

Scott was a member, and was executed at Chatham by John Jacques Stuart and his wife. It is probable that letters passed between Mr. Scott's firm and John Jacques Stuart, or between father and son in regard to this conveyance. There is, however, no contemporary document produced which throws any light on the conveyance or its execution. The only evidence regarding the transaction is that given *de bene esse* by John Stuart who is now in his 84th year, a paralytic, and unable to appear in Court.

Mr. Stuart was asked:—

“Why did you want to get the deed? A. For security.

101. Q. Security for what? A. For the advances that I had made on the property.

102. Q. Did you ask him for it? A. Yes, I did. He was straightening up things generally, and that was part of it before his going away, putting things in proper shape.

103. Q. Before this deed was actually sent down to him at Chatham, you had a discussion with him? A. Yes, I had been in Chatham and explained the whole thing to him.”

Then comes his evidence that the transaction was not an absolute sale:—

“106. Q. Do you know why it was taken in the form of a deed instead of in the form of a mortgage? A. It was supposed to be the most satisfactory way of taking it, the same as a mortgage—there was no other reason. It was not taken as an absolute and complete assignment, not as a sale, but by way of security.

107. Q. But was there any particular reason why it was put in the form of a deed instead of in the form of a mortgage? A. It must have been on the advice of the solicitor. I do not think I cared which, I cannot tell at this moment. It was never an absolute sale and conveyance to me, it answered the purpose of a mortgage.

108. Q. It was taken by you as security? A. Yes.”

To establish that the deed was taken as security upon the advice of Mr. Alexander Bruce, Mr. Stuart is asked:—

“Do you remember at the time you discussed this with your son—as to giving you security on the property whether you were advised by any solicitor? A. I cannot tell you. If it was it would be Mr. Bruce.

110. Q. Do you remember whether he had anything to do with the taking of that document? A. I cannot recall