

SUMMARY: The document below is the Prerogative Court of Canterbury copy of the last will and testament, dated 10 June 1591, together with a codicil dated 28 September 1594, proved 1 September 1595, of Thomas Digges (c.1546 – 24 August 1595), of St Mary Aldermanbury, whose widow, Anne, married Thomas Russell (1570-1634), the overseer of the will of William Shakespeare of Stratford upon Avon, and whose son, Leonard Digges, wrote commendatory verses for the *First Folio* and the 1640 edition of Shakespeare's *Poems*.

For the testator see 'Thomas Digges, Gentleman and Mathematician' at:

<http://www.mhs.ox.ac.uk/staff/saj/thesis/digges.htm>

### ***FAMILY BACKGROUND***

For the testator's family background, see Richardson, Douglas, *Magna Carta Ancestry*, 2<sup>nd</sup> ed., 2011, Vol. II, pp. 81-2 at:

<http://books.google.ca/books?id=8JcbV309c5UC&pg=RA1-PA81>

See also Richardson, Douglas, *Plantagenet Ancestry*, 2<sup>nd</sup> ed., 2011, Vol. I, pp. 656-7.

See also the Digges pedigree in Powell, Jason, 'The Network Behind 'Tottel's' Miscellany', *English Literary Renaissance*, Vol. 46, No. 2, (April 2016), pp. 193-224 at p. 211:

<https://www.journals.uchicago.edu/doi/10.1111/1475-6757.12064>

### ***Testator's paternal great-great-grandparents***

The testator was the great-great-grandson of John Digges, esquire, and Joan Bruyn, daughter of Sir Maurice Bruyn of South Ockendon, Essex.

### ***Testator's paternal great-grandparents***

The testator was the great-grandson of John Digges (d. 29 December 1502), esquire, and Joan Clifton, daughter and co-heiress of Sir Gervase Clifton (beheaded 6 May 1471) by his first wife, Isabel Herbert (died c. November 1457), daughter of Vincent Herbert of Netherfield, Sussex. According to *Magna Carta Ancestry, supra*, p. 81, John Digges and Joan Clifton had a son, James Digges, esquire, and two daughters, Isabel Digges, who married Richard Sackville (d. 28 July 1524), for whose will see TNA PROB 11/21/446, and Mary Digges, who married William Brent. However it appears John Digges and Joan Clifton also had a third daughter, Joan Digges, who married, as his second wife,

William Heneage (d. February 1518?). See the undated will, proved 18 June 1518, of William Heneage, TNA PROB 11/19/110. See also the Heneage pedigree in Maddison, A.R., ed., *Lincolnshire Pedigrees*, (London: Harleian Society, 1903), Vol. II, p. 481.

For John Digges (d. 29 December 1502), see the inquisition post mortem taken after his death, TNA C 142/17/9, and the summary at:

Maskelyne and H. C. Maxwell Lyte, 'Inquisitions Post Mortem, Henry VII, Entries 651-700', in *Calendar of Inquisitions Post Mortem: Series 2, Volume 2, Henry VII* (London, 1915), pp. 411-458. *British History Online* <http://www.british-history.ac.uk/inquis-post-mortem/series2-vol2/pp411-458> [accessed 1 January 2021].

### ***Testator's paternal grandparents***

The testator was the grandson of James Digges (c.1473-c1540), esquire, and his second wife, Philippa Engham, the daughter of John Engham, esquire, of Chart, Kent. By his first wife, Mildred Fineux, daughter of Sir John Fyneux (d.1525), Chief Justice of the King's Bench, James Digges had a son, John Digges (d.1533), for whom see Cuncer, C.R., 'Heraldic Notices of the Church of St. Martin, Herne, *Archaeologia Cantiana*, Vol. 53, (1940), pp. 89, 99, available online.

For Sir John Fineux, see his will, TNA PROB 11/22/21, and the *ODNB* entry:

*[Sir John Fineux's] first wife, Elizabeth, was daughter and heir of William Apuldrefield (d. 1487) of Faversham and Lynsted. Their son Richard (d. 1520) twice served as member of parliament for Dover; another son, John, became an Austin canon. One of their daughters, Jane, married John Rooper (d. 1524) of Eltham, whom Fyneux appointed as chief clerk of his court; their grandson John (d. 1618) sold the chief clerkship to become Baron Teynham in 1616. At the time of Fyneux's death, on 17 November 1525, his only surviving son, and thus his heir, was William (d. 1557), the child of Fyneux's second wife, also Elizabeth (d. 1539), daughter of Sir John Paston and widow of William Clere.*

See also the will of Mildred Fyneux's sister, Joan (nee Fyneux) Roper (d.1544?), TNA PROB 11/30/316.

See also the will of James Digges, dated 20 February 1536 and proved 24 November 1540, TNA PROB 11/28/308.

### ***Testator's parents***

The testator was the eldest son of Leonard Digges (c.1515-c.1559) and Bridget Wilford, daughter of Thomas Wilford, esquire, of Hartridge (in Cranbrook), Kent, by his first wife, Elizabeth Culpeper, the daughter of Walter Culpeper, esquire. According to a letter from

the testator to Sir Robert Cecil dated 25 October 1593 (see below), Leonard Digges left a will which, however, appears to be no longer extant.

### *Testator's siblings*

In the will below the testator mentions one brother and several sisters:

**-James Digges.** For the conflict which caused the testator to add a codicil to his will revoking 'all legacies and bequeaths by me given in my said will to my said brother, James Digges, or William Digges or his wife, my sister, of any of them or to any of their children', see TNA REQ 2/64/71, Powell, *supra*, p. 217, and *A Catalogue of the Lansdowne Manuscripts in the British Museum*, (1819), p. 125 at:

<http://books.google.ca/books?id=LRgQX7vQbMcC&pg=PA125>

5. *Account of a combination of William Digges of Newington in Kent etc. unjustly to deprive Thomas Digges of Chevening in Kent of 3 or 4000 pounds, 1591*

6. *A petition to Lord Burghley of Thomas Digges, esquire, to protect him from the mischievous attempts of William Digges, esquire etc. 1591*

**-Anne Digges**, who married William Digges (living 1597) of Newington, Kent. See *A Catalogue of the Lansdowne Manuscripts in the British Museum*, p. 125, *supra*.

In a challenge to the testator's will, his brother-in-law, William Digges, is confusingly referred to as his brother ('Willelmum Digges Armigerum et Jacobum Digges generosum fratres predicti defuncti', i.e. 'William Digges, esquire, and James Digges, gentleman, brothers of the foresaid deceased'). See TNA PRO 11/86/344. Despite that wording, William Digges was clearly the testator's brother-in-law, and was himself the brother-in-law of Richard Rogers (d.1597), Bishop Suffragan of Dover and Dean of Canterbury, for whose will see TNA PROB 11/90/51. See a letter from the testator to Sir Robert Cecil dated 25 October 1593 in which Richard Rogers is referred to as 'the Dean, his brother':

'Cecil Papers: October 1593', in *Calendar of the Cecil Papers in Hatfield House: Volume 4, 1590-1594*, ed. R A Roberts (London, 1892), pp. 381-406. *British History Online* <http://www.british-history.ac.uk/cal-cecil-papers/vol4/pp381-406> [accessed 6 January 2021].

*Whereas, after the delivery of a slanderous libel, accusatory against me, to the Lords of Her Majesty's Council, by the procurement of my unthrifty and ungrate brother in law, William Digges, and his suborners, I presented to their Lordships these brief notes of the truth of that case, I would most gladly understand, whether there have been since unto your Honours, any disproofs made, either by William Digges or the Dean, his brother, of any one article in them contained, or any denial under any of their hands, because I would presently repair to Court, to their shame, to disprove them having already*

*disproved the Dean, his brother, so manifestly before their own Commissioners, as even those of their own chosen Commissioners acknowledge his error, and himself not able to deny it, though still he use his best skill to extenuate the foulness of his fault. But for my ungrate unthrifty brother in law, William Digges, I cannot yet get his answer on oath to my bill exhibited against him in Chancery nine months since. . . .*

*1. This William Digges, being my father's executor, for eight or nine years, during my non age, had the receipt of all my living and revenues, besides wood-sales and moveable goods. . . .*

*5. And to stop me of demanding of the rest, he pretended of great love forsooth, to desire one of my sisters in marriage. . . .*

According to the will below, William Digges and the testator's sister, Anne Digges, had several children, including a son, Thomas Digges, the testator's godson. Ursula Digges, god-daughter of the testator's wife, may also have been their daughter.

**-Constance Digges**, unmarried in 1591. She is not mentioned in *Plantagenet Ancestry*, *supra*, Vol. I, p. 657.

**-Sara Digges** (d.1625), who is said to have married firstly Percival Martin, and secondly John Weston (d.1607). See the pedigree of Weston of West Horsley in Brayley, Edward Wedlake, *A Topographical History of Surrey*, (London: Tilt and Bogue, n.d.), Vol. II, p. 86.

**-Mary Digges**, who married a husband surnamed Barber. Her children are left a bequest in the will below.

According to *Plantagenet Ancestry*, *supra*, Vol. I, p. 657, the testator had another brother:

**-Daniel Digges.**

Quare whether this statement is accurate.

### ***MARRIAGE AND ISSUE***

The testator married Anne St Leger (c.1555-1636), daughter of Sir Warham St Leger (1525?-1597) by his first wife, Ursula Neville (d.1575), fifth and youngest daughter of George Neville, 5<sup>th</sup> Baron Bergavenny, and his third wife, Mary Stafford, youngest daughter of Edward Stafford (1478-1521), 3<sup>rd</sup> Duke of Buckingham. See *Plantagenet Ancestry*, *supra*, Vol. I, p. 657, and the St Leger pedigree in Robertson, Herbert, *Stemmata Robertson et Durdin*, (London: Mitchell and Hughes, 1893-95), pp. 70-1 at:

<http://archive.org/stream/stemmatarobertso00robe#page/70/mode/2up>

For Sir Warham St. Leger, see also the will of his father, Sir Anthony St Leger (c.1496 – 16 March 1559), TNA PROB 11/42B/276.

The testator leaves bequests of £50 apiece to his ‘brothers’ [=brothers-in-law], George St Leger and William St Leger, for whom see Robertson, *supra*, p. 71.

As overseers, the testator appoints his father-in-law, Sir Warham St Leger, and his ‘cousin’, Anthony St Leger, who was perhaps Sir Anthony St Leger (d.1613), shortly to be appointed Master of the Rolls in Ireland, who has been identified as the son of George St Leger and Thomasine Heath, the daughter of John Heath of Kent. see Ball, Francis Elrington, *The Judges in Ireland 1221-1921*, (London: John Murray, 1926), Vol. 1, pp. 225-6 at:

<http://books.google.ca/books?id=rqeSXWqKAD8C&pg=PA225>

See the *ODNB* entries for Sir Warham St Leger and Thomas Digges; *Magna Carta Ancestry*, *supra*, Vol. II, pp. 81-3, and Vol. III, p. 482; the will of Sir Warham St Leger, dated 20 July 1593 and proved 28 January 1598, TNA PROB 11/91/61; and Palmer, Alan and Veronica Palmer, *Who's Who in Shakespeare's England*, (New York: St Martin's Press, 1999), pp. 209-10, at:

<http://books.google.ca/books?id=6BK1Vu6pw84C&pg=PA209&dq=Thomas+Russell#v=onepage&q=Thomas%20Russell&f=false>

In the will below the testator mentions two sons and two daughters:

\* **Sir Dudley Digges** (1582/3–1639), aged twelve at his father's death, who in 1605 married Mary Kempe (baptized 1590, d.1631), daughter and coheir of Sir Thomas Kempe of Olantigh, near Wye, Kent, by his second wife, Dorothy Thompson. See Richardson, *supra*, Vol. III, p. 277; Hotson, Leslie, *I, William Shakespeare, Do Appoint Thomas Russell, Esquire* (London: Jonathan Cape, 1937), p. 126; and the *ODNB* article on Sir Dudley Digges.

\* **Leonard Digges** (1588 – 7 April 1635), aged seven at his father's death, who was brought up in his youth in Thomas Russell's household, and whose commendatory verses appeared in the *First Folio* of Shakespeare's plays (1623) and in the 1640 edition of his *Poems*:

*This Booke,  
When Brasse and Marble fade, shall make thee looke  
Fresh to all Ages.*

*Briefe, there is nothing in his wit fraught Booke,  
Whose sound we would not heare; on whose worth looke  
Like old coynd gold, whose lines in every page,*

*Shall passe true currant to succeeding age.*

See Hotson, *supra*, p. 126, and the *ODNB* article on Leonard Digges.

\* **Margaret Digges** (1587 - September 1619), aged eight at her father's death, who married Sir Anthony Palmer (1566-1630); for his will, dated 28 August 1630 and proved 24 September 1630, in which he appoints Sir Dudley Digges as one of his executors, see TNA PROB 11/158/216. Her brother, Leonard Digges, dedicated his translation of Claudian to her. See Hotson, *supra*, pp. 126, 215-16, 237, 242, and the *ODNB* entry for Leonard Digges. Sir Anthony Palmer may have been related to Thomas Palmer, who married, as her second husband, Margaret Parker (b. 21 March 1568), the daughter of Sir John Parker (5 May 1548 - 1619), and the granddaughter of Archbishop Matthew Parker. Margaret Parker's first husband was Thomas Digges (d. 10 April 1590), whom she married on 28 September 1584. Margaret Parker's two marriages are separately noticed in several sources. For Margaret Parker's first marriage to Thomas Digges, see Digges' case in *The Reports of Sir Edward Coke*, p. 389 at:

<https://books.google.ca/books?id=FGJHAAAAYAAJ&pg=PA389>

See also the Digges pedigree in Bannerman, W. Bruce, ed., *The Visitations of the County of Surrey*, (London: Harleian Society, 1899), Vol. XLIII, p. 140 at:

<https://archive.org/stream/visitationsofcou43beno#page/140/mode/1up>

For Margaret Parker's second marriage to Thomas Palmer, see TNA C 8/6/24, a Chancery suit brought in 1605 by John Bird against Sir Thomas Palmer and Margaret Palmer, his wife, and Sir John Parker concerning property at Out Elmstead, Kent, presumably the manor of Outelmeston, otherwise known as Digges Court. See Digges' case, *supra*. See also the Palmer pedigree in *The Pedigree of the Ancient Family of The Palmers of Sussex, 1672*, (Privately printed, 1867), pp. 6, 12 at:

<https://archive.org/details/pedigreeancient00jenygoog/page/n12>

According to the Palmer pedigree, Sir Thomas Palmer (d.1626) was the son of Sir Thomas Palmer of Angmering, Sussex, and the grandson of John Palmer of Angmering, eldest brother of Henry Palmer (executed 1553) and Thomas Palmer (d.1559), for whom see the *ODNB* entries. The pedigree states further that Sir Thomas Palmer (d.1626) married firstly Margaret Parker, the daughter of Sir John Parker, son of Archbishop Matthew Parker, and secondly a widowed daughter of Sir Michael Sondes, but died without issue.

\* **Ursula Digges**, aged thirteen months at her father's death. According to Hotson she was maintained for many years by her stepfather, Thomas Russell, and married twice. In 1627 Russell had one of her children under his care. See Hotson, *supra*, pp. 126, 265.

The testator is also said to have had two other children, William and Mary, who died young.

The testator died 24 August 1595, and was buried in the chancel of the parish church of St Mary Aldermanbury. See Hotson, *supra*, pp. 124-5.

See *A Catalogue of the Lansdowne Manuscripts in the British Museum*, 1819, p. 125 at:

<http://books.google.ca/books?id=LRgQX7vQbMcC&pg=PA124>

### ***TESTATOR'S WIDOW'S REMARRIAGE***

After the testator's death his wealthy widow was courted by both Edward Andrews, esquire, of Gray's Inn, and Francis Brace (d. 2 July 1599), before eventually marrying Thomas Russell, overseer of the will of William Shakespeare of Stratford upon Avon. In 1574 Francis Brace had witnessed the will of Thomas Russell's father, Sir Thomas Russell (d. 9 April 1574) of Strensham (see TNA PROB 11/57/83).

Francis Brace was granted licence to travel on the continent at the same time as Oxford, in 1575; see TNA E 157/1, f. 1.

For Francis Brace see also Hotson, *supra*, pp. 112-13, 131-3, 138, 161, 203, 211-13, and the History of Parliament entry at:

<http://www.historyofparliamentonline.org/volume/1558-1603/member/brace-francis-1599>

For the will of Thomas Russell, dated 3 October 1633 and proved 5 May 1634, see TNA PROB 11/165/424.

For Thomas Russell and the testator's family see also Pogue, Kate Emery, *Shakespeare's Friends*, (Westport, Connecticut: Praeger Publisher, 2006), pp. 38-40 at:

<http://books.google.ca/books?id=Oy29eyCMNycC&pg=PA38>

For subsequent litigation between Thomas Russell and his stepson, Sir Dudley Digges, see C 2/ChasI/R45/54; C 2/ChasI/D31/65, C 24/540/29 and C 22/419/32, and Hotson, *supra*, pp. 265-6.

### ***OTHER PERSONS MENTIONED IN THE WILL***

In the will below, the testator refers to Sir Thomas Wilford as his uncle:

*And whereas I had nominated my brother, James Digges . . . I do now utterly for his ingratitude revoke all such clauses as any way concern him . . . [and] do in that place nominate my approved good friend and uncle, Sir Thomas Wilford, knight . . .*

The testator also leaves a bequest to ‘my cousin, Thomas Digges, that served me in the Low Countries’.

The testator’s ‘cousin, Matthew Hadd’, has not been identified.

RM: T{estamentum} Thome Diggs

[f. 164r] In the name of God, Amen. The tenth day of June in the year of Our Lord one thousand five hundred ninety-one and in the three and thirtieth year of the reign of our most gracious Sovereign Lady Queen Elizabeth, I, Thomas Digges of London, esquire, being whole of body, and also of perfect memory, do make my last will and testament in manner and form following:

First I bequeath my soul to Almighty God, assuredly trusting by the merits and passion of my Saviour, Jesus Christ, only after this transitory mortality to enjoy eternal felicity;

My body I leave to the earth to be buried as it shall seem most fit to my executor;

I give to Anne, my wife, all her apparel, chains and jewels, and I will that my said wife shall have my house in London and the use of the household stuff and other furniture for housekeeping as I myself used in my lifetime until Dudley Digges, my eldest son, shall accomplish his age of four and twenty years, or if he die before that age, then until Leonard Digges, my youngest son, shall accomplish his age of one and twenty years, she paying during that time the yearly rent due for the same house;

And further my meaning is that my said wife, so long as she shall remain unmarried, shall have as well my said house in London as also my house in the country and the use of all my household stuff and furniture for house, she paying the yearly rent due for the same;

And I will and bequeath unto my said wife one annuity or rentcharge of threescore pounds a year for threescore years if she shall so long live, to be paid and taken out of my lands that I hold in lease, parcel of Barton Wingham, the same to [+be?] paid unto her yearly at the feasts of the Annunciation of Our Lady and Saint Michael the Archangel by even and equal portions, and for non-payment thereof at such days and times as aforesaid, I will that it shall be lawful for my said wife and her assigns into all and every part of my said leased lands to enter and distrain, and the distress there taken to lead, drive, carry away and withhold until of the said yearly rent and the arrearages of the same, together with all damages, costs, charges and expenses thereby sustained, she, the said Anne, or her assigns to be fully satisfied, contented and paid;

Item, I will and bequeath unto my brother, William Digges, and to my sister, his wife, besides his fifty pounds yearly out of Barton Wingham already by me assured, other twenty pounds yearly out of my said leased lands of Barton Wingham, to be paid yearly unto them for the term of threescore years if they or either of them or my godson, Thomas Digges, their son, live so long, and my meaning is that after the death of my said brother and sister, my said godson shall have it for so many years of the said threescore years as shall be then unexpired if he shall so long live;

I also give and bequeath unto my brother, James Digges, my lease of his hundred acres once parcel of Temple Ewell and thirty pounds yearly to be paid unto him out of my said leased lands of Barton Wingham for the term of threescore years if he shall so long live or until he is to receive by force of this my last will the profits of the one moiety of all my leases and all my lands if so it happen during the said term;

Item, I give to Leonard Digges, my son, after he cometh to the age of one and twenty years, one annual rentcharge of one hundred marks a year for the term of threescore years if he shall so long live, and until he shall come to that age I will that Anne, my wife, shall have twenty pounds a year allowed her out of my lands and leases for his education, and if she die before his said age, then the same to be yearly paid to such as shall have the education of him till his said age of one and twenty years;

Item, I will to my daughter, Margaret, one thousand marks to be paid the day of her marriage besides that her mother shall bestow on her, and her mother or such other after the decease of her mother as shall have the education of her to have in the meantime for her bringing up twenty marks a year;

Item, all the debt remaining due unto me from her Majesty for my [f. 164v] service in the Low Countries, being clear, as I take it, about eight hundred pounds, I give unto my brother, James Digges, so as out of the same he pay unto my cousin, Thomas Digges, that served me in the Low Countries the portion due unto him for my time, not exceeding twenty pounds, and fifty pounds more as my gift to him, and one hundred marks more thereof to his nephew, my godson, Thomas Digges, and fifty pounds apiece to my brothers [=brothers-in-law], George St Leger and William St Leger;

I will also to my sister, Constance Digges, twenty pounds yearly to be paid unto her until the day of her marriage, and if she happen to marry, I then bequeath to her two hundred pounds to be paid upon demand at or upon or after her marriage;

Item, to my sister, Sara Weston, I bequeath one hundred pounds;

I also will and bequeath unto my sister, Mary, twenty nobles yearly annuity during her life, and forgive my offence;

Item, my meaning is that my wife shall have the education and bringing up of my eldest son until his age of sixteen years, and she to have forty marks a year for the keeping of him, and afterwards he shall be committed to the keeping of some such indifferent person

as my overseers and executor shall agree on, and the same elected person to see him brought up chiefly in knowledge and fear of God and also in learning the mathematical sciences, military studies and foreign languages, and to have the said forty marks yearly for the keeping and maintaining of him till his age of one and twenty years, after which time I would have him bestow two years in foreign travels, and for those two years to be allowed two hundred marks;

Item, I further give unto my brother, James Digges, besides my gift before bequeathed unto him, seven hundred marks to be paid him by one hundred marks a year out of my lands and leases;

And I likewise give unto my brother, William Digges, and his wife, besides my former gift, seven hundred marks to be paid likewise by one hundred marks a year out of my lands and leases for portions to their children to be bestowed at their discretion, whereof one hundred pounds I will my godson, their son, shall have at his age of one and twenty years;

Item, I further will unto my wife two thousand pounds besides that which I have already given her, to be paid out of my revenues by two hundred pounds a year if she continue widow till the same be levied, to be bestowed on the increase of our children's portions or otherwise at her good discretion;

And forasmuch as I do leave sufficient of the debts due unto me to satisfy that which I owe and much more, my will and meaning is that my executors shall not sell my leases nor any one of them nor any part of any one of them, but that the same and every and every of them shall remain and continue in such sort as in this my will I do appoint, give and limit them;

And my meaning is and I do will and devise all my leases which I have within the realm of England to my son, Dudley Digges, for all the years in every of them that shall be unexpired and to come at my death if he, the said Dudley, shall so long live, and if he shall die before the expiration of the said leases or any of them leaving issue male of his body lawfully begotten, then I will all the said leases so unexpired to the eldest issue male of the body of the said Dudley for all the years then to come in every of the said leases if such issue male shall so long live, and so from eldest issue male to eldest issue male that shall for the time be then living of the body of the said Dudley in sort as aforesaid so long as the leases aforesaid or any of them shall be unexpired and have continuance and the said Dudley Digges have issue of his body remaining;

And further my [-my] meaning is that if my son, Dudley, shall happen to die without issue male of his body during such time as there shall be any years to come and unexpired in the said leases or in any of them, I will all my said leases or so many of them as shall be then unexpired unto Leonard Digges, my second son, if he shall be then living, for all the terms and years that then shall be to come and unexpired in them or any of them if he, the said Leonard, shall so long live;

And after his decease I will the same leases and every of them then [f. 165r] unexpired unto the eldest issue male of his body lawfully begotten for all the residue of years that then shall be to come and unexpired, if he shall so long live, and so from eldest issue male to eldest issue male of the body of the said Leonard that shall be for the time then living in sort as aforesaid so long as the leases aforesaid or any of them shall have continuance and be unexpired and the said Leonard Digges have issue male of his body remaining;

And if my said son, Leonard, shall happen to die without issue male of his body during such time as there shall be any years to come and unexpired in the said leases or in any of them, then I will all my said leases or so many of them as shall be then unexpired unto the eldest issue male of my body that shall be then living and to such issue male of his body in such sort as I have before bequeathed the same unto my son, Leonard, and the issue males of his body and for so long time as there shall be any issue male of my body, for my meaning is that so long as there shall be issue male of my body that may inherit and [sic?] estate tail limited to the heirs males of my body at the common law, my said leases and every of them shall successively come in sort as aforesaid to my said issue male, and that the same leases nor any of them nor any parts of any of them shall not be sold, aliened or forfeited by any of my said issues;

And further my will and meaning is that if I shall happen to die without issue male of my body lawfully begotten, that then my said leases or so many of them as then shall have continuance and be unexpired shall be and remain to my brother, James Digges, and my daughter, Margaret, equally to be divided between them;

Provided always and my will is that every of my issues male that shall be owner or possessor of my said leases or any of them by my bequeath aforesaid shall have full power and authority to surrender any of my leases aforesaid to the intent to take a new lease of the same and to renew the same for more years, so that any such surrender be not made above twelve years before the end or expiration of any such lease to be surrendered or to any other end or purpose than aforesaid, anything hereinbefore contained to the contrary notwithstanding;

All the residue of my movable goods, chattels, real debts and duties and demands not before in this my will bequeathed, my debts, legacies and funeral expenses discharged, I wholly give to Dudley Digges, my eldest son, to be delivered unto him at his age of four and twenty years, save that my wife, so long as she shall keep herself widow, shall have the use of my houses and stuff as before in this my will I have appointed the same unto her;

And I ordain and make my said well-beloved wife my sole and only executrix of this my last will and testament so long as she shall remain widow, so as she do within twenty days after request made unto her and a copy of this my will delivered unto her enter into band of five thousand pounds unto James Digges, my brother, binding thereby herself, her heirs, executors and administrators to preserve and keep my leases and every of them from forfeiture until my heirs [sic?] male shall accomplish his age of four and twenty

years, and then to make a true account unto him according to the true meaning of this my will, she being thereupon allowed all such reasonable charges and expenses as she shall be put to for the defence of any of my said leases or any of my lands or about the execution of this my will;

And if my said wife do not enter into band as aforesaid or if my said wife shall happen to marry, then upon any such default or marriage I ordain and appoint my said brother, James Digges, to be my sole and only executor so as he, the said James Digges, do within twenty days next after he shall be thereunto required and a true copy of this my will to him delivered enter into band of five thousand pounds unto my said wife, thereby binding himself, his heirs, executors and administrators to preserve and keep my said leases and every of them from forfeiture until my heir male shall accomplish his age of four and twenty years, and then to make a true account unto him according to the [f. 165v] true meaning of this my will, my said brother being thereupon allowed in all points as my wife should have been if she had executed the same, wherein if my brother, James Digges, do also make default, then I ordain and appoint (blank) to be my [-my] sole and only executor;

My father-in-law, Sir Warham St Leger, knight, I ordain and will to be one of the overseers of this my testament, and for a remembrance I bequeath unto him a diamond of twenty pounds' price;

My cousin, Anthony St Leger, I will to be another overseer, and I bequeath unto him ten pounds;

And I ordain as an assistant to explain the meaning of this my will my cousin, Matthew Hadd, and for his pains I bequeath unto him ten pounds;

Provided always and my intent and will is that when the eldest heirs male of my body lawfully begotten shall come unto the age of four and twenty years, that then or that time after if he will and do enter into band of two thousand pounds unto my executor that then shall be from thenceforth to perform the true intent of this my will then not performed by my executor aforesaid, that then and immediately from entering into such band he shall be my sole and only executor, and then my executors and administrators for the time being shall render unto my said heir male an account of all his or their doings by force of this my testament, and deliver also into his hands all my leases and all such overplus and sums of money as remain in his or their hands not bestowed about the performance of this my last will and testament;

This is the last will and testament of me, the said Thomas Digges, made and published the day and year first above-written touching all my lands and tenements and the farther disposing of some part of the profits of my chattels real:

I will and bequeath unto my aforesaid wife, Anne Digges, for term of her life one annual or yearly rentcharge of threescore pounds a year to be issuing and going out of all my lands, tenements and leases over and above the threescore pounds a year that I have

before in this my will given her, to be paid unto her at such time and in such sort as I have before appointed the other threescore pounds a year to be paid unto her, which annual or yearly rentcharge I do give unto her in discharge of my band made unto the afore-named Sir Warham St Leger before our marriage, and for non-payment thereof or of any part thereof at such times as the same ought to be paid as aforesaid I give unto her and her assigns full power and authority from time to time to distrain in all and every part of my lands, tenements and leases for the levying for the same and her damages, charges and expenses thereby sustained, and my meaning and will is that if my wife do claim any other portion, jointure or dowry for her jointure or dower than in this my will I have given unto her, or if Sir Warham St Leger, her father, take advantage of any other band for her jointure contrary to the meaning of this my will, that then the annuity or yearly rentcharges by this my will to her given and all other my bequeaths to her before or hereafter in any part of this my will devised shall be void;

And my meaning is that all yearly annuities or rentcharges by this my will and testament given and bequeathed shall be yearly paid by my executor for the time being until my eldest heir male shall come to his age of four and twenty years, and that every person to whom any annuity or yearly sum is payable or due by this my last will shall for default of payment thereof have like remedy to levy the same by distress in all and every my lands, tenements and leases as is before limited to my said wife for the levying of the threescore pounds a year last given unto her by this my will, except only for such annuities as before I have specially given out of my leased lands of Barton Wingham, to all which I will my said leased lands of Barton Wingham only shall be subject to a distress as other my lands and leases are to the rest;

Item, I give and devise all my manors, lands, tenements and hereditaments whatsoever I have in the county of Kent or elsewhere wherein I have an estate of inheritance to Dudley Digges, my eldest son, and to the heirs males of his body lawfully begotten, and for default of such issue to Leonard Digges, my other son, and to the heirs males of his body lawfully begotten, and for default of such issue unto the heirs males of the body of me, the said Thomas Digges, lawfully begotten; and [f. 166r] for default of such issue unto my brother, James Digges, and the heirs males of his body lawfully begotten, and for default of such issue unto my brother, William Digges, and the heirs males of his body lawfully begotten, and for default of such issue to the right heirs of me, the said Thomas Digges, forever;

And yet my will and mind is that my executor for the time being, as well for and towards the paying of all the yearly annuities or annual rents before in this my will given as aforesaid as also for and towards the paying of all my debts and legacies and performing of this my will, shall receive and take all the profits and revenues and have the ordering and letting out of my said manors, lands, tenements and hereditaments wherein I have any estate of inheritance until my heir male shall accomplish and come to his full age of one and twenty years, and shall likewise receive and take all the profits and revenues and have the ordering and letting out of all my leased lands until my heir male shall accomplish and come unto his age of four and twenty years, and then from thenceforth I will that the same yearly annuities or rentcharge[s] be paid by such heir male or other as

shall according to the limitation aforesaid enjoy and have the said lands and leases, and my will is that my executor shall make a true account to my said heir male at his age of four and twenty years of all the said profits, revenues, debts, goods and other matters received and taken by my said executors or any of them, and shall then deliver to my said heir male as well all my leases as also all such goods, overplus and sums of money as are then remaining in his or her hands or have been received by my executors and not before employed and paid about the performance of this my will;

And also my will is that my executor or executrix shall not lease nor let out any lands or hereditaments of mine or any my leased lands for any longer term than for seven years, and if that my wife take on her the execution of this my will, that then my brother, James Digges, or his assigns shall have the preferment by offer thereof to be made to him to be tenant or farmer to my said lands before any other, giving for the same as much as any other will;

Likewise if my said brother, James, be executor, then my wife or her assigns shall farm the same by like offer before any other, giving for the same as much as any other will;

And my mind is that if any executor or executrix of this my will shall not so do, but fraudulently lease my lands at far inferior rents to that they are or conveniently may be let, or by other unjust means do seek to frustrate and defraud the true meaning of this my will and the execution thereof, then I will that such fraudulent deeds and leases shall be void, and the next succeeding nominated executor shall upon due proof thereof made enter into the executorship even in such sort as if the said executor or executrix had refused to enter into band;

In witness of all which premises I, the said Thomas Digges, have at the foot of every sheet of paper of this my last will and testament subscribed my name with my own hand and have set to my seal of arms to the last sheet thereof;

Published and declared by me, the aforesaid Thomas Digges, the day and year first above-written to be my last will and testament in the presence of (blank).

A codicil to be annexed to my will

Where in my will I have given divers legacies to my brother, James Digges, and also to William Digges and his wife to be employed upon their children or otherwise as in my will is contained, which I then did of mere benevolence, love and friendship, so now, they giving me just cause so to do, I do hereby utterly revoke all legacies and bequeaths by me given in my said will to my said brother, James Digges, or William Digges or his wife, my sister, of any of them or to any of their children;

And do hereby declare that my will is that my wife shall receive and have all and every the said legacies, to employ part thereof as hereafter in this codicil I do appoint the same,

and of the rest to make her commodity till my eldest son come to his full age of twenty and four years, and then to make an account to him of the residue of her receipts not due to herself, viz.,

I will that my wife shall pay out of the legacies aforesaid to Thomas Digges, my godson, and son to the said my brother, William Digges, the sum of one hundred pounds at his [f. 166v] age of one and twenty years, so as he do not participate of his parents' ingratitude but do acknowledge the same (as it is indeed) my free gift of mere goodwill, and no way of debt or duty;

And one hundred marks, part of the said legacies, I give to Ursula Digges, my wife's goddaughter, upon the like condition, to be paid her at her marriage if my wife so like;

And one hundred marks more thereof I will shall be paid to my sister, Mary, within two years after my death, to bestow upon her children;

And one hundred marks more thereof I will shall be paid within three years after my death to my sister, Constance, to bestow as she shall think good;

And one hundred marks more thereof I will shall be paid within four years after my death to my sister, Sara Weston, to bestow as she seeth good;

And whereas I had nominated my brother, James Digges, of great trust the person to whom my wife should stand bound in five thousand pounds for performance of the plain and true meaning of my will and for other matters, I do now utterly for his ingratitude revoke all such clauses as any way concern him as a person that I will no way trust or employ in the execution of this my will, but do in that place nominate my approved good friend and uncle, Sir Thomas Wilford, knight, to take and have the said bond for Dudley Digges, my son, and to be an overseer also of my said will as well as my wife's father, and for a remembrance of his friend to have likewise a diamond of twenty pounds' price as I bequeathed also to my father-in-law, Sir Warham St Leger;

And to my said ingrate brother, James Digges, I bequeath during his life twenty nobles a year annuity only meant him, as I have heard, by my good father, and twenty pounds yearly annuity more during life as my gift, so as he do accept it and no ways else molest or charge my heirs or executors with any other claim or suit;

And whereas since my former testament made God hath given me my other daughter, Ursula Digges, I will my wife shall have twenty pounds yearly more allowed her for her education, and that my eldest son and heir upon the account taken of her at the four and twentieth year of his age shall allow unto her or pay her one thousand marks to be by my wife, her mother, paid to my daughter, Ursula, at the day of her marriage if she marry with her mother's liking, or else to have only the moiety thereof, and her mother to bestow the rest at her liking if she remain still a widow;

And the rest of these revoked legacies to my wife's own use to bestow as she will;

And this I publish to be part of my last will, and have annexed the same as a codicil to my said will as part thereof, written and published the eight and twentieth day of September one thousand five hundred ninety-four in the presence of Thomas Digges.

Signed, sealed and delivered in the presence of us, Robert Harland, cler{icus} and Thomas Backshawe, scrivener.

Probatum fuit Testamentum suprascriptum vnacum Codicillo coram mag{ist}ro will{el}imo ffarrand legum doctore surrogato venerabilis viri mag{ist}ri will{el}imi Lewin legum etiam doctoris Curie Prerogative Cant{uariensis} mag{ist}ri Custodis sive Comissarij Primo die mens{is} Septembris Anno Domini Millesimo Quingentesimo nonagesimo Quinto Iuramento Galfridi Clerke no{tar}ij publici procuratoris Anne relicte et executricis in h{uius}mo{d}i Testamento nominate Cui commissa fuit Administracio bonorum Iurium et creditorum dicti defuncti De bene et fideliter Administrand{o} Ad sancta Dei Evangelia Iurat{i}

[=The above-written testament was proved, together with the codicil, before Master William Farrand, Doctor of the Laws, Surrogate of the worshipful Master William Lewin, also Doctor of the Laws, Master, Keeper or Commissary of the Prerogative Court of Canterbury, on the first day of the month of September in the year of the Lord the thousand five hundred ninety-fifth by the oath of Geoffrey Clerke, notary public, proctor of Anne, relict and executrix named in the same testament, to whom administration was granted of the goods, rights and credits of the said deceased, sworn on the Holy Gospels to well and faithfully administer.]