

as witnesses.
James Davis.
Mr. Elmore.

his
Edwin X Taylor *(Seal)*
mark

Recorded in the office of the Superior Court Clerk and Probate Judge of Lenoir County in Kinston, N. C. the 27th day of September, 1876.

W. H. Hunter,
Clerk & Judge.

Francis A. Rouse

Lenoir County:— In the Probate Court.
In the matter of the will of } Before W. H. Hunter,
Francis Ann Rouse } Judge of Probate.
At. H. H. Blount & Geo. H. Jones being sworn, each say:
That Francis Ann Rouse late of said County is dead,
having first made and published her last Will and
Testament; and that Wiley Rouse is the executor named
therein. Further, that the property of the said Fran-
cis Ann Rouse, consisting of about 408 acres of land
household and kitchen furniture, stock, and farming
implements is worth about \$3000⁰⁰, so far as can be as-
certained at date of this application; and that Laura
Rouse, Mingo Rouse, and Elphila G. Rouse, are the per-
sons entitled under said will to said property.
Sworn to and subscribed before
me, this 7th day of Dec., 1876.
W. H. Hunter,
Probate Judge.

State of North Carolina.

Lenoir County, ss. In the Probate Court.
A paper purporting to be the last will and testament of
Francis Ann Rouse, deceased, is exhibited before me, the
undersigned Judge of Probate for said County, by Wiley
Rouse, the executor therein named, and the due execu-
tion thereof, by the said Francis Ann Rouse, by the oath
and examination of H. H. Blount and G. H. Jones, the sub-
scribing witnesses thereto: who being duly sworn, each de-
pose and say, and each for himself doth depose and
say, that he is a subscribing witness to the paper writ-
ing now shown him, purporting to be the last will
and testament of Francis Ann Rouse; that the said

Frances Ann Rouse in the presence of this deponent sub-
scribed his name at the end of said paper writing, which
is now shown as aforesaid, and which bears date of the
27th day of February, 1875. And the deponent further
saith, That the said Frances Ann Rouse, the testatrix of
said, did, at the time of subscribing her name as aforesaid,
declare the said paper writing as subscribed by her, and ex-
hibited to be her last will and testament, and this deponent
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 said testatrix. And this deponent furth-
er saith that at the said time when the said testatrix
subscribed her 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 Frances
Ann Rouse 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.

H. H. Blount, *(Seal)*
G. H. Jones, *(Seal)*

Sworn to and subscribed
this 7th day of Dec., 1876, before me.
W. H. Hunter,
Probate Judge.

Lenoir County— Probate Court. December 7, 1876.

On reading and considering the application of Wiley Rouse
to admit a paper writing purporting to be the last will and
testament of Francis Ann Rouse, decd., to probate, and to be
qualified as Executor thereof, according to the appointment there-
by made, and having examined on oath H. H. Blount and G.
H. Jones, the two subscribing witnesses thereto, as to the execu-
tion thereof: It is adjudged that the said paper writing
and every part thereof, is the last will and testament of the
said Francis Ann Rouse, deceased, and the same, as such,
is ordered to be recorded and filed, and, thereupon the said
Wiley Rouse, the executor aforesaid, comes forward and takes
and subscribes the following oath:

State of North Carolina.

Lenoir County, ss. In the Probate Court.

I, Wiley Rouse, do solemnly swear that I believe this writing
to be and contain the last will and testament of Francis Ann
Rouse, deceased, and that I will well and truly execute the

same by first paying her debts and then her legacies, as far as the said estate shall extend, or the Law will charge me; and that I will will and faithfully execute the office of an executor, agreeable to the trust and confidence reposed in me, and according to law, so help me God.
 Sworn and subscribed before me,
 this 7th day of Feb., 1876.

Wm. H. Hunter,
 Probate Judge.

whereupon letters testamentary are issued to the said Wiley Rouse as Executor of the said last will and testament.
 Wm. H. Hunter,
 Probate Judge.

I, Frances Ann Rouse of the County of Senoia and State of North Carolina, being of sound mind and memory, but considering the uncertainty of my earthly existence, do make and declare this my last will & testament in manner and form following, that is to say, I give and devise to my children, Laura Rouse, Mingo Rouse, & Myrtilla G. Rouse my home tract of land adjoining the lands of George Jones, George H. Jones & Metas Jones, estimated to contain four hundred & eight acres, to have and to hold to them & their heirs in fee simple forever. It is my wish & desire that the above described land shall be divided into three equal parts or number of acres between my above named children & that my son Mingo shall receive for his share, the lot or part on which the Dwelling House & outbuildings are situated.

I give & devise to my said children, Laura Rouse, Mingo Rouse & Myrtilla G. Rouse all my personal estate, to them & their assigns forever. It is my wish, my wish & desire in the division of my personal property, that my daughters Laura Rouse & Myrtilla G. Rouse shall receive two hundred dollars, each, more than my son Mingo Rouse, in consideration of my having given the said Mingo, in the division of the land, the lot or part on which the Dwellinghouse and outbuildings are situated. The above bequests of both my real & personal estate are made upon the conditions as follows. No part or portion of said real estate or personal property is to be sold or disposed of until after the death of their father, my husband, Wiley Rouse; that the Dwellinghouse I now

occupy, or such other as may hereafter be built, shall be & constitute a home for my husband, the said Wiley Rouse & my children, the said Laura Rouse, Mingo Rouse & Myrtilla G. Rouse during the life of my husband the said Wiley Rouse; that the annual rents, profits, income &c derived from the land or from any other source whatever shall be devoted to the support & education of my said children, Laura Rouse, Mingo Rouse, & Myrtilla G. Rouse, to the necessary repairs of Dwelling House & plantation & the surplus or excess of such annual rents, profits, & income, may be used by my Executor hereinafter named as in his judgment may seem best, without his being required to render an account of the same. I give & devise to my son Thomas A. Rouse & my daughter Henrietta, wife of Benjamin Rouse, one dollar each, their father, Wiley Rouse, having heretofore given each of them their portion of both land & personal property. I give & devise to my daughter, Barbara E. wife of Enoch Smith, my son Wiley H. Rouse, my daughter, Francis A. wife of John Barwick & my son Edgar Rouse, one dollar each. Having heretofore given each of them their portion of both land & personal property.

I give & devise to my husband Wiley Rouse, one dollar. And lastly, I do hereby constitute & appoint my beloved husband, Wiley Rouse, my lawful executor to all intents & purposes, to execute this my last will & testament, according to the true intent & meaning of the same, hereby revoking & declaring utterly void all other wills & testaments by me heretofore made. And it is my special request & desire that no bond or security of any kind be required of my husband, Wiley Rouse as executor of this my last will & testament. In witness whereof, I, the said Frances Ann Rouse do hereunto set my hand & seal this the fourth day of February, A. D., 1876.

Frances A. Rouse, *Test.*

signed, sealed, published & declared by the said Frances Ann Rouse to be her last will & testament, in the presence of us, who at her request & in her presence, do subscribe our names thereto.

H. H. Blount,
 G. H. Jones

Recorded in the office of the Probate Judge and Superior Court clerk of Senois County, in Kingston, N.C., the 7th day of December, 1876.

W. H. K. Hunter,
Judge & Clerk.

Senas Davis.

State of North Carolina,
Senois County.

Probate Court.
June 30th, 1876.

In the matter of the will
of Senas Davis, dec'd.

An application for letters testamentary having been made to me, W. H. K. Hunter, Judge of Probate of Senois County, by J. K. Davis, Exr. of the last will and testament of Senas Davis, dec'd., on the estate of said Senas Davis, dec'd., and upon the exhibit of the said will &c, it appearing that I am one of the subscribing witnesses thereto, and therefore under the 419 Sec. of C.C. P. subdivision 3, I am disqualified to act as Judge of Probate in the premises, and thereupon refused to act in obedience of said law. This 30th day of June, 1876.

W. H. K. Hunter,
Judge Probate.

(S. S.)

North Carolina,
Senois County.

Application of J. K. Davis, Exr. to remove proceedings in the case of the Probate of S. Davis, dec'd will.

To his Hon Judge A. L. Seymour of the 3rd Judicial District of N.C.

The application of J. K. Davis, Exr. of Senas Davis, dec'd. respectfully, shows to your Honor:

- I That Senas Davis, late of the County of Senois, N.C., departed this life at his residence in said county and state on the 27th day of June, 1876.
- II That prior to his death, to-wit, on the 9th day of April, 1875, he made, executed and published his last will and testament in writing, whereby he appointed your applicant his executor, and also by said will devised certain real and personal estate therein mentioned to your said applicant.
- III That Nancy Davis, relict of said Senas Davis, dec'd., Izariah Noble, Zebediah Davis, Elkanah Davis, Almah Hindy Davis and Elizabeth Taylor are the other devisees mentioned in said will.
- IV That H. P. Burton and W. H. K. Hunter, of Senois County, N.C., are the only subscribing witnesses to said will.
- V That W. H. K. Hunter is the Probate Judge of the said County of Senois, N.C., and by reason of his said office, is disqualified to act as Probate Judge in the Probate of the said will, under the 419 Sec. of the C.C. P.
- VI That a waiver of said disqualification cannot be had for want of count of the infirmity of some of the devisees) as is provided in the