

In Pursuance of Divine Providence
I Waightstill Avery Born in the county of new
London in the State of Connecticut Graduated
Bachelor and Master of arts at N. A. Hall
College in the State of New Jersey Attaining at
Law in N. Carolina do make this my last will
and testament

And first I do desire most earnestly to call
up all the powers of my soul heartily and sin-
cerely to bless and praise and give thanks
to Almighty God for many thousand instances
of his kind and merciful Providence to me
through my whole life and for the hope of
a blessed immortality by the righteousness of
the great Redeemer of Mankind. My Body
or bones I will to be removed from the place
of my decease wherever that may happen
to the grave ~~and~~ Hill near where old Doct
Rouchelt was first buried on the Swain Ford
Plantation in Burke County whereon I now live and
there to be buried in a decent manner by my
executor herein after named and that
the place thereof be made discoverable
by a solid piece of mason work of stone or
of Brick properly burned with salt to make
them durable and built part below and part
above the ground for a Sepulchre and this

I direct to be created and made by my
Executor at the expense of my estate if not
done by myself in my lifetime for the
purpose that my kin and from kin
-tree and other Mother states may
discover the place of my burial if they
should desire to find it and that part
of the inside thereof underground
may answer for a family vault for
myself and Wife and Children if any
should happen to be deposited therein
All my Lands on both sides French
Broad River near the Horse shoe neck
and extending ^{Burke Co. NC Wills 1793-1868} ^{www.northcarolinapioneers.com} about five miles more
or less from my upper line near the
line of Polly Cates Land whose Maiden
name was Polly Bowman and extending
down the River on both sides to the
lower line of that tract of my Land that
includes the mouth of Shaws Creek and
comprehending in this wise the Horse
Shoe neck and all my other Lands
thereabouts and adjoining the River and
tracts adjoining ^{and} another and all my Lands
on Shaws Creek aforesaid also my other Lands
on the East side French Broad River
between the lines of the Lands herein

before described and Blythes Mill Creek and my
new Grants, and new entries in Buncombe
County above said creek and Mills River
all the said Lands I give and devise the
same to my Eldest Daughter Polly Mira
Poor her heirs and assigns forever I also
give and devise to my said Daughter
Polly Mira Poor her heirs and assigns
for ever the following Slaves to wit. David
or Dave a Negro fellow purchased of
ambrose Carlton about seventeen or
Eighteen years old N^o 2 Negro man
Daniel about twenty two years old N^o 3
Negro man Aleck about twenty years old
N^o 4 a Negro Woman called Rachel N^o 5
her son called Perry about eight years
old next aug^t 1819 N^o 6 Rachels next son
called Manuel about five years old N^o 7 8
Rachels twins under one year old Girl
called and Girl called N^o 9 Mary
a Negro Woman purchased of a Negro Driver
about twenty years old N^o 10 the first child
of Mary called Em N^o 11 a second child
of Mary called N^o 12 a Negro Woman
called Barbara obtained from W. Thomas
Wentire in swap or exchange for Cressy

N^o 13 a Child of Barbara being her first
Child a Girl N^o 14 a second child of
Barbara N^o 15 a Mulatto Girl called Pat
also obtained of Thomas Venture in ex-
change for Cuffy and her two children
N^o 16 Negro Woman called Peggy purchased of
Doct. Tho^s Bouchell supposed to be about 18 or
19 years old N^o 17 Peggys first child a negro
Boy called Owen will be six years old next
September A^d 1817 N^o 18 Peggys second child
called N^o 19 Negro Girl ~~called~~ Felix will
be 12 years old next summer N^o 20 Negro
Boy called Arthur obtained in exchange
for Billy. The same twenty Slaves
herein mentioned and intended
and all their future increase
I give and devise to my said Daughters
Polly, Mira Poor and her heirs and
assigns forever I also give and de-
vise to my said Daughter Polly
Mira a Mourning Ring of Gold
with such motto or legend thereon
as she may choose to be procured by
my executor herein after named

N^o 13 a Child of Barbara being her first
Child a Girl N^o 14 a second child of
Barbara N^o 15 a Mulatto Girl called Fat
also obtained of Thomas W. Entire in ex-
change for Cuffy and her two children
N^o 16 Negro Woman called Peggy purchased of
Doct. Tho^s. Wenchell supposed to be about 18 or
19 years old N^o 17 Peggys first child a negro
Boy called Owen will be six years old next
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vise to my said Daughter Polly
Mira a Mourning Ring of Gold
with such motto or legend thereon
as she may choose to be procured by
my executor herein after named

I give and devise to my Daughter Selina
Louisa Lenor all my lands on the East
fork of Pigeon River together with
the Grants and Deeds for the same
and all evidence of title to the same
to her and to her ~~and to her~~ heirs and
assigns forever the same being situated
in Haywood County be it remembered
that this devise is intended to convey
to my said Daughter Selina Louisa
Lenor thirteen Hundred and seventy four
acres and having conveyed heretofore to
my Son in Law Thomas Lenor by Deed
of Gift Eleven Hundred and eighty six
Acres on the same East fork towards
his portion the whole quantity of Land on
the same East Fork intended towards
his portion is two thousand five Hundred
and sixty Acres. I also give and devise to
my said Daughter Selina Louisa Lenor
one tract of Land situated on both sides
Richland Creek in Haywood County
containing three Hundred and fifty Acres
the Grant for the same calls for beginning
at a Post Oak on the point of a Hill
above a field of Rocks and one other
tract of Land on the same Richland

Crack containing fifty Acres the Grant
for the same calls for beginning at
a Post Oak at or near a pavement of
rocks I give and devise the same two
tracts of Land to my said Daughter
Selina Louisa Lenoir her heirs and as-
=gns forever I also give to my ~~son~~
Daughter Selina Louisa a mourning
ring of Gold to be procured by my Executor
with such motto or Legend thereon as
she may choose also be it remembered
that I have heretofore made a deed
of gift to my said Daughter Selina
Louisa for seven Slaves intended at that
time for her Share of what I then possessed
and be it also remembered that ~~I have~~
heretofore I made a deed of gift to my
Daughter Betsy Lenoir Wife of William
B Lenoir for six Slaves intended at
that time for her Share of what I then
possessed and also deeds of gift to my said
Daughter Betsy and her said Husband
William B Lenoir for about four Thou-
=sand Acres of Land intended at that
time as and for her Share of what I then
possessed and was perhaps more valuable
than the property above devised and

devised to Selina Louisa I also give and
devise to my Daughter Betsy Lenor a
Mourning Ring of Gold to be procured by
my Executor with such motto or legend
thereon as she shall choose

I give and devise to my Son in Law William
Blenor and his assigns forever my
negro wench Alice and her six children
which she now hath to wit Ned. Ansel
Nancy Andrew Margaret & James to him
the said William Blenor and his heirs
and assigns forever Subject nevertheless
to a legacy payable to my well beloved Cousin
Margaret Avery of a likely negro Slave of
Nine or ten years old or four Hundred
dollars

^{in money} I give and devise to my
Son in Law Thomas Lenor my Negro
wench Sarah and her five children
which she now hath to wit Mose Lige
Ester Harvey and her youngest which is
a girl not named to him the said
Thomas Lenor his heirs and assigns
forever Subject nevertheless to a legacy
to be paid to my well beloved Cousin
Betsy Avery of a likely negro Slave of Nine
or ten years old or four Hundred
Dollars in money

My lands in Haywood County on Big Creek
by some called Aconatupla the Cavern fork
three of Nantahela Johns fork and other
Branches thereof I give and devise the
Same to my son Isaac ^{my} Thomas Avery
my son in Law William B. Lemon and
my son in Law Thomas Lemon to them
their heirs and assigns forever as ten-
ants in common equally to be divided
between them share and share alike
for quantity and quality and if the
Suits now depending in Equity ~~in~~ the
Superior Court for the County of Burke
to annul the grants of James Holland
John Walker should not be determined
before my decease in that case my
will is that the same Suits shall
be prosecuted in the best manner to
final Judgment at the Court expense
of the before named Legates each
paying one third of the expense costs
and taxes and that no compromise
or agreement be made with the said
Holland ^{and} Walker or either of them where-
by to give up any part of the said
Land or Subject themselves to costs
All the Lands I shall be possessed of
at the time of my Decease

or have the best title for either Legal or
equitable not otherwise disposed of by this
will in the Counties of Burke Buncombe one
Tract in Carter County situated in the
last cove near the head of Doe River
one tract in Lincoln County purchased
by me at Sheriff Sale on execution against
William Rice my four Lots in the Town
of Charlotte in the County and of Mecklenburg
= my two lots in the Town of Morganton
together with all my Grants and deeds
and evidences of title whatsoever for the
Same I give and devise the Same Land
to my son Isaac Thomas Avery his heirs
and assigns forever all my Negro slaves
in the County of Burke except such as
are otherwise devised in this will and
such as I shall be possessed of at the time
of my decease I give and devise the
Same to my said son Isaac Thomas
Avery his heirs and assigns forever all the
remainder of my estate and rights of action
in Law and in Equity I give and Devise
the Same to my said son Isaac Avery
his heirs and assigns forever. The property
mentioned in the two last devises subject
nevertheless to the following provision

for my well beloved Wife Leah
I give and devise to my well beloved Wife
Leah her Dower in the Swan pond
plantation whereon I now live during
her natural life what shall be laid
off for her Dower or what she shall
accept for her Dower and at her own
request ~~here to pass~~ heretofore the late
-in and service of the following Negro
Slaves to wit Dick Juliet Cheney & Tom during
the natural life of my said Wife and
after her decease I give and devise
the same Slaves to my said son Isaac
Thomas (or any) his heirs and assigns for
-ever I also give and devise to my said
well beloved Wife Leah out of the House
-hold furniture so many Beds and fur-
-niture as she may choose and so
much of the table furniture Cupboard
& Kitchen furniture as she may desire
my bed ding Chair and a good Churn
Horse of ^{the} value of one hundred dollars
at least and so many Milch cows as
she may desire to keep on her third of
the said plantation to be laid off ~~or~~ and
-opted as and for her dower to her and
her assigns to be disposed of as she may
Choose.

And now I will address a few words

to them who may be interested in this Testament
after my Decease all may be assured
that no part of what is here divided
was acquired by Horse racing gambling
or betting of any kind but by sober
honest industry and feel a cheerful
hope & Assurance that the same
will not be squandered or dissipated by
idleness or extravagance of any kind this
hope and assurance are comfortable to me
Let me entreat you that when I am laid in
the silent grave you may not con-
fer with one another about this property I
entreat you to aid ^{Burke Co. NC Wills 1793-1868} ~~and~~ assist each other
do good to each other let no one envy or
covet the lot of another but each one receive
the part here given as the bounty of heaven
and be assured that for the Love I bear
you all I would certainly wish that the parts
allotted to each was more and better for
your comfort than the whole, and let me
observe to you all that the part here given
and allotted to any one with the same sober
industry as that by which it was acquired and
Contentment therewith may be sufficient for the
short time you may stay in this life consider
that the good things of this world are the

Gifts of God I have been his steward in
these few things you are now to become
his stewards each for a part of the same
receive them as his gifts Bountifully bestow
ed upon you by him and be thankful
to him for the same drawing me to
taking a last adieu let me address a
few words to you Leah, who have been
the dear wife of my bosom and to my
dear children and call upon you
all in the first place to stop to praise
and to give thanks to god the author of
all good that it hath pleased him in his
kind and mercifull providence to pre-
serve ~~our~~ lives and spare us to each
other and ^{among} ~~many~~ other favours he hath
granted us that of endearing mutual
Society and that he hath enabled me to
administer so much towards relieving
your wants and adding to your comforts
for a number of years during my short
Span of life and in the next place
let me thank each one of you for
every kind and dutifull act and expression
to me during the time we have lived as
members of the same Family and pray God
to Shower down upon you all the Riches
of Heavens blessings and an

Ma

rest the blessing of long life on my dear
Dear children promised in the fifth com-
mandment to such as keep it, for your
kind and dutiful conduct to me as
your Parent as a dying man let me ent-
reat you to consider that when your Father
wrote this he was as well as you may be
when you read this as my Testament yet when
you shall after my decease read this as
my testament your Father will be in the
world of spirits when you will be there fast
hastening and that you know not how
soon you will each one be there also
that there is a God the creator and moral
Governor of the world all nature owes to
he must delight in virtue ~~and~~ moral
-tude and Holiness, and what he delights in
must be happy Surely there is a reward for
the righteous remember the creator and Deceiver
at all times and walk as in his presence
no act of yours can be concealed from his
all seeing eye. your conduct ^{must} ~~present~~ for ever
be ~~un~~ naked and open before him this
consideration ought to lead you to read and
renew the scriptures the divine oracles of
Truth and may God grant that you may
therein discover every duty, and when you

Consider the amazing consideration the
kind and merciful call the innumerable
invitations of the Gospel may all these
lead you to a religious life than that
come to the Adversary he will in no wise
cast out are not the few sands of the hour
Gleop of this life fast running out & must soon
be finished are not our moments num-
bered and known to him with whom we
have to do what can a human being be
more worthy of itself than to strive so to live
as the same human being shall wish it
had lived when it shall come to launch
into a boundless eternity into that world
of spirits where you ^{will} soon be
and where you will be fast hastening
when you shall read this as my testament
Is it not better to ponder and consider
before hand of standing before the throne
of God of beholding Jesus Christ in glory
of seeing and being seen by Myriads of
Angels and highly exalted spirits surround-
ing the throne of God in the heavenly world
I pray God ~~that~~ we may all attain Heaven
and eternal happiness and that you my
dear children who have been my dearest
comforts in this world may be my joy
in heaven through a boundless
eternity.

Adieu to you Leah Adieu to you my dear
children untill we shall meet in the next
world which I pray may be far endless
happiness

I do hereby appoint Isaac Thomas Avery
whole and sole Executor of this my last
will and Testament hereby (revoking) all
former and other wills by me heretofore
made and ratifying this only.

Sealed and delivered declared and published
by me this 20th day of February The year
of our Lord 1819.

In the presence of the undersigned
Witnesses who have subscribed their names
in the presence of the testator and in
the presence of each other

James Murphy

Wrightsall Avery

W Alexander

W A Esom

State of North Carolina

Burke County

I James Esom clerk of the Court of pleas
and quarter sessions for the County of Burke do hereby certify
the foregoing to contain a true copy of the last will and
Testament of Wrightsall Avery deceased now remaining
filed in my Office.

In testimony whereof I have hereunto
set my hand and seal of the said Court
at New Market in Morganton this 10th day of
April 1823. J. Esom clerk

State of North Carolina,

SS.

IN THE SUPERIOR COURT.

Burke County.

a certified copy of

A paper purporting to be the Last Will and Testament of

Mary White

deceased,

is exhibited before me, the undersigned, Clerk of

Court for said County, by A. C. Army Executor of J. T. Army, the execut

therein mentioned, and the due execution thereof by the said

was proven or subscribed in
 section 37, Chapter Eight of the
 Code of North Carolina by
 the oath and examination
 of B. S. Goither, who being
 duly sworn, deposes and says,
 that J. Erwin, clerk, whose name
 is signed to the certificate at-
 tached to said copy of said last
 will and testament, is dead
 and that he, the said B. S. Goither
 was well acquainted with the
 handwriting of said J. Erwin,
 having seen him write and
 that the signature of J. Erwin
 to said certificate is in the
 handwriting of said J. Erwin
 and has own proper signature
 The said B. S. Goither further de-
 poses and says, that the
 witnesses, James Murphy, Th.
 Alexander and W. A. Erwin
 have all been dead for many

years

sworn to and subscribed by B. S. Goither

before me August 2nd

1888 J. Pearson Clerk of the Court

I W. W. Avery do make and publish this
my last will and testament
In the first place. I give bequeath and
devise to my dearly beloved Wife Cornelia,
all my estate, both real personal and
mixed to have and to hold during her
natural life and at her death to be Equally
divided between all my Children or the
Survivors of them and in case any of
my Children shall die before my Wife
leaving Child or Children surviving such
Child or Children shall represent their
parent in such division.

2^d In case my Wife shall intermarry again
then it is my will and devise that her said
estate in my estate shall terminate and in
that event all of my estate real personal
and mixed shall be divided between
my said Wife and my Children and their
representatives, precisely in the manner
provided by law for the distribution of said
estate in case I had have died intestate &
my said Wife take the same to the like
extent and in the same manner as in
case of intestacy -

3^d It is my will and pleasure and I do direct
that my faithful and trusty servants Rufus
and his wife Aley remain with my Wife
during her life but if she shall marry
again and a division of my estate

shall become necessary, then the said
Refus and Wife shall have the liberty
of choosing their Owner among my Children
or my relations at such Valuation as
May be fixed by persons selected by my
Executor and likewise in Case my Wife
shall Not Marry again at her death
said Slaves, shall have the like privilege.

I do hereby nominate and appoint
my beloved brother Alphonzo Avery the Executor
of this my last Will and Testament
given under my hand and seal this
3^d July A D 1864. And it is my will and
desire and I so direct that my said Wife
shall at any time have the power to advance
any of my Children out of any of said
property, she may desire from time to time, and
that such Child or Children shall account
for all such advancements in the final
settlement and divisions of my said Estate,
except such advancements as may be necessary
for their education, which are not to be
accounted for. This Matter of advancements
is to be left to the discretion of my dear wife.
In testimony Whereof I have on the day aforesaid
Signed sealed and executed these presents
In presence of
B. S. Gaither Jurat
J. M. Hapfeldt
A. H. Ennis Jurat
W. W. Avery Seal

State of North Carolina,

Burke County, I. J. B. Kincaid clerk of
the Court of Pleas and Quarter Sessions for
the County and State of the said hereby certify
that the last will and Testament of W. W. Avery
decd. was offered in open Court for Probate
and the execution thereof was duly proven
by the oath of B. S. Gaither A. H. Endie
Subscribing witnesses
thereunto and the same is ordered to be
recorded -

Test J. B. Kincaid clerk

North Carolina,

Burke County, I. J. B. Kincaid clerk of the
Court of Pleas and Quarter Sessions for the
County and State of the said hereby certify that
the foregoing is a true and correct copy of
the last will and Testament of W. W. Avery
decd. as filed in my office.

In testimony whereof I J. B. Kincaid
clerk have hereunto affixed my seal
of said Court at office in Morganton
NC July 6th A D 1864

J. B. Kincaid clerk

State of North Carolina, County of Probate

Burke County

To the Judge of Probate for Burke County. The petition of A. C.

Avory, respectfully represents, that at the July term 1864, of the Court of

Plum & Quarter Sessions of Burke County, your petitioner offered for probate

a paper containing purporting to be the last will and testament of

W. W. Avory, late of said County, which was duly proven by the oath of

J. S. Gardner & A. H. Cowan, two of the subscribing witnesses thereto, and

submitted to record, in said Court, and upon petition, the person named

in said will, as the executor thereof, duly qualified as such and

recorded letters testamentary issued to him upon said estate, that

affirming by the casualties of war, the said original will on file

in the said Court, and the ~~said book containing a copy thereof~~

has been lost or destroyed, that he has procured a copy of said

will, with the certificate appended, signed by James B. Humeaid, the

former Clerk of said Court, under his seal of office, dated July 6

1864, immediately after the probate of said will, which is now

submitted to this Court, to be admitted to probate and file in this

Court in place of the original will. A. C. Avory

~~comes to this Office Court~~
~~and is entitled to be admitted~~

J. S. Gardner Probate Judge

James B. Humeaid, make the oath that he has examined the copy of the

said will of W. W. Avory, which is now presented in Court, that the

said copy, bears more, from the original will, after probate, on file in his

office by himself at the time it bears date, in his own hand written

and that he was Clerk of said Court at the time and that he is

satisfied that it is a true copy, and that his signature is genuine & the seal

attached in the end of the Office of said Court, that said will bears no

changes or loss, by the casualties of war, as stated in the petition of the

petitioner to and submitted to this Court. J. B. Humeaid