

P. R. O. dated as by a Coppy I have seen if true the 18 Feb 1689 at
 Maryland the Court at Kensington which was neare two months after
 B. I. Vol. 2, the fact committed and soe he never Legally vested in that
 B. F. office and if such procl: had beene before without a Direct
 Comm^{on} or a Com^d a question of it could have Iustified such
 an armed force if blood had been by him spilt what the Law
 could have s^d to in that case lett it speake—Soe that all things
 considered he was nott legally the Kings officer nor was in the
 one Execution of his Office it was in the night qui male agit
 odit Lumen with an armed force as Cap Payne Maj^r Sewall
 had not been on any Tradeing designe nor was it a boate for
 trade nor proffit but pleasure a vessell of the Country only
 made use of upon acc^t of visitts to his friends and no law to
 Enforce him to Entry upon such occations nor a vessell of any
 force nor had they any gunns or amonicōn but such as people
 usually carry in boates or sloops for necessary defence and
 game he had made no transgression ag^t the Lawes for trade
 it was not usual for M^r Payne to go at such unreasonable
 tymes in the night only on board shipp^s wth p^{ersons} so accou-
 tered hee had another designe then the K. service or getting
 K dues he expected to be shares in the Booty otherwise and it
 was said he had been that night late drinking and the heat of
 the wine & his Zeale for his new master put him upon that
 costly attempt besides he might and was freely offered him-
 selfe to come on board as the witnesses for the king being the
 soldiers present by Payne if examined to that could I presume
 have deposed Asquith one of them did Swear.—

These and many other argum^{ts} might have been used to
 have mittigated the Crime if Councell had been allowed them
 to have had freedome of speech butt all as well as prisoners
 were overawed by an armed force of horse and foot attending
 all that court of Tryall and much more were contained in my
 private notes besides what might have been urged by the other
 good that were desired to be of Councill for the Prisoners.

On good fryday the Committee of the Convention mett on
 Easter Tuesday the Convention in Thursday the prisoners
 brought to St Maryes in order to their Tryall on Friday
 they sent to speake with me I went and with much adoe had
 Liberty to see them a guard being present they told me
 they heard they were to be tryed next week I advised them
 to Petition the convention for longer time to summon Evi-
 dences some of whome lived in Ann Arundell County and
 to have order for spās they desired me to draw and present
 their petition and pray that they might have council allowed
 them in matter of law as they desired M^r Carroll M^r G Thom-
 son M^r Dent and myselfe and that some of those good might
 be permitted to be Consulted in Private I drew the Pettition