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Proved at London 29<sup>th</sup> Jan<sup>y</sup> 1850 before the Judge by the Oaths of a John Williams Thomas Henry Jerratt and James Williams the Executors to the said John Williams was granted having been first sworn by Commission duly to do.

Extracted from the Registry of the Prerogative Court of York.

# This is the last Will and Testament

of me Hugh Breakell Hornby of Liverpool in the County of Lancashire Bachelor Clerk I appoint my dear son in law John Linton of Liverpool aprentice Merchant Clerk and Daniel Doyse of Liverpool aprentice Clerk the Executors of this my Will And I give and devise all and every the freehold copyhold and leasehold tenements lands tenements and hereditaments whatsoever wheresoever situate or wheresoever I may be at the time of my decease seized possessed or entitled as mortgagee or in trust for any person or persons with their appurtenances to the said John Linton and Daniel Doyse their heirs executors administrators and assigns according to the nature thereof respectively subject to such equity of redemption and upon such several trusts as at my decease shall be subsisting in or capable of taking effect respecting the same And I direct that the money raised to me by any such mortgage shall be added to and taken as part of my personal Estate to be disposed of as hereinafter directed concerning the same And I do hereby confirm a certain settlement made by me by indenture dated on or about the fifteenth day of May last and made or expressed to be made between me the said Hugh Breakell Hornby of the one part and Samuel Henry Thompson Esquire and Richard Wood Jones Esquire of the other part and I do hereby declare that it is my intention that nothing in this my Will contained shall operate as an execution of any power contained in the said indenture and I give and bequeath unto my dear Granddaughter Margaret Hornby (the daughter of my late son John Hornby who deceased the name of her mother as provided for her son benefit absolutely and I give and devise unto the said John Linton and Daniel Doyse their heirs and assigns two freehold fields in the Township of Walton on the hill in the parish of Walton on the hill in the County of Lancaster one of which fields I purchased from Mr. ... and the other of which fields I purchased from Mr. ...

And both of which fields are now in the occupation of Mr. Robert Hughes together with the appurtenances thereto belonging to hold the same unto the said John Linton and Daniel Doyse their heirs and assigns to the use of my said son Hugh Breakell Hornby and his assigns for and during the term of his natural life and from and after his decease to the use of Arthur Thompson Hornby the son of my said son Hugh Breakell Hornby his heirs and assigns for ever and as to all the Rest Residue and Remainder of my real and personal Estate and effects of what nature or kind soever I give devise and bequeath the same unto the said John Linton and Daniel Doyse their heirs executors administrators and assigns for and during all my estate and interest therein upon the several trusts following that is to say I order and direct that they the said John Linton and Daniel Doyse and the survivor of them and their heirs executors and administrators of such survivor do and shall permit and suffer my a dear wife Mary Hornby and her assigns to occupy possess use and enjoy during so much of her natural life as she shall continue my widow and unmarried my leasehold dwellinghouse in Anson Street in Liverpool aforesaid together with the household furniture plate linen china and glass pictures books paintings watches jewelry and knicknacks which at the time of my decease may be my place of residence and I order and

Hugh  
Breakell  
Hornby.  
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direct that the said John Dinton and Daniel Doyle and the survivors of them  
and the heirs executors and administrators of such survivor shall stand as  
seized and possessed of all my freehold copyhold and leasehold messuages in  
lands tenements rents and hereditaments whithersoever and wheresoever (other  
than my said leasehold dwellinghouse in Russell Street in Liverpool as  
aforesaid) after the decease or second marriage of my said wife upon Trust  
at such time or several times as they or he shall in their or his uncontrol-  
led discretion think proper make sale and absolutely dispose of all or  
my said last mentioned freehold copyhold and leasehold messuages lands  
tenements rents and hereditaments for all my estate and interest in the  
same respectively either by public auction or by private contract or partly  
by one mode and partly by the other mode and either altogether or in  
such lots or parcels and in such manner and subject to such conditions  
and stipulations as to them or him shall seem most advantageous to any  
person or persons for the best price or prices in money that can be reason-  
ably had or gotten for the same with liberty for my Trustees or Trustee  
thereof for the time being to buy in the same freehold copyhold or leasehold  
messuages lands tenements rents and hereditaments or any part thereof at  
any such auction or auctions and to vary or renew or annul any contract  
or contracts and afterwards to resell the same by either of the modes aforesaid  
or partly by one mode and partly by the other mode without being re-  
sponsible for any loss or diminution of price at such resale and I declare  
that upon every such sale as aforesaid the receipt or receipts of the Trustees  
or Trustee for the time being of the hereditaments so sold shall be a good  
and sufficient discharge to the purchasers of the same hereditaments and  
respectively for so much of their purchase money as shall be therein ex-  
pressed to have been received and that such purchasers shall not after-  
wards be answerable for any loss misapplication or nonapplication of  
such purchase money so to be received or any part thereof and I declare that  
(notwithstanding the trusts for sale and conversion hereinbefore contained  
it shall be lawful and competent for the Trustees or Trustee thereof for the  
time being under this my will at their or his uncontrolled discretion  
to postpone and defer the sale and conversion of the whole or any part  
of my said freehold copyhold and leasehold estates hereinbefore directed  
to be sold for such period as to them or him shall seem expedient and  
I declare that all such freehold copyhold and leasehold estates shall  
from and after my decease be deemed to be of the nature of personal  
estate and I declare that until such sale and conversion the rents issues  
and profits and annual income arising from the estates remaining unsold  
shall be received by my said Trustees or Trustee and be paid and applied as  
from and after my decease in the same manner as the dividends interest  
and annual produce of the monies to arise from such sales would be  
applicable under the trusts herein declared if such estates and premises  
were actually sold and the money invested in the manner herein directed  
concerning the same and as to such parts of my personal estate as shall  
not consist of money or securities for money (other than and except my  
said household furniture plate linen china and glass fixtures books car-  
paintings watches jewelry and trinkets) from and immediately after my  
decease and as to my said household furniture plate linen china and  
glass fixtures books paintings watches jewelry and trinkets from and  
immediately after the decease or second marriage of my said wife (whichever  
of those events shall first happen) I direct my said Trustees or Trustee  
thereof for the time being to sell and convert the same into money and  
I direct that the said John Dinton and Daniel Doyle and the survivors of  
them and the heirs executors and administrators of such survivor shall  
stand possessed of the principal monies whithersoever shall be received by them in  
respect of my estate during the lifetime and before the second marriage of



my said wife and also of so much of my personal Estate as shall consist of  
 securities for money upon Trust to invest the same in manure hereinafter  
 after directed and during so much of the natural life of my said wife Mary  
 Choruby as she shall continue my widow and unmarried to pay to her or to  
 her assigns out of the dividends interest and annual produce of the same  
 last mentioned principal trust monies and securities the yearly annuity  
 or sum of one hundred pounds by equal quarterly payments on every  
 the first days of January April July and October the first payment to be  
 made on the first of those days which shall happen next after my as-  
 descent together with a proportionate part of the current quarter thereof  
 imputed to the day of the descent or second marriage of my said wife  
 and to pay and divide the remainder of such dividends interest and a  
 annual produce equally between my three dear sons George Choruby of  
 Liverpool aforesaid Robert Choruby of Liverpool aforesaid a  
 painter and Hugh Breckill Choruby of Liverpool aforesaid a clerk in the  
 service of the Trustees of the Liverpool Docks and my three daughters  
 Margaret the wife of the said John Linton and Mary Ellen Choruby of  
 Liverpool aforesaid spinster for their own benefit absolutely as tenants  
 in common and not as joint tenants during so much of the natural life  
 of my said wife Mary Choruby as she shall continue my widow and  
 unmarried And in case it shall happen that my said son George  
 Choruby Robert Choruby and Hugh Breckill Choruby the younger and my  
 said daughters Margaret Linton and Mary Ellen Choruby or any of them  
 shall die before the descent or second marriage of my said wife (whichever  
 of those events shall first happen) leaving left issue then living at  
 that and in case of such case I order and direct that the share hereinafter  
 before directed to be paid to such son or daughter who shall so die of  
 the surplus of such dividends interest and annual produce of the said  
 principal trust monies shall be paid and applied by the Trustees or Trustee  
 thereof for the time being in the maintenance education and advancement  
 in the world of the issue of such son or daughter who shall  
 so die respectively And in case it shall happen that my said son George  
 Choruby Robert Choruby and Hugh Breckill Choruby the younger and my  
 said daughters Margaret Linton and Mary Ellen Choruby or any of them  
 shall die before the descent or second marriage of my said wife (whichever  
 of those events shall first happen) leaving left no issue then living then and  
 in case of such case I order and direct that the share hereinafter before directed  
 to be paid to such son or daughter who shall so die of the surplus of a  
 such dividends interest and annual produce of the said principal trust  
 monies shall be paid by the Trustees or Trustee thereof for the time being  
 to and equally amongst the survivors of my said last mentioned sons and  
 daughters and in the maintenance education and advancement in the  
 world of the issue of any of them who may be then dead having left issue  
 such issue taking the share or shares respectively to which their parent  
 or respective parents would have been entitled if living And I order and  
 direct that the said John Linton and Daniel Doyle and the survivor of them  
 and the executors and administrators of such survivor shall after the  
 descent or second marriage of my said wife (whichever of those events shall  
 first happen) stand possessed of all the principal monies which shall arise  
 or be produced and be received by them from or in respect of the residue of  
 my said real and personal Estates upon Trust to pay and divide the same  
 unto and equally amongst such of my said three sons George Choruby, a  
 Robert Choruby and Hugh Breckill Choruby the younger and my said daugh-  
 ters Margaret Linton and Mary Ellen Choruby as shall be living at the  
 descent or second marriage of my said wife (whichever of those events shall  
 first happen) and shall then have attained or shall hereafter attain the  
 age of twenty one years provided that if any of my said five last named

children shall be dead at the decease or second marriage of my said wife or  
(whichever of those events shall first happen) leaving left issue who shall  
be then living or if any of my said five last named children shall depart this  
life under age after that period leaving issue then and in case of such case the  
issue of each such deceased child shall be entitled to the same share as this  
lier or their parent or respective parents would have been entitled to if such  
parent or parents respectively had survived the period when my said wife  
shall be dead or married again and has attained the age of twenty one  
years and issue taking as a class or classes by representation and not as  
individuals and if more than one of any class as tenants in common as  
provided always and I do hereby order and direct that the several and respec-  
tive distributive and accruing shares of the said principal trust monies to  
which under the limitations aforesaid my daughters or any of them may  
at any time or times during their or her lives or life become entitled either  
primarily or by survivorship shall (notwithstanding such limitations) be re-  
tained by the Trustees or Trustee thereof for the time being under this my  
will and shall be therefor held by them or him upon Trust to invest the  
same in manner hereinafter mentioned and to pay the dividends interest  
and annual produce of the share of such principal trust monies to which a  
certain such daughter may so become entitled (as the same dividends interest  
and annual produce shall from time to time be received by them or him  
into the proper hands of each such daughter respectively so entitled to the  
intent that such dividends interest and annual produce may be for the sole  
and separate use of each such daughter so entitled respectively and may  
not be subject to the debts control or engagements of any husband or ex-  
husbands and that they the same daughters respectively shall not use or draw  
any of them (whether covert or sole) make any assignment or appointment  
by way of anticipation of such dividends interest and annual produce or  
of any part thereof before the same shall have become due And I declare  
that the receipt of each such daughter respectively so entitled as aforesaid  
alone (whether covert or sole) and of no other person or persons whatsoever  
shall be good and sufficient discharge to the Trustees or Trustee for  
the time being of this my will for so much of such dividends interest and  
annual produce herebefore directed to be paid to them respectively as  
shall be therein expressed to have been received And after the decease  
of each such daughter respectively whose share of the said principal trust  
monies is hereby directed to be retained in trust as aforesaid upon Trust to  
sell in and pay and divide the same distributive share to which each such  
daughter so dying respectively may be entitled amongst or unto all and  
every or such one or more exclusively of the others or any other of the  
children or more remote issue of each such daughter respectively (such a  
more remote issue being born in the lifetime of each such daughter or  
respectively or within twenty one years afterwards) and to be paid to them  
him or her at such time or times and in such parts shares and propor-  
tions and with under and subject to such powers provisions conditions and  
limitations being for the benefit of some or one of them as each such  
daughter respectively (whether covert or sole) with respect only to the share  
to which she may be entitled as aforesaid shall at any time or times after  
my decease by any deed or deeds or by her last will and Testament or any  
Cobinil or Cobinils hereto or any writing in the nature of or purporting  
to be her last will and Testament or a Cobinil or Cobinils hereto direct or  
appoint And for want of such direction or appointment and subject to  
any such which shall not be a complete disposition of the whole of such  
last mentioned distributive share of such principal trust monies to which  
each such daughter shall so become entitled respectively then upon a  
Trust to pay and divide the same unto and equally amongst all and  
every the children of each such daughter respectively who shall be living



at the time of the decease of each such daughter respectively and who shall thereafter  
 attained or shall thereafter attain the age of twenty one years provided that if  
 any of the children of any of my daughters who shall so become entitled as  
 aforesaid shall be dead at the time of the decease of their Mother or respective  
 Mothers having left issue who shall be then living or if any of such children  
 shall be under the age of twenty one years after the decease of their Mother  
 or respective Mothers leaving issue then and in each of such cases the  
 issue of each such deceased child shall be entitled to the same share as  
 such their deceased parent or parents would have been entitled to respec-  
 tively if such parent or parents respectively had survived their respective  
 Mothers and had attained the age of twenty one years such issue taking as  
 a class or classes by representation and not as individuals and if more than  
 one of any class as tenants in common and in case it shall happen that  
 any one or more of my daughters who shall so become entitled as aforesaid  
 shall depart this life and that no issue of her or them respectively shall  
 live to attain a vested interest in such her or their share or respective  
 shares of the said principal trust monies then after the decease of each  
 such daughter respectively and such failure of her issue I direct the  
 Trustees or Trustee thereof for the time being under this my will to pay and  
 divide the same unto or amongst such person or persons and at such time  
 or times and in such parts shares and proportions and for such intents as  
 and purposes and with under and subject to such limitations powers in-  
 provisions conditions and declarations and in such sort manner and form  
 as each such daughter respectively so dying shall whether covert or sole  
 with respect only to the share or respective shares to which each such a  
 daughter respectively so dying may have become entitled as aforesaid shall  
 at any time or times after my decease by any such her Decree or Decrees or  
 will or Wills as aforesaid direct or appoint and in default of such di-  
 rection or appointment unto and equally amongst all and every my  
 children who shall be living at the time of the decease and failure of a  
 issue of each such daughter so dying respectively and the issue then living  
 of such of them as shall be then dead such issue taking as a class or  
 classes by representation and not as individuals and if more than one of  
 any class as tenants in common provided also and I do hereby declare  
 that it shall be lawful and competent for all or any of my daughters or  
 whose shares shall be so retained in trust as aforesaid either before or after  
 her or their marriage with any husband or husbands whom she or they  
 may marry by any Decree or Decrees with or without power of revocation  
 or by her or their will or any codicil thereto from time to time to direct or  
 appoint that the dividends interest and annual produce of all or any part  
 of the share of such daughter respectively in any part of the said principal  
 trust monies shall be paid to any such husband whom she may so marry  
 and to his assigns or for his separate use without power of anticipation  
 and either for his natural life or to cease upon his marrying again or for  
 any period or estate terminating in his lifetime and to commence either  
 during the lifetime or at the decease of such daughter or at any other  
 period and for such intents and purposes and with under and subject to such  
 powers provisions conditions and declarations and in such sort manner and  
 form as to such daughter shall seem meet and I do authorize and direct all  
 and every the Trustees and Trustee thereof for the time being in whom any  
 of the aforesaid trust monies shall be vested by virtue of this my will at times  
 or his absolute and unrestricted discretion to apply the whole or a competent  
 part of the dividends interest and annual produce of the vested or presumptive  
 share or shares for the time being of any of my children or their issue in the  
 said principal trust monies or any part thereof in the maintenance education  
 and advancement in the world of such children or child or issue during their  
 respective minorities either immediately or by payment into the hands of

Guardians or Guardian of such Children or Child or Issue respectively and for  
which his or her receipt shall be a sufficient discharge to such Trustees or  
Trustee and that without reference to the ability of any parent or parents of a  
such Child or Child or Issue to maintain them or him or her and in case  
the moneys so authorized to be laid out shall in the opinion and judgment of  
the Trustees or Trustee thereof for the time being be insufficient for those  
purposes and for putting out apprentice or qualifying or placing or advancing  
in the world any of such Children or Issue then I direct the Trustees or Trustee  
thereof for the time being at their or his absolute and uncontrolled discretion  
from time to time as often as there shall be occasion to take and apply for the  
purposes aforesaid so much of the principal moneys of the vested or presumptive  
share or shares for the time being of any such Children or Issue in the same  
trust moneys or any part thereof as shall be necessary to make up the deficiency  
and I do hereby declare that the moneys so to be taken from the principal or  
moneys shall be accounted and returned as part of the portion or share of the  
Children or Child or Issue respectively for whose use the same shall be taken  
and I direct that the surplus of all such dividends interest and annual or  
produce which shall not be applied for such maintenance education and  
advancement as aforesaid shall accumulate for the benefit of such of my  
Children or their Issue as may eventually become entitled to the principal or  
from which the same shall have arisen or may be applied in making good  
the insufficiency thereof in any preceding year or years for the aforesaid  
purposes and I order and direct that all and every the trust moneys aforesaid  
shall from time to time until the same shall be divisible or payable or  
under the trusts and limitations aforesaid be invested and placed out at an  
interest by and in the names or name of the Trustees or Trustee in whom  
the same shall for the time being be vested in such of the public funds of  
Great Britain as are not of a determinable nature or in the purchase of  
any share or shares in any Railway or Railways in England established by  
Act of Parliament or on mortgage of freehold copyhold or leasehold lands or  
hereditaments in Great Britain or on the security of the Bond or Debenture or  
Assignment of Rates or Duties of any Corporation or Company authorized by  
Parliament to borrow money (with power for such Trustees or Trustee respec-  
tively to alter vary and transmute such funds and securities from time to  
time at discretion) and I empower the Executors and Trustees for the time being  
of this my will in the execution of the trusts hereby reposed in them or him  
to compound for or allow such time or accept such security real or personal for  
the payment of any sum or sums of money which shall be owing to me at  
the time of my decease or which shall become owing to my estate after my  
decease as by them or him shall be deemed expedient whether the debt or  
debts so compounded for shall be secured or not and also to refer to arbitration  
or otherwise adjust settle or compromise all or any questions or disputes that  
may happen to arise with any person or persons concerning my estate or  
real or personal or any other contentious matters or things which however  
relating thereto and I hereby empower the Executors and Trustees for the  
time being of this my will if they or he shall think proper to give and to  
execute to any accounting or responsible party or parties full and complete  
releases and discharges from all claims and demands whatsoever whether  
amounting to the general rule in Equity the giving of such releases or discharges  
shall be strictly within the scope of their or his authority or not and I further  
empower the Executors for the time being of this my will if deemed expedi-  
ent to pay any sums of money claimed to be owing from me although such  
claim or claims may not be substantiated by strictly legal evidence and  
although the same may have become legally irrecoverable by lapse of time  
provided nevertheless and I declare that this present clause shall not be a  
hindrance to revive or perpetuate any claim or demand against my estate  
and I declare that if the Trustees hereby appointed or any of them or any



future Trustee or Trustees to be appointed as hereinafter mentioned or his heirs  
 executors or administrators of any sole surviving Trustee shall die or be  
 desirous of being discharged from or shall refuse or refuse to act in the  
 execution of the trusts hereof before the same shall have been fully executed  
 or in case it shall be deemed advisable to increase the number of Trustees  
 for the time being then and in any of such cases it shall be lawful for  
 the surviving or continuing Trustees or Trustee for the time being (if any)  
 and if there shall be no surviving or continuing Trustee then for the  
 Trustee or Trustees so continuing or refusing to act and if there shall be no  
 Trustee then for the heirs executors or administrators of such of them so  
 dying by any writing under their or his or her hands and seals or seals  
 and seal to nominate and appoint any other fit person or persons to be  
 a Trustee or Trustees for the purposes aforesaid and whosoever Trustee  
 or Trustees shall be appointed the surviving or continuing Trustees or Trustee  
 or the heirs executors or administrators of the survivor shall convey  
 and assign all the trust estates monies and premises then vested in a  
 them or him or her in such manner that the same may become effectually  
 vested in the surviving or continuing Trustees or Trustee jointly with  
 such new Trustee or Trustees or in such new Trustee or Trustees only as the  
 case may happen upon the trusts aforesaid or such of them as shall be then  
 capable of taking effect and every person so appointed shall have all the  
 powers and authorities of the Trustees named in this my will and I declare  
 that the Executors and Trustees for the time being or any of them shall be  
 chargeable only with the said and their own acts receipts and pay-  
 ments and with such monies only as they or she shall actually receive  
 and not with any loss that may happen in the execution of the aforesaid  
 trusts without his or their wilful default and that it shall be lawful for  
 them respectively to reimburse themselves and others their Trustees all  
 reasonable charges and expenses incurred in relation to the trusts hereby  
 devised and devote all former wills by me at any time heretofore made  
 in witness whereof I have to this and the ten preceding sheets of this my  
 will set my hand this twentieth day of July in the year of our Lord  
 one thousand eight hundred and forty eight — H. B. Hornby —  
 signed and declared by the above named Testator Hugh Breakill Hornby on  
 the twentieth day of July one thousand eight hundred and forty eight  
 as and for his last will and Testament in the presence of us present at the  
 same time and in the presence of the said Testator and at his request  
 and in the presence of each other have hereunto subscribed our names as  
 witnesses. Will<sup>m</sup> Wood Solicitor Liverpool, John Pierce Clerk to M<sup>r</sup> Wood.

**This is a Codicil** to the last will and Testament of me  
 Hugh Breakill Hornby of Liverpool in the County of Lancashire Merchant  
 Clerk and whose will bears date the twentieth day of July one thousand  
 eight hundred and forty eight I give and bequeath unto my dear son in  
 law John Sutton of Liverpool aforesaid Merchant's Clerk and to Daniel Dwyer  
 of Liverpool aforesaid Merchant's Clerk the Executors named in my said will  
 the sum of fifty pounds cash as an acknowledgment for the trouble which  
 they will have as the Executors of my said will and in all other respects  
 I confirm my said will in witness whereof I have hereunto subscribed my  
 hand this twelfth day of June in the year of our Lord one thousand eight  
 hundred and forty nine — H. B. Hornby — signed and declared by the  
 above named Hugh Breakill Hornby on the twelfth day of June one thousand  
 eight hundred and forty nine as and for a Codicil to his last will and Testa-  
 ment in the presence of us present at the same time and in his presence  
 and at his request and in the presence of each other have hereunto  
 subscribed our names as witnesses. Will<sup>m</sup> Wood Sol<sup>r</sup> Liverpool —  
 John Pierce Clerk to M<sup>r</sup> Wood.