

Non-Residents) are obliged to take the Oath of Plaintiff or Defendant themselves, within this Province; and if they have not Agents or Attorneys in Fact, they need not swear, but then they are incapable of suing or defending themselves from any Suits commenced against them, (which are common, in order to attach their Effects) without some Person to represent them. This Dilemma will remain as long as the Law remains in Force, and whether that should be for the whole Three Years, or a shorter Time, the Non-Residents will be great Sufferers, being very certain that the least Obstruction in recovering or securing a Debt, is very often the Loss of it. These Things being premised, it is thought necessary to add, that the Province of *Maryland* was granted by His late Majesty King *Charles* the First of blessed Memory, to His Lordship the Lord *Baltimore*, by a Charter, or under the Great Seal of *England*; And that the better to encourage People to come into the Province, and reside in it, besides the Power granted to the Lord Proprietor, several very ample Privileges are granted by the Royal Charter to the People, such as the Participation of all the Rights, Liberties, and Privileges of *English* Subjects in the strongest and most comprehensive Terms: And that nothing may be wanting for the good Government and Happiness of the Country, the Lord Proprietary, with the Assent of the Freemen, or their Representatives, are empowered to make and enact Laws, to enforce Obedience to those Laws, and to punish the Transgressors of them, under this express Proviso;

Provided nevertheless, that said Laws be consonant to Reason, and be not repugnant or contrary, but as near as conveniently may be, agreeable to the Laws, Statutes, Customs, and Rights of this our Kingdom of *England*, it is conceived, that this Act of Assembly, is neither consonant to Reason, nor agreeable to Laws of *England*; and it cannot be pretended, that the Circumstance of the Country; when the Act was made, render'd it necessary, to make that, or any other Law dissonant to Reason, or repugnant or contrary to the Law of *England*; nor were there any Complaints of the Membres suggested in the Preamble of the said Act, that appears by the Proceedings of the Assembly; nor was any one Practitioner of the Law charged before them, with exacting more than the Law allowed, or called upon to answer any such Complaint.

*Query 1.* Whether the Oath, prescribed by this Act of Assembly, is not inconsistent in it self, (if intelligible) the former Part of it being an absolute Negative as to the taking any Thing at all for any Service, &c. in the Law; tho' the latter Part of it mentions and limits Fees that may be taken?

The Intention of the Legislature, in directing this Oath, appears to be, That the Practisers of the Law, should swear not to take any other Fees, except such as are allowed by this Act of Assembly: But it is penn'd in such a Manner, as to be liable to the Objection mentioned in this Query, and is Insensible.

*Query 2.* Whether it is just, reasonable, or agreeable to the Laws of *England*, to oblige a Man to swear he will not receive the Value of his Labour and Pains in his lawful Calling, tho' his Employer thinks he well deserves it, and offers it him?

Attorneys being in Nature of Ministers to Courts of Justice, it may be reasonable to limit and settle their Fees; and to prevent secret Methods of Extortion, if such were growing up; it may not be against Reason to restrain them, in some Instances, from taking more, tho' it should be offered: But I conceive, that the Provision made for that Purpose, by this Act, is unreasonable, because it directs one entire Fee to be taken for prosecuting and defending any Suit from the Beginning to the End of it; whereas the Labour and Pains in attending a Suit, will differ according to the Length of it, and the Method and Practices us'd by the Adversary; for which Reason the Reward ought to differ. It seems to me that the proper Provision would have been to establish certain Fees for the particular Services, or Part of Business, to be done by an Attorney, or Lawyer, in any Suit.

*Query 3.* Whether every *British* Subject has not a Right to dispose of his own, in what Manner, to whom, and in what Proportion he pleases, for any lawful Service done him? Whether it is not inconsistent with that Right, to put any Subject under a Restraint of rewarding a Person that has acted faithfully and honestly in his Profession, and been very serviceable to that Subject, who is sensible of it, and would give a Reward adequate to the Service done? and whether it is not lawful to give any Person a Gratuity to encourage him to be just and diligent in his Profession, and unlawful and unjust to restrain any Person from so doing?

There can be no doubt, but every Subject has a Right to dispose of his own Property, but that Right is subject to the Controul of the Legislature in particular Instances, who in just Reasons, as to prevent secret Ways of Extortion and the excessive Enhancing of Fees, may prohibit One from giving, and the Other from receiving, more than such a certain fix'd Sum. But then, the Reasons for doing this, ought to appear very strong and cogent, and to be made out by Evidence of Fact.

*Query 4.* Whether it be agreeable to Reason, to the Law of *England*, or the Liberty of a Subject, to divest Men of their Properties, and the lawful Means of supporting themselves and Families with Bread, who are not so much as charged with having transgressed any known Law; or to put Men of any lawful Profession, or Calling, that are not convict of any Misbehaviour in their Calling; nor for transgressing any known Law of the Land, under any worse Circumstances as to their Property, than the rest of their fellow Subjects?

I think his would be unreasonable.

*Query 6.*