in like manner and so forth — Therefore let a Jury thereupon appear before the Judges of our General Court here on the second Tuesday of October next by whom &c. and who neither &c. to recognize &c. Because as well &c. the same day is given to the parties aforesaid then and there &c. — And now here at this day to wit, the said second Tuesday of October being the fourteenth day of the same Month Anno Domini seventeen hundred and Ninety four comes again here into our General Court as well the aforesaid William Pinkney Attorney for the said State who for the said State in this behalf prosecuteth as the aforesaid Levin Covington Wailes by his Attorney aforesaid withdrawing his rejoinder above set forth, as the aforesaid William Pinkney Attorney for the said State who for the said State in this behalf prosecuteth withdrawing the issue joined to the said rejoinder of the aforesaid Levin Covington Wailes set forth as aforesaid say that they will not further prosecute of and upon the same issue — And the said Levin Covington Wailes says that the replication aforesaid by the said State in manner and form above in replying pleaded, and the matter in the same contained are not sufficient in Law to maintain the said State of Marylands Action aforesaid thereof against him the said Levin Covington Wailes had; and that he to the replication aforesaid in manner and form aforesaid by replying pleaded hath no necessity nor is by the Law of the land obliged in any manner to answer, and this he is ready to verify, wherefore for want of a sufficient replication in this behalf the same Levin Covington Wailes as before prays Judgment, and that the said State may be precluded from its Action aforesaid thereof against him had &c. — And the said William Pinkney Attorney for the said State who for the said State in this behalf prosecuteth says, that the replication aforesaid by the said State in manner and form aforesaid above by replying pleaded, and the matter in the same contained, are good and sufficient in Law to maintain the Action of the said State aforesaid thereof against the said Levin Covington Wailes had, which said replication and the matter in the same contained, the said William Pinkney Attorney for the said State in this behalf prosecuteth is ready to verify and prove as to the Court &c. And because the said Levin Covington Wailes doth not answer to that replication nor hitherto any way deny it, he the said William Pinkney Attorney for the said State in this behalf prosecuteth as before prays Judgment and the said States debt aforesaid, together with its damages by reason of the detention of that debt to be adjudged to the said State &c. — Whereupon all and singular the premises being seen, and by the Court here more fully understood, and mature deliberation being thereupon had, for that it seems to the Court here that the replication aforesaid by the said State in manner and form aforesaid above pleaded and the matter in the same contained are not good and sufficient in Law to maintain the said State of Marylands Action aforesaid thereof against

the aforesaid Levin Covington Wailes had, Therefore it is considered by the Court here, that the said State of Maryland take nothing by its writ aforesaid, but that the said State and its pledges of prosecuting to wit, John Doe and Richard Roe be in mercy &c. — and that the said Levin Covington Wailes go thereof without day &c. — And it is further considered that the aforesaid Levin Covington Wailes do recover against the said Joseph McNeily (at whose instance and for whose use this suit was brought) the quantity of seven hundred and eighty two pounds of Tobacco for his costs and charges by him about his defence in this behalf laid out and expended unto the same Levin Covington Wailes by the Court here with his assent adjudged according to the form of the Act of Assembly in such case made and provided, and that the same Levin Covington Wailes have thereof his Execution, And the said Joseph McNeily in Mercy &c. — —

And thereupon the aforesaid William Pinkney Attorney for the said State in this behalf by and on behalf of the said State and Joseph McNeily at whose instance and for whose use this suit was brought and whose name appears indorsed upon the Original writ impetrated as aforesaid prays an Appeal from the Judgment aforesaid so as aforesaid rendered to the State of Marylands High Court of Appeals and the same is granted unto him — It is therefore Ordered by the said Court that the Record and proceedings in the premises aforesaid with all things thereunto relating be transmitted to the said State of Marylands High Court of Appeals, and the same are hereby transmitted to the same Court accordingly. — — —

Test, John Gwinn Clk —

In Testimony whereof that the aforegoing is a true Copy taken from the Record of proceedings of the General Court for the Western Shore of the State aforesaid, I have hereunto set my hand and affixed the Seal of my Office this twenty fifth day of October Anno Domini seventeen hundred and Ninety four, And in the Nineteenth year of the Independence of the said State — —

John Gwinn Clerk. General Court Western Shore —
State of Maryland. — — —

At which day to wit the said second Tuesday of November being the eleventh day of the same Month in the year of our Lord one thousand seven hundred and Ninety four come into the High Court of Appeals as well the said State for the use of Joseph McNeily by William Pinkney its Attorney as the said Levin Covington Wailes by William Hitty his Attorney, And thereupon on Motion of the said Levin Covington Wailes by his Attorney aforesaid, It is ruled by the Court here that the said