

Creditor refused, and hath such Tobacco ready to tender and pay to his Creditor, be yet notwithstanding sued and prosecuted at Law, in order to recover such Tobacco as he shall be indebted to his Creditor; if at the Trial the Defendant shall make appear by two sufficient Evidences, that he tendered to the Plaintiff such his Debt, in such Tobacco, qualified as aforesaid, having the Tobacco ready and full packed in Hogsheads, before the Plaintiff purchased his Writ; then and in every such Case, the Plaintiff shall not recover any Cost of Suit against the Defendant, but shall pay the Defendant what Cost the Defendant hath in that Cause expended, to be deducted out of the Plaintiff's Debt by the Court before whom such Suit shall be: And the Plaintiff shall have Judgment for what shall be remaining due to him after such Deduction made as aforesaid.

Bacon

V. And in case any Plaintiff, after such Recovery had of any Quantity of Tobacco against any Defendant, having Tobacco packed in Hogsheads, and qualified as aforesaid, shall refuse, upon the Defendant's tendering of such Tobacco, to receive the same, but shall sue out Execution against the Defendant, whereby the Defendant is taken in Execution, and imprisoned; then and in such Case, any Friend of the said Defendant so imprisoned, may, on Behalf of such Prisoner, go to the High-Sheriff, and require him to certify to the next Justice of the Peace, at whose Suit, and for what Sum, the said Prisoner is in Execution; which Certificate the Sheriff shall make gratis, and give to such Person requiring the same, within Five Hours after such Demand, under Penalty of Two Thousand Pounds of Tobacco in Cask, to be forfeited by the High-Sheriff if he wilfully refuse to make the same; the one Half thereof to her Majesty, her Heirs and Successors, for the Support of Government, the other Half to the Party grieved, to be recovered by Action of Debt, in any Court of Record of this Province: Which Certificate so obtained, any Friend or Agent of such Prisoner, shall shew to such next Justice of Peace; and if such Friend or Agent will aver, that the Prisoner hath Tobacco ready to pay such Debtor Damages recovered convenient, and that such Friend will open and shew the same, the said Justice of Peace shall either go in Person, or send two discreet Persons, Freeholders as aforesaid, sworn before him, to view the Tobacco and weigh it, and make Report thereof; and if it happen the Tobacco is found, merchantable, and of such Weight to discharge the whole Sum mentioned in the Execution, then shall the said Justice give Notice to the Sheriff in Writing, under the Hand of such Justice, by the Agent of such Prisoner, that except such Sheriff come and shew good Cause to the contrary, that the said Justice will