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to Closure And the said Defts further said that true it is there is a Clause in the said Will of the said Deceed in those words viz: But it is further expressed & considered upon that if either of the Legatees hath given by me any Lands aforementioned to them & their Heires for ever that is to say Walter Jones Nicholas Cloud Richard Chase Michaell Howard & Thomas Howard Junr: doe sell & part with any of the said Lands aforesaid either by Couler or any other ways that then the sd Richard Bishop or his Heires to Reenter & take possession for him and his Heires for Ever And that after the sd Debts & Legacyes of the said Deceed paid & discharged he the sd Deceed did give the remainder part of his Jronall Estate to the said Richard the Libellant Richard Bishop Junr: William Bishop Thomas Howard & Nicholas Cloud as in the sd Libell is contained with this clause also, that if either of my Exors shall connive or Imbezell any of my Estate by Defraud for his own use he shall forfeit the whole to be divided among the four before expressed without a Just accot: without that, that the sd Deceed did make such clause or Provisoe in the said Will that if either of the Exors should Connive & Embezill any of the Estate he should forfeit the whole as in the Libell aforesaid is falsly set forth And these Defts further say that they doe not know that the said deceed made any such express order in his Will that noe Legacy should be paid before the finishing of the said House But these defts say that in the said Will it is contained that as for my Jronall Estate I charge my two Exors not to deliver any pt or peell out of their hands untill my Debts be satisfied and the House now building finished And in another pt of the said Will it is Contained thus And after my Debts shall be paid and the House finished then these Legacyes to be satisfied And either Rent of Plantation Benifitt or otherwise to remain in the hands of my Exors Untill ye aforesaid Debts paid or house built as by the said Will Relation thereunto being had will appear But these defendents doe utterly deny that by any Conniving or Confederacy have (to the best of their knowledge) either embezelled wasted or destroyed the sd Estate or any part thereof or have converted the sd Estate or any pt thereof to their use but what goods or Chattells of the same Estate that hath come to the hands possession or knowledge of these or either of these defendts have made or caused to be made a Just and true Admon & Appraisement the greatest pt of which they have rendred an accot: of into this Hon:ble Court and the residue they are ready to accot: for as this Hon:ble Court shall Award And these defts doe say that they have great reason to believe that the Jronall Estate of the said Deceed will not amount to the discharging of his Just debts & other Charges of the sd Deceed seiveralls as they believe will evidently appear upon the making up and stating the Reduce of the said accot: of the Estate aforesaid which they are Ready to render and therein afficular accot: of all the profits & increase of all or any pt of the said Estate ye hath accrued or come to the hands or possession of these defendts

or either

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either of them since they took the Curthen of Executing the said Will of the said Deceed. And these defendts further say that it was always their design & intent to goe forward in the building & finishing the said Brick House had there been sufficient & enough of the Estate of the said Deceed after paymt of his Just debts & other necessary Charges since his Death but finding it not sufficient could not proceed to the finishing the same being (further answered the sd Defts) by the Laws of this Land bound as they are Advised by their Counsell to pay the Debts of the sd Deceed so farr as is Justly due before any other Act for the sd Deceed conceiving likewise the same as much or rather more enjoyned them by the Deceed in his said Will then the building & finishing of the said Brick House And soe with the Genll Traverse endeed their Answere this Cause thus standing on Libell & Answere on the 28th day of September past came the said Libellant by Anthony Underwood his Procurat and prayed hearing and the Judgmt of this Hon:ble Court thereon And the sd Defts by Robert Carvile their Procurat likewise appeared And the Libell before Recited was read before the Judges of this Court & by them heard as also the Answere of the Defts And the Libellant produced severall Evidences on his behalf whose Depositions were taken and are as followeth viz:

Robert Macklyn's Deposition

Robert Macklyn aged about the Age of 25 yeares maketh oath that he was bound for Nicholas Cloud to Thomas Howard for the paymt of 30000: of Tobacco which was for Howards part of the Bonds he was to have of the Executors of William Bishop And afterward when Richard Bishop came they became as they were and Howard gave Clouds the Bonds again — And in pt of the 30000: of Tobacco Howard took two servants left by Bishop or out of his Estate at the Rate of 6000: of Tobacco and further saith not

Robert Macklin

Robert Macklin made oath to the above before the Commissyrs

James Cullen Clk Asst: Comissyr

Andrew Evans maketh oath that he was at Henry Greens House & Nicholas Clouds & he Reckoned and Evans gave Clouds a discharge for 1700: or the value notwithstanding this deponent received of the Exor not more but 7¾ yeards of blue cannon two Ells of Canvas a pr of shoes for his wife & a pr of breeches

Henry Green witness to the discharge Sworn before James Cullen

Andrew Evans made oath to the above Sworn before Ja Cullen

Walter Jones of Talbot County aged 45 yeards & upwards maketh oath that he gave a Receipt to the Exors of Wm Bishop for 370: of Tobacco & not more Sworn before J Cullen

The Deposition of Griffith Jones aged 40 yeards or thereabouts who saith that this deponent being sometime after the death of mr Wm Bishop with Nicholas Clouds and Thomas Howard the Exors of the said Deceed touching a Debt due to this Deponent from the said Bishop in his life time the said Clouds going over w this Deponent to the House of mr Robert Macklyn being on the other side the Creek & mr Macklin with us in the Boat he this deponent desired the said Clouds he might be not longer delayed but paid at the ensuing fall the sd Clouds