

U. H. J. By the Upper House of Assembly Aprill the 22<sup>d</sup> 1720  
 p. 105

Gentlemen. We think ourselves Obliged by Duty as well as it is our Inclinations to Act according to the Best of our Judgments for the Service of our Country And in a particular Manner for the Preservation of the Prerogative Lodged in our Lord Prop<sup>ty</sup> and his Representatives and tho your Construction of the Act concerning the three pence p Tonn Seems in favour of that part which belongs to us to Espouse so farr as is Agreeable to Right, Yet the Convictions of our reasons are too Strong in this point to Disengage us from taking up the Contrary Argument.

The Act makes the three pence p Tonn payable to the Gov<sup>r</sup> for the time being, The present Gov<sup>r</sup> Continues Gov<sup>r</sup> by his Majestys Approbation according to Act of Parliament till he be Superseeded; Therefore while He Continues Gov<sup>r</sup> he has a right to all Duties payable to the Gov<sup>r</sup> for the time being of which this is one.

In Case of the present Gov<sup>rs</sup> Absence the Gentl appointed to preside would Act as President of the Councill but not as Gov<sup>r</sup> for the time being

In Case of the present Gov<sup>rs</sup> Death before another Commissionated the Gentl appointed to preside would Act as Gov<sup>r</sup>, as Col Lloyd did on the Death of Gov<sup>r</sup> Seymour in which Case there was no Person in being but Col Lloyd who Could be said to be the Gov<sup>r</sup> for the Time being but as you propose in this Case there would be a Gov<sup>r</sup> for the time being that would not Enjoy the three pence p tonn which as we take it would be a Contradiction to the Express Letter of that Act. We frankly communicate to you the Reasons of our Opinion And should be glad to know the Reason of yours that we might Come to a right understanding in this matter Tho on the whole we must conclude that neither our Opinion nor Yours can alter the plain Significance of the Law itself.

Signed p order Jn<sup>o</sup> Beale Cl. Up House

p. 106 The foregoing Message with the following Lett<sup>r</sup> Sent to the Lower house by Col Ward & Esq<sup>r</sup> Bordley who return and Say they Delivered the same.

Which Letter is as follows, Viz

M<sup>r</sup> Speaker. As your Answer to what I Desired you to Communicate to the house in relation to the three pence p Tonn to the Gover<sup>r</sup> was that it is the Sense of the house it is due to the person Presideing in the Absence of the Gov<sup>r</sup>, And Accord-