

102575

IN THE SUPREME COURT
OF VICTORIA.

PROBATE JURISDICTION

IN THE WILL of Robert

Smith

late of Maria

in the State of Victoria
James

deceased.

AFFIDAVIT OF EXECUTORS



*James & Co. agents
443 Melbourne Road
Melbourne*

Guthbert & Co., Law Stationers, Chancery-lane, Melb.

Printed for applicants

In the Supreme Court } PROBATE JURISDICTION,
OF VICTORIA.

IN THE WILL of Robert Smith _____
late of Ullana _____
in the State of Victoria farmer _____ deceased

We David Smith of Lowesdale near Corawa in the State
of New South Wales grazier and farmer and James
Smith of Ullana in the State of Victoria
farmer jointly and severally _____

make oath and say—

1. That we are seeking to obtain Probate of the Will _____

of the above-named, Robert Smith _____ deceased
bearing being reserved to William Smith of Redbank Brong Brong
and _____ of the full age of twenty-one years.
in the State of New South Wales farmer to come and prove the
same at any time -

2. The said deceased died on the nineteenth day of February

One thousand nine hundred and seven _____
at Ullana in the State of Victoria _____

3. The said deceased was _____ married at the time of his death.

4. The said deceased left a Will bearing date the tenth _____ day of
June _____ One thousand nine hundred and four which is as we
believe the last Will and Testament of the said deceased and which is unrevoked.^(a)

(a) Set out Codicils if any and date thereof.

5. The testator was of the full age of twenty-one years at the date of the execution of the said Will.

6. By his said will the said testator appointed us the said _____ and the said William Smith _____ executors thereof.

7. The paper writing hereunto annexed marked "A" is the true last Will and Testament of the said deceased as we verily believe.

(b) Here set out fully the present place of residence of the witnesses and state that it is so.

8. The said Will was executed in in the presence of ^(b) Henry Lewis Lazarus whose present place of residence is Service Street Clunes in the State of Victoria and who is a Barrister and Solicitor and Alfred Ernest Sampson whose present place of residence is Bailey Street, Clunes aforesaid and who is a law clerk

9. That the said deceased left ^{no} real estate in the State of Victoria ~~not exceeding~~ *J.F.*

no. J.F. the value of

no. J.F. ~~and~~ ^{but} personal property in the said State not exceeding the value of *Six* thousand three hundred and seventy eight pounds

no. J.F. making together the sum of ^(c)

(c) If the Statement is filed herewith state particulars whereof are fully set out in Statement filed herein; if not particulars of estate to be set out distinguishing realty from personalty.

10. That if we obtain probate we will well and truly collect and administer according to law to the best of our knowledge and ability the property lands and hereditaments goods chattels and credits of the said deceased at the time of his death which at any time after shall come to the power or control hands or possession of us as his executors or of any other person or persons for us that we will make or cause to be made a true and perfect inventory of all and singular the property lands and hereditaments goods chattels and credits of the said deceased which shall have come to the hands possession or knowledge of us or to the hands or possession of any other person or persons for us and the same so made will sign without proper handwriting and will exhibit and deposit or cause to be exhibited and deposited the same inventory in the office of the Master-in-Equity within three calendar months next ensuing the order granting probate and further that we will make or cause to be made a true and just account of the administration of the estate which we have undertaken as to our receipts and disbursements and as to what portion is retained by me and what portion remains uncollected and the same so made will sign with my proper hand-writing and will exhibit and deposit or cause to be exhibited and deposited the same account in the said office of the Master-in-Equity within fifteen calendar months next ensuing the order granting Probate.

By the above named deponent David Smith sworn at Corowa in the state of New South Wales this twenty ninth day of April one thousand nine hundred and seven before me

David Smith

N. H. Edmondson

A Commissioner of the Supreme Court of Victoria for taking affidavits in New South Wales
By the above named deponent James Smith sworn at Clunes in the state of Victoria this nineteenth day of April one thousand nine hundred and seven before me

James Smith

J. Field

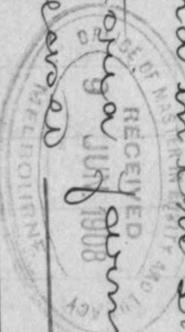
A Commissioner of the Supreme Court of the State of Victoria for taking affidavits

In the Supreme Court
of Victoria

102.575

Probate Jurisdiction

In the Will of Robert
Robert Smith late of
Melbourn in the State
of Victoria
deceased



month of

H. P. Rogers
Clerk

In the Supreme Court
of Victoria

Probate Jurisdiction

In the Will of Robert Smith
late of Ulmaria in the State
of Victoria farmer deceased

A true and just account of the administra-
tion of the estate which we have under-
taken as to our receipts and disbursements
and as to what portion is retained by us
and what portion remains uncollected

Receipts			Disbursements		
National Bank deposit receipts & interest			Deposit Receipts National Bank	300	.
£ 360 due 20 th Feb 1907 ✓			Duty & fee on order	288	19.4
£ 220 due 28 th June 1907 ✓			Interest Union Bank	1	13.0
£ 90 due 2 nd May 1907 ✓	690	2	Union Bank charge ^{5/-} cheque book ^{2/6}	7	6
W Smith interest on No 8 W			Buried Cemetery fees	7	.
W mortgage less exchange ✓	43	17.9	J. W. Preston funeral expenses	5	
amount at current of estate at death	4	9.9	Doctor & chemist	6	13
Int on F.D.R. in National Bank			Income Tax	3	6.6
due 12 th Sept 1907 (renewed)	11	8.7	H. Smith executor expenses	10	
Jas Smith payment of			J. Smith do do	3	15
Principal £ 300			Probate Duty N.S.W.	23	6
Interest 45.1.2 ✓	345	1.2	Widow on wife income	56	14.0
Int on F.D.R. Union Bank			Union Bank H. S. B. ✓	260	
£ 250 due July 1908 ✓	7	10.0	Widow balance income		
W (540) due Oct 1907 ✓	16	4	To 19 th Feb 1908	122	5.7
Int on F.D.R. National Bank			Bar Costa H. S. Lagunas		
due Nov 1907 (£377) ✓	11	6.2	Chimes		
Int on F.D.R. National Bank			Victorian Administration	48	0.0
due Dec 1907 (£417) ✓	12	10.2	New & Maloo do	35	.
F.D.R. Lond on Bank & Interest ✓	65	18.3	Executors Com 1% on 7460	74	13
Int on F.D.R. Bank Australia			Bank charge for keeping ac	5	
Kingston ✓	60	3.7	Balance	21	13.6
	1268	11.5		1268	11.5

Portion retained

Nil except commission as above

Portion uncollected

Buggy, buggy harness furniture

<u>Assets at time of death</u>	<u>Present assets</u>
<p style="text-align: center;"><u>Victorian Estate</u></p> <p style="text-align: center;"><u>Deposits</u></p> <p>(with accrued interest to date of death)</p> <p><u>National Bank</u> 370 . 16 . 0 ✓</p> <p style="padding-left: 100px;">224 . 5 . 7 ✓</p> <p style="padding-left: 100px;">385 . 19 . 8 ✓</p> <p style="padding-left: 100px;">380 . 6 . 7 ✓</p> <p style="padding-left: 100px;">419 . 5 . 11 ✓</p> <p style="padding-left: 100px;">92 . 3 . 1 ✓</p> <p>London Bank 64 . 3 . 3 ✓</p> <p>Union Bank 545 . 8 . ✓</p> <p style="padding-left: 100px;">254 . 12 . 10 ✓</p> <p>Bank of Australasia 2008 . 3 . 0 ✓</p> <p style="text-align: right;">4745 . 3 . 8</p> <p>Mortgage Jas Smith with accrued int 1605 . 17 . 3 ✓</p> <p>Current acc in National Bank (stated in statement £4.19.9) 4 . 9 . 9</p> <p style="text-align: right;"><u>6355 . 10 . 8</u></p> <p style="text-align: center;"><u>N. S. W. Estate</u></p> <p>Mortgage W Smith & Co on a with (accrued interest) 1105 . 11 . 2 ✓</p> <p style="text-align: right;">7460 . 11 . 10</p> <p>Wadest disbursements as above 1246 . 17 . 11</p> <p>Less National Bank W/R £300</p> <p>Union Bank 260</p> <p>Wadest income 178 . 19 . 7 728 . 19 . 7</p> <p style="text-align: right;"><u>507 . 18 . 4</u> 507 . 18 . 4</p> <p style="text-align: right;"><u>6952 . 13 . 6</u></p>	<p style="text-align: center;"><u>Victorian Estate</u></p> <p style="text-align: center;"><u>Deposits</u></p> <p><u>National Bank</u></p> <p style="padding-left: 100px;">300 .</p> <p style="padding-left: 100px;">381</p> <p style="padding-left: 100px;">377</p> <p style="padding-left: 100px;">467</p> <p>Union Bank 250</p> <p style="padding-left: 100px;">800</p> <p>Bank of Australasia 2006</p> <p style="text-align: right;">4531</p> <p>Mortgage Jas Smith (£300 paid W) 1300</p> <p style="text-align: right;">5831</p> <p>Current acc 21 . 13 . 6</p> <p style="text-align: right;"><u>5852 . 13 . 6</u></p> <p style="text-align: center;"><u>N. S. W. Estate</u></p> <p>W Smith's Mortgage 1100 . . .</p> <p style="text-align: right;"><u>6952 . 13 . 6</u></p>

Excess of income

David Smith
James Smith
Executors

102. 595

Robert Smith

Sealing

Probate Jurisdiction.



Supreme Court,
Sydney,
New South Wales,

10th September 1907

IN THE ESTATE OF

Robert Smith

LATE OF

Ultonia, Vic.

SIR,

No. *40497*

I have the honor to inform you that the

grant of *Probate* which issued from

your Jurisdiction on the *eighteenth*

day of *May 1907* was on the

fourth day of

September 1907 re-sealed by this

Court.

I have the honor to be,

Sir,

Your obedient Servant,

J. W. Garrett

Registrar of Probates.

J. W. Garrett

THE REGISTRAR OF PROBATES,
SUPREME COURT,

Melbourne,

Vic.

102575

IN THE SUPREME COURT.
OF VICTORIA.

PROBATE JURISDICTION.

IN THE Will _____
of Robert Smith _____
late of Melina _____
in the State of Victoria former _____
deceased

Affidavit of Publication of Notice and of
Searches.



*As arranged by Robert
443 Melbourne
at Melbourne
at 10/5 per
Harston, Partridge & Co., Printers, Melbourne.
Henry & Sons
Printer 87
Chancery
Printed & published by*

In the Supreme Court
OF VICTORIA.

PROBATE JURISDICTION.

IN THE Will _____ of Robert
Smith late of Ullmaria _____

in the State of Victoria *farmer* deceased
Ray Jey of Michael Street Brunswick in the State of Victoria Clerk in the
sole and permanent employ of Messrs Darrow and Peckey of 443 Stacey
Lane in the City of Melbourne in the said State of Victoria Collectors
and Proctors the Town Agents of Henry Lewis Lazarus of Clunes
in the State of Victoria *the proctor acting generally in this application*

make oath and say—

1. That the following advertisement duly appeared in the "Argus" _____
newspaper published in Melbourne on the *thirtieth* _____
day of *March* 1907 _____ namely

Notice is hereby given that after the expiration of fourteen days from
the publication hereof application will be made to the Supreme Court
of the State of Victoria in its Probate Jurisdiction that Probate of the
Last Will and Testament of Robert Smith late of
of Ullmaria in the state of Victoria farmer deceased

may be granted to *David Smith of Lowesdale near Corowa in the*
State of New South Wales grazier and farmer and James Smith of
Ullmaria aforesaid farmer two of the executors named in and
appointed by the said will leave being reserved to
William Smith of Redbank Grange Grange in the said
State of New South Wales farmer the other executor
named in and appointed by the said will to come
in and prove the same at any time

Dated this *26th* day of *March* 1907
Henry Lewis Lazarus Messrs Street Clunes Proctor for the applicants

2. That I have since the death of the deceased searched and find that no Will of the
above-named deceased is deposited in the office of the Registrar-General.
3. That I have this day searched in the proper office of this Honorable Court and find that
no caveat is lodged in this matter.
4. That no application for probate or administration in this matter has heretofore been
made to or been granted by this Court or by the Registrar of Probates of this Court.

SWORN at *Melbourne* in the
State of Victoria this *thirtieth* day of
May _____ One thousand nine
hundred and *seven*

Before me

Ray Jey

[Signature]
A Commissioner of the Supreme Court of the State of Victoria for taking Affidavits.

In the Supreme Court
of Victoria

Probate jurisdiction

In the will of Robert
Smith late of Victoria
in the state of ~~Victoria~~
Victoria former
deceased

Applicant of Special
Smith as to
with respect to the
South West mortgage
deed

D.S. Rogers
Attorney

In the Supreme Court
of Victoria

Probate Jurisdiction

In the Will of Robert Smith
late of Ulmaria in the State of
Victoria farmer deceased.

I David Smith of Lowesdale near Corowa
in the State of New South Wales grazier and
farmer make oath and say:-

1. That I am a son of and one of the
executors of the will of the above named
deceased

2. That in or about the year 1903
I borrowed the sum of £1650:0:0 from the
said deceased and gave security for same
by way of mortgage over certain land in
the State of New South Wales belonging to me.

3. That from time to time I reduced the
principal of the said sum and at the time
of the death of the said deceased the amount
owing by me for principal was £1100.

4. That the deed of security for the said
loan and the title deeds relating to same
were lodged by or on behalf of the said
deceased at the Bank of Australasia
Corowa in the State of New South Wales.

5. That at the date of the death of the
said deceased the said deed of security or
mortgage and the said title deeds were
still in the said Bank of Australasia Corowa
New South Wales and at the date of such
death there were not any documents
whatsoever relating to the said mortgage
or loan in the State of Victoria.

6. That at the date of the death of the said

deceased I resided at Lowesdale near
Corowa in the State of New South
Wales and I still reside in the State
of New South Wales

Subscribed at Corowa
in the State of New South
Wales

David Smith

the
twenty-eighth day of July
one thousand nine
hundred and eight

In presence of
W. H. Edmondson

a Commissioner of the Supreme Court
of the State of Victoria for taking
affidavits

HENRY L. LAZARUS.

Solicitor &c.

Clunes 6th July 1908

Officer for Probate Duty
Master in Equity's office
Melbourne

Dear Sir,

re Robert South decd.



No. 102 / 575

Yours to hand. —

I carefully considered this matter before preparing statement for duty, and decided that the N. S. W. mortgage was in no sense a Victorian asset, and therefore omitted it from the Victorian probate altogether, and had probate sealed in N. S. W., and paid duty there.

The distinction between this and Clarke's case, quoted by you, is that in this case the specialty was not found in Victoria at the time of death, but, on the contrary, it was in a bank in N. S. W., where, I understand, it was lodged from the time of its execution. I have not seen the security, but understand it was a defeasance, the land being under the N. S. W. law corresponding to our Transfer of Land Act. —

I am making arrangements to have this document, which I have not yet seen, sent over here for my inspection, and I will then write you further on the matter, if, indeed, you think it necessary to go further into the matter after what I have above stated. —

I will be glad to hear from you as to whether you wish an affidavit from the executors or otherwise as to where the security was lodged, or what, if further you require to satisfy you. —

Yours faithfully
Henry L. Lazarus

Assured
H.L.

where
we heard of death

[Faint, mostly illegible handwriting at the top of the page]

State
Dr M has also filed
the files one off
the [unclear] [unclear]

Done
8/11/08
[Signature]

debt
[unclear]

102
575
R Smith

[Faint handwriting at the bottom of the page]

HENRY L. LAZARUS.

Solicitor &c.

Clunes 31st July 1908

Officer for Probate Duty
Master in Equity's office
Law Courts
Melbourne



Dear Sir / re Robert Smith decd.

In accordance with yours
of 8th inst. I now send affidavit of David
Smith herein to the effect stated in your memo.
with 1/- filing stamp.

Please acknowledge receipt, and
inform me whether matter now all right.

Yours faithfully

Henry L. Lazarus

*Done with
acknowledgment
stamp*

*Done with
3/8/08*

HENRY L. LAZARUS.

Solicitor & c.

Encl. 1st postage stamp

6th
Clunes ~~2nd~~ June 1908

Master in Equity
Melbourne

Sir

Robt. Smith decd

Herewith I enclose fifteen
months ago herein with 1/- filing stamp thereon.
Please acknowledge receipt and
inform me of date of filing.

Yours &c

Henry L. Lazarus

ack'd
24/6/08

102 575

re

R Smith

N SW Mortgage

H L Lazarus

[Faint, mostly illegible handwritten text, possibly bleed-through from the reverse side of the page]

PRINTED BY
J. J. YOUNG

~~af~~ 102. 575 Robert Smith deed

N S Wales mortgage - not in stat.

Bal £6377. 0. 8

D Smith Mtge

1100
<u>7477. 0. 8</u>
4 3/4
<u>22431. 2. 0</u>
5607. 15. 6
<u>29908. 2. 8</u>
35515. 18. 2
1 20
<u>3. 18. 12</u>
2. 18

Duly

£355. 3. 2
less paid 286. 19. 4
<u>. 68. 3. 10</u>

To Lazarus

blines

24. 6. 08

In the ¹⁰²⁵⁷⁵ Supreme Court
of Victoria

1005
Probate Jurisdiction

In the will of Robert
Smith late of Ullinda
in the State of Victoria
farmer deceased



Handwritten signatures and dates:
10/5/07
10/5/07
Proctor
Probate

Barrow & Pacey
443 Chancery Lane
Melbourne
agents for
Henry L. Lazarus
Fraser Street
Melbourne
proctor for the
applicants

687