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ACTS
OF
THE PRIVY COUNCIL (COLONIAL).

ACTS OF THE PRIVY COUNCIL (COLONIAL).

VOL. III.

GEORGE I. VOL. III. (25 Aug., 1720—31 May, 1722.)

[1.]* [The following petitions of ship-owners praying that in spite of the war with Spain their ships may not be embargoed in the plantations on account of lack of convoy are granted, and orders sent to the Governors of the plantations :—

1719-20.
Plantation
Embargo.

George Whitch of Bristol for the *Potomac Merchant*, 140 tons, Ed. Peters master, 12 guns, 20 men, sailed for Virginia in September last : 6 Feb., petition referred to Admiralty, [p. 221]; 23 Feb., granted in accordance with their report of 9 Feb.

[p. 226.]

John Brooks for Lionel Lloyd of Bristol : *York* frigate, 400 tons, John Williams master : 23 Feb., granted in accordance with Admiralty report of 9 Feb. that by waiting for a convoy she would lose the advantage of Bristol fair.

[p. 226.]

John Rawlins : *Mary* galley, 150 tons, Chas. Burnham master, 8 guns and 16 men, bound for Jamaica and other parts : 26 May, referred to Admiralty, [p. 266]; 11 June, granted on their report of 29 May.]

[p. 274.]

[2.] [On reading a memorial of 4 Oct. from the Admiralty with names of Commissioners for trying pirates taken on the West Coast of Africa by two of H.M. men-of-war now fitting out, Sir Nathaniel Lloyd, the King's Advocate General, and

1720.
5 Oct.
Piracy.

* This section from Geo. I. Vol. II. was inadvertently omitted from Vol. II.

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Sir Richard Fuller, Advocate General for the Admiralty, who were directed by an Order of 23 August to prepare a Commission for that purpose, are directed to insert therein the names* submitted.] [p. 12.]

18 Oct. [The Advocate General desiring, before preparing the Commission, the opinion of the Attorney General, it is ordered that he] doe forthwith Consult Mr. Attorney and Solicitor General, and that they do Together Report to this Board. [p. 21.]

14 Dec. [His Majesty in Council approves, and gives orders to the Advocate General to prepare a Commission in accordance with, the following report of the Advocate, Attorney and Solicitor General]:—We have considered the matters referred to us by the said Order, and the Memorial from the Lords Commissioners of the Admiralty therein mentioned, And we find that by the said Memorial and lists of Commissioners Names sent subsequent thereto, It is proposed, that a Commission should be Granted to Captain Chaloner Ogle, Commander of the Swallow Man of Warr, and Captain Mungo Herdman Commander of the Weymouth Man of Warr† and their Commission and Warrant Officers pursuant to a late Act of parliament Empowering them respectively to Try and Execute such pyrates as may happen to be taken during their remaining on the Coast of Africa, without which, if they take any Number of Pirates they must either keep them on Board Your Majestys Ships till they can arrive at some Government or plantation where they can be Tryed, during which time, they must eat on Your Majestys provisions, which will render the Ships incapable of staying abroad so long as the Service may require, or otherwise they must put them on Shoar without bringing them to deserved punishment; By this Memorial we apprehend the Commission proposed, is intended to be a Commission to the Commanders and their Commission and

* In most though not in all cases the names are given in the Register.

† See Vol. II. of this series, p. 726.

Warrant Officers to go along with the Men of Warr, and to be Executed at any place at open Sea where such Commanders shall think fitt; And we most humbly Certify Your Majesty, That we are of opinion that such a Commission will not be warranted by the Act of parliament referred to in the said Memorial Vizt. the Act of 11th and 12th W. 3, Cap. 7, for the following reasons.

Before the Statute of 28th H. 8, C. 15, the Jurisdiction of Trying and determining Piracies and other Offences Committed on the Sea, was Solely in the Lord High Admiral and His Commissaries; And the Statute of K. 9 Wm. upon which the present Question arises, seems by the preamble of it intended in some measure to restore the Ancient Admiralty Jurisdiction, But upon search in the Registry of the Admiralty, We can find no precedent of any Commission of this Nature for the Tryal of pirates to be Executed at any place on the High Sea at large.—The said Statute of H. 8 having taken away the Admiralty Jurisdiction, and directed all piracies to be Tryed by the Common Course of the Laws of the Land, in some Shire or place within this Realm, the Consequence was that there would not be Authority within your Majestys Colonies or plantations for Trying of Pirates there, but tho' they happened to be taken in places very remote (as the Act expresses it) yet they were to be sent into England to be Tryed, and therefore the want of a Jurisdiction of this Kind within the plantations, made this Act very necessary, and the Inconvenience recited in the preamble and intended to be remedied by this Act, was this, of being obliged to bring pirates taken in the East or West Indies or other places very remote into England, which we conceive will be avoyded by Carrying such pirates to be Tryed in some Colony or plantation in the parts where they are taken.

These Observations arise upon the Generall design of the Act, The particular provision thereby made is this Vizt. That all piracies committed upon the Sea or in any Haven &c. shall be Tryed and determined according to the Directions

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of this Act in any place at Sea, or upon the Land, in any of His Majestys Islands, plantations, Colonies, Forts or Factories to be appointed for that purpose by the Kings Commission under the Great Seal of England or Seal of the Admiralty of England, directed to all or any of the Admirals, Vice Admirals, Reer Admirals, Judges of Vice Admiralties, or Commanders of any of His Majestys Ships of Warr; and also to all or any such person or persons Officer or Officers by name or for the time being as His Majesty shall think fitt to appoint; which said Commissioners shall have power by warrant under hand and Seale, to Committ to Safe Custody any person or persons against whom Information for Piracy &c. should be given on oath (which they are Impowered to administer) and to call and Assemble a Court of Admiralty on Shipboard or upon the Land, when and as often as occasion shall require which Court should Consist of Seaven persons at least.

Then follows a Clause, that if so many of the persons aforesaid could not be conveniently Assembled then any Three of the aforesaid persons (whereof the President or Chief of some English Factory or the Governours, Lieutenant Governours or Member of His Majestys Councils in any of the plantations or Colonies aforesaid or Commander of one of His Majestys Ships of Warr should be always one) should have power to call any other persons on Shipboard or upon the Land to make the Number Seven. Provided that no persons but such as are known Merchants Factors, or planters or such as are Captains, Lieutenants, or Warrant Officers, in any of His Majestys Ships of Warr, or Captains, Masters or Mates of some English Ship shall be capable of being so called and sitting and voteing in the said Court.

Upon Consideration whereof the intent of the Act seems to us to have been that the Commission should not be Directed only to the Commanders and Officers of Your Majestys Ships of Warr, but also to Governours, Lieutenant Governours and Members of your Majestys Councill in some plantations

or presidents and Chiefs of some English Factory where, or on the Sea, adjoyning thereto, such Commission should be Executed, And that a Certain place should be specially appointed in such Commission for the Execution thereof which will not be complied with by a Commission to be Executed in any place at large upon the Sea; For We conceive that tho' the Act uses the words any place at Sea or upon the Land in any of His Majestys Islands plantations &c. the intent was only to give a liberty for Trying pirates on Ship-board on the Coast of a plantation or Colony without laying a necessity upon the Commanders of Ships to bring them on Shoar, and that this was the Design of the Act seems more clear in regard the Tryal of the Offenders is to be according to the Directions of this Act, Severall of which Directions with respect to Summoning Witnesses and other priviledges given thereby to the prisoners cannot be Complied with, (as we apprehend) in the Case of a Sailing Commission to be executed upon the Sea, wherever the Commander of the Ship thinks fitt to Carry the prisoners; We have made the best Inquiry we can into the precedents that have passed upon this Act of parliament, and tho' the Act has been in force these Twenty years, we cannot find that any such Commission has been Granted since the making thereof; And Considering how much the Seas have been infested with pirates during that time, we conceive some Instance or other of this kind would not have been wanting if it had been thought warrantable by Law, And as this Commission is without precedent, so we are apprehensive, it may be attended with many Inconveniencys.

But tho' we are humbly of opinion that such a Commission as is above Described ought not by Law to be Granted, Yet we conceive that Your Majesty (if Your Majesty in Your Royall Wisdom shall think fitt) may Grant a Commission to the Commanders of these Men of Warr together with the Governour and Officers of some English Colony or Factory on the Coast of Affrica, or elsewhere, (as the Case shall require)

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to be Executed either on Land within such Colony, or Factory or on Ship Board, on the Coast adjoining thereto as occasion shall offer, and that a Commission so Framed will be warranted by this Act of parliament. All which is most humbly submitted to Your Majestys Great Wisdom and Judgement.

[pp. 82-5.]

(1721.)

14 Jan.

[The Admiralty presenting the names of the principal persons employed by the African Company in their several settlements abroad, the Advocate General is ordered to insert their names in the Commission now preparing.]

[p. 104.]

(1721.)

14 Jan.

[Similar Commissions are ordered to be prepared for the officers of ships now going to the East Indies, and for the officers of the East India Company's settlements abroad.]

[p. 104.]

(1721.)

1 Feb.

[The draft Commissions are approved. P.R.]

[p. 117.]

(1722.)

19 July.

[To the Advocate, Attorney, and Solicitor General is referred the following report of the Admiralty of 29 June, with instructions to draw up draft commissions, and to insert therein the names proposed by the Admiralty]:—His Majestys Ships the Guernsey Commanded by Captain Francis Percy, the Chatham by Captain Coningsby Norbury, and the Leopard by Captain Henry Medley, being designed Severally and seperately for the Coast of Africa, in order to the Securing the Trade of His Majestys Subjects in those parts from pirates ; We do herewith inclose a List of Commission and Warrant Officers at present employed in the said Ships, together with the names of the principal Persons employed by the Royal African Company in their Severall Settlements ; and humbly propose that the respective Captains of the said Ships, and in Case of their Deaths or inabilities the next Commanding Officer for the time being (in Conjunction with as many of the other officers and such of the said Companys Agents as may be in the way and shall be requisite to compose a Court) may be Empowered by distinct Commissions under the Great Seal

1720-21.

of the High Court of Admiralty pursuant to the late Act of parliament, to Try and Execute such Pirates as may happen to be taken during the Continuance of the said Ships abroad, without which if they should chance to take any number of Pirates, they must either keep them on board eating on the King's Provisions to the prejudice of the Service or put them on Shore without bringing them to deserved punishment.

[IV. p. 63.]

(1722.)
31 July.

[The report of the Advocate, Attorney and Solicitor General of 27 July, presenting a draft Commission for Captain Percy, which will serve for a draft of all other Commissions of this kind, *mutatis mutandis*, is approved, and the Lord Advocate ordered to prepare the drafts for his Majesty's signature. P.R.]

[IV. pp. 79-80.]

(1722.)
29 Nov.

[On a request from the Admiralty for a similar Commission for Captain Archibald Hamilton, of the *Nonesuch*, the Advocate General is ordered to prepare a draft.]

[IV. p. 145.]

[His draft is approved. P.R.]

[IV. p. 156.]

(1722.)
11 Dec.
(1723.)
6 Aug.

[The request for a similar Commission for Captain James Windham of the *Diamond* is similarly referred.]

[IV. p. 306.]

[The draft is approved. P.R.]

[IV. p. 313.]

(1723.)
14 Aug.
(1724.)
21 Feb.

[A similar Commission, after similar procedure, prepared for Captain Henry Medley of the *Leopard*.*]

[IV. pp. 478 & 489.]

1721.
3 Jan.
St. Christopher and
Nova Scotia.

[3.] Upon reading this day at the Board the humble petition of the Governour and Company of Merchants of Great Britain Trading to the South Seas, and other parts of America and

* From this time such Commissions were regularly issued to the Captains and officers of ships appointed to cruise on the West Coast of Africa, the last such Commission ordered in the Register being dated 13 May, 1751. [George III. Vol. XIII, p. 231.]

For complete lists of such ships, officers, &c., see *List of Admiralty Records preserved in the Public Record Office*. (1904.)

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for Encourageing the Fishery in Generall Court assembled, praying a Grant of that part of the Island of St. Christophers, which formerly belonged to the French, as also of Nova Scotia and other parts of America, belonging to His Majesty, in order to their peopling, Cultivating and Improving the same, which will be an encouragement to Trade and Navigation &c. It is ordered by His Majesty in Council, that the said petition (a copy whereof is hereunto annexed) Be, and it is hereby Referred to the Lords Commissioners of Trade and plantations to consider the same, and report to His Majesty at this Board, what they conceive fitt to be done therein. [p. 97.]

3 Jan.
Rhode
Island and
Connecticut.

[4.] [Reference to the Committee for Appeals of the petition of Joseph Jenks and Richard Partridge, agents for Rhode Island, that the boundary with Connecticut be confirmed according to their Charter and agreeable to a line run by Commissioners sent over in 1664 to settle the same.] [p. 98.]

20 Feb. [Committee. The petitioners having been heard, Mr. Dummer, agent for Connecticut, is ordered to return his answer in writing by 27 Feb.: the whole matter to be heard at the first meeting of the Committee after Midsummer.]

[p. 144.]

(1722.)

16 Jan. [Committee. Counsel on both sides having been heard, the Committee resolve to delay till 20 Jan. when Mr. Popple, Secretary to the Board of Trade, is to produce from their Office an old report relating to these boundaries.] [p. 452.]

(1722.)

17 Jan. [Committee refer the matter for a report to the Board of Trade.] [p. 458.]

(1723.)

17 July. [Committee.] Upon reading this day at the Board, a Report from the Lords Commissioners of Trade and Plantations Dated the 22nd of March 172 $\frac{2}{3}$ pursuant to an order of this Committee of the 19th of January 172 $\frac{1}{2}$ Referring to the said Lords Commissioners the Petition of the Agents of Rhode Island about settling the Boundaries between them and Connecticut, together with the Answer of the Agent of

1721.

Connecticut thereto, and their Lordships observing by the said Report that the Matter in Dispute has already lasted Sixty Years and may unless the Royall authority Interpose, be perpetual, to the Great Disturbance of the Peace of these Colonys and to the utter discouragement of Planting and Settling the Lands in Dispute, and that it were to be wished they would both Voluntarily Submit themselves to His Majestys immediate Government, as some other Colonies have done, and that they might be annexed to the Province of New Hampshire. The Lords of the Committee, are therefore pleased to order that the said Report Be Referred back to the said Lords Commissioners of Trade and Plantations to Reconsider the same ; and to call before them the said Agents and to Enquire of them whether the said Provinces are willing to Submitt themselves to His Majestys immediate Government as the most effectuall means to put an end to the Disputes between them, And that in Case the said Agents shall not be impowered to make any proposals of this kind, they be Directed to Write to their principals in order to their being sufficiently authorized and Instructed upon this Head, and the said Lords Commissioners of Trade are to make Report thereof to this Board.

[IV. pp. 281-2.]

(1726.)
19 Feb.

[Committee. The agents of the said colonies are to have liberty to take out copies of a report of the Board of Trade of 25 Jan. and lay their objections before the Committee on Friday next.]

[V. p. 194.]

(1726.)
19 Mar.

[Committee. Richard Partridge, agent for Rhode Island, is to have a copy of the objections this day presented by Jeremiah Dummer, agent for Connecticut, and Dummer a copy of Partridge's petition this day read :] And if they Desire to be heard thereupon before this Committee, They are to make application to their Lordships for a Day to be Appointed for that purpose.

[V. p. 203.]

(1728.)
2 Aug.

[The Committee agree to report,] That on the 17th of March 1643 a Grant was made by the Earl of Warwick and

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others at that time appointed Commissioners by the Parliament for the Government and regulation of the Plantations to the people of Rhode Island and Providence Plantations of a Tract of Land bounded as follows (Vizt. North and North East on the Patent of Massachusetts, East and South East on Plymouth Patent, South on the Ocean and on the West and North West Inhabited by Indians called Narraganneuchs alias Narragansetts, the whole Tract extending about Twenty five English Miles into the Poquet River and Country, which Instrument tho' it cannot be reputed valid in Law yet in some measure is on Evidence of what was reputed to be the Boundary of the Province.

That after the Restoration Application was made to His Majesty King Charles the 2nd by the Agents of Connecticut and Rhode Island for Charters to fix the respective Governments and Boundaries of the said Provinces and Charters were accordingly Granted for that purpose.

But the Charter for Connecticut being obtained previous to that of Rhode Island and Providence Plantations, the Boundaries of Connecticut were endeavoured to be fixed to their advantage.

The said Charter for Connecticut bears date the 23rd of April 1662, and their Bounds are described in the following manner (Vizt.) All that part of our Dominions in New England in America bounded on the East by Narraganset River commonly called Narraganset Bay where the said River falleth into the Sea and on the North by the Line of the Massachusetts Plantation, and on the South by the Sea, and in Longitude as the Line of the Massachusetts Colony running from East to West (that is to say) from the said Narraganset Bay on the East to the South Sea on the West part with the Islands thereunto adjoyning together with all firm Lands, Soils Grounds &c.

That the people of Rhode Island and Providence Plantations apprehending that the said Connecticut Charter so bounded might justly swallow up part of their Territories and Cut of

all their pretensions to any thing upon the Continent, This Grievance they complained off soon after the said Charter was obtained and it doth happen

That John Winthrop and John Clark then agents for the respective Colonys of Connecticut and Rhode Island and Providence Plantations (Notwithstanding the said Charter of Connecticutt) Did in April 1663 Submit to Arbitration what should be the Boundaries between the said Colonys, And it appears.

That the Charter which was afterwards Granted to Rhode Island in the 15th year of Charles the 2nd takes Notice of the aforesaid arbitration and hath fixed their Boundaries in the following manner (Vizt.) All that part of our Dominions in New England in America containing the Nahhautick Nanghiggansit alias Narragaset Bay and country and parts adjacent bounded on the West or Westerly by the Middle or Channel of a River there commonly known by the Name of pacatuck alias pawcatuck River and so along the said River as the greater or Middle stream thereof reacheth or lies up into the Country Northward into the Head thereof, and from thence by a strait Line drawn due North until it meet with the South Line of the Massachusetts Colony and on the North or Northerly by the aforesaid South or Southerly Line of the Massachusetts Colony or Plantation and extending towards the East or Easterly 3 English Miles, to the East or North East of the most Eastern or North Eastern parts of the aforesaid Narragansetts Bay, as the said Bay lies or extendeth itself from the Ocean on the South or Southerly unto the Mouth of the River which runneth towards the Town of Providence and from thence along the Easterly side or Bank of the said River higher called by the Name of Seacunk River unto the ffalls called patuckett ffalls being the most Northerly Line of Plymouth Colony, and so from the said ffalls into a Strait Line due North untill it meet with the aforesaid Line of the Massachusetts Colony, and bounded on the South by the Ocean, and in particular the Lands belonging to the Town of Providence, Patuxet, Warwick Misquammacock alias

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Pawcatuck and the rest upon the main Land in the Tract aforesaid together with Rhode Island, Block Island and all the rest of the Islands and Banks in the Narroganset Bay and bordering upon the Coast of the Tract aforesaid, Fishers Island only excepted, together with all firm Lands Soils &c. and further the said Charter directs that the River Pawcatuck shall at all times thereafter be called and deemed to be the Narroganset River mentioned for a Boundary in the Charter to Connecticut.

From which pretended Grant of the Earl of Warwick and others to Rhode Island and Providence Plantation as also from the Submission of the Boundaries to arbitration by the agents of both Colonys so soon after the Charter for Connecticut had been obtained, and by the Charter to Rhode Island and Providence Plantations, It appears,

That King Charles the Second was surprized in his Grant to Connecticut as to the Boundaries and that such arbitration and Subsequent Charter was intended to Redress the Greviance complained off by Rhode Island and Providence Plantation, It also appears,

That so lately as in 1703 by agreement between Commissioners appointed in October 1702 in behalf of the said Colonys respectively for settling their Boundarys it was agreed, That the Western Boundary between Rhode Island and providence Plantation and Connecticut should for the future be formed by a Line to be drawn from the Mouth of Asshaway River where it falls into Pawcatuck River and thence extending North to the South Line of the Massachusetts Bay which Line is particularly described on the Map hereunto annexed—And It also appears,

That the Commissioners of Connecticut did actually meet and concur with those of Rhode Island in drawing the said Line as a Boundary between the two Colonys and which Line is particularly described in Green on the said Mapp hereunto annexed.

And by the said appointment of the General Assembly of Connecticut in October 1702 It plainly appears the General

Assembly of Connecticut approved of the said Arbitration of their Agent Winthrop in 1663, They expressly providing in the said Instrument, That nothing to be done by these Commissioners shall alter or change the property of any persons Lands, But that property shall be saved according to the Agreement of their late Agent John Winthrop made in the year 1663, with Mr. Clark agent for Rhode Island—which is a strong proof that the Government of Connecticut apprehended the pretensions of Rhode Island were just and Equitable.

It also is very full in proof that the people of Rhode Island have been in possession of Severall Tracts of Land Extending West from the Narragansett Bay to the Red and Green Lines marked in the said Mapp hereto annexed as the Boundaries between the said Colonies and that the Taxes had been constantly paid for the same to Rhode Island Government.

It also further appears that the Government of Connecticut have sent two letters on this occasion one to the Lords Commissioners for Trade and Plantations of the 28th day of October 1723, and the other to Mr. Dummer their agent here in which Letter to their agent they Express themselves thus (Vizt.) The Government of Rhode Island is in the actual possession as they themselves own of the Land which they claim and we think belongs to us, We don't think fit to disturb them in that possession, It is not we but they that have made this Complaint if they would have sett still with all they desired their Lordships had not been troubled as they now are with this Story.—And in both their Letters the Government of Connecticut leave the Bounds to be Settled by His Majesty according to Rhode Island Charter.

Their Letter to the Lords Commissioners of Trade running in these words (Vizt.) And Wee Assure Your Lordships That Notwithstanding the Priority of our Charter to that of Rhode Island His Majestys Determination will on our part put a perpetual End to the Controversy and Confirm that peace between us and them which Your Lordships have been pleased to express such a regard for. And their Letter to their Agent

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runs in these words (Vizt.) They doubt not but this Matter (of the Boundaries) will have a good Issue one time or other and even now if their Lordships would let them (the Rhode Island people) understand that they must be contented with these Bounds Sett them in their own Charter and tell them how those Bounds must be understood and taken that would end the controversy they would have no Reason to Complain nor should we give them the least trouble in the Law tho' our Charter be prior to theirs.—

All which being Considered by their Lordships tho' the Red Line in the annexed Mapp* is what the Rhode Island people insist on as the true Boundary between them and Connecticut according to their Charter, Yett as the Green Line in the said annexed Mapp was determined in 1703 to be the Division Line between the two Colonys by the Commissioners of each Government respectively appointed for that purpose, Their Lordships are humbly of to advise his Majesty that he would be graciously pleased to Signify his pleasure that the Boundary Line between the said two Colonies as described by the aforesaid Green Line may for ever hereafter be the Settled Boundary between the said two Colonies of Connecticut and Rhode Island and Providence Plantations. [V. pp. 264-5.]

(1726.)
8 Aug.

[Committee: The report postponed till the next meeting of the Committee.] [V. p. 269.]

(1727.)
20 Jan.

[Committee. Though several times summoned, the Connecticut agent did not appear before the Committee till 2 Aug., when he offered nothing to induce the Committee to differ from the Board of Trade. The report then drawn up has been delayed on Mr. Dummer's desiring to be heard again, but, though twice summoned, he has made no appearance, and accordingly the Committee now agree to present the report.]

[V. p. 299.]

(1727.)
8 Feb.

[Order in accordance with the report.]

[V. p. 314.]

* See Appendix V.

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[5.] [The East India Company representing that several ships have gone to Madagascar from the West Indies and Great Britain in direct defiance of the law, and requesting that the ships now going out may be directed to seize all ships unable to produce a legal authority, the petition is referred to the Attorney and Solicitor General.] [p. 109.]

1721.
14 Jan.
East Indies.

[On their report of 25 Jan., order is given] that in case the said limited Company of merchants Trading to the East Indies shall grant authority under their Common Seal to the said Commanders or any of them according to the intent of the said Act [5 George I, Cap. 21] to seize such Offenders, and to bring or remitt them to England in order to answer for their offences against the said Act; They the said Commanders or such of them, as shall be so authorized as aforesaid, shall and do accept of such authority. . . [pp. 117-8.]

1 Feb.

[6:] [Reference to the Committee for Appeals of the petition of Andrew Duncan, Robert Carr and others in behalf of themselves and the rest of the crew of H.M.S. *Scarboroughh*, Captain Francis Hume,] Setting forth that on the 12th of June 1718, the said Ship took a pyrate ship which they named Blanco, and Secured and Carryed into the Island of Barbadoes Eighteen of the said Ships Company, where the then Governor, Robert Lowther, Esqr., made Seizure both of the said pyrate ship and her Cargo, and confiscated the same to his own use, and humbly praying to be Relieved therein. [p. 109.]

14 Jan.
Barbados.

[Committee: Governor Lowther to have a copy of the petition, and to return his answer by 27 February.] [p. 144.]

20 Feb.

[Committee]: Their Lordships this day took the said petition into consideration, together with the answer of the said Mr. Lowther thereto; and having heard Councill for the petitioners, as well as examined Mr. Lowther, as also Mr. Henry Lasseels Collector of the Customs, who acknowledged that the money arising by the sale of the said pyrate Ship was in his hands, and that he had laid an account thereof before the Lords

4 March.

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Commissioners of the Treasury. [The matter is referred to the Admiralty to report] what allowances were usually made at the time of the said Captures to the Officers and men of His Majestys Ships of Warr taking such pyratical Vessells.

[p. 154.]

26 April. [Committee: The Admiralty report is read, and its confirmation recommended.]

[p. 182.]

26 April. [The Admiralty report is read and confirmed, setting forth that by the royal proclamation of 5 Sep., 1717, any person discovering or seizing, or causing to be discovered or seized any pirate after 6 Sep., 1718, is to have on obtaining a conviction :— for every commander of any piratical ship or vessel, 100*l*; for every lieutenant, master, boatswain, carpenter and gunner, 40*l*.; for every inferior officer, 30*l*.; for every private man, 20*l*., to be paid by the Treasury.

The Governor of Barbados had no authority to seize the ship, which had been taken at sea by one of his Majesty's ships of war, the commander of which was entitled to have her condemned in any of the Admiralty Courts in the plantations and account for her to the Admiralty. The person in whose custody the value of the ship and goods now is, should be obliged to pay the same into the Court of Admiralty here, when it should be divided between Capt. Hume and his crew, as was done in the last war with relation to prizes.]

[p. 182.]

26 Feb. [7.] [Reference to the Committee for Appeals of the petition of
Jamaica. the South Sea Company for a short day for hearing the appeal of Edward Pratter, their factor in Jamaica, from a Chancery decree there, of 17 Aug., 1720, dismissing his bill against John Chaplin, junior, of Port Royal, for refunding 1,112*l*. paid to him for the exportation of some negroes belonging to the Company.]

[p. 153.]

(1722.)

2 Mar. [Committee. As the money was collected by Chaplin after the Act empowering its collection had been repealed, the decree should be reversed and the sum be refunded.]

[p. 496.]

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[Order accordingly.]

[p. 510.]

1721.
(1722.)
4 Mar.

[8.] [Reference to the Committee for Appeals of the appeal of Catherine, Benjamin, and Daniel Lambert, infants, by their guardians Peter Thomas, and William Woodley, from a judgment of the Court of Errors in St. Christopher, of 28 May, 1720, confirming a judgment of the Court of King's Bench and Common Pleas in an action of ejectment brought by John Spooner, in the name of his lessee John Dean, against the petitioners for lands in the quarter of Basseterre.] [p. 191.]

28 April.
St. Christo-
pher.

[Committee. On a motion for a speedy hearing, 25 Oct. is appointed.]

[p. 276.]

11 Aug.

[9.] [Reference to the Committee for Appeals of the petition of several London merchants on behalf of Thomas Maxwell and Thomas Applewail relating to a warrant issued against them for felony, by three of the new justices of Barbados, though the petitioners allege there is not the least colour of such crime, and therefore praying that the proceedings be examined.]

[p. 249.]

29 June.
Barbados.

[Committee. The complaint is that warrant was issued by Frederick Teake, Benjamin Hall, and John Legay, justices lately commissioned by Mr. Cox, under pretence of an information on oath by one William King. Copies of the petition should be sent to Mr. Cox and the justices. It is ordered that depositions be taken by both parties, and exchanged within a month of receipt of the order, and replies within twenty days thereafter: the whole then to be transmitted to the Board, under the seal of the island, within six months of the receipt of this order.]

[p. 262.]

13 July.

[10.] [Reference to a Committee of the Lords of the Council of a letter from the Board of Trade to Lord Carteret with a representation] on a Memorial of the Copartners for Settling and Improving the Bahama Islands relating to their being Incorporated the better to Compleat a Settlement of so great Importance to the Trade of Great Britain.

[p. 259.]

9 July.
Bahamas.

20 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1721.

15 Oct. Their Lordships were pleased to order that as well the Bahama affairs (which was appointed to be heard the 20th of this instant) as all other affairs depending before the Committee relating to Fisherys or Setting any new Colonys, be put off to the 16th of November next. [p. 329.]

9 July. [11.] [Reference to a Committee of the Council of] Two Petitions of the United Company of Merchants of England Trading to the East Indies Setting forth the great Injuries they sustain in their Trade, by the pyrates, and by English ships Trucking Arms and provisions with the pyrates for India Goods : and also that an Ostend Ship from the East Indies with an English Captain and Supra Cargoe on board, lately Sold at the Island of Barbados Considerable Quantities of China and India Goods, Draining the Island of a great parcell of Mony (as by the annext Copys of their advice from thence may appear) which the petitioners conceive to be contrary to Law ; and humbly praying His Majesty to apply such Remedys to Check the further encrease of this extensive mischief as to His Majestys Great Wisdom and Great Goodness shall seem meet. [p. 260.]

2 Aug. [Committee. A draft of an order for redressing the complaint was considered, and, after several of the Directors of the Company had been heard, was referred to the Attorney and Solicitor General.] [p. 270.]

24 Aug. [Committee approve the draft as amended by the Attorney and Solicitor General.] [p. 294.]

2 Oct. [On reading the two petitions setting forth that ships from Britain and the Colonies supply the pirates at Madagasear with stores and ammunition at high rates in exchange for India goods for which the pirates have no use, or for slaves, which they dispose of in the West Indies, although the Company is not allowed to send slaves thither for fear of filling the Plantations with India goods ; it is ordered that the Board of Trade prepare an Instruction for all Colonial Governors and officials to observe the Acts of Trade (12 Chas. II, 7 and 8 Wm. III, 9 and 10

1721.

Wm. III, 11 and 12 Wm. III, 4 Geo. I, 5 Geo. I, and 7 Geo. I, of which last a copy is to be sent with the Instruction): such Governors as are found negligent are to be removed from their employments, and are liable to a fine of 1,000*l.* and other penalties to be enforced by rigorous prosecution: on the first notice of arrival within the limits of their government of any ship suspected to have on board goods or negroes from beyond the Cape of Good Hope within the limits of the East India Company's Charter, they are to have the ship's officers and papers examined by the Customs, and if they came from beyond the Cape and have such goods on board, they are to be ordered to depart immediately without any relief, even should they be, or pretend to be, in distress, and no goods or negroes are to be landed from them under any pretext: if they do not depart as soon as conveniently may be, ship and cargo may be seized—as also if a ship so loaded break bulk at any plantation: foreign ships so loaded may be succoured, if in real distress, but may not land any goods or negroes from beyond the Cape in payment for supplies: if any Customs officer be negligent or corrupt, the Governor is to suspend him, if he have the power, and is to report him to the Secretary of State or to the Board of Trade in order to his dismissal: full reports of their proceedings are to be furnished by Governors to the Secretary of State and the Board of Trade; for the strict observance of the laws mentioned the Commissioners of the Customs are to give proper directions to the Customs officers here and in America.] [pp. 317-20.]

[12.] [Reference to the Committee for Appeals of the petition of George Forrest, surgeon, and Susanna, his wife, for a short day for hearing their appeal from a decree of the Antigua Chancery of 19 Aug., 1719, in favour of Margaret Martin and Henry Martin, an infant, as to the title to 85 acres of land in the division of St. John's.] [p. 260.]

9 July.
Antigua.

[Order, in accordance with the Committee report of 1 Feb., that the appeal be in part sustained, in part dismissed.]

(1723.)
26 Feb.

[pp. 296, IV. pp. 183, 209.]

22 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1721.
(1726.)
4 Nov. [Reference to the Committee for Appeals of the petition of Margaret Martin, widow, and Henry, her son, of Antigua, that, as the proceedings are duly transmitted, a short day may be appointed for hearing their appeal from a judgment of the Governor and Council as a Court of Errors, 1 Nov., 1725, in favour of Edward Horn Forrest relating to 85 acres of land there.] [V. p. 283.]
- (1726.)
14 Dec. [Appearance for Forrest entered by Mr. Webb.] [V. p. 293.]
(1733.)
- 16 April. [Committee. Both the appellants being dead, the appeal is revived by making Robert Martin, brother and heir of Henry Martin, appellant.] [George II. Vol. III. p. 143.]
(1734.)
- 7 Nov. [Order, in accordance with Committee report of 5 Nov., for the reversal of the judgment of 1 Nov., 1725, and that of 20 May, 1724, which it confirmed; Martin to be restored to possession of anything he has lost by these judgments.]
[III. pp. 147, 532, IV. pp. 20, 30, 34.]
- 28 July.
Barbados. [13.] [Reference to the Committee for Appeals of one representation of the Board of Trade of 17 July for approbation of the Barbados Act of May, 1720, appointing security to be given by appellees, and another on the petition of Anthony Cratchrode against the Act.] [p. 267.]
- (1722.)
9 Nov. [Committee refer the Act and representation to the Attorney General, to whom Lord Carteret has recently referred a petition of ex-Governor Lowther relating to the Act. (See Vol. II.)
[IV. p. 132.]
- (1722.)
14 Dec. [Committee concur with the Attorney General that the Act is reasonable and just.] [IV. p. 163.]
(1722.)
- 20 Dec. [The Act approved.] [IV. p. 168.]
- 28 July.
Virginia. [14.] [Reference to the Committee of the Council of a report from the Board of Trade of 17 July] on the Address of the Council and Burgesses of Virginia, relating to the Securing the passes on the great Ridge of Mountains which extend along the back of Virginia and Carolina, and to the Speedy Settlement thereof. [p. 268.]

[The Committee refer to the Treasury such part of the report as relates to the temporary remission of the quitrents and purchase of rights (five shillings for every fifty acres), and also a memorial from Peter Leheup on behalf of the colony of Virginia with a representation from the Governor and Council] Containing Reasons to prove the Reall and great advantage that will accrue to His Majesty in those parts by the Settlement of Two New Frontier Countys lately Erected by Act of Assembly there.

[IV. p. 238.]

1721.
(1723.)
22 Mar.

[Committee approve the Tréasury report] That it may be advisable for His Majesty to Grant to the said Two New Countys of Brunswick and Spotsilvania the remission of the Quitt Rents and Purchase of Rights for the Term of Seven Years (instead of the Ten desired by the afore mentioned Address) To be reckoned from the 1st day of May 1721, (the time the said two Countys were appointed to be first laid out) under the following Conditions Vizt.:—That no Person Possessed of Lands in any other part of Virginia held by Quitt Rent from the Crown, be admitted to take up Lands in those new Countys without giving Security for Continuing the payment of the Quitt Rents for the Lands by him already possessed notwithstanding his removall to one of these new Countys, And that no Person whatsoever be allowed to take up more than one Thousand Acres in his own or any other Name in trust for him in either of the said New Countys ; And also that the Patentees of Lands in the said New Countys be made lyable to the same restrictions and Limitations in relation to the Cultivating and Sealing the same as are all other the Proprietors of Lands in the other part of His Majestys said Colony of Virginia.

[IV. pp. 297-8.]

(1723.)
31 July.

[Order accordingly.]

[IV. p. 301.]

(1723.)
6 Aug.

[15.] [Reference to the Admiralty of the petition of the wives and widows of the men of H.M.S. *Pearl* and *Lyme*, Captains George Gordon and Ellis Brand, for his Majesty's bounty out of the proceeds of the sale in Virginia of a ship belonging to

28 July.
Piracy.

24 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1721.

Capt. Thatch which was taken by the said vessels in Nov., 1718, and the money from the sale transmitted to Mr. Carey, a merchant in London.] [p. 269.]

24 Aug. [Reference to the Admiralty of the petition] of Robert Maynard late Lieutenant of His Majestys Ship the *Pearle* and Thomas Tucker then masters mate of the same ship in behalf of themselves and sundry others, setting forth that being ordered by Captain Gordon in November 1718, then Commander of the said ship at Virginia, to sail with Two Sloops in pursuit of Thatch a pyrate comonly called Blackbeard, and that after a Desperate Engagement they took him and carryed his head into Virginia, where his sloop and cargo was sold for above Two Thousand five hundred pounds : and humbly praying in regard to their Services, that His Majesty will be pleased to grant them the benefitt and advantage of such Bountys as has been granted to other Captains on the like occasions at home. [p. 293.]

23 Oct. [On reading a report from the Admiralty of 3 August upon the former petition, and one of 5 Oct. upon the latter, order is given in accordance with the earlier report that the money be paid into the High Court of Admiralty here, and be granted to the officers and crews of the *Pearl* and *Lyme* at the time of the capture,] in like manner as was divided last warr in relation to prizes. [p. 339.]

25 Nov. [Reference to the Admiralty of the petition of Capt. Gordon that the officers and crews of the *Pearl* and the *Lyme* may have head-money for the pirates killed in the engagement as well as for those convicted and condemned.] [p. 391.]

28 Dec. [On the Admiralty report of 20 Dec., the petition is granted.] [p. 436.]

24 Aug. [16.] [Order is given in accordance with a report of the Board
Jamaica. of Trade of 9 Aug. :—] In obedience to His Majestys Commands signified unto us by your Lordships letter of the 4th of May last upon the petition of several merchants and others trading

to Jamaica, setting forth That several ships, which sailed the 13th of November last from Jamaica had been search'd and part of their Lading taken out of them, and others attempted to be search'd by Captain Thomas Brooke and others belonging to His Majestys Fort in port Royal in that Island, on pretence of their having French Indigo on Board, and by Virtue of a Dormant Warrant from Sir Nicholas Laws His Majestys Governor there, after they had received the said Governors Lett pass and been cleared by the Collector &c. and were under sailing orders.

That the said Governors Warrant, and the committing the execution of it to the Military power without regard had to the proper Officers of the Customs, as well as the Searching the said Ships and taking Goods out of them after they had been cleared, were Transactions unwarrantable and destructive to the Trade and Navigation of this Kingdom. That they had reason to believe the Ships had been all Search'd and their Cargoes taken out and Confiscated had it not been for the Interposition of Captain Edward Vernon Commander in Chief of His Majestys Ships of Warr at that Island. And therefore they pray that the Effects so taken from on Board, may be restored; That Reparation may be made for the Damages sustain'd and Directions given to prevent the like Seizures for the future, We have Considered the said petition and papers thereunto annexed, and heard the petitioners and Several Merchants Trading to Jamaica; We have likewise perused the several Letters and Papers received from Sir Nicholas Laws upon this Subject; Whereupon we take leave to Inform Your Lordship; That the Seizure Complained of in the petition was certainly made, as appears not only by Affidavitts produced by the petitioners but likewise by the acknowledgment of Sir Nicholas Lawes who Justifies the same, as being done by virtue of a Clause in the Revenue Act, of that Island, whereby it is enacted, That it shall and may be Lawfull for the Receiver, Collector or his or their Agent or Agents, the Informer or Discoverer by virtue of a Warrant from the Commander in

26 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1721.

Chief or any one of Her Majestys Justices of the peace to that purpose first obtained, with one Constable or more to search all manner of Suspected Houses, Cellars, Warehouses and Shops for such Liquors or Goods as they or any of them shall be Informed were carryed or Conveyed there to be Concealed in prejudice to the true meaning of this Act; and such Liquors and Goods so found shall be forfeited and Condemned in manner before mentioned provided that the search be made within Three Days after Information:— But as this Clause relates to Searches to be made at Land only, for such Goods as are Landed, And supposed to have been Landed without paying the Duties mentioned in that Act; We do not Conceive that the Seizure Complained of can be Justified thereby. We further take leave to inform Your Lordship, that it does not appear to Us that there was any proof made that the Indigo so seized was French or that it had been landed at Jamaica without paying the Duties, In which Case only, Indigo and other Goods by the aforementioned Revenue Act, are seizable even at Land there. But the Importing of all Indigo into this Kingdom is Lawfull and ought to be encouraged; For which Reasons We humbly offer that His Majestys pleasure be signified to the Governor of Jamaica, That the said Indigo and other Goods so Seized as aforesaid or the value thereof be immediately restored to the owners. [p. 288.]

(1723.)

26 May.

[Reference to the Board of Trade of the petition of Isaac Miranda and Fernando da Costa for satisfaction for the seizure at Jamaica of 52 casks of indigo on the ship *Nassau*, by the Naval Officer there, who sold the indigo and still detains the produce in his own hands.] [IV. p. 257.]

(1726.)

29 Jan.

[The report of the Board of Trade of 22 Dec., 1725, is referred to the Committee for Appeals. The seizure took place in 1717.] [V. p. 167.]

24 Aug.
Piracy.

[17.] [Reference to Sir Nathaniel Lloyd, his Majesty's Advocate General, of the] petition of John Seinzac, owner of the Sloop

1721.

Morris of Barbados setting forth that the said Sloop laden with Negroes, Brandy, Perpetts and Severall other Goods was about the month of May in the year 1719, taken upon the Coast of Africa by a pyrate and carryed by some Ostenders (whom the pyrates putt on Board her) to Acrâw on the Coast of Africa a Fort belonging to the States General where the Negroes and Goods were carryed on Shore, and though the master and Surgeon of the said Sloop Demanded Restitution thereof from the Governors of the said Fort and of the mines there, they both refused to Deliver them, and Therefore praying His Majesty to Direct His Minister abroad to Demand Restitution thereof, or to give such other Relief as the nature of his Case shall Require. [p. 291.]

(1722.)
13 Mar.

[Order is given in accordance with his report of 28 Feb.:—] I have Considered the said Petition and the Two annexed Affidavits and most humbly Report That the Case of the petition appears to be thus: That the said Sloop *Morris*, having on board Negroes, Brandy, Perpetts and other Goods, was taken in May 1719, on the Coast of Africa, by a pyrate Ship called the *King James*, Owen Davis Master—That the said pirate took out all the Men except John Labat the Surgeon, who remained on board with the said Cargo, and put on board 30 men said to be taken out of an Ostender, which had been also seized by the pirates: That the said Pirate soon after, vizt. 10th June 1719, put on board the said Sloop, John Ridge, of the *Concord*, taken also by the pirates: who found the said Labat, and the 30 Ostenders and the said Negroes, Brandy, perpetts and other Goods on board: That the said Sloop, and Goods were Carried to Acrâw a Fort belonging to the States Generall on the Coast of Africa where they arrived on the 13th of June: That the Ship was there layd up, and the Negroes and Goods were delivered to Mr. Venassum Chief Commander of the said Fort: and the Negroes were sent to the mines: and—That Labat and Thomas Jarrett (who was the Chief mate of the said Sloop, and had got to Acrâw) Joyntly Demanded the said Sloop, and

28 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1721.

Negroes of the said Mr. Venassum, and of Mr. Butler Commander of the mines, who refused to restore them for the use of the owner.

This is the Fact, as it appears from the said Affidavits : and I most humbly Conceive, That by the Laws of Nations, all States are bound to protect and Succour one another, against pirates, and to preserve what they shall Regain for the use of the Dispoiled : That the Officers and Magistrates of Every State, shall bee Intended by Law to Receive such Effects, as publick Conservators till duely claimed by the owners : That a claim being made and property proved, Deducting reasonable allowances, a Denial of Restitution is unwarrantable for That a piraticall taking, cannot alter the property of the Right owners, butt the property will remain in them, wheresoever the Goods are found, Besides That, in the present Case, the owner was never outed of his possession, for Labat the Surgeon of the Sloop Continued on Board with the Goods, and was in possession for the owner ; till she arrived at Acrâw, and there he and his Chief mate, Demanded Restitution for the use of his owners. Which Restitution has been denied : From the whole I most humbly Conceive That Your Majesty may bee Graciously pleased to Direct Your Minister abroad to Demand Restitution of the said Ship and Cargo to the owner, He making proof of his property, and allowing reasonable Deductions, as in such Cases. [p. 521.]

24 Aug.
Nova Scotia.

[18.] [Reference to the Committee of the Council of the] Petition of Peter Hartopp of London merchant on behalf of himself and others Concerned with him for making a Settlement in Nova Scotia Setting forth that the said place was by the late Treaty at Utrecht yielded by France to the Crown of Great Britain which contains about one hundred and Forty Leagues in Depth and may be made of Great Advantage to this Kingdom by the Fishery, and by producing Pitch, Tarr &c. And the Petitioner with his Friends being desirous to Undertake a Settlement there ; Humbly prays His Majesty will be pleased to Grant him a Tract of Land upon the Coast from the River

1721.

Called Theodore to the place called Tarr Bay Containing about Twenty five Leagues from West to East and Ten Leagues North Deep into the Country, Subject to such rules and Form of Government as His Majesty shall think fitt. [p. 292.]

[Committee refer the matter to the Board of Trade.]

(1722.)
15 Mar.

[p. 525.]

[19.] [The Board of Trade in presenting Instructions for John Hart, Governor of the Leeward Islands, declare] that they are in the usual Form, Except some alterations made conformable, as near as may be, to the Draught of Instructions for the Lord Belhaven, Governour of Barbadoes. [They are directed to explain] the particular Alterations and variations between the last Instructions for the Leeward Islands and these for Colonel Hart, and to specific therein, the reasons for making the same. . . The alterations in the said Lord Belhaven's Instructions, And also . . . Severall Alterations made in Sir Nicholas Lawes Instructions for Jamaica.

5 Sept.
Leeward
Islands.

[p. 297.]

[Two provisoes in Articles 62 and 66 as to the Bishop of London's power of licensing ministers and schoolmasters to be vacated in Hart's and other Instructions. P.R.] [p. 307.]

26 Sept.

[Reference to a Committee of the Council of a representation from the Board of Trade to the Duke of Newcastle] touching the Explanation of His Majestys Instructions to Colonel Hart Governor of the Leeward Islands Impowering him to accept of such additional Salary as the first Assembly in his Government after his arrival there should settle upon him for the whole time of his Continuance in that Government.

(1724.)
2 June.

[IV. p. 532.]

[Committee recommend that, as the Act passed in accordance with Hart's instructions has been disallowed, provision for the Governor may be made by the second Assembly passing an Act not liable to the objections on account of which the first was disallowed.]

(1724.)
17 June.

[IV. p. 537.]

30 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1721.
(1724.) [Order accordingly.] [IV. p. 561.]
4 July.
- 11 Nov. [20.] [Reference to the Committee for Appeals of Capt. John
Rhode Owen's petition for a short day for hearing his appeal from
Island. two sentences of the Admiralty Court of Rhode Island, 18 July
and 1 Dec., 1720, on Capt. Smart's information against him,
whereby he is decreed to pay Capt. Smart for the freight of
134 negroes, and not allowed out of the freight full wages
for his crew and provisions for the negroes.] [p. 360.]
- (1723.)
12 July. [Committee—for dismissing the petition] without prejudice
to the Petitioners prosecuting his appeal in the Court of
Admiralty here. [IV. p. 279.]
- (1723.)
6 Aug. [Order accordingly.] [IV. p. 303.]
- 11 Nov. [21.] [Reference to the Committee for Appeals of the petition
Rhode of James Littleton, Joseph Lowe, Daniel Allen, Samuel Clarke,
Island. Daniel Fox, and Edward Tizard, sen., owners of the ship
Pearl, condemned 6 May, 1720, in the Rhode Island Admiralty
Court on an information brought by Capt. Smart, to be let
in to prove their interest in the *Pearl* and to have the sentence
reversed and the vessel restored.] [p. 360.]
- (1723.)
12 July. [Committee. On 22 March Capt. Smart's counsel objected
to their Lordships hearing the case ; it was therefore postponed
till to-day, when it is considered, and it is recommended that
the petition be dismissed without prejudice to the prosecution
of an appeal at common law or otherwise.] [IV. p. 280.]
- (1723.)
6 Aug. [Order accordingly.] [IV. p. 303.]
- 18 Nov. [22.] [Reference to the Board of Trade of the] Case of the
Jamaica. Jews in Jamaica, relating to an Act passed there for encouraging
of white people in that Island, assigning a Reward to any
white people that shall settle there, excepting Jews, Papists
and Nonjurors ; and praying that they may be protected
in their Dwellings there, so as to be continued in their Rights
and Privileges, Granted to them by Letters patents according
to the Act for Settling the said Island. [p. 365.]

ACTS OF THE PRIVY COUNCIL (COLONIAL). 31

[23.] [Reference to the Committee for Appeals of the petition of Edward Mann and Mary, his wife, for a short day for hearing their appeal from decrees of the Antigua Chancery obliging them to pay 1,000*l.* to James Gamble and Rachel his wife.] [p. 414.]

1721-2.
14 Dec.
Antigua.

[Order in accordance with the Committee report of 17 Oct., that the appeal be in part sustained, but in the main dismissed, and that this decision be enforced by the Master in Chancery in Antigua.] [IV. pp. 117, 144.]

(1722.)
29 Nov.

[24.] [The Committee to whom the instructions to the Duke of Portland had been referred on 14 Dec. last, recommend that those which relate to trade may be approved, but that in the others four alterations be made :—(1) The name of William Cockburn, inserted by the Board of Trade as a Councillor on the death of James Archbould, should be omitted, and the Governor empowered to fill up the vacancy on his arrival. (2) Article 21 is revised as not sufficiently guarded against passing Acts as to the issue of bills of credit. (3) Article 31, authorising him to accept additions to his salary, is to be made clearer: the Act for such addition to the Governor's salary as the Assembly shall think fit is to be passed at the first Assembly after his arrival, and is not to take effect till approved by his Majesty. (4) A clause is added at the end of Article 40 requiring an account of the arrears of rent due to his Majesty to be transmitted annually to the Board of Trade.] [pp. 442-4.]

1722.
3 Jan.
Jamaica.

[Council approves. P.R.]

[pp. 460-2.] 20 Jan.

[25.] [Reference to the Committee of the Council, to whom a report of the Board of Trade on the Acts in question stands referred, of the petition of Jonathan Blenman, John Bannatyne, and the rest of the barristers and practising attorneys of Barbados for his Majesty's disallowance of an Act of 1715, empowering licentiate lawyers to practise as barristers in the island; and two Acts of 1718 for the better ordering and regulating the

20 Jan.
Barbados.

32 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1722.

proceedings of the Court of Common Pleas ; and for abrogating the oath appointed to be taken by attorneys employed to draw up special verdicts and appointing another oath instead thereof.]
[p. 466.]

20 Jan.
Barbados.

[26.] [Reference to the Committee of the Council of the petition of Mary Williams, spinster, and Elizabeth Williams, an infant, both of Barbados, co-heirs of John Williams, deceased, to be heard against a Barbados Act to render more effectual certain legacies given and bequeathed by Capt. John Williams, deceased.]
[p. 467.]

20 Jan.
New
England.

[27.] [Reference to the Committee for Appeals of the petition of John Branfield and William Ward of London, goldsmiths, that the appeal of John Gilbert from a sentence of the Superior Court in New England, 1 Nov., 1720, as to a debt to the petitioners of 500*l.* sterling, be dismissed and costs allowed, for non-prosecution.]
[p. 467.]

2 Mar.

[Committee recommend dismissal with 5*l.* costs, as nothing has been done on the appeal since it was admitted in New England 16 months since.]
[p. 498.]

4 Mar.

[Order accordingly:]
[p. 511.]

4 Mar.
Piracy.

[28.] [Reference to the Admiralty of the petition of Capt. Vincent Pearse of H.M.S. *Phœnix* for the division among the officers and crew of the *Phœnix* of the proceeds of the pirate ship *John and Elizabeth* and its cargo of hides, seized by him in April, 1718, and condemned in New York.]
[p. 513.]

16 April.

[Admiralty report of 4 April referred to the Treasury.]
[p. 546.]

16 April.
Plantations.

[29.] [Sir Hovenden Walker is allowed half pay as a Rear-Admiral since his return to England from the plantations, on the report of the Admiralty of 6 April, that] :—The Right Honourable the Lord Carteret, principall Secretary of State, having by His Majestys Command, referred unto Us a Second petition from Sir Hovenden Walker, Setting forth his long and

1722.

faithfull Services in the Navy, not only in Several Commands, but as a Flagg Officer, and praying some allowance for the future Support of himself and Family ; Wee have in Obedience to His Majestys Commands, Considered of Sir Hovenden Walkers Case ; And as We have already, do now most humbly Report to His Majesty, that he hath Served many Years in the Navy, not only as Captain, but afterwards as a Flagg Officer as he hath alledged ; and that some Years since his half pay was discontinued to him, upon his going from hence to His Majestys Forreign plantations, there having been no such allowance made to Officers who absent themselves from this Kingdom, even tho' they have Leave from this Board so to do ; but in case His Majesty shall be pleas'd, in Consideration of his Services, and of his being not able to betake himself to any other Method of providing for himself and his Family, to Extend His Royall Bounty to him, by allowing him a pension on the ordinary Establishment of the Navy, equal to half of the whole pay to a Rear Admiral of the Fleet, from the time he returned to England from the plantations, which is the highest Flagg he hath regularly born, We do most humbly Report, that wee have no objections thereunto Which is nevertheless most humbly submitted. [p. 545.]

(1726.)
5 July.

[Reference to the Admiralty of the petition of Dame Margaret Walker, widow of Sir Hovenden Walker, for some provision for herself and her daughter, the allowance made to her husband four years ago of near 300*l.* per annum having ceased at his death and no other subsistence whatever having been left to them.] [V. p. 255.]

(1727.)
8 Feb.

[Reference to the Treasury] to do therein for the Petitioners in such manner as they shall think the Nature of her case may Deserve, [of the Admiralty report that] Sir Hovenden Walker was a Lieutenant in the Royall Navy the Year after the happy Revolution in the year 1688, That he hath since February 1691, not only been Captain of Several Ships of

34 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1722.

Warr, but hath Commanded Squadrons of Ships both at home and abroad, and Gradually rose to the Rank in the Navy of Rear Admiral of the White.

That on the 24th day of April 1722, when he was unemployed a Pension was Settled on him on the ordinary Establishment of the Navy, (in pursuance of His Majestys order in Council bearing date the 16th of that Month) of 31*l*. 7*s*. 6*d*. per annum (which is half of the whole pay of a Rear Admiral) in consideration of his long Service and of the Rank he had in the Navy, the benefit whereof he enjoyed til the time of his Death.

That We have very good reason to believe he hath left his Widow in so very bad Circumstances, in that She is in no degree able to Support herself and her Daughter, even with the common necessarys of life, but there being no Establishment in the Navy which provides for the Support and maintenance of the Widows of Flagg Officers or Captains other than such whose Husbands shall happen to be Slain in Fight against an Enemy, or who Dye of the Wounds received in such Engagements, We do most humbly Submit the unhappy Circumstances of the Petitioner to His Majesty.

[V. pp. 318-9.]

(1727.)
31 May.

[Reference to the Admiralty of the Treasury report of 27 April that, while the petitioner's case merits compassion,] as Your Majestys Civil List is very much burthened, We think it would be worthy the Consideration of the Lords of the Admiralty to open a way for the relief of such real objects of Charity and Compassion upon the Establishment of the Navy, And in such case we shall readily Concurr with the Lords of the Admiralty and whatsoever they shall advise Your Majesty to Grant for the Petitioner's Relief.

[V. p. 366.]

(1727.)
2 Oct.

[The following report of the Admiralty of 6 July is referred to the Treasury to report whether they have any objection to the action proposed for the relief of Dame Margaret Walker and other officers' widows who shall appear to be real objects

1722.

of charity and compassion and not otherwise entitled to pensions or bounty :] We do most humbly Report to Your Majesty, that there is no Establishment, relating to the Navy for the relief of Widows and Orphans exceeding the Bounty of Eleven Months Pay to those whose Husbands and Parents whether Officers, Seamen or others shall be Slain in Fight against an Enemy in His Majestys Service at Sea, nor have any Pensions been Settled on the Ordinary Establishment of the Navy on the Widows of Sea Officers without the imediate direction of the Crown.

That in the Reign of King William and Queen Mary Severall Sums of Mony arose from the Rights and Perquisites of Admiralty, which were then frequently applyed towards the rewarding Officers who had performed Signal Services in the then Wars and received Wounds in Fight. And we are humbly of Opinion that out of such Monies the Petitioner or others under the like Circumstances might be most properly relieved, but the same having for Severall Years past, been disposed of by the Lords of the Treasury and not by this Board—We do most humbly Submit the unhappy Circumstances of the Petitioner to Your Majesty.

[Geo. II. Vol. I. pp. 133–4.]

(1729.)

[Reference to the Admiralty of the petition of Dame Margaret Walker, setting forth her husband's services, the orders already made in her favour, her having been compelled to live on the charity of relations and friends, and praying that] as His Majestys Favour was lately Extended to the Lady Johnson, that His Majesty will be graciously pleased to Order such Provision to be made for the Support of herself and Daughter out of the Pension of 319*l.* per Annum, formerly Setled upon her said late Husband, and which upon his Death was saved to the Navy, or in such other manner as to His Majestys great Goodness shall seem meet. [I. p. 468.]

26 Mar.

(1729.)

[On a further petition of Dame Margaret Walker, a pension of 100*l.* is settled on her from 1 Jan. next.] [II. p. 132.]

31 Dec.

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16 April.
Piracy.

[30.] [Reference to Sir Nathaniel Lloyd, Advocate General, of the petition of Luke Knott, master of the *West River Merchant* for a reward for apprehending and convicting several pirates.] In his passage to Virginia in 1719-20, He was taken by the pyrates who plundered his Ship to a very great value, but . . . after deteining him Three or four days, they Sett him and his Ship at Liberty, and Eight of the Gang put themselves on board with the Petitioners for Virginia where when he arrived, he had them Tryed and Convicted, and Six of them Executed.

[p. 547.]

5 May.

[Sir N. Lloyd considers that the petitioner's case is not in accordance with the proclamation, as he did not make any search or inquiry after the pirates, who put themselves voluntarily on board his ship on his constrained promise to serve them to the utmost of his power on arrival in Virginia ; yet as his Majesty's bounty is of royal interpretation he submits Knott's case to his Majesty. The total seizures amounted to 800*l.* ; and Knott claims the reward] in regard to his great losses, and his being obliged to Quit the Merchants Service on account of the pyrates threatening to Torturo him to Death, if ever he falls into their hands. [The petition is to be granted, but this is not to be made a precedent. Knott is to receive 230*l.*, being 40*l.* each for Wm. Farrow, master, and Wm. Pomeroy, gunner ; 30*l.* each for Wm. Leak, cooper, Wm. Williams and Tobias Butler, quartermasters ; 20*l.* each for Daniel Degat, Peter Marshall, and Thomas Hall, foremast men.]

[pp. 574-5.]

28 April.
Barbados.

[31.] [Reference to the Committee for Appeals of the petition of the Hon. Henry Gibbs for restoration to his post of Chief Baron of the Court of Exchequer in Barbados, from which he has been arbitrarily dismissed by Mr. Cox, from whom he also seeks redress.]

[p. 568.]

11 May.

[Committee—for Gov. Worsley to examine the petition on his arrival in Barbados. *Mem.* : this report was never confirmed, but another of 24 July 1723, was approved.]

[p. 598.]

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- [Committee, for referring the petition to the determination of Gov. Worsley.] 1722. (1723.)
[IV. p. 284.] 24 July.
[Order accordingly.] [IV. p. 303.] (1723.)
6 Aug.
- [32.] [Reference to the Committee for Appeals of the petition of Rebecca, wife of Zachariah Richardson of Barbados, Setting forth that Andrew Hamilton Esqr. Attorney General of the province of Pennsylvania, had in an Extraordinary manner obtained, An Act to pass the Governour and Assembly there for Sale of an Estate belonging to her, but that upon application to their Excellencys the late Lords Justices, the said Act was repealed—Yet before the said Lords Justices pleasure could be Signified to the Deputy Governour of Pennsylvania, the said Estate was Sold, and the said Hamilton is now in possession—And the Petitioner can reap no benefitt thereof: And therefore humbly praying His Majesty to interpose His Royal Authority, that Justice may be done her. [p. 603.] 17 May. Pennsylv-
vania.

GEORGE I. VOL. IV. (1 June, 1722—25 Aug., 1724.)

- [33.] [Letters to Governors of plantations with extracts of rules for new Mediterranean passes, forms of certificates, oaths and bonds.] 14 June.
- [The Governor of New England is to prosecute the unreturned bonds of such as sell ship as well as lading in Spain or Portugal, his Majesty having an especial regard to prevent the pernicious practice of selling such passes.] [pp. 4-41; 62-3.] 19 July. Mediter-
ranean
passes.
- [34.] [Reference to the Committee of the Council of the petition for pardon of the crews of the *Morning Star* and the *Good Fortune* brigantine] now lying under the Ignominious Name and Denomination of Pirates. [p. 76.] 19 July. Piracy.
- [Committee: After consideration of the petition brought over by John Ellwood, who had been taken by the pirates, it is referred to the Board of Trade, who are to consult the West India merchants.] [p. 134.] 9 Nov.

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1722.

(1723.)

8 Mar.)

[Committee refer petition and the report of the Board of Trade to the Attorney and Solicitor General.] [p. 226.]

7 Aug.

Rhode
Island.

[35.] [Reference to the Committee of the Council of an Admiralty memorial of 2 Aug.] relating to the Governor and Council of Rhode Island not having obeyed the Decree of the Judge of the Vice Admiralty Court of New England for Sale of a Ship and Cargo belonging to one Benjamin Norton, of Rhode Island, as having been pyratcally Employed. [p. 84.]

24 Aug.

[Committee: the memorial is set forth more at length. The ship was] brought into Tarpaulin Cove, with a considerable cargo of Sugars, cocoa, Negroes &c. by Benjamin Norton of Rhode Island, who with some others his accomplices, did endeavour to conceal the same. [The Governor and Council of Rhode Island, some of whom have been concerned with Norton, refused to obey the order of the New England Court, claimed rights of Admiralty independent of New England, and ordered their town house to be locked up. The Committee recommend that a letter be written to Rhode Island in accordance with the memorial, which states that] in the Year 1694 it was Enacted in an assembly, at Rhode Island that the General Council of the said Colony should be Deemed an Admiralty Court for the Condemning of prizes, and to proceed on other Seafaring affairs as occasion might require; and the Lords Commissioners for Trade and plantations did in the year 1703, referr the same to the Consideration of Sir Edward Northy, then Attorney General, who reported to them, that having perused the Charter granted the 18th of July in the 15th of King Charles the 2nd to the proprietors of the Colony of Rhode Island, he found the said proprietors had by that Charter, power only to erect Courts for determining all affairs Causes, matters and things, happening within that Island which did not empower them to Erect a Court of admiralty, the Jurisdiction of such Court being of matters arising on the high Sea, which is out of the Island, for which reason he is advised, that it might be proper for Her Majesty to Declare

her pleasure to determine the aforesaid Act passed in the General Assembly and to acquaint the Corporation, that if they made any the like attempts for the future, they should be prosecuted for making void their Charter,—That upon this Report from Mr. Attorney General, and a Representation from the Lords Commissioners of Trade and plantations of the Daily irregularities practiced in the proprietary Colony of Rhode Island, and particularly their Erecting an Admiralty Jurisdiction among themselves, without any authority, and refusing to Yield due Obedience to the Courts and Officers vested by the then prince of Denmark Lord High admiral, with due authority, Her Majesty was pleased, by Her Order in Council dated the 28th of January 1703, to Declare Her Disallowance of the aforesaid Act passed in the Generall Councill, relating to Admiralty Jurisdiction, and to direct a Letter to be prepared for Her Majestys Royal Signature, Requiring the Governor and Company of that Colony to Submit to the Court of Admiralty Constituted by His said Royal Highness the prince of Denmark, and to the powers of Vice admiralty vested in Colonel Dudley, her Majesty's Governor of New England, and Strictly forbidding them to assume the power of any such Court, and that accordingly a Letter was prepared and Signed by the Queen, by which Her Majesty was pleased to Declare the aforesaid Act, Null and void and of none Effect, and Strictly to Require them not to assume to themselves the power of Erecting any such admiralty Court, and that if they made any such attempt for the future, they should be prosecuted with the utmost Rigour of the Law, and Her Majesty was pleased further to require them, to Submit to the Court of Admiralty Constituted by the High Admiral, and to the powers of Vice admiralty vested in Colonel Dudley, Governor of New England aforesaid.

And therefore the said Commissioners most humbly desire His Majesty will be pleased by His order in Councill, to require the Governor and Councill of the Colony of Rhode Island,

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not only to cause to be forthwith Delivered into the custody of the Judge of the Vice admiralty of New England what is in their possession appertaining to the aforesaid ship, with regard as well to her Loading, or otherwise, or if disposed of by Sale, the full produce thereof, that so it may with the rest of what belonged to the said Ship remain in his hands, according to the Decree of the Court, but that His Majesty will be also pleased to require them to be Strictly observant to the Decree of that Court for the future, and not to assume to themselves in anywise, any Right to admiralty Jurisdiction as they will answer the contrary at their peril. [p. 93.]

25 Aug. [Order accordingly.] [p. 97.]

11 Aug. [36.] This day Mr. William Gregson Entered an appearance
Antigua. for Nathaniel Gilbert to the appeal of James Parke from the Leeward Islands. [p. 89.]

(1723.)

19 Jan. [Reference to the Committee for Appeals of the petition of James Parke that, notwithstanding he is four months beyond the time allowed for appeals, a short day may be appointed for hearing his appeal from a decree of the Antigua Chancery, 5 and 8 Aug., 1721, in favour of Nathaniel Gilbert, whereby he must surrender to Gilbert a plantation of 20 acres.]

[p. 178.]

(1723.)
26 July. [Committee for reversing the decree and awarding the appellant costs to be taxed by the Antigua Chancery.] [p. 294.]

(1723.)

6 Aug. [Order accordingly.] [p. 303.]

6 Oct.

Leeward
Islands.

[37.] [To the Committee of the Council is referred a representation from the Board of Trade recommending the disallowance of an Antigua Act of 1721-2 for laying a duty on goods imported into that island, and for raising an annual sum for the better support of John Hart.] [p. 110.]

9 Nov. [The Committee agrees with the Board of Trade that the Act should be disallowed, as the imposition of a duty of 3 per cent. on imports from Great Britain must greatly affect the trade

and shipping of Great Britain, and as no clause suspends the vote of money to the Governor till his Majesty's pleasure be known.] [p. 130.]

1722.

[Order accordingly.] [p. 141.]

29 Nov.
(1723.)
Aug. 6,
14, 27.

[A Montserrat Act of 1722 for granting to his Majesty, his heirs and successors certain duties upon the impost of dry goods, liquors, &c., and for the payment of 500*l.* annually to John Hart, is similarly disallowed for similar reasons.]

[pp. 308, 314, 328.]

[38.] [Reference to the Committee for Appeals of the petition of appeal of Michael Bevan of Swansea against the] unjust and Irregular Seizure and Condemnation of a vessel formerly called the Commerce and now the Hannover whereof the said petitioner was the Sole owner and Master, at the Island of providence in North America in March last. [p. 124.]

27 Oct.
Bahamas.

[Reference to the Committee for Appeals of the petition of Samuel Buck and John Mulcaster, agents for Governor Phenny, that no determination be made on Bevan's petition to have his appeal admitted, until the Governor has transmitted the papers relating thereto.] [p. 178.]

(1723.)
19 Jan.

[Committee : the Governor to have a copy of the petition and return his answer, and transmit all proceedings in the case authenticated with his own seal, as there is no public seal for the Bahamas. Bevan alleges that the Governor has fitted out the ship, altered her name, and appointed as master one of the jury who condemned her, Henry White, who has lately brought her to the port of London.] [p. 204.]

(1723.)
15 Feb.

[39.] [On the representation by the Board of Trade of the great want of a public seal in the Bahamas, his Majesty's chief engraver is ordered to prepare a draft seal.] [p. 144.]

29 Nov.
Bahamas.

[The draft seal is presented, approved, and ordered to be engraved. Till it is ready a leaden one is to be used, with an impression of that side only, on which are the King's arms

(1723.)
26 Feb.

1722-3.

and titles. The seal] on the one side is to bear His Majestys Arms, Garter, Crown, Supporters and Motto with this Inscription round it, *Georgius Dei Gratia, Magnæ Britaniæ, Franciæ et Hiberniæ Rex Fidei Defensor, Brunsvici et Luneburgi Dux, Sacri Romani Imperii archi-Thesauravius Et Elector* :—And on the other side a Merchant Ship Sailing to the said Island and Some Pyrate Ships put to Flight, with this Motto at the Bottom, *Expulsis Piratis Restituta Commercia*, and round it this Inscription. *Sigillum Providentiæ Cæterarumque Bahamæ Insularum.* [p. 218.]

(1724.)

6 April.

[A new silver seal for the Bahama Islands is approved. A warrant for its use is ordered to be prepared and sent with it to the Governor, who is immediately to deface the temporary leaden seal.] [p. 494.]

1723.

1 Feb.

Plantations.

[40.] [Committee for Appeals, &c.] Whereas His Majesty was pleased by order in Council of the 20th of last month to Referr unto this Committee a Representation from the Lords Commissioners of Trade and Plantations upon an Act past in Jamaica for vesting certain Lands in the parish of St. Thomas in the vale in Trustees for the use of George Reid Esqr. and his Heirs, wherein it is sett forth (among other things) that there is no Clause inserted in the said Act to prevent its taking effect till approved by His Majesty :—Their Lordships this day took the same into consideration, and finding that such Clause to prevent private Acts taking effect till they have received His Majesty's Approbation, has been only inserted in the Instructions given to the Governors of Jamaica, Barbados, the Leeward Islands and Bermuda—are therefore pleased to order that the Lords Commissioners of Trade and Plantations do consider whether such Clause ought not to be sent to all other the Governors of His Majestys Plantations in America,—and if so, that they do then prepare Draughts of such additional Instructions as they shall think proper to be sent for this purpose, and present the same to this Committee in order to be laid before His Majesty in Council. [p. 183.]

ACTS OF THE PRIVY COUNCIL (COLONIAL). 43

[Committee consider draft and recommend it for approval.] 1723.
21 June.
[p. 267.]

[Draft approved. P.R.] [p. 270.] 27 June.

[41.] [Reference to the Committee for Appeals of the petition 26 Feb.
of Nathaniel Crump, Henry Martin, and Margaret Martin, widow, Antigua.
for a short day for determining their differences on appeal.
They set forth that in the Antigua Chancery, 10 May, 1721,
Crump preferred a bill against the other petitioners for satis-
faction of 9 bonds for 130*l.* each entered into by Robert Martin,
father of the petitioner Henry, to John Martin, sen., whose
executor and residuary legatee Crump is, and therefore to be
let in to redeem a mortgage made by John Martin, jun., eldest
son and heir of Robert Martin the obligor, of a plantation
inherited from his father, of which the equity of redemption
was vested in the petitioner Henry. In answer Henry and
Margaret insisted that they had nothing by descent from
Robert Martin, and that Crump had obtained judgment on the
bonds and had entered satisfaction on record thereof. On
14 Feb., 1722, the Antigua Chancery heard the case, but was
equally divided in opinion, so that no decree could issue.
Both parties desired to appeal, and this was allowed, and the
proceedings transmitted under seal.] [p. 221.]

[Committee—for dismissing the petition as no decree has been 12 July.
made, and for directing the Antigua Chancery to proceed to
give judgment.] [p. 280.]

[Order accordingly.] [p. 302.] 6 Aug.

[42.] [Reference to the Admiralty of Edward Vernon's peti- 26 Feb.
tion to have refunded to him the] Expenses he incurred by bring- Piracy.
ing over from Jamaica one Richard Tookerman to answer here
for the Felonys, Piracys and other matters committed by him
in the West Indies, of which the Petitioner thought it
incumbent on him to take cognizance when Commander in
Chief of His Majestys Ships at Jamaica. [p. 222.]

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25 Mar.

[The Admiralty report of 7 Mar. is approved. Captain Vernon of H.M.S. *Mary* on arriving at Spithead from Jamaica informed the Admiralty what number of prisoners he had on board, who had been tried but could not be thoroughly convicted of piracy. Order was given by the Admiralty, 22 Aug., 1721, to remove Tookerman and the others to H.M.S. *Windsor* to be kept in custody. On considering the papers and affidavits brought by Capt. Vernon, Mr. Townshend, Counsellor for the affairs of the Admiralty and Navy, held that Tookerman might be tried here only on the charge of aiding in the escape of pirates at Carolina, but the Attorney and Solicitor General were of opinion that Tookerman, and Wills, his gunner, should be brought before the Lord Chief Justice and that the best way of proceeding against him would be by trial in Carolina. The Lord Chief Justice thereupon granted a Habeas Corpus, and the return made by Captain Hubbard of the *Windsor* being insufficient according to the strictness of law, Tookerman and Wills were released without bail. Tookerman, by threatening Vernon with an action for assault, battery, and imprisonment, forced him to compound for 1,000*l*. As Vernon has been a good and diligent officer, and Tookerman, who is generally suspected of piracy, provoked him by firing guns on the birthday of the Pretender, the Admiralty recommend that though in strictness of law Vernon's action was not justifiable, he be not allowed to suffer for his zeal in his Majesty's service. As, however, the money given by Parliament for the Navy is appropriated for that service, the Admiralty leave it to his Majesty's pleasure, and the Council refer it to the Treasury, to propose some means, by which Vernon's expenses may be reimbursed.] [p. 241.]

26 Feb.
Virginia.

[43.] [Reference to the Treasury of the petition of William Roscoe, brother and executor of the late James Roscoe, Receiver General of Virginia, relating to his being obliged to pay 254*l*. 18*s*. 5*d*. received for quit-rents by his brother's deputy, but stolen from the warehouse of Adam Blair, merchant,

1723.

and praying that this sum may be allowed him out of the balance which he is now prepared to pay over to the present Receiver General.] [p. 223.]

[44.] [Reference to the Committee for Appeals of the petition of Richard Partridge, agent for Rhode Island, to be heard against] an Order of His Majesty which was Sent over with Instructions to the Governor of Massachusetts Bay in New England, requiring him to demand of the Governor of the said Colony of Rhoad Island and Providence Plantations a Bond in the Penalty of Two Thousand Pounds Conditioned for the true performance and observance of the Acts of Trade and Navigation, and also to require of the said Governor to make oath that he will inform himself of all the said Acts of Trade and Navigation :—Which Directions the Petitioner alledges to be inconsistent with the Priviledges Granted to them in their Charter of Incorporation by King Charles the Second and would be attended with very Great inconveniencies.

26 May.
Rhode
Island.

[pp. 256-7.]

[Committee refer it to the Board of Trade to report] what Powers are reserved to the Crown in the Charter of Rhode Island and Providence Plantations, and how farr the Governor of that Colony have acted agreeable thereto, and likewise how farr they have observed the Act of Parliament made in the 7th and 8th of King William the Third in taking the oath thereby prescribed to observe the Acts of Trade and Navigation, and obliging the inferiour officers to give Security for observing the same.

26 July.

[p. 294.]

[45.] [A report from the Board of Trade of 24 May upon an Act to augment his salary passed by the Duke of Portland is referred to a Committee. So also is a similar report of the same date on two Acts passed by him in 1722 and the report on them of the Attorney and Solicitor General. They are one for the making his Majesty's revenue perpetual and augmenting the same and continuing and declaring what laws

20 June.
Jamaica.

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are in force in this island; the other for the more effectual preventing of frauds and abuses in collecting his Majesty's revenue.] [pp. 262-3.]

26 July. [The Committee report that on 21 June they referred the Act concerning the revenue to the Treasury, and that after reading their report and the other papers, they agree to recommend that by the report of the Attorney and Solicitor General it appears that in 1703 an Act was passed in Jamaica granting for 21 years a revenue for the support of the government, other laws of the island being confirmed for the same period: one of the Acts now under consideration makes this revenue perpetual and imposes an additional duty of 20s. per pipe on all Madeira wines. To this and the continuance of the laws now in force the Attorney and Solicitor General have no objection,] But the other part of this Act will, as they apprehend fall under a different Consideration, for thereby all the General known Laws, Statutes Customs and usages of England Concerning the Life Liberty or property of the Subject which were in force in England on the 14th Day of December in the Thirteenth Year of the Reign of King Charles the Second and all other Statutes made in England since that Day, either declaratory of the same Laws or for the better enforcing regulating or explaining thereof, or for the amendment of the Law, or for the common advancement of Justice, or for Securing the Rights, Libertys or Properties of the Subject, are enacted to be Laws of Jamaica mutatis mutandis, such Cases only excepted wherein other Special provision hath been appointed by some Law already passed in the Island, and it is particularly required that in all Cases of Liberty the Judges and Ministers of Justice in Jamaica shall observe the Rules prescribed by the Habeas Corpus Act, and by the Act of the First Year of King William the Third under the penalties appointed by these Acts.—Upon perusing which Clauses they apprehend that they are of a very extraordinary Nature and may be attended with many inconveniencys both to His Majestys Government in that

Island, and to the Estates and Commerce of His Majestys Subjects there, the description made of the Laws of England, which are by this Act to become Laws of Jamaica being so very General that possibly the whole Body of the English Laws (in Cases not particularly provided for by Laws of their own) may be introduced by it, And it is impossible to foresee what Consequences may arise from thence Since a great Number of Cases may now exist, or hereafter happen in that Island, to which the English Laws are by no means Competent, or if they were to take Place might do great mischief, But if all the English Laws should not thereby become Laws of Jamaica, the Description is so uncertain that great variety of Doubts and Questions must necessarily arise, what Laws are Comprehended therein and what not, in so much that it would hardly be possible for the People to know by what Laws they are to be Governed or their properties regulated, which would be the occasion of great vexation to the Subject.

The Habeas Corpus Act is particularly mentioned, and as to that, it is Submitted how far it may be proper to enact it in Jamaica, which is a Colony at so great a distance from England, they being informed it has often been attempted in Ireland, and the Crown has for weighty Reasons never thought fit to Consent to it even in that Kingdom, But there is one Clause in that Act, which if it should be a Law of Jamaica according to the provision of this Act, might be particularly inconvenient, Vizt. that which restrains the sending of Persons Prisoners out of the Kingdom.

As to the Clause about Negroes that proceeds upon an Imagination that the Statute of Frauds is already a Law in Jamaica, but it has been determined in Councill that the said Statute is not in force there.

Upon the whole they are humbly of opinion that the last mentioned parts of this Act are not proper to be approved but in Case there are any particular Laws of England which the assembly in Jamaica are desirous to have enacted there, such Laws should be particularly Specified and described

1723.

in an Act of Assembly to be passed for that purpose that they may receive a distinct Consideration, as to the fitness of them with regard to the Condition and Circumstances of that Island.

As to the other Act Entituled An Act for the more Effectual preventing of Frauds and abuses in Collecting His Majestys Revenue they have no Objection to the Substance thereof but in Case it should be His Majestys Pleasure to disallow the other Act, this having an express Reference to it, will not in their opinion be proper to be approved :—And Their Lordships Do further Report that it appears by the Report of the Lords Commissioners of Trade and Plantations, that as to the said Revenue Act They are humbly of opinion as well for the reasons mentioned in the Attorney and Sollicitor Generalls Report, as because the Clause required by His Majestys Instructions to prevent it's taking effect, untill His Majestys Pleasure thereupon should be known, is not inserted, that the same is not fit to receive His Majestys approbation besides they think it their Duty to observe to His Majesty on this occasion, that the Revenue formerly Granted to His Majesty which is Continued by this Act, And the Additional Revenue intended to be thereby granted to His Majesty according to the best Information they can get will fall very farr short of the necessary Expences of His Majestys Government in Jamaica communibus annis.

And as the other Act hath Reference in many Places to this in Case His Majesty should Disapprove the Revenue Act, they humbly offer His Majesty would likewise be pleased to disallow of the Act for the more Effectual preventing of Frauds and abuses in Collecting His Majestys Revenue.

And Their Lordships Do further Report that it appears by the Report of the Lords Commissioners of His Majestys Treasury, That as to the said Revenue Act in Generall as it passed in Jamaica they are clearly of opinion, as well for the Solid Reasons Given by Mr. Attorney and Mr. Sollicitor Generall in their Report, as for many others which might

be added (if more were necessary) That it is not advisable to approve that Act, the approbation whereof as (they apprehend) would in a great measure take of the Dependence of that Island from the Crown of Great Britain, under which their Government and Laws have been and are Established and Create infinite Doubts, Difficulties and Confusions even concerning the Libertys and propertys of His Majestys Subjects there, which at present are well ascertained and Settled.

That as to that part which particularly concerns the Revenues of Jamaica, the said Lords Commissioners Represent That His Majesty by one of His Instructions to His Grace the Duke of Portland, taking Notice that a former Law had been made in Jamaica for Continuing Severall Duties and Imposts for the Support of the Government there, and for Continuing the Laws of Jamaica for a Term of Twenty and one Years to expire on or about the first of October 1724, did Direct His Grace upon his arrival in Jamaica, to Represent to the Councill and General Assembly there, the Great Importance of providing a perpetual Revenue for Support of His Majestys Government, equal to the present Expences and Contingent Charges thereof, before the Expiration of the said Term, Intimating that His Majesty in Consideration thereof would Consent to make those Laws perpetual, but in Case the General Assembly should not be Induced to make the said Revenues perpetual, and should be willing only to pass the same for a Term of Years by a New Act, His Majesty Signified His Pleasure that His Grace should Give his assent thereunto provided the same be not for less Than Twenty one Years, and that His Majesty in that Case would Confirm for the same Term all the aforesaid Laws which would otherwise Expire as aforesaid.—That the Lord Carteret one of His Majestys principal Secretarys of State in his Letter to His Grace the Duke of Portland bearing Date the 17th of July 1722, Intimated That His Majesty Judged it necessary that the State of the Revenue of Jamaica should be duly Considered before he came to any particular Determination

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1723.

upon the whole, And that His Lordship had therefore by His Majestys Command Referred that part to the Consideration of the said Lords Commissioners of the Treasury who were Directed to Report their opinion upon it, And in the mean time his Lordship Signified His Majestys Pleasure to His Grace that upon his arrivall His Grace should Communicate to the Councill and Assembly His Majestys Gracious Intention to renew the said Laws, provided they were ready on their part to make a due provision for the Expences of His Majestys Government there, In which point His Majesty would receive Satisfaction in the first place, and therefore His Grace was directed to inform His Majesty how he should find the Councill and Assembly disposed therein And upon transmitting such Information, His Majesty would Instruct His Grace more particularly how he was to proceed in that Affair :—That the said Lords Commissioners having accordingly proposed some Heads of Instructions to be Given to His Grace relating to the said Revenues, and transmitted the same to the Lord Carteret, an Additional Instruction was signed by His Majesty bearing date the 19th Day of July 1722, In which (among other things) it was Directed, That an Establishment should be formed to contain all the Settled Annual Expences of His Majestys Government there, and that there should be therein inserted such a Competent Annual Sum for Defraying the Contingent Charges of the Government as His Grace should be advised to be fitting and reasonable for that Service, and that the Establishment so formed, should be made part of the New Act, and that the said Revenues should be appropriated to pay and defray the same, in the manner therein Specified, But His Grace is thereby Instructed to take Especial Care that a Draught of such Revenue Act, as also of the said Establishment to be Comprhended therein, should be transmitted over for the Approbation of the Commissioners of His Majestys Treasury here, before the same be passed into a Law.

Upon all which Instructions rules and Directions relating to the Revenue and Expences, the said Lords Commissioners humbly take leave to observe as follows :

That the said Act is passed in Jamaica before the State of the Revenue of Jamaica and of the Expences of the Government there, hath been duly considered, and before the Disposition of the Council and Assembly there, was previously known and transmitted as His Majesty Directed.

That in the said Act, as it is transmitted hither, there is no Establishment of the Annual Expences of His Majestys Government there, which was directed to be inserted therein.

That no Draught of the said Revenue Act, or of the Establishment to be Comprehended therein, was transmitted over for the approbation of the Commissioners of His Majestys Treasury here before the same be passed into a Law.

And as to the Support of the Expence of the Government there, the said Lords Commissioners represent that for the time past (as appears by papers transmitted from the Lords Commissioners for Trade and Plantations to them) The Settled Revenues of Jamaica, with the Help of Additional Revenues given from time to time, have been very deficient in answering the Publick Expences, so that there is a very great Debt owing thereupon and for the time to come, In case the Expence thereof be Settled by a Medium of four years past,

The same for one Year will amount to about	l.
(per ann.)	8,062

And if there be added for Additional Salary to His Grace for which a Distinct Act is past there	
(per ann.)	2,500

The whole Expence will amount by Estimation to about (per ann.)	10,562
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Towards which the Imposts, Quit Rents	l.
and other Duties Comprehended in the former Revenue Act (computed by a like Medium) will amount to about	4,913

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1723.

	l.	l.
Brought forward	4,913	
And Joyning thereunto 20s. per Pipe		
Additional Duty on Madera wine Estimated		
at about	1,000	
	—————	5,913

Then these Revenues to answer the Expence will
Still be deficient at Least 4,649

And this Deficiency will soon encrease the Debt to ruin
the Credit and distress the Government there.

Upon the whole Matter, their humble opinion is, that a
Letter be forthwith sent from His Majesty or their Excellencys
the Lords Justices (if he or they so think fit) to His Grace
the Duke of Portland, Signifying His Majesty or Their
Excellencys dislike of the aforesaid Act, and the reasons why
the same cannot be approv'd, and Requiring His Grace forth-
with to Communicate to the Councill and Assembly His
Majestys Gracious Intentions to Continue the Laws of Jamaica
as they now stand, either in perpetuity, or for a Term not less
than Twenty one Years, So as they will Consent to Continue
all the present Revenues, with such further Additions as may
be Sufficient to defray the whole Expence for ever, or for a like
Term of Years and that His Grace with the said Councill and
Assembly, Do prepare the Draught of an Establishment of the
whole Expence and Additional Expences of that Island for the
future, and to Transmit the same with the Draught of an Act,
both for the Revenues and Additional Revenues as also for the
future Annual Expence, that the same may be Considered
by His Majesty and His further Directions thereupon may be
Given for a perfect Settlement thereof before the first Day of
October 1724.

The said Lords Commissioners of the Treasury take Notice
that there is another Act transmitted from His Grace to the
said Lords Commissioners of Trade and Plantations for an
Additional Salary of 2,500*l.* per ann. to His Grace, And if that
Act should be approved, It will make an article of so much,
in the Annual Deficiency as before Stated for which An

Additional Revenue is now to be Settled by the New Act.— And the said Lords Commissioners Do further observe, that altho the said Councill and Assembly have thought fit to pass the said Act for the Additional Salary of 2,500*l.* per ann. to the Governor beyond what was ever Granted and allowed, Yet when moved to make provision of one Thousand pounds a Year pursuant to His Majestys Letters of Privy Seale in that behalf to Colonel Du Bourgay as Deputy Governor there, they absolutely refused to make Such Provision, on pretence of it's being unprecedented, and an Extraordinary Charge more than they were able to bear.

And the Lords of the Committee having duly Considered the reasons given in the severall aforementioned Reports against the Confirmation of the said Revenue Act, Do agree to Report it as their opinion, that the same ought to be Disapproved :— And as to the Act for preventing Frauds and abuses in Collecting His Majestys Revenue ; altho' Their Lordships have no objection to the Substance thereof, Yet as it doth appear to have an immediate Dependance on the Revenue Act, which their Lordships think proper to be Disapproved, They are of opinion that the said Act relating to Frauds should be Disapproved likewise :—And as to the Act for augmenting the Duke of Portlands Salary, Their Lordships agree to Report their opinion that the said Act ought to be Disapproved as well for the Reasons contained in the aforementioned Report, as because His Grace has not observed His Majestys Instructions, which required him to insert a Clause to suspend the said Act from taking effect, till His Majestys Pleasure should be known.—

And their Lordships cannot but observe to Their Excellencys from the aforementioned Reports, that the Duke of Portland has in many instances Acted contrary to the Severall Instructions which were given him for his Guidance in passing the said Acts, And Their Lordships Do agree to propose that a Letter either from His Majesty or their Excellencies the Lords Justices should be Sent to His Grace the Duke of Portland

1723.

acquainting him with the Reasons contained in the Severall Reports aforementioned against the Confirmation of these Acts, and Directing His Grace forthwith to Communicate to the Councill and Assembly His Majestys Gracious Intentions to Continue the Laws of Jamaica as they now stand, either in perpetuity or for a Term not less than Twenty one Years, so as they will Consent to Continue all the present Revenue with such further Additions as may be Sufficient to Defray the whole Expence for ever or for a like Term of Years, and that His Grace with the said Councill and Assembly, Do prepare the Draft of an Establishment of the whole Expence And additional Expences of that Island for the future, Including such Additional Salary to the Governor as shall be thought proper to be Settled on him during the Continuance of his Government, and to transmit the same with the Draught of an Act both of the Revenue and Additional Revenues, as also for the future Annual Expence, that the same may be Considered by His Majesty, And His further Directions thereupon may be given for a perfect Settlement thereof before the first day of October 1724. [pp. 286-94.]

6 Aug. [Orders accordingly. The report to be transmitted to his Majesty that the letter may be sent under his Sign Manual.] [p. 299.]

6 Aug. [The Board of Trade with the Attorney and Solicitor General to consider what laws will remain in force, on what footing the government will stand, and what will be the relation of the inhabitants to the authority of the Crown, after 1 Oct., 1724.] [p. 300.]

6 Aug. [46.] [Representations from the Board of Trade on two Virginia Acts, one for amending the Act concerning servants and slaves and for the better government of convicts imported and for the further preventing the clandestine transportation of persons out of this colony, and the other for the better discovery and securing of his Majesty's quitrents, are referred to a Committee.] [pp. 307-8.]

ACTS OF THE PRIVY COUNCIL (COLONIAL). 55

- [The Committee recommend their disallowance, the former because the difficulties it imposes on the importers of convicts almost amount to a prohibition of the transportation of felons from Great Britain, the latter because it tends to the diminution of his Majesty's revenue and weakens the process for the Crown in the recovery of forfeitures and arrears of quit-rents.] 1723.
14 Aug.
- [pp. 316-7.]
- [Orders accordingly.] [p. 327.] 27 Aug.
- [47.] [The representation of the Board of Trade on a Barbados Act of 1723 for supporting the honour and dignity of the government is referred to a Committee.] 6 Aug.
Barbados.
[p. 308.]
- [The Committee refer Act and representation to the Treasury.] 14 Aug.
[p. 318.]
- [The Committee approve the report of the Treasury, and recommend that the Act granting Governor Worsley 6,000*l.* (with exchange at the rate of 30 per cent.) be confirmed, and] 27 Aug.
That in Case any Deficiency shall happen in the Taxes Granted by the said Act, such Deficiency should not be Charged upon any other Branches of the Civil Government there nor other ways made good by any new Tax to be Granted in the said Island nor should such Deficiency be made use of by the said Governor of Barbados as a Claim of debt upon the Crown.
[pp. 322-3.]
- [Order accordingly. The report of the Attorney and Solicitor General had also been before the Committee.] 27 Aug.
[pp. 324-5.]
- [48.] [A representation from the Board of Trade upon two Carolina Acts of 1721-2 for raising the sum of 17,248*l.* 0*s.* 6*d.* on lands and slaves for defraying the charges of the several forts and garrisons, discharging the public debts, and providing for the other emergencies and contingent charges of the government : and for reprinting the present current paper bills of credit and for printing the additional sum of 40,000*l.* in bills of credit for paying off the public debts, defraying the contingent charges of the government to 25 Sept. next, &c., is referred to the Committee.] 6 Aug.
Carolina.
[p. 308.]

56 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1723.

14 Aug.

[Committee. By the representation it appears that the Board of Trade have heard] the Complaints of Severall Merchants Trading to that Province against the proceedings of the Governor Councill and Assembly in relation to the unjust and Exorbitant Increase of their Paper Credit whereby the fair Traders have been in great part, if not entirely defrauded of their Just Debts due from the Planters there, And the Funds formerly Established for Sinking Bills of Credit issued during the Administration of the Lords Proprietors have been directed to purposes different from those for which those Funds were Granted to the destruction of all Publick Credit in that Province, and to the Great Interruption of Commerce between the merchants of Great Britain and the Planters in Carolina. [In accordance with the representation the Committee recommend that the Acts be repealed and no such Acts passed for the future by the Governor, who has in this case acted in direct opposition to his Majesty's instructions, which require in Acts of unusual and extraordinary nature and importance a clause suspending their execution until his Majesty's pleasure be known. The Governor is also to propose to the Assembly] to Settle Effectual Funds for the Speedy Sinking and Discharging such additionall Bills of Credit as have been Issued on pretence of the Acts abovementioned during his administration.

[p. 315.]

27 Aug.

[Orders accordingly.]

[p. 330.]

(1724.)

4 July.

[Reference to a Committee of] the humble Representation of the Generall Assembly of . . South Carolina Setting forth the necessitys they lye under of having paper Money Established not having either Silver or Gold amongst them—And therefore humbly praying His Majesty will permit them to pass a Law to Establish a paper Currency to the Amount of Twenty Thousand pounds Sterling upon the same Foundation with those of their Neighbouring Governments without which the Trade of that Province must greatly Suffer.

[p. 565.]

[49.] [Reference to a Committee of a representation from the Board of Trade of 27 June that owing to complaints from Gov. Hope against Thomas Brook, senior member of the Council of Bermuda, for maladministration as Collector of the Customs and Receiver of the King's Thirds, Brook be removed from the Council and Capt. Daniel Tucker appointed to succeed him.] [p. 309.]

1723.
6 Aug.
Bermuda.

[Committee : The Board of Trade are to report what proofs have been transmitted and what opportunity given to Brook to answer the charges. He is alleged to have] Endeavoured to Charge the late Governor with a large Sum of Money belonging to His Majesty which remains in the said Brook's own hands.

14 Aug.

[p. 318.]

[Committee. The Board of Trade having laid before the Committee a letter from Gov. Hope and an affidavit by Mr. Bennet, the late Governor, it is recommended that Brook be removed and Tucker appointed in his place.] [p. 468.]

(1724.)
22 Jan.

[Order accordingly.]

[p. 473.]

(1724.)
23 Jan.

[50.] [Reference to a Committee of a memorial from the Admiralty] relating to the ill treatment of Mr. Smith Judge of the Vice Admiralty of South Carolina, And also to frequent Contempts of the Jurisdiction and Authority of the Admiralty there by Francis Nicholson Esq. Governor of that Province, and further relating to the little regard which hath been Shewen to the said Jurisdictions of Admiralty in other of His Majestys Forreign Governments and Plantations. [p. 344.]

10 Oct.
South
Carolina.

[Committee. On consideration of the memorial and of two letters annexed from Mr. Smith to Mr. Burchett, Secretary to the Admiralty, it is recommended that the letters be sent to Governor Nicholson for his answer, and that orders be sent to all Governors of Plantations,] That at their Perrills they do not themselves Molest, or interrupt the Judges and other Officers of the respective vice admiraltys, in their Examining into and legally Determining all such Matters as shall

24 Oct.

58 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1723.

Judicially come before them, according to the known Laws in such Cases, nor permit or Countenance the Provinciaall Judges or others in their respective Governments to do the same on any pretence whatsoever, but that on the contrary they do use their utmost to Encourage and Support the afore-said officers of vice admiralty in the Just and legall Execution of their Duty, that so a Step may be put for the future to those indirect Practices which have been so frequently Complained off.— [p. 346.]

14 Nov. [Order for the letters to be sent to Gov. Nicholson.] [p. 353.]

22 Oct. [51.] [Reference to a Committee of the] Petition of Thomas
Massachu- Richardson and Richard Partridge on behalf of Joseph
setts Bay. Anthony, John Sisson John Atkin and Philip Tabor Quakers Prisoners in the Common Goal at New Bristoll in His Majestys Province of the Massachusetts Bay in New England, for not assessing the inhabitants of the Towns of Tiverton and Dartmouth towards the maintenance of the Ministers, as also in behalf of the Quakers in generall who are frequently under Great Sufferings for Conscience Sake in that Government : —Humbly Praying that they may be relieved in the premises and that the said for Persons may be released from their Imprisonment on their giving Security for their forth coming till their Case be brought to an issue. [p. 345.]

24 Oct. [Committee. The Acts not having been laid before the Lords Justices, the Board of Trade are to consider them forthwith and lay them before the Council] with such Representation thereupon as they shall think proper. [p. 348.]

(1724.)

14 Jan. [Reference to a Committee of a Massachussetts Act for apportioning and assessing a tax of 6,232*l.* 13*s.* 11*d.*, with a representation thereon of the Board of Trade of 20 Dec., 1723.] [p. 404.]

(1724.)

14 Jan. [Similar reference of Anthony Saunderson's petition that time be allowed till the arrival from New England of the answer

to the petition of Mr. Partridge and Mr. Richardson, and that he may be heard before any determination be made.]

[p. 464.]

1723.

[Committee on consideration of the representation and petition] defer the further consideration of this affair till my Lord Westmorland is present.

[p. 471.]

(1724.)
22 Jan.

[A representation of the Board of Trade of 6 May urging the repeal of an Act of 1723 for apportioning and assessing a tax of 6,205*l.* 15*s.* 7½*d.* is also referred to the Committee.]

[p. 525.]

(1724.)
12 May.

[Committee appoint 21 May for consideration of the Acts and petitions.]

[p. 528.]

(1724.)
15 May.

[Committee recommend remission of the tax and release of the imprisoned Quakers.]

[p. 530.]

(1724.)
21 May.

[Orders accordingly. The obnoxious taxes were 100*l.* and 72*l.* 11*s.* imposed on the towns of Dartmouth and Tiverton in 1722] for the maintenance of Presbyterian Ministers who were not of their perswasion.

[p. 532.]

(1724.)
2 June.

[52.] This day Mr. Thomas Tryon Sollicitor, Entered an Appearance for Edward Chester, Respondent in the appeale of Richard Rigby and his Wife from Antegoa.

[p. 346.]

23 Oct.
Antigua.

[Reference to the Committee for Appeals of Rigby's petition that, as the proceedings are transmitted, a short day be appointed for hearing his appeal from a decree of the Antigua Chancery, 19 April, 1723, in favour of Edward Chester, William Yeomans and others relating to the execution by Yeomans of a letter of attorney from Rigby to sell an estate in Antigua. Similar reference of Chester's petition that the appeal be dismissed with costs for non-prosecution, as about thirteen months have elapsed since it was admitted.]

[p. 566.]

(1724.)
4 July.

[Committee: Rigby to pay Chester 5*l.* costs for delay, and the case to be heard on Wednesday next.]

[V. p. 16.]

(1724.)
25 Nov.

60 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1723.
(1724.)
24 Dec. [Order, in accordance with the Committee report of 2 Dec., that the appeal be sustained, and] that the Respondent Chesters Cross Bill be Dismist with Costs, and that the appellants have likewise Costs on their Bill to the time of the Decree pronounced by the Court below, and that the Court below do reserve the Consideration of Costs touching the account hereby Directed. [Vol. V. pp. 18, 25.]
- 24 Oct.
Piracy. [53.] Report from Mr. Attorney and Mr. Sollicitor Generall upon a Report from the Board of Trade for pardoning Some Pyrates Read—Postponed—till His Majestys Return from Hanover. [p. 348.]
- 14 Nov.
Maryland. [54.] [Reference to the Committee for Appeals of Joseph Brown's petition for liberty to appeal from a judgment for 500*l*. sterling given against him in the Provincial Court of Maryland in favour of Thomas Boardley.] [p. 356.]
- (1724.)
22 Jan. [Committee. On Lord Baltimore's desire, he is to be allowed a copy of the petition. Anything he may have to offer thereon is to be laid before the Committee with all speed.] [p. 470.]
- (1724.)
28 Feb. [Committee. On Lord Baltimore's representation that the case is not yet regularly before his Majesty for an appeal, it is recommended that Brown be admitted to bring his writ of error to the Maryland Court of Appeals or otherwise as he shall be advised.] [p. 483.]
- (1724.)
9 Mar. [Order accordingly.] [p. 490.]
- 14 Nov.
Jamaica. [55.] [Reference to the Committee for Appeals of the petition of Stephen Brown of Jamaica for remission of a fine of 500*l*. imposed on him there and for its suspension] till he can bring the whole affair in a Judicial way before this Board. [p. 356.]
- (1724.)
22 Jan. [Committee. Brown's petition sets forth that he married the widow of Whitgift Aylmer. John Verdon, attorney, obtained judgment in the name of Rowland Eustace against Brown and his wife and others as executors of Whitgift Aylmer on a

1723.

bond of 6,000*l.* penalty supposed to be executed by him. Brown had demanded a writ of error, but this was denied him. In Nov., 1722, in pursuance of a resolution of the Governor, Council and Assembly he was indicted for directing Verdon to bring the action and for confessing the same with intent to defraud Aylmer's creditors, his daughter and residuary legatee, as nothing was really due to Eustace. Brown was fined 500*l.*, and ordered to be imprisoned for a year and a day. He has paid 100*l.* and given security for the remainder. As he can get no counsel to appear for him, he prays suspension of the fine till he can bring the matter before his Majesty in Council in a judicial way or be otherwise relieved. It is recommended that the Governor and Council be instructed to admit his writ of error and assign him counsel, and that, if their decision is against him, he may appeal therefrom. In the meantime, payment of the fine is respited and all proceedings on the judgment stayed.] [p. 469.]

[Orders accordingly.]

[p. 475.]

(1724.)

23 Jan.

(1724.)

22 Sept.

[Reference to the Committee for Appeals of Brown's petition] praying His Majesty to remitt a fine of Five hundred pounds illegally imposed on him in that Island. [V. p. 2.]

(1724.)

7 Nov.

[On reading a letter from the Duke of Portland, Governor of Jamaica, to Lord Carteret,] Representing that His Grace received some time agoe, an order from His Majesty in Council concerning one Brown, and that he communicated the same to the Council of Jamaica, which was immediately obeyed. But that the said Council being Surprized to find the allegations and Suggestions in Mr. Browns Petitions upon which he obtained that order, were all malicious and fictitious, they desired to Draw up a true State of the Case in their own Justification in order to be laid before His Majesty in Council, and the said Council having accordingly drawn up a State thereof, His Grace hath Enclosed the same in his said Letter. [The letter and state of the case are referred to the Committee for Appeals.] [V. p. 14.]

62 ACTS OF THE PRIVY COUNCIL (COLONIAL).

- 1723-4.
(1724.) [Committee : Brown sets forth that the Duke of Portland]
25 Nov. said he should take it well of any of the Gentlemen of the
Law who would appear for the Petitioner but Notwithstanding
which none of them could be prevailed with to accept of a
Fee from the Petitioner. It is recommended that the previous
order of 23 Jan., 1724 be re-enforced, and that the Governor
and Council oblige counsel to appear and plead for the
petitioner.] [V. p. 17.]
- (1724.)
22 Dec. [Order accordingly.] [V. p. 26.]
- (1726.)
11 Mar. [Reference to the Committee for Appeals of Brown's petition
and appeal from the judgment upon his writ of error
of the Governor and Council affirming the judgment of the
Superior Court.] [V. p. 202.]
- (1726.)
6 May. [The Committee recommend reversal of the judgments
against Brown. Any part of the fine paid or security for
paying it is to be returned to him.] [V. p. 216.]
- (1726.)
10 May. [Order accordingly.] [V. p. 218.]
1724.
14 Jan. [56.] [A representation from the Board of Trade of 7 Jan.
New Jersey with the draft of an additional Instruction for William Burnet
is referred to the Committee.] [pp. 463-4.]
- 22 Jan. [The Committee approve] it appearing that the alteration
proposed to be made by this Additional Instruction is not
to encrease or diminish the usuall Number of Assembly Men,
but only to take away the right from the Town of Salem
of Electing two assembly men in regard it is a Small Fishing
Town and instead thereof to give that power to the County
of Hunterdon which is become very populous, And their Lord-
ships Conceiving that the same will Conduce to the better
Settling of the said Province of Nova Cæsaria or New Jersey.
[p. 468.]
- 23 Jan. [Instruction approved. P.R.] [p. 474.]
- 23 Jan. [57.] [Reference to the Treasury of a memorial from the
Piracy. Admiralty praying his Majesty to extend his royal bounty

1724.

to Capt. Peter Sologard and the crew of H.M.S. *Greyhound* by giving them about 314*l.*, the produce of the pirate ship *Ranger*, taken by them and condemned in the Admiralty Court of Rhode Island—the sum to be divided among them after a year and a day] in case no Persons Do within that time make a legall Claim to the said Vessel, or anything found on board her when taken. [p. 477.]

[58.] [To a Committee is referred a representation from the Board of Trade recommending the disallowance of a Barbados Act of 1723] for laying an Imposition or Duty on Wines and other Strong Liquors imported this Island, in order to raise Moneys for Carrying on the Fortifications for payment of such Persons as are or shall be Employed at the Publick Charge and for such other publick uses as are herein contained. [p. 480.]

21 Feb.
Barbados.

[Committee. The Act expires on 8 Aug. and need not be disallowed, but the Governor should be enjoined to a punctual observance of his instructions in passing all Acts of the like kind for the future, and] to take particular Care That no Dutys be levyed on the Subject, without Express Mention being made in the Clause or Clauses by which the same are granted, that such Duties are Given to Your Majesty Your Heirs and Successors for the publick Uses of the said Island and the Support of Your Majestys Government there.

17 April,

And not to Give his assent to any Bill or Bills wherein Your Majestys Prerogative or the property of Your Subjects prejudiced or the Trade or Shipping of this Kingdom any ways affected, without inserting a Clause therein, Suspending the Execution thereof untill Your Majestys Pleasure shall be known concerning the same. [p. 497.]

[Orders accordingly.]

[p. 505.] 20 April.

[59.] [A representation of the Board of Trade recommending for disallowance a Virginia Act of 1723 for laying a duty on liquors and slaves is referred to a Committee.] [p. 480.]

21 Feb.
Virginia.

64 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1724.

17 April. [The Committee find that three similar Acts were in force in 1710-1718, which laid a duty of 5*l.* per head on negroes imported : this reduced the number usually imported and necessary for the colony and must have been a hindrance to the negro trade as well as a burden upon the poorer planters. Though the present duty is less, still it] must be attended with ill Consequences at this time, and Discourage the Planting and Cultivating Navall Stores, especially in the Two New Countries where great Number of Negroes will be wanting and where Your Majesty hath been pleased to Remitt the payment of any Quit Rent for Seven Years to Encourage the Seating and Planting the same.

And it further appears, That this Act Lays the Duty on the Importer, whereby the Trade of Great Britain will be affected, and there is no Clause inserted therein (pursuant to Your Majestys Instructions) to Suspend its taking effect till Your Majestys Pleasure shall be known.

For which Reasons, and that there does not appear any immediate occasion for the said Supplies, and that no Damage can arise from Repealing the said Act, Since the assembly may have time to pass another Law to raise the necessary Supplies for which this Act was designed not lyable to the said objections [it is recommended that the Act be repealed].

[*pp.* 497-8.]

30 April. [Order accordingly ; and that the Governor] do not on any pretence whatever presume for the future to give his assent to any act of this kind without inserting a Clause therein Suspending the Execution thereof till His Majestys Pleasure shall be known concerning the same. [*p.* 506.]

(1729.)

26 June. [A Virginia Act of 1728 for laying a duty on slaves imported and for appointing a treasurer is referred, with the representation thereon of the Board of Trade of 23 May, to a Committee.]

[George II. Vol. II. *p.* 14.]

(1729.)

31 July. [The Committee recommend that the Act be repealed as liable to the same objections as the Act of 1723 already

1724.

repealed. The duty of 40s. per head on negroes would discourage the trade of this kingdom with Virginia, raise the price of tobacco, and discourage settlement in the two new counties for want of sufficient slave labour.] [II. p. 37.]

[Order accordingly.]

[II. p. 47.]

(1729.)
18 Aug.

[60.] [Reference to the Admiralty of the petition of Francis Trenly, agent for the officers and crew of H.M.S. *Launceston* now in the West Indies, for the rewards offered by proclamation for the capture and conviction of pirates, as on 24 April, 1722, they took a pirate sloop called the *Vengeance* and carried her to Port Royal in Jamaica, where the crew were all convicted in the Admiralty Court.] [p. 491.]

9 Mar.
Piracy.

[The Council approve and refer to the Treasury, to do therein as has been usual in like cases, the Admiralty report of 21 March that the captors are justly entitled to the rewards offered by the proclamations of 5 Sep. 1717 and 21 Dec. 1718; for every commander 100*l.*; lieutenant, master, boatswain, carpenter, gunner, 40*l.*; inferior officer, 30*l.*; private man, 20*l.*] [p. 492.]

6 April.

[61.] [Reference to the Committee for Appeals of the petition of Lawford Cole, late of Antigua, that, as all the proceedings are transmitted, a day may be appointed for hearing his appeal from an order of the Antigua Chancery, 6 April, 1723, in a case between him and Matthew Mills of St. Christopher.] [p. 493.]

6 April.
Antigua.

[Order in accordance with the Committee report of 12 June, that the Chancery order] be confirmed with this Explanation—That by the words so farr as they may affect this Cause, Is to be understood, so farr as they may affect the Assetts of Joseph Crisp the Younger, come to the Hands of the Respondent Matthew Mills. [pp. 495, 528, 534, 562.]

4 July.

[62.] His Majesty being always disposed as much as in him lyes, to promote the Trade of Great Britain, upon which the

30 April.
Plantation
Trade.

1724.

Wealth and Security of his People so great depends, and being desirous at this time more particularly to take into His Royal Consideration, Some Branches of the Trade of the British Plantations ; His Majesty with the advice of His Privy Council Is hereby pleased to order ; that the Lords Commissioners for Trade and Plantations do prepare a full State of the Sugar and Tobacco Trades, and that they do, as soon as Conveniently may be, Transmitt the same to His Majesty at this Board. And for the more particular Guidance of the said Lords Commissioners in the Representation they are to make upon this Subject, They are to Inquire and Inform themselves ; in the best manner they are able, concerning the following particulars Vizt. :

What Increase or Decrease there has been in the imports of Sugars and Tobacco from the British Plantations for the last Twenty Years, of which they have or can procure Accounts from the Customhouse.

What Increase or Decrease in the Exports of the said Commodities from Great Britain for the like time, Distinguishing the Severall Countrys to which the same have been Exported and likewise what Quantitys of Sugar and Tobacco have annually remained for home Consumption.

To which Causes the Excess or Diminution in the said Imports, Exports or home Consumption may probably be owing.

What Dutys or other Incumbrances Lye upon these Commodities, either in Great Britain, or in the respective Plantations where they were produced.

What Prices the British Sugars and Tobaccos have usually borne from Year, to Year, for Twenty Years last past, at home and in Forreign Marketts.

What Prices the French, Dutch and Portuguese Sugars the French, Spanish, Portuguese, German, or Dutch Tobaccos have born in Forreign Marketts for the same Time.

What Dutys or Incumbrances Lye upon French, Dutch, or Portuguese Sugars, French, Spanish, Portuguese, German or Dutch Tobaccos in the respective Plantations, or Places

1724.

where they Grow, and at their Importation into the European Territories of the Princes and States to whom they belong.

What Encouragement may be requisite for promoting the Sugar and Tobacco Trade and for Giving an advantage to His Majestys Subjects in these Branches of Commerce over those of Forreign Princes. [p. 504.]

Council Office, Whitehall, the 12th August, 1724. 12 Aug.
Sir,

At a Meeting of the Council this morning at the Cockpitt, where there were present, my Lord President, the Earls of Hay, Portmore and Cadogan, Lord viscount Townshend, Bishop of London and the Speaker of the House of Commons—A Letter was laid before the Board from the Lords Commissioners for Trade and Plantations, to His Grace the Duke of Newcastle, Reciting that in Obedience to His Majestys Order in Council of the 30th of Aprill last, They had prepared a Representation upon the State of the Sugar and Tobacco Trades, and Desiring his Lordship would be pleased to lay the same before His Majesty.—The Lords of the Council took Notice, that by the said order in Council, The Lords Commissioners ought to have transmitted the said Representation to His Majesty at this Board, and have therefore commanded me to return to you the said Letter and Representation, That it may be forthwith transmitted in due form, to His Majesty in Council pursuant to the said Order.—I am Sir &c. Ja. Vernon.

To Alured Popple Esqr. Secretary to the Board of Trade. [p. 610.]

[Report from the Board of Trade of 24 July referred to a Committee of the Council.] 22 Aug. [p. 615.]

[Reference to the same Committee of a report from the Board of Trade of 15 Sept., transmitting a memorial from Mr. Nathaniel Toriano, merchant, of London, relating to the sugar and tobacco trades, as proper to be considered with their former report.] 22 Sept. [V. p. 2.]

68 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1724.
30 April. [63.] [Reference to the Board of Trade of the petition of
New York. Samuel Baker, Samuel Storke and others, merchants of London
trading to New York, that the Governor of New York be ordered
not to revive the Act of 19 Nov. 1720 "for the encouragement
of the Indian Trade and rendering it more beneficial to the
inhabitants of this province and for prohibiting the selling
of Indian goods to the French," which was to continue in force
for three years only, and by which great discouragements
have been brought upon the British trade.] [p. 510.]
- 23 July. [Order in accordance with the report of the Board of Trade]
upon Considering how farr the British Trade may be effected
by this Act on the one hand, and how much the Security and
Interest of His Majestys Colonys in America may be concerned
on the other . . that no Directions should be sent to New York
upon the Subject matter of this Act, till Mr. Burnett shall have
been acquainted with the objections of the merchants thereto,
and his answers and observations received thereupon.
[p. 570.]
- (1725.)
20 July. [Report of the Board of Trade of 16 June on several Acts
for the encouragement of the Indian Trade is referred to a
Committee of the Council.] [V. p. 105.]
- (1725.)
20 July. [Similar reference of a petition of the merchants trading
to New York to be heard on the Report of the Board of Trade.]
[V. p. 105.]
- 12 May. [64.] [A representation of the Board of Trade of 30 April
Carolina. recommending confirmation of a Carolina Act of 1721 for the
vesting the fee simple of a certain plantation and house
commonly called the Governor's House in the Honourable
Robert Johnson Esq. is referred to a Committee.] [p. 525.]
- 21 May. [By the Act it appears that the House was purchased in
1712 for the Governor's residence, but the present Governor
considers that in view of his distance from the capital, it
would be for the interest of the Province that he should reside
in Charleston. The Assembly have thereupon voted that the

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house and plantation should be sold, and have agreed to sell them to Col. Johnson. The Committee recommend confirmation], as it does not appear to their Lordships but that said Governor is furnished with a proper habitation in Charles Town in lieu of the House and Plantation before mentioned.

[p. 529.]

[The Act confirmed.]

[p. 531.] 2 June.

[65.] [Reference to the Committee for Appeals of the appeal of Sarah Perry, widow, Micaiah Perry and Philip Perry, of London, from a sentence of the General Court of Virginia, 24 Oct., 1723, in favour of Mary, William and Thomas Randolph, executors of Col. William Randolph deceased.]

12 May.
Virginia.

[p. 525.]

[Mr. Ellison of Symond's Inn entered an appearance for the Randolphs.]

30 June.

[p. 541.]

[The Committee, on hearing both sides, order] That the Parties do agree upon Commissioners on each Side for Settling the Accounts in Question on the said Appeale; And present the same to this Committee on Wednesday next.

18 Nov.

[V. p. 15.]

[The Committee approve the Commissioners named, Humphrey Morrice and George Newport for the appellants and Robert Wilmot and John Faulkner for the respondents—and order that they or any two of them, on giving four days notice, proceed to examine the accounts and] that the appellants do produce before, and leave with the said Commissioners from time to time as they shall direct and appoint, all Books of Accounts, Letters, Papers and Writings relating to the account in Question.

25 Nov.

[V. p. 16.]

[The Committee, on a representation signed by the four commissioners] Setting forth that a Doubt hath arisen between them in relation to the Construction of the said order, viz. whether the whole accounts from the beginning, or the

(1725.)
20 Mar.

70 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1724.

Articles of Insurance and Interest only, are referred to their Consideration, [declare that the reference extends only to the articles of insurance and interest]. [V. p. 43.]

(1725.)

8 July.

[Committee : The Commissioners having reported and all parties having again been heard, the committee find the judgment erroneous, and recommend that it be reversed and judgment entered for the appellants in 2,460*l.* damages and 10*l.* costs, to be recovered from the assets of the late Col. William Randolph, if possible, otherwise out of the proper goods of the respondents.] [V. p. 90.]

(1725.)

20 July.

[Order accordingly.]

[V. p. 101.]

4 July.

Bermuda.

[66.] [On the representation of the Board of Trade, an Act passed in Bermuda for supplying the deficiencies in the several funds there, is repealed, in regard it lays a duty on] European Goods and that there is no Clause inserted therein to suspend it's taking Effect till His Majesty's Pleasure should be known thereupon, [and it is referred to a Committee to] consider the Instructions Given to Colonel Hope . . about Passing Laws, and Report to His Majesty at this Board how farr the said Governor hath pursued the same. [p. 561.]

12 Aug.

[Committee report] that by the said Act a Duty was laid upon the Importation of European Commodities, and Their Lordships do also find that a like Act was passed in Bermuda in 1721, laying a Duty on the Importation of European Goods which Act, was, by order of Their Excellencies the late Lords Justices made in Council the 27th June 1723 Repealed and Declared void And there does not appear any Difference between these Acts, Save only that by the Act of 1721, 5*l.* per Cent. was to be Levied on the Importation of the Goods, and by this Act 4*l.* per Cent. is to be Levied on the Importation and 2*l.* per Cent. on the Inhabitants of Bermuda—

That by Your Majestys Instructions, The said Governor of Bermuda is Strictly commanded not to Re-Enact any Law to which the Consent of the Crown has been once refused without

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express leave for that purpose first obtained from Your Majesty upon a full Representation to be made by the said Governor to Your Majesty, and to the Commissioners for Trade and Plantations of the reason and necessity for passing such Law—Yet Notwithstanding which Instructions, it appears this last Act was past by the said Governor immediately after the Repeale of the said former Act was Notified to him, without having obtained any leave from Your Majesty, or representing the necessity of Renewing the said Act Which Their Lordships cannot but Report as a willfull and Notorious Breach of Your Majestys said Instructions.

The reason of the passing this Act is alledged in the Preamble to be that the former Act was Repealed by Their Excellencies the Lords Justices but not Signified to Bermudas in form, which Reason Their Lordships Conceive to be an aggravation of his Crime, in acknowledging that the Act was Repealed and then presuming to pass this New Act under the pretence that the order of Repeale was not transmitted in form. And Their Lordships must further humbly observe that such order was transmitted in the usuall Form.

That the said Governor is also required by his Instructions not to pass or Give his assent to any Act that may affect the Trade or Shipping of this Kingdom, without inserting a Clause therein to prevent such Act from taking Effect till Your Majestys pleasure should be known thereupon—Whereas in this Act, which so highly affects Trade and Navigation, no such Clause is inserted. [pp. 608-9.]

[Report approved.]

[p. 613.] 22 Aug.

[67.] [Reference to the Committee for Appeals of the petition of Margaret Cressey of Nevis, widow, that, as the proceedings are duly transmitted, a short day be appointed for determining her appeal from an order of the Chancery there, 20 Aug., 1723, in favour of John Fausset and Mary his wife] about the Moiety of a Plantation called Clay Gutt. By which order the appellants alledge that their Bill brought in the said Court of Chancery

4 July.
Nevis.

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was Dismist with Costs and the Injunction obtained by them for stay of the said Fossetts proceedings at Law was Dissolved.

[p. 565.]

7 Nov. [Order in accordance with Committee report of 4 Nov. dismissing the appeal.] [p. 594: V. pp. 6, 13.]

23 July. [68.] [It is represented by the Board of Trade] that they
Jamaica. have had under Consideration, an Act Sent from Jamaica by the Duke of Portland; Entitled an Act for Granting a Revenue to His Majesty His Heirs and Successors for the Support of the Government of this Island, and for perpetuating the Acts and Laws thereof as they now stand And are used ; And do find that it will require so much time to Consider the same that there will not be time Sufficient for the same to pass before the present Revenue Law and the Acts depending on it, will expire. And as the Consequence of this Expiration will be, That without fresh authoritys from His Majesty, No Assemblies can be held there ;—The Law for Establishing Assemblies ; being one of those that Expire with the Revenue Act, And that those likewise for regulating the proceedings of Courts of Judicature being of the same Number—It will be impossible to have any proceedings in the Courts of Justice there. [His Majesty approves of the representation, and orders the Board of Trade to prepare the draft of an instruction to the Duke of Portland] to pass an act for continuing the Revenue and Laws of Jamaica depending upon the present Revenue Act for the space of one Year ; and that they do insert therein the necessity of passing such an Act, and the ill consequences that will otherwise attend the said Island according to the Report of Mr. Attorney and Mr. Solicitor Generall upon the state of the Island of Jamaica. [pp. 569–70. P.R.]

10 Dec. [Reference to the Board of Trade of the petition of the merchants trading to Jamaica, praying his Majesty to disallow two Acts of the Assembly of Jamaica imposing great duties on the import and export of negroes and of flour, and to restrain the Assembly from passing any similar Acts, as] the same

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will be a very great Discouragement to the carrying on their Trade and the better Settling that Colony, as well as to the Commerce and Navigation of Great Britain. [V. p. 23.]

[Reference to the Board of Trade of the similar petition] 10 Dec.
of the Court of Directors of the South Sea Company, Setting forth that Notwithstanding His Majestys orders formerly sent to the Governors of Jamaica, Dutys have been laid in that Island from Year to Year on the Importation and Exportation of Negroes, whereby the said Company is greatly affected in carrying on the Assiento Trade, having paid between the 20th of January 1721[-2], and the 20th of January 1723[-4], the Sum of Four Thousand Seven Hundred Thirty Seven pounds for Dutys of Exportation only ; And further Setting forth That the Assembly of Jamaica hath also laid a Considerable Duty on Flower imported to and Exported from that Island which must likewise much affect the Assiento Trade. [The Company seek not only the restraint of any such Act, but repayment of the sums already exacted.] [V. p. 23.]

(1725.)
3 Mar.

[On consideration of a representation from the Board of Trade of 19 Feb. on the Jamaica Revenue Bill, his Majesty in Council thinking it proper that the draft of such a new revenue bill as is proposed should be prepared and sent over to the Duke of Portland to be laid before the Council and Assembly of Jamaica, is pleased to order that the representation and a copy of the Revenue Bill transmitted from Jamaica be referred to the Attorney and Solicitor General who are to prepare the draft of such a bill as they shall judge most proper and at the same time offer what they shall think further necessary to be done upon the said representation.]

Memerandum. Here the said Representation on the Jamaica Revenue Bill should be inserted at length. Vide the Representation in the Bundle of Business dispatch't this Month.

[V. p. 34.]

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1724.
(1725.)
3 Mar. [Reference to the Treasury of the Jamaica Revenue Bill, to] Report to His Majesty at this Board whether they Conceive the Revenue Given by the said Bill will answer the necessary provision for the support of the Government of Jamaica with what else the said Lords Commissioners shall think proper to offer thereupon. [V. p. 35.]
- (1725.)
1 June. [On reading a report from the Board of Trade of 27 May, an Additional Instruction is approved for the Duke of Portland to pass an Act continuing for one year the Revenue Act of 1703. P.R.] [V. p. 71.]
- (1725.)
5 Aug. [The report of the Attorney and Solicitor General referred to a Committee.] [V. p. 108.]
- (1725.)
14 Oct. [Similar reference of the Treasury report on the draft of the bill transmitted from Jamaica.] [V. p. 118.]
- (1726.)
23 Feb. [The Committee, after consideration, refer to the Board of Trade the above reports, with the draft of the bill and the amendments proposed by the Attorney and Solicitor General, as also a memorial of Alexander Stevenson this day presented on behalf of the Duke of Portland concerning some fresh advices lately transmitted by his Grace to the Board of Trade touching the present state of affairs in Jamaica. The Board of Trade are to] consider the same, and thereupon to prepare a New Draught of a Bill proper to be Sent over to the Duke of Portland in order to be past by the Councill and Assembly of Jamaica. And . . to take particular care that the Quantum of the Revenue to be provided for in the said Draught be Sufficient to answer all the Charges of the Government there, and that the Funds for the raising the said Revenue be such as may effectually answer the same : And . . to Consult with the . . Treasury hereupon and present the said Draught to this Committee, as soon as conveniently may be. [V. p. 196.]
- (1726.)
14 June. [Committee. The draft of the Act prepared by the Board of Trade is referred to the Attorney and Solicitor General, who are to report their opinion on 21 June.] [V. p. 236.]

ACTS OF THE PRIVY COUNCIL (COLONIAL). 75

[The Committee, having received the report of the law officers, proposing some small amendments, report that a letter should be sent to the Duke of Portland with the draft of the bill,] And that he be directed to take care that proper Fonds be inserted in the Bill for raising the additional Two Thousand Pounds for the maintenance of the Two Independant Companys there: and that the same may prove the more effectual that such Branches of the Revenue, raised in Jamaica by annual Acts, for their Contingent Services, as have been found by Experience to answer the Sums for which they were given, may be appropriated in this Act towards raising the sum of Ten Thousand Pounds per annum for a perpetual Revenue for Your Majesty; and that the Duke of Portland be also directed forthwith to recommend the said Draught of a Bill, with the said necessary additions about the Funds to the Council and Assembly of Jamaica, as the terms which His Majesty expects from them in return to his Gracious Condescension in the Confirmation of their Laws, and in Departing from his Patrimonial Revenue in that Island, for their Welfare and Defence.

[V. p. 237.]

[Order accordingly. P.R.]

[V. p. 248.]

[Reference to a Committee of a representation from the Board of Trade on a Revenue Act passed in Jamaica on 5 March, 1725-6.]

[V. p. 263.]

[Committee. The Act is referred to the Attorney and Solicitor General to compare with a copy of the bill prepared here, and to report what differences they shall find, with such other observations as shall occur to them upon perusal thereof.]

[V. p. 263.]

[The Committee report that the Duke of Portland's action in passing the Act has been inconsistent with his Majesty's orders and instructions, and that therefore the Act should be disallowed and the Duke of Portland acquainted with the reasons for this action and directed to recommend in the

1724.
(1726.)
21 June.

(1726.)
5 July.
(1726.)
29 July.

(1726.)
2 Aug.

(1726.)
8 Aug.

1724.

strongest manner to the Council and Assembly the passing of the bill prepared by the Board of Trade] as what will most effectually Conduce to the Welfare, Security and good Government of the said Island. [The Attorney and Solioitor General had reported] that besides some variations in Style and Form and a few alterations in the Estimate, as to the Salaries of particular Officers, they found the following Differences, viz. :

By the Draught of the Revenue Bill prepared here all Wines of the Growth of the Western Islands or mixture of the Madera Wines with those of the Western Islands commonly called the Azores are to pay 20*l.* per Ton But by the Act lately passed in Jamaica they are made equal with Spanish and Madera Wines and are to pay only 5*s.* per Ton.

The rest of the Duties particularly Enumerated are the same in both but there is no provision made by the Act passed in Jamaica for further Duties amounting to two thousand Pounds a Year, which by the Draught prepared here were proposed to be added and appropriated to the maintenance of two independant Companies for which no provision is made by this Act.

By the Draught prepared here one Moiety of all Duties upon importation is made payable at the end of one Week from the Entry, and the other Moiety at the end of twelve weeks, But by the Act which is past the first Moiety is made payable at the end of Six weeks from the Entry and the other at the end of twelve weeks.

By the Draught prepared here the Duty of Gunpowder payable upon the Tonnage of Shipping is directed to be paid in Specie ; But by the Act past in Jamaica a liberty is given to pay in Money for every Quantity less than a Barrell at the rate of Eighteen pence per pound, with this further Provision, that if at any time any powder shall be wanting in His Majestys Fort the Receiver General shall provide and deliver it.

By the Draught prepared here the Sum of Twelve hundred and fifty pounds per annum is appropriated to the repairing

and building His Majestys Forts and Fortifications in Jamaica of which the Wall of Port Royall from Fort Charles to the late round Fort is declared from thenceforth to be deemed to be part ; But in the Act past in Jamaica that Declaration is omitted.

By the Draught prepared here the Receiver General is required to give in upon Oath a true account of all Moneys arising or that shall come into his hands by virtue of that act and of all his payments and Disbursements thereout, But by the Act past in Jamaica he is required to give a true account of the particular Disbursements out of the Twelve hundred and fifty pounds per annum appropriated to the Fortifications, and also for all Money arising or that shall come into his hands by virtue of the said Act, which words may admitt of a doubt whether they extend to oblige him to render an Account of all his Disbursements out of the whole Revenue received or only of his Disbursements out of the said Twelve hundred and Fifty pounds per annum.

By the Draught prepared here the accounts of the Collector or Receiver General are at the end of Six months to be delivered to the Auditor General of the Plantations, to be by him passed and allowed in the usuall manner and afterwards transmitted to the Lord High Treasurer or Commissioners of the Treasury of Great Britain, to the end they may be truly informed thereof ; And by the Bond directed to be given by the Receiver General he is obliged to account with the Auditor of the Plantations.

In the Act passed in Jamaica both these provisions are omitted and instead thereof a Provisoe only is inserted that nothing in the Clause relating to His Majestys Quitrents, Fines, Forfeitures and Escheats within that Island shall extend to prevent the Receiver Generals accounting with the Auditor General, or such other Person in Great Britain as His Majesty or his Successors shall appoint.

Upon this tis to be observed that the Provisoe inserted in the Act passed in Jamaica will by no means answer the Intention of the Draught prepared here, which was to Compel the Receiver

1724.

General to account with the Auditor of the Plantations for the whole Revenue, but plainly restrains that accounts to His Majestys hereditary Revenue of Quit Rents Fines &c. and as to that, no new obligation is laid upon the Receiver by virtue of this Act to render such account.

As to the Continuance of the Laws of Jamaica, It is provided by the Draught prepared here, that the Act to be passed in pursuance of that Draught, and all other Acts of Assembly made to be of equal Continuance and to Expire with the late Revenue Act, and not thereby or by any former Act of Assembly now in force altered or Repealed should be revived and made perpetual, and all such Laws and Statutes of England as by usage and Practice have been accepted and received as Laws in Jamaica are thereby declared to be and continue Laws of Jamaica.

By the Act passed in Jamaica it is Enacted that all the Acts and Laws of that Island which expired on the first day of October 1724, shall be revived and continued, and that the Acts and Laws thereby revived and the said Act and all other Acts and Laws as they have been introduced and used in that Island shall be and remain in force for ever, Except an Act passed in October last for raising Mony and applying the same to the use of parties, and such other Acts as are thereby before repealed.

Upon comparing which Clauses Mr. Attorney and Solicitor General apprehend, that which is inserted in the Act past in Jamaica, to be liable to some objections, which the other is Guarded against; particularly that thereby, all the Temporary Laws of that Island, the Continuance whereof did not depend upon the late Revenue Act, except one particularly mentioned, are made perpetual and the Establishment aimed at by that Clause, of all other Acts and Laws as they have been introduced and used, without Confining it to the Laws and Statutes of England, which by Usage and Practice have been Accepted there as Laws (as is done by the Draught prepared here) is so loose and uncertain that Inconveniencies may hereafter arise from it which cannot now be foreseen. [V. pp. 266-8.]

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[Orders in accordance with Committee's report.]

[V. p. 270.]

1724.
(1726.)
9 Aug.
(1727.)
21 April.

[Reference to a Committee of the Council of a representation from the Board of Trade to the Duke of Newcastle transmitting a letter from John Ayscough, President of the Council of Jamaica, relating to the proceedings of the Assembly upon the Revenue Bills, and of a letter from the said President to the Duke of Newcastle upon the said subject.] [V. p. 348.]

[On consideration of Ayscough's letters, The Committee find] that the Assembly of that Island had, after many dilatory Proceedings rejected the Draught of a Bill for granting a Revenue to Your Majesty Your heirs and Successors for the Support of the Government of that Island, and perpetuating the Acts and Laws thereof as they now Stand and are used. Which Draught was prepared here with great Deliberation and transmitted to the late Duke of Portland with Your Royal Commands to be laid before the Council and Assembly in order to be past into a Law, as the Terms Your Majesty expected from them, in return to Your Gracious Condescension in Confirming and making their Laws perpetual, upon which the being of their Constitution so much depends, and in departing from your Patrimonial Revenue in that Island for their Welfare and Defence.

(1727.)
3 May.

The only objections that appears to have been made by the Assembly against passing the said Draught, are as follow,

First

That the said Draught was Sent them over with a Positive Order, to pass that individual Draught into a Law, which they say is unprecedented and tends to the Subversion of their Legislature in depriving them of the Liberty of preparing their own Bills.

Which objection their Lordships do not apprehend, that the Transmission of the Draught from hence is liable to. It not being intended as a precedent for altering their present Method of passing Laws in Jamaica but only as a Signification to the

1724.

Assembly of Jamaica of those most reasonable Terms upon which His Majesty was pleased to Renew to them in perpetuity the Grant of those Laws which they had hitherto enjoyed only by Temporary and now expired Grants, and that since no objection is made to the Substance of that Draught, Their Lordships do not think it Material to insist upon the form of passing it as transmitted from hence, but that Your Majesty may be pleased to Instruct Governor Hunter to pass any Act which shall be prepared by the Assembly, provided that the Substance thereof be strictly agreeable to the said Draught.

The other objection is

That by a Clause in the said Draught, the Additional Subsistence Granted heretofore by Annual or Temporary Acts to the two Independant Companys there amounting to 2,000*l.* per annum is to be made perpetual, Whereas they apprehend the Service to be but Temporary it being intended that the said Companys should continue no longer, than till such time as the Island shall be provided with a Sufficient Number of white People for its owne Defence, and therefore they object to the making a perpetual Provision for them—

As to this objection their Lordships apprehend it to be in some measure answered by a Clause in the transmitted Draught, whereby a Power is given to the Governor Council and Assembly to apply the said 2,000*l.* per annum to any other Service of the Island whenever the Continuance of the said two Companys shall be found unnecessary by the Increase of White People. And since it is agreed on all hands that the present State of Jamaica does require the Continuance of the said two Companys amongst them for their own Protection and Security, and that such an Increase of White People upon the Island as to make their Continuance unnecessary appears to be a distant view for want of due Encouragement to White People to Settle among them. Their Lordships are of opinion that Your Majesty may be pleased to Instruct Governor Hunter to use his utmost Endeavours with the Assembly that the said Provision of 2,000*l.* per annum be given

for the Subsistance of the said two Companys for so long a time as His Majesty shall find it necessary for his Service and their Security to continue them in that Island, but in case he should not been able to prevail with the Assembly to Grant it in that manner, then to Endeavour that the said Provision be granted by the said Assembly for a Term certain of as many Years as he can obtain.

[V. pp. 351-2.]

1724.

[Orders accordingly.]

[V. p. 355.]

(1727.)
13 May.
(1727.)
20 Sept.

[Reference to the Committee for the affairs of the plantations of a letter from the Board of Trade to the Duke of Newcastle enclosing a letter from Major Ayscough relating to the funds proposed to be raised by the draft of the Revenue Bill.]

[Geo. II. Vol. I. p. 117.]

By the Right Honourable the Lords of the Committee for their Majestys Coronation, as also for Plantation Affairs. [The letter is referred to the Treasury.]

[p. 123.]

(1727.)
21 Sept.

[69.] [Reference to a Committee of the petition of several merchants and traders to South Carolina and other inhabitants and traders in that province complaining against Governor Francis Nicholson] for Establishing Paper Money Contrary to his Instructions and for Disobeying an Order of their Excellencies the Lords Justices relating thereto and for several other matters acted by him, which tend very much to the prejudice of His Majestys Subjects, the Inhabitants and Traders in the said Province—And therefore humbly praying His Majesty to take their great hardships and oppressions into Consideration, and to grant them relief by recalling the said Governor Nicholson, who by reason of his advanced age is rendered incapable of Discharging the Trust reposed in him, or in such other manner as His Majesty shall think most proper.

[p. 572.]

23 July.
South
Carolina.

[Committee. A petition having been presented by Francis Yonge, agent for South Carolina, setting forth Nicholson's desire for six months leave of absence for recovery of his

7 Aug.

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1724.

health and for negotiating some of his private affairs, it is recommended that] as the said Complaint cannot be so well Examined into whilst the said Governor is at so great a Distance as it might be if he was here in Person, [he may have royal licence to be absent from his government for six months and come over to Great Britain. A copy of the complaint should be sent him in order that he may be prepared to answer it on his arrival here.] [p. 604.]

22 Aug.

[Orders accordingly.]

[p. 612.]

(1725.)

4 Nov.

[Reference to the Committee of Council of the petition of several merchants trading to the plantations and particularly to South Carolina, on behalf of the most considerable planters and inhabitants of that province, complaining of Governor Nicholson.] [V. p. 121.]

(1726.)

12 Feb.

[The Lords Proprietors of South Carolina represent that they have] nominated and appointed the Honourable Colonel Samuel Horsey to be Governor of the Province of South Carolina, in the room of Mr. Nicholson lately arrived here, whom his Majesty had been pleased to appoint as a provisional Governor during some commotions in that Province, long since quietted, [and pray for confirmation. The matter is referred to the Committee]. [V. p. 192.]

(1726.)

12 Feb.

[Similar reference of the memorial of Francis Yonge, agent for the province, that Horsey's nomination be not approved till he be heard on behalf of the Assembly, from whom he has instructions] humbly to pray his Majesty to continue them under the same form of Government they now enjoy.

[V. p. 193.]

(1726.)

23 Feb.

[Committee. The references of 12 Feb., a petition of Richard Shelton, secretary to the Proprietors, containing complaints against Governor Nicholson and reasons for rejecting Yonge's memorial, and a petition of Hugh Watson, agent for the London merchants, for a day for hearing their complaints against

Nicholson, are to be heard on 16 Mar. Nicholson is to have a copy of Shelton's petition, and come prepared to answer it.]

[p. 197.]

1724.

[Committee. The hearing put off till the arrival of Lord Carteret from Ireland.]

[p. 203.]

(1726.)
19 Mar.

[The Committee] being informed that it will be necessary at the said Examination to have before them a General State of each Years Exports and Imports to and from South Carolina, [order that this be prepared and laid before them by the Commissioners of the Customs].

[p. 203.]

(1726.)
19 Mar.

[Reference to a Committee of the petition of the Proprietors that some new articles] be inserted in the Instructions Given to His Majestys Provisional Governors of South Carolina, as tending greatly to the Settlement of the Peace Quiet and Happiness of that Colony, and to the Support of the Petitioners Just Rights.

[V. p. 254.]

(1726.)
5 July.

[Committee order that a copy of this petition be delivered to the agent for Carolina.]

[V. p. 259.]

(1726.)
14 July.

[Reference to the Committee of the Council of a petition of Yonge with a petition from the Council and Assembly to be continued under his Majesty's royal protection and government, and also their answer to Shelton's memorial.]

[V. p. 289.]

(1726.)
29 Nov.

[Reference to the Committee of Yonge's petition] relating to a Memorial of the Lords Proprietors insisting upon the Restitution of that Government of that Province to them by recommending Colonel Horsey to His Majesty for His Royall approbation to be the Governor under their Commissions—Which Demand the Petitioner alledges to have Created very great uneasiness in the mind of His Majestys Subjects the Inhabitants of that Province—And therefore he humbly prays in regard to the present State of affairs in Europe that His Majesty will be pleased to take the said Province entirely under his own immediate Government &c.

[V. p. 358.]

(1727.)
13 May.

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1724.

(1727.)

2 Nov.

[Reference to a Committee of the petition of Samuel Wragg, merchant, agent for South Carolina, on behalf of the inhabitants], praying in regard they are in the greatest necessity for a Governor on the Spot to Compose the Disturbances there, That His Majesty will be graciously pleased for the present to appoint and Send over a Provisinall Governor untill such time as His Majesty shall otherwise take the said Province entirely under his own Government and Protection—[and of] a Letter from Arthur Middleton Esquire President of the Council and Commander in Chief of the said Province together with Copies of Severall Depositions relating to the Spanish Privateers having lately taken severall Trading vessels on the Coast of Carolina and sent them to the Havanna.

[Geo. II. Vol. I. p. 165.]

(1727.)

14 Dec.

[Reference to the Committee of the petition of the Proprietors of Carolina recommending Col. Horsey as Governor till a proper method is advised for his Majesty's acceptance of their surrender; and of a petition of several merchants trading to South Carolina that the Governor may not be a planter, the interest of the merchants and planters being at this time to be settled and adjusted; also of a petition from those trading to South Carolina complaining that no returns have been transmitted for some time for their goods in South Carolina owing to the great disorders and uncertain management of affairs in that Province.]

[Geo. II. Vol. I. pp. 190-1.]

23 July.
Bermuda.

[70.] [Reference to the Committee for Appeals of the petition of Samuel Eveleigh of Charleston (S.Ca.) merchant, owner of two thirds of the sloop *George and Elizabeth*, James Wall master, and of two thirds of its cargo, and also administrator of the estate of the late Joseph Palke of Charleston, merchant, owner of the remaining thirds, complaining of the condemnation of the ship and cargo in an Admiralty Court in Bermuda,] And of the very Extraordinary proceedings had therein and particularly Complaining of John Hope Esq. His Majestys Governor and of William Outerbridge and Henry Tucker—

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And humbly praying to be releived in the premises, And that the said Governor and others may be proceeded against as to His Majesty shall Seem proper. [p. 573.]

[Committee recommend that, On giving Security, Eveleigh be permitted to appeal from the sentence passed on 19 Dec., 1723 by Outerbridge and Tucker] who were appointed by Mr. Hope, the Governor of Bermudas, to hold (what he was pleased to call) Your Majestys High Court of Admiralty whereby the said Ship the George and Elizabeth was Condemned, Inventoried, appraised, Sold, and divided according to the statute of the 7th and 8th of King William the 3d, on pretence that her lading consisted of French Goods Shipped at the Island of Santa Lucia. [The petitioner and his agent are also to have copies of such of the proceedings as they think necessary, and Hope, Tucker and Outerbridge are to return their answers to the Council, the two latter] particularly in relation to the Letter Charged therein to be sent to them by Governor Hope. [p. 605.] 7 Aug.

[Orders accordingly. Security is given on 7 Sept.] 22 Aug.
[pp. 612-3 & V. pp. 7, 57, 73.] (1725.)

[Reference to the Committee for Appeals of Eveleigh's complaint against Governor Hope] for breaking open a Packett of Letters sent to the Petitioners Agent at Bermudas, wherein was Enclosed an order of His Majesty in Councill, and Deteining them from him, and for other Extraordinary and unjustifiable proceedings. [V. p. 88.] 6 July.

[Reference to the Committee for Appeals of a petition and representation of complaints against Gov. Hope from several merchants trading to the West Indies, others concerned in the insurance of ships in that trade, and others concerned in the West Indian trade and plantations in general.] [V. p. 88.] (1725.) 6 July.

[Committee. Captain William Bell, Captain David Burch, Abel Atwood and Jonathan Burchall Mariners, appeared before the Committee and swore to the truth of their respective (1725.) 8 July.

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affidavits] made before Mr. Godfry and Mr. Holford Masters in Chancery Concerning the Complaints preferred against John Hope Esq. Governor of Bermudas. [V. p. 93.]

(1725.)

17 July. [Committee. Similar entry as to Adam Wood, mariner.] [V. p. 96.]

(1726.)

10 May. [Reference to the Committee for Appeals of George Tucker's complaint against Governor Hope for suspending him from his offices of Secretary and Provost Marshal General of Bermuda.] [V. pp. 219, 240, 246, 262, 305, 354, 361.]

(1726.)

1 July. [Committee. Hope to have copies of Eveleigh's petition and of the nineteen articles of complaint preferred by the West Indian traders, and to answer them before the end of December, when the petition is to be heard. In each case] Serving of a Copy of this order and Petition upon the Agent of the said Governor Hope in London shall be Deemed good and Sufficient Service hereof. [V. p. 244.]

(1726.)

1 July. [Committee. This day had been appointed to hear Eveleigh's appeal against Thomas Brook, Collector of the Customs in Bermuda, but it not appearing that Brook had been summoned to appear, a copy of the petition of appeal is ordered to be sent to Gov. Hope, who is to cause it to be served upon Brook and make a return of such service to the Board by the end of December, when Brook or his agent is to answer the appeal.] [V. p. 245.]

(1728.)

15 Feb. [Order in accordance with Committee report of 2 Feb., that, as counsel for Mr. Hope agrees to Mr. Tucker's being restored, his suspension be now removed, and that he be] paid one moiety of the Profits arising from the said offices during his suspension according to the security given for that purpose pursuant to the Governors Instructions; and their Lordships are further humbly of opinion, that in case there should be any Refusal in such payment the Petitioner should be at liberty to putt the Security in Suite in the name of whomsoever it has been taken.

[George II. Vol. I. p. 226.]

[Order in accordance with Committee report of 20 July, that the verdict against the *George and Elizabeth* be reversed and its value restored to Eveleigh according to the estimate of the Court of Admiralty of Bermuda.] [pp. 340, 345.]

1724.
(1728.)
25 July.

[71.] [Reference to a Committee of the petition of John Paris of South Carolina, merchant, that the Attorney General there be directed to enter a Noli prosequi to stop further proceedings in the Admiralty Court against his ship, the *Sea Flower*.]

6 Aug.
South
Carolina.

[p. 600.]

[Committee] apprehend the Petitioner may Deserve Your Majestys Royall Favour, and Do therefore agree humbly to Report as their opinion that a Copy of the said Petition should be Sent to Your Majestys Governor of South Carolina with orders Directing him to Cause the same to be Examined into there, and in case the allegations appear to be true, that he do then Give Directions to the proper Officers to enter a Noli Prosequi for staying any further Proceedings against the said Ship. [Paris alleges that proceedings are being taken against the ship because she has not a register, as required by the Act 7 and 8 William III, which she could not have, as she was taken by the Spaniards in the late war, and has since touched at no British port till she put into Carolina, having been bought back by the petitioner in Spain to bring over some English prisoners. The case has been put off till Paris could apply for proper relief in Great Britain.]

12 Aug.

[p. 609.]

[Order accordingly.]

[p. 613.] 22 Aug.

[72.] [Reference to the Committee for Appeals of the petition of William Fry of Montserrat that, as the proceedings are duly transmitted, a short day be appointed for hearing his appeal] from a Judgment in Error made by the Lieutenant Governor and Council of St. Christophers on the 19th of February 1723, in favour of Hermanus Trebeck relating to severall parcells of Land in that Island called Frys Plantation and Bakers Island.

22 Aug.
St.
Christopher.

[p. 616.]

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1724.
(1726.)
29 Jan. [Order sustaining the appeal, in accordance with Committee report of 10 Dec., 1725.] [V. pp. 81, 134, 166.]
- 22 Aug.
Rhode
Island. [73.] [Reference to the Committee for Appeals of the petition of the Hon. Samuel Cranston, Governor of Rhode Island,] Agent or Substitute Attorney of Thomas Hyam of the City of London Merchant, who is attorney or agent for the owners, Freighters and Insurers of the Ship called the Porto Prince or Elpierto del Principe and her Cargo, all of the City of Flushing in Zealand; Setting forth the Petitioners being admitted to appeale to the Lords Commissioners of the Admiralty here from a Decree made in the Admiralty Court at Boston in New England, whereby the said Ship and her Cargo were Condemned and Sold—But humbly praying Notwithstanding the same, to be admitted to an appeale to His Majesty at this Board. [p. 617.]
- 2 Dec. [Committee.] Petition . . . Read. Ordered that an Enquiry be made of the Several Places to which the Court of Admiralty of Great Britain Sends Admiralty Commissions. And that a Copy of the New England Charter be obtained and laid before their Lordships. [V. p. 19.]
- (1725.)
20 July. [Order, in accordance with Committee report of 8 July, admitting the appeal and the cross appeal of John Jekyll, Collector of the Customs, who preferred the libel against the ship and cargo.] [V. p. 92, 103.]
- (1725.)
4 Nov. [Reference to the Committee for Appeals of Cranston's petition for a short day for hearing his appeal.] [V. p. 122.]
- (1727.)
16 Jan. [A similar petition of Jekyll is similarly referred.] [V. p. 297.]

GEORGE I. VOL. V. (Sept., 1724—May, 1727.)

- 22 Dec.
Religion in
Plantations. [74.] [Reference to a Committee of the] Representation of Edmund Lord Bishop of London Complaining of the uncertaintys in His Spiritual Jurisdiction over the Churches in

1724.

His Majestys Plantations and of the Difficulties attending the Exercise of the same. And praying that the Extent of his said Jurisdiction may be Explained and Ascertained.

[p. 27.]

(1725.)
26 April.

[The Committee, on consideration of the representation with some proposals by the Bishop of London concerning the exercise of ecclesiastical jurisdiction in the plantations, refer them to the Attorney and Solicitor General to report in what manner it may be most proper to advise his Majesty to cause the same to be put in execution.]

[p. 52.]

(1726.)
4 Mar.

[Committee. On reading the report of the Attorney and Solicitor General they are directed to prepare and present to the Committee] the draft of such Commission as is proposed in their said Report. Authorizing the Lord Bishop of London, by himself or Sufficient Commissaries to be appointed by him, to Exercise Jurisdiction Spiritual and Ecclesiastical according to the Ecclesiastical Laws and Cannons in force in England in such Cases as are particularly Specified in the said Proposals, and in any other matters, in which his Majesty with the advice of His Privy Councill, may hereafter think fit to give Jurisdiction to the said Bishop and to signify the same under his Sign Manual, And they are to insert in the said Draught a Clause giving Liberty of appeale from such Sentences as shall be made by virtue of the said Commission leaving a blank for the Names of such Persons as shall be thought proper to be appointed to Hear and Determine the same. And they are also to insert another Clause restraining the Lord Bishop of Londons Power to such places of Worship only in which the Liturgy of the Church of England is used, and to such Ministers only as have been ordained according to the Church of England.

[p. 198.]

(1726.)
14 June.

[Committee. The regulations proposed by the Bishop for the exercise of ecclesiastical jurisdiction by his commissaries in each plantation without interruption from the

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Governors or any other persons, which were referred to the Attorney and Solicitor General on 26 Ap., 1725, were]—

1st. The holding regular Visitations of the Clergy and the Churches within the respective Governments.

2d. The correcting the manners of the Clergy by Ecclesiastical Censures after due process in a Judicial way as is practised in the Church of England, And also the manners of the Parish Clerks, as being employed in the performance of Divine Service.

3. The directing and enforcing the Reparation of Churches, together with a due provision of all such things as the Laws require for the decent and orderly performance of Divine Service therein.

4. The directing and enforcing the Reparation of Parsonage Houses.

5. For attaining the Ends mentioned under the two last heads to have a Coercive power over the Persons who by Law are obliged to provide such Conveniencies for Divine Service in the Church and to take Care of the Reparation of Churches and Parsonage Houses, but such Power to be exercised over them only in those Cases, and for those Ends, and not to extend to an Enquiry or Coercion in any other Case whatsoever.

[These regulations seeming very reasonable, and the law officers having reported that the best method of putting them in force was by Commission under the Great Seal, a Commission has been prepared with a clause giving liberty of appeal from all sentences passed by virtue of the Commission, but leaving a blank for the names of persons to be appointed to hear such appeals. The following members of the Privy Council are proposed as members of the Court of Appeal, three to form a *quorum*;] William Lord Arch Bishop of Canterbury and the Lord Arch Bishop of Canterbury for the time being: Peter Lord King Lord High Chancellor of Great Britain and the Lord High Chancellor or Lord Keeper for the time being: Lancelot Lord Arch Bishop of York and the Lord Arch Bishop

of York for the time being : The Lord High Treasurer for the time being : William Duke of Devonshire Lord President of His Majestys Most Honourable Privy Council, and the Lord President of the Council for the time being : Thomas Lord Trevor Lord Keeper of the Privy Seal, and the Lord Privy Seal for the time being : Lionel Duke of Dorset Lord Steward of His Majestys Household and the Lord Steward for the time being : Charles Duke of Grafton Lord Chamberlain of His Majestys Household, and the Lord Chamberlain for the time being : Thomas Holles Duke of Newcastle one of His Majestys Principal Secretarys of State, and the principal Secretary of State for the time being : Thomas Earl of Westmorland : James Earl of Berkeley, first Commissioner of the Admiralty and the Lord High Admiral and first Commissioner of the Admiralty for the time being : Charles Lord Viscount Townshend one of His Majestys Principal Secretarys [of] State, and the principal Secretary of State for the time being : Edmund Lord Bishop of London, and the Lord Bishop of London for the time being : Sir Spencer Compton Knight of the Bath Speaker of the House of Commons and the Speaker of the House of Commons for the time being : Sir Robert Walpole Knight of the Garter, Chancellor of the Exchequer and first Commissioner of the Treasury, and the Chancellor of the Exchequer and first Commissioner of the Treasury for the time being : Sir Robert Raymond Knight Lord Chief Justice of His Majestys Court of Kings Bench, and the Lord Chief Justice of the Kings Bench for the time being : Sir Joseph Jekyl Knight Master of the Rolls, and the Master of the Rolls for the time being : Sir Robert Eyre Knight Lord Chief Justice of the Common Pleas, and the Lord Chief Justice of the Common Pleas for the time being.

[pp. 234-6.] (1726.)

[Reference to the Committee of Council for Plantation Affairs of the petition of the Barbados agents that the issue of the Commission be respited till they have time to send to the said island and receive directions thence, as they apprehend 5 July.

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1724-5.

it to be contrary to several Instructions to the Governors in America and to some of the laws passed there and approved by his Majesty.] [p. 255.]

(1726.)

14 July. By a Committee of the Lords of His Majestys most Honourable Privy Council. [The reason for the proposed reference to Barbados is given in a different way]—as the Inhabitants of Barbados have hitherto constantly opposed the Establishing such a Jurisdiction. [On hearing one of the agents in support of the petition, the Committee find no reason to delay the passing of the Commission and pray his Majesty to proceed to consider their report and approve the Commission.]

[p. 258.]

(1726.)

9 Aug. [Order in accordance with the report of 14 June. P.R.]

[p. 271.]

(1730.)

10 April. [Reference to a Committee of a representation of the Board of Trade with drafts of instructions to plantation Governors in relation to the Bishop of London's commission.]

[George II. Vol. II. p. 219.]

(1730.)

15 April. [Committee recommend approval of the additional instructions, save for the Leeward Islands, New England, and North and South Carolina, in which cases the Board of Trade intend to incorporate them in general Instructions now being prepared. The instructions direct the Governors to support the Bishop of London and his commissaries in the exercise of such ecclesiastical jurisdiction as is granted to them in his Majesty's commission. P.R.]

[Geo. II. Vol. II. p. 222.]

(1730.)

20 April. [Instructions approved accordingly.] [II. p. 228.]

1725.

18 Jan. [75.] [Reference to the Committee for Appeals of] Severall Reports and Papers from the Lords Commissioners of Trade, the late Attorney and Solicitor Generall, as also the present Attorney and Solicitor Generall upon the Complaint of Governor Shute against the Assembly of Massachusetts Bay.

Massachusetts Bay.

[p. 30.]

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[Reference to a Committee of the Council of the petition of Elisha Cooke, agent for the House of Representatives of Massachusetts Bay, that counsel for the Assembly may be heard when the Committee examine Shute's complaint.]

1725.
3 Mar.

[p. 35.]

[Committee postpone further consideration of the matters referred till Tuesday next.]

13 April.

[p. 52.]

[Committee, on hearing Coote, order that counsel for the House of Representatives be heard on Saturday next.]

20 May.

[p. 53.]

[The Committee find] that Mr. Attorney and Mr. Solicitor General were attended by Governor Shute and also by the Agent for the House of Representatives, and had heard both Parties upon the Severall Points contained in the said Memorial and have thereupon Stated in their said Report, the Severall Articles of Complaint with the answers thereto and the Proofs and arguments produced and offered on both sides, together with Their Opinion upon each respectively, which articles with the opinion of Mr. Attorney and Solicitor General thereupon are as follow, Vizt.

29 May.

1st Particular Charge was,—

That certain evil disposed Persons having in the year 1720, made great wast in the Woods of the Province Lands in the Province of Main, and cut a Considerable Number of Trees into Loggs, the House of Representatives did on the 17th of March 1720, Vote that a Committee of their own should be appointed and fully empowered to Seize upon Mark and Secure the said Loggs and reserve them for the further order of that Court, and to impress Suitable assistance for that purpose, which Vote being sent up to the Councill for their Concurrence, they made the following amendment thereto—Vizt.—Saving to His Majesty all such Rights as are reserved by the Royall Charter and Acts of Parliament with respect to Trees fit for Masting the Royall Navy.—To which amendment the House of Representatives the next day disagreed Nemine Contradicente and afterwards the Councill adhering to their

1725.

amendment the House without the Consent of the Governor and Councill Sent a Committee of their own with orders to dispose of the said Loggs for the Use of the Province.

Upon which article Mr. Attorney and Mr. Sollicitor General were of opinion that Governor Shute had made good that article of the charge against the House of Representatives ; and that it fully appeared by their own votes that they did assume to themselves the Power of the disposing of the Timber therein mentioned for the use of the Province, and thereby encroached upon Your Majestys Right, and they humbly apprehend that the distinction attempted by the House of Representatives, That Trees of the Dimensions abovementioned whilst Growing or Felled entire do belong to Your Majesty, but that when cut into Loggs or Short Lengths fitt for Planks or Boards the property becomes altered and they belong to the Inhabitants of the Province, is wholly without foundation Since the Trees being excepted out of the Grant, whether they are standing or felled and Cutt into any other Shape the Property will remain in Your Majesty, and to admit such a Claim would be destructive to the Rights of the Crown and a dangerous Evasion of the plain intent of the Charter and Act of Parliament, which was to secure such Trees for Masting the Royal Navy.

2d Charge was,

That the House of Representatives have denied the Right of Your Majestys Governor to put a Negative upon the Speaker Chosen by them.

Upon which article Mr. Attorney and Sollicitor Generall have Certified, That upon considering the words of the Charter concerning the Negative voice together with the Severall arguments offered by the Councill for the House of Representatives on their behalf of particularly that some officers are chosen by the whole assembly but the Speaker is elected by the Representatives only, which is but a part of that Assembly, and that no Instance had been laid before them of the rejecting of a Speaker besides that in Question, nor any Proof of the

approbation of a Speaker in writing before the time of the present Governor, And therefore Mr. Attorney and Sollicitor General were humbly of opinion that the Defence made by the House of Representatives against this article (tho' it does admit the Charge of denying Your Majestys Governor a Right to put a Negative upon the Speaker chosen by them) Yet it was Sufficient to vindicate them from having been guilty of any Contempt of Your Majestys Authority or designed encroachment upon Your Royal Prerogative in this Instance, especially considering the freedom to which such Assemblies are by Law Entitled in their Debates and Resolutions. But that on the other hand Mr. Attorney and Sollicitor Generall conceived it was but just to represent to Your Majesty that they apprehended that Governor Shute had fully justified his Conduct in this particular and that he had reasonable Grounds to Claim this authority of putting a Negative upon the Speaker, the rather, for that besides the words of the Charter, Such Claim seems to be Strengthened by that original Prerogative which the Crown has always asserted and sometimes exercised in Cases of the like kind in England.

3d Charge was,

That the House of Representatives voted a Publick Fast throughout the Province, a thing never attempted by any of their predecessors that Power being always vested in and exercised by Your Majestys Governor in that and all other Colonies in America.

Upon which article Mr. Attorney and Mr. Sollicitor General were of opinion, that since the appointing Solemn days of general Fasting and Thanksgiving are Acts of Government and no particular Power is given for that purpose to the House of Representatives ; there was originally no good Foundation for their making orders therein, But there were so many Precedents of their intermedling in this Case, that the present House of Representatives would have been excusable if they had not exceeded these Precedents, by Mr. Attorney and Mr. Sollicitor Generall apprehended there was no Colour

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for their taking upon them to direct a Committee to make a Draught of a Proclamation to be laid before the Court (which appeared by the Evidence to have been done by the House of Representatives in this Case,) the Power of ordering and issuing Proclamations being undoubtedly only in Your Majestys Governor with the advice of the Council.

And Mr. Attorney and Mr. Sollicitor Generall further observed to Your Majesty that this matter may prove of very extensive Consequence, For the Intention of ordering Fasts and Thanksgiving and attempting to pass Proclamations in this manner by the whole Legislature seems to be, to give such ordinances or Proclamations the force of Laws in the Province, which is an Innovation of very dangerous Tendency, since they dont find that these ordinances are ever sent over hither for Your Majestys approbation. From hence the People may in time be brought to look upon acts or orders of the General Assembly as Laws, tho' they are known never to be transmitted hither for the Royal allowance, which is directly Contrary to the Charter of the Province—and will tend to weaken their dependance upon the Crown of Great Britain.

4th Charge was,

That tho' the Royall Charter has vested in the Governor only the Power of Proroguing the General Assembly Yet the House of Representatives Sent up a vote to the Council adjourning the Generall Assembly to the Town of Cambridge, to which the Governor refused his assent, and yet after this they adjourned themselves for Severall days without his consent or Privity, and did not meet on the day to which the Governor had adjourned the Generall Assembly.

Upon which article Mr. Attorney and Mr. Sollicitor Generall were of opinion that the Sole Power of Dissolving, Proroguing or adjourning the Generall Court or Assembly either as to time or Place is in Your Majestys Governor for the time being, and that the House of Representatives have no pretence to such Power, And further that the House of Representatives have no Power to adjourn themselves from one Place to another,

But it has not been proved to them that the House have assumed to themselves such Power, their Resolution about removing the Generall Court to Cambridge plainly appearing to be intended not as an order for removing the Court by their own authority but as a foundation for an Act of the whole Legislature (in the manner mentioned under the former head) from hence, That it was sent up to the Governor and Council for Concurrence, and tho' the Council agreed to it Yet the Governor refusing his assent, nothing was done upon it, But the reasons assigned for endeavouring to adjourn the Assembly to Cambridge in this manner, and to Support the opinion declared by the House of Representatives that the Governor was restrained for making such an adjournment by an Act of Assembly of the Province passed in the Tenth Year of the Reign of King William the Third, Mr. Attorney and Mr. Solicitor General conceived to have no real foundation, there being no Clause in the Act laying any such Restraint upon the Governor but in the form of the Writt the word Boston is mentioned, which they apprehended must be understood by way of Instance or Example only, and not to limit the Power the Crown has of Summoning or holding General Courts or Assemblies at any place much less of adjourning them from one Place to another after they were Summoned. For this reason Mr. Attorney and Mr. Solicitor General were of opinion that Mr. Shute acted rightly for the preservation of Your Majestys Prerogative and the authority of Your Governor in refusing his assent to that Resolution, And the House was in the wrong in adhering to it, But as they might be led into this by a mistake in Point of Law, Your Majestys Council of the Province appearing to have been of the same opinion, and when the Governor dissented they continued their Sitting at Boston, they think it would be too hard to call this a contempt or willfull Encroachment upon Your Majestys authority.

As to the adjournment from the 12th to the 18th of July 1721, it having been admitted that it was before the Governor

1725.

had adjourned the Generall Assembly for two days, Mr. Attorney and Sollicitor Generall conceived the House of Representatives did not exceed their authority in this Instance, and were only blamable in not acquainting the Governor with their Intention so to do, for which omission the acknowledgment they have already made, seemed to them to be Sufficient.

5th Charge was,

That tho' the Charter as well as Your Majestys Commission gives the Command of all the Forts in the said Province to Your Majestys Governor, and the Sole Power of Building and Demolishing such Forts, Yet the House of Representatives voted a Committee of their House should go down to His Majestys Castle called Castle William to take an Account of all the Stores there, and to take Receipts from the officers for the same, without any application made to the Governor for his Leave, and in the same manner without asking his Consent, ordered the Treasurer that he should pay no more Subsistance Money to the Officers and Soldiers of Fort Mary at Winter Harbour, and directed him to take Speedy Care that the Provision of Ordnance Arms and Amunition and all other Stores of Warr at that Fort should be Transported to Boston and lodged with him; upon which the Governor observes that the last of these is the only Fort and Harbour that can Secure the Fishing Vessells of Your Majestys Subjects in the Eastern parts, and that the Inhabitants have been so Sensible of the danger of dismantling this Fort, that One hundred and thirty two Persons at Marblehead Petitioned the House of Representatives that the said Fort might not be Dismantled, whereupon the House ordered it to be Supported.

Upon which article Mr. Attorney and Mr. Sollicitor General conceived it to be a Point of the highest Consequence of Your Majestys authority in this Province, for tho' very large Powers and Priviledges are granted by the Charter to the Inhabitants with respect to civil Administration yet the whole Military

Power of the Government is reserved in the fullest Terms to the Crown, as the Council for the House of Representatives were forced to admit, and tho' it is undoubtedly true that the House have as incident to their Power of granting Supplies a right to enquire into the Disposition of the Publick Mony, and also the particular occasions, whether of Fortifications or other matters, for which it is to be given, and to declare their opinion thereupon, Yet those Enquires ought in the Apprehension of Mr. Attorney and Sollicitor Generall to be made by proper applications to Your Majestys Governor to lay States and Estimates before them, or by Examination of Witnesses, where that shall be found necessary, But it is plain that the Resolutions about Castle William and Fort Mary do much exceed this Power of Enquiry, since by the former the Committee is directed not only to repair to the Castle and enquire into the Circumstances of it, but also to take Receipts for the Stores therein from the Severall Officers, and by the latter (as Mr. Attorney and Sollicitor Generall understand the words) the Treasurer is directed by the Vote to Transport the Provisions, Ordnance Arms Ammunition and all other Stores of Warr out of Fort Mary to Boston, which is in Effect dismantling the Fort, and in these two particulars Your Majestys Attorney and Sollicitor Generall Report their opinion that these Resolutions go beyond any of the Precedents produced on the behalf of the House of Representatives tho' upon a Strict Consideration of those Precedents they apprehend Severall of them will be found to be unwarrantable particularly those for appointing Commissioners of Warr for which they can discern no Power in the Charter, that giving to the General Court or Assembly on the Election of all Civil officers not Specially excepted, and that about the Demolition of Cascoe Fort, in which the House insisted peremptorily on their vote for Slighting it, tho' the then Governor acquainted them that he could not See reason to Demolish it untill Your Majestys Pleasure was known therein.

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1725.

For these reasons Mr. Attorney and Mr. Solicitor General are of opinion this article of the Charge is made good, and that the House of Representatives have by their Resolutions about Castle William and Fort Mary assumed to themselves Powers which do not belong to them, and in an unwarrantable manner encroached upon the indisputable Prerogative of the Crown.

6th Charge was,

That the House of Representatives voted that Mr. Moody a Major in Your Majestys Forces should be Suspended and that even unheard, which vote they sent up to the Council for their Concurrence, But the Council now Concurring the House ordered that Major Moody should be no longer paid and upon the Governors Expostulating with the Houses on their proceeding against a Major in Your Majestys Service so manifestly contrary to all rules of Justice they sent him a Message Justifying their proceedings against him in Terms that have not been usually given to one that has the Honour of being Your Majestys Governor in that Province, and to make Your Majestys Governor there of less weight, they have of late addressed the Chair in terms much less respectfull than any of their Predecessors.

Upon which Article Mr. Attorney and Mr. Solicitor Generall were humbly of opinion, that the House of Representatives have unwarrantably encroached upon Your Majestys Prerogative by the Resolution here complained of. For tho' it is lawfull for them to enter into Enquires and give their advice in matters of this Nature, and in giving Supplies of Men or Money they may proportion and appropriate them as they think fitt, Yet there seemed to them to be no Colour for their ordering the pay of a particular officer to be Stopt, which is effectually to dismiss that Officer from the Service and to taken upon them to Judge what Persons shall be employed by Your Majesty, That this is not only contrary to Your Majestys Generall Prerogative, but also to the Powers specially reserved to the Crown by the Charter.

As to the Menace in their last vote about drawing off part of the Forces if those words are understood in the plain and ordinary Sense of them nothing could be a greater Insult upon Your Majestys authority, nor more fully justify the Expression used by the Governor in his Memorial, that they had endeavoured to wrest the Sword out of Your Royal Hands ; And if they are understood in the remote improper Sense which the House at last found out to put upon them, Vizt., that they only intended thereby to withdraw their Pay and Subsistance from part of those Forces, Mr. Attorney and Sollicitor Generall humbly Conceived they are not much more excusable, since when a Warr is actually engaged in, and Supplies granted for carrying it on, it would be of the most dangerous Consequence, if it were in the Power of the House of Representatives to withdraw the Supplies already given upon any Pretence or Jealousey whatsoever.

7th Charge was

That the House of Representatives, ordered a Committee to Command the officers at the Eastern and Western parts of the Province to draw out their Forces and muster them, only under colour of an order Signed by their Speaker.

Upon which article Mr. Attorney and Mr. Sollicitor Generall were humbly of opinion, that the Charge contained in it, was made good, and that the House of Representatives committed a manifest violation of Your Majestys Undoubted Prerogative in presuming to appoint a Committee of their own to command Your Forces to be mustered, and that the Speaker who Signed the written Message to the Governor and the Messengers who carried it were guilty of a gross Imposition upon the Governor in not laying before him the entire Resolution of the House, which they esteem'd as an Evidence that they were Conscious their Resolution was unwarrantable, and therefore endeavoured to gain the Colour of the Governors Authority thereto in an unbecoming Clandestine manner.

This being the Substance of the Report made by Your Majestys Attorney and Sollicitor Generall,—Their Lordships

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proceeded to hear Counsell, as well for the said Governor as in behalf of the said House of Representatives thereupon,— And the Counsell for the said House of Representatives alledged that the facts Complained of were not done by the present House but by a former House of Representatives ; and did expressly declare, that they did not insist upon, or claim on the behalf of the House of Representatives, any Right or authority in the Matters charged upon them by the 1st, 3rd, 5th, 6th, and 7th Articles, But as to those Points, Submitted to the opinion given by Mr. Attorney and Sollicitor Generall in their Report, but at the same time humbly asserted the Right of that House, as to what is charged in the 2d and 4th Articles, relating to their denying the authority of His Majestys Governor to put a Negative upon the Speaker chosen by them—And to their having a Power to adjourn themselves from day to day without first acquainting Your Majestys Governor therewith ; But they did admit they had not Power to adjourn themselves for any longer time than from day to day, without first applying to Your Majestys Governor.

Their Lordships having maturely considered what was offered on both sides, Do agree upon the whole matter to report as their opinion to Your Majesty, That Governor Shute hath acted with great Zeal and Fidelity in the maintaining and Supporting Your Majestys Prerogative, and that his Conduct in the Matters Stated in the Report of Mr. Attorney and Sollicitor General, deserves Your Majestys Royal Approbation —And their Lordships are further humbly of Opinion, that Governor Shute hath made good, against the House of Representatives, his charge of invading and encroaching upon Your Majestys Prerogative, And that by the Articles aforementioned, it evidently appears, that the said House of Representatives, have unlawfully assumed to themselves Powers which do not belong to them, And in an unwarrantable manner encroached on Your Majestys undoubted authority ; And their Lordships do further agree to report to Your Majesty, that the Conduct of the said House of Representatives

in the Matters beforementioned tends greatly to Weaken the Subordination and dependance of this Colony upon the Crown of Great Britain, and may be of evil example in other Your Majestys Plantations, and therefore that all proper legal Methods should be taken to assert Your Majestys Royall authority and prosecute all such who have Contemned the same, unless a due obedience be paid to Your Majesty for the future.

As to the Claim made on the behalf of the House of Representatives, that Your Majestys Governor hath not Power to put a Negative on the Choice of a Speaker, Their Lordships apprehend that it is of very High and dangerous Consequence to the Government of the said Province And Their Lordships observing that in the Charter Granted by their late Majestys King William and Queen Mary, there is not any express mention made of the Choice of a Speaker to preside in the said House of Representatives, or of Your Majestys right by Your Governor to approve or Disapprove such Choice, by reason whereof the House may possibly have been led into some mistakes touching their said Claim Their Lordships do therefore humbly propose for preventing any such mistakes for the future, that Your Majesty may be graciously pleased to Grant an Explanatory Charter to the said Province touching the said premisses thereby expressly requiring the Choice of a Speaker to be made by the House of Representatives at their first Assembling, and the Person so Chose to be presented by them to Your Majestys Governor for his Approbation.

And forasmuch as by the said Charter the Power of adjourning as well as of Proroguing and Dissolving the House of Representatives is vested only in Your Majestys Governor, Yet the said House of Representatives have usually adjourned themselves from day to day which Seems necessary for avoiding great inconveniencys that might otherwise happen— Their Lordships further humbly propose to Your Majesty that in such Explanatory Charter, a Clause may also be inserted, if Your Majesty shall think fitt, giving leave to the

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said House of Representatives to adjourn themselves from day to day, but not at any time to adjourn themselves longer than for the Space of two days without leave from the Governor.

And that if such Explanatory Charter shall not be accepted, and a just regard Shewed to Your Majestys Royal Prerogative, by the House of Representatives for the future in all the particulars aforesaid, it may be proper for the Consideration of the Legislature what further Provision may be necessary to support and preserve Your Majestys Just authority in this Province and prevent such presumptuous Invasion for the future.

[pp. 61-8.]

1 June. [Order accordingly.] [p. 71.]

6 July. [Reference to a Committee of the report of the Attorney and Solicitor General with the draft of an explanatory charter.] [p. 87.]

6 July. [Similar reference of some proposals of Governor Shute relating to the affairs of that government.] [p. 87.]

17 July. [Committee recommend that the draft of the explanatory charter be approved.] [p. 93.]

20 July. [Order accordingly. P.R.] [p. 101.]

(1726.)

4 Mar. [Committee refer to the Board of Trade Governor Shute's petition] concerning the payment of his arrears of Salary during his absence from the said Provinces, being on his Majestys Service, and also concerning the Settling a certain Salary on the Governor . . . for the future suiteable to the said Post.

[p. 200.]

(1726.)

21 June. [Committee. On the report of the Board of Trade of 30 March, the Committee, being of opinion that the province of Massachusetts Bay ought to pay the arrears due to Governor Shute and settle a fixed and perpetual salary on the Governor, refer it to the Board of Trade to consider of the most effectual method of securing this.] [p. 240.]

[The Committee fix 22 Feb. for hearing Governor Shute's petition], at which time Jeremiah Dummer agent for Massachusetts Bay, and Henry Newman agent for New Hampshire, are to attend.

[p. 326.]

1725.
(1727.)
15 Feb.

The Lords of the Committee . . are hereby pleased peremptorily to order, that Mr. Jeremiah Dummer . . do not on any pretence whatsoever, fail attending their Lordships at the said time.

[p. 326.]

(1727.)
18 Feb.

[The Committee agree to report] That it appears upon the appointment of Governors for those provinces, they have received Instructions under the Royal Sign Manuall to propose and Recomend to the General Assemblys of the said Provinces, the passing of Acts for Setling and Establishing fixed Salarys on Your Majestys Governors and Commanders in Chief for the time being, Suitable to the Dignity of the said Post—Which Instructions have been constantly communicated to the said General Assemblys, but they have not hitherto paid any due regard to the same.

(1727.)
22 Feb.

That when Mr. Shute was appointed Governor of these Provinces, He also received Instructions under Your Majestys Royall Sign Manuall to the same purpose ; In which Instructions, Notice was taken that the Province of Massachusetts Bay had not hitherto took any manner of care in Setling a certain Salary upon Your Majestys Governors.

That Governor Shute pursuant thereto, hath frequently recommended and earnestly endeavoured with the said Generall Assemblies to pass such Acts, and laid before them a Copy of Your Majestys said Instructions but without any Success, by means whereof, there hath hitherto been no certain Salary established on Your Majestys Governors of these Provinces,

But the People of New England have from time to time made them such allowances, and in such proportions, as they themselves thought the Governors had Deserved, in order thereby to make Your Majestys Governors the more dependant upon themselves—Which proceedings of the General Assemblys of

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these Provinces, in not paying a due regard to the Royall pleasure of the Crown, so often Signified to them, The Lords of the Committee cannot but look upon as very undutyfull— And their Lordships thinking it highly reasonable and necessary, that as due provision should be made for Support of Your Majestys Governor of these Provinces, as hath been made for the Governors of others of Your Majestys Plantations in America, which have been much less able to Grant the same, than the Province of Massachusetts Bay, Do therefore humbly offer their opinion to Your Majesty, that you will be pleased to Signify Your Royal pleasure to the said Mr. Shute by your Sign Manual Commanding him to acquaint the General Assemblys of these Provinces, That if they hope to recommend themselves to the Continuance of Your Majestys Grace and favour, it must be by an immediate Compliance with what has been so often recommended to them, in forthwith passing an Act to Establish a fixed and Honourable Salary for the Supporting and maintaining the Dignity of Your Majestys Governor for the time being, Which their Lordships Conceive cannot be less than one Thousand pounds Sterling per annum from Massachusetts Bay, And Two hundred pounds Sterling per annum from the Province of New Hampshire—And if they shall not pay a due and immediate regard to Your Majestys Pleasure therein, The Lords of the Committee Do humbly apprehend that it may be worthy the Consideration of the Legislature in what manner the Honour and Dignity of Your Majestys Government ought to be Supported in these Provinces for the future. [pp. 332-3.]

(1727.)

28 Mar.

[Order accordingly.]

[p. 337.]

(1728.)

6 Feb.

[The Committee for Plantation Affairs recommend the approval of Commissions for Governor Burnett of Massachusetts Bay and New Hampshire, which had been referred to them on 22 Dec. (*see* Appendix I.), and represent] that notwithstanding the Governors of these Provinces have from time to time pursuant to the Instructions they have Received from

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Your Majestys Royall Predecessors frequently recomended too and earnestly endeavoured with the Generall Assembly to pass Acts for Settling and Establishing fixed Salarys on the Governors and Commanders in Cheif, for the time being, Suitable to the Dignity of that Post, Yet the said Assemblys therewith by means whereof there hath hitherto been no certain Salarys Settled on the said Governors* But Mr. Shute the late Governor having Petitioned His late Majesty in Council, and prayed that some certain Salary might be fixed for the future—His said late Majesty was pleased on the 10th day of April 1726, to Signifie his pleasure by his Royall Sign Manual to the said Mr. Shute Directing him to recomend in the Strongest Terms to the Generall Assembly of the said Provinces the Settling a fixed and Honourable Salary for the supporting and maintaining the Dignity of a Governor Which Salary was not to be less than One Thousand pounds Sterling per annum from Massachusetts Bay and two hundred pounds Sterling per annum from New Hampshire, But as the said Generall Assembly have not been made acquainted with the Contents of the Sign Manual, on Account of Mr. Shutes not returning to the said Province :—Their Lordships humbly propose that Your Majesty will be pleased to direct the Lords Commissioners for Trade and Plantations who are now preparing Mr. Burnetts Instructions to insert an Article therein, pursuant to the said Sign Manuall, a Copy whereof is hereunto annexed.

[Geo. II. Vol. I. p. 220.]

[Order accordingly.]

[I. p. 224.]

(1728.)
15 Feb.

[Reference to a Committee of] the Address of the House of Representatives of the Province of Massachusetts Bay in Generall Court assembled offering the reasons and Grounds of their proceedings and Conclusions concerning the Setling a fixed salary on the Governor of that Province according to His Majestys Instructions.

[I. p. 435.]

(1729.)
1 Feb.

* So in the Register. The meaning requires the insertion after "Assemblys" of such words as "have refused to comply."

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(1729.) [The Committee, on being informed that the Board of Trade
1 Feb. have several papers before them relating to this affair, refer
the address to them.] [p. 440.]

(1729.)

22 April. [The Committee agree to report that the Board of Trade
have] accordingly considered the severall Papers, and heard
Mr. Attorney and Sollicitor Generall in Support of Your
Majestys said Instructions and also Council in behalf of the
said Assembly, have Reported upon the whole that the said
Assembly seemed entirely averse to Settle a certain Salary
upon the present Governor, and those who shall succeed him ;
Yet the said Lords Commissioners Judge it absolutely
necessary that the Assembly should Settle a fixed Salary of
One Thousand pounds Sterling per annum at least, upon the
Governor during the whole time of his Government, it being
absolutely necessary for Your Majestys Service, that the
Independency of the Governor upon the Assembly should be
preserved :—And that as to the Complaint against the
Governor for removing the Assembly from Boston to Salem,
His late Majesty in Council, upon a former Complaint of this
Nature against Colonel Shute had Determined that Point in
favour of the Governor, and therefore the said Lords
Commissioners were of Opinion the present Governor had
acted in this matter, agreeable to that Determination.

The Lords of the Committee hereupon beg leave to
acquaint Your Majesty, That Notwithstanding the said Lords
Commissioners for Trade had fully heard all the reasons that
were offered on the behalf of the said Assembly, Yet, the
Agents of the said Assembly Petitioned this Committee on the
19th of this instant, praying that they might be Admitted
to be heard before their Lordships, whereupon their Lordships
thought it proper to know upon what Point they would insist,
that Your Majestys Attorney and Sollicitor General might
be prepared to answer the same ; and they desiring to be
heard upon the Reasons they had to offer.

Why the said Assembly should not Settle a fixed Salary upon His Majestys Governor of that Province during the whole time of his Government.—

Their Lordships appointed this day for hearing of them thereupon, and they having accordingly attended with their Counsell. Their Lordships heard all that was offered in their behalf against Setling such fixed Salary, and also heard Mr. Attorney and Sollicitor General in support of Your Majestys said Instructions, recommending it to them, and Do thereupon Agree humbly to Report to Your Majesty,

That by the Charter Granted to the Massachusetts Bay the Legislative Power is vested in a Governor Council and Assembly, of whom the Governor only is Nominated by Your Majesty.

That the Assembly is chosen annually by the People, and that the Council is likewise annually chosen by the Assembly, in Conjunction with the Members of the Council.

That by the Reasons insisted upon by the Counsell for the Assembly, in refusing to Settle a fixed Salary upon the Governor during the whole time of his Government; It appeared that the Point contended for, was to bring the Governor appointed by Your Majesty over them, to a Dependance on their Good Will for his Subsistance, which would manifestly tend to the lessening of his Authority, and consequently of that Dependance which this Colony ought to have upon the Crown of Great Britain, by bringing the whole Legislative Power into the hands of the People.

The Power of raising Taxes being by the Charter Granted to the Generall Assembly; It was from thence Argued, that they ought to be left at liberty in the doing or omitting it, as they should think proper: But the Words of the Charter Shew the intent of Granting them this Power, to be, that they should use it *for the Service of the Crown in the necessary Defence and Support of Your Majestys Government of the said Province, and the Protection and preservation of the Inhabitants.* And that therefore the refusing or neglecting to make a due

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Provision for the Support of Your Majestys Governor who is so Essential a part of the Government, must be lookt upon as acting contrary to the Terms of the said Charter and inconsistent with the Trust reposed in them thereby.

That besides the Instruction given to the present Governor by Your Majesty for this purpose, Instructions have always been Given by Your Majestys Predecessors to former Governors to recommend to the Assembly, the Establishing a Salary Suitable to the Dignity of their Post :—Notwithstanding which the Assembly have hitherto refused to comply therewith ; altho' they have by Act of Assembly Settled a fixed Salary or allowance of Six Shillings a Day upon themselves, and Ten Shillings a Day upon the Councill.

The present Assembly has indeed offered Your Majestys Governor a Salary equall to what was recommended by Your Majestys Instructions, for the time he has been with them,—But it is apprehended this was done only to tempt him to Give up Your Majestys Instructions for the Setling of it for the whole time of his Government.

And here their Lordships cannot in Justice to Mr. Burnett, Omit taking notice that by his steady pursuit of Your Majestys Instructions, and rejecting the temptations offered by the Assembly, He has acted with the Utmost Duty to Your Majesty and just regard to the trust reposed in him as Governor of that Province.

Upon a due Consideration of all that has been offered on the part of the Assembly in Justification of their refusing to comply with Your Majestys Instructions, The Lords of the Committee cannot but agree in opinion with the Lords Commissioners for Trade and Plantations, That it is absolutely necessary for Your Majestys Service, and for preserving that Dependance which this Colony ought to have upon Great Britain, and better Securing a due Execution of the Laws for Trade and Navigation, That a Salary of One Thousand pounds Sterling per annum should be Setled upon the Governor during the whole time of his Government.—And Considering that the

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Assemblies of this Province have shewn so little regard to Your Majestys Instructions or to those of Your Royall Predecessors in this behalf which the Governors have from time to time been directed to lay before them; The Lords of the Committee Doe humbly advise Your Majesty to order this whole Matter to be laid before the Parliament of Great Britain.

[Vol. I. *pp.* 484-6.] (1729.)

[Report approved: one of the Secretaries of State to] 22 May.
receive the pleasure of the Crown thereupon. [I. *p.* 505.]

[76.] [Reference to the Committee for Appeals of the appeal 18 Jan.
of Sarah, widow and executrix of Richard Meynell of Antigua, St.
merchant, from a Chancery decree given in St. Christopher,
18 Jan., 1724, in favour of William Byam, relating to the pay-
ment of two bonds entered into by Byam to Meynell.]

[*pp.* 30, 33.] (1726.)

[Order, in accordance with a Committee report of 10 Dec., 29 Jan.
reversing the decree and directing further proceedings in
Chancery.] [*pp.* 134-5, 166.]

[77.] [Reference to the Committee for Appeals of the petition 5 Feb.
of Rowland Hamilton, gent., that a short day be appointed Antigua.
for hearing his appeal from a Chancery decree made in Antigua
8 Dec., 1723 and a subsequent decree of 29 Feb., 1724, in favour
of William and Sarah Horne and others, relating to Sarah
Horne's right to a rent charge of 200*l.* per annum on
Hamilton's estate.]

[*pp.* 32, 289, 304, 316; Geo. II. Vol I. *pp.* 166, 192.]

[The case concerns a bill filed by William Horne against 1728.)
Sarah Horne and William Kennedy. On 8 Feb., 1727, on the 15 Feb.
death of Sarah Horne, the appeal is revived against Walter
Nugent, her administrator. Order is now given in accordance
with Committee report of 22 Jan., reversing the decree so far
as it regards the appellant.] [I. *pp.* 214-5, 227.]

[78.] [Reference to a Committee of a representation from the 3 Mar.
Board of Trade of 18 Feb., on the petitions of John Burnet St.
Christopher.

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and Jeremiah Brown concerning their right to 40 acres of land in the part of St. Christopher ceded by the French in the Treaty of Utrecht: also of a petition by Burnet that the report of the Board of Trade be reconsidered, and of a petition by James Douglas on behalf of Brown that his Majesty's directions may be given forthwith on the said report.]

[p. 36.]

(1726.)

29 Mar.

[The Committee, on hearing counsel for both parties recommend that a new grant of the land to Brown be passed under the seal of the island and his possession confirmed during his Majesty's pleasure. Brown claims the land (in Capesterre Quarter) under an assignment of a grant made to Ralph Willett and renewed to his widow, who married Marmaduke Batchellor, by whom it was assigned to Brown for a valuable consideration. Burnett's claim is founded on a grant by Governor Douglas, letters from the Secretaries of State, and a subsequent grant by Governor Hart. Brown and the persons under whom he claims have been in possession for nine years and cultivated the land: Burnett obtained a grant for three years only, and does not appear to have possessed or improved it.]

[p. 204.]

(1726.)

18 April.

[Order accordingly. At the same time, on a report from the Board of Trade of 25 Feb., to whom the matter had been referred on 30 Dec., 1725, recapitulating the case, and stating] That the said Governor threatens to make Grants to other Persons of the Remainder of the said Plantation amounting to Eighty acres or thereabouts, [it is ordered that Mr. Brown remain in the enjoyment of his 80 acres, and that if the Governor have made any such grants, he immediately recall them.]

[pp. 210-11.]

3 Mar.

St.
Christopher.

[79.] [Reference to a Committee of the petition of Robert Cunningham concerning Mr. Spooner's claim to 100 acres, part of 398 acres granted to the petitioner in St. Christopher by patent under the Great Seal, and also concerning a Seire

1725.

Facias ordered to be brought against his patent for these 100 acres, and praying that he may be heard by counsel, he being willing to submit to his Majesty's determination without further proceedings at law.] [p. 36.]

[The Committee, having heard both parties, order with their consent] that a Scire facias be forthwith brought by Mr. Attorney General for repealing the said Letters Patent at the charge of the said Mr. Spooner, and that Mr. Cunningham do immediately appear thereto and confess judgment, which judgment is nevertheless to be subject to the further Determination of His Majesty in Council upon hearing the meritts of the said Petition. [It is also ordered] that Mr. Spooner do at the same time enter into a covenant or covenants with the said Mr. Cunyngham on his part to abide by the Determination of His Majesty in Council and to make Mr. Cunyngham such satisfaction for the profits of such part of the Lands in Question as are held by him, and to deliver up the possession of the Lands As His Majesty in Council shall be pleased to order. And if any Difference shall arise between the Parties touching these covenants, the same be settled by Mr. Attorney General. [p. 39.]

5 Mar.

[Committee: Spooner represents that judgment on the Scire Facias cannot be entered till next term, while, if he misses the opportunity of several ships now about to sail for St. Christopher, he will lose the profit of his practice in the law for the present year, that he has already been hindered from his business for near two years by the affected delays of Cunningham, and that therefore he perfers to waive the benefit of the agreement and prays a short day for hearing Cunningham's petition. The Committee direct that the order of 5 March be vacated and the petition heard on 25 March.]

20 Mar.

[p. 42.]

[The Committee find that Cunningham's petition] settls forth that some time since the Petitioner obtained a Grant from His Majesty of 398 Acres of Land and a Storehouse in the

25 Mar.

1725.

Island of St. Christophers which Land and House formerly belonged to Mrs. Salenave, the Petitioners wives aunt, who did by her will Devise her right therein to the Petitioners wife ; That John Spooner Esquire Sollicitor General of the Leeward Islands (ten Months after the issuing His Majestys warrant for passing the said Grant to the Petitioner) obtained a Grant from the Governor of the Leeward Islands, during his Majestys Pleasure for about one hundred acres part of the said 398 acres—And that thereupon the said Spooner did oppose the passing the said Grant to the Petitioner for all the said Lands both at the Privy Seale and Great Seale, insisting that the said Grant should not extend to convey any Lands, but such as had formerly been Mrs. Salenaves. But this was overuled at both the said Places—That Mr. Spooner afterwards having obtained some Depositions in St. Christophers without the knowledge of the Petitioner, to prove that part of the said 398 acres did not belong to Mrs. Salenave, he did in October 1723, apply by Petition to Their Excellencies the then Lords Justices, for a Scire facias to repeal the Petitioners said Grant, on pretence, that, Your Majesty was deceived therein ; which Petition was referred to Your Majestys Attorney Generall, who reporting that Your Majesty should grant a Scire facias against the Petitioners Patent, an order has been obtained for that purpose. And the Petitioner humbly prays for Severall reasons contained in his said Petition, that Your Majesty would be pleased to permitt him to be heard by his Counsell, and to take his Case into Your Royall Consideration, and to quiet him from the said prosecution of Mr. Spooner, in such manner, as Your Majesty should think meet ; the Petitioner being willing to Submitt, to whatever Your Majesty should think fitt to determine concerning his said Grant, without any further proceedings at Law :—And Their Lordships also took into Consideration the said Report of Your Majestys Attorney General upon the Petition of the said Spooner. By which Report it appeared, that Mr. Attorney Generall was of opinion Mr. Spooner had given very strong Evidence that 93 acres and 143 Perches of

1725.

Land, parcell of the Lands in his Possession, as Tenant at will to Your Majesty, comprized in the Letters Patent granted to Mr. Cunyngham, were never any part of Mrs. Salenaves Plantation, nor belonging to her, and that this is not counterproved by any evidence offerered for Mr. Cunyngham,—That Consequently it must be taken as the facts at present appear, that the inserting those Lands in the Letters Patent, whereby Your Majesty intended only to Grant such as had formerly belonged to Mrs. Salenaves, was a Deceit and Surprize upon the Crown, to the loss of the Crown, and the prejudice of the said Spooner, for which reason those Letters Patent ought in point of Law to be repealed, if it should be Your Majestys pleasure to give Directions for that purpose—And their Lordships having heard the said Mr. Cunyngham as well as Mr. Spooner by their Counsell learned in the Law, and what was alledged on both sides, and finding that Your Majesty was pleased upon the aforementioned Report, to order Your Attorney Generall to Sue out a Writt of Scire facias, or to take such other legal Methods for repealing and vacating the said Grant to Mr. Cunyngham, as Your Majestys learned Counsell shoud advise. And that thereupon Mr. Attorney Generall had brought a Bill in the High Court of Chancery for that purpose, Do agree humbly to offer their opinion to Your Majesty, That the proceedings in Chancery for repealing Mr. Cunynghams Patent, be not Stayed, untill Mr. Cunyngham does surrender his present Grant, and agree to accept a New Grant exclusive of the Lands now in Possession of Mr. Spooner—And their Lordships Do humbly recommend Mr. Spooner to Your Majesty, to enjoy the said Lands during Your Majestys Pleasure. [pp. 43-4.]

[Order accordingly.]

[p. 46.] 27 Mar.

[80.] [Reference to the Committee for Appeals of the petition of appeal of Daniel Axtell from a decree of the Jamaica Chancery, 18 Aug., 1724, in favour of Peter and John Bonfils, subjects of France, by which he is condemned to pay 6,600*l*.

3 Mar.
Jamaica.

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1725.

with interest from 12 June, 1716, in all 12,001*l*. 3*s*. with costs on account of a ship called the *Amiable Mary* and her cargo which formerly belonged to Bonfils. Axtell prays that stay be made of proceedings on the decree and on a bond for his performance thereof given by Leopold de Stapleton and Samuel Page, and the Governor of Jamaica ordered to certify all the proceedings and proofs under the seal of the island.]

[*pp.* 36, 81, 83, 92, 103, 212, 262.]

(1726.)

9 Aug.

[Order dismissing the appeal with 20*l*. costs in accordance with Committee report of 25 July.]

[*pp.* 262, 275.]

3 Mar.
New York.

[81.] [Reference to the determination of the Treasury of the petition] of Mark Legaur, Setting forth That he was a Mariner on board a New England vessel which was taken in her passage to Virginia by Pirates, who put five of their Crew on board the said Ship to take care of her—That having an Opportunity the Petitioner Engaged the said Pirates, and Three of them Surrendered themselves to him, whereupon he sailed with them to New York, where they were Convicted of Piracy and Executed for the same And therefore humbly Praying he may receive the reward for the said Pirates as promised by His Majesty Proclamation issued in the year 1718.

[*p.* 38.]

27 Mar.
Florida.

[82.] [The petition of John Wilson, gent., agent for the owners and insurers of the *St. Christopher* and the *Phoenix* and their cargoes, praying relief from their seizure on the coast of Virginia in June, 1720, by a Spanish privateer with commission from the Governor of Florida, and condemnation in Florida in August, 1720, is ordered to be transmitted to his Majesty's Ambassador at the Court of Spain to make proper instances for obtaining satisfaction.]

[*p.* 47.]

15 May.
Barbados.

[83.] [Reference to a Committee of an Admiralty representation] relating to the Examination of Witnesses before a Committee of Council in order to the issuing a Speciall Commission to Try Robert Elston late Master of the *St. Christophers Gally*,

1725.

who was sent over by the Governor of Barbados, and is now in the Marshallsea for the murder of two of the said Ships Crew, by blows given in the River Andona of which they died in the River Callabar on the Coast of Guinea. [p. 54.]

[Committee: Order to the Keeper of Newgate or his deputy to bring Elston before the Committee immediately in order to be examined.] 29 May. [p. 60.]

[The Committee, on examination of Elston and of Benjamin Bush, late surgeon of the galley, represent] that the said Witness gave very strong proof of the said Robert Elston having Committed the said Facts, And Their Lordships do vehemently Suspect him to be guilty of the said Murders, and are therefore humbly of opinion that a Special Commission should be issued under the Great Seal of Great Britain for the Trying the said Robert Elston for the said Murders. 29 May. [p. 60.]

[Order accordingly for the Lord Chancellor to issue a commission.] 1 June. [p. 70.]

[84.] [Reference to the Committee for Appeals of the petition of Robert Hales and Thomas Hodges jun., complaining of Edmund Sutton, one of the Council of Barbados,] in being Guilty of many indirect Practices to the prejudice of the Petitioners in relation to the Will of John Hallett late of the said Island Esquire deceased, and of their having been very much impeded in their prosecution commenced against the said Sutton in the said Island by his influence as one of the said Council: And therefore humbly praying His Majesty will be pleased to Suspend the said Sutton from his post in the said Council of Barbados. 15 May. Barbados. [p. 57.]

[Committee: the petitioners set forth that Sutton is Hallet's executor, and that he has brought three several indictments against Joseph Young, Esqr., in order either to intimidate him, or to destroy the testimony which he knew Young could give on behalf of the petitioners. In each case 8 July.

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1725.

Young was acquitted with honour. Beside the suspension of Sutton, the petitioners seek the production and lodgment in the Secretary's Office of the original will of Hallett, by which a supposed interlineation of a considerable legacy to Sutton would appear, and the transmission of all the proceedings under the seal of the island. It is recommended that the petition and papers be sent to the Governor of Barbados,] directing him to Summons all proper Persons, by which the truth may appear, and to Examine into the whole matter upon oath, and transmitt the same to His Majesty in Council, under the seal of the said Island. [p. 92.]

20 July. [Order accordingly.] [p. 102.]

15 May. [85.] [Reference to the Committee for Appeals of the petition
Rhode of George Mumford of South Kingstown, R.I., for the dismissal
Island. for non-prosecution of James Mac Sparran's appeal from a
verdict of the General Court of Trials held at Newport, R.I.,
on the last Tuesday in March, 1724.] [p. 58.]

6 July. [Order dismissing MacSparran's appeal with 5*l.* costs, in
accordance with Committee report of 26 June.] [pp. 81, 86.]

22 June. [86.] [Reference to the Board of Trade of the] Petition of
Leeward Several Persons whose Names are thereto Subscribed, Interested
Islands. in and Traders to the Leeward Islands, for themselves and in
behalf of their Friends and Correspondents in the said Islands,
together with a Representation thereto annexed, Containing
Divers Articles of Complaint against John Hart Esquire His
Majestys Governor in Chief of the said Islands. [p. 77.]

2 Sept. [The Board of Trade report that they have heard counsel
on both sides and such evidence as the petitioners laid before
them,] But that as the Complaints Contains Severall
particulars to some of which the Petitioners were prepared
to Give Evidence—And that other Heads of the Charge might
probably admit of explanation if Mr. Hart had time to answer
thereunto—The said Lords Commissioners therefore submit
to their Excellencys whether it might not be proper that

Governor Hart should be acquainted with the Matters laid to his Charge and have an opportunity of making his Defence : —And Whereas there was this day presented to the Board another Petition of the said Complaints, which Setts forth that they were ignorant of what was contained in the said Report, And were apprehensive that the Matters of Fact might not be so fully Stated therein as Sufficiently to Shew what Matters were proved against the said Governor and what the proofs were And that since the said hearing before the Lords of Trade, They were enabled to Give further proofs of the Complaints than were offered at the said hearing, and humbly hoped (when ever a day should be appointed to hear the said Complaints before their Excellencys in Council) to make it out by unquestionable proofs ; that the said Governor had Carried his Maleadministration to a height so very Destructive of the Civil Rights of the Inhabitants of those Islands as to give their Excellencys entire Satisfaction that the speedy removall of the said Governor from the said Government would be highly just and reasonable, and that the continuing him in the Government untill Copys of the Complaints be Sent to him his Answer returned and a Determination had upon the same here will be very much to the prejudice of His Majestys Service and be attended with most pernicious Consequences to the said Islands—And therefore prayed that a Copy of the said Report might be Granted them—And that a Short Day might be appointed for hearing the said Complaints before their Excellencys in Council :—Their Excellencys the Lords Justices in Council this day took the said Report into Consideration, together with the said above recited Petition, and their Excellencys thinking it proper before any further hearing he had on the said Complaints that the said Governor should have an opportunity to answer the same [order is accordingly given for him to be sent a copy of the petitions and representation, to which he is to transmit his answer in writing.] [p. 114.]

[87.] [Reference to the Committee for Appeals of the petition of Magdalen, widow and executrix of John Bondinot of Antigua

6 July.
Antigua.

120 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1725.

that the appeal of Samuel Proctor and James Barton, planters, administrators of Henry Guichinot, from a Chancery decree of 22 May, 1723, be dismissed for non-prosecution.] [*p.* 89.]

20 July. [The appeal dismissed with 5*l.* costs, on Committee report of 8 July.] [*pp.* 91, 102.]

(1726.)

9 Aug. [Reference to the Committee for Appeals of the petition of William Barton of Antigua, merchant, administrator of Henry Guichinot, that, in regard all the papers transmitted in this affair happened to be lost in a ship that foundered at sea, his appeal may, notwithstanding the order of dismissal, be heard against the Chancery decree of 22 May, 1723, awarding to John Bondinot 1,000*l.*, for the marriage portion of his wife, the daughter of Henry Guichinot.] [*pp.* 277, 329, 339, 357.]

(1728.)

15 Aug. [On 28 March, 1727, the appeal is admitted, but the previous award of costs confirmed. Order is now given, in accordance with Committee report of 26 July, reversing the part of the decree relating to the marriage portion.]

[*Geo.* II. Vol. I. *pp.* 350, 360.]

5 Aug.
Pennsyl-
vania.

[88.] [Reference to the Committee for Appeals of the petition of John Moore, Collector of his Majesty's Customs in Pennsylvania, to be relieved against some extraordinary proceedings taken by Sir William Keith, the Deputy Governor, concerning the seizure and condemnation of the ship *Fame*, and also of a letter from John Scrope, Secretary of the Treasury, transmitting the several proceedings with a report from the Commissioners of the Customs and other papers relating thereto.]

[*p.* 108.]

20 Nov. [Committee for the Irish Bills and for hearing appeals from Jersey, Guernsey and the Plantations. A complaint by Sir W. Keith against Moore regarding the proceedings in the case of the *Fame* is said to have been referred on 5 Aug., as well as Moore's complaint against Keith. Col. Spotswood for Keith prays that the hearing of all these matters be deferred till the Governor have an opportunity to send over instructions

1725.

for his defence. Keith's complaint is ordered to be heard on the first Thursday in June, and a copy of Moore's complaint is to be sent to Keith for his answer that it may be heard at the same time. Moore is to be] at liberty to proceed in the interim in the proper Court of Pennsylvania upon the seizure alledged to be made by him, in such manner as he shall be advised.

[p. 127.]

[Committee: Peter Evans, gent., makes affidavit as to the seizure of the *Fame*: Nicholas Fleatham, Charles Starkey and William Cartwright, mariners, swear to the truth of their joint affidavit made before Thomas Bennett, a master in Chancery, 10 Aug., 1725.]

10 Dec.

[p. 135.]

(1727.)

[Reference to the Committee for Appeals of the petition of William Moore, Collector of his Majesty's Customs in Pennsylvania] relating to the Proceedings of the Assembly in Declaring that no originall process should be issued out of the Supreme Court of that Province in Civil Causes whereby the Petitioner alledges he is debarred of the means of prosecuting His Majestys Suits according to Law, and particularly one Ship and Cargo of East India and other Contraband Goods to the value of 20,000*l.* which he had seized in the year 1724.

13 May.

[p. 358.]

[89.] [Reference to a Committee of the petition of Richard Partridge on behalf of Peleg Slocum, John Tucker and other Quakers, inhabitants of Massachusetts Bay,] who are under Severe Sufferings for Conscience Sake, praying the Repeal of such Laws past in that Province as Directly or Consequently affect the Liberties, Properties, Religion or Consciences of His Majestys Protestant Subjects in the said Province, etc.

2 Sept.
Massachu-
setts Bay.

[p. 116.]

[90.] [Reference to the Committee for Appeals of the petition of Edward Chester, sen., of Antigua and Ann his wife, widow of John Paynter, sen., John Gunthorp and Richard Sherwood of Antigua, merchants, and Catharine, Elizabeth and

14 Oct.
Antigua.

122 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1725.

Mary Paynter, infant daughters of John Paynter, sen., by their guardians Edward and Ann Chester, that, as the proceedings are duly transmitted, a short day be appointed for hearing their appeal from a Chancery decree of 22 Dec., 1724, in a case between the petitioners and William Paynter, collector, Edward Byam, Major John Tomlinson, and Francis Carlisle.]
[*p.* 118.]

(1726.)

31 May. [Order, in accordance with Committee report of 29 March, for further proceedings in Chancery.] [*pp.* 120, 205, 228.]

(1731.)

28 Oct. [Reference to the Committee for Appeals of the petition of the widow, executors and eldest son of John Paynter, sen., for a short day for hearing their appeal from a Chancery decree of 2 July, 1730] upon two Bills filed against the appellants in the said Court the one by John Gunthrop and Catherine Paynter as executors of William Paynter the Elder deceased . . . and the other by William Paynter Younger son and Devisee of the said William Paynter the Elder by his Guardians and next Friends William Horne and Francis Burton.
[*Geo. II. Vol. II. p.* 463.]

(1733.)

25 Jan. [Order, in accordance with Committee report of 18 Jan., affirming part of the decree, and directing further proceedings in the Antigua Court of King's Bench and Common Pleas.]
[*II. p.* 486 ; *III. pp.* 95, 101-3, 105.]

(1740.)

27 Nov. [Reference to the Committee of the appeal of Governor Edward Byam, Francis Carlisle and John Tomlinson, senr., three of the executors of John Paynter, senr., Anne Chester, widow of Edward Chester and late widow and one of the executors of John Paynter, and William Paynter, son and heir and devisee of John Paynter, from an order of the Antigua Chancery, 26 July, 1734, refusing to set aside a verdict of the Court of King's Bench and Common Pleas, 5 June, 1733, in favour of John Gunthorp, Catherine Paynter, widow of William Paynter, senr.. and William Paynter, son and devisee of William Paynter, senr.]
[*VII. p.* 266.]

ACTS OF THE PRIVY COUNCIL (COLONIAL). 123

[Order, in accordance with Committee report of 28 April, affirming the verdict given on the issue directed by the Order of 26 Jan., 1733, and also the order of the Antigua Chancery of 26 July, 1734; and ordering the parties to proceed again to trial in the Court of King's Bench and Common Pleas] in regard it does not appear that all the Facts intended to be Tried by the Issue so Directed have been yet enquired into and that there is not Sufficient light for the Court of Chancery in Antigua to do Justice to the Partys without a further Enquiry.

1725-6.
(1741.)
6 May.

[VII. pp. 312, 457, 464.]

[91.] Petition of Major Mason for Mr. Lylingston to Supply a vacancy in the Councill of Barbados read. Nothing. [p. 132.]

25 Nov.
Barbados.

[92.] [A representation of the Board of Trade of 4 Nov. recommending confirmation of an Antigua Act of 1 May, 1724, for cutting off the entail of certain lands, tenements and hereditaments in Antigua belonging to John Vernon of the Parish of St. James's, Westminster, Esq., is referred to the Attorney and Solicitor General, who are to report to the Committee.]

25 Nov.
Antigua.

[p. 132.]

[The Attorney and Solicitor General having found no objection if the parties desired the confirmation of the Act, and the solicitor for the parties having moved for its confirmation, the Committee recommend that it be confirmed.]

(1726.)
10 June.

[p. 233.]

[The Act is confirmed.]

[p. 250.]

(1726.)
5 July.

[93.] [The Council refer to the Board of Trade the petition of Samuel Jacob and other merchants of Bristol, together with the affidavit of Augustine Moore thereto annexed, setting forth that about 30 April, 1724, in accordance with a Virginia Act repealed on that date, their agent was obliged to pay 40 shillings for each of several negroes imported by them into Virginia, and humbly praying for relief, as the Treasurer refuses repayment.]

1726.
29 Jan.
Virginia.

[p. 167.]

[94.] [Reference to the Committee of the Council of the Representation of Springett Pen Esquire Grandson and Heir

12 Feb.
Pennsyl-
vania.

124 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1726.

at Law of William Pen Esquire deceased and Hanah Pen Widow, Relict and Executrix of the said William Pen who was the late Proprietor and Governor in Chief of the Province of Pennsylvania, and the three Countys of Newcastle, Kent and Sussex on Delaware in America, which Setts forth, that the said William Pen in the year 1716, appointed Mr. Kieth since Sir William Kieth, Deputy Governor of the said Province and Countys, which he hath held upwards of Nine Years; and the said Sir William Kieth having by His Conduct greatly disatisfyed the Proprietors Family, the said Heir at Law and Executrix, have both Joyned in Nominating Major Patriek Gordon to be Deputy or Lieutenant Governor of the said Province and Countys; and humbly prays His Majestys allowance and approbation of him accordingly; and a Petition of Colonel Spottswood on behalf of Sir William Kieth and also the Petition of Micajah Perry, Robert Carye and others Creditors of Sir William Kieth, praying for the reasons mentioned in the said Petitions, that he the said Sir William Kieth may not be removed from the said Government. [p. 193.]

23 Feb. [Committee. All parties to attend on 2 Mar. to be heard.] [p. 197.]

4 Mar. [Committee recommend that Major Gordon be approved as Deputy Governor on the usual conditions.] [p. 199.]

11 Mar. [Order accordingly.] [p. 201.]

18 April. [The conditions having been complied with, Gordon's nomination is approved, as is the draft of trade instructions for the proprietors. P.R.] [p. 209.]

18 April. [95.] [Reference to the Committee for Appeals of the petition Barbados. of William Moore of Barbados, administrator of his late wife Margaret, who was widow and executrix of Benjamin Matson, that, as the proceedings are duly transmitted, a short day be appointed to hear his appeal from a Chancery decree of 19 Nov., 1725, dismissing his bill against Francis Ford and George Barry to be decreed 500*l.* with interest from the death of his wife.] [p. 212.]

ACTS OF THE PRIVY COUNCIL (COLONIAL). 125

- [Order reversing the decree, in accordance with Committee report of 20 Jan.] 1726.
(1727.)
8 Feb. [pp. 304, 315.]
- [96.] [Mr. Busby, solicitor, entered an appearance for — 11 May.
Mugill to the appeal of John Hamilton from Antigua.] Antigua.
[p. 219.]
- [97.] [A representation of the Board of Trade of 11 May 31 May.
recommending the disallowance of a Pennsylvania Act Pennsylv-
directing the process of summons against free-holders is referred ania.
to a Committee.] [p. 230.]
- [Committee report adversely, for the reasons given by the 21 June.
Board of Trade] that the Intent of the said Act is to exempt
all Freeholders to the value of Fifty acres of Land in that
Province from arrest, but as they may Contract Debts to a
much greater value, and may have Considerable Personal
Estates, with which they may run away . . that this is an
unreasonable priviledge and not proper to be past into a Law.
[p. 239.]
- [The Act is disallowed.] [p. 250.] 5 July.
- [98.] [A representation of the Board of Trade of 3 May upon a 31 May.
Barbados Act of May, 1722, to prevent the vessels that trade Barbados.
here to and from Martinico or elsewhere from carrying off any
negro, Indian or mulatto slaves, persons indebted or contracted
servants, is referred to a Committee.] [p. 230.]
- [The Committee report their agreement with the represent- 21 June.
ation that as the penalty imposed is death with forfeiture of ship
and cargo, with a fine of 500*l.* for compounding any breach
of the Act, half to the informer and half for the fortifications,
the recovery of the penalty before the Justices of the Peace
is too summary a way of proceeding on so penal a law and is
to be condemned since the matter should undergo the most
strict and regular enquiry the nature of the offence will allow.
The Act is also liable to objection in applying half the
penalty to the fortifications instead of to his Majesty for the
fortifications.] [p. 238.]

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1726.

5 July. [The Act is disallowed, and the Governor is ordered to recommend the Council and Assembly to pass a new Act free from the objections of the Committee.] [p. 250.]

31 May.
Barbados.

[99.] [Reference to the Committee for Appeals of the petition of David Hamilton that, as the proceedings are duly transmitted, a short day may be appointed for hearing his appeal from a decree of the Barbados Chancery, 13 Oct., 1725], whereby a Bill brought there by the Appellant against Edmund Sutton Esq. John Jenkins and Mary his wife for payment of a Legacy of Two Thousand pounds with Interest according to the will of John Sutton Esq., deceased, was dismissed as to the said Edmund Sutton, and the Plea and Demurrer of the said Edmund Sutton was adjudged to be good. [p. 230.]

(1727.)

8 Feb. [Order affirming the decree, in accordance with Committee report of 2 Feb.] [pp. 308, 315.]

5 July.
Plantations.

[100.] [Whereas it was this day represented to his Majesty that in the Instructions to Governors there is a proviso] That Execution be not suspended by reason of any such appeals unto Us in any Case where a Judgment first given by an Inferior Court in our said Province or Island shall have been Confirmed by the Governor and Council. By means of which Provisoe, Executions have been immediately issued notwithstanding an Appeal hath been depending before His Majesty at this Board; From whence great Inconveniencies have arisen, where the appellee hath become insolvent or hath withdrawn himself and his Effects from that Province, before His Majestys Pleasure could be known on such appeale, and His Majestys orders for reversing the Decree or Judgment appealed from and for making Restitution of the Estates or Effects which had been so levyed in Execution, have been rendered ineffectual and the Appellant left without any Redress, [additional instructions are ordered to be prepared for Governors requiring them notwithstanding the said proviso] to Suspend the Execution of any Judgment or Decree

1726.

in case of an appeale till the same shall be Determined at home, unless good and Sufficient Security be given by the Appelleé to make Ample Restitution of all that the Appellant shall have lost by means of such Judgment or Decree in case upon the Determination of such appeale such Decree or Judgment should be Reversed and Restitution awarded to the Appellant. [p. 252.]

(1727.)
8 Feb.

[The draft submitted by the Board of Trade is approved, and instructions ordered to be sent to] His Majestys Governors in America (except those of Barbados and the Massachusetts Bay for which there is not any occasion) and also for the Proprietary and Charter Governments.

[p. 313. P.R.]

[101.] [Reference to the Committee for Appeals of the petition of Robert Robinson, Collector of his Majesty's Customs at Salem and Marblehead, for leave to appeal from a judgment of the Superior Court of Massachusetts Bay of 29 Jan., 1726, concerning the sloop *Mary Ann*, Edmund Bury master, and her cargo, and for copies of the proceedings in that Court and in the Admiralty Court there to be transmitted.] [p. 257.]

5 July.
Massachu-
setts Bay.

[102.] [Reference to the Board of Trade of the petition of Henry Newman, agent for New Hampshire, that the boundaries of New Hampshire with Maine and with Massachusetts Bay may be determined by an explanation of some ambiguity in the clause of the Massachusetts Charter of 1691 which relates to the boundaries.] [p. 276.]

9 Aug.
New Hamp-
shire, Maine,
and
Massachu-
setts Bay.

[Reference to a Committee of the report of the Board of Trade of 10 Nov. on Newman's petition and on the state of the woods and lands in the said provinces.] [p. 290.]

29 Nov.

[Reference to the Committee of the petition of John Rindge, agent for the Assembly of New Hampshire, that the boundaries of the province may be ascertained, the inhabitants of Massachusetts Bay having made great encroachments and the

(1733.)
29 Mar.

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1726.

endeavours of the inhabitants of New Hampshire to have the boundaries settled having been ineffectual.] [III. p. 137.]

(1733.)

16 April. [Committee refer the petition to the Board of Trade.]

[p. 143.]

(1735.)

6 Nov. [Reference to the Committee of the petition of Francois Wilks, agent for Massachusetts Bay, relating to the Board of Trade report.]

[IV. p. 250.]

(1735.)

17 Nov. [Committee. The report and Wilks' petition to be heard on 15 Dec.]

[p. 257.]

(1735.)

15 Dec. [Committee. The Board of Trade report] that they had Communicated a Copy of this Petition and of eight others upon the same Subject from the Inhabitants of the several Countys of New Hampshire to Mr. Wilks Agent for the Province of the Massachusetts Bay, who did by a Letter bearing date the 15th of February 173 $\frac{3}{4}$ acquaint the said Lords Commissioners that he did thereby as Agent of the said Province of the Massachusetts Bay and for and on their behalf humbly Submit the matter in Controversy to the said Lords Commissioners and did Consent and agree that the said Boundaries might be determined and Settled by wise disinterested Persons of the Neighbouring Governments to be nominated and appointed for that purpose by Your Majesty or the said Lords Commissioners And that he did further Agree and Consent for the said Province of the Massachusetts Bay that the said Commissioners should have the matter in Controversy left to them fully and without any limitation Saving only that the Lines however they may happen to be run should not affect the Property of particular Persons—And the said Lords Commissioners did further Report that they had been Attended by all partys concerned herein and having heard what either side had to Offer on this occasion, were of Opinion that Your Majesty should be graciously pleased to Appoint and Authorize Commissioners to be Chosen from out of the Neighbouring Provinces in America to meet within a limited

1726.

time, and mark out the Dividing Line between the said Provinces of the Massachusetts Bay and New Hampshire. [Wilks' petition prays] that he may not be bound by the Consent and Agreement which he had Signified to the Lords Commissioners for Trade and Plantations by the Letter beforementioned and also praying that in whatever manner the Boundary Line may be run it may not affect Private Property. [The Committee agree with the Board of Trade report and with Wilks' petition as to private property.]

[IV. p. 271.]

(1736.)

[Order accordingly. The Committee to consider of proper persons to be appointed.]

[IV. p. 310.]

22 Jan.

[Committee refer it to Board of Trade to propose suitable persons as commissioners.]

[IV. p. 316.]

(1736.)

24 Jan.

[Committee. Copies of Board of Trade report with nominations to be delivered to the solicitors on both sides.]

[IV. p. 430.]

(1736.)

13 April.

[Committee. The Board of Trade report and two petitions of Wilks and Rindge to be peremptorily considered at the first meeting of the Committee in Oct. next.]

[IV. p. 506.]

(1736.)

23 July.

[Committee.] The Lords of the Committee this day took into Consideration a Report from the Lords Commissioners for Trade and Plantations Dated the first of Aprill last, Nominating the five Eldest Councillors in the Provinces of New York, New Jersey, Nova Scotia and Rhode Island to be appointed Commissioners for Settling the Boundaries between the Provinces of the Massachusetts Bay and New Hampshire ; And their Lordships took into their Consideration two Petitions presented by the Agents of the said Provinces of the Massachusetts Bay and New Hampshire relating to the Persons so nominated to be Commissioners—And heard them by their Counsel thereupon—And their Lordships agreeing in Opinion with the said Lords Commissioners That the five Eldest Counsellors in the Respective Provinces of New York. New

(1736.)

26 Oct.

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1726.

Jersey, Nova Scotia and Rhode Island (except only Major Mascarine one of the Councillors in Nova Scotia who Appeared to the Committee to be a Person interested in the Province of Massachusetts Bay) should be Appointed the Commissioners for Settling the said Boundaries—Do therefore hereby Order that the said Lords Commissioners for Trade and Plantations Do Consider of and prepare such Directions as they shall think necessary for His Majesty to give to the said Commissioners for that purpose And for preventing unnecessary Delays that the said Lords Commissioners should Specify the time before which the said Commissioners should be Directed to hold their first meeting, And also of the most Convenient Place for such their meeting and of what Number the Quorum should Consist—And the said Lords Commissioners are to lay the same before this Committee. [V. p. 4.]

(1736.)

17 Dec.

[Committee.] Upon a Motion made by the Solicitors on both sides, Ordered that Copys of the said Report of the Board of Trade containing the Directions proper to be given to the Commissioners for Settling the Boundaries between Massachusetts Bay and New Hampshire be delivered to the said Solicitors. [V. p. 41.]

(1736.)

22 Dec.

[Committee. Consideration of the petition of John Rindgo for confirming the report of the Board of Trade containing the directions to the Commissioners is put off till after the holidays.] [V. p. 47.]

(1737.)

26 Jan.

[Committee. The report of the Board of Trade proposing a Commission to be passed for settling the boundaries is to be heard on 4 Feb.] [V. p. 97.]

(1737.)

4 Feb.

[Committee recommend the appointment of the Commissioners as specified on 26 Oct., 1736, to hold their first meeting on 1 Aug., 1737, and then to adjourn till such time as may be convenient for them; the meeting place to be the town of Hampton, N. H., five to be a quorum, a majority of those

present to decide ; witnesses may be examined on oath or affirmation ; clerks and skilful draughtsmen to be appointed and sworn at the first meeting.]

In case each of the two Provinces whose Boundaries are to be Settled, shall neglect to send to the said Commissioners at their first meeting pursuant to Directions to be sent to the Governor of those Provinces by the Lords Commissioners for Trade and Plantations the Names and Places of Abode of two of their Publick Officers residing in that Province on either of whom or at whose place of abode any Notices Summons or final Judgment of the said Commissioners may be Served or left—And in case they shall also neglect to send to the said Commissioners at their first meeting a Plain and full State of their Demands or Pretensions in Writing describing where and in what Places the Boundaries in the Northern and Southern Part of New Hampshire ought to begin and what Courses and how farr the same ought to run respectively, that Copys thereof may be mutually exchanged in order to prevent any unnecessary Delay and that each party may come fully prepared—That then the Commissioners in either of these do proceed ex parte.—That the said Commissioners be directed to use all convenient Dispatch in this affair—That of the Commissioners present at any meeting He who is first named in the List of Commissioners shall preside at such Meeting, and shall issue out the necessary Summons for such Witnesses as either party shall require.—That no Evidence be allowed of by the Commissioners but such as shall be Sworn to take an affirmation before them in Open Court, And that the whole of what such Evidence shall offer to the Commissioners be put in writing by the Clerk in Presence of the said Commissioners and of the respective Witnesses, and that the same be read to and signed by the Witnesses—That Entrys be made of all papers, Evidences, Deeds, Charters and proofs received by the Commissioners in this affair and of all their Proceedings and Resolutions throughout the same and that plans or Draughts of the Boundary Lines as agreed to by them be

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1726.

annexed thereto, and made parts thereof—That when the Commissioners shall have made their final Determination and Signed the same a Copy thereof shall be sent to such Publick Officer in each respective Province as beforementioned, as likewise notice of another meeting to be held at the Distance of Six Weeks or such further reasonable time as the Commissioners shall appoint not exceeding three Months at which said meeting either of the Provinces who shall find themselves agrieved may enter their Appeale, with a Declaration what parts of the Determination of the said Commissioners they abide by or Appeale from ; And that each Province be permitted to take out at their own Expence Copys of the whole Process to be attested by three or more of the Commissioners—That if neither party do Enter their Appeale or exception against the Determination of the Commissioners at such last meeting, then no Appeale or Exception shall be afterwards received or admitted and such Determination of the Commissioners being confirmed by Your Majesty shall be finall and Conclusive to all partys. [The expenses are to be borne equally by the two Provinces. Letters to the various Governors with the necessary directions are to be written by the Board of Trade.]

[pp. 102-4.]

(1737.)

9 Feb.

[Orders accordingly.]

[p. 117.]

(1737.)

17 Mar.

[A report of 15 March from the Attorney and Solicitor General, with a draft of a Commission under the Great Seal, is referred to the Committee for plantation affairs.]

[p. 138.]

(1737.)

19 Mar.

[The Committee recommend that the report be approved.]

[p. 144.]

(1737.)

31 Mar.

[Draft Commission approved. P.R.]

[p. 158.]

9 Aug.
Antigua.

[103.] [Reference to the Committee for Appeals of the petition of Nathaniel Carpenter of London, merchant, that as the proceedings are duly transmitted, a short day may be appointed for hearing his appeal from a decree made in Antigua, 24 Nov., 1725, on a bill filed by him against John Parry, eldest son of

1726.

Samuel Parry deceased, and against the widow and executors of Samuel Parry, for a discovery of their claims to an estate which he alleges Parry conveyed to him for 3,196*l.* 10*s.* 0*d.*]

[*pp.* 276, 307.]

(1727.)

[Order, in accordance with Committee report of 31 May, 16 June, reversing part of the decree and directing further proceedings in Chancery.] [*pp.* 374-6, Geo. II. Vol. I. *p.* 21.]

(1731.)

1 July.

[Reference to a Committee of the petition of Nathaniel Carpenter for a short day for hearing his appeal from a judgment of the Governor and Council of Antigua as a Court of Errors, 9 Dec. 1730, in favour of Henry Lyons, Esq. guardian of Amy Parry, upon an ejectment brought by Lyons for recovery of a plantation in the island.]

[Geo. II. Vol. II. *pp.* 414, 511.]

(1732.)

19 Jan.

[Order sustaining the appeal in accordance with Committee report of 14 Jan.] [*pp.* 531, 548.]

9 Aug.

Antigua.

[104.] [Reference to the Committee for Appeals of the petition of Henry Lyons of Antigua that, as the proceedings are duly transmitted, a short day may be appointed for hearing his appeal from a Chancery decree of 4 Dec., 1725, upon a bill filed by him against the executors of Henry Lyons and of Jeffrey Lyons and also against Elizabeth, widow, and Sarah, daughter, of the said Jeffrey Lyons.] [*p.* 297.]

(1727.)

8 Feb.

[Reference to the Committee for Appeals of a cross petition from the other parties. The executors of Jeffrey Lyons are Nathaniel Crump, Michael Arnold, Nicholas Lynch, and John Teale.] [*p.* 320.]

(1727.)

13 May.

[Order, in accordance with Committee report of 11 May that the cross appeal be admitted,] and that in regard to the poverty of the Petitioner Elizabeth Lyons, the same be received without entering into the usual Security. [*pp.* 354-5.]

(1727.)

31 May.

[Order, in accordance with Committee report of 18 May, that the decree] be Affirmed with this variation that the Dower

1726.

of the said Elizabeth Lyons should be Subject to the Legacys given by the Will of Henry Lyons, as well as his Debts in Proportion to her Interest in the Estate, and . . . that the said cross appeale be dismist. [pp. 360, 364.]

6 Sept.
Antigua.

[105.] [Reference to the Committee for Appeals of the petition of Sir William Codrington that, as the proceedings are duly transmitted, a short day be appointed for hearing his appeal from a decree of the Antigua Chancery, 24 Nov., 1725, assigning to Rebecca Tint, daughter of Samuel Philips, deceased, several bonds entered into by the said Philips and Francois Carlisle for payment to the petitioner of 500*l.* Antigua money, together with a judgment recovered thereon at law.]

[p. 279.]

(1727.)
20 Jan.

[Committee. William Byam, Nathaniel Crump and Archibald Cockrane, Philips's executors, not having entered an appearance to the appeal though above twelve months have expired, the appeal is ordered to be heard on 9 Feb. and a summons to be affixed on the Royal Exchange requiring all parties to attend.]

[p. 306.]

(1727.)
28 Mar.

[Order, in accordance with the recommendation of the Committee of 18 Feb., that the decree be reversed, and the executors' bill dismissed with costs to the appellant taxed by the proper officer of the Court, and that the injunction obtained on the bill be dissolved. In addition to the former three, Francis Carlisle is named as one of the executors who brought the bill.]

[pp. 326, 338.]

6 Sept.
Barbados.

[106.] [Reference to the Committee for Appeals of the petition of Thomas Seawell of London merchant and of his eldest son, Thomas Noel Seawell, that, as the proceedings are duly transmitted, a short day may be appointed for hearing their appeal from a decree of the Barbados Chancery, 25 Nov., 1725, dismissing a bill brought by their attorneys there against Elizabeth, widow of Richard Seawell, and Benjamin Charnock, relating to the estates of Richard Seawell.]

[p. 279.]

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[Reference to the Committee for Appeals of Elizabeth Seawell's petition that her appeal be admitted from an order of the Barbados Chancery, 25 Nov., 1725, dismissing her motions for suppressing the depositions of one Cocker from being read in the above case in regard he stood convicted of forgery.]

[p. 298.] (1727.)

[Reference to the Committee for Appeals of the petition of Elizabeth Seawell of London, widow, and Thomas Noel Seawell of London, haberdasher of small wares, that, Thomas Seawell being dead and having left them joint executors, his appeal may be revived and a short day appointed for hearing it.]

[p. 370.] (1728.)

[Order, in accordance with Committee report of 2 Feb. dismissing the petition for reviving the appeal, such dismissal to be no bar to further proceedings in the Barbados Chancery.]

[Geo. II. Vol. I. pp. 216-8, 227-30.] (1729.)

[Reference to the Committee for Appeals of the petition of Thomas Noel Seawell to be allowed to appeal from a decree of the Barbados Chancery, 15 May, 1728, condemning John Bennet, his father's attorney, in his case against Elizabeth Seawell and Benjamin Charnock, to pay 37*l.* 16*s.* 3*d.* costs.]

[Geo. II. Vol. I. p. 512.]

[107.] [Order that two hundred pipes of Madeira wine bought in Madeira for the use of Admiral Hosier's squadron in the West Indies may be landed in Jamaica without payment of duty, especial care being taken that no part thereof be sold or disposed of in the island.]

[p. 281.]

25 Oct.
Jamaica.

[108.] [Reference to a Committee of a representation from the Board of Trade of 31 Aug., with a copy of some proposals annexed for settling the boundaries between Virginia and North Carolina.]

[p. 282.]

4 Nov.
Virginia and
North
Carolina.

[Committee. Proposals for settling the boundary dispute agreed to by the Governors have been communicated by the Board of Trade to the proprietors of Carolina, who have given

(1727.)
22 Feb.

1726.

their assent. The Board of Trade having recommended the proposals as tending to his Majesty's service, the Committee] have no objection to your Majestys Signifying Your Orders to the Governors of Virginia to settle the Boundaries in Conjunction with the Governor of North Carolina agreeable to the said Proposals a Copy whereof is hereunto annexed :

Proposals for Determining the Controversy relating to the Bounds between the Governments of Virginia and North Carolina most humbly offered for His Majestys Royal approbation and for the Consent of the Right Honourable the Lords Proprietors of Carolina.

Forasmuch as the Dispute between the said two Governments about their true Limits continue Still—Notwithstanding the Severall Meetings of the Commissioners and all the Proceedings of many Years past, in order to adjust that affair, and Seeing no Speedy Determination likely to ensue, unless some medium be found out, in which both parties may incline to acquiesce : Wherefore both the underwritten Governors having Mett and considered the prejudice done both to the Kings and the Lords Proprietors Interests, by the Continuance of this Contest, and truly endeavouring at a Decision which they Judge comes nearest to the Intention of the Royal Charter granted to the Lords Proprietors, Do with the advice and Consent of their respective Councils, Propose as followeth.

That from the Mouth of Carrathick River or Inlet, and Setting the Compass on the North Shoar thereof, a Due West Line be run and fairly marked, And if it happen to Cut Chowan River between the Mouths of Nottoway River and Wiccons Creek then shall the same direct Course be continued towards the Mountains and be ever deemed the Sole dividing Line between Virginia and Carolina.

That if the said West Line cuts Chowan River to the Southward of Wicon Creek, then from that point of Intersection the Bounds shall be allowed to Continue up the Middle of the

said Chowan River to the Middle of the Entrance into the said Wiccon Creek and from thence a due west Line shall divide the said two Governments.

That if the said West Line cuts Blackwater River to the Northward of Nottoway River than from that Point of Intersection the Bounds shall be allowed to continue down the Middle of the said Blackwater River to the Middle of the Entrance into the said Nottoway River, and from thence a due West Line shall divide the said two Governments.

That if a due West Line shall be found to pass through Islands or to cut out small Ships of Land, which might much more conveniently be included in the one Province or other by Natural Water Bounds, In such Case the Persons appointed for running the Line shall have power to Settle Natural Bounds provided the Commissioners on both sides agree thereto, and that all such variations from the west Line be particularly Noted in the Maps or Platts which they shall return to be put upon the Records of both Governments.

All which is humbly Submitted by

(Signed)

Charles Eden. A. Spotswood. [p. 334.]

[Order accordingly.]

(1727.)
28 Mar. [p. 338.]

[109.] [The representation of the Board of Trade of 8 Sept. recommending the confirmation of an Antigua Act of Mar., 1725, for selling of certain lands lately belonging to Andrew Murray late of this island, Esq., is referred to a Committee.] 4 Nov. Antigua.

[p. 282.]

[The Committee recommend confirmation of the Act] as it appears to be entirely calculated for the General Benefit and advantage of the Children of the said Mr. Murray without the least prejudice to any one of them, and as all the proper parties have given their Consent thereto. (1727.) 27 Feb.

[p. 333.]

[The Act is confirmed.]

(1727.)
28 Mar. [p. 337.]

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1726.
29 Nov. Maryland. [110.] [The nomination by Charles, Lord Baltimore, Lord Proprietor, of his brother Benedict Leonard Calvert, to be Governor of Maryland, is referred to the Board of Trade.] [p. 288.]
- (1727.)
8 Feb. [On their report of 15 Dec., the nomination is approved upon the usual conditions.] [p. 314.]
- (1727.)
21 April. [The report from the Board of Trade of 14 April with a draft of instructions as to trade stating that they have made some variations from the instructions formerly given to the Proprietary Governors, the draft is referred to a Committee.] [p. 348.]
- (1727.)
3 May. [The Committee approve the changes, which appear to be absolutely necessary, viz.] In the 5th Article they have inserted a Clause by which Mr. Calvert the present Lieutenant Governor of Maryland is informed that all Certificates about Landing Plantation Goods in this Kingdom will be Signed by four of Your Majestys Commissioners of the Customs in London or Edenburghe respectively.
- This Direction appears to be Given to prevent the Counter-fitting of such Certificates.
- In the 18th Article they have added a Clause to prevent the Importation of Stripped Tobacco.
- This appears to be pursuant to an Act of Parliament in the 9th Year of Your Majestys Reign.
- The 22d and 23d Articles the said Lords Commissioners have added to prevent the Officers of the Customs being interrupted in their Dutys by Serving on Jurys in the Militia or Parochial Offices and for the more ready Supplying the Vacancys that may happen in such Offices during the absence of the respective Surveyors General of Your Majestys Customs in America. [p. 353.]
- (1727.)
31 May. [Instructions approved.] [p. 364.]
- 29 Nov. Barbados. [111.] [Reference to the Committee for Appeals of the petition of Robert Lowther, late Governor of Barbados, that the appeal of

William Gordon, clerk, from a judgment of the Governor and Council as a Court of Errors, 16 Mar., 1725, affirming a judgment of the inferior court in favour of Gelasius MacMahon, Lowther's attorney, be dismissed with exemplary costs for non-prosecution.] [p. 289.]

1726-7.

[Committee recommend that as nothing has been done since the appeal was admitted seventeen months ago, it be dismissed with 5*l.* costs.] [p. 292.]

14 Dec.

[Order accordingly.]

[p. 315.]

(1727.)

8 Feb.

1727.

16 Jan.

Connecticut.

[112.] [Reference to the Committee for Appeals of the petition of John Winthrop of New London in Connecticut, only son and heir of Major-General Wait Winthrop of Boston, and nephew and heir of the Hon. Fitzjohn Winthrop, late Governor of Connecticut, and grandson and heir of the Hon. John Winthrop, also Governor of Connecticut, that he may have leave to appeal from two sentences of the Superior Court on 22 Mar. last in favour of Thomas and Ann Lechmere relating to the real estates left the petitioner by his said ancestors, and that an Act to empower Thomas Lechmere to dispose of the petitioners' real estates may be repealed and all proceedings upon new actions lately commenced against the petitioner for the rents and profits thereof stayed till his Majesty's further order.] [p. 297.]

[Reference to the Committee for Appeals of Winthrop's petition] Containing Severall articles of Complaint against the Governor and Company of the said Colony of Connecticut and praying that the Charter Granted to them by his late Majesty, King Charles the 2*d.* may be recalled for their great abuse of the Power thereby vested in them. [p. 319.]

8 Feb.

[Committee recommend that the appeal be admitted on giving the usual security in 100*l.*] [p. 330.]

18 Feb.

[Committee recommend that a copy of the complaint be transmitted to the Governor and Company and their answer

18 Feb.

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1727.

required before 1st December. Service of the order and copy of the petition on Jeremiah Dummer, the agent for Connecticut, is to be deemed good and sufficient service thereof.]

[p. 330.]

28 Mar. [Orders accordingly.]

[pp. 338-9.]

13 May. [Reference to the Committee for Appeals of Winthrop's appeal and petition for a speedy hearing.]

[p. 357.]

21 Nov. [Committee for Plantation Affairs. A memorial of Charles Lechmere, agent for Thomas and Ann Lechmere, asks delay till June as they are in want of several papers and proceedings from New England, but Mr. Winthrop's solicitor offering to let them have copies, the hearing is fixed for 14 Dec.]

[Geo. II. Vol. I. p. 180.]

16 Dec. [Committee for Appeals. The appellant's counsel heard: the respondents to be heard next Wednesday.]

[p. 193.]

20 Dec. [Committee for Appeals consider the petition which] Sets forth (amongst other things) the Charter of Incorporation granted to the said Province by King Charles the Second on the 13th of Aprill in the 14th Year of his Reign by which the Lands of the said Colony are held of the Crown, as of the Mannour of East Greenwich in Kent in Free and Common Soccage, and the Laws which they are Empowered to make are to be wholsom and reasonable and not contrary to the Laws of England, and that the Petitioner was possessed and Entituled to a very Considerable Real Estate in the said Province as heir at Law to his said Father Wait. Winthrop, and his Uncle the Honourable Fitz John Winthrop both deceased, that his said Father Wait Winthrop Dyed Intestate leaving Issue only the Petitioner and one Daughter Anne who was preferred in Marriage in her Fathers life time to Thomas Lechmere of Boston aforesaid Merchant, and that on his said Fathers Death he became Entituled to all his real Estate whereof he Died Seized in fee as his Heir at Law, and that on the 21st of February 1717 at the Court of Probates held for

the County of New London in Connecticut Letters of Administration was Granted to the Petitioner of the Goods, Chattells Rights and Credits of his said Father and he Entered into Bond to the Judge of the said Court of Probates in Three thousand Pounds Penalty with Condition for his making a true Inventory of all and Singular the Goods Chattells and Credits of the said deceased and Exhibitt the same into the Registry of the said Court of Probates and truly to administer the same according to Law—But the Petitioner having paid and advanced to and for and on account of the said Thomas Lechmore than the said Anne his Wifes share of the said Intestates personal Estate come to the Petitioners hands amounted to, And the said Thomas and Anne Lechmore having possessed most part of the said Wait Winthrops Personal Estate and not having required the Petitioner to Exhibit any Inventories or account of his Administration and the Petitioner having Discharged all his said Fathers Debts Save only one Bond of Debt for three hundred Pounds on which he duly discharged all Interest and would have paid of the principall but the Obligee declined accepting the same, The Petitioner did not for these reasons think it necessary to Exhibit any Inventory or account of his said Administration. But in order to Ruin and oppress the Petitioner Six Years after the said Letters of Administration so Granted to the Petitioner, Vizt. in July 1724, the said Thomas' Lechmere applied to the Court of Probates Insisting he was in Right of his Wife Entituled to a proportion of the said Wait Winthrops real Estate but that he was kept thereout by the Petitioner not having Inventored and Administered the same and caused the Petitioner to be Summoned by the Court of Probates to shew cause why he neglected to Inventory the Intestates Estate and finish his Administration according to his Bond upon which the Petitioner Exhibited an Inventory of the said Intestates personall Estate in the said Court of Probates and the Petitioners at the foot thereof insisted Administrators had nothing to do with Lands they belonging to the Heir

1727.

at Law and that he was in possession thereof as his right of Inheritance according to the Law of England, and therefore he was not obliged to Exhibit any account of the real Estate that not being Cognizable by a Court of Probates and which Inventory the Petitioner prayed might be accepted and Recorded but the Court declared they were satisfied the same was not a true and perfect Inventory of all the said Intestates Estate within that County and that the Petitioners Objections were against Law and Decreed that the said Inventory should not be admitted and refused to accept it as such an Inventory of the Intestates Estate as ought to be Exhibited, and the said Thomas Lechmore in the same July put the Petitioners said Administration Bond in Suit against him and at the same time in his own Name and the Name of Abell Wally brought another action against the Petitioner as they had been Suretys for him in an Administration Bond for his duely Administering the Intestates Estate in the County of Suffolk in the Massachusets Bay, Alledging such Administration Bond had been sued and recovered from them on account of the Petitioners not having Exhibited an Inventory or brought in his Administration Accounts, And the said Thomas Lechmore also at the same time brought four Severall Writts of partition in his own Name and in the Name of his Wife Anne Stiling her only Daughter and Coheir of the said Wait Winthrop to recover from the Petitioner one third of the real Estate in the said Writts mentioned insisting the said Anne was Coheir thereto with the Petitioner, and as such by the Law of the Province She was Entituled to one third of the said real Estate and that on full and fair hearings the final Judgments in all the said Six Actions were given for the Petitioner That it thus appearing the Petitioners Inheritance could not be Splitt and tore to peices by the common ordinary means of Justice (as the Law was then understood, some more irresistable way was to be found out to oppress the Petitioner, and for that purpose the said Thomas Lechmore preferred a Petition to the General Assembly in 1725, in the Name of himself

and his Wife Setting forth the said Severall Judgments given against him and that they were never likely to recover of the Petitioner one third of the said real Estate tho' the same descended as they alledged to the said Anne and the Petitioners as Coheirs of their Father without the aid and Relief of that Assembly, and that either by the Insufficiency of the Diction of the Law of the Colony already made or by the Courts Sense or Exposition thereof for they had no Remedy by the Common Law as appeared by the said Judgments against them, nor could have any remedy by the Court of Probates for that the Petitioner refused to Inventory the Real Estates, and as the Law of the Colony had given them a Right to one third of the Premises it was not consistent with the Honour of the Colony by that the Government would afford some indisputable Method for their obtaining their said right, and to that end they prayed the Assembly to Sett aside the said Judgments and to grant a new Tryal wherein they might Notwithstanding the Exposition of Superior Court upon the Law will support their said Actions of Partition which Petition tho' of so very Extraordinary a Nature the Assembly received and ordered the Petitioner to attend to answer the same. That the Petitioner put in his answer Insisting there was nothing contained in the said Petition that called for the Interposition of the Assembly or in which they ought or could give any relief, Notwithstanding which and without any hearing the Assembly resolved that Relief might and ought to be had in the Probates in such like Cases by a new Grant of Administration Exhibiting an Inventory of the whole Estate and a Distribution made according to the Rules of Law upon the whole and at the same time tho' they came to this Resolution they Dismissed the said Lechmeres Petition.

That the Petitioner by this very Extraordinary resolve finding the Danger he was in again Exhibited to the Court of Probates a full and true Inventory of his Fathers Personal Estate come to his hands valued and appraised and again Insisted in writing at the foot thereof that the administrators

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had nothing to do with the Lands they belonged to him as heir at Law and as his right of Inheritance according to the Law of England and that no Real Estate ought by Law to be Exhibited as not Cognizable by a Court of Probates and the Petitioner moved the Court to have the same accepted as a full Inventory of all the Intestates Estate within that Colony proper for a Court of Probates by Law to Demand and offered his Oath that it was the whole Personall Estate of the Deceased. But the Court insisting on the Petitioners taking an Oath that it was an Inventory of the whole of the Intestates Real as well as personall Estate which the Petitioner refused to Comply with Insisting he ought not to Inventory any real Estate whereupon the said Court by their Sentence of the 29th of June 1725 Rejected the said Inventory and refused to accept the same from which Sentence of Denial the Petitioner appealed to the Superiour Court—That after the said appeal and before it came on to be Determined the said Lechmore Commenced a Suit in the Court of Probates to have Administration Granted to him of the said Intestates Estate and the Petitioner being Summoned to Shew Cause why Administration should not be Granted to the said Lechmore for Cause insisted on his said Appeale being depepending and which Cause the said Court allowed from which allowance the said Lechmore also appealed to the said Superior Court. That on the 28th of September 1725, The Superiour Court on hearing the Petitioners Appeal Declared that they were of Opinion that Real as well as personall Estates were ordered to be Inventoried by the Law of that Colony and that all Courts of Probates ought to be in their Administrations thereby. Notwithstanding the Laws of England do not ordain that Real Estates should be Inventoried and thereupon ordered that the Petitioner should not be admitted to Evidence to the said Inventory by any other Oath than that which was agreeable to the Laws of the Province and Affirmed the Judgment of the Court of Probates and Condemned the Petitioner in Costs, from which Judgment the Petitioner prayed and was allowed

a review to the next Superiour Court, And the said Lechmores Appeal coming on at the same time the Court also in that Suit affirmed the Judgment of the Court of Probates, from which Sentence the said Lechmore prayed and was allowed a Review likewise.

That on hearing the Petitioners said appeal in the Review on the 22d March 1725⁵ the Court affirmed their said former Judgment and Condemned the Petitioner in Costs, and on the said Lechmores Review which came on at the same time the said Superiour Court forasmuch as the Petitioners said appeal was then determined adjudged that the said Letters of Administration formerly granted the Petitioner should be vacated and the same was thereby vacated, and that the said Thomas Lechmere and Anne his wife should have Administration on the Deceased Estates and the said Superiour Court thereby Granted Power of Administration to the said Thomas and Anne Lechmere on the said Intestates Estate and Condemned the Petitioner in Costs, from both which Judgments of the Superiour Court the Petitioner prayed but was in a very Extraordinary manner denied an Appeale to His late Majesty in Councill but which Appeal he was admitted to upon his Petition to his late Majesty, That the Petitioner finding his Inheritance in this Iminent Danger of being torn to Peices all application for relief to His Majesty being denyed him to prevent if possible anything being done in the premisses till he could lay his Case before His Majesty Entered and fyled his Protest as heir at Law to his Father against Granting Letters of Administration to his Fathers Estate to any other Person whatever the Court having before Lodged that power with the Petitioners and also against any Division of any Real Estate pretended to belong to the Petitioners Father, all such reall Estate being the Petitioners undoubted right of Inheritance who was Seized and possessed of the same according to the Laws of England and which he was Entitled to under the Charter of the said Court contrary to the Law of England—Notwithstanding which the Judges of the said Superiour Court the same 22d of March Granted

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Letters of Administration to the said Intestates Estate to the said Thomas Lechmore and Anne his wife and took the usuall Administration Bond from the said Thomas Lechmore and his Suretys and Letters of Administration and Bond Extend only to the Goods, Chattels Rights and Credits of the Deceased which the Petitioner had before duely administered.

That the said Thomas Lechmere under colour hereof Inventoried and appraised all the Petitioners real Estate and Exhibited an Inventory thereof before a Speciall Superiour County Court held for that purpose on the 29th of April 1726, which the said Court Notwithstanding the said Lechmere by his Letters of Administration or his Administration Bond had nothing to do with real Estates took upon him contrary to Law to Sitt Specially and receive the said Inventory and by their Acts of that date approved the same and ordered it to be received and the said Lechmere also then Exhibited to the Court an account of Thirty Eight pounds Seven Shillings and four pence for Charges time spent in the Administration and of a Debt due to Robert Latimore for 318 Silver Money, (which was the Bond the Petitioner had offered to Discharge as aforesaid, and for which he had duly paid Interest) which account the said Court also allowed and ordered to be kept on fyle, and the 12th day of May 1726, the said Lechmore being Conscious he had no power over any real Estate by virtue of the Administration Petitioned the Assembly Setting forth that no personal Estate of the Intestate had come to his hands the Estate come to his hands being all real and finding there was due from the said Estate 35*l.* 7*s.* 4*d.*, being the two Sums in his above account mentioned and no Moveables to pay the same he prayed the Assembly to Enable him to pay the saide Debts by ordering them to Sell and dispose of so much of the said Lands thereby to defray the said Debts with other necessary Charges.

That the Petitioner being Informed of this Application that the Assembly might do nothing herein without the fullest Notice possible the Petitioner presented a Memorial to the Governor

and Company agreeing in Substance with the above recited Protest and declaring that he being aggrieved with the aforementioned proceedings should lay the whole by appeal before His Majesty. But which Remonstrance of the Petitioners the Assembly the same day Dismissed, and immediately afterwards on the said Lechmores Petition—Granted him a power to Sell the said Lands and ordered that a Bill should be brought in for that end in form, whereupon the Petitioner entered and fyled his Protest with the said Governor and Company to the effect with that beforementioned, and further Protesting against their Proceeding to Grant Power to any pretended Administrator to Sell any part of the Petitioners real Estate under Colour of Debts due from the said Deceased as they would answer the same before His Majesty in Councill, which Protest the Assembly declared had in it a Shew of Contempt to the Governor and Assembly and the Authority there Established, and therefore on the 25th of the same May they Ordered the Sheriff to bring the Petitioner to the Barr of the said Assembly to answer for the Contempt manifested in the said Protest and immediately afterwards passed an Act Empowering the said Thomas Lechmore to Sell so much of the said Lands as might be Sufficient to Discharge the said Debts and the necessary Costs the said Lechmore taking the advice of the Superiour Court in such Sale and Enacting such Deed or Deeds of Sale to be good, and the Petitioner being brought to the Barr of the Assembly he was for his said Protest Committed to the Custody of the Sheriff, and next day fined Twenty pounds to the Treasury of the Colony for his Contemptuous Expressions (as the Assembly was pleased to term them) and the Secretary was ordered to Issue Execution to Levy the same.

That the Petitioner humbly lays the whole of these Proceedings before His Majesty by which the many Extraordinary and unjustifiable Steps appear that have been taken against him in order to Disinherit him of his Inheritance and to Sett up his Sister as Coheir with him, and to make a Division of his

1727.

Real Estate between him and his Sister contrary to to Common Law of England and the Royall Charter of the said Province and in Consideration thereof and of the many hardships of the Petitioners Case, the Petitioner humbly prays his Majesty to reverse the said two Sentences of the Superiour Court of the 22d March 172⁵/₆ with Costs and Damages to the Petitioner and to order the said Administration so Illegally and Irregularly Granted to the said Thomas Lechmore and Anne Lechmore to be called in and also to Sett aside and Discharge all Subsequent Proceedings Granted thereon and that His Majesty would Repeal the said Act passed by the Assembly, Empowering the said Thomas Lechmore to Sell and Dispose of the Petitioners said real Estate and that His Majesty would make such order and give such Directions in relation to the Behaviour of the Governor and Company of the said Province of Connecticutt and the Judges of the said Severall Courts as should be thought proper and that the Petitioner ought to have all such further and other Relief as the Circumstance and Nature of his case should Require: Their Lordships having heard all Parties concerned by their Counsel learned in the Law on the said Petition and Appeale, and there being laid before their Lordships An Act passed by the Governor and Company of that Colony, Entitled An Act for the Settlement of Intestates Estates By which Act (amongst other things) Administrators of Persons dying Intestate, are directed to Inventory all the Estate whatsoever of the Person so deceased as well movable as not movable and to deliver the same upon Oath to the Court of Probates, and by the said Act (Debts Funerals and just Expences of all Sorts and the Dower of the Wife (if any) being first allowed) the said Court of Probates is empowered to Distribute all the remaining Estate of any such Intestate as well Real as Personal by equal portion to and amongst the Children and such as legally represent them except the Eldest Son who is to have two Shares or a double Portion of the whole, The Division of the Estate to be made by Three Sufficient Freeholders on oath or any two of them

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to be appointed by the Court of Probates: Their Lordships upon due Consideration of the whole matter, Do agree humbly to Report as their opinion to Your Majesty, That the said Act for the Settlement of Intestates Estates should be declared Null and Void being contrary to the Laws of England in regard it makes Lands of Inheritance distributable as personal Estates and is not warranted by the Charter of that Colony, and that the said three Sentences of the 29th of June 1725, of the 28th of September 1725, and of the 22d day of March 1725³ rejecting the Inventory of the said Intestates Estates exhibited by the Petitioner, and refusing to accept the same because it did not contain the Real as well as personal Estate of the said Intestate and declaring real as well as personal Estates ought to be Inventoried, may be all Reversed and Sett aside And that the Petitioner be admitted to exhibit an Inventory of the Personal Estate only of the said Intestate, and that the Court of Probates be directed not to reject such Inventory only because it does not contain the real Estate of the said Intestate, and that the said Sentence of the 22th of March 1725³ vacating the said Letters of Administration granted to the Petitioner and granting Administration to the said Thomas and Ann Lechmore should be also Reversed and Sett aside, and that the said Letters of Administration so Granted to the said Thomas Lechmore and Anne his Wife should be vacated, and that the order of the 29th of Aprill 1726, approving of the said Inventory and ordering the same to be recorded should be discharged and Sett aside, and that the original Letters of Administration granted to the Petitioner should be Established and ordered to Stand, And that all such Costs as the Petitioner hath paid unto the said Thomas Lechmore by direction of the said Sentences may be forthwith repaid him by the said Thomas Lechmore, and that the Suit brought by the said Lechmore and his Wife on which the said Sentence was made may be Dismissed, And that all Acts and proceedings done and had under the said Sentences or any of them or by virtue or pretence thereof may be Discharged and declared

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1727.

Null and Void, And also that the said Act of Assembly passed in May 1726, empowering the said Lechmore to Sell the said Lands should be declared Null and Void, And it Appearing to their Lordships that the said Superiour Court by an order bearing date the 27th of September 1726, and made pursuant to the said Act of Assembly allowed the said Thomas Lechmore to Sell of the said Real Estate to the Value of Ninety pounds current Mony there for his Charges, and three hundred and Eighteen pounds Silver Money to answer the said Bond due from the Intestate :—Their Lordships are of Opinion that the said order of the Superiour Court should be declared Null and Void, and also that the Petitioner should be immediately restored and put into the full and quiet Possession of all such parts of the said Real Estate as may have been taken from him under pretence of or by virtue or colour of the said Sentences, Orders Acts and proceedings or any of them, and that the said Thomas Lechmore do account for and pay to the said Petitioner the Rents and Profits thereof received by him or any One under him for and during the time of such his unjust Detention thereof. [Geo. II. Vol. I. pp. 195–202.]

(1728.)

13 Feb.

[Order accordingly.]

[I. p. 230.]

(1728.)

19 Nov.

[Committee. It being represented that Mr. Dummer had received an answer from the Governor and Company of Connecticut above six months since and neglected to lay it before his Majesty, he is ordered to attend on Wednesday next.]

[I. p. 390.]

(1728.)

27 Nov.

[Committee for Appeals. Upon examination it appeared that the paper delivered in by Mr. Dummer was not the true answer of the Governor and Company of Connecticut, he having drawn it up here. He is ordered to deliver the true answer within two days and Mr. Winthrop is to have a copy thereof. He is allowed to withdraw his own paper.]

[I. p. 398.]

(1728.)

4 Dec.

[The answer of John Talcott, Governor of Connecticut, is referred to the Committee for Appeals.]

[I. p. 404.]

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- [Committee for Appeals. Mr. Dummer to attend on Wednesday 11 Dec. with the original papers referred to in the Governor's answer, which is not complete without them.] 1727.
(1728.)
4 Dec.
[I. p. 407.]
- [Committee. Mr. Dummer delivers the papers accordingly : copies are to be given to Mr. Winthrop and the originals returned to Mr. Dummer.] (1728.)
11 Dec.
[I. p. 411.]
- [113.] [Reference to the Committee for Appeals of the petition of Richard Staple, commander of the ship *Charming Nelly* of London that, as the proceedings are duly transmitted, he may have leave to appeal from a judgment of the Governor and Council of Antigua as a Court of Errors, given on 5 July 1726 in favour of William Glanvill, by which] the Petitioner alledges he is Condemned in the Sume 1,149*l.* with Costs upon pretence that he had Carryed Lawford Cole from that Island who was Indebted to the said William Glanvill in the sum of 1,200*l.* Antigua money. 8 Feb.
Antigua.
[pp. 319, 335.]
- [Order affirming the judgment, in accordance with Committee report of 18 May.] 31 May.
[pp. 360, 365.]
- [114.] [Reference to the Treasury of the petition of George Eames gent. relating to payment of 140*l.* for convicting Bridstock Weaver and William Ingram of piracy, which sum he alleges he advanced to the captors, Henry Trechill and Ezekiel David.] 8 Feb.
Piracy.
[p. 320.]
- [115.] [Reference to the Admiralty of the petitions of persons who served under Sir Chaloner Ogle in H.M.S. *Swallow*, and of their wives, widows, children and relations, for their respective shares of the produce of the piratical effects taken by the said ship, over and above what has been already distributed amongst them.] 8 Feb.
Piracy.
[p. 321.]
- [116.] [The Committee observing on consideration of the report of the Board of Trade on the boundaries of New Hampshire (102)] that particular notice is taken therein of the present 15 Feb.
Nova Scotia.

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State and Condition of Nova Scotia, which by its Scituation is of great Consequence and in many respects of great value to the Crown of Great Britain [order that the Board of Trade] do consider off and propose a Scheme for Establishing a Form of Civill Government within the said Province, and present the the same to this Committee, and the said Lords Commissioners are at the same time to propose what Encouragement they may think proper to be given for the better peopling of that Province, and for the preservation of the woods, which are so necessary for the Service of the Royall Navy—With what else they shall think necessary to offer upon this occasion.

[p. 325.]

(1728.)

27 Mar.

Committee appointed to Consider of the Irish Bills. A Letter from Colonel Armstrong Lieutenant Governor of Nova Scotia about the Woods there and for better Settling that Province. Read. The further Consideration thereof postponed to another opportunity. [Geo. II. Vol. I. p. 275.]

(1728.)

8 April.

Committee appointed to Consider the Irish Bills. Report of the Board of Trade about Settling the Province of Nova Scotia. Read. The Consideration thereof postponed to another time.

[I. p. 298.]

(1728.)

12 June.

[Reference to a Committee of the report of the Board of Trade on Col. Philips' memorial concerning the state of Nova Scotia.]

[I. p. 313.]

(1728.)

29 June.

[Committee] finding many particulars contained therein the due Consideration whereof will require more time than is consistent with the orders which the said Colonel Philips hath received from His Majesty to repair forthwith to his Government of Nova Scotia—Their Lordships acquainted Colonel Philips therewith that he might without further delay repair to his said Government, And that whatever Orders and Directions should be thought necessary to be given for the better Settlement of that Province should be afterwards transmitted to him—It is therefore hereby Ordered that the Lords Commissioners for Trade and Plantations Do forthwith proceed

1727.

in the preparing the Draughts of a Commission and Instructions for him, in such manner as they shall think most proper.

[I. p. 322.]

(1729.)

[Committee.] Report from the Lords of Trade on Colonel Philips' memorial about Settling the Province of Nova Scotia—
Read.

1 Feb.

[I. p. 441.]

[117.] [Reference to the Committee for Plantation Affairs of the Bishop of London's petition for an instruction to colonial governors to execute the laws, and if necessary pass new laws, against vice, and to erect and maintain schools.]

28 Mar.
Plantations.

[p. 341.]

[The Committee direct the Board of Trade to prepare draft instructions accordingly.]

3 May.

[p. 350.]

[118.] [A representation from the Board of Trade for confirmation of a Virginia Act of May 1726 for laying a duty on liquors, is referred to a Committee.]

13 May.
Virginia.

[p. 356.]

[The Committee find] that the following Clause is inserted in the said Act for giving certain Duties to His Majesty for and towards the Relief of William and Mary College Established in that Colony by Charter from their late Majestys King William and Queen Mary Vizt.—

31 May.

And forasmuch as the present Revenue of the College of William and Mary is not Sufficient to maintain the full Number of Masters or Professors required by the Charter of the said College, and thereby the progress hath been much obstructed, and the Will of the Royall Founders in great measure frustrated, Be it further Enacted by the Authority aforesaid, that the Sum of Two hundred pounds per annum out of the said Duty of one penny upon every Gallon of Wine, Rum Brandy and other Distilled Spirits by this Act imposed as aforesaid is and shall be appropriated for the Relief of the said College; and for and during the said Term of Twenty one Years, shall be paid by the Treasurer half yearly in equal Portions, unto the Surviving Trustees of the said College untill the same shall be transferred to the President and Masters,

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and from and after such Transferr then to the President and Masters of to their Successors for and towards the maintaining and Supporting the full Number of Masters and Professors which are to reside in the said College, and if at any time there shall be no Trustee of the said College residing in this Country before such Transfer shall be made, then the said Sum of Two hundred pounds shall be in manner aforesaid paid to the Visitors and Governors of the said College or to such Person as they shall appoint to receive the same, and after the said Sum of Two hundred pounds per annum shall be so satisfied then the overplus of all Monys arising from the said Duty, shall be applied to such other use or uses as the Generall Assembly shall think fit to Direct, as aforesaid.

That General Nicholson His Majestys Governor of South Carolina who is one of the Trustees for the said College having desired to be heard against the said Clause, it appears the said Lords Commissioners for Trade had heard his Counsel thereupon, Who objected

That the Money given by this Act being designed as a Provision for the Salary of a full Number of Masters and Professors in the said College was limited to Uses destructive of the said Charity, and contrary to the Intention of the Royal Charter because the Charter directs that the said College shall be erected and founded before the President and Masters thereof shall receive any Salaries, and the present Income of the College being very small should the same be applied to Salaries the College would never be erected, and consequently the Charity would be defeated, and the Intent of the first Founders not complied with.

The said Lords Commissioners of Trade represent that upon this occasion, they have perused the Words in the above Clause with the Severall Clauses in the Charter, and they are of opinion that the Grant made to the College by this Act is agreeable to the Intention of the Charter, and not lyable to the above objection.

•For tho' from the Preamble it is not to be doubted, that the Assembly of Virginia had the Salary of the Masters or Professors in view, Yet it is evident from the Terms of the Enacting part of the Clause that this view was Subsequent to the general services of the College the Clause being far from directing that this two hundred pounds per annum shall be immediately paid to the said Masters.

For on the contrary, in the first Place it Enacts that this Duty shall be appropriated to the Relief of the College in General, and paid to the Surviving Trustees of the said College, till the same shall be transferred to the President and Masters, and from and after such Transferr, then to the President and Masters and to their Successors, for and towards the maintaining and Supporting the full Number of Masters and Professors.

From whence it is evident that these Salaries are not to be paid till after the Transferr, for the Trustees were expressly directed by the Charter, not to Transferr till the College shall be erected and founded, and therefore as this Clause has reference to the Charter and to the Trustees therein Named, it is not to be supposed that the Powers of this Clause can be executed in a Method different from that prescribed by the Charter.

But the Subsequent part of the Clause is a further Proof, that it could not be the Design of the Assembly, that the Masters should come immediately into Possession of the Salaries, for the Clause Supposes that it may happen, that there shall be no Surviving Trustee remaining in the Colony and no Transferr made to the President and Masters; and Provision is made in such case that the Mony shall then be paid to the visitors of the said College for the time being which could not have been necessary if it had been the Design of the Act, that the Salaries should have been immediately paid to the Masters, for in that case the payments would have actually been directed into their own hands, But the Visitors are created Trustees by this Clause to provide against the aforesaid

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Contingency ; and as they stand in the Place of the Trustees must likewise execute their Trust, in the Method prescribed by the Charter, unless this Act had given them Directions to the Contrary, which it has not done. [The Committee therefore recommend the confirmation of the Act.]

[*pp.* 371-3.]

16 June. [The Act is confirmed.] [George II. Vol. I. *p.* 17.]

13 May. [119.] [Reference to a Committee of the petition of the
Massachu- Rev. Timothy Cutler and Samuel Miles clergymen of the
setts Bay. Church of England by law established for themselves and
several congregations of the Church of England in Massachu-
setts Bay] praying the Repeale of Several Laws past in that
Province affecting the Consciences Religion Libertys and
Propertys of the Petitioners and their Congregations, and that
Directions may be Given to prevent the passing any acts of the
like oppressive Nature for the future. [*p.* 356.]

14 July. [Committee refer the petition to the Board of Trade.]
(1731.) [Geo. II. Vol. I. *p.* 47.]

28 Oct. [Reference to the Committee for Appeals, &c., of another
petition of Mr. Cutler] complaining of severall acts past in the
said Province subjecting the Members of the Church of
England to pay to the support of the Ministers of other
perswasions and humbly praying that the said Acts may be
repealed as not being Warranted by the Charter of the
Province—and that the Governor for the time being may be
strictly enjoyned not to pass any Act for the future whereby
any such Tax shall be laid :—And that His Majesty will be
pleased to make such further and other order in the premisses
as His Majesty in His Great Wisdom and Goodness shall see
fitting to provide. [II. *p.* 463.]

(1731.)
1 Nov. [Committee for Plantation Affairs refer the petition to the
Board of Trade.] [II. *p.* 464.]

13 May. [120.] [Reference to the Committee for Appeals of the petition
Jamaica. and appeal of John Doe of the parish of St. John's, Jamaica,

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1727.

lessee in ejectment of Barrow Harris Esq. from a judgment of the Governor and Council as a Court of Errors, 5 Oct., 1726, affirming a judgment of the Supreme Court of Judicature, Nov., 1724, in favour of Thomas Barrett Esq. upon an ejectment brought by the petitioner against him for two parcels of land containing about 212½ acres.] [p. 359.]

[So also another petition of the same in another case concerning 2,000 acres of land.] 13 May. [p. 359.]

[Reference to the Committee for Appeals of the petition and appeal of Thomas Barrett in behalf of Peter Miller, a minor, cousin and heir at law of Edward Harris deceased, from a judgment of the Governor and Council of Jamaica as a Court of Appeals, 29 Jan., 1725, in favour of Barrow Harris,] And humbly praying That altho they were prevented from bringing their appeale sooner by the Death of Barrow Harris, not knowing who his Heir and Representative was, Yet as the said Appeal may be received, and that as Mary Harris is the Widow and Sole Executrix and Barrow Harris the Eldest Son Heir, That they may be Summoned to appear to and Defend the same, and a Short day appointed for Hearing and Determining thereof. 5 July.

[Geo. II. Vol. I. p. 37.]

[121.] [Reference to the Treasury of the petition of John, Thomas, Richard and Margaret, the only surviving children of the late William Penn] that his Majesty will be graciously pleased to Signify his Royal pleasure touching an agreement made by the said late William Penn with her late Majesty Queen Anne for sale of his Powers of Government in the Province of Pennsylvania. [p. 370.]

Pennsyl-
vania.

[122.] Petition of the Merchants Trading to Jamaica about the Impressing of sailors from the merchant Ships for Admiral Hosiers Squadron. Read. The further Consideration of it Postponed to another time. 31 May. Jamaica. [p. 371.]

GEORGE II. VOL. I. (14 June, 1727—22 May, 1729.)

- 14 June. [123.] It is also ordered that a Draught of a Proclamation
The New Reign. be prepared for the proclaiming His Majesty in the Plantations.
[p. 4.]
- 14 June. [Warrant to be prepared authorising the use of the public
seals in the plantations till others shall be prepared.]
[p. 8.]
- 15 June. [Draft of the proclamation approved. The Board of Trade
to fill it in for the various plantations.] [p. 14.]
- 24 June. [Board of Trade to forward to the governors of plantations
by the two vessels appointed for that service letters signed
in Council for proclaiming his Majesty, and for continuing
persons in office. Letters and proclamation are given in
Register.] [pp. 24-8.]
- 5 July. [Proclamation for continuing officers in the plantations
till his Majesty's further pleasure.] [p. 32.]
- 20 Sept. [On a representation from the Board of Trade, proper
seals for the plantations are ordered to be prepared and sent
by them, and the charges supplied by the Treasury. The
Duke of Newcastle is to] prepare the usuall warrant for His
Majestys Royall Signature, authorizing His Majestys Engraver
to Engrave the said Seals, And to attend the Lords
Commissioners for Trade and Plantations from time to time
and receive their directions thereupon. [p. 116.]
- 5 July. [124.] It is this day Ordered by His Majesty in Council, that
Committee for Appeals. the whole Privy Council or any three or more of them, Be,
and they are hereby appointed a Committee for the Affairs of
Jersey and Guernsey for hearing Appeals from the Plantations
and for other matters that shall be referred to them, and that
they proceed to hear and examine such Causes as have been
referred to Committees of the Council by His late Majesty
and Report the same with their opinion thereupon to His
Majesty at this Board. [p. 34.]

1727.

[The order is repeated.]

[p. 121.] 20 Sept.

His Majesty in Council was this day pleased to Appoint all the Lords and others of His Most Honourable Privy Council, or any three of them to be Commissioners for Receiving Hearing and Determining of Appeals from any Sentences already made, or that shall hereafter be made in the Cases of Prizes, either in Courts of Admiralty of Great Britain, or in the Plantations in America—And His Majesty was thereupon pleased to order that one of His Principall Secretarys of State Do Cause a Warrant to be prepared in the usuall manner for His Majestys Royall Signature for passing a Commission under the Great Seal of Great Britain for this purpose.

20 Sept.

[p. 121.]

[125.] [Reference to a Committee of a report of the Board of Trade on the complaints of the South Sea Company and of the merchants trading to Jamaica against duties laid in Jamaica on the importation and exportation of negroes.]

5 July.
Jamaica.

[p. 36.]

[Two representations from the Board of Trade, with drafts of commissions and instructions for Major General Hunter to be Governor of Jamaica, are referred to a Committee.]

29 July.

[p. 54.]

[The Committee recommend that the 22nd article of Governor Hunter's instructions, which relates to the passing of laws for laying duties on the importation and exportation of negroes, be omitted for the present, and that copies of the papers, and of the report of the Board of Trade upon them, be delivered to Hunter, who is to inquire into the facts in Jamaica, and transmit a true state of the affair in order to the forming a proper instruction thereupon: that in the 32nd article an alteration be made to remove the restriction preventing the Governor from receiving the benefit of any Act settling an additional salary on him until it shall have received his Majesty's approbation, Mr. Hunter having appeared before them, and represented that no such restraint

2 Aug.

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is imposed by his instructions upon the Governor of Barbados : and that an Act for settling the north-east part of the island, passed in 1722, on which the Board of Trade reported favourably, 19 Feb., 1726, may be approved, as Hunter represents it] as being of great consequence to the Island and Tending to the Increase of the Numbers of white People and may also be a means of suppressing the Runaway Negroes who harbour in those uncultivated Parts of the Island.

[p. 57.]

5 Aug. [Orders accordingly.]

[pp. 61-3.]

2 Oct. [Reference to the Committee for Plantation Affairs of a representation of the South Sea Company praying to be heard on the Order of 5 Aug.]

[p. 130.]

26 Oct. [Committee for Plantation Affairs. On considering the petitions of the South Sea Company and of the Bristol merchants, the solicitor for the Jamaica merchants against the petitions acquainted their Lordships that the Attorney and Solicitor General, who were their counsel, could not possibly attend. The hearing was fixed for 31 Oct. the South Sea Company and the Jamaica merchants to have copies of the Bristol merchants' petition.]

[p. 160.]

31 Oct. [Committee for Plantation Affairs. The representation of the Company asked for an examination in England, before Governor Hunter's departure, their most material evidences being in England. The Bristol merchants petitioning against the duty are the Master, Wardens and Assistants and Commonalty of the Society of Merchant Adventurers within the City of Bristol. After hearing counsel for both parties, and for the Jamaica planters in opposition to the taking off the said duties, the Committee recommend that the Order of 5 Aug. be vacated and an additional instruction prepared for Governor Hunter] Requiring him not to give his Assent to any Act of Assembly for laying a Duty upon Negroes landed in Jamaica for Refreshment only ; And that in any Case where part only of a Cargo is landed, the Duty shall be paid for such

part only as shall be landed in order to be disposed of there. But that the Assembly of Jamaica are to have Liberty to lay such Tax on the Negroes of the said Island bought there as they shall think fitt. [p. 161.]

1727.

[Orders accordingly.]

[p. 164.] 2 Nov.

[Additional Instruction for Gov. Hunter approved.]

13 Nov.

[p. 182.]

[Reference to a Committee of three petitions from (1) the merchants trading to Jamaica, (2) the Merchant Adventurers of Bristol, and (3) the merchants and shipowners of Liverpool against a Jamaica Act whereby a duty of 15s. per head is imposed on negroes imported and 30s. per head on negroes exported.] [II. p. 413.]

(1731.)
1 July.

[Referred by Committee to Board of Trade.]

(1731.)
7 July.

[II. pp. 426-7.]

[The Committee, on consideration of the report of the Board of Trade of 25 Aug., order the Board after hearing the merchants concerned to prepare draft instructions in accordance therewith for the Governors of the several colonies in America.] [II. p. 471.]

(1731.)
23 Nov.

[The Committee submit their report with the draft instructions. The report of the Board of Trade had set forth]:—That by the said Act a Duty of fifteen shillings per head is laid upon all Negroes imported into Jamaica and another of Thirty shillings for every Negroe that shall be exported from thence, or put on Board for exportation, excepting such Slaves only as have paid the Import Duty, and have not been sold in the Island since their Importation; and that this Act also imposes a Duty of one hundred pounds per Head on all convicts that shall be imported into Jamaica, and for the better discovery of the said convicts, a penalty of five hundred pounds is laid upon every Master of a Ship who shall either neglect or refuse to give an account upon Oath of the Number and Qualifications of the servants whom

(1731.)
1 Dec.

1727.

he imports within four days after his arrival, That the said Lords Commissioners further Reported, That the said Act so far as it relates to the Duties on Negroes is a Burthen upon the British Trade and Navigation, and contrary to Your Majestys additional Instruction to the Governor of Jamaica; By which he is forbid to consent to any Law upon any pretence whatsoever imposing a Tax upon Negroes imported into Jamaica, or Landed there for refreshment only, and that as to the other part of the said Act laying a Duty upon convicts the same is in direct opposition to an Act of Parliament past in the fourth Year of His late Majestys Reign, For the further preventing Robbery, Burglary and other Felonys and for the more effectual Transportation of Felons—Whereupon the the said Lords Commissioners humbly propose that in regard this is a Temporary Act and in all probability will have had its effect before an order for its repeale can reach the said Island, that therefore instead of repealing the same Your Majesty would be pleased to signify to the Governor of the said Island Your Majestys Dissatisfaction of this proceeding and to command him upon pain of Your Majestys highest Displeasure to adhere more strictly to his Instructions for the future—And at the same time absolutely to forbid him to give his assent to any Law imposing Duties upon Slaves imported into Jamaica payable by the Importer, or upon any Slaves exported that have not been sold in the Island, and continued there for the space of twelve months, and to forbid him likewise to give his assent to any Act whatsoever imposing Duties on the Importation of any Felons from this Kingdom into Jamaica.

[II. pp. 492-3.]

(1731.)

9 Dec.

[The instructions approved. P.R.]

[II. p. 499.]

(1732.)

2 June.

[Reference to the Committee for Plantation Affairs of the petition of the Merchant Adventurers of Bristol complaining of Governor Hunter of Jamaica] for having (contrary to his Majestys Additional Instructions lately sent to him) Given his Assent to an Act for raising severall Sums of Money and

1727.

applying the same to severall uses, whereby a Duty of ten Shillings a Head is laid on all Negroes imported and Twenty Shillings a Head on all Negroes exported, and humbly praying that the said Act may have His Majestys immediate Disapprobation, and that the said Governor may be Directed to adhere strictly to His Majestys said Additional Instructions of the 10th of December 1731. [II. p. 659.]

(1732.)
5 June.

[Committee for Plantation Affairs refer the petition to the Board of Trade before whom the said Act lies.] [II. p. 660.]

(1732.)
7 Sept.

[On considering a Board of Trade report of 3 Aug. on several extracts of letters from Gov. Hunter with an address of the Council and Assembly of Jamaica for the confirmation of an Act lately passed for raising several sums of money and applying the same to several uses, and for the revocation of the above instructions; and on considering also petitions of the South Sea Company and the merchants of London, Bristol, and Liverpool against the Act; the report and the Act are referred to the Committee.] [III. p. 45.]

(1732.)
7 Sept.

[Similar reference of a petition of Charles Delafaye and John Gregory, agents for Jamaica, to be heard by counsel in favour of the Act and against the instructions.] [III. p. 46.]

(1732.)
7 Sept.

[Committee appoint 5 Oct. to consider the report and petition.] [III. p. 57.]

(1732.)
6 Oct.

[Committee consider the matter and adjourn further hearing till 9 Oct.] [III. p. 63.]

(1732.)
9 Oct.

[The Committee consider the Act, the report, and the petitions of the Jamaica agents, of the South Sea Company and of the Bristol Merchants, and agree with the Board of Trade that the Act should be repealed and the instruction continued. The Act of 19 Jan., 1732, is entitled,] An Act for raising several Sums of Money and Applying the same to several uses, To empower the Receiver General to take up Money at Interest and appoint a Committee to Settle the publick Accounts during the Continuance of this Act.

1727.

[The Board of Trade report recites that they have considered the extracts of the Governor's letters, petitions from the South Sea Company and other merchants complaining of the Governor for assenting to the Act, that they have heard counsel,] And that it did appear to them by the said Act . . . that a Duty is laid of ten Shillings per Head on all Negroes Imported into Jamaica payable by the Importer altho' the property of the said Negroes should not be changed there and of twenty Shillings on every Negroe exported from thence—And that the said Act is conceived in such terms that whole Cargoes of Negroes tho' brought to Jamaica for Refreshment only, and not landed there, would be Subjected to the said Duty of Exportation if any part of them should be sold in that Island, which being directly contrary to Your Majestys former Instructions to Governor Hunter as well as that of the 10th of December last—The said Lords Commissioners are of Opinion, that the said Act ought to be laid before Your Majesty for Your Disallowance—And that in regard the said Instruction of the 10th of December is founded on the Principles of reason and Justice, and has been thought of such Importance to the British Trade and Shipping as to be made a General Rule for all Your Majestys Colonys in America—The said Lords Commissioners humbly propose that notwithstanding the Address of the Council and Assembly of Jamaica for the Revocation of this Instruction, the same may be continued. [p. 64.]

(1732.)

13 Oct.

[Orders accordingly disallowing the Act and continuing the instruction.] [p. 68.]

(1734.)

31 Jan.

[Reference to a Committee of a petition of the South Sea Company complaining of a Jamaica Act of 1 Aug., 1733] whereby a Duty is laid of ten shillings Current Money per head on all Negroes already imported in that Island tho not then sold and also on all Negroes to be imported and which should be sold in that Island, or the Property thereof any ways altered there to Continue for Twelve Months

for the 30th of July 1733 and to be payable by the purchaser which Act the Petitioner apprehends is not consistent with the Instructions given to the Governor of Jamaica And therefore humbly prays his Majesty will be pleased to repeal the said Act and give such further Orders touching the premises as may effectually prevent the like practice for the future. [III. p. 306.]

1727.

[Reference to the Committee of the petition of the London merchants trading to Jamaica,] that notwithstanding His Majestys repeated Instructions to Robert Hunter Esqr Governor of Jamaica He did in August last give his Assent to a Law Entituled An Act for raising severall sums of Money and applying the same to severall uses for Subsisting the Officers and Soldiers of the two Independant Companys preventing the Exportation of severall Comoditys into the French and Spanish Islands and Subjecting the Partymen to the Rules and Articles of War in force in this Island in the time of the last Martiall Law whereby a Duty is laid on Negroes that shall be imported into and Sold within that Island And humbly praying for the reasons contained in the said Petition that the said Act may be disapproved and that no Dutys be imposed or made payable either on the importation or Exportation of Negroes nor any unequall Taxes or other Hardships laid upon His Majestys Trading Subjects and that the 19th Article of His Majestys Instructions to the Governor of Jamaica may be strictly observed for the future. [III. p. 321.]

(1734.)
7 Feb.

[Committee refer the two preceding petitions to the Board of Trade.] [III. p. 387.]

(1734.)
22 Mar.

[Reference to the Committee of a petition of the South Sea Company for the repeal of Jamaica Acts of 1 Aug., 1733, and March, 1734, laying and continuing a duty on negroes imported and sold in the island, and for an instruction to prevent the passing of such Acts for the future.] [IV. p. 9.]

(1734.)
8 Aug.

[Reference to the Committee of the memorial of Governor Cunningham] praying in regard to the Great Expence the

(1734.)
24 Oct.

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1727.

inhabitants of that Island have been at for many Years past, in fitting out partys against their Slaves in Rebellion the many Difficultys the people now labour under in raising their Taxes and the Great Want of Currency thro the loss of their Trade in Generall to the Spanish Settlements since the Assiento Contract and the Annal Ship sent to those Parts by the South Sea Company, that His Majesty will be pleased to restore the Legislature of that Island to the Liberty of laying a small Duty on the Import and export of Negroes till they shall be in a Condition otherwise to raise the necessary Supplys.

[IV. p. 20.]

(1734.)

1 Nov. [Committee refer the petition and the memorial to the Board of Trade.]

[IV. p. 26.]

(1734.)

19 Dec. [Reference to the Committee of (a) a petition of William Wood in behalf of the merchants of London, Bristol and Liverpool, and (b) a petition of the South Sea Company, both praying to be heard against Governor Cunningham's memorial and to have a copy of the Board of Trade report.]

[IV. p. 50.]

(1735.)

13 Jan. [Committee. All parties to have copies of the report and of the petition of the South Sea Company.]

[IV. p. 82.]

(1735.)

4 Mar. [Committee. The report and petitions to be heard on 13 March.]

[IV. p. 110.]

(1735.)

7 Mar. [Committee. The petitions to be heard on Friday next.]

[IV. p. 119.]

(1735.)

18 Mar. [Committee hear counsel and postpone further consideration to another day.]

[IV. p. 119.]

(1735.)

10 May. [The Committee, being of opinion that the instruction of 10 Dec., 1731, may be dispensed with in regard to the present circumstances of the island, and that a reasonable duty may be imposed in such manner that no more shall be paid for negroes purchased by the South Sea Company than for those purchased by the inhabitants of the island, order the Board of Trade to prepare a draft instruction accordingly.]

[IV. p. 158.]

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[Committee report with the draft of an instruction.]	1727. (1735.)
[IV. p. 178.]	18 June. (1735.)
[The instruction approved.]	9 July.
[IV. p. 197.]	

[126.] [Reference to a Committee of the] Representation and Petition of the General Assembly of the Province of South Carolina, praying for Severall reasons that His Majesty will be pleased to permit them to pass a Law for issuing out such Bills of Credit as already are or hereafter shall be paid into their Treasury and for applying the same towards repairing the Fortifications, and erecting Severall New ones as shall be thought necessary. [p. 37.] 5 July. South Carolina.

[Committee refer the petition to the Board of Trade.] 14 July.
[p. 48.]

[127.] [Reference to the Admiralty of the petition of Thomas Coram of London, gent., for employment in the service of the Navy or other recompense,] having been bred to the Sea from his Youth, and always much used to Shipping Navigation and Commerce, especially in and to His Majestys Northern Plantations in America wherein he hath Spent many Years of his time and much of his Substance by Steadily prosecuting his Endeavours for the Publick Benefit, without having had any Consideration for that Service. [p. 39.] 5 July. North America.

[128.] [Reference to the Board of Trade of the petition of John Elliot of Topsham for the office of Collector of the Customs for the town of Newbury in New England or other reward for] his good Services in Engaging and taking Seven Sail of Sloops and Scooners manned with Indians who had been Cruizing upon the Banks of Nova Scotia in order to Destroy the Fishery and Murder the People who belonged to them. [p. 46.] 5 July. Nova Scotia.

[The following Report of the Board of Trade is approved and transmitted to the Treasury to do therein as shall seem proper.] Having discoursed with the Governors of Nova Scotia and New England, We take leave to represent to Your (1728.) 12 June.

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1727.

Majesty, that the Allegations in Mr. Elliots Petition according to our Information, are true, and that he has been of Service in protecting the Fishery at Canco.

And as We are informed that many pernicious Practices are carried on in the Towns of Newberry, Capan and Squam by reason of their distant Scituation from Piscataqua, where the Collector usually resides to the Great Detriment of Your Majestys Revenue, We have no objection why Your Majesty may not be graciously pleased to gratify the Petitioner according to his Request. [p. 313.]

29 July.
Virginia.

[129.] [Reference to a Committee of a report of the Board of Trade on the petition of Colonel Spotswood] for an Explanation of an Order made by their Excellencies the Lords Justices on the 6th of August 1723, whereby no one Person is to possess above one Thousand acres of Land in either of the two New Counties lately erected there. Apprehending that thereby he will be in danger of loosing the greater part of his possessions.

[p. 55.]

(1728.)
6 June.

[Committee for Appeals, Complaints, &c., from the Plantations.] Report of the Board of Trade on Colonel Spotswoods Petition for a remission of Quit Rents for his Lands in Virginia togeather with some Observations of Colonel Spotswood thereupon. Read. Lord President will Speak to Lord Townshend and Sir Robert Walpole about it.

[p. 308.]

(1728.)
14 Dec.

[Committee on hearing the agent for Virginia and counsel for Col. Spotswood, report] That in the Year 1720, the Assembly of Virginia (upon a Discovery of two passes in the great mountains which lye to the Westward of the Inhabited part of that Colony, being Sensible of the great Consequence it would be to Your Majestys Dominion in those parts to seoure those passes against the Attempts of the French to possess themselves thereof, as likewise to prevent the Incursions of the Northern Indians; past a Law to Erect two New Countys, Stretching from their outward Settlements so as to take in the

said Passes, which were to be called the Countys of Brunswick and Spotsylvania, by which Law, certain Exemptions and Benefits were granted to Encourage the Peopling and Settling the same, And at the same time the Assembly Addressed Your Majestys late Royall Father to Grant a Remission of the Quit Rents of the said two New Countys, for the Term of Ten Years and for Exempting the Takers up of Lands from the Five Shillings, which they were obliged to pay, for every Fifty Acres they Entered for.

Which Address the Lords Justices in Council on the 6th of August, 1723, taking into Consideration and finding that it might be for the advantage of the Crown and the Security of the Colony, to Encourage the Settlement of the said two New Countys, were pleased to Grant an absolute Remission of the Rights in those Countys, and likewise a Remission of the Quit Rents for the Term of Seven Years to Commence the 1st of May 1721, and at the same time to order, that no one Person whatever should be allowed to take up more than one Thousand Acres of Land in his own or any other Name in Trust for him in either of the said two New Countys; But as before the making of this order it had been the Practice in Virginia for Persons to be at liberty to take up Lands without Limitation, as to the Quantity of Acres. It therefore happened that many larger Tracts than one Thousand Acres had been taken up by severall Persons and more especially in Spotsylvania County where Considerable undertakings were carried on for raising all manner of Navall Stores, pursuant to his late Majestys recommendation to Parliament on that behalf, And an Act passed for Encouraging the same, and Colonel Spotswood being deeply Engaged with severall other Partners for Carrying on that Design was possessed of Nine Tracts of Land by Patents passed before the Date of the said order in Council, making in the whole Eighty five Thousand and Twenty Seven Acres, But two of the said Tracts containing together Fifty Nine Thousand Seven hundred an Eighty Six Acres of new Land were not so regularly taken

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up and Patented as to give a good Title to them, by reason that neither Importation Rights were produced according to the Custom of that Colony at passing the Grants, nor was the Consideration Money mentioned in the Patents paid down as usual nor any Security given for the same, Altho' it does appear that some time afterwards he did offer to Enter into Bonds to become Answerable for the Importation Rights.

These Defects in the Title of Colonel Spotswood to the said Lands occasioned this humble application to Your Majesty praying a Confirmation of the said Grants, And at the same time also praying, that the aforementioned Order in Council, as to the Remission of Rights and Quit Rents for the Term of Seven Years be Extended to his said Lands in regard to his having done more than any other Person towards Peopling the County.

This being the State of the Case, and the Agent for the Colony of Virginia not offering on the part of the Government there to oppose the said application ; And their Lordships having Considered, that it may prove more advantageous to Your Majestys Revenue, that the Petitioner should continue in the Possession of Lands, on which he has already made Severall Improvements, rather than that they should be regranted to other Persons, who would not in that Case come in so soon to pay Your Majestys Quit Rents as Colonel Spotswood must of course do, the Remission prayed by him, being for Seven Years only from the 1st of May 1721, which is now expired ; And their Lordships having Considered further, that by the progress already made by Colonel Spotswood for the Settling and Peopling that County, the Ends proposed in Securing the Passes against any attempts of the Indians or others may be more Speedily and effectually answered by confirming the said Lands to him, than by leaving them to be regranted to other Persons who may not probably be willing, or at least not in so good a Condition to make such Settlements and Improvements as are now on foot there particularly with regard to Navall Stores—Their Lordships Do therefore agree

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humbly to Report as their opinion to Your Majesty, that no advantage should be taken of the Invalidity of Colonel Spotswoods Grants, but for the better confirmation of such of them as are defective the Governor of Virginia should be ordered to pass new and authentick Patents to him or his Assignes and that the Remission of Quit Rents which by the said order in Council was granted to the said two New Countys for Seven Years should be understood to Extend to the Petitioners two Tracts of Land which were last taken up in the said County of Spotsylvania containing Fifty Nine Thousand Seven hundred and Eighty six acres ; But in regard the Petitioner did offer to be bound to pay the usuall Consideration which is required in Virginia upon taking up of Lands :—Their Lordships are humbly of opinion, that upon passing the said Patents to the Petitioner or his Assignes He or they should produce or pay the accustomed Rights which remain due for the same. [pp. 412-6.]

[Order accordingly.]

[p. 430.]

(1729.)
1 Feb.

[130.] [Reference to the Committee for Plantation Affairs of the petition of Robert Byng, Receiver General of the Rights and Perquisites of Admiralty, that the instructions for the governors of plantations may be regulated in accordance with the 10th article of his own instructions, which] repeal the 33rd, 54th, or any other Article of the Instructions to the Governors and vice Admirals in the Plantations abroad, which directed them to have the Care of all Pyrates' effects.

3 Oct.
Plantations.

[p 131.]

[The petitioner setting forth] That the said Articles of the Governor's Instructions being so repealed And the Lawe of Pirates Effects which are Deemed to be Perquisites of Admiralty being transferred to the memorialist, He humbly prays in order to a due Regular receipt of this part of His Majestys Casuall Revenue [that instructions may be sent to the Governors : the Committee for Plantation Affairs order

26 Oct.

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the Board of Trade to make the instructions for governors of plantations conformable to the 10th article of Mr. Byng's instructions.] [p. 160.]

21 Nov. [Committee for Plantation Affairs recommend for approval the draft instruction prepared by the Board of Trade.]

[p. 184.]

14 Dec. [The instruction approved. P.R.]

[p. 189.]

2 Oct.
Jamaica.

[131.] [Reference to the Committee for Appeals of the petition and appeal of John Charnock of Guanaboe in the parish of St. John's, Jamaica, practitioner in physic, and others, from an order of the Governor and Council as a Court of Chancery, 2 May, 1727,] whereby the Petitioners Plea against the Person of the Chancellors Sitting to Determine a Cause between the Petitioner and Dorothy Lloyd, who is a near Relation of the said Chancellors and to whom the Petitioner alledges he is actually Attorney, was overuled.

[p. 132.]

4 Oct.
Carolina.

[132.] By the Right Honourable the Lords of the Committee appointed to consider of their Majesty's Coronation.

[Letter to Mr. Watson, agent for the proprietors, to attend the Committee for Plantations to-morrow at six in the evening in relation to the government of South Carolina.]

[p. 137.]

5 Oct. By the Right Honourable the Lords of the Committee appointed to consider of their Majestys Coronation.

Their Lordships are pleased to order that the Lords Proprietors of Carolina should attend next Thursday being the Day after the Coronation.

[p. 138.]

21 Nov. [Committee for Plantation Affairs. The Carolina Charter and all constitutions, orders and bye laws of the Proprietors relating to the nomination of a Governor, are referred to the Attorney and Solicitor General and are to be delivered to them by the Secretary to the Proprietors for their opinion] in whom the right of Nominating a Governor is vested, and how the same ought to be exercised.

[p. 186.]

[Committee for the Irish Bills and for Plantation Affairs. On consideration of the report of the Attorney and Solicitor General, and of a memorial of six of the Lords Proprietors offering to surrender their rights of sovereignty and of property in the soil for 2,500*l.* each, the matter is adjourned till 12 March.] 1727.
(1728.)
7 Mar.

[Committee for Plantation Affairs. The Lord President having] laid before their Lordships a letter Sent to the Lord Viscount Townshend giving information of great Tracts of Land which the said Proprietors have lately granted to themselves, as likewise to others—which have not been Settled or improved—whereupon their Lordships made the following order Vizt. (1728.)
12 Mar.

Their Lordships this day taking into Consideration a Petition of the Lords Proprietors of Carolina, proposing to Surrender to His Majesty, their Rights, both to the Sovereignty and Soile of the said Province, upon paying each of them 2,500*l.*, are hereby pleased to order, that the severall Queries hereto annexed, Be transmitted to the said Lords Proprietors in order to their returning an Answer thereto with all convenient Speed, And they are particularly to Specify therein what Grants of Lands they have made to themselves, or to any other Persons that are now unsettled And what Quantity of Lands are contained in such Grants.

Whether about the Year 1713, Eight Baronys were not ordered to be laid out for the Lords Proprietors in South Carolina, four to the Southward on the Entrance of Port Royall River, and four to the Northward on Winyaw River. And also the like Number of Baronys in North Carolina, and whether the same were not accordingly laid out.

Whether about the Year 1719 fifteen Baronys more, were not ordered to be laid out, on the River of Port Royall, as near as might be to that Town, and also the like Number in North Carolina, in order to make Eight Baronys a Peice, and whether the same were not accordingly laid out.

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If the same were not laid out, whether the Lords Proprietors, did not point them off a General Mapp of the Province and Reciprocally Granted them to each other And so become possest of Ninety Six Thousand Acres of Land each, Scituated on the best Navigable Rivers in the whole Province, and one third fronting to the Rivers—And if so Granted, in whose possession the said Grants now are.

Whether the Lords Proprietors have not refused to part with any uncultivated Lands even since the Year 1719 And whether since that time they have Settled any Lands themselves. [pp. 249-50.]

(1728.)

19 Mar.

[Committee for the Irish Bills and for the affairs of Carolina. After discoursing with the proprietors, and after discussing their written answer, and finding that they declare their intentions to surrender not only their joint right in the province but also their separate rights by virtue of any grants and to put the Crown entirely in their place,] The Lords of the Committee, observing by the Petition of the Proprietors, that they desire to be assisted in the Collecting their arrears of Quit Rents, thought proper to Direct the said Proprietors to Draw out a particular of all the said Arrears of Quit Rents which are owing to them ; As also an Account of what arrears are owing by them to the Officers in that Province, and lay the same before them at the next meeting of this Committee.

[p. 254.]

(1728.)

22 Mar.

[Committee for the Irish Bills and for the affairs of Carolina. The proprietors to attend with their accounts of quitrents, &c., next Tuesday.] [p. 269.]

(1728.)

26 Mar.

[Committee for the affairs of Carolina. Their Lordships] find the said Petition is Signed by six of the said Lords Proprietors, Vizt.—The Duke of Beaufort, Lord Craven, James Bertie and Henry Bertie Esquires Sir John Colleton Baronet and Archibald Hutcheson Esquire. And that they do thereby offer and propose to Your Majesty to accept from them an absolute and intire Surrender of their respective Shares and

Interest not only of the Sovereignty, but of the Right and property they have to the Soyle in the said Province of Carolina by virtue of the two Charters granted by King Charles the Second, praying that in Consideration of the said Surrender, Your Majesty will be pleased to Direct and Cause to be paid to the Petitioners each of them respectively the Sum of 2,500*l.*, without deduction ; And further praying that in regard they have great arrears of Quit Rents due to them thro' the great Disorders and Distractions of the Colony, That Your Majestys Governor or other Officer may be Directed to assist them in the Settling their Demands for the said Arrears. This Petition not particularly expressing what Quantity of Lands remained in the said Province hitherto undisposed of by the said Proprietor under their Charter which they so offer to Surrender ; and their Lordships being informed, that they had lately made Grants to each others of very Considerable Tracts of Land in the best part of the said Province, which Lands had not been anyways Cultivated and Improved Thought it necessary to Discourse with the said Lords Proprietors thereupon, who acknowledged, that they had within these ten Years, made Grants to themselves of Severall Baronys each Barony consisting of 1,200 Acres—But at the same time all the Petitioners Declared that they were willing and intended to make an entire Surrender not only of their Right to the Lands which they hold under their Charter But also of their Right to all the Lands which they hold under the said Grants, except only one Barony belonging to Sir John Colleton, which is now Settled and Improved by Sir John Colletons Son—And likewise that they intended to surrender all their Right and Interest in all Lands Granted to other Persons which by not being improved within the time limited in the said Grants or for any other reason would revert to them, And in all respects to put the Crown in their Place :—That as to the Condition made by the Petitioners that Your Majesty would be pleased to Give orders to Your Governor or other Officer to Assist in Collecting their arrears

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of Quit Rents, Their Lordships thought proper to Direct the said Lords Proprietors to lay before them an Estimate of all the arrears due to them, as also of what sums were owing by them to their officers which were to be paid out of the said Arrears ; By which Estimate it appears that the Sum of 9,500*l.* is charged or owing to them for the said arrears, and that the sum of 4,824*l.* 7*s.* 1*d.*, is due from them to their respective officers—But the said Lords Proprietors humbly proposed, that in case Your Majesty would be pleased to allow them the Sum of 5,000*l.* over and above the aforementioned Demand of 2,500*l.* to each Proprietor, They were willing to make over to Your Majesty their Right and title to all arrears and Demands whatsoever which they ever had or can have upon the Inhabitants of Carolina, and Charge themselves with the payment of all their Debts or Demands whatsoever within that Province :—Their Lordships taking into Consideration this Proposall of the Lords Proprietors as it is now explained, and reflecting what a Series of Calamitys this Your Majestys Province of Carolina has been exposed to from the irregular and Confused Government of the Lords Proprietors, and how many fruitless attempts have been made by the Interposition of the Crown to Redress the same, both in the Reigns of Her late Majesty Queen Anne and of Your Royall Father ; of how much Consequence the said Colony is to the Dominion, and Trade of Great Britain in those parts, It being the Southern Frontier to all Your Majestys Plantations on the Continent of America, and in what Danger of being lost by the Confessed insufficiency of the Lords Proprietors, to protect and defend it against its powerfull and Enroaching Neighbours, and that the Expedient of a Provisionall Governor, appointed by the Crown tho' at great Expence, has been found insufficient to Remedy the Evils Complained off :—Their Lordships are therefore humbly of Opinion, that it will be for Your Majestys Service to accept of the Surrender of the Lords Proprietors, upon the Terms proposed, as tending to the Improvement and better Settling of the said Colony,

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and the quietting the minds of Your Majestys Subjects there who have long expressed their uneasiness of being continued under the Government of the Proprietors and their earnest Desire of being under the happy influence of Your Majestys immediate Government and Protection. [pp. 269-70.]

(1728.)
28 Mar.

[The report approved and the Treasury ordered to consider of the properest methods to complete the same.] [p. 278.]

[133.] [Reference to the Committee for Appeals of the petition of George Heal of Virginia, gent., that, as the proceedings are now transmitted, a short day may be appointed for hearing his appeal from a judgment of the General Court, 26 Oct., 1725, in favour of William Ball, gent., in Ball's action to recover from him the moiety of one messuage and 450 acres of land in the parish of Fareham in the county of Richmond.]

13 Nov.
Virginia.

[pp. 182, 213.]

(1728.)
15 Aug.

[Order dismissing the appeal in accordance with Committee report of 2 Aug.]

[pp. 354, 361.]

(1729.)
1 Feb.

[Reference to the Committee for Appeals of Ball's petition for a short day for hearing his appeal from a judgment of the General Court held before the Governor and Council, 15 April, 1727, in favour of Heal.]

[p. 436.]

(1729.)
26 Mar.

[Order dismissing the appeal in accordance with Committee report of 3 March.]

[pp. 442, 460.]

[134.] [Reference to the Committee for Appeals of the petition of Samuel Page of Jamaica and his wife, Ann, that a short day be appointed for hearing their appeal from an order of the Chancellor of Jamaica, 21 Nov., 1726, in favour of Thomas Samms granting an injunction to stay their proceedings at law against Samms for recovering some bonds and arrears of an annuity.]

13 Nov.
Jamaica.

[p. 182.]

(1729.)
19 Nov.

[Order, in accordance with Committee report of 12 Nov., dissolving the injunction in part and directing that the hearing of the case be speeded.]

[II. pp. 74, 80.]

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13 Nov. [135.] [Reference to the Committee for Appeals of the petition of Charles Paine, Esq., and Jennet his wife, Nathaniel Paine and Christian his wife, and Margaret MacArthur, spinster, for leave to appeal from a judgment of the Governor and Council of St. Christopher as a Court of Errors, 25 Nov., 1724, in their action to recover a plantation in the parish of St. Anne Sandy Point from Anne De Witt, since deceased, Dorothy Bontinan, and Elizabeth Guithen, widows.] [p. 182.]
St. Christopher.
- 14 Dec. [Order admitting the appeal on the Committee report of 21 Nov. Leave to appeal had been refused by the Governor and Council on the pretext that the value was under 500l.; an affidavit is produced from Thomas Butler, counsel for the petitioners in the case, that he had offered in open court to give the respondents 500l. for the lands in case their title was held good, besides paying the costs and damages awarded.] [pp. 185, 189.]
- (1729.)
23 June. [Committee.] The Counsell for the Respondents objected against the entering into the Merits of this Appeale in regard the term of Years laid in the Action of Trespass and Ejectment was Expired, and that any orders to be made by Your Majesty herein would be ineffectuall, and the said Respondents Counsell at the same time, refusing to agree to an Enlargement of the said term, Their Lordships did not think it necessary to Enter into the Merits of the said Appeale; But Do agree to Report as their opinion to Your Majesty that the said appeal should be Dismist, without prejudice to the Appellants bringing a New Action of Ejectment—And that either Party should be allowed liberty to appeale from the Judgment to be given thereupon, who shall demand it, on giving the usuall Security; And their Lordships are further of Opinion that the Bond Entered into for the Appellants prosecuting this Appeale, should be Discharged. [pp. 206, 218; II. p. 8.]
- (1729.)
26 June. [Order accordingly.] [II. p. 11.]
- 13 Nov. [136.] [The petition of John Greathead of St. Christopher complaining that William Matthew, Lieutenant Governor
St. Christopher.

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of the Leeward Islands, has removed him from his offices of Chief Justice of King's Bench and Common Pleas and Chief Baron of the Exchequer, and granted the same to Jeremiah Browne, Esq., and seeking to have a copy of the reasons for this action which have been transmitted by the Lieutenant Governor to the Board of Trade, and that the commission to Mr. Browne may be superseded; is referred to the Board of Trade, together with a copy of the protest of three of the Council of St. Christopher against Browne's appointment.]

[p. 183.]

[Committee for Plantation Affairs consider the matter and refer it to the Board of Trade, who are to give Greathead a copy of the reasons transmitted by the Governor.] 21 Nov.

[p. 187.]

[137.] [Appearance for Sir W. Codrington to the appeal of James Wetherill entered by Mr. John Sharpe, solicitor.] 13 Dec. Antigua.

[p. 187.]

[Reference to the Committee for Appeals of the petition of James Wetherill and Margaret his wife that a short day be appointed for hearing their appeal from an order of the Antigua Chancery, 10 April, 1727, whereby their plea in bar to Sir W. Codrington's bill against them for recovery of several negroes, cattle, &c., was not allowed.] 14 Dec.

[p. 192.]

[Order reversing the order, on Committee report of 21 May.] (1728.) 12 June.

And that the Appellants said Plea should stand for an Answer, with liberty for Sir William Codrington the Plaintiff in this Cause to take Exceptions thereto, and that the benefit of the said Plea should be saved to the hearing of the Cause Subject to the Determination of the said Court of Chancery thereon.

[pp. 306, 311.]

[138.] [An Antigua Act of 1719 for the better securing and confirming the title of George Thomas, nephew and heir to William Thomas, late of the said island, deceased, to certain 14 Dec. Antigua.

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lands and negroes purchased by the said William Thomas, with the representation thereon of the Board of Trade of 17 Nov., is referred to a Committee.] [p. 190.]

(1728.)

18 Jan. [The Committee for Plantation Affairs refer it to the Attorney and Solicitor General.] [p. 211.]

(1728.)

19 Nov. [The Committee recommend its confirmation, on the report of the Attorney and Solicitor General, and in regard there have been several instances of private Acts passed for the like purposes in Antigua which have been confirmed by the Crown.] [p. 389.]

(1728.)

23 Nov. [The Act is confirmed.] [p. 395.]

14 Dec.
Antigua.

[139.] [An Antigua Act of 1724 for constituting a Court to hold pleas of foreign attachments according to the custom of the City of London, with a representation of 6 Nov. from the Board of Trade for its confirmation, is referred to the Committee.] [p. 190.]

(1728.)

18 Jan. [Committee for Plantation Affairs refer it to the Attorney and Solicitor General.] [p. 211.]

(1728.)

19 Nov. [On receiving the report of the Attorney and Solicitor General, the Committee recommend disallowance, as the Act may occasion many inconveniences in commerce and may discourage the British merchants from giving credit to persons residing in Antigua, or from entrusting them with their effects.] [p. 389.]

(1728.)

23 Nov. [The Act is repealed.] [p. 394.]

22 Dec.
New York.

[140.] [A New York Act of Nov., 1726, for the easier partition of lands held in common and promoting the settling and improvement thereof and for confirming former divisions in the settled townships of this colony, together with a representation of the Board of Trade recommending its disallowance, is referred to a Committee.] [p. 204.]

(1728.)

18 Jan. [The Committee agree with the representation of the Board of Trade,] That there does not appear any essential reason for

constituting such an Extraordinary Method of proceeding for the partition of Lands held in Common as is prescribed by this Act, which is generall and extends to the whole Province, since the same purpose might be effected by Writts of Partition or private Acts where they should be found necessary, But on the contrary they conceive the said Act to be liable to many objections, some of the principal whereof are; That should this Act receive Your Majestys Royal Confirmation the Propertys of private Persons might be in great danger of being prejudiced not only by the Methods of Partition prescribed in the said Act, but for want of due provision therein for Minors and Persons under Disabilities.

That this Act would in great measure operate as a private Law, and thereby Your Majestys Instructions to the Governors requiring that due care should be taken in all private Acts to insert a saving of the Right of the Crown, and of other Persons therein mentioned, as also that publick Notification should be made of the Parties Intention to apply for such Acts, that all Persons concerned therein might be duly apprized thereof, would be Evaded, In which severall points the present Act is defective. But the Consideration of greatest Importance which the said Lords Commissioners for Trade represent in this Matter is, That they have reason to apprehend the principal design of this Act is to defraud Your Majesty of Vast Tracts of Land at present, held upon pretence of certain exorbitant Grants upon which very small or no Quit Rents are reserved to Your Majesty. And to this the said Lords Commissioners add, That altho' there be a Clause in this Act to prevent it's taking Effect till Your Majestys pleasure should be known concerning the same, Yet they humbly propose that Your Majesty would be pleased to signify Your Disallowance thereof that the like attempt may not be again renewed, It being an Instruction to Your Majestys Governors not to Re-enact any Law to which the Royall Assent has once been refused, without express leave for that

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purpose first obtained from Your Majesty upon a full Representation to be made by the said Governor of the reason and necessity for passing such Law. [pp. 210-11.]

(1728.)

15 Feb.

[The Act is disallowed.]

[p. 225.]

1728.

10 Jan.

Antigua.

[141.] [Reference to the Committee for Appeals of the petition of Nathaniel Gilbert of Antigua, merchant] praying that the appeal of William Byam Esqr. from a judgment given by the Governor and Council of Antigua as a Court of Errors, 22 July 1726, in favour of the Petitioners, may be dismissed with costs for non-Prosecution. [p. 206.]

15 Feb.

[Order dismissing the appeal with 5*l.* costs, on Committee report of 18 Jan.] [pp. 212, 227.]

18 Jan.

Appeals.

[142.] Their Lordships taking Notice that the Meetings of this Committee have been frequently put off for want of Counsel to attend, whereby great Delays have arisen in the Causes depending before them, to the obstruction of Justice and Detriment of the Suitors. Their Lordships are therefore hereby pleased to Declare and order that when a Day shall be appointed to Hear any Appeals or Complaints either from the Plantations or from the Isles of Jersey or Guernsey or for any other Cause or Causes depending before this Committee such pretence of want of Counsell shall not be allowed of, as a reason to defer the hearing thereof, Whereof all Persons concerned in Solliciting Causes before this Committee, are to take Notice, and Govern themselves accordingly. [p. 213.]

15 Feb.

Naval Stores.

[143.] His Majesty in Council . . Judging it highly necessary for the Service of His Navy that the Strictest care ought to be taken of [his woods in North America] and all proper encouragements given for the raising of them and all other Naval Stores, [refers to the Board of Trade a memorial from the Admiralty] proposing that Directions should be given for the better preserving them from Wast for the future And also for the Encouraging the Cultivating and Improving of Hemp Pitch and Tarr and all other Naval Stores. [p. 232.]

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[The report of the Board of Trade of 20 March is referred to the Committee for Plantation Affairs.] [p. 260.]

1728.
21 Mar.

[Committee for the Affairs of Carolina take the matter into consideration and agree with the Board of Trade,] that it would be absolutely necessary for Your Majestys Service, that the Surveyor of Your Majestys Woods should constantly reside in some of Your Majestys Plantations on the Continent of America ; And that the respective Governors should be Directed to be aiding and assisting to the said Surveyor in the Execution of his Duty :—But that as it is impossible for any one Person fully to Discharge his Duty to Your Majesty in so extended a Trust without proper Assistants :—Their Lordships therefore humbly propose that Your Majesty will be pleased to order, that the said Surveyor should be allowed two or more Deputys with competent Salarys for their Subsistence ; and that such Deputies should be Ship Carpenters by profession conversant in the use and value of Timber, and be appointed to attend this Service without loss of Time :—And their Lordships further humbly Report to Your Majesty, that when Colonel Philips was appointed Governor of Nova Scotia, It was thought proper order to Secure a lasting Store of Timber for the Service of the Royall Navy in those parts, free from any Contests occasioned by intermixture with private property, to inserte the following Clause in the Instructions given to him vizt.—That certain Tracts of Land found upon Survey to be most proper for producing of Masts and other Timber for the use of the Royall Navy, and lying contiguous to the Sea Coast or Navigable Rivers, should be reserved for Your Majestys Service, And the said Governor was forbid to make any Grants of Lands till such Tracts should have been Marked out, and Set apart for Your Majestys Use, not amounting to less than 200,000 acres in the whole ; In which he was Strictly to forbid all the Inhabitants of Nova Scotia or others, to Cut any Trees of any Dimensions whatsoever upon pain of Your Majestys highest Displeasure and of the

26 Mar.

1728.

utmost Penalty the Law could inflict.—As this appears to be a matter of very great Consequence to Your Majestys Service, and has not been yet put in Execution: The Lords of the Committee agree with the Lords Commissioners for Trade to propose to Your Majesty that the Surveyor General of Your Majestys woods should be Directed without loss of Time to proceed to Nova Scotia and to execute Your Majestys Orders in this particular. [pp. 271–2.]

28 Mar. [Orders in accordance with report of 26 Mar. Instruction to be prepared for governors of plantations to assist the surveyor and his deputies.] [pp. 278–9.]

12 June. [Instructions approved for Governors of New Hampshire, Massachusetts Bay, Rhode Island, Connecticut, New York, and New Jersey. P.R.] [p. 312.]

6 Nov. [Reference to the Board of Trade of a letter from the Admiralty to the Duke of Newcastle with a copy of one they had received from the Commissioners of the Navy with one to the said Commissioners from Mr. Gulston, the contractor for New England masts,] whereby it appears that there hath been of late Years such great wast made of the White Pine Trees in the Province of New Hampshire that it has been found impracticable to procure Masts from thence for the use of His Majestys Navy, And for want of a Fort at Casco Bay whither they are forced now to Send for Trees, the Persons who have been Employed in that Service have been forced to retire and to quit their Work—And therefore proposed as well for the Protection of such People, as for the Encouragement of others to go and Settle there that a Fort should be built at the said Bay. [p. 381.]

(1729.)

26 Mar.

To a Committee of the Lords of His Majestys most Honourable Privy Council [are referred two reports of the Board of Trade of 15 Jan. and 21 Mar., respectively (1) upon a memorial from the Admiralty concerning the building of a fort at Casco Bay to protect the persons employed in cutting

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timber for the use of the Navy, and (2) upon the memorial of David Dunbar, Surveyor of the Woods in America, concerning the settling some Irish and Palatine families in Nova Scotia.] [p. 462.]

(1729.)
19 April.

A Committee [(1) agrees with the Board of Trade that building a fort would be too great an expense for a temporary service and that the ends proposed would be answered by directing the Admiralty to instruct the commanders of ships on the New England station to protect those engaged in cutting timber from all incursions of the Indians or others: (2) on considering the report on Dunbar's memorial] which petition sets forth, that severall Protestant Familys from Ireland who had Settled themselves some Years since in the Province of Maine where they had made severall Improvements had been obliged by the Councill and Assembly of New England to abandon the same, And that they were desirous of Setling themselves on the East side of Kennebeck River within the Government of Nova Scotia, where they propose to Build a Town, if proper Lands were assigned them, for which they are willing to pay a Quit Rent to His Majesty And that about Five hundred Palatine Familys are desirous of Transporting themselves thither on the like Conditions :—The Lords of the Committee this day took the said Report into their Consideration and Observing that the said Lords Commissioners proposed the Setling the said Familys near Annapolis Royall or Canco—Thought proper to discourse with Colonel Dunbar thereupon—Who informed their Lordships that these Familys having Cattle Stock and Materials to Carry with them, they will not be prevailed upon to go so farr an Annapolis to make their Settlements which being above 100 Leagues farther than the Place they have proposed to Settle at, the charge of Transporting themselves thither, would be to great for them to bear, and that at the said Place proposed by them, there are the remains of an Old Town which would be of great help towards their Speedy Settling there :—In regard whereto,

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the Lords of the Committee are hereby pleased to referr back the said Report to the said Lords Commissioners for Trade and Plantations to reconsider the same, and Report to this Committee, whether they have any, and what Objections against Setling the said Familys in that part of Nova Scotia proposed by Colonel Dunbars Memorial; But in Case they should have none, that then they do Consider and Report, whether it may be most advisable for His Majesty to put them under the Government of Nova Scotia, or in regard to its great distance from Annapolis, to appoint a particular Governor over them; and that the said Lords Commissioners do at the same time lay before this Committee, a Draught of such Rules and Instructions as they shall think proper to be Given to such Governor for granting of Lands and Giving other Encouragements for Setling the said Familys accordingly. [pp. 479-80.]

(1729.)

14 May. . [Committee. Report (2) of Board of Trade read.] Colonel Dunbar . . called in, and was acquainted that whatever orders are necessary to be given herein they may be sent after him—And that it was expected he should immediately Set Sail for New England, in Obedience to His Majestys pleasure signified severall times to him by the Lord viscount Torrington—whereupon he assured their Lordships he should be gone in three days, all his Goods being on Board—Ordered that the further Consideration of this Report, be putt off to the next Committee. [p. 497.]

22 May. [Order in accordance with report (1) of 19 April.]

(1729.)

[p. 504.]

23 June. [Committee for Appeals, &c. Report of Board of Trade on Col. Dunbar's proposal] to be considered when Lord Torrington is present. [II. p. 9.]

(1729.)

26 June. [Reference to the Committee of a letter of 12 May from the Admiralty to the Duke of Newcastle transmitting copies of letters to Mr. Dunbar from his agents in New England,]

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relating to the Destruction of the said Woods, and to the Difficulty the said Persons meet with in preserving such Trees as are proper for masting of Ships from the Inhabitants of that Country.

[II. p. 15.]

(1729.)

[The Committee refer the letter to the Board of Trade for examination and report.]

31 July.

[II. p. 39.]

(1729.)

23 Oct.

[The Committee consider two reports of the Board of Trade of 21 Mar. and 14 May on Col. Dunbar's proposal to settle in Nova Scotia some Irish families now in New England and willing to remove thence and also some Palatine families to be brought from Germany by one Mr. Hintz ;] and their Lordships observing that the first of the said Reports was made upon a Supposition that all the said Familys were immediately to Settle at or near Annapolis and Canco, and the latter upon an Expectation that they would Settle only between the Rivers Kennebeck and St. Croix—And their Lordships being of Opinion that it would prove of great Service to His Majesty and the Strengthening his Government in Nova Scotia if Settlements were made, not only in that part of Nova Scotia between the Rivers Kennebeck and St. Croix but also at Annapolis and Canco, are hereby pleased to order that both the said Reports be Referred back to the said Lords Commissioners for Trade and Plantations to reconsider the same, and to Discourse further with Mr. Coram and Mr. Hintz about the Methods of Setling the said Familys and to adjust with them the severall Conditions upon which the Palatines are to be Encouraged to Settle at or near Annapolis and Canco—And likewise to Consider upon what Terms the said Irish Familys are to be Encouraged to transplant themselves from New England to the Lands between the Rivers Kennebeck and St. Croix :—And the said Lords Commissioners for Trade are likewise to Consider of making a due provision for Support of a Pastor in each of the said Places and to prepare a Draught of such Instructions as they shall think proper to be sent to the Governors of Nova Scotia

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for this purpose it being their Lordships Opinion that all the New Settlements to be made in Nova Scotia shall be under His Majestys Governor of that Province, and they are to insert in the said Draught an Article requiring the said Governors to Supply the Surveyor General of the Woods with Forty Men from the Garrison of Annapolis for the better protecting him and his Assistants whilst they are in the Woods upon His Majestys Service—And the said Lords Commissioners for Trade are likewise to prepare proper Instructions for the Surveyor General of the Woods requiring him to proceed forthwith to Sett out Two hundred Thousand Acres of Wood within the said Province of Nova Scotia for His Majestys Use. [II. pp. 65-6.]

(1729.)

8 Dec.

[The Committee approve and order that drafts of instructions for the Governor of Nova Scotia and Col. Dunbar be prepared in accordance with the method proposed in the report of the Board of Trade of 4 Dec.] [p. 105.]

(1730.)

18 Feb.

[The Committee, on consideration of the draft of instructions,] considering that the power of Granting Lands within the said Province is vested in Governor Philips by His Majestys Commission under the Great Seale of Great Britain are therefore pleased to referr back the said Draught of Instructions to the said Lords Commissioners for Trade, who are to alter the same by authorizing Colonel Dunbar to lay out the Lands for the New Setlers and reserving the power to Governor Philips (according to his Commission) of making Grants for the same; And the said Lords Commissioners are to add a Clause in the said Instructions Requiring Governor Philips to Furnish Colonel Dunbar out of his Garrison with such a Number of Soldiers as will be necessary to Protect him whilst upon the Service for Setting out the Woods for the use of the Navy. [II. p. 167.]

(1730.)

15 April.

[The Committee approve the drafts of instructions and present them for his Majesty's approval. The Irish settlers,

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who were protestants, had occupied and improved lands in Maine, and being obliged by the Council and Assembly of New England to abandon the same, were desirous of settling on the east side of the Kennebec river between the Penobscot and the St. Croix, on lands for which they were willing to pay a quit-rent: the 500 Palatine families were inclinable to settle in any other part of Nova Scotia, and it was proposed to settle them at Annapolis and Canso.]

[II. p. 222.]

(1730.)

[Instructions for Gov. Philips and Col. Dunbar approved accordingly. P.R.]

20 April.

[II. p. 228.]

(1730.)

[Committee: his Majesty having referred to the Committee a report from the Admiralty to the Duke of Newcastle upon a letter from Colonel Dunbar suggesting that to give to the informer his Majesty's share of the penalty would have a good effect, and the Board of Trade having reported to the Admiralty that they have no objection, it is ordered that an instruction be prepared for the Governor of New England for granting to the informer his Majesty's share of the penalties for destroying his Majesty's woods. Both the Governor and Col. Dunbar are required in the strictest manner to take especial care that this encouragement do not induce the waste rather than the preservation of the woods, by collusion between the informer and the persons who shall be prosecuted.]

3 June.

[II. p. 240.]

(1730.)

[Committee. The draft of the instruction is approved and it is ordered to be prepared for the governors of all the plantations named in the Act of 8 George I, and again submitted to the Committee.]

4 July.

[II. p. 254.]

(1730.)

[Committee recommend approval of the instructions.]

9 Sept.

[II. p. 269.]

(1730.)

[Instructions accordingly approved for the Governors of New York, New Jersey, Nova Scotia, Massachusetts Bay and New Hampshire and for the Governors and Companies of Rhode Island and Connecticut. P.R.]

17 Sept.

[II. p. 272.]

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26 Feb. Barbados. [144.] [Reference to a Committee of the petition of Samuel Barwick to be restored to his place in the Council of Barbados which since his suspension has been kept open for that purpose. He alleges that he was suspended for not having made up his accounts as Receiver General of the Casual Revenues in Barbados with the Auditor General of the Plantations, but that he settled and closed these accounts on 10 July 1725.] [p. 241.]
- 7 Mar. [Committee for the Irish Bills and for Plantation Affairs. Barwick was suspended on 19 Jan., 1719, on the representation of Horatio Walpole, Auditor General of the Plantations, that his accounts appeared to be imperfect and irregular and that his authority or influence as one of the Council might be means to delay or obstruct his giving in a fair state of his accounts. Mr. Walpole representing that the petitioner has now rendered his accounts, it is recommended that he be restored to his place.] [p. 248.]
- 21 Mar. [Order accordingly.] [p. 260.]
- 29 Feb. St. Christopher. [145.] [An Act of June 1727 against covenous and fraudulent conveyances and for a public registry in the island of St. Christopher, with the representation of the Board of Trade thereon, is referred to a Committee.] [p. 244.]
- 6 June. [The Committee consider the Act and the petition of Wavill Smith and Savile Cust who enjoy the office of Secretary of the Leeward Islands by letters patent and would lose their profits from the Registry of Deeds and Patents in the Secretary's Office if the Act were confirmed. As the main objection to the Act is the loss of a small casual profit to the petitioners, it is recommended that this should not stand in competition with so great and general a good as in all probability will result to the inhabitants and commerce of the island.] [p. 308.]
- 12 June. [The Act is confirmed.] [p. 310.]
- 21 Mar. Montserrat. [146.] [Reference to the Committee for Appeals of the petition of Bartholomew Lynch and Margaret, his wife, relict and

administratrix of John Gallway deceased and mother of David Gallway, that a short day be appointed for hearing their appeal from two orders of the Montserrat Chancery, 13 and 20 July, 1727, in a case between the petitioner and David Gallway.] [p. 261.]

1728.

[Order dismissing the appeal with 5*l.* costs in accordance with Committee report of 4 Dec.] [pp. 407, 430.]

(1729.)
1 Feb.

[147.] [An Act passed in St. Christopher in Dec., 1727] for Repealing an Act of this Island (Intituled An Act for Settling the sum of Two Thousand pounds per Annum of Currant Money of the Island of St. Christophers during the Term therein mentioned upon his Excellency John Hart Esquire the present Chief Governor of all His Majestys Leeward Charibee Islands in America, for the more Honourable support of the said Governor and the Dignity of His Majestys Government) and for appropriating the Moneys payable thereby to his said Excellency from the Twenty fifth day of June one Thousand Seaven hundred and Twenty Seaven and for Declaring in what Specie the Duty commonly called the three Shillings Duty shall be hereafter paid, [is referred to the Board of Trade, with a petition from Governor Hart against it]. [p. 300.]

11 April.
St.
Christopher.

[The Act is disallowed in accordance with their report] that the same ought to be Repealed in regard it is Derogatory to the Prerogative of the Crown, Injurious to the property of the Subject, against Law, in Direct opposition to His Majestys Royall Instructions whereby the Governor is Directed not to Give his Consent to any Act that shall Repeal any other that has had the Royall Assent, without having first transmitted the Draught thereof for His Majestys approbation unless he take Care, there be a Clause inserted therein, Suspending the Execution thereof untill His Majesty shall please to confirm the same. [p. 311.]

12 June.

[148.] [The commission for Henry Worsley to be Governor of Barbados is approved. P.R.] [p. 302.]

18 April.
Barbados.

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4 July. [A representation of 27 April from the Board of Trade with drafts of instructions for Governor Worsley is referred to a Committee.] [p. 335.]

11 July. [The Committee report] that there appears to be no other alterations made in the said Draughts of Instructions, from those which were given to the said Governor, in his late Majestys Reign, that what your Majesty hath been already pleased to approve in the Instructions to the Governors of your Majestys other plantations, except only the 21th and 22th articles the first of which being to restrain a power which the Assembly of Barbados, have assumed to themselves of adjourning for what time, and to what place they thought fit, without the Governors consent ; and the other to restrain the said Assembly from choosing a Speaker pro tempore, without presenting him to the Governor for his approbation, which Powers their Lordships conceive necessary to be given to the said Governor and proper to be approved by Your Majesty : And their Lordships beg leave humbly to propose to Your Majesty, that for the obviating any Doubt which might happen to arise about the Governors Power of continuing to receive the additional Salary Settled upon him by Act of Assembly pursuant to the Instructions of Your Majestys late Royall Father [a clause may be added to the 28th Article, whereby he may continue to receive the said additional salary settled on him by the said Act, anything to the contrary in these instructions notwithstanding.] [p. 337.]

25 July. [Instructions as amended approved. P.R.] [p. 343.]

6 June. [149.] By the . . Committee for hearing Appeals Complaints
Plantation &c. from the Plantations. Upon Consideration of a Report laid
Trade. this day before their Lordships made by Mr. Attorney and Sollicitor General to the Lords of Trade relating to an Article in the General Instructions to the Governors of His Majestys Plantations in America directing them to Notify to His Majestys Subjects under their Government the purport of the 5th and 6th Articles of the Treaty of Peace concluded

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between England and France in 1686, and directing the said Governors to take particular care that the same be punctually observed and put in Execution—And their Lordships observing that the Governors have so farr mistaken the Sense of the said Articles and their Instructions grounded thereon as to proceed to the Condemnation of the Ships and Cargoes belonging to His Majestys Subjects under pretence of their having Contravened the said Articles by Trading to the French Plantations, which was not the Sense of those Articles, which could only entitle His Majestys Governors to Condemn French Ships Trading to our Plantations there being no Law to Justify the Condemnation of Ships belonging to His Majestys Subjects for such Trade: Their Lordships are therefore pleased to Order, that the Lords Commissioners for Trade and Plantations, Do Consider of a proper Instruction to be prepared for His Majestys approbation whereby those Articles may be Explained so as to prevent the like mistakes for the future. And that they likewise Consider what Laws it may be reasonable to pass in the Severall Plantations for restraining his Majestys Subjects from Importing into the British Plantations such products of the French Plantations as may interfere with the British Trade and lay the same before this Committee. [pp. 307–8.]

[150.] [Reference to a Committee of the petition of the Duke of Montagu for a grant of the island of Tobago in lieu of St. Lucia and St. Vincent, and of a report of the Board of Trade thereon.] 12 June. Tobago. [p. 312.]

[The Committee consider the petition and report and also a draft of the desired grant prepared by the Treasury, and refer them to the Attorney and Solicitor General for their opinion.] 29 June. [p. 322.]

[A Committee of the Council.] Report of Mr. Attorney and Sollicitor General with a Draught of a Grant to the Duke of Montague of the Island of Tobago—Read and postponed to a further time. 19 Nov. [p. 388.]

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12 June.
Bahamas.

[151.] [Reference to a Committee of a representation of the Board of Trade, 10 Nov., 1726, on the state of the Bahama Islands.] [p. 313.]

20 July.

[Committee for Plantation Appeals and for the Affairs of Jersey and Guernsey report their agreement with the recommendations of the Board of Trade, whose representation is as follows:] Having received Severall Letters from Captain Phenny Your Majestys Governor of the Bahama Islands in relation to the Nature and Consequence of those Islands to the Plantation Trade, and to the advantage they would be of were they effectually Settled, and proposing as the first means to encourage People to go and Settle there, that an Assembly may be appointed, that they may as in other Colonies pass Laws for the good Government of the whole, We have had the said Letters under Consideration, and as We find that without an Assembly, it is impossible for them to raise a Revenue Sufficient to answer the common Expences of the Government, or to put their Islands in any tolerable posture of Defence, We humbly take leave to propose that Your Majesty may be graciously pleased to Give the Governor Power to call an Assembly consisting of twenty four Members to be chosen by a Majority of the Inhabitants in the following Places respectively, Vizt. Eight Members to be chosen for the Town of Nassau which is the chief Town of the Bahama and the Seat of Government, four for the Eastern Distriot, Four for the Western, Four for the Island of Eleutheria and Four for the Harbour Island.

The effectual Settling of these Islands being of the greatest Consequence to the American Trade, We humbly take leave at this time, to give Your Majesty some account of their Scituation, and of the necessity of Fortifying them.

These Islands are Scituated between the Windward and Leeward passage from the West Indies, and lye about the 25th Degree of Northern Latitude, and were they once effectually settled and fortified, they would not only be a

proper and safe Retreat in time of War for all our Cruisers, but would be the best place of Rendezvous for speaking with all homeward bound Ships either from the French or Spanish West Indies.

But were these Islands to fall into the possession of any other Nation it would produce the quite contrary Effect, to the Ruin of Your Majestys Island of Jamaica especially.

For which reason, We humbly take leave to lay before Your Majesty a List of such Stores of War, as have been represented to Us by the Governor, to be necessary to put these Islands in a Condition to Defend themselves in case of any Attempt.

To this We would humbly beg leave to add, that the Spaniards have always looked upon these Islands with an Evil Eye, they have frequently Claimed them as their property, and have made severall Attempts to prevent the Settling of them by Your Majestys Subjects, which has deterred many from fixing there, nor is it to be expected that these Islands should be well Inhabited till such Persons as should be disposed to go there, are Satisfyed that there is Strength Sufficient to Secure them, Your Majesty has only one Independant Company in these Islands at present, and we would humbly Submit whether it be not for Your Majestys Service to send another thither for the Protection of the present Inhabitants, and for the encouragement of other to Settle there. And the Lords of the Committee haveing heard Sir Charles Wager one of the Proprietors of the said Islands touching the supply of Stores Represented by the said Governor as necessary to be sent over to put those Islands in a posture of Defence ; He acquainted their Lordships that the Proprietors had expended a very considerable Sum in raising of Fortifications and building of Forts for the better Defence of the said Islands, but that they were not in a Capacity to supply them with a Sufficient Quantity of Stores. And it having appeared to their Lordships, that the Board of Ordnance Did in His late Majesty Reign Send over Severall Stores of War

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of the said Islands, But that such of them as now remain, are not Sufficient for their Security as may appear by the List hereto annexed. Their Lordships are therefore humbly of opinion, that Your Majesty may be pleased to Direct the Board of Ordnance, to Send over such a supply of Stores as they shall think necessary for the Security and Defence of those Islands, which by their Scituation, are of so great consequence to the Crown of Great Britain and to the Trade and Navigation of His Majestys Subjects. [pp. 338-40.]

25 July. [Orders accordingly. A clause to be inserted in the Governor's commission directing the calling of an Assembly. The Board of Ordnance to consider the list of stores that have been sent to the Bahamas of what remains there and of what is wanting, and to report what] they conceive necessary and proper to be sent thither together with an Estimate of the Charge thereof. [p. 344.]

26 Sept. [The Ordnance estimate is approved, the stores ordered to be sent as soon as possible and the expense to be made an article in the next estimate prepared by the Board of Ordnance to be laid before Parliament. The details of the estimate (in all, 3,802*l.* 7*s.* 2½*d.*) are given in the Register.] [pp. 371-3.]

4 Dec. [Reference to the Committee of that part of the representation of the Board of Trade of 29 Nov. upon the draft of Captain Woodes Rogers' commission as Governor of the Bahamas which submits to his Majesty] whether it would not be for His Majestys Service and the Interest of Great Britain that the said Islands considering the great Consequence they are of, should be purchased from the Proprietors. [p. 403.]

(1729.)

14 Oct. [The Committee, on considering the proposal of the Board of Trade to purchase the Bahamas from the proprietors,] are pleased to referr the same back to the said Lords Commissioners to consider the value of the said Lands, and what sum may be proper to be given for them, And to enquire

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who are the present Proprietors thereof and what Methods are most proper to be taken towards making their said Proposall effectuall and Report the same to this Committee. [II. p. 61.]

(1731.)

10 Mar.

[The Committee, observing that mention is made in the report of the Board of Trade of 8 Sept., 1730, of] a Lease now subsisting from the present Proprietors which have eight Years yet to run empowering the Lessees or their assigns to make Grants of Lands in the said Island in perpetuity, [refer the report back to the Board of Trade to discourse with the lessees about the surrender of their interest and report to the Committee].

[II. p. 342.]

(1732.)

23 Mar.

[The Committee for Plantation Affairs consider a report of the Board of Trade of 9 March relating to the payment of 6,000 guineas to the lessees for the surrender of their lease and interests in the Bahamas,] And whereas their Lordships upon Considering the said Report do find that the severall Matters therein Stated are not supported by any proof or Evidence but are represented only as the Allegations of the said Lessees—Their Lordships think it proper hereby to referr back the said Report to the said Lords Commissioners to take proof and Evidence of all the Matters Alledged in the said Report and of such others as the said Lessees shall lay before them in order to make appear what benefit and advantage will arise to the Crown from the purchase of the right of the said Lessees And that the said Lords Commissioners do inform themselves of the true and exact Yearly amount of the Quit Rents paid to the Lords Proprietors of these Islands—And Report to this Committee a full State of this Affair together with their Opinion as to the Advantages that may arise to the Crown from the Purchase of the Rights both of the Proprietors and Lessees.

[II. pp. 620–1.]

[152.] [Reference to the Duke of Argyll, Master of the Ordnance, of the memorial of John Pitt, Lieutenant Governor of Bermuda and Captain of the Independent Company there, praying orders for 50 muskets with bayonets, 2 halberds,

12 June.
Bermuda.

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1 drum, 50 cartridge boxes and bedding for the Company to replace stores that have become worn out and unserviceable.]

[p. 313.]

12 June. [153.] [Reference to a Committee of the petition of Margaret
St. Christo- Bridgewater, Sarah Brown, Richard Halurane and Elizabeth
pher. his wife, late Elizabeth Liswell, all of St. Christopher, planters,
to be heard as to a grant of lands there now passing to Robert
Cunnyingham, Esq.,] in which Grant the Petitioners allege
there is included severall parcells of Land which they have held
of the Crown for some time and been at a great Expence in
improving. [p. 315.]

12 June. [Similar reference of a like petition of Thomas Pilkington
merchant and Parnal his wife, late Parnal Fenton [or Penton]
who allege that the proposed grant includes a lot which they
have held of the Crown for some time and which they have
lately contracted to purchase absolutely.] [p. 316.]

31 July. [Committee, on examining the grants to the first petitioners,
hearing what was alleged on either side, agreed to report]
that it appeared, The said Cunnyingham had obtained a Grant
of these Lands in His late Majestys Reign, wherein not only
the land in possession of the Petitioners but some others in
the possession of John Spooner Esquire were also inserted,
That thereupon the said Spooner came over and applyed
for liberty to carry on a prosecution for vacating the said
Grant, which his said late Majesty was pleased to permitt him
to do ; which prosecution it appears was commenced, not
only in the Name of the said Spooner, but also in the Names
of all the Petitioners, That in order to stay such prosecution,
Mr. Cunnyingham Petitioned His said late Majesty in Council,
submitting himself to such Determination in this Affair, as
His Majesty should be pleased to make—Whereupon it appears
that on hearing of the said Cunnyingham and Spooner, His
Majesty was pleased to order that the said Prosecution should
not be Stayed, untill Mr. Cunnyingham should Surrender his
said Grant, And agree to accept a New one exclusive of the

Lands in the Possession of Spooner—And Their Lordships Do further Report, that the Agent for the Petitioners Did not make appear that the Petitioners had any other Grant of the Lands in their possession than what was Six Months later than the Date of the last recited Grant made to Cunnyingham—In regard whereto, and for that Mr. Cunnyingham hath Surrendered his said Grant and a New one is passing exclusive of the Lands in Spooners possession, and upon due Consideration of the whole proceedings in this Matter—Their Lordships are humbly of Opinion that the said Grant now Complained of by the Petitioners should not be passed to the said Mr. Cunnyingham untill such time as he hath given good Security to the Petitioners or their Agent for paying them the value of all such Buildings and Improvements which they or any under whom they Claim shall have made upon the Lands in Question, from the time of their first obtaining Grants in the usuall form from His Majestys Governors for such Lands ; The Money to be paid before such time as the Petitioners Deliver their Possession ; And the Valuation of all such Buildings and Improvements to be made according to the rules laid down by the Instructions Given to His Majestys Commissioners for the Sale of the French Lands in that Island, in Cases where any Persons purchase Land from the said Commissioners, who have not been the possessors and Improvers thereof—And their Lordships are further of Opinion that when the said Security shall be given as aforesaid, the said Mr. Cunnynghams Patent to proceed to Pass under the Great Seal.

[pp. 351-2.]

[Committee hear the parties concerned in the second 31 July. petition], and it appearing that the Petitioners have been in possession of a small Lott of Land in Bassaterre Town by virtue of Grants from the Crown, and that they have been at a very great Expence in Improving the same, and contracted with the Commissioners for the Sale of the French Lands for the Purchase of the said small Lott :—Their Lordships Do