

In the Supreme <sup>2010</sup> Court  
of the ~~State~~ Colony of Victoria  
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311  
Ecclesiastical Jurisdiction

In the Will of John Hepburn  
late of Ararat in the Colony  
of Victoria Gentleman deceased

Affidavit of Benjamin  
Hepburn Esq<sup>r</sup> - one of the  
Executors -

Filed 26<sup>th</sup> Oct<sup>r</sup>  
J. S. 1880

John Clarke  
Solicitor  
105 & 106 Duke Street

In the Supreme Court  
of the  
Colony of Victoria

In its Ecclesiastical Jurisdiction

In the Will of John Hepburn late of  
Smearon in the Colony of Victoria Gentleman  
deceased

I Benjamin Hepburn of Ballarat in the  
said Colony of Victoria Merchant make oath and  
say:

1. That John Hepburn late of Smearon in the  
Colony of Victoria Gentleman deceased departed this life  
on the seventh day of August in the year of our  
Lord one thousand eight hundred and sixty

2. That he made his last will and testament  
bearing date the thirty first day of July one thousand  
eight hundred and sixty which is as I believe unrevoked  
and thereby appointed me this deponent together with  
George Stuart Hepburn of Smearon aforesaid Gentleman  
Benjamin Butterworth of Castlemaine in the said Colony  
Merchant and Edmund Kirby of Casterton in the  
said Colony Executors of his said Will and that the paper  
writing hereunto annexed marked "A" is such Will.

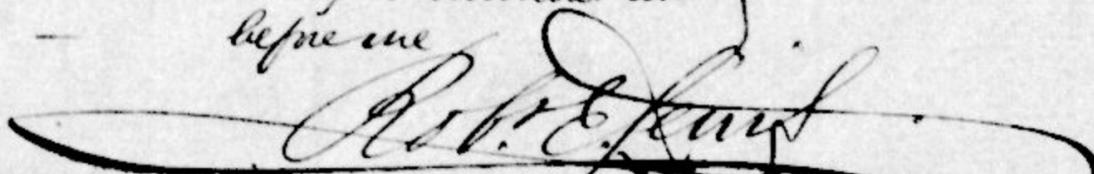
3. That I will pay all the debts and legacies of the  
said John Hepburn as far as the property left by him  
will extend and the law bind me so to do.

4. That I will exhibit a full and true Inventory of  
all the property of the said deceased together with a true  
account of my administration thereof into the registry  
of this Honorable Court when lawfully required.

5. That I believe the property of the said John  
Hepburn within the said Colony of Victoria does not  
exceed in value the sum of one hundred and seventy  
thousand pounds.

Sworn at the City of Melbourne  
in the Colony of Victoria this fifth  
day of September in the year of our  
Lord one thousand eight hundred and  
sixty — before me

Benjamin Hepburn

  
A Commissioner of the said Court for taking Affidavits

This is the Will marked 'A' upon to in the  
account of Benjamin Stephens born 1780  
beginning the fifth day of September 1860

Robt. E. Smith  
Commissioner

This is the last Will and  
testament of me John Stephens  
of Smeaton. I devise and bequeath  
unto my Trustees and Executors  
hereinafter named all my real and  
personal estate in trust to pay unto  
my wife Eliza Stephens during her  
life an annuity of Two thousand Five  
hundred pounds to be payable half  
yearly on every first of January and  
first of July, the first payment to be  
made on the first of said days which  
shall happen next after my decease  
and subject to said annuity in trust  
to pay the rents issues and profits of  
my real estate and to divide & pay  
my personal estate and the  
income or interest which shall or  
may accrue thereupon to and among  
my grandson Thomas John Stephens, my sons  
George Stewart Stephens, Henry Stephens

and my daughters. Alice Elizabeth Stebbins,  
Elihu Butterworth, Mary Stebbins, Helen  
Stebbins, Jane Stebbins, and Annie Stebbins  
Heirs His Executors & Administrators according

to the nature of the said estate — the  
share of each to be payable if a  
son on his attaining the age of twenty  
one years if a daughter on her attaining  
that age or on her marriage, the shares of my  
eldest son and my daughters Alice and  
Elihu to be payable <sup>7th</sup> on my decease

I direct that the share of <sup>my</sup> ~~my~~ unmarried  
daughters shall on her marriage be  
settled to her <sup>7th</sup> ~~own~~ <sup>separate use, &c.</sup>  
~~estate~~ <sup>without being subject</sup>  
to the control debts or engagements of her  
husband — and in case of the death

of any of my said children; or my  
grandchild before their majority or  
if a daughter before her marriage

I direct that the share of such child  
so dying shall go to and among  
the survivors of them in equal shares

7th  
S. S. Q.

I direct that my said Trustees or the  
Survivors of them or the acting Trustees  
of this my will shall have power to  
apply a competent part of the  
presumptive or vested share of any  
child, under the aforesaid trusts to  
his or her maintenance education or  
advancement in life -

I empower my said Trustees or the  
acting Trustees for the time being  
of this will to lease my real estate or  
any part of the same for any term  
not exceeding fourteen years. I also  
to vary any funds and securities  
in which they may invest my personal  
estate at their or his discretion. I  
hereby charge the share of my  
property bequeathed to my grandson Thomas  
John with an annuity of one  
hundred and fifty pounds payable to  
his mother during her life. I appoint  
my brother Benjamin Stephens my son George  
Stuart Stephens and my son in law  
Benjamin B. Merrett, & Edmund Kelly  
Trustees

and executors of their <sup>very</sup> will. and if any  
a any of them or any trustee or trustees to be  
appointed as hereinafter is provided shall die  
or refuse or become incapable to act then  
and so often the said Trustee or trustee  
(and for this purpose a retiring trustee shall  
be considered a trustee) may appoint or  
new Trustee or new Trustees in the place  
of the Trustee or Trustee so dying or refusing  
or becoming incapable to act. and the  
trust property shall be vested in the new  
Trustee or trustees jointly with the surviving or  
continuing Trustee or Trustees and every  
such new Trustee shall have the same  
power & discretion as if he had been  
originally appointed a trustee.

Signed, and declared by  
the Testator to be his  
last will, in presence  
of us, who in presence  
of the Testator and in  
presence of each other  
and at the Testator's request  
have subscribed our  
names here to as  
witnesses.

This 31 day of July 1860

James MacDermott, Barrister at Law  
John Trumble Robinson, M.D.

John Apperson