

the proper Courts for Process to Oblige the said Poulson to Lib. X.  
make Restitution or to the Provincial Court that the Cause  
might be there heard pursuant to the said Order

I humbly Observe to your Honours that Process of Resti-  
tution Issues out of a Superior Court upon the Reversal of a  
Judgment given in an Inferior Court or out of the Inferiour  
Court where the Judgment was Rendred by Order of the  
Superiour Court that reversed it and that in the Latter in-  
stance it is presupposed that the Inferior Court had Cogni-  
zance of the Cause but Erroneously Rendered Judgment for  
the Person against whom it ought to be Given which Error  
is Corrected by the Reversal and the Party Injured remedied  
by having the same Execution out of the Inferiour Court that  
he ought to have had there at first, or which is in Effect the  
same being restored to what he lost by an Erroneous Judg-  
ment, but when a Iudge takes upon himself to Proceed Judi-  
cially in a Cause that he really had no Cognizance off (as the  
Iudge of the Admiralty did in the Case of Poulson against  
Forward) gives Judgments awards Executions and by so doing  
puts it into the Power of one man to spend and waste another  
mans estate and Substance and those proceedings are de-  
clared to be void and unlawful in a proper place, to apply to p. 115  
such a Judge for Restitution would be an owning by Implica-  
tion at least that he had an authority that in Reality he had  
not which I humbly Conceive would have been inconsistent  
with my duty and no advantage to my Clyent whose Effects  
were so far Spent when the Order of their Excellencies the  
late Lords Iustices came in, that Poulson was a Prisoner in  
Execution for debt and not worth a Groat

And as to any proceedings in the Provincial Court in a  
matter that was begun and finally determined in the Admir-  
alty Court and the Decree of the Court Reversed I'm at a  
Loss how M<sup>r</sup> Forward could have begun or brought it in the  
Provincial Court he being Defendant and Poulson who was  
the plaintiff and might have brought it never would, All which  
I submit to your Honours Consideration and am

May it please your Honours

Your most humble and Obedient Servant

Annapolis 2<sup>d</sup> Jan<sup>y</sup> 1724

D Dulany

And this Board are further humbly of Opinion that it Evi-  
dently appears by the above answer of Daniel Dulany Esq<sup>r</sup>  
then Council for the said M<sup>r</sup> Forward and by the said pro-  
ceedings of the Governor and Council in December 1720  
that the reason why the said Order was not enforced was that  
Poulson had Obtained the Effects by Virtue of the Proceed-