**Will of William Masterton, Merkland**

At Dumfries the thirteenth day of February, eighteen hundred and twenty-seven years. In presence of Sir Thomas Kirkpatrick of Closeburn, Baronet, Commissary of the Commissariot of Dumfries; Appeared John French writer in Annan who gave in the Inventory and oath after mentioned with the Deposition and Settlement after inserted declaring that the same might be registered in said County Court Book in terms of Lieu; which desire the said Commissary finding to be just and reasonable ordained to be done accordingly & whereof the tenor follows:

Inventory of the Personal Estate of William Masterton at Merkland, who died on the 19 day of September 1825 with Interest due in principal sums at that date.

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| Imprimis the deceased’s cow and swine valued by Shepds William Porteous and James Scott both at Kirtlebridge, in virtue of a warrant for that purpose, conform to Inventory & appraisal(?) dated 14 November 1826.  |  | £7. .. .. |
|  |  |  |
| 2nd. Balance of back rent by the deceased to Mr John Dalgleish of Prestonfield, at 26 July 1825 | £330. ..2 |  |
| Interest thereon to 19 September 1825. 1 mo. & 24 ds @ 21/2 percent (Bank interest by agreement) | £1.7.6 | £331.7.8 |
|  |  |  |
| 3rd. Balance of Claim by the deceased upon Genl Paul AE Irving of Robgill, Baronet, at 31 March 1825. | £401.9.6 |  |
| Interest thereon to 19 September 1825. 5 ms 19 days @ 5 p.cent. | £9.7.11 | £410.17.5 |
|  |  |  |
| 4th. Balance of account due to the deceased by Mr Gavin Irving in Annan |  | £4.13. . |
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| Value of Estate situated in Scotland |  | £753.18.1 |

William Masterton John Dalgleish J.P.

At Annan the eighth day of February, eighteen hundred and twenty seven years.

In presence of John Dalgleish Esquire one of his Majesty’s Justices of the Peace for the County of Dumfries Commissioner appointed by the Honourable the Commissary Depute of the Commissariot of Dumfries for taking the oath under written.

Appeared William Masterton at Merkland, eldest son and Executor of the deceased William Masterton at Merkland, who being solemnly sworn and examined depones that the said William Masterton his father dies upon the nineteenth day of September, eighteen hundred & twenty five and the Deponent has entered upon the possession and management of the deceased’s personal estate as Executor nominated to him in a Deed of Settlement executed upon the eighth day of July eighteen hundred and twenty five, which is now exhibited & signed by the Deponent and the Commissioner of this date, as relative thereto that the Deponent does not know of any settlement or writing relative to the disposal of the deceased’s personal estate or effects or any part of them, other than that now exhibited. That the said inventory which is signed written on the first page hereof is a full and complete Inventory of the personal estate & effects of the said William Masterton, the deponent’s father, wheresoever situated and belonging, or due to him beneficially at the time of his death, in so far as the same has come to the deponent’s knowledge: and that the value of said Estate situated in Scotland is of the value of Seven hundred & fifty three pounds 18/1d and under the value of Eight hundred pounds; all which is truth and the Deponent shall swear to God.

“William Masterton – John Dalglish” J.P.

Following the tenor of the Deed of Settlement before mentioned:

“Know all men by these presents, that I William Masterton at Merkland, having resolved to settle my affairs, to so as to prevent any disputes, which might ensue after my death, anent the secession and division of my sums(?) and effects, do therefore hereby make constitute and appoint, my four sons, William, Edward, Robert and David, and the survivors and survivor of them, my sole executors, with full power to enter to entreat with, call and sue for, uplift and receive, all and sundry sums, and heritages, debts, heritable and moveable, sums of money goods and gear that shall be resting or owing, and pertaining & belonging to me at the time of my decease, by whatever person or persons, in value of Bonds, Bills, or any other manner of way whatever, all which (with the exception of the house and pertinents presently in my possession and hereby disponed and assigned by me to my said son William, with the Lease thereof in my farm and whole clauses therein contained). I hereby give, grant, assign, transfer & make over to and in favour of my said four sons, William, Edward, Robert and David, and the survivors and survivor of them, but with and under the burdens, reservations, and the dispositions? after mentioned, viz.

In the first place, under the burden of payment of my lawful Debts and funeral expenses; and, in the second place under the burden of dividing the proceeds of my whole estate, above assigned to them, under the exception foresaid in the manner following:

Viz. First of all, my will is that my said son William shall receive, heeded the house and pertinents presently in my possession and above disponed and assigned to him, the sum of Ten Pounds Sterling, and of the proceeds of my said Estate; That my second Son Edward shall receive the sum of Fifty Pounds Stg. That my youngest son David shall receive the sum of Fifty pounds sterling, that my daughter Eppy shall receive the sum of Fifty pounds sterling, that my daughter Jenny, wife of John Burgess at Woodhouse-hill shall receive the sum of Fifty Pounds Sterling; that my daughter Jean, wife of David Steel in Breconside shall receive the sum of Thirty Pounds Stg, she having already received from me to the amount at least of Twenty Pounds Stg. That the three children of my deceased son John shall receive one guinea each in respect their father, during his lifetime, received from me his share of the Legitum and as much as any of his brothers or sisters (my other children) are soon to receive: Secondly, my will is that with regard to the residue of my said Estate and effects, each of those six of my children, Viz. William, Edward, David, Eppy, Jenny, and Jean, shall receive what, with the sums above mentioned, will make to each of them the sum of Eighty pounds Sterling, and then that they, together with my daughter Mary, wife of James Inglis in Howellside, and my said son Robert, (both of whom have already received from me fully eighty pounds each), and the three children of my said deceased son John shall receive the balance of the Residue of my executry (should there be any) amongst them in equal shares: - All which sums with the exception of those provided to my said daughters Eppy & Mary I hereby declare, shall be paid, by my said Executors, or the survivors or survivor of them, within twelve months after my decease, with Interest thereafter until paid; but the sums provided for my said daughter Eppy and Mary, I hereby declare, shall within twelve months after my decease be put out to interest, by my said executors, and the interest accruing to each is all which they are to enjoy during their material lives. Without however, prohibiting their brothers, my said executors, from paying over the principal sums to these my said daughters Eppy and Mary, when they my said executors shall see cause. And I hereby revoke all former dispositions and settlements, made or granted by me in favour of whatever person or persons preceding the date hereof, and declare this my Last Will and Testament. Reserving nevertheless full power to myself, at any time of my life, to alter, innovate, or revoke these presents, in whole, or in part, at pleasure. – and dispensing with the delivery hereof and declaring these presents shall be valid and effectual though found in my own custody, undelivered at the time of my death, I consent to the Registration hereof in the Books of Council and Session, or others competent, therein to remain for preservation; and for that purpose constitute.

My Procurators.

In witness whereof, I have subscribed these presents, written on this and the two preceding pages of stamped paper by George Dalgleish, writer in Annan, at Merkland the eighth day of July, eighteen hundred & twenty-five years before these witnesses William Goodfellow, carrier in Lockerby and the said George Dalgleish writer hereof (signed) William Masterton, Geo. Dalgleish witness, William Goodfellow witness.”

**Commentary by Gordon Masterton**

The Last Will and Testament of William Masterton at Merkland, Dumfriesshire, who died on 19th September 1825, confirms the relationship to eight surviving children and one deceased (John).

Through his debtors, it also confirms a connection to the Irving family, through moneys due him from General Sir Paulus Aemilius Irving, of Robgill Tower. This may have been because of a family connection but may alternatively simply have been for residual unpaid fees to William for services as a master mason, perhaps on Sir Paulus Irving’s residence at Robgill Tower when he retired there after serving as Commander-in-Chief for the West Indies. The much smaller amount due by Gavin Irving in Annan is more likely to have been a family loan. Two Irving debtors does suggest more than just a trading relationship. This may of course have been through the other Irving in William’s life – his mother Mary Irving.

However, there is no mention of James Masterton, born 1777 in Annan, to William Masterton and Margaret Irving, whom we had believed to be the James Masterton who married Janet Smith who had four children, at least two of whom, Jane and William, were still alive in 1825.

This omission of James, or his family if James had pre-deceased William (like his possible brother John), could have been due to a family dispute, but he mentions every other sibling, and sometimes in implied unflattering terms. It may have been due to James being raised by his mother rather than his father. His birth record states that he is the “natural son” rather than a “lawful son” so he was illegitimate. It’s possible that the parents never married and went their separate ways, and were never reconciled. The breach with James, if there was one, must have been a serious one for him or his survivors not to be mentioned in William’s Will.

The other explanation is that James is not the son of William Masterton of Merkland, and that the William Masterton and Margaret Irving (who we know from James’s birth record to be the parents of James) are not part of this family, although probably related.

However, the Scottish Naming Pattern convention for children would have the first born son named after the paternal grandfather. That would add weight to the illegitimate James being the first son of our William, son of James Masterton and Mary Irving. This is reinforced by their being no son named James recorded for William and Elspeth.

The other factor worth considering is that Elspeth Burnet, if she was the mother of Mary (mother not named on the parish register) would have given birth to her when she had just turned 17 years old (not impossible, but untypical for the times) if her death date on the Dornock Cemetery is faithfully recorded, but the death date on the headstone may not be entirely accurate, or partially obscured when transcribed.

Another possibility is that William may have had more than one child to a different wife or relationship before marrying Elspeth, and it may not have been Margaret Irving. We must recognise that the records of that time are of course incomplete.

More research required!