the counsel for the respective parties and the counsel for each of the said parties having stricken out four persons from the said lists the remaining twelve persons are called who come to wit. Stanilaus Hoxton Ignatius Manning Levin Skinner Aquilla Beall Anthony Addison Isaac Lansdale Mackall S Cox William Prather Humphrey Williams Richard C Jones Leonard Toenshead and William Bowie of Walter and who being empannelled and sworn to say the truth in the premises upon their oaths do say that the said John Waring did not assume upon himself in manner and form as the said Elisha Berry above against him hath complained as the said John Waring by pleading hath alleged. Therefore it is considered by the court here that the said Elisha Berry take nothing by his writ and declaration aforesaid but be in mercy for his false clamour thereupon and that the said John Waring go thereof without day &c

It is also considered by the court here that the said John Waring recover against the said Elisha Berry the quantity of four hundred and fifty five pounds of Tobacco by the court now here adjudged unto the said John Waring for his costs and charges by him about his defence in this behalf laid out and expended and that the said John Waring have thereof execution &c

Elisha Berry
vs
John Waring

Case.

The Plaintiff in this cause offered evidence to the jury that the executors of George Diggs obtained a judgment in the late General Court for a large sum to wit six thousand weight of Tobacco with twenty years interest against the securities of Thomas Williams formerly collector of Prince Georges County to wit against Thomas Harwood, John Smith Brookes, Rinaldo Johnson, Elisha Berry, and John Waring.

The Plaintiff offered in Evidence an act of Assembly passed at March Session 1780 Entitled "an act for the relief of Thomas Williams collector of the assessment in Prince Georges County" an act of Assembly passed at November Session 1780 Entitled "an act for the further relief of the securities of Thomas Williams deceased late collector of the Tax and public dues in Prince Georges County and for other purposes therein mentioned —

An act of Assembly passed at November Session 1791 entitled an act for the relief of John Smith Brookes of Prince Georges County one of the securities of Thomas Williams late collector of the public taxes in said county." that at the time of the said judgment Richard Smith was dead. It was further offered in evidence to the jury by the Plaintiff that Rinaldo Johnson one of the said securities was the acting security and that John Waring one of the said securities was inserted in the Law contrary to his authority. It was further offered in evidence to the jury that while several suits instituted in Prince Georges County court by the said securities of Thomas Williams were pending in said court the said John Waring came into court and declared that his name as Plaintiff had been used without his authority and that he would not be a party to the prosecution of said suits — It was also offered in evidence that the name of the said John Waring was continued on the docket — the suits aforesaid were prosecuted to judgment as well in the name of said John Waring as of the other securities and that the said John Waring has since been called upon and paid fees and costs of suits incurred in the prosecution of said suits in the name of the said securities.

The Plaintiff further offered in evidence to the jury that Rinaldo Johnson one of the said securities paid a part of the said judgment so obtained by the executors of the said Diggs and that the said Waring having paid the residue of the said judgment obtained from the said executors of Diggs an assignment of the said judgment — The Plaintiff then offered in evidence that the said Rinaldo Johnson for the purpose of paying and discharging the judgment so as aforesaid obtained by the executors of George Diggs and to repay the money which the said John Waring had paid or was liable to pay on the judgment actually assigned to & put into the hands of the said John Waring two judgments recovered by the said securities one against William Warman Berry and the other against Dryden Tyler for more money than the said John Waring had paid or was liable to pay on the said judgment so obtained by the said Executors of George Diggs — And that the said John Waring afterwards in the year eighteen hundred and two received the money due on the said judgments so assigned by the said Johnson for the purpose of paying the said money so paid by the said John Waring on account of the said judgment or which he was liable to pay on that account and more than sufficient for that purpose. The Plaintiff then offered in evidence that some time in the year eighteen hundred and three upon an execution issued out of the General Court against the property of the Defendants in the