

286 Othello. State of Kentucky,
Pondletown County, 3d

Whereas on the 5th day of June 1871, in the County Court of Pondletown, State of Kentucky, an instrument of writing dated on the 5th day of January, 1863, purporting to be the last will and testament of Abram S. Clark, decd., attested by J. M. Solahan and H. E. Saubenhayser was produced in said court for probate, and it appearing to the court that said attesting witnesses reside out of this State, that said H. E. Saubenhayser, resides in Commerceville Indiana, it was ordered that a commission issue to take the deposition of said witness; therefore this commission in accordance with said order is issued to any Commissioner of the State of Kentucky, appointed by the Governor thereof for the State of Indiana, Judge of Court Justice of the Peace, Mayor of a City, or Notary Public of the said State of Indiana, authorizing him to bring before him, at such times and places as he may direct the said H. E. Saubenhayser the attesting witness to the instrument of writing purporting to be the last will and testament of said Abram S. Clark, deceased, above described and hereto annexed, and the deposition of the said attesting witness concerning the making publication and execution of the said instrument, as the will of the said decedent, duly to take and certify with the said instrument, and this commission into our said Court.

I, witness whereof have hereunto set my hand and seal of said Court at Office in Fishmouth this 12th day of June 1871.

J. M. Solahan, Clerk
State of Indiana,
Mayette County, 3d

The deposition of William E. Saubenhayser taken on the 19th day of June 1871, at the Office of J. H. Steyer, Mayor of the City of Commerceville in said County and State to be read as evidence in the trial of a motion to probate the last will and testament of Abram S. Clark, deceased, now pending in the Pondletown

287 County Court, in the County of Pondletown and State of Kentucky

Question first

Were you acquainted with Abram S. Clark deceased, in his life time, and if so when and how long were you acquainted with him

Answer. I was acquainted with Abram S. Clark in his life time, from about the year 1867 until his death, about 20 years or all

Question Second

Examine the paper shown you, marked X, and state whether you signed it at any time as attesting witness, when, at whose request, and in whose presence

Answer

I signed the paper now shown me by Mr. Kerr signed it as an attesting witness in the year 1863 (could not say in what month) at the request of Abram S. Clark, and in the presence of Abram S. Clark and J. M. Solahan, my name is William E. Saubenhayser now live in the City of Commerceville Indiana. It is the same paper now annexed to my deposition and marked X

Question third

Did the testator sign it in your presence and the presence of the other attesting witness, Mr. Solahan, and did he acknowledge it to be his last will and testament

Answer

My memory now is that he did not sign it in my presence nor in the presence of Mr. Solahan, but that he came in to my store and acknowledged that the paper now referred to by me was his last will and testament, and that it was his signature

Question fourth

What was the condition of the testator's mind at the time he signed said will

Answer

His mind was sound

288 Question fifth
Have you seen testator write, and if so saw you
say whether the body of this will is in his hand
writing
Answer I have seen him write often the body of this
will is in his own hand writing

Question Sixth
State anything else you heard him say with
reference to this will and the disposition of
his property.

Answer I see said nothing, except that it was - well

Question Seventh

What is your age and business

Answer
My age is 53 years business Grocer and
provision W E Daubenheyer

State of Indiana
Fayette County, Ind

I J P Kerr, Mayor of the City of Evansville
County, do hereby certify, that William E Daubenheyer
the above named Depoent was by me first
sworn to tell the truth the whole truth, and nothing
but the truth, in the cause now pending in the Pen-
dleton County, Kentucky Court, in the County of
Pendleton in the State of Kentucky, on a motion
to admit to probate the last will and testament
of Abram Clark, deceased, that the foregoing
deposition was all written by me and that said
deponent subscribed his deposition after
the same had been carefully read over to him
by me, that the adverse party was not present
neither in person or by attorney, that all of
said deposition was taken at my Office, in the
City of Evansville in the said County of Fayette
State of Indiana, on the 19th day of June 1871, betw-
een the hours of 8 o'clock A M and 10 o'clock
A M. of said day agreeably in all respects
to the annexed commission

In witness whereof I hereunto subscribe my name
and affix my official seal this 19th day of
June A D 1871 J P Kerr, Mayor

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State of Kentucky
Pendleton County, Ind

Whereas on the 5th day of June 1871, in the County
Court of Pendleton State of Kentucky, an instru-
ment of writing, dated on the 5th day of June 1871
purporting to be the last will and testament of Abram
S. Clark, deceased, attested by J H Dollahaw, and
J E Daubenheyer, was produced in said court
and for probate, and it appearing to the court
that said attesting witnesses reside out of this
State, that said J H Dollahaw resides in
Harrison Ohio. It was ordered that a com-
mission issue to take the deposition of said
witness, therefore this commission in accordance
with said order is issued to any Commissioner
of the State of Kentucky, appointed by the Governor
thereof for the State of Ohio, Judge of a court,
Justice of the Peace, Mayor of a city, or Notary public
of the said State of Ohio, authorizing him to bring
before him at such times and places as he may
direct the said J H Dollahaw, the attesting witness
to the instrument of writing purporting to be the
last will and testament of said Abram S. Clark
deceased, above described and hereto annex-
ed, and the deposition of the said attesting
witness concerning the making publication
and Execution of the said instrument as
the will of the said deceased, duly to take
and certify with the said instrument
and this commission unto our said
Court.

Seal

In witness whereof I
have hereunto set my hand
and Seal of said Court
at Office in Salem
this 12th day of June 1871
Geo B. Applegate Clerk

State of Ohio
Hamilton County, Ind

The deposition of James H. Dollahaw taken on
the 22nd day of June 1871, at the Office of John C. Cato
Notary Public in the Town of Harrison, County
of Hamilton and the State of Ohio, to be read

290 as evidence in the trial of a motion to probate the last will and testament of Abram S. Clark, deceased, now pending in the Pendleton County Court, in the County of Pendleton and the State of Kentucky.

Question first

Were you acquainted with Abram S. Clark, deceased, in his life time if so when and how long were you acquainted with him?

Answer

I was acquainted with Abram S. Clark, in his life time from about the year 1854, until his death about 17 years in all.

Question second

Examining the paper shown you marked X, and state whether you signed it at any time as attesting witness, when, at whose request and in whose presence.

Answer

I signed the paper now shown me by John Lerets, signed it as an attesting witness, in the year 1863 (could not say what month) at the request of Abram S. Clark, and Mr. E. Daubenheyer, my name is James H. Dollahan, lived in the town of Harrison Hamilton County, Ohio at the time, and now live in the town of County and State aforesaid. It is the same paper now, annexed to my deposition and marked X.

Question third

Did the testator sign it in your presence and the presence of the other attesting witnesses Mr. Daubenheyer, and did he acknowledge it to be his last will and testament?

Answer

My recollection is that he did not, he came to my office and requested me to go with him to Mr. Daubenheyer's store he there said to Mr. Daubenheyer and myself, showing us a paper, that this is my last will and, I acknowledged this to be my signature and wish you to sign as attesting witnesses we then and there signed it.

Question fourth

What was the condition of the testator's mind

291 at the time he signed said will

Answer

His mind was sound.

Question fifth

Have you seen testator write and if so can you say whether the body of this will is in his hand writing?

Answer

Have seen him write few the body of this will is in his own hand writing.

Question sixth

State anything else you heard him say with reference to his will and the disposition of his property.

Answer

He said nothing more that I recollect.

Question seventh

What is your age and business?

Answer

My age is 42 years, business, Dentist
H. Dollahan.

State of Ohio

Hamilton County, Dist.

I John Lerets, a Notary public of Harrison County of Hamilton State of Ohio do hereby certify, that James H. Dollahan, the above named Dependent was by me first sworn to tell the truth the whole truth and nothing but the truth in the case now pending in the Pendleton County Court, in the County of Pendleton in the State of Kentucky, on a motion to admit to probate the last will and testament of Abraham S. Clark, deceased, that the foregoing deposition, after was all written by and that said Dependent subscribed, his deposition after the same had been carefully read over to him by me, that the adverse party, was not present either in person or by attorney, that all of said deposition was taken at my Office in the town of Harrison in the County of Hamilton State of Ohio on the 22nd day of June 1871, between the hours of two o'clock P.M. and four P.M. of said day, agreeable in all respects to the annexed commission.

292. In witness whereof I hereunto subscribed my name, and affixed my official seal this 22nd day of June A.D. 1871.

John L. Seft, Mayor Public
of Hamilton County, Ohio

I Abram S. Clark, being in good bodily health and of sound mind and memory do make and publish this my last will and testament.

Item first. It is my will that all my just debts be paid.

Item Second.

I give devise and bequeath to my beloved wife Mary Clark, all my property, real personal and mixed wherever situate to have and to hold control as her own to all intents and purposes as fully as I can or could do were I living inasmuch as I came into possession of most of said property by her and placing full confidence in her, to take care of and educate our two children and give them what they ought to have as they become old enough to receive and properly take care of it.

Item Third

I do hereby nominate and appoint my beloved wife Mary Clark, Executrix of this my last will and testament and also guardian of our two children Mary Ellen Clark, and Walter Scott Clark

Fourth.
I desire that no appraisement or sale of my personal property or real estate be made and that my Executrix be not required to give bond either as executrix or guardian and I do hereby revoke all former wills by me made.

In testimony whereof I have hereunto set my hand and seal this Sixth day of January with year A.D. 1863.

Abram S. Clark, and
Signed and acknowledged said
Abram S. Clark, as his last will
and testament in our presence and signed
by us in presence of each other and witnesses
by his request

Wm. D. L. Schaefer
Wm. D. L. Schaefer

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State of Kentucky, 3 July Term
Purdettown Court, July 3rd 1871
The foregoing instrument of writing purporting to be the last will and testament of Abram S. Clark, deceased, was this day produced in court and proved by the depositions, and of J. H. Dollahaw and Wm. D. L. Schaefer, the subscribing witnesses thereto, whereupon it is ordered to be established as and for the last and will and testament of said decedent and as such ordered to be recorded, which together with the commission and authorizing the taking of said depositions, and the depositions of said witnesses have been duly recorded in my office.

attest Jno. B. Applegate Clerk

In the name of God Amen
I Margaret S. Frowbridge of the County of Purdettown State of Kentucky, being of sound mind, disposing memory, for which I thank God, and taking into consideration the uncertainty of life and the certainty of death, and being desirous to dispose of such worldly estate as it hath pleased God to bless me with

I will and bequeath the same in the manner following to wit.
1st after my funeral expenses and debts is paid

2nd I do will and bequeath to A. J. Wilson, married man, my youngest daughter all of my real estate of 68 acres and 36 poles, and all of my personal effects in doors and out of doors after my natural death, the said A. J. Wilson has a perfect right to dispose of this property, in any manner she thinks proper after my death and settling with all the heirs the amt by me willed them separately.

3rd I will and bequeath to Elizabeth Ann McKinley Benjamin S. Yeager, Susannah Accordie, Alina dia Jell, Jonathan S. Frowbridge my grand son Simon Haller Yeager, and also my grandson