

**Geelong & District Insolvency**

**Competition**

**November 2009**

**Insolvent: Charles WILLIS**

**Submitted by**

**Peter Mansfield**

# INSOLVENT BUT NOT BANKRUPT

## Charles Willis and the Geelong Court of Insolvency

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Charles Willis was a sixty-three year old gentleman living in Chilwell when he presented himself to the Geelong Court of Insolvency on 2 October 1878. Willis admitted that he owed eight businessmen a total of £120 pounds but was unable to repay any of his debts. The creditor who lost patience and sequestered Willis was Silas Harding, a Geelong millionaire who was owed £20.

George Hutchinson, Geelong's Commissioner of the Supreme Court in the Colony of Victoria for taking Affidavits, and his Official Assignee, James Simson, collected evidence in accordance with the *Insolvency Statute 1871* and convened three meetings where creditors and court officials determined the full extent of Willis' indebtedness. Five months later, in March 1879, the Geelong Court of Insolvency received a 'composition by agreement': a two-part document in which Willis now admitted debts of £216 to thirteen local businessmen, and in which his creditors indicated their willingness to accept amounts equal to three shillings in the pound to enable Willis to discharge his debt.

This information is contained in Geelong Court of Insolvency records (VPRS 815/109/2946), several paragraphs in the *Geelong Advertiser* and the Victorian *Government Gazette*.<sup>1</sup> The Willis insolvency file is brief and the outcome straightforward but it raises questions and invites speculation. Who was Charles Willis and how did he get into this predicament, was his insolvency the result of a domestic or commercial crisis or the inevitable fate of an habitual non-payer, and, who were the businessmen who provided goods and services in good faith before resorting to legal action to recover their money? Detailed reading of this insolvency file provides a surprising amount of information and clues that suggest that there is more to this insolvency than first imagined.

### Charles Willis: pastoralist, gentleman, insolvent.

Willis was born in 1815 and married Clara Lydia Buckland in 1849. He owned or managed a pastoral property, 'Tea Tree Creek', on the Hopkins River near Wickliffe and it was here that at least two of his seven children were born between 1850 and 1861.<sup>2</sup> The family had a small farm at Waurm Ponds<sup>3</sup> in the early-1860s before moving to Geelong in 1870. By now Willis was a 'gentleman' and newspapers provide tantalizing glimpses of his family. In 1872 Mrs Clara Willis was appointed secretary of the Geelong Ladies Benevolent Society; a position she retained for the next sixteen years, and in June 1875 their daughter, Alice Clarissa, married Alfred C. Ibbotson at All Saints Church in Newtown.<sup>4</sup> By now the family was living in rental accommodation in Pakington Street, Chilwell.<sup>5</sup> There are few references to the family in residential, trade, school or electoral records whereas a growing number of local businessmen must have known the Willis', by name and repute, as Charles and his wife amassed debts with the local butcher, baker, grocer, optician, tailor and wine merchant.

## Creditors and Debtors

The first sequestration meeting to consider Willis' plight received a document: 'Insolvent's Schedule, List B: List of Debts Due to Unsecured Creditors', signed by Charles Willis who admitted owing eight creditors a total of £120.<sup>6</sup> Willis swore that he was not already insolvent owned no land, and had no bookkeeping records but was now insolvent because of 'a judgment obtained against me by Silas Harding of Geelong and [my] inability to pay such judgment debt'. He also swore that he had tendered a 'true and complete statement...of all debts...and had not willfully omitted or inserted anything contrary to the truth'.<sup>7</sup> This document formed the basis of a brief, humiliating report in the *Geelong Advertiser* and the *Government Gazette*<sup>8</sup> and, in spite of his swearing that the above was a 'true and complete statement', it flushed out four more unsecured creditors who were owed a further £69.<sup>9</sup>

The second sequestration meeting on 16 October 1878 was a terse affair because of Willis' failure to fully admit his debts. Charles J. Dennys instructed his solicitor, F. C. Pincott, to ask the meeting to show compassion to Willis and Pincott proposed that it should be a direction of the court that the insolvent retain the whole of his household furniture and wearing apparel of himself, wife and children, estimated to be worth £60. Then Pincott, acting on behalf of Mr Green the chemist, seconded the same motion but Silas Harding's solicitor, John L. Price, argued that under Section 68 of the *Insolvency Statute 1871*, the meeting was not empowered to make such a decision. Commissioner Hutchinson reserved his judgment in order to obtain a ruling from a judge of the Supreme Court and Mr Simson, the Official Assignee, was instructed to ensure that a complete list of unsecured creditors was prepared for the court. The meeting adjourned and Judge C.P. Hackett subsequently advised Commissioner Hutchinson that he was authorized to resolve the matter on behalf of the court.

At the third meeting, in March 1879, the Geelong Court of Insolvency considered statements provided by thirteen local businessmen to whom Willis owed money and a composition by agreement to settle Willis' insolvency.<sup>10</sup> The composition was signed on 22 March 1879 and revealed the full extent of Willis' debts. It also contained the signatures of all parties indicating their preparedness to accept repayments to the value of three shillings in the pound.

<u>Creditor</u>	<u>Debt</u>	<u>'Composition'</u>
Charles A Hodgson	20.10.01	3.01.06
George Green	18.02.00	2.14.03
Charles Dennys	18.00.00	2.14.00
Thomas Allen	12.06.08	1.17.00
George Hitchcock	13.04.10	1.19.09
Richard Clarke	56.08.09	8.09.03
J. Bray	3.19.01	0.11.10
Henry Frank	2.19.05	0.07.11
George Wilson	7.12.03	1.02.10
James Anderson	3.19.09	0.12.00
Charles Pearson	5.00.00	0.15.00
Thomas Batten	35.09.03	5.06.04
Silas Harding	19.09.06	2.17.09
	£216.19.07	£32.06.11

The evidence contained in VPRS 815/109/2946 raises a number of questions. For example:

- Under what circumstances had the Willis family accumulated such debts. Some debts were ten years old and it is likely that Mrs Willis was making most of the purchases -

and fending off creditors – whilst, at the same time, providing support to needy women via the Geelong Ladies Benevolent Society.

- What was the relative value of the debt?<sup>11</sup>
- What would have been the fate of the butcher, tailor and grocer if each had allowed ten or twenty families to accumulate similar debts.
- Was this a typical level of debt in the late 1870s?<sup>12</sup>

These and others questions cannot be answered here because the focus of this essay is on the specific circumstances of Willis' indebtedness – the amounts he owed, to whom, and the efforts made to recoup these debts – and the following is a summary of the information provided by Willis' creditors.

- Charles A. Hodgson (Wine merchant) swore that Willis owed him £14 for goods supplied prior to 1875 and a further £6 for 'goods sold and delivered' since then.
- George E. Green (Druggist and Dispensing Chemist) swore that Willis owed him £17 for goods supplied prior to March 1876 and the balance for soap, perfume and 'mixtures' purchased on another eleven occasions.
- Charles John Dennys (Stock and Station Agent) swore that he loaned Willis £18 but provided no other details.
- Thomas W. Allen (Bootmaker) swore that Willis owed him £12 for goods supplied prior to 1878. He also said that Willis had subsequently purchased two pairs of shoes to the value of 21 shillings and re-paid £1 of his debt in September 1878.
- George Hitchcock (Managing partner of Bright and Hitchcocks: Importers of General Drapery, Ready Made Clothing, etc.) submitted records to show that Willis had, on at least 30 occasions between May 1875 and June 1875, purchased numerous items including gloves, scissors, pins, buttons, perfumes, a scarf and a coat. Willis had repaid a total of £10 but there had been no transactions since June 1876.
- Richard Clarke and Co. (Grocer) presented accounts showing that Willis owed £43 to July 1878 and a further £13 to August 1878 and then, on four weekly occasions, had bought more goods (everything itemized) to the value of £5. Clarke stated that Willis had repaid a total of £9 in August and September 1878.
- J. Bray, (Draper, Tailor and Outfitter) swore that Willis purchased trousers and shirts to the value of £4 and had only repaid 10 shillings.
- Henry Franks (Bookseller, News Agent) presented accounts showing that Willis owed £5 for goods supplied between 1869 and 1871. The items included music, a desk, blotting paper and envelopes. In 1871 Willis repaid 30 shillings but nothing since then.
- George Wilson (Bread and Biscuit Maker) presented accounts showing that Willis owed £7 but provided no details.
- James M. Anderson, (Draper, Clothier and Tailor) presented accounts to show that in early 1878 Mrs Willis made ten shopping trips to buy gloves, scarves, hats, shirts and towels. In June 1878 Willis repaid £4. Anderson also sought interest at 8% per annum.
- Charles K. Pearson, (Watchmaker, Jeweller, and Optician) swore that Willis owed £5 for 'goods sold and delivered and work done'.
- Thomas Batten and Co, (Butcher) indicated that Willis owed £38 to September 1878 prior to repaying £3 on 1 October 1878.
- Silas Harding (Squatter) submitted an Affidavit of Proof of Debt for £19.09.06 in which he swore that Charles Willis and Clara Lydia Willis owed Harding fifteen guineas, plus government fees and court costs. This matter had been determined in the Geelong County Court on 18 June 1878.

The information contained in VPRS 815/109/2946, when used in conjunction with other records, offers scope for cautious speculation. It appears that C. J. Dennys loaned Willis £20 in cash in 1878 and Willis used this to repay part of his debts to Messrs Allen, Clarke, Bray, Anderson and Batten. However Willis did not repay Silas Harding any money even though Harding had already obtained a court ruling that directed Willis to repay almost £20.<sup>13</sup> This seems to be the reason why Harding initiated legal action against Willis on 2 October 1878.

#### Silas Harding: squatter, litigant, millionaire

Silas Harding arrived in Geelong in 1841 and was, at the time of his death in 1894, widely regarded as a millionaire who accumulated his fortune by buying and selling land.<sup>14</sup> Harding was described as a private, sensitive man who was suspicious of most people and yet he repeatedly used the courts and newspapers to redress grievances that others may have regarded as petty.<sup>15</sup> Once he wrote to the editor of the *Geelong Advertiser* and said, 'I try to lead a peaceful life but people will not leave me alone and they meddle and mar with my life if I give them a chance'. In the late-1870s, when Harding was pursuing Willis through the courts, Harding also fought with several churches over fences, local councils over street repairs, and the Geelong Football Club when he forced the club to remove the goal posts and then ploughed up the oval. The abovementioned James Simson entered the fray via a letter to the press in which he called on Harding to 'show some compassion' and to 'try to do a little good with your immense wealth'. Harding retaliated by saying that Simson was impudent and dishonest.<sup>16</sup> Harding was described as a 'philanthropist who did so silently' whereas another source said that he was 'a person who did not bring attention to himself except via lawsuits'.<sup>17</sup>

#### Rereading the public records

The *Insolvency Stature 1871* (sections 129-131) made provision for an Insolvent to be released from his sequestration if the composition of agreement was accepted by the court and this occurred when it was countersigned by Commissioner Hutchinson on 27 March 1879. Willis was insolvent but not bankrupt in the legal sense so his brush with the Geelong Court of Insolvency was over.<sup>18</sup> We do not know where Willis got £32 to repay his debts or how he provided for his family thereafter. Not do we know Harding's reaction to receiving £2.17.9 instead of £20 but we do know that Willis continued to live at the same rental property in Pakington Street until shortly before his death in June 1886 and that his widow, Clara, died in another rental property in Austin Street, Chilwell on 17 December 1887.<sup>19</sup>

Considering its size, VPRS 815/109/2946 is a treasure trove of names, facts, dates, amounts and decisions made. The same records provide wonderful opportunities for further exploration.

<sup>1</sup> *Geelong Advertiser*, 3 October 1878, 16 October 1878; Victoria, *Government Gazette*, 1878, p. 2451,

<sup>2</sup> Charles and Clara Willis had seven children: Flora was born in 1850, birth registered in Geelong; Everard Buckland, 1851, Geelong; Lionel Harding, 1853, Mt Hesse; Alice Clarissa, 1855, Geelong; Charles John, 1857, Geelong; Jessie Ellen, 1859, Tea Tree Creek; Wilfred William, 1861, Geelong.

<sup>3</sup> *Geelong Advertiser*, 18 December 1869. Claremont was described as a 245-acre property, complete with an eight roomed brick house, outbuildings, dairy, stable, orchard and vineyard.

<sup>4</sup> Three years later in 1878 the eldest daughter, Flora, married David Edward Stodart.

<sup>5</sup> The rental property was owned by the estate of A. Sayers and situated at the corner of Shannon Avenue and Aphrasia Street. The rent was £1 per week. After its sale, the family moved to a house in Pakington Street, (east side) between Bond and Russell Streets. It was owned by William Fagg. The Township of Newtown and Chilwell rate roll (assessment no. 1080) indicates that it was a five-room weatherboard cottage at the rear of a shop. It was valued at £22. Other references to the Willis family include the following: *Geelong Advertiser*, 6 February 1857, 18 December 1869, 3 June 1875; W. Brownhill, *The History of Geelong and Corio Bay*, p. 141. In September 1876, Mrs Willis advertised for a general servant for another party who lived within twenty miles of Geelong. She offered 'good wages to a competent woman.' On 12 April 1878, Charles Willis offered a reward for the return of his lost dog. Both advertisements said that the family lived in Pakington Street.

<sup>6</sup> The 'Insolvent's Schedule List B: List of Debts Due to Unsecured Creditors' signed by Charles Willis indicates that his creditors were:

Thomas Batten	Butcher	35.13.10
Richard Clarke	Grocer	39.08.11
George Wilson	Baker	7.10.00
Charles Pearson	Watchmaker	5.00.00
Thomas Allen	Bootmaker	5.00.00
Joseph Bray	Tailor	4.00.00
James Anderson	Draper	4.00.00
Silas Harding	Squatter	18.11.06
		£ 119.05.03

<sup>7</sup> VPRS 815/109/2946, Public Record Office Victoria.

<sup>8</sup> Victoria, *Government Gazette*, 1878, p. 2451, *Geelong Advertiser*, 3 October 1878, 16 October 1878.

<sup>9</sup> The public notices also caused Mr Clarke, the grocer, to swear that the amount owing to him had been understated by £16. The new creditors were:

Bright and Hitchcock	Drapers	13.04.00
Charles Hodgson	Wine Merchant	20.10.01
Charles Dennys	Stock and Station Agent	18.00.00
George Green	Chemist	18.02.00
		£ 69.16.01

<sup>10</sup> Henry Franks, bookseller and news agent, became the thirteenth creditor when he claimed debts incurred almost a decade earlier.

<sup>11</sup> In 1878 a modest weatherboard house in Chilwell, Newtown and Geelong West cost about £150-200; mechanical engineers, stonemasons and boilermakers were paid about £140-200 per annum, and Geelong Town Council's surveyor was paid £200 per annum.

<sup>12</sup> Between 1877-78-79, the Geelong Court of Insolvency heard 80 cases, meaning an average of one per fortnight. One half of insolvents came from Geelong and district, one third from Colac and district and the balance from the peninsula and Lara. More than half the insolvents were farmers, laborers and hoteliers. Willis was the only 'gentlemen'. Two women who owned boarding houses were declared insolvent.

<sup>13</sup> *Geelong Advertiser*, 18-19 June 1878. Harding v. Willis was one of twelve uncontested cases before the court.

<sup>14</sup> It was reported in the *Geelong Advertiser* (15 June 1894, 5 September 1894) that Harding was 'popularly regarded as a millionaire' because of his shrewd business practices and his vast property portfolio. On 5 September 1894, probate records indicate that he left an estate valued at £284,000 – not a million pounds but still a vast sum that had probably been much higher before the economic recession and bank crashes in the early 1890s.

<sup>15</sup> P. Mansfield, 'Silas Harding's quest for a quiet life', *Geelong Investigator*, vol. 44, no. 3, 2009.

<sup>16</sup> *Geelong Advertiser*, 27 July 1881 – 3 August 1881.

<sup>17</sup> *Geelong Advertiser*, 13-16 June 1894; P. Mansfield, 'Silas Harding's quest for a quiet life', *Geelong Investigator*, vol. 44, no. 3, 2009; Victorian Law Report 6 (L) p. 389; Victorian Law Report 8 (L) p. 6.

<sup>18</sup> The 'composition of agreement' was evidence that he could not pay his debts and that his creditors had accepted a compromise position. In the legal sense, Willis was insolvent but not bankrupt and there the matter

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rested. If a 'composition' had not been agreed on, the matter would have returned to the Geelong Court of Insolvency and Willis would have been declared a bankrupt. This would have been the equivalent to a criminal conviction.

<sup>19</sup> Township of Newtown and Chilwell rate roll (assessment no. 162a and later, assessment no. 217) indicates that the five-room brick house was owned by Mrs Thomas and subsequently rented by William Scott following the death of Mrs Willis.