aforesaid in manner and forme as the said Thomas Pemberton and John Walles in their plea aforesaid have set forth, It is therefore considered by the Court here that the said Thomas Pemberton and John Walles recover against the said James Milles a writ the aforesaid summe of Two hundred pounds sterling the debt aforesaid and also the summe of pounds of Tobacco for costs of suite, And the said James Milles in mercy &c.

John Walles agt James Milles

James Milles late of Baltimore County gentl was attached to answer unto John Walles of a plea of Trespass upon the Case

And whereupon the said John by Nicholas Gerrard his Attorney complaineth that Whereas the said James Milles the twelfth day of October Anno Domini 1652 stood indebted unto him the said John for diverse goods and Merchandizes and also for severall summes of tobacco paid out and disbursed upon the proper account of him the said James and at the request of him the said James at diverse dayes and times (to wittt) from the 28th day of August 1652 unto the said twelfth day of October in the yeare aforesaid amounting in the whole to the summe of Three thousand two hundred and fifty pounds of tobacco a particular of all which is here in Court produced, In Consideration whereof the said James did assume upon himselfe and to the said John did faithfully promise that he the said James whensoever thereunto required the said summe of Three thousand two hundred and fifty pounds of tobacco to him the said John would well and truly content and pay, Notwithstanding which the said James Milles his promise and assumption aforesaid not regarding but in contempt and fraudulently intending him the said John of the said summe of Three thousand two hundred and fifty pounds of tobacco craftily and subtilly to defraud the said James the said summe of Three thousand two hundred and fifty pounds of tobacco aforesaid according to his promise hath not paid though often thereunto required, but the said James to pay hitherto hath and still doth refuse to pay to the damage of the said John Eleven thousand pounds of tobacco And thereupon he brings his suite

And the said James Milles by Robert Gerrard his Attorney confesseth the force and injury whereof he stands charged, liberty to imparle thereunto unlike the next Provinciall Court, and it is granted unto him and his summe day is given to his ppa libertate

At which said next Provinciall Court to wit, the thirteenth day of November in the eighteenth yeare of the Dominion of the Right honble Charles Lord Baltimore Anno Domini 1653 came the said parties by their Attorneys aforesaid, and the said James Milles by his said Attorney saith that he is not guilty of the summe of Three thousand two hundred and fifty pounds of tobacco part of the said summe of Four thousand forty six pounds of tobacco in the Declaration mentioned that the said John Walles ought not to have against him the said James his action because he saith that long before the suing out of the original writ of him the said John to wit, upon the fourth day of September 1652 at Patuxent River in Baltimore County he the said James did make unto the said John full satisfaction and payment for the said Four thousand forty six pounds of tobacco part of the said Five

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Thousand two hundred and fifty pounds of tobacco aforesaid in the Declaration above specified that is to say for the severall particular goods in the account of the said John to him said Defendant mentioned and hereafter set forth, to wittt for one thousand of 20d nailes two hundred and forty pounds of tobacco, for two thousand of Ten penny nailes two hundred and forty pounds of tobacco, for one thousand of Eight penny nailes one hundred pounds of tobacco, for five hundred of twenty penny nailes One hundred and twenty pounds of tobacco, for twenty six tiles and one fourle of an tile of sundry Two thousand eight hundred twenty one pounds of tobacco for drawn pairs of Yarne stockings One hundred twenty two pounds of tobacco to one piece of fustian three hundred and fifty pounds of tobacco, amounting in the whole to the summe of Four thousand forty six pounds of tobacco as aforesaid by other goods delivered to and summe of tobacco payd to and for him at the speciall instance and request of the said John at Bush River aforesaid, and the said Defendant is ready to verify and prayes Judgment, if the said John for so much of the said Five thousand two hundred and fifty pounds of tobacco his action aforesaid against him ought to have, and do so the summe of Four thousand two hundred and four pounds of tobacco residue of the said summe of Five thousand two hundred and fifty pounds of tobacco in the Declaration mentioned that is to say for the two hundred of twenty penny nailes for the partitions for the horse One hundred and twenty four pounds of tobacco for the tiles topped for the house four hundred pounds of tobacco, and for the twelve and twenty measures of tiles six hundred and sixty pounds of tobacco in the said account to the Declaration aforesaid mentioned amounting unto the said summe of Twelve hundred and four pounds of tobacco the said James saith he did not assume upon himself or to the said John in manner and forme as the said John above against him hath declared and of this he putteth himself upon the Country

And the said John Walles by his said Attorney further saith that he by any thing above alledged ought not to be barred of his action aforesaid because he saith that the said James did not make unto him the said John any satisfaction or payment for the said Four thousand forty six pounds of tobacco part of the said Five thousand two hundred and fifty pounds of tobacco aforesaid in the Declaration above specified as the said James in his plea above hath alledged and this he prayes may be inquired of by the Country. And the said James Milles likewise

Wherefore commanded the Sheriffe of St Maries County that he cause to come here on the fourteenth day of November in the yeare aforesaid twelve good and lawfull men of his Bailiwick to recognize upon their Oaths aforesaid whether the said James Milles did make unto the said John Walles full satisfaction and payment of the said summe of Four thousand forty six pounds of tobacco in the Declaration aforesaid mentioned, and for the said summe of one thousand two hundred and four pounds of tobacco residue of the said Five thousand two hundred and fifty pounds of tobacco the said Jurors say he the said James did not assume upon himself or to the said John Walles in manner and forme as the said John Walles above declared against him. At which said next Provinciall Court to wit, the thirteenth day of November in the eighteenth yeare aforesaid came the parties aforesaid by their Attorneys aforesaid and the said Jurors unpannelled being called likewise came to wit, Francis Gerrard, John Dorsey, John Wheatley, Thomas Hillary, Richard Edward, John Biggs, John Dawne, John Bailey, Thomas Lyefoot, Edward Langley, Marke Richardson, Nicholas Hemsley, Thomas Langton, John Mitchell, who being elected tryed and sworne to speake the truth in the premisses Upon their Oaths do say that the said James Milles did make unto the said John Walles full satisfaction and payment of the said summe of Four thousand forty six pounds of tobacco in the Declaration aforesaid mentioned, and for the said summe of one thousand two hundred and four pounds of tobacco residue of the said Five thousand two hundred and fifty pounds of tobacco the said Jurors say he the said James did not assume upon himself or to the said John Walles in manner and forme as the said John Walles above declared against him. Wherefore considered by the Court here that the said John Walles take nothing by the writ aforesaid but be in mercy for his false claime. Wherefore that the said James Milles go thence without Day, and that the said James Milles recover against the said John Walles the summe of Two thousand and fifty nine pounds of tobacco for his Costs and charges by him about his suite in this behalfe laid out and expended