gainſt the introduction of an epiſcopate, and the ſenſe of America is ſo well-known, you ſtill avow yourſelf a warm advocate for the meaſure; and allege that owing to the miſrepreſentation of ſuch illdiſpoſed and ill-adviſed writers as we are, it was ſuppoſed to be unpopular and therefore failed; thus not only pertinaciouſly perſiſting in your opinion on a meaſure rather political than religious againſt the almoſt unanimous ſentiment of America, but alſo abuſing your opponents who, without compliment to them, were ſuperior to yourſelf in abilities, as you do us for illdiſpoſed and illadviſed writers; and yet at the ſame time you will not allow us to act our own conſcience againſt your opinion of conſiſtency. Does this prove you the man of real worth or ready to light the fagot if you dared?

We do not wiſh that our ideas of law ſhould controul any man: but as we acted in the publick ſtation of Veſtrymen it was natural for us to make our judgment the rule of our conduct. We do not affect a ſuperiority of legal knowledge: we may have erred; but it was extreme injuſtice in you Mr. Boucher to impute it to a depravity of heart. Mr. Attorney acquits us of *criminal intentions*; you adopt his *law* but reject his *humanity*: is this the *charity* or *implacability* of a prieſt?

*We are, Sir,*

*—— Your humble Servants,*

SAMUEL CHASE,
WILLIAM PACA.

*Annapolis, March 8, 1773.*

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## To the PRINTERS.

THE author of the dialogue, Gazette No. 1434, between a Courtier and a Countryman, has very much miſrepreſented the ſubject of it; but I do not charge him with any unfair deſign; he may have been deceived by others. But though his intention, may be upright, he may miſlead, in conſequence of having been miſled himſelf, if his errors are not pointed out. To obviate this miſchief, I ſhall collect the ſubſtance of what he has advanced, and make ſuch remarks thereon, as upon the whole, may enable the reader to form his own judgment. It is of no uſe to take notice of general expreſſions. On each ſide they may be advanced without end and without information.

That the two houſes of aſſembly, the ſeſſion before the laſt, differed on the point of what table of fees ſhould be eſtabliſhed is, unhappily, too true; and it is well known that abuſes were alleged, and a new table of fees, therefore, to prevent them, propoſed by the one, and that it was alleged, by the other houſe, too great a reduction of fees was aimed at, under the pretence of abuſe, and therefore the old table of fees inſiſted upon. What paſſed, on this diſpute, will better appear from the meſſages between the two houſes, and from the proceedings on the conference the laſt ſeſſion, than from any ſtate the narrow limits of this paper will allow.

It is ſaid by the author of the dialogue, that "the "*new* table, being diſagreeable to the officers, who "compoſed in great meaſure the upper houſe, the "bill failed." It is true, that the ſeſſion before the laſt, the two houſes ſpilt on the article of the fees. Both houſes, however, agreed ſo far that all perſons, planters and others, ſhould be at libe ty to pay the clergy and officers in tobacco or money at 12/6, as might beſt ſuit them. The one houſe being as much a part of the legiſlature as the other, the aſſent of both was neceſſary to make a law, and the diſſent of the one to the new table as ſtrong as the diſſent of the other to the old table. No binding authority, therefore, can be drawn from the opinion of the one houſe or of the other. When, then, the ſeſſion was over, there was nothing done by the aſſembly to regulate the fees. If there was no other authority to regulate and reſtrain the officers, there could be none to hinder them from taking as much as they could get. In this ſituation, then, the method, purſued to regulate and reſtrain the officers, was the *proclamation*; but to this the author of the dialogue objects, that "the very table in conteſt was ſet up "as the ſtandard of right and wrong beween the "officers and the people. In other words, the "*chancellor and ſurveyor general of the weſtern ſhore*, "as Governor, by and with the advice of the other "great officers, who chiefly compoſe his council, "made that regulation relative *to their own fees*, "which the ſeveral conſtituent branches of the le-"giſlature could not agree upon."——Again he aſſerts, that "officers, in the plenitude of their "power, aſſume the ſtation of judges in their own "cauſe," &c. This objection contains great miſrepreſentation as well as abſurdity. For as to the *chancellor's fees*, the *old* and *new*-table were *exactly* the ſame; and therefore what the author of the dialogue has ſaid, that "the very table in conteſt "was ſet up," is not juſt with regard to the *chancellor's fees*. And as to the Governor's ſetting his fees as *ſurveyor*, this alſo is not juſt, for he was *not* ſurveyor. Beſides, to ſuppoſe that the Governor iſſued a proclamation, relative to any fees claimed by *himſelf*, is abſurd; for he threatens by the proclamation *all* officers, whoſe fees are regulated by it, with his *diſpleaſure*, if they *exceed* the rate ſettled. Theſe *threats* extend to *all* officers, to whom the regulation extends. If, then, the regulation extends to *himſelf*, his *threats* extend to *himſelf*. But that *he* threatens *himſelf* with *his own* diſpleaſure, ſhould he not obſerve *his own* regulations is a ſuppoſition ſo *bulliſh*, that, in my conſcience, Mr. *Countryman*, I will not preſume you to be a countryman of mine, or a native of this *petty* province, as you call it; ſince, from a variety of ſimilar ſymptoms, it is ſufficiently apparent that nothing *leſs* than *the kingdom* has a juſt claim to that honour.

That "the great officers, who chiefly compoſed "the council, adviſed the regulation of their own "fees," is likewiſe not true; for the treaſurer, agent, naval officer or judges of the land-office claim no fees regulated by the proclamation. Therefore the allegation is not juſt, that "the officers, who chiefly compoſed the council, adviſed a regulation of *their own fees*."—Inſtances, it is ſaid, of courts at home ſettling fees do not apply; "becauſe the courts are not *ſo deeply*, if *at all*, concerned."—This objection is founded on the miſtake I have noticed, viz. "that the officers, who chiefly compoſe the "council, made the very regulation relative to *their* "*own fees*"——therefore, there can be very little weight in an objection, founded principally on miſtake.—But, moreover, I have underſtood that the judges at home have fees and a conſiderable intereſt in the value of the offices, the fees of which they ſettle. It is ſaid, further, "if, in England, *either* "of the *parties* conceive themſelves aggrieved (by the "ſettlement of the fees by the judges as I underſtand "the paſſage) trial may be had before a jury." By the word *parties*, I ſuppoſe, the officers and ſuitors are meant. And if this be the meaning of the author of the dialogue I think he is here again miſtaken. For I can't imagine that the judges would ſuffer the officers to pretend to more than their allowance. If his meaning be confined to the *ſuitors*, there ſeems to be reaſon for it. And if I underſtand *Antilon* aright, he allows the remedy for the officers to recover fees muſt be ſuch as every other creditor muſt purſue in a courſe of law: Taken, therefore, in this light, there is no difference in the two caſes.

When afterwards the author of the dialogue grows warm, he muſt excuſe my ſaying, that I think he is off his guard. "He will not, he ſays, take upon "himſelf to determine how the law may be on "conſtitutional principles;" but yet undertakes to pronounce, "be thoſe inſtances as they may, they "come not up to the proclamation." Here ſeems to be ſome degree of haſtineſs. "Be they what "they may." &c. This is rather too much to ſay, without an acquaintance with what the inſtances *may be*. Modeſtly to allow, that he has not a full knowledge of the matter, and yet to uſe expreſſions, which ſeem to imply *all poſſible* knowledge of it, is rather unguarded. When he proceeds to make ſome compariſon between *ſhip-money* and the *proclamation*, it ſeems to me, that he is again very wide of the mark. "Compulſory methods, ſays he, by ſeizing "the perſon or property of thoſe who did not pay, "were directed, 'tis alleged, by King CHARLES "and his miniſters. The proclamation threatened "only the Governor's diſpleaſure; heavy enough "this to annual officers, or mere tenants at will."—Here the reader muſt perceive the moſt material difference. The *people* were *compelled* to pay the arbitrary tax of *ſhip-money*, by having their property or their perſons executed. But the *proclamation* does not *compel* the *people* to pay the *officers* by execution; but its *binding* powers are confined to the *officers*; who are obliged not to receive beyond a certain rate. "Officers, ſays the author of the dialogue, "are mere tenants at will." Very true; and what is the conſequence?—That being tenants at will, they may be turned out, if they take more of the people than the *proclamation* allows. From this conſideration is derived the great force of the *proclamation*; which, operating upon the officer's dread of the Governor's diſpleaſure, reſtrains from *extortionate* exactions. In a word, the tax of *ſhip-money* was *levied* upon the *people*, under the pain of *execution*. By the *proclamation* nothing is levied upon *the people*. They are fully at large; but the officer is kept within a certain line in his demands on the people, under pain of the Governor's diſpleaſure; which, as this author very juſtly obſerves; "is heavy enough to "annual officers, or mere tenants at will."—How could you, Mr. Countryman, ever think of comparing things, ſo entirely unlike?

In purſuit of the ſentiment, that the *proclamation* and the rigorous tax of *ſhip-money* are ſimilar, he remarks, "that in caſe of non-payment in ready mo-"ney at 12/6, the whole was to be paid in tobacco "by the *farmer* as well as *planter*; and the power of demanding tobacco, in caſe of non-payment in *rea-"dy ſpecie*, was a ſufficient rod in the hands of the "officer." On this remark I muſt firſt obſerve, that if it be juſt; the caſes of the *proclamation* and of the arbitrary tax of *ſhip-money* are widely different; becauſe in the *ſhip money* the tax was levied by *execution*, and by the *proclamation* the fee is recoverable only in *due courſe of law*. But in the next place, I muſt obſerve, that here too is another miſtake; for by the *proclamation* the fees are to be paid *according to the inſpection act*; by which the *farmer* may pay at 12/6. And if a *ſufficient rod* was intended, the officers did not take the hint, for in all the fees they have ſent out for collection, they have left it to the option of the people, *planters* as well as *farmers*, ever ſince the proclamation iſſued, to pay in money at 12/6, or in tobacco.

He obſerves, that "men are under a neceſſity of "having buſineſs done at the publick offices.—Very true.—But what then? Surely, they who do the buſineſs are to be paid for the ſervice. The perſons to pay, and the perſons to receive have each their intereſt—the one to pay as little as he can—the other to receive as much as he can. If intereſt ought to hinder one from ſettling the ſum, ſo it ought the other. Suppoſe, then, no ſettlement or rule; what will be the conſequence? Says the perſon who wants his buſineſs done, "I will pay you a ſhilling for it"——Says the officer, "I wont do it for leſs than 2/" If there be no ſettlement or rule; who is right and who is wrong, and what is to be done? Why, go to law about it.—Is this the meaſure you would adviſe, Mr. Countryman? And don't you think the lawyers and officers get enough of our property already? This, indeed, would bring griſt to their mill, with a witneſs.——But hearkee, Mr. Countryman, don't let us forget out of whoſe pockets the toll is to come.

If fees may be ſo ſettled, ſays the author of the dialogue, "we have no uſe for repreſentatives, and "therefore may ſtay quietly at home, and not "trouble ourſelves with politicks."—Why ſo?—Is there nothing elſe to be done, but ſettling the fees of officers? If your ideas of the buſineſs of a legiſlature are thus limitted, you, indeed, Mr. Countryman, have "troubled your head very little with "politicks."—Officers fees, however, may alſo be ſettled, when animoſities ſubſide, and moderation is reſtored on both ſides; but I muſt obſerve, that it does not follow, that nothing can be done, if the will and pleaſure of one branch of the legiſlature is not, of courſe, to be a law; unleſs it can be proved, that nothing can be done, till the preſent conſtitution is undone, and a new one erected on the ruins of it. But we ſhould be well ſatisfied of conſequences, before we venture on this experiment.

The alarm of the author of the dialogue ſeems to be very great, when he expreſſes his apprhenſion, that the time may be approaching, when we ſhall be obliged to ſubmit to whatever the Governor and council ſhall think fit to impoſe. God forbid ſuch a time ſhould be, as that the Governor and council, *or any other ſet of men*, ſhould be allowed to impoſe upon us what they pleaſe, againſt law and right.—This alarm ſeems to be raiſed in the author of the dialogue, by the miſrepreſentations I have endeavoured to correct. If the Governor and council, or any other order of men ſhould break through the proviſions of expreſs law, and thereby arbitrarily draw a great deal more money from the peoples pockets than the law allows, there would be much reaſon to be upon our guard againſt ſuch men. We ſhould not be ſuch dupes as to rely upon *their profeſſions* of regard for the *laws* of their country and the *eaſe* of the people, whoſe conduct ſhould *violate the law*, and lay an *heavy charge* upon the people.—Suppoſe, for inſtance, a poſitive act of aſſembly, directing in the cleareſt terms, *that only ſuch and ſuch particular fees* ſhould be taken, and that *the perſons, thus directed*, ſhould take *double*, nay often *a great deal more* than double of thoſe *particular* fees, ſo ſettled by the *law*, or *refuſe* or *neglect* doing the buſineſs. This would give juſt cauſe of alarm. For if *any ſet of men intended to be expreſsly controuled by a law, may violate that law*, and make it uſeleſs, *ſuch* men ſo far would exerciſe *arbitrary* power. And if ſuffered to trample upon *one law*, and draw from the peoples pockets *more* than *by law* they ought to pay; why may they not trample upon *another* law, if they have a like intereſt to promote by it?—The author of the dialogue profeſſes to cenſure *meaſures* and *not men*, and therefore has cenſured the *proclamation*, becauſe he thinks it not *warranted by law*. Candour and conſiſtency, then, muſt make him cenſure any *other conduct*, by which money is taken out of the peoples pockets *againſt law*; and his cenſure will be in proportion to the *clearneſs* and *certainty* of the law which is violated.—By a moſt clear and poſitive act of aſſembly the *legal* fees of the lawyers are thus ſettled. Lawyers "ſhall not preſume to aſk, receive, "take, or demand for *bringing, proſecuting, or de-"fending* any action in the county court to *final "judgment, agreement, or other end*, more than the "ſum of 100 lb of tob. if the principal debt or da-"mage or balance thereof ſued for and warranted "exceed not the ſum of 2000 lb of tob. or £ 10 "ſterl. and if it exceed that ſum, then 200 lb of "tob.—And in the provincial and commiſſary's "court 400 lb tob.—In the chancery, admiralty, "and court of appeals 600 lb tob."——Nothing can be more certain than that there is ſuch an act of aſſembly, and nothing more clear and poſitive than the words of it. The penalty the act provides, in order to ſecure an obedience to what it directs, is, that a *lawyer, convicted of preſuming to violate it*, ſhall be *incapable to practice*.——If the very order of men, intended to be bound by this certain, poſitive, clear law, break it, and take from the people *more*, and *often a great deal more* than the law allows; needs there any proof to ſhow that their conduct is *arbitrary*, and that they make a law uſeleſs, becauſe it is for their intereſt to trample upon it? Many people are obliged to apply to the officers to have buſineſs done, and perhaps as many or more are obliged to apply to lawyers. And as they are under this neceſſity, both *lawyers and officers* ought