And thereupon the said Benjamin by Franklin and Dand G Ust Esqrs his attorneys says he is not guilty as above alleged against him and of this he puts himself upon the Country &c and the said Henry by Reverdy Ridout his attorney in like manner Whereupon for trial of the issue aforesaid it is ordered by the Court here that twenty persons from the panel of eight jurors be drawn by ballot according to the acts of Assembly in such case made and provided and thereupon the twenty persons being so drawn by ballot and ordered upon the lists one of the which said lists is delivered to the counsel for the respective parties and the Counsel for each of the said parties having struck out four persons from the said lists thereupon the remaining twelve persons being called came to and Elected Stephen Hood Daniel H Schnebly Jacob Mercer John Hammond George H Lambert Jacob Hammer John Reynolds Ward Shannan Joseph Seely Charles Hoskins and Jacob Rowles John A Donaldson who being empannelled and sworn to say the truth in the premises upon their oaths do say that they the said Benjamin is guilty of the 1st 2d and 3d Allegations and not guilty of the 4th Allegation And afterwards to wit on the 9th day of March in the year 1848 Henry Rockenbaugh a creditor of the said Benjamin Cushwa filed in Court here the following petition. To the Honorable the Judges of Washington County Court The petition of Henry Rockenbaugh of Franklin County in the State of Pennsylvania respectfully represents that he is a creditor of Benjamin Cushwa and that his claims accrued prior to the said Cushwas application for the benefit of the act of assembly of 1805 Ch 110 entitled an act for the relief of sundry insolvent debtors and its several supplements That said application was made on the day of December 1826 to certain Jacob Schnebly then and the Justices of the Orphans Court of said County who appointed a certain John Cushwa a permanent trustee for the benefit of the creditors of the said Benjamin Cushwa who accepted said trust executed a bond with surety for the performance of its duties and received a deed from the said Benjamin and certified to the said Justices that he was in possession of all the property mentioned in the schedule of the said insolvent debtor. That said John Cushwa died some years since leaving his trust unfulfilled then being property of the said Benjamin the title to which rested in the said John for the use and benefit of creditors and which was not recovered and applied to the payment of their claims as the said insolvent laws direct All of the above statements will appear more fully by reference to the papers and proceedings filed in No 262 on the insolvents docket being part of the records of your Honorable Court. Your Petitioner further exhibits shews copies of the judgment which he claims against the said Benjamin and also the cause of action on which the same are founded marked exhibit No 1 and which he asks may be taken as part of this petition to the said therefore that the said trust may be completed and that all the property of every kind debts rights and credits of the said petitioner debtors may be applied to the payment of your petitioners and all other Creditors prior to the said application your petitioner prays that your Honor will appoint some person a trustee in the place of the said deceased trustee who shall file his bond with approved securities and who shall be fully empowered & directed to execute the trust for the benefit of those interested

And he will ever pray &c John B Hoall Atty for Petitioner

Here follow the exhibits mentioned and referred to in the foregoing petition

Henry Rockenbaugh vs Benjamin Cushwa No 102 Issues Nov Term 1824 Washn Co Court Judgment to Nov for $156 debt and $300 damages and costs. The damages to be released on payment of the debt with Interest from 8th September 1820 less paid and costs $7.91 Judg'd 26th Nov 1827

True copy Test Isaac Nesbit Clk.

The following is a copy of the Note filed in the above case and upon which said judgment is founded

Six Months after date I promise to pay Henry Rockenbaugh or order the just and successive sum of one hundred and seventy six dollars current money for value received with legal interest from the date hereof Witness my hand and seal this 8th day of September 1820 Ben Cushwa (Seal)

Test Wm Lee Jr

No 103 Issues Same Term Judgment to Nov for $20 current money debt and $1000 Conditional damages and costs the damages to be released on payment of the debt with interest from 23d April 1822 less paid and costs $7.91 Judgment 26th Nov 1827.

True copy Test I Nesbit Clk

The following is a copy of the Note filed in the above case and upon which said judgment is founded.

I promise to pay unto Elizabeth Cushwa or order on the 23d day of April 1822 the sum of Twenty pounds specie value received Witness my hand and seal this 7th day of March 1811. John Cushwa (Seal) Ben Cushwa (Seal)

True copy Test I Nesbit Clk

All Whereupon the following affidavit was filed Washington Court Of Assistants State of Maryland Washington County to wit. Be it remembered and it is hereby certified that on this 29th day of March in the year of our Lord 1849 before me the Subscriber a Justice of the Peace of the State of Maryland in and for the County aforesaid personally appeared Thomas Cushwa of said County and made oath on the Holy Evangely of Almighty God that John Cushwa who was the trustee of a certain Ben Cushwa under the said Benjamin application for the benefit of the Insolvent Laws of Maryland in the year 1826 is now dead and that he died in the year 1845. Sworn Before C Shepperd. Whereupon the Court passed the following Order. In the Matter of the Petition of Benjamin Cushwa an insolvent debtor } No 262 Insolvents docket } In Washington County Court March Term 1849. The petition of Henry Rockenbaugh a creditor of the said insolvent debtor prior to his application on the 19th day of December 1826 praying for the appointment of a trustee in the place and stead of John Cushwa former trustee but now deceased having been read and considered It is thereupon this 30th day of March 1849 by Washington County Court ordered that the Court will proceed to act upon the said petition and to appoint a trustee in the room of the said deceased on the 9th day of April next provided a copy of this order be published once a week for two successive weeks before the said 9th day of April next. A copy of which said order was made and delivered for publication and on this 9th day of April 1849 the following printers certificates filed. Hagerstown April 9th 1849 We hereby certify that the annexed order of the Court has been published in the Hagerstown News two successive weeks previous to this date. Boyer & Bro.

And at the same time the following recommendation for the appointment of a Trustee was filed. In the matter of the Petition of Benjamin Cushwa for the benefit of the Act of 1805 Ch 110 and its several supplements } No 262 on the docket of Insolvent debtors in Washington County Court March Term 1849.

To the Honorable the Judges of Washington County Court We the undersigned who are creditors of Benjamin Cushwa in pursuance to the said application in the 19th day of December 1826 respectfully recommend William Stitt of Washington County as a suitable person to receive the appointment of Trustee in the place of John Cushwa deceased for the benefit of the Creditors of the said Benjamin

Michael Seibert Senr.

John B Hoall atty for Henry Rockenbaugh

And thereupon the Court passed the following order. } No 262 on the docket of Insolvent debtors In the matter of the petition of Benjamin Cushwa for the benefit of the Insolvent Laws of Maryland } in Washington County Court March Term 1849

The petition of Henry Rockenbaugh a creditor to the said Benjamin Cushwa previous to the said Benjamin application on the 19th day of December 1826 praying for the appointment of a trustee in the place and stead of John Cushwa former trustee