

128 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1751.

Corporation, enrolled under their Common Seal upon the same day and Year with that Part which is to be passed under the Great Seal. [The proclamation is given in the Register, dated 25 June, 1752.] [XIV. pp. 102-6.]

4 June.
Georgia.

[150.] [Reference to the Committee of the] Petition of Caleb Davis, late Commander of the Guard Schooner Walker in His Majestys Service at Georgia in America Setting forth amongst other things that James Edward Powell as Owner of a Vessel called the Murray which the Petitioner had taken as Prize brought an Action against the Petitioner in the Court of Savannah in Georgia for 1250*l.* Sterling on Account of the said Capture notwithstanding the said Powell had before paid the Petitioner 600*l.* not to proceed in the Condemnation of the said Prize and given the Petitioner a Receipt in full of all Demands—That notwithstanding such Receipt a Verdict was given against the Petitioner for 820*l.* 7*s.* 9*d.* Sterling besides Costs amounting in the whole to 1600*l.* Sterling. That the Petitioner offered to Appeale from the said Verdict but was refused by the Judges and was compelled to pay One Half of the Money and Costs and give Security for the other—That the Petitioner apprehending that he is greatly aggrieved by the said Verdict humbly prays that he may be admitted to Appeal therefrom. [p. 245.]

12 July.

[On the Committee report of 9 July, the appeal is admitted. The security required is given on 18 July by Caleb Davis, gent., of Lambeth, Surrey, William Bradley, Esq., of Michelham, Surrey, and James Wall, gent., of Lambeth.] [pp. 259, 276.]

(1752.)

20 Dec.

[The appeal shows] That War being declared against Spain the Petitioner entered into Your Majestys Service in Georgia under the Command of Lieutenant General Oglethorpe, And Commanded the Principal Vessel of War in that Service belonging to Your Majesty untill the Reduction of the Georgia Troops ; That in 1745 the Petitioner received Orders from Major William Horton then Commanding Officer at Georgia to get ready the Vessel under the Petitioners Command,

and go in pursuit of, take and Seize all Vessels, that were Trading to St. Augustine, and that had and were supplying Your Majestys Enemys with Provisions &c. and to bring them into the Port of Frederica in Georgia; That the said Major Horton delivered at the same time a Copy of an Order from their Excellencys the Lords Justices to the same purport and Effect; That in Obedience to such Order the Petitioner took a Vessel called the Murray which the Petitioner caused to be Legally Libelled, and proved, that the Master of the said Vessel had Actually sold a large Quantity of Provisions, and put the same into the Castle of St. Augustine, and that by several Letters and other Papers which were found on Board the said Vessel and produced in Court, it appeared, that the Spanish Officers and Merchants had wrote to the Merchants of Charles Town in South Carolina and New York for several thousand Barrels of Provisions, and that the Spanish Privateers should give the English Vessels that should bring in the said Provisions safe Convoy to the Havannah and St. Augustine, Notwithstanding which, the said Trial being industriously delayed by the Judge of the Court of Vice Admiralty of Frederica in Georgia where the said Vessel was to be Condemned or acquitted, the Petitioner from such Tokens of Partiality and the repeated Instances of others to that Effect was obliged to take 600*l.* only, in Lieu of the said Prize for the Petitioner and his Men, although the said Prize was worth 1400*l.* and upwards, and as an Inducement, for the Petitioner to accept of the said 600*l.* and to proceed no further towards the Condemnation of the said Prize, James Edward Powell the Owner of the said Vessel gave the Petitioner a Receipt in full of all Demands; That Lieutenant Colonel Alexander Heron Lieutenant Colonel of a Regiment in Georgia after the Discharge of the said Major Horton in Order to distress and ruin the Petitioner by His Artfull Management and Officious Interposition, caused [Powell to bring the action on which judgment was given on 21 Feb., 1749, and which led to the present appeal. On the report of the Committee, who heard

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the case *ex parte* on 7 Nov., no appearance having been entered for the respondent, though notice had been served at his place of abode in Christchurch parish, S. Carolina, the decree of Feb., 1749, is reversed and money paid under it ordered to be restored to Davis with interest, as also his securities for further payments.]

[*pp.* 278, 281 ; XIV. *pp.* 161, 165, 207-9, 259.]

9 Aug. [151.] [Reference to the Committee of two petitions of
Jamaica. Edmund Pusey, planter of St. Dorothy parish, Jamaica, that two appeals of John Pusey from Chancery orders of 23 March, 1747, and 23 Feb., 1749, relating to the property left by Cornelius Wellekins, father of Edmund's wife, Mary, may be dismissed with costs for non-prosecution.] [*pp.* 286, 291.]

31 Oct. [On the Committee reports of 24 Oct., each appeal is dismissed with 80*l.* *stg.* costs,] Provided the said John Pusey did enter into the usual Security in Jamaica for prosecuting his said Appeal to Effect. [*pp.* 332-3, 352-3.]

9 Aug. [152.] [Reference to the Committee of the petition of
Jamaica. the Rt. Hon. David Lord Olyphant for a day for hearing his appeal from a decree of the Jamaica Chancery, 19 Nov., 1750, on a bill filed against him by Edward Manning, Esq., executor of Edward Pratter, Esq., deceased, for payment of 204*l.* 17*s.* 6¼*d.* with interest from 6 Dec., 1739.] [*p.* 289.]

(1753.) [On the Committee report of 3 April, when the appeal was
10 May. heard *ex parte*, no appearance having been entered for the respondent, the Chancery decrees of Nov., 1750, and of 20 Feb., 1747, are both reversed, and Manning's bill against the appellant dismissed with costs. The case arose out of a mortgage of lands in Clarendon parish by John Sutton to Edward Pratter, which mortgage was assigned by Manning to Olyphant on payment of what remained due thereon. The dispute is due to a mistake in the principal sum on which interest was computed in settling accounts. Other names occurring in the report are John Olyphant, Thomas Golding and Sidney Marriott, Master in Chancery.]

[XIV. *pp.* 292, 359, 370-5, 409.]