

“Goods or Chattels,” would most certainly, as it was designed, have had the Force of a Prohibition against this Exercise of an unwarranted Power.

We find in the Lower House Journal of *May Session 1692*, the following Entries: “Voted by the House, *Nemine contradicente*, that it is the undoubted Right of the Freemen of this Province, not to have any Fees imposed upon them but by the Consent of the Freemen in a General Assembly.

“Mr. Speaker, with the rest of the Members appointed, go up to the Council-Chamber upon the Conference appointed Saturday last, where they were admitted.

“Mr. Speaker acquaints his Excellency, that he was appointed by the House, with several other Gentlemen, to attend their Honours to give them Satisfaction in Relation to the Message sent them on Saturday, and as to the greatest Part of the said Message he was ready to comply with their Honours therein: But as to that Part relating to Officers Fees, that the House had given him a Charge to acquaint their Honours, that they had fully searched into that Matter, and understanding all Things pertinent to that Question, have unanimously declared, that it is the undoubted Right of the Freemen of this Province, that no Officers Fees ought to be imposed upon them, but by the Consent of the Representatives in an Assembly, and that this Liberty was established and ascertained by several Acts of Parliament, the Authority of which is so great, as to receive no Answer but by Repetition of the said Statutes, and produced the same with several other Authorities; to which the Governor’s Answer was, that his Instructions from his Majesty was to *lessen* and *moderate* the Exorbitancy of them, and not to *settle* them; to which Mr. Speaker replied, that they were thankful to his Majesty for the same, but withal desired, that no Fees might be *lessened* or *advanced*, but by the Consent of the Assembly, to which the Governor agreed.” And among the Acts passed that Session, we find one, entitled, “An Act for Limitation of Officers Fees;” and one, entitled, “An Act for limiting the County Clerks Fees within this Province,” which regulated and established the Fees of Officers. These solemn and deliberate Proceedings, was the Case otherwise doubtful, would, we apprehend, be decisive. Permit us to entreat your Excellency, to review this unconstitutional Assumption of Power, and consider its pernicious Consequences. Applications to the publick Offices are not of *Choice*, but *Necessity*. Redress cannot be had for the smallest or most atrocious Injuries, but in the Courts of Justice: And as surely as that Necessity does exist, and a binding Force in the Proclamation or the Regulation of Fees in the Land-Office be admitted, so certainly must the Fees thereby established be paid, in Order to obtain Redress. In the Sentiments of a much approved and admired Writer, suppose the Fees imposed by this Proclamation, could be paid by the good People of this Province, with the utmost Ease, and that they were the most exactly proportioned to the Value of the Officers Services, yet even in such a supposed Case, this Proclamation ought to be regarded with Abhorrence; for who are a free People? Not *those* over whom Government is reasonably and equitably exercised, but *those* who live under a Government so constitutionally checked and controuled, that proper Provision is made against its being *otherwise exercised*. This Act of Power is founded on the Destruction of this constitutional Security; if Prerogative may rightfully regulate the Fees agreeable to the late Inspection Law, it has a *Right* to fix any other Quantums; if it has a *Right* to regulate to one *Penny*, it has a *Right* to regulate to a Million; for where does its *Right* stop? At any given Point? To attempt to limit its *Right*, after granting it to exist at all, is as contrary to Reason, as granting it to exist at all is contrary to Justice: If it has any *Right* to tax us, then whether our own Money shall continue in our own Pockets, or not, depends no longer on us, but on the Prerogative; there is Nothing which we can call our own; and in the Words of a Light and Ornament of the present Age, “My Position is this—I repeat it again—I will maintain it to my last Hour—Taxation and Representation are inseparable—This Position is founded on the Laws of Nature; it is more, it is itself an eternal Law of Nature; for whatever is a Man’s own, is absolutely his own, no Man hath a *Right* to take it from him, without his Consent, either expressed by himself or his Representative; whoever *attempts* to do it, attempts an *Injury*; whoever *does* it, commits a *Robbery*: He throws down the Distinction between Liberty and Slavery.” “The Forefathers of the *Americans* did not leave their native Country, and subject themselves to every Danger and Distress, to be reduced to a State of Slavery. They did not give up their Rights; for should the *present Power* continue, there is Nothing which they can call their own:” Or in the Words of Mr. *Locke*, “*What Property* have they in that which *another* may by *Right* take when he pleases, to himself?”

When we reflect, Sir, that you came to this Government with every Motive to wish the Prosperity of the Province; when we reflect, that you have omitted no Opportunity of declaring an Attachment to the Constitution, and a Regard for the Rights and Liberties of the Inhabitants; and that you have repeatedly expressed a Willingness to concur in Regulations tending to advance this Country, we are desirous of indulging the fond Hope, that you have not the least Inclination to unite the *Legislative* and *Executive* Authorities, “the Will to ordain and the Power to enforce it in the *same Person*, as thereby a Tyranny would be established;” and though your Excellency, with the Advice of his Lordship’s Council of State, issued the Proclamation, and also passed the Instrument under the Great Seal establishing the Fees in the Land-Office, after having been put on your Guard by the late Lower House, who had strongly objected against a Continuance of the late Regulation of Fees, not only because it was in some Particulars exorbitant, but for that, too many great Abuses had been committed by the Officers in their Charges, which could be palliated only from the Doubtfulness of the Expression in the Tables, and therefore submitted to the Loss of an incontrovertibly useful Regulation of the Staple of Tobacco; and after too, your Excellency in your said Message told the late Lower House, that

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