referred to. His evidence goes to no more than that he, having no knowledge of Maori, neither saw nor suspected anything wrong, not even in the presence of Reardon. The evidence of Reardon himself cannot, for the present purpose, be given any weight to. Mr. Manson saw Wi Matua once only. It was on the 2nd February, 1903, nearly a month before the alleged will was signed. Witness says Wi was very bright in his intellect that day, "a great fellow to talk." There was a discussion about the disposition of Wi's lands, rather a peculiar thing to happen. A Maori of rank, in full possession of his intellect, meeting a European for the first time, would be most unlikely to enter upon such a discussion as that indicated. And it is a noteworthy fact that on the day Manson saw Wi Matua, Mr. Reardon, according to his diary in evidence, found Wi "very much on the wine with Kahukaka." Then there is the evidence of Mr. Curry, J.P., of Waitotara, who was the storekeeper who supplied Wi Matua with provisions, and who is a large creditor in the estate. Mr. Curry says he saw Wi Matua practically nearly every day while in Waitotara, and never saw him drink to excess. He generally considered him as a man of high character, and a very intelligent Native. Mr. Curry, who was not called before Butler, J., has thus given strong evidence in support of Wi Matua's testamentary capacity. But there are two circumstances not, we believe, referred to specially in argument before us which militate against his testimony. First, he does not speak Maori. Second, his means of communication with Wi Matua, and, presumably, the Natives generally, were his man Haddon, husband of Turua. So that Mr. Curry, like Mr. Holdship, was unable to form his impressions from any direct communication with deceased.

We now come to the Maori witnesses, and, as is usual with such testimony, find ourselves at once on very unstable ground. The woman Kino admits having given false evidence. She says her evidence at first hearing was false, being given under the influence of persons opposed to the grant of probate. It is at east equally probable that her first evidence was true, and that, subsequently realising that her statements were against her own interests, she modified them on the second occasion. Kahukaka contradicts himself on several occasions. It was argued before us that the discrepancies were not on material points. But they certainly go to the credibility of his testimony. And there is one very important statement made by him at the second hearing (57/123): "I asked Wi if it was his own wish to put the pakeha in the will. Wi replied: It is my own instructions, my own wish, and I own the land." The witness said nothing of this before Butler, J., giving a very different account of what took place on the occasion referred to (55/302). And the circumstances were then comparatively fresh in his mind. Turua, Kino's adopted daughter, is naturally a strong supporter of the will. She was not called as a witness at first hearing, though present in Hastings at the time. She declares that she was present when the will was read by Jones, and remonstrated with Wi Matua then, and on previous occasions, as to his including Reardon as a beneficiary. Neither Holdship, Reardon, nor Kahukaka corroborate her statement that she was present when the will was read. And her evidence generally is unconvincing. If true, it goes to show that Wi Matua, in answer to her objections, told her practically to mind her own business. The other two witnesses were Wi Ngapaki and Te Waaka. The former gave evidence at both hearings, the latter on the second hearing only. They were called to give evidence as to statements by Wi Matua subsequently to the signing of the will. There is an important difference between Wi Ngapaki's evidence at first hearing and that at the second hearing. On the first occasion he stated that Wi Matua, in reply to a question as to why he had left his lands to Kino and Reardon, replied that the lands were his own, and they two were the persons to whom he chose to leave them. But at the second hearing the witness gave Wi Matua's answer as "It is nobody's business, the lands are mine," which is, at any rate, capable of bearing a very different construction to the statement first attributed to deceased. According to Te Waaka's evidence, Wi Matua said when the matter was mentioned, "I own these lands, and other people have no right to speak about it." This witness is a nephew of Kino. All the Native witnesses say that Wi Matua was clear in his mind, and if their evidence could be accepted as wholly reliable, a case for the will would probably be made out. But we do not find ourselves able to accept it. It seems incredible, as already remarked when referring to Mr. Manson's evidence, that a Maori of Wi Matua's standing, if in full control of his faculties, should freely discuss with strangers, European and Maori, the disposal of his lands in the manner deposed to. There is at least one provision in the will which is most unlikely to have emanated from Wi Matua—that is, the condition as to payment of debts by Reardon.

After the most careful and anxious consideration of this very unsatisfactory case, we do not feel ourselves able to say, so far, at all events, as the devise to Reardon is concerned, that the suspicion excited by the circumstances has been removed, and that it has been affirmatively proved that the instrument propounded is the last will of a free and capable testator, and does express the true will of the deceased. We are of opinion that, in the words used in Dufaur *v.* Croft (3 Moore, P.C. 148), "the proof to be expected and required in such a case as this is defective." It now remains to consider whether, after rejecting the devise to Reardon, probate should be granted of the rest of the will. It is not disputed that there is power for the Court so to do. Apart from the authorities cited to us by Mr. Lewis, the case of Fulton *v.* Andrews (7 High Cases, L.R. 449), which was much referred to in argument before us on the general question, is a clear authority for the proposition that the Court may reject part of a will and admit the remainder to probate.

But there must, of course, be good grounds for making such a distinction. And such grounds do not seem to be present in the case before us. It is true enough, as urged upon us in argument, that the persons named in the will, other than Reardon, are proper objects of the testator's bounty, and that they, so far as is known, took no part in procuring the preparation or execution of the instrument. But the objections to the will, if sound, go to the whole of it. It has not been shown to be the true will of the testator, and we are unable to find in the circumstances any sufficient reason for differentiating between the parts of it.

The decision of the Native Land Court will therefore be affirmed.