

March Court 1740 30

November the 15th Day 1739 Then Came Capt. John Tunstall before me the subscriber one of his Majesty's Justices of the peace for Somerset County and took his Oath on the holy Evangelist of almighty God that the within account as it there stand staled is Just and true to the best of his knowledge and that he never Rec^d. any part or parcel thereof directly or Indirectly but what he has given Credit for sworn to before Henry Ballard

And whereupon the aforesaid Sarah Ros admit as aforesaid by her attorney as Com^r and defend the force and Injury when &c. and prays Leave thereof to Imparle hereuntil next Court to be held at Dividing Creek the third Tuesday of November then next following and she hath it and the same day is given to the aforesaid John here also &c.

All which day here came againe as well the aforesaid John Tunstall as the C^{pt}. Sarah Ros by their attorneys as afo. And whereupon the said Sarah Ros prays further Leave thereof to Imparle here until next Court to be held at Dividing Creek the third Tuesday of March then next following and she hath it and the same day is given to the C^{pt}. John here also &c.

All which day here came againe as well the C^{pt}. John Tunstall as the C^{pt}. Sarah Ros by their Attorneys as afo. And whereupon the said Sarah Ros as before defend the force and Injury when &c. and says that the said Thomas in his life did not assume upon himself in manner and form as the said John above against her hath complained and of this she puts herself on the County. and the said Sarah in like manner. And the said Sarah by Leave of the Court here and according to the form of the statute in that case lately made and provided further says that the said John his action ag^t against her to have and maintain ought not because she says that the said Thomas Ros. in his life did not at any time within three years next before the Impetration of the Original writ of him the said John Tunstall assume upon himself in manner and form as the said John above against her the said Sarah hath complained and this she is ready to verify wherefore she prays Judgment if the said John his action ag^t against her the said Sarah to have and maintain ought &c. . . .

And as to the C^{pt}. last plea of the C^{pt}. Sarah as to the promise and assumption in the declaration as afo. specified the same John says that he by any thing in the C^{pt}. last plea of the said Sarah prealleged his action ag^t from having to be precluded ought not because he says that the C^{pt}. Thomas Ros. in his life time within three years next before the Impetration of this writt Original of him the said John Tunstall did assume upon himself in manner and form as the C^{pt}. John against her the said Sarah hath complained and this he prays may be enquired of by the County. And the said Sarah in like manner

Therefore as to the trying as well this Issue as the aforesaid other Issue formerly Joynt Command is given to the Sheriff that he should cause to come here immediately Twelve &c. by whom &c. and who neither &c. to Recognize &c. because as well &c. and the Jurors of that Jury being called some of them to wit Hatten Hill, David Bolk, John Woolford, Edward Rookie, Thomas Pollitt, George Tull, Banthur Laws, Littleton Townsend.