

November Court --- 1736 --- 276

All which said next Court to witt the sixteenth day of March Anno Domini One thousand seven hundred and seven hundred and thirty five Came againe as witt the aforesaid Whittington as the aforesaid Capell by their attorneys aforesaid and whereupon the same Capell prays further Leave thereof to Imparle here untill next Court and he hath it and the same day is given to the aforesaid Whittington here also

All which said next Court to witt the fiftenth day of June Anno Domini one thousand seven hundred and thirty six Came againe as well the aforesaid Whittington as the aforesaid Capell by their attorneys aforesaid And whereupon the same Capell prays further Leave thereof to Imparle here untill next Court and he hath it and the same day is given to the aforesaid Whittington here also

All which said next Court to witt the seventeenth day of August Anno Domini one thousand seven hundred and thirty six Came againe as well the aforesaid Whittington as the aforesaid Capell by their attorneys aforesaid And Whereupon the same Capell prays further Leave thereof to Imparle here untill next Court and he hath it and the same day is given to the aforesaid Whittington here also

All which said next Court to witt the sixteenth day of November Anno Domini one thousand seven hundred and thirty six Came againe as well the aforesaid Whittington as the aforesaid Capell by their attorneys aforesaid and the said Capell by his said attorney as before deposed the free and trying when &c. and says that the said Whittington his action thereof against him to have and maintain ought not because he says as to one pound thirteen shilling and six pence Current money of Maryland part of the said three thousand two hundred and forty seven pounds of tobacco in cash and seven pounds seven pence half penny Current money of America the said Capell says that he hath paid the said Whittington the said one pound thirteen shillings and six pence and this he is ready to verify and as to the residue of the said debt he says that he hath fully Administred all and singular the goods chattels and Credits which were of the said Benjamin at his death in his hands to be Administred and that he hath no goods of the said Benjamin in his hands to be Administred nor had at the time of the Impetration of the originall writ of him the said Whittington Impetrated nor ever afterwards and this he is ready to verify wherefore he prays Judgement if he the said Whittington his Action thereof against him to have and maintain ought

And the aforesaid Whittington replies that altho' true it is that as to one pound thirteen shillings and six pence Current money of Maryland part of the said three thousand two hundred and forty pounds of tobacco in cash and seven pounds and seven pence half penny Current money of America the said Capell hath paid the said Whittington yet the said Whittington saith as to the residue of his said debt, that he the said Whittington not withstanding any thing above Alledged by the said Capell in his plea ought not to be precluded from his said Action against him because as to the said plea by the said Capell above pleaded he the said Whittington saith that at the day of exhibiting the originall writ of the said Whittington that the said Capell had in his hands unadministred divers Lands Goods and Chattels