

MARYLAND GAZETTE.

Containing the freshest Advices, Foreign and Domestic.

WEDNESDAY, May 4, 1748.

Mr. GREEN,

WHEN *Augustus Caesar* was informed that, during his Absence from Rome, the publick Offices were sold, and thence Corruption likely to creep into the Magistracy, he resolved neither to punish any by vulgar Reports, nor to spare such as were manifestly found guilty. A Rule extremely just and worthy of the wise *Augustus*; and such, no doubt, as will be duly observed by our Legislature with Regard to the Magistrates of *Prince George's County*; whose Conduct will meet with Censure or Approbation, agreeable to the Merits of their Cause, and not according to the weak or prejudicate Opinions of others, who thro' Ignorance cannot, or thro' Interest will not, form a just Judgment of their Actions.

IT is undoubtedly of the last Consequence to the Well-being of any Society, that the executive Powers be firmly supported in their Administration: But how can this be done, if those who have the Exposition and Execution of the Laws must ever lie at the Mercy of Individuals, and be eternally exposed to the Raillery, Insults and Reflections of every one who is inclined to differ in Opinion with them? Or how soon, by these Means, would that useful and honourable Station be rendered wholly useless and contemptible? And what must be the fatal Consequences, but in the first place, a partial Administration of Justice, and at length universal Confusion? That Government ought always to be in Subjection to the legal Constitution, is what no Man, who understands the Constitution, will deny. But that Magistrates, who have the Distribution of Justice, and Execution of the Laws, assented to by the Community, or which is the same Thing, the Powers by them constituted, ought not to be upheld and protected from the Insults and Reproaches of private Persons, is what no Man, who is not an Enemy to the Constitution, will affirm.

PARLIAMENTS cannot always be fitting, nor is it necessary, or consistent with the Safety of the People, that they should. As one of the greatest Sticklers for Liberty, as well as one of the most consummate Judges that his own or any other Age ever produced, has incontrovertably shewn in his *Treatise on Government*. There standing Parliaments are demonstrated to be more dangerous than standing Armies. And from thence our Author proceeds to shew the Necessity of an executive Power, and the Plenitude of it, in the following Words. "But because the Laws that are at once, and in a short Time made, have a constant and lasting Force, and need a perpetual Execution, or an Attendance therunto; therefore it is necessary there should be a Power always in Being which should see to the Execution of the Laws that are made and remain in Force. And thus the legislative and executive Power come often to be separated." Here we find, by this great Authority, which has never yet been disputed, nor from the Nature of Things in this Case ever can, that in the recesses of Parliaments the whole Power legislative, excepting that alone of making Laws, is devolved on the Power executive; from whence evidently appears the Necessity of supporting the last in the highest Honour and Dignity, the better to enable it to go thro' the Exercise and Performance of it's several Duties and Functions. Of this the *English Nation* have ever been extremely sensible and tenacious. Four hundred Years ago we find the Hear apparent to the Crown committed to the Fleet by a Magistrate, for insulting him in the Execution of his Office. We find too this noble Resolution of the Judge applauded by the Nation, approved of by the King, and rewarded by the Offender himself, after he became the great *Henry the Vth*. And the late Case of Judge *Willis* is a convincing Argument how dangerous it is at this Day to insult or reflect on a Magistrate in

England. A Court-Martial there, consisting of great Men, much greater Men than the Freeholders of *Prince George's County*, such too as perhaps were not more ignorant of the Constitution, were, for only saying that a Judge of the Common Pleas had exceeded his Jurisdiction, reduced to the mortifying Necessity of signing a formal Recantation, and asking Pardon in the most abject and submissive Terms. Upon receiving of which Submission and Recantation, we are told, the Chief Justice delivered himself to the following Effect. "I desire, with the Concurrence of my Brothers, that it may be registered in the Remembrance-Office, as a Memorial to the present and future Ages, that whoever set themselves above the Law, will in the End find themselves mistaken; for we may with Propriety say of the Law as of Truth, *Magna est Veritas et prevalet ibi*." The legislative Powers of this Province seem to have been no less sensible of the Necessity of keeping up the Power and Dignity of Magistrates, as may be seen Page 199 and 207 of the Body of Laws, where Courts, and Magistrates out of Court, are not only empowered, but also positively enjoyn'd, strictly to observe, and, by Fine or Imprisonment, punish those who behave with the least Indecency before them. Thus we find in what high Estimation the Station and Office of a Judge has ever been hold in this and our Mother Country. Which may serve for an Answer to a late half-witted Author, who seems to have been kept by the Freeholder as a Body of Reserve, in case he should find himself too closely attacked. This Author, in order to prove that the Persons of Judges are not regarded in *England*, instances the Case of *Treshian, Brember*, and others, Ministers and Favourites of *Richard the 2d*, who were put to Death, not for giving their Opinions on a Point of Law, but for advising the King he was above all Law; which is Treason in any other Person as well as a Judge. This superficial Writer may, by these Laws, find how considerable County Courts have appeared in the Eyes of the Legislature, as well as those of the *Natives*. He may be perswaded also be convinced, that the Necessity of them arose from the Conduct of Foreigners. And if he will give himself time to reflect on the late Deportment of one of his own Party in a County Court, he may be satisfied of the Necessity of continuing such Laws in Force. Upon Enquiry too, he may perhaps learn, that the Offender has, in the Course of this Dispute, prided himself on that his insolent Behaviour; made a Merit of it to the People, as one of the Essentials of *British Liberty*; and thereby encouraged others to fly in the Face of Government. To take farther Notice of this Author, would be making him too considerable; for which Reason I shall drop him into his original Obscurity, and returne the Subject-Matter of this Paper.

The Freeholder's Performances begin I think in No. 143 of the *Maryland Gazette*. The first Paragraph, containing nothing but an uncommon Strain of Egotism, and promises of shewing what it has not been, nor ever will be, in his Power to shew, shall be passed over in Silence. In the second, we are told by this unprejudiced and well-bred Author, *he doubts not but he shall be censured for making thus bold with Magistracy*. From whence, I would be glad to know, could this Certainty of Censure proceed; but a Conviction that he either had or should surely deserve it. But, says he, *as I have no quarrel to Names or Persons, I can give the less Offence*. Would not every one from hence naturally have concluded, that our modest Author would have concealed the Names of those against whom he intended to reason without Reserve, and whose Actions he designed with the utmost Freedom to canvass. Or, did not common Decency require thus much, even to an Enemy, in a Matter wherein it then could not, nor yet can, certainly be known, whether the Accusation be just or groundless? Yet we find, that to put beyond all Doubt who were the Persons intended to be libelled and aspersed without Measure, a Certificate of their Names, under the Hand and Seal of a Sworn Officer, has been industriously