

Information shall be Exhibited or Comenced against any person in any Court to be held within that Province or Territory for or upon Breach or non performance of any of the Acts of Trade and navigation in any case whatsoever the mean or manner of tryal shall be according to the course of Common Law & known Practice of the Courts of Records within that Gov^t by twelve Lawful men of the Neighbourhood to be Summoned and returned by the Sheriff of the County where the Offence is committed Lib. X.

The aforesaid Clause being referred to Geo Plater Esq^r his Majestys Attorney Gen^l & Maj^r William Dent his Majestys Sollicitor General they make Report that they take that clause to be too general illegal & Contrary to the Laws of England for that there were some breaches & offences in Trade that are Cognizable in the Court of Admiralty as all things done on the Sea are regularly & properly Cognizable there, but that that clause by them General terms seems to restrain that Iurisdiction and settle all those matters Tryable in the Courts of Common Law by 12 Men of a Iury

Therefore they conceive that Clause totally unnecessary & illegal & that the severall Offences against Trade should be tryed according to the Statute Laws & Customs of Eng^l^d & the Directions of them Laws either by the common Law or Court of Admiralty according to the nature of the offence & so they take the clause to be that says when any one Iuror or Iudge in the Tryal scruples to take an oath their declaration or attestation shall be Sufficient it is contrary to the common & Statute Laws of England & therefore illegal & void p. 106

His Excellency likewise is pleased to ask the opinion of the Board & the Gentlemen here present who do severally say that they do approve of & concur with the opinion of his Majestys Lawyers.

And that if that practice should be continued & allowed of there, it will much prejudice his Majesty Service in giving so much liberty there, & will be the occasion to have all false & illegal Traders resort thither & if that Law should stand in force the Traders in that Province will have that Liberty which we here & other his Majestys Plantations &c^a are precluded of & occasion Decay in Trade here

August the 7th 1698

Council Sate

Present

His Excellency the Gov^r

the honble {
Cott^o Henry Iowles Chancellor }
Major Iohn Hammond }
Captain Richard Hill }