By the UPPER HOUSE of ASSEMBLY, *December* 18, 1769.

GENTLEMEN,

THE apparent Object of the Bill for iſſuing Writs of Replevin out of the County Courts of this Province, is a ſpeedy Remedy to Perſons living at a Diſtance from the Chancery, and this Object, you muſt acknowledge, would be as effectually obtained with, as without our Amendment.

As the Eaſe and Convenience of the People, ariſing from the ſpeedy Remedy, were really conſulted, ſo we flattered ourſelves that the Proviſion would not fail becauſe the Profits of the Seals were not allowed to be diminiſhed. Had we attempted not to guard againſt the Abolition of an old Eſtabliſhment, but to introduce a new Fee to the Chancellor upon Writs of Replevin, the Expreſſions in your Meſſage "paying a Fine under the Name of a Fee, for the facile obtaining "of Juſtice" would have been more proper; and it appears to us not a little extraordinary, that a Bill, profeſſedly calculated for the Relief of the People, ſhould be laid aſide becauſe the Chancellor is not to pay for it.

The Convenience to the People from the intended Law you ſuppoſed would be great, and the Loſs to the Seals trifling; if the Loſs of the Fees would be trifling to the Chancellor, the Payment of them would be trifling indeed to the whole Province; but the Principle of the Regulation gives the Alarm.

We are inclined to believe, that his Excellency the Governor is, merely in Reſpect of his Perſonal Advantage, very little ſolicitous about the Income from the Seals in this Inſtance; but that is not the Conſideration; for the Office of Chancellor, in this Province, is entirely ſupported by the Profits from the Seals to Patents, Writs, and to other Proceſs; and he may well think it his Duty to preſerve them unimpaired, and not to ſubmit to any Attack upon them in one Inſtance; which proving ſucceſsful, might countenance it on other Occaſions, when the Pretence of public Convenience might be aſſumed to cover the Deſign of ſtriking at the Support of a Conſtitutional important Office.

The Support of the Chancellor in *England* doth not depend upon Fees for the Seals to Writs and other Proceſs; and their ſeems to us to be as little Reaſon to deprive the Chancellor here, of any Part of the Proviſion eſtabliſhed for his Support, becauſe the Chancellor of *England* has it not, as on the other Hand could be advanced upon a Demand of a Proviſion here on the Ground, that the Chancellor of *England* has it there.

It is very true, that by the Statute of *Marlebridge* in the Caſe of Diſtreſs, the Sheriff, on Plaint, may make Replevin, to be entered in the petty County Court, incident to his Juriſdiction; but as where he proceeds upon Writ of Replevin which iſſues out of Chancery on any Conteſt between the Parties, the Cauſe is generally removed by another Writ out of Chancery to Weſtminſter-Hall; ſo in the Caſe of a Plaint under the Statute, the Removal to Weſtminſter by Writ of *Recordare* out of Chancery, generally happens when the Cauſe of the Replevin is diſputed; and if the Perſon out of whoſe Poſſeſſion a Chattel is to be taken by the Replevin, claims Property in it, the Sheriff is ſtopped from further Proceeding, 'til the Writ *De Proprietate Probandâ* is purchaſed. On what has been ſuggeſted, and conſidering what would be the Operation of the Bill, if paſſed into a Law without our Amendment, it appears to us, that the Chancellor here, would be totally deprived of the Profit from the Seals, though on every Writ of Replevin in *England*, the Seal is uſed at leaſt once, frequently more than once; and on Plaints, in Purſuance of the Statute of *Marlebridge*, the Seal is always requiſite on the Removal thereof; for notwithſtanding a Proviſion is made in the preſent Bill, for the Removal of Replevins from the County Courts; yet they being Courts of Record, the Removal would not be by Writ out of the Chancery; and if Regard is to be had to the Practice in *England*, and an Objection is valid, when ſuch Regard is not ſhewn, permit us to obſerve, that no Writ ever iſſues out of the County Court, or any other inferior Court in *England*, returnable to a Superior; and yet by the preſent Bill, Replevins out of a County Court may be returnable into the Provincial, which, on a further Conſideration, in Conſequence of your Imitation that the Conſtitution of our Courts ought to be as perfect as poſſible, we think wou'd be rather incongrueus, and might be very inconvenient.

You are pleaſed to obſerve in your Meſſage, that Replevins are generally proſecuted by needy Tenants; but we have been well informed, that they have iſſued in Four Inſtances out of Five, at the leaſt, where there has been no Diſtreſs at all, but upon Conteſts of Property; and therefore (if our Information be true) in Regard to this very extenſive Operation of the Bill, the Fifty-ſecond of *Henry* III does not apply to the Subject.

Signed by Order, U. SCOTT, Cl. Lo. Ho.

The engroſſed Bills, entitled, *An Act to appropriate the Half Acre of Ground therein mentioned to the Uſe of the public School in* Frederick *County.*

A Supplementary Act to the Act, entitled, *An Act aſcertaining the Height of Fences*, &c.

And, an Act for the ſpeedy and effectual Publication of the Laws of this Province, and for the Encouragement of *Anne Catharine Green*, of the City of *Annapolis*, Printer: Read and aſſented to.

Mr.