

by the late Inspection Law were limited and allowed, under Pain of your Displeasure, that greater Fees were excessive; and from your own Reasoning in your Message before mentioned, "a Right to determine the Charges of Fees excessive, implies the Right to settle the exact Compensation 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:" Or if greater Fees are not excessive, you have attempted by your Proclamation, illegally to restrain the Officers from charging so much as they might rightfully charge, and thereby broke in upon the Right of the Subject, and "to which every Subject (whether in or out of Office) is as well entitled as any," and the heavy Pain of your Displeasure may be incurred by those who commit no Offence.

Having, as we hope, evinced to your Excellency's entire Satisfaction, that the Land-Office is not a mere private, but a publick Office, in which the Subjects here have a fixed and legal Interest; and stripping your Excellency's Proclamation of the offensive Reason for issuing it, that it stands in its Intention and Construction as an implied affirmative Allowance for the charging of Officers Fees agreeable to the late Regulation. Permit us, Sir, to lay before you some of the Grounds and Reasons which induce us to think your Excellency has attempted to exercise the Power which can be constitutionally exercised only by the Legislature. By the common Law, the Officers of Justice were not entitled to any Reward from the Subject for their Services; they were originally paid by the King out of the Crown Revenues. In Process of Time Statutes were made for the Establishment and Regulation of Fees: But in our Researches we do not find a single Instance of any Proclamation for levying the Salaries or ascertaining the Fees of Officers.

Property, in the very Nature of it, is an exclusive Right: Under this Idea our happy Constitution, anterior to any Statute extant, equitably and justly provided, that the People only should be capable of giving their own Property; and therefore no Tax could be imposed upon them but with their own Consent, given personally or by their Representatives. This Principle of the English Constitution hath been declared, confirmed and secured by divers Statutes; One of them, that of the 34th of Edward the First, *De Tallagio non concedendo*, permit us to mention. On which Statute Lord Coke, in his Second Institute, 532, 3, 4, observes, "That *Tallagium* is a general Word, and doth include all Subsidies, Taxes, Tenths, Fifteenths, Impositions and other Burthens, or charge put or set upon any Man: That within this Act "are all new Offices erected with new Fees, or old Offices with new Fees, for that is a Tallage "put upon the Subject, which cannot be done without common Assent by Act of Parliament: "That the Words of this Act are general, so as all Tallages, Burthens or Charges put upon the "Subject by the King, either to or for the King, or to or for any Subject by the King's Letters "Patents, or other Commandment or Order, is prohibited by this Act, unless it be by com- "mon Consent of Parliament: That the Words are in the Disjunctive (*ponatur seu levetur*) so "as if it be set by the King, although it be not levied by him, but by a Subject, as it was in the "Cases aforesaid, it is within the Purview of this Statute." We find nothing to impeach the Authority of Lord Coke; but on the contrary, he is cited with Approbation by the late Writers upon that Subject. From these Authorities we think ourselves well justified in asserting that the Fees of Office are a Tax upon the Subject. The good People of this Province are undoubtedly entitled, as English Subjects, to all the Rights, Liberties, Privileges and Immunities of his Majesty's liege Subjects, born and residing within his Kingdom of England, and therefore need not recur to the royal Charter of this Province, for the Establishment of their Rights, Liberties and Privileges: But had your Excellency and the Council adverted to it, we apprehend the 7th Section of the Charter, which grants to *Cacilius*, Baron of *Baltimore*, and his Heirs, for the good and happy Government of this Province, free, full and absolute Power "to ordain, make and enact Laws of what Kind soever, according to their "sound Discretion, whether relating to the publick State of the Province or the private Utility "of Individuals, of and with the Advice, Assint and Approbation of the Freemen of the same Province, "or of the greater Part of them, or of their Delegates or Deputies, whom we will shall be called to- "gether for the framing of Laws when and as often as Need shall require, by the aforesaid now "Baron of *Baltimore* and his Heirs, and in the Form, &c." would have most clearly pointed out a Necessity for the Consent of the Delegates to this, or any other Legislative Act: And the Eighth Section, which follows, "And forasmuch as in the Government of so great a Province, "sudden Accidents may frequently happen, to which it will be necessary to apply a Remedy, "before the Freeholders of the said Province, their Delegates or Deputies, can be called toge- "ther, for the framing of Laws; neither will it be fit, that so great a Number of People "should immediately, on such emergent Occasion, be called together: We therefore, for the "better Government of so great a Province, do will and ordain, and by these Presents for us, "our Heirs and Successors, do grant unto the said now Baron of *Baltimore*, and to his Heirs, "that the aforesaid now Baron of *Baltimore*, and his Heirs, by themselves, or by their Ma- "gistrates and Officers thereunto duly to be constituted as aforesaid, may, and can make and "constitute fit and wholesome Ordinances, from Time to Time to be kept and observed, with- "in the Province aforesaid, as well for the Conservation of the Peace, as for the better Go- "vernment of the People inhabiting therein, and publickly to notify the same to all Persons "whom the same in any wise do or may affect. Which Ordinances we will to be inviolably ob- "served within the said Province, under the Pains to be expressed in the same; so that the said "Ordinances be consonant to Reason, and be not repugnant nor contrary, but (so far as con- "veniently may be done) agreeable to the Laws, Statutes or Rights of our Kingdom of Eng- "land; and so that the same Ordinances, do not in any Sort extend to oblige, bind, charge, or take "away, the Right or Interest of any Person or Persons, of, or in Member, Life, Freehold,