

the Brig. except one; and neglecting to make fast the Schooner to the Brig, she floated off; which Capt. Green observing, he repossessed himself of his Schooner, hoisted her sails, and stood over to Cape-May, where he procured Hands to help him up with her to Philadelphia. An English Prisoner who was in the Privateer, informed Capt. Green, that there were a Brig. and sloop Concerts with the Clinton, and that they had taken 5 Vessels to the Southward: 'Tis supposed they may be all now at the Capes, expecting to meet with the Schooner.

### A N N A P O L I S.

Last Monday Capt. John Seager, in the Sloop *Bohemia*, arrived here from *Antigua*, which Place he left the 2d of May. He was chas'd by a Brigantine and a Sloop, about 10 Leagues to the Southward of our Capes, into 5 Fathom Water.

*The Remainder of the Letter begun in our last.*

**H**AT the Services should be done before the Tobacco is levied; that the Magistrates, by levying more than thirty thousand Pounds of Tobacco, had exceeded the Jurisdiction of County Courts; that the legislative Powers of this Province have already shewed their Sense of this Law in the Case of Calvert County Court-House.

To all these Arguments, such as they are, I shall give a short and separate Answer: Nor indeed against Arguments so evidently fallacious, can much Reasoning be necessary. As to the first then, I would ask our Author, in what Part of the Law he finds, that the Services ought to be done before the County is chargeable. Does the Words of the Law, from his own Shewing, say any thing to that Purpose; or more than that "the Justices, upon Examination had before them of the public Charges of their several and respective Counties, and Allowances by them made of the same, to levy and raise Tobacco for Payment and Satisfaction of their several and respective County Charges." Now, from these Words, can a Syllable be gathered by any Man living, of Services to be done, previous to the levying of the Tobacco. If there are any Words to this purpose, let the Freeholder point them out. But as I think he cannot, have not the Magistrates kept punctually to the Letter as well the Intention of the Act? When a Charge is determined to be necessary, and a Sum fix'd on, and a Court either makes a Contract with Workmen, or appoint others to do it on their Behalf, is not the County liable for, and obliged to make good, that Agreement; and consequently the Charge examined before them, (the Justices) and Allowances by them made of the same. What then could be required more of the Magistrates, than to adhere, even to a Nicety, to the Words of the Law? Or is it not the Height of Impudence in our Author, to insist, that their Proceedings were erroneous, because they tax'd before the Service was done, when no part of the Law requires it; or might he not take the same Privilege of adding to, or taking from, all the Laws of the Province? Or, granting that in this Point the Law was doubtful; in whole Breasts ought the Exposition to be; in those of sworn Judges, Men of Figure, Property and Character, or that of an interested, trifling Scribler, without any Property at all. And supposing farther, that, in Strictness, the Words of the Act were not so plainly in favour of the late Proceeding of the Justices, as we find they actually are; yet, as with regard to taxing, before or after the Service is done, it has, by his own Confession, been both Ways, according as the Nature and Circumstances of the Thing required: Would not that alone be a sufficient Justification of their Conduct. And is it not a Maxim in the Law, well known and long since established, that *common Error maketh right*. If therefore the Magistrates had acted against the Letter of the Law, and could alledge Custom for it, the Plea would be good; especially in a Case where the Error is in favour of Liberty or Property. It is, I think, no less a Man than Mr. Lock, that grand Patron of Liberty, who says, that "in some Cases, the Law it self ought to give way to the executive Power." For since many Accidents may happen, wherein a strict and rigid Observation of the Law may do harm; the Ruler therefore should himself have a Power, in many Cases, to mitigate the Severity of Law. If ever this Opinion held good in any Case, (as it is to be presumed it has, or would have been ere now contradicted) it would certainly in this. Is it not highly reasonable, that public Buildings should be done as cheap as any other: And could this possibly be expected, if Undertakers were obliged to wait Eighteen Months for their Pay? No certainly. Those therefore who, for the sake of a Quibble, or private Advantages, object to the levying Tobacco at the Time

the Charge is resolved on, would, by an Alteration of that Practice, instead of befriending the Province, lose it many Thousands of Tobacco annually. Now, that the Jurisdiction of County Courts is only in Matters of *Meum* and *Tuum*, confined to thirty thousand Pounds of Tobacco, may be proved, by asking this short Question; Suppose the Assembly should hereafter enact a Law, that a County Court might annually levy fifty thousand Pounds of Tobacco for any one Service; would this enlarge the Jurisdiction of the Court, with regard to Matters of *Meum* and *Tuum*? Surely no. If then a Law, allowing a Court to tax above thirty Thousand, would not interfere with the present Jurisdiction of the Court, in Causes of *Meum* and *Tuum*, how could the late Tax clash with it. As to the Instance of Calvert County Court-House, that Argument is still as frivolous as the rest. The Petitioners in that Case prayed for a Sum of Money, which all Courts know they have no Power to levy, on any Occasion, or for any Purpose, whatever, without a particular Law. But allowing that they had actually petition'd for Tobacco, were the Magistrates of Prince-George's County obliged to be ignorant of their own Power, because they were so? Or, would not the Assembly have made them the same Answer, as the Freeholder says they gave *Thomas Harrison*, Forasmuch as the Petitioners have already sufficient Power given them by an Act of Assembly, entitled, An Act empowering the Commissioners of the County Courts to levy Tobacco, &c. I am really, SIR,

*A Native of MARYLAND.*

### A D V E R T I S E M E N T S.

**G**OOD West-India Rum at 6/6 per Gallon by the Hog-head, or 7/6 by the single Gallon; Molasses at 3/9 by the Hoghead, or 4/5 by the single Gallon, to be sold at Mr. Evert's, in Annapolis, by

ALVAN HYATT.

**A**NY Persons willing to undertake to deliver the Subscriber, at Baltimore Town on *Patuxet* River, Twenty Thousand, or upwards, to Forty Thousand Bushels of good, clean, merchantable Wheat, before the 15th Day of June next, notice thereof to be given him within three Weeks, and Security to perform the Articles (if required) may, on Delivery of the same, be paid either in Sterling Cash, Gold, Silver, or perhaps Paper Currency.

The said Subscriber has a sortable Cargo of *European* and *East-India* Goods to dispose of by Wholesale, for Bills or good Tobacco, at a reasonable Advance.

JAMES RICHARD.

**T**O BE SOLD for ready Money, or Bills of Exchange, The Houses and Lot in *Charles-Town*, (commonly called *Port-Tobacco*) belonging to the Subscriber, consisting in a Dwelling House of five Rooms, and other Out Houses, with a Garden pal'd in; also a Malt-House of sixty Foot long, two Story high, with a Kiln adjoining to it; and is very well situated for a Brewer.

JOHN MUSCHETT.

**R**AN-away, about the 9th of April last, from his Bail in Cambridge, in *Dorchester* County, one *James Shaw*, by Trade a Taylor; he is a Scotch Man born, is about 30 Years of Age, a very full fac'd well-set Man: Had on when he went away a darkish Wig, a dark grey German Serge Coat, a white Broad Cloth Vest, double-breasted, and fac'd with black Velvet, a pair of red and a pair of snuff coloured Breeches.

N. B. He writes a very good Hand.

Whoever apprehends the said *James Shaw*, and secures him in any Goal, so that he may be delivered to the Subscribers, living in Cambridge, shall have Five Pounds Reward, and all reasonable Charges paid, by

JOHN CAILE, OR  
THOMAS STEWART.

**T**O be sold by the Subscriber, Administrator of the late *Francis Mapp*, at the Plantation whereon Mr. *John Andrews* formerly liv'd, on Friday the third Day of June next, to the highest Bidder, for current Money, Several Negroes, Horses, Cattle, Hogs, and Sheep; some good Feather-Beds Pewter, and other Household Furniture: Also a Parcel of Plantation Utensils; and many other Things too tedious to mention. The Sale to begin at Ten o'Clock.

SAMUEL SMITH.