

WILL OF ADAM WALRATH

Be it remembered that on the 29th day of April 1866 James W. Walrath as Executor named in the last will & testament of Adam Walrath late of the town of St. Johnsville in the County of Montgomery deceased appeared in open court before the County Judge of said County as Surrogate & made application to have the said last will & testament of Adam Walrath proved & on such application said County Judge did ascertain who were the proper parties to be cited & did thereupon give a citation in due form of law directed to the proper parties requiring them to appear in this court on the 29th day of September 1866 and attend the probate of said will and on said 29th day of October 1866 satisfactory evidence by affidavit was produced and presented to said County Judge after due service of said citation & on that day no one appeared to oppose the probate of such will. Such proceedings were had that the County Judge took the proofs of said will hereinafter set forth upon the said 29th day of September 1866 & he adjudged the said will to be a valid will of real & personal estate which said will & proofs are as follows that is to say, Will of Adam J. Walrath

Know all men by these presents that I Adam J. Walrath of the Town of St. Johnsville in the County of Montgomery considering the uncertainty of this mortal life and being of sound mind memory & understanding do make & publish this my last will and testament in manner and form following **First** I desire my mortal remains to be decently buried and all my honest debts paid out my real and personal estate. **Secondly** I devise to my two sons named Andrew and Martin all my real estate in the Town of St. Johnsville in the following manner. To Martin I devise twenty five acres of land to be taken from the North end of the homestead farm so as to take in the lot he at present lives on & also one half of the saw mill & privilege on the same farm and to my son Andrew all the rest and residue of my said lands in said town & the other half of the saw mill and privilege and to their heirs and assigns forever. **Thirdly** I give and bequeath to my son Christian nine hundred dollars out of my real & personal estate to be paid as follows five hundred dollars down and four hundred dollars three years after my decease. **Fourthly** I give & bequeath to my youngest son James W. six hundred dollars to be paid as follows, three hundred dollars down and three hundred dollars in two years after my decease out of my real and personal estate. **5th** I give and bequeath to two daughters named Margaret and Nancy as follows to Margaret fifty dollars & to Nancy one hundred dollars to be paid within three years after my decease out of my real & personal estate. **6th** I hereby devise to my son John A. Walrath all my lands in the Town of Clayton in the County of Jefferson on condition following if the said John A. shall pay or cause to be paid Margaret Hill my daughter or her heirs executors administrators or assigns the amount of money borrowed of her by said John A. with interest then to him & his heirs forever but if not then I order the said Margaret or her heirs executors to sell so much of said land as shall be necessary to satisfy said demand and the residue of said lands I hereby I hereby (sic) devise as aforesaid to said John & his heirs forever. **7th** I hereby give & bequeath unto my two sons named Daniel and Charles as follows to Daniel twenty five dollars & to Charles five dollars to be paid four years after my decease out of my real & personal estate. **8^{thly}** I give and bequeath to my grandchildren Matilda Walrath and

Andrew Van Driezen as follows to Matilda one hundred dollars and to Adam twenty five dollars to be paid within two years after my decease out of my real and personal estate. **9thly** I hereby direct that my two sons named Andrew & Martin pay all my debts & legacies by this will & testament made in the same ratio as they receive my land by this will. **10thly** I give & bequeath to my son Andrew all my personal property of every name & kind whatsoever together with all the rest. I appoint my trusty friend James Wilson & my son Martin Walrath both of St. Johnsville executors of this my last will & testament hereby revoking all other wills by me heretofore made in witness whereof I have hereunto set my hand & seal the 12th day of June in the year 1849. ADAM J. WALRATH

Signed sealed published and declared by the above named testator to be his last will & testament in the presence of us who have hereunto subscribed our names as witness in the presence of the testator

JACOB C. FLANDERS St. Johnsville

JOHN H. FLANDERS

State of New York, Montgomery County Surrogates Court.

In the matter of proving the will of Adam J. Walrath deceased Montgomery County Jacob C. Flanders & John Flanders both of the Town of St. Johnsville in the County of Montgomery being duly sworn & examined in open court before George Yost County Judge of said County as Surrogate do depose and say and each for himself deposes and sayeth that he was acquainted with Adam J. Walrath in his lifetime & was present & saw the said Adam Walrath subscribe his name at the end of the instrument in writing now produced and shown bearing date the 12th day of June 1849 that the said Adam J. Walrath at the time he so subscribed it declared the said instrument to be his last will and testament & requested these deponents to subscribe thereto as witnesses to the execution thereof. Thereupon these deponents subscribed their names at the end of said instrument in the presence of the said Adam J. Walrath & of each other. That the said Adam J. Walrath at the time he so executed the said instrument was citizen of the United States an inhabitant of the County of Montgomery of full age & disposing mind & memory and in all respects competent to devise & not under any restraint or in any respects incompetent to devise real estate. Jacob C. Flanders taken subscribed & sworn to this 29th day of September 1866. James Wilson being duly sworn in open court deposes and says I reside in the Town of St. Johnsville am age 57 years I knew Adam J. Walrath in his lifetime. I drew the instrument in writing now produced bearing date June 12th 1849 purporting to be the last will and testament of said Adam J. Walrath at the request of said Adam J. Walrath I was present when the said instrument was executed by the said Adam J. Walrath & that Jacob C. Flanders and John H. Flanders the witnesses thereto was present at the time he signed the instrument he Adam J. Walrath said it was his last will & testament & asked the said Jacob C. Flanders & John H. Flanders to witness the will. He put his finger upon the seal & said it was his last will & testament the witnesses then signed their names to the will. Adam J. Walrath then requested me to keep the will. The witnesses to the will were standing by the table when the said Adam J. Walrath signed it & were looking and I stated to them it was necessary that they should see him write his name. They subscribed as

witnesses in his presence & in the presence of each other. The attesting clause below the signature of the testator was read over to the witnesses by me at that time. Adam J. Walrath is now dead **I think he died in the year 1854**. He was an inhabitant of the County of Montgomery. He was a citizen of the United States of full age of sound mind & not under restraint at the time he executed the will or any way incompetent to devise real estate. That said will remained in my custody from the time of its execution until produced before the surrogate for probate and that whilst said instrument remained in my possession it was not altered or changed in any respect after the will was written. It was read over by me to the testator before its execution and understood by him.

Taken subscribed and sworn to before me September 29th 1866 George Yost County Judge.

Note:

** it is difficult to ascertain whether the middle initial is "I" or "J" but appears to be "J". It is curious that the will spelled First, Secondly, Thirdly, Fourthly, but then used numerals thereafter. I also find curious the use of the word "down" when stating the first sum of money to be paid.

There was frequently the absence of periods at the end of sentences. I took the liberty of adding them for clarity.

Jerry L. Walrath 1/5/2001
Grand Blanc, MI