

June Court --- 1733 --- (36)

Seven hundred and thirty two came again as well the afores. William Gray as
the afores. James Polk by their Attorneys afo. and thereupon the said James
as before defends the force and Injury when &c. — And as to the coming with force
and Arms, And whatsoever is against the peace of the Right Honourable the
Lord ^{prop.} ~~saith~~ that he is in no sort thereof Guilty and of this he putteth him-
self upon the Country and the afores. William in Like Manner And as to the
Residue of the Trovass afores. above supposed to be Done the said James saith that
the aforesaid William his Accon aforesaid thereupon against him the said James
to have ought not because he saith that the dog aforesaid in the p^lts decla-
-ation Mentioned was a Dog used to Worry Horses in the woods and bite mans
Horses riding on the Highway of which the said William by the said James had notice
and that he the said James the day in which the Killing of the Dog aforesaid is
supposed to be done did see the said Dog Worrying and biting in the Pasture of
him the said James ^{the name of him the said James} and that he the same James for the Preservation of his said Horses
from being Killed and Destroyed and Worried by the said Dog the Dog aforesaid
shoot wound and Kill as it was Lawfull for him to do and this he is Ready to verify
wherefore he prays Judgm^t. if the aforesaid William his Accon afo. thereupon against
the said James to have and Maintain ought not And the afo. William saith
that by anything proalleged from having and Maintaining his Accon afores.
to be procluded he ought not because he saith that the aforesaid James of his own
proper Wrong and without any such Cause as both the afo. James by pleading both
alleged the Dog afo. did shoot wound and kill as it was not Lawfull for him
to do and this he prays may be enquired of by the Country — and the Doct in
Like manner. Thereupon as to the Trying of the Issue last Joyned between
the Parties afo. it is Comanded the Sher of Somerset County that he should Cause
to come here immediately before the Justices of his Lordships County Court of Somerset
now in Court Judicially sitting at Dividing Creek Twelve &c. by whom &c.
and who neither &c. to Recognize &c. because as well &c. and afterwards
Immediately came thereof the Jurors &c. and the Jurors of that same Jury by
Joshua Caldwell Gent Sher of the County afo. to this Impanelled being called came
(to Witt) W^m Jones, Charles Patchell, Moses Durshoy, John Fullson,
Thos Hoorn, Isaac Marshall, Joseph Wayst, John Dalton, Benjⁿ Full, ~~Robt~~
Mitchell, George Maglamery, and Rich^d Holland, who to say the truth of
and upon the premises &c being Sworn upon their Oath did say that the afo.
James did not of his own proper wrong shoot wound ^{and} kill the Dog &c of the same William.
as the same James by his plea afo hath alleged &c. but because the Court here of their Judgm^t
of and upon the premises afo to Render as yett will advise day thereof is given to the afo
parties untill the next Court to be hold at Dividing Creek the third Tuesday of November next of
bearing thereof their Judgm^t. for that the Court thereof as yett &c