

same Reason subsisting in our Case, as well as the Difficulty in turning to old Journals, on a sudden Occasion, will excuse it.

The Allowances claimed by the Council, and by their Clerk, stood upon different Grounds; the former were provided for by an *express* Law, and the latter upon the *same* Principle that the Allowances to the Clerks of the Two Houses, and of their Committees. When the Provision made for the Members of the Council, by Act of Assembly, ceased, then the Practice began of giving them Allowances in the Journal for their Attendance: It was what the Council thought they were in Equity entitled to, and what the Lower House, in the Year 1736, agreed they should receive, after that Time; but this Agreement, tho' accompanied with the plainest Assurances, not being established by a positive Law, was afterwards held not to be Binding; and, after many Contests, and on Consideration of the Inconvenience arising from them, the Council consented, that no Claim of Allowance, on *their* Behalf, should any longer obstruct the Payment of other Public Creditors; but, tho' they gave up their own Claim, they firmly asserted the Right of *their* Clerk, and the Lower House admitted it. Besides, that the Attendance of any Member of the Council is not so strictly requisite as to interfere with his other Affairs, his acting in an honorary Office, and having a Share in the Government, evidently distinguish his Case from that of a Clerk, who could have no other Inducement, than the Gains of it, to desire an Appointment.

In 1753, the Proceedings in 1736 were referred to, and, upon Inspection, we find, that, tho' the Allowance of the Members of the Council was controverted, yet *no* Objection to the Clerk's Salary was intimated, so that your Inference, that they were considered in the *same* Light, is not admissible. As to the Occurrences in 1750, 1751, and 1752, this general Remark may be applied to *all* of them, that there were *other* Claims *not* inserted in the Journals, as well as the Clerk's, which have been *always* since admitted, and are inserted in the *present* Journal; and, after all, the Fact turns out to be incontestable, that the Clerk of the Council's Salary hath *always* been allowed in *every* Journal that hath received the Assent of the Legislature, to this Time.

Your Message of the 17th Instant, coming to us in the Evening, and the Reading of it not having been finished 'till about 8 o'Clock in the Night, we have not Time to discuss so fully, as the Nature of the Subject requires, the Topics relative to the 12 *d.* per Hoghead, Tonnage, &c, and especially as your Impatience, for Reasons we admit to be very pressing, and are extremely sorry have occurred, is so very excusable.

We conceive that Lord *Baltimore* is clearly entitled to the 12 *d.* per Hoghead, without being liable to render any Account of his Application of the Revenue arising therefrom, because, by a perpetual Act, now in full Force, that Impost is given for the Support of Government.

We apprehend the Law to be Perpetual, because the Time for its Duration is unlimited, as well as the Subject of it, and that his Lordship is entitled to receive the Revenue, because he is Hereditary Governor, and that as well the Meaning of the Terms, *Support of Government*, as the Construction always put upon *them*, whilst the Government of this Province was administered by Governors appointed immediately by the Crown shew, that the Revenue belonged to the Governor, without rendering an Account of any particular Application. The King's Governor Mr. *Copley*, received Money granted for the Support of Government, by a Law which passed while Lord *Baltimore* administered it.

We conceive, that when Grants have been made for the Support of Government without any further Explanation, the Terms have always been understood to mean Support of the Governor, and therefore, your Imagination that the Clerk ought to be paid out of it, is without Foundation; and contemporary Exposition, as well as uniform subsequent Usage, is a clear Answer to your Objection. During the Time this Government was administered by a Governor appointed by King *William*, no Account was ever rendered, or called for, in reference to the Application of Monies generally granted for the Support of Government; a Circumstance which, without Doubt, will have particular Weight with you, who appear to be so well satisfied that Glorious Prince would not have suffered any Misapplication of Public Monies. The Queries you have been pleased to put, are Answered by what we have observed.

We urged it as a *conclusive* Argument, that the Clerk of the Council *never* was intended to be paid out of the Monies granted for the Support of Government, because, from the first Settlement of this Province, to the last Journal that passed, he had always been provided for in *another* Manner; and, in order to elude the Force of this Proof, you alledge, that the several Revenue Bills which passed between the Year 1704, and Lord *Baltimore's* receiving the 12 *d.* prove the Expiration of the Act of 1704, as properly as the constant Allowance of the Clerk's Salary in the Journal doth, that it was not intended to provide for him out of the Monies granted for the Support of Government. We perceive nothing like a Conclusion in this Part of your Message; but, lest we should have overlooked, what might be discovered on a closer Examination, it may be proper to observe that, in Consideration the temporary Revenue Laws, from 1715 to 1733, you allude to, had provided an higher Revenue than the Act of 1704, in consequence of the Enlargement of Tobacco Hogheads, the Act of 1704 was, during that Period, suspended; but these temporary Acts having expired, the Suspension of the perpetual Act of 1704 ceased, and therefore, since the Removal of the Suspension, the Act resuming its original Operation, the Duty hath always been received under it to this Time.

A regular Deduction, and Detail, from the first Settlement of this Province, of the Revenues successively granted for Support of Government, and the Application of them, the present Oc-