

deposited, which said last will and testament and probate are as follows, that is to say.

Toledo Aug. 29. 1849.

I Cyrus Tracy, Seaman &c. being of sound mind, memory and understanding, do make public & declare, this to be my last will and testament, hereby revoking and making null and void, all former wills and testaments and writings.

I hereby give and bequeath, to my wife Esther Tracy, all my real estate, and all my personal property of whatever kind or description belonging to me of any name and nature, she to have in full use of the same to her own lawful use, until my youngest child David Cyrus Tracy, shall have attained the age of twenty one years, or in case he should not live to that age, until the age of the next youngest child shall reach twenty one years. At which time I desire my property shall be equally divided among all my children my wife Esther Tracy, retaining one third, the same to have & to hold, to her the said Esther Tracy, and to my children their heirs Executors & Administrators forever. And I do hereby appoint my wife, to be the sole executor of this my last and testament.

In testimony whereof, I the said Cyrus Tracy, have hereby subscribed my name and affixed my seal this twenty ninth day of August 1849.

Witness,
D. S. Saltonstall
James Lov
Daniel Madsonch

Cyrus Tracy L.S.

Depositions of witnesses, produced sworn and examined the 13 day of November A.D. 1849, at Toledo in the County of Lucas and State of Ohio under and by virtue of a commission issued out of the Surrogate's Court of the County of Cuyahoga, in the matter of proving the last will and testament of Cyrus Tracy, late of the town of Scio in the County of Cuyahoga, deceased now pending before the County Judge of the County of Cuyahoga in support of the proof of the said last will, as follows:

Dudley S. Saltonstall, aged 14 years and upwards, of the city of Toledo Lucas County, Ohio being publicly & duly sworn pursuant to the directions hereunto annexed, and examined on the part of the

Deponent, made before me, say as follows:

To the first interrogatory he saith;

1. His age is 40 years, his occupation a gunwarden, his residence Toledo Ohio

To the second interrogatory he saith;

2. He has been acquainted with Captain Cyrus Tracy, late of the county of Cuyahoga, deceased, for about 7 years. He died at the boarding house of A. M. Rice in Toledo.

To the third interrogatory he saith;

3. The instrument in writing annexed to the interrogatories, dated the 29 of August 1849 purporting to be, the last will and testament of Cyrus Tracy, is in witness hereunto writing. It was written at the request of said Tracy, & was present as a witness at the time of the execution thereof by the said Cyrus Tracy. He said Tracy signed it in the presence of all the subscribing witnesses.

To the fourth interrogatory he saith;

4. In answer to the third interrogatory he states that he said said Cyrus Tracy sign said instrument, further in answer to this interrogatory he saith not.

To the fifth interrogatory he saith;

5. He thinks besides himself, James Lov & Daniel Madsonch the other subscribing witnesses, Mrs. Tracy, the wife of Cyrus Tracy was present, and one or more physicians might have been called out, during the time said instrument was being executed. The three subscribing witnesses and Cyrus Tracy were present, all the time of such execution and the said Cyrus Tracy & all the witnesses were present when it was subscribed by said witnesses.

To the sixth interrogatory he saith;

6. He said Cyrus Tracy did declare in the presence of witnesses & both the other subscribing witnesses, that the instrument annexed to these interrogatories, and which is signed by him, was his last will and testament, and he then requested us to write the same as such.

To the seventh interrogatory he saith;

7. He knoweth not except what he will state in answer to the 8th interrogatory.

To the eighth interrogatory he saith;

8. He thinks the said Cyrus Tracy was of perfectly sound mind and memory at the time of the execution of his said last will. He was under no restraint at any time, and perfectly competent to transact any business, that his strength would admit of, and further saith not.

D. S. Saltonstall