FOREWORD

In this study an attempt has been made to describe and evaluate at length the Privy Council of England as a judicial body exercising appellate jurisdiction over the courts of the various American plantations during the seventeenth and eighteenth centuries. Prior to this volume no attempt had been made to utilize even a small part of all the available material, largely manuscript, bearing on this subject. Some writers of the local history school confined their attention to certain notable causes, such as *Winthrop v. Lechmere*, *Leighton v. Frost* or the Parsons' Cause. Other writers, concerned with particular colonies or public figures, discussed in passing such cases as *Cunningham v. Forsey*. Another group, in writing on the Privy Council's jurisdiction in a general manner, relied solely upon printed materials, principally the Acts of the Privy Council, Colonial. Treatises and case books on the constitutional law of the United States have invariably treated the doctrine of judicial review during the American colonial period in a superficial manner. No real effort was made by any of these writers to integrate the various records in the archives on this side of the Atlantic with the Privy Council records in London.

Professor Julius Goebel, Jr., was the first to perceive the value to students of Anglo-American legal history of a thorough study of the appellate jurisdiction of the King in Council over the American colonies. The instant project has been carried out under his supervision and guidance. I am deeply indebted to him for the many demands I have made upon his extensive knowledge of English and colonial law and history.

Considerable space has been devoted in this book to discussion of the Council's jurisdiction over the Channel Islands, as this constituted the core of all conciliar appellate jurisdiction and is a prerequisite for any consideration of plantation appeals. The insular colonies of the Caribbean have been treated at some length, since in the seventeenth and eighteenth centuries these islands were economically and strategically more important than were the mainland colonies and were regarded as such in English administrative circles. Although it is sometimes exposed to political maneuvering, appellate jurisdiction is a matter of law, not of politics. Consequently, it has been necessary to employ technical language, much of it concerned with problems of procedural, rather than substantive, law. Such usage, while it renders more difficult the task of the lay reader, recognizes that the legal problems incident to his-


FOREWORD

Economic research must be treated as such, not vaguely dismissed as “technicalities.”

The sources used have been largely manuscript, assembled from numerous depositories in England, the Channel Islands, the states of the Atlantic seaboard, and Jamaica, British West Indies. These sources have been supplemented with printed material, in part readily accessible, in part rare. Reproduction of manuscript sources has given rise to the usual problems of spelling, capitalization, and punctuation. For the most part the original spelling has been preserved, arbitrary capitalization has been deleted, punctuation supplied or altered where necessary to clarity, and contractions expanded. Certain arbitrary choices were necessary to resolve the vagaries in the spelling of proper names. A bibliography has been omitted as it would swell considerably a volume already of formidable dimensions, but full reference has been made in the footnotes to all the sources utilized.

Of the many depositories which placed their facilities at my service, I am particularly indebted to the officers and staff of the Public Record Office, the British Museum, the Bodleian, and Lincoln’s Inn, in England, to the Société Jersiaise in St. Hélier, Jersey, and the Priaulx Library in St. Peter Port, Guernsey, C.I.; to Miss Edna L. Jacobsen, Chief of the Manuscripts and History Section of the New York State Library, Miss Mary T. Quinn of the Rhode Island State Archives, Dr. Radoff and the staff of the Maryland Hall of Records at Annapolis, and the respective staffs of the Massachusetts Department of Archives, the Connecticut State Library, the South Carolina and North Carolina Historical Record Commissions; to the respective officers and staffs of the New-York Historical Society, the Historical Society of Pennsylvania, the Connecticut Historical Society, the New Jersey Historical Society, the New Hampshire Historical Society, the Maryland Historical Society, the Massachusetts Historical Society, the New Haven Colony Historical Society, and the American Antiquarian Society; to Mr. St. George L. Sioussat, Chief, and the staff of the Manuscripts Division of the Library of Congress, the staff of the Law Division, Library of Congress, the staffs of the Manuscript Research and Reserve Book Rooms, New York Public Library; to Mrs. Hess of the American Philosophical Society, Mr. George A. Osborn, Rutgers University Librarian, and the staff of the Harvard University Law Library; to Mr. Maxwell Volins, Chief Record Clerk, New York County Clerk’s Office, the staff of the Research Room, Suffolk County Court House, Boston, Mass., the staff of the Superior Court, Newport, R.I.; to Langton Haldane-Robertson, Esq., Archivist of the Institute of Jamaica, Kingston, Jamaica, B.W.I.; to the officials of the Jamaica Record Office, Jamaica, B.W.I.

I am also much indebted to Lord Wright of Durley for facilitating my re-
search in the records remaining at the Privy Council Office in Downing Street. To Dr. M. A. Thomson and Dr. R. A. Humphreys of the Institute for Historical Research, London, I am grateful for valuable guidance in the use of English sources; to Dr. J. H. Le Patourel of the Institute for Historical Research, Bailiff A. M. Coutanche of Jersey, Ralph Mollet, Esq., and Attorney-General Sherwill of Guernsey, I am indebted for kind assistance in assembling the Channel Islands material. To J. Bennett Nolan, Esq., and James M. Osborn, Esq., I express gratitude for access to private manuscript collections. To Professor Dorothy Burne Goebel I am especially indebted for search in the Shelburne MSS at the Clements Library and for critical reading of the entire typescript. To my wife, Edith Stenberg Smith, I am grateful for a reading of the proof with the practiced eye of an estates lawyer and for compiling the table of cases. Dr. Donald Tilton and the late Lieutenant William C. Evers, U.S.M.C.R., relieved me of many of the chores incident to research, while the library staffs of Columbia University cheerfully submitted to many demands on their time and patience. Finally my thanks are due to Mr. Samuel F. Howard for undertaking the arduous task of compiling the index, and to the Columbia University Press for the care bestowed in bringing this volume to publication.

J. H. S.

New York
August, 1949