

offices, take upon himself the work of clerk of this court in addition.<sup>1</sup> He seems to have found it necessary to omit so much of the work that had been carried by Denton.

There are no pages in the original book between 266 and 270, and any matter missing there would be of the session of April 15, 1714, in the case of *Miller's Executor v. Her Majesty*. Original pages 286 to 293, both inclusive, have been cut out and lost, and the missing matter appears to have been part of the records of one term of court, in March, 1715. Some of the original papers in cases of that time have been preserved, but insertion of any of them here would afford only a conjectural and fragmentary restoration at best, and therefore it has not been attempted. Original pages 324 and 325 are blank, and at this place there is a gap between the record of a session of July 18, 1716, and that of a session of October 21, 1719. The entries finally break off in the midst of the record of proceedings in one case, with a statement of reasons for appeal; and a large number of pages after it are left unused.

The docket referred to is, with the exception of the omission during Bladen's time as clerk, and an unexplained lack of any entries for the October term of court, 1726, a continuous one of appeals filed from 1695 to 1790. During the American Revolution the cases on the docket were taken up by new judges as if the same court were continued in existence, with unfinished business. The book referred to as the docket seems obviously, however, to be all in one hand, and to have been written in the latter part of the eighteenth century; and there are facts that suggest that the entries under dates of the first twelve or fifteen years after 1695 may not have been contained in an earlier book, but may have been extracted from the full record for the first time later in the eighteenth century. Whether they were, need not be decided now.

During the discussion in the council on October 17, 1694, on the launching of the court, the governor called the lawyers into consultation on the scope of the jurisdiction of a court of delegates in affirming or reversing a judgment of the commissary general in the prerogative court,<sup>2</sup> and after having taken time to refer to their books, the lawyers presented separate opinions of marked excellence. Dent, whose opinion was the fullest given, affords an illustration of the high ability possible in a provincial lawyer not educated at the Inns of Court. At the same time the governor put to the lawyers an additional question:

if in case any Judge Enters his Dissent to the Judgmt of the rest of the Judges sitting in Judgmt with him, whether such Judge dissenting shall not thereupon give or shew some Reason for such his Dissent, and whether the same should be Entred in the Record or not, who are unanimously of opinion that any Judge

<sup>1</sup> Letter: Gov. Nicholson to Board of Trade, Aug. 20, 1698, *Archives*, XXIII, 488, 489.

<sup>2</sup> *Ibid.*, XX, 314.