

Two days later at a Council held, July 28, 1694, Colonel Nicholas Greenberry delivered the Broad Seal to the new Governor "which his Ex^{ncy} was pleased to leave upon the Board with the Gentlemen of the Council to be put in the Custody and Charge of such person as they shall think fit; but upon consideration had it was Agreed upon to be his Ex^{ncies} Right and that the same should be Returned to his Ex^{ncy} again to dispose thereof as seems best to his Ex^{ncy} and thereupon S^r Thomas Lawrence tooke Charge of the same to Redeliver it to his Ex^{ncy} (*Arch. Md.* xx, 126). At a Council held July 30, 1694, the Governor delivered "at the Board, unto the hono^{ble} Coll Henry Jowles, the Broad Seal of the Province to be Keeper thereof; and it being moved by his Ex^{ncy} to know how the Court of Chancery has usually been held in this Province; thereupon M^r Kenelm Cheseldyn was inquired off about the premises, who being asked the question does say that the same Judges which heard & determined Matters at Common Law have generally likewise determined Matters in Equity Ordered thereupon that the Court of Chancery continue to proceed in all respects as formerly, the Judicial part thereof only at present excepted" (*Arch. Md.* xx, 128).

The order that the Chancery continue to proceed in all respects as formerly apparently referred only to the "ordinary" functions of the Chancellor in sealing writs and other instruments. It was soon to develop however, that a change in the personnel of the courts was in contemplation, so that the same judges would not sit in all the higher courts of the Province—i.e. in the Council, Provincial Court and Chancery Court, and that this had been the reason for excepting "the judicial part" of the Chancery from the orders to "proceed in all respects as formerly". It was further ordered at the same session that Greenberry, former Keeper of the Great Seal, had liberty to collect the fees due him for business passed under the Seal from the time of Andros' accession to the present time, and that the Clerk of the Provincial Court give him a list of all such fees due for processes, precepts, commissions, etc., issued out of that office (*Arch. Md.*, xx, 128).

Among the long list of complaints made under date of November 22, 1691, against Lord Baltimore to the Lords of Trade and Plantation by the Protestant Associators, after the Proprietary government was wrested by them from him in 1689, was one that all the judges of common law, Chancery, and Probate courts, and the members of the Upper House, were the selfsame persons and entirely under the domination of the Proprietary (*Arch. Md.*, viii, 219). The evils latent in such a judicial system are only too obvious when it is realized that the same men sitting in the Upper House as the appellate court, also reviewed there the decisions they had previously made below in the Provincial Court, although to their credit it must be said that they not infrequently reversed themselves.

Acting under instructions contained in his commission Nicholson now proceeded to reorganize the higher courts of the Province. At a Council meeting held, September 22, 1694, the attorneys then at St. Mary's City were called into consultation, and at a meeting held on September 28, their recommendations were presented to the Council. The lawyers signing the report were Robert Smith, Kenelm Cheseldyne, Edward Boothby, William Dent, and Philip Clarke.