

ACTS OF THE PRIVY COUNCIL (COLONIAL). 741

[1295.] [Reference to the Committee for Appeals of William Franklyn's petition for a short day for hearing his appeal from a sentence of the Governor and Council of Antigua] in favour of — Buraston, whereby the petitioner is dispossessed of a plantation in the Charibee Islands, which he alleges to have been purchased by his Father for the consideration of 1700*l*. [p. 142.]

1718.

14 May.
Antigua.

[Committee—On Stephen Buraston's petition that Franklyn's appeal from a judgment of 1 Feb. 1717 be dismissed for non-prosecution, the hearing of the appeal is postponed till the first meeting in Michaelmas Term.] [p. 195.]

15 Dec.

[Committee : for reversing the judgment given in Antigua, restoring the premises to the appellant, and satisfying him for the profits during such time as possession was withheld from him.] [p. 405.]

(1720.)
11 May.

[Order accordingly.]

[p. 412.]

(1720.)
19 May.
(1723.)
6 Aug.

[Reference to the Committee for Appeals of Mary, widow, and William Henry, infant son, of Wm. Franklyn deceased, and of Mayne Sweet and Grace his wife, joint guardians of William Henry Franklyn, complaining that Buraston has brought a new execution against the petitioner for the said premises, whereon a verdict has been given, and as the same is general, no appeal can be had to his Majesty, and praying that the former Order be enforced.] [IV. p. 310.]

[Committee, for sending a copy of the petition to Buraston for his explanation why the Order of 19 May, 1720, has not been obeyed : and a copy to the Judges in the second trial, for them to certify] the State of the Facts complained off, and what appeared to them upon the Tryal. [IV. p. 319.]

(1723.)
14 Aug.

[Order accordingly.]

[IV. pp. 331–2.]

(1723.)
27 Aug.
(1725.)
14 Oct.

[Reference to the Committee for Appeals of the petition of Ann, widow of William Franklyn, that, as the proceedings are duly transmitted, a short day be appointed for hearing

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1718. her appeal from a decree of the Antigua Chancery, 14 Jan. 1725, in favour of Stephen Buraston.] [V. p. 118.]
- (1727.)
20 Jan. [Committee. Order that the appeal be heard on 8 Feb. and] that a Summons might be affixed on the Royal Exchange giving Notice of the said time in regard the said Buraston hath not Entered his appearance to the said Appeale altho' above Twelve month are Expired. [V. p. 306.]
- (1727.)
15 Feb. [Committee hear counsel for the appellant, no one appearing for Buraston, and report that Buraston's bill should be dismissed with costs and any money paid thereupon returned to Mrs. Franklyn. The judgment of the Governor and Council in Feb. 1717 upheld a judgment of the Inferior Court of 2 June 1710 (? 1716) and awarded to Buraston the moiety of a plantation in Rendezvous Bay which had been bought by Franklyn's father from Buraston's father. These judgments were reversed by the Order in Council of 19 May 1720, and the profits of the plantation while in Buraston's possession ordered to be paid to Franklyn. These were assessed by a jury at 1065*l.* 16*s.* 5*d.*, but Buraston brought a new ejectment in the Court of King's Bench and Common Pleas, and, in spite of the Order of the Council, secured a general verdict in his favour. While Franklyn's appeal was before the Council, Buraston was successful in another action in Antigua for the profits of the plantation from 1712, the time of his bringing his first action, to 1716 when he recovered it, and levied execution for 500*l.* on a messuage belonging to Franklyn which was sold for payment thereof. After all these proceedings he filed a bill in Chancery for an account of the profits of the plantation from the time of his first action and to be relieved against the judgment for 1065*l.* 16*s.* 5*d.* and to have a stay of all proceedings at law. In spite of the Order of the Council an injunction was granted and decree made on 14 Jan. 1725] that the 500*l.* Recovered from William Franklyn in his lifetime. . . was included by the Jury of Inquisition 1065*l.* 16*s.* 5*d.* given by them to the said Franklyn . . . [Further, the profits from 1712 to 8 Dec. 1720, the day of taking the inquisition

1718.

under the Order of the Council, were assigned to Buraston, the sum of 1065*l.* 16*s.* 5*d.* found for Franklyn by the jury being accepted as the value, and] the Master should enquire into and Borraston recover the Mesne profitts of his said Moyety received by the said William Henry Franklyn from that time to the day of the said Decree and Borraston to be at Liberty to take out Execution on the Judgment at Law for his said Moiety of the said Lands.

[Besides recommending reversal of the decree, the Committee report], as it appears that no regard hath been paid to Your Majestys Royall Pleasure Signified by Your Order made in Council the 19th of May 1720 . . . But that these proceedings have been since carried on in direct opposition to Your Majestys said Commands, . . . the Persons who sat in the Court of Chancery . . . and concurred in making the said Decree, are guilty of a High Contempt and Disobedience of Your Royal Authority. And . . . it may be advisable for Your Majesty to order a Letter to be sent from Your Majestys Privy Council, Signifying Your High Displeasure of their said Contempt and undutifull proceedings, And directing that for the future they do not upon any pretence whatsoever presume to Disobey or in the least delay Complying with any order of Your Majesty in Council and carrying the same into Execution, but that they do pay an exact and Speedy obedience to the same, as they will answer the contrary. [V. p. 327.]

(1727.)

[Order and letter accordingly.]

[V. p. 340.] 28 March.

[1296.] [Reference to the Committee for Appeals of the petition of Peter Ford of Rotherhithe, Surrey, for a short day for hearing his appeal from three decrees passed in Rhode Island, in the General Court in Mar. and Sep. 1717, and by the General Assembly, Oct. 1717, in favour of Daniel Hodgson, master of the *John* galley, in the petitioner's suit for his share of goods in the said ship, which he alleges Hodgson has disposed of as his own.] [p. 153.]

1 July.
Rhode
Island.

[Hodgson enters his appearance to the appeal.] [p. 187.] 10 Nov.