

Noncupative Will of Benjamin B. Fontaine  
Muscogee County, Georgia Wills

1862-1875

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State of Georgia I, Henry D. Meigs, <sup>Franklin A. Stanford</sup>  
Muscogee County I, James H. Shorter, and Peter M. Alexander

were present on the evening of the fifteenth day of November, in the year of Our Lord One Thousand Eight hundred and seventy, at the residence of Benjamin B. Fontaine, married man at and before the time of his death the same being in the City of Columbus in said County and state. About five hours before his death in perfect possession of his mental faculties as appears to us, said Benjamin B. Fontaine in the presence of the undersigned, called upon his brothers hereinafter named and upon James H. Shorter and Peter M. Alexander to take notice of what he was about to say; when he declared it to be his will.

1. That his brother Theophilus S. Fontaine Francis Fontaine and George W. Fontaine, should act as his Executors, and that all his just debts should be paid;

2. That his property in plantations should be sold as soon as the same could be done advantageously, if possible within six months. If however this could not be done during the present year, then the property might be rented for one year, at the expiration of which, should the property still remain unsold, he wished the stock, provisions &c disposed of and the lands rented for a stipulated sum, But should it be found not possible to sell such property on advantageous terms, unprovided with stock, provisions &c, then he authorized his Executors to retain the same until in their best judgment it would be wise to sell it;

3. That as soon as his landed estate was sold, the proceeds of the same should be invested in bonds and other good securities - that he would not object to the investment of a portion of said proceeds in a store house and dwelling - and that the interest and income arising from all sources should be paid over to his wife Mary E. Fontaine, for the support of herself and his two children, And further..

4. That it was his will that his said wife and children should have all his property of whatsoever kind, and that the same should be divided among them when the youngest child became twenty years of age.

In two hours after which the said Benjamin B. Fontaine became unconscious, and in three hours thereafter he died - all of which occurred at his residence and during his last illness.

This December 10, 1870

Henry D. Meigs  
Francis A. Stanford  
James H. Shorter  
Peter M. Alexander

Georgia } Count of Ordinary in and for  
 Muscogee County } said County January 2<sup>nd</sup> 1871  
 In the matter of the Will of the  
 Noncupative Will of Benjamin B. Fontaine deceased, late  
 of said County, Theophilus S. Fontaine one of the Ex-  
 ecutors named in said Will, having petitioned said  
 Court to admit said Will to Probate and record, and  
 it appearing that the said Benjamin B. Fontaine died  
 leaving a widow, Mary E. Fontaine and two children  
 to wit: Mary E. and Jessie B. Fontaine which said chil-  
 dren are minors, and the words said to have been spoken  
 by said deceased having been reduced to writing and signed  
 by four witnesses to wit: Henry V. Meigs Francis A. Stamford  
 James H. Shorter, and Peter W. Alexander and the said witness  
 is being duly sworn, do upon their oaths declare and say  
 as follows:

Francis A. Stamford sworn, says that he resides in the city  
 of Columbus the County of Muscogee & state of Georgia and is  
 forty four years old. was well acquainted Benjamin B. Fon-  
 taine deceased, late of said County, that he is a practicing  
 physician, that he attended him during the last of his  
 illness, that he died at three o'clock in the morning of  
 the 16<sup>th</sup> of November 1870, in the City of Columbus and  
 State of Georgia, and at his own residence in said city  
 that he has been well acquainted with said deceased for  
 twenty years, On the evening before the death of Mr.  
 Fontaine he stated that his desire was that his property  
 and real estate should be sold and disposed of as soon  
 as it could be done without too great a sacrifice, and  
 the proceeds to be invested in good bond, or good city  
 property would not be objectionable, this for the  
 benefit of his wife and children, if however this could  
 not be sold advantageously the property might be  
 rented for one year, his desire was that the property  
 should be held in common until his youngest child  
 should arrive at the age of twenty years; that he  
 was called upon by the testator and Henry V. Meigs  
 James H. Shorter and Peter W. Alexander and in the  
 presence of these witness to bear witness that such was  
 his last Will and Testament, that at the time of  
 making such statements his mind was perfectly  
 clear that he spoke them freely without any undue  
 influence or compulsion whatever.

Swear to in open Court before Francis A. Stamford  
 on this 2<sup>nd</sup> day of January 1871  
 John W. Duer  
 Ordinary

Peter W Alexander sworn says that he resides in the  
City of Columbus in the County of Muscogee Georgia  
that he is forty eight years old and was well  
acquainted with B B Fontaine in his life time that he  
had known Mr Fontaine four years, that said Fontaine  
departed this life in the City of Columbus in the County  
and State aforesaid on the 16<sup>th</sup> day of November 1870  
at his own residence in said City that on the night  
upon which said Fontaine died and some few hours  
before his death this deponent Henry V Meigs Francis  
A Stanford and James H Shorter were together in the  
room of Mr Fontaine when he was lying very ill,  
that Mr Fontaine made certain statements and declara-  
tions to which he desired the said persons present to  
take notice and remember as his last Will. That  
said declarations were substantially the same as those  
now here shown to the Court in writing. That said  
declarations were reduced to writing within thirty  
days after they were spoken as aforesaid, and signed  
by the aforesaid Witnesses; that at the time of making  
said declarations said Fontaine was of sound and  
disposing mind and memory that he did it freely  
and of his own accord without any undue influence  
or compulsion and that he declared the same to be  
his last Will.

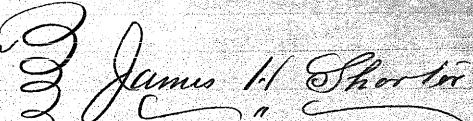
Severn to and subscribed in open Court before me this 2<sup>d</sup> day of January 1871  
John W. Duer Ordinary

Henry V Meigs sworn says that he resides in the City of  
Columbus County of Muscogee and State of Georgia, is 49  
years old was well acquainted with Benjamin B. Fontaine  
deceased, that on the day of the death of said Benjamin B.  
Fontaine this deponent James H Shorter Francis A Stanford  
and Peter W. Alexander were in the room when Mr Fontaine  
was lying very ill, that Mr Fontaine declared in substance  
the words contained in the paper now here to the Court  
shown and desired said persons to take notice that it  
was his will, that subsequently to this in two hours  
after which the said Benjamin B. Fontaine became con-  
scious and in three hours after he died, all of  
which occurred at his residence and during his  
last illness.

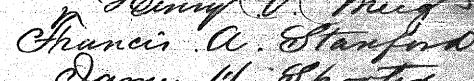
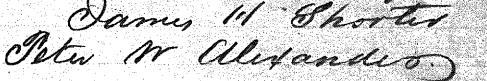
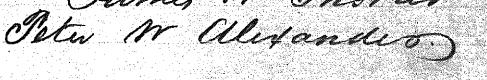
Severn to and subscribed in Open Court this 2<sup>d</sup> January 1871  
John W. Duer Ordinary

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James H. Shorter sworn deposes and says, That he resides in the City of Columbus in the County of Muscogee and State of Georgia is 27 years old, was well acquainted with Benjamin B. Fontaine deceased, that on the day of the death of said Benjamin B. Fontaine this deponent Henry V. Meigs, Francis A. Stanford and Peter W. Alexander were in the room when Mr. Fontaine was lying very ill. That Mr. Fontaine declared in substance the words contained in the paper now her to the Court shown, and desired said parties to take notice that it was his will that subsequently to my in two hours after which the said Benjamin B. Fontaine became unconscious, and in three hours thereafter he died all of which occurred at his residence and during his last illness.

Sworn to and subscribed in open Court this January the 2<sup>nd</sup> 1871.   
John W. Duer  
Ordinary

State of Georgia Muscogee County. In person appeared before me a Justice of the Peace, in and for said County Henry V. Meigs, Francis A. Stanford, James H. Shorter and Peter W. Alexander who being duly sworn say that this writing contains the last request and verbal deposition of the real and personal property of Benjamin B. Fontaine deceased late of said County, and is just and true in all of its parts.

Sworn to and subscribed before   
me this December 10, 1871.   
B. H. Crawford   


5 State of Georgia Court of Ordinary  
Muscogee County January Term 1871  
I do solemnly swear that this writing contains the true last Will of the herein named Benjamin B. Fontaine deceased so far as I know or believe, and that I will well and truly execute the same according to the Laws of this State so help me God.

Sworn to and subscribed before   
me this 2<sup>nd</sup> day of January 1871  
John W. Duer Ordinary

Georgia Muscogee County Court of Ordinary January Term 1871 — Whereas it appearing to the Court that the foregoing non-capitative Will of Benjamin B. Fontaine has been proven according to law it is therefore ordered by the Court that the same be admitted to record

  
John W. Duer  
Ordinary