death.

Lastly I do hereby nominate and appoint the above named Richard Colvin Warford to be sole Executor of this my last will and Testament hereby revoking all former wills by me heretofore made and declaring this and none other to be my last Will and Testament. In Testimony Whereof I have hereunto subscribed my name and affixed my seal this Sixth day of April in the year of our Lord one thousand Eight hundred & forty eight. Signed Rachel Colvin. (Seal)

Signed, Sealed, published and declared by Rachel Colvin the above named Testatrix as and for her last Will and Testament in the presence of us, who in her presence at her request and in the presence of each other have subscribed our names as witnesses thereto.

Signed by Henry Vandyke Johns
George W. Andrews
John W. Teachle

And thereupon the Counsel for the Caveatee proved by like competent witnesses a variety of facts and circumstances tending to show the capacity of said Rachel Colvin to make said wills at their said respective dates, and like proof was given by the Counsel for the respective parties of the facts and circumstances upon which they respectively rely in support of and opposition to the grounds of objection to said paper of the 6th of April 1848 mentioned in the second issue and proof was likewise offered and laid before the Jury by the Counsel of the parties of the facts and circumstances upon which they respectively rely to establish the grounds upon which they respectively rely in support of and in opposition to the two papers purporting to be wills mentioned in the 3d & 4th issues. And thereupon the Counsel for the Caveators proved by St George W. Teachle Esquire a competent witness that for a series of years begining in the year 1848 and Ending in 1849, he had been the legal adviser of the said Rachel Colvin and as such prepared for her under her instructions a will which was duly executed by her in the year 1847 in the presence of witnesses, and which was likewise duly attested but at what period in said year witness could not say except that it was in or after the Spring of that year, and that in the opinion of said witness derived from the relation in which he stood towards her and from various interviews and conversations had with her the said Rachel Colvin was at the time of executing the same of sound and disposing mind and capable of executing a valid deed or Contract. The said Teachle further proved that the name of Richard C. Warford the Caveatee was wholly omitted in said Will of 1847 and the name of Mr Ellicott inserted at the request of the witness as devisee of a dwelling house; and upon his further intercession as Legatee of some income to support it, but the exact amount of such provisions for Mr Ellicott he could not say, nor could he state with accuracy the other provisions in said will, except that he, the witness, was constituted the Executor thereof and according to the impression of witness there was a clause in said Will revoking all former wills from the fact, that it was the invariable habit of witness in preparing wills to insert such a clause in them; but he had no picture, or distinct recollection that there was such a clause in this Will. And the Counsel for the Caveators further proved by competent testimony facts and circumstances tending to prove that the Will of 1847 was destroyed by the said Rachel Colvin or by her direction while

her mind was sound, and likewise tending to proof, that the will of the 30th of October 1845 was not in the possession of the said Rachel Colvin or in the hands of any person authorized by her to retain the same for her at the time of the destruction of the Will of 1847 and further proved by competent testimony, facts and circumstances tending to prove that the said Rachel Colvin at the time of the preperation and execution of the will of 1847 and also at the time of its destruction by her, if she did destroy the same, did not know that the will of the 30th October 1845 was in existance or in her possession, and thereupon the Caveatee offered evidence by competent testimony of — facts and circumstances of a contrary tendency. The Caveators likewise proved by competent testimony facts and circumstances tending to show that the Caveatee during the life time of Rachel Colvin retained from her possession — the said will of the 30th of October 1845 and concealed the same from her knowledge with intent hereby to to prevent its cancellation by her and with a view and under the design after her death to set up the said Will for probate as a valid Will, should his interests require it. And the Caveatee likewise offered Testimony of a contrary tendency: Upon this proof the Counsel for the Caveators submitted the following prayers (numbered 1 to 16 inclusive) to the court and the counsel for the Caveatee on their part submitted five prayers which with the consent of the Caveators counsel were granted

1st The Caveators pray the Court to instruct the Jury that if they find from the Evidence that the said Rachel Colvin the alleged Testatrix duly executed and published a will in the year 1847 when she was of sound and disposing mind and capable of executing a valid deed or contract differing materially from the paper writing purporting to be her will dated the 30th of October 1845 and containing likewise a clause of revocation, the subsequent cancellation or destruction by her, or by her direction of the Will of 1847, if the Jury shall find such cancellation or destruction, will not effect in law to revive the said paper dated the 30th of October 1845 as her Will.

2. If the Jury find from the evidence the facts stated in the preceding prayer other, than that the Will therein referred to as having been executed in 1847 contained a clause of revocation, still if they find, that said will, disposed of the Estate of the deceased in a mode materially differing from the paper also therein referred to, as having been executed on the 30th of October 1845 still the cancellation or destruction by her, or by her direction, of the Will of 1847 if the Jury find such cancellation or destruction will not in law revive as her will said paper dated the 30th of October 1845.

3. If the Jury find from the evidence that said deceased did execute and publish as her will, the paper referred to in the preceding prayers as having been executed in the year 1847 when she was of competent mind, and if they further find, that said paper, was cancelled or destroyed by a third party without her knowledge and consent such cancellation or destruction, will not in law, revive as her will, the paper writing purporting to be such dated the 30th of October 1845.

4. If the Jury find from the evidence, that said deceased did execute and publish as her last Wills and Testaments the two papers mentioned and referred to, in the preceding prayers, at their respective dates, and that she was at each of those periods of competent mind;