

Original.
Calvert
Papers.

of which it is so conspicuous a Member; (And concerning; understanding a Doctrine prevailed about Escheated Land to the Lord Proprietor Q^{re} the Right on Escheat to him; and by intelligence from the Province setting forth the matter arising thereon, the case was stated, and answered by opinions Sr Robert Henley & M^r Pratt Attorney Generals here & transmitted to M^r Bordley Attorney General in Maryland; And on which right I learn since from persons here & from the Province, that a late Instance on Escheated Land at the Provincial Court adjourned to July last, a cause was Tried under the Escheat Patent. M^r Charles Goldsborough & Edward Dorsey counsel for the Tenant & M^r Attorney Bordley for the Proprietor; The Def^s Counsel opened the several Points, said taken from an opinion of M^r Dulany, on the affair of his Lordships Escheats; And then applied themselves not only in matter of fact & Evidence but likewise in matter of Law to the Jury, without paying the least regard to the Court, whose Province is to determine matters of Law, the Court taking no Notice of them for Endeavouring to deprive them of their Jurisdiction; M^r Bordley being Possessed of their argument of Law & Learning & the several points from Henley & Pratt, he replied; taking the matters of Law from the Decision of the Jury & Lodging them before the Court; moved the Court as it was a matter of the utmost importance both to the Proprietor & the Province; And that as the Jury had a right to determine the matters of fact & the Bench the matters of Law, & upon both which their determinations, each Branch of the Court would determine what was within its own Province to determine; And therefore prayed the Bench to direct the Jury to find a special Verdict, which would contain the facts, that the Bench might at a future day after all parties had proper time to consider them, determine the Law resulting from those facts, this he insisted & did claim as a matter of right & not of favour & that by this means the whole case would be put into the only proper light for an appeal if either party should be dissatisfied with their Honours Decision, this application produced a violent opposition from the other side as unfair, for making a motion for a Special Verdict, till he got from them all their Authorities upon the several Points; to which he answered it was owing to their unfairness by their address to the Jury the Law, which they ought to have addressed to the court; And after much dispute on both sides, their Honours of the Bench directed the Jury to find a Special Verdict. This point gained they drew each their own part of that Verdict & M^r Attorney finding by theirs that they had incerted two Steps of their Title under the original Patentee (for whose Dying without Heirs it was insisted had