It was prefaced with a remark that the writs of error were not legally brought before the house according to the manner of bringing writs of error in Parliament, that there was no law in the province as yet fixing the procedure, no provincial statute of jeofails to provide for the correcting or ignoring of defects in procedure, and that the English statute was not sufficient for the province. Pending cases were heard by agreement; but notwithstanding the order of 1681 there were new writs issued and the cases were heard by the governor and council.[1] This appears more fully in records as yet unpublished.

The proceeding on writ of error, from the beginning of the jurisdiction in the province, closely followed that of the English courts. It had originated in the conception that it was a new proceeding, and steps were taken as in an independent suit. There was, first, the original writ sued out of chancery, with an assignment of errors sought to be corrected; the judicial writ of *scire facias ad audiendum errores,* frequently given the Latin title, or an abbreviation of it, but also a title translated in part: *scire facias,* or *sci. fa. to hear errors,* directing the proper sheriff to notify the defendant in error of the issue of the writ and of his opportunity to hear the errors assigned; the general plea by the defendant that there had been no error: *in nullo est erratum;* the hearing and the judgment. As has been seen, the common-law appeal differed only in the name and the absence of the original writ to begin with. The present book will, of course, furnish many illustrations of the procedure, for there was no change in the period it covers except in the growth of a tendency to use the general and perfunctory assignment of errors which later became customary. All writs were, in Maryland, issued in English translations; the original Latin appears never to have been used, although in England, except for a short time during the Commonwealth, the Latin forms were continued until 1731.[2]

Something indigenous in the Maryland translations may arouse curiosity. The established form of writ of error began with a recital that in the trial of the cause between the parties named, manifest error had intervened to the damage of the plaintiff in error, *sicut ex querela sua accepimus,* as by his complaint we have been informed. But this *accepimus* was not within the understanding of the provincial Latinists, and shortly after the middle of the seventeenth century they rendered it sometimes "accepted," and sometimes "received"; and sometimes they omitted that portion of the writ. "We have received" was the form which ultimately prevailed, meaningless though it was, and it was continued in use for two hundred years.

While the revival of the appellate jurisdiction of the governor and council occurred upon a revolution, it was not within the objects of that revolution, but rather one of the consequences of the general questioning of institu-

1 *Archives,* XX, 12, 22.
2 Stat. 4 Geo. II, ch. 26.