to be barred of their Land and Tenements Lands and Tenements
to and for the use of our said Soveraign Lord and Lady the King
and Queene and John Hume upon this Condition That if the
above named Benjamin Hall shall at the Provll Court now
next ensuing pursue the direction of an Act of Assembly of
this Province Intitulled An Act for Appeals and regulating
Writs of Error according to the Rules of the Provll Court
and prosecute his Appeal with effect and also satisfy and pay
unto our said Soveraign Lord and Lady the King and Queene
and John Hume their Heirs and Assigns in case the Judgment
now given against the said Benjamin Hall shall be confirmed
as well the debt and penalty adjudged by the aforesaid Judgment
as also all costs and damages that shall be awarded by the
provincial Court for the delaying of Execution that then this
Recognizance shall be void and of none effect otherwise
to stand and be in full power force and vertue

Vera Copia Wm Fowke Cl Cur Cur.

Maryland ss.

Memorandum that on the day of Anno Dni 1692
at a provincial Court then held for the said Province came
into Court Benjamin Hall by Hendlem his Attorney
and exhibited to their Maties Justices here his reasons
of Appeal from a Judgment passed against him in Talbott
County Court by their Maties Justices of the said Court upon an
Indictment there preferred against him by one John Hume for
Felloniously taking away a Stone Horse (Viz.t)

Impl. It is Error in that the Indictment is laid Feloniously whereas
the said Hall at the time of taking the said Horse into his possession
and from the time that he was sued pretended property in him
as coming of his own proper Mare, nor ever concealed the said
Horse or disposed him out of his possession but ever deposited him
to publick view, by all which it appears that he had not animum
furandi and consequently not Felony, so that if Hume pretended
any property to him he had his remedy by Action of Trover and
not by way of Indictment for to make up the offence of Felony
the law requires three things as requisit thereunto. 1st It must
be without pretence of title at the time the party comes to
possession of the thing. 2dly It must be another Mares, and 3dly
it must be a personall thing taken away against another's Will
with intent and purpose to steal it, none of all which appear
in this case.

2 The Indictment is vicious for the uncertainty therein for it does
not appear whether the said Horse was stray or wild for of
wild things as Waifs and Strays the taking of them into posses-
sion or disposing of them is not Felony the law hath given
the owner another remedy.

3 It doth not appear by the said Indictment that the said Horse
had any artificial mark to distinguish the owners right as

the Act of Assembly of this Province requires and so was in
nature of a wild Horse not punishable by Indictment of
Felony but as the Act of Assembly of this province for unmarked
Stallions and wild Horses directs.

4th His Error in that the verdict of the Jury is not warranted
by the Evidence at the Barr that the said Stallion was recovered
property in the said Horse and that he came of his own Mare.

For all which Errors and many more in the said Record and
proceedings as also in rendring of Judgment he prays that for
the same the Judgment aforesaid may be set aside and
Reversed and that he to all things that thereby he hath
sustained may be restored

And the said John Hume by George Plater his Attorney
comes into Court and prays time till the next Court to make
answer thereunto which is granted unto him and the same
day is given to the said Benjamin Hall likewise.

Now here at this day to wit the Eighth day of May in the
Sixth year of their Maties Reign Anno Dni 1694 came
the said parties by their Attorneys aforesaid and this suit
standing for tryall the Record Process and proceedings
aforesaid to the rendring of Judgment of Talbott County
Court aforesaid and the aforesaid reasons and matters by the
said Benjamin Hall for Errors assigned being seen and
heard and by the Justices here fully understood and diligently
and for that it appeareth to the said Justices here that in
the Record and proceedings aforesaid as also in the rendring
of Judgmt aforesaid it is manifestly erroneous Therefore
it is considered by the Justices here that the Judgment
aforesaid for the Errors aforesaid assigned by the said
Benjamin Hall be Reversed annulled set aside and held
for nothing and that the said Benjamin Hall unto all things
which by occasion of the Judgment aforesaid he hath lost
be restored and that the said Benjamin Hall recover
against the said John Hume the sum of fifteen hundred
thirty and two pounds of Tobacco adjudged him by the
Court here for his costs and charges in this behalf laid
out and expended.

Their Maties agt Robert Bradby } Ordered by the Court here that this Action be dismissed
with a salvo Jure Regis to maintain his prerogative as
by his Counsell he shall be advised.

John Edmonds agt Edward Mann } Ejectment

Ordered that Commission of Resurvey of the Land and
premises issue and that the same be laid out in presence
of the Sheriff of Talbott County and a Jury of the
Neighbourhood with power to examine Witnesses i