

To the Honourable the Judge of the United States Orphans Court for the County of Alexandria in the district of Columbia

Humly complaining shew unto your Honour your Orators and Oratrix Landon Carter Fanny Carter and Mary Carter (children and infants under age) of the late George Carter deceased of Virginia by their Guardian Landon Carter Esq^r. That their deceased father possessed before and at the time of his death, a very large estate, consisting of Lands, negroes Stock (for cultivating Land) monies, and other species of property: Before the death of your Orators and Oratrixes father he made a will and appointed his brother Landon Carter and others his Executor; the said L Carter now the only acting executor, in whose possession the property and estate of his testator has allways been since the death of the said testator, in such manner as Executors hold in such cases, Among the children left by the said George Carter deceased was one by the name of Sally Carter, a distributee with the other children, of the estate of their father; at the time of their father's decease, his children were so young that no rational conception could have been formed by the testator, as to the intellect or capacity in a mental point of view of the minds of his said children; and it has ever been the misfortune of your Orators and Oratrixes, and the relations of their now deceased sister (the said Sally Carter before named) to have had the extraneous pain and regret, of lamenting her mental disqualifications from the earliest period when the human mind could be seen, and as she grew up to womanhood (whilst her friends were indulging hopes of the most interesting description to their feelings that age might give to her mind rationality) they still had further to lament that all their hopes were vain, and until the death of their sister, she could never be said in the best state of her health & memory to have a disposing mind, and if she ever had it was at very short periods, Some little time before the said Sally Carter came of age a certain John Browne Cutting who had been absent a great many years from the United States, returned and came to the town of Alexandria in the district of Columbia where Mr. Carter resided; Cutting it was supposed when he returned to the U States & came to Alexandria was without the means of support from any resources of his own. Before he left the U States it appeared he had been acquainted with Mr. Carter,

the mother of the said Sally Carter deceased (then Miss Carter), and finding her on his return in a widowed state, in the possession of a considerable property, he assuaged her and they soon married. This event as a matter of course brought Cutting into the management of his wife's estate, and afforded him an opportunity to get a full knowledge of the disposition which the late Husband of his then wife, had made of a very large estate; and he found that on the arrival of each child to full age, they were entitled to their respective portions of their father's estate. Cutting is a man who it is universally believed by all who know him, that lives for himself alone; and that self interest forms the first consideration which moves every action of his life. After the marriage of Cutting with the mother of this young lady now deceased, he paid to her very little attention, until about the time when she would be of age, when his attention became marked, and continued ~~so~~ until his death. After Cutting had been married to her mother when she was in her most lucid moments, she has been heard to say, that Cutting, should never have any part of her estate nor would she ever put any of it in his power. Some time ~~was~~ in the fall of 1807 Miss Sally Carter deceased, became not only more afflicted in her mind, but also extraneously so in body, and no hopes prevailed of her surviving the attack of sickness she was then labouring under. At this period Cutting who had his eye fixed upon the possession of her estate became apparently much alarmed; and seemed to conclude that the Justice of Heaven was about to deprive him of the execution of that plan, which none but the wicked and most unjust of men could have formed, That of supplanting himself of the property of this young lady, and depriving her brother and heirs of the benefit of it after her death. In this disturbing moment when Miss Sally Carter was supposed to lie upon the brink of the grave, Cutting attempted to carry his most horrible plan and views, into execution. He wrote the original will filed in the Register's office of this Court, a copy of which is here annexed, and called in witnesses to see her sign it and bear testimony as to her signature. They the witnesses when called into the Chamber of Miss Carter, found her lying on the bed of sickness, and from the languid, apathetic and almost exhausted state of Miss Carter it was supposed she lay upon the bed of death. She appeared to be unable to move and with much difficulty was raised in the bed whilst she signed her name,

479 "S. Carter" to a paper^{which} the said Cutting presented to her, this paper was altogether in the hand writing of Cutting; whilst Miss Carter was signing this paper she appeared to be nearly exhausted, and as she was laid upon the bed, Cutting asked her, if she acknowledged that paper to be her Act and deed, or words to that effect, she did not distinctly speak, but seemed to incline to affirm any thing Cutting asked, she did nothing without his Cuttings directions, and what she did do appeared not to be that which she knew and understood but a mere acquiescence to Cuttings request. The witnesses present, and the Physician who attended her at that time all thought her in a state of incapacity, to do or perform any legal act whatever, and much more so than any other, that of making a will and disposing of her property and Estate. The will was not read to her, the contents not stated, nor did one word fall from her to denote or signify that she knew what she was doing: except what is before stated; Cutting appeared to be very anxious indeed to have this supposed (by him) will of Miss Carter executed and acknowledged, and why? That his wife to whom the bequest was made, should have an acquisition of property and estate: had he himself no interest therein? When we look at the transaction, and view the whole circumstances attending this case, is it possible that a human mind endowed with even but a shadow of reason, could hesitate for one moment to pronounce the intentions & views of Cutting. Let it be said that who more proper than the mother, to be the devise of a daughters fortune; who dies in youth & unmarried, to the vulgar eye, and unintelligent or unreflecting mind, it might seem all right. But when it is shown, that this devise tho' under cover to the Mother, is in fact a devise direct to Cutting the father in Law, (for whom no possible affection can be felt) and that the very moment that this devise is perfected, and the right to the mother made perfect (the wife of Cutting), it becomes the sole and exclusive property of Cutting, and that he has the power of depriving even his wife of a participation of it. Where is the mind that would not turn with horrible disgust at such a thought and such an impression: not one could be found. To effect such a conclusion and such a result of and in the state of this young lady is charged to be the sole object of Cutting. His property in the Estate he then held was but during her life, his wife she might soon resign that, and unless he had further provided for again here upon the wide world to seek for a livelihood.

480 and the means & manner of avoiding it, has been before stated. Let the just mind look and pause for a moment, and then pronounce the final fate of this property. After the death of this young Lady, the said Cutting who will appear to be left the sole executor of Miss Carter presented the said Will to the Orphans Court aforesaid for probate which was admitted, some little time after when Cutting applied for letters Testamentary, the circumstances attending this will, became known, and his application for such letters was rejected. The said John Brown Cutting and Sally Carter Cutting his wife, are both prayed to be made defendants to this bill and petition. It is also charged against the said Cutting, that he obtained from the Registers Office of this Court a certified copy of this will, and is now endeavouring in the Courts of Virginia to effect his said object, in getting the estate and property of the said deceased Miss Carter into his possession under the will aforesaid and may create great difficulty in relation thereto unless prevented from all other proceeding therein, by an order of this Court. Your petitioners therefore pray by their Guardian aforesaid, that the said John B. Cutting and wife be ordered and summoned by this Honourable Court to be and appear here and upon their corporate Oaths, answer to all and singular the allegations of this bill & petition; and that they may be inhibited & enjoined from all other proceeding in any other Court in relation to this bill &c until this Court shall have pronounced thereupon & permitted the same or forever enjoined it. And your petitioners further pray that the said Will of Sally Carter, may be fully examined into & upon the hearing of evidence be entirely set aside for the reasons heretofore assigned. and that y^r. petitioners may have such further & other relief in the premises as to y^r. Honour may seem most consistent with equity and good conscience, may it please y^r. Honour to grant unto y^r. Petitioners the United States most gracious writ or writs of Subpoena and Summons and injunction and prohibition, and y^r. petitioners will ever pray &c.

Geo. Youngs PP.

At a Session of the United States Orphans Court for the County of Alexandria in the District of Columbia the 4th day of September 1810. This Petition of Landon Carter Tanny Carter and Mary Carter Orphans of George Carter deceased by their Guardian Landon Carter was presented to the Court and having been duly considered the prayer thereof is granted. And it is ordered that John Browne Cutting and Sally Carter Cutting his wife be cited and summoned to appear before this Court on the second Tuesday in October next to shew cause why the last Will and Testament of Sally Carter deceased should not be cancelled and made void. And the said Cutting & Wife are hereby enjoined from acting in any manner under the said Testament and from interfering with the decedent's estate until the further order of this Court.

Subscribed Attest: Moore Secy.

Landon Carter Mary } children of George Carter deceased by
Carter & Tanny Carter } Landon Carter their Guardian
In the United States Orphans Court
for the County of Alexandria in
the District of Columbia

John B. Cutting & Sally C. Cutting }
Interrogatories by the petitioners to be put to the witnesses summoned in the above cause, by order of the Court, to wit: Elsha C. Dick Physician to Miss Sally Carter deceased in Oct. 1807. and Jonathan Scholfield one of the witnesses to the signature of the said S. Carter, to a paper purporting to be the Will of the said S. Carter.

To Elsha C. Dick

1st Did you attend Miss Sally Carter the daughter of Mr. Jno B. Cutting in the fall of 1807. and in the month of October. If you did be pleased to state her situation, and whether in your opinion she was at any time during that illness in a state of mind and capacity to execute a will or any other valid Act of that description.

2^d Was Miss Sally Carter not generally thought when in the fullest health to be very deficient in mental qualities, and did not general reputation say that she was seldom in a capacity to act for herself from the above cause? Be pleased to state any information you may have had on that subject.

In Answer to the 1st Interrogatory the deponent Elsha C. Dick deposes that

That he attended as Physician the said Sally Carter in the month of October 1807.

under various diseases in the town of Alexandria in the months of September October, November, and December 1807. That during that time he had often occasion to discover striking evidences of intellectual imbecility, and indeed to the best of his recollection there was no period during that time; that she appeared to be governed by any thing like an active principle, and therefore believes that in the execution of a will or of any other instrument of writing she must have been incapable of any other agency beside that of signing her name;

To the second interrogatory he answers that he cannot undertake to say what were the general impressions, but from such opportunities as he had of forming an opinion, whether in sickness or in health he always was disposed to consider her as in some degree at least naturally defective in understanding.

Elsha C. Dick

To Jonathan Scholfield

1st Are you one of the witnesses to a paper which purports to be the Will of Miss S. Carter? If you are; state who called upon you to be a witness, what situation you found Miss Carter in who took upon themselves the direction of the execution of the will, and of the manner of executing it. Be pleased to state the whole circumstances, your impression on entering the Chamber, whilst there and when you came away, and your remarks afterwards. Did you believe and do you believe Miss S. Carter, was at the time of executing the said paper purporting to be her Will, capable and of capacity to do such an Act, or any other by which property was to be conveyed, and disposed of.

2^d Where are the other witnesses to the Will

To the 1st Interrogatory, he answers and says that he is one of the witnesses to a paper which was said to be the Will of S. Carter, he was called on by Jno B. Cutting and asked to go to his house in Alexandria for that purpose; when he got with the other witnesses to Cuttings house, he Cutting met them at the door, and took them into S. Carter's room where he found her in bed, apparently exceedingly infirm, and indisposed. John B. Cutting mentioned to him the witnesses all got into the room, addressing himself to S. Carter, that they had come to witness the will, and asked her to sign it. Cutting then went to the bed and held S. Carter up by getting behind her until she wrote her name to the paper, which he purports to be her will. after it was signed, he Cutting asked her if she acknowledged that paper.

and he the deponent believes she by either a nod or

inclination of the head pointed to what Cutting asked him. The whole direction in the execution of the will was from S. B. Cutting no white person in the room at the time but himself & the witnesses when he entered into S. Carter's room, and before (lying under the same roof) and whilst in the room & when coming away, was of a firm opinion and belief that S. Carter was incapable of making a will or of doing any other disposing act, not in his opinion being of a sound mind, and afterwards on going home he this deponent observed to his wife, that he expected Cutting had made a will for S. Carter to suit himself.

To the 2^d Interrogation he answers that Ho. Scott one of the witnesses lives with him but is now in the country, and expected home in about a week. He does not know the other witness. This Deponent here begs leave to explain the testimony he gave when the will was proved before the Orphans Court on the 30th day of December 1809. He did not suppose that he had proven any thing more than the mere signature & acknowledgment of S. Carter, but being informed now by the Court, that the evidence went further as to capacity of the Testator, he again solicits to further explain by stating he never did conceive before he was told of it as above, that his affirmation went further than the mere signing and acknowledgment as expressed above, and had such an impression not been on his mind he never would have taken the affirmation, for he then thought and he now thinks & believes that S. Carter had not capacity to make a will.

John Scholfield

The foregoing depositions were taken and affirmed to in open Court the 4th day of September 1810, and ordered to be recorded.

Teste Alex^r Moore Reg^r

In Obedience to a Warrant of Appraisement from the Orphans Court of Alexandria County to us directed. We the Subscribers did this day value and appraise the Goods Chattels and personal Estate of Robert Alexander deceased so far as they came to our sight and knowledge of which the following is a true Inventory. Given under our hands & seals this 5th day of September 1810

Andrew Scholfield
Bernard Bygan
Bernard Crook

6 Chairs	@ 19/	10 50
6 do	" 7/6	7 50
6 do	" 5/	5 "
1 Arm'd do	15/	2 50
1 Mahogany dining Table	\$12.	12 "
1 Walnut Breakfast Table	\$5.	5 "
1 Mahogany do	\$5	5 "
1 Card Table & Cover	\$2	2 "
1 Looking Glass	\$2	2 "
1 Basket & Bread Basket	1.25	1 25
2 Pictures	1.50	1 50
2 Window curtains	3/	.50
1 Walnut Table	\$2.	2 "
3 Candle sticks of brass	2.00	2 "
Tongs & Shovel	1.25	1 25
1 pr. And Irons	0.75	.75
2 Snuff Trays	.25	.25
1 Cush	.25	.25
1 Set of Glass and Earthen ware	6.00	6 "
9 Tea spoons of Silver, Sugar tongs &c	6.	6 "
2 Table Covers	@ 10/ 0.50	.50
3 Tea kettles	3/ 1.50	1 50
4 Smoothing Irons	6/ 1.00	1 "
1 Bell Metal Kettle	18/	3 "
		\$79 25
2 Candle sticks of iron & 3 pr. Snuffers of	0.50	0 50
1 Set of Earthen ware	3/ 0.50	.50
1 Ladle & Skimmer 1 Tea pair	3/ 0.50	.50
1 Cotton wheel & 2 pr. Cards	1/ 1.50	1 50
1 Clock	18/ 3.00	3 "

the same so made, do exhibit unto the said Orphans Court at such times, as she shall be thereto required by the said Court. And the same Goods, Chattles and Credits, do well and truly administer according to Law; and make a just and true account of her actings and doings therein, when thereto required by the said Court; and further do well and truly pay and deliver all the Legacies contained and specified in the said Will, as far as the said Goods, Chattles and Credits will extend according to the value thereof; and as the Law shall charge. Then this Obligation to be void, or else to remain in full force.

Sealed and Delivered
in the presence of }
The Court - V

Ann Davies, Clerk
Hugh Carolin Clerk
Jacob Douglass Clerk
Isaac Entwistle Clerk

At a Session of the Orphans Court for the County of Alexandria, in the District of Columbia, the 30th day of October 1810
The parties to this Bond, acknowledged the same to be their act and deed, and it was ordered to be recorded.

Examined &

Test Alex^r Moore Reg^r

The separate answer of John Breivone Cutting to the Bill of Complaint, exhibited against him and Sally Cutting his Wife, in the Orphans Court, of the County of Alexandria, in the District of Columbia, by Landon Carter, Fanny Carter, and Mary Carter, Infant Children of George Carter deceased, by Landon Carter, under the description of Guardian; This Defendant reserving to himself all benefit of exception to the Complainants, in answer to so much of it as is material says, that he denies that Landon Carter is now the Guardian of George Carters Infant Children; altho your defendant

admits that he may become such Guardian when he shall in due form of Law undertake the office, and qualify himself to act, &c. He denies that George Carter, did possess at the time of his death any monies or any very large Estate. In contradiction he avers that only two much encumbered Estates, then belonged to George Carter and farthermore that Executions levied within one month after George Carters decease at Williamsburg, deprived his Widow of the use of Slaves, personal property, and the only Wagon and Team of Horses, that belonged to her Life Estate in Stafford County. This Defendant avers that the annual value of this Stafford Estate, in toto, does not exceed £450; and that such sum is more than a moiety of the annual income devised by George Carter. This defendant further avers, that the annual value of the whole Estate, devised by Sally Carter to her Mother, does not exceed £200. Not knowing how early or how late the human mind can be seen, He does not deny that George Carter at the time of his death, could probably form no rational conception of the Intellects of his three youngest Children. But he affirms, that this Testator must have formed a decided opinion as to the mental soundness of Sally Carter, then in the sixteenth year of her age, and his including her expressly in the first provisions of his Will, making the period of her arrival at full age the period for a division of his property, falsifies the following contradictory averment of the Complainant, "That Sally Carter, could never be said in the best state of her health and memory to have a disposing mind, and memory, or if she even had it was at very short intervals." This defendant further answering, says, That it is true, that he was an inmate for many months in the House of the Father of his present Wife, long before she intermarried with George Carter; but that it is not true, that when he arrived in Alexandria, and espoused her; that he had been absent a great many years from the United States, or that he found her in possession of a considerable property, or that his marriage shed any new light of knowledge on the disposition of property that George Carter had made, or that as George Carters Widow, he then first adopted Mrs Carter. This

Defendant as little accustomed to the rudeness of Ignorance, as to the intrication of refinement, in denying that there is one little of truth in the averments and silly suppositions that he now contradicts; affirms, that having concluded in Europe, transactions of more pecuniary magnitude than the management of such Estates as George Carter devised would amount to. He was attracted to Alexandria, not by the opulence, but by the privations of his present Wife; by his conception of her merit, and by the sincere confidence that she reposed in his professions of attachment to her welfare. He affirms that by a correspondence, of three years duration prior to his arrival in Alexandria to espouse the widowed Mrs Carter, he well knew the wretched condition, in which he must and did find her. This Defendant found the Widow of George Carter a Descendant of the eldest Branch of a Family much respected in Virginia, and the three Orphans now forced forward to impeach their Benefactor destitute of Money, credit, comfort; - crying for the common necessities of Life. He affirms and has proved in Chancery that at this time her moiety income was withheld by the Executors of Mrs Cuttings late Husband, of this her property; one of them possessed every thing, the other doted for nothing; both denying her rights, and dividing her Distresses. The surviving Executor is the alleged Guardian of the Complainants, who altho he has recently made a payment, is still indebted to Sally Carter Cutting several thousand Dollars. This Defendant from the time and manner of the Complainants Bill avers his belief, that its chief object is the delay of Justice. He admits that self-Interest and benevolence alternately influence his conduct, both being the common motives of human action; but he denies that it is the universal belief, that he lives for himself alone; and for further answer to an imputation, gross and groundless, he refers the Court to the liberal settlement, which he made before marriage on his Wife and her Children; and for additional answer, refers to his inflexible frugality in whatever regards his own personal accomo-

accomodation; and to his uniform tenderness & generosity towards every one of George Carters Children - This Defendant further answering says, that his attention to Sally Carter began in her early years, was renewed after he became her step Father, and both in her sickness and in her health, was ever pleasant to him, not from the hope or desire of Gold, but because she was friendly, gentle, good and grateful - Within one month after his marriage with her Mother he walked fifty Miles to visit Sally Carter. He found her at Falmouth, well and rational and equip'd for a Ball - There he escorted her, beheld her in the exercise of dancing till midnight, and thought, that among forty young persons not one eclipsed his step Daughter - In this opinion it seems the defendant was not singular, since after three months acquaintance with Sally Carter, her hand was sought in marriage by a young Merchant, whose address she did not accept - This Defendant will demonstrate by Depositions of the Family in which Sally Carter passed the Winter, & part of the Spring of the Year 1807. That during four successive months, not an Individual of it discovered that want of mind, which it happens to suit certain views of the pretended Guardian to try to establish just at this time - He further says that about three months afterwards accompanied by Sally Carters Mother, he conveyed her apparently well and rational to remain as a Resident in the Family of Landon Carter, as he then supposed till she married, or during the residue of her life. He did not then know ^{that Sally Carter} preferred privation with her Mother to affluence with her Uncle - But on the 7th of August ensuing, when she attained full age, Sally Carter quitted the Family of the said Landon Carter, and chose to join her Mother, then in Lodgings in Alexandria, where she continued till the close of the next month. During all this time this Defendant avers, that sick or well her deportment was rational and her mind discriminating, and that he thought so then as well as now is manifest from Original Letters that he addressed to Sally Carter while she remained an Inmate with her Uncles Family - During her residence in Lodgings with her Mother

Alexandria, her Cousins the Daughters of the said Landon Carter visited her - on one occasion this Defendant accompanied Sally Carter with three Young Ladies to the Theatre - on returning from that place of amusement, she entertained her mother and Sisters with an account of the audience and the play exact and circumstantial - Towards the close of August 1807, Thomas Swann Esq^r of Alexandria, drafted at her instance a Power of Attorney, which Sally Carter regularly executed, and by virtue of which this Defendant acted in her concerns with the said Landon Carter - and he further says, that on the 30th of September 1807, when this Defendant was preparing to occupy Tenement in Scholfields Buildings, Sally Carter walked from Royal Street unattended, to the House of Mr^s Carter, her maternal Grand Mother, with whom she resided a rational guest, till the 4th or 5th of October 1807 - about this time Sally Carter walked from her said Relations Dwelling House to the little Tenement of this Defendant above mentioned, complaining when she arrived of a violent Cramp - This Defendant went for Doctor Dick, but that Gentleman being engaged with Patients out of Town did not come, - She grew better in a day or two, and had no Medical visit from Doctor Dick, till after she had executed her Will - This Defendant further says that between the 5th and the 15th of October, Sally Carter became so much better that she wrote a Letter to the said Landon Carter on Business which this Deponent enclosed to him, and the receipt of which he afterwards acknowledged - It was about this time that Betsey Carter Daughter of the said Landon, came on a visit to Sally Carter, and held a long conversation with her in presence of Lucinda Gillis, now Mrs^s Muter of Richmond, Miss Mary Carter and her Mother -

This Defendant was present during a part of this Conference, and does aver, that Sally Carter then evinced a perfect knowledge of the difference between a Life Estate, and an Estate in Fee simple - Sally Carter announced her intention to make her Will forth with, and to devise all that she possessed to her Mother, Betsey

Carter strongly urged her, rather to leave a Life Estate to her Mother with remainder to her Brother London. But Sally Carter persisted to repeal her determination, even while Betsy Carter arose, and was quitting the apartment. From this hour to that in which she executed her Will this Defendant avers that Sally Carter often importuned him to write her Will. He rather advised her to employ Mr. Swann for this purpose and actually went for him to his Office. But Mr. Swann being absent, Sally Carter became impatient, and chose to have it prepared without delay. This Depoent wrote the Will several days before it was executed, employing the words of George Carters Will from which he copied the beginning and ending of it. Sally Carter perused this Draft now her Will, and this Defendant read it over to her several times, and believes he read it again, when it was executed, altho he will not depose to this last fact positively. This Defendant further answering, says, That on the 18th of October 1807, early in the morning, Sally Carter declared to him, that she would no longer delay to execute that Will, and intimated that she would send out for Witnesses, unless he would call Witnesses in. He avers that he then called in Philip Allen, Jonathan Scholfield and Horatio Scott, three contiguous Neighbours, not an Individual of whom were ever in this Defendants house before or since. All these Witnesses this Defendant solemnly asseverates, saw Sally Carter execute and deliver the Will now recorded in your Court as her act and deed in due form. All the Witnesses in Sally Carters presence, and in presence of each other, saw Sally Carter with a resolute volition, and calm steadiness, that the very character of her signature demonstrates, sign her name to her Will, and acknowledge the same; and then each Witness added his attestation, and all of them immediately retired. This Defendant avers that the Witnesses did not remain in Sally

Carters presence according to the best of his recollection, ten minutes perhaps not so long. He affirms that Sally Carter having chosen an apartment at this time that was not illumined from any exterior casements, the most discerning spectator could not well discriminate the true condition of her health. But be this as it may, he avers that a little before noon on the 18th of October 1807. Sally Carter arose from the Bed, on which she had signed her Will, and being dressed by her Servant walked into the Bed chamber after her mother, and in presence of her two Sisters immediately declared that she had at last executed her Will. This Defendant further answering, asseverates, that neither at this time, nor at any time during the Autumn and Winter of the Year 1807 & 1808 did he ever entertain, the remotest Idea that Sally Carter was on her death bed. He avers also that the said London Carter at this time must have known or believed that Sally Carter was on the recovery. Since on the 26th of October 1807 about one Week after the execution of the said Will, he wrote a Letter to this Defendant, in which are these words, "I am happy to hear that my Niece is better." This Depoent further says, that so far from being anxious about the execution and acknowledgment of said Will at the time it was so executed, that the time and manner of its execution was not quickened by his solicitude, but by Sally Carters importunity, - The Testatrix feared she might soon die, being hysterical; this Defendant thought she would live long, being more skilful. She went proved, that Sally Carter was not then on the Brink of the Grave, for she recovered her usual health in the summer ensuing, and to her Grandmother distinctly republished her Will. Moreover this Defendant knew that Sally Carter was resolutely bent on devising all her property to her Mother; a fixed purpose that she had declared long before this Depoent had espoused that Gentleman. Sally Carter had renewed this declaration recently to her Cousin Betsy Carter - nor did the shadow of a doubt exist in this Defendants mind, - that her mind was perfectly sound, and that the said London

Carter knew and believed this Fact - Furthermore This Defendant had then the right to control Sally Carters Property by a special authority, fully recognized by the said Carter himself - This Defendant indeed affirms that nothing can add to the proof that the Letters of his pretended Guardian of the Complainant to afford of those facts, or more strongly mark the inconsistency of the Man, who in the teeth of such evidence, and his own formal acts, adventures to contest them - In one of those Letters the said Carter writes "I am very sorry for the disagreeable situation of my Vice, which must be very distressing to her Friends, there is no doubt but she is completely entitled to the whole of her Patrimony" - This Defendant furthermore says that notwithstanding the affectation of honor, expressed by the pretended Guardian of the Complainant, at the very Idea that by the Law of the Land, devised to one person may become the property of another, this Defendant conceived that a just & judicious Step Father, who rescued a young Family from distress, by compelling delinquent Executors to perform their duty, seems even in a moral point of view, not undeserving of a portion of any Estate that his Industry did not barter or his firmness secure - He further says That altho he disrelishes Egotism yet, that when the vilest of motives are audaciously imputed to him for transactions innocent or laudable, that in Equity it is allowable even by self commendation to contradict Slander and vindicate merit - This Defendant avers then, that altho on his arrival in Alexandria in 1806, he was a stranger here, yet that he is not so now - That he has resided in this District and in a neighbouring ^{County} four years, in which period of time, conduct always develops Character - This Defendant affirms that he supports and deserves the reputation of a firm Industrious, domestic, frugal, honest man, neither dazzled by pomp corrupted by pleasure, nor awed by presumption - He moreover if it be thought pertinent to the issue of this Suit, can prove incontrovertibly that he has often been interested with the disposition of the said

Moses, far exceeding in value the whole Estate of the said Landon Carter - That he has both at home and abroad executed Agencies public and private, honourable & profitable - That his Title to a property of more value than his Wifes Estate, has recently been recorded, and above all, that he should have been yet more assiduous, but for a disbursement of several thousand Dollars, bestowed years ago on worthy or distressed Individuals - He is prepared to substantiate everyone of these assertions - This Defendant further answering says that the motives of Mens actions are often inscrutable, save to Equity & conscience, but that when Men like the Complainant to pretended Guardian, not remarkable for piety, prate in grave proceedings of the justice of Heaven, and impute horrible passions, without colour or consistency to better Men than themselves, they manifest much hypocrisy and little wisdom - This Defendant wholly disclaiming the said pretended Guardians coarse imputations denies, that for fear of being here upon the wide world to seek a livelihood, or from the operation of any mean or mercenary motive, he ever did directly or indirectly try to influence any mortal touching any devise of their property, or that he ever conceived - or connived at, any plan or project, by the purchase of gambling debts, or otherwise - to diminish the patrimony of Infant Orphans, or for withholding from Parent or Child, the income that he knew justly belonged to them - He denies and disbelieves the allegation of said Guardian, That Sally Carter ever said that she would not put any part of her property in the power of her Step Father - Sally Carters first voluntary act after she came of age, falsifies such an averment - Moreover he denies that any possible affection can be felt by a grateful Daughter in Law, towards her Step Father - especially if such Step Father, for months and years successively, when all her paternal connections by Blood or affinity, neglect and forsake her; remain at home with her, and try to beguile the pain of her bodily infirmities, cheer her in solitude and comfort her in death - This Defendant is

Not ignorant of the weight, that ought generally to accompany evi-
dence of sanity or insanity in a Testator, given under the sanction
of an oath by the attending Physician - And Doctor Elisha C. Dick
in this capacity he admits did attend Sally Carter at sundry Inter-
vals, in the months of September, November & December 1807, But
he verily believes, that Doctor Dick, tho sent for, and applied for by this
Defendant in person early in October 1807, did not come, and did not
see Sally ^{Carter} during the whole or the greater part of this month; But be
this so or not, this Defendant distinctly avers, and this averment
will be proved incontestably - that Doctor Dick did not once see
Sally Carter within ten days of the day on which Sally Carter executed
her Will - This Defendant further says that feeling all due respect for
the integrity of intention of Doctor Dick, that he is rather disposed fair-
ly to account for the erroneous opinion of such an eminent Practitioner
- and good Man, than bluntly to contradict it - He avers that Doc-
tor Dicks opportunities were too far and infrequent to enable the
most acute observer to pronounce on the general capacity of Sally
Carter judiciously and correctly - Further more This Defendant saith
That the affirmation of a special fact in the wide form of a general
proposition is a mode of attestation pregnant with error - Now De-
fendant avers that Doctor Dick has unintentionally glided into
such error - And from the following facts and special circumstances
This Defendant doth conscientiously believe, that what is erroneous
in Doctor Dicks opinion & Evidence, did really originate - There
was a period in November and in part of December 1807, during
which this Deponent affirms in concurrence with Doctor Dick
Sally Carter did not appear to be governed by a correct active principle
and during which she did discover striking evidences of intellectu-
al imbecility - He speaks with more confidence on this point, because
early in life, he received some Rudiments of Medical instruction -
Moreover From habit and choice being remarkably domestic, he
remained constantly at home, during the time of which he now
speaks - From the beginning of October to nearly the close of that

Month as above stated Doctor Dick did not visit Sally Carter, but
about the close of October, and early in November Doctor Dick did
visit Sally Carter, and this Defendant avers did about this time pre-
scribe for her malady, a very strong preparation of which Steel
was an Ingredient, which in the form of Pills, he put in to the hands
of this Defendant, who in obedience to Doctor Dicks directions, did
daily administer said Pills for many days successively to Sally Car-
ter - At this time Sally Carter was not confined to her bed, altho oc-
casionally when spasms affected her, she reposed on the outside of
her mothers bed, but commonly walked from one Room to another
and sometimes into the open air with this Defendant - With the po-
tent effect of this Stimulant on the brain, soon brought on a delir-
ium, which unquestionably continued, during the residue of the
month of November, and part of December 1807 - This Defendant
not only admits, but affirms that during this period there was in deed
a temporary eclipse of Sally Carters rationality - Never before and
never since did this Defendant witness in Sally Carter any state of
mind or body, that at all resembled this - Late in December 1807
after an interval during which his visits were discontinued, Doctor
Dick renewed his attendance on her, and in presence of this Defen-
dant & Sally Carters Mother acknowledged that the medicine, in the
form of said Pills which he had prescribed, and which she Sally Car-
ter had punctually taken from the hands of this Deponent - had sti-
mulated her Brain too violently, and as this Deponent understood
far beyond Doctor Dicks calculation of its effects - At the same time
with honourable candour he confessed that Sally Carters case perplexed
him - Doctor Dick now prescribed a counteracting on as this Defen-
dant understood him - quieting Draught, which being nauseous, this De-
fendant could with difficulty persuade the patient to swallow -

This Defendant avers that Sally Carter gradually recovered from the
manifest effects of this powerful Stimulus, and as the Spring of 1808 ad-
vanced recovered her health and her wonted soundness of mind
He affirms that altho Doctor Dick as to Sally Carters general capacity

Disposes that he will always disposed to consider it in some degree natural-
ly defective, another eminent Physician, who attended Sally Carter &
her parents from adolescence to Womanhood, who saw her on the 12th of
May 1807 - and afterwards with her Cousins at the Jollythamoe Races,
On being written to by this Defendant, and requested to describe and deve-
lop Sally Carters case as it truly was - declares explicitly, that he never
entertained the slightest suspicion of her having any branical tenden-
cy or disease, and without being apprized of the said Guardians attempt, it
adds in the true spirit of genius and humanity "That it is shameful
should busy curiosity, Invidious or malignity have disturbed the ashes of a
Young Girl, who herself is laid where the wicked cease from troubling and
the weary are at rest." This Defendant further answering says that
the proofs that Sally Carter was not defective in her general understanding
are strong and numberless, and that the said Guardian of the Complai-
nant himself well knew of Sally Carters entire recovery from the effects of
the Medicine or Malady above described - Because in the Summer of
the year 1808, Sally Carter kept House for her Mother in Alexandria, govern-
ned the Servants in the Parlor & Kitchen, went to Church unattended
and visited her Friends and acquaintances - Moreover in the Summer
of 1808 - The Complainants said Guardian with his Wife made the on-
ly visit that Mr. Collins received from them, during this Defendants re-
sidence under Schuylfields Roof - On that occasion he is informed
that Sally Carter received her Uncle & Aunt in perfect capacity, and
looked so well, that the Complainants said Guardian himself remark-
ed that his niece needed nothing he thought now, but a little Country
Air for her complete re-establishment - This Defendant on the 22^d day
of September in the same year, returned this visit accompanied by all
his Family, and dined with said Guardian at Claremont near Alex-
andria, - On the same day Mr. & Mrs. Scott of that Vicinity dined
with him also, and can witness that Sally Carter was received as a ra-
tional Creature by her Uncle & Cousins, behaved with good manners
& good sense, and at least during this whole day had a most lucid
Interval - This Defendant further answering avers that without

Arrogance, he may pretend to as much Medical Science, and men-
tal discrimination as suffices to render observation exact & opinion
accurate on the general capacity of young women - He however
confesses that he did not justly appreciate the extent of Sally Carters
natural understanding, or the goodness of her cultivated heart
until time and intimacy had developed both; and hence he makes
some allowance for the error of such as may entertain an opinion
different from his own - Sally Carter was remarkably reserved, un-
commonly timid & bashful, and the consciousness that she was liable at
monthly intervals to transient convulsions from being deeply hyste-
rical, diffused an air of shyness, simplicity and embarrassment over
her aspect, and confirmed in her an habit of silence in mixed
companies - Blunt & discerners or careless observers might mistake
such appearance for defective capacity; but this Deponent who for
years in succession had ample opportunity to look quite through
her Deeds and Character affirms, that when Sally Carter was bent
on the accomplishment of any object, he has seldom known a more
decided, persevering or consistent mind - This Deponent is ignorant
of any exact Scale by which to graduate human understanding
But he does most distinctly aver his belief that Sally Carters natu-
ral understanding was ordinarily equal to that of other young
Females of her own age and opportunities - She often managed the
Family concerns of her Mother with prudence and address - This
Deponent has received Letters from Sally Carter on topics of Business
to her Mother when in distress before this Defendant married her;
which for common sense he is confident cannot be surpassed by the
brightest of her Female Connections - He avers that her memory
was excellent, and that long convalescence did not impair it In
proof of this fact he alleges, that a short time before her death Sally
Carter related to her Mother a Conversation which she said took
place at her Uncles House in Richmond County, before she was of age
She said that her Uncle & Cousin Betty upon her saying how she
property when she came of age, were trying to

dissuade her from bequeathing more than a life estate to her mother. Her counsel recommended it to her, to leave herself a piece of plate or some token for remembrance - a Life Estate to her mother, and the Fee Simple to her Brother Landon - Sally Carter said she persisted in adhering to her first purpose, - and that she was pleased with her Uncle, the Complainant's said Guardian, who ended the debate by saying that in his opinion every one at full age, ought to do just what they pleased with their own property, and this Defendant doth further say, that Sally Carter assigned distinctly besides natural affection for her Mother, two reasons in the hearing of this Defendant, why she left all her Estate to her mother - one was, that she thought her Mother had bought more expensive Dresses for her Sally Carter, than she could afford to buy, the other was that the sudden increase of her Uncle Leo's Expenses, soon after he became an Executor to her Father was such that she feared that her Mother would be kept out of her Landon's Money a long time - The second reason here mentioned Sally Carter fit will appear in evidence, she had assigned to one of her maternal Aunts before this Defendant's arrival in Alexandria - He furthermore avers that Sally Carter manifested in a signal manner, that her sense of justice was not extinguished by the warmth of her filial affection - One of the first acts of Sally Carter after she came of age, was the formal assumption of those debts which she had contracted in her minority by executing a written recognition of all such as she could then recollect - This Instrument this Defendant will produce to the Court - In conclusion on the point of capacity, this Defendant most solemnly avers, that the opinion here promulgated is not now for the first time expressed by this Defendant, he wrote and published the same, long before it ever entered into his imagination, that Sally Carter's rational faculties would be questioned in a Court of Justice -

Your Defendant having thus answered all the Allegations in the Complainant's Bill contained, abridging for the sake of method and perspicuity the chief averments of his said answer - Resolves that Landon Carter is not the Legal Guardian of George Carter's Infant Children - That George Carter died deeply in debt, and that

moderate estate; That Sally Carter's portion of it is about £200 per annum, That she was in her sixteenth year when George Carter died - That her sound mind is recognized and fixed by George Carter's Will - That the Complainant's pretended Guardian well knew Sally Carter's perfect capacity to make a Will before she came of age and after she came of age; and how she meant to make it - That the said Guardian's Family tampered with Sally Carter in vain to substitute their Will for her - That Sally Carter in July 1803 avowed her intent to make such a Will as she has made, requested such avowal in Richmond County to said Guardian before she came of age in June & to his Daughter Betsey after she came of age in October 1807; That on the 15th of this Month with sound and disposing mind she properly executed her said Will; that she told her Mother, within a few hours after ~~her~~ so executing her Will of the fact - That she lived for years after this in possession of a sound and disposing mind - and before she died, republished her Will repeatedly - This Defendant denies all Fraud, Collusion or Combination, and prays to be hence dismissed with Costs &c.

John Browne Cutting
District of Columbia
County of Washington

This day came John Browne Cutting before me a Justice of the peace of the County aforesaid & made oath that the several matters and things in the foregoing answer ^{stated} as of his own knowledge are true, and ^{also} others he believes to be true -

Given under my hand this Fifth day of November 1810
Examined Rich^d S. Briscoe

On the separate answer of Sally Carter Cutting to the Bill of complaint, exhibited against herself, and John Browne Cutting her Husband, in the Orphans Court of the County of Alexandria, in the District of Columbia, by Landon Carter, Sally Carter and Mary Carter Infant Children of George Carter deceased by Landon Carter, under the description of Guardian - This Defendant referring to herself all

Benefit of exception to the Complainants, in answer to so much of it as is material says - That she denies that Landon Carter ever was the Guardian of George Carters Infant Children, either before or since her last marriage, or ever acted towards them like a Guardian, altho her Husband has uniformly respected him, as if he had been truly such - She further says that with the exception of her Son Landon whom the said pretended Guardian spent of the Year a Resident in the same vicinity has seen but once for five years past; the Persons of the Complainants in this Bill, are utterly unknown to him their said pretended Guardian - She furthermore says that the said Fatherless Children were suffered to pine in privation and want almost in presence of said Guardian the only Brother of their deceased Father during the Year 1806 in Alexandria, and that he then withheld, and now withholds a considerable part of her married Income - She positively and volently denies, that her late beloved Daughter Sally Carter was irrational or defective in understanding - save only at long intervals - in transient fits, in the paroxysms of which she never remained more than a few moments, except once when under the violent operation of a medicine which brought on a delirium for the Month of November 1807 such as this Deponent never witnessed before or since that period of time - She avers that the Father of Sally Carter altho well acquainted with her state of health, never for one moment considered her as in any manner defective in natural understanding, an avowment which the provision for her in his Will completely establishes - especially that clause which contemplates her marriage - She avers that her late Husband left but a moderate Estate for the maintenance of herself and four Children, and that after remaining in a state of widowhood nearly five years not having received so much as one Years Interest from the married part of it, she was in great pecuniary embarrassment when she married with her present Husband - That Sally Carter sickened during the first Year of this Intermarriage in the autumn, and that her Husbands tenderness and solicitude when this Deponent was a prey to dejection

Carter from that moment, were uniform and unintermitted, till the hour of her death - Little did this Deponent imagine that her Husbands Sympathy with Sally Carter in long protracted sufferings could be shamelessly converted into an impeachment of his motives, and that he himself would be wounded for endeavouring to mitigate the wounds of others - contradicting accusations as destitute of truth, as replete with malignity - She avers that Sally Carter uniformly avowed her intent to bequeath her whole estate to this Deponent whenever she could make a Will, and this from an early period, several years before this Deponents present Husband arrived last from Europe - She avers also that she herself never once reminded Sally Carter after she came of age of such avowal, nor does she believe that her Husband did remind her of the same - But she affirms that Sally Carter in her sickness during the Autumn of 1807 did earnestly and repeatedly importune her Husband to open her Will - She avers that on the very day when Sally Carter had executed her Will, on which day this Deponent affirms that Sally Carter was of sound & disposing mind, that she told this Deponent of it, and told the same thing afterwards at different times to various persons, and in particular to her Sister Mary in W. Hafford about two months before her death - In stating such circumstances however, this Deponent declares, that she is far less desirous to establish her title to the property in question, than to vindicate truth and merit - For that altho she never heard of such a case as the present where the known intention of a fond Child, in favour of her own affectionate mother, who for two and twenty years, had delighted to nurse and to cherish her, is questioned by an Uncle, contrary she thinks to good conscience, and his own better knowledge, yet that the memory of her rational and innocent Daughter is infinitely more precious in this Deponents estimation than a much more considerable estate - She moreover in conclusion avers, that Sally Carter altho deeply hysterical from youth to womanhood, grew up not only in her perfect senses, but with improved judgment, and that more especially in moments when this Deponent was a prey to dejection

Sally Carter aided her by prudent management, comforted her by affectionate assurances, and cheered her by better prospects. She further avers, that the Bodily infirmities of this dear and devoted Daughter far from lessening the reciprocal affection of Mother and child, superadded warmth, tenderness and Interest to the ties that united them, and the recollection of numberless instances of Sally Carters exemplary conduct towards her, when she had no other Comforter, not only endears her memory and understanding, but renders Landon Carters astonishing attempt to attain both, doubly shocking and bitter. This Defendant denies all Fraud, Collusion or Combination and prays to be hence dismissed with Costs &c.

District of Columbia
County of Washington

This day came Sally Carter Cutting before me a Justice of the Peace of the County aforesaid, and made oath that the several matters & things in the foregoing answer stated as of her own knowledge are true, and all others she believes to be true. Given under my hand this Tenth day of November 1810

Rich^d. S. Briscoe

Orphans Court, Alexandria County November 10th 1810

This day John Bacon Cutting, and Sally Carter Cutting appeared by Robert A. Taylor their solicitor and filed their separate answers to the bill and petition of the Heirs of George Carter deceased, by Landon Carter their Guardian, which were ordered to be recorded, and moved the Court to direct an Issue to be made up and tried at the Bar of the Circuit Court of the District of Columbia for the County of Alexandria for the purpose of ascertaining whether the said Sally Carter the Testatrix, was of sound and disposing mind, at the time of the execution and publication of the said Will, and whether she did devise in manner and form, as in and by the said Will she is supposed to have done. The Consideration of which motion is continued until the 24th day of this present

Month, and by consent of parties, General Commissions are awarded to the Complainants and Def^s to be directed to any one Justice of the Peace, Notary Public or Mayor, and to be executed on reasonable notice to the parties or their Solicitors.

Just. Alex. More Reg^r

In obedience to a Warrant of Appraisement from the Orphans Court of Alexandria County to no directed, we the Subscribers did this day value and appraise the Goods Chattles and Personal Estate of Thomas Jacob deceased so far as they came to our sight and knowledge of which the following is a true Inventory. Given under our hands & seals this 6th day of Nov^r 1810

John Roberts Esq^r
Frederic Bushnell Esq^r
J. Newton Esq^r

Negroes,	Polls Co
Belty about 50 years of age	\$100
Esther aged 40 years	150
Henry aged 14 years	200
Armistead aged 10 years	150
one side Board	45
one large looking Glass	8
one Bottle Case with Bottles	6
One Dining Table & 2 round ends	30
One Desk & Book case	25
106 Volumes of Books 16 Volumes of Shakespeares Works &c	123
one dozen Windsor Chairs	15
one dining Room Carpet	10
One fender, Shovel Tongs & Grate	10
Three Chimney Ornaments	50
One Bed, Bedstead, Curtains & Covering and Furniture	70
one Bed, Bedstead & Covering, Pillows & Bolster	40
One Mahogany Bureau & Cover	8
One looking Glass	5
One Mahogany Bureau	3
One Mahogany Bureau	10

Amount Brou forward	\$ 1008 50
One sender and Irons & Bellows	4
Four Window Curtains	4
Five large & small Trunks	7 50
One Bowling piece	18
One Bed, Bedstead & Curtains and Covering	30
One Bed & Cover bed, Bedstead and Furniture	20
One Bed, Bedstead, Curtains & Furniture	40
One Bedstead painted	4
Toilett Table & Glasses	2
One large Carpet, hearth Rug & Chair Carpet	25
One Van half doz: Drawing Room Chairs	27
Two Card Tables	10
One Breakfast Table	5
Four Window Curtains & Cornices	18
One pair Andirons	7
Four Tea Trays	10
One print of Washington, gilt frame	5
One ditto Jefferson	5
One Table Dining	7
One passage Carpet	3
	\$1260
One set, Ten China & Wicker	8
One full set China "Ten"	20
One set Plates & Dishes	11
One set Castors	8
One pair plated Candlesticks	10
One pair small ditto	2
One pair of decanters & stands	2
One Glass Bowl & Cover	2 50
Ninety six pieces of Glass Ware of different kinds	25
Two Pitchers & two China Bowls	3 50
One dozen Silver Table spoons	36
Two dozen Silver Tea spoons	8
One Silver Soup Ladle	

One Silver Cream Jug	10
One Silver punch Ladle	3
One pair Silver Sugar Tongs	4
One Kitchen Table & Chfboard	4
Five Iron Pots, 2 Kettles 3 Dutch Ovens 2 Frying pans	12
One Iron Spider & 2 Griddles	1
One Bell metal Kettle & Skillet	10
One Iron spice Mortar & Pestle	1
Lundry pieces of Dresser Furniture Furniture, Lundry	3
Tin Ware, Toasters & Grid Irons	2
6 Lad Irons	1 50
Four large Washing Tubs	14 50
Three old Chairs, one Table & Two Trays	2
One large Tray	1
Five Window Curtains	50
One doz: prints, Gilt Frames	3
	9
	\$1471 0

Aa Sepion of the Orphan's Court for the County of Alexandria in the District of Columbia, the 10th day of November 1810 This Inventory and appraisement of the personal Estate of Thomas Jacob deceased was returned by the Executrix, and ordered to be recorded
 Test Alex^r Moore Reg^{is}

Now all Men by these presents that We James Harriet Shamus Gunders Chapin and William S. Moore are held and firmly bound to George Gifford Esquire Judge of the Orphan's Court for the County of Alexandria in the district of Columbia and his successors in Office in the sum of Twenty thousand dollars to the payment whereof 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 this 14th day of November 1810 -