

What each child inherited from Donald McLean

By Don Gordon, July 2021
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Purpose

- What did the executors do towards fulfilling Donald's intentions? Who got which properties, when, and what did they do with it?
- This document is one step towards understanding what resulted from the complex task of executing the Will. The enquiry is continuing.
- It is surprising that this is so difficult, because at the time, each of the ten children would have wanted to get their share – simply and quickly.

The Will & codicils:

- Donald McLean signed his Will in January 1846 and subsequently arranged six codicils, including four in the week that he died in October 1855.
- His intentions are summarized as follows:-
Christina (unless she re-marries) – various items for the rest of her life, half crop, half farming implements, cattle, & horses. Interest & annual produce. Lot 9 at 57 Hindley St
Hugh the younger – maintenance & education until 21 yrs old, lot 1 Hindley St, 6 bullocks, 12 dairy cows, dray, plough, harnessing for bullock team, plus 'All Children' below
Allan – Lot 2 Hindley St, plus 'All Children' below
Archibald – Lot 3 Hindley St, SW Section 2624, 2612, plus 'All Children' below
Adam Abercrombie (husband of my daughter Mary) – Lot 4 Hindley St, plus 'All Children' below
Robert Leslie (husband of my daughter Ann) – Lot 5 Hindley St, plus 'All Children' below
Margaret – Lot 6 Hindley St, plus 'All Children' below
Rachel – Lot 7 Hindley St, plus 'All Children' below
Jane – Lot 8 Hindley St, plus 'All children' below
John – Lot 10 at 57 Hindley St, 2 houses Hindley St, NE Section 2624, 2612, plus 'All Children' below'
Hugh the elder – Nothing
Burial ground: Codicil -B – 2nd Aug 1855
All children (except Hugh the elder) – equal shares of everything not already specifically bequeathed

Notes

- Our documents: This document, G92, should be read in conjunction with G91 which has facsimiles of the Will & codicils, transcriptions and our notes. Both of these documents are attached to Donald's profile on www.christinaanddonaldmclean.com
- Sources: This present document, G92, is based on memorials 77 and 78 that are listed in the Memorial Book Index (appendix A) at the State Records Office of South Australia.
- Contents: Here we have facsimiles of the two memorials, transcriptions, and our comments.
- Report: The executors were required to submit a report: "*Edward Stirling and Allan McLean would make and exhibit unto this Honorable Court a true and perfect inventory of all the goods and chattels rights credits and effects of the said deceased on or before the fourth day of July one thousand eight hundred and fifty six and also render a just and true account of their executorship when they should be lawfully called upon so to do*" (G91 p8). It was due on 4th July 1856. We have not been able to find this – maybe it was never completed.
- Other: There would be other documents which we have yet to locate.

- Sequence of events:
 - 1846, 16th Jan - Donald signed his Will
 - Six codicils
 - 1855, 11th Oct - Donald died on
 - 1856, 4th Jan – Executors (Edward Stirling & Allan McLean) presented the Will & codicils to the Supreme Court
 - 1856, 10th April – Executors became trustees of all of the estate
 - 1856, 13th April – Probate granted
 - 1856, 4th July – Executors due to lodge their report. This was almost nine months after Donald died but less than three months after probate was granted – maybe this was not enough time for the executors to complete their work, and maybe they never produced such a report.
 - 1857, 26th May – Hugh-the-younger turned 21 years old
 - 1858, 20th Feb – Memorials 77 & 78 – both dated
 - 1859, 28th Feb – Memorials 77 & 78 – both registered
 - 1867, 17th April – Christina ‘signed’ her Will
 - 1869, 9th April – Christina died
 - 1876, Feb – Donald McLean (McBain) turned 21 years old
- Who is who:
 - All the same beneficiaries named in Donald’s Will are also listed in the memorials (Christina and Hugh-the-younger are singled out in particular). In the memorials, the various parties are designated as follows:-
 - 1st part (executors) - Allan MacLean and John Cheriton are named in the memorials. However the Will had specified Allan McLean, Edward Stirling, Adam Abercrombie (he died before Donald), and Donald Gollan (he declined). And the probate specified Allan MacLean (sic) and Edward Stirling. So although not specified in the Will or probate, John Cheriton took a significant role in the finalization of the estate.
 - 2nd part (beneficiary) – Hugh-the-younger MacLean
 - 3rd part (beneficiaries) - Allan McLean, Hugh MacLean (the elder); Hugh MacLean (the younger), John MacLean, Archibald MacLean, Duncan MacRae (& Mary), Jeff Jefferies (& Ann), James Keating (& Margaret), Ewen Macdonald (& Rachel), and John Cheriton (& Jane)
 - 4th part (agents) - James Walker and John Walker
 - 5th part (beneficiary) - Christina MacLean
 - Witnesses: E Klungender?? of Melbourne, Alfred Bonner of Adelaide, Clay?? Triston?? of Strathalbyn, Rich^d?? B Anderson?? of Adelaide, Clayton?? Brodeus?? Strathalbyn, Leah?? Boltodeus?? of Adelaide

Conclusions

- Properties: The following table lists the details from the memorials. It falls well short of matching which child got which property.
- Research: We need to seek out any other documentation and perhaps get expert advice on what it all means.

Properties:

Mentioned in memorial 77	Mentioned in memorial 78	Notes
Allotments 1, 4, 5 & 11 of part town acre 57 (Hindley St, Adelaide)		Memorial 77 does not specify who were the beneficiaries of these four lots (or any of the other seven lots) on half acre 57. Donald intended that lot 1 to go to Hugh-the-younger, 4 to Mary and 5 to Ann. Lot 11 is not specified in the Will. Our E51 indicates that in fact 1 went to Hugh-the-younger, 2 to Allan, and 3 to Archibald, but we have not yet found any confirmation of what happened to any of the other lots.
Section 50 (Hilton)		
Lot 94 in Strathalbyn township		
	Section 2602 – about 83 acres – occupied by Richard Hooper	Not mentioned in the Will & codicils
SE portion of section 2603 Angas Special Survey (ASS)	SE portion of section 2603 - including a dwelling house occupied Christina McLean	The dwelling house would have been the Auchancanda’s homestead where Christina continued to live until her death which was 14 years after Donald’s death.
NE portion of section 2603 ASS - 40 acres		Who got this?
Section 2603 ASS		2603 is specified twice in memorial 77 – in the 1 st & 3 rd schedules – but who got this property?
Section 2605 of ASS (except the burial ground)	Section 2605 – about 80 acres (except the burial grounds) – occupied by Christina McLean	Who got this? For burial ground see codicil B (2nd August 1855) and our E66 for McLean burials at Strathalbyn burials.
Section 2621 ASS		
Section 2611 Strathalbyn		
Section 2813 Bremer		
Section 2814 Bremer		
Section 2818 Bremer		
Section 2819 Bremer		
The memorial states that Christina should occupy and receive the benefits of the properties until her death after which it goes to Hugh-the-younger.		
Unfortunately this memorial does not state what each of the other beneficiaries received even through Donald’s Will specifies this clearly.		

Transcription of memorial 77

Left side: This memorial was received into the Registry Office this *twenty-eight of February 1859 at quarter to two o'clock in the afternoon.* [Signed] Deputy Reg

Date of Instrument	Name of Parties	Name of Witnesses	Nature of Instrument	Description of Property Conveyed:	If a conveyance or mortgage-consideration, and how paid; or if a lease - the amount of rent paid	Any other particulars the case may require
<p><i>Twentieth day of February one thousand eight hundred and fifty eight [20th Feb 1858]</i></p>	<p>First part (life estate): <i>Christina Maclean of Strathalbyn in the province of South Australia widow of the first part</i> Second part (beneficiaries): <i>Allan MacLean of Strathalbyn in the said province farmer, Hugh Maclean the Elder of Lake Alexandrina in the said province farmer, John McLean of Waterloo Plains in the said province farmer, Archibald MacLean of the Angas Survey in the said province farmer, Hugh MacLean the Younger of the Angas Survey aforesaid farmer, Duncan Macrae of Lake Alexandrina aforesaid farmer and Mary his wife (formerly Mary MacLean spinster), Jeff Jeffries of the Angus Survey blacksmith and Ann his wife (formally Ann MacLean spinster), James-Keating of Melbourne in the colony of Victoria Licensed victualler and Margaret his wife (formerly Margaret MacLean spinster), Ewen MacDonald of the Finniss in the said province farmer and Rachael his wife (formally Rachael MacLean spinster), and John Cheriton of the Angus Survey aforesaid farmer and Jane his wife (formerly Jane MacLean, spinster) of the second part</i> Third part (executors): <i>and the said Allan MacLean and the said John Cheriton of the third part.</i></p>	<p><i>To the execution by the said James Keating and Margaret Keating - E Klungender?? of Melbourne</i> <i>To the execution by the said Hugh McLean the Younger, John Cheriton, Hugh McLean the Elder Duncan Macrae Mary McLean Jeff Jeffries Ann Jefferies, Ewen McDonald, Rachel McDonald, Jane Cheriton and Archibald MacLean - Alfred Bonner of Adelaide</i> <i>To the execution of the said Christina McLean Strathalbyn - Clayton?? Brodeus?? Strathalbyn</i> <i>To the execution by the said Allan MacLean and John Cheriton - - Leah?? Boltodeus?? of Adelaide</i></p>	<p><i>Conveyance and conprivation?? by the said parties thereto of the second part first and second parts respectively according to their several and respective estates and interests in the lands and hereto several described in the next column and so for an estate?? to the said Mary Macrae, Ann Jefferies, Margaret Keating, Rachel Macdonald and Jane Cheriton with the priority?? and consent of their respective husbands the said Duncan McCrae, Jeff Jefferies, James Keating, Ewen Macdonald and John Cheriton to the said Allan MacLean and John Cheriton paid from all estate and interest abeknown?? of the said parties thereto of the first and second parts and all such declared?? of the said premises?? by the sworn?? sorted/seated?? Will and Codicils of Donald McLean deceased. Upon the Trust and for the intent and purposes thereafter official?? and declared asord?? concerning the said premises??</i></p>	<p><i>All and singular the messages?? or tenement?? lands and other hereditaments which are respectively mentioned and described in the first second third and fourth schedules hereunder written or thereunto connected?? with their and every of their right members and appurtances.</i></p>	<p><i>The premises -</i></p>	<p><i>To be Deposited</i></p>

The schedules above referred to

Description of land	Acres	Cost of conveyance data particular to
FIRST SCHEDULE		
<i>Allotment No. 1 part town acre N° 57 Adelaide</i>		
<i>South Eastern portion of Section N° 2603 Angas Special Survey. Subject to Mrs MacLean's life estate.</i>	25	<i>Land grant of Donald Maclean of Section 2603 (inbola??) date 16th November 1841 under of Governor Gray</i>
<i>Section N° 2605 Angas Special Survey (except the area?? thereof already appropriated for a burial ground</i>	Same	
<i>Section 2621 Angas Special Survey</i>	Same	
SECOND SCHEDULE		
<i>Allotments numbered respectively 4, 5 & 11 portion of town acre N° 57 in Hindley Street Adelaide.</i>		
<i>The north eastern portion containing 40 acres of Section N° 2603 Angas Special Survey</i>	40	<i>Land Grant to Donald MacLean of section 2603 (indicated??) dated 16th November 1841 under hand and of Governor Gray</i>
<i>Allotment No 94 in the Township of Strathalbyn</i>		
THIRD SCHEDULE		
<i>Section N° 2611?? Strathalbyn</i>		
<i>Section N° 2603?? Angus Special Survey</i>		
<i>Section N° 2813??, 2814??, 2818 and 2819 a look?? in the Hundred of the Bremer ,</i>		
FOURTH SCHEDULE		
<i>Section No 50 in Survey B (ie Hilton)</i>	80	<i>Land Grant to Donald MacLean Dated 7th March 1839 under hand and seal of Governor Gawler</i>

Notation at the bottom of page: Section 2602 Angus Special Survey CXXXVII (137).177 CR

MEMORIAL.

Date of Instrument.	Name of Parties.	Name of Witnesses.	Nature of Instrument.	Description of Property Conveyed.	If a conveyance or mortgage, consideration, and how paid; or if a lease the amount of rent.	Any other particulars the case may require.
<p>Tenth day of February one thousand eight hundred and fifty eight.</p>	<p>Christina Maclean of Skathlup in the province of South Australia widow of the post paid Allan Maclean of Skathlup in the said province former Hugh Maclean the Elder of Lake Alexander in the said province former John Maclean of</p>	<p>In the presence by the said parties and Margaret Maclean E. Maclean W. Bellenden</p>	<p>Conveyance and Expatriation or Immunity lands and other by the said parties thereof the said post paid and according to their several and respective estate and interest in the lands and</p>	<p>All and singular the Impositions and Expatriation or Immunity lands and other by the said parties thereof the said post paid and according to their several and respective estate and interest in the lands and</p>	<p>The Parties</p>	<p>To be Deposited -</p>
<p>Archibald Maclean of the Angus Survey in the said province former Hugh Maclean the younger of the Angus Survey a farmer and former Duncan Maclean of Lake Alexander a farmer and Mary his wife (formerly Mary Maclean spinster) Jeff Jeffries of the Angus Survey Blacksmith and Alex his wife (formerly Alex Maclean spinster) James</p>	<p>Archibald Maclean of the Angus Survey in the said province former Hugh Maclean the younger of the Angus Survey a farmer and former Duncan Maclean of Lake Alexander a farmer and Mary his wife (formerly Mary Maclean spinster) Jeff Jeffries of the Angus Survey Blacksmith and Alex his wife (formerly Alex Maclean spinster) James</p>	<p>Alfred Connors W. Bellenden</p>	<p>In the presence by the said parties and other Maclean and the Maclean</p>	<p>Conveyance of the said lands and other by the said parties thereof the said post paid and according to their several and respective estate and interest in the lands and</p>	<p>95</p>	<p>Land from 1 & Donald Maclean of Lake Alexander 1863 (rehearsal) dated 16th December 1861 under hand and seal of James Gray</p>
<p>Richard Maclean of the colony of Victoria former Richard Maclean and Margaret his wife (formerly Margaret Maclean spinster) Ewen Macdonald of the same in the said province former and Richard his wife (formerly Richard Maclean spinster) and John Cheever of the Angus Survey a farmer and Jane his wife (formerly Jane Maclean spinster) of the second part and the said Allan Maclean and the said John Cheever of the third part</p>	<p>Richard Maclean of the colony of Victoria former Richard Maclean and Margaret his wife (formerly Margaret Maclean spinster) Ewen Macdonald of the same in the said province former and Richard his wife (formerly Richard Maclean spinster) and John Cheever of the Angus Survey a farmer and Jane his wife (formerly Jane Maclean spinster) of the second part and the said Allan Maclean and the said John Cheever of the third part</p>	<p>W. Bellenden</p>	<p>In the presence by the said parties and other Maclean and the Maclean</p>	<p>Conveyance of the said lands and other by the said parties thereof the said post paid and according to their several and respective estate and interest in the lands and</p>	<p>100</p>	<p>Land from 1 & Donald Maclean of Lake Alexander 1863 (rehearsal) dated 16th December 1861 under hand and seal of James Gray</p>
<p>John Cheever of the Angus Survey a farmer and Jane his wife (formerly Jane Maclean spinster) of the second part and the said Allan Maclean and the said John Cheever of the third part</p>	<p>John Cheever of the Angus Survey a farmer and Jane his wife (formerly Jane Maclean spinster) of the second part and the said Allan Maclean and the said John Cheever of the third part</p>	<p>W. Bellenden</p>	<p>In the presence by the said parties and other Maclean and the Maclean</p>	<p>Conveyance of the said lands and other by the said parties thereof the said post paid and according to their several and respective estate and interest in the lands and</p>	<p>80</p>	<p>Land from 1 & Donald Maclean of Lake Alexander 1863 (rehearsal) dated 16th December 1861 under hand and seal of James Gray</p>

This Memorial was entered into the Registry Office this 15th day of February 1858

Scot 2602 Angus S. CXXXVII.177 CR

Transcription of memorial 78

Side: This memorial was received into the Registry Office this twenty eighth day of February 1859 at quarter to two oclock in the afternoon - E J Healy?? Deputy Registrar

Date of instrument	Name of parties	Names of witnesses	Nature of Instrument	Description Property Conveyed	If a conveyance or mortgage) consideration or how paid; or if a lease the amount of rent	Any other particulars the case my require.
<p>Twentieth day of February one thousand eight hundred and fifth eight.</p>	<p>Allan MacLean of Strathalbyn in the province of south Australia farmer and John Cheriton of the Angas survey in the said province of the first part Hugh McLean the younger of the Angas Special Survey in the said province farmer of the second part. The said Allan McLean, Hugh MacLean the Elder of Lake Alexandrina on the said province farmer the said Hugh Maclean the younger, John McLean of Waterloo Plains in the said province farmer Archibald MacLean of the Angas Survey aforesaid farmer, Duncan Macrae of the Lake Alexandrina aforesaid farmer and Mary his wife (formerly Mary Maclean spinster) Jeff Jefferies of the Angas survey aforesaid province and Ann his wife (formerly Ann MacLean spinster), James Keating of Melbourne in the colony of Victoria licenced victualer and Margaret his wife (formally Margaret McLean spinster), Ewen Macdonald of the Finnis in the said province farmer and Rachel his wife (formerly Rachel MacLean spinster) and the said John Cheriton and Jane his wife (formerly Jane MacLean spinster) of the third part, James Walker of Strathalbyn aforesaid esquire and John Walker of ?? in the said province esquire of the fourth part and Christina MacLean of Strathalbyn aforesaid in the said province widow of the fifth part.</p>	<p>To the execution by the said James Keating and Margaret Keating - E Kingender?? of Melbourne</p> <p>To the execution by the said Hugh McLean the younger, John Cheriton, Hugh McLean the elder, Duncan Macrae, Mary Macrae, Jeff Jefferies, Ann Jefferies, Ewen McDonald, Rachel McDonald, Jane Cheriton and Archibald MacLean - Alfred Bonner of Adelaide</p> <p>To the execution by the said Christina McLean – Clay?? Triston?? of Strathalbyn</p> <p>To the execution by the said Allan McLean and John McLean?? - Richd?? B Anderson?? of Adelaide</p>	<p>Conveyance in for by the said Allan MacLean and John Cheriton at the request and by the direction of the said Hugh MacLean the Younger so far as relates to the lands and hereditaments partly described in the next column, and at the request and by the direction of the said parties thereto of the second and third parts so far as relates to the lands and hereditaments hereafter secondly described and so far as relates to the conveyance of the said lands and hereditaments by the said Mary Macrae, Ann Jefferies, Margaret Keating, Rachel MacDonald and Jane Cheriton with the priority?? and consent of their surplus?? betook?? the said Duncan Macrae, Jeff Jefferies, James Keating, Ewen MacDonald and John Cheriton and on the nomination?? and appointment of the said Christina MacLean to the said James Walker and John Walker Upon trust as to the lands & hereditaments and premises firstly described in this next column to permit and suffer the said Christina Maclean and her assigns to occupy and enjoy and income the spark?? and profit of the same during the life and from and after her demise Upon trust to convey and ?? the same such the said Hugh MacLean the Younger his heirs and assigns forever. And as to the lands hereditaments and premises secondly described in the next column Upon the trust therein contained??</p>	<p>Firstly all that piece of land containing hereby ?? access?? be the same a little more or less and forming the South Eastern portion of the section of land N° 2603 In the Angus Special Survey in the said province together with the dwelling house erected therein and now in occupation of the said Christina MacLean and also all that section of land numbered 2605 in the Angas Special Survey aforesaid containing eighty acres be the more or less area then or than in occupation of the said Christina MacLean (except such portion of the aforesaid section as hath been deceased?? by the said Donald MacLean to be used by his descendants as a family burial ground). And secondly all that section of land numbered N° 2602 in the Angas Special Survey aforesaid containing eighty three acres be the same a little more or less and which said land a new?? portion thereof was then in the occupation of Mr Richard Hooper his underbank?? and assigns together with there and any of the appurtenances.</p>	<p>The premises?</p>	<p>To be deposited</p>

McLean Allan

or Maclean

157	5	Part Sec 2622 Angus Apt. Survey and
		2603 2652
143	39	Sec 2693 G. Macdonald
144	39	2695
149	39	2692
277	75	2526 R ^d Bann
103	77	2525
104	77	2524
199	76	2524, 2525, 2526, 2527 R ^d Bann
216	106	2515 R ^d Bann
217	106	2516
325	106	2604, 2605 R ^d Macdonald
52	112	2527 R ^d Bann
293	130	2795, 2796, 2797, 2798, 2805 near Strathgully Hill High Station
17	152	same Property
75	150	Appointment of John Taylor as Trustee under Will of R. McLean
76	150	Appointment of John Edgerton as Trustee under Will of R. McLean
150	150	Part Sec 2603, Sec 2604, 2605, 2606, 2607, 2608, Angus Apt. by Act 94 Township Strathgully, Sec 2610, R ^d Strathgully, Sec 2813, 2814, 2815, 2816, 2817 R ^d Bann, Sec 50, Survey B.
150	150	Part Sec 2603, 2604, Sec 2602 Angus Apt. by
79	150	2817 R ^d Bann
80	150	2813
81	150	Part Sec 2814
82	150	2815
83	150	2819
84	150	2816
85	150	2817
87	150	2817
110	157	Sec 2610 near Strathgully
152	157	1814 R ^d
153	157	1814
266	157	1315
161	160	2621 Angus Apt. by

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