

course of the day, and again at night. Before the first of these interviews took place he had been informed by Mrs. Donnelly, and had obviously a firm belief, that Renata had executed a will in her favour upon the day preceding. On the first occasion he put the question to Renata, "I suppose you have made your will to your satisfaction?" and Renata replied, "Yes, it is done," an answer which might refer with as much propriety to the will of 1887 as to the writing upon which the appellants rely. Upon the second and the important occasion Renata awoke out of a sleep and, addressing the Archdeacon, said, "You were asking me about my will." Renata, who spoke in the Maori language, then, pointing to Mrs. Donnelly, went on to say, either "It is in her favour," or "She has it." The witness is uncertain which of these expressions was used by the deceased. According to the evidence of the Archdeacon, Renata next referred to the withdrawal of Mrs. Donnelly's claims in the Land Court, which "was exceedingly gratifying to him," and "*that now, under existing circumstances, I leave everything to her.*" Shortly afterwards the deceased, closing his fist, said, "Yes, the question is in my hands. Here it is;" and then, opening his hand towards Mrs. Donnelly, said, "To that woman."

Their Lordships do not doubt that the strongest presumptions against the validity of a will, arising from the position of the parties by whom, and the circumstances in which, it was prepared and executed, may be overcome by clear testimony showing that the testator subsequently acknowledged that it was executed by him, and also that it gave effect to his intentions with regard to the final disposal of his property. The statements of Archdeacon Williams were accepted by the Chief Justice as clear and indubitable evidence to both these effects; they were discarded by the Court of Appeal, who were of opinion that, notwithstanding the confidence expressed by the witness in the accuracy of his own observation, he might have mistaken the import of what the dying chief said.

Although the honesty of the witness may be beyond question, it does not appear to their Lordships that the testimony of one person, however honest, which depends to a large extent not only on the accuracy of his hearing, but upon his previous belief as influencing the construction he was likely to put upon the language which he heard, is a somewhat narrow ground for setting aside the pregnant presumptions arising in this case from facts either admitted or proved beyond doubt. But they do not find it necessary to dispose of the evidence of Archdeacon Williams upon that consideration. The statements by Renata to which he speaks do not square with the terms of the instrument which is propounded and impeached in this suit. They mean that Renata had made a will leaving the whole of his property to the appellant, Mrs. Donnelly, and can mean nothing else. But the writing of the 12th April gives Mrs. Donnelly only one-fifth of his succession, and gives the remaining four-fifths to persons for whom he had never expressed any predilection, and to whom he never referred as objects of his bounty. The natural inferences suggested by these facts are either that Renata, if he did execute a document purporting to be a will on the 12th April, did not understand its contents, or that the will in question is of a domestic manufacture for the purpose of defeating the respondent's rights under the undoubted will of January, 1887.

In these circumstances their Lordships have no hesitation in coming to the conclusion that the decision of the Court of Appeal is in accordance with law; and they will therefore humbly advise Her Majesty that the judgment appealed from ought to be affirmed and the appeal dismissed. The appellants must pay the costs of this appeal.

No. 22.

(Circular.)

SIR,—

Downing Street, 26th August, 1891.

I have the honour to transmit to you a copy of a letter from the Board of Agriculture, desiring to be furnished with information relative to the methods adopted in certain colonies for checking and preventing potato-disease, and enclosing a list of queries with reference to the treatment of potatoes, to which they will be glad to receive replies; and I have to request that you will be good enough to furnish me with the desired information as far as regards the colony under your Government.

I have, &c.,

KNUTSFORD.

The Officer Administering the Government of New Zealand.

Enclosure.

The BOARD of AGRICULTURE to the COLONIAL OFFICE.

Board of Agriculture, 3, St. James's Square, London, S.W.,

19th August, 1891.

SIR,—

I am directed by the Board of Agriculture to state that the Board are of opinion that it is most desirable that a general inquiry should be made in some of our colonies, and in certain foreign countries, relative to the methods adopted for checking and preventing potato-disease.

The Foreign Office have promised to assist the Board in this inquiry through their representatives in the United States, France, Belgium, Holland, Germany, Austria-Hungary, Denmark, Russia, and Italy, and I am now directed to request that you will be so good as to move Lord Knutsford to give instructions that a similar inquiry may be undertaken in the Australian Colonies, Canada, Cape Colony, and Bermuda.

In order to assist the representatives who may be engaged in this inquiry, and with the view of obtaining uniformity in the replies, a list of points on which information is desired is enclosed.

I have, &c.,

RICHARD DAWSON, Assistant Secretary.

The Under-Secretary of State, Colonial Office.