signing of the will in their presence. Their story is so far supported by the evidence of John Sturm, who says that on the Thursday afternoon he saw Te Teira standing in the vicinity of Renata's house; and by that of Mrs. Harper, an English nurse employed by Mrs. Donnelly, who states that on the same forenoon she carried a cup of beef-tea into Renata's room, where she found Mrs. Donnelly attending to his wants, whilst both his wives were fast asleep. On the other hand, the account given by Mrs. Donnelly and these witnesses is absolutely inconsistent with the evidence of the two wives of Renata, as well as that of the respondent and others, who say that they were in the house, and had opportunity of seeing what was done there, at the time when the will is alleged to have been made.

To return to the history of the document in dispute, Mrs. Donnelly took and retained possession of it, and its existence did not become known to the respondent until after the death of Renata upon the Saturday. On the Thursday night and Friday morning Mrs. Donnelly communicated the fact that Renata had made a will in her favour, which was then in her keeping, to her husband and one or two persons, including Archdeacon Williams, whom she considered her friends. She herself says that on the Thursday evening she was informed by the witness Frederick Luckie that he had made arrangements with the respondent and James Carroll, who had acted as agent for Renata in the Land Court, to talk "about Renata's will," and that she thereupon kept telling Luckie "never to mind about it." On the Friday morning she told Mr. McLean, her solicitor, and one of her witnesses, that she had not mentioned the will on the previous night because "if Luckie knew he might think it his duty to tell Carroll and Broughton."

The principles applied by the Probate Court in England to a will obtained in circumstances similar to those which occur in the present case were explained by Sir John Nicholl in Paske *v.* Ollat (2 Phill., 323). After stating that, when the person who prepares the instrument and conducts the execution of it is himself an interested person, his conduct must be watched as that of an interested person, the learned Judge goes on to say, "The presumption and *onus probandi* are against the instrument; but, as the law does not render such an act invalid, the Court has only to require strict proof, and the onus of proof may be increased by circumstances, such as unbounded confidence in the drawer of the will, extreme debility in the testator, clandestinity, and other circumstances which may increase the presumption even so much as to be conclusive against the instrument."

Having regard to the painful conflict of the evidence adduced by the parties in regard to matters about which there could be no difference between witnesses who were disposed to tell the truth, and to the observations upon Native testimony given after a lapse of time, which were made in almost the same terms by the Chief Justice and by the Appeal Court, their Lordships entirely concur in the opinion expressed by Mr. Justice Richmond to the effect that "the rules which govern Courts of Probate should by no means be relaxed in the case of testamentary papers executed by Maoris on their death-beds."

Omitting for the present any reference to the testimony of Archdeacon Williams, which, owing to the importance attached to it by the Judge of first instance, must be separately noticed, their Lordships are of opinion not only that the case put forward by the appellants is within the rule as stated by Sir John Nicholl, but that there are circumstances conclusive against the validity of the instrument which they propound.

First of all, it is a singular thing that Renata, who, even in the opinion of Mrs. Donnelly, was not likely to make a new will unless he was prompted to it, should on the Thursday morning have conceived the idea that he had already instructed Mrs. Donnelly to prepare a will for him, and had told her the terms in which it was to be made. It is not less singular, if he had resolved to make a new testamentary disposition of his affairs, that he should have intrusted the duty of preparing a proper document for that purpose to Mrs. Donnelly, instead of one or other of the agents whom he was in the habit of employing for business purposes, of whom there was no scarcity in Omahu at that time. If the will-making scene really began with the question, "Have you made my will?" that would suggest some doubts as to the mental condition of Renata, induced by physical weakness. He certainly was not in a good state for executing a settlement without the deliberate aid of some unprejudiced person. Dr. Spencer, who saw him just after the hour fixed by Mrs. Donnelly for the execution of the document, says that he was then weak and "sinking," and that on the Friday—the day to which the evidence of Archdeacon Williams applies—he was drowsy and "sinking fast."

Then, the circumstance that Mrs. Donnelly was carrying about with her materials for writing out a will on the shortest notice is not calculated to beget any inference in favour of the appellant's case. Not less favourable to such an inference are the facts that she undertook the task of writing the will herself, when Dr. Spencer (who had offered to do so) and so many others were at hand who could have performed it without the imputation of interest, and that she called in her uncle and another relative, when it would have been so easy to obtain the attestation of witnesses above all suspicion.

Last of all, the transaction, according to Mrs. Donnelly's own narrative of it, was characterized by what Sir John Nicholl terms "clandestinity." Assuming the will to have been made as Mrs. Donnelly alleges, the fact that no outsider was present at its execution did not afford a legitimate reason for keeping its existence secret. If the witnesses on both sides are to be believed, Renata was not a man to be driven from his settled purpose; and if the fact that he had made a new will had been divulged, it is more than probable that there would have been no room now for any question either as to his having executed a will or as to his understanding of its terms.

Their Lordships now proceed to consider the evidence of Archdeacon Williams, which the learned Chief Justice accepted as sufficient to rebut all legal presumptions against the validity of the document of the 12th April, 1887.

The reverend gentleman saw Renata three times on Friday, the 13th—in the morning, in the