

Then Came the Said Thomas Tench by William Dent his Attorney and prayed and Appeale to his Excellency the Governo^r and Councill and it is Granted unto him he having given Security According to Act of Assembly in Such Case made and provided

Cop^a per H. Wriothlesley Cłk:

MARYLAND SS. Reasons in Appeal from a Certain Judgment given for William Hopkins of Ann Arundell County ag^t Thomas Tench of the Said County Esq^r in a plea there Depending upon a Scire facias between the Said Tench and Hopkins w^{ch} Said Judgment was given ag^t the Said Tench att a Prov^l Court held the 19th day of May Anno Dni 1696.

The Said Thomas Tench brings his Scire facias ag^t the Said Hopkins to Shew Cause why Execution Should not issue against him upon a Certain Judgment obtained Against him by the S^d Tench att a General Assembly held att the City of S^t Marys the [111] Second day of July Anno Dni 1692 to which Scire facias the Said Hopkins pleads That he had fully Agreed wth the Said Tench for the Satisfaction of the Judgment aforesaid to which Plea the Said Tench demurred in Law (as very well he might) and Shewed Severall Causes of Such his Demurrer as in and by the S^d Demurrer it may Appear which Demurrer was overruled and Judgment given ag^t the Said Tench, in giving of w^{ch} Judgment, it is Manifestly Erred.

1 In this that a bare Averment of Satisfaction and agreem^t if Not Sufficient to discharge a Matter of record Especially a Judgment which is a Record of the highest Nature And therefore the Judgment of the Prov^l Court that Such a bare averment of an Agreem^t and Satisfaction was Sufficient to barr the Said Tench's Scire facias upon his Judgment So as aforesaid obtained is Palpably Erroneous and ag^t Law therefore ought to be reversed.

2 The Said Judgment is Erroneous in this That though the Said Hopkins had fully Agreed with the Said Tench for the Satisfaction of the Said Judgment Yet forasmuch as it is not Sett forth in the Said plea that pursuant to Such Agreement the Said Hopkins had Actually made the Said Tench full payment and Satisfaction for the Same and Shewed how and produced a Record or att Least a Release for Such payment ag^t the Said Judgment the Said plea was altogether insufficient and Vitious. Consequently the Judgment Overruling the Demurrer thereunto incurably Erroneous.

3 It is Error in this That the Prov^l Court have Judged in overruling the Said demurrer directly Contrary to an Express Exception which is Sett down in the very Instrument w^{ch} [112] the Said Hopkins produced in Barr of the Said Tench's Judgment for that in the Said Instrument the ball: of the Execution upon the Said Tench's Judgment ag^t the Said Hopkins is Excepted, Consequently the Judgment of the Provinciall Court by which (Notwithstanding Such Exception) the Said [Instrum^t] was adjudged Sufficient to barr the Said Tenchs Judgment is palpably Erroneous therefore ought to