

APPENDIX

[Pages 33 to 42 of the original volume were cut from the book some time in the past. A brief contemporary index in the volume shows that they contained parts of transcripts of proceedings in *Randolph v. Blackmore and the Ship Ann*, and *Burroughs v. Copley's Administrator*, and a report of opinions of the lawyers on questions which arose in connection with those appeals: specifically, on attaints of juries in the province and disposition of questions of fact appearing in cases appealed. The opinions in the former case, at least, were quite evidently the same as those recorded by Denton in another volume, Liber H. D, pp. 350-358, now published in *Archives of Maryland*, XX, 438-445. They are reproduced here from that volume.]

Queries to the Attorneys how Attaints may be brought ag^t Juries etc^a

Ordered that the R^t hono^{bis} the Lords of the Committee of Trade and forraign Plantations be humbly supplicated that they would please to give directions how Attaints may be brought ag^t Juries in this Countrey and if to be done, by what Rule they may be brought.

How matters of fact vpon Appeals brought before the Governo^r and Councill may be tryed; And when an Erro^r in Fact is Assigned vpon an Appeal or Writ of Error brought to a Superiour Court, before whom such Fact is not cognoscible, what course shall be taken to Trye that Matter of Fact.

Ordered that the aforegoing Quæries be put to the Lawyers of the provinciall Court for them to make Return of their Opinions therein as likewise make Answer to the following Case put, Viz^t

Edward Randolph Esq^r Qui tam Ag^{ts} John Blackmore and the ship Ann

Vpon Appeal from the provinciall Court to the Govern^r and Councill; the Error in Law Assigned, was that the Bond taken for the s^d ship being an illegall Bond the provinciall Court Judgm^t ought to be Reversed; therevpon the Councill for the King moved whether the Reversall of that Judgm^t might not be deemed condemnation of the ship, producing some Authorities; But the Defendant Arguing that there being matter of fact to be decided, Viz^t whether the ship tooke in Tobacco before Bond given, therefore ought not to be condemned before th^t matter of fact is tryed.

Ordered that the Attorneys Return severally their Opinion therein in Ord^r to be sent for England.

The Lawyers Opinions in the aforegoing Queries return'd are as follows, Viz^t