

11/679

In the Supreme Court of
the Colony of Victoria

In its Probate Jurisdiction

11/ 679

In the will of Henry Phillips
late of Cheltenham in the
Parish of Mordaun in the
County of Bourke in the Colony
of Victoria Master Gardener
Deceased.

Affidavit
of Execution of Codicil



G. W. Frederick Gwylls
83 Swanston Street.

In the Supreme court
of the Colony of Victoria } In its Probate Jurisdiction.

In the Will of Henry Phillips late of Cheltenham
in the Parish of Moorabbin in the County of Bourke
in the Colony of Victoria Market Gardener deceased.

We David Scott of Cheltenham in the County of Bourke in
the Colony of Victoria Market Gardener and Henry Fraser
of the same place Pound Keeper Jointly and Severally make
oath and say

1 That we are the subscribing witnesses to the
Codicil to the last will and testament of the said Henry
Phillips late of Cheltenham in the Parish of Moorabbin in
the County of Bourke in the Colony of Victoria Market Gardener
deceased the said Codicil being now shown to us and
attached as an exhibit to the affidavit of Mary Phillips
sworn herein on the thirteenth day of December instant
and that the said Testator executed the said codicil (and
which is as we believe unrevoked) on the day of the
date thereof namely the Twenty first April one thousand
eight hundred and seventy two by signing his name
at the foot or end thereof as the same now appears thereon
in our presence both of us being present at the same
time and we thereupon attested and subscribed
the said Codicil in the presence of the said Testator

2 And I the said David Scott for myself say

That the signature "David Scott"
written at the foot of the said paper writing or
codicil as one of the witnesses thereto is in my
own proper handwriting.

3 And I the said Henry Fraser for myself say

That the signature "Henry Fraser" written
at the foot of the said paper writing or will as one

of the witnesses thereto is in my own proper handwriting.

The above named Deponents David
Scott and Henry Fraser were severally
sworn at Cheltenham in the colony
of Victoria this Thirteenth day of December
one thousand eight hundred and seventy
three Before me

~~Henry Fraser~~ 23
David Scott
Henry Fraser

James Barr

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

In the Supreme Court of
the Colony of Victoria

In its Probate Jurisdiction

11
679

In the Will of Henry Phillips
late of Cheltenham in the
Parish of Moseley in the
County of Worcester in the Colony
of Victoria Merchant & Gardener
Deceased.

Affidavit as to execution
of

Deed of Disclaimers



per Wm. Swanton Clerk

In the Supreme court
of the Colony of Victoria } In its Probate Jurisdiction

In the will of Henry Phillips late of
Cheltenham in the Parish of Moorabbin
in the county of Bourke in the colony
of Victoria Market Gardener deceased

I George William Frederick Gylls of Eighty three Swanston
Street Melbourne Proctor Make Oath and Say

That I am the attesting witness to the paper writing
or deed of Disclaimer of the said Alexander McLeod and
Henry Hink hereunto annexed and bearing date the
thirteenth day of December instant and that the same was
executed by the said Alexander McLeod on the day of the
date thereof by his signing his name at the foot thereof
as the same now appears thereon and by the said Henry
Hink on the Fifteenth day of December by his signing
his name thereto at the foot thereof as the same now
appears thereon in the presence of me the said George William
Frederick Gylls and that the name G. W. Frederick Gylls
subscribed thereto is of my own proper handwriting and that
the erasure and alteration as to the date of the said deed
was made therein previous to the execution thereof

Sworn at Melbourne in the
Colony of Victoria this eighteenth
day of December in the year of
our Lord one thousand eight
hundred and seventy three
Before me

G. W. Frederick Gylls

Thos. A. G. Gulliver.

A commissioner of the Supreme court of the colony of Victoria for taking affidavits

In the

Dated 13th day of Decr 1873

In the Will of Henry
Phillips late of Cheltenham
in the Parish of Mordaun
in the County of Gloucester
the Colony of Victoria Market
Gardener Decedent.

Disclaimer
by Executors

Engels
83 Abchurch Lane

To all to whom these presents shall come
Alexander M^cLeod of Cheltenham in the Parish of
Moorabbin in the county of Bourke in the colony of
Victoria Laborer and Henry Hink of Cheltenham
in the Parish of Moorabbin Market Gardener send greeting
Whereas Henry Phillips late of Cheltenham in the Parish
of Moorabbin in the county of Bourke in the colony of Victoria
Market Gardener deceased by the effect of his last will dated
the Fourth day of October one thousand eight hundred and
seventy one and a codicil thereto dated the Twenty first
day of April one thousand eight hundred and seventy two
constituted and appointed the said Alexander M^cLeod
and Henry Hink executors of his said will and codicil
And whereas the said will and codicil have not yet
been proved and neither the said Alexander M^cLeod nor
the said Henry Hink has in any wise administered or
intermeddled with the real or personal estate of the said
testator or acted or interfered in the execution of the said
will and codicil or of the Trusts or powers thereof. And the
said Alexander M^cLeod and Henry Hink decline to
administer to or intermeddle with the Real or personal
Estate of the said Testator or to act or interfere in the execution
of the said Will and codicil or the trusts or powers thereof.
Now these presents witness that they the said
Alexander M^cLeod and Henry Hink do and each of them
doth hereby disclaim and renounce All the real and
personal estate whatsoever and wheresoever given devised
or bequeathed by the said Will and codicil and all gifts
devises bequests powers and authorities by the said will
and codicil or either of them given made or conferred
or intended so to be and the office of Executors of the
said will and codicil And all Estates trusts powers
authorities rights and privileges whatsoever under the
said will and codicil or either of them In witness

whereof the said parties to these presents have hereunto
 set their hands and seals this ~~fourteenth~~ ^{fourteenth} day of December
 in the year of our Lord one thousand eight hundred and
 seventy three.

Signed sealed and delivered
 by the said Alexander McLeod
 and Henry Hink in the presence
 of

Wm H. Loom

Frederick G. G. G.
 Steitor
 83 Swanston Street
 Melbourne

Henry Hink

A. J. J. J.

This is the Decree of the Court of
 Alexander Hink and Henry Hink
 referred to in the annexed Affidavit
 of George William Frederick G. G.
 sworn before me this ~~eighteenth~~ ^{eighteenth}
 day of December one thousand
 eight hundred and seventy
 three.
 Wm H. Loom

In the Supreme Court
of the Colony of Victoria

11) 679

in the Probate Jurisdiction

In the Will of Henry Phillips
late of Cheltenham in the
County of Monmouth in the
Colony of Bourke in the
Colony of Victoria -
Martha Anderson
deceased.

Affidavit of
Execution of Will



5th Dec 1883
63 Swanston Street

In the Supreme Court
of the Colony of Victoria & its Probate Jurisdiction

In the Will of Henry Phillips late of
Cheltenham in the Parish of
Moorabbin in the County of Bourke
in the Colony of Victoria Market-
Gardener deceased.

We James Hallinan of New Brighton in the
County of Bourke in the Colony of Victoria Wood-
splitter and James Roberts of Mordialloc in the
County of Bourke in the Colony aforesaid Farmer
jointly and severally make oath and say.

1 That the paper writing attached as an
exhibit to the affidavit of Mary Phillips sworn
herein on the thirteenth day of December
instant and now shown to us as purporting
to be the last will and testament of Henry
Phillips late of Cheltenham in the parish of
Moorabbin in the County of Bourke in the Colony
aforesaid Market Gardener deceased and bearing
date the fourth day of October one thousand
eight hundred and seventy one, and which said
will was duly executed by the said deceased
as and for his last will and Testament by
his signing his name at the foot or end
thereof in our presence and sight and in the
presence and sight of each other who were
present with deceased at the time of execution
of the said will and we thereupon attested
and subscribed the said will in the presence
of the said Testator.

2 And I the said James Hallinan

for myself say

That the signature "James Hallinan" written at the foot of the said paper writing or will as one of the witnesses thereto is in my own proper handwriting

3 And I the said James Roberts for myself say

That the signature "James Roberts" written at the foot of the said paper writing or will as one of the witnesses thereto is in my own proper handwriting

The abovesaid Deponents James Hallinan and James Roberts were severally sworn at Melbourne in the Colony of Victoria this fifteenth day of December In the year of our Lord one thousand eight hundred and seventy three Before me

J^W Hallinan
James Roberts

Wm. Carson -

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

In the Supreme Court of
the Colony of Victoria

In its Probate Jurisdiction

11 679

In the will of Henry Phillips
late of Cheltenham in the
Parish of Mordiallem in
the Colony of Victoria Merchant
deceased.

Affidavit
of Publication of notice
of will and no caveat



Wm. J. Foxton Street

In the Supreme court
of the Colony of Victoria } In its Probate Jurisdiction

In the Will of Henry Phillips late of Cheltenham
in the Parish of Moorabbin in the county of
Bourke in the Colony of Victoria Market
Gardener Deceased.

I Samuel Montgomery of Eighty three Swanston Street Melbourne
in the Colony of Victoria Clerk to George William Frederick Grylls of the
same place Proctor Make Oath and Say

1 That I caused to be inserted in the "Herald" being a
Newspaper published in the city of Melbourne in the said colony
on the fourth day of December instant a notice that after
the expiration of fourteen days from the publication thereof
an application would be made to the Supreme court that
Administration with the will annexed of the Estate of Henry
Phillips late of Cheltenham be granted to Mary Phillips of
Cheltenham aforesaid the widow of the said deceased of which
the following is a true copy "Notice is hereby given that
" after the expiration of 14 days from the date of publication
" hereof an application will be made to the Supreme court of
" the colony of Victoria in its Probate Jurisdiction that
" Administration with the will annexed of the Estate of
" Henry Phillips late of Cheltenham in the Parish of Moorabbin
" in the county of Bourke in the colony of Victoria Market Gardener
" deceased may be granted to Mary Phillips of Cheltenham
" aforesaid the widow of the said deceased. Dated this
" fourth day of December 1873. G. W. Frederick Grylls 83 Swanston
" Street Melbourne Proctor for the said Mary Phillips"

2

That I did on the Eighteenth day of December instant
search in the office of the Registrar General of the colony of
Victoria at Melbourne being the proper office for a will
of the above named Henry Phillips deceased and find that

no such will remains nor ever hath been lodged or deposited in the office of the said Registrar General he being the officer for the time being authorised to have the custody of deposited wills.

3

That I have this day searched in the proper office of this Honorable Court and found that no caveat has been entered in this matter

Wm. Montgomery

Sworn at Melbourne in the colony of Victoria this nineteenth day of December in the year of our Lord one thousand eight hundred and seventy three

Before me

James M. Lewis

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

In the Supreme Court
of the Colony of Victoria
In its Probate Jurisdiction

11 679

In the will of Henry Phillips
late of Cheltenham in the
Parish of Macclesfield in
the County of Salop in the
Colony of Victoria Master
Fordester deceased

Applicants for Confirmation
by Thomas F. Wright



Wells
83 Drummond Street

In the Supreme court
of the Colony of Victoria } In its Probate Jurisdiction

In the will of Henry Phillips late of Cheltenham
in the Parish of Moorabbin in the County
of Bourke in the Colony of Victoria Market
Gardener deceased.

I Thomas East Swight of Cheltenham in the Parish of
Moorabbin in the County of Bourke in the Colony of Victoria
Wheelwright make oath and say

1 That I am worth the sum of one hundred
and eighty one pounds ten shillings over and above
what will pay all my just debts and liabilities

2 That I am not security in any other matter
whatsoever

3 That my property consists of Freehold Land
House and wheelwrights shop situate at Cheltenham
aforesaid of the value of Three hundred pounds
and upwards.

Thomas East Swight

Sworn at Melbourne in the
Colony of Victoria this Thirteenth
day of April in the year
of our Lord one thousand eight
hundred and seventy four
Before me

W. G. Blair

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

In the Supreme Court
of the Colony of Victoria
In its Probate Jurisdiction

11 679

In the will of Henry Phillips
late of Cheltenham in the
Parish of Kew in the
County of Bourke in the Colony
of Victoria Master and Seniors
Deceased

Applicant of Probate
by Peter J. Carter



Proble
83 Dawson Street

In the Supreme court
of the Colony of Victoria } In its Probate Jurisdiction

In the will of Henry Phillips late of Cheltenham
in the Parish of Moorabbin in the county of
Bourke in the colony of Victoria Market
gardener deceased

I Peter Barker of Cheltenham in the Parish of Moorabbin
in the county of Bourke in the colony of Victoria Market
gardener make oath and say

1 That I am worth the sum of one hundred
and eighty one pounds ten shillings over and above
what will pay all my just debts and liabilities

2 That I am not security in any other matter
whatsoever.

3 That my property consists of Freehold
land House & stock situate at Cheltenham
aforesaid of the value of Three hundred pounds
and upwards.

Peter Barker

Sworn at Melbourne in the
colony of Victoria this Thirteenth
day of April in the year
of our Lord one thousand and
eight hundred and seventy four
Before me

W. W. Nair

A Commissioner of the Supreme court of the colony of Victoria for taking affidavits

In the Supreme Court
of the Colony of Victoria

In its Probate Jurisdiction

11 679

In the will of Henry Phillips
late of Cheltenham in the
Parish of Moor abbin in
the County of 33 South in the
Colony of Victoria Prerogative
Jurisdiction deceased.

Applicant
to present Application for
Letters of Administration
with the Will and Codicil annexed
of Henry Phillips.



Wm Phillips
83 Drummond Street

In the Supreme court
of the Colony of Victoria { In its Probate Jurisdiction

In the will of Henry Phillips late of Cheltenham
in the Parish of Moorabbin in the county of
Bourke in the colony of Victoria Market Gardener
deceased.

I Mary Phillips of Cheltenham in the Parish of Moorabbin
in the county of Bourke in the colony of Victoria Widow of
the above named Henry Phillips make oath and say

1 That I am seeking to obtain Letters of administration
with the will and codicil annexed of the Estate of the said
Henry Phillips late of Cheltenham deceased the executors
thereby appointed having by deed renounced their office
of executors.

2 That the above named Henry Phillips late of
Cheltenham deceased departed this life on or about the
twenty sixth day of April in the year of our Lord one
thousand eight hundred and seventy two having made
a will bearing date the fourth day of October one thousand
eight hundred and seventy one as and for his last will
and testament which is as I believe unrevoked save and
except by the appointment of Henry Hink as executor in
the room of Henry Fraser by codicil dated the twenty first
day of April one thousand eight hundred and seventy two

3 That he left me his lawful widow with one
son named Mark Phillips aged five years and one daughter
named Sophia Mary Phillips aged one year and three months
or thereabouts and also Henry Edwin Phillips aged eleven
years and Caroline Phillips aged eighteen years his infant
children by a former marriage and all now residing with
me at Cheltenham aforesaid and also two Brothers and one
sister his only next of kin in the colony of Victoria him
surviving.

4

That I and the said Henry Edwin Caroline Mark and Sophia Mary Phillips are the only persons entitled to a distribution of his property.

5.

That I believe the value of the goods chattels and personal Estate of the said deceased in the colony of Victoria does not exceed in value the sum of Twenty seven pounds ten shillings and that the Real Estate of the said deceased in the said colony does not exceed in value the sum of one hundred and fifty four pounds making a total of one hundred and eighty one pounds ten shillings.

6

That if I obtain Letters of administration with the will and codicil annexed I will well and truly collect and administer according to law to the best of my 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 me as his administratrix or of any other person or persons for me that I 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 me or to the hands or possession of any other person or persons for me and the same so made will sign with my 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 administration and further that I will make or cause to be made a just account of the administration of the Estate which I have undertaken as to my 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 handwriting 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 administration

~~I Sworn at Melbourne in the
colony of Victoria this
day of March in the year of our
Lord one thousand eight hundred
and seventy four. Before me
Sworn at Melbourne in the colony of Victoria this
fifteenth day of April A.D. 1874.~~

Mary Phillips

W. M. Nair

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

In the Supreme Court of
the Colony of Victoria

In its Probate Jurisdiction

11) 679

In the will of Henry Phillips
late of Cheltenham in the
Parish of Moorabbin in the
County of Bourke in the
Colony of Victoria Market
Gardener Deceased.

Præcipe
to move before Registrar
^{Letters of administration with the will annexed}
that ~~Probate~~ be granted to
Mary Phillips the widow of
the said deceased.

James
W.D.
15/4/74

Guylls
183 Swanston Street