

The estimate amounted to 32,182*l.* exclusive of ammunition and provisions; the men were to supply their own arms, but an armourer was desired to keep them in repair.

[676.] NEW YORK. *Regulation of appeals*—(*Forsey v. Cunningham*). Petition of R. Charles, complaining of the irregular interposition of Lt. Gov. Colden, and of his construction of his 32nd instruction. Upon a previous application by Charles, the B. of T. had not considered the matter, alleging that they had no leisure on account of the multiplicity of business wherein they were engaged. 14 Sept. IV. pp. 728, 740, 777.

I. Copy of the instruction.

II. and III. The two instruments issued by Colden to the Chief Justice, 31 Oct. and 2 Nov. 1764, (*a*) to forbear proceeding on the verdict against Cunningham till the case should be heard by the Governor and Council, and (*b*) to bring all the proceedings before the Governor and Council.

———. B. of T. representation on Gov. Moore's instructions. 24 Sept.

Since 1752, the words confining appeals to cases of error only have been omitted, but this is the first case in which a Governor has admitted an appeal from a judgment founded on the verdict of a jury. The Council and the judges of New York opposed Colden's view.

The B. of T. consider that the instruction was altered in 1752-3 merely to prevent the idea that liberty of appeal extended to criminal cases; and the restriction to cases of error is "upon the principles of law a rule so absolute of itself and so well established by the usage and constitution of this kingdom that it was thought unnecessary to point it out by express words in the instructions." They recommended that the words be re-inserted.

———. Report of Attorney and Solicitor General. 2 Nov. No change should be made which may prejudice the appeal now pending as an authoritative interpretation of the former instructions. The rule for construing the instructions is the

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1765. § 676 *cont.*
usage of the province, and an appeal can lie in cases of error only. The words were omitted in 1753 as superfluous.
- 19 Nov. ———. Committee report on the instructions.
- 22 Nov. ———. B. of T. report that they have rectified the instruction.
- 27 Sept. [677.] MASSACHUSETTS BAY. *Governor's Salary*. B. of T. representation; and (I.) Extract of letter of 8 July from Gov. Bernard.
- 2 Oct. [678.] QUEBEC. *Duties on wines &c.* Letter from the Treasury, transmitting a letter of 20 July from Gov. Murray and a paper printed at Quebec,—neither of which are in the Bundle. “From some expressions in the said letter it may be apprehended that none of the duties therein mentioned are any longer collected.”
- 2 Oct. [679.] BERMUDA. *Stores*. B. of T. representation, submitting (I.) extract of a letter of 18 July from Gov. Bruere; (II.) an address of the Governor, Council and Assembly; and (III.) a list of the stores required.
- 10 Oct. [680.] OHIO. *Settlement*. B. of T. representation with additional instruction for the Governors of Virginia and Pennsylvania; also Committee report of 15 Oct.; and copy of the instruction.
- 10 Oct. [681.] VIRGINIA. *Cherokee Indians*. B. of T. representation submitting an additional instruction.
- 730-2.
- 15 Oct. [682.] NEW HAMPSHIRE AND NEW YORK. *Grants in disputed territory*. Committee report.
- 673-4.
- 18 Oct. [683.] PRINCE EDWARD ISLAND. *Petition of Sir C. Saunders and others for a grant*. The surveys are now nearly complete. The petitioners deprecate the old pernicious mode of loose and partial grants, alleging that the distracted state of many of the American provinces proceeds “plainly from the want