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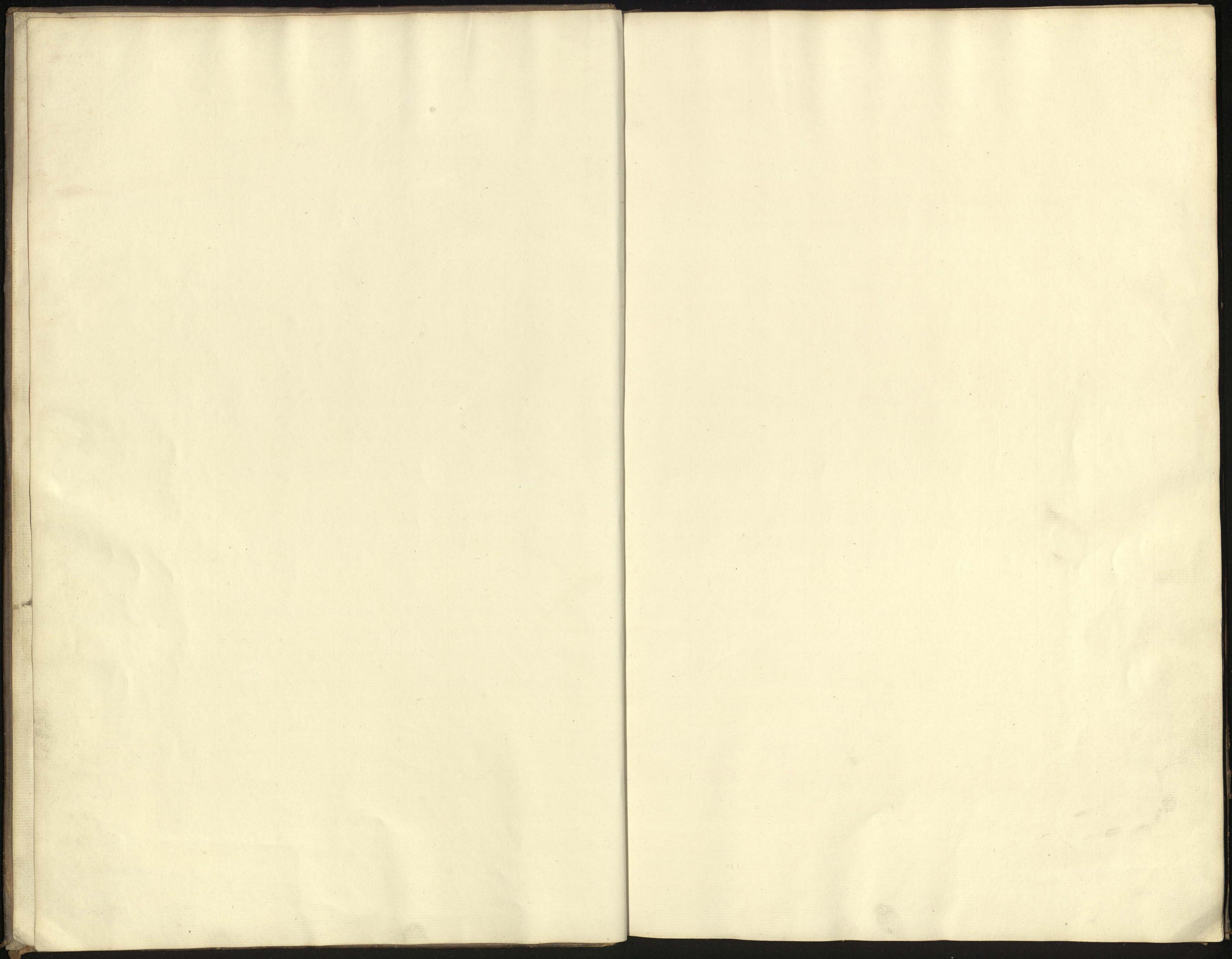
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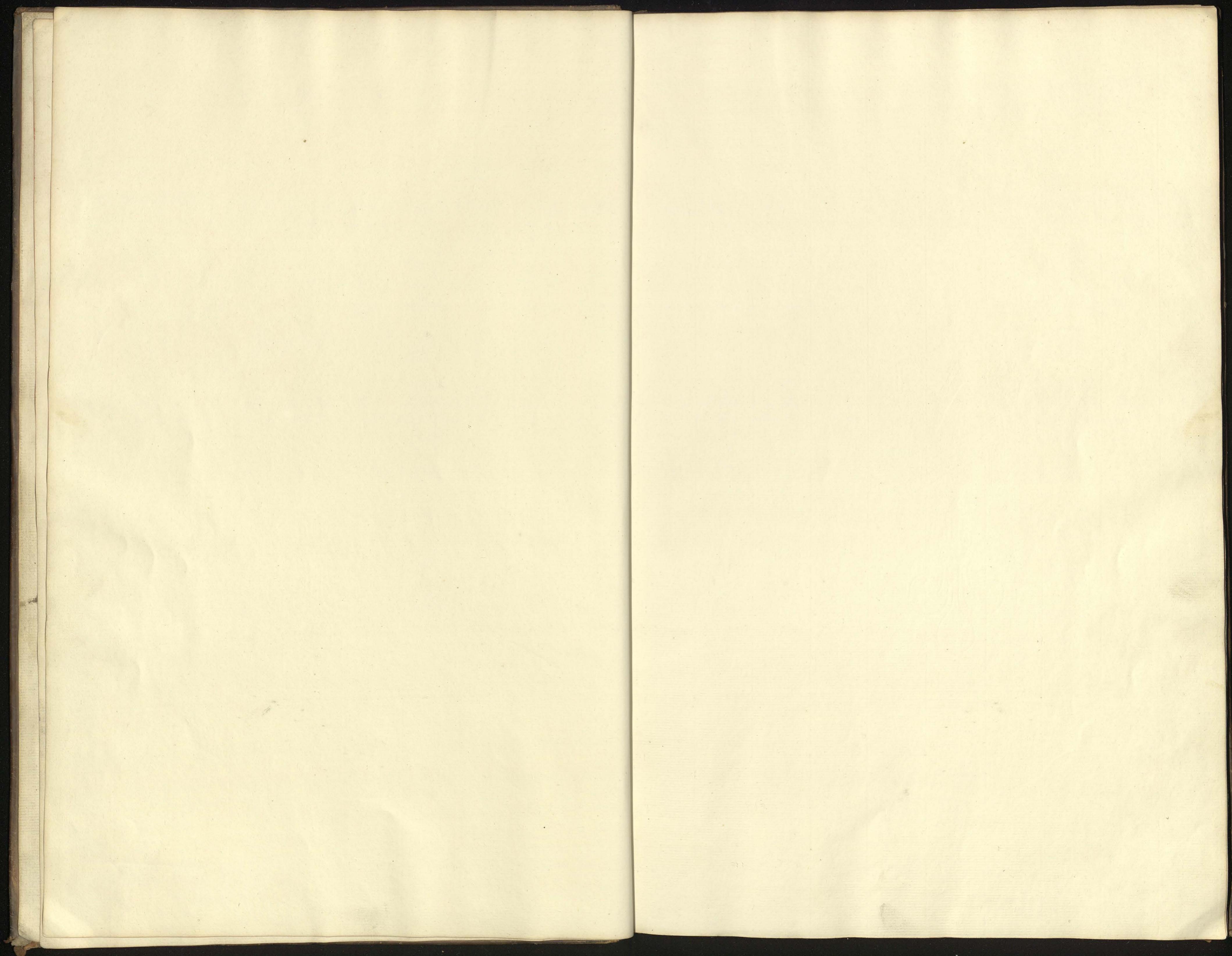
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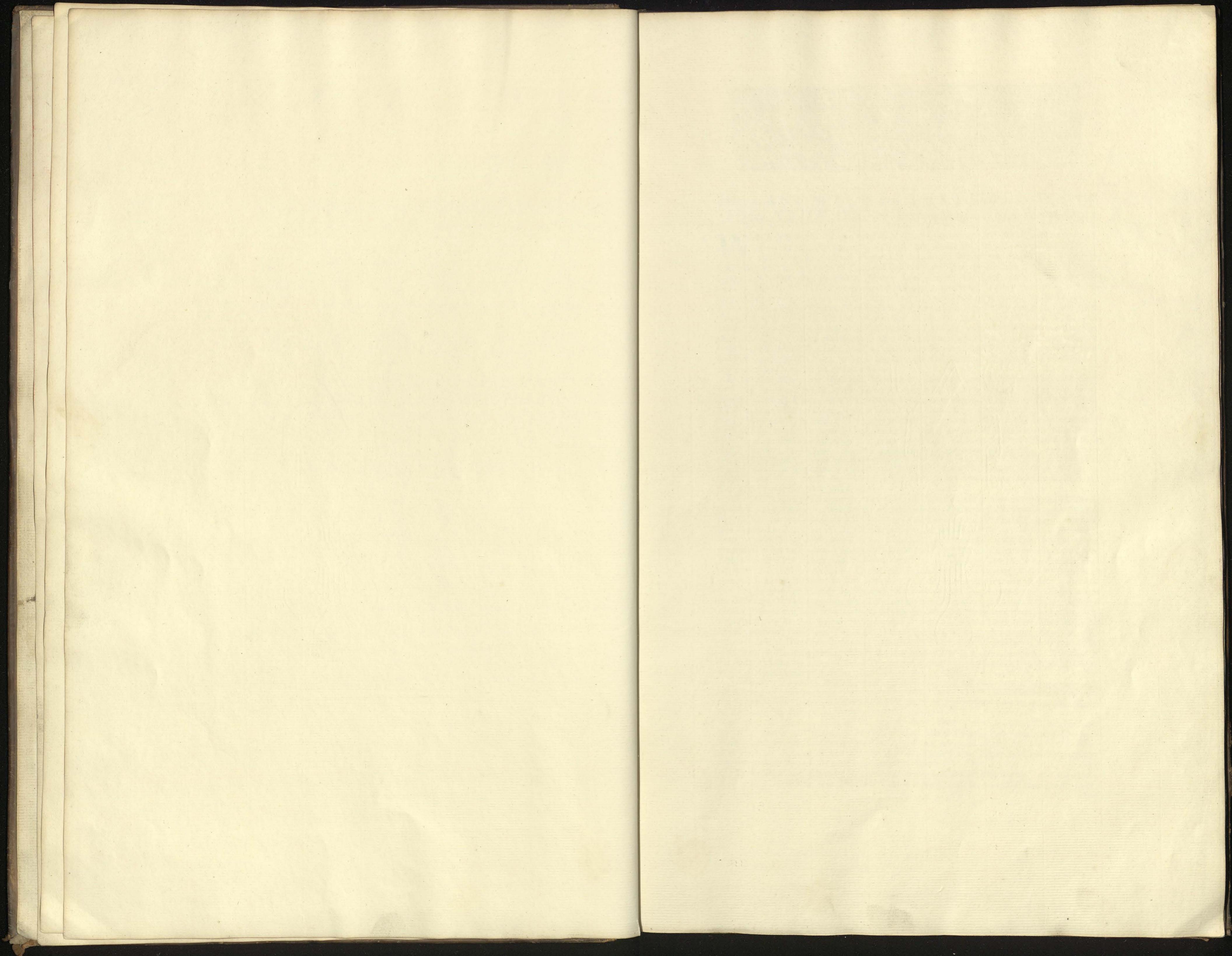
OCTOBER 1745.

Whatever is or was in this book was entered by my order &
direction.

O.









The LAST WILL and TESTAMENT, of His
Grace JOHN Duke of Buckinghamshire and Normanby.

1. W HENEVER Divine Providence shall take me out of this World, to which I devoutly submit, not only willingly but cheerfully, because fully persuaded, that all Things are ordered for the best by infinite Wisdom and Goodness. Whenever I say, that shall happen, My Will is, and I give and devise to my Kinsman the Earl of Orrery, George Lord Willoughby de Brook, Thomas Lord Trevor, the Lord Bathurst, and Patrick Garden, Esq; their Heirs, Executors, and Assigns, respectively, all my Manors and Lordships of Normandy, Burton, Butterwick, Crosby, Conisby and Flixborough, in the County of Lincoln, with all their Rights, Members and Appurtenances, and also my Manor of Dunby in Yorkshire, which I purchased many Years since of Mr. Fairfax; I give all this in Trust only, and for the sole Use and Benefit of such Persons, as I now do, or shall hereafter Nominate, Appoint and Chuse: And I also Give and Devise to the four before-mentioned Persons, whom I hereby constitute my Executors, and to their Heirs for ever, respectively, all my other Real and Personal Estate whatever, to be so disposed of to such Persons, and to such Uses only, as I now do or shall hereafter direct and appoint.
2. In the first Place, my Will and Meaning is, that my Dear Wife shall have during her Life, my new-built House in St. James's-Park, with the two Wings adjoining, and all the Stables, Gardens, Courts, and Green-houses thereunto belonging, with all my Oil and Water-laid Pictures and Statues therein, except what I shall particularly mention, and give away otherwise, either now or hereafter: But I give all these Things and this House also before-mentioned for her Life, upon this express Condition only, that if my said Wife shall at any time Marry again, *then my Will and Meaning is, that my said House, with the said two Wings before mentioned, Pictures and Statues, shall go forthwith to my eldest Son and his Issue, and if all his Issue male shall die, then to my eldest Daughter and her Issue; and if I leave no Lawful Issue, then to a certain Youth called Charles Herbert, now under the Tuition of Mons. Brezy, at Utrecht; and if he should die without Issue, then to my two natural Daughters Sophia and Charlotte, now at School in Chelsea.*
3. And here I declare most sincerely, that this Restriction does not proceed from the least Diffraught, of either of her Kindness or Discretion, of both which, I have had always most ample Proofs; but this Caution really proceeds from the same Love that gives her this sort of Legacy; Because, tho' I never knew any one of her Sex less likely to be imposed on by any of Ours, yet there being no infallibility in Human Nature, I think I cannot take too much Care in securing the Happiness of her Life, whom I esteem and value so much; yet all other Considerations should give Place to Justice and Equity; and therefore because at our Marriage, she was so particularly Disinterested as sincerely to forbid my buying any Jewels for her, according to the Custom, and even not to except her own, by any Reserve to her self, leaving them at my Disposal; I therefore hereby give her entirely and for ever, not only all those Jewels which she posses'd before our Marriage, but all my other Jewels (except my three Georges and Diamond Garter, which I hereby give to my Son, now in hopes he may one Day deserve to wear them) to be her own, notwithstanding she shall happen to Marry again. Also as a farther Mark of my Dependence on her Kindness and Discretion, I do not only leave all our Children to her prudent Care, but also my two natural Daughters Sophia and Charlotte, to whom she has been always most generously Indulgent, without my having ever in the least desired it of her; because indeed, I foresaw it would be objected by meander-minded Wives, and warned her of it accordingly, knowing this to be no Age nor Country likely to value such uncommon Virtue.
4. *In the next Place my Will is, that my eldest Son and his Issue, and if I leave none, my eldest Daughter and her Issue, shall after my Death, have all my whole Estate Real and Personal, except still what I have given thus to my dear Wife, and shall give by other Depositions to her, or to any other Uses, or to my natural Children.*
5. In the next Place my Will and Meaning is, that a Youth commonly called Charles Herbert, who at present is at Utrecht, under the Tuition of Mons. Brezy, shall have Seven Thousand Pounds paid by my Trustees at my Death, and that my good Friend Mr. William Bromley shall have the Tuition of him till the Age of Twenty one Years, in Case that worthy Gentleman will be so Charitable as to accept the Care.
6. *Also my Will and Meaning is, that two Girls called Catherine-Sophia, and Charlotte, shall each of them have One Thousand Pounds a-piece, paid for their Use and Benefit at the Time*

- time of my Death, or as soon after as can be, both of them having been for a great while Educated at home by the Kindnes of my Wife, and since put by my Direction and hers to a School at Chelsea; and I desire still, they may be under my Wife's Care and Direction.
7. I direct also, that all these three Children shall carry my Name and Arms, with the accustomed Distinction of natural Children.
8. I also desire and direct my before mentioned Trustees, to dispose of all my Estate both Real and Personal according to their Judgment, for the Advantage of all those to whom I have given it, particularly directing them to buy Land by Advice of Chancery, with all the Money I have given hereby, to my dearest Son as aforesaid: Not in the least doubting, but they will do it according to their best Discretion, and as such prudent Trustees would do for themselves; my Will and Meaning being, that my said Trustees shall run no hazard for themselves, in so putting out the same. This I confess may be troublesome, tho' I am in hopes they will be so Charitable as not to grudge it for the sake of a Friend, who otherwise full of Fraulties, yet never in his whole Life, grudged or spared his Pains and earnest Endeavours, either for his Friends or the Publick; they will also consider the necessity that dying Men are under, of thus employing the Care and Kindnes of the living, which must also one Day be their own Case: I must desire them also to accept of One Hundred Pounds a-piece to buy a Ring, which I direct them to pay themselves in the first Place, together with all the Expences which they shall any ways be put to, about the Performance of this my Will.
9. If I should be so unhappy, as that no Legitimate Son nor Daughter of mine, shall live to leave at any time, that blessing of any Child behind them, in such Case of their dying thus, without leaving any Issue behind them, I Will and Direct that the before mentioned Charles Herbert and his Issue, shall have all my Estate both Real and Personal, just in the same Manner, and with the same Restrictions and Exceptions as to my Wife. And on Condition also, that he add Five Thousand Pounds to each of my natural Daughters Sophia and Charlotte: And that he pays also to his Mother Mrs. Lambert, One Thousand Pounds, and if he shall die with only Issue Female, then I direct that all my Estate shall be equally divided amongst his Daughters and my two Daughters Sophia and Charlotte; and if he shall die Childless, then and in that Case, my Will and Meaning is, and I direct that all my said Real and Personal Estate shall go to my two natural Daughters Sophia and Charlotte, with the same Restrictions and Exceptions.
10. And in Case I die without leaving any Legitimate Issue Male, I give to my neareſt Kinsman Robert Sheffield of Kensington, all my Stock at the Allom Works, on Condition that he performs all the Contracts which I have made with any Person about Allom, so as that none of the said Persons may have Caufe to trouble my Executors, by making Demands upon any them: And in the said Stock at my Allom Works, to Charles Herbert before mentioned.
11. Provided nevertheless, and my Will and Meaning is, That all and every the Limitations and Devises here before mention'd made and given of my Real Estate, in Manner and Form as aforesaid, to the several and respective Persons before named or intended to take any Real Estate in the Premises, are to be, and are understood to be, upon this Condition, that they and every of them, and also the Husband and Husbands of every such Woman and Women, to whom any Estate is herein before Limited or Devised, shall, within three Months next after they severally come to be in the Possession of any Part thereof, take upon him, her, and them, the Surname of Sheffield; and also endeavour to procure, as soon as they can, an Act of Parliament for the calling him, her, or them, by the Name of Sheffield, and for their stiling themselves in all Deeds and Writings by the Surname of Sheffield: And in Case they or any of them, or the Husband or Husbands of any such Woman or Women, shall refuse or neglect to take upon him, her, or them, the said Surname of Sheffield, within the Space of three Months in Manner aforesaid, and shall not within three Years use his, her, and their utmost Endeavour to procure such Act of Parliament aforesaid, then my Will is, that the whole Estate and Estates herein Devised to him, her, or them, so refusing or neglecting, or to the Woman or Women whose Husband or Husbands shall so refuse and neglect, shall cease and be void: And that then and from thenceforth it shall and may be lawful to and for such Person or Persons, who by Virtue of this my Will shall be next in Remainder of the Premises, to enter into and enjoy the same; taking upon him, her, or them, the Surname of Sheffield, and endeavouring to procure such Act of Parliament as aforesaid.
12. I give Fifty Pounds among the Poor of Westminster, where I have lived so long, and out of which I am not very likely to die, and therefore desire to be buried in the Abbey, so as that my last dear Wife there already, and also my present dear Wife, when dead, may both be laid by me, if my present Wife shall think it fitting, as she hath often earnestly desired me to take Care of it. And the only Reason why I would not remove the Body of my first Wife, (having had the most extraordinary Blessing of three kind and excellent Wives) is because it lies in the Country and by her own Mother. And now, if my last and dearest Wife should think fit to have any Monument bestowed on my Grave, as her Partiality to me has often made her express herself that Way, I positively forbid it should cost above 500/. besides and over and above the Charge

Charge of my Funeral, which I also forbid to be any Thing extraordinary. And I Order and Direct, that these Expences, both of Funeral and Monument, be paid out of that my Personal Estate which I have given to my next Heir.

13. And since something is usually written on Monuments, I direct that the following Lines

shall be put on mine, viz. in one Place,

Pro Rege sepe, pro Republica semper.

In another Place,

Dubius, sed non improbus Vixi.

Incertus Morior, sed inturbatus

Humanum est Nescire & Errare.

Christum advenor, Deo confido

Omnipotenti benevolentissimo

Consentaneum augere me.

14. I also hereby Direct, Give, and Bequeath, to my before mentioned Trustees and Executors, all my Money, and all other my Personal Estate, not otherwife before Given or Disposed of, in Trust that they, or the Survivors or Survivor of them, shall sell and dispose thereof for the most Money that can be got for the same, and shall put out at Interest such Money, for the best Advantage they can make, 'till the same can be laid out by them in some good Purchase of Lands, Tenements, or Hereditaments, in Fee Simple, free from Incumbrances; and they are hereby directed to make such Purchase accordingly, and to settle the same Lands, Tenements, and Hereditaments, to and upon the same Persons and Uſes, and upon the like Truits, Limitations, and Conditions, as my Real Estate is in this my Will hereby Given and Devised; and I direct, that the Interest shall go as the Rents and Profits of the Lands, when purchased, are to go.

15. I give to the Dowager Lady Lansborough, our Grandfather Middlesex's Picture, that hangs in my Wife's Dressing-Room; my Gold Watch I am used to wear, and my best Sapphire Ring. The Hunting Picture of Reubens, in my Salon, must be restored to the last Earl of Sussex's Heirs, they giving back my Bond for my restoring it, which I hereby direct accordingly. I give to Mr. Baynbrigge Buckeridge One Hundred Pounds. I give to the Countess Dowager of Denby the little Picture of my own Father, her great Friend, which hangs in my Wife's Dressing-Room.

16. I give my Wife all my Coaches and Horses, and Furniture of my House, except Pictures and Plate, which I give her only during her Widowhood.

BUCKINGHAM.

Sign'd and Seal'd in the Presence
of Us,

John Rotheram,
Baynbrigge Buckeridge,
John Reed.

August 9th, 1716.

SINCE my Will, written all, some Time ago, with my own Hand, an Accident has happened, (if an ill Humour of the Lord Altham's is to be call'd so) that has occasion'd this Codicill which I now write in Behalf of his Wife; therefore I hereby Will and Direct my Trustees mention'd in that my Will, viz. the Dutches of Buckingham my Wife, the Lord Willoughby-de-Brook, the Lord Trevor, and Mr. William Bromley, to pay out of my Estate One Hundred Pounds Yearly to Mary Wife of the present Lord Altham, and to pay it into her proper Hands, Half-Yearly, from my Death, with which her Husband shall have nothing to do, nor shall the same be subject to his Control or Debts; the same to be payable and paid for and during so long Time only as her said Husband will not permit her to live with him. Witnes my Hand and Seal this 23d Day of November, in the Year of our Lord 1717.

Signed, Sealed, Published, and Declared,
in the Presence of Us,

Robert Wallworth,
John Reed,
John King.

Buckingham and Normandy.

I am afraid my Gift to my dear Wife in my former Will does not comprehend my Coaches and Horses, which are so necessary for her, and therefore, by this short Codicill, I give her, after my Death, all my Coaches and Horses; and also One Thousand Pounds of my first Money that can be got in, to bear her present Expences. I also give a Year's Wages to those particular Servants only, that have been employ'd about my Chamber in my Sicknes, meaning only my Valets de Chambre, and a few of her Women. Witnes my Hand, this 30th Day of December, 1717.

Buckingham.

The

The LAST WILL and TESTAMENT, of his Grace **EDMOND**
Duke of Buckinghamshire and Normandy.

IN the Name of God, Amen. This Fourteenth Day of October, in the Year of our Lord One Thousand Seven Hundred Thirty and Four, I Edmond Duke of Buckinghamshire and Normandy, do make my last Will and Testament, in Manner and Form following, that is to say: First, I recommend my Soul to the infinite Mercy of God, my Body to the Earth, to be decently buried, at the Discretion of my Executrix herein after named. And as touching and concerning that Temporal Estate I am now possessed of, or am in any wise entitled unto, and have Power to dispose of, I do hereby charge the same with the Payment of all such Debts as have been contracted on my Account, and also with the Payment of my Funeral, and such Legacies, annual Summes, or otherwise, as I shall direct or appoint: And to subject and charged and chargeable as aforesaid, I give, devise, and bequeath, all and every my Goods and Chattels, Real and Personal Estate whatsoever, and wheresoever, subject to my Disposition as aforesaid, unto my most Honour'd Mother, the most Noble Katherine Dutches of Buckinghamshire and Normandy, to and for her own proper Use and Behoof forever; and of this my last Will and Testament, hereby revoking all former and other Wills, I make, ordain, constitute, and appoint my said Mother Executrix. Witnes my Hand and Seal, the Day and Year first above written,

Signed, Sealed, Published, and Declared by the

said Edmond Duke of Buckinghamshire and
Normandy, as and for his last Will and Testa-
ment, in the Presence of Us, who in his Presence
have subscribed our Names as Witnesses here-
unto.

Arch. Hutchenson,
D. Willemyn,
Charles Boucher.

MARY HUTCHENSON

D. WILLEMIN

CHARLES BOUCHER

Copy as it is
written.

C O P Y
O F T H E
W I L L S
O F
EDMOND AND JOHN
DUKES OF
BUCKINGHAMSHIRE AND NORMANDY.

(5) Copy of a Paper found by John Earl of
Onnery, and W^m Keelyng^r Esq at Buck^m House
May 19th 1753. dated at Florence, & signed by Edm. D. of Buck^m.
enclosed in a piece of paper upon which, in the late Duke's
hand writing was this Subscription.

My dear Son's last request about where he shall
be buried, & a little Temple to be erected in Buckingham
House Garden.

A Paper to be delivered to My Mother and
Lord Bathurst.

Florence Oct. 29th 1753.

As I think myself at present in a very dangerous State of health,
and, as it is our Duty at all times to be ready, and prepared to deliver
up our Souls to Almighty God, and our Bodies to the Grave, when-
ever it shall please his Divine Wisdom to execute his good Will
upon us his Creatures, I thought it both prudent and necessary, for
the good of some few of those that come after me, to express my
Thoughts and Desires upon some few things, which when look'd
upon as the last Words of a Dying Man, I trust will not be pass'd
over without Regard.

In the first Place, I desire to be Buried with-
out any pomp or Magnificence, having been always of opinion
that those sort of Ceremonies, tho' perhaps pleasing to the living,
were but Vanities before God, and consequently detrimental to
the Dead. It is my great Desire if by any means it can be done,
to be inter'd in Buckingham-house Garden, or in that Field
next to the Tarras, where a little modest Tomb might be erected,
cover'd over by a small open Temple, which if well executed
might be a Beauty to the Garden. The place might be consecra-
ted and the whole an ornament to the house. I particularly rec-
ommend this to the Direction of my good Friend Lord Bathurst,
who I know will perform this last Act of Friendship to my
desire, if he will take so much trouble for one, who thinks it
one of

one of his greatest misfortune, that he shall not be able to make him proper returns for those he has already receiv'd. I hope it will be no inconvenienc to My Dear Mother, who I hope will accustom herself to it.

Secondly, I desire that what I have Settled upon David Willemyn for his Lyfe, a faithfull Servant, may be given to him Yearly as call'd for, or the whole principal at once, as he likes best, with some farther addition, if he behaves well towards my Dear Mother.

Thirdly I desire, that M^cCoste, my Worthy Governoe, may have his Annuity regularly and Constantly pay'd him when demanded.

I desire that the same regularity may be observ'd in the Payment of poor Athelonyes Annuity, my old Nurse.

And I farther wish that some way be found to secure all these several Annuities to their several owners in such a manner that no accident may put them in Danger of losing y^e same.

I also desire of my Dear Mother to Settle if she pleases the Sum of a £100 a Year for Lyfe on Patrick Garden Esq^r in consideration of the great Zeal, & affection he has evre testifid for me.

I beg that she will also allow with her usual goodness Mr Andrews £50 a Year for Lyfe, being convinc'd that with some failings he is at bottom a thorough honest Man, and therefore I desire the above Sum will be settled in what mannor My Dear Mother thinks fitt.

As for all other Matters what I am able to dispose of, if fully express'd in my Will this being only a paper to be given to my Mother, as my last desires to her, w^tch I am sure she will perform.

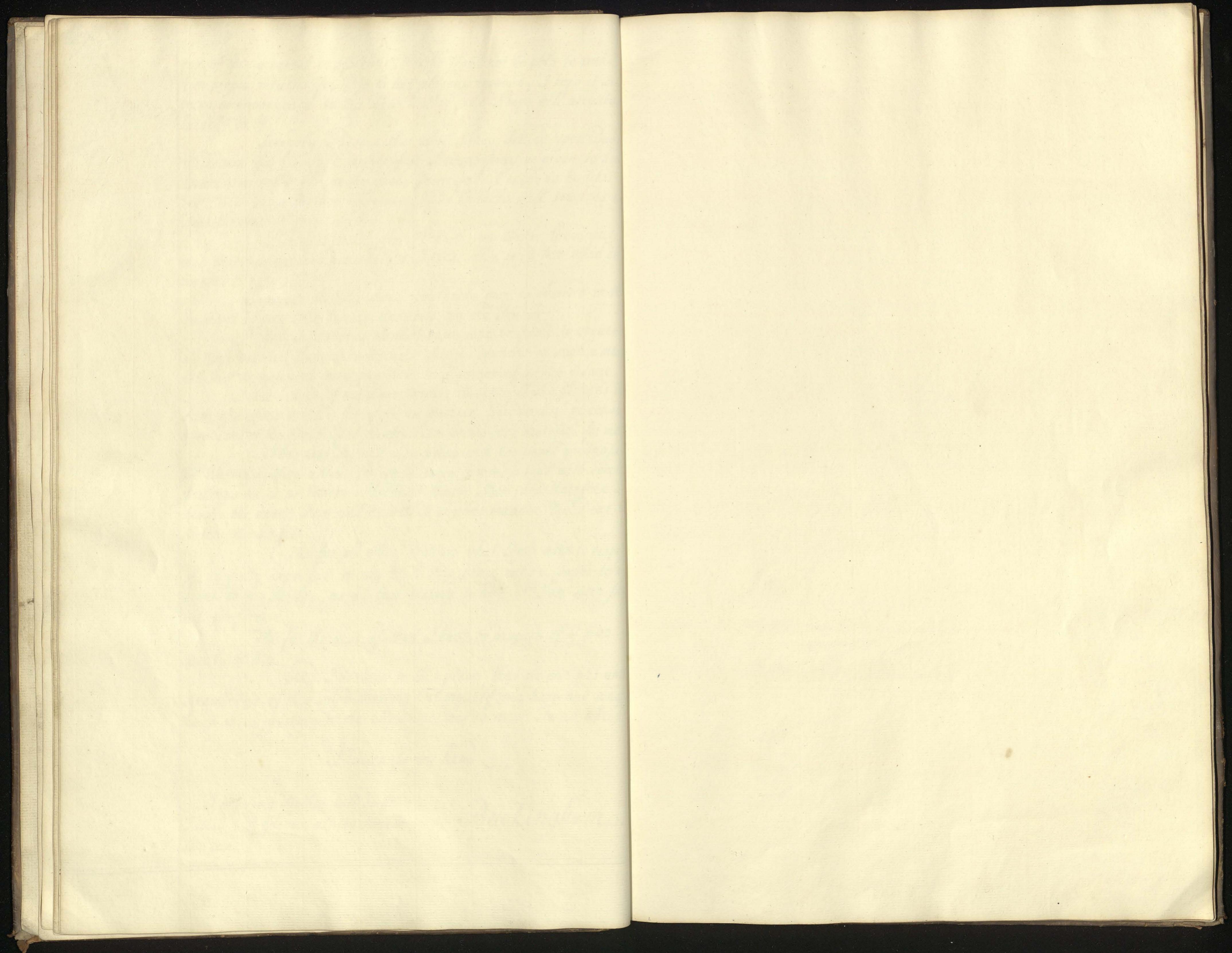
As for the rest of what I have to dispose of I give freely to her.

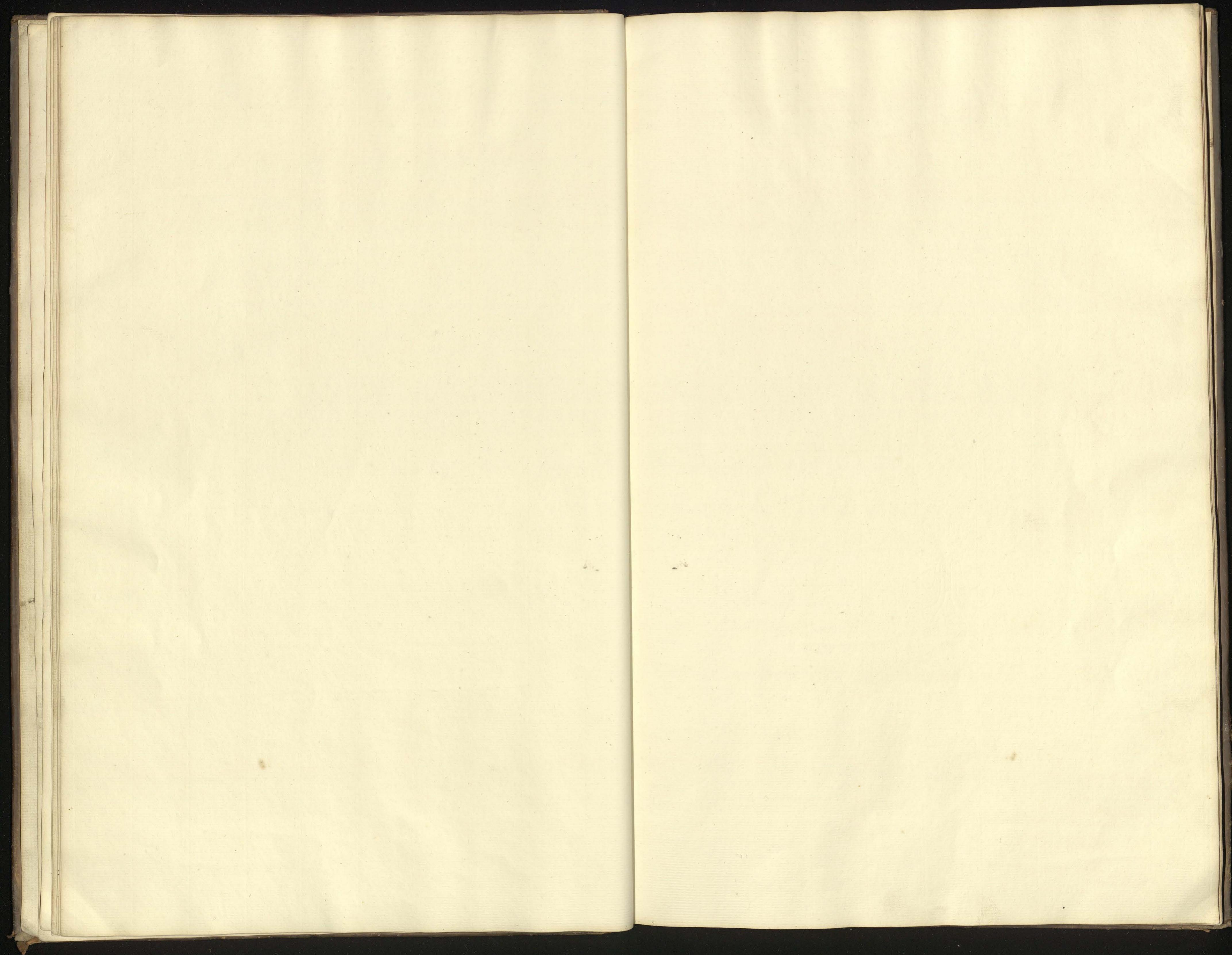
And I declare in this place, that no one has any knowlidge of this say'd Writing but myself, nor has had any hand in suggesting to me any thing that is in it. To all which

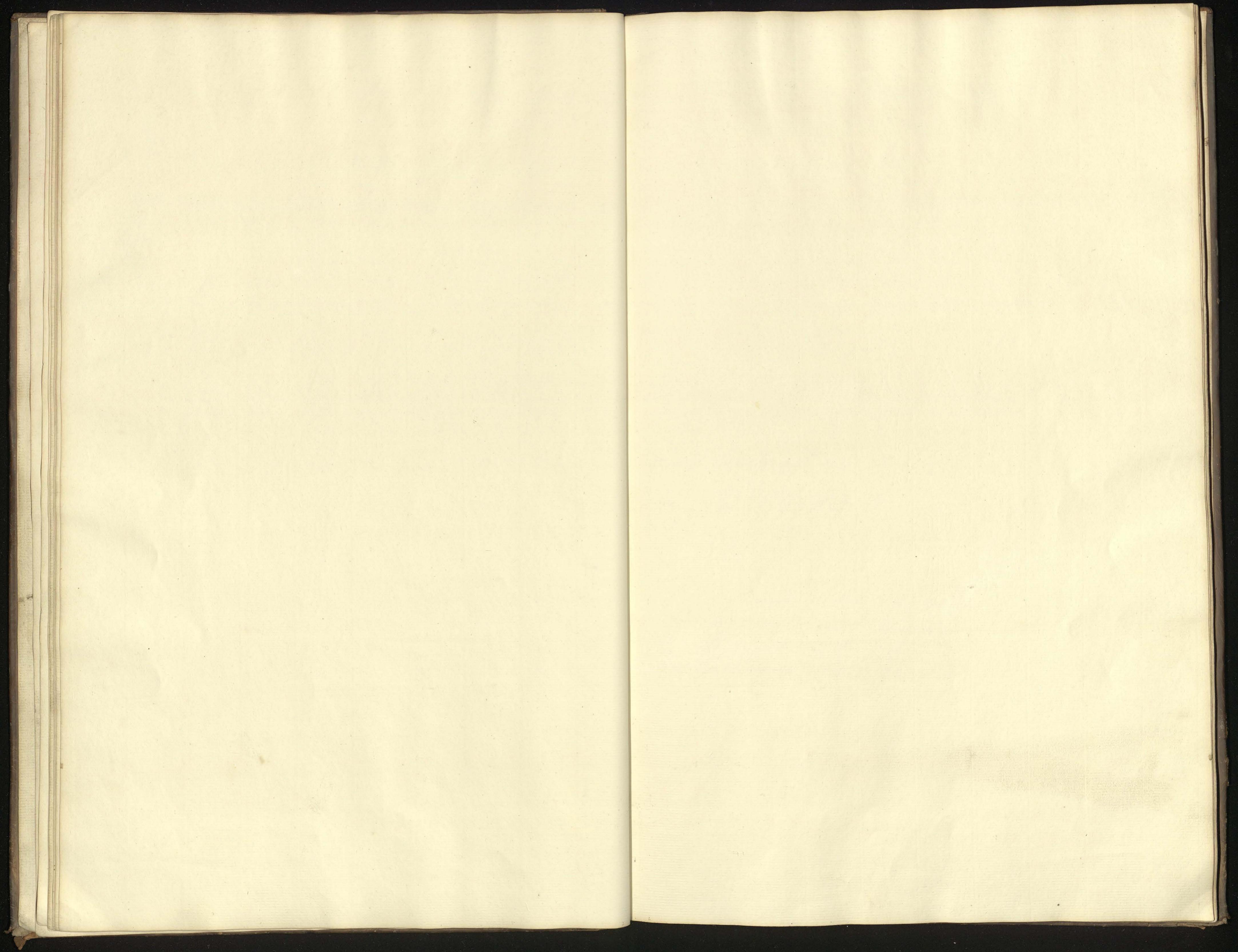
I witness my hand

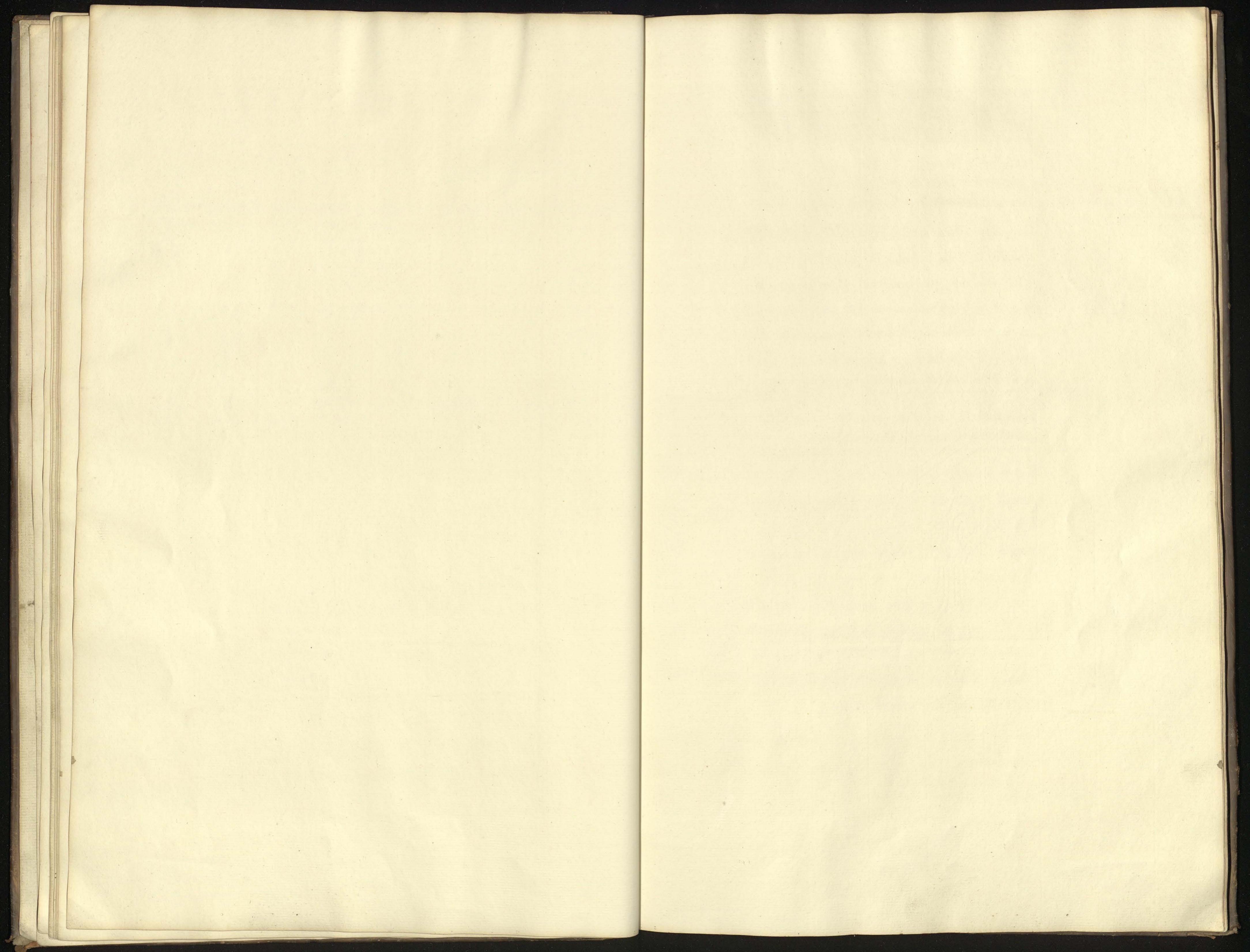
I hope my Mother will do Mr James & R Garden all the Service she can.

Buckingham.









After the Death of Duke Bmond, the Duchess of Buck^m caused her
husband Duke John's Will to be printed in the following Year.



The pretended W I L L of John late
Duke of Buckinghamshire and Normanby,
as it appears in Doctors-Commons.

1. Whenever Divine providence shall take me
out of this World, to which I devoutly submit
not only willingly but chearfully, because fully
perswadet that all things are order'd for the
best by Infinite Wisdome & Goodness whenever,
I say, that shall happen, my Will is & I *****
& Devise to my Kinsman the Earl of Orrery,

there are 5 Trustees
named here, and
but 4 below, which
shews these altera-
tions were made af-
ter the Duke sign-
ed the Will

give _____ On a Erasure
George Lord Willoughby de Brook, Thomas Lord
Lord Bathurst & Patrick Garden Esquire,
Trevor the _____ On Erasure

their Heirs Executors & Assigns respectively all
my Mannours & Lordships of Normanby, Burton
Butterwic, Crosby Corisby & Flixborough in the
County of Lincoln with all their Rights Member
& Appurtenances, and also my Manner of
Dunstry in Yorkshire which I purchased many
Years since of M^r. Fairfax I give all this
in trust only & for the sole Use and Benefit of
such persons as I now do or shall hereafter
nominate appoint & chuse, I also give & Devise

theſe 4 persons ſaid to
be before mention'd
are the four persons
named in the firſt Co-
diciſl
to the FOUR before mentioned persons whome I
hereby conſtitute my Executors & to their Heirs
all my other
for ever reſpectively _____ Real & personall On Erasure

(2)

Estate whatsoever to be so disposed of to such persons & to such Uses only as I now do or shall hereafter direct & appoint.

2. In the first place my Will and meaning is that my Dear Wife shall have during her Life my new built House in S^t. James's park with the ^{two Wings} adioining & all the Stables Garden Courts & Greens houses thereunto belonging with all n^j Oil and Water s lo r^d Pictures & Statues therein, ~~xxxxxxxxxxxxxx~~ except what I shall particularly Mention and give away otherwise either now or hereafter But I give all these things & this House also before mentioned for her Life, upon this express condition only that if my said Wife shall at any time marry agen

On Erasure

On Erasure

On Erasure

then my Will and Meaning is that my

all these lines are
Eraz'd in the Original
and left blank

(3)

On Erasure

On Erasure

my said House with the ^{said two Wings} before mentioned pictures & Statues shall go forthwith to my eldest Son & his Issue ^{and if all his} issue male shall dye, then to my eldest Daughter and her Issue, and if I leave no lawful Issue, then to a certain Youth called Charles Herbert now under the Tuition of Mons^r. Brezy at Utrecht, and if he should dye without Issue, then to my two Naturall Daughters Sophia & Charlott now at a School in Chelsea,

3. And here I declare most sincerely that this Restriction does not proceed from the least distrust of either her kindnes or Discretion, of both which I have had alwayes most ample proofs; but this caution really proceeds from the same Love this sort of that gives her ^{on} Legacy; because tho' I never knew any one of her Sex less likely to be imposed ^{on} by any of ours; yet there being no infallibility in humane Nature, I think I cannot take too much care in securing the happynes of her Life whom I esteem and value so much, Yet all other considerations should give place to Justice and Equity, and therefore

On Erasure

because at our Marriage she was so particularly
disinterested as ^{sincerly} to forbid my buying any Jewels
for her according to the Custome, and even not
to except her own by any reserve to herself,
leaving them at my disposall, I therefore
here by give her intirely & for ever

On Erasure

not only
all those Jewells which she possest before
but all my other Jewels (except my three
our Marryage)

Georges and Diamond Garter which I hereby give to my

Son now in hopes he may one day deserve to wear them

On Erasure

to be her own notwithstanding she shall happen
to marry agen also as a farther mark of
my dependance on her kindness & discretion,
I do not only leave all our Children to her
prudent Care, but also my two Naturall Daugh-
ters *Sophia & Charlott*, to whome she has
been always most generouly indulgent
without my having ever in the least desired
it of her, because indeed I foresaw it would
be obiect to her by meaner minded Wives,
and warned her of it accordingly, knowing
this to be no Age nor Country likely to value
such uncommon Virtue.

On Erasure

4. *In the next place my Will is that my eldest Son ^{and his Issue} and if I leave none, my eldest Daughter ^{and her Issue} shall after my Death have all my whole estate Reall and personall, except still what I have given thus to my dear Wife, and shall give by other dispositions to her or to any other uses or to my Naturall Children*
5. *In the next place my Will and Meaning is that a Youth commonly called Charles Herbert, who at present is at Utrecht under the Tuition of Mons^t. Brezy,* shall have seaven Thousand pounds paid by my trustees at my death

Mr. William Bromley On Erasure
& that my good Friend

shall have the Tuition of him till the age of 21 Years in case that worthy Gentleman will be so Charitable as to accept the care.

6. *Also my Will and meaning is that two Girls called Catherina Sophia and Charlott shall each of them have — thousand pounds a piece* On Erasure
at the time of my Death paid for their Use and Benefit On Erasure
or as soon after as can be: On Erasure
both of them having been On Erasure
for a great while educated at home by the Kindness of my Wife and since put by my direction

and hers to a School at *Cheſſea*, and I desire still they may be under my Wife's Care and direction.

7. I desire also that all — three Children —

^A
carry my name and Arms with the accustomed distinction of Natural Children

Eraſed & left blank

8. I also desire & direct my before mentioned Trustees to dispose of all my Estate both Real & personall according to their iudgment for the advantage of all those to whome *I have given it*; particularly

buy Land by advice of Chancery *with all*

directing them to —

the Money which *I have given hereby to my*

deareſt Son as aforesaid, not in the leaſt

doubting but they will do it according to their best discretion & as such prudent Trustees would do for themselves, my Will & Meaning being that my faid Trustees shall run no hazard for themselves in so putting out the same: This *I confess, may be troublesome,* tho I am in hopes they will be so Charitable as not to grudg it for the sake of a Friend who otherwise full of frailties, yet never in his whole life grudgd or spared his pains earnest

and — indeavours either for his friends or

On Erasure

Eraſure

the Public: they will also consider the necessity that dying Men are under of thus employing the care & kindness of the Living; which must also one day be their own Case I must desire them also to accept of one hundred On Erasure pounds a peice to buy a Ring which I direct them to pay themselves in the first place together with all expences which they shall any wayes be put to about the performance of this my Will.

9. If I should be so unhappy as that no legitimate

leave Son nor Daughter of mine shall live to —

at any time that blessing of — any Child

On Erasure behind them; in such Case of their dying thus — without leaving any iſſue behind

On Erasure them, I will and direct that the before mention'd *Charles Herbert* ^{and his iſſue} shall have all my Estate both *reall and personall iuft in the same manner,*

Original to and

and with the same restrictions — exceptions

Eraſure as to my Wife, & on condition, also that he adds five thousand pounds to each of my Natural daughters

Sophia & Charlot, and that he payes also to his

Mother M^r. *Lambert,* one thouſand pounds; and

if *A* shall dye without only iſſue Female, then I direct that all my

Estate shall be equally devided among his daughters and my

two daughters, *Sophia & Charlot* and if he shall dye Childleſſ

then and in that Case my Will and meaning is and I direct

all on Erasure

that all my said Reall and personall Estates shall go to my two Naturall Daughters *Sophia* and *Charlott* with the same restrictions & exceptions.

10.

Erasure

And
~~in Case I dye without leaving any ^{Legitimate} issue Male,~~
I give to my ^{near} Kinsman Robert Sheffield of
Kensington all my Stock at the Allom Works,
on condition that he perform all the Contracts
which I have made with any person about Allom

On Erasure

Erasure

~~persons have cause~~
~~so as that none of the said may~~
~~to trouble~~

Erasure

~~my executors by making any demands~~
~~shall~~

Erasure

~~upon them. And in Case my said kinsman~~
~~engag^e not to ^{inge^e to} perform my said Contracts I hereby~~
~~give all the said Stocks at my Allom works~~
~~to Charles Herbert before mentioned.~~

Original fo

Erasure

Provided nevertheless, and my Will & Meaning is that all and every the limitations & Devises here before mentioned made & given of my Reall Estate in manner & form as aforesaid to the severall & respective persons before named or intended to take any ^{real} Estate in the Premises are ^{be} & are understood to be upon this condition that they & every of them & also the husband and husbands of every such Woman & Women to whome any Estate is herein before limited or

Original fo

Original fo

Devised, shall within three Months next after they severally come to be in the possession or any part thereof, take upon him her & them the Sirname of *Sheffield*, and also indeavour to procure as soon as they can an Act of parliament for the calling him her & them by the Name of *Sheffield* & for their Stiling themselves in all Deeds & Writings by the Sirname of *Sheffield*, And in Case they or any of them or the husband or husbands of any such Woman or Women shall refuse or neglect to take upon him her or them the said Sirname of *Sheffield* within the space of three Months in manner aforesaid and shall not within three Years use his her and their utmost indeavour to procure such Act of Parliament aforesaid, then my Will is that the whole Estate & Estates herein devised to him her or them so refusing or neglecting or to the Woman or Women whose husband or Husbands shall so refuse or neglect, shall cease & be void, & that then & from thence forth it shall & may be lawfull to & for such person or persons who by virtue of this my Will shall be next in remainder of the premisses

to enter into & injoy the same taking upon him her or them the Surname of *Sheffield* & indeavouring to procure such Act of Parliament as aforesaid.

12. I give fifty pounds among the poor of *Westminster* where I have lived so long & out of which I am not very likely to dye, and therefore desire to be buried in the Abby so as that my last dear Wife there already and also my present dear Wife —^{when Dead} may both be layed by me, if my present Wife shall think it fitting, as she has often earnestly desired me to take care of it: And the ^{only} reason why I would not remove the body of my first Wife (having had the most extraordinary Blessing of three kind and Wives) excellent — is because it lies in the Country and by her own Mother. And now if my last and dearest Wife should think fit to have any monument bestowed on my Grave as her partiality to me has often made her expres her self that way, I positively forbid it should cost above 500, besides & over & above the charge of my funerall which I also forbid to be any thing extraordinary. *And I order & direct that these expences both of funerall and Monument be payed out of that*

Erasure

my personall Estate which I have given to my next heir;

13. And since something is usually written on Monuments, I direct that the following Lines shall be put on mine *Viz*, in one place

Pro Rege sepe, pro Republica semper

In another place

*Dubius sed non improbus vixi,
Incertus morior, sed inturbatus;
Humanum est nescire et errare,
Christum advenor, Deo confido
Omnipotenti Benevolentissimo.
Ens entium Miserere Mei?*

14. I also hereby direct give & bequeath to my before Erasure mention'd Trustees & Executors all my Mony and all other my personall Estate NOT OTHERWISE BEFORE GIVEN OR DISPOSED OF, in trust that they or the survivours or survivour of them shall sell & dispose hereof for the most Mony that can be got for the same and shall put out at interest such Mony for the best advantage they can make till the same can be layed out by them in some good purchase of Lands tenements or Hereditaments in Fee Simple free from incumbrances; and they are hereby directed to make such purchase accordingly and to settle the same Lands tenements & Hereditaments to & upon the same persons & uses and upon the like trusts limitations and conditions as my Reall Estate is in this my Will hereby given and devised, and I direct that the interest shall go as the Rents & profits of the lands when purchased are to go.

(12)

15. I give to the Dowager Lady *Lanesborough* our Grand father
Middlesex picture that hangs in my Wife's Dressing room my
gold Watch I am used to wear, & my best Saphire Ring.
The Hunting picture of *Reubens* in my Salon must be ref-
tored to ^{the} last Earl of *Suffex*'s Heirs, they giving back my
bond for my restoring it; which I hereby direct accordingly.
I give to Mr. *Bambridge Buckerege* one hundred pounds.
I give the Countess dowager of *Denby* the
little picture of my own father her great friend
which hangs in my Wife's dressing room.

These 6 or 7 lines are
crowded & it seems wrote after
the Will was writ.

This place, where the date
should be, is all erased as
this, & even part of the name.

16. Orig^l fo

I give my Wife all my
Coaches & Horses & Furniture of my house
except Pictures and Plate which I give her
only during her Widowhood.

Buckingham O

Sign'd & Sealed in
the presence of us
John Rotherham
Baynbrigge Buckeridge
John Reed

August 9, 1716.

(13)

all some time agoe
Since my Will written ^{Erasurē} with
my own hand, an Accident has happened
(if an ill humour of the Lord *Altham*'s is to
that
be called so) — has occasioned this Codicill, ^{Erasurē}
now
which I ^A write in behalf of his Wife. Therefore Orig^l fo
I hereby Will and direct my Trustees mentioned in
my will, *Viz*, The Dutches of *Buckingham* my Wife, Orig^l fo
The Lord *Willowby de Brook*, the Lord *Trever*, & Mr. *William*
one hundred
Bromly to pay out of my Estate ^{On Erasure} pounds
Yearly to *Mary* Wife of y^e present lord *Altham*, & to pay
it into her proper hands half yearly from my death;
with which her husband shall have nothing to do;
nor shall the same be Subject to his controll or
debts: The same to be payable & payed for & during
so long time only as her said husband will not permit
her ^A to live with him. Witness my hand & Seal this twenty ^{Orig^l fo}
Third day ^A of November in the Year of our Lord one thousand ^{Orig^l fo}
Seaven hundred & seaventeen

feems to be on Erasure,

Sign'd Seal'd, publish'd & declared
in the presence of us.

Buckingham & Normanby L S

Robert Wallworth
John Reed
Joffu King

I am afraid my guift to my Dear Wife in
my former Will does not comprehend my
Coaches & Horses which are so necessary for her,
and therefore by this short Codicill I give her
after my Death all my Coaches & Horses, and also
one thousand pound of my first Money that
can be got in, to bear ^{her} present expences orig^l to
I also give a Year's Wages to those particular
Servants only that have been employed about
my Chamber in my Sicknes, meaning only
my Valets de Chambre and a few of her Women

Witnes my hand this 30th day
of December 1717.

Buckingham

The Decree of the Lord Chancellor Hardwicke
upon, the Will of John D^r of Bucks &c.

Sheffield
agt
Orrery

Lord Chancellor

Wednesday the 4th Dec^r 1745.

In this Case, The End of the Bill is to have the Benefit of a Trust Created by the Will of John Duke of Bucks relating to Buckingham house The pictures Statues & other parts of his personall Estates and also for the Rents & profits of certain Estates called Pimlico reced since the Death of Duke Edmond

The Whole Depends upon the Construction of the Will of Duke John And two Generall Questions arise wherein

ffirst Whethoe the whole of Buckingham house or any part thereof is ffrehold ffor if ffrehold it is Admited it belongs to the plt

The Second Generall Question is, Supposing the whole or any part thereof to be Leasehold Whethoe by Virtue of the Limitation in the Will of Duke John it did on the Death of Duke Edmond go ove to Mr. Sheffield - I putt the Councell upon Arguing of this point, ffirst to prevent expence & vexation; ffor if this House is well Limitted to Mr. Sheffield, Whethoe tis ffrehold or Leasehold then all Questions whether it is ffrehold or Leasehold are unnecessary Upon this Question therefore it must be taken for Granted that the House or part of it is Leasehold.

The Clauses in the Will on w^t this Question immediately depends are the Clauses Markt N^o 2 4 & 9 As to the Clauses N^o 8 & 14 these are only made use of by way of Argum^b & explanation or taken up by way of Objection The Clauses are as follow

" In the first place my will and Meaning is that my deare Wife shall have during her Life my New Built House in S^t. James's Park w^t the two Wings Adjoyning and all the Stables Garden Courts & Greenhouses therunto belonging w^t all my Oil & Water coloured Pictures & Statues therom Except what I shall particularly Mention & give away otherwise either now or hereafter But I give all these things & this House also before mentioned for her Life Upon this express Condition only that if my S^r Wife shall at any time Marry agen Then my will & Meaning is that my S^r House w^t the S^r two Wings before mentioned Pictures & Statues shall go forthwith to my

THE
PRETENDED WILL
OF
JOHN
LATE DUKE OF
Buckinghamshire and Normandy,
As it appears in
DOCTORS-COMMONS.

2^d Clause

"to my eldest Son & his Issue And if all his Issue Male shall dye
Then, to my eldest Daue and her Issue And if I leave no lawfull I-
sue Then to a certain Youth called Charles Herbert now under the
Tuition of Mons^r. Brezy at Utrecht And if he should Dye without I-
sue Then to my two Naturall Daues Sophia & Charlott now at School
in Chelsea.

In the next place My Will is that my Eldest Son & his Issue
And if I leave none, My eldest Daue & her Issue shall after my Death
have all my whole Estate Reall & personall Except still what I have
given thus to my Dear Wife & shall giv^e by other dispositions to her
or to any other Uses or to my Naturall Children.

If I shd^e be so unhappy as that no Legitimate Son or Daue of mine
shall live to leav^e at any time that Blessing of any Child behind them
In such Case of their dying thus without leaving any Issue behinde them
I will and Direct that the before mentioned Charles Herbert & his Issue
shall have all my Estate both Reall & personall just in the same manner
& with the same restrictions & Exceptions as to my Wife and on Con-
dition also that he adds 500^l to each of my Natural Daues Sophia
& Charlotte And that he pays also to his Mother Mrs^r Lambert 1000^l
And if he shall Dye without only Issue female Then I direct that
all my Estate shall be equally divided among his Daues & my two
Daues Sophia & Charlotte And if he shall dye childless Then and in
that Case my Will and meaning is and I direct that all my Reall
& personall Estates shall go to my two Natural Daues Sophia and
Charlotte with the same restrictions and Exceptions

The principall Qusⁿs w^{ch} Arise under this Generall head
are those 3 ffir^t whether by the 2^d Clause the House Pictures and
Statues are absolutely Devised in all Events to Duke Edmund so as
to receive no Restriction or Alteration from the severall other clauses
in the Will

Secondly Whether the House Pictures & Statues mentioned
in the 2^d Clause are Comprized in the 4th or 9th Clauses or not

Thirdly Supposing they are Comprized in the 4th & 9th Clauses
Whether the Limitation therein contained to Mr^r Sheffield is warranted
by the Rules of Law or is too Remote

As to the first, It was insisted that this is a Devise to the
Duchess during her widowhood & the Limitation to Duke Edmund was
to take place either on the Marriage or Death of the Duchess after his
Admitted that if this is an Estate given to the Duchess during widow-
hood then the Limitation in this Clause is too Remote On the other
Side it was insisted that this Clause must be construed according to

the Words

the Words And that no Estate is vested in Duke Edmund but on the
Contingency of the Duchesses Marriage

I am of Opinion that upon the whole Will the Limitation to
Duke Edmund was only a Contingent Rem^r & to take Effect only on
the Duchesses Marrying again The Words are upon this express
condition only that if my S^r Wife sho^d at any time Marry again
then my Will and Meaning is that my S^r House & shall go forth-
with to my eldest Son and his Issue

I Admitt the Authoritys cited for the Defts to be as they
are Stated But I do not see, that any Conclusive Argument can
be Drawn from thence to Influence the present Question

That Case was thus, a possed of a long terme for Years ~
Devised it to his Wife for Life & after her Death to the Child
that she was enceint with And if such Child dyed before it was
21 then he Devised one third of the Term to the Wife her Executors
or The wife was not enceint And the Question in the Cause so
far as it relates to the present queon was As the Contingency upon
which the Devise to her was to take place never happened whether
the Devise to the Wife of the 3^d part was good, Lord Harcourt
dealed his opinion that the Devise was good The Ground of his opinion
was that the Words sho^d be construed as if they had been if such
Child fail before it was 21

This Case was Determined nearly upon the same Reason.
But the penning of that Will was so very particular that no pre-
sident can be drawn from thence

It is also Reported in 3^d Levins 125 under the Name of Luckford
& Cheek The Case was this Iohn Church being Seized in 1688 had 4 Sons
Humphrey Rob^t Anthony & Iohn & thereby Devised
his Estate to his Wife for Life if she do not Marry, But if she do
Marry then that his Son Humphrey sho^d presently after his Mothers
Marriage Ente^r & Enjoy the premes to him & the Heires Male of
his Body Rend To Testors other Sons in like Manner with Rem^r:~
over, Testor dyed, the Wife ente^rs & dies without being Marryed
The Plt Claimed as the Right Heir of the Testor being his Grandau^r
The Deft Claimed as Heir Male of the Body of the Testor, The
Question was whether as the Wife never Marryed a good Estate Tail
was created by the Will, The Court held it was a good Entail for
that by the whole Scope of the Will it appeared the Testor Intended
an Entail And rather that the Intent of the Testor sho^d be Defeated
the Court construed the Words in such a Manner as to make it an En-
tail Thus

Jones ag^r
Westcomb
Cases in Equity
Abridged 245

Homerow ag^r
Homerow

Brown ag^r
Cutte^r
Raymond 427
Shower

41
26
tail Thus it is Reported in Levintz & Raymond Seems to have Report his own Argument rather than that of the Court. This is the strongest Case cited But differs Materially from the present The penning is different, There after the Devise added these words if She do not Marry again which Restrain the Original Limitation & are the same as if They had been to the Wife for Life, if She so long continue a Widoo There are no such words in the Case at Bar, In the Original Limitation but I do not lay much Stress on this, The Cases appear to me to differ in Substance, there were no Words in that Will w^{ch} co^d Substantiate Testors Intent without Construing it an Estate Tail otherwise the Testors Intent wo^d have been manifestly defeated The Court therefore was Constrained of Necessity to make such a Construction as wo^d satisfy the Testors Intent for this is the very reason given by Justice Levintz In the present Case there is no Necessity for such a Construction for the Subsequent Words are suff^b to express his Meaning That after Duke Edmonds Death without leaving Children it shd go to Mr. Shaffell And the Intent of the Duke is more Effectually Answered by this Construction than any other.

A Generall Rule was laid down by the Counsell for the Defts that where a Testor gives a particular Estate to a person & after gives the Rem^d over upon a Contingency w^{ch} Contingency is to Determine Estate sooner than the Estate wo^d otherwise be Determined the Contingency does not happen Yet the Limitation over shall be good after the Determination of the first Estate.

I know of no such Rule for the Cases w^{ch} can be putt depend upon particular Words and the Intent of the party But there is an Express Authority that there is no such Rule

This was heard on the 11th March 1729 in the House of Lords The Case was this, Testor Devised an Estate to his Son in Tail Rem^d to Stroud Benningfield for Life upon Condition that he shd Change his Name to Stroud & if he did not he Declared the Devise to be void & gave it over to Geo Damolly with divers Rem^d over The Son dyed without Issue Benningfield performed the Condition & took the Name of Stroud & dyed The Question was whether the Estate upon the Death of Stroud Benningfield went over to the Rem^d man or belonged to the Heir at Law This Cause was first heard in 1727 when the Court directed a Case to be made for the Opinion of the Judges Whether the Rem^d man was Intitled w^{ch} turned upon this Question Whether upon the Determination of the Estate in Stroud Benningfield by his Death & not by his Nonperformance of the Condition the Rem^d man shd take any Estate After several Arguments All the Judges of the Kings Bench were of Opinion that the

Rem^d man

Amhurst J
ag:
Litton J

5
Rem^d man shd take no Estate And their Opinion was Confirmed by the House of Lords, So that this Seems an Express Authority that there is no such Generall Rule of Law as was laid down by the Counsell.

The 2^d Question is Whether the particulars Devised by the 2^d Clause are comprized in the 4 & 9 Clauses

I am of Opinion that the Generall Rem^d after the Dukes life does fall within the 4 & 9 Clauses

But tis first Objected that the 4th Clause is residuary and Expressly Excepts & takes out the particular things Devised by the 2^d Clause & not the Estate & Int^t in those things

I think this is contrary to the words of the Will in this Clause directs all his whole Reall & personal Estate And I think the Exception takes out of it only the Interest given to the Duchess & not the things themselves And this is Supported by Wheelers Case & many others

Next it was Objected that there is a different Disposition in the 4th Clause from that in the 2^d The Estates by the 2^d being limited to Duke Edm^d & his Issue Male and by the 4th to Duke Edm^d & his Issue generally - I admitt there is a difference but that seems a Mistake in the 2^d Clause and is Sett Right by the 4th Clause by making the Estate & House go together

If these particulars are comprized in the 4th Clause they are more clearly comprized in the 9th Clause, The Words in this clause are not only very generall All my Estates Reall & personal But in the 9th Clause the Subsequent Words are more particularly Adapted to shew that the Estate & Interest only were saved to the Wife & not the Subjects or things themselves The Words are with the same Restrictions & Exceptions as to my wife And the word Restrictions points out expressly a limited Interest but there are some Objections

First it is Objected that the 8th Clause is Coxxtensive with the 9th And consequently if the House is comprized in the 9th it must be in the 8th Tis said that all things comprized in the 8th Clause are directed to be sold And consequently the House Pictures of must be sold contrary to the Dukes Manifest Intent

This is Clearly otherwise for by the 8th Clause the Trustees are not directed to sell but to dispose of all his Reall & personal Estate & therefore the word dispose - does not Import to sell but to Manage for the best Advantage for his family And the Subsequent Words w^{ch} direct to buy Land are confined to Money and cant Extend to the House Statues or pictures - and the Generall direction to sell is contained in the 14th Clause

The 3^d

6

28

The 3^d Question is, That Supposing the particulars Devised by the 2^d Clause are Comprized in the 4 & 9 Clauses Whether the Limitations over are warranted by the rules of Law concerning the Limitation of Terms or whether they are not too remote.

This seems the Plainest point of all & falls within the distinctions of the Cases on this head, the Words are those If I sho^d be so unhappy as that no Legitimate Son or Daughter shall live to leave at any time that blessing of any Child behind them In such Case of their dying thus without leaving any Issue behind them I Will & direct pt.

'Tis Clear & certain that no Limitation over of a personal thing can be admitted after a dying without Issue generally. But if this is confined within a Life or lives in being or within 10 Months or the Birth of a Child or in Case of the Death of such Child before 21 Or if Limited on a Contingency to a person who never takes, the Limitation is good - This has been Determined in many Cases particularly Higgins & Dowler, Stanley and Lee & Saberton, & Saberton, In the present Case it is very clear that the Words are Restricted to Legitimate Children of Duke John's dying without Issue living at their Deaths. The words are Shall live to leave any Child behind them dying thus without leaving Issue behind them In such few Cases are so restrictive. The first words speak of his immediate Issue, the Subsequent are extended to more Remote Issue but still are restrained to the Case of dying thus So that no Words can be more restrictive. In the Case of Imberry & Elkin 2^d Vernon 758 a liberal Construction was made to Comply wth the Testor's intention.

In Saberton and Saberton - This was determined on these Words - In Case they sho^d not leave any lawfull Issue

Seems an Authority in two respects, The Case was this, Walter Gore by Will devises all the residuo of his Estates Reall & personall to John Chapman In Trust for the Use of his Nephews W^m Gore & Walter Gore during the lease And as to the Rem^r of the Estates as well as his ffreehold Estate he gave to his Nephew W^m Gore And if either of his Nephews W^m or Walter sho^d dye and leave no Issue of their respective Bodys Then he gave the Leasehold premises to the Daue of his Brother W^m Gore & the Children of his Sister Sidney Price The Question was - Whether the Limitation over was good or too remote. S^r Joseph Jekyll was of Opinion it was too remote But J^r Macclayfield Decreed this Limitation Good upon the words leave Issue.

M^r Williams seems Mistaken in his 2^d Note on this Case

Forth
ag^t
Chapman
1 Pode W^m 663

Case Where he says the Limitation was restrained to the leasehold, for upon looking into it, it appears that both ffreehold and leasehold were devised by the same words. But probably the Limitation of the Reall was omitted by the Reg^r.

Some distinctions or Objections have been made by the Deft Council

First that in the present Case there is a Limitation in Tail preecedent to the Limitation by the 9 Clause

If this is Admitted yet a Generall Limitation may be Retained or turned into a particular Contingent Limitation by Subsequent Words supposing those are Subsequent Words suff^t for that purpose as was determined in the Case Lamb & Decher 2^d Salk 225

Another Objection was, that in the present Case a Reall Estate is joined wth a personal and therefore the same Construction ought to be made of the Words

I dont see any Reason why different Constructions may not be putt upon the same Words, to say they can not is contrary to the Case above Forth & Chapman, for there the ffreehold & leasehold were given by the same words And yet J^r Macclayfield made a different Construction that the Intent of the Testor might take place And I think it very reasonable to take words in a different sens^e wth regard to different Estates to support the Intention of the Party ut res magis valat quam periclit

A Third Objection was, that the Testor did not intend to create a particular contingent Limitation of the leasehold Estate to M^r Shoffield distinct from the ffreehold

This is begging the Question possibly the Testor intended a strict Settlem^t & if it cannot have its full Effect wth regard to one Estate If there are Words suff^t for that purpose it may have Effect wth regard to another The Testor manifestly intended a full disposition of his Estate & it ought to be carried into Execution as far as may be according to his intention - Many Cases have been cited but I think there are none that come up to the present Case The Case of L^r Beauclerk & Miss Doemor was after a generall dying without Issue and therefore the Limitation over co^d not be good - Green ag^t Red was much the same, that was if a Sister sho^d dye without Issue generally The Estate was limited over The Councill wo^d indeed have brought this Case to have been like the Case Imberry & Elkin by observing on the words (after her Death) but Lord King

King Observed that to the Words after her Death were Added y^e words
(in manner aforesaid) w^t manifestly made it a generall Dying w^t
out Issue & upon that Ground determined the Limitation void

Shroeford upon the whols I am of Opnion that y^e Limita-
tion over in the 9 Clause is Warranted by the Rules of Law

Another Question has been Stated Whethor the House Pictures
& Statues do not fall within the 14 Clause & Shroeford must be Sold
w^t his Insisted Defeats the Intent of the Testor as much as the
other Construction co^d have done

I am of Opinion that the House Pictures & Statues are
not directed to be Sold The words in this Clause are all my Money
& all other my personall Estate not otherwise given or disposed of.
I understand these Words to mean that such as he had given away
were not to be Sold particular Estates & Interests or any part of
his personall Estate co^d not be Sold but the remaining Interest ~
might be Sold unless so Settled as not to be Sold.

I Conceive that the House Pictures & Statues were so settled
& Clogged As that the Rem^r. after the Int^r of his Wife co^d not be inten-
ded to be Sold The Duke directs the things to be Sold as soon as con-
veniently might be but these are so Clogged by the Limitations that
no Sale co^d take place in any reasonable time therefore I rely on
the 2^d Clause as a Sufficient Declaration of the Testors intention
that this part of the personall Estate shd not be Sold

All I have said is Strengthned by some generall Considera-
tions This is an Intire mansion House designed for the Seat of
the ffamily — Could the Testor design it should be Mangled & Cut-
to pieces, that it shd be Sevred from the Bulk of his Estate: —
Upon failure of his legitimate Issue He has directed his Natural
Children to take his Name & Arms And therefore nothing can be
more opposite to the Dukes intentions than the Construction con-
tended for by the Defts

The Plate is given to the Duke during her Widowhood
& is not Influenced by any of the Clauses, but falls into the Bulk
of the Estate therefore the residuary Interest might be Sold du-
ring the Life of the Duke — It must be now Sold & the produc-
tions out in Land & for that purpose the same must be delivered
up to the Dukes Trustees or accounted for.

Let all the proofs in the Cause be Entred as read
Decree That the Defts Mr. Phipps & his Wife & the 3^d Defts the
Extors of the 3^d Duke of Bucks & Normanby do deliver posession
of Buckingham House w^t the two Wings Adjoining & all Stables
Gardens Courts & Greenhouses thereto belonging to the plt

Mr. Sheffield

M^r Sheffield And also that they deliver to the plt upon Oath all the
Statuos & Oil & Water Colour Pictures w^t belonged to John Duke
of Bucks & Normanby & were in the 3^d House at the time of
his Death except such as are otherwise Specifically given away
by his Will w^t are in the possession Custody or power of the 3^d
Defts or any of them And let the 3^d Defts also deliver to the
plt upon Oath all Deeds & Writings that are in their Custody
or power relating to the 3^d Estates And as to the plate which
belonged to the 3^d Duke John at his Death the particulars ~
whereof are contained in the Schedule left w^t the Ma^d. by the ~
late Duke of Bucks pursuant to the former Decree Let the
Ma^d Inquire whethor the same or any & what part thereof is re-
maining in Specie And let such part thereof as is now remaining
in Specie & in the Custody or power of any of the 3^d Defts be de-
livered upon Oath to such person as the Ma^d. shall direct for
that purpose And let the same be Sold w^t the approbation of
the Ma^d. at the best price that can be gott for the same And let
the Money arising thereby be applied & disposed of in like man-
ner as the Testors personall Estate not Specifically bequathed
is by the 3^d former Decree directed to be applied & disposed
of And as to such part of the 3^d plate as is not now remain-
ing in Specie Let the Ma^d. enquire what part thereof has been
Conwerted or disposed of by the late Duke of Bucks or the
3^d Deft^s her Extors or the Deft^s Phipps & his Wife or any of
them And let the Ma^d. take an Account of the Value of such part
of the 3^d plate as has been so Conwerted or disposed of And ~
Let what shall be coming on the 3^d Account for so much of the
3^d plate that hath been Conwerted or disposed of by the 3^d Duke
be Answered by the Extors out of her personal Assets in a course
of Administration And in Case they shall not Acmitt Assets for
the Ma^d. take an Account of the Duke's Assets w^t the Usual
directions And in Case her personal Estate shall not be suf-
ficient then reserve the Consideration of any further direc-
tions touching the payment thereof out of the late Duke's
Reall Estate untill after the Ma^d. shall have made his Rep^r. And
if upon the 3^d Account it shall appear that any part of the 3^d plate
hath been Conwerted or disposed of by the 3^d Defts or any of them
Let the Value thereof be Answered by such Defts respectively
And let the whole that shall be coming for the 3^d plate w^t
shall be now deliv^red or hath been disposed of be paid into the
Bank in the Name & w^t the privity of the Accountant Gen^r
of this Court & placed to the Credit of this Cause according
to the

to the generall Orders of this Court And let the same be applyed
or disposed of in like manner as is directed by the S^t forme^d Decree
touching such part of the Testors personal Estate as is
not Specifically bequeathed And as to the Lands & premises
privileg Admitted by the Answer of the S^t Deft^s to be part of
the Testors freehold Estate & disclaimed by the Deft^s Let
the Tennants there of attorn to pay thoir aeras & growing~
Rents to the pl^t And let it be referred to the M^r to take an
Acc^t of the Rents & profitts of such freehold Estate accrued
since the Death of Duke Edmond w^{ch} was recd by the late
Duchess or by any other person by her Order or for her use
And let what shall be coming from such Rents & profitts be
paid to the pl^t by the Exec^t of the S^t Duchess out of the per-
sonal Estate of the S^t late Duchess in a course of Administra-
tion And if they shall not admitt assets then they shall
acc^t in the maner before directed And take the usual di-
rection on Accounts for producing all Books papers and
Writings & for examination on Inforys and let all par-
ties except Mr Phipps & his wife have thoir costs to this
time out of the Estate of John late Duke of Bucks.

Mr Browne

I apprehend my Lord the Deft^s ought to pay costs
P^r Chancellor I wont direct Mr Phipps to have his costs
But I wont make him pay costs

M^r Browne

As the Duchess contrived indistinctly to give Mr
Shofford this trouble & keep him out of posession the costs
of her Exec^t ought to come out of her Estate

Mr Browne

P^r Chancellor Let all parties have thoir costs to this time,
out of the Estate of Duke John: except Mr Phipps, & his wife, & the
Exec^t of the late Duchess. And as to the Deft^s Mr Phipps, & his
wife, & the Exec^t of the late Duchess, let there be no costs to this
time. But reserve the Subsequent costs wth liberty to apply to the
Court, as there shall be occasion. And in case Mr Phipps, & his wife,
or the Exec^t of the late Duchess, shall give the pl^t any unneces-
sary trouble, or vexation, in obtaining the S^t Hous^s, Pictures, and
Statues, than I grant liberty to apply to the Court, for Costs to this
time against such Defend^t.

As the Deft^s have been in posession of this Hous^s, ever since
the Duchess's Death, I hope they shall pay us Rent or make some
satisfaction

[P^r Chancellor] As you pray no such thing in your Bill
I can make no such Order about it.

A number of blank pages follow
and have not been photographed.

(J)

Copy of the Will of Katherine
Duchess of Buckinghamshire
and Normanby.

39
Estates in Yorkshire
held from the Crown.

Yearly profits to be laid
out in a purchase.

To the use of Constantine
Phipps.

of James Phipps.

of Edmund Boyle.

* A mistake of the
Name in the original
Will. Charles instead
of John.

I Katherine Duchess of Buckinghamshire, &
Normanby, Do hereby Revoke all former Wills & Codicils made
by me: And make this my last Will as followeth (viz.) I Give to
my Executors all my Leasehold Estates in Yorkshire w^t I hold
of the Crown, In Trust that they & the Surv^e & Succe^r of them
And the Exec^u Adm^r & C^o of such Surv^e Do from time to time
during the Term of Years therein, lay out the cloae Yearly pro-
fits thereof in the purchases of Lands of Inheritance m-
their Names, & Convey & settle the same To the use of Constan-
tine Phipps Grandson to James Earl of Anglesey deced by ~
his Daiz during his life without Impeachment of Wast And
after the Determination of that Estate To the uses of Trustees
for preserving Contingent Remainders & after the Death of the
said Constantine Phipps To the use & behoof of the first & every
other Son & Sons of the Body of the S^d Constantine Phipps & the
Heirs Male of his & their Body & Bodys successively the El-
dest of such Sons & the Heirs Male of his Body being always to
take first & be preferred before the Younger of them, & the Heirs
Male of his Body: And for want of such Issue, To the use & behoof
of James Phipps Brother to S^d Constantine Phipps for his life
without Impeachmt of Wast & w^t the like Limitations to Trus-
tees to preserve Contingent Remainders & w^t the like Limita-
tions to the first & other Sons of the said James Phipps in-
Tale Male successively, in the same manner as to the Sons of
the S^d Constantine Phipps: & their Issue: & for want of such
Issue of the S^d James Phipps Then To the use & behoof of
my Godson the Hon^{ble} Edmund Boyle Son of Charles Earl
of Orrery by his present wife for his life without Impeach-
ment of Wast & to Trustees in the same manner to preserve
the Contingent Remainders & with the like Limitations to
the first & other Sons of the S^d Edmund Boyle in Tale Male
successively in the same manner as to the Sons of the said
Constantine

Annuity to James
Phipps of £100 per ann.
James Phipps died
in 1747.

Annuity to Mrs Sophia
Cox of £20 per annum.

£.
200: per annum for the
repair of Buckm^m House
B^m House has been de-
-maded to Mr Steff^d none
of this money was exp^d, and
a very little expended towards
repair.

Constantine Phipps & their Issue & for want of such Issue to the
use & behoof of my Right Heirs for Ever — And I Give to my Exec & all
my other personal Estate whatsoever In Trust in the first place to
pay thereout to the S^r James Phipps during his Life the Yearly Sum
of 100 And upon his further Trust to pay thereout to Mrs Sophia —
Cox Wife of Joseph Cox Esq^r for her sole & separate use during her
Life the Yearly Sum of 120 in Acknowledgm^t & return for her
respectfull Behaviour to my Deare Son Edmund late Duke of Buck-

inghamshire & Normandy decoast & to myself, & for not taking
part with the other Neat Children of my Late Husband John Duke
of Buckinghamshire & Normandy in their Suits ag^t me: And in
the Wrongs they have done me, and it is my Will that both the S^r
severall Yearly Sums & payments of 100 and 120 shall be clear &
without any Deductions or Abatements whatsoever for any man-
ner of Taxes, or on any other Acc^t by four equall Quarterly pay-
ments at Lady day, Midsummer, Michis, & Christmas, the first Quar-
ters paym^t thereof to be made at the first of those Quarter Days
that shall happen next after my decease. And the S^r Annuity of
120 a year to be from time to time, paid to the proper hands of
the S^r Sophia Cox & that her Receipt alone & without her Hus-
band shall notwithstanding her Coveture be a good Discharge.

And upon this further Trust to pay thereout 200 a Year for four
Years from my Death in the necessary Repairs of Buckingham-
House w^t its Appurts upon such Condition & Contingency as is
mentioned in a Deed of Appomtmt made by me touching the S^r
House And then upon this further Trust to pay thereout such
other Annuities Legacies or Sums of Money & to such other per-
son or persons as I shall give or Appoint by any Deed or Deeds
Codicill or Codicills to this Will or any other Writing what-
soever And then In Trust to lay out the Remainder of my said
personal Estate in the purchase of Lands of Inheritance in
the Names of them their Exec^s or Adm^s & to settle & Convey
the same upon the same persons & their Issue & to & for the
same Uses & Estates in every Respect as is herein before di-
rected touching the Lands to be purchased w^t the Clear Rents
of the S^r p^rees in Yorkshire — And I devise all y^e Lands
Tenom^t & Real Estate that I shall be seized of or entitled
unto at my Death to my S^r Exec^s & their Heirs In Trust to
Convey & settle the same upon the same persons & their
Issue & to & for the same Uses & Estates in every Respect
as is before directed touching the Lands to be purchast w^t

the Rents

(3)
the Rents of the S^r p^rees in Yorkshire provided Always & it shall
be lawfull for And I do hereby Impower the S^r Constantine Phipps
James Phipps & Edmund Boyle whom they shall by Virtus h[er]oof
be Respectively in the Actual posession of all or any of the Estates
herein before directed to be settled upon them by any Deed or Deeds
to be Executed by them respectivly in the presence of Two Witnesses
to limitt & Appoint any parts of the S^r Estates not exceeding in the
whole 700 a Year clear of all Outgoing (but publick Taxes) upon
any Wif^r or Wives that they shall respectivly Marry for her life
for a Jointure And also that it shall be lawfull for And I do
hereby Impower the S^r Constantine Phipps James Phipps & Edmund
Boyle & every of them respectivly when they shall by Virtus
h[er]oof be respectivly in the Actual posession of the S^r Estates by
Indres to make Leases of the S^r p^rees or any parts thereof for
any Number of Years not exceeding One & Twenty Years to be
Computed from the then next Lady day or Michaelmas Day after
the date of execution thereof so as the best improved Yearly Rent
be reserved in each Lease during the whole Term thereby Granted
payable to the person & persons who for the time being shall
be entitld to the Reversion of y^e S^r p^rees & so as the S^r leases
be made without taking any fine or other Consideration for the
making thereof & so as the same be not without Impeachment
of Wast & so as there be Contained therein the usuall Coven^t
on the Ten^ts part for paym^t of the Rent and keeping & leaving
the promises in Repair & the usuall proviso for Reentry for
Non payment of the Rent for 21 Days after the same becomes
due and so as the Ten^ts executors custod^r parts of such Leases
any thing herein before Contained to the Contrary notwithstanding
— And I hereby Direct that my Executors untill such
purchases can be found Do put out at Interest the said Trust
Money either on Land or Government Securities as they see fitt
or place the same in the mean time where they see fitt for safe-
custody & pay the Interest & produce thereof to such person
& persons for the time being as by Virtus h[er]oof will be or is
intended to be Intitld to the Rents of the S^r Estates directed
to be purchast when the same shall be so purchased — And I
will that they shall not be Answerable for each others Acc^t or
Receipts but each of them only for his own, nor be Answerable
for more than each shall actually receive nor be Answerable for
any loss that shall happen w^t out their willfull default of any
of the said Trust Money by a bad Security or otherwise nor shall
be Answerable

Executors.

Robert Earl of Orford
John E. of Orrery.
Wm. Keelyng.
Zachary Chambers.
Joseph Ashton.

be Answerable for any Loss wth out their Willfull default that shall happen by a Bad title to any of the real Estates that shall be purchased by them or to suffer any Damage or Loss for or in respect of the price or Yearly or other Value of such purchase Estates so as they act therein bona fide & without any fraud or Collusion — And I make the Right Hon^{ble} the Earl of Orford Kn^t of the Garter The Right Hon^{ble} Charles Earl of Orrery my Husband's Relation My Council wth Kelyng of the Inner Temple London Esq^r Zachary Chambers of Jackville Street in the parish of St James Westm^r Esq^r Joseph Ashton of Surry street in the Strand Gen^l my Exec^{rs} & he of And I give to such of them as shall accept of the Trusts afores^d to prove this Will the sum of 250 a peice In Witness whereof I have hereunto set my Hand and Seal this 15th Day of Feby & in the Year of our Lord 1742.

Signed Sealed and
published by the said Duchess
in the presence of us, who also
Subscribed our Names as Witnesses
in her presence & in the presence of each other

Mary Younger.
Benj. Moreton.
Thⁿ. Robinson.

Katherine Buckinghamshire
Normanby.



Edmund Hunt.

Joseph Cox his Son
& Daughter.

Eliz. Welsted.

Copy of the first Codicill to the Duchess of Buckinghamshire,

Will Dated Feb: 15th 1742, 3.

I Katherine Duchess of Buckinghamshire and Normanby Do make this Codicill to my Will wth Will is Dated this Day (that is to say) I give to Edmund Hunt Son of Mrs Cox by her former Husband Doctor Hunt the sum of 1000 to be paid to him at his age of 21 Years & the Interest thereof from my Death to be applyed towards his Education And in case he Dyes before his said Age then the £ 1000 Legacy to be void & sink into the residus of my Estate & though I do not give him this Legacy upon that Condition yet I hope he will take Orders & apply it to buy him a living having already out of my kindness been at great Expence in Educating & bringing him up at School & do now support him at the University — I give to Joseph Cox Esq^r & his Son & Daughter now living by his present wife Sophia Cox £ 100 each wth with the many other acts of kindness I have from time to time done to her & her Children in my life time & what I have already provided for her is in return & to make an ample amends for her respectfull behaviour to my Dear Son Edmund & to Myself & for her not taking part wth the other naturall Children of my late Husband in their Suits against me & in the Wrongs they have done me — I give to Mrs Eliz. Welsted my Woman during her life the yearly sum of £ 100 of lawfull Money for her separate use clear & without any Deductions or Abatements for Taxes or any other Account whatsoever to be paid to her own hands for her sole & separate use & fee wth her Receipt alone notwithstanding her Coveture shall be a good Discharge & to be paid at Ladyday Midsummer Michaelmas & R^t m^s by four equal quarterly payments The first quarters payment to be made at the first of those Days that shall happen next after my Death wth yearly sum of £ 100 is not to be over & above the sum of £ 100 a

6.

(39) £100 A Year w^{ch} I have already by Deed poll bearing Date on or about the 15th Day of Jan^y 1735 given granted & secured to her for her life but only for confirming & better securing the said former Annuity and if she shall at any time within the space of One Year next after my Death signify to my Exec^{es} by writing under her Hand that she chooses to have the sum of £1200 in Money instead of the P^t Annuity so formerly granted & hereby confirmed I do hereby Direct my Exec^{es} to pay to her all the Arrears thereof due at the Time of such Signification And also to pay to her the P^t sum of £1200 within 14 Days after such signification upon her C^o her Trustees exenting & delivering to my Exec^{es} a proper & sufficient Release and Discharge of the P^t Annuity & delivering up to them to be cancell'd the P^t Writing or Instrum^t she already has for £100 - A Year as afores^t I Give to John Macklaing My Under Butler £20 a Year for his Life to help him the better to support his large Family - I Give to Jacob Holder my Butler £12 A Year for his Life - I Give to John Gilfeey one of my Gentlemen £20 A Year for his Life - I Give to all my other Domestick Servants that shall be living wth me at my Death A Years Wages over & above what Wages or other Monys shall be then due to them And also 2 Guineas a peice Yearly during their respective lives - I Give to Aubin Cost Willim in the little Foundling girl now maintained by me £12 A Year for her life & £50 to putt her out Apprentice to some Trade or otherwise dispose of it for her advantage as my Exec^{es} think proper All w^{ch} Annuities or Yearly sums I direct to be paid by my Exec^{es} clear & without any Deductions or Abatm^t for Taxes or otherwise by equall quarterly paym^ts at the 4 Quarter days afores^t And the 1st Quarte^r paym^t thereof to be made at the first of those Quarte^r Days next after My Death And I Direct all the P^t money legacies to be paid at the end of 12 Months after my Death Except the P^t £1000 to Edmund Hunt the Time of paym^t whereof I have before Directed In Witness whereof I have hereunto sett my Hand & Seal this 15th Day of feb^r in the Year of our Lord 1742.

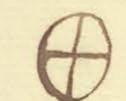
Signed sealed published

& Declared by y^e Testrix

Katharine Buckinghamshire

as a Codicill to her P^t will in

& Normanby.



y^e presence of us who also subscrivd

our Names as witnesses in her presence & in the

presence of each other.

Mary Younger

Benj. Morton

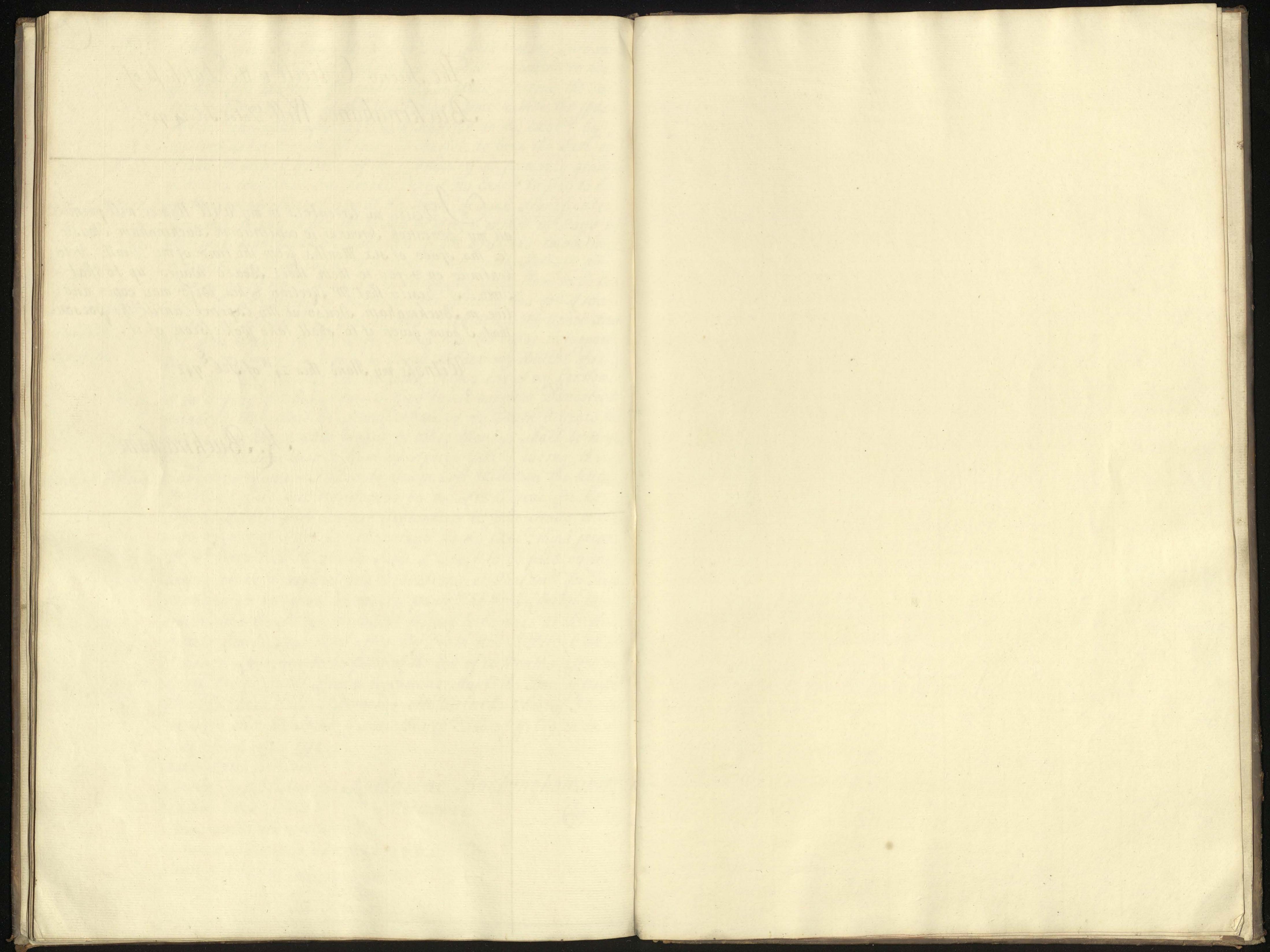
John Robson

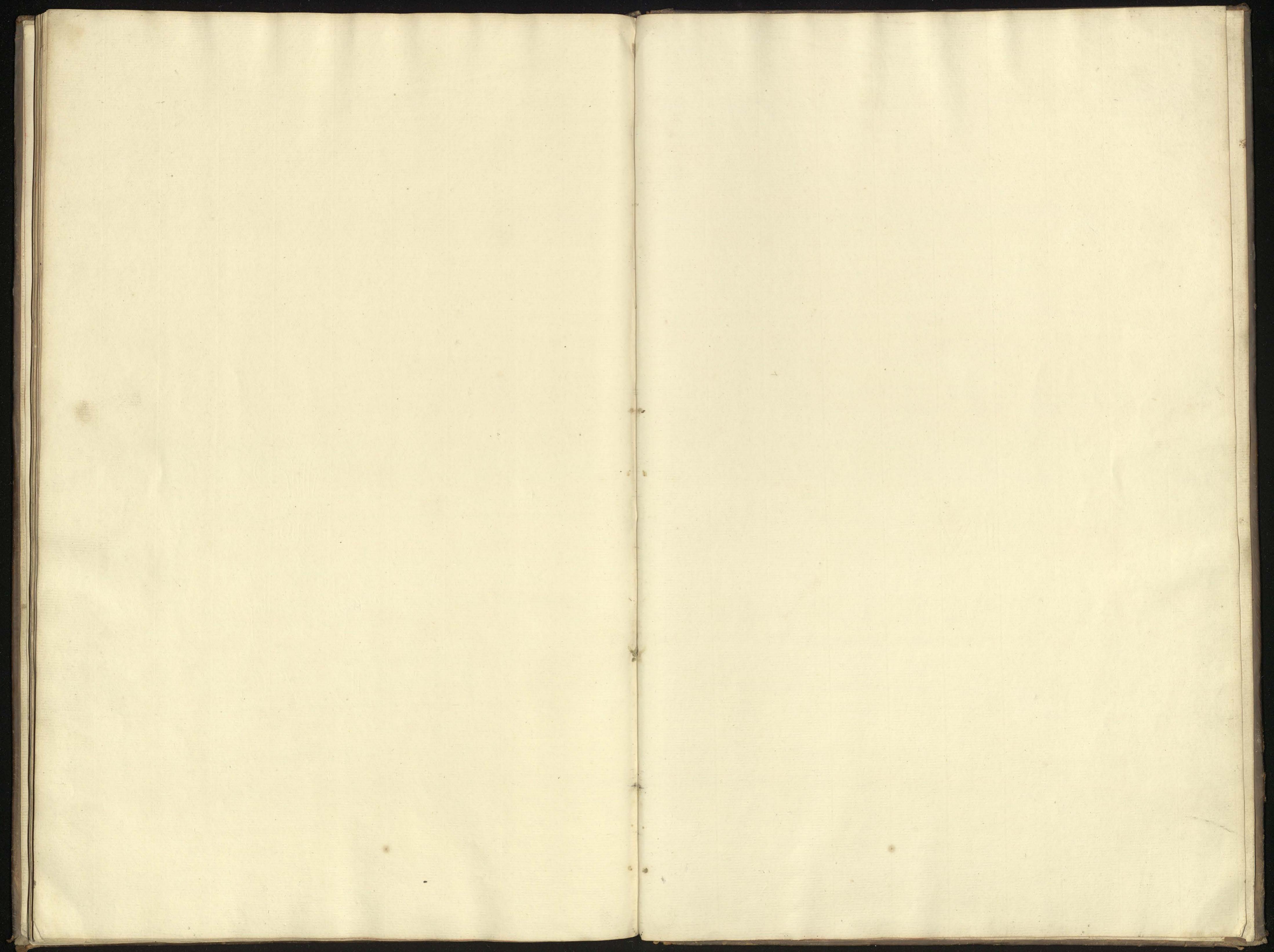
The Second Codicill to the Duchess of Buckingham's Will Dated Feb: 24. 1742.

I Desire my Executors in my Will Named will permitt all my Domestick Servants to continu in Buckingham Hous^r for the space of six Months from the time of my Death, & to continu on & pay to them their Board Wages, up to that time. I Desire that Mr Keeling & his Wife may come and live in Buckingham Hous^r at my Expence, until the person that I have given it to, shall take possession of it.

Witness my Hand this 24th of Feb: 1742.

K. Buckingham





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