

by law. Following an amendment of the declaration at the November 1696 court to show the interest of the crown, plaintiff secured a jury verdict at the January 1696/7 court and was awarded 350 pound of tobacco under the statute (100 pounds per hogshead), plus 2,166 pounds of tobacco as damages.²⁵

Properly speaking this was not a *qui tam* action—the crown received no moiety of the penalty recovered. However, the fact that counsel thought it necessary to amend the complaint (paying over 700 pounds of tobacco in costs) indicates some opinion that this remedial action was in the nature of a *qui tam* proceeding.

A 1694 remedial act provided that the master of any ship or any other person transporting out of the province any person who was indebted to any inhabitant of the province and had not secured a pass from the governor, was to be liable to satisfy the debts of such person transported. Two actions under this statute were brought in the August 1697 court; following entry of judgment for plaintiffs upon jury verdicts appeals were taken to the Provincial Court but not prosecuted.²⁶

Complaints

The court exercised no extensive jurisdiction by way of complaint in civil matters, apart from those involving masters and servants, discussed below. Only one such instance appears in the *Liber* and the entries are somewhat cryptic.

At the May 1696 court Hester Ball, "widow," complained that Edward Ball, presumably her divorced husband, was obligated by agreement to provide and maintain her during her natural life but had refused to do so. The court thereupon ordered that Edward Ball pay complainant annually the sum of 2400 pounds of tobacco and enter into a recognizance to secure the payment. At the January 1696/7 court Hester Ball's petition against Edward Ball "formerly entered" was read and it was the opinion of the justices that the petition was good, as was the order made thereon. It was thereupon ordered that a *scire facias* issue to show cause why the tobacco was not paid to petitioner according to the court's order. A *scire facias* for £40 issued against Thomas Keniston, Ball's security, was finally entered "agreed" in November 1697.²⁷

However, the *Liber* contains another entry relating to this complaint. At the March 1696/7 court upon a motion made by William Bladen for Hester Ball the court was of the opinion that the former order "is and Remains good notwithstanding the Misprision of the Clerke." Counsel then moved for an appeal on behalf of Edward Ball on the petition and former order but it was the opinion of the court that no appeal should be granted.²⁸ Whether the misprision of the clerk consisted of entering the matter as a complaint, rather than as an action at law, is not clear. In any event no further complaints of this nature appear in the *Liber*.

VIII. ADMINISTRATIVE JURISDICTION

By various acts of Assembly the county courts were given jurisdiction in a wide variety of administrative matters. The justices were directed by law, at the first county court held after Michaelmas, to nominate and appoint constables in each hundred or precinct.¹ They were also directed to appoint overseers of the highways for each hundred and to meet each year to determine what highways should be made and marked out and the heads of what rivers and creeks should be made

25. *Infra* 58, 61-62, 111, 142-44. For the act see 19 *MA* 104.

26. *Infra* 235-40; for the act see 19 *MA* 101-03.

27. *Infra* 8, 111, 113, 210, 215, 275, 289.

28. *Infra* 168.

1. 13 *MA* 515.