Tobacco afterwards vizt the thirteenth Day of April in the year af^d in the life time of the said Martin to the hands and Possession of the said Nicholas Fitzimonds by finding same yet the said Nicholas Knowing the two Hogsheads of Tobacco of the Weight & Prise af^d to be the Proper Tobacco of the said John Martin & to him in his life time to appertain & belong & claim the said John Burk after the Death of the said John Martin as Ex^r of his last & Testament of the said John Martin of Right to belong, but deceiving and fraudulently intending the said John Martin in his life time or to the said John Burk after his Death to whom Letters Testamentary by William Bladen Esqr late Commissary Generall of the Estate of the deceased John Martin were granted altho the same to deliver to the said John Burk by the said John Burk the twenty first Day of May in the year af^d at Baltimore County af^d within the Jurisdiction af^d after the Death of the said John Martin was thereunto required but the same two Hogsheads of Tobacco to deliver hath hitherto denied & afterwards vizt the twenty second Day of May in the year af^d at Bal^t County af^d & within the Jurisdiction af^d to his own Proper use hath Converted & Disposed To the Damage of the said John Burk Twenty Pounds Sterling in Delay of the Executing the Will of the said John Martin & thereof he brings Suit &c^t And he brings here into Court the Letters Testamentary which Doth testify the Executorship & his Commission for the Executing the said Estate —

And the said Nicholas Fitzimonds as well in his proper Person as by John Board his Attorney comes & Defends the Force & Injury when &c^t And for Plea Saith not Guilty p^r Pakiam Board pro Def^t Et Quærente Similiter John Roberts Sho: Sarkin p^r Plf^t. Command therefore was given to the Sheriff of Baltimore County that immediately he Cause to come here twelve &c^t by whom &c^t who neither &c^t to recognize &c^t because as well &c^t And the Sheriff now returneth that he hath here twelve &c^t Ready by his Precept he was Commanded Howbeit at this Day Namely the Second of June come as well the said John Burk in his Capacity af^d by his Attorney af^d as the said Nicholas Fitzimonds in his proper Person And the said John by his Attorney af^d And the Jurors thereon impanelled being called Came likewise Namely Moses Edward, Wm^. Lenox, John Walker, Wm^. Hamilton, Oliver Harriott, Luke Stansbury & Sam^ll Hughs, Isaac Newport, Edwd Coal, Edwd Roberts, Wm^. Pickett & John Gorsuch who being Elected tryed & Sworn to speak the truth on the Premises on their Oaths do say, We of the Jury do find for the Plf^t according to the Declaration whereof it is by the Justices here Considered that the said John Burk in his Capacity af^d recover against the said Nicholas Fitzimonds as well the Sum of ten Pounds Sterling His Debt af^d as the Sume of One thousand Seven hundred & fifty Nine Pounds of Tobacco his Damages occasioned by the Detention of the same to the said Plf^t in his Capacity af^d at his request by the Court here adjudged & the said Def^t in Mercy

In Quorum Testatum I have hereunto set my hand and affixed the Seal of Bal^t County af^d the first Day of April Anno Dom^i 1724

Seal of Bal^t County

John Stokes Clk Bal^t Co^ty —

I hereby Certifye that there accrues due unto me the Subscriber from the af^d Nicholas the sum of Eighty Pounds of Tobacco for the foregoing Transcript

John Stokes Clk of said County — — —

And now here at this Day to wit the 19th Day of May Anno Dom^i 1724 Comes into this Lordships Provincial Court here the said Nicholas Fitzimonds by Daniel Dulany his Attorney & Says that in the Record & Process af^d and rendring the Judgment af^d it is manifestly Erred vizt)

It is Erred in this that Judgment is rendred for the said John against the said Nicholas whereas by the Law of the Land Judgment ought to have been rendred for the said Nicholas against the said John for which & many other Errors as well in the Record & Process as in rendering the Judgment af^d the said Nicholas prays that the Judgment af^d may be reversed set aside & held for none And that he the said Nicholas to all that by the Judgment af^d is lost may be restored And that the said John to the Errors af^d may rejoyn —

Whereupon the said John Burk Ex^r as af^d in his proper Person Comes & Says that in the Record & Process af^d and rendring the Judgment thereon it is Nothing Erred And prays that the same Judgment may in all things be affirmed &c^t

And thereupon as well the said Nicholas Fitzimonds by his Attorney af^d as the said John Burk Ex^r as af^d in his Proper Person prays that the Court of the Lord Proprietary here will proceed as well to the Examination of the Record & Process af^d as of the Matters above for Errors assigned But for that the Court here are not advised of their Judgment of & upon the Premises af^d Day is given to the said Parties to hear

(thereof)

thereof their Judgment untill next Court for that the said Court as yet are not &c^t —

At which said next Court to wit the 20th Day of October Anno Dom^i 1724 Come again as well the said Nicholas Fitzimonds by his Attorney af^d as the said John Burk Ex^r as af^d in his Proper Person But for that the Court here are not advised of their Judgment of & upon the Premises af^d Day is further given to the said Parties to hear — thereof their Judgment untill next Court for that the said Court as yet are not &c^t —

At which said next Court to wit the 18th Day of May Anno Dom^i 1725 Come again as well the said Plf^t by his Attorney af^d as the said Def^t in his proper Person But for that the Court here are not advised of their Judgment of & upon the Premises af^d Day is further given to the said Parties to hear thereof their Judgment untill next Court for that the said Court as yet are not &c^t —

At which said next Court to wit the 19th Day of October Anno Dom^i 1725 Come again as well the said Plf^t by his Attorney af^d as the said Def^t in his proper Person But for that the Court here are not advised of their Judgment of & upon the Premises af^d Day is further given to the said Parties to hear thereof their Judgment untill next Court for that the said Court as yet are not &c^t —

At which said next Court to wit the 19th Day of May Anno Dom^i 1726 Come again as well the said Plf^t by his Attorney af^d as the said Def^t in his Proper Person But for that the Court here are not advised of their Judgment of & upon the Premises af^d Day is further given to the Parties af^d to hear thereof their Judgment untill next Court for that the said Court as yet are not &c^t —

At which said next Court to wit the 18th Day of October Anno Dom^i 1726 Come again as well the said Nicholas Fitzimonds by his Attorney af^d as the said John Burk Ex^r as af^d in his Proper Person whereupon all & singular the Premises being by the Court soon heard fully understood & mature deliberation thereupon had It is Considered by the Justices here the Day & year last mentioned that the Judgment af^d for the Errors af^d & others in the Record & Process af^d being be reversed annulled & altogether had for none and that the said Nicholas Fitzimonds to all that is thereby lost be restored &c^t

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Tobias Burke — — — } By Virtue of this Lordships Writ for Correcting of Errors directed to this Lordship Justices
vs } of Somerset County Court in a Certain Cause lately in the said Court depending between
Thos Holbrooke & his } the Parties af^d the said Justices in Compliance with the said Writ transmitt to the
Justices of the Provincial Court here the Record & Proceedings therein in the Words following (vizt) — —

Somerset County ss

In the Records and Proceedings of Somerset County amongst other things is thus Contained as follows (vizt)

Somerset County ss

At a Court (of the Right Honble Charles Absolute Lord and Proprietary of the Province of Maryland and Avalon Lord Baron of Baltimore &c^t) held by his said Lordships Commissioners and Justices of the Peace for the County af^d at Dividing Creek the third Tuesday of March being the Sixteenth Day of the same month in the Ninth year of his said Lordships Dominion &c^t Anno Dom^i 1724

Present

The Worshipfull — Mr^d Samuel Hopkins, Mr^d William Whittington, Major William Planner, Mr^d John Jones — — —, Mr^d John Purnell — Mr^d William Hasitt, Mr^d John Smith, — — — — — —, William Stoughton Esqr, Mr^d John Handy — — — His Lordships Justices

Joseph Mc Chester Sheriff — Thomas Hayward Clerk —

All Thomas Holbrook et ux } Somerset County ss
vs } Tobias Burke of Stepney Parish in Somerset County —
Tobias Burke — — — } Planter was attached to answer unto Thomas Holbrook and Sarah his Wife of a Plea of —
Trespass upon the Case &c^t —

And whereupon the said Thomas and Sarah his Wife by Francis Allen their Attorney Complain that — whereas the said Sarah is a good true and Christ Loigo Subject of our Lord the King that now is and as a pious and honest Person of this Government from the time of her Nativity hitherto hath behaved herself and of good Name fame Gesture Condition and honest Conversation amongst good honest and Prudent Men and Women as well her Neighbours as other faithfull Subjects of our said Lord the King now and his Predecessors Kings and —

(Queens)