

1771.

[179.] [Reference to the Committee of the petition of Arnold Nesbitt and Moses Franks, merchants of London, that the Council dismiss for non-prosecution the appeal of Jeremiah Meyler and Charles Hall from an order of the Jamaica Chancery, 25 Jan., 1770, in the petitioners' action for moneys due to them.] [p. 131.]

28 Mar.  
Jamaica.

[On the Committee report of 11 June, the appeal is dismissed with 30*l.* *stg.* costs for non-prosecution.] [pp. 262, 275.]

14 June.

[180.] [Reference to the Committee of a Board of Trade representation of 24 April, proposing that the instruction to the Governor of Quebec about the granting of land be revoked,] and that the Governor should be authorized to Grant with the advice of His Council, the Lands remaining Subject to His Majestys Disposal in Fief and Seigneurie, as hath been practised heretofore, omitting in such Grants Haute Moyenne et Basse Justice, the exercise whereof hath been long disused in that Colony. [p. 174.]

1 May.  
Quebec.

[An instruction allowing such grants subject to ratification by the Crown and registration in the colony, is approved (P.R.). Preparation of the instruction was ordered on 7 June in accordance with a Committee report of 25 May. The Board of Trade had expressed the opinion] upon the best Information they are able to obtain of the antient Usage and practice of granting Lands in that Colony, that it was well calculated to promote Settlement upon Terms of publick advantage, and . . . that the introducing different Tenures of Land in the same Colony leads to inconvenience and Confusion.] [pp. 235, 254, 287.]

27 June.

[181.] [Reference to the Committee of the petition of Michael Brislane for a day for hearing his appeal from a judgment of the Montserrat Court of Errors, 17 July, 1770, affirming a sentence of the Court of King's Bench, 24 April, 1770, found by a Grand Jury against him for the murder of his wife, Elizabeth.] [p. 175.]

1 May.  
Montserrat.

[On the Committee report of 27 March, the appeal is dismissed as inadmissible. The petition set forth] That on the 20th of

(1773.)  
6 May.

1771. § 181 *cont.*]

April 1770, a Bill of Indictment was found by the Grand Jury in the Island of Montserrat against the petitioner for the Murder of Elizabeth Brislane wife of the Petitioner; [that he pleaded not guilty, and the jury found a special verdict] that the petitioners said wife, was in the Night of the 1st of April 1770, cruelly beat and bruised, and on that very Night she left the petitioners House and went to Elizabeth Carrolls in a bloody Condition, and begged protection, and that she there stayed the Remainder of the Night, That early on Monday morning she went to her Mothers Junima White's, in the like bloody condition, and on the same Night the petitioner came to the said Junima White's House, with his Negro Man armed with a Gun and Cutlasses and Chopped at the Doors—That on Thursday the 5th Instant she was met coming to Town, and declared she was going to a Justice of the Peace, to complain of her Husbands ill treatment, and that she returned to her Mother where she languished until Tuesday the 10th of April when she died, and that she declared on her death Bed, that the petitioner was the person that so cruelly beat her with a Hammer and his fists, and was the occasion of her Death, but that she forgave him, and prayed to God to do the same—That Thomas Fogarty Surgeon examined the Corps, which he found much bruised and declared the Bruises were sufficient to occasion her Death, and they found that those Bruises were the Cause of her Death;—That upon the whole, they doubted how the Law was, If for the petitioner, they found him not Guilty, and if for the King they found him Guilty;—That the petitioner was thereupon remanded to Goal, and Ordered to be brought to the Barr of the Court on the Tuesday then next—That on the Tuesday being the 24th of April, the special Verdict was argued and the Chief Justice pronounced Sentence for the Execution of the petitioner on the 12th of May then next—That on the 11th of May 1770, the Court upon the petition of the petitioner, Ordered that the said Sentence should be respited, until the Second Tuesday in June then next—That the Petitioner brought his writ of Error, and

§ 181 *cont.*]

1771.

Assigned Error in the Record of the said Judgment, that the same was not sufficient in Law to Warrant the Sentence of Death pronounced against him ; and at a Court of Errors held in the said Island on the 17th of July 1770, the Judgment given in the Court of King's Bench was affirmed, from which Judgment two of the Judges of the Court of Errors dissenting, the petitioner prayed an Appeal to Your Majesty in Council which was granted.

[A copy of the following Committee minute was forwarded by the Clerk of the Council on 12 May to Mr. Pownall to be laid before Lord Dartmouth :—] . . the Committee judging it proper that some Directions should be sent upon this Matter to the Governor of the Leeward Islands from the Secretary of State, recommended it to the Earl of Dartmouth to write to the said Governor, and acquaint him, that the Lords of the Council were of opinion, That the Verdict ought not to have been received by the Judges who tried the petitioner because it doth not find any Facts, but only Evidence of Facts Committed by him, and though that Evidence seems to be strong enough to have warranted the Jury in giving a special Verdict against him, Yet the Court is not to judge of the Relevancy of Evidence and Try the Fact, but to declare the Law upon such Facts as are found by the Jury to have been Committed by the Criminal and to give Judgment accordingly, and as the Verdict in this Case is a mere Nullity, no Judgment ought to have been given upon it against the petitioner, and he ought not to be executed, and it will be proper for the Governor to reprieve him, in Order that the Law Officers of the Crown in the Island of Montserrat and the petitioner may respectively take such Measures as they shall think fit thereupon. [X. *pp.* 119–21, 187, 191.]

[182.] [Reference to the Board of Trade of the petition of several landholders in Georgia, who derived their titles from grants by the Trustees for services rendered or on the reduction of General Oglethorpe's regiment, 1748–9, when the soldiers received 50 acres each, setting forth that Sir William Baker

1 May.  
Georgia.