a Session of Assembly begun & held at the City of Annapolis the Seventh Day of October in the Year of our Lord Seventeen hundred & Twenty it was Enacted that it should not be lawfull for any Creditor or Creditors to prosecute any Such Administration or Testamentary Bond for any Debt or Damages due from or recovered against any Testator or intestate or their Effects before a Non est Inventus on a Capias ad respondendum be returned against the Executor or Administrator or a fieri facias returned Nulla bona by the Sheriff of the County where Such Executor or Administrator should live or where the Effects of Such deceased should lye or such other Apparent insolvency or insufficiency of the Person or Effects of Such Executor or Adm.r as should in the Judgment of the Provincial Court that should hear the Cause render Such Creditors remediless by any other reasonable Means save that of suing Such Bond on pain that Such Person or Persons that should Cause such Bond Contrary to the true intent & Meaning of Such Act to be Sued should be Condemned in full Cost of Suit to be adjudged by Such Provincial Court to the Defendant or Defendants that shall be so sued against the Person or Persons that shall Cause the Same to be Sued & should award Execution thereof as Small in other Cases as by the said Act still in force & Virtue may more at large appear And the said Thomas further Saith that all this true it is that a fieri facias bearing Test the Seventeenth Day of July in the twenty first Year of his Lordships Dominion & in the Year of our Lord One thousand Seven hundred & thirty five did Issue out of this Provincial Court here of the right Honorable the Lord Propry returnable before the Justices of this Court here then to be held at Annapolis the third Tuesday of October then next Directed to the Sheriff of Ann Arundell County Commanding him that of the Goods & Chattles which were of William Holland Esq.r deceased at the time of his Death in the hands of the said Elizabeth & William Holland & Thomas Holland Exr.s of the Testament & last Will of the said William Holland to be administred being in his Bailywick he should Cause to be made as well the Sum of Two hundred Sixty four Pounds one Shilling & four pence Certain Damages which William Hunt in this Provincial Court here before the Justices thereof at Annapolis on the Eighth Day of July then Instant recovered against the said Elizabeth & William & Thomas Executors as af.s as also the Sum of Two thousand three hundred Seventy four & half Pounds of Tobacco which in this Court here was adjudged unto the s.d Wm Hunt for his Costs & Damages Sustained by Occasion of Detaining the same Debt of the said Goods & Chattels to be levyed if so much thereof in their hands they should have &c then the Cost of Suit af.s to be levyed of the Proper Goods and Chattles of the said Elizabeth William & Thomas & all this an Indorsement was made on the said Writ of the words Nulla bona Subscribed by Nicholas Maccubbin then Sheriff of the said Ann Arundell County Yet the said Thomas Saith that there is not any Such Record of Such recovery or Judgment of this Provincial Court here of the Lord Propry remaining on Record as alledged in the said Writ of fieri facias And this he is ready to verify &c And the said Thomas by Leave of the Court here & according to the form of the Statute in Such Case lately made & provided further saith that the said Writ of fieri facias was sued on & not before the Twenty first Day of October One thousand Seven hundred and

(thirty)

thirty five & that the said third Tuesday of October in the said fieri facias mentioned & to which said third Tuesday of October the said fieri facias was returnable was the Same Twenty first Day of October af.s on which the said fieri facias was issued as af.s And the said Thomas further Saith that the said Elizabeth and the said William nor he the said Thomas Exr.s as af.s or any of them were ever required by the said William Hunt in the Indorsement af.s mentioned or any Sheriff or other Person on his behalf to shew all or any part of the personal Estate of the said William Holland deceased in their or either of their hands unadministred to the said Sheriff or his Deputy so that Such Sheriff might levy Such part thereof as the said William Hunt in the Indorsement af.s mentioned or his Attorney in Fact or in Law should direct by Virtue of the said fieri facias all the the said Elizabeth William & the said Thomas Exr.s as af.s always were & stillare (to wit) in Ann Arundell County af.s willing & ready to shew all the Personall Estate of the said Wm Holland deceased in their or either of their hands unadministred to the Sheriff or his Deputy so that Such Sheriff might or may levy Such part thereof as af.s And the said Thomas further Saith that a Non est Inventus on a Capias ad respondendum was never returned against the said Elizabeth William or he the said Thomas Exr.s as af.s or any of them as Exr.s as af.s at the Suit of the said William Hunt in the indorsement af.s mentioned nor is there any Apparent insolvency or insufficiency of the Person or Effects of the said Elizabeth William & the said Thomas Exr.s as af.s so as to render the said Wm Hunt in the Indorsement af.s mentioned remediless by any other reasonable Means save that of suing the Writing Obligatory af.s & these Severall Matters he the said Thomas is ready to verify Wherefore he prays Judgment if the said Attorney General on behalf of the said Lord Propry the Action af.s against him to have & maintain if the said William ought not to be Condemned in full Costs of Suit &c.

And the said Attorney General Saith that he by anything above alledged from having & maintaining the Action af.s against the said Thomas for the said Lord Propry ought not to be precluded because protesting that the plea af.s & the Matters therein Contained are insufficient in Law to preclude the said Lord Propry of having his Action af.s or to Compell the said Attorney General for the said Lord Propry to answer thereto & that the said Attorney General to the said plea hath no need nor by the Law of the Land is held to answer And protesting that Elizabeth Holland one of the Executors of the said William Holland the Testator on the first Day of July in the Year of our Lord Seventeen hundred & thirty five & long before & always afterwards hath resided in Dorchester County & that William Holland & the said Thomas Holland the other two Executors of the said William Holland the Testator on the said first Day of July in the Year af.s & long before & ever since have resided in Calvert County And protesting that a Provincial Court held at Annapolis the Eighth Day of July in the Year of our Lord Seventeen hundred & thirty five before Levin Gale Esq.r & his Associates Justices of the Same Court the af.s Wm Hunt in the Indorsement on the said Writ mentioned recovered by Consideration of the Same Two hundred & Sixty four Pounds one Shilling & four Pence Sterling Certain Damages & two thousand three hundred & fifty pounds of Tobacco Cost against the said Elizabeth Holland William Holland & Thomas

(Holland)