

INDIVIDUAL PHILANTHROPY IN EARLY AMERICA: THE LAST WILL AND TESTAMENT OF ROBERT KEAYNE (1653)

No document tells us more about philanthropy in colonial New England than the remarkable will of Boston merchant Robert Keayne (16__-1656). This handwritten document of 50,000 words, though far less well-known than Andrew Carnegie's "Gospel of Wealth," serves similarly useful purposes in enabling us not only to understand the motives underlying the actions of the charitably wealthy, but also the institutional setting in which they were played out.

For Keayne, the problems of reconciling personal wealth with the good of the community were more than an abstraction that could be reasoned out scripturally, as they were for Winthrop. Not only did his position as a leading merchant in a community whose religious beliefs and occupations made inclined them to view the taking of profit and the earning of interest hostilely pose particular difficulties, but his frequent collisions with Puritan authorities over these issues gave them an immediacy that could not be ignored -- either by him or by the beneficiaries of his proposed charities.

In 1639, for years after his migration to Massachusetts, Keayne had been charged and convicted to taking excessive profits on his transactions. His accusers, moreover, hailed him into an ecclesiastical trial, which, after an "exquisite search," led to his being severely admonished by his church "for selling his wares at excessive rates, to the dishonor of God's name, the offense of the General Court, and the public scandal of the country." Only a humiliating public confession brought him back into the good graces of the church.

Public disgrace visited Keayne again in 1643, when he was accused of having stolen a sow from a Mrs. Sherman. In 1652, shortly before he began to draw up his will, he was accused of having been "three times drunk, and to have drunk to excess two times." The General Court convicted him and he was forced to resign from his country judgeship. These incidents, together with the extraordinary and unprecedented scale of his proposed bequests for charitable purposes, compelled him to transform the straightforward task of writing his last will and testament into an extended explanation of his life.

As interesting as Keayne's bequests and motives is the light he sheds on the legal conditions for establishing and administering charitable trusts in colonial New England. His contingent bequest to Harvard College, for example, is framed by detailed and explicit suggestions to his beneficiaries and executors. Interestingly, for example, he does not assume that he is establishing a perpetuity, but leaves it to posterity to determine how long the legacy shall run. Similarly, he leaves it to Harvard and his executors to determine the best way of establishing and administering the trust -- though he suggests it take the form of rents on a particular piece of property. (His suggestion was followed and the Keayne bequest, consisting of the return on a piece of land in downtown Boston, continues to yield revenue to the University to this day!)

Finally, his comments on the possibility of attacks on the will merit particular attention because of the stress that he lays on the differences between English and colonial courts. In the corrupt Jacobean ecclesiastical courts which had authority over wills and trusts, the likelihood of such challenges was evidently great -- and he fervently hoped "that neither I nor mine" should "live to see such practices creep in or be countenanced in our Court." Although English precedents and practices would eventually have enormous bearing on the treatment of American charity, Keayne,

writing in 1652, acknowledges the extent to which he and his fellow colonists had rejected the traditions of the Old World. This discontinuity of legal and institutional traditions would have enormous significance in the nineteenth century, as Americans began to actively search for an authoritative law of charity.

To those familiar with Andrew Carnegie's assertions about the obligation of "men of affairs" to see to the disposal of their fortunes during their lifetimes, Keayne's impassioned defense of giving by bequest. At the same time, the Puritan merchant's denunciation of the practice of giving too much to one's heirs ("too much . . . is given to vexatious, prodigal, imperious wives or rebellious, undutiful, and spendthrift children") will strike a very familiar chord.

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*Gifts to the Public: A Conduit and a Town House Comprising a Market Place, Court Room,
Gallery, Library, Granary, and an Armory]*

I have long thought and considered of the want of [two] necessary things of public concernment which may not only be commodious but very profitable and useful for the town of Boston: a market place and a conduit. The one [would be] a good help in danger of fire, the want of which we have found by sad and costly experience not only in other parts of the town where possibly they have better supply for water but in the heart of the town about the market place. The other [would be] useful for the country people that come with their provisions for the supply of the town, that they may have a place to sit dry in and warm both in cold, rain, and dirty weather, and may have a place to leave their corn or any other things that they cannot sell safe till they come again. This would be both an encouragement to the country to come in and a great means to increase trading in the town. [I Have also thought] to have [in the same building] some convenient room or two for the courts to meet in, both in inter and summer, and also for the townsmen and commissioners of the town. In the same building or the like there may be also a convenient room for a library and a gallery or some other handsome room for the elders to meet in and confer together when they have occasion to come to the town for any such end, as I perceive they have many. Then in the same building there may also be a room for an armory to keep the arms of the Artillery Company and for the soldiers to meet in when they have occasion. . . .

Now that these things may not be only for a show or a name and when finished

prove as shadows and stand as empty rooms without substance, that they may be improved for the uses that I aim at and intend though my estate is not such as whereby I am able to do for such public benefit what I desire and would be willing to do if I had it, yet for example's sake and encouragement of others (especially of our town which will have the benefit of it and such in the town that have public spirits and some comfortable estates to help on such works) I shall be willing to cast in my mite and bring my lime and hare [so that] possibly God may stir up the hearts of others to bring in their badger skins and silk and others more costly things that the work may go on and prosper in so small a beginning -- therefore, to the granary I give and bequeath one hundred pounds to be paid in corn and that to be improved for a public stock to such uses and ends as I shall hereafter mention. Next, the library and gallery for divines and scholars to meet in being finished, I give and bequeath to the beginning of that library my 3 great writing books which are intended as an exposition or interpretation of the whole Bible. . .

Further, . . . my will is that my brother Wilson and Mr. Norton, with my executor and overseers or the most of them, may view over the rest of my books and to choose from amongst them such of my divinity books and commentaries and of my written sermon books or any other of them as they shall think profitable and useful for such a library (not simply for show but properly for use), they being all English, none Latin or Greek. . . . And though my books be not many nor very fit for such a work, being English and small books, yet after this beginning the Lord may stir up some others that will add more to them and help to carry the work on by books of more value, antiquity, use, and esteem. And [my desire is] that an inventory may be taken and kept of those books that they set apart for the library.

But possibly some will be ready to apprehend that I may do this only for my own ends and benefit, which may make them the more backward to have it go on,

especially with any of their own cost. For some such spirits there be that had rather deny themselves a benefit than that another should enjoy a greater benefit by it. . . . Some have said that I have been very forward to have a conduit in that place because I have so many houses and buildings thereabout, and so a market house will be the more beneficial to bring trade to my shops. I answer, [suppose] that this were in all things true, it is not sinful nor unlawful in Christian prudence to provide means for the preventing of danger or procuring any lawful good; I doubt not but that they would do the like if it were their own case. But 2ndly, what advantage will this be to me when I am dead and gone, if others should not receive more benefit than I? I need not trouble myself with what may fall out in after times in these respects, for I shall feel no want nor summer any damage by such losses. A 100 things would come into consideration as needful to prevent or provide for as these if men going out of the world should trouble themselves with the care of such changes and things when they are dead. 3rdly, if my houses only were there and no other shops but mine there might be more ground for such an apprehension. But it is the heart of the town and many fair buildings and shops there be round about. The market is there seated already. The market house is more for the conveniency of strangers and their accommodation in winter and summer, in wet and dry, [than] for the inhabitants of the town. And in that respect it is a work of charity and mercy, and though some particular persons that trade may have more benefit by it than some other persons that dwell further off, yet the advantage and profit of it will redound to the whole town in general. For my own particular -- I having given over trade long ago -- the nearness of the market is more chargeable than beneficial to me if I looked not at a general and public good more than my private. . . .

I think, if my own heart deceive me not, my aim in all these things proposed is for the general good of the town and that if I had no house hereabouts but had lived in some other part of the town I should be as forward to promote these works as I have been

formerly or at present. So I should desire all my loving brethren and neighbors of the town to interpret and accept of what I tender to them as a fruit of my true endeavor and desire of the town; good and not at any private advantage of me or mine, and as [from] one that have been willing and desirous to help them forward in my lifetime rather than death.

[Harvard College as a Secondary Legatee]

. . . if the town of Boston shall slight or undervalue this gift or my good will to them therein and shall refuse or neglect to go about and finish these several buildings in the manner and time before mentioned rather than they will be troubled with it or add anything of their own for the finishing of it, then my will is that this gift of 300 lb. . . . shall utterly cease and become void with respect to Boston, and those gifts I shall have given with relation to those buildings before mentioned, as my books to the library, or any others of them that I have not before provided for and ordered, shall be and remain to the sole use of the College at Cambridge. . . .

Now if . . . any part . . . shall fall to the College, my desire is that it should be improved not about the buildings or repairs of the College, for that I think the country should do and look after, but for the use and help of such poor and hopeful scholars whose parents are not comfortably able to maintain them there for their diet and learning, or for some addition yearly to the poorer sort of fellows or tutors whose parents are not able nor themselves have not the ability nor supplies otherwise to defray their charge and make their studies comfortable. My true intent herein, so that it may be easily discerned, is not that one or two should enjoy the benefit of it all or but for a year or two, but my desire is that the godliest and most hopefulest of the poorer sort of scholars may have an addition to that which their parents allows them, of 20 or 40 s. a year apiece while they abide in the College or till some providence may help

their supplies otherwise, or that as far as it will extend some may have the help of it for 2 or 3 years after, and so in order as long as the benefit of this gift may continue.

Therefore, because I have little insight in the true ordering of scholars and other things thereto belonging in a college way and so possibly may dispose of my gift where there is less need and that it may do more good if it had been employed in some other way, I am willing to refer it to the President, Feoffees, and Overseers that are entrusted with the care and ordering of the College and scholars or students with the things thereto belonging, still taking the consent of my executor and of such of the overseers of this my will as shall then be alive. What they together shall judge to be the best and most needfulest way of employing of it amongst the scholars I shall consent to. And when the certain sum is known that doth fall to the College, the President and Overseers may confer with my executors and overseers and . . . cast up what such a sum would purchase by the year for 20 years, or a longer time, and if they agree and my executor consent to it he may keep the legacy in his own hands and pay to the College yearly for so long a time as they agree so much per annum out of some part of my lands or houses as they shall set apart for that end. I do not enjoin it but only propose it and leave to the will and consent of my executor as he shall think with the advice of my overseers will be most convenient for him, though I like best . . . paying out of it yearly, if there should not appear some great inconvenience to other parts of my land to have any part of it engaged so long together for the payment of such a rent. . . . I think that some one house or shop may be appointed for such an end and some such way may be thought of as may prove no inconvenience to my executor or his estate more than to pay it out to the College and to leave them to purchase with it somewhere else. For my will and desire is . . . that the stock may be preserved by purchasing therewith something to the College, and the benefit or profit thereof to be yearly distributed as far as it will go in the most necessary uses, as I have before

expressed.

[Tardiness in Giving, Defended]

If any shall wonder or demand why I have let alone all these gifts and good deeds mentioned in this will till I die and have not done somewhat in my lifetime, though not so much, when I might have seen the disposing of it myself and have helped to have set them on foot and to have settled and made a beginning in them and so have reaped the benefit of the prayers of the poor and the comfort of such good acts while I had lived, I answer, the prayers of the faithful is much to be desired and prized -- to have the loins and backs and bellies of the poor to bless a man while he lives is a comfortable thing. But that must be obtained in a lawful and well-regulated way, lest while some have occasion to bless others may take occasion to curse or reproach.

. . . I have endeavored to honor God with my substance and with the first fruits of all my increase, and have endeavored to do good with what God hath bestowed upon me so far as I might likewise provide for the necessities of my own family, the care of carrying my calling, and other dealings in the world justly. A man is best able himself to judge what he can do or what he can spare to this or that good work better than others that know not his charge, straits, or occasions. It is an easy matter for others to carve large portions out of others men's estates and tell what they might or should do. Yet he may do as much as his estate will permit comfortably or as God requires at his hands, though all men do neither see it nor know it nor all that are in need and deserve supply cannot taste of it. Neither do I think that God doth require a man to be so liberal in his life (except urgent necessity call for it at his hands) as thereby to cast his own family into straits or wants or that shall disenable him comfortably to discharge his own debts or engagements or to carry through the care and charge of his family. Then there is no just cause of censure. God doth not require that other should be eased and we

grieved. But some have a special faculty to censure other men's actions and direct what others should do or might do when they see not their own defects or neglects, and to extol and multiply small acts of their own and undervalue greater in others because they know them not, as if themselves could not have praise but by dispraising and censuring of others.

I answer that time past, present, and to come are all one with God. He takes notice of the purpose and intents of the heart. If it be real he is pleased to accept of the will for the deed and of good actions intended to be done as if they were already done, when there is a just cause to hinder or prolong them. David had a good desire and purpose to build God a house in his lifetime, but his providing and preparing that it might be built after his death was accepted, yea better accepted, of God than if he had done it in his life. If a man did look after outward applause and the praise of men more than of God it were a great inducement to do all while he lived and nothing when he died. But doubtless good works provided for in a man's life but not known until after his death, if they be free from superstition and an opinion of merit, is most free from ambition and popular applause.

[Principles of Giving, Reviewed]

My opinion and judgement hath been and still is, not only before God had blessed me with a large and comfortable estate but since also, that in point of disposing a man's outward estate, especially if it were of any value and his children not very numerous, I look at it as a great oversight and evil to give all or the most part of a large estate only to wife and children to make them great or rich in the world and to leave little or nothing to friends or to any public or charitable use [even] though there be great occasion and necessities of it and some poor afflicted Josephs that cry for help. For it is the Lord out of His free bounty that gives us out estates, be they more or less (for it is

not our own hands' diligence or wisdom but His blessing only that makes rich) so He may justly challenge a part and interest in the same; and also the commonwealth or place where we live and where we have got more or less of that estate is also to be considered. . . .

My care hat been in making this my will with the best wisdom and understanding that God hat bestowed upon me so to provide that I may no wrong my son (having but one child and one that I do love and have cause tenderly to respect) nor my wife, . . . nor legatees, but so to give that all may be performed without just cause of complaint, prejudice, or loss to any. Neither would I make a great show of gifts to friends and to public and charitable uses and perform little or nothing if God himself disappoint not, lest some should approach me with an affectation and vainglory. But how it can justly be imputed to me, seeing those things are to be performed when I am dead and in my grave and therefore not capable of being puffed up with pride or outward applause (for what good will praises of men do to me when I am not? --and considering also that neither man nor woman now living hath neither seen or read this will or any one line of it that I know of or of my former will made 4 or 5 years before this) I see not. Neither have I made known what my purpose or intent is this way or what I have done herein to any man living that they would trumpet my praise beforehand, but have kept all private in my own breast and have done or desire to do that which God alone hath inclined my heart unto. And had I made my purposes herein known I doubt not but that I should have met with discouragements enough and with advice and persuasions to alter many things herein. Yet peradventure at last I shall not want reproaches from some of want of discretion, if not worse, for what I have done, though I aim at good in all. And if they should, I suppose their reproaches will not much hurt me. . . .

[Possible Attacks on the Estate]

. . . I confess that I have known and seen such practices in Old England that when some chief ones have had desire to fish away a part of a dying man's estate that have taken exceptions against his will or quarreled either with some expressions or gifts mentioned therein to cast the fairer gloss upon their corrupt practice and project, though it could not be so hid. And many here knows how deeply many have suffered, both in the Star Chamber and High Commission Court, for good actions and speeches interpreted quite contrary to the true meaning thereof. But I hope that neither I nor mine shall live to see such practices creep in or be countenanced in our Court. Doubtless the times would be strangely changed if any such thing should come to pass here that men would be made transgressors for a harmless word.

If any such thing should be urged and brought against me to my prejudice, who or what will they fine? I am gone and estate of my own I have none left, no more than will bring me to my grave. I have given away all, if not more than all. And if there were a just offense given by me, or not justly taken up by others, it were not just to take away any part of the wife's or children's portions for their father's or husband's offense, they being no ways accessory to it. . . .

Lastly, though I fear no such thing nor see any just cause or ground that any can have for such an apprehension, yet because I know not how strangely things may alter nor who may get into places of power and authority between this and the time of my death, nor what pretenses corrupt or prejudiced men may make, therefore if any should be active this way and promote any such complaint against me or my will when I am dead and gone and can neither answer nor suffer for myself, with any intent either to get any part of my estate away if I had any left or any part of that estate which I have given away to my son, wife, or any other mentioned in this will, or shall be troublesome or vexatious to my executor on pretense of any fault or offense of mine,

and it be entertained or countenanced, then my will is and I do hereby declare it to be my will and full mind, that all and every gift or legacy that is mentioned in this will to be laid out and disposed of for any general or public use, whether for library, granary, armory, courthouse, school, or college, market house, etc., save only that hundred and twenty pounds that I have given to the school and poor in Boston and what other legacies that I have given to particular friends or persons. . . shall utterly cease and become void and of no effect to the uses and behoof of the things and purposes before mentioned, and shall be disposed of as I shall hereafter appoint and mention. . . .

[A Little Addition More]

. . . my request to all that shall hear or read this my will is that they will make a favorable construction of all things contained in it and to pass by all my human frailties and weaknesses therein and to take nothing in the worst sense where a more Christian and loving interpretation may be made of it, nor none to take or pick out of it anything of it to the prejudice of my will or the disappointing or frustrating or any of their right which I have given to them. . . . If some words or expressions should seem to jar or differ [let] these. . . be interpreted as near as can be gathered or reconciled with the scope of my will in general or other places of it in particular to be my true intent and meaning. For the will being long and my mind full of thoughts and exercises especially in some parts or passages in it there may be many defects in it that may justly call for a mantle of love of cover them, and it is like that had I time to copy it out fair again (which the length thereof will not easily permit, for I had many thoughts that I should have died before I had quite finished, having had one fit of sickness or weakness [that] lay sore upon me and long, which made me hasten the finishing of it all I could), I should leave out several things that are now in it. But I am not willing to employ anybody else to write it out but myself. Therefore, it must now pass with what faults or defects may be judged to be in it. . . .

Source: Bernard Bailyn, ed., The Apologia of Robert Keayne: The Self-Portrait of a Puritan Merchant (New York: Harper & Row, 1964).

Additional Reading:

Bernard Bailyn, The New England Merchants in the Seventeenth Century (New York: Harper & Row, 1955).