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I, Ocie O. Fowler, a resident of Jefferson County, State of Alabama, being of sound and disposing mind and memory, do make, publish and declare this instrument as and for my last will and testament, hereby revoking any and all other wills and codicils thereto heretofore made by me.

ITEM ONE: I direct that all of my just debts, including the expenses of my last illness and funeral, shall
first be paid out of my estate by my executors hereinafter
named, as soon as possible after my death.

apparel, jewelry, books, pictures, household furniture and furnishings, both useful and ornamental, any automobile I may own, and all other objects of my personal use, to my wife, Evelyn T. Fowler, absolutely, if she be living at the time of my death. In the event that my wife shall not survive me but be dead at the time of my death then the items hereinabove described shall be divided between my children, share and share alike, or their lineal descendants in equal shares per stirpes and shall be theirs, absolutely, without any limitations whatsoever. I hereby vest in my said executors full power and authority to determine what objects of property are included in the foregoing description contained in this section of my will.

ITEM THREE: All of the rest, residue and remainder of my property, of whatsoever kind and character and whereso-ever situated, I give, bequeath and devise unto my wife, Evelyn T. Fowler, and the Birmingham Trust National Bank of Birmingham (and to such successor corporation having trust powers as shall succeed to the business of said bank by purchase, merger, consolidation or change of charter or name),

as trustees, or to the survivor of them as trustee, in trust nevertheless, for the uses and purposes, upon the terms and conditions, and with the powers and duties here-inafter stated; provided, however that in the event of the remarriage of my said wife after my death, then thereafter the Birmingham Trust National Bank shall serve alone as trustee.

My said executors, shall, as soon as practicable after my death, divide said property constituting said residue of my estate into two shares, hereinafter referred to as "trust estates", both of which shall be transferred and delivered by my said executors to the trustees. One of said shares shall consist of property (including any undivided interests in property which my said executors may allocate to it) having a value equivalent to the amount. Which, when added to, the value (1) of any insurance on my life (which is taxable as a part of my estate and which qualifies for the marital deduction under the provisions of the Internal Revenue Code, as amended) payable to my wife, (2) of any property taxable as a part of my estate which vests, absolutely, on my death in my said wife by virtue of joint ownership with me, or which vests on my death or previously vested in her by virtue of a conveyance of an instrument or by operation of law outside of the provisions of this will, and (3) of any property bequeathed to my said wife by Item Two hereof, equals one-half of the value of my gross estate, as calculated for estate tax purposes, and as diminished by the amounts due from my estate for funeral expenses, for administration expenses, and for any other claims against my estate, and by the amounts of any mortgages, liens or other charges which may diminish the value of any assets included in the value of

my gross estate, but calculated before deduction from my gross estate of any inheritance, estate or other special tax levied against my estate by virtue of my death. The trustees shall hold said share hereinafter sometimes referred to as the "marital trust", subject to the provisions of subsection (c) hereof. The other of said shares shall consist of the remainder of said residue of my estate similarly calculated but after deduction solely therefrom of any inheritance, estate, or other special tax levied against my estate by virtue of my death. The trustees shall hold said share, hereinafter sometimes referred to as the "family trust", subject to the provisions of subsection (b) hereof. Any interest which I may own at the time of my death in the residence in which I am then living shall to the extent consistent with the division of said residue of my estate hereinbefore provided for be included in the share subject to the provisions of subsection (c) hereof.

In making division of the property constituting said residue of my estate between said two trusts my said executors shall calculate the percentage of said residue allocable to the marital trust under the foregoing provisions hereof on the basis of the value of said residue as of the date of my death and shall apply said percentage to the value of the property constituting said residue as of the date of actual divisionthereof.

(b) The trustees shall hold the trust estate designated in subsection (a) hereof to be held subject to the provisions of this subsection (b) hereof and therein designated as the "family trust", in trust for the use and benefit of my said wife, Evelyn T. Fowler, for and during her lifetime.

During such period the trustees shall pay over to my said wife, in such installments as may be convenient to her, for the support and comfort of herself, the entire net income from said trust estate. If at any time during such period the net income from said trust estate shall not in the opinion of the corporate trustee be sufficient for the proper support and comfort of my said wife, I direct that the trustees shall pay over to my said wife such additional sum or sums out of the principal of said trust estate as the corporate trustee may deem necessary or desirable as provided in paragraph 2 of Item Four hereof. All payments made by the trustees to my said wife hereunder shall fully discharge the trustees as to the amounts so paid, without obligation on the part of my said wife to account therefor.

Birmingham Trust National Bank shall act as sole trustee hereunder, with all of the rights, powers, duties and discretion herein vested in the original trustees and it shall apportion the trust estate held in trust subject to the provisions of subsection (b) hereof, or in the event that my wife, be dead at the time of my death, then said trustee shall apportion my entire trust estate into so many equal parts that there will be one share set aside for my daughter, Louise Fowler Henson, and one share for my daughter, Gwendolyn Faye Fowler, and one share for my daughter, Ann Delores Fowler Phillips, and one share for my son, Ocie O. Fowler, Jr., and one share for my daughter, Cynthia Kaye Fowler, or such of them as are then living or having died theretofore leaves a lineal descendant or lineal descendants who are then surviving and each share so set aside shall be held by the trustee in trust for the uses and purposes as hereinafter provided.

From and after the death of my said wife, the

In 1956 I made an advancement to my daughter, Louise Fowler Henson, in the amount of Eight Thousand Five Hundred Seventy Three Dollars and Thirteen Cents (\$8,573.13), which was used by her in connection with the building of her home. If this advancement has not been repaid me at the time of my death then the amount herein specified or whatever amount remains unpaid shall be deducted from the share of my daughter, Louise, and ... shall thereafter be distributed in equal amounts among my other children. The trustee shall hold the share of said trust estate to which any daughter of me may become entitled under the terms of subsection (b) hereof in trust for her for and during her lifetime. The trustee shall hold the share of said trust estate to which any son of me may become entitled under the terms of subsection (b) hereof, in trust for him until he shall attain the age of twenty-five years, at which time the trustee shall transfer and pay over to him free of trust one-fourth of the property then held in trust for him, and shall hold the remainder of the share of such son in trust for him until he shall attain the age of thirty-five years, at which time the trustee shall transfer and pay over to him free of trust the entire remainder of the property then held in trust for him. Provided, however, that after he shall have attained the age of twenty-five years, the trustee may, upon his written request, deliver over to him that portion or any part of that portion of the trust estate held in trust for him which remains in the hands of the trustee, free from trust; provided, however, that the trustee shall use its sole and unqualified discretion and judgment in determining whether or not my said son is capable of wisely investing and managing said property

which remains in trust for him and no person who may be or become beneficially interested in said trust estate shall have any right to complain of or to interfere with the exercise of such discretion by the trustee in the delivery of or the refusal to deliver said portion of said trust estate to my said son. It is my desire that the trustee shall, in so far as possible, be substituted for me to determine to its own satisfaction whether or not it would be wise and expedient to deliver the said property to my said son, as herein provided. The fact that my said son may thereafter invest or use said property unwisely and shall lose any part or all thereof, shall not subject the trustee to any liability or responsibility to any person for having delivered over the said property to my said son as herein provided. My said son shall not thereafter be accountable to the trustee for the property so delivered and the trustee shall be discharged as to any and all such advances. Similar subsequent requests may be made from time to time by said son to said trustee, which shall be dealt with by said trustee as hereinabove provided.

trustee shall use and apply for his or her support, education and comfort, such part of the net income from his or her share of said trust estate and of the principal thereof as the trustee deems necessary or desirable for said purposes. From and after the time when any such child attains the age of twenty-one years, and during the continuance of the trust as to his or her share of said trust estate, the trustees shall transfer and pay over to him or her, for his or her support, education and comfort, and for the support, education and comfort of any person dependent upon him or her, the

entire net income from his or her share.

Upon the death of any child of me prior to the distribution to him or her of all of his or her share of said trust estate, the trustee shall transfer and pay over the share of said trust estate then held in trust for such child so dying, to such of the lineal descendants of such child as may then be living in such manner and in such proportions as he or she may by his or her last will and testament appoint and direct, PROVIDED, however, that any provision in the will of such child, in order to be of any force and effect as an exercise of the power herein given him or her, shall specifically state therein that it is made for the purpose of exercising the power conferred upon him or her by this will.

In the event that any such child shall die prior to the distribution to him or her of all of his or her share of said trust estate without having left a last will duly admitted to probate, or having left such last will shall have failed to direct a distribution of said part of said trust estate over which I have given him or her power of appointment in accordance with the foregoing provision, but leaving any descendant of him or her then living, then at the death of such child the trustee shall transfer and pay over to the descendants then living of such child so dying, in equal shares per stirpes, the share of said trust estate then held in trust for such child so dying; PROVIDED, that if any descendant of any such child shall not at said time have attained the age of twenty-one years, then though the share of such descendant in baid trust estate shall be deemed then to have vested in him or her, the trustee shall continue to hold the same in trust for him or her until he or she shall attain the age of twentyone years, using and applying for his or her support, education and comfort such part of the net income from his or her share of said trust estate and of the principal thereof as the trustee deems necessary or desirable for said purposes.

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In the event that any such child of me shall die prior to the distribution to him or her of all of his or her share of said trust estate, and leaving no descendant of him or her then living, then at the death of such child the trustee shall transfer and pay over the share of said trust estate then held in trust for such child so dying, to such of my other children and the descendants of any deceased child of me as then are living, in equal shares per stirpes; PROVIDED, however, that if any such child or descendant of a deceased child of me shall then have any other property held in trust for him or her under any provision of this will, then his or her share in the share of such child so dying shall be added to, merged with and administered and disposed of like, such other property so held in trust for him or her.

In the event that any such child of me shall die prior to the distribution to him or her of all of his or her share of said trust estate and leaving no descendant of him or her, or of me, then living, then at the death of such child the trustee shall transfer and pay over the share of said trust estate then held in trust for such child so dying, to such persons as would be entitled to inherit the property constituting said share and in the proportions in which they would be entitled to inherit the same, from me under the laws of Alabama then in force, had I died at said time a resident of Alabama intentate and owned said property.

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designated in subsection (a) hereof to be held subject to the provisions of this subsection (c) hereof and therein designated as the marital trust, in trust for the use and benefit of my said wife, Evelyn T. Fowler, for and during her lifetime. During such period the trustees shall transfer and pay over to my said wife the entire net income from said trust estate. If at any time during such period the net income from said trust estate shall, in the opinion of the corporate trustee, be insufficient for the proper support and comfort of my said wife, the corporate trustee shall pay over to her such additional sum or sums out of the principal of said trust estate as provided in paragraph 2 of Item Four hereof.

Upon the death of my said wife, Evelyn T. Fowler, the trust for her benefit shall terminate, and the Birmingham Trust National Bank, as surviving trustee, shall thereupon transfer and pay over the property then constituting said trust estate to such person or persons (including the estate of my said wife), in such manner and in such proportions, as my said wife may by her last will and testament designate and appoint. In the event, however, that my said wife shall die having left no last will, or having left such last will shall have failed to exercise the foregoing power of appointment, then from and after the death of my said wife, the property contituting said marital trust shall be added to, merged with, and administered and disposed of like the property constituting said family trust as herein provided.

<sup>(</sup>d) Whenever in this instrument the word "trustee" or "trustees" is used, it is my intention that this word shall be construed either as singular or plural, whichever is proper in accordance with the context.

(e) When the final payment has been made from the corpus or principal of the trust estate, in accordance with the provisions of this will, this trust shall terminate and the trustees shall forthwith stand discharged.

## ITEM FOUR: POWER OF TRUSTEES.

The trustees shall hold and manage the property constituting each of said trust estates, and such other property as they may subsequently acquire for either of said trust estates pursuant to the power and authority herein given to them, with full power to compromise, adjust and settle in their discretion any claim in favor of or against said trust estate, with full power to collect, the income therefrom and from time to time to sell, convey, exchange, lease for a period beyond the possible termination of these trusts, or for a less period, to improve, encumber, borrow on the security of, or otherwise dispose of, all or any portion of said trust estates, in such manner and upon such terms and conditions as said trustees may approve, and with full power to invest and reinvest said trust estates and the proceeds of sale or disposal of any portion thereof, in such loans, bonds, stocks, or other mortgages, common trust funds, securities, or other property, real or personal, as to said trustees may seem suitable, and to change investments and to make new investments from time to time as to said trustees may seem necessary or desirable.

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The trustees may continue to hold any property or securities originally received by them as a part of said trust estates, including any stock or interest in any family corporation, partnership or enterprise, or any stock in the Birmingham Trust National Bank, so long as they shall consider the retention thereof for the best interests of said trust estates, regardless of whether such property or securities are in law a proper investment of trust funds. In the disposition of any property constituting a part of said trust estates the trustees may acquire other property which is not a proper investment of trust funds in accordance with law where such course is in their opinion for the best interests of said trust estates. The trustees shall have power to determine whether any money or property coming into their hands shall be treated as a part of the principal of said trust estates or a part of the income therefrom, and to apportion between such principal and income any loss or expenditure in connection with said trust-estates as to them may seem just and equitable.

The powers of the trustees set out in subsection (1) hereof shall apply, with respect to the powers of the trustees, in the administration of each and every-trust hereunder created.

2. Whenever and as often as, in the opinion of the corporate trustee, the income from the trust estate or any share or shares thereof is insufficient for the purposes herein defined, including the reasonable and comfortable support and maintenance of the beneficiaries entitled to income hereunder, taking into consideration additional expenses arising from any extraordinary or unusual circumstances, the trustees shall advance or utilize for the maintenance, support, comfort or education of any beneficiary entitled to income from any part of the trust estate or estates, including any person

legally dependent upon any such beneficiary for support so much of the corpus or principal of the principal share a portion of the income derived from which is payable to such beneficiary as the corporate trustee may deem necessary or proper. Any such advances or the money so utilized shall be deemed to be partial distributions from said trust estates or share thereof and not debts of the recipient or beneficiary or his or her estate provided, however, that in making any advances to my wife, as hereinafter provided, the corporate trustee shall make advances out of the corpus of the trust estate set aside and held in trust under subsection (c) hereof first, and thereafter until the corpus is exhausted; then advancements may be made from time to time as hereinabove provided from the share held in trust under subsection (b) hereof.

- 3. Upon the death of any beneficiary hereunder who is at the time of his or her death entitled to any income from the trust estate, the trustess shall pay the funeral and burial expenses and the expenses of the last illness of any such beneficiary from the corpus or principal share from which a portion of the income derived has been payable to any such beneficiary.
  - 4. The trustees shall have power and authority at any time or from time to time to advance money to the trust estates from their funds for any purpose or purposes of the trust, and may reimburse themselves for the money advanced and reasonable intest thereon from the trust estates or from any funds belonging to the trust estates thereafter coming into their custody from any source.
  - 5. The Birmingham Trust National Bank, as trustee hereunder, shall be entitled to receive reasonable compensation for its services hereunder, to be paid out of the income from said trust estates. My wife as trustee shall not be entitled to receive any compensation for acting as trustee, under my will.
  - 6. The trustees shall pay from and out of the income of the trust estates any and all expenses reasonably necessary for the administration of the trusts, including interest, taxes, insurance, public liability insurance and compensation to the trustees, as well as any other expense incurred for the benefit of the trust estates, and in the event the income from the trust estates is insufficient for the purpose of paying such expenses, the same may be paid from the corpus of the trust estates.
  - 7. The trustees shall not be required to pay any interest on any money in their custody while awaiting distribution and investment under the terms hereof, even though the money be commingled with their own funds, provided they shall keep a separate account of same on their books.
  - 8. As to the net income which by any of the provisions of this will may be payable to any child of me, or to any descendant of a deceased child of me, he or she shall have no right or power either directly or indirectly to anticipate, charge, mortgage, encumber, assign, pledge, hypothecate,

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sell or otherwise dispose of same, or of any part thereof, until same shall have been actually paid in hand to him or her by the trustees. Nor shall such income, nor the principal or corpus of said trust estate, nor any part of, or interest in either of them be liable for or to any extent subject to any debts, claims or obligations of any kind or nature whatsoever, or any legal process in aid thereof, contracted or incurred by or for any such child or descendant, before or after my death.

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9. In the event any portion of the trust estate should at any time consist of a material interest in any business enterprise being operated as a going concern, whether any such enterprise be in the form of a partnership, a corporation, or solely owned by the trust estate, the trustees shall have full authority to continue the operation of such business enterprise as a going concern, or to vote the shares of stock therein for such continued operation, with full power and authority to incur such obligations against the estate as may to them seem advisable for the proper administration of the affairs of such business enterprise. In making decisions with reference to any such business enterprise the trustees shall use their own discretion and shall not be liable to any person for any loss that may result from the operation of such business enterprise or from the incurring of any obligation herein authorized.

In the event that I am a member of any partnership existing at the date of my death, the trustees shall, in their sole discretion, have full authority to enter into any agreements with any surviving partner or partners, which may seem advisable for the purpose of effecting the liquidation of such partnership, and shall not be liable to any person for any loss which may result from the liquidation under such agreements.

In addition to the powers above granted, the trustees shall have full authority to incorporate, or enter into an agreement with others to incorporate any business enterprise in which I may own an interest at the date of my death, and shall have full authority to hold as part of the trust estate the shares of stock of any corporation so formed without liability for loss or shrinkage in value.

For its services rendered in connection with the management of any such enterprise, the corporate trustee shall be entitled to receive reasonable compensation in addition to that otherwise payable hereunder, to be paid from the separate funds of such enterprise or from said trust estate as the trustees may deem most advantageous to said trust estate.

10. If the happening of any future event may cause the ultimate vesting of any trust estate herein created or of any share therein to be extended under the provisions hereof to a time beyond that within which the same is required by law to become vested, then and in such event the trust as to said trust estate or as to such share therein shall continue only for as long a period of time as is allowed by law, at the end of which period the said trust as to said trust estate.

or as to such share therein shall terminate. In such case said trust or such share therein shall thereupon be vested in and distributed to those persons at the expiration of such period enjoying the use and benefit of said trust estate or of such share therein, in the proportion in which they are so enjoying the same, irrespective of their attained ages.

ITEM FIVE: In giving and bequeathing unto my said wife, Evelyn T. Fowler, under the provisions of subsection (c) hereof, the income from the trust estate therein provided for and the power to appoint the property constituting said trust estate by will, I contemplate and desire that, If my wife survives me, my estate shall become entitled to the marital deduction provided for by the United States Internal Revenue Code, as amended to the date of my death, with respect to the value of the trust estate over which my wife is given such power of appointment. That part of my estate subject to such power shall be a separate trust and shall be set aside and treated as such, effective from my death. It shall not include, and my said executors shall not allocate to it, if avoidable any particular asset or assets with respect to which no marital deduction would be allowed under the terms of said Internal Revenue Code as so amended. Income therefrom shall be distributed at least annually. I empower my executors and trustees, regardless of any adverse interest, from time to time and as often as may appear advisable, to construe all of the provisions of my will which may require construction in order that my estate may become and remain entitled to said marital deduction, and to adopt, or agree to or acquiesce in, such construction thereof as may from time to time be required, or may appear to be necessary or advisable, in order that such deduction may be obtained for my estate.

In the event of the death of my said wife after my death but prior to a division and distribution of my property as provided in subsection (a) hereof, the trustees shall nevertheless proceed to divide said property into two shares as provided in said subsection (a), and shall distribute one of said shares among such person or persons, in such manner and in such proportions, as my said wife by her last will and testament shall designate and appoint, as provided for in subsection (c) of this section of my will, and shall distribute the other said share as provided for in subsection (b) hereof.

My said wife shall have the absolute power of appointment as is provided for in said subsection (c) hereof to be exercised by her last will and testament whether she dies before, during or after a division of my property into two shares, and immediately upon my death an interest in said property shall test in the trustees to be held subject to the provisions of subsection (c) above and subject to the powers and duties of the executors, including that of division and distribution.

ITEM SIX: The provisions herein made for my said wife, Evelyn T. Fowler, are in lieu of dower and any and all other rights in my estate, statutory or otherwise.

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ETEM SEVEN: I direct that any inheritance, estate or other special taxes levied or assessed against or with reference to my estate or against or with reference to any gift or bequest herein made, or against or with reference to any insurance on my life, however, payable, or any property given by me prior to my death, shall be paid by my executors out of the property designated in subsection (a) of Item Three hereof to be held subject to the provisions of subsection (b) of said Item Three; no part of any such tax to be paid out of or borne by the property left in trust for my said wife with power of appointment by her last will and testament as provided in subsection (c) of Item Three hereof.

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ITEM EIGHT: I hereby nominate and appoint my wife, Evelyn T. Fowler, and Birmingham Trust National Bank (and such successor corporation having trust powers as shall succeed to the business of said bank by purchase, merger, consolidation or change of charter or name), as executors, or the survivor of them as executor, of this my last will and testament, and I direct that my said executors shall not be required to give bond or to file an inventory or appraisal of my estate in any court, though they shall make out and keep an inventory and shall exhibit the same to any party in interest at any reasonable time. I hereby vest in my said executors the same full powers of management, control and disposition of my estate herein given to the trustees under Item Four hereof, and I direct that in the exercise of such powers they shall be free from . the control and supervision of the Probate Court, or any other court. The Birmingham Trust National Bank shall receive as compensation for its services as executor the fees allowed by law. The individual executor named hereunder shall serve without compensation.

TTEM NINE: In the event that my said wife, Evelyn T. Fowler, and I shall die in a common accident or disaster, or under any circumstances creating any doubts as to which of us survived the other, my said wife shall be presumed to have survived me for all purposes under this will.

and seal this 12 day of Queley 19/1.

We the undersigned, hereby certify that the above named testator subscribed his name to the foregoing instrument in our presence, and published and declared the same to be his last will and testament, and we, at the same time, at his request, in his presence and in the presence of each other, have horeunto signed our names as subscribing witnesses.

Judas of Probate

## JEFFERSON COUNTY )

- I, the undersigned, Ocie O. Fowler, a resident of the City of Birmingham, Jefferson County, Alabama, being of sound mind, do hereby make and declare this a codicil to my last will and testament executed on the 22nd day of July 1961.
  - (1) I hereby modify my said last will and testament, hereinabove described, by deleting the first two sentences at the top of Page 5 of said will, these two sentences reading as follows:

"In 1956 I made an advancement to my daughter, Louise Fowler Henson, in the amount of Eight Thousand Five Hundred Seventy Three Dollars and Thirteen Cents (\$8,573.13), which was used by her in connection with the building of her home. If this advancement has not been repaid me at the time of my death then the amount herein specified or whatever amount remains unpaid shall be deducted from the share of my daughter, Louise, and shall thereafter be distributed in equal amounts among my other children."

(2) Except for the above deletion, I hereby ratify and confirm my said last will and testament, hereinabove described, insofar as it is not in conflict with this codicil, and do republish the same as herein and hereby amended as of this date.

IN WITNESS WHEREOF, I, Ocie O. Fowler, have hereunto set my hand and seal to this, a codicil to my last will and testament, on this the

10 day of august 1961.

The foregoing was signed, sealed, published and declared by Ocie
O. Fowler to be a codicil to his last will and testament in our
presence, and we, at his request and in his presence and in the presence
of each other, have hereunto set our signatures as attesting witnesses
on the day the said instrument bears date.

Filsd in office this the

day of 1970
for Probate and Record William Market

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Olfred Roysler Clarence W adkind

## CERTIFICATE TO THE PROBATE OF WILL

	THE STATE OF ALABAMA,
•	JEFFERSON. COUNTY.  1. J. PAUL MEEKS, Judge of the Court of Probate, in and for said State
	and county, dothereby cartify that the foregoing instrument 8 of writing ha VCthis day, in said Court, and before thereto
1,	me as the Judge thereof, been duly proven by the proper testimony to be the genuine last will and Testament & Codicil
40 -	Deceased and that said will and Codicil thereto
	together with the proof thereof have been recorded in my office in Judicial Record. Vol. O'P Page 777-789  In wishess of all which I have hereto set my hand, and the seal of the said Court, this date January 6, 1970  Porm No. 95 44 Melha Judge of Probate
1	in wishess of all which I have hereto set my hand, and the seal of the said Court, this date January 6, 1970
• •	Form No. 98 m. Judge of Probate
•	

STATE OF ALA. SHELBY CO.
INSTRUMENT WAS FILED
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