some of them, were subject to various restrictions on the alienation thereof: And whereas it has recently been determined by the Supreme Court that some of the restrictions above mentioned extended to the alienation of such sections by will: And whereas some of the Native owners of the said reserve have at various times made dispositions of various portions of the said reserve by will: And whereas some of such dispositions by will have heretofore been treated as valid when they should have been treated as invalid, and the beneficiaries under such wills have entered into possession of the lands so devised: And whereas some of such dispositions by will have heretofore been treated as invalid when they were valid, and the beneficiaries under such wills have been kept out of possession of the lands so devised: And whereas Walter Edward Rawson, a Preamble.

Judge of the Native Land Court, was on the sixth day of April, nineteen hundred and eleven, appointed by the Governor in Council as a Commissioner under section three of the Kaiapoi Reserve Act, 1910, to inquire into and report upon the circumstances connected with the disposition by will of any of the land included in the said reserve, and the subsequent dealings therewith, and the expediency of validating all or any of such wills and all or any of the dispositions made thereby: And whereas the said Walter Edward Rawson has made to the Governor a report on the aforesaid matters in pursuance of the authority so conferred upon him, and the said report has been presented to Parliament and printed as parliamentary paper G.-5, 1911: And whereas it is expedient to make provision for giving the force of law to the recommendations contained in that report with respect to the said reserve:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

Short Title.

Duration of Kaiapoi Reserve Act, 1910, extended.

Native Appellate Court to review report of Commissioner.

Appellate Court may validate testamentary disposition of Kaiapoi Reserve.

Retrospective operation of validation.

Appellate Court may make succession orders in pursuance of validated will.

1. This Act may be cited as the Kaiapoi Reserve Act, 1912.

2. Subject to the provisions hereinafter in this Act contained, the Kaiapoi Reserve Act, 1910, shall remain in force until the thirty-first day of December, nineteen hundred and thirteen, and no longer.

3. The Native Appellate Court is hereby empowered and required to consider and review the aforesaid report of the said Walter Edward Rawson and the various recommendations made therein as to the validation of titles to the Kaiapoi Reserve, and to vary, supplement, adopt, or refuse to adopt, as the Court in its absolute discretion thinks fit, the aforesaid recommendations of the said Walter Edward Rawson.

4. The Native Appellate Court is hereby empowered to make, with respect to any portion of the Kaiapoi Reserve, such orders as the Court thinks consistent with equity and good conscience, validating in whole or in part any will or testamentary disposition which has heretofore been made with respect to any portion of the said reserve, and which would have been valid if the aforesaid restrictions on the alienation of the said reserve by will had never existed.

5. Every such order of validation as is mentioned in the last preceding section shall operate retrospectively so as to operate from the death of the testator, or from such other date as the Court may direct, and the validity and operation of all subsequent dispositions, leases, contracts, probates, succession orders, and other transactions and dealings shall be determined accordingly, unless by the said Court otherwise directed:

Provided always that any will or testamentary disposition validated under the provisions of this Act shall not be deemed to pass the land devised free from restrictions on alienation.

6. When any will or testamentary disposition has been so validated the Native Appellate Court may by order cancel any succession order theretofore made if and so far as inconsistent with the will or testamentary disposition so validated, and may also make succession orders in pursuance of such will or testamentary disposition to the extent to which the same is validated.

7. Where any portion of the said reserve subject to restrictions not extending to alienation by will, and in respect whereof a valid will or testamentary disposition has been made, but effect thereto has not been given by reason of the belief that such restrictions prevented the operation of such will or testamentary disposition, or on account of any other reason whatsoever, is the subject of any succession order, then the Native Appellate Court may by order cancel any such succession order as aforesaid, and may make a new succession order in pursuance of such will or testamentary disposition, either wholly or in part, as such Court may think fit.

Appellate Court may make succession orders in pursuance of valid will.

8. Notwithstanding anything hereinbefore contained, and except so far as the Native Appellate Court may otherwise order, no order of validation or cancellation under this Act shall invalidate any alienation lawfully made prior to the passing of the Kaiapoi Reserve Act, 1910, or any payment of rent or other moneys theretofore made to any person under any such alienation :

Former alienations not affected in certain cases.

Provided as follows :—

- (a.) That such alienation has been confirmed in accordance with law :
- (b.) That if such alienation has not been so confirmed, that the same is confirmed by the said Native Appellate Court under this Act :
- (c.) That the said Native Appellate Court shall have the same jurisdiction to confirm or refuse to confirm alienations made prior to the passing of the Kaiapoi Reserve Act, 1910, and affecting portions of the said reserve as is granted to the Native Land Court under the provisions of the Native Land Act, 1909, in respect of alienations of Native land. Lapse of time shall not be deemed to bar the granting of confirmation if application therefor is made within three months of the passing of this Act.
- (d.) The receipt of rents or other moneys payable and received prior to the passing of the Kaiapoi Reserve Act, 1910, on account of any such alienation by persons deemed to be entitled to the same, and paid to them and received by them in good faith, shall be deemed to be binding on the persons found under the provisions of this Act to be so entitled, and judgment shall not be obtainable in any Court for the said rents or other moneys against the persons to whom such payments were made unless the said Native Appellate Court otherwise orders.
- (e.) In this section "alienation" shall be deemed to have the meaning given to it by the Native Land Act, 1909.

9. The Native Appellate Court may make such orders as it thinks consistent with equity and good conscience for the payment to any person of any moneys in the hands of the Public Trustee under section four of the Kaiapoi Reserve Act, 1910, and the Public Trustee shall hold and dispose of such moneys in accordance with the tenor of any such order.

Payment of moneys in hands of Public Trustee.

10. The jurisdiction conferred by this Act upon the Native Appellate Court may be exercised either on the application of the Native Minister or on the application of any person interested.

Applications to Appellate Court.

Constitution of
Appellate Court.

Orders of Appellate
Court to supersede
judgments of
Supreme Court or
Court of Appeal

Appellate Court
may amend or
cancel existing
orders.

Kaiapoi Reserve
Act, 1910, not to
operate after
validation of titles.

11. In the exercise of the aforesaid jurisdiction the Native Appellate Court shall consist of not less than two Judges, of whom the said Walter Edward Rawson may or may not be one.

12. Any order made by the Native Appellate Court under this Act shall supersede, so far as inconsistent therewith, any judgment or order of the Supreme Court or Court of Appeal heretofore given or made with respect to the title to any part of the said reserve.

13. For the purpose of more effectually exercising the jurisdiction conferred by this Act, and giving effect to any of the recommendations in the said report as adopted, varied, or supplemented, the said Court is hereby authorized and empowered, after due inquiry, to validate, vary, amend, or cancel all or any of the orders relating to the subdivisions of the said reserve, or to make such other orders in lieu thereof, as it may consider just and equitable.

14. So soon as any order of validation is made under this Act with respect to the title to any portion of the said reserve the Kaiapoi Reserve Act, 1910, shall cease to be in force with respect to that portion of the reserve.