

WILL OF MATHEW J. VON PEIN.

I, Mathew J. Von Pein of the City of Richmond, County of Wayne and State of Indiana, do hereby make and publish this my last will and testament, in manner and form following, and hereby revoking any and all wills by me at any time heretofore made.

Item First:

I have six children, namely Frederica, John, Fred and Elsie, who are my children by my first marriage and Mathew and Julia the children of the marriage with my present wife, Emma K. Von Pein.

My said wife, Emma K. Von Pein and I have freely talked over together our property interests and have agreed together as to the just and proper disposition thereof upon our deaths and to give effect to our said mutual understandings and agreement therein, we have agreed together that we will each make a will at the same date and time and in our several wills we shall provide for the disposition of our property rights as we have mutually agreed and that each of our said wills shall be made upon consideration between us of our mutual agreement and the carrying the same between us and our heirs.

My wife and I own properties in our joint names as husband and wife and as tenants by entireties, such properties being Lots Number Three (3) and Four(4) in Klesckers subdivision in the City of Richmond, Wayne County, Indiana, the same being house numbers 808 and 812 South Seventh Street in said City of Richmond, and Lot Number two(2) in Ross's subdivision in said City of Richmond, the same being house numbers 805 and 807 3/4 South Seventh Street in said City of Richmond, and we understand that upon the death of either, such property so jointly held between us will pass to the survivor in fee, by operation of law.

A principal purpose and consideration in the agreement referred to between my said wife and myself, was and is, that first proper and satisfactory provision be made for my said wife so long as she shall live and that upon both our deaths all our property shall go to the children of mine, that is to say, the said named above who are the children by my

and without any interference or distinction between them. It has been considered and deemed best for the interests of all that our property should remain together and in the care, management and control of my said wife until our youngest child, Julia, shall reach the age of twenty-one years.

Now, therefore, in furtherance of the agreement and understanding between my said wife and myself, and to give effect to the same, I give and devise all my property and estate of every kind, nature and description and wherever situated to my said wife, Emma K. Von Pein as Trustee, in trust for herself and my children named upon the following trust as now created and defined therein as follows, to-wit: That upon my death my said wife, if she shall survive me, shall take and have full possession, control and management of all my property real and personal of every kind and nature, with full power in her judgment and discretion to manage the same, collect any sums due me, to invest any money I may leave, to change investments and in all things in the management and control of my said property and estate to have all power therein as may be found necessary and desirable to preserve the said property and to so keep hold and manage all my said property until our youngest child, Julia, shall attain the age of twenty-one years, if she so long live, and in case our daughter Julia should not live to the age of twenty-one years, then my said wife's said control and management of all my property and estate as Trustee shall so continue until all my children shall have reached the age of twenty-one years.

At the time when my said children living shall all have attained the age of twenty-one years, then my said wife as such Trustee with the oldest son, John, shall together make a division of my estate and property into two equal parts as nearly as reasonably possible, and one of such two equal parts as my said wife shall choose shall be retained by my said wife as Trustee for her sole use and benefit, during her life, and the other of said two equal parts shall then be divided equally between my said six children, and if either shall have died leaving a child or children him or her surviving, the share of the one so dying shall go to his or her child or children in equal shares between them if more than one child. The one half of said property and estate so retained by my said wife shall be held by her as Trustee in trust for the use of herself during her life, and upon



said children herein named in equal shares as shall then be living, and if any child shall have died before the period of such distribution, leaving a child or children, the share of him or her so dying shall vest in his or her child or children in equal shares between them if more than one child. During the period, my wife shall take and hold all my property and estate until my youngest child Julia shall reach the age of twenty-one years as I have above provided, I direct that my said wife as such Trustee shall from my property and estate pay any debts I may leave unpaid including expenses of my last sickness and funeral and that she be and is fully empowered to sell and use any part of such property and estate, in her judgment and discretion as she shall find necessary for such purpose and as she shall deem for the best interests of my estate and heirs, and that out of the income of all my said property and estate she pay all taxes, insurance and lawful assessments against said property and that she have and take for her own use and support of herself and any of the named children she may desire to have and live with her, during the said period until all our children shall reach the age of twenty-one years.

My property consists mainly of real estate and I own a number of unimproved lots which are not substantially productive, and so that it may be found desirable and for the best interests of my estate and heirs to sell and dispose of parts of my real estate and invest the proceeds to produce a larger and better income. I therefore now fully invest my said wife as Trustee with power and authority to sell and as such Trustee to convey any of my real estate held by her under the Trust aforesaid and to receive the proceeds, all in her own judgment and discretion as to terms and price and without any order or authority of any court therein, and the deed of my said wife as such Trustee for any such real estate so by her sold shall be sufficient to pass full title thereto to the purchaser thereof. Provided that all proceeds of any of such sales of property shall be a part of the trust estate in the hands of my said wife as such Trustee and kept and accounted for as such, with all powers as to investment and management as are above granted to said Trustee.

In case at the time of the division of my estate into two parts when all my children shall have attained the age of twenty-one years as aforesaid, if in the making of such division of my estate by my said wife

as Trustee and my oldest son John, they, my said wife and son shall not be able to agree upon such division of the estate in two part as above provided, then and in such case I direct that my brother George shall be called in to decide between them, and his decision shall be final and binding upon all parties. And in case my said brother George should not be then living or should not be capable of so acting, then I direct that my brother Edward shall be called in to decide, and his decision shall be alike final and binding upon all parties. I direct and fully authorize my said wife as such Trustee to execute all conveyances, assignments or documents as shall be found requisite and necessary to give legal effect to such division of my estate as aforesaid.

When such division of my estate shall be made at the time my <sup>have</sup> children shall all attained the age of twenty-one years as aforesaid, the one of the two ~~parts~~ equal parts of my estate so selected by my said wife as Trustee, shall vest in her as Trustee for her sole use as follows: that she my said wife as such Trustee shall have all authority and powers of control and management thereof as are herein vested in her as Trustee, to invest, collect and change investment, to sell and convey any real estate and collect and invest the proceeds thereof as part of my trust estate and out of the income thereof to pay all taxes, lawful assessments, insurance and any expenses found necessary to protect and preserve such property, and to have all the net income therefrom for her own use and benefit all in her own judgment and discretion, for the full period of her natural life, and upon her death, if it shall be found necessary, all expenses of the last sickness and funeral of my said wife which her own estate may not be sufficient to pay, shall be first paid and the <sup>and the residue</sup> residue of said trust property of my said children who may be then living in equal shares, and if any shall have died leaving a child or children him or her surviving, the share of him or her so dying shall vest in and become the absolute property of him or her child or children in equal shares between them if more than one child.

Item Second:

In case of my death, my said Emma K. Von Pein should not be living, then and in such case I direct that all my just debts including expenses of my last sickness and funeral be first paid and the entire residue of my estate I give and devise to my children, namely Frederica,



John, Fred, Elsie Mathew and Julia to each an equal share thereof, and if any of my said children shall have died before me, then I give and devise the equal share of him or her so dying before me to his or her children if such shall leave a child or children him or her surviving in equal shares between them if more than one child.

Item Third:

In case formal administration of my estate shall be found necessary or desirable, I appoint my said wife Emma K. Von Pein Executrix of this my will if she shall survive me, and if she be not living, then I appoint John Von Pein my son as such executor in either case investing my said Executrix or Executor with full power to do any and all things in and about the settlement of my estate which I, if living, might lawfully do.

And I direct that no bond or other security be required of my Executrix or Executor or of my said wife as Trustee in the settlement of my estate under this my will.

IN WITNESS WHEREOF, I have hereunto set my hand and seal as and for this my last will and testament in the presence of John L. Rupe and Walter G. Butler, subscribing witnesses hereto, who have each subscribed their names hereto as such subscribing witnesses, in my presence and in the presence of each other and at my request. All done at the City of Richmond, County of Wayne and State of Indiana, this 27th day of April, A. D. 1915.

Signed and executed after all pen interlineations were made thereon as above shown.

(SIGNED) Matthew J. Von Pein. (Seal)

John M. Rupe,

Walter G. Butler.

Subscribing Witnesses/

CODICIL NO. 1 TO WILL OF MATHREW J. VON PEIN.

I, Mathew J. Von Pein of the city of Richmond, County of Wayne and State of Indiana, do hereby make and publish this as Codicil No. 1 to my last will and testament by me executed on the 27th day of April, 1915, in manner and form following, to-wit: Hereby confirming my said last will in all things except as I shall change the same by this codicil as now and hereby done as follows, to-wit:

1st:

I have six children, four by my first wife and two by my present wife, Emma K. Von Pein. My said wife and I have each executed our respective wills to carry out a mutual agreement between us as to all my children, our said wills being so executed of date April 27, 1915.

Since the making of our said wills my present wife, Emma K. Von Pein has received on settlement of the estate of her father, William F. Kleecker, the sum of eight hundred dollars, which sum I have invested with our other common funds. My said wife and I have determined and agreed that as a matter of justice and right between all my children, that our two youngest children, namely, Mathew Von Pein, Jr. and Julia Von Pein should each receive an equal share of said eight hundred dollars before distribution of my estate is made between all my children as provided in my will.

Therefore, I now declare as my will by this codicil, that in case I shall survive my wife, Emma K. Von Pein, that there shall be paid to each of my said children, Mathew Von Pein, Jr. and Julia Von Pein the sum of Four Hundred Dollars first and before the general distribution of my estate is made as provided by my will among all my children, so that the said two youngest children shall so receive the said eight hundred dollars their mother received from her said father's estate in addition to their equal share of my estate with all my other children, and my children by my former wife are willing that this preference be given as stated herein to the said two children of my present wife.

In case my said wife, Emma K. Von Pein, shall survive me, she has executed as codicil to her said will which will carry out the mutual determination and agreement between us, and in case my said wife survives me, her said will will be effective to carry out our mutual agreement as set