

WILL OF THE LATE DR. DAVID JAYNE.

I, DAVID JAYNE, M. D., of the City of Philadelphia, and State of Pennsylvania, being of sound and disposing mind and memory, and in the enjoyment of all my mental faculties, and in reasonably good health, but taking into consideration the absolute certainty of death, do make and publish this, my last will and testament, hereby revoking all former wills heretofore made by me.

1st.—I direct my body to be decently and properly interred in the lot recently purchased by me, in the Woodlands Cemetery, between the graves of my two deceased wives. This also my will that the said lot shall be used as a burial place for my family and their descendants. This further my will, that in case David Walker's children desire to do so, they may remove the remains of their mother to my lot or lots within the Monument Cemetery, and use the same for them as a burial place for them and their descendants; which latter privilege I also give to my brother-in-law, Thomas B. Beardslee, and his family.

Item.—I direct my executors to procure for each of my children, unless I shall supply them with the same during my life, a painted photograph likeness of myself, together with a bust, similar to the one in my parlor, with a pedestal for each.

Item.—I authorize and direct my executors to purchase a good gold watch for each of my sons, Henry Le Barr Jayne and Horace Jayne, as soon as they arrive at a suitable age to use them, and also to purchase one for my daughter Bertha. I also give and bequeath to my son, De Witt Jayne, my gold-headed cane, and one of the large portraits of myself. All my clothing I bequeath to my brother, William Jayne, and in case he be deceased, to my brother-in-law, Thomas B. Beardslee.

Item.—I direct my executors to divide all the jewelry which belonged to my second wife, Mary, among her four children.

Item.—To my daughter, Mary De Witt Eshelman, I give and bequeath my old family Bible, which was formerly her mother's; also a sweet gum knit box, made by Thomas Watson, her mother's uncle. I also give to my grandson, David Jayne, a gold watch, marked with my name; and I also direct my executors to purchase a good gold watch for each of my grandchildren, Harry Jayne, and Hannah and Mary Eshelman, when they arrive at a suitable age to use them.

Item.—All the rest, residue and remainder of my estate, real, personal or mixed, of whatever kind, and wherever situated, except such as I may herein hereafter otherwise dispose of, I give, bequeath and devise unto my executors hereinafter named, and the survivor and survivors of them, and the heirs and assignees of the survivor of them, in trust for and during the natural lives of my children, Mary De Witt Eshelman, Matilda Walker Jayne, Hannah Sheppard Jayne, Laura Jayne, De Witt Jayne, Henry Le Barr Jayne, Horace Jayne and Bertha Jayne, and of my grandchildren, David Jayne, Harry Jayne, Hannah Eshelman and Mary Eshelman, and the life of the survivors and survivor of my said grandchildren, upon and for the uses and purposes and trusts following, that is to say, that they, my said executors, shall as soon as convenient after my decease, convert my personal estate not herein otherwise disposed of, into money, and with the proceeds thereof, and the income arising from my real estate, or any other source, pay all my just debts and funeral expenses, and pay or extinguish all mortgages and ground rents (when the latter are redeemable) which are liens on my real estate; and in case of my death before my new house at the corner of Nineteenth and Chestnut streets is completed, then upon the further trust to finish the said house and improve the grounds according to the plans and designs as furnished by my architect, John McArthur, Jr. It is also my intention, in connection with the said house, to buy or build a stable and carriage house in some convenient locality. If I should not live to do this, I authorize and empower my executors to buy a suitable building for the purposes aforesaid; or if that is not practicable, then to purchase a lot, and erect thereon a stable large enough to hold six horses, with carriage room sufficient for four two-horse carriages; said property, when purchased, to be held by my executors under the trusts in my will.

1st.—I also direct my executors, in case of my death before the said house is completed, to furnish the same, when done, in a suitable manner, under the advice and direction of my wife and daughters, at an expense not exceeding \$15,000, using as far as practicable the furniture in my present residence in Third street, the balance thereof to be sold. And upon the further trust that my said executors shall permit and allow my family to use and occupy the house wherein I now reside (in case of my death before the said new house is completed), and after that, then the said new house at Nineteenth and Chestnut streets, with the furniture, library, stabling, carriages and horses, under the following regulations, viz: One member of my family shall be the head thereof; so long as my wife remains my widow, this my wish that she reside in the said house as the head thereof. In case of her death or marriage, then my eldest unmarried daughter living at that time shall take charge of said house until her death or marriage (should the said house be kept open so long) and so on with my other unmarried daughters in the order of their age. Provided that in case of the death or marriage of my said wife, that then in case my said son De Witt shall be of age, of good moral character, and in the opinion of my executors a suitable person for such position, he shall have the charge of the said house as the head thereof, subject to be removed by my executors in favor of one of his sisters, or one of his brothers if old enough, in case he, the said De Witt, should form bad habits; and provided further, that no son-in-law I may have shall be placed at the head of the said establishment, unless with the consent of all my children of full age, and the approval of my executors. The said house is intended as a home for all my children, and for such of my grandchildren as see proper to reside there, where they can all have one home, one board, and be to all intents one family, and I should be glad if my family should arrange it so as to have frequent reunions there of the different branches thereof. I have every confidence that my wife will make the said house a pleasant home for all of my children, and equal confidence that my said children will do all in their power to promote mutual harmony and good feel-

ing. The carriages and horses shall be kept for the use of the family; and my executors are directed to keep the property in repair, and to renew the furniture, carriages and horses from time to time as the same may be needed. It is further my will that no intoxicating drinks shall be kept in the house, except for medicinal or culinary purposes; and that none of my wife's family shall make it a permanent residence. And for the purpose of keeping up said establishment, I direct my executors to pay the expenses thereof, the sum not to exceed the sum of \$10,000 per annum. This sum is intended strictly for the expenses of the house, servants and stables, and not for the clothing or personal expenses of any of my family, which are provided for elsewhere in my will. No charge for board shall be made for any person entitled to reside in said house. The said house shall be kept up in the manner aforesaid until such time as by the death or marriage of my children, or the greater portion thereof, my executors shall consider it to the best interest of all concerned to close the said house; and provided further, that if the arrangement of keeping up the said house as a home for my family shall not be found in the opinion of my executors to answer my hopes and expectations of having a happy and united family, or if it should be the means of engendering bad feelings or jealousies among the members of my family, that in either of said cases my said executors shall close the said house, and that whenever they shall close it under the powers of this will, that then, and in such event, that this my will that they sell off all my furniture, library, paintings, silver, horses, carriages, &c., at auction, and shall also sell the said house, and stable at either public or private sale, and execute and deliver a good and sufficient deed or deeds for the purchaser or purchasers thereof in fee simple, or upon ground rent, the proceeds thereof to be held by my said executors under the remaining trusts in the will. Provided that no such purchaser or purchasers shall be bound to see to the application of the purchase money, and upon the further trust that my said executors shall as soon as practicable after my decease, if I should not do so in my life time, build up and improve my property at Vine street wharf, by erecting thereon a substantial plain building or buildings, suitable for a hotel or stores, or both, as in their judgment may be most beneficial to my estate. The plan and details I leave to their discretion, and upon the further trust that my said executors shall, after the payment of all my debts as aforesaid, and after my new house is finished and paid for, and after the Vine street wharf is improved, and stable built as aforesaid, set aside thirty-three and one-third per cent. of the clear annual income of my estate, and invest the same securely in the public debt or bonds of the United States, of the State of Pennsylvania, of the City of Philadelphia, or of the State or City of New York, or upon first mortgages upon improved real estate in the city, taking care in the latter case to have a good margin, and keep the same and the proceeds thereof so invested until they are enabled to raise a sum not exceeding \$400,000, which in their judgment shall be sufficient to meet any demands upon my estate, arising from either of the following causes:

1st.—The payment to certain of my children, upon their marriage, of the sums as is hereinafter directed, to be paid them respectively.

2d.—The purchase of the shares or interest of Eben C. Jayne and John R. Walker, in the firm of Dr. D. Jayne & Son, should the same become necessary under the subsequent provisions of my will, and finally from loss to my estate by reason of fire or other destruction of any of my buildings. When the aforesaid sums is raised, then my said executors shall keep the same so invested for the purpose aforesaid, but shall distribute the income thereof annually with the other income of my estate; it not being my purpose to direct accumulation beyond the raising of a moderate sum to provide against contingencies. This plan will give my children a small income for a few years, but in the end will benefit them by preventing a reduction in their income hereafter, in case of the happening of any of the contingencies aforesaid, and upon the further trust to pay to my niece Mary Jane Bastede, and to my sisters-in-law, Margaret and Emily Walker, each the sum of \$200; and to my wife's nieces, Annie Fort, Mary Smith and Mary Elizabeth Cunningham, each the sum of \$200; each to be paid within one year after my death. And upon the further trust to pay to my niece Catharine Ireland, daughter of my deceased sister, Elizabeth Morslander, to my nieces Mary Jane Evans, Cornelia Davis and Julia Walker, daughters of my late sister Sarah P. Beardslee, and to my sister-in-law Mary Cunningham, I direct my executors to pay each respectively the sum of \$100 per annum during their several respective natural lives, said payments to be made quarterly. To my brother William Jayne I direct my executors to pay the sum of \$300 per annum during his natural life. And upon the further trust that they, my said executors, shall pay to my daughter, Mary De Witt Eshelman, and to my late son David's widow, Ellen Jayne, for the support of themselves and families, the sum of \$3,000 per annum, in monthly payments, to commence at my death, and continue until such time as my executors shall, under the direction hereinafter contained, commence raising and setting aside the said sum of \$400,000, when other provision will be made for them by this will, and in case of the death of my said daughter-in-law Ellen, leaving a child or children, then such child or children shall receive the said annual sum of \$3,000, to be divided among them share and share alike, if more than one, for such time as such deceased parent shall be entitled to receive it; and in case of the death of my said daughter Mary, then the sum of \$3,000 shall be paid to my son-in-law Isaac S. Eshelman, if he be living, for the support of his children by my said daughter for such time as my said daughter would have been entitled to receive it. And upon the further trust to pay to each of my daughters, Matilda, Hannah and Laura, without the intervention of a guardian if they or any of them should be minors, the sum of \$1,500 per annum, in monthly payments, for their clothing and personal expenses, and from and immediately after the marriage of my said last named daughters, my executors shall pay to them respectively the same income as my said daughter Mary is entitled to receive under my will. And upon the further trust to pay to each of my said daughters Matilda, Hannah and Laura,

to each of my sons, De Witt, Henry Le Barr and Horace, and to my daughter Bertha, the sum of \$35,000 upon their marriages respectively. The said sum to be applied, however, under the directions of my executors in the purchase of a dwelling-house and furnishing the same, and not otherwise; provided that none of my sons who may under the provisions of this will become the owners of an interest in the shares of business of the firm of Dr. D. Jayne & Sons, and the business thereof shall receive the said sum of \$35,000, or the benefit of the same, as I consider that a full equivalent; and, therefore, my late son David, and my daughter Mary, and their families have received during my lifetime in connection with a devise of a house under my will which is equivalent to the foregoing. And upon the further trust to pay to my wife Hannah Jayne, so long as she remains my widow, the sum of \$3,000 per annum, in quarterly payments, in accordance with the terms of a certain contract made between the said Hannah and myself, in contemplation of marriage, bearing date the 14th of October, Anno Domini 1856, the said sum of \$3,000 per annum is intended to cover the annuity in said contract mentioned, and not to be in addition to it. I consider \$3,000 a year sufficient for my said wife, particularly as she is provided with a comfortable home so long as she shall remain my widow, by the provisions of my will, which is over and above what she is entitled to receive by said marriage contract. And upon the further trust that when my debts are paid, my house finished and furnished, the wharf property improved, and stable built as hereinbefore mentioned, that my said executors shall, after setting aside the one-third clear annual income of my estate for the purpose of raising the aforesaid sum of \$400,000, divide the remaining two-thirds part of the said clear annual income of my estate not herein otherwise disposed of, after deducting all proper costs and charges and the expenses of the trust, annually into as many equal shares or parts as I have children living at that time, or the issue of a deceased child or children, such issue representing his or their parent's share, one third of which equal shares or parts my said executors shall pay to each of my children before named, or hereafter to be born, during the full end and term of their and each of their respective natural lives. Provided, however, that if at the time of my death any of my children shall be minors, that in such event my said executors shall, during the minority of such minor or minors, invest his or her or their share in the clear annual income of my estate, not needed for his, her or their maintenance and support annually, and so much of the same as may be necessary, in the public debt or loan of the United States, of the State of Pennsylvania, of the City of Philadelphia, or of the State or City of New York, or in first mortgages on improved city property, with a good margin, and to keep the same so invested until such minor or minors shall respectively arrive at the age of 21 years, when the sum shall be paid over to him or them respectively, and another of which said shares my said executors shall pay to David Jayne and Harry Jayne, children of my late son David W. Jayne, share and share alike, during the full end and term of their and each of their respective natural lives. And in case of the death of either, leaving lawful issue, such issue shall take the deceased parent's share of such income; in case of the death of either without such issue, the survivor shall take the whole; and in case of the death of both without issue, then the said share of the said annual income shall revert to my estate under the trusts in this will. And it is my further will that in case of the death of either of my said children leaving lawful issue, and whenever and so often as the same may happen, such issue shall be entitled to receive the share or annual income such deceased parent would have been entitled to until the death of the survivor of my said children, and in case of the death of any of my said children without leaving any child or lawful issue living at the time of such decease, or born in the usual period of gestation thereafter, the share or annual income of such deceased child or children shall be divided among my surviving children, and the descendants of such as may be deceased, share and share alike, the latter taking equally their deceased parent's shares until the death of the survivor of my said children. Then it is my will that if my four grandchildren hereinafter named, or either of them are living, that my said executors shall continue to pay the said parts of the said two-thirds of the clear annual income of my estate to the lineal descendants of my said children, in the manner aforesaid, for and during the life of my four grandchildren hereinafter named, and the life of the survivor of them; provided, however, and this further my will, that as soon as my said executors shall have raised and invested the said sum of \$400,000, or so much thereof as they may consider necessary to cover the contingencies referred to in my will, that thereforward my said executors shall distribute the whole of the clear annual income of my said estate not herein otherwise disposed of, instead of the two-thirds part thereof, to and among the said persons to whom I have given the said two-thirds part, in the same proportions and subject to the same restrictions as are herein set forth in regard to the said two-thirds part of the said clear annual income, that is to say, after the arrival of the period referred to, the persons who have been receiving the two-thirds of the clear annual income, shall get the whole; provided, however, that it is my will that in case of my having a child or children hereafter born, the said child or children shall take under this will the same shares respectively that I have herein given to each of my other minor children, as though such child or children, if any hereafter to be born were now living and named herein, and after the death of the survivor of my said children before named, it is my will that the whole of my estate, real and personal, and mixed, in the hands of my executors at that time, less proper costs and charges, and the expenses of the trust, shall be distributed to and among, and I hereby give, bequeath and devise the same to my grandchildren and great grandchildren, and the issue of any such as are deceased, living at the time of the decease of the survivor of said named children or grandchildren, in the same shares or parts as they would have taken under and by the intestate laws in force in the State of Pennsylvania at the present time, such issue taking equally the share their parent's would have taken, yet not as by descent, but

as by purchase under the limitations of my will, and on failure of such lineal descendants, then I give and bequeath and devise the same real and personal estate to such persons as would be my collateral kindred in such shares as they would take under the said intestate laws as purchasers, and not by descent. The personal estate to be paid over by my executors to such persons as may be entitled in accordance with the foregoing, and the real estate to be held by such persons as shall be entitled to the same in fee simple, as tenants in common, according to their respective interest, until they shall be proper to make partition among themselves of the same. It is further my will, and I hereby direct that all sums of money directed to be paid by my executors to my said children, shall be paid to such children respectively for their and each of their sole and separate use, and the receipts of such children respectively, when of full age, shall be taken by executors for any such payments to him, or her, or them respectively and such receipt or receipts, notwithstanding the coverture, present or future of any such children, shall be a valid voucher for any such payments by said executors, but not the receipts of any other person or persons for them or for any of them. Provided, also, that the foregoing provisions shall extend with equal force to all payments, if any, hereafter to be made to any of my grandchildren under this will. And upon the further trust to pay to my daughter-in-law, Ellen S. Jayne, the sum of \$1,800 per year during the full end and term of her natural life, the payment of said annuity, however, not to commence until my executors commence to distribute the two-thirds part of the clear annual income of my estate among my children, at which time it will be remembered the payment to her of \$3,000 per year ceases, and her and David's children get their proportion of said two-thirds of the income. I make this provision to render my said daughter-in-law, to a certain extent, independent of the children, and upon the further trust that my said executors shall provide for the clothing, education and personal expenses of my daughter Mary's children and of my son David's children, after they arrive respectively at the age of fifteen years, the amount not to exceed the sum of \$500 each. My executors shall also provide for the clothing, education and personal expenses of my son De Witt and his younger brothers and sisters. The amount to be expended for each of the latter I leave to the discretion of my said executors, and which payments and expenditures for my children and grandchildren shall be considered as part of the expenses of my estate until such time as my executors commence to pay the two-thirds of the clear annual income among my children, when they shall charge the personal expenses of each of the said children or grandchildren against his or her share of the income. If my daughter Mary be living at that time she will receive her share of the said two-thirds of the said income, and will pay the said personal expenses for her children out of her own income. It is my desire that my said minor children shall be brought up regularly and in the faith of the Baptist denomination until they are old enough to choose a religious faith for themselves, and that they shall be liberally educated. That if my sons Henry Le Barr and Horace Jayne's health warrant it, they shall each have a collegiate and such further education as may be necessary to qualify them for any occupation or profession they may desire to adopt. It is further my will that my executors shall charge the cost of keeping up the house and stables at Nineteenth and Chestnut streets, or in Third street if I have not removed to the new house at the time of my death, as a part of the expenses of my estate, and this not to be charged against either of my family who may happen to reside and have a home in said house.

Item.—I give, bequeath and devise my house and lot, at the corner of Broad and Girard avenue, now occupied by my son-in-law, Isaac E. Eshelman, to my daughter Mary De Witt Eshelman, for and during the full end and term of her natural life, and from and immediately after her death then to such of her children as may be living at that time and the issue of any deceased child or children in fee, subject, however, to a life estate to the said Isaac S. Eshelman, if he be living at that time. I give, bequeath and devise my house and lot, No. 931 Broad street, two doors below the last mentioned house, (being the one where my son David resided at the time of his death), to my daughter-in-law Ellen F. Jayne, for and during the full end and term of her natural life, and from and immediately after her death then to my grandsons, David Jayne and Harry Jayne, in fee. If either of them be deceased at that time without issue, then to the survivor in fee. If both shall be deceased without issue, then the said house shall revert to my estate, and be sold by my executors at either public or private sale, at such time as they may think it of interest to my estate, and the proceeds thereof shall be held by my executors under the trusts in my will.

I direct my executors not to bring any claim against William or David Morslander, or against Theodore or Anna Beardslee, or Martha Bryan, (late Martha Smith), for any indebtedness they may be under to me at the time of my death.

Item.—Whereas, in the year 1855, I formed a copartnership with my late son, David W. Jayne, and my nephew, Eben C. Jayne, and have since, by force and virtue of the power and authority expressed and reserved in the agreement of copartnership, (which said agreement bears date the 15th of February, 1855), taken and admitted my brother-in-law, John R. Walker, into the said firm, whereby the capital stock and business of the said firm were divided into 21 shares, of which I retained 10 shares, and the remaining 11 shares were divided as follows: David W. Jayne having five shares; Eben C. Jayne three shares; and John R. Walker three shares; and whereas, I became the purchaser of my son David's interest prior to his death, whereby I am now the owner of 15 of said shares; and whereas, it is provided in the said articles of copartnership that in the said firm, if so directed by me in and by my last will and testament, carry on the business they are now engaged in for the use and benefit of my estate, or for such uses and purposes as I may by the said last will and testament appoint. It is my will and in pursuance of the powers contained in the said articles of copartnership, hereby direct that the surviving partners of said firm shall continue to carry on the business for ten years after my decease for the use and benefit of

my estate, and shall pay over the clear annual income from said 15 shares to my executors, such income when received by executors, to be held by them under the trust in my will, and at the expiration of the said period of ten years, if any of my sons or my said grandsons, David and Harry Jayne, are still minors, it is my desire and request that the said Eben C. Jayne and John R. Walker, if both be living, and if only one of them be living, then the survivor shall still continue the business with the aid of my executors until such time as my youngest son living at that time shall arrive at full age of 21 years; and also until my grandsons David and Harry Jayne, if living, shall be of full age, in order to afford each of my said sons and said grandsons an opportunity of becoming partners in said firm, should they so desire it under the restrictions hereinafter named, and in order the more effectually to enable my said executors to carry out my wishes in this respect, I authorize them in case of the death of the said Eben C. Jayne or John R. Walker, or in case they or either of them decline to carry on the said business after my death, or become incapable from any cause from doing so, to purchase the shares of the said Eben or the said John, or either of them in the said business, the same to be valued and paid for in accordance with the articles of copartnership of said firm and the supplements thereon. And in the case of purchase by my executors by reason of the death or otherwise, of the interest of one of said partners, then my executors shall carry on the business in connection with the other partner until my youngest son living, and my said grandsons, if living, shall arrive at full age; and if my said executors shall purchase the shares or interest of both of the said partners, then it is my will that my said executors shall continue the business until the period referred to. It is my will that as my said sons De Witt, and Harry Le Barr, and Horace Jayne, and my said grandsons, David and Harry Jayne, shall respectively arrive at 21 years of age, they shall in the order of age, be admitted into and become members of the said firm; provided they so desire it, and provided, also, that my said executors shall be satisfied that they are respectively of good moral character and qualified and willing to make active and useful working members of said firm, and subject to the restrictions aforesaid, and to the approval of aforesaid executors. I give and bequeath 14 of my said 15 shares in the said firm to and among them as follows: To De Witt, 4 shares; to Le Barr and Horace, each 2½ shares; and to David and Harry, each 2½ shares; and in case of the death of either of my said sons or grandsons before arriving at full age, or in case of either of them declining to enter said firm, or in case of my executors refusing to admit either of them for the cause before mentioned, then the shares of such child or grandchild so refusing or declining, or prevented as aforesaid by my executors, shall remain to my estate, to be disposed of as is hereinafter directed; and in case my said executors shall purchase the shares of John R. Walker, and Eben C. Jayne, or either of them, as aforesaid, and my sons and grandsons, as aforesaid, or a portion of them, shall become members of said firm, or shall desire to form a new firm in lieu thereof, then and in such case I authorize my said executors to sell them the said shares so purchased or held by my executors under my will, at the same price or rate as they paid for the shares of the said Eben C. Jayne or John R. Walker. Any of such sale or sales may be upon credit, with an agreement on the part of the firm to pay a certain portion of the gross receipts to my executors, until the whole purchase money shall be liquidated; and in case any of the said shares remain in my estate unsold, then my executors shall hold the same, and apply the income thereof, under the trusts in my will, until such time as they can dispose of the same, or the said firm shall be wound up: Provided, however, (and this my express will), that if my executors shall at any time be of opinion that it is impracticable to carry out the aforesaid provisions of my will in regard to the continuance of said business, or that it will entail risk or loss to my estate, then I authorize them to close the business at the expiration of the period fixed in such articles of copartnership, or sooner, with the consent of the other parties; and they are authorized to close it in the usual way—by winding it up, or they may do so by selling out the entire interest of my estate therein to any individual, or firm, or corporation, for such price or sum as they may be able to obtain, and upon such terms as to times and modes of payment as my said executors may consider most to the interest of my estate, the proceeds of such closing up or of such sale or sales to be held by my executors under the remaining trusts of this will; and as to the remaining share (one) in said firm, I bequeath the income thereof to Wesley Stretch, now a clerk with the said firm, for such time, and so long, as he shall remain with said firm, and give the business his undivided attention, and perform all his duties in a satisfactory manner to my executors. It is not my expectation or desire that all my said sons and grandsons shall enter into the said firm. I consider three of them enough to do so, but I do not prohibit any of them; but at this time it is impossible for me to say which of them may desire, be qualified, or live to do so. I therefore give my executors a discretion as to which of them to admit; but I also authorize my said executors to distribute all of the said 14 shares among such as they do admit into the said firm. I think it desirable that those of my said sons and grandsons who desire to enter the said firm shall enter the same at full age. I also authorize and empower my said executors, whenever in their discretion it shall be to the benefit of my estate, to sell and convey my real estate situated on Court alley, below Brown street, and east of Front street, and also my real estate situated on the east side of Front street, below Reed street, my dwelling house on Third street, above Spruce, my lot at Eighteenth and Ritzenhouse streets, and also my lot at the northwest corner of Twenty-second and Chestnut streets. The last two named lots were purchased by me in order to secure a lot whereon to erect a Baptist meeting house, which it is contemplated erecting in the western part of the city. If I should die before the project is carried out, I authorize my said executors to convey either of the above two lots to the trustees of said church, upon the payment of original costs, interest, and

all expenses. The other lot they will then sell as above directed, and if the church declines them both, they are both to be sold. I have made a subscription of \$15,000 towards the erection of the meeting house aforesaid. If they proceed to build it, my executors are directed to pay this subscription as the work progresses. The said sales of the said properties above referred to may be either at private or at public sale, as may be deemed expedient by my executors, and may be made upon such terms as regards the times and modes of payment, as they may deem judicious; and whenever any such sale or sales shall be made, my said executors shall execute and deliver proper deeds or deeds in fee simple, upon ground rent, to the purchaser or purchasers thereof. The proceeds of any such sale or sales shall be applied by my said executors to the payment of my debts, if made before my debts are paid as mentioned in my said will, and the balance, if any, of such purchase money remaining, shall be invested by my executors under and subject to the trusts contained and expressed in my will.

Item.—I further authorize my said executors to select a room in the second story of the Commonwealth Building, Chestnut street, above Sixth, and to furnish and use the same as an office or offices for the transaction of the business of their trust. If said building is occupied, then they may select a room or rooms elsewhere, in some of my other buildings.

Item.—In case any of my executors hereinafter named shall refuse or decline to act as trustee aforesaid, or die, or become incapable of so acting from age, infirmity, or from any cause whatsoever, then it is my will that all the authorities, estates, powers, and rights conferred upon them by virtue of this will, shall rest on the surviving executor or executors as trustee or trustees aforesaid, in as full and ample a manner as if such executor or executors so refusing or declining to act, or dying, or becoming incapable of acting, had never been named therein; and further, in case any of my said executors declining or refusing to act, dying, or becoming incapable of acting, as aforesaid, and so often as the same may happen, I hereby authorize and empower the surviving executor or executor to apply by petition to the Orphans' Court for the appointment of another trustee or trustees in his or their place or stead, and to nominate such trustee or trustees by the consent, in writing, of such of my children as are of full age, and immediately upon the appointment of such trustee or trustees, in the manner aforesaid, then all the authorities, powers, estates and rights herein conferred upon my executors hereinafter named as trustees under the will, shall rest in such newly appointed trustee or trustees as fully and amply as if he or they had been originally appointed executor or executors by me, and named as such in this, my last will and testament. And for the purpose of carrying out the object of this trust, I hereby authorize and empower my said executors to lease my said real estate, and to receive the rents, issues, and profits thereof, and to make such repairs and alterations from time to time to my buildings as may be necessary for my property. I desire my executors to keep the buildings insured in such offices as they have confidence in, and which will insure without charging exorbitant rates, to such an amount as may be necessary to protect the property from any probable loss by fire. I wish my executors to exercise their best judgment and discretion in this matter; and in case of the destruction of any of my buildings by fire, I authorize and empower my executors to rebuild the same as near the original plan as possible, or in such manner as may most conduce to the benefit of my estate. But in case my executors, in so rebuilding, desire to change the plan of the building in any material point, I authorize them to do so, but only on the condition that they obtain the consent of the Orphans' Court of Philadelphia to such proposed alteration. And in case of the destruction of any of my buildings, by fire or otherwise, before my executors have accumulated a sufficient fund to rebuild them, I authorize and empower them to mortgage any of the said real estate for such sum or sums of money as may be necessary for such purpose, which said mortgage or mortgages shall be liquidated as soon thereafter as practicable; provided that such mortgage or mortgages shall be given only with the approbation of the Orphans' Court aforesaid, but no such mortgage or mortgages shall be bound to look to the application of the money so loaned by him or them; and provided further, that my executors shall not mortgage any of the said real estate for any other purpose whatsoever.

Item.—It is further my will that whenever by the provisions of my said will any of my grandchildren or other descendants shall be entitled to receive a share or portion of the income of my said estate, or any payment or sum of money under my will, and shall not be of full age, that in every such case my said executors shall invest the sum or sums belonging or coming to any such minor or minors from time to time as the same may accrue, in the same securities that I have directed them to invest the money of my minor children in, and shall pay the same to them, with the accumulations thereof, upon their respectively arriving of full age, less any sum expended by the said executors in the support, maintenance, and education of said minors.

Lastly—I nominate, constitute, and appoint my friends, the Rev. J. Wheaton Smith, Charles H. Rodgers, Edward M. Paxson, Henry Lewis, and John M. Whital, to be the executors and trustees of this my last will and testament, and I also constitute and appoint them, and the survivors of them, the guardians of the persons and estate of all my minor children, and of such of my grandchildren as may be minors, so far as they take any estate under this will.

In witness whereof, I, David Jayne, the testator, have to this, my last will and testament, (written on 32 pages), set my hand and seal to the end thereof, and have set my hand to each preceding page of the same, this 19th day of July, in the year of our Lord, 1864.

DAVID JAYNE.

Signed, sealed, published, and declared by the above named David Jayne as for his last will and testament, in the presence of us, who have hereunto subscribed our names as witnesses thereto, in the presence of said testator and of each other.

JOHN S. YARBLEY,
ALEX. THORNTON,
EDWARD TILBURY JONES.