Wm William Fishburn Merch.t & Wm Fishburn Esq.r of Thos Graham } Mary Land.s Vincent Hemsley of Queen Anne County Gent.n was attached to Answer unto Wm Fishburn Merch.t & Wm Fishburn Esq.r of Ayrshire & Thomas Graham Merch.t Deed of a plea of trespass on the Case

Pltf Vincent Hemsley - - - -

And whereupon the said Wm Fishburne and Wm Fishburn Esq.r as aforesaid by Edmund Hamilton their attorney Complain that whereas the aforesaid Vincent Hemsley the twenty second day of March in the year of our Lord Seventeen hundred and five at Queen Town in Talbot County in the province of Maryland according to the Customs of Merchants and Traders of this the province of Maryland and the City of London in England did make and draw his their bill of Exchange with his proper hand subscribed bearing date the day and year aforesaid at certain Thomas Bond Merch.t in London residing and Negotiating dealing and by the same bill requested the said Thos Bond at thirty days Sight of such bill of Exchange his first second and fourth of the same tenor and date not being paid to pay unto the aforesaid Thos Graham in his life and Wm Fishburn or either of them or order the sume of thirty seven pounds fifteen shill and eight pence sterl for Value of them recd whereof he the aforesaid Thos Bond at London did in Queen Anne County aforesaid on the twenty fourth day of July Anno Dom one thousand seven hundred and six had Notice and then and there was requested to pay the said sume thirty seven pounds fifteen shillings and eight pence sterl money aforesaid to the said Thomas Graham in his life and to the aforesaid Wm Fishburn Merch.t and to either of their order and the aforesaid Wm Fishburn Merch.t and the aforesaid Wm Fishburn Esq.r in fact say that the aforesaid Thomas Bond after thirty days Sight of the aforesaid bill and notice as aforesaid hitherto hath not paid to the aforesaid Thos Graham in his life or to the said Wm Fishburne Merch.t or to their or to either of their order the aforesaid sume of thirty seven pounds fifteen shill and eight pence sterl money and that for want of Paym thereof the aforesaid Wm Fishburn Merch.t and the said Thomas Graham after the thirty days sight of the aforesaid third bill to the aforesaid Thos Bond on the twenty fourth day of March Anno Dom Seventeen hundred and six aforesaid at London aforesaid in Queen Town aforesaid protested or Caused to be protested the aforesaid third bill of Exchange the first second and fourth of the same tenor and date not being paid according to the Customs of Merchants aforesaid whereof the said Vincent Hemsley the first day of June Anno Dom seventeen hundred and seven at Queen Town County aforesaid had notice and then and there was requested to pay the aforesaid sume of thirty seven pounds fifteen shill and eight pence sterl to the aforesaid Thomas Graham in his life and to the aforesaid Wm Fishburn Merch.t or to either of them in Consid.n for the last above mentioned upon himself assumed and to the said Thos Graham in his life time and to the said Wm Fishburn Merch.t then and there all the Costs Charges and Damages that he the said Thomas the aforesaid sume of thirty seven pounds fifteen shill and eight pence sterl to the Thomas in his life and to the said Wm Fishburn Merch.t or to their or either of them when after thereunto required would well and truly Satisfie & pay Nevertheless the aforesaid Vincent his Promise and Assumpt.n aforesaid not in the least regarding but altogether Minding and fraudulently Intending the same Thos Graham in his life and the said Wm Fishburn Merch.t and the said Wm Fishburn Esq.r as aforesaid in this p.t craftily and subtilly to deceive and

(defraud)

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defraud the aforesaid sume of thirty seven pounds fifteen shill and eight pence sterl to the said Thomas in his life or to the said Wm Fishburn Merch.t or to either of them or to either of their orders or to the said Wm Fishburn to whom &c.a of the said Thomas Graham was in due form of law Committed altho' he was often so to do required by the said Thos and Wm Fishburne Merch.t in the lifetime of the said Thos Graham and particularly by the said Wm Fishburne Merch.t & Wm Fishburne Esq.r as aforesaid since the death of the said Thos (Court) the first day of Aug.t Anno Dom Seventeen hundred and ten at Queen Anne Town in Queen Anne County aforesaid hath not paid but the same to them to pay hath hitherto refused and still doth refuse to the damage of the said Wm Fishburn Merch.t and Wm Fishburne Esq.r as aforesaid Seventy two pounds sterl money and therefore they bring their Suit &c and the said Wm Fishburn Esq.r of late this term hereunto Court the Letts & last by his attorney which it may plainly appear to the Court here that he is Exr of the Testam.t of the said Thos Graham whereof he hath Executed Probat

pd &c Jn Dod & Rd Roe.

And the said Vincent Hemsley by Thomas Bordley his attorney Comes and defends the force & Injury when &c and prays Leave to Imparle hereunto until next Court and he hath it and the same day is given to the pl.ffs also —

At which said next Court to wit the 13.th day of July Anno Dom 1713 Come again the said parties pl.ff and def.t by their attorneys aforesaid and the said def.t by his said attorney pray further Leave to Imparle hereunto until next Court and he hath it and the same day is given to the pl.ffs also —

At which said next Court to wit the 15.th day of October Anno Dom 1713 Come again the said parties pl.ff and def.t by their attorneys aforesaid and the said def.t by his said attorney prays further Leave to Imparle hereunto until next Court and he hath it and the same day is given to the pl.ffs also —

At which said next Court to wit the 15.th day of July Anno Dom 1714 Come again as well the said Wm Fishburn Merch.t & Wm Fishburn Esq.r as aforesaid by their attorney aforesaid as the said Vincent Hemsley by his attorney aforesaid and the said Vincent Hemsley by his said attorney as before defended the force & Injury when and said that he the said Wm Fishburn Merch.t & Wm Fishburn Esq.r as aforesaid for the aforesaid Wm Fishburn Merch.t & Wm Fishburn Esq.r as aforesaid their action aforesaid against him to have & maintain and that he to that ought not by the law of the land is bound to answer and this he is ready to verify wherefore he prays Judgm.t and that the aforesaid Wm Fishburn Merch.t & Wm Fishburn Esq.r as aforesaid from having their action aforesaid against him may be barred &c. And for Causes of Demur in law upon that deed the said Vincent according to the form of the Statute in such Case lately made and provided shews to the Court those following Causes & Exceptions

1.st That it appears by the Count that the action is brought against the said defend.t by Wm Fishburn in his own right and as Exr of the said Thomas Graham but yet in the body of the deed it is not averred that the said Wm Fishburn and Thomas Graham

(his)