

Report on the Will of Robert Bruce LINDSAY Prepared by Christine Wibberley

*Trace Your Ancestry***A. Description and Summary of the Document**

The document is the office copy Probate and Will with Codicil of Robert Bruce LINDSAY who died on 11 February 1918. The Probate was issued from the Manchester DPR on 29th June 1918. The document is transcribed at Appendix A on page 4.

- The **Grant** details specific details about him, the size of his estate, that no duty was paid, that his sister extracted the grant, despite the fact she was not expressly appointed (giving reason) and that the proved document was a Will with Codicil.
- The **Will** dated 24 June 1916 **with (unwitnessed) Codicil** of unknown date is an office copy of the original, setting out Robert's feelings, bequests and messages to named individuals, Annotations show why both Will and Codicil were admitted to probate and detail further evidence produced and the particular circumstances relating to the making of the Will. The notes further indicate the Will and Codicil were holographs. The literary style of the document is informal.

B. Analysis**1. Personal Information**

- On 24th June 1916 Robert was Second Engineer on SS Merton Hall stationed at Suez.
- He was a native Scot though acquired a domicile of choiceⁱ in England and Wales
- He has sufficient education to write a will and sufficient legal knowledge to initially arrange for two witnesses.
- He appears to have been single but the document is not specific
- He has close relatives

2. Why was this document created and what was the historical context?

- At the creation of the Will Robert was far from home. He was on a merchant vessel.ⁱⁱ The world was at war. He would have known the risks involved following heavy losses to the Merchant Fleet and the sinking, the year before he made his Will, of the Lusitania.ⁱⁱⁱ
- He would have wished to dispose of his estate in a proper manner and from the tone of the Will there appears a wish to send cheering messages to his family should he not return; show his affection for them and to raise their spirits by the slightly humorous tone of the Will.
- Robert wishes to repay past kindnesses and assist friends (Mrs Edwards) and family (Janet Lindsay Thomson) in present difficulty.

3. Genealogical information and personal relationships

- He gives the exact place of his birth which is also probably that of his siblings.
- There is no mention of a wife, children or parents living
- He has a brother Thomas Lindsay, a niece Mary Lindsay, two sisters who are or have been married, Janet and Mary, unmarried sisters Isabella, Margaret Marion and Agnes. Campbell nephews and nieces of the same address and surname as his sister Mary, presumably her children – C____ and Jane. Bob Campbell is mentioned in the codicil but no relationship is stated but there is an assumption he is connected with Mary Campbell. 'Davina' and 'Bill' are referred to with no mention of surnames or relationships. Possibly they were relatives named so they would not feel 'left out' but there is a hint of some friction.
- Some siblings had moved to England, some remained in Scotland. He helpfully gives their addresses.
- Mrs. Edwards is mentioned more formally. Presumably a friend rather than a relative.
- There is no indication of his age or that of his siblings though it appears from his comments that his niece, Jane is of marriageable age.
- A reference to his married sisters by their maiden and married names indicates an acknowledgment of his and their Scots heritage^{iv}.

4. Social Status and lifestyles

- Robert clearly has some education (see 'Personal Information' at 2). He has a profession.
- He and possibly his siblings were born at 'The School House'. Possibly their father was a schoolmaster.
- Whilst not wealthy and needs to work though he is not poor.^v
- He lives at 37 Wellington Street Manchester but presumably does not own it or would have made a specific gift of it, perhaps to Mary Campbell whose home it also is.
- The occupations of his siblings are not given but two of his unmarried sisters appear to live at smart addresses which may be an indication they are in domestic service.
- Two other unmarried sisters live at a private address in Scotland and perhaps do not work which may be the reason for the gift of residue.
- His sister Janet has fallen on hard times and needs help to pay medical bills.
- The gift of the violin hints at a musical talent within the family.

5. Legal and Historical Considerations

- **Legal formalities.** The first part of Robert's will is witnessed, on the face of it correctly; arguably in accordance with S9 Wills Act 1837 (though there is no attestation clause to the effect that Robert and his witnesses were all present together at the signing) but the second part (the codicil) is not. In normal circumstances the codicil would not be admitted to probate and the appointment of Mary Campbell as Executrix would fail. However S11 of the Wills Act 1837 provided for those in actual military service to be able to make a Will without any formality. At first sight Robert Lindsay did not fall into that category. He was not a serviceman in the sense of being a member of a fighting force but was simply following his chosen career. However the Wills (Soldiers and Sailors) Act 1918 (date of Royal Assent 6th February 1918) clarified and extended

the Wills Act 1837. Section 1 confirms that a soldier on active service or sailor at sea, can and always could have made, (that is it is of retrospective effect) a valid privileged will. Section 2 of that Act extends the provision to sailors not at sea but who are employed in similar service to a soldier on active service. It would not matter whether Robert's death was in service; it was the fact of making the Will in service which is significant.^{vi} Had The Will been made when Robert was not in service the validity of the Will might have been questioned in the absence of indication he and his witnesses were all together when they signed. The fact of his service simplified not only the question of validity of the Codicil but the whole Will.

- **Proof** In the case of privileged wills the rules are relaxed as to formalities. Proof is still required and there is confirmation that affidavits of handwriting were obtained.
- **Executrix** Neither Will nor Codicil appoints Mary Campbell specifically. Robert appoints her to 'see his wishes are fulfilled'. The duty of an executor is to see terms of wills are carried out, the meaning was clear and she could prove the will. Had the codicil not been made or had failed for lack of formality (Had Robert not made his Will on active service) Marion and Isabella Lindsay as residuary legatees would have taken out a Grant of Letters of Administration with the Will Annexed.
- **Duty** the fact only one value for the estate is given indicates death in service so that no duty would be payable. Even had duty been payable by virtue of the amount of the estate it would not have been charged as the Testator was a serving seaman.

6. Is the information neutral and reliable?

- The information about Robert's death and service are neutral and reliable as confirmed by evidence produced to the Probate Registry.
- The information about family relationships requires checking. There may be family members not named and relatives are not always given their correct standing by Testators, particularly those making their own Wills.
- The quality of relationships is more likely to be genuine than not given the style and personal warmth of the Will.

7. This document suggests further research in the following areas:-

- English and Scottish BMD records
- English and Scottish Census records
- English and Scottish cemetery records
- Local and family histories of e.g. Meaford Hall and Copgrove Hall
- Local and family histories of Kirkbean
- The possibility of other family members having made wills or Grants of Letters of Administration having been made to their estates.
- WW1 Records, GWC records, shipping and shipping line records.

ⁱ [http://en.wikipedia.org/wiki/Domicile_\(law\)_and_Conflict_of_Laws](http://en.wikipedia.org/wiki/Domicile_(law)_and_Conflict_of_Laws), Dicey Morris & Collins, 14th ed., para 6R-033

ⁱⁱ For Merton Hall (2) see <http://www.theshipslist.com/ships/lines/ellerman5.htm>

ⁱⁱⁱ <http://www.mce.k12tn.net/ww1/lusitania.htm>

^{iv} <http://askscotland.org.uk/index.php?id=24&qpid=201366> As a legacy of the clan system it was common till relatively recently for some married women to retain their maiden names or revert back on being widowed e.g. Jean Armour wife of Robert Burns was never known as Jean Burns – ref Scottish Family History – Adolph.

^v His estate £24,000 RPI, £32,400.00 using the GDP deflator £119,000.00 using the average earnings.

^{vi} See In Re The Estate Of Ashley Edward Servoz-Gavin, Deceased (Anne Ayling v Emma Pelagia Elizabeth Summers (Personal Representative Of Ashley Edward Servoz-Gavin, Deceased) & 11 Ors (2009) where a privileged will was upheld made some time before death but at a time when the Testator would have been entitled to make a privileged will.

Appendix A Will and Probate of Robert Bruce LINDSAY

[PROBATE]

BE IT KNOWN that Robert Bruce Lindsay of 37 Wellington Road East, Higher Broughton in the County of Lancaster, Second Engineer on SS Merton Hall at the date of the said [*sic*] Will stationed at Suez who at the time of his death had a fixed place of abode at 37 Wellington Street East aforesaid within the District of the City of Manchester and Hundred of Salford died on the 11th day of February 1918 at sea while in actual maritime service domiciled in England [*sic*].

AND BE IT FURTHER KNOWN that at the date hereunder written the last Will and Testament with codicil hereto of the said deceased was proved and registered in the District Probate Registry of His Majesty's High Court of Justice at Manchester and that administration of all the estate which by law devolves to and vests in the personal representatives of the said deceased was granted by the aforesaid Court to Mary Campbell of 37 Wellington Street East aforesaid, widow the sister of the said Deceased the Executrix according to the tenor of the codicil.

~~named in the said~~Dated the 29th day of June 1918

Gross value of the Estate £689:18:1

~~Net value of personal Estate £~~

Extracted by the Executrix

SS Merton Hall

Suez 24th June 1916

To whom it may concern (Please note) That I Robert Bruce Lindsay born at Preston School House, Parish of Kirkbean & County of Kirkcubright Scotland considering the uncertainty of life I hereby in the event of my death taking place before my return to England I leave the following sums to the undermentioned To my sister Mary Campbell or Lindsay 37 Wellington Street H^{ger} Broughton Manchester the sum of 30 pounds for her kindness to me at various times and which should be due from Hall Line. To Janet Thomson or Lindsay my sister 198 Battersea Park Road London W the sum of 10 pounds to help pay Doctors' Bills. To my sisters Agnes and Margaret Lindsay Meaford Hall Stone and Copgrove Hall Leeds 5 pounds each to buy something in remembrance of me. To my brother Thomas Lindsay ? Riccarton Hawick Roxburghshire the sum of 10 pounds three of which goes to his daughter Mary. To my nephew C. Campbell 37 Wellington Street the sum of 3 pounds for his 21st birthday (long gone). To my niece Jane Todd Campbell 37 Wellington Street...the sum of 5 pounds for a wedding and if no luck what she may desire. To Mrs John Edwards 99 Kent House Dartford Kent the sum of 10 pounds to help in her struggle against adversity and the remainder of my estate to my sisters Isabella and Marion Lindsay ?

Ellis Street Kilmarnock. Sorry it should have been so small but it might have been worse. This is the Last Will and Testament of me R.B. Lindsay made this day in good health and sound mind. 24th Jan 1916 RIP.

R.B. Lindsay

Witness P.A. Stewart 4th Engineer

A.G. ? Second Officer

I appoint Mary Campbell or Lindsay to see my wishes are fulfilled and while leaving no ill feeling against Davina or Bill should you wish to buy them some small token you may do so. Tom had better be asked if he wants the violin and there is one bottle of whiskey to go to Battersea. Well I forgot Bob Campbell and have just come in mind I owe him 1£ which I hope you will pay back.

Affidavits of handwriting and that the testator made his will and codicil while in maritime service.

On the 29th day of June 1918 Probate of this Will was granted at Manchester to Mary Campbell Widow the Sister the Executrix according to the tenor of the codicil.

Certified etc...