Judgment, whether the said Thomas Pownall ought to have his said action thereof against him &c. And the said Thomas Pownall saith that he by any thing before alledged ought not to be barred from having his said action against the said Richard Mason because he saith that the said Richard Mason at some time within three years next before the day of suing forth the original writ of the said Thomas Pownall undertook in manner and form as the said Thomas Pownall above complaineth against him and this he prays prayeth may be enquired of by the Country and the said Richard Mason doth so likewise &c. Therefore as well to try the said Issue, as the said other issue above joined between the said parties it is commanded the Sheriff to wit, Thomas Andrew Dyson that he cause to come here immediately twelve &c. who neither &c. to recognize &c. because as well &c. And afterwards to wit, on the same third Monday in September aforesaid, the Sheriff aforesaid makes return to the Court here, that he has here ready twelve &c. as he the said Sheriff was commanded, to wit, Robert Lawson, Robert Tennet, John Maddox, Samuel Hanson of Walter, Samuel Hanson of William, Henry Digges, Theophelus Tabs, Richard B. Mitchell, William McPherson, Benjamin Douglass, Robert Taidler and Walter Winter who being duly elected tried and sworn to say, the truth in the premises, upon their oath do say, that the said, Richard Mason did assume upon himself in manner and form as the said Thomas Pownall above in declaring supposes and do assess damages to two thousand pounds of Tobacco and fifty seven pounds fourteen Shillings and two pence current money; Whereupon the said Thomas Pownall by his Attorneys aforesaid prays Judgment of and upon the verdict of the Jurors aforesaid in form aforesaid found for him to be given &c. Therefore it is considered by the Court here that the said Thomas Pownall do recover against the said Richard Mason, as well the sum of Two thousand pounds of Tobacco and fifty seven pounds fourteen Shillings and two pence current money so as aforesaid assessed by the Jurors aforesaid and also six hundred and forty six pounds of Tobacco for his costs and charges by him about his suit in this behalf laid out and expended of his assent by the Court here adjudged, and the said Richard Mason in mercy &c.

Memorandum, Before the jurors aforesaid, withdrew from the said bar the said Richard Mason by his attorneys aforesaid filed in Court here the following Bills of Exceptions to wit.

Thomas Pownall
vs
Richard Mason

In the Trial of this cause John Allen Thomas Esquire being sworn, deposed to

the Jury that he had the account in this cause exhibited, in the month of September 1787 that he frequently applied to the defendant in behalf of the plaintiff for payment of the same, and that he has often promised to settle it, that the last conversation he the said Thomas had with the defendant was within six months before March 1788. and in that conversation the defendant told him that Stephen Stewart owed him the defendant money, that he was going where the plaintiff lived, would call on Stewart, and pay the plaintiff, the said Thomas further deposed that the defendant never denied the debt to him, no proof was given that the defendant ever denied the validity of the said claim, It appears that an action was brought by the plaintiff against the defendant to April Court 1788 which was discontinued.

The Court directed the Jury that if they found that the defendant did admit and not deny the claim of the plaintiff in the last conversation he had with said Thomas as aforesaid and no negotiation of the said claim is proved that the plea of Limitation will not commence before the appearance of the defendant on the said former action. To which opinion of the Court the council for the defendant prays leave to except, according to the statute in such case made and provided and that the Court to this his bill of exceptions would affix their seals which is accordingly done.

W. J. Stone (Seal)
G. Dent (Seal)
Geo. Lee (Seal)

Thomas Pownall
vs
Richard Mason

In the trial of this cause, the plaintiff produced the account filed in this cause, and the council for the defendant objected to reading the same to the Jury, and the plaintiff offered in Evidence to prove the articles therein to be chargable therein to the defendant The Council for the defendant objected that no evidence should be offered to prove the articles charged in the same account alledging that the same was not proved agreeable to the Act of Assembly of 1729 Chapter 20. the Court directed that the said account might be read to the Jury, but not the probate thereon and admitted indifferent Testimony to prove the articles thereof. To which opinion of the Court the council for the defendant prays leave to except according to the statute in such case made and provided, and that the Court to this his Bill of exceptions would affix their seals which accordingly done.

W. J. Stone (Seal)
G. Dent (Seal)
Geo. Lee (Seal)

And the said Richard Mason by his Attorneys aforesaid prays leave to appeal