Magistrate, neither House of Assembly nor the Judiciary, with the Administration of existing Laws, without a dangerous Infringement of the Constitution—that, of the legislative, you are not one of the component parts—that a Right to determine the Fees charged by Executive, implies the Right of Battle to the Subject due for the Services performed, because, without the Standard, what Fees are adequate, what are more or less than the just Proportion, cannot be ascertained—that your rigorous Commitment was bottomed on the Principle, that to you belongs the Authority of punishing any Deviation from the Line of your Opinion—that if a precise Rule had been regularly pre-ordained by the Law, an Offence against it ought to be prosecuted in a legal, ordinary Judicatory—that a Prosecution and Punishment in a different Course are highly oppressive to the Subject affected thereby—that, in the ordinary regular Administration of Justice, our Polity has applied various excellent Precautions for the Protection of the Subject against Injury, which would be lost, if your House itself suffered to execute the Power you had assumed—that in the ordinary legal Course of Proceeding, this Fact is triable by Jury—the Party charged is not, unless Ato difficile, what may expose him to Penalty—the Jury are sworn, and carry with Impressions of Religion and a Sense of Justice candid Audience, a just and impartial Determination may be expected—if there be reasonable Cause to suspect the Testimony any called to serve on the Jury, or Bias in their Verdict, they are liable to Punishment—if unjust Verdicts be given, the Consequence of their Fallibility may be controuled by the Discernment of a second Jury—as the Jury are punishable, so are the Witnesses, if perjured—the Fact is tried in one Way only—the Law is determined in another—there are Powers to grant against the Injuries of corrupt and mistaken Verdicts, so are there against the Oppression of prejudiced and erroneous Judgments of Judges—are upon Oath to do equal Right and Justice to all Persons—they are punishable for Corruption—their Decisions are not conclusive in the first Instance, but are subject to Revision, for which important Purpose a Gradation of Jurisdiction is appointed—the Party is not liable to be harrassed by a second Prosecution for the same Matter. All these Guards and Securities are of such admirable Ability in protecting the Property, Reputation, and personal Liberty of the Subject, and to which every Subject (whether in or out of Office) is as well entitled as any, so ought they to be zealously and fully maintained—and it is the Measure proper for their Defence should occasionally suspend the Transaction of other Affairs for a much longer Term than a Day or Two, the comparatively insignificant Interruption would not deserve a Moment's Deliberation—that these Guards and Securities, so essential to the Stability of Property, and the personal Liberty of the People, upon which so great and invaluable Interests depend, would become pretentious indeed, if, through the Acquiescence or Inattention of Government, your House should be permitted to assume and exercise the Power you claimed.——You are not sworn to determine according to Evidence, to do equal Right and Justice to all Men indiscriminately—the Witnesses examined before you, in a Case of this Nature, would be liable to no Prosecution, if perjured—there would be no distinct Cognizance of Fact and Law—no Challenge allowed to prevent Partiality—no Examination of your Conduct, however improper, in any other Jurisdiction—no new Trial, Writ of Error, or Appeal—Your Determination, whether of Acquittal or Conviction, would be no Bar to a second Prosecution in a legal Judicatory.——On these Grounds I was advised, and pursued the Steps which I am convinced was constitutional, which the Occasion required, and which the general Security demanded, and am extremely sorry that it has proved to be so offensive to you.

Mr. *Stewart* has already severely suffered for any Irregularity he may have committed, by a rigorous and ignominious Imprisonment—to inflict double Punishment for the same Delinquency is not consistent with the equitable Spirit of our Constitution, though he may be liable to it.

His Lordship's Authority has not yet interposed in any Regulation of the Fees of Officers, nor have I any Reason to imagine that it will interpose in such a Manner, as to justify a regular Opposition to it. So far as I may be concerned in any such Measure, I shall take good Care to act on mature Consideration, and what I shall judge to be right and just, will be the only Dictate by which I shall be determined.

Mr. *Calvert* and Mr. *Stewart* have been made acquainted with your Complaint against them, and I send you their Answer; by which you will observe, that they did not intend referring to any Proclamation respecting their Dues, nor do I perceive any Irregularity in their Conduct, as I am of Opinion they were not bound to do the Services without an immediate Payment of, or Security for, their Fees: The Rate which had obtained under Act of Assembly for more than Twenty-three Years, and expired so lately as the 2d Day of *October* last, seems to be the most unexceptionable they could follow. His Lordship has, I think, the clearest Right to dispose of his real Estate, upon such Terms as he may think proper to direct the formal Observances in making Titles to his Grants, and to settle and regulate the Rewards his Officers in this Department may demand and receive.

Be assured, Gentlemen, that I shall, on every Occasion, pay a due Regard to your Rights; that I shall never countenance the illegal Exactions of any Officer, nor submit to any Usurpation, which may essentially endanger that constitutional Balance of contending Powers, so necessary to the Protection of the People, and the Preservation of the publick Peace.

Gentlemen,

This Answer to your Address you should have received sooner, but I chose rather to suffer a temporary Imputation, that your Attention should be diverted from the more important Objects of the depending Inspection Bill.

ROBERT EDEN.

November 20, 1770.

To His Excellency ROBERT EDEN, Esq;

MAY it please your Excellency,

We have received your Excellency's Communication, You have declared, that you will support the Rights of our Constitution, and the Dignity of our Crown, and the Opportunity we have thereby of transacting our Business.

When the Act regulating the Fees of Officers, and of ourselves among the rest, fell, we thought it proper to direct our Clerks to receive or execute the Fees directed to be taken for Services that might be applied to higher and more important Purposes; but we have since apprehended, and still think, that we were not bound to perform Services without reasonable Security being given for them; and in settling our Demands we thought the Regulation established by an Act of Assembly, and which was in Force till the 2d of last Month, would be a proper Rule, and therefore directed that the Fees should be charged according to that Regulation, and paid or secured in the following Manner, By those who made no Tobacco in Money, after the Rate of 2s/6 common Money for 100lb. of Tobacco; by those who made Tobacco, to be secured by their Promissory Notes. We directed no Oath to be tendered, nor spoke of any Proclamation, and suppose that the Clerk, if he did administer an Oath, was led to do it by this Circumstance, that being directed to observe the late Regulation, as above, and to distinguish between those who were Makers of Tobacco and those who were not, and the late Regulation having required an Oath in such Case, therefore might administer it.

As to his Lordship's Proclamation, we need not inform your Excellency that none ever issued respecting the Fees of the Land Office, and therefore we could not refer to it; but the late Proprietor, considering it to be an Office concerning his private Revenue, claimed a Right to direct on what Conditions his Lands should be granted, and we humbly conceive that his Claim was justly founded. We beg Leave further to observe to your Excellency, that our Directions were most indulgent to the People than the Orders which were given by Governor *Hart*, as Chancellor of this Province; when, upon the Lower House of Assembly's refusing to revive and continue an Act for the Regulation and Payment of Officers Fees, which expired in 1719, while the Assembly was sitting, he directed the Person who had been appointed to affix the Great Seal, on no Account to affix it to any Paper, either of a publick or private Nature, unless the Party Applying should instantly pay for the Service, according to the Rate which had been prescribed by the Act that had lately expired.

Should his Lordship, or his Governor, for the Time being, think proper to regulate the Fees of this Office, we shall have no Scruple in demanding such, and until then shall proceed according to the above Directions.

We have, &c.

the Honour to be, with the greatest Respect and Regard, your most obedient and obliged humble Servants,

BENEDICT CALVERT.
GEORGE STEUART.

A LIST of LAWS, *passed at the Two last* SESSIONS *of* ASSEMBLY.

No. 1. An Act continuing an Act, entitled, *An Act for inspecting the Staple of Tobacco, for preventing Frauds in his Majesty's Customs, and for the Limitation of Officers Fees, and the Subsistence Duty Act thereto.*

No. 2. An Act directing the Sale of the Lands of *Richard Heard*, late of *St. Mary's* County, deceased, for the Payment of the Debts of the said *Richard Heard*. (A private Act.)

No. 3. An Act to enable the Justices of *Somerset* County to levy on the taxable Inhabitants of *Somerset* Parish, in the said County, a Quantity of Tobacco for the Purposes therein mentioned.

No. 4. An Act for abolishing *June* County Courts, and for other Purposes therein mentioned.

No. 5. An Act for the Adjournment and Continuance of the High Court of Appeals, and for the Adjournment of the Provincial Court, and other Purposes therein mentioned.

No. 6. An Act to invest *John Clayton* with an exclusive Privilege and Benefit of making and selling a Machine for threshing of Wheat, on a Model by him invented. (A private Act.)

No. 7. An Act to give *Thomas Harrison* further Time to effect the Removal of a Nuisance in *Baltimore-Town* in *Baltimore* County. (A private Act.)

No. 8. An Act to empower the Justices of *Somerset* and *Worcester* Counties, to levy on the taxable Inhabitants of *Stepney* Parish in the said Counties, the Quantity of Eighty Thousand Pounds of Tobacco, for the Uses therein mentioned.

No. 9. An Act for empowering the Justices of *Queen-Anne's* and *Talbot* Counties, to assess on the taxable Inhabitants of *St. Paul's* Parish, in the said Counties, the Sum of Tobacco therein mentioned, for building a Church, and repairing the Chapel of the said Parish.

No. 10. An Act to oblige the several County Clerks to have with them, on their Office Days, the Four last Courts Dockets and Papers.

No. 11. An Act to remedy a Defect in the Title of *Bartholomew Pomeroy*, of *London*, Merchant, to a Tract or Parcel of Land, called *Rencher's Adventure*, lying in *Prince George's* County. (A private Act.)

No. 12. An Act to unite the Free Schools of *Somerset* and *Worcester* Counties.

No. 13. An Act to enable the Justices of *Dorchester* County Court, to assess and levey on the taxable Inhabitants of the said County, a Quantity of Tobacco, for the Purpose of building a Court House.

No. 14. An Act to repeal Part of an Act to encourage the destroying of Wolves, Crows and Squirrels.

No. 15. An Additional Supplementary Act to the Act, entitled, *An Act for erecting a new Parish in Kent County, called Chester Parish, and for building a Parish Church, and enlarging a Chapel of Ease within the said Parish.*

No. 16. An Act for the building a Parish Church in *Queen-Anne* Parish, in *Prince-George's* County.

No. 17. An Act to remedy a Defect in the Acknowledgment of a Conveyance from *Josiah Cosent* to *William Thornton*. (A private Act.)

No. 18. An Act to divide *St. John's* Parish, in *Baltimore* County.

No. 19. An Act to invest *Isaac Perkins* with an exclusive Privilege of making and selling a Machine for threshing of Wheat, on a Model by him invented. (A private Act.)

No. 20. An Act for the Relief of *Thomas Yeats*.

No. 21. An Act directing the Sale of Part of the Lands of *Henry Baker*, late of *Cecil* County, deceased, for the Payment of the Debts of the said *Henry Baker*. (A private Act.)

No. 22. An Act for the Relief of *Nehemiah Tilghman* and *Solomon Townsend*, and to confirm the Contract made between the said *Nehemiah Tilghman* and a certain Major *Townsend*. (A private Act.)

NOVEMBER SESSION 1770.

No. 1. An Act for the Appointment and Continuance of the *Anne-Arundel* County Court.

No. 2. An Act enabling *Edward Tilghman, Solomon Wright*, and others, to sell certain Lands, devised by Col. *Richard Tilghman*, formerly of *Talbot* County, to be sold for the Purposes by the said Devise intended. (A private Act.)

No. 3. A Supplementary Act to the Act, entitled, *An Act to enable the Justices of Queen-Anne's County Court, for the Time being, to levy on the taxable Inhabitants of St. Luke's Parish, in the said County, a Quantity of Tobacco for building a Chapel in the said Parish.*

No. 4. An Act to establish a Market in *Frederick-Town*, in *Frederick* County, and for the Regulation of the said Market.

No. 5. An Act to remedy the Omission of the Enrollment of a Deed of Bargain and Sale from *Thomas Colliers* to *Thomas Lightfoot, William Lightfoot, Abraham Mitchell, Walter Franklin*, and *Samuel Hamilton*. (A private Act.)

No. 6. An Act for the Establishment of a Chapel of Ease in *St. Peter's* Parish, in *Talbot* County.

No. 7. A Supplementary Act to the Act, entitled, *An Act for the Relief of the Poor within the several Counties therein mentioned.*

No. 8. An Act for the Relief of certain Prisoners in the several Jails therein mentioned.

No. 9. An Act to divide *All Saints* Parish, in *Frederick* County, and to erect Two new Parishes, by the Names of *Eden* Parish and *Frederick* Parish.

No. 10. An Act to enable *Nicholas Rogers*, an Infant, to demise the real Estate therein mentioned. (A private Act.)

RESOLVED *nemine contradicente*, That the Charge of Fees (estimated at *above the annual Amount* of 60,000 *lb.* of Tobacco) by the Commissary-General, *upon Administrations granted by his Deputies*, and for *which they are paid*, is an *Abuse* of the *old* Regulation of Fees, *illegal* and *oppressive*.

Resolved *unanimously*, That the *additional Charge*, by the Commissary-General, of *order* to almost every Service done in his Office, (estimated at *above the annual Amount* of 40,000 *lb.* of Tobacco) when, by the same Regulation, *it was only allowed in Testamentary Causes*, is an *Abuse* of that Regulation, *illegal* and *oppressive*.

Resolved *unanimously*, That the Charge, by the Secretary and County Clerks of this Province, *for recording of Papers*, in Actions discontinued, abated, struck off, or agreed, when they are not, nor need be recorded, is an *Abuse* of the same Regulation, *illegal* and *oppressive*.

Resolved *unanimously*, That the Charge by the Secretary, *for making up Issues* in the Provincial Court, *when the same* is done by the Attornies; *for issuing a Venire Facias* for Jurors, when *none* is issued; *for Copy of Judgment* on issuing Executions; or *for Search and Copy of Judgment* on issuing *Scire Facias*, is an *Abuse* of the same Regulation, *illegal* and *oppressive*.

Resolved *unanimously*, That the Charge of 300 *lb.* of Tobacco, by Surveyors *for laying down adjacent Tracts*, *merely* to correct the Errors of an original Survey, is an *Abuse* of that Regulation, *illegal* and *oppressive*.

Resolved *unanimously*, That the Charge of 300 *lb.* of Tobacco, by Surveyors, *as for a Resurvey*, for *surveying or laying down each Tract* of Land, on a *Warrant of Survey*, from the Provincial Court; and of 300 *lb.* of Tobacco for any Tract of Land *laid down only for Illustration*, is an *Abuse* of that Regulation, *illegal* and *oppressive*.

Resolved *unanimously*, That the Charge, by the Examiner-General, *of every Plat laid down for Illustration*, and *on every Piece of Vacancy added, as an separate and distinct Tracts*, is an *Abuse* of that Regulation, *illegal* and *oppressive*.

Resolved *unanimously*, That the Upper and Lower Houses of Assembly, having so far agreed on the Bill for amending the Staple of Tobacco, for preventing Frauds in his Majesty's Customs, and for the Regulation of Officers Fees, as that the County Levy, Clergy's Dues and Attornies Fees should be payable in Tobacco or Money, at the Election of those who should be chargeable therewith, and it being the Duty of the General Assembly to enact and provide wholesome Laws, for the Ease, Welfare and Happiness of the People of this Province, the Upper House of Assembly, *assign their Negative on the said Bill*, ought to have assented to the Bills formed by this House, to provide for the Payment of the County Levy, Clergy's Dues and Attornies Fees, in *that Manner*.

Resolved *nemine contradicente*, That the Upper House, Four Members of which hold the Secretary's, Commissary-General's and Land Office, and the Fees of which Offices were attempted to be regulated by the first-mentioned Bill, have, in the Intercourse between the Two Houses, on the Subject of that Bill, and by their ultimate Rejection thereof, manifested an unreasonable Attachment to the Emoluments of Office, and by their Rejection of the said *other* Bills, *that House* hath evinced an unjustifiable Design to force this Branch of the Legislature, by *the Ecclesiastical of the Province*, into a Regulation of Fees more correspondent to those Schemes of Wealth and Power which it is much to be apprehended are formed by *some* of the *great Officers* of this Government, but which, if carried into Execution, will tend to the Oppression of the People, and, in the End, greatly endanger their Liberties.

By Order of the House of Assembly, November 21, 1770.

Ordered, That the above Resolves be extraordinarily printed in this Week's *Maryland Gazette*, and distributed therein. These Weeks successively.

Test, JOHN DUCKETT, Clerk to the House of Assembly.

ON the Twenty-sixth Day of *November*, in the Year of our Lord One Thousand Seven Hundred and Seventy, came before me, the Subscriber, One of his Lordship's Justices of the Provincial Court, *Richard Gibbins*, Gent. Clerk of the said Court, and made Oath on the Holy Evangelists, that the Charges in the Secretary's Office, for filing and recording Papers in Actions discontinued, abated, struck off, or agreed; for all Issues made up; for issuing a *Venire Facias* for Jurors; for Copy Judgment on issuing Executions, and for Search and Copy of Judgment on issuing *Scire Facias*, have, in every Instance, to the best of this Deponent's Memory and Belief, been the same in every Respect, according to the Nature of the Case, for and during the Time of the present Secretary, as they uniformly had been before his Appointment to the Office of Secretary, from the Time that this Deponent was first appointed Clerk of the Provincial Court, and also for many Years before.

That when this Deponent first entered on his Office of Clerk of the said Court, he had Recourse to the Fee Books, in the Office, for his Direction how to make out the Charges, and among others, several Fee Books in the Hands Writing of Mr *Richard Burdus*, late Clerk of the said Court, and of Mr. *Thomas Johnson*, Junr. as he this Deponent verily believes, lodged in the said Office, by which Fee Books this Deponent has been principally guided in his Manner of charging Fees; that particularly the Charges above mentioned, for recording and filing Papers in Actions discontinued, abated, struck off, or agreed; for all Issues made up; for issuing a *Venire facias* for Jurors; for Copy of Judgment on issuing Executions, and for Search and Copy Judgment on issuing *Scire Facias*, which have been made by this Deponent, have always, ever since this Deponent hath been Clerk of the Provincial Court, been, to the best of this Deponent's Judgment and Belief, agreeable to the said Fee Books.

And this Deponent further saith, that he never has been, in any Manner or Way, or at any Time whatever, directed by the present Secretary, to charge any Fee or Fees; but that this Deponent hath been entirely left to pursue his own Methods, except in the following Instance, *to wit*, when a Sheriff has returned any Fee denied by the Party charged, this Deponent hath received the Secretary's Directions, carefully to examine, whether the Fee denied had been justly or erroneously charged, and if justly, to write to the Sheriff to compel Payment, if erroneously, not to compel it.

And this Deponent also saith, That at the Beginning of last *October* Session, this Deponent was instructed by the Secretary, to give any Members of the Lower House, who should apply for the same, all the Information this Deponent was able, of the Proceedings in the Secretary's Office, which this Deponent accordingly did, in every Respect, where desired. And this Deponent saith, that he never, to the best of his Memory and Belief, heard, before the last Session of Assembly, any Complaint, that any Fees charged in the Secretary's Office were illegally or improperly charged, except in Two Instances, where in Mr. *Thomas Ringgold*, about a Year or Two ago, objected to the Charge of short Copy Judgment, on issuing an Execution, and also for a Charge of Three Pounds of Tobacco, for entering a Release (on a Bond) of the Penalty, on Payment of Principal, Interest, and Cost. *Sworn before*

PHILIP THOMAS LEE.

THE Hon. Lower House of Assembly, having caused some Resolves, entered into last Session, to be published in the GAZETTE, purporting, that certain Fees charged by the Commissary-General, on Administrations granted by his Deputies, as also a Number of Fees charged by the Commissary-General for Orders, &c. "*are an Abuse of the old Regulation of Fees, illegal and oppressive*," I think it indispensably incumbent on me, as Register of the Commissary's Office, whose Duty it is to charge all Fees accruing due in that Office, in a publick Manner, to vindicate my Conduct in that Particular, so far as myself am personally concerned, and, at the same Time, to refute, in the most convincing Manner, a malicious as it is uncharitable, lately propagated by some ill-designing Person (whose Virulence doth not even spare the Ashes of the Dead) of having, at the Instigation of *Charles Goldsborough*, Esq; late Commissary-General, charged *additional Fees* not warranted by Law.

"*Ita Testor*," do therefore in the Presence of Almighty God, declare, that the above-mentioned Fees, as charged by me, are no Innovations, but that they have, as far back as can be traced by the present Fee-Books in this Office, always been charged uniformly, in the same Manner, and for the self same Services, as they stand charged at this present Time, except the Quantum for every such Service, which, until the Year 1747, was nearly double from what it was by the late Law, as can be evinced by the Fee-Books in the Office.