

of England might follow the Trade of an Innholder as well as any other Trade without the Licence of the Crown.

It appears to us from Stuttons Reports 99 and 100 that this Point was solemnly determined in the 22. Jac: upon a Conference at Serjeants Inn and that before that time in the Case of Sir Giles Mompesson and Francis Michel in the 19. Jac: the Principle on which the Right to these Licences is plain and was effectually condemned. Humes Hist. of Jac: 70. 75. Ruth. Coll: 26. 27. 28 and Parliamt. Hist. 6. 108.

We find that there have been various temporary Acts of Assembly of this Province from time to time which have been passed for the regulation of Inns or Ordinaries, and that the Money arising from granting of Licences hath been applied to various uses, and that there have been intervals between the Expirations of some of the temporary Acts, and the enacting of others in which Inns or Ordinaries have been subject to no Regulation, and that since the year 1763. when the last Act for their Regulation expired the Business or Trade of Inn keeping has been subject to no other Controul, than that of the Common Law, which gives a Power to suppress an Inn upon its becoming a Common Nuisance, there are some Instances in the early times of this Province particularly in the Year 1664. when the Governor granted Licences, and this Power seems to have been admitted in the Year 1676. by the Lower House in a Message on that Subject, but we conceive that inasmuch as no Act of Assembly vested the Right in his Lordship, or his Government, that the above Instances and the admission to be inferred from a Message, are not a sufficient Foundation to build his Lordships Claim upon, and that as our Acts of Assembly are silent on the matter, his Lordships Title must Depend upon the Charter, which we conceive cannot be construed to give him higher Privileges than belonged to the Crown by the Common Law.

The Instances alluded to we apprehend have still the less weight when opposed by the very numerous temporary Acts of Assembly regulating Inns or Ordinaries, and applying the Revenue arising from Licences to various purposes and by the non-users in the intervals between several Acts.

Lastly we conceive that if his Lordship is entitled to the Licences, there must be some legal remedy to enable him to compell Innholders or Ordinary keepers to obtain Licences but we do not know of any such Remedy nor have we heard any suggested.

Rob: Tenchins Henry
Daniel Dulany
Cha: Goldsborough
Henry Hoopers.

The above report being read, the Board do unanimously concur therein, and Ordered, that an Address communicating the said Report and Concurrence be presented to his Excellency

the 27. May 1766.

Signed by Order

Upton Seal & the Pont.

Benjamin Tashers Esq: attended by the Members of this Board, presents to His Excellency the above Report and their Address which follows in these Words

To his Excellency Horatio Sharpe Esq: Governor and Commander in Chief in and over the Province of Maryland.

The humble Address of the Upper House of Assembly.

May it please your Excellency

In consequence of his Lordships Instruction relative to the Ordinary Licences bearing date the 7. February 1765. being communicated to this Board by your Excellency a Committee was appointed particularly to consider the Subject thereof, and to make a Report of their Opinion.

Upon the Report of the Committee we are to inform your Excellency that the matter again follows.