held for the use of the bargainor. The Statute of Uses executed this use, and gave the legal estate bargained for to the bargainee. The Statute of Enrolments, it is true, required that a bargain and sale of a freehold should be by deed indented and enrolled; but neither enrolment, or registry to supply enrolment, are required here (Con St. c. 90, s. 14; *Rogers* v. *Barnum*, 5 U. C. Q. B. O. S. 252; *Doe d. Loucks* v. *Fisher*, 2 U. C. Q. B. 470), and a deed poll suffices (*Rogers* v. *Barnum*, *supra*). The requirements of the Statute of Frauds are complied with. The chief difficulty as to the operation of such a memorial *per se* as a conveyance would be on the question of intention.

Many of the principles whereon a memorial signed by a grantor is admissible, as evidence of a conveyance by him, do not apply where it is executed by a grantee. In the latter case it is a statement, not against, but in support of interest, and by a person not then in possession. Still such a memorial, if coupled with other facts confirmatory of the instrument set out in it, is admissible as parcel of the evidence towards proof.

A memorial executed by a *grantee* through whom a person claims, coupled with possession taken under the instrument to which it relates, and enjoyed for a length of time in a mode such as to preclude the probability of the instrument being other than as set forth by the memorial is good evidence, even against strangers, especially if accompanied by other corroborative facts, but the mere memorial would be evidence only against those claiming under or in privity with the grantee.

On this head a recent case (*Gough* v. *McBride*, 10 U. C. C. P. 166) affords most useful information. The plaintiff in ejectment claimed under a deed from one Arnold to one Gough, which he did not produce, and of which he offered as secondary evidence a memorial produced from the Registry Office, executed by Gough, the alleged grantee, with an affidavit of execution of the original deed by Arnold endorsed. The following is the judgment of the Court, delivered by Hagarty, J.:

"No possession appeared to have been taken under the alleged conveyance, and the title is now for the first time after a lapse of 53 years, sought to be established to a valuable property on this evidence.

The plaintiff's proposition may be thus stated, that on a witness proving that he saw a deed apparently answering the description contained in the memorial, and its loss, without further proof of hand-writing or genuineness, a memorial in the county registry executed by the grantee only, and proved by an affidavit endorsed of a witness who swore that he saw the conveyance duly signed by the grantor is, in the absence of any act done or possession taken, good secondary evidence of the original conveyance, and that a court and jury should be reasonably satisfied of the fact of such a deed having been duly executed, and that the estate duly passed thereunder. The proposition is startling, and can hardly be adopted except on the surest basis of reason and authority.

The first case I would refer to is *Scully* v. *Scully*, 10 Irish Eq. Rep. 557, appealed from the Irish Chancery to the Lords, 1825.

In 1816 a bill was filed setting up a marriage settlement executed in 1760, of which a memorial was registered in 1763. James Scully was alleged to have thereby covenanted with Lyons, father of the plaintiff, to settle on her (his intended wife) either by deed in his lifetime or by will, one-third of his estate. The memorial was only executed by Lyon the trustee. No deed was executed in grantor's lifetime. He died in 1816, and by his will left a large annuity to plaintiff "in full satisfaction of her claim on his property under her marriage articles or otherwise." She filed a bill asking to have her one-third under the articles. The defendant induced her to sign a memorandum on the will agreeing to confirm and abide by it. She charged that one Mahon, who took largely under the will, and was residuary devisee, had possession of the articles or knew where they were, and evidence was given to prove search, and that Mahon had declared he had either burned or thrown them away. The defendant admitted that they knew she claimed some right to testator's property in his life-time, but that she had solemnly assured him that she would waive all her rights and abide by his will on receiving the annuity of £1000, and testator on the faith thereof made his will.

Lord Chancellor Manners decreed in her favor, and considered the articles proved. In the Lords the case is argued at great length by Mr. Sugden and Sir C. Wetherall. Lord Eldon says: "The question in every case of this sort is whether all the testimony taken together offered as secondary evidence, is or is not sufficient to enable you to say that as you have not the writing itself you will act upon it as if you had it before you, and with an absolute certainty of what these articles contained. It is strongly the inclination of my opinion that this memorial does contain what were the articles of agreement between the parties." Again he says: "There is not a single