

In the Supreme Court
of the Colony of Victoria

667

Probate Jurisdiction

In the Will of Henry Hepburn
Gentleman deceased.

Affidavit
in support of Application



Mallison Crawford Stewart

In the Supreme Court
of the Colony of Victoria 3

Probate Jurisdiction

In the Will of Henry Hepburn formerly of Smeaton but afterwards of South Yarra in the Colony of Victoria Gentleman deceased.

I William Austin Zeal of Kensington Road in the Town of Prahran in the Colony of Victoria Civil Engineer make oath and say.

1. That the above named Henry Hepburn formerly of Smeaton but afterwards of South Yarra in the Colony of Victoria Gentleman departed this life on the eighteenth day of August one thousand eight hundred and seventy four in latitude fifteen degrees North longitude twenty six degrees West on board the Ship "Hally" bound from London to Buenos Ayres.
2. That he made a Will which bears date the twenty seventh day of August one thousand eight hundred and sixty nine which is unrevoked and thereby appointed me sole Executor thereof
3. That the said Will (which is hereto annexed and marked A. 1) was executed in the presence of Alfred Brooks Malleon Solicitor 24 Queen Street Melbourne and Duncan Crawford of the same place Clerk to Messrs Malleon England and Stewart Solicitors.
4. That the said deceased had at the time of his death property in the Colony of Victoria not exceeding in value twenty two thousand pounds consisting of Real Estate only.

Sworn at Melbourne in the Colony of Victoria this twenty fourth day of February one thousand eight hundred and seventy five
before me

W. A. Zeal

W. A. Zeal

Commissioner of the Supreme Court of the Colony of Victoria for taking Affidavits.

Dated 27th August 1869

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Will
— of —
Henry Hepburn Esq



Malleon England & Stewart

This is the last Will and Testament
of me Henry Hebrun late of Inceaton but now staying at South Yarra
in the Colony of Victoria Gentleman I give devise and bequeath
all my real and personal estate whatsoever and wheresoever and of what nature
or kind soever unto William Austin Zeal of Hevington Road in the Borough
of Prahran Civil Engineer his executors administrators and assigns respectively
Upon trust that the said William Austin Zeal his heirs executors or
administrators (hereinafter designated my said Trustee) do and shall as and
when he may think fit sell my said real estate and so much of my personal estate
as shall be of a saleable nature together or in parcels by public auction or
private contract (with liberty to make any special or other conditions as to title
or evidence of title or otherwise and to buy in the premises at any sale by
public auction and to rescind either on terms or gratuitously any Contract for
sale and to resell without being responsible for any loss) and do and shall
get in the rest of my personal estate and dispose of the net moneys to arise
from such real and personal estate after payment thereof of my just debts
and funeral and testamentary expenses and the expenses incident to the
preceding trusts according to the trust hereinafter declared concerning the same
Nevertheless I give to my said Trustee discretionary power to postpone
for such period as to him shall seem expedient the sale of all or any part
of my freehold or leasehold estates and the getting in of such parts of my
personal estate as shall consist of securities of any description whatsoever
and also power to manage the unsold freehold and leasehold estates But
I declare that from the time of my decease the unsold freehold and
leasehold estates and outstanding personal estate shall be subject to the trust
hereinafter declared concerning the same net moneys and the rents interest
dividends and annual produce thereof shall be deemed annual income for
the purpose of such trust and such freehold and leasehold estate shall be
transmissible as personal estate and be considered as converted in equity
I direct my said Trustee shall stand possessed of the net moneys to
arise as aforesaid In trust for my Sisters Mary Devlin, Jane
Hebrun and Annie Kenworthy in equal shares And I empower my
said Trustee to accept such personal or other security and to give such
time for payment of any money which shall be owing to me at the
time of my decease as my said Trustee in his discretion may think
proper and to compromise compound or submit to arbitration any debt or

This is the Will marked A in enclosed case
referred to in the affidavit of William Austin
Zeal sworn before me this 24th day of
February 1875
W. M. Zeal
a Commissioner

Witness

Alfred Halloran
Dunlop Law for a

1.

Henry Hebrun

claim affecting my estate I devise unto the said William Austin Zeal
All the real estate of which I may be Mortgagee to be disposed of
(but subject to the equity of redemption subsisting therein) according
to the disposition hereinbefore made of my personal estate I declare
that the receipt of my said Trustee for any moneys paid to him in
that character shall exonerate the persons paying the same from all
liability in respect of the application thereof And I declare that
if my said Trustee shall refuse to act in or be desirous of being
discharged from the trusts of this my Will he shall be at liberty to
appoint some person to act as Trustee in his stead and my Will
shall thereupon be read as if the name of such person had been
originally inserted herein instead of the name of the said William
Austin Zeal And I declare that my said Trustee shall not be
answerable for any Bank Banker Broker or other person to whom the
said trust premises may be entrusted for the purpose of or until
investment or conversion or for any other loss whatsoever happening
without his own wilful neglect and shall be at liberty to retain to
himself a fair Commission and all expenses incident to the execution
of the trusts and powers of this my Will And I appoint
the said William Austin Zeal sole Executor of this my Will hereby
revoking all other testamentary dispositions In witness whereof
I the said Henry Hepburn the Testator have to this my last Will
and Testament contained in this and the preceding sheet of paper
set my hand this ~~twenty~~ seventh day of August in the year of our
Lord one thousand eight hundred and sixty nine

Signed and declared by the said Henry Hepburn
the Testator as and for his last Will and Testament
in the presence of us both present at the same time
who at his request in his presence and in the
presence of each other have hereunto subscribed our
names as witnesses

Henry Hepburn

Alfred Mallett
John Mallett
Melbourne

John Mallett
Clerk of the Court
Melbourne