

Hawkins' Reasons of Appeal are in S. F. 1458.8. The record of the appeal has not been found. See Hawkins v. Sheafe, below, p. 416.]

HARRIS ags^t BRIDGEHAM

Thomas Harris plaint. against Jonathⁿ Bridgeham Defend^t in an accion of the case to the vallue of twenty pounds or thereabouts for that the dog or dogs of the s^d Bridgeham did worrey & spoil thirty eight sheepe or thereabouts of the s^d Harrisses after warning given the s^d Bridgeham to keepe up his dog or dogs the dog or dogs haveing killed one sheepe before warning given to the s^d Bridgeham & other due damages according to Attachm^t Dat: July 17th 1673. . . . the jury . . . founde for y^s Defend^t costs of Court. [144]

MILLER ags^t RISCO

Thomas Miller, plaint. against Robert Risco Defend^t in an accion of the case for breach of Covenants to the plaint^s great damage & other due damages according to Attachm^t Dat. June 12th 1673. . . . The Jury . . . founde for the Defend^t costs of Court. the plaint. appealed from the judgment of this Court to the next Court of Assistants & the saide Thomas Miller as principall in 100^{li} & Ralph Carter & John Williams as Sureties in 50^{li} apeice acknowledged themselves respectively bound to . . . prosecute his appeale . . .

[Here begins the tale of another unhappy voyage, in the little brigantine Good Hope "of Carolina in the County of Albemarle," N. C., Robert Risco master, bound from "New-Bean [Newbern?] Creek in Pasquotanck riuier" (S. F. 1245.1 0), to Fowey, England, with "Nyne Tunnes being Thirty Sixe hogsheads of tobacco." The tale is best told in the documents which have been preserved. First, the charter-party (S. F. 1245.7):

In the name of God Amen This Charter party of Afreightm^t Jndented made and agreed vpon the first day of March Ann^o Dmⁿ 167³ Between Robert Risco marin^r and part owner of the good Brigantine called the good Hope of Albemarle in the Province of Carolina of the portage or Burthen of tenne Tunnes or thereabouts nowe riding at Ancor in Pasgottancke river in the County aforesaid and master vnder god for this present voyage Bound fortwith for England or Ireland of the one part An^d m^r Thomas Miller of Balley Samson in the County of Waxford in Ireland Apothecary of the other part Witnesseth that the aforesaid Robert Riskoe master for and in the Behalfe of himselfe and Noah Parker part owner of the aforesaid good Brigantine hath granted and let to freight vnto the said

m^r Thomas Miller Nine Tunnes of tobacco for which the Said Miller is to pay to the said Riskoe master and Company Nine pounds Sterling for every Tunne (being foure hogsheads of tobbaeco Soe shipped by him: Only the said Miller is to haue his passage one Chest one barrell and his Cabbin with good accomodations freight free And further it is agreed Between each parties that the said Miller shall haue the liberty besides his poart nominated in his Bills of Loading to Saile to any other Port for the discharging his tobaccoes soe freighted on board the said Brigantine Either in England or Jreland Provided that there bee noe more then five working Dayes space Between the arrivall at the first and the Setting Saile to y^e Second the winds and weather being faire And noe Jmbargo of Province to hinder the same: And likewise it is Agreed that the said Risko (if required by the aforesaid Miller shall Stay any longer then the aforesaid Five Dayes in the first Port with an Jntent to Saile to the Second (the aforesaid hindrances being Considered that then the aforesaid Miller shall pay vnto the aforesaid Riskoe & Company vpon the Accompt of Demurrage for every Day that they shall attend through his occasion tenne shillings Per Day. Likewise it is agreed on that if the first Port bee in England the Second shalbee there likewise And soe in Jreland if it shalbee lawfull And to the true performance of the abovesaid Charter partie wee the abovesaid parties haue Enterchangeably Sett our hands and Seales the Day and yeere abovewritten

Robert Risko and a Seale

Signed Sealed and Deliuered

in the presence of vs

John Nixon

Vatt: Bird

Owned in Court by the

Defend^t 30.5.73 as

attests F B C:

. . . true coppie . . . Jsaac Addington Cler

The story of the voyage is told in Thomas Miller's petition for a survey (S. F. 1245.2), and in a deposition of Edward Cox, one of the crew (S. F. 1245.22), which merely repeats the facts in the Master's Instrument of Protest, recorded at Newport, R. I. (S. F. 1245.6):

By this publike Instrumēt of Protest, Bee it Knowne & manifest to all whom it may concerne Whereas Robert Risko in the County of Albemarle in the province of Carolina master of the vessell called the good hope of the abovesaid County by gods grace being intended or bound for Foy in old England and in pursuance thereof & with an hearty Jntention to performe the said voyage on the 20th day of March 167 $\frac{1}{2}$ from Pascotancke Riuer set saile & on the 22th of March aforsd wee came before the New Jnlet w^{ch} seemed to bee quite barred vp for wee Stood for the Middle thereof till wee came on ground. It pleased God the tide of Flood faouoring of vs wee got her off againe & stood further to the Southward till shee came on ground the Second time Then wee carried out ou^r Ancor and by the help of god gott her off againe then wee stood almost to the Southside of the Jnlet till wee found but Fiue foote water and before wee were about, wee were on ground the third time But not soe fast but that wee got off with little trouble soe being quite discouraged and quite out of hope of finding any channell that way wee stood quite ouer to the Northside where wee found Eight foote water but it showing soe suddenly y^t before wee could get the vessell about wee were fast on ground againe notwithstanding all our endeauo^rs with Ancor &

Cables and all the meanes wee could vse shee cast thwart & Jmediatly there arose a violent Storme or tempest of wind at Southwest or thereabout which caused the Sea to breake sheer over her & shee beating soe violently that wee much feared shee would split in peeces The time y^t shee lay in this Condition was from Nyne a Clocke in the morning till about fiue in the afternoone & the Strength of the tide with the motion of the vessell with the Sea had wrought away y^e sand afore and abaft and banked vpon the lee-side in the middle almost to the Bend which wee feared would haue broke her backe But wee tryed the pump often but could not find her to complaine as yet But when it was almost night with great labour & paines & with the help of the flood wee got her off In which time wee receiued three or foure Extraordinary knockes. But in the End wee being almost tyred and Desiring to take o^r rest wee went first to try the pump by w^{ch} wee found a great deale of water & that o^r vessell had receiued some harme by beating in which Condition of leakines Shee hath ever since Continued for which cause the afores^d master did resolue to put into some part or place in New England. Wherefore knowe yee therefore that J the said Risko doth Solemnly protest against the Showles Tempest and Sea which wee met with Coming out of the Said Inlet against all Damgages that wee haue Sustained.

This abovewritten Instrument of protest was by the aforesaid master and two of his men viz^t Edmund Cocks & Noah Parker published & Declared before mee: The truth of what is above declared J attest to bee from them declared vnto mee Witnes my hand this 17th day of Aprill 1673

John Sanford Record^r of his
Ma^ts Colony of Rhoad
Island & Providence
plantations

Appeared before mee Robert Risco Edmund Cocks & Noah parker the day & yeere above written & tooke their Solemne Engagn^{ts} that the above written Instrument is the truth and nothing but the truth & that as yet they haue not broke Bulk

Francis Brinly Assist^{nt}

. . . true Coppie . . . Jsaac Addington Cler

S. F. 1245.2

To the hon^d the Gouvern^r Deputy Gou^rno^r & the rest of the Magistrates of his Ma^{ty}s Colony of Road Jland & Providence plantations & Jnhabiting in the Towne of Newport on Road Jland Apr: 17th 1673. The humble Peticion of Thomas Miller

Sheweth That whereas yo^r peticon^r is by providence arrived in this port in a Small Brigantine bound by Charterparty Either for England or Jreland which vessell yo^r peticon^r conceiues is altogether in Sufficient to performe sd voyage & therefore may in the Conclusion prove very preiudiciall to him both in his person and Estate.

His request therefore is y^t you will bee pleased to afford y^t lawfull & Just favou^r to him a Stranger to Comand a stop of sd vessell vntill some skilfull persons haue taken a Survey thereof & made a Returne of their Judgm^{ts} therein vnder their hands vnto yo^r worships & it will very much oblige

Yo^r peticon^r & Supplicant
Thomas Miller

To James Rogers General Sergeant . . .

Thou art hereby required to require Henry Beare George Joye & John Hiekes to view the said vessell & to giue their Judgm^{ts} whether the said vessell bee sufficient to performe the Service promised and returne what they affirme, they Judge in the Case. Dated the 17th Apr: 1673

Nich Easton Gou^r

. . . true Coppie . . . Jsaac Addington Cler

On the reverse side is an instruction by the Deputy Governor of Rhode Island to James Rogers to command a stay of the vessel till further order and require the master to attend ashore. James Rogers deposes that he did so on May 3, 1673 (S. F. 1245.15), securing the sails and anchors on shore.

S. F. 1245.9

Wee whose names are here vnderwritten being by authority ordered to Survey the good hope Brigantine Robert Risco master belonging to the Colony of Carolina and Bound for England and forthwith to giue in o^r Judgm^{ts} of her ability for the said voyage Therefore in obedience to yo^r hon^{rs} Comands wee haue been on board the said vessell & being vncapable of viewing the hold of her shee being laden with goods Cannot say anything to it But her vpp^r worke & Riggin wee find Defectiue w^{ch} makes her if not repaired vncapable to performe a voyage soe long and full of Difficulty:

The Master of s^d vessell informed vs that Coming over the Barr at the Inlet of Carolina the vessell grounded and beat much vpon that Showld since which shee hath been leaky Therefore Doubting her Bottom may bee p^rjudiced our Judgm^t is there may bee a Carfull view taken thereof and what is amiss to bee amended

John Hiekes
Henry Beere
George Joye
Abiah Edwards

Abiah Edwards aged two & twenty yeeres or thereabouts testifieth y^t hee was one of the persons who viewed the vessell above & set his hand to this Returne & see it signed by the other persons this 30th 4^{mo} 1673 Taken before mee Walter Clarke assistant

. . . true coppie. . . Jsaac Addington Cler

After this exchange of pleasantries, Thomas Miller employed Nicholas Stevens of Newport, *c.* May 20 "to Rowle his tobacco to Caleb Carres warehouse" (S. F. 1245.14), which brought on a dispute between him and Risco over the freight money. There are several depositions about what Miller got ashore from the Good Hope, and to the effect that he and the Captain came to an agreement about the freight, in S. F. 1245.16-20; a copy of the alleged agreement is in S. F. 26662, from which it appears that Miller owed freight on 36 hhd. tobacco at 22s per hhd., to be paid in tobacco at the rate of 2d per lb. This worked out at 4752 lb. tobacco

for the whole freight bill. In order to discharge this, Miller left with Captain Risco 12 hhd., weighing 4524 lb. net, allowing 75 lb. tare on each hogshead; and still owed 228 lb. tobacco.

James Rogers, the General Sergeant, deposes in part (S. F. 1245.15):

... After which time aforementioned the sd Risko did procure a writ to attach the Body of the s^d Miller, the wth writ J the sd Sergeant did serve on the Body of the sd Miller for Security which was according to the writ Suddenly after which time the said Miller did himselfe or his order deliuer the Sailes by mee before secured as above to the master of the afore mentioned Brigantine without my knowledge till after it was done which was contrary to the teno^r of the writ and suddenly after the said Miller did depart this province without any knowledge of mine and without giuing mee Security according to law hee the said Miller being vnder an arrest and is not as yet Released from the said arrest And alsoe J the sd Serg^t doe here declare y^t after y^e said Miller or order did deliuer the Sailes of the aforsd vessell & alsoe himselfe departed out of this province J the sd Serg^t did noe longer take charge of Sd vessell nor forbid or hinder the sd vessell nor master from Departing. . . .

Depart he did; and Miller took the tobacco he had "rowled ashore" to Boston on a sloop, Derrick Smith master, as John Trengo deposes July 30, 1673 (S. F. 1245.21). We next hear of the Good Hope at York, Maine, where an attachment was served, and the following inventory was taken of her goods by "Abra: Preble Constable of Yorke," June 20, 1673 (S. F. 1245.12):

Jnpr^s 7 Hodged of Toba: marked as Jn y^e Margent, & Numbered . . .

Jtt: one parcell of bulke Tobba:

It six empty barrells, 6 barrells of Gumes, & a parcell of trunnells, One Iron

Pott, 1 brasse kettle, & some ould Pewter,

It one mayne sayle, fore sayle & stay sayle being ould,

It one Cable & anker, the Cable ould

It one buckett, & more 5 barralls empty

It one chest with bread & Cloaths in it,

It one small Caske of Beuerice, with other small dishes & one [quaderine]

It some Candles about 10 Pound, It ocum & some yearne, It pumpe Leather

It some brass things, one Hammer blocke & dead eyes,

It 1 barrell of bread one Roape, 1 Hatchett one Compass marling speeke & pumpe bowls, & Calking Irons, one Crow of Iron

It one pumpe hooke, & her Riging

Of course this meant more "Disbustments" (S. F. 1208):

A True acc^{ot} of Charges & Disbustmens^t, vpon the brickiteen Called y^e good hope of Albemare. Now in Yorke. Augus: 1673

	<i>l s d</i>
In primo; for serueing the warrant and Summons	0-04-00
For assisting y ^e Cunstable	0-09-00
Jtt for 10 day ^s time. lookeing to y ^e versell: while y ^e goods ware onc bord	1-00-00

	l s d
Jtt for two men two days packing the Bulk tobacho, & securing of itt	0-08-00
Jtt for 4 hh	0-16-00
Jtt for the Cunstable severall attendance. in lookeing after the versell	0-12-00
Expenses of the whole for drinke for the people	0-08-09
For the Carter in drawing the tobacho to the store house	0-05-00
For store house rume for the good ^a for y ^e security thereof.	0-08-00
	4-10-09

This is the True acc^{ott} of the disbustments as attests; Abra: Preble
Constable

[*Marginal note:*]

To a Man for fetching this Accompt of Charges from Yorke — 20ss 01:00:00
5:01:09

It is not clear why the action was brought in Suffolk County. See the entry above, for the verdict. Miller's Reasons of Appeal follow (S. F. 1245.5):

Thomas Miller his Reasons of Appeale from the Judgment of the last County Court held at Boston July 29th 1673 in the case wherein hee was plaint. against Robert Risco Defend^t

Jmp^r Whereas the plaint. did arrest the Defend^t for breach of severall Covenants bills of lading Charterparty &^a which as the plaint. humbly conceives depends one upon another for all relate to one & the same thing & the same voiadge & never altered by the plaint. but were refused to bee performed by the Defend^t as plainly appeares by the Defend^t forceing the plaint. contrary to his will & designe into severall strange places viz^t Sandyhooke neere New York & from thence to Newport on Rode Jsland; there fallatiously protesting against the damage of the Shoales incapsitating their vessell to proceed the Voiadge as their protest imports; yet though the s^d vessell was insufficient, they refused to fit her, though many offers of the plaint^s to defray the charge of the same; but turns part of the plaint^s goods ashoare in Newport & runs away with the rest; which was seized at Yorke in the Vessell, severall hogsheads of the plaint^s markes & Numbers as appeares by the returne of the Inventory signed by the Record^r & Constable of Yorke who seized the same; though the vessell was under Attachm^t at Newport as appeares under the hand of the Record^r of Rode Jsland & soe it may bee seen as will further be illustrated that the Defend^t breakes both Charterparty & bills of loading; the plaint. never intending any such thing; soe that hearinge of their arrivall at Yorke with the Vessell the plaint. could doe noe less then Attach them to Answer his complaints for the not fulfilling of the bills of loading & Charterparty but its pretended by the Defend^t that hee delivered the plaint^s goods onshore at Newport by consent & a colaterall agreement under the hands of Arbitrato^{rs} chosen by the plaint. which never yet lawfully appeared nor could doe because it is most false. For it's most inconsistent with reason that the plaint. should haue received his goods Viz^t the goods mentioned in the bill of loading when they were afterwards part of them Attached as is before expressed.

2^{ly} As to the Charterparty the plaint. humbly conceives that the Gentlemen of the last Jury did not soe well minde the absolute & expeditious drift of the same for England or Ireland, where both their mentioned viz^t Risco & Parker,

as part Own^{rs} were bound to goe, though they never intended it as may bee judged by their running upon the Shoales wth their Vessell when there was a Navigable Channell out, whence many Vessells belonging here to Boston haue safely sailed through this very new inlett against which they haue protested before they got out to Sea, thinking & contriving thereby to quash the plaint. & save themselves from the damage of the Tobacco (which was sustained by the leekiness of the Vessell in taking in of the same) as appears by the testimony of Edward Cox; & might haue made her tite before they came out, had they honestly intended the voidage.

3^{ly}: The bill of loading & Charterparty being by the Defend^t broken as may appear by their putting in to the afores^d places & refusing to goe the voidage it plainly proves that the plaint. never had the least thought of breaking them, soe that the damage which the plaint hath suffered is his thirty six hogsh^{ds} of Tobacco & other goods being not delivered in England or Ireland which may bee supposed would there haue yeilded him sixpence per pound cleere of all charge; which amounts to ten pound sterling per hogshead at four hundred neate; but severall of the same weighed more; besides the loss of time & expence both in Boston & Rode Jsland, the plaint. being altogether a Stranger.

4^{ly} Whereas the Defend^t pleads that there is a colaterall bond of two hundred pound under the hand & Seal of the plaint. & therefore all former Covenants to bee voide & by it cut of; it is utterly denied by the plaint, for the plaints seeing what they intended to doe when they were at Rode Jsland & that there was noe penall Obligacion on the Charterparty, hee viz^t the plaint. had reason to binde both it & the bill of loading as firme as hee could & soe consequently gaue them this bond to pay for what goods the plaint. should receive onshoare their Freight in Tobacco at two pence per pound as should bee judged the usuall Freight from Caralino to Boston. soe that this bond is but a firmer bindeing of the former Covenants, for the bond saith in these words (when the s^d Miller shall receive such a quantity of hogsheads according to bill of loading in good Order & well conditioned, then to pay him the aforesaide Freight) soe that all along it is according to the first agreement in the maine for England or Ireland, for there's noe other place of delivery mentioned in the bond, soe that it is not what they thinke the bond imports must bee the intent of the same.

5^{ly} As to the Testimonies of the Defend^t & to begin with Noah Parker's; the plaint. humbly hopes that the Honorable Court & Gentlemen of the Jury will maturely consider of what validity his testimony is in law, for if they looke but into the Charterparty they will finde him a part Owner of the Vessell & lett upon his Accoump^t as well as the others & soe a partner in the benefit of the same as will more fully appear in the testimony of Edward Cocks & laurence Gonsallys; therefore the plaint. humbly conceives that his Evidence in law is not to bee taken & soe invallid because it is in his own case, if soe bee it were true: And as to the Accoump^t of D^r & C^r signed by Noah Parker & the notionall Evidences o^r rather blanke papers of Stevens, Hodges, Rogers, Hawkins, Cocks & Blowers, which were the last Court exhibited by the Defend^t & then look^t upon by the Hono^rble Court as noe Evidence in law; which if they had been the plaint. had neere three to one that were there Engaged also, but being not lawfull Evidence as is before specified therefore did forbear to put in what testimonies of that sort hee had, which are diametrically opposite to theirs; & if the Gentlemen of the Jury will but looke upon all the papers Engaged at Rode Jsland they will

plainly see, that none of them all is upon Oath, soe the plaint. humbly conceives that the jury is bound to goe according to law & Evidence; which Evidences J conceive must bee taken upon Oath according to o^f law: But suppose that Parkers Oath were true & hee noe party concerned & that the rest of the papers were good in law; yet there is none of them say that the plaint. ever demanded or desired his Tobacco to bee there landed, or that hee ever received all his goods according to bill of loading, either for good condicion quantity or place; noe, but some Say that the Defend^t delivered some of it ashoare, some say a quantity of hogsheds was landed on m^r Carrs wharfe, others say housed in his Warehouse which the s^d Miller willingly received say others, besides severall other impertinent assertions; to which J Answer that 2. 3. or 4. are quantities of hogsheds or ten likewise are soe, Yet they are not thirty six soe not compleating the bill of loading in that respect. As for Trango's testimony, who swears that after Thomas Miller had received his Tobacco ashoare; hee swears not all his Tobacco, nor any certain quantity; but his Tobacco, that is some of his Tobacco, & that hee Shipped a quantity of the s^d hogsheds for Boston in a Sloope. To Answer to which as to the other testimonies, that a quantity is not all as is before expressed; but to show the reason of the reception of that Tobacco, it was for the defrauding of divers necessary expences which the plaint. by the Defend^{ts} bringing him amongst Strangers had exposed him to in Newport as Also to recruite in Boston necessary Apparrell in the roome of them which they deprived him of; And what small quantity that was soe rec^d by the plaint. though hee was to pay Freight as afore-saide in Tobacco at two pence per pound doth not at all hinder or take of the force of the bills of loading & Charterparty, that the remaind^r ought not to bee delivered according to bill of loading and Charterparty for a place & condicion & onely allowance to bee made for the quantity received in good condicion & not damnified which could not bee much for that the majo^r part was damnified by the vessells insufficiency in taking in the same as appeares by the testimonys of Edward Cox

6^y The plaint. proues by Edward Cox, who was at Albemarle with them viz^t Risco & Parker (who shipped him) all along till they come to Neuport on Rode Jsland, whome although they had shipped for the voiadge to England or Ireland Yet suddenly after their Arrivall at Nueport cleared him; For they knowing that had they not soe done, they could never haue Efected their contrivances upon the plaint. Hee viz^t the plaint. proues by s^d Cox, that the Vessell was very leaky & the Tobacco most of it damnified in taking in of the same; & they knowing this well, went to goe out at a place where they were unacquainted with the s^d Miller & his goods & soe severall times ran aground on the shoales on purpose as may easily bee supposed to blinde the plaint. by scaring him with their protest against the same, to deprive him of his due damages by their insufficiency, & not without danger to his person which is contrary to the law tit. Maritime affaires. Sect. 20. soe that running aground soe often & that purposely to & their clearing of Edward Cox the Seaman are great Arguments of the Defend^{ts} never intending to performe the Voiadge, hee was bound on but a meere delusion or cheate to the plaint.

7^y As to the Protest made by the plaint. at Newport on Rode Jsland, it's grounded on the Return under the hands of the appointed Surveyo^{rs} of the s^d Vessell; by the Authority there, how that shee was not founde insufficient by any beating on shoales, but for want of being rigged & fitted Sutable for such a Voiadge;

soe that theire protest will appeare to be fallacious & contrary to law. title. Maritime affaires Sect: 11. & 15. Thus haveing as wee suppose sufficiently proved the insufficiency of the Vessell, & other deceits of the Defend^t The Plaintiff. humbly requests that the Hono^r^{ble} Court & Gentlemen of the Jury wilbee pleased seriously to consid^r how that from time to time the plaint. hath been abused by the Defend^t & grant him reliefe in this deplorable condicion according to law.

Yo^r humble Servant.

Thom: Miller

1673

These Reasons were received August. 27. 1673

per: Jsaac Addington Cler

The appeal was not allowed. Three other actions and counter-actions between Risco and Miller will be found in this book. See below, pp. 288, 299, 316. The Massachusetts courts, perhaps warned by the protracted Lawton and Bonner case, found in every instance for the defendant and so discouraged further litigation.]

SMITH ags^t HUDSON

John Smith sen^r of Dorchester plaint. ags^t Cap^t William Hudson Defend^t the plaint. withdrew his accion.

LIDGETT ags^t FREAKE

Peter Lidgett Attourney to Richard Pickford plaint. ags^t John Freake administrato^r to the Estate of Francis Sampson late of Nevis deceased defend^t in an accion of acco^t for refusing to pay one hundred sixty nine pounds four shillings one penny due to the s^d Pickford from s^d Sampson on acco^t wth interest for four yeares & other due damages according to Attachm^t Dat. july. 22th 1673. . . . The Jury . . . founde for the plaint. one hundred sixty nine pounds four shillings one penny whereof there is in the hands of m^r Freake thirty three pounds eleven shillings six pence in provicions & in mony seven pounds fourteen shillings five pence which makes in all forty one pounds five shillings & eleven pence & costs of Court. forty one sh:

FRENCH ags^t TYNG

Phillip French for account of m^r Sammuell Shute & Benjamin Shute & Thomas Firmin plaint. against Jonathan Tyng Defend^t in an accion of the case for withholding the summe of one hundred & fifteen pounds in mony due by bill bearing date the thirtieth day of the ight month. 1672. hee the sd Tyng refuseing to pay the logwood specified in the s^d bill, & promised to pay it in mony which

deceased & given to the wife of the s^d John Woolcock by will as will farther appeare being greatly to the damage of the plaint. & other due damages according to Attachm^t Dat. july: 17th 1673. . . . The jury . . . founde for the Defend^t costs of Court. being thirty three Shillings & four pence.

CLARKE ags^t JACKLEN

Christopher Clarke plaint. against Sammuell Jacklen Defend^t in an accion of the case for pulling up a post & breaking down about five foote of fence fastned to the s^d Clarke his house next the streete & standing upon the s^d Clarkes ground & thereby claiming the title of his land to the damage of the s^d Clarke to the vallue of Forty pounds & other due dammages according to Attachm^t Dated july. 22th 1673 [146]. . . . The Jury . . . founde for the plaint. ten shillings damage & costs of Court being thirty four shillings & eight pence.

ORCHARD ags^t TOD

Robert Orchard plaint. against John Tod of Rowly Defend^t according to Attachm^t Dat. June 6th 1673.

The plaint. withdrew his Accion.

PECK ags^t PAGE — vid. p: 182

Thomas Peck & John Heyman or either of them plaint^s ags^t John Page Defend^t according to the Attachm^t Dat. May: 15th 1673. The Accion was tryed this Court but the Defend^t being out of this jurisdiction judgement is not to bee Entred till the next Court according to law.

RISCO ags^t MILLER

Robert Risco plaint. against Thomas Miller Defend^t in an accion of the case for unjust molestacion by severall attachments served upon the Brigantine of Albemarle whereof Robert Risco is Master whereby the s^d Master with his Owners are damnified to the damage of one hundred pounds or thereabouts & other due damages according to Attachm^t Dated July: 21th 1673. . . . The Jury . . . founde for the Defend^t costs of Court being eight shillings & four pence.

Execucion issued Aug^o 7 1673.

[See above, pp. 277-85, and below, p. 299.]

PARKER against MILLER

Noah Parker, plaint. against Thomas Miller Defend^t in an accion of defamation for charging him for stealing severall Beaver & Otter skins, whereby the plaint. is greatly damnified in his name & credit to the damage of one hundred pounds & other due damages according to Attachm^t Dat. july: 23th 1673. . . . The Jury . . . founde for the plaint. six pence damage & costs of Court being twenty three shillings & six pence.

Execucion issued for 24th m^o Aug^o 6 1672

SHAPLEIGH ags^t CLARKE & DAVIS

Majo^r Nicholas Shapleigh plaint. against Cap^t Thomas Clarke & Cap^t William Davis Defend^{ts} as administrato^{rs} to the Estate of m^r Valentine Hill deccased in an accion of Reveiw in a case wherein the aboues^d Administrato^{rs} did sue the s^d m^r Shapleigh for the forfeiture of a bond made by the s^d m^r Shapleigh & m^r John Tryworthy to the s^d Hill of three hundred pound for non paim^t of a debt of two hundred quentalls of Merchantable Fish [147] to the s^d Hill by which sute the s^d m^r Shapleigh hath been greatly damnified according to Attachm^t Dat. july 16th 1673. . . . The Jury . . . founde for the plaint. reversion of the former judgm^t & costs of Court,

HUDSON ags^t SMITH

Cap^t William Hudson plaint. against John Smith of Dorchester Defend^t according to Attachm^t

The plaint. withdrew his accion

HUDSON ags^t HUNT

Cap^t William Hudson plaint. against John Hunt Defend^t in an accion of the case for that Anne Hunt wife to the s^d John Hunt hath illegally broken up removed the land marke & intrenched upon a parcell of ground appertaining to him the s^d Hudson & adjoining to the castle Tavern in Boston as by sufficient testimony further will appere wherein the s^d Hudson is damnified at leaste one hundred pounds sterling with other due damages according to Attachm^t Dat July 17th 1673. . . . The Jury . . . founde for the plaint. that the Defend^t hath unjustly intrenched upon the land of the plaint.

vnto y^e relict widow & children, of y^e Reverend m^r Jonath: Mitchell late of Cambr deced, who accordingly demanded possession thereof, of y^e Said Bishops, and was denyed wherevpon a sute was commenced for possession at y^e last Coun: Court at Salim, where y^e Said Bishops confessed y^e bargaine made wth m^r Saltonstall, & Exhibited the Articles made between them, in barr of y^e p^l yⁿ sute. pleading 1. a defect in the assignem^t made to m^{rs} Mitchell. 2. y^t m^r Saltonstall could not assigne y^e same before his reentry, & also that m^r Saltonstall had a bond given for paym^t w^{ch} he might sue when he pleased, & had made entrance of sute, and therefor could not now enter on the lands conveyed. Also in discourse with the then attorney for m^{rs} Mitchell, y^e s^d Bishops tendred to pay y^e money, in case y^t they might haue a years time.

Wherevpon y^e Plant, haueing heard their plea, although it altered not the case as to matter of equity, yet Seeming to haue Some colour of law yⁿ he withdrew his accion, and after sometime made demand of y^e money according to covenant, w^{ch} being denyed, occasioned the now def^t to sue the bond at last Coun: Court at Boston, where the now p^l y^t had as is before recited, pleaded ag^t a Surrender of possession of y^e house & land p^tending y^t bond lay out ag^t them for paym^t thereof, so also then he pleaded as much ag^t paym^t for y^e same, although by bond obliged thereto, p^tending y^t it was not legally proved, bec^e the witnesses that had subscribed the same appeared not in Court, the one being dead, and the other a sojourn^r in the Said Bishops family, who although he was summoned, & money put into his hand to bring him to y^e Court, yet he would not appeare before the Court to give his testimony as in law & conscience he was Obliged. how farr the p^l had the contrivance hereof himselve best knows.

Now let the premises be Duly considered, together with the evidences [in] the case y^t are before the Court, y^e def^t humbly conceiueth y^t it is fully demonstrated, y^t y^e debt sued for is aswell legally proved as honestly Due yet evident it is, by y^e p^l now plea, y^t if y^e death of one witnes, & y^e refuseing of another to give his testimony to his owne hand, (as is undoubtedly true) if this will pay a debt from them so justly due, they faile not to vrge the same to the vttermost, endeavouring to make the hon^d. Court, (appoynted for y^e releife of the oppressed) a Patron of their so great a peece of injustice & fraud. the Evill thereof being aggravated, by the great oppression done to the helpless widow, & fatherless children of so Reverend a man Vpon whon this wrong will finally Center.

2. 7. 1673]

William Stoughton

[152] MILLER ags RISCO

Thomas Miller plaint. ags^t Robert Risco Defend^t according to Attachm^t Dated July: 1: 1673. The plaint. in failer of process was non suited & costs granted the Defend^t seven shillings & eight pence. Execucion issued 6. 6^{mo} 73. for 7^s 8^d

RUSSELL Esq^r ags^t BAREFOOTE

Richard Russell Esq^r Treasuro^r for the Massathusetts Jurisdiction plaint. against Walter Barefoote Defend^t in an accion of the case for the breach of his bond & non performance of the Court of Assist-

SALTER ags^t DAVIS

Jabez Salter plaint. against Sammuell Davis Defend^t according to Attachm^t Dat. 8th Octob^r 1673. The plaint. withdrew his accion.

SANDYS ags^t MOTT

John Sandys Attourny of Anne Manning sole Executrix of the Last will & testament of Richard Parker Late of Boston deceased plaint. against Nathan^{li} Mott Defend^t in an accion of debt of about Sixty five pounds due by booke & due damages according to Attachm^t Dated Iuly 25th 1673. . . . The Iury . . . founde for the plaint. Sixty one pounds seven Shillings & costs of Court being 35^s 10^d

Execucion issued for 63. 2. 10. Nov^r 6 1673. [163]

RISCO ags^t MILLER

Robert Risco plaint. against Thomas Miller Defend^t in an accion of the case for unjustly attaching the brigantine called the good hope of Albemarle, whereof the s^d Risco is Master, whereby hee is extremely damnified & his Owners by severall Attachments Laide upon the aforesaide Brigantine called the good hope of the s^d Albemarle as by Account shall appeare to the vullue of One hundred & fifty pounds & all due damages according to Attachm^t Dat. August: 2: 1673. . . . the Iury . . . founde for the Defend^t costs of Court being six Shillings & ten pence.

Execucion issued for 6^s 10^d Nov^r 11 1673

[See above, pp. 277-85, 288, 299.]

PARKER ags^t CORBYN

Noah Parker Son of Iohn & Iane Parker, plaint. ags^t Clement Corbin Defend^t in an accion of the case for withholding three fourth parts of forty two acres or thereabouts of land, which doth belong to the s^d Noah Parker himselfe & as hee is heire to his brother John Parker deceased, the s^d Land being given to the abouenamed John & Noah as may appeare by a Deed of gift bearing date in the yeare 1646 & all other due damages according to Attachm^t Dat: Septemb^r 13th 1673. . . . The Iury . . . founde for the Defend^t costs of Court being ten Shillings & nine pence.

Execucion issued for 10^s 9^d Nov^r 11 1673