

of trespass upon the case &

And Whereupon the said John Arnall by Geo Douglas his Attorney complains that whereas the said Johnson in his life to wit on the xxiv day of march Anno Dom MDCcxvii at the County of . . . was indebted to the said John in twelve hundred pounds of tobacco for so much tobacco by the said John at the Especiall request and Instance of the said Johnson to Joshua Adwell before that time paid and so being thereof indebted afterwards to wit on the day and year aforesaid at the County aforesaid on consideration thereof upon himself did assume and to the said John then and there faithfully promise that he the said Johnson the said twelve hundred pounds of tobacco when he should be afterwards thereto required he would faithfully pay and content. Nevertheless the said Johnson in his life or the said Nutton since the death of the said Johnson the promise aforesaid of the said Johnson in form aforesaid made not regarding but each of them minding and fraudulently intending the said John in that part craftily to deceive and defraud the said Johnson in his life and the said Nutton since the said Johnsons death or either of them the said tobacco to the said John have not paid or him for the same in any sort hitherto contented but that to doe altogether have refused and the said Nutton still doth refuse altho the said tobacco the same John to pay the said Johnson in his life afterwards to wit on the day and year aforesaid at the County aforesaid and the said Nutton since the death of the said Johnson to wit on the first day of November Anno Dom MDCcxL at the County aforesaid and often since that time by the said John were required whereupon the said John say he is dammified twenty pounds Curr. money of Maryland and thereof he brings Suit & Pledg. & J. Doe & Roe

A Copy of the foregoing declaration was made and sent to be served on the def. in order for a speedy tryall . .

At which day here came the aforesaid John Arnall by his Attorney aforesaid and the sheriffe to wit John Handy sent now here returned that he had taken the aforesaid Nutton Will whose body here at this day he had ready to answer the aforesaid John of the aforesaid plea. And further the said sherr returned that he had served the aforesaid Nutton with a copy of the foregoing declaration according to act of assembly in such case provided & And the aforesaid Nutton by William Arbuckle his Attorney comes and defends the force and injury wherof and saith the aforesaid John his Accon aforesaid him to have and maintain ought not because he saith that the aforesaid Johnson in his life did not assume upon himself at any time within three years before the Impetation of the Originall writ of him the same John in manner and form as he the aforesaid John above against him hath complained and this he is ready to verify whereupon the same Nutton prays Judgment if the aforesaid John his Accon aforesaid against him ought to have

Whereupon the said John Arnall prayeth leave thereof to Imparle here untill next Court to be held at dividing Creek the third Tuesday of June then next following and he hath it and the same day is given to the aforesaid Nutton here also &

At which day here came again as well the aforesaid John Arnall as the aforesaid Nutton Will by their Attorneys aforesaid. And whereupon the aforesaid Nutton prays that the aforesaid John Arnall to the plea of him the same Nutton may reply, whereupon it is said to the same John, by the Court here, that he reply to the plea aforesaid at his perill but the same John altho solemnly called came not nor to the plea aforesaid of the same Nutton replied, nor is his writ aforesaid against the aforesaid Nutton further prosecuted

Therefore it is considered by the Court here that the aforesaid John Arnall take nothing by his writ aforesaid but that he and his pledges of prosecuting to wit John Doe and Rich. Roe are in mercy and that the aforesaid Nutton Will goe thereof without daye and further