Prerogative Court of Canterbury and related Probate Jurisdictions: Will Registers, PROB 11/1937/26.

The Will of Nicholas Vivian of of Saint Maradox Villa in the Parish of Camborne in the County of Cornwall Gentleman, written 11 Jan 1840, proved 3 Nov 1840.

This is the last Will and Testament of me Nicholas Vivian of Saint Maradox Villa in the Parish of Camborne in the County of Cornwall Gentleman I give devise & bequeath all and every my messuages lands tenements and hereditaments and also my Household Goods Furniture Plate Linen China debts monies securities for money and all other my Estate and Effects of what nature or kind soever and wheresoever situate unto George Smith of Camborne aforesaid Gentleman and **my son Nicholas Joseph Vivian** their heirs executors administrators and assigns upon and for the trusts intents and purposes hereinafter mentioned that is to say Upon trust that they the said George Smith and Nicholas Joseph Vivian and the survivor of them his heirs executors administrators and assigns do and shall immediately after my decease call in and collect all the debts and sums of money due and owing to me and invest the same together with the monies which shall be received by them or him by virtue of any Policy or Policies of Insurance effected on my life in the names or name of the said Trustees and the survivor of them his executors administrators and assigns in any of the Parliamentary Stocks or Public Funds of Great Britain or upon Government real or long leasehold security determinable on lives in England and do and shall from time to time alter vary and transpose the same into or for other Stocks Funds or securities of the like nature at their or his discretion And I declare that the said George Smith and Nicholas Joseph Vivian and the survivor of them his heirs executors administrators and assigns shall stand and be possessed of and interested in the said messuages lands tenements Household Goods Furniture and effects Stocks Funds & securities and the rents and profits interest dividends and annual produce thereof Upon Trust to permit and suffer **Julia my Wife** to have hold use occupy and enjoy my dwelling house Gardens and Premises wherein I now reside called Saint Maradox Villa aforesaid if she shall choose to reside therein after my decease together with the household Goods Furniture and Effects therein and to pay and apply the rents issues and profits interest dividends and annual proceeds of all the rest of my messuages lands tenements and hereditaments Stocks funds and securities unto my said Wife or otherwise permit and suffer her to have receive and take same to and for her own absolute use & benefit for and during her natural life provided that in case the said yearly rents and profits interest dividends and annual proceeds shall exceed the sum of one hundred and twenty pounds per annum the surplus thereof after payment to my said wife of the yearly sum of one hundred and twenty pounds shall be paid to & divided between all and every my Children share and share alike subject to the proviso hereinafter contained and from and after the decease of my said Wife Upon further trust that they the said Trustees & the survivor of them his Executors Administrators and Assigns do and shall sell and dispose of my said Household Goods Furniture and Effects and pay and apply the proceeds thereof together with the rents and profits interest dividends and annual proceeds of my said messuages lands tenements and hereditaments stocks funds and securities

until the sale thereof as hereinafter mentioned equally between all my said Children share and share alike subject as aforesaid and in case of the decease of any or either of my said Children during the lifetime of my said Wife leaving issue him her or them surviving it is my Will and intention that such such (sic) issue shall be entitled to the Parents share so dying as aforesaid equally between them share and share alike Provided always and it is my further Will and intention that **my son James** shall not reside with his Mother after my decease but in case he shall continue so to do and shall receive his maintenance and support from her then and in that case I hereby declare that he shall not be entitled to any part of the surplus income of my said Estate during the life of my said Wife nor to an equal share of the rents profits interest dividends and annual proceeds of my messuages lands tenements and hereditaments Stocks Funds and securities after the decease of my said Wife nor to the proceeds thereof when the same shall be sold as hereinafter directed but that my said trustees and the survivor of them his executors administrators and assigns shall make such fair and reasonable deductions from his said share as they shall think fit and proper and the same shall from time to time go and be equally divided between such other of my said Children as shall be living and the issue of such of them as shall happen to be then dead leaving as aforesaid And I further declare that the trustees or trustee for the time being shall stand possessed of my said messuages lands tenements hereditaments and premises hereby devised and bequeathed to them as aforesaid Upon further trust with the consent and Approbation of all my said Children to sell and dispose thereof or of any part thereof when and as they shall deem convenient and proper for the benefit of my Estate and invest the produce thereof if necessary in the like funds and securities hereinbefore mentioned and pay and apply the interest dividends and produce thereof in such shares and manner as hereinbefore directed respecting the rents and profits thereof save and except such part of my said Estate as shall consist of shares and interest in Mines which I hereby direct my said trustees or trustee for the time being to sell & dispose of when and as they and he alone with or without the consent of my said Children shall deem proper and invest and pay the proceeds thereof in the same manner as hereinbefore directed concerning the other parts of my said messuages lands tenements and hereditaments as aforesaid it shall be lawful for the said George Smith and Nicholas Joseph Vivian and the survivor of them his heirs executors administrators and assigns to let set and demise the same premises which for the time being shall be untenanted for any term or number of years or otherwise as they shall think proper And I declare that it shall be lawful for the trustees or trustee time being of this my Will to pay all debts claimed from my Estate on any Evidence or Statement they or he shall think proper and to adjust settle and compromise and compound all accounts reckonings transactions and things in which my Property or any part thereof shall be in any way implicated or concerned or submit the same to arbitration upon such terms and conditions as they and he shall think expedient And that the receipts in writing of the trustees or trustee for the time being of this my Will for any monies payable or to be paid to them or him under the trusts hereof or any of them shall effectually discharge the person & persons respectively paying the same from all obligations of seeing to the application thereof and from all responsibility on account of the misapplication or nonapplication thereof Provided always that if the

said George Smith and Nicholas Joseph Vivian or either of them or any Trustee to be appointed in their or either of their stead or their respective Heirs executors or administrators shall depart this life or shall decline or become incapable to act in the trusts hereby in them reposed then and so often as it shall so happen it shall be lawful for the surviving or continuing trustee or for the heirs executors or administrators of the last acting trustee by an Deed or Deeds legally executed to appoint a trustee or trustees in the room of the trustee or trustees so dying or declining or becoming incapable to act And upon the appointment of every such new trustee or trustees the trust property shall be vested in the trustee or trustees so to be appointed jointly with the surviving or continuing Trustee or trustees or solely as occasion shall require And that every new Trustee shall have the same powers and authorities as the trustee in whose room or equal powers and authorities with the Trustee jointly with whom he shall be so appointed to act And that the respective Trustees for the time being acting under the trusts of this my Will shall not be answerable the one for the other of them nor for any involuntary loss nor for the deficiency of any security in which the trust funds shall be invested nor for any trust funds which may be deposited in the hands of any Banker Broker or other person for safe Custody or in the execution or intended execution of the aforesaid trusts And that it shall and may be lawful for every of them my said trustees out of the trust property to reimburse themselves respectively of any Costs and expenses of any description incurred in the execution or intended execution of the trusts hereby created And I do hereby constitute and appoint the said George Smith and Nicholas Joseph Vivian joint Executors of this my Will and hereby revoking all former Wills and testamentary dispositions by me at any time heretofore made I do declare this only to be my last Will and Testament In Witness whereof I the said Nicholas Vivian the Testator have to this my last Will and Testament contained in this and the three preceding sheets of paper set my hand to each of the said three sheets and my hand and seal to this last sheet this eleventh day of January one thousand eight hundred and forty. N. Vivian (LS.).

Signed sealed and acknowledged by the above named Nicholas Vivian the Testator in the presence of us present at the same time who have hereunto signed our names as Witnesses thereto in the presence of the said Nicholas Vivian and in the presence of each other, Wm B Yewens Sol. Camborne – J H Bennett Camborne.

Proved at London 3rd November 1840 before the Judge by the Oath of George Smith one of the Executors to whom Administration was granted having been first sworn by Commission duly to administer Power reserved of making the like Grant to Nicholas Joseph Vivian the Son the other Executor when he shall apply for the same.