

From these it is learned that Scarborough had employed Bateman as his factor, or agent, in Maryland to engage in speculations in land and in trade, and had given him £1000 for this purpose; that lands had been purchased there by Bateman with this money, either in their joint names or in Bateman's name alone; and that the widow "was privy to these transactions and trusts", but after her husband's death, pretending these lands and monies were his, and that they had been devised by his will to her, she "by fraud and covin confessed a judgment" against herself as executrix for £2000 on her husband's bond, pretended to be due to her mother Margaret Perry in trust for her, and had thus indirectly appropriated to herself trust funds received by Bateman from Scarborough, long after the pretended debt was due; and finally had taken out a *quietus est* barring all persons from suing her. It was also shown that soon after this was issued the widow died, and that administration with the will annexed upon her estate had been committed to John Boague during the infancy of her daughter Mary. Scarborough prayed the Proprietary for just relief, which if not granted would certainly discourage other merchants from trading in Maryland.

Richard Langhorne of the Inner Temple, counsel for the Proprietary, in an exhaustive opinion dated February 20, 1667/8, found for Scarborough on every point as to the misuse of the trust funds, giving the legal reasons in each instance for so doing. He declared that the proceedings in the Provincial Court were entirely erroneous, and had permitted the executrix to give preference to debts due to herself, and that the *quietus est* was used in a way unheard of in England. He pointed out that although the judgment of the court was in error, there was no way by which it could be directly set aside, as no one legally affected by it could bring an appeal by writ of error. The remedy he proposed was that Scarborough prefer a bill in equity against the administratrix of the Bateman estate, and have all the accounts between Bateman and himself considered in equity, and upon proving these accounts, have the judgment against him in the Provincial Court set aside, and the *quietus est* cancelled, this to be followed by a decree in chancery conveying to him the monies due him and the lands Bateman held in trust for him.

But the Proprietary promptly pursued an even more direct course, for he issued his orders from England under the lesser seal, dated February 2, 1667/8, which reached Maryland on June 9, 1668, directed to his Governor, Chancellor, Council, and Judges of the Provincial Court, "recommending", but really ordering, the "petitioner (Scarburgh) and the equity of his said case under you that he receive reliefe therein according to the Rules of equity and good Conscience". He further ordered that the court issue a writ of *supersedeas* for the extinguishment of the *quietus est* which had been previously issued. What seems at first sight a rather high-handed procedure on the part of the Proprietary towards his Maryland court, was doubtless done by him in his capacity of, what might be called, super-judge in equity—powers which under ordinary circumstances were executed by the Governor resident in the Province as "chief judge in equity", or by his Chancellor Philip Calvert in the absence of the Governor. It should be recalled that the powers which the king had