

## **Kate's Will**

In a Surrogate's Court held in and for the County of Saratoga, at the Surrogate's Court in the City of Saratoga Springs, on the 8<sup>th</sup> day of April 1943.

HON. GEORGE O. TUCK, Surrogate.

BE IT REMEMBERED, that at a Surrogate's Court held in and for the County of Saratoga at the City of Saratoga Springs, on the 27<sup>th</sup> day of March 1943, LEDYARD COGSWELL JR. of the Town of Colonie, County of Albany and THE FIFTH AVENUE NATIONAL BANK OF NEW YORK of the Borough of Manhattan, City, County and State of New York, person claiming to have an interest in the probate of a certain instrument in writing purporting to be the Last Will and Testament of KATHERINE BATCHELLER, bearing date December 28<sup>th</sup>, 1938 duly appeared and presented to the Court a written petition duly verified, describing the will, setting forth facts upon which the jurisdiction of the court to grant probate thereof depends and praying that the will might be proved, and that the persons required by law might be cited to show why said will should not be admitted to probate.

AND THEREUPON, waivers of the issue and services of any citation herein and consenting that said will be admitted to probate were duly made and filed by Marvin Olcott, Jr., Natalie Olcott Pinkston, Marianne Olcott Henry, Gertrude Olcott Bowen, Dudley Olcott 3<sup>rd</sup>, John Townsend, Learned Townsend and Theodore Townsend, the persons required by law to be cited.

AND THEREUPON, no one opposing the Surrogate caused the witnesses to said Will to be examined and the proofs to be reduced to writing, and said proofs are on file.

And it now appearing from the proof so taken that said instrument was duly executed and that the testatrix at the time of executing the same, was in all respects competent to make a will and was not under restraint; and our said Surrogate having inquired particularly into the facts and circumstances, and no objections being made thereto, it is

IT IS ORDERED, ADJUDGED AND DECREED, that said instrument be and it is hereby admitted to probate as and for the last Will and Testament of the said deceased, valid to pass both real and personal property and that Letters Testamentary be issued to the Executrix named in the said Will upon her qualifying as provided by law. AND IT IS FURTHER ORDERED, that said will be recorded with the foregoing proof thereof which said will is as follows, to wit:

I, KATHERINE BATCHELLER, a native of Saratoga Springs, in the County of Saratoga, State of New York, do hereby make, publish and declare this to be my Last Will and Testament.

ARTICLE ONE: I give and bequeath to the BOARD OF EDUCATION OF THE UNION FREE SCHOOL DISTRICT OF SARATOGA SPRINGS, and to such successors of said Board of Education as shall be in charge of the High School of said city, securities of my

estate yielding at the date of my death an annual income of Fifty Dollars (\$50), such securities to be selected by my Executors, in perpetual trust, nevertheless, to keep the same invested and reinvested and to pay the annual net income therefrom as a prize, to be known as and called the GEORGE S. BATCHELLER PRIZE, to a young man being graduated from said High School who delivers at the Graduating Exercises of said High School the best address on some subject in American History previous to the Civil War, the prize to be awarded in such a manner and upon such terms and conditions as shall be determined from time to time by said Board of Education or its successors. I provide for this prize in memory of my Father, who believed that facility and ease of public speaking are of great value and assistance to young men.

It is my wish and hope to provide for the prize above described during my lifetime and, in the event that during my lifetime I shall have endowed a prize similar to the above provided for, such action shall constitute and ademption [sic] of the bequest above provided for and such bequest shall not take effect.

ARTICLE TWO: I give and bequeath to the UNIVERSITY OF THE STATE OF NEW YORK, for use in the exhibitions, collections, biographies or other work of the State Museum and the Division of History, in the City of Albany, in such manner as the Board of Regents of the said University shall deem best, the portrait of my Father, George Sherman Batcheller, as Inspector General of the State of New York, also his framed nomination to the First Class of the Military Order of the Loyal Legion, New York State Commandery, signed by General P. H. Sheridan, also his framed appointments as minister of the United States, and as Under Secretary of the Treasury, both signed by President Harrison and Secretary of State James G. Blaine, also the framed decrees conferring upon him decorations from the Governments of France, Italy and Egypt, also my collection of autographed portraits of several Presidents of the United States, European sovereigns, and distinguished statesmen of many lands, also my autographed letters from American Statesmen and soldiers and also all my other papers and documents written by or pertaining to my Father which may be of historic value.

I make this bequest at the request of the State Historian, Dr. Flick.

ARTICLE THREE: I give and bequeath the sum of One thousand dollars (\$1,000) to the BETHESDA EPISCOPAL CHURCH, OF SARATOGA SPRINGS, N.Y., ITS WARDENS AND VESTRYMEN, in perpetual trust, nevertheless, to invest and reinvest the same and apply the income therefrom, under the supervision and direction of the Regent and Officers of the Saratoga Chapter of the Daughters of the American Revolution, for the perpetual care, maintenance and repair of my family tomb, known as the BATCHELLER MOUSOLEUM, together with its granite coping, threshold, surrounding lawn, walks and roadway, all situated in the older part of Greenridge Cemetery, Saratoga Springs, on land used as a place of burial by my family since 1865. It has been my custom to pay the sexton of said Cemetery, John Maher, a yearly sum for caring for the lawns and keeping the snow from piling up in the winter, and I desire that this shall be continued to him and his successors, and, every two years, to have a load of gravel spread on the surrounding walks and driveway. I desire that any part of said income that is not required in any year for the purposes expressed shall be applied in other years to meet the expenses of said repairs as need for them shall occur.

I give and bequeath the sum of Two hundred dollars (\$200) to the BALLSTON SPA CEMETERY ASSOCIATION of Ballston Spa, New York, in perpetual trust

nevertheless, to apply the income therefrom to the perpetual care and maintenance of the family vault and monuments of my great grandfather, Samuel Cook, and his wife, Fanny Fuller, my Grandfather James Merrill Cook and his wife, Anna Cady, and my great grandfather Shuler Cady, father of Anna Cady said vault and said monuments being situated in a lot in said Cemetery, surrounded by a wrought iron fence. As my aunt, Anna C. Hull, did in the year 1912, bequeath to said Cemetery Association the sum of Five hundred dollars (\$500) for perpetual care of said vault and monuments, I desire that the income from this supplementary bequest of mine shall be applied as far as necessary to repairs of said vault and monuments, and especially to painting, repairs and maintenance of the wrought iron fence and coping around the lot.

ARTICLE FOUR. I give and bequeath the sum of One thousand two hundred dollars (\$1,200) to the CHAPLAIN AND OFFICERS OF ST. MARK ENGLISH CHURCH AT ALEXANDRIA, EGYPT, in perpetual trust nevertheless, to apply the income therefrom to the perpetual care, maintenance and embellishment of the Catharine Phillips Batcheller Memorial Chapel, situated in said St. Mark's Church and of the two brass memorial tablets in memory of my Mother and of my Father which are placed in said Church and Chapel, and of the furnishings and fittings of said Chapel. A Faculty for the founding and institution of said Memorial Chapel was granted by the Anglican Bishop of the Diocese in 1904, and said Faculty provides that if said St. Mark's Church is ever altered or rebuilt or moved to another site said Memorial Chapel must be maintained or reproduced, as the case may be, in the altered or new Church. I hereby request and direct my Executors to assure themselves that said Memorial Chapel is maintained and likely to be permanent before paying the bequest provided for above in this Article.

ARTICLE FIVE. I give and bequeath the sum of One thousand dollars (\$1,000) to my friend LEDYARD COGSWELL, JR., of Albany and Loudonville, New York.

ARTICLE SIX. I give and bequeath to my friend JOSEPHINE AMELIE LE SAUX, formerly of Paris, France, who resides with me at this date and who for twenty seven years prior to this date has shared my life, the sum of Twelve thousand dollars (\$12,000), to be paid to her in full in cash in lawful money of the United States, as such place as she may request within seven months after my death.

I also give and bequest to my said friend, Josephine Amelia Le Saux, all my personal effects, pictures, furnishings, bric-a-brac, and other similar property, including the contents of all boxes and trunks, in storage or in use, wherever the same may be located at the time of my death, and all my jewelry and silver that I shall not have disposed of during my life, and excepting only such articles as I shall have specifically bequeath to others, to be sure that she will follow any wishes I may have expressed to her concerning their ultimate disposal.

If my said friend shall predecease me or shall die in a common accident with me or shall die before taking possession of all of the property bequeath to her in the last preceding paragraph, then I direct that the property of which shall not have so taken possession shall be disposed of as follows:

I direct that all my jewelry, silver, and paintings shall be sold in some city other than Saratoga Springs and the proceeds shall become a part of the general estate.

I give and bequeath my household linen to the LITTLE SISTERS OF THE POOR at Albany.

I give and bequeath my clothing and personal effects to the AMERICAN RED CROSS at Washington, D.C.

All bric-a-brac, china, glass, rugs, books and similar furnishings or property, wherever the same may be located at the time of my death, which in the judgment of my Executors has any artistic value shall be sold by my Executors in some city other than Saratoga Springs, preferably Troy, Albany or New York, and the proceeds shall become a part of my general estate. All such property, which in the judgment of my Executors does not have any artistic value, shall be given, and I hereby give and bequeath the same to the SALVATION ARMY, except that such of said property as shall have no value shall be destroyed.

I direct that all packing required in the disposition of the above articles shall be done by professional packers engaged from outside Saratoga Springs.

ARTICLE SEVEN. Independent of all other legacies and bequest provided my said friend, JOSEPHINE AMELIE LE SAUX, I hereby direct my Executors to pay out of the funds of my estate any and all expenses which my said friend shall or may incur in connection with packing the bequest to her and shipping the same to such place or places as she may designate and the carrying out of any wishes I may have expressed to the with respect thereto, and also the return fare of my said friend to her native land after the administration of my estate is completed.

If I should die away from Saratoga, my said friend will accompany my body to Saratoga, and I direct that my Executors shall pay all expenses of my said friend while doing so. I also direct my Executors to pay my said friend over and above the foregoing expenses her board and lodging and an allowance of One hundred and fifty dollars (\$150) a month during the period beginning the day of my death and until the time she shall receive the first regular quarterly payment of income from the Trust Fund provided for in Article Ten of this Will. I direct that my Executors shall make all the payments provided for in this paragraph as early and as promptly as possible and that statements of my said friend as to what the amount of said expenses, fare, board, and lodging is shall be accepted and honored by Executors without question. I commend my said friend to my Executors and to my Trustee, assuring them that she is fully cognizant of my wishes and that they may consult and rely upon her for execution of my wishes of for any other matter in absolute and complete confidence.

In the event that my said friend shall die within a year of my death, I direct that my Executors shall pay out of the funds of my estate all expenses of her interment and the erection of a monument to her in her native land or in such other place as she may have requested. I leave among my papers a letter or memorandum addressed to my said Executors as to what shall be done in this event, and I expressed the wish that my said Executors in performing the duties expressed in this paragraph, shall carry out fully the request I may express in any such letter or memorandum.

Furthermore, I direct that my said Executors shall pay all inheritance taxes of whatever kind that may be levied by the Federal or and State of foreign government on any of the gifts provided for my said friend by any of the provisions of this Will or any codicil thereto. The expenses, fare, board, and lodging, taxes and allowances, paid under the foregoing provisions of the Article shall not be deducted from or taken as an advance against any other income, gift or legacy provided for my said friend.

ARTICLE EIGHT: I have presented a framed portrait of my mother, Catharine Cook Batcheller, to the Albany Academy for Girls in the City of Albany, or which she was an alumna, and established there an annual Prize for French in her memory, she having won the Gold Medal of the said Academy for her proficiency in that language. This Prize was created on the expressed condition that said portrait should be permanently exhibited in the drawing-room of said Academy, or in a room serving for the purpose of receiving visitors in any other building which such Albany Academy for Girls may occupy in the future. If, on my death, my Executors find that this condition is being observed and have assurances that it will continue to be, then I desire to make said Prize a sum of Fifty Dollars (\$50.) annually and I direct my said Executors to hand over to the Trustees of said Albany Academy for Girls [line missing but assumed significant funds to set up a trust] Executors yielding at the time of my death an annual income of Fifty dollars (\$50.)

ARTICLE NINE. I give and bequeath the sum of Two hundred dollars (\$200.) to the person who shall at the time of my death be the Regent of the Saratoga Chapter of the Daughters of the American Revolution. I should like to have such a sum used for the benefit of the Chapter.

ARTICLE TEN. I give, devise and bequeath all the rest, residue and remainder of my estate, both real and personal, of whatever nature or whatever situated, to my Trustee in trust to invest and reinvest the same and to pay over the entire net income therefrom to my said friend, JOSEPHINE AMELIE LE SAUX, during her life, in quarterly installments, at such places as she may from time to time direct.

Upon the death of my said friend (or upon my death if she shall predecease me or die in a common accident with me) I direct that my Executors or my Trustee, as the case may be, shall pay, transfer and set over said rest, residue and remainder of my estate, as the same may then be constituted, to the REGENTS OF THE UNIVERSITY OF THE STATE OF NEW YORK, in perpetual trust nevertheless, to be applied in equal parts to the founding of two Memorial Scholarships, one such scholarship being for young women, to be perpetually known as and called the CATHARINE PHILLIPS COOK SCHOLARSHIP, in memory of my beloved Mother and her Father James Merrill Cook, and the other being for young men, to be perpetually known as and called the GEORGE SHERMAN BATCHELLER SCHOLARSHIP, in memory of my dear Father.

The annual income of such Scholarship Funds shall be awarded each year to one young woman and to one young man, respectively, graduating for the High School of the City of Saratoga Springs, such beneficiaries to be selected by competitive examination in such manner, and the awards to be made under such conditions, as shall be determined from time to time by the Board of Regents of said University. In the discretion of said Board of Regents, the income of such Scholarships may be awarded for a second year, but not for longer than a second year, to the same students to whom it shall have been awarded in the preceding year.

It is my desire that such Scholarships shall be awarded only to such students as shall have need thereof better to prepare themselves for whatever profession or other occupations in life they may choose and that the income of the Scholarships shall be used only for the purpose of enabling the beneficiaries thereof to take such higher courses as they desire in some College, University or technical Institute in the State of New York or in any French University but not in the City of Saratoga Springs. I request that said

Board of Regents shall so determine the manner in which and the conditions subject to which the Scholarships are awarded so as to accomplish the desires I have just expressed.

This gift to the University of the State of New York is, however, subject to the condition that such Scholarships shall always bear the name of my parents as stated above, and I request that the said Board of Regents shall exercise a strict supervision that such conditions shall be performed. I also request said Board of Regents to erect or cause to be erected in the entrance hall of the building of said High School of Saratoga Springs, a bronze tablet or plaque similar to those already in existence there, commemorating the creation of said Memorial Scholarships in memory of my parents, with their names duly inscribed thereon, and I authorize said Board of Regents to deduct from the income of said Scholarship funds such sum as may be required for the erection of this bronze tablet or plaque.

ARTICLE ELEVEN: I direct that my Executors shall cause my body to be interred in the family vault in Greenridge Cemetery, Saratoga Springs, wheresoever I may die. This being accomplished, I order and direct that the Mausoleum be closed by placing before the door a stone finished in the same manner as the present door, on which all the names and lettering on the present door shall be out and repeated, the closing stone to be set in front of the present door and fastened by bronze toggles set in the closing stone and so constructed as to fall into slots cut in the jams when the stone is put in place. The date and place of my death must be cut on the closing stone, under my name and the word "Closed" added below all the inscriptions.

I expect to leave among my papers an architect's design for such a stone, together with supplementary instructions concerning my interment. All expenses in connection with my interment and the closing of the Mausoleum as above described shall be paid out of the funds of my estate.

ARTICLE TWELVE: I hereby nominate and appoint LEDYARD COGSWELL JR., of Albany and Loudonville, New York, as Executor, and the FIFTH AVENUE BANK OF NEW YORK, as corporation organized under the laws of the State of New York, with office as 530 Fifth Avenue, New York City, as Executor and Trustee. If said Ledyard Cogswell, Jr. shall fail to qualify as Executor or, having qualified, shall die or resign during the administration of my estate, then I hereby nominate and appoint IRVING I. GOLDSMITH of Saratoga Springs, N. Y., as Executor in his stead. In case the Fifth Avenue Bank of New York shall fail to qualify as Executor and Trustee of my last Will and Testament, or having qualified, shall for any reason cease to act as my Executor or as my Trustee hereunder, at any time during the administration of my estate or of the Trust Fund provided for by Article Ten of this Will, then I hereby nominate and appoint THE BANK OF NEW YORK, of New York, NY with offices at 48 Wall Street, New York City, as Executor and Trustee in the place and stead of The Fifth Avenue Bank of New York.

ARTICLE THIRTEEN. I direct that no bond or other security shall be required of my Executors or my Trustee for the faithful performance of their duties.

ARTICLE FOURTEEN. I authorize my Executors, with the consent of the respective legatee, to pay any legacy, except the legacy provided in the first paragraph of Article Six, by a transfer or delivery of securities or other property in kind. I authorize my Executors and Trustee in their discretion to retain any of the securities or other property left by me, for investment of the principal of the trust fund provided for in

Article Ten. I authorize my Trustee to invest and reinvest in such stocks, bonds or other securities as it shall deem best, whether or not authorized by law for the investment of trust funds.

I direct that there be no amortization of premiums paid on the purchase of securities. Stock dividends and subscription rights shall in all cases be deemed to be principal not income. Cash dividends shall in all cases be deemed to be income and not principal, irrespective of the source out of which they are paid and irrespective of the time when they shall have accrued or accumulator been earned or declared or shall be payable.

ARTICLE FIFTEEN. I hereby revoke all wills and codicils heretofore made by me.

IN WITNESS WHEREOF, I, KATHERINE BATCHELLER, have hereunto set my hand and seal and have subscribed my name to each of the twelve preceding pages and have declared to to [sic] be my last Will and Testament, in the city of New York, State of New York, this twenty-eighth day of December, A. D., one thousand nine hundred and thirty-eight.

Harry P. Runge  
John J. DeWitt  
Seymour A. Nicholson

KATHERINE BATCHELLER

The foresaid instrument was signed, sealed, published and declared by KATHERINE BATCHELLER, the above named testatrix, as and for her last Will and Testament, and we at her request, in her presence, and in the presence of each other, after hearing such publication and witnessing such signing and sealing, have hereunder signed our names as witnesses this the 28<sup>th</sup> day of December, A. D., One thousand nine hundred and thirty-eight.

Harry P Runge residing at 1173 Wyatt St. N.Y. City  
John J. DeWitt residing at 264 So. 5 Ave. Mt. Vernon, N. Y.  
Seymour A. Nicholson residing at 391 E. Mosholn P'kway, N. Y. City  
**Signed** George O. Tuck  
Surrogate

SARATOGA COUNTY, SS:

I, Mary K. Leonard, Clerk of the Surrogate's Court in and for said County, do hereby certify the foregoing to be a true and correct record of the last Will and Testament of KATHERINE BATCHELLER, aforesaid, deceased, relating to both real and personal estate; together with the proofs thereof.

Recorded on the 9<sup>th</sup> day of April, 1943

**Signed** Mary K. Leonard  
Clerk Surrogate's Court