

# Getting the Last Word, or, “A Good Stout Rope”

By Eric W. Penzer

*Before anything else is done [I direct that] fifty cents be paid to my son-in-law to enable him to buy for himself a good stout rope with which to hang himself, and thus rid mankind of one of the most infamous scoundrels that ever roamed this broad land or dwelt outside of a penitentiary.<sup>1</sup>*

As a trust and estate litigator, I have always had a fascination with humorous or otherwise atypical provisions in Last Wills and Testaments. Aside from the standard joke with which I begin many of my lectures (“Did you hear about the testator who wrote in his will, ‘To my first wife, Sue, whom I always promised to mention in my will, ‘Hello Sue!’”), I’ve collected a number of unusual testamentary provisions, from reported cases, anecdotal reports in literature and online. These are some of my favorites.

Dr. William “Tiger” Dunlop, of Ontario, Canada, emigrated from Scotland to Canada with his British Army regiment during the war of 1812. He was one of the founders of the town of Guelph, at which was based the new company he was to lead, the Canada Company. One source reports that Dr. Dunlop enjoyed shocking people. At a public meeting in Goderich in 1840, for example, he publicly provided his reasons for not going to church, the first of which was that a man “should be sure to find his wife there,” and the last of which was that he never liked singing without drinking. Dr. Dunlop, who died in 1848, left a will dated August 31, 1842. The will contained several unusual provisions, including a bequest to one of his sisters, “because she is married to nobody, nor is she like to be, for she is an old maid, and not market-rife,” and a bequest to a brother-in-law “as a small token of my gratitude for the service he has done the family in taking a sister that no man of taste would have taken.” My favorite provision from his will, however, is the following:

I leave my silver tankard to the eldest son of old John, as the representative of the family. I would have left it to old John himself, but he would melt it down to make temperance medals, and that would be sacrilege—however, I leave my big horn snuff-box to him: he can only make temperance horn spoons of that.<sup>2</sup>

We all know of “sweetheart wills” that are intended to benefit a surviving husband or wife. Some people over the years have used their wills as opportunities to express their true feelings for their spouses. Take the 1791 will of one John George, for example, in which he made a not-so-generous bequest to his wife, Elizabeth. This was, of course, prior to any right of election.

Seeing that I had the misfortune to be married to the aforesaid Elizabeth, who, ever since our union, has tormented me in every possible way; she has done all she could to render my life miserable; that Heaven seems to have sent her into the world solely to drive me out of it; that the strength of Samson, the genius of Homer, the prudence of Augustus, the skill of Pyrrhus, the patience of Job, the philosophy of Socrates, the subtlety of Hannibal, would not suffice to subdue the perversity of her character...weighing seriously all these considerations...I bequeath, to my said wife Elizabeth, the sum of one shilling.<sup>3</sup>

Continuing on the subject of husbands and wives, and family relationships in general, it has been reported that one Irishman left a will containing the following bequest: “To my wife, I leave her lover, and the knowledge that I was not the fool she thought me; to my son I leave the pleasure of earning a living. For 20 years he thought the pleasure was mine; he was mistaken.”

In one of my favorite will provisions, a cigar aficionado named Robert Brett, who reportedly was not allowed to smoke in his house (I can sympathize with him), left his entire estate to his wife, but on the condition that she smoke five cigars a day for the rest of her life.

Some testators seek to exert their influence on their children from the grave. One Englishwoman bequeathed £50,000 to each of her three children on the condition that they not spend it on “slow horses and fast women and only a very small amount on booze.” Two of the children were females.

In one of the few reported cases cited in this article, the court considered the will of a Canadian testator, who made his grandchildren beneficiaries of his will, “provided they are not lazy, spendthrifts, drunkards, worthless characters, or guilty of any act of immorality” (*Woodhill v. Thompson*, 18 O.R. [Ch. Div. 1889]). Apparently, the judge determined that the provision was a valid condition subsequent, meaning that each grand-

child would get a share of the estate unless and until it were determined that they were lazy, drunkards, etc.<sup>4</sup>

Multimillionaire contractor John B. Kelly, father of Princess Grace (Kelly) of Monaco, left nothing in his will to his son-in-law, Prince Rainier of Monaco, explaining that “I don’t want to give the impression that I am against sons-in-law. If they are [the] right type, they will provide for themselves and their families, and what I am able to give my daughters will help pay the dress shop bills, which, if they continue as they started out, under the able tutelage of their mother, will be quite considerable.”<sup>5</sup>

Benjamin Franklin bequeathed to his daughter a picture frame studded with over 400 diamonds. Reportedly, he was concerned that she might seek to remove the diamonds, so he requested in his will that she not engage “in the expensive, vain and useless pastime of wearing jewels.”<sup>6</sup>

Books could be written of other notorious bequests.

Harry Houdini requested that his wife hold an annual séance so he could reveal himself to her. She did so for 10 years, on Halloween. He never appeared.<sup>7</sup>

Canadian lawyer and investor Charles Vance Miller created the infamous “Great Stork Derby” when he bequeathed his residuary estate to the woman who gave birth to the highest number of children in the decade following his death. Ten years after his death in 1926, four Toronto women—each of whom gave birth to nine children—shared approximately \$750,000.<sup>8</sup> (That’s just under \$21,000 per child.)

Napolean Bonaparte directed that his head be shaved and the hair divided among his friends. Ironically, it was a hair analysis that indicated that Napoleon’s death may have been caused by arsenic poisoning.<sup>9</sup>

Star Trek creator Gene Roddenberry arranged for his ashes to be flown into space on a Spanish satellite scheduled to orbit the Earth for approximately six years. Also on board were the ashes of LSD researcher Timothy Leary.<sup>10</sup> “Turn on, tune in, drop out” indeed.

Academy Award winning choreographer Bob Fosse died in 1987, leaving \$378.79 to each of 66 people (including Liza Minnelli, Janet Leigh, Elia Kazan, Dustin Hoffman, Melanie Griffith, Neil Simon, Ben Gazzara, Jessica Lange and Roy Scheider), to “go out and have dinner on me.”<sup>11</sup> They really didn’t need the money but I’m sure they enjoyed their dinners.

George Bernard Shaw, who died in 1950, bequeathed a considerable portion of his estate for the

purpose of developing a new phonemic alphabet containing 48 letters (each letter representing one individual sound) to replace the standard 26-letter English alphabet.<sup>12</sup> Needless to say, it didn’t work.

German poet Heinrich Heine died in 1856 leaving everything to his wife, “on the express condition that she remarry. I want at least one person to be truly bereaved by my death.”<sup>13</sup>

While his name is likely unfamiliar to anyone reading this article, employees of the Walnut Street Theatre in Philadelphia likely know of John “Pop” Reed, a stagehand who worked at the theater for more than 50 years in the first half of the nineteenth century. Reed stipulated in his will that he wanted his head

to be separated from my body immediately after my death; the latter to be buried in a grave; the former, duly macerated and prepared, to be brought to the theatre, where I have served all my life, and to be employed to represent the skull of Yorick—and to this end I bequeath my head to the properties.

His request was honored and the skull was used in performances and signed by many famous actors of the day. It was discovered during a 1920 renovation of the theater.<sup>14</sup>

It appears that Mr. Reed started a trend. Polish concert pianist André Tchaikowsky, a Jewish holocaust concentration camp survivor and theater enthusiast, died in 1982. In his 1979 will, he bequeathed his skull to the Royal Shakespeare Company for the express purpose of being used as Yorick. Actors were initially hesitant to use human remains as a prop, but one actor began using the skull in 2008, with a special license from the Human Tissue Authority, and it is still in service.<sup>15</sup>

Likewise, in 1955, Argentinean Juan Potomachi bequeathed two hundred thousand pesos to the Teatro Dramático in Buenos Aires, provided it use his skull as Yorick in any future productions of “Hamlet.”<sup>16</sup>

My working title for this article was “Pushing the Bounds of Testamentary Freedom.” In the end, however, I realized that for many people—not just married men—a Last Will and Testament may be the only opportunity they have to get the proverbial “last word.” After all, as the old saying goes, “he who laughs last, laughs best.” I’m sure each of us knows someone to whom we would like to bequeath the proverbial “good stout rope.”

## Endnotes

1. 8 Temp. L.Q. 297 (1934).
2. <http://www.duhaime.org/LegalResources/ElderLawWillsTrustsEstates/LawArticle-1326/Dr-William-Tiger-Dunlops-Will-The-Eccentric-Scottish-Canadian.aspx>.
3. <http://www.nytimes.com/2000/5/21/weekinreview/word-for-word-poison-pen-wills-they-couldn-t-resist-oh-one-last-thing.html?pagewanted=all&src=pm>.
4. <http://rulelaw.blogspot.com/2005/09/funny-will-clause.html>.
5. [Listverse.com/2008/08/23/10-unusual-last-wills-and-testaments/](http://Listverse.com/2008/08/23/10-unusual-last-wills-and-testaments/).
6. *Id.*
7. *Id.*
8. <http://purplelinky.com/offbeat/unusual-wills-and-testaments/2/>.
9. [Listverse.com/2008/08/23/10-unusual-last-wills-and-testaments/](http://Listverse.com/2008/08/23/10-unusual-last-wills-and-testaments/).
10. <http://www.infoplease.com/biography/var/generoddenberry.html>.
11. <http://www.nytimes.com/1987/10/04/nyregion/bob-fosse-exits-with-tip-of-hat-to-friends.html>.
12. <http://walkinthewords.blogspot.com/2008/04/phonetics-and-george-bernard-shaw.html>.
13. [http://en.wikiquote.org/wiki/Heinrich\\_Heine](http://en.wikiquote.org/wiki/Heinrich_Heine).
14. <http://www.walnutstreettheatre.org/theatre/gallery/?ch=3&id=13>; <http://www.newyorker.com/online/blogs/books/2009/06/skulduggery.html>.
15. <http://www.duhaime.org/LawFun/LawArticle-1237/Andre-Tchaikowsky-1935-1982-The-Pianists-Skull.aspx>.
16. <http://www.newyorker.com/online/blogs/books/2009/06/skulduggery.html>.

**Eric W. Penzer is a partner in the trusts and estates litigation department at Farrell Fritz in Uniondale.**

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