

# Will of Elizabeth Herbert née Spencer (1737-1831)

*Note: Paragraph breaks have been added to make the will easier to read; underlines \_\_\_\_\_ indicate words that I could not read; square brackets [] are words where I am uncertain of the transcription.*

**I Elizabeth<sup>1</sup> Countess Dowager of Pembroke and Montgomery** do make this my last Will and Testament in manner following

Whereas my Son<sup>2</sup> the late of Earl of Pembroke and Montgomery was kind enough to place at my disposal the sum of three thousand two hundred and four pounds five shillings and six pence bank [navy] five percent annuities (since converted into three thousand three hundred and sixty four pounds nine shillings and nine pence bank four percent annuities) purchased by him in the names of the Honorable John Trevor (since deceased) and John Thomas Batt Esquire who by a certain Indenture bearing date the fifteenth day of July one thousand eight hundred and sixteen are declared to stand possessed thereof in trust for such person or persons and for such intents and purposes as I by any deed or deeds writing or writings executed and attested as therein mentioned or by my last Will and Testament in writing signed and published by me in the presence of and attested by two or more credible witnesses shall direct or appoint

Now in pursuance and exercise of the power so vested in me as aforesaid and of all other powers enabling me in this behalf I do by this my Will duly signed and published by me in the presence of the two credible persons whose names are intended to be subscribed as witnesses hereto do direct and appoint that the said John Thomas Batt (who hath survived the said John Trevor) his executors or admors shall immediately after my decease transfer the said bank annuities unto The Right Honorable James Edward<sup>3</sup> Earl of Malmesbury and the Right Honorable Francis Almeric<sup>4</sup> Lord Churchill who shall stand possessed thereof Upon the trusts herein after expressed and declared of and concerning the same

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<sup>1</sup> Elizabeth Herbert née Spencer (1737-1831) [[Wikipedia](#)], the Testatrix, daughter of Elizabeth née Trevor (1715-1761) and Charles Spencer (1706-1758) [[Wikipedia](#)] 3rd Duke of Marlborough, wife of General Henry Herbert (1734-1794) [[Wikipedia](#)], 10th Earl of Pembroke 7th Earl of Montgomery.

<sup>2</sup> General George Augustus Herbert (1759-1827) [[Wikipedia](#)], 11th Earl of Pembroke 8th Earl of Montgomery, son of the Testatrix and General Henry Herbert (1734-1794), husband of Elizabeth née Beauclerk (1766-1793).

<sup>3</sup> Presumably James Edward Harris (1778-1841) [[Wikipedia](#)], 2nd Earl of Malmesbury.

<sup>4</sup> Presumably Francis Almeric Spencer (1779-1846) [[Wikipedia](#)] 1st Baron Churchill, nephew of the Testatrix, son of Caroline née Russell (1743-1811) and George Spencer (1739-1817) [[Wikipedia](#)], 4th Duke of Marlborough, husband of Frances FitzRoy (1780-1866).

And I give to the said James Edward Earl of Malmesbury and Francis Almeric Lord Churchill the sum of one thousand five hundred pounds to be paid as soon as conveniently may be after my death upon trust to place out the same in or upon any of the stocks funds or securities of the British Government or upon real securities in England or Wales

And my Will is that the said James Edward Earl of Malmesbury and Francis Almeric Lord Churchill and the survivor of them his executors and administrators shall stand possessed of as well the said bank annuities so directed to be transferred as aforesaid as the stocks funds and securities in or upon which the said sum of one thousand five hundred pounds shall be so placed out hereby empowering them and him to sell the said bank annuities and place out the produce thereof in or upon any such like stocks funds or securities as aforesaid and from time to time to vary and alter the several stocks funds or securities as aforesaid for others of the like nature when and so often as it shall seem meet upon the trusts hereinafter expressed and declared of and concerning the same that is to say

Upon trust to pay the interest dividends and annual produce of the said several stocks funds and securities unto my niece Mary Jenison<sup>5</sup> now residing with me during her natural life for her own use And from and after her decease my Will is that my said trustees or trustee shall stand possessed of the said several stocks funds and securities In trust for all and every the children and child of my said Niece who being a Son shall attain the age of twenty one years or being a daughter or daughters shall attain that age or marry and their respective executors admns and assigns and to be divided between or among them in equal shares and if there shall not be more than one such child in trust for that one child his or her executors administrators or assigns And if there shall not be any such child then in trust for such person and in such manner as she my said niece shall by her Will appoint and for want thereof in trust for my said niece her executors and administrators

And my will is and I do hereby direct that from and after the decease of my said niece my trustees or trustee do and shall apply all or any part of the interest dividends and annual produce of the presumptive portion or share of any of her children which shall not then have become vested or payable for or towards his or her maintenance and education

Provided always that if the said trustees hereinbefore named or either of them or any trustees or trustee to be appointed under the present power shall happen to die or decline to act in or desire to be discharged from the said trusts before the same shall be

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<sup>5</sup> Mary Caroline Jenison-Walworth (1800-1890) Countess of Heidelberg, grand niece of the Testatrix, daughter of Mary Day née Beauclerk (1766-1851) and Francis Jenison-Walworth (1764-1824), never married.

fully executed and performed then and in such case and so often as the same shall happen it shall and may be lawful to and for my said trustees or the trustees or trustee for the time being to nominate and appoint by writing under his or their hand or hands any proper person or persons to be a new trustee or new trustees in the place or stead of the trustee or trustees so dying or declining to act in or desiring to be discharged from the said trusts

And thereupon the said trust funds and the securities for the same shall be assigned and transferred in such manner and form as to become vested in the surviving or continuing trustee and new trustee or if there shall not be any surviving or continuing trustee in such new trustees only upon and subject to the trusts hereinbefore expressed and declared of and concerning the same and so from time to time when and as often as thelike case shall happen

Also I give to the said James Edward Earl of Malmesbury and Francis Almeric Lord Churchill their executors and administrators my portrait of the late Duke of Marlborough Lord Charles Spencer Doctor Eyre and Mr Pitt in trust to permit the same to be enjoyed as HeirLooms with the family Mansion House called Wilton House in the County of Wilts by the person or persons who shall for the time being be entitled to the same Mansion House under any Settlement or Settlements which may have been made thereof

Also I give to my House maid Sarah Julian one annuity or yearly sum of twenty pounds during her life to be paid half yearly by equal portions on the fifth day of January and fifth day of July in each year and the first payment thereof to begin and be made on such of those days as shall first happen after my death

Also I give to my \_\_\_\_ Servant Ruth Swan the sum of one hundred pounds

Also I give to my Servants afternamed if in my Service at my death as follows that is to say

To David Smith the sum of one hundred and fifty pounds

to Thomas Duel the sum of one hundred pounds

to M<sup>rs</sup> Duel his Wife the sum of twenty pounds

to Henry Orchin the sum of thirty pounds

to M<sup>rs</sup> Bolton the sum of one hundred and fifty pounds

and to M<sup>rs</sup> Day the sum of thirty pounds

And in case I shall have sufficient for the purpose as I trust I shall I wish that all my said Servants now living with me if in my Service at my death and such others as may be living with me at that time shall have one years wages over and above what may be due from me to them

And my wish is that the legacy duty payable in respect of the several legacies and annuity given by this my Will may be paid out of my Estate in case of the said respective legatees and annuitant

And as to all the *Rest Residue and Remainder* of my personal Estate and effects whatsoever which shall remain after paying my just debts funeral and testamentary expenses and the legacies and annuity given by this my Will or which I shall give my any Codicil hereto I give to my brother Lord Robert Spencer<sup>6</sup> for his own use

And I appoint my said brother and the Reverend George Augustus Montgomery<sup>7</sup> *Executors* of this my Will And revoking all Wills by me heretofore made I publish and declare these presents as and for my last Will and Testament this seventeenth day of November in the year of our Lord one thousand eight hundred and twenty seven /—/ *Eliz. Pembroke (SS)* Signed Sealed Published and declared by the said Elizabeth Countess Dowager of Pembroke and Montgomery as and for her last Will and Testament in the presence of us *Lucy Harding Grove Highgate /—/ John Forster Carey Street ./.*

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I Elizabeth Countess Dowager of Pembroke and Montgomery do make this Codicil to my Will

Whereas by a certain deed poll bearing even date herewith I have made an appointment of the sum of three thousand three hundred and sixty four pounds nine shillings and nine pence bank four per cent annuities in my Will named in manner therein mentioned

Now I do hereby revoke the appointment made by my Will of those bank annuities and the trusts thereby declared thereof

And I do hereby revoke the legacy of one thousand five hundred pounds by my will given to the Earl of Malmesbury and Lord Churchill

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<sup>6</sup> Lord Robert Spencer (1747-1831) [[Wikipedia](#)], brother of the Testatrix, son of Elizabeth née Trevot (1715-1761) and Charles Spencer (1706-1758), husband of Harriott Fawkener (1744-1825).

<sup>7</sup> Presumably Rev George Augustus Montgomery (1793-1842), step grandson of the Testatrix, son of Suzanne née Maltass (1770-1851) and Augustus Retnuh Reebkomp (1762-1797), husband of Cecilia née Markham (1792-1879).

And I do hereby give the sum of one thousand five hundred pounds to my niece Mary Caroline Jenison now residing with me free from legacy duty the same to be paid at or before the end of six calendar months after my death

I give my footman William Bishop if in my service at my death the sum of thirty pounds free from legacy duty over and above what he may be entitled to under my Will

and in case after payment of my debts funeral and testamentary expenses the legacies given by my Will and this Codicil and the several legacy duties thereon my personal Estate not specifically bequeathed shall be sufficient to answer the same I give the sum of one thousand pounds to my great nephew William Spencer<sup>8</sup> Grandson of my late Brother Lord Charles Spencer the sum of five hundred pounds one moiety thereof to be paid at the end of six calendar months next after my death and the other moiety thereof immediately after the death of my house maid Sarah Julian when the annuity of twenty pounds given to her by my Will will cease

Witness my hand this thirteenth day of March one thousand eight hundred and twenty eight — *Eliz Pembroke* — Signed published and declared by the said Elizabeth Countess Dowager of Pembroke and Montgomery as and for a Codicil to her Will in the presence of *John Forster Carey Street* ./.

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**I Elizabeth Countess Dowager of Pembroke and Montgomery do make this Codicil to my I Will and do hereby give**

to Martha Bolton the articles following viz my unmade articles of dress . . .

also to Catherine<sup>9</sup> C<sup>ss</sup><sup>10</sup> of Pembroke my small Commode of or \_\_\_\_ in the drawing room at Richmond

Also to G. A. Montgomery my prints in the Dressing room in Cavendish Square including drawings of Lord Pembroke by Charlotte &c &c

Also to Diana<sup>11</sup> C<sup>ss</sup> of Normanton the Portrait of her father in my bedroom at Richmond

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<sup>8</sup> William Spencer (1796-c1878), grand nephew of the Testatrix, son of Susan née von Jenison-Walwath (1770-1839) and William Robert Spencer (1769-1834) [[Wikipedia](#)], husband of Francis née Garland.

<sup>9</sup> Catherine née Semyonovna Vorontsova (1783-1856) [[Wikipedia](#)], daughter in law of the Testatrix, daughter of Ekaterina Alekseevna Seniavina (1761-1784) and Count Semyon Vorontsov (1744-1832) [[Wikipedia](#)], wife of General George Augustus Herbert (1759-1827) [[Wikipedia](#)].

<sup>10</sup> C<sup>ss</sup> => Countess.

<sup>11</sup> Diana Agar née Herbert (1790-1841), granddaughter of the Testatrix, daughter of Elizabeth née Beauclerk (1766-1793) and General George Augustus Herbert (1759-1827) [[Wikipedia](#)], wife of Welbore Ellis Agar (1778-1868) [[Wikipedia](#)] 2nd Earl of Normanton.

Also to Charles Beauclerc the Portrait of his Mother Lady H Beauclerc in Cavendish Sq. in the Dining Room

Also to the Count Voronzov the portrait of a Monk by the Count Munster

Also to Robert Lord Pembroke my Ormolu Clock given me by the late King

Also to Mary Caroline Jenison All prints and drawings found unframed

Also to G. A. Montgomery my Boydells Shakespeare in Cavendish Square

Also to the Honorable Caroline Lucy Scott<sup>12</sup> my inlaid table in the Library at Richmond given to me by the late Lady Douglas and a Screen in the same room painted by Lady D. \_\_\_\_ 9<sup>bre</sup> 23 1827 Richmond Park G. Albe \_\_\_\_

Also to Mary Caroline Janson the choice of a pianoforte one already being hers \_\_9<sup>bre</sup> 23 1827 R.P.<sup>13</sup> G. Albe \_\_\_\_

I desire my furniture in Cavendish Sq which has been appraised this Mar at £480 to be sold

I desire my books to be divided between Robert Lord Pembroke and Mary Caroline Jenison according to a list I propose to leave — March 17 1828 R.P. G Albe\_\_

I leave to Mary Caroline Jenison whatever furniture she may choose from my house in Richmond Park except such articles as have been specifically bequeathed to others R.P. April 3. 1825 —

Also to Charles Beauclerc<sup>14</sup> the drawing by his Mother Lady Di Beauclerc<sup>15</sup> of Gypsies in the front drawing room in Cavendish Sq and two of the ~~small drawings of hers that are in the little boudoir within the drawing room~~

Also to Catherine Coss of Pembroke one p<sup>r</sup> of small Alabaster Vases

Also to Lord Robert Spencer the larger Alabaster Vases

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<sup>12</sup> Presumably Caroline Lucy Scott née Douglas (1784-1857) [[Wikipedia](#)].

<sup>13</sup> R.P. => Richmond Park.

<sup>14</sup> Charles George Beauclerk (1774-1845) [[Wikipedia](#)], nephew of the Testatrix, son of Diana Beauclerk née Spencer (1737-1831) [[Wikipedia](#)] and Topham Beauclerk (1739-1780) [[Wikipedia](#)], husband of Emily Charlotte 'Mimie' née Ogilvie (1778-1832).

<sup>15</sup> Diana Beauclerk née Spencer (1737-1831) [[Wikipedia](#)], sister of the Testatrix, daughter of Elizabeth née Trevor (1715-1761) and Charles Spencer (1706-1758) [[Wikipedia](#)] 3rd Duke of Marlborough, wife of (i) Frederick St John (1732-1787) [[Wikipedia](#)] 2nd Viscount Bolingbroke, and (ii) Topham Beauclerk (1739-1780) [[Wikipedia](#)].

Lady Di Beauclercs 5 Crayon drawings in the front drawing room in Cavendish Square to be given two to Diana Css of Normanton one to Mary Caroline Jenison and two to Charles Beauclerc

Also to Catherine Css of Pembroke the drawing by Lady Di Beauclerc over the chimney piece in library at Richmond Park

Also to Cecilia Montgomery an antique enamelled urn in the back drawing room in Cavendish Sq<sup>r</sup>

Also to Lord Robert Spencer the drawings by Lady Di Beauclerk from Spencer's ffairy Queen in the Drawing room at Richmond Park — Cavendish Square 8 May 1828 — *Eliz: Pembroke /—/* Witness to the signing hereof *John Forster Carey Street ./.*

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**I Elizabeth Countess Dowager of Pembroke and Montgomery** do by this further Codicil to my Will revoke the bequest contained therein of the residue of my personal Estate to my brother Lord Robert Spencer and do hereby give such residue to my niece Mary Caroline Jenison now residing with me for her own use

In witness whereof I have hereunto set my hand and seal this thirteenth day of May one thousand eight hundred and twenty eight /—/ *Eliz Pembroke (SS)* Signed Sealed published and declared by the above named Elizabeth Countess Dowager of Pembroke and Montgomery in the presence of John Forster Carey Street ./.

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**Appeared Personally** David Smith of Richmond Park in the County of Surry Gentleman and made Oath that he knew and was well acquainted with the Right Honorable Elizabeth Countess Dowager of Pembroke and Montgomery late of Richmond Park in the County of Surry Widow deceased and he also knows and is well acquainted with her manner and character of handwriting and subscription having several times seen her write and also write and subscribe her name or Title of Honor and having now with care and with attention viewed and perused the papers writing hereunto annexed purporting to be and contain three Codicils to the last Will and Testament of the said deceased the first of the said Codicils beginning thus "I Elizabeth Countess Dowager of Pembroke and Montgomery do make this Codicil to my will" and ending thus "Witness my hand this thirteenth day of March one thousand eight hundred and twenty eight" and thus subscribed "Eliz: Pembroke" the second of the said Codicil beginning thus "I Elizabeth Countess Dowager of Pembroke and Montgomery do make this Codicil to my Will" ending thus "Also to Robert Spencer the drawings by Lady Di Beauclerk from Spencer's ffairy Queen in the Drawing room at Richmond Park and thus subscribed and

dated “Eliz Pembroke Cavendish Square 8 May 1828” the third of the said codicils beginning thus “I Elizabeth Countess Dowager of Pembroke and Montgomery do by thus further Codicil to my Will” ending thus “In Witness whereof I have set my hand and seal this thirteenth day of May one thousand eight hundred and twenty eight and thus subscribed “Eliz: Pemboke” he further made oath that he doth verily and in his conscience believe the said subscriptions ‘Eliz: Pembroke” so set and subscribed to the said three Codicils to be of the proper handwriting and subscription of the said Right Honorable Elizabeth Countess Dowager of Pembroke and Montgomery Widow deceased /—/ *David Smith* The 21 day of May — the said David Smith was duly sworn to the truth of this Affidavit before me *H. C. Curtis Surr pre<sup>st16</sup> Iltid Nicholl Noty. Pub. ./.*

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**Proved** at London with 3 Codicils 26<sup>th</sup> May 1831 before the Worshipful John Danbury Doctor of Laws and Surrogate by the Oaths of the Right Honorable Lord Robert Spencer the brother and the Reverend George Augustus Montgomery Clerk the Executors to whom Admon was granted having been first sworn duly to administer ./.

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Transcribed from images on Ancestry.co.uk [here](#)

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<sup>16</sup> Pre<sup>st</sup> => present i.e. witness to the document.

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