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thimbles of the aforesd Plantacon devised as aforesd With
ye Negroes Servants houshold Stuff and all other the personall
Estate of the Said Wm Smith Which he dyed possessed of and
wch the Said Elizabeth hath only to her use for the time of
her Natural life and not longer Whereupon ye sd Libellant
informing the Commissary Genll of the premisses prayed the
like to be Committed if not timely prevented and producing
Sundrall Leas from the persons in England Who the sd William
Smith after his Wifes death had drawn his estate to desiring them
to look to after the said Estate of the deceased they took out Letters of
administracon of ye sd Estate to ye use of the Persons mencond in the
said Will to Whom the sd Smith had bequeathed and devised ye
Same but the Said Lomax and Martin refused to deliver the
Same but ~~[illegible]~~ Continuing possession of the same
Staw and dayly converts it to other uses then ye Will of the said
Smith designed the Same Wherefore all right and good conscience and
prays that Sentence of this Court to Compell the Said Lomax
to deliver the said Estate to ye said Libellants to ye uses in the
Will mencioned and to Answer upon Oath What of the said Estate
they have concealed and Carried of the said Plantacon and
What is Still remaining upon the same that soe they may get
the inventory of ye Estate of Wm Smith Aforesd in the Hands of
the said Lomax

To Wch the Defendants answered that true
it is that Wm Smith did make his last Will and Testament as the
ye said Libell is Set forth and devise & bequeath his Estate as
is Set forth in ye Libell Aforesd that ye sd Elizabeth proved the sd
Will and Exhibited an Inventary of the said Estate and passed an
acco of Sundrall Payments and disbursements out of ye Same
And Afterwards to Wit the Eleventh March 1697 the Said Eliz
made her last Will and Testament in Writing and did thereby
Appoint this Defendant and one Martin since Dead Executors
of the Same and Considering the Said Wm Smith her husband had
not Appointed by his last Will any Persons in trust for her
Sons in England he had Given his Estate to after her



Decease She as his Executrix Appointed the sd Respondents in Trust for the same
those Persons in England & Received Some Legall Power from them to
receive the said Estate that shee Soon after dyed & these Respondents proved
the Said Will took upon them ye Executorship and Soe became possessed
of the Said Estate and not by any unlawfull Ways as the malitiously Set
forth in the Said Libell and Utterly deny they any ways Embezzled the Same
and further that the said Eliz. gave Shee all her Whole estate but as
yet they Cannott discover what of the Estate is hers and what her husband
possessed the Was Executrix of her former husband and that many of
Debts are yet unpaid & Wch of ye Estate is her own Cotton by the use of the
Estate of the Said Smith during her life According to ye said Smiths Will
What of the Same reverts again to her in right of her being Executrix
of her first husband Wallop and that they conceive the Said Libellants
power being Grounded only upon some Letter of the Justices in England
to Whom the said Smith hee bequeathed his Estate is not Sufficient right to
Grant administracon to ye Libellants and take the said Estate out of the
respondents possession But When Sufficient power comes to Call the Mattrs
of their hands & they can distinguish in part belongeth to ye respondents
as Executor of the said Elizabeth and in part to ye said Infants in England
the sd Smiths giving them Sufficient Discharge for ye Same Shall deliver
up the Said Estate and render acco thereof to any person soe qualified
And desires time be Appointed them to make up their acco of ye Estate and
Lay all matters fairly before the said Judge & that he may be dismissed
their hono Court With his reasonable costs.

Now the Libellant replyeth that
the sd Wm Smith the Testator not Appointeing a trustee for the sd
had Given his Estate to after his wifes death could not but think his wife to
dod the Same for her Decease determined With her life and that he Appointed
now Appears to his Great Judgment there should be none other than Such as
the Law appointed Wch is the Comon Gent. who in such Cases is Obliged to appear
and to that Trust of Whom he is to take Good Security that they performe
the Same & is much more Certaine than Any other Who may Send
& take an Opportunity of Going his and Carver Claiming Right of
another Estate mixed With that he is entrusted with And Whereas
the respondent Concerning a power in the said Eliz by being Executrix

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