

The Lawyers Opinions in the foregoing Queries return'd Lib. H. D.  
are as follows, Viz<sup>t</sup>

Mr Carrolls  
Opinion  
about At-  
taints &c<sup>a</sup> In Obedience to your Ex<sup>ncies</sup> Ord<sup>r</sup> to me for giving  
my Opinion in three severall Quæries put by your  
Ex<sup>ncy</sup> I humbly offer that as to the first where your  
Ex<sup>ncy</sup> puts the Quære Whether Attaints may be brought  
against Juries in this Countrey, and if to be done, by what  
Rule they may be brought.

I am of Opinion that in as much as We have no particular  
Law of our own Countrey relating to such a matter and hav-  
ing a generall Law whereby it is Enacted that in whatsoever  
Case our own Law is silent, that in such Case the Law of  
England must be pursued, that therefore Attaints may be  
brought against Juries here, and that the Rule they must be  
brought by, is the same Rule whereby they are brought in  
England, which Rule is plainly set down in our Books, &  
would be too tedious to insert here, there having sever-  
all Alterations been made therein by severall Statutes.  
As to the second where the Quære is, when any Error in ffact  
is Assigned vpon an Appeal or Writ of Error brought to a  
Superiour Court, before whom such ffact is not cognoscible,  
what course shall be taken to trye that matter of fact. I am  
of Opinion in the first place that an Error in ffact may very  
well be Assigned as appears clearly in our Books, and that  
such Error is not to be tryed by the Judges before whom it is  
Assigned, quia ad questionem facti non respondent Judices, but  
p pais that is a Jury of the Neighbourhood where such fact  
did Arise, for the impannelling whereof there must issue a  
Venire facias to the Sherriff of the County, and if the ffact  
assigned be found by the Jury, the Judges before whom the  
Writ of Error was brought are to give their Judgm<sup>t</sup> vpon the  
Law that arises out of the s<sup>d</sup> ffact Quia ex facto Jus Oritur p. 352  
et ad questionem Juris non respondent Juratores sed Judices,  
and if the ffact so found be an Erronious ffact, the Judges  
ought to Reverse the Judgm<sup>t</sup>; And I am further of Opinion  
(though it be some what beside the Quære) that in this  
Countrey there ought to be a greater latitude allowed in  
assigning of Errors, and the merits of the Cause to be more  
inquired into by the Judges before whom an Appeal or Writ  
of Error is brought, than in England; Because some of our  
Judges & some of our Juryes (which for want of knowing, and  
more consciencious Men must of necessity be made vse off)  
do oftentimes Judge according to the Affection or disaffection  
they have for the person plaintiffe or Defendant, and not  
according to the Merit of the Cause or the Law that Arises  
vpon the pleadings thereof; This I should not have the confi-