

Bancombe County, in the Probate Court
 A Paper purporting to be the last will and Testament of A. Eller decd. is exhibited before me the undersigned Judge of Probate for said County by William C. Eller and John C. Eller, the Executors therein named and the due execution thereof by the said A. Eller, by the oath and examination of Marion Roberts and W. M. Jones, the subscribing witnesses thereto who being duly sworn do both depose and say, and each for him self depose to and sayeth that he is a subscribing witness to the paper writing now shown him purporting to be the last will and Testament of A. Eller decd. That the said A. Eller did in the presence of these deponents acknowledge his signature assigned at the end of said paper writing which is now shown as aforesaid and bore date on the 4th day of November A.D. 1869, did in the presence of these deponents acknowledge the signature the said paper writing, and the deponents further say that the said A. Eller the Testator aforesaid did at the time of acknowledging his signature as aforesaid declare the said paper writing to be his last will and Testament and that the deponents did thereupon subscribe their names at the end of said will as attesting witnesses thereto, and at the request and in the presence of the said Testator, and these deponents further say that at the said time when the said Testator acknowledged his signature to the said last will as aforesaid and at the time of the deponents subscribing their names as attesting witnesses thereto as aforesaid the said A. Eller was of sound mind and memory of full age to execute a will and was not under any restraint to the knowledge information or belief of these deponents. That the said deponents sayeth not

we the undersigned Judge of Probate

North Carolina }
 Bancombe County } In the Probate Court.

To the Judge of said Court:

The undersigned respectfully shows:-

- 1 That he is the executor named in the last will and Testament of J. H. Smith, deceased:
- 2 That the property of the said decedent consists in real estate and is worth about One thousand Dollars.
- 3 That the only person entitled under said will to the testator's property is his mother, Mrs Margaret R. Smith, wife of Samuel Smith who now resides in the County of Bancombe.
- 4 That the subscribing witnesses to said will, Green Rollins and Roxana Smith both reside out of the State.

Wherefore your petitioner prays that the said will may be admitted to Probate and that he be allowed to qualify as executor of the same, according to law.

The said J. A. Fagg being duly sworn, says:- That the foregoing facts are true to the best of his knowledge and belief.

J. A. Fagg
 Sworn & Subscribed before me this the 18th day of Feb'y 1871.
 J. E. Reed Judge of Probate

To the Judge of Probate for Bancombe County.

I hereby renounce the office of Executor under the last will and testament of J. H. Smith, within the prescribed.

This 17th day of February 1871. W. M. Weaver

North Carolina Bancombe County }

W. M. Weaver being duly sworn, says: That he is acquainted with the handwriting of J. H. Smith decd, the testator of the will hereto annexed, that he is also acquainted with the handwriting of the subscribing witnesses to said will Roxana Smith, and that the signatures of J. H. Smith and also that of Roxana Smith, to said will are the genuine signatures of said testator.

W. M. Weaver

Sworn & subscribed before me this the 17th day of
February A.D. 1871.

J. E. Reed Probate Judge

North Carolina

Swain County

In the Probate Court.

Wm. Houston being duly sworn,

says: That he is acquainted with the hand-writing
of Green Rollins, and that it is his best impression
that the signature purporting to be his to the last
will and testament of J. H. Smith, dated 15th Jan'y
1862, hereto annexed is his genuine signature.

William Houston

Sworn & subscribed before me this Feb'y 18th 1871

J. E. Reed

Probate Judge

State of North Carolina

Madison County

Know all men by these pre-
sence that J. H. Smith of the County and State a-
foresaid, being sound in body and mind but
ever remembering the uncertainty of life and the
certainty of death do make and declare the following
to be my last will and Testament.

First I will that all my just
debts be paid out of the proceeds of my estate. I desire
that all my personal property be sold at public
sale and the proceeds that may be left after selling
my debts go to my beloved mother as a small testi-
mony for the care and kindness she has ever so kindly
lavished on me and for the same reason I will and
bequeath to her my real estate in the County of Swain
combe North Carolina commonly known as the Swanford
Place with all its appurtenances thereto belonging
In her own name and for her own use and no one
else with the power to dispose of the same as may
seem best to her with any and all rents arising from
said place, and that my will may be fully carried
out and my beloved mother enjoy my estate I do
hereby request & appoint my two brothers in law
J. A. Fagg & William M. Weaver my executors, In
testimony whereof I have hereunto set my hand
and seal this 15th day of January, Eighteen hundred
and sixty-two.

Witness Green Rollins & Roxana Smith

Swain County

J. H. Smith

Swain County In the Probate Court.

A paper purporting to be the last will and testament
of J. H. Smith, deceased, is exhibited before me, the under-
signed, Judge of Probate for said County, by J. A. Fagg,
the Executor therein named, (Wm. M. Weaver the other ex-
ecutor therein named having renounced his office in
writing) and it is proved by the oaths of J. A. Fagg, Wm.
Houston and Wm. M. Weaver, that the subscribing witness
as thereto, to wit: Green Rollins and Roxana Smith
are now residents of this State. And it is further proved
by the oath and examination of said Wm. M. Weaver and
Wm. Houston, that they are acquainted with the
handwriting of the said Green Rollins and Roxana
Smith, and also with that of the testator J. H. Smith,
and that the names of the said subscribing witness
as Green Rollins, and Roxana Smith, and the name
of said testator, are in the proper handwriting of said
Green Rollins, Roxana Smith, and J. H. Smith.

It is therefore adjudged that said last will and
Testament of J. H. Smith, is duly proven, the
said will bearing date the 15th day of January 1862
be given under my hand & seal of office this Feb'y 20
1871.

J. E. Reed

Probate Judge