

J. J. Fleming

March 16th 1877

In the name of God Amen, I, David B. Fleming of the County of Yadkin and State of North Carolina being of sound and perfect mind and memory do this the 16th day of March in the Year of our Lord 1877 make and publish this my last will and testament in manner following That is to say;

Item 1.

That first of all, I will that all of my just debts be paid

2.

I will devise and bequeath to my beloved wife Eliza B. Fleming all of my real estate that relates to the same tract of land together with all the houses and out buildings and appertinances thereunto belonging; also all of the personal property of every kind and description including stock of all kind farming implements, household and kitchen furniture, tools and other evidences of debt money on hand and in fact every article of property or estate of every kind that I may have at my death, to have and to hold during her natural life to use and enjoy the same as if it was her own in fee simple and without accountability to any one, except the right of alienation of the real estate.

3.

I will devise and bequeath a certain tract of land or the proceeds of the same to my beloved children that is to say: To my three grand children to wit: Eliza Jane, David Arthur, and John Franklin Rice, heirs of my beloved daughter Mary Melissa Rice, Samuel F. Fleming, John B. Fleming Elizabeth T. Mason, Catharine R. Fleming, Martha M. Macy, Nancy E. Carter Sarah A. Gough and Hannah L. Fleming each to share alike equal in the proceeds of the above named certain tract of land, provided however that Samuel F. Fleming, John B. Fleming, Elizabeth T. Mason and Nancy E. Carter shall ^{take} into account the notes I held on them severally for advancements made by me to them, provided further that there shall be no interest counted on any of said notes. The certain tract of land herein referred to is situated and lying in the county of Iredell State of North Carolina on the waters of Duck Creek adjoining the lands of James A. Heathcock and others; which tract of land I have sold to C. M.

Hampble on the following condition: to wit: he has agreed to give me five dollars for every five acres number of acres the tract brings it when surveyed; and I gave him a bond for a deed to the same when paid for, the said to cover three years from the date thereof conditioned as set forth in the paper writing relating to the tract. Now therefore it is my will that if the said J. M. Hampble shall faithfully comply with and carry out the conditions of the above named Sale as set forth in the paper writing relating thereto I hereby empower and require my Executor who may be hereafter named in this my last will and testament, to make to the said J. M. Hampble a good and lawful deed. But if the said J. M. Hampble shall fail or neglect to comply with the conditions fully of the tract, then and in that case, It is my will that my Executor shall sell the above named tract of land either privately or publicly as it may be the most conducive to the interest of my estate and in either case the proceeds arising from the said sale of said tract of land to be divided among my beloved children as named and conditioned in the foregoing of this item.

" 4 My will is that in consequence of advice rendered to me by my two sons Samuel F. Fleming, and John C. Fleming after they were of age there shall be no account taken in the distribution of my estate under this my last will and testament of a horse that my said Samuel F. Fleming has had, nor of a horse and two Mules that my said John C. Fleming has heretofore had.

" 5 My will further is that after the death of my beloved wife Eliza C. Fleming all of the personal property belonging to my estate that has not been by her consumed or sold shall be sold at public sale according to the law of the land, and the proceeds of the same equally divided between all of my beloved children whose names are above mentioned in this my last will and testament. Also all my real estate that has not been otherwise disposed of in this my last will and testament; shall be equally divided between all of my beloved children whose names have been herein above mentioned either by being cut up into lots of equal value so near as may be, or by selling the land and dividing the proceeds as the legates may elect.

" 6 My will further is that my executors hereinafter named pay all of my debts if any out of any money on hand at my death.

Item 7

I do hereby nominate constitute and appoint my
beloved sons Samuel F. Fleming and John B. Fleming
of the County of Gaskin and the other the County
Lawyer, as executors of this my last Will & Testament
with full power necessary for the execution of the
same. In witness whereof I have hereunto set
my hand and seal the day and date above written

Test Andrew Treeland

2d Thomas A. Nicholson

his
David S. Fleming (mark)

State of North Carolina } In the Probate Court
Gaskin County) April 21st 1878

A paper purporting to be the last Will and Testament
of J. J. Fleming deceased, is exhibited before one the
undersigned Judge of Probate for said County by
S. F. Fleming & J. B. Fleming the executors. Their names
and the due execution thereof by the said J. J. Fleming
by the oath and examination of Andrew Treeland &
T. A. Nicholson the subscribing witnesses. Who being duly
sworn, each depose and say and each for himself
depose and say that he is a subscribing witness
to the paper writing now shown him purporting to
be the last Will and Testament of J. J. Fleming that
the said J. J. Fleming in the presence of this deponent
subscribed his name at the end of said paper writing
which is now shown as aforesaid, and which bears
date of the 16th day of March 1877.

And the deponent further saith. That the said J. J.
Fleming the testator aforesaid, did at the time of
subscribing his name as aforesaid, declare to the said
paper writing so subscribed by him, and exhibited,
to be his 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 the said testator. And this deponent further
saith that at the said time when the said testator 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
there to as aforesaid.