

November Court - - - 1734 - - - (227)

Whereof the same John Burnell afterward to wit the same day and year last mentioned at the County aforesaid within the Jurisdiction aforesaid had Notice. And the aforesaid Richard further saith that the aforesaid William Hennerly afterward and before payment or Satisfaction of the said Tobacco in the said bill mentioned to wit the tenth day of May in the year aforesaid within the County Jurisdiction aforesaid by an Indorment upon the same bill made and with his proper hands subscribed according to the use and Custom of Merchants did assign the bill aforesaid and the Tobacco therein mentioned unto the aforesaid Richard (the same Richard then and there negotiating and Commerce using) for value from him received, and did require the aforesaid John Burnell to pay unto the aforesaid Richard or his order the same sum of Tobacco whereof the same John Burnell afterward to wit the same day and year last mentioned at the County aforesaid and within the Jurisdiction aforesaid had Notice. By Brext of which Premises according to the use and Custom of Merchants the aforesaid John Burnell became Chargeable and Liable to pay the aforesaid sum of Tobacco unto the aforesaid Richard according to the tenour of the bill aforesaid and so being Chargeable & Liable the aforesaid John Burnell in Consideration thereof afterward, to wit, the same Day and Year last mentioned at the County aforesaid and within the same Jurisdiction upon himself did assume and unto the same Richard then and there faithfully did promise that he the same John Burnell the aforesaid sum of Tobacco unto the aforesaid Richard when thereof afterward he should be required well and faithfully would pay and Content. Nevertheless the aforesaid John Burnell his promise and assumption aforesaid nothing regarding but minding and fraudulently Intending the same Richard in this part Craftily and Subtly to deceive and Defraud the same sum of Tobacco or any part thereof unto the same Richard (altho' to do the same the aforesaid John Burnell afterward to wit, the Day of in the year last mentioned and often afterward at the County aforesaid and within the Jurisdiction aforesaid by the same Richard was required) hath not paid or in any sort for the same Contented but that unto him hitherto to pay or in any sort for the same to content altogether hath refused and still doth refuse to the damage of the same Richard Eight thousand pounds of Tobacco and thereupon he bringeth Suit &c.

Over of the bill aforesaid and Indorments thereon followeth in these words & figures vizt
April 5th 1734. Pay unto John Lawson or his order the sum of four thousand pounds of Tobacco and place the same to Acc^t of - 4th Humble Serv^t - Phil^l Lloyd -
To M^r. John Burnell high Sher^{iff} of Somerset County - accepted of me In^o. Burnell Sher^{iff}
Pay the contents to W^m Hennerly or his order for Value received - In^o. Lawson -
Pay the contents to Richard Gildart Esq^r or his order for Value received - W^m Hennerly -

And the aforesaid John Burnell in his own proper person Cometh and defendeth the force and Injury when &c. and saith that he cannot gain say the action aforesaid of the aforesaid Richard nor can he say but that he did assume upon himself in manner and form as the said Richard above against him hath complained and as to the damage of the same Richard by him by occasion of the premises aforesaid in that sustained the same John saith and Confesseth that the said Richard hath sustained damages by occasion of the