

In the Chancery of the County Palatine of Lancaster, Manchester District

Frost deceased

Affidavit of **Charles Frost**

This affidavit is filed on the part of Frederick Septimus Bateson and Benjamin Carter

In the Chancery of the County Palatine of Lancaster, Manchester District

In the matter of the Estate of **David Frost** deceased and

In the matter of the Estate of **Martha Cope** deceased and

In the matter of the Estate of **Nancy Frost** deceased and

In the matter of the Chancery of Lancaster Acts 1850 to 1890

I Charles Frost of the City of Manchester in the County of Lancaster Agent make oath and say as follows:

1. I am a son of the above named Nancy Frost.
2. I have read the paragraphs 18, 19 and 20 of the joint affidavit of Frederick Septimus Bateson and Benjamin Carter sworn in the above matter on the 29th day of June 1891 and I fully believe the same to be correct.
3. Many years ago my mother the said Nancy Frost being anxious to obtain information as to her two missing sons Frederick and Thomas made enquiries in Liverpool after the family of Elizabeth Fairclough (to whom Frederick had as he said been married) in the hope that they would have some news. She found them and learnt from them that Frederick and his Wife had in fact gone to the Gold Diggings and had never been heard of since.
4. Some time after that my cousin James Frost (who is now abroad though I do not know where) went out to Melbourne and at the request of my mother he advertized in the Melbourne papers for both Frederick and Thomas. He heard at Melbourne that the people who went out to the Diggings were dieing by hundreds in the road like rotten sheep (I distinctly remember this expression as used by him) and he returned home with the full conviction that Frederick and his Wife had died among the rest. Except as aforesaid he could not obtain any information or trace of either Frederick or Thomas.
5. At a later date my brother Alfred Ernest Frost went out to Australia (and he is in fact still there). He also by my mothers desire advertized for Frederick and Thomas in the Melbourne papers and made enquiries there and elsewhere in Australia but though he succeeded in finding some people named Frost he satisfied himself that they were strangers and he did not succeed in obtaining any information as to either Frederick or Thomas.
6. That the statements contained in paragraphs 4 and 5 hereof though not within my own absolute personal knowledge are made from my general knowledge as a member of the family and are based upon conversations with my mother and the said James Frost and with other members of the family.

Sworn by the said Charles Frost at Manchester in the County of Lancaster the 30th day of June 1891

Charles Frost

before me Arthur A.K. Smith

A Commissioner to administer oaths in the Supreme Court of Judicature in England

Affidavit of Frederick Septimus Bateson and Benjamin Carter

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In the Chancery of the County Palatine of Lancaster, Manchester District

In the matter of the Estate of **David Frost** deceased and
In the matter of the Estate of **Martha Cope** deceased and
In the matter of the Estate of **Nancy Frost** deceased and
In the matter of the Chancery of Lancaster Acts 1850 to 1890

We Frederick Septimus Bateson of the City of Manchester in the County of Lancaster Insurance Agent and Benjamin Carter of the said City of Manchester Merchant J. P. make oath and say as follows:

1. David Frost late of Hulme in the County of Lancaster Gentleman made his Will dated the 17th day of April 1826 whereby after directing payment of debts funeral and testamentary expenses He gave devised and bequeathed all his estate and effects both real and personal unto and to the use of his cousins James Frost and Thomas Frost their heirs executors administrators and assigns Upon trust that they or the survivor should sell and convert the same into money in manner in the said Will provided. And as to the moneys to arise therefrom Upon trust that they or the survivor of them or the executors or administrators of such survivor should invest the same in manner in the said Will directed And should stand possessed of the said trust moneys and investments thereof Upon trust during so much of the Testators sister Nancy Frost the Wife of the said Thomas Frost as she should continue to be the Wife of widow of the said Thomas Frost to pay the income thereof to her or as she should direct And after the marrying again of death of the said Nancy Frost then subject to an annuity to Testators mother Martha Cope (who died in the lifetime of the said Nancy Frost and whose annuity therefore never became payable) testator directed that his said trustees or the survivor of them or the executors or administrators of such survivor should stand possessed of the said trust moneys upon the following trust, namely "Upon trust for and to be paid and applied to and equally between and amongst all and every of the children of the said Nancy Frost by her husband the said Thomas Frost or such of the said children as shall be then living and the issue of them as shall be then dead leaving issue such issue taking amongst them in equal shares the part or share parts or shares only his her or their parent or parents would have taken had he she or they been living the share or shares of such children of such children of the said Nancy Frost to be vested in them him or her respectively at their his or her respective ages of twenty one years or respective days of marriage which shall first happen and to be payable and paid as soon after the vesting thereof respectively as conveniently may be. And I do hereby direct that if any one or more of such children of the said Nancy Frost shall die before the vesting of his her or their said share or shares then as to the original share and shares of such child or children so dying as last mentioned Upon trust for the survivor or survivors of them and to be vested and payable at the same ages and days and in the same manner as are hereinbefore appointed concerning the original share or shares of the same children respectively."
2. The testator David Frost died in the year 1826 and his said Will was proved at Chester on the 12th day of December 1826 by the Executors James Frost and Thomas Frost. The parchment document now produced and shewn to us marked "A" is the probate of the said Will.
3. Martha Cope late of Kirkmanshulme near Manchester (the before mentioned mother of the said David Frost and Nancy Frost) made her Will dated the 4th day of August 1835 whereby

after directing payment of debts funeral and testamentary expenses She gave devised and bequeathed all her real and personal estate and effects unto and to the use of the said James Frost and Thomas Frost their heirs executors administrators and assigns Upon trust that they or the survivor of them or the executors or administrators of such survivor should sell and convert the same into money in manner in the said Will provided. And stand possessed of the proceeds Upon trust that they or the survivor of them or the executors or administrators of such survivor should invest the same in manner in the said Will directed And should stand possessed of the said trust moneys and investments for the same Upon trust during the life of her daughter the said Nancy Frost to pay the income thereof to her or as she should direct And after the death of the said Nancy Frost testatrix directed that her said trustees or the survivor of them or the executors or administrators of such survivor should stand possessed of the said trust moneys upon the following trust, namely "Upon trust for and to be paid and applied to and equally between and amongst all and every the children of my said daughter Nancy Frost or such of them as shall be then living and the issue of them as shall be then leaving issue such issue taking amongst them in equal shares the part or share parts or shares only his her or their parent or parents would have taken had he she or they been living the share or shares of of the children of my said daughter to be vested in them him or her respectively at their his or her respective ages of twenty one years or respective days of marriage which shall first happen and to be payable and paid as soon after the vesting thereof respectively and the decease of my said daughter as conveniently may be. And I do hereby direct that if any one or more of such children of my said daughter shall die before the vesting of his her or their said share or shares Then as to the share or shares both original and accruing of such child or children so dying as last mentioned Upon trust for the survivor or survivors of them and to be vested and payable at the same ages and days and in the same manner as are hereinbefore appointed concerning the original share or shares of the same children respectively."

4. The testatrix Martha Cope died on the 19th day of November 1844 and her said Will was proved at Chester on the 31st day of May 1845 by the Executors James Frost and Thomas Frost. The parchment document now produced and shewn to us marked "B" is the probate of the said Will.
5. The said James Frost died on the 7th day of April 1851 leaving the said Thomas Frost his cotrustee of the Wills of the said David Frost and Martha Cope surviving him. The said Thomas Frost died on the 26th day of January 1870 having made a Will by which he left all his real and personal estate to his Wife the said Nancy Frost and appointed her sole Executrix and which Will was duly proved by her.
6. The said Nancy Frost never married again.
7. The said Nancy Frost made her Will dated the 17th day of February 1870 whereby after directing payment of debts funeral and testamentary expenses She gave devised and bequeathed directed limited and appointed all estate and effects both real and personal comprised in certain settlements (under which she had an absolute power of appointment) or otherwise belonging to her unto and to the use of her sons-in-law the deponents Frederick Septimus Bateson and Benjamin Carver their heirs executors administrators or assigns Upon trust that they should in the first place out of the said trust moneys set aside a fund or sum the annual income whereof would in their judgement produce the clear yearly sum of £40 And should during the life of testatrix's son William Edward invest the same in manner in the said Will provided And should out of the income thereof or in the case of deficiency of income then out of the capital thereof pay the yearly sum of £40 to her son William Edward for his life as in the said Will is directed And upon trust that they should sell and dispose of her said estate and effects in manner in the said Will directed and stand possessed thereof as well as of the said sum directed to be set aside for her said son William Edward on the

determination of his life interest therein Upon the trust following namely "Upon trust for and to be equally divided between all my children except my son William Edward who shall be living at my decease and the issue who shall attain the age of twenty one years or be married of any of my children who may have died in my lifetime leaving issue such issue nevertheless only taking amongst them equally if more than one the share to which their parent would if living have been entitled." And testatrix charged the shares of her sons Alfred Ernest and Walter Howard respectively or of their respective children with certain debts owing by them respectively to her And the said Will contained a proviso as follows - "Provided always and I do hereby further direct and appoint that in case my said trustees or the trustees or trustee for the time being under this my Will shall not within the space of three years from my decease receive from my sons Thomas and Frederick who went abroad many years ago or from their respective child or children any information where he or they is or are then without any obligation on the said trustees part to make enquiry the shares or share to which my said sons Thomas and Frederick or his or their child or children or to which the one of them concerning whom no information shall be received within the period aforesaid would have become entitled under this my Will and all accumulations thereof shall go and be paid to and divided among my other children except and exclusive of my said son William Edward or their respective issue in addition to their original shares."

8. The said Nancy Frost made a Codicil dated the 28th day of July 1871 to her said Will whereby she charged the share of her son Charles or his children with a debt owing by him to her and she made a second Codicil dated the 1st day of July 1873 to her said Will whereby she charged the share of her son Walter Howard or his children with a debt owing by him to her.
9. The testatrix Nancy Frost died on the 18th day of February 1891 and her said Will and Codicils were proved at Manchester on the 2nd day of April 1891 by the deponents Frederick Septimus Bateson and Benjamin Carver. The parchment document now produced and shewn to us marked "C" is the probate thereof.
10. At the date of the death of the said Nancy Frost the trust estate subject to the trusts of the Will of the said David Frost consisted of a sum of £1360 10s invested in mortgages and the same is now vested in the deponents Frederick Septimus Bateson and Benjamin Carver as her Executors.
11. At the date of the death of the said Nancy Frost the trust estate subject to the trusts of the Will of the said Martha Cope consisted of a sum of £932 invested in mortgages and the same is now vested in the deponents Frederick Septimus Bateson and Benjamin Carver as her Executors.
12. The estate of the said Nancy Frost consists of the following particulars -

Cash in the house at death	£28	2	6
Do Bank	32	16	0
Debts owing to deceased by her sons			
Walter Howard Frost	£120	£105	£80
Charles Frost	£305	0	0
Alfred Ernest Frost	45	0	0
	151	10	0
	501	10	0
Funds held under Settlements of 20th November 1819, 6th October 1830 and 4th June 1844 over which she had absolute general power of appointment			
	1595	14	11

Furniture sold for	133	2	11
Income up to death under Wills of David Frost and Martha Cope	32	0	5
	£2323	6	9
Less Debts and Funeral expenses	67	12	6
Net estate estimated at	£2255	14	3

out of which has been paid probate duty.

13. The said Nancy Frost had 13 children of whom 5 attained 21 and are now living, 3 attained 21 and died in her lifetime leaving children, 3 died in her lifetime under 21 and without children, and 2 attained 21 but are believed to have died in her lifetime without leaving children.
14. The 5 children of Nancy Frost who attained 21 and are now living are the following
 - (1) Eliza Bateson (Wife of the deponent Frederick Septimus Bateson)
 - (2) Charles Frost
 - (3) Alfred Ernest Frost
 - (4) Walter Howard Frost
 - (5) William Edward Frost
15. The 3 children of Nancy Frost who attained 21 and died in her lifetime leaving children and the said children so left are
 - (1) Henry James Frost who died on 9th January 1871 leaving the following children all of whom attained 21
 - (1) Myra Greaves now the wife of Edward Greaves
 - (2) Howard Frost who died on 5th May 1888 intestate and to whose estate letters of Administration have not been taken out
 - (3) Walter Frost
 - (4) Ernest Frost
 - (2) Sarah Anne Smith (Wife of Alexander Watson Smith) who died on 18th August 1853 leaving the following children both of whom attained 21
 - (1) William Alexander Smith
 - (2) Wyndham Smith
 - (3) Emily Carver (Wife of Benjamin Carver) who died on 28th July 1870 leaving the following children all of whom attained 21
 - (1) Alexander Howard Carver
 - (2) Percy William Carver
 - (3) Frank Carver
 - (4) Frances Maude Wilson (now Wife of Hubert Malcolm Wilson)
 - (5) Dora Louisa Carver
 - (6) William Henton Carver
16. The three children of Nancy Frost who died in her lifetime and under age without leaving children are
 - (1) Thomas Frost (who died 14th April 1834 aged 11)
 - (2) David Frost (who died 3rd March 1835 aged 6)
 - (3) Harriet Frost (who died 28th October 1838 aged 3 months)
17. The two children of Nancy Frost who attained 21 but are believed to have died in her lifetime without leaving children are

- (1) Frederick Frost (born 30th September 1820)
(2) Thomas Frost (born 3rd May 1834)
18. The said Frederick Frost sailed on or about 17th September 1850 from Liverpool in the ship "Madowska" for Australia. He wrote a letter dated 21st September 1850 (now produced and shewn to us and marked "D") from board ship to his mother. This letter was descriptive of the voyage and does not appear to be important. He wrote another letter dated 28th February ~~1851~~ and 27th March 1851 (now produced and shewn to us and marked "E") from Melbourne to his parents. In this letter he referred to his marriage on 30th December 1850 at Melbourne to Elizabeth Fairclough (a woman who had sailed out from Liverpool in the same ship as himself). He also gave 134 Latrobe Street (East) Melbourne as his address. The rest of the letter was chiefly an account of his doings and of the place and does not appear to be important. He wrote another letter dated 29th September 1851 (now produced and shewn to us and marked "F") from Melbourne to his mother. In this letter the following passages occur "Business here is very quiet all the talk being the Gold Diggings near Geelong men are getting £20 a week by it some considerably more. A party of young gentlemen want me to join them for a month taking a months provisions with them also a horse and dray tents etc. I do not know what to do yet not having met with a situation in fact anyone that comes to this infernal place must be such as mechanics joiners and that class except they are men of capital. No society of any kind" ... "I saw in the papers the death of my poor uncle" (meaning his uncle James Frost who died in England in April 1851) ... "My health am glad to say continues good" ... "When you next write me address my letter to the post office Melbourne. We only took the house for 12 months and it will be uncertain whether we stay in it after the time." The letter does not appear to contain other passages of importance. We believe that other letters were received from him which have been lost long ago but we have always understood from Mrs Nancy Frost that the above mentioned letter of 29th September 1851 was the last one which was received from him. She stated this to be the case in the memorandum dated 9th July 1873 (now produced and shewn to us and marked "G") signed by her. We believe that a friend of the said Nancy Frost who went out to Australia made enquiries at Melbourne and was there informed that Frederick Frost with a number of other people from his street (Latrobe Street) went off to the diggings and that none of them was ever heard of again. Frederick Frost was on affectionate terms with the family and nothing had occurred to affect these terms in any way. He was well aware that on his mothers death he would be entitled along with the rest of the family to share in the family property. We have no doubt that if there had been a child born or expected when the letter of 29th September 1851 was written he would have mentioned it. It has always been assumed and believed by the family that Frederick Frost went out to the Gold Diggings soon after 29th September 1851 and that he died soon afterwards either at the Diggings or on the way there without issue.
19. The said Thomas Frost sailed on or about 30th September 1854 from Southampton in the ship "Star Queen" for Australia. The only letter from him which has not been destroyed is one dated 8th June 1856 (now produced and shewn to us and marked "H") from Warrnambool Victoria to his parents. In this letter he said "I never was in better health than I have been since I have been in Australia. I am now living on a farm working like a labouring man at the wages twenty shillings per week with board and lodgings" ... also "I now intend to turn my hand to farming" also in a postscript he said "I have heard nothing of anyone from Manchester but hope to hear something meaning to go over to Melbourne before long. I am only about one hundred miles from there and about five hundred from Adelaide when you write direct to me Post office Warrnambool Victoria". The rest of the letter is descriptive of his doings which were of a very hard to mouth character walking or riding long distances and picking up employment of a more or less menial character

wherever he could. We have always understood from Mrs. Nancy Frost that the above mentioned letter of 8th June 1856 was the last one which was received from him. She mentioned this in the above mentioned memorandum marked "G". She afterwards wrote to him at the address mentioned and received no reply. The memorandum now produced and shewn to us and marked "I" is in the handwriting of Nancy Frost. None of his letters ever mentioned his being married or thinking of being married. If he had been so we have no doubt he would have mentioned it. There had been an unpleasantness between him and his mother before he left England but this had entirely gone as is shown by the affectionate tone of the letter of 8th June 1856 and otherwise he was on affectionate terms with all the family and nothing occurred to affect this. He was well aware that on his mothers death he would be entitled along with the rest of the family to share in the family property. It has always been assumed and believed by the family that Thomas Frost died soon afterwards soon after his letter of 8th June 1856.

20. Referring to both Frederick Frost and Thomas Frost we do not think that advertisements for them were ever sent out from England for insertion in the Australian papers though we understand from Mr. Charles Frost that some advertising was done in Melbourne. On the death of their father Thomas Frost in 1870 the following announcement was inserted in the London Times "On the 26th January at his residence Rusholme Manchester Thomas Frost aged 75 late of the firm of Hadfield & Frost. Australian and New Zealand papers please copy" and no doubt the leading Australian and New Zealand papers would insert this in their issues as soon as the Times reached them.
21. The following members of the family are at present abroad namely, Walter Frost (son of Henry James Frost) is in America, ~~Percy William Carver is in Alexandria in Egypt~~ and Alfred Ernest Frost is in Australia.

Sworn by the said Frederick
Septimus Bateson and Benjamin
Carver at Manchester in the
County of Lancaster this 29th
day of June 1891

F. S. Bateson
Benj. Carver

Before me

Arthur A. K. Smith

A Commissioner to administer Oaths in the Supreme Court of Judicature in England