

248 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1738. § 449 *cont.*] the Maryland authorities since the Cresap affair are described, and his Majesty asked to fix a temporary boundary. (1) About 29 Dec. 1736 Capt. Higginbotham with an armed force seized some Pennsylvanians who were digging a grave to bury a child, beat and abused them, and drove them night and day over hills and mountains without clothes or subsistence 114 miles to Annapolis, where they are detained in a cold nauseous prison amongst felons for no offence whatever. (2) About 29 June 1737 a worthy ancient Justice of the Peace of Nottingham County, Pennsylvania, Elisha Gatshell, and several others, were likewise beaten, abused and haled away for no crime or offence. (3) About 26 Oct. the gaol at Lancaster was forced open in the dead of night, the gaoler and his family beaten and abused, and four prisoners charged with high and grievous offences taken away in triumph.
- 21 Jan. ———. Reply of the President, Council and Assembly of Pennsylvania to Lord Baltimore's answer of 22 Ap. 1737. "The answer . . is very untrue, imperfect and insufficient to be replied unto; and this the said replyants are ready to aver, maintain and prove as your Lordships shall award."
- 4 May. ———. Committee report: with a copy of the agreement between the proprietors.
- 18 July. [450.] LEEWARD ISLANDS. *Complaints of W. Smith and III. pp.* *S. Cust.* Four petitions; and Orders of reference, 20 July. 497-8, (a) About the docket of fees of 1703; (b) about raising the 504, 615. value of coins; (c) appeal against the executors of F. Carlisle; (d) about a writ of error against T. Jarvis.
- (b) contains a comparison of Proclamation Money at 130 *per cent.*; Antigua currency as it has been for many years till lately, at 160 *per cent.*; and Antigua currency as it is, at 170 *per cent.* One pound in each of these currencies would represent respectively 15s. 4d.; 12s. 6d.; and 11s. 5d. *sterling*. Spanish pistoles received by the officers of the Customs at 23s. are imposed on other subjects at 28s., although notoriously clipt and reduced from 104 to 96 grains. Gold coins have been

suffered to take an extraordinary rise contrary to proclamation, Act of Parliament and instructions.

———. Petition of J. Yeamans, agent for Antigua, that time be allowed to receive instructions to make a defence. The soonest return he can expect will not be before March next. Smith had alleged that his complaint about the docket of 1703 contained nothing but what had been included in his former petition, that a Committee of the Antigua Council had been appointed in May 1736 to inspect and remit all necessary papers to the agent, and that he would let the agent have copies of any papers he might desire. But Yeamans denies that the petition contains nothing new—*e.g.* Smith now asserts that the docket of 1703 “was void in its creation, that it was made to deprive the patentees of the greatest part of their fees, that it never was transmitted to England as required by the royal instructions, that it had been departed from by all the Chief Justices, that it was worn out and defaced in many particulars and deficient in others.”

1 Nov.

A minute of the Antigua Council at Parham, 9 March 1738, is quoted showing that the Committee of both Houses had not then reported, and authorising the Treasurer to pay what the Committee shall think a reasonable fee to the Secretary for examining and attesting papers which he had hitherto refused to deliver. The delay in sending papers to the agent is ascribed to (1) the negro conspiracy which put a stop to all public business for about nine months; (2) a dispute about privilege between the Council and the Assembly, which put a stop to public business for twelve months more; (3) the activity of the Legislature in providing for the public safety by procuring white settlers and making provision for the subsistence &c. of the troops; (4) a visitation of small-pox, which keeps some members in the country and others absent from the island, so that a quorum can sometimes not be collected. Fees appear to have been paid to Smith for 516 folios; but Yeamans has not yet received these, which are

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1738-9. § 450 *cont.*]

the only ones upon which he can with safety to the country rely. If Smith's revised petition of July is answered within nine months, he cannot complain of undue delay, as 12 months is allowed for the prosecution of appeals from the island.

17 Nov. ———. Affidavit of John Banister, Comptroller of Customs in Antigua, who was a clerk in the Secretary's office in 1735 —about the fees taken there. The present reduction will render the office of very little value after paying the clerks and other necessary expenses. Parts of the docket of 1703 are not legible, and no provision is made by it for many articles of the Secretary's business. Smith has taken only the fees that were paid to his predecessors for many years past. He corroborates the statements made about the rate of coins current in the island.

I. Reasons for admitting Banister's affidavit without examining him upon interrogatories. He is about to leave England; and it is customary for the Council to receive the testimony of witnesses in such cases by affidavit. "Nothing can more evince its being new at the Council Board to examine upon interrogatories than its being impossible after the most diligent search to find before whom such examinations on interrogatories have ever been taken; and though there have been references on appeals to Masters in Chancery to take an account, yet such references are conceived to be similar to references by the House of Lords to merchants to take an account, and which in the one case and the other is always done by agreement of parties, for else in the one case it must have gone to the Master of the Court and in the other back to the plantations to the proper officer there."

1739.

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5 March. [451.] LEEWARD ISLANDS. *Complaints of W. Smith.*
III. p.498. Affidavit of George Lucas, enclosing details of the account of the Secretary, Charles Hedges, from Feb. 1716 to June 1719, paid by Lucas as Treasurer—252*l.* 11*s.* 8*d.* The fees were the same as those taken by Smith; the proposed reductions