May Term 1756

And the aforesaid Joshua saith that he for any thing by the afs John above in pleading alledged ought not to be debarred from having his Action aforesaid thereof against him because he saith that the aforesaid John within three Years before the impetrating the Writ original of him the said Joshua did assume upon himself in Manner and Form as the said Joshua ... above against him the said John hath declared and this he prays may be enquired of by the Country and the aforesaid John in like Manner

Whereupon for trying the Issue afs Command is given to the Sheriff of Somerset County that he cause to come before the Justices of the Provincial Court at Annapolis the third Tuesday of May next or before the Justices appointed to take the Assizes in his County if they shall before that Time to wit on Tuesday the first Day of April next to the County Court House in the said County twelve good and Lawful Men of his Bailiwick by whom &c. who neither &c. to recognize &c. because &c.

Afterwards the Process continued between the Parties afs in the Plea afs by the Jury being put thereon in Respite here until the third Tuesday of May next unless the Justices of his Lordship the Lord Proprietary to take the Assizes in the said County assigned on Tuesday the first Day of April next to the County Court House in the said County shall come

And now here at this Day to wit the said third Tuesday of May being the 21st Day of the same Month Anno Dom. 1753 come again into his Lordships Provincial Court as well the said Joshua Caldwell by his Attorney afs as the said John Dalton by his Attorney aforesaid but the Sheriff hath not sent his Writ

Whereupon and on the Affidavit of the said Joshua Caldwell in the following words viz. Somerset to wit April 1st 1753 the Plaintiff in this Cause being sworn upon the Holy Evangelist of Almighty God deposeth and saith that a certain Day Scott is a material Witness in this Cause and that he the said Plaintiff cannot come to Trial without the Evidence of the said Day unless with Prejudice to his Cause and further saith that he is informed and believes the same to be true that the said Day is at this Time in the Island of Antigua beyond the Seas. Jos Caldwell

Sworn to in open Court April 2d 1753 Test Jam Auld Clerk

This Cause is continued untill next Court

At which said next Court to wit the 21st Day of October Anno Dom. 1753 come again the said Parties Plaintiff and Defendant by their Attorneys afs

Whereupon for trying the Issues afs Command is again given to the Sheriff of Somerset County that he cause to come before the Justices of the Provincial Court at Annapolis the third Tuesday of May next or before the Justices appointed to take the Assizes in his County if they shall before that Time to wit on Tuesday the sixth Day of April next to the County Court House in the said County come twelve good and Lawful Men of his Bailiwick by whom &c. who neither &c. to recognize &c. because &c.

Afterwards the Process by Consent of Parties on the Affidavit &c. is continued between the Parties afs in the Plea afs by the Jury being put thereon in Respite here until next Court unless the Justices of his Lordship the Lord Propry to take the Assizes in the said County assigned on Tuesday the sixth Day of April next to the County Court House in the said County shall come

And now here at this Day to wit the Eighteenth Day of May Anno Dom. 1756 come again into his Lordships Provincial Court here as well the said Joshua Caldwell by his Attorney aforesaid as the said John Dalton by his Attorney aforesaid and the Justice of Assize before whom &c. sends here his Record before him here in these Words Viz

Afterwards to wit at the Day and Place last above mentioned before the Honble Bladenfield Hands Esq one of his Lordships Justices of the Provincial Court assigned to take the Assizes in Somerset County according to the Form of the Acts of Assembly in such Case made and provided comes again as well the said Joshua Caldwell by his Attorney aforesaid as the said John Dalton by his Attorney aforesaid and the Jurors of that Jury whereof Mention is before made being equally called likewise come to wit Joseph Gillis, John Jones, Wm Miles, Monohin, Samuel Adams, William Flemming, Elias White, Ezekiel Hall, James Gunby, John Killson, Josephus Bole, William Gray, Monohin and William Sherwin who being duly elected tryed and sworn to say the Truth in the premises upon their Oath do say as to the first Issue that the said John Dalton did not assume upon him self in Manner and Form as the said Joshua above against him complains And the Jurors upon their Oath afs do further say as to the second Issue that the said John Dalton did not assume upon himself in Manner and Form as the said Joshua above complains against him at any time within three Years next before the Day of impetrating the said original Writ of him the said Joshua in Manner and Form as he the said John Dalton above by Pleading hath alledged Test

Jam Auld Clk Cur

Therefore it is considered by the Justices here that the said Joshua Caldwell take Nothing by his Writ aforesaid but that he and his Pledges of Prosecuting to wit John Doe & Richard Roe be in Mercy &c. and that the said John Dalton go thereof without Day &c. and it is also considered that the said John Dalton recover against the said Joshua Caldwell the sum of ... Pounds of Tobacco by the Court here unto him on his Assent adjudged for his Costs and Charges by him about his Defence in this Behalf laid out and expended and that he have thereof his Execution &c.

Test Wm Sleight Clk