Kearns & Coltrane – et al –
v
Dempsey Brown et al

Devisavit vel non

Zebedee Rush – Rev. — In 1866 was sent for by Jane Brown, who informed me that she wanted me to witness her will – This is the instrument – Saw her make her mark – I witnessed it at her request and in her presence and in presence of the other subs– witness – I thought her quite compe–tent to execute a will – She was con–sidered to be a remarkably shrewd business woman – Had been a widow for many years and had managed her own business – I had known her for 25 years much of the time saw her frequently and knew much of her business and habits – The will was signed at Lingziers – I saw her several times after she went to White's when the codicil was executed – Her mind was then clear – I think

C. X.

I cannot say that I saw the testatrix for several years before 1866 – After

I moved to Trinity. She came to my house once or twice – She staid over an hour on most. Her hearing was impaired a little – Her sight was very poor – I do not suppose she could recognize any one by sight – Dont know her age. She was very old – She was not more feeble than other persons of her age only her blindness – Think Mr Frazier came after me to witness the will. He only came for me once upon this business so far as I know – I did not go with him once and after some talk with the old lady refuse to witness the will – I did not have any doubt as to her competency – But I knew it was a right fussy family – and I was afraid I might have trouble by being called as a witness from remote parts of the State – I was there ah no other time – was not there when Ruddick was there – Did not hear Frazier make any objection to signing or Ruddick letting him – to do so to pay for the old lady – Think I was there an hour – not more than that – I

cannot be more definite. I had no conversation with her and heard none except here request that we should witness the will. Mrs Frazier assisted her to make her mark — Think she brought the will from her trunk — She could find anything she had in the room — Did not know that she had an agent as to her moneys and papers — Never Ridlick had charge of her funeral — Think I saw her a half dozen times at Whites — Could make her hear. Not very hard of hearing — Saw no failure in her faculty — She was the same shrewd, wary, cool woman — She dictated her own affairs and made money all along —

I have no sort of doubt as to her capacity — She could make as good a will as I — She often spoke of her orphan grandchildren with great feeling —

Cross R. Frazier — I witnessed the instrument. Mrs Brown boarded with me. I witnessed it at her request and went for Mrs Rush at her instance

The first time we did not witness it — I went again for him — signed in the presence of testators at her request and in presence of the other witness — Had known her all my life — I did not think she was capable to execute a will — I only signed it to please her — She had been injured in 63-7 and had been growing very weak ever since — She came and got down on her knees and asked me to board her for the rest of her life — She frequently said she wanted to make a will so that Johns children could get the most of her money — She & Dempsey Brown had spent all this property inherited from father and mother and if she did not do something for her they would be without any thing — Took her to High Point — She & that I might have a load of pumpkins for it — She then told her witnesses not to let me have them when I sent for them

C. X.

Deed had 3 children — John — (3 children) Healey (8 children) Dempsey — living —

Joe was at my house when she came there - He saw her every day. Have heard him, frequently speak to her about the his uncle Dempsey having wasted his mother's and father's estate, but whether before or after the making of the will I do not know -

Did you hear Joe talking to any other person about Dempsey Brown having

D X 1 wasted his father's estate while the decedent was living with you

Excluded on objection - Deft excepts -

Think the conversations mentioned with her by Joe were before the will was made - She said when we signed it that she did not want either of us to know what was in it - and did not want us to say anything about it to any one - First time I went to get Rush we saw old woman and after some talk concluded not to sign in. Rush said it might make some trouble and he did not think she had capacity to execute a will at best -

Saw her the day after injury in 1857 or 58 - She was weaker in body and mind after that time -

Dr. B. Craven — Knew Jane Brown from 1842 till her death — I wrote the instrument propounded — She sent for me and said she wanted me to write her will — I went perhaps a dozen times to see her and we discussed the matter variously — She showed me her papers or rather memoranda in regard to her property — She had a clear idea as to all she had — Then she presented her plan of the will and I did not like it —

Kept will at her request two years when she came to see me again and wanted me to put the substance of the will into a deed of gift —

B. F. Hoover. Wrote codicil —

Thomas White

Branson Coltrane —

Caveator's Testimony

Jane Brown

Hezekiah Dorsell — The Caveators propose to ask this question — From your knowledge of Jane Brown's mental condition do you think that if an instrument of the length of the writing propounded were read over to her she would have capacity to understand its provisions — Excluded on objection

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