

mind and memory, of full age to execute
a will and not under restraint and that
said will now appears in all respects as
when executed. S. D. Bond.

I subscribed and sworn in open Court be-
fore me this 9th day of March 1840. Benjamin
F. Angel Surrogate of Livingston County.

The foregoing proofs and examinations were
taken before me the Surrogate aforesaid on the 9th
day of March 1840 at my office in the town
of Genesee in the County of Livingston and
the depositions of Charles M. Wiley, William
M. Bond and Thomas P. Bond the subscri-
bers witnesses to the said will over by them
respectively subscribed after having been.

first carefully read over to them; and I the
Surrogate being satisfied upon the said proof
before me taken as aforesaid, that lawful
service of notice of proving the said will
has been made on the heirs of the said
William Fitchugh the testator deceased;
That the said will was duly executed;
and that the said testator at the time
of executing the same was in all respects
competent to devise real estate and not
under any restraint, do therefore allow the
said will with the proofs and examinations
to be recorded: Given under my hand and
seal of office at Genesee in the County
of Livingston this 9th day of March
A.D. 1840. Benjamin F. Angel

In the name of God Amen
S. William Fitchugh
of the County of Livingston in the State
of New York being of sound and disposing
mind and memory, do make publish and

decide this my last Will & Testament as follows.
I do Commend my soul to Almighty God and
hope & Confidences of a happy immortality through
the merits of my Redeemer Jesus Christ: As to the
worldly estate wherewith it has pleased God to bless
me, I dispose of the same as follows. My real estate
in the City of Rochester, shall be divided into five
parts as nearly equal in value as possible by appraisers
to be appointed by my executors hereinafter named.
One fifth part thereof, I give and devise unto my
daughter Elizabeth P. Fitchugh her heirs and assigns forever.
One other fifth part thereof I give and devise unto
my daughter Mary C. Smith her heirs and assigns
forever: One other fifth part thereof I give and
devise unto my daughter Mary Packman her heirs
and assigns forever: One other fifth part thereof
I give and devise unto my son Daniel P.
Fitchugh in trust for the use of my daughter
Rebecca Backus and it is my will that my
said Trustee after the division of the above
mentioned real estate is made, take possession of
the last mentioned fifth part thereof and receive
the rents & profits thereof and apply the same to
the use of my said daughter Rebecca annually
during her life Provided nevertheless that I hereby
authorize my said Trustee if he shall deem it
most conducive to the interest of my said daughter
Rebecca, and if she shall cause thereto to sell
and convey in a simple, the whole or any part
of the real estate hereby devised in trust for her
use and either pay the proceeds of such sale
to my said daughter Rebecca, or invest the
same in other lands or in bonds & mortgages
of real estate or in some productive stocks, and in
case the proceeds of such sale or any part thereof
shall be so invested my said Trustee shall apply
the rents issue and profits of such other lands and

The income & interest that shall accrue upon such lands, and mortgages & stocks to the use of my said daughter Rebecca annually during her life: and I hereby authorize, and empower my said daughter at her death to dispose by will of the real estate hereby devised in trust for her use or so much thereof as shall remain unsold by my said Trustee as aforesaid and also of all such other lands as shall be purchased by my said trustee with the proceeds of any sale of the real estate hereby devised in trust for her use and also of all the bonds & mortgages and stocks in which any of such proceeds shall have been invested as aforesaid: But if my said daughter Rebecca shall die without disposing thereof by will then I direct that my said trustee shall convey in fee simple the real estate hereby devised in trust for her use or so much thereof as shall not have been sold as aforesaid and all such lands as shall have been purchased with the proceeds of any sale of the same, or any part thereof to such of the children of my said daughter Rebecca as shall be living at the time of her death and to the descendants of such of them as shall have died in equal proportions that is to say giving to such descendants such share only, as their parent would have received if living, according to the laws of this state regulating the descent of real estate to legal descendants: And I also direct that my said Trustee shall assign and transfer to such children and descendants all the lands and mortgages and stocks before mentioned if any such shall have been taken to be divided among them in the same manner as the real estate and lands above mentioned. But in the event of my said daughter Rebecca dying leaving her husband surviving her, then I direct that the said real estate lands bonds and mortgages

and stocks shall be conveyed assigned and transferred by my said trustee to such children & descendants subject to the payment to him the surviving husband of my said daughter Rebecca annually during his life of the one equal third part of the rents, issues, profits and interest & income of the said real estate lands bonds & mortgages and stocks: and I expressly charge such property with such payment such children and descendants to contribute thereto in proportion to their respective interests in said property: The remaining 2/3 part of my said real estate in the City of Rochester I give & devise unto the said Daniel M. Fitzhugh be it my son in law John P. Falcum in trust for the use of my daughter Isabella Swift and I direct that my said Trustee shall take possession thereof and receive the rents issues and profits thereof and apply the same to the use of my said daughter Isabella annually during her life: and I hereby authorize my said Trustee if they shall deem it most conducive to the interests of my said daughter Isabella, and if she shall consent thereto to sell & convey in fee simple the real estate hereby devised in trust for her use, or any portion thereof and invest the proceeds of real estate so sold in other lands, or in bonds and mortgages of real estate, or in some productive stocks or apply the rents, issues, & profits of such other lands and the interest & income of bonds & mortgages & stocks to the use of my said daughter Isabella annually during her life: and I hereby authorize and empower my said daughter Isabella at her death to dispose by will of the real estate hereby devised in trust for her use, or so much thereof as shall not have been sold by my said Trustee as aforesaid, and also of the lands bonds & mortgages & stocks in which the proceeds of the sale of any of the said last mentioned real estate shall have been invested as aforesaid

but if she shall die without disposing thereof, with then the rents, issues, profits, of the last mentioned real estate & lands & the interest income, of the said last mentioned bonds & mortgages & stocks, shall if the husband of the said Isabella shall survive her, be applied by my said trustees annually during the life of her said husband, to his use and to the use of such children of the said Isabella, as shall be living at the time of her death & of the descendants of such of them as shall have died, in equal proportions that is to say such descents to have the use of such share only as their parent would have had if living and the husband of the said Isabella to have the use of a share equal only to the share of one child. And upon the deaths of both the said Isabella, and her husband, I give devise & bequeath the said last mentioned real estate lands, bonds, & mortgages & stocks, to the children of the said Isabella who shall be living at the time of her death and to the descendants of such of them as shall have died in equal proportions that is to say such descents taking such share only as their parent would have received if living, and to their respective heirs executors and administrators and assigns forever. As at if my said daughter Isabella shall die without issue then upon the death of the said Isabella, I give devise & bequeath the said last mentioned real estate lands bonds & mortgages and stocks, to her sisters who shall be living at the death of the said Isabella & her husband, and to the descendants of such of her sisters as shall have died in equal proportions, that is to say such descendants to take such share only as their parent would have received if living, as to their respective heirs executors administrators & assigns forever. The portions of my

real estate in the City of Rochester as hereby devised shall be ascertained by lot between the parties to whom & for whom the same are devised, the said lot Two hundred & 82 in the City of Rochester for the sum of two Thousand dollars subject to an assessment for City affairs this sum after deducting said assessments I give & bequeath as follows, that is to say one half thereof I give & bequeath to my daughter Elizabeth P. Fitzhugh, and the other half to my daughter Isabella Swift for their own use respectively. I give and bequeath unto my daughter Elizabeth P. Fitzhugh One thousand dollars to be received by equal contributions from the estate herein devised & bequeathed unto, to and for the use of her sisters to be paid the said Elizabeth P. Fitzhugh by my executor within one year after my decease, and I hereby declare that the shares of my property hereby devised and bequeathed to & for the use of her sisters, are given subject to such contribution & payment: That poor debts may be due to me at my decease for property sold in the City of Rochester. I give and bequeath to my daughter to be equally divided among them that portion of the same which shall belong to my daughter Rebecca, shall be paid to Daniel W. Fitzhugh as her trustee as aforesaid, and be by him applied to her use and that portion thereof which shall belong to my daughter Isabella, shall be paid to the trustees herein before named, for her use and be by them invested for her use in lands & mortgages of real estate, or in some productive stocks, and be subject to all the provisions of the devises herein before first made in trust for her use: I give & bequeath unto the said Daniel W. Fitzhugh & John P. Doremus the sum of Four Thousand two hundred and eighty two dollars & eighty two cents being the balance now due on the bond of Daniel W. Fitzhugh held

by me in trust that they be the service of them, or his or their attorneys, by him or their servants appointed shall after my decease annually apply the interest of said sum, to the maintenance and education of the family of my son James during his life, and after his death pay over the principle sum to his wife & children, or such of them as shall then be living in equal proportions share & share alike the shares of such children to be paid as they shall severally attain the age of twenty one years, and the share of their mother to be paid when the first child who lives to the age of twenty one years shall attain that age: The interest of the shares of minors to be applied to their support respectively until they severally attain the age of twenty one years: I give and bequeath unto my daughter Elizabeth P. Fitzhugh & my daughter in law Maria Fitzhugh the mother of Daniel C. Fitzhugh & Duncan Fitzhugh who are the sons of my deceased son Robert all my house hold and kitchen furniture and my pleasure Carriage, and Carriage horses to be equally divided between them: I also give to the said Elizabeth & Maria the use of what articles of plate belong to me (except my silver Tea set & spoons) whichever purchase of Rich in Baltimore until my grand son the said Daniel C. Fitzhugh shall attain age of twenty one years & upon the said Daniel C. attaining the age of twenty one years I direct my executor to give to him the said articles of plate, or if he shall die in his minority then my executor shall give the same to his brother Duncan Fitzhugh on his attaining the age of twenty one years & if both my said grand sons shall die before attaining the age of twenty one years then my said executor shall give the said articles of plate to my

oldest grand son of the name of Fitzhugh whose first name is William. The silver Tea set & spoons above mentioned: I give and bequeath unto my daughter Elizabeth P. Fitzhugh: I give and devise unto my executor herein designated the Farm on which I reside called "Hampton" and all my real estate in the state of Kentucky in trust for the purpose herein after mentioned to be carried into effect by my said executor & the survivors of them, that is to say they shall hold the said "Hampton" estate as a residence for my daughter in law Maria, the widow of my son Robert Fitzhugh and shall receive the rents, issues and profits thereof, and apply them to the support of my said daughter in law, and the support and education of my grandsons Daniel C. and Duncan Fitzhugh, and I hereby authorize my said executor to sell & convey in fee simple my real estate in the state of Kentucky and in trust the proceeds thereof in bonds and mortgages of real estate or in some productive stock and also with the approbation of my said daughter in law to sell and convey in fee simple the said "Hampton" estate, and invest the proceeds thereof in bonds & mortgages of real estate, or in some productive stocks: I also give & bequeath unto my said executor in trust for the purposes herein after mentioned all my personal property of every description which is not herein before specifically bequeathed and which shall not be herein after specified and excepted and I authorize my said executor to dispose of any articles of the said personal property which in their discretion it shall be proper to dispose of, or opportunity and circumstances may offer or require, at public or private sale, I direct that my said

executors shall from the proceeds of the personal property in this article of my will above bequeathed to them pay my just debts. I also direct that they shall pay into my said Daughter in law Maria an annuity during her life for her own use, one third part after the payment of such debts of the interest & income accruing upon the proceeds of the sales of the real and personal property devised to them by this article of my will and upon the said investments in bonds, mortgages & stocks in this article mentioned, provided nevertheless that my said executors may apply towards the maintenance of the said Maria and the maintenance & education of the said Daniel C. and Duncan such portion of the said personal property as may be necessary or proper for those purposes, without investing the same as aforesaid. The other two thirds of the said interest and income shall be held by my said executors, and be applied by them to the support and education of my said grandsons Daniel C. & Duncan Fitzhugh, and in case there shall be any surplus after the provision made for their annual support and education, such surplus shall be invested in manner aforesaid so as to accumulate until my said grandsons shall arrive at the age twenty one years, and I authorize my said executors if they see fit to invest the sum of six thousand dollars in public lands for the use of my said grandsons. I also direct my said executors to pay over to each of my said grandsons as they shall severally attain the age of twenty one years, the one third part of the principle money which they shall

have received from the property devised & bequeathed to them in this article of my will together with any surplus, & the accumulation thereof under the direction for accumulation before given; but if either of my said grandsons shall die before attaining the age of twenty one years without lawful issue, they shall have the surviving brother or his attaining twenty one years of age the portion of his deceased brother. If both my said grandsons shall die before attaining the age of twenty one years, and without lawful issue, then my said executors shall pay to their mother Maria Fitzhugh the whole of the said income and interest annually during her life, and at her death they shall pay the principle to such of my children as shall be then living, and to the descendants of such of them as shall have died in equal proportions that is to say such descendants to take the said share only as their parent would have received if living. And I also direct that in case my said grandsons or either of them shall die before attaining the age of twenty one years leaving lawful issue, my said executors shall pay to each issue the share, or shares, of or their parent or parents respectively. And the estate of the death of my said daughter in law Maria before the death of her said children, the portion devised and bequeathed in trust for her use shall be applied by my said executors to the use of my said grand children Daniel C. & Duncan Fitzhugh and shall be subject to all the provisions & limitations herein before declared in regard to the portion of each of said grandsons; and if the said "Hampton" estate shall not be disposed of by my said executors

before my said grandsons attain the age of twenty one years, then my said executor shall convey the said in fee simple in equal proportions on their attaining the age of twenty one years, subject nevertheless to the payment to their mother during her life of the one equal third part of the annual rents issues, and profits thereof. If either of my said grandsons shall die before attaining the age of one year without lawful issue then the whole of the said Warrington estate shall be conveyed as aforesaid to his surviving brother, on his attaining the age of twenty one years, subject to such payment as aforesaid: but if either of my said grandsons shall die before attaining the age of twenty one years having lawful issue then such issue shall have the share as the parent of such issue would have received on attaining the age of twenty one years: And in case of the death of both my said grandsons before attaining the age of twenty one years, without lawful issue, and the said "Warrington" estate shall not have been disposed of by my said executor as before provided, then: I give and devise the remainder in fee simple in the said "Warrington" estate after the death of my said daughter in law Maria and her said issue to said of my children as shall be living at the death of my said daughter in law and of both of her said sons to the descendants of such of my children as shall have died in equal proportions, that is to say such descendants to take such share as their parent would have received if living: having provided for my sons William Daniel, Samuel, Richard & Henry:

I have not made further provision for them in this my will: Rachel Mahan having by her will bequeathed legacies to certain of my children as will appear by reference thereto, I have in this my will given to the legatee what I consider an equivalent for the legacies severally bequeathed & should any of said legatee claim from my executor the value of his or her said legacy, the same shall be deducted from the share of my estate given to such claimant: My executors are hereby authorized & directed to make executors & deliver proper conveyances for my property, which I may have sold and which shall be unconveyed at my decease: I desire that my executor provide for the comfort of my old and faithful servant Sooky: I appoint my son Daniel the Justice of the County of Livingston, and my son in law John H. Tallman of the County of Monroe executors of this my last will & testament: and I hereby revoke, and declare void, all and every other will & devise by me at any time hereto fore made and declare this instrument to be my last will and testament.

In witness whereof I have hereunto set my hand & seal and have subscribed my name to each page of this instrument the same consisting of eight pages and about one half of a page, this nineteenth day of December in the year of our Lord one thousand eight hundred and thirty nine: William Fitzhugh [L.S.]

The foregoing instrument was at the date thereof subscribed by William Fitzhugh the testator who in our presence subscribed

his name thereto and at the time of such subscription he declared said instrument to be his last will and testament and we at his request and in his presence and in the presence of each other have subscribed our names hereto as witnesses.

Edson M. Day of Genesee Livingston County N.Y.
Thomas L. Boggs of Madison Livingston County N.Y.
William M. Bond of Genesee Livingston County N.Y.

State of New York

Livingston County Surrogate Court 383.

I Benjamin F. Angell Surrogate of the County of Livingston do hereby certify that in pursuance of the laws of the State of New York and upon proofs and examinations taken before me the surrogate aforesaid at my office in the town of Genesee in said County of Livingston on the ninth day of March in the year of our Lord one thousand eight hundred and forty that the within will was duly executed as a will of real and personal estate that the testator William Pittsough at the time of executing the same was in all respects competent to devise real estate and to make his will, and was not under any restraint and I do further certify that the within will and the proofs in support thereof are recorded in the Surrogate's office of the County of Livingston in Book No. 1 of Wills on pages from 309 to 311 inclusive under my hand and official seal of Genesee in the County of Livingston this ninth day of March in the year of our Lord one thousand eight hundred and forty and of our independence the sixty fourth year. Benjamin F. Angell Surrogate

State of New York
County of Livingston ss. I Henry Willis of the Supreme Court presiding Justice of the Second Judicial District of the State of New York of which I preside the said County of Livingston is a component part, do hereby certify that the annexed attestation of George Hastings County Judge of Livingston County dated on the sixth day of February inst. is in due form and that the said George Hastings is the proper Officer to attend the proceedings in the Surrogate Court of said County of Livingston. —
I witness whereof I have hereunto set my hand this eighth day of February 1861.
Henry Willis.

State of New York
Livingston County ss. I Charles Root Clerk of the Supreme Court of the State of New York do hereby certify that Henry Willis is the presiding Justice of the Supreme Court in the Second Judicial District of the State of New York that I am well acquainted with his hand writing and verily believe that the signature of said Justice subscribed to the above Certificate is genuine. I witness whereof I have hereunto set my hand and affixed the seal of said Court & County this ninth day of February 1861.
Chas Root C. Ck.

State of New York
County of Livingston ss. Surrogate Court
I George Hastings County Judge of Livingston

do hereby certify that I have compared the foregoing copy of the Will of William Fitzhugh & the probate thereof with the Original & copies now remaining in said Court and that the same is a correct transcript thereof and of the whole of such original & my Testimony Whereof I have subscribed my hand and affixed the seal of said Court at Geneva this sixth day of February 1861.

(L.S.)

George Hastings
County Judge

State of Kentucky County Court for Ohio County set:

S. R. & Moxley Clerk
of the County Court for said County, certify that this last will and Testament of Wm. Fitzhugh was this day filed in open Court examined approved & ordered to be recorded in my said office which hath been done together with the certificate on the same indorsed this 4th March 1861.

S. R. & Moxley, C. C. & C.