

David Berry Will¹

I, David Berry of Union County State of Indiana being in the decline of life but of sound mind and memory do make and ordain this to be my last will and testament, hereby revoking all former wills by me heretofore made.

1st - I will and direct that all my just debts be paid as speedily as practible.

2nd - I give and bequeath to my son Samuel Berry and to his heirs and assigns forever the tract of land whereon I now live, to wit, one hundred and one acres off the west end of the north west quarter of Section Ten in Township Eleven Range One West, in said county of Union, upon condition that he pay my daughter Elizabeth annually during her natural life the sum of twenty-five dollars. The said Samuel haveing purchased the shares of his brothers Thomas and John in said farm.

3rd - I give and bequeath to my two daughters Hannah Bennett and Eunice Walters each the one half of the personal property I may leave at my death of evry name and nature, to be divided between them at the discretion of my executors herein after to be named.

4th - I constitute and appoint ~~William Tolbert~~ James Waddell and David Maxwell Executors of this my last will and testament

Witness my hand and seal this 17th day of November 1852 David Berry (X - his mark)

Signed, sealed and declared in presence of me

E. Burnside
Wellington Dawson

On the 9th day of April 1856 the said testator had the name of William Tolbert stricken out of his above will and the said Waddell inserted.

Wellington Dawson
G.R. Brown²

Will of David Berry (Jr)³

I, David Berry of the County of Union in the State of Indiana, being of sound and disposing mind and memory, do make and publish this my last Will and testament, hereby revoking any and all former wills by me at any time heretofore made.

Item 1st - I will and direct that after my death that my body be decently burried in a manner corresponding with my estate and station in life, and that all my just debts and

1 Union Co, IN Will Book "A" 1845-1869 p 267

2 This was filed at the spring quarter session, 18 June 1864.

3 Union Co, IN Will Book "B" - Nov 1870 - May 1890

funeral expenses be promptly paid by my executor hereinafter named.

Item 2nd - I will and direct that my wife Elmira Berry have during the term that she may remain my widow all my personal property and the proceeds of all my real estate situated in Union and Howard Counties in the state of Indiana, during the time that she shall remain my widow, Provided that my Executor shall proceed under this will to convert said real estate into cash, and promptly collect all claims due me, and convert such portions of my house hold and kitchen furniture and other personal property that I may have at my death that is not necessary for the comfort of my wife into cash, and out of the proceeds thereof, to give to my wife such sums of money and at such times as he may find necessary , for her comfort and support during such time as she may remain my widow.

Item 3rd - I will and direct that after my decease my brother John Berry have all my wearing apparel.

Item 4th - I will and direct that at the death of my wife should she survive me my Executor shall equally divide all that portion of my estate remaining in his hands between my children or their descendants of such as may be dead at that time. The following being the names of my children, Benjamin Berry, Caroline Coon and Lucinda Gilmire. And I will and direct that my executor shall at al times keep the funds arising from the sale of my real and personal property, at interest, and be accountable to my children and heirs for the accumulated interest.

Item 5th - I hereby constitute and appoint my son, Benjamin N. Berry, sole executor of this my last will and Testament.

In Witness whereof I have hereunto set my hand and seal this 5th day of March 1884.

David Berry (X - his mark)

Signed, sealed and acknowledged by the said David Berry as his last will and testament in out presence and signed by use in his presence as witnesses this 5th day of March 1884.

Samuel M. Hockersmith
R.V. Gilmire

Item 6- ... my wife Elmira Berry have the two pictures, the one of Benjamin Berry, and the other of Caroline Coon, should she survive me, and at her death that they be given to my two grandchildren Ira and Caroline Gilmire.⁴

⁴ This will was entered for probate 27 Dec 1889 (quarter session)

Election to take under the Law

Be it remembered that on the 28th day of May 1890 the following Election was filed in the office of the clerk of the Union Circuit Court, to wit: ... I, Elmira Berry, widow of David Berry late of Union County, Indiana, do hereby declare and make known to whomsoever it may concern: ... interest as widow, in my said deceased husband's estate, under the law to the full extent as if he had died intestate and I reject the provisions of his will so far as the same stand in the way, and in lieu, of my rights and interests under the law [i.e. her dower rights.]

E.C. Coon billed the estate on 20 Mar 1890 for \$25. There was a petition of insolvency filed 12 March 1891; assets \$569.07, liabilities \$712.75

Inventory of personal estate of David Berry son of David Berry - 19 Feb 1890

Description of Property	value of property
1 breakfast table	\$0.50
1 kitchen table	\$0.25
1 corner cupboard	\$0.50
9 wood chairs	\$1.00
1 cabinet chest (taken by widow)	\$0.50
1 single bed & bedding (taken by widow)	\$2.00
1 Rag Carpet	\$0.50
1 wash tub	\$0.25
1 washing machine	\$1.00
1 heating stove	\$0.25
1 shovel & tongs	\$0.25
1 pan	\$0.10
1 jugg	\$0.10
2 smoothing irons (taken by widow)	\$0.15
2 looking glasses	\$0.10
1 tin bucket	\$0.10
1 garden hoe	\$0.10
1 axe	\$0.25
1 iron kettle	\$0.25
1 Windsor rocker (taken by widow)	\$0.50

Ten acres of land situated in Center Township Union County, Indiana, described as follows: Beginning at the center of the North West Quarter of Section ten (10), Township eleven (11) Range one (1) West Running	\$300.00
thence west 40 rods, thence south 40 rods, thence east 40 rods, thence north 40 rods.	-----
	308.65