



The Wallers of Endfield, King William County, Virginia

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GENEALOGY

THE WALLERS OF ENDFIELD, KING WILLIAM COUNTY, VIRGINIA

by ANDREW LEWIS RIFFE
With notes by CLAYTON TORRENCE

Part II

THE HONORABLE BENJAMIN WALLER (1716-1786)

THE sons of Colonel John and Dorothy (King) Waller of "Endfield," King William County, and "Newport" in Spotsylvania County, all followed in their father's footsteps and served their community in various offices of responsibility and trust. Their daughter, Mary Waller (1691-1781) married Zachary Lewis, of Spotsylvania County, a lawyer of distinction in his day. But among the Waller sons there was one who rose to marked prominence during the later years of Virginia's Colonial life, the period of the Revolutionary War and the early days of the Commonwealth. This was Benjamin Waller, born at "Endfield" in King William County, October 1, 1716, who went to make his residence in Williamsburg; the seat of Virginia's Colonial government, where, full of honors, he died May 31, 1786.

While yet a mere boy on his father's plantation—a boy of about ten years old, it was that fortune smiled upon Benjamin Waller through his gaining the friendship of one of Virginia's notable colonial worthies. At "Endfield" plantation, on the Mattapony River, there was a ferry that besides its more general local use supplied a crossing for the river for travelers of the highway from the counties farther south to counties towards the Rappahannock and Potomac River sections. This was the way of travel of the Honorable John Carter, secretary of state of the colony, from his home Shirley, on the James River and his office in Williamsburg to his "Corotoman" estate in Lancaster County, in the Northern Neck of Virginia. This was the accustomed way of his travel from estate to estate; but, sometimes difficulties in crossing the Mattapony would detain him at "Endfield" with consequent entertainment

by Colonel Waller at his plantation home on the high bluff above the water course.

One evening, while thus the guest of Colonel Waller, the youthful Benjamin, son of the master of "Endfield," coming in from school immediately attracted the attention of his father's guest, who, calling him to his side, plied him with questions in regard to his studies. Quite evidently the youngster put his best foot forward in meeting the advances of Mr. Secretary; while the readiness with his replies to the gentleman's questions so interested that worthy that then and there he came to the conclusion that here was a lad of uncommon parts, who should have full educational advantages for the development of his powers. "Give me that boy and I will make a man of him" said the honored guest to his host. No doubt Colonel Waller, who smilingly answered "Yes," to his guest's request, thought this but the passing fancy of the great official, soon to be forgotten, and that no more would be heard of it. But, at his departure, when resuming the way of his journey to "Corotoman," Mr. Secretary Carter reminded Colonel Waller that he would soon be returning on his homeward way, and that young Benjamin must be ready to accompany him. However, Colonel Waller still humorously doubting that the gentleman really meant what he said, let the thought roll from his mind as the wheels of the Carter chariot rolled from his door.

But, the Honorable Mr. Secretary Carter's intention in regard to the lad was as strongly rooted as was Carter power strong to have its way. True to his word, came the honorable gentleman to the door of "Endfield" on a day not long after as he was returning home; and to his vexed amazement the young Benjamin had not been made ready to journey with him! "I will take him just as he is," blazed the honorable Mr. Secretary Carter; and the astounded Colonel Waller, yielding to Carter power to have its way, gave his young Benjamin into the keeping of the great gentleman. So it was that the youthful Benjamin Waller, after farewells from his family, was bundled into the Carter chariot and started on his eventful journey out into the world by the side of the great gentleman whose favor he had won.

A day long to be remembered by members of the Waller household was that day of the young Benjamin Waller's departure. The dense borders of undergrowth surrounding the high bluff on which the mansion house with its dependencies stood beneath embowering great trees; the miller's dust and fern growing luxuriantly; the cat-tails in the lower land dusty-hued, the sparkling river's water, warm in the sunlight—and the Carter

chariot wending its way on the road—the road to large opportunity for the youth whom the Honorable Mr. Secretary Carter had befriended. And the lad thus journeying did not fail to take advantage of the opportunity thus afforded him.

First came Benjamin Waller's education at the College of William and Mary; then he was placed in the secretary's office; he became one of the clerks of the Council and of the General Court; he was a representative of James City County in the House of Burgesses 1747-1761; eminent in his profession of the law, he was made a member of the General Court of the Commonwealth in 1779, where he served with distinction until his death in 1786.

This is a true story—the facts we have stated are recorded in the diary of Benjamin Waller's grandson, the Honorable Littleton Waller Tazewell.³³ The ageing pages of this diary — a treasure sacredly preserved in the manuscript collections of the Library of the College of William and Mary—carry the items that like lights illuminate the way that Benjamin Waller traveled from "Endfield" plantation, King William County, through three-score years of time, from his desk in primary school to a seat on the bench of the high court of his Commonwealth. The promise that the great Mr. Secretary Carter saw in the ten-year-old lad had been ably fulfilled when that lad, grown to three-score years and ten, was called by the great Judge Eternal to divest himself of the robe which he had so worthily worn in the exercise of his office as an earthly judge.

THE FIVE WALLER CLERKS OF SPOTSYLVANIA

WHILE Benjamin Waller was pursuing the notable course of his life in the colony's seat of government in Williamsburg, his father and brothers were most active in the affairs of their county. We have related the facts of the official life of Colonel John Waller (1673-1754) — magistrate, sheriff, militia officer, member of the House of Burgesses, vestryman and clerk of Spotsylvania County; and have named the offices held by his several sons.

³³Littleton Waller Tazewell (1774-1860), distinguished statesman; lawyer, United States senator, governor of Virginia; son of The Honorable Henry Tazewell (1753-1799) and his wife, Dorothy Elizabeth Waller (1754-1777) daughter of the Honorable Benjamin Waller (1716-1786). Governor Tazewell wrote a very interesting account of the life of his maternal grandfather, Benjamin Waller. This account is given in the Littleton Waller Tazewell manuscript which is on deposit with the Library of the College of William and Mary, Williamsburg, Virginia. The note on Benjamin Waller's life given above is based on facts stated in the Littleton Waller Tazewell manuscript. See also Tyler, *Encyclopaedia of Virginia Biography*, Volume I, page 351, and Stanard, *Colonial Virginia Register*.



Thomas Waller (1705- circa 1765)
(From a copy, owned by L. Harvey Poe, Jr.,
from the original.)



Benjamin Waller (1716-1786)
(From a photograph, owned by L. Harvey Poe, Jr.,
of the original.)



Mrs. Dorothy (Waller) Tazewell

(1754-1777)

Daughter of Benjamin Waller (1716-1786) and wife of Henry Tazewell.

*(From an engraving in Weddell's Virginia Historical Portraiture, by
permission of Virginia Historical Society)*



Littleton Waller Tazewell

(1774-1860)

Son of Henry and Dorothy (Waller) Tazewell.

(From a photograph of an old portrait)



John Tayloe Corbin

(circa 1746?-1794)

He married Mary, daughter of Judge Benjamin Waller.

*From the portrait owned by the late Mrs. John Lee Pratt, of
"Chatham," Stafford County. (By permission.)*

Most notable in the history of this family is its connection with the Clerkship of the County of Spotsylvania, which was held successively from 1722 to 1786 by Colonel John Waller, his sons Edmund and William Waller, and his grandsons John Waller (son of William) and John Waller (son of Benjamin). Colonel John Waller some years before his removal to Spotsylvania County (of which he became the first clerk) aspired to the clerkship of King William County. The record of the meeting of the Governor's Council, March 12, 1701/2, carries this interesting item:

John Waller having petitioned his Excellency that he might be appointed Clerk of King William County, and his Excellency asking the advice of the Council thereupon they are unanimously of opinion that it will be most for his Matys Service and the interest of that County that the said M^r Waller be continued in y^e Commission of the Peace: But forasmuch as the s^d M^r Waller hath upon several occasions given proofs of his diligence and fidelity in discharging the Trusts reposed in him, His Excell^{cy} by advice aforesaid is pleased to appoint him Sheriff of the aboves^d County, for the ensuing year 1702.³⁴

Colonel John Waller's ambition to occupy the clerkship of a county was, however, gratified, for he was appointed the first clerk of Spotsylvania County holding that office most creditably from August 1722 until April 1742 when he was succeeded by his son Edmund Waller. In the record of proceedings of the first court held for Spotsylvania, August 7, 1722 appears this item:

John Waller producing a Commission bearing date the 26th day of July 1722 to be Clerk of the County of Spotsylvania to the Gentleman Justices above named, the same being read as usual, was sworn Clerke of the said County he having taken the oaths & signed the test as the Law enjoins.³⁵

The succession of Edmund Waller to the clerkship of Spotsylvania is attested by the following record:

Edmund Waller presented his Hon.^r John Carter, Esq.^r Secretary of this Colony Commission to be Clerk of this County Court bearing date April the 17th, 1742 & he having taken the Oaths appointed by law & Subscribed The Test was Sworn Clerk of the Court.³⁶

³⁴*Executive Journal of the Council of Colonial Virginia*, Volume II (August. 3, 1699-April 27, 1705), page 235. Our attention was called to this item by Doctor Malcolm H. Harris, West Point, Virginia

³⁵Spotsylvania County records, Will Book A, 1722-1749, page 1 (in section giving orders of court). We wish to especially acknowledge the assistance given us by George H. S. King, of Fredericksburg, in identifying the Waller clerks of Spotsylvania County.

³⁶Spotsylvania County records, Order Book 1728-1749, page 166. The following order was also entered: "Ordered that John Waller, Gent. late Clerk of the County deliver up all the records, papers and everything belonging to the office of this county, to Edmund Waller, the present clerk."

Edmund Waller continued as clerk of Spotsylvania County until October 1751 when he resigned and was succeeded by his brother William Waller as the following item of record attests:

At a Court held for Spotsylvania County on Tuesday the 3rd Day of December Anno Domini 1751 . . . William Waller Gent. producing a Commission under the hand & Seal of the Hon.^{b1e} Thomas Nelson Esq.^r (Deputy) Secretary of the Colony & Dominion of Virginia Dated the Ninth Day of November last to be Clerk of this County (in the room of Edmund Waller Gent. who had resigned the said office) And having taken the oaths appointed by law & Signed the test & the oath of a Clerk is admitted accordingly.³⁷

In a letter dated "9th Day of December 1751" to Benjamin Waller from his father Colonel John Waller, Colonel Waller thus refers to the appointment of William Waller as clerk in succession to Edmund Waller. Thanking Benjamin for several favors he writes:

. . . and Especially for your Kindness & Trouble you had in making your Interest with his Honr. the Secretary about procureing the Clerks place for your Bror William on the Resignation of your Bror Edmund, which I am satisfied none other could have done to bring things so clear about, & with such dispatch to the disappointment of ends intended by the discontented who did not wish well to our family, And your Brothers are very much obliged to you for your great favors to them in that case and myself takes it extreme Kindly for your favors done them and upholding the reputation of all our family.³⁸

From this passage in Colonel John Waller's letter we certainly see how influential his son Benjamin Waller had become and how he exercised his influence in behalf of obtaining the appointment of his brother William to office. While we have not discovered in remaining records just why Edmund Waller resigned the office of clerk of Spotsylvania, Colonel John Waller's letter seems to indicate that there may have been local influence that brought about that resignation. Further on we shall have more to say about Edmund Waller and the circumstances of his life.

William Waller continued to hold the office of clerk of Spotsylvania until his death in December 1760 when he was succeeded by his son John Waller. In the record of a court held for Spotsylvania County, February 4, 1760 appears this entry:

³⁷Spotsylvania County records, Order Book 1749-1755, page 139. At the same court William Waller gave bond as surveyor of Spotsylvania County. There does not appear in the Order Book any record of the resignation of Edmund Waller as Clerk. The only reference to his resignation is in the order above reciting William Waller's qualifying as clerk.

³⁸See for this letter of Colonel Waller, *post* under "The Letters."

Jn.^o Waller Gent. Produced a Com.ⁿ from under the hand of The Honb.^{le} Tho.^s Nelson, Esq.^r Deputy Secretary of this Colony to be Clerk of the s.^d County Whereupon he took the oaths to his Majesty's Person & Government as also the Oath of a Clerk, &.³⁹

John Waller continued as clerk of Spotsylvania until as late as October 1773 when he appears still to be attesting deeds placed on record. He was succeeded in office by his first cousin, John Waller, designated "junior," son of Benjamin Waller.

At a court held for Spotsylvania County, March 17, 1774 there appears this record:

John Waller jr produced a Comm.ⁿ from the Hon^{ble} Tho.^s Nelson Esq. to be Clk of this County & he took the Oaths to his Majesty's person & Governm.^t & Subscribed to the test & took the Oath of Clk of this Court & was admitted in his office.⁴⁰

This John Waller continued in office until 1786 when he was succeeded by John Chew, thus bringing to a close the succession of Wallers in the clerkship of Spotsylvania County. Governor Littleton Waller Tazewell, in the Tazewell Manuscript (in the Library of the College of William and Mary) refers to this last named John Waller, clerk (1774-1786) as his "uncle," thereby definitely identifying him as John Waller, son of Benjamin Waller; for Governor Tazewell was, maternally, a grandson of Benjamin Waller.

Thus for something more than half a century members of the Waller family held the clerkship of Spotsylvania in succession: a father, two of his sons and two of his grandsons. The office of clerk of a county was one of as great importance in colonial times as it is today; and in so far as the keeping of the records of court proceedings is concerned — the land records, the testamentary records and all other other records of a court — the Waller clerks of Spotsylvania exercised the duties of the office in incomparable fashion.

EDMUND WALLER (CIRCA 1718-1771)

WHILE fortune smiled so generously on John and William and Thomas and Benjamin Waller, sons of Colonel John Waller, a contrasting cloud of misfortune finally enveloped the life of their brother Edmund Waller, (circa 1718-1776). Well enough the life of this Edmund Waller began. He like the other sons of his father was financially well-conditioned — his

³⁹Spotsylvania County records, Minute Book 1755-1765, page 153.

⁴⁰Spotsylvania County records, Order Book 1768-74, page 300.

was no mean estate in lands and servants; and certainly he was considered well fitted to receive earthly honors. In May 1742, when about 25 years old, he succeeded his father in the prominent and responsible office of clerk of the county of Spotsylvania; holding this office for something over nine years. On December 8, 1742 Edmund Waller qualified to his commission as captain of a company of foot in the Spotsylvania militia.⁴¹ He married, October 18, 1740, Mary Pendleton, daughter of Philip and Elizabeth (Pollard) Pendleton and granddaughter of Philip Pendleton (1650-1721) of Essex and King & Queen Counties, first of that notable name in Virginia.⁴² Mrs. Mary (Pendleton) Waller was on the paternal side, a first cousin of the distinguished Edmund Pendleton (1721-1803) statesman and jurist; and, on the maternal side, a cousin of Judge Pendleton's second wife, Sarah Pollard.

Then in 1751 with his resignation (for which the cause has as yet not been discovered) from the clerkship of Spotsylvania County, Edmund Waller's affairs apparently reached a state of marked confusion. As early as May 21, 1751 Edmund Waller conveyed, for £110 currency, to his father, John Waller, his home plantation to be held in trust for the said Edmund during his lifetime and after his death to be divided among his children: John, Benjamin, William Edmund and Mary Waller. On October 2, 1752, Edmund Waller mortgaged to his brother William Waller, five slaves and stock of horses, cattle, sheep, hogs; his household furniture and all other personal estate, to save harmless the said William Waller who had become security on a bond of the said Edmund given to Benjamin Waller in the sum of £150. Colonel William Waller, in his will (dated October 22, 1756; probated May 6, 1760), directs his "brother Benjamin Waller to settle the account of affairs with our brother Edmund Waller." On May 27, 1761 Benjamin Waller rendered his opinion in this matter, incorporated in a document (recorded in Spotsylvania Court, March 1, 1762) in which he declared that the said William Waller "never intended to make the said Edmund pay the money due on the said mortgage, but kept up the same for the security of the said Edmund's creditors and the benefit of his family in case there should be any surplus;" declaring that the mortgaged property "be and stand liable for the Payment of all the Debts justly due from the said Edmund to any person (except the Debt due to the said William's estate);" and that any remainder thereafter "be settled

⁴¹Spotsylvania County records, Order Book 1738-1749, page 192.

⁴²*Virginia Magazine of History and Biography*, Volume 43, page 278.

and conveyed to the use of the younger children of the said Edmund not already provided for;" the profits thereof to go to said Edmund as their natural guardian for use of their maintenance. Then on May 31, 1765 Edmund Waller and Mary, his wife, (with John Semple surviving partner of Robert Baylor, deceased, who held mortgage thereon, dated August 22, 1764, for £60) conveyed to Robert Wilkinson, 151 acres; the same being residue of a tract of land whereon said Waller and several of his children now live, and in which said Waller remains seized in fee simple after several shares or parts are allotted to each of his children who were entitled thereto by the will or settlement heretofore made of said tract of land by John Waller, Gent. deceased, father of the said Edmund, in his lifetime. The said 151 acres having been sold by auction by joint consent of said Edmund Waller and John Semple, the said Wilkinson bidding £50:15s. became the purchaser. Title to the said land is hereby secured to said Wilkinson.⁴³

The documents quoted above clearly indicate the condition of Edmund Waller's financial affairs. It is evident that he was deeply in debt and that his property was held in trust for his use during his lifetime and secured to his children after his death.⁴⁴

Though Edmund Waller's property was held in trust yet he was not destitute for that property was a substantial one. He and his wife were given a home and servants during their lives and an inheritance secured

⁴³Spotsylvania County records, Deed Book D, 1742-51, pages 457-8 (Edmund Waller's deed of trust to John Waller); Deed Book E, 1751-61, pages 85-6 (Edmund Waller's mortgage to William Waller); Will Book B, 1749-59, page 445 (will of William Waller); Deed Book F, 1761-66, page 114 (Benjamin Waller's opinion relative to Edmund Waller's mortgage to William Waller); *Ibid.* pages 630-4 (Edmund Waller's conveyance to Wilkinson).

⁴⁴At a court held for Spotsylvania County, July 16, 1753, Edmund Waller, Gent. "charged with manslaughter or felonious killing and Slaying of Thomas Barnes, late of this County, deceased on the Sixth day this present month [i.e. July 6, 1753]" for which he had been committed to jail, was brought to the bar and examined, the *Mittimus* and coroner's inquest upon the deceased being read and witnesses examined and the prisoner heard in his defence. The Court found the said Edmund Waller guilty of manslaughter of said Thomas Barnes, and that he should "be tried for the supposed fact at the next General Court . . ." The Court also were of opinion, "that the prisoner is bailable." John Waller and William Waller, Gentlemen, became securities with the said Edmund Waller, in the amount of £2000 (total) for the said Edmund Waller's appearance for trial at the General Court designated. The witnesses were also placed under bond for their appearances at the General Court to give evidence in the case. (Spotsylvania County court, Order Book 1749-1755, page 316). What the action of the General Court was in this case we do not know as the records of that Court have long since disappeared. From the fact that Edmund Waller is clearly traceable as continuing to reside in Spotsylvania County until his death in 1771 it seems likely that either he was cleared of the charge by the General Court or that only temporary punishment was given him. Nothing appears in the record as to the circumstances that led to Edmund Waller's being tried for manslaughter in the death of Thomas Barnes at his hands.

to their children.⁴⁵ Edmund Waller died in the fall of the year 1771. On November 21, 1771 Benjamin Waller qualified (by giving bond in the amount of £800) in Spotsylvania County Court, as administrator of the estate of Edmund Waller, deceased.⁴⁶

Edmund and Mary (Pendleton) Waller were the parents — (among other children) of the two distinguished colonial Baptist ministers: the Reverend John Waller (1741-1802) and the Reverend William Edmund Waller (1747-1830). The Reverend John Waller, was born in Spotsylvania County, December 23, 1741 and was ordained, June 20, 1770, as pastor of a Baptist congregation that had been instituted in his neighborhood. He extended his preaching ministry to several Virginia counties several times coming in conflict with Colonial authorities because he refused to seek the legal license required of dissenting ministers. His zealous work attracted great attention. In November 1793 he moved to Abbeville, South Carolina where he died July 4, 1802. The Reverend William Edmund Waller was born in Spotsylvania County in 1747. After holding a pastorate there he moved to Garrard County, Kentucky, 1784 returning to Virginia in 1803 where he died in 1830 in the 83rd year of his age. The Reverend Absolem Waller, a nephew of the Reverend John [1741-1802] and the Reverend William Edmund [1747-1830], Waller, also exercised an able ministry in the Baptist Church in Virginia; while their great-nephew, the Reverend John Lightfoot Waller (1809-1854) of Kentucky became not only a Baptist minister of great distinction but an educator and editor of note. Numerous descendants of this branch of the Waller family, both in Virginia and Kentucky, have been men of marked distinction in the life of their respective Commonwealths: civil and military officials; educators and churchmen.⁴⁷

THE WALLER FAMILY PAPERS

It appears that because of circumstances connected with the greatly deranged condition of Edmund Waller's financial affairs the Waller Family Papers

⁴⁵For the names of the children of Edmund and Mary (Pendleton) Waller, and their marriages see *Virginia Magazine of History and Biography*, Volume 53, No. 3 (July 1951) page 352.

⁴⁶Spotsylvania County records, Will Book D, 1761-1772, page 504 (Bond of Benjamin Waller); an inventory of Edmund Waller's personal property, returned and recorded in Spotsylvania Court [December 1771?]; total appraisement L160:14s.1-1/2d. *Ibid.* Will Book E, 1772-1798, page 1.

⁴⁷For accounts of the Reverend John Waller, the Reverend William Edmund Waller, the Reverend Absolem Waller and the Reverend John Lightfoot Waller see Sprague *Annals of the American Baptist Pulpit* . . . New York . . . 1860, pages 113-117; James B. Taylor, *Lives of Virginia Baptist Ministers*. Second Edition . . . Richmond . . . 1838, pages 77-84 and 248-264; *A History of the Rise and Progress of the Baptists in Virginia*, by Robert B. Semple. Revised and extended by Rev. G. W. Beale. Richmond . . . 1894, pages 24 and 208; *Dictionary of American Biography*, Volume XIX, pages 383-384.

(letters, deeds and plats) which we are presenting in this study, were first gathered together and preserved. The original assembling of these papers was due to their use in a suit that grew out of transactions between Benjamin Waller and his father, Colonel John Waller, when Benjamin had come to the financial assistance of his brother Edmund. It appears that Benjamin Waller had paid out £110 for his brother Edmund, and that Colonel John Waller had conveyed to the said Benjamin, by deed May 21, 1751, certain land in King William County.⁴⁸ The amount acknowledged in the conveyance as paid by Benjamin for that land was £110. Benjamin Waller considered that that amount was paid for the purchase of the land and that the conveyance thereof had no connection whatsoever with compensation for the £110 that he had paid for the relief of his brother Edmund. The suit, which came to determination in 1764, was between Benjamin Waller and his brother John Waller in regard to the proper boundaries between the land conveyed, May 21, 1751, by Colonel John Waller to the said Benjamin and the land that Colonel John Waller devised by his will (dated August 2, 1753; probated October 1, 1754) to his son John Waller.⁴⁹

On August 2, 1753 Colonel John Waller made his will, adding a codicil thereto on August 15, 1754. The will was probated October 1, 1754, when John Waller "eldest son and heir at law" of the testator was granted "time until next court to contest the validity thereof relating to land devised

⁴⁸The following is an abstract of the deed of John Waller to Benjamin Waller: May 21, 1751, John Waller of Spotsylvania County, Gent. to Benjamin Waller, of city of Williamsburgh, Gent. for £110 currency conveys, "all that tract or parcel of land lying and being in the county of King William in the parish of Saint John on Mattopony river containing by estimation four hundred and twenty one acres be the same more or less . . . ; which said tract is part of a larger tract sold and conveyed to the said John Waller by Elias Downes by deed recorded in King & Queen County Court the twelfth day of June One thousand six hundred and ninety six . . . [Signed] John Waller (Seal) [red wax with impression; but owing to the broken condition of the seal the nature of the impression in the wax cannot now be made out.] Witnesses: Edmund Waller, Thos. Dickenson, Zachary Lewis, Jun^r., Z. Lewis, W^m Waller, Thomas Estes. The deed proved, at a General Court, Williamsburgh, October 16, 1751 and ordered recorded, "Teste Ben Waller Cl. Cur." (This abstract is made from what is obviously the original deed which has been preserved in the Waller Family Papers, now owned by L. Harvey Poe, Jr., Richmond.) Accompanying this deed is a plat, with description of metes and bounds "of (about) three hundred and seventy acres of land exclusive of the sunken land, &c. adjoining the Reed Creek lying in the Parish of St. John and county of King William, sold by John Waller, Gent to his son Benj.^a Waller . . . [surveyed] Nov.^r ye 1st 1751. p[er] W^m Waller." Also accompanying this deed is a rough drawing (no acreage mentioned) endorsed on back "A Platt of the L.^d I bought of my Father in K. W^m 1751." This endorsement in the handwriting of Benjamin Waller.

⁴⁹These facts appear from "The Answer of John Waller to the Bill of Complaint exhibited against him by Benjamin Waller, Esq.^r Compl^t." in the suit instituted in King William County Court. The original (or more likely a contemporary copy) of John Waller's answer to the bill of complaint is in the collection of Waller Family Papers owned by L. Harvey Poe, Jr., Richmond. For a description of this collection of papers see *Virginia Magazine of History and Biography*, Volume 59, Number 3, (July 1951), page 337, footnote.

away from him, if he shall think fit." John Waller, "eldest son and heir at law" did not make any contest of his father's will, as shown by the record. It appears by the family letters and papers in his suit (both hereafter given) that Benjamin Waller became displeased with the purchase made by him from his father in May 1751 and claimed more land; and that John Waller, "eldest son and heir at law" felt himself put upon by his brother Benjamin's claim. After much correspondence it appears by the letters that resort was had to great formality, even to sarcasm, over the matter. It was a merciful providence that took Mrs. Dorothy Waller out of this world before this wrangling over their inheritances took place between her sons, leading to their suit over division lines. The good lady had died in the Fall of 1759.

The suit between Benjamin Waller and his brother John Waller in regard to their lands in King William County was heard in King William County Court, with determination thereof in February 1764, when it was ordered that the defendant, John Waller, "make a sufficient conveyance in law for confirming" the title to 421 acres to the plaintiff, Benjamin Waller; "and pay unto the Plaintiff his costs." The defendant was, at his prayer, granted an appeal to the General Court. Whether he took advantage of this we do not know; but on May 16, 1764, John Waller made the conveyance as directed by the court to Benjamin Waller.⁵⁰ In his will, dated February 6, 1776 (probated April 18, 1776) John Waller (who had been the defendant in the suit, as related above) directed that his executors "sell my

⁵⁰Abstract of deed of John Waller to Benjamin Waller made under decree of court. May 16, 1764, John Waller of Spotsylvania County, Gent. to Benjamin Waller, of Williamsburg, Esqr. Colonel John Waller, late of Spotsylvania County, deceased, who in his lifetime possessed of a large tract of land on the Mattapony river, St. John's Parish, King William County, sold and conveyed 421 acres part thereof to his son the said Benjamin Waller and devised the residue of said tract by his will to his son the said John Waller; and a dispute having arisen after the death of the said Colonel John Waller between the said John and Benjamin, the sons, with regard to bounds of their respective parts of said land the said Benjamin commenced suit in County Court of King William in Chancery for settling and establishing said bounds which cause was heard in said court February 7, [1764] last when it was decreed and ordered that the line from the Letter A to the letter B as laid down in a plat survey of said landmark by William Parry pursuant to a former order in said cause should be established as the dividing line between said John and Benjamin and should be marked off by certain commissioners for the purpose appointed and that said John Waller should make a sufficient conveyance in law therefor confirming the said decree. John Waller in obedience to said decree, and for 5 shillings, paid by said Benjamin Waller hereby conveys to said Benjamin Waller all that tract or parcel of land in St. John's Parish, King William County containing 421 acres of highland bounded as described in surveyors plat, hereto annexed by the Letters A D C B K I H G F and so to the beginning at A; and confirms the line from the letter A which is a Spanish oak and a corner to Wm. Isbell at head Fawn's Branch and running from thence North 46° E to the letter D as laid down on said plat so as to include said Benjamin's 421 acres of high lands besides marshes and sunken ground thereto adjoining as the proper bounds and dividing line between the said John and Benjamin. [No witnesses.] Recorded King William County May 17, 1764. (A plat is attached to this deed). The original of this deed is in the collection of Waller Family Papers owned by L. Harvey Poe, Jr.



Waller Quarles Punch Bowl

Fine Stoneware with classical figures applied on drab background

7" high 14½" across the top

This was owned by Waller Quarles (1773-1829), King William County.

•

This bowl was used at a wedding in 1823 and very highly valued by his family.

Owned by L. Harvey Poe, Jr., Richmond.

tract of land and plantation lying on Mattapony River in King William County."⁵¹ At the sale of this land John Waller, the then clerk of Spotsylvania County (son of Benjamin Waller) became the purchaser.⁵²

Benjamin Waller had purchased land adjoining the part of the "Endfield" tract that he held by purchase from his father in May 1751.⁵³ All of these lands came into possession of John Waller (son of the said Benjamin Waller), who had also purchased the King William lands of John Waller, his uncle, in 1777, as recited above; so that John Waller (son of Benjamin) was in possession of 1,496 acres (that included all of the original "Endfield" tract) by the close of the Revolutionary War. These lands he held until the time of his death. On June 6, 1814 William Waller, executor of the said John Waller (son of Benjamin) sold and conveyed this land, called "Endfield," to Carter B. Berkeley.⁵⁴ Tradition relates that Carter B. Berkeley used "Endfield" as a hunting lodge. Carter B. Berkeley died about 1834 at which time this estate was awarded to his niece, Mrs. Alice Fontaine Armistead, of Lauderdale County, Alabama. Mrs. Armistead sold the

⁵¹Spotsylvania County records, Will Book E, 1772-1798, page 153; the will of John Waller.

⁵²3 April 1777 — Pomfrett Waller, James Bullock and John Lewis, executors of the last will and testament of John Waller (Pamunkey) late of Spotsylvania County to John Waller, of the County of Spotsylvania, Clerk. Said John Waller (Pamunkey) by his will dated 6th February 1776 directed his executors to sell his land and plantation on Mattapony River, King William County. Therefore, for £1200, said executors sell and convey to said John Waller, Clerk, the said land and plantation containing 568-½ acres; reference is made to dividing line between Benjamin Waller and the said John Waller, decd., etc.; on Mattapony River, on the lower side of Reedy Marsh; and all the Houses, Buildings, Ferrys, Wharfs, Gardens, Orchards etc. etc. (There is no date of recording of this deed; and no record of the place where it was recorded). Original deed in the Waller Family Papers.

⁵³6 December 1770 Elizabeth Martin widow and William Peters Martin, Gent. and Elizabeth his wife, all of King William County to Benjamin Waller, of Williamsburg, Esqr. for £384 currency convey 321 acres in St. John's Parish, King William County, adjoining John Madison, the main County Road, Ambrose Lipscomb, James Martin, the said Benjamin Waller, John Austin, James Moyler, Richard Hunt, the head of the Miery Branch, Captain James Quarles; said land devised by John Martin, Gent., decd. to said Elizabeth Martin during her widowhood and afterwards to his son, the said William Peters Martin (67-½ acres part of this tract was conveyed to the said William Peters Martin by James Quarles). Recorded King William County Court, 20 December 1770, 20 January 1771 and 17, October 1771. (Original deed in the Waller Family Papers)

⁵⁴6 June 1814. William Waller, Executor of John Waller, deceased, to Carter B. Berkeley, a tract of land called "endfield" (Endfield) formerly belonging to John Waller, deceased, and directed by his will to be sold, on the Mattapony River, and containing 1,430 acres, bounded on the south and southeast by the land of Benjamin Waller, deceased, being the same land given by his father, John Waller, deceased, to him; by the land of Mary Ann Gregory and children called *Courthouse*; the land of Daniel Lipscomb; by the land of Fanny Quarles, called *the red house*; and the land of John Brumley, deceased; on the southwest by the land of Isaac Quarles; and on the west and northwest by the land of James Edwards

7 June 1814. Carter B. Berkeley of Middlesex County, William Waller, executor of John Waller, deceased, of the County of York; and Herbert A. Claiborne, Major Beverley Robinson and William Burke, Jr., trustees. Deed of Trust on Endfield, the above land, to secure the payment to Waller. King William County records, Book 6, 333-335; given in Ryland, *King William Deeds*, Vol. IV, page 52.

property to John Cook,⁵⁵ whose family retained ownership until about a half century ago

"Endfield" today is a comfortable farm house; the ancient brickwork in the double basement and high chimneys, laid in the traditional bond, is yet quite solid. Across the river front utility rooms have been added. The present entrance is nearly in the center. To the right is what was the living room and beyond a rather nice hall; the entrance to which was formerly on the end of the house. To the left of the present entrance are two chambers and an old steep stairway to the charming dormered rooms above. Gone is the great fireplace with its overmantle; gone are the mulberry trees and the huckleberry ponds. The Waller graveyard is now only marked by a few gnarled cedars. No longer does the ferry ply its way across the quiet Mattaponi; no longer is the dust of roadways stirred by the passing of carriages conveying the great and the near great across country to their plantations. But in "Pamunkey Neck"—beloved name for the area of King William County—one may yet feel, amid the trappings of modernity, a touch of ancient romance.

* * * *

We now proceed to give the letters which have been preserved in the collection of Waller Family Papers following them with the decrees of King William County Court in the suit of Waller vs. Waller, answer of John Waller to the Bill of Complaint in that suit and reproductions of two plats made from surveys of John Waller's portion of the "Endfield" lands (one made in May 1755; the other in May 1756) and a reproduction of a plat of the "Endfield" lands as they stood when they were in possession of the estate of John Waller (son of Benjamin Waller), who was the last Waller owner of those lands and whose executor conveyed them to Carter B. Berkeley in June 1814. Following these documents will be a note on the Waller family coat of arms; abstracts of the wills of Colonel John Waller (1673-1754) of "Endfield" King William County, and "Newport," Spotsylvania County, and of his wife Mrs. Dorothy (King) Waller (circa 1675-1759) and the will of Doctor John Waller (circa 1645-1723) of Newport Pagnell, Buckinghamshire, England.

⁵⁵Armistead to Cook deed. King William County records, Book IX, page 497.

THE LETTERS⁵⁶Spotsylvania County, Novemb^r. the 26th 1750

Son

Since yours of the 29th of last month I rece^d yours of the 23^d of 8ber, as you sent & your Bro^e William with the Sp^{cs} of Hartshorn & Cap^t Watsons bill of Laden, your Brother when came home was taken with a Violent Cold, feavers & pains in his head, which brought on him a small touch of the Gravell and part of his old disorder that made him keep his room for severall days & not able to stirr out, but is on the mending hand & like to do well again, I saw him at Church last Sunday was senneth but he hath not been at my house since his return, neither hath I thro laziness of old age & business interfferring to see him, I expect him at my house this day as he goes to Louisa Court.

I send this by your Overseer Samuel Brown who intends to sett out to drive down twenty head of hoggs & with him — three potts of butter which I heartily wish safe down, On the 8th of this month I killed the steer at your Quarter, which weighed in all 369: out of which I let Overseer have sixty weight for meat to supply the carpenters while at work in building on your Plantation so that I had 309: my self & have Creditted your acco^t thirty five shillings for the same, which is the utmost rate as beef is sold at, Your acco^t I have here inclosed, as for anything for Medicins or other things wee supplye your people with, when sick, I freely give you & glad they did good, and at any time while I & your Mother please God are living, shall do by them, as I should by my oun, your being so Remote and they having no one els to apply to, & to send to Doctors on every slight Occasion, will only run you to charge, and on Sundays as they have used & take it by turns to come & partake of a Sunday dinner with my Negroes they are & shall be wellcom. I suppose the President Thomas Lee Esq^r death, who Departed this life on Wednesday the 14th of this instant at his dwelling house after his return from Williamsburgh is no news to you, I am apt to think it will cause some revolution in State affaires here in the Government, On Friday the 16th your nephew M: John Lewis sent to Louisa to a Called Court & from thence designed to sett out to New Kent to see his father, but as yet is not returned but your sister Lewis had a letter from him yesterday dated the 16th last & that he was well as could be reasonably expected.

Yo^r Bro^r Edmund hath been very bad with a Grievous Cold and Cough & was afraid would turn to a Consumption, but the 18th of this Instant I received a letter from him & then he advised that he was much better & hope should get over it, I should be glad to know with [er] you ever wrote to him or he to you, anything about his Accommedateing that Bond, as I entered as his security to you, by reason I have neglected to have that mortgage on his Land Acknowledge me in time, hoping that he

⁵⁶“The Letters,” as they now stand in the collection of The Waller Family Papers are given here. It is recalled, however, by parties who examined these letters prior to their preparation for publication in this article that there was another letter that contained the statement: “daughter Lewis was brought to bed with another baby.” That letter, designated “as the first one filed in this collection,” was written by Colonel John Waller, and has, unfortunately, disappeared.

would by selling you his land or some other ways make us both easy, and therefore loath to expose the matter, But if he should if Required Acknowledge it now desire to know wither the same mortgage will be good, and that you will write to remind him about discharging the Bond, which will be better for you then me, by reason I am not as yet threatened or troubled about the matter, I shall Refferr all other news to Samuel Brown or to my next, with our Kind love & Respects to your whole self I Rest your Lo: Fa:

JOHN WALLER

P^s About ten days agoe your Brother Johns Daughter, Mary Overton ** to bed ** a boy.

What I am indebted to you for the Sp^{ts} of Hartshorn or anything ells I have forgot or Omitted, subtract it out of the ballance.

[Addressed] to / Benjamin Waller Esqr./
In Williamsburgh./

[Inscribed] Col^o John Waller/
November 26th. 1750/
No 2 /

November the first 1751: Spotsylva County

Son

My Daughter Lewis sending me word that she is sending down her husbands shaise & horses to Williamsburgh against the Generall Court breaks up, took the opportunity to inform you that your Overseer Samuel Brown hath done husking his corn, made & Measured 160: barrils of Ears which is eighty barrills of shelled corn, besides the Nubbins all for the Cattle. He yesterday fetched besides 1000 nailes & salt that he took up at Mr. Jackson on your Accot that Fredericksburgh & hath put up 20 hogs to fatten & bring you down when fitt Your People are all Indifarently well, but your negro wench Fanny is not yet cried out, Yor Brother William yesterday was sennett sett out from home, intending to gett as Far as your Bror Thomas & carried his Surveying Instruments with him, in order to run the dividing line for the land I sold you, & from thence to Williamsburgh, to whom repeat all news^x I thank God myself and your Mother are considering old age well, With our Kind Love & Respects to you & all yours I Rest

Yor Lo: Fa:

JOHN WALLER

insert X for him to inform you

& at his Release expect to hear all Williamsburgh news.

[Addressed] To/ Benjamin Waller/ Esqr / In Williamsburgh/

[Inscribed] Col^o John Waller / Nov^r 1st / No 3/

Fredericksburgh Dec^r ye 4th 1751

Dear Sir

Yesterday I Swore to my Commission & Acted as Clerk & the Court Sits Again today, so that I have little time to write but Just to Inform that Y^r Records are not in Such order as I Expected, there being Sev^l Deeds Wills &tc to Record, but they & all other things Shall be justly recorded as I promised, you have a Rough Draught of Y^r land in King William, I have Spoke to the old Gentⁿ our Father About the land wanting, & he will write to You about it, when it is fairly Settled you Shall have a fairer plan,

I am Y^r affectionate Humble
Sev^t

P.S. the Justices will Scarce
be persuaded to Sit I must
get a new Commission

W^m WALLERW.W. Dec^r Ye 8th 1751

ag - to be alter'd in a Short time.

Dec^r ye 8th 1751, our father on some discourse yesterday at Fcksbrg thought proper to write to me this letter you have & Y^r Overseer came to my house, I have nothing to Add but that tomorrow I move to my new house, the Court sat three days, & the Books & papers are removed to my house—

Y^{rs} as beforeW^m WALLER

N.B. much Stir here about Burgesses.

[Addressed] to Benj^a Waller Esq^r In Williamsburgh This
& Sam^l Brown.

[Inscribed] William Waller Dec^r 4th [1751] No. 4

Sunday Xber ye 8th 1751

Son

Samuel Brown Comeing Early this morning to my house in order to go to yours to know wither you had any letters or business to send him to his Employer took the opportunity of sending the plans that you left with me about the land you was to devide between the Land I design to give to son John & what I sold to Son Benjamin, but after I know how that I intend son John holds out, then I shall endeavor to do Equall Justice between them, though both of them are specified both in the sale & in my will, be there more or less

When Leasure permits to see each other shall then talk it over In the Interim with our Love & Respects to yo^r whole self

I Rest your Lo: Fa:
JOHN WALLER

[Inscribed]

Dec. 8-1751/Col^o John Waller to/

Mr: Wm. Waller/ Lre/ [Not numbered]

Spotsylvania County
the 9th day December 1751

Son

Since mine to you of Novmbr the first last I have Received Yours of Oct the 16th per Samuel Brown with the Physick, Gazettes, and your kind present of Lemmons likewise yours of November the 4th with one Gazette Inclosed, which letter I communicated to your overseer what you wrote about buyeing the Corn etc, likewise received yours of the 10th of Novemb:r last by yor Brother William, & Inclosed the Generall Court Dockett and three Gazettes for which am very much Obliged to you, & Especially for your Kindness & Trouble you had in making your Interest with his Honr the Secretary about procureing the Clerks place for your Bror William on the Resignation of your Bror Edmund, which I am satisfied none other could have done to bring things so clear about, & with such dispatch to the disappointment, of ends intended by the discontented who did not wish well to our family, And your Brothers are very much obliged to you for your great favors to them in that case and myself takes it extreme Kindly for your favors done them and upholding the reputation of all our family, As yet I can not Inform you of all the transactions of the County per reason I having been all this last week attending at Court & the Vestry, But Bad weather happening & the thinness of the Court, the Courts business was not gone through.

Your Brother William showed me the Plat of the Land I sold you Being Court time and not having opportunity to talk it over with him & he not knowing what surplus or deficiency might be in that Plat of 500 acres designed for son John, cannot give an Answer or Judgment as yet, designing to settle the matter Justly & Equitable between you both before please God I die, for as yet, my sale to you, & what is mentioned in my Will to your Brother, is Exprest more or less, As for all & affairs about your Plantation I shall reffer it wholly to your Overseer to Acquaint you, I was at your Plantation and the new Quarter he is clearing, & going to build there, I approve of the place in my Judgment, being a pleasant prospect, good land, & very convenient to as good spring as any in the Country.

The Carpenter is getting of board for building, I took a view of your Corn in the hogg house, & what with fattening the hoggs & made use of in maintaining your Stock, the Corn is mightly Shrunk tho' I think the hoggs are not so fatt as expected to see them, the next shall write what have thro hast have omitted to inform you, In the Interim With our kind love & Respects to your whole selfe,

I rest

Yor Lo. Fa.

JOHN WALLER

[Addressed]

To Benjamin Waller Esq^r
In Williamsburgh This
Sam^{le} Brown

[Inscribed] Col^o John Waller Dec^r 9, 1751/No. 5/

Dear Sir

Yours I received and am highly obliged to you for your kind and Generous offer. My Inclination to purchase is strong, But my Station and purse are very Low & weak (By reason of many Losses in Slaves &tc) that I scarcely can with Honour & honesty keep my chin above water.

I should be Glad to know your Lowest price, and if would Give me Time of Payment, (how Long) By reason What Little money I have now by me, I want to purchase Slaves &tc, to Increase my force (being now Low even to five workers) I freely would buy your Land, could I in any manner pay for it to your Satisfaction. But I must struggle, as I Live & Gods permission, to Live with honesty & honour.

Inclosed have sent a copy of a bill of Lading for a hh^d of Tob^o sent to M^r Jacob Berry Merch^t Desiring Your favour to Do for me, as you Intend to Do for my father I humbly requesting you not to Throw any Good money after bad for me.

If at any time, any place, as you Shall think I am capable off, and can manage & Should offer, in order for mine & family a better support in this Life, I should be most heartily obliged to you, if then would remember me, and Get it for me.

Our Best respects attend this to your whole self, and family, wishing your's all their healths. I am Dear S^r your most affect & obed^t Servant.

J^o WALLER JUN^r

Spotsylv^a 8ber y^e 28th 1752

P. S. Pardon my Scribble and Stile Being in haste hardly write my name in a month.
[Addressed] For Benjamin Waller Esq^r In W^{ms}burg
[Inscribed] 1752 John Waller Jun^r Oct^r 28 N^o 6

Worthy Sir

According to your Desire I have sent this to assure You, That I have Declined Taking five hundred P^{ds} Curr^t money to be paid in a week for my Land in K W^m according to the will, and Since have refused to answer, when asked if I would sell it, having had no answer from You It now seems by yours, that you never received my Letter which I sent you in gber or xber from hanover Court Last Or if had, you would have used me better, My Brother Thomas has rented my Land &tc to christmas next, after which Time It is at your service for five hundred Guineas, and pines enough to cut me Two thousand feet of Inch & Quarter planks when I shall require it.

I shall be Glad You would send me your answer whether you will have it or not, By reason there is Gentleman wants to purchase, and has the money to pay Down, but have Intirely kept my mouth close shut, Till your answer, having given y^o my promise for a first refusall.

I am Sorry your losses are so abortive, about an End to y^r Squabbles in my most Hon^d Father's Estate (There being no more Sign for peace than usual) a meer Trifle is the Difference between them, and must Think it is my Brother W^m or Some other person that is to Blame, and not M^r Lewis (pardon my free writing to you if I am wrong it is my poor Opinion of the matter) If your Time will permit, pray Give me

your answer by Mr. Lewis about my Land for I assure you it shall never be sold under that price (without Necessity Drives me, which God be praised, is not yet, and am In great hopes Never will)

I expect Daily to be sued by my Bro^r Edmund for the young Negro Daniel which I bought of Col^o W^m by Auction.

I will spend the price and the negro besides before I will be put upon, by him or any other person that upholds in it.

I well Know from my Deceased Dear father's mouth (after the making the codicil) that he never Intended to give the child any negroes or negro but only the Land, and that he Told me, my mother Did persuade him to

Our Best respects attend you and all yours.

I am Dear Sir

Your affectionate hble serv^t

JOHN WALLER

Spotsylv^a March y^e 27th 1755

P S Excuse my nonsense and scribble

NB

Col^o W^m for y^o bought Harry for £11:15
myself, Daniel 13 to be paid July y^e 16th next.

[Addressed] To Benjamin Waller Esq^r In W^{ms}burgh
& the favour of Mr Lewis

[Inscribed] John Waller Mar: 27 [1755]

Worthy Sir/

I received Yours Exactly three Weeks from the Dates and being no Opportunity Since, Could not answer Sooner. I am sorry you Should be so Frighten at the price of Convenient Land, when Land above me on the river, is Sold for much more, and valued by twelve men on Oath to only one shilling Less. But I cannot think the Fright could be so very Great to make you think that the Land could not be Sold at that price in case you should arrive to the ages of our Late Hon^d father & Grandfather, when by that time it will not be purchased for Twenty times as much in all human probability, Also my Reason tells me That you are Certainly mistaken about the price of Land in England, for am very sure that it was the Least price it was sold at above thirty years ago Certainly it is more now.

God only be praised I am not in so great need to sell any Land or anything Else I have no right in Or in such want as to Take 500 Pistoles for my right in King W^m Land, Your pines nearer my house here are of no worth to me and therefore if My offer had been accepted by you, would have Done me no Good.

I shall be Sorry as you to have my father's will Exposed, Or his most Hon^d Name Mentioned between us in public But as it is, or will be no fault of mine, I hope my conscience will not in any wise Accuse or Sting me for it.

You as well as the rest of the fraternity Know, That it is my Due, and much more Had I Due Intire, But my Good Father Lived too long for his Sences. And partiality having the Overrule of some body, But who. I can not, nor will not presume to say Took that Advantage of him. That Good old Gentleman (when alive) Told me That he had Done you Justice Enough for one hundred & ten pounds that he never Eat or Drank for, or would ever have got a farthing for from his son Edmund.

I Doubt that You well knew, that your part of King W^m Land which was never more than 350 Acres by my fathers former wills was always Given to you and Your heires Lawfully begotten, and on failure of such to Edmund and his heirs forever. Permit me to say your money was well bestowed for a fee simple then.

Since I received Yours I have been at the Charges and Trouble to get bounds by my father's will Surveyed in a very Nice & accurate Manner and Generously Tell you That there is 512 acres of Land and no more in the same, Your stopping my plat in the hands of Col^o W^m Occasioned me more Trouble than should have had, Therefore must thank you for useing me, so much like a Brother.

You must use your own Discretion about fileing Your bill for your Claim, But if it is at my Choice, It will be at Supreme Court, that shall Give the final Decree.

I shall be obliged to you to send me a Copy of your bill & when filed also a Copy of my father's Deed &c. to you. I request of you to Give me a fair Chance for a Good attorney or two considering I come to your own home to fight you on your Dunghil. And I do assure you (as far as I can) I will keep my Temper and Christian blood. You may think your might may overcome my right, as it may, and too often have Done when two so unequal persons goes to Law, at such vast Disadvantages as is between us. But Let that Stand as it will, I must Endure all and any hardships in that case as you can possibly lay on me, before I will surrender up one acre out of my bounds, For if bounds in Deeds and Wills proved & recorded with the words (more or less) are not forever binding then I and most others Are Such Arrant Blockheads, as ought not to Inhabit in this world (Where you and all other Wisemen Do.)

I Desire you to consider within yourself how you will expose my most hon^d father, Who never paid Quitrents for no more than Eight hundred Acres had sold to Mr. Isbell 12 Acres. To the county for Inspection 1 Acre Given me 512 Acres besides Your Claim, also consider what advantage the Land can Do you when it will be laid off (if recovered of me) In a Course of a Mile & half & four Chains and will not be any otherwise, Can be supposed Decreed or Ordered by Equity of any Court.

As for your fine flourish of words about coveting my Land, the Loss of your money Contentedness if should be adjudged wrong Etc. Give me Leave to say that I take it from where it comes (Id Est) from a Wise head, A Smooth Tongue, A ready Writer, and Much more a Compleat Gentleman, as the world goes. Your Last part is so hard and beyond my belief or hope to attain That I must Sit Down quite out done and never can Think as you say, That if I am adjudged to be mistaken, I will be quite Easy & Satisfied. And never Mention it again.

I hope you are much more of a man Then to Take any advantage of me I may hope Except such as are Equitable.

And further I desire that if we go to Law, the sooner the better That I may see answer to it in my Life (if it please God) and not to Leave my wife and poor Children Inthraled in a Law Suit with so Great a Man for My Just Right.

I conclude Sr your Affect hble Servant
as much as in my power

JOHN WALLER
May 13, 1755
Spotsylvania

P.S. Pray Excuse my blots &c
and plainness in Writing, which is not
the fashion now adays, but hope will
always be mine Durante vitae

Yo^{rs} ut supra

[Though the address of this letter is missing it was written by John Waller to his brother Benjamin Waller of Williamsburg. *Editor*]

Worthy Sir

Yesterday by the hand of Col^o W^m Waller I reced Yours Dated June y^e 4th Last past, and then Told him that I believed Should not answer it, but on more Mature Perusall, and as plain Dealing is, and I hope always will be Accounted by me, A Darling Principle, I can not refrain Giveing you my Sincere Thanks for your Candid Recital, Which I must firmly believe to be True, That shall Take no further Trouble for vouchers in that case, and add Your Generosity Extends itself to y^e highest Degree In the choice of Attornies, and that you will not speak to one before you know my choice, is farr more Surpassing my thoughts. As there are many Ingenious Gentlemen practioners at that Honble barr And I Equally a Stranger to all of them, shall when compell'd to it Imploy those I then Like Best.

I suppose if you or any of yours had wanted a Landing on the Reedy Creek for your own use it would Never have been Denied you, or them, by me, or any of mine. Be well assured you will not get it by Law in no manner whatsoever. When it is twenty Large odd poles from y^e pine to the mouth of the same, as Col^o W^m Waller can Inform you as well as I and also That I have under God's Blessing, a firm Intent as soon as possible I can Build me a few houses, to Live there and never to part with it out of my familey, and that I am still of the same mind about your Land, It is only poverty pests us, and that if money was not wanting on my Side, you should not say one word in the Bargain more.

I humbly request you Impartially to consider who will appear the most stubborn, and Niggardly, You or I. The one flowing with money and can command all Sub-lunary Things, and the other, A poor planter who what Little he get must be by y^e sweat of the brow, and also Labouring only to Defend his right, as he realy believes. Which will be proved a prior contract (being in Leiu One Thousand acres of Land and plantation whereon Col^o John Waller Lived and Died, as the said Col^o John Waller promised him on his Marriage, before . . . Since After his and his wife Death.

The promise I suppose Will be proved. That col^o John Waller was to give 500 acres in K W^m County on Mattapony River whereon he formerly lived Exclusive of the plantation (The words were he would give the old plantation & five hundred Acres of Land adjoining) if his Son would be contented & satisfied, which was readily accepted on the above Terms. there are certain other things which will be proved too I doubt not, Which I have, and Shall Scorn to ask for, or Demand, without being thereto forced by ill usage.

I am Greatly in hopes by this time, that the Scale is in my favour, and that you will not give yourself or me Either, The Trouble and Charge of a Long and Tedious Law Suit for a Trifle as will (if recovered by y^o) Do you or yours So Little good now or hereafter.

The cursed old Erroneous plat has Deceived you all and has Occasioned I believe Some heat more than common, or ought to be, between Brothers.

I will sincerely Declare to you that I cannot Leave my Title to any Indifferent Mans Opinion whatsoever, for that will in no wise be Definitive to us.

I heartily wish you and Yours well and am

Dear S^r your most Obd^t & hble Servant

JOHN WALLER

July Y^e 10th 1755

P. S.

My good Neighbour M^r John Minor Died suddenly on Sunday morning June y^e 29th last

As for the plan you mentioned. You are Greatly mistaken, I never had a Duplicate with the Divideing Line laid down in it, but only an old rough concern. But Ten Thousand of Them are not fit for nothing save only to wipe one's breech with, Being altogether false & Imaginary.

[Addressed] For Benjamin Waller Esq^r In Williamsburg

[Inscribed] John Waller July 10 [1755]

By the favour of

Mr. Foard

[The first part of this letter is missing; the signature and address show that it was from Benjamin Waller to his brother, William Waller, dated December 2nd, 1758.]

* * * * * with you * * * * *

again begin a Correspondence which I hope may * * * * *

of an affair, wherein possibly, we may both think our * * *

but it is certain one of us is in the wrong. I did before * * * *

to refer the matter to any indifferent person, M^r Lewis if you please, is a knowing honest man, and I believe impartial between us, or any one else to decide, & shall with great satisfaction acquiesce under that determination. But I think, and I hope you will pardon my speaking freely you do not propose an equal satisfaction, I may be mistaken but what induces me to think I am not out of the way in the original Patent for the Land, a Copy of which I have by me, & you may see if you desired in the

Patents you have lately taken out. The course of the first are the river itself, so that there could be no kings land as it is called, to be taken up; only surplus Land in the old bounds, in your new patent there is Land sufficient to give us both our Complements and to spare and how then can there be Surplus Land for you when my part * * so defective, and the Quantity of the first Patent not made good. I believe * * In a state of the matter, I sent you Copies of my further Letters & proposals and now refer you to them to be considered again, with this new argument of the patents. When I gave up seven acres from the first proposal at the making the Deed it was to avoid Disputes, his last proposal to me, by my Brother W^m was to make you up 500 acres, me 400 and the surplus to be divided between us, I should also have accepted of this for the same reason I had forgot to mention that my Brother W^m at the Time he divided the Land by the old plott did not allow for the variation of Instruments, which in upwards of 50 years between Taylors Survey & his dividing it may very well answer for my Deficiency & the wrong course he run. But to have done with pro & con arguments I will in my Turn make a proposal, if the reference is rejected, and it is this I am willing to accept of the overplus High Lands, if 13 acres more or less to take it, you having your quantity of 500 acres, and let it be laid off at the lower End of the Line, which I believe will be most beneficial to us both as to our remaining Lands, this will make but 300 acres of highland to me, add to this like a Quantity of 13 acres of the adjoining convenient low Lands, or marsh, or Creek, as you and I may meet & agree upon, & to avoid any further dispute I will be satisfied & sign a Deed of Partition. In doing this you will have 600 acres remaining & I shall still want 25 acres of my Deed, & 32 of my original Contract and this is the lowest offer I can make much less than I would to any one else, & is I think giving up half my right to end a troublesome affair. I wish you & yours well & am Sir your most Affect: & Obed^t Servt

BEN. WALLER

W^{ms}burgh

Dec 2nd 1758

To M^r John Waller Sen^r

[Addressed] To Col. William Waller in Spotsylvania

By the favour of M^r Mann

xber y^e 21st 1758

Sir

Having no Opportunity to write an answer to my Brother Benjamin Waller's Lowest Proposal about the King W^m Land. Therefore humbly crave that favour of you, That when you Write to him You will assure him That I think the same to be most unequal, to give him Twenty Six Acres on the Reedy Creek and if he thinks not Be pleased To Enter his Suit ags^t me for his Title. The sooner the better, for as I design to give my Title (if any) to my Youngest Son, it will be worse than a Savage to leave him a Lawsuit with his Uncle (and he so great a man / My proposal to my Bro^r Benⁿ was That I would give him Thirteen pounds Curr^t money Immediately for the 13 acres surplus. (One of which is the countys for the Inspection). A pistole being paid to my most Hon^d father in his Life time for the same, and therefore I have no

right to/ And also requested my Brother Benj^a if he was willing to take the proposal, he would send me his bond Duly Executed for the preventing any more or future Trouble/ But since he is not willing I Design No other proposal to him any otherwise.

And must request you by the first safe Opportunity To send me A Copy of my fathers Will Duly attested from your Clerks office. That I may be prepared for my Brother's Suit. I assure you shall solely rely on that Title. And if I have none There shall Sit Down quite contented on that affaire (Knowing myself entirely Innocent & Ignorant in the Deceit if there is any) But I shall always Think My father was a most worthy Honest man. And that his intentions was to me as such And That he Desired no Law Suits in any manner concerning his Estate.

I shall be glad if M^r Waller Intends any Suit ags^t me That he will commence it, while I Live. And then I may know what is mine, and what is not.

I am S^r with our Duties to my Mother & Best respects to y^o and all your family.

Your humble servant

JOHN WALLER

[Addressed] To Col^o William Waller Clerk of Spotsylvania County.

[Inscribed] Mr. John Waller's Letter December the 21st 1758. To be delivered M^r Benjamin Waller.

Sir:

I have yours of the 25th June, and from M^{rs} Power who called here in her Way from York, we learn'd the condition & Situation of your Family. My Wife went to Surry the oyer & Terminer Week and has not been come home long. M^r Robinson acts in so strange a Manner that had I M^r Hunt's acc^{ts} proved or a separate Power of att^o from M^r Yates I would sue him. The Gen^l Court Docket is made out but tho' I did not forget you, I could not entirely indulge you without doing a little Injustice to others.

I return you my Brother's answer, which would in some Instances have surprized me, had I not lived long enough to see the Vanity of that Passion, but I agree with you it is time that affair was ended and shall take your endeavours for that purpose very kindly. I see he is willing to catch at any thing; you will be pleased then to reply and take out com. M^r Semple & my Brother Thomas can prove the Hand writing of my Father and Brother W^m as well in the Letters as on the old Plan & other papers necessary to be proved, & I believe M^r Thomas Waller not only knows somethings relating the matter of his own knowledge, but has heard my Father and late Brother speak of the affair so that it may be necessary to interrogate him. M^r Lewis also very well knows their Handwriting. I believe my Sister Lewis has heard my father often say that 500 acres of Land was for my Brother John & the rest of the Tract for me, and so it was understood in the Family (Tho^s I think has heard it too) long before I advanced the money at my fathers Instance, and I am told Sam^l Brown who lived with me, my Brother W^m & now lives with his Son John, can depose things in my

favour all these I would have examined and will readily satisfy M^r John Lewis if he will be pleased to get the upper com: executed or any one else employed in taking the Depons. Be pleased to tell them so & pay them & I will repay you. I never saw my Father's prior Wills, but at the time the Def^t says he was so abstracted from worldly affairs I shewed him, in my father's Letter Book, a copy writ with his own Hands of that very Letter he now puts me to prove. I suppose I need not be at any Trouble to prove the consideration of the Deed the Letter and Deed itself being sufficient. What my Father or Brother might say ab^t the Words more or less I cannot say but sure I am that the Deed was made at the Request and by the order of my father and the reason of inserting those words were because on dividing the Land on the old Plan the Quantity I was to have fell 7 acres short of the proposal & my Father himself directed them to be put in declaring he believed there was more Land in my Part! as to my father's telling him I had Justice enough It is far from what he wrote me & said to me and I believe he could hardly say I should never get a farthing of that very Money I had lent at his Instance, tho' I believe I should no more have sued him for the money in his Lifetime than I did for the Land, tho' it was more reasonable he should pay it and stop the Value out of the Portion he gave my Brother Edm^d than I lose it as in truth I did in some measure, at last, as to my father's making his will in 1753 true it is that he did so which will be showed me in Oct^r (ab^t the 1st) that same year being the last time I ever saw him, and when on reading that clause I again mentioned my claim he answered I have already said that your Brothers W^m & Tho^s shall settle the matter between Y^r Brother John & you & you shall have Justice, but being by ourselves I cannot prove it. The Excuses in the Def^ts Letters are very different from his answer and he seems to have acted very incoherent to his promise when he was told I *should* be satisfied with the Line because at the proof the Will, in court he indecently hinted the Testator's not being in his proper senses but under an undue Influence & said he had given him nothing but a heap of Sand Banks now so valuable. This Instance for pleading the act of Limitation, which can in no Sort avail him, is easily answered for would he had me unnaturally have sued a Parent who assured me I should be righted in a way agreeable to me and could I help the Death of my Brother in whose Lifetime the Suit was begun, whose advice had I followed it would have been brought sooner, and whose Testimony would have cleared up the whole in my favour, but I forbore the Suit as long as there remained any hopes of an accommodation and as to the processioning there never has been any that I know of nor would I ever consent to one. The Sale of the twelve acres let him prove, it cannot hurt me but will show the former Intention of my father to give it me.

I have before observed upon the Patent see my Letter to him & the old Patent. He has given a fair opportunity for you to have my Letter of the 4th June 1755 and State of the case inclosed therein between us called for & reced, which do; and you have his Letter in answer to that wherein he acknowledges the Facts as therein stated (but wide of his answer) to be true; it will elucidate the Truth and make greatly for me.

If the court on the Hearing should decree me relief I am very willing, and the Decree should be that Survey should be of his Land & mine, & a Line be made according to my fathers offer, but to survey before would be running me to a needless

s^d Father to give the s^d Compl^t any part of the s^d land but admits that he has been shewn by his Father in his lifetime some of his Wills prior to the last which he made wherein he had devised to the Compl^t Three Hundred Acres of the land afs^d but Intailed on his Male Issue with a remainder over to Em^d Waller and his heirs & to this Def^t Five Hundred Acres of the same which was according to the Quantity supposed to be contained in the s^d land. This Def^t is a Stranger to the letters s^d by the Compl^t to be the proper hand of the s^d John Waller the elder and in possession of the Compl^t but hath no objection to the same being produced & proved which the Compl^t can be at no less to do and the Def^t humbly Apprehends that the same are very consistent with the legal and effective Deeds and Acts of the s^d John Waller Senior. This Def^t admits that the several Transactions relating to the Compl^t purchase of the s^d land may be true tho' this Def^t was an entire Stranger to the same at that time & for several month's afterwards but submits the same to such proof as the Compl^t can make thereof The first Information which the s^d Def^t received of the same being from the s^d W^m Waller Gent in the Bill mentioned who then informed this Def^t that he had run a Dividing Line between the land which his Father had sold to the Comp^t and the land w^h he intended for this Def^t & further told him then & at sundry times afterwards that the s^d John Waller the Elder refused to sign or Execute the Deed to the Compl^t for the Land below the s^d lines without the words "More or less" were inserted which was also confirmed by the said John Waller Senior who sometime after when this Def^t had gone to see him he being then indisposed informed this Def^t of the Bargain he had made with the Compl^t but did not then or ever after inform this Def^t what Quantity of Land he had sold the Compl^t but informed this Def^t that he had refused to sign the Deed for the s^d land to the Compl^t without having the words "More or less" inserted in the s^d Deed because as he s^d he would be sure to reserve five Hundred Acres for this Def^t according to a promise formerly made to this Def^t upon his Marriage. This Def^t notwithstanding the s^d land had then been surveyed sometime heard nothing of the Complaint of the Compl^t of his wanting the full Quantity of Land intended to be conveyed to him till sometime afterwards when the s^d John Waller Senior informed this Def^t that the Comp^t had wrote to him for more Justice in relation to the land in King W^m sold to him, & this Def^t expressly saith that the s^d John Waller Senior then as well as at sundry times thereafter informed & told this Def^t that he the s^d John Waller Senior had done his son Benj^a justice enough for the one hundred & ten pounds Current Money which he had paid for his son Edm^d Waller & for which he had never eat or drank, and further that his son Benj^a would never had a farthing of the s^d money from the s^d Em^d Waller without a suit which he s^d his son Benj^a would never have brought in his lifetime this Def^t further saith that long after the date of any of the letters in the Bill mentioned to have been wrote by the s^d John Waller Senior & twelve months after the date of the letters s^d to be wrote by the s^d W^m Waller in August one thousand seven hundred fifty two to wit in the month of August one thousand seven hundred & fifty three the s^d John Waller Senior made his last Will & Testament in Writing wherein he devised as Followeth Viz^t after my Funeral charges & just debts are paid & satisfied I give and Bequeath unto my son John

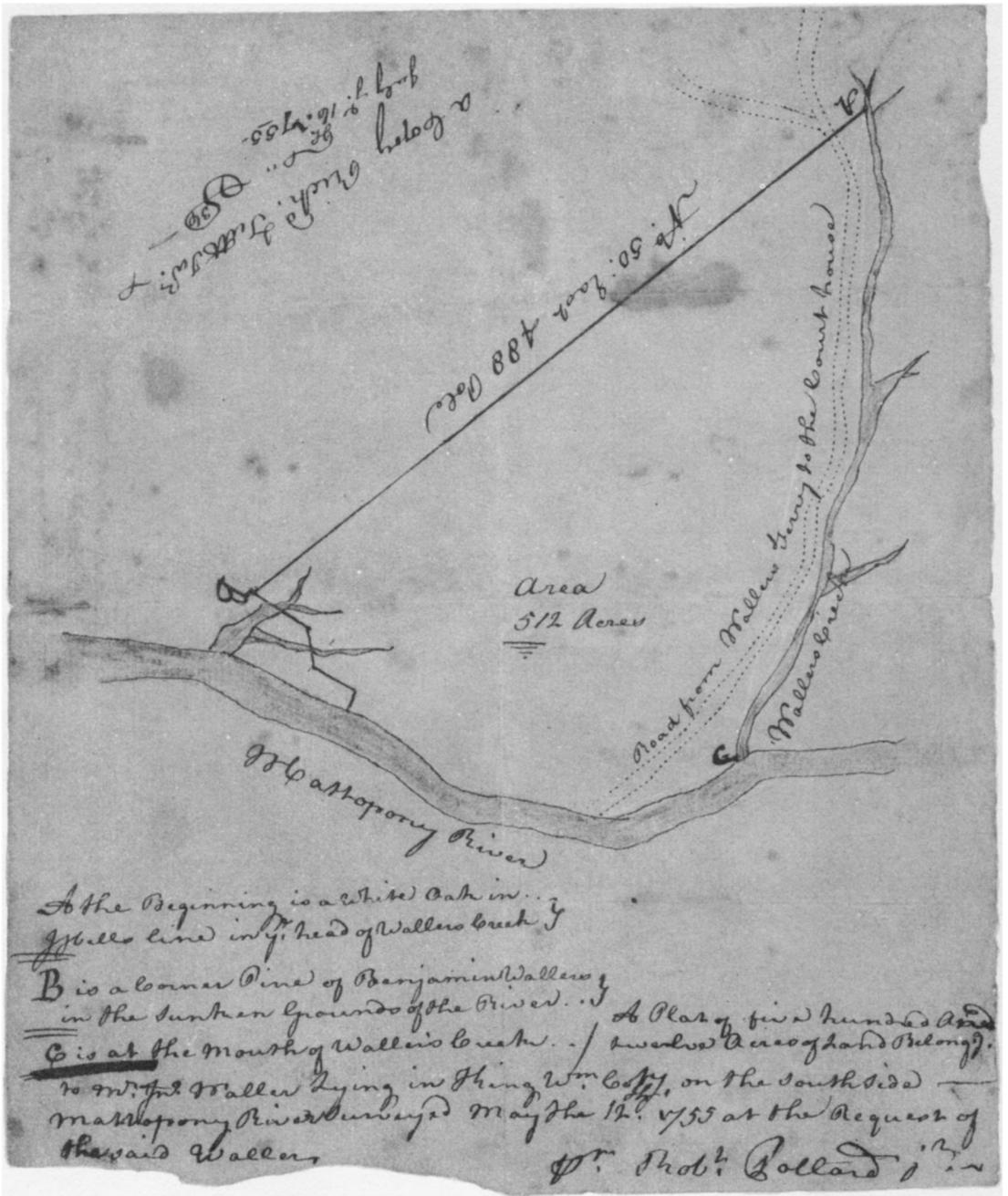
Waller to him and his heirs forever five Hundred Acres of Land being in the Parish of Saint John in the County of King William on Mattopony River or be there more or less as is divided from land I sold my son Benj^a by a line beginning at a white oak in the fork of a swamp in Isbells Line & running thence North Fifty degrees east to Mattapony River which was run and laid off by my own son William Waller between my s^d two sons John & Benj^a & lies on the upward & Westward side of the s^d Line Including the Plantation I did Dwell on and where the inspectors houses now are with all the Improvements thereon & as by the s^d Will duly proved & recorded in the County Court of Spotsylvania may appear. This Def^t further answering saith that Twelve Months after the date of the s^d Will to wit in the month of August in the year of our Lord one thousand seven Hundred and fifty four the s^d John Waller Senior made a codicil to his s^d last Will and Testament and soon after sent for this Def^t & shewed him the s^d Will & Codicil & then told this Def^t that he had therein settled all his worldly affairs to his Satisfaction & having desired & ordered this Def^t to read the Devise before recited as well as the s^d codicil he the s^d John Waller Senior then Laid his finger or Fingers on the before receited Devise & told this Def^t that he hoped he this Def^t would be contented with all the land which was above the dividing line therein mentioned whether the same were more or less than the quantity therein mentioned & that his son Benj^a should be contented with the land below the s^d Line be it what it would & further s^d he hoped there would be no lawsuits about his Estate and this Def^t further saith that he accordingly promised his s^d Father to rest satisfied with whatever land should be on the upper side of the s^d Dividing Line & that he would not be the aggressor or the first person to commence any suit about his Fathers Estate this Def^t further answering saith that he cannot help thinking that the s^d John Waller Senior who was a Man remarkably punctual & as this Def^t verily believes equally honest as exact in all his Dealing would have done the Compl^t the utmost Justice had he had any reason to believe he had not had sufficient satisfaction For the money advanced by the Compl^t which he the Compl^t pretends to look — upon as a Consideration paid by him for the s^d land tho' very inconsiderable for land of such Value, nor can this Def^t help being surprised that the Compl^t should trifle away so many years during the life of the s^d John Waller Senior (who was well acquainted with the Transactions to which this Def^t is a Stranger) as since his Death & During the life of the s^d William Waller who is also Dead so that this Def^t cannot help taking recourse to the Act of Assembly for Limitation of Actions to protect him ag^t a claim to the Foundation of which he is a Stranger wherefore the s^d Def^t begs leave to rely upon & claim the benefit of the Act of the General Assembly entitled an Act for the Limitation of Actions & Avoiding of Suits as fully as if the same had been by him particularly pleaded & this Def^t further answering saith that he verily believes & hopes to prove that the s^d Dividing Line between the s^d Compl^t & Def^t hath been three times legally processioned wherefore the Def^t begs leave to rely upon & claim the benefit if another Act of Assembly of this Colony intituled an Act for settling the Titles & Bound of Lands & for preventing unlawful shooting & ranging thereupon as fully as if the same had been by him particularly pleaded. This Def^t further answering saith that out of the three hundred acres which his Father intended to have Intailed

on the Compl^t as afores^d he the s^d John Waller Senior sold twelve acres to one W^m Isbell of King W^m County which as this Def^t hath been informed and verily believes was intended by his s^d Father to be deducted out of the land he then designed for the Compl^t, one acre also was sold by the s^d John Waller Senior for erecting warehouses on for inspection of Tob^o at the place now called Wallers Warehouse, this Def^t admits that sometime in the year one thousand seven hundred & fifty six he got the surveyor of King W^m County to survey the whole land Devised to him by his Fathers Will as afores^d including the Marshes & sunken Grounds & having obtained a proper plan & certificate afterwards sometime in the Year one thousand seven hundred & fifty seven sued out an Inclusive Pattent for the whole, not as the Compl^t has suggested to strengthen a defective title which this Def^t never apprehended he had occasion to do but to prevent any trouble which Designing people might afterwards put him or his Heirs to by endeavoring to deprive them of such surplus land or marsh as was included within the bounds of his lands and this the Def^t did by the advice of his Friends and not without a warning from the s^d Compl^t which he might have recollected as a better reason for patenting the surplus land than what he has assigned if he had remembered afterwards as this Def^t believes with the Compl^t own hand & Directed to this Def^t dated June the fourth one thousand seven hundred and fifty five in which among other things are the following words My Fathers Memory will ever remain dear and sacred to me and in case of a suit there will be no occasion to expose it he paid as all other holders of old grants do according to the patent and Deed which generally contains what was called good Measure & in the Dispute there will be no occasion that I know off to mention what quantity he paid Quitrents for whom he sold to besides myself unless you are minded to give any one that will put you to the expence an opportunity of giving you notice to survey & take out a new patent for the surplus land held in the old Bounds more then the King receive Quitrents for and also to patent the Marsh & sunken grounds adjoining or that they will do it for you at the end of a year after notice as they may do by the Virginia Laws & as by the s^d letter wth the s^d Comp^t name thereto subscribed & ready to be produced may more fully appear & this Def^t further answering saith that altho' he did sue out such inclusive Patent for six hundred & twenty six acres of land yet he verily believes that he hath not more than five hundred acres of high land within the Bounds of the s^d Patent & that there are within the same at least one hundred & twenty six acres of swamp sunken in grounds & marsh & this Def^t is now of opinion that if the Compl^t had caused his land to have been surveyed with equal care & accuracy he might have found the whole Quantity of land by him Claimed within the bounds of the same, for this Def^t observed that the Pine tree marked as a corner between the Compl^t and this Def^t on the River, stood near the edge of the sunken ground at a considerable distance from the River & this Def^t humbly submits to this Worshipfull Court whether the Compl^t can be intituled to claim any thing of or maintain any suit against the Def^t until he has had his land legally surveyed by the County surveyor in order exactly to ascertain the number of Acres therein contained this Def^t further answering saith that he remembers to have met the Compl^t at the House of the late John Waller Senior the night before his Funeral sermon was preached and that this Compl^t tho' the time

appeared very improper to this Def^t then asked him what right he had to the land in King W^m or to what quantity & sundry other questions relating to the same with intent as this Def^t now verily believes subtilly to catch some advantage from the answer of this Def^t & this Def^t thoughts being little employed on these or any other worldly matters at that time he believes he answered that his deceased Father had always promised him five hundred acres of land in King W^m with the Plantation where he formerly lived and that he had now given him the same by his Will or Words to that purpose, & this Def^t further saith that he is well satisfied the Compl^t knows that his said Father had long before his the Compl^t purchase promised this Def^t the s^d land in Lieu of a marriage promise made to this Def^t by his s^d father many years before This Def^t admits that the said Complainant offered to purchase this Def^t land several times before he ever pretended to claim any part of it of him as Heir at Law of his Father and suspects that could he then have made a very good bargain the present claim had never been heard of. This Def^t also admits that the Compl^t offered to refer the dispute to arbitration but this Def^t being willing to have his right secured to him by the Decree of a Court of Record declined to Arbitrate the Dispute but very readily agreed to meet the Compl^t more than half way to be sued in this worshipful Court tho at a very considerable distance from his own home, and this Defendant denies all unlawfull

THE WILL OF COLONEL JOHN WALLER (1674-1754) OF VIRGINIA

THE WILL of John Waller, of St. George's Parish, Spotsylvania County, Gentleman; dated August 2, 1753; codicil dated August 15, 1754; probated October 1, 1754.—Funeral charges and just debts to be satisfied.—To son John Waller and heirs, 500 acres in St. John's Parish, King William County, on Mattapony River, be there more or less, as is divided from land I sold my son Benjamin Waller by line beginning at white oak in fork of swamp in Isbell's line, running thence north 50° east to Mattapony river, which was run by my son William between my sons John and Benjamin, and lies on upper and west sides of said line, including plantation I did live on and where the Inspection Houses now are, with all improvements thereon; also to said son John and heirs 400 acres in Spotsylvania County taken up and patented in my own name, Sept. 28, 1730, 300 acres of which he has my bond to make over to him; also certain specified negroes; also my silver watch and silver tobacco stopper.—To grandson Pomfret Waller, certain specified negroes.—To son Thomas Waller and heirs, that part tract land bought of Maj. William Todd and patented in my own name, lying north side Robinson Run, Spotsylvania County, as far as north fork said run containing by estimation about 800 acres, including plantation where my negro



"Pollard's Survey of Mr. Jno. Waller's Land in K. W."

PATENT to John Waller for 626 acres on south side Mattapony River, King William County:

Beginning at an old dead white oak and a young Spanish oak in the fork of a branch near Isbell's Spring running thence along a line dividing this land from the land of Benjamin Waller's part North 50° E 600 poles to Mattapony River on the lower side of the Reedy Marsh to the water's edge of the said river thence along the water's edge of said river binding on the same to the mouth of Fawns Branch thence up said branch as it meanders binding on same passing by an oak corner to Thomas Waller to the beginning; said land is part of 1600 acres granted John Talbot and Elias Downes by patent December 19, 1667 and by divers mesne conveyances became vested in John Waller, deceased, who devised the same to the said John Waller for 500 acres more or less and upon survey made by William Parry, surveyor of King William County is found to contain 626 acres. Patent dated August 29, 1757.

(Abstract of original patent in the Waller Family Papers owned by L. Harvey Poe, Jr., Richmond)

*Below is a reproduction of endorsement
which appears on back of plat illustrated on opposite page.*

*Plat of 626 Acres
of Land Survey'd for
Mr. John Waller in
King Wm. County
the
May 8. 1756.*

*Witness
the
Hand of
James Edwards Junr.
Aug. 21. 1756*

Cyrus now lives as my overseer, and improvements thereon, and the old School house, after decease of my wife; said land adjoins lands of Zachary Lewis, Rice Curtis now Mr. Vasse, William Bradbourn, Mr. Stubblefield and my home plantation; also specified negroes; and after death of my wife another specified negro, and all household stuff left below in King William County, in his possession; also hogs and cattle I have there.—To grandson John (son of Thomas) Waller, to granddaughter Dorothy Quarles (daughter of Thomas Waller), specified negroes.—To son William Waller and heirs, 400 acres I took up by patent Feb. 1, 1720 now in Spotsylvania (formerly in King William) County, adjoining lands of Zachary Lewis and my home plantation, except 19 acres out of it sold to said Lewis.—To said son William Waller, after decease of my wife whom I would not have disturbed, all that part of tract bought of Maj. William Todd, whereon I now live, and obtained a patent therefor in my own name, bearing date April 25, 1726, that lies on south side Robinson's Run, adjoining lands of Zachary Lewis and aforementioned 400 acres [given said William], Mr. Coleman's land and the land given my son Thomas [above mentioned], and to the north of said Robinson's Run, and all improvements thereon; also, after my wife's death, tract of 500 acres I bought of Capt. Philip Todd in Spotsylvania County, patented in my own name June 30, 1726 and joining lands of Coleman, Shackelford and aforementioned tract of 400 acres; also certain specified negroes and other specified negroes after my wife's death; also "my large Scutore that stands in the new room."—To grandsons William and John (sons of William) Waller, each a negro.—Son Benjamin Waller (after my wife's death) certain specified negroes, likewise my violin, flute hoiboy and reading glass.—To son Edmund Waller, certain negroes in his possession and certain other negroes for his benefit during his lifetime after death of my said wife; also my suit of horse arms and furniture, my silver-cap pistol, silver-hilted sword and powder flask.—To grandsons John, Benjamin and William Edmund Waller and granddaughter Mary Waller, sons and daughter of said Edmund Waller, certain specified negroes after decease of my wife and decease of their father, the said Edmund Waller.—To daughter Mary, now the wife of Zachary Lewis, use of certain specified negroes during her life (after death of my wife) and after said Mary's decease to her children to whom she may give them.—To grandchildren Betty Lewis, Dorothy Lewis and Waller Lewis, certain specified negroes after death of my wife.—To my great grandson John Zachary Lewis, certain specified negroes.—To grandson John Lewis, "my secretare that I left at Mrs. Margaret Gordon's

in the room I used to lie in when there."—To the rest of my grandchildren (except my granddaughter Mary Meriwether and those aforementioned to whom I have given negroes) 2 shillings each. — To wife Dorothy Waller, two negroes in fee and other specified negroes for her use during life or widowhood; my shaise and harness, choice of two horses, her side saddle and furniture, six silver spoons, my tea case and tea spoons, chest of drawers, looking glass, choice of two of best feather beds and furniture, six leather chairs, closetool, the cold still, her chest, trunk and boxes she used to keep her clothes in and choice of two oval tables.—To son William Waller and grandson John Waller (son of Edmund) all residue of tract of 1000 acres taken up by patent, Sept. 28, 1728, in my son John Waller's name and by him conveyed to me, to be equally divided between them except what I have sold to John Truste, Zachary Lewis, or sold or given to my son William. — Residue of estate (not particularly disposed of by this will or given heretofore to my children) "wherever it lies or shall hereafter descend to me" to be equally divided between my wife Dorothy and children John, Thomas, William, Benjamin, Edmund and Mary, now the wife of Zachary Lewis. — Executors: My wife Dorothy and my sons John, Thomas and William Waller; and son Benjamin Waller executor in trust to see this will duly executed according to its true intent and meaning. — Witnesses: John Semple, Thomas Collins, Lark. Chew, Harry Beverley. — Codicil: revoking clause of will giving to son William Waller and grandson John Waller (son of Edmund) residue of tract of 1000 acres [as specified in will] and giving said land to grandson Leonard James Mourning Waller, son of Edmund Waller. — Witnesses: John Minor, James X (his mark) Sams.

At a court held for Spotsylvania County, October 1, 1754, this will was sworn to by William Waller, one of the executors therein named and proved by oaths of Larkin Chew, Gent., John Semple and Thomas Collins, three of the witnesses thereto; and the codicil thereto proved by oaths of John Minor, Gent., and James Samms, witnesses thereto, and ordered to be recorded and certificate granted for probate thereof, giving bond and security therefor; and John Waller, eldest son and heir at law to the testator appeared, desired and was granted time until next court to contest validity thereof relating to land devised away from him, if he shall think fit. — At a Court continued and held for Spotsylvania County, December 4, 1754, John Waller, son and heir at law to John Waller, Gent., deceased, summoned to appear and make objections, if any he had, to proof of the will of the said deceased, or contest the validity thereof in regard to lands devised away from him, being

solemnly called came not, and his failure is ordered to be recorded. (Spotsylvania County records, Will Book "B," 1749-59, pages 216 *et seq.*)

THE WILL OF MRS. DOROTHY WALLER (1675-1759) OF VIRGINIA
WIDOW OF COLONEL JOHN WALLER (1673-1754)

THE Will of Dorothy Waller, of Spotsylvania County, dated October 26, 1758; probated October 1, 1759.———"My Body I desire it may be buried in the Garden Yard (at Newport) where I formerly dwelt in such Christian & Decent Manner as my Executor hereafter named shall think fit."——To granddaughter Dorothy Jemmina Waller (daughter of my son Edmund Waller) all money my son Edmund, her father, now owes me or shall owe me at time of my decease.——To son William Waller money owing me, or that shall be owing me at my decease from my sons Thomas and Benjamin Waller and my son in law Mr. Zachary Lewis; also six large silver spoons, a mourning ring which I had for my late Husband, my large Bible and Common Prayer Book, and my negro woman Hester.——To Ann Waller, wife of William Waller, a case of silver tea spoons &c., a large Elbow Chair, and a book called "The Christian Sacrifice."——To daughter Mary, wife of Mr. Zachary Lewis, a chest of drawers and a looking glass which stands thereon, a sealskin trunk, with my wearing clothes, linen and woolen, my riding chair and harness and my sorrell horse.——Executor to sell negro woman, Moll, for most that he can get for her.——After funeral charges [and all debts?] paid all residue of estate not hereinafter devised to be equally divided among all my grandchildren according as my executor shall direct and think proper.——Son William Waller, Executor. [Signed] "Dorothy D D [her mark] Waller."——Witnesses: John Farish, John Coleman, J. Waller.——(Spotsylvania County records, Will Book "B," 1749-1759, pages 427-8.)

THE WILL OF DOCTOR JOHN WALLER (*circa* 1645-1723)
OF NEWPORT PAGNELL, BUCKINGHAMSHIRE, ENGLAND

*Contributed by Doctor John G. Herndon, of Haverford, Pennsylvania, and
Mrs. Martha Gilmore Robinson (Mrs. Robert O. Robinson),
of New Orleans, Louisiana*

Mrs. Robinson obtained a photostat copy of the will of Doctor John Waller, of Newport Pagnell, recorded November 6, 1723 Prerogative Court of Canterbury, Richmond 248; and Doctor Herndon made the transcript thereof which is given here. We gratefully acknowledge our indebtedness to both Mrs. Robinson and to Doctor Herndon for their generous courtesy in permitting us to publish this interesting and historically valuable document: The will of the father of Colonel John Waller (1673-1754) of "Endfield," King William County, and "Newport," Spotsylvania County, Virginia.

IN THE NAME OF GOD AMEN The twenty first day of August in the third year of the Reign of our Sovereign Lord George by the Grace of God of Great Britain France & Ireland King & Defender of the Faith or Annoq Dni 1716 I John Waller of Newport

Pagnell in the County of Bucks Gent being in health of body and of a sound and perfect mind & memory praise be given to Almighty God for the same DOE make and ordaine this my last Will & Testam, in manner & forme followinge (that is to say) ffirst and principally I surrender my soule into the hands of Allmightye God my heavenly father by whome of his mercy & only grace I trust to be saved and received into eternall rest through the meritorious passion resurrection & ascension of my ever blessed Saviour & Redeemer Jesus Christ And my body I comitt to the Earth to be decently interred and laid in that Vault or Monum^{nt} which I caused to be built on the South side of the Church of Newport Pagnell aforesaid at the bottome of the Grille neer the River Wall and bound it about with Iron rails & a Gate and built first for my dear son James and remains for a burying place for myself and those of my family of the Wallers for Ever when it shall please God to call them. And as for the Worldly Estate wherewith it hath pleased Almighty God to bless me I dispose thereof as followeth ITEM I give and devise unto my lovinge son Benjamin Waller and his heirs for Ever all my Messuage Tenem^{ts} and ffarne house with the dwellings in Sherrington in the said County of Bucks with all the clerable land ley ground Meadow ground and pasture ground with the appurtenances thereunto belonginge or appertaininge which I lately purchased of Samuel Cuningham and all my other lands tenem^{ts} heredit^{ts} whatsoever in Sherrington aforesaid and my will & meaning further is that the said son Benjamin Waller shall pay unto my sons William Waller Thomas Waller John Waller and Edmund Waller and to my Daughter Jemima Waller the sum of ffiftye pounds apeece within twelve months next after my decease. And I doe hereby give and devise unto my said four sons William Thomas John and Edmund and to my said Daughter Jemima the said Legacy or sune of ffiftye pounds apeece to be paid unto theme separately by my said son Benjamin at the time before p^rfixed for the paym^t thereof. And I do hereby charge all my aforesaid lands tenem^{ts} hereditam^{ts} in Sherrington aforesaid for such a security for the paym^{nt} of the said sune of ffiftye pounds apeece as a legacy unto my said sons & daughter Jemima ITEM I give and devise unto my said son Benjamin Waller and his heirs for Ever All that Messuage or Tenem^t with the dwellings in Newport Pagnell aforesaid in which he now dwelleth and also all that Close of pasture around with the appurtenances in Newport Pagnell in the Marsh End there called the Red House Close w^{ch} I sometime since purchased of Ralph Hooton ITEM I give and devise unto my said son Benjamin Waller the further sum of ffifty^e pounds to be paid him out of my personall Estate ITEM I give and bequeath unto my three grandchildren John William and Graciana Waller the sons & daughter of my son William Waller five pounds apeece to buy them Mourning ITEM I give & bequeath unto my said three grandchildren John William & Graciana Waller the further Legacy or Sune of five pounds apeece to be paid unto them separately within twelve Months next after my decease by my Exor^s hereafter named ITEM I give & devise unto my son John Waller who liveth in Virginia over and above what I have already given & lent him the legacy or sune of twenty pounds and to his eldest daughter Mary Ten pounds and to the rest of his children five pounds apeece Each to be paid unto them separately by my Exor^s within one year next after my decease ITEM I give and bequeath unto my son Thomas Waller and his wife twenty

ARMORIAL SEALS of THE WALLER FAMILY OF "ENDFIELD," KING WILLIAM COUNTY

AND

"NEWPORT," SPOTSYLVANIA COUNTY, VIRGINIA

THIS family of Wallers has possessed from its earliest days of residence in Virginia seals engraved with the Waller family arms. These seals were certainly in Virginia during the lifetime of Colonel John Waller (1673-1754), being used by certain members of the family in signing and sealing documents.

Colonel William Waller (1714-1760; son of Colonel John Waller [1673-1754], first of the "Endfield"—"Newport," Wallers in Virginia), of Spotsylvania County, in his will dated October 22, 1756; probated May 6, 1760 directed: "Item. My copper plate of my Family Arms & my Silver Seal with the said Arms engraved thereon I desire may descend and pass to my right Heirs forever" (Spotsylvania County records, Will Book B, 1749-1759, page 447). At this present time we cannot locate "the copper plate" and "silver seal" thus specifically devised in Colonel William Waller's will.

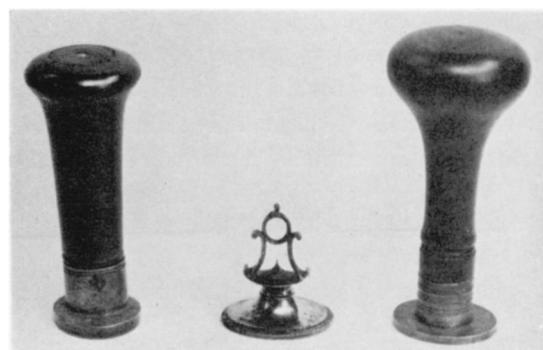
There are, however, three ancient seals bearing the Waller coat of arms in possession of Mrs. Mary Caroline (Holladay) Holladay, of Richmond, and "Prospect Hill," Spotsylvania County, wife of Percy Holladay, Esquire, and daughter of John Waller Holladay, of "Prospect Hill," who was a grandson of Waller Holladay (1776-1860) of "Prospect Hill." These three seals were once owned by the said Waller Holladay (1776-1860); but, it is not known just how he came into possession of them. Waller Holladay was not a descendant of Colonel William Waller (1714-1760) who provided by his will for the disposition of his "copper plate" and "silver seal" bearing his family arms; but both he and his wife (Huldah Fontaine Lewis) were descended from Zachary Lewis (1702-1765) and his wife, Mary Waller (1699-1781), a sister of Colonel William Waller (1714-1760). These three seals, though they cannot be positively dated, are certainly of ancient make. Two of them are set in heavy walnut handles, one of which carries a "makers mark" (now nearly indistinguishable) on the metal rim at the base of the handle. The third of these seals is set in a metal (evidently silver) pendant intended to be worn on a watch chain, or fob. Though the history of this pendant seal is not known beyond the time of its earliest possession in the Holladay family one cannot but wonder if it is in some way connected with "my Silver Seal with the said Arms engraved thereon" mentioned in the will of Colonel William Waller (1714-1760).

In addition to the "copper plate" and "silver seal with "my family arms" owned by Colonel William Waller (1714-1760), and the three Waller armorial seals owned by the Holladay family, we know that Judge Benjamin Waller (1716-1786) of Williamsburg (brother of Colonel William Waller [1714-1760] and of Mrs. Mary [Waller] Lewis [1699-1786,] ancestress of the Holladays), also owned and used a seal with the Waller Coat of arms. In *Virginia Magazine of History and Biography*, Volume 26, page 176, there is reference to a deed, dated August 10, 1749, by which

Thomas Jones settled, at his death, the amount of £500 sterling on his wife, Elizabeth; and it is stated that "this deed has a fine armorial seal of Benjamin Waller [1716-1786] clerk of the court."¹ Judge Benjamin Waller (1716-1786) also had an armorial bookplate bearing arms identical with the arms on the three Waller seals in possession of the Holladay family. (For a reproduction of Judge Benjamin Waller's bookplate see *The Critic*, Richmond, Virginia, issue of March 15, 1890.)

¹We have this interesting item from George Platt Waller, Esquire, of Montgomery, Alabama: "An original seal with the Waller arms, and several hundred years old, was in possession of Commander Blow, when Executive Officer of the USS *Maine* when that vessel was destroyed in Havana Harbour in February 1898. The seal was thought to be in his desk in his cabin, and divers when examining the wreck were charged to make the minutest search possible for it; but, their search was without success." As Commander Blow was a descendant of Judge Benjamin Waller (1716-1786) it is believed that the ancient seal that he owned and that was lost when the USS *Maine* was sunk in 1898, was in all probability the seal once belonging to Judge Benjamin Waller.

George Platt Waller, above referred to (who is likewise descended from Judge Benjamin Waller) had the Waller coat of arms current in his family (arms identical with the arms on the three seals above referred to) done in full achievement in London, by an expert recommended by the Herald's College in 1934, preparatory to having a seal cut to be used in signing a treaty. Mr. Waller, Foreign Service Officer of the United States, Retired (see *Who's Who in America, 1950-51*) was appointed by the President as his Plenipotentiary to negotiate, draw up and sign a treaty with the Grand Duchess of Luxembourg, or her Plenipotentiary; and when he signed that treaty in 1934 (ratified by the Senate in 1935), he used this seal with the Waller arms.



By the courtesy of Mrs. Percy Holladay, we here present an illustration of the three Waller seals that have been in possession of the Holladay family for several generations:



The engravings of the arms of the two seals with the *walnut handles* are identical; above is an illustration of the arms engraved on these seals.

The above illustrates the engraving of the arms on the *pendant seal*.

(This engraving of the arms from the *pendant seal* is also given in the *Virginia Magazine of History and Biography*, Volume 59, No. 3, July 1951, facing page 351).

(For notes on the Waller arms see Lipscomb's *History and Antiquities of Buckinghamshire*, Volume III, page 181; Hasted's *The History of . . . the County of Kent*, Volume 1, page 431).

Guineas apeece to buy them mourning in remembrance of me ITEM I give & bequeath unto my Dear Son Edmund Waller Docto^r, of Phisic and ffellow of St. Johns College in Cambridge ffiftye pounds to buy him a Ring and Mourninge ITEM I give and devise unto my Daughter Jemima Waller a further sume or legacy of five hundred pounds to be paid her out of my personall Estate ITEM I give and devise unto my brother Thomas Waller who liveth in Virginia the legacy or sume of twenty pounds to be paid unto him by my Exor^s, within twelve Months next after my decease ITEM I give and bequeath unto my cozen Mary Pomfrett who lived with my wife twenty pounds which is in the hands of Mr. Kilpin of Astwood to be paid her within six months next after my decease ITEM I give & devise unto my said Daughter Jemima Waller the Mohaire Bedd & Bedding and all things belonging to it as silks Curtains and other things suitable which I bought of Mr. John Chivall of Great Woolston and alsoe all the furniture & all other household goods whatsoever in the Chamber over the hall called the best roome and the little Roome next to it at the stairs' head in my Dwelling house And alsoe all my Plate & Linnin with my Clock & Clockcase & all the Pictures most of which are of her own makeinge and all the goods and furniture that were her Aunt Alice Waller's which she gave her at the time of her decease and alsoe all my English Books such as she shall choose or desire to have. All the rest and residue of my goods chattells and personall Estate whatsoever and of what nature kind or sort soever after my debts legacies and funds [and] all Expences are paid and discharged I give & devise unto my said well beloved son Benjamin Waller & daughter Jemima Waller whom I doe hereby Constitute & Appoynt joynt Exors of this my last Will & Testam^t And I doe hereby nominate & Appoynt my said Loveing Son Edmund Waller BM John Mathew, the Elder to be overseers of this my last Will and Testam^t and to be Assistant to my Exors. in the Exercise thereof And I doe hereby revoke disannull and make void all former other Wills and Testam^{ts} by me heretofore made IN WITNESS whereof I have hereunto sett my hand and seale the Day and Yeare first above written.

Signed sealed published and declared
by the sd John Waller – the Testatour
for and as his last Will Testam^t in
the presence of us and attested in
the presence of the said Testatour
by us

/s/ J. WALLER

JOHN MATHEW, SEN.
JOHN WAGSTAFFE
ffr. WAGSTAFFE

Probatum Londinio Sexto die
mensis Novembris 1723
Coram Dno et Juratis Benjamin
Waller et Jemima Waller Ex
Nemd^{ae} quibus et debene
vigore Commissum