

416 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1734.

Statute passed at Westminster in the 28 Year of Your Majestys Royall Predecessor King Henry the Eighth for the Restitution of the First Fruits in time of Vacation to the next Incumbent it was provided that after the avoidance or Vacation of any Benefice all the Tithes Rents and Revenues thereof shall belong to the next Incumbent and his Executors towards payment of the first Fruits to the Crown for payment of the person who should serve the Cure during the Vacation and for defraying the Charge of Collecting the Tithes Fruits and Rents of the Benefice. That this Law Extends to all Your Majestys Dominions and as the people of New York have no municipal Law which may exempt them from the Observation of it, which in this Case would be a very Great Hardship upon the Present Incumbent who has Officiated as Curate of the Parish above half the time of the Vacancy The said Lords Commissioners therefore see no reason why the Law of England to which this Act is repugnant should not take place in the Province of New York and therefore propose that this Act should be repealed. [pp. 546-7.]

8 Aug. [The Act disallowed.] [IV. p. 5.]

11 July. [305.] [Reference to the Committee for Appeals of the petition of Joseph French, formerly of Antigua but now of Barbados, for a short day for hearing his appeal from a decree of the Antigua Chancery, 1 Nov., 1733,] in favour of Richard Sherwood and Johanna his Wife and William Denbow and Thomas Kerby Whereby . . the Petitioners Bill for a Discovery amongst other things of the Debts and demands they had upon the Estate of George Gamble late of Antigua deceased was Dismist.

(1737.) [p. 526.]

21 April. [The case concerns the estate of George Gamble, who] by his Will dated the 27th of July 1709 Devised all his Real and Personal Estate to his Uncle John Gamble and his Heirs Subject to payment of the Annuitys in his Will mentioned, And appointed John Yeamans Esqr. Lieutenant Governor of the said Island, his two Brothers in Law John and Samuel

1734.

Erye Doctor Daniel Machiner, Lieutenant Colonel Francis Rogers, the Petitioner, Mr. Thomas Kerby and his said Uncle John Gamble Executors.

[In accordance with the Committee report of 18 April, it is ordered] that the said Order made in the Court of Chancery of Antigua on the 1st of November 1732 be Reversd and that both the said Pleas of Richard Sherwood and Joanna his Wife and of Wm. Denlow and Thomas Kerby, do Stand for Answers with Liberty for the Appellant to Except thereto, and that the Benefit of the said Pleas be saved to the hearing of the Cause. [V. pp. 188-94, 211.]

[306.] [Reference to the Committee for Appeals of the petition of John Burke of Antigua, merchant, and James Duncan of Kirkcaldy in Scotland, mariner, for a short day for hearing their appeal from two decrees of the Antigua Chancery, 25 April and 5 May 1733,] in favour of Robert Weir, Walter Weir, Francis Weir, William Paynter Edward Byam an Infant George Thomas George Byam and Thomas Freeman Surviving Executors of William Byam Deceased. Edward Byam John Thomlinson Francis Carlisle Anne Chester Thomas Stevens and Charles Dunbar. [p. 526.]

11 July.
Antigua.

[Committee. On the motion of the solicitor for the appellants, the appeal, which had been abated by the death of John Burke, intestate, is revived, by making Elizabeth Burke, his widow and administratrix, and John Burke, his son and heir, parties thereto.] [VII. p. 290.]

(1740.)
2 Dec.

[Committee. The appeal is revived, on the motion of the] Sollicitor for the Appellant setting forth that since the making the said Order the said Appeal is become further abated by the Deaths of the said Edward Byam John Tomlinson Francis Carlisle and Ann Chester who were the Surviving Executors of John Paynter the Elder deceased and also by the Deaths of the said William Paynter and Robert Weir And that the said Elizabeth Burke was since Intermarried with George Crump

(1750.)
17 Dec.