

WILL OF JOSE DE LA BAUME.

1834.

THIRD SEAL

[SEAL]

FOR THE YEARS

TWO REALES

1832, 1833, AND 1834.

Flores

[Rubric]

26

In the name of the Holy Trinity, Father, Son and Holy Ghost, three different Persons, but only one true God.

Know all who read this will, that I, Jose de la Baume, a native of Montpellier, of the family of Count de la Baume, am the first-born and legitimate son by lawful marriage of Jose Felipe, Count de la Baume, and of Maria Isabella Dalton, who both died in France. I am a resident of the City of San Antonio de Bexar in the State of Coahuila and Texas of the Mexican Republic, and although I am ill, I am in sound mind, memory, and natural understanding.

I truly believe in all the articles and mysteries of our sacred Catholic faith, in which belief I wish, and profess to live and die as a faithful Christian and true Catholic. I hope that His Divine Majesty may have mercy upon me for my sins and wrong-doings, through the virtues of Our Lord, Jesus Christ and His Sacred Mother, whom I choose as my Advocate for the awful moment to which I must inevitably come, so

that with my Guardian Angel, the Saint of my name, and those of my devotion, they may assist me before the tremendous Tribunal of God.

Thus I make, publish and declare this my last will and testament in the following form:

1. First, I commend my soul to God, Our Lord, who created and redeemed it with His precious blood, and my body to the earth of which it was formed. I direct that when I die, my body be buried without any pomp whatever, in a sacred place where all faithful Christians are laid to rest.

2. I also command that the customary church bequests made compulsory by law be paid once, at the rate of two reales each.

3. I also declare that I am 103 years of age, the first-born and legitimate son of Count de la Baume, in the Seignory of Baume, Province of Avignon in France.

4. I also declare that I was married in first nuptials, according to the rites of the church, to the late Ana Maria Kentree, in the Parish of Ouachita, State of Louisiana, United States of America, and by this marriage no children were born.

5. I also declare that I was married the second time, according to the rites of the church, in the municipality of Nacogdoches of the Department of Bexar to Luisa Cuturie. By this marriage we have had and procreated four sons and

daughters. They are Victorina, Joseph, Gertrudis and Sancir Pedro; the first three are of age.

6. I also declare that I have reared as a son, since his tender age, Valerio la Baume, issue of my present wife. In consideration of the respect and obedience which he has always shown me, and of my fondness for him, it is my wish and my will that he bear my name and that he enjoy the share of inheritance which I shall assign him in this my last will.

7. I also declare as my own property the dwelling and land which I own, situated in the Alameda of this city.

8. I also declare that I own a tract of land with 300 varas frontage and 600 varas depth on the far side of the acequia. I acquired this land from the government with a clear title.

9. I also declare as my property six sitios of land, acquired from the Supremem Government of the State, situated at Capote Springs on the Guadalupe River. I have the deed to this property.

10. I also declare that I have the right to one sitio of land between the Brazos and Colorado Rivers, in the colony of the empresarios, Stephen F. Austin and Samuel M. Williams, according to a certificate which will be found among my papers.

11. I also declare that I own, within the boundaries of Nacogdoches, a ranch with farm land, composed of two sitios

of land along Loco Creek, bounded on the North by land of Manuel de los Santos, and on the South by land of the heirs of the late Captain Bernardo Dortolan.

12. I also declare as my property all the household furniture and a few farm implements, which will be found in the house.

13. I also declare that I do not conscientiously remember any debts payable by my estate except the following: to the surveyor, Santiago Locard [Lockhart], the sum of 122 pesos, the balance due for his work of surveying the lands of El Capote and to my son-in-law Alejandro Vidal, 42 pesos. I order my executors to pay these debts from my estate.

14. I also declare that I have filed a claim against the Supreme Government of the United States of America asking for the pension awarded to those who fought in the War for Independence, since I was captain of a company which fought for the cause of America in that glorious struggle against Britannic power. I direct that any money realized from this claim, should it be paid after my death, be divided among my heirs.

15. I declare that at the time of my marriage to my present wife, I owned as real estate, two leagues of land, which I bought from the late Dortolan, near Loco Creek, and some cattle and furniture, part of which has been used by the family. Other articles were lost during the revolution.

I direct that the two leagues of land aforesaid be considered as capital brought into the marriage estate, since the remainder of the real estate has been acquired during our marriage.

16. I also declare that among my papers there will be found a receipt from the late Baron de Bastrop which shows that my wife paid him the sum of 700 pesos, during my absence in Natchitoches, for the house which is now my dwelling and for the lands of the Alameda. This property had been granted by General Commander Joaquin de Arredondo to Baron de Bastrop and he later sold it to my wife. Since the grant to Baron de Bastrop was rendered null and void by the law of December 21, 1821, I consider the said sum as an obligation due me against the estate of the late Baron de Bastrop. I direct my executors to use every effort to make this collection and divide the money among my heirs.

17. I also declare that after my death when partition is made of the lands of El Capote among my heirs, my son, Sancir Pedro, shall be preferred to the extent of one sitio of land on this condition: that if he should die before he marries, or if he should marry and not leave any heirs this land shall fall into the corpus of my estate and be divided among the surviving heirs.

18. I also name and appoint as my sole and universal heirs, my four children aforesaid and Valerio de la Baume. It is my wish and last will that he, Valerio de la Baume,

inherit a share equal to that of the remainder of my children, without prejudice to the preferred share which I leave to Sancier Pedro in the preceding clause. These shares shall be divided and distributed in equal parts after all my debts and funeral expenses shall have been paid and settled, with the blessing of God and my own.

19. I also declare that I name as heir to the title of Count de la Baume, which descends to my by inheritance from my late father, my first-born daughter. If, she, being a woman, cannot inherit this title, under the laws of France, I name as my successor to the title, the man-child who follows, that is, Joseph.

I direct that both of them work together in harmony to recover possession of the property embraced in the Seignory of La Buame in France and they shall possess and enjoy [such property] in due compliance with the laws of that realm [France].

20. I also name and appoint as testamentary executors of this my last will, first, my wife, Luisa Cuturie, second, Joseph, my son and third, Juan Antonio Padilla. To them all jointly and severally, I give my full power to whatever extent may be necessary in law for one, two, three or as many more times as necessary, so that they may take possession of my property and sell it or auction it at their discretion.

So that they may execute the conditions of this my last

will, I give them the authority to appoint substitutes in their places and to subrogate them to the powers of their own office. These, whom I acknowledge to be duly named, may carry to proper completion any task assigned and I confer on said substitutes from this instant the same power and authority as to the executors themselves.

By this will, I hereby revoke, annul and invalidate any other will or wills, codicil or codicils which I may have made and executed, so that they will not be valid in court or out of court, now or at any time that they may be offered. This provision shall apply even though any such wills may contain some inconsistent clauses or particular words, of which special mention should be made and which at the present I do not recall, but if I should remember them I will repeat them word for word.

I do not want any other will or wills, which I may make in the future, to be valid unless they definitely mention this clause, which I insert.

I desire my present disposition of property to be considered in all its parts as my will, codicil or last will in the best manner known to the law.

I declare, finally, as an addition to the 14th clause of this will, that if, after my death, there should appear any paper or document, written by the hand of my late son-in-law, Juan Francisco Buchetti, which contains any statement

contrary to the said clause or any part of this my last will, even though it may be signed in my own handwriting, it is my wish and my will that it be void. I remember that I signed a paper which was presented to me last year, 1833, by my son-in-law, Buchetti, before John G. Smith, who will be able to reveal what he knows concerning this matter. I make this declaration so that there will be no misunderstanding about this transaction.

I also declare that it seems to me that the second clause of this my last will is contrary to the provisions of the law of the state congress, dated March 3 of this year. It is my wish that the said second clause be annulled so that this my last will may have the necessary validity and force.

Done in Bexar, April 4, 1834 Joseph de la Baume /Rubric/

Filed in open court this 6th day of July, A. D., one thousand eight hundred and forty-four. Thos. H. O'S. Addicks,
Cl'k, Probate Court.

In the City of San Fernando de Bexar on April 5, 1834,
there appeared Joseph de la Baume, resident of
Envelope this city, evidently in sound mind and natural
of the will understanding, and he said: that this envelope
contains his last will and testament, made under the solemn

declaration of the Catholic faith, in which he designates his burial place, heirs, executors and whatever other clauses are required by law.

In witness whereof the testator signed before the witnesses whom he had summoned and requested to sign and who were present and will sign below. Signed: Francisco Xavier Bustillo=Bachelor Francisco Maynes=Fernando Rodriguez=John G. Smith=Erasmus Seguin=J. Antonio Padilla=Manuel Yturri Castillo.
=Filed in open court this 6th day of July, A. D., one thousand eight hundred and forty-four. Thos. H. O'S. Addicks, Cl'k, Probate Court.

[Original testimonies in English follow:]

Probate of Will.
Testimony of
John W. Smith

In the spring of the year 1834, I was called upon to visit the room of Jose de la Baume, on entering the room I found there assembled several of the citizens of the City of San Antonio, shortly after my entering the room, the said Jose de la Baume, in presence of the persons present, drew from under his pillow a writ/t/en document and exhibited the same to the persons present, and then declared that he was old and infirm, and was desirous to make and execute a last will and testament, and that he had invited those present to se/e/ him sign and authenticate the document then in his hand as his last will, that he had invited those

present to se/e/ him sign and authenticate the same. Pen and ink was furnished when he signed the document then presented to us, when the same was in the presence of the witnesses enclosed in an envelope and sealed up, and the indorsement made thereon, and the same here presented to the court was signed by the witnesses thereon endorsed, all of which was done in the presence of said Jose de la Baume who was then in his entire judgment and sound mind, but weak in body from old age, as he then declared to the witnesses endorsed on the document now presented that he was over one hundred and three years old, the envelope is the same that was endorsed and signed by the witnesses and I believe the will is the same that was signed by said La Baume in the presence of the witnesses and by him declared to be his will, and enclosed in the envelope at that time. As to the opening of the envelope, I know nothing; I saw this same will and envelope in the possession of Mrs. Vidall, daughter of said La Baume, in the year of 1836. It was then open as now presented to this court Jno. W. Smith. Sworn & subscribed to in open court this 6th day of July, A. D. 1844; to which I certify under my hand. Thos. H. O'S. Addicks, Cl'k, Probate Court. Filed 6th July, 1844. Thos. H. O'S. Addicks, Cl'k, Probate Court.

Francisco Xavier Bustillo being duly sworn, deposes and
 says that he signed his name as a subscribing
 witness to the last will and testament of Jose
de la Baume, deceased, that said Jose de la
 Baume signed the same in his presence and
 declared that it was his last will and testament; that this
 deponent signed his name as subscribing witness on the enve-
 lope of said will after the same was sealed up and that the
 other subscribing witnesses signed their names in the same
 manner in the presence of said Jose de la Baume and in the
 presence of each other; that the envelope presented to the
 court is the same signed by him and he believes the will also
 to be the same that at the time of signing said will, this
 deponent believes that said Jose de la Baume was of sound
mind and discretion and further says not. Franco. X.

Bustillo. Sworn & subscribed to in open court this 6th day
 of July, A. D. 1844, to which I certify under my hand. Thos.
 H. O'S. Addicks, Cl'k, Probate Court. Filed, 6th July, 1844.
 Thos. H. O'S. Addicks, Cl'k, Probate Court.

Erasmus Seguin being duly sworn, deposes and says that he
 signed his name as a subscribing witness to
 the last will and testament of Jose de la
 Baume, deceased, that said Jose de la Baume
 signed said will in his presence and declared the same to be

the court was signed by the witnesses thereon endorsed, all of which was done in the presence of said José de la Baume who was then in his entire judgment and sound mind, but weak in body from old age, as he then declared to the witnesses endorsed on the document now presented that he was over one hundred and three years old, the envelope is the same that was endorsed and signed by the witnesses and I believe the will is the same that was signed by said La Baume in the presence of the witnesses and by him declared to be his will, and enclosed in the envelope at that time. As to the opening of the envelope I know nothing; I saw this same will and envelope in the possession of Mrs. Vidall, daughter of said La Baume, in the year of 1836. It was then open as now presented to this court =Jno. W. Smith.=Sworn& subscribed to in open court this 6th day of July, A. D. 1844; to which I certify under my hand. =Thos. H. O'S. Addicks, Cl'k, Probate Court. = Filed 6th July, 1844. =Thos. H. O'S. Addicks, Cl'k, Probate Court.

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 deponent signed his name as subscribing witness on the enve-

his last will and testament, that this deponent signed his name as subscribing witness on the envelope of said will after the same was sealed up and at the request of the testator, that the other subscribing witnesses signed their names in the [same m]anner in the presence of this deponent in the presence of said Jose de la Baume and in the presence of each other, that the envelope here presented to the court is the same signed by him and he believes the will here presented is the same, that at the time of signing said will this deponent believes that said Jose de la Baume was of sound mind and discretion, and further says not. Erasmo Seguin. Sworn & subscribed to in open court this 8th day of July, A. D. 1844. Thos. H. O'S. Addicks, Cl'k, Probate Court. Filed 8th July, 1844. Thos. H. O'S. Addicks, Cl'k, Probate Court.

Recorded, Probate Court, Bexar County, pp. 325-336.

velope of said will after the same was sealed up and that the other subscribing witnesses signed their names in the same manner in the presence of said José de la Baume and in the presence of each other, that the envelope presented to the court is the same signed by him and he believes the will also to be the same; that at the time of signing said will, this deponent believes that said José de la Baume was of sound mind and descretion and further says not.—Franco. X. Bustillo. —Sworn & subscribed to in open court this 6th day of July, A. D. 1844, to which I certify under my hand.—Thos. H. O'S. Addicks, Cl'k, Probate Court. Filed 6th July, 1844. Thos. H. O'S. Addicks, Cl'k, Probate Court.

Erasmo Seguin being duly sworn, deposes and says that he signed his name as a subscribing witness to the last will and testament of José de la Baume, deceased, that said José de la Baume signed said will in his presence and declared the same to be his last will and testament, that this deponent signed his name as subscribing witness on the envelope of said will after the same was sealed up and at the request of the testator, that the other subscribing witnesses signed their names in the ^{B-336} [same m]anner in the presence // of this deponent in the presence of said José de la Baume and in the presence of each other, that the envelope here presented to the court is the

same signed by him and he believes the will here presented is the same, that at the time of signing said will this deponent believes that said José de la Baume was of sound mind and discretion, and further says not.—Erasm Seguin—Sworn & subscribed to in open court this 8th day of July, A. D. 1844.
—Thos. H. O'S. Addicks, Cl'k, Probate Court.—Filed 8th July, 1844. Thos. H. O'S. Addicks, Cl'k, Probate Court.
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