

The evidence in favour of due execution is that of William, who drew the will, and that of his brother Martin; and the evidence against it is that of the two subscribing witnesses.

William's evidence is that the will was completed, ready for signature, and read over to the deceased carefully during the night, about two o'clock in the morning, and that the execution of it was deferred until after breakfast, and that in the morning he went out and brought McFadden and Annie Connell into the bedroom, telling them what they were wanted for. He then told the deceased to ask them to be his witnesses, which he did by saying, "You will be witnesses, or you will act, or will you act?" He says he then told them it was necessary for them to sign in each other's presence, and read over the attestation clause to them. He then said to the deceased, "Are you ready, James?" Whereupon he rose into a sitting posture on the side of the bed and wrote his name upon the will, which was placed upon a stand in front of him, after which McFadden and Annie Connell signed their respective names in succession and placed their initials in the margin opposite to the interlineation. The will was then folded, and the testator asked William to take care of it, which he did.

That is William's evidence, and I do not find that it is shaken in cross-examination.

Martin's evidence is, that he was present when the will was executed, that when the two witnesses went to the bedroom, he followed them to the bedroom door, and he relates the proceedings as to the request by the deceased to the witnesses, the reading of the attestation clause, the signing by the deceased and by the witnesses, the intialling, and all the other details, in the same manner as had been related by William. This witness was also subjected to a very lengthy cross-examination on behalf of defendants, but without affecting his testimony.

This is all denied by both McFadden and Annie Connell. They both say they did not see the testator sign, that they were simply asked to sign their names, and did so. It was only after much hesitation that either of them, particularly Annie Connell, admitted that he or she thought or knew that it was a will they were asked to witness. Annie Connell says that she came into the bedroom after McFadden, that she did not see the deceased sign, that when she came in McFadden stepped aside, and she signed and put her initials in the margin. She denies having observed either the deceased's signature or that of McFadden on the paper when