

Novem^r Court 1701

1. The plaintiff saith he lost his horse in Apr^l 1700 which is an uncertain Date
 2. reason he doth not alledge when & how he came to lose his horse
 3. reason he doth not say that he is ready to aver & maintain all of his action
 4. reason he hath not shewed any demand of his horse in his Debt. nor comes before action brought which is without which shew can be no contradiction
 5. Reason The place where he lost his horse came to the Defendant's hands ought to be sold forth in Debt. which is not done
 6. It appears by the plaintiff's own shewing that the Defendant came to the horse by trover and sale that in this case an action upon the case doth not lie at the Defendant's demand the plaintiff has his remedy by trover at the person in present possession for he hath not shewed by sale to be in Market or particularly or to change & properly
 And the plaintiff replies saith that whole of the Defendant is contented and is thereupon of plaintiff's loss upon the Court

Hughes Grand Jurisdiction Vol. 1. page 88 a
 Marklin the Defendant
 Joshua Sewallnam

The which Debt. Demurrer & replication being read and by the Court heard and the Plaintiff not being capable of maintaining his action the Defendant by his said Att^y pray'd Nonsuit which was by the Court granted him

Therefore it is considered by the Court here this day viz^t 25th day of Nov^r Anno Domⁱ 1701 that the said Charles Hollingsworth do lose his said action and that he is likewise considered that the said Defendant do recover from the said Plaintiff the sum of £100 as well as costs of £100 pounds & for a Nonsuit according to act of assembly &c as also of £100 pounds of the said Defendant's costs of suit & the said Joshua Sewallnam in May

In Dowdall

Comand was given to the Sheriff of Kent County & 25th day of March Anno Domⁱ 1701 that he take Joshua Sewallnam of Kent County if found in his bailiwick & him safe keep so that he may his body before his Majesty's Justices at the next Court to be hold for said County to answer unto Charles Hollingsworth jun^r of appeal of trespass upon the case & the said Joshua Sewallnam may continue in the Sheriff's custody until he find s^{ps} bail to the said action which was by the Court granted

Thereupon Ordered that Elias King high Sheriff of this County do keep in his custody the said Defendant Joshua Sewallnam until he find s^{ps} bail to this action nor depending between Charles Hollingsworth jun^r Plaintiff and the said Defendant. In Dowdall

and the said Defendant Joshua Sewallnam comes into Court together with Nicholas Mayes & Thomas Brown his Courtiliers who do acknowledge that the said Defendant Joshua Sewallnam shall pay condemnation if lost or else they will do it for him

On which said day the said Defendant in his proper person appeared & pray'd thereof to be imparc'd until the next Court which was granted & same day was given to the Plaintiff also

The which cause was sent from Court to Court until this present Court and now here at this day viz^t 25th day of Novem^r Anno Domⁱ 1701 came as well the said Defendant in his proper person as also the said Plaintiff by Richard Marklin his Att^y & the said cause standing for Trial the Plaintiff's Debt