

SUMMARY: The document below is the Prerogative Court of Canterbury copy of the will, dated 15 and 18 March and 25 June 1589 and proved 7 May 1590, of Sir James Hales (d.1589), husband of the 'Lady Hales' to whom Robert Greene dedicated *Menaphon* in 1589. Since Sir James Hales did not die until after 25 June 1589, this will establishes that *Menaphon* was not published until the latter half of that year. From the dedication:

To the right worshipful and virtuous lady, the Lady Hales, wife to the late deceased Sir James Hales, Robert Greene wisheth increase of worship and virtue.

The will is in two parts. The first part was written on 15 March 1588 [=1589] (the copyist appears to have erred in writing 'five and twenty', perhaps having looked at the date on the second part of the will), and added to on 18 March 1588 [=1589] before the testator departed on Sir Francis Drake and Sir John Norris' expedition to Portugal, while the second part was written on 25 June 1589, shortly before the testator died on the return voyage. The Hales monument in Canterbury Cathedral depicts the testator's death at sea.

In the second part of the will the testator bequeaths several items which were taken while he was with the English forces at Lisbon. According to Hasted (see below), he was treasurer of the expedition, while according to the account by Colonel Anthony Wingfield in Hakluyt, he commanded a regiment (see Hyamson, Albert M., *Elizabethan Adventures Upon the Spanish Main* (London: Routledge), p. 203:

The Generals there [=Peniche in Portugal] fully resolved that the army should march over land to Lisbon under the conduct of General Norris, and that General Drake should meet him in the river thereof with the fleet, that there should be one company of foot left in guard of the Castle, and six in the ships; also, that the sick and hurt should remain there with provisions for their cures. The General, to try the event of the matter by expedition, the next day began to march in this sort. His own regiment, and the regiment of Sir Roger Williams, Sir Henry Norris, Colonel Lane and Colonel Medkerk in the vanguard; General Drake, Colonel Devereux, Sir Edward Norris, and Colonel Sidney's in the battle; Sir James Hales, Sir Edward Wingfield, Colonel Umpton's, Colonel Huntley's and Colonel Bret's in the rearward.

The expedition is described in the *ODNB* entry for Drake as follows:

The invasion of Portugal

The English fleet returned to port, but within a few months plans were under way for Drake to go to sea again. This time he was to command a fleet in a joint commission with Sir John Norris, who would lead a land force. The objective was twofold, an attempt to put Dom Antonio on the throne of Portugal, and the capture of the Spanish treasure fleet off the Azores. As usual plans changed over the next few months. By the time the fleet sailed from Plymouth on 18 April 1589 there were more than 100 ships, organized into 5 squadrons, with perhaps as many as 19,000 officers and men. Queen Elizabeth had her

own objective, giving Drake and Norris strict orders to go first to Santander and other Spanish ports in the Bay of Biscay and destroy the warships there.

Instead Drake took his fleet directly to La Coruña, where he had heard the Spanish fleet had taken shelter. Once arrived, he found the harbour almost completely deserted, but Norris landed the army anyway and began to attack the town. In heavy fighting, in which Drake took part, the English troops captured the fortress and put the defenders to the sword. However, there was nothing worth taking except a great quantity of wine, which the soldiers began drinking as usual. Many fell ill and blamed the wine for their sickness. Finally, on 8 May, the troops embarked once more. This time the fleet stopped further south at Peniche, where the Spanish garrison abandoned the town after two days of hard fighting. From that point Norris marched his army overland to Lisbon, where Drake and the fleet were to reinforce him. The march was badly organized. Many men were still sick, and the local people showed little enthusiasm for Dom Antonio. Arriving at Lisbon on 23 May, the English troops found the fortress was too strong and the army too weak. Meanwhile Drake brought the fleet up to the mouth of the Tagus River but made no attempt to reach Lisbon. Puzzled by his delay, Norris abandoned Lisbon, leaving behind many of his sick and wounded troops.

Together once more, Drake and Norris decided to head for the Azores, the second part of the grand plan. Before they could leave the harbour, a dozen or so Spanish galleons appeared, sailing downriver from Lisbon, and attacked the English ships that were scattered across the bay. Probably not understanding the need for a tactical grouping, Drake did not draw his ships into the squadrons into which they were supposedly organized. Instead he allowed the galleons to pick off English stragglers, until a wind finally came up and allowed his fleet to sail away. Driven north the partners decided to take Vigo, where they landed on 18 June. This attack was also a failure, for the inhabitants had abandoned the place and left nothing worth taking except the usual supply of wine. Realizing that the army was too weak to continue the campaign, Drake and Norris decided that Drake would take the twenty best ships and the healthiest soldiers and sailors and continue to the Azores. Norris and the rest of the force would return to England. Once out of the harbour, however, Drake found his fleet beset by a storm, and he headed back for Plymouth, where Norris found him waiting a few days later.

The queen was furious at the failure of the campaign and the direct violation of her order to attack the ports in the Bay of Biscay. Beyond this, some men accused Drake of cowardice for his failure to come upriver at Lisbon. Both Drake and Norris were brought before the privy council to answer charges about their conduct of the campaign, but in the end no action was taken against them.

The testator's grandparents were Sir James Hales (c.1500-1554), the subject of the lawsuit of *Hales v Petit* alluded to in the gravedigger's speech in *Hamlet*, and his first wife, Mary Hales, the daughter and co-heir of Thomas Hales (d.1520), esquire, Merchant of the Staple, of Filettis or Phyllis Court, Henley-on-Thames (see pedigree of Hales of Beaksbourne, Kent, in Kimber, E. and R. Johnson, *The Baronetage of England* (London:

Woodfall, 1771), Vol. 2, p. 60). The lawsuit *Hales v Petit* was commenced by Margaret (nee Wood), the second wife of Sir James Hales (1550-1554). Margaret (nee Wood) was a daughter and co-heir of Oliver Wood, and prior to becoming the second wife of Sir James Hales (1550-1554) had been twice married, to Sir Walter Mantell (d.1529) and Sir William Haute (d.1539) (see Hasted, Edward, *The History and Topographical Survey of the County of Kent*, vol. 11, pp. 147-164), and the wills of Sir Walter Mantell (TNA PROB 11/23/158) and Sir William Haute (TNA PROB 11/26/240). According to an inquisition post mortem taken 18 March 1568, Margaret (nee Wood) Mantell Haute Hales died 18 September 1567 (see TNA C 142/165/132). See also Leach, Thomas, ed., *Reports of Sir George Croke, Knight*, 4th ed., Vol. I, (London: E. & R. Brooke, 1790), p. 28 at:

<http://books.google.ca/books?id=s2oDAAAQAAJ&pg=PA28&lpg=PA28&dq=%22sir+Walter+mantell%22&hl=en#v=onepage&q=%22sir%20Walter%20mantell%22&f=false>.

See also the entry for Margaret Wood at:

<http://www.kateemersonhistoricals.com/TudorWomenWi-Z.htm>.

The lawsuit *Hales v Petit* is summarized in the *ODNB*:

In 1558 Lady Hales began proceedings against Cyriac Petit to recover an indenture of lease of Graveney Marsh which had been made in 1551 to her husband and herself and limited to commence in 1560 after the determination of a prior lease to her husband alone. She recovered the deed, and in 1561 brought a second action to recover the land itself, on the footing that the lease had now commenced in her by survivorship. The case turned chiefly on the conundrum whether the act of felony, which caused the forfeiture of the first lease, occurred during Sir James's lifetime or after his death, and gave rise to a discussion of the possibility of dividing an instant of time into two parts for legal purposes: 'for every instant is the end of one time and the beginning of another' (Les commentaries, 258v). Lady Hales was unsuccessful in this suit, it being held by the common pleas in 1562 that the king's title, under which Petit claimed, had priority. The case of Hales v. Petit became widely known, as a result of Plowden's full report published in 1571, and is often held up as an extreme example of abstract legal reasoning. It is thought to be alluded to by Shakespeare in the gravedigger's speech in Hamlet.

The testator was the son of Humphrey Hales (d.1571) and Joyce Atwater, the daughter of Robert Atwater of Royton in Kent. For the will of Humphrey Hales, dated 18 August 1568 and proved 13 May 1571, see TNA PROB 11/53/261.

The testator was knighted by Queen Elizabeth at Lord Cobham's seat of Cobham Hall in Kent in September 1573 (see *Baronetage*, p. 60, and Kinney, Arthur R., *Titled Elizabethans* (Hamden, Connecticut: Archon, 1973), p. 72).

The testator married Alice Kempe (d.1592), the daughter of Sir Thomas Kempe (d. 7 March 1591) of Olantigh, Kent, by his first wife, Katherine Cheyney. It is possible that the comedian Will Kempe was a member of Alice Kempe's family. The comedian was in the service of the Earl of Leicester, who was distantly related to the Kempes of Olantigh. See Adams, Simon, *Household Accounts and Disbursement Books of Robert Dudley, Earl of Leicester*, (Cambridge: Royal Historical Society, 1995), p. 371 at:

<https://books.google.ca/books?id=Ua9m6c488kcC&pg=PA371&lpg=PA371&dq=%22Household%22+%22Leicester%22+%22Kempe%22&source=bl&ots=0u48OBLgA&sig=csrxqmmVSsT52g1Va0U10zE-IDA&hl=en&sa=X&ei=4SBmVZfOJ4PEogSp8oCQAw&ved=0CCkQ6AEwAg#v=onepage&q=%22Household%22%20%22Leicester%22%20%22Kempe%22&f=false>

The comedian is described in TNA KB 27/1454/1, rot. 692 as a gentleman ('William Kempe, late of London, gentleman, deceased'), which suggests the possibility that he could have been a member of the family of Kempe of Olantigh. Moreover during a visit to Rome in 1601 the comedian met with Alice Kempe's nephew, Sir Anthony Shirley (1565–1636?), son of Alice Kempe's sister, Anne Kempe, which again suggests the possibility that he was related to the Kempes of Olantigh. From the *ODNB*:

Sherley [Shirley], Sir Thomas (c.1542–1612), politician and courtier, was the eldest of three children born to William Sherley (c.1498–1551), a gentleman of Wiston, Sussex, and his wife, Mary, daughter of Thomas Isley of Sundridge, Kent. Nothing is known of his education; he did not, as sometimes claimed, matriculate as a fellow commoner from Queens' College, Cambridge, in 1561. Sherley married, about 1559, Anne (c.1542–1623), daughter of Sir Thomas Kempe of Wye, Kent. They had twelve children, including three adventurous sons: Sir Thomas Sherley (1564–1633/4), Sir Anthony Sherley (1565–1636?), and Robert Shirley (c.1581–1628). Herbert referred to the Sherleys as 'A family not needing hyperboles' (Shirley, 234).

Kemp, William (fl. 1585–1602), actor, was the most important stage clown working in the late Elizabethan period. . . . During the ensuing year [=1601] Kemp made his way into Germany and Italy, eventually arriving at Rome, where he met the English traveller Sir Anthony Shirley, an encounter dramatized after his death in Day, Rowley, and Wilkins's play about the Shirley family, The Travailes of the Three English Brothers (1607).

The Richard Lee (d.1608) to whom the testator makes several bequests in his will was the illegitimate son of Sir Anthony Lee of Quarrendon, Buckinghamshire, and thus the half-brother of the Queen's Champion, Sir Henry Lee (1533-1611). Through his first wife, Richard Lee acquired the lease of two manors at Hook Norton in Oxfordshire, an inheritance which occasioned a lawsuit with his stepson in which the Earl of Leicester involved himself, and which was commented upon as one of Leicester's acts of oppression by the anonymous author of *Leicester's Commonwealth* (1584): 'his dealing with Mr Richard Lee for his manor of Hook Norton'.

After the testator's death, Sir Richard Lee (d.1608) married his widow, Alice (nee Kempe), and through this marriage acquired the Hales manor of Dungeon or Dane John on the outskirts of Canterbury (see Chambers, E.K., *Sir Henry Lee* (Oxford: Clarendon Press, 1936), pp. 175-7). The lease of Chart mentioned in the will is referred to in an undated petition against Sir Richard Lee (d.1608) by the testator's sisters. The petition is summarized in the Canterbury Cathedral Archives (CCA-DCC-ChAnt/C/390).:

From: Margaret Barnard, widow, daughter of Humphrey Hales; Mary, daughter of Humphrey Hales; Elizabeth, daughter of Humphrey Hales; Abigail, daughter of Humphrey Hales To: the queen of England [Elizabeth I] Asking her to write to the dean and chapter concerning the lease of Chart Manor, which they claim under the terms of the will of their late father, Humphrey Hales, esq. The lease has been held by Sir Richard Lee, knight, widower of late Alice, who was widow of Sir James Hales, their brother. They have taken the case to the Court of Chancery.

A further lawsuit (Clarke v Kempe) concerning the manor of Chart brought in 1592 by Lady Joyce Clarke indicates that the testator's mother (nee Joyce Atwater) had remarried. The defendant in the suit was Thomas Kempe, the step-brother of the testator's widow, Alice (d.1592). See TNA C 2/Eliz/C7/5:

Lady Joyce Clarke, widow and others (unnamed) v Thomas Kempe esquire and at least one other (unnamed). ?Validity of will of Sir James Hales, brother-in-law of defendant; conditions of defeasance under statute staple. Answer.

In each of the two wills below the testator leaves bequests to the Bishop of Dover, for whom see the ODNB article:

Rogers, Richard (1532/3–1597), bishop-suffragan of Dover, was the son of Ralph Rogers (d. 1559) of Sutton Valence in Kent. His sister Catherine married as her second husband Thomas Cranmer, only son of the archbishop, and he was the cousin of Sir Edward Rogers, who in 1560 became comptroller of Queen Elizabeth's household.

RM: T{estamentum} Iacobj Hales Militis

[f. 212r] In the name of God, Amen. I, James Hales, knight, whole both of body and mind, thanked be the Lord of all health, do make this my last will and testament the five and twenty day of March a thousand five hundred eighty-eight;

First, I commend myself both soul and body into the hands of Almighty God;

Item, I will that my debts be paid by Alison Hales, my dear wife, whom I do hereby appoint to be my sole executrix upon my goods and chattels personal, which I doubt not but will fully answer the same with some reasonable overplus;

Item, I give the same overplus, whatsoever it fall out to be, to my said executrix (except only such legacies as hereafter shall be set down);

Item, I will that the profits of my lease of Chart, being first redeemed from young Mr Boyes to whom I have pawned the same, shall both pay my brother, Humphrey Hales, twenty-six pounds thirteen shillings and fourpence by the year and my brother, John Hales, twenty pound by the year, and to my mother three pounds a year for Naylers farm sold by me, and also that upon ye yearly profits of the same so much of my father's will as yet is not accomplished shall be fulfilled;

Item, after those annuities expired which depend both upon their own lives and the life of my mother, then I will the same lease of Chart to my son Cheyney at his age of one and twenty years, and that the profits thereof [f. 212v] age of one and twenty years shall be taken by my executrix to the uses before limited;

Item, I will unto Mr Richard Lee all that money whatsoever he oweth unto me, so that no part thereof shall ever be demanded;

Item, I give unto him all my books that I shall leave behind me;

Item, I give him all my pictures and maps;

Item, I will all my lands in possession or remainder to be divided into three parts, whereof two full parts I will unto my above-named dear wife during her life, and after her decease to my son, Cheyney Hales and to his heirs of his body, the remainder for default of heirs of his body to my well-beloved brother, Samuel Hales, and to the heirs of his body;

Item, I will all the rest of my goods and chattels not bequeathed to my said wife after this my will performed, whom as before is expressed I make my sole executrix, desiring her to have care of her son and mine for his education in learning and qualities fit for a gentleman, but principally in the fear of God;

In witness that this is my absolute and last will I have written it wholly with mine own hand and signed and sealed the same in the fifteen day of March a thousand five hundred eighty and eight before expressed;

I do add unto this my will the eighteen day of March in the year aforesaid 1588 that my will is that my very good Lord, the reverend Father in God the Lord Bishop of Dover have one of my two smaller silver dishes for a token of my love towards him. James Hales. By me, the said James Hales. Sealed in the presence of us, Richard Lee, Thomas Godfrey, John Ebourne.

Anno Domini 1589 Iunij xxvto

I, James Hales, knight, whole of mind though sick of body, I thank my God and Saviour for it, do add this unto ye will I made before my coming forth:

First, I give unto my wife her jewel called Fortune which she lent me when I came from her, to be delivered by Mr Coote, the writer hereof;

Item, I give unto my wife during her life my tune(?) of plate consisting of six cups, one salt and five spoons;

After her, I desire that my son Cheyney may have it, the same to be delivered by Mr Coote aforementioned;

Item, I give unto Captain James my new satin doublet and my new velvet hose, two velvet cloaks, one new pair of silk stockings, one new pair of Spanish leather shoes, my best taffeta hat with a little feather in it, to be delivered by Mr Coote above-named;

Item, I give to my good friend, Mr Richard Lee, the card and compass found at Lisbon, and to the Bishop of Dover my sphere likewise had there;

Item, I give to my wife her seal of arms and her nineteen casting-counters;

Item, I give unto my son Cheyney my colours that have been before Lisbon, and my watch-tower bell of Dase(?) Keyes Castle, to be hanged up presently at my house called the Dungeon in place convenient;

Item, I give to him my three bundles of long pike Spanish staves and all the rest of mine armour that I can have found in the *Dreadnought* or elsewhere, saving one long Spanish pike with the arming thereof which was taken from a Spaniard at Lisbon, which I give unto Mr Richard Lee;

Item, I give unto Mr Thomas Nevenson a bannerol of silk taken from a Spanish lance before the gates of Lisbon;

Item, I give all the toys in my little box to my wife, saving such as I shall dispose here;

Item, all my books I have here I give to Mr Coote, saving Mr Lee's books and my mother's little testament, which I will to be restored;

Item, I leave my dear wife my only executrix as in my other will;

Item, I give my arming-points to Mr Richard Lee;

Item, to my household servants, I will all their wages to be paid until the last Lady Day to so many as shall return home. James Hales.

Probatum fuit testamentu{m} suprascriptu{m} apud London coram venerabili viro Magistro Will{el}mo Lewin legum doctore ad exercend{um} officiu{m} Mag{is}tri Custodis siue Comissar{ij} Curie Prerogatiue Cantuarien{sis} l{egi}time deputat{i} septimo die mensis Maij Anno Domini Mill{es}i{m}o quingentesimo nonagesimo iuramento Ioh{ann}is Burroughe notarij publici procuratoris D{omi}ne Alisone Hales Relicte et executric{is} in h{uius}mo{d}i testam{en}to no{m}i{n}at{e} Cui &c De b{e}ne Iurat{e}

[=The above-written testament was proved at London before the worshipful Master William Lewin, Doctor of the Laws, lawfully deputed to exercise the office of Master, Keeper or Commissary of the Prerogative Court of Canterbury, on the seventh day of the month of May in the year of the Lord the thousand five hundred ninetieth by the oath of John Burrough, notary public, proctor of the Lady Alison Hales, relict and executrix named in the same testament, to whom etc. Sworn to well [+etc.]]