

L. H. J.
Liber No. 52
Nov. 15

Your Committee observe, that after the Government came into the Hands of the Lord Proprietary, in the Year 1716, it was thought necessary to pass an Act for transferring the Payment of all such Fines and Forfeitures, as should thereafter arise and happen, upon the Breath of any the Penal Laws of this Province, to the Right Honourable the Lord Proprietary; by which Act, amongst other Things, it was enacted, that “Where, by any of the Laws of this Province, any Fines, Penalties, or Forfeitures, are made payable to, or recoverable by, the King’s Majesty, or in his Name, to any the Uses in the same Laws expressed, all such Fines, Forfeitures, or Penalties, shall henceforward be payable to the Right Honourable the Lord Proprietary of this Province, his Heirs and Successors, and be recoverable by him or them, or in his or their Name, to the same Uses as by those Laws are expressed:” From whence your Committee infer, that the Lord Proprietary was not, at that Time, looked upon as Successor to the Crown in the Government of this Province, so as to intitle him to recover Fines and Forfeitures limited to his Majesty, his Heirs and Successors, without the Aid of a particular Act of Assembly. By the Act of Assembly made in the Year 1722, Amerciaments are imposed on the Suitors both in the Provincial and County Courts; for their false Clamour in the County Courts.

p. 445

They are levied by the Justices, Annually, for the Use of the Counties; those arising in the Provincial Court, are to be applied as the Governor and Council shall direct; and have been received, by the Officers of the Lord Proprietary from time to time, as they became due, and at some times have been given to the Clerk of the Council; but, how disposed of at present, your Committee do not know.

Your Committee beg Leave to observe, that in the Year 1745, an Address was presented to the Governor, by the then Lower House, desiring an Account to be laid before them of all Fines, Forfeitures, and Amerciaments, that had arisen and been paid; and how and to what Uses applied, in Support of this Government, from the Year 1715, to that Time: And in the Course of Messages and Addresses on that Subject, the Lower House do plainly assent, That Fines and Forfeitures by the Common Law, and by Act of Assembly, levied on the People, are taken by his Lordship, or his Officers, under the Authority lodged in him as Governor, and having the executive Power of the Laws of this Province; and, as such, that he, or his Officers for him, were authorized to receive and take those several Articles in Trust, and for the Benefit only of that People among whom they were levied; and, that altho’ his Lordship, as Governor, or those he should think fit to depute for that Purpose, had the Disposal of those several Articles; yet, ’twas contended, that Power in it’s Nature was but restrained, and that he was not at Liberty to put them into his own Pocket, nor to dispose of them, otherwise