

The last Will and Testament of James Patton Decedent.

In the name of God Amen

I James Patton of the Village of Ashville (Buncombe County, North Carolina) considering the uncertainty of this life and being in perfect exercise of the powers of mind for which I give thanks to Almighty God and particularly being convinced of the propriety of making such a disposition of my estate among my ~~dear~~ children as may be most advantageous and suitable to them individually; do by these presents make this my last Will and Testament as follows to wit

In witness

I give and devise to my son James W. Patton and to his heirs forever, all my several Houses of every description, and lots in the village of Ashville included within the following boundary to wit Beginning on the West side of the main street at the corner of the lot now owned by Mrs. P. M. Summey including the eleven lots stable and stable lots as far South as Osbornes line thence crossing the street and running a direct course with his line Eastward to the branch thence up the branch to a point directly in a line with the plank fence separating the gardens from the meadow thence a direct course to the gap of the mountain where the road crosses leading from Ashville to my farm on Swainans thence with the top of the mountain to Col. Charnis line thence with the same to Bards lines and with that line a Southwesterly course to J. L. Swains lot thence with his (Swains) Southern boundary to the main street thence across the street to the beginning corner including all the buildings lots and lands within the same limits excepting so much adjoining Swains lot and the lands of Bards heirs on the North as is here in after devised to my daughter Jane Hardy

I also give and devise to the said James W. Patton and his heirs forever the following parcels or tracts of land to wit a tract of one hundred acres more or less on the North East side of French Broad River purchase of William H. Loh, a tract of one hundred and fifty acres more or less conveyed by Joseph Houghy, Bident Baird and James H. Loh to Patton & Swine, a tract of one hundred acres more or less on both sides of the main road from Ashville to James M. Smiths ferry, a tract bought from Widmore lying on both sides of the Turnpike road eight miles south of Ashville, a tract of one hundred acres lying on both sides of the main road leading from Ashville to the Warm Springs bought from Hugh Tate and Tabulon Baird and formerly occupied by William Lusk, so much of a lot of eight and three fourth acres bought of William Lax as I have not conveyed to Jacob Smith, two lots adjoining the Public square in the town of Ashville and known as No 27 & 30 (twenty nine & thirty) in the plan of said town together with all other lands to me belonging wherever the same may be situated, not hereinafter specifically devised.

I further give and bequeath to my son James W. Patton the following male slaves to wit Bob, Sam, Cope, Borden, Eli, Austin, Peter, Anthony, John, Allen, Frank and Reuben and the following female slaves to wit Eliza Rhoads and her five

I furthermore devise to my son James and his heirs forever the right in common with my son and his heirs to the free use of water conveyed in pipes from springs on land hereinafter devised to my said son John with the free ingress and egress to repair or renew said pipes without any charge for the use of the water so conveyed as aforesaid

I give and devise to my sons James and John as tenants in common in fee simple six hundred and forty acres of land lying contiguous to the lands of William Wolfe, husband of Isaac Baird

(Item 2)

I give and devise to my son John E. Patton and his heirs forever all the lands and houses together with and including the tan yard lying Southward of the line running from Osborne North East corner crossing the street and running a direct course with his line Eastward to the branch thence up the branch to a point directly in a line with the plank fence separating the garden from the meadow thence a direct course to the top of the Mountain where the road crosses leading from Ashville to my farm on Swannano thence along the top of the mountain to Jack Smiths fire, with his line to the main street and thence to the beginning cross running over the top the water privileges herein before devised to my son James. I furthermore devise to my said son John the privilege of cutting and carrying away such wood and tan bark as may be necessary on the lands East of the Mountain hereinafter devised to the family of my son Thomas. I furthermore give and bequeath to my said son John all the stock of leather, hides, tan bark and tools in the tan yard heretofore delivered to him which I estimate to be of the value five thousand five hundred dollars. I also devise to my said son John and his heirs forever the tract of land on the Mountain dividing Beaver Dam and Thins Creek conveyed to me by Richard Cook together with the lands adjoining the said tract and I give and bequeath to him four negroes to wit Sam (son of Cuba) Laban, Lewis, Stephen all of whom have heretofore been delivered to him

(Item 3)

I give to my son Benjamin eight thousand five hundred and forty six dollars all of which he has already received as follows to wit in merchandise five thousand dollars in three negroes subsequently conveyed by him to his brother James twelve hundred dollars and in cash paid in discharge of a note executed by him on the 31st of December 1839 to John Blair of Yorkville South Carolina two thousand three hundred and forty six dollars

(Item 4) I give and devise to my executors hereinafter named all the several tracts of land on Swannano river conveyed by Patton & Brown and by Andrew Brown to me by deed bearing date 11 March 1844 together with all the adjoining tracts lying East of the Ridge dividing the lands belonging to the Village of Ashville from the lands on Swannano river. I furthermore give to my said executors nine slaves wist Campbell and his two children George and Luiza, Dick Kase, Jim John Brown and Samuel mals and Polly a female and the sum of four hundred dollars in consideration of Black Jimmy heretofore intended for my son, but now transferred to James which lands slaves and money I give devise and bequeath to my said executors in trust to permit my daughter in law Louisa Anne wife of Thomas H. Patton to reside to her sole and separate use for the support and maintenance of her children during the natural life of my said son Thomas the rents profits and

I money to my said daughter in law and her children then living and such child if any as may be born in convenient time after the death of the said Thomas to them and their heirs forever as tenants in common.

Item (5) I give to ~~children~~ ^{the} my daughter Mary Swain dec'd to be equally divided among them the sum of six thousand dollars of which ~~sum~~ ^{sum} two female slaves Anna and Lucy together with other property the whole amounting in value to one thousand dollars have already been delivered to their mother having now due to them the sum of five thousand dollars which is to be paid at the period hereinafter directed.

Item (6) I give and bequeath to my daughter Ann E. Perkins the sum of twelve thousand three hundred dollars of which sum five negroes to wit Lucy Heltoughly, Bill, Billy and her child together with other property and money the whole amounting in value to five thousand one hundred and fifty dollars were paid and delivered to her deceased husband and the further sum of fifteen hundred and twenty two dollars has been paid to her since her widowhood leaving now due to her the sum of five thousand six hundred and twenty eight dollars to be paid at the time and in the manner hereinafter directed.

Item (7) I give bequeath and devise to my daughter Elizabeth wife of George D. Phillips to her and her heirs forever six thousand five hundred dollars of which sum the tract of land purchased of Jesse Whitaker and conveyed to her husband the Limestone tract purchased of Joseph Henry and conveyed to him, a negro girl Abby and other property and money amounting in all to five thousand ~~three~~ ^{three} hundred and one dollars, have already been paid and delivered to her and her husband leaving now due to her the sum of eleven hundred and ninety nine dollars to be paid to her at the period hereinafter directed.

Item (8) I give and devise to my daughter Jane wife of James F. Woods to her and her heirs forever the lots lying within the following boundary to wit Beginning at the South West corner of J. D. Swain's lot running thence South with the main street six rods thence West parallel at the same distance with Swain's line to the end of his lot thence a direct course to a stake on the East bank of the branch in the meadow thence North to Swain's line thence along said line to Swain's line thence South with Swain's line to his South East corner thence to the Beginning containing ~~the~~ ^{line} acres more or less upon condition nevertheless that should she choose to sell the said premises she shall give the refusal of them to her brother James at the price of twenty five hundred dollars or if any improvements shall have been made thereon, at a price which a majority of my acting executors shall say they are fairly worth in addition to the before mentioned sum of twenty five hundred dollars, I further give and bequeath to my said daughter a negro man named Jyngman and the sum of four thousand five hundred dollars of which sum one thousand dollars and the slave Jyngman is in consideration of her attention and kindness to my deceased brother Joseph in his last illness of this legacy my daughter Jane has already received in two negroes Peter and Harriett in other property and money five thousand one hundred and six dollars leaving now due to her the sum of three hundred and ninety four dollars to be paid at the period hereinafter directed.

The foregoing sum of five thousand five hundred dollars is inclusive and in full discharge of the sum of five hundred dollars promised to my daughter Jane as an evidence of parental kindness in a note in my hand writing nearly two years since and addressed to her brother James.

Item (9)

I give and bequeath to my daughter Rosanna wife of G. Morrison nine negro slaves to wit Burr, Andrew, Rachel and her two children, Maria and her two children and their future increase and three feather beds which slaves and beds are now in her possession. I furthermore give to her the sum of seven thousand dollars of which seven fifteen hundred and ninety seven dollars have been paid to her in money and other property having now due to her the sum of five thousand four hundred and three dollars to be paid at the time and in the manner hereafter directed

Item (10)

I give and bequeath to my daughter Adelaïde five negro slaves to wit Spencer, Fanny, Betty, Abby, and Seneca and their increase and three beds and furniture which slaves and beds have been delivered to her husband Joseph W. Wilson I further give to her the sum of eight thousand dollars of which amount seven thousand six hundred dollars have already been paid to her in money and property having now due to her the sum of three thousand four hundred dollars to be paid at the time and in the manner hereafter directed.

Item (11)

To my four grand sons that have been named after me to wit James Erwin, James Perkins, James Hardy and James Phillips I give the sum of five hundred dollars each to be paid to them at the period they shall respectively attain the age of twenty one years. I give to my namesake James (son of my brother Daniel) the sum of two hundred fifty dollars to be applied to his education in addition to the sums which have been advanced from time to time for the same purpose

Item (12)

I give and bequeath to the trustees of Newton Academy and their successors in Office the sum of one thousand dollars which sum is to remain in the hands of my son James and his heirs forever and the lawful interest thereon to be paid annually by my said son James his heirs or assigns to the said trustees to be by them applied to the payment of tuition money for such children of poor parentage as they may deem proper objects in this County and to the end that the payment of said interest may be properly secured, I desire and direct that it shall constitute a charge upon that portion of my real estate herein devised to my son James lying on the South West side of the main street in Asheville

Item (13)

Believing that it would promote the interest of all my family, I concluded on the 24th September 1827, to commit to my son James the entire management of my estate. I estimated my personal property to be of the value of forty five thousand dollars and determined that he should pay out of it, such legacies as I might bequeath to his brothers and sisters and that so much of the original fund together with the accumulations made by his care and management as might not be exhausted by the payment of legacies should ultimately be given to him. From that period to this he has conducted my business to my

entire satisfaction has paid to his brother John and Benjamin in discharge of their legacies and in partial payments to his sisters, the aggregate sum of thirty six thousand seven hundred and forty four dollars. In compliance with my original intention and to enable him to pay the several legacies herein mentioned, and to perform faithfully the many important trusts which will devolve upon him, I give to him all my personal estate not herein before specifically bequeathed with the exception of the household and kitchen furniture stock crop and farming utensils at my farm on Swansboro which I give to my son Thomas.

Item (L4)

To avoid all ambiguity and misconstructions, I hereby declare it to be my intention that my son James shall be entitled to all my bonds and notes and book accounts which when collected he may apply and appropriate to his own proper use, as I hold him bound to pay all the legacies I have given to the rest of my children and to defend them against all claims that may come against ~~my~~ estate, and for the purpose of more effectually securing the several legacies herein given, and to guard against any abuse of the confidence reposed in my son James, It is my will and I hereby direct that all the lts, lands and houses delivered to him be and remain bound and charged for the performance of the said trust, and the more effectually to enable my other Executors to enforce this provision, I hereby direct them or a majority of them to sell such part of the real estate devised to my said son James as may be required to satisfy any deficiency arising from his waste, neglect, or mismanagement or failure to pay.

I direct that the several money legacies herein given to my children, and yet remaining due shall be paid at the times following that is to say to the children of my daughter Mary the sum of five thousand dollars when they respectively attain the age of twenty one years or marry with interest from the 1st May 1837. To my daughter Ann E. Perkins five thousand six hundred and twenty eight dollars, to be paid to her and her children in equal proportions at such periods before her youngest child shall attain the age of twenty one years as my son James may in his discretion consider best with interest from the 1 May 1837. To my daughter Elizabeth the sum of eleven hundred ninety nine dollars, to be paid on the 1 May 1837 with interest from the present date. To Jane Hardy the sum of three hundred and ninety four dollars with interest from this date. To Rosanna Morrison the sum of five thousand four hundred and three dollars to be paid on the 1 May 1837 and to Adeline Wilson, the sum of three thousand four hundred dollars to be paid on the first day of October 1836. with interest from date of legacy to my daughter Ann I direct that ^{shall be paid} two thousand dollars, my four sons in equal proportions (\$500 each) out of the legacies to them given

I nominate constitute and appoint my sons James W. and John C. Patton and my sons in law John Edwin Post George D Phillips Washington Morrison and Joseph H. Phillips Executors of this my last

Will and Testament hereby revoking all other and former wills by me at any time made. In testimony whereof I hereunto set my hand and seal at the Warm Springs this first day of October one thousand eight hundred and thirty five

signed sealed published & declared by James Patton
as his last Will & Testament in our presence, who
attest it in his presence and in the presence of each
other

James Patton (seal)

D. L. Loran

Sam Allen Jurat

John Stokely Jurat

I James Patton of the town of Asheville County of Buncombe and State of North Carolina do make and publish and declare this instrument of writing as a codicil to my last will and testament bearing date October the first in the year of our Lord one thousand eight hundred and thirty five, whereas there is a devise in the fourth item of said last will and testament as follows to wit:

I then I give and devise to my executors hereinafter named all the several tracts of land on Swannano River owned by Patton and Erwin and conveyed by Andrew Erwin to me by deed bearing date 11th March 1816 together with all the adjoining tracts lying East of the ridge dividing the lands belonging to the tallops of Asheville from the lands on Swannano River & furthermore give to my said Executors nine slaves to wit Camel and his two children George & Louisa, Dick, Nade Jim John, Seneca Emanuel, Polly a female and the sum of four hundred dollars in consideration of black Jimmy hartsford intended for my son Thomas but now transferred to my son James, which said slaves and money I devise and bequeath to my said Executors in trust to permit my daughter in law Louisa Ann wife of Thomas T. Patton to receive to her sole & separate use for the support and maintenance of her children during the natural life of my said son Thomas, the rents and profits interest of the said slaves and money aforesaid, and upon his death I give the said lands slaves and money to my said daughter in law and her children then living and such child if any as may be born in competent time, after the death of the said Thomas to them and their heirs forever as tenants in common. And whereas my said son Thomas on the 11th of February 1831 became indebted to James W. Walton then of Charleston in the sum of four thousand ~~and~~ hundred & eighty three dollars which is evidenced by bond executed and delivered to said Walton by my said son Thomas as principal and myself as security, and for the purpose of more effectually securing the payment thereof a mortgage deed was signed sealed and delivered by my son Thomas, and myself conveying the negroes aforesaid to said Walton from the date of said will up to the time of the execution delivery of said Mortgage deed to said Walton; and whereas my said son Thomas is now indebted to my said son James T. Patton in the sum

and whereas in the providence of Almighty God my said daughter in law Ann wife of my son Thomas has been removed from this life by death leaving only two children Clara Estlin & Matilda surviving her and the untidy habits of my son Thomas and also in consideration of the care and attention and care of my daughter Sarah Rosanna Morrison in supporting and managing

heretofore and till my death, I give and bequeath to my said daughter S.R. Morrison all that portion of land heretofore named in item fourth of my will as heretofore described to wit beginning on the top of the mountain of land or ridge East of Ashville to the Southeast point of termination of land named by him & conveyed ~~to~~ him by his brother John D. Patton and by me to my said son John in item second of my said will & testament as before named running a East-wardly direction so as to include the plantation to the North of Tapers Creek occupied and cultivated by negroes of the estate Washington Morrison to the top of the mountain or ridge East of said place and thence of the waters Whitens Creek thence along the top of said mountain to the extreme termination of my land thence West to the Suspect land formerly Samuel Chum's thence South & West with said land to the top of the mountain East of Ashville thence South with the top of said mountain to the beginning to have and to hold and enjoy the same for the of herself and the natural heirs of her body.

and now furthermore express object and meaning and intent of this codicil is in the first place to subject the residue of the property named as aforesaid in item fourth both real and personal to the satisfaction of the debt owing to the said Hallow as aforesaid or his heirs in order that the residue of my estate as divided and bequeathed to my other children in said will may be undiminished and saved harmless from the payment of said debt or any portion thereof, and in the second place that said property both real and personal may be subjected to the payment of the ~~debt~~ owing as aforesaid to my son James and for the purpose of carrying out the aforesaid purpose I do devise and bequeath the property aforesaid both real and personal to my Executors as named in the will aforesaid in trust to sell either at public or private sales so much of said property as may be sufficient to answer the purpose aforesaid and the residue to hold for the trusts and purposes as set and declared in the item aforesaid

The reason I have made this codicil I was of a charitable mind to help the most unfortunate of the family first my mother's family next my own family which is well known in Hills and Buncombe Counties also by Genl. David L. Swain that has wrote most of all my wills and was at the executing of our he did not write, wrote by my son in law Dorsey Phillips and my brother in law Col. A. Brown both present at the writing & executing those writings and acts of mine will show that I have not been partial to any child but trying to help the most needy as it has pleased the Almighty God to take my daughter in law to any other world and my son Thomas not like to do well I thought it was my duty also justice to convey to my daughter Rosanna Morrison the land that I have named in the codicil as above if my son does well, he has enough behind of that delightful place if he does not do well all I give to all my children would be nothing to him

The reason I have the above is to satisfy a court or jury that what I have done as to this codicil was on due reflection I bless his great majesty for giving me a mind at my advanced age to be able to think as I do I trust and hope that all my friends will think that I have done right and no wrong to my son or his two children and that he will think so on due reflection as his sister is a weakly woman and her estate not clear of incumbrance at this time

I had this in view for some years past - got Mr. Blackstock to run out part of the land two years ago but being over on the place I took thought to add what I have named & I am pleased with what I have done and I take God to witness that no child or any other person suggested to me what I have done as to this codicil I was the first & last James Patton

Done in open court, by the oaths of
William Patton & Ephraim Clayton &
Joseph M. Rice

State of North Carolina

Buncombe County ss } County Court of Buncombe County, October Term A.D. 1868

The foregoing will and Codicil was duly proven in open Court (the trial) by the oaths of Euseb Allen and John Stokely, subscribing witnesses thereto (the codicil) by the oaths of William Patton, Ephraim Clayton and Joseph M. Rice and entered on the minutes of record

A. Henry Clerk

By Ezra M. Galt, Atty. Genl.

For Probate of this will see
Minute Book C - page 361
of County Court.

See Public Acts ch. C, 1887 - Chap-
206, Validating Probates
of Wills in Buncombe Co.