

of Land, at the time of making the Royal Order, possessed by, Lib. C. B.
or under his late Ancestor

As your Claim now, appears founded on the Right of M^r John Digges, and the Possession of him, his Tenant or Tenants under that Right I presume clear Proofs ought to be made

1st That M^r Digges had Right to Land under Lord Baltimore

2^{dly} That the Place where the Act was done, lyes within the Limits of that Land

3^{dly} That M^r Digges, his Tenant, or Tenants were possessed of such Place at the time of the Royal Order

I have perused the Papers inclosed to me as Evidence, & p. 491
with regard to the first Point, cannot find the Authority by which M^r Digges made his Surveys so much as mentioned

As to the second — Whether the Place where the Act was done, lyes within the Limits held by M^r Digges — It seems to me, highly improper to rely on the Memory of M^r Owings, concerning a Transaction so many years ago; when the Matter is capable of Demonstration, by now surveying the Land of M^r Digges according to his Certificate of survey & Patent which I conclude, from the Assertions in your Letter, must be registered in your Land Office. If you please to furnish me with Copies of them, they will not only enable me to satisfy myself on this Point, but the first, by shewing M^r Digges held under the Proprietor of Maryland

As to the third Point. I am at present inclined to think that It is not the manner of dispossessing M^r Digges, before the Royal Order, but his, or his Tenants under him, being in actual Possession, at the time of making it, that can give a Jurisdiction to your Proprietor. It is very probable Art Fraud and Violence were too frequently used amongst the Borderers, concerning their Possessions, and I wish M^r Digges, considering his Misfortune, may be less culpable than the rest of his Neighbours, but to avoid these, and establish future Peace and Tranquility, were the Articles and Order made, by which the Possession of Lands then held under Either Proprietor, however obtained, and their Jurisdiction over such Lands, respectively, were granted and confirmed

Seeing, the Question before Us, is in a Criminal Case, wherein the Life of One of his Majestys Subjects seems immediately concerned (for possibly upon the Jurisdiction, the Nature of the Crime may depend) I must offer it to your Consideration, whether I ought to admit as sufficient Proof, ex parte Depositions taken in your Province, and One of them many years ago upon some other Occasion, or whether Law and Reason do not require, that the Witnesses should appear and depose in this Province, in order to give the Prisoner the Benefit of p. 492
cross examining and counter proving them if he can. I do