other who would take any cognizance of ye said Bill whereupon he ye Pd Notary having made
ye like enquiry but without any effect did protest against ye said Daniel Pearce Drawer of
ye Same Bill as all others concerned for Exchange Costs costs damages & interest suffered & to
be suffered for want of payment of ye Same Bill as by ye Instrument of Protest here in Court pro=
duced appears of which said protest a Noarrado bizt on ye Fifth day of Feby in ye year
of our Lord Christ one thousand Seaven hundred & Seaven in Kent County aforesaid had notice
Nevertheless ye said Dan Pearce his promise & assumption as afore made notwithstanding but
designing & fraudulently intending ye Same William Fishbourne in this behalfe craftily &
subtilly to deceive & defraud ye afore said Same of Fifteen pounds & nine Shillings Sterling money
aforesaid and ye Damages by Occasion of ye protesto of ye afore said third Bill of Exchange three
fourth second & fourth or any of them not paid according to a certaine Act of
Assembly of this Province in such cases made & provided and now in force unto ye said
William hath not paid altho to pay ye Same he ye said Daniel Pearce on ye afore said fifth day
of February in Kent County within ye afore said Jurisdiction was required but ye Same to pay he the
said Daniel hitherto hath and still doth deny & refuse Whereupon ye said William saith
that he is worse and damage hath to ye Value of Thirty pounds sterling money as aforesaid
and therefore he brings Suite &c Wellinger ye quer ffteg &c John Doe & Richard Roe
AND the said Defendant being called cometh and the said Pltff by John
Wellinger his Attorney moves the Court here that the said Daniel may give security
bayle to ye said Action of him ye said William which was not granted.
BUT the said Defendant by Christopher Philipson his Attorney appears and
moves ye Court here that the said William Fishbourne being a forrinor and not a
liver in this province may give bayle to pay costs if non suited which was not
granted
AND ye afore said Daniel by Christopher Philipson his Attorney Comes &c and prays
Oyer of ye Original Bill & protest Philipson pro Deft
AND the afore said Daniel Pearce by his afore said Attorney farther prays that the
power by which the Action was grounded may be produced in open Court and the
said Pltffs Attorney produced a power in open Court which was by this Court thought
not good & sufficient in Law to bring an Action and now here ye said Deft
by his afore said Attorney moves that he may have Judgement for a non Suite —
Therefore it is Considered by the Court here that the said William
Fishbourne take nothing by his writ & Deft: afore said but for his false clamour
he and his pledges of prosecuting be in mercy and that the said Daniel Pearce
go thereof without day &c and also that the said Daniel Pearce Doe Recover
against the said William Fishbourne the Same of One hundred and Sixty two pounds
of Tobacco by ye Court adjudged him for his Costs and charges about his defence
in this behalfe laid out & expended According to the Forme of the Statute &c

P. Sanford