cluded because the party against whom they are offered is precluded from the opportunity of a cross-examination, the same objection should apply to proof of the signature of the attesting witness.

But the declarations of the subscribing witness in this case, are of a totally different character. The witness, Cole, says, "That after the testator's death, he had a conversation with Lamborne, (the subscribing witness), who drew the will. Lamborne appeared to be surprised that Gaither had conveyed the land to his daughter. He said that the land was left in trust, in said Gaither's hands, for the use of his boys." "He thinks this conversation with Lamborne took place after Gaither's death." This witness can only be understood to speak of the contents and operation of the will. He does not say that Gaither assured the testator if he would devise the land to him, he would hold it in trust for his sons; and that after this assurance, the testator executed the will in the form in which he drew it; but that the land was left in trust in Gaither's hands, for the use of his boys. He is not speaking of any deception practiced by Gaither upon the testator, but of the operation of the will, which of course must speak for itself, parol evidence being inadmissible to show that the draftsman of the will was mistaken, and that the testator designed something not fully expressed. *Negro Cæsar* vs. *Chew*, 7 *G. & J.*, 127.

If, however, these declarations of Lamborne, made to the witness, Cole, could be understood as the complainant's counsel understood them, that is, as tending to show a fraud practiced by Gaither in obtaining the will, upon what principle can they be received as evidence? They are declarations without oath, made by a subscribing witness, to be sure, but with reference to a fact having nothing whatever to do with his relation to the will, as an attesting witness. It could scarcely be contended, it is presumed, that if Lamborne had not been a subscribing witness, that his declarations upon this subject, made thirteen years after the death of the testator, or, indeed, if made at any time, could be admitted in evidence, and no good