

23rd October 1631.

This day came Thomas Hayden planter, and alledged an impediment
agst. the probate of any will of James Hittes late of S^t. Maries
Parish deceased, for that by a mutuall contract betwixt the said
James and Thomas, the said James had obliged himselfe to the said
Thomas, and likewise the said Thomas to the said James, that ^{the same} ~~the same~~ ^{in the Province}
should be joynted in one, & neither of them had property ~~in~~
in severall & apart from the other, in the estate so joynted or any part
thereof, untill it should be severed againe upon such terms as in the
said contract was agreed; & therefore that neither of them without the
assent of the other should have power to dispose of any part of the said estate
so joynted, either by will or otherwise, but the survivor of them was
to enjoy and receive the whole. And he desired that
the impediment might be removed, & offered himselfe ready to
prove the said allegation, which hee could be compelled to do.

Memorandum that the above named Thomas Hayden acknow-
ledged himselfe to owe unto Thomas Cornwallers Esq^r and
out of the Countell of the Province five hundred weight of
tobacco, in case hee shall not appeare (upon invitation) to
prove the said allegation, or shall not pay to the said Thomas
Cornwallers his costs and damages as the said Thomas Corn-
wallers shall have adjudged to him, in default of the said
proofe.
J^{no}. Hayden

27th October 1631.

This day came both parties; & the said Thomas Hayden affirmed the
allegation, and produced for it witness John Cooke servant, who was
present, & testified that he was present at the agreement
between James Hittes & Thomas Hayden for partnership in the Province
of S^t. Maries; & that a fore the said agreement the said James Hittes
in the carrying of the Deponent had acknowledged & affirmed that
he was