

P. R. O. Maryland
B. I. Vol. 2,
B. F.

Drawne that his Lordshippes Charter was in force and that they did not know that his Lordppps had forfeited the same by any attainder Quo Warranto surrender or otherwise yea rather that the same as they were informed was by Act of Parl: s: n: & M. Intitled an Act Declaring the Rights and Libertys of the subjects established and Conformed by the last Paragraph and out of Cooks 4 Instit: Iurisd: of Courts in the Chap Co: pallatyn of Lancaster and Durham Presidents were brought of their great Priviledges and Royall Franchises &c and how it was s^d there in the case of the Bishop of Durham that the Kings will did not run there and soe (allways with submission to their Majesties Royall Prerogative) the same Royall Franchises being granted to his Lordshipp that the kings writt did nott run here being before granted by Charter and that his Lordp could nott be disused of his royall Franchize but by due course of Law according to the Statute of Magna Carta 29 c 10 this Court soe Constituted without Commission from his Lordp had nott Power over their Persons or Estates butt that they should be willing to submitt in themselves to Legall Tryall by a Court constituted according to Law.

The second point proposed to be Insisted on (in case that plea was overruled) was to the Com^s by w^{ch} they satt w^{ch} as was reported was only his Maj^{ty} Lre. under his Privy signett or signe mannual w^{ch} (under favor) was thought insufficient to Impower them to sitt as a Court upon the tryall of life & Death and there was sett forth the nature of such Com^{ons} by the Stat 2 &: 3: W: 2: by w^{ch} the same were granted and Iudge Cookes Exposition upon it and other authorityes that it ought nott to issue butt upon some suddaine outrage & Insurrection and that the same was an act of Grace and the king was retrayned of his Power to grant such Commissions at his pleasure to whome he will that the same ought to issue out of the Chancery under the great seale and to psons particularly named Co: 3: Inst 162. or they are nott Legall or warranted by Law that the Iustices ought to be learned & Indifferent men Stamford fo: 55: 56 notes what care was taken in tymes past in Granting such Com^{ers} in trespasses only much more in Treasons and felyny & Co: 3 Iust 163. 4. 5. says that sev^{ll} Indictm^{ts} were quashed for being taken by writt (w^{ch} is more then a letter where it ought to have beene by Com^{ers} though it were of the forme and words that a Legall Comm^{or} ought to be by Cheife Iustice and that in all such Comm^{ons} the Iustices are directed with this Rule Facturi q^d Iustitiam pertinet secundum Legem et consuetude Angliae but here was neither Com^{on} nor writts nor Persons particularly named to Execute the Comⁿ nor Dedim potest to swaere them before they entered upon the Execution of it it was nott