

Copy of the Last Will of) Filed for Record Jan. 27th A.D. 1912 at 10.00 o'clock A.M.
Jefferson S. Polk, Deceased)

George Hill Recorder.

Copy of Will(

gta 450 By Daisy Hill Deputy.

THE LAST WILL OF JEFFERSON S. POLK.

KNOW ALL MEN BY THESE PRESENTS:

That I, Jefferson S. Polk, hereby revoking all former wills and codicils made by me, do hereby make and publish this, my last will and testament.

ITEM I. I do hereby nominate and appoint Harry H. Polk, my son, and George B. Hippee, my son-in-law, as the executors of this will and give them full power to carry out and execute its provisions, and I direct that they shall qualify as such on their own recognizance and that no security be required of them as executors or trustees hereunder; except that each of them shall be required to give a bond in the ordinary form, in the sum of twenty thousand dollars, with surety to be approved by the clerk.

ITEM II. In my judgment, in order to economically administer my estate and to avoid unnecessary sacrifice of its assets, it will be necessary for the estate to be kept together and managed substantially as at present for a considerable time after my decease. I therefore hereby authorize and direct my said executors to take, hold, manage and control all of my estate and property, and to keep it together, and to carry on and manage my business as at present for such time, not exceeding five years after my decease, as may be requisite in order to economically wind up my affairs, pay my debts, convert my estate into money so far as it may be necessary or advisable so to do, and to distribute it according to the terms of this will. And the better to enable my said executors to carry out and execute my wishes in the premises I do hereby devise and bequeath to them all my estate and property, real and personal, to be held, managed and controlled by them jointly as herein directed, in trust for my creditors, my widow and children and my legatees and devisees herein mentioned.

ITEM III. My executors are authorized, until my estate is wound up as herein mentioned, to take charge of my business, control and manage my estate, rent the same or portions thereof, collect the rents and other incomes arising therefrom, to collect and convert into money my personal assets, and to sell so much of my real estate as may be necessary for the payment of my debts and the taxes accruing upon the property of my estate, which sales may be made either for cash or partly for cash and partly on time, with the deferred payments adequately secured. And I hereby authorize my said executors to execute all deeds and other writings necessary for the conduct and winding up of my said business, to the end that my said estate may be economically managed and my business wound up, my debts paid, and my property disposed of as herein directed, and within the time directed, without sacrificing my said estate.

ITEM IV. I further direct that my said executors shall immediately after my decease, take possession of my estate, and that they shall at once proceed to make a full, complete and perfect list of all my debts and all my assets, real and personal. I also desire that my widow and children and said Jefferson H. Polk and Maude H. Polk shall have the right to be present when such lists are taken, if they wish so to do.

ITEM V. I further direct my said executors to enter such debts and assets, both real and personal, upon a set of books which they shall cause to be opened and kept for that purpose; and they shall employ a competent book-keeper to take charge of said books.

They shall cause to be entered therein all matters relating to the management of my said estate, the disposition of my assets and the payment of my debts and the settlement of my estate, and such entries shall be correctly and promptly made as the matters shall occur. Such books shall at all reasonable times be open to the inspection of my widow and children and Jefferson H. Polk and Maude H. Polk until my estate is fully and completely settled.

ITEM VI. I further direct that all monies realized out of my estate shall as fast as realized, either from collections or the sale of assets, be deposited in some solvent bank or banks in the city of Des Moines to be agreed upon by and between my said executors and my widow and children and Maude H. Polk and Jefferson H. Polk; and while so deposited the same shall be at the risk of my estate, and it and not my executors shall bear any loss by reason of such deposit. I further direct that such monies shall only be drawn from said banks on the joint checks of my said executors, and then only for the purpose of paying my debts and taxes and the expenses of administering my estate and closing the same up and other wise carrying out the provisions of this will. I further direct that each of my executors shall be responsible to my estate for his own acts and defaults, but that neither of them shall be responsible to my estate for the acts or defaults of the other.

ITEM VII. I further direct that my said executors shall, as fast as they collect any money belonging to my estate or realize anything from the sale of the assets thereof, whether personal or real, apply the money so received at once to the payment of my debts and the taxes accruing on the property of the estate, so far as is necessary, to the end that as soon as said debts are paid off and satisfied my estate may be divided as hereinafter directed.

ITEM VIII. I further authorize and direct my said executors, if in their judgment the best interests of my estate shall require it, to borrow money to pay my debts or parts of them, or to extend my debts or parts of them from time to time; and I authorize them to give notes therefor, secured by mortgages upon my real estate or a portion thereof, as fully as I could do if living; provided, however, that no money shall be borrowed or debt extended for a longer period than five years from the date of my decease, it being my wish and purpose that my estate shall be closed up and my debts paid and my property divided within that time,

or earlier, if it can be done without unnecessary sacrifice of property and assets. It is my will that instead of selling my real estate (except in so far as necessary to close up my estate) and dividing the proceeds, the real estate so far as possible be kept intact, until my estate is closed, so that then the real estate may be divided in kind between my beneficiaries.

ITEM IX. The powers which I have granted to my executors may be exercised by them without securing any further authority through any order of court; and what they may do in the exercise of said powers shall be valid and binding without the approval of any court.

ITEM X. If either of my executors shall remove from Polk County, Iowa, or shall die, or for any reason shall become disqualified to act or shall fail to qualify, or shall not survive me, then and in such event I authorize and direct my widow and Mildred P. Hippee, Sarah J. Maish, Harry H. Polk, John S. Polk, Maude H. Polk and Jefferson H. Polk, or the survivors of them, to at once recommend a successor for the executor who has not qualified or has become disqualified, hereby authorizing them to either require a security from such successor or to waive the same, as they may deem best; and when such person so recommended shall by the proper court be appointed one of the executors of this will he shall, by virtue of the order of his appointment, be fully invested with all the powers, duties and privileges given by this my last will to my executors.

ITEM XI. It is my will and I further direct that as soon as my debts are paid and within five years from the date of my decease, my executors shall proceed to divide my estate between my widow and children and devisees in the manner following. That is to say,- (a) I have been paying to my brother, James E. Polk, an allowance of Forty Dollars (\$40.00) per month, and I desire that such allowance be continued to him during his natural life, or until he is able to provide for himself. In the discretion of my executors provision may be made for his comfort and maintenance by entering him as an inmate of some good old people's home, either at Des Moines or elsewhere, the expense thereof to be paid out of my estate, but not to be in excess of what would be involved in paying the said Forty Dollars (\$40.00) per month. If he shall refuse, when requested by my executors, to enter a suitable home provided for his maintenance, they are authorized in their discretion to discontinue the payments so to be made to him. Any fund set aside for this purpose shall, when no longer necessary therefor, become a part of my general estate to be disposed of as hereinafter in this item provided.

(b) My said executors are directed to divide the entire remainder of my estate, both real and personal (except the shares of the capital stock of the Des Moines City Railway Company, both common and preferred, the shares of the capital stock of the Inter-Urban Railway Company, the shares of the capital stock of the Red Rock Coal & Mining Company, and the shares of the capital stock of the Union Improvement Company, owned by me at my decease) into five equal parts, as nearly as may be, such division into parts to be submitted to and approved by a majority of the parties interested before a final division is made.

(c) They shall then deed and convey to my widow for her own sole use and benefit, absolutely, in fee simple, for herself, her heirs and assigns, forever, the one of the said five equal parts which she shall select; upon the condition, however, that she shall receive such share in lieu of her right of dower and in lieu of all her interests in my estate except the provisions made for her in this will. If, however, she shall refuse to accept the same, then I direct that my executors cause her dower in my estate to be set off to her, and after her dower shall be so assigned I direct them to divide the balance of my estate (except said shares of the capital stock of the Des Moines City Railway Company, the Inter-Urban Railway Company, the Red Rock Coal & Mining Company and the Union Improvement Company) into four equal parts instead of five as before directed.

(d) My said executors shall then assign to each of my children, Mildred Polk Hippee, Sarah J. Maish, and Harry H. Polk, or to the heirs of their bodies, by lot, one of such four portions (whether the same be one-fifth of the said residue of my estate or one-fourth thereof after my widow's dower shall be assigned and set apart to her) as herein directed. That is to say,- One of said portions shall be assigned, transferred and conveyed by my said executors by proper conveyances and assignments to my daughter Mildred P. Hippee, for her own sole use and benefit, for herself, her heirs and her assigns forever. One of said portions shall be assigned, transferred and conveyed by my said executors by proper conveyances and assignments to my daughter Sarah J. Maish, for her own sole use and benefit, for herself, her heirs and her assigns forever. One of said portions shall be assigned, transferred and conveyed by my said executors by proper conveyances and assignments to my son Harry H. Polk, for his own sole use and benefit, for himself, his heirs and his assigns forever. The assignments and conveyances to him shall be made by the other executor.

The remaining one of said four portions of my estate shall be assigned, transferred and conveyed unto the said Harry H. Polk and George B. Hippee, not for their own use and benefit, but in trust, said property to be held by them in trust for the purpose and on the terms hereinafter set out. That is to say,†

(e) The real estate included in said trust shall not be sold, but shall be held by said trustees until said trust is terminated; except that if it shall be necessary in order to provide for the comfortable maintenance and support of the said John S. Polk, Maude H. Polk and Jefferson H. Polk, or to pay the taxes or other expenses of said trust, said trustees may from time to time sell portions of said real estate, but only to secure funds for such purposes. Said trustees shall invest and reinvest such personal property and money as may be included in said trust in a safe and conservative manner, and may in their discretion invest portions thereof in productive real estate or in dividend paying stocks. They shall have the right to sell portions of the said trust property (except real estate which shall only be sold as above provided) from time to time, as in their discretion shall seem advisable, and to reinvest the proceeds thereof, having in mind that my purpose is that the investments shall be safe and conservative as to insure a regular income and the safety of the principal fund. My said trustees may make such sales, both of real estate and personal property belonging to said trust fund, and the assignment and conveyances necessary to effectuate the same without securing the approval of the same by any court, and without any order of court authorizing the same; and may sell either for cash or partly for cash and partly on time, as in their judgment may be for the best interests of the trust, taking adequate

security where the sales are made on time.

(f) The said trust property shall be divided by my said trustees as nearly as may be into three equal shares, which are hereby designated as share "A", Share "B" and Share "C".

(g) My said trustees shall pay to my grandson Jefferson H. Polk, the income from Share "A" until he attains the age of thirty years, when the said share shall be assigned, transferred and conveyed to him for his own sole use and benefit, in fee simple for himself, his heirs and assigns forever.

(h) Share "B" shall include the Gray Senator "A" mare and her descendants now kept on what is known as the "Collard" farm, and their increase, and the income of this share shall be paid to my son John S. Polk during his lifetime; provided, however, that instead of themselves managing all of this share my said executors may if they deem it expedient, permit my said son John S. Polk to manage the said horses and breed them for his own account on property furnished for this purpose from said share, the title to the said horses and their increase and to said property to remain in the said trustees, and this plan to be followed only for such time as they deem it expedient; and provided further, that if my said son John S. Polk shall alienate or attempt to alienate or assign any such horses or property or the income payable to him hereunder, or shall suffer legal process issued in proceedings against him to be levied against the same, or the same to be effected by garnishment, or other process in such proceedings, then all of his interest hereunder shall terminate and cease. If John S. Polk, at the termination of his right to Share "B" by death or otherwise, has a child or children born in lawful wedlock, other than said Jefferson H. Polk, said Share "B", upon the termination of his right to the income thereof, shall go to said child or children absolutely in fee simple; but if he has not then such child or children, such Share "B", when his right to the income thereof terminates, shall become one-half thereof a part of Share "C", if such share is still in existence, and one-half thereof a part of Share "A", or if Share "C" is not then still in existence, shall become all thereof a part of Share "A", and shall be disposed of as if it has originally constituted a part of Share "A" and Share "C" or a part of Share "A" as the case may be.

(i) The income from Share "C" of said fund shall be paid to my daughter-in law, Maude H. Polk during her life time; provided, however, that if she shall contract a marriage with any person other than the said John S. Polk, her interest in the said income and in my estate shall cease and terminate. Upon the termination of the right of Maude H. Polk to the income of Share "C", Share "C" shall become one-half thereof a part of Share "B", if Share "B" is still in existence, and one-half thereof a part of Share "A", or if Share "B" is not then in existence, all thereof a part of Share "A" and shall be finally disposed of as if it had originally constituted a part of Share "A" and "B", or of Share "A", as the case may be.

(j) The property embraced in this trust shall include such additions as may be made to it on account of the stock of the Des Moines City Railway Company, the Inter-Urban Railway Company, the Red Rock Coal & Mining Company, or the Union Improvement Company, or of the proceeds of such stock as contemplated by Item XII hereof.

Item XII. I hereby give, bequeath and devise unto my son Harry H. Polk and my son-in-law George B. Hippee, not for their own use or benefit, but in trust, all of my stock, both common and preferred, in the Des Moines City Railway Company, and all of my stock in the Inter-Urban Railway Company, and all of my stock in the Red Rock Coal & Mining Company, and all of my stock in the Union Improvement Company; said stock to be held by them in trust for the purpose and upon the terms hereinafter set out; that is to say,-

(a) So long as they hold title to the same my said trustees acting jointly, may vote said stock at all stockholders' meetings, and may in writing authorize proxies to vote the same for them. (b) If my widow elects to accept the provisions made for her under this will in lieu of the interests which she would otherwise have in my estate, there shall be five equal interests in the trust hereby created as to said stock, one interest for the benefit of my said widow, one for each of my children, Mildred Polk Hippee, Sarah J. Maish and Harry H. Polk, and one for John S. Polk, Maude H. Polk and Jefferson H. Polk jointly; but if my widow shall not so elect to accept the provisions of this will there shall be four such equal interests, one for the benefit of each of my children, Mildred Polk Hippee, Sarah J. Maish, and Harry H. Polk, and one for the benefit of John S. Polk, Maude H. Polk and Jefferson H. Polk jointly. The income derived from the said stock while it is held in this trust shall be

paid by the said trustees promptly as it is received by them in fourths or fifths, as the case may be, to those for whose benefit this trust is created, John S. Polk, Maude H. Polk and Jefferson H. Polk jointly being entitled to but one share, which share shall be equally divided between them.

(c) My trustees may, with the consent of the persons interested therein as beneficiaries, sell said stock at any time, provided, however, that my said trustees shall not sell only a portion of my stock in the said Des Moines City Railway Company, but must sell all of such stock, both common and preferred, or none of it; and provided further, that they shall not sell only a portion of my stock in the Inter-Urban Railway Company, but must sell all of such stock or none of it; and provided further that they shall not sell only a portion of my stock in the Red Rock Coal & Mining Company, but must sell all of such stock or none of it; and provided further that they shall not sell only a portion of my stock in the Union Improvement Company, but must sell all of such stock or none of it.

Upon a sale of such stock of one or more of said companies the proceeds thereof shall be divided into five or four equal shares as the case may be, determined by whether my widow has elected to take under this will in lieu of dower and all other interests in my estate or not; and shall be paid, one share thereof to my said widow, if she has elected to so take under this will, one share thereof to said Mildred P. Hippee, one share thereof to said Sarah J. Maish; one share thereof to said Harry H. Polk; and the remaining one share thereof shall become a part of the trust created under Item XI hereof for the benefit of John S. Polk, Maude H. Polk and Jefferson H. Polk, and shall be treated and disposed of in the same manner in all respects as if it had been a part of said trust created under Item XI hereof from its inception. (d) That part of the said stock in the Des Moines City Railway Company, the Inter-Urban Railway Company, the Red Rock Coal & Mining Company and the Union Improvement Company which remains unsold at the expiration of twenty (20) years from the date of my decease, shall be divided and disposed of in all respects in the same manner which I have provided for the disposition of the proceeds of such stock in the event of its sale, or of the sale of part of it.

ITEM XIII. It is my will, and I direct, that in the settlement of my estate no account shall be taken of any gifts or advances made by me in my lifetime to either of my children,

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either in money or other personal property or in real estate. In making such gifts and advances I have as nearly as may be equalized the amounts received by my respective children and it is my will that there be no further adjustment of the same. In making such gifts and advances I have treated my son John S. Polk and his wife Maude H. Polk, and my grandson Jefferson H. Polk, as one child, or as representing one interest in my estate, and have undertaken to give to them in the aggregate the same amount that I have given to each of my other children.

ITEM XIV. My son, John S. Polk, and my daughter-in-law Maude H. Polk, shall receive their portions of the income under Item XII of this will during their lives; provided, however, that if my said son John S. Polk shall alienate or attempt to alienate or assign his share or any portion thereof of the said income, or shall suffer legal process issued in proceedings against him to be levied against the same or the same to be affected by garnishment or other process in such proceedings, then all of his interest in said income shall terminate and cease; and provided further that if my daughter-in-law Maude H. Polk, shall contract a marriage with anyone other than my son John S. Polk, her right to a share of said income shall thereupon, forthwith, cease and terminate. When either my son John S. Polk, or my daughter-in-law Maude H. Polk, ceases to be longer entitled to a share of said income, such share shall be divided between the survivor of them and Jefferson H. Polk; and when the right of both said John S. Polk and said Maude H. Polk to portions of said income has ceased, said Jefferson H. Polk shall receive the proportion of the income of said trust property theretofore paid to them.

ITEM XV. During the time that elapses prior to the division of my estate, my executors shall make such temporary provision as may be necessary for the maintenance and support of my widow and my son John S. Polk and my daughter-in-law Maude H. Polk, charging against them respectively in the ultimate division of my estate the amount of the advances to each one for this purpose.

IN TESTIMONY WHEREOF I have hereunto subscribed my name to the foregoing will, consisting of twelve sheets, at Des Moines, Iowa, and have published and declared the same to be my last will and testament in the presence of the witnesses whose names are subscribed hereto on this 18th day of June, A.D. 1906,

Jefferson S. Polk.

We hereby certify that the foregoing instrument was signed by Jefferson S. Polk in our presence and by him published and declared to be his last will and testament in our presence on this 18th day of June A.D., 1906. The words "or advisable so to do, and" in lines 10 and 11 in Item 11 were stricken out and the words "in order to" inserted in line 11 of said item; and the words "or in dividend paying stocks" were stricken out in line 11 of paragraph (e) of Item XI prior to the signing of the foregoing will, and also the word (twelve) changed to (eleven) before sheets on page 11.

IN WITNESS WHEREOF we have hereunto subscribed our names as witnesses in his presence and in the presence of each other and at his request on said June 18th, A.D. 1906.

N.T. Guernsey.
N.H. DeMarce.

State of Iowa, Polk County, SS:

I, J.P. Maher, Clerk of the District Court of the State of Iowa, in and for Polk County, hereby certify the foregoing to be a full, true, correct and complete copy of the last will and testament of Jefferson S. Polk, deceased, as full, true, correct and complete as the same remains on file and of record in my said office.

I further certify that Harry H. Polk and George B. Hippee, were duly appointed as executors of said estate, and that they duly qualified as such by filing a bond in the penal sum of \$20,000. each, in accordance with the order of said court. That they duly qualified as executors of said estate on the 2nd. day of December, 1907, and their appointment remains in full force and effect at this date, to-wit: January 22nd, 1907.

I further certify that all claims filed and allowed against said estate have been fully paid, and that there are now no claims remaining on file unpaid.

IN WITNESS WHEREOF I have hereunto set my hand and affixed the seal of said Court at Des Moines, this 22nd day of January 1912.

District Court
Seal,

J.P. Maher.
Clerk of said District Court.

By A.E. Mahan, Deputy.