

1 Apr 1729 to Walter Calverley

[Note: No name or date, but clearly a legal opinion on the will of Sir William Blackett (1690-1728). Since it came to Bradford Public Library from the collection of a Victorian Bradford antiquary, William Scruton, it is likely to have been originally in the hands of the Calverleys of Esholt Hall. It therefore seems reasonable that the opinion was commissioned by Sir Walter Calverley, father of the Walter Calverley whose marriage to the natural daughter of Blackett, Elizabeth Ord was the contentious matter proposed in the will. Elizabeth is here referred to as Miss Blackett. Walter Calverley was the son of Julia Blackett who was sister to William Blackett and therefore his nephew. Thus the couple were first cousins. Undated but the will was proved on 26 Nov 1728, and for the terms of the will to be honoured the wedding had to take place by August 1729, so it was clearly between these dates. Allowing for sufficient time to elapse for Elizabeth's displeasure at marrying her cousin to become known, and for him to have 'striven to please her' the opinion might be dated to the spring of 1729. 1st April is used here.]

Abt Sr Wm Blackets Will

Beginning of Will relates Sr William was Seized &c Yet if he had not the power to make Such will 'tis no better miss Blacket, being she is not heir at Law, So cannot contend that (save what given to Lady Blacket)

It appears the Trustees were not only to have the Lands but p[er]sonal Estate also for paymt of debts funeral Expenses & Legacies, but Seems were first to apply the p[er]sonal Estate, and then Sell or mortgage part of the Reall Estate

After such paymt (but Seemingly should not be till the Estate cleared) to pay to Lady Blackett, the 400 p anno & 350l & also an annuity of 50l more as a further augmentation of her jointure and will not the Trustees or Executors then be intituled to the 6000l for paymt of debts &c

Then as to Residue

The Clause or devise if Lady Blacket be wth child of no effect being now clear of that Contingency

The next to Miss Blackett for life but Trustees to receive the Rents & p[ro]fits till she marries and after her marriage to permit her to receive them her self But is upon a P[ro]viso tht she shall wthin 12 moneths intr marry wth mr Calvereley and then after the marriage p[er]mitt thm to receive the Rents & p[ro]fits for their joint lives & life of longer liver of them and after decease of survivor then intaild to their male Issue <prt>, Provided they take the name of Blackett &c and for want of Such Issue male or taking the name of Blackett or in case mr Calverley happened to dye before or after her Such marriage in lifetime of Miss Blackett leaving no Such issue male or that Mr Calverley should neglect or refuse to marry Miss Blackett wthin six moneths after his decease Request being made by the Trustees &c Then to the use of the male Issue of Miss

Blackett by any other husband &c Provided such husband & male Issue when come into Poss[ess]ion take the name of Blackett and for want of such Issue then to mr Calverley & if no issue put, wth divers Rem[ain]ders after, wch being far off not much to be regarded

Proviso if Lady Blackett be wth Child for Trustees during minority of Such Child and Such Child after attains it[s] age, and Miss Blackett & mr Calverley & other p[er]sons after when in Possession of p[re]misses to make Leases for 21 Years except for house at Newcastle & Wallington house gardens & Parks, in Such manner as menc[i]oned.

If Lady Blacet should not be wth Child then directed Trustees after paymt of his debts & annuities to Lady Blackett to pay unto Miss Blackett the yearly Sum of 240l for & towards maintenance till she shall marry

Then follows the Clause if dau Miss Blackett & mr Calverley should dye without Issue male in life time of his sister Elizabeth, and she at Such time have no Issue that can take &c in such & like cases Surviv[or]s to receive Rents issues & p[ro]fits during such of his Sisters lives & lay out for Purchase of Lands in Northumberland to go to Same uses as in his will.

Trustees not to be answerable for one anothers receipts but each for his own Salarys & for collecting managing &c to be paid out of the Estate in general Salarys to be continued to Algood & Richmond

Charity Boys to be clothed &c

Gives 500l to Lady Blackett to be pd out of his p[er]sonal Estate & his house at Hamstead wth furniture &c

makes Trustees Executors & orders p[er]sonal <Estate> (after funeral Charges) to be applied towds paymt of debts.

Observacons [Observations]

The devise to Miss Blackett for life seems absolutely to depend upon the proviso that she should inter marry wth mr Calverley wth in 12 moneths after Testators decease else that she should not have the Estate, and tho she may Say that she could not agree to it upon Some assersion or dislike of his p[er]son or Carriage towards her can that help? especially as he can say that he has wth his manefest Industry striven to please her and there is no such words in the proviso that if she could not fancy that then she might be at freedom to make choice of another husband, and mark the Expressions & connections all along in the will, and their Interests are absolutely joynd together, But seems indeed mat[er]ial that mr Calverley should not in the least disagreed to the marriage, and especially if required by the Trustees wthin six moneths, else seems sufficient if comes of them selves & they solemnize it wthin a year after his decease

That seems mr Calverley upon Solempinzacon [solemnization] of the marriage or when he becomes possessed should take the name of Blacket, but if the marriage should not take efect &c if it should not be at the year end

yet if mr Calverley after the year end should take upon him the name of Blackett could it be safe for him another woman than miss Blackett except he had first a decree for it, and to hold the Estate upon her refusal?

Seems would be best before the year expire to make another tender of marriage solemnly to her, & have good witness of it &c and to show her tht he has been continually attendant, and if she refuse to comply that he must of necessity file a bill agt her & the trustees to know whose the Estate must be and to order abt his affairs for the future

That if mr Calverley take upon him the name of Blacket in the filing of that Bill may he not reassume his own name of Calverley afterwards, if the Bill should not be so auspiciously det[er]mined in his favor

The Clause towards later end whereby Sr Wm directs if Lady Blacket was not wth Child 250 pr anno to be pd to Miss Bl[ackett] for maintenance till marriage has Seemingly an opposite aspect to what before; but then c[er]tainly cannot be thought should be in her power to disappoint the uses wch he had so earnestly expressed & repeated in the former part of the will and to elude his Intentions as to the Sd W C [struck out: 'This clause indeed in the last devise conditional devise <..... > her'] And the very next Clause after Seems to respect mr Calverley again as <marriage ...se> [word obscured by hole in page] to him before [word obscured by hole in page]

are the Witnesses to the Will all capable & indifferent p[er]sons to all sides & of good understanding?