

sureties for not having refused to allow convict servants to be landed until the import duty had been actually paid. It developed that in instances where the collection of any import duty was disputed it had been the custom for many years to permit a ship captain to enter the dutiable object upon giving well secured bonds for its payment. The Naval Officers, in instances where the captain had refused to pay duties on convict-servants on the ground that the impost was contrary to the laws of England, had allowed them to be landed upon the posting of sufficient bond by the captain. The Lower House, May 4, 1757, declared that there was no authority in law for such a procedure, and demanded that the Naval Officers be at once sued on their bonds for all such illegal entries. The house further sought to justify its position by calling these unfortunate individuals *servants* rather than *convicts*, hoping thus to evade the issue of the Crown's prerogative (pp. 89-90). The Governor replied on May 5, 1758, that he was advised that the Naval Officers were not justified in refusing entrance to convicts after the ship captains had furnished bond, and that Lord Mansfield, the King's late Attorney-General, had given an opinion not long since that no duty could be legally laid on them (p. 110). This action on the part of the Lower House was of course a move to discredit the Governor, who was making an earnest effort to get a legal opinion from the Attorney-General of the Crown.

Soon after the April-May Assembly adjourned, Governor Sharpe wrote, on May 27, 1757, to his brother, Joshua Sharpe, saying that at the next meeting he expected to be again asked why he had not entered suit against the bonds of the Naval Officers who had permitted the landing of convicts before actual payment of the duties. He sent a statement of the case to his brother and asked him to consult the King's Attorney-General and get from him an opinion as to the legality of the impost called for under the Maryland law. He added in this letter that all those who were engaged in shipping felons had willingly paid the duties except Mr. Stewart of London, who, the Governor thinks, should have made the disputed payment "without murmuring", as he transports a much greater number than any other ship owner, and also because his profits are so exorbitant (*Arch. Md.*, ix, 4-5). The Governor was a good prophet as the matter did come up at the next session.

Before Sharpe's statement of the case could possibly have reached his brother Joshua in England, and have been referred for an opinion to Sir Robert Henley, the King's Attorney-General, Lord Baltimore himself, through his secretary, Cecilius Calvert, had asked Henley for a legal opinion, and on June 27, 1757, the Attorney-General rendered one based on a statement of the case as it had been presented to him. This opinion seems to have been asked, not because the question had been raised in the Lower House, but because John Stewart, the London merchant, who was the principal contractor shipping convicts to Maryland, had made a demand upon the Lord Proprietary for a refund of the duties that had been collected from him before Stewart refused to make further cash payments of duties. The Attorney-General declined to give a definite opinion as to whether the impost tax was repugnant to the laws of England without a further examination of the matter,