

An ESSAY, towards setting in a clear Light, a Clause of an Act of Assembly, intituled, *An Act empowering the Commissioners of the County Courts, to levy and raise Tobacco, to defray the necessary Charges of their Counties and Parishes.*

BE it enacted, &c. That for the future it shall and may be lawful, to and for, the several and respective Commissioners, of the several and respective County Courts, within this Province, at their several and respective County Courts to be held for the said Counties, upon Examination had before them, of the publick Charge of their several and respective Counties, and Allowances by them made of the same; to levy and raise Tobacco, for Payment and Satisfaction of the several and respective County Charges, and the Sheriff's Salary for collecting thereof, by an equal Assessment of the taxable Persons of the said several Counties: Any former Law, &c.

In the Title of the Act the Charges are called, *the necessary Charges of the Counties, &c.* In the Act itself they are called, *the public Charges of the Counties.* The Meaning then of the Clause depends upon a right Understanding of the Word *Charges.* I understand it to be the *Expence, Estimate or Value of the Particulars necessary and incumbent for a County to provide; such as building and repairing Court-Houses, Goals, Bridges, Provision for the Poor, Ferriages, and all other Necessaries for the Conveniency and public Use of the County.* The Word *Charges* here, must have the same Signification, as it has in Matters of common Life; in them it signifies the *Expence of Food, Cloaths and other Necessaries; the Cost or Amount of such.* Now if this be the true Meaning of the Word, as I believe it will be allowed by all disinterested ingenious Men; the Clause is clear and plain, that the Commissioners are empowered, upon Examination and Allowance of each or all of these Particulars to be necessary, and to be provided by the County, to raise and levy Tobacco for the Discharge of them. This is the plain, easy, natural Sense of the Clause; and clear I think of all Absurdities and Inconveniencies. It puts the Commissioners on a rational Method of Acting; leaving it in their Power to be frugal and wary, and to make the best Bargains they can for the County; and it gives Encouragement also to Workmen, to be employ'd by them.

Let us now take a View of the Freeholder's Sense of the Clause: And after repeating the Words, he says, *that he thinks it will appear to every one that considers them with Attention, that it gives the Justices no Power to raise a single Pound of Tobacco upon the People, but for Work already done, Charges or Accounts exhibited, examined and allowed by the Court.* Is not this a strain'd unnatural Exposition? He confounds Charges and Accounts together, as if they were one and the same Thing; whereas they are quite different: *Charges* are the Estimate, Value or Expence of particular Necessaries, provided or to be provided. *Accounts*, a Collection on Paper of several particular Sums ready cast up, and a Balance, if any, struck. On his Sense of the Clause, the Justices cannot treat with, employ, or agree, with any Body about the Particulars incumbent on the County, nor provide for the Payment of them, before-hand. When the Work is done, it is then to be considered, and Tobacco to be levied to pay him, what they please to give. Is this a rational Scheme? Who would work for the County on these Terms? Will one drop from the Clouds to do their Work? For sure, no Man here in his Senses, would work, and depend on the Justices for what they please to levy for him after the Work is done, without being employ'd or agreed with. That this is our Author's Scheme, is plain from what follows; *Nothing considerable, says he, can be undertaken on the Foundation of the Act, in the Sense explained; because the Undertaker must first do the Work, and then bring in his Charge, which must be examined and allowed by the Justices, before they can levy for the Payment of it. Now the Risque in this Case is so great (says he) that no prudent Man would ever choose to run it, in a Matter of any Importance: The same Justices that encouraged him to do the Work, might take it into their Heads to clip his Account as easinably: Nay, one or two new Magistrates might turn the Scale, and create a Majority against the Service, and disallow the Whole. Instances (he says) might be produced of both these happenings; which will be always a sufficient Discouragement from*

*taking considerable Jobs in Hand upon such a precarious footing. Now let me be allowed to ask our Author a few Questions: Would a prudent Man take the most inconsiderable Job upon such a Foot? Who was ever served so as to be denied Payment, by the Addition of two or three Magistrates? Or, who ever had their Accounts unreasonably clip'd, by the Magistrates that encouraged them? I fancy our Author will be puzzled to find out Instances. But to go on; if all that he has said was the Intention of the Assembly, could they well have laid a more wicked Scheme? Are they not much beholden to our Author for his Explication of their Laws; which in the plain, natural Sense appears just and honest, but, in Intention, a Trap to catch honest People in? Have any of the Courts ever understood the Law in this Sense? But to proceed: Our Author allows that the Legislature has lodged, in County Courts, a general discretionary Power to judge of small petty Charges, and levy for the Payment of them, in Case they appear reasonable. But where has our Author found the Distinction between great and petty Charges? Not in the Title of the Act, nor in the Act itself; one calls it the *necessary Charges*, and the other the *public Charges* of the County, without Restriction. Here is another pretty Trap he has set for the Justices; and if his Sense should prevail, they are all catch'd in it. But I think our Author should have known, that general Words, without Restriction, are not to be wriggled into Diminutive; nor will any reasonable Construction admit of it. If they have a discretionary Power to levy for small or petty Charges, they have the same for greater, if the Necessities of the County require it: They are no ways to be strain'd, but as the Act generally restrains them.*

I refer it now to the Reader, whether our Author's Exposition of the Clause be not an impudent Imposition on the common Sense and Reason of Mankind? The Legislature has given a Power over the *necessary public Charges*: He has restrain'd it to *particular petty Charges*. Is it not fit to ask him, by what Logick he does this? He says, *Nothing is to be more regard'd in Laws, than the Intention of the Legislature in making of them.* But will any Man, besides our Author, have the Assurance to fix an Intention on the Legislature directly inconsistent with their express Words? I think I need say no more to show how he surd his Exposition is.

ANONYMOUS.

ANNAPOLIS, May 18. 1748.

Last Monday, a House in this City, belonging to Mr. *Thomson Jennings*, which the Carpenters had been removing, and was at work upon, fell down; by which two of the Workmen sorrowly escap'd with their Lives, one of them being murther'd.

ADVERTISEMENTS.

BOOK-BINDING, in the neatest Manner, perform'd by the Printer hereof; he having lately procur'd a good Workman, of that Business, from LONDON.

TO BE SOLD by publick Venders,

THIS DAY, being the 18th of May, by the Subscribers, at his Store in Annapolis, Ten choice Negroes, consisting of Men, Women and Children, for current Money and Bargaining; the Sale to be at 3 o'Clock Afternoon.

JAMES DICK.

TO BE SOLD,

BY the Subscribers, THIS DAY, being the 18th of May for ready Sterling Cash, or good Bills of Exchange, a Tract of Land lying at the Head of South River, in Annapolis and a good Title made to the Purchaser.

WILLIAM CHAPMAN, JUNR,
RICHARD BURDUS.