

FILED
IN OPEN COURT

Last Will and Testament of

NOV 18 1952

92074777

John V. ...
PROCLAMATION

WILBUR F. HERLITZ.

I, WILBUR F. HERLITZ, of Porter County, Indiana, being of sound mind and disposing memory, do hereby make, publish and declare this as and for my last will and testament, hereby revoking any and all previous wills and codicils thereto by me made.

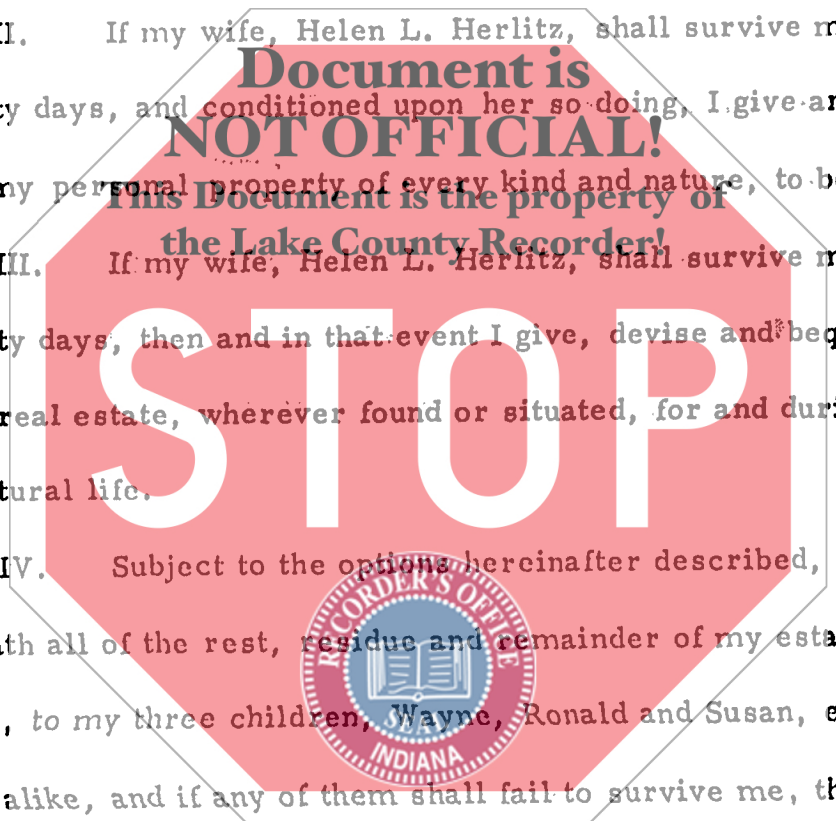
ITEM I. I direct that all of my just debts and the expense of my burial be paid as soon after my death as may be found convenient.

ITEM II. If my wife, Helen L. Herlitz, shall survive me for a period of thirty days, and conditioned upon her so doing, I give and bequeath to her all of my personal property of every kind and nature, to be hers absolutely.

ITEM III. If my wife, Helen L. Herlitz, shall survive me for a period of thirty days, then and in that event I give, devise and bequeath to her all of my real estate, wherever found or situated, for and during the term of her natural life.

ITEM IV. Subject to the options hereinafter described, I give, devise and bequeath all of the rest, residue and remainder of my estate, of every kind and nature, to my three children, Wayne, Ronald and Susan, equally and share and share alike, and if any of them shall fail to survive me, the share of such deceased one shall go to, and vest in, his or her descendants, if any there be, per stirpes.

ITEM V. My wife, Helen L. Herlitz, and I are the owners of a farm as equal tenants in common, not as joint tenants. My son Wayne and I are currently farming the land as tenants, in partnership with each other. At the present time, I own some of the farm machinery. Farm machinery or equipment may hereafter be purchased in the individual name of myself or of my son Wayne, or in the name of the partnership. The invoice and/or



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PORTER COUNTY, INDIANA

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bill of sale for any farm machinery or equipment subsequently purchased shall be conclusive as to the ownership of subsequently purchased equipment.

I hereby give and grant to my son, Wayne Herlitz, the right and option to purchase, within six months from the date of my death, all of my interest in livestock, machinery, equipment, and supplies at the fair market value of the same as of the date of my death, which value is to be determined by an appraisal to be made by my Executrix and my son, Wayne Herlitz, or their representatives. In the event that the appraisers are unable to agree as to the fair market value of such property, the appraisers so selected shall select a third appraiser to act with them, and the values as determined by the majority of the three appraisers shall fix the purchase price at which my son, Wayne, may purchase this property. If the two original appraisers

are unable to agree upon a third appraiser, the Judge of the Court in which the estate is being administered shall select an individual to act as the third appraiser.

After the fair value of this property is determined as herein provided, my son, Wayne Herlitz, shall have the right and option to elect to purchase the same for the determined price. The terms of such purchase shall be cash, to be paid to my estate within one year from the date of my death, and the purchase price shall bear interest from the date of my death at the rate of 6% per annum. Notice of the election to purchase said livestock, machinery, equipment and supplies must be given within thirty days from the date the appraisal is finally made and shall be sufficient if in writing and delivered personally to the Executrix of my estate, or if sent by certified mail to said Executrix.

ITEM VI. It is my hope that my son, Wayne Herlitz, may be able to purchase my interest in the farm which my wife and I now own. To that end, I hereby give and grant to my son, Wayne Herlitz, the right and option to purchase the undivided $\frac{2}{3}$ interest in my said $\frac{1}{2}$ interest in the farm, which is not hereby devised to him upon my death, if my wife, Helen L. Herlitz, fails to survive me, or upon her death, if she shall survive me.

For the purposes of this option, the value of the land as of the date of my death shall be the value of the same as finally determined for federal estate tax purposes in connection with my estate. The value for this purpose as of the date of my wife's death shall be the value equal to the value of her one-half of the farm as finally determined for federal estate tax purposes. If for any reason there is no federal estate tax valuation upon my death, or upon the death of my wife, then and in that event, the values shall be determined by an appraisal to be made by two appraisers, one to be selected by my son, Wayne, and one by my Executrix, or the Executor of my wife's estate, who shall jointly make a determination of the value of the land. If these two appraisers are unable to agree on the values, they shall select a third appraiser and the determination of the majority of the three shall govern. If they are unable to agree on the identity of a third appraiser, the court where the estate is being administered shall designate a third party to act as an appraiser with the original two appraisers designated.

My son, Wayne, shall exercise the option to purchase this property if he desires so to do, within sixty days from the date the valuation is determined. The election to exercise the option shall be effected upon giving written notice to the Executrix of my estate, if the same shall still be open, and if not, to the devisees to whom this will has devised the other 2/3 interests in my said share of the farm. Such notice shall be effective if in writing and delivered personally or if sent by registered or certified mail.

Payment of the purchase price for the land, if the option given to my son, Wayne, is exercised, shall be in cash, or in lieu thereof, Wayne may issue to Ronald and Susan, or their descendants if either or both are deceased, his promissory note in the proper amount, payable together with interest at the rate of 6% per annum in the following principal installments: 5% in one year, 5% of the total purchase price

at the expiration of two years, and the remaining 90% of the principal at the expiration of three years. Said notes must also be secured by a purchase money mortgage, executed by my son, Wayne, in appropriate legal form. All real estate taxes shall be prorated as of the date the purchase price is paid, either in cash or by delivery of the notes and contemporaneously with the execution of a good and sufficient deed to the purchaser.

Until such time as the property is conveyed, and the purchase money paid in cash or by the delivery of the notes and mortgage, the income from the farm shall belong to my estate or to the beneficiaries under my will.

ITEM VII. I direct my Executor to pay and discharge all inheritance and estate taxes out of the estate, prior to making distributions. If there are insufficient funds or assets from and out of which to pay and discharge all inheritance and estate taxes, debts, claims and costs of administration, then and in that event, I direct that as a part of the purchase price for the 2/3 interest in the farm real estate, that my son, Wayne, pay to my Executrix said sum required for the discharge of said taxes and expenses, and that upon doing so that he be credited on the first maturing installments of principal and interest of the purchase price in such amount.

ITEM VIII. I nominate and appoint as Executrix of this, my Last Will and Testament, my wife, Helen L. Herlitz. If she shall predecease me, or shall, for any reason, fail or refuse to qualify as Executrix, or be unable to continue to be Executrix, I nominate and appoint my son, Ronald Herlitz, as Executor.

IN WITNESS WHEREOF, I have hereunto set my hand and seal, this 14 day of October, 1974.

Wilbur F. Herlitz (SEAL)

The foregoing instrument was, on the 14 day of October, 1974, signed, sealed, published and declared by Wilbur F. Herlitz as and for his Last Will and Testament, before us, the undersigned, who, at his request, and in his presence, and in the presence of each other, have hereunto subscribed our names as witnesses.

IN TESTIMONY, that the foregoing is a true copy taken from the records of Porter Circuit/Superior Court, I, Douglas W. Olson, Clerk thereof set my hand and affix Seal of Said Court.

This 18 day of November, 1972
By Douglas W. Olson Clerk
Samuel C. Hayes Deputy Clerk

[Signature]
Witness