

The



Compass

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ADELAIDE-GLENELG TRAIN
King William Street, Adelaide circa 1880

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P.O Box 32, Elizabeth,
South Australia 5112*

❖ **President:**

Peter Applebee.

❖ **Vice President:**

Ivan Randall

❖ **Secretary:**

Margaret Flaiban.

❖ **Treasurer/Memberships:**

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❖ **Publications:****Editor**

Colin Withall.

Assistant Editor

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Shirley Bulley.

❖ **Computer Training:**

Ivan Randall.

❖ **Committee Members:**

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For enquiries and requests, please contact the editor at
andfhgnews@australiaonline.net.au

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Images appearing in this edition:

Front Cover: The Glenelg Train 1880.

Page 23: O'Connell Street North Adelaide.

Page 23: The Old Gum Tree Glenelg 1880.



From the Editor's Desk.

Welcome to this our First Anniversary Edition of "The Compass," just a short while ago in March 2009, we changed the format from a monthly News Letter, to a more sophisticated publication, one with more research, educational, and informative articles. We hope that you have enjoyed reading each edition, as we have enjoyed putting it all together, it is a mammoth task, I feel confident that with each edition "The Compass" is getting better and better.

Although I am aware that most of the articles appearing in each edition, seem to contain a lot of material relating to my personal family history research, however I don't apologise for that, because it is my desire to pass along as many research tips as possible, such as where and how the research information had been obtained.

Nevertheless, with the lack of contributions of short articles or research questions coming in from our membership, it is a very hard task formulating ideas and new material each quarter. Once again I appeal to the readership of "The Compass" to make an effort, and participate by submitting items suitable for publication.

This month we are examining 1858 English Wills, what they contained, what we can expect to gain from them, and where we can locate them. We also continue the "Glossary of Historical and Family Research Terms," and I hope that everyone has found within the Glossary something of value.

We also introduce this month a "Help wanted" page, and from this it is hoped that others will be encouraged to also write in with their questions, or requests for help with a particular problem.

For the first time we have included some little known historical events that have helped to shape Australia, and it is anticipated that this will become a regular feature.

I extended an invitation to the Huguenot Society of South Australia to explain to our readers what, or rather who the Huguenots are; this was in response to some questions asked by several of our members.

Some members have since found that their ancestors were descended from the Huguenots. I am pleased that the Society took up the invitation, and has included in this edition, a brief summary outlining their history.

The Historical Cemetery Group within ANDFHG, each year, hosts a tour of some of the local Historical and Pioneer Cemeteries. Over the years, these have proven to be very popular, so much so, that this year with the support of "The City of Playford Council" they will be holding their tour on Saturday March 27th 2010. Meeting at 12.30 for 1.00pm and starting from Williams Road, Hillbank, this is just off Main North Road via Black Top Road. Signs will be posted along the way.

Starting from the site of the Little Para Wesleyan Methodist Cemetery, Williams Road, and Hillbank with its unique burial vault. Thomas James Williams, the

long-term publican of the Old Spot Hotel, was buried here along with many of his family. Other families names represented are Chapman, Goodman, Watts, and Whitford. From here, they will move on to the Old One Tree Hill Cemetery, via Black Top Road and passing the historic One Tree Hill Inn.

The One Tree Hill Uniting Church and Cemetery started its life as Wesleyan Methodist Chapel, the Cemetery first established in 1861, followed later by the erection of the Chapel in 1867. Some of the Pioneer family Names include Bellchambers, Blackham, Harvey, Kelly, Shillabeer, Taylor, and Watson, just to name a few.

After a guided cemetery tour, the next stop will be at the historical Uley Baptist Cemetery via Cornishmans Hill Road. Here is found the burial site for Moses Bendle Garlick, a native of Uley in Gloucestershire. A veteran of the peninsular war against Napoleon, a Timber Merchant and a founding member of the Baptist church in South Australia. The small Chapel is gone, but a unique feature of this site can still be seen, the Baptistry which allowed for full immersion. Other pioneer families interred here include Barrette, Bowman, Blake, Ifould, and Mackenzie.

To finish the day the tour will return to Cornishmans Hill Road, for afternoon tea at Uleybury School Museum, which will be opened especially for the tours visit.

The Cost \$12 per head. For further information email: andfhg@yahoo.com.au alternatively, visit our Website: <http://ozgenonline.com/~andfhg/>

We anticipate the June edition of "The Compass" will carry a complete list of all members research interests, if you have updated, or not yet submitted your research list, please do so before the 15th May 2010.

As you may or not be aware, "The Compass" is deposited with major Libraries in South Australia, and the National Library of Australia. Various Family History Societies and clubs also receive a copy, as well as distributed in both the UK and USA.

"The Compass" is available online on our website, the chance of someone somewhere reading "The Compass" who may well be also researching your tree, is a possibility not to be denied, it has happened on more than one occasion.

All you have to do is update your list, and deposit them at our clubrooms in Ann Street, or by email to andfhgnews@australiaonline.net.au



Happy First Birthday to
"The Compass."

Ancestral English Wills before 1858. *By Colin Withall. Editor.*

Introduction:

One of the most valuable and intriguing tools available to family history researchers, but not often explored, are the Last Will and Testaments of our Ancestral forefathers, especially those made before 12 January 1858.

Wills dated after 1858 have a different set of rules altogether regarding the wording of what may, or may not appear in a Will.

There is nothing new about Wills, they have been in use by civilisations since time immemorial, for example, the Romans, and the Greeks used written Wills to pass on property, and estates. Roman Emperors named their successor, in a written document made long before death, thereby passing on the title of Emperor and right to rule the Roman Empire.

The Anglo Saxons, left written records setting out what they wanted to happen to their personal estate after their death, often naming who would receive the deceased's favorite sword and shield, and most importantly what the deceased's widow was to receive, or in what manner she was to be cared for.

It was in the 13th Century, that the recognisable form of a modern Will emerged. The Medieval era is that between the years of 500AD and 1500AD, and often referred to as the Middle Ages.

Medieval Wills like those of the modern age, were the most personal documents that a person could leave behind, and are therefore the most likely to contain full details of family relationships. These pre 1858 Wills often expose family ties, revealing situations and details, sometimes never before considered by the Family Researcher, and may reveal other unknown facts surrounding the deceased's life.

Wills have in the past, identified a Parent or Parents, spouse(s), children, as well as timely acknowledgment of other children (especially in the case of illegitimates), siblings, Aunts and Uncles, cousins, in laws, and business partners.

In other circumstances, this was the last time that a person had the chance to express his thoughts to and about his near relatives, and there are many examples where the last Will became the last punch, thereby knocking the wind out of many a relatives sails. Grievances were quite often expressed in a Will, a wayward son could be excluded from any part of his father's estate, by being given one shilling only, and in one example, the wife of the Testator received the same benefit. The one shilling cut off, was sufficient to satisfy any future claim that the family member did not receive a proportion of the deceased's estate, thereby avoiding a later court battle.

On the other hand, a father could lay down stipulations in his Will, compelling his son(s) or daughter(s) to meet certain conditions over a given period before he or she could qualify to receive any benefit under their father's Will. Of course, there was usually a clause inserted stating that should they fail to meet the father's terms, they would be excluded from receiving their inheritance completely. See page 12, for an example.

A Will always outlined the estate of the deceased, and directed the manner in which the deceased's estate was to be disposed of, but more importantly were their last wishes for their funeral,

whether they wished to be buried in a particular place, or at sea as in the case of a nautical ancestor. Whilst The Probate of a Will may even identify the circumstances of the deceased's death, such as in the case of a Naval or Military ancestor, or may even identify his burial place as being in some foreign country, such as Africa or India where he may have served in the Army.

What is a Will?

A Will is a formal document that sets out in writing, how and in what manner, a person wishes to dispose of their estate after their death. For a Will to be legal the document must be proven, on oath, to the Court that the Testator had signed the document in the presence of two independent witnesses, which means these witnesses must possess no interest in the Will, or expect to receive a legacy under its terms, the witnesses however often could also be the Executors.

Last Will and Testament:

Historically the Term "**Will**" referred to "**Real Estate**." Whilst the term "**Testament**," referred to "**Personal Estate**," in theory all Real Estate belonged to the King, from whom his subjects held, usually by lease from a Lord. Therefore, the disposal of the land and buildings thereon (*the Will*) were effected through the Royal or Manorial Courts.

On the other hand, "**Personal Property**" or "**Personal Estate**" came from God; therefore, it could only be properly be dealt with by God's representative on earth, in this case the Bishop through his Court. This meant that the disposal of Personal Property (*the testament*) covered only a minor part of the testator's estate, if he was also a landholder.

"**Real Estate**," consisted of houses, barns, tenements, shops, mills etc, and any sort of land or rights connected to it, either freehold or copyhold. Copyhold land was land held under tenancy from the Lord of the Manor, and the lease or tenancy appeared on the Manorial Court Rolls, but this land descended automatically from father to son, or to the daughters, nephew, or cousins who were descended from the original grantee, and to all intents and purposes, the holding was permanent. Often lease of land from the Manor would be endorsed "*leased for 99 years to XYZ*" or "*Leased for three life times*" meaning 3 generations. (Refer to Glossary of Terms in this issue)

"**Personal estate**," or chattels consisted of household furniture, bedding, pots, pans, items of clothing, farm stock, tools of trade and farm implements, crops both growing or harvested, orchards, horse carriages, wine, cider, cash in hand and debts owing, securities, annuities, Jewellery, clocks, watches. In fact, any item of a personal nature, deemed moveable or tangible, that is to say not attached to real property or land. Leasehold houses and lands were included, even if the lease was a long one such as 99 years, or a temporary one. Leaseholds were tangible because the lease can be transferable, unlike freehold or copyhold land.

Over the years, the terms merged and the process became known as the "**Last Will and Testament**."

Who could make a Will?

This is a very important and intriguing question. Firstly, there were certain people ***NOT*** permitted by Law, to make a Last Will and Testament, they were:

(1) Women: Unmarried Women including widows, could by Law, inherit and own property, but with the stipulation that only whilst she remained a Spinster or widow. However, upon her subsequent marriage, all of her inherited property both "***Real***" and "***Personal***," passed to the ownership of her husband. This included all clothing that she was wearing as well as any jewellery, all of which belonged to her husband no matter from whence it came, and consequently could be legally disposed of under the terms of his Will. The transfer of her Estate, both Real and Personal, was usually effected by a "***Marriage Settlement***," wherein she physically passed all her possessions to her husband. The Marriage Settlement was a legally binding document.

However, some astute Fathers, who had suspicion or a dislike for his son-in-law, might leave a legacy to his married daughter, by stipulating in his Will that the bequest be paid to her only upon her becoming a widow. Another form altogether was a conditional clause inserted in the Will, which physically stipulated that her husband could not receive any benefit from any money bequeathed. However, a woman had to seek permission from her husband if she wanted to make a Will, who also had to be Executor of the Will.

In 1882, the Parliament of England passed the Married Women's Property Act, which changed the restriction placed on married women, and after that year, all women could own property and make a Will.

(2) Catholics: Because all pre 1858 Wills were proved in Ecclesiastical Courts, which are the Church of England Courts. Catholics were considered (i) Traitors of the Crown, because they gave allegiance to the Pope and not the King or Queen of England. (ii) Considered to be Non Conformists, and as such could not have a Will heard in the Ecclesiastical Courts, where an oath by an executor (often a family member), sworn on the King James Bible, was required under probate rules proving the legitimacy of a Will.

(3) Slaves: (Before abolition of Slavery in England 1772) Slaves could not own property as such, but often given gifts by their master or mistress, however, these gifts in reality belonged to their masters, who owned everything including any children born of a slave

(4) Excommunicates: Those people whom for one reason or another, had been excommunicated from the Church of England, and therefore could not participate in any of the Parish or diocese proceedings or benefits, including availing themselves of the ecclesiastical Courts.

(5) Traitors: Nobles and all persons found guilty of treason, this also included Catholics, and all forfeited their Estate automatically to the Crown.

(6) Criminals under Punishment:

Criminals sentenced to be executed, could not make a Will because their property also reverted to the Crown.

Secondly apart from the foregoing, anyone could make a Will, providing that they were of age, the minimum age was 14 years for a boy, and 12 years for a girl. However, in 1837 the minimum age changed to 21 years for all people. Spinsters and Widows could make Wills where they owned property in their own right.

The language used in medieval Wills:

All Wills were proved in Ecclesiastical Courts; therefore, the language of the church and Courts were recorded in Latin. However, Wills of the 15th and parts of the 16th Centuries were not only written in Latin, but sometimes in French. This was because the King of England was also the King of France at that time.

In the 17th Century, all Wills were written in English, but the Probate was recorded in Latin. Consequently, some small knowledge of Latin terminology is essential when reading Wills from these eras. However, in the 18th Century, all Wills together with its probate were recorded in English

The sum of Seventy Five Pounds to my Niece Magdalene Nichols, daughter of my brother the said Philip Stafford Withall, for her own and separate use and benefit apart from her husband, who shall not inter meddle there with, neither shall the same or any part thereof be subject to his debts, management, or control, but receipt and receipts of the said Magdalene Nichols alone, shall be good and sufficient discharges.

Transcription of an exclusion clause inserted into a Will dated 1793, by the Uncle of the beneficiary. From the above, we are able to ascertain the name of the brother, and the married name of the niece.



Facsimile of a Will dated 2nd July 1522, the Will is written in English, using the "Secretary Hand" style, but the Probate is recorded in Latin.

The preamble of this Will states in Latin "**In God's name Amen**" then in English "**the fifth day of June in the year of our lord God 1522 and in the 13th year of the reign of our sovereign lord king Henry 8th**". **I John Yardley sergeant to the armies, make and ordain this my first testament and last Will in the manner following etc.** "

The difference between pre 1858 Wills, and later Wills?

Pre 1858 and Medieval Wills, differed greatly from the modern, these Wills were often primarily concerned with the arrangements for burial and gifts to the church. Administration fell almost entirely under the jurisdiction of Ecclesiastical Courts, a situation that continued until 1858. As a result, there were several hundred courts with probate jurisdiction in England and Wales, many of them were small. Survival of early Wills is patchy; a few series of Wills survived in Bishop's Registers, Corporation Records, and Ecclesiastical Courts, some date from the 13th Century, but many more around the late 14th and 15th Centuries.

A very noticeable difference from modern Wills, is the heavy religious emphasis, this was because the

Clergy not only wrote some Wills, but they also had full jurisdiction for proving the Will, after the death of a person, consequently their dogma carried over into the lives of the Parishioners under their control. In some cases, Lawyers did write Wills, but they still adhered to the religious format

Almost invariably, the preamble to the Will usually began with a religious statement, followed by the name of the Testator, including where they lived and sometimes their occupation, then the date expressing the year of the reign of the King. Frequently a statement of the person's health is included, and a plea by the Testator bequeathing their soul to God, often also specifying the place of burial. Quite often, the person making the Will also arranged for his or her funeral, including the masses recited for the soul. Sometimes a list of legacies made to the Parish Church, religious houses, and particularly gifts to the poor of the Parish. This form of Will was still in use in the later part of the 18th Century. Wills generally of the early 19th Century omitted the religious tones and were more straight forward.

Transcription

In The Name of God Amen. I Richard Withall of the Parish of Littleham and Exmouth in the County of Devon, Merchant, being but sick and weak of body but of sound and perfect mind and memory Praise be therefore given unto Almighty God for the same and calling to remember unto the uncertainty of this life and that all flesh must yield unto death when it shall please God to call. Do make and ordain this my right Will and Testament in the manner and form following, first being penitent and sorry for my sins hoping through the work and passion of my blessed Saviour Jesus Christ to have full pardon and forgiveness for the same, my soul I commend to God that gave it and my body I commit to the earth to be Decently buried at the discretion of my executors in trust hereinafter to be named and do touching such worldly goods as it hath pleased God to bestow on me. I give and dispose thereof in the manner and form following. I give and bequeath unto my five children that is to sayetc

Preamble to 1739 Will; note the plea for the soul, and thankfulness for God's gifts of "worldly goods."

Ecclesiastical Courts:

As mentioned previously, all pre 1858 English Wills were administered solely by the Church of England's Ecclesiastical Courts, of which there were some 250 of them spread throughout the English Counties. There were no Central Index; each Court held their own records, which makes it difficult in some cases to locate a Will from that period.

There being no single system or place in which Wills were proved, instead there was a hierarchical ecclesiastical Court system. The country at this time was divided into two provinces **Canterbury** and **York**, and each was presided over by an Archbishop. The provinces were split into a number of dioceses, each with two Bishops. The dioceses in turn were divided into several Archdeaconries, which were further split into rural deaneries. However, on 12 January 1858, these Courts ceased to exist, and jurisdictions for the granting of probate of a Will, passed to a new secular Court of Probate, consequently all Wills today are now proved in a Court of Law.

The Church of England granted probate, and Wills were proved in a variety of Ecclesiastical Courts, which bore some unusual names Archdeacon Courts, Consistory Courts, Commissary Courts, the Prerogative Courts of Canterbury and York, and lastly the strangely named Peculiar Courts.

Fortunately to simplify matters most Wills before 1858 have now been indexed, and both indexes and Wills can be found in the appropriate County Record Office concerned. However, it mainly depended upon where the deceased lived, where he held property, and based upon the value of the estate, as well as where the Property was to be distributed geographically.

(i) Should the property be located in more than

one diocese, and valued at more than £5 (five pounds), then the Will was proved in the Archbishop's Prerogative Court, of which there were two.

(1) The Prerogative Court of the Archbishop of Canterbury, also known as the **PCC**. The court actually sat in London and not Canterbury.

(2) The Prerogative Court of York, also known as the **PCY**.

(ii) Should the property be held in one Archdeaconry, then the Court of the Archdeacon, known as the Peculiar Court held jurisdiction.

(iii) However if the property was held in one Archdeaconry, but all within the same diocese, then the Bishop's Court known as the Consistory or Commissary Court held jurisdiction.

During the Commonwealth period (1649-1660), all ecclesiastical church courts were suspended, with all wills being referred to a "*Court of Proving of Wills and the Granting of Administrations*," which sat in London in place of the Prerogative Court of Canterbury.

Map showing the provinces. Canterbury jurisdiction, which extended from Lincoln and Wales, and all counties south.

The Province of York, extended from Cheshire and Yorkshire to Carlisle and Durham in the North

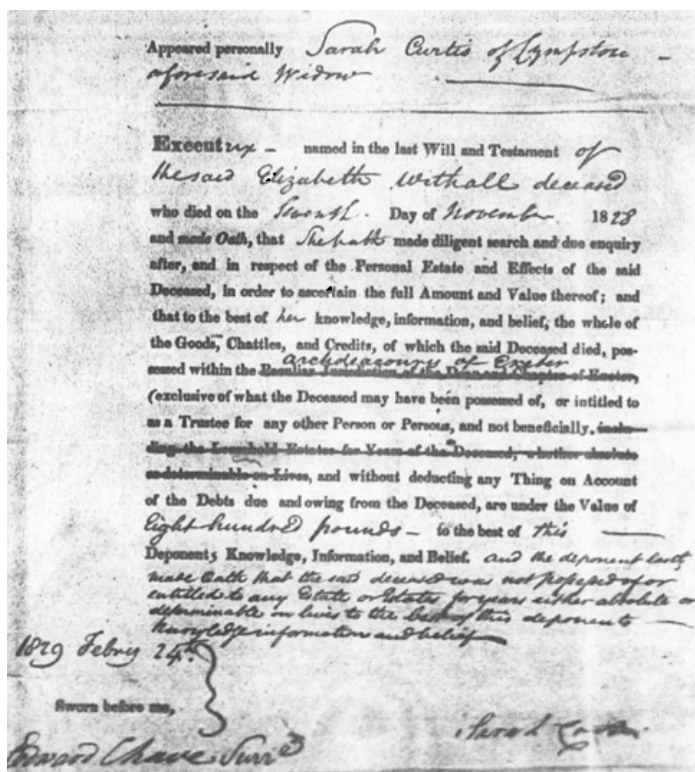


Probate:

Probate is granted once the Court has accepted evidence, that a document offered is the Last Will and Testament of the deceased, and that the instrument purporting to be a Will was legal in its making. That is to say, that the Will had been signed, and executed in accord with legal requirements. The Court, hearing the evidence then grants Probate, the Will is marked "*Proved*" thereby granting the Executor or Executrix the right to administer and carry out the provisions of the Will. A hand written copy of the Will was then made and attached to the Probate order; this was later filed in the appropriate Consistency Court. The original later returned to the Lawyer who made the Will, these may have been filed, however many were destroyed when the Lawyer died. It is for this reason that very few original Wills have survived to the 21st

Century. However, copies have survived, and are obtainable for perusal at Various County record Offices.

However, before issuing Administration the Court required the person applying for the Administration Order, to enter into an "*Administration Bond*," together with sureties to make an complete inventory of the deceased's personal estate consisting of all goods and chattels, including money owing to the deceased, cash, and leases etc, and estimate the worth of the estate. These inventories were returned to the court and filed, and attached either to the Will or to the Letters of Administration copies. Many inventories were destroyed or lost over time, and are rarely found today.



The declaration dated 1828 issued by the Court, ratifying that the Executrix had on oath made a full inventory of the deceased's personal estate, i.e. goods and chattels etc, and had not deducted anything on account.

Administration and Probate:

Separate from the above-described Probate, there was another type known as "Administration Probate" or "Letters of Administration," which could be granted to any person having an interest in the deceased's estate, and who had died Intestate (*without leaving a Will*). The person seeking "Letters of Administration" had to prove to the Court that they had an interest in the Estate; they could be a Creditor, business partner, sibling, ancestor, or descendant of the deceased.

The same stipulations applied regarding the valuation of the Personal Estate, as discussed previously however, the ecclesiastical courts did not have the jurisdiction of Intestate freehold or copyhold land. If a dispute between kin arose concerning the land or real property, the Real Property or estate was referred to the Court of Chancery.

Chancery Court:

A common misconception generally exists, that maybe a Castle or land once owned by a long ago ancestor, but now passed into Chancery, may be claimed by the descendants of an ancestor. In fact, the situation is quite different; for example, where the estate had not been distributed under the terms of a Will, or the next of kin did not make a claim to administer the Intestate Estate.

Such situations possibly could come about where the named beneficiaries could not be located or the line had died out and no longer existed, or the descendants having immigrated to another country, and were not aware of the death.

In such circumstances, the Court may appoint executors, and the estate is wound up and sold, the monies are then paid into the Chancery Court where they are held.

Monies held in Chancery and amounting to £50 or more, and which having remained unclaimed for a period of a minimum of 15 years, are listed periodically in the London Gazette. Information regarding funds in Chancery, will only be made available to an applicant upon payment of a fee, accompanied by proof of descent from the original ancestor and title of claim.

Nuncupative Wills:

That is to say, a spoken Will made before at least two witnesses, just prior to death. This type of Will is still considered legal in some states of America, and legally can be accepted especially as a battlefield Will, where a mortally wounded combatant, makes his spoken Will in the presence of three witnesses, who should commit the spoken Will to writing within a specified time limit after the person's death. It is this written statement of the last words that is accepted by the Courts

Under English and Welsh law, oral Wills are permitted to be made by military personnel, and merchant seamen on duty, and they are accepted in some of the Commonwealth member's countries.

Examples of a Nuncupative Will and the circumstances, under which they were made, can

raise some doubt to the Veracity of some witnesses. One case where the Ecclesiastical Court had accepted a Will, relates the example from 1718 quoted here.

"The man named John Plate for some time before his death had been indisposed or disordered in his mind, but having lucid or intelligent intervals, but in one of his lunatic fits he stabbed himself into his breast diverse times with a penknife in several places which shortly afterwards he died. However, during his lucid moments, he managed to speak his last Will." This Will was later accepted and Probate granted by the court.

Of course, there have been many fraudulent cases on record for example. *"John Bonney became so mentally unstable that he taking a knife cut his own throat, but before he died he made his Will, naming his uncle his sole beneficiary to his entire estate."*

The spoken Will had been made before three witnesses. However, the poor man's widowed wife and children received nothing under the terms of the alleged spoken Will. Fortunately for the family, the decision was later overturned upon appeal, where it was found by the courts of appeal, that the deceased's uncle along with his son, were two of the three witnesses present, at the time of the alleged Will was made, and so a reasonable doubt existed to its legitimacy. The family had benefited under the rule of

Law, that one third of the estate passing to the wife, the residue to any children once they reached a certain age.

A widow known as the "*relict*" or "*left over*," was the next of kin to the deceased, and was entitled to one third of his estate for life, although she may have also been entitled a larger amount under a Marriage Settlement. In some situations, especially in Manorial Courts, she may have received less than a third of copyhold land unless her husband had arranged for her to receive a life interest. However, in 1833 the entitlement of this "*widow's third*" was repealed, and the whole of the deceased's estate passed solely to the heir, by law this could be the eldest son, a step son or a nephew, or a more distant relative of her late husband.

Where to locate Pre 1858 Wills:

There are three factors that govern the location of a Will.

- Where the person died.
- The value of the personal property
- How the property was to be distributed geographically.

For property held:

Within an archdeaconry. *Then the Archdeacon's Court held jurisdiction.*

In more than one archdeaconry, but in the same diocese. *Then Bishops Court held jurisdiction.*

Some Wills were proved in the County diocese ecclesiastical courts; these wills might be locatable within the various Country Record Offices. A search may be conducted at the <http://www.Genuki.org.uk> website from the various county Probate indexes, although not all counties have a complete selection. For example, many Devon and Somerset Taunton Wills and probate records were held for safekeeping in Exeter, when they were destroyed in 1942 by fire

during the World War II bombing raids over Exeter. Few Devon Wills had been abstracted beforehand, although indexes had been prepared for all except the Totnes Wills. These are held at the Devon Record Office.

For property held in more than one diocese. *Then the Archbishop's Prerogative Court. Either PCC or PYC, depending on location.*

If the property was valued at more than £5, (£10 within London) and in more than one diocese. *Then the Archbishop's Prerogative Court. Either PCC or PYC*

PCC Wills: (Southern England and Wales)

1 Million Plus, Wills proved in the Prerogative Court of Canterbury between 1384 and 1858 are held at the National Archives at Kew.

A search of the indexes may be made at <http://nationalarchives.gov.uk/documentsonline> The cost of obtaining an online copy is £3.50 GBP or \$6.31 AUD. (January 2010 exchange rate)

Upon receipt of payment either by credit card or by debit card, an email containing a link to the document will be forwarded to your inbox, where it will remain active for 28 days. The copy may be downloaded in PDF format and printed.

Copies of the PCC indexes may be also viewed at the local LDS Family History Centre.

PYC Wills: (Northern England and Isle of Man)

All Wills that were proved at the Prerogative Court of York between 1389 and 1858 are held at the University of York (Borthwick Institute) who has an arrangement with British Origins to host all PYC probate indexes, which may be searched online at Origins Network subscription website at <http://originsnetwork.com>

Also available are Prerogative and Exchequer Courts of York Wills 1267-1500, of which there are over 10,000 records available Details at <http://originsnetwork.com>.

However, microfilmed copies of the indexes to PYC Wills can be viewed at your local LDS Family History Centre. Once the ancestor has been located together with the details of the Will, a request for a copy of the Will may be made. However, only paper copies of wills are available from the Borthwick Institute at a cost of £5 GBP (\$9.00AUD) including VAT plus postage and handling. Further details at <http://york.ac.uk/inst/bihr/PostalService/Copies>. Contact York University should you have any queries bihr500@york.ac.uk

SCOTLAND:

Testaments for the years 1514 to 1901 inclusive are being digitally imaged at the Scottish Archival Network. Copies if these images are available for purchase at <http://www.scotlandspeople.gov.uk/> at a cost of £5 GBP, the images of the Will is in full colour and authentic facsimiles of the original documents, which are held at the National Archives of Scotland, Edinburgh. Will and Testament images are downloaded to your computer in JPEG (photographic) format.

IRELAND:

Most of the Prerogative Wills and Administrations prior to 1858 were destroyed by fire at Four Courts in Dublin, during the civil war in 1922. Fortunately, Sir William Betham (1777-1853) who was the Ulster King of Arms from 1820 until his death in 1853, had in his own hand, took notes of all of the Prerogative Court

Wills of Ireland dating from 1536 to 1800, and formed them into pedigree charts. He worked on these Will Pedigrees for eighteen years from 1808 until 1820. These original notebooks are held at the National Archives of Ireland, and the Genealogical Office Dublin.

The Indexes are searchable online by subscription at <http://search.ancestry.co.uk/search/db.aspx?dbid=48491>. ■

Recommended further research.

McLaughlin Guide "*Wills before 1858*."

CO171382808

The National Archives of England.

nationalarchives.gov.uk/documentsonline/wills

The BBC online: www.bbc.co.uk/familyhistory/

www.en.wikipedia.org/wiki/legal_history_of_wills

www.Ancestry.com

www.Genuki.or.uk

www.ukgenealogy.co.uk



A man's Education or will they ever learn.

A man was sick and tired of going to work every day while his wife stayed home. He wanted her to see what he went through so he prayed, ***"Dear Lord, I go to work every day and put in 8 hours while my wife merely stays at home. I want her to know what I go through, so please create a trade in our bodies."***

God, in his infinite wisdom, granted the man's wish. The next morning, sure enough, the man awoke as a woman.

He arose, cooked breakfast for his mate, awakened the kids, set out their school clothes, fed them breakfast, packed their lunches, drove them to school, came home and picked up the dry cleaning, and stopped at the bank to draw out money to pay the power bill and telephone bill, drove to the power company and the phone company and paid the bills, went grocery shopping, came home and put away the groceries. He cleaned the cat's litter box and bathed the dog.

Then it was already 1 p.m. and he hurried to make the beds, do the laundry, vacuum, dust, and sweep and mop the kitchen floor. Ran to the school

to pick up the kids and got into an argument with them on the way home. Set out cookies and milk and got the kids organized to do their homework, then set up the ironing board and watched TV while he did the ironing.

At 4:30, he began peeling potatoes and washing greens for salad, breaded the pork chops and snapped fresh beans for supper.

After supper, he cleaned the kitchen, ran the dishwasher, folded laundry, bathed the kids, and put them to bed. At 9 p.m., he was exhausted and, though his daily chores were not finished, he went to bed where he was expected to make love -- which he managed to get through without complaint.

The next morning he awoke and immediately knelt by the bed and said, ***"Lord, I don't know what I was thinking. I was so wrong to envy my wife's being able to stay home all day. Please, oh please, let us trade back."*** The Lord, in his infinite wisdom, replied, ***"My son, I feel you have learned your lesson and I will be happy to change things back to the way they were. You will have to wait 9 months, though. You got pregnant last night."***

What did he name them?

An unmarried woman is newly pregnant and gets into an auto accident. She suffers a head injury and lapses into a coma for nine months. When she awakens in the hospital, she panics and asks about her baby.

Her doctor was called in and gave her a mild sedative; he then sat down to answer her questions. ***"I'm so happy to see you recovering,"*** he says. The woman responds, ***"Thank you doctor, but what about my baby? Is everything all right?"*** He replies, ***"Yes, despite your injury, we were able to perform a fairly normal delivery procedure. In fact,"*** he goes on, ***"you've given birth to twins - a boy and a girl."***

The woman is very happy and asks when she can see her new babies. The doctor replies, ***"Right away, but we've already sent the infants home with your brother. We'll call and tell him you're okay. While you were unconscious, your brother took care of everything for you. He even gave the babies names."***

At this point, the woman gets upset, ***"Doctor, my brother is an idiot! What name did he give my little girl?"*** The doctor answered that her name was Denise. ***"Oh, Denise, that's not so bad. What name did he give my boy?"*** The doctor answered, ***"Denephew."*** ■

Examples of requests, and other clauses found in Wills.

[illegible]

In this original will dated 1770, the religious acknowledgement and identification is immediately followed by his wishes as to where he desired to be buried, a transcription follows.

In The Name of God Amen. I Philip Stafford of Exmouth in the County of Devon, Gentleman, Do make my last Will and Testament in manner and form following (that is to say) First my Will is and I direct my Body to be buried in a Cave in which Miss Izett Drew was interred in Clisthydon Church Yard and to be carried there in a Mourning Hearse attended on Horseback by six of my usual Workmen to whom I give each of them a Hat band and Gloves and Five Shillings and do desire that no other person may be Buried in the same Cave. Whereas a provision is made for my Wife Elizabeth Stafford in and by my Marriage Settlement now I Do hereby ratify and confirm the same unto her and give her One Shilling as a legacy and no more because she has not behaved well to me. Also I give to the poor of the Parish of Clisthydon aforesaid such as have not relief of the said Parish Five Guineas to be distributed among them by Messrs Drews there being three or four Brothers of them who were born at Clisthydon aforesaid to be paid within Three Months next after my Death. Also I give to each of them that are at my Funeral a Hatband and Gloves or half a Guinea for each of them to buy it the Day I am interred. etc.

Transcription of the above Will. Of particular interest are the directions for his funeral. Note that there is no religious preamble as seen in other Wills. Also, note the reference to his wife and her Legacy.

An unusual story revealed in a Will.

In the following Will dated 1739, a previously unknown story was revealed, concerning the father (Testator), and his explicit directions regarding the relationship that his eldest son had, or was likely to have at the time, with any of

[illegible]

of the daughters of his seemingly hated enemy. Not only was any marriage forbidden during the lifetime of the father, but furthermore, at any time after his death.

The son was further required to enter into a bond of £1500 guaranteeing that he would not marry. In 2008, the equivalent value of the above sum would have been £200,487.57 GBP, and in 2010, the original sum would be the equivalent of \$359,296.72 AUD, (*based on the UK Retail Price Index or Australian Consumer Price Index*). Regardless, the sum would have been a substantial amount in 1739, and seems to demonstrate the wealth of the family.

Further, to ensure that his son entered into the agreement bond not to marry, a clause was inserted in the will, that should he refused to enter into the Bond, he would be effectively debarred forever from receiving any benefit from the father's will. It was in effect an offer, which he could not refuse.

A section taken from the Probate Copy of the original Will, written in cursive Law Hand.

Transcription of the Will:

I do hereby nominate and appoint my loving brother John Withall of Limpstone aforesaid Merchant and Stephen Withall of Limpstone aforesaid Merchant to be Trustees for my children and to see this last Will and Testament duly and truly executed and according to the due form of law and that they the said Trustees shall resign and give up their Trust four years after my Decease and at the time of their giving up of their Trust they the said Trustees oblige my son Benedict Withall to become bound unto them or to the executors or administrators of them or some or one of them in the Penal Sum of Fifteen Hundred Pounds of lawful money of Great Britain to this effect that if soon he shall ever Marry with the aforesaid Elizabeth Margaret Patience or Mary Peek or Pike daughters of the aforesaid Richard Pike or Peek that my said son Benedict Withall shall pay back all or part and portion of the goods chattels and effects aforesaid with the interest that he shall or may receive for his part among the rest of my aforesaid children to be equally divided among them and that in and by all things according to the true intent and meaning of this my last Will and Testament and I doe(sic) hereby Declare that if my said son Benedict Withall shall refuse to enter into such obligation that then his part and portion of all and every my said goods chattels lands and tenements and so forth whatsoever and wheresoever so to be allotted or to fall to him as aforesaid it shall be equally divided among all the rest of my said children at the end of the aforesaid term of four years after my Decease and that my son Benedict Withall shall be utterly debarred and excluded therefrom forevermore and my will further is that if any of my children shall happen to die before they attain the full age of one and twenty years that his and their part and portion of such child or children so dying shall be equally divided among the rest of my surviving children my son Benedict Withall shall not have any part or portion of the effects

Transcription of the above selection of the Will, with its original spelling and expressions.

The story continues:

It is interesting to learn that the eldest son named in the Will of his father above, himself died in 1741. From his own Will we learn that he had not only successfully circumvented the punitive terms of his father's Will, by actually living with one of the banned daughter's in lieu of marriage, but he also made that daughter the sole Executrix of his personal estate.

Being the eldest son he had inherited one fifth of his deceased fathers Real and Personal Estate, the four fifths of the estate being divided equally between his four brothers.

The inherited real estate from his father had been previously passed to the second eldest son under the terms of a previous arrangement, hence the gifting of one shilling only to that brother. ■

2 November. 1741. Devon 64/8/4/206

In name of God Amen I Benedict Withall of Lymptone in the County of Devon Mariner being sick of body but sound in mind and memory bless be to God do make and ordain this my last Will and Testament in the following order first and principally I commend my Soul into the merciful hands of my Heavenly Father hoping through Jesus Christ to obtain everlasting life next I committ (sic) my body to the ground by a Decent burial at the discretion of my Executrix herein after mentioned and touching and concerning my goods chattels and possessions I am by divine providence blessed with I give and bequeath and dispose of them the manner following first of all I will that my debts and Funeral Expenses be all paid and discharged also I give unto Margaret Pike daughter of Richard Pike of Lymptone Mariner the sum of Three Hundred and fifty pounds also I give unto the said Margaret Pike all my wearing apparel woollen and linen and all Womens cloths in my possession and all my plate Gold rings and Gold Buttons and watches and household goods also I give unto Richard Pike aforesaid Ten Pounds also I give unto my Brother Richard Withall one shilling.....

I do make and ordain the above named Margaret Pike to be my whole and sole Executrix of this my last Will and Testament and I do hereby revoke and make void all former Wills by me made. In witness whereof I have hereto set my hand and seal this Second day of November in the year of our Lord One Thousand Seven Hundred and Forty one

Transcription of the original will, note the ownership of all women's clothing..



Computer Talk with Ivan.

Quote of the Quarter *"Make anything idiot proof, and some idiot will always stuff it up."*

Should I upgrade to Windows 7?

This is a question that many of you might be asking yourself lately with all the talk and advertising push going around. The answer will depend a lot, on what operating system you have on your computer now.

My personal opinion is, if you are using Windows XP and it is doing everything that you want then don't upgrade.

There are two main reasons for this advice and they are:

- Upgrading to Windows 7 from Windows XP requires you to wipe your hard drive clean (format the hard drive) before you install the new system. This means that you will have to backup all files and data, and favourite programs from your old system (if you know where they are located) and transfer them all to the new system. You will also have to reinstall all the programs, such as your family history program, printer, and other devices that you use onto the new system.
- Secondly, there is also the possibility that some of those old favourite programs that worked fine with Windows 98 and XP, may not work at all, and that the new operating system may have some incompatibilities with your old computer.

Now whilst you might feel confident about using your computer, when it comes to backing up files and programs onto another hard drive disk, or onto one of the newer external drives, things can get a little complicated for the average user. Formatting or wiping a hard drive can get a bit technical and might be easy for some, but the installation of the newer Windows 7 can be above the knowledge of the average person. Therefore, it is better to take your computer to someone who knows what they are doing, such as a computer serviceman, and although this can cost a little, the expense will be well worth it in the long term. I think the old adage of "better be sure than sorry" applies

My advice is, if Windows XP is working satisfactorily and doing everything that you require

from your current program, then don't change over, I certainly won't be upgrading mine.

If you really want to have Windows 7, then buy a new computer and go from there (an expensive option), which allows you to have both computers operational until you are happy that everything is transferred to the new one.

Another point worth mentioning is whenever Microsoft brings out a newer program; it usually takes time for all the "bugs" in the system to be fixed. Good examples being that when XP and Vista were first introduced, it followed that there were patches, and Service packs 1, 2, and 3 not to mention updates continually being issued to take into account that the programs had faults. Now that everything on your computer is working fine with those programs, do you really want to change to something because it is the new fad? My advice here is to wait for a year or two and then decide, by then all the problems (and there will be problems) will have been fixed.

However, if you are using Windows Vista, then the picture is a little different. There is a natural upgrade path from Windows Vista to Windows 7 and there should be no major problems, having said that, the likelihood that some of your old programs may still not work, and may need an update from the manufacturers' web sites.

From what I have read, there does not seem to be many problems with computer incompatibilities especially after you allow it to do an automatic update from the web. Windows 7 seems to be a definite improvement over Windows Vista, so if Windows Vista annoys you, then Windows 7 will be less annoying from all reports.

I would recommend that you ask around to see what other people's experiences are, and be guided by what they have to say. If you ask for advice at a computer supplier, try to talk to a technician and not a salesman if you wish to get the best advice.

To sum up, if you are using Windows XP and are happy with it, then keep on with it until you buy a new computer. If you are using Windows Vista and you are happy with it, stick to it, but if it annoys you, then maybe an upgrade to Windows 7 will be worthwhile.■

Written by: Ivan Randall, ANDFHG



Little known events in Australia's History.

Australia and its people have always had a chequered past, from its inception it was populated by Prisoners of Mother England, accompanied by Soldier Guards that really didn't want to be there anyway. From those times of cruelty and inhumane treatment, Australia has grown to the nation it is today. However, in her past there were happenings that many do not know about.

May 1868. The first Australian Aboriginal cricket team proved to be popular in England after they played their first match against Surrey at the Kensington Oval. The team, billed as the "*Aboriginal Blacks of Australia*," arriving in England only two weeks previously for a five-month tour. They had played a number of matches in Australia, including one at the Melbourne Cricket Ground, and a match in Sydney. It was claimed that their bowling was second rate, however, they returned the ball quickly but not with too much precision. Their batting was found wanting. However, with some practice with good English players during their stay they would improve their performance.

December 1868. Mrs Maria Ann Smith, a woman in the Sydney suburb of Eastwood, discovered a new type of apple growing on her property. Mrs Smith said that she tipped out near her creek a number of gin cases that had contained the remains of Tasmanian apples. The seedling grew into a new specimen of apple, which appears to have great potential for cooking. The result...The "*Granny Smith Apple*"

March 1869. The last full blood male Tasmanian Aboriginal died on March 3rd, there had been controversy surrounding the burial of William Lanney, or King Billy, as he was known. He died from the result of Choleraic Diarrhoea at the age of 34 years, and was the last known full blood male Aborigine from Tasmania. Nevertheless, in death he was surrounded with Whiteman's greed there had been a scramble for his remains.

Whilst his body lay in the morgue waiting to be buried, someone had entered the morgue, removed the skin from his head, and stole the skull. To cover up the crime, the offender replaced the skull with another taken from another body, and pulled the skin and face over it, making it appear as all was normal.

News of the crime spread, The Royal Society of Tasmania, who had wanted the skeleton as an historical piece, insisted that the deceased's hands and feet be removed, and placed in their museum.

Fearing that the offenders might return to the gravesite and steal the rest of the skeleton, a guard was ordered to stand watch over the grave, but this was ignored and next morning the grave was found to be disturbed. The Royal College of Surgeons in England requested the remains claiming that they had prior claim to the body. It was later returned to Tasmania for display in the Hobart Museum.

December 1869. A noxious weed had been found in large quantities over Victoria, believed to have spread

from the garden of a Mr Paterson of Albury in N.S.W. Now known as "*Paterson's curse*" in Victoria and N.S.W it is a plant from the Mediterranean, and can be identified by its attractive blue flowers, known in South Australia as "*Salvation Jane*." The weed is poisonous to cattle



A field contaminated with noxious Salvation Jane.

December 1870. Victoria passed a law allowing women to own personal property such as wages and dividends. The Parliament had been addressed several politicians speaking against the Act, claiming that would make marriage impossible, allow women to have their own earnings and if they could, set up business in opposition to their husbands. Further, it was not possible or feasible to have two masters in the same house. Arguing for the proposed law change, advocates claimed that women should be able to retain their wages and dividends as a protection against husbands that would do whatever they chose with the earnings. However, should the women become destitute because she did not have earnings of her own, this would have placed a burden upon society to keep and educate the children.

February 1871. The South Australian Government voted to legalise marriage between a man and his dead wife's sister, making it the first British Colony to do so. The decision was widely condemned by the leaders of the Church, claiming the new law went against the teachings of the Anglican prayer book, and was still a case of incest, claiming that the sister of the deceased was considered a blood relative. However, the new law still did not permit a man to enter into marriage with the daughter of his dead wife's sister

March 1871. One of the original Aboriginal Cricketers to tour England in 1868, a Johnny Cuzens died. However, approaches to the Melbourne Cricket Club requesting an amount of £6 for his burial, was refused claiming that the club's funds would not permit such expenditure. His protector and aboriginal friends later buried him

March 1871. John McDouall Stuart had been sent to find a route for the overland telegraph from Adelaide to Port Darwin, advised that they had settled on a location for a station located on springs 4 miles from Heavitree Gap in Central Australia. The site had been named Alice Springs in honour of Alice Todd the wife of the South Australian Post master General.



“WHO WERE THE HUGUENOTS?”

The Huguenot Cross.

The history of the Huguenots is long and bloody, emerging as a protestant movement around 1530, following closely the teachings of Jean Cauvin or as he is better known John Calvin, the French theologian who was the principal figure in the development of the Christian Theology which later bore his name “Calvinism”

The major teaching of Calvinism was that the Pope was a mere mortal, and the teachings and practices of the Roman Church of the times were not strictly Christian. The Huguenots were critical of the Catholic Church, they believed the rituals, images, Saints, pilgrimages, prayers, and the hierarchy of the catholic faith did not lead anyone to redemption.

In 1534 the feelings towards the Huguenots were somewhat soured with the event known as the Affair of the Placards, the placards were pasted throughout the towns and provinces of France attacking the very foundation of the Catholic Church, its beliefs in the Eucharist or holy Sacrament, the mass and other strongly held catholic worship rituals. One of the placards had been actually nailed to the front door of the King's bedchamber, which brought to an end of the King's former protection of the movement.

The feelings in Catholic dominated France were strongly anti Huguenot, and reprisals against the protestant movement began in earnest. By 1562 it was estimated there were 2 million Huguenots in France, where as the Catholics numbered something in the order of 16 million.

During the later French Wars of Religion, the anti Huguenot feelings culminated when in 1572 on St. Bartholomew's day, a massacre of Huguenots began in Paris and spread throughout France. It is traditionally claimed that the mother of the king of France, Catherine Di Merci, was the instigator of the massacre, and paintings have depicted her inspecting the mounds of bodies piled near the Louvre.

The common people began to hunt Protestants throughout the city, including women and children. Chains were used to block streets so that Protestants could not escape from their houses. The bodies of the dead were collected in carts, taken to the riverside, and cast in the Seine. The reprisals lasted several weeks, by the time the massacres were finally over it has been estimated that 70,000 Huguenots, men women and children, and even babes were slaughtered.

Over the years reprisals continued against the Huguenots in France, until finally, they emigrated to the Netherlands, South Africa, North America, Britain, and Ireland.

Some 50,000 escaped to England where their manufacturing skills, passed on to their descendants, were a major contributor to the Industrial Revolution of the 18th and 19th centuries. The greatest numbers arrived in 1572, the year of the St Bartholomew's Day massacre of Huguenots in Paris, and 1685 following the revocation of freedoms bestowed on them by Henry IV, the Huguenot King of France.

Many Huguenot refugees, like Claude and Mary Champion de Crespigny from Normandy, were forced to abandon wealthy estates. In 1689, André and Suzanne Lamoureaux fled their home on the Gironde River, south-west France, in the middle of the night and travelled by boat across the Bay of Biscay to reach Bristol in England's West Country. Leaving France was forbidden and families such as these could carry with them only a few treasured possessions. Many arrived as paupers in their new country.

But the Huguenots were resilient, industrious people and although none came directly to Australia, their descendants fanned out through the world, many of them arriving here from Great Britain, Ireland, Germany, the Netherlands, the Channel Islands and South Africa. Huguenot descendants were prominent among South Australia's founders. Robert Gouger (1802-46) worked tirelessly for the SA settlement as Colonial Secretary from 1835. Osmond Gilles (1788-1866) was SA's first Colonial Treasurer, and the first person to export mineral ore from Australia when a vein of silver/lead was found on his Glen Osmond estate. Mount Gambier was named after Admiral Lord James Gambier, and Charles 'The Overlander' Bonney (1813-97) overlanded the first stock to Adelaide.

Not all Huguenot descendants have recognisable French names, and many people in South Australia today remain sadly unaware of their rich family heritage. But plenty of original French names still resonate here - Dumas, Le Cornu, De Garis, Le Mesurier, Deschamps, Champion de Crespigny, De la Mare, Cazneaux and Tostevin, to name just a few. ■

For any further information, please contact
President – Carolyn Cartney – rmy15@bigpond.com;
0447470018. - Secretary - Hazel Gray –
adhc_gray@picknowl.com.au; 82898489

Glossary of Terms found in Family History Research. © Copyright material.

We continue our Glossary again this quarter with Chapters **Q – T**. We hope that this Index is proving to be beneficial in helping to understand the terms often encountered when researching older documents.

– Q –

Quaker:

The Religious Society of Friends, also known as the Quakers or Friends, was founded in the 1650s in England as a Non Conformists break-a-way from the then ruling Puritan Church. Among its founders were George Fox and William Penn who later went on to found Pennsylvania in America.

The name Quaker was applied to the movement by the prosecution during the trial of William Penn in London in 1670, when he was charged for preaching “Quakerism to an unlawful assembly.” Quaker was applied because it was said that they trembled before the word of God.

The Jury during Penn’s trial clearly recognised that he was preaching in a public place, but refused to find him guilty of speaking to an unlawful assembly, altered the charge to “Speaking in Gracechurch Street.” The Judge refused to accept this change, and withheld water, food and toiletries from the Jury for three days. The Jury then returned a verdict of not guilty, whilst the decision was accepted; the Judge fined each member of the Jury.

Quakers were banned from sitting in the Parliament of Westminster from 1698-1833. The members of the Society of Friends were exempted from taking Public Oaths, including Oaths of Allegiance to the Crown, or voting in elections. Because they are considered a Pacifist movement, they are also exempt from bearing of Arms, and conscription; however, many during the various wars have served as medics or stretcher-bearers. Nevertheless, during the American War of Independence many Quakers did take up arms, and are considered American Heroes of the Revolution. Betsy Ross who designed the American Flag was a Quaker.

They do not believe in Baptism or Christenings or any other form of ceremony for the birth of a child, rather the child is welcomed into the meeting by everyone present, this is termed as the child’s first attendance at a meeting, and was considered from that time to be a Quaker.

Quarter sessions:

A court with limited criminal and civil jurisdiction, held each quarter by justices of the peace.

Quintal:

Common to Newfoundland Fishery, the measure of cod for sale: 112 lbs (50.8 kg) of dried salt fish.

– R –

Rector:

A person authorised to conduct religious worship, also known as Curate, Minister, Parson, and Pastor.

Regnal years:

In Wills, Acts of Parliament, and many older printed pedigrees, events are dated according to the regnal years of the Sovereign. Their names maybe written in abbreviated or hybrid Latin form: e.g. *10 Eliz*; *5 Hen viii*; *2 Jac ii*; *10 Geo IV*; *24 Vic*. (10th year, 5th year, 2nd etc. of reign of Elizabeth, Henry, James George, Victoria.) ¹

Relict:

Widow, widower, or person left after **testator** or **testatrix** dies.

Religious practices and obligations:

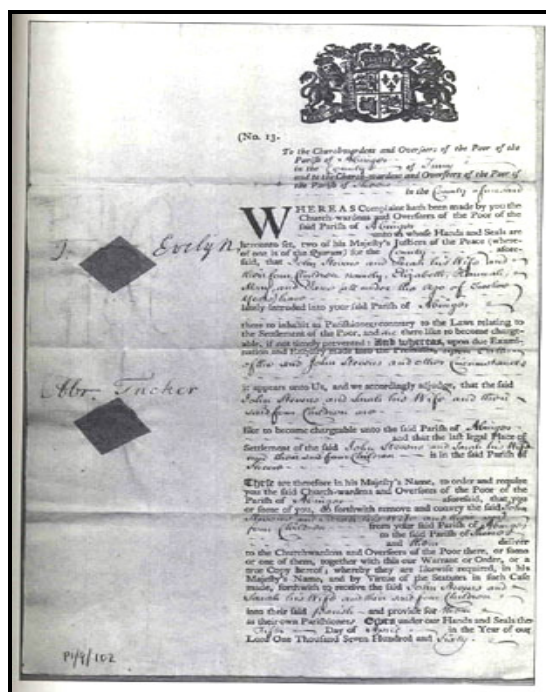
Until the 17th Century attendance at Church was compulsory, the wealthy bought and supplied seating in the church. Church plans show the ownership and seating reservations. Every resident of the Parish attended all Church Services under the threat of being dealt with by the **Parish Overseers**; this could take the form of being placed in the Pillory to having a fine levied against them. Every person within the boundary of the Parish contributed towards the **Poor of the Parish**, and should a person be banned from the Parish he could not reside, work, or receive any benefit from the Parish at all. * **See also: Settlement and Removal Orders.**

Removal Order:

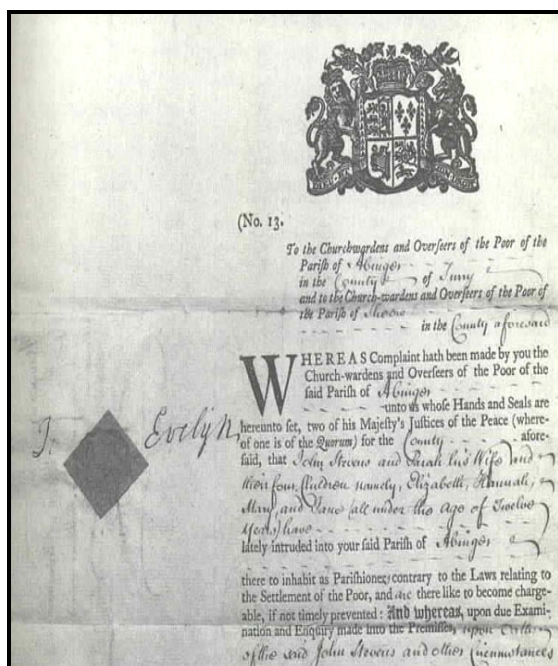
A formal Order typically made by **Church Wardens and Overseers of the Poor** within a Parish, and used to order the removal of “*Poor People*” out of the Parish and back to the care of their birth Parish for **settlement** and maintenance. *The example below:* Abinger to Shene in Surrey (1760) – John and Sarah Stevens and their four children had recently arrived in the Parish of Abinger. Fearful that the family would become a burden on the Poor Rates, the Overseers applied to the Justices of the Peace to have them removed to Shene their last place settlement.

¹ Here, the modern researcher must be wary in applying the modern accepted version of time, to the time stated in the document. *For example the first day of the reign of the Monarch always commenced as year one, and not on the anniversary of the event. So most of 10 Geo IV (1820-30) is 1829 not 1830.*

Until *Edward 1st*, the regnal year started on Coronation day, after that on the day the reign started. If an exact day and month in the Regnal year is stated, e.g. 26 October 5 Geo iii, this is 1760 + 4 = 1764. Conversely 24 October 5 Geo iii is not two days earlier, but 364 days later, because George 2nd died on the morning of October 25th 1760.



Typical example of a Removal Order.



Top Section of the Removal Order

Residuary Legatee:

Legatee is a person who gets everything remaining of a deceased's estate which has not been distributed under the terms of a Will. In the law of **Wills**, any portion of the **testator's** estate that has not been disposed of to someone named in the Will, or the directions for such distribution could not be carried out. The situation is known as a **residual estate** or simply **residue**. The Will may identify the taker of the residuary estate through a *residuary clause* or *residuary bequest*. The person identified in such a clause is called the *residuary taker*, *residuary beneficiary*, or *residuary legatee*. If no such clause is present, however, the residuary estate will pass to the testator's heirs by **Intestacy**.

Roundheads:

A supporter of Parliament and Oliver Cromwell, during the English Civil War 1644-1648 fought between the Parliamentarians and the Royalists under King Charles 1st the round head name came from the fact that they cut their hair close to the scalp, whereas supporters of the King known as called Cavaliers

— S —

Sacrament Certificate:

A Certificate proving that an individual had received Holy Communion according to the usage of the Church of England. It was required from all those appointed to public office in England in the period 1672-1828, under the Test Act of 1672. These certificates record where and when, Holy Communion had been taken, as well as the names of the clergymen, churchwarden, and two witnesses. Between 1708 and 1711 only, foreign Protestants could become naturalised by taking the oaths of allegiance and supremacy in court and producing a sacrament certificate. **See also: the Tests and Corporation Acts**

Saints Days: (Feast Days)

Sometimes in the early registers, and on legal documents, dates are given as *Saint's Days*. Some of the most common are listed below

Die natalis Domini (Dni) Christi Redemptoris mundi =

"On the birthday of our lord Christ, saviour of the world." = December 25th.

Die feste Sanctae Virginis Mariae =

"On the feast day of the Blessed Virgin Mary." = March 25th. The beginning of the Church year also referred to as "**Lady Day**."

The first day of the New Year under the Julian calendar.

Die feste SS Philippi et Jacobi =

"On the feast day of St. Phillip and St. James." = May 1st. often the opening day of the Easter Quarter Sessions.

Feste Sancti Johannis =

"Feast of St. John." (Baptist) = June 24th.

Feste Santa Micelles =

"Feast of St. Michael." = September 25th, Michaelmas day. **See also: Reginal Days**

Salee Pirates:

Pirates from Salee (Sally) a Moroccan seaport infested the English Channel during the 16th and 17th Centuries. Throughout the Stuart period, West Country shipping suffered severe losses through Turkish pirates from Algiers, and the dreaded rovers of Sallee. At one period in 1638, no less than 15 Turkish pirate vessels were cruising off the South Coast of Devon.

These Pirates often took captives from Towns and Shipping, holding them for ransom, or to sell as Slaves in Morocco, or to use in the Galleys as oar slaves. Seamen captured, faced being sold in the

Slave-markets along the Barbary Coast, or else becoming galley slaves, having their tongues cut out to stop them from talking should Englishmen ever redeem them. Chained to their rowing postings, many drowned at their stations, either during battles, or from cruel beatings and starvation.

From the 16th to the 18th Century, the North African Barbary States derived most of their revenue from piracy. Mariners were understandably reluctant to man West Country ships. The Parish Registers of Topsham and Lympstone as well as other Devon Parishes are full of reports of Parish members', men, women and children being taken by Pirates, many whilst returning from the Fishing season in Newfoundland.

Serf:

Considered to be better than a Slave, a Serf was a bonded tenant of the Lord of the Manor; he swore an oath of Fealty to the Lord, which was similar to a contract binding the Serf to the Land. He received a small parcel of Land which he was required to work, in return he worked the land of the Lord receiving little or no other payment. The Lord could not sell his Serfs, but, should the Lord sell a parcel of land, then the Serf associated with that piece of land went with it to serve the new Lord. Serfdom was hereditary, by becoming a Serf of the Lord; Serfs also bound not only themselves but also their heirs for life. Serfdom fell out of fashion in England when Elizabeth 1st freed all Serfs in England in 1574, thereby halting the Peasant Uprising of Wat Tyler. There were still native born Scottish Serfs in 1799 when coal miners previously kept in Serfdom gained their emancipation.

See: **Fealty Oath.**

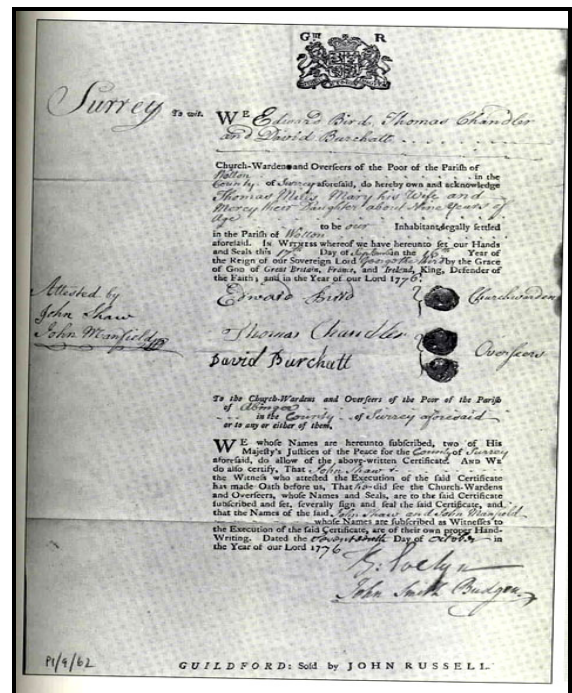
Scurvy:

A condition caused by deficiency of ascorbic acid (vitamin C) was brought about by eating mainly salted beef and pork during long sea voyages, and was the bane of all seamen until the late 19th Century, when storage of fresh fruit and vegetables was possible. Captain Bligh was commissioned by the Admiralty in London to obtain breadfruit from the Hawaiian Islands, in an effort to solve the problem of scurvy. His efforts resulted in the infamous "Mutiny on the Bounty".

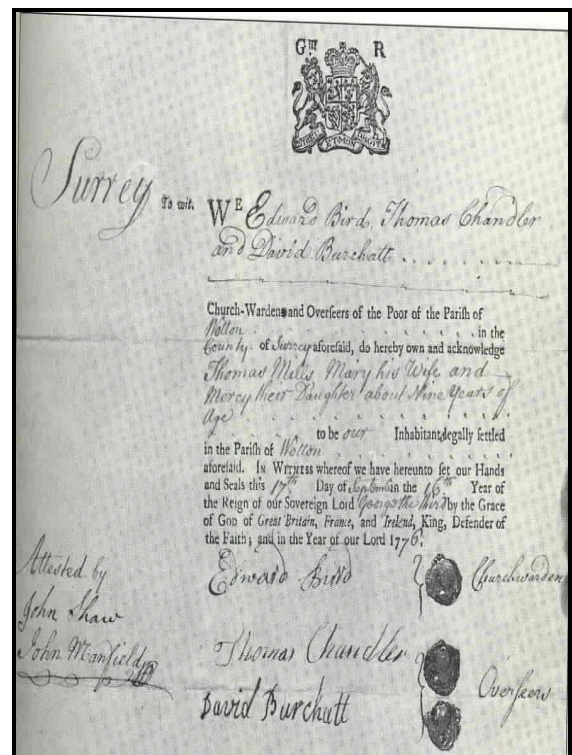
Settlement Certificate:

The Poor Law required the authorities of a parish to be responsible for the maintenance of poor people settled there. Settlement certificates were issued to those who moved from another parish. If the need for maintenance arose, the authorities could make a **Removal order** to send them and their dependents back to their parish of origin.

The Overseers, after carrying out an examination (or *interrogation*) as to their suitability for settlement, would apply to the Justices of the Peace for the issuing of a Settlement certificate. The Settlement certificate appearing below was issued in Wotton Surrey in 1776, allowing Thomas and Mary Mills, and their 9-year-old daughter to settle in the Parish, and would be the responsibility of the Parish of Wotton. Without this certificate, the Overseers of Abinger (*their home Parish*) would not allow the Mills family to settle.



A typical Settlement Certificate dated 1776.



Top section of the Certificate shows the Parish acceptance.

Sojourner:

A term used for a temporary resident, not a regular member of the Parish. A stranger living within a Parish, not having been born, or baptised within that Parish, therefore having no rights to claim upon the Parish for relief or other benefits of the Parish. The entry recorded in the Parish Register may appear as **Soj.** * See: **Settlement Certificate**

Spelling:

It was not until the mid 19th Century that spelling of names and words became formalised. The double “f” (ff) indicated that the word was a Name e.g. “ffox,” the double “f” stood for a Capital letter. Words and names were often written as the writer interpreted them to be; this explains why a name may be spelt differently five or more times in a document. In the middle ages the letter “I” did not exist and was indicated with a “y” in a word or name, such as “Smyth” for Smith. The letter “v” used in the printing of books etc as representing a “u” so the word “several” would be written as “seuerall.” The modern “w” is described as “double u.” In the 18th Century the letters “I” and “J” were interchangeable, hence Iacobus = Jacobus or James the origin of the name for the Jacobite followers of Bonnie Prince Charlie after his father the exiled Scottish *King James 3rd*.

Stranger to the Parish:

Anyone who does not belong in the environment in which they are found, being of or from another place. In Parish Law a stranger, was anyone not born or being a baptised person of the Parish, in which they are located at the time of an event taking place e.g. Death, Marriage. Strangers were often baptised into the Parish at the time of their marriage to a resident member of the Parish. Strangers falling on hard times were relocated back to their originating Parish for them to look after their welfare. ***See: Removal Order**

Supreme Head of the Church:

In 1534, *King Henry 8th* upon breaking with the Catholic Church of Rome, declared himself the “*Supreme Head in Earth*,” immediately under Christ, of the new Church of England. All Nobles, Courtiers, and Office bearers were required by Law to acknowledge him as the Supreme Head of the Church and not the Roman Catholic Pope. Those that opposed or refused to admit the declaration were treated as traitors and executed by beheading. Sir Thomas More, the British Statesman of the times, had opposed *Henry’s* divorce from Catherine of Aragon and his intended marriage to Anne Boleyn. More being a Catholic objected because of the Catholic doctrines banning divorce. At his trial on 17th April 1534, he was committed to the charge of Treason for refusing to swear the **Oath of Supremacy**, he effectively refused to acknowledge *Henry* as Supreme Head of the Church above the Pope, found guilty of high treason, and he was imprisoned. The tradition penalty being hanged, drawn, and quartered, but the king commuted this to beheading. More was beheaded on Tower Hill on 6th July 1535.

Surnames:

English and Welsh surnames derive from four sources:

(i) **Christian Names or forenames** (e.g. *Thomas, Allen, Harrison etc*);

(ii) **Occupations** (*Smith, Thatcher, Taylor, Carter*);

(iii) **Locality** (e.g. *Hall, Wood, and Moore*); and

(iv) **Personal peculiarities** (e.g. *Whitehead, Walker, and Brown*)

Surrogate:

Literally means, a deputy or substitute. In 18th and 19th Newfoundland, naval officers and others with temporary commissions as justices of the peace were known as surrogate magistrates, and their courts as surrogate’s courts.

Squirearchy:

A Member of Parish Society termed the gentry i.e. people who owned land (*considered as a class*). Also expressed as “**The Landed Gentry.**” Among the most powerful members of a society, often referred to as “Squire” or “Mister” and were considered Gentlemen.

– T –

Tariff:

A duty charged on a particular class of imports or exports.

Taxation and other Levies of England:

There were many forms of Tax gatherings. By the King, the Nobles, and Manorial Lords, who owned the lands on which Villages were situated. The Parish Church also applied Levies and fines upon the Parish citizens. Some of the taxes and levies appear below for pure interest sake.

Carriage Tax: 1747 to 1782 was levied on carriages.

Coat of Arms Tax: 1793-1882. Levied on all individuals to whom a Coat of Arms had been granted, or families laying claim to a Coat of Arms.

Dog Tax: 1796-1882. Levied on all dogs

Game Tax: 1784-1807. Tax on all game, birds, and deer.

Hair powder Tax: 1795-1861. The hair powder tax was levied in 1795. Those who wore a wig (to which white powder was applied) had to pay a duty of a *guinea*.¹ Army Officers, Clergy, and members of the Royal household were exempt. This tax helped to change fashion and wigs were rarely worn in the 19th century, although the tax was not abolished until 1861.

Hearth Tax: 1662 –1689. Tax of 2/- (*two shillings*) per year on each fireplace, hearth or stove, the tax was payable on Lady Day (March 25th). Paupers, and houses worth less than a rent at 20/- per annum, and if goods and chattels were worth less than £10 (*10 pounds*) were exempt from the tax. However, If there were 2 hearths in the house then tax was payable even if the person was exempt. Tax was levied from Michaelmas day 1662 until its abolishment after Lady Day 1689. After 1664, owners had to pay tax on property, even though the occupier was exempt.

¹ Calculated as £1-1-0, = Australian \$2.63. By today’s current standard (2005) the equivalent would be about \$63.00

Horse tax: 1784 to 1874. Was levied from on people riding or driving horses (including many used in trade) the horse was the only means of transport at the time.

Income tax: Was first introduced into England in 1789, but was repealed, and then reintroduced in 1803 until 1816. The tax was again reintroduced in 1842, but for many years only affected the wealthier classes.

Lay subsidies: Were taxes levied on movable property (such as goods, crops, and wages) Calculated in January or February 1523/4. In each of the next three years, the subsidies applied to all people over the age of 16 years, which had income from the land or taxable goods of £2 per annum, or had annual wage of £1 or more, the tax was 4 pence in the pound (£).

Loans to the Crown:

During the 16th century the Tudors relied on the royal prerogative to raise taxes such as benevolences (*for example that of 1545*) or forced loans (*many of which were never repaid*). In 1522 and 1523, forced loans were assessed based on assessments known as military surveys, undertaken in 1522. Commissioners listed the names of all landowners (*and all other males over 16*) with the value of their goods, thus providing the Government with records of wealth, and military strength of England. The assessments were later used to calculate the amount, which taxpayers should provide to the king by way of forced loans.

Charles 1 also imposed taxes such as *Ship money*, without recourse to Parliament. Ship money (*a major cause of the English Civil War*) was levied from 1634 to 1640 in maritime areas such as Devon (*and later elsewhere*) to finance the navy.

Male Servants Tax: A tax levied on all male servants from 1777 to 1852, with exemption on male servants engaged in husbandry, trade, or manufacture. A similar Tax was levied on female servants from 1785 to 1792.

Marriages, births, and burials Tax: The Marriage Duty Act (1695) was in force until 1706. This involved payment as they occurred. In addition an annual payment was collectable from all bachelors over 25 and childless widowers! A Duty stamp was required to be on the receipt.

Poll Tax: Poll taxes were *head taxes* that were raised in the 14th, 17th, and the 18th centuries. Men in receipt of poor relief were generally exempt. A levy of *four pence per head* was imposed in 1377 on those aged over 14. In 1379, it was levied on those over 16. The 1381 Poll taxes of *one shilling a head* (which resulted in the Peasant's Revolt in that year) were levied on those over the age of 15. Poll taxes were also collected in 1641, 1660, 1667, 1678, 1689 to 1694 1697 to 1699 and again in 1702 and 1703. In addition, Poll tax was levied quarterly from June 1st to March 1st 1665.

Sheep Tax: A tax levied on flocks of sheep from March 1549 to January 1550.

Silver plate: 1756-1777. Considered a type of wealth tax because all silver had to Hall Marked, and only the wealthy could afford Silver Plate.

Voluntary gifts to the King: In 1660, a Statute of Parliament provided for the collection of a "*free and voluntary present*" for the newly restored Monarchy of *Charles 2nd*, in order for him to clear his debts. Contributions were collected in 1661, and although considered voluntary the names of contributors were recorded.

Window Tax: 1696-1851 not strictly enforced in the later years, but was a tax on all windows in a dwelling or Manor.

Tenement:

Originally, the term related to a holding of land and buildings in Manorial terms. Lately it applies to any holding of land and buildings.

Tenants in Common and Joint Tenants:

Tenants in common owners, each holding separate ownership interests that can be sold, conveyed, or transferred without the consent of the other owners. When one of the owner's dies, that share of land is transferred by the owner's Will or by the intestacy statute, and the owner's heirs or legatees Will become the new owners of that share. Land held as "tenants in common" may also be "*partitioned*" or encumbered by creditors. "*Joint Tenants*" on the other hand shared a single freehold on a property, or in some cases more than one property. Upon the death of one, the survivor inherited, thus becoming the sole owner of the property.

The Test and Corporation Acts.

After 1660, it was official policy to exclude Roman Catholics and the more extreme Protestant Nonconformists from holding official positions led to the Corporation Act of 1661, which prohibited the election to local government office in a city or corporation of anyone who would not take the sacrament of Holy Communion at a Church of England service. The Test Act of 1672, which required all those taking up an official post, civil, or military, to submit a sacrament certificate that they had taken Holy Communion. The test was not abolished until 1828 when a declaration was substituted. All such office-holders were also to take the oaths of allegiance and supremacy. Between 1689 and 1702, the requirement to take the oaths and test was extended to beneficed clergy, members of the universities, lawyers, schoolteachers, and preachers.

Testament:

A Will, being a formal document setting out what a person wants to happen to their possessions after their death

Testator: A male who makes his "*Last Will and Testament*."

Testatrix: A female who makes her "*Last Will and Testament*."

Three Life Lease:

First introduced during the mid-late 16th Century, and formed the backbone of the leasing system in the West Country until the early 19th Century. The lease was granted for 99 years or three lives. It set out in writing recording the names of the parties, the lessor, and the lessees. The date of the signing and the consideration to be paid for the lease, the description of the property including all of its appurtenances, including the annual rent and the Heriot due upon the death of each or some of the lives named. In addition, it also set out the commonable rights of the lessees, (that is to say the right to graze sheep and cattle on common land) because these leases had to be passed in the Ecclesiastic Courts, they may be found in the Local Record Offices. See Bote.

Tithe:

A levy or tax paid to the Monasteries and Abbeys by the populace of a Parish, equalling one tenth of the total annual product of land and stock. Later was commuted to a lump sum of one tenth of one's income paid to the church

Tithing:

Derived from "ten householders, each of whom lived on a hide of land. Historically there were 100 tithings to a "hundred"

Tontine:

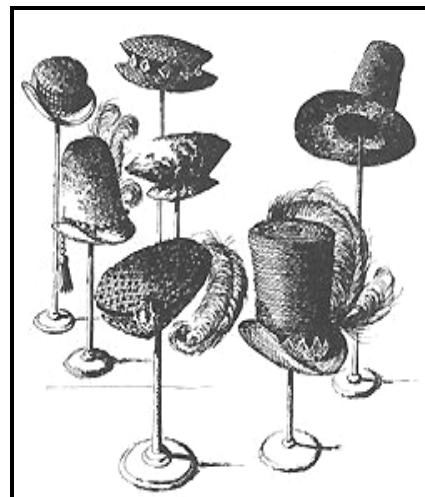
A tontine is a form of annuity, and a government scheme for raising money. In return for an original investment the participants were guaranteed an annual income for the life of a nominee (*usually a young relative*) selected by the investor. The total sum of money shared each year remained the same so that as the investors/nominees died off, those remaining each received a bigger payment. The last survivor enjoyed the whole income. Tontines were named after Lawrence Tonti, of Naples, who brought the idea to Paris in the 17th century; they had been in use in Italy for along time. The British government made 11 tontines available between 1690 and 1790. The records for these list about 15,000 individuals, and are in the PRO, Kew. Tontines were also used as fund-raising schemes for such things as public buildings, houses, and hotels

Thrall:

The slave of a Lord. In 1772 all slavery was abolished throughout England

Transubstantiation:

The belief of Roman Catholics that during the Mass, the substance of the bread and wine are transformed and that Christ physically becomes present in the bread and wine following the recitation of the words "*this is my body, this is my blood*" by the priest.

Tudor Clothing Fashions:

16th Century Tudor Male Headwear styles



A Tudor period Poor man's working clothes.



A 16th Century couple stiffly posed, painted on boards. **Note:** the fashions, the male dressed in sombre clothing and the woman in richly ornate attire.

Glossary continues in the June Edition.

Help Wanted.

The following has been received from Tamara Martin, appealing to anyone who can help her overcome an obstacle in her research. If you are able to help Tamara, please reply andfhqnews@australiaonline.com.au and your details will be passed on to her.

“I am wondering if anyone who can help me with one of my brick walls. My Great Great Grandparents **Timothy Welsh** and **Honora Kain** were married in the St Roses of Lima Catholic Church at Kapunda South Australia, on 29 April 1870. I have ascertained that their respective fathers were **Timothy WELSH or WALSH** and **Patrick KAIN**.

Timothy WALSH (Junior) was born circa 1840; Timothy had been a farmer at Booleroo Whim (a town near Melrose) and the surrounding areas. He died 28 December 1901 at Booleroo Whim South Australia. **Honora** was born circa 1841 she died 13 Jan 1907. Both Timothy and Honora are buried in the Pekina Cemetery with their son Daniel

Their marriage produced the following children:

John 1871-1932 (my great grandfather) married Anna Modystach
 Mary 1873 – 1942 (did not marry)
 Catherine 1875 – 1947 (did not marry)
 Patrick 1876-1933 (did not marry)
 Bridget 1878-1936 (did not marry)
 Daniel 1882-1907 (did not marry)
 Honora 1886-1933 m John McCarthy

The surname has often been recorded as **WELSH** and other times as **WALSH**,
 My brick walls are – when did **Timothy Walsh** and **Honora KAIN** arrive in South Australia? – They do not appear on any South Australian shipping lists. I have obtained their wills, and I am willing to share our information with family and friends of the Booleroo **Welsh** connection. Thanks for any information possible.”



The old Adelaide photographs.

Front Page: The Adelaide-Glenelg train. Pictured here in King William Street Adelaide, probably at the terminus located near South Terrace.

The “**Adelaide and Glenelg and Suburban Railway Company**” commenced operation on 2 August 1873, when the Governor of the day and a number of shareholders travelled to Glenelg. Two days later the railway was open for public traffic. It was soon discovered that the seating provided was insufficient, and it was not unusual to see passengers riding from Glenelg to Adelaide on the roofs of the carriages. Passenger comfort and service were not the strong points of the Railway, passengers often waited for up to three hours for a train, often in the dark.

The railway was later extended to Victoria Square, where passengers alighted and walked to the shopping precincts of the city. In 1880, a rival company “**The Holdfast Railway Company**” operated a service from North Terrace. In 1881, the two companies amalgamated and operated a service until Tuesday 2 April 1929, when the last train left the South Terrace Station. The next day bus services became the only form of public transport. For further reading, see “*Manning’s Place names of South Australia*.” State Library of South Australia.

Picture Published courtesy of the National Library of Australia. Nla-pic-an 208865934-56 from Capt. Samuel White Sweet collection

Opposite: “O’Connell Street North Adelaide, circa 1880.” Depicting horse drawn buses of the era, looking South from Barton Terrace (front foreground) The Caledonia Hotel, situated on the South Western corner of Barton Terrace and O’Connell Street, is still in use today and the facade is still clearly visible.

Picture Published courtesy of the National Library of Australia. Nla-pic-an 10608594-86 from Capt. Samuel White Sweet collection

Opposite: “The old gum tree, Glenelg circa 1880.” It is supposedly the site under which, on 28 December 1836 at Holdfast Bay (*Glenelg*) Governor Hindmarsh read the proclamation, claiming the colony of South Australia to be a British dependency. This site has proven to be a subject of contention of late, with the claim that the proclamation had been actually read under a huge gum tree, and not the curved Gum Tree. Whichever the case may be, it is generally accepted as the site of the establishment of the Colony of South Australia, and celebrations take place at the site each year on 28 December, Proclamation Day.

Picture Published courtesy of the National Library of Australia. Nla-pic-an 20886593-71 from Capt. Samuel White Sweet collection.

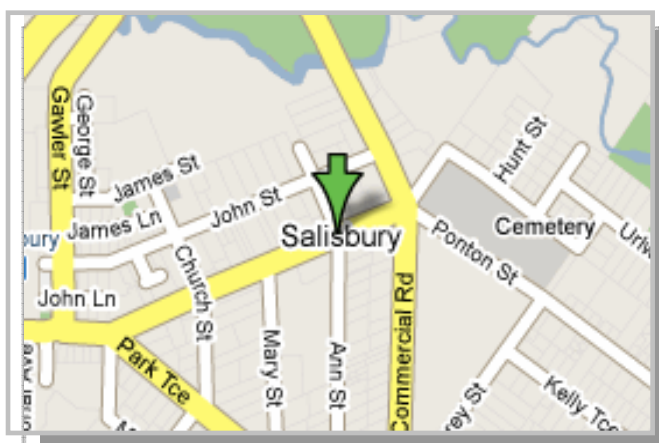
Photo Album. - Adelaide of Yesteryear.





The Home of Adelaide Northern Districts Family History Group
The Old Police Station" Ann Street Salisbury Sth. Australia

Where to find us



The ANDFHG meeting rooms are open every Thursday from 10am to 4pm for Family Research, members, and visitors are welcome.
Open days are held on Saturdays twice Monthly between 1pm to 4pm.
Volunteer Genealogist Researchers are available to assist and guide in all Family History matters.



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Contact
ANDFHG Inc.
PO BOX 32,
ELIZABETH,
SOUTH AUSTRALIA
5112

E-mail: andfhg@yahoo.com.au

Visit our Website at:

www.ozgenonline.com/~andfhg