

And we shall not doubt but a many Courts of Judicature in this Province  
 as to you shall be convenient & you may constitute a particular Court of Equity  
 in this Province but then for the Honour of the Governour and Council it would be  
 necessary to declare by a Law that in any Cause respecting to be Relieved by Equity  
 shall lay hold of the same by Injunction or otherwise before the matter is Law  
 by Appeal or Error be laid before the said Governour and Council and not after  
 as doe you may procure a Law to be made declaring the Governour and Council to be  
 Judges in Equity within this Province when the matter shall in a regular Equi-  
 table way be brought before them by Subpoena Injunction or Petition and not  
 otherwise and this necessary because we are not Unanimously agreed which of the  
 Two is most agreeable to the Current of Law and Constitution of this Province

And we humbly signify that we take it to be against the Current & Intent  
 of the Law and Incongruous of itself to have the same Persons Judges in the Provin-  
 cial Court and also Judges in Council for the Notion of Appealing or writs of Error  
 is to except against the Judgment of them Judges that gives Judgment and  
 Appeal to other Judges in a Superior Court which plainly supposes different  
 Persons

This our present Opinion of the matters aforesaid to which with Submis-  
 sion to better Judgments we subscribe

Sept 26 1694

Your Excellency's most humble & faithful Serv<sup>ts</sup>

- Robert Smith
- Nielm Cheseldyn
- George Plater
- Edw Boothbye
- William Dent
- Philip Clarke

Referred to be Reheard again to morrow morning  
 Adjourn till to morrow Morning  
 Friday September 28 1694

Council Met and sat and were Present as before

The Answer and Opinions of the Attorneys last night referred taken into  
 Consideration and Ordered to be sent down to the House of Burgesses  
 That in the third Proposall made to the House by this Board 25 September  
 last relating to County Courts the Justice shall be Obliged to send out his Summons  
 or warrant to the party asking the same and that there be a certain fee settled by  
 the Justice making out such warrant or Summons as is another fee for making  
 up the Record and returning it to the County Court and that another fee be settled  
 upon the Clerk of the County for Entering the same in the County Record for