

Martin L. Divius Dec.

State of Georgia, Marion County
 I Martin L. Divius of said State
 and County do hereby make this my last Will and
 Testament, and I hereby revoke all the other Wills
 heretofore made by me

Item first I give to my daughter Martha R. W. during
 her life, the South half of lot of land no. 161
 except the grave yard thereon, and the North half
 of lot of land no. 157, all lying in the thirty
 second district of said County, also the land known
 as the my Kenfroe place in said district and Chatta
 hoochee County consisting of one hundred and seventy
 acres more or less, and at her death to her children
 forever. Provided, that if my said daughter shall
 desire it, she may sell the Kenfroe land at any
 time, and the title she makes or which may be made
 in pursuance of this provision of my Will, shall
 be valid, whenever the money she may receive for
 it shall have been invested in land near to
 Pineville and the title vested in her, and at her
 death to her children forever.

Item second; I give to my wife Marchan C. my daughter
 Mary C. my daughter Elizatech Ella, my son Jo
 seph E. my son James W. my daughter (Sarah L.)
 my son Daniel H. J. my son Robert L. and any
 child or children my said wife Marchan C. may
 hereafter give birth to, either before my death
 or within the usual term of gestation or
 pregnancy after my death the lots and parcels
 of land herein after described in this Item of
 my last Will and Testament viz; one hundred
 one and one fourth acres of the South West half
 and ten acres more or less of the North East
 half of lot of land no. 130, lots no. 131, 132, 135
 one hundred acres of lot no. 126 fifteen acres, more
 or less of lot no. 127, thirty eight acres in the
 North East corner of lot no. 165, lots no. 166, 167
 168, 185 on which my dwelling house stands, lot
 no. 186 and the North half of lot no. 186, lots
 no. 153, 155, 156, one hundred and twenty five
 acres of lot no. 154, the South half of lot no.
 157 and the West half of lot no. 158 all lying
 in the thirty second district of originally six
 but now Marion County. Also lot 169, thirty
 eight acres of lot no. 184, forty five acres of lot

No 152, and one acre, of lot No. 137 in said District and Chattahoochee County, Also one hundred acres lying South of Dry Creek and East of the Lumpkin Road, known as a part of Burned Major's place in Webster County, and any other land which belongs to me which I have not herein before given to my daughter Martha R. W. The land which I have willed to my wife, Martha R. W. and the children mentioned and provided for in the second item of this Will is to be held and used, and as much of the income thereof as may be necessary is to be appropriated to the support of my said wife, and the support and the education of my children mentioned in the second item of this will, and as my said children may become of age, or in the case of my daughters whenever they may marry, each one's portion of my land is to be assigned to them by three disinterested persons, Commencing on the East side of land if my Executor may think it best, and if the portion of either of them shall not be worth as much per acre as the balance of my land may be per acre the difference in value is to be paid them out any money which may be on hand belonging to my estate or if there should be no money on hand then by giving them more land; but if the portion of any of them should be worth more per acre than the rest of my land, is per acre then they are not to have so much land. My wife's part of my land is to be the last that is laid off and is to include my lot of land on which my dwelling house stands and as much of lot No. 186 herein before described as may be necessary; Provided that if she marries before a final division of my estate her portion of my land is to be assigned to her immediately and is not to include the lot on which my dwelling house stands nor is it to include lots No. 166, 167, 168, 169 and 186 hereinbefore described if it can be avoided. To them and at their death to their children forever. Provided that if either of my daughters dies without issue the land therein given to them is to belong to my wife and the brothers and sisters on the paternal side and the lands or the proceeds thereof is to be divided pro rata between them.

Item third: I give my wife the right to select Eight choice mules, or mules and horses from among my mules and horses on my home place, and twenty four head of cows and their calves, or if there should not be so many cows and calves then of other cattle (not to include my oxen) on my home place for herself and the children mentioned and provided for in the second item of this will; and then my daughter Martha is to the right to choose four mules and five head of cattle from among the balance of my mules and cattle (not including my oxen) from my home place, or if she prefers it she is to have fifty dollars in lieu of the cattle, and one of my best two horse wagons, to my said daughter Martha R. W. and her heirs forever.

Item fourth: I give to my daughter Martha R. W. Five Hundred dollars in currency to be paid to her on the twenty fifth day of December, next, after my death, to her and her heirs forever.

Item fifth: I give to my wife Marchena C. and my children mentioned and provided for in the second item of this my last Will and Testament all of my personal property not hereinbefore willed to my daughter Martha R. W. The property is to be held and as much of the income and increase used as may be necessary for the support of my wife and the support and education of my said children, and as they become of age or in the case of my daughter whenever they marry, each one's share is to be apportioned to them in any way that may be agreed on without a sale. My wife's share is to be the last that is given off to them and at their death to their children forever.

Provided that if my wife takes dower in my land she is not to have any part of my personal property but the portion I have willed to her is to belong to my children and provided further that if she marries and makes her election to take the property herein willed to her instead of dower then her portion of my personalty under this will is to be delivered to her immediately and she is

to have no further interest in my personal property whatever, and if provided that if either of my daughters dies without issue this portion of my personal property is to belong to and be divided pro rata between my wife and the brothers and sisters of such an one on the paternal side.

Item sixth I give to my wife and the children she now has or may hereafter have all the right title interest and claim I have in and to the Estate of J. R. Cov. dec'd, and which I might be intitled to upon a division of said Estate were in life at the time, to them and their heirs forever.

Item seventh; I hereby appoint my beloved wife Matheua C. Escentary of this my last Will and Testament hoping that she will consent to act and that she will be able to manage my Estate under this will profitably. But if she should die or be disqualified from any cause I appoint John L. Matthews Executor of this my last Will and Testament.

April 24th 1876 Martin L. Bivins {LS

Signed sealed declared and published by Martin L. Bivins as his last Will and Testament in presence of us the subscribers who subscribed to the same in the presence of said Testator and in the presence of each other, this the 24th of April 1876

N. N. Nicholson
W. J. Brooks
J. W. Harris.
B. F. Matthews

Codicil of M L Pivius

Georgia Marion County I Martin L. Pivius do hereby make this Codicil to said Will on the 24th day of April 1876 make my last Will and Testament which was signed sealed declared and published in the presence of J. J. Brooks N W Nicholson, James W. Jarvis and B F Matthews each of whom subscribed the same as witnesses

First Where the word (second) occurs in the thirty fourth and thirty eighth lines of the second item of said Will it is to be construed as if it had been written (third) instead of second.

Second: The profits, income or increase of the legacies in said Will are to go with the legacies whether specific or general although the enjoyment may be postponed

Third: My wife as Executrix of said Will is not required to keep account of her expenditures for my children with a view to making them equal but is to have the right to expend any portion of said profits or increase for any one of them where in her judgment it may be necessary

Fourth: After my wife shall have as Executrix made a return of the Inventory and Appraisalment of my Estate as is now required by law she is not to be required to make annual returns of her actings and doings as Executrix of said Will.

Fifth The provisions of the second nor the provisions of the fourth item of this Codicil in regard to making annual returns is not to apply to any person as Executor or Executrix of said Will except my wife

Sixth My Executor shall have the power to sell any portion of my personal Estate privately or publicly whenever it may be necessary to prevent waste or loss

Seventh: The Crop of this year on the land given to Martha R. W. is to belong to my wife and minor children

June 27th 1876

Martin L. Pivius (L.S.)
Signed, sealed, declared and published by said Testator as a Codicil to his last Will and Testament in the presence of us who subscribed to the same as witnesses in the presence of said Testator and in the presence of each other

June 27th 1876

J. J. Brooks
B F Matthews
J. W. Jarvis

Probate

Matheua C. Divius } Motion to Probate Will and
 Ex parte } Codicil of M. L. Divius in
 Common form of law November
 Term 1878

Matheua C. Divius offers in open Court the Will
 and Codicil of Martin L. Divius dec'd for pro-
 bate in Common form of law and brings
 A. A. Nicholson, J. J. Brooks, J. H. Jarvis and
 J. S. Matthews the subscribing witnesses to said
 Will and Codicil, except Nicholson who never
 signed the Codicil who upon oath say they
 saw Martin L. Divius, dec'd, sign seal, publish
 and declare said Will as his last Will and
 Testament and that they signed the same in
 the presence of the Testator and of each other
 said witnesses, except Nicholson, make the
 same statement about the Codicil, they testify
 further that ~~the deceased~~ they believe the de-
 ceased was of sound mind at the time of
 the execution of said Will and Codicil
 and that he signed both of his own free
 will

Wherefore it is ordered that said Will
 and Codicil is hereby probated in Common
 form of law and that the same be ad-
 mitted to record as the last Will of Mar-
 tin L. Divius, dec'd

Jas. M. Lowe
 ordy.