Upper House, possibly from a greater attendance. That, however, there was an incongruity in appeals from a group of judges to themselves under another name did not escape the lawyers of the province, as they declared in an opinion to the Governor and Council late in the century.

In some of the mid-seventeenth century records the Governor and Council, or Upper House, when so engaged in hearing appeals, were described as sitting as a "Court of Appeals",[12] but the term was merely descriptive and was not an official title. The word "court" then, and for more than a century longer, was used in its older and broader meaning of any meeting or assemblage.

In 1681, as has been noticed, a question of the continuation of this earlier seventeenth century appellate practice came up for discussion in the Upper House.[13] On November 5 of that year, the House, reciting that several writs of error upon judgments in the Provincial Court, and returnable in the Upper House, were pending, but were not legally brought before the House according to the manner of bringing writs of error in Parliament, and considering that there was:

> no law in this province yet made directing how and in what manner writs of error shall be brought in Assembly against the judgment of the Provincial Court, and there being no Statute of Jeofails yet made in this province, and the last Statute of Jeofails made in England[14] not altogether remedying all errors and things necessary to be remedied in this province, and the words in the said act (not being against the right of the nature

12. Thomas, Chronicles of Colonial Md., 143.

13. Archives, Proc. Assembly, 1678 to 1683, 224.

14. 16 and 17 Charles II, c. 7 and 8. The statutes of jeofails contained provisions for amending or ignoring omissions or defects in proceedings. See Holdsworth, I, 223 and note 5.