

**Walker County, Alabama, Probate Court
Final Record A**

Transcribed from original record book in Walker County Probate Office
by Joseph T. Richardson, 10 July 2024

[page 174]

**Estate of Thomas Brown, deceased
Substituted Records (1877)**

Motion to substitute

The State of Alabama, Walker County. In probate court of said county.

In the matter of the substitution of lost records papers, &c., pertaining to said cause.

Comes **A. H. Brown**, executor of the last will & testament of said **Thomas Brown**, deceased & moves the court for an order to supply & substitute and enter of record the following decrees, orders, and papers which were destroyed by the burning of the probate office in the court house together with the records therein, in the town of Jasper in said county on the 22nd day of July 1877, to wit: 1st the petition to probate the will of said decedent **Thomas Brown**, 2nd the order setting day to hear said application, 3rd order probating & admitting said will to record, 4th petition of said **A. H. Brown** for letters testamentary, 5th order granting the letters testamentary to said **A. H. Brown**, copies of which orders, decrees, papers & will are herewith filed in said probate court, and the court is hereby moved to make & grant such orders & decrees in the matters as is by law required.

A. H. Brown, executor of last will & testament of **Thomas Brown**, dec'd.

Affidavit of H. W. Hamilton

The State of Alabama, Walker County. Probate court of said county.

Before me, **F. A. Gamble**, judge of said court personally appeared **H. W. Hamilton** who being by me first duly sworn deposes and saith that the following orders, decrees and papers which were had and made in said probate court in the estate of **Thomas Brown**, deceased, and which were destroyed in the burning of the court house of said county on or

about the 12th day of July 1877 to wit: the copy of the will of said decedent, the petition to probate said will, the order setting day of probate will, order admitting will to probate, the petition of **A. H. Brown** for letters of administration upon said will, the order granting said letters, and the letters, are all copies (as near as may be) of said destroyed orders, decrees and papers, deponent further saith that as clerk of said [page 175] probate court, he had several occasions to examine and read said orders, decrees, and papers, and from such knowledge the above statements are made.

Sworn to and subscribed before me, the 28th day of Nov. 1877.

H. W. Hamilton

Petition to probate will

The State of Alabama, Walker County.

To the Honorable **John Brown**, Judge of the Court of Probate of said county. The petition of **A. H. Brown** respectfully represents unto your Honor, that the late **Thomas Brown**, who was an inhabitant of this county at the time of his death, departed this life on or about the ____ day of 187_ in the county of Walker & state of Alabama, leaving a last will and testament, duly signed & published by him, and attested by **J. B. Hamilton & S. E. Cooner**, who reside in this county in which your petitioner as he verily believes is named as a devisee or legatee & that he [the] petitioner is interested in the estate of said decedent, which said will is herewith produced to your Honor and propounded for probate and record in this court.

Your petitioner further states, that the widow of said decedent is **Mrs. Lovey Brown** who resides in this county and that the next of kin of said decedent, are his children: **Elizabeth Sparkes**, widow of **Elijah Sparks** who is over 21 years of age & who resides in Walker County, Alabama, **Ealenor Kitchens**, wife of **Jesse Kitchens**, who resides with her husband in this county over 21 years of age, **John Brown** who is over twenty years of age who resides in this county, **Mary Dutton** wife of **G. W. Dutton** who is over 21 years of age & resides with her husband in this county, **A. H. Brown** who is over twenty one years of age who resides in this county, **I. B. Brown** who is over twenty one years of age & resides in this county, **Martha Jane Brown** who is over twenty one years of age & resides in this county, & all of whom are of sound mind.

In consideration of all which your petitioner prays that a day may be set for the hearing of the matters of this petition; that subpoenas may be issued to bring in said subscribing witnesses to testify on such appointed day, that due notice of this application may be given

to the said widow and next of kin of said deceased; and that such other proceedings, orders and decrees may be had and made in the premises, as may be requisite and proper to effect the due probate and record of said will according to law and as in duty bound will ever pray.

Subscribed & sworn to before me this the __ day of 187_,

John Brown, Judge of Probate

A. H. Brown, Petitioner

Petition for letters testamentary

The State of Alabama, Walker County. Probate Court.

In the matter of the Estate of **Thomas Brown**, deceased.

To Hon. **John Brown**, Judge of Probate for said county the petition of the undersigned **A. H. Brown** respectfully represents that **Thomas Brown** who was at the time of his death an inhabitant of the County of Walker in the State of Alabama, on or about the 14th day of July A.D. 1870, leaving property in this state in the county of Walker of the value of about seven hundred & fifty dollars, according to the best of the petitioner's knowledge, information and belief. That his death became known at the time of its occurrence, and that the names, ages, residences, and condition of the heirs and distributees of said decedent are as follows, to wit:

Lovey Brown, widow of deceased, who is over twenty one years of age of sound mind and resides in Walker County, Alabama.

Elizabeth Sparks, widow (child), who is over twenty one years of age of sound mind and resides in Walker County, Alabama.

John Brown (son) who was over twenty one years of age, of sound mind and resides in Walker County, Alabama.

Eleanor Kitchens, deceased (child), who was over twenty one years of age, of sound mind and resided in Walker County, Alabama, now dead.

Mary Dutton (child), wife of **G. W. Dutton**, who is over twenty one years of age, of sound mind and resides in Walker County, Alabama, with her husband said **G. W. Dutton**.

A. H. Brown (child), who is over twenty one years of age, of sound mind and resides in Walker County, Alabama.

I. B. Brown (son), who is over twenty one years of age, of sound mind and resides in Walker County, Alabama.

Martha Jane Brown (child) who is over twenty one years of age, of unsound mind and resides in Walker County, Alabama.

Lucinda Meek, daughter of **John Brown** & wife of **Robert Meek**, who is under twenty one years of age of sound mind and resides in Walker County, Alabama, with her husband.

& **Mary F. Brown**, & **Susan M. Brown**, children of **John Brown**, dec'd, under fourteen years of age, and reside with their mother in Saline County & near Bryant Post [*page 177*] Office.

Also **Calvin, Nancy Ann, Lovey, Sarah, & Mary Kitchens**, children of **Eleanor Kitchens**, all under twenty one years of age of sound mind & reside with their father **Jesse Kitchens** in Walker County, Alabama.

Your petitioner prays to have Letters Testamentary granted to your petitioner and states that he claims to be entitled thereto on the grounds following: That by the will of his said father **Thomas Brown**, deceased, **John Brown** (now deceased) was appointed executor of the last will & testament of said **Thomas Brown**, deceased, & that said **John Brown** declined to serve as such executor of said will & that your petitioner was thereupon appointed administrator with the will annexed & that your petitioner was and is the son of said **Thomas Brown** deceased & now the oldest living son.

A. H. Brown

Sworn to and subscribed before me, this 10th day of May A.D. 1871.

John Brown, Judge of Probate.

The State of Alabama, Walker County.
Probate Court.

Estate of **Thomas Brown**, deceased.

Petition for Letters Testamentary.

Filed this 12th day of June A.D. 1877.

Order setting day to probate will

Thomas Brown, deceased.

In the matter of the probate of his will.

Probate court, May 10th, 1871.

This day came **A. H. Brown** and filed his petition in writing and under oath, therewith producing, and filing in this court, an instrument of writing, purporting to be the last will and testament of **Thomas Brown**, deceased, praying for such orders, and proceedings as may be proper and requisite for the due probate and record of said will in this court, which said instrument appears to be attested by **S. E. Cooner** and **J. B. Hamilton** of this county and who are alleged to have signed the same as subscribing witnesses thereunto. And it appearing unto the court from said petition, that said petitioner is one of the next of kin of said deceased, that **Lovey Brown** who resides in this county, is the widow of said decedent, that decedent left seven children surviving him, to wit **Elizabeth Sparks, John Brown, A. H. Brown, Mary Dutton, Eleanor Kitchens, I. B. Brown** and **Martha J. Brown**, all of whom are above the age of twenty one years, and reside in this county. It is therefore ordered by the court that the 12th day of June, 1871, be set as a day for having testimony or proof of said instrument as such will. That said **J. B. [page 178] Hamilton** and **S. E. Cooner** be subpoenaed to be and appear on said 12th day of June 1871, in and before the court to testify and give evidence of the validity of said instrument as such will. That said **Lovey Brown**, widow of decedent, **Elizabeth Sparks, John Brown, Mary Dutton** wife of **George Dutton, Eleanor Kitchens** wife of **Jesse Kitchens, I. B. Brown** and **Martha J. Brown** be notified of this proceeding and the day set for hearing the matter by citation to be personally served upon them, at least ten days before the said 12th day of June 1877, that notice of this proceeding and the day set for hearing be given by posting up notice at the courthouse door of this county and three other public places in said county for at least four consecutive weeks.

John Brown, Judge of Probate.

Probate of last will and testament

Estate of **Thos. Brown**, dec'd.

Probate of his last will & testament.

Probate Court, June 12th day, 1871.

This day having been regularly appointed for hearing the application of **A. H. Brown**, which was heretofore filed in this court for the probate of an instrument of writing purporting to be the last will and testament of **Thos. Brown**, deceased.

Now comes the said **A. H. Brown** and it appearing to the satisfaction of the court, that notice of the time and nature of this proceeding has been given in strict compliance with

the former order of this court, made and entered on the 10th day of May 1871 by posting up notices at the court house and three other public places in said county and by citations personally served on **Lovey Brown**, widow of deceased & John Brown, **Elizabeth Sparks**, **Elenor Kitchens** wife of **Jesse Kitchens**, **Mary Dutton** wife of **G. W. Dutton**, **I. B. Brown** and **Martha J. Brown**.

Now on motion of the said **A. H. Brown** the court proceeds to hear said application. And it appearing to the satisfaction of the court from the testimony of **S. E. Cooner** and **J. B. Hamilton** that they respectfully signed the said instrument of writing purporting to be the last will and testament of said decedent and which writing is now shown to them on the day of the date thereof, in the presence of the testator and at his request as subscribing witnesses to the same the said testator then declaring, that said instrument, constituted his last will and it being shown to the satisfaction of the court, that said testator was twenty one years of age and upwards at the time of making said will, and that he was fully capable of making his said will, being of sound mind and [page 179] memory, it seems to the court that said application should be granted. It is therefore ordered, adjusted and decreed by the court that said will of said **Thomas Brown**, deceased be received, and the same is hereby declared to be duly proven as the last will and testament of said decedent, and as such admitted to probate and ordered to be recorded, together with the proof thereof and all other papers on file relating to this proceeding.

John Brown, Judge of Probate.

The State of Alabama, Walker County.

In the name of God, Amen. I, **Thomas Brown**, of the State and County aforesaid being in ill health and of sound and disposing mind and memory, calling to mind the frailty of human life, and being desirous of settling my worldly affairs, and directing how the estate with which it has pleased God to bless me, shall be disposed of after my decease, while I have strength and capacity so to do make and publish this my last will and testament, hereby revoking and making null and void all other last wills and testaments by me heretofore made.

- (1) And first I commend my immortal being to him who gave it and my body to the earth to be buried as my executor may think proper.
- (2) And as to my worldly estate and all my property real, personal, or mixed of which I shall die seized and possessed, or to which I shall be entitled at the time of my decease I devise, bequeath and dispose thereof in the manner following, to wit.

- (3) My will is that all my just debts and funeral charges be by my executor hereinafter named be paid [and] all my debts collected.
- (4) I give devise and bequeath, to my beloved wife **Lovey Brown** all my household and kitchen furniture and all my estate real, personal, or mixed to have and to hold the same during her natural life.
- (5) My desire is that all my real estate be equally divided between my three sons to wit: **John, A. H.** and **I. B. Brown** with the understanding that they support my daughter **Martha Jane Brown**, during her natural life or during the time she remains single.
- (6) My will is that my household and kitchen furniture be divided equally between my four daughters to wit: **Elizabeth Sparks, Ealenor Kitchens, Mary Dutton** and **Martha Jane Brown**.
- (7) My will is that **I. B. Brown** have my wagon and oxen.
- (8) My will is that **A. H. Brown** have my mule or horse.
- (9) My will is that the remainder of my personal property be equally divided between all of my heirs as aforesaid named but not until the death of my beloved wife **Lovey Brown**.

My will is that my affairs be settled without a sale by my executor. Lastly I do nominate my said son **John Brown** to be the executor of this my last will and testament without giving bond.

In testimony whereof I the said **Thomas Brown**, have to this my last will and testament subscribed my name and affixed my seal this the 13th day of September A.D. 1869.

Thomas (his mark) **Brown** {Seal}

Signed, sealed, published and declared by the said **Thomas Brown** as and for his last will [&] testament in the presence of us who at his request and in the presence of each other have subscribed as witnesses hereto

J. B. Hamilton {Seal}

S. E. Cooner {Seal}

The State of Alabama, Walker County. Probate Court, June 12th 1871

I, **John Brown** Judge of Probate in and for said county and state do hereby certify that the within instrument of writing has this day in said court and before me as the judge thereof

been duly proven by the proper testimony to be the genuine last will and testament of **Thomas Brown** deceased and that said will together with said proof thereof have been recorded in my office in book of wills.

In testimony of all which I have hereunto set my hand and seal of the said court this June 12th 1871.

John Brown, Judge of Probate

The State of Alabama, Walker County.

I **Jacob R. Shepherd**, Judge of the Probate Court in and for the County and State aforesaid do hereby certify that the foregoing sheet is a true and correct copy of the Last Will and Testament of Thomas Brown, deceased together with the certificate of the Proof Probate and Record of the same except the seal of said Probate Court.

Witness my hand this the 9th day of August A.D. 1875.

Jacob R. Shepherd, Judge of Probate.

Grant of letters of administration

Estate of **Thomas Brown**, deceased.

Grant of Letters of Administration.

Probate Court, June 12th 1871.

It being known to the court that the last will and testament of said decedent has been duly proven and admitted to record in this Court, and it appearing from an inspection of said will that said testator by an express provision of his will to that effect did exempt his executor therein named from giving bond as such.

Now comes the said **A. H. Brown** and files his application in writing and under oath praying that Letters of Administration with the will annexed may be duly issued to him.

It is therefore ordered and decreed that Letters of Administration with the will annexed be granted to said **A. H. Brown** and that said letters issue without bond or security being required in accordance with terms of said will and agreeably to the provisions of the law in such cases, the said letters to be forthwith issued to the said **A. H. Brown**.

It is further ordered that the petition and Letters of the petitioner **A. H. Brown** be recorded.

John Brown, Judge of Probate.

Letters of administration

The State of Alabama, Walker County.

Probate Court.

Letters of Administration with the will annexed on the Estate of Thomas Brown dec'd are hereby granted to A. H. Brown who has duly qualified and is authorized to administer such estate.

Dated the 12th day of June A.D. 1871.

John Brown, Judge of Probate.

The State of Alabama, Walker County.

Probate Court.

Estate of **Thomas Brown**, deceased.

Letters of Administration to **A. H. Brown**.