

# Appeals to the Privy Council

## Calendar of State Papers Colonial Series

BAR\_1682\_00

Appeal of Hanson

Barbados

*Calendar of State Papers Colonial, America and West Indies, Volume 11: 1681–1685*,  
J.W. Fortescue, ed. (London, 1898), no. 469, p. 213–226:

<b>April 12. Whitehall.</b>	<b>469.</b> Order of the King in Council. That copy of the petition of Samuel Hanson (see ante, No. 132) be delivered to the Lords of Trade and Plantations for their report. Signed. Francis Gwyn. ½ p. Inscribed and endorsed. Read 20 April 1682. Annexed,
	<b>469. I.</b> The petition referred to, from Samuel Hanson, gentleman, of Barbados, to the King and Privy Council. About three years ago petitioner had occasion for several large guns to put on board a ship which he was then building in New England. He met accidentally with one John Burston, servant of Mr. Kendall, master of a wharf, in the town of St. Michael, Barbados, which said Burston offered him ten or twelve guns then lying in the wharf and to warrant his sale thereof, alleging them to be his master's who had empowered him to dispose of them. Petitioner finding that they would suit him, agreed for purchase and shipped six of them that day, but hearing that night that they belonged to one Anthony Rodriguez, a Jew, went and told him what he had done, and asked whether he claimed the said guns. Finding that he did claim them and was unwilling to part with them, petitioner immediately sent for them back and delivered them to Rodriguez, who was well satisfied of petitioner's innocence and made no further trouble about the matter. Six weeks later petitioner was arrested by Mr. Hannay, the Sheriff, and carried before two justices, who obliged him to find security to answer a charge at the next General Sessions. This he did, and stood bound for nearly eighteen months, without knowing his crime or his accusers. Next sessions the Attorney-General indicted petitioner and John Burston before the Governor and Council for conspiring to steel fourteen of the King's guns actually carried from the wharf, fourteen more of the proper stock of the Island, and fourteen more belonging to persons unknown, the guns being valued at 150 <i>l</i> . The jury found petitioner and Burston guilty of a fraudulent bargain in buying and selling the guns of Anthony Rodriguez and shipping them on board the ship Nathaniel William Clarke. Petitioner moved in arrest of judgment for the following reasons: (1.) The jury had not found him guilty of the charge preferred in the indictment, and the Court should not take notice of a private fraud between man and man where no injured person prosecuted. (2.) That the indictment was laid for forty-two great guns, though the verdict mentioned only twelve without specifying whether great or small. Sir Richard Dutton, however, being then new to the place, overruled the motion for arrest of judgment and

	<p>proceeded without the concurrence of the Council to fine petitioner 150<i>l.</i> and Burston 100<i>l.</i>, twice the value of the forty-two guns, whereas the verdict mentioned but twelve, and all that had been taken had been restored to their owner. Petitioner appealed to the Assembly which addressed the Governor on his behalf, and stated the law to be that no fine should be imposed without the concurrence of the Council. They prayed that the law might be upheld and that execution might not issue. Notwithstanding which, <i>ascire facias</i> was issued from the Court of Exchequer against petitioner to show cause why the fine should not be levied on his goods. Petitioner in answer pleaded that the verdict had nothing to do with the indictment, and that Rodriguez was not a British subject, which invalidated the verdict. Nevertheless, this plea was overruled, and the fine levied by sale of eleven of petitioner's negroes at less than their value, whereby being unable to reap his crop petitioner was damaged to the value of 500<i>l.</i> over and above the loss on the sale of the negroes. Petitioner then petitioned the Governor and Council on a writ of error, on the following grounds: (1.) That the <i>scire facias</i> was issued before the Court had any record whereon to ground it. (2.) That the Court of Exchequer had given judgment on the <i>scire facias</i> though the reasons in arrest of judgment had not been overruled by the Court of Grand Sessions. (3.) The fine was called 150 pounds, whether of sugar or sterling was not specified. (4.) The verdict was foreign to the indictment. Petitioner prays that copies of the indictment or proceedings may be obtained from Barbados and the errors reversed after examination by the Lords of Trade and Plantations. <i>Signed</i>, Samuel Hanson. <i>Copy. Certified by</i> Francis Gwyn. 4½ <i>pp.</i> <i>Endorsed</i>. Read 20 April 1682. Copy to Sir R. Dutton, 22nd May 1682. Answered with copy of proceedings, 22 January 1682–83. [<i>Col. Papers, Vol. XLVIII., Nos. 59, 59 I., and Col. Entry Bk., Vol. VII., pp. 128–129 and 163–169.</i>]</p>
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*Calendar of State Papers Colonial, America and West Indies, Volume 11: 1681–1685*, J.W. Fortescue, ed. (London, 1898), no. 915, p. 367–379:

<b>Jan. 26. Whitehall.</b>	<p><b>915.</b> Order of the King in Council. That the petition of Samuel Hanson, annexed, be referred to the Lords of Trade and Plantations for their report, and that petitioner meanwhile be furnished with copies of all documents sent by the Governor of Barbados that are necessary for his defence. The Lords are to give such order for petitioner's relief as they think fit, or report to the King. <i>Signed</i>, Phi. Lloyd. ½ <i>p.</i> <i>Annexed</i>,</p>
	<p><b>915. I.</b> Petition of Samuel Hanson to the King and Council. Petitioner presented a petition in April last, which was referred to the Lords of Trade and Plantations, who ordered a copy thereof to be sent to Sir Richard Dutton for his reply, to which copies of all the judicial proceedings were to be appended. A copy of the petition was accordingly enclosed in a letter written by Mr. Blathwayt and directed to Sir Richard Dutton, which letter was sent to petitioner; who, as soon as he received it, carried it to be delivered to His Excellency. A few days later Sir Richard ordered petitioner to attend him, which he</p>

	<p>accordingly did, when Sir Richard asked him whether he had not received a letter under his covert from Mr. John Cresset of England, directed to him. Petitioner answered (as was true) that he had not, and knew nothing of it, except that he had himself heard from Mr. Cresset, who mentioned that he had written a letter to the Governor and enclosed him a copy. The Governor then tendered petitioner his oath, which he refused to take until he knew on what subject he was to be examined. The Governor answered that he must answer all such questions as he thought fit to put to him. Petitioner again refused, alleging it to be illegal that he should be compelled to swear against himself; whereupon the Governor committed him to prison, where petitioner remained five weeks, most part of it under close confinement, to the detriment of his health and the prejudice of his estate. Petitioner conceives these proceedings to be a design to hinder him from coming to England and prosecuting his appeal from the original judgment, for which purpose he had given the usual forty days' notice of his intention to leave, according to law. Petitioner for twenty years together had never had any controversy with any of the King's Governors, and was unacquainted with a prison, and unable to abide in the same. He offered before the Council to take the oath required of him, and to give 2,000<i>l.</i> bail, but was refused; and all relief was denied him unless he gave 10,000<i>l.</i> bail to appear at the next sessions. Whereupon he was forced to make his escape to England, leaving his wife and children and a large estate in confusion, to obtain justice of the King in Council. Asks, therefore, for copies of all incriminating documents, and that the master and owners of the ship that brought him over may not suffer for bringing him over without a license. Is ready to give security to prosecute his appeal. <i>Copy certified by Philip Lloyd. 1½ pp. Endorsed. Recd. 1 February 1682–83. [Col. Papers, Vol. L., Nos. 18, 18 I., and Col. Entry Bk., Vol. VII., pp. 178–182.]</i></p>
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*Calendar of State Papers Colonial, America and West Indies, Volume 11: 1681–1685*, J.W. Fortescue, ed. (London, 1898), no. 1040, p. 415–423:

<b>April 11. Whitehall.</b>	<p><b>1040.</b> Order of the King in Council. Referring a third petition of Samuel Hanson to the Lords of Trade and Plantations for examination. The Lords are on Tuesday next to examine George Hannay, Provost Marshal of Barbados, he being just upon his departure from England. <i>Signed</i>, Francis Gwyn. ½ <i>p.</i> <i>Incribed and Endorsed. Recd. 17 April 1683. Annexed,</i></p>
	<p><b>1040. I.</b> Petition of Samuel Hanson to the King and Privy Council. In July 1681 I bought a ship called the Berkshire which sailed from London fully equipped at a cost of about 1,100<i>l.</i> in September 1681, and arrived in Barbados 18th September 1682, which was before Sir Richard Dutton had heard of my appeal against his judgment to your Honourable Board. On the 19th September, Thomas Hyatt, master of the said ship, attended the Governor and duly performed everything required by law respecting the said ship. But one of the mariners, unknown to the master or myself, had before entry secretly landed sixteen elephants' teeth worth 6<i>l.</i> (of the growth of Africa which pays</p>

the King no duty), which was contrary to the law, which requires that no goods shall be landed before entry except living creatures, and takes 2,000*l.* security from the Captain not to depart nor take any person on board without the Governor's ticket, under heavy penalties. The Governor hearing of the matter on the 20th September committed the master to prison, there to remain till the heavy penalty of 10,000 lbs. of sugar, provided by the Act, should be discharged. There he remained till the 28th November last, notwithstanding which the Governor, hearing in October that I had appealed to you as aforesaid, and was going to England to prosecute my appeal, not only committed me to prison on a frivolous charge, and kept me there five weeks on purpose to prevent my coming over, but to make my continuance more secure, knowing that I intended to ship a cargo and sail to England in this vessel on the 1st November, caused her to be seized and forfeited, and next day prevailed with Hugh Archer, Deputy Controller, to libel the same in the Court of Admiralty, whereof he himself is sole judge. Copy of the libel is annexed. On the 2nd November I and the master, who were both in prison, were cited to answer immediately to the said libel, which by our proctor we did, took a copy of it, and by advice of our counsel (though none durst sign it for fear) put in the plea and demurrer annexed. On filing this we were ordered to attend the court on 7th November to hear judgment, but were not permitted by the Provost Marshal to do so, nor could we prevail with any counsel (from fear, as I believe, of the Governor) to do so on our behalf. On this, the cause was put off till the following day when the Governor illegally overruled the demurrer *ex parte* in a Court of Admiralty and condemned the ship, her guns, tackle and furniture. After this she was exposed to freight for England for about a fortnight, when, as the whole Island, knowing the injustice that had been done, declined to put any goods on board her, she was sold by the inch of candle. She was put up at 250*l.*, but no one would advance a penny upon her except John Steward, one of the Governor's creatures, who offered one pound more than the upset and was declared to have lawfully bought her. I was and still am denied copies of the proceedings on the condemnation of the ship, though I have often demanded and offered to pay for them. Moreover, one Benjamin Bird, who had several offices in the Custom House, and was a relation of mine and a servant to manage my affairs, for which I allowed him a yearly salary, was by the Governor's influence turned out of employment for negotiating my concerns during my confinement. On the 28th November I made my escape in the night to a ship which was sailing for England. A day or two later, one Hannay the Provost Marshal, was sent after me, who is arrived in England and has waited on the Lords of Trade and Plantations, and given some information against me, though not on oath, and is now going back, because the Lords have postponed hearing my appeal till Sir Richard Dutton's arrival in England. This delay is not only prejudicial to my private affairs, but still more because Hannay is a most material witness on my side. I beg, therefore, the hearing of this and my two former appeals, and that Hannay may be sworn and questioned according to interrogatories submitted by me; also that my case may be referred to the Judges of the Common Law and the Court

	of Admiralty. <i>Signed</i> , Sam. Hanson. <i>Large closely written sheet</i> .
	<b>1040. II.</b> The libel and appeal of Hugh Archer, Deputy Comptroller-General of the Court of Admiralty of Barbados, with Hanson's and Hyatt's reasons for not answering the said libel. 2½ pp. <i>Endorsed</i> . Recd. 6 April 1683. Read in Council the 11th. [ <i>Col. Papers, Vol. L., Nos. 93, 93 I.–II., and Col. Entry Bk., Vol. VII., pp. 198–199.</i> ]

*Calendar of State Papers Colonial, America and West Indies, Volume 11: 1681–1685*, J.W. Fortescue, ed. (London, 1898), no. 1334, p. 518–532:

<b>Oct. 26. Whitehall.</b>	<b>1334.</b> Order of the King in Council. That a copy of a petition of Samuel Hanson be delivered to Sir Richard Dutton for his reply, and to the Lords of Trade and Plantations for consideration. The Lords shall take special care to complete the examination of George Hannay before he leaves for Barbados. <i>Signed</i> , John Nicholas. ½ p. <i>Annexed</i> ,
	<b>1334. I.</b> Petition of Samuel Hanson to the King and Privy Council. Recounts previous history of the case. The first cause was heard on the 2nd and 9th October, but the hearing of the two latter put off at Sir Richard Dutton's instance for five months. Sir Richard and George Hannay, who has demurred to several of petitioner's questions, are returning to Barbados, which will cause petitioner to be detained in England six months longer, to lose Mr. Hannay's evidence, and to suffer prejudice in Barbados, where no witness will dare to swear against the Governor nor any judge or justice to take their depositions against him. Moreover, Sir Richard Dutton has done several other things against the King's interest and contrary to law, which petitioner asks opportunity of proving to the Committee. Petitioner therefore asks leave to prosecute Sir Richard at common law to recover the damages he has wrongfully sustained before his departure, being contented that he have bail for six months till he produce his witnesses; also that George Hannay's examination be perfected before his departure; that Commissioners may be appointed in Barbados to examine witnesses on both sides, and that Mr. Stede, Mr. Davers and Mr. Newton, of the Council of Barbados, may be examined on oath. 2 pp. <i>Endorsed</i> . Recd. 30 October 1683. [ <i>Col. Papers, Vol. LII., Nos. 26, 26 I., and Col. Entry Bk., Vol. VII., p. 200.</i> ]

*Calendar of State Papers Colonial, America and West Indies, Volume 11: 1681–1685*, J.W. Fortescue, ed. (London, 1898), no. 1368, p. 532–545:

<b>Nov. 7. Whitehall.</b>	<b>1368.</b> Order of the King in Council. Report of Lords of Trade and Plantations on the petition of Samuel Hanson. We have examined this case, both sides being represented by counsel. We think the fine inflicted by Sir Richard Dutton was irregular, but that the charge against Hanson is so serious that it should be again examined and heard by us, and that five months be allowed to collect the necessary evidence. And as the prosecution does not concern Sir
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	Richard Dutton in his private capacity, we recommend that he be ordered to cause the necessary proofs to be taken, the fine of 150 <i>l.</i> to remain meanwhile in your Majesty's hands till the cause be finally determined. We recommend also that the same space of five months be allowed to Sir Richard Dutton to prepare his defence against two appeals of Samuel Hanson; and that George Hannay be required to complete his examination by the end of a month, Hanson giving him a release to secure him from any damage that might otherwise accrue to him. Dated 3 Oct. 1683. Order in Council accordingly. <i>Signed</i> , Fran. Gwyn. [ <i>Col. Entry Bk.</i> , Vol. VII., pp. 201–203.]
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*Calendar of State Papers Colonial, America and West Indies, Volume 11: 1681–1685*, J.W. Fortescue, ed. (London, 1898), no. 1384, p. 532–545:

<b>[Nov. 14.]</b>	<b>1384.</b> Petition of Sir Richard Dutton to the King and Privy Council. Details the account of the first action against Hanson. Hanson's appeal having been heard, your Lordships decided that the fine imposed by me was irregular. I submitted and heard your decision that the further prosecution of Hanson for stealing the guns should be heard by you on a future occasion. Meanwhile, time has been fixed for the preparation of documents, &c., for this trial and for that of two further appeals. Hanson, however, now sues me at common law, which not only renders your Courts in Barbados of little use, but the appeals to the King impracticable, since the parties now being summoned into England are liable to be vexed by suits while their causes are still pending before the King in Council. I therefore beg for instructions, whether to answer to the actions brought against me in Westminster Hall, or to the appeals before the King in Council, or to both. <i>Copy</i> . 2½ pp. <i>Endorsed</i> . Read in Council 14 November 1683. Mr. Hanson to answer it 16th. [ <i>Col. Papers</i> , Vol. LII., No. 51, and <i>Col. Entry Bk.</i> , Vol. VII., pp. 203–206.]
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*Calendar of State Papers Colonial, America and West Indies, Volume 11: 1681–1685*, J.W. Fortescue, ed. (London, 1898), no. 1391, p. 545–557:

<b>Nov. 16. Whitehall.</b>	<b>1391.</b> Order of the King in Council. That since Samuel Hanson, in spite of all the previous decisions of the King in Council, has commenced an action at common law against Sir Richard Dutton, it be left to the free election of the said Hanson whether he will prosecute this action at common law or attend the determination of his appeals at the Council Board. [ <i>Col. Entry Bk.</i> , Vol. VII., pp. 199, 200.]
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*Calendar of State Papers Colonial, America and West Indies, Volume 11: 1681–1685*, J.W. Fortescue, ed. (London, 1898), no. 1407, p. 545–557:

<b>Nov. 23. Whitehall.</b>	<b>1407.</b> Order of the King in Council. That since Samuel Hanson elects to proceed with his prosecution by common law, his appeals be forthwith dismissed; also that the setting of a new fine upon Hanson for his original
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	offence be remitted to the Court of Grand Sessions in Barbados; also that the bond of the captain who brought Hanson over be forthwith put in suit; also that Sir Richard Dutton return his answer to Hanson's articles of accusation on the 30th instant. [ <i>Col. Entry Bk., Vol. VII., pp. 210, 211.</i> ]
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*Calendar of State Papers Colonial, America and West Indies, Volume 11: 1681–1685*, J.W. Fortescue, ed. (London, 1898), no. 1479, p. 557–573:

<b>Dec. 19. Whitehall.</b>	<b>1479.</b> Order of the King in Council. On the petition of Samuel Hanson that previous Orders of Council relating to his case may be altered, the King sees no reason to alter them. Hanson is free to say before next Council day whether he will prosecute his appeals at common law or before the Council, and is to be provided with a copy of Sir Richard Dutton's defence. [ <i>Col. Entry Bk., Vol. VII., pp. 214, 215.</i> ]
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*Calendar of State Papers Colonial, America and West Indies, Volume 11: 1681–1685*, J.W. Fortescue, ed. (London, 1898), no. 1500, p. 573–581:

<b>Jan. 9.</b>	<b>1500.</b> Order of the King in Council. The Lords having reported that Mr. Hanson's reply to Sir Richard Dutton's defence against the articles exhibited against him is unsatisfactory, ordered that Mr. Hanson be left to take his course at common law against Sir Richard. [ <i>Col. Entry Bk., Vol. VII., p. 215.</i> ]
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*Calendar of State Papers Colonial, America and West Indies, Volume 11: 1681–1685*, J.W. Fortescue, ed. (London, 1898), no. 1667, p. 623–636:

<b>[May ?]</b>	<b>1667.</b> Schedule of land proposed to be sold for the Company's debts. Fifty acres in St. George's, Long Bird Island, Cooper's Island. Fifty acres at Tucker's Town. 1 p. <i>Endorsed. No date.</i> [ <i>Col. Papers, Vol. LIII., No. 89.</i> ]
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