

Lib. H. D. observe & give Judgm^t according to the severall Acts of Assembly relating to his Office, he is likewise to follow & observe the Civill Law where there is no Maxim of the Common Law or Statute Law against it; And in any case where
 p. 232 the Civill Law or Statutes are silent there he ought to give Judgm^t according to Equity & good conscience provided the same is not against any Law as afores^d and tho the Judge is bound to take Notice of the Law as afores^d in giving his Decree or sentence yet cannot he trye any matter that is properly cognoscible in his Ma^{ty} Courts of Common Law.

That as to a Court of Delegates in Examining a Sentence of the Commissary they either ought to Affirm it or Reverse it, ffor I do humbly conceive there is a difference when a person brings his prohibition to stop some part of the Commissaries sentence in a matter that doth not properly lye afore him, there a destroying part of a Judgm^t doth not destroy the whole because each Court can go no further than their own Jurisdiction but where a person Appeals from the sentence of a Commissary he Appeals from the whole sentence to a Court of the same Jurisdiction, which ought either to affirm or Reverse the s^d Sentence and can give no other Judgm^t

All which is humbly submitted to yo^r Excell
 by Yo^r most humble & obedient
 Servant

Philip Clarke.

Mr Goldes-
 boroughs
 Opinion
 touchin
 the Jurisdic-
 tion of a
 Court of
 Delegates

In obedience to your Excell Commands to know what the Jurisdiction of a Court of Delegates is and whether there does not lye an Obligation on them of either affirming or reversing the Commissaries Sentence &c^a Or whether they can affirm one part of the sentence & let alone another part, and whether they may make a Judgm^t of their own. I Answer That the Jurisdiction of the Court of Delegates is an Ecclesiasticall Jurisdiction, and is of the same nature of the Court of the Bishop or Arch Bishop, that they are a Superiour Court, in as much as they do Examin the sentence which is given in the Ecclesiasticall Court whether it be well given or not.

2: They are obliged either to Affirm or Reverse the sentence given in the Court of the Bishop or Arch Bishop And they cannot divide the Sentence because that they are to Judge vpon the whole, whether good or bad, well given or ill given and to give Judgm^t accordingly.

3: They cannot make any other Judgm^t of their own than whether the first sentence be good or bad, because there is not
 p. 233 any new Matter to be laid before them; but the whole matter