

7.6 Finalization of John's Estate

The Public Trustee was appointed by John as his executor and by the 1 July 1911 it was reported that Probate had been granted in the Supreme Court. On 16 July the Trustee advertised for all claims against the estate to be lodged by 16 August. On 23 July the Trustee notified the Land Information Office of John's death and requested land records note the changed ownership from John to the Public Trust Office. These were all fairly fast responses. However, it took until 3 September 1912 for the Supreme Court to grant "*orders to sell realty*"¹.

The Evening Post of 3 October 1912 carried a report on a number of estates which had been certified to by the Commissioner of Stamps. John's name was on this list with a value of the estate shown as 20,484 Pounds. The Testamentary Register records the payment of 1423 Pounds 18 Shillings and 8 Pence Estate Duty and 52 Pounds 19 shillings and 5 Pence transmission Duty. The payment was made on 25 September 1912².

John Hamilton's Estate consisted of the Imperial Hotel in Cuba Street, two shops in Ingestre St (now Vivian St), his cottage in which he lived at 30 Marion St, and an investment property at 28 Marion St. In addition John had some seven parcels of land at Cobden on the West Coast.

John's two surviving children, Samuel Hamilton who lived in Melbourne and Sarah Jane Burns who lived at Newtownhamilton in Ireland, were the beneficiaries. They were to share equally in the proceeds from the estate. Sarah Jane was to receive John's personal jewellery. We are aware that a diamond ring was received by Sarah Jane and it is presumed this was left to John Burns. As well, Margaret Burns received a long gold chain with a watch. She later gave this gold chain to her granddaughter Margaret (Thorpe).

John also recognized his housekeeper Margaret Cunnin Woodward with a legacy of

100 Pounds and also established a lifetime estate giving her the "*use income and enjoyment*" of his cottage at 30 Marion St during her lifetime.

John's Will directed the Trustees sell the Imperial Hotel and the two shops at Ingestre St on the expiration of their leases. However, he reserved 28 Marion St from sale so that income from it could be used to cover the outgoings on his properties at Cobden which were also to be retained during the continuance of the lifetime estate for Margaret Woodward.

The Will was a little complicated but what actually occurred did not comply with John's wishes. In summary:

- the two largest and most valuable parcels of Cobden land were sold in 1912 and 1919 with the remainder sold periodically between 1925 and 1945.
- the two shops at Ingestre St were sold in 1923
- the two Marion St properties were sold in 1951.
- the Imperial Hotel was sold in 1966

Cobden Land

While the Imperial Hotel made up the most significant part of John Hamilton's Estate, there were other properties which also contributed funds as they were progressively sold.

¹ Evening Post 4 September 1912

² National Archives, Wellington, New Zealand

As shown previously on the Cobden Town Plan, John had two large parcels one of five acres and the other which contained 10 town lots totaling 2 acres and 2 Roods. The largest was sold very soon after John's death. On 8 October 1912 about 18 months after John died this parcel was transferred to "His Majesty the King" (in other words the Government). The land was to be used for the purposes of the Workers Dwellings Act 1910.

At this time there was a movement to establish State Housing in New Zealand. With such a large parcel becoming available it seems very likely that it was compulsorily acquired. The sale brought 700 Pounds. This would have been an appealing sum to the Trustees as the West Coast was not seen as having good growth prospects. The site was later surveyed and subdivided into 20 rather large lots.



Aerial Photo of Suburban Section 141 Subdivision

The second parcel of 2.5 acres was acquired by the Education Board of Canterbury. The sale brought 620 Pounds almost as much as the first sale for an area half the size. This lends weight to the view that the larger parcel may have been compulsorily acquired. The land was used to establish a Public School and there is still a school on this site today.



Cobden School on John Hamilton's Land

The rest of the parcels were sold as and when the Trustees felt that they could be. However, the evidence is that the longer they were held the less they were worth. This can be seen from the accompanying table. All of the town lots were the same size but the 1925 sale brought 130 Pounds and the 1945 sale, 47 Pounds 10 Shillings. This reflects the declining fortunes of the West Coast, the lack of development and also, to a certain extent, the neglect it suffered during World War Two.

SALE OF COBDEN LAND

Date of Sale Transfer	Section No. & Area	Purchase Price Pounds	To	Sale Price Pounds	Comments
8/10/1912	141 of SQ119 5 Acres	25/0/0	H M the King for purposes of Workers Dwellings Act 1910	700/0/0	12 Oct 1912 subdivision survey. DPS 12 Apr 1917 Bounded by Ward, Richmond & Surge St extensions.
14/05/1919	249 to 258 2Acres 2Roods	100/0/0	Education Board Canterbury	620/0/0	Bounded by Ward, Newcastle, Fox & Sturge Sts Now Cobden Public School
26/02/1925	246 1Rood	10/0/0	Henry Barrett	130/0/0	Fox St one block from cnr. of Newcastle St (No. 23?)
18/12/1935	248 1Rood	10/0/0	Reginald Scandrett	120/0/0	Cnr Newcastle & Fox Sts (25 Fox St?)
15/08/1939	247 1 Rood	10/0/0	Mabel Scandrett	110/0/0	Cnr Ward & Newcastle Sts To Fire Brigade 18 Oct 1945 Subdivided 4 Mar 1954.
5/06/1942	124 1Rood	10/0/0	Wm. Frederick Fred. Hayes	100/0/0	90 Bright Street
18/01/1945	117 1Rood	10/0/0	Richard Tunnage	47/10/0	Peel St opposite No. 38 white house
Total Cost		175/-/-	Total Sales	1827/10/-	

Sale of Ingestre St (now Vivian St) Shops

John had bought the Ingestre St shops for 340 Pounds in 1893. He rebuilt them in 1898 but we do not know the cost. He did not go through a process to formally subdivide the property. To sell the shops separately the Trustee engaged Licensed Surveyors Seaton Sladden & Pavett who completed a Plan of Subdivision in September 1918. This plan was not deposited until 2 May 1923.

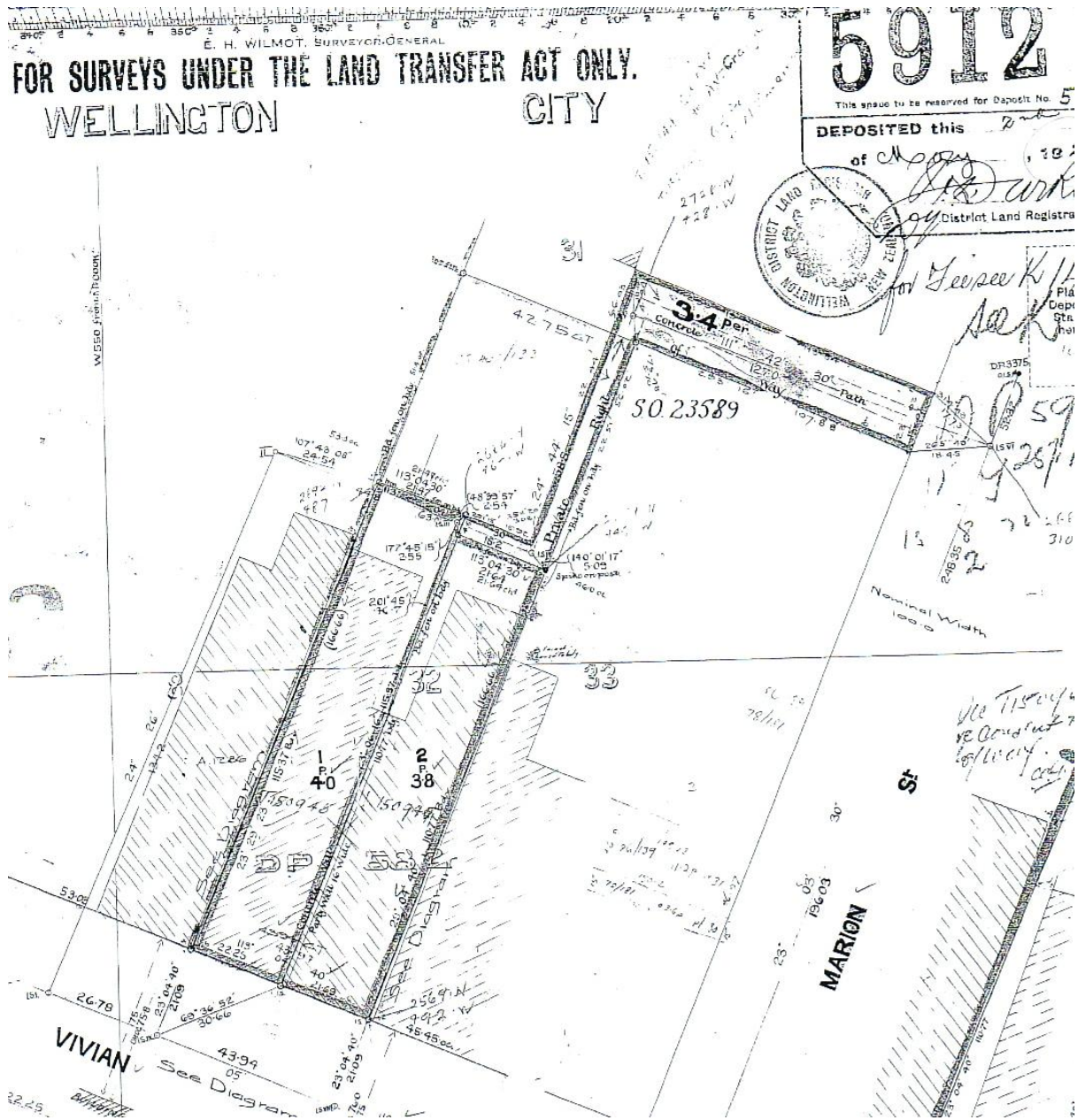
This delay needs to be seen in the context of John Hamilton's Will which instructed the executors to sell the property immediately on the expiration of the existing lease. We have no details of the leases in place but it could be expected that they would have expired earlier than 1918. A lease of over 7 years would have been unusual. While the subdivision could be expected to take some time it is difficult to understand why it would have taken five years.

The subdivided properties were enhanced by the establishment of a Private Right of Way at the rear of 142 Vivian St giving access to both properties. The Right of Way also took part of the rear of 30 Marion St as well as part of the right hand side.

We believe that this subdivision also took part of 30 Marion St to establish Swan Lane access to Marion Street enhancing the value of the Ingestre St properties and others backing onto this lane.

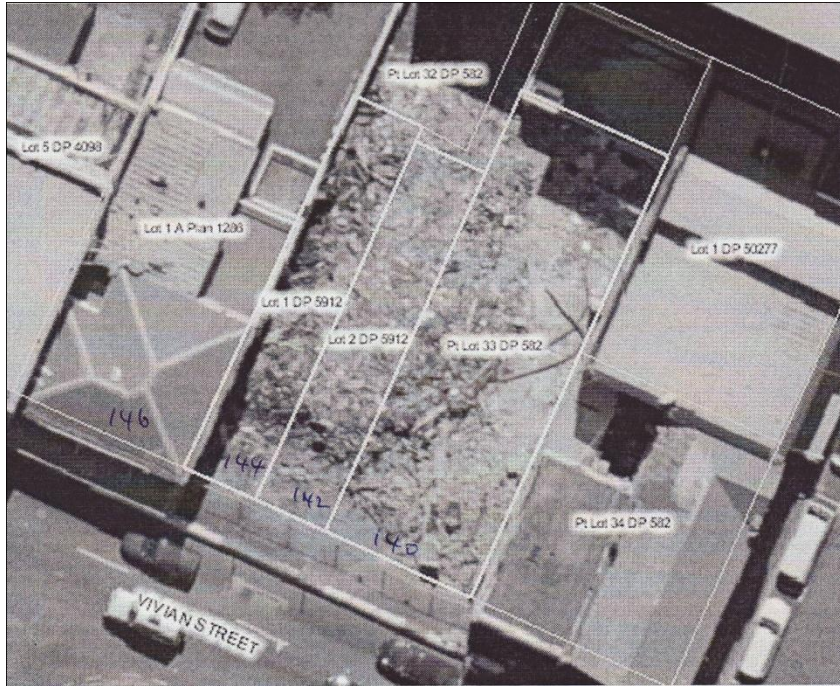
The two properties were both sold on 8 February 1923, almost 12 years after John's death, for a total of 2,800 Pounds. This was before the Plan of Subdivision was deposited with the District Land Registrar on 2 May 1923.

Lot 1, with an area of 1089 square feet), was purchased by Mariam Zimmerman for 1,450 pounds and Lot 2, with an area 1035 square feet, by Amelia Violet Craigie for 1,350 pounds³. When we visited Wellington in 2007 there were no buildings on the property. However, by 2009 new apartments were on the site.



1918 PLAN OF SUBDIVISION

³ Subsequent Title reference CT 460/133.



2007 Aerial Photo Lots 1 & 2 DPS 5912 142 & 144 Vivian St



2009 Apartments 140 to 144 Vivian St

Lifetime Estate: Margaret Woodward, John Hamilton's Housekeeper.

Mrs. Margaret Woodward was John Hamilton's Housekeeper at 30 Marion St Wellington. Before John died, Margaret had been his housekeeper for at least five years. The 1906 newspaper reports indicate she lived in John's cottage at 26 Marion St. (The number in Marion St was subsequently changed to 30).

John Hamilton recognized Margaret in his Will, dated 11 April 1910. He provided that should "*Margaret **Cunnin** Woodward continue in my service up to the time of my death*" she was to receive a legacy of 100 Pounds free of any deduction, permitted her to have the '*use income and enjoyment of the cottage (known as 30 Marion St) with the use of all furniture and household effects therein during her lifetime.*' A qualification was placed on this such that if she "*became habitually addicted to drunkenness*" the Trustees were empowered to determine the lifetime estate. She was also left all of John's personal clothing.

On 24 July 1911, about five weeks after John's death a Margaret **Cannian** married William Henry Hook at Kent Terrace Manse, Pirie St, Wellington. Her age was given as 42 being born at Guernsey in the Channel Islands to her parents John and Mary Cannian (nee Ryan). William's age was 44 and his occupation was an Engineer. He was a widower. His wife had died on 26 June 1909. Margaret was identified as a **Spinster**. It seems very strange that Margaret reverted to her maiden name and did not give her status as widow or divorced.

The Wellington City Rate Records for 1909 to 1911 show two pen amendments to John Hamilton's 1909 entry for 30 Marion St. The first is to Margaret C. Woodward reflecting her interest in the property on the death of John and the second being her marriage. The word Woodward is crossed out and replaced by Hook and Mrs. is added. Her address is shown as Ranwick St Lower Hutt. This indicates she was not residing at the property but was responsible for the rates. The 1912 Post Office Directory shows the occupant as Mrs. Maggie Woodward.⁴

Subsequent Rate Records continue to show Mrs. M.C. Hook as the person responsible for the rates and also note her life time interest in the property with the Estate of John Hamilton as the owner. Her address was shown as Ranwick St Lower Hutt although in 1921 this had been crossed out and 30 Marion St inserted indicating that she may have been living there. We have confirmed that the directory shows WH Hook as the occupant for both 1921 and 1922.⁵ Wises Post Office Directory is consistent with the rate Record and shows the occupant as W. H. Hook Engineer.

In 1935 Margaret's address for a letter of demand was shown as 59 Knights Rd Lower Hutt. Today this property no longer exists having been overtaken by development in the Lower Hutt. The property is now part of a large supermarket.

Electoral Rolls showed the Hooks at Knights Rd from 1928 to 1935. The 1938 Roll showed Maggie alone and that she was a widow. Her husband had died in 1937 at age 70 years. In 1942 Maggie returned to 30 Marion St and is recorded as being the occupant until 1949. There is no New Zealand death record for Margaret Hook, Woodward or Cannian that is relevant.

It is of interest that over the years the property at 28 Marion St had the same tenant continuously for 1911 until at least 1947 whereas 30 Marion St tenancies of the Hook's turned over regularly with the longest being about 5 years. The lifetime estate was one of the factors that deferred finalization of part of John Hamilton's estate for many years. John had

⁴ Wises Post Office Directory 1912

⁵ Wises Post Office Directory 1921 & 1922

also specified retaining 28 Marion St during the continuance of the lifetime estate. These properties were not sold until 1951. In addition, Mrs. Hook was very demanding. She was obviously letting the property and it was very old. There were ongoing demands for upgrading the facilities especially the kitchen and bathroom⁶. This seemed to be in the spirit of John Hamilton's Will although he probably envisaged she would live in the cottage herself on a continuing basis. In any event these demands reduced the flow of funds to the ultimate beneficiaries.

After Margaret died her family approached the Trustee and beneficiaries requesting that as Margaret had the house for so long that it should be retained in their possession Margaret's husband had previously married Martha Jenkins in 1888 and Margaret had five stepchildren as a consequence. The Trustees rejected the request on behalf of the beneficiaries.

Sale of 28 and 30 Marion St

After the death of Margaret (Woodward) Hook, the Trustee was able to proceed with the sale of the two properties in Marion St. Both 28 and 30 Marion Street were sold at the same time on 5 June 1951 on the same transfer⁷ to Francis Summerhayes Driller They were sold for 5600 Pounds.

There were actually three components of the sale:

- 28 Marion Street 3158 square feet. CT 86/139
- 30 Marion Street 980 square feet), CT 78/181 both part lot 31 section155
- The portion of land taken from lot 32 for the right of way at the rear of the Ingestre St shops CT 460/138.

All elements of the sale were subject to the Right of Way provided (under transfers 150944 and 150945), which established the access from Marion Street with the sale of the Ingestre Street shops in 1923. One could assume that the lengthy time from John's death till 1951, forty years, was because Margaret Woodward lived until then. She would have been 82 by 1951 and she obviously lived to a good age. However, given the length of time it took the Trustee to realize other parts of the estate some tardiness could have been expected in this case as well.

Marion Street today is quite changed from John Hamilton's day. Number 28 is now part of a multi storey car park and apartment complex and very few old properties remain in the street. Urban renewal and development have seen complete change.



2007 Marion St Car Park & Apartments including 28 Marion St

⁶ Gertie Hathaway (nee Watt)

⁷ Transfer No.341881

Sale of the Imperial Hotel

The Imperial Hotel story is detailed separately but as the major contributor to the flow of funds to the beneficiaries it was the most controversial. It was ironic that the family was Presbyterian and John, Sam and Sarah Jane were teetotalers and yet the hotel provided a substantial income stream to that supported both families for many years.

Following the death of John in 1911, his son, Sam Hamilton, no longer worked. He had sold his store at Gisborne and moved to Melbourne to his new home "Blaney" at 17 Bailey Avenue East St Kilda. However, the flow of funds was good and he did not need to have a job to support his family which he did very well.

In Ireland, Sarah Jane died in 1915. With the rebuilding of the hotel in 1905 and a new lease in 1917 there was a substantial increase in rent from 390 to 1716 Pounds per annum. It made good sense to keep the hotel rather than sell it. In this regard, Samuel must have had discussions with Sarah's executors John and James Burns. This was contrary to John's directions but if the beneficiaries agreed such action was quite acceptable.

Sarah's Will created a Trust to receive the income from her property until such time as her two sons James and George attended university and became professionally qualified or, failing that, until they were both 23 years of age. This meant there were no distributions until at least 1916 as George was born in 1893.

We have been told that the interpretation of Sarah's Will was that if a beneficiary died then that share from the estate was directed to the surviving children. The Will is very difficult to read but our interpretation is that the share going to the deceased beneficiary would instead go to the beneficiary's children and shared equally between them.

This did not become a material issue for some years. Gertie Burns died in 1925 and as she was unmarried and without children, it was clear that her share would be left to those specified in her Will, who we presume were her own family. The next death was not until 1950 when Lizzie died. She also had no children accordingly her share of the Estate went to the other surviving children of Sarah Jane.

After 1916 it is presumed that distributions were made equally in terms of Sarah's Will. However, Sam Hamilton visited Ireland in about 1926 taking his daughter Dora with him. He visited Margaret and her family in Belfast and asked if she had received anything from her mother's estate. She responded that she was receiving nothing. Margaret was not particularly concerned as she did not want the proceeds from alcohol having seen the damage that had been done by it in Ireland. Her husband also did not want it alleged that he married her for her money so he did not care. However, Samuel said that they would not have to take the executors to Court, he would.

Sam visited the Burns family in Newtownhamilton and shortly after that Margaret started receiving her entitlement. Similarly, her sister May told her that she did not receive any money until after Sam's visit to Ireland.

By 1966 the shares of the estate was beginning to be fragmented. Lizzie Burns had died in 1950 and John Rainey Burns was to die in 1957. Two of Samuel's children, Dora and Bill were to die in 1961 and 1963, respectively. At the same time the hotel was growing old and in a changing market was no longer competitive. Increasing regulation was also increasing costs. The rent being received was declining rather than increasing and the hotel had seen its best days.

There was a clear view that the hotel needed to be sold although this was not unanimous. The view from the descendants in Ireland was that the hotel should be retained. By this time there were only four of the Burns children surviving, Edith, May, James and Margaret. Margaret was living in Australia and closer to the facts of the situation.

In any event the hotel was sold and as it transpired this was a very sound business decision.

Gross Value of the Estate

Analysis of the returns to the Estate indicates the following flow of funds over the 55 years that John Hamilton's estate were:

	Pounds
Lease income from Imperial Hotel	132,929
Sale of Hotel (Net of Costs)	31,500
Sale of Shops	5,600
Sale of Marion St	2,800
Sale of Cobden Land	<u>1,827</u>
	<u>174,656 Pounds</u>

These figures need to be reduced for the trustees commission or management fees which if they were say 10% would still indicate a flow of over 150,000 Pounds.

Bringing this to today's NZD's using price adjustment factors of the NZ Reserve Bank gives a gross value of the estate of \$NZD 10,065,552.

John Hamilton's Estate allowed Samuel Hamilton to live a long and healthy retirement of some 40 years without any work. It also funded two trips to Ireland by Sam and Dora and also Teresa and Vera in 1926 and in 1930. It enabled his son Bill to return to school and university qualifying as an engineer. It supported education at very good schools to tertiary levels for almost all grandchildren with consequent gaining of professional skills and qualifications.

For the Burns family, the early death of Sarah Jane did not allow her receive any real benefits from the Estate. For her children, James and George had the opportunity of a university education and although not graduating the important point is that the opportunity was given. For all of them the estate provided a flow of funds to assist them. However, the difference from the Australians was that Sarah Jane had died and there was a significant fragmentation of the funds between her children.