

Plantation of Thomas Reynolds, of Elk, Cecil County, a dark Seven Years old next Spring, a Forehead, neither brand nor be observed, trots, paces, and may have her again proving Charges—wz

Baltimore, January 9, 1773. Giving any just Claim against the Charles Ridgely, deceased, are their Accounts properly proved, indebted to the said Estate, are come and pay to prevent expence

Trouble to  
RLES RIDGELY,  
EL CHAMBERLAIN,  
LIAM GOODWIN, } Executors.

James River, Virginia, Jan. 1773. Tract of Land, called Moccasin's within a Mile of the Mouth of One Mile from James River, above Barret's Ferry, and within City of Williamsburg; it contains Six the highest, driest, and healthiest, in its present State during the Months; it will afford grazing for and Head of Cattle.

Three Islands; the easternmost is about One Hundred and Fifty Acres, has Two good Springs upon Negro Quarters, and an Overlook of a Mile distant is middle or High about Forty Acres, Half a Mile distant, containing Three or Four are so situated that the banking in is very easy. The eastern and these Islands are divided from the branch of the River, no more than a mile, and the southern and western by the main Body of Chickabomony, a broad Yards broad. Up this River is Four Miles for Vessels of Four Thousand Branch dividing the Island from the easternmost Low or Great Island, there are One Hundred and odd Acres well looking to this Plantation, pleasantly looking the whole Island. This Land is about Half a Mile across the branch from the Ferry to Williamsburg, so from Town is not above Nine Miles; cover no Part of the Marsh; Spring continued North East Wind cover the it, with Four Inches Water, but the Tides over-flowing it, is taken the great Gulf on Friday the 8th of spread over a great Part of America, were only Seven Inches Water in the Person purchasing this Island, may and Utensils upon reasonable Terms.

PATRICK CUTTS. apply to Messrs. James Dick and

Elk-Ridge, December 29, 1772. S Mr. Caleb Dorsey, late of Anne County, deceased, did by his last will, bearing Date the 14th Day of order and direct sundry Lands to be tract or Parcel of Land, called Caleb's; also a Tract, called Timber-Ridge, Tract, called The Mill Tract, all adjoining in Frederick County, near Simpson's about Thirty Miles from Elk-Ridge contains about Two Thousand Four. The said Land is well adapted to will be sold on the 29th Day of June Parcels, or in any Manner that may purchasers;—Also Two Thirds of about Acres of Land, lying in Annapolis, on Curtis's-Creek, about Seven Baltimore-Town, on which is a Furnace, Mill-House, and sundry Out-Houses, Grift-Mill, and Saw-Mill: The Land is, and the Water navigable, within the Furnace Door, and will be exposed the 20th Day of July following. The made known on the Days of Sale, by

MICHAEL PUE, Executor,  
MICHAEL DORSEY, } Executors.  
ELEANOR DORSEY }  
Persons having just Claims against the said Estate, are desired to bring them in legally proved, and are indebted to said Estate, to pay off their respective Balances with Notice, to

AMUEL THOMAS, } Administrators.  
THOMAS HUGHES, }

and to be sold by the Subscribers, at the Store on the Dock in Annapolis.

NTITY of choice Barbados Rum

LACE, DAVIDSON and JOHNSON

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E-N and S-O-N.

right derived from long usage, and from the law of parliament, which is *lex terra*, or part at least of the law of the land. Our upper, and lower houses of assembly claim most of the privileges, appertaining to the two houses of parliament, being vested with powers nearly similar, and analogous (E) to those, inherent in the lords, and commons. "The courts of law, and equity in Westminster hall have likewise settled fees," by what authority? Antilon has not been full; and express on this point: Have the judges settled the fees of officers in their respective courts solely by the King's authority, or was that authority originally given by act of parliament to his Majesty, and by him delegated to his judges? Admitting even, that the chancellor and judges of Westminster hall have settled fees, by virtue of the King's commission, without the sanction of a statute, yet the precedent by no means applies to the present case. The judges in England have not settled their own fees—it the Proclamation should have the force of law, the commissary general, the secretary, the judges of the land office, who are all members of the council, and who advised the Proclamation, that is, who concurred with the minister's advice, may with propriety be said to have established their own fees. The Governor as chancellor decreeing his fees to be paid "according to the very settlement of the Proclamation," would undoubtedly ascertain, and settle his own fees; Would he not then be judge in his own cause? Is not this contrary to natural equity? "Where a statute is against common right and reason the common law shall controul it; and adjudge it to be void; a statute contrary to natural equity, as to make a man judge in his own cause is likewise void, for *jura nature sunt immutabilia*." The quotation from Hawkins given by Antilon, militates most strongly against him; the chief danger of oppression, says the jurist, is from officers, being left at liberty to set their own rates on their labour, and make their own demands. Have not the officers, who advised the Proclamation, and the Governor who issued it, in pursuance of their advice set their own rates, and made their own demands? Answer this question, Antilon? If you remain silent, you admit the imputation; if you deny it, you will be forced to disavow the advice, you gave. The Proclamation is sometimes represented by Antilon as a very harmless sort of a thing—it has no force, no efficacy, but what it receives from its legality "determined in the ordinary judicatories." He has not indeed told us expressly; who are to determine its legality; if the judges of the provincial court are to decide the question, and they should determine the Proclamation to be legal, in that case, I suppose, an appeal would lie from their judgment, to the court of appeals. Would not an appeal to such a court, in such a cause, be the most farcical and ridiculous mummery ever thought of? All that has been said against the Proclamation, applies with equal, or greater force against the instrument, under the great seal for ascertaining the fees of the land offices. Antilon having noticed "That in consequence of a commission issued by the crown, upon the address of the British house of commons, the lord chancellor by the authority of his station and by and with the advice and assistance of the matter of the rolls, ordered, that the officers of the court of chancery should not demand or take any greater fees for their services, in their respective offices, than according to the rates established"—I have thought proper to insert in the note (F) referred to, some particulars relating to a similar measure, for the information of my readers, and to shew, that a regulation of officers fees, tell under the consideration of the house of commons, and that the same encroaching spirit of office, which has occasioned such alterations, heart burnings, and confusion in this province, has prevailed also in the parent state. The settlement of fees by order of the chancellor, under his Majesty's commission, issued pursuant to an address of the house of commons, is not, I will own, a tax similar to ship-money. But a regulation of fees by Proclamation, contrary to the express declaration of our house of burgesses, is very similar thereto. (G)

Exclusive of the above reasons, another very weighty argument, arising from the particular form of our provincial constitution, may be brought against the usurped power of settling fees by Proclamation, and against the decision of its legality, in our "ordinary judicatories." We know, that the four principal officers in this province, most benefited by the Proclamation, are all members of the upper house; I have said it, and I repeat it again, a tenderness, a regard for those gentlemen, a desire to prevent a diminution of their fees, have hitherto prevented a regulation of our staple, in a matter of this importance, which so nearly concerns the general welfare of the province; personal considerations and private friendships, shall not prevent me from speaking out my sentiments with freedom; neither shall antipathy to the man, whom in my conscience I believe to be the chief author of our grievances, tempt me to misrepresent his actions, "or set down ought in malice"—neither a desire to please men in power, nor hatred of those, who abuse it, shall force me to deviate from truth. "But the present Proclamation is not the invention of any daring ministers now in being" who said he was the inventor? The minister now in being has revived it only, in opposition to the unanimous sense of the people, expressed by their representatives, after a knowledge too of the evils, and confusion, which it heretofore brought on the province. Dimayed, trembling, and aguish, though sculking behind the strong rampart of Governor and council, this Antilon has intrenched himself chin deep in precedents, fortified with transmarine opinions, drawn round about him, and hid from public view, in due time to be played off, as a masked battery, on the inhabitants of Maryland. I wish these opinions of "Lawyers in the opposition" would face the day, I wish the state, on which they were given was communicated to the publick, "the opinion respecting the Proclamation is on no point which the minister for the time being aims to elude"—if in favour of the Proclamation, I deny the

assertion; the Proclamation is a point which the minister of Maryland aims to establish, in order to establish his own power, and perquisites. Antilon asks "If they (the confederates) have any other measure besides the Governor's Proclamation, to arraign as an attempt to set the supreme magistrate above the law"? First evince, that the Proclamation is not such an attempt; till then, it is needless to point out others; without entering into foreign matter; I have already given you an opportunity "of shewing me stripped of disguise What I am"; I have shewn what stripped of disguise you are—

"Homo natus in perniciem bujusce reipublica". a man born to perplex, distress, and afflict this country.

## FIRST CITIZEN.

February 27, 1773.

(A) "Hopes may be entertained that the good thing like a precious jewel will be handed down from father to son."

(B) The most open and avowed attacks on liberty are not perhaps the most dangerous. When rigorous means—the arbitrary seizure of property and the deprivation of personal liberty are employed to spread terror, and compel submission to a tyrant's will they rouse the national indignation, they excite a general patriotism, and communicate the generous ardor from break to breast; fear and resentment, two powerful passions, unite a whole people, in opposition to the tyrant's stern commands; the modest, mild, and conciliating manner, in which the latent designs of a crafty minister come sometimes recommended to the publick, ought to render them the more suspected "*timeo Danaos, et dona ferentes*": The gifts, and smiles of a minister should always inspire caution, and diffidence. There is no attempt, it is true, in the Proclamation "to subject the people indebted to the officers for services performed to any execution of their effects or imprisonment of their persons—on any account"—If the judges however should determine costs to be paid, according to the rates of the Proclamation, execution of a person's effects, or imprisonment would necessarily follow his refusal to pay those rates.

(C) From the words in the text, I think it is evident, the minister had at that very time determined on issuing the Proclamation; should he afterwards be reproached with a breach of promise, he had his answer ready, the Proclamation was not issued in such a manner, as to justify a regular opposition, it was only issued with a view to prevent the extortion of officers for this reason I have called the minister's promise a seeming promise.

(P) It cannot be supposed that the King can have a thorough knowledge of every department in his kingdom; he appoints judges, to interpret, and to dispense law to his subjects; ministers to plan, and digest schemes of policy, and to conduct the business of the nation; generals, and admirals, to command his armies, and fleets; over all these he has a general superintendency, to remove, and punish such as from incapacity, corruption, or other misdeameanors may be unfit, and unworthy of the trust reposed in them—the King cannot exercise a judicial office himself, for though justice and judgment flow from him yet he dispenses them by his ministers, and has committed all his judicial power to different courts; and it is highly necessary for his people's safety he should do so, for as Montesquieu justly observes—"There is no liberty if the power of judging be not separated from the legislative, and executive powers." Were it joined with the legislative, the life and liberty of the subject would be exposed to arbitrary controul, for the judge would then be legislator; were it joined to the executive power, the judge might behave with all the violence of an oppressor.

Here, the Governor, who exercises the executive and a share of the legislative power holds and exercises also one of the most considerable judicial offices—for he is chancellor, a jurisdiction, which in the course of some years, may bring a considerable share of the property of this country, to his de terminations." The Governor is so well satisfied of wanting advice, that in determining causes of intricacy, he always chuses to have the assistance of some gentleman, who from study, and a knowledge of the law, may be presumed a good judge, and able to direct him in cases of difficulty and doubt. He has recourse to the advice of his council in all matters of publick concernment; it is therefore highly probable he took the advice of some, or of one in the council before he issued the Proclamation. It is well known, that in England the prime minister directs and governs all his Majesty's other ministers; in Charles the II'd's time the whole care of Government, was committed to five persons, distinguished by the name of the Cabal: the other members of the privy council were seldom called to any deliberations, or if called, only with a view to *faire appearances*.

(D) It is plain from the above resolve of the delegates, that they considered the Governor, not as my lord's minister, but as his deputy, or lieutenant, acting by the advice of others, nor pursuing his own immediate measure, and sentiments. It is no imputation on the Governor's understanding to have been guided by a counsellor, from whose experience, and knowledge, he might have expected the best advice, when he did not suspect, or did not discover the interested motive, from which it proceeded; the minister has the art of covering his real views with fair pretences.

"And seems a saint, when most he plays the devil."

(E) I say nearly similar; a perfect similitude cannot be expected; our upper house falls vastly short of the house of lords in dignity, and independence; our lower house approaches much nearer in its constitution to the house of commons, than our upper house, to

the house of lords; the observation of a sensible writer on the assembly of Jamaica may be applied to ours—"The legislature of this province wants in its two first branches (from the dependent condition of the Governor and council) a good deal of that freedom, which is necessary to the legislature of a free country, and on this account, our constitution is defective in point of legislature, those two branches not preserving by any means, so near a resemblance to the parts of the British legislature, which they stand for here, as the assembly does; this is a defect in our constitution, which cannot from the nature of things be intirely remedied, for we have not any class of men distinguished from the people by inherent honours; the assembly, or lower house has an exact resemblance of that part of the British constitution, which it stands for here, it is indeed an epitome of the house of commons; called by the same authority, deriving its powers from the same source, instituted for the same ends, and governed by the same forms; it will be difficult, I think to find a reason, why it should not have the same powers, the same superiority over the courts of justice, and the same rank in the system of our little community, as the house of commons in that of Great-Britain. I know of no power exercised by house of commons for redressing grievances or bringing publick offenders to justice, which the assembly is incapable of—I know of none, which it has not exercised at times except that of impeachment and this has been forborn, not from any incapacity in that body, but from a defect in the power of the council; an impeachment by the house of commons in England, must be heard in the house of lords, it being below the dignity of the commons, to appear as prosecutors, at the bar of any inferior court." The powers therefore of the house of commons, and of our lower house being so nearly similar, their respective privileges also must be nearly the same—see the privileges of the island of Jamaica vindicated.

(F) Antilon infers from this argument, that the Governor has the same power in this province. In England, the King originally paid all his own officers; nothing therefore could be more consistent with the spirit of the constitution, than that he should establish the wages, who paid them. It is not so in this country, nor is it at present the case in England: they are now paid out of the pockets of the people: sheriffs, and many other officers have therefore their fees ascertained by act of parliament, and in those cases, where the fees given originally by the crown, are now established by custom, the parliament claims, and has exercised a power of controul over them, as will appear by the following quotations. "The commons ordered in lists of all the fees taken in the publick offices belonging to the law, which amounted annually to an incredible sum most of it to officers for doing nothing; but the enquiry was too perplexed, and too tedious for any effectual stop being put to the evil within the period of one session—Tindal's continuation of Rapin's history.

Extract of a report of a committee of the house of commons empowered to inquire into the state of the officers fees belonging to the courts in Westminster-hall—April 1752.

"Among the various claims of those, who now call themselves officers of the court of chancery, none appeared more extraordinary to the committee, than the fee of the secretary, and clerk of the briefs, who upon grants to enable persons to beg, and collect alms, claim, and frequently receive a fee of forty, fifty, or sixty pounds, and the register takes besides twelve or thirteen pounds for stamping and telling the briefs, which fees, with other great charges upon the collection, devour three parts in four of what is given for the relief of persons reduced to extreme poverty by fire, or other accidents." The committee closing their report with "observing how little able or willing many officers were to give any satisfactory account of the fees, they claim, and receive," came to the following resolution. Resolved, "That it is the opinion of this committee that the long disuse of publick enquiries into the behaviour of officers, clerks, and ministers of the courts of justice has been the occasion of the encrease of unnecessary officers and given encouragement to the taking illegal fees.

Resolved, "That it is the opinion of this committee that the interest, which a great number of officers and clerks have in the proceedings of the court of chancery has been a principal cause of extending bills, answers, pleadings, examinations and other forms, and copies of them to an unnecessary length to the great delay of justice and the oppression of the subject.

Resolved, "That it is the opinion of this committee that a table of all the officers, ministers, and clerks, and of their fees in the court of chancery should be fixed, and established by authority, which table should be registered in a book, in the said court, to be at all times inspected gratis, and a copy of it signed and attested by the judges of the court, should be returned to each house of parliament, to remain among the records." If the commons had a right to enquire into the abuses committed by the officers of the courts of law, they had (no doubt) the power of correcting those abuses, and of establishing the fees, had they thought proper, to be paid to the officers of those courts.

(G) Because it is a tax upon the people without the consent of their representatives in assembly, as has been, I hope, demonstrated to the satisfaction of my readers.

To the Reverend Mr. JONATHAN BOUCHER.

REVEREND SIR, I THOUGHT proper singly to reply to that paragraph of your letter to Mr. Chase and myself, which contained a distinct charge against me, because