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Orange County Genealogical Society
P.O. Box 1587
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Sirs:

Enclosed is a copy of the will of James Irvine Sr., 1827-1886, who acquired the sole ownership of the Irvine Ranch in the year 1876.

This is the will that set up the trust that led to James Irvine Jr., eventually acquiring the ranch in 1892 on his twenty fifth birthday. We have a genealogy of the Irvine family which we will forward under separate cover.

Sincerely,



C. E. Parker

enclosure

ORANGE COUNTY CALIFORNIA
GENEALOGICAL SOCIETY

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LAST WILL AND TESTAMENT

OF

JAMES IRVINE

I, James Irvine, now residing in the City and County of San Francisco, State of California, being of sound and disposing mind and memory, do hereby make, publish and declare this is to be my last will and testament in the manner following—that is to say:

First

All of the property of which I am seized and possessed is my separate property, and was all acquired by me before my marriage with my present wife, Margaret Irvine, and there is no community property owned by my said wife and myself.

Second

I hereby give, devise and bequeath to my said wife, Margaret Irvine, George Irvine, Isaac E. Davis, James W. Byrne, George Moffatt, and Edwin B. Mastick, all of my property and estate, real, personal and mixed, of whatsoever situated, in trust; and they and the survivors of them, and their successors, shall have and hold the same as Trustees, and in trust, for the uses and purposes hereinafter stated.

Third

At all times after my decease, and while said Trustees shall hold said estate, or any part thereof, they shall use, furnish and supply so much of said estate as may be necessary and proper, for the support, maintenance and education of my son, James Irvine, and this provision shall take effect in preference to any other provision herein made.

They shall reserve and set apart aprt for my said son all of the following real property, situate in the City and County of San Francisco, State of California, described as follows, namely:

City Hall Lots numbers twenty- ne, twenty-three, sixty-one, sixty two, sixty-three, sixty-four, sixty-five, sixty-seven and sixty-eight, as the same are marked and laid down upon the map or plan of the City Hall Lots, so-called. Said map or plan was filed in the office of the Recorder in and for the City and County of San Francisco,

on the eighteenth day of March, a.d., 1871, to which reference is made for a more particular description.

Also, that other parcel of land situate in the County of Los Angeles, said State, described as follows. Beginning at the northerly corner of Lot number seventeen (17), as the same is marked and laid down upon that certain map known and designated as "Plot number one (No. 1) of part of the Rancho Santiago de Santa Ana and San Joaquin, situate in said County of Los Angeles, filed for record September twenty-seventh (27th), 1882, in the Recorder's office in and for said county"—at said northerly corner of said Lot number 17 was heretofore set a post marked "S. 3"—running thence from said northerly corner of Lot number seventeen and post S. 3 north forty degrees east (N. 40 degree E.) one-half mile; thence, at right angles, southeasterly one mile; thence, at right angles, northeasterly one mile; thence, at right angles, southeasterly two miles; thence, at right angles, northwesterly two miles; thence at right angles, northeasterly one-half mile; thence, at right angles, northwesterly one mile, to the place of beginning—containing two thousand eight hundred and eighty (2880) acres of land.

None of said lots or of said land shall be sold by said Trustees, nor shall any charge be made thereon for any purpose, and when my said son shall arrive at the age of twenty-five years they shall convey the same to him absolutely. In the meantime they may rent and demise any or all of said lots and said land.

The said City Hall lots may be improved by said Trustees by the construction of buildings thereon, which shall be of the style and character they may deem most advisable, and for that purpose they may use any money which may come into their hands, not otherwise herein appropriated.

After my said son shall arrive at the age of twenty-one years, said Trustees may give to him such aid and assistance out of said trust estate as may seem proper for his welfare and to establish him in business.

Said Trustees shall give to my said son my watch, my library, the bedroom set which is in my room, and which is usually used by me, and also all of the jewelry which belonged to his mother.

Fourth

The said Trustees shall take the possession and control of all of my property and estate, and they shall at such times and upon such terms as to them may seem best, but within the period of five years from my decease, sell and convey so much of my real estate and personal property, situated in Los Angeles County, State of California, as may be necessary, so that the one-half of the net proceeds thereof, with one-half of the revenue derived from said lands in said county, will pay the sums of money hereinafter stated to the persons hereinafter stated to the persons

hereinafter named; provided, that no part of the real estate mentioned in Subdivision Third of this will, shall be sold, but the same shall be reserved and conveyed to my son James Irvine, as I have provided in said Subdivision Third.

But I direct that so many of the stock, cattle, horses, sheep and other animals shall be kept as shall be sufficient to profitably graze and pasture the lands which shall be unsold and not leased.

Fifth

The said Trustees shall pay out of one-half of the net money received from the sale of said land, personal property and revenue, to my wife, Margaret Irvine, the sum of thirty thousand (30,000) dollars; to my sister, Mrs. Sarah Mathews, the sum of ten thousand (10,000) dollars; to my brother, John Irvine, the sum of ten thousand (10,000) dollars; to my brother, William Irvine, the sum of ten thousand (10,000) dollars; to my brother, Samuel Irvine, the sum of ten thousand (10,000) dollars; to my brother, George Irvine the sum of ten thousand (10,000) dollars; to my nieces, Phoebe and Susan, daughters of my brother Samuel, the sum of five thousand (5000) dollars each; to the sons of my wife, Callaghan Byrne, James W. Byrne and Frederick Byrne, the sum of five thousand (5000) dollars each; to my friend, Dr. William Jones, and his wife, the sum of five thousand (5000) dollars; and in case of the death of either of them, then said sum of five thousand (5000) dollars shall go to the survivor; and to my friends Edwin B. Mastick, and Lucretia M. W. Mastick, his wife, the sum of five thousand (5000) dollars; and in case of the death of either of them, then said sum shall go the survivor.

In the event of the death of any of the said persons then said sums so to be paid to him, her or them, shall be paid to his, her or their heirs, by right of representation; but no interest shall be allowed or paid on said sums, or any of them, and they shall only become due and payable when said Trustees shall have the money in hand, derived from one-half of the net proceeds of the sale of said lands, personal property and revenue as aforesaid. The same shall be paid pro rata as the money may be received and become applicable; but before any payment shall be made, all current expenses and taxes shall be paid or provided for.

If any of the persons in this subdivision named shall have or make any claims or demands against me or my estate, then the payment of the sum named in this Subdivision Fourth to him, or her, or them, shall operate as and be satisfaction in full of such claims and demands.

Should said Trustees be able to sell all of the real estate situate in said Los Angeles County, exclusive of that reserved in Subdivision Third, and realize therefrom twelve hundred thousand (1,200,000) dollars, then there shall be paid to the legatees in this subdivision named double the sums named, upon the same conditions and terms in this subdivision specified.

SIXTH

Said Trustees shall, so long as the estate shall remain in their hands, pay to my said wife, monthly, the sum of three hundred (300) dollars, and before they turn over the residue of my estate to my son, James Irvine, as hereinafter provided, they shall set apart so much of said estate as will yield a net income of three hundred (300) dollars per month, and they shall convey to my said wife a life estate therein, with the right to collect and receive said income as long as she shall live or remain unmarried; and subject to said life estate, said property shall be conveyed to my said son James at the time the said residue of my estate shall be conveyed to him. This monthly payment shall cease if she becomes married.

In addition to the foregoing provisions for my said wife, said Trustees shall convey to her any parcel of land which I may own in said Los Angeles County which she may select, not exceeding in value the sum of ten thousand (10,000) dollars; provided, that such selection and conveyance shall not include any part of the land which I have reserved for my said son James, as stated in Subdivision Third of this my will.

SEVENTH

Said Trustees shall set off, in segregating parcels, lands equal in value, but not exceeding five thousand (5000) dollars, and convey one of said parcels to each of the following named persons, each person to own the same absolutely, and I desire that they shall be used as homesteads by them, respectively, but this use is not made imperative, namely: William Irvine, Samuel Irvine, George Irvine, my nieces Susan and Phoebe Irvine daughters of my brother Samuel, Callaghan Byrne, James W. Byrne and Frederick Byrne, sons of my wife Margaret. Such parcels of land shall be so segregated from my land in Los Angeles County, but not from that mentioned in Subdivision Third of this my will.

EIGHTH

In the event of the death of any of the persons herein named as Trustees, the survivors may execute the trusts herein created; and in the event of the absence of any of said Trustees from the State of California, then those remaining within said State may execute said trusts, and do and perform all the acts and things herein provided for. When the number of said Trustees shall be reduced to four, then the said four Trustees shall appoint another Trustee, so that there shall be five Trustees to carry into effect this my will.

NINTH

Said Trustees shall take hold of, manage, control and employ all of said property to the best of their ability, and according to their best judgment and discretion; they

may lease, demise, grant, bargain, sell and convey any or all of said property, real, personal and mixed (except as provided in subdivision Third of this my will), at such prices and upon such terms, at public or private sale, with or without notice, for cash or on credit, as they may deem expedient; and if on credit, to take security on the property sold for the payment of the purchase money.

All money which may come into their hands they may loan and reloan, taking always security for the payment of money loaned; they may invest and reinvest money by the purchase of real property, and by the construction of buildings for the purpose of deriving income therefrom; and they may construct upon said City Hall lots such buildings and make such improvements upon said lots as may be, in their judgment, for the best interest of said estate.

And when my said son James shall arrive at the age of twenty-five years, said Trustees shall deliver and convey to him all of the estate and property which they shall hold in trust under the provisions of this my will, and otherwise herein directed to be paid, conveyed or disposed of.

Said Trustees shall keep regular books of account, wherein shall be entered all matters pertaining to said estate, and they shall annually make out and file in some Court of record, in the City and County of San Francisco, a statement of account and a report of all their acts and doings, for the year next preceding the filing of said account and report.

Said Trustees shall erect a suitable monument upon my cemetery klot, in the Masonic Cemetery, in the City and County of San Francisco, at a cost not exceeding five thousand (5000) dollars. The design and plan of the same is left to their discretion.

TENTH

If my said son James Irvine shall die before he receives the estate in trust for him, leaving no issue him surviving, then the same shall go to my sister, Sarah Mathews, and to my brothers, John Irvine, William Irvine, Samuel Irvine and George Irvine, and their heirs by right of representation; provided, if my said son James shall leave a wife him surviving, she shall share equally in said property with my said sister and brothers; and provided, further, that if my said wife Margaret shall be living, she shall take an equal share of said property with my said son, but the heirs of said surviving wife and of my said wife shall not be entitled to share in said estate.

ELEVENTH

I hereby nominate and appoint my said wife executrix, and George Irvine, Isaac E. Davis, James W. Byrne, George Moffatt and Edwin B. Mastick, executors of this my last will and testament, and they shall not be required to give any bonds for the discharge of their duties.

They shall have power to grant, bargain, and sell and convey any portion, or all of my said estate, real, personal and mixed, except said City Hall Lots and said two thousand eight hundred and eighty acres of land reserved as herein stated, without the order of any Court at public or private sale, for cash or credit, and give good and sufficient deeds and conveyances thereof.

LASTLY

I hereby revoke all former wills by me made.

In Witness whereof, I have hereunto set my hand and seal this sixth (6th) day of June A. D. one thousand eight hundred and eighty five (1885). In duplicate.

JAMES IRVINE, [Seal]

The foregoing instrument consisting of twelve (12) sheets, exclusive of this sheet, and written on only one side of each sheet, was at the date thereof, to wit: the sixth (6th) day of June, 1885, by the said James Irvine, signed, sealed, published and declared to be his last will and testament in the presence of us, who at his request and in his presence and in the presence of each other, having hereunto subscribed our names as witnesses thereof.

W, C, BELCHER, of Yuba Co., Cal.

STEPHEN OTIS, San Francisco

E. S. BROSIUS, San Francisco, Cal.

CODICIL

I, James Irvine, do now make this codicil to my foregoing last will and testament as follows:

I direct my executors and trustees to onstruct a dwelling house upon my lot situate at the northeast corner of Pine and Gough Streets, the said lot having a front of 81 3/12 feet on Pine Street by 137 6/12 feet on Gough street, at a cost of fifteen thousand dollars, and furnish the same at a cost of five thousand dollars, all of which [end of manuscript]