

KELLY & ASSOCIATES, LLC
ATTORNEYS

William S. Kelly, Esq.
Thomas P. Hineman, Esq.

96 High Street
Belfast, Maine 04915
e-mail: kellylaw@prexar.com

(207) 338-2702
(207) 338-0328 *fax*

July 22, 2002

WALDO COUNTY PROBATE COURT
Attn: Sharon
P.O. Box 323
Belfast, Maine 04915

RE: In Re: City of Belfast as Trustee under the Testamentary Trusts of Rachel A. McClintock,
In Re: City of Belfast as Trustee under the Testamentary Trusts of Alma E. Bradbury,
In Re: City of Belfast as Trustee under the Testamentary Trusts of Abbie Faunce Swan,
In Re: City of Belfast as Trustee under the Testamentary Trusts of F. Louis Bartlett

Dear Sharon:

Please find enclosed Petitioner's Motion to Dismiss and Petitioner's Memorandum of Law,
for filing in the above captioned matters.

Would you please schedule this matter for a hearing at your earliest possible convenience.

Thank you for your consideration.

Sincerely,
KELLY & ASSOCIATES, LLC


Thomas P. Hineman

TPH/lsw
Enc.

cc: Terry St. Peter, City Manager
Ricki LeSan
Linda J. Conti, AAG

STATE OF MAINE
COUNTY OF WALDO, ss

PROBATE COURT
FIFTH DISTRICT
DIVISION OF WALDO
DOCKET NO. T-01-273
DOCKET NO. T-01-274
DOCKET NO. T-01-275
DOCKET NO. T-01-276

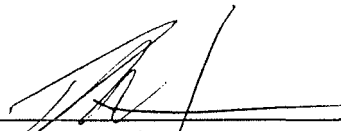
IN RE: F. Louis Bartlett)
IN RE: Alma E. Bradbury) PETITIONER'S MOTION TO
IN RE: Rachel A. McClintock) DISMISS
IN RE: Abbie Faunce Swan)

Petitioner, City of Belfast, by and through its undersigned Counsel, moves to dismiss the above petitions pursuant to Rule 41 of the Maine Rules of Probate Procedure. Included and incorporated herein is Petitioner's Memorandum of Law.

Linda J. Conti, AAG, has been contacted and does not object to the granting of this motion.

Respectfully submitted,
KELLY & ASSOCIATES, LLC

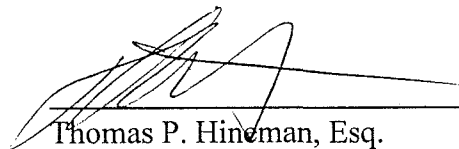
by:



Thomas P. Hineman, Bar#8875
Attorney for Petitioner
96 High Street
Belfast, Maine 04915
207-338-2702
207-338-0328 (fax)

NOTICE

Pursuant to Rule 7(c)(1)(A), any opposition to the above Motion must be filed not later than twenty-one (21) days after the filing of said Motion. Failure to file timely opposition will be deemed a waiver of all objections to the Motion, which may be granted without further notice or hearing.

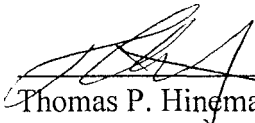


Thomas P. Hineman, Esq.

CERTIFICATE OF SERVICE

I, Thomas P. Hineman, Esq., hereby certify that on this 15th day of July, 2002, I caused to be mailed a copy of the foregoing Petitioner's Motion to Dismiss and Petitioner's Memorandum of Law, postage pre-paid sufficient to carry it to its destination and properly addressed to the following:

Linda J. Conti, Esq.
Assistant Attorney General
Department of the Attorney General
7 State House Station
Augusta, Maine 04333-0006



Thomas P. Hineman, Esq.

ORDER ON MOTION TO DISMISS

Petitioner's Motion to Dismiss is **GRANTED/DENIED**.

Date: _____

Judge, Maine Probate Court

STATE OF MAINE
COUNTY OF WALDO, ss

PROBATE COURT
FIFTH DISTRICT
DIVISION OF WALDO
DOCKET NO. T-01-273
DOCKET NO. T-01-274
DOCKET NO. T-01-275
DOCKET NO. T-01-276

IN RE: F. Louis Bartlett)
IN RE: Alma E. Bradbury) PETITIONER'S MEMORANDUM OF
IN RE: Rachel A. McClintock) LAW
IN RE: Abbie Faunce Swan)

INTRODUCTION

The City of Belfast filed an action in this Court to invoke the doctrine of cy pres in order to receive guidance and authorization from the Court to effectuate the beneficial purposes of the trusts in light of the fact that certain named entities in the instruments no longer exist in the form mentioned in the instruments. Specifically, the City requested that the funds be reallocated to scholarships for Belfast highschool students. The Attorney General concurred with the City that a scholarship fund would be an appropriate reallocation of these trust assets.

The Court held a hearing regarding applying the cy pres doctrine and allocating the trust funds to scholarships, wherein the Court voiced its concerns and reservations, since it may still be possible to fulfill the intent of the testators in a manner more closely consistent with the original trust instructions. The Court further requested a memorandum discussing the doctrine of cy pres and the possibility of terminating trusts and dispersing the funds to the beneficiaries in instances when the fund is of such small size as to require more in administration expenses and effort as to make it inefficient and frustrating to the original intent of the testator.

Subsequently, after reviewing the matter with the City, the City has determined that scholarship funds are not within the scope of the testator's intent and that the original purposes of

the trusts are possible, although in slightly different form. Hence, the City is requesting pending petitions be dismissed or in the alternative that the Court provide guidance on applying the funds and not in establishing a scholarship fund.

MEMORANDUM OF LAW

“The doctrine of cy pres may be explained as a judicial principle for the preservation of a charitable trust when the accomplishment of the particular purpose of the trust is or becomes impossible, impractical or illegal.” *In re Thompson’s Estate*, 414 A.2d 881, 885 (Me. 1980).

“[I]f the creator of the trust manifested in the trust instrument what has been termed by the courts a general charitable intent, i.e. an intent devote the trust to a charitable purpose more general than the frustrated purpose, a court of equity, instead of allowing the trust to fail, will apply the trust funds cy pres, i.e. to a charitable purpose as nearly as possible to the particular purpose of the settlor or testator.” *See id.*

Applying the general principles above, the will of Abbie Faunce Swan, provided, “I give and bequeath to the City of Belfast, Maine, the sum of two hundred dollars, in trust nevertheless, the income therefrom to be expended each year for the use of the District Nurse, so called, for the city of Belfast, Maine”. While the City of Belfast does not have a so-called “District Nurse”, there is a Public Health Nurse, for which the City of Belfast pays more than \$23,000 per year. This Public Health Nurse is the successor of the District Nurse and the income from this two hundred dollar gift could be applied to that same purpose.

The will of Alma E. Bradbury provides in relevant part:

I give and bequeath to the City of Belfast, in trust, the sum of Three Thousand Dollars, to be known as the Bradbury Thanksgiving Fund, the income of said trust fund to be expended in memory of the kindness of Mr. Bradbury, as follows: A large turkey to be provided for the firemen of the City of Belfast for their annual ball, the balance of the income to be used each year at Thanksgiving time to

provide dinners to the poor and deserving families of Belfast, the same to be distributed by John Chapman and William Weshe so long as they, or either of them, care to undertake the work and thereafter by the City Authorities.

Upon information and belief, the firemen of the City of Belfast no longer have a Thanksgiving Ball, the interest can still be distributed by the City to the “poor and deserving families of Belfast”. Therefore, this trust has not failed and the City stands ready and able to carry out the intent of the testator.

The will of Rachel A. McClintock provides in relevant part:

I also give and bequeath to the said City of Belfast in trust as the McClintock Trust Fund, the sum of Six Thousand Dollars, one half of the net income of said trust fund shall be annually paid towards the support of the Children’s Home now established on Northport Avenue in said City. The income of the other half of said fund to accumulate and be applied the support of an Old Ladies Home should one be established in said Belfast as a public institution within ten years from the date of my death and if no such home is so established then the same half of income with the accumulations thereof shall be paid annually for the purchase of books for the Belfast Free Library and if either the Children’s Home or the Old Ladies Home after being established should fail of successful operation or be removed from the said City of Belfast, then the income that would have been paid to them by the terms of this trust shall be annually paid for the purchase of books for the Belfast Free Library.

Neither of the above referenced homes are currently in operation. There is a home for aged women in Belfast but it is a private institution and not public as called for in the will. As neither institution is public as required by the will, the alternate disposition comes into effect and the City should spend the accumulated income on books for the Belfast Free Library.

As to the F. Louis Bartlett Trust, a mistake was made in the initial pleading and this matter should not have been brought forward. The money currently held in trust is for the perpetual care of his cemetery plot and not for the home for aged men. The trust regarding the home for aged men was litigated and reported in *City of Belfast v. Goodwill Farm*, 103 A.2d 517

(Me. 1954). Therefore, the City requests that the petition regarding the F. Louis Bartlett trust be withdrawn or dismissed.

As pled in the relative Petitions, the City of Belfast requests this Court give guidance as to the use of the McClintock, Swan and Bradbury trusts and dismiss the Petition as regards the Bartlett trust.

Respectfully submitted,
KELLY & ASSOCIATES, LLC

by:  _____

Thomas P. Hineman, Bar#8875
Attorney for
96 High Street
Belfast, Maine 04915
207-338-2702
207-338-0328 (fax)

STATE OF MAINE

(Seal of Court)
PROBATE COURT

WALDO, SS.

DOCKET T-01-275

IN RE: Rachel A. McLintock

SUMMONS IN CIVIL
PROCEEDING

Plaintiff

vs.

Defendant

Party-In-Interest: Maine Attorney General, Assistant Attorney
TO THE DEFENDANT: ~~General, Linda J. Conti~~

Petitioner, Trustee of the Rachel A. McClintock Charitable Trust
The ~~XXXXX~~, has begun a civil proceeding
against you in the Probate Court for WALDO County. If you wish to oppose this civil
proceeding, you or your attorney must prepare and file a written Answer to the attached Complaint within 20 days from
the day this summons was served upon you. You or your attorney must file your Answer by delivering it in person or
by mail to the office of the Register of the Probate Court, WALDO County Courthouse,
172 High Street, P.O. Box 323 Belfast Maine, 04915 On or before
(Street address) (Town) (Zip Code)

the day you file your Answer, you or your attorney must mail a copy of your Answer to the Plaintiff's attorney, whose
name and address appear below,

IMPORTANT NOTICE: IF YOU FAIL TO FILE AN ANSWER WITHIN THE TIME STATED ABOVE, OR IF,
AFTER YOU FILE YOUR ANSWER, YOU FAIL TO APPEAR AT ANY TIME THE COURT NOTIFIES YOU TO
DO SO, A JUDGEMENT BY DEFAULT MAY BE ENTERED AGAINST YOU IN YOUR ABSENCE FOR THE
MONEY DAMAGES OR OTHER RELIEF DEMANDED IN THE COMPLAINT. IF THIS OCCURS, YOUR
EMPLOYER MAY BE ORDERED TO PAY PART OF YOUR WAGES TO THE PLAINTIFF OR YOUR
PERSONAL PROPERTY, INCLUDING BANK ACCOUNTS, AND YOUR REAL ESTATE MAY BE TAKEN TO
SATISFY THE JUDGMENT. IF YOU INTEND TO OPPOSE THIS CIVIL PROCEEDING, DO NOT FAIL TO
ANSWER WITHIN THE REQUIRED TIME.

If you believe the Plaintiff is not entitled to all or part of the claim set forth in the Complaint or if you believe you
have a claim of your own against the Plaintiff, you should talk to a lawyer. If you feel you cannot afford to pay a fee to
a lawyer, you may ask the office of the Register of Probate, at the above named County Courthouse or any other
County Courthouse, for information as to places where you may seek legal assistance.

Dated February 4, 2002

William S. Kelly, Esq.

Name of ~~XXXXXX~~ Petitioner's Attorney: 96 High Street

Address Belfast, Maine 04915

Telephone 207-338-2702

Joanne M. Crowley
Register of Probate Joanne M. Crowley
Served on _____

Date _____

Deputy Sheriff

G. STEVEN ROWE
ATTORNEY GENERAL



Telephone: (207) 626-8800
TDD: (207) 626-8865

STATE OF MAINE
OFFICE OF THE ATTORNEY GENERAL
6 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0006

REGIONAL OFFICES:

84 HARLOW ST., 2ND FLOOR
BANGOR, MAINE 04401
TEL: (207) 941-3070
FAX: (207) 941-3075

44 OAK STREET, 4TH FLOOR
PORTLAND, MAINE 04101-3014
TEL: (207) 822-0260
FAX: (207) 822-0259
TDD: (877) 428-8800

128 SWEDEN ST., STE. 2
CARIBOU, MAINE 04736
TEL: (207) 496-3792
FAX: (207) 496-3291

July 18, 2002

VIA FACSIMILE (207) 338-0328
and Regular Mail

Thomas P. Hineman, Esq.
Kelly & Burke, LLC
96 High Street
Belfast, Maine 04915

Re: City of Belfast Trusts

Dear Tom:

Thank you for your letter dated July 16, 2002. I have no objection to your Motion to Dismiss the Petitions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Linda J. Conti'.

LINDA J. CONTI
Assistant Attorney General

LJC/ajm

KELLY & ASSOCIATES, LLC
ATTORNEYS

William S. Kelly, Esq.
Thomas P. Hineman, Esq.

96 High Street
Belfast, Maine 04915
e-mail: kellylaw@prexar.com

(207) 338-2702
(207) 338-0328 *fax*

July 16, 2002

Linda J. Conti
Assistant Attorney General
Department of the Attorney General
7 State House Station
Augusta, Maine 04333-0006


RE: City of Belfast Trusts

Dear Linda:

Since the Court has rejected our petition to revise the trusts and to apply the doctrine of cy pres to establish a scholarship fund, we would like to dismiss the matter and apply the funds as provided in the wills. Please let me know whether you object to our Motion to Dismiss.

Thank you for your consideration.

Sincerely,
KELLY & ASSOCIATES, LLC



Thomas P. Hineman

TPH/lsw
cc: Ricki LeSan
Terry St. Peter

3:40 PM

G. STEVEN ROWE
ATTORNEY GENERAL



STATE OF MAINE
OFFICE OF THE ATTORNEY GENERAL
6 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0006

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CARIBOU, MAINE 04736
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FAX: (207) 496-3291

April 16, 2002

VIA FACSIMILE (207) 338-0328
and Regular Mail

Thomas P. Hineman, Esq.
Kelly & Burke, LLC
96 High Street
Belfast, Maine 04915

Re: City of Belfast Trusts

Dear Mr. Hineman:

This will confirm that I have reviewed the stipulated judgments that you prepared with respect to the above-referenced trusts, and I have no objection to the entry of these judgments by the Probate Court. Thank you for your cooperation in this matter.

Sincerely,

LINDA J. CONTI
Assistant Attorney General

LJC/ajm

cc: Joanne M. Crowley, Register of Probate, Waldo County Probate Court

G. STEVEN ROWE
ATTORNEY GENERAL



Telephone: (207) 626-8800
TDD: (207) 626-8865

STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
6 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0006

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CARIBOU, MAINE 04736
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FAX: (207) 496-3291

February 13, 2002

Sarah Luck, Director
Southern Maine Office
Maine Community Foundation
One Monument Way
PO Box 7380
Portland, Maine 04112

Re: City of Belfast Trusts

Dear Sarah:

Enclosed please find four petitions that have been filed in Waldo County Probate Court by the City of Belfast. The City of Belfast would like to terminate these old charitable trusts and transfer the trust assets to one scholarship fund. I believe it would be in the best interest of the trustee and the beneficiaries if these trusts were selected for termination and transferred to the Maine Community Foundation.

I appreciate your assistance in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Linda J. Conti".

LINDA J. CONTI
Assistant Attorney General

Enclosure(s)
LJC/ajm

ACKNOWLEDGEMENT OF RECEIPT OF
PETITION, ATTACHMENTS AND SUMMONS

I hereby accept service and acknowledge receipt of copies of the Petition to inform the Trust of **Rachel A. McClintock**, Docket NO. T-01-275, and attachments, as well as an original summons (N-101).

Dated: 2/13/02



Linda J. Conti
Assistant Attorney General
Department of the A.G.
7 State House Station
Augusta, Maine 04333-0006

Original please
sign & return

STATE OF MAINE
COUNTY OF WALDO, ss

PROBATE COURT
FIFTH DISTRICT
DIVISION OF WALDO
DOCKET NO. T-01-275

)	
)	
)	
IN RE: Rachel A. McClintock)	NOTICE AND ACKNOWLEDGMENT
)	FOR SERVICE BY MAIL
)	

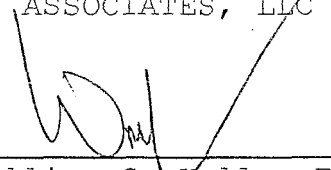
TO: Linda J. Conti
Assistant Attorney General
Department of the Attorney General
7 State House Station
Augusta, Maine 04333-0006

The Enclosed Petition, Attachments and Summons are served pursuant to Rule 4(c)(1) of the Maine Rules of Civil Procedure. Please complete the acknowledgment part of this form and return one copy of the completed form in the enclosed stamped, self-addressed, envelope so that it will be received by the sender within twenty (20) days of the date of mailing.

If you do not complete and return the form to sender within twenty (20) days, you (or the party on who's behalf you are being served) may be required to pay any expenses incurred by having the Sheriff's Department serve the Petition on you in person. If you wish to oppose the Petition, the Summons requires that you file an answer to the Petition within twenty days from acceptance of service

Dated: February 4, 2002

Respectfully submitted,
KELLY & ASSOCIATES, LLC

by: 

William S. Kelly, Esq.,
Maine Bar #7077
Attorney for Petitioner
96 High Street
Belfast, Maine 04915
207-338-2702
207-338-0328 (fax)

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Dated: _____

Linda J. Conti
Assistant Attorney General
Department of the A.G.
7 State House Station
Augusta, Maine 04333-0006

Copy for your files

STATE OF MAINE
COUNTY OF WALDO, ss

PROBATE COURT
FIFTH DISTRICT
DIVISION OF WALDO
DOCKET NO. T-01-275

IN RE: Rachel A. McClintock

)
)
)
) NOTICE AND ACKNOWLEDGMENT
) FOR SERVICE BY MAIL
)

TO: Linda J. Conti
Assistant Attorney General
Department of the Attorney General
7 State House Station
Augusta, Maine 04333-0006

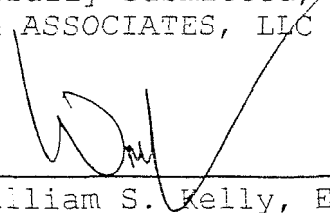
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Dated: February 4, 2002

Respectfully submitted,
KELLY & ASSOCIATES, LLC

by: _____


William S. Kelly, Esq.,
Maine Bar #7077
Attorney for Petitioner
96 High Street
Belfast, Maine 04915
207-338-2702
207-338-0328 (fax)

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Dated: _____

Linda J. Conti
Assistant Attorney General
Department of the A.G.
7 State House Station
Augusta, Maine 04333-0006

STATE OF MAINE

WALDO COUNTY PROBATE COURT
LOCATION: BELFAST, MAINE

In re: City of Belfast as Trustee under the Testamentary Trust of Rachel A. McClintock

JURISDICTION AND VENUE

1. This proceeding involves the testamentary trust established under the Will of Rachel A. McClintock, whose said Will has been allowed in the Waldo County Probate Court as Rachel A. McClintock, date of death March 13, 1907, Docket #8587.
2. Excerpts from said Docket and the Will of the Rachel A. McClintock are attached hereto as Exhibit A-1.
3. Venue for this proceeding is proper because of the probate of the above captioned Will was completed in this county. Further, the trustee, the City of Belfast, is a municipal corporation, located in Waldo County.
4. The City of Belfast is the duly appointed and acting trustee of said Trust having accepted and managed the trust corpus from the decedent.
5. Said trust is a Charitable Trust.
6. The current value of the said Trust as of June 30, 2001 is \$7,522.84 (Income \$4221.87; Principal \$3300.97)
7. Interested parties are as follows:

NONE.

The heirs at law of Rachel A. McClintock, the identity of whom this petitioner has been unable to determine, are now too remote to require Notice since 98 years have passed since the date of death of the testator. State v. Rand, 366 A.2d 183, 197 (Me.

1976)(Inference that the donor would prefer modification of original plan after trust carried on for 50 years rather than pass on to heirs donor never knew). Alternatively, this petitioner would request the Court allow Notice to be served by Publication in a newspaper of local circulation.

8. This proceeding is brought for the following purpose:

To obtain a construction of the Trust instrument and instructions from the Court to effectuate the benevolent and charitable purposes of the Trust, in light of the fact that some of the specific entities described as intended to receive the beneficial interest in said Trust are no longer in existence in the form described in said Trust. In short, to apply the doctrine of *CY-PRES* so that appropriate beneficiaries may again receive benefit from said Trust assets. The City of Belfast is open to the Court's interpretation and suggestions regarding the use of said assets but would prefer that they be applied for some social service type purpose, including the advancement of education of young people in the form of scholarships or aid, should that be found by the Court to be an acceptable substitute purpose and within the intent of the grant of the testators.

9. The relief requested herein is made pursuant to the Probate Court's jurisdiction over trusts as described in 18-A M.R.S.A. Section 7-201, which provides that proceedings may be maintained concerning the administration and distribution of trusts, the declaration of rights and the determination of other matters involving trusts and beneficiaries of trusts.

WHEREFORE, the Plaintiff requests the Court grant the following relief:

Order that the City of Belfast be allowed to use said Trust funds in its sound discretion as Trustee for the care and benefit of persons in need of social services and/or scholarship

aid, as the Trustee deems appropriate in its sole discretion and to make such further declaration regarding a specific beneficiary within the categories described herein as the Court deems appropriate and proper in this matter so as to effectuate the purpose of the original testator.

Dated: December 13, 2001

Respectfully submitted,
KELLY & ASSOCIATES, LLC

by: _____



William S. Kelly, Esq., Bar #7077
Attorney for Plaintiff
96 High Street
Belfast, Maine 04915
207-338-2702
207-338-0328 (fax)

No. 23.

(R. S. Chap. 66.)

STATE OF MAINE.

To the Honorable, the Judge of the Probate Court in and for the County of Waldo.

RESPECTFULLY REPRESENTS, Nathan F. Houston of Ellsworth in said County, that Enabel A. McClinton who last dwelt in Ellsworth in said County, died on the Thirtieth day of March A. D. 1907, testate possessed of estate remaining to be administered, leaving widow, whose name is and as her only heirs-at-law and next of kin, the persons whose names, residence and relationship to the deceased are as follows, viz.:

NAME.	RESIDENCE.	RELATIONSHIP.
James M. Grace	present residence not known	Nephew
Rochel Campbell	French St. Bangor, Maine	Sister
Edward J. Grace	665 Columbia Road, Bangor, Maine	Nephew

If any other names or residence now unknown to petitioner

That your petitioner is said Nathan F. Houston the executor named in the Will of said deceased Enabel A. McClinton of said Bangor. Wherefore he pray that said Will which is herewith presented, may be proved and allowed, and that Letters Testamentary issue to him the said Nathan F. Houston named therein.

Dated this Ninth day of April A. D. 1907.

WALDO, ss. Subscribed and sworn to this 9th day of April A. D. 1907.

Before me, Royal W. Rogers Justice of the Peace.

Be it Remembered, That I, Nathaniel A. McClinton
of Belfast in the County of Waldo and
State of Maine, being of lawful age and of sound and disposing mind and memory, but mindful
of the uncertainty of life, do make, publish and declare this my last will and testament.

After the payment of my just debts, funeral charges and expenses of administration, I dis-
pose of my estate, as follows:

First— I appoint Nathan F. Houston of Belfast before named as Executor of
this my last will and testament, and bequeath to him in trust all the personal estate that
may lie in my possession at the time of my death (except money or evidences thereof)
and direct that he hold the same and finally dispose of it according to such
written directions as I may leave at my death, signed by myself, and such written directions
shall be considered a part of, and codicils to, this my last will and testament, and I direct that he shall
not be required to render any inventory of this part of my personal estate to the Probate Court of Waldo
County, nor to any persons or persons who may consider themselves interested therein, it being my purpose and desire
that my executor shall distribute my clothing, furniture &c according to the directions before named in a private
manner and should the said Nathan F. Houston die or become incapacitated, or from any cause be
unable to perform said trust, I appoint to take his place as executor of this my last will
and testament, Alfred A. Small of said Belfast.

Second— To Frances Leimly formerly of Belfast but now of Milton, State of Massachusetts I give and
bequeath the sum of One Thousand Dollars (if living at the time of my death) said sum to be
placed in trust by my executor as may be approved by the Probate Judge of Waldo County, to be paid
as may be required for her support, in sums not exceeding Two Hundred Dollars annually.

Third— Eliza C. Dyer, now of Belfast and in my employ, I give and bequeath the sum of One Thousand
dollars, if living, and in my employ at the time of my death, or if she shall have become
incapacitated, while in my employ therefore.

Fourth— To Lizzie McClinton daughter of the late John McClinton (my husband's brother)
I give and bequeath the sum of Two Thousand Dollars to be placed in trust for her by my executor as may be ap-
proved by the Judge of Probate for Waldo County and the amount and accumulation of interest thereon to be drawn by her brother
William McClinton in sums not exceeding Two Hundred Dollars annually, as may be required for her
support, and any part of this bequest that may not have been so expended at the time of the death of the said Lizzie
shall descend to the said William McClinton and his heirs.

Fifth— To the Unitarian Church of Belfast before named, I give and bequeath the sum of Three
Thousand Dollars to be placed in trust by my executor as may be approved by the
Judge of Probate for Waldo County, to be drawn with the income thereof by the Trustees of said
Church in sums not exceeding Three Hundred Dollars annually and applied
towards the support of the choir of said Church.

Sixth— To the City of Belfast, I give and bequeath in trust, for the care of the McClinton
family lot in Stone Cemetery in said City the sum of One Thousand Dollars, the in-
come of said fund to be applied, annually to the usual care of said lot, which care shall be
to keep the grass neatly clipped, and when required to keep it fresh and growing, to water it, a
annually to clean the granite by washing it with a fine brush and hard soap, and thoroughly
washing with clear water, no acids to be used, and I direct that the income of the remaining
said fund shall accumulate to be applied from time to time as may be

and also whenever it may be necessary to repair any damage that may come to the
graves on the lot and until said trust shall be accepted by the City I direct that it
be assumed by the City in of this will and the duties thereof I assign to him or
some other suitable person named by him and appointed by the Judge of Probate for
Haldor County. And immediately after my death I direct that my said executor
assume the care of the family burial lot and that all bills for such care up to the
acceptance and commencement of the Trust before named by the City of Belfast
shall be chargeable to and paid from my estate in said execution. And I direct
and I direct that after my death my remains be interred in the family lot
beside those of my late husband, and as soon as practicable there be placed at the
head of my grave a head stone of Hallowell Granite, which shall as nearly
as possible be an exact copy of that now at the grave of my late husband except
that where the word "father" is on his the word "mother" shall be placed in mine,
and it is my direction that the Hallowell Granite Company or their successors make
the above named head stone and that my name Rachel A. McClintock with
appropriate dates be cut by them on the sarcophagus.

I also give and bequeath to the said City of Belfast in Trust as the McClintock
Trust Fund, The sum of Six thousand dollars, one half of the net income of said Trust
Fund shall be annually paid towards the support of the Childrens Home now established on North Main
Avenue in said City. The income of the other half of said Fund to accumulate and be applied to the
support of an "Old Ladies Home" should one be established in said Belfast as a public institution
within ten years from the date of my death, and if no such home is so established then the said
half of income with the accumulation thereof shall be paid annually for the purchase of books
for the Belfast Free Library, and if either the Childrens Home or the Old Ladies Home after being
established should fail of successful operation - or be removed from the said City of Belfast then
the income that would have been paid to them by the terms of this trust shall be annually
paid for the purchase of books for the Belfast Free Library.

Seventh - As soon as practicable after my death, I authorize and direct my exec
to sell and convert to money all my Real estate and any of my personal
estate that may have not been previously disposed of in accordance with the provisions
Clauses of this instrument and pay therefrom the following bequests in their order
as may be directed by the Judge of Probate for Haldor County - viz.

To Hannah Amelia Smith of Bristol in the County of Lincoln and State of N. H. a
daughter of my late husband (of McClintock) I give and bequeath the sum
of Three thousand dollars.

To Mary Hatch of said Bristol (also a niece of my said husband)
I give and bequeath the sum of Three thousand dollars, to her and her
heirs forever.

To William E. McClintock of Chelsea State of Massachusetts (nephew of my said
husband) I give and bequeath the sum of Three thousand dollars to him and his
heirs forever.

To Edward Graves of South Boston State of Massachusetts (my own nephew)
I give and bequeath the sum of Three thousand dollars, and in the event
of his death before receiving said sum it is to go to his daughter Nellie F. Graves
my residuary legatee.

To the children of Hannah Amelia Smith before named I give and bequeath
Five hundred dollars to each child living at the time of my
death to them and their heirs forever.

To the children of Mary Hatch before named I give and bequeath Five
hundred dollars to each child living at the time of my death to them
and their heirs forever.

To the children of William E. McClintock before named I give and bequeath
the sum of Five hundred dollars to each child living at the time of
my death to them and their heirs forever.

To the children of my late husband (of McClintock) I give and bequeath

bequeath the sum of \$1000.00 hundred dollars to each child living at the time of my death.
to the children of James H. McCubrick of Rochester in the State of New York I give and bequeath
the sum of five hundred dollars to each child living at the time of my death.

These two last bequests being to the children of nephews of my late husband, to whom I intend
to make no bequests, I direct that the sum hereby bequeathed to the said children be placed
in trust for them by my executor as may be ordered by the judge of Probate for said County
to be divided with the accumulations thereof when the youngest child of each family
living at the time of my death shall or would have become twenty one years of age -
and should the death of either of the said children occur before that time I directed
herein for the payment of the bequest to the family to which said child belongs then I
direct that the amount that would have gone to such deceased child be divided
and paid to the remaining children of that family to them and their heirs forever.

And I further direct that should the death of Hannah Amelia Smith before now
occur before coming into possession of the bequest made to her in this instrument
of three thousand dollars then said bequest shall go to her children then living
to them and their heirs forever.

And I still further direct that should there be a lapse of any of the before-
named bequests or parts of the same (the descent of which has not been hereinbefore
- Specifically named and provided for by this instrument) such lapse occurring by
the death of the beneficiary or otherwise, then all such amounts go to the residue
of my estate and be paid to my residuary legatee, as such.

And finally - After all charges, gifts, annuities, trusts and bequests provided
for by this instrument, or by any written directions I may leave as named in the
first clause thereof shall have been fully settled and paid, then all that
remains of my estate real, personal or mixed and the proceeds and accumu-
- lations thereof I give and bequeath to my grand niece Hattie F.
Graves daughter of Edward Graves of South Boston State of Massachusetts
as my residuary legatee - for her own use and behoof and that of
her heirs and assigns forever -

The omission of the names of all blood relatives of my own except those of
Edward and Hattie F. Graves from this instrument is intentional by me

In Testimony Whereof, I hereunto set my hand at said Belfast

this first day of December in the year one
thousand nine hundred and two - hereby revoking all former wills
made by me -
Rachel A. McCubrick

Signed, published and declared by the above-named Rachel A. McCubrick

to be his last will and testament, in our presence, and we, in his pres-
ence and the presence of one another, and at his request, subscribe our names hereto as witnesses.

this first day of December A. D. 1902, at
Belfast, Maine.

Alfred A. Small
Chas F. Swift
H. S. Moring

MEMORANDA.

No person under the age of twenty-one years (except a married woman) or of unsound mind can make a will. A will does not require any seal. No person who is to receive anything under a will, and no husband or wife of any such person, should be a witness to such will. But a person is not rendered incompetent as witness to a will by the fact that he is named therein as executor. If the testator is unable to sign the will, his signature may be written for him by some other person "at his request and in his presence". A will may be dated and executed on Sunday.

That my last will and testament
in which this paper is mentioned
by me shall not be published in
any newspaper - As I consider
that there is no good reason to
gratify a public Curiosity which
I do not wish to do

Witness

Dec 21st 1796

J. F. Hume

Bill of

Richard A. M. S. Cloutier

LOEING, SHORT & HARMON, LAW SEEDERS,
PORTLAND, MAINE.