

1 **“Frances Burney’s Legacy Duty Account” (1840)**

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8 In the twelfth and final volume of *The Journals and Letters of Fanny Burney*, Joyce
 9 Hemlow published, for the first time, a transcription of the will of Frances Burney
 10 d’Arblay (1752–1840), dated 6 March 1839 and proved on 17 February 1840, six weeks
 11 after her death.¹ The will provides much valuable information on Burney’s final
 12 intentions for the disposal of her effects, including her vast horde of manuscripts, as well
 13 as on the state of her finances. Unknown to Hemlow or to subsequent scholars, however,
 14 another key document in the National Archives throws new light on these matters:
 15 “Burney’s Legacy Duty Account,” dated 19 October 1840, thanks to which we now have
 16 complete information about her finances at the time of her death.² Of particular interest
 17 are its valuations of Burney’s literary manuscripts and correspondence, as well those of
 18 her father, the music historian and man of letters Dr. Charles Burney (1726–1814). As
 19 well as transcribing the “Legacy Duty Account” below, we shall consider why the
 20 Burneys received valuations for their manuscripts that are not only shockingly low from a
 21 modern perspective, but also significantly lower than those of several of their literary
 22 contemporaries.

23 The National Archives Legacy Duty files of famous people includes the “Account
24 for Frances Burney” (indexed under her married name of d’Arblay).³ The account is a
25 printed form, no. 3 for residuary estates, comprising a single sheet of paper folded
26 bookwise to create four pages with information filled in by the executors or attached on
27 separate sheets. There are a few instructions for completion at the beginning and in the
28 left-hand margin, including the strange one that “Any Account transmitted by Post, or left
29 under cover at the Office, will either be returned to the Parties, or thrown aside
30 unnoticed.” The duty had to be paid within fourteen days or a penalty of triple the duty
31 was payable. The condition of the account is generally good, although the part of the
32 sheet containing pages 3 and 4 has suffered some damage, making a few words in the
33 declaration at the foot of page 3 illegible.

34 Legacy duty had been first introduced in 1780 by Lord North, and subsequently
35 made effective in legislation introduced by William Pitt.⁴ In contrast to the existing (and
36 continuing) probate duty that was based on the value of the deceased’s total estate, this
37 was a tax on each legatee at rates that varied according to the relationship of the
38 beneficiary to the deceased.⁵ Various increases in the rates of duty were made so that, by
39 the time of Burney’s death in 1840, the rate for brothers and sisters and their descendants
40 had increased first to 2.5 percent, and then to 3 percent, ~~and~~ with the top rate to 10
41 percent.⁶ The yield from legacy duty and the duty on probates was significant,
42 amounting in 1840 to £2.125 million out of tax revenue, other than customs and excise,
43 of £13.951 million, **or** 15.2 percent.⁷ One of the features of legacy duty was that assets
44 were valued at the date of the legacy duty account rather than the date of death, because

45 the focus was on the receipt by the legatee rather than the estate at death. The “Account
46 for Burney” shows that her government stocks were valued just before the document was
47 completed, and it then had to be updated to include a further payment of interest on one
48 of the stocks.⁸ In our notes to this account below, we have compared it with our own
49 transcription of Burney’s original will.⁹

50 The provisions of the will relating to Charles Burney’s manuscripts are as
51 follows:

52 To my Nephew Doctor Charles Parr Burney I leave the entire arrangement of the
53 correspondence of my dear Father excepting my own Letters which I give to my
54 Niece Charlotte Barrett—I had already in the last year made it over to my beloved
55 son, who was preparing it for the press—I now commit it to Doctor Charles Parr
56 Burney, either for a small select publication, or for the flames—I leave to him
57 likewise indiscriminately and without reserve or direction, whatever composition
58 may remain in the hand writing of my dear Father whether in prose or in verse,
59 well assured that I cannot do more honor to his memory.¹⁰

60 Frances Burney had previously expressed her concerns about the significance and
61 extent of her father’s correspondence in several of her letters, as well as in her *Memoirs*
62 *of Doctor Burney*, where she declares, in a prefatory note, that “upon examining the
63 collection, there appears such a dearth of the Doctor’s own Letters, of which he very
64 rarely kept copies, that it seems expedient to postpone their publication, till it can be
65 rendered more complete.”¹¹ Her will is somewhat more positive, suggesting that at least
66 “a small select publication” might be viable. The putative editor, however, Charles Parr

67 Burney, seems to have disagreed. He had been appointed Archdeacon of St Albans in
68 1840, the year of Frances Burney's death, and then of Colchester until his own death in
69 1864. Although he retained possession of his grandfather's manuscripts during those
70 twenty-four years, there is no indication that he ever gave the projected edition of
71 Burney's letters the slightest consideration.

72 Charles Parr Burney's apparent indifference to Dr. Burney's correspondence
73 echoed that of his cousin Henry Burney, one of Frances Burney's executors. His
74 valuation of Dr. Burney's manuscripts, set out below under the heading *Valuations of*
75 *Manuscripts*, was harsh. It describes the letters as "devoid of public interest" and
76 "generally so unimportant in their manner as to be little worth the trouble and expense of
77 editorship & risk of publication," adding "that they are not (especially in their present
78 condition) worth £50." Henry Burney, however, a career soldier who had served as a
79 lieutenant-colonel in the Bengal Army, was entirely unqualified to estimate the value of
80 his grandfather's archive; the valuation above his name might well have been written out
81 for him to sign.¹²

82 Despite Henry and Frances Burney's strong reservations, Dr. Burney's archive
83 included a large number of items—both drafts and copies of Dr. Burney's own letters and
84 letters he received—and several of his correspondents were major figures, such as
85 Samuel Johnson, Oliver Goldsmith, Joshua Reynolds, and Hester Thrale in England, and
86 both Rousseau and Diderot in France.¹³ Some 1,100 of his letters are extant (as well as a
87 similar number addressed to him), and the majority of them were in Frances Burney's
88 hands at the time of her death; after Dr. Burney's death, numerous recipients of his letters

89 returned them to his daughter. Evidence for this is provided by the notations that she
90 made on the manuscripts for a putative edition, before deciding to abandon the task.

91 To take just one example, consider Charles Burney's correspondence with the
92 polymathic poet, playwright, satirist, critic, painter, player, and maker of keyboard
93 instruments, designer of gardens, cleric, and ardent Whig: William Mason. The two men,
94 born only a year apart, first met in 1746, when they were in their early twenties, renewing
95 their acquaintance in the 1760s after Burney returned to London from a nine-year stay in
96 King's Lynn. Sixteen letters between them are extant, five by Burney and eleven by
97 Mason, extending from February 1769 to October 1795, eighteenth months before
98 Mason's death. Their principal subject is music, including church psalmody, on which
99 they held very different views—with some interesting discussions and disputes about
100 Burney's publications, in particular *Memoirs of . . . Metastasio* (1796). In the autumn of
101 1810, a year before Mason's collected *Works* appeared in four volumes, Burney wrote to
102 his former music pupil, Lady Elizabeth Lowther, giving her an overview of his
103 correspondence with the poet: "I loved his early poetry extremely; but he afterwards
104 became a great politician, upon principles totally different from my own,—& was such a
105 calvinistical reformer of cathedral & even parochial music that I never c^d subscribe to his
106 opinions—yet we never discussed those subjects with acrimony."¹⁴ Frances Burney must
107 have seen this letter, since she docketed it after her father's death. She also had access to
108 almost all of Mason's letters to Dr. Burney, as well as to the five by Burney himself,
109 either in draft or in fair copies. All of these letters bear her characteristic editorial marks.
110 Their existence belies her complaint about her father's letters not having been preserved;

111 far from having too few letters to edit, she was overwhelmed by the plethora of material
112 that she had inherited.

113 It seems surprising, then, that Henry Burney should lend his name to a
114 depreciation of his famous grandfather's archive. Since, however, a low evaluation meant
115 that less tax would need to be paid, and that more money would thus be available for
116 Henry's cousin Richard Barrett, the residual legatee, the disparaging remarks are
117 understandable. The seemingly arbitrary figure of £50 was probably proposed by the
118 publisher William Shoberl, who was responsible for evaluating Frances Burney's archive.
119 The provisions of the will relating to that archive are as follows:

120 The whole of my own immense Mass of Manuscripts, collected from my fifteenth
121 year, whether personal or collateral, consisting of Letters, Diaries, Journals,
122 Dramas, Compositions in prose and in rhyme **I bequeath** to the care and sole and
123 immediate possession of my Niece Charlotte Barrett, with full and free
124 permission, according to her unbiassed taste and judgment, to keep or destroy
125 them, simply but strictly stipulating, that she faithfully bequeaths at her death
126 whatsoever she has not disposed of or annihilated, to her son the said Richard
127 Barrett . . . my Nephew.¹⁵

128 The valuation of Frances Burney's manuscripts by Shoberl, also set out below, was £100,
129 double that of her father's. This reflects their relative standings in 1840, when Charles
130 Burney's fame was dwindling. His major publication, *A General History of Music*, first
131 published in four volumes in 1776–89, had been reprinted on only one occasion and was
132 seldom consulted in 1840, while Frances Burney, at this time, was known primarily as

133 the author of four novels, and above all of the first, *Evelina*, reprinted and translated on
134 numerous occasions since its initial publication in 1778. None of her eight plays, the
135 “Dramas” referred to here, had yet been published; her “Letters, Diaries, Journals,” still
136 unknown, would be published in seven volumes later in the 1840s, adding considerably
137 to her celebrity.¹⁶ Even so, the £100 estimate seems low, and was doubtless intended to
138 incur the least tax possible, while also satisfying the authorities who would have to
139 approve it—as they did.

140 Some contemporary valuations of authors’ copyrights for legacy duty, including
141 those for Thomas Babington Macaulay (died 1841, £10,000), Robert Southey (died 1843,
142 £400), and William Wordsworth (1850, £2,950), are much higher than those for Frances
143 and Charles Burney.¹⁷ Intriguingly, Southey’s was originally valued at £300 by the
144 publisher Thomas Longman, with the executors increasing it to £400, “to close the
145 Official Accts,” implying that the tax office had not accepted the valuation. This suggests
146 that Burney’s executors were somewhat fortunate that their much lower valuations passed
147 muster.

148 We have not found any copyright valuations for authors who died before Burney,
149 most likely because only a small number of legacy duty accounts has survived.¹⁸
150 Comparisons between authors are difficult and depend on whether the copyrights are in
151 unpublished works, as for the Burneys, where the value is more speculative, or in
152 published ones, and if so, everything depends on the publishing method. If an author sold
153 the copyright outright (as Jane Austen did for *Pride and Prejudice*), there will be no
154 copyright to value, but the value may be reflected in money in the estate; a publishing

155 contract might be at the author's risk and expense, with the author paying the publisher a
156 royalty (as for Jane Austen's other works); or the publisher might take the risk and pay
157 the author a royalty or a share of profits, in which case the copyright to be valued will be
158 an estimate of future receipts; or the risk to both parties might be avoided by relying on
159 subscription to cover the cost of publishing (as Burney did for *Camilla*), with the author
160 taking the whole of the proceeds apart from a handling fee to the publisher. The high
161 value for Macaulay's copyrights, for which unusually there is an itemized valuation in the
162 legacy duty account, relates solely to published works, mostly on terms of an equal split
163 of profits between the author and publisher, but for his highly successful *History of*
164 *England*, which had sales of 40,000, the split was three-quarters to the author.¹⁹

165 Another notable feature of the Burney account is the "Debt due to deceased for
166 sale of Books," which is given as £25 6s. 10d. The books in question are, presumably,
167 copies of Frances Burney's *Memoirs of Doctor Burney*, her only relatively recent
168 publication; she had long since ceased to receive payments from any of her novels. First
169 published in November 1832, the three-volume set was priced at £1 11s. 6d. In the
170 absence of both the contract between Burney and the publisher, Edward Moxon, and of
171 the publisher's records, the number of copies printed is unknown, as is the form and rate
172 of payment. Joyce Hemlow estimates, on the evidence of Burney's account at Hoares'
173 Bank, that £1,000 was paid to the author in installments from 1832 to 1835, and further
174 payments evidently followed.²⁰ Surprisingly, however, the account put no value on the
175 benefit from future sales, although a number of copies of the *Memoirs* had been sold
176 shortly before and after Burney's death.

177

178 **Note on the Transcript**

179 Reproduced below is our transcription of “Burney’s Legacy Duty Account.” Only items
180 containing entries are included, and no attempt has been made to reproduce the
181 pagination and layout of the original. The form was originally completed and dated 2
182 September 1840 (but not signed), before the two valuations of manuscripts were made on
183 9 September (Shoberl) and 1 October 1840 (Henry Burney). We can deduce that
184 including the valuations was a last-minute decision made after the form had initially been
185 completed, and that the valuations were made quickly (in a week, in Shoberl’s case). The
186 valuation figure must have been added after that date in the same fine pen nib as the rest
187 of the form. The 2 September date was crossed out and the form redated 19 October 1840
188 and signed using a thicker pen nib. The thicker pen nib was used to add the figures
189 required to be up-to-date immediately before the form was completed, including the price
190 and values of the government securities, an interest payment received after 2 September,
191 the bank balances, and all the totals; these are indicated by including those figures (other
192 than the totals) in bold.

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194 **Notes**

¹*The Journals and Letters of Fanny Burney (Madame d’Arblay), 1791–1840*, ed. Joyce Hemlow, et al., 12 vols. (Oxford: Clarendon, 1972–84), 12:976–81. Hemlow’s transcription was made from a copy of the will at the National Archives (PROB

11/1922/332), of which a scan can be ordered. For a transcription of the original will—also at the National Archives (PROB 10/5905), but of which scans cannot be ordered—that corrects a number of errors in Hemlow’s transcription, see Peter Sabor and John Avery Jones, “Frances Burney’s Original Will (1839),” *The Burney Journal* 18 (2002), 1-33.

²The National Archives, IR 59/27.

³The National Archives, IR 59. Some other files exist in a different series (IR 19) starting in 1796, but the series has been heavily weeded and covers only a relatively small number of individuals. That series unfortunately cannot be searched by name; one has to order the files for the relevant years and browse the entries that are filed in the order of the legacy duty reference number, making research extremely difficult.

⁴Lord North was a courtesy title; he was actually the second Earl of Guildford. He was prime minister from 1770 to 1782; the Pitt legislation is the Legacy Duty Act, 36 Geo. III, c. 52 (1796). For more on the gradual implementation of legacy duty, see John Avery Jones, “Death Duties on Jane Austen’s Estate,” *Jane Austen Society Report for 2019*, pp. 45–46.

⁵Legacy duty was based on the Dutch tax on successions, recently described by Adam Smith in *The Glasgow Edition of the Works and Correspondence of Adam Smith*, vol. 2: *An Inquiry into the Nature and Causes of the Wealth of Nations*, ed. R. H. Campbell and A. S. Skinner (Indianapolis: Liberty Fund, 1981), 859 (Glasgow Edition V.ii.h.4) See 14n, of the transcript, on the probate duty on Burney’s estate.

⁶For the increase to 2.5 percent, see 48 Geo. III, 3 c. 149, Sch. Pt. III (1808); for the increase to 10 percent see 55 Geo. III, c. 184, Sch. Pt. III (1815). The full scale for deaths from 5 April 1805 where the legacy was paid after 31 August 1815 was spouses, nil; children and their descendants, 1 percent; brothers and sisters and their descendants, 3 percent; uncles and aunts and their descendants, 5 percent; great uncles and aunts and their descendants, 6 percent; more remote relatives and strangers in blood, 10 percent.

⁷“Finance Accounts of the United Kingdom” for the year ended 5 January 1841 (1841) HC 173. The total of customs and excise revenue was £39.230 million.

⁸See “Note on the Transcript” below, for the redating and additional interest payment.

⁹Before 12 January 1858, all wills had to be proved by the church and other courts. The Prerogative Court of Canterbury was the most important of these courts, dealing with relatively wealthy individuals living mainly in the south of England and most of Wales. Probate was governed by ecclesiastical law, coming under the jurisdiction of the archbishop of Canterbury in the south of England.

¹⁰Peter Sabor and Avery Jones, “Frances Burney’s Original Will (1839),” the source of all subsequent quotations from Burney’s will. The Rev. Charles Parr Burney (1785–1864) was the son of Dr. Charles Burney’s son of the same name, the classical scholar Dr. Charles Burney. Charlotte Barrett, née Francis (1786–1870), was the daughter of Frances Burney’s younger sister Charlotte Ann (Francis) Broome. She married Henry Barrett in 1807. The Rev. Alexander d’Arblay (1794–1837) was the only child of Frances Burney d’Arblay (hereafter FBA) and her husband Alexandre d’Arblay (1754–1818).

¹¹[Frances Burney], *Memoirs of Doctor Burney*, 3 vols. (London: Edward Moxon, 1832), 1:[ii].

¹²See further, 62n to the transcript.

¹³*The Letters of Doctor Charles Burney*, a collected edition under the general editorship of Peter Sabor, is now in progress, to be published by Oxford University Press in six volumes. The first volume, edited by Alvaro Ribeiro, SJ, appeared in 1991.

¹⁴Collection of Michael Burney-Cumming.

¹⁵The stipulation mentioned would have no legal authority. The Rev. Richard Arthur Francis Barrett (1812–81) was the eldest son of Charlotte Barrett.

¹⁶*Diary and Letters of Madame d'Arblay*, ed. Charlotte Barrett, 7 vols. (London: Henry Colburn, 1842–46).

¹⁷The figures are taken from “Legacy Duty Accounts in the National Archives,” Macaulay, IR 59/57; Southey, IR 59/31; Wordsworth, IR 59/42.

¹⁸These include the following for whom legacy duty accounts are available: Jane Austen, Ann Radcliffe, David Ricardo, Byron, Coleridge, Charles Lamb, and James Mill; we also searched fifteen other authors who died around this time, but eight had no records, and seven, no legacy duty accounts. For Coleridge, there is a figure for the proceeds of sale of copyrights for £772 in the legacy duty account, which would have been sold after death and before the account. On Sara Coleridge's death in 1852, no value was put on her own copyrights, but £200 was placed on her half share in her father's copyrights.

¹⁹Not all of Macaulay's writings were subject to current publishing agreements, thus leaving scope for further publication in a collection of the author's complete works. The complications of copyright law at the time are illustrated by the numerous dates when copyright expired: 1844, 1859, 1867, 1891, 1895, and 1897.

²⁰*Journals and Letters*, ed. Hemlow 12:785n1.