



WILLS

Matter

HOLOGRAPH WILLS

What is all the fuss about lawyers and Wills? Can't I just sit down and write out what I want done with my property? Isn't that good enough? In British Columbia, the answer, usually, is no.

A Will made out in a person's own handwriting and not witnessed is called a "holograph will".

Perhaps the most famous Canadian holograph will is that of Cecil George Harris, who lived near Rosetown, Saskatchewan. On June 8, 1948, Mr. Harris became pinned by his tractor after he accidentally put the tractor in reverse while servicing his equipment. His left leg caught under the left-rear tractor wheel, leaving him in a reclining position. Realizing that he may not survive the ordeal, Mr. Harris used his knife to carve his Will in the left rear fender of the tractor, as follows: 'In case I die in this mess, I leave all to the wife. Cecil Geo. Harris.' Mr. Harris died of his injuries.

Later, the fender was removed from the tractor, and after the Court was satisfied that the writing was indeed that of Mr. Harris, the etched fender was accepted by the Court as a valid holograph (i.e., handwritten) will.

Holograph wills are admitted without exception in Alberta and Saskatchewan. That is not the law in British Columbia.

In our Province, holograph wills are recognized by the Court only in very limited circumstances, for example, for military personnel and mariners. Also, if you live in British Columbia, but you previously lived in Saskatchewan and made a holograph will in Saskatchewan, that holograph will may be valid for your personal or "moveable" property. However, your land or "immoveable" property is governed by the law where the land is located, so if your land is in British Columbia, your Saskatchewan holograph will would not apply to your land.

It is easy to see how things can become complicated. The "do-it-yourself" method of estate planning can be a risky venture. It is important to talk to an experienced Wills lawyer when thinking about making a Will. An experienced lawyer will ensure your Will is made in accordance with the laws of British Columbia.

Contact Fulton & Company's Wills & Estates Team

if you have any questions regarding wills or estate matters.

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