in by his Neighbours - Item. To the 4th Interrogatory this Deponent saith that she has frequently had conversations with W. Brooke in his life time about Isaac Stulls Will the particulars of which she does not recollect, he always declared that Isaac Stull was perfectly in his sences when he executed his Will and that he did verily believe that it was Isaac Stulls real Will - Item. To the 5th Interrogatory this Deponent knows nothing - Item. To the 6th Interrogatory this Deponent saith that she knew Susannah West that she herself knew no harm of her, but that she bore, but a bad Character - Item. To the 7th Interrogatory this Deponent saith that about six Months before his death her brother Colo John Stull told her that he wished to settle the dispute between him and one of the Children but which of them it was he did not remember, that some time after Colo John Stull happened at her house when this Deponent asked him if he meant to settle with her son Abijah without any further trouble to which he answered that if he lived to come back from Frederick Town he would settle it - That she does not herself know the age of her brother Isaac but that she has often heard her Mother say that Isaac Stull was of age before he died and before he sold his land to his brother John Stull, saith she never did persuade her brother Isaac to make a Will and that she never did know what was in her brothers Will until after his death - And further saith not - The said Susanna Swearingen being also sworn on the part and behalf of the Defendants deposeth as follows to wit - .. -

The 1st 2d 3d 4th 5th 6th 7th and 8th Interrogatories were not asked this Deponent

Impl. To the 9th Interrogatory this Deponent saith she does not know that there ever was any difference between her husband and her brother John Stull about the said Will, that whatever did pass was between her brother and herself and that her husband seemed desirous to keep himself clear of the business, - No other Interrogatory being put to her on the part of the Defendants she further saith not - .. -

The said William Lee, Alexander Clagett and Doct. Richard Pindle the Commissioners aforesaid then adjourned the Execution of the Commission aforesaid unto the twenty fifth of this Instant then to meet as aforesaid for the purpose of proceeding on the execution of said Commission - .. - January the 25th 1793 - .. - William Lee and Alexander Clagett two of the Commissioners aforesaid met according to their Adjournment, the Commission closed by consent of the Attornies for both parties -

R. Pindle - (Seal) - Alex. Clagett - (Seal) - Wm. Lee - (Seal)

And the said Cause so standing continued until Febr. Term 1794 -

the Complainant and Defendants by their Counsel exhibit into Court their Submission of the said Cause in the words following to wit -

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We agree to submit the Case to the Chancellor, and regriest his decision of it, and we dispence with the return of the Commission which issued to Frederick County -

Philip B. Key for Compl.
R. Smith - . -

Abijah Swearingen - .. - } In Chancery
age
Otho Holland Williams, and Elie Williams Exr. of John Stull deceased - . - - - .. - - - } February Term 1794 -

The said Cause standing ready for hearing, and being submitted, the Bill, Exhibits, Answers, Depositions, and all other proceedings, were by the Chancellor read and considered - It appears to the Chancellor, that there has been no decision in Chancery applicable to the present case in all its points, It is however clear, that, under all circumstances the Complainant is entitled to relief, It is clear, that a contract was made between Isaac Stull and John Stull, that the latter was indebted to the former; at the time of his death, for the purchase Money of the land contracted for that part of the debt has been bequeathed to the Complainant and that, if the Complainant cannot obtain relief from this Court he is wholly without remedy - What makes the Case extraordinary is, that the present suit is for a legacy, or legacies, and the Defendants are neither the Executor or Administrator of the Testator, nor person claiming property charged with the payment of Money, But as this Court, when the ends of Justice required, that hath always raised a constructive trust, and compelled the Trustee to perform it, so the Chancellor, in the present case, conceives, that he ought to construe John Stull as a Trustee, in whose hands Money was deposited for the benefit of the Complainant, or rather that John Stull having in his hands Money of the Testator, the Will is to be considered as a Declaration of the trust, for which he was to hold, or dispose of the same, John Stull then being considered as Trustee the next Question respects the amount of the Money, held for the Complainant, And the Chancellor conceives, that from the wording of the Will, the Period or periods, when the legacy to the Complainant and John Stull the Nephew of the Testator, was made payable and the nature of the legacy itself. Viz. a gross sum of Money admitting an easy division, and