

October Session 1857

Be it remembered at a Superior Court of Law is opened and held for the County of Catawba at the Court house in Newton on 7th Monday after the 4th Monday in August 1857 it being the 12th day of October. Present and presiding His Honor the following Cause was returned into our said Court from the County Court of said County by an appeal from said Court which is as follows,

State of North Carolina

Catawba County Be it remembered that at a Court of pleas & quarter Sessions opened and held for said County at the Court house in Newton on 8th Monday in October 1857 it being the 20th day of the month the usual proclamation being made Court was opened present & presiding Geo. S. Shuford W. L. McChaffey & Jonas Bask. When the following Cause was entered to wit

Elijah Huffman Executor of Martin Kellar dec John Kellar Peter Kellar and Catharine Kellar Propounders of the will of Martin Kellar dec against Michael Hefner Elias Hefner Daniel Whitenburg & Ragena Sofus Molly Kellar John Sumner and wife Catharine Andrew Kellar and wife Rachel John Scholtz Sarah Kellar who come into Court by their attorney W. B. Symmes and entered their caveat to said Will, whereupon an issue of devises vel non is made up by the Court whereupon the following Jury was impanelled,

John I. Robinson, Ruben Setzer Andrew Kollar Jesse Hearn Jesse Probst, Samson Deal Paul B. Whitener Mrs. Caldwell Henry Fringer Marian Stan Peter Wagner Jacob Schuchow. Who find the paper writing offered for probate not to be the last Will and Testament of Martin Kellar dec. Whereupon the Propounders pray an appeal to the Superior Court which is granted and no appeal bond required.

State of N. Carolina

Catawba County I Geo. Setzer Clerk of the Court of Pleas & quarter Sessions in and for said County of Catawba do hereby certify that the foregoing is a true Copy of record as remain in my office in testimony whereof I have hereunto set my hand & Seal of office at office in Newton the 10 day of August 1857

Seal

Geo. Setzer Clerk

Continued

And the following Case was regularly entered in our trial docket as follows.

Elijah Huffman John Kellar Peter Kellar & Catharine Kellar against Michael Hefner & others. on motion it was ordered that the name of Elijah as a propounder was stricken from the records and the foregoing Case come on for trial and in the foregoing issues and the following sworn and impanelled to wit

Andrew Leonard. John Kollar. Josiah Smith. George Blackburn Miles Deal W. B. Deal David Wetzel John D. Campbell Joel Miller John Hudson G. C. Robinson & Hasea Yarrut

Who find for their verdicts that the paper writing offered for probate in the last Will and Testament of Martin Kellar dec. in the following words and premises to wit—
I Martin Kellar of the County of Catawba and State of North Carolina being of sound mind and memory but considering of my earthly existence to make and declare this my last Will and Testament in manner and form following this is to say first that my executor pay all my Just debts out of my estate.

Item I give two parts of my estate to my nephew Peter Kellar and the other part to his sister Catharine Kellar Item second I give and devise all my kinship from my Brother Peter Kellar to my Brother John Kellar and his son Peter Kellar to be equally divided between them both and lastly I do hereby constitute and appoint my Trusty Friend, Elijah Huffman my lawful Executor to all intent and purposes to execute this my last Will and Testament according to the true intent and meaning of the same and every part and clause thereof hereby making and declaring utterly void all other Wills and Testaments of me hereof made in witness whereof I have hereunto set my hand and Seal this 3 day of April 1857.

Signed and sealed in the presence of

Edmund Samer
Daniel ^{mark} KollarMartin Kellar dec
mark

Whereupon it is considered by the Court that a Proceudo Issue to the County Court of this County to record the said Will with accompanying premises to the end that the County Court admit the same to probate and proceed thereon according to law

A true copy of record of this Case
Henry Oliver Clerk