Injury when &c. and as to his coming with Force and Arms and whatever is against the Peace of the Right Honourable Lord Proprietary that now is he the said John Cooke says that he is in no wise thereof Guilty in manner as the said Stephen Lewis against him hath Complained and thereof he puts himself upon the Country

And the said John Cooke as to breaking the Close and Houses of him the said Stephen Lewis and expelling and amoving him from the Possession of the Closes and Houses afs. in the Declaration afs. mentioned supposed to be done he the said John Cooke says that the said Stephen Lewis his Action afs. against him to have ought not because he says that before the afs. Twenty seventh Day of June in the Year one Thousand seven hundred and forty six in the Declaration afs. mentioned to wit on the nineteenth Day of May in the Year of our Lord Seventeen hundred and forty six a certain William Cumming and James Edmondston did Prosecute out of his Lordships the Right Honourable the Lord Propry that now is his Provincial Court the said Provincial Court at the City of Annapolis in Annarundell County then being a certain Writ of the said Lord Propry of Habere facias Possessionem directed to the said John Cooke then Sheriff of Prince Georges County in these Words Viz.

Maryland ss. Charles Absolute Lord & Propry of the Provinces of Maryland & Avalon Lord Baron of Baltimore &c. To the Sheriff of Prince Georges County Greeting Whereas at a Provincial Court held at the City of Annapolis the eighth Day of April Instant a certain William Cumming & James Edmondston in the Name of Patrick Smith their Lessee recovered against Stephen Lewis late of Prince Georges County Planter their Possession of in and unto all that Tract of Plantable Land called Preston Marshe lying in Prince Georges County afs. Containing and now laid out for Twelve hundred and Thirty Acres of Land more or less with the Appurtenances thereunto belonging by Consideration of the same Court which the said Stephen Lewis from the said William Cumming and James Edmondson unjustly detained We therefore Command you that to them the said William Cumming and James Edmondston full and Ample Possession of in and unto the afs. Tract of Land called Preston Marshe with the Appurtenances thereunto belonging without delay you cause to be had and given and how you shall Execute this Writ that you make known unto our Justices of our Provincial Court to be held at Annapolis the Second Tuesday of September next and have you then and there the Names of those before whom you shall Execute this Writ and the same Writ Witness Philip Thomas Esq. Chief Justice of our Provincial Court the 26th Day of April in the 32d Year of our Dominion &c. Annoque Dom. 1746

Which said Writ afterwards and before the return thereof to wit on the twentieth Day of May in the Year of our Lord Seventeen hundred and forty six at Prince Georges County afs. to him the said John Cook then and there Sheriff of Prince Georges County in due form of Law to Execute was delivered by Virtue of which said Writ he the said John Cooke afterwards and before the return thereof on the Twenty eighth Day of May in the Year of our Lord Seventeen hundred and forty six at Prince Georges County afs. into the afs. Tract of Plantable Land called Preston Marsh in the said Writ of Habere facias Possessionem mentioned In which the Trespass afs. is supposed to have been committed and he the said John Cooke then and there Possession thereof to the said William Cumming and James Edmondston according to the Exigency of the said Writ did deliver which said breaking into the Close and Houses afs. whereof the said Stephen Lewis in his Declaration afs. hath above alleged without that that he the said John Cooke is Guilty of Breaking the Close & Houses afs. at any time before the afs. Twenty eighth Day of May or after the (return)

return of the Writ aforesaid and this he is ready to Verify wherefore he prays Judgment if the said Stephen Lewis his Action afs. as to the breaking and Entry of the said Close and Houses in the Declaration afs. specified to have and maintain ought &c.

And the afs. Stephen says that he by any thing by the afs. John in Pleading alledged from having his Action afs. against him to be Precluded ought not because he saith that the afs. John on the Day and Year afs. in the Declaration afs. mentioned of his own wrong the Close of him the said Stephen called Strife and the Houses of him the said Stephen in the Declaration afs. mentioned at Prince Georges County afs. broke and him the said Stephen from the Possession of the same Close and Houses expelled and amoved in manner and form as in the Declaration afs. is alledged without that that the entring into the afs. Tract of Land called Prestons Marshe and delivering Possession thereof to the said William Cumming and James Edmonston is the breaking and entring into the Close and Houses afs. whereof the said Stephen in his Declaration afs. hath above Complained as the afs. John above in Pleading hath alledged and this he is ready to Verify wherefore he prays Judgment and his Damages by Occasion of the Trespass afs. to him to be Adjudged &c.

And the said John Cooke as before says that by Virtue of the afs. Writ of Habere facias Possessionem to him as afs. Directed on the Day Year & Place in the said Plea of his Pleaded into the Close and Houses in the said Writ of Habere facias Possessionem mentioned did enter and then and there Possession thereof to the said William Cumming and James Edmondson according to the Exigency of the Writ afs. did deliver in manner and form as the said John Cooke above by Pleading hath alledged and thereof he puts himself upon the Country &c.

And the afs. Stephen says that the Plea afs. by the afs. John in manner and form afs. above in Rejoyning Pleaded and the matter in the same Contained are Insufficient in Law to Preclude him the said Stephen from having his Action aforesaid against the afs. John to which he the same Stephen is under no Necessity nor by the Law of the Land Bound in any manner to Answer and this he is ready to Verify wherefore for want of a sufficient Rejoynder in this part he the same Stephen prays Judgment and his Damages aforesaid by Occasion thereof to him to be Adjudged

And the afs. John says that the Plea afs. by him the said John in manner and form afs. above in his Rejoynder Pleaded and the matter in the same Contained are good & Sufficient in Law to Preclude him the said Stephen from having his Action afs. thereof against the afs. John which said Plea, and the matter in the same Contained the afs. John is ready to aver and Prove as far as the Court &c. and because the afs. Stephen hath not Answered to that Plea nor the same hitherto in any manner hath denied the same John as before prays Judgment and that the afs. Stephen from having his Action afs. against him may be Precluded &c.

Whereupon all and Singular the Premises being by the Court here seen heard fully understood and mature Deliberation thereupon had for that it seems to the Court here that the Plea afs. by the afs. John in manner and form afs. above in Rejoyning Pleaded and the matter in the same Contained are Insufficient in Law to Preclude him the said Stephen from having his Action afs. against the afs. John

Therefore it is Considered by the Justices here that the said Stephen Lewis his Damages by Occasion of the Premises afs. ought to recover but because it is unknown unto the said Justices what Damages the said Stephen Lewis hath Sustained by occasion (thereof)