

Where There's a Will:

Using Deceased Estate
Documents to Inform
Family History

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Is it possible to connect to people's lives by examining the affairs of their death? When a person dies, they commonly leave an inheritance for their descendants in the form of real estate or land and buildings, and personal estate such as money, investments, goods, equipment, and personal belongings. The distribution of this estate is often, but not always, governed by a will. A will is a public, legal document intended to manage a person's affairs after their death. It directs the disposal of real and personal estate, nominates the people responsible for handling the affairs, and makes any specific final wishes known. Although it is formulaic and bound by legal protocol, it is also unique to each testator. A will can be a very candid and private document that reveals socioeconomic status, family connections and relationships, and expose the views or personality of the deceased. Like any source, the information gleaned from these documents can vary widely, however investigating who gets what and why and under what conditions or terms can be very revealing and provide rich data for a family historian.¹ To that end, the legacy of my great-great grandmother Hannah Jane Watts and her daughter Catherine Jane Hogg will be examined. Death certificates, wills, and deceased estate files will be used to examine the distribution of wealth within the family, and unpack the meanings behind testamentary dispositions, whereby Hannah and Catherine reveal different aspects of family relationships.

¹ Clifton Bryant & William Snizek, "The last will and testament: A neglected document in sociological research," in *Handbook of Death and Dying, Vol. 2: The Response to Death*, 3 vols., ed. Clifton Bryant (London: Sage Publications, 2003), 926-927, doi: 10.4135/9781412914291.

In order to understand a last will and testament and to examine an estate, it is important to consider the context of the life and times of the deceased. Hannah Jane Lynch was born in Armagh, Northern Ireland, on 23 December 1831.² Second of nine children of farmer Edward Lynch and Catherine Lavery, Hannah worked as an overseer in a flax mill in Lurgan Town.³ She married George Byrns in 1853.⁴ They set sail for Australia as assisted passengers in May 1854, along with Hannah's younger sister Mary.⁵ Hannah seemingly learnt midwifery and nursing skills while sailing to Australia. Family lore is that the doctor asked for an assistant from among the passengers, Hannah volunteered, and they were 'most impressed' with her natural skill and ability.⁶ The story perhaps seems improbable, however Robin Haines affirms that it was established practice to recruit emigrants into various volunteer positions, both in port and on-board, including that of hospital assistant.⁷ This gives the story viability, and Hannah likely acted in this role. Although there were eight births and five deaths during the voyage, including two of the surgeon's own daughters, there is no empirical evidence of Hannah's work.⁸

George, Hannah and Mary arrived in Geelong, Victoria, on 11 August 1854.⁹ They do not appear to have been motivated by the gold rush itself, however assisted immigration and indentured labour was used to address the labour shortfalls created by the gold rushes. Family men with agricultural labour skills, like George, were in high demand.¹⁰ George was disposed to a local farm for six months agricultural labour and £80 wages, or a little over £3 per week.¹¹ This was significantly higher than the average 10/8 per week he could earn in the United Kingdom, and also well above the average Victorian wage of £1-1 per week. The average annual wage for families arriving in Victoria in 1854 was £86-5-10, so £80 in six months was a very lucrative offer indeed.¹²

2 Church baptism record of Hannah Jane Lynch, baptized 15 January 1832, Public Record Office of Northern Ireland, microfiche MIC1D/23, Roman Catholic Church Records, Shankill, Lurgan, Dromore diocese, County Armagh, transcribed by Armagh Ancestry, accessed 24 May, 2009, <http://armagh.rootsireland>; Hannah Jane Watts' personal bible, Dublin, 1847, held by her great grandson Mr Thomas Hogg, Diamond Creek, Vic.

3 Elizabeth Tarleton, grand-daughter, 'Grannie Watts', written notes, undated, original held by Mrs Mary Tolhurst, Melton, Vic.; Mary Tolhurst, great grand-daughter, pers. comm., conversation, 2 August 2015.

4 Church marriage record of Hannah Jane Lynch and George Byrns, married 25 November 1853, Public Record Office of Northern Ireland, microfiche MIC1D/23, Roman Catholic Church Records, Shankill, Lurgan, Dromore diocese, County Armagh, transcribed by Armagh Ancestry, accessed May 24, 2009, <http://armagh.rootsireland>.

5 Passenger list, Index to VPRS 14 Register of Assisted British Immigrants 1839-1871, Public Record Office Victoria, accessed May 20, 2009, <http://www.prov.vic.gov.au>.

6 Tarleton, written notes, undated; Tolhurst, pers. comm., 2 August 2015.

7 Robin Haines, *Doctors at Sea: Emigrant Voyages to Colonial Australia*, (Hampshire: Palgrave, 2005), 118-132.

8 Marine Register Book of Births, Schedule A, Births on board the Ship Bride of the Sea, 1854, Registered by Captain R. Elder, Births Deaths Marriages Victoria, Birth registrations 147-154, pp. 103-104; Marine Register Book of Deaths, Schedule B, Deaths on board the Ship Bride of the Sea, 1854, Registered by Captain R. Elder, Births Deaths Marriages Victoria, Death registrations 358-362, p. 219.

9 "Emigration and Immigration," *Report of the Acting Immigration Agent upon Colonial Emigration and Immigration for the year 1854*, Victorian Parliamentary Paper GPV1855/56, no. A7, Melbourne, Government Printer, 1855, accessed July 2015, pp. 22-23, <http://www.parliament.vic.gov.au/papers/govpub/VPARL1855-56NoA7.pdf>.

10 James Jupp, *The Australian People: An Encyclopedia of the Nation, Its People and Their Origins*, (Oakleigh: Cambridge University Press, 2001), 40-42; Anthony O'Donnell and Richard Mitchell, "Immigrant Labour in Australia: The Regulatory Framework," *Australian Journal of Labour Law* 14, 3 (2001): 3-4.

11 Nominal and disposal list, George and Hannah Byrne, Bride of the Sea, Book 10, p. 305, Public Record Office Victoria, VPRS 3502 Microfiche copy of Register of Assisted Immigrants from United Kingdom 1839 - 1871.

12 Department of Employment and Productivity, *British Labour Statistics: Historical Abstract 1886-1968*, Her Majesty's Stationery Office, 1971, reproduced in "Agricultural labourers' wages 1850-1914," *Wages Through History*, updated February 10, 2011, accessed August 2, 2015 <http://historyofwages.blogspot.com.au/2011/02/agricultural-labourers-wages-1850-1914.html>; "Emigration and Immigration," 28, 43.

Hannah gave birth to her first child, Mary, shortly after arriving in Geelong in 1854.¹³ The family moved to Keilor, where Andrew was born in 1856.¹⁴ They then rented a small farm about 3 miles out of Melton on the Melton-Gisborne Road, and built a 2-room wattle and daub hut, where Edward was born in 1858.¹⁵ George was killed accidentally when a flighty horse threw him against the bluestone wall of the Melton hotel in April 1860.¹⁶ Six months later their son George was born.¹⁷

No documents related to George's death have been found and it is assumed he died intestate, which is without a will or without a valid will.¹⁸ Under law at the time, 4-year-old Andrew was heir-at-law as the eldest son, and entitled to inherit any real estate. Hannah would be entitled to one third of George's personal estate, and the children entitled to equal shares in the remaining two thirds.¹⁹ In any case, there was no real estate to be devised, and it is not known what personal estate would have been left to bequeath or what their financial circumstances were. Presumably Hannah retained what little they had, for the benefit of their very small children.

It can only be imagined how Hannah felt being left with three very small children and another on the way. Family lore is that she continued with dairy farming and midwifery, although it is unclear how much cash or trade-in-kind income she generated by either enterprise. Glenda Strachan established late nineteenth-century rural women might derive income through a mix of waged labour, farming (in particular dairy farming), home enterprises, and subsistence, and this is a likely scenario for Hannah.²⁰ The close proximity of kin was an important element of the survival for widows, and Hannah was fortunate to have Mary and her new husband Danny Ross nearby: no doubt she relied heavily on her sister.²¹ Uncommon for the time, Hannah appears to have purchased

13 Church baptism record of Mary Byrns, baptized 25 September 1854, St Mary of the Angels, Geelong, Australia, Births and Baptisms, 1792-1981, transcribed by Find My Past, accessed September 10, 2015, <http://www.findmypast.com.au>. Mary's exact date of birth is contentious. The family has always accepted 10 October 1854, recorded in Hannah's bible, as true. In researching this paper, the Church baptism record for Mary on 25 September 1854 was found, so her birthday cannot be correct. As Hannah did not give birth on board, Mary must have been born between 12 August and 24 September. No birth registration has been found, despite extensive searching. Although compulsory civil registration began in Victoria on 1 July 1853, the new immigrants may have overlooked it.

14 Birth registration of Andrew Byrne, corrected to Burns, born 24 July 1856, Births Deaths Marriages Victoria, Reg. No. 7115. His birth date is incorrectly recorded in Hannah's bible as 28 July 1856. Examination of the bible suggests the children's birth dates were all written in at the same time, retrospectively.

15 Tarleton, written notes, undated; Tolhurst, pers. comm., 2 August 2015. No birth registration has been found for Edward. There was no Registry Office for birth, death and marriage in Melton before 1861. His 22 October 1858 birth date is recorded in Hannah's bible, although it may not be accurate.

16 Joan Starr, *Melton – Plains of Promise*, (Melton: Melton Shire Council, 1985), 58; Tarleton, written notes, undated. Hannah's bible records George's death as 13 April 1860, while his headstone shows the date of 14 April 1861. Both Tarleton and Tolhurst note George's birth as posthumous, and Hannah's subsequent marriage registration states she was widowed 14 April 1860. It is likely that 1860 is correct. No death registration has been found for George. There was no Registry Office for birth, death and marriage in Melton before 1861.

17 Birth registration of George Byrns, born 22 October 1860, Births Deaths Marriages Victoria, Reg. No. 17751. His birth was registered on 23 July 1861, the second registration in the district. His birth date is correctly recorded in Hannah's bible.

18 John Ferry (edited by Andrew Piper), "Windows on the family: Dividing up the pot," topic notes, *HIST439 Family in History*, School of Humanities, University of New England, NSW, (Trimester 2, 2015): 51.

19 *Ibid.*, p. 47.

20 Glenda Strachan, "The male breadwinner ethic and women's work in nineteenth century Australia," accessed August 3, 2015, <http://www.researchgate.net/publication/266498087>.

21 Glenda Strachan & Lindy Henderson, "Surviving widowhood: Life alone in rural Australia in the second half of the nineteenth century," *Continuity and Change* 23, 3 (2008): 497-498.

land in her own name in the Township of Melton in January 1863.²² Presumably, George must have left some capital, and Hannah managed her potentially dire circumstances very well.

Hannah carried on alone as head of her household until she remarried. William Watts was convicted of stealing and transported to Van Diemens Land for 14 years in 1831.²³ He married a free settler, had five children, and moved to Victoria when she died in August 1863.²⁴ There is no family story on why he did this or how he came to be in Melton, but the prospect of a land grant might have motivated him. It is also unclear when or how they met, but nevertheless William and Hannah were married on 21 November 1863.²⁵ She bore him two children, Catherine in 1864 and James in 1866.²⁶

They took up land in Toolern Vale, where William built a stone and mud house, cleared the land, and farmed. Hannah was certainly providing midwifery services in the 'reciprocal neighbour' model common at the time, where women would tend to one another in childbirth.²⁷ For example, Catherine's birth registration names a Mrs Pratt as witness, or attendant, at the birth. The next entry in the register details the birth of Mrs Pratt's daughter Margaret, naming Hannah as witness.²⁸

In December 1871, William acquired a lease under sections 19 and 20 of the *Land Act 1869*. A three-year licence to occupy Crown land was granted under section 19, while section 20 required selectors to meet conditions regarding improvements during the lease period. If conditions were met, an application could be made for a seven-year lease or Crown grant to purchase the land.²⁹ During the lease William built 'Rosebank', a four room weatherboard home, cleared thirty-five acres of land, built a stockyard, a dam, and a garden with paling fence, and erected 175 chain of

22 Township of Melton Plan, Allotments 7 and 9, Section 11, grantee H.J. Byrns, 21.01.1863, Township of Melton, Parish of Djerriwarrh, County of Bourke, November 1967, Department of Lands and Survey, Public Record Office Victoria, VPRS16171/P0001, Parish and Township Plans (L-Me).

23 Conviction of William Watts, 14 July 1830, Essex Archives Office, Q/SMC4, Essex Entry of Calendars 1827-1831, Essex Quarter Sessions, Essex Assizes, Midsummer session 1830, 300, accessed February 24, 2011, <http://seax.essexcc.gov.uk>; 1249 William Watts (Argyle), Conduct Record, Conduct Registers of Male Convicts Arriving in the period of the Assignment System 1803-1843, LINC Tasmania, CON31/1/46, Image 113.

24 1249 William Watts (Argyle) and Caroline Johnston (free), Convict applications for permission to marry, LINC Tasmania, CON52/1/1, p. 223; Marriage certificate of William Watts and Caroline Johnston, married 16 July 1838, LINC Tasmania, RGD36/1/3, no. 4367. The children left in Tasmania were William Kent Watts age twenty-six; Susannah (Susan) Watts age fifteen; and Mary Ann Watts age fourteen, and two children deceased.

25 Marriage certificate of William Watts and Jane Lynch, married 21 November 1863, Births Deaths Marriages Victoria, Reg. no. 3597.

26 Birth registration of Catherine Jane Watts, born 23 August 1864; Birth registration of James William Watts, born 28 July 1866, Births Deaths Marriages Victoria, Reg. No. 16583.

27 Glenda Strachan, "Present at the birth: Midwives, 'handywomen' and neighbours in rural New South Wales, 1850-1900," *Labour History* 81 (2001): 14-17.

28 Tarleton, written notes, undated; Tolhurst, pers. comm., 2 August 2015; Birth registration of Catherine Jane Watts, born 23 August 1864, Births Deaths Marriages Victoria, Reg. No. 23722; Birth registration of Margaret Pratt, born 25 September 1864, Births Deaths Marriages Victoria, Reg. No. 23723.

29 "Schedules of Approved Applications, Section 20, Land Act 1869, PROV VPRS 858," *Research Data Australia*, accessed August 2015, <https://researchdata.ands.org.au>.

fence.³⁰ The Crown grant application was incomplete when William died from ‘disease of brain’ in August 1874, after a five-week illness.³¹

William’s estate becomes significant in Hannah’s estate, so will be briefly described. He died intestate, and Hannah sought to obtain administration, or control, of his estate.³² Intestacy laws changed in 1863, and Hannah was entitled to one third of William’s total estate, real and personal, with his five living children entitled to equal shares of the remaining two thirds.³³ An inventory detailing William’s assets and liabilities was produced for the deceased estate file. This form was used to determine the stamp duty or tax payable on the estate, although now it can also provide diverse socio-economic data for the family historian such as the details of any land holdings and their value, debtors and creditors, livestock, equipment, and personal goods. For William, the inventory lists no real estate but personal estate in the form of:

...a selection of 87a.3r.20p in the Parish of Yangardook upon which 12/- per acre has been paid... a selection of 31a.2r.0p in the same parish upon which 14/- per acre has been paid... improvements on the second selection... 15 cows, 14 yearling cattle, household furniture, a horse and a dray...

Letters of Administration were granted to Hannah six weeks after William’s death.³⁴ Hannah now had legal authority over William’s estate. The total estate was valued at £177 and seventeen shillings duty was paid.³⁵ Although a ‘true and just account of her administration’ was ordered, there is no such acquittal on file.³⁶ Hannah completed the selection process, and secured a Crown Grant of £88.³⁷ She also finalised William’s third incomplete selection, and subsequently obtained three more Crown Grants in her own name.³⁸ She also purchased a third allotment in Melton Township, adjoining her existing titles there.³⁹ Although this totalled a reasonably substantial holding of 302 acres, the land quality was poor and unfit for cultivation. It did contain an eternal spring, however, which was critical in such a dry area. Hannah’s ability and willingness to control the family affairs when left alone is again evident. She skilfully administered William’s estate, and then built relative wealth on its foundation. It was a remarkable achievement for a twice widowed, illiterate, immigrant woman.

30 Application for Crown Grant by Licensee, 24 March 1875, file 21653/19.20, Selection Files, Sections 19 and 20, Land Act 1869, Public Record Office Victoria, VPRS625/P0, unit 317. Chain is an imperial unit of measurement. One chain is equal to 66 feet, or 20.11 metres. William built approximately 3520 metres of log and post and rail fencing.

31 Death registration of William Rose Watts, died 6 August 1874, Births Deaths Marriages Victoria, Reg. No. 8657.

32 Affidavit of Administrator, 21 August 1874, file 12/221, William Watts, Supreme Court of the Colony of Victoria, Probate Jurisdiction, Public Record Office Victoria, Probate and Administration Records, VPRS28/P0, unit 140.

33 Ferry, “Windows on the family,” p. 47. William was survived by William Kent Watts, thirty-five; Susannah (Susan) Watts, twenty-six; and Mary Ann Watts, twenty-four; Catherine Jane Watts, ten; and James William Watts, eight.

34 Letters of Administration, file 12/221, William Watts.

35 Inventory Statement and Affidavit, 21 August 1874, file 12/221, William Watts, Supreme Court of the Colony of Victoria, Probate Jurisdiction, Public Record Office Victoria, Probate and Administration Records, VPRS28/P2, unit 28.

36 Letters of Administration, file 12/221, William Watts.

37 Grant, file 21653/19.20, Selection Files, Sections 19 and 20, Land Act 1869, Public Record Office Victoria, VPRS625/P0, unit 317. Allotment 79F and 79G, Parish of Yangardook, County of Bourke.

38 File 7417/19.20, Selection Files, Sections 19 and 20, Land Act 1869, Public Record Office Victoria, VPRS626/P0, unit 1663. Allotment 79E, Parish of Yangardook, 1878; Allotment 39, Parish of Coimadai, 1879; 21K Parish of Coimadai, 1885; 79K in Parish of Yangardook, 1887; all County of Bourke.

39 Inventory, 22 November 1921, file 181/3, Hannah Jane Watts, Supreme Court of Victoria, Probate Jurisdiction, Public Record Office Victoria, Probate and Administration Records, VPRS28/P3, unit 1195.

Hannah continued dairy farming at *Rosebank*, however as she gained experience and reputation as a midwife her potential to generate income would have increased. While the exact chronology of the evolution of her practice is not clear, she progressed from woman neighbour to skilled handywoman to a recognised midwife with a volume of work sufficient to generate a viable income.⁴⁰ Hannah's son James assumed management of the farm when he came of age in 1887, and Hannah established her practice as a midwife. Her practice records document 442 births between 1886 and 1921.⁴¹ She moved into Melton around 1894 and built *Lynch Cottage*, which became Melton's first registered private hospital.⁴² She registered as a midwife in 1917, and is in book 1 of the *Midwives Register in Victoria*.⁴³ Granddaughter Elizabeth (Lizzie) lived and worked with Grannie at *Lynch Cottage* from age 11 until she married at 27, performing domestic tasks and later taking on nursing roles.⁴⁴

Hannah had a stroke in June 1921, and died at home of endocarditis on 21 October 1921.⁴⁵ She was buried in Melton Cemetery with husbands George and William, and her sister Mary.⁴⁶ Her obituary shows the esteem in which she was held in her local community:

On Friday, 21st inst., there passed away one of Melton's most interesting and honoured residents, in the person of Mrs. Hannah Watts, familiarly and affectionately called "Grannie Watts"... in the absence of medical aid, residents looked to "Grannie" as their doctor, philosopher and friend. Hundreds, in fact one might say thousands of people held the deceased in veneration. In the hour of trouble, sickness or death, the striking personality of "Grannie" was always to be found, bringing comfort and consolation to the afflicted. A woman of great energy and determination, combined with superior intelligence, "Grannie" conquered difficulties that would make many falter... 51 buggies and a number of equestrians following the remains to their last resting place was testimony of the respect in which the deceased was held... Deep sorrow is felt throughout the district at the passing of Melton's Grand Old Lady, and her death leaves a void it will be hard to fill...⁴⁷

James was the informant for Hannah's death. Her death registration specifies her occupation as nurse. This is uncommon, as most women's death certificates at this time did not identify any occupation or profession, and reflects the significance of her professional identity and practice in her local community.⁴⁸ Her death registration documents both of her marriages and identifies her six adult children and the most likely potential beneficiaries of her estate: Mary Tarleton

40 Strachan, "Present at the birth," 14-17; Strachan, "The male breadwinner."

41 Hannah Jane Watts practice records and diary, original held by Mrs Mary Tolhurst (nee Tarleton), Melton, Vic.

42 The family often cites 1911 as the date for hospital registration, however Melton Council minutes indicate a later date. "Melton Shire Council, Friday Nov 27," *Bacchus Marsh Express*, December 5, 1914, 2.

43 Copy of entry 1087 Hannah Jane Watts, *Midwives Register - Book No. 1*, Nurses Board of Victoria, June Hodge Registration Manager to author, June 2009, original in author's possession; "Register of Midwives," *Victoria Government Gazette*, No. 25, 15 February 1918, 823.

44 Tarleton, written notes, undated; Tolhurst, pers. comm., 2 August 2015.

45 Death registration of Hannah Jane Watts, died 21 October 1921, Births Deaths Marriages Victoria, Reg. No. 15151. Endocarditis is inflammation of the inner membrane and valves of the heart.

46 George Burns died 14 April 1861, Mary Ross died 17 January 1881, Hannah Jane Watts died 21 October 1921 along with William Rose Watts died 6 August 1874, and James Watts died 5 June 1935, grave maker epitaphs, Melton Cemetery, Vic., Roman Catholic Section, Arawala Parade entrance, recorded by author, February 2007.

47 Obituary Hannah Jane Watts, *Melton Express*, October 29, 1921, 21.

48 Death registration of Hannah Jane Watts, died 21 October 1921; Strachan & Henderson, "Surviving widowhood," 498.

(nee Byrns), Andrew Burns, Edward Burns, George Burns, Catherine Hogg (nee Watts) and James Watts.⁴⁹ The three Burns boys had all moved to New South Wales, while Mary, Catherine and James had stayed local. They had all married, and produced twenty-nine grandchildren, five of whom predeceased their grandmother.⁵⁰

Hannah drafted a will in 1919.⁵¹ She defies the conventions expected of females in leaving a will at all, and also in that her estate is far more substantial than either of her husbands had been.⁵² This situation may be the result of spending the vast majority of her life as a widow: she was married only sixteen years in total, but widowed for over fifty. Both her husbands died intestate leaving her with minor children, so in effect she inherited their entire estates. She was not subject to the law of coverture that stripped women of their legal identity and right to independently own property, not left dependent on inheriting sons, and not cut off entirely, as other widows might have been.⁵³ Being neither a single woman nor a married woman, she was in a position to assert her agency. She was able to purchase land, generate relative wealth, enjoy a successful independent career and control her own affairs. Her story shows her increasing affluence and social stability in her progress from immigrant bride, to wife and mother, to widowed farmer, to respected midwife; from tent, to wattle and daub, to stone and mud, to land and a home.

According to the requirements described by John Ferry, Hannah made a valid will. She revoked all former wills, and named her son George Burns and granddaughter Elizabeth (Lizzie) Hogg as executors and trustees, or the people responsible for executing her wishes. She did not sign the will but rather made her mark, which was dated and appropriately witnessed.⁵⁴ This confirms she remained illiterate throughout her life.

Probate was granted on 4 March 1922.⁵⁵ Probate is the process where it is proven in the Supreme Court that a will is valid and genuinely the last will and testament of the deceased. Once probate is granted the will can be executed.⁵⁶ The executors presented a thorough inventory for the deceased estate file, detailing Hannah's assets and liabilities, land holdings, personal and business debtors and creditors, bank accounts and investments. It also details wonderful minutiae for the family historian such as the name of the housekeeper, cost of the headstone, where she shopped, and even 'how much Grannie owed the butcher'. Hannah's estate was valued at £2012-2-3 and £28-8-3

49 At the time of Hannah's death, Mary was deceased, Andrew age sixty-five; Edward age sixty-three; George age sixty-one; Catherine age fifty-seven; and James age fifty-five. At some point, the Byrns boys began to use Burns, and their choice will be respected and used accordingly. Their descendant family branches are Burns.

50 At the time of Hannah's death Mary had one son, thirty-five; Andrew had six children aged thirty-three to nineteen, and four children deceased; Edward had one living daughter, thirty-seven, and one deceased; George had four children, twenty-two to twelve, and three aged five to one; Catherine had six children, twenty-eight to sixteen; and James had three children, twenty-six to twenty-two.

51 Will of Hannah Jane Watts, died 21 October 1921, Dugdale & Creber Solicitors, Melbourne, Public Record Office Victoria, VPRS7591/P2, unit 650.

52 Ferry, "Windows on the family," 43.

53 John Ferry, "The will and the way: Inheritance practices and social structure," *Journal of Australian Colonial History* 1, 2, (1999): 131-133; Claudia Zaher, "When a woman's marital status determined her legal status: A research guide on the common law doctrine of coverture," *Law Library Journal* 94, 3 (2002): 459-461.

54 Ferry, "Windows on the family," 42.

55 Probate, file 181/3, Hannah Jane Watts.

56 Ferry, "Windows on the family," 51; Robert Miller Jr, Jeffrey Rosenfeld and Stephen McNamee, "The disposition of property: Transfers between the dead and the living," in *Handbook of Death and Dying, Vol. 2: The Response to Death*, 3 vols, ed. Clifton D. Bryant (London: Sage Publications, 2003), doi: 10.4135/9781412914291, 918.

duty was paid.⁵⁷ As a comparison, John Ferry states that around this time an estate of £1000 was considered 'a modest but comfortable fortune'.⁵⁸ Around one-third of her wealth was in real estate, and two-thirds in a diversity of holdings typical of female estates at the time such as cash, shares, bonds, rent, livestock and personal goods.⁵⁹

Hannah's will is most interesting in the way that her it reflects her relationships. Her testamentary dispositions - who she chose to inherit her estate and what she left them - reveal Hannah's preferences, family structure and kinship ties.⁶⁰ Her five surviving children are beneficiaries, along with her niece Mary Ellen and grandchildren Lizzie and John (Jack) Burns. The inclusion of this next generation is somewhat uncommon, but reflective of the significance of the relationships.⁶¹

Hannah made two specific bequests in her will. First, she wills one each of her three shares in the National Bank to Lizzie, George, and Catherine, valued at £13-6-0 each. Second, her will is to give and bequeath her personal estate to Lizzie, in the form of 'my furniture and household effects and personal effects and my cattle and poultry', valued at £61.

All the rest, residue and remainder of her property was given, devised and bequeathed upon trust to her Trustees, with the following specific instructions. Firstly, two £10 Commonwealth of Australia Seventh War Loan Bonds plus the accruing interest were to be held on trust for Jack, aged twelve, until he was twenty-five years old. This portion of the estate was retained. Covering contingencies, as trusts must do, Hannah declared that in the event of his death it should be paid to his sister Adeline Burns.

Secondly, three legacies were to be paid out of the residue. Mary's daughter, Mary Ellen Oppy, received £10. Lizzie received £20, bringing her total inheritance to £94-6-0. Hannah made a £5 legacy to the Catholic Church at Melton for masses for the repose of her soul. This is an expression of Hannah's Catholic faith, where praying for the dead is related to eternal salvation.⁶² It is a 'pious provision', which is intended to affirm religious beliefs and bequeath the soul.⁶³ There are no memorial or burial provisions, although it is reasonable to assume they had been clearly communicated by Hannah in her lifetime as she had created a family plot for her husbands and sister.

Thirdly, all the real estate in Hannah's estate came under trust control. Hannah had kept control of her property and made no *inter vivos* gifts: that is property transfers of inheritance between the living, as opposed to those made between the dead and the living by will.⁶⁴ *Lynch Cottage* and the land in Melton, valued at £200, were devised to Jack. They were to be held in trust for him, but were Lizzie's to use, occupy, or rent during her lifetime. This is an impartible inheritance, which is one

57 Probate, file 181/3, Hannah Jane Watts.

58 Ferry, "The will and the way," 128.

59 Inventory, file 181/3, Hannah Jane Watts; *Ibid.*, 129.

60 Bryant & Snizek, "The last will and testament," 927, 930-931.

61 Ferry, "The will and the way," 131.

62 *Compendium of the Catechism of the Catholic Church*, Part 3, Section 1, Chapter 3, Article 422.

63 Karen Sneddon, "Memento mori: Death and wills," *Wyoming Law Review* 14, 1 (2014): 229-230, 241-242; Stephen Gross, "Handing down the farm: Values, strategies, and outcomes in inheritance practice among rural German Americans," *Journal of Family History* 21, 2 (1996).

64 "Inter vivos," *Black's Law Dictionary*, 2nd ed, accessed September 7, 2015, thelawdictionary.org,

that keeps the real estate intact and not divided.⁶⁵ It is unusual in that it allowed Lizzie free use and benefit for an undetermined time before it passed to its ultimate beneficiary Jack.

For *Rosebank*, Hannah devised a partible inheritance, which is one where the real estate is divided amongst a number of devisees.⁶⁶ She instructs the farm, valued at £452-12-6, is to be ‘converted into money’ and the proceeds shared equally among her five children. While this seems fair, it may not have been. From 1898, Catherine and husband George Hogg rented *Rosebank* from Hannah and raised their family there. Hannah’s will now meant it had to be sold, and Catherine may or may not have anticipated this situation. This is a common outcome for partible estates, where the asset may be sold in order to be divided, and an attempt to be fair to all may disadvantage one in particular.⁶⁷

To further complicate the issue, Hannah did not fully administer William’s estate, and so some of the land was not really hers to devise. James sought administration of his father’s unadministered estate. The inventory lists real estate in the form of the three blocks of land selected by William valued at £178-13-5, and no personal estate.⁶⁸ There is a handwritten note in the file that reads ‘? land worth £177 in 1874 now worth £178?’ so it seems the valuation was questioned, however the original 1874 inventory shows the land and improvements valued at £82-10-0, with the total estate valued at £177.⁶⁹ The land valuation was accepted and James was granted Letters of Administration *de bonis non administratis*, which means ‘administrator of goods not administered’. These special Letters of Administration are granted when an administrator dies without completing their tasks, and another is appointed in their place.⁷⁰

The farm consisted of the three allotments selected by William but settled by Hannah as Administrator, and three selected by Hannah in her own right.⁷¹ Catherine and George bought William’s land. Hannah’s estate was paid £46-14-4 as her one-third share of the proceeds, and the remaining two-thirds were divided evenly between William’s five children at £18-13-9 each.⁷² They also purchased Hannah’s land, and the proceeds were distributed evenly between Hannah’s five children at £170-0-0 each.⁷³ The seeds of disharmony are revealed here, as family folklore says the Tasmanian Watts apparently felt cheated by this settlement. They believed the property to be quite valuable and they should have inherited more money.⁷⁴ It is clear however that William’s estate was distributed as required by law. They had no claim on land selected by Hannah after William’s death. They may have had a legitimate grievance if they were denied personal mementos of their father, and it is unclear how or if Hannah distributed William’s personal belongings.

65 Ferry, “Windows on the family,” 50.

66 *Ibid.*, 51.

67 *Ibid.*, 48.

68 Affidavit of Administrator and Inventory, 7 April 1922, file 182/777, William Watts, Supreme Court of Victoria, Probate Jurisdiction, Public Record Office Victoria, Probate and Administration Records, VPRS28/P3, unit 1223.

69 Præcipe (inside cover), file 182/777, William Watts; Inventory Statement and Affidavit, file 12/221, William Watts.

70 “Administrator de bonis non administrates,” *Black’s Law Dictionary*, 2nd ed, accessed Sept 7, 2015, thelawdictionary.org.

71 William’s selections were allotments 79E, 79F and 79G in the Parish of Yangardook; Hannah’s selections were allotments 39 and 21K in the Parish of Coimadai, and 79K in Yangardook, all in the County of Bourke.

72 Final Account, file 181/3, Hannah Jane Watts; John Watts, great-great-grandson of William, ‘Watts Family history’, William and Hannah Watts estate, 7. William’s five children were William Kent, Susannah, Mary Ann (all in Tasmania), and Catherine and James Watts.

73 Final Account, file 181/3, Hannah Jane Watts. Hannah’s five living children were Andrew, Edward, and George Burns, and Catherine and James Watts.

74 Watts, “Family history,” 7-8.

Hannah's fourth instruction was to convert into money all the residue property, real and personal, and after paying all costs to divide any balance remaining between her five children. Each of them received £79-11-4, bringing the total inheritance for Andrew, Edward and James to £249-11-4 each, while George and Catherine also had their bank share, making their total £262-17-4 each.⁷⁵

Hannah's fifth and final instruction was that should James predecease her, his portion of the residual would be returned to the estate and shared evenly among his siblings, however should any other beneficiary predecease her then their share would pass to their issue.⁷⁶

What does this all mean to the family historian? Karen Sneddon claims that the will is an intensely personal document, and that a critical element in the process of will making is contemplative reflection of the past, present, and future.⁷⁷ Personally and professionally intimate with death, it is clear that Hannah underwent this reflective process. The specific bequests and trusts reflect the relationships Hannah had with the beneficiaries, and tell us these relationships were central to her life and important to her.

Examining Hannah's estate reveals a rich network of significant relationships. She strove to be fair to all, which does not mean everyone gets exactly equal shares.⁷⁸ It is easy to imagine a rationale for the distribution of the three bank shares: Lizzie was obviously very close to her grandmother; Catherine and her daughters were caring for Hannah and also for James, who was unwell; and George was the only one who still had young children.⁷⁹ Although there is no evidence to explain Hannah's choices and this is supposition, 'a little something extra from Mum' seems reasonable in all these cases.

Leaving all her personal goods and possessions to Lizzie has value beyond money; it has sentimental and symbolic value and provides clear evidence of the significance of the relationship to Hannah. She left to Lizzie all the material substance of her memory and personal connection to the world.⁸⁰ What remain of these items, such as Hannah's bible and rosary beads, have become treasured family relics. Hannah and Lizzie shared a home and worked side by side, and she ensured Lizzie continued to enjoy and benefit from their home.

George sent three-year-old Jack and five-year-old Adeline (Lena) to be raised by their Grannie in that same home after their mother left. There may be gender bias shown in leaving *Lynch Cottage* and the War Bonds to Jack rather than Lena, although Hannah shows no sign of this elsewhere. Perhaps Jack had a closer relationship with his Grannie. Although Hannah does not seem overly sentimental, it is not hard to imagine she might have a 'soft spot' for the motherless son of her own fatherless son. It may have simply been her whim. Absolute testator freedom had ended in Victoria in 1906 with the passing of family provision legislation, and Hannah may have felt her 'moral duty' to provide was best met with this distribution of her estate.⁸¹

75 Final Account, file 181/3, Hannah Jane Watts.

76 Will of Hannah Jane Watts, died 21 October 1921.

77 Sneddon, "Memento mori," 212-214.

78 Gross, "Handing down the farm."

79 When Lizzie married in July 1921, her sister Ethel moved into Lynch Cottage to care for her grandmother until she died in October. George's children from his third marriage were aged five, two and one year old.

80 Miller *et al.*, "The disposition of property," 923.

81 Samantha Renwick, "Responsibility to provide: Family provision claims in Victoria," *Deakin Law Review* 18, 1 (2013): 159-161.

The issue with James' descendants is something of a mystery. James suffered chronic illness. His marriage failed, and he returned to *Rosebank* to live with Catherine and George. His wife and three children remained in Melton, and they do not appear to have divorced. It is tempting to assume the very Catholic Hannah supported James but cut off the family, and enacted a vindictive disinheritance.⁸² This seems out of character however, especially considering her son George left his first wife, had four children in a second *de facto* relationship, had another three children in a bigamous civil marriage, and then applied for (but did not get) a divorce from his first wife - outrageous behaviour for a Catholic! - and yet she did not cut off his descendants. In fact, Jack was a major beneficiary. Family stories are somewhat vague around James, so it is more likely an avenue for further research has been identified.

Hannah's will shows how far she had come from a tenant farmer's daughter to landowner, and is rich with clues about who she loved and what was important to her. Hannah's daughter Catherine, however, reveals a different facet of family life in her estate documents, and reveals a different personality.

Catherine was ten when her father died, and she worked on the farm with her mother and brother. She married 'the farmer next door' George Hogg in 1892, and they rented *Rosebank* from Hannah from around 1898.⁸³ They added another three allotments to William and Hannah's selections, accumulating some 412 acres.⁸⁴ Bridget Crawford and Anthony Infanti observe that very little is known about how inheritance is used; however timing implies they used Catherine's inheritance to make at least one of these land purchases.⁸⁵

George and Catherine extended *Rosebank* to accommodate their growing family. They had six children, with Hannah as midwife for all: Elizabeth (Lizzie), William (Bill), John (Jack), Ethel, Elsie, and Thomas (Tom).⁸⁶ Dairy farming was no longer generating sufficient income to raise a family, so George worked for Melton Council to supplement their farming income. Bill served in the First Australian Imperial Force and then Victoria Police, and Tom also joined Victoria Police.⁸⁷ Jack was accidentally killed in 1923, but the five remaining children all married, and produced fourteen grandchildren.⁸⁸ George died suddenly out in the paddocks in 1934, on his 75th birthday.⁸⁹ Catherine

82 Miller *et al.*, "The disposition of property," 920

83 Marriage certificate of George William Hogg and Catherine Jane Watts, married 23 November 1892, Births Deaths Marriages Victoria, Reg. no. 6491.

84 Affidavit of Executor and Inventory, 5 June 1947, file 390/380, Catherine Jane Hogg, Supreme Court of Victoria, Probate Jurisdiction, Public Record Office Victoria, Probate and Administration Records, VPRS28/P3, unit 4527. Allotments 95A, 79B, and 79D, Parish of Yangardook.

85 Bridget Crawford & Anthony Infanti, "A critical research agenda for wills, trusts, and estates," *Real Property, Trust, and Estate Law Journal* 49, 2, III Gender, D. Additional avenues of inquiry (2014).

86 Birth registrations of Elizabeth Ann Hogg, born 18 Oct 1893, Births Deaths Marriages Victoria (BDM Vic), Reg. No. 33667; William George Hogg, born 22 August 1895, BDM Vic, Reg. No. 26185; John Edward Hogg, born 28 February 1897, BDM Vic, Reg. No. 8007; Ethel Hannah Hogg, born 5 April 1899, BDM Vic, Reg. No. 7438; Elsie Teresa Hogg, born 27 December 1901, BDM Vic, Reg. No. 4666; Thomas Joseph Hogg, born 18 November 1905, BDM Vic, Reg. No. 27799; Hannah Jane Watts practice records and diary.

87 Service record of 915 Gnr WG Hogg, National Archives of Australia, B2455, HOGG WG 915; Victoria Police Record of Conduct and Service, 6320 Superintendent William George Hogg, Victoria Police Museum and Historical Services; Victoria Police Record of Conduct and Service, 8347 Sergeant Thomas Joseph Hogg, Victoria Police Museum and Historical Services.

88 Death certificate of John Edward Hogg, died 17 June 1923, Births Deaths Marriages Victoria, Reg. No. 6939; "Accident on Keilor Road," *Argus*, June 18, 1923, 10; "A tragic discovery," *Frankston & Somerville Standard*, June 20, 1923, 2; "John Hogg," *Kilmore Free Press*, June 21, 1923, 3; "Victorian News," *The Australasian*, June 23, 1923, 33. Lizzie had two children, Bill had three, Ethel had four, and Tom had five. Elsie did not have children.

89 Death certificate of George William Hogg, died 28 May 1934, Births Deaths Marriages Victoria, Reg. No. 13662; "Dog leads

died of arteriosclerosis in 1947, survived by five of her children.⁹⁰ She is buried in the Catholic section of Melton cemetery, next to her husband and son Jack.

Catherine made a valid will in 1940, appointing Bill and Tom as executors and trustees.⁹¹ Probate was granted to Bill with leave being reserved for Tom; that is, Bill alone proved the will and was granted probate, and authorised to execute the estate. The option was left open to Tom to do the same, although it seems he was happy to leave it to his brother.⁹²

Catherine's estate was valued at £891-10-0. It lacks diversity of holdings, and the bulk of her wealth was in the land valued at £780-0-0.⁹³ She did not build her wealth like her mother did, although her estate may have suffered the effects of two world wars and the depression. Her will was short and sharp. She devised a partible inheritance that at first glance appears to favour Elsie. A small parcel of land worth £80 was devised to Tom along with Hannah's National Bank share, now worth £16. The farmland and *Rosebank*, valued at £720, were devised to Elsie. This was conditional, however, on her paying Ethel £80, allowing Bill, Tom, and Lizzie to gather and remove firewood for their households so long as she held the land, and allowing them to use *Rosebank* as a holiday home if they desired. All other real and personal estate was to be liquidated, including all farm equipment, water tanks, and stock. Burial and memorial provisions are made, directing £40 from the estate residue be used to erect a headstone on her grave at Melton cemetery. Catherine specified the children were welcome to buy at her estate sale if they wished, and any residue was to be shared equally. There is no final account on file, but if the goods were sold at the prices in the valuation, each child would have received around £11-2-0 from the residue. She also issued the following warning: 'it is my wish that any child of mine who shall dispute my will in any way shall forfeit all benefit thereunder to my other children.'⁹⁴

This will is a good example of Karen Sneddon's claim that a will is a document more about life than death.⁹⁵ Catherine's will is a bald and straightforward directive with conditional inheritance, and there is clear favouritism. The question it raises is why? Catherine's will says so much more than simply who is to get what: it is a revealing final display of maternal authority, and an interesting reflection of the family dynamics.

Serious illness frustrated Elsie's ambitions to leave home and pursue a nursing career. She was almost forty and unmarried when Catherine drafted her will, while her siblings were married and established. It is easy to assume that Catherine rewarded Elsie for staying on the farm and caring for her parents - which John Ferry asserts is a common situation when a partible inheritance favours a daughter.⁹⁶ Catherine's will, however, acts as a 'vessel of truth' by exposing the family

woman to father's body," *Argus*, May 31, 1934, 5.

90 Death certificate of Catherine Jane Hogg, died 2 May 1947, Births Deaths Marriages Victoria, Reg. No. 17699. At the time of Catherine's death, the children were fifty-four, fifty-two, forty-eight, forty-six, and forty-two.

91 Will of Catherine Jane Hogg, died 2 May 1947, HW Simmons, Solicitor, Melbourne, Public Record Office Victoria, VPRS28/P3, unit 4527.

92 Order for Probate, file 390/380, Catherine Jane Hogg.

93 Affidavit of Executor and Inventory, file 390/380, Catherine Jane Hogg.

94 Will of Catherine Jane Hogg, died 2 May 1947.

95 Sneddon, "*Memento mori*," 232.

96 Ferry, "Windows on the family," 49.

dynamics and her feelings about them.⁹⁷ It reveals the essence of her relationship with her children, and their relationship with one another in life.

There is no money in the estate for the siblings. Although the will appeared to favour Elsie, it actually favoured Tom. Tom was left lush, arable land, in the delta of Deep Creek, while Elsie inherited an albatross in the form of a non-viable farm on non-fertile land. It may have been good management, prudent, and perhaps just kind, for Catherine to take the opportunity to downsize and sell most of the land on her death. If the land had been liquidated, it would have left a manageable sized farm for Elsie, and created a residual legacy for the siblings. Catherine left Elsie the land but not the means to farm it, selling all the equipment and the vital water tanks. At a minimum, it was intended to be irritating, perhaps even untenable, and was certainly mean. The tense dynamic between mother and daughter is palpable.

Catherine also used her will to exert powerful social control.⁹⁸ She regulated and mediated Elsie's behaviour toward her siblings, and 'laid down the law' in an attempt to maintain family harmony after her death. Again, this prompts the question of why? Elsie was a dominant family figure - the proverbial tail that wagged the dog. Through her will, Catherine made Elsie subject to her siblings, and enforced hospitality so that Elsie's home was not really her own. Catherine cast a stern, forceful, and binding hierarchy over her children, with Elsie at the bottom of the pack.

Elsie complied with Catherine's demands, at least in the letter of her mother's will if not always in good spirit. Lizzie, Bill and Tom all stocked their homes with wood from the farm. Tom and his son George took holidays at *Rosebank*, but they were spent working; clearing land, chopping wood, mending fences, and tending to the cows. The State Government compulsorily acquired most of the land at devalued prices in the early 1950s in relation to securing the water supply in Melton, leaving Elsie only the one allotment where *Rosebank* stood. She had married the farm boarder Frank Peterson at age forty-six, less than a year before Catherine died, and they had no children. When Elsie died in 1975, Frank inherited *Rosebank*. He married Tom's widow Nell (his sister-in-law) in 1977, and they sold up before he died in 1978. *Rosebank* was demolished in 1993, despite heritage recommendation to preserve it for its connection to Hannah.⁹⁹

It can now be seen how the homogeneous legal document of a will is unique to each testator. Using the death registration, will, and deceased estate to examine who gets what, and why, and under what conditions or terms, the family historian may be able to reveal socioeconomic status, family connections and relationships, and views or personality of the deceased. Knowledge of the history of the family provides context and facilitates the unpacking of the meaning behind testamentary dispositions.

Hannah Jane Watts did exceptionally well for an illiterate, twice-widowed, Irish, Catholic, immigrant woman. In many ways, she defies the expectations of a woman of her time. She began with nothing, but left a sizeable legacy for her loved ones. The improving socioeconomic status of the family is seen through the increasing value and more sophisticated management of the estates of George, William, and Hannah. It is then seen to be relatively stable in the following generation

97 Sneddon, "Memento mori," 228, 232-233.

98 Bryant & Snizek, "The last will and testament," 929; Gross, "Handing down the farm."

99 David Moloney, *'Rosebank' Heritage Assessment* (Melton: Shire of Melton, 2002).

for Catherine, but the decline of small-scale farming, along with the impact of missed opportunity and poor real-estate management, can be seen in Elsie's time.

Family relationships are clearly shown in the wills of Hannah and Catherine, and behind the dry and formulaic document a glimpse of the person is seen. These women have undertaken a reflective and thoughtful process of estate planning. Hannah treats her children equally, but reveals relationships in special bequests. Her testamentary dispositions show her love of family, and those relationships that were most meaningful to her. Catherine exposed her love for Tom and her tense relationship with Elsie. Her testamentary dispositions show her need to control her family, and which relationships were the most meaningful and most troubling to her. Like many other sources, documents such as death certificates, wills, obituaries, and deceased estate files can provide varying degrees of information, but undoubtedly we can connect to people's lives by examining the affairs of their death.
