

THE MAGISTRATE,

THE BULL

and



GREAT WESTERN RAILWAY

The Magistrate,
the Bull and
Great Western Railway

A case brought before the
Court of Exchequer in Worcester
January 1871



The Magistrate, the Bull and Great Western Railway

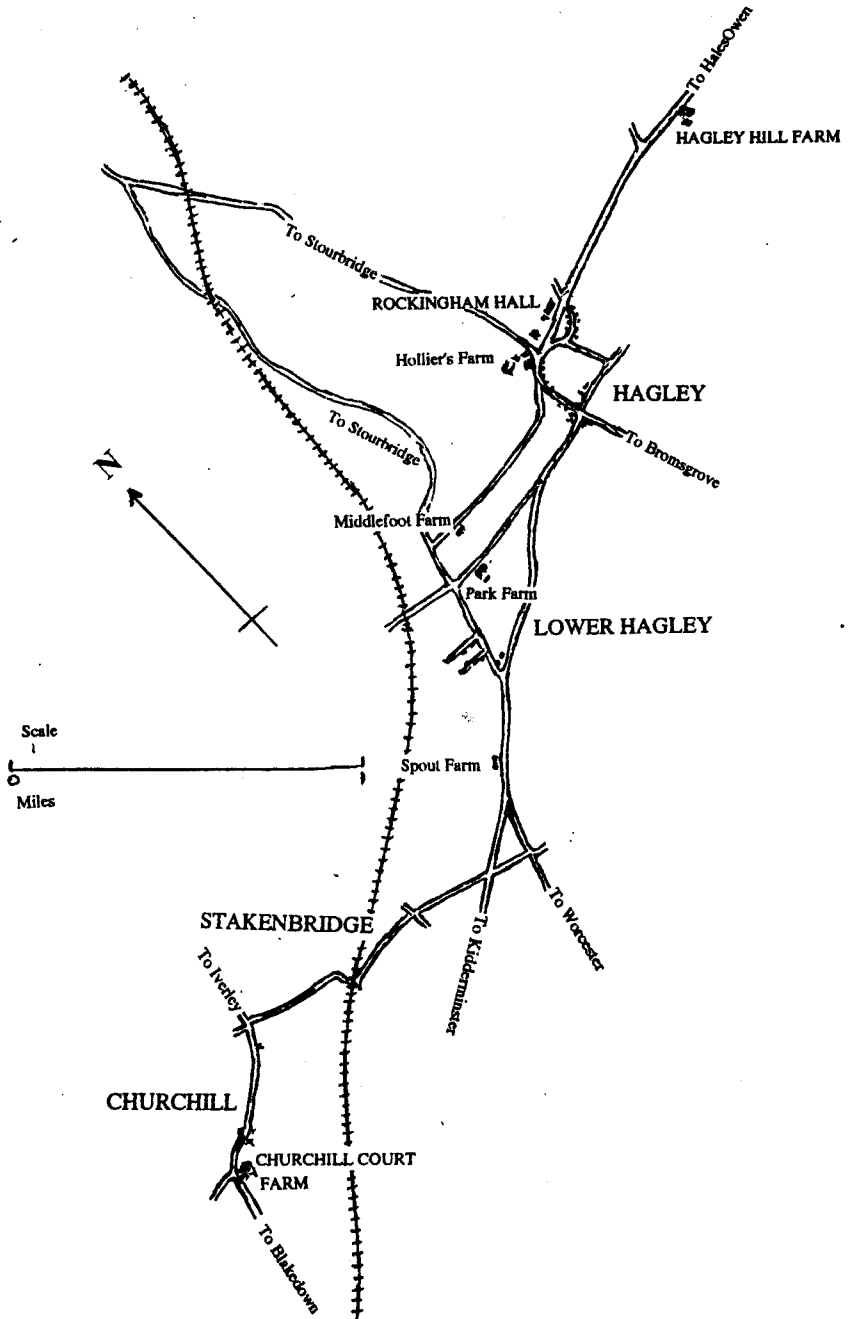
Firstly, a little about the Magistrate. William Charles Firmstone lived at Rockingham Hall, Hagley, Worcestershire, with his wife Frances and his remaining 12 children, aged between 23 years and 1 month. He was a Magistrate of the County of Worcester, a Corn Merchant carrying on a large business at Stourbridge (address, The Warfe). He came from a Wordsley family and his elder brother was Henry Onions Firmstone who lived of Wollaston Hall. Henry had inherited The Leys Iron-works from his father at the age of 14 and in later years was the owner of Hyde Rolling and Slitting Mills, Kinver and the Crook Hay Iron-works, West Bromwich. William had bought Greathouse Farm, Churchill (believed to be on the site of the Manor Court) and set in hand a building programme to make this a gentleman's residence called Churchill Court with a farm adjoining with a bailiffs house and 'modern' farm buildings. In the meantime he leased Rockingham Hall from Lord Lyttelton who he knew for he was one of the original 25 Officers of the Stourbridge Rifle Corps founded by Lord Lyttelton in 1859.

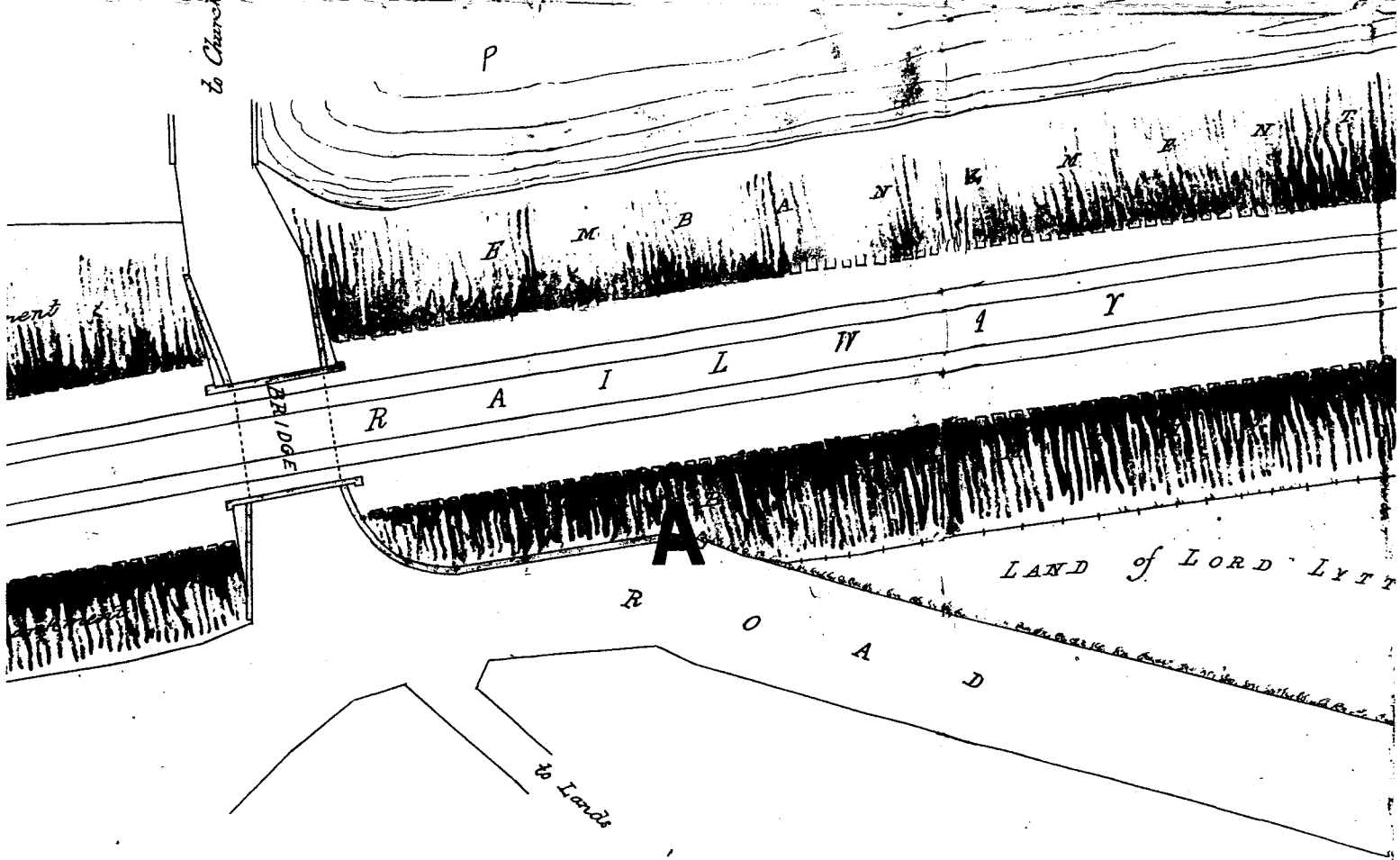
Secondly about the bull. William Firmstone farmed, "chiefly for amusement" and bought and bred pedigree Short Horn Cattle as a hobby. He owned Churchill Court Farm and was lessee of Hagley Hill farm from Lord Lyttelton in Hagley. The bull was 15 months old and born in Hagley in July 1869 of a good breed, red colour and very handsome. The bull's sire was "Lord Dudley" belonging to Mr Isaac Downing of Turners Hill, near Dudley and the dam "Oxford Lassie" belonging to the Plaintiff and the sire of the dam was "Charleston" and belonged to Mr John Harwood of Winterfold, near Chaddesley Corbett.

Now, to the sad involvement of the Great Western Railway. Mr Firmstone was approached by Mr Robert Thurston, a farmer in Churchill, on the 4th. October 1870 with a request to send his "handsome" young pedigree bull to Churchill for his neighbours "use". Mr Firmstone agreed (and no doubt agreed a good price) and informed his Bailiff at Churchill Court Farm that the bull was to go to Churchill the next day. The Bailiff was James Millinchip, then aged 27, the younger son of Edward Millinchip of Middlefoot Farm in Hagley.

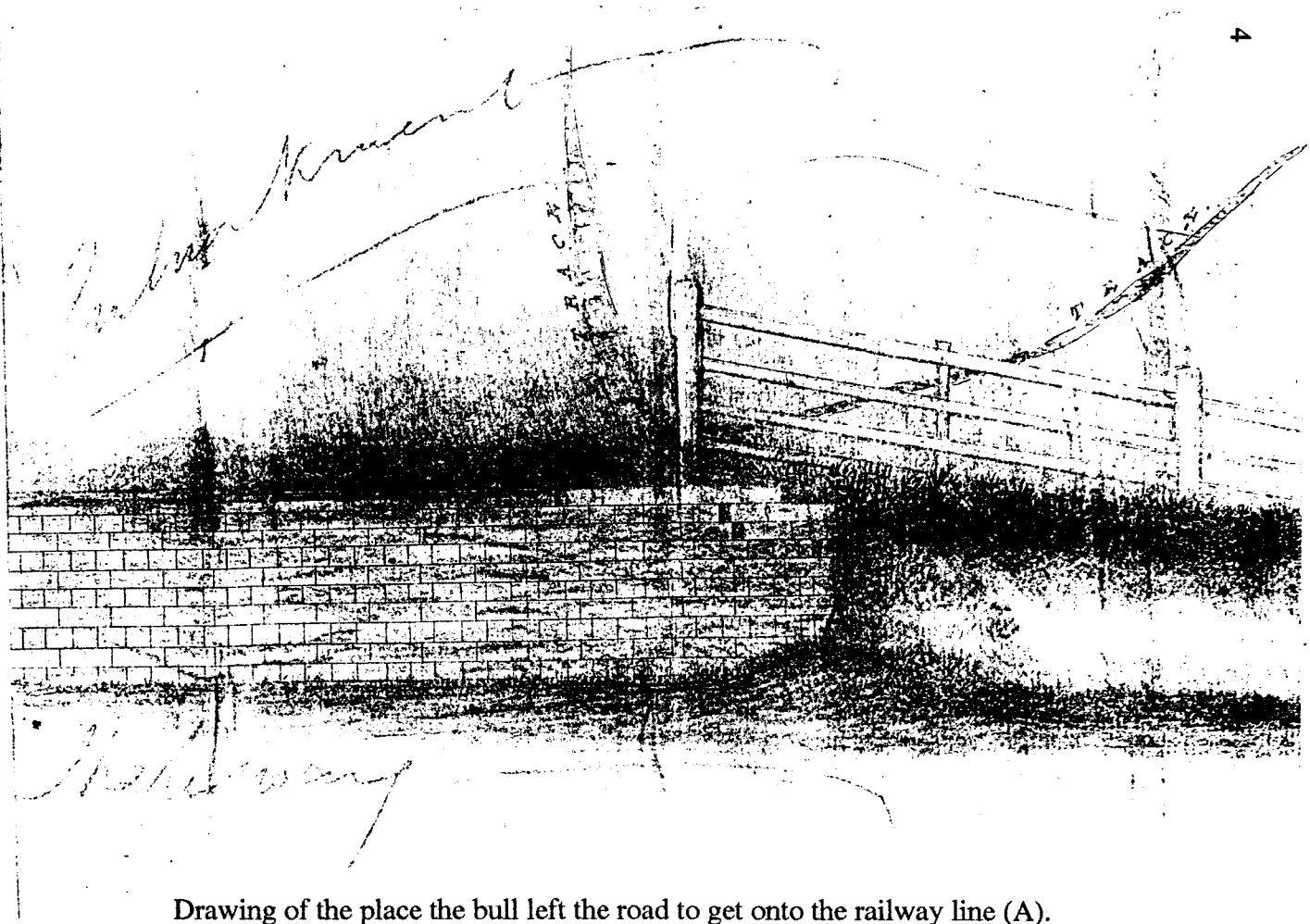
He also gave orders to his Bailiff at Hagley, Richard Hitchings who sent two young farm labourers, named George and Alfred Harris, to take the bull from Hagley Hill Farm on Wednesday 5th. October. They set out with the bull "about or soon after 4 o'clock" and drove the bull along the highway from Hagley to Churchill. Alfred, who was only 13, walked in front of the bull. It didn't have a ring in its nose so he couldn't lead it. His

PROPOSED ROUTE OF THE BULL





The map of the Stakenbridge Lane and the place the bull left the road to get onto the railway line (A). Used at the trial.



Drawing of the place the bull left the road to get onto the railway line (A).
Used at the trial.

Handwritten notes at the bottom of the page, partially obscured and illegible.

brother George, aged 19, walked about 2 yards behind driving the bull. Only George had a stick. He said it walked along at its own pace, steadily and quietly. We can judge the pace by the fact that they did not reach Stakenbridge until just before 5.30 p.m.

The bull walked along Stakenbridge Lane on the verge by the hedge, on the opposite side of the road to the cottages. Henry Jordan called out and spoke to the boys as they passed his cottage. He knew them well as they lived nearby. He watched Alfred Harris walk on to the left hand side in advance of the bull to turn him under the bridge. As soon as the bull reached the point where the fence met the wall (marked A on the drawing), which was in a dilapidated condition, he turned and walked up it onto the railway embankment. He went along the track leading to the railway line and was on the line in a moment. Unfortunately the express train from Stourbridge to Kidderminster was due.

William Smith of Stakenbridge was 30 or 40 yards away when he saw the bull go up the embankment. He had seen George Harris strike at the bull with his stick in an unsuccessful attempt to turn him. Knowing that the express train would arrive very shortly he rushed up the embankment after the Harris brothers to "help" the bull off the line. Unfortunately the train came too soon for them. They had managed to turn the bull round but he hadn't quite cleared the line when the train struck his hind quarters. The bull was knocked into the ground and made fast by his horns. The bull had to be killed. James Millinchip was called to the place of the accident and saw to the removal of the bull.

On being informed of the accident Mr Firmstone took action. Next morning he personally inspected the place where his bull ran up the embankment onto the railway line. He also met with cottager's and neighbouring farmers who told him that other animals had also gone up onto the line due to the poor state of repair of the wall at that point.

Whilst James Millinchip arranged for the sale of the carcass, (96 lb. of meat was sent for consumption at Rockingham Hall and 202 lbs. were sold to his farm labourers for 2d., 5d., or 6d. the pound) Mr Firmstone wrote to Great Western Railway at Paddington.

"Gentlemen,

Yesterday October 5th., a valuable bull, belonging to me, whilst being driven along the High Road strayed upon the line of your railway near the viaduct at Stakenbridge near Hagley in spite of the efforts of two attendants to prevent him from doing so.

He was struck and killed by a train which passed immediately afterwards. The Embankment was utterly insufficient to keep out cattle or even sheep - I enclose an account of my account £31/10/- for the value of this Bull and an early settlement of the same will oblige.

Yours faithfully,

W. C. Firmstone "

Since he lived in the age of an extremely efficient postal service he received a reply dated 7th. October saying that G.W.R. would have the matter fully investigated and communicate fully in a few days time.

In a letter dated the 3rd. November Mr Firmstone received his first shock. G.W.R. claimed that their investigations revealed that the bull had jumped over the fence wall with several other animals, by which it was accompanied. That the wall was a good and sufficient fence so the Company could not be blamed and that there was no question of compensation. This made him very angry and he wrote back immediately.

He informed them that he had "personally" inspected the place. That the wall was only 7 bricks high there and the rain had washed a quantity of sand which lay at the foot of it "so that even a pig might have jumped up the wall". He insisted that compensation must therefore be paid and as the bull was a "true bred Short Horn" its value might be higher than the 30 Guineas he had asked. If the Company compelled him to enforce his claim he would expect them to pay the "full value" of the animal. On only receiving an acknowledgement he wrote a further letter offering to meet one of their officials for an inspection of the spot where the accident took place. He added that they would do well to improve the fencing otherwise "not a single animal but possibly a whole herd might be destroyed and the Train also upset or sent off the metals".

A reply was received to the effect that their solicitors advised that the Company had no liability in the matter since their investigations revealed that the bull was being "driven violently" by two boys of the name Harris and in consequence was very wild and ran up onto the embankment.

Mr Firmstone went to see his solicitors, Corser and Walker of Stourbridge, who advised that a case be brought in the Magistrates Court in Stourbridge because:

"The fact is - and it is commonly known - that this Company repudiate all claims on them of this and similar character, defend all actions, and in the long run - it is said - they profit by the speculation." To challenge in the Courts has always been expensive and only the well off could afford to do so.

The solicitors set about acquiring evidence from the people who saw the Harris's driving the bull and also evidence about the condition of the fence the easy escape for cattle on and from the road. On doing so they regarded with cynicism the information that the Company had sent a man, the day after the accident, to remove soil from under the wall where the bull got up.

The case was brought to the County Court at Stourbridge on 29th.

December 1870 but was sent to the Court of Exchequer in Worcester by a writ issued on 3rd. January 1871. This had been done because the G.W.R. solicitors claimed that "difficult questions of Law" would arise amongst which were the statutory liabilities of the company, which were beyond the capabilities of a Magistrates Court. The main reason may have been that Mr Firmstone was a Magistrate who sat on the Stourbridge Bench so felt they stood no chance there. Mr Firmstone was described as being "desperately angry at the Company defending the action and dragging him down to an Assize Trial". He was no doubt angry at the expense of such a trial too.

Mr Firmstone's solicitors insisted that the jury needed to view personally the state of the wall, embankment and line at Stakenbridge to form a true judgement. The costs of this would have to be borne by the whoever lost the case. Those who went were two 'Showers', for plaintiff and defendant are named and five jurors (Mr Thomas Green, Mr George King Harrison, Mr William Holcroft, Mr Samuel Brighton Palmer and Mr William Ellwell Walker) and the Undersheriff. The cost incurred, as well as their fares, were the costs of warrants and officers expenses for serving them which amounted to £24. 18s. This took place on the 6th. March 1871.

The case finally came to court at the Worcester Assizes before Judge Smith on 5th. March 1871. (Hilary Term) and was adjourned next day for the viewing. As you can see not only was the post more efficient but also the Courts of Justice! Mr H. Matthews, Q.C. and Mr Jelf (instructed by Messrs. Corser and Walker) appeared for the plaintiff Mr Firmstone. Mr Huddleston Q.C. and Mr J.O.Griffiths (instructed by Messrs Young and Co.) for the defendants G.W.R. The case was well prepared, Mr Firmstone's lawyers had contacted the firm of Robinson and Preston of 35 Lincoln's Inn Field and obtained advise from Henry Macnamara Q.C., and a number of witnesses were briefed and statements had been taken from them. The crux of the matter, in law, was always 'Was the fence was adequate?'

Mr Matthews opened the case giving the facts as mentioned above. He also set out to prove that the Bull was a pedigree animal and that compensation should be more in the order of £100 than £31.10s. requested by the plaintiff in his first letter. To this end the plaintiff gave evidence himself of the bull's parentage.

Robert Thurston, farmer of Churchill was called to prove that the fence was bad and two tracks ran up the embankment at that point and he had seen children using them. Henry Jordan, who lived in a cottage at Stakenbridge, said that there was a regular track going up the embankment, at point A on the map, frequently used by the G.W.R. workers who lived at Stakenbridge.

Richard Oakley, Farm Bailiff to Mr Trow of Ismere said that when

he was driving two cows back from Hagley Stock Sale on 16th May 1870 these cows managed to walk up onto the line and he only got them off the track just in time . Henry Pearson, farmer of Clent said that, when he was driving sheep from Churchill to Hagley, they too got up the wall where the plaintiffs bull had got up. Mary Smith, who lived in a cottage at Stakenbridge said that on the morning after the bull was killed a man, "dressed like a company's servant" removed the soil by the wall.

Mr Huddleston said in defence that the question was not whether any part of the wall formed an insufficient fence , but whether the fence was insufficient at the point where the bull went over it. He said that the evidence showed that the point that the bull went up over the wall was a yard or more from the corner, and the although the coping was gone, the bricks were all there and the wall was at least 3 ft. high and according to the testimony of the man Smith, the leap was where the coping was on and thus 3ft. to 3ft. 8ins. high. He said that the defendant could not ask a fancy price for damages since he had only asked for 30 guineas originally.

In the Judge's summing up he made the points that it was the duty of the railway company to keep sufficient fences and it wasn't where the bull got up that mattered. That to go that way was the bull's initiative but that if they found for the plaintiff they were not committed to a fancy price. The price needed to be treated from a merchantable point of view, that is, on what it would fetch.

After only a few minutes' deliberation the jury returned a verdict for the plaintiff, with damages of 30 guineas. In addition Mr Firmstone also received costs of £147. 16s. 6d. which included the plans drawn up by Mr Wooldridge (of Stakenbridge, Land Surveyor and Auctioneer) and his Solicitors extra charges. Thus he received a total of £179. 6s. 6d. G.W.R.'s own charges amounted to £9. 17s. 10d. Their use of 'in house' Solicitors and Surveyors obviously reduced the bill.

The case and was duly reported in "Berrow's Journal" for 11th. March 1871 in it's Legal Supplement. I still wonder if it was it the appearance in an Assize Court that Mr Firmstone found so objectionable or its report in the press?

Irene Oliver
September 2002

INFORMATION ABOUT LOCAL PEOPLE AND PLACES
MENTIONED IN THE CASE

WADE BROWN

of Monkton Farleigh in Wiltshire inherited Greathouse Farm in 1840. On his death the farm was sold and bought by William Firmstone in 1864. He rebuilt it and called it Churchill Court.

JAMES MILLINCHIP

Farm Bailiff of Churchill Court Farm. Younger son of Edward Millinchip of Middlefoot Farm, Hagley. James died, aged 32, in 1875. He was buried in St. John's Churchyard, Hagley.

BENJAMIN WOOLDRIDGE

Land Surveyor and Auctioneer of Stakenbridge. He drew up the plans viewed at the trial.

ROBERT THURSTON

Farmer of Churchill. The bull was sent for his and his neighbours "use".

RICHARD OAKLEY

of Caunsall, Farm Bailiff of Mr Trow of Ismere. Two cows belonging to Mr Trow had previously got on the railway line in the same place on the 16th. May 1870 when on the way to Hagley market. They only just got off the line in time to avert an accident.

HENRY PEARSON

Farmer of Clent. His sheep climbed the wall and went on the path towards the line at Stakenbridge in May 1870 when he was driving them from from Churchill to Hagley.

ISAAC DOWNING

of Turner's Hill near Dudley owned a bull called "Lord Dudley" who was Sire to William Firmstone's bull.

JOHN HARWARD

of Winterfold, Chaddesley Corbett owned a bull called "Charlston" which was the Sire of "Oxford Lassie" belonging to William Firmstone and the dam of the bull killed on the line.

Illustrating the business & social contacts made by a local Corn Merchant.

WILLIAM CHARLES FIRMSTONE

Last will and testament of William Charles Firmstone of Rockingham Hall, Hagley, and of Stourbridge, Corn Merchant. I give, devise and bequeath all my real and personal estate whatsoever unto and to the use of my wife Frances Firmstone. And appoint her sole Executrix of this my will.

Dated 26th. December 1973

Witnessed: W.F.Firmstone C.H.Firmstone R.L.Freer

Probate: At Worcester 18th February 1874

Died 28th. December 1873 at Rockingham Hall

Probate granted to William Francis Firmstone, the son and administrator of the personal estate and effects of Francis Firmstone, widow, deceased whilst living relict of the said deceased, the sole Executrix and Universal Legatee named in the will. The said Frances Firmstone having survived the deceased but died without having taken upon herself the Probate of the said will.

Corser and Walker, Solicitors, Stourbridge.

(In the will William is described as Corn Merchant but had also been described as Ironmaster in the 1861 census though not in the 1871 census)

Death Certificate of William Charles Firmstone shows cause of death to be "Double Pleurisy, 6 days with Congestion of the Kidneys certified". This, I take it, meant that he had pneumonia, possibly developed from "flu" since his wife died only fifteen days later.

In addition to the large family grave in St. John's Churchyard in Hagley there is a memorial window in the North aisle of the Church there dedicated to the memory of Mary Consuelo Firmstone.

HENRY ONIONS FIRMSTONE

The older brother of William owned Leys Ironworks, Brierley Hill at the age of 14. Later owned for a time (in partnership?) Hyde Rolling & Slitting Mill, Kinver and Crook Hay Ironworks, West Bromwich. Like his brother he was a Magistrate of Stourbridge. He was also a Governor of King Edwards Grammar School and Feoffee of Oldswinford Hospital.

He lived at Wollaston from Hall from 1850 until his death in 1899. He had 19 children. There is a Firmstone Street in Wollaston.

Family information from his descendant C. Firmstone.

FIRMSTONE FAMILY

Family vault St. Mary's Church, Kingswinford.
Cadet branch, family grave at St. John's Church, Hagley.

Thomas
of Oswestry

George
of Lawnswood House, Wordsley

Thomas
d. 12.12.1857
of Yew Tree House, Belbroughton

William = Sarah Others

Henry Onions = 1. Emma Onions 2. Phoebe Swift of Wollaston Hall	William Charles b. 1821 d. 28.12.1873 = Frances Reade b. 1829 d. 12.1.1874 of Rockingham Hall	Frances Ann Sarah Margaret = Rev. Alexander Baxter
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William F. b. 1848 Wordsley	Edward R. b. 1850 Wordsley	Margaret S. b. 1855 Amblecote	Frances J. b. 1859 Congleton	Maud M. b. 1862 Hagley	John F.R. b. 1865 Hagley d. 1869	Lucy b. 1870 Hagley
Charles H. b. 1849 Wordsley	Mary C. b. 1853 Wordsley d. 1863	Agnes N. b. 1858 Amblecote	Alice b. 1861 Hagley	George A. b. 1864 Hagley	Harold b. 1869 Hagley	Infant b. 1871 Hagley

William Francis (Frank, attended Oxford University Degree unknown) of Churchill Court was an officer in the Scots Grey's. Edward Reade (B.A. Oxford 1872, M.A. 1874) was Curate of Blakedown before becoming Vicar of Kilpeck, Herefordshire and Charles Henry (B.A. Oxford 1870, M.A. 1872) was Vicar of Wheatley, Oxfordshire. Mary Consuelo and John Fielden Reade died in Hagley and are buried there with their parents. The other children left the area on the death of their parents 1873/4. It's possible they went to Congleton with their grandmother Mary Reade.

[Information from the Census of 1861 & 1871, Croxford's Clerical Directory, Hagley Parish Register and family sources]



Worcester Road, taken from the Cross Keys, showing Spout Mill on the right ,



The Bailiff's House



CHURCHILL COURT



The Gothic and
expensive buildings
at Churchill Court,





AERIAL VIEW OF CHURCHILL COURT FARM

Sources

Brief for the Plaintiff between William Charles Firmstone and The Great Western Railway Company.

Firmstone family notes on Residences of the Family

Mr Christopher Firmstone

Documents in Worcester Record Office

Information in Worcester History Centre

Berrow's Journal 11th March 1871 Legal Supplement

Old Churchill and Blakedown by Peter S. Legat.

Mr Peter Legat

Census' for 1861, 1871 and 1881.

Croxfords Clerical Directory 1888

Visits to the Church of St. John the Baptist, Hagley and its Churchyard.