

We have a Power of Legislation; that if any of the English Laws, are suitable to the Circumstances of the Province, we may enact them a-new: And from thence, 'tis inferred, that there is no Reason, to contend so much for the English Laws; and, indeed, that we have no Right to them, since we are so amply provided for otherwise. To this I answer,

That the Power of Legislation, granted to the Lord Proprietary, and the People of Maryland, was design'd as a Benefit, and not as a Prejudice: For it could hardly be suppos'd that a New Colony, vastly distant from their Mother-Country, exposed to the Insults of a cruel and savage Enemy; and inhabiting a Wilderness, must not be at a Loss, in some particular Cases, to apply the Rules of the Common Law, or general Statutes; (were they ever so conversant with them,) which happens to be the Case, in Great Britain, itself, and occasions the making of new Statutes, almost every Session of Parliament; and not to

p. 29 have it in their Power to provide suitably to any Emergency, by Laws of their own, would expose them to many Inconveniences; to prevent which, no better Expedient could be thought of, than to grant Them a Power of Legislature, under proper Restrictions. Thus it is in all Corporations; the Members of them, have a Power, with the like Condition, expressed, or implied, that is annex to the Power of Legislation, Granted to his Lordship, the Lord Proprietary, and the Freemen of Maryland, to make By-Laws, for the particular Utility of their own Country. And I believe, no Lawyer, or Man of Sense, ever imagined, that such a Grant, divested those that accepted of it, of the Rights they were born to in Common, with their Fellow-Subjects. Besides, if we consider the prudential Part, it is impossible that We can be ignorant, That the enacting so many New Laws, would take up a vast deal of Time, and occasion a greater Expense, than our Circumstances will admit of: And when all is done, they will not be any better than they are now, nor near so good, unless great Care be taken in transcribing them: And I have the Opinion of a very eminent Lawyer, "That it is never prudent, to change a Law, which cannot be better'd in the Subject "Matter of the Law."* There is another Circumstance, that (as I humbly conceive) is of great Weight, and deserves the most serious Consideration; which is this: Should We attempt to enact such of the English Statutes, as may be supposed to suit the Condition of

* Vaugh. C. I.