

by the Subscriber,  
Current Money, and, if re-  
quired, give for Payment, on  
following Tracts or  
viz.  
and called Snowden's Repu-  
tation 507 Acres, situated  
River, being the Plantation  
it now lives; it is within  
Lands; viz. Indian Landing,  
Landing, and Queen Anne's  
Landing on Elk Ridge, and ad-  
joining Warfield's Land, the  
Lands, and William Coates's;  
whereon Mr. William Tho-

located near the Mouth of  
County, being Part of a  
Delight, and adjoining to  
Carroll, Esq; having on it  
Kitchen almost new, and  
east Part of the Land is  
near Capt. William Griffith's

to purchase, may apply to  
Persons, who will shew the  
**Richard Snowden.**

from London,  
Capt. Thomas Askew, by the  
old at his Store in Annapolis,  
**LE Parcel of En-**  
India Goods, at reasonable  
Retail. Also a portable Par-  
from 4 Inches to 9 Inches,  
Deep Sea Lines, Sewing  
Okum, Compasses, Glasses,  
to No. 7, Anchors, Grap-  
s, at reasonable Rates, for  
Money, or Bills of Exchange.  
**Nicholas Maccubbin.**

from the *Patapco*  
the first of July last, a *Dutch*  
to Charles Carroll, Esq;  
Michael Hollingsfoot, alias  
on Horseback, having with  
of them of a Roan Colour,  
uncertain, but supposed a  
een *Patapco* and *Annapolis*,  
one towards *Virginia*. He  
rimmed with white Meal  
and is dress'd in the *Dutch*  
on with him, which he car-  
his Back: He is a down-  
middle Size, with thick Lips  
think black Eyes, a brown  
bad *English*.  
said Servant in any Goal,  
d again, shall have Three  
reasonable Charges, paid by  
**Richard Croxall.**

Rented, or Sold,  
es, Lots, and Im-  
ondon Town, where the late  
ept Ferry; as also several  
wife to be rented a Lease of  
ing in the *Suampt*, on *Hir-*  
inclinable to agree for any  
apply to the Subscriber, at  
Where may be had, great  
d *East India* Goods, *Bar-*  
Sugar, Cordage, Cables,  
Ship Chandlery, &c. &c.  
ces, for Bills of Exchange,  
Currency, or Tobacco.  
**Stephen West.**

as indebted to the  
*Stephen West*, late of *London*-  
sured to pay their respective  
who have any Demands  
are requested to bring in  
**Stephen West, Executor.**

in *Charles-street*  
of a moderate  
Week after for Con-

# MARYLAND GAZETTE,

Containing the freshest Advices foreign and domestic.

THURSDAY, October 19, 1752.

From the LONDON MAGAZINE for June.

A Letter concerning JURIES, and the Use and Abuse of them.

*Nolumus Leges Angliæ mutari.*

IT is an Englishman's peculiar Happiness, that as he is born to inherit his Lands, so he is to inherit the Laws, which are his Birthright; and if he would keep the One, he must be careful to preserve the Other. The Laws are the Palladium of Property; they are the surest Safeguard of our Lives, and the strongest Fence to our Lands. All Law is, or ought to be, right Reason; but there ever was, and always will be, a Struggle between Mens Reason and their Passions, between Law and Arbitrary Power. The Laws of this Nation, as by a Compact with the Crown in the *Magna Charta* of this Kingdom appears, do indeed defend and secure the Lives, Liberties and Properties of the Subject, as far as human Prudence could devise. But the grand or principal Law of this Land, on which the Justice of all the rest depends, is that for trying all Disputes and Differences between Subject and Subject, and all Crimes against the Crown, *per Parit*, or by a Jury of 12 honest Men, of the same Rank and Degree with the Persons disputing or accused; who are to be elected without Prejudice of Party, and are bound by Oath to try such Dispute, Difference or Crime, according to the best of their Understandings, and to bring in according to their Consciences an impartial Verdict.

Our Ancestors were, indeed, so justly jealous of their Liberties, and so careful to arm against any unjust Prosecutions of the Crown, that they fixed Grand Juries as an Advanced Guard, who were, before any Prosecution could be carried on, to find it *Billa vera*, that there was just Cause or Reason for it. But this grand Barrier of *British* Liberty has been often bore down by Arbitrary Power, and Prosecutions carried on against the Subject by Star-Chamber Informations. But tho' Prosecutions by Information are now become common, yet they are nevertheless a National Grievance, and a very great Encroachment upon our Laws and Liberties, and should therefore teach us to be more vigilant and careful in keeping those Rights which yet remain. Tho' Trials *per Parit*, or by a Jury of 12 honest Men, of equal Rank with the Person tried, is yet left us, and is indeed the great Law on which all our Lives, Liberties and Properties depend, yet there has been lately a Doctrine inculcated, that tends to destroy the very Use and Essence of them; That, which Arbitrary Power cannot batter down, it may undermine.

The Forms of Juries, as of Parliaments, have by long Usage been rendered too sacred to be attacked; but what does the Form of any Thing avail without the Use? As Hypocrisy in Religion is a great Affront and Mockery of God, so good Forms kept up in any State, are, when turned to bad Uses, a gross Affront and Mockery of the People.

It has lately been by some confidently asserted, that Juries are not Judges of Law, but of Fact only: What can be more false? What more injurious to the Subject? Or, What can tend more to overturn all our Laws and Liberties? For if this pernicious Doctrine should be allowed, Juries would be so far from being a Security to the Subject, that they would be then a Snare; and that which our Ancestors intended as a Bulwark to defend our Lives and Properties, would become a strong Engine to batter them down; because any Person might then be prosecuted for the most innocent Action; nay, indeed, for acting according to any Law of the Land, which Arbitrary Power did not like, and found guilty and punished at the Pleasure of the Court; for they need only to charge such Action in the Information to be seditious, traitorous, &c. and then to prove the Fact, and the

Jury must of Course bring him in Guilty, if they are not Judges of Law, but of Fact only. But this wicked Doctrine, that tends to subvert all our Laws and Liberties, is not more contrary to Reason than Practice: For do not Juries, upon all Indictments for Murder, take upon themselves to judge whether the Prisoner be guilty of Murder or Manslaughter, and find accordingly? When a Person is prosecuted upon any Statute, is not such Statute usually read to the Jurors? For what Reason, but because they should judge whether the Matter of the Person accused be within such Statute or not? Are they not then Judges of Law as well as Fact? Is not the Juror's Oath, *That he will well and truly try, and true Deliverance make*, that is, that they will fully, truly, and impartially try the Prisoner, whether he be guilty of the Crime laid to his Charge or not, and according to their Consciences either acquit or condemn him. In their Oath there is nothing of this new, unjust and dangerous Distinction between Matter of Law and Matter of Fact, but they are sworn to try the Prisoner impartially, and, according to the best of their Understandings, to bring him in guilty or not guilty. The first Part of a Jury's Consideration is indeed, whether the Matter laid to the Charge of the Prisoner be a Crime or not; the second, whether or no he committed it. If the Matter laid to the Charge of the Prisoner be not itself a Crime, how can any Jury, without breaking their Oaths, bring him in Guilty of the Fact? Is it not the greatest Absurdity to say, that a Man is Guilty of an innocent Action? Can Innocence be Guilt? Whenever a Jury bring in a Prisoner Guilty of the Fact, yet not being convinced in their Consciences of the Crime of it, leave that to the Court, it is commonly called a Special Verdict; but the proper Appellation is, indeed, Special Perjury, because they do not, according to their Oaths, *well and truly try, and true Deliverance make*: For when a Jury are not convinced in their Consciences, that both the Matter laid against the Prisoner be such a Crime as mentioned in the Indictment, and that he also committed it, they are bound by their Oaths to bring him in Not Guilty.

Juries should indeed always consider by what Method the Prisoner before them stands accused; if he does not stand there according to the common legal Manner by a Presentment of a Grand Jury, but by Information, they may then very reasonably suspect, that the Prisoner's Crime is not such as it is called; because Prosecutions by Information are seldom brought, but when no Grand Jury will find the Bill; and therefore they should in such Cases always supply the Place of a Grand Jury, by taking upon themselves to determine the Nature of the Crime, and not by an iniquitous Special Verdict cast the Prisoner, as it were, into the Power of his Prosecutor. Juries are bound to see with their own Eyes, and not thro' the Optics of the Bench; nor are their Consciences to be controll'd by the Court.

There are Cases indeed relating to Property that often happen between Subject and Subject, which are more intricate, and require nice Distinctions; here the Judges must help the Jury to distinguish: But in all Criminal Cases, between the Crown and Subject, the Crime of the Fact, as well as the Fact itself, should always be fully and clearly proved to the Satisfaction of the Consciences of the Jury, or otherwise they cannot, without Perjury, but bring in the Prisoner Not Guilty.

Lawyers often puzzle themselves, and perplex others, with nice and subtle Distinctions about the true Meaning of Words; and I think they have differed in Opinion in no one more, than in the Word *Libel*. Some Lawyers will say, that a *Libel* may be either true or false; and that it's Truth makes it rather more a *Libel*, than if it was false; But who was ever yet prosecuted for writing or publishing a *Libel* that was true? I believe, no Person was ever yet prosecuted for a *Libel*, where the Word *false* was not expressly mentioned in the

Indictment; therefore it appears plain to me, that Falshood must be joined to Defamation, to make a *Libel*.

That great Lawyer, my Lord Chief Justice Holt, says, *That whoever asserts Things in writing, must also, at his Peril, prove them to be true.*

If what a Man has wrote or published be Truth, with what Conscience can a Jury bring him in Guilty of writing or publishing a false *Libel*? It is surely contrary to right Reason, and therefore should be so to Law, too, to charge a Person with publishing a *Libel* that is false, and yet refuse him the Liberty of proving it to be true; such Refusal cannot but be, to every honest Man's Conscience, the strongest Evidence of it's Truth. Can right Reason call Truth a Crime? If not, I hope the Laws of *England* never will. Miserable indeed must be the State of that People, where writing Truth against Man is accounted a Crime; but writing Falshood against God, none. Yet, I own, I discommend, nay, highly blame, the writing of even Truth itself, if defamatory, when it concerns only private Persons: But, if the Rights or Liberties of the Public are any Ways interested, Truth, and all the Truth, however defamatory, ought always to be told; for otherwise, How could the Public ever oppose any Oppression at all? As, suppose a Man was, by Arbitrary Power, illegally imprisoned, and denied the common Relief of the Law; in such Cases, would not the Public be highly concerned therein? For, might not the same hard Treatment be every Man's Case? Should not therefore such Man publicly complain thereof, and make his true Case known to others, that they might take proper Measures to prevent it's being their own?

Public Grievances can never be redress'd but by public Complaints; and they cannot well be made without the Press: Now, if public Oppressions cannot possibly be removed without public complaining; and, if such Complaints, tho' ever so just and true, should be deemed *Libel* against those who cause them, Would not the Rights and Liberties of the Public be in a fine Situation? Our Laws would be then Delusions, our Rights but Shadows, and our Liberties a Dream. To secure the Lives, Liberties and Properties of the Subject from all such Oppressions, is the sole End or Intention of Juries; and while they act according to their Oaths, they will be a sufficient Guard against them.

There is a noble Instance of the Firmness and Integrity of a Jury, lately published in the Case of *John Peter Zenger*, Printer, at *New York*; who was prosecuted, by Information, for publishing a false *Libel* against the Governor. Mr. *Hamilton*, the Prisoner's Council, justly and bravely owned his Client's publishing it, but insisted, it was not false; and would have produced Witnesses to have proved it's Truth, but was denied by the Court. In this Cause every Artifice of Arbitrary Power was used; and the Judges plainly shewed, that they sat there only during the Governor's Pleasure: Yet, notwithstanding all the partial Influence of Power, and base Direction of the Bench, the Jury, to their immortal Honour, acquitted the Prisoner, by bringing in their Verdict, Not Guilty.

When Juries thus act according to their Consciences, and bravely resist the illegal Attempts of Arbitrary Power, they not only secure the Lives and Properties of their Fellow Subjects, but transmit their Names and Virtues to Posterity, in the shining Records of Eternal Fame. The Conscience of a Jury is the Supreme Law, the Law of right Reason; over which, no Rhetoric from the Bar, no Direction from the Bench, should ever have the least Sway or Influence. The Hearts of honest Men are the Temples of Truth; which no Interest can corrupt, no Power or Persuasion change: They will stand, like a Rock, firm and immovable, against all the Waves of Corruption, or Winds of Arbitrary Power.

BRITANNICUS.

NAPLES,