



## ***Where there's a will...***

### ***The contested estate of Stephen Mather's maternal grandfather***

Edward Walker was a prosperous bookbinder in New York City (See "The Tie That Binds" blog). Edward was the father of Stephen's mother, Bertha Jemima Walker.

Edward (1803-1879) was married to Sophia Shedel (1802-1871) for forty-seven years. Thirteen months after Sophia's death, Edward married Emily Hogg. Six-and-a-half years later, Edward died, on January 15, 1879, at his home in Yonkers, New York.



*Edward Walker and Emily Hogg*

Probate date for his will was January 29, 1879. Less than a month later, on February 28<sup>th</sup> of that year, his sons sought to overturn the will. The most aggrieved appears to be the younger son, James. In the will, his brother Joseph is given \$1500; James is given \$500. Emily, the widow, is given the home, its furnishings, land, bank accounts, and 40% of the annual rents from a property on Fulton Street in Manhattan.

Interestingly, in making bequests, Edward included the children of his children who had families. The one exception was Bertha. Were she to die, her inheritance went to nieces, not to Stephen or Josie. Whether this was because of geography (Stephen and Josie were in California) or antipathy to Stephen's father is unclear.

The rents appear to be significant part of the estate. Emily got 40% but on her death, half would pass to Joseph and half to his sister, Elizabeth Mary Turner. Other portions were similarly devised with specified secondary inheritors when the first died. One not mentioned in any bequeath from the rents was James.

In the attempt to overturn the will, repeated mention is made of earlier wills. However, none of these wills could be produced. In her testimony, Emily states that she gave up her "dower rights." Dower rights were established law in the nineteenth century providing that a widow would receive one-third of an estate. This was done at a time when, in many instances, women were precluded from owning real estate. Arkansas, Ohio, and Kentucky are the only states that today still retain dower rights.

It is also revealed that there had been a breach between Edward and James, due in part to an episode at the bookbindery. James states...

“He accused me of drinking. I replied that I had been in the company of my wife. I may have drank two or three glasses of ale...at the time I got back I felt right condition for business...He said that I had been out in the company of a man, that is connected with the drinking, neglecting my business. He tried to push me out of the office...he sat down in a chair, and from that time to this, he says I knocked him down...”

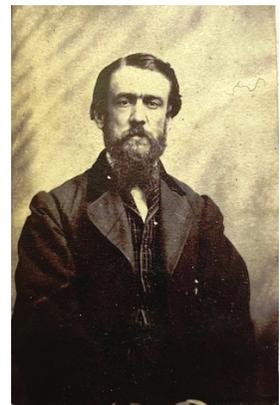
And Emily states...

“...there was a great disappointment on the part of the deceased with regard to his son James. He was disappointed that he had been an unkind son to him...”

Ultimately, on March 12, 1879, the Surrogate ruled that the will was valid.

But the relentless James was not done. Despite a ruling against him, he appealed the constitutionality of the Seventh Article of the Will—the one that divided the proceeds of rents on the property on Fulton Street. He sued his sister, Sophia Ann, who had also received 40% of the rents. The suit included “other parties” as well.

The question revolved around whether it was legal to require that the construct be maintained in a way that required it to be passed on to succeeding generations. On the appeal, James did emerge victorious. Whether the matter was further adjudicated is not known.



*James Walker*

James Walker himself died in 1903. Perhaps having learned from complex wills such as his father’s, his was simply...

First, I give, devise, and bequeath all my estate real and personal of what nature or kind soever and wherever so situated of which I may die seized or possessed to my beloved wife Maria Walker and to her heirs and assigns forever.

Lastly, I do hereby nominate, constitute, and appoint my said wife Maria executrix and my son Walter N. Walker, executor of this my last will and testament, hereby revoking all former or other wills by me made.

*The portraits of Stephen Mather’s maternal grandparents, Edward Walker and Sophia Shedel Walker can be found on the east wall of the dining room of the Mather Homestead.*