

August Court - 1726 - 176

be therein Content that then he the said Andrew Rathburn shall pay the Exemnation of the Court thereupon or tender his body to the Custody of the Sher. of Somerset County in Satisfaction thereof or that he the said John Caldwell will do it for him

And the said Andrew Rathburn in his proper person Cometh and defendeth the force and Injury when W^d and Says that he cannot gain say the pl^t his action and against him brought nor can he say but that the said pl^t ought to recover his Damages by Reason of the premises and to thirty five Bushels of Indian Corn & Cost of Suite against him which the said pl^t doth not gain say

Therefore it is Considered by the Justice here the Sixteenth day of August and down One thousand Seven hundred and twenty Six and that the s^d James West Recover against the s^d Andrew Rathburn as well thirty five Bushels of Indian Corn his Damages and in form and Content as also two hundred & thirty eight pounds of Tob^o for his Cost and Charges by him about his Suite in that part Expended to the same James West by the Court here of his assent adjudged and the s^d debt in Money &c

24. William Emis Esq. of Nathaniel Emis
Dorset County Benjamin Tull Esq. Mary his wife Esq. of East
Dorset & Testament of Charles Emis Esq. of Dorset County Esq. were attested
Esq. Benjamin Tull Esq. Esq. to answer unto W^d Emis Esq. of Dorset wife & Testament of Nath^l Emis Esq.
of Charles Emis Esq. of agree of trespass upon the Case &c

AND where upon of same W^d Emis by some Gale his atty. saith that whereas s^d Charles in his life time that is to say the tenth day of June and one thousand Seven hundred & twenty three at Dorset County and within s^d Jur^{is} of this Court was indebted to s^d Nath^l in his life time in the sum of fourteen hundred & seventy two pounds of Tob^o as by an^o here within Court produced may appear & so there of being indebted s^d Charles in his life time in Consideration thereof afterwards it is to say the same day & year and at s^d County and within s^d Jur^{is} upon himself affirmed & to s^d same Nath^l in his life time & there faithfully did promise that s^d Charles & s^d sum of fourteen hundred and seventy two lb^s of Tob^o to s^d Nathaniel when afterwards he should be there to request he would work & faithfully Content and pay never the less s^d Charles in his life time & s^d Mary since his death whilst she was able & s^d Benj^o & Mary since the Dowry betwixt them celebrated the promise & assumption and s^d Charles in his life time so as s^d made little regarding but getting & fraudulently Intending s^d Nathaniel in his life time & s^d W^d since his death to whom Execution of s^d Testament and Testament of s^d same Nathaniel was in due form of Law committed in this part to defend and receive neither the s^d Charles in his life time nor s^d Benj^o or Mary since his death & s^d sum of fourteen hundred and seventy two lb^s of Tob^o to s^d Nathaniel in his life time or s^d W^d since his death