

Will

Asherille Buncombe Count., North Carolina.

I M. P. Penland being in sound and disposing mind but in precarious health do make and ordain this my last will and testament -

First - I will bequeath and devise to my wife Eliza M. Penland the house and lot where we now live, from water street to the upper end of the garden, and with the crop fence to the upper end of the cow house, and the household and kitchen furniture. Also fifteen hundred Dollars \$1500. as it can be raised out of the estate -

Second - I give to my daughter Elizabeth Smith during her natural life and then to her four children, Maggie, Henry, Anne and or any other children that she may bear or that may be born of her person, the lands below Burnsville on both sides of the Crabtree creek in Hance County, purchased of Williams Wilson, James M. Ray, Thos. H. Ray, Williams Johnston & L. H. Flemming, also fifty acres adjoining the Thos. H. Ray lands on East bought of H. R. Hallis -

Third - I give to my daughter Mary, the lands on the river mile creek in Mc Donnell County & the adjoining lands, purchased of the Bradshaws, Churros, & others as well as the lands taken up by entry, also fifteen hundred Dollars \$1500. as soon as the same can be raised out of my estate.

Fourth - I give to my daughter Louisa Bailey during her natural life time and then to her son James Milton and any other children that she may bear or that may be born of her person, the lands known as the Flat rock property in Michie County, purchased of Joseph Pittman, Wm. J. Brown, J. Stewart & others including all the adjoining land.

Fifth I give to my son Henry the lands on Dick's creek in the County of Buncombe

purchased of Peter Flemming, including the Horse mill and tannery, also my undivided half of the land on Big Mountain Creek including the Big Ball Camps Mountain &c purchased of Hugh Johnston & owned by R. B. Johnston -

Sixth - And I also give to Mary & Henry, the front the upper end of the garden heretofore to the Williams lots with my wife to Haywood street, the lot to be divided between them, Henry to make the division and Mary to take choice of ends.

Seventh - I give to Elizabeth Smith's 4 children Maggie, Henry, Anne and two Henderson County Bonds of Five hundred Dollars each for educational purposes, and a like sum two hundred & fifty Dollars with interest to Louisa Bailey & son Milton.

Eighth - After paying all my just debts the balance of my estate real personal & mixed to be equally divided between my wife A. M. Penland and my four children Lizzie Smith, Mary Penland, Louisa Bailey, and Henry Penland.

And I do appoint and ordain my wife Eliza Penland and my son J. Henry Penland as my sole executors to this my last will and testament.

Given under my hand and seal the 30th day of December A.D. 1877.

M. P. Penland

On this the 27th day of Juneth 1879 - I M. P. Penland aforesaid testator do make this my codicil to the foregoing last will and testament - I will and direct that the mercantile business in Asherille and vicinity which has been carried on in partnership by myself and my son Henry, for three, or if he shall think proper, four years after my death; and for this purpose he shall have full possession and control of the stock of goods, debts and effects of said business and the partnership and for the same or which

be necessary, therefor, in his judgment & shall use the proceeds of said business and said stock & property in renewing the stocks of goods, and carrying on the said business to advantage, as hereinbefore directed.

I further will and direct that my said executory shall have power to make any sales that may be made in carrying out the provisions of this will, or that may be necessary by law, at public or private sale as they may choose -

I further bequeath to my said wife A. M. Penland a pair of mules to be chosen by her and a two horse team or woad (wagon) to be chosen by her, also my blind watch.

I also here correct the clerical error in my will of the 3rd day of December A.D. 1877 aforesaid - the lot described beginning on the 4th line of the record page (being the last foregoing page) extends across from the upper end of the garden to the Merriam lots, and otherwise as there described, also the bequest to Milton son of Louisa Bailey on the same page, is, and was intended to be expressed three, two hundred & fifty dollars in Henderson County Bonds with interest -

In testimony whereof I hereby set my hand the day and year ~~above~~ aforesaid, hereby affirming my foregoing holograph will as well as the codicil herein aforesaid -
M. P. Penland

Signed and executed by the said testator M. P. Penland, and attested by us, who in his presence and heard in the presence of each other and at the special request of the said testator, who acknowledges the foregoing as his last will and testament, including the codicil thereto, and has signed and executed the same in our presence on this 27th of June 1884.

and sign ~~the same~~ our names to the attestation thereof

M. L. Hillborn.

W. L. Hillborn.

J. Coleman.

North Carolina

Buncombe County } In the Probate Court.

On the Matter of
the Will of M. P. Penland Decd

W. H. Penland being duly sworn doth say, that M. P. Penland late of said County is dead leaving a last will and testament and that W. H. Penland and A. M. Penland are the executors therein named -

Further that the property of the said testator so far as it can be ascertained at the date of this affidavit is about Sixty one thousand dollars besides some other property he cannot estimate, and that of the above amount about \$48,000 is realty, and about \$12,300 personal property, consisting of goods, notes, livestock, household and kitchen furniture, farming implements &c -

That the names and residences of those entitled as heirs and distributees thereof are as follows:

Mrs. A. M. Penland Asheville N.C.

W. H. Penland " "

Mary C. Penland " "

Elizabeth C. Smith wife of Lucius H. Smith
Near Burnsville Yancey County. N.C.

Louisa A. Bailey wife of Isaac H. Bailey,
Bakersville Mitchell County N.C.

Margaret P. Smith, Henry C. Smith, Mary L. Smith & Anna C. Smith, children of the said
Lucius & Elizabeth Smith Burnsville N.C.

residing with said parents and are minors under the age of 21 years, and James M. Bailey minor son of said Isaac H. Bailey and residing with said parents. All of said inf

are without guardians other than their
maternal guardians - father & mother.
W. H. Penland.

from to and subscribed before me
this Jan'y the 29th 1880. E. W. Hendon
clerk.

North Carolina } In the Probate Court
Buncombe County } S. S.

A paper writing purporting to be the
last will and testament of M. P. Penland deceased
is exhibited, before me the undersigned Judge
of Probate for said County by W. H. Penland and
J. M. Penland the executors therein named, and
the due execution thereof by the said M. P.
Penland is duly proved by the oath and
examination of M. L. Neilson, W. L. Heilbard
and D. Coleman the subscribing witnesses thereto;
who being duly sworn, doth depose and say
and each for himself depose and say that
that he is a subscribing witness to the paper
writing now shown him purporting to
be the last will and testament of M. P.
Penland including the codicil thereto; that
the said M. P. Penland in the presence of this
deponent subscribed his name at the
end of the said paper writing which is
now shown as aforesaid, and which bears
date of the 27th day of June 1879.

And the deponent further saith that
the said M. P. Penland the testator aforesaid
did at the time of subscribing his name as
aforesaid, declare the said paper writing
to be his last will and testament, and the
deponent did thereupon subscribe his name
at the end of said will to wit said codicil
following said will on the same sheet of paper
as an attesting witness thereto, and at the
request and in the presence of the
testator. And this deponent further saith

that at the said time when the said testator
subscribed his name as an attesting witness thereto
to the said paper writing as aforesaid, and
at the time of the deponent's subscribing his
name as an attesting witness thereto as aforesaid,
the said M. P. Penland 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 further these deponents say me.

M. L. Neilson D
W. L. Heilbard D
D. Coleman C

Servicely sworn and
subscribed this 29th day
of Jan'y 1880 before me
E. W. Hendon
Probate Judge.

Whereupon it is considered by the Court
that the said paper writing and en-
fract thereof including these facts thereof
dated the 3rd day of December A.D. 1877, and
the codicil thereto, and thereupon following
upon the same sheet of paper dated
the 27th day of June A.D. 1879 is the last
will and testament of the said M. P.
Penland, and the same is allowed to be
recorded & filed
E. W. Hendon
Probate Judge

State of North Carolina } S. S. In the Probate Court
Buncombe County }

I - J. M. Penland and W. H.
Penland do solemnly swear & affirm
that I believe this writing to be and contain
the last will and testament of M. P.
Penland deceased; and that I will well &
truly execute the same by first paying
his debts and then his legacies as
said estate shall extend,
or the law will charge upon me; and that