

Conery his heirs execut^{rs} adm^{rs} and assignes from all just claimes and titles to be made by any pson or persons whatsoever according to the forme & effect of the said Indenture and the Said John and Rose Gerard have hitherto denied to hold the same and as yet doth deny whereupon the said Edward Saith he is dampnified and hath losse to the value of forty thousand pounds of tobacco and thereupon he bringeth his suite.

And the said John and Rose Gerard by Vincent Lowe their Attorney cometh &c and saith they Ought not nor are bound by the Law to hold covenant with the said Edward as against them above is Supposed for that the said John and Rose haue paid and are engaged by bills to pay Out of the estate of Thomas Gerard Esq^r deceased as executors of the said Thomas deceased more then the personall estate of him the said Thomas deceased doe amount unto have or will come to their hands as Executors to him the said Thomas decease and of this they put themselves upon the Country.

And the said Edward Saith that he Ought not to be debarred from having his action aforesaid against them the said Rose Gerard & John Gerard for that he saith that they the said Rose & John have not fully administred and paid Out of the estate of the said Thomas Gerard deceased nor are indebted by debts of an high nature beyond what assets are come to their hands and of this he also putts himselfe upon the Country Therefore Comānd is given to the Sheriff of S^t Maries County that he cause to come here twelve &c.

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Now here at this day to wit the fiftenth day of ffebruary in the 43th yeare of the Dominion of Caecilius &c came the said Edward by his Attorney aforesaid but the said Rose Gerard & John Gerard came not Therefore it is considered by the Court here that judgment by default passe against them and a writt of inquiry of damages is granted the said Edward Conery returnable at the next Provinciaill Court.

Benj^a Bennitt }
 ag^t } this cause continued by consent of the Attornyes of
 Richard Ball } both sides untill next Provinciaill Court.

Edward Roe }
 ag^t }
 Jeremiah Eaton & }
 John Barke. }
 James Nuthall }
 ag^t }
 Richard Bayly }
 Marmaduke Semme }
 ag^t }
 John Shapley }