

Will of Daniel McCarty, Westmoreland County, 29 March 1724

Westmoreland County Deeds & Wills, 1723 – 1738, pp. 18 –20

In the name of God Amen, I Daniel McCarty of the parish of Cople in the County of Westmoreland, Esqr, considering the uncertainty of this transitory life and in order to a more ready resignation of my immortal soul unto the almighty & most merciful God that gave it in full faith & belief of pardon and forgiveness of all my sins & a joyful resurrection to an everlasting state of bliss and happiness through the mercy and merits of my blessed savior and redeemer Jesus Christ. I prepare, make, & declare my last will and testament in manner & form following. First, I desire my debts be justly paid without trouble and, that in case of any controversies, that my executors are not satisfied of the justness of the claim that the same be adjudged & decided by indifferent persons without going to law. Secondly, Forasmuch as at times I have & so perhaps may have at the time of my death some peoples' obligations for fees whose business is not or may not then be finished. It is my will that in such case a suitable abatement be made them out of their obligation as my trustees shall think right & just. Thirdly, I desire a full inventory of my estate to be taken as soon as may be after my death and that the same be valued and not withstanding the same lies in different counties, that the whole be completed & returned to Westmoreland County with a full account of all debts due to me by bill, bond, or account and put into the said inventory as I think it ought to be. Fourthly, For a provision for the future support of my loving consort, I will & order that as long as she lives as my widow, she remain on my now dwelling plantation in full possession thereof and as head of my family that she keep my children together and not otherwise provide for by my trustees. That she have liberty to kill or cause to be killed annually such & so much provisions out of my stock, Stafford not excepted, as she shall think needful for my family's use and where it may best be spared. That she be possessed with twelve of my slaves for so long as she remains & lives my widow of the boy Natt, House, Jone, Dinah, Arabella, Mollagases, Jenny, and little Jenny to be at her choice to take four out of them and for the other eight my said wife to choose four & my trustees to assign her the other four and all if or can be so reasonably ordered of the slaves then on my said dwelling plantation, those twelve slaves I order & allot (to & for the uses) to wait on my widow & children to do the necessary work in & about my house, to spin up all the wool that my stocks of sheep shall annually yield for the good of my family & in general to make corn for the support of my wife & children & the tobacco to be to & for the use of my said wife the maintaining & fully providing for the said slaves all things by law or reason is needful. It is also my will that within the space of one year after my death, or as soon as conveniently it may be, my executors or trustees purchase the slaves out of any Negro ship my wife shall desire or make choice of which said Negroes is to be settled & worked where my said wife pleases during her life (except their being worked on any part of my land for that she has one thousand acres of land reserved out of Vaulx's patent) the sole profit of whose labor I give & allot to my said wife for her better support & maintenance during her natural life, she always providing for & maintaining the above said slaves with all things needful & lawful. Item. It is my will that my wife have the profits of all my gardens & orchards on my said plantation to & for the better support and keeping of my house for herself & my children during her widowhood and also what silver utensils was here before I married her as also all her apparel of any sort that I have given her as well ornamental as needful, together with her horse and such horses as may commonly be

called hers at the time of my decease & all her saddles & bridles I give to my wife (if she survives me) and to her disposal to whom she pleases, but in case of failure thereof her clothes I order to be given to her daughters and the ladle to Sarah & candle, kettle, & porringer to Lettice. But it is not my intent or will that my estate should be at the charge or expense of seating the last mentioned ten slaves for my wife, nor that she should bring into my family any persons, boarders, storekeepers, or any others whatsoever but such has property having been or belong to my family. I give and bequeath to my son Denis all my lands in Stafford County to him & his heirs male of his body and for want of such to my son Daniel and the heirs male of his body and for want of such to my son Billington & the heirs male of his body & for want of such to my son Thaddeus and the heirs male of his body and for want of such to the heirs female of my said son Denis and for want of such to the heirs female of the body of Daniel and for want of such to the heirs female of the body of Billington and for want of such to the heirs female of the body of Thaddeus & her heirs and assignees forever. Item. I give & bequeath all my lands in Westmoreland County to my son Daniel & his heirs male of his body and for want of such to my son Denis & the heirs male of his body and for want of such to my son Billington and the heirs male of his body and for want of such to my son Thaddeus and the heirs male of his body and for want of such to the heirs female of the body of my said son Daniel and for want of such to the heirs female of the body of my son Denis and for want of such to the heirs female of the body of Billington & for want of such to the heirs female of the body of Thaddeus and her heirs and assignees forever. Item. I give to my son Billington all my land at Farnham Creek in Richmond County that was my grandfather Billington's. Land to him and his heirs male of his body and for want of such to my son Denis and the heirs male of his body and for want of such to Daniel & the heirs male of his body and for want of such to Thaddeus & the heirs male of his body and for want of such to the heirs female of the body of Billington and for want of such to the heirs female of the body of Denis and for want of such to the heirs female of the body of Daniel and for want of such to the heirs female of the body of Thaddeus and her heirs or their heirs forever. Item. I give and bequeath to my son Thaddeus, all my land at Mangorite in Richmond County being the land that was Captain John Rice's land I bought of Weby Pavy & the land I bought of Benjamin Hinds to my said son Thaddeus and his heirs male of his body and for want of such to Denis & the heirs male of his body and for want of such to Daniel & the heirs male of his body & for want of such to Billington & the heirs male of his body and for want of such to the heirs female of the body of Thaddeus and for want of such to the heirs female of the body of Denis & for want of such to the heirs female of the body of Daniel and for want of such to the heirs female of the body of Billington & her heirs or their heirs forever. All the land in fresh waters that I bought of Vincent Cox & Phillip Rogers I give to my son Daniel, his heirs, & assignees. Item. All my land in Northumberland County, I give to my son Billington, his heirs, & assignees. Item. I give to my son Thaddeus the sum of two hundred pounds sterling to be paid out of my estate in consideration that he has the smallest quantity of land & to buy more with & I confirm to my son Thaddeus the Negro woman, Alice, which I have already given him & all her children already born or hereafter to be born & their future increase before or after my death over & besides his rateable part of my estate hereafter to be given to him. Item. It is my will that my Negro, Kingsale, serve my son Denis & his heirs until he (I mean the said Negro) arrives to forty-five years of age and then to be free and my son Denis to

transport him to Maryland and to clothe him well, and it is also my will that my said son Denis have all my Negroes in Stafford that may be there at the time of my death (except Dick, Alice's husband) and that my trustees or executors in trust hereafter named as soon as convenient may be purchased for my said son as many more Negroes as will make up the whole number with those in Stafford & Kingsale twenty and that my Negro, Pompey, who was apprentice to John Smith, be one of the twenty-five Negroes, all of which I give to my son Denis & the heirs of his body. Item. I give to my said son Denis one fourth part of my household stuff as beds, pots, pans, pewter, brass, chairs, tables, & such like and all my stocks of cattle, hogs, sheep, & horses that may be in Stafford at my death and all the debts to me in the said county due & owing & all goods & merchandise there, he paying & discharging all dues & lawful demands against me to all persons in the said county of Stafford & that my said son be possessed with all that is given him within one year after my death or sooner if it conveniently may be. Item. It is my will that the other three fourths of my household goods as aforesaid be divide between my other three sons, but to remain in my wife's possession for hers & my family's use until Daniel marries or goes to housekeeping and then he is to have his part, and the others to have their parts at the death of my said wife & not before unless she pleases. Item. I give to my said three younger sons and to each of them all the stocks of horses, cattle, sheep, and hogs that are or at the time of my death may be on the plantation to them respectively given, their mother having the privilege of killing out them as before given and the wool of the sheep thereon to be manufactured as aforesaid, but thereof Denis nor the Negroes assigned to my wife except the first four is not to have any part. Item. It is my will that all my children, except Denis, be and remain with their mother on my now dwelling plantation so long as they live single and they are underage and not otherwise disposed of by my trustees if my said wife remains my widow and that they be supported and maintained out of my estate. And it is my will & I do order that within one year or as soon as may be after my daughter Winifred shall be married or arrives to twenty years of age, my said trustees buy & purchase as much land and Negroes or both and Negroes to be settled to & for the use of my said daughter & the heirs of her body & for want of such to my heir at law & his or her heirs forever. And it is also my will & order that within one year or as soon as may be after my daughter Sarah shall be married or arrives to twenty years of age, that the said trustees buy & purchase as much land and Negroes or both and Negroes to be settled to & for the use of my said daughter & the heirs of her body & for want of such to my heir at law & his or her heirs forever. Item. I order to my daughter, Mrs. Anna Barbara Fitzhugh, two female Negroes not exceeding forty pounds sterling value to be purchased by my trustees with said two Negroes with their increase I give to my said daughter & the heirs of her body lawfully begotten and for want of such to my heir at law forever. Item. It is my will and I do hereby give to each of my grandchildren two young Negroes & fifteen pounds sterling value each slave to be bought by my trustees to every of them my grandchildren that I now have or at the time of death may have and the heirs of each of their bodies and for want of such to their heirs at law or lawful representatives by their mother's side and for want of such to my heir at law forever. I give to my son Denis, my silver punch bowl & ladle & all the silver tankards & spoons. Cane sugar & mustard pot or canister that came with them & all the rest of my plate I give to my son Daniel. Item. I give to my son Denis, my diamond ring, and to son Daniel, my ruby ring and charge both on their duty not to part with them out of the name because they were

my father's. To Billington, I give the ring his mother left me at her death. To Thaddeus I give the ring made with collage bead of God & the crystal mourning ring with his mother's hair in it, and to Sarah the stone ring that was her mother's & to Denis the mourning ring marked S. P. The stone ring my present wife gave me & which by her request I have constantly worn, I give to her son, Mr. Henry Fitzhugh. The debt due to me on Book L. for hers & her sister's account, I order to be paid to my wife & laid out in a young Negro by her for her aforesaid daughter Sarah, to whom I give it. Item. It is my will that my Negro woman, Jons or Johanna, that was Mr. Spencer's, if she lives to the year of our Lord Christ one thousand seven hundred and thirty-three, be then delivered from slavery & I do will & order that at that time she be free & be sufficiently clothed & sent to Maryland, but as I expect that my wife will take her for one of the four, so it is my will that if it pleases God that my wife dies before the time aforesaid that the said Negro serve the rest of her time to which of my children she desires and that every Christmas Day she may annually choose her master or mistress for the ensuing year to the end she may not be abused because I think her a faithful servant. Item. It is my will and desire that my son Daniel, who is living under the care of Mr. John Gilpin, merchant in Whitehaven, be there continued until his education amounts to one hundred pounds maintenance & all & no more to be paid out of my estate and to him at the day of his arrival in Virginia, I give all my library or books, law & gospel, or any other sort and, if please God he never arrives, I give them all to Thaddeus. All my war habiliment & accoutrements or utensils I give to my sons Denis and Daniel, & my gold studs to Daniel, and for my wearing apparel, I desire my wife to distribute between my son Denis & son-in-law William Payne, as she sees fit. The pictures of my son & daughter Fitzhugh I give to their son at seven years old if any such happens or to remain where they are and my own and first wife's to remain in my dwelling house. My coach & coach horses I leave under my wife's command while she remains my widow for her and my family's service as he pleases. My tailor & the boy Cork to do the necessary service for the family & butcher to serve in common as my wife thinks fit at any of my plantations (except Stafford), till Daniel arrives to twenty years of age and then I give him to Billington & () now send or David Jones. I give to Thaddeus but each to be bought in to value in a true distribution of my slaves between my three sons. The reason I give Daniel no carpenter because his plantations are well fitted with houses. Item. For as much as the land given Thaddeus was Captain John Rice's was by the said Rice () on my father and his heirs male so that my son Denis may thereby claim the same in such case if ever my said son Denis or his heirs or assignees shall claim the same or in any way disturb or molest his brother or his heirs, I do revoke all the gifts & bequests in that my will to him made and give the same & every part thereof of land, Negroes, stock, etc. to Thaddeus & his heirs forever & to Denis I give twenty shillings and no more. Item. I do hereby declare that all the legacies & bequests in this my will made or to be made to or in favor of my wife is for & in satisfaction of her dower & all claims out of my estate and, if she refuses to accept it as such, then it is my will that she have what the law allows her of my estate & no more. And that my executors & trustees make the best advantage they can to my estate out of that reserved for her in Vaulx's patent. And I do further order that at the proving of this my will my said wife may declare her acceptance or refusal in open court & that the same be entered on record to prevent future claims.

Item. It is my will & desire that my three younger sons have the best education my estate can afford, that one be a lawyer, one a divine, and the other a physician or surgeon or mariner or in the secretary's office or any lawful employment as their mind leads them but rather to the axe & hoe than suffered in idleness & extra vagrancy. My scripture, clock, & brandy still I order to remain where they are for my son Daniel after his mother's death or marriage and it is also my will that then he immediately come & live on my said dwelling plantation and so continue to live his life. On his failure or refusal whereof I give the said plantation & all the lands thereto belonging to my son Thaddeus, in manner aforesaid as if Daniel were dead without issue provided he lives constantly thereon. Item. If it please God I should have a child by my wife before or leave her with child at the time of my death, if it proves a daughter & lives to the age of eighteen years or to be married, then I give such daughter the sum of five hundred pounds sterling. If please God it is a son, I give to him at the age aforesaid the sum of five hundred pounds sterling, and all my land in Washington parish in this county to him and his heirs of his body and for want of such to my son Daniel as before mentioned. The mill I am now building I give to my son Daniel & his heirs male and for want of such of his body to descend in the same manner as the other lands. But it is my will that the profits thereof be for the support of my widow & family until he arrives to twenty years of age and then I order that all the rest of my estate of what nature or sort so ever be equally divided between my three sons, Daniel, Billington, and Thaddeus or the survivors of them to whom at my wife's death, I also give all the Negroes given or allotted to her and their increase to be equally divided as aforesaid between my said three youngest sons, whom I hereby appoint & ordain my executors of this my last will & testament. But because they are under age, I constitute and appoint my good friends, Col. John Tayloe, Messrs. Humphrey Pope, Nicholas Minor, John Fitzhugh, & Samuel Peachy, Gent. My executors in trust until Thaddeus shall arrive to seventeen years of age, requesting & empowering them jointly & separately to take care of my children & their estates according to the true intent and meaning of this my will, and to each of my executors or trustees I give a ring of fifteen shillings value and to each of my first wife's daughters, Elizabeth Sturman & Mary Burn, I give a bible of fifteen shillings price & wish them to make good use of them. And for as much as Humphrey Pope is best acquainted with my method of bookkeeping & accounting, I desire if need be that he be employed to settle the same & have a recompense for his troubles. Item. Whereas Col. John Tayloe & myself paid to John & Moses Tayloe the sum of fifty pounds sterling by equal portions to redeem two Negroes named James & Phillis & three hundred acres of land sold & conveyed by our uncle, Mr. Joseph Tayloe, late clerk of Lancaster, to them the said John & Moses Tayloe & Daniel McCarty, it is my will and desire & I do hereby give (upon the payment of twenty-five pounds sterling to my son Billington at twenty years of age or in case of his death without issue to Thaddeus at twenty years of age or in case of both of their deaths before that time & without issue to my surviving son) all my right & title of in & unto the said land and Negroes to my aunt, Mrs. Barbara Tayloe during her natural life and then to her son Joseph and his heirs forever. Item. I give to my brothers, Messrs. Phillip, Francis, Thomas, & Henry Lee, to my friend Capt. Eskridge and to each of them a ring of twelve shillings price & six pence sterling value & I hope Capt. Eskridge will take the same care of my affairs that he would have desired to serve me or my estate he annually school & teach any poor children that are sent to him gratis not exceeding six at any time, such as

my wife and her brothers, Col. & Capt. Lee, shall think fit objects of charity. Item. It is my will if please God my wife survives me and lives until the last ten Negroes allotted to be bought for her use aforesaid, is bought for her, that then I give her liberty at any time in her life or at her death to dispose of any two of them or their increase if she remains single or is married at the time and to such person or persons as she is pleased or to declare she desires should have them. I give & confirm the said two Negroes according to her desire. Item. The mill called Flynt's Mill, which I have lately agreed for, & bought & paid for, I give to my son Daniel & his heirs forever. Item. It is my will that accounts of my estate be fairly kept & annually made up & returned to Westmoreland Court, debts & credits and if increase to pay said to my younger sons or the survivors of them to have the benefit thereof or to bear the loss if it decreases. I will that John Warner serve the rest of his time in the employment as now to teach school and the writing for my estate as my trustees shall order and that his wife remain with him to be employed as my wife shall think fit for my family's service and, if they behave well to the end of their servitude, I then order that they be both clothed well from or with a Carolina hat & black hood, cloth drugget stuff, good dowlis or Irish lining each three shifts & a pair of shoes & worsted hose and I also give him my surveyor's instruments & appurtenances and one hundred acres of my land at Aquia during his life. But if he misbehaves then it is my desire they have justice as the law directs and no more. But if my wife is not pleased with this my will, so that she will take what the law allows, then it is my will & I do hereby order that Mr. Humphrey Pope come & live on my now dwelling plantation as master there & look after that & all my other plantations, keep the account to the others and have thirty pounds sterling annual wages & a horse of my estates to do my business until my son Daniel arrives to twenty years of age. And that Mr. John Fitzhugh take my three youngest children to his house & John Warner & his wife to teach & serve them and that they be in all respects supported & maintained out of my estate and the charges thereof annually given in court. Item. If my wife desires to be and is laid in the tomb with my corpse, I order my trustees to send for a tombstone (such as is there already) and this I order whether she is consent with what I have before allotted for her and if not if she is laid there. Item. It is my will that all the gold in my purse, that my daughter Sarah made for me, being at the time of my death be hers & to her my said daughter I give the same over and above what I have before given her. Item. It is my will that the ten Negroes I've ordered to be bought for my wife be clothed the first year & furnished with corn, hoes, & axes out of my estate. I give the bricklayer to Denis at the end of two years. And in testimony that this is my last will and testament, I have hereunto set my hand & affix my seal this 29th day of March 1724.

Signed D.A. McCarty

Signed, sealed & published

David Jones, Samuel Wilson, Francis Strothers, William Roach

Westmoreland. At a court held for the said county the 27th day of May 1724, the last will and testament of Daniel McCarty, Esg. deceased, was presented by Col. John Tayloe, Nicholas Minor, John Fitzhugh, & Samuel Peachy, Gent. Executors in trust who made oath thereto (Mr. Humphrey Pope, one of said executors in trust in open court refusing to undertake the burden of the executor thereof) and being proved by the oaths of David Jones, Francis Strothers, & Wm. Roach, three of the witnesses thereto

is admitted to record. And upon the motion of the said executors & their performing what is usual in such cases, certificate is granted them for obtaining a probate thereof in due form. Denis, the heir apparent of the said testator, being present & saying nothing in bar thereof, but Madam Anna McCarty, relict of the said Daniel, by her petition to the court disannulled such part of the said will as any way related to her so far as to debar her of dower & thirds of the said McCarty's estate.

Test: Tho. Sorrell, Clerk

Recorded 9th day of June 1724