

in Force what I before mentioned to you; but as I pretend to very little Learning in the Law, I shall speak a good deal from the Information I have received from such Gentlemen here as are allowed to be best acquainted with that Study.

As to the Common Law Fines, the Proprietary of this Province has the same Right to them, as the King to the Common Law Fines, &c. in the Courts of Westminster Hall, and Lords of Manors and other Seignories: to those arising in their Courts, Manors, and Seignories. These Fines, &c. were always reckoned as much a Part of the King's Revenue unaccountable to Parliament, as his Demefines; and the Fines, &c. due to the several Lords received by them as Part of their Estates, by the same Right as their Rents, and with which their Tenants have nothing to do. Such Fines, &c. due to the King, are amongst his Casual Revenue next to his *Firma Majores et Minores*, and stiled in the Law *Debita atterminata*; and so called because Terms or Times of Payment were assigned by his Writt, and these Payments were on large Fines set, and Amerciaments assessed *secundum Qualitatem Delicti et Quantitatem Contementi*; I mention so much of this Part of the Law, that those Gentlemen in your House who make the Law their Study may consult their Books, which will certainly inform them of the Truth of what I now say; by which Means they may satisfy themselves and you, that what is urged by your Address, of the Common Law Fines, &c. being received by the Proprietary in Trust for, and to the Use of the People, has no Foundation in Law or Reason; but that the King has an absolute uncontrollable Title to this Branch of his casual Revenue; the Proprietary of this Province to the Common Law, &c. or any other unappropriated Fines here; and Lords of Manors in *England*, to those in their Courts and in their Manors; and may dispose of them with as much Liberty, as any Person in the World can his own private Fortune and Estate: Nor can your Supposition of the Proprietary being divested of the Government alter the Case; for it would be no otherwise, than if the Lord of a Manor, or Possessor of an Estate, should alienate or be deprived of that Estate, the Rents, Privileges, and Emoluments of that Manor and Estate would be vested in the next Possessor; but surely that Change would not give a Right in those Rents, Privileges, or Emoluments, to any other Person than to such Possessor: For although the King is intitled to the Common Law Fines *Ratione Coronae*, the Proprietary *Ratione Domini*, the Lords of Manors *Ratione Manerii*, and private Persons to their Rents by Reason of their Estates; yet none of those Considerations make them accountable either to Parliament, People, Tenants, or any other Person, for what they so receive; for those Fines accruing by Breaches of the King's Peace and Violation of his Laws, where they are not particularly appropriated by positive Laws, must in the Nature of them belong solely to his Majesty, who is reckoned in the Eye of the Law to be solely injured by such Transgression.

As to the Fines, &c. arising by Acts of Assembly, a bare Recourse to the Acts themselves will answer your Observation on that Head, and Charge of the several Officers not having done their Duty in their Payment to the Lord Proprietary: For pray, to whom do those Acts direct the Payment to be made? The Acts expressly declare to the Lord Proprietary; and yet you think fit to contend, the Officers ought to pay them to somebody else, or into some other Place than into his Lordship's Hands; tho' indeed you do not plainly say who ought to receive them, but content yourselves with talking of the public Treasure: But since none of the Acts make mention of any such Payment to be made to any such Treasurer, I am certain your Seale or Wish in this Point cannot alter the Law; and it will be Time enough to charge the Officers with a Non-Compliance in their Duty, when they make such Payments to Persons not directed by the Acts to receive the same. I acquainted you by my former Message, that I could not learn that ever any other Fines than such as arose at the Common Law were by the present Agent received, and they being Part of his Lordship's Estate, he was not accountable for them: And as to the Representatives of any Agents who are dead, I am acquainted with them, and indeed if they were known to me, I could not oblige them to lay any Account before your House, unless they were Officers under his Lordship, and by that Means under his Direction; but I cannot forbear hinting to you, that if his Lordship should be pleased to enter into an Account of his Expences for what may be properly said to be in Support of this Government you would find very considerable Sums, and not less than fifteen hundred Pounds within a few Years past disbursed for that Purpose; and I must acquaint you on this Head, that I believe myself, and probably my Predecessors, may have remitted and pardoned several Common Law Fines, &c. and perhaps Act of Assembly Fines; but I presume any Lenity or Compassion of this Kind, exercised towards the People, will not be thought exceptionable by their Representatives.

The Governor and Council are empowered by Act of Assembly to employ the Amerciaments in the Provincial Court as they think fit, and in Consequence of this Authority such Amerciaments (tho' by what I can find, not above one thousand Pounds of Tobacco *per Annum communitibus Annis*;) have been allowed to the Clerk of the Council, which the Lower House of Assembly in the Year 1715 were satisfied with; nor is this Disposition much different from what is done with those in Westminster Hall, for when the Murdras or Amerciaments became so inconsiderable that they were not worth the assessing and the King's Acceptance, such Amerciaments were allotted to some Officer of the Court, but never applied for the Benefit of the People.

I cannot help, Gentlemen, taking Notice of your speaking of his Lordship as Governor of this Province, it is an Appellation I shall not dispute with you, but at the same Time you must acknowledge he is the King's Governor, and consequently plainly intitled, by the express Words of the Act of 1704, to the Fund provided by that Act to the Support of Government.

T. BLADEN.

Mr. Harrison hath Leave of the House to go home.

Ordered, That the Clerk of this House give Notice to the absent Members that their immediate Attendance is required,

The House adjourns 'til Monday Morning at 9 of the Clock.

Monday Morning, September 9, 1748

THE House met according to Adjournment. All Members present as on Saturday, except Mr. Harris, and Mr. John Goldsborough.

The Proceedings of Yesterday were Read.

[1745.]

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