

Die Martij 3 Martij 1673.

Whereas Luke Gardner the Sole Surviving Executor of Robert Cole late of st -
 Clements Bay in the County of st Maries deceased at the request of Robert Cole
 Son and heir of the said deceased and Ignatius Warren who Mary the daughter
 of the said deceased was directed by the Court to render an account of his Execution
 of the said late will and Testament in writing signed with his hand of which
 the said Cole and Warren declared in his account of and concerning the execution
 of the said late will and Testament in writing signed with his hand of which
 the said Robert Cole the heir and the said Ignatius Warren prayed
 exceptions to the said account which was then accordingly granted At which
 said tenth of November appeared aswell the said Luke Gardner the Executor
 the heirs to the deceased declared in his exceptions in writing to the acc^t
 of the said Executor but in thirteen articles in particular to which the
 Executor immediately made answers which were taken in writing by the judge
 or Commissary Gen^l for Testamentary causes which being read & considered off
 by the said Robert Cole and nothing further objected in particular material
 to hinder the passing the said account the said judge would further advise
 himselfe himselfe upon the said account in regard of the last exception
 in general to the said account made by the said Robert but the said
 account (of which he prays allowance) being so imperfect in many the
 particulars there being no express time of the delivery or to whom or
 for what account whereby it is impossible for the said Robert to make
 his just exceptions to severall particulars therefore recommends the said acc^t
 to the judgment of the judge in Testamentary business to rectifie the same
 as to his Hon^r seems meet and agreeable to Equity And therefore the said
 judge did take into his hands the acc^t of the said Luke and after mature
 consideration thereof and the exceptions to the same made caused the same
 to be rectified in many particulars not mentioned in the exceptions of the
 said Robert and upon the 14th of February 1673 called the said Executor
 to make Oath to the particulars of his own account that stood allowed
 by the said judge, which the said Executor not being able to doe in common
 form but only in the speciall manner as at the foot of the acc^t is amended
 the said judge declared that in regard the said Luke Gardner never looked
 out Letters Testamentary upon probate of the Will of the said Robert Cole
 deceased, never took the Oath of Executor to make a true account nor never
 made Inventory or appraisment of the Goods Chattels rights and credits of
 the said deceased, nor hath kept such an account of his administration of
 the goods Chattels rights and Credits of the said Robert deceased as he
 dares absolutely swear to as an Executor ought to doe the said Luke hath
 lost all benefit or advantage of an Executor and is punishable at the discretion
 of the judge here. But inasmuch as it appeared he hath improved the Stock
 of Cattle and hogg to a greater number then Robert Cole left at his departure
 for England and raised a stock of hogges for the Orphans when the
 Testator left none the said judge doth Order that the Orphans of
 Robert Cole deceased shall receive the hoggish goods in the said condition
 they are in the Cattle and hogg as they are shared to them and the hogges
 to be divided amongst them after the said Luke Gardner hath chosen One

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