

and Entry under John Lemon, became the legal Tenant of Lib. C. B.
M^r John Digges, & his Possession ought to be esteemed the
Possession of M^r Digges, yet such Possession of M^r Digges,
if it was not taken by or held under some Authority or War- p. 515
rant from the Proprietor of Maryland, as effectually excludes
the Jurisdiction of that Proprietor over the Land, as the Pos-
session of Martin Kitzmiller independent of M^r Digges; and

That, in this Case, where the Jurisdiction to try one of his
Majestys Subjects for a Capital Crime, depends on Right to
Land, upon which right the Nature and quality of the Offence
may Possibly turn it would be highly unreasonable on a Ques-
tion Concerning the Right in order to determine the Jurisdic-
tion, thô in a Summary manner, to admit for truth Matters
deposed out of the hearing of the accused, and without allow-
ing him the just & legal Advantages of either excepting to or
Cross examining the Witnesses

Therefore they did unanimously Advise the Governor no
longer to Suspend the Tryal of the Prisoner; and did further
Advise him with all Speed to let the President know the time
of Tryal, that any Persons Authorized by those concerned in
the Administration of the Government or any other Persons
there, may have Opportunity to lay before the Grand and
Pettit Jurys all legal Proofs to Shew the Jurisdiction in this
Case belongs to the Proprietor of Maryland, and that if it
should be so found the Prisoner may be delivered to the Min-
isters and Officers of Justice in that Province for Tryal.

The foregoing is a true Extract from the Minutes of the
Council of the 27th day of September 1752

Examined by

Richard Peters Secry & Clerk at the Council.

Ordered that the Attorney General attend the Tryal of
Jacob Kitzmiller for the Murder of Dudley Digges at York
Town in York County on the 30th of October Instant being
the Day appointed by the Governm^t of Pensilvania for the
Tryal of the said Kitzmiller, in Order to insist upon the Tryal
being had in Maryland where the Fact was committed & not
in Pensilvania.

Ordered that the Clerk of this Board draw an Order on the
hoñble Co^t Charles Hammond Treasurer of the Western
Shoar payable to M^r Henry Walls or Order for Twenty five
Pounds sterl being his Years Salary as Armourer of this
Province ending the 29th of Septem^r last to be paid out of the
Duty of Three pence p hh^d for Arms &c.

His Honour the President having communicated to this p. 516
Board a Report made to him by the Justices of the Provincial