

The Last Will and Testament of John Clark (1763 – November 9, 1837)

Microfilm copy of Last Will and Testament of John Clark obtained from Ancestry.com

Source Citation:

Wills, 1797-1926; Author: New York. Surrogate's Court (Delaware County); Probate Place: Delaware, New York

Description:

Notes: Wills, Vol D-E, 1838-1856

Source Information:

Ancestry.com. New York, Wills and Probate Records, 1659-1999 [database on-line]. Provo, UT, USA: Ancestry.com Operations, Inc., 2015.

Original data: New York County, District and Probate Courts.

Source Description: These probates from the state of New York, 1659-1999, can bequeath a wealth of personal details on the decedent and other family members.

Note: Transcriber indicated when a handwritten page from recorded Last Will and Testament ended and when one started.

START PAGE ONE

The last will + Testament of John Clark, deceased ~

Admitted to Probate as a will of [real?] + personal Estate, [+ recorded March 1838?]

The last Will + Testament of John Clark of the Town of Davenport, County of Delaware + state of
New York

I John Clark considering the uncertainty of this mortal life + being of sound mind + memory ([blessed? be?] almighty God for the same) Do make + publish this my last Will + Testament in manner + form following. (that is to say – First, I give + bequeath unto my beloved wife Jenny Clark all my personal property with the following exceptions (after my debts are paid) [?] To my son Robert twenty five dollars, To my two daughters Ann + Peggy, each twenty five dollars, + to my son Alexander twenty five dollars. After the debts are paid, and each of my children receives the sums above mentioned, the rest of my personal estate good + chattels of what kind + nature [sower?] I give + bequeath the same to my beloved wife Jenny Clark, whom I hereby appoint executrix + my son Robert executor of this last Will + Testament, hereby revoking all former wills by me made. In witness whereof I have hereunto set my hand + seal the 22 day of October in the year of our Lord one thousand eight hundred + thirty seven – Signed, Sealed, Published + Declared by the above named John Clark to be his last Will + Testament in the presence of us who have hereunto subscribed our names as witnesses in the presence of the Testator.

Robert S. Marshall SS.

James Clark SS.

William McMillin SS.

A Codicil to my last Will + Testament

Whereas I John Clark of the town + County aforesaid have made my last Will + Testament in writing bearing date October 22 1837. Now I do by this my writing which I hereby declare to be a codicil to my said Will to be taken as a part thereof will + direct that if any of my personal property remain at the time of the decease of my beloved wife Jenny Clark, that such property be given to my son Robert immediately after her decease + lastly it is my desire that this my present codicil be annexed to and made a part of my last Will + Testament to all intents + purposed. In witness whereof I have hereunto set my hand + seal this 22[?] day of October 1837.

he should think or [vising?] Testator died sometime after Will was executed, perhaps a fortnight. Cant say how long. was sick [say??] those weeks before will was executed. does not recollect precisely. Died of paralizes or numb palsey was helpless. At times he appeared to be quite insensible and at times he appeared to have his memory. Did not attend him after will was drawn. He + his wife lived alone at the time. His wife lives with Robert, his son now. Robert was there when the will was drawn. found him there. he was most of the time there after testator was sick a taking care of him cutting wood + witness told him he had better arrange his temporal affairs if they were not arranged. Will was executed the day it was written, witness was told how to draw the Will. he could talk plain so as to be understood. cant say as his speech was affected the day will was executed. Always spoke to witness when spoken to_ does not know. That on the day he executed the will that he did not know the names of his children. heard nothing of the kind said. he sometimes he sometimes did not have his recollection. did his [necessary?] occasions in the bed. Does not know as that would affect his mind his lower parts were insensible. did not as that would affect his head – I asked him if I should annex a codicil to his will witness discovered that he had not drawn his will as he had directed + I asked him if I should not draw a codicil. I told him I could put it in the shape of a codicil. I read the will to the Testator. neither Mrs Clark or Robert were present I think it was myself that discovered that the will was not drawn as directed. the codicil was drawn before the will was signed. He left me to draw the will + told me the substance. It might have been a week after he said he wished a will drawn before it was drawn. Did not a first give specific directions. On the day the will was made he gave specific directions + told [him] he wished his property disposed of. I heard no one speak on the subject to him on that day – I cant say on that day he was not in his right mind. There were days or times he was not_

Testator told witness how he wished to dispose of his property. Witness discovered on writing the will that he had not put in what the codicil contains. It struck me that I had left out what was to

become of his property after his wife's death + I think I told the testator so _ I told him I could annex it to the will + he said "well" or "that will do" or something like that.

After the codicil was written I read the whole to him just previous to signing. There were times when he [lap?] stupid but then he appeared more rational on that day – Was confined to the bed when will was executed. witness steadied his hand when he made his mark. Thinks he was bolstered up when he executed the will + presumes he was let down again when he had executed will. Testator died in Davenport. Robert lives within about two miles of Hobart and about nine miles from deceased –

Testator was confined to his bed during his last sickness _ widow has since come to Roberts and resides with him. She is sixty or seventy years old. Does not recollect to have seen Alexander there. witness met Alexander on road _ said he had been to his fathers. Witness lives in Hobart about ten miles from where testator died. Testator had neighbors about him. All the witnesses to will live in and about Hobart village –

Robert S. Marshall

James Clark being duly sworn says I was present and saw the will and codicil executed. the other two witnesses to the will were present. Testator declared the instrument now shown witness to be his last will and testament. I signed my name as a subscribing witness at the request of Testator Mr. Clark. I took him to be of sound mind and memory. I was there between two and three hours might have been more or less. was not present when the will was being written I was not in the room much. Thinks Robert was not in when the will was executed. Deceased was his uncle. This was the only time I saw him during his sickness. heard the will read to him. Testator was then laying down. I cannot say whether he said anything or not after the will was read to him. Testator was considerable feeble. thinks he was seventy two or seventy three years of age when he died – does not recollect what he did say but witness took it he requested witness to sign the will. This I understood not from signs but words. he

spoke plain enough_ would answer when spoken to cannot say positively whether he said anything unless spoken to _ I was not in the room much of the time

James Clark

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William McMillin being duly sworn says I saw the instrument now shown me (will and codicil) executed. I signed my name to the will and codicil as a witness. I signed my name I [exfacet?] at the request of deceased. I did not hear the will read, but saw deceased execute it. I do not recollect that he requested witness to sign the will but I was called into the room. I was in the room before he executed his will and asked him if he had made his will and he said he had, afterwards I witnessed it. was all on the same day will was executed. I thought he was of sound mind and memory. From the conversation I had with him I thought him regular. I was not in when Doctor Marshall was writing the will. I reside in Hobart. this was the only time I had seen him in his sickness. I saw the other witnesses sign the will. I think it was the Doctor called me into the room. I do not recollect as the deceased requested me to sign it. he might_ In the morning he could talk better than when he executed the will thought he was weaker from having attended to the will – I asked him if he had made his will or was about making it, and he said yes but did not speak of the provisions in the will – I expect he knew what I was doing when I signed the will as a witness, which was in his presence. I had been acquainted with deceased for fifteen years. I went over to see him when he was sick. he was an old neighbor. I might have been requested by Robert to see the old man, and I happened to go that day, Robert told me he might make his will the day I went over, and asked me to go, asked me to go over that day _

William McMillen

March 26th 1838

William Simpson being duly sworn says he was well acquainted with Testator and has been for as many as twelve years. Last year in May Testator moved into Davenport and lived in one of witness houses fifty or sixty [rods] from witness's residence. Last summer I saw Testator pretty much every day, was in daily intercourse with him – saw him on Sunday morning, saw he looked different in his eyes, looked wild, this was a few weeks before his death. Testator soon after thinks on Tuesday was confined to his bed, where he was confined to his death _ Saw Mr. James Clark, the witness, go by on Sunday, and witness understood it was the day will was made, witness did not see Testator that day, but saw him the day before, and day after, witness spoke to him on Saturday evening, did not hear him convers with any one _ he only answered questions put to him. The Testators wife said it was the Doctors orders that people should not converse with him – I could not say whether he was able at that time to make disposition of his property or not. when witness asked him if he was any better he would say no or he did not know. he was then confined to his bed. he made discharge in the bed, whether voluntary or not witness does not know. supposed testator did not know it. was helpless in bed. The first visit of Doctor Marshall to testator during the first week of his sickness, witness heard Doctor Marshall say something about a will but said he thought if [ind?] better be put off. that Mr Clark was not capable then. witness does not think testator was as [competent?] then as he was afterwards. He [raved?] more then than afterwards – Witness was there the Saturday before the will was made _ several talked to him. he answered their questions. Testator knew witness I could not say he was deranged. The conversation of Doctor Marshall was some time before. The Doctor said he thought it had better be put off for the present. The Testator appeared to be more excited then than afterwards looked more wild. About a week before he made the will, Mrs. Clark asked Testator if he knew witness. he said it was William

Simpson. The Saturday night before the will was made witness was in + Testator knew those who were present –

Wm Simpson

Darius Olmsted being duly sworn says he resides in Davenport had not been acquainted with John Clark until last summer witness resides within about a half a mile of Clark till his death. witness knows that he was attacked with some complaint and was sick. After witness heard of his sickness, and he was confined to his bed, he called in frequently to see him. Cant say as he was at Clarks within two or three days of the time the will was made either before or after. witness watched with him three or four times. witness did not see Testator until some days after his attack. When witness went into room, his wife used to go in with witness and would ask him if he new [sic] witness. he used to say yes. one side of him seemed more affected than the other. when witness was present Testator kept pretty still and did not talk, only to answer questions. Generally Testator called witness by name. used to call witness Major Olmsted –

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It would be a hard case to determine whether he was able to make a will or not. Testator did not talk much when witness was there if he had talked more witness would have been better able to judge of his competence. What he said to witness was correct –

Darius Olmsted

Robert English Junior being duly sworn affirmed [deposes and says he lives in Harpersfield. has been acquainted with John Clark from his the witness's infancy. went twice to Davenport to see him during

his late sickness. Witness was a distant connection of deceased. Clark married witness cousin. The first time witness went there was on Saturday evening and watched with him. left there about noon on Sunday and went to William Simpson's - Witness went two or three times on the same day and also three or four times on Monday to see Testator - left Monday afternoon This was the Sunday before the will was made, as witness has understood. Next time witness went there was on Monday or Tuesday the week following - was there three days and two nights. was at Simpsons and went four or five times each day to Testators while there - The first time witness was there was about eight O'clock in the evening - Took hold of his hand and his wife asked Mr Clark if he knew Robert English - he said he did - he opened his eyes and looked stupid. About Eleven O'clock that night, witness asked him if he would eat a roasted apple. he said he would, and took it in his hand and eat it. said it tasted good - About two o'clock in the morning he was in more pain and appeared to be more stupid next morning his mind was better - Second time witness was there he did not go into the room. Mrs. Clark said the Doctor did not want to have Mr Clark talk, but he kept as quiet as possible - From what I saw I should not think he was capable of making a will. I do not know as I could say that he answered any questions the night I watched with him incorrectly. The opinion I have [explained?] were formed by his appearance. he was very stupid. He did not appear to be deranged, but stupid It was difficult to keep him awake to give him a drink. Did not think he would live through the night. Next morning he appeared less stupid - was more [chirk?] In the night his turns of being better would last from five to ten minutes, sometimes longer - once a half an hour. In the morning his lucid intervals were longer from fifteen minutes to three quarters of an hour. When he had his stupid times he appeared to be sleepy - thinks if his [chirk?] turns had lasted long enough he would have made a will but they were not long enough as witness believes while he was there to make a will - There were not questions put to Mr. Clark as witness recollects which would require any exercise of the mind or reflection, to answer.

Robert English

William English being duly sworn says he resides in Harpersfield, was acquainted with John Clark witness was that (at John Clark) twice during his last illness – The first time I went there he had been sick three or four days. They had sent for Doctor Marshal, and he came while I was there for the first time. I went Saturday and come back Monday. I saw him three or four times – When I was there the first time, I spoke with him, asked him how he was, said he did not know. I did not [watch] with him. I went there again on Sunday (next day) I think one or two o'clock in the afternoon I went to the room and Mrs Clark was talking to McMillin was asking some questions. he (Clark) made no other answer but “I don't know” or “yes” I was there about twenty minutes. Clark did not look right to me – he looked wild with his eyes _ did not look natural _ stared witness in the face both times he was there, he was very weak. Could not turn himself in bed [1 time?] I should not think from his looks that he was capable of making a will. Though probably he might [2 time?] It is hard for me to say whether he was then capable of making a will whether he could or could not. The first time I was there he talked very little. his answers were generally short. “ I do not know” The last time I was there I did hear him speak, except to McMillin. I left McMillin there. I believe he was blind of one eye – I did not hear Testator say anything unless spoken to. he appeared to be in considerable pain. this was the last time Testator walked to a chair to be bled.

William English

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Margaret Whiteford being duly sworn says I live in Harpersfield, was acquainted with John Clark, saw him once during his last illness. The Saturday night before he made his will. I was there from half an

hour to one hour. I asked him if he knew me. he said he did not. when I asked him, I did not tell him my name. he was my uncle, and I was well acquainted with him. I did not hear him say anything but answer he gave me. From what I saw and heard, I should at the time not think he had sufficient mind and understanding to make a will. William Simpson asked him if he knew me and my aunt who was with me. he said he did not. I then said, "Uncle John do you not know who I am" and he said he did not. He was lying flat on his back. There was but one candle in the room. I think there were curtains round the bed, but am not positive. I did not see him at any other times. His eyes were open and he staired badly. I did not know until since I came here that he was blind of one eye. I came to the conclusion that he was not competent to make a will, from what I there saw and heard. I did not think he had his senses.

Margaret Whitford (*transcriber's note –

signature has different spelling of name)

Elizabeth Grant being duly sworn says I reside in Harpersfield, and did in October last. I was down at Mr. Clark's on a Sunday in October last during his sickness. It was the day he made his will. I was in the house when I understood he was making his will. I was not in the room. Clark lay in the bedroom and I stood at the door. Mrs Clark asked him if he knew me and he turned his eyes but made not reply. Before he was sick he knew me well. [Janet?] Grant told me that Mr Clark was about making his will. Doctor Marshall, James Clark and William McMillin were present. Robert Clark was there also. Mrs. Clark, Mrs. Margaret Grant, [Janet Grant and Ann Eliza Gran were also present at the time – Dr Marshall asked Testator if he would acknowledge that [this] was his cross three times before he answered, and the third time he answered "Yes, Yes, Yes" That was all I heard. I was in a bedroom adjoining – This was a board partition, and there were cracks, and I could hear distinctly. He was at that time quite helpless and feeble. It did not appear to me that he had his senses, when Mrs Clark asked him if he knew me. All

I heard him say was “Yes, Yes, Yes”. He did not seem to have his [reason?]. Robert Tilford went with me to Davenport. It was near eleven o’clock when we arrived there and left about four in the afternoon. We went over to see Mr Clark. I had not seen him from the time he went to Davenport, before [this?] day – There is no connection, only my uncle married into his family. I might have been there one or two hours before I went into the bedroom. I think the will was written in the bedroom where he lay – When I looked into the room, no one was there but Mrs Clark. She did not ask me to come in. She had not before asked me to go in and see him. Mrs Clark knew I was there. Mrs Clark said to him, “do you know her”? and he made no answer. I stood the outside of the door and Mrs Clark by the bed in the bedroom. It was but a step or two to the door from the bed. I stood before the far side of the bed. He was lying on his back. I do not know as he could see me without turning his head – One eye was blind but which eye I do not know. I did not go into the room afterwards. [Janet?] Grant was in the bedroom with me. It was sometime after I stood in the door. Doctor asked Mr Clark three times “if he would testify that this was his cross” Those were the words used. I did not hear him say any thing the first and second times. I heard the Doctor and James Clark, did not hear McMillin “We did not see through the cracks. The boards were some of them open but not so as to see through. There were three or four cracks in the partition. I have no doubt the words by Marshall were “will you testify that that is your cross”?. I thought the way he spoke showed he was not in his right mind – I thought he was not of sound mind, if he had been he would have answered him the first time. The head of the bed on which Mr Clark lay was next to the partition. I saw Doctor Marshall writing something before I went into the bedroom with Janet and after I had stood in the door. I also judged from his looks he was not of sound mind-he looked wild out of his eyes. I was on the outside of the house a little ways [inserted - from the window] where I saw Doctor writing – we were not there long. I was not in the door over five minutes he lay on his back with his head down, his head was raised to give him drink. he lay with his left side towards me – I have not been in habits of intimacy with that family when

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Mrs Clark gave him drink he did not seem to swallow easily, it run out of his mouth –

her

Elizabeth X Grant

mark

Mary Whiteford being duly sworn says I reside in Davenport. Resided there last fall – was acquainted with Mr Clark. Lived about a quarter of a mile from him during his illness. I was there very often during his illness. I saw him the day he was taken sick. He was taken on Thursday and was worse on Sunday. I thought he was out of his head on Sunday. He talked a good deal on Sunday and talked nonsense. The first Sunday he was [taken?] – saw him again next day. He was more rational. I saw him almost every day. I was there the day the will was said to have been made. It was about eleven o'clock. Doctor Marshall came there after that – James Clark and Mr McMillin were there – I did not see him that day – I saw him as I passed the door but did not stop to see him. As I came up the Doctor shut the door. Said he did not wish any one to speak to him. He wanted his mind composed. I heard nothing about the will and left soon after Doctor Marshall came there. I saw him the Saturday night before, but did not speak to him. Said not hear any one speak to him he appears stupid that night. did not seem to notice things. I saw Mr Clark within a day or two but I think not on Monday following – When I next saw him he appeared kind of stupid – when asked if he wanted drink sometimes he would say “yes” and sometimes he did not know – From what I saw I thought he was not of sound mind and memory to dispose of his property understandingly – When I sometimes asked him how he was, he would say “ I don't know”

Mrs Clark said the Doctor did not wish any one to go in and talk with him. Sometimes when I asked him how he was, he would say he was no better, and he thought he was better. A fortnight before he made his will, I think he did not know folks – and so when he was first taken – sometimes he was more stupid than at other times – There he kept his eyes shut. A week before the will was written I sat up with him one night, and he did know my brother. He had always been acquainted with him. Brother William was nineteen years old. He knew me – This was about ten days before the will was written – IT was in the night. Aunt asked him if he knew William and he said he did not. These facts and circumstances, and his looks made me think that he had not his reason – I knew one of his eyes was blind. I do not know which – I saw Elizabeth Grant there the Sunday the will was made. I did not go to the bedroom with her –

Mary Whiteford

John R Grant being duly sworn says. I reside in Stamford, about four miles from the former residence of John Clark, before he moved to Davenport. I have known him almost as long as I can remember. He knew me. I went twice to see him in his last sickness. don't know how long he had been sick. The first time I called Alexander Clark was with me. Mr Clark was confined to bed and helpless. I did not speak to him. Mrs Clark said she did not like to have people talk to him. said it make him worse. I believe Alexander spoke. I know he did. Alexander spoke to him. Mr Clark did not appear to know him. His mother asked him if he did not know him. (Alexander) and he called him ["Jim"?]. I think that was all that was said – think it was three or four weeks after Mr Clark was taken sick. It was before the will was made as I understood. It was sometime before, but cant say how long. About a week after I was there again. It was on Sunday – was on the same day that it was said he made his will. No person was there in company with him. He was asleep I believe. This was in the afternoon about three o'clock. Mrs Clark did not say anything about speaking to him. He was awake before I came away. I did not speak to him at all. He appeared to be stupid. There were a number there Doctor Marshall, James Clark, Mr

McMillin, Robert Clark and Robert Tilford. From the appearance of things I thought they were about writing the will. From what I saw I thought afterwards they were writing the will. Heard no one speak to him. I heard no one say anything about a will while I was there. He (Clark) looked worse to me this time than before. Should not think it was much over a week from the first time that I saw him, to the second. The second time I was there I went to the door and looked in. Did not stand over a minute. That was the only time I looked at him that day. He did not speak. I was there, not

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Over an hour. I thought they were writing the will there were so many about. Saw no writing and afterwards understood they were writing a will.

his

John X R Grant

Mark

Joseph Wool being duly sworn says – I reside in Kortright, nine or ten miles from where Mr Clark formerly lived, and about a mile and a half from his residence in Davenport. I have been acquainted with him since I was a child. I was brought up near by him, and lived there till two years ago. I then moved to Kortright. Our families were intimate. When Mr Clark was well he was very sociable. When he did not feel well, he used to act as if he did not wish to say much. I saw him during his last sickness. I watched [with?] him I went to see him a number of times. I saw him about the time, or shortly after the will was executed. It was the Sunday, the will was said to have been made towards night. I was not in the room but a few minutes. I discovered no evidence of insanity or imbecility while I was there. I did

not think he looked wild. Thought he looked natural as could be expected for one as sick as he was. From his look, I should not think he had lost his reason. I was there again the next day. was in the morning, noon and night. That day he appeared to be quite feeble. I did not say much to him that day. The night following I set up with him most of the night. A little before day he appeared to be quite [alert?]. The old lady fixed some victuals for him and he said it tasted good. I talked with him when I was there at times, and heard others talk to him, and did not at any time discover [abaratations?] of mind. I thought that morning and the latter part of the night he was rational. That was Sunday morning. The fore part of the night he appeared to be sleeping – I saw him transact some business that morning (Tuesday morning). He appeared rational while doing it – I presume. I talked with him as any one, and from what I saw the Sunday he made his will, and Monday following thought he was capable of making a will. I saw him on Sunday a week before he made the will. He was then much better than he had been. I went to Catskill that week, and did not see him again till the Sunday he made his will. There was nothing peculiar in his manner of answering questions. I think I heard him say when asked how he did, when sick, he would say “Oh I do not know”. It was a common way for him to answer when well. I was in to see him a number of times in the early part of his sickness. The business he did that morning was to execute a deed to Robert. Abram D. Smith [closes?] the deed. Robert, the old lady and myself were present when the deed was executed. I witnessed the deed. No other witness to it. I knew who wrote the deed from the hand writing. I first saw the deed I think on Monday but am not sure. Robert and James worked together. It was a deed of ten acres where he formerly lived. He made his mark with his left hand. He took the pen in his own fingers. I steadied his hand. I have proved the will since, before John Harper a [Commissioner?]. I asked him if he had given Robert a deed of that land. He said no. Then he was asked by me or the old lady if he had not calculated to do it, he said yes. Then I laid [the area – was inserted] before him and handed him the pen, and he took the pen in his left hand, and made his mark. I steadied his hand. I that was all he said about the deed. It was not read to him. I

think it was laid before him, and I think he did not read it himself – I told him before it was signed [then?] the deed made out ready. I do not recollect as I spoke to him on Sunday that he made the will. I was told he made his will that day, and I thought he was tired. I do not know as he opened his eyes. I was there till some time in the evening. I cant say whether I spoke to him that day or not. From all that took place at the time he executed the deed, I thought he knew what he was doing. he arranged the pen in his fingers. His right side was paralyzed. He was told it was the deed of the ten acres reserved off the old farm –

Joseph Wool

Thomas [W.?] Whitford being duly sworn testified. I was acquainted a little with deceased. I lived within a quarter of a mile of him when he was sick. Never was acquainted much with him till he moved over in May last. I saw him frequently while he was sick. I recollect about the time the will was executed. I saw him at times along a week previous. I talked with him, he appeared to be rational. I saw him the day the will was said to be executed, morning and evening. I thought he was

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Better that morning, others talked so. I did not hear him speak much in the morning. I had watched with him Saturday night – I saw no appearance during the night that he had lost his reason. It was near sun down when I saw him Sunday. I went into the room and his wife with me and she asked him if he knew me and he said “Yes” it is “Thomas Whiteford”. I staid there about two hours. I did not discover any thing then but that he was of sound mind. I should think he was of sufficient mind and memory to make a will understanding by from what I saw Saturday night and Sunday. I heard him tell her when she

was crying during his sickness “there was no need of her crying so for he had enough for her while she lived and she should be well off”. And he told her if he died to go to Robert’s and live there. This was said at the same time. That was about a week before the will was made. When he was well I heard him say “You do not know Alexander as well as I do” Alexander has broke my heart. That was about two months before his last sickness. Sunday morning when I saw him his eyes were shut and he appeared sleepy – Sunday a week before will was made Robert, William Simpson and witness were there – I did not hear the old man speak that morning I and Simpson were together all the while that Sunday. I think his eyes were shut when I saw him. I do not recollect that he talked much, but to answer questions have heard him once or twice talk more and then he was out of his head. That was the first week or ten days of his sickness. I never after that heard him say any more than answer question except what he said to his wife as I have stated. In the morning when he spoke to his wife I thought he looked out of eyes as usual.

Thomas Whitford (*transcriber’s note –

signature has different spelling of name)

William McMillen further says. Last summer at the rye harvest I saw Mr Clark. He said he had trouble. He said he had paid out for Alexander five hundred dollars, and that he (the old man) was not a glass of grog the better for it. I did not hear him at that time say that he paid out money for Robert or his other children.

William McMillen

John Wool being duly sworn says. I was well acquainted with deceased and intimately for thirty years. We were particular friends. He has talked with me confidentially about his affairs. He at one time told me that Alexander had all from him that he need to expect. This was said in the course of the last

summer. I think in August _ The reason he said was that he had been obliged to pay considerable money for him – He said a note that was [sued?], costs and all amounted to seventy nine dollars. That he never saw the note till it was [sued?] and I /witness) lent him the money to pay it. The seventy nine dollars was lent him by me in 1836. He also spoke of one other note which he knew nothing of, the amount I do not recollect_ which he said he also paid. He also mentioned another note given to Esquire Simpson, that he, deceased, actually did sign as surety, and had to pay. The last note was perhaps twenty or thirty dollars. I live about 50 rods from Alexander, and about ten miles from where Mr Clark died. I saw him a number of times after he moved. [?] was over, lodged at my house two nights. Generally at Roberts. I do not recollect as he ever staid at Roberts. Mr Clark was a good reader, read more than usual for farmers principally newspapers – and wrote well – a good plain hand. When the Simpson note was given, Alexander gave a personal mortgage as security. The mortgage was for about one hundred dollars. It covered some other matters, but not the seventy nine dollars. I think it was never collected. I think Alexander used part or all the property. Cant say [that?] Alexander paid the money.

John Wool

Robert Tilford being duly sworn says. I was at Mr Clarks with Elijah Grant the day the will was said to have been executed. I have been acquainted with Mr. Clark for three or four years. I went into the bedroom when Mr Clark was when I first went to the house. I talked with him some. I was there but little while, say fifteen minutes. When I went in

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He raised his left hand and took mine. I said do you know me and he said "yes" it is Robert Tilford". I should think he was capable of making a will when I saw him. He also told me he wanted a cup of tea. He said he was dry. I had not asked him if he was dy. That was all I heard him say. When the tea was brought in, he tried to raise himself to drink – Question - Have you told any body that the old man was not in his right mind? I have not. I told that I thought he had his reason. I was at Mr Clarks but twice. I have said to somebody that he was wild the first time I went there.

Robert Tilford

Robert Tilford further testified. I heard Elizabeth Grant say, on her return from Mr Clarks, that she believed Mr Clark was in his right mind, able to make a will that day and afterwards she said the same at Mr [James?] Wools when I was at work

Robert Tilford

Robert S. Marshall further testified. I went to see Mr Clark from four to six times during his sickness. I understood the nature of his complaint. In the early part of his sickness, I did not think his mind was sound when I saw him, though I was informed that a part of the time he was rational. I talked with him then as to his complaint and symptoms on the day the will was executed. I was about [round?] and in his presence for about three hours. I conversed with him but very little except about his will. I was satisfied at the time that he was of sound mind. From the nature of his complaint, the activity of his muscles might be destroyed and his intellectual faculties remain sound. There was a stupor at times. At the time he executed the will he answered "Yes Yes Yes" I do not recollect of repeating questions for an answers. I considered it important that he should be kept quiet and directed company to be kept from the room. I have seen frequent cases of paralises in the course of my practice. I think he Clark, was better prepared to make a will then, than at any previous time when I saw him. Paralises does not

always affect the mind, it depends on the part attacked. This case was not to affect the mind. There are cases of paralyses, which affect the mind. Sometimes it affects the lower parts, bladder, + [?] _ This attack was an attack of paralyses on muscle [palsy?]. I should think the right arm was the most affected _and the lower extremities generally _ that is on both sides. He could not use his right arm, on the day the will was made. Could use his left arm some. His speech was quite plain. I should think he could not move his lower extremities for some time previous to that. I was called shortly after his attack. I mentioned to him then he must inevitably die, as early as the second visit. I do not recollect that it produced any visible effect on him. I told him I thought he had better arrange his temporal concerns. Did he converse any further than to answer questions – He told me how he wished to dispose of property [? on] the day the will was made. I think I asked him if his will was made, or wished to make it. I cannot say as Mr Clark spoke about making a will before I spoke of it. I should think that Robert did not speak particularly about it. When Mr Clark spoke about making his will the first time, he said he wished to give it principally to his wife and not much to his children. I thought he was not in his right mind to make a will at that time, and it was put off. I think afterwards I conversed with Mr Clark again on the subject, and think he was not then capable. I think the division of his property was spoken of by him and me each time we talked on the subject before the will was made. He sensibly was [delaying?] every time I saw him. There was [fever?] at times, but I do not know as it affected his mind. I don't think it did. I do not know as his mind was on the [decay?] as his body was – I think not – There was nothing in this paralytic attack unusual or but what is [common]. It is common in that complaint that the mind is not affected – Sometimes it is, depends upon what part of the system is attacked. I learned from [Mr Huntingtore?] there was a case of general paralysis this winter at the head of the Delaware, the case of Mrs Noble, where the muscular action had entirely cease and the mind remained strong as ever and composed. One of Mrs Nobles [some?] retained its use a little longer. The [cure?] was somewhat like

Mr Clark – Mr Clark told me how to [draw?] the will, but I cannot repeat what he said precisely. I asked him what each one was to have, and he told me I think he said he did

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Not wish to give Alexander anything, but I told him for peace sake I thought he had better give something. I think the old lady did not say what he ought to give. I do not recollect as anything was said about the land, when the will was drawn. I had heard something about a deed. I had heard from the old gentlemen before [have?] he went to dispose of his property, and where I drew the will he gave directions the same as he had before said he should dispose of his property – He had before said he should not give Alexander anything, and I persuaded him that perhaps it would be best to give him something. I understood from Clark before he was sick how he meant to dispose of his property – I have no recollection that any person was present when will was executed except Mrs Sally Wickman. Mrs Wickham came in and went out speaking to him.

Robert S. Marshall

William McCarty being duly sworn says. I saw Elizabeth Grant after she returned from Mr Clarks with Tilford. Witness asked her how he was. She said he appeared to be better. I asked her if he had his right mind and Her said he had. She had first said that she had understood he had made his will that day and I then asked her if he was capable of making a will, and she said yes, he had his right mind, and was sensible, and was capable of making a will. I heard Mr Clark say on a certain occasion that Alexander got his share, all he ever would get. This was said the last of April or first of May last year, about the time he sold his place_ He was talking about what he had had this for Alexander said Alexander had had his share. He did not say as he had ever paid anything for Robert, but that he was [bur...?] for him in a debt

of 50, 60, or 10 dollars, and did not know but he should have to pay it. I heard Mr Clark after he had sold there that he intended the ten acres reserved for Robert that he intended to give him a deed of it. He further said, his wife wished him to reserve ten acres for Robert and he calculated to do it.

William McCarty

John Wool further says. I was called on by Mr Clark to help [run?] out the ten acres – Abram D Smith was the surveyor – Afterwards when the lot was run out, he requested Smith to make out a deed for Robert, and said some time when he was over he would call and execute it.

John Wool

State of New York

Delaware County Be it remembered that at a Surrogate Court held at the office of and Surrogate in the Village of Delhi in + for the County of Delaware on the 27th day of March 1838 before Amasa Parker Surrogate of said County came Robert S. Marshall, James Clark, + William McMillan. The [.....] to the last Will + Testament of John Clark, late of said County deceased who duly sworn did [....] say in substance that they saw the said John Clark, deceased, subscribe the instrument which is hereunto annex to + in [?] with the seal of office of the said surrogate which said instrument purports to be the Last Will + Testament of said deceased + [?] date the twenty second day of October 1837. That they heard the said John Clark declared at the same time, the said Instrument to be his last Will + Testament, which they [individually??] subscribed their names [?] as witnesses at the request of said John Clark and at the time thereof the said John Clark was of sound mind + memory

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Of full age to make said will not under restraint _ other witnesses were [?] but the preponderance of evidence was in favor of the validity of the will. Wherefore said Will is admitted to probate as a will of personal property + [altogether?] with the proofs recorded, pursuant to the Revised Statutes in case made and provided.

In testimony whereof the [Surrogate? ??] hereto affixed [by seal] of office.

S. S. Witness Amasa Parker surrogate of said county, at Delhi in said county the day and year first above written

Amasa Parker, Surrogate