-ment of writing dated the 6th day of April 1848 was executed and published by the said Rachel Colvin as her last Will and testament when she was of sound and disposing mind and capable of executing a valid deed or contract, then they must find on the first issue in favor of the defendant and that the burden is on the Caveators to shew that she was not, at the time, in such mind and capacity.

2. That if they shall find, from the Evidence in the cause that the said Instrument of writing dated the 6th day of April 1848 was executed by the said Rachel Colvin under the influence or suggistions or importunities of some person or persons when her mind from its decayed or enfeebled state was unable to resist the same, then they must find on the second issue, in favor of the defendant, and that the burden of shewing that it was so executed is on the Caveators.

3. That if the Jury shall find on the first and on the second issues in favor of the defendant, then the Jury must find on the fourth issue in favor of the defendant.

4. That if they the Jury shall find from the Evidence that the instruments of writing, dated the 30th of October 1845 mentioned in the first additional issue was executed and published by the said Rachel Colvin as her last Will and Testament when she was of sound and disposing mind and capable of executing a valid deed or contract, then they must find on said 1st additional issue in favor of the defendant, and that the burden is on the Caveators to shew that she was not at that time of such mind and capacity.

5. That even if the Jury shall find that a will was duly executed by the said deceased Rachel Colvin in the year 1847 at a time when she was of sound and disposing mind and capable of executing a valid deed or contract, and that the same was a subsisting will at the time of the execution of the Will of the 6th of April 1848, yet if the Jury shall also find the first and second issues in favor of the defendant, then the will of 1847 was itself revoked by the said will of the 6th of April 1848, and the Jury cannot then find that the will of the 30th of October 1845 was revoked by the said Will of 1847.

The Court with the consent of the Counsel for the Caveatee granted the prayers on the part of the Caveators numbered 3.4.5.6.7.9.11.13.14 & 15. But the Court rejected the prayers on the part of the Caveators numbered as follows 1.2.8.10 & 15. To the rejection of which prayers and each of them by the Court and its refusal to instruct the Jury therein asked the Caveators by their Counsel prayed leave to except and that the Court would sign and seal this Bill of Exceptions which is accordingly done this 26th day of February A.D. 1855

Albert Constable (Seal)

And thereupon the said Plaintiffs by their said attornies pray an appeal to the next Court of Appeals for the State of Maryland and to them it is granted. It is thereupon ordered by the Court here that a transcript of the Record and Proceedings aforesaid with all things thereunto relating be transmitted to the Court of Appeals of the State of Maryland and the same is transmitted accordingly.

Test. H. M. Fitzhugh Clk

In Testimony that the aforegoing is truly taken and made from the Record of Proceedings of the Circuit Court for Baltimore County I have hereunto subscribed my name and affixed the seal of said Court this second day of April in the year of our Lord Eighteen hundred and fifty five.

(Seal) H. M. Fitzhugh Clk.

Plaintiffs Costs $81.43⅓
Cost Record $19.20

Defendants Costs $266.61½

Test. H. M. Fitzhugh Clerk

And now come into the Court of Appeals here, as well the said Thompson Pegg and others by John Johnson, G. L. Dulany and Henry Hunter Dare Esquirs their attorneys: as the said Richard Colvin Warford by Brown & Brune, William Schley and Randy Johnson Esquires his attorneys: and thereupon, on motion of the said Richard Colvin Warford by his attorney aforesaid: it is ordered by the Court here: that the said Thompson Pegg and others assign the Errors in the record of proceedings aforesaid, or in the giving the Judgment aforesaid, so as aforesaid brought before the Court of Appeals here, for correcting the Errors supposed to be therein, or judgment by the Court of Appeals here, will be entered against him in default thereof: and the said Thompson Pegg and others by their Attorneys aforesaid, say, that in the record of proceedings aforesaid, and also in the giving of judgment aforesaid, there is manifest Error in this, to wit, that by the records aforesaid, it appears that the judgment aforesaid, in the plea aforesaid given, was given for the said Richard C. Warford against the said Thompson Pegg and others when by the law of the land, that judgment ought to have been given for the said Thompson Pegg and others against the said Richard Colvin Warford therefore in that there is manifest Error; and they pray that the judgment aforesaid, for that Error, and others being in the record of proceedings aforesaid, may be reversed, annulled, and held entirely as void, and that they the said Thompson Pegg and others may be restored to all things which they have lost by occasion of the said judgment, and that the said Richard C. Warford may reply to the Errors aforesaid, and so forth. And thereupon, it is ordered by the Court of Appeals here that the said Richard C. Warford join in the Errors by the said Thompson Pegg and others above assigned in the record of proceedings aforesaid or judgment by the Court of Appeals here, will be rendered against him in default thereof: and the said Richard Colvin Warford by his attorneys aforesaid, says, there is no Error in the record of proceedings aforesaid, nor in the giving of the judgment aforesaid; and he prays that the Court of Appeals here, will proceed to the examination as well of the record of proceedings aforesaid as of the matters aforesaid, by the said Thompson Pegg and others above for Error assigned, and that the said judgment may be in all things affirmed, and so forth. Whereupon as well the record and proceedings aforesaid, and the judgment given in form aforesaid, as the matters aforesaid, by the said Thompson Pegg and others above for Error assigned, being seen and by the Court of Appeals here fully understood, and mature deliberation thereupon had: for that it appears to the Court of Appeals here, that there is no Error in the record of proceedings aforesaid, nor in the giving of the Judgment aforesaid: Thereupon it is considered by the Court of Appeals here, that the judgment aforesaid, given in form aforesaid, be in all things affirmed and stand