

Lib. C. B. Whereupon the Council having heard debated and Maturely Considered the Premises, Are, from the Express Words of the Proprietaries Ageement Confirmed by the Royal Order, and their Manifest reasonable intention unanimously of opinion

p. 514 That, no Possession at the time of making the Order, of Lands to the Northward of the Temporary Line, can give Jurisdiction to the Proprietor of Maryland over those Lands, unless such Possession was held, by the Proprietor of Maryland, or immediately or mediately under him

That, no right, at the time of the Royal Order, to Lands Northward of the Temporary Line, by or under the Proprietor of Maryland can give a Jurisdiction to that Proprietor over such Lands, unless they were at the time of the Order Possessed by him, or mediately or immediately by others under that Right

And they are further of Opinion

That Supposing M^r John Digges or his Tenant had Possession of the Land where the Crime was Committed, at the time of the Royal Order, Yet it does not appear, from any part of the Depositions that such Possession was taken or held, by any Warrant or Patent, Power or Authority of any kind whatsoever from or under the late Proprietor of Maryland his Agents or Attorneys;

That such Power or Authority to take or hold Possession of Lands as aforesaid ought Properly to be in writing, and not by words alone

That Seeing the President, in his Letter of the fifth of May last did rely upon it that the Spot where the deceased was killed had been Surveyed (and indeed Patented) to M^r John Digges under the Authority of the Government of Maryland, some Considerable Time before his Majestys Order in Council, and the Governor by his Answer of the Twenty Second of that Month Requested the President to furnish him with Copys of the Survey and Patent to enable him to Satisfie himself of the Truth of those facts which the President has declined doing and therefore has in effect denied it is reasonable to Conclude the President was misinformed concerning those Facts when he wrote that Letter;

That as it appears by the Depositions, Martin Kitzmiller at the time of the Royal Order, was in Possession of the Close or Tract of Land where the Crime was Committed, claiming in his own Right and disowning the Right of M^r John Digges and the Proprietor of Maryland, that Possession however obtained, according to the words and Spirit of the Agreement excluded the Proprietor of Maryland from Jurisdiction over the Land;

That supposing Martin Kitzmiller, by his Purchase from,