

CONTINUATION of the Native of MARYLAND.

HE favourite Argument of those against whom I am reasoning, that *an avaritious Governor might, by filling every Bench in the Province with a Set of Tools for his Purpose, enrich himself out of the Spoils of the People,* will be found extremely Fallacious, and without all Foundation, when it is considered, that the Magistrates are not only expressly limited by the Words *necessary Charges of the County,* and under the solemn Tie of an Oath not to exceed that Limitation, or burthen the People with what, in their real Sentiments, is not necessary, (in which Case too they must be equal Sufferers, in Proportion to the Number of their own Taxables) but moreover, from the Manner of Taxing, and the Nature of the Thing, they cannot possibly make such an ill Use of their Trust, as by our scarce-crow Author has been suggested: Because they have not the least Power over, nor can ever come to the Possession of, the Tobacco taxed. The Sheriff, who is the proper Officer for levying and gathering it on the People, not being accountable to the Magistrates after Collection, but to those to whom it was appropriated, or to the Uses for which it was assessed. To illustrate this Argument, let us suppose that a *Set of Tools* in every County Court of the Province, minding to compliment the Governor with a hundred thousand Pounds of Tobacco, were to assess that Quantity on the People, under a Pretence of repairing their Court-Houses, and that, at the Time of levying, a Contract is entered into for those Repairs; does not the Tobacco then become the Property of the Undertaker? Or we shall suppose again, that no Agreement is made by the Courts, nor by any Persons by them appointed; what then becomes of the Tobacco? Does it not remain in the Sheriff's Hands for the Use of the County? Has not this Officer a Copy of the Levy, by which he may find for what Purpose the Tobacco is assessed? And is not his Bond made liable for it to the Uses for which it is levied expressly by an Act of Assembly. (Body of Laws, Page 97. "And also the Obligation of such Bond to be made answerable to the public Charges of the respective Counties.") How then could an avaritious Governor possibly lay his Hands on such a Tax? Is it likely that the Justices, or any Set of Men, would be weak or wicked enough to draw such an Order, as the following, on a Sheriff, *Pay his rapacious Excellency, or Order, one hundred thousand Pounds of Tobacco; which was levied the last November Court for the Repairs of our Court-House.* Or is it probable that a Sheriff, or any Man of common Sense, would pay any kind of Regard to such an Order? And yet I cannot, for my part, conjecture what other Expedient, bad as it is, a Court of Tools could fall upon to enrich a Governor out of the Purse of the People. Of the Difficulty of such a Task, the *Freeholder* himself seems fully apprehensive. *I confess (says he) the Supposition made is a very improbable one; but it is sufficient for the Purpose it was adduced, it is a possible one.* I would ask this ever-watchful Guardian of Liberty, what is not possible! Or whether the utmost Stretch of human Wisdom was ever yet found sufficient, to frame such wise and infallible Laws, as to guard against the various Courtes of human Contingencies, and to provide against every Evil or Inconvenience that might possibly happen? Or whether the same Objection to this Act, might not be made to every Law, whatever? The Act which impowers a single Magistrate, in a summary way, to determine all Causes to the amount of a certain Sum, has no doubt been hurtful to many. Yet this Law is still thought necessary, to prevent a greater Evil, that of litigious and expensive Suits. The Squirrel Law puts it in the Power of a Magistrate to wrong the Community of considerable Sums in a Year, by giving Certificates of Scalps not destroy'd before him. But a bare Possibility of his making an ill Use of this Trust, has never yet been urged as a Reason for repealing the Law.

Hanging? In short, when this Author will shew what is im- possible; the Argument on my Side shall be very readily drop'd, and the Fallibility of our Laws, and Rottenness of the Constitution, allow'd to be new modell'd according to his own infallible Notions. Now to evince that such a Power as is contended for (and I presume by this Time fully made out to be in our Justices) is not inconsistent with the hereditary Rights of *British* Subjects, nor contrary to the Scope of all *British* Laws whatever, agreeable to the Power lodged in the Justices of *England* by Acts of Parliament; I shall instance one out of this many that might be mention'd. By the XXII^d of *Henry* the VIIIth, "four Justices of every Shire have a Power, with the Assent of the Constables, or two honest Inhabitants, to tax every Inhabitant, within the Limits of their Commissions, such Sums of Money as they shall think, by their Discretions, convenient and sufficient for repairing, re-edifying and amendment of Bridges, Highways, &c." These Justices too are to appoint Collectors of the Tax, who are accountable to them only for the Money raised. Is not this an unlimited Power of Taxing? Are the Justices by this Act confined to any Sum whatever? And could not a rapacious King, by filling County Benches in *England*, with a Set of Tools for his Purpose, as easily enrich himself out of the Spoils of the People, as an avaritious Governor here? Or rather, has he not a greater Opportunity of doing it; since the Gatherers of the Tax in *England* are accountable to the Justices, but in *Maryland* to the People? In this particular Instance then, we are rather more secure from Oppression, than those of our Mother Country. Yet the Wisdom of our Ancestors have never yet discovered such an unlimited Power of Taxing in County Courts, to be inconsistent with the inherent Rights of *British* Subjects; nor that by this Means the original Compact was broken, and a back Door open'd which lead into an endless Labyrinth of Misery. But on the contrary, by the lit of *Queen Anne*, some Doubts in this Act are explained, and the Power of the Justices confirmed. Thus we find that our dull and unthinking Forefathers, the *English*, continue as ignorant to this Day, as they were two hundred Years ago, when they inadvertently consented to the Law before- recited. And that the Merit of discovering this grand Flaw in their Constitution, has been reserved for the Wisdom of a *PO-TOWMACK* FREEHOLDER. Who to prove such a delegated Power of Taxing, a Power which may be resumed at Pleasure, to be inconsistent with *British* Liberty, tells us, that the *Parliament* cannot alter the Constitution. I should be glad to be informed by this cunning Statesman, what Part of the Constitution the *Parliament* cannot alter? Or whether every new Law made, or old One repealed, is not an Alteration of the Constitution, for the better or worse? What our Constitution is at present, but a Series of Alterations made by *Parliaments*: or whether the Power of *Parliaments*, at this Day, is not as ample and extensive as was that of their Predecessors? It is true, there are some Fundamentals which it would not be safe for a *Parliament* to alter. For in the Constitution of *Great Britain*, we are to consider, not only the constituent Powers, but the Things constituted; which are the fundamental Laws of the Kingdom, the great Barrier and Security of Person and Property; so that if the constituent Powers should abolish any old Laws, or make new, which either take away or weaken the general Security of Person and Property, they would then act against the Spirit or Design of the Constitution. Thus, had the Lords and Commons, as *King James* wished and designed, enacted a Law, that the Kings of *England* had a Right to suspend or dispense with Laws; to levy Money, or raise an Army, without the Consent of any future *Parliament*, or that the *Parliaments* should be perpetual, and chuse one another as Members died off; This, tho' done by the constituent Powers, would have been a traitorous delivering up of the Constitution: And the People would have had the same Reason to resist all the Powers as to resist one, and to return to their original State of Nature, and chuse a new Government, or resume the old One. All the Fundamentals, Essentials and Basis therefore that I know of, which the *Parliament* have no just Power to alter, centers in this, that they cannot give up any of those Powers, which by the joint Consent of the Community, in order to keep up their mixt Form of Government, the several Branches of the Legislature are invested with; that is, they can't make new Legislators, or transfer the Power of making Laws, or place it otherwise than where