

make a will, that the will was no good, that he had been annoyed so much by the people at his own home and pressed about it, that he had been forced to bring the will in to the registry of probate for peace sake, that if he had known how the matter was he would not have done so, and he would take it back if he could.

The evidence of the petitioner as to this conversation with Vessey is fully confirmed and corroborated by Mr. Crane, who is a brother of the testatrix. Crane also testifies to the effect that for the last two or three years of her life testatrix was very deaf. There was no use talking to her, she could not hear. She would talk to herself incessantly, and that her conversation would not always be sensible. She was pretty good, he says, till 1904, but after that her memory began to fail and she gradually grew worse.

Mrs. Willock, her next neighbour, testifies to a like effect as to testator's condition and her conversation during the last two or three years before her death, that her mind was very much impaired, that you could not converse with her nor understand her. She would talk "silly" and was subject to all kinds of delusions.

This evidence of the petitioner, together with the evidence of Mr. Crane, and that of Mrs. Willock, leaves great doubt in my mind as to whether the document now being propounded is the true will of the deceased, and the doubt and suspicion I have as to its being the will of the deceased is further increased by the evidence of Mrs. Vessey to which I must again refer. She testifies to a conversation between her and Doctor Beers as to the advisability of her mother's making a will, and it would appear from this conversation that the testatrix had not that spontaneity of volition necessary for the making of a will. A statement of Mrs. Vessey's to which I have not referred is to the effect that Mrs. M. W. Murphy came to her and asked her to take her mother to live with her, as otherwise matters might end badly. Mrs. M. W. Murphy contradicts this directly and another witness, David Wright, indirectly contradicts this statement, and besides the testimony of Mrs. Murphy and Mr. Wright, there is the fact that the testatrix, when her end was approaching, returned to her son Matthew William's house to be cared for and attended in her last sickness.

Now in *Barry v. Butlin*, 2 Moo. P. C. 480, Park B., delivering the opinion of the Judicial Committee of the Privy