

52 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1766-7. § 24 *cont.*]

the executors of John Brown, merchant of Newport, that the appeal of John Bannister, of Middletown, Rhode Island (to which an appearance had been entered for them on 1 Oct.) be dismissed with costs for non-prosecution. Judgments for the defendant had been given in the Rhode Island courts on 21 Nov., 1763, and in March, 1765, on Bannister's action to recover from Brown several sums due to him on book account.]

[*pp.* 52, 130.]

(1767.) [Bannister's petition for a day for hearing his appeal is
26 June. referred to the Committee. The name of Isaac Brown appears
in place of that of Jane Brown.] [*p.* 369.]

(1768.) [On the Committee report of 7 July, the appeal is dismissed
15 July. with 20*l.* *stg.* costs. The appellants desired to withdraw their
petition and the respondents asked that it be dismissed with
costs.] [VI. *pp.* 239, 249.]

1767. [25.] [Reference to the Committee of the petition of Walter
27 Mar. Tullideph for a day for hearing his appeal from a decree of
Montserrat. the Montserrat Chancery, 27 Oct., 1766, dismissing his bill
against Bethia Symes, widow, John Symes and Elizabeth his
wife, of Montserrat, Thomas Dorsett and William French,
deputy provost marshals of Montserrat, Alexander Willcock,
merchant of Antigua, and Walter Skerrett, merchant of
Montserrat, to recover the principal and interest of a loan
on the mortgage of Symes's plantation in the parish of
St. Anthony.] [*pp.* 192, 337.]

(1769.) [On the Committee report of 13 March, the decree is
14 April. reversed and directions given for selling the estate and taking
accounts. Other names in the report are Alexander Gordon,
Robert King, Henry Dyer and James Symes.]

[VI. *pp.* 489-92, 536.]

27 Mar. [26.] [Reference to the Committee of the petition of Jasper
Jamaica. Hall, merchant of Kingston, Jamaica, for a day for hearing his
appeal from a judgment of the Court of Appeals, 18 Aug.,
1766, reversing a judgment of July, 1763, in his action against
Malcolm Laing, the Receiver General, for 836*l.* currency,

§ 26 *cont.*]

1767.

alleged to have been received by him for the use of the petitioner.] [pp. 192, 521.]

[On the Committee report of 7 July, the judgment of 1766 (1768.) is reversed and that of 1763 affirmed. The petition set forth] 15 July. That in the Year 1762, the Appellant Jasper Hall ordered his Correspondent in Great Britain, to fit out a Ship on his Account, for the Coast of Affrica, for a Cargo of Slaves which in her return was to touch at the Island of Jamaica there to receive the Appellants Direction as to the Disposition of the Cargo, which the Appellant Informed his Correspondent was not Intended for Sale in that Island :—That the Appellants Correspondent according fitted out a Vessell called the Africa, on the Appellants Account, and sent her under the Care of Robert Cowie Master, to the Coast of Affrica for a Cargo of Slaves, to be carried to the West Indies, and to touch at the Island of Jamaica for receiving the Appellants Instructions where to proceed.

That the Ship having taken in a Cargo, of 630 Slaves sailed from the West Indies, and about the Middle of October, 1762, arrived off the East End of Jamaica ; but being in want of water and provisions, and the Slaves of Refreshment, Cowie the Master wrote to the Appellant, acquainting him of his arrival and the State of the Ship and Cargo, whereupon the Appellant Immediately sent the necessary water and Provisions to bring the Ship into Kingston Harbour, where she arrived the 24th of that Month—That the Ship Proving Leaky, and unfit to Proceed further without Repair, the Appellant for avoiding all Question as to her Destination, the very Day after her Arrival in Kingston Harbour, had her and her Cargo Reported to the Registers Office, and the several other Publick Offices in Jamaica, as bound for the Havannah, whither he had Determined to send the Cargo on having received Information, of its Reduction, and as well for Repair of the Vessell, as refreshment of the many Sickly Negroes who wanted Landing for Recovery of their Health, he, a few days after the Ships arrival in the Harbour,

1767. § 26 *cont.*]

landed them to the Number of 630, many of whom being taken with the small Pox, and 400 Innoculated, they necessarily continued in the Island until the January following, when all that remained alive, being but 521, were by the Appellant and on his Account, reshipped on Board the Affrica, and cleared out for the Havannah their Original and real Destination—That the Respondent Malcolm Laing then Receiver General of the Island was well apprized of the Affrica's Arrival in Kingston Harbour with a Cargo of Negroes the Appellants Property ; but the Appellant having on her Arrival Reported both Ship and Cargo as bound for the Havannah and the Landing of Negroes being evidently for the Purpose of Refreshment only, and giving time for Repair of the Vessell, Cowie the Master was therefore never called upon to Repair to the Receiver Generals Office, there to give in the account, and take the Oath required by an Act of Assembly Passed in Jamaica the 31st of October 1761, nor was the Appellant as Owner of the Cargo, ever required to Enter into Bond for not delivering the Slaves without the Certificate directed by an Act in Case of Negroes Imported for Sale, nor, notwithstanding the Omission of such Account Oath and Bond, was any forfeiture or Penalty charged or attempted to be levied either upon the Master of the Ship or the Appellant as Owner of the Cargo, as by the Act Imposed upon Non-Performance of those requisites where Negroes are Imported for Sale ; which was Indeed so far from the Appellants Intent that he had notoriously refused applications for Selling any of these Negroes in Jamaica as intended for a far better Market, That the Respondent, however upon the Appellants attempting in January 1763, to reship the remaining part of his Negroes for the Havannah, thought fit to Demand of him and insist upon the payment of 315*l.* Currency as the Duty of 10*s.* per Head on the 630 Slaves that had been so Landed—And Likewise 521*l.* as the Duty of 20*s.* per Head on the 521, Slaves then remaining alive, and to be reshipped and Cleared out for the Havannah, which

§ 26 *cont.*]

1767.

the Appellant refused. . . but the Respondent still Insisting on his Demand, without which he would not clear out the Ship and Slaves from his Office, the Appellant for fear of loosing the opportunity found himself under a necessity of Complying, and accordingly paid the Respondent the several Sums of 315*l.*, and 521, making together 836*l.* Currency, as the Import and Export Duties on Negroes, but Protesting at the same time against the Exaction, and declaring to the Respondent that he would bring an Action against him for Repayment of the Money—That the Ship and the remaining part of the Negroes were cleared out from the Receiver Generals Office 31st January 1763, as bound for the Havannah for which they were then Actually Destined, but just as the Ship was going to Sail, the Appellant received Advice from his Agent at the Havannah to whose Care he had in the Preceding October Sent a Cargo of two hundred Slaves for Sale, that it would not be Prudent or Adviseable for him to send this Cargo thither on Account of the Governor of the Havannah's Grant to a person resident there of an Exclusive Right of Importing and Vending Slaves, whereby this Correspondent had been prevented from Selling such Cargo in Open Market, and laid under the necessity of selling the whole Cargo thereof at an under price, and great loss to the above mentioned person ; so the Appellant finding his Scheme of selling the Negroes at the Havannah frustrated, sent the *Affrica* and her Cargo to Hispaniola where the Negroes were Sold for his Account and Ship never after returned to Jamaica.

That the Appellant in pursuance of his Declaration to the Respondent, brought an Action against him for Recovery of the 315*l.*, and 521. . .

[VI. *pp.* 233–8, 248.]

[27.] [Reference to the Committee of the petition of William Nash of St. Michael parish, Barbados, that the Council dismiss for non-prosecution the appeal of Capt. Thomas Taylor of H.M.S. *Griffin* from a judgment of the Barbados Chancery, 27 Nov., 1765, dismissing Taylor's bill for continuing

27 Mar.
Barbados.