

LAST WILL AND TESTAMENT

of

CHARLES WILLIAM LOKEY



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Shelby Cnty Judge of Probate, AL
08/26/1981 02:08:06 PM FILED/CERT

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STATE OF ALABAMA)

Filed in office this the 25th

JEFFERSON COUNTY)

day of June, 1965

for Probate and Record.

J. Paul Meacham
Judge of Probate

I, Charles William Lokey, do hereby make, publish and declare this to be my last will and testament and do hereby revoke any and all other wills and codicils heretofore made by me.

ITEM I

PAYMENT OF DEBTS AND EXPENSES

I direct my executors to pay my lawful debts, including expenses of my last illness and of my funeral, as soon as practicable after my death.

ITEM II

HOUSEHOLD FURNISHINGS AND AUTOMOBILES

I give and bequeath all household furniture, furnishings and automobiles belonging to me at the time of my death to my wife, Bernice, to be hers absolutely, or if she does not survive me, to my children, share and share alike.

ITEM III

JEWELRY AND PERSONAL EFFECTS

I give and bequeath all my personal effects and jewelry to my wife, Bernice, to be hers absolutely, or if she does not survive me, to my children, share and share alike.

ITEM IV

BEQUEST OF PROFESSIONAL EQUIPMENT

I give and bequeath to my son, Charles William Lokey, Jr., all my right, title and interest in and to office equipment, office furniture, instruments, dental supplies and any and all property used by me or by him in the practice of dentistry, (with the exception

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Harrison Conner

of bills, notes and accounts receivable) subject to the condition that he assume liability on my office lease and accounts which accrue after my death.

ITEM V

TAXES

All estate, inheritance, transfer, legacy, or succession taxes, or death duties, which may be assessed with respect to my estate, or any part thereof, whether or not passing under my will, including the taxable value of all policies of insurance on my life, and of all transfers, powers, rights, or interests includible in my estate for the purposes of such taxes and duties, shall be paid out of my residuary estate as an expense of administration and without apportionment.

ITEM VI

MARITAL TRUST

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If my wife, Bernice, survives me, I give, devise and bequeath to my trustees hereinafter named, in trust nevertheless, an amount of cash or property determined in the following manner:

(a) There shall first be ascertained the value of my gross estate (including property not administered in my estate) for the purpose of the Federal estate tax.

(b) There shall be deducted from such value the amount of all funeral expenses, administration expenses, claims against my estate including unpaid charitable subscriptions at the time of my death, unpaid mortgages upon or any indebtedness in respect to property includible in my gross estate, and the value of the specific bequests set forth in ITEMS II, III AND IV; but there shall not be deducted any estate, inheritance, transfer, legacy, succession taxes or death duties referred to in ITEM V.

(c) The difference so computed shall be divided by two.

(d) There shall be deducted from the quotient the value, to the extent includible in my gross estate for the purpose of the Federal estate tax, of any interest in property not administered in my estate if such interest is deemed to pass or to have passed from

me to my wife for the purpose of the "marital deduction" as defined by the Federal estate tax law.

(e) There shall be paid to my trustees an amount equal to the difference computed in the preceding sentence; and, if payment shall be made in property held by me at the time of my death, such property shall be considered equivalent in amount to the value of such property includible in my gross estate for Federal estate tax purposes.

(f) My executors shall determine within their discretion the specific properties to be distributed to this trust; except that, insofar as practicable, the property distributed to that trust shall not consist of any non-productive property or of any terminable interest which cannot qualify for the marital deduction under the Federal estate tax law.

My wife shall be entitled for life to all the income from the corpus of this trust and my trustees shall pay to her annually or at such more frequent intervals as my wife may direct all such income and upon her death shall distribute the entire corpus, free of trust, to such person or persons, corporation or corporations, or the estate of my wife, in such amounts or proportions and in such interests or estates, whether absolute or in trust, as my wife may by will appoint. The power to appoint hereby given to my wife is exercisable by her alone and in all events. In default of the exercise of such power of appointment the corpus of this trust shall be paid over and distributed, free of trust, to my children, or their descendants, in equal shares, per stirpes.

In the event no person or persons qualify to receive the principal of this trust estate, then the trustees shall forthwith pay over and distribute the remaining corpus of the estate to my heirs at law, as determined under the laws of the State of Alabama.

In addition to the payment of income from this trust, my trustees shall pay to my wife such sums from principal as will in their discretion permit her to maintain a comfortable standard of living during her lifetime. As a guide to my trustees in exercising

this discretion but without imposing any obligation on them, I declare that since my children are all grown and self-supporting my sole objective in establishing this trust has been the comfortable support of my wife during her life. It is my intention therefore that any doubt as to desirability of a given invasion of corpus be resolved in favor of making such invasion and my trustees are hereby authorized to make such invasion without regard to the usual rules of trust administration requiring impartiality between life tenant and remainderman and without regard to the degree to which principal of the trust is thereby depleted.

It is my wish that the bequest set forth in this ITEM VI of my will be allowed as a marital deduction under the provisions of the United States Estate Tax Law in effect at the time of my death and I hereby direct that the provisions of this Item be interpreted and construed to accomplish that end.

ITEM VII

RESIDUARY TRUST

In the event my wife Bernice survives me, I give, devise, bequeath and appoint all of the rest, residue and remainder of my estate, both real and personal, of whatever nature and wherever situated, which I may own or to which I may be entitled at the time of my death, or to which my estate may be entitled after my death, or over which I have any power of appointment or disposition, after the payment of the bequest and devise provided in ITEM VI of this will, to my trustees hereinafter named, or the successor or successors of them, in trust nevertheless, for the uses and purposes hereinafter set forth.

My trustees shall pay the entire net income of the trust estate in convenient periodical installments to my wife, Bernice, during her life. In addition, if in any calendar year, beginning with the year of my death, the combined income of this trust and the Marital Trust under ITEM VI of this will shall be less than \$5,000, (which sum I hereby determine to be the annual income required for her health, support or maintenance at the level she has heretofore enjoyed), there shall be paid to my wife out of corpus, upon her





request within the first three months of the succeeding calendar year, an amount of cash, or its equivalent in fair market value of property, sufficient to make the total payments to her for such year equal \$5,000; but if such request is not made for any calendar year, no payment of corpus shall be made in any subsequent year on account of the amount not so requested.

At the death of my wife, I direct my trustees to distribute the entire sum then held in trust under this ITEM VII of this will as she may by will appoint among any person or persons other than her estate, her creditors, or creditors of her estate. In default of effective exercise of this power, the property passing under this ITEM VII of this will shall be distributed per stirpes among those of my issue who are living at the death of my wife.

In the exercise of any power of appointment provided for in this will, the donee may appoint a life estate or an estate for years to one or more objects with remainders to other objects of this power of appointment; may impose lawful conditions upon any appointment, provided that the condition must not cause the appointment to benefit any person not an object of the power; may impose lawful spendthrift restrictions or limitations in connection with the appointment; may make appointments outright to an object or in trust for the object; and may appoint by will which was executed before my death. These powers of the donee are in addition to and not in limitation of powers she would otherwise have.

All powers created by this will are releaseable in whole or in part. In addition to any other method of release recognized by law, any such power may be released by an instrument in writing, filed with any court which has granted probate of this will, declaring the donee's intention to release.

ITEM VIII

GIFT OF RESIDUE ON PREDECEASE OF WIFE

In the event my said wife does not survive me, I direct that the rest, residue and remainder of my estate shall be paid over and distributed to my children or their descendants, in equal shares per stirpes. In the event that none of my children or their descendants survive me, I direct that my estate shall be distributed according to the laws of the State of Alabama.

ITEM IX

EXECUTORS AND TRUSTEESJUD.
RECORD

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I hereby nominate, constitute and appoint those of the following who shall reside in the same county as my wife, Bernice, as joint executors of this will and as joint trustees of the trusts herein provided: my wife, Bernice Hicks Lokey; my sons, Charles William Lokey, Jr., Frank C. Lokey, Hicks Lokey, and my son-in-law, James Craig, husband of my daughter Bernice. If any of the above named persons should for any reason fail to qualify or to continue to serve either as executor or trustee, or if any of them should move their residence from the same county in which my wife, Bernice, shall reside, the remaining above-named persons shall serve as joint executors and joint trustees, and, if there be only one such person, then such one shall serve as sole executor or sole trustee, as the case may be; and any such executor or executors, or trustee or trustees, shall have all the powers and authorities hereinafter provided. I exempt each of them from giving bond as executor or as trustee and from filing any report, inventory or accounting in any court as executor or as trustee.

ITEM X

POWERS OF EXECUTORS AND TRUSTEES

I grant to my executors and to my trustees, in either capacity, without authorization or approval of any court, the authority and power to:

- (a) Lease, rent for improvement or otherwise, for a term beyond the possible termination of any trust, or for any less term, and to let, exchange, release, partition, vacate, dedicate or adjust the boundaries of, any real estate constituting a part of any trust estate.
- (b) Manage, operate, administer, protect, insure, improve, repair, equip and pay taxes and assessments on any real or personal property constituting a part of any trust estate.
- (c) Convey, contract to convey or sell, for cash or credit and upon such terms and conditions as may seem proper, to lease, to grant easements in connection therewith, to effectuate any condition of, to subdivide or do any acts in connection with the preparation of any plan or subdivision of, any real property constituting a part of any trust estate.
- (d) Borrow money for the use of any trust estate or the beneficiary thereof, and to mortgage or otherwise encumber all or any part of any trust estate as security therefor,



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to redeem any mortgage or encumbrance on any property constituting a part of any trust estate, to redeem or to purchase any property at any foreclosure or other sale when necessary or advisable in order to protect any investment of any trust estate.

(e) Retain any investments received as a part of any trust estate for any length of time considered desirable, whether the same constitute legal investments for trustees or fiduciaries under the laws of the State of Alabama, or any other state, or not.

(f) Sell and convey any personal property for cash or credit and upon such terms and conditions as appear desirable.

(g) Invest or reinvest any money or property constituting any part of any trust estate in any investments or securities which my trustees may consider proper, regardless of whether or not they are legal investments for trustees under the laws of the State of Alabama, or any other state, including specifically but without limiting the generality of the foregoing, the stocks, common or preferred, or bonds of private corporations organized and existing under the laws of the State of Alabama or of any other state or doing business in the State of Alabama or in any other state or in any real or personal property located within or without the State of Alabama, and regardless of whether or not it is at the time producing any income.

(h) Determine whether any money or other property at any time in his possession as trustee shall be treated or considered as an addition to the principal or corpus of any trust estate or as income; to determine what part constitutes gross income of any trust estate and what part constitutes net income of any trust estate; to charge or apportion any item of expense or loss to the principal or income as may appear just and equitable; the trustees determination in such matters to be conclusive.

(i) Accumulate the net income to the extent permitted by law and to reinvest the same in order to increase the principal of any trust estate.

(j) Litigate or settle, compromise or arbitrate any claim by or against any trust estate charging any expenses in connection therewith to such trust estate (principal or income, as the trustees may consider equitable and just).

(k) Whenever he is required or permitted to divide or distribute any trust estate granted hereby, to make such division or distribution in kind or in money or in part kind and part money. In making any apportionment or distribution, my trustees are authorized to themselves determine the total value of any trust

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estate and make selection of the items of property to be paid over and distributed to the party or parties entitled thereto with reference to the share of any trust estate to which such party or parties may be entitled and without securing any valuation or determination of valuation or direction as to specific items of property to be paid over and distributed from any court; it being my intention that my trustee shall use his sole judgment and discretion in any such determination without liability to any one on account of the exercise of such judgment and discretion.

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(l) Execute and deliver any and all contracts, conveyances, transfers or other instruments and to do any acts necessary or desirable in the execution of the powers herein vested in my trustees.

(m) Retain, employ, engage or contract with any person or persons or any corporation, trust company or banking institution, organized under the laws of the State of Alabama, or of any other state, or under the laws of the United States, to manage, operate, administer, supervise, and/or to act as custodian of any or all of the property, real or personal, in any trust estate, with full power, authority and discretion to exercise any or all of the powers with respect to such property that the trustee may exercise under and pursuant to the terms of this will and to charge the expenses of such services as a necessary expense for the administration of any trust.

(n) To facilitate investments, the corpus or principal or any part thereof of any trusts provided for in this will may be invested as one fund, provided an accurate record thereof is maintained and a correct accounting thereof is made to each such trust.

The provisions of paragraphs (h) and (k) hereof shall not, however, apply to the Marital Trust provided for in ITEM VI of this will.

IN WITNESS WHEREOF, I, Charles William Lokey, have hereunto set my signature and seal on this, the 14 day of May, 1956, hereby declaring the instrument contained on this and the preceding seven pages to be my last will and testament.

Charles William Lokey (SEAL)
Charles William Lokey

The foregoing was signed, sealed, published and declared by Charles William Lokey to be his last will and testament, in our presence, and we, at his request and in his presence and in the presence of each other, have hereunto set our signatures as attesting witnesses on the day the said instrument bears date.

Sue G. Le Sueur
Charles Morgan Jr.
J. T. Le Sueur

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CERTIFICATE TO THE PROBATE OF WILL

THE STATE OF ALABAMA,
JEFFERSON COUNTY.

I, J. PAUL MEEKS, Judge of the Court of Probate, in and for said State

and County, do hereby certify that the foregoing instrument _____ of writing haS this day, in said Court, and before
me, as the Judge thereof, been duly proven by the proper testimony to be the genuine last Will and Testament _____of Charles William Lokey,

Deceased and that said Will _____

together with the proof thereof have been recorded in my office in Judicial Record, Vol. 57 Page 358-367In witness of all which I have hereto set my hand, and the seal of the said Court, this date July 29, 1965

Form No. 98

J. Paul Meeks Judge of Probate

STATE OF ALA. SHELBY CO.
I CERTIFY THIS
INSTRUMENT WAS FILED
1981 AUG 26 PM 2:08

Rec. 13.50
Ind. 1.00
14.50

F. Thomas A. Snowden, Jr.
JUDGE OF PROBATE

CERTIFIED COPY

I, O. M. Florence, Judge of the Court of Probate for
Jefferson County, Alabama, hereby certify that the
foregoing is a true, correct and full copy of the
instrument _____ herewith set out as appears of record
in said Court. Witness my hand and seal of said Court,
this 17th day of July, 1981.
O. M. Florence
Judge of Probate

