

The fourth Tuesday and Twentyfourth day of August 1794 the Court met according to adjournment present Messrs Caspary, Leche, Hepburn & Johnson Esquire in Justice, Court adj'd to Wednesday morning 8 o'clock Court met according to adjournment Present Messrs Caspary, Leche, Hepburn & Johnson

Joshua Beall and Nathaniel Magruder are specially appointed Guardians to William Perry Warman to Conduct the Suit now depending in said Court between the said William Perry Warman and the Representatives of the late William Perry Deceased - Court adj'd to Saturday morning 8 o'clock Court met according to adjournment Present Messrs Caspary, Leche, Hepburn & Johnson Mr. Fielder Bowie comes into Court and qualified as one of the Justices of said Court by taking the usual Oath, also repeating his belief in the Christian Religion - Court adj'd to Monday morning

Monday morning Court met according to adjournment, Present Messrs Beall, Caspary, Leche, Hepburn & Bowie - Court adj'd for half an hour Court met according to adjournment - Court adj'd to Tuesday morning - Court met according to adjournment Present Messrs Caspary, Leche, Hepburn, Johnson & Bowie - Court adjourned for half an hour - Court met according to adjournment Present Messrs Caspary, Leche, Hepburn, Johnson & Bowie

Prince Georges County to wit The Deposition of John Stewart Doctor of Physick aged thirty five years or thereabouts being sworn on the Holy Evangel of Almighty God Deposeth and saith, that on the second of June last he visited Mr. William Perry Deceased in his last sickness & found him in bed, he held out his hand to this Deponent and said he was glad to see him, but was afraid it was all over with him, but hoped this Deponent would do his best to save him, once more, He this Deponent told him he supposed his Complaint proceeded from the old Cause the Bottle, The Deceased said he believed it might in some measure but that people judg'd too hardly of him in that respect, The Deponent said it was needless for him to conceal it from him for that he knew he did drink hard but that it did not matter now for he came to do him what service he could, The Deponent sat down by him and took hold of his arm and asked him what were his present Complaints He answered he had had a violent Teething to vomit for sometime that nothing would stay on his Stomach, that he felt himself much exhausted and very unhappy, The Deponent says the Deceased had a cold sweat upon him, a low pulse and there appeared to be a general Languor & Debility in his System, The Deponent ask'd him if strong glog would not stay on his Stomach, The Deceased Answered he did not believe it would, The Deponent called for some & in a bowl a half gill of it, mixed two Teaspoonfull of Valerian drops, and desired him to swallow it, which he did, some time afterwards he told the Deponent he thought himself much relieved, - Mr. Archibald Boyd, who the Deponent believes was in the room, at the time told the Deponent that as he thought the drops had done Mr. Perry so much good, he believed they would be of service to him likewise, for he found himself pretty much in the situation which Mr. Perry had described, The Deponent told Mr. Boyd that he knew his own feelings best - there were the drops, Mr. Boyd then took three Teaspoonfull, mixed the De-

Deponent believes in the same manner that Mr Berry's were, Mr Berry - some little time afterwards called the Deponent to him, & told him that he felt himself so exceedingly debilitated by the drops, that he begged for Gods sake the Deponent would put them away in some secure place, for that damned Creature Boyd would swallow them all; sometime afterwards the Deceased had his Cloaths brought to him, which he put on, and came out into the other room, the Deceased joined in Conversation, and appeared to be as cheerful and conversable as any present, he told Mr John Frederick Augustus Priggs and the Deponent that he had some good Cheese in the House and asked if they would eat some which they agreed to, & the Cheese & Biscuit were produced the Deceased gave Orders to have some Toddy made, sometime afterwards the Deponent made a motion to leave the house, Mr Berry observing it begged he would stay a little longer, for he had some business for him to do, he then produced an Instrument of Writing, which the Deponent believes to be the writing now exhibited as the Will of William Berry: He jokingly observed to Mr Berry before he knew the Contents of the writing he did not suppose it to be his Will, as he believed there was no danger of him that hour; Mr Berry then observed it might be so, but that it was always best to be prepared, & said it was his Will, & that he wanted the Deponent to be a Witness to it. Mr Berry sat down to his Desk, signed and sealed the Will, in the presence of Mr Archibald Boyd, Mr J. F. A. Priggs & the Deponent; after which Mr Boyd took up the Will & desired Mr Berry to say that he published and declared it as his last Will and Testament, & that he delivered it for the purposes there in mentioned, Mr Priggs observed upon this, that that was not the usual form in which he had seen Wills executed, but observed that the following was the form, that he published and declared it to be his last Will and Testament and desired the Witnesses to witness the same, upon which Mr Berry took the Will up and repeated the words made use of by Mr Priggs, that is to say, I acknowledge this to be my hand and Seal & Publish and declare this the said paper meaning to be my last Will and Testament, or words to that effect, and call upon you to witness the same and immediately afterwards requested the Deponent to subscribe it as a witness, which he did, and Mr Boyd Mr Priggs and Mr Thomas Marshall, then also subscribed it in the presence of the Deponent and the Deceased: The Deponent being asked whether Mr Marshall was present when the Deponent subscribed it, answers he does not know; nor does he know whether Mr Marshall was present when Mr Boyd and Mr Priggs signed it, but that he this Deponent, the said J. F. A. Priggs & Archibald Boyd subscribed their names as witnesses to the said Will in the presence of the said William Berry, and in the presence of each other. being asked if the paper now exhibited as the last Will and Testament of the said William Berry is the same paper which he signed as a Witness in the manner before related, says that it is the same. Being asked how long he has been acquainted with the late William Berry Deceased, answers about fourteen years - Being asked how long he has attended the late William Berry as a Physician - answers eight or nine years or thereabouts - Being asked how far the said William Berry lived from Glasgowburgh, the place of residence of this Deponent - answers about five or six Miles -

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Being asked how long he was in Company with Mr Berry at the time of his making the said last Will — Answers about two or three Hours — Being asked, if during the time last mentioned when he was in Company with Mr Berry, from any observations made by the Deponent respecting his conduct or discourse, he can say that he was in or out of his Senses — Answers that the Idea of his being out of his Senses never entered the Deponents mind, that from his whole Behaviour & Conversation he appeared to be a reasonable man and to have his Senses — Being asked, if he believes, that, at that time he was capable of making a Testamentary Disposition of his affairs — Answers he thinks he was, and that he appeared to be as much in his Senses at that time as he was at any other time when he had seen him — The Deponent further saith that he had seen two or three times with William Berry, when he had been reduced by the effects of liquor, to the same situation he was in when he last saw him. — Being asked what he thought to be the Cause of Mr Berrys Languor and Debility in his last Illness — Answers that he believed it to be the effect of drink, that he had before known Mr Berry after a Course of intoxication to recover as perfect a State of health as ever, that he never visited Mr Berry after the time before mentioned — Being asked if Mr Berry had ever sent for the Deponent as a Physician at any time except after a Course of drinking, and whilst the effects of liquor remained upon him — Answers he had, but thinks it had not been done at any time within a Twelve month before his death, but within a much less time than two years — Being asked, if at the last time he was with Mr Berry when the Will was executed, if during his stay with him he had seen him read or peruse the Will — Answers he did not, nor was there any Conversation respecting its Contents. — Being asked if any other persons were present besides those already named, when the Will was executed — Answers that he thinks Thomas Devon Williams brother in Law to the Deponent, was present, and no other person that he can recollect — Being asked if Mr Berry at the time before mentioned, and before the Will was executed, drank any thing, besides the grog & Volatile drops given him by the Deponent — Answers that he might have drunk of the Toddy as it went round, but is not certain, that if he did drink, he drank sparingly & the Toddy was not strong, and believes that he was as capable <sup>drank</sup> of drinking as at that time as he ever was in his life — Being asked how much Toddy was drunk at the time last mentioned — Answers there was a small bowl or Tumbler full drunk but whether it was filled a second time, he does not recollect, Mr Riggs had some Liquor mixed for himself, and this deponent believes drank some of the Toddy — Being asked if he thinks Mr Berry was sober, at the time of executing the Will — Answers, he thinks he was — Being asked if he did not think that Mr Berry wished to conceal his drinking — Answers that he believes he might wish the world not to know that he drank so hard as he did — Being asked if he had ever seen Mr Berry when he was perfectly sober and free from the effects of liquor — Answers that he had seen him when he had no reason to suppose him to be under the Influence or Operations of liquor, and when he had congratulated him on his appearance, and asked him if he had left off drinking, he answered that upon his Honour, he had, and that he had not drunk for such a time, and was determined to leave it off — Being asked, if at the time when the Will aforesaid was signed

Mr. Berry appeared to him, to be of a sound mind and understanding, as he did when he had seen him free from the effects of Liquor as above related — Answers he did, — Being asked if he had ever any Conversation with Mr. Berry respecting his Brother, and when — Answers that he had advised Mr. W. Berry, in Order to break off his habit of drinking, to break up housekeeping, and to live with some one of his Brothers, he told him that he never would live with his Brothers, that he could not think of such a thing, for they had used or treated him ill; the Deponent asked him in what respect, for that they had always appeared to the Deponent when in Company with them to have behaved with Disorderly affection, he told the Deponent that he did not know them — that he was convinced they had no regard for him, that they had often neglected him when he thought himself at the point of death, and that he had repeatedly sent for them, they had refused to come; the Deponent observed to Mr. William Berry — that it could not have proceeded from want of affection but that it might be disagreeable to them to see him in his drunken fits, & that altho they might have unintentionally, perhaps with too much severity upon his conduct, so as to have hurt his feelings at the time; yet he could not suppose that they were wanting in regard for him; he told the Deponent that it did not signify he would not live with any of them, and that it was his determination as soon as he could settle his affairs, to take a trip to London, the Deponent told him he agreed with him, that he thought his scheme right, that he had property to sustain it; and no family to leave behind him; that by that means he would break off his disagreeable Connections, & that it would probably make a new man of him; and he told the Deponent it was his determination to carry it into Execution; The Deponent cannot be positive as to the time this Conversation happened, but thinks it was sometime last Fall and after Mr. Berry had been in a course of drinking; that by breaking off Connections was not meant in the Idea of the deed and, as he conceives, or the Deponent breaking off his connections with his relations, but with those who frequented his house and led him into habits of drinking; — The Deponent further saith that at the time the Will aforesaid was executed, no other or previous Will was cancelled to his knowledge, nor did he have any thing about one — Being asked if he himself was perfectly sober at the time aforesaid — Answers he was — that he was not much acquainted with Mr. Briggs, but that he was sober also; that Mr. Boyd appeared to be a little muddled, that he had seen him much more in Liquor than he was at that time; that Mr. Marshall appeared to be sober at the time; — Being asked how long Mr. Berry lived after the Execution of the Will aforesaid — Answers about four weeks, that he was called on to visit him about the 30<sup>th</sup> day of June and he was dead when he arrived — Being asked at what time he came to Mr. William Berry's house the day the Will was executed — Answers, after three o'clock in the morning, he believes, and went away about noon —

Given to in open Court  
Test James T. Tyler & Willis C. County

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Prince George's County to wit The Deposition of Archibald Boyd Attorney at Law  
 Aged years or thereabouts, being sworn on the Holy Evangelists of Almighty  
 God, saith that in the morning of the day on which the will now exhibited was  
 written, the Deponent was awakened by a Negro, who came into the room & inform-  
 ed him that there was a Messenger from Captain William Perry who had sent for  
 him to go and write his Will, The Deponent had been drinking hard the over-  
 night, was much indisposed and very unwilling to get out of Bed, so that he  
 sent word by the negro to inform the Messenger that he could not possibly go.  
 The negro went out of the room, & in a little time returned again and informed  
 him, that the Messenger bid her tell him that Captain W Perry uncommonly ill-  
 and had dispatched another Messenger before he left home for a Doctor, upon  
 hearing which, tho' with the utmost Reluctance, he got up and went over with the  
 Messenger, when the Deponent opened Captain W Perry's Hall door, he found  
 him laying upon his back on the Bed, which he had drawn from its usual place  
 immediately opposite the two Hall doors, the windows and doors being all  
 fast, he had his left hand on his forehead, his right hand he held out to the De-  
 ponent as he entered, he took hold of the hand of the Deceased, & asked him how he  
 did, he told the Deponent he was dying, in a very feeble tone of voice, he told  
 the Deceased he hoped not, & on feeling his pulse and observing it was remark-  
 ably languid, the Deponent told him he was only asleep too low, & immedi-  
 ately ordered the Girl or some person who was in the room to mix some Spirit with  
 some Tea or Coffee, & give to him; whilst he was drinking the warm Tea or Coffee  
 mixed in the manner already mentioned, he informed the Deponent he had been  
 sickening excessively that morning and was apprehensive it would not stay  
 upon his Stomach, he drank it however, Then applying his hand to his forehead  
 again, he made use of the following expression, "Oh this head, this head, this is  
 not my head, I wonder whose head this is, I have got," an Expression which was  
 almost constantly in his mouth, when in that situation the Deponent told him  
 that his (meaning the Deponent's) was a full match for his head, he asked the De-  
 ponent if he had been in that way too, he informed him he had, & that the only dif-  
 ference between them was that the Deponent had resolution enough to get up & he had  
 not, he answered it was a pity, that he & the Deponent had as good heads as any  
 in the County if they would only give them a fair chance. Another Cup of Tea or  
 Coffee mixed as aforesaid, was then handed to him, whether by his order or the order  
 of the Deponent he doth not know, which he drank; he then informed the De-  
 ponent he had sent for him to write his Will. He told the Deceased he was very  
 willing to write his Will, but that he the Deponent must drink something first  
 for that he could not write his own name at that time, when some sling was  
 ordered, which whilst he was drinking, he informed the Deponent to this effect  
 and as nearly as he can recollect in these words, "These Strutters wont come to see  
 me before I die &." The Deponent asked him if he had sent for them, he told him  
 that he had, and not one of them would come nigh him. The Deponent told him  
 he had sent for them so often to see him die, and they had come and only found  
 him

The Deponent asked him what Strutters he meant, when the Deponent told him he meant his Brothers & Majors, Ministers

him drunk; that he supposed they would not be fooled so any longer, well says the Deceased, I dont care, for my share, they shall not have a farthing of my Estate, I will give it all to Billy, who was then in the room (meaning Billy Perry Warman the person mentioned in the Will.) The Deponent told him he had an undoubted right to dispose of his property as he pleased, and if he was satisfied the Boy was his Son it was very well, and he would write the Will agreeable to his directions, The Deponent sat down to the Table in order to write the will, but finding his hand shook amazingly, he got up again telling Captain William Perry it would not do yet, he must take a little more powder, He then asked the Deponent to come and sit down on the Bed by him, when it was mentioned either by him or the Deponent that it would be necessary to appoint a Guardian to the Boy, when Captain William Perry admitting the propriety of the measure, asked the Deponent whom he should choose; the Deponent told him that it was his business to make the choice, when he replied to the Deponent that he left the matter to him, and bid him put in either Robert Peter of George Town or Col. Joshua Beall. — The Deponent told him it would never suit Mr Peter who lived at a distance and had so much Business of his own; well then says Captain Perry it must be old Joshua, but no, dost him he is too old too, The Deponent then said, I will tell you what old fellow, he will live long enough to bury both you and me if we do not mend our manners and that probably too, on which he agreed that Col. Joshua Beall should be the boys Guardian; The Deponent then sat down a second time to write the Will; he wrote or was writing the Preamble when Captain W. Perry spoke thus; I will tell you what now, Boy, I want you to put down in the first place my house Betty Dido, I want to leave to my sister Williams, and her puppies to be equally divided amongst her children; The Deponent told him he would not put that down, telling him it would be a sufficient mortification to his sister to find herself altogether neglected by his Will, without being insulted by such a legacy as that; he insisted however upon its being inserted, and said it must be done, he wanted to leave the bit to his sister on purpose to suck her Eggs; The Deponent however positively refused to insert it, threw down the pen, got up from the Table, telling Captain Perry he found he had no intention of making a Will, at last he agreed that the Deponent should go on without inserting it, and after taking notice of some Legacies, left the room under as in the Will to the boy, and directed the Deponent to write the will now produced and to insert what is contained in it. Together with some particulars hereafter mentioned which the Deponent neglected — Being asked if at the time of giving the directions to the Deponent to write the Will aforesaid, and at the time he signed the will, he conceived Captain William Perry to have been of sound and disposing mind to dispose of his Estate, — Returns for Answer —

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That at the time when the Will was Executed, he does not deem himself Capable of answering the question from any Observation he was at that time Capable to make being far gone in Intoxication; but from reflecting on Circumstances, and Comparing them one with another when Sobber, as well as from the particular Knowledge he had of Captain Bovy when drinking, he is Clearly of Opinion that he was not Sobber, nor does he think he was of sound Mind and Understanding to make a Will from the first Moment he saw him that day: that as to the Execution of the Will, his recollection of it is so imperfect that he cannot say any thing positively about it: The Deponent thinks upon the whole, that there was some Conversation between him and Captain Bovy about an Executor, but whether any person in particular, was named, he cannot say; and with regard to a Guardian, he was so well satisfied that Col. Beall was mentioned in the Will as such that on hearing of Captain Bovy's death, when he saw Col. Beall afterwards he mentioned the Circumstance to him, — (Being) asked the question, if his name subscribed to the Will aforesaid was of his hand writing — Answers it was, and that the Will now produced is of his hand writing and is the Will which he wrote at Captain Bovy's at his Request — Being asked at what time he got to Captain Bovy's the day the Will was wrote — Answers the Sun was about an hour high or hardly so much — Being asked how long after making the Will, he began to entertain Doubts of Mr Bovy's being in his Senses at the time of making it — says that he thought very little on the Subject until after Captain Bovy's death, altho this Deponent remembers that in the Evening of the Same day when this Will was drawn & Executed, the following Conversation between this Deponent and Thomas Marshall one of the subscribing Witnesses to the Will happened? That Bovy had made that Will with a view of inducing his Brothers to pay more Attention to him than they had done for some time past, & that it was the Opinion of the Deponent and of Thomas Marshall that it was Bovy's Intention that that Will should not stand. — Being asked how long it was after the making the Will, the Deponent was in a Situation Capable of reflecting on Captain Bovy's being in or out of his Senses at the time, — Answers two or three days, or perhaps less — Being asked when he first entertained Doubts of Captain Bovy's being of sufficient Capacity to Execute his Will, — Answers that the Conversation between the Deponent and Mr Marshall above related, that very day, sufficiently shews the Opinions he entertained of the Will; to wit, that it was only a Scheme to induce his Brothers to pay that Attention to him which he so much desired they should do, & therefore never expected that it should stand as his Will, more particularly as the old Will which had been drawn by this Deponent had never been cancelled; so that the Deponent, so soon as he was able to think at all, considered the matter in the light above mentioned; much less as a drunken Scheme Calculated for the above purpose; and the Deponent is Satisfied, that Captain Bovy intended to make some further provision more than what was contained in the former Will for William Bovy Marman's

Conversation

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Conversation which he had with him when perfectly sober, and from that Con-  
-versation he is satisfied that Captain Perry never intended to leave him the bulk  
of his Estate as he had done by the last Will; this Conversation happened, he thinks  
about ten or twelve months ago, and after the Execution of the former Will—  
Being asked if he knew any thing of the Treatment which Mr. Perry received  
from his Mother, — Answers that he has heard the Deceased abuse, he thinks  
the whole bunch of them; particularly on a day when he sent a boy to his brother  
Zachariah for Brandy, the boy returned with a Bottle hardly full, upon  
which he abused him exceedingly: that he never heard Mr. Perry abuse one  
of his Relations when perfectly sober, nor does he know any man who was  
fondle of his Relations when sober, particularly his sister and her children:—  
The treatment of his Relations to him the Deceased, was exceedingly tender—  
When ever he saw them together, and they were always ready to run and Co-  
-cure his orders. He remembers that one Evening the Deceased informed him  
that he had sent for Major Williams who in place of coming immediately, had come  
as far as Peacocks Shop and dallied his time away there in sight of the house, in  
place of coming to him immediately, so that when he did come, he shut the  
door upon him & would not let him in. — Being asked if when he heard of  
Mr. Perry's death he expected he had made a latter Will than the one now pro-  
-duced — Answers he did not think it probable that he had made another Will,  
but that it was not improbable he might have cancelled the Will now produced  
& recovered the former. — Being asked if he thought there was the probability above-  
-mentioned, how came it to pass that he immediately upon hearing of Captain  
Perry's death, told Col. Beall of his being appointed Guardian in the last  
Will — Answers — The Deponent mentioned the above Circumstance, believ-  
-ing that Col. Beall was absolutely mentioned as Guardian to the Boy in the  
last Will, & altho he alleges as above that he thought there was a probability  
that Captain Perry might have altered the disposition of his property by executing  
the last Will, he by no means knew that it was so. — Being asked  
he recollects Doctor Stewart being at Mr. Perry's — says he does. — Being asked  
if he recollects what situation Mr. Perry was in at the time Stewart came there,  
Answers he thinks he was not sober, his Nerves had not recovered their tone  
for that he had not drank a sufficient quantity of strong drink; his Stomach  
would not bear enough to raise his Spirits to their usual pitch; he then his  
the Will was drawn before Doctor Stewart came. That the Cup spoken of in  
the forepart of this disposition which Mr. Perry drank out of, was a Cup of the  
Common size, that he cannot precisely recollect what proportion of Spirit there  
was in the Cups which he drank, but knows he usually drank about half Spirit,  
and that he would refuse it usually unless it was of that strength, and till the  
person who offered it to him that he meant to poison him; — Being asked  
how long Mr. Perry had been drinking before the day the Will was signed, and to  
what degree, Answers that the first time he went to see Captain Perry, after  
the hard weather broke up, he found him laying upon his back in the bed, he  
told the Deponent then, that he had been at it ever since the Snowy Tuesday —



After that he got out of his bed, and rode about the Neighbourhood in his  
-ly, and had got so well that he sent a Note to the Deponent to see if he would  
-send him his seine, that he, Doctor Perry & Mr Oakley were going down to the  
-Landing to haul the seine in the morning and would be glad to have the Deponent  
-Company. He returned for Answer that he could not go, but they were to  
-come to his seine provided Captain Perry would go with them for he knew  
-that Captain Perry knew how to use it; that the Deponent went to see Capt  
-Perry in a day or two afterwards when he found him in bed drunk, and  
-was informed by Capt. Perry upon his enquiring after the fishing, that  
-Mr Oakley & the Doctor had gone, but that he was not able to go, because  
-he was drunk or drinking: he believes this to have been in the month of May  
-and afterwards the Deponent never saw him sober until he died; he was  
-either in a State of despair Owing to the dejection of his Spirits, or his Spi-  
-rits were too high by drinking: the Deponent did not see him frequen-  
-ly between the time & the time of his death, he saw him two or three  
-times between the time above mentioned and the making his Will, & four  
-or five times afterwards before his death; one of which times, whether  
-before or after making the Will he does not know, he the Deponent wan-  
-ted to burn all the Beds about the House. That he was exceedingly  
-well acquainted with Mr Perry. — Being asked if the Deceased was  
-not apt to endeavour to conceal his drinking from Strangers — An-  
-swers that there never was a man that the Deponent was acquainted  
-with that had the art of Concealing his Intoxication in so great a  
-degree as Capt. Perry — Being asked if he had seen Instances of his de-  
-ceiving people by putting on the appearance of being sober when he was really not  
-so — Answers that he can not condescend upon any particular Instance; it  
-was so Common with him that the Deponent passed it by without notice or  
-Observation. — Being asked if on the day of making the Will he remem-  
-bered that Capt Perry drank anything besides the drops before spoken of, Answers  
-he does not know — Being asked if from his knowledge of Mr Perry and the  
-State he was in on the day the Will was Executed, he could be easy or Calm or  
-patient, and how long, without strong drink, — Answers that he thinks he  
-could hardly have supported his existence without drink every quarter or half  
-hour — Being asked whether from the affection which Mr Perry had always  
-shown for his Sister and the friendship between them, he thought, he would, if  
-in his sober senses, have been desirous of leaving the Estate to his Sister, & the  
-Pupils to the Children — Answers he does not think he would — Being  
-asked if he ever heard Mr Perry when sober make use of any disrespectful  
-Expressions towards his Sister & her Children — Answers that so far from  
-it, he has repeatedly heard him express a great share of affection for them.

Being asked, if he remembered that the Will was signed and published by Mr. Berry, & by the witnesses in his presence— Answers that so far as he can recollect the Will was regularly issued, The Deponent also remembers a Circumstance related by Doctor Stewart in his Deposition respecting the directions he gave Mr. Berry to Execute the Will, as if it had been a Deed, and Mr. Riggs setting him right— Being asked that from the State Mr. Berry was in and the manner his Will was directed to be written he took it to be a deliberate disposition of his property; or merely the effect of drunkenness & being in ill humour with his brethren.— Answers that he considered it as the effect of a Temporary Disregard taken up in the Course of his drunkenness, which would cease so soon as Mr. Berry came to be perfectly sober and composed— Being asked whether he this Deponent hath seen Capt. Berry when sober & composed— Answers— This Deponent hath seen him & been in Company with him when perfectly sober & composed, and when this Deponent was so— Being asked, whether there was a striking difference between the Soundness of Mr. Berry's mind and Understanding, when the Deponent has seen him so sober and composed; and on the day when the Will Exhibited was signed.— Answers, his Mode of Speaking and Acting were very different, and the Company that frequented Capt. Berry's house and were the most kindly received by him at that time, would not be permitted to show their faces there when sober— When Capt. Berry was sober, he was fond of Rational Conversation and disliked irregularity as much as any person of the Deponent's acquaintance. While about the time the Will was made Mr. Berry's House was little better than a Brothel; when sober Capt. Berry used to lament in the strongest Terms his unhappy propensity to drink, and was continually forming Resolutions of Amendment; during which time the Censure of the world was slight in Comparison to what he made on his own Conduct; in particular the Deponent recollects his mentioning with a great deal of Concern, Mr. Williams & his sister being obliged to estrange themselves from his Society in consequence of his folly.— And that there was a very striking difference between the Soundness of Mr. Berry's mind and Understanding, when he had seen him sober as aforesaid, and on the day of signing the Will; in his eye, who was so well acquainted with Mr. Berry and could so readily distinguish between his being drunk and sober; which was scarce possible to be distinguished by a Stranger— Being asked when Mr. Berry was drinking, and particularly the last time when he was drinking whether there were not about him a Number of kept Mistresses about him, and whether he was not fond of their Company and influenced by them.— Answers— There used to be two or three with him occasionally, although this Deponent seldom saw but one, who officiated as a Nurse to him in his Drunkenness; that he was fond of them the Deponent is satisfied; but Mr. Berry's being influenced by them, this Deponent knows nothing of the Matter, as he would drive them out and bring them in again in an hour;— Being asked to declare his whole knowledge respecting the former Will Executed by Mr. Berry— The Deponent saith—

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That the will alluded to was made by Capt. Wm Berry about Eighteen months or two years ago to the best of his recollection, by which Wm Berry devised the whole of his property to be equally divided amongst his Brothers & his Sister Mrs. Williams, except Five hundred Acres of Land upon the Ohio, and fifty pounds but whether Sterling or Currency the Deponent cannot certainly remember; which he Bequeathed to Wm Berry Warman; And a Request of four or five hundred Acres of Land on the Ohio to Walter Stone Handler; That this Will was Executed in the Deponents presence, which he wrote & thinks he subscribed as a witness; after which it was sealed up, and delivered by Wm Berry to Nathaniel Pope, with directions not to deliver it to any person whatever without a written Order from the Testator. Deponent being asked like Wm Berry was perfectly sober when this Will to wit the Will just mentioned was made — Answers, to the best of the Deponents recollection the Will alluded to was made soon after Captains Berrys return from the War in Springs, where he had gone for & recovered his health, and at a time when Capt. Berry did not drink at all — Deponent being asked, who were appointed Executors to this will, Answers, Zachariah Berry & Tho. Owen Williams. — Question, do you know what become of this Will after it was Executed, — Answers, that by what means it came into Capt Berrys Possession, after being delivered Nathaniel Pope, does not know, remembers seeing it, but not reading it, in Capt. Berrys Desk sometime before his death, and before the writing of the Will now Exhibited as he thinks. — Question — Did you see the former Will after the Execution of the Will now Exhibited. — Answer, cannot be certain whether before or after, — Question — Did Deponent ever hear Capt Berry say any thing respecting the former Will, and what, — Does not recollect having heard him say any thing about it, — Did not a considerable of Wm Berrys Estate come to him by his Father — Answer, Always understood, from Capt Berry that the whole of the Estate he set out in the world with came by his Father, — Was the Estate he set out with, and which he got from his Father a considerable part of the Estate he did possess of, — Says, that a proportion between what he got by his Father, and what he acquired himself, does not know, but recollects his purchasing three Tracts of Land, which he did divide of, — Do you know what lands he possessed besides them three Tracts, — Answer, He possessed the plantation on which he lived, but does not know the Quantity of Acres it contains, and Two thousand Acres on the Ohio, besides several pieces of Land, in the Neighbourhood of his Dwelling plantation, which he has been told belonged to Capt Berry, but of the Quantity or Quality of which, or of the Manner in which acquired he can give no Account, — Was the plantation on which he lived deemed a valuable Trust — Answers — he always heard it deemed so — Were the Lands Capt Berry purchased paid for, and in what manner —

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He believes the Chief of the money paid for Lands purchased Came from his Brothers & Mother, that he has heard the Deceased boast of his having an Excellent Banker in his Brother Zachariah, he does not believe either of the <sup>Tracts</sup> above mentioned were fully paid for but one, the Second he thinks is paid for all to a Tittle, the purchase sum of the Third he thinks remains the greater part unpaid, but this he says wholly from Conjecture

Question — What provision did he understand from Mr Berry was intended by him to be made for the Boy Mr Berry Marston, in addition to what was given him by the first Will — The Deponent is clearly of Opinion from the Conversation he has had with William Berry upon that Subject, that if he died of any other disorder besides drinking, he would have added to his former bequest in favor of the Boy a Tract of Land called Hamulton, with a Negro fellow & Wench, and adds that Capt. Berry informed this Deponent, that Major Williams had promised to Superintend his Education and to be Care of his fortune, the Deponents reason for Entertaining this Opinion being that this Deponent mentioned this Land & these Negroes to Captain Berry as above when Captain Berry said that he thought it was right & should be so. — Did you ever understand from Capt. Berry, except at the time the will Exhibited was directed to be written that any other additional provision, was intended for the Boy except what Deponent has just mentioned. — Answer He did, that some time before writing the will, he heard Capt. William Berry declare he would make the will in the manner the will now Exhibited is made. — Was he sober when he made this declaration, & upon what Occasion did he make it

Answer — He was not sober, and in a great passion with his Brothers for not coming to see him

Question — Was it not a Common thing with Mr Berry when in Liquor to threaten that he would not leave his Estate to his Brothers & Sister

Answer — it was — And was it not as Common when he got sober to be upon the most friendly & Affectional Terms, with his Brothers & Sister

Answer — it was — If any Serious difference had taken place between William Berry & his Brothers & Sister, after Executing his first will, he would have Operated on his mind to have so totally attituded it as to them if he had been sober

Answer — Nothing that ever fell under his knowledge or Observation that Conduct of theirs which he so much vented when drinking, he would have thanked them for when sober — Was it not a Caution with William Berry when persons were at his house, from whom he wished to conceal his drinking, to keep strong Liquor in his Closet, & go to it to drink privately refusing at the same time to drink with the Company — Answer it was — and he has told the Deponent, when he has called him into the back Room to partake with him of Liquor more adapted to the palates of them both

than what the Company were drinking that, that weak Truth would make him  
leave if he was to drink it — When you speak of Mr. Berry's lying on his back  
in the former parts of his Deposition, do you mean to signify that he was in a  
of drinking strong liquor — Answer, he does, — Was he very intimate with  
Mr. Berry and did William Berry freely & willingly converse with him on his  
affairs, and the Disposition of his property — Answer — He was — Intim-  
mately acquainted with Mr. Berry, and he used to express himself before the De-  
ponent, with as little reserve with regard to the Disposition of his property (The  
Deponent believes as any man, but with regard to the frequency of the Disposi-  
tion of his property being the topics of Conversation, does not recollect — To  
whom did William Berry when sober declare to the Deponent he intended to leave  
the Bulk of his Estate as often as they conversed on the Subject — Answer, to  
his Brother & his Sister; — Deponent further saith that William Berry, while  
giving directions to the Deponent about his Will, that is the Will now exhibit-  
ed, called to him a Negro Lench called Tibb, and told her he would leave either  
two or three of her Children who were Mullattoes free, and asked the Lench whe-  
ther she was satisfied, the Lench said she was, upon which Mr. Berry de-  
sired the Deponent to leave them so in the Will, which however the Depo-  
nent neglected — Did William Berry read the Will now exhibited  
after it was written, and before it was executed, — Answer He did not  
the Deponent read it at his request — When you read the Will to William  
Berry, did he take notice that the directions which he had given to name a  
Guardian to the Boy — and to leave the Mullatto Children free, were not comply-  
ed with by the Deponent in writing the Will — Answer He did not  
know there any other directions which Mr. Berry gave you, omitted in writing  
the Will — Answer — none that he can recollect — Was William Berry  
when sober acquainted with the forms used in making Wills — Answer —  
very well — If Mr. Berry when sober was acquainted with the Necessity of  
appointing an Executor to constitute a complete and regular Testament — Answer  
It was his Opinion he was, and it further was his Opinion that there was hardly  
by a man in the Community, who would have been left apt when sober to  
make such an Omission, or more ready to discover it when reading a Will  
or having a Will read, being a man of quick apprehension in the Deponent's  
Opinion — Do you remember the witnesses to the former Will — Answer  
He cannot recollect fully any others than Nathl. Pope & himself, he thinks  
Joseph Pope, but cannot be certain; — Whether the money that he under-  
stood William Berry received from his Mother and Brother, was a gift or a  
Loan to Mr. Berry — Answer, as a loan — Do you know that Mr. Berry  
frequently drank his Sister Williams — Answer — when cool & clear of liquor  
he made the House of Thomas Owen Williams, who married his Sister, very much  
his home, but as soon as he took to a fit of Drinking, used to leave the House,  
Do you know at what time Mr. Berry's Marston first came to the House of  
William Berry to live — Answer, he does not recollect particularly but  
believes

Believes it was last winter, the first time he thinks he recollects seeing him there, was when he the Deponent paid a visit to Capt. Berry last winter, after the breaking up of the Ice, when he recollects Mr. Berry informed him of a quarrel he had the day before, with the Taylor who made a suit of Cloths for said Mr. Warrman upon his threatening to warrant him for the money — Did you ever hear William Berry talk of lessening the provision as he has before mentioned in addition to the provision made in the former will for Wm. Warrman after he came to live with William Berry — Answer never did — Were the threats <sup>to leave his Estate</sup> as mentioned above, away from his Brothers & Sister, before or after the time Wm. W. Warrman came to live with William Berry — Answer — after the time — Did you ever hear William Berry threaten, or express any intention of leaving his Estate away from his Brothers & Sister and give it to any other person except to Wm. Berry Warrman — Answer — he has — Deponent says he has heard Capt. Berry declare when Drunk he would leave a great part of his Estate to Doctor Nick Berry, this declaration Deponent says he heard him make towards the latter end of last winter or in the Spring — Do you recollect to have heard William Berry say at any time after William W. Warrman lived with him that he meant <sup>intended</sup> to leave the bulk of his Estate to his Brothers & Sister — Answer he never did — Had you any Conversation with Mr. Berry respecting the disposition of his Estate when Mr. Berry was sober, after Wm. W. Warrman came to live with him — Answer — He thinks not — At the time Wm. Berry directed you to insert the Several Bequests in the will now Exhibited did it appear to you that he knew, understood and comprehended the meaning, force and purport of the Several bequests therein mentioned — Answer — I do think he did — Was William Berry when in a course of drinking easily imposed on by those who might wish to take advantage of him in making bargains — Answer — he was not he believes — Did you ever know of his being imposed on, or of his making an imprudent Contract when in that Situation — Answer — I do not recollect being present at any bargain made by Captain Berry when in that way, tho I have heard him boast of making good bargains when drinking, but I have also heard him again & again say that he never should get out of Debt with a certain John Maher, who kept a Tophling House in his Neighborhood because John could not write himself, and kept all the Charges he had to make against him in his head while he found Capt. Berry sufficiently drunk for his purpose and then he handed him his book and made him make the

Charge generally as much as he thought proper — Whether do you think Mr. Perry or yourself at the time of making the Will now Exhibited, was most under the influence or Operation of Strong Liquor — Answer — When I first entered the Room I considered myself as the soberest of the two, and at the time when Capt. Perry requested me to leave the Pitch to his Sister, I could not help being surpris'd to find him so far gone in so short a time, but after this I cannot with any degree of precision, tell which of us reached the Gold we were both bound to, or in other words which of us got tight down the soonest, or whether Capt. Perry got to the height of intoxication at all while the Will was about, altho he did, & believes Mr. Perry did also — If Mr. Perry according to your Conception, seem'd in the Situation you have before describ'd at the time of Writing & Executing the Will now Exhibited, why did the Deponent write & subscribe as a Witness, — Answer — because he was not sober himself — Whether from your knowledge of Mr. Perry, do you think the Will Exhibited, as to the manner of making the Devise, without any limitation to the Heirs of the Devisees, would have escap'd his notice, if he had been sober — Answer — He does not think so, he thinks he would have discover'd it as soon as any one. — Do you think at the time when Mr. Perry directed you to write the Will Exhibited, he was in such a State of mind, as to be a Judge of the most rational disposition of his property. — Answer — He does not think he was. — Do you think from your knowledge of Mr. Perry, and the whole Tenor of the Conversation you ever had with him, that such disposition of his property is made by the Will Exhibited, as would have been made had he been sober — Answer — I do not think such disposition of his property would have been made as is done in the Will Exhibited, had he been sober at the time of making it. — Have you not seen many men above the age of Twentyone years, who were neither Idiots, Madmen, or Lunatics, or their Senses impair'd by sickness or old age, who did not possess as much Understanding, as Mr. Perry did at the time of making & Executing the Will — Answer — He has — Do you think that Capt. Mr. Perry at the time of Writing & Executing the Will Exhibited had an Understanding & Capacity equal to that which in the Common Course of Life men in general possess. — Answer — He had not above one half of his own usual Understanding. The preceding Question being repeated — He Answers Mr. Perry being so much Superior in point of Understanding, to a great part of mankind, he would have been able to Express himself upon most Common Subjects, with more Shew of Judgment & Understanding than many of the Common part of mankind would, if sober. Was he in a Situation to act as rationally as men in general would upon such Occasions. — Answer — He thinks he was not — Do you think that men in general could have overreached Mr. Perry in a Bargain or Contract respecting his property, at the time of making & Executing the Will now Exhibited

Answer — He thinks he could have done it, because he told the Deponent by Deed he would give him three thousand pounds of Tobacco for drawing the Will, and the Deponent is of Opinion, if he had drawn a Note of Hand for such quantity of Tobacco payable to himself Mr Berry would have signed it. Whether the generality of men, could have overreached him in a bargain or Contract respecting his property the Deponent cannot determine and has no reason to think they could from any <sup>particular</sup> foolish Bargain he ever witnessed Captain Berry's making in that Condition, and that the Deponent has no other reason in the world to suppose that Capt. Berry could have been overreached by any person in a bargain respecting his property but from the Circumstance he has just mentioned, to wit his telling the Deponent he would give him three thousand pounds of Tobo for drawing his Will —

Do you think had Capt. Berry been sober, he would have given you three thousand pounds of Tobo for drawing his Will, Answer — He does not think he would — Did William Berry give you three thousand pounds of Tobo for drawing his Will — Answer he did not — Was Mr Berry when the Will exhibited was made & executed, Capable of looking after & managing his plantation and other affairs with Judgment & Discretion. — Answer

He was not — Was he free from Bodily infirmity, or weakness of mind incapable of transacting his business as aforesaid — Answer, he thinks from both — Do you think Capt. Mr Berry was Capable at the time of making the Will exhibited of either truly considering & forming a rational Judgment concerning his Common plantation & Household affairs — Answer — from his mode of managing, he is of Opinion he could not form a rational Judgment even as to the management of his own Common Household affairs — Did not Mr Berry, at & about the time of his making & executing the Will now

exhibited, manage & Conduct his business & household affairs as well as the Deponent did at that time — Answer, they managed their business pretty much in the same manner, the principal business of both, and their chief Study, being to take Care that a regular Supply of Spiritous Liquors should be provided, — Do you think from reflecting on the Subject, since you have

been in a State of Sobriety, that you were Capable of making a rational Disposition of your affairs as just described — Answer, It is the Opinion of the Deponent, that had he made a Will at that time, he would have been guided in making it merely by the impulse of the moment; could he have formed a rational determination upon that or any other Subject, of so much importance, nor does he think it possible for any man to do an Act of so much Solemnity with deliberation, immediately after a Course of intoxication, for so many days & nights together & that too almost entirely without eating — Does he think that Mr Berry was nearly in the same State of mind



Mind, when the will Exhibited was made — Answer — As nearly as ever  
two men were in the world, of the two Mr Perry Certainly was the worst, he  
Confined himself entirely to his bed, Whereas Deponent rode about — Was it  
Customary with Mr Perry to abstain from eating in a great measure, while  
in a course of drinking. — Answer, no persuasions could induce him to  
eat hardly a mouthful for days together — When Capt Perry was so ex-  
hausted, by long fasting & drinking, and the effects of the Liquor happened to be a  
little loosn'd off by a nap of Sleep or otherwise, what quantity of Liquor would  
it take in the weak state he was in, at the time the will Exhibited was made  
to bring him to his Common pitch of intoxication — Answer, he cannot  
tell, Supposes a som all quantity sufficient —

Sworn to in open Court

Test Jarn: by the Reg: Wm: P. G. County

The Deposition of Henry Brooker Aged 50 years or thereabouts being sworn on the  
Holy Evangelists of Almighty God, Deposeth & Saith that he called at Mr Perry's about  
the middle of June last, and about ten days before his death, when this Deponent got  
to the House, he saw one of the young Mr Perrys, & this Deponent asked if Mr William  
Perry was at home, he told him yes, but he was unwell, Deponent asked him if  
he was in Bed, he answered he was on the Bed, and unwell, and Deponent asked  
if he was so unwell that he could not be spoke with, the Deponent gave him his  
name & desired to speak with Mr Perry, he left him at the door & went into the  
Room, he returned & told Deponent Mr Perry would be out presently, he arriv-  
-ingly soon came out, Deponent asked Mr Perry how he did, & he said very poorly, De-  
ponent asked him what had been the matter with him, & he said he had been unwell  
for some time, & seemed very unwell, Deponent told Mr Perry his Business, he  
said it was very well, and asked him if he would drink in something, Deponent  
said he would drink a little Toddy, it was then late in the Evening, not long before  
Sun down; they had a little Bowl made & they both sat down together, they had  
sit but a little while and had a drink or two when Deponent looked round and  
saw the little Boy (Wm Perry's Nephew mentioned in the will) and Deponent said  
to Wm Perry, Billy who is this, Says he that my Son, said Deponent who, Coarman  
Says he yes, Deponent asked what was his Name, Wm Perry answered, Capt  
William Perry, & said he is christened Wm Perry and will never go by any-  
other name, Deponent asked how long he had been there, and Capt Wm Perry said  
about 5, 6 or 7 months and that he had been to School or was going to School  
he does not know which, & that he wd. make a very clever fellow of him, Deponent  
told Mr Perry he thought he ought to do something clever for him, he said  
that he had left him all his Estate, Deponent said all your Estate Mr Perry,  
he said almost all, I have made my will, & my boy had wrote it, Deponent then  
Clapped

Clapped his hand on Mr. Berry's shoulder, and said, Billy I like you better than ever I did, with that Mr. Berry pushed his Chair a little back in order to get to his Desk, and said I will show you what I have done, he went to his Desk and brought Dept. a paper, there said Mr. Berry read that, Deponent did read it, and it was a paragraph of the will, desired Dept. to read it, that Dept. remembers Letty Marshalls having two or three Negroes left her, they were called, as Dept. believes by their names, Dept. thinks there were 4 or 5 Negroes left to Richard Berry, there were 500<sup>l</sup>. of Land he thinks left to a Mr. Chandler, and Mr. Berry told him it lay on the Ohio; or thereabouts and two of the Mr. Berry's he thinks both Jerry Berry's had 500<sup>l</sup>. a piece & he thinks Rich<sup>d</sup>. Berry had part of the Land given him by the paper but is not sure but thinks there were 2000<sup>l</sup>. of Land given, After Dept. read it over, he laid down the paper, and asked Mr. Berry where was the rest of his Estate, he said every farthing real and Personal besides, I have given to this boy, and nodded his head at Wm. Berry Cleaman, who was present, Dept. asked him how his friends liked that, he said he did not care a farthing how they liked it, for they had all got enough, and what he had was his own, & he would do with it as he pleased, and told Dept. he / Wm. Berry Cleaman was a fine Boy, spoke much in his praise, and said that he had not a doubt but he would make a very fine man, Being asked if he had no conversation with Mr. Berry, respecting the money that ought to induce him to provide for the Boy on his Mother's Account, Dept. said he knew that the Mr. Berry had taken a great deal of pains to make that Boy, he said Wm. Berry he knew it that he had used Lee St., and Dept. told him that as he had such a feeling for the Child he must still have an affection for his Mother, he Wm. Berry said it was all over now, Dept. says he never heard anything agt. the Character of the Boy's Mother, exclusive of the Circumstances of her having the Child by Mr. Berry, Dept. says that the preceding conversation he had with Mr. Berry respecting his will was just about Dinnertime, when Mr. Berry first came out he appeared as if he had been Drunk, and a little muddled, but after they had drank a drink or two of the Toddy, he appeared not to be at all in liquor, and conversed as well as ever he heard him, that they had a good deal of conversation respecting an account that he, Dept. went to bank <sup>for</sup> to get his money for Mr. Berry gave him his reasons why he could not pay him, and begged Dept. to draw his Account of in the morning and leave it with him, and as Dept. returned, if he would call on him he should have his money, and told him how he expected to get it, Dept. says that he lay that night at Mr. Berry's & in the

The same Bed with Mr Berry, there being Company at the House, amongst other  
the two Jeremiah Berrys the Boy & young Mr Marshall was there but he does  
not know if he lay there, that Dept. & Mr Wm Berry went to bed together  
at the same time, that they both got up together before Sunrise, and went to the  
Horse yard where Mr Berrys Stallion was kept, as they walked from the Horse yard  
Mr Berry spoke of the Boy again, called him his son & said what a fine clever  
Boy he was, and how well he would be off, & how much Land he had given him  
at the Eastern Branch, & told him how many Acres, & of some purchases he had  
made there lately, which was more then Dept had thought he had, that he never  
heard Mr Berry stir during the night, and Dept is very wakefull, but was  
much fatigued with his ride, & Sleepy that night, that he when Berry appeared  
as fresh in the morning as ever he did in his life, & that neither Mr Berry,  
nor Dept drank any thing untill their return from the Horse yard to the House  
& that the Conversation they had in the morning respecting the Boy was before  
either of them had drank any thing, and that when they returned to the House Mr  
Berry made a little jest, as the Dept. would have done, of which they both  
drank, that Dept. never discovered that Mr Berry was in any manner in-  
-toxicated before he left his House, that Dept. about two or three days after cal-  
-led on Mr Berry on his return, and that he appeared to him to be sober, and that  
it was before breakfast, & he breakfasted with Mr Berry, & left his House about  
time of the Clock, but at neither of the times did he see any women about Mr  
Berrys but Negroes, nor see any disturbance, Being asked if there were any  
Horse jockies there, says there was a couple of men who appeared to be genteel  
-tance of his, and he understood from Mr Berry that one of them was an Acquain-  
-tance of his, and lived near Mr Tho Spriggs & that they had 4 or 5 Clever Horses  
to sell, that the time he called at Mr Berrys on his return as above, he ap-  
-proached to him for not paying him according to his promise and said, if  
he would down at Court which was to be about ten days after, he would  
not disappoint him, but give him his money, that Mr Berry looked very  
-proudly, that he had not heard of his having been in a Debauch of drinking  
untill he went to Mr Williams's, when he heard it & which occasioned him to  
take the more notice of him, the second time he went to his House  
Being asked what Conversation Dept. had with Mr Williams respecting Mr  
Berry, when he (Dept.) called at Mr Williams House, says he dont remem-  
-ber any untill the two young Mr Berrys came over to Mr Williams's House  
soon in the night to Lodge, that Dept. told Mr Williams pretty nearly but  
not so particular what he has before related, that when Berry told him about the  
Boy, he found it was not very agreeable to Mr Williams and did not say much  
more about it, dont remember that he Dept. told Mr Williams any thing about  
Mr

Mr. Perry being drunk when he called on him, but told him that he looked as if he had been drinking; that he Dept did not see Mr. Williams after he had been at Mr. Perry's the second time — Being asked if the paper exhibited as the will of Mr. Perry, was the paper shown to him by Mr. Perry says it is not but that it was a smaller paper that it contained but a few lines, & that Mr. Perry told him it was a paragraph of his will, — Being asked if the paper shown him was in Mr. Perry's hand writing says he does not know it well enough to swear positively, and that he does not know it was in Mr. Perry's hand writing, but then Mr. Perry told him it was Mr. Perry's hand writing, but is not clear in it — Being asked, whether either at the first or second time that he been departed at Mr. Perry's, if Mr. Perry mixed any Spirituous Liquor with his Tea or Coffee — Says that he did not to his knowledge, and that he has no reason to believe he did, that he had no thought of the Subject, that they both sat at the same Table, and were helped out of the same Teapot, & that Mr. Perry helped the Deponent, that he did not see any Wine or Spirituous Liquor at the Table —

Sworn in open Court  
Test. Saml. Tyler Regt

Pine Georges County to wit, The Deposition of Thomas Marshall, aged Twenty three years, being sworn on the Holy Evangel of Almighty God Deposeth and saith that the Evening before the will was made about three o'clock in the day, this Deponent found Captain William Perry in Bed and asked him how he did, he told this Deponent poorly, but he was going to get up again and desired him to sit down upon the bedside where he was laying, for he was at a great loss for Company, and therefore the Deponent should not leave there that night; upon which the Deponent consented to stay, The Deponent sat by the Bed conversing with him until sunset, when Perry grew <sup>very</sup> unwell and was taken with a puking and continued to grow more unwell, until the Deponent believes about ten o'clock that night, Capt Perry desired his Nephew Jere Perry about the hour of eight to go for some one of his brothers, Deponent thinks his brother Perry, and if he was not at home, to call on Tho. & William The Messenger returned about half an hour after time, and said that he had called on them both or spoke to them both, and they said that they could not tide out that night, The Messenger Jere Perry and this Deponent sat with them till twelve or one o'clock that night, Capt Perry found himself <sup>getting</sup> much better, and desired that Jere Perry and the Deponent might go to bed, upon which they went to bed and all rested very peacefully till morning as far as this Deponent knows when

When Dept. <sup>he</sup> awoke about break of day, the fit of peau-king had returned upon Capt. Berry, he desired they would get up to his Apartment, for that he could scarce get his breath, upon which they both went into the room where he lodged. Upon his Account very true, he desired that this Dept. might go immediately for Doc. Stewart and to dispatch a Messenger for Henry Waitley to write his Will, Dept. set off for Doc Stewart early, about fully day, and little Billy - Perry Warman was sent for Henry Waitley, the Dept. got to Doc. Stewart about sunrise, and desired him to come immediately to Capt. Berry - and returned back to Capt. Berry, the Dept. thinks about eight o'clock in the morning - when the Dept. went in at the Hall door discovered that Capt. Berry was yet in Bed, and Mr. Boyd had come in the place of Henry Waitley to write his Will, Mr. Boyd was sitting by his bedside conversing with Capt. Berry, Dept. first asked Mr. Boyd how he did, he made this Dept. no answer, then inquired of Mr. Berry what Doc. Stewart desired this Dept. to tell him, that he would wait upon him immediately after visiting some patients of his in Town, which he would do, first upon William Boyds hearing this he replied for Assurance and said he believed there was no Occasion then, he was getting much better, for he was going to get up directly, soon after he did get up, Dept. thinks to the best of his knowledge, he shaved himself immediately after he got up, and then drank some Cold Coffee, and put on a Clean shirt, Clean stockings and washed over the floor several times, Dept. thinks Mr. Boyd proposed to Capt. Berry, to have Pen, Ink & Paper brought before he got up, that if he did not do the business soon, it would not be so convenient after, upon which they were brought and Mr. Boyd began writing the Will, he wrote the Dept. thinks about a line and stopped for some small space, and said he wanted a little more powder, he had some Spirituous liquor drink given him, he then took up his pen again and shut his eyes and shook his head, on which Capt. Berry turned his head towards the Dept. who sat on the contrary side of the bed, and smiled at the Dept. and said he was afraid Mr. Boyd would not do, and winked at the Dept. nodded his head at the same time at Mr. Boyd - Mr. Boyd went on with his writing for some little time untill Dept. thinks word came into the room, where they were sitting, that Doc Stewart was coming, Capt. Berry told Mr. Boyd that he had better walk into the back room, where he would be more silent to himself that he could do the business without any interruption. Doc Stewart came in and had some conversation with Capt. Berry, whilst Mr. Boyd was in the back room writing - Capt. Berry soon after this got up and dressed himself as before related, Mr. Boyd walked out of the back room and spoke privately to Capt. Berry, and sat down in the Hall amongst the rest of the Company - soon after Mr. J. H. A. Pigg came, we all sat a while together and then

Then returned into the back room, the Company sat and conversed a Considerable time together chiefly about Mr Cairns's Balloon, after which Dep<sup>t</sup> then he walked out in the yard with Mr Jere Berry, and Dep<sup>t</sup> came again into the room where the Company were Mr Wood had walked out at the back door, he came in and carried out a Chair at the back door set down in it and nodded; after a while he came into the room again from thence the Company all went into the Hall together, soon after which Jere Berry and Dep<sup>t</sup> went out at the front door, stayed out some Considerable time, word came to Dep<sup>t</sup> by Capt Berry's Boy Jeffrey, asked Dep<sup>t</sup> to walk in to his Master, Dep<sup>t</sup> went in Mr Wood & Capt Berry got out of their seats and made towards the Deponent, they both asked the Dep<sup>t</sup> to sign the will, Dep<sup>t</sup> sat down and wrote his name to it and Capt Wm Berry laid his finger on the Seal, and the Dep<sup>t</sup> thinks he acknowledged it to be his hand and Seal, and East with and Testament, Dep<sup>t</sup> retired out of the room from whence he came and stayed some time in the yard, he turned into the House again, Company had gone into the Small room Dep<sup>t</sup> seated himself in company, the Conversation still was about Mr Cairns's balloon for about half an hour Dep<sup>t</sup> again walked out in the yard in Comp<sup>y</sup> with Jere Berry, Doct. Stewart and Jas. F. A. Riggs came out when we were got their Horses and went of, about an hour after Mr Wood and this Dep<sup>t</sup> went of together, Dep<sup>t</sup> went home with Mr Wood, on their way home Mr Wood told the Dep<sup>t</sup> that he had wrote Capt Berry's will to day and said that he did not think that he was Capable of writing so good a hand as he had done to day, but yet not so well as he could wish, however it is a matter that he could stand up in the face of a Court and defend any day — Mr Wood after a while said he imagined it was only done in order to make his Brother's last Will Dep<sup>t</sup> replied to him for Answer and said it might be so, — When you went to Wm Berry's the Evening before he made the will now Exhibited did he appear to you to be sober — Answer No, he appeared to be a little lively with liquor — Was the Conversation he held with you that Evening sensible & Rational, Answer as much so as the Dep<sup>t</sup> knew him to be usually Capable of — When Mr Berry called you and Jere Berry to his Apartment the next morning as you before related, did he appear to be drunk or Sobber — Answer He was continually puking while he was in the room, and Dep<sup>t</sup> did not Exchange more than a word or two with him — Did what you heard Mr Wm Berry say at that time seem to be sensible or otherwise — Answer It appeared to Dep<sup>t</sup> to be sensible & Reasonable — Did the Orders Wm Berry gave for a person to go for the Doctor and a person to write his will proceed entirely from himself — Answer y<sup>e</sup> the directions were given by Berry to him the Dep<sup>t</sup> — Did Wm Berry from the time he Deponent came

Came into his room in that morning, until the time the Deft. went for the Doctor  
Drink to the Deponent's knowledge any Spirituous Liquor — Ans. not a drop as  
he remembers, Did Wm Berry from the time the Deponent & Jerry Berry  
went to bed that night until they returned to Mr. Berry that morning, drink  
any Spirituous Liquor to the Deft. knowledge — Ans. not any that he knows  
of — When the Deft. returned to Wm Berry after he had been for Dr. Stewart  
as before related did Wm Berry appear to him to be drunk or sober — Answer  
he did not appear to be drunk, tho' fatigued with drinking which he had  
drunk before — At that point of time did Wm Berry appear to be in  
his senses or otherways, Ans. he appeared to him to be entirely in his Sen-  
ses — Did he at that time speak and act as a rational man — Ans.  
perfectly so, as far as he the Deft. was Capable of Judging — Does the Deft.  
remember the particular directions that Wm Berry gave Archibald Boyd in  
making the Will Exhibited, Ans. he does not at this time know any direction  
Wm Berry gave at all — From the time you returned from Dr. Stewart as  
mentioned above until Dr. Stewart came into the room where Wm Berry was  
Did Wm Berry during that time appear to Deft. to be in his Senses or other-  
ways — Ans. In his Senses, From the time that the pen & Ink was produced  
for Mr. Boyd to write the Will Exhibited, and during the time he was writing the  
same in the presence of the Deft. & Wm Berry, did Wm Berry appear to the Deft.  
to be in his Senses or otherways — Ans. he appeared to him to be entirely in his  
Senses — The Will Exhibited being produced the Deft. & being asked whether  
it was the Will referred to in his Deposition — Ans. It was, At the time  
when Wm Berry executed the Will Exhibited, and the Deft. subscribed his name  
as a witness did Wm Berry appear to be in his Senses or otherways, Ans.  
entirely in his Senses — Did the Deft. subscribe his name as a witness to the  
Will Exhibited in the presence of Wm Berry, Archibald Boyd, John Stewart and  
John Jacob Augustus Briggs — Ans. Yes he did — How much Spirit he sup-  
poses Wm Berry drank in the Coffee before spoken of — Ans. He had it much as  
he thinks he the Deft. would have mixed for himself he did not use more than  
a Table Spoon full with the Coffee before mentioned — Do you that Wm Berry  
drank any Spirit except the Spirit mixed in the Coffee as before related between  
the time the Deft. came to Wm Berry from Dr. Stewart, and the time the Will was  
executed as before related, Ans. Yes he drank of the Toddy once or twice that  
was passing in the Company with Dr. Stewart and others, and he drank Sperry  
-ly, and he does not know of his drinking any other Spirituous Liquor at that  
time — Was Wm Berry within the time aforesaid drunk or sober —  
Ans. He appeared to him to be sober — During the Course of that day in which

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Wm Perry, made the will Exhibited, Did he appear to be Drunk or Sobber —  
Ans: He appeared to be a little Muddled in Drink in the forenoon just after he  
returned from Dr Stewards, Did it appear to the Deft. that Wm Perry was  
affected with the Signor he Drank on the day the will was Executed — Ans: It  
did not except that he appeared to be Cheery or lively after it — Was you  
Intimately Acquainted with Wm Perry — Ans: He was very much so —  
from the intimate footing the Deft. was on with Wm Perry and in his house  
does the Deft. think that Wm Perry would have drank strong liquors privately  
on the day the will was Executed without his knowledge — Ans: No He  
does not think he would, he has known him drunk strong liquors privately  
from others but does not think he would from him — Did you hear Wm  
Perry give any directions to Archibald Boyd to Insult in his will a  
Devise to Peter Williams of a hound bitch & her puppies to her children —  
Ans: No — Had Wm Perry the art of Concealing his being Drunk or did  
Drunkenness appear in him as plain as in other men — Ans: He had a pe-  
culiar art in Concealing it — Could he conceal it from you, Ans: No  
He does not think he could — In what State did Mr Boyd appear to you  
to be in, in the Course of the day — Ans: When he first began to write the  
will he appeared to be more Drunk than he was a little while after, after he  
had wrote the will he got very drunk — By Mr Boyds Hodding as above  
mentioned does the Deft. mean he was a Thief — Ans: Yes — Did you ever  
hear Wm Perry express his Sentiments of Wm Perry Warman, and what  
were they — Ans: He has heard him say he was a fine Boy, he was his fine  
Son, and he would make a bright man of him, he has heard him say so both  
when he was sober, Drunk & lively, Likewise has heard him say he would  
leave him the Chief part of his fortune — he has heard him say so many times  
but he was always lively with Signor he thinks when he has heard him say  
this, before Wm Perry Warman came to live with Wm Perry Deft. has heard  
Wm Perry say that he would make Wm P. Warman a good fortune,  
and after he came to live with him he has often heard him say he would  
leave him the Chief part of his Estate, but he was always lively with Signor  
When these declarations were made, he has two or three different times heard  
Wm Perry say when sober, before Wm P. Warman came to live with  
him, that he had such a son, that he would send for him down to his House  
and do something very clever for him, — In what manner did Wm  
Perry treat Wm P. Warman after he came to Mr Perry's House, and how  
did Wm Perry Warman behave himself — Ans: He treated him very loving-  
ly, and Wm P. Warman behaved himself very disrespectfully to Mr Perry —  
When



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When Wm Berry was in a Course of Drinking, was an Advantage in any Bargain or Contract respecting his property easily to be had of him. An-  
-tively to the contrary, William Berry has Observed to Deft. that he thought he could  
make a better Bargain when lively with liquor than sober — and the Deft. has heard  
Wm Berry make the foregoing Observation both Sobber, Drunk & lively — Did  
you look upon Wm Berry until the time of his death as a man Carefull  
of his property and who was making money — Ans. Yes Exceedingly so in  
general, only at times when drunk, when drunk he was confined to his  
Bed and not able to see after his business as other men could — Had you ever  
any Conversation with the Brothers of Wm Berry or any of them since his  
Decease, respecting the Setting aside of the Will now Exhibited, and what  
Conversation — Ans. I have had some Conversation with them, they have observed  
to me they did not think the Will made by their Brother when he was a rational  
or in his Senses, and they were determined to set it aside if they could, that  
if it was Established they should be considerable losers from their Brothers Estate  
and it would be a cruel thing if it was Established they should suffer some  
hundreds of pounds, The Deft. told them he thought their Brother was in his  
Senses, Did the Brothers of Wm Berry or either of them ever make any  
proposals to you or direct you to make any proposals or offers to any person  
particularly to Ann Thompson respecting the Will now Exhibited, and if any  
such offer or proposal was made, what was it — Ans. Nothing more than  
they have observed to me that they would do something more for Ann Thompson  
for the Services she had tendered their Brother during his Illness, that all the  
Legates should be paid off Honourably except Wm B. Warman, to whom  
they would give a thousand Acres of the back Land & four or five hundred pounds  
to give the world they would act honourably by the Deft. that it would  
be a cruel thing he should have so great a part of their Brothers Estate — they  
told me to tell Ann Thompson she should have forty or fifty pounds, that  
is Zachariah Berry & Benjamin Berry, and that there was nothing left her  
in the Will they had understood, she imagined there was nothing left her  
and they thought she ought to have had something for the Services she had ten-  
-dered their Brother, he informed Ann Thompson that Jas. & B. Berry —  
informed me that she should have the above sum — Ann Thompson Ob-  
-served to me she thought she deserved something for the Services she had tendered  
but if there was no provision made in the Will she did not expect to get any  
thing — Did you inform Ann Thompson, or give her to understand that she  
was to have forty or fifty Pounds in case the Will was set aside, or that she was to  
have it at all events, Ans. He informed Ann Thompson she was to have that  
sum in case the Will was set aside, and the Brothers got the property of the  
man from whom it was due — Had Ann Thompson made any demand  
upon

Upon the Brothers of W<sup>m</sup> Berry or either of them, for any Claim The Lad  
 ag<sup>t</sup> W<sup>m</sup> Berry or his Estate, Ans<sup>r</sup> not to his knowledge — What object  
 (from the Tenor of the Conversation) between you & a<sup>l</sup> Berry, did they ap-  
 pear to have in view in asking you to make the foregoing Declarations to  
 W<sup>m</sup> Thompson — Ans<sup>r</sup> They appeared to be desirous of Satisfying W<sup>m</sup>  
 Thompson, they had heard he was uneasy for fear of not getting what he had  
 understood was left her in the will; Dep<sup>t</sup>. saith this Conversation happened  
 about eight or three weeks after W<sup>m</sup> Berrys death — Where was  
 the will now Exhibited at that time — Ans<sup>r</sup> In the hands of the Register as  
 he believes — Did you see W<sup>m</sup> Berry in the Course of last Winter, and  
 what was his Situation & Course of Life from some time last Winter  
 until he died — Ans<sup>r</sup> He saw him frequently from the latter part of  
 the Winter to the time of his death, he lived very retired & sober in the  
 latter part of the winter, and from that time, till the time of his death  
 at different times he drank very hard — From the time he first began  
 to drink after the latter part of the winter did he ever see him perfectly sober  
 free from the effects of Strong Liquor — Ans<sup>r</sup> He appeared in general to  
 have more or less the effects of Liquor on him, but when he would take too  
 large a quantity, it always appeared to him from every Acquaintance  
 with W<sup>m</sup> Berry, to create a quantity of Bile on his Tomach, and  
 was obliged to take a little spirituous Liquor Drink occasionally, so  
 as gradually to cool & brook off the Strong effects of what he had taken to large  
 a portion off — The question being repeated, Ans<sup>r</sup> He appeared to him  
 many times as Sensitive and as clear from the effects of Liquor as ever he saw  
 him in his life — Did he trade about & do his business from the latter  
 part of the winter, or was he confined at home, and if so, what was the  
 Cause of his Confinement — Ans<sup>r</sup> he believes he trade as much about  
 his business in the Neighborhood, since the latter part of the winter  
 as ever he did, he was not more confined at that time from one fit of  
 drinking than he usually had been from other fits of drinking —  
 Whether W<sup>m</sup> Berry was not confined at home by one of these fits of drinking  
 when he made the will Exhibited — Ans<sup>r</sup> He imagines so from the date  
 he was in the day before the will was executed, but does not know by any means  
 it was so, he imagines it was six or seven weeks, from the making of  
 the will till his death — Was the Mother of W<sup>m</sup> Berry Warran, or  
 any of her friends or relations (except W<sup>m</sup> B. Warran) with W<sup>m</sup> Berry at  
 or about the time of making the will Exhibited — Ans<sup>r</sup> To the best of his  
 knowledge there was a sister of the Mother of W<sup>m</sup> Berry, at W<sup>m</sup> Berrys some time  
 after

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After the will was made, there was no other relation of the Days there at any time after W<sup>m</sup> B. Warman came to live there, except his Aunt at the time aforesaid, Was there any friend of W<sup>m</sup> B. Warman, or any person who interested themselves on his behalf with W<sup>m</sup> Berry before or about the time of making the will — Ans: He does not know there was — Did you see W<sup>m</sup> Berry frequently between the time of making the will and his death — Ans: Yes — What was his Situation between the time of making his will and his death Was he generally Drunk or having the effects of liquor on him, or was he Sobber — Ans: He was generally under the effects of liquor, some part of said time Drunk, & some part of the time just lively with liquor & some other part of the time appeared very steady in his Conduct as a rational sober man, Did you ever see him during that time, in your Opinion perfectly Sober — Ans: As much so as a man possibly could be from taking the smallest quantity of liquor he was in his Opinion (W<sup>m</sup> Berry) perfectly sober the afternoon of the day of which the will was Executed, — Did you ever see him in your Opinion after this perfectly sober and how often, — Ans: He thinks to the best of his knowledge only once, some few days after the will was Executed, — Was W<sup>m</sup> Berry on the day, and about the time of Executing the will Capable from his State of mind, of managing his plantation and other affairs with Judgment & Discretion — Ans: in his Opinion he was — Was W<sup>m</sup> Berry from every thing that he appeared to him the Dept. of Sound & perfect mind memory & Understanding when the will Exhibited was Executed — Ans: from every appearance he thinks he was at the time the will was Executed, and till he left his House — Had he ever any Conversation with W<sup>m</sup> Berry when perfectly sober respecting the Disposition of his property, and if he had in what manner did W<sup>m</sup> Berry when Sobber declare he intended to dispose of his property — Ans: He never had to the best of his knowledge any Conversation with W<sup>m</sup> Berry when perfectly Sober respecting the Disposition of his property, but when ever he spoke to him he was generally lively, at these times he always declared he never would leave either of his Brothers or Sister any part of his Estate, that they all had a sufficiency to live on and independant enough without any part of what he had, If he was to leave it to them they would only be a pulling & hauling & quarreling amongst them, some would say poor Drunken fellow he done better by you than me, and he thought it was better to prevent any thing of the kind — At some of these times he has told him, he be dead if he would not leave his Estate to his little Nephew playing his hand on W. B. Warman Did W<sup>m</sup> Berry ever tell the Dept: he would give his Estate to any other person

Person or persons, except W. B. Warman, and at what time Ans: He has heard him say at some different times he intended to leave a few legacies else — Did Capt Wm Berry at the time he desired the Deft? to go to Doctor Steward, promise to give him any thing, and if he did what did he promise to give — Ans: Nothing more than that he would do five hundred times as much for the Deft? which was a Common saying with him — Is there not a legacy in the will Exhibited left to the Deft? sister — Ans: I have understood there was — Whether when Wm Berry was in a course of drinking he has not heard him declare that he would rather give his Estate to Man Thompson & Man Hay, two women about his house than that his Brothers & Sister should have it — Ans: Yes he has — Were the Declarations of Wm Berry respecting his resolution not to give his Estate to any of his Brothers or Sister and to give it to Wm B. Warman made when he appeared to be displeas'd or angry with his Brothers & Sister or otherwise — Ans: He has heard him make this Declaration when not displeas'd with his Relations, and also when he did not appear to be displeas'd with any body — If there was not great Intimacy and Friendship between William Berry & his Brothers & Sister when William Berry was sober — Ans: It always appear'd to him to be great Intimacy — Did not Zach Berry or Berry produce you a Book called the Deft? Com? Guide in which the oath was made which is commonly made use of to prove a will, and whether he the Deft? did not tell Benj? or Zach Berry that he would not take that oath — Ans: No Zach Berry at Benj? Berry's and in Company with Benj? Berry showed the Deft? a book called the Com? Guide, Benj? Berry read some part of a page in the book which he said he immagin'd would be admitted to him the Deft? for the proving of the will, Deft? told him that he did not imagine that what he read to the Deft? would be put to him, if it was, he thought he would object to it, Deft? told Benj? Berry he immagin'd he would be sworn to answer truly such Questions as would be asked him, Deft? said his reasons for saying he thought he should object to the oath aforesaid, was that he did not see Wm Berry sign his name to the will, or any of the other witnesses subscribe their names to the will, and that Wm Berry had been drinking a little that morning; and Deft? did not know at that time that the Deft? should consider Wm Berry to be a man perfectly sober and free of drink, and Deft? says that to his knowledge he never intimated to any person that he did not think that Wm Berry at the time of executing the will Exhibited, was not of sound and disposing mind and memory — Deft? says that the Brothers and Sister of Wm Berry are independent Circumstances — sworn in open Court Test. Saml. Dyer Register

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John Riggs of full Age, Deposeth and saith that he hearing that Capt  
William Berry was sick, he called to see him, and found dressed in his Cloaths  
lying on his bed, Doct. Stewart, Arch<sup>d</sup> Boyd, Thomas Marshall and one of his  
Nephews was there, and saw the Doct in the other room and asked him how  
Capt Berry was, his Answer was that he was low Spirited, and he believed  
that was the Chief of his Complaint, Dept<sup>s</sup> went in to the room Spoke to Wm  
Berry, and he seemed to be very glad to see him, Dept<sup>s</sup> asked him if any thing  
Extraordinary was the matter with him, he said he was not long for this  
World, Dept<sup>s</sup> cheered him up as well as Dept<sup>s</sup> could, and told him he was  
Accessary to his disorder from the Bloated Countenance he appeared in other  
Conversation passed concerning Mr Peter Carns Balcon, in which Mr Berry  
joined in it and appeared to be very Cheerfull after taking some drops from  
Doct Stewart, Mr Boyd insisted on his taking a dose of the Same, which  
he did, they all went into the Hall, and Mr Wm Berry seemed as Cheerfull  
as he had been for twelve months past after this Conversation about the balcon  
the Dept<sup>s</sup> was about taking his leave, Wm Berry begged the Dept<sup>s</sup> to stay dinner  
Dept<sup>s</sup> told him he had Business on hand that he could not stay and begged to  
be excused, he then asked the Dept<sup>s</sup> to stay only a few minutes, that he had an  
Instrument of writing to Execute, and mean time desired the Dept<sup>s</sup> to refresh  
himself with some Stoddy and bread & Cheese which he accordingly did, Mr  
Berry then Spoke to Mr Boyd to finish what he had been about, Mr Boyd  
brought out a paper from the other room and sat down and began to write  
Mr Berry standing by him Spoke low, and appeared to be dictating to him what  
was done in about two minutes, and what Mr Boyd wrote seemed to be  
near the bottom of the paper, Mr Berry then desired this Deponent, Doct Stewart  
& Thomas Marshall to be witnesses to what he was doing, Dept<sup>s</sup> apprehend  
ed at first it might be a deed but seeing the paper not indented, Dept<sup>s</sup> asked  
Mr Berry if that was not his will, he answered it was, he signed it and  
was going to Acknowledge it as his hand and Seal, the Dept<sup>s</sup> told him there  
was a formality necessary to be observed in executing Wills, Dept<sup>s</sup> repeated  
it to him what it was, Dept<sup>s</sup> told him that after Acknowledging it to  
be his hand and Seal, that he must publish and declare it to be his last  
will & Testament, Mr Berry turned to Mr Boyd as if he was going  
to say something to him Mr Boyd told him that truly that formality  
was necessary Mr Berry then said that twice and repeated the words I acknow-  
ledge this to be my hand and Seal, and publish and declare this to be my last  
Will and Testament, and Doct Stewart, Thomas Marshall and the Deponent

Subscribed

Subscribed their names as witnesses thereto, at the request & in the presence of W<sup>m</sup> Berry - and after executing the will, there was nothing material, ~~Mr~~ Berry and the Company entered into conversation, and W<sup>m</sup> Berry appeared to them very cheerful & glad the business was done - The will exhibited in Court being produced to the Deponent, he says that, that is the paper he saw W<sup>m</sup> Berry sign, Seal, publish & Declare to be his last will and Testament, and that he subscribed his name as a witness thereto, as did also D<sup>r</sup> Stewart & Tho<sup>s</sup> Marshall, in the presence and at the request of William Berry, and the Deft. saw D<sup>r</sup> Stewart & Thomas Marshall sign their names as witnesses, but does not particularly recollect seeing Mr Berry sign his name as a witness to the will, and Deft. says this was done on the second day of June last - Whether at the time that W<sup>m</sup> Berry executed the will now exhibited the said W<sup>m</sup> Berry was of sound and disposing mind Memory and understanding - Ans<sup>r</sup>. That to his apprehension he appeared to be perfectly in his senses as he the Deft. ever saw him in his life, and he Deft. has known him upwards of thirty years, and that there was nothing in his conversation or behaviour at that time that denoted the least insanity - Was you intimately acquainted with W<sup>m</sup> Berry, - Ans<sup>r</sup>. As much so as any persons who lived at such a distance could be, being about twenty miles asunder, and frequently were at publick places together & the Deft. frequently was at W<sup>m</sup> Berry's house, and the Spring before last was with him at his house and in the neighbourhood four weeks together - Was W<sup>m</sup> Berry cautious in his contracts, and sagacious at making bargains even when he was not sober - Ans<sup>r</sup>. He believes he was - Was W<sup>m</sup> Berry during the time the Deft. stayed at his house, on the day on which the will was executed Drunk or Sobber - Ans<sup>r</sup>. He thinks if he was any ways inebriated it must have proceeded from the Drops D<sup>r</sup> Stewart gave him - How long did the Deft. stay at Mr Berry's at that time - Ans<sup>r</sup>. As nearly as he can recollect about two hours - Did Mr Berry appear to the Deft. to be sober the whole time he stayed there - Ans<sup>r</sup>. Yes - Did you not understand from Mr Berry that he had been in a course of hard drinking - Ans<sup>r</sup>. He guessed that to be the cause of his Complaint, tho' he did not hear it from him or any other person, he knows that at times Mr Berry drank hard, but that no intoxication ever put him

him out of his senses that the Deft ever saw, that in that same State he seems  
always to be on his guard, and the Deft thinks could make as good bargain  
as at any time. In what situation did Archibald Boyde appear  
to be in on the day on which the will was executed. An<sup>r</sup>: He was  
not sober, he was enlivened with liquor, but not so as to be past doing  
business, at the time William Berry deyd & requested the Deft to stay, he  
took the Deft to one corner of the room, and wished he had been there a day or  
two before to have done the business for him, that this little body Boyde had  
been drunk & plagued him a good deal and he wished he could have got of the  
Deft. to have done the business for him. Whether Mr. Berry <sup>when sober</sup> was not  
himself Capable of making a will or deed. An<sup>r</sup>: He believes him to  
have been Capable at all times to have done it that ever he saw him.

Sworn in Open Court

Test. Jas<sup>s</sup>. Tyler Reg<sup>y</sup>

The Deposition of William Locke Aged thirty eight years being sworn on  
the Holy Evangelis of Almighty God. Deposeth and saith that in the Evening of the  
Twenty fifth day of July last William Berry Warman came to the House of  
this Deft. and informed him that a paper purporting to be the will of the late  
William Berry decessed had been that day taken out of his possession by Jeremiah  
Berry Junior and detained from him as he believed with design to destroy or  
suppress the same, and applied to this Depo<sup>n</sup>ent to advise & direct him how  
to act in order to recover the said paper, upon which this Depo<sup>n</sup>ent immedi-  
ately wrote to the said Jeremiah Berry, informing him that it was probable  
he was not acquainted with the consequences that might attend his conduct  
and acquainted him that if the will was not immediately produced  
a prosecution would be commenced and steps to establish the contents of  
the will, and to carry the intention of the said William Berry into Execution.  
At the same time this Depo<sup>n</sup>ent gave the said William Berry Warman  
Instructions to go the next day to the Court at Upper Marlbo<sup>r</sup> (then sitting) in  
case he did not get the will upon delivering the letter this Depo<sup>n</sup>ent had  
wrote as aforesaid to Jeremiah Berry Jun<sup>r</sup>. or otherwise that it should be  
immediately produced, and this Depo<sup>n</sup>ent at the same time wrote a  
letter to Col<sup>l</sup>. Joshua Beall one of the Justices of the Court mentioning  
the Boy's business, to be delivered by him in case he should be under  
the necessity of applying to the Court on the Subject. On the Twenty  
sixth day of July in the afternoon Mr. Zach<sup>y</sup> Berry also came to this  
Depo<sup>n</sup>ent and after some conversation on the subject of the will aforesaid,  
he produced to this Depo<sup>n</sup>ent the paper now exhibited as the will  
of

Of the Deceased William Berry, I hold this Deponent it was the same paper which the day before had been taken out of the possession of Wm Berry Leasman by Samuel Berry, that the same time said Jeremiah Berry had acted by his advice and direction, but declared he had no intention of secreting or suppressing the will, assigning some reasons why he thought he was entitled to the possession of it, This Deponent then informed the said Zach<sup>y</sup> Berry that it was Probable Wm Berry Leasman was then at Maules attending the Court about this matter, at which Zach<sup>y</sup> Berry seems surprised and uneasy, whereupon this Deponent then recommended to him to lodge the said paper immediately with the Commissary, if he meant to act uprightly, or wished to remove any aspersions that might be cast on his Character, this Deponent hath since heard it was done in less or three days after — Being asked if M<sup>r</sup> Zach<sup>y</sup> Berry ever enquired of this Deponent what would be the consequences if the will was destroyed, says no such enquiry was made nor any conversation passed between this Deponent and the said Zachariah Berry at the time to that part or affect, But the said Zach<sup>y</sup> Berry then said to this deponent if he had seen the boy himself before he went to Maules he would have shown him the will & given him the assurances this deponent had required. —

Sworn to in Open Court

Test Sam<sup>l</sup> Tyler Clerk

To the Worshipfull Justices of the Orphan Court of Prince Georges County  
 Richard Berry Sen at Law to William Berry late of said County Dece  
 Benjamin Berry, Zachariah Berry, Elisha Berry Brothers to the said  
 William, Thomas Owen Williams and Mary his wife, which Mary is  
 Sister to the said William Berry and Mary Berry, Mother of the said  
 William Berry humbly shew. That the paper now exhibited in this Court  
 dated the twenty third day of June in the year seventeen hundred and  
 Eighty four as the will of the said William Berry ought not to be re-  
 ceived and taken as the Testament of the said William Berry for-  
 that the said William Berry at the time when the said paper is alleged  
 to have been by him signed, was not of sound and disposing mind  
 and memory, that the said William Berry was at the time when the  
 said paper is said to have been signed, in a state of inebriation  
 so as to be deprived of his usual and common understanding and  
 recollection, that the said William Berry about a year before the  
 said paper is said to have been signed when he was perfectly in his  
 senses and had his full recollection and understanding, made and  
 regularly executed a last will and Testament whereby he disposed of  
 his Estate real and Personal among his Brothers and Sister your Petition-  
 ers, except five hundred Acres of best Land, and fifty Pounds Sterling, left



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To William, an Illegitimate Son of a Certain Arm Marsman, who is in the  
Said paper said to be baptised by the name of William Berry, and appointed  
Thomas Owen Williams and Zachariah Berry Executors, which said Testament  
so regularly executed, your Libellants always understood was by the Said William  
Berry intended as his last Will and Testament, that the said Testament so re-  
gularly executed, has been taken from the said William Berry's house, and  
what has been done with it your petitioners are not informed, but the same  
was never cancelled by the said William Berry, that your Libellants know  
not by what means the said paper now exhibited was procured to be signed, if  
signed at all by the said William Berry, your Libellants further shew that  
to their knowledge there was no Cause or Reason which could have operated with  
the said William Berry, if he had been in his usual senses to have attested the  
Will so as aforesaid about a year ago regularly executed as he & your Libellants  
always lived in perfect friendship and affection, that the said Paper now exhibited  
was not executed by the said William Berry according to Law, and that the said  
William Berry at the time when the said paper is said to have been signed and  
long before was by a Course of drinking strong Liquor and bodily and mental in-  
firmities in consequence hereof in a State unfit to dispose of his Estate by a Testa-  
ment or last Will, for these Causes or some of them, your Libellants Object to the  
said paper aforesaid being taken and received here as the last Will and Testament  
of the said William Berry, and pray that the Court here will inquire into the same  
and that if upon inquiry and examination the Court here should be satisfied that  
the said Paper should not be taken and received as the last Will and Testament of  
the said William for the Causes aforesaid or any other Causes or Reasons which may  
appear in the Course of the inquiry that the said paper may not be received, Adjudg-  
ed or taken by the Court here as the last Will and Testament of the said William Berry,  
and that Letters Testamentary be granted to the said Thomas Owen Williams and  
Zachariah Berry Executors in the said Testament named, or that Letters of Ad-  
ministration be granted on the Estate of the said William Berry to his next of kin  
and legal Representatives, the said William having died about the first day of July  
in the year 1784 without any lawful Issue, the said William Berry never  
having been Married. and that your Petitioner Richard Berry is his Heir at  
Law, & the said Richard Berry and your other Libellants are his only legal  
Representatives

J. Stone for Libellants

Richard Berry, His at Law  
Benjamin Berry }  
Zachariah Berry } Brothers  
Elisha Berry -  
Thomas Owen Williams &  
Mary his wife Executors  
William Berry, Sebelents

William Berry Marman

Plea well made when not in sound  
mind memory and understanding

DECEASE

Well Established - Judgment that the  
Will of the late William Berry and  
Probate be Admitted on Record.

William Berry Marman an Orphan  
aged fifteen years comes into Court, and makes choice of Joshua Beall as his  
Guardian, on his acceptance and giving Bond with approved Security, it  
is ruled by the same Court, that the said Joshua Beall take into his posses-  
sion the real and personal Estate of the said William Berry Marman  
Order delivered

Benjamin Berry and Zachariah Berry, Brothers and Legal Representa-  
tives of William Berry deceased, comes into Court and prays that Letters of Ad-  
-ministration be granted them on the Estate of William Berry deceased.

Joshua Beall by his Council also comes into Court, and prays that Letters  
of Administration be granted him during the Minority of the said William  
Berry Marman Residuary Legatee

Ruled by the Court here that the Libellants be dismissed on paying all Costs  
and Charges. Court Adjourned to the second Tuesday in October

Court met according to Adjournment, Present David Crauford & Frank Luke  
Esquires - Court Adjourned to Friday in November County Court

Court met according to Adjournment, Present Messrs Beall, Crauford & Hepburn  
Court Adjourned to Saturday 27<sup>th</sup> November - Court met according to adjourn-  
ment Present Messrs Crauford, Luke and Hepburn - Court Adjourned

that William Berry Marman the Residuary Legatee have the right of Admi-  
-nistration on the Estate of the late William Berry deceased, and Order that  
Letters of Administration be granted to  
Joshua Beall by his Council is the said William Berry Marman during his  
Minority - Court Adjourned to Tuesday the 14<sup>th</sup> February next

Court met according to Adjournment Present Messrs Crauford & Hepburn  
Court Adjourned to Wednesday the 22<sup>nd</sup> Instant - Court met according to Adjourn-  
ment Present Messrs Crauford & Hepburn, Court Adjourned to the second Tuesday in March

March 8<sup>th</sup> Court met according to Adjournment Present Messrs Crauford, Luke, Hepburn and  
Woods, Josias Moore is by the Court here appointed Guardian to Tadlock Sum-  
-mers, an Orphan aged thirteen years next June, and Ordered that the said Josias

Moore, take into his possession the real and personal Estate of the said Tadlock Sum-  
-mers on giving Bond with sufficient Security, Michael Love and John Dancy are  
Approved of as Securities . . . . . Bond taken and Order delivered

Maryland to know all men by these presents that we Joshua Beall, John Hill and John Beall of Prince Georges County are held and firmly bound unto William Berry Warman, in the just and full sum of five thousand pounds current money of Maryland, to be paid unto the said William Berry Warman his Heirs, Executors Administrators or Assigns, to the which payment well and truly to be made and done we bind ourselves and every of us our and every of our Heirs, Executors and Administrators, jointly and severally, in and for the whole firmly by these presents Sealed with our seals and dated this thirteenth day of September Anno Domini 1784

The Condition of the above obligation is such that if the above bound Joshua Beall, who is by the approbation of the Justices of the Orphan Court for the County of Prince George Appointed Guardian to the aforesaid, or from thence William Berry Warman, now if the aforesaid Joshua Beall Guardian as aforesaid or any other person on his behalf, do and shall well and truly satisfy and pay unto the said William Berry Warman, his Executors, Administrators or Assigns, the whole Estate both Real and personal of his Father William Berry deceased when he arrives to the age of twenty one years then the above obligation to be void and of none effect, else to stand and remain in full force and Virtue in Law.

Sealed and Delivered }  
 in the presence of }  
 Hugh Lyon

Joshua Beall Seal  
 John Hill Seal  
 John Beall Seal

Know all men by these presents that we Josias Moore, Michael Lowe and John Dancy of Prince Georges County, are held and firmly bound unto Ladoch Summers, Orphan of John Summers Senior, in the full and just sum of one thousand pounds current money of Maryland, to be paid unto the said Orphan his Heirs, Executors Administrators or Assigns, to the true payment whereof we bind ourselves and every of us, our and every of our Heirs, Executors and Administrators, jointly and severally, firmly by these presents sealed with our seals and dated this eighth day of February seventeenth hundred and eighty five

The Condition of this obligation is such that whereas the above bound Josias Moore was by the Justices of the Orphan Court for the County of Prince Georges appointed Guardian to the aforesaid Orphan namely Ladoch Summers, now if the aforesaid Josias Moore Guardian as aforesaid or any person on his behalf do and shall well and truly satisfy and pay unto the said Orphan namely Ladoch Summers his Heirs Executors Administrators or Assigns such part of the Estate both Real and personal of John Summers Senior deceased, as the said Orphan is entitled to when he shall arrive to the age of sixteen years, then the above obligation to be void and of none effect else to remain and be in full force and Virtue in Law

Signed, Sealed and delivered }  
 in the presence of }  
 Saml Hopburn

Josias Moore Seal  
 Michael Lowe Seal  
 John Dancy Seal

Samuel Mason, an orphan aged thirteen years the second this instant is by the Court here bound unto Benjamin Burch, until he arrives to the age of twenty one years, the said Benjamin Burch, present here in Court undertakes to provide the said Samuel Mason, with all necessary Meat, Washing, Lodging, Drinke and to learn him to Read and Write, and to give him the Customary freedom dues of the Country —

Arthur T. Let an orphan aged five years the fifth day of January last is by the Court here bound unto William Mathew, until he arrives to the age of twenty one years, the said William Mathew present here in Court, undertakes to provide the said Orphan with all necessary Meat, Drinke, Washing, Lodging and Clothing, to learn him the art and mystery of shoemaker, and to learn him to read write, and at the expiration of his time of servitude, to give him a set of Shoemakers Tools, and the Customary freedom dues of the Country —

By the act of Assembly 1778. Owen Coffey produces to the Court here a certificate from Christopher Richmond Auditor General and a certificate from William Smallwood of his being a Regular Soldier in Col. Graysons Regiment in said Smallwoods Company certifying that the said Owen Coffey, was wounded and rendered incapable of obtaining his support by his labour. It is therefore ruled by the Court here that the said Owen Coffey, have an order on the Treasury of the Western Shore for eighteen Pounds fifteen Shillings current Money, commencing the fifteenth day of November 1783. & ending the fifteenth this instant. Certificate delivered —

Ordered by the Court here that Summons issue against Benjamin Berry, Zachariah Berry, and Elisha Berry to show cause why they should be searched and Shingles they detain from being included in the appraisement of William Berrys Estate

Ordered that Summons issue against John Marshall to testify the truth of his knowledge concerning the workmen of the said Blank searching and Shingles. Issued