

Mr. Smith is called by defendant, and says he was the solicitor for the executors. He never knew defendant before. He does not recollect distinctly about the transaction of 1888 when the real estate was partly divided. His recollection is that the parties had agreed among themselves as to the division. "Q. Have you any doubt that at that time William Collins understood what he was doing? A. Well, I never allowed him to sign a document if I did not think he did. I certainly would not, and certainly when I knew him in my early days he was a man who would understand what he was doing."

"Q. And would understand the business? A. Oh, I would say so.

"Q. You had no doubt of it? A. No, I would not have let him sign the deed if I thought there was any doubt about it."

He says with reference to the release that, plaintiff being about to marry, the executors and he thought it right that there should be a division, and the parties came together, and the release was signed, but the further division of the estate was not made at the time, as neither the plaintiff nor the defendant thought it necessary.

Dr. Devlin, who has known the parties for the last 15 years, was called by defendant. He witnessed the agreement of 1894. He says they talked over matters between themselves, and came to a settlement, and that he "was impressed that William thoroughly understood it." He thinks a detailed statement of the estate was given at the time the bad loans were spoken of.—"They were both willing at the time it was lent, but the circumstances of it I could not give. I know they talked that over." "It was read and explained, to the best of my knowledge, read a couple of times."

All the witnesses say that after this length of time they remember very little about the different transactions material to the case.

There is nothing in the evidence from first to last that I can find shewing misrepresentation of any kind. During the time the parties lived together, the greater part of the personalty was spent or lost.

No evidence was given by plaintiff as to his mental condition, and he is put forward as a witness in his own behalf. His answers are intelligent, and afford no evidence, to my mind, that he did not understand what he was doing.