land called Monnocoey Manor lying in Prince Georges County &c. Teste extract from the certificate, signed "James Stoddert Dep. Surv. of Prince Georges County" in Liber T.L. No B. folio 198. —

Test. Ch. Callahan Reg. L. Off. M.S. —

And the Defendant by his Counsel prayed the direction of the Court to the Jury that the Patent granted to the Defendant in 1799. did by operation of Law relate back to the certificate and give title to the Defendant to all the Land included in the said Patent which is also included in the lines of the certificate or the Resurvey on Peter's Delight dated 4th December 1769. as located on the Plats against the titles set up by the Plaintiff to the Lands included in his patent of the number of four in the Declaration of Ejectment mentioned and for which the present suit is brought; But the Court were of opinion that the time when Connogocheige Manor was laid out is a matter of fact to be determined by the Jury and that if they find it was laid out subsequent to the 28th June 1731. the Reserve made by the Lord Proprietary by his order of that date does not attach to it. The opinion of the Judge of the Land Office as far as it is expressed by his order, that Patent should issue to Malott on his certificate, cannot conclude the parties in this case as to the fact when Connogocheige Manor was laid out or as to the fact whether there was any reserve annexed to it: this Court in all questions relative to the extent & operation of interfering Grants have a concurrent Jurisdiction with the Judges of the Land Office, and it is the peculiar province of the Jury to decide facts. — In the Case between Malott and Westerberger it does not appear to the Court that the Judge of the Land Office has decided any fact, by his order, that Patent should issue: The certificate having been corrected pursuant to the order of the late Judge of the Land Office and Westerbergers Caveat being withdrawn all Contest between Malott and Westerberger ceased; and the order for issuing a Patent to Malott on his certificate was a matter of course, no other objection appearing. — The Relation of the Patent to the Certificate so as to overreach mesne Grants is founded on a principle of Equity and is a fiction of Law introduced for the attainment of Justice & to prevent circuity of action; this Court doing that, which a Court of Equity would Effect; and it is the opinion of the Court that if the Jury find Connogocheige Manor was laid out after the order of the Proprietary in 1731. that in such case there was no reserve attached to it; and Peter Malott had a complete equitable title to the Land. But if the Jury find otherwise, his attempt to take up land within the Reserve was a fraud and deception on the Proprietary and his Officers, and no equitable Interest was acquired in the Land by his certificate &

payment of the Caution money. By the Act of Confiscation all British property was seized and vested in the State: The State as to the Lands of the Proprietary stood in his place and they remained subject to all claims & rights created and acquired under the Proprietary, and supposing those circumstances to exist which would have vested an equitable Interest in Malot, his Grant will have relation to his certificate and controul the operation of the Grant to Jordan so far as they interfere. To which opinion of the Court the Plaintiff by his Counsel excepts and prays the Court to sign and seal this his Bill of Exceptions according to the form of the statute &c. and which is accordingly done this Twenty sixth day of May in the year of our Lord One thousand eight hundred and two. —

Jeremiah Townley Chase. (seal)
G. Duvall — (seal)
John Done (seal)

Test John Irvin Clerk. —

Richard Hey Heath's Lessee.
against
Michael Jenifer Stone, Guardian of James Eden. —

Be it remembered that heretofore to wit, on the seventh day of April in the year of our Lord One thousand eight hundred; Thomas Right lessee of Richard Hey Heath by Philip Barton Key his attorney, declared in the General Court here against Timothy Notille, in a plea of Trespass and Ejectment, with a notice thereto annexed, in form following to wit. — Western Shore, State of Maryland, Saint Mary's County to wit. Timothy Notille late of Saint Mary's County, was attached to answer unto Thomas Right of a plea wherefore with force and arms and so forth into all that tract or parcel of plantable land called The Woolf Holes lying and being in Saint Mary's County aforesaid with the appurtenances containing Two hundred and sixty two acres of land, as also one other tract or parcel of land called Coles Adventure lying and being in the County aforesaid containing one hundred and fifty acres of land both of which tracts or parcels of land Richard Hey Heath to him the said Thomas demised for a term not yet past he the said Timothy did enter and him the said Thomas from his Farms aforesaid did eject and other harms to him the said Thomas did to the great damage of him the said Thomas and against the peace and Government of the State of Maryland and so forth. And whereupon the said Thomas by Philip Barton Key his attorney complains that whereas the aforesaid Richard on the First day of January in the year One thousand eight hundred, at Saint Mary's County aforesaid had demised unto him the said Thomas the said premises with the appurtenances to him the said Thomas and his Assigns