

Sept. 22. 1707

Trespass upon y<sup>e</sup>. Case for y<sup>e</sup>. Sume of twenty nine pounds fifteen shillings and  
 halfe penny Sterd y<sup>e</sup>. Case of y<sup>e</sup>. Acc<sup>ns</sup>. mentioned in his Dec<sup>r</sup>. ag<sup>t</sup>. them y<sup>e</sup>. aft<sup>r</sup>  
 Dow<sup>r</sup>. p<sup>r</sup>. Th<sup>o</sup>m<sup>s</sup>. their ab<sup>l</sup>. capacity ought to have p<sup>r</sup>. maintained Because they say there  
 is Debt of a higher nature come ag<sup>t</sup>. y<sup>e</sup>. Estate of y<sup>e</sup>. aft<sup>r</sup>. Testator under husband  
 under his hand & Seal Viz<sup>t</sup>. His Bond to Mr. Rich<sup>d</sup>. Bennett for 161.4.3  
 By his Bond to D<sup>r</sup>. for 500 for Informacion of y<sup>e</sup>. Sume of 600.0.0  
 By his Bond & Bill to D<sup>r</sup>. for 129.55 of Lib<sup>ty</sup>. 53.19.7  
 By his Bill to D<sup>r</sup>. Brown for 234 of Lib<sup>ty</sup>. 21.16.1  
 By his Bill to Rebecca Wright for 200 of Lib<sup>ty</sup>. 8.6.8  
 By his Bond for our Lady of Queens for 300.0.0  
 By his Acc<sup>ns</sup>. made up w<sup>th</sup>. y<sup>e</sup>. p<sup>r</sup>.miss<sup>ns</sup>. y<sup>e</sup>. Gen<sup>l</sup>. for 130.0.0

Amounting in all to y<sup>e</sup>. Sume of seven hundred three pounds six shillings seven pence  
 Sterd And they have but Assets come to their hands to administer as Ex<sup>r</sup>. of y<sup>e</sup>. aft<sup>r</sup>. that  
 in all amounting to y<sup>e</sup>. Sume of six hundred seventy one pounds eight shillings and  
 two pence halfe penny Sterd W<sup>ch</sup>. is not suffic<sup>t</sup>. to satisfy y<sup>e</sup>. aft<sup>r</sup>. seven  
 hundred thirty five pounds six shillings seven pence Sterd W<sup>ch</sup>. according to certain  
 Act of Assembly of this Province now in force in y<sup>e</sup>. behalfe made & provided y<sup>e</sup>. aft<sup>r</sup>. that  
 in their ab<sup>l</sup>. capacity are at their full so far as they have Assets bound to satisfy  
 pay before Debt of an inferior nature<sup>ch</sup>. they are ready to verify Wherupon  
 they pray Judgm<sup>t</sup>. as a<sup>ft</sup>. And y<sup>e</sup>. y<sup>e</sup>. aft<sup>r</sup>. Math<sup>s</sup>. from having his Acc<sup>ns</sup>. ag<sup>t</sup>.  
 them may be debarred.

And y<sup>e</sup>. aft<sup>r</sup>. M<sup>r</sup>. by his a<sup>ft</sup>. Atty<sup>r</sup>. saith y<sup>e</sup>. y<sup>e</sup>. plea of y<sup>e</sup>. Def<sup>r</sup>. and matter therein  
 contained is not suffic<sup>t</sup>. in Law to debar him y<sup>e</sup>. M<sup>r</sup>. from his Acc<sup>ns</sup>. ag<sup>t</sup>. And he  
 to y<sup>e</sup>. plea in y<sup>e</sup>. manner & forme order & time as now, bade hath not need nor by y<sup>e</sup>. law  
 of y<sup>e</sup>. Land is obliged to answer And for cause of Demurrer he saith that where y<sup>e</sup>.  
 Dec<sup>r</sup>. is in y<sup>e</sup>. Writ or goodly w<sup>th</sup>. y<sup>e</sup>. Writ so as y<sup>e</sup>. Def<sup>r</sup>. when arrested may know y<sup>e</sup>.  
 Cause of Acc<sup>ns</sup>. they have no need to imparle generally to y<sup>e</sup>. next Co<sup>rt</sup>. Neither by Law  
 can they plead in Abatement. after such imparlance but such is y<sup>e</sup>. case of y<sup>e</sup>. Def<sup>r</sup>.  
 here at this time as y<sup>e</sup>. M<sup>r</sup>. is ready to verify Besides y<sup>e</sup>. substance of y<sup>e</sup>. plea  
 being in Abatement y<sup>e</sup>. Def<sup>r</sup>. ought not to conclude in barr of y<sup>e</sup>. Acc<sup>ns</sup>. for that is  
 monstrous Pleas in barr of Abatement being of such different nature, y<sup>e</sup>. they are  
 altogether inconsistent or at best can produce no other than a spurious Affirm<sup>ns</sup>.  
 w<sup>ch</sup>. y<sup>e</sup>. Law hates And y<sup>e</sup>. y<sup>e</sup>. Conclusion of this y<sup>e</sup>. Def<sup>r</sup>. plea is such y<sup>e</sup>. aft<sup>r</sup>. M<sup>r</sup>.  
 ready to verify Wherofore for want of a suffic<sup>t</sup>. answer or plea in due order he  
 p<sup>r</sup>.forme y<sup>e</sup>. M<sup>r</sup>. prays Judgm<sup>t</sup>. together w<sup>th</sup>. his damages above declared for to him to  
 be adjudged.

And now here a l<sup>t</sup>. singular y<sup>e</sup>. matters a<sup>ft</sup>. being read By consent of both parties  
 Def<sup>r</sup>. w<sup>th</sup>. y<sup>e</sup>. leave of y<sup>e</sup>. Co<sup>rt</sup>. y<sup>e</sup>. a<sup>ft</sup>. plea of Demurrer are sett aside and for nothing taken  
 Wherupon y<sup>e</sup>. Def<sup>r</sup>. say that they cannot gainsay but that y<sup>e</sup>. aft<sup>r</sup>. Math<sup>s</sup>. in his life  
 time prom<sup>is</sup>. pleasure As y<sup>e</sup>. Math<sup>s</sup>. hath before declared ag<sup>t</sup>. them in their capacity  
 and confessed Judgm<sup>t</sup>. to y<sup>e</sup>. Math<sup>s</sup>. for y<sup>e</sup>. Sume of twenty nine pounds fifteen  
 shillings seven pence halfe penny Sterd When they shall have Assets suffic<sup>t</sup>. of y<sup>e</sup>.  
 Estate of y<sup>e</sup>. aft<sup>r</sup>. Eliza in their hands 0.0 Therefore it is considered by y<sup>e</sup>. Court  
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