

no attesting witness thereto." Now, therefore, counsel will have to direct his attention to the question whether attestation is essential to the document in question. And this applies to criminal as well as to civil procedure (28 and 29 Vict. c. 18, s. 7).

If attestation is essential to the validity of the document, the attesting witnesses must still be called, or their absence satisfactorily accounted for,* and proof of their handwriting introduced, unless the document be admitted on the pleadings or elsewhere. If the paper, the contents of which is to be proved, is in the possession of the opposite party, evidence of its contents cannot be offered until such party has been notified and had an opportunity to produce it in Court (*ante*, p. 6).

When this has been done, or in cases not based on written documents, the advocate must call his witnesses to establish the facts upon which the one side or the other is to rely for a verdict.

The manner of putting in the testimony is of great importance, and will often tax the advocate to the utmost of his skill and sagacity. The arrangement of his testimony and the order in which he calls his witnesses will also demand much care and attention.

The advocate should, in nearly every case, put his most intelligent and most honest witness in the box first. It is necessary that a good impression should be made upon the Court and jury at the earliest possible moment. The first witness generally has to run the gauntlet of a sharp cross-examination, and if the first witness passes this creditably, he encourages the other witnesses on the same side, and makes a favourable impression upon the Court and jury which his adversary will find it difficult to eradicate.

* As to what is satisfactory, see Roscoe's *Nisi Prius Evidence*, 18th ed., p. 133. If the attesting witness denies the execution of the document, he may be cross-examined, for he is deemed to be the witness of the Court, *Jones v. Jones*, 24 T. L. R. 839; and the execution may, in this case, be proved *aliunde*. *Talbot v. Hodson*, 7 Taunt. 251.