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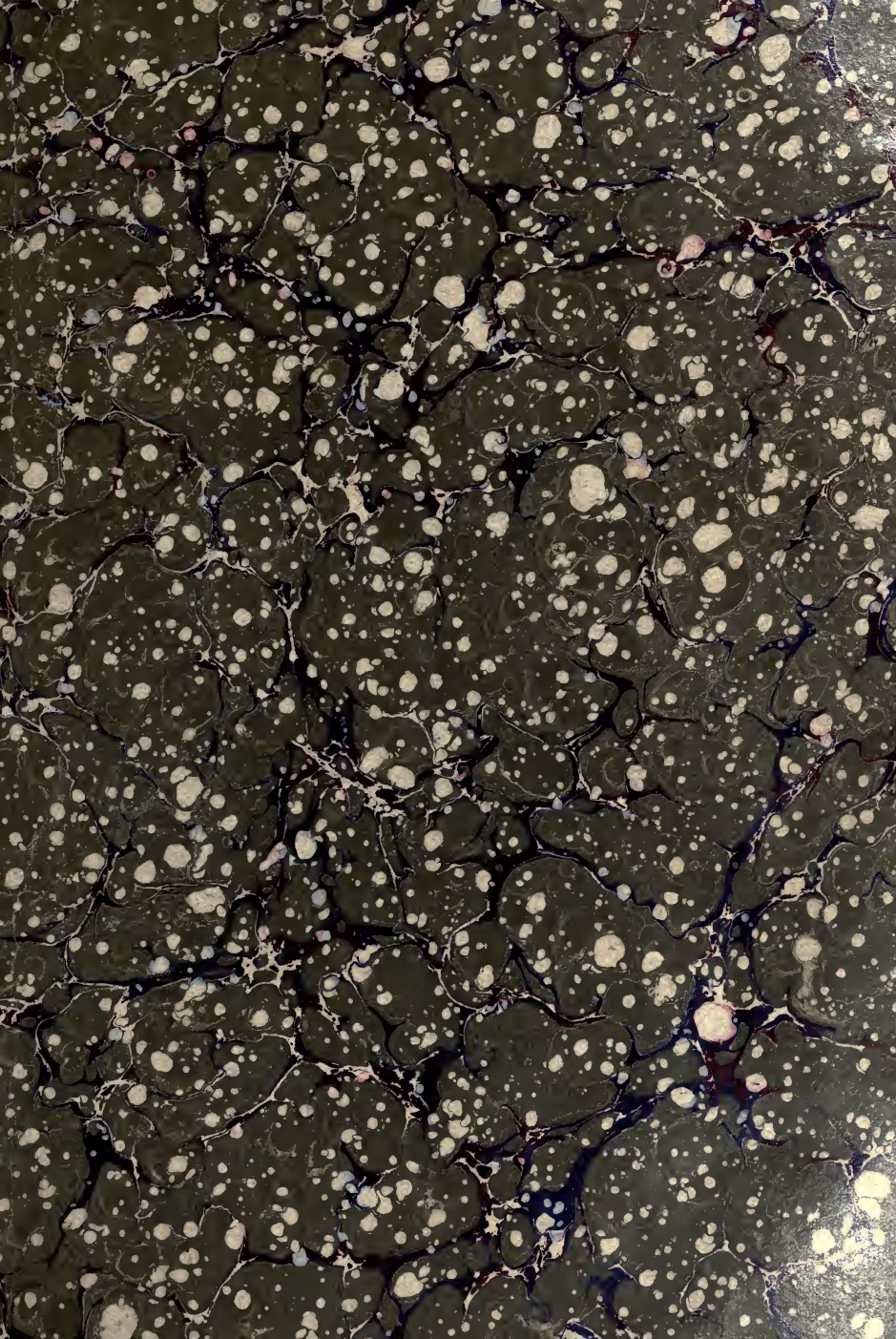


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A STATEMENT

RELATING TO THE WILL OF

HON. CADWALLADER C. WASHBURN.

BY

CYRUS WOODMAN.



LICK OBSERVATORY,
From E. S. HOLDEN,

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RELATING TO THE WILL OF

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*To the Legatees and Devisees under the Will
of the Hon. Cadwallader C. Washburn, late
Governor of Wisconsin: —*

MY attention has lately been called to an article relating to the Will of Mr. Washburn, which appeared in the "Lewiston Journal," and is there credited to the "Philadelphia Press." An extract from the article will be found at the end of this statement.

An evident misapprehension of facts by the writer of that article imposes upon me the duty, in justice to myself, to you, and to the testator, of stating the history of the preparation of the Will, which is fully known to me and to no one else.

In explanation of my connection with this matter, it is proper to say, that, when Mr. Washburn died, I had known him for about forty years; that for nearly eleven years we were associated as partners in business, and that our long acquaintance and intimate relation gave rise to an uninterrupted friendship, which was founded upon mutual confidence, respect, and affection. Under such circumstances it is not singular that the testator should have sought my assistance in preparing his Will.

Mr. Washburn went to Europe in the summer of 1881 for the benefit of his health, and returned in November of the same year. Soon after his arrival he

placed himself under the care of Dr. Weir Mitchell, of Philadelphia, and took rooms at the St. George Hotel in that city. He wished me to meet him there. I went, and found him on the morning of the 7th of December seated at breakfast in the common dining-room, with a table-full of Western friends. It was a lively party. He was telling stories, and evidently enjoying the society of his friends as well as his breakfast. He seemed bright, cheerful, and happy. Most of these friends were associated with him in various business matters, and had come at his request, that he might personally confer with them in regard to their common interests. On the 9th, all these friends had left except General Van Steenwyk, of Wisconsin.

On that day Mr. Washburn introduced the subject of his Will to General Van Steenwyk and myself. On the 12th, General Van Steenwyk left for home. Whether any part of the Will had been drafted by me before his departure I am not sure ; there had, however, been considerable conversation among us in relation to it, and General Van Steenwyk had consented to act as one of the executors, upon my declining to do so.

After the departure of General Van Steenwyk, Mr. Washburn devoted his time and thought assiduously to the task of reflecting upon the provisions which he desired to make in his Will, and to instructing me in relation thereto. After getting the testator's ideas in relation to some portion of it, I retired to my room and put them on paper. What I had written was then read to him, and such changes as he suggested were noted. This was then re-written and re-read, and generally was several times re-written and re-read

until it was satisfactory to him. While I was engaged in writing in my own room, he had all needed opportunity for reflection, of which it was evident he fully availed himself.

The 12th, 13th, 14th, 15th, and 16th of December were devoted to this work. I think that I must have given to it from six to eight hours daily. Frequent conferences, involving many changes of form or substance, were necessary. These conferences and changes, and the labor of writing, consumed much time.

A draft of the Will was completed on the 17th ; and on that day, by Mr. Washburn's request, I placed it in the hands of John B. Gest, Esq., Vice-President and Attorney of "The Fidelity Insurance Trust and Safe Deposit Company" of Philadelphia. Mr. Washburn had previously had a conference with Mr. Gest in regard to making this Company a trustee under the Will. It was therefore thought by the testator and myself to be eminently proper that the draft which I had made should be submitted to Mr. Gest for final revision, with liberty, as legal adviser, to make such suggestions as he might deem proper. Mr. Gest attended to this duty ; and the Will, after revision by him, was engrossed and executed under his supervision.

I left for home on the evening of the 17th, and my connection with the Will then ceased. Mr. Washburn dictated a letter to me on the 21st, from which I make this extract: "I am pleased to say that the document that you left has been revised and not found wanting, very few amendments being required. I expect an engrossed copy any day, and as soon as executed I shall advise you." On the 27th he wrote again, and said:

“I am glad to tell you Mr. Gest made few changes in the Will, and that I executed one copy of the same on the 24th, and that a duplicate is being prepared. I breathe freer, and am ready to ‘leave the warm precincts of the cheerful day’ whenever the Master calls.”

No relation of Mr. Washburn was in Philadelphia while I was there except Hon. William D. Washburn, who was then residing in Washington in attendance upon a session of Congress. He came to Philadelphia on the 7th, and left the next day. He was there again on the 11th, for a few hours only, I think. To the best of my knowledge and belief there was no talk about the Will between him and his brother. Governor Washburn was a man who would hardly brook any interference in so delicate a matter ; and none were more fully aware of the fact than his brothers.

During all the time I was in Philadelphia, Mr. Washburn, though weak in body, showed no diminution of mental power. His mind acted with its accustomed force and clearness. Every part of his Will received his careful thought, accompanied by an anxious wish to do what he deemed to be right towards all his relations. In order to do what he thought to be the most exact justice to all, he again and again made changes, until he had deliberately fixed the provisions as they now stand.

No person was present at our conferences except his servant, and no one was aware of the provisions of his Will except the testator and myself. The draft was constantly in my exclusive possession until I delivered it to Mr. Gest. I think that no relation or friend called upon him in the interval between General Van Steenwyk’s departure and the completion of the draft. While he

was engaged in considering this subject and in giving me his instructions for preparing the draft, no one was present to make suggestions or to influence him.

All the legacies to his relations stand as he directed, without a suggestion from any one; in regard to them my advice or opinion was neither asked nor given, and they are as absolutely his as if written by his own hand.

Mr. Washburn thought that by his provision for his wife, and by his legacies to his relations and friends, he had done his whole duty to them all, and so expressed himself to me. Satisfied on this point, he then felt free to found those public institutions which are provided for by his Will. The wish to found them was evidently near his heart, and the result of no sudden impulse, but of mature thought. He had not however fully decided upon the restrictions and safeguards which it would be expedient to impose upon them, and therefore upon these points he requested me to make suggestions freely, which I did. The sums to be bestowed on each he determined for himself, and without suggestion from me.

In the subjoined article it is stated that I acted as the amanuensis of the testator. The statement is almost literally true, and I find no fault at being so styled. *The Will is Mr. Washburn's Will.*

I have thus minutely stated the facts and circumstances attending the making of the Will, that you may see them in their true light. My statement shows that the imputation contained in the article above mentioned. that the Will was made under influences or circum-

stances favorable to some and adverse to others of the legatees, is erroneous. If a Will were ever made calmly, deliberately, with clear thought and with entire freedom from any extraneous influence, it was the Will of Mr. Washburn.

There is another statement in the article which I think it incumbent on me to notice. It is as follows: "It was perfectly understood at the time that the Will as drawn was intended only as a temporary and precautionary measure; and Governor Washburn repeatedly expressed his dissatisfaction with its provisions, as too hastily drawn and entirely inadequate." Knowing, as I do, more about his thoughts and feelings at the time of making the Will than does any other person, I state with the positiveness of absolute conviction that there was no such understanding; and that, on the contrary, Mr. Washburn made this Will as his *Last Will and Testament*, with the full knowledge that his hold on life was so precarious that it might any day fail, though he was at the same time not without the hope and expectation of living some years. I am positive that in making his Will he never once thought of it as "a temporary and precautionary measure." The Will was made with all the care, deliberation, and forethought of one who, hoping for long life, yet had cause to fear an early and sudden death. It was made, too, I know, with what he deemed even-handed justice to all the legatees.

That he ever expressed himself as "dissatisfied with its provisions, as too hastily drawn and entirely inadequate," is hardly credible in view of what I have said. If any one should declare that he heard the testator use

such an expression, I can but believe that the import of his language was misapprehended, so utterly inconsistent is it with the whole tenor of his thought while he was engaged in making the Will. I can well understand that if any one ventured to question him on so delicate a subject as the provisions of his Will, the questioner would, if not instantly rebuked, receive a reply which might appease or repress, if it did not satisfy curiosity or anxiety.

It is further positively said that "he notified the gentleman who acted as his amanuensis to meet [him] at an appointed time and place for the purpose of executing an entirely new and satisfactory will." I never received any such notice, and must doubt that the testator had any intention of giving it. If I had received such a notice, I should instantly have replied by letter or telegram, and have answered in person at the earliest possible moment. The wishes of my dying friend would have been to me as a command.

If he had felt that there was any serious mistake or oversight in his Will, he had ample time and strength to rectify it in the four months and a half which elapsed between its date and his death ; and though an invalid, no one who knew him well can doubt that the thought of such mistake or oversight would have roused him to immediate action, and that he would not have rested until, by a codicil or another Will, rectification had been made.

I have appended such part only of the article from the "Philadelphia Press" as I have thought it incumbent upon me to notice.

As this paper is not intended for publication, but for private circulation, and primarily for the legatees, I have written more in detail than I otherwise should have done.

The facts and circumstances attending the making of the Will, and my convictions as here stated will, I trust, tend to dispel misapprehensions, and to unite all the legatees in an effort to give full effect to the wishes of the testator as authentically expressed in his *Last Will and Testament*.

May the same generous, charitable, and unselfish spirit which graced his life so inflame and elevate our own, that we too, like him, may long be remembered for benevolence of heart, for public benefaction, for private charity, for thoughtful care of the living and tender recollection of the dead !

“ Large was his bounty and his soul sincere.”

Honored be his memory !

CYRUS WOODMAN.

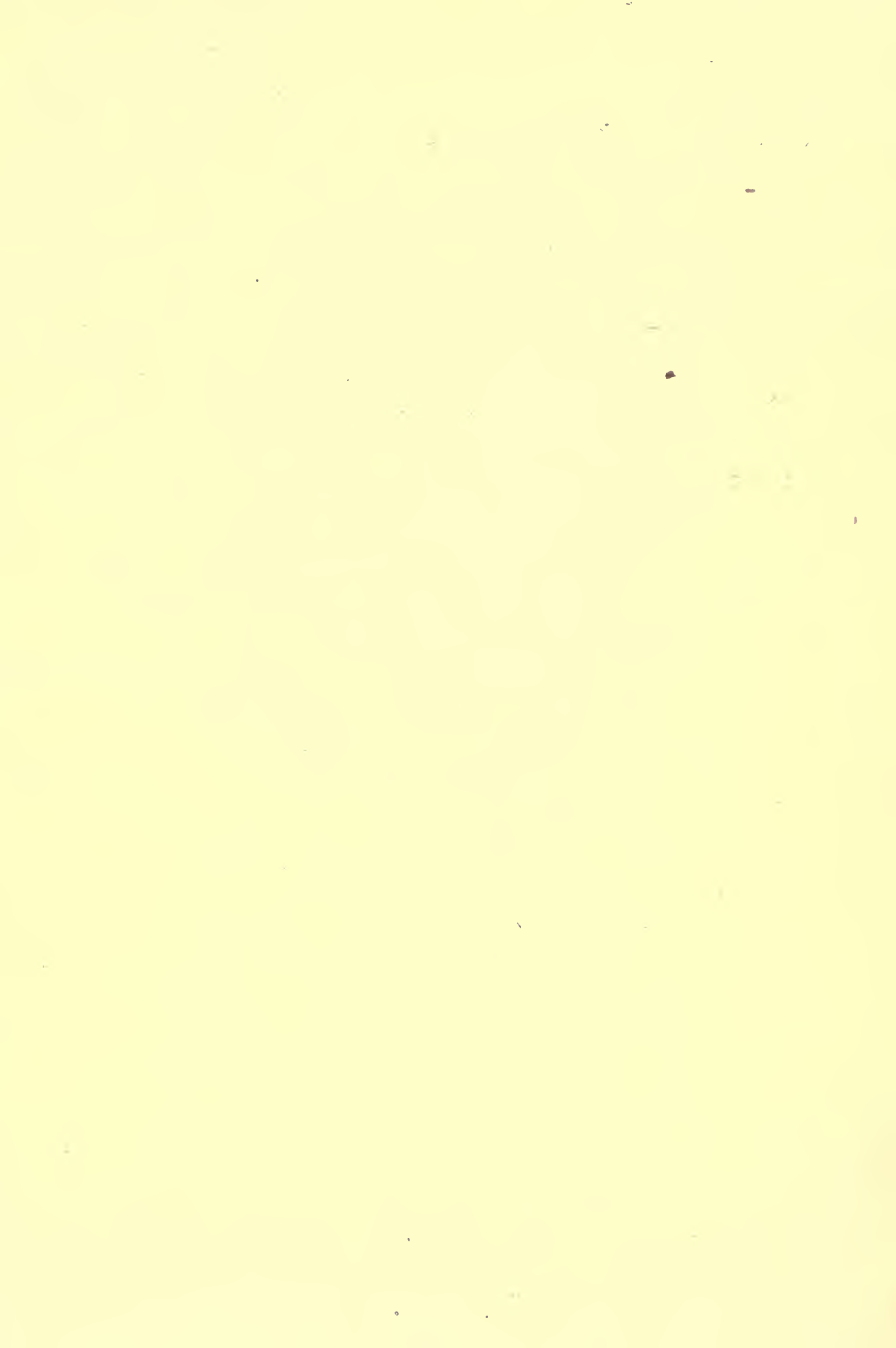
CAMBRIDGE, MASS. Jan. 1, 1884.

From the "Lewiston Journal."

"At the time this Will was drawn none of his heirs-at-law were in this country, — both of his daughters, together with their husbands and all his grandchildren, ten in number, being in Europe, where Mr. Payson, the junior son-in-law, was accredited as United States minister to Denmark.

"It was perfectly understood at the time that the Will as drawn was intended only as a temporary and precautionary measure, and Governor Washburn repeatedly expressed his dissatisfaction with its provisions, as being too hastily drawn and entirely inadequate; and he notified the gentleman who acted as his amanuensis on the occasion to meet [him] at an appointed time and place, for the purpose of executing an entirely new and satisfactory Will, but his sudden death prevented, and the Philadelphia Will was duly probated in the States of Wisconsin, Minnesota, and Missouri, where his large property was chiefly situated.

"The estimated value of his estate was about two and a half millions of dollars, and owing to the influences to which he was subjected at the time his last Will was executed, and the absence of his children or any member of his wife's family, he had been induced to leave one full half of his entire residuary estate to his brothers and sisters and their children, although the amount left to the same parties in specific bequests exceeded \$250,000 in addition."





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