

Liber C D

Extend to a Release or discharge of the s.^d Twenty thousand pounds weight of Tobacco So as aforesaid by him the S.^d Cutbert Witham Sold to this Complt for he the Complt Saith that the property of the Said twenty thousand pounds of Tobacco in him the Said Jonathan Sybreys hands was Legally Invested in this Complt and that any Release made afterwards by him the Said Witham to the s.^d defend.^t (fol. 55) could not according to the Law of merchants acquitt and discharge the S.^d Twenty thousand pounds weight of Tobacco by the Said Deed of Sale as aforesaid Sold to the Complt but that it is Still due to him and the S.^d defend.^t ought to pay the Same to the Comp.^{lt} all which he is Ready to prove averr and maintain in Such manner as the Court Shall Judge fitt & he Concludeth praying as in his Bill he hath prayed the Comp.^{lt} taking out a Comiçon to Examine wittnesses directed to m.^r Robert Slye and Kenelm Cheseldyne w.^{ch} Comiçon being by them returned into Court in due manner Executed the third day of ffebruary one thousand Six hundred Sixty nine by the hands of Kenelm Cheseldyne one of the Comicon.^{rs} Together with depositions of the Witnesses Examined in this Cause, It was in ffebruary Court Ordered upon the moçon of the Comp.^{lts} attorney John Morecroft that publication Should issue forth, and the Cause to be Sett down for hearing in Aprill Court next following and that a Subpœna Should issue forth to the s.^d Sybrey to appear y.ⁿ to hear Judgm.^t w.^{ch} being duely served and the def.^t appearing & the Cause being now at issue and this day to witt the thirteenth day of Ap.^{ll} one thousand Six hundred & Seventy being Set down for the hearing of the Same before the Hon.^{ble} Phillip Calvert Esq.^r Chancello.^r of this province Jerome White Esq.^r Thomas Truman & Samuell Chew Esq.^{rs} Justices of the S.^d Court of Chan.^{ry} in y^e p^rsence of the Attorneys on both Sides, upon Reading of the def.^{ts} plea & the proofs taken in the Cause & hearing what could be alledged on either Side Saw no Cause in Equity to give to the Complt any Reliefe in Equity against the Release pleaded & do therefore ord.^r y.^t y^e matter of the Comp.^{lts} Bill from henceforth Stand fully and absolutely dismissed out of this Court with one thousand pounds of Good Sound merchantable Tobacco in Cask to be paid by m.^r Morecroft the Attorney for the Complt to the s.^d defend.^t or his Order in Respect of his s.^d dismissal afterwards that is to Say upon Wednesday the fourteenth of Decemb.^r in the Said year one thousand Six hundred & Seventy upon the motion of John Morecroft Attorney for the Complt in this Co.^{rt} made before the Hon.^{ble} Charles Calvert Esq.^r Chief Judge in Equity Phillip Calvert Esq.^r Chancello.^r of this province and the rest of the Justices of this Court It was Ordered as followeth that is to Say this Cause was the last Court heard & Ordered to be dismissed w.th one thousand pounds of Tobacco Costs to be paid to the defend.^t by m.^r Morecroft Attorney (p. 47 fol. 55) for the Comp.^{lt} in Respect of the said dismissal the said Att.^{ry}