

Prerogative Court of New Jersey.

ON APPEAL FROM THE ORPHANS COURT OF MORRIS COUNTY.

MORRIS ORPHANS COURT.

MAY TERM, 1859.

At an Orphans Court held at the court house at Morristown, in and for the county of Morris, on Friday the third day of June, A. D. eighteen hundred and fifty-nine (being, as yet, of the May term of that year—present

Hon. EDWARD W. WHELPLEY, *President Judge*.

Ira C. Whitehead, Joseph Dalriddle, and Samuel O. Briant, esquires, *Judges*.

In the matter of the proof of a paper writing, purporting to be the last will and testament of Hannah Coddington, late of the county of Morris, deceased, exhibited on the part of Smith M. Miller, one of the persons claiming to be an executor, therein named,

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On trial.

and

George C. Coddington and John A. Coddington, caveators,

Thomas A. Hartwell and *Theodore Little*, esquires, proctors of Smith M. Miller, the acting executor.

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Augustus W. Cutler and *Vancleve Dalriddle*, esquires, proctors of the caveators.

William Brittin, called and sworn on the part of the acting executor—examined by Mr. Little—I live in Madison; I am

eighty years of age, a little over; I have been in the habit, for many years, of drawing deeds and wills for my neighbors. I knew Hannah Coddington in her lifetime; I knew her seven or eight years; I think I have known her since 1850; she lived in 1850 with Smith M. Miller, her son-in-law; it is about two or three miles from me. I believe there was a little time that she did not live at Mr. Miller's since 1850. I transacted other business for her besides drawing her will; I drew her pension for her; I used to see her
 10 twice a year in reference to her pension; she died last fall, the fall of 1858.

A paper shown the witness, purporting to be the last will and testament of Hannah Coddington, marked *Exhibit A.*—The witness says that he wrote this paper for Mrs. Coddington; it was written at Smith M. Miller's; Mrs. Coddington was present when it was written; it was written in her presence; Mrs. Coddington dictated the will to me, and gave the directions as to the drawing of the paper; I had no difficulty in understanding her instructions. The will was read
 20 over to her after it was written, and before it was executed; it was executed the same day it was written; the other witnesses were in the room, and were present when the will was executed. After I had read the will to the old lady, the witnesses were called in; I asked the old lady if that was her last will and testament, and further if she was willing to subscribe to it; her answer was yes. She appeared to me to be of sound and disposing mind and memory at that time. I do not recollect that I saw anything there that day that led me to suspect that she was not of sound and disposing mind and
 30 memory. The will was dated the same day it was drawn; she died in the fall; the other witnesses were in the room, and signed the will. I think Mr. Smith M. Miller must have been in the room, and his wife; they were passing in and out of the room. She was in the habit of making her mark when she signed the receipts for her pension. She sat by the table when this was signed; I am not positive whether she was sitting down or standing up when she made her mark; as far as I can recollect, these other witnesses saw Mrs. Coddington sign the will.

40 *Quest.* Was the acknowledgment, that that paper was her will, made after or before she signed it?

Ans. All at one time, as near as I can recollect. She was in the habit of making her mark to receipts for her pension.

Quest. After she signed the paper, did she say anything about that being her last will and testament?

Ans. I do not know that she did after she signed the paper; it was all at one time, and she made the acknowledgment in the presence of the other witnesses. I signed it as a witness at the same time; I signed the paper after she signed it. 10

Cross-examined by Mr. Cutler.

Quest. Who called upon you at the time you drew this will?

Ans. She spoke to me several times to do some writing; she wanted me to write her will. I was there at Mr. Miller's on the 4th of March, or a day or two afterwards, after I had made out her papers for her pension. She walked out with me into the front door-yard; she wished me to come shortly and draw her will for her; she observed that she was old, and that she wished it done right away. I told her that I would 20 come over shortly, and do the writing for her, if she wished me; she said she did so. I went away at that time, and told her I would come over shortly. I did not go in some time, on account of my business; I went on the 27th of April, because I promised her to go. I do not recollect that I saw her from the 4th of March until I went to draw the paper. I do not recollect that I saw Miller or his wife on the day I went, or a few days prior; I do not recollect that Miller or his wife requested me to come over; I don't think that anybody did request me but the old lady; I do not know what her age 30 was, except from what she told me—she told me that she was over 90 years of age—the odd years I do not recollect. It appears to me that I got at the house at 10 or 11 o'clock in the morning of the day I wrote the will. I do not recollect the time I left the house of Mr. Miller; the day I wrote the will, I don't think I ate dinner; it took me some time to write the paper. When I got there, Mrs. Coddington was in the house of Mr. Miller; I don't think she was in bed; I saw her in the room; I think Mrs. Miller was in the room with her; there were one or two other women there—I 40

think Mrs. Miller's sister—I think they called her Mrs. Fisher. It appears to me that Mr. Miller's daughter was there that day—I am not certain about it; there was two or three women there; I think Mrs. Carr, the witness who subscribed the will, was there when I got there; I think, when I got to the door, I discovered a woman I was not acquainted with. The first conversation when I went in with Mrs. Coddington was, she said how do you do, and shook hands. I walked into the front room, and told Mrs. Coddington that

10 I had come to do that writing for her; she said very well, I think; she seemed to be very well pleased that I had come. I then went into the front room, and sat down by the table, and asked for a pen and ink, and some of the family furnished me with a pen and ink; she, Mrs. Coddington, followed me into the room. I commenced writing the will; at the time I was writing the will, I think her two daughters were in and out of the room, passing in and out; I do not remember anybody else being in the room; I did not see anything of Mr. Miller while I was drawing the will.

20 *Quest.* In what manner did you obtain her direction for drawing the will?

Ans. From her own speaking.

Quest. Did she show or exhibit any hesitancy in giving the directions for drawing the will?

Ans. Not at all.

Quest. Did she speak in reference to any other will she had made?

Ans. I don't recollect that she did.

I did not see any other will that day. There was no one in

30 the room at the time I read the will to the old lady but Mrs. Coddington and myself. The will was executed in the front room next to the highway; it was written in the same room it was executed in; it was executed as soon as we could get the witnesses, after it was read to her, I could not tell how long. I can't say who went after the witnesses; I saw the witnesses when they came into the room where I was; I do not recollect whether they came in together or not. After the witnesses came into the room, and before the will was signed, I said to her, you acknowledge that this is your last

40 will and testament that you are about to sign, is it Mrs.

Coddington? She said yes. I filled the pen with ink, I believe, and asked her if she was willing to put her name to the will. She stepped up to the table, and said I must write her name as usual, as she made her cross. After she had signed, I wrote my name as a witness. I saw Mr. Dickinson and Miss Carr write their names; I sat by the table. I do not recollect that Mrs. Coddington said anything after she had made her mark; I took the will—she requested me to take it. After Mrs. Coddington made her mark to the will, I don't know that I said anything about the will one way or 10 the other. From the time I became acquainted with Mrs. Coddington, I do not think I had any other acquaintance, except at the times I saw her to get her pension. She was a little deaf—you did not have to talk very loud to make her hear; for a woman of her age I thought her eye-sight was very good; her memory, in regard to events of the Revolutionary war, was very good. I cannot say much about her memory in regard to things and about events of late years.

Direct examination resumed by Mr. Little.

I think Mrs. Coddington gave me reasons, before I wrote 20 her will, for making her will. She told me that she wanted to make a will in order to give to her two living daughters more than she gave to her grandchildren; she said that her husband had made a will, and had given to her sons more of the estate than he had to the daughters; she said her sons got a good deal more of the property than the daughters did; her two living daughters were Mrs. Miller and Mrs. Fisher; she, Mrs. Fisher, was there—I saw her; she lives in Michigan. I have taken the acknowledgment of a great many papers as commissioner, judge, and justice. My practice has been to take 30 the acknowledgment after the instrument was executed; I do not know how I came to vary the practice in this case. I used to put the question in the common form, you acknowledge that to be your hand and seal for the uses and purposes therein expressed.

Quest. Upon reflection, in regard to the paper, what is your impression whether you deviated from your usual practice?

Ans. I don't think I did.

Re-examined by Mr. Cutler.

Quest. You say that you asked her if that was her last will and testament before she signed it—do you recollect whether you asked her if that was her last will and testament after she signed it or made her mark?

Ans. I do not recollect about it distinctly, but presume I pursued the usual course.

I cannot recollect whether, after this will was drawn, she asked me to draw another will. I will tell you the circumstance. I was there with Mr. Sayre; I did not hear her say
10 that she wanted me to draw another will; I did not hear her distinctly, but heard her say something about a will; her conversation was addressed to Squire Sayre.

WILLIAM BRITTON.

Sworn and subscribed in open court, June 3d, 1859.

IRA C. WHITEHEAD,

JOS. DALRIMPLE,

SAMUEL . BRIANT.

Harriet Elizabeth Carr called. Alleging herself to be conscientiously scrupulous of taking an oath, being solemnly
20 affirmed, saith—examined by Mr. Little on the part of the executor—I live in Chatham, in this county; I am married; my husband's name is Frederick W. Carr; I probably live three miles from Smith M. Miller's; I am no relation—I am a visiting acquaintance. I know Mrs. Coddington; I knew her as well as any of the members of the family; I always saw her when I visited there—I have been in the habit of visiting there about three years. I was there at the time Col. Britton speaks of—the time this will was executed; I came
30 there that morning on a visit; I went there in our own conveyance; I remained there until after tea; I did not see Col. Britton come—I was not there when he came; I got there, I should say, about ten o'clock; I presume Mr. Britton was there when I got there. I first saw Mrs. Coddington when I was called into the room to witness the will—Mrs. Coddington and Col. Britton called me into the room. She, Mrs. Coddington, told me that she wanted me to sign a will? I think Col. Britton first came to the door—I cannot tell which one first spoke. I had then been there probably one hour, or an hour and a half—it was before dinner. The paper was sign-

ed in the front room; when I was called in, there was in that room Mrs. Coddington, Col. Brittin, and Mrs. Fisher; I do not recollect whether any one else was in the room or not; Mr. Dickinson had not then come—I could not tell how long I had been in the room before Mr. Dickinson came; he came just before the will was signed. After Mr. Dickinson came into the room, I spoke to him—the family spoke to him; Col. Brittin and Mrs. Coddington came to the door, and we both went into the front room (Mr. Dickinson and myself); then Mrs. Coddington signed the will 10 first; I think Col. Brittin signed the will next, and Mr. Dickinson and myself last. As we stood by the table, I think Col. Brittin asked her if she acknowledged that to be her last will and testament; I think she put her hand on the will, and said she did; I think that acknowledgment was made just after it was signed. After we came into the room, Col. Brittin asked her if she acknowledged it to be her will. He said something about its being her will, and she said it was; then she signed it. After she signed it, the Colonel said over some form of words about its being her 20 will—I do not recollect the words; she put her hands on it, and said it was; that was before Mr. Dickinson and I had signed the will as witnesses; as to Mr. Brittin, I will not be positive about it. Mr. Brittin took the will, I think; Mrs. Coddington asked Mr. Brittin to take the will. Mrs. Coddington talked as usual, perfectly rational, only more animated than usual, in consequence of recalling some old recollections. I talked with her during that afternoon; I am of opinion that she understood there that day what she was doing perfectly—I mean in the making of her will; I have 30 no doubt about it; her eye-sight was good for a person of her age—sometimes it was better than at other times; she knew me that day by sight, for considering her age she was remarkably smart; she conversed fluently—her conversation that afternoon was perfectly rational and very entertaining. I did not see anything there that day that led me to suspect that she was not capable of disposing of her property by will or otherwise; she was, in my opinion, perfectly capable of making a will understandingly. I heard her talking with Mrs. Miller and Mrs. Fisher that day; there 40

was nothing irrational in that conversation, that is the conversation spoken of before. I saw her make her mark; Mr. Brittin and Mr. Dickinson were by at the same time, and must have seen it; we all three signed there in the room as witnesses. I had not been in the room before Mr. Dickinson came; Mr. Dickinson and myself went into the room together.

Cross-examined by Mr. Cutler.

Mr. Miller's daughter, Mrs. Brant, and my little girl went
 10 with me that day to Mr. Miller's; Mrs. Brant lives in Chatham; we went in my carriage and with my horse; Mrs. Brant lives near me. I had intended to go somewhere else that day, and got disappointed, and Mrs. Brant came to spend the day with me, and we concluded to go to her (Mrs. Brant's) father's and spend the day. Mrs. Brant came to my house about nine o'clock in the morning, perhaps a few minutes before. My horse and carriage was not up when she came. I cannot say which proposed to go to Mr. Miller's; I wanted to go somewhere. It took us about one hour
 20 to drive over to Mr. Miller's. It was, probably, not more than fifteen minutes after Mrs. Brant came over to my house before we started—it might have been twenty minutes. The age of Mrs. Coddington was upwards of ninety years—I do not know the odd number of years. I made a call at Mr. Miller's about new years; it was some time in December, after the will was made. I cannot say whether I was there before the will was made or not; I cannot say whether I was there during the course of the winter or not. I first became acquainted with Mrs. Coddington when I first
 30 visited Mr. Miller's, three years ago this past winter. I cannot say how many times I visited her during that three years to make a visit—I was not there more than a half a dozen times. I often called when I was riding that way; I think I did visit a half a dozen times during that period, and I may have more. I saw Mrs. Coddington every time I was there except one; and then Mrs. Coddington was on a visit herself to some of her relatives. I have visited there before with Mrs. Brant; Mrs. Brant was generally with me when I went. Mrs. Coddington always recognised me when I
 40 went, except sometimes, as I have stated, when she could

not see very well—then I always made myself known to her immediately. Mrs. Coddington always recognised Mrs. Brant; I do not know that Mrs. Coddington spoke first, but Mrs. Brant always spoke to her, and she was always glad to see Mrs. Brant. I could not answer as to whether Mrs. Coddington was forgetful—I was not with her enough to know as to that; she could remember past events particularly. I know she said something about her will after Mr. Brittin went away, but what, I will not undertake to say, and it was not the topic of conversation. She appeared contented, now that the will was made; she said nothing about any other wills she had made. I do not know how she devised her property; I do not know when Mrs. Fisher left for Michigan; she left Mr. Miller's a few weeks after that day; she spent some time in Williamsburgh, I believe; I was not acquainted with Mrs. Fisher—I only saw her twice. Mrs. Coddington never visited me at my house. 10

Direct examination resumed by Mr. Little.

A paper being shown the witness, marked *Exhibit A*, the witness says, that it is the paper she has referred to executed in my presence as the will. When she could not recognise me by sight, when I would tell her who I was, she would know me. 20

HARRIET E. CARR.

Affirmed and subscribed in open court, June 3d, 1859.

IRA C. WHITEHEAD,
JOS. DALRIMPLE,
SAMUEL O. BRIANT.

Counsel for the executor offer the will in evidence, and ask the court to admit it to probate. Marked *Exhibit A*. 30

Caleb Dickinson, a witness to the will, being called and sworn on the part of the caveators.

Examined by Mr. Cutler.

I live on the road from Morristown to New Providence, about two and a half miles this side of New Providence, and about two hundred yards from Mr. Miller's; I have lived there some fifty years or more; I was borne and brought up there; I knew Mrs. Coddington by sight twenty-five or thirty years ago; I had no particular acquaintance with

her until she came in our neighborhood to live, some eight or ten years ago; she has frequently visited at my house during that time; she continued to visit at my house until a short time before her death—I think she visited at my house early in the fall before her death; I saw her when I would be at Mr. Miller's; I was at Mr. Miller's not very often, but I might say as often as half a dozen times a year; I think Mrs. Coddington told me that she was ninety-six years of age.

10 *Quest.* For the last three or four or five years, what has been the state of her mind and memory?

Ans. For things that occurred when she was young, up to the time when she was sixty or more, she could tell as straight a story as she ever could—I do not know but what she would up to the last time I saw her; anything that occurred recently, her mind was quite treacherous on. She would not always recognise me when she saw me, until I told her who I was.

Quest. Why did she not recognise you?

20 *Ans.* Because she could not see, for one thing; her memory had become impaired in regard to things of recent occurrence. In carrying on conversation, she would sometimes stop right in middle of a story, and stop for a half minute, and then go on with it again, and sometimes drop it entirely; she was very deaf.

Quest. On the day you went to the house of Mr. Miller, and Mr. Brittin was there, how came you to go there?

Ans. I was sent after; I think Mr. Miller came after me; he asked me to go over to his house and witness a will.

30 *Quest.* What did he say? [Objected to.]

When I got to Mr. Miller's house, Mrs. Coddington was, I think, in the front room with Mr. Brittin.

Quest. State what occurred after you got there?

Ans. There was nothing in particular that occurred, except what has been stated before; I entered the house—I went in at the kitchen and dining-room—they are both one I believe. I spoke to Mrs. Carr and to Mrs. Brant, and took a seat and sat down; I think I sat there, and conversed with them some ten or fifteen minutes—it may be more; 40 then we were called into the room to witness the will; I

think we were called by Mr. Brittin; the will, when we went in, I think, was not exactly ready for our signatures. Mr. Brittin asked Mrs. Coddington if she acknowledged that to be her last will and testament; Mrs. Coddington threw her arms on the will, and said yes; I thought that she appeared to be a little excited at the time; Col. Brittin took hold of her hand and the pen, and made a cross; (I think he first wrote her name); I think she was not able to do it without being assisted; she was trembly—she could not steady her hand. After she signed it, the Colonel signed 10 his name; I followed, and Mrs. Carr after. The Colonel then took up the will, and began to fold it, and asked her what he should do with it. She replied, that she thought that he had, perhaps, better take it home with him; I left in a few minutes after. Mrs. Fisher came there in the fall previous, and staid until spring; I think she left in a few days after the will was wrote.

Quest. Was Mrs. Coddington, in your opinion, on the day she executed this will in better health or memory than she had been some time previous? 20

Ans. I saw no particular difference, according to my recollection.

Quest. Did you consider her of sufficient mind and memory to execute and make a will on that day?

Ans. Well, I don't think she was, and don't think she had been within the last three years.

Quest. From what circumstances and facts did you form that opinion?

Ans. From what I heard her say, before and afterwards, I formed that opinion. 30

Quest. State from what you formed your opinion?

Ans. I heard her say—I heard her repeat it more than once—that she had sold a bit of land or property that belonged to her; that she had divided it equally among her children; that that was the will of her husband, and that she meant to carry it out. She afterwards become sorry that she had parted with that money—she was sorry that she did not hold on to it; she was afraid she would come to want. I have heard her repeat that a good many times. [This evidence objected to by executor.] After she made her 40

will in April, she came to my house—I think it was in the fore part of June; I was out on my farm to work. I came to the house of some errand; Mrs. Coddington was there. When I was going back to my work, she followed me out doors; she said she wanted me to do some writing for her; I asked her what she wanted; she exclaimed that she did not know what possessed her to make that will; she said that they took her out in their carriage a few times, and palavered her up, and got her to make a will, and then they dropped
 10 her; she wanted to make a new will. She said she had poor grandchildren, that needed her property more than Mrs. Fisher or Mrs. Miller, and that she wanted the will constructed in that way; and further, she said that she had never had anything of Mrs. Fisher or Mrs. Miller but what she had paid them for, and doubly paid them for. Well, I made the reply to her, that she had better get some of her grandchildren or some of her own folks to do the business for her; that I did not want to have anything to do with it. I made up my mind, from what she had told me before and
 20 afterwards, that if a person could be led away that she was not competent to make a will; that was my opinion about it.

Saturday morning, June 4th, the examination of Mr. Dickinson continued by Mr. Cutler.

Quest. Did you form your opinion of the incompetency of Mrs. Coddington from these conversations alone?

Ans. No, sir.

Quest. State, then, from what other facts you formed that opinion?

Ans. She had been complaining of a disease in her head
 30 for some two or three years back, which I have often heard her say she thought would be the consequence of her death. She would often say to me, when I would ask her how she was, that her nose (here the witness showing on his own face) was all falling in in consequence of this disease; and she said that it affected her mind and memory.

Quest. Any other reasons?

Ans. Well, I might relate several others. I had heard her frequently say, before she made this will, that she did not mean that her son-in-law, Mr. Miller, should ever handle the
 40 first dollar of her money, if she could prevent it. This was before the execution of this will.

Quest. Did she assign any reasons ?

Ans. Yes, sir ; one reason was that he had not used her well, another she had no confidence in him, or, in other words, she doubted his honesty.

Quest. How long was these conversations prior to the execution of this will ?

Ans. I think it was some two or three years, and I should say that she repeated it to me as often as two or three times after the first time she stated it to me, making together two or three different times, I should think. 10

Quest. Do you mean to say that these conversations were two or three years before the execution of the will, or were they made during the two or three years prior to its execution ?

Ans. During the two or three years before she made the will.

Quest. Did Mrs. Miller come to your house upon the day, or the day after the execution of this will ?

Ans. I think, as far as my memory serves me, it was the evening, or the evening after. 20

Quest. What did she say ? [Question overruled by the court.]

Quest. Of what disease did Mrs. Coddington die ?

Ans. On the day of her death, she told me that she was taken with bleeding at the nose, and thought that she bled a quart or more. She appeared to have a cold on her lungs ; she coughed and raised some—that appeared to be a consequence of her death.

Quest. When speaking of this complaint in her nose, did she complain of pain ? 30

Ans. She would throw her hands up to her head—sometimes her hand and sometimes her hands. She said she did not know but what it would be the means of her being crazy yet ; I think I have heard her repeat that more than once.

Quest. Had you at the time, or have you now, any doubt as to her incompetency to make a will at the time she made it, on the 27th of April ?

Ans. I doubted it at the time, and doubt it now, or to transact any other business.

Correction, or explanation, of the witness in regard to 40

memory, 'the witness desires to say, that in relating events she would tell them over in nearly or just the same words that she had told them to me years before; it might take her a longer time to relate them, but I noticed that she would relate them in the same words, word for word.

Cross-examined by Mr. Little.

I was there the day the will was executed, I should not think longer than from a half to three-quarters of an hour, and it might have not been as long as that—I am not positive about it. I think that embraces the whole time I was at Mr. Miller's house; I might have been fifteen minutes in the dining-room before I was called into the room in which the will was signed. Mrs. Brant and Mrs. Carr were in the dining-room—Mrs. Miller was passing back and forth. Mr. Miller was in the room when they were making the will; after I went there I think he left the dining-room, and went into the other room. Mrs. Fisher and her daughter were in the room when they were making the will, when I was called in that room. I had no conversation there that day with Mrs. Coddington, except when I went and spoke to her, asking her how she did. I cannot recollect exactly what she answered, but she appeared to be as well as common; I don't recollect that she answered me at all, but I think she must have answered me; she recognised me; I saw nothing to attract my attention while there, except when Mr. Brittin asked her if that was her will, she threw her arms on it, and appeared excited, and said it was; she was then sitting down by the table. I thought she knew she was making her will; I had no doubt she knew that she was making her will.

30 *Quest.* When she asked you, after that time, to prepare a will for her, did you think she knew what she was saying?

Ans. I did.

Quest. Then you think she knew what a will was?

Ans. O, certainly I do.

Quest. When she had that conversation with you just before she died (the day she died), did you, or not, think that she knew what she was saying to you?

40 *Ans.* I think she did. Mr. Miller observed that he did not think she bled more than two or three spoonfuls; she said that she bled a quart or more; she was quite blind at that time.

Quest. Did you see anything there that day (the day she died) that led you to suppose that she did not have her mind?

Ans. Nothing in particular but what she had her mind as usual—with the natural decline.

Quest. When she complained to you, some years ago, of the disease in her head, and said she thought it might be the cause of her death, did you think she understood what she was saying, or not?

Ans. I thought she understood what she was saying.

Quest. Had she some disease in her head?

10

Ans. I thought she had—I had no doubt about it at the time.

Quest. Why did you not write her will, when she asked you to?

Ans. The reasons I did not, I thought she was not competent to make a will, for one thing; another thing, I did not want to meddle with it—it was a neighborhood concern.

Quest. When she said to you, Mr. Miller should never handle any of her money, if she could prevent it, did you think she meant what she said?

20

Ans. I did; she gave her reasons why; I thought she understood what she was saying.

Quest. If she had made a will immediately after that conversation with you, so as to prevent Mr. Miller from receiving or handling any of her money, would you have doubted then her capacity to make a will?

Ans. If she had made the will just as she told me within the last two or three years, I should have doubted her capacity to make a will.

Quest. When she told you that they had taken her out in their carriage a few times, and palavered her, and got her to make a will, and then dropped her, did you think she understood and meant what she was saying?

Ans. I did.

Quest. When she told you that she wanted to make a new will, and wanted you to draw it, and do the writing, did you think she understood and meant what she said?

Ans. I think she did.

Quest. When she said that she had poor grandchildren, who needed her property more than Mrs. Fisher or Mrs. 40

Miller, and that she wanted to construct her will that way, did you think she understood and meant what she said?

Ans. I thought she understood, and meant what she said.

Quest. When she told you that she had sold a piece of land, and divided it among her children, that she was sorry she had parted with the money, and that she was sorry that she did not hold on to it, for fear that she would come to want, did you think she understood and meant what she said?

10 *Ans.* I think she understood what she was saying, but she appeared childish about it.

Quest. Had she grandchildren whose parents are dead?

Ans. I believe she has, sir.

When the mark was made, I mean to say that Col. Brittin steadied her hand while she made her mark.

Quest. When Col. Brittin asked her what he should do with the will, and she told him that she thought he had better take it home with him, did you think she understood what she said?

20 *Ans.* I think she did.

Quest. When did you first know what the contents of this will was?

Ans. I do not know it to this day.

Quest. Do you not know, or have you not heard, what the disposition of her property by will is?

Ans. I have heard from Mr. Noe, but I do not recollect, except what was going to Mrs. Miller and Mrs. Fisher.

Quest. Do you know how long she has been a widow?

Ans. I cannot tell—it is fifteen years, I guess.

30 *Quest.* You said Mr. Miller came after you to get you to come and witness Mrs. Coddington's will—did you tell him at the time that you doubted her competency to make a will?

Ans. Not at all, sir.

Quest. Did you tell Col. Brittin, that day, that you doubted her competency to make a will?

Ans. I did not; I left almost immediately after the will was signed.

Quest. If you doubted her capacity, why did you not take some pains to talk with her that day, to see if she was com-
40 petent to make a will, before you signed it as a witness?

Ans. I was not particularly interested in that will, therefore I thought it would be meddling with that which did not concern me.

Quest. What do you mean by a man's being competent to make a will?

Ans. I consider as soon as a person's mind becomes so impaired that they can be persuaded or coaxed to make a will so as to deviate from what is right, or, in other words, to deviate from what they would do if they were to take their natural course, they are incompetent to make a will. 10

Quest. You said you thought Mrs. Coddington was incompetent to make a will, what evidence have you that she was coaxed to do otherwise from what she would have done if left to herself?

Ans. Nothing but her own words.

Quest. You have the impression, if I understand you, that this will disposes of her property differently from what she intended to dispose of it?

Ans. I have.

Quest. Have you ever told Mr. Smith Miller or Col. Brit- 20 tin that you doubted the old lady's competency to make a will?

Ans. I have never changed one word with Mr. Miller or Mr. Brittin about the will until yesterday, and then I told Mr. Brittin that I thought she was incompetent to make a will. It strikes me that before yesterday I did have a conversation with Mr. Brittin about that will, but I cannot be positive, and I cannot remember the first word of that conversation.

Quest. Did you ever tell Mr. Miller any part of the con- 30 versation that you have detailed here in your principal examination?

Ans. I never had any conversation with Mr. Miller, I think not the first word; I told his wife.

Quest. You were brought here by Mr. Miller, the executor, as a witness, were you not?

Ans. Yes, sir.

Direct examination resumed by Mr. Cutler.

Quest. You say you have heard the contents of the will, as regards what was given to Mrs. Fisher and Mrs. Miller, 40

when did you first hear, and from whom, what was given to Mrs. Miller ?

Ans. If my memory serves me right, I think Mr. Nœ told me that he heard the will read a few days after the old lady's death ; he told me all I heard. I cannot recollect of any other person telling me anything about it since, although they may.

Quest. Did you hear anything of the contents of this will prior to the death of the old lady ?

10 *Ans.* Nothing certain—all I heard was through Mrs. Miller.

Quest. What was that ? [Objected to—question overruled.]

Quest. When did you hear Mrs. Miller say anything about the will ?

Ans. It was the evening the will was made, or the evening after, I am quite positive. It was not at that time I told Mrs. Miller the conversation I had had with Mrs. Coddington. Mrs. Coddington's remarks were not particularly directed to me, she was talking to my sister and my family ; she generally talked more to my sister than to any one else of my family.

Quest. If you thought she understood, and meant the different conversations referred to, then why do you think that during those periods of time she was incompetent to make a will ?

Ans. Because I thought she had become very infirm and childish, and could be led from what she would do if she had had her own way.

30 *Quest.* Was your opinion of her competency, upon the day she executed the will, made by what you saw that day, or from your knowledge and acquaintance with her for years prior thereto ?

Ans. From what I had seen before and after.

Quest. In any conversations with Mrs. Coddington, did she ever tell you of any threats made by Mr. Miller—if so, what were they, and was it before or after the execution of this will ? [Question objected to, and withdrawn for the present.]

40 Wednesday, July 6th, 1859, the examination continued—

present Ira C. Whitehead, Joseph Dalrimple, Samuel O. Brant, esquires, judges.

Question renewed, and admitted by the court. [Objected to by Mr. Little, counsel of executor.]

Ans. Not particularly in any conversation with me, but in a conversation with my sister, in my hearing and presence. She left Mr. Miller's house, and was gone something like a year; on her return, or directly after her return, she was telling my sister the reason she left. She said, on one Sunday before she left, Mr. Miller and all his family went 10 to church, excepting Mrs. Coddington and two of Mr. Miller's children, William and Caroline; directly after they left, she said she saw those children go into her room; directly they came out again; they saw them eating an apple that had been made a present to her by a person by the name of David Coon, that she had locked up in her trunk; she went into her room; she found the lock of her trunk broken, the apple was gone, and five shillings in money; she taxed them about it, and they did not deny taking it. On Mr. Miller's returning home, she told him what they had 20 done; in the room of chastising them, as he ought to have done, he flew in a passion, and stamped his foot, and shook his fist at her, and said, if she ever said anything about it again, he would have her taken to Morristown, and put her in jail; she said the poor fool thought he would scare her so that she never dare open her mouth about it again; she said that he did not know enough to know that she knew that it was an indictable offence to break a lock, and to take her money. I heard her relate this twice before the will was made, and once after partly related it; I came in while she was talking; 30 as I came in, I came in at the east door, and she stood fronting the west, telling this story; every time she told it, she would go out on the floor and stamp her foot and shake her fist, and act it off just as it was; after she told it the last time, she was as white as the wall, every muscle was in a tremor. The last time she told this story was at the first visit she made at my house after this will was made—it was in the last of May or the first part of June. She appeared excited when she told this story, and it appeared that it stuck in her mind; she appeared to act as if he had insulted 40

her; I never heard her speak of his name after she first told this story but what she did it in a disreputable manner; I heard her telling this story four or five years before the making of this will—it was directly after her return to Mr. Miller's—I cannot fix the precise time. I have no recollection about how long the last time before the making the will she told this story; I know that she told the story three times at my house; I am of opinion that it was the spring or summer before she made her will that she told this story
 10 the last time before the making of this will. I said, in my former evidence, that she doubted Mr. Miller's honesty. She said, that directly after she first went to his house to live, she heard him telling his family, before her, how he had worked it to defraud this one, and that one, and the other one.

Cross-examined by Mr. Hartwell.

I do not recollect of hearing her make the remarks about defrauding but the once; that was just after she came back to Mr. Miller's to live—it was four or five years before her
 20 death. She did not name any person that Mr. Miller had defrauded; she did not say, in my recollection, in what way Mr. Miller had defrauded; she did not name any item that Mr. Miller had defrauded any person of; she stated the three times both before and after the making of the will, about the story of taking the apple and money, and taking to Morristown, and put in jail, in the same words, as far as I heard her. That was the reason why I stated, in my former evidence, that she was in her right mind and could recollect things.

30 The witness now desires that the whole examination be read over to him, because he may have left out some words, he being subject to palpitation of the heart—has been complaining since March last—was not well at the time of the examination, and is not now.

Corrections made by the witness.

The witness now recollects that Mrs. Miller called him into the room where the will was executed. I was in the room some minutes before Mrs. Carr was called in—I mean the room where the will was executed.

I said in my evidence, that Mrs. Coddington said that was the will of her husband. I do not mean the last will and testament of her husband—but that it was his wish.

I now recollect that the time Mrs. Miller came to my house was the night after the will was executed.

Quest. Did Mrs. Miller come to your house on the evening of the next day after the will was made?

Ans. Yes, in the evening.

Quest. What did she say in reference to this will? [Objected to by counsel of executor—objection overruled.] 10

Ans. Well, I was out when she came there. She said, in reference to the will, that there was so little that it was not worth quarrelling about. I asked her how much there was in the whole; she said about \$1000.

Quest. Did she say anything further?

Ans. Nothing further about the will, or anything about the contents.

Quest. Or at any other time?

Ans. I do not think she did, particularly about the will.

Quest. Did she make any request of you to say nothing 20 about the will?

Ans. She did.

Quest. What did she say, and what reason did she give?

Ans. She said the old lady was almost crazy, and had not rested or slept any since, as I understood her.

Quest. What did she say she was crazy about?

Ans. She was afraid it would leak out that she had made a will.

Quest. Did she state the contents of the will, or any part of the contents of the will? 30

Ans. I can't recollect. She came to my house that evening for the purpose to charge me not to tell any person that the old lady had made a will—no person came with her. The woman that worked at my house, Letitia Brown, and my sister, Mary B. Dickinson, were present at the time she told me; Mrs. Miller was in the house when I came in.

Quest. Did she, or not, express any fears that Mrs. Coddington's heirs or friends would find out that she had made a will?

Ans. She did not.

Recross-examined by Mr. Little.

I do not recollect that she said that she came over at the request of the old lady.

CALEB DICKINSON.

Sworn and subscribed in open court, July 6th, 1859.

IRA C. WHITEHEAD,
S. O. BRIANT,
JOS. DALRIMPLE.

10 *Charles Sayre*, a witness on the part of the caveators, sworn and examined by Mr. Cutler, counsel of caveators.—I reside at present in Newark; I resided previous to going to Newark at Madison; I removed to Newark May 3d, 1859. I was a justice of the peace of the township of Chatham; I was such justice three or four years prior to going to Newark; I only knew Mrs. Coddington by being called on by Mr. Brittin to go and take the affidavits of Mrs. Coddington five or six times; I was first called upon three years ago, on or about the fourth of September last; I went in company
20 with Col. Brittin; the last time I went was on or about the 6th or 7th of September, 1858; I went in company with Col. Brittin; I returned with him; I was in company with him while there; I went there to take her affidavit for the purpose of drawing her pension; I heard conversation between Mrs. Coddington and Col. Brittin in reference to her will at that time.

Quest. State what it was?

Ans. She followed Col. Brittin out of the house into the street, and took him by the coat, and begged him to come
30 and take her to his house, or to one of the neighbors, to make a new will. I know this much, that Col. Brittin did not give her any answer that he would come. There was a young lady there at Mr. Miller's at the time—I do not know who it was. She (Mrs. Coddington) told Col. Brittin, in my presence, that she was dissatisfied; that they did not treat her well since the other will was made. Nothing further, that I know, occurred between her and the Colonel then;

she appealed to me to write the will; she asked me if I would do it, if Mr. Brittin would not. I told her that she was under considerable excitement at the time; I put her off, and told her that probably the Colonel would come some other time. She said she wished to get away from them; she said that she thought that they would poison her. I got away from her as soon as I could. I then thought that she was not in her right mind. I did not think Mr. Miller's family would do any such thing as that.

Quest. Did you, from what you saw of her at that time, 10 consider her competent to make a will or transact any other business?

Ans. I did not consider her competent to make a will at that time, or at any time from the time I first knew her.

Quest. Did Mrs. Miller say anything as to her condition?

Ans. Mrs. Miller said that her mother acted strange, and was out of her head at that time; this was said before we went out of the house; as Mrs. Coddington was following us out, Mrs. Miller made this remark. In the house, Mrs. Coddington told Col. Brittin that she wanted to talk with 20 him, but did not tell him what the business was until she got out. Mrs. Miller remarked that her mother was out of her head after the old lady had told Col. Brittin that she wanted to talk with him. Mrs. Miller remarked to us both that the old lady had failed in her mind since we had been there last in the spring.

Quest. So far as you saw, was her mind then in a better or worse condition than it was when you were there the spring before?

Ans. I should not think there was any difference in her 30 mind. I was there about the 4th or 5th of March the spring before; I visited there twice a year, about the 4th or 5th of March and September; I always went and returned with Col. Brittin, and was there all the time he was. The first time I went there I was a stranger to Mrs. Coddington. Col. Brittin had been acquainted with her, I presume, for three or four years before. I was introduced to her by the Colonel; she did not recognise me or the Colonel at any time until the family told her who we were; she sometimes recognised me by my telling her what I had come for. She 40

readily comprehended when I told her we came to see about her pension ; she knew us, and knew what our business was.

Quest. Was it for want of eye-sight, or from some other cause, that she failed to recognise you and the Colonel?

Ans. She said her memory was so poor that she could not ; her memory had failed. I conversed with her but little, except upon the business we went to see her upon, because her mind was wandering—her mind was not steady.

10 *Quest.* Did she ever converse intelligibly with you upon any subject?

Ans. She conversed with me so that I could understand her, but not as an intelligent person.

Quest. Was her conversation rational or not?

Ans. I should think not at all times ; she was an old woman, a very old woman, and she was childish.

Quest. Would you have been willing to have made a bargain or taken title to property from her at any time while you knew her?

20 *Ans.* I would not.

Quest. Why?

Ans. I did not think her capable, competent, or her mind sufficient to transact business. I undertook to talk with her several times, and sometimes she would answer my question, and sometimes she would answer as if I had put some other question.

Quest. How was her hearing when you first knew her?

Ans. Her hearing was better when I first knew her than it was the last time I was there. When I was there in March,
30 1858, I did not hear Mrs. Coddington say to Col. Brittin that she wanted him to write her a will ; she said that Mr. Hartwell had told her that she was entitled to more land, and that she wanted the Colonel to get it, if it could be got ; the Colonel told her that if it could, he would attend to it for her. She had spoken about the land warrant almost every time we were there, the two or three last times we were there, she spoke to the Colonel about the land warrant in the front room by the fire ; it was a cold day ; we went there in a sleigh ; she did not go out doors that day when
40 we were there in March ; I did not hear her say anything

about a will then; I did not go out until the Colonel was ready, and we both went out together. I am forty-six years of age. I went, upon each of these occasions, to take her affidavit to enable her to get her pension.

Quest. If you did not consider her competent to transact business, why did you take her affidavit?

Ans. I was satisfied that she was the identical person named in the pension; I asked her the question, every time, if she was married; she seemed to be quite put out; she said who do you think would have such an old woman as I 10 am.

Quest. Were there any other facts embodied in the affidavit, except that she was the widow of the Revolutionary soldier, and that she was not married?

Ans. Not that I recollect of. I think the fact as to her age was also in the affidavit; as to her age, she could not tell. I went twice a year after I was first there; I did not see her at any other time. I told the Colonel that I thought she was not competent to make a will; the Colonel said, that he thought she was at the time she made it. 20

Cross-examined by Mr. Hartwell—I think I took her affidavit seven times, to the best of my recollection. I believe she knew she was taking an oath; she brought in the book herself; I have no doubt but that she knew she was taking an oath, and knew what it was for; she has brought the bible to be sworn on, and has asked for it to be brought; she could not recollect the year she was born in; she said that she had the record of it, but it was not there with her. I do not know whether Mrs. Coddington or Mrs. Miller first spoke of the land warrant, but they were both talking of it; 30 I do not know that she stated the ground upon which she was entitled to it; she said that she had understood that other old pensioners were going to have, and she thought she ought to have, if they had; that expression was not an evidence of her insanity—I did not say so; far from it; on the subject of money, she was as sane as you are.

Quest. Then you would call her keen upon the subject of property, would you?

Ans. For one of her age.

Quest. Are you prepared to swear that the answer to your 40

question? The improper answer arose from the defectiveness of intellect or from her defective hearing.

Ans. On the subject of money and her pension, she appeared to understand; upon other subjects she did not appear to understand.

Thursday morning, July 7th, 1859.—Examination of Mr. Sayre continued by Mr. Hartwell—present, Whitehead, Dalrimple, and Briant.

Quest. Will you state any fact or act of hers upon which
10 you base your opinion that she was not competent to make a will?

Ans. From her extreme age and childishness, and likewise her memory failing. She stated that her memory had failed her; that she could not recollect things and occurrences that passed recently, as she could things and occurrences that passed long ago.

Quest. Will you name any act of hers upon which you form an opinion that she was incompetent to make a will?

Ans. I do not know that I can name any particular act no
20 further than what I have answered. I have a good memory upon subjects upon which I want to charge my memory, or upon things that attract my attention.

Quest. Have you any doubt that if she had done a foolish act, or had made use of any foolish expression, that you would now remember it?

Ans. My answer is this—she did make use of foolish expressions, but I do not remember what they were; I do not remember of any particular act that I can now remember.

Quest. Do you think it requires as much mind to make a
30 will as it does to make a contract for the sale of lands?

Ans. I think not.

Quest. Did you not suppose, when you gave your answer yesterday, that it did require as much mind to make the one as the other?

Ans. I did not; no one has said anything to me about it. Mrs. Coddington's memory had not entirely failed her; she had memory,

Quest. Had she recollection?

Ans. She had recollection in a measure.

Quest. Do you think she knew the inmates of the house, her daughters, the family? [Objected by counsel of cave-ators.]

Ans. I have no reason to think or believe to the contrary; I suppose that she did; when she spoke of her pension and land warrant, I certainly suppose she understood what she was talking about. Her pension was not paid to her by Col. Brittin at that time, that I recollect of; we were merely there to execute the papers for the purpose of drawing the 10 pension; I think she understood that part of it; she was entitled to her pension, and I would not have hesitated to have paid it to her. When my name was announced, and my business told to her, she remembered me.

Quest. When you went there, and your name was announced, and your business told to her, did she remember you?

Ans. She did, on being told that I had been there on the same business.

Quest. Who told her that you had been there before on 20 the same business?

Ans. Col. Brittin.

Quest. Did she recognise Col. Brittin?

Ans. No, sir.

Quest. Who told her who he was?

Ans. Mrs. Miller or her daughter, or sometimes the Colonel himself.

Quest. When told who he was, did she recognise him?

Ans. Yes, sir.

Quest. Was there great difficulty in her eye-sight? 30

Ans. There was in March and September, 1858; the year previous her eye-sight was pretty good. Before March, 1858, Mrs. Coddington did not recognise Col. Brittin when he went there, that I recollect of, until it was announced who he was. Mr. Brittin would sometimes come into the room where the family was, and Mrs. Coddington would not sometimes be in that room, and the door would be open into the room where she was, and Mr. Brittin would go in without Mrs. Miller, and announce himself to the old lady.

Direct examination resumed by Mr. Dalrimple. 40

I never saw her receive or pay away any money; I never

saw her buy or sell or make any contract in reference to any property.

Quest. Did you ever observe any keenness on her part in respect to money, other than a desire to get all the pension money she could, and if so, state what it was?

Ans. No other. You might call it pension money or the land warrant.

Quest. Or any keenness in respect to property?

Ans. I never heard her talk of any other property.

10 *Quest.* Do you think that she could call to mind and name over her children, living and dead, and her grandchildren, at any time after you became acquainted with her?

Ans. I never asked the question; I do not know anything about it.

Quest. What is your opinion in respect to that, judging from what you saw of her? [Objected to by counsel of executor.]

Ans. I should think she could not. I do not know who actually received her pension money.

20 Cross-examination resumed by Mr. Hartwell.

Quest. Do you know the number of the children of Mrs. Coddington, living and dead, and her grandchildren?

Ans. I do not.

Quest. Can you say whether there are six, ten, or twelve?

Ans. I cannot.

Quest. If you cannot state whether there are six, ten, or twelve, how do you undertake to say that she, in your opinion, did not recollect them, or could not name them?

30 *Ans.* From the information I have received from the members of the family; there is a large family—there are some in Michigan, some in one state, and some in another; she would be a very smart woman if she could tell the names of them all.

Direct examination resumed.

Quest. Did you base your opinion, as to her inability to name over her children or grandchildren, from the great number of them, or upon her want of memory and mind?

Ans. On both. The land warrant was spoken about nearly every time Col. Brittin and I were there.

40 *Quest.* Who spoke about it?

Ans. Mrs. Coddington spoke about it sometimes, sometimes Mrs. Miller; Col. Brittin did not suggest it; I recollect of Mrs. Miller asking Col. Brittin about it once, but Mrs. Coddington mostly.

The witness now says that he would not be certain that he took the affidavit of Mrs. Coddington more than five times.

CHARLES SAYRE.

Sworn and subscribed in open court, July 7th, 1859.

IRA C. WHITEHEAD, 10
S. O. BRYANT,
JOS. DALRIMPLE.

Lewis Mundy, called and sworn on the part of the caveators, examined by Mr. Cutler.—I live in Somerset county; I knew Hannah Coddington in her lifetime; I have known her for fifty-odd years. She left with me a paper, sealed up, purporting to be a will; I can't ascertain any certain time when she left it—as near as I can tell, it was some fifteen years ago; it was taken from my possession about one year ago; I can only tell the time by its being in cherry-time 20 last year; I gave the will to Hannah Coddington, at my house; her daughter, Mrs. Miller, was with her.

Quest. State, if you please, the conversation that occurred between you, Mrs. Miller, and Mrs. Coddington?

Ans. I think Mrs. Miller introduced the subject respecting the will; she said, as near as I can recollect, that her mother had thought that her sons had had more of their father's property than the daughters; and that she was disposed to take up the will that I had in keeping, or the paper that purported to be the will, and make a new one, or had 30 made a new one at that time, I will not be certain which; I think she had made it. I do not think that I recollect the conversation any further; the old lady said very little, if anything, about it; she appeared to be fatigued and overcome with the ride to my house. Mrs. Coddington and Mrs. Miller came alone, there was no other person with them. I handed he will to Mrs. Coddington; Mrs. Miller requested Mrs.

Coddington to burn up the will, to put it in the stove or fire; I do not recollect whether there was a stove or open fire in the room at the time.

Quest. Did Mrs. Coddington manifest any unwillingness to having the will taken up from your possession?

Ans. I thought she manifested a reluctance to having it taken out of my possession.

Quest. In what way did she manifest that unwillingness?

Ans. She appeared to hesitate as a person would do, I think, when performing any act not altogether agreeable to their wishes.

Quest. How long were they at your house?

Ans. Well, I think they were there perhaps an hour or an hour and a half—it might have been longer.

Quest. Were you with Mrs. Coddington and Mrs. Miller during the whole time they were at your house?

Ans. I could not say certain about that; my recollection does not serve me—I might have been absent while they were there.

20 *Quest.* When was the last time you saw Mrs. Coddington before she came to your house with Mrs. Miller?

Ans. I think it was at the funeral of her son at Mount Bethel; I think it was, as near as I can recollect, a year ago last winter some time.

Quest. Were you in the habit of frequently seeing Mrs. Coddington during the last five years before her death?

Ans. I was not; I do not recollect of seeing her more than two or three times during the time she lived with Mr. Miller the last time; I live from Mr. Miller's something be-
30 tween eight and ten miles.

Cross-examined by Mr. Hartwell.

Witness being shown a paper marked *Exhibit B.*, and asked if the mark X on that paper is her X, says, the name of Mrs. Coddington was made by me, and she made that X. I acted as her agent as long as sixteen years ago. I never knew her to write her name.

Direct examination resumed.

My agency closed, I think, probably about the time Mrs. Coddington first came to Miller's to live. I think I trans-
40 acted some other business for her besides the receipt of her pension money.

Quest. Do you now recollect of any matter of business which you transacted for Mrs. Coddington, as her agent, disconnected with the receipt of her pension money?

Ans. I think, during the time of her will being in my possession, Mrs. Coddington and Mrs. Fisher, daughter of Mrs. Coddington, and Benjamin Coddington, grandson of Mrs. Coddington, came to my house, and wished to see the will that I had in my possession. I produced it to Mrs. Coddington; I am not positive whether I read it or not; they wished to make some arrangement, I think my recollection is very 10 indistinct, not having charged my memory with it. Respecting the share, or the legacy, of Benjamin Coddington, devised in that will, there was some arrangement made, the purport of which I believe I entered upon the will as a codicil to the will—I considered it so; I should think that was some eight years ago. I do not recollect now of any other matter of business. I did not write the will that was left with me.

LEWIS MUNDY.

Sworn and subscribed in open court, July 7th, 1859. 20

JOS. DALRIMPLE,
IRA C. WHITEHEAD,
S. O. BRIANT,

Samuel Baldwin, called and sworn on the part of the caveators—examined by Mr. Cutler.—I live in Passaic valley, and within a mile of Smith Miller's; I was born and brought up in the neighborhood, around and about in the neighborhood. I knew Mrs. Coddington in her lifetime—I had known her for three or four years; I have seen her at Mr. Miller's house; I have been in and out of Mr. Miller's house 30 frequently; I sometimes saw Mrs. Coddington when there, and sometimes I did not; of her bodily health during the three or four years I knew her, she appeared to be middling well, except a trembling; I did not notice her eye-sight particularly. She never recognised me when I went in; sometimes she would not notice me when I went in and out; sometimes I would go in and out, and I would not speak to

her, or she to me; sometimes the family would tell her who I was, and she would recognise me. I did not discover anything the matter with her hearing; I think that she was a little thick of hearing. I borrowed \$20 of her at one time, I think it was two or three years ago. I went to Mr. Miller's, and asked him if he had \$20 to lend me; he said he had not, but he said he thought the old lady had; he and me went to the house, and he told the old lady that I wanted to borrow \$20; I don't recollect that she made any reply.

10 Mr. Miller sat down and drew up the note, and I signed it, and he signed it under; he told her that he would be security on the note, and Mr. Miller gave me the money. I do not recollect that Mrs. Coddington made any remark whatever. I have that note at home now.

Quest. When did you get it?

Ans. I got it, I think, in 1857, in the fall; I do not recollect the month.

Quest. From whom did you get it? [Objected to by counsel of executor, and overruled.]

20 *Ans.* I got the note from Smith Miller.

Quest. Where?

Ans. At my house. No person came with Mr. Miller to my house.

Quest. What did he say in reference to the note? [The counsel of executor object to any declarations of Smith Miller made before the making of the will.]

Ans. He said that he wanted the note taken up, and drawn payable to him; he said that they had shifted papers, and that he had taken this note upon himself; and I drew

30 the note up, and made it payable to him. We settled a little account, and I paid him part, and gave him a note for the balance; I think the balance was \$18.

Quest. Did he refer to any person that was present at the time these papers were shifted?

Ans. He did.

Quest. To whom?

Ans. John T. Wilcox was present at the time these papers were shifted; I do not mean at the time I made the note payable to Mr. Miller. At the time I got the \$20 at

40 the house of Smith Miller, and I gave the note, I think Mr. Miller took the note after it was signed.

Quest. Do you know what Mr. Miller meant by saying that they had shifted these papers?

Ans. I don't know.

Quest. Did Miller, at that time, say anything about the old lady's having divided her property? [Objected to by counsel of executor; objection overruled.]

Ans. He did not say anything that she had divided; he said that they had made a division of the papers, and this note had fell to him.

I remember of the old lady's starting for church, and being 10
 at my house on a particular Sunday; I think it was in May or June, 1857; she said she started to go to church; the church is a mile and a half or two miles from Mr. Miller's house; I am rather under the impression that she went to the church—I am not positive about that—as near as I can recollect, she either went to the church or on the way to the church, I do not know which. She, or some of Mr. Miller's family, discovered that she only had one shoe on; they made search in the wagon, and could not find the shoe, and she staid at my house until after meeting was out. I 20
 have it from hearsay that the shoe was found at her home; I heard it from Mr. Miller or some of the family; the old lady said that they could not find the shoe in the wagon, and that she did not know where in the world she could have lost it.

Mrs. Coddington requested me to take her to Mount Horeb, two or three months before her death—it was at Mr. Miller's house that she asked me; she said that she wanted me to take my horse and wagon, and take her to Mount Horeb to get a boarding place; I told her I would take her; I told her I would take her on the following Saturday, if the 30
 weather was fair; I don't recollect that she gave any reason why she wanted to change her boarding place. I did not go on that Saturday, the weather was unsuitable, I think; I thought it would not do to take out such an old lady; I did not know what might happen. I think it passed on two or three weeks, and Mrs. Miller came to my house, and asked me to take her; I told Mrs. Miller that I would take the old lady the first fair day. The first fair day I told my son to go to Mr. Miller's and get the old lady; he took the horse 40

and wagon, and went up; my son was gone, perhaps, about one half to three-quarters of an hour, and came back without the old lady; my son is twelve years old. The time Mrs. Miller came to get me to take the old lady away, she, Mrs. Miller, said that the old lady wanted to go away so bad, and went on so, could not sleep nights, and would not be satisfied unless she did go. I don't recollect that Mrs. Miller gave any reason why Mrs. Coddington wanted to go. I never saw Mrs. Coddington after I sent my son with the
 10 horse and wagon after the old lady; when I was at Mr. Miller's, I was not in the habit of conversing much with Mrs. Coddington.

Quest. Why not?

Ans. She appeared to be old and childish; I did not often have much time to spare; I did not converse much with her, unless she asked me questions.

Quest. Was it difficult to carry on conversation with her?

Ans. I never conversed with her much, unless it was she would ask me how my family was, and I would answer her.

20 *Quest.* Why did you not converse much with her?

Ans. She appeared to be old and trembly; I did not have much to say to her; I never entered into any particular conversation with her.

Quest. In the different periods of time that you was in the habit of being in at Mr. Miller's, and saw the old lady, did you observe any particular difference in the old lady?

Ans. I did not observe any particular difference; like other old people, she was naturally failing. I do not think she talked with me more than once about taking her to
 30 Mount Horeb.

Quest. From what you saw and knew of the old lady, during the years of 1857 and 1858, was she, in your opinion, competent and capable to make a will or to transact business?

Ans. I did not consider that she was.

Quest. Would you have been willing to have bargained for and taken title for real estate during those years from her?

Ans. No, sir, I would not.

40 *Quest.* Why not?

Ans. I did not think her competent of giving a title.

Quest. Would you have considered it safe to have entered into any important business transaction with her in the condition she was during those two years?

Ans. No, sir.

Cross-examined by Mr. Little, counsel of executor.

When Mrs. Coddington asked me to take her to Mount Horeb, I had heard that there was such a place; I believe it is somewhere near the upper end of Stony hill; I did not know what house I was to take her to; she did not name 10 any house I was to take her to; she named the place Mount Horeb. I suppose the distance from Mr. Miller's house is about ten miles; she wanted to go there and back the same day; I supposed that she could not come back the same day, she being old and feeble; she has relatives living in the neighborhood of Mount Horeb; I believe Mr. George Coddington lived there in that neighborhood; I have heard that a brother of George lived in that neighborhood; I have heard of other relations living there (grandchildren); I sent my boy to get her, and bring her to my house, and then I 20 was going to take her to Mount Horeb; I was going to take her where she wanted to go; I supposed that she knew where she wanted to go; I expected to be paid for taking her there; I supposed that when she asked me to take her to Mount Horeb she knew what she was talking about.

Quest. Did you consult with the family, at that time, whether you should take her or not?

Ans. I tried to learn from the family whether they were willing she should go.

Quest. Did you ask them whether they were willing she 30 should go?

Ans. I don't know that I asked them, in so many words, whether they were willing she should go.

Quest. Did you not think, before you talked with the family, that she knew what she wanted, and when she wanted to go?

Ans. I expected that she knew where she wanted to go.

Quest. Was you not willing to take her, if she knew what she wanted, and where she wanted to go, without the consent of Mr. Miller or his family?

Ans. No, sir.

Quest. Then they did give their consent?

Ans. I understood that they gave their consent; they said that there would be no such thing as pacifying her unless she went.

Quest. Did you tell them that you would not take her unless they approved of it?

Ans. I don't recollect that I did. I talked with almost all of the family about it; Mr. Miller and Mrs. Miller was
10 there and his daughter was there; the old lady was also present at the same time. I do not know of the old lady owning any real estate during the two or three last years of her life.

Quest. Was your attention or mind ever called, during the two or three last years of her life, to her capacity to make a deed for lands?

Ans. I do not know that it was in particular.

Quest. What do you understand by competency or capacity to make a will?

20 *Ans.* I think it wants a person of strong mind, a mind that is capable of transacting any business. When I went in there, and she would ask me how my family was, I would answer her; I was in the habit of answering her questions when she would ask me. Mrs. Coddington was not in the habit of attending church very steadily for the late years.

I think Mr. Miller worded it (when I gave him the new note) that there had been a shifting or changing of papers; he said to me that Wilcox was present.

30 Direct examination by Mr. Dalrimple.

Quest. Tell us, as near as you can, what she said to you about going to Mount Horeb and returning the same day?

Ans. She said she wanted to go to Horeb to look for a boarding house, and return the same day, and then for me to take my team and move her goods up.

Quest. Would you have felt at liberty to take her up there upon her own request without consulting the family?

Ans. I should not.

40 *Quest.* When you talked to the family, in her presence, about taking her up there, did she say anything?

Ans. I believe Mr. Miller spoke, and said that he would take her up himself, and she replied that she would not go with him; I don't recollect that she said anything else in that conversation.

Quest. You said, on your cross-examination, that when she asked you questions you answered her; do you recollect of her asking any questions, except how your family was, and to take her to Mount Horeb?

Ans. I don't recollect of any now.

Cross-examination resumed.

10

When she said that she would not go with Mr. Miller, I suppose she understood what she was saying, and meant it. I don't recollect that she asked me other questions than those I have mentioned. I thought she appeared to be a little excited that day; she did not appear to be mad, only a little roused or excited; I did not see that she was angry at the family; she did not complain of their treatment of her then; I do not recollect that she assigned any reason for not going with Mr. Miller; she gave him that answer; she appeared a little excited.

20

SAMUEL BALDWIN.

Sworn and subscribed in open court, July 7th, 1859.

JOS. DALRIMPLE.

IRA C. WHITEHEAD,

S. O. BRYANT.

Lewis Noe, called and sworn on the part of the caveators, and examined by Mr. Cutler.

Friday morning—present Whitehead, Briant, and Dalrimple.

I live somewhere about half a mile from Smith Miller's; 30 I have lived there about the neighborhood more than fifty years. I knew Hannah Coddington in her lifetime; I have known her betwixt twenty and twenty-five years; during the five last years of her life she lived at Mr. Miller's; during that period, I can't tell how often I have seen her, sometimes two or three times a week, sometimes not so often. I was on intimate terms with Mr. Miller and his

family; I thought as much of him and his wife, too, as of anybody, except my own wife. When I was at Mr. Miller's house I generally seen Mrs. Coddington; I did converse some with her; I always took pains to go and shake hands with her, and ask her how she did; she did not very often recognise me, until I told her who I was, and I should think not one time in ten during the two or three last years of her life. She would take me for another person sometimes, until I would tell her who I was; she would take me for

10 Mr. Baldwin, we look somewhat alike; when I first knew her, she knew me as well as anybody; I called her a very smart woman; I attributed her difficulty of recognising me to her having got old, and not understanding who I was from my speech; she appeared to be glad to see me, and always asked how I did, and how my wife was—my wife was frequently there. I never of late had much conversation with her except passing the time of day, that is during the last two or three years; I had no particular occasion for other conversations with her; I had no dealings with her in re-

20 gard to business. I think I observed a difference in her mind and the strength of her mind during the last two or three years from what it was when I first knew her; she was childish in the last of her life; when I first knew her, her mind was first rate.

The reason I did not converse with the old lady, was that I thought she did not know me, and did not understand what I said, and that there was no use of talking with her.

Quest. Had you any doubt that she did not know you?

Ans. Sometimes when I shook hands with her, and asked

30 her how she did, she would ask me who I was; sometimes I would tell her before who I was.

Quest. Could she carry on a connected course of conversation?

Ans. I do not know whether she could or not; I never had conversation with her any more than to say how do you do—I mean the last two or three years of her life.

Quest. Did Mrs. Coddington ever ask you to take her to Mount Horeb?

Ans. Yes, sir.

40 *Quest.* When?

Ans. I do not know when. She asked me several times; she asked me some time before her death, some four or five months; she did not tell me for what purpose she wanted to go; I did not ask her, and she did not tell me; she never told me anything about it; she only wanted me to carry her there; she asked me two or three times; the reason I did not take her was, that I thought Mr. Miller had always carried her about; I never gave her any answer whether I would take her or not; the reason I did not give her an answer was, I thought they could take her as well as I. I 10 asked Mrs. Miller about it one time, and she said that if I did take her nobody would keep her there if she went; so I did not bother myself any more about it.

Quest. Did Mrs. or Mr. Miller, at that time, say that she was childish?

Ans. They did not say a word about it, that I understood.

Quest. When was the first you knew of the existence of this will?

Ans. I heard of it—that is all I know about it. Mr. Miller told me that there was a will made; he told me before the 20 old lady's death.

Quest. What did he say about it? [Objected to and overruled.]

Ans. I think I understood him that Col. Brittin had been over, and wrote the old lady's will, within a few days—that is the sum and substance of what he said. He said the boys had had more than the girls before, and that the old lady had given hers to the girls—that is about all he said. He did not say that she had given it all to the girls, but the bigger part of it; he said that he did not know anything 30 about it, except what he had heard; he did not say from whom he heard it; I did not ask him that.

Quest. Did you, at that time, make any remark to Mr. Miller, or he to you, in reference to her competency to make a will?

Ans. Not a word of it.

Quest. Did you, within two or three years prior to the death of the old lady, hear Mr. or Mrs. Miller express any opinion, or say anything as to the sanity of the old lady or her being crazy? [Objected to.]

Ans. I did hear them say that she was queer and childish, and had a great deal of plague with her; I never thought myself that she was crazy, nor nothing like it; I cannot tell when I heard them say so—I heard it several times.

Quest. Did you ever hear them say anything in reference to her memory failing?

Ans. I do not think I ever talked with them upon the subject, or heard anything one way or the other; I do not think I did.

10 *Quest.* From what you saw and knew of her during the last three years of her life, was she, in your opinion, competent to make a will or to transact other business? [Objected to.]

Ans. I should not think she could make a right will.

Quest. Was she of sound mind, memory, and understanding, judging from what you saw and knew of her?

Ans. I do not think she had a strong mind or good sense during the last two or three years, so as to make any business transaction right.

20 *Quest.* What do you mean by the words making a will right, or making business transactions right?

Ans. I will tell you what I mean. When I would go to her and speak to her, she would not know who I was, and I think after speaking to a person, and they do not know who you are, are not capable of making a will or doing business right.

Quest. Did you attribute the difficulty of her not knowing you to her defective eye-sight or to some other cause?

30 *Ans.* I think she did not understand my speech and know who I was; she might not have seen me, neither—I did not know how that was.

Quest. In your opinion, during those three years, could she have named over and recollected the names of her children and grandchildren?

Ans. I do not believe any one could tell that straight, because there were so many; I think there was so many, from what I have heard and seen myself.

40 *Quest.* Would you have felt justified during those three years in making any business arrangements or engagements with her alone?

Ans. I have thought nothing about it; she had nothing to sell or buy.

Quest. Your attention is now called to it—do you think now you would have been justified in making business arrangement with her alone?

Ans. I don't think she was calculated to do business right now, and did not think so then.

Cross-examined by Mr. Little.

Quest. If you had been present when her will was written, and heard her give directions for it, don't you think you could judge better as to her fitness to make it than from any conversation you ever had with her? [Objected to by counsel of caveators.] 10

Ans. I should think so, of course.

I have a wife living. I was there often, and my conversation was generally addressed to Mr. and Mrs. Miller and family (the children).

I never heard the old lady say aught against Mr. Miller, Mrs. Miller, or any of the family. When I told the old lady who I was, she would recognise me. I do not recollect of hearing Mr. or Mrs. Miller talk much to her; I have heard Mrs. Miller call to her and say, mother come to breakfast, or something like that. I thought they treated her well. Sometimes she did come, and sometimes she did not come, when Mrs. Miller called her to her victuals. I cannot tell when Mrs. Coddington was at my house last—I do not think she has been at my house within the last two or three years; I don't know that I have, within ten years, and I do not know that I ever did hold connected conversation with Mrs. Coddington for ten minutes. 30

Direct examination resumed.

I think it was after this will was made that the old lady asked me to take her to Mount Horeb. The old lady could go around the house without being led; I never saw any one lead her.

Quest. Have you any doubt in your own mind that there was a material change in her ability to hold a connected conversation between the time you first knew her and the last two or three years of her life?

Ans. I think there was a change. 40

Recross-examined.

I think she was a very smart woman for her age up to the time of her death; while she was on her death-bed (I think she died that night) her grandson, George Coddington, came there, and told her who he was, and she replied that she was glad to see him; I think she, after George told her who he was, knew him, and says I am glad to see my child George; I think she knew who he was—that is what I wish to say.

Direct examination resumed.

10 *Quest.* Did she manifest at that time affection for George?

Ans. I thought she did.

She said that she was glad to see him; she said that she hoped he would take her to Mount Horeb—I do not recollect the reply that George made; she did not tell any reason why she wanted to be taken to Mount Horeb. I thought she was then dying; I think she died that same night.

I think, for a woman of that age, she was smart to walk about the house and say anything at all.

20 *Quest.* From whom did you understand Mr. Miller to say that the boys had received more than the girls?

Ans. Old Mr. Coddington, his father-in-law, had told him so himself.

Cross-examined.

Mr. Miller said that the old lady gave the girls that much more on the account that the boys had had their share, and that the old lady thought the boys had received more than their share from his father-in-law.

LEWIS NOE.

Sworn and subscribed in open court, July 8th, 1859.

30

IRA C. WHITEHEAD,
S. O. BRIANT,
JOS. DALRIMPLE.

The caveators having given notice to the executor to produce the will delivered to Mrs. Coddington by Mr. Lewis Mundy, being the will spoken of by Mr. Mundy, the same was not produced by the executor, because he alleges that the said will is not in his possession, and never has been.

JOS. DALRIMPLE.

Isaac Meeker, called and sworn on the part of the caveators, and examined by Mr. Cutler.—I live about a quarter of a mile from Smith Miller's; I have lived there between twenty and twenty-five years. I knew Mrs. Coddington in her lifetime; I have been acquainted with her since she has been at Mr. Miller's; I was not acquainted with her before; I should think she went to Mr. Miller's as long ago as eight or ten years; I used to see her frequently; during that time she would be at my house, and I would be at Mr. Miller's; she used to come to our house once or twice a year a visit- 10
ing; she would come along in the afternoon, and stay two or three hours, probably longer; I think she was at my house within two or three years before her death; I was not at Mr. Miller's very often; I always saw her when I called at Mr. Miller's while she was there; I talked to her some, and asked her how she did; the latter part of her days she did not recognise me—it was two or three years before her death; when I went I would say, how do you do Mrs. Coddington, and she would say, who is this, or who are you, I do not know you; the family would generally tell her who I 20
was; I did not carry on conversation with her of any consequence at Mr. Miller's house; I carried on conversation with her at my house. When she first called to see me she talked very rational; I do not think the last part, when she came to see me, she held her faculties as well as she did at first.

Quest. What difference did you discover?

Ans. I do not think she talked so correctly as she did at first along.

Quest. What do you mean by that? 30

Ans. Well, I think her faculties were failing gradually, that is what my idea was.

Quest. In what manner did she show her faculties failing?

Ans. I think she would ask questions over more than when I was first acquainted; she did not appear to have so strong a mind.

Quest. How long before death did you observe this?

Ans. A year or more.

Quest. Did you observe any other evidence of her faculties failing other than asking questions over? 40

Ans. I do not know as I did particularly.

Quest. In her conversations, did she carry on the conversation connectedly or not?

Ans. I don't think she did as she had formerly when I was first acquainted with her.

Quest. In what respect did she differ?

Ans. Well, she did not appear to have the same faculty to keep a story good as formerly.

I could not tell the last time before her death that she was
10 at my house, it was a year more, as near as I can tell.

Quest. How was she at that particular time?

Ans. She complained a good deal more of her inability; she said she was growing weak.

Quest. Did she say anything at that time in reference to her memory?

Ans. Well, she used to say sometimes in her conversation that her memory was poor—I think she said so at that particular time. I used to invite her to come and see me, and when she did come I used to make it a point to stay in the
20 room and talk with her—I had not much else to bother my mind about; we would have our conversation together. I saw her several different times at Mr. Miller's house after she was at my house the last time.

Quest. What was her manner of speaking when speaking about the loss of her memory?

Ans. She would say that her recollection was not as good as it had been.

Quest. Did you ever hear Mr. Miller say anything in reference to the old lady being crazy?

30 *Ans.* I never heard Mr. Miller say anything about it. Mrs. Miller was at my house since I had this subpoena served on me—I think it was the 23d of June; she asked me if I was subpoenaed here; I told her I was, and was very sorry for it; I told her I would rather spend two weeks to help them make it up than be obliged to come here. She said, if they were such fools as to go to law, they must do it; she had nothing to do with it herself. She stated further, that she had not anything, or very little, of her father's property; she said that she could put it all in a wheelbarrow that she had had
40 of it. She said further, that her father had requested, before

he died, her mother to give the girls pretty much the balance of the property, if I understood her, as her father concluded that he had given his boys their part, and that was the reason why her mother had made this new arrangement. She then said that her mother had given it to the girls. I said to Mrs. Miller, how many girls was there of you; she said there were four of them first. Well, I says to her, that I had understood, from what I had heard, that there was but two girls mentioned in the will. Well, I says to her further, why did not your mother remember the poor orphans of her 10 sisters; I had understood that the orphans were poor. Mrs. Miller said that they would spend it. Well, I says to her, we can't help that, our children spend what we leave to them, and we cannot help it. Well, I says to her, says I, Mrs. Miller whilst we are living the parents can take care of the children, and it is a help to them. The reply she made to it was, that after she was gone, she did not care what her own children did with the property. Well, she said, just as she left the house, that her mother had been crazy for the last five months she lived, before she died. 20

Quest. Did you consider Mrs. Coddington of sound mind, memory, and understanding during the last three years of her life?

Ans. I do not think she had her mind as she once had, or would have if her age was back; I considered she had been a smart woman.

The question repeated.

Ans. I should not think she was nothing like what she had been, was my idea about it.

Quest. Did you consider her competent or capable to make 30 a will during those three years, or to transact any other business?

Ans. Not of any importance, I should think.

Quest. Did you consider her competent or capable to make a will during that period?

Ans. I should have thought not.

Quest. Will you state upon what facts and circumstances you formed that opinion?

Ans. She would often, in talking, get excited and trem- 40 bly; that was in conversations at my house—I had no con-

versations with her anywhere else of any consequence. She said she felt very bad, and did not expect to live long; from those circumstances, I concluded that she was going very fast; that was my idea of it.

Quest. What was the condition of her bodily health for the last three years?

Ans. I thought she was failing every time I saw her; that was my idea of it. I only saw her when at my house or called in at Mr. Miller's. She looked as if she was failing
10 in her countenance; I said but very little to her at Mr. Miller's, except how she did, and then be off, and she would not know me, unless some one would tell her who I was.

Quest. Did you, or not, ever observe any wandering of her mind in your conversations with her?

Ans. She said her recollection was poor, at least her memory was.

Question repeated.

She could not go along and tell a straight story of it—her mind was not strong enough to carry it; as far as I know,
20 she had her senses well enough; she appeared so weak and feeble that she did not know how to comprehend herself; I think she had as much senses as she had mind; the opinion I formed from conversations with her was that she had been a woman of first rate sense in her prime days.

Quest. You say she had as much senses as she had mind, what do you mean by that?

Ans. I mean to say that she was very much debilitated in both, from what she had been once.

Quest. Had she any difficulty in speaking from this trem-
30 bling extending to the face?

Ans. I think that hindered her from speaking as she would have done; when she was excited she trembled very much, and had a difficulty in speaking—her lower jaw trembled very much; she would get excited from talking; she was naturally weak.

Mrs. Coddington's own words, when speaking of her memory was, she said her memory was most gone, and that she did not expect to live long.

Cross-examined.

40 She said she was very weak and feeble; I cannot say that

she always walked to my house; it runs in my mind that she was fetched to my house once or twice—I cannot say certain. She drank tea at my house. I think I have seen her go away from my house once or twice by being taken away by some of Mr. Miller's family. My own memory I think is good, it answers my own purpose; if I should promise you a dollar, I should not forget it; I think my memory serves me as well as it did forty years ago—it may not serve other people as well.

ISAAC MEEKER. 10

Sworn and subscribed in open court, July 8th, 1859.

JOS. DALRIMPLE,
IRA C. WHITEHEAD,
S. O. BRIANT.

Isaiah Coddington called and sworn on the part of the caveators.

Examined by Mr. Cutler.

I live near Mount Horeb. The husband of Hannah Coddington was my uncle; his name was Benjamin; he died a good while ago—I can't tell you the year—it must have been 20 in the year 1836; I guess, as near as I can recollect, he died in Somerset county; he left a will; I was a witness to that will.

Quest. Were you subpoenaed as a witness at Somerville to prove the will of Benjamin Coddington?

Ans. I was.

Quest. When was that?

Ans. It was on the day she made the will.

A paper shown the witness, purporting to be a will of Mrs. Coddington, dated September 28th, 1836, and marked 30 *Exhibit C*, the witness says, that he signed that will as a witness, the other witnesses signed it also as witnesses; she made her mark to that will.

Mrs. Coddington was at Somerville that day, and Smith Miller and Benjamin Alwood; I do not recollect of any other of the heirs.

Quest. Will you state how this will came to be made that day?

Ans. Well, sir, Mr. Miller and Alwood talked of throwing in a caveat to stop the will of Benjamin Coddington from being proved. Well, they got together aunt Hannah and the opposite party, and made an agreement that if she would make an equal division of the property she got from her husband the will of her husband might be proved; and she did, and I got a lawyer, and set him to writing—it took us
10 until candlelight; I remember it as well as if it was yesterday; the will of Benjamin Coddington was proved that day. This will was handed to me by Mrs. Coddington to keep it until it was called for, and it has been in my possession ever since; I guess Theodore Freelinghuysen drew this will. Mrs. Coddington lived, after her husband's death, upon her farm—I can't tell exactly how long she continued to live on it. She afterwards sold that farm—I understood that she sold it to Mr. Miller and Mr. Wilcox; I think she rented the farm
20 awhile with David Sheldon, then with John Walden, and then with her son-in-law Smith Miller. I frequently saw her from the time of her husband's death until her own death. She visited at my house once in a while, when she come from Mr. Miller's; she came to my house when she could get there. The last time I saw her before her death was two or three years—I cannot tell the exact time—I would not be positive; that is about the time I saw her at my own house; I guess there was nobody with her; I guess some of the neighbors came with her from her son's house—it was not safe for her
30 to walk alone; she was old and feeble, although she would step along lively; she was a day or two at my house; her bodily health at that time was quite feeble.

Quest. How did she appear in mind?

Ans. I think she was a good deal forgetful; she would be talking with her friends, and in a half an hour she would set down, and ask who that was she had been talking with; that is what I call forgetfulness.

Quest. How did she carry on conversation?

Ans. She could talk of by-gone days very well—of things
40 that transpired recently her memory was not good.

Quest. Was her conversation connected or not?

Ans. Not all the time connected.

I had a little conversation, not a great deal, that day that she was at my house; she talked the most. I cannot tell when was the next time before that that I saw her, a year or so before she was at my house? I think she was over in my neighborhood; she came to church; I do not think she was at my house the time she was at church; at that time she visited the neighbors, two or three families, her relations, in the neighborhood.

10

Quest. Did you ever hear her say that she had changed her mind about carrying out the agreement made at Somerville?

Ans. I never heard a word from her to that effect.

Quest. Were you always on friendly terms with her?

Ans. O yes, there was no difficulty that I knew of; she never said a word about this will after she put it into my hands, or about any other will; I never heard, until a few years back, that she ever had made any other will, and that was only a talk.

20

Quest. At the time you last saw her, did you think her of sound and disposing mind and memory?

Ans. I should not say she was—I could not say it.

Quest. Did you think her competent to make a will or transact other important business?

Ans. I should not think she was.

Quest. Upon what facts or circumstances do you base that opinion?

Ans. From what I said before, her memory was poor, if I had any right to judge. At the time of this agreement at Somerville, Mr. Miller, Mr. Alwood, and aunt Hannah were all present. I do not know who first suggested that she should make an equal division of this property. The opposers to the will must have desired that Mrs. Coddington make this will—I think I recollect that; I do not know that they told me the reason why they wanted her to make a will; I did not hear them say what the reason was. The children of Benjamin Coddington were William B.—he is now dead—Millard, Aaron, and Isaac, who died before his father; Lydia, who married Alwood; Caty, who married Smith 40

Miller ; Hannah, who married Fisher ; and one married Kinner—it was Sarah who married Kinner. William B. is dead ; he died about two years ago ; he left children, I guess he left two, three, four, or five. Millard is dead ; he left children ; he has been dead ten or eleven years this fall. Isaac died before his father did, and left no children. Aaron died since his father, and left children. Lydia, wife of Alwood, is dead ; she died before her father, and left children. Hannah is not dead that I know of ; Mrs. Kinner is dead, and left
 10 children ; I do not know whether she died before or since her father.

Saturday, July 9th—present Whitehead, Dalrimple, and Briant.

Examination of Mr. Coddington continued, and cross-examined by Mr. Hartwell.

I am seventy-odd years of age. Mrs. Coddington lived on her husband's farm all her lifetime, as far as I know, right on the road between my house and Plainfield, in Warren township ; she was, when a girl, Hannah Coon, said to be ;
 20 it has always been my impression that her birth place was Warren township.

Quest. Do you suppose that because a person cannot recollect others and their names that it is an evidence of weakness of mind and incapacity to do business ?

Ans. I should think it was, according to my judgment.

Quest. Is that the ground or basis upon which you formed your opinion of Hannah Coddington ?

Ans. I thought I had answered that question—inability, want of memory, not capable of doing business, is what I
 30 based my opinion on.

Quest. Did you ever transact any business, or attempt to transact any business, that would test her memory and capability to transact business with her ?

Ans. I have not done any business in some years with her ; when she lived on her farm, I worked for her—I did black-smith work for her ; I kept an open account with her ; that is a number of years ago, it must be a dozen years or more ; then she was capable of doing business. In one sense, I have found a difficulty of recognising persons and

remembering names of persons, that is with the young people that grow up about me, but with persons of my age I have no difficulty to recognise them. I cannot tell how long I have known Mr. Hartwell, I have known him a number of years; I do not know that I have known you forty years; I remember of your pleading while you was quite young, and having seen you at the bar at Somerville; I have seen you quite often; I do not know that I have done business with you a hundred times; I did not recognise you when you spoke to me here, until I was told who you was; I can tell 10 you the reason; one reason was, that I have not seen Mr. Hartwell in a number of years; another reason is, that he is thin in flesh, and another is, that he is getting older, and all this white stuff is coming out on his face; he used to be shaved up very slick; I had been here in court during the forenoon, and did not know Mr. Hartwell until after Mr. H. spoke to me, and was told who he was, for which I am much obliged to him; I saw Mr. Hartwell here during the forenoon, I expect, but did not recognise him; I expect the reason that I did not recognise Mr. Hartwell is, that there is 20 some change in him, and some in me; I change like other old folks.

Direct examination resumed.

Quest. Did you know, when you came up here yesterday morning, that Mr. Hartwell lived in Morristown, or was here in Morristown?

Ans. I did not, sir; that is one reason why I did not recognise him; if I had known he resided here, I might have recognised him; the last I heard of him he had gone up to Albany. When I did business with Mrs. Coddington, while 30 she lived on the farm, she was a woman of good sense and good mind, a smart stirring woman, and knew how to take care of things; I observed a change in her between that time and the time I last saw her down at my house.

Cross-examination resumed.

Quest. Were you acquainted with the property of old Benjamin Coddington?

Ans. I was acquainted with the farm; I do not know what the personal property was worth; his farm was sold for \$2500 the last sale; he had other out-lots or farms; I do 40

not know that I could call those out-lots farms—I would call them out-lots; I do not know that I have been over the grounds not in many years; I don't recollect whether I was an appraiser of the personal property of Benjamin Coddington, deceased, or not.

Direct examination resumed.

The farm that was sold for the \$2500 was the farm that was given to the widow, and sold by her, I should think that was about ten or twelve years ago—I could not tell exact.

10

ISAIAH CODDINGTON.

Sworn and subscribed in open court, July 9th, 1859.

IRA C. WHITEHEAD,
JOS. DALRIMPLE,
SAMUEL O. BRIANT.

William Smith, called and sworn on the part of the caveators, and examined by Mr. Cutler.

I live in Somerset county, I have known Mrs. Coddington since I was a child; I do not recollect of seeing her for almost two years—it will be two years next month; I saw her
20 at Josiah Coddington's; I took her in my wagon to within a couple of miles of Mr. Miller's; my wife and one or two of my children and one of the neighbor's daughters were in the wagon with me; I should think it was about six o'clock in the morning when I took her into the wagon; I conversed with her; her conversation was correct by times, perfectly so for a short space of time, then again she would appear rather flighty, in my estimation; her conversation was not connected long—can't recollect how long, but short.

Quest. What opinion did you form of the state of her
30 mind at that time, whether she was of sound mind or not?

Ans. I don't know that I formed much, if any opinion; I and my wife were talking about the old lady. She was my wife's aunt, I believe; I did not form any definite opinion at that time; I thought the old lady was quite infirm, but not more so than any lady of her age would be—she was old.

Quest. Did you form any opinion, and if so, what was it?

Ans. Well, to be plain with you, I did not think she was calculated to do any business at that time; I do not know how she was afterwards.

Quest. How was her memory ?

Ans. It was short.

Quest. Did you observe any want of memory ?

Ans. I should think I did—I am not able to particularize ; more than one thing that I noticed more especially when we arrived at our stopping place, a camp meeting, Archibald Coddington, the young man she had taken breakfast with, she did not know at all ; that made me think she was fully as forgetful as I thought she was by our discourse on the road. Archibald Coddington is the son of Isaiah Cod- 10
dington, the witness just examined. I did not see the old lady taking breakfast that morning with Archibald Coddington ; Archibald was there when we took her out of the wagon ; I think Archibald helped her out of the wagon ; Archibald, in her presence, or she, either said then that he had taken breakfast with her that morning ; it appeared to astonish the old lady ; she remarked and said, law am I so forgetful. Archibald Coddington is a man grown ; he lives about seventy-five yards from his father's house, in Warren township ; I should think it was ten or eleven miles from 20
the house of Isaiah Coddington to the camp ground. I cannot tell you how long before this last time I last saw Mrs. Coddington, it might have been a year or six months, I cannot say the time ; I do not know now but what I have seen her since I took her to camp meeting that time—I can't say whether I have or not ; I think I did not see her at Isaiah Coddington's before I went there to take her to camp meeting ; they sent her word ; I heard a request from somebody to come and take the old lady, as she wanted to get to her son-in-law's, Mr. Miller's. 30

Cross-examined by Mr. Little.

I think we left the old lady in the care of Mrs. Miller, either on the ground or in her tent ; from the word I received, it was the old lady's request to get back to Mr. Miller's. I do not recollect of seeing any of the family of Isaiah Coddington at the camp meeting. Mr. Archibald Coddington must have boarded at home at that time ; he boarded at home until he was married, which I think was after that time ; he always made it his home until he went West ; I think Archibald had been West either before or since the 40

camp meeting—I think before; I do not know how long he was absent—it was some time; I do not know how lately the old lady had seen Archibald before the morning of the camp meeting; it might have been six months, a year, or longer, I do not know anything about it.

Direct examination resumed.

I do not know how long Mrs. Coddington was at Isaiah Coddington's at that time; I do not know, nor cannot say, whether Archibald was at home at that time—my impres-
10 sion is that he had been home for some time; I should say that Archibald was West some six or twelve months, more or less.

Cross-examination resumed.

She used to come down once in a while to make a visit in the neighborhood, I should think as often as once in a year. I saw her at the funeral of her children and relatives—this was while she was living at Smith Miller's; I do not recollect how often she came during the last of her days; I believe she visited her relatives and acquaintances around the
20 neighborhood if she could get conveyances; I believe she visited David Rutman's; I suppose she did, but I do not know much about it; reason teaches me that she did.

Direct examination resumed.

I do not know of her failing to recognise any other persons other than Archibald Coddington; I guess she did not know my wife—I am not positive. I do not know that any person told Mrs. Coddington who my wife was; I think I saw the old lady at her son's (William B.) funeral—I am not positive; I cannot say whether that funeral was before or
30 after I took her to camp meeting. I do not know whether the old lady recognised me that morning or not I called for her; at other times she has not recognised me; she failed to recognise me before this time, I not seeing her for six months, or a year, or in two years; she has not recognised me for years back.

WILLIAM SMITH.

Sworn and subscribed in open court, July 9th, 1859.

IRA C. WHITEHEAD,
S. O. BRIANT,
JOS. DALRIMPLE.

Benjamin M. Coddington, called and sworn on the part of the caveators, and examined by Mr. Cutler.

My father's name was Millard Coddington—he is deceased; he died since my grandfather Coddington. I now reside in Somerset county, near Mount Bethel. Mount Bethel and Mount Horeb are two places. I saw my grandmother Coddington once in a while after she went to live with Mr. Miller; I saw her quite often when she was living with my brother-in-law, David Sheldon; Mr. Sheldon married my sister; I saw her as often as once a week or once a month, as I would happen there; she did not know me well at that time, she would fail to recognise me there; my sister, Mrs. Sheldon, would have to tell the old lady who I was; I was in the habit of visiting her quite frequently while she lived on her own place; she recognised me then; when she was living on her farm, I think we lived about two and a half miles apart; I think I lived with my father at that time; my grandmother visited my father while she lived at Mr. Sheldon's; I do not know that she recognised me without being told who I was; it may be five years ago since she lived at Sheldon's, I am not positive about it; when she lived at Sheldon's, I think her son William B. done a good deal of her business; I have seen her after she removed to Mr. Miller's; when she would be visiting in the neighborhood, I have seen her pass in Mr. Miller's wagon; I have talked with her when she passed my place with Mr. Miller; I only conversed with the old lady as she passed the road by my house after she lived at Mr. Miller's.

I went with her to Squire Mundy's; she said she had a will there, and that she wanted to see it, or see about something, I do not recollect what; I do not know whether that was after she lived at Mr. Miller's or not; I think we went down to Mundy's afoot. I did not see what she did with the will; I saw the will, and had it in my hands; she had it in her hands too; I did not read the will; I do not know whether Squire Mundy read the will or not; I do not know of her failing to recognise any other person; after she removed from her farm, she failed to recognise me several times; I do not know whether she failed to recognise me when I talked with her there in the road.

Quest. Judging from what you saw of her at Sheldon's, and while she lived at Mr. Miller's, had she her faculties sufficient to transact any important business?

Ans. I think when she was at Sheldon's she was not fit to transact business; I have not seen her at Mr. Miller's; I have not been to Mr. Miller's in a good while. My father left, or there is now, nine children living. There was \$1500 of the money, for which the farm sold for, divided among the old lady's heirs; it was divided equally among the children and grandchildren; I believe I got my equal proportion—it was paid to me at Mr. Sheldon's; Mr. Miller was present and Mr. Wilcox; they bought the place, I believe; I believe Wm. B. Coddington was there at that time; I think his proportion was paid to him there at that time; Mr. Sheldon had his at the same time; one of the two, either Mr. Miller or Wilcox, had the money; William Cory was there too, as I think, but I will not be certain; I can't say which one paid out the money; I think William Cory was a purchaser with Miller and Wilcox; the time the money was paid over was shortly after the place was sold. I do not know that I ever heard the old lady say how she meant to divide her property.

Cross-examined by Mr. Little.

Mrs. Coddington lived with my brother-in-law, Mr. Sheldon, probably a year or two; I do not know but what she was living with Mr. Miller before that; she moved around some; I do not know why she did not stay at Mr. Sheldon's. My father died in the year 1846. I lived where I now live at Mount Bethel while Mrs. Coddington lived at Mr. Sheldon's—it is about half a mile across from my place to Sheldon's. My impression is that the old lady did not live at Sheldon's when I went with her to Lewis Mundy's—I cannot tell where she lived then. I am thirty-five years old. I cannot tell the number of acres my father got from my grandfather—I do not know the number—I cannot give an estimate of the number of acres. I own a part of the land that my father got. I believe I know the land that my father got from my grandfather. Probably my father owned, at the time of his death, 150 acres; probably 50 acres of that came from my grandfather, but I cannot tell the number of

acres; this 50 acres is a part of the land that was sold after my father's death; I cannot tell what it brought an acre—I cannot tell within \$5 an acre. My grandfather owned a lot above me—the lot that is now owned by Corzald Coddington; there was about 30 acres in that lot; William B. Coddington got that lot from my grandfather. I do not know but what my uncle Aaron got a lot along side of the lot of my uncle William B.

Direct examination resumed.

I never heard Mr. Miller, Mrs. Miller, or Mrs. Coddington say that my father, Aaron Coddington, or William B. Coddington ever paid anything to Benjamin Coddington, or any one else, for the land they got—I do not know it of my own knowledge; I know that my grandfather left those lands to my father, Aaron, and William B., but do not know what charges or encumbrances he placed upon the lands. I think the girls, my grandfather's daughters, got some lands from my grandfather.

Cross-examined.

I believe the girls got some lands, that is they got their part of Isaiah's share. I do not know that the girls got any lands from my grandfather by his will.

B. M. CODDINGTON.

Sworn and examined in open court, July 9th, 1859.

IRA C. WHITEHEAD,
S. O. BRIANT,
JOS. DALRIMPLE.

Tuesday morning, July 12th, 1859, examination of witnesses continued—present Whitehead, Dalrimple, Briant.

Amos J. Moffett, called and sworn on the part of the cave-ators, and examined by Mr. Dalrimple.—I reside at Mount Horeb, in Warren township; I have lived where I now live twenty-one years, and within a quarter of a mile from the homestead farm of Benjamin Coddington, the same farm where his widow resided after his death. I have known Hannah Coddington, in her lifetime, for more than thirty years; I was in the habit of visiting her in one or two years

after her husband's death until she left the farm ; I had considerable dealings with her, more or less, every year ; I never saw her but once after she removed to Mr. Miller's, to talk with her more than to say, how do you do ; I moved her goods to Mr. Miller's ; I saw her at Mr. David Buckman's— I heard she was there, and went on purpose to see her, as I did not think she might get to my house—that was four or five years ago ; she did not know me when I first spoke to her, until Mrs. Buckman told her who I was, just as I was
 10 going to tell her myself ; she then knew me, and appeared quite glad to see me ; I talked some with her—she did not seem to talk like she used to ; I did not talk much with her, it did not appear to be much satisfaction to talk with her ; she appeared childish like.

Quest. As you had called to see her as an old acquaintance, why did you not remain longer, and converse more with her ?

Ans. Well, it did not appear to be much satisfaction to talk with her, as she appeared to talk flighty about some
 20 things.

Quest. Did you, at that time, consider her fit to transact any important business ?

Ans. I should not hardly think she was.

When she first lived upon her farm, she was a smart business doing woman. The nature of my business with her was, I did little notions for her, cut and drew her wood for her, butchered and cut up her meat for her, and such like as that. I witnessed a will for her—that is somewhere betwixt fifteen and nineteen years ago, not shorter than fifteen, or longer
 30 than twenty years ago ; there were two names on before I signed mine ; it was Hugh Dickinson's I know, and I think his wife ; it was at Mr. Dickinson's house, a near neighbor of mine and hers too, right between her house and mine ; the will was wrote, and their names were on to it ; I did not see them write their names, that I remember of ; I left the old lady at Dickinson's, and the will also ; I left before the old lady did.

Quest. Was it stated there by the old lady, or in her presence by any one, how she had disposed of her property by
 40 that will ?

Ans. I understood it at that time, by her or by the man that wrote the will, I cannot tell which, that the property was divided about equal; there was some little difference some way, I do not know what it was—I did not understand.

Quest. Did this little difference, as you understood it, consist in difference in the shares, or in some of the heirs, in addition to their shares being given some particular articles?

Ans. I cannot answer the question; I do not know what the difference was; they said it was pretty much equal, except a little difference. 10

Cross-examined by Mr. Little.

Her farm had not been sold at the time this will was made, not until some years after this; the farm was sold some four or five years ago, perhaps six years ago; I heard of it at the time it was being sold. She left the farm last fall nine years ago, it might have been in October—I think it was in November; I am not certain whether it was after or before she sold the farm; it was somewhere about that time when I saw her at David Ruckman's. I do not know of transacting any other business for her, except what I have stated. 20

Direct examination resumed.

I do not know where she was living at the time I saw her at David Ruckman's; she was then on a visit; I do not think I had seen her before that from the time I had moved her up to Mr. Miller's, except to say, how do you do; I think that was nine years ago last fall.

AMOS J. MOFFETT.

Sworn and subscribed in open court, July 12th, 1859.

IRA C. WHITEHEAD,

JOS. DALRIMPLE,

SAMUEL O. BRIANT. 30

Archibald I. Coddington, called and sworn on the part of the caveators, and examined by Mr. Cutler.—My father's name is Isaiah Coddington—I believe he was here as a witness last week. I live near Mount Horeb. I knew Hannah Coddington; I have known her as long as I can remember; I think the last time I saw her is two years ago this coming August; I saw her at my father's; I was living at my father's

at that time ; I cannot say what time of day she came to my father's—I was not at home when she came ; I first saw her in the afternoon ; she remained all night at my father's ; I conversed with her ; I think she went away the next morning ; I do not think she remained there more than one night ; she went from father's to camp meeting ; she went with William Smith ; I saw her that morning, and took breakfast with her ; I went to camp meeting that day ; I supposed she knew I was going—we were talking about it, and all getting
 10 ready at once ; I think she started first, I think ten or fifteen minutes first ; Smith got to the grounds first ; I think I helped her out of the wagon ; she did not know me ; she asked some one (I do not know who it was) who it was that helped her out ; I can't say what she said when the person told her who helped her out ; during the time she was at my father's house, I conversed quite a good deal with her ; her memory was bad at that time ; she could not recognise hardly any one that she used to be acquainted with ; she did not recognise me, I know.

20 *Quest.* How did she carry on conversation, connectedly or not ?

Ans. No, sir, I do not think she did. When I first met her at my father's house, she did not know me until mother told her who I was. I cannot say exactly when it was that I had seen her before that time ; I cannot say about the time.

Quest. From what you saw of her at that time, did you consider her competent to transact any important business ?

Ans. I do not think she was.

Quest. Will you state your reasons for that opinion ?

30 *Ans.* She was old and forgetful, a little childish, or a good deal so, in my opinion. I was well acquainted with her prior to the time she was at my father's house ; I have been there, and used to go there a good deal. I do not know of her failing to recognise any other person or persons at my father's house, for she had been there some time when I got home ; it was along towards evening when I got home.

Cross-examined by Mr. Little.

I suppose it was near sundown, or something like it, when I got home. I cannot recollect anywhere near the time I
 40 had had conversation with her before that time ; I had been

out West six months. I had been at home almost a year before the time she was at my father's house. My father has nine children, there were four living at home, including myself, living at home at the time the old lady was at my father's house, all younger than myself, and all boys; the oldest one at home must have been sixteen or seventeen years younger than myself. I am thirty-six years old; there was two or three years between the next brother and the one younger than myself, and the youngest one is some ten or eleven years younger than the next older. I was about 10 sixteen or seventeen when I was at the old lady's frequently; I used to go there a great deal; I used to help her get her hay in summer; she lived on her farm then. I am a farmer. I had not lived all the time with my father from the time I was of age until I went West; I lived about two and a half years at Newark; I lived with him all the rest of the time. In the morning, we were all preparing to go to camp meeting; it was about eight o'clock when we started; I can't say what day of the camp meeting that was. I do not know that there was any excitement in the family about our mak- 20 ing arrangements to get off; I think my father's family did not go, except one of the boys. I had nothing but a buggy, and I had to take my wife along, or leave her at home. I think the old lady was a member of the Methodist church, although I cannot say that she was. There was a good many people on the ground there that day; we got there about ten o'clock—it was before the preaching commenced; there was a good deal of driving on the road; I do not know that there was any driving on the ground; there was a good many people going. I cannot exactly say what I conversed 30 with the old lady about that afternoon at my father's; I cannot recollect anything particular that we conversed about.

Direct examination resumed.

It is about eight or ten miles to the camp ground from my father's. Before we started that morning, the old lady invited me to take dinner with her; I could not say whether I was invited to take dinner at the house or tent, but I rather understood at Mr. Miller's house. She had left her farm before I went West. I was in Newark in the neigh- 40

borhood of two and a half years before I went West. I think, while I lived in Newark, I saw her once at John Waldron's, but I could not say what time it was.

Recross-examined.

I cannot say what was to become of her after she got to the camp ground; my understanding was that she was to go to Mr. Miller's; all I do know is, that Mr. Smith was to take her to the camp ground; after she got to the camp ground, I do not know where she was going. I do not re-
 10 collect of seeing Mr. Miller at the camp ground that day; I do not know who took charge of the old lady at the camp ground after I helped her out of the wagon; I saw her in front of the desk, she was sitting there during the preaching, I think in company with Mrs. Miller—I would not say certain. I did not take her home with me that night; I did not look after her that day; I do not know that she went home with Mr. Smith; so far as I know she was left on the camp ground to take care of herself.

Direct examination resumed.

20 I cannot say that I saw Mr. Miller that day on the camp ground; I think I saw his wife. I took dinner at a public tent there that day; I do not know where the old lady got her dinner that day. I did not see Mr. Miller's daughter there that day—I am not acquainted with them—I might know them when I see them. Mr. Smith drove up near to the preacher's stand, and let the old lady out of the wagon; there might be twenty feet from the stand to the seats; if she had been left in my charge, I would have taken care of the old lady. I did not talk with Mrs. Miller.

30 *Quest.* Do you, or not, think she was capable of taking care of herself there that day without any person to look after her?

Ans. I don't think she was capable of taking care of herself.

ARCHIBALD I. CODDINGTON.

Sworn and subscribed in open court, July 12th, 1859.

IRA C. WHITEHEAD,
 JOS. DALRIMPLE,
 S. O. BRIANT.

David Coon, called and sworn on the part of the caveators, and examined by Mr. Dalrimple.

I reside in what is called North Plainfield. I knew Hannah Coddington in her lifetime ; she was an aunt of mine ; I think the last time I saw her before her death will be two years in the coming August ; I was on a visit up to David Rutman's, and saw her there ; my wife was with me ; my wife, if I recollect right, went into the house first ; I was putting up the horse ; when I went in I embraced her, and said how do you do aunt Hannah, and she knew me, and 10 appeared to be glad to see me ; it must have been some ten or twenty minutes that my wife went in before I came in ; I think we got there about two o'clock in the afternoon, and remained there until towards evening ; the old lady went home with me, and remained until Monday—it was Saturday evening ; on Monday morning I took her up to David Mundy's ; during sabbath afternoon, she had a desire to visit my mother-in-law, Mrs. Cory, an old friend of her's ; she lived at Peter Wooden's, a short distance from my house, about a half of a quarter of a mile ; I took her down in my 20 carriage ; when we got there, there was an old lady in the house, a Mrs. Manning, eighty-five years old, and they got to telling their ages ; my mother-in-law then told her age—she was then eighty-seven ; aunt Hannah told her age, and said that her age was ninety-seven ; Dr. Craig was there, and was quite interested, and said he had never seen three such old persons together, and added up their ages, and said he hoped aunt Hannah would live to be a hundred years old ; I think we staid an hour, or an hour and a half, and then returned home. I have known Mrs. Coddington ever 30 since I was a boy ; for the last nine years since she has been at Mr. Miller's I have not been with her much ; I visited Mr. Miller's about five years ago ; I conversed with her upon various subjects, some what I do not recollect anything in particular ; she conversed about the death of her son William, and remarked, that if it had been the will of God to have taken her instead of her son William, how much better it would have been ; that she was of no use to any one, and William was of use to his family ; she appeared to be resigned to God's will. I think she mentioned about the will 40

of her son William, and said that he had left a will, and made his son George one of his executors; I think she spoke of a grandchild, a sister to George; she spoke of her sickness and death, that she died happy, and was willing to go. She has named coming to live with me a number of times years ago, and at this time said how she would like to live at Plainfield; I cannot say whether she ever named coming to live with me before she went to live with Mr. Miller or not. It was four years before this time that I had
 10 seen her last, then she came to my house with my sister, Mrs. Rutman. The last time she was at my house her bodily health was somewhat feeble; she appeared to have a trembling of the muscles, her under-lip would tremble; I do not know that I noticed that the time before the last time she was at my house she ate with us, and I think she said she was almost ashamed of herself because she could not eat as fast as other persons, and had to sit longer at the table; we told her not to mind that. I forget whether she cut her victuals herself—I think she did help herself; my
 20 wife assisted her some about the table.

Quest. Is it, or not, in your opinion, judging from what you saw and heard from her at that time, that she was competent to transact any important business?

Ans. My conviction is that she was not.

Quest. Would you have been willing to have taken title to real estate from her at that time?

Ans. I think not.

Quest. Did you observe any change in her between the time when you last saw her before this time and the time
 30 you now speak of?

Ans. I think it was very plain to discover that she was failing—her trembling, and kind of general debility and infirmity; her memory was shorter; I remember of her speaking of it one time, and saying that she was not fit to tell anything any more; she could not remember what she wanted to express; I do not recollect what she was undertaking to communicate then.

Quest. Did you observe how, in what respect, her memory failed, or to what extent?

40 *Ans.* She seemed to be, I thought, somewhat amiss, some-

what forgetful ; she would forget the children's names after being told—I mean my children that were there at home with me ; she was told that one person was the work girl, and she afterwards inquired if she was one of the children ; that girl's name was Sally O'Brien ; she was an Irish girl—she was the girl that we had to do housework ; I think she was not told the name of the Irish girl in full. I cannot tell how long it would be after she was told the names of the children that she would forget the names ; I do not know how often that would occur in respect to the children, once 10 or twice, I think. My wife told her who the Irish girl was, the work girl ; my children were then of various ages, from five to eighteen years of age. I did not observe any other thing in particular about which her memory failed. I think she spoke of her grandchildren, the children of her son Aaron. She hoped they would be taken care of or provided for ; they lived, I think, in our township, in the neighborhood ; I think she manifested an interest and affection for them. Aaron Coddington, I think, must have been dead seven or eight years, it might be longer, it is quite a number 20 of years.

DAVID COON.

Sworn and subscribed in open court, July 12th, 1859.

IRA C. WHITEHEAD,
JOS. DALRIMPLE,
SAMUEL O. BRIANT.

Mary Baldwin, called and sworn on the part of the caveators, and examined by Mr. Cutler.

I am the wife of Samuel Baldwin ; I live within about a mile and a half of Smith Miller's house ; I knew Mrs. Cod- 30 dington in her lifetime ; I was in the habit of visiting her, and she me ; I was in the habit of visiting her three or four years before her death ; the last time I saw her was the day she died ; she visited my house in the spring before her death ; Mrs. Miller brought her to my house—I think that was in the month of March ; I think she came between nine and ten o'clock in the morning, and remained until the afternoon ; Mrs. Miller did not remain—she went away ;

Mrs. Fisher, Mrs. Coddington's daughter, was with her, and remained with her; I think Mrs. Miller or her son came after Mrs. Coddington that afternoon. I visited Mrs. Coddington at Mr. Miller's in October or November, 1857, threshing buckwheat time; my sister-in-law, Jane Baldwin, accompanied me; we were there from nine in the morning until in the afternoon; we spent the day there; Mrs. Fisher was there; Mrs. Coddington did not recognise me
10 when I went in—Mrs. Miller told her who I was.

Quest. How was her memory at that time?

Ans. Not very good, I believe.

Quest. Any incident that day that called your attention to it?

Ans. My sister-in-law and I, each, took a little child with us—my sister-in-law's was ten months old, mine was three months. I went out of the room, and when I came back Mrs. Coddington was holding her discourse to my sister-in-law, supposing it was me; she says Mary, (this is my name) how your baby grows—she said that to my sister-in-law; she
20 said, I never saw a child grow so in my life since I saw it last. My sister-in-law says this is not Mary, or her baby; she says, there sits Mary, pointing to me. Mrs. Coddington says, O, dear Mary, since I have had this shaking in my face, I have lost all my faculties, and do not know my friends when they come to see me. This shaking that she spoke of was a shaking in her face or trembling; I do not know that I can remember when I first observed it; I do not think she had it when I was first acquainted with her; I do not know what she called it, except a shaking in the face;
30 she had seen my baby before, I think she saw it when it was six weeks old, at my house. I do not know how long I had been there that day before this occurred, it might have been an hour or so; I had talked with her before that, when she visited my house in March, 1857. I think she recognised me upon my going to the door; I think I spoke first to Mrs. Coddington; I did not know they were coming.

Quest. How was her memory upon that day?

Ans. I think she was somewhat shattered, and did not seem to remember. When my children would come in, she
40 would want to know their names and who they were; when

they went out, and returned again, she would want to know again; I do not know that I noticed it having occurred more than once that day—I think it occurred with two or three of my children; I did not notice anything more that occurred that day that showed a want of memory.

Quest. Were her conversations connected or not?

Ans. I did not notice particularly whether they were or not, I had other company that took my attention.

Quest. Were you in the habit of conversing much with her when you saw her? 10

Ans. Not a great deal.

Quest. Why did you not converse more with her?

Ans. She was somewhat deaf, and I always found it hard to converse with her.

Quest. What do you mean by finding it hard to converse with her?

Ans. On account of her being deaf, and it was difficult to talk with her.

Quest. Was her deafness the only reason why you did not hold conversation with her? 20

Ans. I don't know of any other reason.

Mrs. Coddington did not know my sister-in-law until that day when she was introduced to her; I and my sister-in-law went together that day; Mrs. Miller, I think, introduced my sister-in-law to Mrs. Coddington. I remember the Sunday that Mrs. Coddington went to church without any shoe on one foot—it was first noticed that she had only one shoe either at the church or on the way to the church; some of the family first noticed it; I think that was in the spring of 1857; she remained at my house until after the service; I do not know where the shoe was found; Mr. Miller brought her to my house, and Mrs. Coddington says, Mary I have met with a misfortune, I have lost my shoe; Mr. Miller said he guessed that she had left it at home. When she was at my house in March, 1858, she went around the house without any person to assist her; she could see pretty well—I did not see but what she could see pretty well.

Quest. From what you saw and knew of her during the three years that you knew her, did you think her competent and capable to transact business? 40

Ans. I did not think she was.

Quest. Will you state your reasons for forming that opinion?

Ans. I consider that it wants a person of strong mind to be capable of transacting all kinds of business.

Quest. What kind of a mind had she during the time you knew her?

Ans. Her mind was somewhat shattered, she and could not remember things from one time until I went to see her again.
 10 I think Mrs. Miller introduced my sister-in-law before she told Mrs. Coddington who I was. Mrs. Miller says, "mother this is Mary." She recognised me then by coming up close to me, and looking at me. I do not recollect whether I had spoken to Mrs. Coddington before that or not that day. I never heard her complain of her eye-sight; I never saw her wear spectacles. My sister-in-law's husband's name is Ellis Baldwin—he is my husband's brother; my name was Coddington before I was married; I cannot tell how I am related to aunt Hannah, it is so far off.

20 *Quest.* Did her failing to recognise her acquaintances appear to arise from defective eye-sight or from want of memory?

Ans. I do not know that I could tell which. My sister-in-law was sitting within a short distance, a few feet, from Mrs. Coddington when she mistook her for me.

Cross-examined.

The old lady appeared, so far as I could see, to enjoy her visits to my house, and when I visited her at Mr. Miller's I did not see but what she enjoyed my visits. My child was
 30 born, I believe, on the 24th of August; I have eight children, the oldest is eighteen years old, the youngest one is the one I have spoken of; they all lived at home with me. She made use of the word "faculties" when she spoke about the mistaking of the babies.

Quest. Do you think that the expression made by the old lady, that she had lost all her faculties, was an evidence that she had lost her reason and faculties. [Question objected to.]

Ans. I should think, by the appearance of things, that she
 40 had lost her faculties.

Question repeated.

Ans. Yes, that was one thing that led me to suppose she had lost her faculties.

MARY BALDWIN.

Sworn and subscribed in open court, July 12th, 1859.

IRA C. WHITEHEAD,
JOS. DALRIMPLE,
S. O. BRIANT.

A certified copy of the will of Benjamin Coddington offered in evidence by caveators, and marked *Exhibit D.* 10

Maria Noe, called and sworn on the part of the caveators, and examined by Mr. Cutler.

The name of my husband is Lewis Noe; I live about a quarter of a mile from Smith Miller's; I have seen Mrs. Coddington some twelve or fourteen years ago, and have known her since she has been living at Smith Miller's; I should think she had been living at Smith Miller's six or eight years. She has been in the habit of visiting at my house once in a while, not very often. I have been in at Mr. Miller's since she has been living there; she was, I 20 think, at our house last fall—she staid pretty nigh the afternoon; she told me that she had come afoot to Mary Carney's, and was tired out, and Mary Carney brought her to my house in a wagon. I do not think it is half way to our house from Mr. Miller's to Mary Carney's. I took her back to Mr. Miller's in a wagon; the time before the last time she was at my house was in July or August, it was in mowing time; she went out to see them mow with a machine, Mr. Noe asked her to go; she started to go; I could not say that she ever went there, because I did not go with her; 30 they were mowing in front of the house; I cannot tell the time she was there before July or August; her health was feeble at that time. I do not know how her eye-sight was; she did not wear any specks, that I noticed; she walked around without any help—I did not lead her.

Quest. During the last two years of her life, would she recognise you?

Ans. As I would go in I would speak to the family, and Mrs. Coddington did not seem to know me; she would ask who that was; after she was told who I was, I would talk some with her; she was very deaf, and I did not care to talk much with her. I cannot say when it was that I first noticed this trembling of her mouth—it was several years that she had this trembling.

Quest. How was her memory?

Ans. She would tell over some things as if she seemed to
10 remember, and sometimes she would not.

Quest. Do you remember any instance in which she exhibited a want of memory?

Ans. I could not tell any particular instance she talked on; some things she would tell over what I supposed was so, but I did not commit to memory what she said. I remember when Mrs. Fisher came on from the West, I think it was in the fall, I could not say certain; I think she went away in the spring, I could not tell the month.

Quest. During the time Mrs. Fisher was visiting at Mr.
20 Miller's did you have any conversation with Miller in reference to the old lady's property and the object of Mrs. Fisher's visit? [Objected to.]

Ans. Mr. Miller was in our house one day, I could not tell what day it was, some time in cold weather; he said his wife had gone away; he was down cellar to work; he said Mrs. Fisher and her mother were in the room above him; he said he heard Mrs. Fisher say to her mother, if you do not give me up that paper I never will leave you till I get it; he said the paper was a note for money her mother had lent
30 her some years before of \$150; he said that there had been no interest paid on it since it was given; nothing further was said; he did not say whether Mrs. Fisher got the note.

Quest. When was the first you knew of the existence of this will?

Ans. I could not tell; I heard of it, before the old lady's death, from Mrs. Fisher's daughter, who was at Mr. Miller's—her name was Martha. I never heard either Mr. or Mrs. Miller, or Mrs. Fisher, speak of a will before the old lady's death; I never heard Mr. or Mrs. Miller say much about
40 the old lady during the last two years of her life. The way

the conversation about the note commenced was by my asking Mrs. Miller if Mrs. Fisher had gone back—that was before I heard of any will. I do not think there was any person present when the conversation took place; I think Mr. Noe had gone down cellar.

Cross-examined by Mr. Little.

He, Miller, said he was down cellar, and it strikes my memory that he said he was down cellar cutting up his pork, but I cannot say certainly.

MARIA NOE. 10

Sworn and subscribed in open court, July 12th, 1859.

JOS. DALRIMPLE,
IRA C. WHITEHEAD,
S. O. BRIANT.

Wednesday morning, July 13th—present Whitehead, Dalrimple, and Briant, judges.

Letitia Brown, called and sworn on the part of the caveators, and examined by Mr. Cutler.

I reside two miles this side of New Providence; I reside with Caleb Dickerson, and have resided with him ten or 20 eleven years; I did not know Hannah Coddington in her lifetime before I came to live at Mr. Dickerson; I do not know when Mrs. Coddington came to Mr. Miller's to live; she lived there six or seven years; while she lived at Mr. Miller's I was in the habit of seeing her as often as once a month; I was not in the habit of being at Mr. Miller's very often. Mrs. Coddington came to visit at Mr. Dickerson's occasionally; the last time I saw her was a few days before she died—that was at Mr. Miller's; she was sick at that time; I do not recollect when was the last time I saw her before 30 that; I think, very probably, it was at Mr. Miller's, but I do not recollect; the last time she was at our house there was no one home but me; I cannot recollect when it was; she staid about an hour; she walked to our house and back; I was busy, and did not talk a great deal to her; she wanted to see Mr. Dickerson about wanting to get away from Mr. Miller's—I do not recollect that she said why she wanted to

get away; she said she wanted Mr. Dickerson to get Mr. Baldwin to take her away, if Mr. Dickerson could not take her. A day or two before she died she said that she had got all ready to go to Mount Horeb, and Mr. Baldwin's folks did not come; she wished to go to Mount Horeb because she always enjoyed herself there; she was sorry she had broke up keeping house, and was sorry she had not got some of her grandchildren to come and live with her—that is all the reason I recollect of Mrs. Coddington going, or wanting to
 10 go, to Mount Horeb. I cannot tell when I first observed the trembling of her jaw; the old lady would frequently speak of it, but I do not remember what she said.

Quest. How was the old lady's memory?

Ans. I do not know much about her memory; when she came to our house, she would tell her stories, and always tell her stories correct.

Quest. Do you refer to the stories she was in the habit of telling?

Ans. Yes, sir; she was in the habit of telling one story
 20 over. She did not always recognise me during the last two or three years of her life; I do not recollect of her ever recognising me without being told who I was. I was at the house of Mr. Miller the day of the funeral; at night, when Mrs. Miller came home, I had a talk with Mrs. Miller; Mrs. Miller said the old lady, when she spoke against them, had not been in her right mind; she said the old lady had not been in her right mind in a year past.

[Objected to by counsel of caveator.]

This was at Mr. Miller's house; Mr. Miller and daughter
 30 were present; Mr. Miller said the old lady had always spoke well of him; I think I have heard the old lady speak against Mr. Miller—I do not recollect what it was that she said against him.

Quest. Did she appear to like or dislike Mr. Miller?

Ans. She appeared to dislike him. I recollect about the time the will was made that Mr. Dickerson signed as a witness; I recollect of Mrs. Miller's coming over to Mr. Dickerson's—I think it was in the daytime when Mrs. Miller came over to Mr. Dickerson's; Mr. and Mrs. Dickerson were
 40 home when Mrs. Miller came over; Mrs. Miller said that

she did not wish anything said about the will; she did not say why she wished nothing said about the will.

Cross-examined.

The time that Mrs. Coddington came to our house, when I was there alone, Mrs. Coddington did recognise me.

Quest. Did Mrs. Miller say that she did not wish Mr. Dickinson to say anything about the will, or did she say that Mrs. Coddington did not wish anything said about it?

Ans. She said she did not want anything said about it. I am a little deaf, I have been so for two or three years; I am ¹⁰ only hard of hearing when I get a cold; I have a cold now—I take cold very easy; the changes of the weather do not affect me very sensibly, unless I expose myself; I do not know that I am very careful of myself; I am troubled very much with my deafness; I do not have my deafness troubling me much of the time; I am troubled most with it in the winter time; the changes of the weather in spring do not affect me at all; I think I have less colds in the spring than in any other season of the year. Mrs. Coddington was deaf—she was very hard of hearing; I had more difficulty ²⁰ to make Mrs. Coddington to understand than she had to make me understand; she did not have to repeat things over to make me hear her; she did not have to repeat to make me understand; I could always understand what Mrs. Coddington meant when she spoke to me. Mrs. Coddington had a pretty good memory; she had an old person's memory; she could not remember like a younger person.

Direct examination resumed.

I do not recollect whether or not Mrs. Coddington recognised me the day I was alone, before I told her which one of ³⁰ Mr. Dickerson's family I was.

Quest. Did you ever observe whether, when telling a story, she would get off on to some other subject or story before she finished the one she commenced to tell?

Ans. I think I have.

Cross-examination resumed.—I do not know that I could tell you what the story was that she was telling, I have never laid it up in my mind, I never expected to be called on to tell. I cannot recollect of any subject that she ever talked of when she left the subject. The time Mrs. Miller went to ⁴⁰

Mr. Dickerson's house to get Mr. Dickerson not to tell about the old lady's will, I do not recollect that Mrs. Miller said that the old lady had not slept, and was almost crazy for fear it would leak out that she had made a will; but she did say the old lady could not sleep the night before, and would not let anybody else sleep.

Direct examination resumed.—I do not recollect what I was doing when Mrs. Miller was at Mr. Dickinson's; I do not recollect whether I was in the room all the time she was
10 there, or not; I do not recollect anything more than what I have stated that Mrs. Miller said about the will or about the old lady at that time.

her
LETITIA X BROWN.
mark.

Sworn and signed in open court, July 13th, 1859.

IRA C. WHITEHEAD,
JOS. DALRIMPLE,
S. O. BRIANT.

Mary Dickerson, called and sworn on the part of the cave-
ators, and examined by Mr. Cutler.

20 I am a sister of Caleb Dickerson, and live with him. I had no particular acquaintance with Mrs. Hannah Coddington until she came to Mr. Miller's; I do not think I saw her oftener than once a month. She was in the habit of visiting at my brother's, sometimes she has spent the day there; during the last three years of her life I do not recollect of Mrs. Coddington recognising me until she was told who I was; when she would come to my house a visiting she would know me by being told who I was.

Quest. Had you difficulty in carrying on conversation with
30 her?

Ans. Well, she was hard of hearing.

Quest. Would her conversation be connected or not?

Ans. As nigh as I could remember, I do not recollect but what it was.

Quest. Do you ever recollect of her commencing a story, and then dropping it before she finished it, and commence on another subject?

Ans. I do not recollect any such thing. I was present the night Mrs. Miller came over to my brother's house after this will was made.

Quest. What did Mrs. Miller say? [Objected to.]

Ans. As high as I can recollect, Mrs. Miller said that she wished us not to say anything about the will having been made; she did not give any reason why. I do not recollect of Mrs. Miller's saying anything about the old lady's not having slept any. I have heard the old lady say she wanted to go to Mount Horeb; I do not recollect whether it was be- 10
fore or after this will was made; I do not recollect of her saying anything about it before.

Quest. What did she say about it?

Ans. I do not recollect. She used to say that she wanted to go there to live; she talked as if she was anxious to go. I never heard her say anything about Mr. Baldwin.

Quest. Did you ever hear her say anything about Mr. Miller threatening to bring her to Morristown?

Ans. Yes, sir.

Quest. What did she say about that? 20

Ans. She said, that one Sunday, when they had gone to meeting, the children, Caroline and William, had gone into her room and broke a lock; she said, that when they went into her room she did not think they would do any mischief; she said that they had broke the lock to her trunk; she said that she had a large fine apple that her nephew, David Coon, had given her; she said that they came out into the room, and went to eating the apple, and that she attacked them about it, and they did not deny it. When Mr. Miller came home she told him about it, when Mr. Miller said, that if she 30
said anything more about it he would have her taken to Morristown, and locked up; she told me this before this will was made. She did not like Mr. Miller at all.

Quest. What have you heard her say about Mr. Miller?

Ans. She was very much affronted about that. I do not recollect what I have heard her say about him; I do not recollect anything in particular that I have heard her say about Mr. Miller.

Quest. When speaking of Mr. Miller, did she speak of him kindly or unkindly? 40

Ans. She spoke of him unkindly.

Quest. Was that the case up to the time of her death?

Ans. When talking about Mr. Miller, she spoke as if she did not like him. When she told me about the breaking open of her trunk, she said there was five shillings taken out at the time they took the apple.

Quest. When telling this story, did she exhibit much feeling?

Ans. She did not cry about it, but she manifested a great
10 dislike to Mr. Miller, because she thought he ought to have given them a good reprimand.

Quest. Would she get upon the floor, and show how Miller acted?

Ans. Yes, sir.

Quest. How did she show Miller acted?

Ans. She would get up on the floor and shake her fist, and say that was the way Miller done. She said it was an indictable offence to break open her trunk. I have heard her tell the story two or three times.

20 *Quest.* Have you ever heard Mrs. Miller say anything about the old lady's being crazy?

Ans. Yes, sir.

Quest. When?

Ans. A year ago last fall. I think she said that the old lady was crazy by spells; she did not say how long the old lady had been so.

Cross-examined by Mr. Little.

Quest. What is your age?

Ans. I am over fifty.

30 *Quest.* How much over fifty?

Ans. I have said I was over fifty, that is enough. Mrs. Letitia Brown is over forty years of age; she is not over fifty; neither of us were ever married. The first time of the conversation about taking the apple out of the trunk is, I think, three years ago, as nigh as I can recollect; the last time she told it was in the latter part of last September; I thought she understood what she was saying whenever she told it; I think, every time she told it, she said it was an indictable offence to break a lock. As nigh as I remember,
40 I told the old lady that Mr. Miller ought to have given them

a good reprimand for doing so; I do not recollect, but I think it is likely that I told her so every time Mrs. Coddington told me this story.

Quest. Have you not said that you never heard the old lady say anything against Mr. Miller's family?

Ans. No, I have not said so; I never said any such thing; I never heard the old lady say anything against Mrs. Miller, except that she was too indulgent to her children.

her
MARY X DICKSERON.
mark.

Sworn and signed in open court, July 13th, 1859.

10

IRA C. WHITEHEAD,
JOS. DALRIMPLE,
S. O. BRIANT.

Ann Eliza Spencer, called and sworn on the part of the caveators, and examined by Mr. Cutler.—I reside at Mount Horeb. I knew Mrs. Coddington in her lifetime; I have known her since I was a small child; I know Mrs. Fisher—she was a daughter of Mrs. Coddington; I saw her when she was visiting here before her mother's death; I think I saw her, as near as I can recollect, a year ago last February; she came to our house; I talked with her; she talked about her mother. 20

Quest. What did she say? [Objected to.]

Ans. As near as I can remember, she said that she would like to have her mother make a will before she went back; she said that she wanted her mother to get her land warrant, and that she and Catharine ought to have it—the rest had had more than they had, and that they ought to have it. She did not say anything else in particular, and she wished me not to say anything about it. 30

Quest. Did she say her mother had made a will?

Ans. I did not hear her say. I think she said that she wanted to get ready to go back by the first of April.

Quest. Did she say whether or not she intended to go back before the will was made or business fixed?

Ans. She said she wanted it fixed; that she was worried

about it; that she would be better satisfied if it was fixed before she went home.

Quest. Did she say why she came on from the West?

Ans. Not exactly; I do not know that she spoke any words about that; I think she said that she had talked with her mother about the matter; she did not say whether her mother said much about it—whether she meant to do it or not. Mrs. Fisher was visiting about the neighborhood; I think it was in February. She staid in our neighborhood
10 about two or three weeks, as near as I can remember; I think it must have been in March when she returned to Mr. Miller's; I do not know when she returned West; I did not see her after she left Mount Horeb and returned to Mr. Miller's; I asked her particularly about her mother's health; she replied that she thought she was failing fast.

Cross-examined by Mr. Little.—Mrs. Fisher was visiting her nephews and sister-in-law, and spent the best part of a day at our house. I am not married—I live with my father. I mentioned the talk that Mrs. Fisher had with me to Coon
20 Coddington since Mrs. Coddington's death; I do not recollect that I ever told it to any person before the old lady's death; I come to tell it in talking about the old lady's will. I understood what Mrs. Fisher told me was said in confidence. My calling is tailoring. I understood Mrs. Fisher that she wanted to get the land warrant before she went home; I did not understand her to say that she was assisting her mother to get it.

Quest. Are you in the habit of using any stimulant or narcotic? [Objected to by counsel of caveators; objection
30 waived by solicitor's counsel.]

Ans. I believe I understand the question, but I do not feel disposed to answer it.

Quest. Are you not now at this time using opium or some narcotic?

Ans. No, sir; nothing but a little mint in my mouth; I never used opium, and never want to.

Direct examination resumed.

I do not think I ever heard that the old lady was trying to get the land warrant until Mrs. Fisher mentioned it to me.

Sworn and subscribed in open court, July 13th, 1859.

IRA C. WHITEHEAD,
S. O. BRIANT,
JOS. DALRIMPLE.

Jane Perrine, called and sworn on the part of the caveators, and examined by Mr. Cutler.

I live at Middlebrook, near Boundbrook; my husband's name is Jonathan Perrine; my name before marriage was Coddington; I am Aaron Coddington's daughter; Hannah Coddington is my grandmother; I lived in the family of 10 Smith Miller about two years ago—I left there two years ago this July—I lived there four or five months; Mrs. Coddington lived there while I lived there; while I lived there, sometimes I did housework and sometimes I sewed; I saw my grandmother every day while I lived there; she would not recognise me when she would come into the room without standing some time and looking at me, and not always then until I would tell her who I was; she would ask me sometimes who I was; she did not talk much.

Quest. How would she carry on conversation? 20

Ans. Sometimes she would carry it on pretty straight, and sometimes she would not.

Quest. Explain in what way she would not carry it on straight?

Ans. She would forget what she was talking about; I observed it more than once—repeatedly.

Quest. How was her bodily health?

Ans. Not very good; she could not dress or undress herself alone; I often assisted her to dress and undress; she was forgetful; she would have a bunch of keys in her hand, 30 and lay them down, and she would forget in a minute where she had laid them, and she would be looking for them. I know of one time of her taking off her cap, and holding it in her hand, and was looking for it; she was looking on the table for it; I saw it in her hand, and told her where it was, and she said that she had forgot where it was. It was a common occurrence for her to lay things down and forget where they were, and she be looking for them; she would forget, when talking, what she was talking about; I cannot

tell what she would be talking about—she would be talking to any of us; she would stop talking, and then she would not know where she left off; if any of the family carried on the story, she would not then recollect it.

Quest. If any of the family carried on the conversation, did you ever hear her ask what they were talking about?

Ans. No, sir.

Quest. During the time you lived there, did you ever hear Mrs. Miller say the old lady was crazy, or did not know
10 what she was about?

Ans. I did, in one case. Grandmother said that she missed some money out of her bureau, or wherever she kept it; she laid it to Caroline—she said she thought she must have taken it out; she told this to me, and I told this to Mrs. Miller; Mrs. Miller said that the old lady was old and childish, and she could not believe what she said; this was while I lived there. Mrs. Miller said that she could not believe what the old lady said; she was old and childish. The old lady said that she missed \$11, and that Mr. Miller had
20 counted it for her. I thought the old lady believed it at the time she told me that she had lost the \$11.

Quest. How did the old lady appear to like Mr. Miller while you lived there?

Ans. She did not like him; she said she did not like him because he did not use her well.

Mrs. Fisher was not at Mr. Miller's while I was there. I believe I never saw my grandmother after I left; during the time I lived there, Mr. and Mrs. Dickerson, Mr. Noe and wife, and Mr. Meeker were in the habit of visiting there at
30 Mr. Miller's; I do not remember of Mr. Baldwin being there. I heard the old lady say that she wanted to divide her property equally between her children and grandchildren; she would be talking to me, and sometimes to Mrs. Miller when she said that; I do not know of any reply that Mrs. Miller made to that.

Cross-examined by Mr. Miller.

I am nineteen years of age; I have been married seven months. I went to my uncle's when I left Mr. Miller's house. The reason the old lady could not dress and undress
40 herself was, that she could not see very good—she trembled,

and it appeared hard work for her. Some of the family would say something to her about what they had been talking about, and she would say that she did not remember of hearing them talk about it; sometimes she would be talking and forget what she was talking about, and they would go on with the talk, and then she would forget what had been talked of—I mean to say that they would be telling things over to her, and she would forget that they had told her. I thought, when she told me that she had \$11 in her bureau, that Mrs. Coddington believed it was true, and that there ¹⁰ was \$11 in her bureau. I believe Mrs. Coddington had the money counted the second time; I do not know who counted it the second time—I did not; I do not know that any of Mr. Miller's family did; I do not recollect that she told me that she had counted it herself; she told me that that was not all the money she had in the bureau—that she had more money there.

I do not know how many keys Mrs. Coddington had; she had more than one—one was the key of the bureau where she kept her money; I do not know what the other key ²⁰ was for; she had her bureau key sometimes; I do not know that she always kept it.

Quest. Did she keep that bureau locked?

Ans. I do not know that she always kept it locked; I do not know whether she was in the habit of keeping it locked; I do not remember of seeing any other person ever have that bureau key; I do not remember of ever having seen any other person go to that bureau and open it. I am a daughter of one of Mrs. Coddington's sons, who is dead.

JANE PERRINE. 30

Sworn and subscribed in open court, July 13th, 1859.

IRA C. WHITEHEAD,
S. O. BRIANT,
JOS. DALRIMPLE.

John Coddington, called and sworn on the part of the cave-
ators, and examined by Mr. Cutler.

I am a grandson of Hannah Coddington; the name of my
father was Aaron. The first I knew of the existence of

this will in particular was when Brittin read it to us. Squire Sayre first told us that Brittin had this will—that was the next week after the old lady died. I was present when Mr. Miller was asked questions on the day of the funeral; that was at the church at Mount Bethel; that is the place where Mrs. Coddington is buried. They asked him if there was not a will left. He said he did not know, for he had not seen it; he did not say anything else just at that time; he said that he had heard that there was one; he did not say who had it.

10 This conversation was with Benjamin Coddington and George C. Coddington. I was at Mr. Miller's during the old lady's last sickness; I sat up there all night before the old lady died. I had conversation with Mrs. Miller about a will; I heard her say that the will at Lewis Mundy's was equal, except a few spoons and a few coverlids. [The counsel of executors object to all Mrs. Miller said.]

Of the spoons, one was given to her, and the rest among the children; she did not say who the coverlids were given to; she did not say anything about this will that I know of;

20 the conversation come to be introduced through Mrs. Miller in some way, I can't tell you how; she did not say anything about the will at Mundy's being taken up; I did not know at that time that the will at Mundy's had been taken up; I did not know at that time that this will had been made; I never heard my grandmother say how she intended to leave her property; I first learned that the will at Mr. Mundy's had been taken up the day Mrs. Coddington was buried—Mr. Mundy told me. The conversation that I heard between Mr. Miller and George was after I learned the Mundy will

30 had been taken up. I think I saw my grandmother the second or third years before her death on an average of once a year; she did not recognise me; she recognised me by being told by some of Mr. Miller's family or myself who I was; I conversed a good deal with the old lady; she talked kinder forgetful, and her mind was wandering. I was up there, and spent the day with her during the three years—once I saw her along with Mrs. Rutman; the last time I was there was while she was sick.

Quest. Was her conversation with you connected, or other-
40 wise?

Ans. It was not connected; she was forgetful—she would stop—and several times she cried, and said that she could not remember what she wanted to tell me.

Quest. From what you saw of her, did you think her competent to transact business?

Ans. No, sir. Sometimes when she conversed with me and stopped the conversation was about the folks down where I lived—that was where she used to live—sometimes about her grandchildren, mentioning sometimes about her children. 10

Quest. Did she remember that she had grandchildren?

Ans. Yes, she remembered that she had grandchildren; I do not remember the names that she called over particularly.

Quest. Was it in these conversations that you speak of that she would stop and forget?

Ans. Yes, it was in these and others—it was not in this alone particularly, it was in conversations during the day. She has inquired after my brothers and sisters, and asked how they did; she said that she was failing; she said that she could not remember; she said that she thought she would not live long; she did not say anything to me about her property, that I remember of; she did not say anything to me that she wanted to go to Mount Horeb to board. 20

Cross-examined by Mr. Little.

The conversations in which she stopped and cried was at the time I spent the day at Mr. Miller's; that was the only time I had any lengthy conversation with her.

Direct examination resumed.

The day I spent at Mr. Miller's was about three years ago; when I saw her at Mr. Rutman's was after that, and I should judge it was about two years ago; I spoke to her at Mr. Rutman's, and asked her how she did, but did not talk much with her. 30

JOHN A. CODDINGTON.

Sworn and subscribed in open court, July 13th, 1859.

IRA C. WHITEHEAD,
JOS. DALRIMPLE,
S. O. BRIANT.

Thursday morning, July 14th, 1859—present Whitehead, Dalrimple, and Briant.

John L. Wilcox, of New Providence, in the county of Union, a witness produced and sworn on the part of the executor, deposeth and saith—I am a farmer, and have lived in New Providence the best part of forty years. Knew Hannah Coddington in her lifetime—knew her first in January, 1854; she then lived near Mount Bethel, in Somerset county, with Daniel Sheldon, whose wife was a grand daughter of the old woman. From what I understood, the old lady had some property for sale, a farm, that led to my acquaintance—it
 10 was in Warren township, Somerset county; I understood that it was the farm upon which her husband had formerly lived. Mr. Sheldon introduced me to the old lady—Mr. Wm. Cory was in company with me. We went there, and told her that we had understood she wanted to sell her farm; she said she did; we inquired about the price; she asked us more than what we had understood the price was; I do not know what she did ask; we talked with her some little time; she asked us so much money; we told her that we had understood that she had offered it for \$2500, and that is what
 20 we expected to pay if we bought it; she finally fell from what she asked us down to \$2552, and said that she would take no less for it, and we agreed to take it for that money; I think we were there bargaining with her some two or three hours; we entered into an article; I gave her \$10 on the contract, and we were to meet her there again, I think, in about ten days, and we were to pay her so much money, and take the deed—I do not recollect just what we were to pay, but we did pay her \$1552, including the ten dollars; I drew the articles of agreement; she made her mark to the agree-
 30 ment; the agreement was read over to her—I think Sheldon witnessed it. At the time appointed, we were to bring a man along to prepare the deed; we did so—we took Jonathan M. Wilcox, my father. She made the bargain in the first place herself; Mr. Sheldon talked with her some, but she made the bargain. We went back after the deed at the appointed time; I do not recollect how many days it was; at that time the deed was made out and executed, and we paid her the amount I have stated; we gave her a bond and mortgage for the other \$1000 on the property we bought. I
 40 had conversation with her that day; we were there, I sup-

pose, a half a day that day ; Mr. Smith Miller, Mr. Cory, my father, and Wm. B. Coddington was with me that day ; the whole thing was completed that day.

Quest. From what took place on those two days, what is your opinion as to the old lady's capacity of mind to transact business ?

Ans. I thought it was good.

Quest. Have you any doubt but that she fully understood the nature of the business in which she was engaged, and all the details of that business ? 10

Ans. I had not at the time ; I have not now.

Quest. Was she, or not, in your opinion, a remarkable woman for one of her age ?

Ans. I thought she was.

I understood that she asked \$2500 for the farm from Mr. Sheldon ; she did not deny that she had offered it for \$2500 ; she gave no particular reason for refusing to sell it for \$2500 that I recollect of. I saw her after that time before her death ; I saw her at Mr. Miller's, I should think it was about a year ago last spring—I think it is within a year 20 and a half ; I had some business with Mr. Miller ; I called to see Mr. Miller ; I had but little conversation with the old lady at that time ; she did not know me at first ; some one of Mr. Miller's family told her who I was. She then recognised me ; nothing was said by her or myself about the purchase of the farm ; when she was told who I was, she complained that her eye-sight was so poor that she could not recognise people ; I was at Mr. Miller's some twenty minutes ; I saw her once before this last time at Mr. Miller's ; I cannot recollect when that was ; I was at Mr. Miller's on busi- 30 ness ; I was not present at any exchange of notes or papers at Mr. Miller's ; I have a knowledge of such exchange of papers ; Mr. Miller, self, and Cory held a note against William M. Coddington for between \$90 and \$100, and Mrs. Coddington held Mr. Cory's and my note for \$100 ; I told Mr. Miller that we wanted to pay the note ; he was doing business for the old lady ; Mr. Miller said that the old lady did not want the money, and that she would take this note of Coddington in exchange, and give us up ours. Mr. Miller brought over the note to us, and we made the exchange ; 40

we were all interested in the purchase of the farm; the deed was made to us three, Cory, Miller, and myself; Mr. Cory and I bargained for the farm in the first place; I understood that Mr. Wm. B. Coddington, her son, and Mr. Miller were both transacting business for her; that was before the exchange of the notes; I think Wm. B. Coddington knew of this exchange before the exchange was made; Wm. B. Coddington was there when the deed was made, and had as much to say as anybody. I heard Mr. Miller say something
 10 to Wm. B. Coddington about her business. [Objected to by counsel of caveators.] Mr. Coddington replied that anything that you put your name to I (Wm. B. Coddington) will be satisfied with.

Quest. At the time you was there at the time the deed was made, you say that Wm. B. Coddington was there—in what character or capacity was he then?

Ans. I suppose to see that the business was transacted correctly. He did take part in the transaction of the business on the behalf of the old lady.

20 [A memorandum shown the witness.] The witness looks at a memorandum of his own, and says—the note, when we made the exchange, amounted to just \$100—the principal of the note was \$91.59; there was 18 months and 11 days interest on it when the exchange was made; at the time we went back to get the deed, I do not recollect that the old lady said that she had been offered more for the farm than we were to give. Mr. Miller had nothing to do with the making the bargain; he had nothing to do with the transaction until after the bargain was made; at the time the notes
 30 were exchanged, Mr. Miller and I both signed the Wm. M. Coddington note. I was not present when the note of Mr. Baldwin, belonging to the old lady, was exchanged for another note held by Mr. Miller; Mr. Miller came to me with the Baldwin note, and likewise another note of Wm. M. Coddington, to get me to cast the interest on them—there was a difference between the amounts of the notes of \$1.19; that was also a note belonging to us three—Mr. Miller got it of me, and I charged him with it on the account.

Cross-examined by Mr. Dalrimple.

40 Mr. Miller and I were in partnership in this farm; we

sold this farm to a man by the name of Anthony Pimento; we sold it in one or two years after we got it; we sold it for \$1500. We had taken the wood off; I think, probably, we got \$1500 worth of wood off of it; I do not think we netted \$1500 for the wood. The note of Wm. B. Coddington, which we endorsed to Mrs. Coddington, was a note of the firm, drawn to the firm or order; that was the usual way I drew the notes; the note was past due at that time. I had not talked with Mr. Miller about the purchase of that farm before we did purchase it; I do not know that Miller knew 10 of our intention to purchase; I had understood from Mr. Sheldon the price the old lady asked for the farm before I went to see the old lady; I think Mr. Cory set a time with Sheldon when we would go up and see the old lady. I do not recollect what she did ask, but it appears to me that it was just \$2600, but I do not recollect. I did not put my name on the small note of Wm. M. Coddington; I do not know whether Mr. Miller did or not. Sheldon was present when the deed was made.

Quest. Who took charge of the mortgage after it was 20 given?

Ans. I cannot say; the mortgage has been cancelled, we sold it subject to that mortgage; I have understood that the mortgage was cancelled. I cannot recollect that there was any other person present at the execution of the deed only those I have named. Mr. Sheldon's wife was there; I think there was some other persons there, but I cannot tell who they were. I think my father counted the money; the money was counted over two or three times; I do not recollect that the old lady counted over the money. 30

Direct examination resumed.

Quest. Do you know what was done with that money at the time it was paid?

Ans. Mr. Miller took part of that money and William B. Coddington; it was divided equally among the old lady's children; I suppose that Sheldon got part of that money—the old lady understood that that division was made then—it was done with her consent.

The witness being shown a paper marked *Exhibit E*, says that the handwriting is his father's handwriting, it was 40

written the day it bears date; on that paper is \$885.68, divided into four parts, and Wm. B. Coddington took the balance of the money. Mr. Miller took more money than the rest, because he was to pay one share more than Coddington; I do not say that he was to pay one share more, but he had the most of the money; the paper was signed by Mr. Miller—his name is torn off. I do not know who took that receipt or paper at that time. The witness now says that he thinks that William B. Coddington took the mortgage.

10 The day we went there, and made the bargain, Sheldon was there all the time; I do not recollect of any other person being present. I do not know where Sheldon is now—he has moved away from where he then lived. Sheldon was with us all the time, and went and showed us the farm.

JOHN F. WILCOX.

Sworn and subscribed in open court, July 14th, 1859.

JOS. DALRIMPLE,
IRA C. WHITEHEAD.

William Cory, called and sworn on the part of executor,
20 and examined by Mr. Little.—I live in the county of Union; I am fifty-seven years of age; my business is farming. I knew Mrs. Coddington in her lifetime; I was not intimately acquainted with her until four or five years ago; I had seen her before I purchased the farm; I am the person referred to by Mr. Wilcox as the person who bought the farm with him. David Sheldon came to my place to let me know that there was such a farm for sale, and that the price was \$2500. It was from five to ten days after that that Mr. Wilcox and I went up to see the farm—I cannot tell exactly. I heard
30 Mr. Wilcox's statement this morning of what took place there when we went to buy the farm; my recollection of the facts agrees with the statement made by him; the old lady asked us, when we got there, \$2600 for the farm; I talked to her about having heard that she asked \$2500; I cannot recollect what reply she made; we entered into the articles of agreement at that time; judging from what I saw of her that day, I thought she was a very smart woman, as much so as I had ever seen. It was perhaps some ten days after

that that we went after the deed; she then said that two gentlemen had been there, and offered her more money; she told us that she told the gentlemen that she had sold it once, and that if Mr. Cory and Wilcox did not comply with their agreement, then she would talk to them, but not until then. My recollection of the facts that took place, as stated by Mr. Wilcox in regard to that deed, is the same as Mr. Wilcox has stated them. The mortgage we gave to the old lady was executed by us and our wives before we went there. I saw the old lady this June a year ago; we had a festival at 10 New Providence; the old lady came there; I had a conversation with her, and I remarked then how smart the old lady was; she did not recognise me at first—her eye-sight had failed her; Mr. Miller's carriage fetched her there. I won't say what I conversed with her about—I think I conversed with her about the day and occasion that fetched us there and her health; I think there was no particular topic of conversation.

Quest. Had she, in your opinion at that time, possession of her mental faculties sufficient to enable her to carry on and 20 understand ordinary conversation?

Ans. Yes, sir.

Cross-examined by Mr. Dalrimple.

Quest. Can you now state any conversation that you recollect at this time of your having had with her at that time?

Ans. I do not know that I can—I can't recollect any particular words—it was the common conversation on meeting together; I had no particular business with the old lady.

Quest. Were her mental faculties at that time, in your 30 opinion, as strong as they were when you took the deed from her for her farm?

Ans. I do not think they were; I do not think she was as strong; I think her faculties failed about as she failed, she had the trembling when we took the deed for the farm, and when she was at the festival I saw but little difference in that respect; I cannot say whether I told her who I was, or some one that was present told her; she said the two gentlemen that were there was a man by the name of Noe and John West; this festival was a year ago, and not two years 40

ago; it was a festival for the Methodist church to get money to improve the church; there has been one for two or three years past.

WILLIAM CORY.

Sworn and subscribed in open court, July 14th, 1859.

IRA C. WHITEHEAD,
JOS. DALRIMPLE.

Anthony Pimento, called and sworn on the part of the ex-
cutors, and examined by Mr. Little.

10 I am a Portuguese, and I am a farmer; I live near Coon-
town, on the farm that used to belong to Mrs. Coddington;
I bought it four years ago last April; there was a mortgage
on it when I bought it for \$1000; the old lady held that
mortgage; I never paid any part of it off to her; I never
spoke to her about the mortgage; I saw her it will be a year
ago next month—I saw her at Mr. Miller's house. I went
to see Mr. Miller about reducing the mortgage; I had sold
part of the farm; I spoke to Mr. Miller first, then Mr. Mil-
ler went and spoke to the old lady about it, that I was going
20 to pay \$400, and she release forty acres of the farm—that
was the part I had sold. We spoke to the old lady what we
was going to do; she said that if the whole of them were
satisfied she was; she proposed to Mr. Miller to go and see
Mr. Hartwell to attend to it. We had a release drawn for
the forty acres, and she executed it to me. [Counsel object
to this evidence, except upon the production of the release.]

Daniel Cory did the writing; I gave a new mortgage for
\$600; the man I sold the forty acres to got the old mortgage
from the office cancelled; I sold to a man in New York,
30 Christian O'Lever; I never saw her after that. I did come
with Mr. Miller to see Mr. Hartwell; the papers were ex-
changed at Somerville; Mr. Hartwell acted then for Mrs.
Coddington; the \$400 was paid to Mr. Hartwell, at Somer-
ville, when the papers were exchanged.

Cross-examined by Mr. Dalrimple.

I was at Somerville when the papers were exchanged;
Mrs. Coddington was not there; Mr. Miller was there; Mr.
O'Lever was there the same day; the old mortgage was can-

celled a week afterwards; it was not given up the day I was there—it was given up a week afterwards, and the man had it cancelled; I gave a new mortgage the day Mr. Hartwell and Mr. Miller was there at Somerville; the old mortgage was not given up that day, because I had not money enough to pay up the interest—it was postponed a week longer; they held both mortgages until I paid up the interest; Daniel Cory wrote the new mortgage; I gave the deed to O'Lever at the same time; Squire Terrel wrote the deed from me to O'Lever; I do not know of Cory's writing any other paper, 10
 except the mortgage and the bond; Mr. Andrew J. Price was there at Somerville that day; the money was paid to Mr. Hartwell, and Mr. Hartwell handed it to Mr. Miller. I understood that Mr. Miller lent it to Mr. Price; I never saw old Mrs. Coddington sign any paper; I had the \$400 ready four or five months before I paid it, I believe; I did not pay sooner because the bond was in Israel Coddington's hands, and the old lady could not get the bond; the time I was down there to see Mr. Miller the old lady sent down a paper to Israel Coddington to send up the papers, and he did not send them up 20
 in some time; I took the note from the old lady to Israel Coddington at Coontown; I did not see the old lady sign that note; Mr. Miller handed me that note; the old lady told Mr. Miller to write a note, and send down to Israel Coddington—I think that was a year last spring—I cannot recollect exactly what time in the spring it was—I think it was in March or April. I do not recollect who spoke first about sending a note down to Israel Coddington, but as near as I can recollect, the old lady told Mr. Miller to write the note; I believe Mr. Miller had not tried to get the bond at that 30
 time, but I do not know. I took notice, and thought the old lady was pretty smart at that time; when I was there in August she appeared to be pretty smart; she asked me about the place and neighbors; as far as that I thought she was smart enough. I am not able to say whether I would have been willing to deal with her then or not—I did not take notice exactly; they hold that mortgage against me yet of \$600; I paid the interest to William Coddington on the \$1000 mortgage in the old lady's lifetime. Coon Coddington is a son of William Coddington. I did not see much 40

difference in her from the time I was there in either March or April until I was there in August; one time I was there I did not see her at all—she was sick. I cannot say whether I would have been safe in dealing with her alone for a farm in March or April or not—I did not take notice enough—I cannot say exactly. I did not speak to the old lady about the mortgage in August; I spoke to Mr. Miller, and Mr. Miller spoke to the old lady.

Direct examination resumed.

- 10 William B. Coddington was dead at the time the note was written to Israel Coddington. When William was dead the papers fell into Israel's hands.

Cross-examination resumed.

The \$600 mortgage was on the part of the farm I kept, and not on the part I sold to Christian O'Lever.

his
ANTHONY X PIMENTO.
mark.

Sworn and subscribed in open court, July 14th, 1859.

IRA C. WHITEHEAD,
JOS. DALRIMPLE.

- Andrew J. Price*, called and sworn on the part of the ex-
20 ceutor, and examined by Mr. Little.

I live on Long-hill, on the road leading from Morristown to New Providence; I am a farmer; I am forty years of age; I lived there since 1841; I think I live about half a mile from Mr. Miller's. I knew Mrs. Coddington; I had a conversation with her about her loaning me money; she broached the subject to me; she said, as I was building, perhaps I would like to borrow some money; I was building at the time; I told her it would be quite an accommodation; she said that she had not the money on hand at the time; she
30 said that she expected that there would be some money paid to her from Stony-hill on a mortgage she held there; I do not know as I learned from her what mortgage it was, or who was to pay it, but did learn it from Mr. Miller; I have no recollection of the amount of the loan having been spoken of at that time; this conversation was at Mr. Miller's, it was in the spring of 1858—I think it was in April, I will not

be positive ; she told me that I could have the money if it was paid in ; I had no particular conversation about the money after that until the money was paid in ; Mr. Miller told me that the money was going to be paid in ; this money was paid in the 6th of September, 1858 ; the money was paid in by Mr. Pimento. I have no distinct recollection of seeing the old lady from April to September ; I think probably I did see her ; I went to Somerville to receive the money ; Mr. Hartwell received the money, and gave it to Mr. Miller ; I had conversation with the old lady before the money was 10 paid in about the amount ; I told the old lady I wanted \$900, and she replied that she could not do it without I took notes ; I told her I would take notes provided they were good ; she stepped out into the next room, and brought out the notes in a tin Japan box, and took them out, and gave them to Mr. Miller ; Mr. Miller gave her a description of the notes, as her eye-sight was very defective ; Mr. Miller and I made a rough calculation of the amount of the notes, of principal and interest, to see how near the notes with the money paid in, would make the amount—it came 20 in the neighborhood of \$10 short ; she then told Mr. Miller that he might supply the deficiency out of his own pocket—he nodded assent to it ; I took the notes ; there was, in the first place, a note against myself, which I considered good for \$100 and some interest, another note, of \$91 and some cents, against William M. Coddington—on the back of that note was the names of John T. Wilcox and Smith M. Miller—it was made payable to John T. Wilcox, Smith Miller, and William Cory, to their order ; another against the same man for \$20 ; there was one note for \$40 against William E. 30 Mooney ; there was a note against William Brittin for \$30 and some interest ; a note of something in the neighborhood of \$25 against Smith M. Miller ; I believe that comprises the six notes ; Mr. Miller did pay the small balance to make up the amount at the same time the notes were handed over to me. Mr. Hartwell took the bond and mortgage ; the mortgage is yet standing against me—it is the same bond and mortgage mentioned in the appraisement.

When the old lady wanted me to take the notes, the old lady said that she did not think the notes and cash would 40 quite reach the amount I called for.

Quest. From the conversation and intercourse you had with Mrs. Coddington in reference to this loan, did you, or not, think that she was competent to understand the business she was engaged in?

Ans. I thought she was competent to understand the nature of the business.

Cross-examined by Mr. Dalrimple.

Quest. What do you mean by that, competent to understand the nature of the business?

10 *Ans.* I mean business of that nature.

Quest. Did you think her competent at that time to understand any other kind of business?

Ans. I did, sir; nothing of a higher order than that.

Quest. Do you think making a will is of a higher or lower order, or of the same order?

Ans. From what little conversation I had with her at the time, I think she was as competent to make a will as she was to transact that business with me; judging from that conversation, the last conversation I had with her, I think
20 she was competent to make a will.

Quest. Have you not expressed a different opinion from that?

Ans. I might have been led to remark from what I have heard from others, but not to pass my opinion; I might have made the remarks if what I had heard was true.

Quest. Have you not said to, or in the presence of Samuel Baldwin, that from what you saw of the old lady, when there, that it was your opinion that she was not competent to transact business or make a will?

30 *Ans.* I had a conversation with Mr. Baldwin; I have no recollection of saying so to him; he made the remark to me; I said that if what I had heard was true, I did not think she was competent to make a will.

Quest. Did you not say to Caleb Dickinson that, in your opinion, she was not competent to make a will, without basing your opinion upon what you had heard, but putting your opinion upon what you saw when you was there?

Ans. I think not; I feel pretty certain about it; I can state the conversation: Mr. Dickinson had talked to me upon the
40 subject of this will, whether it was right and proper to have

such a will. I told him, previous to receiving this money, I would not be a proper judge, because I had had no conversation with her to form an opinion upon the subject; I also told Mr. Coddington so. I believe I did not tell Mr. Dickinson anything else.

Quest. Did you ask Mr. Dickinson or Mr. Baldwin how soon you would be called upon to pay your mortgage, if the will was broken?

Ans. I do not recollect of saying anything about the will being broken; I inquired if they thought it would have to be paid the 6th of September—that was the time it was due; if they thought so, I would be prepared for it; that was all that was said about the mortgage that I recollect of; I have asked them that question separately, but not both together. I am one of Mr. Miller's securities; I was an appraiser also.

I got \$455 from the Pimento money, and \$95 and some cents from the Coddington note. I gave a mortgage for \$900. Miller made up \$10, or about that sum, I do not recollect just the amount, I got only six notes; I have a statement of it at home.

Quest. Did you consider the old lady competent to that business at that time without assistance?

Ans. I considered her mind strong enough to dictate to others; she knew what she wanted; it was necessary for others to do the business.

I could not form any opinion as to failing of her mind, as to whether there was any failing of mind, for I had not had conversations with her before, except when I would be there, and she would ask me how I did, and something of that kind. I first became acquainted with the old lady in 1841; I have no recollection of seeing her until she came to live with Mr. Miller; I did not see her many times at my father's; I do not recollect of seeing her more than once; I do not think I saw her at Mr. Miller's, on an average, more than three or four times a year. She has not been to my house since my father's death. I think this note of \$100 was drawn the January previous to the time I gave the mortgage in September; I think I saw her when that note was drawn in January.

Quest. You do not consider, then, that this previous ac-

quaintance you had had with her of eight or ten years, or longer, was sufficient to enable you to judge whether or not there was any failure of mind in September last?

Ans. I could not judge whether there was any failure within the eight or ten years, but there was from the time I first saw her, from the course of nature.

Quest. Would you have been willing to have dealt with her alone for, and taken title to a farm from her at anytime between the 1st day of April and the 1st day of September, 10 1858, judging from what you saw of her during that time?

Ans. I do not know how to answer that question; I do not recollect of having seen her within that time, except I might have seen her in April.

Quest. Say then between the 1st of March and the 1st of October, 1858?

Ans. I would have been better satisfied if there had been a power of attorney, or an agent of some kind, but, at the same time, I do not intend to say that her mental powers were gone so that she was not capable of doing business at 20 all; that is something that I have never considered of, it is something new to me; as I have said before, I would have considered it safe to have had some one engaged with her to transact the business; that is about as near as I can answer the question.

Quest. Why do you consider it would have been safer to have had somebody engaged with her?

Ans. Because I have seen so much trouble in transacting business with old people, with such an old person as she was.

30 *Quest.* Then you do not consider, if I understand you, that there was any doubt as to her having a sufficiently strong mind during that period to contract for the sale of real estate?

Ans. Judging from what I saw on those two occasions, she was capable of dictating what she wanted, and her capacity was good enough to understand such business. I borrowed that money from Mr. Miller; the note was given to Hannah Coddington—it was given for a year; I think I applied to Mr. Miller for the money; I have no recollection 40 of applying to Mr. Miller for more money from January to

March; I think Mr. Miller handed me the money at New Providence; it was some money of her's that had been paid in to Mr. Miller at New Providence; I think I spoke to the old lady about this \$100; if I spoke to her at all, I must have spoken to her about it at Mr. Miller's; when I asked her about it, I think she was perfectly willing. I can state this, that she knew of a certainty that she had that note, for it was spoken of, for she brought it up.

Quest. Can you state whether you saw the old lady in reference to the \$100 loan before you obtained the money? 10

Ans. I can't for a certainty.

Quest. What is your impression?

Ans. My impression is that I saw her about it, but can't be positive.

Friday morning, July 15th—present Whitehead, Dalrimple, and Briant.

Examination of Mr. Price continued.

Quest. Can you be positive about it this morning?

Ans. No.

Quest. Then you have no distinct recollection of seeing 20 her, and talking with her in reference to this loan?

Ans. No, sir.

Quest. Will you state all the recollection you have upon this subject, the time when, the place where, the persons present? [Objected to.]

Ans. I have already answered this question. I mean what I have stated; I have no recollection—it is only an impression on my mind.

Quest. Did you see the old lady from the time Miller paid you the \$100 in New Providence until the conversation re- 30 ferred to by you in the month of April following?

Ans. I do not remember.

Quest. The conversation referred to by you in the month of April took place where?

Ans. In reference to the money matter, at Mr. Miller's house.

Quest. What time of day was it?

Ans. I cannot say.

Quest. Forenoon, afternoon, or night?

Ans. My impression is that it was in the morning.

40

Quest. Did you see Mr. Miller before you saw the old lady that morning?

Ans. I did not; I happened in there casually.

Quest. Did she recognise you?

Ans. Not at first.

Quest. Who introduced you?

Ans. One of the family; I think Mrs. Miller introduced me.

Quest. State the conversation with the old lady, as nearly 10 as you can recollect, after you were introduced?

Ans. After she recognised me, and asked me how my family were, she asked me if I did not want some money, as I was building; I remarked to her that it would be quite an accommodation; I believe that was all that was said.

Quest. Did she say how much money she could loan you?

Ans. I don't think she did at that time.

Quest. At what time did she say?

Ans. In September following.

20 *Quest.* Anything said in the conversation in April in reference to the security you should give?

Ans. No, sir.

Quest. When was the security talked about with the old lady?

Ans. There was nothing said by her to me until the next September about the security.

Quest. Do you recollect in the conversation in April, after the old lady asking about your family, whether she said anything more than ask you if you did not want to borrow some 30 money?

Ans. I do not.

Quest. When you made the reply you have stated, did that end the conversation with the old lady at that time?

Ans. It did.

Quest. Can you remember the precise day you saw the old lady in September following?

Ans. It was either the 7th or 8th of September.

Quest. What time of day was it?

Ans. It was in the morning, at Mr. Miller's house.

40 *Quest.* Did the old lady recognise you when you first went in?

Ans. She did not until she was told who I was.

Quest. Who told her?

Ans. I think Mr. Miller.

Quest. Will you state the conversation you had with the old lady at that time, as near as you can recollect, commencing at the introduction by Mr. Miller?

Ans. After I was introduced, Mr. Miller mentioned my business, mentioned the amount of money I asked for. She replied that she could not make that sum, because she did not know whether the notes and cash would make the 10 amount; I do not know that that is the words, but that is the substance of what she said. I told her that if the notes were good I would take them, that is if they suited me. She stepped out into another room, and brought out the notes in a Japan box; then she took the notes from the box, and laid them on the table, and Mr. Miller read off the notes to her, and made a rough calculation of the principal and interest, and told the old lady that it would not reach the \$900. She told Mr. Miller that Mr. Miller might supply the deficiency. I do not recollect of any particular conversation 20 with her then. Mr. Miller and I came up to Mr. Hartwell, and had the business done for her in form; we came up the same day; the papers were prepared some days before we came up. I drew up the bond and mortgage; Mr. Bonnel acknowledged the mortgage—it was Maline Bonnel.

Quest. When did you draw the bond and mortgage?

Ans. A short time previous, a day or two.

Quest. Was it drawn and acknowledged on the day that you was at Somerville, or the day before?

Ans. I am not positive. 30

Quest. Did you have the bond and mortgage at Somerville on the day Pimento paid the money?

Ans. I do not recollect of having it.

Quest. Do you recollect of their having been acknowledged at that time?

Ans. I can't be positive.

Quest. You say that Mr. Miller told the old lady your business, and how much money you wanted, how much did he tell the old lady you wanted?

Ans. \$900 (nine hundred dollars). 40

Quest. Did you take all the notes that were in that bundle?
Question waived.

Quest. Were the notes in a bunch together when she took them out of the box?

Ans. I can't say that they were folded up together; she took them all out in her hand together; I think she took them all out at one time.

Quest. Did she lay them on the table, or hand them to Mrs. Miller?

10 *Ans.* My impression was that she took them out of the box, and laid them on the table, and then told Mr. Miller to look over them.

Quest. Did you take all the notes that the old lady took out of the box?

Ans. My impression is that there were one or two notes that she took out of the box that she did not want me to have.

Quest. Will you state whose notes those were?

Ans. I cannot.

20 *Quest.* You say that you wanted to raise \$900—did you expect to take your own note of \$100 as part of the \$900?

Ans. I did, sir.

Quest. When you drew this mortgage, did you expect to take your own note of \$100 as part of the \$900?

Ans. I did.

A mortgage offered in evidence, dated 6th of September, 1858, made by Andrew J. Price and wife, and acknowledged before Maline M. Bonnel, on the 11th of September, 1858, and marked *Exhibit F*.

30 Direct examination resumed.—I was subpoenaed here on the part of the caveators.

Quest. State your recollection whether you saw Mrs. Coddington in reference to the amount of the loan before or after the money was paid by Pimento at Somerville?

Ans. I have no recollection of anything that she said previous to the morning of our coming up here—the impression is that I had, but I can't be positive.

Quest. You said yesterday that Mrs. Coddington, in the

conversation in April, said that she expected some money to be paid in on a mortgage on Stony-hill; did she say so or not?

Ans. She did; I had forgotten that remark she made.

Quest. You say that the business was to be done in regard to the money and bond and mortgage in Morristown—did Mrs. Coddington make that suggestion, or did she express a wish to have it done here, and if so, did she state by whom? [Objected to as leading.]

Ans. When I come to consider on that question, I think 10 she told me that Mr. Hartwell was to do her business—I am pretty certain of it; I had forgotten about it, but when the question comes to be asked it comes to my mind now.

Cross-examination resumed.

Quest. Was it in April or September that the old lady made that remark about Mr. Hartwell?

Ans. I think in September.

Quest. When did you first recollect that Mrs. Coddington made this remark about Mr. Hartwell?

Ans. I recollected it at the time; I had thought nothing of 20 it since until this trial; it come in my mind more fresh since this trial has been going on.

Quest. Have you recollected it since you have been under examination here, at any time, until the question was put to you a minute or two ago?

Ans. I think I stated that yesterday about Mr. Hartwell's being employed. I have been subpœnaed by Mr. Miller—I was subpœnaed by him after I was by the other side. This Stony-hill mortgage, as I understood it, was the Pimento mortgage; she did not state how much she expected would 30 be paid in on that mortgage; I had learned from Mr. Miller that Pimento was to pay some money on that mortgage before I went to see Mrs. Coddington; he told me the amount that was to be paid; I think he said there was to be \$400 paid without the interest; I think I told Mr. Miller that I would like to borrow it when he mentioned it; this was previous to my going down to see the old lady, I think some two or three weeks previous. When I saw Mr. Miller in April, I happened there casually—I had no particular errand.

Quest. At the time you went down there in April, did you 40

intend to take the money if you could get it, or had you given up all idea of getting it? [Question objected to and waived.]

Quest. When, as near as you can recollect, was it that Mr. Miller first told you that the money was to be paid in on the Pimento mortgage, before or after you saw the old lady at Mr. Miller's in April?

Ans. It was after, and I think about three or four weeks previous to getting the money.

10 *Quest.* Was that the first time that Mr. Miller ever told you that the money was to be paid in on the Pimento mortgage?

Ans. That was the first time for a certainty; he had told me previous to that that Pimento expected to pay part of that mortgage; he told me between April and that time.

Quest. Had you never heard when you saw Mrs. Coddington in April, that there was an expectation of money being paid in to her on the Pimento mortgage?

Ans. I have no recollection of it.

20 *Quest.* How recently before the month of April had you been at Mr. Miller's house?

Ans. I could not answer.

Quest. Had you been there in six months?

Ans. It is more than probable that I had, but I cannot be certain.

Quest. Was Mr. Miller present when the old lady said that she expected some money paid in on the Pimento mortgage?

Ans. He was.

30 *Quest.* How recently before that time had you seen Mr. Miller at his house or at any other place?

Ans. I can't tell.

Quest. Had you seen him in a short time?

Ans. It is more than probable I had; he was a neighbor, and passed along there quite frequently.

Quest. Did Mrs. Coddington say in April when she expected that money to be paid in?

Ans. I do not think she did.

40 *Quest.* Did you suppose that at the time you went there in April that Mrs. Coddington then had, or would soon have money to loan?

Ans. I made no calculations on it whatever—I had no supposition about it.

Quest. Have you a good or poor memory?

Ans. My memory is about as good as the common run of people—it is about ordinary.

Quest. When did you commence this building of yours?

Ans. I commenced it in October, 1857; it was a house; I got it enclosed before the 1st of April following.

Quest. Was Mrs. Fisher at Mr. Miller's when you was there in April, or had she gone home? 10

Ans. I could not state that; I do not recollect of seeing her there; what time she left I do not know anything about.

Quest. Had you heard of this will then?

Ans. I had heard nothing of any will being made until a few days before her death. I heard of this will from my brother-in-law, Mr. Corzad Coddington; he married my sister.

Quest. How soon after you were there in April did Mr. Miller tell you that he expected the money would be paid in, without saying to a certainty that it would be paid in. 20

Ans. In the course of a month or two, I think.

ANDREW J. PRICE.

Sworn and subscribed in open court, July 15th, 1859.

IRA C. WHITEHEAD,
JOS. DALRIMPLE.

Theodore W. Bruen, called and sworn on the part of the executor, and examined by Mr. Little.

I board at Mr. Miller's; I married his youngest daughter; I was married December 25th, 1856. I was married in the West, and came on in January, 1857; I staid there at Mr. Miller's until the last of March or first of April; I then returned to the West again, and remained there until June, 1858; I then returned to Mr. Miller's; I am a son of Ashbel Bruen; I never knew Mrs. Coddington until January, when I came from the West; she lived in Mr. Miller's family while I was there.

Quest. How was she treated in the family? [Objected to

on the ground that her treatment is not in issue here—objection overruled.]

Ans. While I was there, I thought there was a great deal of kindness shown her; if there was anything choice on the table, it was placed on her plate, a tender piece of meat or anything of that kind. There were younger children than my wife in the family of Mr. Miller; my wife was the youngest daughter.

Quest. Did you ever hear her spoken to rudely or uncivilly, or see her treated uncivilly or disrespectfully while you lived in the family?

Ans. I never did.

Quest. Did you have frequent conversation with her, or not?

Ans. I have had several conversations with her on different subjects. I remember of her speaking about a camp meeting, wishing that she could go; the camp meeting was in August last, I think; she said that she would like to go—she always enjoyed a camp meeting; the last camp meeting she was at she said that they had a first rate meeting. I have had two conversations with her at two different times about her will; the first conversation I had about the will was after I came from the West. Mrs. Coddington asked me if I stopped at Detroit to see Mrs. Fisher; I told her that I did not stop; she then said she did not see why Mrs. Fisher could not stay on here where she could see her, as she did not expect to live long; and she said that she would like to go out there before she died, and make a visit; I told her that she was getting too old to think of taking such a trip as that; she straightened herself up, and replied that she could stand it just as good as Mrs. Fisher could; then she says, the poor woman has seen hard times out there (or since she went out there), but says she, I have fixed and made my will so that she will have something when I am done with it. I do not know of any other conversation at that particular time—this conversation was soon after I came back, in June, 1858. I suppose the old lady knew I was coming back, for when I came in, she said, this is Mr. Bruen got back again, you are welcome back, or something of that kind; she appeared to be glad to see me. The other

conversation was the last of June or first of July, it was before the 4th of July—I do not just remember the time. William Coddington brought Martha Fisher there to Mr. Miller's; Martha is a daughter of Mrs. Fisher; he went away on Sunday; I was out on the back shed, and Mrs. Coddington and William were there, and I see that there was some pretty sharp talking, and I stood some time and listened to it. I found, by the conversation, that they were talking about keeping her bond up there. She says, you may keep it, but I will have it, (shaking her hand) if it takes 10 half of it to collect it. I think William said that he did not know anything about it, or had nothing to do with it, or something of that kind, and that he guessed that there would be no trouble about it; trouble! says she, then why do they not come down like men, and let me have it? I left them—I did not listen any farther. I think the next day (Sunday), the conversation was at night after he got there, I asked her what the trouble was with William and her. She told me the whole story through, as I have heard of it since; she said that when her son William died, he 20 held this bond of hers, and now the the boys had it, and that they would not give it up to her. She said that she would have it, if she had to or should employ Mr. Hartwell to get it—I do not remember which; she said that they ought to be satisfied with what they had had, for her husband had left the most of his property to the boys. Now, she says, they want to keep this, but they shant have it, for she had fixed it now so that the girls were a going to have it; she spoke at that time, I think, that she had outlived all her children except her two daughters, and that she had made one division 30 of her property once, and that she thought the two girls ought to have the most of the rest of it; don't you think that is right, she says. I can't recall anything more in particular now that was said then.

Quest. Did you converse with her on other matters at various times during the summer?

Ans. I did.

Quest. Were you present when Mr. Price was there, along in September, in reference to the loan?

Ans. Yes, sir.

Quest. State what occurred at that time, as you recollect it?

Ans. Well, I think Mr. Miller was in the house when Mr. Price came in; Mr. Miller told Mrs. Coddington that Mr. Price had come to see about that money. She then spoke about the notes—if he was going to take the notes. She says, perhaps we can raise it, or pretty near it, if he would take the notes. Mr. Price remarked that he would take them, if they were good. She then got up, and went to her
 10 bureau where she kept her own things; she got her tin box, it is japanned, with a handle on the top, where she kept her papers, and brought that in; she took the notes out of the box; I did not see whether she handed them to any one or not. Then I went out doors; when I came in again they were in their business; I guess they were getting pretty well through, for the old lady said that you must go to Mr. Hartwell, for I employ him to do my business; I do not remember now whether I heard any more conversation between them at that time or not. I was there until she died; I
 20 stood by her side when she drew her last breath; I set up every other night all through her last sickness.

Quest. Had you any doubt that she understood fully what she said in the conversations you have mentioned, or that she understood fully the business in which you saw her engaged?

Ans. I have no doubt but what she understood what she was talking to me just as well as I did; she acted as if she knew all she wanted to do just as well as any person I ever saw. I did not doubt but what she understood what she
 30 was doing. I have seen a great many persons do business, and I have no doubt but what she understood her business just as well as any one understood theirs. I do not remember of her going to church since I have been in the family.

Cross-examined by Mr. Dalrimple.

I was born the 12th day of October, 1831. I do not know that I had ever seen Mrs. Coddington when I came to Mr. Miller's, in January, 1857; I was married at Lansing, the capital of Michigan. I repaired her cupboard for the old lady when I came back from the West; I am a sash
 40 and blind maker and carpenter; the old lady said that it

had got out of order in moving it down from Stony-hill. She always thought I was a good friend to her; she never told me that anybody had broken into her bureau or trunk; I never heard an uncivil word spoken to her by any of the family; I never heard any of the children call her a fool. When the old lady said that she could stand it to go West as well as Mrs. Fisher, I think she meant what she said, and thought she could; she spoke right away, and said that she had gone up to Stony-hill riding with Mrs. Miller, and was not tired at all when she got home, and Mrs. Miller was al- 10 most tired out. I think Mrs. Miller had taken her out riding to Stony-hill while I lived out West; I think it might have been while I was out West. I went West, the first time, either the last of March or first of April, 1856; staid there until August or September, I do not know which; I then came back to Jersey, and remained in Jersey until October; went back to the West again; staid there until the first part of January, and came back again to Jersey with my wife.

Quest. What made you think that it was while you was 20 out West that Mrs. Miller took the old lady out riding?

Ans. Because she never took her to Stony-hill while I have been East since I have been acquainted with the old lady—not as I know of.

Quest. When you got back in June, did not some of Mr. Miller's family tell the old lady who you was before she called over your name, Mr. Bruen?

Ans. Not that I heard.

Quest. Did you not tell her yourself who you was?

Ans. No, sir. My wife came on a month sooner than I 30 did; they were looking for me; when I was West I wrote to my wife that I would start such a time; she knew how long it would take to come—that was all the information that they had, that I know of.

Quest. Before the old lady said that this is Mr. Bruen has got back again, had not some one spoken to you, so as to inform the old lady who you were?

Ans. I had been spoken to before she spoke to me; I do not know anything more.

Quest. Can you say, then, whether she recognised you her- 40

self, or found out who you were by some of the others speaking to you before she spoke to you?

Ans. I could not tell anything about that.

Quest. Was her eye-sight good then?

Ans. I do not think her eye-sight was good—she was doctoring them.

When I saw the old lady and William Coddington on the back shed, Mrs. Coddington had followed William out there; we generally sit in two rooms there—the door is open between them. I saw him go out—I do not know where he came from, and I saw her follow him, but I do not know where she came from; I could not tell how long after they had gone out—it was before I went out; I cannot tell now what I went out for; I stood and listened to the conversation for a while after I went out; I can't now tell what I went out for; I stood on the stoop—I cannot say how long I stood there—I stood there long enough to hear what I have said—I do not think I stood there more than five minutes. Mrs. Coddington talked loud at one time; William appeared to be very cool; he told her that he did not know anything about it.

Quest. In several instances in your examination you have given words used by the old lady, do you think you have succeeded in giving the precise words she used?

Ans. I could not say that I have given the precise words—the substance I have told as near as I could.

Quest. Did she say “why don't they come down like men, and let me have it,” in those words, or did she simply say that in substance?

30 *Ans.* I think she used those words.

Quest. When she said, the poor woman has seen hard times since she went out there—I have made my will so that she will have something when I am done with it—did she say that in those words, or that in substance simply?

Ans. She used those words then.

Quest. When she said, why this is Mr. Bruen has got back again, you are welcome back, did she say that in those words, or that in substance merely?

Ans. She said them words.

40 *Quest.* When she straightened herself up, and said that

she could stand it just as well as she (meaning Mrs. Fisher), did she say that in those words, or did she say it in substance merely?

Ans. She said it in those words.

Quest. When she said, "don't you think that is right," did she use those words?

Ans. I think she did. I do not know whether I made any reply to her or not as to its being right.

Quest. Is your memory unusually strong and retentive?

Ans. It was always said to be so in school, and by everybody who was acquainted with me—I think myself that I have a pretty good memory.

Quest. Is your memory so in respect to matters that you do not endeavor to recollect?

Ans. If I hear anything unusual I am apt to remember it; if I hear a song—just a sketch of it—I am very apt to remember it.

Quest. Did you endeavor to recollect these words that the old lady used?

Ans. I did not charge my memory with them at all. 20

Quest. Did you charge your memory with those conversations?

Ans. No, sir, I did not charge my memory with them; I never thought they would be repeated again.

Quest. When was the first time that you endeavored to call these conversations to mind, if you have ever done so?

Ans. I do not know that I ever endeavored to do it.

Quest. Were there any other papers in the box when she took these notes out?

Ans. I could not say; I could not say that there were any other papers in the box, or that they were all notes that she did take out; I was not in the business. 30

Quest. You say she then spoke about the notes—if he was going to take them; tell us precisely what she said about that, as near as you can recollect?

Ans. There was nothing more said at that time about the notes more than I have already stated.

Quest. Did she say then that she could not make the loan to Price without he took notes for part, or anything to that effect? 40

Ans. I heard her say that to Mr. Miller once before that day, but do not remember that she said it that day.

Quest. How long before that?

Ans. I could not say how long before—it must have been a month anyhow—it might have been longer; I went out before they got to handling of the notes.

Quest. Did the old lady's capacity for understanding business, or carrying on or understanding conversation, ever fail, in your opinion, before her death?

10 *Ans.* I never saw any change, in my opinion, until a month or so before her death; she was smart and active; I thought she failed for the last month or so before her death.

Quest. Did you see any signs of failure in her mind until within a month or so before her death?

Ans. No, I thought it was all about the same—the first I noticed was a month or so before her death. I never heard her complain of any of Mr. Miller's family; I heard her tell Mr. Miller, not over three weeks before she died, that he had always used her well, and that she thought a great deal
20 of him—it was on a Sunday when Mr. Miller and Mrs. Coddington and I were alone in the house—that must have been after her mind began to fail; I think she understood what she was saying, and was sincere in it.

Quest. How did she come to say that?

Ans. She was talking about going up to Stony-hill; she wanted to know when she could go up to Stony-hill; Miller asked her if she was not well enough off where she was, and asked her if he had not always used her well—then she used the words I have stated.

30 *Quest.* Did she say why she wanted to go to Stony-hill?

Ans. She said that it would be such an expense to take her up there after she was dead—she had better go while she was alive.

Quest. Was the saving of expense between carrying her up living or dead the only reason that she assigned for wanting to be taken up?

Ans. I do not know of any now.

Quest. Do you think she meant what she said, or was the old lady joking?

40 *Ans.* I rather think she said it in good faith; I could not say

whether I ever heard her say the same before or not. I think she was confined to her bed for ten days before her death; she was sitting up this Sunday when this conversation took place; I heard her speak of going up to Stony-hill before this Sunday; I went after Samuel Baldwin once to take her up to Stony-hill; I do not know who requested me to ask Samuel Baldwin to take her; we were coming from church, Mrs. Miller and myself, when I asked Mr. Baldwin to come the next Monday morning, if it was a pleasant day, to take her up; she was dressed up all day Monday waiting for Mr. Baldwin to come and take her up to Stony-hill; Mr. Baldwin did not come. 10

Quest. Do you know the reason why he did not come?

Ans. I do not. I cannot say whether I spoke to Mr. Baldwin myself or Mrs. Miller—we spoke together like, that the old lady was anxious to go, and was all ready.

Quest. Why was the old lady anxious to go to Stony-hill—did you ever hear her assign any other reason besides the saving of expense of carrying her up after she was dead?

Ans. Not that I know of. 20

Quest. Did you ever see her cry when talking about being taken up there?

Ans. I do not know that I ever saw her shed a tear in my life; I have no knowledge or recollection of it.

Quest. Was she contented there at Mr. Miller's, and to remain there?

Ans. I never heard anything of it to within a month or two of her death; I never heard anything before that, to my recollection.

Quest. Did you ever hear her say anything about going up there before her mind began to fail? 30

Ans. Not to my recollection.

Quest. Did you ever hear her say that any of Mr. Miller's children had broken into her trunk, or into the place where she kept her money, and taking any of her money?

Ans. No, sir.

Quest. Anything like that?

Ans. No, sir; I never heard her say anything like that?

Quest. Do you think you were a particular favorite of hers? 40

Ans. She always used me well, and I always used her well; she always called me that "nice little man." I married Mr. Miller's daughter Caroline; my wife always used Mrs. Coddington well, but Mrs. Coddington did not appear to be as friendly and free in her intercourse to my wife as she did to me and the rest of the children; I never heard Mrs. Coddington say why this difference was. I worked on Mr. Miller's farm last summer; this spring I worked at my trade, at Chattan and Madison; I worked for Harvey Lum and for
10 Springer.

Quest. Was the old lady a very stingy and penurious person?

Ans. I do not know that I can answer that—I never saw her give anybody anything; she gave me two shillings for fixing her bureau—that was the fixing I have spoken of; she came and dropped it in my hand, and I asked her what that was for—she said that was for fixing her bureau; I told her I did not want anything for that—she said keep it; the worth of fixing the bureau was two shillings; I think I oiled the
20 locks for her—they worked a little hard, otherwise they were good.

Quest. You say that you returned from the West with your wife in January, 1857.

Ans. I think she went out a week or two before I did; I think she went in March, 1856, I went in April, and she did not return until she came home with me in January, 1857; we returned together to Mr. Miller's house. I cannot say that Mrs. Coddington recognised my wife on her return or not—I do not recollect about it. In the spring of 1857, I
30 went out ahead, and my wife came out afterwards with her brother; I went to Niles, in Michigan; I went to Illinois that summer, and returned in June, 1858; she came on ahead of me—she came on in May, 1858.

Quest. Then you never saw Mrs. Fisher?

Ans. Yes, I saw her in Detroit, in January, 1857, on my return, and made her a visit; I did not see Mrs. Fisher the last time I went West. When I came on in January, 1857, I told Mrs. Coddington that I had visited Mrs. Fisher.

Quest. Was it not then, on your return in January, 1857,
40 that the old lady said that she had made a will, and that Mrs.

Fisher should have something when she was done with it?

Ans. No, she did not tell me then.

Quest. You are then positive that it was after you returned in June, 1858?

Ans. Yes, sir.

Quest. When Mrs. Coddington was talking about the will, did she say anything about a will in the hands of Mr. Mundy?

Ans. Not to me; I have heard her speak about a writing; I have heard her speak to Mrs. Miller, once or twice, about 10 going to Stony-hill to get a writing, but what writing I do not know.

Quest. What did Mrs. Miller say when the old lady spoke about it?

Ans. I think she promised to take her a riding up there some day, when they could get it; I don't know of a certainty that she ever did take the old lady—I might have heard of it.

Quest. If she had have taken the old lady to Stony-hill after the month of June, 1858, would you not, in all proba- 20 bility, have known it?

Ans. I might have been home a visiting—I was home a visiting with my wife a week or two at my mother's and other places—my sisters in Chatham; Mrs. Miller might have taken the old lady to Stony-hill, and I have not known it.

It appears, or seems to me, that it is set down in my book—left Niles for Jersey June 2d; it will take me one day and two nights to get home. It was, I think, before the 4th of July that I was visiting at Chatham, and I recollect of going 30 to Mr. Miller's the evening of the 4th. I think I was home all day the day the old lady was dressed up to go to Stony-hill with Mr. Baldwin; I know that Mr. Baldwin's did not come that day, that I know of, or any of the family—the old lady looked for him all that day and the day after, and the next day after that, I think; it was not a great while before she was taken sick; that was the first that I knew that she wanted to go. Mr. Baldwin's team, wagon, and boy came after the old lady—I think that was a week or so after the first day Mr. Baldwin was to take her—I will not be certain 40

as to the time. I could not say whether the old lady was informed that the boy had come after her or not; she was not able to go—it was a bad day to go; I do not think it was advisable to let her go that day.

THEO. W. BRUEN.

Sworn and subscribed in open court, July 15th, 1859.

IRA C. WHITEHEAD,
JOS. DALRIMPLE.

10 Saturday morning, July 16th, 1859—present Whitehead and Dalrimple.

Mr. Hartwell, on the part of the executor, offers in evidence a paper, the probate of the will of Benjamin Coddington, marked *Exhibit G*.

Hannah C. Brant, called and sworn on the part of the executor, and examined by Mr. Little.

I live at Chatham; I am the daughter of Smith Miller; my husband's name is Elam R. Brant; I have been married four years the 16th of last May; I have lived from my
20 father's house during that time. I visited my father's in the month of April, 1858; I visit as often as once in two weeks at home; I visited in the month of April, 1858, with Mrs. Carr; Mr. Brittin was there at that time. My grandmother seemed very smart and quite well, indeed, that day; she recognised me when I came in the room; I talked with her that day; I got there, I suppose, a little after ten o'clock in the morning; I think Col. Brittin was there when I came; I did not sit in the same room with Col. Brittin while he was there; my aunt was there, Mrs. Fisher; I did not know what
30 Col. Brittin was engaged in or doing until I heard grandmother talking pretty loud; she was a little deaf—she generally talked pretty loud; I sat in the adjoining room; I cannot say who was in the room with Col. Brittin's and grandmother; I heard Col. Brittin voice also; I could tell, from what I heard, that they were in the business of a will; I heard her ask Col. Brittin if he did not think she had done

right, for when father died, as she always called her husband, he told me to leave what little I had to the girls—but, she said, I have only given them a part; I heard her say that distinctly, I think; Col. Brittin went away before dinner—I do not know though; I saw grandmother pass through the room where we were sitting into her own room; I saw her come back; I did not notice what she had; she went into the room with Col. Brittin again; I do not recollect of hearing any other voice than Col. Brittin and my grandmother in that room while they were there; I did 10 not see the paper signed—the door was on a jar, so that I could hear what was said; Col. Brittin read it over to her, I think, and then asked her if she acknowledged that to be her last will and testament; she replied yes, I do; I think he read it over to her, but I am not sure—I heard him read something.

Quest. So far as you know or saw, or had reason that day to suspect, did anybody have anything to do with the preparation of that paper, except your grandmother and Col. Brittin? 20

Ans. No, sir.

Quest. Was your grandmother in her right mind that day, or not?

Ans. She was in her right mind.

Cross-examined by Mr. Cutler.

I rode up with Mrs. Carr—we went up in Mrs. Carr's carriage; Mrs. Carr and I had made an arrangement to go somewhere else that day; we did not go, because it was not very pleasant, it was very windy. I said that I believed I would go home, and Mrs. Carr said that she would go along. 30 I intended to go with her and her horse and carriage to White-oak ridge—it is about three miles from where I live; this engagement to go to White-oak ridge was made with Mr. Carr the day before—I think she made it with me. I went to Mrs. Carr's house to meet her there—that was the arrangement. Mrs. Carr's husband objected to our going to White-oak ridge, because the wind would be right in our faces going that way; I then immediately said I would go to my father's. I intended to have gone afoot—I often do—if Mrs. Carr had not gone with 40 me; the distance from Mrs. Carr's house is about two and a

half miles, I think. I saw my grandmother pass through the room where I was sitting; that was the only time I saw her until after the will was made; I do not think I spoke to my grandmother when she passed through the room; Mrs. Carr and my mother were in the room with me; I think my aunt was there too, but I am not certain; I think my father was at work out doors.

HANNAH E. BRANT.

Sworn and subscribed in open court, July 16th, 1859.

10

IRA C. WHITEHEAD,
JOS. DALRIMPLE.

Smith M. Miller called and sworn on the part of the executor. [Objected to by counsel of caveators.]

I have understood that I am one of the executors named in the will of Mrs. Coddington; Mrs. Coddington is my mother-in-law; the first that I knew that I was an executor was the day that Col. Brittin read the will—I had never seen the will up to that time; I was at home the day the will was made, but was not present when the will was signed; I did
20 not know before that day that Col. Brittin was coming there to draw her will; Mrs. Coddington had never said anything to me previous to that day about the making of a will.

Quest. So far as you know, and as you believe or suspect, did any one control her in the making of this will, or did she make it if her own accord?

Ans. So far as I could say, she made it of her own accord; I never heard any person mention anything to her about making a will; believe she made it of her own accord. [Counsel of caveator object to the part of the question re-
30 lating to "belief or suspect."]

For the last nine years, the old lady trusted me with her business; while Wm. B. Coddington was alive, he was also an agent for her. For the note of the old lady's against Baldwin, on which I was security, I gave to the old lady a note made by William M. Coddington—it is the same note spoken of Mr. Wilcox; she understood that exchange at the time, and consented to it.

I wrote, at the old lady's request, the note, spoken of by

Pimento, to Israel Coddington, requesting him to give up to the old lady her bond. I continued to do business for the old lady up to the time of death, or shortly before her death, always at her request; when I loaned her money, I consulted with her about it.

A paper shown the witness, marked *Exhibit E*, and the witness says—I gave this receipt to the old lady—it was drawn February 6th, 1854, the time the money was received; I received this paper (or receipt) from the old lady—I think I got it about two years ago—it was in William B. Coddington's lifetime; we were together in taking these receipts up; she held one of his also—his was not for so much as this. 10

Quest. Did you ever hear her, after the making of the will, speak of it, or say why she had made such a disposition of her property?

Ans. She never mentioned it in my presence.

Quest. Did you ever hear her say how her husband had desired her to dispose of her property?

Ans. I never heard her say; I heard him say.

Quest. What did he say? [Objected to; objection sustained.] 20

She lived in my family until her death; she was away at different times; she died at my house.

Quest. Judging from all you knew of her and the conversations you had with her, was she, or not, on the day this will was executed, capable of understanding the nature and amount of her property, and how she wished to dispose of it?

Ans. I did not see anything to the contrary; it is my opinion that she was as smart for business then as she had been for eight or nine years; she always wanted some one to see to her business, and do it correct. 30

Quest. I wish your opinion whether, on the day the will was executed, she was capable of understanding the amount of her property, and of what her property consisted, and of understanding how she wished to dispose of it?

Ans. I thought she was.

Quest. Was she capable, in your opinion, of remembering her children?

Ans. I think so—I often heard her call them by name. 40

Quest. Do you think she then remembered which were living and which dead ?

Ans. Yes, sir.

I knew the property which old Benjamin Coddington owned at the time of his death ; I am acquainted with the shares of the real estate given by his will ; there was four shares given to the children ; I could not tell you the value of the shares at the time the will was made ; it was said that the shares given to the boys were worth about \$1000 a piece.

- 10 I gave the \$100 to Price, and gave the old lady the note ; she knew that Price was to have the \$100 before he got it ; I was present when the old lady mentioned to Price about the \$900 loan—I think it was some time in March, 1858, when this first came up. Pimento was about selling part of the farm at Stony-hill, and was to receive a payment of \$400 ; Pimento had told the old lady that he was going to sell part of the farm—he came down for that purpose ; he came down to get a release from the old lady, so that he could sell it free from encumbrance ; he was to pay her the
- 20 \$400. I think Mr. Price had not then made application for this money. The old lady consulted with me whether it would be better for her mortgage to be reduced to \$600, instead of holding it on the whole for a \$1000 ; I told her that I thought a mortgage of forty-five acres, with the buildings on it, was the best ; she consented then that it should be done ; her bond laid in the hands of William B. Coddington, Stony-hill ; that would have to be taken up, and a new one given ; mother applied for her bond, and was refused. I think the very day we had this talk Pimento took up a
- 30 note to order the bond brought to her ; Pimento returned again to my house, and said that he could not get it ; they said that they would not give it up to no one ; Pimento told this to me, and told it to her in my presence. I am a little before my story ; Israel promised that he would come with Pimento on a certain day and bring the bond, and on the strength of it Pimento made the writings to bring with him when he came down. Israel did not appear with it ; that nonplushed us from doing any thing further. Then she drew up an order for me to go up and see if it could be got ;
- 40 I drew the order, she put her name to it, and a witness to it.

I went up, and showed Israel what her demand was; he says that you are not the proper person to have this bond, as I was one of the parties to the bond. Israel refused to give it up, and I told the old lady; she said I will have it if it costs half for it to get it; she said I will employ counsel. She hesitated of a moment, she then said that if Mr. Hartwell was anywhere convenient, I would have him; I says Mr. Hartwell lives in Morristown; she said that if he lives there he shall do my business. I told mother that I do not know that I have power to act in this case independent of you. I 10 said you had better get into my carriage, and go and see him yourself. So we fixed on a pleasant day, I think it was in the month of June following, and we rode up to Morristown; we drove up to Mr. Hartwell's door; I did not find him at home, but found him at the depot; she did not speak to him; he said he was going off in the cars. She had some other business with Mr. Hartwell at the same time. There was a man in Detroit, a counsel there, who had made application for some bounty land that he thought she was entitled to; the papers that he mailed here were in blank. Whilst 20 Mr. Hartwell and I were talking, the cars came up; Mr. Hartwell said, I cannot do any business with you to-day—I must go in the cars. Mr. Hartwell told us to go and see Mr. Cutler; Mr. Cutler filled up the papers; there was an affidavit made by the old lady before Squire Hulse; Mr. Cutler sent us there; the papers were left with Mr. Cutler—that was Mr. Hartwell's wish. I think we walked from Mr. Cutler's office to Hulse's; I think Mr. Cutler asked the old lady if she was the widow of Benjamin Coddington—he asked her the questions that were needed to fill the blanks, and 30 she answered him. I believe I was there when Price came in, in the month of March, about the loan; I think the old lady first mentioned about the loan. She says, here is Mr. Price, he would be a good man to have that money from Stony-hill. I think Mr. Price replied that he would take it; I think the amount that Price would like to have was not spoken of at that time; I afterwards notified Mr. Price that the money was about to be paid in. I was present when he came to see the old lady in September, after the money was paid in at Somerville; I mentioned the security to her—the 40

security pleased her; we then got to talking about the security; Mr. Price said that if I give you this security, I want to loan \$200 for my purposes. She says I can't do it; then Mr. Price and me began to figure to see how nigh she could do it; nothing had been said about the notes before that time. I think we made it \$700 that she could raise him without notes; that included his own note—we counted that as cash—and probably my note. I asked Mr. Price if we could make it out with some of mother's notes; he said he
10 would take them if they suited him. She says, that if he will take it in notes, I guess we can make it. I says, mother go and bring them forward, and we will see what we can do. She went and brought the paper box in which she keeps her papers; she laid the note out on the table; Mr. Price and I takes them, and we got to within a short trifle of \$900. Well, she says to me, could you make up the deficiency; I told her I could, and I did it. The business was not completed that day; she said that she would have Mr. Hartwell do that business. Mr. Price and I came to Morristown, and
20 arranged the matter. She was very particular to have the searches all made at Mr. Price's expense, and the recording she was to be at no expense, any more than employing Mr. Hartwell. She had no children living except her two daughters. William B. Coddington died last; he died two years ago this last June; he suffered a good while and a great deal; I took the old lady down to see him previous to his death; I took her the 11th of May, I think, previous to his death; she went with the intention of staying while he lived, if she could. She staid that night; she did not stay
30 longer because they did not want to keep her any longer; Mrs. Coddington, wife of Wm. B. Coddington, told me that they did not wish to keep her; she told the old lady that they did not have room for her, and that I should take her away as soon as I could in the morning. I did take her in the morning; I took her to Benjamin's—he is Miller Coddington's son; we saw Benjamin perhaps a hundred yards from his house when we stopped; I called to him—he came up to the carriage; he did not invite his grandmother to go in; we sat in the carriage some fifteen minutes and
40 talked; I told mother that it was cool, and the wind was

blowing, I guessed we would drive on; I drove on, and stopped at another grandson's, William M.; we saw him. She had those notes with her—she wanted him to pay her the interest on them; he said that it was not in his power that day to pay it, but would be up the next week and see her. Well, he did not come, and paid no attention to it; he did not invite her into his house. I then drove her home to my house. She then gave me these notes again for to take them and get the interest on them for her. I notified him and the endorser that she wanted the interest on them; they 10 gave the same promise that he did before, but did not do it.

She occupied a room back of the kitchen on the first floor; she made choice of that room; I offered her the choice of any of the rooms in my house, even the parlor, if she wanted it; I think there is eight or nine rooms in my house. I may have said something like locking her up; she made some charges, and it almost made me cry to hear her make the charges; she was as innocent as a lamb afterwards, and was sorry she had said it. My wife found the apple she had spoken of, and also convinced her that she had the money 20 that the old lady thought she had lost, and the old lady was sorry she had made the charges; that is, I guess, more than three years ago.

She did receive a pension of \$80 a year; I think she drew this for fifteen years; I heard her say that she got back pension—that Mr. Hartwell got it for her.

Cross-examined by Mr. Dalriddle.

The old lady, I think, was present when the wife of Wm. B. Coddington told me that she wished me take her away. If the old lady did not hear her say so I told her; I think 30 the reason given by Mrs. Coddington was, that they were so up side down and sickness, and had no room. I did not want to bring her away; I brought her there to make a visit of three or four weeks—she wanted to visit around a while; her board was paid up to the 12th of May, 1857. William did the business at that time; he sat up in bed and did the business; since that time there has been no board paid or receipts given. The other children who died before the death of the old lady all left children, except Isaac; some of those children are under age. Mr. Price has, I be- 40

lieve, got those notes yet, the two Coddington notes; I have never seen them since they passed from Mrs. Coddington's hands. On the 12th of May, 1857, we made a general settlement; that is the time that *Exhibit E* was obtained. William B. Coddington said, Miller we ought to make a general settlement; the old lady sat right by when William paid me; I should think William paid me some fifty or sixty dollars—I rather think I received more. I think William M. Coddington is in good circumstances—he is a bachelor; he keeps house for himself, I believe—that is what he did do. The old lady meant to go and see William M. Coddington, and did go and see him; Benjamin was a married man; we were as near to his house as from here to the road, right on the road to his house.

Quest. Did you not say then at Wm. B. Coddington's, on the occasion referred to, that they must not let the old lady know that you was charging the old lady extra for her board that winter because she was childish, and that you had to charge her more because she had become more troublesome, or anything to that effect?

Ans. I guess I did say that they must not let her know that I was charging her extra, but I did not say that she was childish; William felt, as well as I did, that I could not keep her for what I had been keeping her for; she was keen for the dollars; we had to keep up more fires and pay more attention to her; I may have said that she was more troublesome.

Quest. Did you not say then that she had become very forgetful, and could not recollect anything five minutes?

Ans. No, I guess I did not.

Quest. Did you say that she could not dress herself?

Ans. I think likely I did.

Quest. What in the shape of luggage did the old lady take along—trunk, valise, carpet-bag, or band-box?

Ans. I do not recollect what she took.

Quest. Will you say that she took anything?

Ans. I will not say she took anything only what was on her—I don't know.

Mrs. Fisher had returned home at the time Mrs. Coddington was at Mr. Cutler's office. These blanks had been sent

on after Mrs. Fisher had returned back to Detroit. My wife was with Mrs. Coddington and me at Mr. Cutler's office; all the blanks were filled up that could be done as you thought; they were left with Mr. Cutler for the purpose to give to Mr. Hartwell. Mr. Hartwell was to forward them to Detroit.

Quest. Was there not certain dates to be filled in those blanks that Mrs. Coddington, Mrs. Miller, or yourself could not recollect, but which Mr. Hartwell could ascertain from papers in his possession? 10

Ans. Yes, sir.

Quest. Can you state what blanks those were that were to be filled by Mr. Hartwell?

Ans. Time of marriage, I think her age, I do not recollect of any other.

Quest. Was the blank of the name of the minister that performed the marriage ceremony filled in?

Ans. I think not.

Quest. Why was the name of the minister, the date of the marriage, and the date of the birth of the old lady filled by Mr. Cutler? 20

Ans. We, us all, thought the power was with Mr. Hartwell to fill in that—we had not the information to give you.

Quest. Could the old lady remember the house of the minister, the time of her marriage, or tell the date of her birth?

Ans. I do not know that she could come exactly to it.

Quest. Was not that the reason the blanks were not filled in by Mr. Cutler?

Ans. It might have been; it was because we did not have the proper information. 30

Quest. Was any more blanks filled in before it was sworn to than was filled in by Mr. Cutler?

Ans. Not as know of.

Quest. Was you with her all the time until she made her affidavit before the justice?

Ans. I believe I was, and paid him.

SMITH M. MILLER.

Sworn and subscribed in open court, July 16th, 1859.

JOS. DALRIMPLE, 40

IRA C. WHITEHEAD.

Thomas A. Hartwell, called and sworn on the part of the executors, and examined by Mr. Little.

I obtained for Hannah Coddington her pension in, I think, 1846, of \$80 a year. I got pay from the time of the application; the application was made in 1845. In obtaining that pension, great difficulty was had in obtaining the date of her marriage, as no bible or record could be found containing it. Learning that a Mr. Sutton had celebrated the marriage, I obtained it from the son of Mr. Sutton. I got
 10 from him a paper that had been partly burned, containing a part of the names and date; I sent it to Washington as a part of the evidence, and obtained the pension. I was in the habit of keeping copies of applications for pensions, or memorandums. Some time early in the summer of 1858, Wm. Brittin came to my house, and brought an application of Mrs. Coddington for a land warrant, with blanks, which I was requested to fill up, having made her first application; I promised to take the papers to Somerville, as my pension papers were at Somerville; I examined my pension papers,
 20 and found that I could fill up some of the blanks. [The whole of the testimony objected to by counsel of caveators.]

I filled up what blanks I could, and sent the papers back to Smith Miller at Chatham, with directions to Mrs. Coddington to come up here and execute the papers. I think I did not fill up the blank of the name of the officer under whom her husband served. The papers were in my hands some two weeks before they went to Mr. Cutler—I can't say how long.

Cross-examined by Mr. Dalrimple.

30 I can't say positive whether the day of her birth was inserted in the application before the papers went to Mr. Cutler; I think the age was inserted, and I think it was inserted that she was born about such a date. My impression is that the word Sutton was inserted when the papers went to Mr. Cutler's; I think the date of her marriage was inserted in the same way (about) when the papers went to Mr. Cutler. The blanks that were to be filled when the papers went to Mr. Cutler were, I think, the amount of old Mr. Coddington's pension, the date of his death, and the corps in which he
 40 served, and the time of service. It was before Mr. Cutler

had these papers that I saw Col. Brittin; I had no knowledge of the date of the death of the old man, therefore I could not fill up that blank.

Quest. According to your recollection, what blanks, if any, were to be filled up after it passed out of Mr. Cutler's hands?

Ans. None at all; there were blanks, but none that were required to be filled, as I understood it from Lyon's letter.

Quest. What were the blanks, whether essential or non-essential?

Ans. My impression is that one was in regard to the service, or time of service—I do not remember of any other. These blanks that I filled in, the information was acquired from *memoranda* that I had; when I sent the papers to Mr. Lyon, at Detroit, I do not recollect of only the one blank that was not filled up. I added a supplement at the bottom, referring to the original application made by her for her pension. The papers which Mr. Cutler handed to me were in one *envelope*, there was among those papers a letter from Mr. Lyon.

Counsel of caveators offer in evidence a letter from R. M. 20
Lyon, dated at Detroit, Michigan, July 6th, 1858, marked
Exhibit H.

Quest. How long do you think you had the papers in your hands before you sent them down to Mr. Miller's, at the Chatham post office?

Ans. A very short time.

Quest. How long was it from that time (the time you sent there) until Mr. Miller called on you at the depot?

Ans. I do not remember.

Exhibit H shown the witness, and he is asked if the 30
memorandum on the back of that exhibit was made before Mr. Cutler got the exhibit—the witness says he cannot tell; he thinks he made it when Mr. Brittin called to see him; it is in my handwriting.

T. A. HARTWELL.

Sworn and subscribed in open court, July 16th, 1859.

JOS. DALRIMPLE,
IRA C. WHITEHEAD.

Counsel of caveators move to overrule the whole of Mr. Hartwell's testimony.

Counsel of executor rest.

William H. Coddington, called and sworn on the part of the caveators, and examined by Mr. Dalrimple.

My father's name was William B. I remember of Mr. Miller being at my father's house a short time before he died with my grandmother; I think it was about the 1st of May; last May it was two years ago—I lived at home at the time.

10 *Quest.* What was said there, in the presence of Mr. Miller, about your grandmother's remaining?

Ans. My father and mother wanted my grandmother to remain; they said they wanted her to remain a while; Mr. Miller said he wanted to leave her for some weeks, as near as my recollection; they said that they wanted her to stay a while; they said there were three sick abed, and they did not want her to stay so long—it was father, mother, and sister. The help said that she had all she could do. Mr. Miller said that the old lady was childish, and a great deal
20 of trouble, and could not remember anything for five minutes. I heard him tell father not to let her know what board she was paying for that winter; he said that they had to see to putting her clothes on and taking them off. I did not hear my mother say anything to Mr. Miller that she wanted him to take the old lady away as soon as he could early the next morning; Miller said that if the old lady could not stay some weeks she must go with him that morning when he got ready to start. I do not recollect of her bringing any bundles or baggage.

30 *Cross-examined by Mr. Little.*

I did not hear my mother say that she did not know how to keep the old lady that night; it is my impression that I heard all the conversation between Mr. Miller, my father and mother about the old lady. My mother was confined to her bed, my sister was confined to her bed the most of the time.

Direct examination resumed.

I was waiting on my father and mother at the time; my

mother was in a room adjoining my father's room, a door open between them, it was my special business to wait on them while Mr. Miller was there.

WM. H. CODDINGTON.

Sworn and subscribed in open court, July 16th, 1859.

IRA C. WHITEHEAD.

JOS. DALRIMPLE.

Caleb Dicknison recalled by the coveators, and the examination objected to by counsel of executor.

Quest. Did you have any conversation with Andrew J. Price, or hear him make any statement as to his opinion as to Mrs. Hannah Coddington's competency to do business or make a will about the time of the commencement of this trial? [Objected to by counsel of executor—objection over-ruled.]

Ans. I did in regard to making a will.

Quest. State when it was, and what he said, as near as you can recollect?

Ans. It was some time this last month, in June, I happened in his house one evening, since I was called here the first time; I called then to warn him out on the road—I am road master in the district; as near as I can recollect, I think he said that she was no more competent to make a will than a child; I think them the very words he said.

Quest. State how the conversation commenced, and all of it?

Ans. I was telling Mr. Price that I was called away several days, and was backward with my business, or that I should have been out on the road before, and from that the conversation commenced about the trial here. I think I expressed my opinion about matters and things, and I think he did his about the old lady's competency to make a will.

Quest. Did he state anything more?

Ans. He stated what he grounded his opinion on, that she did not know him when he went there until she was told who he was; I do not recollect that there was anything more.

Quest. Did he say then whether he had been subpoenaed as a witness in this case?

Ans. He did not, to my recollection.

Quest. Did you tell him on what business you had absent?

Ans. Yes, sir; that is the way the conversation commenced; I told him that I had been subpœnaed here in court on this case.

Quest. After you had expressed your opinion, did you ask his, or did he give it of his own accord?

Ans. He gave it of his own accord.

Quest. Did he mention at that time whether he had been
10 there more than once to see her?

Ans. No, sir; he said nothing more than that she did not know him when he went there.

Cross-examined by Mr. Little.

Quest. What is Mr. Price's general character in that neighborhood for truth and veracity?

[Character question objected to by counsel of caveators, because it is incompetent on the cross-examination—objection overruled.]

Ans. It is good.—I went into Mr. Price's house to warn
20 him out on the road.

Quest. Did you talk about the disposition of the property by this will at that time?

Ans. I don't recollect that we did.

Quest. Did you talk about its being a right will or not?

Ans. I think I did talk about it, and I think I expressed my opinion that it was not a right will. Mr. Price gave his opinion—he did not state that if what he heard was true, or if what I said was true, she was not competent—my memory is as good as common; I have a bad memory at spells when
30 I am unwell; I have the dyspepsia sometimes.

Quest. Have you not stated, while this controversy was going on, that the statements of Mr. Price can be relied on?
[Objected to.]

Ans. I think it is likely I have.

Quest. Have you stated that you would spend half of the estate sooner than you would submit to the will, if it was your case?

Ans. I do not recollect it—I might.

Direct examination resumed.

40 *Quest.* Have you said that the statements of Mr. Price in reference to the competency of Mrs. Coddington to make a

will could be relied upon, or his statements generally could be relied upon?

Ans. Generally.

Cross-examination resumed.

Quest. Did you mean to express the opinion that Mr. Price's statement of facts as to his business with Mrs. Coddington could not be relied on? [Question objected to—objection overruled.]

Ans. I have always heretofore thought Mr. Price said what he meant, but in this case I do not know what to make 10 of it.

CALEB DICKINSON.

Sworn and subscribed in open court, July 16th, 1859.

IRA C. WHITEHEAD,
JOS. DALRIMPLE.

Samuel Baldwin recalled, and examined on the part of the caveators.

Quest. Before you were sworn as a witness in this case, did you have a conversation with Anderson J. Price, in which he expressed his opinion as to the competency of Mrs. Han- 20 nah Coddington to make a will or do business, and if so, state that conversation, and when and where it took place?

Ans. I did in relation to the will; he called on me, I should think, somewhere about a week previous to my coming here the first day; we were walking from New Providence bridge towards my house; I do not recollect just how the conversation commenced about the will; I think I said that I was subpoenaed on this trial, and he said he was too; I don't recollect whether I said to him that I did not think she was competent to make a will, or whether he expressed 30 his opinion to me at first; I think he said that he did not consider her competent to make a will; I think I expressed my opinion the same way; I do not recollect of anything else that passed, unless it was in relation to coming up to attend the trial; he said that he would like to come up with Mr. Dickinson; I told him that I would see him again, and perhaps he could come with me; he said he had been subpoenaed by Mr. Coddington (one of the caveators).

Quest. Did he state why he did not think her competent to make a will?

Ans. I think, as near as I can recollect, that the reason he assigned was her old age.

Quest. Did he say anything about having been there to see her shortly before her death?

Ans. I do not recollect that he did.

Quest. You say that you think he expressed the opinion that Mrs. Coddington was not competent to make a will—
10 have you any doubt in your own mind that he did say so?

Ans. I think he did say so; there was no disagreement in our opinions about that—I do not think there was. I had conversation with him the time I called to bring him up; he did not ride up with me; I was at Mr. Valentine's across the river, and Mr. Price called there, and we walked home together at the time of the conversation; I think I was sworn the second day that I attended—it was the first day I called at Mr. Price's.

Cross-examined by Mr. Little.

20 In that conversation I do not recollect that there was anything said as to the time the will was made.

Quest. Do you not recollect of Mr. Price's saying that if what he heard was true, that he did not think she was competent to make a will, or anything of that kind?

Ans. If he said so I do not recollect it.

Quest. What is his general character for truth and veracity in that neighborhood? [Objected to.]

Ans. I think it is good. I should consider that he would be believed when under oath by a jury of his neighbors. I
30 think I should believe him under oath when swearing in a matter in which he has no interest.

Direct examination resumed.

Quest. Does Mr. Price's character stand now for truth and veracity as good in the neighborhood, or in your estimation, as it did before he was sworn here? [Question ruled out.]

SAMUEL BALDWIN.

Sworn and subscribed in open court, July 16th, 1859.

IRA C. WHITEHEAD,
JOS. DALRIMPLE.

Filed May 21, 1860.

THOS. S. ALLISON, *Register.*

MORRIS ORPHANS COURT,

May Term, 1860.

At an Orphans Court held at the court house at Morristown, in and for the county of Morris, on Monday, the twenty-first day of May, A. D. eighteen hundred and sixty—present Hon. Edward W. Whelpley, President Judge, Ira C. Whitehead, Joseph Dalrimple, and Samuel O. Briant, esquires, Judges.

10

In the matter of the proof of a paper writing, purporting to be the last will and testament of Hannah Coddington, late of the county of Morris, deceased, exhibited on the part of Smith M. Miller, one of the persons claiming to be an executor, therein named,

Order.

and

George C. Coddington and John A. Coddington, caveators,

20

It is ordered by the court that the surrogate forthwith send up to the Prerogative Court the depositions and exhibits taken and made in the above stated case on behalf of either of said parties.

On motion of AUG'S W. CUTLER, esq.,
Proctor of the caveators.

A true copy from the minutes.

FRED. DELLICKEK, *Clerk of the Orphans Court.*

In pursuance of the above order, I do hereby send to the said Prerogative Court the original depositions taken in the above stated case, remaining in my office, and the following exhibits, to wit, B, C, D, and H.

FRED. DELLICKEK, *Surrogate.*

EXHIBITS.

EXHIBIT B.

Mr. Hartwell,—I have made Lewis Mundy, esq., my agent and attorney to receive from you and all other persons all pension money to which I may be entitled.

July 6th, 1846.

her
HANNAH \times CODDINGTON.
mark.

Witness,

JACOB D. SWANE.

- 10 \$20. Rec'd twenty dollars on the within.
July 6th, 1846. LEWIS MUNDY.
- \$86.45. Rec'd from T. A. Hartwell eighty-six dollars forty-five cents on the within, the same being balance, as per agreement.
LEWIS MUNDY.
- \$38. Rec'd from T. Hartwell thirty-eight dollars, pension money, for Mrs. H. Coddington to 4th Sept., 1846.
LEWIS MUNDY.

EXHIBIT C.

- 20 In the name of God, amen! I, Hannah Coddington, widow of Benjamin Coddington, being of sound mind and memory, do make and publish this as my last will and testament.
- First.* I order my just debts and funeral expenses to be first paid after my decease.
- Second.* I order my executors, herein after named, as soon after my decease as convenient, to sell and dispose of all my real and personal estate whatsoever to the best advantage in their discretion. And I order the proceeds of all my estate,
- 30 both real and personal, to be divided into seven equal parts: and I give and devise one equal seventh part of my said estate to my son William B. Coddington; one other equal

seventh part to my son Minard Coddington; one other equal seventh part of my estate to my son Aaron Coddington, to them and their several heirs for ever. I also give and devise one other equal seventh part of my estate to the four children of my deceased daughter Lydia, late the wife of Benjamin Alwood, to wit, Hugh, Easter, Sarah, and Andrew, said one seventh part to be divided equally among them.

I give and devise to my daughters, Hannah, wife of Jeremiah Fisher, Sarah, wife of Alexander Kinner, Catharine, 10 wife of Smith M. Miller, each one equal seventh part of my estate—the interest of said one seventh part of my estate I order shall be annually paid to my said daughters during their lives, and their receipts to be a sufficient discharge to my executors—and I order the principal of said one seventh part of my estate to be equally divided among the children of my said daughters, when they arrive at lawful age, and after the death of my said daughters, each daughter's children to receive their mother's share.

Lastly. I hereby nominate, constitute, and appoint my 20 friend William A. Coddington and my son William B. Coddington executors of this my last will and testament.

It is my will, and I do order that the one seventh part of my estate herein before devised to my son Aaron Coddington shall be put at interest, and the interest thereof paid to him during his life; and after his death, that the principal of said one seventh part of my estate shall be divided equally among his children when they arrive at lawful age.

In testimony whereof, I have hereunto set my hand and affixed my seal this 28th day of September, A. D. 1836. 30

her
HANNAH X CODDINGTON, [L. S.]
mark.

Signed, sealed, published, pronounced, and declared by the said Hannah Coddington, the testatrix, as and for her last will and testament, in the presence of us, who in her presence, and at her request, have hereunto subscribed our names as witnesses.

ELIAS VANCE,
ISAIAH CODDINGTON,
THEO. FRELINGHUYSEN, jr.

EXHIBIT D.

In the name of God, amen! I, Benjamin Coddington, of sound mind, memory, and understanding, and considering the certainty of death and the uncertainty of the time thereof, and to the end that I may be the better prepared to leave this world whenever it shall please God to call me hence, do therefore make and declare this my last will and testament, in manner following, that is to say: first and principally I commend my soul into the hands of Almighty
 10 God, my creator, hoping for full pardon for and remission of all my sins, and to enjoy everlasting happiness in the heavenly kingdom through Jesus Christ, my saviour. My body I commit to the earth, at the discretion of my executors herein after named; and as for the worldly goods which it hath pleased God to bless me with, it is my will that they be disposed of in the manner following—first, that all my debts and funeral expenses be paid as soon as may be convenient after my decease. Secondly, I give and bequeath
 20 unto Hannah, my beloved wife, the home farm where I now live, with the moveables on said farm, *accept* her silver spoons and watch and silver buckles *is be sold*. My will is sell a lot land adjoining lands of Isaac Bird, dec'd; also the Israel Coon farm I give to William, Isaac, and Aaron, my sons, to be divided equally. I give to son Millard all the Carad farm where he now lives, by paying one hundred dollars. My will is that the children of Benjamin Alwood and Lydia his wife, now deceased, *is have* one hundred dollars divided equally among them.

Also my will is, that the children of Jeremiah Fisher and
 30 Hannah his wife *is have* one hundred dollars, to be divided among them *equal*. I give to my daughter Sarah, wife of Alexander Kenned, one hundred dollars. I also give to my daughter Catharine, wife of Smith M. Miller, one hundred dollars. Shock, my black boy, is to be sold by *given* him two years of his time.

I nominate my sons William and Millard *sole* executors of this my last will and testament, hereby revoking and disannulling all former wills and testaments whatsoever by me made, and hereby declaring this to be my last will and tes-
 40 tament by me made and executed on this twenty-second day

of March, in the year of our Lord eighteen hundred and thirty-two.

BENJAMIN CODDINGTON, [L. s.]

Signed, sealed, published, and declared by the said Benjamin Coddington to be his last will and testament in presence of us.

ISAIAH CODDINGTON,
JOHN I. MOFFETT,
AARON COON.

State of New Jersey, Somerset county, ss.—I, John W. 10
Anderson, surrogate of said county, do hereby certify that
the foregoing writing is a true copy of the last will and tes-
tament of Benjamin Coddington, deceased, as the same was
proved on the 26th day of September, A. D. 1836, by Wil-
liam B. Coddington and Millard Coddington, the executors
therein named, before Peter Vredenburgh, then surrogate,
and by him recorded in Book E of Wills, page 132, now in
this office.

Witness my hand and seal of office this eleventh day of
July, in the year of our Lord eighteen hundred and fifty-nine. 20

JOHN W. ANDERSON, [L. s.]

EXHIBIT F.

Is a mortgage from Andrew J. Price and wife to Hannah
Coddington, dated 6th September, 1858, for \$900, payable
in one year from date, with interest, on certain lands in Chat-
ham township, Morris county, D. 2 of Mortgages for Morris
county, page 334, *pro ut* the same.

EXHIBIT H.

Detroit, Mich., July 6, 1858.

Mrs. Coddington,—Your daughter, Mrs. Fisher, will sug- 30
gest which justice to send for to have this declaration exe-
cuted.

It is not necessary to fill up the blanks about the dates of the service, if you do not recollect them.

You will see where to fill up dates of marriage and the death of Mr. C.

You will sign your name as he did, Coddington or Corrington.

Also two witnesses, men, your neighbors, must witness the papers; you will see when they sign—they are to be sworn.

10 If you never *signed* and *made oath* before to apply for this warrant, let me know by writing.

You will please, after executing the paper, send it to your Co. clerk, (25 cts. fees I suppose) and 6 cts. postage, and he will attach the necessary certificates, and with the 6 cts. he will send it back to me by mail. Send the letter to him which I send you.

I will examine in Washington, and see if anything more can be gained on account of pension money.

Please write to us how long you always understood Mr.
20 C. was in service in the Revolution.

Respectfully,

R. M. LYON.

Please send us word how much pension your husband had yearly along before he died.