to the testator for the balance. It will thus be seen that he had complete control of the block for all practical purposes. The solicitor's explanation of how this land came to be left to him was that he had saved it for the testator when it was in danger of being entirely lost, and that out of gratitude for this and the many kindnesses which he had done him he wished to leave the block to him, and had often spoken of doing so. The solicitor was diffident in taking it. The testator was insistent, and suggested that if he would not take it it should be left to his child. Eventually a compromise was arrived at by which it was left to the trustees, to be administered as the solicitor (one of the trustees) thought fit. It is a pity if such were the intention that the ordinary rules laid down in text-books for obviating suspicion in such cases were not followed. There is nothing illegal in a solicitor receiving a benefit under a client's will, but he must take care if he does so to be prepared with direct and clear evidence of the testator's intention to make the gift in his favour, and, moreover, he must be prepared to show the Court the righteousness of the transaction: Fulton *v.* Andrew (7 H.L. p. 147). Now, besides the fact that the clause in the will is made in the solicitor's favour, there is the important fact that the clause which does so is drawn in a peculiar manner. All the other gifts in the will are to the persons concerned direct: this effects its object indirectly. Nor can we say clearly whether it was intended to convey to the testator's mind that he was giving away the block entirely, or was only endeavouring to secure the continuation of that administration after his death which had been so successful in conserving his property during his lifetime. We think, and we are borne out in our view by a number of cases, that some attempt ought to have been made to explain the purport of that clause to the Maori testator, and it would have been wise to have secured independent evidence that it was so explained. In this case there was no explanation after the preparation of the will. It is true that it was read over twice to him on the occasion of his signing, and the testator having thereupon put his name to it that would, in many cases, be conclusive proof that he understood it. Latterly, however, this rule in the cases of beneficiaries under a will has been departed from, and it is now absolutely necessary for the party taking the benefit to bring clear and convincing evidence that the testator knew and approved of the clauses under which he takes a benefit. We cannot say, seeing the unbounded confidence which the testator had in his solicitor, that what happened after the drawing of the will up to its signature does convince us that the testator approved of that clause. There is certainly some evidence of prior declarations which would have been valuable if unconverted to the effect that the testator had intended such a gift. But, while the testator stated in March, 1903, his intentions to give the land to his solicitor, in April of the same year he told Henare Ruru that he wanted it to be kept as his graveyard, a certain peak on it to be his monument, and then again the following month he is telling his wife not to be sad because he is giving it to his solicitor. Such evidence is of little use in a matter of this kind where the validity of the bequest is put upon the conscience of the Court, nor do we place much weight on the supposed post-testamentary statement of Rawiri te Eke. It is not quite clear what he did hear, nor is his statement in any way corroborated, although, as he states, many were present and must have heard if it had been made. Applying, therefore, the rule laid down by Parke, B., in Barry *v.* Butlin, the Court cannot possibly say that the suspicion attaching to the clause in the will regarding the Ruangarehu property is removed, and that we are judicially satisfied that that clause expresses the true will of the deceased, nor can we say that the onus of showing the righteousness of the transaction has been discharged.

The only remaining question to consider is that of restriction on the land. We are bound by the decision of the Chief Justice in that respect. Two blocks, however, we find have different restrictions which are in effect absolute. These blocks will be excluded—they are the Raikaiketeroa and Tangutuwhanui Blocks.

To sum up, we find that the will propounded is the last will of Pirihi Tutekohi; that it was properly executed by him while of sound mind; that at its execution the testator knew and approved of its contents generally, with the exception of that clause dealing with the Ruangarehu D Block; that he did not know and approve of that clause; and that the Rakaiketeroa and Tangutuwhanui Blocks will be excluded from the will but that the other blocks pass.

The grant of letters of administration will be qualified accordingly. We are now prepared to hear the parties as to whom the grant shall be made.

NATIVE LAND COURT.—CHIEF JUDGE JACKSON PALMER.—24TH AUGUST, 1906.

Judgment re *Wi Matua, deceased.*

THIS is an application by Mr. Reardon on behalf of himself and the other executor for probate of the will of Wi Matua, deceased. The application is opposed by the next-of-kin. Dr. Findlay and Mr. Marshall appeared on behalf of Mr. Reardon on a motion to prove the will in solemn form; Mr. Lewis appeared in support of the will as far as it benefited the widow (Kino) of deceased; Mr. Scannell and Mr. A. L. D. Fraser appeared for different parties of the nearest-of-kin to oppose the granting of probate. All parties have intimated to the Court that, as the estate represents a sum of about £20,000, the parties who are unsuccessful will appeal from this Court to the Appellate Court. This Court considers that such an appeal should be permitted on a small deposit being made, in view of the fact of so large an amount being in issue and the questions involved being so intricate—covering questions of law, fact, and Native custom—especially as this case if heard before the Supreme Court would require to be heard before a Judge and jury of twelve persons. This case was first heard before Judge Butler and the present Assessor (Te Aohau Nicholson), and judgment was reserved by them, but before the judgment was arrived at Judge Butler died. Consequently there was a fresh trial of the case before this Court, and on such fresh trial the witnesses were cross-examined as to the evidence given before Judge Butler's Court, and so the evidence at the former hearing became evidence in the present hearing. Probate was opposed on the grounds of (*a*) undue influence; (*b*) that deceased had not a disposing mind when he made the will; (*c*) that