

P. R. O.  
Maryland  
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afd that the Maj<sup>r</sup> att his Returne home haveing notice of these orders to apprehend him was then indeede forced to leave his family and goe for Protection into Virginia as they did hither in Bacons time thincking to stay till a settlement come from England w<sup>ch</sup> not comeing according to Expectation about Christmass he w<sup>th</sup> these men the Prisoners came in the yacht afd to fetch his wife and Childern and necessaryes for them and being at anchor at Bartuxant neare his house the night before they intended to goe away againe the Major being att his house ashore that M<sup>r</sup> Payne as Cap<sup>t</sup> and nott as Collector did press sev<sup>ll</sup> men and armes to goe with him and seize the Major and his yacht in the night time some hours before day they haveing first seized the Boate came with that armed Power to seize them all they in the yacht refused to lett them enter knowing Payne had such warrant from Coode but offered M<sup>r</sup> Payne to lett him come alone on bord to see the permitt they had from Virginia and that they had no goods butt what was their necessaryes and to give himselfe what other satisfaction he desired butt he would nott Enter without the rest and soe they fell to words of passion and Oaths one that they would and the others that they should nott Enter but at their Perill if they attempted it for they would fire att them and M<sup>r</sup> Payne and his men persisting in their attempt to board them gunns were fired and payne killed Mason and Woodcock wounded and nott knowing till long after they came to Virginia that Payne was killed they made the best of their way and went back for Virginia and after rendered themselves freely to the Gouvernmt there and were bayled as of—

Now this is the murther layd to their charge ag<sup>t</sup> w<sup>ch</sup> Crime (as Murther by mallice either prepense or Implied in Law) matter of Law upon the Fact would necessarily arrise upon sev<sup>ll</sup> points as was conceived Malice prepence there could be none nor was pretended malice implied would be the thing Insisted on that he was the kings officer and slaine in the Due Execution of his Office soe to bring the Prisoners in the Case of Mackelly in Coods Rep: of a Bayliffe being killed in the Service of the Parties of Law To w<sup>ch</sup> might have been objected on the prisoners side by pleading att Barr or arrest of Iudgemt that he came nott as the Kings officer but as Cap<sup>t</sup> Payne by warrant from Coode in which M<sup>r</sup> Payne had been active to execute he had before sent to M<sup>r</sup> Greenhalgh to give him meeting at St Maryes about the same designe and went himselfe thither to that purpose Cap<sup>t</sup> Greenhalgh was to provide able men well armed and a man to manage the yacht for the matter would be effected Easily but things must be carryed secretly there was the Designe not as Collector for any trans-