

November Court - - - - 1734 - - - - (229)

assumption of the said John as for his costs and charges by him about his suit in that part approved whereof the said John Ellis is convicted as of the Record and process thereof in the same Court before the Justices thereof now remaining manifestly appears which same Judgment in its full force and Effect yet remains in no sort reversed or annulled and the ass. George his Execution against the ass. John Ellis of the damages ass. yet hath not obtained by which action hath accrued to the same George to require & have from the ass. John Ellis the damages ass. Nevertheless the ass. John altho' after & required the ass. two Bushells and an half of wheat and Seven hundred and twenty two pounds of Tobaccoto the same George hath not rendered but that unto him & hitherto to render altogether hath refused and still doth refuse to the damage of the same George five bushells of wheat and fourteen hundred and forty four pounds of Tobacco and thereupon he brings suit &c.

A copy of the foregoing declaration was made and sent to be served on the defendt. with the writ in the plea ass. according to act of assembly in such case made and provided & At which said third Tuesday of November to with the nineteenth day of the same month Anno Domini One thousand Seven hundred and thirty four being the day of the return of the said writ cometh the said George Douglas by his attorney ass. and the Sher. of Somerset County to whom the foregoing writ was directed likewise comes & makes return thereof to the Court here Endorsed Legi Copus declaration in time of Joseph M. Carter Sher.

Whereupon the said John Ellis present here in Court in his proper person is adjudged to give special bail to the action ass. Thereupon a certain Ralph Milbourn of Somerset County planter (some heretofore Court in his proper person) and undertook and assumed upon himself for the said John Ellis (likewise the said John Ellis present here in Court as ass. assumed upon himself) that if in case the said George Douglas should recover Judgment against him the said John Ellis in the plea ass. or that he the said John Ellis should be therein convicted that then he the said John Ellis shall pay the condemnation of the Court thereupon or tender his body in execution of such Judgment to the prison of the Sheriff of Somerset County in satisfaction thereof or that he the said Ralph Milbourn will do the same for him &c.

And the ass. John Ellis in his own proper person cometh and defendeth the force and Injury when &c. and saith that he cannot gainsay the action ass. of the ass. George nor but that he oweth the same George the ass. two and a half Bushells of wheat and seven hundred and twenty two pounds of tobacco in manner and form as the ass. George above against him hath declared &c.

Therefore it is considered that the ass. George Douglas Recover against the ass. John Ellis his Debt ass. and his damages by Quasion of the detention of the same Debt to three hundred & One - - - - - pounds of tobacco to the same George of his assent by the Court here adjudged and the ass. John in mercy &c. and upon this the ass. George freely known from comitteth to the ass. John Ellis two and a half bushells of wheat part of the debt ass. therefore the same John Ellis of the same two & a half bushells of wheat be quiett &c.