

## 1838 Will of John Phear

No 4 For the Stamp Office (22 June)

Copy of the Will of John Phear, late of Bratton Clovelly, Devon Yeoman deceased

Executor Thomas Phear of Bratton Clovelly, Devon Yeoman

Proved in the Archdeacon's Court of Totnes 10<sup>th</sup> April 1838

Effets Sworn Under £100

George Farwell Dy Regr

No. 1. For Executors.

Appeared personally Thomas Phear of Bratton Clovelly in the County of Devon Yeoman Sole Executor named in the last Will and Testament of John Phear late of South Barton, in the parish of Bratton Clovelly aforesaid, Yeoman, deceased who died on the Eighteenth Day of February 1838 and made Oath that he had made diligent search and due enquiry after, and in respect of the Personal Estate and Effects of the said deceased, in order to ascertain the full amount and value thereof; and that to the the best of his knowledge, information, and belief, the whole of the Goods, Chattels, and Credits, of which the said deceased died possessed, within the Archdeaconry of Totnes, in the Province of Canterbury, (exclusive of what the deceased may have been possessed of, or entitled to as a Trustee for any other Person or Persons, and not beneficially, but including the Leasehold Estates for years of the deceased, whether absolute or determinable on Lives, and without deducting any thing on account of the Debts due and owing from the deceased) are under the value of One Hundred Pounds, to the best of this Deponents knowledge, information, and belief. [signed] Thos Phear

Sworn on the Tenth Day of April 1838 before me [signed] William W Gurney Commissioner

This is the last Will and Testament of me John Phear of South Barton in the parish of Bratton Clovelly Yeoman which I make and publish this thirteenth day of February One thousand eight hundred and thirty Eight

I Give and devise all that my freehold Tenement called Broads Tenement situate in Bratton Clovelly aforesaid Consisting of two Cothouses, two Meadows, two Orchards and two Gardens with the Rights Members and Appurtenances thereunto belonging and now in the occupation of myself and my Tenants William Baker and Samuel Rice unto my Grand Son William Phear the Son of my Son Thomas Phear his Heirs and assigns To hold the same with their and every of their rights members and appurtenances unto my said Grand Son William Phear, his Heirs and Assigns for ever

I give and devise all that Plantation called or Commonly Known by the name of Black Island being part and parcel of my Estate hereinafter devised called South Barton situate in Bratton Clovelly aforesaid, with the appurtenances thereunto belonging unto my GrandSon John Phear the Son of my said Son Thomas Phear his Heirs and Assigns To hold the same unto my said Grand Son John Phear his Heirs and Assigns for ever

I give and devise all that piece or parcel of Ground Situate at the South East end of a certain Close of Land called Bullpark parcel of the aforesaid Estate called South Barton and now marked out as a Site for a Dwelling House and a Garden and containing by estimation about sixty Land yards be the same more or less unto my Grand Son Thomas Phear the Son of my said Son Thomas Phear, his Heirs and Assigns, To hold the same with the Appurtenances unto my said Grandson Thomas Phear his Heirs and Assigns for ever

And my Will and meaning is that the last mentioned piece of Ground shall be that on the South Side of the piece of Ground and Premises next hereinafter given by me

I give and devise all that piece or parcel of Ground situate immediately adjoining and on the north Side of the piece or parcel of Ground hereinbefore lastly devised by me and being parcel of the aforesaid Close of Land called Bullpark and now marked out as a Site for a Dwelling House and Garden and containing by estimation Sixty Land yards unto Thomas Shopland of Bratton Clovelly Yeoman and William Baker of the same place Yeoman and their Heirs and Assigns to the Uses upon the Trusts and for the purposes following that is to say

To the use of Peggy the now wife of my said Son Thomas Phear and her Assigns during the Term of her natural life without impeachment of waste, other than destructive waste, and after the determination of that Estate by any means and in her life time Then to the use of the said Thomas Shopland and William baker their Heirs and Assigns In Trust to preserve the Estate hereinafter given and for that purpose to make entries and bring actions as occasion may require but nevertheless to permit the said Peggy Phear and her Assigns to receive and take and receive the Rents and profits of the same during her life for her own Sole and exclusive use and benefit

And from and immediately after her decease Then to the use benefit and behoof of my Granddaughter Mary Ann Phear, the daughter of my said Son Thomas Phear her Heirs and Assigns for ever to whom I give and devise the Same accordingly

And as to for and concerning all the rest and remainder, of my said Estate called South Barton not hereinbefore specifically devised I give and devise the Same with the Appurtenances thereunto belonging unto the said Thomas Shopland and William Baker, and their Heirs and Assigns To the uses upon the Trusts and for the ends and purposes hereinafter expressed concerning the Same that is to say

To the use of my said Son Thomas Phear and to his Assigns for and during the Term of his natural life without impeachment of waste other than destructive or malicious waste and from and after the determination by forfeiture or otherwise of the Estate or Interest hereby limited or devised to or for the benefit of my said Son Thomas Phear during his natural life as aforesaid

Then to the use of the said Thomas Shopland and William Baker their Heirs and Assigns In Trust to support and preserve the contingent uses and Estate hereinafter limited from being defeated or destroyed and for that purpose to make entries and bring actions as occasion shall require but nevertheless to permit and suffer my said Son Thomas Phear and his Assigns to receive and take the Rents and Profits of the said residue of the said Estate and every part thereof during his natural life and aforesaid and from and immediately after the decease of my said Son Thomas Phear To and for the only use benefit and behoof of my said Grandson John Phear the Son my said Son Thomas Phear, his Heirs and Assigns for every to after the decease of his said Father I give and devise the same accordingly

And as to for and concerning all the rest residue and remainder of my Messuages or Tenements Lands Hereditaments or Premises which I may die seized possessed of or entitled unto and wheresoever situate and of what nature soever and all my monies and Securities for money Goods Chattels person Estate and Effects whatsoever including all my Household Goods and effects subject to and charged with the payment of all my just debts and Funeral expenses I hereby give devise and bequeath the same unto and to and for the Sole benefit use and behoof of my said Son Thomas Phear his Heirs Executors Administrators and Assigns and I do hereby nominate constitute and appoint my said Son Thomas Phear Executor of this my Will for his own use and benefit, hereby revoking all former Wills by me at any time heretofore made and declaring this only to be my last Will and Testament

In Testimony whereof I have to this my Will contained on three sheets of Paper set my hand and affixed my Seal, that is to say, to the first two sheets thereof my hand to this third and last sheet my hand and Seal the day year first above written. [signed] John Phear

Signed Sealed published and declared by the said John Phear the Testator in and for his last Will and Testament in the presence of us who at his request in his presence and in the presence of each other have hereunto subscribed our names as Witnesses thereof [signed] 1 William Martyn of Bratton Clovelly 2 Thomas Shopland of Bratton Clovelly 3 [The mark of] William Baskerwill of Bratton Clovelly

The Writing on this and two preceding sheets contains a true Copy of the Original Will of John Phear late of Bratton Clovelly, Devon, Yeoman deceased. The same having been carefully examined by us. [signed] Fran B Farwell[?] William Hannaford Clerks to George Farwell Deputy Registrar of the Archdeacon's Court of Totnes

Transcribed by Kim Baldacchino  
15 July 2014