And the afs.d Edward Protesting that the Repliation afs.d and the matter therein Contained are altogether insufficient in Law to which he has no need nor by the Law of the Land is he in any manner held to Answer for Plea by way of Rejoynder Nevertheless he saith That before the Impetration of the Original Writ in this cause to wit the tenth Day of May in the Year of our Lord One Thousand Seven hundred and forty one at the County afs.d he the said Edward did Pay unto the Commissioners or Trustees afs.d the said Sums of thirty five Pounds nine Shillings and Eight Pence Current Money of Maryland and fourteen Pounds five Shillings like Money and of this he puts himself upon the County and the said Henry Darnall Esq.r his Lordships Attorney General who &c. also

Whereupon for Trying the Issue afs.d Command is given to the Sheriff of Ann Arundel County that he immediately cause to come here Twelve good and Lawfull Men of his Bailywick by whom &c. who neither &c. To Recognizance &c. Because as well &c. of which said Precept the said Sheriff to wit John Gassaway Esq.r makes return that he has here Ready Twelve &c. as by his said Precept he was Commanded to wit Lyde Goodwin John Melvikin, John Bowie, John Burgess, John Watkins, Basil Dorsey, William Iones, John Brown, William Elbert, Samuell Chambers, David Evans and Edw.d Gaither who being duly Elected Tried and Sworn to say the truth in the Premises upon their Oath do say That the said Edward did Pay unto the Commissioners or Trustees afs.d the said Sums of thirty five Pounds nine Shillings and Eight Pence Current Money of Maryland and fourteen Pounds five Shillings like Money in manner and form as the afs.d Edward Tripp above by pleading hath Alledged

Thereupon Henry Darnall Esq.r Attorney General of the said Lord Propry who &c. prays that the Verdict afs.d may be set a side for that Lyde Goodwin one of the Jurors who found the said Verdict was not a freeholder or Qualified by Law to serve as a Juror and that a New Tryal for this Cause may be awarded Whereupon and for that the Court here are not Advised of Rendering their Judgment of and upon the Verdict and Premises afs.d Day therefore is given do well to the said Henry Darnall Esq.r his Lordships Attorney General who &c. as to the said Edward Tripp to hear thereof their Judgment until next Court for that the said Court as yet are not &c.

At which said next Court to wit the 17th Day of October Anno Dom.i 1749 comes again as well the said Henry Darnall Esq.r his Lordships Attorney General who &c. as the said Edward Tripp by his Attorney afs.d Whereupon all and Singular the Premisses afs.d being by the Court here seen heard fully understood and Mature Deliberation thereupon had for that it seems to the Court here that the said Lyde Goodwin was not a Freeholder or a Person Qualified by Law to serve as a Juror It is therefore by the Court here Ordered and Adjudged that the said Verdict be set a side and held for nought and that a Venire facias Juratores de Novo Issue to the Sheriff of Ann Arundell County

And thereupon for Trying the Issue afs.d Command is a New given to the Sheriff of Ann Arundel County that he immediately cause to come here Twelve good and Lawfull Men of his Bailywick by whom &c. Who neither &c. To Recognize &c. Because as well &c. of which said Precept the said Sheriff to wit John Gassaway Esq.r makes return that he has here ready Twelve &c. as by his said Precept he was Commanded to wit Thomas Jones, John Hamill, Ephraim King, Joseph Dashiell, Benjamin Welsh, Samuell Howard, George Johnson, William Beall, Thomas Beall, Samuell Lockwood, James Maulsbin and Samuel Lovejoy who being duly Elected Tried and Sworn to say the truth in the Premisses upon their Oath do say That the said Edward did Pay unto the Commissioners or Trustees afs.d the said Sums of thirty five Pounds nine Shillings and Eight Pence Current Money of Maryland and fourteen Pounds five Shillings like Money in

(manner)

manner and form so as the afs.d Edward above by pleading hath Alledged

Therefore it is Considered by the Justices here that the said Lord Propietary take nothing by his Writ afs.d but that the said Edward Tripp go thereof without Day &c.

Mem.d the following Bill of Exceptions was Tendered to the Court before the Jury went from the Bar Viz.t Lord Propry vs Edward Tripp on his Bond of 12 July 1740 In the Provincial Court, In this Cause the Defendant having given several Pieces of Evidence to prove by Circumstances the Payment of the Money to the Commissioners in the Proceedings mentioned pursuant to the Issue on their part The Counsel for the Plaintiff (after the whole Evidence on Defendants part had been heard and read to the Jury) prayed Leave to Demurr to the whole of the Defendants Evidence so as afs.d given as being insufficient to Prove the Issue on the part of the Defendant and tendered his Demurrer Ready drawn up but the Court were of Opinion that the Plaintiff should not Demur to the Evidence and accordingly Refused to suffer the said Demurrer to be filed or to receive the same to which Opinion of the Court the Plaintiff prays Leave to Except and that the Judges will to this their Exception Affix their Seals agreeable to the Statute

Geo: Dent Seal

Whereupon the said Henry Darnall Esq.r his Lordships Attorney General who &c. Prays Leave to Appeal from the Judgment afs.d so as afs.d Rendered to his Lordships High Court of Appeals and the same is Granted

Mem.d Robert Gordon Esq.r withdrew from the Bench at the first Tryal hereof and Robert Gordon and George Steuart Esq.rs withdrew from the Bench on the Second Tryal

Test R Burdus Clk.

Md The Lord Propietary } vs } Maryland ss Elizabeth Tripp late of Dorchester County Widow

Ely Henry Tripp Adm.r } administratrix of all and Singular the Goods and Chattels Rights and Credits of Henry Tripp late of Dorchester County Gent.n Deceased who Died Intestate as this said otherwise lately called Henry Tripp of Dorchest.r County in the Province aforesaid was Summoned to Answer unto the Right Honourable the Lord Propietor of the afore said Province of a Plea that she render unto him the full Sum and Just Quantity of two hundred Thousand Pounds of Good Sound Merchantable Leaf Tobacco and Cask which from him she unjustly detains &c.

And Whereupon Henry Darnall Esquire Attorney General of the said Lord Propry who for the said Lord Propietary in this behalf followeth saith that Whereas the afs.d Henry Tripp in his life time to wit on the twelfth Day of July seventeen hundred and forty at Dorchester County afs.d by his certain Writing Obligatory acknowledged him self to be held firmly Bound unto the said Lord Propietary in the afore said full Sum and Just Quantity of Two Hundred Thousand Pounds of good sound Merchantable leaf Tobacco and Cask to be paid unto the said Lord Propietary when afterwards he should be thereunto required Nevertheless neither the afs.d Henry Tripp in his life time nor the afs.d Elizabeth since the Death of him the said Henry (to which said Elizabeth Administration of all and Singular the Goods and Chattels which were of the afs.d Henry Tripp at the time of his Death was at the County afs.d after the Death of him the said Henry in due form of Law Committed) although often thereunto required the afs.d Sum of Two hundred Thousand Pounds of Good Sound Merchantable Leaf Tobacco and Cask unto the said Lord Propietary hath rendered or Paid but the same to the said Lord Propietary to Render or Pay they have altogether Refused and the said Elizabeth the same to Render or Pay still doth Refuse to the Damage of the said Lord Propietary five hundred Pounds Current Money of Maryland And thereupon he brings Suit &c. And the said Attorney General of the said Lord Propietary brings here into Court the Writing Obligatory afs.d Sealed with the Seal of the afs.d Henry Tripp which the Debt afs.d in form afs.d witnesseth whose Date is the Day and Year afs.d

H Darnall

(and)