

By Wm Holland Esq. and Wm Small Esq. of the County of Somerset

Somerset vs

Tobias Burke late of Somerset County planter

vs Tobias Burke was attached to answer unto William Holland and Elizabeth his wife executrix of the last will and testament of Thomas Small late of Dorchester County Esq. and William Small Executor of the said last will and testament of the said Tobias upon the case

And whereupon the same William Holland and Elizabeth his wife and William Small by John Gale their attorney Complain that whereas the said Tobias the tenth day of June one thousand seven hundred and nine ten at Somerset County of within the Jurisdiction of this Court was indebted to the said Thomas Small in his life time in the sum of seven hundred and ten pounds of to. for Divers goods wares and Merchandises before that time at the special Instance and Request of the said Tobias, to the said Tobias by the said Thomas sold & delivered as by an. herewithin Court produced may appear and so hereof being indebted the said Tobias in consideration thereof afterwards to wit the same day and year of at County of within the Jurisdiction of upon himself assumed and to the same Tho. Small in his life time then and there faithfully promised that he when afterwards he should be there to pay the said sum of seven hundred and ten pd. of to. to the same Tho. Small and faithfully content and pay Nevertheless the said Tobias his promise and assumption of so as made not regarding but plotting and fraudulently pretending the said Thomas in his life time and the said Elizabeth and Wm Small since his death to whom execution of the last will and testament of the same Thomas since his death of the said Tobias and whilst said Elizabeth was sole executrix of the said Tobias and the said William Holland & Elizabeth his wife and Wm Small since the Executions between the said Wm Holland & Elizabeth celebrated in that part to do and receive the said Tobias the said sum of seven hundred and ten pd. of to. or any part thereof to the said Thomas in his life time or the said Elizabeth or William Small since his death whilst said Elizabeth was sole or to the said William Holland and Elizabeth his wife or said Wm Small since the Executions between the said Wm Holland and Elizabeth celebrated that not paid or any of them for it in anywise contented altho' the said Tobias was often thereto requested by the said Tho. in his life time the tenth day of July Seventeen hundred and nine ten by the said William Holland and Elizabeth and Wm Small since the death of the said Thomas and the Executions between the said Wm Holland and Elizabeth celebrated the tenth day of June one thousand seven hundred and twenty five and often afterwards at Somerset County and within the Jurisdiction of this Court but the same Tobias refused to pay any of them for it to the said