Wm Jno Whittington & Wm Swealnam adrs of Edwd Bathurst vs Wm Harrison } By Vertue of her majtys writt for Correcting of Errors in a certain Judgment obtained by the said Wm Harrison against the said Jno Whittington and Wm Swealnam adrs of the sd Edwd Bathurst in Kent County Court the Justices of the said Court transmitt to her majestys Justices of the provl Court here the following record Vizt:

Kent County ss. In the records of said County amongst other things it is thus Contained as followeth Vizt:

Att a Court held for Kent County at the Court house in the towne and Port of Chester on Chester River in same County on the third day of Aprill (by Adjournmt from the Tenth day of March last) and Continued the fourth and fifth days of Aprill afsd in ye tenth year of ye reigne of our Sovereigne Lady Anne by the Grace of God of Great Brittain France and Ireland Queen defender of the faith &ca Anno Dom 1711 — before

The worshfull: Lieut Colo Edward Blay — Capt James Harris, Capt Wm Pott, Capt Edward Scott, Mr Wm Comegys } Comissioners Present

Wm Harrison / John Whittington & Wm Swealnam adrs Edwd Bathurst } Commanded it was to the Sheriff of Kent County the 2d day of Augt in ye ninth year of ye reigne of her now Majty Anne &ca that he take John Whittington & Willm Swealnam both of Queen Annes County Gent admrs of all and singular the goods and Chattells Rights and Credits wch were of Edwd Bathurst late of Kent Cty Mercht deced at the time of his death who dyed Intestate &ca if they should be found in his bailywick & them safe keep so that he have their bodys before her said Majtys Justices in Court Judicially sitting to answer unto Willm Harrison of ye same Cty of Kent Labourer of a plea of Trespass upon the Case And that he have then & there the sd writt &ca Att wch said Court the same day afsd Came Nathl Hynson Gent High Sheriff of said County and made return thereof in these words thereon Endorsed Vizt: Cepi Corpus Swealnam & Nathaniel Hynson Sher And the said defendts by Tho: Bowne their attny appd & prayd Liberty to Imparle untill next Court which is granted ye same day & given ye pltf in Like manner Att which said next Court held the Seventh day of Novr in ye year afsd the said Cause standing for tryall Came the said pltf by John Willenger his attny and the said defendants by Thos Bowne their attny and the said pltf by his said attny declare Vizt Kent County in Maryland ss: John Whittington & Willm Swealnam both of Queene Annes Cty Gent admrs of all & singular ye goods & Chattells rights & Credits wch were of Edwd Bathurst late of Kent Cty Mercht deced at the time of his death who dyed Intestate &ca were attached to answer unto Willm Harrison of the same Cty of Kent Labourer of a plea of Trespass upon the Case And whereupon the sd pltf by Jno Willinger his attny Complaineth that whereas in the Lifetime of the said Edwd Vizt in ye years of our Lord Christ one thousand seven hundred & eight & one thousand seven hundred & nine at Kent County afsd within ye Jurisdn of this Court he the said pltf at ye Speciall Instance and request of the sd Edwd at divers times did doe and perform for him the said Edward Divers Services by ye space of Sixty nine days Compleated in the month of Aprill in ye year last mentioned And whereas also in the Lifetime of the sd Edwd he the said pltf at the Speciall Instance and request of him the said Edwd also served him the said Edwd in Kent Cty afsd within ye Jurisdn of this Court as an hireling from the Seventh day of May in ye year last mentioned to ye Eighteenth day of Augt in ye same year he the said Edwd on ye eighteenth day of Augt afsd at the place afsd upon himself Assumed and unto the sd pltf then and there faithfully promised that he the sd Edwd so much tobacco as he the said pltf for the aboved sixty nine days service And also so much tobo for ye service last mentioned as he the said pltf should therefore reasonably deserve unto the said pltf when he the sd Edward should be thereunto required would well & faithfully pay & Content And the sd pltf in fact saith that for the service first mentioned he the said pltf at the time of performance thereof did reasonably deserve thirteen hundred & eighty pounds of tobacco and that for the service last mentioned at the time of fulfilling the same he did reasonably deserve four hundred fifty two pounds of tobo wch said Services & ye severall sums of tobacco afsd in ye whole amounting to the sum of Eighteen hundred thirty & two pounds of tobacco by an acct hereunto annexed and herein Court brought particularly appeare Nevertheless the said Edward in his Lifetime his promise and Assumpts afsd made not regarding the afsd eight hundred thirty and two pounds of tobo unto the sd pltf did not pay altho to pay the same he the said Edward on the nineteenth day of Augt afsd in Kent Cty afsd during his life by the said pltf was required neither have the said defendts admrs as afsd or either of them since the death of the said Edward paid ye same or anyways therefore to the said pltf made any satisfaction altho to do the same they the said Admrs since the death of the said Edwd Vizt on the twenty

(second)

second day of March in ye year afsd last mentioned and often since in Kent County afsd within the Jurisdn of this Court by the said pltf have been required but the same to pay they the said defendts admrs as afsd have and each of them hath denyed & refused and still do And each of them doth deny and refuse to the damage of the said pltf three thousand pounds of tobacco & thereof he brings suit &ca Willinger for the pltf: pledges &c John Doe & Richd Roe

1708 Mr Edward Bathurst Dr: Febry March 1709 Aprill to 69 days work at 20 tobo p day 1380 to wages from ye 7th day of May Anno 1709 untill ye 18th day of Augt in sd year at ye rate of 1600 tobo p annum Comes to 452 — — 1832

Errors and Omissions Excepted p Wm Harrison by mark — And the said action was Continued untill the then next Ensuing Court in Course Att wch said next Court Vizt the sixth day of March in ye year afsd and by adjournmt to the third day of Aprill in the tenth year of her said Majtys Reigne & Anno Dom 1711 And now here at this Court Vizt this fourth day of Aprill in ye year last said Came the sd pltf by Jno Willinger his attny And the sd defendts by Thomas Bowne their attny & brings an Injunction out of Chancery the sd writt bearing date the third day of June Anno 1710 Returnable to the 26th of July then next following so that the same hath no respect to this Court at this time, & the pltf by his afsd attny prays Judgmt because that there is no plea filed And the sd attorney saith that he hath not been informed how to plead to ye premises afsd Therefore it is Considered by the Court here Vizt the same day last mentioned that the sd pltf Wm Harrison do recover agt the said defendts Jno Whittington & Wm Swealnam in their Capacities afsd the afsd sum of Eighteen hundred thirty two pounds of tobo Damages by the sd pltf on acct of the said Edwd Bathurst his not performing his promise and Assumptn afsd Sustained and also the sum of two hundred sixty three pounds of tobo Costs by the sd pltf about his suit in this behalf Expended and by ye Court here of his assent adjudged of the goods & Chattells of the said Edwd in the hands of the said defendants administrators of the sd Edwd to be administred & ye sd Defendants in Mercy.

Jas Smith Clk

A true Copy taken from the records of Kent County p Jams Smith Clk — Memo that no writt whatsoever hath issued on the above judgment

Edward Blay (Seale) Wm Pearce (Seale)
Thos Ringgold (Seale) Wm Pott (Seale)
Edward Scott (Seale) Wm Comegys (Seale)

And now here this day to witt this 2d day of Octobr Anno Dom 1711 Comes the said Jno Whittington & Wm Swealnam adrs as afsd into her Majtys provl Court of Maryland before her Majtys Justices thereof by Wornell Hunt their attorney and say that in the record & process afsd as also in rendering ye Judgmt afsd it is manifestly Erred in this to witt

1st that the afsd Wm Harrison hath not set forth in his decln any certain Considn nor Ground for the Assumptn therein mentioned therein it is manifestly Erred — 2d that the said Wm Harrison did not set forth that in Considn thereof the afsd Edw in his Lifetime assumed upon himself therein it is manifestly Erred

3d that it doth not appear yt the dies datus to each of the pties was of Record therein it is manifestly Erred. 4 that the said Wm Harrison hath not set forth that administration of all and singular ye goods & Chattells wch were of the sd Edw at the time of his death was in due form of Law Committed to ye afsd Jno Whittington and Wm Swealnam therefore therein it is manifestly Erred — 5. that the Court adjudged damages to the sd Wm Harrison by reason of ye non performance of the Assumptn of the sd Edward to Eighteen hundred thirty two pounds of tobo without a writt of Inquiry & verdict thereon therein it is manifestly Erred — 6ly: that the Entry of the Judgmt by the record appears to be Erronious Insufft and wants forme & therefore therein it is manifestly Erred

And therefore the said John and Wm pray that to all things that they by occasion of the Judgmt afsd have lost may be restored & that ye afsd Wm Harrison to the Errors afsd may Rejoyne & yt the Court of our Sovereigne Lady the Queen now here will proceed as well to the Examination of ye record & process afsd as ye Matters afsd above for Errors assigned

And the sd Jno Whittington & Wm Swealnam adrs as afsd pray the writt of our Lady the Queen to forewarn Wm Harrison of being here before her Majtys Justices at ye next provl Court to hear the Errors assigned upon the Judgmt afsd issue &ca & further &ca wch is granted him and thereupon Commd is given the Sherf of Kent County that by good and lawfull men of his bailywick he make known unto the sd Wm Harrison of being before the Justices of her Majtys Provl Court to be held at Annapolis the second Tuesday of Aprill next to hear

(the)