

and the World; we see not the Imprudence, nor do we apprehend we shall be liable to the Imputation of Want of Respect to those Laws in Imposing a Duty on Convicts, in which we cannot think her Government to be at all concerned. Private Persons, Merchants, contract with the Government for the Transportation of these Felons, and are amply rewarded for it by the great Gain they make by the Sale of them here, which very well enables them to pay this Duty. Our Neighbours of *Pennsylvania* have imposed the Duty of 5 *l.* *per* Poll on Convicts for many Years, and yet without giving the least Offence that we ever heard of; Why then are we to apprehend giving Offence, by the Imposition of so small a Duty? Indeed, in a Message from your Excellency of the 7th of *May*, 1757, we are told, that his Majesty's late Attorney-General, the present Lord *Mansfield*, has given it as his Opinion, that no such Duty can be levied here; but as we have understood this Opinion was obtained by Persons nearly interested in the Event, we are inclined to think it was not founded on a very fair and impartial State of the Case; and therefore, until some regular and authoritative Inhibition from the Government of our Mother Country, shall circumscribe and confine the Effect of our Law, Imposing a Duty on all Servants to serve for Seven Years or upwards, among which Convicts undoubtedly are included, it will and ought to have it's full Operation and Force: Precarious and Contemptible indeed would the State and Condition of our Laws be, if the bare Opinion of any Man, however distinguished in his Dignity and Office, yet acting, as in the present Instance, in the Capacity of a private Lawyer or Council, should be sufficient to shake their Authority, and destroy their Force.

But, that the Merits of this Dispute may be still better understood, we must in our Turn, have Recourse to that Address of the Lower House, containing, what you call, the Charge against the Naval Officers, which we think may more fairly be thus stated:

The Duty on such Servants is required to be paid at the Time of their Entry.

It was the Duty of those Officers to have refused to have entered such Vessels, until the Duty was paid down:

And not to have taken any Impost Bonds *for it*, which *if they did*, is an Indulgence unknown to the Law, and for which, as we apprehend, the Naval Officers ought to be answerable. From hence it is plain (though your Excellency in stating this Charge, by leaving out a few Words of that Address, seems desirous to have it believed that the late Lower House had asserted the Taking of Impost Bonds was an Indulgence unknown to the Law in general) that nothing more is said, or could be intended, but that the Naval Officers ought to have collected the Duty imposed on all Servants by the Act in 1754, at the Time of Entry, and not have taken any Impost Bond for it, which, *if they did*, was an Indulgence they had no Authority by that Law to give, and were therefore answerable for: That the permitting the Importer to Land his Goods on giving Bond for the Payment of the Duties, is an Ease and Encouragement to Trade, we readily allow, but surely the Legislature are the proper Judges when such Indulgence is necessary, or convenient; and where they have not directed it, in the Act imposing any Duties, neither the Officer can have Authority to take Bonds, as a Security to the Public for the Duties, or the Trader who has Duties to pay, a Right to claim an Exemption from paying them down at the Time of Entry; and we apprehend the Inference drawn by your Excellency from the two Acts of 1715 and 1717, the one prohibiting the Attorney-General from putting Bonds for Country Duties in Suit, unless under Circumstances there specified, and the other giving a Fee for an Impost Bond, that Impost Bonds have been constantly and universally taken from the earliest down to the present Times, in all Cases, without Exception, is too extensive, and it is not incumbent upon us to shew a Case in which they have not been taken; 'tis sufficient to destroy the Inference: That we shew there were other Laws of this Province at the Time of making those Laws, which directed or empowered the Officers to take Impost Bonds for Duties, we shall mention two of them, One an Act confirming to the Governor of this Province the Duty of Three Pence *per* Ton upon the Burthen of Ships and Vessels made in 1704, prior to both the Acts your Excellency mentions; the other an Act laying an Imposition on Negroes, and on several Sorts of Liquors imported, &c. made in the Year 1715, prior to the Act giving a Fee on Impost Bonds. From hence then arose the Necessity of Restricting the Attorney-General in putting this Kind of Bonds in Suit, and of Limiting the Naval Officer's Fee for taking them by the Acts you mention; for as the Law abovementioned, made in 1704, directed or allowed them to be taken, we presume it was found Necessary to restrain the Officers, ever fond of encreasing Fees, within due Bounds: And we think it may be fairly inferred, that if Impost Bonds had been constantly and universally taken, from the earliest down to the present Times, in all Cases, without Exception, it would have been necessary to have laid those Restrictions much earlier; indeed had that been the Case, it would have been altogether unnecessary by any particular Law to have given a Power to the Naval Officer *in any Case*