



## Chapter 22 – Inheritance

(1857 – 1918)

The marriage of David Brown and Eliza Lewis was one of convenience. It is apparent from David's last Will & Testament that the marriage was an attempt to provide a satisfactory future for the children of his second family, and the children of his deceased, eldest son, Thomas. As for Eliza, she stood to gain considerable material advantage as a reward for undertaking the responsibility assigned to her by the Will.

With the death of their mother, matters for Robert Bruce, Alfred, and Henry were bad enough. However, with their father's death, their world was turned on its head.

During the unhappy occasion of registering his father's death, George omitted the existence of the three boys, and refers to their mother (his step-mother), as 'Widow D'Arcy.' At this juncture, it is probable George was not aware of the exact provisions of the new Will. Though, he had grounds for knowing that his three young step-brothers existence considerably reduced any chance he had of getting what he might have thought was his due.

### The Will

Mindful of George Huntley's unexpected death having left Eliza as sole executor, the key aspects of David's will are:

- The beneficiaries were Eliza; David's sons: Robert Bruce, Alfred, and Henry; and his grandsons: David, Thomas and John.
- None of the children by his first marriage benefited directly from the will.
- The inn 'The Horse and Jockey' and a considerable amount of Portion 29 were left to Eliza (and her heirs for her 'use and benefit'.
- Close to half of Portion 28 to the north of the government road had long been given to David's daughter, Catherine Hobden.
- A small parcel of Portion 28 had already been gifted to the Church of England for the construction of the church and graveyard, where David was buried.
- The remainder of Portion 29 and 28 that hadn't been bestowed on Eliza, Catherine, and the Church was to be divided amongst David's sons: Robert Bruce and Alfred, when they turned 21 years; and his grandsons David, Thomas Edward and John James on the death of Eliza. Until the time of Eliza's demise, the land promised to grandsons was to be for Eliza to use as she pleased. The land promised to David's sons was for both Eliza's and George Huntley's use in the interim
- David's allotments at Bourke Street, Maitland, were to pass to son, Henry at the age of 21. Again, in the interim Eliza was to have use of the property.
- Eliza could earn whatever income she should manage without having to account for it ('she maintaining, educating, and bringing up' David's sons and grandsons during their infancy.
- None of David's granddaughters by his son Thomas benefited from the will.
- In the event of Eliza dying without heirs, any of her hereditaments not already disposed of were to be divided equally between David's three son's Robert, Alfred, and Henry.

The whole intent of the provisions David's will was for the care and well being of his three young sons and three grandsons by Thomas. Clearly, David had seen Eliza Lewis and George Huntly as people on who he



could rely to carry out his wishes. David went to a great deal of trouble to compensate them for their continuing long term efforts. And so George's concern proved well founded. However, the death of

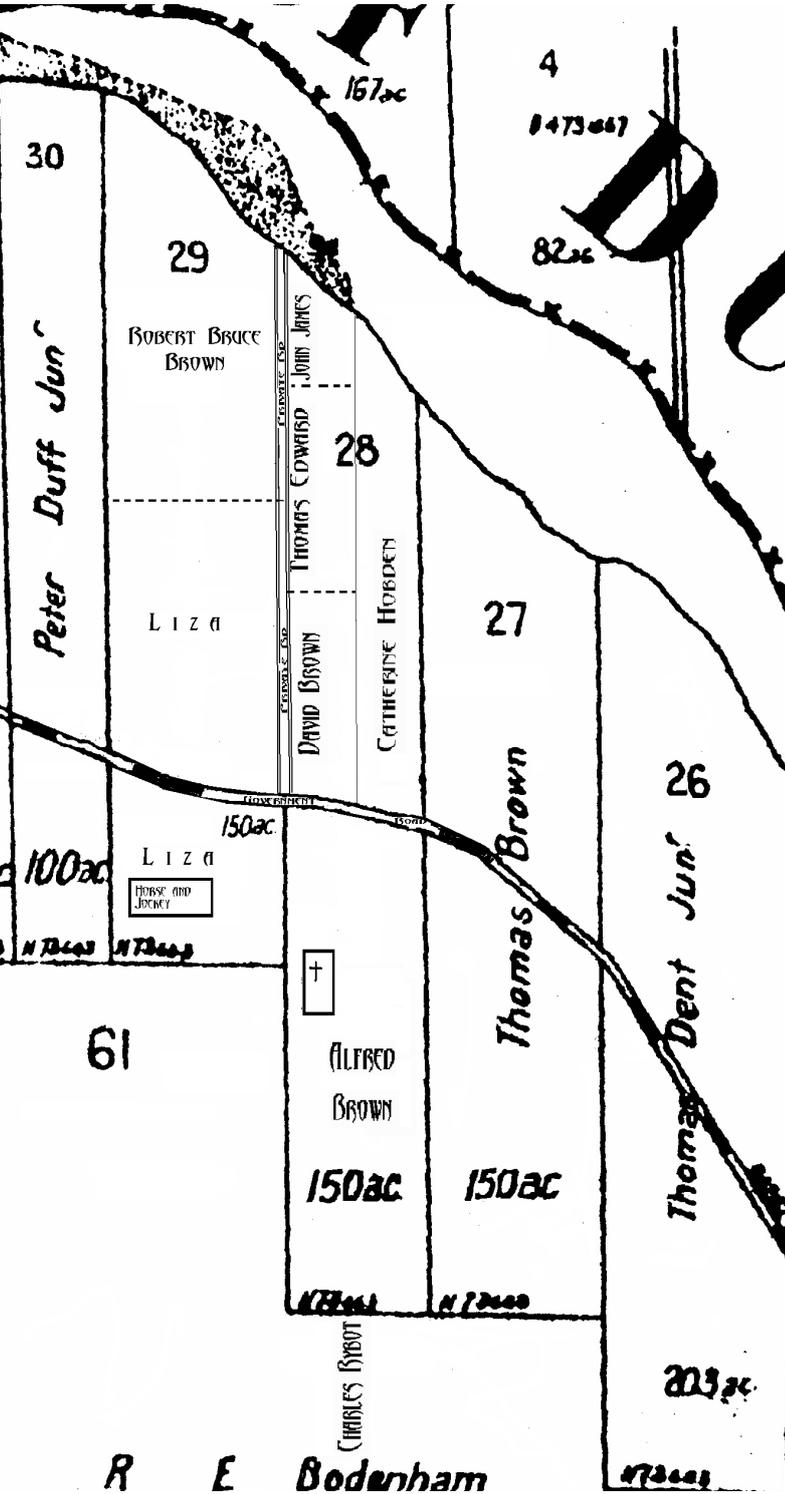
George Huntley, being one of the two executors, put at risk the prospects for David's wishes being fulfilled.

David's children by his first marriage might be expected to have some resentment about their omission from the provisions the will once acquainted with them. It could be expected that they perceived father's arrangements with Eliza as ill considered.

For Eliza, David's will may have been the result of much conniving to ingratiate herself with David. Perhaps she saw it as an opportunity to become wealthy at the expense of the children she was promised to care for?

George's omission of the existence of the three boys on his father's death certificate is likely to be a symptom of a long standing dissatisfaction with Harriet and 'her' children. Perhaps she was long seen the 'interloper' and 'her' children more of the same? It may well be that that George had good reason for his dissatisfaction with Harriet? George's misrepresentation may have been an 'in principle' rejection by him of any entitlement they had to an inheritance? It may have been a hasty act - An ill considered in the heat of the moment thing?

Whatever George's motives, it was a false declaration on an official document by someone who could reasonably be expected to know the true facts.



The above map approximates the division of David Brown II's in his will of Portions 29 & 28 at Jerry's Plains to his wife Liza, children and grandchildren.<sup>710</sup>

Also, unfortunately for George, it is arguably an indication of intent to deny his brothers their inheritance!

<sup>710</sup> The original officially stated acreages were nominal only. A later survey revealed Lot 29 to be 182 acres, and Lot 28 in fact 185 acres. Lot 27, Thomas' original grant, was eventually revealed to be 195 acres.



On 13 February 1857, Petition of Probate was granted to Eliza solely, as a consequence of the death of the other executor. Goods were ‘sworn at £2000.’

Just over three months after her husband’s death, on 13 April 1857, Eliza Brown married again. Age 37, she married Daniel D’Arcy (Darcey), aged 21? (born in 1838?), victualler at Wambo, Jerry’s Plains. Daniel’s father’s name is given as Thomas and his mother, Harriet.<sup>711</sup> That is, Daniel was half brother .to Robert, Alfred, and Henry.

By marrying Daniel, she had reinforced her entitlement to be the carer for David & Harriet’s children. It is likely that this was a reaction to expressions of resentment by some members of the first family with the Will’s provisions.

It may well be that someone like George Brown pointed out that, as a blood relation to the boys, he had a greater claim to be their carer than she did. However, Daniel’s claim as a relation to the boys was equal to that of George.

Any plans of challenging the Will that might have been under consideration by children of the first marriage, such as George, are likely to have lost

momentum with the news of the marriage.



Cartoon ‘Reading of the Will’ – 1854<sup>712</sup>

Daniel’s marriage to Eliza may well been driven by the noble motive of the desire to care for his half brothers, or a profound and passionate love for the comparatively ancient Eliza. Alternatively, and more probable, he viewed the event as a shortcut to an easy life. Eliza may herself have hoped for some family loyalty to influence her marriage partner’s cooperation in the care of his siblings.

Just over a year elapsed after Harriet’s death, when the boys’ father, David, died in January 1857. Henry was barely 3 years old, Robert was 6 years old, and Alfred was 9 years old. The story of Harriet’s children’s lot conveys a very strong impression of neglect. In keeping with David’s Will, Henry, and his two surviving brothers should have been well cared for by their stepmother for many years. This assumes that David’s trust in her was well placed?

### **The ‘Horse and Jockey’**

Under David’s Will the ‘Horse and Jockey’ and adjacent land was left to Eliza and her heirs. In keeping with that provision, during 1857, Eliza entered into an arrangement whereby George Brown became the licensee of the Horse & Jockey Inn. George held it until 1868.<sup>713</sup> This was one of several significant deals set in place between Eliza concerning the disposal of David’s estate. Sometime before July of 1862, Eliza & Daniel D’arcy sold 40 acres adjoining the Horse & Jockey Inn at Jerry’s Plains to Patrick Ward<sup>714</sup>

<sup>711</sup> BDM 2414 refers.

<sup>712</sup> The Illustrated Sydney New, 1854.

<sup>713</sup> Index to Liquor Licences in the Hunter 1865-1921.

<sup>714</sup> Book 56 No 120 or 128 - This document was an Agreement and also referenced Book 69 No 161. per Helen Dickenson, NSW Land Records.

Under the Will, any benefit associated with use and benefit of the Horse and Jockey property was exclusive of any husband Eliza subsequently married.



## Death of Henry

At the age of 6 years, Henry Brown as ‘Cottagers infant ward’ from the courthouse’, died of sunstroke on 2 February 1860.<sup>715</sup> The Registration of Death indicates that it took 2 days for Henry to die - Dr William Tristram had attended him on the 1<sup>st</sup> of February.

The informant was Thomas Taylor, a ‘Splitter & Fencer’ of Jerry’s Plains - His step-brother, the son of Harriet Davis and Thomas Taylor? It is not unreasonable to speculate that young Henry was in the company of Thomas Taylor, whose job caused him to be out in the blazing summer sun; and Henry being ignored, lost, or forgotten for a lengthy period by a very busy and far wandering brother doing his job. It seems that the ‘Cottagers infant ward’ arrangement was a form of fostering. The ‘Cottager’ was an agricultural labourer who was paid to care for the child rather than send them to an orphanage. As to who was paying, is another matter. Possibly, it was Eliza from the sale of the estates proceeds? However, it was evident that Henry wasn’t in Eliza’s personal care. Had Liza arranged all three children to be cared for under Cottagers infant ward system?

Henry, should he have survived to age twenty-one years, was to be the beneficiary of the allotments in Bourke Street, Maitland, his grandfather had purchase from Michael Bourke. Otherwise, it was to pass to his stepmother.

On 23 October 1860, Eliza D’Arcy formerly sold land on the east side of Bourke Street to William Joseph Quinn of Maitland, Shopkeeper for £61. The deed acknowledged that this property had been bequeathed to Henry, should he have reached the age of 21 years; and as he had no surviving issue, it was bequeathed to Eliza Brown now D’Arcy.<sup>716</sup>

It is probable that soon after their father’s death, Robert, Alfred, and Henry were farmed out to three separate homes as ‘Cottagers Infant Wards’. Possibly, the payment to carers of the three boys under the ‘Cottagers infant ward’ arrangement was derived from the proceeds of the David Brown’s estate?

## Grandson’s Death

On 25 February 1861, David Brown’s eldest grandson, David, died at the Brown’s ‘Millie’ property. The cause of death was by an infection resulting from a twig or stick penetrating his leg?<sup>717</sup> According to the death certificate, David was buried the next day at Millie.

At the time his brother, John James, was 15 years old and probably working on a Brown property. Thomas Edward was by then 18 years old and working, most probably as a butcher in the Jerry’s Plains region?<sup>718</sup>

On 24 July 1862, Eliza D’ARCY, formerly BROWN, of Jerry’s Plains sold 18 acres at Jerry’s Plains to George BROWN landholder of Jerry’s Plains for £61-13-9. This land was bounded on the south by a Government Road, bounded the west by a private road, and on the east by Catherine Hobden’s land.

The deed acknowledged that this property had been bequeathed to David by his grandfather, but in the case of his decease and should he have no surviving issue, it was bequeathed to Eliza Brown now D’Arcy.<sup>719</sup>

The deed for the sale went on to say among other things that Eliza married Daniel D’Arcy but has since separated. Sometime in the previous 21 months, Eliza and Daniel had parted company.

## Death of Alfred

When their brother, Henry, died, Robert was 9 and Alfred was 11 years old.

On 15 November 1862, while riding at George Bowman’s property, ‘Arrowfield near Jerry’s Plains’<sup>720</sup>, Alfred fell from his horse. He lived on for two hours after sustaining his injuries from the fall before dying.

<sup>715</sup> Per Maitland Mercury and BDM Registration of Death No 5377, Patrick Plains, 1860

<sup>716</sup> Book 69 No 886 per Helen Dickenson, NSW Land Records

<sup>717</sup> Per telcon Marie Tattam October 2000.

<sup>718</sup> John’s occupation in 1870 was given as butcher in land sale to his uncle John Brown. Book 122 No 468 refers.

<sup>719</sup> Book 79 No 502 per Helen Dickenson, NSW Land Records



The event was marginally less than six years after his father's death. At the time Alfred was only 14 years old and his occupation given as 'Domestic Servant'. His father is said to be 'David Brown' a 'Publican' and mother 'unknown'.

Alfred was buried at the Church of England, Jerry's Plains. The minister on the occasion is William Dove. One of the witnesses to the burial was a John Smith. Of note however, rather significantly, is the other witness, George Brown,<sup>721</sup> Alfred's half brother.

The informant was the surgeon who had attended Alfred, A. W. Thornton, of Muswellbrook. Dr Thornton was obviously not particularly well informed himself nor well advised about Alfred's family circumstances.

On 4 May 1864, Eliza D'Arcy sold two parcels of land at Jerry's Plains to George Brown, landholder at Jerry's Plains, for £100. This was the land adjoining the 'Horse and Jockey Inn. Bounded on the north by the Government Road, on the south by Charles Rybott's grant but excluding the land given by David Brown for a Church and Burial Ground.

The deed acknowledged that this property had been bequeathed to Alfred, should he have reached the age of 21 years; and as he had no surviving issue, it was bequeathed to Eliza Brown now D'Arcy.

The deed for the sale went on to say among other things that Eliza married Daniel D'Arcy but has since separated and the residence of Daniel D'Arcy cannot be ascertained.<sup>722</sup>

George would have to have been aware that there was still Robert Brown left as a claimant for a share of his father's estate.

24 February 1865 Eliza D'Arcy formerly Brown of Jerry's Plains sold land at Jerry's Plains on the Hunter River to George Brown, landholder of Jerry's Plains, for £50. The deed for the sale went on to say, among other things that:

- Eliza married Daniel D'Arcy but has since separated and the residence of Daniel D'Arcy cannot be ascertained;
- land was fenced with a cottage occupied by Henry Margetts, Constable, and was bounded by Mrs Hobden's land and the Hunter River;
- David Brown bequeathed to his son, Alfred. Should he decease before the age of 21 years and have no surviving issue, then to his wife, Eliza Brown now D'Arcy;
- In the event of Eliza's decease, the land was to go to David Brown's grandsons, Thomas Edward Brown and John James Brown.<sup>723</sup>

The deed appears to be a sale and lease. Eliza is handing over to George Brown the care and use of the land to be inherited by his nephews: Thomas Edward and John Edward; and the obligation to implement the wishes of his father as expressed in will concerning their inheritance when it came due.

Eliza had progressively disposed of the entitlement of each boy, in accordance with David's Will, as the opportunity presented itself. Her sale of land on 24 February 1865 to George, was her final, and conveys a sense of continuing awareness and concern for the remaining children's entitlements. For Thomas Edward and John James their inheritance still depends on George being acquainted with news of Eliza's death, and George acting on it.

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<sup>720</sup> First Village of Jerry's Plains, by Peter Ellis, Hunter Valley News, 30 September 1992 – refers to George Bowman's properties Archerfield and Arrowfield.

<sup>721</sup> NSW Death Registration No 04903 refers.

<sup>722</sup> Book 88 No 797 per Helen Dickenson, NSW Land Records

<sup>723</sup> Book 94 No 673 per Helen Dickenson, NSW Land Records



After the sale of 24 February 1865, Eliza disappears. At least as far as available documentation is concerned. So far, no evidence of her death has come to light. There is a possibility that she had accumulated some savings from her various sales and that she departed to one of the other colonies or sailed back to England?

### Difficult Survival

The sole survivor of David's second family, Robert, was seven years old when David passed away. Who actually took care of Robert in the succeeding years is unknown. It seems probable that he like his brother, Henry, was made 'Cottagers infant ward' of the courthouse',

On 10 Jul 1872, Robert then described as being 'of Marthagi Creek, Stockman', sold the 50 acres he had inherited to his brother, John BROWN of Eilerslie, Jerry's Plains, Grazier for £100.<sup>724</sup> Robert was then 22 years of age.

Robert was about 37 years old when he married Alice Carroll (c1872 - ) in 1887 at Cunnamulla, Queensland.

### Robert had 6 Children by his marriage with Alice:

- |      |  |     |  |
|------|--|-----|--|
| i.   | Alice Maud (1888 – 1906) <sup>725</sup>          | iv. | Robert Bruce (2 Dec 1895 <sup>728</sup> - 4 Aug 1981)                    |
| ii.  | William Wallace (1890 - 1895) <sup>726</sup>     | v.  | John Andrew (1898 <sup>729</sup> - 13 Jun 1918)                          |
| iii. | Catherine Lilly May (1893 - 1905) <sup>727</sup> | vi. | Elizabeth Sarah (16 Mar 1901 <sup>730</sup> -1 Oct 2001 <sup>731</sup> ) |

Robert and Alice separated when Elizabeth, their last born, was very a young child. Alice is said to have walked out on Robert, taking Elizabeth with her and leaving the two boys with him.<sup>732</sup> Presumably, this was not long after the death of their eldest daughter, Alice Maude in 1906?

Given the loss of his three brothers: William, Alfred and Henry, and his mother and father progressively; by the time he was twelve years old; the bulk of his childhood was in the care of others; and the failure of his marriage after 14 years; it seems likely his formative years were not particularly happy and conspired against him in his later life.

Whether other members of the Brown were as hostile to Robert as George seems to have been is another question. However, his brother, John, readily honoured his (Robert's) entitlement of land in keeping with their father's Will.



Alice Brown nee Carroll  
c1930<sup>733</sup>

Robert spent most of his working life employed in jackeroo related occupations.

<sup>724</sup> Book 131 No 270 per Helen Dickenson, NSW Land Records

<sup>725</sup> QLD Birth Registration 1898/C2584

<sup>726</sup> QLD Birth Registration 1890/C2855

<sup>727</sup> QLD Birth Registration 1893/C2340

<sup>728</sup> QLD Birth Registration 1895/C2554

<sup>729</sup> QLD Birth Registration 1898/C2382

<sup>730</sup> QLD Birth Registration 1901/C11733

<sup>731</sup> QLD Birth Registration 2001/59022

<sup>732</sup> Per Les Newton, 3 Mar 2009.

<sup>733</sup> Photo per Per Les Newton, 3 Mar 2009.



On 30 May 1920, Robert, at the age of 70 years, was employed as a Boundary Rider at Mobil Springs, Quilpie in Queensland when he met his end. He had been missed from his camp after he had been boundary riding for a week. A search commenced when Robert's horse returned to Mobil Springs without him. A search found a broken fence, some possessions, and finally a body with a head wound. He was buried immediately where his body lay – there were no suspicious circumstances. Cause of death was succinctly described as “fall from horse due to accident.” His age was given as 67 years though he was 70.<sup>734</sup>

Robert's death certificate shows his son Robert junior, age 24, of Hillsborough Nobby, as informant. Robert junior and his sister Elizabeth age 19 are stated to be the only surviving children, the other four having predeceased their father.

His final years, and life generally as it is recorded above, stands in stark contrast to his siblings descended from Elizabeth McMahon.

### **Lest We Forget**

However, it is through one of Robert's children that we get another image indicative of Australia's heritage. His son, John Andrew Brown, served his country in the First World War. John enlisted in the 25<sup>th</sup> Battalion Australian Imperial Forces (AIF) at Cunnamulla on 22 Feb 1915. At the time, he was employed at Claverton Station, Cunnamulla, Qld, and gave his occupation as 'Stockman'. John is described as height 5ft 81/2 inches,<sup>735</sup> weight 160lbs, chest 35 inches, complexion dark, hair black, eyes brown, religion RC, and age 19years and 5 months. He had a scar on his left cheek, left eyebrow, his right hand, and under his right knee. John's birth was registered in 1898, which meant that he had overstated his age by several years.

It seems his initial enlistment was for the purpose of joining the Light Horse. Apparently, after some brief service he was returned on the HMAT Wilshire on 25 Sep 1915, from some place presently unknown, and hospitalised in Melbourne. On discharge from hospital on 9 Oct 1915 his application was annotated 'Unallotted Light Horse'<sup>736</sup> 'fit for duty' sent to Broadmeadow for Reinf's'. John then signed up again, at Broadmeadows, Victoria, on 13 October 1915 with the 23<sup>rd</sup> Battalion of the AIF.

During October 1915, Henry William Dadswell, of Ararat, Victoria, was also at Broadmeadows commencing his service with the AIF. It is likely that his 18 year old sister, Ethel May ('Ciss'), visited him in Melbourne while he was base at Broadmeadow. Henry was at Broadmeadows until 1 March 1916 when he sailed for the Middle East aboard the troop transport 'Ulysses'. It is probable that Ethel Dadswell and John Andrew Brown became acquainted during this time. Whenever it was that they met, John made a lasting favourable impression on Ethel. It is evident through later events that they kept in touch over the next several years.

As a member of the 11th Reinforcements, John departed Melbourne on the RMS Malawa 21 March 1916, for service in Europe. (*He may have arrived Middle East 14 April 1916 for a brief stop over?*).

John served for the most part as a Private soldier No 4533A<sup>737</sup>.

He was taken on strength of the 7<sup>th</sup> Training Battalion in England on 19 July 1916.

On 24 August 1916, John rejoined his original 25<sup>th</sup> Battalion in France. The 25<sup>th</sup> Infantry Battalion was one of the four Battalions that comprised the 7<sup>th</sup> Brigade, 2<sup>nd</sup> Division.<sup>738</sup>

<sup>734</sup> QLD Death Registration 2151

<sup>735</sup> Later documentation states 5'6".

<sup>736</sup> AA B2455 F8

<sup>737</sup> Several other service numbers appear on his records and have been crossed out.

<sup>738</sup> 26, 27, and 28 Battalions also formed part of 7<sup>th</sup> Brigade, 2<sup>nd</sup> Division.



While serving in France, John was wounded twice in action: 14 Nov 1916, ‘mild’ gunshot wound to cheek, and apparently in the same region as the existing scar on his left cheek; and 10 Oct 1917, severe wound to the neck.



Photo per J I Griffiths 21 Sep 2008

His service record is typical of the more he had charges brought against him for being ‘Absent Without Leave’, and using abusive language to an NCO.

On 10 June 1918, Australians commenced their first action as a Corps. The objective was to capture the German front line defences at Morlancourt and Sailly Laurette. The attack succeeded. All objectives were captured with heavy casualties being inflicted on the enemy. Australian losses were about 400 men.

John was killed in action on 13 June 1918<sup>739</sup> ‘on the Bray-Corbie Road at Morlancourt’. On the morning of the 13<sup>th</sup> John was stretcher bearer with Pte. S. B. Gray looking for wounded. Apparently colourful images of Australian soldiers serving on the Western Front at that time. Among other things, having done what they could John and Pte Gray ‘gave some of the others a hand’ who were in the process of ‘connecting trenches’. While doing this work they were fired on by a

machine gun. Two bullets into John’s heart killed him instantly.<sup>740</sup> He was finally put to rest in at 247 Beacon Cemetery, Sailly-Laurette.<sup>741</sup>

Correspondence to the Commissioner for Pensions in 1918 by Ethel Dadswell provides an intriguing sequel. Ethel states that she had ‘not been notified of his death by the Defence Department’ and ‘could you kindly give me information as to how he met his death’. The official response indicates that her difficulty lay in the fact that she was not ‘next of kin’.<sup>742</sup>



Ethel May ('Ciss') Dadswell<sup>743</sup>

Obviously, Ethel felt that she had a special relationship with John. Unfortunately, she was one of many young women experiencing the sense of loss and grieving over a soldier not returning from the war, and needing to know more.

### **Inheritance Delayed?**

The fate of the children of David Brown (II)’s second marriage stands out in contrast to the fate of their brothers and sisters by his first wife. However, while young Henry’s death seemed to be the result of neglect, Alfred’s horse riding accident was unfortunately all too frequent among children at that time.

<sup>739</sup> AA B2455

<sup>740</sup> Red Cross Wounded and Missing. Enquiry Bureau Files 1914-18 War 1DRL/0248

<sup>741</sup> Australian War Memorial Roll of Honour refers.

<sup>742</sup> AA B2455/1 f76-7 refers. Also see ‘Dadswell Family History’ on the internet re Ethel May (‘Ciss’) Dadswell 1897-1943.

<sup>743</sup> Photo Courtesy Harley Dadswell. [http://www.dadswell.id.au/history/tree9/ethel\\_may\\_dadswell.htm](http://www.dadswell.id.au/history/tree9/ethel_may_dadswell.htm)



The death of one trustee the day after the Will's signing was not a promising sign as far as implementing the intent of the Will was concern.

David's grandchildren, the sons, of his eldest son, Thomas, were disadvantaged in more material ways. The eldest, David, age 20, working an adult with his uncles at Millie and alike, hardly had the need of motherly care from Elisa. As it was, he and his brothers, Thomas Edward 12, and John James 9, still had the benefit of their mother, Ann, being alive and very interested in their welfare. One gets the impression that they didn't seem to incur as hash a deal as Harriet's boys appear to have received in terms of love and care.

It has to be remembered that taking on the extra mouths that these children represent to many a rural family represented a substantial cost and responsibility. Very few families were in a strong financial position like the Chisholms, such that they could contemplate financing the education of orphaned relatives.

To what extent did Eliza use income from the property to benefit her charges? Was she negligent in any way in the performance of her Executive duties? In keeping with her entitlement under the will, Liza was permitted to 'cash in' on the deaths of Henry, Alfred and David to her advantage. However, Robert, John James, and Thomas Edward eventually got there inheritance.

There a strong belief within Thomas Edward's family carried on into the second half of the 20<sup>th</sup> Century that he and his brothers had been cheated of their inheritance. A statement by Mrs 'Bell' Florence Acey Brown, the widow of Wallace John Brown, [John James son, and Thomas Brown's (1817-1848) grandson] refers. In 1981, Bell was adamant that George had 'cheated his brother's children of their inheritance'<sup>744</sup> Note, not Eliza Lewis. It raises questions about just what it was that George could possibly have done, and whether it was more a perception than reality?



Mrs 'Bell' Florence Acey Brown<sup>745</sup>

A deed of sale of the remaining property to George was signed by Eliza on the 24 February 1865. It included the remaining portion of land promised to Alfred in David's last will and testament, and the portions promised to John James and Thomas Edward.

The initiative for preparation of the deed seems to have emanated from George.

The deed says that the property was being 'released' for the use of the George 'and his heirs and assigns for ever! It does mention the word 'lease'.

In this regard, the deed declares Eliza 'hath in herself good right and full powers hereby to convey and assure the said hereditaments and premises free from encumbrances. This statement seems to ignore the entitlement of George's nephews to the property as provided for under his father's Will and which is acknowledged elsewhere in the deed - That John James and Thomas Edward were to inherit the land in the event of Eliza's death!

The deed provides for Eliza to stay on the property and enjoy the facilities (apparently at no cost). However, anyone who wants to enjoy the same had to negotiate with George and his heirs for the privilege.

Eliza received £50 for her concurrence with the transaction.

After signing, John O'Heard stated as Commissioner for Affidavits at Muswellbrook that Eliza acknowledged (to him) that the deed 'was executed by her and that she was acquainted with and understood the nature and effect thereof and she declared she had executed the same freely and voluntarily without menace, force or coercion either on the part of her husband or any other person'.

<sup>744</sup> Elizabeth Baxter letter to B & B Griffiths, P.O. Jerry's Plains, letter of 21 January 1981

<sup>745</sup> Photo from the article in the Singleton Argus 4 December 1981 in Florence Brown celebrating her 90<sup>th</sup> birthday



The land that his nephews were liable to inherit was small in relation to the land that George had managed to acquire as part of a steady acquisition program. Young John and Thomas's land was also enveloped by George's holdings, and was now for the moment integrated with them.

To what extent, if at all, the nephews were to be in fact materially disadvantaged by this transaction, is another matter! The deed contains several errors of fact concerning the boundaries of the land promised to both Thomas Edward Brown and John James Brown; and also the name of David Brown's wife being said on several occasions to be 'Ellen' instead of the intended 'Eliza'. These technicalities posed a problem for George in the short term, should he have sought to uphold his deed in court. The person drafting the deed seems to have been more a friend to Eliza and David's grandsons. George didn't seem to be getting what he was paying for!

On top of that, from this transaction he became the subject of a long lasting dissatisfaction on the part of the nephews that evolved into unflattering family legend. Land transactions tend to be the subject of considerable interest and discussion in small rural communities. Any controversy associated with a sale can only fuel the interest and discussion. The question here is, 'how long did it take to be a topic of interest at the Horse and Jockey Inn for which George held the licence'?

Five years later, George sold his Jerry's Plains property acquisitions to his brother, John, of Ellerslie, Jerry's Plains in July 1870. John, six months later, purchased the land entitlements under his father's will, of his two nephews.

The deed of sale of land from John Edward to his uncle John acknowledges his entitlement to inheritance of the land under the Will in the event of Eliza dying without and heirs. But it makes no mention of the fact of Eliza's death. The transaction is conducted as if they didn't expect Eliza to be an impediment?

The net result of the George and John's negotiation concerning their nephew's inheritance appears to be a realistic approach to the situation that faced them. George's transaction with Eliza seems to have given him ownership up to the time of her death. John's arrangement with his nephews takes up where George leaves off. It allowed him to assume ownership on Eliza's demise. However, George stood to gain permanent ownership if his nephews predeceased Eliza without heirs! It is highly probable that George thought he could forget or ignore his nephews and step brother's entitlement in the of Eliza's death and that they would never hear about it or be in a position to do much challenge him.

John James was 26 years old and Thomas Edward nearly 29 years old when they received their entitlement as cash, John £38 and Thomas £45. Theoretically, both men had to have become acquainted with news of Eliza's death to enable them claim their inheritance let alone sell it. Whatever happened to Eliza, it is apparent that the two nephews were not greatly disadvantaged by their Uncle George, if at all!

It was another two years before John of Ellerslie was able to come to a similar arrangement with his, not so contactable brother, Robert.

And so, the execution of the intentions of David's Will had been seen to be fulfilled.