

1754.

Carolina, and be established upon such other Fund as the Lords Commissioners of Your Majestys Treasury shall judge most proper. [p. 95.]

[The report is approved and referred to the Treasury] to consider of a proper Fund for payment of the said Salary, and to prepare and lay before His Majesty the necessary Instrument for establishing the said Salary upon such Fund. 28 Mar.

[p. 100.]

[231.] [On the Committee report of 26 March—the Order of reference of 16 March is not given in the Register—John Merrill is allowed to appeal from judgments of the New Hampshire courts in favour of the proprietors of the township of Bow. Security is given on 29 March by Christopher Kilby, Esq., of St. Martins in the Fields and the Rev. Timothy Walker of New Hampshire.] 28 Mar.
New Hampshire.

[pp. 86, 101.]

[On the Committee report of 27 May, the judgments against Merrill are reversed and order given for restoring him to all he has lost by them. Merrill's appeal sets forth] that, in 1755 (1755.)
24 June.
[1725], at a General Court or Assembly for His Majestys Province of the Massachusetts Bay, Benjamin Stephens and others, having applied by Petition for a Grant of Land at Pennycook, on the River Merrimack, and the said Petition having been referred to a Committee of both Houses, the said Committee made a Report thereon to the said Assembly, that the Lands Petitioned for, should be assigned and set apart for a Township, to contain seven miles square, and to begin where Contacook River falls into Merrimack River, which Report was agreed to by both Houses of the Council and Assembly of that Province, and concurred in by the Governor; That on the 10th of May 1726 a Committee proceeded to that Place, with Surveyors and Chainmen, and laid out one hundred and three Lotts on the said River Merrimack agreeable to the said Resolution, and in February following, they admitted the several Settlers, amongst whom the Petitioner was one. That the Petitioner together with several others of the said admitted Settlers, in the Spring of the Year 1727, went to

1754.

the said Place, to bring forward the said Settlement of a New Town, and pursued their purpose with such Vigour, that in 1730 they had a Church built, and a Minister ordained, and in 1733, they were incorporated into a Township, by the name of Rumford, by an Act of Assembly of the said Province of the Massachusets, which was confirmed by His Majesty, and the Petitioner and the said other Settlers, have been at very great Costs and Labour, in clearing and Cultivating the Lands, and improving the same, by Buildings and otherwise for almost thirty Years past. That the Petitioner and the said other Settlers, at the time of their entering on and settling the said Lands, had not the least doubt, but that they were quite safe in so doing under the said Governor and Company of the Massachusets Bay, the said Town of Pennycook, otherwise Rumford, being situated upon the said River Merrimack, and included, as was then generally understood, within the Boundary of that Colony. That some Years since, upon a dispute about the Boundary Line, between the Provinces of the Massachusets Bay and New Hampshire, His Majesty was pleased to issue a Commission to mark out the dividing Line between them, but with an express Declaration against Private property being affected thereby; And upon hearing the Report of the Commissioners appointed to settle the said Boundarys, His Majesty was pleased, by His Order in Council, made in 1740, to adjudge and Order the Northern Boundarys of the said Massachusets Bay to be a similar Curve Line pursuing the Course of the said Merrimack River, at three Miles Distance on the north side thereof, beginning at the Atlantick Ocean, and ending due North, at a Point called Pantuckett Falls, and a Streight Line drawn from thence cross the said River till it met with His Majesty's other Governments. Which adjudication determining the Boundary Line of the said Province of the Massachusets to pursue the Course of the said River, no farther than the said falls, thereby excluded out of the Massachusets great part of the said River Merrimack

with the Lands thereon adjoining, and particularly the said Town of Pennycook, otherwise Rumford, which had formerly been reputed to lye within that Province, and throwed the same into the said other Province of New Hampshire ; That notwithstanding His Majesty had been pleased at the time of issuing the said Commission to fix the said Boundary, to declare the same was not to affect Private Property, and in which all Persons acquiesced for several Years since elapsed, Yet, very lately, certain persons of New Hampshire, being minded to disturb the Petitioners, and others, the said first Settlers of the said Town of Pennycook, otherwise Rumford, and take from them the Benefit of all their Labours, on the 14th of November 1750, brought an Ejectment, by the name of the Proprietors of the Common and undivided Lands lying and being in the Town of Bow in New Hampshire, against the Petitioner, in the inferior Court of Common Pleas holden at Portsmouth for the said Province, by which they demanded against the Petitioner, Eight Acres of Land (being part of the Premises the Petitioner had settled and improved in the said Township of Pennycook alias Rumford as aforesaid) with the Edifices and appurtenances, alledging the same to lie in Bow aforesaid, and laid their title back as far as 1727, and alledging, that the Petitioner had, within Twenty three years then last past, entered thereon, and disseized them, and withheld the Possession from them. To which the Petitioner pleaded not Guilty ; And on the 7th of March 1750, the said Cause was brought on to Trial in the said inferior Court, before a Jury, who gave a for the Petitioner with Costs of Court, and Judgment was entered up for the Petitioner accordingly : From which the Plaintiffs Appealed to the next Superior Court ; And at the said Superior Court of Judicature held the Second Tuesday in December 1752, the said Cause was brought on to Tryal again before another Jury, when, amongst other things, the Plaintiffs produced a Grant, dated the 20th of May 1727, made by John Wentworth as Lieutenant Governor of New Hampshire, for the encouragement of

1754.

settling a New Plantation, to sundry of His Majestys Subjects, whose names were Entered in a Schedule thereunto annexed, that inhabited, or should inhabit within the said Grant, to whom he thereby granted a certain Tract of Land beginning on the South East Side of the Town of Chichester, and running Nine Miles square, as therein mentioned, and to be a Town Corporate by the name of Bow, To hold to the said Grantees, and such associates as they should admit, for ever, upon several Conditions therein mentioned, and amongst others, upon Condition of Building Seventy five Dwelling houses thereon, and settling a family in each house, and clearing three acres of Land within three Years. And the Plaintiffs also produced a Return of laying out the said Town of Bow in the latter end of 1728, in such manner as to interfere with a Considerable Part of the said Town of Pennycook, but it appeared by such Return, that instead of beginning the same on the South East Side of the Town of Chichester, according to the direction of the said Grant, they had begun it at the South West Side of the said Town, which was quite contrary thereto, and otherwise it is apprehended, there would not have been any interfering between the said Towns. And the said Plaintiffs also produced some Oral Evidence, to shew that they the said Grantees of Bow, in 1728 and 1729, after the Petitioner and the rest of the said Settlers at Pennycook had begun their said Settlement, and were carried on thereof, had made some Objections to their proceeding therein, but had not pursued any Course of Law against the said Pennycook Settlers in respect thereof till since the said Boundary Line between the said Two Provinces was settled by His Majesty. Yet the Jury on the said Tryal in the said Superior Court gave their Verdict for the Plaintiffs, and found for them a Reversion of the former Judgment and the Premises sued for and Costs of Court, and Judgment was thereupon entered up. . . From which last judgment the Petitioner on the 4th of June 1753, brought a Writ of Review before the

1754.

Justices of the said Superior Court, and on the first Tuesday in August 1753, the said Cause was brought on again to Tryal and the Jury gave their Verdict for the said Original Plaintiffs, and Judgment was thereupon entered up, Affirming the said former Judgment in the said Superior Court, against the Petitioner, and that the said Proprietors should recover Costs of the Petitioner, taxed at 1*l.* 5*s.* 0*d.* New Tenour. [Merrill was denied an appeal by the Superior Court because the premises were not of sufficient value, but on his petition to his Majesty, this was granted] the Question determined therein affecting the Petitioners Right to several other Lands, held by the Petitioner under the same Title, of very considerable Value in the whole, and much exceeding the sum limited by the Royal Instructions, and also affecting the Rights of many other persons, who are in the like Circumstances with the Petitioner, and hold under the same Title, and being intended to settle a general Question of Right, and for avoiding a multiplicity of other like suits.

[*pp.* 102, 111, 315, 415, 419-22, 454.]

[232.] [Reference to the Committee of the petition of Edmund Hyde, Esq., of Jamaica, for leave to appeal from four orders of the Jamaica Chancery, 23 Feb., 1 March, 19 April, and 3 May, 1753, in a case between the petitioner and Robert Greenlees and Dorothy his wife in relation to the payment of 1,933*l.* 3*s.* 3½*d.* Jamaica currency and interest.]

28 Mar.
Jamaica.

[*p.* 102.]

[On the Committee report of 2 April, the appeal is admitted. Security is given on 11 April by Hugh Hamersley, of Lincoln's Inn, and Giles Hitchcock, of Chancery Lane.]

8 April.

[*pp.* 108, 122, 125, 157.]

[Reference to the Committee of another appeal by Hyde from a Chancery order of 17 May, 1754, in a case relating to the repayment to Hyde of 2,312*l.* 11*s.* 2½*d.* currency with interest and costs. Robert Greenlees is now dead, leaving his widow sole executrix.]

(1755.)

3 April.

[*p.* 370.]