

402 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1733.

should be reversed, and Burke's cross appeal dismissed for non-prosecution with 10*l.* sterling costs. On 12 Dec., 1725, Toller exhibited a libel against the vessel in the Admiralty Court of Antigua; Burke on behalf of Peter Papillon and other merchants of Boston, claimed the sloop; on 23 Jan., 1730, she was condemned with tackle, furniture, apparel, ammunition, and such portions of the cargo as had been libelled against as piratical goods, subject to restitution when the rightful owners made their property appear; all other goods on board were to be delivered to Burke, unless libelled against within one month: Burke, on behalf of the claimants, appealed not to the High Court of Admiralty of Great Britain, but to the Lieutenant General and Council at Antigua, who confirmed the forfeiture, but decreed that whatever part of the cargo was not proved to be piratically taken belonged to the owners of the sloop and ordered that it should be restored to them. From this decision, Burke on behalf of the Boston merchants claiming the sloop and goods, and Toller, the captor, both appealed to the Council.]

[p. 430.]

(1734.)

11 April.

[Order accordingly.]

[p. 454.]

20 Dec.

Rhode
Island.

[293.] [Reference to the Committee for Appeals of the petition of Joseph Torrey of South Kingstown, King's County, R.I., clerk, for a short day for hearing his appeal from a judgment of the Superior Court at Newport, the last Tuesday in March, 1733, confirming a judgment of the Inferior Court of Common Pleas, the last Tuesday in June, 1732, in favour of George Mumford upon an action of trespass and ejectment brought against him by Torrey to recover possession of 280 acres of land—part of 300 acres assigned for the use of an orthodox minister.]

(1734.)

[pp. 281, 489, 504.]

16 July.

[Committee report. The petition sets forth] that John Hull and several others being of the Denomination of Christians called Presbyterians heretofore of the said Colony being Seized in Fee of a Large Tract of Land called the Petaquam-sent purchase lying in the said Colony at a Meeting by them

held at Newport the 4th of June 1668 agreed that a Tract of three hundred Acres of the best land in a convenient Place in the said Petaquamset purchase should be laid out and for ever set apart as an Encouragement the income and Improvement thereof wholly for a Person in their Sentiments Orthodox that should be Obtained to preach Gods word to the Inhabitants and that three hundred Acres of Land were accordingly laid out and allotted to and for the use of the Ministry and the same was entered upon Record in December 1679 in these For the Ministry three hundred Acres That afterwards at a meeting of the Proprietors of the said Purchase held in 1692 for the further Settling and Confirming the said Lands so laid out and allowed as aforesaid it was agreed and Ordered by the said Proprietors that Mr. John Smith Surveyor should enter upon the Original plat of the said Purchased Lands in the Ministry Lott the word Ministry, that the same might be thereby distinguish'd from other Lands laid down in the said Plat and be the better Known and ascertained That the said three hundred Acres of Land being thus set apart for the use of the Presbyterian Ministry in the Year 1702 the Reverend Mr. Samuel Miles of the Presbyterian Perswasion was chosen by the People of Kingstown to preach the Gospell among them who upon his entring into the said Office was put into the Possession of two hundred and eighty Acres part of the said three hundred Acres of the said Ministerial Land and held and enjoyed the same and received the Rents and Profitts thereof for Severall Years That the said Samuel Miles in 1714 removing from Kings Town entered into an Agreement to Lease the same to one James Bundy who executed a Bond to redeliver possession of said Land to the said Samuel Miles or any other person entrusted with his Interest therein That Mr. Samuel Miles having left Kingstown the Petitioner who is an Orthodox Minister according to Law and to the Method and usage of Presbyterians was on the 17th of May 1732 duly Settled and Ordained to preach Gods word to the Inhabitants of South

1733.

Kingstown aforesaid Whereby the Petitioner became Entitled to Enter into and take possession of the said Land and to hold and Enjoy the same that so he might according to the true intent of the said Agreement receive and have the Income and profits thereof, during his Continuance and performance of the said Ministeriall Office in that place in the same manner as Miles his prediceessor had done before him. [George Mumford having got possession of the said tract of land refused to give it up, whereupon on 30 May, 1732, the petitioner brought an action of trespass and ejectment in the Inferior Court of Common Pleas. On the last Tuesday in June, 1732, a verdict was found in favour of Mumford, from which the petitioner appealed to the Superior Court, which on the first Tuesday of September, 1732, found a special verdict,] That if the Court should be of Opinion that the Petitioner was an Orthodox Minister according to Law, then they found for the Petitioner the Land sued for and Costs of Court if not they found for the Appellee a Confirmation of the said former Judgment and Costs of Court upon which Verdict the Court Afterwards, on the last Tuesday in March 1733, adjudged that the Petitioner was not an Orthodox Minister according to Law, and therefore confirmed the former Judgment for the said Mumford and condemned the Petitioner in Costs, That at the time of giving the said Last Judgment four of the Judges who tryed the said Cause Dissented from the rest of the Bench and entred such their Dissent in form. [The Committee recommend] that both the said Judgments be reverst and that the Appellant be put into possession of the Lands in Question. [pp. 527-9.]

18 July. [Order accordingly.] [p. 537.]

20 Dec. [294.] [Reference to the Committee for Appeals of the petition
Antigua. of Giles Watkins, Esq., of Antigua, and his wife, Elizabeth, daughter of John Morris, sen., deceased, that the appeal of Thomas Morris from a Chancery decree of 13 Jan., 1732, may be dismissed for non-prosecution.] [p. 281.]