

U. H. J.
Liber No. 36
Nov. 20

By the Upper House of Assembly 20:th November 1770.

Gentlemen

We have declared in the most explicit Terms that we were willing to concur with you in explaining, correcting, altering or enforcing the Provisions of the old Regulation of Fees, in every Instance wherein real Defects have been discovered.

This we thought was a sufficient Answer to your general Complaint of Abuses, or Pretences you esteemed to be Abuses, what you esteemed to be Abuses, we were of Course to be informed of by yourselves; if a Conference had taken place, it would have been our Part to have received your Information, considered Your Evidence, examined the old Regulation, weighed your Reasons and formed, and communicated to you Our Opinion on the Subject, but instead of pursuing the Matter in this regular Train, you are Pleased to
p. 515 Say, that you do not clearly comprehend what we call Abuses, and are of Opinion we are unacquainted with what you deem such, When we merely repeated, in your own Language, that we should be ready to join you in Correcting the Practices you esteemed to be Abuses, if they should appear to us in the same Light;

What you might think to be Abuses we could not divine, and apprehended it would be our proper time to judge thereof after we had been fully apprised of, and examined your Proofs, considered accurately the alledged Defective Parts of the old Regulation, and deliberated the Matter on all Information you could give us, we have referred to no Abuses but in the Recital of your own Expressions, and presuming you understood your own meaning, we did not apprehend you could be at a Loss in ascertaining what Charges of Abuses were to be produced, and become the Subject of a Conference.

As to the matters contained in your Questions, they would have been Properly under Consideration if a Conference had been agreed upon, in Order to Effectuate the Passage of the Law, but permit us to Observe that the Questions, as you have Proposed them, are of a very extraordinary nature and of a Tendency inconsistent with the Spirit of our Constitution. The Resolves or Declarations of one, or both Houses of Assembly, however assertive in Opinion, and Vehement in Expression, are not Laws, nor ought they to be Promulgated, to direct or influence the Determination of the appointed legal Courts, Juries and Judges ought there [then?] to give their Decisions without Prejudice or Bias, Whether any Officer has been Guilty of Extortion is a Question, which neither your nor our Declaration ought to Prejudicate, but that our Declarations held out to the Publick would have in no small Degree this Effect can hardly be doubted, and on our Part, Particularly, such a Declaration would be the more
p. 516 improper, the last legal Appeal in this Province being to us, it would be to anticipate Questions before they came to us through their regular Channel, to decide first and hear afterwards.