

WILL OF

JACOB DUCKETT

The State of South Carolina
Newberry District

I Jacob Duckett, being of sound and disposing mind and memory, calling to mind the shortness and uncertainty of life, do make the following disposition of my estate to take effect at my death as my last will and testament.

First. It is my wish that all my just debts be paid out of the cash on hand at my death and the money that may be collected upon the debts due to me.

Second. I desire that five disinterested and discreet men be appointed, as soon after my death as may be convenient, by the then ordinary of Newberry District; and that the five men thus appointed do divide all my negroes into two lots of equal value or as near equal as may be conveniently practicable; one of which lots, to be determined in such mode as to the said five men shall seem proper, I give to my son James Duckett absolutely and forever; and the other of which said lots I give to my said son in trust for the sole and separate use of my daughter Elizabeth Owens.

Third.

I direct that the five persons to be appointed according to the second clause with the assistance of one or more surveyors to be selected by them shall also divide all my lands into two lots of as nearly equal value as may be conveniently practicable, one of which lots, to be determined in such mode as to the said five men shall seem proper. I give and devise to my son James Duckett his heirs and assigns forever to his and their only proper use and behoof; the other of said lots I also give and devise to my said son in fee simple to and for the sole and separate use of my daughter the said Elizabeth Owens. If however all my legatees should desire my lands to be sold, and the said five men should

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Fourth.

I direct that the five persons to be appointed as aforesaid do take out of the rest of my estate so much as may be necessary

for the purpose and add to the smaller of the shares allotted under the second and third clauses so as to make that share equal to the larger of said shares,- it being my wish to divide my estate equally between my said children.

Fifth.

All the rest and residue of my estate of whatsoever nature or kind I direct to be divided into two equal shares, one of which I give to my said son for his own use; and the other of which I give him in trust for the sole and separate use of my said daughter. As to the property in possession which may fall under the operation of this clause I leave it to my legatees and to the five persons to be appointed as aforesaid to determine whether the same shall be sold or not. If they decide in favour of a sale I authorize my executors to make the sale and I dispose of the proceeds in two equal shares as is above in this clause expressed. If they decide in favour of an actual division I direct that the same shall be made by the said five persons and the shares allotted as in the other divisions by this will directed.

Sixth.

I authorize the ordinary of Newberry District to fill any vacancies in the said Board of appraisers to be appointed as aforesaid which may occur by death, resignation, or neglect or refusal to serve. And I direct that the said appraisers be paid a liberal compensation for their time and trouble to be fixed as soon as may be convenient after they may have completed their duties by the then ordinary of Newberry District.

Seventh.

I have already made advancements to each of my said children to the amount of two thousand dol and are taking care to secure

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Seventh.

I have already made advancements to each of my said children to the amount of two thousand dollars taking care to secure to the sole and separate use of my daughter the advancement made to her and if I should hereafter in my life time make any further gifts to either of my said children it is my will that such gifts be taken into the account and calculation upon the division of my estate directed by this will, so that neither of my said children may receive more of my estate than the other.

Eighth.

If either of my said children should die in my lifetime the legacies given to such deceased child shall go to the survivors;

and if my said daughter should outlive my said son and me the legacies to which she may become entitled as survivor shall be held together with the legacies hereinbefore given to her, to and for her sole and separate use by some suitable person to be appointed trustee for the purpose by the court of Equity: provided however if either of my children should die in my lifetime leaving issue then the legacies given by this will to such child shall go to such issue.

ninth.

If my said daughter should survive her husband Richard Owens then and from thence she shall take and hold in fee simple all the legacies to which she may be intitled either directly or by survivorship under this will, absolutely and free from all trusts.

If my said daughter should die leaving her said husband surviving her, then at her death, all the said legacies together with the increase, issues and profits of the same to that time shall fall back to my estate and shall go to my next of Kin then living according to the provisions of the act for the more equitable distribution of intestates estates and the acts amendatory thereof.

Tenth.

The issues and profits of the said legacies to my daughter or so much thereof as she may desire shall be expended for the comfortable support and maintenance of my said daughter, and the surplus thereof shall be held by the trustee in the same manner and upon the same trusts as the original legacies and may be invested by him in such property as she may direct to be held by him upon the same trusts and subject to the same limitations as the original legacies.

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Eleventh.

I her by declare it to be my will that Richard Owens the husband of my daughter shall not in any way or upon any contingency receive any part of my estate; and that the legacies given to my daughter together with the increase, issues and profits of the same shall be free from the control or interference of the said Richard; that he shall not during the life of my daughter receive any benefit from the legacies given to her; and that at her death he shall be entirely excluded from taking any part of the estate which she may have received under this will and the same shall

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unto her issue then living if any, or if none then to my next of kin then living.

Twelfth. I appoint my son James Duckett, (~~and my friend Col. Benjamin Duckett~~) executor of this my last will and testament hereby revoking all wills heretofore-made by me.

In witness whereof I have hereunto set my hand and seal the seventh day of September in the year of our Lord one thousand eight hundred and forty, and in the sixty fifth year of American Independence.

The words in the twelfth clause "and my friend Col. Benjamin Duckett", were struck out before the execution.

Signed, sealed, published and declared by the said Jacob Duckett as and for his last will and testament in presence of us who have subscribed our names as witnesses thereto in his presence and at his request and in the presence of each other

Jacob Duckett (L.S.)

Thomas H. Pope

M. Suber

James A. Pope

Recorded in Will Book No. 1. Page 310. "Record of Wills".

Proved April 1st, 1847.

Recorded October 26th, 1847.

K. Boyd, Ordinary Newberry District.

Box No. 77. Pkg. No. 195. Est. No. 1939.