

the late Lord "That the Country who first got possession & set up Marks tho' no regular Colony got the right by Occupation. If then not so, this in Law as great a Deception on the Crown as any, pretend to involve the King in Warr, cannot be a greater Deception. Cause of War, settling such a Country, would be a ground to Repeal by Scire Facias . . . so stands on Grants." This is high Doctrine, seems under the Title of *Responsa Prudentum*, & from this opinion may be collected that in a Case of Contract between the Sovereign & the Subject Nothing shall tend to prejudice the Cause of the Sovereign. This tho' agreeable to Law under the Title of *Responsa Prudentum*, that is to say, the opinions of Lawyers is not therefore Law, because *Responsa Prudentum*, But because Charters are admitt'd by the Sovereign & when there is a Case of Private Contract bet: the Sovereign & the Subject, nothing shall Effect the Cause of the King or be allowed but upon a Supposition that the same was reasonable from the Beginning.

Calvert
Papers.

Thus much by Digression I conjecture to write on the General Ground of Laws Natural & Politick. I observe in the Votes & Proceedings of the Lo: House of Assembly the 26th of Feb^r last, A Motion by a Member Concern^s the 3000 Acres of Land in Somerset County for the use of the Nanticok Indians, that them Indians for some time pass have omitt'd to occupy & have quitt'd the Possession of them Lands. "The Act in 1704 of those Lands says Sextion 1st "To be held of the Lord Proprietary & His Heirs at the yearly Rent of one Bear Skin to be paid to his Lord^p & his Heirs. Provided that it shall be Lawfull for any Person that hath formerly taken up & Obtain'd Grants from Lord Baltimore upon the Indians Descert^s the said Land to Enter, occupy & Enjoy the same Sextion the Last says, That it shall not be Lawfull for Lord Baltimore to ask or have any Rent &c. of the said Tracts or Devided parts as may have been taken up aforesaid within the said Indian Boundary until such time the takers up & owners aforesaid do enjoy or possess the same" An Act in 1723 Section 1st says, of the Nanticoke Indians & their Descendants shall have hold occupy possess & enjoy Possession during such space of time as they shall use & not totally desert the same accord^s to an Act in 1698 Intituled an Act for Ascertain^s the Bounds of a Certain Tract of Land to the use of the Nanticoke Indians so Long as they shall occupy & Live upon the same." By these Acts, if these Indians have left their Tract of Land, it Reverts to the Lord Proprietor, except such Prior Grants made out as to Particular parts aforesaid. The motion of the Member seems obvious, was to take the Govern^t unguarded & by a New Act to strip the Lord Proprietor of his