

1808-015

SOUTHAMPTON COUNTY
CHANCERY PAPERS

CARR VS. OWINGS

CARR

9/1808

other SURNAMES: Owens,
Warren, Williams, Darden,
Cobb, Owins

1768 Daniel Williams Nansemond County

Care
as
Owings } Bill.

To the worshipping court of Southampton county sitting,
in chancery, humbly complaining, shews to the court
your orator Arthur Carr.

That Daniel Williams by his will
bearing date the 21st day of May 1767 among other
things devised "to his son John Williams all his lands
in Nansemond county to him and the heirs of his
body lawfully begotten forever". That the said land
now lies in this county and within the jurisdiction
of this court on account of a legislative division
of the said county of Nansemond. That the said
John Williams lived to a great age, and on the
twenty third day of March 1785 (as appears by a
deed of gift hereto annexed and prayed to be
taken as a part of this bill) conveyed the said
land, ^{or rather a part thereof} to a certain Robert Owens. That Isaac
Williams the heir of the said John Williams took
possession of the said land immediately upon the
death of John Williams and retained the same
in his possession until his death, which was
about twenty four years. That since the death
of the said Isaac Williams, the same has fallen
into the possession of your orator ^(the daughter of Isaac Williams) (by his marriage with
against whom an action of ejectment has been
instituted and is now depending on the law
side of this court. Your orator states that the
said John Williams was, ^{blind and} insane at the time he
executed the said deed of gift as well as before
and since. That he can establish his insanity
by the evidence of several respectable persons,
indeed he is advised that the want of a good
consideration as appears from the face of the

deed itself is almost sufficient to prove the mental derangement of the said donor, particularly as he left he left brothers of the whole blood, as well as nephews brother's children. He adds, that the said Robert Owings did not perform even the pretended considerations stated in the deed of gift, in as much as he omitted to collect & pay the debts of the said John Williams. Under these hard and oppressive circumstances, your orator bears, ^{William Owings and Patsey Owings the heirs of} that the said Robert Owings will succeed in the said action of ejectment against ^{him} without the equitable intervention of this court whose province it is to guard against frauds.

In tender consideration whereof and for as much as your orator is without remedy at law, he solicits the aid of this court.

In the end therefore he prays ^{William Owings and Patsey} that the said Robert Owings may be made a defendant to this bill of complaint and that they may on their corporal oaths full true and perfect answer make to all and singular the allegations aforesaid and that as fully as if the same were here repeated, and they thereto particularly interrogated. He lastly prays ^{William Owings and Patsey} that the said Robert Owings and all others concerned may be enjoined from further proceeding in the said action of ejectment ^{till} the matters herein before contained are heard and decided in ~~this~~ equity, or that your Worship will make any other order or decree in the premises for his relief that may seem just.

May it please P.

Rich^d. W. Nyrd
P. P.

Arthur Carr personally appeared before me one of the justices of the peace for the county of Southampton and made oath that the allegations contained in the foregoing bill are true as far as depend upon his own knowledge, and as far as they depend upon the information of others, he believes them to be true. Given under my hand and seal this 18th day of November 1806. (Seal)

Louthampton City,

Arthur Carr came before me & made oath, that the Allegations contained in the foregoing Bill, are true this 18th day of November 1806,

Sam^l Abbott JP

Dec 9.

a.d.

Canterbury

Answer to Mr. Court
Shelton

Bill and answer
Filed & signed Vermin

In the worshipful Court of Southampton County in January
sitting - The answer of William Owens to the bill of ^{injunction}
exhibited in this Court by Arthur Carr, against him ^{his wife} and
his infant sister Patsy Owens - The said respondent
on behalf of himself and his said infant sister, saving
and reserving to himself every benefit of exception to the
said bill of Injunction, for answer thus saith - That
~~and~~ he cannot answer the allegation of the said bill
from his own certain knowledge - but that as far as he
~~and~~ he believes the allegation which states
that Williams was insane at the time of executing the
 deed of gift in the bill mentioned to his father, is false
and unfounded - that you note very candidly
admits having heard that the said Williams was
blind - a circumstance which he humbly
cannot nullify any contract - Here your
lows leave to state to your worships, that the
of which the complainant has made a part of his

Quays
 17
 Carr } Depo-
 sitions

Forrester
 29 6
 Ben-hur 24 80

W^o Arthur A. Carr

Please to take Note that I shall on Friday the 17th
Day of July at the house of John Lee in County
Of Southampton & State of Virginia between the
Hours of Ten o'clock in the Morning & Six o'clock
In the Evening of the same day proceed to take
The depositions of Elizabeth Warren James
Williams Elisha Darden and Marcilla ~~C~~
Williams in an Injunction depending in the
County Court of Southampton where in you are
Complainant and I together with Patsy
Cwens who sues by me her next friend are
Defendants when and where you may attend
If you think Proper

Southampton County

July 7th 1807

William Cwens
C

Louthampton county, Va,

This day Willis Britt came before me and
made oath according to law, that he did, on
the 7.th day of this present month - deliver to Arthur
A. Gabe. a letter of which there will be
true copies - Given under my hand this
17th July 1807 -

Jacob Darden

Paulo Kello equine

W^m William Owens and Leonard Cobb and Patey his wife late Patey Owens.

Take notice that I shall between the hours of ten in the morning and six o'clock in the evening on Saturday the eleventh day of June next at my house proceed to take the depositions of Josiah

William and Nancy his wife

to be made as evidence in an action now depending and undetermined in the County ^{County} of Southampton wherein I am complainant and you are defendants at which time and place you may attend if you think proper.

Arthur A. Barr

May 28th 1808

Southampton County (to wit)

Thomas Hanby personally appeared before me and made oath that he did deliver a notice of which the within is a true copy to William Owens on the 30th day of May 1808 and also to Leonard Cobb and Patey his wife late Patey Owens on the same day.

A. Browne J.P.

Mr William Owens & Miss Patsy Owens

Please to take notice that I shall on Friday

12th of June at the house of Josiah Williams in
the County of Hertford & State of North Carolina
between the hours of ten O'clock in the morning &
five O'clock in the evening of the same day

Proceed to take the depositions of Josiah Williams
& Nancy his Wife, in an Injunction depending in
the County Court of Southampton wherein Tom
Complainant & you are defendants when and where
you may attend if you think proper

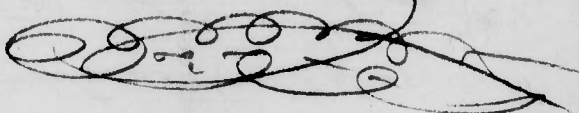
Southampton County
May 31st 1807

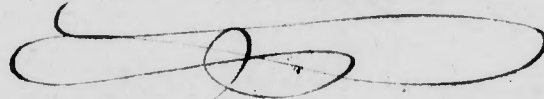
Arthur A. Carr

W^m Arthur Harr

Take notice that I shall on the
Seventh day of October next at the Court house in Richmond
County and State of North Carolina between the Hours of
Ten o'clock in the Morning and Six o'clock in the Evening of
the same day proceed to take the Deposition of Richard
Williams to be read as evidence in an Injunction now
depending and undetermined in the County Court of
Southampton wherein you are Complainant and together
with Leonard Cobb and Patsy his wife late Patsy Cwings, are
defendants at which time and place you may attend if
you think proper.

September 23rd 1808.

W^m Cwings




of Hon^{ble}
This day Edwin Hart appeared before me and
made oath that he did deliver to Arthur Carr
on this same day a notice of which the within
is a true copy— Given under my hand this 23rd
day of Sept^r 1868

Geo. Gurley

The deposition of Elisha Darden, Marcella Williams Philand Williams & James Williams at the house of John Lee in the aforesaid County on the 14th day of July 1807. Between the hours of Ten O'Clock in the morning and Six O'Clock in the evening of the said day pursuant to the annexed commissions to us, for that purpose directed --

Elisha Darden being duly sworn deponeth and saith, that he heard John Williams say, that he (Williams) had given a deed of gift to Robert Owens, for a piece of land and that the rest of his property, he wished to give to his Mother Richard Williams --

His deponent, further saith, that he frequently saw the said John Williams after he became blind, and that he never believed him to be insane, or that he was depraved of his reason more than before he lost his sight --

Elisha Darden

Marcella Williams being duly sworn deponeth and saith that John Williams did convey to Robert Owens, the land in controversy, at a time when she believed he was in his proper senses and that, in consideration thereof, the said Robert Owens undertook to live with and take care of the said Williams as long as he lived; the said Williams being then blind & wanting

testimony: which the said Owens truly purports,
she further states that the said John Williams
after having made this conveyance, appeared to be
much pleased and expressed great satisfaction in
what he had done.

Question by the Off.

Did you understand that Mr. Owens undertook
to support Mr. Williams out of his own estate, or was he
to take care of Williams's property and provide with
it in the way he thought best for that purpose?

Answer - Mr. Owens was to look after Mr. Williams's
plantation and other business, and to give the best
support which that would afford.

Question by the same,

Did Mr. Owens, after he went to live with Mr.
Williams, allow him to make any contract or to dis-
pose of his property in any way?

Answer - I know not, that he allowed or disallowed
of such conduct.

Question by the same

Do you know of John Bishop being about to purchase
some ~~valuable~~ shares of Mr. Williams, but that he was
prevented doing so by Mr. Owens, who told him he
should not dispose of his property, for that he was
not capable

Answer - No - I know nothing of such a circumstance

Question by the same.

Had not Mr. Owens been living with Mr.
Williams some time before the conveyance now in
controversy was made?

Answer - He had -

Question by the same

Was there any contract entered into between Mr.
Williams and Mr. Owens before the latter went to live
with the former?

Answer - Not that I know of

Question by the same

Was John Williams's property sufficient to have
afforded him a decent support?

Answer - Yes -

Question by the same, Did he never grumble or complain
of his lot?

Answer - Not that I know of
Marilla Williams

Phelicia Warren, being duly sworn, deposes and says
that of the conveyance in controversy she knows nothing -
but that some time after it was made, she this
deponent, went to the house of John Williams, who had
for some time been blind. When she (this deponent)
went to the door, a servant was leading him to his
room in the house, she (the deponent) spoke - she said

Williams appeared immediately to recognize him by his voice - call'd him by name and ask'd him in from which, this deponent thinks he was in his perfect senses -

Questions by the Deft.

Were you not frequently at the house of conversation with John Williams, after he became blind?

Answer: Yes -

Questions by the same.

Did you ever discover that he was insane?

Answer - No. He always convers'd with me, with as much sense after his blindness as before.

Questions by the same.

Did you ever hear him complain of the treatment of Robert Owens to him?

Answer - No. -

Ethel. Warren

James Williams being duly sworn, deposes & saith that he was frequently at the house of John Williams in the time of his blindness; that at a certain time, he (the said John Williams) speaking of his helpless & destitute situation, observed that he intended to convey a part of his land to his sister (Mrs. Elizabeth Owens) together in order to have himself taken care of the balance of his life, & that a short time afterwards he heard that such a conveyance was made.

Question by the Dep^y:

Did you ever discover that John Williams was
deprived of his ordinary share of sensibility?
Answer, No, - he was always in conversation, apt to fly
from one subject to another - but not more so at one
time than another - this I ascribed to a weak memory
I never will

Browne
Jacob Darden

Exemption County Dec

The Comm^{rs} of Virginia to Jesse Browne and Jacob
Darden

gentlemen justices of the peace
of this county of Exemption, bearing in mind that we are trusting
to your fidelity & provident circumspection in diligently
examining Ethe and Maria, James Williams, Eliza Caden
Marcella Williams & others as well as on behalf of Mrs
Cummings & Patsy Cummings as on behalf of Arthur Carr
& we do command you to call & cause to come before
you the witnesses aforesaid when & where you shall approve
diligently examine them on the holy Evangelists of Christianity
but & their examination so taken that you send us
within 30 days returning also this writ, Writs S. Kelce
clerk of said c^t. dated the 14th of June 1807 & in the
31st year of the Comm^{ns}

J. Kelce

State N Carolina

Richmond County Deposition of Richard
Williams taken the 7th October
1804 between the hours of ten o'clock
in the forenoon & six o'clock in
the afternoon of Today at the Court
house of the afore said County
in a certain matter of Controversy
depending in an injunction in
the Court of Southhampton County
and State of Virginia in which
Arthur A Carr is Plaintiff & William
Owens is defendant

This deponent being duly sworn on the
Holy Evangelists of all mighty God testifies
that John Williams did convey to Robert
Owens a certain tract of land in Southhampton
County & State of Virginia containing 161
acres of land lying on the N side of the River
sworn to and that the sd John Williams
was in his proper senses at the time he
executed the sd deed of conveyance and that
he doth well remember that he the sd deponent
was a subscribing witness to the sd deed of
conveyance together with Ephraim
Cary & Eliza Surdan and further the said

question by the deponent
did John Williams make offer to convey the
sd land and mill to any other person except
the for sd Robert Owens

sworn to before us.

Richard Williams

Wat Leah P

W. Lawson Esq

To
the
Board of the County Court
of South Hampton
Virginia

Dear Sir,
 I have the honor to acknowledge the receipt of your letter of the 11th inst. and in reply to inform you that the same has been forwarded to the proper authorities for their consideration.



Virginia

Southampton County Sct.

The Commonwealth of Virginia to Walter Lusk
& John Crowson Gentlemen justices of the peace for the
County of Richmond & State of North Carolina. Know ye
that we trusting your fidelity and provident circumspection
in diligently examining Richard Williams a witness
as well on behalf of William Owings & sister
~~him~~ as on behalf of Arthur Carr & as common
you to call & cause to come before you the
witness aforesaid when & where you shall appoint
& diligently examine him in the Holy Evangelists
of Almighty God and his examinations so taken
that you send without delay into our Court
of our said County of Southampton, enclosed
returning to us also this writ Witness
Sam Wells clerk of our said court the 15th
day of August 1808 in the 33rd year
of the Commonwealth

Per J. Lusk & C.

The depositions of Josiah Williams and Sam Williams taken at the house of Arthur A Carr in the County of Southampton on the Eleventh day of June in the year Eighteen hundred and Eight between the hours of Ten o'clock in the morning and six o'clock in the evening of the same pursuant to a commission to us directed for that purpose. It being first proved that legal notice had been given to the parties -

Josiah Williams of lawful age being first sworn on the holy evangelists of almighty God deposes and swears that ~~he arrived at the state~~ sometime in the year 1784 this deponent went on a journey to the southward and left his brother John Williams perfectly blind and unable to transact his business - at that time also the state of said John Williams' mind was much weakened and impaired - so much so that he was not ~~himself~~ competent to transact ordinary business, except at some particular times when he seemed to enjoy or possess at short intervals some little degree of reason -

Question by Compt. Did you ever hear John Williams express any wish or say any thing about disposing of his property?

Answer. I have heard John Williams say that he wished to give his land to Richard Williams his youngest brother - but supposed he could not give it away in consequence of its being entailed on him -

Question by Compt. Do you suppose that John Williams was able in consequence of his imbecility of mind, to have made a contract or bargain at the time you went to the Southern country?

Answer. I do not: for any person might have cheated him or coaxed him to any thing -

Question by Compt. Did Rebut Caring live with John Williams at the time you left Virginia

Answer - He did. he had no other home and after he married

John Williams never he lived with him till his death

Question by Compt. Did Isaac Williams get and hold possession of the

land said to be conveyed by John Williams to Robert

Evans without any interruption from said Evans?

Answer. Robert Evans moved off the land about Christmas or new year day after the death of John Williams and Isaac Williams took possession and I know not that he was interrupted in his possession by said Evans. only as to the mill seat which never was in possession of Isaac Williams.

Question by Dep. Do you know that John Williams offered to convey any part of his property to any person before you went to Georgia?

Answer. I do not - except to his brother Rich and some two or three years

before I left Virginia -
sworn to before us - this 11th of June 1800

Josiah Williams

Brown

Geo. Gurley

Ann Williams of lawful age being first sworn on the holy Evangelist of Almighty God deposes and saith -

That she was ever well acquainted with John Williams from the time of his blindness till his death and that she never considered him to be sufficiently sane in mind to buy or sell or to make any contract or bargain whatever and this document further states that she has heard Robert Evans himself say that he thought John Williams did not possess sufficient understanding to buy sell or make any contract.

Question by Compt. Did Robert Evans live with John Williams when you heard him say that Williams was not able to make a bargain?

Answer. Yes. He lived in the house with John Williams

Question by Compt. How long before the death of John Williams did you hear Robert Evans say he was John Williams was not competent to the making a bargain.

Answer. About twelve months -

Question by Compt. Did you hear any thing of the kind said to be executed by John Williams to Robert Evans before the death of John Williams?

Answer. I do not recollect -

Question by Compt. Did Isaac Williams get and hold possession of the land said to be conveyed by John Williams to Robert Evans without any interruption from said Evans?

Answer. I lived within a mile of both Isaac Williams and Robert Evans and never heard of any disputes about the land.

Question by Compt. How long after the death of John Williams before Robert Evans moved off the plantation?

Answer. John Williams died in the spring and Robert Evans moved away in the same year -

Question by Dep. Where were you when Robert Evans said that John Williams did not possess sufficient understanding to make a contract?

Answer. At Robert Evans house John Williams house where Evans then lived.

Question by Dep. What was the conversation that lead to this expression of Robert Evans?

Answer. John Williams was complaining that Robert Evans could not allow him to sell his property and Evans observed that he was not capable.

Question by Dep. Was there any conversation between you and John Williams at the time you speak of?

Answer. No particular conversation -

sworn to before us

Brown

Geo. Gurley

Ann Williams
Mar

Virginia
Stafford County to wit

The Commonwealth of Virginia to Jesse Brown & Geo Gurley Esquires
Justices of the peace for the County aforesaid

Know ye that we trusting to your fidelity & provident
circumstances are diligently examining Josiah Williams and
Ann Williams .. witnesses as well on behalf of Arthur Lane
as on behalf of M. Owens & Patsy Owens his sister
and we do command you to call & cause to come before you
the witnesses aforesaid when & where you shall appoint & diligently
examine them on their holy Oaths of Almighty God &
examinations so taken that your said to us enclosed without delay
returning to us also this writ Witness Saml. Kell clerk
of our said Court at the Ct House the 28th day of May 1808
in the 32^d year of the Union -

Benjamin G. C.

Williams
&
Swings } Agnew.

Articles of agreement made and concluded on this 29th day of
March 1785. Between John Williams of Nanamond county ^{Virginia} of the
one part, and Robert Owings of the state & county aforesaid of the other
part. Witnesseth that the said Robert Owings is now living with
the said John Williams, and doth hereby agree to live with him during
his life, take care of him, transact his business, collect his debts, & pay
out to creditors as far as the property of the said John Williams will
extend, to oversee his farm, direct to the best advantage according to
his ideas & ability, every matter & business which belongs to the said
John Williams or on his plantation, and to act & do as if the planta-
tion and the whole of the property were his own, to find the said John
Williams good & sufficient Apparel, Meat drink washing & Lodging.
and in default thereof is to forfeit & pay to the said John Williams the
sum of One hundred pounds. And the said John Williams doth agree
to give up all his property & concerns of this life to the said Robert Owings
to transact for him, & he himself not to Contract with any person or
persons for any thing whatever, without letting the said Robert Owings
know thereof beforehand, and for the above mentioned favours & services
the said John Williams doth agree to give to the said Robert Owings
One half of the Crop, and half the profits made on the plantation or
by force of said Williams's property, (Exclusion of the Mill, which the
said Owings already has a deed of gift for.) and in default thereof
is to pay to the said Owings the aforesaid sum of One hundred pounds.
In Witness whereof we have hereunto set our hands the day
and year above written.

Test
Richard Williams
Eliha Darn

John ^{his} Williams
Mark
Robert Owings

In the Name of God Amen I Daniel Williams of
Virginia and County of Nanamond being Weak in Body
but in Perfect Memory Mind and thanks be to God for
it and Calling unto mind the Mortality of my Body
and Knowing it is appointed for all men to die do make
and Ordain this my last Will and Testament Prim-
cipally and first of all Recommend my Soul unto
the hands of almighty God and my Body to the ground
to be Buried in a Christian like manner at the
Discretion of my Executor and as Touching Such worldly
Estate which it has Pleased God to bless me with in
this Life I Give in the following manner and form.
I Leave to my Loving Wife Mourning Williams the
Use of the Plantation and Land whereon I now Dwell
and my Mill also four Negroes ~~very good~~ ^{very good} ~~and~~ ^{and} More
and Venus and two feather Beds and Furniture and
One Seventh part of all the other part of my Estate
that I shall hereafter Leave to be sold during her
Natural Life and after her Decese my Will is that
the aforesaid Negroes and Feather Beds shall be sold
to the Highest Bidder on two Years Credit and the
Money arising from such Sale to be Equally divided
Amongst my Six Children viz. John Williams, Isaac
Williams, Josiah Williams, William Williams, Richard
Williams and Marcilla Williams to them and their
Heirs forever.

I Leave ~~my~~ Son John Williams the Use of the
Land whereon he now Dwells also the Use of the Land
I Bought of W^m Austin during his Mothers Natural Life.
I Give to my Son John Williams after his Mothers Decese
all my Lands in Nanamond County to him and
the Heirs of his Body Lawfully Begotten forever.

I Also give to my Son John Williams all the Horns Cattle
Hags Tools & Household Furniture that is now in his Possession
to him and his Heirs forever. I also give to my Son J^r.

Williams Nine Pounds current Money in Consideration
of his Schooling my Son Josiah two Years and my Son
William three Years and my Son Richard three Years
and my Daughter Marilla two Years to be paid out
of that Part of my Estate that I shall Direct to be Sold.
I give to my Son Josiah Williams after his Mothers Die
all my Land on Meherrin River on the West side of
the Gut called Stevens Gut to him and the Heirs of
his Body Lawfully begotten forever and if no Such Heir
to my Son Richard Williams to him and the Heirs of
his Body Lawfully begotten forever

I Also give to my Son Josiah Williams my Nailed Stock
Gun Also one Horn to him and his Heirs forever.

I give to my Son William Williams After his Mothers
Deces the Plantation whereon my Son John Williams
now Dwells with all my Lands that Joins the same on
the East side of Stevens Gut as aforesaid to him and the
Heirs of his Body Lawfully Begotten forever and if no Such
Heir to my Son Richard Williams and to the Heirs of his
Body Lawfully begotten forever

I Also give to my Son William Williams my Gun called
Locks Gun also my Smiths Tools to him and his Heirs forever

I give to my Son Richard Williams the Land I Bought
of Benjamin Amerson to him and the Heirs of his Body
Lawfully Begotten & if no such Heir to my Son Isaac
Williams to him and his Heirs forever

I give to my Son Richard Williams my largest Gun and
my still to him and his Heirs forever

I give to my Daughter Mary Stevens five Pounds current
Money to be paid out of that Part of my Estate that

I Shall direct to be sold, I give to Henry Stevens all that
he is Indebted to me
I Give to my Son Isaac Williams the Land I Bought
of Peter Garland to him and the Heirs of his Body
and if no such Heir to my Son Richard Williams
to him and his Heirs forever

I Also give to my Son Isaac Williams In consideration
of his paying all my Debts, all my cash and what
is due to me Either by Bill Bond Accounts or by other
ways or means, Whatsoever, what I have already given
to Henry Stevens Excepted

As for all the Residue of my Estate be it in any kind
or Quantity whatsoever I leave to be sold to the highest
Bidder on two Years Credit and the Money arising
by such Sale after Nicholas Maggott is paid for his
Trouble and Expence to be Equally divided Amongst
my Wife and six Children as aforesaid to them
their Heirs forever, one Seventh Excepted which
I have only given the use of, to my Loving Wife during
her Natural life, which part I leave to be Equally
divided of aforesaid, after my Wifes Decease

My desire is that Nicholas Maggott may be a
Director and an Assistant to my Executor during
his Minority for which my Will and desire is that
the S. Nicholas Maggott may be Reasonably satisfied
out of that part of my Estate Directed to be sold
My desire also is that my Executor shall not Transact
his business as an Executor during his Minority without
giving the S. Maggott Notice thereof

I do Herely Appoint my Loving Son Isaac Williams
my sole & Sole Executor to this my last Will, Ratified
this and no other to be my last Will and Testament
Sealed with my Seal, and dated this 25 day of May,
and in the Year of our Lord Christ One Thousand
Seven Hundred and Sixty Seven

Signed Sealed and Published
and declared in Presence of
Simon Everett } Dan. Williams
Hugh Hall }
John Everett }

At a Court held for Hampshire County Apr. 11.
1768. The last Will and Testament of Daniel
Williams Decd. was proved by the Oaths of all the
Witnesses thereto Subscribed, also by the Oath of the
Executor therein named Who gave Bond with
Simon ~~Everett~~ and John Everett his Securities
According to Law, Certificate for Obtaining Letters
Testamentary thereon is granted the said Executor
in Due form

Test William Pugh, J. C. C.
Three Copies from the Records
Teste William Clay, J. C. C.