

subscribed his name to the said last Will as aforesaid, and at the time of the deponent's subscribing his name as an attesting witness thereto, as aforesaid, the said David L. Whitaker 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 not.

Gordon Crawford
W.C. Morrow

Severally sworn and subscribed.
This 15th day of April 1912, before
me.

A.A. Fair
Clerk Superior Court

North Carolina, } ss. In the Superior Court.
Cherokee County }

It is therefore considered and adjudged by the Court that the said paper-writing and every part thereof is the last Will and Testament of David L. Whitaker, deceased, Let the said Will, together with the probate, be recorded and filed. This 15th day of April 1912.

A.A. Fair
Clerk Superior Court.

Recorded April 15, 1912.

J.E. Nicely,
Depty. C.S. C.

State of North Carolina

To Clarence P. Olson, 53 State Street, Boston Mass.
Greeting:- In response, special trust and confidence in your integrity, do authorize and empower you to cause Samuel S. Gleason, Frederick E. Critchett and Allen H. Bond to appear before you at such time and place as you may appoint, and there or either oath to examine touching all such matters and things as they or either shall know of, and concerning and touching the execution of the last Will and Testament of Francis Kendall, and the proofs in writing, by you so taken, the same to transmit, sealed with your seal, to the undersigned Clerk of the Superior Court of Cherokee County, Wilkes A. Fair, Clerk of said Court, at Office in Murphy, N.C. the 22nd day of March A.D. 1912.

A.A. Fair
Clerk Superior Court.

In the matter of the execution of
the last Will and Testament of
Francis Kendall,
Commonwealth of Massachusetts,
Suffolk County, ss.

Pursuant to the annexed commission, directing the undersigned to take the deposition of Samuel S. Gleason, Frederick E. Critchett and Allen H. Bond, or either of them, in the matter of the execution of the last Will and Testament of Francis Kendall, to be used in the probate of said Will in Cherokee County, State of North Carolina I caused the said Frederick E. Critchett to appear before me at my office, to 53 State Street, in the City of Boston and Commonwealth of Massachusetts on the 12th day of April 1912, and I proceeded to examine the said Frederick E. Critchett, who being by me first duly sworn, deposes as follows:-

Deposition of Frederick E. Critchett,

1. What is your name, age and residence?
Ans. My name is Frederick E. Critchett, I am 54 years old, I live in Watertown, in the County of Middlesex and Commonwealth of Massachusetts.
2. Were you acquainted with Francis Kendall, late said Watertown, deceased?
Ans. I was well acquainted with Francis Kendall

Had known him for many years.

3. Are you one of the subscribing witnesses to the last will and testament of said Francis Kendall which is dated the 21st day of June, 1900, and which was proved and allowed by the probate Court for said County of Middlesex on the 5th day of April, 1904 and a duly authenticated copy of which will is now exhibited to you and to be annexed to your deposition?

Ans. Yes.

4. On the day of the date of said will did said Francis Kendall, in your presence and in the presence of Samuel P. Gleason and Allen H. Bond the other two subscribing witnesses, subscribe his name to said original will, and did he state that it was his last will and testament and did he request you and the other two witnesses to subscribe your names thereto as witnesses?

Ans. Yes.

5. Did you and the other two witnesses Thompson in the said Francis Kendall and in the presence of each other, subscribe your several respective names as witnesses thereto?

Ans. Yes.

6. At the time when said Francis Kendall subscribed his name to said will, as sponsor, and at the time when you, and said Samuel P. Gleason and Allen H. Bond subscribed your names as attesting witnesses thereto, was the said Francis Kendall of sound mind and memory, of full age to execute a will, and not under any restraint to your knowledge, information and belief?

Ans. Yes.

7. Is said Samuel P. Gleason living?

Ans. No, he died a few months ago.

8. When is Allen H. Bond, the other subscribing witness to said will?

Ans. I do not know of any even knowledge. He does not reside in Massachusetts. I have been informed that his residence is in the State of Maine, but that he is a sailor and that he is now somewhere at sea. But just where I have been unable to learn.

9. Did you see said Samuel P. Gleason and Allen H. Bond, sign their names as witnesses to said will of Francis Kendall in his presence and in your presence at the request of said testator, and on the same and respective signatures of the testator and of the three subscribing witnesses to said will genuine?

Ans. All three of the subscribing witnesses signed their names as witnesses to said will immediately after Francis Kendall had signed the will and they signed in his presence, at his request, and in the presence of each other, and the signature of said Francis Kendall, Samuel P. Gleason, Allen H. Bond and myself are the genuine signatures of the testator and of the three subscribing witnesses.

10. Have you any information as to whether or not a duly certified copy of said will of Francis Kendall has recently been filed or recorded in the office of the Clerk of the Superior Court of Cheshire County, North Carolina?

Ans. I have been informed that a copy of the will has been so filed or recorded, but I have no personal knowledge of that fact.

Frederick E. Brichette.

Subscribed and sworn to before me this twelfth day of April 1912.

Clarence P. Whelan
Commissioner.

(Seal)

I, Clarence P. Whelan, the Commissioner named in the annexed commission, do hereby certify that the evidence of the witness, Frederick E. Brichette was taken down under oath, and was preserved by him in my presence on the twelfth day of April, A.D. 1912, at my office to 53, State Street, in the City of Boston, County of Suffolk, and Commonwealth of Massachusetts, and that proof of the identity of said witness has been made before me. And I further certify that John E. Abbott, named as an executor of the will of said Francis Kendall was present at the taking of said deposition. Witness my hand and seal this twelfth day of April 1912.

Clarence P. Whelan
Commissioner.

(Seal)

Commonwealth of Massachusetts,
Middlesex, ss.

Probate Court.

I Charles J. McIntire, Esq., First Judge of the Probate Court within and for the County of Middlesex, hereby certify that William E. Rogers, whose signature is affixed to the annexed certificate and attestation, is the Register and proper certifying officer of said Court and has by law the custody of the Seal, and all the records, books, documents, and papers of or appertaining to said Court, and that said certificate and attestation are in due form and entitled to full faith and credit.

In witness whereof, I have hereunto set my hand this eleventh day of April, in the year of our Lord one thousand nine hundred and twelve,

Chas. J. McIntire,

First Judge of Probate Court.

I William E. Rogers, Register of the Probate Court for said County of Middlesex, do hereby certify that Charles J. McIntire, whose name is subscribed to the above certificate is the First Judge of said Probate Court, duly appointed, sworn, and qualified and that the signature of said Judge to said certificate is genuine.

In witness whereof, I have hereunto set my hand and the seal of said Court, this eleventh day of April in the year of our Lord one thousand nine hundred and twelve,

Wm E. Rogers,

Register of Probate Court.

Commonwealth of Massachusetts,
Middlesex, ss.

Probate Court.

I, William E. Rogers, Register of the Probate Court for said County of Middlesex, having by law the custody of the Seal and all the records, books, documents, and papers of or appertaining to said Court, hereby certify the papers hereto annexed to be true copies of papers appertaining to said Court, to-wit: The Will and Devise aforesaid and

Will of Francis Kendall late of Watertown in said County of Middlesex, Decent, be late, and I further certify that the proof of said Will in said Court was by oral testimony only, and that there are no proofs or statements of substance of proof on file or of record in said Court.

In witness whereof, I have hereunto set my hand and the seal of said Court this eleventh day of April in the year of our Lord one thousand nine hundred and twelve,

Wm E. Rogers,
Register,

I Francis Kendall, of Watertown, in the County of Middlesex, and Commonwealth of Massachusetts, make this my last Will, hereby revoking any and all Wills by me at any time heretofore made.

After the payment of my just debts and funeral expenses, I give, devise and bequeath as follows:-

1. I give to my son, John Hathaway Kendall all articles of personal, domestic, or household use and ornament belonging to me which at the time of my decease may be in the house then occupied by me as my principal place of residence.
 2. All of the residue of my property, both real and personal, I give, devise and bequeath unto my trustees herein after named, and to the survivors or survivors of them and to his and their successors or successors, upon trust to hold, manage, sell, invest and reinvest the same and to pay over the net income of the trust property in equal shares to my sons Francis Paul Kendall and John Hathaway Kendall, so long as they both shall live.
- In case my son Francis should die before my son John, I direct my said trustees to pay over the whole net income of the trust property to my son John.
- In case my son ~~Francis~~ should survive my son John I direct my said trustees to pay to him during his life one half of the net income of the trust property. Upon the death of my son John, in case my son Francis should then be living, I direct my trustees to pay over in equal shares to the children of my son John, and to the issue of any deceased child

Of his by right of representation, one half of the net income of the trust property until the death of my son Francis, and thereafter to pay to said children and issue the whole of the net income of the trust property.

After the death of my said two sons, and when the youngest surviving child of my son John shall have attained the age of twenty-five years, I direct my said trustees to pay on one half of the principal of the trust property in equal shares to the children of my son John and to the issue of any deceased child of his, such issue to take by right of representation the share which their parents would have been entitled to receive if such parent had survived; and thereafter until the death of the last survivor of the children of my son John, my said trustees are to pay on the net income of the remaining half of the trust property, in equal shares, to the children of my said son John and to the issue of any deceased child of his, such issue to take the same share to which their parents would have been entitled if then living.

After the death of my said two sons and upon the death of the last survivor of the children of my son John, I direct my said trustees to distribute and pay on all of the trust property then remaining to the issue of the children of my son John in equal shares per stirpes and not per capita; that is, the issue of each deceased child shall collectively take the same share which their parents would have received, if living, and if I had provided that the trust property should be paid on in equal shares to the children of my son John, when the youngest of said children attains the age of twenty-five years.

I appoint my son John H. Atherton Kendall and John E. Abbott of said Watertown executors of and trustees under this my Will, and I request that each of them shall be exempt from furnishing any surety or sureties on their official bonds both as executors and as trustees.

I hereby authorize and empower my said executors and the survivors or survivor of them and also

my said trustees and the survivors or survivor of them to sell at public or private sale any part or parts or the whole of my real and personal estate, both real and personal for such price and on such terms and conditions as they may think fit, and to execute, acknowledge and deliver suitable deeds and other written instruments to convey and transfer the same, and no purchaser either from my executors or from my trustees shall be answerable for the application of the purchase money.

I hereby direct that each of my said executors and trustees shall be answerable and accountable only for his own acts, and not one for another nor for any other person with whom or into whose hands any trust money or securities may be deposited or come, nor for any loss or depreciation of the trust property, unless the same shall happen through their own neglect or default or gross neglect or default. In witness whereof, I have set my hand this twenty-first day of June A.D. 1900.

Francis Kendall.

Signed, published and declared as and for his last will by the said Francis Kendall, this twenty-first day of June, 1900, in the presence of us three, who, at his request, in his presence, and in the presence of each other, have hereunto set our hands as witnesses.

Samuel S. Gleason.

Frederick E. Britcher

Allen H. Bond.

Commonwealth of Massachusetts,
Middlesex ss.

At a probate Court holden at Cambridge in and for said County of Middlesex, on the fifth day of April in the year of our Lord one thousand nine hundred and four. On the petition of John H. Kendall and John E. Abbott, of Watertown in the County of Middlesex, praying that the within instrument purporting to be the last Will and testament of Francis Kendall late of Watertown in said County of Middlesex, should be proved and allowed, and letters testamentary issued to them, the said petitioners being named within giving a surety on their bond, and the heirs at law next of kin, and all other persons interested in

Of his by right of representation, one half of the net income of the trust property until the death of my son Francis, and thereafter to pay to said children and issue the whole of the net income of the trust property.

After the death of my said two sons, and when the youngest surviving child of my son John shall have attained the age of twenty-five years, I direct my said trustees to pay over one half of the principal of the trust property in equal shares to the children of my son John and to the issue of any deceased child of his, such issue to take by right of representation the share which their parent would have been entitled to receive if such parent had survived; and thereafter until the death of the last survivor of the children of my son John, my said trustees are to pay over the net income of the remaining half of the trust property in equal shares to the children of my said son John and to the issue of any deceased child of his, such issue to take the same share to which their parent would have been entitled if then living. After the death of my said two sons and upon the death of the last survivor of the children of my son John, I direct my said trustees to distribute and pay over all of the trust property then remaining to the issue of the children of my son John in equal shares per stirpes and not per capita; that is, the issue of each deceased child shall collectively take the same share which their parent would have received, if living, and if I had provided that the trust property should be paid over in equal shares to the children of my son John, when the youngest of said children attains the age of twenty-five years.

I appoint my son John H. Atherton, Kendall and John E. Abbott of said Watertown executors of and trustees under this my Will, and I request that each of them shall be exempt from furnishing any security or securities on their official bonds both as executors and as trustees.

I hereby authorize and empower my said executors and the survivors or survivor of them and also

my said trustees and the survivors or survivor of them to sell at public or private sale any part or parts or the whole of my real and personal estate, both real and personal for such price and on such terms and conditions as they may think fit, and to execute, acknowledge and deliver suitable deeds and other written instruments to convey and transfer the same, and no purchaser either from my executors or from my trustees shall be answerable for the application of the purchase money.

I hereby direct that each of my said executors and trustees shall be accountable and accountable only for his own acts, and not one for another nor for any other person with whom or into whose hands any trust money or securities may be deposited or come, nor for any loss or depreciation of the trust property, unless the same shall happen through their own wilful default or gross neglect or fraud. In witness whereof, I have set my hand this twenty-first day of June A.D. 1900.

Francis Kendall.

Signed, published and declared as and for his last will by the said Francis Kendall, this twenty-first day of June, 1900, in the presence of us three, who, at his request, in his presence, and in the presence of each other, have hereunto set our hands as witnesses.

Samuel S. Gleason.
Frederick E. Britchell
Allen H. Bant.

Commonwealth of Massachusetts,
Middlesex ss.

At a probate Court holden at Cambridge in and for said County of Middlesex, on the fifth day of April in the year of our Lord one thousand nine hundred and four. On the petition of John H. Kendall and John E. Abbott, of Watertown in the County of Middlesex, praying that the within instrument purporting to be the last Will and testament of Francis Kendall late of Watertown in said County of Middlesex, should be proved and allowed, and letters testamentary issued to them, the executor's office named within giving a security on their bond, and the said last will or will, and all other papers and documents therein

Only notified, according to the order of Court, to appear, and show cause if any the have, against the same. Objection made thence having been withdrawn and it appearing that said instrument is the last Will and Testament of said decedent, and was legally executed, and that said testator was, at the time of making the same, of full age and sound mind, and that said petitioners are competent persons to be appointed to said trust, It is found and decreed that said instrument be approved and allowed, as the last Will and Testament of said decedent, and letters testamentary be issued to said petitioners. They first giving bond without sureties for the due performance of said trust.

Geo. F. Lawton
Judge of Probate Court

In the matter of the last Will and Testament of Francis Kendall.

Upon the foregoing examination of Frederick E. Britchell before before Clarence P. Weston, It appearing that the paper writing dated the 21st day of June 1900, was signed by said Francis Kendall and declared to be his last Will and Testament in the presence of Frederick E. Britchell, Samuel P. them and Allen H. Baul, who, at the testator's request signed said paper writing as witnesses and testators, and in the presence of each other; and that said witness, Gleason, is dead, and the signature to said paper writing purporting to be his is in his proper handwriting and is his genuine signature; and the witness Baul, being beyond the jurisdiction of the Commissioner, and his whereabouts not known; It is adjudged by the Court that the paper writing bearing date of 21st day of June 1900, signed and witnessed as aforesaid, and which is attached to the foregoing deposition which has heretofore been recorded in this office, and the whole thereof is the last Will and Testament of Francis Kendall, decedent. It is further ordered and adjudged that said paper writing and the copies, proofs, and other documents attached be registered in the Book of Wills of Cherokee County. This April 17th 1912. All Faint
Chas. L. Linn, Clerk

State of North Carolina, Cherokee County.
I N. A. Bryson being of sound mind, and knowing the uncertainty of my earthly existence, do declare this to be my last Will and Testament.
(First.) I devise and give to my brother David Bryson all of my property and earthly possessions for his own use and none other, consisting of everything I possess at my death.
In case David Bryson should die before I do, then what I possess shall go to my mother Jane Bryson.
I hereby appoint my brother David Bryson my lawful executor to carry out my wishes according to my last Will.
In testimony whereof I have hereby signed this my last Will and Testament, this Oct 24th 1910
Witness.
R. L. Hampton
Jane Bryson

North Carolina
Cherokee County

In the Superior Court
Before the Clerk

A paper containing purporting to be the last Will and Testament of N. A. Bryson, is exhibited before me the undersigned Clerk of the Superior Court for said County, by David Bryson the executor thereof and the execution thereof by the said N. A. Bryson is proved by the oath of R. L. Hampton and Jane Bryson the subscribing witnesses thereto, who being duly sworn each for themselves both depose and say, that they are subscribing witnesses to the paper writing now shown them purporting to be the last Will and Testament of N. A. Bryson; that the said N. A. Bryson in the presence of three deponents subscribed his name thereto at the end of said paper writing now shown as aforesaid, and which bears date of the 24th day of Oct. 1910.

And three deponents further swear that the said N. A. Bryson the testator aforesaid, died, at the time of subscribing his name as aforesaid declare the paper writing as subscribed by her and exhibited to be her last Will and Testament, and three deponents thence subscribed their names at the end of said Will as attesting witnesses thereto, and at the request and in