being unpaid did protest or Cause to be protested according to the Custom of Merchants By reason whereof & by the Custom aforesaid among Merchants & other persons using Commerce used & approved the Contrary whereof in the Memory of Man is not (to wit) at London & the County aforesaid the same Gilbert Higgenson became Chargeable with the payment of or ought to pay the said Forty pounds Sterling together with all Costs Damage and Charge occasioned or Sustained by reason of the Non payment thereof & the protestation of the said Bill And the said Richard in fact saith that the Costs Damage & Charge Sustained by the said Richard by reason of the non payment of the said Forty pounds and the protestation of the said Bill amount in all to Eight pounds Six Shillings & three pence Sterling of all which premisses the said Gilbert afterwards to wit the Tenth Day of September Anno Dom Seventeen hundred & thirty at Ann Arundell County aforesaid Notice In Consideration of which premisses the said Gilbert the Day & year last mentioned at Ann Arundell County aforesaid upon himself assumed & to the said Richard Bennett then & there faithfully promised that he the said Gilbert the said Severall Sums amounting in all to forty Eight pounds Six Shillings & three pence Sterling to the said Richard Bennett when thereunto requested would well & truly Content & pay yet the said Gilbert Higgenson his promise & Assumption not regarding but minding and fraudulently intending him the said Richard in this part Craftily & Subtilly to deceive and defraud the said Gilbert the said forty Eight pounds Six Shillings & three pence or any part thereof to the said Richard hath not Contented or paid altho so to do the said Gilbert by the said Richard afterward to wit) the Tenth Day of November Anno Dom Seventeen hundred & thirty aforesaid at Ann Arundell County aforesaid was requested but the same to him to pay hath refused & still doth refuse to the Damage of the said Richard Eighty pounds Sterling and therefore he brings Suit —

Pledges pr John Doe & Richd Roe —

Thereupon the said Richard Bennett by his Attorney aforesaid prays that for as much as he hath Complyed with the Law in Order to an Attachment he may have Judgment against the said Gilbert Higgenson for his Damages by Occasion of the premisses aforesaid by Way of Attachment according to Act of Assembly —

Whereupon for that it seems to the Court here that the said Richard Bennett hath Complyed with the Law as alledged & he having made sufficient proof of his Damages to the Court here —

Therefore it is Considered by the Justices here the 19th Day of October Anno Dom 1731 aforesaid that the said Richard Bennett recover against the said Gilbert Higgenson as well the Sum of forty Eight pounds five Shillings & three pence Sterling his Damages aforesaid as also all Costs & Charges by the said Richard Bennett about his Suit in this behalf laid out & expended by Way of Attachment against the Goods Chattels rights & Credits of the said Gilbert Higgenson according to Act of Assembly in Such Cases made & provided &c —

William Smallwood — Command was given to the Sheriff of Prince George County that he should take John Wood Nath. Jacobs & James Pearce Admrs of Hugh Arbuthnot — as John Wood Nath. Jacobs & James Pearce of London Merchants Admrs of all & Singular the Goods & Chattels Rights & Credits which were of Hugh Arbuthnot — Merchant dead if they should be found in his Bailywick & them safe keep so that he might have their Body before the Justices of his Lordships Provincial Court to be held at Annapolis the third Tuesday of October then next to answer unto William Smallwood

of a plea of Trespass upon the Case And that thereof he the said Sheriff should not fail &c —

At which said third Tuesday of October to wit the 19th Day of the same Month — Anno Dom 1731 being the Day of the return of the said Writ Comes the said William Smallwood by Daniel Dulany his Attorney And there being sent a Copy of a Short Note filed in the plea aforesaid (expressing the Cause of Action) with the Writ is endorsed in this Action aforesaid the Sheriff of Prince George County to whom the same Writ was directed likewise Comes & makes return thereof to the Court here thus Endorsed Vizt

Vt Copy Short Note left pr Thos Brooke Sheriff —

And the said William Smallwood by Daniel Dulany his Attorney declared against the said John Wood Nathaniel Tooke & James Pearce Admrs as aforesaid in the plea aforesaid as follows (Vizt) Maryland ss

John Wood Nathaniel Tooke and James Pearce of London Merchants Admrs of all & Singular the Goods & Chattels Rights & Credits which were of Hugh Arbuthnot Merchant dead were attached to answer unto William Smallwood of a plea of Trespass upon the Case —

And whereupon the same William Smallwood by Daniel Dulany his Attorney Complains that whereas the said Hugh in his lifetime to wit the first Day of March Anno Dom Seventeen hundred & thirty at Ann Arundell County — was indebted to the said William in thirty four pounds Nine Shillings & Seven pence Sterling for the like Sum by the said Hugh in his lifetime to the use of the said William had & received And being so thereof indebted the said Hugh in his lifetime in Consideration thereof the Day & year aforesaid in the County aforesaid upon himself assumed & to the said William then & there faithfully promised — that he the said Hugh in his lifetime the said thirty four pounds Nine Shillings & Seven pence Sterling to the said William when thereunto requested would well & truly Content & pay yet the said Hugh in his lifetime And the said John Nath. & James to whom administration of all & Singular the Goods & Chattels Rights and Credits which were of the said Hugh at the time of his Death was Committed the Promise & Assumption aforesaid by the said Hugh in his lifetime in form aforesaid made not regarding but minding & fraudulently intending him the said William in this behalf Craftily & Subtilly to deceive & defraud the said Hugh in his lifetime or the said John Nathaniel & James since his Death the said thirty four pounds Nine Shillings & Seven pence Sterling or any part thereof have not nor hath any of them paid to the said William although the said Hugh in his lifetime to wit the Day & year aforesaid in the County aforesaid & the said John Nathaniel & James since the Death of the said Hugh to wit the Tenth Day of August Anno Dom Seventeen hundred & thirty one in the County aforesaid & often before & since so to do were requested but the same to him to pay the said Hugh in his lifetime & the said John Nathaniel & James since his Death have refused & the same to the said Hugh to Content or pay the said John Nath. & James still refuse to the Damage of the said William Seventy pounds Sterling & therefore he brings Suit — Pledges pr Doe & R Roe —

Thereupon the said William Smallwood by his Attorney aforesaid prays that for as much as he hath Complyed with the Law in Order to an Attachment he may have Judgment against the said John Wood Nathaniel Tooke & James Pearce Admrs as aforesaid for his Damages by Occasion of the premisses aforesaid by Way of Attachment according to Act of Assembly —

Whereupon for that it seems to the Court here that the said William Smallwood hath Complyed with the Law as alledged & he having made sufficient proof of his Damages to the Court here —

Therefore it is Considered by the Justices here the 19th Day of October Anno Dom 1731 aforesaid that the said William Smallwood recover against the said John Wood