

Query 5. Whether it is agreeable to the Laws of *England*, or the Liberty of a *British* Subject, that he should be proceeded against, and condemned in a summary Way, where the Fine is very considerable; and perhaps, the very Persons that are to be his Judges, are his Adversaries; and to deprive him of a Tryal by Jury, which is conceived to be his Birth Right, without any apparent Necessity?

I think it is not agreeable to the Laws of *England*, to direct Penalties of this kind, especially of such Value to be recovered in a summary Way; and that in this Case, the Party ought not to have been deprived of a Tryal of Jury. But the Provision for the recovering this Penalty, is extremely imperfect, no Method of proceeding or of levying the Penalty, when recovered, being directed by the Act.

Query 6. Whether the prohibiting a Man, from prosecuting or defending any Action brought by or against him, puts him not in a worse Circumstance, than that of Out-Lawry or Excommunication? And whether, in Reason or Justice, the refusing the Oath proposed, ought to be punished with such Severities?

This Provision seems to be too severe, and in all Respects improper.

Query 7. Whether the Act of Assembly, now under Consideration, be not dissonant to Reason and repugnant to the Law of *England*; and whether the enacting such Laws be not contrary to the Proviso in the Charter?

P. YORKE.

April 9, 1729.

Mr. Talbot, Solicitor-General's Opinion, on those who practice the Law in Maryland. On an Act past in the Year 1725.

Query 1. IT is not properly express'd, nor can be made consistent with it self, but by taking *Answer.* the Words, *any greater or other Fee &c.* to be Explanations of the Words, *any Fee* in the former Part of the Oath.

Query 2. There is nothing unjust nor repugnant to the Laws of *England*, in obliging a Man, not to receive for his Labour, more than the stated Fees allowed by the Laws in Being: But in this Instance, it is highly unreasonable, and will introduce Ignorance and Negligence in the Professors of the Law; and in Consequence, prove injurious to the Clients, whose Causes frequently depend, for their Success, upon the Industry and Ability of those who manage them; if there is no Possibility of receiving a Reward adequate to a Man's Labour and Pains, it is not to be expected, that he should take any to deserve it.

Query 3. This is answered in what is said upon the last Query.

Query 4. I think it extremely unreasonable; and the former Law, which compels them to serve for small stated Fees, very severe.

Query 5. It is unusual, and a President of dangerous Consequence; and therefore not proper to be made by a new Law.

Query 6. This seems to be unjust, especially with regard to defending Actions, which it is in no Man's Power to prevent being brought against him; and which, however by this Provision, he may be disabled from making a proper Defence, if the Law be intended to extend to those who are not Resident in *Maryland*, which the Proviso seems to intimate, (tho' the Enacting Part is confin'd to the Inhabitants;) it is unjust, since they can neither sue nor defend properly, without having their Agents there: And, if they are not there themselves, they will have no Opportunity of taking the Oath prescribed.

Query 7. I am of Opinion, that it is dissonant to Reason, and in that Aspect, repugnant to the Proviso in the Charter.

C. TALBOT.

John Hall, Esq; from the Upper House, delivered to Mr. Speaker the Petition of *Thomas Worsley*; Indors'd thus:

By the Upper House of Assembly, May 26, 1730.

Read, and referred to the Consideration of the Lower House of Assembly.

Sign'd per Order, *John Ross, Cl. Up. Ho.*

The House adjourns until To-morrow Morning, Eight of the Clock.

(Wednesday, May 27, 1730.)

THE House met according to Adjournment. The Members were called, and all present as Yesterday. The Proceeding of Yesterday were read.

The Petition of *Thomas Worsley*, referred here from the Upper House, was read and granted.

The Petition of *Thomas Palmer*, an Insolvent Prisoner for Debt, was read and granted, with this Indorsement: Saving to all Persons their Right of Action against the Sheriff, in whose Custody the Prisoner now is, for any Escape prior to the Act.

The House adjourns until Two of the Clock in the Afternoon.

(Wednesday,