

The portion of their report recommending certain changes in the Court of Chancery and in the matter of appeals is in the form of question and answer, and runs as follows:

“What will be the best Methode or Manner for constituting a Court of Chancery or Equity in this province according to the constitutions of the same.

“Wee Say that because you have power & Authority to constitute Erect and establish such & so many Courts of Judicature & public Justice &c^a as to you shall seem convenient &c^a You may constitute a particular Court of Equity in this province. But then for the Hon^r of the Gover^r & Council it would be Necessary to declare by a Law that any person expecting to be relieved by Equity shall lay hold of the same by Injunction or otherwise before the Matter in Law by Appeale or Error be laid before the sd Gover^r & Council and not after or else you may procure a Law to be made declareing the Gover^r & Council to be Judges in Equity wth in this province when the matter shall in a regular equitable way be brought before them by Subp^{en} Injunction or Petition and not otherwise And this wee say because wee are not Unanimously Agreed w^{ch} of the Two is most Agreeable to the Current of Law and constitution of this province And wee humbly signifye that Wee take it to be Against the Current and the Meaning of the Law and incongruous of it Self to have the Same persons Judges in the Prov^l Court as also Judges in Council for the Motion of Appealing or Writts of Error is to except Against the Judgm^{ts} of these Judges that gives Judgm^t & Appeale to other Judges in a Superior Court w^{ch} plainly Supposes different p^rsons this is our present Opinion of the Matters abovesaid to w^{ch} wth Submission to better Judgments wee Subscribe” (*Arch. Md.*, xx, 135-136).

The Governor and Council then proceeded with their plan of reorganization of the Provincial Court and of the Court of Chancery, and with the establishment of separate special sittings of the Governor and Council as a Court of Appeals, to supplant the current practice of the members of the Council hearing appeals in the Upper House of Assembly. Under the old system the Governor and Council had sat as the Provincial Court to hear law cases, as the Court of Chancery to pass upon equity cases, and as the Upper House to hear appeals from the Provincial Court. Under the reorganization, the Governor and Council sitting as the new Court of Appeals were to hear cases on appeal from the Provincial Court. The latter as now reconstructed no longer had sitting on it members of the Council, and its membership was increased to eleven. The Court of Chancery was reduced in number to three, and the Chancellor who presided was the only member of the Council represented upon it. Legislation was then passed at the October 1694 session of the Assembly limiting and regulating appeals from the Provincial Court to the Court of Appeals. The same act also permitted under limited conditions appeals from the Court of Chancery to the newly organized Court of Appeals in decrees in suits to relieve of judgements at law. Appeals from decrees in Chancery to the Upper House in the past had rarely been allowed. The Act of 1694 contains the following clauses relating to appeals from Chancery decrees:

“And be it further Enacted by the authority aforesaid that all and every person or persons whatsoever shall conceive him or themselves relievable in