being of opinion that if the said Samuel T. Wright had received the property of the said Clement under the said Order and decree of the said Orphans Court, and had wasted the same before he was appointed administrator de bonis non, yet in consequence of his being so appointed and receiving letters de bonis non &c. the plaintiff could not support her first issue. Whereupon the said plaintiff prays leave to except thereto, and prays that the Court will sign the same &c. —

Lem.l Purnell (Seal) Tho. Worrell (Seal)

State of Maryland, for the use, and at the instance Ennalls Martin and Perry Benson, surviving Executors of Thomas Chamberlaine deceased

vs.

Thomas Wright. —

In addition to the matters and things in the first and second Bills of Exception the Plaintiff to support the second issue in fact joined in this Cause, produced and read in evidence to the Jury a record of a Judgment obtained in the name of the State of Maryland for the use of Robert L. Nicols, Ennalls Martin and Pere Benson, Executors of Thomas Chamberlaine against Cornelia Sewell Executrix of Clement, at September Term 1803. in the late General Court. —

The State of Maryland, to wit, At a General Court, held for the Eastern Shore of the said State, at Easton, in Talbot County, on the second Tuesday of September, in the year of our Lord, one thousand seven hundred and ninety four, before the said State's Judges, duly authorized and assigned to preside in the same, of whom were present —

The Honble. Samuel Chase, Esquire, Chief Judge; Robert Goldsborough & Jeremiah T. Chase, Esqrs. Judges
Richard Johns Esqr. Sheriff. — James Earle Junr. Clk. — The following proceedings were duly made and entered, that is to say —

The State of Maryland, for the use of Robert Lloyd Nicols, Ennalls Martin & Pere Benson, Exors of Thomas Chamberlaine

vs

Cornelia Sewell, Extrix of Clement Sewell. —

Be it remembered, that heretofore, to wit, on the second day of September, in the year of our Lord, seventeen hundred and ninety four, the State of Maryland, by Nicholas Hammond, Esquire, her Attorney, prosecuted and sued out of the General Court here, the writ of the State of Maryland, of Capias ad respondendum, directed to the Sheriff of Queen Anns County, in the words and figures following, to wit. —

The State of Maryland, To the Sheriff of Queen Anns County, Greeting: We Command you, that you take Clement Sewell, late of Queen Anns County, Gentleman, (Seal) if he shall be found in your Bailiwick, and him safe keep, so that you have his body before the Judges of Our General Court, to be held at Easton, in Talbot County, the second Tuesday of September Instant, to answer unto the State of Maryland, of a plea, that he render unto the said State, the sum of Twenty thousand pounds Current money, which from the said State he unjustly detains and so forth — Hereof fail not at your peril, and have you then and there this writ. Witness the Honorable Samuel Chase Esquire, Chief Judge of our said Court, the eighth day of April, Anno Domini 1794. — Issued the 2d. day of September 1794 — (N. H.) — James Earle Junr. Clk. — At which said second Tuesday of September seventeen hundred hundred and ninety four, being the return day of the writ afs. comes into the General Court here, the said State of Maryland, by her Attorney afs. and the Sheriff of Queen Anns County, to wit, Thomas O'Bryon Gentleman, to whom the said writ was, in form afs. directed, makes return thereof, to the Court here, thus endorsed, to wit, "Cepi. Thomas O'Bryon Sheriff" and the said Clement Sewell appears in Court here, by Luther Martin Esquire, his Attorney and defends the force and injury when &c. and prays leave of the Court here, to imparle until the second Tuesday of April then next, and he hath it, the same day is given to the said State, then &c. — At which said second Tuesday of April, Seventeen hundred and ninety four, comes again into the General Court here, the said State of Maryland, by her Attorney afs. and the said State by her Attorney afs. declares against the said Clement Sewell, in the plea afs. in manner and form following, to wit —

The Eastern Shore of Maryland, Queen Anns County, to wit. — Clement Sewell, late of Queen Anns County, Gentleman was summoned to answer unto the State of Maryland, of a plea that he render unto the said State, the sum of twenty thousand pounds Current money, which from the said State he unjustly detains and so forth — And whereupon Nicholas Hammond, Attorney for the said State of Maryland who for the said State in this behalf doth prosecute, saith, that whereas, the said Clement Sewell, on the twenty fourth day of March, in the year seventeen hundred and eighty eight, at Queen Anns County afs. by his certain writing Obligatory, which sealed with the seal of the said Clement Sewell, the said Nicholas Hammond here into Court brings, the date whereof is the same day and year afs. acknowledged himself to be held and firmly bound unto the said State, in the aforesaid sum of twenty thousand pounds Current money, to be paid to the said State, when he the said Clement Sewell should be thereto afterwards required. — To the payment whereof, the said Clement Sewell did bind himself firmly by the said

writing; Nevertheless the said Clement Sewell, altho. often thereto required, the sum of money aforesaid, or any part thereof, to the said State, to pay, hath hitherto altogether refused, and still doth refuse, to the damage of the said State, in the sum of one thousand pounds Current money, and thereupon this suit is brought &c. — Nd. Hammond for State, Jno. Dee, R. Roe, pledges &c. —

The writing Obligatory, whereof mention is made in the Declaration afs. ensues in the words following, to wit. — Maryland ss. — Know all men by these presents that we Samuel Earle, Clement Sewell and James Earle, all of Queen Anns County, are held and firmly bound unto the State of Maryland, in the full and just sum of twenty thousand pounds Current money, to which payment well and truly to be made and done, we bind Ourselves and every of us our and every of our Heirs Executors & Administrators, in the whole, and for the whole, jointly, and severally, firmly by these presents, sealed with our seals and dated this twenty fourth day of March, Anno Domini seventeen hundred and eighty eight. — The Condition of this Obligation is such, that if the within bounden Samuel Earle, acting Executor of the last will and Testament of Richard Tilghman Earle, late of Queen Anns County (deceased) do make, or cause to be made, a true and perfect Inventory of all and singular, the Goods, Chattels and Credits of the said deceased which have or shall come to the hands, possession or knowledge of him the said Samuel Earle, or into the hands or possession of any other person or persons for him, and the same same so made, do exhibit or cause to be exhibited into the Registry of the Orphans Court for Queen Anns County, at or before the twenty fourth day of June next ensuing, and the same Goods, Chattels, and Credits, and all other the Goods Chattels & Credits of the said deceased, at the time of his death, which at any time after, shall come to the hands or possession of the said Samuel Earle, or into the hands or possession of any other person or persons for him, do well & truly administer according to Law viz. shall pay the debts of the said deceased, so far forth as the said Goods, Chattels and Credits will extend and the Law will charge; and further do make, or cause to be made a true and just account of his said administration, at or before the twenty fourth day of March next, and all the rest and residue of the said Goods, Chattels and Credits which shall be found remaining upon the said Executors account, the same being first examined & adjusted by the Justices for the time being of the said Court, to distribute, or dispose of, according to Law and the true intent and meaning of the last will and Testament of the said deceased; then this Obligation to be void & of non effect, or else to remain in full force and virtue. — Samuel Earle (Seal) Clem. Sewell (Seal) James Earle (Seal) Signed, sealed and delivered in the presence of James Tilghman — Jos. Clayton, Reg.r — In Testimony that the within Instrument of writing is a true Copy from Samuel Earle's administration bond, I have hereunto set my hand and affixed the seal of my Office, this 29th. day of August (Seal) Anno Domini 1794 — Rich.d Willson, Reg.r of Wills Queen Anns County —

And the said State, by her Attorney afs. suggests to the Court Court here, that after the last Continuance of the plea afs. to wit, after the second Tuesday of September last past, and before this time, that is to say, the second Tuesday of April, seventeen hundred and ninety five, the said Clement, at the County afs. departed this life, having, before his said decease, duly made and executed his last will and Testament in writing, and thereby did constitute & appoint a certain Cornelia Sewell, the Executrix thereof, and the same is not denied; Whereupon it is ordered by the Court here on the prayer of the said State, by her Attorney afs. that a summons be forthwith issued, returnable to the next September Term, directed to the said Cornelia Sewell, Executrix as afs. of the last will and Testament of the said Clement Sewell, Commanding her to be and appear before the General Court here, on the second Tuesday of September next, to defend the action afs. according to the act of Assembly in such Case made and provided; and such summons accordingly issues in the words and figures following, to wit. —

The State of Maryland, To the Sheriff of Queen Anns County Greeting; We Command you, that you summon Cornelia Sewell, late of Queen Anns County, widow, Executrix of Clement Sewell, that all excuses and delays set aside, she be (Seal) and appear before the Judges of Our General Court, to be held for the Eastern Shore of the said State at Easton in Talbot County, on the second Tuesday of September next, and then and there agreeably to an act of Assembly in such case lately made and provided, to cause herself to be made a party in a certain action of Debt, now depending in our said Court, wherein the State of Maryland (for the use of Thomas Chamberlaines Executors) is Plaintiff, and the said Clement Sewell, her late husband was defendant, or the Judges of our said Court, on her Default will proceed to Judgment therein — Thereof fail not at your peril, and have you then and there this writ. Witness the Honorable Samuel Chase Esquire, Chief Judge of our said Court the 14th. day of April 1795. — Issued the 20th. day of July 1795. — James Earle Junr. Clk. —

Whereupon further process and upon the premises afs. is by order of the Court here, further continued until the second Tuesday of September then next, the same day is given to the said State then and there &c. At which said second Tuesday of September Seventeen hundred and ninety five, comes again into the General Court here, the said State, by her Attorney aforesaid, and Cornelia Sewell, the Executrix of the said Clement Sewell, doth not come; whereupon on motion of the said State, by her Attorney leave is given to the said State, according to the act of Assembly afs. to issue summons returnable to the next April Term