

The Last will & testament of James Potts
Sour deceased

Georgia - Superior Courts of Trump County sitting for
Ordinary purposes, January Term 1857

Present their Honors

Robert J. Morgan

S. W. Swanson

Robert D. A. Tharp

} Justices

William E. Potts et al.

Caveators &c

vs

} Caveats

Alonzo P. House propounder
of the last will & testament
of James Potts Sour dec'd

} The paper writing
propounded as the
last will & testament

of James Potts Sour at the November Term 1846 of
this Court having been proven by the subscribing
witnesses according to law and at said term ordered
by the Court to be admitted to record as the last
will and testament of said testator - And the said
Caveators having appealed from the judgment of this
Court in passing said order to the Honorable the
Superior Court of said County - And having at the
November Term 1850 of said Superior Court dismissed
their said Caveats - The said Superior Court thereupon
passed an order that the said dismissal be entered
of record on its minutes and that the said order
with the papers & proceedings in said cause be returned
to this Court - It is therefore on motion ordered that
the said paper writing be admitted to record *hunc*
pro tunc as the last will and testament of the
said James Potts Sour and that the said order
of the Superior Court be entered of record with this
order on the minutes of this Court.

Granted

Robert J. Morgan J. C.
S. W. Swanson J. C.
Robert D. A. Tharp J. C.

William E. Potts & others

Caveators vs

Alonzo P. House propounder
of the last will & testament
of James Potts Sour

} Caveats on appeal
from the Court of
Ordinary of Trump
County

The Caveators in the
above named cause having dismissed their said
caveats to the will. It is ordered that the said
dismissal be entered of record and that the said
cause with the papers appertaining thereto be remanded
to the said Court of Ordinary with a copy of this
order - And it is further ordered that the Com-
missioners for the propounders have leave to enter up judgment
against the said Caveators for the cost of said appeal
Granted -

Edw. Young Hiley Judge
Ordinary

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I do certify that the above order is a true extract from the minutes of the Superior Court of said County at November Term 1850 this 13 day of January 1850
Wm W Lattimer Clk

Troup Superior Court sitting for ordinary purposes
November Term 1846

William E. Potts, William Phinizy
in right of his wife Jane formerly Jane Potts, William S. Potts, administrators
of Moses Potts dec^d & James Potts Jr
heirs at Law of James Potts Senior dec^d
Caveat

vs
George T. House, Propounder of a
paper writing purporting to be the last
will and testament of James Potts Senior dec^d.

Caveat

And now
at this term of the Court comes William E. Potts, William Phinizy in right of his wife Jane formerly Jane Potts, William S. Potts, administrators of Moses Potts, Senior dec^d & James Potts, Junior heirs at law of James Potts Senior dec^d and enters this their Caveat to the paper writing propounded as the last will & testament of James Potts Senior dec^d, and say that said paper writing ought not to be admitted to record as the last will and testament of the said James Potts Senior dec^d.

1st Because the said James Potts Senior at the time the same appears to be executed and at the time of the making & publishing thereof was old, feeble and insane and incapable of making a will.
2^d Because said James Potts Senior was under the control and influence of a Negro woman by the name of Charity who directed the writing of said purported will and dictated all the terms thereof.

3^d Because said James Potts Senior at the time of the writing and publication of said paper writing was unable to articulate any sentence so distinctly as to be understood by the person who wrote said writing and that said Negro woman Charity, pretended to interpret for said James Potts Senior & directed the terms of said paper writing propounded as aforesaid and that the same is not the last will and testament of the said James Potts Senior dec^d.

4th That said James Potts Senior at the time of making said paper writing purporting to be his last will & testament was, non compos mentis, and wholly incapable of making a will because of mental incapacity from diseased & extreme old age and approaching dissolution.

5th Because said writing disposes of property provisionally

Conveyed by the said James Potts, Senr while of sound
disposing mind memory and discretion
For these and other good causes the said William E.
Potts, William Phinizie in right of his wife as afore-
said William L. Potts, claim as aforeaid & the said
James Potts, junr heirs at law as aforeaid say that
said paper writing ought not to be admitted to record
as the last will & testament of the said James Potts
Senr etc.

Hearon & Potts,

attor for Carvaton

And the said Alonzo P. House by his attorney says
that the cause set forth in the said caveat are untrue
and insufficient and that the said paper writing
ought to be admitted to record as the last will &
testament of the said Potts

O. C. A. Full

A. C. Ferrill

attor for propounder

Georgia Superior Court of Troup County sitting for
Ordinary purposes met on Monday the 9th day of
November 1846, pursuant to adjournment
Presents their Honor

Albert C. Cox

John Douglas } Justices

John McInclon }

The last will and testament of James Potts dec^d,
having been propounded at this term of the Court
and it having been proven in open Court by the
oaths of John A. Anderson, Thomas J. House &
Alonzo P. House the witnesses to the said will
that they saw the said James Potts dec^d &
sign & seal publish and declare the said will to be
his last will and testament and that they the said
witnesses signed the same as witnesses in the presence
of the said testator - that the said testator at the
time of signing the same was of sound & disposing
mind memory and that he executed the same
freely voluntarily and without any control or
influence. It is, therefore, ordered by the Court
that the same be admitted to record as the last
will and testament of the said James Potts dec^d.

William E. Potts, William Phinizie
in right of his wife Jane formerly Jane Potts
Wm L. Potts, claim of Mrs. Potts, heirs of James
Potts, jr heirs at law of James Potts, Senr
dec^d Carvaton

Caveat

judgement

of Court in

favor of the

propounder

of said will

fec

Alonzo P. House propounder of a paper
writing purporting to be the last will
and testament of James Potts dec^d

In the above stated case William E. Potts, William
Phinizie

in right of his wife Jane
 formerly Jane Potts, William
 L. Potts, administrator of said
 Potts, dec^d. James Potts, Jr heirs at law of James Potts,
 dec^d being dissatisfied with the judgment of the
 Court rendered in said case comes forward by Har-
 alson Pottol, their attorney at Law & prays an ap-
 peal from the said judgment of said Court
 Whereupon the said parties tender James H. Cameron
 as their security and the said William E. Potts,
 William Phiniqu in right of his wife aforesaid
 William L. Potts administrator as aforesaid, James
 Potts, Jr and the said James H. Cameron acknowledging
 themselves jointly & severally bound to the said judgment
 of the said paper writing as aforesaid
 for the payment of the eventual Condemnation money
 together with all future Cost, in the said case
 In witness whereof they have hereunto set their
 hands and seals this 9th day of November
 1846

William E. Potts, *WEP*
 William Phiniqu in *WP*
 right of his wife by
 his attorney at Law
 Haralson Pottol,
 William L. Potts. *WLP*
 James Potts, Jr *JPP*
 by his attorney
 at Law Haralson Pottol,
 James H. Cameron *JHC*

Georgia
 Troup County } I Wiley Wilson Clerk of the Court of
 Ordinary in & for said County do
 hereby Certify that the instrument
 herunto attached is the original paper writing propounded
 and proven before the said Court at the November
 Term thereof 1846 as the last will & testament
 of James Potts dec^d and that the paper
 writing also herunto attached is the original
 Cayak filed against the probate of the same
 I do further Certify that the foregoing are true
 copies of the judgment and order of said Court
 had on the said and of the appeal bond
 intend by the heirs at law of the said James Potts,
 dec^d Given under my hand this 2nd
 December 1846

Wiley Wilson cco

We the Jury find the paper writing propounded
 to be the true last will and testament of James
 Potts dec^d and affirm the decision of
 the Court of ordinary in admitting the same
 to record Jonathan Taylor, foreman

forwards

Georgia
Group County } In the name of God amen!
I James Potts being sick in
body and conscious of my approaching dis-
solution but sound in mind and a disposing memory
do make and ordain this my last will and Testament
1st I give and bequeath unto my grand son
Alonzo P. House my negro woman Charity Ther chil-
dren twins Paterice, Henry, & Lucretia to hold
after my death as his own and exclusive property
without being subject to the claim of any person
whatsoever

2nd It is my will and desire that Lucy the mother
of Charity Patience and Richard the two last
of which I formerly gave to my grand son James
Potts shall be free so far as the law of Georgia
will permit, that she shall have full liberty to
live with either of my said grand sons, to wit Alonzo
P. House, and James Potts to whom I have given
her children and to whom I leave her to be
supported and taken care of as long as she lives
herely requiring the same of said grand sons in
consideration of my having given them her children
as aforesaid

3rd I give and bequeath unto Jackson Crawford
who married my grand daughter Polly Ann Potts my
negro boy Ben to have & to hold the said boy Ben
after my death as his own property solely and
exclusively without being subject to the claim of
any person whatsoever

4th I give and bequeath unto my grand son James
Moun Potts son of Mose Potts my negro boy Matt who
after my death shall own & hold the said boy Matt
as his own property solely and exclusively without being
subject to the claim of any person whatsoever

5th I give and bequeath unto my grand son James
Potts now living in Macon County State of Alabama
and son of Stephen Potts my negro girl Elvira to have
and to hold after my death with her increase as
his own property solely & exclusively without being
subject to the claim of any person whatsoever

6th I give and bequeath unto my grand son William
James Phinizie my negro fellow Ned to have and
use after my death as his own property solely and
exclusively forever without being subject to the claim
of any person whatsoever which negro fellow Ned I
formerly gave unto James Phinizie the mother of the
said William James Phinizie during her natural life
but now will bequeath him unto the said William
James Phinizie as aforesaid to have and hold him
as his own property after my death forever

7th It is my will and desire and I hereby give and
bequeath it, unto him that Alonzo P. House my
grand son as aforesaid shall have out of what ready

Money I have on hand and what is owing to me a sufficient amount to purchase him a tract or parcel of land any where he may see proper to locate it, not to exceed however in amount the sum of one thousand dollars, which tract or parcel of land when bought I give Heguath unto my said Grand son George P. Hove to have & to hold as his own property in fee simple forever and that after the purchase of the said land as aforesaid it is my will & desire that the remaining amount of money I may have left in cash or owing to me shall be equally distributed & divided amongst all my children dead as well as living; if dead their children to be entitled to one share equally with those of my children that may be living at my death dividing the same into as many shares as I have children

8 I give and bequeath unto my said Grand son William James Skinnize my mare mule and jans which after my death he shall hold & possess as his own property free from the claims of all persons whatsoever

9 I give & bequeath unto my said Grand son George P. Hove my mare mule Peg together with all my plantation tools of every description which he shall after my death hold and enjoy as his own property forever

10 It is my will and desire that all the residue of what property I may die seized & possessed of and not herein before disposed of shall be sold to the best advantage and the proceeds arising therefrom to be appropriated to the payment of any debts I may justly owe if any and the balance divided among my children as herein before stated.

11 I do hereby appoint my Grand son James Potts of Macon County Alabama and Jackson Crawford the husband of Polly Ann Potts my true lawful executor for me in my name to carry out & execute this my foregoing last will & testament in as full and ample manner as I could do myself if living In testimony whereof I James Potts have hereunto set my hand and affixed my seal this the twenty ninth day of August Eighteen hundred & forty six (intitima before signed)

Signed sealed & acknowledged his in presence of us James Potts J.P. John R. Anderson mark Thomas F. Hove Plourde C. Merrill

Georgia - Superior Court of Troup County sitting for ordinary purposes Met on Monday the 9 day of November 1846 pursuant to adjournment Present their Honors

Albert C. Cox } Justices
John Douglass }
John Henderson }

The within last will and testament of James Potts

Simi late of this County deceased was this day produced into open Court and duly legally proved in open Court upon the oath of John R. Anderson, Thomas F. Howle and Thomas C. Ferrell the subscribing witnesses to the same and ordered to be admitted to Record this being a regular term of said Court

attest Wiley Wilson & Co

Recorded 21st February 1851

Wiley Wilson & Co

The Last Will and testament of John P. Herndon

Georgia
Troup County } In the name of God Amen!
I John P. Herndon of said County and State being in full bodily health but of sound and disposing mind & memory and desirous of promoting the interest of my family in the disposition of my estate after my decease do make publish and declare this my last will and testament.

Item 1st I desire that all my just debts be paid - the debts owing to me to be first collected & exhausted for this object and should the fund arising from this source be insufficient then my executrix herein after named to raise the necessary additional amount by sale of such portion of my estate as she may think proper and the family can best spare either at public or private sale in her discretion -

Item 2nd After the satisfaction of my debts my will is that the residue of my estate both real & personal be kept together for the support of my family and particularly for the education of my younger children so as to make the benefit of each one from this source as nearly equal as possible by the time they arrive at the age of twenty one respectively under the management and control and in the discretion of my executrix during her life time or widowhood -

She to have the liberty and power with the advice of my friends Edward Young Hill, and Jesse McLondon to dispose of or exchange any portion of my said Estate from time to time for the benefit of my family placing the return or proceeds of such portion so disposed of in the common stock to be used as above directed.

Item 3rd In the event of the marriage of either of my daughters Julia Frances, Mary Fago or Nancy Caroline during the life time or widowhood of my wife Marcissa L. I desire a sufficiency of my estate to be disposed of upon such marriage to purchase a