

ting their evidence on the plea of a mistake. They must have sworn true or false. If you believe they are honest men you are bound to believe their testimony but you are to consider whether they are of that description or parties in a foul conspiracy to set up a fabricated deed. And that leads us into a consideration of the evidence. You have heard each witness examined. It is necessary to try whether there is not a sufficient reason to believe their evidence. It is a long time since, and the execution of the deed was attended by many minute circumstances which have escaped their recollection, and which human beings cannot be considered capable of calling to their remembrance. I dare say you would feel distressed yourselves if any one was to desire you to state the particular circumstances of any deed which you may have made three or four years ago. You are to consider whether they are honest witnesses or not. From the manner it has been discussed out of doors, and repeatedly spoken of, and kept in the mind of these witnesses, but more, kept in their minds on this point alone! you are to consider whether they come with a prepared story, and therefore you are to judge what their evidence might have been if they had come unprepared with respect to this transaction. You are to see in what way that deed is impeachd. This body of evidence is met by the examination of John Burland, an attesting witness to its execution. He has sworn that it took place in Dublin. He has come forward to swear that it never was duly executed, but that it was the result of a conspiracy, and that he himself was a party to that conspiracy. If a man, having been unawares engaged in a bad transaction, and becoming an honest man, feels ashamed of what he had done, it is his duty to the parties to tell the whole truth, however he tells it to his own discredit, still it shews him to be an honest man. It certainly throws a great imputation upon him:—you will therefore see that his evidence should be supported either by direct evidence, or inference, about which there can be no mistake.—(Here his Lordship went over Burland's evidence most particularly, commenting thereon as he went along.) There was a part of this case which seemed at first inexplicable, but it is capable of explanation.—Burland on his examination said,—“I am sorry to say it, but I will give it as it is; I tell the truth. The setting up of the deed against the will, was a fraudulent transaction!” The defendant acted craftily in not giving up that deed. But then the question arises, why should he concur in his father's will disposing of this very estate of Ashwood? Why the inference is, that the deed was not duly executed! It seems very strange that he should concur in a will narrowing, that is cutting down by a codicil, the property which he alleges had been already his.

But, again, we are to look at it in another point of view.—Why when he acknowledged that he had destroyed the deed he should act as if he had destroyed it, and this accounts for what would otherwise appear unaccountable. But what would be the natural consequence of such conduct? Why that it would not stand a moment in the eyes of a Court of Justice. You will, at the same time, recollect Gentlemen, that any thing said by the Testator, in the absence of the Defendant, is not to be taken as evidence against him. Here his Lordship again read over parts of the evidence at the request of the Jury, stating, that if they desired it, he was ready to read the entire. One of the Jury replied that they did not deem it necessary for his Lordship to proceed farther with the evidence, and the Jury having immediately retired, returned in about four minutes with a verdict for the Plaintiff, thereby establishing the Will of the late John H. Gowan, and invalidating the Deed endeavoured to be set up by the Defendant and his brother, William and Ogle Gowan, illegitimate children of the Testator.

The Court did not break up till past 10 o'clock, and, was crowded to excess up to the last moment. Such was the intense anxiety manifested by the multitude, that from the time the Jury retired until the verdict was announced, not even a whisper was to be heard; and when the Jury knuckled at the door for re-admission to their box, the solicitude was very visible on the countenances of hundreds who were present. For our own part, we never witnessed such a scene before. Counsellors, Attorney's Witnesses, Doctor's, friends and foes, every eye was raised to the box, and a simultaneous burst of approbation arose from the assembled spectators on the announcement.