

SENTENCE FOR CONFIRMING THE WILL OF THOMAS JUXON⁶⁶⁵

Sententia pro confirmacone testamenti Thomae Juxon

In Dei nomine amen. Auditis visis et intellectis ac plenarie et mature discussis per nos Robertum Wyseman militem legum doctorem surrogatum venerabilis viri domini Leolini Jenkins militis legum etiam doctoris curiae prerogativae Cantuariensis magistri custodis sive commissarii legitime constituti meritis et circumstantiis cuiusdam negotii testamentarii sive probaconis per testes testamenti sive ultimae voluntatis Thomae Juxon nuper de East Sheen in comitatu Surriae defuncti (habentis dum vixit et mortis suae tempore bona jura sive credita in diversis diocesibus sive peculiaribus jurisdictionibus sufficientia ad fundanda jurisdictionem curiae prerogativae Cantuariensis). Quod coram nobis in iudicio inter Elizabetham Juxon filiam et executricem nominatam in testamento dicti defuncti partem huiusmodi negotium promoventem ex una et Thomam Juxon et Georgium Juxon nepotes ex fratre dicti defuncti partes contra quas idem negotium promovetur partibus ex altera vertitur et pendet *indecisum rite et legitime procedens partibus praedictis per earum procuratores legitime constitutos coram nobis in iudicio legitime comparantibus parteque praefatae Elizabethae Juxon sententiam ferri et iustitiam fieri pro parte sua parte vero memoratorum Thomae Juxon et Georgii Juxon iustitiam etiam pro parte sua instanter respective postulantis et petentibus rimatoque primitus per nos toto et integro processu alias coram nobis in hoc negotio habito et facto ac diligenter recensito servatisque per nos de jure in hac parte servandis ad nostrae sententiae diffinitivae sive nostri finalis decreti in hoc negotio ferendi prolaconem sic diximus procedendum fore et procedimus in hunc qui sequitur modum [~~crossed out~~] <[in margin] originale sic> Quia per acta inactitata deducta allegata exhibita proposita pariter ac probata in hoc negotio comperimus luculenter et invenimus partem praefatae Elizabethae Juxon intentionem suam in quadam allegatione articulata et testamento dicti Thomae Juxon defuncti aliisque propositis et exhibitis alias ex parte dictae Elizabethae Juxon in hoc negotio datis exhibitis et admissis penesque registrum huius curiae remanentibus deductam (quae quidem allegationem testamentum aliaque proposita predicta pro hic lectis et insertis habemus et haberi volumus) sufficienter et ad plenum (quoad infra pronuntiandum) fundasse pariter et probasse Nihilque effectuale ex*

⁶⁶⁵ PRO, PROB 11/346/136

parte dictorum Thomae Juxon et Georgii Juxon in hoc negotio exceptum deductum allegatum exhibitum probatum aut confessatum fuisse aut esse quod intentionem partis dictae Elizabethae Juxon in hac parte elideret seu quomodolibet enervaret Idcirco nos Robertus Wyseman miles legum doctor surrogatus antedictus (Christi nomine primitus invocato ac ipsum solum Deum oculis nostris praeponens et habens deque et cum consilio jurisperitorum cum quibus in hac parte communicavimus matureque deliberavimus) praefatum Thomam Juxon defunctum dum vixit mentis compotem et in sua sana memoria existentem testamentum suum in scriptis in hoc negotio exhibitis suam in se continens ultimam voluntatem rite et legitime fecisse et condidisse ac in eodem sive eadem praefatam Elizabetham Juxon eius filiam executricem nominasse et constituisse et dedisse voluisse legasse et disposuisse caeteraque fecisse prout in eodem testamento continetur proque viribus valore et validitate dicti testamenti ad omnem juris effectum pronunciamus decernimus et declaramus illudque probamus approbamus et insinuamus per presentes necnon probaconem approbationem et insinuationem eiusdem alias in communi forma nomine dictae Elizabethae Juxon executricis antedictae habitam et factam ratificamus et confirmamus per hanc nostram sententiam definitivam sive hoc nostrum finale decretum quam sive quod ferimus et promulgamus in hiis scriptis

LECTA lata et promulgata fuit haec sententia definitiva secundo die juridico post festum sive diem Sancti Valentini episcopi die Martis decimo septimo die mensis Februarii anno domini (stylo Angliae) millesimo sexcentesimo septuagesimo tertio per venerabilem virum dominum Robertum Wyseman militem legum doctorem surrogatum venerabilis et egregii viri domini Leolini Jenkins militis legum etiam doctoris curiae prerogativae Cantuariensis magistri custodis sive commissarii legitime constituti in aula communi hospitii duorum advocatorum London infra parochiam Sancti Benedicti prope Ripam Paulinam London notorie scituatam ad petitionem Magistri Samuelis Francklyn notarii publici procuratoris originalis supranominatae Elizabethae Juxon ac in praesentia Magistri Radulphi Suckley notarii publici procuratoris originalis supranominati Thomae Juxon et Georgii Juxon super cuius sententia prolatione dictus Francklyn requisivit me Marcum Cottle armigerum notarium publicum dictae curiae registriam tunc presentem unum vel plura instrumenta publica exinde conficere ac testes inferius nominatos coram testimonium desuper perhibere presentibus tunc et ibidem venerabilibus viris Thoma Exton Richardo Lloyd et Thoma Pinfold legum respective doctoribus dictae curiae advocatis necnon Alexandro Dyer Thoma Swallow et Everardo Exton notariis publicis dictae curiae procuratoribus testibus etc.⁶⁶⁶

⁶⁶⁶ *Sentence for proving the will of Thomas Juxon*

In the name of God, amen. The merits and circumstances of a testamentary suit or a

probate by witnesses of the will or last wishes of Thomas Juxon, late of East Sheen in the county of Surrey, deceased, have been heard, seen and understood, and fully and speedily investigated by me, Sir Robert Wyseman, knight, doctor of civil law, surrogate for Sir Leoline Jenkins, also doctor of civil law, master, warden or commissary lawfully appointed of the prerogative court of Canterbury. [Juxon] had during his life, and at the time of his death, property rights and credits in several dioceses or peculiar jurisdictions sufficient in value to come within the jurisdiction of the prerogative court of Canterbury. The case for my judgment was a court case between Elizabeth Juxon, the daughter of the aforesaid deceased person, and the executrix named in his will, the party who brings the case, on the one side, and, on the other, Thomas and George Juxon, his nephews (sons of the deceased man's brother), the parties against whom this same case is brought. Since the issue between them was pending and undecided, and the case was duly and lawfully proceeding, the aforesaid parties appeared before me in court by their lawfully appointed representatives (proctors). Elizabeth Juxon's side asked and required that my sentence should be pronounced and justice should be done in its favour, and the side of the aforesaid Thomas Juxon and George Juxon asked for justice to be done in its favour, both sides wanting and pressing for a decision. I first examined and carefully reviewed the whole of the proceedings that were held and conducted before me on another occasion. Then, observing all the procedures which I am bound to observe, I thought it right to proceed to the declaration of my definitive sentence, or final decree, that I have to make in this case, and I declare my judgment in manner following [marginal note: the original has this (a reference to the crossing out of the word *modum*, meaning manner)].

From what has been done, enacted, presented, alleged, shown to me, put before me, as well as proved in this case, I have discovered and clearly found that Elizabeth Juxon's side has based its argument on an allegation (with several articles), on the will of the late Thomas Juxon, and on other things put before me or shown to me on another occasion on behalf of the said Elizabeth Juxon, things which have been handed over, produced and admitted in this case, and remain with the Registrar of this court (I wish these things – the allegation, the will, and the other material presented – to be taken as read and included in this case); that they have established and proved their argument sufficiently and fully (to the extent that will be declared below), but that nothing to any purpose has been excepted, deduced, alleged, shown, proved or confessed in this case on behalf of the said Thomas Juxon and George Juxon, and nothing has been said to counter or in any way weaken the argument of Elizabeth Juxon's side.

Therefore I, Sir Robert Wyseman, D.C.L., surrogate (see above), having first called upon the name of Christ and having God himself solely before my eyes, and having taken the advice of counsel with whom I have discussed this case and speedily considered it, declare that the late Thomas Juxon was in full possession of his faculties while he lived, and of sound memory; that he duly and lawfully made and drew up his will in the writings which have been exhibited in this case, a will which contained his last wishes; that in that will or those last wishes he named and appointed his daughter Elizabeth Juxon as his executrix and made those gifts, expressed those wishes, made those bequests and dispositions, and did everything else exactly as appears in that same will, with full legal effect, in accordance with the force, value and validity of the said will. This I pronounce, decree and declare, and I prove, approve and enter that will by these present writings; and I ratify and confirm the proving, approving and entering of the same, performed and made at another time in common form in the name of Elizabeth Juxon, the aforementioned executrix, by this definitive sentence or final decree, which I publish and make known in these writings.

This definitive sentence was read, published and make known on the second law day after the feast or day of St Valentine, bishop, on Tuesday the 17th day of the month of February A.D. 1674 (by English dating), by the worshipful Sir Robert Wyseman, D.C.L.,

surrogate of the worshipful and honourable Sir Leoline Jenkins, also D.C.L., master, warden or lawfully appointed commissary of the prerogative court of Canterbury, in the common hall of the two barristers' inn in London, which, as is well known, is in the parish of St Benet near Paul's Wharf in London, on the petition of Master Samuel Francklyn, notary public, the original representative of the abovenamed Elizabeth Juxon, and in the presence of Master Ralph Suckley, notary public, the original representative of the abovenamed Thomas and George Juxon. In addition to the declaration of this sentence, the said Mr Francklyn asked me, Mark Cottle esquire, notary public and registrar of the said court, being then present, thereof to make one or more public instruments, and asked the witnesses named below to bear witness thereupon in the presence, then and there, of the worshipful Thomas Exton, Richard Lloyd and Thomas Pinfold, all doctors of law, barristers of the said court, and Alexander Dyer, Thomas Swallow and Everard Exton, notaries public, proctors of the said court; these bearing witness etc.