to hear there of their Judgment until next Court for that the said Court as yet are not &c

At which said next Court to wit the 17th day of May Anno Dom 1726 Comes again as well the said Michael Macnemara by his Attorney as the said Lloyd Harris by their Attorney Whereupon all and singular the premisses being by the Court here seen heard fully understood & Mature Deliberation thereupon had. It is Considered by the Justices here the day and year last mentioned that the Judgm.t as for the Know as and others in the record and proceed as being be revised annulled and altogether held for nond and that the said Michael Macnemara & ats to all that he thereby lost be restored &c

And Also it is Considered that the said Michael Macnemara recover against the said Lloyd Harris and Eliana his wife Extx of the said Nicholas Rogers as well the sum of five thousand pounds of Tobacco in Cask his Damages as well as the sum of

1305 pounds of Tobacco by the Court here to the said Michael of his assessed Judgm.t for his Cost and Charges by him about his suit said and expended to be levied of the Goods and Chattles which were of the said Nicholas Rogers at the time of his death in the hands of the said Lloyd Harris & Eliana his wife Extx as well remaining to be administred if so much there of in their hands they have &c and if so much there of in their hands they have not &c then the Cost of suit as to be levied of the proper goods and Chattles of the said Lloyd & Eliana. and that they be in Mercy &c

Michael Macnemara
Lloyd Harris & Eliana ux Extx of Nich.s Rogers

} By Virtue of his Lordships writ for Correcting of Errors directed to his Lordships Justices of Baltimore County Court in a certain Cause Lately in the said Court depending between the parties aforesaid. The said Justices do Comply with the said writ Transmit to the Justices of the Provincial Court here the Record & proceedings therein in the words following Viz.t

Maryland ss. In the Records of Baltimore County amongst other things therein Contained is as followeth (Viz.t)

Baltimore County ss. At a Court of the Right Honourable Charles Absolute Lord and Proprietary of the Provinces of Maryland and Avalon Lord Baron of Baltimore &c Held at Joppa for the County of Baltimore the first Tuesday of March being the Sixth day of the same Month in the Sixth Year of his Lordships Dominion 1721 Before his said Lordships Justices thereunto lawfully authorized and appointed Present (Viz.t)

Coll.o James Maxwell

The Worshipful { Capt.n Luke Raven, Mr. Roger Mathews, Mr. Daniel Scot Junr. | Mr. John Israel, Mr. James Todd, Mr. Edward Hall | Gent.n Justices

Francis Holland Sheriff — John Stokes Clk

Nicholas Rogers Extor at Suit of Michael Macnemara } Baltimore County ss. Eliano Rogers of Baltimore County Widdow Executrix of the Testament and last Will of Nicholas Rogers late of Baltimore County Gentleman was attached to answer unto Michael Macnemara of a plea of Trespass upon the Case &c And thereupon the same Michael by Margarett Macnemara his Mother and Natural Guardian Complains that whereas the said Nicholas in his life time (Viz.t) the fourth Day of August Anno Dom.i Seventeen hundred and Seventeen at Baltimore County aforesaid within the Jurisdiction of this Court was indebted unto the said Michael in five thousand Pounds of Tobacco in Cask for the same value by the same Nicholas from the same Michael then and there had and received And being so thereof indebted the said Nicholas in his life time in Consideration thereof the Day and Year aforesaid at Baltimore County aforesaid within the Jurisdiction aforesaid upon himself assumed and to the said Michael then and there faithfully promised that he the said Nicholas in his life time the said five thousand Pounds of Tobacco in Cask to the said Michael when thereunto requested would well and truly Content and pay Nevertheless the said Nicholas in his life time and the said Eliano[r] since the Death of the said Nicholas the Promise and Assumption of the said Nicholas in his life time so as in form aforesaid

(made)

made little regarding But Contriving and fraudulently intending him the said Michael in this behalf Craftily and subtilly to deceive and defraud the said Nicholas in his life time & the said Eliano[r] since the Death of the said five thousand Pounds of Tobacco in Cask or any part thereof to the said Michael Although often thereunto requested have not paid nor hath either of them paid the same Although so to do the said Eliano[r] since the Death of the said Nicholas was by the said Michael afterwards (Viz.t) the first Day of November Anno Domini Seventeen hundred and Twenty at Baltimore County aforesaid within the Jurisdiction aforesaid requested but the said Nicholas in his life time and the said Eliano[r] since the Death of the said Nicholas the same five thousand Pounds of Tobacco in Cask to the said Michael to pay hitherto have refused And the same Eliano[r] since the Death of the said Nicholas the same to the said Michael to pay still doth refuse & whereby the said Michael saith he is the worse and hath lost to the Value of ten thousand Pounds of Tobacco and therefore he brings Suit &c Pledges &c John Doe and Richard Roe.

And the said Eliano[r] on the first Tuesday of June Anno Domini Seventeen hundred and Twenty One (until which day the same Eliano[r] had liberty to imparle from the first Tuesday of March Anno Dom.i Seventeen hundred and Twenty) at Joppa here by John Roberts her Attorney Came and Defended the force and injury when &c and prayed leave in the Action aforesaid to imparle to the then next County Court to be held at Joppa here the first Tuesday in August then next ensueing and had it &c And the same Day was given to the aforesaid Michael here also &c At which said first Tuesday of August at Joppa here came as well the said Michael by his Guardian aforesaid as the said Eliano[r] in her Capacity aforesaid by her Attorney aforesaid And the Action aforesaid in the plea aforesaid was by two Continuances resumed till the first Tuesday in March then next ensueing And now at this Day (to wit) this first Tuesday of March it being the Sixth Day of this same Month Anno Domini Seventeen hundred and Twenty one at Joppa here the aforesaid Michael by his Guardian aforesaid Comes and Prays that the said Eliano[r] in her Capacity aforesaid to his Declaration aforesaid in the Plea aforesaid may answer And the said Eliano[r] in her Capacity aforesaid by John Roberts her Attorney Comes and defends the force and Injury when &c and for Plea saith that aforesaid Michael Macnemara by his Guardian aforesaid his Action aforesaid against her the said Eliano[r] Rogers Extx as aforesaid to have and maintain ought not &c Because that Defendant saith that by Virtue of an Act of Parliament yet in force made in the Ninth and tenth Years of the late Queen Anne amongst other things in the said Act Contained is that after the first Day of May in the Year of our Lord One thousand Seven hundred and Eleven that all Notes Bills Bonds &c given by any Person where the Consideration is for Money or other Valuable thing Won by gaming or playing at Cards Dice Tables Tennis Bowles or any other Game or by Betting or for repaying any Money knowingly Lent for such Gaming or Betting or Lent at the time and place of such play to any so gaming or betting &c shall be void as in and by the said Act of Parliament relation being thereunto had may at large appear — And this Defendant further in fact saith that after the first Day of May One Thousand Seven hundred and Eleven (Viz.t) the ninth Day of August One thousand Seven hundred and Seventeen at Baltimore County within the Jurisdiction of this Court the aforesaid sum of five thousand Pounds of Tobacco In the plaintiffs Declaration is by Note under the Defendants Testators hand and won at Cards in Contempt and Contrary to the said Act of Parliament And this she is ready to aver wherefore prays Judgement whether the Plaintiff by his Guardian aforesaid his Action aforesaid to have ought &c And the said Michael saith that he by any thing alledged from having and maintaining his Action aforesaid ought not to be barred Because he saith that the plea aforesaid and the matter therein contained are not sufficient in Law to preclude him of his said Action or to Compell him to answer or reply thereto and that he to that Plea hath no need nor by the Law of the Land is held to make any And this he is ready to verify Wherefore for want of a sufficient Plea in this Part the said Michael prays Judgement for his Damages sustained by Occasion of the Premises to be to him adjudged and for Cause of Demurrer thereto according to the Statute &c Sheweth the following (Viz.t) that the Plea aforesaid doth not answer the Declaration But pleads to a matter not contained therein without any Averment to bring the same matter regularly to an Issue That it is not mentioned by whom or at what Game the Tobacco mentioned in the Plea was won that the Act of Parliament pleaded is misrecited and that the said plea is vicious insufficient and wants form — And the aforesaid Eliano[r] in her Capacity aforesaid by her Attorney aforesaid saith that the Plea aforesaid by her the aforesaid Eliano[r] in manner and form above pleaded and the matter therein contained is sufficient in Law to bar the aforesaid Michael from having his Action aforesaid And this she is ready to aver And because the aforesaid Michael hath not in any wise gainsayed her the said Eliano[r]s Plea nor made any direct Answer or reply thereto the same Eliano[r] as before Prays Judgement whether the Plaintiff by his

(Guardian)