tion 36 of chapter 135 of the Revised Statutes, third series, has a wider scope than section 28 of the corresponding chapter in the Revised Statutes, second series. The former section says that the probate of a will, or a certified copy thereof, shall be received as evidence in all cases. Under the latter section the probate or certified copy could not be received in cases relating to real estate. In such cases the original will must always be produced. That was the rule in England until the passage of the Imperial Act of 1857. *Taylor on Evidence*, 1405. What was produced was not the probate, but a certified copy not stating that probate had passed. Section 28 in the second series of the Revised Statutes extends to certified copies, but it does not make the certified copy proof of the probate. The word "may," in that section, should be read as "shall." The affidavit here was clearly sufficient, (though, I admit, it was made at the trial,) and the Judge should have ordered the original will to be produced. [DESBARRES, J. My reason for declining to do so was that the defendant had had long notice of the intention to produce the certified copy; and that he might have given the plaintiff notice that he required the original will.] Due cause was shown on affidavit, as required by the Statute. [BLISS, J. The Judge, at the trial, must judge of that due cause. YOUNG, C. J. If a Judge exercises his discretion at the trial, can the Court control it? I think not.] There is no evidence of the testator having signed or acknowledged the will. [BLISS, J. It was signed by a person whose name was Patrick Carrigan, and taken to the testator, who said it was all right. YOUNG, C. J. Is not that an acknowledgment? The Statute says the signature shall be acknowledged; in other words, it requires not the will to be acknowledged, but the signature. BLISS, J. A person saying, "that is my will," his name being signed to it at the time, is an acknowledgment of the signature. Acknowledgment is a fact, and does not depend on the word "acknowledge."] The signature must be acknowledged. 1 *Vesey Jr.*, 11; *Selwyn's Nisi Prius*, 883; 11 *Law Times Rep.*, 781; 3 *Peere Wms.*, 254; *Sweetland* v. *Sweetland*, 13 Weekly Reporter, 504, (March 18, 1865,); 2 *Rob.* 295. There is no proof of the due execution of the will by the witnesses. The witnesses could not have