

In the name of God Amen!

I, William A. Erwin of The County of Burke
and State of North Carolina being of sound
and disposing mind and memory do make,
ordain, and publish, This my last Will and
Testament hereby disposing of such Estate
as it hath pleased Almighty God to bestow
upon me:

Item first, I will That my Body (on my death)
be interred in a decent and christian like
manner and that the expence thereof shall be
defrayed by my Executor hereafter named
out of any monies belonging to my Estate -

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Item Second, I give and bequeath to my niece
Catherine M^cPowell and her heirs forever
my negroe Girl Jane and her two children
Sophia and Chang

Item Third, I give and bequeath to my nephew
John M^cPowell The sum of ~~Three~~ ^{Three} Hundred
dollars to be paid to him by my Executor
as hereinafter directed -

Item fourth, I give and bequeath to my nephew
William W. Avery a negroe boy Thomas
(son of Cecelia) to him and his heirs forever -

Item fifth, I give and bequeath to William

W. Avery Trustee for the sole and separate use
of Elizabeth S. Gaither the sum of Five Hun-
dred dollars - The said Unit or sum of money to
be invested by the said W. W. Avery in real Estate
or lands, wherever the said Elizabeth S. Gaither
may desire the same to be invested, and the
lands when purchased is to be held & possessed by
the said W. W. Avery and his heirs for the sole &
separate use of the said E. S. Gaither free from
the debts of her husband, the said E. S. Gaither
being allowed the privilege to occupy, enjoy and
use the lands when the same shall be pur-
chased - and on the Burke Co. NC Wills 1793-1868
www.northcarolinapioneers.com part of the said E. S. Ga-
ther the money above named or the real proper-
ty bought therewith, is hereby limited over to the
heirs of her Body -

Item fifth, I give, devise, and bequeath ^{and estate} ~~at~~
the rest and residue of my property, both
real and personal, (after paying the specific
legacies ~~herein~~ before named) to my Executor
William W. Avery, subject to the trusts, con-
ditions, powers of sale, investments and distributions
hereinafter directed to wit:-

It is my will that my Executor sell so much
of my Estate either real or personal at his dis-
cretion as may be necessary to pay and discharge

all my just debts and upon such terms as he
may deem advisable -
And as it is my wish that the late residence
my Father, now owned by Alexander H. Erwin
should not be owned and possessed by other
persons than the members of the Family
and as I ^{am} fearful from the pecuniary embarras-
=ments of Alexander H. Erwin - my Brothers
said lands may be sold for the payment
his debts and as I am further desirous of
providing a Home for my Brother A. H. Erwin
and my sister hereafter named - Now therefore
it is my will that ~~my~~ my Executor
after the payment of my debts and specific
legacies, shall sell all my Estate real
and personal (including my lands where
situated) at such time, and upon such
terms (either at public or private sale) as
he may in his discretion deem advisable
and the proceeds of said Sale is to be re-
=tained by my Executor and be invested
and applied to the purchase of the land
devised and bequeathed by my Father to
W. Erwin to his son Alexander Hamilton
Erwin whenever the same may be sold
to discharge and pay the present debts and
liabilities of the said A. H. Erwin - my son

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Executor bidding and paying such price or
sum of money for said lands as he may, in
his discretion think a fair valuation of said
lands — and my Executor is hereby directed to
secure a title to said lands when the same
shall be sold, to himself and his heirs, and
~~it is~~ ^{it is} my will that he and his heirs be seised and
possessed of said lands in Trust for the use of
Alexander Hamilton, Erwin, Cecelia M.
Erwin, Mary Erwin, & Catherine R. Gaither
during their natural lives
and in case of the death of any or either of them
then to the use of the survivor or survivors, and
on the termination of the above life Estates
the above mentioned lands are hereby lim-
ited over to ^{& the use of} my heirs as tenants in common, the
share of E. S. Gaither however is to be held by
the said W. W. Avery as Trustee for her sole and
separate use during her life — it is further my
will that the "cestui que trusts" for life live
upon and use said lands without paying or ac-
counting for rent to my Executor, and that A.
H. Erwin shall have and enjoy the ^{exclusive} control
and management of said lands & plan-
tation for the benefit of himself and sisters —
it is my wish that Catherine M. Powell should
live on said lands until the period of her
death or marriage —

It is further my will That in case there is
any funds belonging to my Estate in the hands
of my Executor after the payments of debts
legacies and purchases herein before directed
to be made then my Executor is to retain
said residue in his hands, and purchase
the lands (or so much thereof as the said
funds will buy) devised and bequeathed by
my Father William W. Erwin to Edw. and
Jons Erwin whenever said lands may be
subjected to sale for the payments of E. J.
Erwin's debts and my Executors shall stand
seised and possessed of so much of the lands
of Edward J. Erwin as he may purchase
in trust for the use of Edward Jons Erwin
and wife Ann during their natural lives
and then to the use of my heirs forever -
It is my will That my Executor continue to
operate with my negroes on the Gold mine
leased from R. G. Twitty & William Miller and
that he work jointly with Charles McGowell
and William C. Erwin thereon, unless said
operation should become unprofitable or
unless my Executor should deem it advis-
able and proper in his discretion to sell the

negroes and other property before the lease
on said mine expires - and more especially
may he desist from said operation if it
becomes necessary that he may effectuate
the intention of the foregoing clauses of
this my Will -

It is further my will, that if at the expiration
of three years from the time of my death, my
Brothers Alexander H. Erwin and Ed. J. Erwin
shall have paid and discharged their present
debts and liabilities or if at that time it
shall be the opinion of my executor that my
Brothers aforesaid are so far relieved from their
debts that the lands aforesaid will not
come into Market and be sold for the
payment of their debts, then the proceeds
of my Estate when sold, after paying my
debts & charges against my Estate, and the specific
legacies, shall be equally divided
between and among my heirs, being my Bro-
thers, and Sisters, or the children of any of
them who may be dead, said children
representing the Parent or Ancestor - The
Share to which Elizabeth S. Gaither may be
entitled however, is to be held by William
W. Avery for the sole and separate use of the
said E. S. Gaither and the amt when ascertained

to be used for one or more in proportion to
her share of the specific legacy heretofore given to C. S.
Gaither is to be deducted from her share of ~~the~~ my estate
when the same is distributed by my executor either
in money or lands as the case may be -
Item Sixth - I give and bequeath to my niece
Julia Gaither a negroe Girl Angeline (child
of Cecelia) to her and her heirs forever - This is
a specific legacy to her, and is to be included among
the specific legacies heretofore directed to be
paid, as I omitted to mention this bequest in the
first part of this my will -

I hereby nominate and appoint my nephew
William W. Avery Sole Executor of this my
last will and testament. In Testimony
whereof I William A. Erwin have hereunto
affixed my hand and seal this 13th day of
February 1846 in the presence of us before signing
signed sealed & acknowledged
in presence of us. W. L. McRee
H. Avery

Codicil to this my will, I give and bequeath to
Catherine A. McPowell all my bedding and
furniture, my silver spoons and silver ladles and
two tables purchased by me at Greenleafs Sale
and also my large Family Bible and all my
other Books - Witness my hand and seal this 13th day
of February 1846.

Witness W. L. McRee
H. Avery

The last Will & Testament of
William M. Ewing

May 16th 1837

Recorded

Mark H. Hulse
Thomas H. Hulse
James H. Hulse

Test. given &c. in 1837

Alfred Pickens

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State of North Carolina
Burke County 3rd October Term 1837

I. J. J. Ewing Clerk of the Court of Pleas
and Quarter Sessions for said County hereby certify
that the execution of the foregoing will and all
the codicils annexed thereto together with the
body of the same was proven by the oaths of Mark
Hulse Thomas Hulse & James Hulse to be the
signature and in the hand writing of the Testator.
and that it was proven to the satisfaction of the
Court that said will was found among the papers
and effects of said Testator by the oaths of Alfred
Pickens & William Alexander and was ordered to be
recorded and that William A. Ewing and Edward
J. Ewing two of the executors named in said will
were duly qualified according to law

Teste J. J. Ewing Clerk

Codicil the fifth

I do bequeath and devise to my son Adolphus the ballance of the
Tract of Land which I bought at Shopp's Sale in Rutherford County being
as is supposed about one Hundred & thirty Acres be the same more or
less to him & his Heirs forever -

My Will that and I do devise bequeath to my daughter Mary
Jane (and take from the bequest to her Belia & throw her into the Mass
of my estate) and all the Ballance of the Offspring of Arny to Mary
Jane & her Heirs forever

Given under my Hand & Seal this 16th day of May in the
Year of our Lord one Thousand eight Hundred & thirty seven

Wm. M. Lead

Codicil the Sixth

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Whereas I forgot in the enumeration of the debts due me from A
to call me that he owed me for the purchase of his House &
in Athens I now with bequeath that Debt with any other debt
I owe him to him & his Heirs forever

Given under my Hand & Seal this 16th day
of May in the Year of our Lord one Thousand eight Hundred & thirty seven

Wm. M. Lead

Codicil the Seventh

I do bequeath to my dear wife Matilda all the debts
which James McDowell & Burgess Gaithe my two Sons in
Law the Monies which they owe me by Bonds which
I hold on them to be to him & His Heirs forever for the use
of my House and to be at her disposal altogether

Given under my Hand & Seal this 16th
day of May in the Year of our Lord one Thousand
eight Hundred & thirty seven

Wm. M. Lead