

long this Sessions of Assembly, creates most unhappy Misunderstandings between the Two Houses, and impose a very great Charge on our Country: To avoid which, on our parts, we shall wave all those indecent Reflections you have most unjustly cast upon us in your last Message, above mentioned, and confine our selves to the Business now before us. In order thereto, we insist that the word *Reasonable*, as it stands in the Oath proposed by our House, or some such Expression, is highly necessary, otherwise the Judges would have no discretionary Liberty to consider what *Statutes of England* are, or ought to be, in force here, but would be obliged by their Oaths to give Judgment according to the *Statutes of England*, whether Located or otherwise; and in this Opinion, the Judges who are Members of our House, Concur; therefore we cannot consent that the Oath proposed by Mr. Attorney General, should be imposed upon the several Judges within this Province.

*Sign'd per Order, S. S. Cl. Up. Ho.*

In Answer whereto the following Message is prepared, *viz.*

By the Lower House of Assembly, *November the 3d 1724.*

*May it please your Honours;*

*Lower House Sur-  
veys about  
Judges Oath.*

**W**E should think our selves very easy in the Dispatch of the publick Business, and the Discharge of our Duty, if your Honours were pleased your selves to observe the many good Rules you recommend to us; nay, would your Honours but be pleased to observe your Message of the 22d past, by Col. *H.* and Col. *T.* how warmly you Argue against the unreasonableness of that Arbitrary Power in the Judges, which by your Message this Day by Esq; *H.* and Col. *A.* you now contend for. We hope, you would not think it unreasonable for us to insist upon, nor again to repeat the necessity of using the Form of the Oath, by Mr. Attorney laid before you, since you seem not hitherto to have taken Notice of the Reasons for it, as they are mentioned in our former Messages, to wit,

*That the Judges being sworn to Judge according to the Laws of England, and the usage of the Province, will be thereby obliged to Judge no otherwise according to the Laws of England, than is agreeable to the usage of this Province, which has always been, as our Resolves Express it, according to the Common Law, and such Statutes as are not retain'd by Words of Local Limitation in them.*

And if your Honours insist on the alteration you propose, we must declare it to our Country, as an essential Deviation from the Judicature always hitherto used, and such an innovation as is intirely inconsistent with the preservation of our Rights and Liberties, and tending to the Subversion of our Constitution; we therefore pray your Honours, not to continue this Argument longer, but to conclude this Sessions in such Manner as you intend it shall appear to Posterity.

*Sign'd per Order, M. J. Cl. Lo. Ho.*

Which was sent to the Upper House by Mr. *T.* and Col. *W.* They return, and say, they delivered it.

Col. *T.* from the Upper House, delivers Mr. Speaker the following Message, *viz.*

By