teyneth, & the sheriffe being in misericordi to bring in the said William Perfitt this Court to answere unto the said Garret Van- swearing in the said accon Mr John Hamilton Deputy sheriffe sayth That hee is very Ancient and how to get him to Court hee Know- eth not, and Sayeth That the said William Perfitt is Ready to pay the said Debt if they will fetch it in a bagg but hee will not pay an hogshead of Tobacco for it, for that hee will not trust any man unlesse it bee the Governo^r Whereupon Itt is ordered by the Court that the said Accon bee dismist for that the said William Perfitt is ready to pay the debt and hath made Tender of the debt, Each part bearing theire Owne Charges

Liber W. C. p. 173

Henry Addams, John Stone } Ignatius Causeene, William Barton } Humphrey Warren (sealed)

Att wch seaventh day of October aforesaid Came the said Garret by Robert Carvile his Attorney as aforesaid, and the said William by Henry Bonner his Attorney as aforesaid, and the said Garret sayth that in the Record and proceedings aforesaid as also in the Rendring of Judgment aforesaid Itt is manifestly Erronius in y^t That the p^lt sues the Defendt in an Accon of debt upon a bill under hand and Seale for payment of Two hundred twenty five pounds of tobacco, good sound Marchantable Tobacco and Caske, The sheriffe Returnes hee had taken his body and had him ready but the defend^t makes default and appeares not by himself or Attorney for wch the sheriffe was in Misericordia till next Court to bring his body then, The sheriffe next Court to save his Amerciament affirmes the Defend^t to bee Ancient and that hee knoweth not how to gett him to Court and further affirmed that the defend^t is ready to pay the said Debt if they will fetch itt in a bagg, but hee will not pay an hogshead of Tobacco for it for that he will not trust any man unlesse it bee ye Governo^r Upon wch affirmation the Court proceed to dismisse the Accon for that the Defend^t is ready to pay the debt and hath made Tend^r of the debt, Each pty beareing theire owne Charge

Which said proceedings and Judgment are very Illegall Arbitrary & Erronious in Lawe for These Reasons

1 ffirst If the defend^t had beene Sick or weake or Languidus The sheriffe ought to have made such Returne att first wch hee did not but Returned a Cepi, and that hee had his body ready, and for want of appearance hee was in Misericordei and the Sheriffe ought to have taken a bayle bond to Enforce him to haue appeared by himself or Attorney wch hee might have done that the Cause might have Received a Legall Tryall, and for want of such bayle bond the Sheriffe ought to have been Amerced and the p^lt Left att Liberty to bring his Action of Escape against the Sheriffe, But the