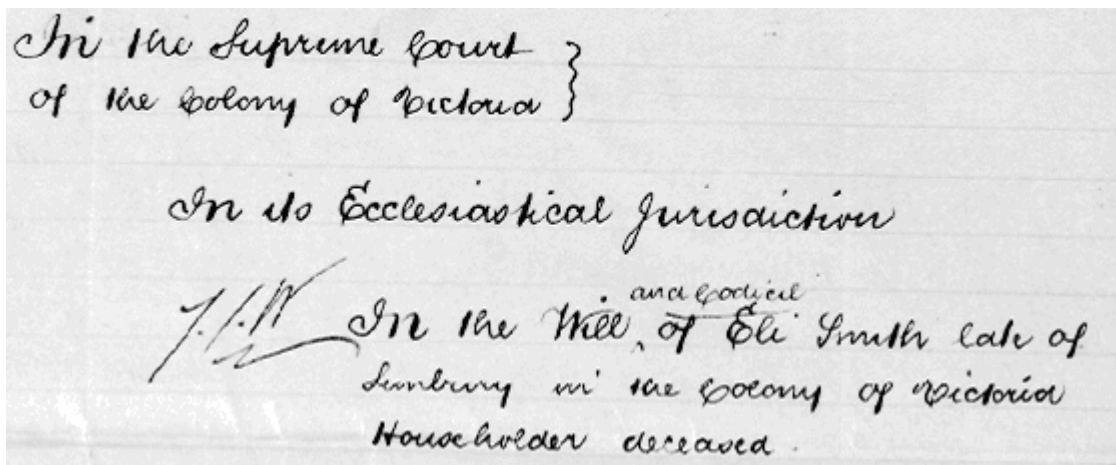


Wills and Probate – Wills and Probate Records

This *PROVguide* provides an overview of the main records and resources for researching wills, probate and administration records at Public Record Office Victoria (PROV).

Since 1852 the power to grant probate has been exercised exclusively by the Victorian Supreme Court, first by Judges of the Court, then by a Master in Equity and in more recent times the Registrar of Probates. Prior to 1852 the Resident Judge at Port Phillip of the Supreme Court of New South Wales exercised this power. The Court has maintained a register of all Grants of Representation (usually Grants of Probate and Letters of Administration) since 1841. Please see [VF 461 Probate and Administration](#) on PROV's online catalogue for more information about the agencies responsible for the administration of probate in Victoria.



Example record

An excerpt from the will of Mr Eli Smith. Probate was granted in March 1865, one month after Mr Smith's death.

PROV, VPRS 7591/P1, Unit 20, Item 5/053.

Terminology

A **will** is the legal instrument that permits a person, the testator or testatrix, to make decisions on how their estate will be managed and distributed after death. The will usually names one or more persons, the executor or executrix, to carry out the wishes and directions in relation to the estate.

A person who dies leaving a will is referred to as having died testate. If a person does not leave a will, or the will is declared invalid, the person will have died 'intestate', resulting in the distribution of the estate according to the legislation of the state in which the person resided.

Probate is the process of proving to the court the validity of a will. The grant of probate is the official document issued to the executor of the estate to pay all debts, collect any monies due and to distribute any remaining assets in accordance with the wishes of the deceased as expressed in the will.

Letters of **administration** are issued when a person dies without a valid will. This is the alternate grant to granting of probate. The grant is normally made to next-of-kin and the estate is distributed on the basis of a formula laid down by legislation.

For detailed information about will and probate records and the associated legal processes, please see the series pages on PROV's online catalogue for [VPRS 28 Probate and Administration Files](#) and [VPRS 7591 Wills](#), or the website of the Victorian Probate Office: www.supremecourt.vic.gov.au.

Wills and probate records held by PROV; a select list

Wills and probate records created between 1841 and 1925 have been [indexed](#) and are being digitised and made available online free of charge. PROV, the Genealogical Society of Utah and the Victorian Association of Family History Organisations are indexing wills and probate records up until 1992. The 1926 - 1992 portion of the Victorian Probate Index will be completed and made available online in late 2009.

[VPRS 7591 Wills 1853 - 1992](#)

This series contains legal documents (wills) that set out the instructions of a person in relation to the distribution of his or her property after their death.

[VPRS 28 Probate and Administration Files 1841 - ct](#)

This record series contains grants of probate: the official document issued to the executor of the estate of a deceased person to pay all debts, collect any monies due and to distribute any remaining assets in accordance with the wishes of the deceased as expressed in the will. VPRS 28 also contains letters of administration, issued when a person dies without a valid will. After 1992, this series also contains a will where one existed.

[VPRS 7592 Wills and Probate and Administration Files 1841 – 1853](#)

The series is concurrent with VPRS 28 Probate and Administration Files and contains wills, probates and letters of administration which were retained by the Probate Office after the initial transfer of VPRS 28.

See the [Accessing Wills and Probate Records](#) web page for a quick guide to accessing the records from VPRS 7591, VPRS 28 and VPRS 7592.

Additional wills and probate records

[VPRS 525 Microfilm Copy of Transcription of Wills 1842 - 1922](#)

Wills from 1842 to 1922 were copied by the Registrar of Probates into a register. This microfilm copy of the register is available in PROV's reading rooms at the Ballarat Archives Centre and the Victorian Archives Centre and does not have to be ordered.

[VPRS 7933 Non-Issued Probate Applications 1868 - 1988](#)

This series contains the documents lodged for applications which did not result in a grant of probate. Such applications are known as 'non-issue'. A partial index, gradually being completed, is available at PROV's reading room at the Victorian Archives Centre. The complete index is held at the Victorian Probate Office.

[VPRS 1921 Deed Books: Register of Deceased Estates Administration 1853 - 1956](#)

Volumes in this series contain the records of the Curator of Deceased Estates and relate to deceased estates which the Curator was responsible for administering.

[VPRS 870 Administration Bonds 1857 - 1910](#)

This series consists of the administration bonds lodged with the Supreme Court by persons administering deceased estates under a grant of letters of administration.

A frequently asked question

I can't find the person I'm looking for on any of the probate indexes. Why not?

- The person may have left an estate that did not require probate to be granted, which means that no probate records have been created.
- The probate application may not have been granted. Consult the series text for [VPRS 7933](#) for information about locating 'non-issue' probate documents.
- Probate is not necessarily granted immediately and can take significant time. Consult the Victorian Probate Index for a later time period to potentially locate records of probate granted many years after a person's death.
- The person may not have left an estate in Victoria, but in another state where probate was granted. You can contact State and Territory Probate Offices, Archives and genealogical collections around Australia for further information.