

[ENGLAND]

James Smithson's Will, 1826

James
Smithson
Esquire

[1]

I James Smithson Son to Hugh first Duke of Northumberland & Elizabeth Heirefs of the Hungerfords of Studley & Niece to Charles the proud Duke of Somerset now residing in Bentinck Street Cavendish Square do this twenty third day of October one thousand eight hundred and twenty six make this my last Will and Testament

[1] I bequeath the whole of my property of every nature & kind soever to my Bankers Messrs Drummonds of Charing Cross in trust to be disposed of in the following manner and I desire of my said Executors to put my Property under the management of the Court of Chancery

[2] To John Fitall formerly my Servant but now employed in the London Docks and residing at No 27 Jubilee Place North Mile End Old Town in consideration of his attachment & fidelity to me & the long and great care he has taken of my Effects & my having done but very little for him I give & bequeath the annuity or annual sum of one hundred Pounds Sterling [2] for his life to be paid to him quarterly free of legacy duty & all other deductions the first payment to be made to him at the expiration of three Months after my death

[3] I have at divers times lent sums of money to Henry Honore Saily formerly my Servant but now keeping the Hungerford Hotel in the rue Caumartin at Paris & for which sums of money I have undated bills or bonds signed by him Now I

will and direct that if he desires it these sums of money be let remain in his hands at an Interest of five *per Cent* for five years after the date of the present will

To Henry James Hungerford my Nephew heretofore called Henry James Dickinson Son to my late Brother Lieutenant Colonel Henry Louis Dickinson now residing with Mrs Auboin at Bourg la Reine near Paris I give and bequeath for his life the whole of the income arising from my property of every nature & kind whatsoever after the payment of the above annuity [and after the death of John Fitall that annuity] [3] likewise the payments to be made to him at the time of the Interest or dividends become due on the stocks or other property from which the income arises.

Should the said Henry James Hungerford have a Child or Children legitimate or illegitimate I leave to such Child or Children his or their heirs Executors & Assigns after the death of his or her or their Father the whole of my property of every kind absolutely & for ever to be divided between them if there is more than one in the manner their Father shall judge proper or in case of his omitting to decide this as the Lord Chancellor shall judge proper

Should my said Nephew Henry James Hungerford marry I empower him to make a jointure [4]

in the case of the death of my said Nephew without leaving a Child or Children or of the death of the Child or Children he may have had under the age of twenty one years or Intestate I then bequeath the whole of my property subject to the annuity of one hundred Pounds to John Fitall & for the security & payment of which I mean stock to remain in this Country to the united states of America to found at Washington under the name of the Smithsonian Institution an establishment for the increase and diffusion of knowledge among men

I think it proper here to state that all the money which will be standing in the French five *per Cents* at my death in the names of the Father of my above

[1] [UK National Archives PROB 11/1763/129, which is hand labelled as Liverpool quire no. 664-665, pages 112 to 114. This is the official copy made for probate purposes by officials of the prerogative court of Canterbury, then the top church court in charge of wills, especially those of the wealthy. The Smithsonian website also presents images of the original handwritten will at <http://siarchives.si.edu/history/exhibits/documents/smithsonwill.htm>. James Smithson apparently drew it up on his own without legal advice and without witnesses of his signature. The two texts are essentially identical, differing only in minor orthographic details. The probate copy is one block of English text while the original has unnumbered paragraphs; the version here shows each sentence or clause as a distinct paragraph numbered in the margin.]

[2] [In 1826 the English pound bought 3.85 troy ounces of silver. The modern (2022) Canadian price of silver is \$28.33 per troy ounce. So that pound equates to Can\$109 in silver, and a gift of £100 would be like Can\$11,000. A more elaborate comparison based on prevailing income levels (GDP *per capita*) in England in 1829 (£25.77) and in Canada in 2022 (about Can\$70,000) suggests this annuity would be like Can\$270,000 a year today—putting John Fitall very much into the upper middle class.]

[3] Passage interpolated in the margin.

[4] [Jointure = a property settlement for a wife in case her husband predeceases her.]

mentioned Nephew Henry James Hungerford & all that in my names is the property of my said Nephew being what he inherited from his Father or what I have laid up for him from the saving upon his income

James Smithson

Appeared Personally *Robert Dobinson* of No 6 Lincoln Inn New Square in the County of Middlesex Gentleman and made oath that he knew and was well acquainted with James Smithson formerly of Clarges Street in the County of Middlesex for many years and that having during such his acquaintance with the said deceased frequently seen him write and subscribe his name to writings he hath thereby become well acquainted with the manner and character of his handwriting and subscription and the Deponent having now viewed and perused the paper writing hereunto annexed and which purports to be and contain the last Will and Testament of the said James Smithson and which begins thus

“I James Smithson Son of Hugh first Duke of Northumberland & Elizabeth Heireſs of the Hungerfords of Studley & Niece to Charles the proud Duke of Somerset”

ends thus

“what I have laid up for him from the savings upon his income”

and is thus subscribed

“James Smithson”

and having also particularly noticed the word “property” which appears interlined between the eighth and ninth lines of the third page or side of the said Will he lastly made oath that he verily and in his conscience believes the whole body series and contents of the said Will beginning ending and subscribed as aforesaid together with the said recited interlineation therein and subscription thereto to be all the own proper handwriting and subscription of the said James Smithson *Robt Dobinson*

On the second day of November 1829 the said Robert Dobinson was duly sworn to the truth of the foregoing affidavit Before W. C. Curteis Surrogate pst *N. B. Engleheart* Notary Public

Appeared Personally *Joseph Sanders* of No 74 Portland Street Portland Place in the County of Middlesex Gentleman and made oath that he now is and has been for twenty five years and upwards a Clerk in the Bankinghouse of Meſſrs Drummonds of Charing Croſs in the County of Middlesex Bankers and that James Smithson formerly of Clarges Street in the County of Middlesex afterwards of Manchester Street Bentinck Street and of Saint James's Place Westminster respectively in the same County but late of Genoa Esquire deceased was in the habit of keeping a Banking account with the said Meſſrs Drummond during many years last past and down to the time of his death and that during such period the said deceased (who had resided latterly principally abroad) was in the frequent habit of writing Letters to and drawing Cheques or Money orders upon the said Meſſrs Drummond [which Cheques or money orders were in due course paid and honored by them That such aforesaid Letters from the said deceased to the said

Meſſrs Drummond] [5] and the Cheques and money orders so drawn upon them by him constantly paſsed under the inspection of this Deponent and that many of them were cashed or paid by the Deponent who also well remembers upon one occasion in the Month of September in the year one thousand eight hundred and twenty five having seen the said deceased sign or subscribe his name to one of such Cheques the body or substance of which was written for the said deceased by this Deponent and that he the Deponent by the means aforesaid hath become well acquainted with the manner and character of the handwriting and subscription of the said deceased and the Deponent having now viewed and perused the paper writing hereto annexed which purports to be and contain the last Will and Testament of the said deceased and which begins thus

“I James Smithson Son of Hugh first Duke of Northumberland and Elizabeth Heireſs of the Hungerfords of Studley and Niece to Charles the proud Duke of Somerset”

ends thus

“or what I have laid up for him from the Savings upon his income”

and is thus subscribed

“James Smithson”

and having also particularly noticed the word “property” which appears interlined between the eighth and ninth lines of the third page or side of the said Will he lastly made oath that he verily and in his conscience believes the whole body series and contents of the said Will beginning ending and subscribed as aforesaid together with the said recited interlineation therein and subscription thereto to be all of the own proper handwriting and subscription of the said deceased *Joſ Sanders*

On the second day of November 1829 the said Joseph Sanders was duly sworn to the truth of the foregoing affidavit Before W. C. Curteis Surr. present *N. B. Engleheart* Notary Public

Proved at London 4th Novr 1829 before the Worshipful William Calverley Curteis Doctor of Laws and Surrogate by the oath of Charles Drummond one of a Firm of Meſſrs Drummond of Charing Croſs and as such one of the Executors according to the tenor to whom Administration was granted having been first sworn duly to Administer power reserved of making the like grant to Andrew Berkeley Drummond John Drummond Henry Drummond Andrew Mortimer Drummond John Drummond the Younger ~~Charles Drummond~~ Andrew Robert Drummond and George Drummond Esqrs the only other persons constituting the Firm of Meſſrs Drummond and as such the other Executors according to the tenor of the said Will when they or either of them shall apply for the same [Altered by act of Court 19th Novr 1829.] [6]

[5] Passage interpolated in the margin.

[6] Passage interpolated in the margin.