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North Carolina Higher Court Minutes

Source: **The Colonial Records - Higher Court Records (1670-1696)**

Editor: **Mattie Erma Edwards Parker**

1694

Feb. 1694. A will of **Jonathan BATEMAN** proved by the Evidence and Ordered to be recorded. And **Elizabeth BATEMAN** Widdow and Relict of the said **Jonathan BATEMAN** declining her legacy given in the said Will and craving to have her thirds of her deceased husbands Estate. Ordered that the said **Elizabeth BATEMAN** have her thirds of her said husbands Estate and the remain to be devided among the rest of the Legatees. And that administration with the Will annexed to be granted to the Executor appointed in the said Will and that **Jno. WHITBY, Tho. DURANT, Francis FOSTER** and Mr. **Joseph SUTTON** or any three of them apprise the said Estate and that Mr. **Jno. DURANT** or Mr. **Ralfe FLECHER** administer to the said Apprisors their Oathes and account of the said Estate to be given to the next Generall Court. And **Jno. LILLY** and **Thomas HASSOLD** have undertaken for the said Executor for the true performance herof.

Upon the Petition of **Jonathan BATEMAN** Administrator with the Will annexed of the Goods and Chattells of **Jonathan BATEMAN** deceased praying to have the keyes belonging to the said Estate Delivered to him. Ordered that **Elizabeth** Widow and relict of the said **Jonathan BATEMAN** deceased deliver to **Jonathan BATEMAN** in the Capacity aforesaid whatsoever to him belongeth as Administrator with the Will annexed of his said deceased fathers Estate.

September 1694. **Timothy PEAD** and **Charles THOMAS** bound over upon Information of **Mathias TOWLER** to answer their contempt in taking away a whale from him the said **Mathias TOWLER** he having a Lycence from the Honorable Governor for Whaling It sufficiently appears to the Court that the said **Timothy PEAD** and **Charles THOMAS** did not in any wise shew any contempt of authority. Ordered that the said **Timothy PEAD** and **Charles THOMAS** be discharged.

Mathias TOWLER bound over by order of Couratuck Court bearing date the twenty third day of Aprill last for feloniously taking of Eight Barrells belonging to **Timothy PEAD** It appearing by the Oath of **An ROS** that she the said **An ROS** to whom the Barrells did then belong Gave her Consent that the said **Mathias TOWLER** should have the Barrell pay her for them and that her consent was given to the said **TOWLER** for the said Barrells before any agreement was made with the said **Timothy PEAD** concerning them. Ordered that the said **Mathias TOWLER** be discharged.

Charles THOMAS by his Petition sheweth that he the said **Charles THOMAS** had done ten dayes Worke upon the Whale which afterwards **Mathias TOWLER** tooke from **Timothy PEAD** and Company which he proveth by the Oath of **An ROS**. Ordered that **Mathias TOWLER** pay unto the said **Charles THOMAS** for his labour done upon the Whale ten shillings and upon assignement of **Timothy PEAD** two shillings and six pence due to the said **PEAD** for his labour in and about the said Whale With Cost of this present Order.

Anne ROS humbly sheweth that she the said **ROS** with the assistance of some of her owne family tried up three Barrell of Oyle out of the whale which **Mathias TOWLER** afterwards took from **Timothy PEAD** and their Company and that shee did other labour about the said Whale and that **Mathias TOWLER** had by her consent and upon promis of pay seven barrells for all which she prayeth judgement. Ordered that **Mathias TOWLER** pay unto the said **Anne ROS** the sume of fifty one shillings and three pence with cost of this Order.

John MASON acknowledged a bill of Sale for twenty four head of Cattle to **Robert KITCHING**.

John MASON acknowledgeth his and **Sarah** his Wife their assignement of a bill of Sale made to the said **Jno. MASON** by **John DEN** of a certain plantation in the precinct of Couratuck lying next to Whitts Island unto the said **Robert KITCHING**.

Upon Petition of **Jonathan BATEMAN** Shewing that he having Married the Relict of **Laurence ARNOLD** deceased hath paid severall debts of the said **ARNOLD** and the Executor of the last will of the said **ARNOLD** being under age he humbly prayeth that he may be reimbursed the said debts with his Charges It appearing that noe probat hath been Given and the said Will Ordered that a probat be given of the last will of the said **ARNOLD** to the Executor by the said Will appointed and forasmuch as the Executor is under age **Jonathan BATEMAN** his Guardian shall in his behalfe Execute the said Will.

Sarah MASON Wife of **Jno. MASON** acknowledgeth her free and voluntary assent to the assignement of **John DENs** bill of sale unto **Robert KITCHING**. We the subscribers underwritten doe firmly acknowledge and make over our rights and title and Interest in the within mentioned plantation and bill of sale unto **Robert KITCHING** and his Wife as Witness our hands and seales this 19th day of 7br 1694. /s/ **Jno. MASON, Sarah MASON**

Know all men by these presents that I **Jno. MASON** doe sell and Makeover twenty Eight head of Neat Cattle being upon my plantation at Couratuck and doe Warrant the said twenty eight head of Cattle unto Mr. **Robert KITCHING** with the land and plantation From me and my heires and from all Maner of person or persons Whatsoever as Witnes my hand and seal the 19th of 7br 1694. /s/ **Jno. MASON**

Mr. **Foster JERVIS** Craveth a devision to be made of the estate of **Thomas JERVIS** Esqr. Deceased that the said **Foster JERVIS** may have his Part separate. And Mr. **Charles NEAL** in behalfe of **Dorcas** Daughter of the said **Charles NEAL** and **Dorkas** his wife who was Daughter of the said **Thomas JERVIS** humbly prayeth that the part or portion belonging to the said **Dorcas NEAL** out of her Grandfather the said **Thomas JERVIS** his estate may be delivered to the said **Charles NEAL** in behalf of his said Daughter. Ordered that Mr. **William ALLEN**, Mr. **Thomas VANDERMULEN** and Mr. **Rich. SANDERSON JUNIOR** or any two of them shall make devision of the estate of the said **Thomas JERVIS** and that the said **Foster JERVIS** have his part or portion of the said estate belonging to the aforementioned **Dorkas NEAL** be delivered unto the said **Charles NEAL** he giving security before the precinct Court of Couratuck for the same.

An ROS craveth allowance for her attendance being an Evidence for **Mathias TOWLER** four days and two days coming and two days goeing. Ordered that the said **Mathias TOWLER** pay unto the said **An ROS** sixteen shillings and Eight pence.

Thomas TULL shewing that in the year 1689 he the said **Thomas TULL** obtained a nonsute against **Jno. GIBBS** esqr. For which noe satisfaction hath hitherto been made for his costs and charges therin. The matter at the request of the said **Thomas TULL** and of Mr. **Edw. MAYO** attorney of the said **Jno. GIBBS** being referred to the Court Ordered that the said **Edward MAYO** as attorney of the said **Jno. GIBBS** Pay unto the said **Tho. TULL** the summe of five pounds with costs of this present Judgement in satisfaction for all the Costs and Charges of the said Non sute.

Know all men by these present that **John DEN** of the County afore said and my Wife **Elizabeth** have bargined and sould and for a valuable Consideration in hand received doe therefore sell and make over unto **Jno. MASON** of the County aforesaid to say the plantation of mine lying next to Whites Isleland in Couratuck and Joyining to a plantation of Mr. **Thomas JARVIS** with housing and Orchards and I the said **DEN** doe sell it from me and my heires for ever and doe Warrant it to the said **MASON** from any person or persons Whatsoever that shall lay any claime or Intrest thereunto Witnes my hand and seal the day and year above written. /s/ **Jno. DEN, Eliz. DEN** - Witnes: **Thomas HURWOOD, Rich. CRAGGE**

The deposition of **John MASON** aged Thirty Two yeares or there about being Deposed Sayeth That marrying with **Sarah** the daughter of **John BURNSBY Wm BURNSBY** coming out of Virgenia I desired him to Stay but one Weeke till I had Trimmed Mr. **CHASES** Cannow and I would goe up with him with my Now wife to see her Father hee the said **BURNSBY** promising mee a Seat of Lands Att Flatty Creek made mee dispose of my plantation at Curratuck with my Stock thereon: promiseing that Seat of Land which he had entred at Flatty Creek; I your Deponent expecting him to bee as good as his Word: I the deponent asked him what I should doe for Cattle hee promised mee he Would Sell mee Foure or Five head of Cattle Cowes: but he Falling from his Word Some time after : He told mee that he could Spare mee but Two Cows and Two Yearlings: I asked him why he would not Spare mee the whole Quantitiy he promised mee his answer was that **Henry PALIN** was to have one halfe of them for taking them up and Saving them from Mr. **HENLY**: upon that I found by his discourse that they were Intangled and so would proceed no Firther: This Deposition is attested by **Jno. MASON** and his Wife: and to the Same They Subscribe their Names the 28 of September 1694. /s/ **John MASON, Sarah MASON** (**Sarah** aged about 25 years). And Firther **Sarah MASON** declares that her Brother **Wm. BURNSBY** told her that he had Never gott them from Mr. **HENLEY** had it not been for **Henry PALIN** who moved and perswaded him to it. /s/ **Sarah MASON**

(torn)th **ROSS** Decleare that (torn) rowne was the first (torn) it was above two houers after **Mothius TOWLOR** Came to market and Doe further Declear that to the best of hir knowlidg that **Timothy PEAD** Gave noe abus by words or action upon the a Count of any power or any other wayes to **Mothiues** or any piple belonging to the said **Mothiues**. /s/ **Debroh ROSS** hir mark

Further more **Mark TULY** heard the nineteen Day of this month ither **Mothius TOWLOR** or **Charols DICKSON** did say that **Timothy PEAD** did part **Charols DICKSON** and (torn) say he would steek CH(torn) further sayeth not. /s/ **Mark TULLE** his mark

THOMAS vs. TOWLER

The Humble Petition of **Charles THOMAS** humbly sheweth That your petitioner Workeing upon A Whale in March last ten dayes and att last **Mathias TOWLER** Tooke the said Whale from your petitioner and never made any Sattisfaction to your petitioner Your petitioner Humbly Craves an order of your Honors against the said **TOWLER** for His Labor after the rate of two shillings per day and in Duty Bound Shall Pray. /s/ **Charles TOMAS** his marke

TULL vs. MAYO, Attorney of GIBBS

The humbell petition of **Thomas TULL** Humbley shoeth That wharas your petioner was arrested by **John GIBBS** Esquier at a Court held at the howse of **John HARIS** in the yeare 1689 and thare obtained a nonsute against the said **GIBBS** but still your petioner Remaines unpaid his Cost for which He Humbly Cravfes one order of this Honorable Court and your petitioner shall Ever pray. /s/ **Tho. TULLE**

November 1694. Know all men by these presents that I **John GODDARD** of Curituck In Virginia now resident in Boston in New England Merchant doe by these presents grant and acknowledge my selfe to be justly Indebted and owing unto **John BORELAND** of Boston in New England aforesaid the full and just summe of thirty Pounds *New England* Money for the which sum of thirty Pounds Money as afore said I binde and oblige my selfe my heires Executors Administrators and assignes to pay or cause to be paid or delivered unto Mr. **Thomas STEEL** in North Carolina or in his absence to Mr. **Thomas POLLOCK** of North Carolina Merchant twenty Barrells of good and well salted and pickled porke of thirty one Gallons gage per Barrell for the account of the said **John BOARLAND** aforesaid his heires or assignes to the true performance wherof I bind and oblige my selfe my heires Executors Administrators and assignes to the said **John BOARLAND** his heires or assignes in the penal Summ of sixty pounds New England Money Well and truly to be paid In Witnes wherof I have subscribed to two obligations both of this tenor and date the one of which Obligations being performed the other to remaine void dated in Boston the 16th day of October 1693. Memorandum: Its agreed before the signing and sealing herof that the abovesaid twenty Barells of Porke is to be paid as aforesaid at or before the first day of January Next 1693/4. /s/ **John GODDARD**

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