

here read and heard and by the Court here maturely deliberated It is the opinion of the Court here that the reasons aforesaid by the said Notley Rozier Assigned in Arrest of the Judgment are not sufficient to Arrest or stay the same.

Whereupon it is Considered by the Justices here that the said John Ward lessee of the said Phillip Lynes recover against the said Notley Rozier the now defendant his terme Yet to come of and in the said One thousand Acres of land calld Beach neck with the premises and appurtenances thereunto belonging and that his Majestys Writt of habere facias possessionem Issue Accordingly. And it is likewise consider'd That the said Phillip Lynes recover against the said Notley Rozier the Summe of Two thousand Seaven hundred and twelve pounds of tobaccoe for his costs and charges in this behalf laid out and Expended.

Thereupon came here into Court the said Notley Rozier by his attorney and prayd an appeale from the Judgm^t of this Court to the High Court of Appeales which was granted him giving Security for prosecution of his said Appeale according to Act of Assembly in that case made and provided.

This Record certified in obedience to her Majesty's Writt of Dimunition per me

[Loc^o Sigi^l Provinc^a]

Jn^o Beale Cl^r Pro^{ll} Court

[185] And the said Notley Rozier by Robert Goulesborough his Attorney comes and saith that as well in the record and process as also in the rendring of Judgment aforesaid it is Manifestly erred.

1th In this that there was not any Imparlan^{ce} given to the defendant as by law there ought to have been

2^{dly} It is also erred in this that the Venire facias is not awarded in the present tense as by law it ought to be.

3^{dly} It is Erred also in this that the Jurors Names are not entred upon the Record as they ought to be.

4^{thly} One William Heard late of this province takes up by Virtue of A Warrant duely obtaind from the Lord Baltmore the proprietary of this province A certaine tract of land within the Same but before he could procure his Lordships grant for it he dyed first making his last Will and testament in Writing by Which he devises his Estate to his Wife Bridget Heard in these Words following Vizt Item I give and bequeath unto my wife Bridget Heard all my Estate reall and personall making her my whole Executrix.

Bridget Heard soon after dyes first making her last will and Testament in Writing wherein she makes these bequeasts.

Item I give and bequeath to my sonn William Heard the one half part of my estate both reall and personall Item I give and bequea[th] to my Sister Mary Yemkins and John Duglas Jun^r and each of them their parts of the estate upon demand to be deliverd them after my decease.

John Duglass the father of John Duglass Junior applyes to the Lord