

1751.

[145.] [Reference to the Committee of the petition of William Degge, George Russell and Thomas Russell of Richmond co., Virginia, for leave to appeal from a judgment of the General Court, 21 April, 1749, on an action of trespass brought by the Rev. William Kay, minister of the parish of Lunenburgh, against them as tenants of the glebe for working the lands.] [p. 220.] 30 April. Virginia.

[On the Committee report of 24 Oct., the appeal is admitted on the usual security being given. On 20 Nov. security was given by Jonathan Sydenham and Thomas Hodgson of London, merchants.] [pp. 241, 334, 353.] 31 Oct.

[On the Committee report of 15 May, the appeal is dismissed with 80*l. stg.* costs. The petition set forth] that the Parish Church of Lunenburgh in the County of Richmond in Virginia being Vacant by the Death of David Morthland, Minister thereof, William Kay Clerk, was by the Governor of the said Colony, and the Commissary Mr. Dawson recommended to the Vestry of the said Parish who have the Right of Presentation and out of Compliment to such Recommendation, was received by the said Vestry to Officiate as Minister, that if he proved agreeable to the Parish he might be presented to the said Church, and was permitted to lodge in the Glebe House, with a Person who was then in the Occupation of it. That the said William Kay, never was either presented by the said Vestry or admitted, or inducted by the Governor; or under his Authority, all which are necessary to establish a Minister in his Church according to the Rules and Laws of the said Colony. That by Letter signed by seven of the Vestry men of the said Parish in Vestry Assembled, dated the 4th of August, 1746, the Parish for several Reasons in the said Letter contained, gave the said William Kay Notice to Depart from them at the same time acquainting him that they proposed to make him a handsome present, for the time he had continued amongst them. That the Vestry the same Day Ordered the said Letter to be delivered to him by the Churchwardens who had Directions (1753.) 6 June.

to Ask for an Answer, and a time was likewise appointed by the Vestry to receive this Answer, and in Case of his refusing to depart, then to determine in what manner they should Act towards him. That the Churchwardens at a Vestry held the 15th of August 1746 acquainted the Vestry that they had delivered the Letter to Mr. Kay as directed, and desired his Answer, but that he had declared to them he would give no Answer at all to it; Whereupon the Vestry Ordered the Church Wardens to lock up the Church Doors, Pulpit and Desks, for that they would not any longer entertain the said Mr. Kay as their Minister; and that the Glebe Lands might remain in the Possession of the Parish, they put them into the Occupation of the Petitioners as Tenants of the Parish. That the said William Kay under colour of his having been received as aforesaid, and in Order to compleat his design of establishment himself as Minister of the said Church, insisted on being the Lawfull Incumbent thereof, and brought his action of Trespass in the General Court of the Colony against the Petitioners as Tenants of the Glebe for working the Lands to which the Petitioners Pleaded not guilty and the Cause being brought to a Tryal, a Verdict passed for the Plaintiff, Vizt. That the Defendants were guilty in manner and Form as the Plaintiff against them had complained, and assessed the Plaintiffs Damages by Occasion thereof to thirty Pounds Sterling besides his Costs. And the Cause was continued 'till next Court upon the matter of Law arising upon a certain Point reserved at the said Trial for the Opinion of the Court Vizt. Whether the Reception of a Minister under the Act of Assembly made in the Year 1727, will enable him to maintain an Action of Tresspass committed on the Glebe Land without Induction against Persons acting under an Order of Vestry. And at the next General Court being the 21st of April 1749, This Point was Argued and the Court gave Judgment Vizt. That it seemed to the Court that the Law was for the Plaintiff, Therefore it was Considered, that the Plaintiff should recover against the said Defendants

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thirty Pounds Sterling and the Damages by the Jurors in their Verdict assessed and his Costs by him about his Suit in this behalf expended.

[*pp.* 380, 405 ; XIV. *pp.* 242, 386, 415-7, 422.]

[146.] [Six Pennsylvania Acts of 27 Jan., 1750 (referred to the Committee on 6 Dec., and by them to the Board of Trade on 11 Dec., 1750), are confirmed on the Committee report of 3 May, agreeing with the Board of Trade, who reported :—]

13 May.
Penn-
sylvania.

An Act for erecting Part of the Province of Pennsylvania Westward of Susquehannah and Northward and Westward of the County of York into a County.

An Act for amending of the Act entitled An Act to encourage the killing of Squirrels within this Province.

An Act for amending the Laws of the Province against killing of Deer out of Season.

These three Acts appear to Us to have been Enacted for the Benefit and Convenience of this Province and . . Mr. Lamb has no Objection to them in point of Law. . .

An Act for the continuance of an Act of Assembly of this Province entitled An Act for the more easy Recovery of Legacies within this Province.

The Act for the more easy Recovery of Legacies which is by this Act continued for Seven Years was passed in the Year 1742 and has been Approved of and Confirmed by His Majesty. . .

An Act for prohibiting the Importation of Germans or other Passengers in too great Numbers in any One Ship.

The View of this Law is highly commendable as it is framed in Order to prevent for the future the pernicious practice of crouding too great a Number of persons in One Vessel which for the sake of Gain has prevailed among the Masters and Owners of Ships who contract for the Transportation of Foreign Protestants to this Colony and has been attended with fatal Consequences, and the several Provisions appear to