

STATE OF ALABAMA

JEFFERSON COUNTY

KNOW ALL MEN BY THESE PRESENTS, That I, Wm. D. Jelks, of Birmingham, Jefferson County, Alabama, do hereby make, publish and declare this to be my last will and testament, hereby revoking all other wills at any time heretofore made by me, this is to say:

Item One.

I now owe my wife, Alice Shorter Jelks, the principal sum of Thirty seven hundred dollars (\$3700.00) on which all interest heretofore due has been paid and on which all subsequent interest due before my death will be paid and I now owe my daughter, Catherine Shorter Comer, the principal sum of ten thousand dollars (10,000.00) the exact amount of which is represented by my note which she now holds, on which all interest heretofore due has been paid and on which all subsequent interest due before my death will be paid.

I direct my executor to pay, as soon after my death as practicable, all my burial expenses and all my just debts, including the above debts to my wife and daughter if not paid before my death. I direct that a burial stone, costing not over five thousand dollars (\$5000.00) be purchased and erected over my grave by my executor, such stone, together with the inscription thereon, to be selected by my wife, or if she be dead, then by my daughter, or if both of them be dead, by my executor.

Item Two.

I give, devise and bequeath unto my beloved wife, Alice Shorter Jelks, my old home in Eufaula, Alabama, and all interest I may own at the time of my death in that certain plantation near Batesville, in Barbour County, Alabama, containing about eleven hundred and twenty (1120) acres, and also all my household and kitchen furniture, jewelry, portraits, books, and automobile and other personal property acquired by me for personal use or enjoyment, of every nature, kind and description whatsoever situated, to have and to hold unto her absolutely and in fee simple forever. I hope that my wife will care for and pass on my books, to our grandchildren.
 ITEM THREE
 I give and bequeath unto my beloved wife, Alice Shorter Jelks, the sum of ten thousand dollars (\$10,000.00) and unto my beloved daughter, Catherine Shorter Comer, the sum of Five thousand dollars (\$5000.00) if both of them be living at the time of my death, and if either of them be then dead, I give and bequeath to the survivor the sum of fifteen thousand dollars (\$15,000.00).

Item Four

I give and bequeath unto my beloved sister, Lola Wright Hood, the sum of One thousand dollars (\$1,000.00) and unto my nephew, Wm. Jelks Cabaniss, the sum of One thousand dollars (\$1000.00) and unto my young friend Wm. Jelks Long, the son of E. T. Long, of Eufaula, Alabama, the sum of Five hundred dollars (\$500.00).

Item Five.

All the rest, residue and remainder of my property of every nature, kind and description where-soever situated of which I may die seized and possessed, or to which I may be entitled at the time of my death, I give, devise and bequeath unto the Birmingham Trust & Savings Company, a corporation, having its principal place of business at Birmingham, Alabama, in trust, however, to hold, manage and control to collect and receive the income thereof, and to distribute, pay out and dispose of the corpus of said trust estate and income as follows:

First: After the expiration of the first twelve months next following my death, to pay out of the corpus of said trust estate each and every year during the joint lives of my wife and daughter the sum of Three Thousand Dollars (\$3000.00) to my wife, Alice Shorter Jelks and the sum of Two thousand dollars (\$2000.00) to my daughter Catherine Shorter Comer, and, after the death of that one of them first dying, to pay the sum of Five thousand dollars (\$5000.00) out of the corpus of said trust estate to the survivor of them each and every year during the balance of the natural life of such survivor,

such payments to be made monthly, quarter, or annually, as may from time to time be most agreeable to my wife and daughter, or the survivor, respectively. It is my desire that of the yearly payments to be made to my daughter under this subdivision the sum of two thousand dollars (\$2000.00) or so much thereof as she may deem necessary, shall be devoted by her, in her discretion, to the education of her whildren, Wm. Jelks Comer, Edward Trippe Comer and Alice Shorter Comer.

The trustee is hereby directed, authorized and empowered to sell, transfer, assign and convey, from time to time, at public or private sale, so much of the corpus of said trust estate as may be necessary to make the payments, if any, in this subdivision authorized and requied to be made out of the corpus of said trust estae.

Second: To pay out of the income of said trust estate, the corpus of said estate being subject to diminution as provided in subdivision "First" of this item five, all taxes, governmental charges, insurance, amounts requied to make good depreciations, a reasonable compensation for its services as Trustee hereunder, and all other charges incident to trust estates and properly payable out of income. The balance of said income, after the items of trust expense mentioned in this subdivision have been paid, is hereinafter referred to as "Net Income."

Third: To pay two-thirds of said Net Income to my wife during the balance of her natural life and one third to my daughter during the balance of her natural life. Should my wife die before my daughter, than all of said Net Income shall be paid to my daughter during the balance of her natural life. Should my daughter die before may wife, then all of said Net Income shall be paid to my wife during the balance of her natural life. My trustee shall pay out said Net Income, as directed and authorized in this subdivision, annually, or oftener if it deems best.

Fourth: The aforesaid trust shall cease and determine upon the death of my wife should se survive my daughter, or upon the death of my daughter should she survive my wife, and as soon after the termination thereof as practically my said Trustee shall divide and distribute the property of which said trust estate shall then consist equally, share and share alike, among my grandchildren, Wm. Jelks Comer, Edward Trippe Comer, and Alice Shorter Comer, provided, however, that if any of my said grandchildren should die before the termination of said trust, leaving lineal descendants him or her surviving, such lineal descendants shall take per stirpes and not per capita, the portion thereof which their father or mother would have taken if then living. As soon after the termination of said trust estate as practicable, my said Trustee shall divide said trust estate into such number of shares of equal value as shall correspond to the number entitled to participate therein (the sahare of any child or children of any deceased child to be considered as one share), and, after determining by lot to whom each share shall go, shall convey, transfer, assign, pay over and deliver the same accordingly. If each of my said grandchildren should die before the termination of said trust estate leaving no lineal descendant him or her surviving, then my said Trustee shall divide and distribute the property of which said trust estate may then consist among those who would be entitled thereto under the statutes of Alabama relating to descents and distribution then in force and effect in the same proportion and to the same effect as if I had then died intestate.

Fifth: I hereby authorize and empower my said Trustee, in its discretion, to sell and convey, transfer and assign, mortgage, pledge and lease, from time to time, and upon such terms as it may deem best, and any and all of the property at any time belonging to said trust estate, and to reinvest the proceeds received therefrom in such investments as it may consider safe, situable and proper, to invest in, and such investments shall be a part of the principal of said trust estate and subject to all the provisions hereof with respect to said trust estate. I further authorize my said trustee to execute, acknowledge and deliver any and all instruments in writing wich may be requied to effectuate the powers hereinabove conferred upon it. The receipt of my said trustee for any money paid to it shall be an

absolute discharge of the person or persons paying the same, and such person or persons shall not be required to see/^{to}the application thereof.

Item six.

I hereby nominate and appoint Birmingham Trust & Savings Company, a corporation with its principal place of business at Birmingham, Alabama, as executor of this will, and I do hereby exempt it from giving bond as such.

In witness whereof, I, the said Wm. D. Jelks, have hereunto set my hand and seal, in the presence of the witnesses named below, on this the 12 day of April, 1926.

[Signed] Wm. D. Jelks L. S.

Signed, Sealed, Published and declared by the said Wm. D. Jelks as and for his last will and testament in our presence, and we, in his presence and in the presence of each other, and at his request, have attested the same and hereunto subscribed our named as witnesses thereto.

(Signed) W. G. Harrison

R. A. Willis

M. Ford

(Adhesive Wafer attached initialed

"W. D. J.")

CERTIFICATE OF PROBATE ENDORSED ON THE FOREGOING WILL

STATE OF ALABAMA)

PROBATE COURT.

BARBOUR COUNTY)

I, G. O. Wallace, Judge of the Court of Probate in and for said County, do hereby certify that the within instrument has this day in said court and before me as the Judge thereof, been duly proved to be the genuine last will and testament of William D. Jelks, deceased, and that said will, together with the proof thereof, have been this day recorded in my office in Orphans' Record No. 40, pages 37 et seq.

In witness whereof, I have hereunto set my hand and the seal of said Court this the 21st day of December, 1931.

(Signed) G. O. Wallace, Judge

(Official Seal Impressed)

STATE OF ALABAMA)

BARBOUR COUNTY)

I, B. H. Baker, Register of Equity Division of Circuit Court of Barbour County, Alabama hereby certify that the within is a true and correct copy of Last Will and Testament of Wm. D. Jelks, deceased, which said will was filed in this office when above case was removed from Probate Court to Circuit Court, Equity Division for settlement.

This Nove. 22, 1937.

B. H. Baker, Register

Filed in this office June 8, 1940 at 9 am and recorded in Deed Record 108 at page 449 and examined.

L. C. Walker, Judge of Probate

