

# ***A transcript of the last Will and Testament of***

## ***John Burgoyne Fernell***

***[The Husband of Betty Adlington]***

***2<sup>nd</sup> July 1750 to 9<sup>th</sup> October 1789***

***Will is dated 14<sup>th</sup> September 1789***

The layout of the following transcript is exactly the same as the original Court Transcript from the Prerogative Court of Canterbury.

No changes have been made to Spelling, Grammar, Punctuation, irregular use of Capital Letters or missing Paragraphs.

Words I have been unable to interpret are indicated thus: [?]. Some words are either archaic or legal in nature. The Court Scribe has in places used abbreviations.

'*Hereditaments*' refers to any type of property that may be inherited. In some instances, the Court Scribe has abbreviated to 'Heredit's'.

'*Messuages*' is a term used in conveyancing and is synonymous with a 'dwelling house'.

'*Close*' An old English term for an Estate of land.

The Town of Oakingham mentioned in the Will, is now known as Wokingham.

*A copy of the original Court Transcript is included below.*

***In the Name of God Amen*** I John Burgoyne Fernell of Spring House within the Liberty of Calow and parish of Chesterfield in the County of Derby Esquire being of sound and disposing mind and memory do make publish and declare this to be my last Will and Testament in the manner following. that is to say first I give and devise all that my Messuage dwelling house or tenement called Spring House with the Gardens Orchard Closes Lands Hereditaments and premises thereto belonging situate within Calow aforesaid now in my possession unto my dear Wife Betty Fernell and her Assigns for and during the term of her natural Life and from and immediately after her decease I give and devise the same unto and to the use of my Son William Burgoyne Fernell his Heirs and Assigns for ever Also I give and devise all that my Messuage dwelling House or Tenement with the Garden Hereditaments and premises thereto belonging situate at Mill Farm within the Borough of Southwark in the County of Surry [sic] now in the possession of my Uncle Henry Sharpe Esquire and also all that my undivided [?] or half part of and in all those several messuages dwellinghouses or Tenements and of the Gardens Yards hereditaments and premises thereto belonging situate in Mill Street within the Borough of Southwark aforesaid now in the several possessions of Jacob Hagin and his Son and Joseph Carroll of their Assigns And also all those my three several Messuages dwelling houses or Tenements with the Gardens orchards hereditaments and premises thereto belonging situate at a place called Shoot End in Oakingham in the County of Berks [sic] now in the several possessions of -----[*blank space here*]----- and -----[*blank space here*]----- or their Assigns And also all those my several Closes Lands heredit's [sic] and premises situate within Calow aforesaid now in the possession of Jethro Adlington or his Assigns And also all that my Close or piece of Land lately

purchased from and being heretofore part of the Common called Hady Common within the parish of Chesterfield aforesaid now in my own possession And also all and singular other my Messuages Lands Tenements Hereditis [sic] and Real Estate of what nature or kind soever and wheresoever situate unto and to the use of my said Son William Burgoyne Fernell his Heirs and Assigns for ever But in case my said Son William Burgoyne Fernell shall happen to depart this life before he shall attain his Age of Twenty one Years Then I give and devise all and every my several Real Estates herein before mentioned and described (Subject nevertheless to the aforesaid devise to my said Wife for her life of the Premises at Spring House aforesaid) unto and to the use of my Daughters Ann Burgoyne Fernell, Judith Fernell, Mary Fernell, Susannah Fernell and Harriett Fernell their Heirs and Assigns for ever to be equally divided between and amongst them share and share alike to take as Tenants in Common and not as Joint Tenants and in case any one or more of my said Daughters shall happen to depart this Life before she or they shall attain the Age of Twenty one Years Then I give and devise the share or shares of her or them so dying under Age as afore'd [sic] unto and to the use of the Survivors or others of them their Heirs and Assigns for ever to be equally divided between or amongst them share and share alike to take as Tenants in Common and not as Joint Tenants and in case all my said Daughters except one shall happen to depart this Life before they shall attain the Age of Twenty one Years Then I give and devise all my said Real Estates (Subject as afore'd [sic] ) unto and to the use of such only Surviving Daughter her Heirs and Assigns for ever And in case of the death of all my said Daughters under Age Then unto and to the use of my own Right Heirs for ever Also I give and bequeath all that my Principal Sum of Five Thousand Pounds now invested on Government Security in the Stock commonly called the Five per Cent unto my said Daughters Ann Burgoyne Fernell, Judith Fernell, Mary Fernell, Susannah Fernell and Harriett Fernell to be divided amongst them And my Mind and Will is that the several parts and shares of my said Daughters respectively of and in the said Sum of Five Thousand Pounds shall be paid unto them respectively when and as they shall severally and respectively attain their Age and Ages of Twenty one Years But in case any of my said Daughters shall happen to depart this Life under the said Age of Twenty one Years Then I give and bequeath the part or share of her or them so dying of and in the said Sum of Five Thousand Pounds unto the Survivors or Survivor of them And in case all my said Daughters shall happen to die under that Age Then I give and bequeath the said Sum of Five Thousand Pounds unto my said Son the said William Burgoyne Fernell his Executors and Admins [sic] And my Will and Mind is and I do hereby order and direct that until my said Son shall attain his Age of Twenty one Years the Rents Issues and Profits of all and every my said Real Estates shall be received by and paid to my said dear Wife and that until my said Daughters shall attain their respective Ages of Twenty one Years the Dividends Interest and Proceed of that said Sum of Five Thousand Pounds shall also be received by and paid to her To the intent that my said dear Wife may therewith and thereout Support Maintain and Educate my said Children And I do commit the Tuition of them to her accordingly And in case all my said Daughters (except such of them as may happen to die in their Minority) shall attain their respective Ages of

Twenty one Years in the lifetime of my said dear Wife Whereupon she will start to receive the Dividends Interest and Proceed of any part of the said Sum of Five Thousand Pounds Then and from thereforth I do give and bequeath unto her my said dear Wife for and during the term of her natural life one Annuity or Yearly Sum of Eighty Pounds to be paid and payable to her without any deduction whatsoever for Costs or otherwise howsoever by half Yearly and equal payments the first payment thereof to begin and be made at the end of Six Calendar Months next after the Youngest of my said Daughters shall have attained the said Age of Twenty one Years The same Annuity or Yearly Sum to be issuing and paid out of the aforesaid several Real Estates situate within the Borough of Southwark aforesaid And in case default shall be made of or payment of the said Annuity or any part thereof and as the same shall become due and payable Then it shall and may be lawful for my said dear Wife and I give her full power to enter into all or any part of the said several Real Estates situate within the Borough of Southwark aforesaid and to hold and enjoy the same and the Rents and Profits thereof to receive and take to her own use until fully paid and satisfied the said Annuity and all arrears thereof together with her reasonable Costs and Charges in recovering the same Also I give and bequeath all my Plate Linen China Household Furniture ready Money, Money due and owing to me on Security or otherwise Goods Chattels and Personal Estate of what nature or kind soever not herein before disposed of unto my said dear Wife to and for her own proper use and benefit Subject to the payment of all my just Debts Funeral Expenses Probate of this my Will and all other Charges [?] thereto And I do hereby nominate constitute and appoint my said dear Wife and my Friend Mr Robert Haslett the Younger of Saint Martin's Lane Cannon Street London Trustees and Executors of this my last Will and Testament And I do authorise and empower them and the Survivor of them and the Executors and Admins of such Survivor to manage and improve the Estate and Fortune of my said Children during their respective Minorities in such manner as they shall think most beneficial for them and Lastly my Will and Mind is that my said Trustees and Executors shall be responsible only for so much and such part of my said Estates as shall come to his or her hands respectively and for his or her own particular receipt payment act and deed and not the one of them for the other or for the receipt payment act or deed of the other In witness whereof I the said Testator John Burgoyne Fernell have to this my last Will and Testament contained in three sheets of paper set my hand and Seal [*the following additional text is added in the margin*] that is to say to the first two sheets thereof my hand and to the third and last sheet my hand and seal [*returns to main body of text*] this fourteenth day of September in the Year of Our Lord one thousand seven hundred and eighty nine *In B. Fernell* Signed Sealed published and declared by the said Testator John Burgoyne Fernell as and for his last Will and Testament in the presence of us who in his presence at his request and in the presence of each other have Subscribed Our Names as Witnesses hereto

Richd. Slater Benjamin Marriott Servant to Mr Fernell Joshua Horn Servant to Mr Slater

**This Will** was proved at London the twenty ninth day of December in the Year of Our Lord one thousand seven hundred and eighty nine before the Right Honourable Sir William Wynne Knight Doctor of Laws Charter keeper or Commissary of the Prerogative Court of Canterbury lawfully constituted by the Oath of Betty Fernell Widow the Relict of the Testator and one of the Executors named in the said Will to whom Administration was granted of all and singular the Goods Chattels and Credits of the said deceased having been first sworn by the Commission duly to administer Power reserved of making the like grant to Robert Aslett otherwise Haslett the Younger the other Executor named in the said Will when he shall apply for the same

*The following additional note appeared in the Margin:*

Proved at London the 21<sup>st</sup> day of Octr. 1797 before the Worshipful Charles Coute Doctor of Laws and Surrogate by the Oath of Robert Aslett the Younger (by mistake called Haslett the Younger) Executor to whom Admin [sic] was granted having been first sworn duly to Administer.

***Copies of the original Court Transcript are included below:***

Shallow the elder the nephew of the said deceased and the other Executors named in the said will when they or either of them shall apply for the same.

John  
Burgoyne  
Fernell  
E. 7.

## In the Name of God Amen

I John Burgoyne Fernell of Spring about within the Liberty of Calow and Parish of Chesterfield in the County of Derby Esquire being of sound and disposing mind and memory do make publish and declare this to be my last will and Testament in manner following that is to say first I give and devise all that my Messuages or Dwelling house or Tenement called Spring about with the Gardens Orcharde Closes, Leases, Hereditaments and Premises thereto belonging situate within Calow aforesaid now in my own possession unto my dear wife Betty Fernell and her or Assigns for and during the term of her natural life and from and immediately after her decease I give and devise the same unto and to the use of my son William Burgoyne Fernell his heirs and assigns for ever Also I give and devise all that my Messuage Dwelling about or Tenement with the Garden Hereditaments and Premises thereto belonging situate at Mill Stairs within the Borough of Southwark in the County of Surrey now in the possession of my dear daughter Sarah Esquire and also all that my undivided moiety or half part of and in all those several Messuages Dwellinghouses or Tenements and of the Gardens Orcharde Hereditaments and Premises thereto belonging situate in Mill Street within the Borough of Southwark aforesaid now in the several possession of Jacob Esquire and his son and Joseph Carroll or their Assigns and also all those my three several Messuages or Dwelling houses or Tenements with the Gardens Orcharde Hereditaments and Premises thereto belonging situate at a place called Shoot End in Nottingham in the County of Leicestershire now in the several possession of and or their Assigns and also all those my several Closes Lands Hereditaments and Premises situate within Calow aforesaid now in the possession of Thomas Adlington or his Assigns and also all that my close or piece of land lately purchased from and being heretofore part of the Common called Grady Common within the Parish of Chesterfield aforesaid now in my own possession and also all and singular other my Messuages Lands Tenements Hereditaments and Real Estate of what nature or kind soever and whatsoever situate unto and to the use of my said son William Burgoyne Fernell his heirs and assigns for ever But in case my said son William Burgoyne Fernell shall happen to depart this life before he shall attain his age of twenty and 6 years then I give and devise all and every my several

Real Estates herein before mentioned and described (Subject  
 nevertheless to the aforesaid devise to my said Wife for  
 her life of the Premises at Spring House aforesaid) unto  
 and to the use of my Daughters Ann Burgoyne  
 Fenell, Judith Fenell, Mary Fenell, Susannah Fenell and  
 Elizabeth Fenell their heirs and Assigns for ever to be  
 equally divided between and amongst them share and  
 share alike to take as Tenants in Common and not  
 as Joint Tenants and in case any one or more of  
 my said Daughters shall happen to depart this life  
 before she or they shall attain the Age of Twenty  
 out Years then I give and devise the share or  
 shares of her or them so dying under Age as aforesaid  
 unto and to the use of the Survivors of them of  
 their heirs and Assigns for ever to be equally  
 divided between and amongst them share and share alike  
 to take as Tenants in Common and not as Joint  
 Tenants and in case all my said Daughters except  
 one shall happen to depart this life before they shall  
 attain the Age of Twenty out Years then I give  
 and devise all my said Real Estates (Subject as aforesaid)  
 unto and to the use of such only surviving Daughter  
 her heirs and Assigns for ever and in case of the  
 death of all my said Daughters under Age then I  
 give and to the use of my own right heirs for  
 ever also I give and bequeath all that my principal  
 Sum of five Thousand Pounds now invested in  
 Government Securities in the Stock commonly called the  
 five per Cent into my said Daughters Ann Burgoyne  
 Fenell, Judith Fenell, Mary Fenell, Susannah Fenell  
 and Elizabeth Fenell equally to be divided amongst them  
 and my Will and Will is that the several parts  
 and shares of my said Daughters respectively of  
 and in the said Sum of five Thousand Pounds shall  
 be paid unto them respectively when and as they  
 shall severally and respectively attain their Age and  
 Ages of Twenty out Years But in case any of my  
 said Daughters shall happen to depart this life under  
 the said Age of Twenty out Years then I give and  
 bequeath the part or share of her or them so dying  
 of and in the said Sum of five Thousand Pounds  
 unto the Survivors or Survivor of them and in case  
 all my said Daughters shall happen to die under  
 that Age then I give and bequeath the said Sum  
 of five Thousand Pounds unto my said Son the  
 said William Burgoyne Fenell his Executors and Adminors  
 and my Will and Will is and I do hereby order  
 and direct that until my said Son shall attain  
 his Age of Twenty out Years the Rents Issues and  
 profits of all and every my said Real Estates shall  
 be received by and paid to my said Dear Wife and  
 that until my said Daughters shall attain their respective

ages of Twenty one Year the Dividends Interest & Profits  
of the said Sum of five Thousand pounds shall also  
be received by and paid to her to the intent that  
my said Dear Wife may therewith and therout  
support maintain and educate my said Children and  
I do commit the Tuition of them to her accordingly  
and in case all my said Daughters (except such of  
them as may happen to die in their Minority) shall  
attain their respective Ages of Twenty one Year in  
the lifetime of my said Dear Wife & when she  
will cease to receive the Dividends Interest and Profits  
of any part of the said Sum of five Thousand  
pounds then and from thenceforth I do give and  
bequeath unto her my said Dear Wife for and during  
the term of her natural life one Annuity or Yearly  
Sum of Eighty pounds to be paid and payable to her  
without any Deduction whatsoever for Costs or otherwise  
howsoever by half yearly and equal payments the first  
payment thereof to begin and be made at the end of  
Six Calendar Months next after the Youngest of my  
said Daughters shall have attained the said Age of  
Twenty one Year the same Annuity or Yearly Sum  
to be issuing and paid out of the aforesaid several  
Real Estates situate within the Borough of Southwark  
aforesaid and in case default shall be made of or in  
payment of the said Annuity or any part thereof  
and as the same shall become due and payable then  
it shall and may be lawful for my said Dear Wife  
and I give her full power to enter into all or any  
part of the said several Real Estates situate within  
the Borough of Southwark aforesaid and to hold and  
enjoy the same and the Revenues and Profits thereof to  
receive and take to her own use until fully paid and  
satisfied the said Annuity and all arrears thereof together  
with her reasonable Costs and Charges in recovering the  
same also I give and bequeath all my Plate Silver  
China & Household Furniture ready Money Money due and  
owing to me on Services or otherwise Goods Chattels and  
Personal Estate of what nature or kind soever not herein  
before disposed of unto my said Dear Wife to and for  
her own proper use and benefit subject to the payment  
of all my just Debts funeral Expences probate of this  
my Will and all other Charges incident thereto and I do  
hereby nominate constitute and appoint my said Dear Wife  
and my friend Mr. Robert Haslett the Younger of Saint  
Martins Lane Common Street London Trustees and Executors  
of this my last Will and Testament and I do authorize  
and empower them and the Survivor of them and their  
Executors and Adminors of such Survivor to manage and  
improve the Estate and Fortune of my said Children or  
during their respective Minorities in such manner as  
they shall think most beneficial for them and lastly

my Will and trust is that my said Trustee and  
 Executors shall be responsible only for so much and  
 with part of my said Estates as shall come to his or  
 her hands respectively and for his or her own particular  
 receipt payment out and in and not the out of  
 them for the other or for the receipt payment out or  
 in of the other in evidence whereof I the said Testator  
 John Burgoyne Fernell have to this my last Will and  
 Testament contained in three sheets of Paper set my  
 hand and seal this fourteenth day of September in the  
 Year of Our Lord one thousand seven hundred and  
 eighty nine In W. Bennell & signed sealed published and  
 declared by the said Testator John Burgoyne Fernell  
 as and for his last Will and Testament in the presence  
 of us who in his presence at his request and in the  
 presence of each other have subscribed Our Names as  
 Witnesses hereto Rich. Slater, Benjamin Marriott, Servant to the  
 Testator, Joshua Horn Servant to Rich. Slater.

to read a to say  
 to the first three  
 sheets thereof  
 my hand and  
 to this hand and  
 last sheet my  
 hand and seal

This Will was proved at London the twenty  
 ninth day of December in the year of Our Lord one  
 thousand seven hundred and eighty nine before the  
 eight Esquires Sir William Wynne Knight Doctor of Law  
 Master Chieper or Comptroller of the Prerogative Court of  
 Canterbury lawfully constituted by the Oath of Eschey Fernell  
 Esquire the Clerk of the Records and out of the  
 Executors named in the said Will to whom Administration  
 was granted of all and singular the Goods Chattels and  
 Credits of the said deceased having been first sworn by  
 Commission duly to administer. Power reserved of making  
 the like grant to Robert Aslett Clerk of the Court the  
 Younger the other Executor named in the said Will  
 whom he shall apply for the same.

Proved at London the  
 day of Oct. 1797 before the  
 Worshipful Charles Cooke  
 Doctor of Law and Serjeant  
 at Law by the Oath of Robert Aslett  
 the Younger (by mistake  
 called Aslett) the surviving  
 Executor to whom Administration  
 was granted by Commission

This is the last Will of  
 the said William Fernell of East Pertham in the County of  
 Northampton I give and bequeath unto my Son in  
 Law Thomas Andrews the Sum of Twenty pounds for  
 Mourning also I give and bequeath unto my Daughter  
 Mary Westbrook Fernell William Esquire of Pertham the  
 London Druggist and Christopher Taddy of Broad Street  
 the Sum of one hundred pounds of lawful  
 Money of Great Britain Appear with this Will and  
 the Survivors and Survivor of them and the Executors  
 and Assignors of such Survivors do and shall pay and  
 apply the same unto such Person or Persons and for  
 their intents and purposes as my Daughter Maria  
 Westbrook (Wife of the said Thomas Andrews)  
 shall by any Note or Writing under her hand and  
 Signet

William  
 Fernell