

I, Branch N. Merrimon of the town of Asheville, in the county of Buncombe and State of North Carolina, do make this my last will and testament - that is to say:

First: I direct my executor hereinafter named, to pay my funeral expenses and all my just debts according to law.

Second: I devise to my son, Augustus S. Merrimon, the house and lot situate in said town of Asheville, on which I now reside, in trust, for the following specific and no other purpose - that is to say - to allow my daughters Martha A. Mary A. and Eliza A. to live upon and use the same as and for a home, and have and enjoy the rents and profits arising from the same during their natural lives, the lives of the survivors and the life of the survivor of them, and at the death of the last survivor of them for my right heirs: But the said Augustus S. Merrimon, trustee, with the concurrence of my said daughters, or that of the survivors or the survivor of them, may lease the said house and lot for a fixed rental and pay the same to my said daughters, the survivors and the survivor of them, each to share an equal part thereof, and the survivors to share equally, and the last survivor to have the whole; or the said trustee may with the consent of my said daughters, or that of the survivors or the survivor of them, sell the said house and lot on such terms as he may deem best for the interest of my said daughters, and invest the fund arising from such sale, when received by him, in good securities, and pay the income arising therefrom to my said daughters during their joint lives, to the survivors and the survivor of them, each to share as is above provided in respect of the rents, and at the death of the last survivor of them, then to a trustee

the said fund to and among my right heirs, distributing the same per stirpes.

Third: I direct that my said daughters shall have the use of all my household and kitchen furniture, my cattle, my horses and whips and working tools, except as herein otherwise provided, while they shall occupy said house and lot as and for their home as hereinbefore provided; but in case the said house and lot shall be leased or sold, as hereinbefore provided, or in case my said daughters shall find it agree among themselves in the use of said last mentioned personal property, then in any of such cases my executor shall ~~sell~~ said property at public or private sale in his discretion and divide the proceeds thereof equally among my said daughters or the survivors of them, and the last survivor of them; and my said daughters may dispose of said last mentioned property as she may see fit, but my said executor shall not be required to make and file an inventory of said last mentioned property, nor shall he in any case be responsible for the same.

Fourth: I bequeath to my said daughters, each, the sum of One hundred and fifty dollars for their or in aid of their support, and the payment of taxes on said house and lot the year next after my death.

Fifth: I direct my executor and hereby invest him with full power to that end, to sell my above house and lot and the building thereon that I purchased from Miss Brown Shuler others, situate on the West side of main street in said town of Asheville opposite to the "Central Hotel" across the said main street from it, by public or private sale for cash or on credit in his discretion, and out of the proceeds of such sale and any other such assets of my estate, after paying

my just debts, pay the several pecuniary legacies herein provided, and in the manner herein provided, and in case there shall not be sufficient to pay all of the said legacies, then the same shall be abated pro rata except the legacy to my said daughter.

Sixth: I direct my executor to expend the sum of one thousand dollars of the proceeds of my estate in the purchase and improvement of a lot to be selected in said town or elsewhere by my daughter-in-law Augusta, wife of my son Emory H. Merriam, and to have a life estate, for the term of her natural life conveyed to her, the said Augusta, in said lot so to be purchased, and the remainder therein to the child or children of the said Augusta, born of herself and her present husband the said Emory H., but if the said Augusta shall die without child or children so born surviving her, then and in that case to my said son Emory H. and his right heirs.

Seventh: I likewise direct my executor to expend the sum of one thousand dollars of the cash proceeds of my estate in the purchase and improvement of a lot or tract of land to be selected in said town or elsewhere by my son William J., and to have a life estate for the term of his natural life conveyed to my daughter-in-law Lillie, wife of my said son William J., in said lot so to be purchased, and the remainder therein to the child or children of the said Lillie, born of herself and her present husband, the said William J., but if the said Lillie shall die without child or children so born surviving her then and in that case to my said son William J. and his right heirs.

Eighth: I give and bequeath to my son Erasmus H., the sum of five hundred dollars.

Ninth: I forgive to my son Sterling C., the note I have against him for about three hundred fifty dollars and all other debts he may owe me on any account.

Tenth: I direct my executor not after paying my just debts to expend the sum of fifty dollars if so much be necessary in removing the remains of my late dearly beloved wife, and reintering them by my side in the Methodist church yard in the town of Asheville.

Eleventh: I give my books to my sons.

Twelfth: After paying the pecuniary legacies hereinbefore provided for, I direct my executor to pay Miss Greene, an excellent colored woman - once my slave and a faithful servant, the sum of one hundred dollars. If however, she shall not survive me, then this legacy shall lapse.

My children are all alike dear to me and any inequality made in the provisions here made for them except as to my daughters, is because I deem them less well provided for as having share my bounty in the past, except my sons Augustus, Branch & James, and as to them this will is made with their knowledge and sanction.

I appoint my son James H. Merriam, executor of this my last will & testament, and he shall not in any contingency be required to give a bond in this behalf.

In witness whereof I do hereunto set my hand and seal, this 24th day of December 1860.

B. H. Merriam

Gordon M. Roberts, James P. Sanger
 & Alfred N. Baird, who signed the same as
 witnesses to the foregoing last will and
 testament at his request and in his
 presence and in the presence of each
 other the year and day last above
 written.

Gordon M. Roberts
 James P. Sanger
 Alfred N. Baird.

At the suggestion of my son
 James P. Merrimon, I deem it
 expedient to revoke so much of
 no more of my last will & testament
 above specified as appears execution
 thereof, and I do hereby nominate and
 appoint my son Erasmus H. Merrimon
 the executor of my said last will &
 testament, and charge him with the
 same powers, duties and discretions in
 that behalf as were first conferred upon
 my said son James H. Witness my
 hand and seal this 27th day of Oct 1881.

Witness
 J. C. Ray
 J. H. Merrimon

E. H. Merrimon

I make this codicil to my last will and
 testament executed by me on the 5th day
 of December AD 1880, that is to say: I
 revoke the seventh clause or paragraph
 of my said will, and hereby give and
 bequeath to my said son William J.
 Shively the sum of One thousand
 dollars of the cash proceeds of my
 estate to be paid to him by my
 executor in the order of executing
 my said will. Witness my hand and
 seal this 27th day of October AD 1881

Witness:

J. C. Ray
 J. H. Merrimon

E. H. Merrimon

North Carolina } In the Probate Court
 Buncombe County }
 of Branch & The last will and testament
 of Branch H. Merrimon, and the two
 codicils thereto were duly proven in com-
 mon form, before the undersigned Judge
 of Probate for said County of Buncombe
 by the oaths and examinations of Gordon
 M. Roberts, James P. Sanger and Alfred
 N. Baird, the then subscribing witnesses
 to said last will and testament, and
 by the oaths and examinations of J. C. Ray
 and J. H. Merrimon, the two subscribing
 witnesses to the said two codicils to said
 last will & testament. The said Gordon
 M. Roberts, James P. Sanger and Alfred
 N. Baird testified that they and each of
 them saw said Branch H. Merrimon
 execute this writing as his last will and
 testament, that they and each of them
 attested it in his presence and at his
 request; and that at the time of its
 execution he was in then opinion of
 sound mind and disposing mem-
 ory; and the said J. C. Ray & J. H. Merrimon
 testified that they heard said B. H.
 Merrimon acknowledge the execution of
 the said two codicils, that they attested the
 same in his presence and at his request,
 and that at the time he acknowledged
 the execution of said two codicils, he
 was in then opinion of sound mind
 and disposing memory.

Given under my hand at
 office in Asheville, this 3rd day of
 December AD 1881.

C. P. Hendon
 Judge of Probate.