

Emancipative Will of T. G. McBrary

Muscogee County Wills
1862-1875
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State of Georgia Muscogee County

We Thomas, D. Fortson, James, W. Woodrider and Benjamin A. Clark men present on Friday Morning the 12th day of March in the year of our Lord One thousand eight hundred and Seventy five, at the residence of Timothy G. McBrary, "married man" at and before the time of his death the same being in the County of Muscogee and State of Georgia about twenty four hours before his death, in perfect possession of his mental faculties as appeared to us. Said Timothy G. McBrary called upon Thomas, D. Fortson, James, W. Woodrider, and Benjamin A. Clark, and his two sons C. R. McBrary and A. G. McBrary, to take notice to what he was about to say; when he declared it to be his will

- 1st That he wanted his estate wound up with as little expense as possible, and without an Administration if such a thing be practicable, and by all means to have it done in peace and harmony, one with the other; that his property should be divided equally between his heirs and that his wife should receive a child's part, unless she concluded to take a Dowry (his said wife at the time this was expressed declared she did not want a Dowry, but would take a child's part)
- 2^d That his son A. G. McBrary should have the place he lived on, and the Best lot of land, on condition that he pay four bales of good Cotton each year for five years. (it seemed that this sale had been made previously by the testator and the said A. G. McBrary his son)
- 3^d That his son A. G. McBrary should represent his Brothers and Sisters and that his son C. R. McBrary should represent his brothers & sisters and that his wife's interest should be represented by Thomas, D. Fortson
- 4th That the proceeds of the twenty Bales Cotton paid by A. G. McBrary for the place he lives on and the Best lot, should, (as much of it as might be required) go towards paying off, and liquidating his debts, and by all means to have the estate wound up without any hard or ill feeling
All of which occurred at his residence and during his last illness

T. D. Fortson
James, W. Woodrider
Benj. A. Clark

Georgia Muscogee County

In person appeared before me F. W. Brooks Ordinar, in and for said County, Thomas, D. Fortson, James, W. Woodrider & Benjamin A. Clark who upon being duly sworn depose & say, that the writing herein presented to the Court, contains the last requests and verbal disposition of the property of Timothy G. McBrary deceased, late of said County, and is just and true in all its parts
Shewn to and Subscribed before me
this 13th day of April 1875
F. W. Brooks
Ordinar

T. D. Fortson
James, W. Woodrider
Benj. A. Clark

Emancipative Will of J. G. McCrary, Contested

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Georgia Muscogee County

In the matter of the Probate of the Emancipative Will of Timothy G. McCrary deceased late of said County, A. G. McCrary one of the Executors named in said Will, having petitioned said Court to admit said Will to Probate and Record, and the words said to have been spoken by said deceased having been reduced to writing and signed by three witnesses to wit Thomas D. Fortson, James W. Woldridge and Benjamin A. Clark, and the witnesses being duly sworn do upon their oaths declare and say as follows -

Thomas D. Fortson sworn says -

That he resides in the County of Muscogee and State of Georgia, and is Fifty nine years of age; was well acquainted with Timothy G. McCrary deceased late of said County; that he died on the 13th day of March 1875 in the County of Muscogee and State of Georgia, and at his own residence in said County; that he has been well acquainted with said deceased for Forty years. On the morning of Friday the 12th day of March 1875 said J. G. McCrary being on his death bed, and about Twenty four hours before his death, stated that his desire was that A. G. McCrary should represent his brothers and Sisters in their share of his estate, and that C. R. McCrary should represent his brothers and Sisters in their share, and that Thomas D. Fortson should represent the interest of his wife, and that he wanted his wife to have a child's part of his estate, unless she took a dower, and that his said wife answered and said No; No; she would not take a dower but a child's part; that the said testator said that A. G. McCrary must have the Bent lot and the place he lives on (about fifty acres) for twenty bales Cotton to be paid in five years, four bales each year (to be good Cotton) (it seemed this trade had been made previously, but no writings had been drawn from the fact that A. G. McCrary asked deceased whether it was his desire that their land trade should stand, when he replied, O yes? yes; and wanted them all to settle up his affairs without any ill feeling one with another.

Deponent further says that he was called upon by the testator, together with James W. Woldridge, Benjamin A. Clark and his two sons A. G. McCrary and C. R. McCrary and in the presence of three witnesses to bear witness that such was his last will and testament; that at the time of making these statements, his mind was perfectly clear; that he spoke them freely, without any undue influence or compulsion whatever, so far as witness knows or believes

Sworn to & subscribed before me
 this 5th day of April 1875 -
 F. W. Brooks Ordinary

T. D. Fortson -

James W. Woldridge sworn says

That he resides in the County of Muscogee and State of Georgia; that he is Thirty years old; that he was acquainted with Timothy G. McCrary in his life time, that he had known him for about Eighteen months; that said McCrary departed this life in the County of Muscogee and State of Georgia on the 13th day of March 1875 at his own residence in said County; that a few hours before the death of said McCrary

Amendative Will of T. G. McCrary.

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two deponent, Thomas D. Fortson, Benjamin A. Clark, A. G. McCrary and C. R. McCrary men together in the room of Mr McCrary, when he was lying very ill; that Mr McCrary made certain statements and declarations, 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 T. G. McCrary 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 sworn to in open Court before me }
this 5th day of April 1875— } James. W. Wooldridge
J. W. Brooks Ordinary

Benjamin A. Clark sworn says
That he resides in the County of Muscogee State of Georgia; that he is Thirty Seven years old; that he was well acquainted with Timothy G. McCrary deceased; that a few hours before the death of the said Timothy G. McCrary, this deponent, Thomas D. Fortson, James. W. Wooldridge A. G. McCrary & C. R. McCrary, were in the room when Mr McCrary was lying very ill; that Mr McCrary declared in substance the words contained in the paper now here shown to the Court, and desired said persons to take notice, that it was his will, and that a few hours thereafter he died. Deponent further says that at the time said declarations and statements were made, the said McCrary was of sound and disposing mind and memory, and that he made them freely, without any undue influence or compulsion, so far as witness knows or believes, all of which occurred at his residence in said County of Muscogee

Sworn to in open Court before me }
this 5th day of April 1875— } Benjamin A. Clark
J. W. Brooks Ordinary

Muscogee Court of Ordinary
April Term 1875—

We do solemnly swear that this writing contains the last will of the therein named Timothy G. McCrary deceased so far as we know or believe, & that we will faithfully execute the same according to the laws of this State. So help us God

Sworn to & Subscribed before me }
this 5th day of April 1875 }
J. W. Brooks Ordinary }

T. D. Fortson
A. G. McCrary

Muscogee Court of Ordinary
April Term 1875

Whereas it appearing to the Court that the foregoing Amendative Will of Timothy G. McCrary has been proven according to law; It is therefore ordered by the Court that the same be attested to Record

J. W. Brooks
Ordinary