

506 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1706.
16 May. Report from his Royall Highness Lord High Admirall upon the Petition of the New England Merchants, approved, nothing. [p. 202.]
- 16 May. [1000.] [The Council refer to the Admiralty the petition of John Shippen of London for a hearing as to his contract for furnishing the ships of war in New England with provisions, for which the Victualling Office are indebted to him 1027*l*., but deny payment.] [p. 201.]
New
England.
- 16 May. [1001.] [The Council refer to the Ordnance the petition of the widow Roberts for compensation for the loss of her husband sent to Newfoundland by the Ordnance and killed there at the burning of the harbour of St. John's by the French.] [p. 201.]
Newfound-
land.
- 10 June. Petition of the Widow Roberts (upon a Report from the Ordnance) Dismist. [p. 221.]
- 10 June. [1002.] [Her Majesty having approved a representation from the Board of Trade of 24 May on an Address from the House of Lords to Her Majesty concerning complaints of many Carolina settlers and merchants against the Proprietors, which was referred to them on 3 April], and accordingly having Declared the Laws mentioned therein, to be Null and voyd, doth hereby Order, That for the more Effectuall Proceeding against their said Charters by way of Quo Warranto, Mr. Attorney and Mr. Solicitor General do Inform themselves fully concerning what may be most necessary for Effecting the same, and Report the whole matter with their Opinion therein to Her Majesty in Councill with all Convenient Speed. [The representation of the Board of Trade endorsed the opinion of the Attorney and Solicitor General that two laws, one for the establishment of religious worship, the other compelling all members of Assembly to conform to the religious worship of the Church of England, are not consonant to reason and repugnant to the laws of England, and are therefore not warranted by the Charters of 1663 and 1665, but were made without any sufficient power or authority derived from the

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Crown of England, and therefore do not oblige or bind the inhabitants of the colony, and that the making of such laws, if approved by the proprietors, which, however, does not appear by the Address, justifies her Majesty in reassuming the Charters.] [p. 211.]

[On reading the report of the Attorney and Solicitor General as to *Quo Warrantos* against the charters of Carolina and the Bahama Islands] Representing, that altho' they have not Sufficient Materialls to Carry on the said Prosecution to an end, yett they are Sufficiently informed to Exhibite the said Informations and that the same are now Prepareing, and may be forthwith filed, But at the same time Offering at the Board, whether the filing such Information against a Peer in Parliament may not be thought a Breach of the Priviledge of Peerage. Her Majesty having taken this matter into Consideration, and it being presumed, that the house of Peers are the best Judges of their owne Priviledges, Her Majesty with the Advice of Her Privy Councill doth not think fitt to give any further Directions therein at present.

[p. 223.]

[1003.] [The Council refer to the Board of Trade the petition of] Richard Buttler, William Ashton, Henry Pacey, Gentlemen, and others, humbly Offering a Proposall with severall Queries annexed for an annuall Consumption of the English Woollen Manufactory in the Plantations, the Produce whereof may serve for Yearly Funds towards Carrying on the Warr, and humbly Praying that the same may be Transmitted to Her Majestys severall Governours in America, for their Answer thereunto.

10 June.
Plantations.

[p. 219.]

[1004.] [A representation of 24 May from the Board of Trade, to whom it had been referred on 3 May to consider an address from the House of Lords, is considered, and ordered to be laid before her Majesty when other affairs shall permit]—We humbly lay before your Majesty, That the Bahama Islands having from the first Discovery

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of those Parts, been Possessed by the English, were granted in the Year 1670 by Your Majestys Royall Uncle King Charles the 2d to the Duke of Albemarle, the Earl of Craven, the Lord Berkeley and others as Lords Proprietors thereof, and have been enjoyed by them, and their Successors until the Year 1703, when the French and Spaniards invaded the same, and have not been Resettled since that time That the said Islands lying in the Gulph of Florida, and in the way of all Ships that come from the Havana and the Bay of Mexico, it is of great Consequence to the Trade of England as also for Annoying the Enemy as We have formerly Represented to Your Majesty. That upon the present occasion we have discoursed with severall Persons lately come from thence, and particularly with John Graves late Collector of Your Majestys Customes there, who had lived many Yeares there and was taken Prisoner, in the Disolation of those Islands who has acquainted us that the Fort there upon the Island of Providence was in part Demolished by the Enemy, and the Guns Nailed up and Carriages broke and that the Towne was also burnt, and that upon a further invasion soon after the Inhabitants were again Surprized and made Prisoners or forced to make their Escapes, amongst whom was the said Graves, and that at his coming away there was about four or 500 People remaining Scattered in the severall Islands, the Enemy having then left the same.

We further humbly Represent to Your Majesty that having upon Consideration of the said Adress of the house of Lords Consulted Your Majestys Atturney and Sollicitor Generall in Point of Law as to the Propriety and Government of the said Islands, They have given Us their Opinion as follows, That Whereas by the Grant of those Islands to the Duke of Albemarle and others (as before mentioned) there is Granted to them large Powers to make Laws with the Assent and Approbation of the Freemen there Inhabiting, and to Errect Courts for Justice, to Pardon Offences, and for the Defence thereof, to Errect Forts, and Fortresses and other Fortifications and

to Fortifie them, and to Levy, Muster and Train the Inhabitants there, and to make Warr, and that Whereas in the said Grant, there is a saving of the Faith Allegiance and Sovereign Dominion due to the said late King, His Heires and Successors for the same, and that the said Islands are thereby Declared to be Subject to the Crowne of England as Depending thereon, and that it appearing by the said Address that the Proprietors of these Islands under that Grant have Deserted the same, and that there is not now any Form of Government remaining there Your Majestys said Attorney and Sollicitor Generall are of Opinion that the Proprietors now Interested under the said Grant have thereby Forfeited their Powers of Government, and that those Powers may by Scire facias in Your Majestys Court of Chancery on the Patent or by Quo Warranto, in Your Majestys Court of Queens Bench be by Judgement Seized into Your Majestys hands as forfeited; And that this Extraordinary exigency happening through the Default and neglect of the Proprietors, Your Majesty may for the Secureing of those Islands and the Inhabitants thereof constitute a Governour and provide both for the Civill and Military Government thereof before any Suit be commenced, All which having had under Our Consideration, We do concurr with your Majestys said Attorney and Sollicitor Generall in their said Opinions, and do humbly Offer that Your Majesty be pleased at such time as Your Majestys other affaires shall permitt to appoint and send over a Governour of the said Islands with Your Royall Commission, and a Sufficent Force, and Suitable Provisions of Warlike Stores for the Security of the said Islands from being Possessed by an Enemy and for the Protection of good Government of Your Majestys Subjects that are now Remaining or may be Settled there.

[pp. 224-6.]

[1005.] [The Council refer to the Board of Trade the petition of the merchants of Bristol trading to Jamaica] 26 June.
Jamaica.
that the Duty on Bottled Beer, Ale and Cyder Transported into Jamaica from England may be Lowered. [p. 230.]

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15 July. [On the report of the Board of Trade that the Act was passed in August for one year owing to an extraordinary falling off in the revenue of the island, and that the duty on bottled beer, ale and cider of 2s. 6d. per dozen amounts to 10l. per tun, whereas the duty on beer in cask is but 4s. per tun, the petition and representation are ordered to be forwarded to the Governor, who is to acquaint the Assembly, that in the case of their passing another Act of this nature a duty of 6d. per dozen may suffice.] [pp. 234-5.]

15 July. [1006] [On giving security, Thomas Allen is granted leave to appeal from a sentence of the Superior Court at Boston of 7 Nov. 1704 confirming the verdict of an Inferior Court at Wells in favour of Humphrey Spencer, defendant to a Writ of Ejectment brought by the petitioner's late father, claimant to certain lands near Newichawanock by grant from Sir Ferdinando Gorges. The case is to be heard at the first meeting of Council in April next.] [pp. 238-9.]

21 Oct. [1007.] [Her Majesty, disallowing a Barbados Act for the Plantations. establishment of a method of credit, and] taking notices of the ill consequences that might happen by the passing of Acts of the like unusual and extraordinary nature and importance, orders circular letters to be sent to the Governors of plantations directing them not to pass such Acts without having first received her Majesty's pleasure thereupon.] [p. 252.]

21 Oct. [1008.] [The Council refer to the Admiralty the petition West Indies. of William Olive, late gunner of H.M.S. *Pendennis*, for removal of the dismissal inflicted on him by a Court Martial in the West Indies.] [p. 255.]

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20 Feb. Petition . . dismiss. [p. 308.]

14 Nov. [1009.] [The Council refer to the Board of Trade the Barbados. petition of Thomas Hodges, councillor at law in Barbados, for removal of his suspension from legal practice by Sir B. Grenville, inflicted without proof of misconduct and without his being heard.] [p. 258.]