

not do that errand, that his Father was childish, and did not know what he was about, nor I want he would, I then drove off. — Q. did Isaac Barton then state how long his Father had been childish. — A. No. — Q. have you observed the conduct & temperment of the deceased, within the last 10 or 15 years, state what they were. — A. I cannot say I have had any conversation with the poor Gentleman, except when passing by, to give him the time of day. — but when I passed I always struck at the remark of Isaac Barton, I can't say I have seen him at any kind of labor, but feeding cows about the door. — Q. from your observation of Isaac Barton had told you, did you discover, and was it your belief that the deceased was of sound mind or childish by reason of his great age. — A. As to his acts I saw him do, I had no reason to believe or think he was childish, my opinion would be that at his age, about 88 years, nineteen out of twenty would be more or less childish. — thinks a person may at that age, be in some measure childish, yet capable of transacting some business.

Q. by the Exoner. — Q. were you ever present at the time of the conversation which had with Isaac Barton and his Father. — A. I cannot recollect, as I have removed frequently within that time. — Q. at that time, did the deceased appear to be in his proper mind or not. — A. I did not discover anything childish or foolish in the slightest, hence I should have stopped & delivered it, had not Isaac Barton told me not to do it. — Q. are you positive that it was Isaac Barton that told you, or not. — A. I think he was the person, had it have been Samuel Barton I should not have forgot it, does not think it was Joseph. — Q. are you certain it was a white man, or black man that told you not to pay any attention to the deceased request. — A. I think it was Mr. Isaac Barton, the son, but I may be mistaken, it may have been a black-man, but am confident it was said to me, and would

make it as coming from the family. — Q. did you observe a black person near at the time, or did you have any conversation with one, in relation to deceased request. — A. I don't know as I had, I still think it was Isaac Barton, that is my impression. — Daniel Winant.

A. N. Conner, sworn on the part of the legate. — Q. how long have you been acquainted with Joseph Barton the deceased. — A. I can't say, that I have ever been acquainted with him, or that I ever had a word of conversation with him in my life. — Q. have you ever and how frequently visited, and was you acquainted with the family & the deceased, at his late residence in Southfield. — A. I have been acquainted with some branches of the family six or seven years, the first time I think I was there was in 1839, after noon in the winter of 41, also in 42. — Am. acquainted with Samuel Barton, also slightly with Joseph Barton. — I have known Miss Sarah Brown the grand daughter of the deceased four or five years, who lived at the house of her grandfather and was there when I visited. — Q. did you see any one, or more of these persons and how often bear any company or conversation by or among the members of the family of the deceased before named, since Joseph died, in relation to the sanity of the deceased, — objecting to by counsel for Exoner. — Allowed by the Court. — A. The conversation I am going to state I heard in the winter of 41. — There was several persons in the room, Miss Sarah Brown Westrie, also Ira Hethum, as to the rest I can't say. — Shortly after I came there, some person whom I thought to be the deceased came to the door, Miss Sarah met him at the door. — A few moments after she came back in again, she said her grandfather the deceased wanted to know who was in the room. — I then asked her how his health was, she said he was about as well as usual, but very childish, I then asked her if he had been so any length of time. — She said he had, I inquired how long she said, but don't recollect exactly how many years she said, but am positive it was at least 5 years, that she said he had been very childish.

I. Was this remark or statement of Miss Sarah Brown made privately or publicly in the room, so that any person present that was not unreasonably deaf could hear - Objector. - Anr. She said it to me in all Breinsey's tone of voice, in answer to my enquiry, - She said it in a proper & becoming manner from a child to a young Parent

William Lee Seckler Coomer

Matthias Burger, dwelt on the part of the aegleae. — I do
you know the late Joseph Barton deceased, and now
many years. — He have known him about 30 years.

Q. Was you or not during that period intimately acquainted with the deceased and his family, answering frequently at his former and last place of residence during that time. — Ans. Yes sir. I was with the deceased with the deceased and his family, viz. the deceased, his sons, Isaac, Joseph & George and his daughters Mrs. Brown, Mrs. Sarah Egbert, &c. &c. I was in the City of New York & I think I was in the City of New York & Elizabeth Wood, the Mother of John E. Wood, the Acting Legation. — the deceased always lived at the place he died, since I knew him. Which was frequently there & visited the family, and frequently worked there. — Q. Now you know who, during the last 25 or 30 years, had the charge and management of the farm, property and estate of the deceased. — Ans. Mr. Isaac, Joseph & Samuel Weston for the last twenty five years as far as I know. — Q. What has been the mental state of mind of the deceased, within or during any part of these 25 years. — Ans. I should say he was capable of doing his own business, until a few years back. — Q. How many years. — Ans. I should say about four years back. — I should ^{not} wish to go any further back, and could not. — Q. Have you had any conversation with the family above named, or either of them within the last 10 or 15 years of his life, as to his capacity of mind to take care, or charge of, or manage his business, property or estate. — Objected to. Ans. Not to my knowledge.

Crops exp^d. by Exchequer. — Q. What reason have you to think the deceased was not in his right mind for the last four years of his life. — Ans. When I was at work there during that time, I thought he was not in his right mind, from his asking me if I could not set traps to catch thieves who he said or thought were stealing his hay and grain and would mention their names, what witness has above related transpired within or about this year ago, I thought it was an act of childishness. — Q. Do you suppose ^{that} four or five years ago the deceased was capable of dictating a Will. — Ans. As to my part I do not know whether he was capable or not.

By the Legatee. — 2. Within one year previous to the last five years of deceased's life, had you been working there, and frequently seen and conversed with the deceased.

Ans. Yes. — 2. Was the State of mind of the deceased aw-
ing that one year, such as to render him capable of
making a Will. — Ans. As to that I knew nothing, for
the deceased never employed me, I was employed by
the deceased's law or someone of them.

By Excmo. — 2. Do you think that one year, the deceased was incapable of making a Will, or transacting ordinary business. — Ans. That is a Question I can not answer, I do not know whether he was or not.

Matthias Bengel -

John B. Wood: Sworn on the part of Opposing Legatee. —

Q. How long have you been acquainted with Joseph Barton the Testator, where have you resided during the time of such acquaintance, and the nature of the relationship you bore towards him. — Ans. I have been acquainted with him 25 or 30 years, during which time I resided about a half mile from the Testator, — was his son in law, and married Elizabeth the Testator's daughter, who is the Mother of Saml. Wood the Opposing Legatee, the witness son. — Q. Have you all that time been intimate with the deceased. — Ans. I have known or kept, for 3 years of my first acquaintance I boarded in his house. — I have since during all that period 25 or 30 years been intimate also with Isaac, Joseph and Samuel, the sons of the deceased, and also with his daughter Mary Brown, Anne

Duke & Sarah Egbert. — Ans. Yes more or less during the whole period. — Q. Do you know whether the deceased in his life time, or any person dependent on him during the said 25 or 30 years, had the management and control of the Farm, business & property of the deceased. — Ans. I should say his three sons above named, had within the time, but can't say how long each one had at a time. — Q. Did you ever in the period before mentioned, know of the deceased exercising, or having exercised any control or management of his worldly affairs or property, independently of his said sons, or some, or one of them.

Ans. Not within the last twenty years to my knowledge. — Q. Have your opportunities for observation and becoming informed in relation to the subject last enquired of you, been such as to enable you to speak positively on the subject. — Ans. Yes. — Q. What has been the cause that the deceased did not manage his Farm and affairs himself. — Ans. Business thought he considered his sons more competent to manage his business than himself. — Q. Was this at, or how long after he surrendered the management to them. — Ans. As long as I have any recollection the boys took the management, can't say what year. — Q. Did the deceased within twenty years or how long been incapable of managing his affairs, and state the cause of his incapacity. — Ans. I don't recollect the deceased has done any or much work since I was a boy. — Q. He is about fifty years of age — don't recollect his doing any business, within 15 or 20 years — perhaps does not think for the last ten years he was capable of doing any business by reason of his great age and childishness, deceased was about 43 years of age at the time of his death, as reported by the family. — Q. State the reasons which have induced you to believe the deceased was thus incompetent through childishness at old age, as above stated. — Ans. Have heard him use expressions which his children in his presence & hearing would tell him that it was not so, that it would make mischief in the neighbourhood, and would make him

liable in the eye of the law. — I understood the deceased to be adding himself to me. — Q. Did the deceased therefore desist from talking on the subject or subjects thus complained of by his children. — Ans. He would then stop. — Q. State the nature of the subjects thus spoken of by the deceased, and complained of by his children. — Ans. Deceased spoke of James Fountain ^{James Fountain} stealing ~~of James Fountain~~ bags of grain as near as I recollect, he was sickened by one of his children then present. — Witness that about eight or nine years ago as near as I recollect, the old gentleman complained that the boys were careless and neglected and were losing every thing off the place, the hired men were carrying every thing away, — that he told them (his sons) and they would not believe him. — Have heard him also speak disrespectful of other families, when his children would tell him to stop grandfather, and he would generally would yield to them. — Q. Have you heard it frequently and how often, the deceased complain that he was robbed by thieves. — Ans. His general complaint, I think was that his boys were robbed. — Q. Do you know of any application having been made by the deceased in 10 or 15 years to any person and where for the loan of money, and how did you come to know it. — Ans. Joseph Barton the son of the deceased told me, the deceased had went to John Fountain and borrowed money, don't recollect the sum, thinks a bout thirty or forty dollars, perhaps more or perhaps less. — Joseph said he did not know why Mr. Fountain would let him have it, for he did know the deceased was childish, — and as far as I can recollect he said there was no necessity of his borrowing money as they his children would furnish him with what was necessary. — Q. Have you ever been told by Joseph Barton the son of the deceased, that he the deceased was childish and would give all his property to the Baptist Minister, or Church, or words to that effect, state fully, and the time when this conversation took place. — Ans. I think about 15 or 16 years ago and perhaps longer Joseph Barton said he believed that if his Father had his property at his disposal, he would give

as leave as not his property to the Baptist minister, as he was so wrapped up in ministers, heard him then say that the deceased had taken or carried or sent of meat, grain and things out of the house more than he ought to do to the Baptist minister, I think I have heard others of the children say he had done things to the Baptist minister a little before this. — Did you know any of the children of the deceased say that their Father was childish, or incapable to attend to his own business, — state how often since the decease of the children, and when particularly you have heard such declarations by them or either of them. — Eldest son. —

Ans. I have often made them the children over and over again to make such declarations, more or less, just as it happened within 15 or 20 years. — Q. have you had any particular conversation in relation to the sale and disposition by the deceased, to any person or persons of his Real or other property or with Isaac Joseph or Samuel Barton. — Ans. I never had with any but Samuel Barton. — Q. when was this conversation with Samuel Barton. — Ans. about seven or eight years ago, or near so. I can recollect. — Q. what did he tell in that conversation. — Ans. he stated to me that he had heard, I have made great objections to his having bought the property and that he resided on it at that time, he appeared to be a little excited at me from what he heard, I had said on the subject of his having bought the property. — he said he thought was a better friend to him than I was from what he had heard I had said. — from what Exum or Desires had told him, — he then mentioned & said Mr. Prosser his sister was his best friend, — he then said he had bought the property or agreed for it, for the sum of something over 5000 Dollars, and that he was going to consult the heirs about it, — and that he was going to send for Withrop to bear the chain, to have the same surveyed, that he had spoken to Col. Conner, to make the survey. — Q. did he state anything else in that conversation. — Ans. he said his Father must do something, he was tired of living so in an uncertainty, and could or would

not live so any longer. — He journeyed to January 25th inst, and then returned, the Father having appeared.

Examination of John B. Nease continued. — Cross by Exum. — Q. how long since your first wife the daughter of Testator died. — Ans. I don't recollect exactly, but I think eighteen or twenty years ago. — Q. how long after her death when your young est child died. — Ans. about six or eight months after the death of my wife, may be longer. — Q. how frequent has your visits been in the family the last eight or ten years.

Ans. perhaps five, six or eight times a year the first part or first five years probably oftener on an average, — the last few years not so often. — Q. in those visits did you not frequently hear the deceased converse on the sales of property. — About 1862 and since that period. — Ans. I don't recollect his saying anything but about property fetching such a big price, most of his conversation to me was about Scripture and so far as I am a judge in spiritual matters should think him more correct on that subject than any other. — And about old stories. — Q. what did you infer from his remarks about the sales of property and the big prices they sold for. — did you suppose it a mark of childishness or not. — Ans. I should think it was a mark of childishness, caused by excitement from the remarks of others of the family. — Q. was it not a subject of general conversation every where and in every family about the time

Ans. that was generally the case. — Q. was not property as well as religion a subject of which he was particularly fond of conversing on. — Ans. about 15 or 20 years ago I can recollect of hearing the old gentlemen speak of some property at the nine partners, of which I knew nothing about myself except hearing him speak of and wishing the boys to see about getting it. — Q. have you not said you would make it cost the whole of the estate if you could, in offering the proof of this Will, or witness to that effect. — Ans. I never have, I have told my son I would rather buy anything than he should go to law about it, never advised my son to commence at law in this matter. — Q. have you not recently heard people say, the deceased was an unusually smart man for his age. — Ans. as to health he was, but not

to mind, which I have heard frequently and from the family themselves. — except in spiritual matters as I have above stated. — By the legatee — Q. What in addition to the declarations of Samuel Barton above named, that his Father must do something, he was tired of living so, on an uncertainty, that he could or would not live so long longer, did the said Sam^l Barton in that, or any other conversation with you, or in your presence or hearing say in relation to the estate, or the state of mind of the deceased. — Ans. I think he said the old gentleman had asked him \$10,000 for the property, & that he could not afford to give it. — he went a little further and said the old gentleman asked him \$7,000. — I think he said he could not afford to give that. — he then said he had bargained with him for five thousand & some hundreds of dollars. — he then asked me what I had to say about it. — I think I told him, I would have nothing to say about it, because he was dissatisfied with the little alteration we previously had about it. — he further said his Father was old and he meant to take care of him. — he then said his Father had a Will, throwing about the house, to the many of every body. — he said I could go and ask him the deceased about their bargaining about the property, — I declined so doing. I would not disturb the old man's peace. — I thought I had no right to meddle with or have alterations about it. I have often before them & since heard from Sam^l Barton and the whole of the family that in the residence both as respects the old man's words childish, but don't recollect hearing any of them say he was incapable to do business because he had not done any for twenty years to my knowledge; the conversation with Sam^l Barton was previous to his Election to Congress, about seven or eight or more years ago, perhaps a little longer from the first conversation I had with him about it, I kept no record of the time.

Q. Where did Sam^l Barton live, at the time of your conversation with him above stated. — Ans. At the residence of his Father, so called. — Q. During the several times that the sons, Isaac, Joseph & Sam^l Barton, lived at their Father's residence on the Farm, did not their families live with them there. — Ans. Yes, with the exception of

those who had no family. — Q. Did you know during the whole or any part of the period of time during which the said sons lived at the residence of their Father, that he ever transacted, or did any business whatever, either in buying, selling, or exchanging of property, crops, or any thing else, or in receiving, or paying out any money. — Ans. Not to my knowledge in many years. — Q. Do you know that the deceased within the period last mentioned owned, or was possessed of any personal property whatever, or had any debts due to, or claimed by him. — Ans. Not to my knowledge. — Q. Did you ever know either one of the sons, consult their Father in relation to the management of the Farm, or any business, they transacted for him in that period. — Ans. I never did to my knowledge. — Q. Did you ever during that same period 20 years hear it as a matter of general complaint or apprehension expressed by the said sons, or members of the family, that he had given away or would give away, more than he could afford to the Baptist Church, and that they or either of them had to watch him for fear thereof, or to prevent him — Obstructed by Peter for Ex^t. — Ans. I have heard a few family say, he had given more than he ought to, — have heard them say, they had to watch him, to keep him from taking things and giving them away, and have heard them complain of his misplacing things about the house, & heard them say he had taken the salt shad out of the barrel and draining them. — they said the old man was childish and did not know what he was about. — Q. Do you know of Sam^l Barton, or either of the sons, having made a statement or claim of a sum or sums of money, alleged by him or them, or either of them, to have been expended for improvements made, money purchased, or money advanced, for or on account of the Farm. — Ans. Not to my knowledge.

Crops, by Executor. — Q. In regard to bargaining with the deceased in relation to the Farm, as I told you in our conversation above detailed, did it not show he had some idea about the price of property, when you state he asked in the first place \$10,000, then \$7,000 and finally agreed to take \$5,000, or thereabouts. — Ans. My answer to that is, if he would ask ten, and take five thousand dollars, it would

be a short calculation in my opinion would show he has
no Idea of the Value of property. — Q. Don't these men
sometimes ask large prices, and take less frequently. — Ans. Some
times they may. — Q. Do you not know, or have heard
that in less than 20 years Mr. John Hancock bought a
lot of ground on the hill of the dead. — Ans. I do not know
positive untill this moment. — As to giving any details I cannot
for I never have heard anything positive till now the
question is put to me. — Q. And you not say on Satur-
day the deceased had borrowed money of John Fountain,
that the time was some time when that money was
borrowed. — Ans. I said Mr. Hancock had told me so, I
cannot say the time, think it was 15 or 20 years ago, I think
it was some time about that time. — Q. How long is it
you heard of his taking the share out of the farm. — Ans. I
cannot say, maybe one or two years ago.

By Legation. — Q. In all the conversations about the
farm and sale of the farm or other property of the deceased
was he ever present. — Ans. Never to my knowledge, I
never had but one altercation with the Col. (Samuel Han-
ton) since then the deceased was not present.

Visit to Isaac

Miss Sarah Brown, upon the part of opposing legation.
Q. Are you the grand daughter of Joseph Barton
late of New York, deceased, and what is your age. — Ans.
Yes Sir I am his grand daughter I am twenty five years of age.
Q. With whom have you lived during the last twenty years.
Ans. For the last ^{last eight} years I have lived with my grandfather
previous to that in the City of New York. — Q. During the time
you lived in the City of New York, did you frequently see your
grandfather, at his late residence. — Ans. I did visit there
twice a year, and may be oftener. — Q. Who lived with him
previous to your residence in his house. — Ans. My uncle
Abraham and his family. — Q. And either of your uncles
Isaac or Joseph live with your grandfather during that pe-
riod. — Ans. I don't know, cannot answer. — Q. How
long after you came to reside with your grandfather, was
it that your uncle Samuel remained there. — Ans. About
four years I should think. — Q. After he left who succeeded

him. Mr. Isaac Barton. — Q. How long did Isaac Barton live there
before he moved away. — Ans. He has never moved away he lives
there yet. — Q. What persons have composed the household, or family
of your grandfather since you came there to live, besides your uncle
Isaac. — Ans. Within five years back, my mother Mary Brown
myself. — A white man Jacob Burger, beside a black boy Comely lived
there some I came, — My uncle Samuel previous to that time.
— Before that, — Nathan Britton there about eight or nine months, and
after him a man as required on the farm. — Q. Can you tell the
names of the hired men you have spoken of, and the place, or
places of their abode. — Ans. Nicholas Burger the brother of Jacob,
the son of Matthias, who live with his father near New Crop, he
lived there about six months more or less, about one year ago. —
Q. Are you acquainted with J. Van Beekten Conner, has he ever vis-
ited or made a call or call at your grandfather during the time
you have resided with him. — Ans. Yes. — Q. What have been the
habits, business and occupation of your grandfather during the
time you have resided with him. — Ans. He has been in the
habit of fishing, nets, swimming twice, feeding poultry, walk-
ing round the place, reading untill the last two or three
years past, when his eye sight failed him, he could not
read as much as he formerly did, — Before that time he read
a great deal. — Q. Who has had the charge and manage-
ment of the farm and business of your grandfather during
your residence with him. — Ans. Uncle Samuel un-
till he went to Washington, then uncle Isaac came and
he has been there ever since. — Q. Have you ever heard
either of the sons, or daughters of your grandfather speak
of his child's death, and being very troublesome, during the
time you have resided with him. — Objected to by Britton
for Ex. — Ans. I have been in the habit of complain-
ing of his childishness myself, more than any of the fam-
ily. — I called it childishness, he used to bother me about
sweeping and other such things about the house, I can't
enumerate them, — he was in and about the house all
the time when knitting, winding twice or reading, — if
asked to remove when sweeping it used to annoy him.
Q. Do you know or have you heard it complained or spoken
of by any member or members of the family of his getting up

Abraham Shant, the other I don't remember, was the same transaction testified to by Abraham Shant on this hearing. — Q. Do you know, or have you heard that your grandfather had before this pretended sale to your uncle Isaac, asked \$10,000 for the Farm. — Answered to by Peter for Exr. — A. I have never heard him ask over \$7,000, and have never heard the family say he had. — Q. Cross ex. by Exr. — Q. Does your grandfather did he not generally call upon you if he wanted anything about the house to eat or drink or to be helped. — A. I was in the habit to be called on by him more than any person in the house; even in his last sickness, when he raised one of his feet, he called my name. — Q. Did you not at that time hear him ^{about} property and other matters. — A. I have heard him talk some in property, but not as much as about religion. — Q. From the knowledge ^{that} you had of him, did you ever suppose he was incapable of making a Will. — A. No, I never did. I should thought him capable of doing any business the very day he died, in buying or selling property, or making a Will, or doing any business he set his mind upon. — Q. Have you a conversation with him the day before he died, and if so please to state the subject and substance of that conversation. — A. I was with him pretty much all day, he told me he was 93 years & five months of age, he told me he had been Baptized fifty years, that his wife was Baptized one year before, and he was very much opposed to it, he was then brought under concern of mind & was Baptized one year after, he told me who the minister was that Baptized his wife, that a stranger Baptized him. — he said he would never would get over that talk of Asphyloxy Rahaa the day before, that he didn't live long; — he bade my uncle and aunt good night the night before and after his attack, and said he should never see them again. — Q. Do you recollect that your grandfather sold a lot of land to John Handcomb, and if so how long ago. — A. I have some recollection of hearing some talk about, heard my Mother say it was about ten years ago. — Q. At the time Saml. Barton

was about buying the place did you ever hear your grandfather first ask \$10,000, then \$7,000, or anything else about that transaction. — A. I never heard that he asked more than \$7,000 at any time, I think I recollect he would take a little time from him \$6,000, but after that property got up when Isaac wanted to buy it, he asked \$7,000, but afterwards I heard he concluded to let uncle Isaac have it for \$6,000. — Q. How often has your uncle John B. Wood been in the habit of visiting at the house in the last ten years, and what was the general topics of conversation when he was there. — A. The first five I cannot remember so much about, — for the last five years he has been seldom, not more than six times a year, and that on Sunday afternoon, I never heard him have any conversation with my grandfather, except to ask him how he was, or how he did, and then my grandfather would ask him how business was, then he would turn in conversation with other members of the family. — Q. Do you recollect hearing Mr. Wood saying something about a Will making about the house, have you seen or do you know anything about that Will. — A. I have heard it spoken of, or that there was such a Will, but heard it was destroyed, some years ago, and heard likewise it was made after the death of Mr. Wood & his child, — that the daughters of my grandfather living was left \$500 each, and Samuel Wood, the son of his eldest daughter \$250. — Q. Did you ever hear your grandfather say anything about making a Will from four to six years ago, and if so, state what you heard him say respecting it. — A. I heard him say he wished to make a Will, and heard him request uncle to have Mr. Marsh sent for to draw it, he seemed quite anxious to have it done, it was delayed some time, he appeared anxious and uneasy about it, after Mr. Marsh had been and finished the Will & went away, he appeared cheerful and happy as if something was of his mind and went and laid down, don't remember hearing him say at that time anything about making a Will, heard the black man say he went for Mr. Devereaux, but I

did not see him there, witness was not in the room at the time the Will was executed, or read, or while it was being written. — Q. did you ever hear your uncle Isaac, or any of the family urge your Grandfather to make a Will. — Ans. I never heard it spoken of to my knowledge, untill he requested Mr. Shaw to be sent for. — Q. did you hear your Grandfather after the execution of that Will, say why he made it. — Ans. I never heard him say to my knowledge, I don't remember hearing him say, but he told Mother, he did not think Samuel Wood should have a full share with his child. — I never, this is what I heard from my Mother. — The part witness heard from his Mother objected to by those for Legatee. — and struck out.

Re-examined to the witness, the 25th January, when the parties appeared and the question resumed. Sarah Freeman recalled. — Q. was not your Grandfather's eye sight very bad for the last few years of his life, and would he not frequently when people called ask who they were if he did not know their voices, and after he heard their names, did he ever forget them during their stay at the house. — Ans. Yes for the last time or four years his eye sight was very bad, and when people came to the house, he would ask who they were he was in a stopping posture, and not notice them, he would say his eye sight was bad, as an explanation or apology for asking, after he had been told who they were, he would not forget them while they were there, and after they were gone, he would ask where they were gone and how they went and perhaps if they came back the next day, he would ask again who they were for the same reason. — If witness went and stayed a fortnight, or whatever time from home, when I returned he would know my voice and call my name and ask questions about my being away, I have often remarked it to the family that he knew my voice so quick. — Q. within how many years has this been so, his eyesight so bad. — Ans. Within three or four years, his own family he would know, but others not. — Q. was not James Esprit, the witness examined in this matter, some sort of a stranger?

and did he not visit the family but seldom, and was it not as difficult for Testator to know him his wife, when first came in as any other strangers. — Ans. Mr. Esprit since his wife's death has been there three or four times, — during the last ten years they lived in the City of New York, and his wife was not in the habit of coming there more than once a year, and sometimes not more than once in two years, I therefore suppose it was a difficulty for Testator to know them as any other strangers. — Q. do you know that your uncle Isaac sent for your Grandfather to be an Agent & Sign Deed to convey to the Island, for the purpose of holding a consultation about the sale of the Farm, and as you state land you know about it. — Ans. It was sometime after the sale of the place to my Uncle Isaac, about two months perhaps, so long and not longer, but my Uncle Isaac told me to tell my Aunt to come over he would like to see them, and they would talk over about the sale of the place. — Then the Aunt told me it was not necessary for them, it was sold and they would have nothing to do with it. — Q. did they or either of them come at that time. — Ans. Neither of them came at that time, but my Aunt Esprit about one year after or longer came over. — Q. did you know when the said Isaac, or either of them came over whether there was anything said to your recollection, about paying them \$200. each at that time, and \$800. each at the death of the Testator. — Ans. I have heard both my Aunt Esprit say, when they came over, nothing was said to them about the place by my Uncle Isaac. — Q. did you hear either of them the Aunt say your Grandfather said anything to them about it. — Ans. I said not. — Q. have you any recollection about his taking Isaac out of the Cask, if so state what you know about it, and the time when it took place. — Ans. It was either last June or July, just before his death, his living was open, and he thought he would have them brought in the store room, he put them in a basket, and told them (the family) to fetch the barrel in the Store room, and he would put them in the barrel there to save them, — As I suppose from thence, the cellar was not kept locked, the store room was. — Q. did you not hear Mr. Esprit's testimony, as to what Testator said about them, and the days being hid, state whether there was —

not some hallucination, or reason for Testator saying, that such was the case. — Question with concern.

By Legatee. — Q. Was there any lock to the cellar at once before the time your Grandfather desired the Shadys, to have them put in the store room. — A. I think the windows were locked the cellar. — there was a padlock to it at that time and before. — I state was aware that the cellar was not locked at that time. — Q. Do you instance to say that the time of seeing and obtaining a tree had spoken of by Mr. Wade, in the time you speak of, are once the same time. — A. I never have heard but of this one instance of last summer. — Q. Do you know that the time you say your Aunt came over, and told you that nothing was, or had been said to them about the place, is the same time spoken of by your Uncle Lewis & Egbert. — A. They never were sent for but once to my residence, and therefore I expect it was the same time. — Q. Do you know that an offer of \$1000 — cash, and \$5000 at the death of your Grandfather, was not made or spoken of by him to your Aunt, Egbert & either of them at any time. — A. It could not have been said any time, because they have told me, it never was named to them in any way or shape. — Q. I might not such an offer been made to them, and they not have spoken of it to you. — A. Certainly, but I have heard my Uncle Isaac say, he never had made such an offer. — Q. When did your Uncle Isaac tell you this. — A. I can't tell the first time, but have heard him several times since, that he never has mentioned the sale of the property to his sisters. — Q. Since when. — A. It has been since this case was brought up. — Q. Have you ever heard it said, that your Uncle Isaac had offered to give your Aunt, the sum above mentioned, or either of them and if so when and by whom have you heard it said. — A. Justified by Porter for Ex. — A. I don't know any thing about the circumstance, have not heard any such thing. — Q. Have you ever heard your Uncle Isaac speak in the first of those offers, until since the day your Uncle Lewis

Egbert was examined here in this matter. — A. I have heard him say so since, don't remember of having heard him before. — Q. You have stated your Grandfather's eye sight was bad within the last three or four years of his life, please tell me now has his hearing even within your own knowledge been impaired, defective or bad or worse than it was when you first came to live with him. — A. He never has lost his hearing in the least. — Q. Was you present on the day, and at and about the time Mr. Marsh came to discuss your Grandfather's Will when you spoke yesterday. — A. I was at home and with him when he came. — Q. At or about what hour of the day morning or evening was it. — A. I don't know whether it was in the morning or after 2 o'clock it was some where night. — Q. None of the family were at home when Mr. Marsh came. — A. I am not so certain, but I think since I am my mother and myself, I think but am not so positive, but that was when I came in. — Q. Who received Mr. Marsh when he came to the house. — A. I cannot remember, I think it was myself, or I was in the habit of receiving persons and letting them in, I think it likely I did, but am not positive. — Q. Was your Grandfather up and about the house, or was he in bed. — A. He was in the habit of laying down twice a day, don't recollect he was lying down at that time or not, can't say we had dinner or not when Mr. Marsh came. — Q. Did you then know the object of Mr. Marsh's call. — A. I did, had he seen his Grandfather make the request, he would be sent for. — Q. Do you know, who provided Mr. Marsh with paper, pens & ink to discuss the Will. — A. I don't. — Q. Was your Uncle and/or other, or yourself, or either present, when Mr. Marsh was writing the Will, if so which of you. — A. Neither my Mother or myself was present, I think Uncle Isaac was and may be others, I don't know as I was not there myself. — Q. Are you not certain that your Uncle Isaac and was present. — A. I am not certain, I think he was not. — Q. Did you see Mr. Marsh go away that day. — A. I don't remember that I did. — Q. Did any person or persons come to the house while Mr. Marsh was there, and is so whom. — A. Not to my recollection except Mr. Dipsey who was sent for. — Q. By whom was Mr. Dipsey sent for. — A. I don't

know. — Q. Did you see Mr. Sissonway when he came. —
 Ans. No sir, I was in the kitchen, heard the door when I pre-
 sumed it was him. — Q. How long had Mr. Marsh been there
 when Mr. Sissonway came in. — Ans. I cannot say, it may
 not appear to me, he had been there long, and he did
 not remain very long after Mr. Sissonway came. — Q. Was
 your Grandfather's habit of speaking quick or slow. — Ans.
 Spoke like other people not very slow. — Q. How long after
 Mr. Marsh had gone away, was it that you heard Mr. Marsh
 had been answering, and that your Grandfather had been
 making, or had made his Will. — Ans. I made no doubt
 but I understood the Will was made. — Q. Where was your
 understanding and by whom was your opinion made. — Ans. Cannot
 answer that question. — Q. Did you see your Mother, or your
 Uncle Isaac, or some other member of the family tell you
 the Will had been made, if so who. — Ans. I have no recollection
 of being told any such thing. — Q. You have stated that
 you have heard there was another Will of your Grandfather
 speaking about the house, as the expression was by him in
 the document, which says of another Will, and also
 that you have heard it was destroyed, by whom was you in-
 formed that said Will was destroyed, and where was you
 so informed. — Ans. I don't remember. — Q. When did
 you hear that Will first spoken of. — I have heard the Will
 spoken of a long time ago, as for the time and when I cannot
 recollect. — Q. Did you hear that said Will more than
 twelve years ago, and where did you first hear of it. — Ans.
 In my father's house. — Ans. I cannot remember. — Q. You have stated
 in answer to your second question, that you had seen a document
 by which that you have received some compensation of money
 \$10,000, though \$7,000 for the place or anything else in your Grand-
 father's estate, did you ever hear them, or either of them speak of
 the probable value of the Farm during this speculation, or at
 any other time previous or subsequent thereto. — Ans. I
 do not remember hearing them talk anything about the
 value of the Farm during the speculation times, have
 heard them say it was not worth more than 5 or 6,000 dol-
 lars for farming purposes, but when and what time I can
 not say. — Q. Was your Grandfather's mind as vigorous

and active in the later part of the day as it was in the morning. —
 Ans. It was not, he was more childish in the evening. — Q. At what
 hour of the day generally would you discover the evidence of such
 childishness, was it before or after dinner. — Ans. Of course after din-
 ner. — Q. In the conversation of your Grandfather, which you
 heard, during the speculation, did you ever hear him speak of
 his Farm being so valuable, or so good, or better than any
 farm in New York, or in the neighborhood, or on the State
 Island. — Ans. I never heard him make use of such ex-
 pressions. — Q. What did you hear him say as to the value of his
 farm, at or about that time or afterwards. — Ans. I do not
 recollect of hearing him value his farm, I think, I am
 not certain when he had sold it to Uncle Isaac at, or
 before the speculation times. — Q. Had your Grandfather
 any personal property at the time of his death. — Ans. I
 do not know he had any, except he had sold the place &
 the price of that I considered personal property. — Q. Any o-
 ther I do not know.

By Expiration. — Q. Was he not rather set in his opinions,
 and not easily persuaded to do anything that he thought
 was not right. — Ans. he was very much so.

By Legatee. — Q. Was not that the case on all, or almost all
 occasions. — Ans. Yes. — Q. Was it not in consequence of
 that you were to have some interest in a man who had him in
 his opinions & whims. — Ans. It was in consequence of that we
 had to give way to him.

Joseph Sissonway

Joseph Sissonway. — Q. Was he on the part of the legatee. — Q. Was
 you the Grandson of the late Joseph Barton of Southfield, and
 what is your age. — Ans. Yes sir I am. — Was thirty
 six years of age last September. — Q. Did you ever reside
 in the family of the deceased and when. — Ans. I am not
 positive to the time. — About 18 or 20 years ago. — Q. How long
 did you reside in his family. — Ans. About three years. —
 Q. What was the nature of the employment of your Grandfa-
 ther during that time. — Ans. No particular business or
 charge of anything. — Seeing about the place and occasionally
 by attending the store of Uncle Samuel as I believe, which
 store was near the dwelling house, adjoining the road.

Q. had he any charge of that store, and did he attend to any important business thereof. — Ans. he had no more charge than merely attending to it occasionally. — Q. was he capable of attending to it, or transacting any business of importance, during the time you were there. — Ans. I think he was, at that time, I never heard any complaint of his incapacity, only that his eye sight was bad, and that he would often make mistakes, in the store, in making change. — Q. was he competent to take charge of the store and transact business during the whole period of time, the three years that you was there. — Ans. he was not. — Q. what was the cause of his incapacity. — Ans. One thing was his eye sight was bad, — another was, he was not in the habit of attending there; — perhaps was often found fault with by his Uncle Samuel & Joseph of leaving the store alone with him the deceased. — they often said his eye sight was poor, that he was not in the habit of attending there, and was apt to make mistakes, or something to that purport. — Q. did they ever complain of his want of capacity, his reason of his being childish, and therefore inconsistent. — Ans. they often complained of his giving things away to his sisters, that he would give the last thing away he had, this was in common conversation, that he gave out of the draw, this is what they complained of. — I never knew him to give money out of the draw, that he could account. I am not prepared to say, they were often to say he was childish. — his Grandfather would often scold them for his sons, they were his sons, they would not mind, or pay any attention to it. — Q. from your observation of your Grandfather's language and conduct, did you believe him to be childish, and in consequence susceptible of taking care of your transacting his own business and property judiciously, or otherwise. — Ans. I should think him at that time competent to convey property, or make a will. — Q. how long afterwards did he continue thus competent. — Ans. I cannot say how long after that, I was not in the habit of going there often,

but have often heard my sister, who was in the habit of going there often, my Mother also, after I left, also Sarah Wilson who was frequently at my house, say when I would ask them, when they had been there, — they would say he was well but very childish and troublesome, and would often be in and out different circumstances and transactions, such as his being behind of the driver in the house, or absent the place, I don't remember the words but to that purport, had heard them say, & often remark it, he did not know any of them, and that it was scarce or satisfaction to go to see him, has heard his Mother say, when she would time he would not know her until told. — Q. how long ago was it you first heard these complaints, or remarks. — Ans. I cannot say positive, but for the last eight or ten years, he has considered childish, troublesome and foolish. — I do not speak this as my own knowledge, but from conversations of those I have named. — Q. have you ever heard your Father make such remarks, as to the childishness of your Grandfather, or say that they did not know him when he went to see him, or when he went to his house, & that fully where and how often. — Ans. I don't recollect of his saying he did not know him when he went there, have often heard him say he thought he was childish, this was about the time some one, or more of my Uncles it was said, was about buying the place. — Q. did you and your family reside in the same house with your Father, when you have heard him say, he thought your Grandfather was childish. — Ans. no Sir, I never have resided in the same house, since I have had a family. — Q. have you had frequent conversations with your Father in relation to your Grandfather since you left him. — Ans. I have had frequent conversations with my Father about my Grandfather on the same subject, in those conversations I have heard him say he was childish and thought so twenty years ago, and that he thought him incompetent to make a will, often heard him make such remarks in course of conversation, and that he had no right to convey the property.

By the Executor. — Q. how old was you, when you lived at the house of your Grandfather. — Ans. about sixteen

when I went there, when I left about 18 or 19 years
ago
Lambert Egbert

Referring to the memoir of the first instance, when
the parties appeared, I recognize the matter.
Isaac Woodland, I was on the part of the Executors.
Q. Was you acquainted with Isaac in Boston & the town
of Southfield, deceased, and how long? — Ans. I have been
acquainted with him about twenty-five years. — Q. Did
you live near him during that time? — Ans. I lived
all my life within two & half miles from him, one
mile about 25 years ago, I lived in the house with him
was a clerk in the store of Samuel & Joseph Boston by whom
I was employed, the store was close to the front of the
house, the residence of the deceased. — Q. In what
relation do you stand to the deceased? — Ans. I married
his daughter, Maria daughter, the daughter of Mary
Wood. — Q. Have you been in the habit of visiting
the family of the deceased during that period, and how
frequent during the last ten or fifteen years? — Ans.
During the last ten years from ten to fifteen times a
year, probably oftener, the last six years on an aver-
age probably twice a year. — Q. During those
visits did you frequently talk and converse with the
deceased; and if so on what subjects generally? — Ans. on
different subjects, so far as farming, farming if it happened
in the spring or the year, — and buying & selling of property.
Q. Did he in these conversations appear to be rational
and possessed of an intelligent mind and understanding?
— Ans. he did appear so. — he frequently advised me to the
scheduling of my children, speaking of its importance, he
could observe, it was of more importance to them, than all
the money I could get together for them. — Since he then
had in contemplation the buying of a Farm, deceased as
I said was never to buy rough, or stony land, he would
say it was a folly to purchase such land, as you could
not get more than one crop of it after manuring, and
never get your money back for it. — I could relate a great
many conversations of a like nature. — Q. Did you

hear the testimony of Mr. J. B. Wood in relation to the deceased
changing Land from him, then a case of grain, do you not
think the deceased had reason to make use of the land sold
by Mr. Wood, and why do you think so. — Ans. I raised three
bags of grain and raised the crop about sixteen or eighteen months
after in the Spring, he had been giving him seed he got
the bags, he said he got them from Mr. Wood. Well in exchange
for his own. — I have true the necessity of raising the bags of grain
after I found the crop, I took care and how I found them.
Q. From the conversation of the deceased and your knowledge
of him, do you believe he was capable of making a Will, con-
veying property and transacting business? — Ans. Yes Sir I
do from the conversation I have with him. — Q. Did you
ever hear him converse about the sale of his place and give
reasons why he sold it to Isaac Boston? — Ans. I don't know
that I ever did hear him give any reasons for or why he
sold it to Isaac Boston but once, that was in 1839 or
40 in the Spring; I have been accustomed to look at East Smith
Farm in Westfield. He enquired of me when I came back,
the situation of the farm, whether it was rough land or
level. — I answered him it was considerable rough land
and hilly. — he then said with land brought the most ma-
ny new crops. — I then said to him Grandfather
had taught to tell some of your hills up here, he then
answered me he had sold it to Isaac, after that without
further conversation in about ten or fifteen minutes, he
told me he had made a Will; and that he did not think
it hard, eight hundred dollars should have an equal
share with his children as his Mother was dead & gone,
and he the only child. I then said to him Grandfather I
don't want to hear anything about your Will, I then went
away. — Q. In that or any other conversation with him
did he not say that he sold the place to Isaac, and what
reasons did he give thereof? — Ans. The deceased in that
conversation did say he had sold the place to Isaac, de-
ceased said he wished his place to stay in the family, that
Isaac had no children and probably would not have
any, that the place would come back in the family
after Isaac's death, or wishes to that effect, he then

He said that he supposed if the place was put up at auction it would bring more money, - he did not mention to me the sum he sold it to Isaac for, and I did not ask him. Q. As you knew the eye sight of the deceased was defective for the last five or six years, that he could not readily distinguish people when they came in. - And his eye sight had failed him for the last two or three years immediately and I think his hearing likewise.

Ans. Yes on the best of the othering legals. - Q. What induced the conversation about the sale of the Farm to Isaac Barton, John said it to be plain, and to know the price. - And I have not been to buy the farm myself, but it was put up at auction, and I have heard a great deal of talk amongst Mr. Roberts children, particularly Charles and John, and Charles Roberts children, about the selling of the place by the old gentleman and his incapacity of mind to give away and that they had frequently said he was insane, and the place would bring a great deal more money, than he had sold it to Uncle Isaac for. That induced me to make the inquiry of the deceased, to satisfy myself of his knowledge regarding the farm and making a Will, as I had heard he had done, - this conversation took place in 1839 or 40, the summer I have been to look at a lot of the farm in Westfield. - As before was present at the time, deceased was sitting on the stoop when I came up, I went and sat down by him.

Q. Was there no other person present for you to converse or continue that conversation. - Ans. No particular person present that I know of. - Q. Had you ever heard from any friends or members of the family, that the deceased had said, or was about to sell the farm to Samuel Barton before this sale to Isaac. - Testimony of hear Chapman heirs objected to by Executor. - Ans. Yes I have. - Q. State the names of them, and how often you have heard so, and what said they or either of them say on the subject and when & where. - Ans. I have heard it spoken of at my house, & so at deceased's house, I think I have heard several speak of it, also Sarah Gibson I think at her friends at their house, it may have been at my house, I am not positive. - In this stage of the evidence the Director for

Executor makes objections to all hearsay testimony of all persons other than the Executor named in the Will. - The amount of such conversation generally were, that Uncle Samuel had offered \$500. I think for the farm, that the deceased wanted more than he offered him, how much more he wanted I cannot say, - I do not recollect any thing was said of the childishness of the deceased, in those conversations but he said Samuel Barton said he had offered \$500. for the farm, and that was all he could afford to give. - Q. Did you ever say, or have you ever said, that there would be dissipation after the death of the deceased. - State your reasons. - Ans. For the same reasons above stated, and that they thought the place would bring much more money than it was sold for to Uncle Isaac. - Q. Have you been well acquainted with the farm of the deceased on which he formerly lived and worked, - if so state the character of that farm. - Ans. It bears the name of a very good farm, a greater part of the tillable land is under a very good state of cultivation and productive as other farms of the kind in the neighborhood, part of the land is very poor and unproductive, thicker the farm contains one hundred acres, or something over. - Q. According to the price of farms of that description sold at about the year 1836, what would be the probable price for the farm if the deceased would have sold for. - Ans. The probability is it would have brought \$1000. at that time if any person had taken a notice for it and had plenty of money, - all the tillable land is level. The farm contains a large portion of Marsh and Hill land, which is of little value for any purpose.

Q. You say the deceased advised you against purchasing hill & stony land, alleging as a reason after mowing you get but one crop, is that opinion of the deceased correct or not. - Ans. I should judge so from my knowledge of farming. - I am a farmer and was brought up such.

Q. Is there not a strong prejudice existing in the minds of those accustomed to cultivate level land against stony & hill land. - Ans. Yes sir.

By Executor. - What do you really think is the value

of that farm for farming purposes, sometime with another.
Ans. About 7,000 Dollars Grace W. Adams

David A. Clawson, sworn on the oath of the opposing Legatee.
Q. Were you acquainted with Joseph Barton late of Southfield
and how long. — Ans. Yes, have known him for about 25
years. — Q. How far have you lived from his place or where, dur-
ing all that time, and have you been during that time inti-
mately acquainted with his family. — Ans. I met one time a
week, the place, have been in the habit of seeing his sons, but often
have not visited in the family, but have been in the house
several times during that period. — Q. Did not you have
knowledge of the general reputation of his industry, of mind
and capacity for business during that time. — Ans. For the
last ten or twelve years it was reported he was intemperate, I have
heard it spoken of by John & August Day, except it was by
neighbors. — Q. Did you ever hear any of his sons, speak
of deceased's state of mind and capacity for business. — Ans.
No. — Q. Have you not been an appraiser of the town of
Southfield, in which the deceased resided, and are you
not now one of the judges of the common prices of this County.
Ans. I have been an appraiser of the town for eight or ten years
previous to 1836 or 37. — and am at this time one of the judges. —
Q. Have you been well acquainted with the value of Real
estate in said town, during the period of time you was an ap-
praiser. — Ans. Yes, I thought I was. — Q. Have you been and
are you now well acquainted with the farm on which the
deceased lived and died. — Ans. Yes sir. — Q. What has been
and is the character of the farm as such, its state of cultivation
and number of acres, and what is its value. — Ans. The
character of the farm has been that of a good farm for the
last thirty years, the last 12 or 15 years has been very much
improved, the tillable land as valuable as any in the
neighborhood, the tillable land is level, very little wood,
some part of the farm is hilly, of the level land part is marshy
& not so valuable, in a high state of cultivation, the
site eligible, cannot tell the number of acres of the
farm. — The value one time with another, except the
valuation time 7 to 8,000 Dollars. — Q. What was its

probable value, or what would it have probably brought in, or about
the year 1835. Ans. I suppose it would have brought at that time
about 14 or 15,000 Dollars.

Joseph Day Executor. — Q. You say that you heard the child-
ish prop of deceased talked of, cannot you name one individual, you
have heard speak of it. — Ans. I think I have heard Edward
Paine, the adjoining neighbor to deceased speak of it, perhaps a
week or two to six or seven times, he said he was remarkably healthy
but childish. — Q. Have you not been and conversed with the
deceased within a few years, and how long. — Ans. I think
I have within three or four years, to say now or never, or
its a fine day, or passing remark, but not to converse with
him. — Q. Did you converse in that intercourse with him
any thing like childishness. — Ans. No, I did not.

Be Legatee. — Q. What is your occupation. — Ans. I far-
med and was brought up to farming, — considered himself
a competent judge of farming.

By Executor. — Q. Did you ever see or necessary ever
childish of his own knowledge, or heard other say so. —
Ans. He did not say it was from his own knowledge or heard
other say so. — J. A. Clawson

Adjourned to January 31st instanc, when the parties
by process, and further adjourned. — Deceased Feb
17th and resumed the examination.

Converse P. Barton sworn on the oath of the Executor. —
Q. Where do you reside, what is your age, were you ac-
quainted with Joseph Barton, and how long. — Ans.
I reside in Southfield, age 24 years, have always been
acquainted with the deceased, resided with him to the Spring
of 1836, he was my grandfather. — Q. Since you have re-
moved out of the family, have you been in the habit of being there
frequently and how frequently. — Ans. I have been there
very frequently, sometimes three or four times a day, sometimes
not but three or four days, very seldom once a day, during
the period from 36, to the time of his death. — Q. What was
the state of his mind during all the time of your acquaint-
ance with him. — Ans. He has been for the last ten, or
twelve years, like most old people childish, tho' he appeared

to me to be capable of transacting almost any business, think he was capable of making a Will and disposing of property. — Q. Have you ever heard him during the time of the speculation, converse abt. at the value & sale of property. — A. I have heard him say property was a great deal to high, he said that the land sold by my Grandfather since was much more than it was worth, it was not worth much more than the mortgage. — he had sold it for twice the worth of it. — Q. What did that property of Mr. Perkins ever refer to by you selling, and what was the amount of the mortgage & on what money. — A. He for 6000 dollars. — the mortgage was in 200 dollars, the time of the money was paid some, the quantity about 20 acres of land. — Q. Was not the deceased's opinion correct as to the value of said property, so far as you have been able to judge from subsequent events. — A. I should think he was very correct in his opinion. — Q. Was your Grandfather Barton easily persuaded to do anything without not right. — A. He was not. — Q. Was he not in the habit up to the day of his death of shading himself, and doing many other little things, which a person of his age might require help to do. — A. He all ways shamed himself I believe as long as I can remember when he was well, he certainly was very smart of his age.

Q. As to the part of the deceased's legatee. — Q. What do you mean of his being very smart of his age, as you relate to his capacity of mind, or to his bodily strength & ability. — A. He was very smart in both, but in my judgment he was to his bodily strength. — Q. You have stated he was childish, was that the general opinion of his family, his children & Grand children as well as your own. — A. I believe it was. — Q. For how long a time was he so childish. — A. It is hard for me to say how long in their opinion, but in my opinion for ten, twelve or fifteen years. — Q. Was he unwilling or any, or what part of that time entrusted with the control or management of any of his business, or affairs. — A. He had very little business to do, the

James was managed by his sons, deceased had no business to do that I knew of, or that he was entrusted with, except something into and some such little things about the house. — Q. Do you know of his having applied to any person or persons for a loan of money and to whom, and his sons or which of them complained on that occasion, that he was incapable of doing business because he was senile. — A. I do not know of his borrowing money or any such knowledge, never heard any complaints by any of the family, that he was incapable to do any business. — Q. Did the Testator mention much before of your Grandfather Perkins ever sold, how much it was sold for, that there was a mortgage on it, and the amount of the mortgage. — A. I think he said, 'I think I sold him myself. — Q. Was that in early said, at a price equal or nearly so, with the other property like it, in its vicinity, at the time of its sale. — A. There was no property like it sold, — it was so rough & barren. — Q. Do you not know that property in the vicinity of this land which was very hilly and rough, and esteemed of little value before the speculation, was sold at prices equally or nearly as high or higher than this land. — A. I do not know but that there was some hilly land sold at extravagant prices at that time, but not knowing the quantity. — Q. Did you ever hear of the Testator making a Will or Wills, and what were his reasons for so doing. — A. I never heard his reasons, but have heard he had made two Wills. — Q. During the last ten or fifteen years of your Grandfather's life, have you heard he was about to sell his farm or other valuable property, or transact any business of importance, would you not have objected to it, and if so on what ground. — A. I should not have objected to it, for I should have no ground for objecting. — Q. Would you have considered him competent of himself to sell his farm, or to transact business of importance. — A. I should think him competent for any business of that kind. — Q. Did you ever tell any person or persons and whom, that the deceased would not have made his Will, or a Will, had he not heard that Mr. John C. Wood said he had no right to make a Will, and that was the reason for his making a Will. — A. I might have told my wife, that I heard that was the reason

but I never said that was the reason for I did not know
— Q. Who told you that was the reason. — A. I do
not recollect.

By Examinee. — Q. you have said, he, the deceased
was childish, was it in all things, or in some trifling
things, such as theirs about the house &c. — A. He was
certainly not childish in all things, but in some little
things. — Q. did you think he gave up the management
of his farm in consequence of his incapacity for business
or from what other cause. — A. he gave up his farm
before I can remember. — Q. did you ever hear any of
the sons of the deceased, or any other person or persons say
he was not capable or neglecting of his property, or making
a Will, and if so who were they? — A. I have never
heard but two persons in my life say so, they were L. B.
Woods & James Ewert, to my recollection.

Examinee J. Benton

deposited to me March the 18th of February, when

The parties appeared & renounced the matter.

By J. F. Fountain. — sworn on the part of the Examinee. —

Q. Where do you reside, what is your age, how long have
you been acquainted with Joseph Barton deceased. — A. I
reside in Castleton close neighbors to the deceased, age
about 55 or 56 years. — I have been acquainted with
deceased 30 or 40 years, have been intimately acquaint-
ed with him during that time. — Q. have you visited
and conversed with him frequently in the last ten or
fifteen years and if so what has been his capacity of mind
for making a Will during that time up to 1838. — A. I
think, deceased was capable of making a Will up to
that time, was frequently at his house during all that time,
had frequent conversations with him on various subjects.
By Opposing Legatee. — Q. have you not during
the period of your acquaintance with the deceased, stated
or said to others that he the deceased was childish and in-
capable of managing, or attending to his business & af-
fairs, and have you not heard that opinion expressed
by and among the members of his family, as in common

report in his neighbourhood, or among his acquaintance. — A. I
do not know, but I may have heard some such thing like other
old men, have heard James Ewert say he was childish, also I think
and have heard a good many others the same way. — Q. whether
you have not some grounds for saying he was childish & making his
business affairs, not to my knowledge or never necessary the same way
of the deceased saying he was incapable of managing his business &
affairs, does not know it was necessary to say in the neighborhood
the deceased was childish, or incapable of managing his business. —
Q. did the deceased ever say to you or the last time he was at
ten and eleven. — A. he said once up to, I cannot tell how long
ago, but there must be ten years, I think the same was said then
to others, I do not know it to be true. — Q. did you ever say that
to the deceased, or did any one or more of his sons, or members of his
family, ever say to you or complain to you for having so done,
on what ground or for what reason did they so complain. — A. I
do not know that any one of them ever did. — Q. did you ever
hear the deceased say you were false or saying he had made a
will or made his will or Will. — A. the first Will he made a-
bout 15 or 20 years ago, he made me to write it, I did not know
anything about any of it but the first one gave no reason, never
said anything to me about the last Will. — Q. did you ever tell
the deceased or any of his family anything about them one or more
that he the deceased was childish, the father of James Woods the op-
posing legatee, had said the deceased had no right to make a Will
conveying or disposing of the farm on which he lived. — A. I
never told the deceased, but since the 15th of the Will has
been in question, I have said some of the family, that L. B. Woods
had told him, the deceased had no right to dispose of the farm,
the fee was in the children. — John F. Fountain

By J. F. Fountain. — sworn on the part of the Examinee.

Q. what is your profession & age and where have you resided
since you have lived in the County of Putnam. — A. I am
a blacksmith by profession, forty years of age, resided nearly
seven years in the County of Putnam in the Spring of 1836. — Q.
was you intimately acquainted with Joseph Barton deceased and
how long. — A. have been acquainted with the deceased
since the Spring of 1836, intimately, have had frequent conver-

sations with him during that time sometimes two, three times monthly, sometimes not in two or three months. — Q. What was your opinion of his capacity for making a Will, according to your intercourse with him and others? — Ans. I am of opinion he was perfectly competent to make a Will, until within a very short time prior to his decease, which renders me the less intimate with him, the deceased made particular inquiries of me, of the state of religion in the Church, and a certain time I had informed him, he gave me the history of the Church of which I am the present Pastor, and also the names of the former Pastors, their deaths &c. — I also mentioned which Church was his mind, &c. he gave me the account of the remarkable talent of Mr. Bruce, who was a friend of his, who formerly was the Pastor of said Church, & which the deceased was and had been a member, — At a subsequent interview he particularly inquired of me the state of religion at the Church at the north side, I think it was a little more than a year after I had taken charge of the Church, I informed him our prospects was very encouraging as a number had professed religion and been Baptized within that time, at which information he is reported to be much affected and wept, and remarked that such a number had not been added to the Church for some time, I had also had frequent interviews with him and conversed with him frequently on religion, have often been surprised when he related his exercises, and with what correctness and precision he could quote Scripture, and have remarked his memory was better than my own in some instances, — At a subsequent period not more than two years before his death he informed me of conversations which took place between Eliza Holmes and his wife more than forty years ago, and of her visiting with the Church, and what effect it had on him, it being the means of his conversion and his subsequent union with the Church, — At that time it struck me more forcibly of anything else of the strength of his memory. — I have heard remarks made of his being childish about minor affairs of the family, I have remarked whatever had been

said of him about those minor affairs in the family, about religion and property I considered him very sensitive when these subjects were talked of, — I have found him reading a newspaper and remarked I was astonished to find him so capable of perusing and commenting on its contents.

Q. Prop. by Doctor for Legatee. — Q. In the interview spoken of, were any members of the family present? — Ans. Sometimes there has been, and sometimes not, most generally none present, sometimes my wife and family were present: — Q. What was the general topic of conversation in your several interviews with deceased? — Ans. Religion generally, sometimes other topics such as husbandry — farming, knitting, &c. and some such housewifery affairs, and sometimes about property at the time of the conversation, and occasionally some times more. — Q. What kind of news papers or books, have you seen him reading & come meeting on? — Ans. The Baptist Advocate, concerning a religious paper, I think I have seen him on one occasion read the Evening Post. — Q. How long before he died did you think him competent to make a Will. — Ans. I never have thought him particularly incompetent. — Q. Have you ever and how long before his death thought him incompetent to transact and manage his worldly affairs? — Ans. I have always up to my last interview with him which was about two months previous to the time of his death, thought him competent to transact any business, which he in his feeble state of health might have occasion to transact. — And as I believed his most important business was disposed of before that time, I had heard he had made a Will. — Q. Did you as Pastor of the Church deliver a funeral address on the occasion of the death of the deceased, and what did you in that address say, as to the capacity of mind as to worldly & spiritual affairs. — Ans. I do not recollect making any remark about worldly affairs, — but I recollect making remarks similar to those above stated, respecting his mind and conversation I had held with him on religious matters. — Q. Did you not then say in substance that his mind as to worldly affairs was deficient or incompetent, but about spiritual and religious matters he was sound. — Ans. I do not recollect making such an assertion, as to the

former part of the sentence, as to the latter I believe I
 did. — I have you discussing your intercourse with the
 family of the deceased, heard them, or any, or which of
 them say he was childish and how often have you heard
 such remark is made. — Ans. I never have heard
 such remark during the last two years, & the gentle
 manner of Mr. Brown, I don't recollect any one else say
 he was considerable troublesome and almost childish,
 and I don't recollect that ever before that time I heard
 such remark.

Yours truly
 William White

Reference is made to Feb 21. 1838. When the parties of
 Pearce and I returned to the mother
 Joseph P. Berger, known in the best & to the living circle
 of those who were acquainted with him in the father, the
 father of Isaac, Joseph Samuel, & others, to the father of Isaac
 & Isaac knew him, because, and people of age would have been
 acquainted with him. — Ans. I was acquainted with
 Joseph P. Berger, died. — I became acquainted with him
 through my marriage & his friends daughter, Eliza
 Brown. — I have been personally acquainted with him
 from Philadelphia, — lived neighbors, have been in the street
 while quite a child. — Q. What is your age. — Ans. in my
 twenty ninth year. — Q. How long have you been married
 to Eliza Brown. — Ans. married in the fall of 1837. — Q. Have
 been in the habit of visiting the deceased and family of the deceased
 for some time, and if how long. — Ans. from eight to ten
 months. — Q. Did you ever live with, or in the family of the de-
 ceased. — Ans. I did not live with her. — Q. What was
 the general nature of contact of the deceased and in what esti-
 mate as to mental faculties was he held by his family. — Ans.
 his general nature of contact was such by them, that his family
 thought him childish by turns, have heard Mr. Brown say that
 in law, the daughter of the deceased, Mrs. Isaac Brown say that
 I have heard no one else, except my wife and Sarah Brown
 say so. — I have seen him do things, that I thought did not
 show a rational mind. — I have heard him speak on spiri-
 tual points, and from his manner, I was inclined to think
 he was always rational and right when speaking on, or in

reference to that subject. — Q. Was he in the habit of exercising any
 control of, or over his affairs. — Ans. I think not sir. — Q. Where
 your opportunities for judging of the fact last stated, such as to in-
 quire you in your intercourse or dealings with the deceased, to
 have dealt with him without first having consulted his fam-
 ily. — Ans. I never had any dealings with him. — Q. Was the
 deceased capable of making a direct exposition of his estate.
 — Ans. It is a hard question for me to answer, at times I thought
 he was, at other times not. — Q. At what time of day did you
 think him more or less rational. — Ans. from 10 or 12 to six o'clock
 in the evening, that was the time I was generally in his compa-
 ny, and heard him talk on scripture and other matters.

Q. By the Executor. — Q. How long since your wife Eliza
 Brown's death, did she leave any children, and how long after
 her marriage and you live with her before her death. — Ans. she died in
 September 1838. — she left six children, lived with her eleven months to a day
 before she died. — After her death I went to Texas. — Q. Have you not
 heard the deceased, talk on other subjects than scripture, and have
 you not heard him talk rational on other points besides scripture.
 — Ans. I have heard him talk rational on other points than scripture
 at times, at other times not. — Q. Have you seen his acts and
 conversation which would lead you to believe he was not in his right
 mind at times. — Ans. what induced me to think he was not ra-
 tional at times was, that he would talk of thieves stealing corn
 from the crib, he meant to get up in the night and watch them.
 — Have heard him talk of digging gold, out of a hill.
 — to which is a story place to the best of my knowledge, I never
 have dug in it, have lived near it, — on other subjects —
 hearing him talk on, at the time I lived at the North
 side. — Sometimes he would talk on a subject as if he knew
 something about it, and then he would fly from the subject.
 — I know of no other matter in particular that I can name.
 — Q. Did you ever know him to go astray when on the sub-
 ject of religion. — Ans. No sir, when I took the trouble to re-
 fer. — I always found him correct. — Q. Did you never hear
 him converse on the subject of buying and selling property,
 and if so was not his sense generally correct. — Ans. I never
 heard him. — Q. His suspicion of thieves, did it not show
 in your opinion, that he had a knowledge of things going

on, on the farm, and that he felt anxious about its con-
 Lewis. — Now, he seemed to be anxious about the concerns
 of the corn crib, and that the corn should not be taken
 out, I don't know he ever interfered in the management
 of the farm, but he seemed to wish that nothing should
 be taken from it. — Did you never hear there was corn
 stolen from the Cribbs and when. — No, I never heard of
 any, from the best of my knowledge. — Have you not
 heard other people whom you considered to be rational,
 talk of finding gold on the hills of Maine & Canada. — No, I
 never have.

By the legatee. — I was the house & premises of the
 deceased infected by him. — I was in the house
 I did you ever hear of any Will or Will & the same
 and if so state where it was made. — No, I never
 my wife say there was a Will & the deceased in the Win-
 ter of 1838. — I don't know if it was a common belief
 the family that about 1838 or 1839, that at the same
 place near a Will was made as the Will was made. — No
 I have heard my wife & Sarah Thomas both speak of a
 Will, at what time the Will was made I don't know.
 They said he was not made about the Will. — I don't know
 that he was incapable of making a Will, or that I did
 not consent to any thing, or to that person, and an
 other besides the deceased was incapable of making a
 Will at the time of said conversation. — And they had
 nothing about the Will, except it was there. — I answer
 before as to his capacity to make a Will, sometimes he
 was and sometimes not capable.

Joseph P. Wenger

Edw. C. Egbert, sworn on the part of the opposing legatee.
 Q. Are you the grandson of the late Joseph Barton and
 what is your age, and have you and how long been in
 contact with and in the family of the deceased. — Ans. I am
 his grandson was thirty three years of age formerly last, and
 my boyhood have been intimate with deceased and the
 family. — Q. Adjoining such your acquaintance, what has
 been the state of mind of the deceased, and his capacity
 for management and control of his business and affairs.

Ans. I have thought him myself rather imbecile for a number
 of years, from 1832 up to the time of his decease. — Sometimes I thought
 him simple and silly, & on some things, he would ask
 me a great many questions, some would be appropriate to my business
 and some not, and sometimes he would ask questions I thought
 not much of, as it was his idea. — What acts of imbecility
 have you seen him do. — Ans. I have seen him when I was there,
 do acts that a child would do, & nothing but a child, I have seen
 roll stones in the yard, & when he would laugh he would as a child
 would, & have seen him throw coal to the chickens and laugh to
 see them. I have seen him do the same as a child would, have seen
 him do many imbecile things. — I was there one time when
 the prison was out upon the prison, I thought the prison had eaten
 through the prison, & when he saw the prison to my mind, & then he
 beat the prison, and reprimanded him for it, he said nothing but
 walked in the house. — I don't know the general character or reputation
 of the deceased, as to mental capacity in his family. — Ans. the general
 and reputation, he was childish, & don't say better than the mem-
 bers of the family thought him incapable of managing his affairs
 or not, have heard some of the family say he was not, & don't
 know but I know more particularly, & don't say any one else,
 & it was you in the report of visiting the deceased within ten or
 fifteen years preceding his death. — Ans. yes. — I had you an
 opportunity of judging of the intellectual capacity of the deceased,
 and what of your opinion on the subject. — Ans. I was as my
 capacity allowed me to judge, I thought him childish for ten
 or twelve years back. — I had no business with him, and he did
 no business that I know of.

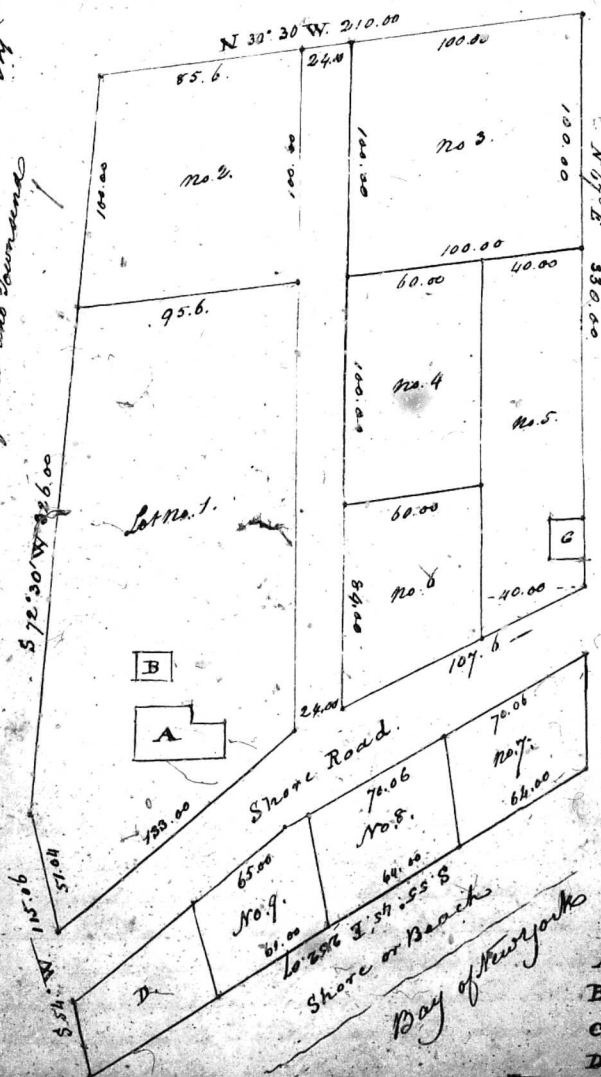
Cross by Egbert. — Q. how long ago was it, you saw him
 rolling stones in the yard and laughing at it as a child. — Ans.
 I think it was in 1835 or 1836, before I was married, don't know any
 body else saw him rolling stones. — Q. did you not hear him
 converse on different subjects during your visits there, and
 if so state if they were allways in that childish way your de-
 scribed. — Ans. I have heard him converse on religious subjects
 heard him quote passages in scripture and comment upon it
 in a sensible manner, have never seen him vary on the
 subject, have heard him talk rather wild on the same
 across business, and gold digging, — As to business I never

A map of land of Richard Silas
in Southfields Richmond County
forming part of and referred to in
the annexed last will and testament.

Law and Townsend

Richard
to Silas

Law and Townsend



Formerly Morgan Place

A Traveling house
B Kitchen
C Stables
D Lot used to
Joseph Silas
James and family

In the name of God; I, Omer J. Richard Silva, of Southfield, in the County of Richmond, Michigan, being of sound mind, but weak in body, do make this my last will and testament as follows, namely: I give, devise, and bequeath unto my son Jeremiah Silva, the lots designated on a map of my land in Southfield, Richmond County in which I now reside; which map is attached to and for the purpose of reference forms a part of this my last will and testament, by the numbers 1. (one) and 9. (nine), which lot number one includes the dwelling house in which I now reside: To have and to hold the said lots numbered one and nine, to the said Jeremiah Silva, his heirs and assigns forever, subject nevertheless to the payment, on the death of my wife, of the sum of four hundred dollars, to my Executors hereinafter named; and subject also, the use and occupation and income of said premises, to my wife Hester, during the term of her natural life. And I hereby order and direct my Executors herein after named, upon the receipt of the said sum of four hundred dollars, to pay over the same to my son John H. Silva; and I hereby give and bequeath the said sum of four hundred dollars to my said son John H. Silva. I give devise and bequeath to my grand sons, William D. Silva, the son of my son John H. Silva, and Richard S. Stillwell, the son of my daughter Hester Stillwell, the lot, designated on the annexed map by the number 2. (two) lying in the area of the first above mentioned lot numbered one, to have and to hold the same to them their heirs and assigns forever: And I hereby authorize and empower my said Executors, herein after named, to divide the said lot into two equal parts, quantity and quality considered.

and to allot one of said parts to said William Del-
 va, and the other of said parts to the said Richard
 S. Stilwell. - I give, devise and bequeath to my
 daughter Hester Stilwell wife of James Stilwell
 and to her heirs and assigns forever, the lot desig-
 nated on said map, by the number four, on which
 the said James Stilwell has lately erected
 a dwelling-house; said lot being one hundred
 feet in length, and sixty feet in depth from a
 road which I have laid out from the shore
 road; and is twenty four feet wide and extends to
 the rear of my land. Also, I give, devise and be-
 queath to my son John H. Silva and to his heirs
 and assigns forever, the lots designated on said
 map, by the numbers five and seven, said lot
 number five being forty feet in width, and extends
 in depth from the shore road to lot numbered on
 said map by the number three; and is bounded
 in front by said shore road; southwesterly by lot
 numbered six and four, westerly by lot number
 three, and northerly by the land formerly known as
 the Brazil place - and said lot number seven,
 lying below the shore road afore mentioned, and
 between the same and the shore of the Bay. -

I give, devise and bequeath to my wife Hester
 during the term of her natural life, after the pay-
 ments of my debts, legacies and funeral expenses,
 the use of the following real estate, and the income
 thereof, during her natural life, namely lots de-
 signated on the annexed map, by the numbers one
 and nine, which I have herein devised to my
 son Jeremiah; and also the use and income of all
 my real and personal estate not herein before de-
 vised, the same to be in lieu of dower on my estate.

I give, devise and bequeath unto Sarah Bird,
 my daughter, who is the wife of Abraham Bird
 the sum of four hundred dollars; to be paid
 to her, as soon after my decease as my Executors
 can realize funds from my estate to pay the
 same.

same. I give and bequeath to my daughter Betsey
 Heath, the income of the sum of two hundred
 dollars during her life; said sum to go at her de-
 cease to her child, or children her surviving.

I give, devise and bequeath unto Hester Silva
 the daughter of my son Richard deceased, the
 sum of fifty dollars. I give and bequeath
 to my two grand children, the children of my
 son Oliver Silva deceased, the sum of twenty
 five dollars. I hereby release my son Joseph
 Silva from the payments of all debts and sums
 of money due from him to me including a bond
 and mortgage on the house and lot he now occu-
 pies and a note with my endorsement for about
 one hundred dollars held by Abraham Amerson
 the payment of which I hereby assume. I hereby
 will, order and direct, that the road laid out through
 my lands, on which I now reside, running from
 the shore road to the rear of said lands, and being
 twenty four feet in width, as the same is laid
 down on the annexed map, shall at all times
 hereafter, be and remain open as a common pe-
 rone road, for the use of the several owners and
 occupants adjoining the same. I hereby author-
 ize and empower my Executors herein after named
 or the survivor or survivors of them, to sell and
 dispose of all my real estate not herein devised,
 at any time after my decease, when they may
 think advisable so to do. And after the payment
 of the legacies herein before mentioned & expensed
 I give, devise and bequeath the rest, residue and
 remainder of my estate, both real and personal
 to my three sons, John, Joseph and Jeremiah,
 and to their heirs and assigns forever, share and
 share alike. I hereby nominate constitute and
 appoint my friends Leonard Parkinson & Jacob
 Gametson Junr. and my son John H. Silva, ^{executors}
 of this my last will and testament; hereby ^{revoking}
 all wills and testaments by me heretofore made.

In witness whereof I have hereunto set my
hand and affixed my seal, this twenty ninth
day of April, one thousand eight hundred and
forty two.

his
Richard X Silva
marks

Signed, sealed, published and declared by the
said testator Richard Silva, as and for his last
will and testament in our presence, who in his
presence and at his request, and in the presence
of each other, have hereunto subscribed our
names as witnesses hereto.

Jeremiah Parmele, Southfield, Richmond County N.Y.
Robt M. Brantingham, Southfield Richmond County N.Y.
Henry B. Melcalfe, Castletown Richmond County

State of New York

Richmond County ss. Be it remembered that at a Sur-
rogate's court, held at the office of the Surrogate
of the County of Richmond, in Southfield, in
for said County, on the twenty first day of
March, A.D. 1843. Before Lewis R. Marsh
Surrogate

In the matter of proving
the last will & testament of
Richard Silva, dec'd.

on reading & filing the petition
of John H. Silva, propounding the will of the said
deceased, an order was made and entered that a cita-
tion issue to the next of kin and heirs at law of the
said Deceased, in pursuance of said petition, return-
able the thirtieth day of March inst, at two o'clock
in the afternoon.

Lewis R. Marsh Surrogate

Be it remembered that at a Surrogate's court
held at the office of the Surrogate of the Coun-
ty of Richmond, on the thirty day of March
A.D. 1843. Before Lewis R. Marsh Surrogate

In the matter of proving the last
will & testament of Richard Silva, dec'd. John H. Silva
the propounder of said will, and Jacob Garrison
Jr., two of the Executors named in said will
appeared

appeared. Leonard Parkinson one of the Executors
named in said will, did not appear, but sent to the
said Surrogate a renunciation of his right to be
sworn and act as an Executor of said will. Joseph
Silva and Jeremiah Silva, two of the next of kin
of said dec'd, appeared. And whereas it appeared in
said petition when the same was presented to
the said Surrogate on the 21st day of March inst.
that a part of the heirs and next of kin of said
Deceased are minors, viz Sarah Ann Lavinia
Silva & Francis Silva whereupon an order was
on that day made and entered, that Jeremiah Sil-
va be appointed Guardian for said minors for the
sole purpose of appearing for and taking care of
their interests in the proceedings to be had on said
petition. In pursuance of which appointment
the said Jeremiah Silva appeared for said minors
and returned the appointment of Guardian of
said minors, with his consent to become Guardian.
The service of said citation on the widow & all
of the next of kin of said Deceased, who did not
appear, was duly proved. On filing the said cita-
tion & papers leave was given to the said John
H. Silva and Jacob Garrison Jr. to prove said will.
Lewis R. Marsh Surrogate

In the matter of proving the last will &
testament of Richard Silva, late of
Southfield deceased

Richmond County ss: Henry B. Melcalfe of Castletown &
Robert M. Brantingham of the town of Southfield
in the County of Richmond, being duly sworn depose
and say, and each for himself say, that
he was well acquainted with Richard Silva now
deceased, that he was present as a witness and
did see the said Richard Silva now dec'd sign & ex-
ecute the instrument now produced & sworn to
purporting to be the last will and testament of the
said

said Deceased, bearing date the twenty ninth day of April, in the year one thousand eight hundred and forty three; that such subscription of the said last-
 tor was made in the presence of these deponents.

That the said Testator, at the same time declared the instrument, so subscribed by him, to be his last will and testament. Whereupon these deponents each signed his name as a witness at the end thereof, in the presence of and at the request of the said testator; and that the said testator, at the time of executing and publishing said will, was of full age, of sound mind & memory, and not under any restraint; and was, in all respects, competent to devise and bequeath real and personal estate. And each of these deponents, for himself further saith that he saw the other, together with Surman Parmelee, the other subscribing witnesses to said will, sign said will as witnesses, in the presence and at the request of said testator. Henry B. Metcalf, Robert M. Brantingham. Sworn this thirtieth day of March A.D. 1843. before me Lewis R. Marsh, Esq. Surrogate.

State of New York

Richmond County. To: Be it remembered, that at a Surrogate's Court held at his office in Southfield in and for said County, the thirteenth day of March A.D. 1843. Present Lewis R. Marsh Surrogate, the foregoing proofs and examinations were taken by one the said Surrogate; that the depositions of Henry B. Metcalf and Robert M. Brantingham, were by them respectively subscribed, after having been carefully read to them. And I the said Surrogate being satisfied from the proofs and examinations so taken, that the will of the said Richard Silva de? was duly executed & published, as required by law. - That the testator, at the time of executing & publishing the said will, was fully competent in all respects to devise and bequeath real and personal estate, and not under any restraint. Do therefore

allow

allow said will, proofs and examinations to be recorded: which said will, proofs and examinations are herein before recorded and contained: and do order that said will be admitted to probate, and ^{let} letters testamentary thereon, granted to John H. Silva and Jacob Ganetson Junr, two of the Executors in said will named, on their taking and subscribing the oath of office prescribed by law. Witness Lewis R. Marsh the Surrogate aforesaid, on the day and year first aforesaid.

Lewis R. Marsh Surrogate.

Be it also remembered that on the said thirteenth day of March A.D. 1843, personally appeared before me John H. Silva and Jacob Ganetson Junr, two of the Executors named in the will of Richard Silva de? and were duly sworn to the due execution of said will, by taking the oath required by law.

Whereupon probate of the said will and letters testamentary thereon were duly issued. The said Executors; and said letters recorded in the book kept for that purpose in the office of the said Surrogate. Witness Lewis R. Marsh the Surrogate aforesaid the day & year first aforesaid.

Lewis R. Marsh Surrogate.

I, Jeph. Morgan, of the town of Westfield, in the County of Richmond & State of New York, considering the uncertainty of this mortal life; and being of sound mind and memory. Pleased be God for the same, do make and publish this my last will and testament, in manner and form following that is to say:

First, after my decease, I wish all my funeral expenses & just debts to be paid out of my estate by my Executors.

Secondly, that all my property, both real & personal remaining be placed in the hands of my Executors for the support of my wife and the furnishing