

Joseph Newton Whitner

Will

The State of South Carolina.

Anderson District.

I Joseph Newton Whitner of the state and District aforesaid, do make and ordain this my last Will and Testament and hereby revoke any Will by me heretofore executed.

First - I desire that all my just debts be paid from such property as I may have at the election of my beloved wife Elizabeth Hampton Whitner whom I hereby constitute and appoint my sole Executor.

Second - I give and bequeath my estate to my wife during her natural life with full power to dispose of the same as she may think proper by Deed, Will or otherwise; and if my wife shall die intestate and without having disposed of the same as aforesaid, I give and bequeath my estate to my children, to be equally divided amongst them share and share alike, except that in such division an account shall be taken of my advances heretofore or hereinafter to be made either

without making disposal of the same as
afore said, I give and bequeath my
estate to my children, to be equally
divided amongst them share and share
alike, except that in such division an
account shall be taken of my advances
heretofore or hereinafter to be made either
by myself, or by my wife after my death.

And if any of my children shall die before
my own death or the death of my wife
in that event my desire is that the portion
such child would have received if living,
on the contingency provided herein, shall go
to the husband or wife as the case may be
and the children of such child, such
portion being distributed equally amongst
them; my desire being that the survivors
of such child constituting this class
and composing the family of such child
shall have and enjoy the estate intended
for such child amongst themselves;
and if such deceased child shall not have
a child or children living on the contingency
contemplated when the residue of my estate

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is to be divided then my desire is that
the Husband or wife as the case may be
of such deceased child shall have and
enjoy one half the portion such child would
have received if living and the remainder shall
not revert and be divided as the residue
of my estate is otherwise provided.

Heretofore I have not otherwise provided
by any will previously made, than by giving
my estate in fee to my wife, relying that as
the survivor she could best apportion the
children according to circumstances, but in
the progress of time I have made considerable
advances to some of my children and as
some casualty might befall so as to prevent
my wife, through my survivor, from
making any disposition of her estate and
in this way a great wrong done ^{to} my children
who may not have been equally advanced
the scheme now adopted is designed to provide
against such casualty; but let it be understood,
for such is my declared purpose that
any and every disposition of my estate, in
whole or in part by my wife, if she survives
me, whether for her own benefit or the benefit

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the scheme now adopted is designed to provide against such casualty; but let it be understood, for such is my declared purpose that any and every disposition of my estate, in whole or in part by my wife, if she survives me, whether for her own benefit or the benefit of any of any one else shall be valid and effectual to the full extent she may have designed or provided -

I commend to my children the same affection for each other and their Mother they have heretofore manifested assuring them that the provisions of this Will in no way indicate any want of affection on my part toward them as a family or individually - Jointly we have cared for them and the surviving Parent should be untrammelled in any further management of what estate may remain -

My Executrix is fully discharged from any inquiry by reason of any existing Law from submitting either inventory or annual accounts of her conduct, by reason of the trust herein created, and

This Will shall be her shield against any mandate from Court of Ordinary or of Chancery touching her actings and doings in the premises so long as she may continue of sound mind.

In testimony whereof I have subscribed my name and affixed my seal, this seveneenth day of August A. D. 1861 The same being executed and published as my Will in the presence of the three subscribing witnesses whose names appear each of whom attest likewise in my presence

Albert A. Morse
A B Powers
A O Morris

~ word "a Child or" written by myself.
~ Signed J. N. Whitner Secy
~

South Carolina ~ Personally appeared A. O.
Anderson District ~ Morris and made oath that
he did see J N Whitner sign
the foregoing as and for his last Will and
Testament I am that he believed at the time
of signing the same that Testator was of sound
mind memory and understanding and

South Carolina Personally appeared A.O.
Anderson District Norris and made oath that
 he did see J N Whitner sign
the foregoing as and for his last Will and
Testament and that he believed at the time
of signing the same that Testator was of sound
mind memory and understanding and
that Albert A. Morse and A. B. Powers was
with himself subscribing witnesses to the
same and that they all signed in the presence
of the Testator and of each other - Sworn to
and subscribed before me this 9th day of
May A D 1864
Herbert Hammond
O. A. D.

South Carolina I Herbert Hammond
Anderson District Ordinary of Anderson
 District hereby certify
that the foregoing last Will and Testament
of Judge Joseph Newton Whitner, deceased,
was admitted to probate in Common form
on the oath of Andrew O. Norris one of the
subscribing witnesses to the same on the
day and date above written and that on

the 23^d day of May 1864 Mrs. Elizabeth
Hampton Whitner qualified as executrix
and obtained Letters Testamentary.

Given under my hand & seal this
23^d day of May A.D. 1864.

Herbert Hammond
C. A. D.

State of South Carolina
Anderson County

I, W. W. Humphreys
Judge of Probate in and for the County of
Anderson and State aforesaid do hereby
certify that the foregoing is a true and
correct copy of the original Will of Judge
J. B. Whitner and Probate and certificate of
Ordinary on file and of record in
my office.

Given under my hand and
official seal this the Twenty fourth
day of November A.D. 1877.

W. W. Humphreys,
Judge of Probate.

State of North Carolina = Court of Probate.

Anderson and State aforesaid do hereby
certify that the foregoing is a true and
correct copy of the original Will of Judge
J. A. Whitner and Probate and certificate of
Ordinary on file and of record in
my office.

Given under my hand and
Official Seal this the Twenty fourth
day of November A.D. 1877.

M. W. Humphreys,
Judge of Probate.

State of North Carolina - Court of Probate,
Macon County

It is adjudged
that the probate and exemplification
of the foregoing Will of Joseph
Newton Whitner of Anderson District
South Carolina, is in due form and
said Will has been allowed, Recorded
and filed, this 13th day of January 1878.

N. A. Allman,
Judge of Probate.