

In the name of God amen I Master J. Fagg of the County of Boncombe & State of South Carolina, being of sound and disposing mind and memory do make and publish this my last will and testament, hereby revoking all all former wills by me at any time made in manner and form following. That is to say

Item 1st It is my will and desire that my executors hereafter appointed shall pay all my just debts to whomsoever owing, also my funeral expenses and all reasonable charges of administration

Item 2nd I will and desire to my beloved wife beneath me all my property not necessary for the payment of my just debts funeral expenses and charges of administration to have and to hold during her natural life to control and manage (with the assistance of my brother Henry C. Fagg whom I wish to assist my beloved wife in this matter) for the joint benefit and use of herself and my daughter Minnie M. and my adopted daughter Bessie May Fagg daughter of my brother H. C. Fagg

Item 3 I will and desire to my daughter Minnie the use and occupation rents and profits of my plantation in the County of Louisa and State of Alabama known as the "Mills place" which same was conveyed to me by J. J. Middleton Jr. of B. Mills. To have and to hold to her during her natural life and at her death to such children as shall or may be born to her in lawful wedlock any disowned child to take the share its parent would have taken had they been living subject however to the devise to my beloved wife mentioned in Item 2nd of this will

Item 4 I give and devise to my only adopted daughter Bessie May Fagg my

plantation in said County of Louisa and State of Alabama known as the "Benton & Fagg" place being the land purchased by me from D. C. Stanford and deeded to me by J. J. Middleton wife & give her the use and occupation rents and profits of said land during her natural life time and at her death to such children as shall or may be born to her in lawful wedlock the issue of any disowned child to take the share its parent would have taken if living subject to the devise to my beloved wife mentioned in Item 2 of this will &c. my will and intention that Bessie shall take and hold the rents &c of this land precisely as Minnie is to take hers as mentioned in Item 3 of this will

Item 5 I will and devise upon the like condition and stipulations to Minnie & Bessie my property in the town of Arkville the same to be divided by a line beginning at McSonds corner on the street thence running up the street East till it crosses the branch thence North and parallel with the McSonds line to the Merriam line Minnie to have that portion containing the house and Bessie to have the portion adjoining McSonds land to have and to hold the same upon the conditions and stipulations mentioned in Item 3 & 4 of this will

Item 6 I will and devise upon the same stipulations as is mentioned in Item 3 to my daughter Minnie my nine kilra tract of land in Madison County on French Broad river adjoining the Warm Springs property

Item 7 It is my will that all the residue of my property both real and personal be sold by my executors on such terms as to them shall seem best but they are not to be compelled to sell any real estate

Sooner than ten years after my demise
and that all monies arising from
said sale not needed to pay debts
and for support and education of my
wife and daughters be expended upon
the property of Minnie and Berrie as
herin divided in permanent improvement
and in equal proportions: excepting my
Bacon County bonds \$2500 in amount
which I here bequeath equally to be
divided to my daughters Minnie & Berrie
my purpose being to provide them
with funds for the payment of taxes
and other necessary expenses

Item 8 I have some notes due me
by parties in the State of Texas. it is
my desire that one half of the
principal of each note be collected be-
ginner to my sister in-law Mrs. E. D.
Monmouth a widow lady living in Ellis
Texas

Item 9 In case that either Minnie or
Berrie should die without child or
children, then I desire the property that
would have gone to said child or
children had such been born.

To the child or children of the survivor
of them, and in case both of them
should die without issue then the
same is desired to my brother H. C.
Fagg & his heirs forever

And lastly I hereby appoint my beloved wife
Berrie H. my brother Henry C. Fagg my
executor and executrix, to carry out the
provisions of this will according to
the true intent and I enjoin it upon
my brother Henry to assist my wife
in the management of the property herin
desired and in the care of my daughters
Minnie & Berrie and as a compensation
for his services I direct that he be
paid annually the sum of \$1000 dollars
and I desire that my executors shall
exercise large discretion in the manage-
ment of the trust hereby committed to

them

In testimony whereof I have hereunto set my
hand and affixed my seal, on this 21st
day of February A.D. 1882
M. J. Fagg

Signed sealed published and declared by the
testator to be his last will and testament
and at his request and in his presence
we have signed the same as witnesses

L. F. Kramer
H. F. Kargin

I Marcellus J. Fagg, of the city of Asheville in
the County of Buncombe and State of North
Carolina, having heretofore made and pub-
lished my last will and testament
bearing date the 21st day of February 1882
and having thereunto made and published a
codicil to the same dated Dec. 3rd, 1880
and being now of sound mind and memory
do make this codicil to be taken as a
part of my last will and testament.
First. I hereby revoke and confirm my
said last will and testament in every
respect, excepting so far as any part of
it is inconsistent with this codicil
and I hereby revoke and in all respects
annul said codicil heretofore made by
me to be and be treated as if the
same and every part of it I had
never been made.

Second. I give and devise to my
adored daughter Berrie May, Maxwell
(born Fagg), for her natural life all that
piece or parcel of land, consisting of
a house and lot with appurtenances,
in said city of Asheville, on the north side
of Patton Avenue and Eastern side of
French Broad Avenue bought by me
from D. H. Ledlins, and known as
the "Collins Place", together with all and
singular its tenements, hereditaments,
privileges, and appurtenances, for her sole

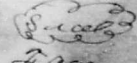
and separate use, and unsplit, with remainder to such child or children, or the issue of such as she may have surviving her. And if she die leaving no such child or children & issue of such, then remainder to my daughter Minnie M. Fagg, and if said Minnie M. Fagg shall then be dead, remainder to such child or children or the issue of such as said Minnie M. Fagg, may have surviving her; and in event of the said Berrie May Maxwell dying leaving no child or children, or issue of such and Minnie M. Fagg, living the dead, leaving having left no child or children or issue of such, then remainder to my brother H. C. Fagg, or, if he be then dead, to such child or children or issue of such as he shall have left him surviving; and in event of the death of said Berrie May Maxwell leaving no child or issue of such, said Minnie M. Fagg, and H. C. Fagg, having both died, leaving no child or children or issue of such, then remainder to my heirs in fee simple.

Third. I give and devise to my daughter Minnie M. Fagg, all that piece of land with its improvements, situate on the Western side of Main Street in said city of Asheville and known as the "Hinder Building", and all that piece of land with its improvements, situate on the Eastern side of Water Street, in said city of Asheville, and now occupied by W. O. Miller, both bought by me from E. Sluder, and all that piece of land in the county of Madison, and State of North Carolina, near Hot Springs, adjoining lands of Indigo lands, formerly of Rimbrough and others and known as the "Lime Kiln Place", together with all and singular, the tenements, hereditaments, privileges, and appurtenances, unto said three pieces of land respectively belonging, for her natural life, to her heirs, and separate use and benefit, with remainder to such child or children, or the issue of such as she may have, surviving her, and if she

die leaving no child or issue of such the remainder to my said adopted daughter Berrie May Maxwell, or if said Berrie May Maxwell shall then be dead, to such child or children or issue of such as she shall have left surviving her; and in event of the death of said Minnie M. Fagg, leaving no child or issue of such and said Berrie May Maxwell having then died leaving no child, or issue of such, then remainder to my brother H. C. Fagg, or if he be then dead to such child or children, or issue of such as he shall have left surviving him; and in event of the death of said Minnie M. Fagg, leaving no child or issue of such, and said Berrie May Maxwell, and H. C. Fagg, having, therefore died leaving no child or issue of such, then remainder to my heirs in fee simple.

Fourth all the residue of my estate not in said last will and testament or in this codicil specifically disposed of I give and devise to my executors to be by them as soon as they think prudent, and best, sold and converted into money, and the proceeds to be invested by them in improving the "Home Place" in Asheville aforesaid, one third of said proceeds to be invested in permanent brick buildings on that part of said "Home Place" devised to my adopted daughter Berrie May Fagg, now Berrie May Maxwell and the other two thirds of said proceeds to be invested in permanent brick buildings on that part of said "Home Place" devised to my daughter Minnie M. Fagg.

In witness whereof I Marcello J. Fagg, have to this codicil to this my last will and testament subscribed my name and set my seal, this Twelfth day of 11th 1890.

Marcello J. Fagg, 
Subscribed by the testator Marcello J. Fagg.

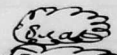
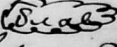
in the presence of each of us and at the same time declared by him to us to be a codicil to his last will and testament and thereupon we, at the request of said testator and in his presence and in the presence of other sign our names here as witnesses. This February 11th 1890. at Asheville in the County of Buncombe and State of North Carolina.

Wm. R. Ray
T. A. Sandley -

State of North Carolina: } On the
Buncombe County, } Superior Court.

A paper writing purporting to be the last will and testament of Marcellus J. Fagg, deceased, bearing date the 21st day of February A.D. 1882, and a paper writing purporting to be a codicil thereto, bearing date February 11th 1890, both mentioned in there and the following affidavits, and proofs are exhibited before me the undersigned clerk of the Superior Court, for said Buncombe County, in the State of North Carolina, this day by Amos M. Fagg, the executor therein mentioned, and Harry C. Fagg, the executor therein mentioned, for probate as to said last will and testament and codicil; and it is thereupon proved by the oath and examination of James P. Sawyer, that the said Marcellus J. Fagg is dead, and that he the said James P. Sawyer is well acquainted with the handwriting of the said Marcellus J. Fagg, having often seen him write, and that the name of the said Marcellus J. Fagg, subscribed as "M. J. Fagg", to said paper writing purporting to be the last will and testament of Marcellus J. Fagg, and bearing date the 21st day of February A.D. 1882, as the testator therein is in the proper handwriting of the said Marcellus J. Fagg, and genuine, and that J. A. Branner one of the attesting witnesses to said paper writing

purporting to be the last will and testament of Marcellus J. Fagg, and bearing date the 21st day of February A.D. 1882, is dead and that the said James P. Sawyer is well acquainted with the handwriting of the said James A. Branner, having often seen him write, and that the name of said J. A. Branner subscribed to said paper writing purporting to be the last will and testament of Marcellus J. Fagg, and bearing date 21st day of February, A.D. 1882, as the attesting witness therein, is in the proper handwriting of the said J. A. Branner, and genuine, and it is further thereupon proved by the oath and examination of J. E. Rankin, that the said Marcellus J. Fagg, is dead and that he the said J. E. Rankin, is well acquainted with the handwriting of the said Marcellus J. Fagg, having often seen him write, and the name of the said Marcellus J. Fagg, having often seen him write, and the name of said Marcellus J. Fagg, subscribed as "M. J. Fagg" to said paper writing purporting to be the last will and testament of Marcellus J. Fagg, having often seen him write, and the name of the said Marcellus J. Fagg, subscribed as "M. J. Fagg", to said paper writing purporting to be the last will and testament of Marcellus J. Fagg, as aforesaid, and bearing date the 21st day of ~~February~~ February A.D. 1882, as aforesaid, as the testator therein is the handwriting of the said Marcellus J. Fagg, and genuine, and it is further proved by the oath and examination of the said James P. Sawyer, and J. E. Rankin, that the said Marcellus J. Fagg, died in the said County of Buncombe State of North Carolina, and at the time of his death resided in said State.

James P. Sawyer 
J. E. Rankin 

Solemnly sworn to and subscribed before me
this February 19th 1894
J. A. Catlett
Clerk Superior Court of Buncombe
County, State of North Carolina

State of North Carolina: } On the
Barnstable County. } Superior Court.

A. John writing purporting to be the last will and testament of Marcellus J. Fagg, deceased, dated the 21st day of February 1882, and a paper writing purporting to be a codicil to the same, dated the 2nd day of December 1880; and a paper writing purporting to be another codicil to the same dated February 11th 1890, the last paper writing, purporting to be a codicil as aforesaid, to said will revoking and annulling the former, paper writing purporting to be a codicil as aforesaid, dated the 2nd day of December A.D. 1880, as well as containing other provisions and matters, are exhibited before me the undersigned clerk of the Superior Court, for said County of Barnstable at my office in said County, by Kenneth M. Fagg, and Henry C. Fagg, the executor and executrix therein mentioned, for probate as to said paper writing purporting to be said last will and testament, and said paper writing purporting to be a codicil to the same, dated February 11th 1890, and the due execution of said paper writing dated the 21st day of February A.D. 1882 purporting to be such last will and testament by the said Marcellus J. Fagg, is proved by the oath and examination of H. A. Buzgin, one of the subscribing witness thereto, who being by me duly sworn, doth depose and say, that he is a subscribing witness to the said paper writing now shown as aforesaid, purporting to be the last will and testament of Marcellus J. Fagg, and dated the 21st day of February A.D. 1882; that the said Marcellus J. Fagg, subscribed his name at the end of said paper writing purporting to be such last will and testament which is now shown as aforesaid, and which bears date the 21st day of February, A.D. 1882, that the said testator the said Marcellus J. Fagg, did at the time of subscribing his name, as aforesaid, declare the said paper writing so purporting

to be such last will and testament, so subscribed by him and exhibited, to be his last will and testament; that said Marcellus J. Fagg, so subscribed his name as aforesaid, to the said paper writing purporting to be the last will and testament, and dated the 21st day of February A.D. 1882, in the presence of this deponent and J. A. Branner, the other subscribing witness thereto and so at the time of so subscribing his name thereto, declared as aforesaid the paper writing to be his last will and testament in the presence of this deponent and of the said J. A. Branner. The other subscribing witness thereto and this deponent did thereupon subscribe his name at the end of said paper writing as an attesting witness thereto and at the request and in the presence of the said testator, and also in the presence of said J. A. Branner, and the said J. A. Branner the other subscribing witness thereto, so subscribed his name, as an attesting witness thereto, and at the request and in the presence of the said testator, and also in the presence of this deponent; and this deponent further saith, that at the time when said testator so subscribed his name to the last will and testament as aforesaid, and at the time of this deponent subscribing his name, as an attesting witness thereto, the said Marcellus J. Fagg, 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 this deponent; and this deponent further saith that the said J. A. Branner, the other subscribing witness to said will as aforesaid, is dead and that he is well acquainted with the handwriting of the said J. A. Branner, having often seen him write, and that the name of the said J. A. Branner subscribed as a witness to said will is in the proper handwriting of the said J. A.

State of North Carolina: } On the
Barnstable County. } Superior Court.

A. John writing purporting to be the last will and testament of Marcellus J. Fagg, deceased. dated the 21st day of February 1882, and a paper writing purporting to be a codicil to the same. dated the 2nd day of December 1880, and a paper writing purporting to be another codicil to the same dated February 11th 1890, the last paper writing, purporting to be a codicil as aforesaid, to said will revoking and annulling the former. paper writing purporting to be a codicil as aforesaid, dated the 2nd day of December A.D. 1880, as well as containing other provisions and matters, are exhibited before me the undersigned clerk of the Superior Court, for said County of Barnstable at my office in said County, by Junath N. Fagg, and Henry C. Fagg, the executor and executrix therein mentioned. for probate as to said paper writing purporting to be said last will and testament, and said paper writing purporting to be a codicil to the same dated February 11th 1890, and the due execution of said paper writing dated the 21st day of February A.D. 1882, purporting to be such last will and testament by the said Marcellus J. Fagg, is proved by the oath and examination of H. F. Buzgim, one of the subscribing witness thereto, who being by me duly sworn, doth depose and say, that he is a subscribing witness to the said paper writing now shown as aforesaid, purporting to be the last will and testament of Marcellus J. Fagg, and dated the 21st day of February A.D. 1882; that the said Marcellus J. Fagg, subscribed his name at the end of said paper writing purporting to be such last will and testament which is now shown as aforesaid, and which bears date the 21st day of February, A.D. 1882, that the said testator the said Marcellus J. Fagg, did at the time of subscribing his name, as aforesaid declare the said paper writing so purporting

to be such last will and testament, so subscribed by him and exhibited, to be his last will and testament; that said Marcellus J. Fagg, so subscribed his name as aforesaid, to the said paper writing purporting to be the last will and testament and dated the 21st day of February A.D. 1882, in the presence of this deponent and J. A. Brommer, the other subscribing witness thereto and so at the time of so subscribing his name thereto, declared as aforesaid the paper writing to be his last will and testament in the presence of this deponent and of the said J. A. Brommer. The other subscribing witness thereto and this deponent did thereupon subscribe his name at the end of said paper writing as an attesting witness thereto and at the request and in the presence of the said testator, and also in the presence of said J. A. Brommer, and the said J. A. Brommer the other subscribing witness thereto, so aforesaid, did thereupon subscribe his name, at the end of said will as an attesting witness thereto, and at the request and in the presence of the said testator, and also in the presence of this deponent, and this deponent further saith, that at the time when said testator so subscribed his name to the last will and testament so aforesaid, and at the time of this deponent subscribing his name, as an attesting witness thereto, the said Marcellus J. Fagg, 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 this deponent; and this deponent further saith that the said J. A. Brommer, the other subscribing witness to said will as aforesaid, is dead and that he is well acquainted with the handwriting of the said J. A. Brommer, having often seen him write, and that the name of the said J. A. Brommer subscribed as a witness to said will in the proper handwriting of the said J. A.

Brommer and genuine, and was so subscribed then by the said J. F. Brommer.

And it is further proved by the oath and examination of James Atkins, that J. F. Brommer one of the subscribing witnesses to said paper writing purporting to be the last will and testament of the said Marcellus J. Fagg, and dated February 21st 1882, as aforesaid, so exhibited as aforesaid, is dead and that he the said James Atkins, is well acquainted with the handwriting of the said J. F. Brommer, having often seen him write, and that the name of the said J. F. Brommer, subscribed as a witness to the said paper writing, so purporting to be such last will and testament as aforesaid, and dated the 21st day of July, A.D. 1882, as aforesaid, is in the paper handwriting of the said J. F. Brommer and genuine, and further these deponents say not.

And at the same time and place the due execution of the said paper writing, purporting to be a codicil to said last will and testament and dated the 11th day of July 1890, as aforesaid by Marcellus J. Fagg, aforesaid is proved by the oath and examination of Wm R. Roy, and F. A. Sandley, the subscribing witnesses thereto, they being by me duly sworn do depose and say, and each for himself depose and saith, that he is a subscribing witness to the said paper writing purporting to be a codicil to the said last will and testament of Marcellus J. Fagg; that the said Marcellus J. Fagg, in the presence of this deponent, subscribed his name at the end of said paper writing, now shown as aforesaid, and purporting to be a codicil to the last will and testament of Marcellus J. Fagg, as aforesaid, and dated July 11th 1890, as aforesaid, and the deponents the said William R. Roy and F. A. Sandley aforesaid further say, and each for himself further depose and saith, that the said Marcellus J. Fagg, the testator aforesaid and the maker of the said paper writing purporting to be a codicil to the last will

and testament of Marcellus J. Fagg, and dated July 11th 1890, as aforesaid, did at the time of subscribing this name as a witness to said paper writing purporting to be a codicil to the last will and testament of Marcellus J. Fagg, and bearing date July 11th 1890, as aforesaid, declare this said paper writing, so subscribed by him and exhibited and so purporting to be a codicil to the last will and testament of Marcellus J. Fagg, and so bearing date July 11th 1890, as aforesaid to be a codicil to this last will and testament and to constitute together with said paper writing so purporting to be his last will and testament, of the said Marcellus J. Fagg, and bearing date the 21st day of July, A.D. 1882, as aforesaid, his last will and testament and this deponent did therefore subscribe his name at the end of the said paper writing so purporting to be a codicil to the last will and testament of Marcellus J. Fagg, and so bearing date July 11th 1890, as aforesaid, as an attesting witness thereto and at the request and in the presence of the said testator, the said Marcellus J. Fagg, and this deponent the said William R. Roy and F. A. Sandley further say, and each for himself further depose and saith, at the said time when the said testator the said Marcellus J. Fagg, subscribed his name to the said paper writing purporting to be a codicil to the last will and testament of Marcellus J. Fagg, and aforesaid, and so bearing date July 11th 1890, as aforesaid and so now shown and exhibited as aforesaid, and at the time of deponents subscribing his name as an attesting witness thereto as aforesaid, the said Marcellus J. Fagg, was of sound mind and memory, of full age to execute a will and was not under any restraint to their knowledge or observation.

or being of this document, and further their
deponent say not.

Wm. B. Bingham Seal
J. H. B. Bingham Seal
Wm. B. Bingham Seal
H. A. Sandley Seal

Subscribed, sworn and subscribed this 18th day
of February A.D. 1894, before me.

J. L. Cady
Clerk Superior Court of Buncombe County North
Carolina.

State of North Carolina } In the Superior Court,
Buncombe County.

It is therefore considered and adjudged by
the court, that the said paper writing pur-
porting to be the last will and testament
of Marcus J. Fagg, and bearing date the 21st
day of February A.D. 1882, and every part
thereof is the last will and testament
of Marcus J. Fagg, deceased, when taken in
connection with the codicil to the same
hereafter mentioned, and that the paper writing
purporting to be a codicil to the said last
will and testament of Marcus J. Fagg, and
bearing date February 11th 1890, and every part
thereof is a codicil to the last will and
testament of said Marcus J. Fagg, deceased,
and that said paper writing so purporting to be
the last will and testament of Marcus J.
Fagg, aforesaid, and bearing date the 21st day of
February 1882, and said paper writing so
purporting to be a codicil to the said last will
and testament of said Marcus J. Fagg, and so
bearing date Feb. 11th 1890, are and constitute
and they and every part of them, are and
constitute the last will and testament of
Marcus J. Fagg, deceased, and the same with
the foregoing examinations, and this
certificate are ordered to be registered,
and filed, this 18th day, A.D. 1894, J. L. Cady
Clerk of the Superior Court of Buncombe County,
North Carolina.

Buncombe County, In the Superior Court
In the Matter of the will of Sarah Foyler (deceased) } Before J. L. Cady
Demand. } Clerk Superior Court
of Buncombe County.

Chas. A. Moore, being duly sworn, doth say:
That Sarah A. Foyler, late of said county, is
dead, having died, married and published her
last will and testament, without seeing
any executors therein, and that said S. A.
Foyler, her husband, has relinquished his
right to administer on said estate in his
favor. Further that the property of the said
Sarah A. Foyler, deceased, consisted of personal
property, notes &c. is worth about \$2500.00
so far as can be ascertained at the date of
this application; and that said S. A. Foyler,
Kate Foyler Chapman, Lula Foyler Moore, her
daughters, Annie Foyler Middleton her daughter
Lula Foyler Moore, her grand daughter, and
Major Middleton her grand daughter, are
the parties entitled under said will, to the
said property.

Chas. A. Moore

Sworn to and subscribed before me this day,
18th day of Feb. 1894
J. L. Cady C. C.

North Carolina In the Superior Court
Buncombe County. Before the Clerk

In re the Matter of the Relinquishment of
Sarah A. Foyler died. } Statutory right to
administer
To the Clerk of the Superior Court of Buncombe
County:- You are hereby requested to issue
to Chas. A. Moore, of Buncombe County, North Carolina
letters of administration upon the estate
of my deceased wife, Sarah A. Foyler,
within her will annexed, and I do
now by this paper, renounce my right
to such letters of administration in this