

June Court . . . 1727 . . . 7

Emalls as the said Tobias Burke by their attorneys and wherupon the said Tobias Burke by his said attorney prays further leave to dispute hereunto until the next Court And he hath it and the same day is given to the said ^{Emalls} here also

At which said next Court to wit the twentieth day of June and Dow one thousand seven hundred and Twenty Seven came again as well the said William Holland and Elizth his wife and William Emalls as the said Tobias Burke by their attorneys and the said Tobias Burke by his said attorney as before defend. the force and injury when ^{it}

And saith that the said William in his ^{own} Capacity his action and against the said Tobias thereupon he ought not to have and maintain because he saith that before the setting out of the writ of him the said William in his said Capacity against the said Tobias in the plea of the Debt in the said William's Declaration Comed was not first demanded and Required by the said William either of the proper person of the said Tobias or an Habitation or Place of Residence according to the Form of an Act of Assembly of this Province now in force, in such case made and provided, and that he is ready to verify and pray Judgment and that the said ^{William} from having his action and against him the said Tobias thereupon may be barred

And the said ^{plaintiff} demurs generally to the plea and
the debt for ^{the}

Whereupon are and Singular the premises by the Court here being fully read and mature Deliberation thereupon had it seemeth to the Court here that the plea and by the said Tobias in manner and form as above pleaded and the matter in the same contained are not sufficient in the Law the said ^{William} Holland and Elizth his wife and William Emalls of their action and there against the said Tobias to have and conclude

Therefore it is considered by the Court here the twentieth day of June and Dow one thousand seven hundred and twenty seven that the said William Holland and Elizth his wife and William Emalls ^{of} the same Thomas Emalls dec^d. recover against the said Tobias Burke seven hundred and ten pounds of 100 shillings damages and as also four hundred pounds of 100 for their Costs and Charges by them about their Suit in that part Expeded to the same ^{William} Holland and Elizth his wife and William Emalls by the Court here of their appeal ad judged and the said debt in Money

By William ^{Spawell} } Command was given to the Sheriff of Somerset County that he should take Edward
G. D. Edmund Capper } Capper late of Somerset County Gentleman of the said County in his body and
and him should safe keep so that he might have his body before the Justice
of the said County Court of Somerset to be hold at Diving Creek the third Tuesday of November
then next to answer unto the said ^{plaintiff} of a plea of trespass upon the case and that thereof he should
not fail
At which said third Tuesday of November to wit the eighteenth day of the
same