

most advisable at public or private sale and of the proceeds to pay my debts, first paying the debts for my lots and interest in lots, then the joint debt with my partner Mrs Spear and a little with him and make such conveyance to him or jointly with him to any one else as he may deem best and in all things to close my business according to his judgement, and whatever may be saved after paying my debts to be paid to my wife or wife's, to be at his entire disposal,

Signed Sealed and delivered in presence of the witnesses as his last will and testament, Oct 16th 1855,

B. M. Gandy
W. H. Murdock

John M. Owens

State of North Carolina, Court of Pleas and quarter Sessions,
Brunswick County, January Term 1856.

The execution of the above will was duly proved in open Court by the oath of W. H. Murdock, witness, See minutes
January, 1856, R. F. Vance clerk

James M. Smith's will,

I James M. Smith of Ashville in the State of North Carolina being of sound and disposing mind & memory but knowing that all men are born to die and being desirous of disposing of my property in a manner most suitable to my family and to my own notions of propriety, do make and publish this my last will and testament,
That I give and devise to my beloved wife Polly the House & Lots in which I now live in the town of Ashville, including the Tavern and adjoining buildings, Garden, Orchard & adjoining lots, Beginning at Mr Lummey's line on the main Street near my House, then with the main Street a North Course, Crossing the hollow to the line of the Southern half acre lot, herein after devised to my daughter Ann to Thomas Crook & Keith H. Ripley, then with that line and the line of the lot east of it an east course to the new Street running by Ephraim Clayton, and with that Street a South Course to the Crop Street & with that & Mr Lummey's line to the Beginning, Together with the lot west of the main Street and east of the new Street made by James H. Patton on which my new Stable stands and north of my old Stable lot, conveyed to me by James H. Patton, (also all that farm & tract of land on both sides of French's Road, Run including my Bridge and known as the Bridge tract conveyed to me by John Jamet), likewise all the land lying on west side of said River purchased at the sale of the land of J. B. and sold by myself to J. B. and others, which they

all since conveyed to me together with & in all tract adjoining thereto of about 2400 acres conveyed to me by 4 bands all of which she is to have and enjoy for and during her natural life and no longer,

Also I give and bequeath to my said wife Polly during her natural life the following negro slaves, viz, Bob (the Panam), Leg (the black man), and his wife Pina & her children, Alexander, Leg (the blacksmith), Bob Hardin, Catherine & the boy, and these moved together with all the household & kitchen furniture at the house place, except his bed, hereafter disposed of,

And I give & bequeath to my ^{first} wife as her absolute property, for and during her natural life the negro slave George (the free country man) his wife Louisa her children William & Hester & her maid Caroline (Pina's daughter) and her income together with a good supper & four horses & mules & traps, his choice of any stock, Leg cows to be chosen by her, eight beds, & furniture of her choice by her of all on hand. & provision suitable for her of the value of eight hundred dollars,

Second, I give and bequeath to my daughter Harriet Eliza Brown all the negroes & other property that I have heretofore put into her hands & possession which I estimate at the sum of four thousand & seven hundred dollars,

Third, I have heretofore given to my daughter ^{Harriet} Caroline Shuford do. and to her children and conveyed by deed and otherwise (reserving to Jacob H. Shuford a life estate therein) property real & personal which I estimate at ten thousand dollars, and now I give and bequeath to them viz, Harriet H. Mary Elizabeth James & Caroline & Harriet Louisa Shuford each a negro girl to be worth four hundred dollars & young & of suitable ones are not amongst any negro at my decease my executors are directed to purchase them, also a horse with saddle & bridle each to be worth one hundred dollars, also a bed & furniture each to be worth twenty five dollars, & a cow & calf each, and one acre of my estate except the interest in the land & gold mine in Georgia herein after mentioned.

Fourth, I give and bequeath to my daughter Ann Catherine Cook the negroes & other property heretofore put into her possession & any and all growth & increase thereof, and in addition thereto I give and devise to her and her heirs forever one undivided half interest in my farm & outlying lands below the mouth of New River Creek on the west side of Broad River known as the Lickade & Hunt. farm & I suppose to contain between six & seven hundred acres. & also my undivided half interest in the four half acre lots in Asheville south of Mt. Madison fronting the main Street, and bounded north by the crop street leading to the fairways & extending up the main Street to the corner of the lot & a half of the

with the line of the lots herein given for life to my wife to the last Street and adjoining John Reynolds house lot together with one hundred & twenty one dollar in cash which I estimate at four thousand three hundred dollars.

Fifth—I give and bequeath to my daughter Mrs. M. Ripley the negroes and other property heretofore put into her possession by me & its increase & growth, also I give and devise to her & her heirs forever one undivided half interest in the farm & land below the mouth of New Found Creek & over half the four half acre lots & one acre lot in the town of Asheville the other half of all which is in the fourth item herein given & devised to son Catharine Crook; the said farm & town lots being intended for them as tenants in common & this including that first given to her I estimate at four thousand & three hundred dollars.

Sixth, I will & devise to Valentine Ripley, William H. Doud & John C. Russell the survivors or survivor of them & the heirs of the survivor forever the lots of land in Asheville on the west side of the main Street & between it & the Haywood Road on both sides of the new Street made by J. H. Patton including my store house being the lot on which my old Store was built conveyed to me by James Patton Sen. and that lying west thereof conveyed to me in part by James H. Patton & in part by Hugh Johnston & bounded north by James H. Patton lot near the Haywood Road & by the lot on which my new Store stands near the main Street & south by Hugh Johnston lot, also the tract of land granted to me by the State containing about one hundred acres lying adjoining Asheville on which my barn stands & west of said lots & adjoining the boarding house lot, a small portion of which I have conveyed to C. Newby & another small portion being under contract to J. H. Coleman together with eight hundred dollars in cash to be expended in building or erecting House on the western portion of said lot, near the Haywood Road (unless I should put a building there for that purpose in my lifetime) also one & undivided half interest in my bridge & Bridge Tract of land on both sides of French Broad River conveyed to me by John Garrett to take effect at the decease of my wife.

Also I give and bequeath to them the said Valentine, John H. & John & the following negroes, viz, William & Charles (sons of George) Alfred Lucas, Fred John & Tom (the Miller) also a horse, bridle & saddle worth one hundred dollars, two beds worth fifty dollars (to be taken from those on hand in my house) a Bureau worth eighty & five thousand dollars in cash, I trust nevertheless that they or the survivors or heirs of the survivor shall have and use the whole of the foregoing property and personal in such manner as to possess it at one time or another (as they may judge best) for the use & support of such lawful child or children as my son John C. Russell may have and supply it their support & education.

should die without lawful Child or Children; then to be equally divided amongst all of my Children now living or if any or more be dead leaving Children such Child or Children to represent the Parent, But if by any means my said son John Edmund should pay off or be released from the Claim set up against him as partner or surety of John C. Roberts and from any and all indebtedness whatever, then and in that event they the said Valentine Highley William H. M. Powell, & John Edmund or the Survivor or the heirs of the Survivor shall convey the said property real & personal to the said John Edmund & pay over to him the profits accrued therefrom, but in no other event, whether I should die or not I give & devise unto my son John Edmund his heirs and assigns forever, all my farm & land at the mouth of Swannocka on both sides of French Broad River, which I purchased in part of Abram Smith & part from Daniel Smith, embracing the Col Daniel Smith farm & the new brick house near the road, also one undivided half of my bridge & bridge tract of land on both sides of French Broad River purchase of John Smith to take effect at the death of my wife, also I give & bequeath to the said John Edmund the following negroes viz; Joe (the wagoner), his wife & his Children, ~~also~~ Joe, Mary Jane & China, also Peter, Charles (Oliver's son) & Nell & their increase forever, also one half of the lion stock put into his possession under the article of Partnership together with the half of the increased &c that belong to him under the Contract, also one half of the grain proceeds, provisions & growing crop that may be on hand at my decease, and all of the farming tools, waggon & harness & household & other furniture that may be at the farm at my decease, also I give & devise to him & his heirs forever, all of my lands on Newn's Creek,

Eighth, I give & bequeath to my daughter Sarah L. M. Powell all the property heretofore placed in her possession & a negro girl Caroline (Child of uncle) also her will & devise to her and her heirs forever the tract of land on the south of Asheville on both sides of the Buncombe & S. F. Road (& at the fork leading by Smiths) which tract I purchased of S. F. Cotton & is supposed to contain about three hundred & twenty acres all of which I estimate at four thousand three hundred dollars,

Ninth, to my daughter Elizabeth Lucinda & Dolina I give & devise to her & her heirs forever the tract of land at the south end of Asheville, including the meadow below S. F. Cotton, & adjoining Joshua Roberts Land containing twenty nine acres, & the fair game lot including my barn containing thirty acres full & better, conveyed to me by Col John Patton, also one undivided half of the tract of land in the bend of French Broad River joining lands of Col Alex, and & others & between the P. & E. Road & mine near Paris, also I give and bequeath to her the following negroes viz; Jeff, his wife, Mary & her

child Samuel, also Martha & their increase forever, also five hundred
 dollar worth of furniture of which two beds worth fifty dollars must
 be furnished out of those on hand in my house & the balance pur-
 chased by my executor out of my estate in life I furnish her
 in my lifetime, also a horse, bridled saddle worth one hundred
 dollar & two cows & calves worth twenty dollars all of which I
 estimate at four thousand three hundred dollars,
 South, I give & devise to my daughter Sarah Cordelia the lot in the
 town of Asheville containing nine & a half acres adjoining to
 the lot on which A. W. Woodfin & between in lot of John Hildbrand,
 now used as pasture land & which I purchased at the sale of the lands
 belonging to my said son (also the tract purchased at said sale on
 Blount Creek, containing one hundred & twenty eight acres adjoining
 my Chimes & others), also one undivided half of the tract of land
 in the head of the River & on the east side of French Creek then, the
 other half of which is devised in the ninth item hereof to my daughter
 Elizabeth Lucinda, also I give & bequeath to her the following
 negroes, viz, Henry & Julia Ann & ~~children~~ & George his children
 & their future increase, also furniture worth five hundred dollars
 of which two beds worth fifty dollars is to be furnished out of those
 on hand in my house & the balance to be purchased by my executor
 in life I should furnish them in my lifetime, also a horse, bridled
 & saddle worth one hundred dollars, two cows & calves worth twenty
 dollars & one hundred dollars in cash, which I estimate at
 four thousand three hundred dollars.

If I should sell any of the property herein specifically named
 to any one of my children, or if any of the negroes mentioned in
 my possession should die while remaining with me & its value
 must be made up to those whose portions are reduced out of the
 residue of my estate, and if there should be any increased
 amongst the negroes herein disposed of in my lifetime, I wish
 the increase to go with the mother as if it were after my decease,
 All the balance of my negroes (except Philip) I direct to be equally
 divided amongst my daughter now living, viz; Harriet Eliza Thomas
 & Catharine Crook, Ruth H. W. Pley's, Sarah, & all Powell, Eli, Abigail
 Lucinda Smith, & Jane Cordelia must be divided to be made by my
 executor into six lots as nearly equal as convenient, changing
 the lots of greater value in favor of those of those of less it need be to
 equitate them and to be drawn for under the direction of John P.
 Smith, My old man Philip has been a faithful servant
 & useful to myself & family, I direct that we take no regard to
 him, but that he be allowed to live with our wife or with my son
 John P. Smith as he prefers, and as the law requires, that he must
 have an owner I give him as the property of my son John P.
 in confidence that he will take care of him & protect him
 & I give & bequeath to him the sum of one hundred dollars for an annuity

long as he lives for the comfort to be paid out of my estate, if the legacy cannot legally take effect directly to him, I leave it to be paid to John Edmuth, having a confidence that he will faithfully apply it as here intended,

My lands & gold mine in Habersham County in the State of Georgia I devise to my Executors in trust for the use & benefit of all my children equally, the four children of my deceased daughter Mary Emeline Chapman taking an equal & minute part, the property to be held for twenty five years without sale or division,

All the rest & residue of my estate, real, personal & mixed I direct to be sold by my Executors at public or private sale as they may deem best, and if my stock of goods should require it, they are at liberty in their discretion to have them retained by themselves or clerks,

All my debts I direct to be collected, and the money arising as well as that arising from the sale herein directed, and all the money on hand I direct to be equally divided equally amongst my said surviving daughters (first paying any debt that I may owe),

and if one or more of my said daughters should die leaving issue male child or children always to represent the mother, and if neither of them should die before I die the portion herein directed to go to her, should not be regarded as lapsed but be given again to her child or children if she leaves any to survive her,

The property, real & personal herein left to my wife for life is intended to be embraced in the direction on this page, to wit the residue of my estate & divide the proceeds amongst my daughters. The sale of that part of estate to take place after her death, unless she should prefer being put of the charge of any part of it in her life time,

I nominate & constitute & appoint my long & well tried friend the honorable David L. Swain of Chapel Hill & my sons in law Valentine Repley, Wm H. McFarrell & my son John Edmuth Executors of this my last will & testament,

In witness whereof I have hereunto set my hand and seal the 9th day of February A.D. 1862.

Legally attested, published, & declared by James M. Smith as his last will & testament in presence of us who have at his request & in his presence subscribed the same in presence of each other

February 9th 1862

John E. Patton

Jos. Burger

W. Patton

James M. Smith

I James M. Smith on the 29th day of October in the year one thousand eight hundred and sixty two

the following Codicil to my last will & testament heretofore executed
 in which the said Codicil is now amended (namely) in the first place
 whereas W. H. McNeill & myself are partners at this time in merchan-
 -dising, according to the terms of the partnership heretofore entered
 and to which reference may be made, he being the owner of one
 third & I of two thirds of the profits of the store in which we are
 now engaged, I will and bequeath unto the above named W. H. McNeill,
 W. H. McNeill & John P. Smith the trustees above named or the
 survivor or the survivors or him of the survivors one half my interest
 in the profits of said store, it being one third of the whole amount of
 said profits, to have and to hold the same in trust for the use of the
 lawful children of my son J. P. Smith or for J. P. Smith himself
 upon the same terms, conditions & limitation as those upon which the other
 property has been conveyed, for the use of his lawful children or
 of himself (secondly) whereas I have in the above will given and devised
 one half of the tract of land in the hands of French Broad River to my
 daughter Elizabeth, & made the other half to my Daughter Jane
 Cordelia, it is now my will & devise to change to change that
 provision so as to give the whole of said tract of land to James Cordelia
 & her heirs forever, which I hereby do, (thirdly) whereas it is provided
 in the above will that whenever any portion of the said land,
 devised in the same shall be sold during my life time that the
 value of said lands shall be made up to the person to whom the
 same is devised, I hereby declare this proviso is suspended,
 and is to have no effect as to any lands sold up to this time,
 but is to have full operation & validity as to any sale that may be
 made hereafter as though this Codicil had never been executed,
 In testimony whereof I have hereunto set my hand and
 seal this day of October A.D. 1851.

Signed, Read & published declared James, McNeill & self
 by the Testator James, McNeill as
 Codicil to his last will & testament
 in presence of us who at his
 request & in his presence subscribed
 the same as witnesses in presence of
 each other Oct 29th 1851

attest

W. Patton
 John E. Patton
 Geo. Burgin

I James McNeill of Asheville North Carolina do make &
 publish This Codicil to the last will & testament of me heretofore
 made bearing date 9th day of February A.D. 1850 and to which
 there is a Codicil added in Oct 1851 and to publish the
 is attested by, Buncombe Co. NC Wills 1834 to 1868 for whom I

made provisions in my said will has departed this life I direct that the property in said will real & personal given to her for life be divided at my decease as it was contemplated to be at her death, and that property given to her absolutely be disposed of as the other (J.E), the negroes be divided amongst my daughter now living, and the other personal property be sold & the proceeds be divided amongst them equally, if any of my said daughter should die leaving children such child or children to represent the mother & if any should die without leaving children or a child alive then such share to be equally divided amongst the survivors or the children of the survivors, and whereas my son John Smith has since the making of my said will & codicil married, intimated with his present wife Margaret Isabella and has by her one female child not yet named, I order & direct that the property real & personal in said will & codicil given to my daughter for the use of Joseph Smith's wife & children if he should leave any be & annex to the sole & separate use, benefit & support of the said Margaret Isabella Smith & such other children as she may have while the wife of the said Joseph Smith or within a competent time thereafter the same to be to her use for life with remainder to the children equally, and in the mean time the children to be raised & educated thereof, I further direct that the girl Caroline in said will given to my daughter Sarah Lett Gould be given to my daughter Jane Cordelia & in her stead I give to the said Sarah Lett a negro woman Rebecca & her child Charlotte which I purchased of William W. McGowill and placed in her possession and further I will and direct that the said girl Caroline together with the dinner table in my house, and a side board & bureau to be chosen by her of all in my house to be given to my daughter Jane Cordelia in addition to the portion given to her in my said will, and whereas the boy Bob & the girl Fidia in my said will given to my son John P. Smith have since died, I will to him in their stead the boy Moses purchased at the widow & abandoned sale, Lucy & Mary, the furniture & other property in my said will given to my daughter Elizabeth Addison to be of the value of four hundred dollar has been furnished her except one hundred dollar worth which is yet to be given her, the horses coach & bridle have been also furnished her by and since her marriage with Joseph Dodge, the negroes in my said will directed to be given to each of the children of my deceased daughter Mary Caroline Sherford to be worth four hundred dollars, each must be good & likely negro girls between ten & twelve years old, I make this declaration because of the great fluctuation in the price of negroes, it being my

intention to give them such as will be immediately useful & growing property,

In testimony whereof I have hereunto set my name & seal. This 7th day of January A.D. 1854.

Signed sealed published & declared James M. Smith Esq. as a codicil to his last will & testament by the testator in our presence the date above.

John Burgin
John E. Fenton

I James M. Smith of Asheville N.C. do make publish & declare the following as a Codicil to my last will & testament and for made bearing date the 9th day of February 1854 and which has been a Codicil heretofore made bearing date the 29th day of Oct 1851 & one 9th January 1854 out of which I confirm & allow except as herein & hereby altered & with certain changes in my property & in my arrangements thereof viz: Having purchased & paid the debt due of John B. Roberts & Co. and against Jesse Smith as a member thereof & such of them as I thought it right & just to take up, I release & discharge him the said Jesse Smith from said debt & all liability on account thereof, and having put up no building on the lot intended for him and at grade East thereof I contemplated the half interest in the bridge tract of land, intended for him in said will jointly with my son John he is not to have but the said one half interest & together with some for which I sold the bridge (as well that would go to one as the other) I direct to go into the residue of my estate, and be distributed as a part thereof & the further sum is to be spent building for my son Jesse Smith, but it may well that all the other property & interests named in my said will to go into the hands of the executor or trustee for the use of the said Jesse Smith & for the use of his wife & children shall vest in him directly & in his heirs & assigns, discharged from any claim or control of trustee or others. - Secondly, in lieu of the piece of land in said will devised to my daughter Elizabeth & George South of Asheville on the east of the plank Road which I have since sold to G. Bennett I give & devise to her the said Elizabeth & George the house & lots in which I live including the Tavern & out buildings contiguous on the east side of the main street & beginning on the street & S B Whitigiers corner south of the Tavern house, and running with the main street including the five front lots now in possession below the fence east of

well and running with the lower north line of the lot or plot
 lot contained by the east corner thereof & the same corner to the
 street near Ephraim Clayton & South with that street to the
 corner near J. B. Vance office, then with the Crisp Street & the
 south line of my lot to the beginning including the orchard
 but as this is of greater value than the land sold I charge it
 with ten thousand dollars to be deducted from the portion that
 she is to get out of the residue of my estate, but this and
 all other property real & personal given devised or bequeathed
 to my said daughter Elizabeth & George to his sole & separate
 use & benefit for & during his natural life with remainder to
 said children or she may leave his surviving & those
 representing the interest any that may die leaving children
 & it is further my will that all the property real & personal
 that I have in said will given or bequeathed to my daughter
 Jane Cordelia Smith I shall to to her sole & separate use & benefit
 for life only with remainder to my children that she may
 leave and if none then to her next of kin by consanguinity
 in equal portions -

and whereas I heretofore by Codicil made January 7th 1854
 gave to my son John J. Smith the girl Lucy Ann (Collier Say)
 which I have in said will first given to the trustee for the use
 of Sept Smith for his family, I now in lieu thereof direct
 that the said John Smith shall have out of my negroes
 undisposed of by name a girl from 14 to 18 years old
 of average value, the value of such a girl in cash to be paid
 out of my estate by my executor.

In testimony whereof I have hereunto set my hand & seal
 the 8th day of February 1856. James M. Smith

Signed sealed published and
 declared as a codicil to his last
 will & testament by the testator
 in our presence & at his request
 we became subscribing witnesses in
 his presence.

John E. Patton

Mc Patton

State of North Carolina, Court of Clerk & gr Sessions
 Townsboro County, July Term 1856.

The execution of the last will & testament (included in
 Codicils) of James M. Smith dec'd by John E. Patton, John
 Benjamin & Montaville Patton witnesses - In full & minutes
 Tuesday July 8th 1856. R. B. Vance Clerk