

June Court ---- 1726 ---- 148

thereof says by which the Same Esq Remains against the sd Defn. hereafter defended -

Whereupon the sd Benjamin Wailer by his attorney and pray the Court that they may according to act of assembly in such case made and provided, dissolve themselves into a Court of Chancery and hear and determine the action and in the plea and according to the merits thereof which is granted. Whereupon all and singular the premises by the Court being heard and fully understood and mature deliberation thereupon had -

Whereupon it is decreed by the Court that the sd Benjamin Wailer Recover against the sd Wm. McFlannery add. or the Sum of four hundred and five pounds of tobacco to be levied of the goods and chattels which were of the sd Wm. McFlannery at the time of his death in the hands of the Same Wm. McFlannery to be administered if so much thereof he hath and further it is decreed by the Court that each Party that is Esq and Defn pay their Own Costs but -

Of The Same } Somerset. Isaac Brittingham Esq of Somerset County planter
sd Isaac Brittingham } was attached to answer unto Benjamin Wailer of plea of trespass upon the Case &c.

And whereupon the Same Benjamin by Sereni Gale his attorney complains that whereas the sd Isaac the tenth day of June Seventeen hundred and twenty two at Somerset County and within the Jurisdiction of this Court was indebted unto the Same Benjamin in the Sum of three thousand Seven hundred and thirty three pounds of tobacco as by bill herewithin Court produced may appear for Short & Officers fees and so there of being Indebted the said Isaac in consideration thereof afterwards to witt the Same day & year and at the County and within the sd Jurisdiction upon himselfe appeared & to the Same Benjamin then and there faithfully promised that he when afterwards he should be thereto requested he the said Sum of three thousand Seven hundred & thirty three pounds of tobacco to the Same Benjamin would well & satisfactorily Content and pay and also the sd Isaac Brittingham afterwards that is to say the sd tenth day of June in the year and at sd County and within the Jurisdiction and was Indebted unto the Same Benjamin in another three thousand Seven hundred & thirty three pounds of tobacco for the like Sum of Divers powers before that time for the use of the said Benjamin by the said Isaac had and to & so there of being Indebted sd Isaac in consideration thereof afterwards that is to say the Same day and year last mentioned at the County and within the Jurisdiction and upon himselfe appeared and to the Same Benjamin then & there faithfully promised that he when afterwards he should be thereto requested the sd Sum of three (thousand)