

## HOUSE....No. 345.

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### Commonwealth of Massachusetts.

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HOUSE OF REPRESENTATIVES, May 5, 1870.

The Committee on Probate and Chancery, to whom was referred the petition of Charles H. Cole and others relating to the estate of Caroline Plummer, deceased, late of Haverhill, after hearing the petitioners and their witnesses and other parties who appeared to testify,

#### REPORT:

Caroline Plummer died at Haverhill on the 12th day of November, 1869, intestate, leaving real and personal estate in Haverhill of the value of about twenty-five hundred dollars. This property is now in the official custody of the public administrator. She left no known heirs-at-law, and the Committee are satisfied there are none, and in the absence of any person to inherit it, the property falls to the Commonwealth by escheat.

In a confidential interview with the pastor of the church of which she was a member, she declared her intention of leaving her property to the petitioners. This was about a month before her death. Subsequently, she made a like declaration to her attending physician. On the day of her death, her physician took by her dictation a memorandum of her wishes with regard to the disposal of her estate, and also at her request carried it to an attorney to be put in proper testamentary form. The

will was drawn accordingly by the attorney, and the physician, accompanied by witnesses, returned to her residence to have it signed and executed with legal formalities ; but this was rendered impossible by her death in the meanwhile. Her so sudden decease was anticipated neither by herself nor attendants, nor the physician. The paper intended as her last will is annexed to the petition, and is accurately drawn from the memorandum taken by the physician and produced before the Committee.

Fully impressed of the wisdom of the provisions of law respecting the testamentary disposition of the estates of deceased persons, and aware of the temptation to and opportunity for the practice of fraud and collusion in a case of this character, the Committee felt that they could not favorably entertain the prayer of the petition, except upon the most convincing proof of the essential facts. But upon full and careful consideration, they are satisfied beyond all reasonable doubt that the paper which accompanies the petition was drawn from a memorandum dictated by the deceased Caroline Plummer, while of sound mind and memory, and of her own free will, and truthfully embodies her last will in regard to her property, and that it failed of formal and effectual execution only by reason of her sudden and unexpected death.

Upon these facts, the Committee are of opinion that the State, the sole party whose legal rights are involved, should, in a spirit of generous justice, release its claim to this property in favor of the petitioners, and thus give effect to the will of the citizen, who acquired it by her industry and thrift. They, therefore, report the accompanying Resolve.

JOHN K. TARBOX,

*For the Committee.*

## Commonwealth of Massachusetts.

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In the Year One Thousand Eight Hundred and Seventy.

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### R E S O L V E

On the Petition of Charles H. Cole and others, relative to the estate of Caroline Plummer.

*Resolved*, For the reasons set forth in the petition of Charles H. Cole, Caroline C. Burnham and Sarah A. Cole, that George Foster, public administrator in and for the county of Essex, is hereby empowered and directed to transfer and pay over all the real and personal estate held by him and belonging to the estate of Caroline Plummer, late of Haverhill, deceased, to the said Charles H. Cole, Caroline C. Burnham and Sarah A. Cole, after deducting therefrom the charges and expenses of his administration: *provided*, that the said Charles H. Cole, Caroline C. Burnham and Sarah A. Cole shall first give a bond to the judge of probate for the county of Essex, with surety or sureties satisfactory to said judge of probate, with condition—first, to pay all debts due from the estate and the legacies designated in the instrument purporting to be the unfinished will of said Caroline Plummer, annexed to said petition; second, to save the Commonwealth and said public administrator harmless against the claims of all persons on account of said estate or the proceeds thereof; and third, to transfer and pay over said real and personal estate to any person who, by the will of said Caroline Plummer, or otherwise, may appear to be legally entitled thereto.

