

March Court . . . . . 1740 . . . . .

The said William on the Twentieth day of October Anno Domini Seventeen hundred and thirty eight two thousand pounds of tobacco to the said Francis he hath paid and satisfied yett as to Seven thousand and Seventy pounds of tobacco Residue of the A<sup>d</sup>. Nine thousand and Seventy pounds of tobacco the said William his promise and Assumption A<sup>d</sup>. in forme A<sup>d</sup>. made nothing regarding but plotting and fraudulently Intending the said Francis in that part craftily and subtilly to deceive and defraud the said Seven thousand and Seventy pounds of tobacco to the said Francis Altho' the same to do the said William by the said Francis on the A<sup>d</sup>. Twentieth day of October in the year Seventeen hundred and thirty eight A<sup>d</sup>. and often afterwards at the County of Somers<sup>t</sup> A<sup>d</sup>. he was thereunto Requested hath not paid but the same to him hitherto to pay hath refused and still doth refuse and deny Whereupon the said Francis saith he is wronged and hath damage to the value of one hundred and twenty pounds Curr<sup>t</sup>. money of Maryland and thereupon he brings suit &c. . . . . Pledges t<sup>r</sup>. J. Dos et R. Ros

And Whereupon the said William Whittington by his attorney A<sup>d</sup>. prayeth Leave thereof to Imparle here untill next Court to be held at dividing Creek in and for the County A<sup>d</sup>. the third Tuesday of November then next following and he hath it and the same day is given to the said Francis here. Also &c. . . . .

Att which day here came againe as well the A<sup>d</sup>. Francis Allen in his proper person as the A<sup>d</sup>. William Whittington by his attorney A<sup>d</sup>. And Whereupon the said William Whittington as before defende the force and Injury when &c. and says that he did not assume upon himself in a manner and form as the said Francis above against him hath complained and of this he puts himself upon the Country . . . . . And the said William by Leave of the Court here and according to the form of the statute in that case lately made and provided further says that the said Francis his action A<sup>d</sup>. against him to have and maintain ought not because he says that he at any time within three years laster the Impetiation of the Originall writ of him the said Francis in this Action did not assume upon himself in manner and form as the said Francis above against him hath complained and this he is ready to verify Whereupon he prays Judgment if the said Francis his action A<sup>d</sup>. against him to have and maintain Ought &c. . . . .

And the aforesaid Francis Allen prays Leave thereof to Imparle here untill next Court to be held at dividing Creek in and for the County aforesaid the third Tuesday of March then next following and he hath it and the same day is given to the aforesaid William here also &c. . . . .

Att which day came againe as well the aforesaid Francis Allen in his proper person as the aforesaid William Whittington by his attorney aforesaid And whereupon the said William resigneth his averment by him above alleged saith that he cannot deny the action A<sup>d</sup>. of the aforesaid Francis Allen nor but that he did assume upon himself in manner and form as the aforesaid Francis Allen above against