

house, depot, dock, or other place of storage or safekeeping, governmental or private; and to execute and deliver any return, voucher, receipt, shipping ticket, certificate, or other instrument necessary or convenient for such purpose."

c. The incorporation of the following declaration or parts thereof in a power of attorney may be beneficial, although its provisions may not prove effective in some jurisdictions:

"And I hereby declare that any act or thing lawfully done hereunder by my said attorney shall be binding on myself, my heirs, legal and personal representatives, and assigns, whether the same shall have been done before or after my death or other revocations of this instrument, unless and until reliable intelligence or notice thereof shall have been received by my said attorney; and whether or not I, the grantor of this instrument, shall have been reported or listed, either officially or otherwise, as "missing in action" at that time is used in legal practice, it being the intention that such status designation shall not bar my attorney from fully and completely executing and conferring to execute any and all powers and rights herein granted, and that such report of "missing in action" shall neither constitute nor be interpreted as constituting notice of my death nor operate to revoke this instrument."

54. Acknowledgments and recording.—a. For many purposes, and particularly in connection with the clauses set forth in paragraph 45b, it is advisable to have these powers, in addition to a notary public or other official authorized to take acknowledgments, witness the execution by the grantor of the power of attorney. The form of, and authority to take acknowledgments are regulated by the laws of the jurisdiction or jurisdictions involved, and must be determined in each individual case. There should be fully executed (by grantor, witnesses, and notary) a sufficient number of copies to provide for all anticipated needs and, in addition, it is suggested that an executed copy be recorded in a county clerk's or other office of record accessible to the attorney so that certified copies may later be obtained as needed. Such recording is suggested merely for the purpose of establishing a source of supply for additional copies. The requirements of the various pertinent State laws as to recording the instrument, in order to make it legally effective or for certain special purposes, such as the transfer of title to real property, will require special consideration.

b. All of the executed copies of the instrument, except one copy kept by the grantor for reference, should be delivered to the attorney at or prior to the time it is necessary for the attorney to act for the grantor.

55. Form for emergency use.—In case of urgent necessity, when the advice of legal counsel cannot be obtained, the form of general power of attorney described before may be of some assistance, but should not be relied upon too strongly as its legal effectiveness is not guaranteed. It is intended for use only to meet the needs of an emergency and should be used only as a temporary expedient to be replaced by an instrument prepared with the assistance of legal counsel as soon as time and circumstances permit (see par. 45c and d). If used under such circumstances, without the advice of legal counsel, the following instructions should be read carefully before attempting to fill out and execute the instrument:

a. This form of general power of attorney is extremely broad and general in its terms and should not be executed unless you have collected faith and confidence in the integrity and ability of the person you name as your attorney to conduct and manage your affairs. For this reason it is usually preferable that you name some member of your immediate family as your attorney.

b. Read the instrument carefully and be sure you understand what powers you are granting to your attorney before you sign this or any power of attorney.

2. The laws of the several States vary as to the age at which a person becomes capable of executing a valid power of attorney. If you are under 21 years of age, you may or may not be able to execute a valid instrument and you should consult an attorney at the first opportunity.

4. The power granted by an instrument in this form will continue indefinitely until it is revoked. You can revoke it at any time you wish by giving written notice of revocation to your attorney. Copies of notice of revocation, in such numbers as may be necessary, should be executed by you with all the formalities that attended the execution of the power of attorney, and the notice of revocation should be recorded whenever the power of attorney has been recorded.

c. Be sure that all blanks are accurately and completely filled in before you sign the instrument. The signing should be done in the presence of three witnesses and a notary public or other official authorized to take acknowledgments at the place of execution. The form of acknowledgment is believed sufficient for many jurisdictions but should be varied to meet any special requirements. The notary automatically will be of assistance in this regard. Be sure that all copies are fully executed by yourself, the witnesses, and notary, and that he affixes his seal to all copies.

1. For information as to the number of copies, recording, and other disposition, (insert any numbers in 30)

g. Remember, before you exercise any power of attorney, consult legal counsel, if possible, and use the following form only in urgent and emergency circumstances.

PUBLISHED BY

100

KNOW ALL MEN BY THESE PRESENTS, That I, _____
a legal resident of the County of _____, State of _____
United States of America, now in the naval
service as a _____ (Service No. _____) in the service of the
United States, and anticipating that a Power of Attorney may be useful in
certain circumstances, have made, constituted and appointed, and by these
present do make, constitute and appoint _____ whose address is _____

....., my true and lawful attorney to act in, manage, and conduct all my estate and all my affairs, and for that purpose for me and in my name, place, and stead, and for my use and benefit, and in my act and deed, to do and execute, or to cause with persons jointly interested with myself therein in the doing or executing of, all or any of the following acts, deeds, and things, that is to say: (1) To buy, receive, lease, accept, or otherwise acquire; to sell, convey, mortgage, hypothecate, pledge, sub-lease or otherwise encumber or dispose of; or to contract or agree for the acquisition, disposal, or encumbrance, of: any property whatsoever of any custody, possession, interest, or right therein, upon such terms and conditions as my said attorney shall think proper; (2) To take, hold, possess, lease, loan, or let, or otherwise manage any or all of my property or any interest therein; to open, remove, or relieve tenants or other persons from, and recover possession of, such property for all lawful means; and to purchase, protect, preserve, insure, convey, store, transport, regale, rebale, modify, or improve the same or any part thereof; (3) To make, do, and transmit all and every kind of business of what nature or kindsoever, including the receipt, recovery, collection, payment, compromise, settlement, and adjustment of all demands, legacies, bequests, interests, dividends, annuities, demands, claims, taxes, and obligations, which may now or hereafter be due, owing, or payable by me or to me; (4) To make, induce, accept, receive, sign, and execute, acknowledge, and deliver deeds, assignments, agreements, certificates, hypothecations, checks, notes, bonds, vouchers, receipts, and such other instruments in writing of whatever kind and nature as may be necessary, convenient, or proper in the premises; (5) To deposit and withdraw for the purposes aforesaid, in or from my said attorney's name or my name or jointly in both our names, in or from any banking institution, my funds, negotiable paper, or money which may come into my said attorney's hands as such attorney or which

I now or hereafter may have on deposit or be entitled to: (1) To institute, prosecute, defend, compromise, arbitrate, and dispose of legal, equitable, or administrative hearings, actions, suits, attachments, arrests, distresses or other proceedings, or otherwise engage in litigation in connection with the premises; (2) To act as my attorney or proxy in respect to my stocks, shares, bonds, or other investments, rights, or interests, I may now or hereafter hold; (3) To engage and disengage agents, counsel, and attorneys, and to appoint and remove at pleasure any substitute for, or agent of my said attorney, in respect to all or any of the matters or things herein mentioned and upon such terms as my attorney shall think fit; (4) To receive monies in my behalf due me and all allowances and reimbursements properly payable to me by the United States, including but not restricted to allowances and reimbursement for transportation of dependents or for shipment of household effects as authorized by law or Navy regulations, and to receive, indorse, and collect the proceeds of checks payable to the order of the Undersigned drawn on the Treasurer of the United States; (5) To prepare, execute, and file income and other tax returns, and other governmental reports, applications, requests and documents; (6) To take possession, and enter the removal and shipment, of any of my property from any post, warehouse, depot, dock, or other place of storage or safe keeping, governmental or private; and to execute and deliver any release, receipt, receipt, shipping ticket, certificate, or other instrument necessary or convenient for such purpose.

GIVING AND GRANTING unto my said attorney full power and authority to do and perform all and every act, deed, matter, and thing whatsoever in and about my estate, property, and affairs as fully and effectually as all events and purposes as I might or could do in my own proper person if personally present, the above specially enumerated powers being in aid and accomplishment of the full, complete, and general power herein granted and not in limitation or deduction thereof; and hereby ratifying all that my said attorney shall lawfully do or cause to be done by virtue of these presents.

And I hereby declare that any act or thing lawfully done hereunder by my said attorney shall be binding on myself, and my heirs, legal and personal representatives, and assigns whether the same shall have been done before or after my death, or after revocation of this instrument, unless and until reliable intelligence or notice thereof shall have been received by my said attorney; and whether or not I, the grantor of this instrument, shall have been reported or listed, either officially or otherwise, as "missing in action" or that person in such a naval position, it being the intention hereof that such status designation shall not bar my attorney from fully and completely exercising and fulfilling heretofore any and all powers and rights herein granted, and that such report of "missing in action", shall neither constitute or be interpreted as non-sustaining notice of my death nor operate to revoke this instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this _____ day of _____, nineteen hundred and forty _____

(Signature of grantor)

WITNESSES:

_____ Name	_____ Address
_____ Name	_____ Address
_____ Name	_____ Address

Acknowledgment

County of _____ } ss.

(State or country)

I, _____ do hereby certify, that I am a duly commissioned, qualified, and authorized notary public in and for the _____

(County or district, State or territory) and that _____
(Name of grantor)

granted in the foregoing power of Attorney, dated _____

(Date of instrument)

and hereby declared, who is personally well known to me as the person who executed the foregoing Power of Attorney, appeared before me this day within _____

the territorial limits of my authority, and being first duly sworn, executed said instrument after the contents thereof had been read and duly explained to him, and acknowledging that the execution of said instrument by him was his free and voluntary act and deed for the uses and purposes therein set forth.

In witness whereof, I have hereunto set my hand and affixed my official seal this _____ day of _____ 191____.

My commission expires.....

Military Public

Section XI

WILLS

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14. *Definiteness of making will.*—a. Every person in the naval service should give consideration to the making of a will, if he has not already done so. Whether a will is necessary or desirable and the form it should take depend on the desires and circumstances of the individual and the laws of the place of execution and of the probable place of probate. State law governs the execution and probate of wills and the requirements in these respects vary considerably among the several States.

b. When a person dies without having made a will he is said to have died "intestate." In such event his estate is administered and distributed according to the statute of "Descent and Distribution" of the State of his legal domicile or, in the case of real property, the State or States where such real property is located. The law thus, in effect, creates a will for him which is administered by an "administrator" appointed by the court, and his estate is distributed in the manner of his family in the manner prescribed by the statute. If the manner of distribution as prescribed by law does not meet a person's desires or needs he can, subject to possible statutory limitations such as those in effect to certain States for the protection of the "dower" rights of a wife, direct a distribution of his estate according to his wishes by making a will. This fact, together with the opportunity to name in a will the person or persons whom he wishes to administer his estate as "executor" and also, if he so desires, to provide that such executor shall serve without bond and shall have power to sell and otherwise manage the estate, are probably the most important reasons for his making a will. However, there may be reasons why he may not wish to make a will or which make a will inadvisable in his case. These are matters to be determined by counsel after analysis of the facts in the individual case. If the individual wishes to make a will, or is in doubt whether he should make a will, it is suggested that he seek legal counsel as was suggested above in regard to power of attorney.

15. *Special considerations.*—a. If it is determined that a will is needed or desired, certain matters of particular significance in the case of naval personnel should be given consideration by counsel in the drafting of the instrument. Because of the changing residence, it may be advisable to state, in the will of a member of the armed forces, the place of his legal domicile (that is, his home at the time he entered the military service, or his legal domicile of choice), so that the will may be probated at such place. It also may be advisable to include in his will a statement that he is "now in the active naval service of the United States," together with his grade and service number.

b. The use by individuals of standardized forms of wills should be avoided unless the need is urgent and counsel is not available, in which case the executed document should be regarded as a temporary expedient to be replaced as soon as possible by a custom document prepared with the advice of counsel.

4. The above is especially applicable to wills executed or which may be probated in Louisiana, the laws of that State on this subject differing materially from those of other States.

54. *Form for emergency use.*—The form of will which follows may be adequate, if used as hereinafter indicated. It is intended for use only to meet the needs of an emergency and should be used only as a temporary expedient to be replaced by an instrument prepared with the assistance of legal counsel as soon as time and circumstances permit (see pars. 53 and 55). If used under such circumstances, without the advice of legal counsel, the following instructions should be read carefully before attempting to fill out and execute the instrument:

a. The will must be dated and signed by you in the presence of at least three witnesses assembled together, who will see you sign, and to whom you declare the instrument to be your last will and testament. You should request each witness to sign his name as a witness, and each should so sign in your presence and in the presence of other witnesses. This must be done with the greatest of care.

b. Be sure that all blanks are accurately and completely filled in before you sign the instrument. If time and circumstances permit, it may be advisable to write out the entire will in your own handwriting, following the form. A will which would otherwise be ineffective may be legally effective if written entirely in your own handwriting. Even if so written, however, your signature to the will should be witnessed by at least three witnesses in the manner above indicated. This is particularly true of wills which are executed or which may be probated in the State of Louisiana.

c. The person named as your executor or executrix should be someone in whom you have complete faith and confidence. For this reason it is usually preferable that you name some member of your immediate family. Such person must not be a minor, and must be legally competent to represent your estate.

d. Remember it is your will and you may leave your estate to whomsoever you desire, subject to possible dower rights of your wife, if any (see par. 55b). If you have children and make no provision for them in the will, you should specifically state that this is done intentionally. The following clause may be adequate for this purpose, and may be inserted as paragraph 5 of the form:

"I have intentionally omitted to provide for my children now living or for any that may be born after this will is executed."

e. After your will has been prepared and executed it should be put at once in a safe place such as a safe deposit box, where it can be found in the event of death. Strictly a member of the armed forces should not keep his will with him because of the likelihood that it may be lost or destroyed. It may be sent for safekeeping to the named executor or to some other trusted person. If you have no safe deposit box or other place of safekeeping for your will, and do not desire to send it to a relative or person named in the will as executor or beneficiary, you may mail your will to Bureau of Naval Personnel, Washington, D. C. To do this, place the will in an envelope, and P. and W. on the outside of the envelope the words "Will of _____, Service Number _____"

(Last name)

is to be delivered to _____ in case of my death."
(Name and address of person to whom will is to be delivered in event of your death.)

Place the envelope containing the will in another envelope addressed to Bureau of Naval Personnel, Washington, D. C.

f. Remember, before you execute any will, consult legal counsel, if possible, and use the form in a below only in urgent and emergency circumstances.

g. A suggested form of will to be used only as above indicated and on your own responsibility, is given below:

LAST WILL AND TESTAMENT

I, _____, a legal resident of _____
 (Name of testator) (City, town, or county)
 _____, United States of America, now in the active naval
 (State or district)
 service as a _____, Service No. _____, in the Navy
 (Rank)
 of the United States, do hereby make, publish and declare this instrument as my
 last WILL and TESTAMENT, in manner following, that is to say:

1. I hereby recall, annul, and revoke all wills and codicils by me at any time
 heretofore made;

2. I hereby give, devise, and bequeath to _____
 (Name of person or persons who are to inherit,
 here, residing in _____
 with relationship, if any) (City, town, or county) (State or District)
 _____, all my estate and all of the property of which I may be
 (County)
 seized and possessed, and to which I may be entitled at the time of my death, of
 whatsoever kind and nature, and whosoever it may be situated, be real, personal,
 or mixed, standing and forever;

3. I hereby nominate, constitute, and appoint _____
 (Name of executor with relationship, if any)
 of _____, United States of America, as my executor
 (City, town, or county) (State or District)
 and request that he (she) be permitted to serve without official
 bond or without surety thereon, except as required by law;

4. I hereby authorize and empower my executor (executrix) in his (her)
 absolute discretion to sell, exchange, convey, transfer, assign, mortgage, pledge,
 lease, or release the whole or any part of my real or personal estate.

IN WITNESS WHEREOF, I have hereunto set my hand and seal to this my
 last WILL and TESTAMENT, at _____, this _____
 (Place of execution)
 day of _____, 19____.

[SEAL]

(Signature of Testator)

Signed, sealed, published, and declared by the above-named testator, _____

(Name)

_____ to be his last WILL and TESTAMENT in the presence of

all of us at one time, and at the same time we, as his neighbor and in his presence
 and in the presence of each other, have hereunto subscribed our names as wit-
 nesses, and do hereby attest to the sound and disposing mind of said testator
 and to the performance of the abovesaid acts of execution as

_____ this _____ day of _____, 19____.
 (Place of execution)

_____	_____
(Name)	(Address)
_____	_____
(Name)	(Address)
_____	_____
(Name)	(Address)

SHAW'S 311

ESTATES

	Paragraph
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Life Tenancy.....	32

31. General.—a. *Kind of Property*.—During his lifetime a person acquires
 from various kinds of property which are known collectively as his "estate."
 Such property may be either "real estate," that is, land and any buildings, im-
 provements, or fixtures erected thereon or attached thereto, and "personalty,"
 which includes all kinds of personal property such as clothes, household furni-
 ture, automobiles, money, stocks, bonds, jewelry, and in fact any property that is
 not "real estate."

2. *Kinds of title.*—The title, or right to ownership or possession, which a person has in the separate items of his estate may be of various kinds. He may have complete title, in which case it belongs to him alone. He may own it in "joint tenancy," that is, he and one or more other persons may own the whole property jointly, in which case if he dies, his interest in the property goes immediately to the surviving joint tenant or joint tenants and ceases to be a part of his estate subject to probate as his property. He may own the property with one or more persons in what is known as "tenancy in common," which means that he has an undivided interest in the property which interest belongs only to him. On his death such undivided interest is subject to probate as a part of his estate, and does not go to the surviving "tenant or tenants."

a. *Individual control.*—During his lifetime, an individual may himself use and control his "estate" or he may use and control it through an agent or attorney acting under a proper power of attorney. On the individual's death his "estate" is subject to probate in the courts, and is distributed to his heirs according to the terms of his will or, if he has no will, according to the laws of "Descent and Distribution." The personal effects in the immediate possession of a member of the naval service at the time of his death are disposed of as provided by Arts. 29 and 305, U. S. Nav. Reg. Neither of these articles is a law of descent and distribution, but merely provide for the preservation and safeguarding of such property and for the transfer of custody thereof from the Federal Government to those legally entitled thereunder to such custody pending determination of inheritance rights by a court of competent jurisdiction.

34. *Joint tenancy.*—a. In order to facilitate the use and control of his property, and to provide for its disposition on his death, the individual may, if he wishes, in addition to exercising a power of attorney and a will as above discussed, arrange for the ownership of most of his property in joint tenancy with right of survivorship, provided there are no pertinent statutory limitations involved. By this means he may enable his joint tenant to use and control the property during his lifetime, and in the event of his death to obtain full title as survivor without the property being a part of his estate subject to probate in the courts. Property held in "joint tenancy" cannot be disposed of by his will if his joint tenant survives him.

b. Title in joint tenancy with right of survivorship can be created for various types and kinds of property except as limited by statute. Real estate may be owned in joint tenancy with right of survivorship under proper deed. Personal property such as automobiles, machinery, and livestock, the title to which usually passes by bill of sale, may be held in joint tenancy under an appropriate instrument of conveyance. Joint bank accounts can be opened, and stocks and bonds may be issued to joint owners, with right of survivorship in each case.

c. United States War Savings Bonds will be issued upon request to joint owners with right of survivorship. If a bond has already been issued to a single owner, it is part of his estate subject to probate on his death, but it can be released during his lifetime to joint owners upon proper application to the Treasury Department. Bonds issued to a single owner with designated beneficiary, which can be cashed only by the owner during his lifetime and which on death of the owner, do not become part of his estate but go to his named beneficiary, can likewise be released upon proper application. A bond held by a single owner, whether a beneficiary is designated or not, can be cashed only upon a request for payment signed by him personally. A power of attorney would probably not be acceptable for such purpose.

d. Before creating a joint tenancy with right of survivorship, the individual will usually need legal advice regarding the advantages and disadvantages of