

1734.

Costs—That the Petitioner Appealed from the said Judgment And his Appeale came on to be heard before the Superior Court of Judicature at their Sittings begun the 14 day of August 1733 when the said Superior Court gave Judgment that the said Jonathan Thomas Edward and Ann as Executors of the said Jonathan Waldoe deceased, should recover against the Petitioner Possession of the Premises sued for with 16*l.* 8*s.* 0*d.* Costs unless the Petitioner should pay them 320*l.* within two Months after entring up the said Judgment with Costs That the Petitioner moved for an Appeale from the said last Judgment to Your Majesty in Council, which the said Court refused him . . .

[IV. *pp.* 120–1.]

3 April.

[Order accordingly.]

[*p.* 145.]7 Nov.  
Massachu-  
setts Bay.

[322.] [Reference to the Committee for Appeals of the petition of Gillam Philips of Boston, son and heir of Henry Philips of Boston, gent., deceased, for leave to appeal from an order of the Governor and Council of Massachusetts Bay, 2 Nov., 1733] Approving of a Division which had been made of the Real Estate of the said Henry Philips between the Petitioner his Mother and Sisters pursuant to two Orders of the Judge for Probate of Wills on the 6th of April and 15th of May 1733.

(1737.)

[*p.* 36.]

20 April.

[The appeal was admitted on the usual security on 12 Feb., 1735, but the Committee order] that before a day be appointed for hearing the same the Sollicitor for the Appellant do Satisfye their Lordships, that all the Respondents have been duly Summoned.

[*pp.* 95, 100, 166, 186; V. *p.* 203.]

(1737.)

21 July.

[Reference to the Committee of a memorial of Samuel Wilks, agent for Massachusetts Bay, setting forth that the judgment from which Philips appeals is] founded upon a General Law passed in that Province for Settling Intestates Estates That as the said Law hath been Constantly Observed and put in Practice ever since the same hath been passed and hath long since Obtained the Royal Approbation, [and praying]

in behalf of the said Province that the Validity of the said Law may not be any ways drawn into Question on the hearing of the said Appeale or if it be that the General Court of the said Province may be heard by their Counsel in Support thereof and that nothing may be done to impeach the force and Validity of the said Law but that the same may remain and Continue in full force. [V. p. 267.]

1734.

[Committee appoint 13 Jan. to hear the appeal, on which day they hear counsel and adjourn the case till 16 Jan.]

(1737.)

23 Dec.

[V. pp. 353, 374.]

(1738.)

16 Jan.

[Committee report. The petition sets forth] that the said Henry Phillips being seized of a considerable Real Estate and also possest of a large Personal Estate in Boston aforesaid dyed some time since intestate and without Issue leaving behind him his Mother Hannah Phillips Widow the Petitioner his only Brother his Sister Hannah Savage Wife of Habijah Savage Esqr. Faith Savage Wife of Arthur another Sister and the Representatives of Mary Butler deceased who was a third sister of the said Intestate that upon the Death of the said Henry Phillips that is to say on the 17th of July 1730 Administration of his Goods and Chattles Rights and Crédits was granted to the Petitioner his only Brother who duly administred the Personal Estate that the Petitioners said Mother and Sisters and the Representatives of the said third Sister upon the death of the said Henry Phillips insisted that they were intituled to an equal distributory Share of the Intestates Real Estate with the Petitioner under two several Acts past in the said Province the one in the fourth Year of the Reign of their late Majestys King William and Queen Mary intituled an act in addition to and for the explanation of the Act for Settlement and Distribution of the Estates of Intestates, whereas the Petitioner insisted that he was by the Common Law of the Realm Solely intituled thereto as Heir at Law to his Brother and that no Act of that Province could vary the Common Law of the Realm or change or alter the