

Republic of Texas County of Fort Bend

Probate Court July 29th 1839.

Fairchild suit for guardianship of Elizabeth Stuart

In this ~~case~~ ^{case} M. Hamm & his wife Nancy Hamm
Came into open Court by their attorney G. N. Bassett
and by this their answer oppose and object to the applica-
-ion of the petitioner Fairchild and pray this Hon Court to
withhold from said Fairchild letters of guardianship of
the said ~~Elizabeth~~ ^{Elizabeth} Stuart for the reasons below stated
To wit: 1st Because Mrs Hamm one of the undersigned
is the proper guardian of said child she was the wife of the
late James Stuart father of said child and as such
step-mother to said child and during the lifetime of
said Stuart was the one selected to govern and take charge
of said child as a mother as well as of the other children
of the late Stuart deceased. That she always treated
said child and other children with kindness and
propriety and to the entire satisfaction of their own
father as can be abundantly proved by their neighbors
who are in good repute and others acquainted with
their family - Further that she having been with
said child from her infancy almost is the best calculated
to be her guardian now.

2nd Since the death of said Stuart said orphan-
child has lived in the family of the undersigned
and been treated as before her father's death with
the same kindness and propriety and has been
contented and happy wishes to live with her as
her brother and sister are with the undersigned and
she avows that she who has so long been her mother should

continue to be her guardian and advisor. That if she has at any time manifested uneasiness at her situation she must have been instigated to do so by designing and inimical individuals. V

The undersigned would further state that said child manifests great grief at the thought a mention of being removed any and ~~being~~ placed under the guardianship of any other than the undersigned.

That it would be trying to their own feelings to require such a separation that it is necessary in all good and respectable families to govern children and visit out to them at times proper corrections that at such times children might be instigated to get against their own parents who had only their good in view and used the rod in sorrow.

For the above reasons and many others which might be set forth but which will appear obvious to the Hon Court the undersigned (without any sinister or selfish pecuniary motive) pray the Hon Court to refuse the prayer of the petitioners Fairchild and if the Court should decide against Fairchild the undersigned

does ~~not~~ then petition the Hon Court to be appointed
Tutor of said Elizabeth Stuart

And as in duty bound will
be by James M. Hamm & Nancy Hamm his wife of
Atty C. V. Bojett

The court having taken under its consideration the above petition, as well as the petition of Philo Fairchild, heretofore filed - and upon a full and impartial view of the whole matter decides in favor of the petitioners. James M. Hamm and his wife Nancy Hamm, formerly Nancy Stuart and it is ordered that the said J. M. Hamm be appointed tutor to the said child Elizabeth Stuart.

W. G. Martin
Judge of Probate