

A large, weathered wooden cross stands in a field of golden wheat. The cross is decorated with a small statue of the Virgin Mary and a basket of red flowers. The background shows a vast, flat landscape under a dramatic, orange and yellow sunset sky with dark, heavy clouds. The overall mood is somber and reflective.

# A Farmer's Will

BY FRANK GIBBARD

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**T**he story of the Cleve family resembles that of any number of pioneer families in Northern Colorado. George Cleve immigrated from England in the 1800s. His wife Mary and her niece Caroline (“Kate”) came with him. He became a prosperous farmer with a home in Laporte, near the city of Fort Collins.

George and Mary had planned to adopt Kate, but that never came to pass. At age 22, she married a local man named William Lindenmeier Jr., the son of a German immigrant family.<sup>1</sup> William and Kate lived nearby in Fort Collins for a while, but then moved back in with the Cleve family. Several years later, the Lindenmeiers moved to their own home in Fort Collins, and a few years after that, in December 1893, Mary Cleve died.<sup>2</sup> Mary’s obituary called her a “most estimable Christian woman” and praised her “earnest and consistent” faith.<sup>3</sup>

Following the death of his longtime companion, George relied heavily on his niece for support. He lived in the Laporte home, with Kate managing his business affairs, for several years. But eventually he grew restless and, like many Americans of that era,<sup>4</sup> he became especially preoccupied with spiritual matters and the state of his soul.

### **George Cleve’s Spiritual Quest**

In 1901, determined to investigate what he called “the holiness business,”<sup>5</sup> George moved from Laporte to downtown Denver. It’s not clear what Kate thought of her elderly relative’s sudden spiritual quest. The old farmer was not in the best of health. Among other things, he complained of dizzy spells. But his pilgrimage to Denver stemmed at least in part from his belief that his health might improve if he left the farm.<sup>6</sup>

At first, George found a spiritual home with the Salvation Army. These days, people associate the Salvation Army with volunteers cheerfully ringing bells at Christmastime and thrift stores raising money for charitable efforts. The organization’s charitable emphasis indeed reflects its

origins in the era of the “social gospel.”<sup>7</sup> But it would be a mistake to downplay the evangelical fervor associated with the group, particularly in its early years.

Its founder, William Booth, created the Salvation Army after he had a hellish vision of

was a common name for organized religious groups that aimed to help the inner-city poor. But neither Lehman nor her Union Mission seem to have made much of an impression on their contemporaries. Other than articles about George Cleve’s estate, newspaper searches



people drowning in their sins who were desperately in need of rescue from their impending damnation. Booth purportedly later stated that if the doctrine of hell were removed from the Salvation Army, it would soon disappear. When organized in the London slums, the Army had as much an evangelical purpose as a charitable one. It was modeled after the military, and its recruits were expected to lead sober, disciplined lives.

For whatever reason, even the Salvation Army’s enthusiastic evangelism did not quench George Cleve’s spiritual thirst. Like many a spiritual traveler, he turned to a more austere group. For George, it was Jennie Lehman’s Union Mission, an obscure group that met at 20th and Larimer Streets, near Denver’s notorious “red light district.”<sup>8</sup> In those days, “Union Mission”

turned up little on either Lehman or her church. Moreover, one article that did discuss the estate litigation confusingly referred to Lehman’s group as “the Pentecostal Mission . . . known as the Jumpers.”<sup>9</sup>

In any event, George soon became one of Union Mission’s most enthusiastic converts. As the Colorado Supreme Court put it, he “devoted nearly all of his time in furtherance of the objects of this most worthy institution.”<sup>10</sup> His life at the Union Mission was spartan and filled with devotional activities: “He spoke at the meetings; he contributed funds; he slept at the mission house on a mattress; he cooked his meals there; and in every way showed that he was one of the mission’s most devoted adherents.”<sup>11</sup> He was even known to chauffeur Lehman around in his horse and buggy.



### **A Questionable Will**

Two years later, in October 1903, George's health had declined further. A doctor called on him several times at the Mission, and George made plans to return to Fort Collins. But the doctor pronounced him too sick to make the trip, and on October 7, 1903, George moved instead to Lehman's sister's house at 2758 Humboldt Street in Denver. It was there, a day later, that an attorney drew up a will leaving George's estate to Lehman. George, who could not write his own name, signed the will with an "X." He died less than a week later, on October 13.

The language of the will raised some red flags. Although George's intention appears to have been to facilitate Lehman's charitable work, the will left his entire estate to Lehman "for her own sole absolute use and benefit."<sup>12</sup> The will also made no mention of George's devoted niece, instead stating coldly, "I declare that I have a brother and some distant relatives living but inasmuch as they have ignored me and left me to my fate it is my will and intention that they shall not in any way participate in my estate."<sup>13</sup>

### **The Estate Litigation**

Lehman offered the will for probate. Unsurprisingly, Kate objected, alleging that Lehman had unduly influenced George to leave her his estate and that he had lacked testamentary capacity to make the will. The matter was set for a jury trial.

Before the trial, Kate's attorney made several provocative claims that were recorded in a local newspaper. He asserted that when George attempted to depart from Lehman's house and return to Fort Collins, she told him to keep quiet or she would call in a policeman. He claimed that Cleve had brought \$1,800 in cash with him to Denver (a considerable sum in those days) but that the money had mysteriously disappeared. He also asserted that Lyman D. Denny, who signed Cleve's death certificate, was not listed in the Denver city directory and was probably not even a licensed physician.<sup>14</sup>

The jury found in favor of Kate, and the will was rejected. After unsuccessful appeals to district court and the Colorado Court of Appeals, Lehman filed a writ of error with the Colorado Supreme Court.

### **The Appeal**

On appeal, Lehman first complained of the admission into evidence of letters George's brother had written to the trial court. Perhaps stung by Lehman's claim that George had not heard from him in 25 years, the brother had attempted to dispute that claim. But the Court found no prejudicial error in the admission of the letters.

Lehman next argued that she should have been allowed to ask witnesses whether they saw any indications that she was unduly influencing George in the making of his will. The trial court excluded this testimony because it asked for a conclusion about the ultimate issue in the case. The Court determined this ruling was correct.

Turning to the jury instructions, the Court upheld the denial of one of Lehman's proposed instructions, holding it was "more in the nature of a homily than an instruction."<sup>15</sup> The Court upheld other instructions that Lehman challenged involving the burden of proof; testamentary capacity; undue influence; and the jury's ability to consider factors such as the testator's age, his

physical and mental condition, and the natural objects of his bounty.

Finally, the Court considered whether there was sufficient evidence to present the issues of undue influence and incapacity to the jury. It held there was sufficient evidence on those issues. The Court stepped carefully around the issue of the religious nature of George's bequest, unwilling to say that extreme religious devotion necessarily amounts to a sign of mental disease but finding George's unusual behavior to be evidence that warranted a trial:

The fact that Cleve left his comfortable home in Larimer [C]ounty and came to Denver and became associated with the mission, which had for its object the rescuing of the poor and outcast of Denver, would not, of course, be regarded as evidence of a want of testamentary capacity. There are too many instances recorded where such things have

been done, and there are too many noble men and women engaged in such worthy work to warrant any such inference to be drawn from his conduct. Nor should the fact that, after becoming associated with this religious organization, he became its devotee and apparently consecrated his time and energy, his means, and his life, in fact, to the advancement of its objects, be regarded as proof of an unbalanced mind; nor ought the fact that this uneducated man became an exhorter at the mission be regarded as more than the eccentricity of an egoist; nor should the fact that, being in comfortable circumstances, he lived without many of the comforts of life, cooking his own scanty meals at the mission house, and living there with the women workers, be considered as more than a peculiarity. But these facts, when taken in connection

with the testimony received, which we have carefully read, but which we do not deem it necessary to mention here, were sufficient to warrant the court in submitting the case to the jury and sufficient to warrant us in not disturbing the verdict.<sup>16</sup>

The Court therefore affirmed the jury's verdict.

### Aftermath

After prevailing in the litigation over George's estate, Kate Lindenmeier remained in Northern Colorado. She died in 1960, at the ripe old age of 95, and is buried in Grandview Cemetery in Fort Collins.<sup>17</sup> 



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### NOTES

1. William Lindenmeier Jr. owned Lindenmeier Lake Resort, built on Lindenmeier Lake in Fort Collins and accessible by trolley car. The resort closed in the late 1910s. See <https://fcmo.org/blog/2020/02/20/lindenmeier-lake-resort>.
2. See Obituary Notice, *Fort Collins Courier*, p. 1, col. 6 (Dec. 21, 1893).
3. *Id.*
4. See generally [https://en.wikipedia.org/wiki/Third\\_Great\\_Awakening](https://en.wikipedia.org/wiki/Third_Great_Awakening).
5. *Lehman v. Lindenmeyer*, 109 P. 956, 957 (Colo. 1909). Note that the court spelled Lindenmeier's name with a "y."
6. See *id.*
7. See generally [https://en.wikipedia.org/wiki/Social\\_Gospel](https://en.wikipedia.org/wiki/Social_Gospel).
8. *Lehman*, 109 P. 956.
9. "Geo. Cleve Will Case is Settled," *Fort Collins Express*, p. 3, col. 6 (Oct. 6, 1909).
10. *Lehman*, 109 P. at 957.
11. *Id.*
12. *Id.* at 956.
13. *Id.* at 957.
14. See "Geo. Cleve's Will to be Contested," *Weekly Courier*, p. 7, col. 3 (Nov. 25, 1903). The attorney's claim about the death certificate was probably incorrect. A 1908 Denver City directory shows a Lyman D. Denny, listed as a physician, residing at 1014 W. 9th Avenue in Denver. See Ballenger and Richards, *Thirty-Sixth Annual Denver City Directory* 394 (1908).
15. *Lehman*, 109 P. at 958.
16. *Id.* at 959.
17. See <https://www.findagrave.com/memorial/93294629/caroline-lindenmeier>.

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