The Plaintiffs also produced a paper read to the Jury. The plaintiffs also proved to the Jury by the aforesaid Witness that after the execution of the said deed the said house remained in possession of the said Witness with the assent of the said Brooke Beall until September 1793. Then in September 1793. the said Witness rode the said horse to Frederick Town and gaming him away at cards with Nicholas Madera, they also proved by another Witness to wit. Thomas Marlow that the said horse came to the hands of the defendant Daniel Fister in the fall of the year 1793. by an exchange between the said Daniel Fister and one Peter Fisher and the aforesaid Daniel Fister says that the aforesaid matter to the Jury aforesaid in manner aforesaid shewn in evidence by the said Margaret and Upton is not sufficient in law to maintain the said Issues within joined in manner aforesaid and that the said Daniel to the matter aforesaid in form aforesaid shewn in evidence hath no necessity nor is he obliged by the laws of the land to answer and this he is ready to verify wherefore for want of sufficient matter in that behalf shewn in evidence to the Jury aforesaid the said Daniel prays Judgment and that the Jury aforesaid may be discharged from giving any Verdict upon the said Issues and that the said Margaret and Upton may be barred from having their action aforesaid against him. And the said Margaret and Upton for that they have shewn in evidence to the Jury aforesaid sufficient matter to maintain the Issues within joined in manner afo. and which they are ready to verify and for as much as the said Daniel doth not deny nor in any manner answer the said matter the said Margaret and Upton pray Judgment and their damages by reason of the detention of the property in the declaration aforementioned to be adjudged to them and that the Jury may be discharged from giving their Verdict upon the Issues joined in manner aforesaid and so forth. Wherefore because the court here are not yet advised to give their Judgment of and upon the premises day therefore is given as well to the aforesaid Margaret Beall and Upton Beall administrators of the said Brooke Beall as to the said Daniel Fister here until the next court to hear their Judgment of and upon the premises because the court now here thereof not yet &c. and the Jurors afo. upon their Oath aforesaid do say that the property of the Gelding aforesaid at the time of the taking aforesaid was in him the said Brooke Beall, and that the said Daniel Fister is guilty of taking the said Gelding so as the said Brooke Beall by his Writ and declaration aforesaid hath supposed, and the Jurors aforesaid upon their Oath aforesaid further say that the Gelding aforesaid in the declaration afo. mentioned is of the value of twenty five pounds current money and they do assess the damages of the plaintiffs by Occasion of the detention of the same Gelding

besides their costs and charges in this behalf laid out and expended to seven pounds ten shillings current money. — At which said next court to wit. the third Monday of November seventeen hundred and ninety six come here again the said parties Plaintiffs and Defendant by their attornies aforesaid. but because the court here are not yet advised to give their Judgment of and upon the premises further day is therefore given to the said parties here until the next court to hear their Judgment of and upon the premises because the court now here thereof not yet &c. And now here at this day to wit, the third monday of march in the year Seventeen hundred and ninety seven came here again as well the said Margaret Beall and Upton Beall, administrators of the said Brooke Beall by their attorney aforesaid as the said Daniel Fister by his attorney aforesaid. Whereupon the premises being seen and by the court here fully understood it seems to the court here that the said Margaret Beall and Upton Beall administrators of the said Brooke Beall have shewn in evidence to the Jury aforesaid sufficient matter to maintain the issues joined in manner aforesaid and that the said Daniel Fister hath not answered nor in any manner answered the said matter therefore they the said Margaret Beall and Upton Beall administrators of the said Brooke Beall ought to recover Judgment and their damages by reason of the detention of the property in the declaration aforesaid above mentioned. — Therefore it is considered by the Justices here that the said Margaret Beall and Upton Beall administrators of the said Brooke Beall do recover against the said Daniel Fister the aforesaid Gelding in the declaration aforesaid mentioned and that they have return of the same Gelding to be detained to them irreplevisable for ever and whereof that the said Sheriff make appear here at the next court &c. and also that the said Margaret Beall and Upton Beall administrators of the said Brooke Beall do recover against the said Daniel Fister the sum of seven pounds ten shillings current money for their damages aforesaid sustained by Occasion of the detention of the said Gelding by the Jury aforesaid in form aforesaid assessed as well also the quantity of two thousand four hundred and seventy two pounds of Tobacco and one pound three shillings and six pence current money for their costs and charges by them about their suit in this behalf laid out and expended by the court here unto them with their assent adjudged and the said Defendant in mercy and so forth.

Test. William Ritchie clerk

Whereupon the said Daniel Fister by his Attorney aforesaid prays an appeal from the Judgment aforesaid so as aforesaid against him rendered to the honorable the Judges of the General court for the Western shore of Maryland which upon the said Daniel Fisters giving bond and security agreeable to the directions of the act of assembly