

ample Authority as is supposed, but Grant it were so yet never: if the Lord Proprietary hath not as yet parted with his particular Authority in that Court for the said Licent. General doth to this day sit in Chancery as chief Judge & all Addresses are made to him & this Council & so was it in Snowe's Case therefore the second Error cannot hold but is so the said Gerrard supposeth superfluous & immaterial

So the third Error the said Gerrard answereth and saith what the D. Snowe doth principally alledge is false & untrue for that the Court was not surpris'd nor did they give their judgments really upon any Evidence produced before them but upon the view of the Records of this Province, & the Comparison of Abel Snowe's Book of acct. & the said Records & Papers by which it did plainly truly & clearly appear that that Recognizance was satisfied in Law as by the Records of that Court may more plainly appear, the Copy of which the said Def. hath here to produce: but grant it were so yet nevertheless Snowe by his mutual Consent & submission to the Arbitration of the Board hath concluded himself in point of Law for no Error will in this Case lye for the Rule is Consensus tollit errorem, & Cook sup: Littleton saith fo. 11 a. 343. 67. a. to this Effect contra negantem principium non est disputandum, Therefore the Def. saith that the Judgment of the said Court as to the dismiss is by the said Snowe falsly & maliciously suggested by him to be erroneous Upon all which he humbly craveth the Judgment of this honorable Assembly & humbly prayeth to be dismissed with his reasonable Cost & damages allowed him

Tho. Nolley Atty to Tho. Gerrard

Whereupon the House considered the two points in that plea to the first Error (viz) first that there was never any recognizance of the said Gerrard given in any Court of Chancery in this Province relating to the said Snowe or others from whom he pretendeth the Right or power

Secondly that the Error is not rightly laid because the Court gave Judgment upon the view of Abel Snowes book of acct. and other Papers whereupon was produced the original recognizance taken before the Rt honorable the Lord Proprietor in England & the Record of it in the Court of Chancery of this Province.

And put to the Question

Whether the Recognizance taken before the Rt honorable the Lord Proprietor in England & certified by him from thence & there entered upon Record in Chancery be a Recognizance in Chancery of this Province as if it were originally acknowledged in this Province

In the Affirmative

In the negative

Edw. Evans

The Chancellor

Mr Henry Coursey

The Lieutenant Governour

Mr Jerome White

Ed. Noyes
Mr Edw. Noyes
Mr Walter Stone