

by Isaac Robbins, Mordcaie Miller and Daniel McLeod
 the Executors therein named and in Civil action against the said Instru-
 ment having been filed by Charles Munkins, Thomas Hood and
 John Phipps by Edmund Lee their Attorney in the following
 words: "To the Judge of the Orphans Court for the County
 of Alexandria in the district of Columbia in the district of Columbia,
 a Petitioner of Charles Munkins, Thomas Hood, and John Phipps
 co by Edmund Lee their Attorney respectfully states that your
 petitioners have understood, that a certain instrument of writing purporting
 to be the last will and Testament of Richard Cummings deceased, hath
 been exhibited by Isaac Robbins, Mordcaie Miller and Daniel McLeod
 for probate to the Orphans Court but which hath not been received upon
 by the said Court, which said probate last will bears date
 in the 24th of February 1814, with the said Court in your petitioners
 have been informed otherwise the same. Your petitioners al-
 ledge that the said instrument of writing purporting to be the last will
 and Testament of the said Richard Cummings is not his last will
 and Testament, that he never made, executed and acknowledged
 as his last will and Testament, but if he did that he was induced
 persuaded and influenced by others to make the same and that it was
 not his free voluntary act. And your petitioners pray that an
 investigation may be had as to the matter aforesaid, and that
 until such an investigation shall take place that no probate be
 granted upon the said instrument of writing to the said Isaac Robbins
 Mordcaie Miller and Daniel McLeod.

Edm. Lee for

the petitioners.

The parties by their Solicitors this day appeared in Court
 and by consent it is Ordered that all the testimony relating to
 the said two instruments be reduced to writing and recorded.

Robert J Taylor being first duly sworn deposed and said that on
 Thursday the 20th or Friday the 21st of January 1814 he thinks on Friday the 21st Depo-
 ment was called on at his office by Mordcaie Miller who inquired if Depo-
 ment was going out that day and states it was probable he the Depo-
 ment would be called on to draw the will of
 Richard Cummings and said the Physicians were consulting on his case (he being very ill)
 and if he was in a proper state of mind Depo-
 ment would be sent for to draw his will, but on
 that day he was not sent for. On Saturday the 22nd which Depo-
 ment believes was the
 day succeeding Amos Tapp called at his house about three o'clock in the afternoon
 and informed Depo-
 ment that he believed Mr Cummings was in a proper state of mind and
 that Tapp requested Depo-
 ment to go up and make his will. Depo-
 ment immediately went to

the house formerly occupied by John Richter where Mr Cummings was and procured pen, ink
 and paper and secured the persons in the room to leave it and they accordingly did so. The Depo-
 ment then proceeded to ask the Testator some questions with the view to ascertain the state of his mind,
 and his opinion from that conversation was, that he was in a sound state of mind: he then pro-
 ceeded to ask the Testator in what manner he would have his property disposed of and he told
 Depo-
 ment he meant to dispose of \$500 for the use of the poor of the Town of Alexandria: and Depo-
 ment thinks in this conversation, although he will not be positive that the Testator said he wished to
 devise the St Andrews society \$500. The Depo-
 ment then asked the Testator if he had any re-
 lations and whether he meant to bestow on them any of his property; he told Depo-
 ment he had
 relations in Scotland who were as well or better off than himself and he did not intend to leave
 them any thing. The Depo-
 ment then enquired of the Testator in what manner he intended to dis-
 pose of the rest of his estate, and in reply to that question he stated he could not make his will
 without knowing the amount of his Estate and he appeared during the whole conversation to be
 impressed with that idea which Depo-
 ment endeavored to remove by convincing him that it was un-
 necessary. Depo-
 ment repeated the question as to what manner he the Testator meant to dispose of the
 Balance of his estate and he answered he meant to leave it in Legacies to his Friends in Alexandria
 the Depo-
 ment then asked him the names of the persons when the Testator tried to recollect himself
 and finally appeared to get into a state of stupidity or torpor, being overcome by the mental exertion
 he had used, he mentioned no names and said he was unable to go on at that time to make his will
 Depo-
 ment then told him he would call again when he was better and the Testator expressed his ap-
 pre-
 sent either by a nod or some slight expression. The Depo-
 ment states that the Testators communica-
 tions with him were free and unreserved and he did not appear to take any offense at the Depo-
 ments going
 to the house, on the contrary appeared to expect him and understood his business. The Depo-
 ment then
 proceeded from the house where Mr Cummings lay sick to his store on King Street where he found
 Mordcaie Miller Daniel McLeod and John Phipps the Depo-
 ment stated to Mr Miller
 and Mr McLeod that he considered Mr Cummings of sound mind, but that he was inca-
 pable of the mental exertion of reflecting on the details of his will and that any attempt to do so pro-
 duced a state of Torpor, Depo-
 ment thinks one of those persons told him he had better call on some other
 person when the Testator was in a better state, without waiting to be sent for. Depo-
 ment does not think
 that any use was made by him of the pen ink and paper that evening further than to take a short
 memorandum of the charitable devises, which was afterwards torn off and thrown into the fire
 on Sunday the 23rd between 10 and 11 o'clock in the morning, the Depo-
 ment

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by any person to the Testator and when the Deponent entered the Room the Testator was sitting in his chair, and several persons were present, he does not recollect any of those present except Charles Manhins, Captain Sams Mc Kenzie and one or two of his children, the Deponent considered the Testator much better than he was the evening before about eleven o'clock every person left the room except the Testator, Charles Manhins and the Deponent - the Deponent then went into the adjoining room, and then returned to the room where Mr Manhins still remained, and he gave Manhins some intimation to retire, when the Testator observed that Mr Manhins might stay, or something to that effect. The Deponent then proceeded to converse with the Testator on the subject of the will and he found him still strongly impressed with the idea that he could not make his will without knowing the exact amount of his estate, and informed the Deponent that Mr Miller and Mr Mc Lora were engaged in making an inventory of his estate which was not then completed or returned to him. The Deponent then told the Testator it was not material to know the exact value of his Estate that the Deponent supposed from information which he had it might be estimated at about £1000 and he the Testator might go on and devise his estate by Dividends. Deponent then asked the Testator if he still persevered in his intention of making the charitable bequests before mentioned, and he said he did; he then asked him how much he meant to give, and he answered £200 to the poor and £200 to the St. Andrews Society of Alexandria. Deponent then told the Testator he would proceed to write his will and would devise one eighth of his estate to the poor and one eighth to the St. Andrews Society of Alexandria, which the Deponent supposed would amount to about £200 to each. Deponent thinks before he proceeded to write he asked the Testator to what Church he belonged and he said to the Presbyterian, but he attended the Methodist Church here; Deponent then observed to him that he thought the ministers of the former better qualified to distribute charity than any other persons and he asked the Testator if he had any objection that the bequest for the use of the poor should be devised to the ministers of those churches to be disposed of at their discretion for the use of the poor of the Town of Alexandria and he said he had no objection and the Deponent accordingly commenced his will and wrote the Devise of one Eighth of the Testator's

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Estate to the Reverend James Muir and the Rev. Richard Sidings to be disposed of as above mentioned - the Deponent then wrote a devise of one eighth of his estate to be paid to the Treasurer of the St. Andrews Society of Alexandria to be disposed of for charitable uses in such manner as they thought proper - the Deponent then enquired what he should do with the residue of his Estate, he said he meant to give it to a number of his friends some he should give more than others - the Deponent then asked him the names of the persons to whom he meant to devise it, the Testator then went on and after a good deal of time and difficulty he mentioned the following names of which Deponent took a memorandum but did not insert them in the Will viz Mr Manhins, Mr Dells, Captain Mc Kenzie, Philip Maristetter, Mr Mc Lora, Wells and City Leggo. Deponent then asked him how much he meant to give each Legatee, the Testator appeared at this time to be a good deal overcome by the exertion he had made and repeated the opinion that he could not complete the will then for the want of an estimate of the estate and said Deponent must call some other time - Deponent had previously read to the Testator the two clauses containing the charitable Devises to which he made no objection, but when the Deponent got up to leave the room, the Testator asked him what he intended to do with what was written alluding to the unfinished Will and memorandum of the names before mentioned, he told the Testator he might burn the Will, that he could not destroy the memorandum of the names as it was taken on a paper of some value, and the Deponent accordingly burnt the Will in the Testator's presence and brought the memorandum of names away, which is now produced in Court - Deponent then requested Mr Manhins to follow him out of the room and they went together into the street, he told Mr Manhins that he must perceive the Testator was too feeble at that time to finish his will, that he, Manhins was more interested in having it done than the Deponent and advised him to watch the state of the Testator's health and when he was better to send for the Deponent and he would make his will, this Manhins promised to do and gave no intimation of the existence of any will having been previously made. On Monday the 24th of November Mr Miller and a young Scotsman called on the Deponent and Mr Miller requested him to go to Mr Cummings' and draw his will, Deponent accordingly went to the house again and proceeded to draw the will now produced and Dated 24th January 1814. he wrote the preamble and the first and second clauses in presence of

Mr Lord (who in his conversation gave Deponent to understand he was a member of the St Andrews Society) and he thinks Mordecai Miller, and probably others after the second clause was finished. Mr Mc Lord or Mr Miller requested the room might be cleared when every person went out but the Testator and Deponent but previous to this Mr Mc Lord or Mr Miller showed the Testator some statement and expressed an opinion and gave him to understand his Estate was worth about \$1500. After the Company had left the Room Deponent again asked the Testator how the residue of his Estate was to be disposed of - he answered he meant to give some Legacies among his Friends in Alexandria and about Two Thousand ^{Depont} to his relations in Scotland - Deponent then produced the list of names of Legacies which he made out the Day before and read them over to the Testator and asked him if he was still disposed to leave Legacies to those persons and he told the Deponent to strike out the names of Wells and Sigg as he intended to leave them nothing and he meant to leave the others \$100 each. The Testator then mentioned the first eight names contained in the third clause of the said Will, which Deponent immediately reduced to the shape of a will, upon that being done he asked how much of his estate remained, and Deponent told him about \$2000, he observed that would not do and asked how much more it was necessary to give in order to leave \$2000 for his relations, Deponent told him \$900 and that two more Legacies of \$100 each would make it complete, after some pause and some reflection he told the Deponent to put down the names of Isaac Rollins and Richard Rollins, Deponent then went on and completed the third clause as it stands in the Will and read it over to the Testator and while reading the list of names he rather jeeringly or facetiously asked Deponent if he could not read lower, or why he read so loud? Deponent then went through the Will and finished it as it now stands, and read to the Testator each clause as it was written and having finished the will he read the whole over to the Testator and again when reading the third clause which contains the names, the Testator observed, read lower - the Deponent then asked him if he was perfectly satisfied with the will and whether there was any change or alteration he wished made, and the Testator answered he was perfectly satisfied and wished no change. Deponent then called in the company from the adjoining room where Daniel Mc Lord, Mordecai Miller and perhaps

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some others came in the room - he asked the Testator whether he authorised the Deponent to sign his (the Testator's) name to the will and Deponent is under the impression he signed the will in the presence of those then in the room with the name "Richard Cummings" but it is possible the name may have been signed before, but the question "Do you authorise me to sign your name to the will?" or do you acknowledge the Will? was certainly asked in their presence - he answered, Yes - Deponent repeated the question to the Testator "Do you acknowledge this to be your last Will and Testament?" he answered, he did, and the Deponent subscribed it as a Witness in his presence. After the Will was completed and a short interval had elapsed, the Testator turned to the Deponent and said "he had rather it would not be done now or words to that effect - Deponent then asked him if there was any thing in the Will he wished changed or was dissatisfied with, he said "there was not - but he had rather not have it done then" Deponent endeavored to get some reason for this change of sentiment, but the Testator gave no reason for it and merely said "they will know it" nodding his head towards the door of the kitchen, by which Deponent understood that he was apprehensive the people in the house would know he had made his will. Mr Miller told the Testator that the Deponent was professionally bound he swore and no person could know the will was made but the Testator and the Deponent, Deponent observed to the Testator if he thought proper he would say there was no will made, and he the Testator observed that would be a lie and would be wrong and therefore he did not wish it to be done. The Deponent then told the Testator it was useless to attempt to keep the business a secret as Mr Mankins was present the Day before and had heard the two first clauses and the names of the Legacies - at some period during this conversation the Deponent struck out his name as a witness and told the Testator the will was worth nothing and had as well be destroyed or words to that effect - The Deponent as well as Mr Miller and Mr Mc Lord endeavored to persuade the Testator to acknowledge the Will, that as his relations were all aliens it was probable his estate would be confiscated and his charitable intentions defeated, he said he would do it at some other time - It was then proposed by some of the Company that he should either keep the Will in his chest or Mr Rollins might be sent for to take charge of it, he approved of the last proposition and Mr Rollins was sent for when the will was read up by the Deponent at the request of the Testator and delivered to Mr Rollins - Deponent understood that the Will was

up and delivered to Mr. Robins with the view that it might be ready to be completed by a acknowledgement or destroyed as the Testator thought proper, Deponent further said that some time during this conversation and after the Testator expressed his wish not to have the Will finished then, the Deponent saw Sarah Prouty a witness to the Will of the Testator of the 20th Jan^y 1814, sitting to the left on the bed and rather believed the Testator (who was sitting in a chair, by turning around his head about half round could see Prouty.

Question 1. By the Counsel for the Legatee under the Will of the 24th January 1814 From the expressions, manner and conduct of the Testator in it appear to you that his reluctance to the acknowledgement of the Will proceeded from fear, or from his being dissatisfied with the contents of the will? To the answering which question the Counsel for the Legatee in the Will of the 20th January 1814 objected, which objection the Court overruled.

Answer The Deponent is decided in his opinion that the reluctance of the Testator to acknowledge the Will of the 24th January 1814 did not proceed from any disappointment or any dissatisfaction with the contents of it, but proceeded from fear. That the Testator was repeatedly asked both before and after he acknowledged the Will of the 20th Jan^y whether he disapproved of it or wished any alterations made, his answer uniformly was he was satisfied with the will and wished no change. That the Testator's desire to postpone the acknowledgement of the will, arose from some circumstance which took place after the company was called into the room, that his objections were confined to that particular time and appeared to arise from an apprehension that the transaction might be known.

Question 2^d. In any of your Conversations with the Testator did you ever hear him mention the name of Thomas Flood, as one of the persons to whom he meant to leave any part of his estate, or that he had ever made any provision?

Answer The Testator never mentioned the name of Thomas Flood to the Deponent in any conversation he had with the Testator nor did he ever intimate he had made a previous will to the one of the 24th January.

Question 3^d. At the time you wrote this last Will and when the Testator acknowledged it to be his last will did you consider him of sound and disposing mind?

Answer To this interrogatory the Deponent answers in the affirmative.

and this Deponent further said that no part of the will he wrote was read in the presence of Isaac Robbins Nordeau Miller or Daniel McLeod except the preamble and the two first clauses.

R. J. Taylor

Nordeau Miller one of the Executors named in an instrument of writing purporting to be the last Will and Testament of Richard Cummings deceased appeared in Court and renounced the same.

And at session of the said Court the 15th Day of March 1814

present the Judge and Register

John Mills having been duly sworn deposed and said, That on Sunday evening the 23rd January 1814 the Deponent was at the house of William Mills one of the subscribing witnesses to the Will of Richard Cummings dated 20th January 1814. The Deponent went to see how Cummings was and after asking how he was the Deponent then asked the said Mills if the Testator had made a Will and at the same time the Deponent observed he had seen Robert S. Taylor going there that morning and expected it was for the purpose of writing a Will there. W. Taylor went. The said Mills replied that he had seen Mr. Taylor there but he knew of no will being made.

John Mills

Nordeau Miller having been duly affirmed said on Thursday the 20th day of January 1814 about 4 o'clock in the evening the Deponent was called on by a Mullato man called John Leprieux who stated that the Testator was very ill and wished to see him, the Deponent asked Leprieux if any person was with the Testator and he said Isaac Robbins and Ambrose Tapp were there and the Testator wished the Deponent to go to his house immediately which he did and found Ambrose Tapp and Isaac Robbins there. The Testator seemed to be very ill and said he had some money in his chest which he wished the Deponent to take care of, that he the Testator was afraid these fellows would kill him and take it away. The Deponent observed to him that he did not believe there was any person there who would injure or hurt him. The Testator then pulled out of his Pocket the key of his chest and gave it to the Deponent who unlocked the chest and took out several bags of money, a small roll of Bank notes and two pieces of gold that were loose in the Bottom of the chest. When the Deponent took out the first bag of money the Testator observed that there was more in the chest and so repeated until the whole was taken out, the Deponent then

and the persons in the room turned the chair around in which the Testator was sitting in order that he might have a full view of them while counting the money. The Depoent procured pen, ink, and paper and proceeded to count the specie, Ten Dollars at a time and Isaac Robbins kept an account of it on paper and Ambrose Tapp held the Bag in which it was dropped. Depoent counted until there was about \$1000 of specie and notes, principally specie, there was then a part of a bag of small change left uncounted and it being near sunset they put it in the bag again and returned it to the chest and locked it up; at this time one of the company either Isaac Robbins or Ambrose Tapp told the Testator his situation was rather a critical one and advised him to make a will he said he intended to do so as soon as he got his affairs settled that he could call, that when he did make a will he wanted Robert S Taylor to do it as he wished it legally done or words to that effect. The Depoent then took the largest Bag of money and Isaac Robbins another Bag and carried it to the Bank of Alexandria, the Cashier not being at home, they could not get it Deposited, they then carried it to the President of the Bank and left it with him until the next morning Tuesday the 21st January when it was Deposited to the credit of the Testator to the amount of \$1000⁰⁰ / 100. On Sunday morning the 21st January between 7 and 8 o'clock the Depoent called upon the Testator and found he had been removed from his store to the house of William Wells a Witness to the Will of the 20th January, when the Depoent got to the house he found the Testator and Sarah Dwyer, also a witness to the will of the 20th January, on the floor apparently wrestling and Dwyer told the Depoent he was endeavoring to prevent the Testator from getting out of the window, that he had broke a pane of glass and cut his hand, and the Depoent observed the Testator's hand was bleeding. The Testator appeared to be very much agitated and alarmed and observed to the Depoent that he was glad to see him that he the Testator must be taken away from that house that he could not stay there and was fearful they would kill him or words to that effect, at this time Sarah Dwyer observed to the Depoent that the Testator had been deranged ever since his money was taken away, and she said Dwyer always from this time until the Day of the death of the Testator either thought or endeavored to convince the Depoent by his manner, conduct and observations that the Testator was deranged, The Physicians Drs Lewis and Richards, and also Isaac Robbins came in the room and they together with

the Depoent endeavored to convince the Testator that it was too cold to remove him and that he need not apprehend any danger from staying where he was - Although the Testator became a little more calm and composed he insisted upon being taken away from that house, and said if they could do no better with him, they must take him to the poor house - The Depoent then left the House and called upon Robert S Taylor at his office and asked him not to be out of the way as the Depoent expected he would be called on he made Cummings wife he said he should be at his Office until Dinner time, but the Depoent did not call on Mr Taylor again that Day as he did not think the Testator was in a proper state of mind to make his will. About dusk or a little after on the same day the Depoent again called on the Testator and found him pretty much in the same situation that he was in the morning - the Testator asked Captain James Mc Kenzie who was in the room if he could not take him to his house, Captain Mc Kenzie answered his house was small and his children would be troublesome to him and he thought he could not take the Testator in. The Testator then asked the Depoent if he could not accommodate him at his counting house or store and still insisted that he could not stay where he was any longer as they would put him to Death - The Depoent again told the Testator he appeared to have a very comfortable room and he need not fear that any person would hurt him there and that the family appeared to be very attentive to him. The Testator admitted that Mrs Wells was a good Cook and nurse and that he was treated kindly, but that he could not stay in that house any longer - Previous to the making of the Will of the 20th Jan^y and between the 1st of January and the 21st the Depoent knew the Testator told Sarah Dwyer that he did not send for him and did not wish to see him there, and the Testator repeatedly told Dwyer to that effect, that Dwyer always treated the observations of the Testator as the ebullitions of a madman and he always endeavored to impress that idea upon the Depoent's mind. That on the same evening on talking to the Testator upon the subject of making a will, he observed he could not make a will until there was an estimate of his estate made, The Depoent and Daniel Mc Seed got instructions from the Testator to shut up his store and take an account of the goods that were in it and they accordingly made out an Inventory the Depoent thinks on Friday the 21st January but they did not extend the amount, while taking this Inventory Robert S Taylor happened by on his way to make a will for the Testator as he said and said it was not necessary, Depoent told Mr Taylor that

also requested it to be done and said that he could not make a Will without it or words to that effect, after making the Inventory they went to the house of Mr Wells and left the same there in the care of Isaac Robbins at the request of the Testator as Deponent thinks, the testator was at this time rather in a sleepy stupid situation: The Deponent then left the house and saw Robert S Taylor and requested him when the Testator was in a proper situation he volunteer his services and make a will for him, as it was the desire of the Testator that he should make it and which Mr Taylor promised to do - The Deponent thinks that on Saturday the 1st of January he together with Isaac Robbins called upon the Testator but does not remember whether they were sent for or not and he said he wished them to count the small bag of change before mentioned, extend the amount of the Inventory and sum up the whole of his property together, and then he thought he should be ready to make a Will, which they did with the assistance of, Daniel McLeod. The Deponent continued to visit the Testator at least twice a day, until the 25th of January on which day a young man named Simcoe called on the Deponent and desired him to call on Robert S Taylor and take him up to make the Will of Mr Cummings the Deponent, Mr Taylor and the aforesaid young man went immediately to the Testator who said he was then ready to make a Will and wished Mr Taylor to do it and he accordingly proceeded to draw it; when Mr Taylor commenced the will this Deponent, Jacob Bontz and either Daniel McLeod or Isaac Robbins were in the room with the Testator - that after the two first clauses in the will were written, the Testator said he could not go on as he did not wish every body to know how he disposed of his affairs or words to that effect; Deponent observed to the Company that he thought it very proper and proper that every person but the Testator and his attorney should leave the room and they accordingly did so; as they were leaving the room Mr Taylor called the Deponent and desired him not to go away, as he should want the Deponent presently: while in the outer room this Deponent entered into conversation with Jacob Bontz on the subject of the Testator making a will, and told Bontz that it had become less desirable with the Deponent than it had been because he had understood that the Testator was leaving part of his estate to Philip Marsteller, Captain McLeary and such people as Deponent did not think entitled to it or wanted it.

that Bontz agreed with the Deponent in opinion and said it would be better that he the Testator should make a will, and in that case his relations in Scotland would get it, sometime after this Deponent was called in the room where the Testator was after the Deponent got to the chair in which Mr Taylor was sitting he heard Mr Taylor ask the Testator if he was willing that he (Mr Taylor) should sign the will for him and at the same time declaring that if he was dissatisfied with any part of it he would alter it - The Testator told Mr Taylor he could not make a better will and wished him to sign it for him which Mr Taylor did and also witnessed it - by this time Jacob Bontz came in the room and set himself beside the Testator - Mr Taylor then asked the Testator if he acknowledged the said will for his act and deed or words to that effect - The Testator said more than once he was satisfied with the will and could not make a better one, and desired them to wrap it up and deliver it to Isaac Robbins that he would acknowledge it at any other time.

Questions by the Counsel for the Segates under the Will of the 10th January 1844

1st You have stated in the first part of your deposition that Richard Cummings when he requested you to take his money and keep it said that he was afraid those fellows would kill him and take it away. You will be pleased to state who were present when Richard Cummings expressed his fears of being killed and his money taken away?

Answer - Ambrose Vasi, Isaac Robbins and the Deponent were the only persons present that the Deponent recollects, all of whom he believes were sent for to aid in taking care of the money. 2^d Who recommended Richard Cummings to employ Mr Taylor to make his will?

Answer - He does not know.

3^d Were you in habits of intimacy with Richard Cummings or of visiting him before he was taken sick if you were state when that intimacy or those visits commenced?

Answer - Deponent was in habits of intimacy with Richard Cummings in doing business and in consulting him on his affairs for seven years past.

Questions by the Court - 1st At the time the Testator desired Mr Taylor to sign the will for him did the Testator appear to be of sound mind, or do you believe he was so?

Answer - He believes the Testator was of sound mind, but appeared to be under bodily fear and to the best of Deponent's recollection previous to his leaving the room he heard the Testator say he had left those fellows something and he was afraid they would kill him.

Question 2^d Did you in your conversations with the Testator ever hear him

made any will previous to the one of the 21st January?

Answer He never heard the Testator or any other person intimate that there was any will made previous to that of the 21st January.

Questions by the Council for the will of the 20th January. Did Richard Cummings at any time before he was taken sick offer to lend you the money at 9 p. cent during his life, and that at his death he would leave it to you or did he make you an offer in substance like the above?

Answer The Testator wanted to have an annuity on a part of his money during his life @ nine p. cent - and he made an indirect offer to the Deponent to the above effect in consequence of a conversation between Solomon Parsons and Cummings in the counting room of Deponent which he did not accept.

2nd. Did you & Daniel M^{rs} Lord differ in the presence of Cummings, whether the money should be Deposited in the Alex^{ia} or Mechanics Bank?

Answer - The Deponent did not see Daniel M^{rs} Lord until after the money was counted and deposited in the Bank of Alexandria - that in a conversation with Jacob Bontz he told Deponent that after he and Isaac Robbins had taken the money to the Bank of Alexandria the 20th January, that Daniel M^{rs} Lord went to the Testator and talked to him about their taking the money away until he was perfectly crazy and got into the street.

Mordecai Miller

Alexander More having been examined as a witness deposes and says that Mordecai Miller who has given the above Deposition is the same person named as an Executor in the Will of the 21st January 1814

A. More

And at a session of the said Court 25th day of March 1815

Present the Judge and Register

Elizabeth Norton having been first duly sworn deposes and saith - that on the 14th day of January 1814 Mrs Wells who nursed the Testator called upon the Deponent to borrow an easy chair for him she mentioned to the Deponent that the Testator had been offered an easy chair by a Mr Flood but she said that the Testator said he would not have the chair by Mr Flood as he did not like the man the Deponent accordingly lent her

chair to Mrs Wells - On Thursday night the 20th about half past 12 o'clock the Testator whose store was nearly opposite to the Deponents house came to the Deponents gate and rapped very hard - the Deponent opened her chamber window, and asked who was there a person answered for he was Mr Cummings) it is Mr Cummings and then Mr Cummings answered himself, and said Madam is Mr M^{rs} Lord here the Deponent told him he was not, the Testator then said I want some of your young men, and at the same time called repeatedly for the Watchmen, the Deponent then shut the window and went to bed it not being in her power to give any assistance. On Friday morning the 21st January between 7 and 8 o'clock the Deponent saw several persons looking in at the window of the Testator where she understood he was sick, of those persons she knew none but a mulatto man called Leprieux immediately after Mr Pette came doing from the direction of Mr Wells house with a hatchet in his hand and gave it to one of the persons at the window and that person appeared to pry open the Window and the sash fell or was put inside the house: the Deponent then saw one of the persons get in the window and soon after the front Door was opened and several of those at the Window went in, in about fifteen minutes afterwards the Deponent saw two men bringing the Testator out of his store each of them supporting him by his arms and took him round the corner in the direction of Mr Wells where the Deponent understood he died - The Deponent further saith that on Thursday evening the 20th January she was requested by Ambrose Vape to prepare a room to receive the Testator, she was preparing the room when in about 15 minutes Mr Vape again called and said it would do in the morning. Mr Vape called again on Friday Morning the 21st and requested the Deponent to make a fire in the room for the Testator she told him Mr Cummings was already arrived Elizabeth Norton

George Kincaid having been first duly sworn deposes and saith - That on the morning of the day previous to the day the testator died, the Deponent thinks it was on Monday morning he was present at the house of Mr Wells where the Testator was sick, the Deponent heard the Testator direct John Leprieux a Mulatto man to go for Mordecai Miller and to call for Mr Robert S Taylor and the Testator said he wanted his affairs fixed while Leprieux was gone the Testator asked Isaac Robbins to pray for him which he did, Jacob Bontz was in the room at this time and probably Mr Wells - afterwards Robbins had done praying he whispered to the Deponent and said he thought

was not long for this world and desired the Deponent to go down and through the
city the Deponent then on going to Mr. Miller told him a few steps from
the door and he told the Deponent he was going to Mr. Cummings, they both
then went to the Testator called on Dr. Taylor who also went with them to Mr.
Wells house where the Testator lay sick. The Deponent further states that at the
time the Testator desired the Deponent to go for Mr. Miller and Mr. Taylor to go
he offered the Deponent and Sarah Grogg and Rebecca look at each other as if
they had been at difference while looking at him.
Question by the Court: Did you believe that at the time you went for Mr. Miller
and Mr. Taylor, the Testator was of sound and disposing mind?

Answer: He believed he was.

Qth: Did you ever hear the Testator say he had made any will?

Answer: He heard not, but a day or two before he died, he believed on the Sunday
before, he asked the Testator what he meant to do with his affairs, he answered he meant
to give some to the S. Andrews society some to the poor of the town and the Bal-
conic to individuals.

George Smead

And as a witness of the said Court, the 17th day of April

Sarah, the Deponent and Deponent

Sarah Wells being first sworn deponent and oath that she never died when
sworn on his last illness he was brought to the house of the Deponent husband and she then
on Sunday morning that the Testator remained all evening five days and on a Wed-
nesday morning that on the Friday morning the Testator was up and the Deponent went
to his store and asked him what he would have for breakfast, the evening before that
as she understood he was to be removed to Mr. Britton and when the Testator what he
would eat breakfast at the store or wait till he was removed and the Testator said he
would take breakfast at the store and go over after breakfast. The Testator asked the de-
ponent when he was first taken sick if she had a room to spare that he might rest in
say a house of mourning and should want one, she told him she had a room to spare
he then said he would wait a little longer, the Deponent says that the evening before the
Testator was removed, a Mr. Murphy and James Patten and one other person whom
she does not remember called on the Deponent and requested her to prepare a room for
the Testator to be removed to she accordingly prepared a room and he was removed

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as before stated. Sometime during the Testator's sickness about two days before he was removed
he complained of being uneasy and the Deponent offered to procure an easy chair for him, the
yellow man who was there said Mr. Flood had an easy chair and the Testator made answer
that he did not wish to be beholden but wished to rent a chair. The Deponent then informed
the Testator that Mrs. Kilton had a chair and he directed the Deponent to get it for him
and she accordingly went to Mrs. Kilton and she lent the chair. The Deponent further
states that on the Friday night the Testator was brought to the room prepared for himself here
she saw Mr. Flood, Mr. Denty, Mr. Mackin's and Mr. Patten in the room, that
she was up all that night and backwards and forwards in the room and saw no will or writing
executed and the Testator was sitting up on his chair all night, the Deponent did not stay
in the room where the Testator was but was there occasionally, that the Testator appeared to be
in his senses all that night and the Deponent heard no conversation between the Testator and
the persons in his room.

Question by the Court at the request of Daniel McLeod - Did Daniel McLeod
call at your husband's house on the evening of the Testator's funeral and ask you and your
husband if you or either of you had witnessed or signed any will made by the Testator?

Answer: The Deponent believes Mr. McLeod did ask her whether she had witnessed
any will of Mr. Cummings and she told him no, she does not remember him asking her
husband any such question.

Question by the Court: Did your husband ever inform you he had witnessed any will of Mr.
Cummings and at what time he had witnessed it and where he witnessed it?

Answer: He told her he had witnessed a will at his own house on Friday night of the day
on which the Testator was removed there as she understood him.

Question by the Counsel for the Will of the 22nd January 1814. 1. While the Testator was in
health was Flood, Mackin, and Denty in the habit of visiting him?

Answer: Yes, she has frequently seen the gentlemen there.

Qth: When the Testator was first taken ill who were the persons that first paid attention to him?

Answer: Sarah Denty and Thomas Flood she used to see these two or three times a week
and always on Sunday. The Deponent furnished the Testator with his meals for seven months
before his death by carrying them to his store for which he said she should be paid.

was not long for this world and desired the Deponent to go down and ~~bring~~ Mr Miller and Mr Taylor, that on going to Mr Miller's store he met him a few steps from the Door and he told the Deponent he was going to see Mr Cummings, they both on their way to the Testator called on Robert Taylor who also went with them to Mr Wells' house where the Testator lay sick. The Deponent further states that at the time the Testator directed Peppers to go for Mr Miller and Mr Taylor to fix his affairs the Deponent saw Sarah Montgomery and Peppers look at each other and Monty shook his head at Peppers while looking at him.

Questions by the Court - 1. Do you believe that at the time you went for Mr Miller and Mr Taylor, the Testator was of sound and disposing mind?

Answer. He believes he was.

2^d Did you ever hear the Testator say he had made any will?

Answer. No, he did not, but a day or two before he died, he believes on the Sunday before, he asked the Testator what he meant to do with his affairs, he answered he meant to give some to the St Andrews Society, some to the poor of the town and the balance to individuals.

George Kincaid

And at a session of the said Court the 17th day of April

Present, the Judge and Register

Sarah Wells being first duly sworn deposes and saith that she nursed Richard Cummings in his last illness he was brought to the house of the Deponent's husband she thinks on a Friday morning, that the Testator remained ill about five days and died on a Wednesday morning. That on the Friday morning the Testator was removed the Deponent went to his store and asked him what he would have for breakfast the evening before that as she understood, he was to be removed to Mrs Gilton's and asked the Testator whether he would eat breakfast at the store or wait till he was removed and the Testator said he would take breakfast at the store and go over after breakfast. The Testator asked the Deponent when he was first taken sick if she had a room to spare that he expected to undergo a course of medicine and should want one, she told him she had a room to spare he then said he would wait a little longer, the Deponent says that the evening before the Testator was removed, a Mr Murphy and James Better and one other person whom she does not remember called on the Deponent and requested her to prepare a room for the Testator to be removed to she accordingly prepared a room and he was removed

as before stated. Sometimes during the Testator's sickness about two days before he was removed he complained of being uneasy and the Deponent offered to procure an easy chair for him, the yellow man who was there said Mr Flood had an easy chair and the Testator made answer that he did not wish to be beholden but wished to rent a chair. The Deponent then informed the Testator that Mrs Gilton had a chair and he directed the Deponent to get it for him and she accordingly went to Mrs Gilton and she lent the chair. The Deponent further saith that on the Friday night the Testator was brought to the room prepared for him by her she saw Mr Flood Mr Monty Mr Mackins and Mr Better in the room; that she was up all that night and backwards and forwards in the room and saw no will or writing executed and the Testator was sitting up in his chair all night, the Deponent did not stay in the room where the Testator was but was there occasionally, that the Testator appeared to be in his senses all that night and the Deponent heard no conversation between the Testator and the persons in his room.

Question by the Court at the request of Daniel McLeod - Did Daniel McLeod call at your husband's house on the evening of the Testator's funeral and ask you and your husband if you or either of you had witnessed or signed any will made by the Testator?

Answer. The Deponent believes Mr McLeod did ask her whether she had witnessed any will of Mr Cummings and she told him no, she does not remember him asking her husband any such question.

Question by the Court - Did your husband ever inform you he had witnessed any will of Mr Cummings and at what time he had witnessed it and where he witnessed it?

Answer. He told her he had witnessed a will at his own house on Friday night of the day on which the Testator was removed there as she understood him.

Questions by the Counsel for the Will of the 22nd January 1814. 1. While the Testator was in health was Flood, Mackins, and Monty in the habit of visiting him?

Answer. Yes, she has frequently seen the gentlemen there.

2^d When the Testator was first taken ill who were the persons that paid attention to him?

Answer. Sarah Monty and Thomas Flood she used to see these two or three times a week and always on Sunday. The Deponent furnished the Testator with his meals for seven months before his death by carrying them to his store for which he said she should be paid.

compensated.

3rd At any time between the period when you first furnished the Testator with provisions and the commencement of his sickness did you ever see visiting him in a friendly manner Mordecai Miller, Isaac Robbins, Richard Fiddings, and Daniel McLeod?

Answer - No

Questions by the Court at the request of Daniel McLeod? 1st Who paid the last weeks board for the Testator?

Answer - Daniel McLeod paid it and deducted a pound of soap from it.

2nd Did you ever hear the Testator tell any person to go for Mr Taylor or Mr Leach?

Answer - No Sarah ^{the} Wells ^{mark}

Jacob Bantz being first duly sworn deposes and saith that he is a witness to an instrument of writing dated the 20th January 1814, now produced to him and purporting to be the last will and Testament of Richard Cummings dec^d?

Questions by the Court. 1st Who wrote the said Will? Answer - Thomas Flood

2nd When was the said will written? - Answer on Friday night the 21st January 1814 about ten O'clock.

3rd Who was present when the will was witnessed?

Answer - Thomas Flood, Charles Hankins, James Pettit and the Deponent and one other person that the Deponent recollects.

4th Did the Testator appear at this time to be of sound mind?

Answer - He appeared to be so.

5th State generally by whom the will was written and signed and any other circumstances you know attending the execution of it?

Answer - It was written and signed by Thomas Flood, and read over twice to the Testator by Thomas Flood and it is the same will now produced in Court dated 20th January 1814, when the Testator was asked if he acknowledged the same to be his last Will and Testament, he answered it was very well and requested Mr Flood to sign it for him. on Thursday night the 21st January the Deponent and Charles Hankins (whom the Deponent met in the street) went to Cummings store, when they got there they found James Pettit and John Zepher. There was about eight O'clock at night - after sitting some time the Testator told the Deponent present that the Doctors had been there and advised him to remove and he

had some notion of removing, that Daniel McLeod and Isaac Robbins had also been there and advised him to remove to Mrs Seltens who lived opposite to the Testators store, he said he did not like to go as Mrs Seltens would not look for him and would only furnish a room, he then told them that Mrs Wells had a room and would look for him and he asked the Deponent and Hankins to go and look at the room and let him know how they liked it as Daniel McLeod had been there and told him the Testator the room would not suit him as it was too low to the ground and would be too damp or words to that effect. The Deponent, Hankins and Pettit then went to look at the room and all three agreed in opinion that it was a very fit place to remove the Testator to and returned back to the Testators store and told him so, the Testator then observed that he considered them as his friends and would do any thing they advised him to do, the Testator then observed that he had rather Mrs Wells should cook for him than any other person and that he would go there next morning the Deponent thinks Charles Hankins then went away and the Deponent also got up to go away and told the Testator good night, he turned round to the Deponent and asked him if he could not stay all night, the Deponent told him he would go home and get his supper and return and stay all night which he accordingly did, when the Deponent returned from supper to the Testators store he found James Pettit and John Zepher there who by generality staid with him. After they went to his supper and during his absence the Testator observed to the Deponent that "Mordecai Miller, Ambrose Vaple, and Isaac Robbins had been there who had been sent for by him the Testator that evening and said he had a little money in the house and wanted it deposited in the Bank and thought them very proper persons as they understood Bank business, to deposit it in Bank, that they had not yet made him any return of it and he observed he did not know what they meant by not making him a return of the money and he seemed to be very uneasy about it - The Deponent observed to the Testator that he thought them very honest good men and endeavored to pacify him as much as possible, the Testator then told the Deponent that he wished to have a return that evening as he intended that night to make a will. The Deponent thinks he asked the Testator if he had any relations in this country and he said no, he then asked him if he had any relations in Scotland, any brothers or sisters and he told the Deponent he expected he had but did not know whether they were living and said if they were living he never had any thought of leaving them what little truck he had. The Testator then told the Deponent that Daniel McLeod

compensated.

3rd At any time between the period when you first furnished the Testator with provisions and the commencement of his sickness did you ever see visiting him in a friendly manner Mordecai Miller, Isaac Robbins, Richard Tidings, and Daniel McLeod?

Answer - No

Questions by the Court at the request of Daniel McLeod? 1st Who paid the last weeks board for the Testator?

Answer - Daniel McLeod paid it and deducted a pound of soap from it.

2nd Did you ever hear the Testator tell any person to go for Mr Taylor or Mr McLeod?

Answer - No Sarah ^{the Wells} _{mark}

Deputy County being first duly sworn deposed and said that he is a witness to an instrument of writing dated the 20th January 1844, now produced to him and purporting to be the last will and Testament of Richard Cummings dec^d?

Questions by the Court. 1st Who wrote the said Will? Answer - Thomas Flood

2nd When was the said will written? - Answer on Friday night the 21st January 1844 about ten O'clock.

3rd Who was present when the will was witnessed?

Answer - Thomas Flood, Charles Hankins, James Pether and the Deponent and one other person that the Deponent recollects.

4th Did the Testator appear at this time to be of sound mind?

Answer - He appeared to be so.

5th State generally by whom the will was written and signed and any other circumstances you know attending the execution of it?

Answer - It was written and signed by Thomas Flood, and read over twice to the Testator by Thomas Flood and it is the same will now produced in Court dated 20th January 1844, when the Testator was asked if he acknowledged it to be his last Will and Testament, he answered it was very well and requested Mr Flood to sign it for him. On Thursday night the 21st January the Deponent and Charles Hankins (whom the Deponent met in the street) went to Cummings store, when they got there they found James Pether and John Ziff. Since this was about eight O'clock at night - after sitting some time the Testator told the Company present that the Doctors had been there and advised him to remove and he

had some notion of removing, that Daniel McLeod and Isaac Robbins had also been there and advised him to remove to Mrs Wellers who lived opposite to the Testators store, he said he did not like to go as Mrs Wellers would not cook for him and would only furnish a room, he then told them that Mrs Wells had a room and would cook for him and he asked the Deponent and Hankins to go and look at the room and let him know how they liked it as Daniel McLeod had been there and told him the Testator the room would not suit him as it was too low to the ground and would be too damp or words to that effect. The Deponent, Hankins and Pether then went to look at the room and all three agreed in opinion that it was a very fit place to remove the Testator to and returned back to the Testators store and told him so, the Testator then observed that he considered them as his friends and would do any thing they advised him to do, the Testator then observed that he had rather Mrs Wells should cook for him than any other person and that he would go there next morning the Deponent thinks Charles Hankins then went away and the Deponent also got up to go away and bid the Testator good night, he turned round to the Deponent and asked him if he could not stay all night, the Deponent told him he would go home and get his supper and return and stay all night which he accordingly did, when the Deponent returned from supper to the Testators store he found James Pether and John Ziff there who he generally dined with. Pether then went to his supper and during his absence the Testator observed to the Deponent that Mordecai Miller, Ambrose Vase, and Isaac Robbins had been there who had been sent for by him the Testator that evening and said he had a little money in the house and wanted it deposited in the Bank and thought them very proper persons as they understood Bank business, to deposit it in Bank, that they had not yet made him any return of it and he observed he did not know what they meant by not making him a return of the money and he seemed to be very uneasy about it - The Deponent observed to the Testator that he thought them very honest good men and endeavored to pacify him as much as possible, the Testator then told the Deponent that he wished to have a return that evening as he intended that night to make a will. The Deponent thinks he asked the Testator if he had any relations in this country and he said no, he then asked him if he had any relations in Scotland, any brothers or sisters and he told the Deponent he expected he had but did not know whether they were living and said if they were living he never had any thought of leaving them a little truck he had. The Testator then told the Deponent that Daniel McLeod

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had been persuading him to leave his property to his the Testator's relations in Scotland and the Testator, said if he did leave it to them he did not believe they would ever get it and that his reason for believing so was that his father was dead and left a considerable property and he the Testator had never received his share of it. The Deponent then asked the Testator what he meant to do with his property he said he meant to leave a part of it to the poor of the town of Alexandria and the balance to his particular acquaintances that he had made his money here and intended to leave it here. The Testator then mentioned three names Charles Markins, Thomas Flood and poor old John alluding to John Peppercorn and said John had done a good deal for him and he should not forget him, at this time the Deponent thinks Mr Peltier returned from supper and the Testator again began to complain about his money as no return of it had been made to him, and said he believed those men alluding to Mr Miller Mr Robbins and Mr Wells wished to keep his money and the Deponent again endeavored to convince him there was no danger as they were honest men, the Testator then said he would rather throw his money in the street than that they should have it and repeated that declaration very often, he then asked the Deponent if he had not better make a will but said he did not know how he should do it as he had no return of his money and did not know the amount of his estate, the Deponent then asked the Testator if he did not know pretty near the sum they had taken away and he said they had taken between twelve and fifteen hundred Dollars, the Deponent then told him that was near enough but as he did not know the amount of goods in the store he must also guess at that. The Testator replied he did not know how he should come at it, but supposed that mode would do, that between twelve and one O'clock the same night that is Thursday 26th of January the Testator left the room and went out the front door into the street, before he went out the Deponent asked Mr Peltier if the Testator was in the habit of going out at night since his illness and he said yes the Deponent after a lapse of a few minutes went to the front door to see what had become of the Testator and heard him at a gate opposite when the Deponent crossed the street and found the Testator endeavoring to pull the casing of the gate off, the Deponent asked the Testator what he was doing there and he answered he wanted to see Mr Lord a window was then heated on Mrs Robbins house and a female voice said Mr

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Mr Lord was not there and the Deponent told the Testator that Mr Lord did not live there but lived down town, the Testator said he knew that but Mr Lord was sometimes there, and said if he could not see Mr Lord he wished and would see Robbins the Deponent then asked the Testator what he wanted with them and he said they had his money and he would know that night what they had done with it, the Deponent then told him he would catch his Death with cold and advised him to return to his store but the Testator refused to go and said he would see them that night the Deponent then called Mr Peltier to assist in carrying the Testator to his store and they forced him to start and then carried them over to the store, the Testator then asked Mr Peltier if he would go and bring Robbins that he the Testator wanted to see him and must see him, the Deponent then told the Testator it was very late at night and Mr Robbins was asleep and asleep and it would be a pity to disturb him that night and the Deponent again told the Testator Mr Robbins was a very honest man and would no doubt make a return of the amount of the money necessary and the Deponent also told the Testator if it was his the Deponent's money he should not be uneasy about it that his opinion was such of Mr Robbins that he had no doubt he would do what was right, the Testator again said they had not treated him well about the money and he would see them that night and turned to John Peppercorn and ordered him to go and tell Mr Robbins to come to the store. The Deponent then whispered to John and told him not to go for Mr Robbins but to go home which he did, the Testator then complained that Mr Robbins had not come and asked Peltier to go for him and the Deponent told him not to go but to go out and pretend he had gone for Mr Robbins. Peltier went out and staid a few minutes and returned and told the Testator Mr Robbins was asleep and that he would be awake early in the morning. The Deponent then asked the Testator if he would like to be moved early in the morning, he said the Doctors had advised him to be moved from there and the sooner the better, the Deponent then told him Mr Peltier had offered to furnish him a bed, the Testator said it was very well and he wished to be moved to Mrs Wells' early in the morning, the Deponent told the Testator that as soon as it was day he would go and get John and have a fire made in the room at Mrs Wells' and have him removed to the room and the Deponent told Peltier he had better go and get the Bed and have it prepared in the room about day light the Deponent left the store and went for John to make a

fire in the room at Mrs Wells' and when he went out directed Peltier to remain with the Testator until the Deponent returned - after seeing John and directing him what to do the Deponent returned to the Testators store and told Peltier that he the Deponent must go home for a few minutes but would return again that the reason he went home was that he had the key of his front door in his pocket and wanted to open it - at this time the Deponent again told Peltier to go and have the room fired and when he the Deponent returned they would remove the Testator, the Deponent then went home and returned in a few minutes to the store with an intent to go into it this was about sunrise on Friday the 20th January, just as the Deponent got in the middle of the street opposite the store, John Reprise came out of the front door of the store and the Deponent heard some person lock the door inside, he asked John who was in the house and he said no person but Cummings himself, the Deponent then asked John what was the matter and why he came out and his reply was that Cummings had driven him out, the Deponent asked him what he had driven him out for and John answered he did not know but he appeared to be crazy or mad about his money, the Deponent then went to the front window and knocked at it and spoke to the Testator and requested him to open the door and he said he would do so and set himself down on the middle of the floor, the Deponent then spoke to him several times and the Testator said something in a low voice, which the Deponent did not understand at this time several persons had assembled near the window the Deponent does not remember any of them except the Boy who carries the Herald news paper and Mr Peltier, the Deponent then endeavored to raise the window but could not do it and told Mr Peltier it would not be proper to leave the Testator in that situation and asked Peltier to get something to raise the window and he got a hatchet and the Deponent put it under the sash of the window and opened it and went in, the Deponent then asked the Testator why he looked the door and he replied he meant to open it personally and the Deponent unlocked the door and let the persons in the Deponent then told the Testator the room at Mrs Wells' was very comfortably fired for him and there was a good fire in it and asked him if he would go there and he said he would - the Deponent then called on a yellow boy who was present and asked him to assist in carrying the Testator to Mrs Wells, and they each took an arm and the Testator walked with the room prepared for him

and they set him down in a large easy chair before the fire, the Deponent then went home to his Breakfast and from thence he went to the house of Thomas Flood one of the Devises, in the mile of the 20th January 1874 Mrs Flood told the Deponent her husband was not within, the Deponent went from there to the Carriers shop of Ezra Kenney & Son King St. where he found Mr Flood and related to him the conversation that had taken place between the Deponent and the Testator the night before as herein before related, the Deponent then advised Flood to go up and see the Testator and told Flood that he the Deponent was going up to see the Testator and they had better both go together which they did, when they got there they found Peltier and no other person in the Testators room after being there a few minutes the Testator got out of his chair, went to the window and raised the sash and endeavored to go out, the Deponent went to him and took hold of him and asked him what he meant to do, the Testator said he meant to go out the Deponent told him he had been taking physic and it would give him his death of cold and put the Testator back and let the window down the Testator then made a catch at the window and struck a pane of glass which broke and cut his hand a little which caused it to bleed some, the Deponent then took the Testator away from the window and removed the chair away from the fire as the Testator appeared to suffer from the heat and put him in the chair again, at this time which was about eight or nine o'clock in the morning, some person knocked at the front door Mr Flood opened it where Morris & Williams and Daniel Mc Linn came in the room - The Testator told them he was glad to see them that those people here would take his life or words to that effect - the Deponent then told Mr Miller and Mr Mc Linn the cause of the Testators seeming derangement that the fire was warm and they agreed with him in opinion that the fire was too warm and Mr Mc Linn directed some Turpentine stoves that were burning to be taken off the fire, at this time Doctor Tommes came in the room and the Testator complained to him that the Deponent would not permit him to get out the window and the Doctor told him the Deponent was very right in preventing him from getting out that the weather was too bad for him to get out - The Testator then asked the Doctor if he had appointed the Deponent to nurse him, to which he made no reply, the Testator then told the Doctor if he could not have his own way and go out when he pleased he would be removed from there or would go to the Poor house, that he did not like the place where he was the Doctor advised him to remain where he was as it was a very good place the Deponent

went away and did not return to the Testator's room until about eight o'clock at night when he found Thomas Flood and Charles Manhins in the room and no other persons that here collect, the Deponent after remaining a few minutes in the room of the Testator went into the adjoining room and remained there some considerable time when Thomas Flood came to the Door and asked Mr Wells if he had pen, ink and paper in the house, he said yes and got up as the Deponent supposes to get it, in a few minutes after the Deponent went into the Testator's room to see what was doing and found Mr Flood employed in writing on a stand before the fire the will to which Deponent is a witness, while Flood was writing the will the Deponent did not hear him ask the Testator any questions, but after it was finished Flood read it to the Testator and asked him if it would do and he answered it was very well, Flood then told the Testator he would read the will to him a second time and did so - some conversation then took place between Manhins and Flood about the Testator signing the will and Flood said it made no difference, that he could sign the Testator's name for him and did so. The Deponent has some indistinct recollection that Manhins asked the Testator if he could sign his name, but Deponent does not remember his reply, before Flood asked the Testator if he acknowledged the will he asked him if he Flood should sign his name for him to the will, to which he replied he might, after Flood signed the Testator's name to the will he Flood asked the Testator if he acknowledged it to be his last will and Testament and he replied he did - The Deponent when he witnessed the will did not ask the Testator if he acknowledged it to be his last Will and Testament, but Mr Flood asked him on the presence of the Deponent and the Testator answered he did upon which the Deponent signed it as a witness being called upon by Mr Flood to do so.

Questions by the Counsel for the will of the 20th January 1814.

1. In your deposition taken on the 28th January 1814 before the Register of wills you state that the will was executed on the night of the 20th January 1814 and in your present deposition you state it was executed on Friday night the 21st will you explain why this difference as to Dates in your two Depositions exists?

Answer. Upon examination since and by looking into the almanac the Deponent finds he was mistaken as to the Day of the month but is now satisfied it was executed on Friday night the 21st January.

2. Were you present at the time Mr Cummings was required to execute and as-

knowledge a will which had been written by Mr Taylor, if you were he pleased to state all that passed about that will while you were present what was the behaviour and declarations of Cunningham and the conduct of Daniel McLeod?

Answer. The Deponent does not remember the day of the month but he was present at the Testator's room when Robert S Taylor, Daniel McLeod and Alexander Miller came there together. Mr Taylor told the Testator he had come for the purpose of writing a will for him, and got pen, ink and paper and prepared to write, and he asked the Testator in what manner he meant to dispose of his property, the Testator told him he meant to leave or wished to leave a part of it to the poor of the town, Daniel McLeod then told Mr Taylor that the Testator wished to leave a part of his estate to the St Andrews society. Mr Taylor then asked the Testator if he wished this money given to the St Andrews society for them to use as they pleased, or to be by them distributed among the poor generally, and the Testator answered he wished it to be distributed among the poor generally. Mr McLeod interfered and told in what manner the society disposed of their funds.

Mr Taylor then asked the Testator if he might write the devise in the manner Mr McLeod stated and the Testator answered yes or very well - Mr Taylor then asked the Testator what he wished next wrote, when Mr McLeod answered that the Testator wished to leave £500 to the poor of the town, Mr Taylor asked him if he wished to do so and the Testator answered yes, Mr Taylor then asked the Testator what he meant to do with the balance of his estate and he answered he meant to leave it to his particular friends in town, but he did not wish every person to hear what he said, Mr Taylor then requested the company to leave the room and they all went out except Mr Taylor and the Testator at this time the Testator appeared to be of sound mind and understanding after remaining some time in the adjoining room the Deponent and the rest of the company returned into the room upon being requested by Mr Taylor who came into the room where they were and said it was all done except his acknowledging it which he did not believe the Testator would do, when they went into the room Mr Taylor took up the will which he had written and told the Testator it was all done agreeable to his will except what related to his relations in Scotland and what was very little, at which he stopped owing as Deponent believes to some interruption in the conversation by Mr McLeod and Miller. Mr Taylor then asked the Testator to acknowledge the will he had written.

he signed the Testator's name to the will and signed his own name to it as a witness in presence of the Deponent, Miller and Mr Lord. Mr Taylor Mr Lord and Miller then endeavored to persuade the Testator to acknowledge the will, Mr Lord was the most urgent in his persuasions, the Testator's second reply was to "burn it." Mr Taylor then said, gentlemen you see he wont do it, and it is no more than a piece of blank paper, and he Mr Taylor took the pen and crossed his own name out. The Testator then requested the will might be left with him, Miller and Mr Lord then endeavored to persuade him to put it in the hands of Isaac Robbins, and the Testator made no objection to it. Mr Lord then asked the Deponent to go for Isaac Robbins some person in the room called to Deponent who was going out and requested him to tell Mr Robbins to bring the paper with him which the Deponent did and then returned to the Testator's room and was soon after followed by Mr Robbins, when Mr Robbins came into the room Mr Taylor told him what had passed and Mr Robbins endeavored to persuade the Testator to acknowledge the will, and the Testator said no, not now. the will was then sealed up and delivered to Isaac Robbins by Mr Taylor. Robbins then asked Mr Taylor if it would not answer if he Robbins brought it over in the evening and got the Testator to acknowledge it, Mr Taylor replied no as there was no person in the house but himself who could be a witness to the will. Mr Robbins then took the will away on which Mr Taylor told him it was no more than a blank piece of paper, at which time all the company left the room except the Deponent who remained about half an hour during which time he asked the Testator his reasons for not acknowledging the will written by Mr Taylor, he replied then men shall have nothing to do with my will, the Deponent then asked him his reasons for his unwillingness to allow these men to interfere with his will, the Testator replied that Mordecai Miller had not sent Doctor Butler to him according to his promise and that Isaac Robbins had not sent the Rev^d Richard Tidings to him according to his promise to him to do so - and the Testator told the Deponent that Daniel Mr Lord had told him the Testator that he Mr Lord and Mordecai Miller, had had a dispute about which Bank the Testator's money should be deposited in, that Miller had been to the Mechanics Bank to get a statement of the Testator's money there.

Question 3^d Have you been acquainted with Richard Cummings before his Death and how long do you know (if you were) whether Thomas Flood and Charles Mankins were intimately acquainted with him, whether either or both of them had been in the habit of visiting him

when in health and whether either or both of them had frequently done business for Cummings
Answer - He was acquainted with the Testator for five or six years previous to his Death, he knows Charles Mankins and Thomas Flood were both intimately acquainted with the Testator and in the habit of visiting him when in health, Deponent has heard the Testator say that Charles Mankins was frequently in the habit of doing business for him and that he had lent Mankins money frequently. Deponent does not know whether Flood ever did business for the Testator or not.

Question 4th Do you know of any other person of the name of Jacob Pontz than yourself who was acquainted with and known to the said Richard Cummings the Testator and are you the same person to whom in the will written by Mr Taylor is left a legacy of one hundred and fifty Dollars?

Answer. He knows no other Jacob Pontz than himself and he believes he is the person mentioned in the will drawn by Mr Taylor. The Deponent further saith that during the time here in before mentioned when Robert J Taylor was drawing the will, the Deponent, Daniel Mr Lord and Mordecai Miller were in conversation in the adjoining room at which time Mr Lord and Miller said that Mr Taylor had been there twice before and could not get the Testator into a will nor did they believe he would now when they were called into the Testator's room by Mr Taylor as before stated and when the will was presented to the Testator for his acknowledgement and he refused to acknowledge it the Deponent nodded his head to Mr Lord and Miller meaning to convey to them the idea that the Testator had acted as they had in the conversation in the adjoining room mentioned he would do.

Question by the Court. Did you ever mention to Mr Taylor or to any other person that you had witnessed the will of the 20th January 1814 or did you ever hear the Testator or any other person inform Mr Taylor or any other person whatever that there was a will in existence executed by the Testator at the very time Mr Taylor was writing another will?

Answer. The Deponent never mentioned the existence of the will of the 20th January, to Mr Taylor or any other person, nor did he hear the Testator or any other person mention it to
Jacob Pontz
any other person

And at a session of the said Court the 13th day of April 1814

Present the Judge and Register

William Wells being duly sworn deposes and saith that he is a witness to the will of Richard Cummings dated 20th January 1814 that the same was executed in the Deponent's house on the night of the first day that the Testator

to the Deponent's house, Deponent thinks it was on Friday night about eight or nine o'clock it was in the month of January but Deponent does not remember the Day of the month. Questions by the Court: Was he in the room with the Testator when he executed the will to which you are a witness?

Answer. Thomas Flood, Charles Hankins, Jacob Ponty and James Tetten and no other person.

Question 2^d. Did you hear the Testator direct Flood to sign the will for him the Testator?

Answer. Yes he did.

Question 3^d. Did you procure pen ink and paper for Mr Flood to write the Will?

Answer. He did not procure them not having any of his own in his house, Mr Flood got them himself out of a trunk belonging to a small boy who lives in the Deponent's house.

Qth. Where was the will when you signed it as a witness?

Answer. On a breakfast table in the Testator's room close by where he was sitting.

Qth. When Mr Flood read the will did he ask Mr Cummings if he acknowledged the same as his last will and Testament - and state the Testator's answer?

Answer. Mr Flood read the will to the Testator three times and he said it was very good.

Qth. Did Richard Cummings when he acknowledged the above mentioned will in your presence appear to you to be in his senses and of an understanding mind?

Answer. Yes he was in his proper senses.

Qth. Had you ever any conversation with Mr Cummings after he made the will above mentioned about persons calling on him to make a second will, or did he ever complain to you of being troubled by the visits of any person?

Answer. No.

William Wells

John W. Winter being first duly sworn deposes and saith that he was the carrier of the Alexandria Herald in the month of January last that about seven or eight o'clock one morning about a week before the Death of Richard Cummings the Deponent went to his store to leave his paper when he saw John Pepsiee a mulatto man, a man named Tetten and another man he did not know on the pavement before the store door which was shut, the man whom the Deponent does not know opened the window and went in, before any person went in Deponent looked in the window and saw Cummings sitting on the Bed, the front door was then opened by the person who got in the window and then all the persons on the pavement went into the store and Deponent with them Cummings

asked them where the key of the Trunk which was in the room was and if the money was in the Trunk one of the persons said they had sent the money over to Mr Robbins that day or the day before. John Pepsiee then asked the Free Testator if he would go over there and he answered he would, to what place Deponent does not recollect.

Question by the Court.

What appeared to be their object in opening and getting in at the window?

Answer. He supposes to assist the Testator. John W. Winter

Thomas Simmes being first duly sworn deposes and saith that he was the attending Physician of Richard Cummings deceased in his last illness that Deponent visited the Testator on Thursday the 20th January 1814, three times, first in the morning secondly in the middle of the day and lastly about dusk that at no period during that day was the Testator in a situation to make a will while Deponent saw him except at intervals of from ten to fifteen minutes, that the Deponent remained at each visit about half an hour, that whenever the Testator's mind was drawn to a subject he understood it, and would give a correct answer, but unless he was kept up by conversation he would fall into a stupid sleepy state. The Deponent visited the Testator on the morning of the 21st January and found him at the house of Capt Mills the Testator appeared to be much more excited that morning than he was the day before, Deponent remained about an hour during which time the Testator repeatedly said he wished to be removed from that place and discovered much dissatisfaction at being there and shewed the Deponent a piece of Sugar Candy as the cause of his dissatisfaction Deponent then left the house and called again about the middle of the day and also about Dusk when the Testator appeared to be a little more reconciled to the place where he resided, that on this evening the Testator's mind appeared to be more active and excited than on the preceding day. The Deponent is of opinion that the Testator was capable on the evening of the 21st January when the Deponent visited him of making his will by allowing him time as he was affected by frequent fits of stupor and it was difficult to excite his attention for a longer period than 12 or 15 minutes at a time. The Deponent visited the Testator on the 22nd January he believes in the morning and at night on this day the Testator was much more debilitated in body, but appeared to possess the faculties of his mind in as much perfection as he had the several preceding days. The Deponent further says that he was attending the Testator in his last illness about two months during the first part of his attendance he saw Thomas Flood at the Testator's house frequently and on about a week before the Testator was removed to Wells Deponent told him it was improper that he

have so many prescribers for his disease. The Testator expressed his disapprobation at the persons coming there and said he did not like that Fishman. Deponent asked him who he meant and he said Flood, who appeared to the Deponent to be always kind and attentive to the Testator and Deponent never heard the Testator complain before or after this time of any person - The Deponent is under the impression that his manner of finding fault with those persons who prescribed for the Testator induced him to make the above remarks of Flood.

Thos. Sumner

And at a session of the said Court the 14th Day of April 1814
Present the Judge and Register

The Deposition of James Pitter aged 64 years taken at his dwelling house in presence of the Judge owing to the witness being confined to his bed by sickness, the Deponent being first duly sworn, deposed and said that he is a witness to the will of Richard Cummings deceased dated the 20th January 1814 that he was called on at his dwelling house by Jacob Portz also a witness to the said will to go to Cummings' house to witness the will, this was in the night after Deponent had gone to bed, Deponent thinks it was on a Friday night in the month of January but does not remember the Day of the month - At the time Portz called on the Deponent he was very unwell and was unwilling to go with Portz to become a witness to the will, but Mr Portz pressed him very much to go and he accordingly went with Portz to the house of the Testator, when Deponent got to the Testator's house the Testator asked Flood to read the Will which he did, and read it by making distinct stops at each clause, when the Testator said, very good. Flood again read the will in the same manner a second time and the Testator said, very well as before, when the Deponent wrote his name to the will as a witness.

Questions by the Counsel for the will of the 20th January.

1st Did Flood ask the Testator in your presence if he acknowledged the will to be his last Will and Testament?

Answer. The Testator said it was very good which was his only answer.

2nd Did the Testator at the time you witnessed the will appear to you to be of a sound and disposing mind, and did he know you?

Answer. I saw the Deponent live with the Testator about thirty three days

and he Deponent was capable of judging whether any change had taken place in the mind of the Testator.

3rd Did you know of the time when Mr Lord and Miller took away the Testator's money from his house and the conduct and declarations of the Testator in consequence of their having taken his money away?

Answer. It was not contrary to the desire of the Testator that his money was taken away, as to the time the money was taken away the Deponent does not know, but within a night or two before the Testator was removed to Wells' house the Deponent and Jacob Portz and no other person that he recollects were sitting up with him at his store when the Testator some time in the night after ten o'clock went out the front Door and went to Mrs Pitter's gate opposite and called aloud for Mr Lord, Deponent and Portz went out and brought him back to the store, after sitting a while the Testator appeared to recover himself from his phrenzy of mind and then complained about not having received any return of his money, and that he had no receipts, money nor Bank Notes and said he would throw it in the street before they should have it. At this time the Testator appeared to be in his senses.

4th Do you know of any James Pitter besides yourself and your son James Pitter that was known to the Testator?

Answer. He knows of no other.

Questions by the Court. Did you ever hear the Testator mention having made any ^{other} will than the one you are a witness to?

Answer. He never heard the Testator mention any other will.

5th Who was present when you witnessed the Will?

Answer. Thomas Flood, Jacob Portz, William Wells, the Testator and Deponent and the will was signed on a middling sized table probably a Breakfast Table near the Testator when the Deponent witnessed it.

Jas Pitter

Alexander Moore Register of wills for the County of Alexandria in the District of Columbia, deposes and says that on Friday the 25th January 1814 Charles Stanton and Thomas Flood brought to his office an instrument of writing dated the 20th January 1814 purporting to be the last Will and Testament of Richard Cummings Deceased and that he saw Flood use names as sole Executors.

will alluded to they stated that they were anxious to obtain Letters Testamentary as speedily as possible and asked the Depoent what formalities were required to be performed on their part and at the same time Flood asked the Depoent if any other will had been filed in Depoent's office, to which Depoent answered in the negative, but he informed the said Executors, that he had received information, that there was likely to be a contest relative to the Decedent's estate, to which Flood replied they expected so but wished his will proceed immediately, in the course of that day the witnesses to the will above mentioned viz Jacob Bontz, James Pitter and William Wells were produced to the Depoent and by him examined separately when they all depored distinctly that the will was executed on the Thursday night of the preceding week but they did not know the day of the month, until the Depoent traced it with his finger on an almanac in his office and found it upon the 20th to which they all agreed - One of the witnesses Depoent thinks Pitter, said it was on the evening that the Testator's money was taken from him. Some time after Charles Mankins called at Depoent's office and informed the Depoent that the witnesses to the will of the 20th January had mistaken the night of its execution, that it was executed on the night of the 21st and not the 20th as sworn to by the witnesses, that the will was written or might have been written on the 20th but certainly was not executed until the night of the 21st January. The examination herein referred to by Depoent is as follows.

Jacob Bontz made oath that the will of Richard Cummings to which he is a witness was executed between nine and ten o'clock at night of the 20th instant. Thomas Flood, Charles Mankins and Depoent were the only persons present when the will was written, it was read to the Testator by Flood and he asked the Testator if he should sign the will for him and the Testator replied that he might do so. That the Depoent verily believes the Testator was of sound mind memory and understanding at the time of the execution of the said will. That the Depoent witnessed the will before the other witnesses were called in.

Jacob Bontz

William Wells made oath that the will of Richard Cummings to which he is a witness was executed between ten and eleven o'clock at night of the 20th instant, that he was not present when the will was written but was called in as a witness by Thomas Flood, one of the

Executors, that when he witnessed the will the Executors and also Jacob Bontz and James Pitter were present in the room with the Testator and no other person. That Depoent never heard the Testator direct the Executor Flood to sign his, the Testator's name but heard the Testator say he could not write, that Depoent has no acquaintance with either of the Executors or witnesses and that he believes the Testator was of sound and disposing mind when the will was read to him in Depoent's presence by Flood.

William Wells

James Pitter made oath that he is a witness to the will of Richard Cummings now produced, that he was called on by Jacob Bontz to become a witness - That the will was executed on the night of the 20th instant about ten o'clock. Depoent heard the will read in the Testator's presence twice or three times and heard him acknowledge it to be his last will and Testament, that Depoent does not know who wrote the signature Richard Cummings at the foot of the will, is not acquainted with the hand writing of the Testator, the will was wholly written and signed before the Depoent witnessed it. Depoent is positive that the Testator did not direct any person in Depoent's presence to sign said will for him the Testator. Depoent verily believes the Testator was of sound and disposing mind when he acknowledged the will.

James Pitter

The foregoing Depositions were taken and sworn to before me the 28th January 1814

A. Moore

A. Moore Regt. Mils.

Here the testimony being closed the Counsel for each Will agreed to submit the case to the Decision of the Court upon the Depositions without argument. That is to say for

the will of the 24th January 1814 and against the will of the 20th January 1814 the Counsel in behalf of the will of the 24th January submitted the depositions herein before stated of Richard Flood, John Mankins, William Wells, Elizabeth Kitting, George Kincaid, John Mankins, Thomas Mankins, and Abner Moore, and the Counsel for the will of the 20th January 1814 and against the will of the 24th January 1814 submitted the depositions of, James Pitter, Jacob Bontz, William Wells and James Pitter.

And at a Session of the said Court the 19th day of April 1814. Present the Judge and Registrar. Upon examination of the Testimony in this case the Court do hereby declare that neither of the said instruments purporting to be the last will and Testament of Richard Cummings declared. Whereupon appeals were taken.

Know all men by these presents that we Thomas Birch, James Birch, Samuel Birch, Arch^d S. Taylor, Thomas Cook, Alexander Perry and Elijah Chernault are here and firmly bound to Robert Young Esquire Judge of the Orphans Court for the County of Alexandria in the District of Columbia and his successors in office in the sum of Eight Thousand Dollars to which payment well and truly to be made to the said Judge and his successors in office we bind ourselves, our heirs, Executors and administrators jointly and severally, firmly by these presents. Sealed with our seals and Dated the 15th Day of April 1810.

The condition of the above obligation is that if the said Thomas Birch, Administrator of the goods, chattels and credits of Joseph Birch deceased do make a true and perfect inventory of all and singular the goods, Chattels and Credits of the said deceased which have or shall come to the hands possession or knowledge of him the said Administrator and in the hands and possession of any other person or persons for him and the same do made do exhibit unto the said Orphans Court, when he shall be thereunto required by the said court And such goods, Chattels and Credits do well and truly administer according to Law and further do make a just and true account of all his doings and doing therein when thereto required by the said Court, and all the rest of the said goods chattels and Credits which shall be found remaining upon account of the said Administrator, the same being first examined and allowed by the Judge of the said Court for the time being, shall deliver and pay unto such persons respectively as are entitled to the same by Law. And if it shall hereafter appear that any last will and Testament was made by the Deceased and the same be proved in Court and the Executor obtain a certificate of the probate thereof and the said Administrator do in such case being required render and deliver up his letters of Administration Then this obligation to be void else to remain in full force.

Sealed and Delivered
in the presence of the Court

Thos Birch
James Birch
Samuel Birch
Arch^d S. Taylor
Thos Cook
Alex Perry
E Chernault

At a session of the Orphans Court for the County of Alexandria in the District of Columbia the 15th day of April 1815. The parties to this bond acknowledged the same to be their act and Deed and it was ordered to be recorded Test

Attest
My

In the name of God—amen— I Pisalla Leonard of the Town of Alexandria in the District of Columbia being of sound and disposing mind and memory but weak and declining in body, do make and publish this my last will and Testament in manner following to wit. It is my will and desire that my body be committed to the earth in a plain and decent manner, and that my funeral expenses be paid by my Executors hereinafter named.

As to my worldly goods I will and dispose of them as follows I give and bequeath unto my friend Doctor Thomas Semmes of Alexandria my negro woman Suky and her two children Peter and James in trust to and for the following use and purpose, that is to say, to sell and dispose of the said negro woman Suky and her two children aforesaid and to vest the money arising out of such sale in such Bank or Banks in the District of Columbia as he may deem best, and to apply the interest of such stock to the use and maintenance of the children of my deceased friend the late John Pitts until my negro woman Ursey shall from age or infirmity become unable to maintain herself, at which time and in which case it is my will and desire that the interest of the said stock be applied to the use of Doctor Semmes to her relief and support. And at the Death of my said negro woman Ursey it is my will and Desire that the stock aforesaid be divided amongst the children of the late John Pitts in equal proportions or kept entire and the interest thereof divided amongst them as they may mutually desire and agree.

I also give and bequeath to my friend Doctor Thomas Semmes my negro man slave Seura in trust to be by him hired out and the money arising from his hire applied to the use and support of Wilhelmina Pitts the youngest daughter of the late John Pitts so long as she may stand in need of that assistance, and in case of her death the said hire to be divided among her brothers and sisters equally.

I also give and bequeath unto my friend Doctor Thomas Semmes, Thirty Dollars which I have in the hands of Peter Black (a free black man) in trust to be by him distributed by way of donation to the following servants in his family namely Nancy Picky, Nancy Black Ursey and Suky and Alley—

And lastly I nominate and appoint my friend Doctor Thomas Semmes Executor of this my last will and Testament hereby revoking and annulling all former wills by me made. In witness whereof I have hereunto subscribed my name and affixed my seal this 15th day of April One thousand eight hundred and fifteen

Pisalla Leonard Test
Signed, sealed, published and declared by the above named Pisalla Leonard to be her last will and Testament in the presence of us who have hereto subscribed our names as witnesses in the presence of the District