

Will of John Miller Decedent

State of Georgia

Heard County & In the name of God Amen:

I John Miller of said County and State being of sound and disposing mind and memory do make, declare and publish this as my last will and testament, hereby revoking all former wills by me at any time made

Item 1st I commit my soul to God who gave it and direct that my body be buried in a decent and Christian like manner suitable to my circumstances and conditions in life.

Item 2nd I will and direct that all my just debts of which there are but few and none of magnitude, shall be paid as speedily and punctually as circumstances under the law will permit, and the legacies hereinafter bequeathed I also direct that they shall be discharged as soon as circumstances will allow, and in the manner directed in this will

Item 3rd To my beloved wife Politha Miller I give and bequeath the use, occupation, profit and benefit of my whole estate both real and personal for and during the term of her natural life, except such parts thereof as are in this will hereafter ^{Heard County Wills 1894-1900} ^{www.georgiapioneers.com} otherwise specially disposed of, said real estate to consist of my home place and improvements thereon and five hundred and fifty acres of land, the same being the portion of my real estate not herein after specially devised.

Item 4th It is my will and I herein and hereby direct that at the death of said wife Politha Miller all my estate bequeathed to her in the Third Item of this will and not in this will otherwise disposed of be divided equally, that is share and share alike among all my children in this Item named to wit: my sons Thomas Miller, Rufus Miller, Willis Miller and Joseph Miller, and to my daughters Emma Clarke's wife of Rev. Upson A. Clark, and Barbara Ann Daniel wife of John S. Daniel and I further direct that the property in this Item bequeathed to my said daughters Emma and Barbara Ann shall be theirs in their own right and shall belong to them and their heirs and be free from the debts and liabilities of their present husbands or any future husband or husbands they or either of them may have

Item 5th I will and devise to my son Thomas Miller one hundred and fifty acres of land the same being the place where he now lives and to which said land he now holds a deed of gift from

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Item 6th I will and devise to my son Walter Miller one hundred and fifty acres of land the same being the place whereon he now lives and to which said land he now holds deed of gift from me.

Item 7th I will and devise to my son Rufus Miller one hundred and fifty acres of land the same being the place whereon he now lives and to which said land he now holds a deed of gift from me.

Item 8th I will and devise to my son Joseph Miller one hundred and fifty acres of land the same being a portion of the settlement of land known as the Atchison place and said land herein devised to Joseph adjoins the land devised to my son Rufus in the 7th item of this will, and to which said land my said son Joseph now holds a deed of gift from me.

Item 9th I will and devise to my son Francis Miller one hundred and fifty acres of land the same being the place whereon he now lives and to which said land he now holds a deed of gift from me. This land I devise to him, Francis and nothing more of my estate because he has had money furnished to him by me to the full amount of a distribution share of all my property not specially devised in this will.

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Item 10th I will and devise to my daughter Elmira Clarke wife of Upson H. Clark one hundred and fifty acres of land the same being a portion of the land I bought from Dr. Mathews and said land adjoins the land devised to Thomas Miller in the 8th item of this will all of said one hundred and fifty acres of land in this item devised I bequeath and devise to my said daughter Elmira except the mining interest contained in said land if any there be which said mineral interest when developed if it is ever developed shall belong equally to all my children. said land herein devised to my said daughter Elmira shall to her in her own right and shall be free from the debts and liabilities of her present or any future husband she may have.

Item 11th I will and devise unto my daughter Barbara Ann Daniel wife of Daniel one hundred and fifty acres of land the same being a portion of the settlement of land known as the Atchison place and to which said land she now holds a deed of gift from me and she to be hers in her own right and shall be free from the debts and liabilities of her present husband or any future husband she may have.

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Item 12th I will and devise to my daughter Elizabeth Smith wife of Asa Smith one hundred and fifty acres of land the same being the place whereon she and her husband now live and to which said land she now holds a deed of gift from me said land to be hereon her own right and to belong to her and her heirs and to remain and be forever free from the debts and liabilities of her present or any future husband she may have this said land in this Item named I devise to her and nothing more of my estate, because she and her husband are indebted to me to the full amount of a distributive share of my property not specially devised in this will.

Item 13th I will and devise unto my son William Miller, if he should be alive at the time specified for him to receive the legacy herein devised or should have any lawful heirs then living one hundred and fifty acres of land the same being a portion of my home place which I have devised and bequeathed to my wife Follitha Miller in the Third Item of this will the said one hundred and fifty acres of land are to be laid off to him after the death of my said wife Follitha which said land shall be laid off to him in the following manner to wit he my said son William shall choose one uninterested and judicious man and my executors herein after appointed or their representatives shall in like manner choose one uninterested and judicious man and those two men thus chosen shall choose a third man and said three men thus chosen shall divide the four hundred and fifty acres of land in the Third Item of this will bequeathed to my said wife Follitha into four parts or portions as nearly equal in quantity and value as practicable and after such division is made the said Committee or partitioners herein provided for shall number the portions of land so laid off as above directed, one, two, three, four, and place said numbers folded in a hat and my said son William or some one designated to him shall draw therefrom a number which said number shall represent the portion of land herein devised to him this land in this Item devised to him my said son William I will and devise to him and nothing more of my estate.

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Item 14th I will and bequeath to Elizabeth Miller and Follitha Miller daughters of my deceased son William Miller one hundred acres of land to be paid them in cash from upon my estate upon

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Arrive at twenty one years old on to their legal heirs if they should not be twenty one years old at my decease, provided that if my wife Paltina Miller shall survive me then the said one hundred dollars each to be paid as above at the decease of my said wife Paltina, and provided further that if either of my said grand daughters Cleopatra or Paltina Cumie should die without an heir prior to the time herein named for them to receive said legacy then her said one hundred dollars to go to the surviving sister or to her heirs.

Item 15th I hereby nominate, constitute and appoint my sons, viz. Johann Daniel and my son Willie Miller Executors of this my last will and Testament.

Item 16th In this my last will and Testament and in every thing thereof I have endeavored to be plain and explicit and I hope and trust that no dispute will arise concerning any of the devices herein made, but if contrary to my will and device there should any dispute arise from the want of legal expressions or technical terms or because too much or too little has been said on any of the devices herein made, my will and device is: And hereby expressly direct that all disputes of any should arise, shall be decided by three impartial and intelligent men, two to be chosen by the disputants each having the choice of one and the third to be chosen by those two, which three thus chosen shall unfettered by law or legal construction declare their judgment as to my intentions and their decision thus made is to be as binding upon the parties as if it had been rendered by the highest Tribunal known to the law. Sub witness whereof the said John Miller to this my last will and Testament consisting of the foregoing two and one half pages of paper have set my hand and seal this 5th day of March, eighteen hundred and seventy seven.

John Miller (S)
Signed, sealed, published, and declared by the above named John Miller as his last will and Testament in the presence of us the subscribing witnesses who at his request in his presence and in the presence of each other, have subscribed our names as witnesses hereto.

W. Stephens
J. W. Drummond
A. T. M. Lee

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State of Georgia Before me at Chambers County
 Heard County Daniel and Willis Miller Executors named
 in the foregoing instrument and offers the same for probate
 in common form as the last will and Testament of John
 Miller deceased, late of said County, and J. M. Drummond
 and A. T. Fuller two of the subscribing witnesses thereto being
 duly sworn depose and say that they saw said John Miller
 deceased, sign and publish said instrument as his last
 will and Testament, when he was of sound and dis-
 posing mind and memory and that they and J. Stephen
 signed the same as witnesses at the special instance and
 request of said Testator in his presence and in the pres-
 ence of each other. } J. M. Drummond
 Sworn to and subscribed before me { A. T. Fuller
 This 15th day of April 1878. J. B. Beall Ordinary, NC

Georgia } I do solemnly swear that this is writing con-
 Heard County } **Heard County Wills 1894-1900**
 } www.georgiapioneers.com
 John Miller decd of said County so far as I know so believe
 that I will execute the same in accordance with the
 laws of this State So help me God. J. Daniel
 Sworn to and subscribed before me May 4/1878
 J. B. Beall Ordinary.

Georgia } I J. B. Beall Ordinary of said County and
 Heard County } Ex officio Clerk of the Court of Ordinary
 do certify that the foregoing is a true and correct Copy
 of the last will and Testament of John Miller deceased
 and of the probate thereof and that the same appears
 of record in my office. Given under my hand and
 Seal office the 9th day of May 1878 J. B. Beall
 (Seal) Ordinary & Ex Off. Clk.

Recorded November 13th 1895
 J. A. Crum Ordinary.