

State of North Carolina } In the Probate Court,
Buncombe County

In the matter of the Probate of the Will of
James M Burnett deceased of Cocke County
Tennessee

It appearing to the satisfaction of the Court
from the exemplification of the record herein
after mentioned that the last will and testament
of James M Burnett deceased a citizen of Cocke
County and the state of Tennessee has been duly
proved by the oath of two subscribing witnesses
thereto and allowed in the County Court of Cocke
County being a court of Probate in said State
of Tennessee, according to the laws of said State
and that said Will was executed according to
the laws of this State and it further appearing
that the said James M Burnett deceased left
property in the County of Buncombe and State
of North Carolina. It is therefore ordered and
adjudged that the exemplification of said Will
and of its Probate in the Probate Court of the
said County of Cocke and state of Tennessee
which has been produced and exhibited here
duly certified and authenticated be allowed
filed and recorded in this Court.

Witness my hand and official seal this given
the 7th 1884

Off Clerk
Clerk & Judge of
Probate of said County

Then comes a copy of the Original Will

I James M Burnett a farmer residing near
Big creek Cocke County Tennessee do make and
publish this my last Will and Testament

I Give devise and bequeath my property and
estate real personal and mixed as follows to wit

1st I Give to my wife Caroline for her natural
life my home farm including all my lands
lying on the south side of French Broad River
and bounded on the north by said River
on the East by Andrew Swartzell's lands on

the South Wm R Bryan Wm Jones and Lewis Giffey
lands on the West by Jefferson Burnetts lands
This boundary is intended to include the Isaac Sexton
farm and the Wm Wheeler Rock Creek farms as a
part of the home place and it is my wish that
my said wife Caroline shall support and maintain
my children who are under the age of twenty one
years untill they attain said age and to give each
a good English education and I further give
and bequeath unto my wife Caroline all my
household and kitchen furniture milk cows and
calves six head of young cattle one yoke of oxen
Twenty head of Stock Hogs and two wagons said
stock and wagons shall be of her own choice and
all my farming implements and tools also
a liberal years support of the grain and other
supplies then on hand for herself and the children
then under age and remaining with her and
for the stock kept by her on the said farm

2nd I direct that all my personal property not
otherwise disposed of shall be converted into money
by my Executors also that they shall collect
the notes accounts judgments and all other choses
in action due me also to sell in the manner
hereinafter mentioned my Adam Rock tract of
land lying on Brushy Mountain in Cocke County
Tennessee containing about Two Hundred and
sixty Eight acres also that they sell as herein
after directed my tract of land containing
about 1800 acres lying near my home tract
adjoining it near Rocks creek and known
as the Heall and Gillett and Allen Entry
it being a part of a five thousand acre
entry made by James C Heall Wm S Gillett and
James R Allen and it is my will that the
proceeds realized from said personal property
real Estate choses in action and to be divided
among my ten children in the manner herein
after indicated

3rd It is my will that my Executors shall after
duly advertising said land in the second clause of
this will mentioned sell the same at a credit of
one and two years time taking notes with good

personal security and retaining a lien upon the land for the purchase money. And I further direct that said 1800 acre tract known as the Keall and Gillett & Allen Entry shall be divided into smaller lots of convenient not to contain more than about 100 acres and that it first be sold in such 100 acre tracts and then sold as a whole and my Executors shall adopt the sale which realizes the most money for said lands.

14" I direct that the Adam Peck tract of land be sold to the highest bidder at Public Sale. It is my will that my ten children to wit Stephen A. Swan & Mary F. & now the wife of J. K. Rowe Evaline & now the wife of Wm. Taylor Susan A. now the wife of W. H. Baer, Joseph G. James H. Edward C. Laura C. and Maggie I shall share equally in all my property not otherwise disposed of. But it has heretofore been my purpose to give to each of my children One thousand Dollars upon their attaining the age of Twenty five years and in Pursuance of this Plan I have already advanced to my sons Stephen A. & Susan & now to my Daughter Evaline & Taylor One thousand Dollars each. If any of my said children should hereinafter attain the age of twenty five years and I should then fail to pay him or her the full sum of \$1000.00 one thousand Dollars I direct that interest at 6% per annum be computed on the part so unpaid from his or her 25th birth day to the time of my death and that the said sum so unpaid with interest so computed be paid by my Executors to such child or children so as to make them an Equivariant to an advancement of \$1000 Dollars at the age of Twenty five years.

And it is my will that such amount of advancement shall be paid and that each of my children under the age of Twenty five years at the time of my death shall be paid the sum of \$1000 Dollars before making any further distribution among my said children and if I should hereafter

to any one of my said children any advancement before they attain the age of Twenty five years I direct that interest shall be computed thereon annually at 6% per annum from the time said advancement is made until he or she attain said age or the time of my death if I should sooner die and that the amount of said advancement with interest so computed shall be deducted from the \$1000 Dollars intended for such child. After making my said ten Children Equal as to the \$1000 Dollars as hereinbefore indicated it is my will that all my property not herein otherwise disposed of shall be equally divided among said Children.

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My Daughter Mary F. & Rowe is now past the age of Twenty five years and I have now made to her the advancement of \$1000 — but she is now living with her husband & now on my Yates farm and I direct that the rents and profits of said farm go in discharge of the interest on said advancement during my life time so my Executors will owe her nothing on account of interest and I devise unto my said Daughter Mary F. & Rowe for the term of her natural life my said Yates farm and after her death the title in fee simple to rest in the heirs of the said Mary F. & Rowe of her Body. But this devise to the said Mary F. & Rowe and her children and the said rents and profits are given to her in lieu of interest upon said one thousand Dollars upon the following conditions and restrictions.

1st that she shall keep the taxes on said land paid during my lifetime.
2nd It is my will that said land after my death shall be assessed at its fair cash value to be ascertained by three disinterested and competent men to be appointed by my Executors and the advancement of \$1000.00 intended by me for said Mary F. & Rowe shall be taken out of the valuation of said lands and the residue of said valuation shall be paid by said

Mary F. E. Rowe into my Estate or shall go to reduce the legacy or distribution share that may be otherwise due her from my Estate & at this time hold a note against said S. K. and Mary F. E. Rowe for \$372.31 made Dec the 27th 1879 which was given for cash and for Horses oxen Wagon Corn and other supplies furnished by me for them to live upon and to carry on their farming operations and the said note bears interest from its date at 6% per annum and if any part of said note shall remain unpaid at my death and even if it or any part of it be paid by Statute of limitation it is my will that so much as may then be due and unpaid on said note and all interest accrued thereon to the time of my death shall be deducted out of the legacy or distribution share otherwise due said Mary F. E. Rowe out of my Estate; and the balance of said note and the balance of the valuation of my said State farm shall furthermore constitute a lien upon said land in favor of my other children until the same is paid by the said Mary F. E. Rowe unless the other legacies herein given her or any distribution share she may be entitled to in my estate shall be sufficient to discharge said incumbrance & I devise unto my said ten children in equal share all my real estate situated in and near the town of Asheville in the State of N. C. and it is my will that the said real estate be divided into ten lots or shares of equal value as near as can be and that said lots be numbered and drawn for or that the same may be partitioned among my said children in such manner as may be prescribed by the laws of said State for partitioning lands & I prefer that said lands should be thus partitioned because I think it will be worth more to my children divided into small lots than could be realized for it if sold as a whole. I also own three town lots in the City of Chattanooga

at such time by my Executors and on such terms as will be most beneficial to my children and wish that the proceeds arising from the sale of said lands be equally divided among my ten children. I further will that my Executors have three years in which to make sale of the lands that I have ordered sold in this Will from the date of my death. It is my will that such just debts as I may owe at the time of my death shall be paid out of the funds provided for in the 2nd clause of this my will before making any distribution of the same among my children.

I appoint my two sons Stephen A. Burnett and Susan L. Burnett my Executors of this my will.

On Witness Whereof I have signed and sealed and published and declared this instrument as my last at my residence near Big Creek in Cocke County Tennessee on this the 16th day of June AD 1880.

James M. Burnett

We the said James M. Burnett at his residence on the said 16th day of June AD 1880 signed and sealed the foregoing instrument and published and declared the same as and for his last Will and we at his request and in his presence and in the presence of each other hereunto written our names as subscribing witnesses this the 16th day of June 1880.

A. C. Shuff
J. M. L. Burnett
Charles Stokely
C. F. Burnett
J. J. Burnett

State of Tennessee } July Term 1880
Cocke County } County Court Cocke County
Then was the execution of the last will and testament of James M. Burnett deceased proven in open Court by two of the subscribing witnesses to wit Charles Stokely and J. J. Burnett Thereto

regularly probated and that the clerk of
this court record the same in the will
books of Cocke County and it further
appearing that S. A. Burnett & Susan I. Burnett
were appointed Executors of said James M. Burnett
and they appeared in open Court and were
sworn as the law directs as execs of said will
Witness my hand W. H. Penland, Ck

State of Tennessee }
Cocke County

I W. H. Penland Clerk
of the County Court of Cocke County
do hereby certify that the foregoing is a
full true and perfect copy of the
last will and testament of James M.
Burnett died as the same appears of
record now on file in my office

Given under my hand and official
seal July 12th 1880
W. H. Penland Ck

State of Tennessee

I James G. Rose judge of
the second judicial circuit of said state
which includes the County of Cocke do
hereby certify that W. H. Penland whose
name is signed to the foregoing certificate
is now and was at the time of signing the
same clerk of the Court of said County
and that this attestation is in due form
and his signature genuine
Given under my hand the 16th day
of May 1881

James G. Rose judge
2nd judicial circuit
Tennessee

Benevolent Society - In the Probate Court

51 In the matter of the Administration of the } Before
estate of Owen Smith } S. W. H. Penland Probate Judge

Mrs. E. A. Smith being duly sworn both say that Owen Smith
late of said County is dead leaving a will & testament and
that she is named as Executrix therein. Further that the
value of said estate so far as can be ascertained at the date
of this application is about \$10,000.00 and that Santa
Smith, Minnie Smith, Frank Smith, Owen Smith are minor
without guardians and all reside in the County of Benmont
one entitled as heirs and devisees thereof

Fannie A. Smith

sworn and subscribed before me
this 5th day of July 1881
S. W. H. Penland Probate Judge

State of North Carolina } ss In the Probate Court
Benmont County

Shaper Writing purporting to be the last Will and Testament of
Owen Smith deceased, is exhibited before me the undersigned
Judge of Probate for said County by Fannie A. Smith
the Executrix therein mentioned and the due execution
thereof by the said Fannie A. Smith by the oath &
Examination of Chas. E. Lee & H. H. Webb the subscribing
witnesses thereto; who being duly sworn, both depose and say
and each for himself depose and saith that he is a
subscribing witness to the paper writing now shown him
purporting to be the last will and testament of Owen Smith
that the said Owen Smith in the presence of this Deponent
subscribed his name at the end of said paper writing which
is now shown as aforesaid and which bears date of the
16th day of April 1881.

And the Deponent further saith that the said Owen
Smith the testator aforesaid, did at the time of subscribing
his name as aforesaid declare the said paper writing so subscribed
by him and exhibited to be his last Will and Testament and
the Deponent did thereupon subscribe his name at the end
of said will as an attesting witness thereto at the request
and in the presence of the said testator. And the Deponent
further saith that at the said time when the said testator