

August Court. 1741. 166

Speciall bail to the action *As. &c.* Thereupon came hereinto Court a certain Elijah Brittingham of Somerset County Planter in his proper person and undertook for the said Seward Tomlinson (likewise the said Seward Tomlinson present herein Court in his proper person) upon himself that if it should happen that Judgment in the plea *As. &c.* should be rendered for the said Joseph Houston against the said Seward Tomlinson or that he the said Seward should be therein convicted that then he the said Seward should pay and satisfy unto the said Joseph Houston the Judgment of the Court thereupon or render his body in execution of such Judgment to the prison of the sheriff of the County *As. &c.* in satisfaction thereof that he the same Elijah Brittingham will do the same for him *&c.*

Whereupon the *As. Seward Tomlinson* puts in his place Robert Jenckins Henry Gent: attorney at Law against the *As. Joseph Houston* of the *As. plea.*

And thereupon at the Request of the parties *As. &c.* day is to them now here given untill Next Court to be held at dividing Creek in and for the County *As. &c.* the third Tuesday of June then next following in the same state as at present saving to the parties *As. &c.*

At which day here came againe as well the *As. Joseph Houston* as the *As. Seward Tomlinson* by their attorneys *As. &c.* And hereupon the said Joseph Houston declared against the *As. Seward Tomlinson* in the plea *As. &c.* in form following. . . . Somerset p: Seward Tomlinson late of Somerset County Planter otherwise called Seward Tomlinson of Somerset County in the provinces of Maryland Planter was summoned to answer unto Joseph Houston of a plea that he render unto him forty pounds Curr: money of Maryland in silver or whole gold or eighty pounds paper money of Maryland which to him he owed and unjustly detains *&c.*

And Whereupon the Joseph by George Douglas his attorney says that whereas the said Seward on the viij day of January Anno Domini MDCXXXIX at the County *As. &c.* by his certain writing Obligatory which the said Joseph sealed with the seal of the said Seward herein Court brings whose date is the day and year *As. &c.* did acknowledge himself to be held and firmly bound to the said Joseph in the said forty pounds Curr: money of Maryland in silver or whole gold or eighty pounds paper money *As. &c.* to be paid to the said Joseph when he the said Seward should afterwards be thereto required and for the faithful payment thereof did bind himself his heir *&c.* and Admin: by that writing obligat Nevertheless the said Seward the said forty pounds in silver or whole gold or the said eighty pounds paper money or any part of either of the said sum to the said Joseph hath not rendered but the same to him