

On the Part of the Defendant it was insisted that he ought to pay no more on this Policy than the actual loss sustained by the Payment of Salvage and other Charges. That the Captain having set up the Vessel to sale without any Orders of the Court of Admiralty, and purchased her himself in behalf of the Owners, for about one fourth of the Sum insured, and this being acquiesced in by the Plaintiffs, there was no abandonment, and therefore but an average loss.

1764.

THE COURT gave a charge in Favour of Defendant; and the Jury accordingly give the Plaintiffs a Verdict for so much only as they judged a compensation for Salvage, charges, and Loss of Time, on account of the capture.

September Term, 1764

WILLIAM ALLEN, Chief Justice.
 WILLIAM COLEMAN,
 ALEXANDER STEDMAN. } Justices.

KING'S Road. On confirmation of a Road by the Justices of *Chester* county, the Record was brought up by *Certiorari*; and it was moved to reverse the Judgment of confirmation, because the Justices below had refused to grant a Review, though petitioned thereto by a Person who complained he was aggrieved by the Roads running through his improved ground.—On argument, THE COURT reversed the Judgment for that reason, alledging that a Review, though not taken notice of in the Act of Assembly, had always been granted, and was now become a matter of right.

HUGH DAVEY *et ux.* *versus* PETER TURNER.

THIS Cause came before the Court for a determination on a special Verdict which found, That the Defendant's late Wife *Sarah*, before her Marriage, was seized of the Lands in question in fee; that after her Marriage, with the Defendant, she and her Husband joined in a conveyance to two Trustees and their Heirs, "*Habendum* to them and the Survivor of them and his Heirs for ever, in trust nevertheless to and for the proper Use and Behoof of the said *P. Turner* and *S.* his Wife, for and during their joint Lives, and from and after the Decease of either of them, then to and for the sole and proper Use and behoof of the Survivor of them and his or her Heirs for ever." That the said *P. Turner* and