

In King & Queen County Court Decr. 9th. 1875
 This last will and Testament of Elizabeth J. Burton
 decd. was presented in Court, and proven by the oaths
 of Richard Burton and John E. Bray, the sub-
 scribing witnesses thereto, and ordered to be recorded.
 John R. Burton the Executor therein named, being
 a minor and unable to discharge the duties of
 Executor, On motion of John E. Bray who made
 oath thereto, and with Lewis Clark his Surety
 (who justified on oath as to his sufficiency) entered
 into and acknowledged a bond in the penal-
 ty of Five Thousand dollars, conditioned accord-
 ing to law. Administration of the Estate of
 said Elizabeth J. Burton decd. with her will
 annexed is granted the said John E. Bray

Teste

Spottwood Bird D.
 Truly recorded

Teste,

R. T. Taylor clerk



noted

In King & Queen Circuit Court May 3rd 1876,
 Priscilla B. Smith widow and Executrix of
 the last will and Testament of James
 Smith deceased -

Pettr.

against

J. H. C. Jones and Sally S. Jones his wife
 and James S. Jones, Blanche C. Jones, Claggett
 B. Jones, Ellen B. Jones and Robert S. Jones their
 Children, James W. Smith Bathurst Smith, Sally
 B. Smith, and Selia E. Smith his Children, James
 C. Council, and Mary E. Council his wife, George
 McCouncil, and Mary D. Council their Children
 Thomas Smith, Priscilla B. Smith, & Maria L. Smith
 & Virginia Smith & James W. Smith administrators with
 the will annexed of Robert S. Smith decd. Defts.

9th. 1875
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This day came the Plaintiff by her Attorney and filed her Bill, and on her motion, Robert Pollard Jr. is appointed Guardian ad litem to the infants to defend them in this suit, and leave is given him to file their answer, which is accordingly done, and the answers of the other defendants are also filed, to all of which answers the Plaintiff replies generally, and this cause coming on to be heard on the Bill and answers, and replications thereto, the exhibit filed was argued by Counsel. Upon consideration whereof the Court being of opinion that the paper filed with the Bill marked "H." is a true copy of the last will and Testament of James Smith deceased doth adjudge order, and decree accordingly. And the Court doth authorize and direct said paper to be recorded as such last will and Testament, and the Court doth direct the Plaintiff to pay the costs of this suit out of any assets of the Estate of her said Testator in her hands to be administered.

A Copy

Testo

Spottwood Bird D.C.
February 10th 1876.

Paper "H" referred to in foregoing decree

In the name of God. Amen! I, James Smith of King & Queen County, do make and publish this my Testament and last will as follows.

In the first place as it seems to be most fit and appropriate, I commend myself and my family to the protection and favour of that good Being who is wise to counsel, and strong to help. In his kindness towards me hitherto there has been no inconstancy: he has never deserted me. May we not hereafter by our unbelief and our disobedience provoke him to withdraw his favour from us.

In the next place I desire that all my just debts be

paid, and subject thereto, and subject also to such exceptions as I may hereafter make.

I ~~and~~ to my beloved wife so long as she shall remain a widow my whole estate, both real and personal, for the support and maintenance and education of herself and my children; not only the real and personal estate which I now have, but all that I may have at the time of my death; and all that I may then be entitled to, whether I have it in possession or not. And I do hereby devise to my wife full power and authority during her widowhood to sell and dispose of my real estate, and also my personal estate, or any part thereof, and to invest the proceeds in other real or personal estate if to her it shall seem advisable to do so: And such proceeds, and all estate real or personal acquired by such investment shall be held as part of my estate, and subject to the provisions of this my will, in favor of my wife and children in the same way in all respects as the property and estate I may leave at my death; And moreover if my wife shall find the profits of my estate inadequate to the support and maintenance & education of herself and my children. I devise to her full power and authority to apply to those purposes and objects so much of the principal as she may find to be necessary, but I recommend to her to observe great caution in expending the principal. I recommend to her also to make moderate charitable donations to suitable objects, if she should find her circumstances to admit of it, at the same time I think it prudent to caution her against the multitude of pressing demands of this character, by which we are often assailed. I recommend that she endeavor to determine every year what sum she can and ought to give, then distribute that sum as justice

as she can, and give no more for that year, unless indeed in some case of manifest and urgent necessity.

At the death or marriage of my wife, whichever of the two events shall happen first I desire and direct that all real estate, and all perishable estate, whether it be such as I may have or be entitled to at the time of my own death or such as may be acquired by my wife by means of my estate after my death (subject to such exceptions as I may hereafter make) shall be sold by my Executor hereafter named, upon such terms as he may think best, and that the proceeds of sale and all my other estate of every kind and description which may be left by my wife at the time of her death or marriage (except such as I may hereafter bequeath otherwise) shall be equally divided among all my children, then now living, and such as may be born hereafter, if there be any such: And in the event of the death of any of them leaving issue, in the meantime, such issue if then living shall be entitled to the share or shares of the parent or parents of such issue, but if the issue be then dead also, such share or shares shall not go to the personal or other representative either of the issue or of the parent or parents of the issue, but shall be divided among my other children and descendants according to the principles on which my estate is directed to be divided generally. And in case any of my children shall die under twenty one years of age and without issue, the share or shares of such child or children shall be equally divided among my other children then surviving, and the then living issue of such children as may then be dead, having left issue, if there be any such; the issue in such case taking such share or shares as the parent or parents of such issue would have taken if still living. And I desire further that

if at the death or marriage of my wife, there be several of my children still under twenty one years of age & unmarried, the division of my estate herein directed to be made at her death or marriage shall be effected only so far as to sever from the estate the shares of such of the children as may then be of the age of twenty one years or married, and the share or shares of the issue of such of them as may be then dead leaving issue then living. But the shares of such of my children as may then be under twenty one years of age and unmarried shall be kept together, and the annual profits thereof shall be equally divided among those children; and as they respectively attain twenty one years of age, or marry, the property and estate thus to be kept together for their shares of my estate shall be fairly valued, and their respective shares according to the valuation in each instance shall be severed and delivered to them respectively, until there shall be but one of them under twenty one years of age, and unmarried. I devise to my beloved wife full power and authority in case any of my children shall remove from her family, and she shall think proper to do so, to make such advancement out of my estate to such child or children as she may find convenient, such advancements to be repaid by such child or children, subject to a final division of my estate as herein before directed and to be accounted for in such division; and subject also to all the limitations, conditions and provisions herein contained with regard to the shares of my estate which I have devised to my children respectively.

I give to my daughter Sally my Gold watch and I desire that she will keep it as long as

she lives, and at her death that she will give it to some relative of mine who will be likely to keep it. If it is of small pecuniary value, but it was given to me by my most valued aunt, one of the best aunts that any man ever had. If any of my sons shall become lawyers, I advise and direct that the first of them, who shall engage in the profession shall be at liberty to take my law books at a moderate valuation, and account to my estate for such valuation. And if my older sons should not engage in the profession I direct that the books be kept until it be seen whether the younger will. They are not to be valued at a higher price than they would probably command at auction. I appoint my beloved wife sole Executrix of this my testament and last will during her widowhood; And at her death or marriage whichever shall first happen. I appoint my brother William Smith Executor hereof; and I request that neither my executrix nor my said executor may be required to give any security for the performance of their duties under this will or to have my estate appraised. I have written this will entirely with my own hand, and in testimony I hereunto subscribe my name and affix my seal this 23^d day of August 1844.

James Smith (sd)

Codicil to the foregoing will.

In the event of several of my children being under twenty one years of age and unmarried at the death or marriage of my wife, instead of dividing the profits of their shares of my estate equally among them as directed in the foregoing will I now direct that a joint account be kept of the expenses of all those children and that the whole profits be applied if necessary to the payment of those expenses. But I desire

that they may have equal advantages from the profits as nearly as circumstances may conveniently admit. Witness my hand this 23^d day of August 1844

James Smith

Second Codicil to the foregoing will.

Having appointed my brother William Executor of my will at the death or marriage of my wife, I hereby appoint my son-in-law J. H. C. Jones and my sons James William and Robert Executors, together with my said brother at the death or marriage of my wife, or at my own death if my wife should be then dead or should refuse to take the Executorship; and I desire that none of them may be required to give any security for the performance of their duties or to have my Estate appraised. I also ^{give} and bequeath to my brother William my silver watch at the death or marriage of my wife, or sooner if she should be willing to part with it

James Smith

October 11th 1844

Third Codicil to my Will

I have heretofore given to my daughter Sally a young negro woman named Alice, and she has advanced five hundred dollars to her husband towards the payment for his land. In the division of my estate she must account for the sum of money, and for the value of this woman. My son James William having entered upon the profession of law I give and bequeath to him all my law books, and direct that he shall be accountable for their value in division of my estate. My daughters Sally and Mary have each had a Bureau and dressing glass, I give and bequeath to my daughter Phiscilla Brown and Maria Louisa a bureau and dressing glass

each, which shall be as good as those of Sally & Mary. And so far as any of my Children have received or may receive furniture of any other sort from myself or my wife, I direct that my other Children shall respectively receive from my estate similar furniture or its value, not to be accounted for, in the general division. I give and bequeath to my son Thomas, the sum of five hundred dollars, towards the completion of his education, to be paid out of my estate, only I shall advance it in my lifetime; and it is not to be accounted for in division.

I direct that my son Bennett shall have such an academical education, as my other sons have received; And I give and bequeath to him the sum of five hundred dollars in addition towards the completion of his education, for which he is not to be accountable in division of my estate; And if my estate should be divided before he completes his academical education, I direct that a sufficiency of estate be reserved undivided, from which together with the income and profits of his own share of the estate, his academical education may be completed. I direct also that my daughters Priscilla Brown and Maria Louisa shall be educated as my other daughters have been, and if my estate should be divided before their educations are completed, that a sufficiency of estate be reserved undivided, out of which, together with their shares of the divided estate, that is, the income and profits of their shares, their educations may be completed; And when their educations and the academical education of my son Bennett are completed, if there remain any surplus of such undivided estate, such surplus shall be divided as I have directed my other estate to be divided. And to obviate all question or

Caril as to any other matter or thing, I now declare it as my purpose, that in the division of my estate none of my children be chargeable on any account which I have not mentioned already, unless I shall expressly so direct hereafter.

Witness my hand this 7th day of December 1853.
James Smith

Further Codicil to my will.

I have lately given to my daughter Mary my negro woman Sino aged about twenty six years and her two children Mary Ann, aged six years, and Dorothy aged two years. In the division of my estate my daughter Mary must account for these negroes. Witness my hand this 1st day of October 1856.

James Smith

A Codicil to my will made this 20th day of October 1859. I do hereby revoke the appointment of my brother William Smith as my Executor at the death of my wife, and substitute and appoint my son James William Smith executor in his stead, and direct that if my wife shall refuse to act as my Executrix, that my said son James William, act immediately as my Executor and request a decree that no security shall be required of him by the court. In the division of my estate, I direct that my son Robert shall have the right to take and take the daughter of Harriet at whatever value may be valued at.

I direct that my said son Robert shall account for Charles as an advancement on the 1st of January 1858, and if I never retake Lucy Ellen from him in my life time he is to account for her in the division of my estate as advanced to him at the same time. I owe my son James William a considerable sum of money, probably better

Seven hundred and a thousand dollars on account, and if I never repay him in my life time, it is to be paid without question, whether it falls below or exceeds that sum. Witness my hand this 20th day of October 1859

James Smith

The word immediately in the 8th line & the words on account in the 22^d line interlined before signing.

Memorandum.

The name was signed by James William Smith by the request of Testator & in the presence of the Testator and in our presence.

Alex^r. Fleet
Thos. W. L. Framlingham

In the Clerk's Office King & Queen County Court
February 10th 1876.

This Copy of decree with Paper "A" referred to therein, was this day delivered to me by Priscilla B. Smith Executrix of James Smith deceased, and pursuant to the provisions of said decree, is admitted to record.

Teste

Spottswood Bird D.C.

Truly recorded

Teste,

B. F. Taylor Clerk