

## Last Will and Testament of Marshall Hairston

Lowndes County Mississippi Will Book 4, Pages 239-258  
Transcribed by Robert Hairston, Hairston.org

Marshall Hairston died in Henry County, Virginia and because he had land in Mississippi, a copy of the will was required there. Marshall Hairston #47 (1802-1882) married Ann Marshall Hairston #410 (1802-1888) and had 9 children, but only 3 daughters were living when his will was written: Elizabeth P. Hairston #790 (1836-1922), Ann M. Hairston #523 (1837-1907) and Ruth S. Hairston #787 (1837-1886).

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**Last Will and Testament of Marshall Hairston.** I Marshall Hairston of the County of Henry in the State of Virginia which said County and State I declare to be my place of residence and domicile, do make and publish this my last will and testament revoking all wills heretofore made by me, and I do devise and bequeath my Estate real and personal as follows; - **1st**, I devise and bequeath to my wife **Ann Hairston**, should she survive me, my family residence called **Beaver Creek** with the lands adjacent thereto, situated in the County of Henry and State aforesaid and included within the following counties Beginning at a large White Oak in the bank of Beaver Creek, in the line between a tract of land on said Creek belonging to Mrs. Lucinda Redd Preston and my lands, which are embraced in an inclusive survey upon which a New Grant was made to me by patent bearing date the 1st of March 1872, being the beginning point of the said inclusive survey, thence with the first line of the said survey North 75 degrees East 219 poles to a corner stone and pointers, being the Southeastern corner of the said tract of –

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Mrs. Preston, thence leaving the line of the said inclusive survey and running a straight said through my lands, to the Western end of my land, on the Beaver Creek and Leatherwood road, thence along said road Easterly to pointers in the line of Camillus King where the line of the inclusive survey aforesaid strikes it, thence with In lines of said King William, P. Tenny, Peter W. Hairston, and others, following the boundaries of the inclusive survey to the beginning, also my houses and lots in the town of Martinsville, Henry County , and also my lands near the said town of Martinsville known as the Court House tracts, and containing about nine hundred acres, which said lands, houses, and lots my said wife is to have, hold, occupy, use and enjoy for the term of her natural life, with the privilege of cleaning and cultivating as much of the woodland as she chooses, and also of felling and using, during her lifetime, the timber growing on the said lands, without limitation, restriction or impeachment of waste. I also give and bequeath to my said wife as her absolute property my carriage and horses, all my household and kitchen furniture, books, plates, and articles of like kind, all farming implements that may be on the lands devised to her, all my stock of horses, cattle, sheep and hogs held or owned in the County of Henry, all the provisions and provender, I may have in hand at my death, and any rents that may accrue on the lands, devised her, for the year in which I

may die, provided the same shall not have been received or anticipated by me. And I do hereby declare that the provisions made by this my will for my said wife is to be in line of her right of dower, and distributive share in my estate. - **2nd** I devise and bequeath to **my daughter Ruth S. Wilson, the wife of Robert H. Wilson**, subject to the conditions, restrictions and limitations, hereinafter declared all my lands lying on Leatherwood Creek and

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the waters thereof in the County of Henry, known as the Leatherwood Lands, and embracing the following tracts, to wit: a tract of land received of me by the heirs of the wife of David Meade Randolph, and afterwards reconveyed to me by James M. Whittle who was a purchaser from the said heirs another tract adjoining the above named tract and bounded by it the lands of Davis Stultz, and the lands belonging to the heirs of George Eggleston, deceased, held by his widow as her dower, another tract adjoining that first named in this clause and known as the Mill Tract another tract adjoining the Mill tract which was bought by me of the heirs of George Eggleston, dec'd, another tract called the "Cole Tract" which was purchased by my father of Benjamin Harrison and by him devised to me and the portions of the tract of land on Leatherwood formerly owned by my brother **Robert A. Hairston, dec'd**, which same to me by inheritance and which was purchased by me of the heirs of **my sister, Ruth, the wife of Peter Hairston, dec'd.**, and of the heirs of **my brother John H. Hairston, dec'd**, I also devise to my said daughter Ruth S. my tract of land in Smith's River in In County of Henry known as the "Lanier Place" together with all my lands which are adjacent to the said place, also a tract of land situated on Little Marrowbone in the County of Henry, which was bought by me of the **estate of George Hairston who was son of Peter and Ruth Harston, dec'd**, and also another tract of land situated in the County of Patrick, in the waters of Gobbling Town Creek, containing seven hundred and eighty acres, bring one of \_\_\_\_ several tracts of land conveyed to me by the **widow and heirs of John A. Hairston, dec'd**, by deed bearing date on the 30 of December 1870, and of record in the Clerk's office of the County Court of Patrick, the said tract being the second and described in the said deed by metes and bounds. I also give and bequeath to my said daughter

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Ruth S. all rents that may accrue on the said lands for the year in which I may die, provided they shall not be received or anticipated by me. - **3rd** - I devise and bequeath to **my daughter Elizabeth P. Hairston**, subject to the conditions, limitations and restrictions hereinafter declared, all the real estate devised to my wife, her mother for life, and she is to go into the possession and enjoyment of the said real estate, at the death of her mother or at my death if I should survive my said wife: I also devise and bequeath to my said daughter Elizabeth P. my lands situated in the County of Panola in the State of Mississippi; Also all the lands which I devised by inheritance from **my brother Robert Hairston**, which are situated in the County of Lowndes in the State of Mississippi, and in the County of Perkins in the State of Alabama; (and also one moiety, according to value, of the residue of the lands conveyed to me by the widow and heirs of John A. Hairston, dec'd, by the deed dated the 30th of December 1870, left after taking there from the tract of 780 acres devised to my daughter Ruth S.

Wilson). I also give and bequeath to my said daughter, Elizabeth P. the rents which may accrue in the lands, devised to her, for the year in which I may die, provided the said rents shall not have been received or anticipated by me, it being understood that she is to be entitled to the rents in the land devised to her mother for life only in the event that I survive her said mother, and that she is to be entitled to half of the rents of the land in which she is given a moiety. - **4th** - I devise and bequeath to **my daughter Ann M. Hairston**, subject to the conditions, limitations, and restrictions hereinafter declared, all that part of my lands embrace within the boundaries of the inclusive survey before mentioned which is not devised to my wife for life, bounded as follows:

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Beginning at the corner stone and pointers mentioned in the inclusive survey of the first stopping point or corner, thence with the line of the said inclusive survey as it was run, until it strikes the Beaver Creek and Leatherwood road, thence back along said road and the line of the portion devised to my wife for life to the beginning: also all my lands situated in the County of Yalobusha in the State of Mississippi; also the remaining moiety of the residue of the lands conveyed to me by the widow and heirs of John A. Hairston, dec'd, by her aforesaid deed bearing date on the 30th of December 1870, after taking therefrom the tract devised to my daughter Ruth S. my intension being that the said residue shall be divided equally according to value between my daughters Elizabeth P. and Ann M. also a tract of land on Smiths River in Henry County containing about twenty five acres, and adjoining the lands of **George Hairston & grandson of my brother George**, which said tract was conveyed to me by the heirs of John A. Hairston, dec'd, and also a tract about five acres lying in Town Creek in the County of Henry and embracing what is known as Dyers Spring being the parcel of land conveyed to me by Marshall Jimerson and wife. I also give and bequeath to my said daughter Ann M. the rents which may accrue on the lands devised to her for the year in which I may die provided I shall not have received or anticipated the said rents, it being understood that she is to receive only of the rents of the land directed to be divided between her as my daughter Elizabeth P. - **5th** - The land aforesaid devised to my daughter Ruth S. Wilson as to be is to be held by her husband Robert A. Wilson in trust for the sale separate use of my said daughter free from my claims or debts of the said Reber A. Wilson, and the land devised to my

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daughter Elizabeth P. and Anne M. Hairston respectively in the event that either or both of them shall hereafter marry and to be held by their respective husbands for the sale and separate use of my said daughters, respectively, free from the claim or debts of her said husbands, that is the husband of each of my said last named daughters of to be a trustee of the lands devised to the daughter he shall marry, for her sole and separate use exclusively. If either of my said daughters Ruth S., Elizabeth P. or Anne M. shall die leaving issue at her death, the land devised to her shall go in fee simple to her issue the said lands to be divided among the said issue, when more than one, in the same manner as if the said lands had descended to them from her by the law of descents in force in the state where said lands may lie: but if either of my daughters shall die without leaving issue at her death, and without availing herself of the power of devise hereinafter given, the lands

devised to her shall go to the survivors or survivor of my said daughters to be held subject to the same trusts, conditions and limitations as the lands hereby given them respectively provided however that if one or both of the other of my said daughters shall have died leaving issue, before the death of one without issue, the portion which would have gone to the one leaving issue, had she survived, shall go to her issue in fee simple to be divided in the same manner as if it had descended from her to her issue under the law of descent in the State where the land may lie. In case where only only one shall have died leaving issue: and where two shall have died leaving issue, the lands of the one dying without issue shall be divided into equal moieties, and each set shall receive the moiety that would have gone to the daughter from which it shall descend, and in the event that one shall have died without issue and another with issue the

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land of the remaining daughter who shall die without issue shall go to the issue who shall have died leaving issue, it being my purpose that, in the event of the death of either of my said daughters without leaving issue, while either or both of the others shall survive, or after either or both of the others shall have died leaving issue portion of said daughter shall go in the same manner as of the persons to which it shall go were my sole heirs at law and inscribed directly from me it being understood however that the portion which shall their go to either of my said daughters while living shall be held upon the same trusts, conditions and limitations as the land devised directly to \_\_\_\_ . -  
**6th** My said daughters respectively, shall have & sell power by last will and testament, to dispose of the land given to the one exercising this power in so much, thereof, as she shall think proper to dispose of in that manner provided the said land, or such part as shall be thus devised, shall be given to one of my other daughters or to one or more of the descendants of one or both of them, which disposition shall be valid and binding in the event that the daughter so making it shall die without issue living at her death and it shall be valid whether she be a married woman at the time of making such will, it being me purpose to give either of my said daughters who may be likely to die without leaving issue the power of discriminating in the disposal of her estate between her or their children or descendants. Should it so happen that either of my said daughters should survive the other two, and they should have died without leaving issue, then the said surviving daughter shall have power to dispose of the whole estate given them by this will as well as that which shall have come to her from her sisters under its

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provisions, by last will and testament which disposal shall be valid in the event that she shall die without leaving issue living at the death. - **7th** If either of my said daughters shall die before my death leaving issue, then her portion shall go to the said issue in fee simple; but if without issue then her portion shall go to the survivors and the issue of either that may have died leaving issue to be held upon the same trusts, conditions and limitations as the law given them respectively. -  
**8th** If either of my said daughters shall have children as the said children grow up, the said daughter shall have power to make advancements to them out of the land devised her, to be accounted for in the final division of her part, among her descendants, and provided no child shall receive more than

its share. - **9th** My daughters Elizabeth P. and Anne M. shall have power to sell and convey the tract of one hundred and seventeen acres lying in Blackberry Creek, described in the deed from the widow and heirs of John A. Hairston, dec'd, and to divide the purchase money equally between themselves, and if said sale is made in said tract of land is to be discharged from In trusts, limitations and conditions before specified and my daughter Anne M. shall have power to sell the tract of twenty-five acres in Smiths River devised to her, upon the same terms and to use the purchase money therefor in such manner as she may think proper. - **10th** If I have omitted any land to which I am entitled or in which I may have or interest, except lands hereinafter acquired, then the said lands, if adjacent to any of the land herein before disposed of, shall go to the one of my daughters to whom the lands to which they are adjacent are devised to be held upon the same trusts , conditions and limitations as the said last named lands.

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but if not so adjacent to any of the land herein before disposed of, then the same shall be sold by my executrix, wherever they may be located and the proceeds equally divided among my daughters or the survivors or them. If I shall hereafter acquire any lands in purchase or otherwise and the same shall not be disposed of by me in my life, or by some other testamentary disposition , the said acquired lands shall be divided equally between my three daughters or the survivors of them to be sold subject to the same trusts, conditions and limitations herein before declared in reference to the lands devises them respectively; provided however that if one or more of my daughters shall have died leaving issue, before my death the part of any daughter so dying shall go to her issue according to the provisions of the first part of respect the 7th clause of this will. - **11th**, If there shall be and personal estate or moveable property in either of my tracts of land in Mississippi belonging to me in connection with said tracts, then the said personal or moveable property shall go to the daughter to whom the tract of land in which it shall be is devised, - **12th** If my wife shall die before me then the moveable property bequeathed to her be the first clause of this will, except the rents mentioned therein, shall be equally divided between my two daughter Elizabeth P. and Anne M. - **13th** If I shall leave any money in hand at my death or due me by bond or otherwise, then the said money, after paying any debts or claims against me and expenses of administration, for which it shall be the primary fund, shall go to my wife to be disposed of as she shall think proper if she survives me, but if I shall survive her, then it shall be equally divided amongst my three daughters aforesaid and the survivors of them.

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**14th.** If before my death I shall give to either of my daughters any money or other thing the same shall not be taken to be an ademption or satisfaction of any devise or legacy hereby given her unless it be a gift of the specific thing devised or bequeathed her; and it is to be understood that no personal estate or money received by either of my daughters under this will is to be subject to the trusts, conditions, or limitation declared as to my real estate money received from the sale of the lands hereinbefore authorized to be made, to stand in the same footing as money received from personal assets. - **15th** If I shall be entitled at my death to any other estate not covered by the

foregoing clauses of his will, then the same be sold by my executor and the proceeds equally divided between my three daughters, or the survivors of them. – **16th** I hereby appoint my wife Ann Hairston, executrix of this my last will and testament, and desire that she shall be permitted to qualify and act as such without giving bond or security either in this State or in the State of Mississippi, if any qualification be necessary in the last named state and as there will be ample funds to pay all debts or claims against my estate. I desire that my said executrix shall not be required to make out any inventory or appraisement of the personal or moveable property given her or either of my daughters. If however, my said wife shall not survive me or shall die before completing her duties as executrix, then my daughter, Ann M. Hairston, is to act as my executrix, and is likewise to be allowed to qualify and act without giving bond or security. And which ever shall act as such executrix is to be allowed to make the sales hereinbefore authorized and perform the other duties of the office by agent or attorney when the same shall be practicable. In Witness

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of all of which I hereunto set my hand and seal on this the 28th day of May in the year 1873, the words “and the issue of either that may die leaving issue” having been interlined between the first and second lines on page 10, to come in after the word “survivors” at the end of line second and several other verbal connections having been made the property of which is apparent, before this will was signed and are whole being written on four sheets of paper making fourteen pages attached together. -

*Marshall Hairston* (seal)

The foregoing will was signed, sealed, acknowledged and published by Marshall Hairston as and for his last will and testament in our presence all of us being present at the same time and all of us attesting it at the same time in the presence of each other and of the said testator.

W. W. Smith

J. P. Warren

J. Panell

J. A. Early (note: Gen. Jubal Anderson Early)

I, Marshall Hairston, of the County of Henry, State of Virginia do make and publish this codicil to my will, dated the 28th day of May 1873, whereas by the said will I have devised the remainder in all the real estate hereby devised to my wife for life, to my daughter Elizabeth P. Hairston upon certain trusts, conditions and limitations in the said will specified, and whereas in the real estate devised to my wife for life, by the said will, are \_\_\_\_\_ certain lots and houses in in town of Martinsville, Henry County, and certain lands, near the said town know as in Court House tracts and containing about nine hundred acres without changing the several devises to my said daughter Elizabeth P. contained in the said will in her \_\_\_\_\_ I do hereby revoke so much of the devise

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to her above specified as relates to the said lots, and houses in the town of Martinsville and the said lands near the said town and do devise the said lots and houses and lands to my daughter Anne M.

Hairston, to come into her possession at the death of my said wife or at my death if shall survive my said wife and to be held by my said daughter Anne M. upon the same trusts, conditions and limitations as are specified in my said will in regard to the real estate thereby devised to her, it being my intention that she shall hold what is given her by this codicil in addition to what is given her by my said will and under the same trusts, conditions and limitations. As witness my hand and seal this the - day of April in the year 1877. - *M. Hairston*- seal

Acknowledged and published by Marshall Hairston in presence of us, all of us being present at the same time, and all of us attesting this codicil in his presence and in the presence of each other at the same time.

J. P. Warren  
E. Townes  
B. M. Stretz  
J. A. Early

I Marshall Hairston of the County of Henry, State of Virginia, do make this second codicil to my will dated the 28th of May 1873. I direct that if any child or descendant of either of my daughters who are mentioned in my will after becoming entitled, by the death of the daughter from whom he or her shall descend, to any portion of the real estate devised to said daughter shall die before arriving at the age of twenty one years, without issue living at the death of said child or descendant, then the portion of the said child or descendant, so dying under the age of twenty-

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one and without issue, shall vest in the other descendants of the same daughter if any there be living at the time of said death and if here be no such descendants, then in my other daughters or their descendants, in the same manner it would vest under my said will, if the daughter from whom the said child or descendant shall descend were to die without issue living at her death. As witness my hand and seal this the - day of April 1877. - *M. Hairston*-(seal)

Acknowledged and published in the presence of us, all of us being present at the same time and all of us attesting this codicil in the presence of the testator and of each other at the same time.

J. J. Warren  
E. Townes  
B. M. Stretz  
J. A. Early

**Henry County Court March Term 1882**

The last will and testament of Marshall Hairston late of this County deceased bearing date the 28th May 1873, and the two codicils thereto be date respectively the \_\_\_ day of April 1877 and the \_\_\_ day of April 1877 were this day produced in Court, and fully proved, .....