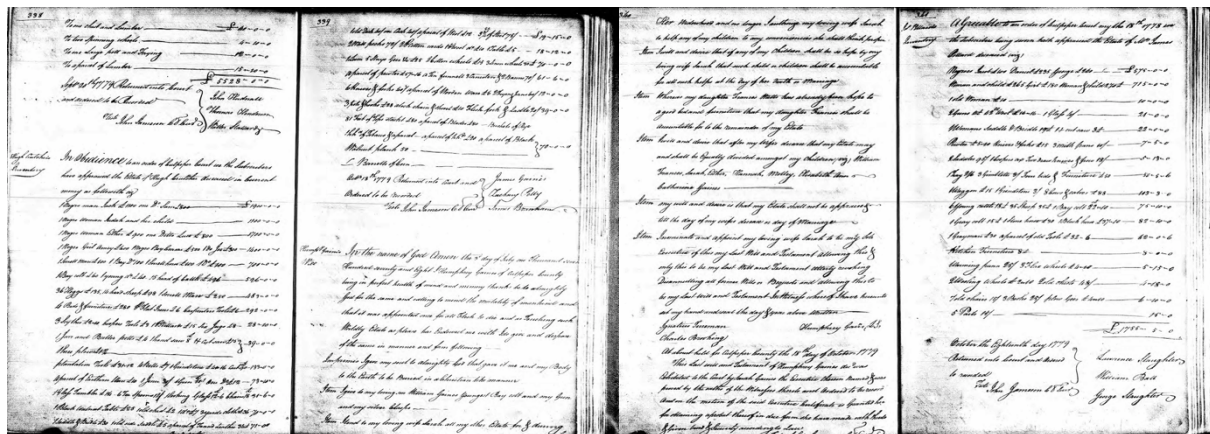


Document Discussion Paper
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Document Discussion Paper

1. Where was this document found?

The last will and testament of Humphrey Gaines (1692- 1779), can be found on Ancestry website in the Virginia, Wills and Probate Records, 1552-1983 online database. This type of document is categorized as a probate record, which can include, “wills, inventories, appraisals, estate accounts, and divisions of estates” all of which were “recorded in will books” (Library of Virginia website, n.d.). It is also discoverable at the Library of Virginia.

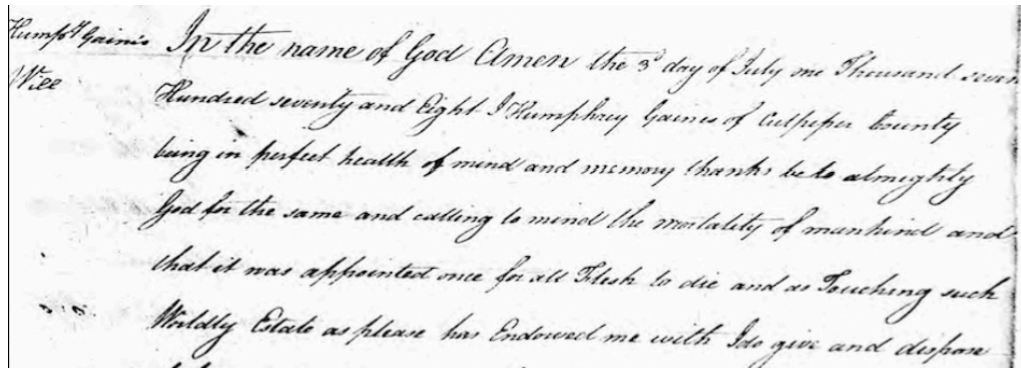


2. Why was this document chosen?

This document was chosen for its potential to answer research questions on my family tree. It supports asserted facts in online family trees, such as the family members' identities (Sarah and their children) establishes where and when he lived and died, and offers potential insight into his social status. Research goals for this figure include finding definitive proof that this Humphrey Gaines is the child of Henry Gaines (1692 – 1734) and Sarah Brooke (1690-1768). Sarah Gaines and several of her daughters emigrated from Virginia to Kentucky after Humphrey Gaines' death, so this couple and this family at this point in time represent a pivotal moment in my family history. These pioneers, (who are ancestors several times over due to cousin intermarriage) migrated from Virginia, where their families had lived since early colonial times, to a new home on the frontier. Following the perilous journey, they set down roots that lasted from the earliest settlement of Kentucky until WWII, when their descendants moved north to Indiana in the 1940s.

3. Who created this document?

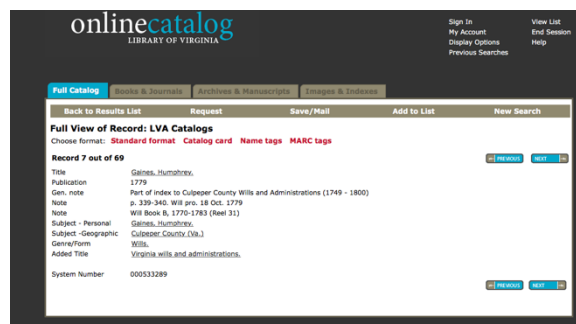
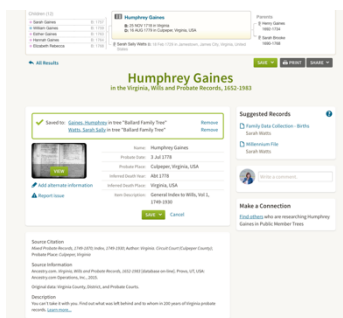
This document was created by Humphrey Gaines, born in Virginia on 25 of November 1718. He died 16 of August 1779. The will was written on July 3, 1778 in Culpeper County Virginia. It was witnessed by Ignatius Freeman or Tesseran (?) and Charles Brooking, and signed by Humphrey Gaines. The will was proven in court October 18, 1779. An official of the court, John Jameson, the clerk, appears to have ordered the will recorded. Official authorship of this document should however be attributed, according to the Library of Virginia website, to “the office of the clerk of court.”



Humphrey Gaines In the name of God Amen the 3^d day of July 1778
 Hundred seventy and eight I Humphrey Gaines of Culpeper County
 being in perfect health of mind and memory thanks be to almighty
 God for the same and calling to mind the mortality of man and
 that it was appointed once for all that we should die and as touching such
 worldly Estate as please has Endowed me with the gift and dispose

4. What is known about the source and where and when it was created.

The location this document was first discovered is Ancestry.com, from their database Virginia, Wills and Probate Records, 1652 -1983. The source citation given on their website is, *Mixed Probate Records 1740-1870; Index, 1749 -1930, author Virginia. Circuit Court (Culpeper County); Probate Place: Culpeper, Virginia*. This document can also be found at the Library of Virginia. These and other probate records were created by the county clerk. This particular document was recorded on July 3, 1778 in Culpeper Virginia. The “proof”, or sworn testimony of witnesses in open court as to the veracity of the document was exhibited on October 18, 1779, two months following the death of Humphrey Gaines.



5. Why was the document created?

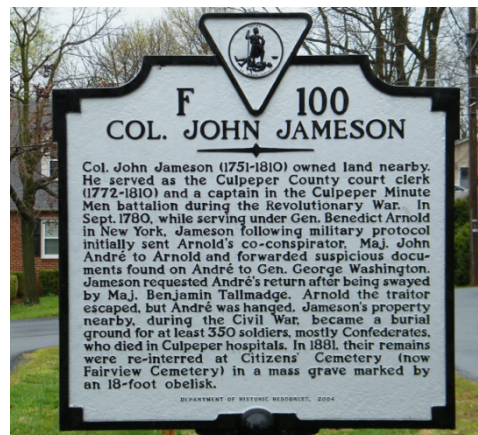
Obviously, a will is a document created to express the desires and wishes of an individual after their death, to give direction on their burial arrangements, payment of debts, and distribution of their estate. In a world in which possession of property made white male citizens eligible to participate in the political system, this process was key to the functioning of the society.

6. What kinds of information/evidence does the document provide?

A will is a treasure trove of information of interest to individual genealogists and historians. This document establishes familial relationships, provides a snapshot of a family and a place in a particular moment in American history, and also in the life cycle of this family unit. The maker of the will is Humphrey Gaines. His wife is listed as Sarah. He names eight living children: one boy, William (aged 20) and seven girls, ranging from 26 to five years of age named Frances, Sarah, Esther, Hannah, Mary Polly, Elizabeth, Anne and Catherine. The appraisal of the estate is postponed until Sarah's decease, which suggests that Humphrey Gaines wanted it to be clearly understood that his wife was in charge and full possession of the estate and property for her remaining life, or until, or if she remarried. The will also offers insight into hidden personal relationships. Sarah is described not only as "beloved" but is also named not only executrix of the estate, but *sole executrix*, even though son William, at age 20, would be considered a full adult. It would appear this couple had great respect for one another, and total trust. In a patriarchal society, it would have been completely normal for William to be charged with this responsibility, or even a male relative, friend, or business partner, yet Sarah is named sole executrix of the estate. One can only speculate why he was not named. (Perhaps he was a soldier with an uncertain future, or lacked the intellectual capacity to act in this role for some reason.) We know he wasn't estranged because he is described as "my loving son William" by Humphrey Gaines. Finally, though it is not described in the will, and the appraisal not completed, it is assumed that the estate consists of land owned by Gaines, a home, as well as cash savings, assets and other possessions.

7. What is unique, surprising, interesting about this source?

Aside from the interesting family history details which offer insight into the individual family members, as well as a piece of history related to inheritance laws during the American Revolution, it is also connected to a revolutionary war figure. The county clerk who signed the document is also the official on many other documents from this period in the same will book. His name was Colonel John Jameson. Jameson was a captain of the Culpeper County Minutemen during the Revolution, and was involved in the incident that exposed Benedict Arnold as a traitor.

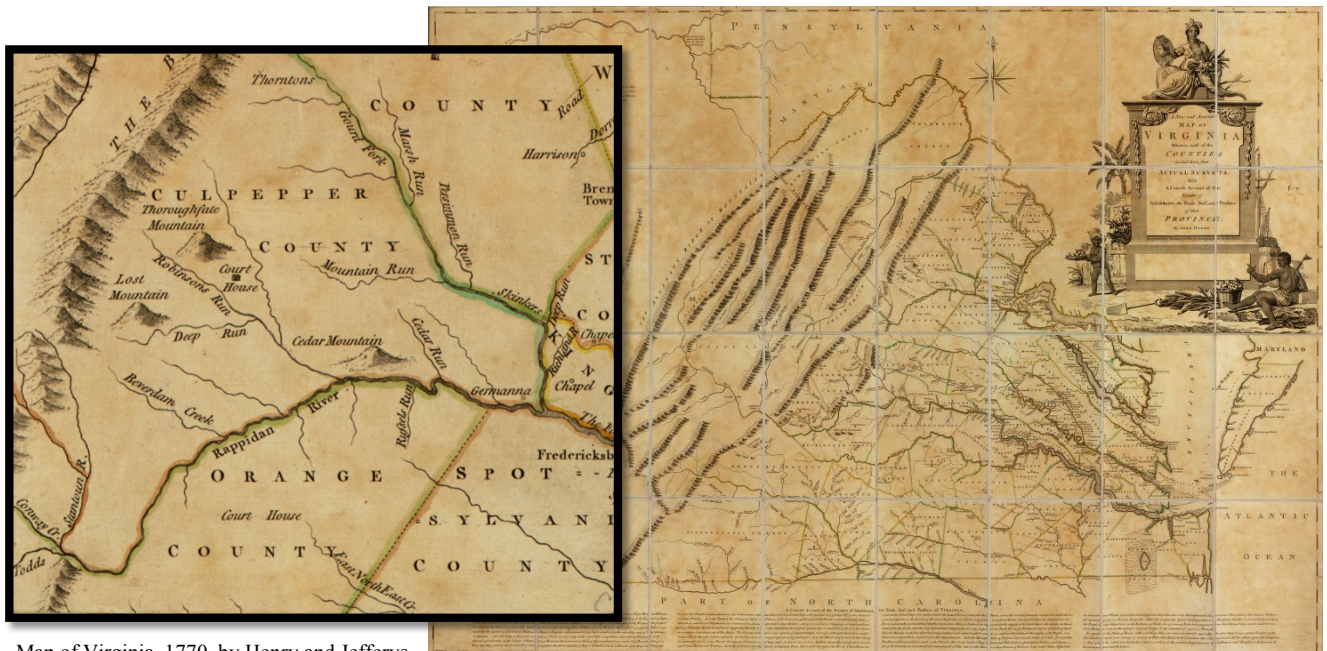


8. How is the world different today from when the document was created?

The world today is radically different from when this document was created, but even at the time of this document's creation in eighteenth century Virginia, inheritance laws were flux. The Library of Virginia, in *Notes on Using County and City Records*, (research notes number 6), observes that two legal changes, the abolition of entail in 1776, and the ending of primogeniture in 1786, impacted the creation and use of wills. (Primogeniture is defined by the Merriam-Webster dictionary as, "the exclusive right of inheritance belonging to the eldest son.") Prior to the American Revolution, the colonies abided by the English inheritance system, which allowed for the widow to keep her dower, or "one-third, for her lifetime and the eldest son, as heir at law, receiving the remaining two-thirds unless otherwise specified in the father's will." Heirs after the Revolutionary war "inherited equally." This change is indicative of the paradigm shift sparked by the social upheavals of the revolution, and rejection of old world social hierarchies based on birth order. Gaines' will, created in July 1778, was proven in October 1779, as the Revolutionary War raged on. It is interesting to note that this will, though it predated the official abolition of primogeniture, does not name William the sole heir, or even owner of 2/3 of the estate. Sarah Gaines is "lent" the use of it for her life and empowered to make financial decisions for her children, all of whom are to share equally in the estate.

9. What was the reception of this source at the time?

The reception of this source is described within the source itself. Following the entry of the will, a note is included that on the 18th day of October 1779, "the last will and testament of Humphrey Gaines was exhibited to the court by Sarah Gaines the executrix therein named and was proved by witnesses...and ordered...to the sworn and on the motion of the said executrix certificates...has for obtaining approval thereof in due form she have made...oath...and given...according to law." This part of the process is described on the Library of Virginia research guide as follows: "Individuals with a written will died *testate*. After the death of an individual, his or her will was brought into court, where two of the subscribing witnesses swore that the document was genuine. After the will was proved, the executor was bonded to carry out his or her duties to settle the estate. The court then ordered the will to be recorded."



Map of Virginia, 1770, by Henry and Jefferys

10. What is credible or incredible about this document?

10. What is the source's credibility?

This source seems entirely credible. Its truthfulness and veracity were established by the sworn testimony of witnesses Ignatius Freeman (?) and Charles Brooking. Other evidence supports facts in this document. For example, the eldest daughter is first mentioned by name as "Frances Watts", then later simply "Frances". Her mother Sarah's maiden name was Watts. This information provides support that these two families were related by marriage and kinship, as it would appear Frances Gaines married man name cousin Thomas Watts, possibly a cousin. Other evidence from the family tree suggests cousin intermarriage was common at the time, and not unusual in this family. Sarah Watts Gaines also appears in the 1790 will (signed by clerk Col. John Jameson) of her brother Benjamin Watts, also of Culpeper County Virginia. She is listed along with her other brothers as an heir. Frances' marriage and Benjamin Watts' will provide outside documentation of Sarah Watts Gaines' ancestry and familial relationships, as well as kinship bonds between Gaines and Watts families residing in Culpeper County Virginia in the 1780s. These kinship bonds were perpetuated in later generations in Kentucky, suggesting close family ties.

Figure 1.

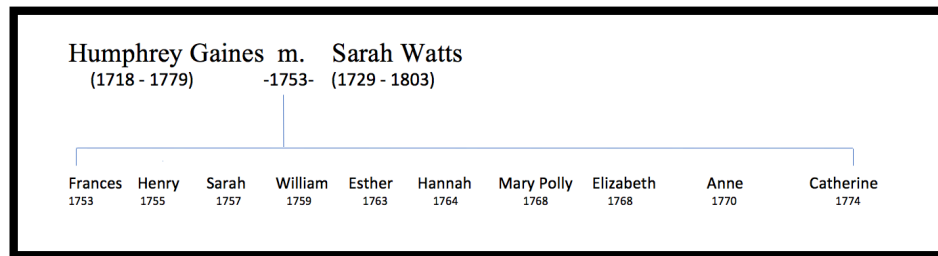


Figure 2.

Humphrey Gaines's Will Transcription

In the name of God Amen the 3rd day of July one Thousand seven Hundred seventy and Eight. I Humphrey Gaines of Culpeper County being in perfect health of mind and memory thanks be to almighty God for the same and calling to mind the mortality of mankind and that it was appointed once for all Flesh to die and Touching such Worldly Estate as please has Endowed me with I do give and dispose the same in manner and from following

Imprimis I give my soul to almighty God that gave it me and my Body to the Earth to be Buried in a Christian like manner

Item I give to my loving son William Gaines youngest Bay colt and my gun and my silver clasps ...

Item I lend to my loving wife Sarah all my other Estate for & during her Her Widowhood and no longer. I authorize my loving wife Sarah to help any of my children to conveniences she shall think proper.

Item I will and desire that if any of my children shall be in hope/help (?) by my loving wife Sarah that such child or children shall be accountable for all such helps at the day of her death or marriage

Item Whereas my daughter Frances Watts has already been hope/helped(?) to a good bed and furniture that my daughter Frances shall be accountable for to the remainder of my Estate

Item I will and desire after my Wife's decease that my Estate may and shall be Equally divided amongst my children viz. William, Frances, Sarah, Esther, Hannah, Molly, Elizabeth, Ann, Catherine Gaines

Item my will and desire that my Estate shall not be appraised till the day of my wife's decease or day of Marriage

Item I nominate and appoint my loving wife Sarah to be my Sole Executrix of this my last Will and Testament allowing this & only this to be my last Will and Testament utterly revoking Dismissing all former Wills or Bequests and allowing this to be my last will and Testament. (Illegible) where of I have hereto set my hand and seal the day and year above written

Ignatius Tessesman/Truman/Freeman (?)
Charles Brooking
Humphrey Gaines, (L, J or L, S?)

At about held for Culpeper County the 18th day of October 1779

This last will and Testament of Humphrey Gaines dec'd was Exhibited to the Court by Sarah Gaines the Executrix therein named and was proved by the witnesses and ordered to the sworn and on the motion of the said Executrix certificates (?) is (?) has for obtaining approval thereof in due form she have made oath (?) and given and ...(?) According to law

Col. John Jameson

References

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- Marker History. (n.d.). Col. John Jameson Marker, F-100. <http://www.markerhistory.com/col-john-jameson-marker-f-100/>