

Excellency, that Law of 1722 must be perpetual without any Words or Expressions, or necessary Inference, according to the Circumstances of this Case, to shew it to be the Intention of the Legislature it should be so, and to that End, must contrary to all reason, be taken as an Implied Repeal of that continuing Clause in the Law of 1715, tho' that Clause appears to have been thereby revived with the Law; Nor can we agree with your Excellency, that the Addition of any more or other Words to make that Law perpetual, would have been superfluous after reviving and continuing that Act "in full force" because we think the Addition of the Words "for ever" to the Law of 1722, or Words expressly repealing the continuing Clause in the Law of 1715, or reviving all that Law except that Clause, would have shewn the Intention of the Legislature to have made those Laws of a perpetual Duration, which would have prevented this present Dispute between us. "Nor can it be doubted, that if those who made the Law under Consideration had intended "it should have been" perpetual, "but they would have expressed such their Intention when they might very easily have done it and in few words". As to your Excellency's Position, that "it is a dangerous Doctrine to set up Conjectures or even the strongest Parol Proof of any kind, that a Law was intended to be different from what it really appears to be from the Terms of it": We shall give it no further Answer, than as we cannot agree that those Laws taken together do appear from the Terms of them, to have been intended by the Legislature to have been perpetual, we have made use of any such Methods, our Part of this Question, we think, not needing any such, but have barely confined ourselves to the Consideration of what appears upon the Face of the Laws themselves, which are the Subject of this Dispute: And we must observe, that it is the Practice of the Parliament of *Great-Britain*, upon the making Temporary Laws Perpetual, not only to recite in the perpetuating Law, the great Benefits and Advantages arising from the Temporary one, but also to continue, or revive it "for ever" or to "be and is hereby made perpetual" or some like Expression, to shew their Intention, that it shall for the future cease to be Temporary; neither of which has been done in the Case now before us, and wherein we apprehend some such Form of Expression ought the rather, and certainly would have been used to have discovered such Intention of our Legislature, if any such they had, as the Law of 1715 is in its Nature not only Penal, but greatly affects the Liberties and Properties of all the People of this Province, very few excepted.

We come now to the Consideration of that part of your Excellency's Message relating to the Law of 1732, which did not escape the Notice either of this House, or as you are pleased to express yourself, of those who penned our Address; but the true Reason why it was not mentioned in that Address was, that as we did not apprehend it any way affected the Laws either of 1715 or 1722, we thought it unnecessary to stuff that Address with any Matter which was not pertinent to the Subject in hand: But since your Excellency by your Message seems to think otherwise, we must beg leave to consider the Reasons you have offered for Support of that Opinion: You are pleased to say that the Law in 1732 "Entitled, A Supplementary Act, to the Act for the ordering and regulating the Militia of this Province for the better Defence and Security thereof" is a perpetual Law; if your Excellency will consider that Law as independent of, and without relation to, any other Law, as it cannot in that Light by any means affect either the Laws of 1715 or 1722, and will be consequently out of the present Question, we shall not now trouble you with any thing concerning it; but as we presume, from the Use you seem inclinable to make of that Law, you would rather suppose it to be a supplementary Law, we must beg Leave to enquire, as briefly as the Nature and Importance of this Dispute will admit, to what Law it is so, and what must be the Fate of it; in order to which we shall turn to such Places in that Law of 1732, as have any Reference to a former Militia Law; and besides the Title already mentioned, the latter half of the Preamble runs thus, "And whereas the several Provisions hitherto intended by the Legislature of this Province, as well as the several Sums of Money laid out in the Purchase of Arms and Ammunition for those Purposes, have not had the desired Effects, in a proper Regulation of the Militia of this Province, by reason of some Defects in the Laws already made." The first enacting Clause is thus, "That any Colonel, Lieutenant-Colonel, or Major, already commissioned, or hereafter to be commissioned, by the Governor or Commander in chief for the Time being, or any two or more of them, shall have the same Powers and Authorities, in the Execution of any Laws now in Force concerning the Militia, as the Colonel, Lieutenant-Colonel, or Major, intended by the said Laws, are invested with: *Provided*, the Number of such Officers, who shall at any Time act, or execute any Part of the same Laws, be the same as is directed for such Purposes, by the said Laws." The last enacting Clause, in Page 25 of the Laws of that Session, is in these Words; "That the Captain, Lieutenants, and Ensign, or any two of them, shall have the same Powers and Authorities to execute this, or any other of the Laws now in Force within this Province, relating to the Militia thereof, in and over their Company or Companies, in as full and ample Manner, as the Colonel, Lieutenant-Colonel, or Majors, or any two of them, can or may do, in and over their respective Regiments, Troops, or Companies, by Virtue of this or any other Law now in Force." The last enacting Clause, in Page 27, stands thus; "And whereas there is not any Exemption, by the Laws now in Force, of any Member of his Lordship's Council, and of the Upper House of Assembly; *Be it therefore enacted by the Authority aforesaid, by and with the Advice and Consent aforesaid*, That no such Member shall be obliged to serve in the Militia, or be enrolled or enlisted in any Regiment, Troop, or Company thereof; any Law to the contrary notwithstanding." These are all the Places of that Law in 1732, which we can find in any way referring to any former Militia Law whatever; and we think are so worded, as not to refer to any particular Law, but generally to "such as are now in Force within this Province, relating to the Militia thereof." From which Manner of Wording it is plain, that the Legislature only intended this as a Supplementary Law to such Laws relating to the Militia, as were at the Time of the making thereof actually in Force, and to none other; and if those Laws of 1715 and 1722 were, long before the making of this, expired, as we hope is by the former Part of this Address to your Excellency sufficiently made out, then we clearly think this latter Law can be no Supplementary Law to them: Nor can we think your Excellency's Part of this Question is in any Manner strengthened by the Title to this Law of 1732; for besides that we conceive the Title to a Law is no Part of that Law, yet admit it were, it must be construed consistently with the different Parts of the Body of the Law itself; and then it will stand thus, "A Supplementary Act to such Act for the ordering and regulating the Militia of this Province, for the better Defence and Security thereof, as is now in Force," and leaves the Matter as before; and there being no former Militia Law in Force at the Time of making this last Act, it cannot be a Supplementary Law to one having no Being: And we must beg Leave to observe, that we cannot "find that the legislative Power then (that is in the Year 1732) did not think the Act of 1715 was expired, but on the contrary looked upon it to be as it really is, a perpetual Law."