But this Act of the Long Parliament dealt only with subjects of the Kingdom and not at all with subjects of the King in territory without the Kingdom: and any subject in a dependency had still his right to apply to the King in Council as before. Moreover at the Common Law the original jurisdiction to decide cases "relating to the boundaries between provinces, the dominion and proprietary government is in the King and Council," as Lord Chancellor Eldon says in the famous case of Penn v. Lord Baltimore (1750) 11 Vesey Sr., 444 at p. 446. This jurisdiction was not at all interfered with by the Act of 1640.

It does not seem to be quite certain when appeals came first to the Council from non-English territories of the King of England; but apparently it is practically certain that they came from the Channel Islands. Until the seventeenth century the foreign dependencies were not of great importance; but in that century appeals are found coming in; and in 1667 a special Judicial Committee was formed by the Privy Council from its members to deal with such appeals. This was without any authority from Parliament, for none was needed, the authority of the Common Law being sufficient.

After the Revolution of 1688 the appeals began to increase, and in 1691 an order was passed that "all appeals be heard as formerly by the Committee who are to report the matters so heard to them and with their opinion thereon to the King in Council." This Committee for Appeals" had jurisdiction over appeals from the supreme courts of the Colonies. Early in the eighteenth century Colonial appeals began to come in in considerable numbers: and many most important matters were passed upon by the Committee.

The celebrated Penn v. Lord Baltimore case already referred to was in fact to determine the rights of Pennsylvania and Maryland over part of the present Delaware: but it was arranged that the matter should be tried as a civil suit in Chancery: this was done: and the King in Council made an order in accordance with Lord Hardwicke's decision. But this case can not be cited as an instance of judicial power.

While there are many instances of the decision by the Committee in Colonial times on private litigation, I am not aware of the exercise of judicial power in any public controversy, e.g., of boundary, etc. (Mr. Snow's valuable address at the first meeting of this Society should be consulted.)

Indian appeals stand on a peculiar footing: the right to appeal was first given in 1773, 16 George III, c. 63. Turning now to another jurisdiction of appeal we note that originally within England appeals, so far as they were allowed at all from the Courts of Law, went to the Court of Error, or to the Lords—from the admiralty to the King in Chancery, that is in practice to a Court of Delegates and from the Ecclesiastical Court to the Pope, that is in practice to Delegates appointed by the Pope. After the Reformation in 1532 (24 Henry 8, c. 12) appeals to Rome were forbidden; and the next year (25 Henry 8, c. 17) it was provided that appeals from the Archbishop's Court should be to the King in Chancery—he appointed Delegates forming a High Court of Delegates to hear these appeals.