

## **Will of Nicholas Wells**

Submitted by Anne M. Gault.

I, Nicholas Wells of the County of Tyler in the state of Virginia do make, ordain and publish this as my last will and testament, revoking all former wills.

First: I bequeath to my beloved wife Rachel all my household and kitchen furniture in absolute right except the beds and bedding herein after given to my daughters Rachel and Delilah. I also bequeath and devise to my wife for and during her life all my slaves and all my home place except the parts here in after devised to my son Philip and to the trustees of the graveyard, my "home place" being the tract of land on which I reside and which was conveyed to me by Archibold Woods.

Secondy: I devise to my son Philip all the "Russell place" and so much of my house place and the 100 acre adjoining it as his northward of a line beginning at a stone which I have planted for a corner on the bank of the Ohio river about fourteen feet below a cherry tree and running thereto South 61o East to a white oak in Benjamin Wells line of the Williamson survey: the said "Russell place" being a tract of land containing three hundred and fourteen acres, more of less which was conveyed to me by William Russell and wife and the said 100 acre tract being one which was granted to me by the Commonwealth. This devise to my son Philip is in fee simple.

Thirdly: Out of my "home place", in addition to a lot of ground near the southern line there of which I formerly conveyed to trustees for a graveyard, I devise to the same trustees (or the survivor of them or their successors the trustees for the time being) for the same use the narrow strip of land along the south side of that lot and between it and my southern line and also (to be used as a road for the purposes of the graveyard) a strip of land from the same eastwardly to the present county road which strip is to be along my southern line and one rod wide. But this ground for a road is devised on condition that the ground which I formerly conveyed to the trustees for a road westward of said lot shall be conveyed and belong to the owners of the adjoining part of my "home place".

Fourthly: Having already made advancements to my other daughters to the amount of fourteen hundred dollars each, besides a horse and cow and some beds and bedding. I devise to my daughters Rachel and Delilah equally in fee simple the residue of said 100 acre tract and (after the death of my wife) all that part of my "home place" devised to her for life. I give them also as much beds and bedding as I have given to each of my other daughters on their marriages.

Fifthly: I bequeath and devise all the rest and residue of my estate, real and personal to my daughters living and the descendants of my deceased daughters the descendants of each deceased daughter taking together an equal share with one living daughter and in such proportions among themselves as if they inherited the same from the deceased daughter, their ancestor. For the purpose of so dividing the same and the proceeds thereof, I authorize my executors to sell and convey at their discretion all my real estate not herein before otherwise specifically devised, including the land devised to my wife for life which they are to sell only after her death. They may also, after her death, sell or distribute my slaves for the purposes of this clause.

Sixthly, my debts and funeral expenses are to be paid either out of my personal property or the proceeds of my real estate last aforesaid, at the discretion of my executors.

Seventhly: If I shall at any time after the date of this will give or advance money or property to any of my daughters (or their husbands) the same or the value thereof shall be accounted for and deducted from the share which such daughter would otherwise receive under the fifth clause of this will: interest also being computed against them for the purpose on the amounts so received from the time of receiving them.

Eighthly: I appoint my friend Thomas Browse and my brother in law Joshua Russell executors of this will and direct that they shall not be required to give any security as such.

Witness my hand and seal this 27th day of July 1858 Nicholas Wells SEAL

Signed, sealed and published by Nicholas Wells as his last will in the presence of us who have attested the same by signing at his request in his presence and in presence of each other the 28th day of July 1858.

C. P. Russell

Sampson Thistle

Wm. Russell Jr.

I Nicholas Wells, of the County of Tyler in the State of West Virginia do make and publish this codicil to my last will and testament dated the 27th day of July 1858 as follows, that is to say. First---For the purpose of dividing the land divided in and by the fourth item of my said Will, to my daughters Rachel and Delilah between them. I will and direct that a line recently run by C.P.Russell, commencing on the bank of the Ohio River at a stone set up thence running S 56 E to a stone corner on the back line of my farm shall be the division line between my said daughters and the land lying between the land divided in said Will to my son Philip and said division line I give and devise to my said daughter Rachel and the land lying between the land of Selman Wells, and said division line I give and devise to my said daughter Delilah. Second---I will and direct that my negro man Samuel and my negro woman Lucy and her children shall be free at and after the time of my death, and I give and devise to the said Samuel and to the said Lucy and the the longest lived of them for and during their natural lives, the use and income of the following described tract of land situate in Pleasants County beginning at three chestnut oaks, thence N 27 E 24 poles with land of said S. Wells to a beech, thence S70 E along the land of said S. Wells , so many poles as may be necessary by running a strait line there from to a line agreed upon between myself, Edmund Riggs and Thomas Browse and thence to the beginning so as to include not exceeding one hundred acres, but in no event shall the last line along the land of said S. Wells, exceed 154 poles to a stone corner to land of Esely, whether the boundaries contain one hundred acres or less and after the death of the Samuel and Lucy I give and devise said land to the children of the said Lucy living at the time of her death in fee simple--I further will and direct that my son Philip and my daughters Rachel and Delilah each give the sum of one hundred dollars, to the said Samuel and Lucy to enable them to work and use said land. All property I

hereby give to the said Samuel and Lucy and her children, on condition that neither of them make other claim whatever against my estate--Lastly I hereby revoke so much of my said last will and testament as is inconsistent herewith and republish and declare with this codicil thereto, to be my true last will and testament and to be taken together as one instrument in writing.

Signed, sealed and published by

the said Nicholas Wells as his

last will and testament in the presence

of us, who have at his request in his

presence and in the presence of each

other subscribed our names as witness thereto

Sampson Thistle

John B. McCoy

I Nicholas Wells, of the County of Tyler in the State of West Virginia, do make and publish this second codicil to my last will and testament dated the 27 the day of July 1858 as follows that is to say. I hereby revoke that part of my first codicil to said will in which I will and direct that my son Philip and my daughters Rachel and Delilah each pay the sum of one hundred dollars to my negro man and woman Samuel and Lucy. And I now hereby will and direct that my said son and daughters shall each pay the sum of one hundred dollars within one year after my death, making the sum of three hundred dollars, which said sum I hereby give and bequeath to the children of my negro woman the said Lucy living at the time of my death to be equally divided between them payable as they become of age and such of said children as shall not become of age within one year after my death, their shares of said three hundred dollars, shall be put at interest for their benefit and paid to them as they severally become of age---I further will and direct that my negro man the said Samuel shall not sell or dispose of any timber on the land I give him the use of during his life, except the timber growing on such parts of said land as he shall clear and fence for cultivation.

In witness whereof I have hereunto set my hand and seal this 23rd day of January 1869.

Signed sealed and published

by the said Nicholas Wells as Nicholas Wells seal

and for a second codicil to his

last will and testament in the

presence of us who have at his

request in his presence and in

the presence of each other

subscribed our names as witnesses thereto

A. D. Soper

T. J. McCoy

I Nicholas Wells of the County of Tyler in the State of West Virginia do make, ordain and publish this third codicil to my last will and testament executed by me on the 27th day of July, 1858, hereby revoking and annulling all such parts of my said will as may be in conflict with this codicil. Whereas, under the provisions of my said will, my granddaughter, Elizabeth Moore would, but for this codicil, have received a portion of my estate as one of the descendants of my deceased daughter Narcissa, and whereas I do not desire that my said granddaughter, Elizabeth Moore shall receive in any way, either directly or indirectly, any portion of my estate, real or personal and whereas I do not desire that any other descendant of my said deceased daughter Narcissa shall receive any greater portion of my estate than each other descendant would have received had this codicil not been made, except as the general fund of my estate shall be hereby increased, now therefore, it is my will and I hereby so devise and bequeath the same, that the said portion of my estate which would, but for this codicil have gone to my said granddaughter, Elizabeth Moore, under the provisions of my said will, shall not be given to her directly or indirectly or to anyone claiming by or through her, but shall be divided among my daughters and their descendants other than the said Elizabeth Moore, of such of my daughters as are or may be deceased, in the manner provided for in my said will. Witness my hand and seal this 18th day of May A.D. 1875.

Signed sealed and published by Nicholas

Wells as the third codicil to his last Nicholas Wells seal

will, in presence of us who have attested the

same by signing our names at his request in

his presence and in presence of each other

this 20th day of May 1875.

Selman Wells

Jas. S. Wells

Nicholas W. Wells

Clerks Office of the County Court of Tyler County West Virginia April 5th 1877

The foregoing Last Will and Testament and three codicils thereto, of Nicholas Wells, deceased, late of Tyler County was this day presented in the clerks office aforesaid for probate and no person appearing to require that process be issued to summon the parties interested in the probate of said Will and codicils to show cause why the same should not be admitted to record and neither the Circuit nor County court of Tyler County being now in session, therefore the execution of the said Will by the said Nicholas Wells was fully proved by the oaths of Charles P. Russell and Sampson Thistle subscribing witnesses to the same: and the execution by said Nicholas Wells of the first of said codicils attached to said Will was fully proved by the oaths of Sampson Thistle and John B. McCoy, subscribing witnesses, thereto and it appearing that A.D. Soper and T. J. McCoy subscribing witnesses to the second of said codicils executed by said Nicholas Wells, are now deceased, the handwriting and signatures of the said A.D. Soper and T.J. McCoy was fully proved by the oaths of John B. McCoy and Sampson Thistle and the execution by the said Nicholas Wells, of the third codicil annexed to said Will was fully proved by the oaths of Selman Wells, James S. Wells and Nicholas W. Wells, subscribing witnesses to the same. Whereupon, it is ordered that the said Will and codicils be recorded as the true last will and testament and codicils thereto of the said Nicholas Wells, Deceased and it appearing by a writing under the hand of Thomas Browse, survivor of the two persons named in said Will as Executors thereof produced and filed that he refused to take upon himself the burthen of the execution thereof and it also appearing by writings under the hands of the heirs at law of said Nicholas Wells that they consent and desire that Archibald Thistle shall be appointed administrator with the Will and codicils thereto annexed of the estate of said Nicholas Wells, deceased, therefore on the motion of the said Archibald Thistle, who made oath as the law directs and entered into a bond in the penalty of \$8000.00 conditioned according to law with Sampson Thistle and John B. McCoy his sureties therein who justified on oath as to their sufficiency and which said bond being acknowledged by the obligors therein is ordered to be recorded, certificate is granted the said Archibald Thistle for obtaining letters of administration on the estate of the said Nicholas Wells, deceased with his said will and codicils annexed in due form.

Teste D. Hickman Clerk