Confessed subject to the terms filed which which says that Thomas Peters being indebted to Wallace and Davison in £1536. 0. 3. Current money with interest thereon from the 20th of October 1763 had executed a Deed in trust to Richard Eaton to sell a tract of Land therein mentioned and apply the purchase money arising from the said Sale to the payment of the said Debt as far as the same will go; Agreed that if said Land should be sold under the Trust for £1250 or upwards said Peters should have a stay of Execution on all Judgments which they have, or shall have at the Court now sitting or any former Court until the 1st of September 1790 said Peters paying one half of the Ballance over and above said sum of £1250 on the first of September 1789. with Interest thereon and the other half with Interest on the 1st of September 1790. But if said Land should not sell for £1250 said Peters should have stay of Execution on all Judgments aforesaid to the 1st of September 1791 in the following manner viz. he to pay one third of the balance which shall be due over and above the proceeds of such sale of the said Land on the first day of September 1789. with Interest thereon, one other third with Interest thereon on the first day of September 1790, and the other third and Interest on the 1st of September 1791. and on a failure of Compliance with the terms of this Agreement Execution may issue from time to time to Compel the respective payments according to the Terms aforesaid, See Terms filed

August the 6th 1794. Richard Eaton, the Trustee sold the Lands at vendue and the Plaintiffs were the purchasers for £1534.. 10. 0 and have retained the said purchase money in their hands and have never taken a Deed from the trustee.

The Judgment first above mentioned being affirmed in the Court of Appeals, this Suit has been brought on the Appeal bond against the Defendant, who has pleaded payment of the Debt and costs on which issue has been joined; and the only question now is, Whether the ballance on the amount of the above Sale of the Land which is £475.. 7.. 10 Principal after payment of £1059.. 2.. 2 the Interest due shall be applied in discharge of the Bond first above mentioned or be divided among the three bonds equally and the Defendant left to pay the residue of the first bond.

Thos. Jennings for Plffs. Saml. Johnston for Deft.

Whereupon all and singular the premises being by the Court here seen heard and fully understood and mature deliberation thereupon had for that it seems to the Court here that the law arising on the Case stated as aforesaid is with the defendant. Therefore it is considered by the Judges here that the said Charles Wallace survivor as aforesaid take

take nothing by his writ and Judgment aforesaid in form aforesaid confessed but that he and his pledges of prosecuting to wit, John Doe and Richard Roe be in mercy for his false clamour and that the aforesaid Edward Johnson go thereof without day &c. And it is also considered that the aforesaid Edward Johnson recover against the said Charles Wallace survivor as aforesaid the quantity of seven hundred and eighty nine pounds of Tobacco by the Court here 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.

Memorandum, Judgment was rendered on the Case stated in this Cause on the twenty ninth day of October Anno Domini seventeen hundred and ninety five.

Test John Gwinn Clerk.

11th

John Kirwan against Cumberland Dugan	Be it remembered that heretofore, to wit, On the nineteenth day of April Anno Domini seventeen hundred and ninety four the Plaintiff by James Winchester his attorney sued out of our General Court here the writ of the State of Maryland of Capias ad respondendum directed to the sheriff of Baltimore County, in the words and figures following, to wit.

The State of Maryland, &c. To the sheriff of Baltimore County, Greeting We command you that you take Cumberland Dugan late of Baltimore County merchant, 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 the City of Annapolis on the second Tuesday of May next, to answer unto John Kirwan of a plea of Trespass upon the Case and so forth, hereof fail not at your peril and have you then and there this writ, Witness the honourable Samuel Chase Esquire chief Judge of our said Court the 12th day of November Anno Dominie 1793.

Issued the 19th day of April 1794. (J. Winchester) Jno. Gwinn Clk.

And the aforesaid John Kirwan by his attorney aforesaid declared against the aforesaid Cumberland Dugan in the plea aforesaid in manner and form following to wit.

"Western shore of Maryland Baltimore County ss. Cumberland Dugan late of Baltimore County merchant was attached to answer John Kirwan of a plea of trespass upon the Case and so forth, And whereupon the said John by James Winchester his attorney complains that whereas the said Cumberland on the first day of December in the year seventeen hundred and