

564 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1708.

away the said 2 Shares of Crown Land for the said Term of 31 years and That the said Ferry House would not be rebuilt without the Encouragment aforementioned altho' very necessary for the Publick and Generall Service of the said Islands and Whereas the said 2 Shares of Land formerly belonged to the Ferry House tho' not granted for so Long a Term of Years and is worth but about five pounds a Share per annum, according to the Computation of the Shares allotted by the Governors Instructions for his Salary, and that the Building a House is absolutely necessary for the Keeping up the said Ferry for a Free passage for the Inhabitants between the Town and the Country, Therefore the said Lords Commissioners humbly Offer their Opinion that it will be for the Good of Her Majestys Subjects that Her Majesty be pleased to allow the Granting the said 2 Shares as proposed by the said Bill and that an Act be passed there accordingly. [pp. 113-4.]

1 Aug.  
Jamaica.

[1067.] [Reference to the Committee for Appeals of the] Petition of Sir Charles Orby Baronet and Dame Anne Hopegood his Wife, late Dame Anne Hopegood Beeston Relict of Sir William Beeston of Jamaica Knight Deceased Setting forth that a Judgement being given against the Petitioner Dame Anne in the Supream Court of that Island in Relation to the Will of the said Sir William Beeston She Appealed to the Governour and Councill there, but that three of the Councill were Disabled for hearing the said Appeal by the Statute as being Factors in the Trade of Affrica in the Sale of Negroes, and three others of them Disabled as having been Judges of the Grand Court in the said Cause, Soe that there being no more than the Governour and one of the Councill Capacitated, there was not a Quorum according to Her Majestys Instructions for hearing the said Appeal, Therefore the Petitioners humbly Appeal from the said Judgement and pray the same may be Reversed. [p. 147.]

(1709.)

14 March. [Committee Minute. On 26 July, 1699, Sir W. Beeston made a will, leaving to his daughter Jane, then wife of

1708.

Sir Thomas Modyford and now of Charles Long Esq. 3000*l.*, and the remainder of his estate, under divers conditions, to Dame Anne Hopegood. On Sir William Beeston's death, Long and his wife took advantage of the fact that the will was in England, to secure the lands and some of the personal estate of the deceased, giving out that he had died intestate. The original will was then sent over by the petitioner, and an ejectment brought by James Allison, lessee of Anne Hopegood. At the trial in Aug. 1706, the jury found a special verdict—that the will was in the testator's handwriting, and executed, published and declared by him in the presence of four subscribing witnesses, who, however, attested it in another room out of his presence: also that the Statute of 29 Car. II. against frauds and perjuries was in force in Jamaica, and that a certain will void for non-pursuance of that Act was found to have been made good by an Act of the island. Judgment being given against the petitioner, she appealed by writ of error to the Governor and Council. The appeal came up on 17 June, 1707, when the 7 Councillors present resolved that 3 of them were disqualified by the Act of 9 and 10 William III, providing that no judge in her Majesty's plantations should be a factor of the African Company, and 3 others as having been judges in the case in the Grand Court, and that they were therefore not a quorum for the purpose of hearing the appeal. The petitioners therefore pray to be heard before Her Majesty in Council, while the defendants seek to have the appeal heard before the Governor and Council, of whom, as the petitioners point out, only five, a bare quorum, are possible judges in the case, Charles Long the defendant and the six mentioned being disqualified. The Committee submit along with this report a list of the Council of Jamaica.] [pp. 279–82.]

(1709.)

[Order that the Board of Trade propose] Two Other 31 March. Persons duly Qualified to be Councillors in Jamaica, who may make up a Sufficient Number for Hearing this Cause and preventing the Failure of Justice in that Island. [pp. 285–7.]

566 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1708.  
(1709.)  
16 April. [The Board of Trade report that no answer has been made to their direction to the Governor to warn members of the Council to act no longer as factors in the slave trade, and their recommendation is adopted that, if the three members refuse to resign their agency, they be dismissed from the Council, and Francis Oldfield, John Copley, and John Carver appointed to complete the number of Councillors. The African Company is also to receive notice in order that they may appoint properly qualified factors in place of any who may resign in consequence of this order.] [p. 301.]
- (1710.)  
28 Aug. [Orby's petition and appeal from the confirmation by Governor and Council of the verdict of the Grand Court, is referred to the Committee for Appeals.] [V. p. 87.]
- (1710.)  
18 Dec. [Committee minute for reversing the judgment and the order affirming it. Costs of the suits in Jamaica are allowed as taxed by the officers of the Court where the judgment was affirmed, but no costs for the prosecution of the appeal to Her Majesty in Council.] [V. p. 170.]
- (1711.)  
9 Feb. [A petition from Charles and Jane Long alleging new matter which they desire to be heard before final judgment is given, is referred to the Committee for Appeals.] [V. p. 184.]
- (1711.)  
19 Feb. [Committee minute affirming their former report in favour of the appellants.] [V. p. 191.]
- (1711.)  
1 March. [Order in accordance with report of 18 Dec.] [V. p. 195.]
- (1713.)  
15 April. [Reference to the Committee for Appeals of the petitioner's complaint against Richard Rigby, one of the Council of Jamaica, now in London, who hinders them from reaping the benefit of the last order.] [VI. p. 93.]
- (1713.)  
3 June. [Committee minute. The appeal to be heard at the first meeting after the end of this term.] [VI. p. 185.]
- (1713.)  
17 Dec. [Committee minute. Rigby was alleged to have obtained the Council Books in the island, when Mr. Roderick Mackenzie

1708.

was Clerk, on purpose to strike out the ordering part of the order in favour of Sir Charles Orby. It is found that Rigby and another member of the Council, Stewart, were directed to revise the minutes in the case taken by one Mr. Stukeley as deputy for Rigby, who was at the time Clerk of the Council, but that Rigby did not strike out any part of the order to Orby's prejudice, and that the reason why a new suit had to be commenced was that the term of years laid in the ejectment was expired. The Governor and Council of the Island have sent resolutions in favour of Rigby and accusing Mackenzie of a notorious breach and neglect of his duty in omitting to enter the order of the Governor and Council which empowered Rigby and Stewart to revise the minutes, which omission seemed to have been made with design to occasion this complaint. On the whole matter their Lordships report that the complaint is wholly groundless, and that Mr. Rigby appears to have acted with great ability and perfect integrity, and is a person deserving his Majesty's royal favour.]

[VI. pp. 292-3.]

(1714.)

[On considering this report, the complaint is dismissed.]

20 Feb.

[VI. p. 336.]

[1068.] A presentment from the Commissioners of prizes To the Right Honourable the Lord Treasurer of Great Britain, relating to Comadore Wagers late success on the Spanish Galeons in the West Indies, Setting forth that the said Commissioners having Considered the two Acts of parliament about encouraging of Her Majestys ships of Warr and privateers and that according to the Clause in the Act for settling Cruizers and Convoys the Captors are Intitled to the whole of all that shall be taken from the Enemy after the 26th March 1708 But by that Act for Encouragment of Trade and Commerce in America the first Clause Determines all prize Offices in America the 24 June 1708 following which seems to Imply that Her Majesty should have the same benefitt by prizes to the 24th June aforesaid in America as before the Making of that Act, [with the opinions of the Attorney

8 Aug.

West Indies.