

to the Govern^r & Councill I answer that in my Opinion there Lib. H. D.
is no one parity between an Appeal from the provincially Court
to the Govern^r & Councill & from the Commissary Generall
to a Court of Delegates for that the former is most strictly
tyed vp to the Errors arising out of the Record, without con-
sideration at all of the merit of the matter in question, whereas
vpon the latter they are not only Errors in meere point of
Law & arising out of the Record that are to be called in
question, but likewise the merit of the whole matter wherein
& wherevpon the Sentence of the Commissary was given.

3^{dly} As to the third Quere, whether a Court of Delegates
vpon Appeal from the Commissary on a sentence by him given
may affirm one part of the Sentence & disallow of another.
I am of Opinion that where the sentence consists of severall
parts differing one from another in point of substance as for
Example it may be for Revoking of former Letters of Adm^{con}
& of the disallowance of severall Articles of an Account p. 231
exhibited into the Commissaries Office by the former Adm^r &
of paying Costs which may perhaps be exorbitant that then
& in such case vpon an Appeal before a Court of Delegates,
the said Court may seperate such part of the Sentence as they
think just from such part thereof as they in their Judgm^{ts} &
according to their skill in the Laws think vnjust, and give
their Sentence vpon the whole matter

Which may it please your Ex^{ncy} considering the shortness
of the time & want of books is as much as at present can be
presumed to be Offered by

Yo^r Ex^{ncies} most humble
& most obedient Servant

Charles Carroll

Mr Phil
Clarks
Opinion
touching the
Jurisdiction
of a Court of
Delegates.

In obedience to your Ex^{ncies} Commands in Councill
concerning the Jurisdiction of a Court of Delegates,
and whether they are not obliged to affirm or
Reverse the Sentence of the Commissary brought
before them or whether they can Reverse one part
& affirm the other or whether they can make a Judgm^t of their
own.

In answer thereto I do humbly conceive that whatsoever
doth not properly lye afore the Commissary doth not lye afore
them for tho a Court of Delegates is a Superiour Court yet
cannot take cognizance of any matter that doth not lye in the
Commissaries Court and that as to their Jurisdiction it is the
same and no difference, only that a Court of Delegates is a
Superiour Court.

That as to the Commissaries Court I do humbly conceive it
to be a mixt Court and that the Commissary is obliged to