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200 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1728.

therefore agree humbly to Report as their Opinion to Your Majesty that the said small Lott of Land now in the Possession of the Petitioners and which was formerly possessed by William Fenton and upon which Severall Improvements have been made both by the said Fenton and the Petitioners, and which hath been contracted for with the said Commissioners by the Petitioner Thomas Pilkington, should be excepted out of the Grant now passing to Mr. Cunnyngnam. [p. 352.]

15 Aug. [Orders in accordance with the reports of 31 July.]
[pp. 359-60.]

12 June. [154.] [Reference to the Board of Trade of the petition (and Barbados. annexed account of particulars) of Francis Whitworth, Secretary of Barbados, that his Majesty will be pleased to recommend to the government of that island] the payment of 1,333*l.* 12*s.* 6*d.* which the Petitioner alleges to be due to him for making out Copies and Duplicates of the minutes of Council, and all Acts of Assembly for His Majestys Secretarys of State and for the Lords Commissioners for Trade and Plantations and for other publick Services from the 2d of April 1719 to the 1st of March 1726. [p. 316.]

15 Aug. [On the report of the Board of Trade] that having discoursed with the Petitioner thereupon, He informed them that he hath not any Salary for Executing the said office of Secretary, and that the Proffits accrewing to him from his said Office, do only arise from such reasonable Fees as have for many Years past been usually taken in the said Office—And that therefore they are of opinion the Petitioners request is very reasonable, [it is ordered that the Governor and Council examine and settle the account and that the Assembly be recommended by the Governor to make immediate and puntual payment both now and in future]. [p. 362.]

(1738.)

6 April. [To the Committee for Plantation Affairs is referred Whitworth's petition, setting forth that in spite of the preceding order and the recommendation of the Governor, nothing has

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yet been done by the Assembly, and praying that the said order may be made] an Instruction to the Governor of the said Island and in his absence to the President of the Council for the time being to make out Orders from time to time for the Payment of such Services as shall be done by the Petitioner or his Deputy found Publick of the said Island. [V. p. 507.]

(1738.)
4 May.

[The facts being as stated, and the Council of Barbados, who had from time to time made out orders for the payment of the petitioner, having ceased to do so, the Committee] have no objection to Your Majestys Causing the said Order to be made an Instruction . . as desired by the Petitioner.

[V. p. 519.]

(1738.)
25 May.

[Order to the Board of Trade to prepare the requisite additional instruction.] [V. p. 543.]

(1738.)
20 July.

[The report of the Board of Trade, with the draft instruction, is referred to the Committee.] [V. p. 595.]

(1738.)
27 July.

[The Committee, after making some alterations (not specified) in the draft, recommend it for his Majesty's approval.]

[V. p. 605.]

(1738.)
31 July.

[The amended draft is approved. P.R.] [V. p. 613.]

[155.] [New seals for Massachusetts Bay, New Hampshire, New Jersey, and Bermuda are approved; draft warrants for transmitting them to the Governors, and for requiring the return of the old seals, are to be laid before the Duke of Newcastle by the Board of Trade for his Majesty's Sign Manual, and are then to be sent with the seals to the respective Governors.]

12 June.
Massachu-
setts Bay.
New Hamp-
shire.
New Jersey.
Bermuda.

[p. 317.]

[156.] [Reference to the Board of Trade of three petitions against a Virginia Act of 30 Mar., 1728, for laying a duty on slaves imported and for appointing a Treasurer—from several merchants of (1) London and (2) Liverpool trading to the coast of Africa and to the plantations, and (3) from the Incorporated

26 Sept.
Virginia.

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Society of Merchants in the City of Bristol. The Act lays a duty of 40s. per head on all negroes imported into the colony. [pp. 373-4.]

26 Sept.
Bermuda.

[157.] [Reference to the Committee for Appeals of the petition of Thomas Gates, late of Cork, late master of the brigantine *Fisher*, to be admitted to appeal on behalf of himself and of the owners and freighters from the condemnation of the vessel in the Admiralty Court of Bermuda, 30 April, 1728, for want of proper certificates and the qualifications required by Acts of Parliament.] [p. 374.]

4 Dec.

[Committee for Appeals recommend that the appeal be admitted on Gates' giving 100l. security.] [p. 408.]

(1729.)

1 Feb.

[Order accordingly.] [p. 431.]

1 Nov.
Piracy.

[158.] [On a memorial from the Admiralty of 15 Oct., one of the chief Secretaries of State is ordered to have warrants prepared for renewing the commissions to governors of plantations to try pirates issued in 1718 in pursuance of the Act of 11 and 12 William III with alterations in accordance with the Acts of 6 and 8 George I.] [p. 377.]

1 Nov.

[Order to the Board of Trade to propose names of commissioners to be inserted in the commissions.] [p. 377.]

6 Nov.

[The list prepared by the Board of Trade is approved.] [p. 380.]

14 Nov.

[Flag officers in the plantations and Commanders in Chief having distinction as such, to be placed in the commissions after the Vice Admirals.] [p. 386.]

23 Nov.

[These orders are vacated, and orders issued to his Majesty's Advocate General with the Advocate of the Admiralty to prepare similar commissions, and to specify names in the same way, with the same rule as to flag officers and Commanders in Chief.] [pp. 393-4.]

5 Dec.

[Ten drafts of commissions for trying pirates in the plantations, presented by his Majesty's Advocate General and the

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Advocate of the Admiralty, are approved and ordered to pass by immediate warrant under the Great Seal of the High Court of Admiralty.] And one of His Majestys Principal Secretaries of State is to prepare such warrants for His Majestys Royall Signature. [p. 408.]

[159.] [On a representation from the Board of Trade, a public seal is ordered to be prepared for and sent to Nova Scotia.] 6 Nov. Nova Scotia. [p. 381.]

(1729.)
26 Mar.

[The draft prepared by the Board of Trade is approved and instructions given for engraving the seal] representing on one side the Country of Nova Scotia, and a British Merchant Trading with an Indian for Furr, and a Fishing Vessel, Boat and Nett, with this inscription round it, Sigillum Provinciæ Nostræ Novæ Scotiæ in America, and in the Exergue this Motto, Terræ Marisque opes, and on the other side, His Majestys Arms, Garter Supporters and Motto with this Inscription round it, Georgius Secundus Dei Gratia Magnæ Britaniæ Franciæ et Hiberniæ Rex Fidei Defensor Brunsvici et Linneburgi Dux Sacri Romani Impery Archithesaurarius et Elector. [p. 469.]

[160.] [An Excise Bill transmitted from Barbados by Governor Worsley, and a representation from the Board of Trade of 23 Oct. recommending its disallowance, are referred to a Committee.] 6 Nov. Barbados. [p. 381.]

[Committee consider the] Act for laying an Imposition or Duty on Wines and other strong Liquors Imported into this Island in order to raise money 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 appointed, [and recommend that it be disallowed,] finding that by some Clauses therein inserted the Assembly would Deprive the Governor of the Power given him by Your Majesty to sign warrants for the issuing of Moneys without their approbation first particularly obtained for that purpose, contrary to the 19 Nov.

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Constant Usage of that Island, and of all other Your Majestys Colonys and Derogatory to Your Majestys Royall Prerogative. [p. 388.]

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

19 Nov. [161.] [Committee.] The Lords of the Committee having this Plantations. day before them some Reports from the Lords Commissioners for Trade and Plantations proposing Methods for the better preservation of the Woods in North America, and for encouraging the Importation of Navall Stores :—Their Lordships thought it proper before they enter in the Consideration thereof to be informed whether any projects for promoting the Silk Linnen or Woollen Manufactures in any of His Majestys Plantations have been at any time carried on, or are now carrying on, and to what Degree of perfection the same have been brought, and to that End Their Lordships are hereby pleased to order, that the Lords Commissioners for Trade and Plantations Do lay before this Committee as soon as conveniently may be the best informations they can procure in relation thereto. [p. 388.]

(1729.)

1 Feb. Report from the Board of Trade upon the woollen manufacture in the Plantations. Read. [p. 441.]

4 Dec.

Bahamas.

[162.] [A representation of 27 Nov. from the Board of Trade with a commission for Captain Woodes Rogers is approved. P.R.] [p. 403.]

(1729.)

14 May. [Instructions referred to a Committee.] [p. 491.]

(1729.)

14 May.

[The Committee approve, as the only additions and alterations are found to be] that as Your Majesty hath been pleased to allow Captain Rogers to call an Assembly of Freeholders and Panters in those Islands, and to Establish a Civil Judicature, so the said Lords Commissioners have added to the Draught of Generall Instructions such others, as were necessary upon this Occasion, and which Your Majesty hath already been pleased to approve. in the Instruction to Your Majestys other

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Governors in America—But in regard they may not be at present a Sufficient Number of Freeholders and Planters in those Places empowered to return Members, The said Lords Commissioners have inserted the 11th Instruction Empowering the Governor to admitt of the most Substantial Inhabitants being returned in the room of such Freeholders and Planters, untill there shall be a Sufficient Number of Freeholders and Planters to serve in such Generall Assembly.

That for avoiding Disputes about the appointment of the Clerk of the Assembly, the said Lords Commissioners have added the 12th Instruction, Empowering the Governor to appoint this Officer; and they have likewise added severall other Instructions, directing the manner of proceeding with respect to the Habeas Corpus Act of this Kingdom, which are the same, with those Your Majesty hath approved of to Your Governors of Barbados and Virginia. [p. 495.]

[Governor takes the oaths.]

[p. 499.]

(1729.)
15 May.
(1729.)
22 May.

[Instructions approved. P.R.]

[p. 504.]

4 Dec.
Plantations.

[163.] [Reference to a Committee of a letter from the Lords Justices of Ireland to the Lord Lieutenant, Lord Carteret, dated 23 Nov., with a memorial from several noblemen and gentlemen on behalf of themselves and others of that kingdom] relating to the Great Numbers of Protestant Subjects who have lately transported themselves from the North of Ireland to the Plantations on the Continent of America, and that Twenty Thousand have Declared their Intentions of transporting themselves the ensuing Spring to the great prejudice of the Linnen Manufacture, and lessening the Protestant Interest in those parts, and also relating to the great Quantities of Corn which have been lately bought up for Exportation to Forreign parts, and proposing the issuing Proclamations to restrain the Exportation of Corn, and to prohibit the Subjects leaving that Kingdom, And likewise to prohibit the carrying Money or Bullion out of the Kingdom. [p. 401.]

1728.

11 Dec.

[Committee.] . . As to the first two Points relating to the People going to America and to Prohibit the Exportation of Money or Bullion, Their Lordships Doe not Conceive themselves Sufficiently informed to give any Opinion thereupon— But as to what relates to the Exportation of Corn the dearness whereof is reckoned one of the reasons for the Peoples desire to leave the Kingdom—Their Lordships are humbly of opinion, that Your Majesty may be pleased to give Directions thereupon to the Lord Lieutenant of Ireland to write to the Lords Justices of that Kingdom to Issue such a Proclamation as by Law they may be Empowered to do for prohibiting the Exportation of Corn, if the necessity of that Kingdom shall require it, in which Case they are to take care that the said Prohibition does not Extend to that part of Great Britain called England in the present Conjunction. [p. 409.]

(1729.)

26 Mar.

[Reference to a Committee of two letters of 8 March from the Lords Justices of Ireland to Lord Carteret as to the emigration to America of Protestants from the North of Ireland with a paper giving the reasons of the emigration signed by Francis Iredell and Robert Craghead.] [p. 458.]

(1729.)

2 July.

[The Committee consider the papers referred to them] viz. Letter from the Lords Justices of Ireland to Lord Carteret Lord Lieutenant of that Kingdom, Dated March the 28th 1729.

Letter from the Lord Carteret to His Grace the Duke of Newcastle One of His Majestys Principall Secretarys of State, Dated June 26th 1729.

Letter from the Lords Justices of Ireland to the Lord Carteret Dated June 11th 1729.

Report of Judge Reynolds and Judge Gore of Ireland, to the Lords Justices Dated May 10th 1729.

Report of Judge St. Leger and Judge Ward of Ireland to the Lords Justices.

Report of two Dissenting Ministers in the North of Ireland Containing the Causes of the Protestants quitting that Kingdom.—It appearing to their Lordships by the said Reports,

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that the Laws now in being are not Sufficient to put an effectuall Stop thereto, Their Lordships are of Opinion that the further Consideration of these Papers should be Postponed till the next Meeting of the Parliament of Ireland, when it is Expected that some more effectuall Laws will be passed for that purpose.

[II. p. 22.]

[Amongst the Irish Bills referred to the Attorney and Solicitor General to consider, and report on to the Committee is] An Act to prevent Persons from Clandestinely Transporting themselves to America in order to Defraud their Creditors. [II. p. 153.]

(1730.)
2 Feb.

[Committee for the Irish Bills and other matters consider the report of the Attorney and Solicitor General, and agree to report] That it appears to them that the Principal provisions made by this Bill are—

(1730.)
12 March.

That after the 1st day of May 1730, no Person or Persons who have been Inhabitants of Ireland for Seven Years shall Transport themselves or be taken or suffered to go on board any Ship to America (Except only the Crew of such Ship, the Merchants or their Super Cargoes) without a Licence under the hand of the Collector or Chief Officer of the Port from whence the Ship should Depart.

That such Licence shall be granted to such Persons only who shall produce a Certificate under the Hands and Seals of two Justices of the Peace of the County where they have resided, that they are Persons of full Age or have the leave of their Parents or Masters to remove out of the Kingdom and they are not Indebted to any one to the Knowledge and belief of such Justices.

That no Justice shall give any such Certificate unless the Party shall appear at some Generall Quarter Sessions of the Peace in the County wherein they reside at least two Months before their intended Embarkation and shall by Petition to the Bench desire such Licence and sett forth the Place to which they intend to Transport themselves and the Port where they intend to Embark.

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That the Clerk of the Peace at such Session is to Post on the Door or some publick Place in the Court House, and likewise to send to the Collector or Chief Officer of the Port where such Persons intend to Embark a List of their Names additions and Places of abode, and if any two Justices of any County shall Certify to the Collector of the Port where such Persons intend to Embark that it has appeared to them upon Oath that such Persons are under the age of twenty one Years or are apprentices and have not the Consent of their Parents or Masters or that such Persons are in Debt, or in case such oath be made before the Collector or Chief Officer then the said Collector or Chief Officer is to refuse a Licence and prevent such Persons from being Transported.

But no Persons are to be prevented from Transporting themselves who shall obtain a Licence from the Secretary of the Chief Governors of Ireland.

Their Lordships having taken the same into consideration are of Opinion, that the Method thereby proposed is liable to severall Objections in laying an unreasonable Restraint on the Persons of Your Majestys Subjects and likewise in vesting too great a Power in the Justices of the Peace, who are hereby intrusted with the absolute authority of Granting or refusing Certificates without which no Pass can be obtained unless it be from the Secretary of the Chief Governor of Your Majestys said Kingdom. And Empowering any two Justices of the Peace or the Collector of the Port upon Oath made before him of the Persons being Indebted to any other to Stop the Effect of a Pass after it shall have been Granted. And their Lordships further take leave to observe to Your Majesty that as one chief cause assigned for so great Numbers having deserted that part of the Kingdom, was the scarcity of Corn, occasioned by three successive bad Harvests—Their Lordships are now informed that the last Years Harvest proved very plentiful in all Parts of the said Kingdom, and that corn is at this time sold at a low Price the consequence whereof has been that it does not appear by any late accounts from thence

that any considerable Numbers have transported themselves—
Wherefore their Lordships humbly submit it to Your Majesty
whether at this Juncture it may be reasonable to Pass a Bill
of this extraordinary nature especially since one of the chief
causes of this Desertion seems to be in a great measure ceased.

1728-9.

[pp. 193-5.]

[The report approved and consideration of the bill respited.] 16 March.
[p. 209.]

[164.] [Reference to a Committee of a representation of the
Board of Trade to the Duke of Newcastle transmitting several
articles of complaint by the Attorney General of Carolina
against the President of the Council, who has been Commander-
in-Chief since Governor Nicholson returned.] [p. 403.]

4 Dec.
Carolina.

[Committee. A copy of the articles to be sent to the
President, Arthur Middleton, for a speedy answer.]

(1729.)
1 Feb.

[p. 440.]

[165.] [Reference to a Committee of a petition of several
merchants of London trading to New York on behalf of them-
selves and the other London merchants concerned in the New
York trade, and of their correspondents and factors in New York,
and the manufacturers concerned in the fur trade, complaining
of several Acts passed there in prejudice of trade and of the
Governor's instructions and of several express orders in
Council, and praying the Acts may be repealed, fines and
forfeitures already exacted restored, and orders given that
no such Acts be passed for the future.] [pp. 435-6.]

1729.
1 Feb.
New York.

[The Committee for the Affairs of Jersey and Guernsey
and for the Plantations order that a copy of the petition be
transmitted to the Board of Trade, who are directed to report
on 19 Nov. on such of the Acts complained of as they have
not yet reported on, together with any others they may have
since received relating thereto.] [p. 74.] 12 Nov.

[Committee adjourn further consideration of the petition
till an account of the importation of beaver skins and other 19 Nov.

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peltry from New York since 1715 is laid before them by the Customs: and order is given to the Customs accordingly. This Committee minute is entered without any title distinguishing it from preceding Orders of the Council.]

[*pp.* 85-6.]

3 Dec.

[Committee for Plantation Affairs find that] the said Petition Setts forth "That by these Acts all Trade in Goods which are proper for the Indian Commerce, was prohibited in the Strictest manner and under the severest Penalties between the Inhabitants of New York Government, and the French of Canada, or any Subjects of the French King, or any Person whatsoever, for, or on behalf of such Subjects; And that altho' the said Acts are Expressed to be for promoting a Trade with the remote Indians, Yet they tend to the utter ruin of that Trade, and must prove very Destructive to the Interest of both New York and the Merchants Trading thither, and in consequence thereof to the Interest of these Kingdoms, Unless Your Majesty will be pleased to repeale the same." [The Committee have therefore examined the following Acts laid before them by the Board of Trade] vizt. An Act for Encouragement of the Indian Trade and rendering it more beneficial to the Inhabitants of this Province, and for prohibiting the Selling of Indian Good to the French. Passed 19 November 1720.—An Act for the further and more Effectual Prohibiting of the Selling Indian Goods to the French. Passed in July 1722.—An Act for continuing the Acts made for Prohibiting the selling of Indian Goods to the French with some Alterations. Passed in July 1724.—An Act to revive and continue the severall Acts therein mentioned relating to the Prohibiting of Selling Indian Goods to the French and by promoting the Trade with the remote Nations of Indians during the time thereinmentioned, and for the recovery of such Penalties as are directed by the said Acts. Passed in November 1725.—An Act to lay different Duties on the Goods thereinmentioned and for regulating the Indian Trade in the City and County of Albany for the Term of two Years; and

moderating and ascertaining the Fines incurred by former Acts if paid within the time limited in this Act. Passed in June 1726.—An Act for Explaining and enforcing an Act, Intituled an Act to lay different Duties on the Goods thereinmentioned and for regulating the Indian Trade in the City and County of Albany for the Term of two Years, and for moderating and ascertaining the Fines incurred by former Acts, if paid within the time limited in this Act. Passed in November 1726.—An Act for regulating and securing the Indian Trade to the Westward of Albany and for Defraying the Charge thereof. Passed in November 1726.—An Act for Defraying the Cost and Contingent Charges of the Trading House Erected at Oswego, and the maintaining it during the time therein mentioned for applying severall Fonds and Borrowing a certain sum out of the Excise for that purpose, for the effectuall recovery of former Fines and Forfeitures, for continuing the different Duties on Indian Goods, during the time thereinmentioned, and for making good the Money so to be borrowed of the Excise. Passed in November 1727.—An Act for confirming the Acts thereinmentioned with some Alterations and Additions, for paying Provisions and other Stores and Services already furnished, and done for the Use of the Trading House at Oswego, and for subsisting it during the time thereinmentioned, for borrowing Money for those purposes, and providing Funds for the repayment thereof. Passed in September 1728.—An Act for continuing and enforcing the Acts therein mentioned, for Discharging the present Demands on the Trading House at Oswego, by borrowing Money of the Excise, for the effectual Support of it untill the twenty Fifth day of December, One thousand seven hundred and twenty three ; For continuing some Duties and augmenting others untill that time ; for Regulating those Duties and the Trade at Oswego ; for the gradual Repayment of Money borrowed of the Excise and for reducing former Fines if voluntarily paid within the time therein limited. Passed in 1729.—

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And have been attended by the Petitioners, and also by the Agent of that Province, and heard Counsell Thereupon, whereby it appeared 1st That since the passing these Acts the price of Beaver Skins in England is raised from 3s. to 5s. & 3d. per pound.

2d. That Beaver Skins are Sold Dearer in England than in Holland, whereas before these Acts, they were Sold much Cheaper in England.

3d. That France was formerly supplied with Beaver from England whereas they now supply themselves in such Quantitys that Beaver is at this time sold in France at 3s. per pound whereby they are enabled to make Hatts cheaper than the English.

4th. That the French have Established a Manufactory of Hatts at Marseilles, and Supply Spain and Italy with them, cheaper than they can be Supplied from England, and by this means draw the greatest part of the Trade from us.

5th. That by the Accounts from the Commissioners of the Customs it appears there was a very considerable Decrease in the Importation of Beaver Skins from New York, not less than two parts in three from Christmas 1726, to Christmas last; and tho' for the five Years immediately preceeding the said Year vizt.—from 1720 to 1725, there does not appear any Decrease in the Importation of Beaver from New York to London on the face of the Customhouse Entrys here, Yet the merchants alledged before Year 1722, great Numbers of Beaver Skins were Imported directly into Holland from New York, to the amount of 20,000 Skins a Year, but that since the 25th of March 1722, when Beaver was made an Enumerated Commodity, No Beaver could be exported from New York, but Directly for England, Notwithstanding which the Imporation here, were not in any Degree encreased, which they must have been, had not there been a great decay in the Beaver Trade at New York.

6th. That there hath been a Decrease in the exportation of Strouds (the Staple Commodity of the Indian Trade) to the

Province of New York within these two or three last Years, owing as was asserted, to the Duties of 15s. on each Peice carried to the Westward of Albany, and of 30s. on each Peice carried to the Northward of Albany, which appears to have been layd by the Acts past, in and since the Year 1726.

7th. That the Merchants did alledge that these Acts have put the French upon attempting to make Strouds themselves and that the French being sensible of the advantage which must arise to them from the Merchants of Albany Trading with any of their Subjects, have prohibited such Trade being carried on by their Subjects, with any of the English.

8th. That by these Acts Oaths are Imposed on all Traders whereby they are Obliged to accuse themselves or else to be under the greatest temptation of Perjury.

9th. That every Person refusing to take the said Oaths when tendered, tho' not accused, was Judged convict of having Traded illegally, and subjected to the payment of one hundred pounds, and to be committed to the common Goal for non payment.

10th. That the execution of the said Laws might sometimes fall to the Share of a Serjeant Corporal or common Soldier.

11th. That too great Powers are entrusted in the hands of the Commissioners appointed to put those Acts in execution, as also in the Farmers of this Revenue who have authority to search at all times, and in all Place by Day or by Night, for certain species of Indian Goods without being obliged to take any Peace Officer with them in such Searches, tho' the said Farmers are to gain one moiety by the Confiscation.

Upon Considering all which Objections, and the great Importance of the Furr Trade to all Your Majestys Subjects which appears to be so much Affected by the said Acts, and that the Clauses relating to the executing thereof are greivous and oppressive :—Their Lordships are humbly of Opinion, that Your Majesty will be pleased to Signify Your Disallowance

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of all the said Acts, in regard they revive and refer to the severall Penalties and Forfeitures enacted by the preceeding Acts. [pp. 97-101.]

11 Dec.

[Order accordingly.]

[pp. 106-9.]

1 Feb.
Rhode
Island.

[166.] [Reference to the Committee for Appeals of the petition of Eunice Wharton, widow and devisee of William Wharton, late of the parish of St. Bartholomew, Exchange, London, for a short day for hearing her appeal from a judgment of the General Court of Trials at Newport, R.I., on the first Tuesday in March 1728, confirming a former judgment of the said Court against the petitioner in favour of Stephen, Thomas, Benjamin, Henry (jr.), and Nicholas Northup and Lawrence Whaley, as to the right to 661½ acres of land.] [p. 436.]

(1730.)

4 March.

[Committee.] . . it appearing that the said Judgments appealed from were founded on Generall Verdicts. Their Lordships postponed Entering into the Merits thereof, And were pleased to order, as it is hereby ordered, that a search be made to see what precedents there are of appeals of this kind, And that an account thereof be laid before this Committee.

[II. pp. 192, 257.]

(1730.)

14 Dec.

[Committee for Appeals. The Committee recapitulate the proceedings of 4 March],—And such Search having been accordingly made and their Lordships attended by all Partys concerned took this Point into consideration—and being of opinion, upon perusal of the Precedents laid before them that this appeal did properly lye Notwithstanding the said Objection, in regard it appeared that all the Evidence given out to the Jury was taken down in Writing and transmitted as part of the Record. Their Lordships did thereupon enter into the Meritts of the Cause, and heard both sides by their Counsell learned in the Law and it appearing that [the facts are as stated by the petitioner].—Their Lordships are therefore humbly of opinion that both the said Verdicts or Judgments should be set aside and reversed, and a New Tryall of the said Cause had in the said Generall Court of Tryalls—And that on such New Tryall all the

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Evidence which shall be offered on either side, be taken down in writing; and if any Objection shall be made against any of the said evidence such Objections together with the Resolutions of the Court upon the same are likewise to be taken down in writing, and the whole made part of the Record, and that liberty should be given to either side to appeal from the Judgment to be given upon such New Tryall, in case they shall conceive themselves aggrieved thereby.

[pp. 302-3.] (1730.)
[p. 305.] 23 Dec.

[Order accordingly.]

[167.] [Reference to the Committee for Appeals of the petition of John Bayler of Virginia, a minor, by Robert Bayler and Augustine Moor his guardians, for a short day for hearing his appeal from a judgment of the General Court of Virginia, 25 April, 1728, in favour of John Carter, Esq., and Elizabeth his wife, concerning the right to 6 messuages and 2,717 acres of land in the parish of St. Stephen's.] [p. 437.]

1 Feb.
Virginia.

[Committee recommend that the appeal be dismissed.] 3 March.
[p. 443.]

[Order accordingly.] [p. 460.] 26 March.

[168.] [Reference to a Committee of a report of the Board of Trade of 20 Dec., 1728,] upon the present State of the Fishery at Newfoundland. [p. 462.] 26 March.
Newfound-
land.

[Committee. On consideration of the report] whereby it 19 April.
appears that the ill Conduct of the Garrison, the Disorders of the Inhabitants, the pretensions set up to the best Fishing Stages, under Colour of a certain Clause in the Act of the 10th and 11th of King William the Third, and Titles purchased from the late French Inhabitants and Planters since the Peace of Utrecht, by permission from Her late Majesty Queen Anne, in exclusion of the Fishing Ships, the want of sufficient Powers in the Commadores for Enforcing the severall Provisions made by the aforesaid Acts of Parliament, and the general contempt of the authority vested by Law in Fishing Admirals

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(who are the Captains of the Fishing Ships first arriving in the respective Harbours) have reduced this Fishery to a very bad Condition, and that unless proper Remedies be applied in time, this Nation may be deprived of the advantages heretofore reaped from this Trade, which besides the profitable Returns it has brought us home from Foreign Markets, has been a Considerable Nursery for Sailors, and a great support of the British Navigation :—The Lords of the Committee do hereupon humbly beg leave to observe to Your Majesty that for the preserving so beneficial a Trade, and for preventing such Disorders for the future, all proper Remedies ought to be applied without loss of time which can be had without assistance of the Legislature; And therefore their Lordships humbly propose to Your Majesty at present, such particulars only, as may be Corrected by Your Majestys own Authority, and which they hope may in some measure put a Stop to the growing Evils in that Place :—Vizt. that the present Lieutenant Governor of Placentia, who has given many occasions of Complaint by his unwarrantable proceedings in Contempt of Your Majestys Royall Instructions should be immediately [superseded, and ordered home for trial].

That for reducing the Forces who are in Garrison at Placentia to better order, and for making them more Subservient than they are at present, to the ends for which they were sent thither, Their Lordships are of opinion that the Commadore annually appointed for this Station, should be always authorized to have some Cheque or Comptrol upon the Conduct of the Lieutenant Governor, which as it would put an end to that Competition between Your Majestys Land and Sea Forces, so prejudicial to Your Majestys Service in those parts, so it might in a great measure, if not entirely prevent the Disorders at present charged upon the Garrison, who would by this means become accountable to an Officer, incapable in Sharing in the Profit arising from a Connivance at their irregular behaviour. And that the giving this Power to the

Commadore may not seem extraordinary—The Lords of the Committee humbly inform Your Majesty, that those Officers have heretofore, during their Continuance there been appointed Governors of that Island, and Commanders in Chief both of the Land and Sea Forces, and therefore their Lordships humbly propose, that Your Majesty would be pleased to order, a Commission to be prepared appointing Lord Vere Beauclerk the present Commadore and all future Commadores who shall be ordered to that Station Captain General and Commanders in Chief in Newfoundland and the Seas adjoining while they continue on that Station, Requiring them in the first Place Strictly to pursue the Directions contained in the Act of the 10th and 11th of King William the Third for Encouraging the Trade to Newfoundland ; By which Act Cap. 15^o, a Power is Vested in the Commadore of Your Majestys Ships on that Station for hearing appeals on all Disputes about the property of Fishing rooms &c.—And that the People who remain upon the Island after the Fishing Season is over may not live in a State of Anarchy that a Clause be inserted in the said Commission Empowering the Commadore to appoint so many Justices of the Peace as he shall find Expedient for preserving Peace and good order among the said Inhabitants, And that for the better Guidance and Instruction of such Persons who are to Execute the Office of Justice of the Peace : Their Lordships are of opinion that Lord Vere Beauclerk should be Furnished by the Lords Commissioners for Trade with a Sufficient Number of Books which contain the Duty of a Justice, in order to their being Distributed amongst them.

That as severall of these Inhabitants have forestalled the best Fishing Stages in the most Considerable Bays of Newfoundland, either under pretence of being intituled to them by a Clause in the said Act of the 10th and 11th of King William the Third or else of having purchased them from the French possessors, who had leave given by Her late Majesty Queen Anne to dispose of them, so the Fishing Ships have frequently

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been obliged to pay considerable Rents for Stages, which is a Tax upon the Fishery and ought to be removed. Wherefore the Lords of the Committee are of opinion that the Titles of these Persons should be enquired into by which means it is very probable the Stages might be again restored to the Publick: and to that End that Your Majesty would be pleased to appoint some Person Skilled in the Laws to attend the next Commadore, and assist him to make such enquiry in Your Majestys behalf—which Person might be likewise of Service in forming some Regulations for the better Government of the Inhabitants during the Winter Season, so long as they shall continue there.

And as nothing can so much conduce to the good Government of any Society, as the Propagation of Virtue and Religion. Their Lordships are of opinion, that the Bishop of London, as Ordinary of the Plantations should be directed to send a Clergyman of the Church of England with Lord Vere to Newfoundland—Who is to endeavour to procure him a reasonable maintenance from the People Settled at St. Johns in the said Island.

And Their Lordships beg leave further humbly to propose that if it shall be Your Majestys pleasure to approve of what is above Stated—That Your Majesty will be pleased to Give the Necessary Orders for putting the said Severall Matters into immediate Execution, and to Direct the Lords Commissioners for Trade and Plantations to prepare the Draught of a Commission for the said Commadore agreeable hereto: with such Instructions as they shall think proper to be Given upon this occasion. [pp. 480-3.]

23 April. [Letter to the Right Hon. Henry Pelham, Secretary at War, to inform the Council] whither any Chaplain is allowed upon the Establishment of His Majestys Garrison at Placentia in Newfoundland, and if any be allowed what attendance he has given upon his Duty in the said Garrison. [Signed.] Ja. Vernon. P.S. I believe it will be acceptable to their

Lordships to see a Copy of the Establishment of Governor Philips's Regiment and of the Garrison of Nova Scotia and Newfoundland. [p. 486.]

[Committee reconsider the heads drawn up on 19 April for framing their report, and agree to consider them further on Wednesday when Col. Philips] and also Lord Vere Beauclerk, Commodore of the ships designed for the Newfoundland station, are to attend. 26 April. [p. 487.]

[Committee, on further consideration,] being informed that the Commission proposed to be given upon this Occasion to the Lord Vere Beauclerk would vacate his Seat in parliament, Their Lordships thought it proper to refer back to the Lords Commissioners for Trade their said Report who are to Consider whether the Service intended by the said Commission may not be equally carried on by Instructions to be given to the Lord Vere Beauclerk for putting in Execution all the Powers given to the Comadores of His Majestys Ships upon the Newfoundland Station by the Act of the 10th and 11th of King William the Third. And by a Commission to be Given by His Majesty to a Person skilled in the Laws, who is to accompany the said Lord Beauclerk for appointing Justices of the Peace and Establishing some Form of a Civill Government among the People who have Settled themselves in that Island, that they may not be left in a State of Anarchy upon the departure of His Majestys Ships of War, and if they have no Objection hereto, then to Consider of the proper Form of such a Commission and of the necessary Instructions to be given upon this Occasion. 30 April.

And they are likewise to Consider, whether it will not be advisable to Seperate the Government of Placentia from that of Nova Scotia and whether the continuing a Garrison there which consists only of One Single Company can be necessary for securing the Possession of Newfoundland to the Crown of Great Britain.

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*And if a Garrison be necessary whether it will not be most advisable to have the said Company made an Independant Company, and Report their Opinion thereupon to this Committee : And their Lordships further order that a Copy of such Heads as had been drawn by this Committee for the forming a Report on this Affair to His Majesty be transmitted to the said Lords Commissioners for Trade, for their Information. [pp. 488-9.]

14 May. [Committee adopt a revised report, showing the following alterations from that of 19 April. 1. Instead of the proposal that "some other person" be appointed to supersede the Governor, read] That Placentia is at present annexed to the Government of Nova Scotia, Yet in regard to the great Distance between those Places Their Lordships are of Opinion that it ought to be seperated from the Government of Nova Scotia.

[2. Instead of the proposals as to military discipline and command, read] Their Lordships apprehend it would be for Your Majestys Service that the Company of Foot belonging to Colonel Philips's Regiment which is now in Garrison at Placentia should be relieved by an Independent Company.

That for making the Soldiers more Subservient than they have hitherto been to the end for which they were sent thither ; Their Lordships humbly propose that a Person should be appointed to go there with the Lord Vere Beauclerk the present Commadore for the Newfoundland Station, who should be vested with full Power to Comptroll them. And who should also be Empower'd to appoint Justices of the Peace, and to Establish Courts of Judicature for the better Government of the Inhabitants, and for preserving Peace and good order amongst them, and therefore humbly offer to Your Majesty a Draught of a Commission and Instructions to be given to such Person as Your Majesty shall be pleased to appoint for this Service with a blank for his Name to be inserted therein, In which Commission there is a Clause to Separate

the Government of Placentia from that of Nova Scotia— And by these Instructions he is required to observe such orders, as he shall from time to time receive from the Lord Vere Beauclerk.

[3. The order as to jurisdiction in fishing disputes is embodied in] a Draught of Instructions proper to be given to the said Lord Vere Beauclerk the Commodore who by the said Act of Parliament is vested with Power to hear Appeals in all Disputes about the Property of Fishing Ships.

[4. The following paragraph is added] :—Their Lordships take this Occasion to observe to Your Majesty, that upon enquiry they find there are three Chaplains on the Establishment of the Regiment and Garrisons of Nova Scotia—None of which are at this time Resident there—Their Lordships therefore humbly propose to Your Majesty, that the Chaplains and other Staff Officers upon that Establishment, may be ordered to Repair forthwith to their respective Posts—And their Lordships are further of Opinion, that it will be for Your Majestys Service, that the like Orders should be given to all Patent and other Officers in all Your Majestys other Governments in America. [pp. 494–5.]

[On the Committee's report, the instructions for Lord Vere Beauclerk are approved ; as also the commission and instructions for a Governor of Newfoundland. The blank for the name of the Governor is to be filled up with the name of Capt. Henry Osborn of H.M.S. *Squirrel*, and in case of his death William Coalsea, first lieutenant of H.M.S. *Oxford* or the first lieutenant of the said ship for the time being, is to be appointed. P.R.] 22 May. [p. 502.]

[Order for acquainting the Admiralty with these instructions and commissions] that they may give the necessary orders to the said officers to Act Conformable thereto. 22 May. [p. 502.]

[Orders are given for the recall of Col. Gledhill, Lieutenant Governor of Placentia ; for requiring the three 22 May.

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chaplains and other staff officers upon the establishment of the regiment and garrisons in Nova Scotia to repair forthwith to their respective posts, as also the officers in any other of his Majesty's plantations in America; that the Secretary at War report whether the company of foot belonging to Col. Philips' regiment which is now in garrison at Placentia may properly and conveniently be relieved by an Independent Company; and that the Bishop of London send a clergyman to Newfoundland with Lord Vere Beauclerk, who is to endeavour to procure him a reasonable maintenance from the people settled at St. John's.] [pp. 503-4.]

26 March.
New Jersey.

[169.] [To a Committee is referred a representation from the Board of Trade of 5 Dec., 1728, recommending for confirmation an Act passed in New Jersey in March, 1719] for running and ascertaining the Line of Partition or Division between the Eastern and Western Divisions of the Province of New Jersey and for preventing Disputes for the future concerning the same, and for securing to the Generall Proprietors of the Soil of each of the Divisions and Persons claiming under them their severall and respective Possessions Rights and Just Claims. [p. 462.].

19 April.

[The Committee agree with the Board of Trade that the Act may be confirmed.] As this an Act wherein private Property is concerned. The said Lords Commissioners have lett the same lye by for some time, that in case any Person should have been aggrieved thereby, they might have had Sufficient oppertunity to lay their objections before them, But it does not appear that any Objections have been made to the said Act—In regard whereto, and that it is now about ten Years since the said Act was past, and that it will be of advantage to the Inhabitants of New Jersey in generall, by Setling their respective Titles. [p. 478.]

22 May.

[The Act is confirmed.] [pp. 505-6.]

26 March.
Leeward
Islands.

[170.] [To a Committee is referred a representation of the Board of Trade of 4 March, with an Antigua] Act of Sep. 1728 for

making a Settlement on His Excellency the Right Honourable Thomas Earl of Londonderry, Captain General and Governor in Chief in and over all His Majestys Leeward Charibee Islands in America, during his Government of the same, and Personal Residence in any part thereof and for raising a Fund to answer the said Settlement, and for granting a Thousand Pounds to his said Excellency in consideration that no Benefit can accrue to his Excellency by the said Settlement for a considerable time to come :

[A Nevis Act of Oct., 1728] for providing a House for his Excellency Thomas Earl of Londonderry . . and for settling 500*l.* per annum upon his Excellency during his Government, and for laying a Tax upon all Sugar and Molosses Shipt from the Island of Nevis :

[A St. Christopher Act of Nov., 1728] for settling the sum of 2,000*l.* per annum of Currant Money of the Island of St. Christophers during the Term therein mentioned, upon his Excellency the Right Honourable Thomas Earl of Londonderry . . for the more Honourable Support of the said Governor and the Dignity of this His Majestys Government.

[*p.* 463.]

[The Committee on a petition of several London merchants against the Antigua and Nevis Acts refer the matter back to the Board of Trade for a further report, stating what the sums proposed to be granted will come to in sterling money.] 30 April.

[*p.* 490.]

[The Committee hear in part, and adjourn till Monday next further consideration of a petition of the merchants trading to the Leeward Islands to be heard upon a report of the Board of Trade on Acts of Antigua, St. Christopher, and Nevis for settling additional salaries on the Earl of Londonderry.] 18 July.

[*p.* 29.]

[Committee. The merchants], apprehending the Sums thereby given, are to arise chiefly from Duties laid on the Shipping, Navigation and Trade of Great Britain, [have been] 21 July.

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heard by the Board of Trade, and also (on the 18th July) by the Committee, who now report] That the objections insisted on by the Petitioners were against the manner of laying and Collecting the Dutys, and not against the Duties themselves, And although those Objections did not appear to be of great Weight, Yet for the Satisfaction of the Merchants, Their Lordships are humbly of Opinion, that the said Acts should lye By, And that the Earl of Londonderry should be Directed to Endeavour to obtain Acts of Assembly for raising the said Duties in some other manner. [p. 32.]

18 Aug. [Order accordingly.] [p. 44.]

11 Dec. [Reference to a Committee of the petition of several merchants, planters and others interested in the Leeward Islands that no instructions be given to future governors such as were given to Col. Hart and the Earl of Londonderry] giving them leave to receive such sums as they could get the said Assemblys to settle upon them in addition to their old salary of 1,200*l*. [p. 111.]

18 Dec. [Committee.] The said Petition represents, That under these Instructions Governor Hart had prevailed with the People of the said Islands to Settle upon him a Salary of 1,500*l*. per annum at Antegoa, 2,000*l*. at St. Christophers, and 500*l*. at Montserat, and that the Earl of Londonderry had obtained the like Salary to be Settled on him at Antegoa and St. Christophers, but that at Montserat he had obtained a Salary of 600*l*. and at Nevis 500*l*., and that such additional Salarys amount to above three times the value of their real Salary Settled on them by the Crown,—And humbly praying in regard the said Additional Instruction tends to the creating of Annimositys and Divisions amongst them—And hath been made use of by the Governors to induce the Assemblys to Pass Acts for raising such large Sums for their support to the great Burthen of the Inhabitants and the Trade of those Islands. That therefore no such New or additional Instruction may be given to any future Governor of the

Leeward Islands but that the same may be Discontinued— And whereas the Lords of the committee have been this day attended by the Petitioners and heard all that they had to offer in support of the allegations in their Petition. It appeared that before the Year 1721, (the time when this additionall Instruction was first given) Notwithstanding the Governors were restrained from receiving Presents of any kind whatever from the Assemblys, Yet that the Assemblys had constantly given to the Governors, every Year considerable Presents which the Governors had always accepted—And severall of the Petitioners did agree that the Method pursued by the present Instruction in settling a Salary on the Governor by Acts of Assembly for the better support of the Honour and Dignity of the Government, would not be liable to any objection, in case the money so to be Settled, was limited to a reasonable Sum, and that such Sum, was particularly Specified in the said Instructions—The Lords of the Committee are therefore of Opinion that for preventing the Grievances complained of for the future a reasonable Sum ought to be accordingly limited and specified in the Instructions that shall hereafter be given to any Governors of those Islands, and that such sum should be settled by the first Assembly after the Governors arrivall.—And for preventing any inconveniencys that may arise to the British Trade from any of the Duties to be raised for this purpose ; that a Clause should be inserted in the Acts Settling the same to prevent their taking Effect till His Majesty in Council hath been pleased to approve thereof—And in order to the fixing such a Sum as shall be reasonable—Their Lordships are hereby pleased to Direct the Lords Commissioners for Trade and Plantations to consider what Sum will be Sufficient to be raised for the Support of His Majestys Governor of the said Leeward Islands with Dignity in addition to the salary of 1,200*l.* per annum allowed from hence, and to the known Perquisites arising to the Governors within the severall Islands, The amount of which the said Lords Commissioners are to

1729. inform themselves of.—And they are likewise to Consider what Proportion each of the said Islands should bear in raising the said Sum—And make Report thereupon to this Committee. [pp. 122-3.]
- (1730.)
27 May. [Committee.] Report of the Board of Trade . . Read. putt off to this day seven night. [p. 240.]
- (1730.)
3 June. [The Committee grant a copy of the report to the merchants and planters on their petition.] [p. 241.]
- (1733.)
22 May. [Committee. The merchants and planters having presented a memorial against the report, they are notified that the matter will be considered by the Committee on 28 May.] [III. p. 169.]
- (1733.)
16 June. [Similar intimation of a meeting on 21 June to consider the matter.] [III. p. 174.]
- (1733.)
21 June. [Committee order the Board of Trade to prepare an additional instruction for Gov. Matthew to receive an additional salary in each of the islands as Lord Howe had done in Barbados, and that the further condition be inserted, that the Acts for settling such salary upon him should be passed before the Assemblies proceed upon any other business.] [III. p. 175.]
- (1733.)
19 July. [Additional instruction approved. P.R.] [III. p. 193.]
- 26 March.
Virginia. [171.] [To a Committee are referred a representation of the Board of Trade of 14 February, offering for confirmation a Virginia Act passed in 1728 to enable William Farrar and Thomas Farrar to sell and convey certain entailed lands and for settling other lands and negroes of greater value to the same uses; and another representation of 25 March upon two Acts of 1705]—For the limitation of actions and avoiding of suits: and for declaring how long Judgments, Bonds, Obligations and accounts shall be in force for the Assignment of Bonds and Obligations; directing what proof shall be Sufficient in such Cases and ascertaining the Damage upon protested Bills of Exchange, [of which the first is offered for approval and the second for disallowance]. [pp. 463-4.]

[The Committee recommend the first two for confirmation, and the third for disallowance, as being] in many particulars repugnant to the Statutes of Limitation passed here in the 21th of King James the first, and that there is one Clause in the said Act which seems to be of bad consequence to the Trade of this Kingdom, vizt. the limiting of time after which neither Bond nor Judgment shall be in force. [p. 478.]

1729.
19 April.

[Orders accordingly.] [p. 509.] 22 May.

[172.] [Reference to the Committee for Appeals of the petition of William Wood and John Allen of Newport, R.I., husbandmen, to be allowed to appeal against proceedings in the General Court of Trials on the first Tuesday in Sept., 1727, on rehearing a case between them and Samuel Sanford.] [p. 467.]

26 March.
Rhode
I-land.

[Committee for Appeals recommend that the appeal be admitted on the usual security.] [II. p. 69.] 31 Oct.

[Order accordingly.] [pp. 81, 160, 191.] 19 Nov. (1731.)
3 May.

[Committee for Appeals find that the petition] setts forth, That in the Year 1726, Samuel Sanford of Newport aforesaid, brought his action and filed his Declaration in Ejectment in the generall Court of Trialls held at Newport for One hundred and fifty Acres of Land or thereabouts at Portsmouth in the said Colony—And at the generall Court of Trialls held at Portsmouth on the first Tuesday in September 1726, The Case was pleaded and committed to a Jury, who found a generall Verdict for the Petitioners and Costs of Court.

That the said Sanford afterwards Obtaining a rehearing of the said Cause before the same Court on the last Tuesday of March 1727, a generall Verdict was then found for the Plaintiff Namely a Reversion of the first Judgment, The Lands sued for, and costs of Court—And the said Sanford taking out execution thereupon, got into Possession of the Lands in Contest.

That there being thus a Verdict on each side the generall Assembly (upon application made to them) Did order and

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1729.

Direct that the Petitioners Wood and Allen should have one hearing at the next Court of Trials in September 1727, and accordingly at the said Court of Trials the Case was again Reheard and pleaded, and committed to a Jury, whose Verdict was as follows.

That if Levying Execution by virtue of the Verdict of the last Jury and Authority of the Court, were not the end of the Law in the present Case ; then they found for the Petitioners and Cost of Court.

Which verdict being accepted the Court by their Judgment pronounced that Execution levied in the foregoing case was not the end of the Law.

That thereupon the Petitioners applied to the said Court to Issue out a Writt of Restitution, but the Court declared, That the Petitioners might have an Execution for their Costs, but not for the Possession of the Lands, From which donyall of a Writt of Restitution the Petitioners have brought this appeal to Your Majesty in Council—And by their said Petition humbly prayed that the said Judgment might be made compleat and the Petitioners have full Restitution Reparation and Costs.

The Lords of the Committee having hereupon heard all Partys concerned by their Counsell learned in the Law, Do agree humbly to offer as their opinion, that Your Majesty will be pleased to Order the following addition to be made to the said Judgment of the Court of Trials held in September 1727,—Vizt. :

That the said Wood and Allen be restored to their Possession, and also have satisfaction for the Mesne Profitts of the said Lands to be ascertained by the Generall Court of Trials in Rhode Island if the Parties differ about the same. [II. pp. 379-80.]

(1731.)

11 May.

[Order accordingly.]

[II. p. 387.]

26 March.
West Indies.

[173.] [Reference to the Admiralty of the petition for his Majesty's bounty of Janet, widow of Vice Admiral Edward Hopson, who died on service in the West Indies.] [p. 468.]

[174.] [Reference to the Board of Trade of the petition] of John Nicoll of London merchant and Tobacconist Setting forth that he hath found out and contrived a Method to prevent a very pernicious Fraud and Imposition long carried on in the Tobacco Trade; by putting a Stop to which, His Majestys Revenues will be greatly encreased without the least greivance to the fair Trader, and therefore praying that his Proposals may be referred to the Lords Commissioners for Trade and Plantations, or to such others as His Majesty shall Judge proper, before whom he may Demonstrate the same.

1729.
26 March.
Tobacco.

[p. 469.]

[175.] [Reference to the Committee of a letter from Governor Burnet to the Duke of Newcastle, and of certain papers enclosed, concerning the necessity of sending to New England two Independent Companies of 100 men each.]

14 May.
New
England.

[p. 492.]

[Committee. Letter and papers referred to Board of Trade.]

14 May.

[p. 497.]

[176.] [To the Committee for Appeals, &c., are referred] two Letters to his Grace the Duke of Newcastle, the one from Arthur Middleton Esqr., President of the Councill and Governor in Chief of the Province of Carolina; and the other from the Councill of that Province together with two Representations signed by the said Councill containing Severall Articles of Complaint against the Assembly of that Province.

22 May.
South
Carolina.

[p. 511.]

[The Committee refer the papers to the Board of Trade.]

2 July.

[II. p. 22.]

[Committee.] Report of the Board of Trade concerning the Great Confusion that the Province of South Carolina is now in and proposing the sending a Governor thither—Read.

31 July.

[II. p. 39.]

[Reference to the Committee of] a Letter from the Council of South Carolina Setting forth that the Troubles and

14 Oct.

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1729.

Disorders of that Colony are encreased, and that the Assembly have determined to Grant no Supplys for the payment of their Garrisons or any other their Publick Debts, but upon Conditions not to be Complied with—And therefore praying that some Directions may be given to putt an End to those Disorders. [II. p. 57.]

31 Oct. [Committee for Appeals.] Complaint of the Council of South Carolina against the Assembly for refusing to Grant any Supplys. Read and nothing to be done till a Governor is appointed. [II. p. 71.]

22 May. [177.] [Reference to the Committee for Appeals of the petition
Antigua. of Jacob Thibon executor of John Barbouttain late of Antigua gent. for a short day for hearing his appeal from a decree of the Antigua Chancery, 10 July 1728, on a bill filed by the children and representatives of the late John Pierce gent. concerning a debt due by Jervase Turton [or Fenton] deceased to Pierce, by which decree the petitioner alleges he is condemned to pay interest at 10 per cent. on 1,076*l.* 6*s.* 11½*d.* from the time that Pierce had an attorney or representative in Antigua qualified to receive and discharge the said sum.] [p. 512; II. p. 5.]

(1730.)

23 Feb. [Committee for Appeals. Barbouttain married Turton's widow, hence Thibon's interest in the matter. He alleges that Several articles in the principal sum of 1,073*l.* 6*s.* 11½*d.* are] Household Goods, Sheep, Cattle, and other things which in their Nature do not Carry any Interest. [The respondents ask that the appeal be suspended till they also can bring an appeal from the said decree against Ann, Catharine, and Arabella, the three daughters and coheirs of Jervas Turton, of whom the two former have married respectively Abraham Picard de la Ferte and Benjamin Terry, and also against John Gambell and John and Samuel Frye, the surviving executors of Jervas Turton, who were defendants to the suit below. The appellants agreeing to the postponement on condition that they may amend their appeal without paying costs, it is recommended

that the respondents' appeal be admitted on giving the usual security and that both appeals be heard at the same time.]

[II. p. 179.]

1729.

[Order accordingly.]

[II. p. 214.]

(1730.)
16 March.
(1730.)
19 June.

[Reference to the Committee for Appeals of the petition of Jacob Thibon that, as the proceedings are duly transmitted, a short day may be appointed for hearing his appeal from a decree of the Antigua Chancery, 1 July, 1728,] in a Cause depending there between him and Richard Rigby and Ann his wife and George Barker and Dorothy his wife, which Ann and Dorothy are the Daughters and Surviving Executors of John Perry of Antegoa deceased relating to a debt due from Jervas Turton to the said Perry. [II. pp. 251, 381, 431: III. p. 425.]

[Order in accordance with Committee report of 13 June, reversing part of the decree of 1 July, 1728, and ordering further proceedings on the decree of 15 July, 1726, from which the respondents appealed.]

[III. pp. 490-2, 518-9.]

(1734.)
11 July.

GEORGE II. VOL. II. (1 June, 1729—16 June, 1732.)

[178.] [Committee for Appeals, &c. As it has been thought proper to separate the Government of Newfoundland from that of Nova Scotia, changes are necessary in Governor Philips's instructions, and it is proposed that] Directions should be given to His Grace the Duke of Newcastle (who is to prepare the said Instructions for Your Majestys Signing) to leave out all such Parts as relate to Placentia or Newfoundland:—And particularly the three last Articles in the Draught of General Instructions No. 33, 34 and 35, which relate Solely to Newfoundland.

23 June.
Nova Scotia
and
Newfound-
land.

[p. 8.]

[Order accordingly: "chiefly" appears in place of "solely." P.R.]

[p. 11.]

26 June.

1729.

26 June.
Barbados.

[179.] [Reference to the Attorney and Solicitor General of a letter from the Board of Trade to the Duke of Newcastle transmitting an extract of a letter to them from Governor Worsley of Barbados dated 20 April,] together with Copys of severall Papers referred to therein, concerning the Great Confusion to which that Island is likely to be brought on account of severall of the Inhabitants having refused to pay the Levy appointed by Law for the payment of the Governors Salary, and for other publick Services, upon a Supposition that the said Law is Determined. [p. 13.]

18 Aug.

[Orders are given in accordance with the report of Sir Philip Yorke, Attorney General, and Charles Talbot, Solicitor General, upon considering the Act and the opinions of Mr. Reeve and Mr. Lutwick, two of his Majesty's counsel learned in the law. The report states that they find that by a Barbados Act of 26 Feb., 1722, afterwards confirmed by the King,] severall Dutys were Granted to His said late Majesty His Heirs and Successors during the Continuance of the said Act, In the first place for the payment of the Annuall Sum of Six Thousand Pounds of Lawfull Money of that part of Great Britain called England for Supporting the Honour and Dignity of His Majestys Government there, to be paid to Mr. Worseley on the first day of June Annually during the continuance of the said Act, together with the Exchange for the same, after the rate of Thirty pounds per Cent. And it is thereby provided, that the said Act shall Continue for so long time as Mr. Worseley shall Continue to be His Majestys Captain General and Governor in Chief and shall in that Quality Personally reside in the said Island.

That Mr. Worseley continued Governor of Barbados under the said Letters Patent untill His late Majestys Demise, from which time he was continued in the said Office for the Space of Six Months by virtue of an Act of Parliament made in the Sixth Year of Her late Majestys Reign.

That by virtue of His Majestys Proclamation bearing date the Fifth day of July 1727, and published in Barbados on the

twenty first day of November 1727, all Officers in the Plantations were continued in their respective Offices untill His Majestys pleasure should be further known.

That His Majesty by Letters Patent bearing date the Eighth Day of May 1728, reciting the said former Letters Patent and Mr. Worseleys Continuance in the said Office of Governor by Virtue of the said Act of Parliament and Proclamation Determined His former Authority, And at the same time appointed him to be Governor of Barbados during His Majestys Pleasure.

That from the time of making the said Act of Assembly Mr. Worseley hath continued to reside in Barbados in Quality of Governor in Chief.

That as to the Question of Law arising upon these Facts whether the said Act of Assembly is Determined or not—Mr. Attorney and Sollicitor General are of Opinion that the said Act is still in force and not Determined; For that the same being Directed to have Continuance for so long time as Mr. Worseley should continue to be His Majestys Governor in Chief of the said Island, And in that Quality Personally reside there, And his Authority as Governor having been continued by Virtue of the said Act the Sixth of the late Queen, And the said Proclamation from His late Majestys Demise to the time that the New Commission Granted to him by His present Majesty took Place without any Interruption, Which Commission is Still in force, And that therefore they Conceive he hath continued Governor within the meaning of the said Act of Assembly. [pp. 45-6.]

(1731.)
12 June.

[Reference to a Committee of the address of the Council of Barbados,] representing that notwithstanding an order made by Her Majesty in Council when Guardian of the Kingdom Declaring that an Act past in that Island in His late Majestys Reign for supporting the Honour and Dignity of the Government did still continue in full force, and requiring all Persons concerned to Yield due obedience thereto as they would answer the contrary—Yet by many artfull contrivances to evade

1729.

and render the same ineffectuall by many of the Assembly Men, and by the Treasurer's forbearning to Levy the Penalties and Forfeitures pursuant to the said Act, there hath been a large Deficiency for two Years past in the collection of the Tax and consequently the Uses for which it was granted could not be Satisfied; and further representing the difficultys arising therefrom till a more effectuall way be found out to put the same equally in execution against all Persons concerned— And acknowledging the steady prudence with which Henry Worseley Esquire hath conducted the publick affairs there during his whole administration. [p. 405.]

(1731.)

12 June.

[Reference to a Committee of the] Petition of the Generall Assembly of Barbados together with a Report thereto annexed from a committee of the said Assembly, containing severall Grievances which they allege the said Island labours under, and also complaints against Henry Worseley Esquire in his administration of the Government of that Island and humbly praying His Majesty to take the state of the said Island into his Consideration and to do therein for its relief and preservation what to His Majesty in His Great Wisdom shall seem meet. [p. 406.]

(1731.)

1 July.

[Reference to a Committee of the petition of several merchants and planters interested in Barbados complaining of the additional instruction empowering the Governor to receive all such sums as the first Assembly should settle upon him in addition to his salary of 2,000*l*.] [p. 412.]

(1731.)

7 July.

[Committee. The address of the Council and the petition of the Assembly read, and ordered to] lie by, till application is made to have them Considered. [p. 429.]

(1731.)

27 July.

[Committee refer it to the Board of Trade to report what sum will be necessary to support the Governor with dignity in addition to his salary and the known perquisites, of the amount of which they are to inform themselves.] [p. 437.]

[Reference to the Committee of a report from the Board of Trade and one from the Attorney General on a memorial of Henry Worsley, late Governor of Barbados,] which Memorial sets forth that by An Act past in that Island on the 26th of February 1722 For Supporting the Honour and Dignity of the Government there certain Dutys were laid on Negroes and other the possessions of the Inhabitants of the said Island and granted to His Majesty His Heirs and Successors for the uses therein Specified, whereof the first was for the payment of an Additional Salary to the Memorialist and the remainder of the said Dutys were to be applied to the same uses with the Excise Act—That several of the Inhabitants have endeavoured to Elude the payment of the said Dutys, and that there hath been within these three last Years a great Deficiency in the Collection thereof and consequently the uses for which they were granted remain unsatisfied. [III. p. 46.]

1729.
(1732.)
7 Sept.

[Committee. The memorial sets forth that Worsley assumed the government on 19 Jan., 1722, that the 28th Article of his instructions permitted him to receive an addition to the salary assigned out of the $4\frac{1}{2}$ per cent. duty if voted by the first Assembly after his arrival and for the whole time of his government, and that the Act of 26 Feb., 1722, passed in accordance with this instruction, was approved after being examined by the Committee of the Council, the Treasury, the Board of Trade, and the Attorney and Solicitor General, and was continued on Worsley's confirmation as Governor by George II. The memorial proceeds] . . . That the Revenue raised by this Tax over and above the payment of the Memorialists said Additional Salary was so Considerable that tho' the Memorialist found the Island above Five and twenty thousand pounds in Debt on his first coming to the Government yet the greatest part of that heavy burthen has been discharged by this Fund which hath since been Attempted to be Defeated by the Methods hereinafter mentioned nor can it as the Memorialist conceived be denied that if all the Inhabitants had paid their Tax for

(1732.)
7 Sept.

1729.

these three last Years as they did the preceding the whole Debt of that Country would have been discharged ; And the Wealth of that Island was so far from being Affected by this Act that the Legislature there passed two other Acts each laying a Duty on Negroes and other the possessions of the Inhabitants of that Island one in the Year 1724 for payment of the Debts of the Island which was afterwards repealed by His Majesty in Council, the other in 1726 for Erecting Magazines in St. Annes Castle and building a Town Hall and Goal in St. Michaels Town.—

[The memorial then sets forth in outline the facts up to the Orders of 18 Aug., 1729, and continues] :—

That on the arrival of this Order tho' many of Your Majestys loyal Subjects there paid a ready and due Obedience thereto, yet many more in defiance of that high Authority used Artfull Contrivances to evade and elude the Law they were so Strictly Commanded to Obey by which means there hath been a very large Deficiency for three Years past in the Collection of the Tax and consequently the uses for which it was granted remain unsatisfied.—

That the Duty imposed by this Act being Vested in His Majesty His Heirs and Successors, tho' appropriated to particular uses the Memorialist most humbly apprehended and was advised that the proper Method of recovering the said Sums due under the same is by Information in nature of an Action of Debt to be brought in the proper Court of Barbados in the name of Your Majestys Attorney General there, or by English Bill to be brought by and in the name of Your Majestys said Attorney General on Your Majestys behalf in any Court of the Island holding Plea of Revenue Causes in general which makes it necessary that if such proceedings should be thought proper Your Majestys Directions should be Obtained for Commencing the same.—

That as the Moneys remaining due under this Act are appropriated to the use of the Publick as well as for payment of the Memorialists Additional Salary and as those who have

refused paying the Tax thereby imposed are guilty of Acting in defiance of the Law and in Contempt of the said Order made by Her Majesty in Council ; And as it would be matter of great uneasiness to all such of Your Majestys loyal and faithfull Subjects there who have constantly and freely paid the Tax in Obedience to the Law and Your Majestys Authority should they see others who are equally able and no less bound discharged thereof by an undutifull disobedience and in regard to the very many ill Consequences that must unavoidably attend the letting such a Contemptuous behaviour pass unobserved, The Memorialist most humbly prayed His Majesty that he would be graciously pleased to Order and Direct his Attorney General of the said Island in case all and every such persons as are defaulters by not paying the said Tax do not by some short time to be for that purpose limited by Your Majesty pay in the several Sums which by and under the said Act they are liable to have paid that he then do immediately from and after the expiration of such limited time cause proper Suits to be Commenced against all such Defaulters and take and use all and every the most Effectual ways and means for the Speedy recovery of the said Sums and that the same when and as soon as recovered might be applied to the uses of the said Act or that Your Majesty in Your great Wisdom and Innate Justice would be graciously pleased to make such other Order in the Premises as the nature of the Case should require and as to Your Majesty should seem most fitting.—

. . it appears from the Report of Your Majestys Attorney General that by the Memorialists Departure from the Island of Barbados, the said Act of Assembly is expired and the Duty thereby granted from that time Determined ; But that such Duty being during the continuance thereof, Vested in Your Majesty the proper Method of recovering the Arrears incurred and remaining due from any person chargeable with such Duty is by Information in nature of an Action of Debt, to be brought in the proper Court in Barbados in the Name of Your Majestys Attorney General there or by English Bill in

1729.

the name of Your Majesty said Attorney General on Your Majesty's behalf in any Court of Equity, and Revenue in that Island; in which Bill all penaltys incurred by any of the Defendants thereto by reason of any of the matters complained of in such Bill must be waved :

[The Committee agree with the Board of Trade and the Attorney General that suits should be commenced by his Majesty's Attorney General in Barbados against all persons liable for arrears in case such arrears are not paid to the Treasurer of the island within a reasonable time limited by her Majesty.] [III. pp. 50-54.]

(1732.)

28 Sept.

[Order accordingly, 1 July, 1733, being fixed as the date by which arrears must be paid. The order is to be published and entered on record in Barbados, that no one may plead ignorance.] [III. p. 60.]

(1732.)

30 Nov.

[Reference to a Committee of a representation from the Board of Trade of 29 Nov. with drafts of general and trade instructions to Lord Howe as Governor of Barbados.] [III. p. 72.]

(1732.)

11 Dec.

[The Committee order the Board of Trade to prepare with all convenient speed an additional instruction empowering Lord Howe to receive an additional salary, agreeable to that which was granted to Lord Belhaven.] [III. p. 76.]

(1732.)

11 Dec.

[The Committee report that in Lord Howe's instructions there are no changes from those given to other governors, save the omission of two clauses in Governor Worsley's instructions as to the recovery of debts in Barbados, for which provision has been made by an Act of the last session of the Parliament of Great Britain, and the omission of any clause granting leave to receive an additional salary, in regard his Majesty had not signified to the Board of Trade in what manner the same should be prepared. The Committee recommend for approbation a draft instruction in this matter similar to that which was given in 1721 to Lord Belhaven, and submit their reasons]—

That before the year 1721 (the time when this additional Instruction was first given) notwithstanding the Governors of the Plantations were by their Instructions restrained from receiving presents of any kind whatsoever from the respective Assemblies Yet it was manifestly known that annual presents were constantly Offered to and received by the Governors under a pretence that their Salarys were not Sufficient to Support the Honour and Dignity of their Employments—

That in Order to prevent the ill consequence of this practice which tended to put the Governors under the power and Influence of the Assemblies and to make them in a great Measure dependant upon the People His late Majesty thought proper to give an Instruction to the then Governor of Barbados and to several others of His Majestys Governors in the Plantations whereby they were Authorized to receive such Sum or Sums in Addition to their Salarys from the respective Assemblies as the said Assemblies should think proper to give them—provided the same were Settled upon them and their Successors in that Government or at least upon them during the whole time of their Government there, and provided the same should be so Settled by the first Assembly after their Arrival within their Government.

That this Instruction had its effect in the said Island of Barbados as likewise in several other parts of Your Majestys Plantations.—

But of late several Merchants Planters and others concerned in the Trade to the said Island of Barbados as likewise to the Leeward Charribbee Islands have Complained that the Governors had made an Ill use of the said Instruction and that the Methods they had taken to prevail on the Assemblies to Settle such Additional Salarys had raised great Annimositys and Divisions amongst the Inhabitants and that the Sums So Settled were larger than the Product of their Plantations could Answer And therefore prayed that Your Majesty would be pleased to Order that the said Instructions might for the future be discontinued.—

1729.

That notwithstanding these Complaints when the Merchants and Traders to the Leeward Islands came to be heard before a Committee of Your Majesty's Privy Council they did admit that the Salary of the Governors without some addition to it from the Islands was not Sufficient to Support the Honour and Dignity of their Government and they seemed inclinable that such Addition should be made provided the same were limited to a certain Sum and that such Sum were Specified in the Instruction.—

The Lords of the Committee hereupon humbly Observe to Your Majesty that if the request of the Merchants for wholly discontinuing the said Instruction should be granted there is great reason to Apprehend that the same pernicious practice of receiving presents will be revived, And that the same endeavours will be used as formerly to keep the Governors in a State of Dependancy upon the people which is the Great Evil this Instruction was intended to remedy.—

That as to the Specifying in the Instruction the Quantum to be Settled upon the Governors The Lords of the Committee upon a thorough Consideration of this matter have reason to believe the Planters may look upon it as prescribing a certain Sum to them which without an Appearance of undutifullness to Your Majesty they can neither alter nor diminish and that they ought rather to be left at liberty to Judge for themselves and to Act freely and Voluntarily, and as they shall find most suitable to the Circumstances of their Affairs.—

To which reasons the Lords of the Committee are humbly of Opinion that it may be adviseable for Your Majesty to Approve of the Instruction which is hereunto annexed.

[III. pp. 77-8.]

(1732.)
13 Dec.

The Report of the last Committee upon Lord Howe's Instructions was this day reconsidered—and their Lordships Approving thereof Directed the same to be laid before His Majesty tomorrow in Council.

[III. p. 81.]

[The instructions approved, and Lord Howe sworn
governor. P.R.] (1729.)
[III. pp. 82, 85.] 14 Dec.

[Reference to the Committee of the petition of the General
Assembly of Barbados] that a stay may be put to the Prosecu- (1733.)
tions commenced by the Attorney Generall of that Island 29 Nov.

(pursuant to His Majestys Orders for that purpose against
all persons who should not on or before the 1st of July last,
pay into the hands of the Treasurer of that Island all arrears
of Taxes due upon an Act Entituled an Act for Supporting
the Honour and Dignity of the Government. [III. p. 267.]

[Committee] Do agree humbly to report to Your Majesty (1734.)
as their opinion that the said petition ought to be dismiss 22 March.
for non-Prosecution. [III. p. 383]

[Order accordingly.] (1734.)
[III. p. 415.] 3 April.

[Reference to the Committee of] the humble Address of the (1741.)
General Assembly of the Island of Barbados humbly Praying 19 March.
that His Majesty will be graciously pleased to discontinue his
Instruction to the Governor of that Island whereby they are
impowred to give their Assent to any Act of Assembly for
Settling an Additional Salary on them. [VII. p. 416.]

(1741.)
15 April.
The Lords of the Committee this day took the said Address
into their Consideration and finding that mention is made
therein of the many Mischiefs and Disadvantages which have
arisen from the Permission and allowance granted by His
Majestys aforementioned Instruction and that they have
represented the Causes thereof fully to the Lords Commis-
sioners for Trade and Plantations—The Lords of the
Committee do therefore hereby Refer the said Address to the
said Lords Commissioners for Trade and Plantations who are
to Examine into that part thereof which relates to the
Consequences attending the said Instruction together with the
Papers they have received upon that Point and Report a State
thereof to this Committee. [VII. p. 434.]

1729.
(1741.)
10 July.

[Committee. The Address of the General Assembly sets forth] That a salary of 1,200*l.* Sterling per annum was formerly assigned and paid out of the Duty of 4 and $\frac{1}{2}$ per Cent. for the Support of the Governor in Chief—But that Sum having been thought insufficient for that purpose the General Assembly did from time to time make such presents as they thought proper.

That in Order to put a Stop to the several inconveniencys that had arisen to the Governments in the Plantations by the Gifts and presents so made to the Governors by the General Assemblies Her late Majesty Queen Anne by her Orders or Instructions bearing date the 20th day of April 1703 Directed to Her then Governor Sir Beville Granville Knight signified Her express Will and Pleasure that neither he the said Sir Beville Granville nor any Governor Lieutenant Governor Governor Commander in Chief or President of the Council of that Island for the time being should give Consent to the passing any Law or Act for any Gift or Present to be made by the Assembly nor receive any Gift or present from the Assembly or others upon any Account or in any manner whatsoever on pain of Her Majestys Highest Displeasure and of being recalled from the Government and that Her said Majesty was graciously pleased at the same time to give Directions that 800*l.* Sterling per annum should be further added out of the said Duty of 4 and $\frac{1}{2}$ per Cent. to the Salary of 1,200*l.* before Assigned which was then represented to be insufficient That notwithstanding the said Orders and Instructions the said Sir Beville Granville found out ways and means to Sink for his own use very large and considerable Sums of the Publick money and tho' the like Orders and Instructions were continued to the Succeeding Governors of the said Island yet they as well as the Presidents and Commanders in Chief shewed little regard thereto, and continued to accept such Sums as were offered to them until Complaints were made against Governor Lowther for taking very large Sums of Money by way of presents from the

Assembly directly contrary to his Instructions which being fully proved against him and the many Mischiefs and Disadvantages arising to the Inhabitants by such Practices fully made out His late Majesty King George the First to prevent and remove those Complaints for the future and that the Governor in Chief might have a Sufficient Provision made for him [issued the instructions of 1722 to Governor Worsley].

From this State of the Case drawn up by the General Assembly of Barbados it evidently appears that if their Request for discontinuing the aforementioned Instruction was to be complied with it would be so far from being a benefit to His Majestys Subjects in that Island that it would probably be a means of reviving the pernicious practice of Governors receiving Gifts and presents which had been so frequently complained of and for the more effectual preventing of which this Instruction was intended—

It may be likewise observed that nothing Obligatory is imposed by this Instruction upon the Assembly but they are left to Act freely and Voluntarily in Settling such Additional Salary upon the Governor as they shall think proper and to prevent this from having the ill effect of Presents the Governor is by this Instruction restrained from giving his Assent to any Act for Settling the Same upon him unless it be granted to him by the first Assembly after his Arrival in that Island and for the whole time of His Government.

And their Lordships further Observed that in the Year 1731 an Application was made to His Majesty by Petition from several Merchants Planters and others interested in and Trading to the said Island of Barbados praying that the aforementioned Instruction might not be given to any future Governor but that the same might be discontinued Which having been very maturely considered by the Lords Commissioners for Trade and Plantations and also by the Lords of the Committee of Council for Plantation Affairs they were of Opinion that if the said Instruction was to be discontinued it might occasion the reviving the pernicious Practice of

1729.

Presents and induce the People there to renew their former Endeavours of keeping the Governors. in a State of Dependency upon them. For which reasons His Majesty was pleased to continue the said Instruction to the Lord How who was at that time appointed Governor of the said Island Upon Consideration of all which The Lords of the Committee are of opinion that it is not adviseable for Your Excellencys to comply with the request of the said General Assembly.

[VII. pp. 517-21.]

(1741.)

16 July. [The report is approved.]

[VII. p. 534.]

26 June.
Virginia.

[180.] [Reference to the Committee of a letter from the Board of Trade of 20 May to the Duke of Newcastle concerning presents of 300*l.* sterling and of 500*l.* currency ordered by the Council and the Assembly of Virginia respectively to be given to Major Gooch, Lieutenant Governor there.]

[p. 14.]

31 July.

[Committee. The letter recounts that on hearing of the presents the Board of Trade wrote to Major Gooch on 7 July, 1728, expressing disapproval of his acting contrary to his instructions. Gooch replied that the other Governors of Virginia had usually received the like presents upon their arrival and that he had reason to hope the same indulgence would be allowed to him. As no reason is given for not obeying his Majesty's instructions, the Committee offer their opinion that the Governor ought not to be allowed to receive the said presents.—A marginal note reads, "Memorandum. This Report ordered to be postponed."] [p. 37.]

26 June.
Virginia.

[181.] [Reference to the Committee of a letter of 20 May from the Board of Trade to the Duke of Newcastle transmitting a copy of a letter from Major Gooch] relating to the Difficulty he is under in Forming a Rent Roll for the two New Countys of Spotsylvania and Brunswick, the time being Expired for which His late Majesty was pleased to Exempt the Inhabitants of those Countys from the payment of Quit Rents.

1729.
31 July.

[Committee. On considering the letters stating that the difficulty arises] in regard to severall Grants of large Tracts of Land which were made before His late Majestys Instructions were known concerning the said Lands, and for which no Quit Rents or Purchase of Rights have been hitherto received by the Officers of the Revenue, least the acceptance of such payments should be construed an allowance and approbation of the said Grants. And humbly recomending the Possessors of the said Lands to His Majestys Favour for an Exemption of the Purchase of Rights, [the letters are referred back to the Board of Trade] to reconsider the same, and to lay before this Committee, a State of the Fact, and also an account of the Number of Acres that have been taken up, for which no Quit Rent or Purchase of Right have hitherto been paid, together with the amount of such Rights and Quitt Rents—And that the Lords Commissioners Do at the same time Report what they thinke advisable to be done thereupon. [p. 38.]

[Committee for Plantation Affairs report] That upon Setling the said two New Countys the Lieutenant Governor and Councill made Grants of Great Quantitys of Land to severall Persons who were inclined to take up the same, upon a presumption that Your Majesty would be pleased to Exempt them from payment of Quit Rent and Purchase of Rights—And instead of Demanding the said Rights or the five Shillings payable in lieu thereof They took Conditional Bonds from the Patentees whereby they were Obliged to pay or produce those Rights in case the Crown should think fitt to Demand them, And this Form of a Bond was afterwards Varied into another Shape, whereby the Patentees had their Option either to pay the Rights when Demanded or relinquish the Land.

14 Oct.

That the Assembly of Virginia did thereupon Petition His late Majesty for an Exemption of Rights and Quit Rents for a Certain Term in these New Erected Countys, and after many considerations had thereupon an Order in Council was made on the 6th of August 1723, by the then Lords Justices.

1729.

[The order follows ; see § 14.]

That as to the Number of Acres taken up in the said two New Countys for which no Quit Rents or Purchase of Rights have hitherto been paid, the Lords of Trade have informed this Committee, that they have no account of the Lands granted in Brunswick County but believe them to be but inconsiderable from what the late Lieutenant Governor Drysdale and Major Gooch have written to them upon that Subject. But they have laid before this Committee two accounts transmitted by Major Drysdale relating to the Number of Acres taken up in Spotsylvania County—By which Accounts it appears that most of the Grants of Lands were made Prior to the said Order in Council of the Lords Justices of the 6th of August 1723 for Settling these Countys and for Severall Acres more than were allowed by the said Order, making in the whole 120,330 Acres after Deducting 59,786 Acres Granted in Trust for Colonel Spotswood—And the one Thousand Acres for which each Patentee was Exempted from Rights and Quit Rents for the Seven years ending the first of May 1728 by the said Order of the Lords Justices.

l. s. d.

The Purchase Rights whereof if paid in Money			
at 5s. per 50 Acres would amount to	..	..	601 13 0

And the Quit Rents of the same at 2s. per			
hundred acres per annum for the whole Seven			
Years to	..	..	842 6 2

[The special favour granted to Colonel Spotswood is then recited, see § 129.]

The Lords of the Committee are humbly of opinion that the like Indulgence may in some measure be Extended to other Grantees of Lands in Spotsylvania County which is earnestly recommended in the Letter of the Lieutenant Governor, That is to say, that they should be permitted to hold their Lands, and to be Excused from the Rights on payment of the Seven Years Quit Rents now in arrear, which will amount to a larger Sum than the Rights would do tho' the same were

1729.

paid in Money, which Seldom happens because the Planters are at liberty to produce Importation Rights in lieu thereof— But their Lordships further humbly offer, that for preventing those Grants being exorbitant in Quantity, that this Indulgence should be restrained to Grants of Six Thousand Acres or under including therein the One Thousand allowed of by the Lords Justices Order for Settling these Countys, and that whoever shall be desirous to hold more than Six Thousand Acres should pay both the same Rights and Quit Rents for every acre exceeding that Number as Lands in any other part of Virginia are liable to ; which as the greatest part of these lands are said to be already Settled, a Quit Rent will from thence immediately become payable to Your Majesty.

[pp. 59-60.]

[Orders accordingly. The order of 1 Feb., 1729, about Colonel Spotswood is to be strictly observed and put in execution, and nothing contained in the other orders is to be understood to interfere with it.]

19 Nov.

[pp. 77-9.]

[182.] [Reference to the Committee of the] Petition of Christopher Gale Chief Justice of North Carolina, Complaining of some Proceedings carried on against him in the Admiralty Court of that Province at the Suit of Sir Richard Everard Baronet, Governor there—And humbly praying that he may be admitted to appeal therefrom—And that the Merritts of his Case may be Enquired into.

26 June.
North
Carolina.

[p. 15.]

[Reference to a Committee of a letter to the Duke of Newcastle from Sir Richard Everard] transmitting a Copy of his Orders and Resolutions delivered to the Council of that Province, at a Court of Chancery held on the 31th of March 1729, relating (amongst other things) to the putting a Stop to the Granting of Lands till His Majestys Pleasure should be known concerning them, and also to the filling up of Vacant Places there.

17 July,

[p. 27.]

[Similar reference of an address of the Council of North Carolina containing complaints against Sir Richard Everard.]

17 July.

[p. 27.]

248 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1729.

31 July. [The Committee refer to the Board of Trade the examination of both matters referred on 17 July.] [p. 39.]

23 Oct. [On consideration of the papers, and of the report of the Board of Trade, the Committee report] that the Charge against Sir Richard Everard is of a high and heinous nature with respect to Your Majestys Royal Person and Government and unbecoming a Person to whose care the said Province has been committed—Yet in regard no proofs have been transmitted to Support the same—Their Lordships are humbly of opinion that the Governor who shall be Nominated for North Carolina should have Copys delivered to him of those Complaints, and that he be Directed to make strict enquiry into the truth thereof that Exemplary Justice may be done according to the Nature of the Offences said to have been committed. [pp. 66-7.]

19 Nov. Report of the Lords of the Committee . . . postponed, till a Governor shall be appointed by His Majesty for the said Province. [p. 85.]

17 July. [183.] [Reference to the Committee for Appeals of the petition of Peter de la Motte of London, merchant, to be permitted to appeal from a judgment of the Court of Common Pleas in St. Christopher in Feb., 1728, in favour of Richard Baker.] [pp. 29, 38, 48, 52, 62, 486.]

(1731.)

23 Dec. [The appeal is sustained on the Committee report of 17 Dec. The case, now said to have been tried in Antigua, concerns a debt due from Miles Hackett, late of Antigua, planter, to De la Motte. Joseph Frizzle, commander of the sloop *Trial*, illegally carried off Hackett from the island without the usual ticket, whereby Baker, as security for Frizzle, became liable for the debt.] [pp. 509, 519.]

18 Aug. [184.] [Drafts of seals for Barbados, Jamaica, Virginia and South Carolina are approved in Council by the Queen's Most Excellent Majesty, Guardian of the Realm, and warrants

Seals.

1729.
 ordered to be prepared for transmitting the seals to the
 respective Governors, who are then to return the old seals to
 be defaced.] [p. 48.] (1730.)
 22 Jan.
- [New seals for New York, Nova Scotia, Leeward Islands
 and Bahamas approved and ordered to be sent thither and the
 old ones returned to be defaced.] [p. 137.] (1730.)
 21 Feb.
- [Order for a seal for North Carolina on the appointment of a
 Governor.] [p. 178.] (1730.)
 10 April.
- [The draft approved and the seal ordered to be engraved]
 whereon Liberty is represented introducing Plenty to His
 Majesty with this Motto, Quæ sera tamen respexit, And this
 Inscription round the Circumference, Sigillum Provincia
 nostra Carolina Septentrionalis—And the said Lords Commis-
 sioners propose that on the Reverse may be His Majestys
 Arms Crown Garter Supporters and Motto with this
 Inscription round the circumference, Georgius Secundus Dei
 Gratia Magnæ Britannæ, Franciæ et Hiberniæ Rex, Fidei
 Defenser; Brunsvici et Limeburgi Dux Sacri Romani Impery
 Archi-Thesaurarius et Elector. [p. 219.] (1730.)
 14 Dec.
- [The seal approved and ordered to be sent to the Governor.] [p. 299.] (1731.)
 1 July.
- [A new seal is ordered to be prepared for New Jersey in place
 of the one lost by the casting away of the ship in which it was
 sent.] [p. 410.] (1731.)
 29 Nov.
- [The seal approved and ordered to be sent.] [p. 491.] (1732.)
 10 Aug.
- [The old seals received by the Board of Trade from
 Massachusetts Bay, New Hampshire, New York, Virginia,
 South Carolina, Barbados, Leeward Islands, Bermuda, and
 Bahama Islands, are laid before her Majesty and defaced.]
 [III. p. 45.]
- [185.] [It is referred to the Board of Trade to prepare an
 instruction proper to be sent to the Earl of Londonderry in
 18 Aug. Antigua.

1729.

accordance with a memorial from the Admiralty] praying that Directions may be given to the Council of the Island of Antigua to Secure by an Act of theirs, for the use of His Majestys Ships such Water as the Place affords, particularly that of Douglas's Well, without any payment for the same; As also such Lands as border on English Harbour) (if found usefull and wanted for His Majestys Service) as may at any time hereafter be forfeited or revert to the Crown, And to ascertain and Setle the price of Fuel at reasonable Rates, And to oblige themselves to maintain the Fortifications they have proposed for the Security of the Harbour in good repair according to the Assurances the Merchants have already given to the Navy Board. [p. 49.]

14 Oct. [Reference to a Committee of the report of the Board of Trade of 23 Sept. with the draft of instructions.] [p. 56.]

31 Oct. [The Committee for Appeals recommend that the instruction be approved. By the report of the Board of Trade] it appears that in order to induce Your Majesty to make English Harbour in the said Island of Antigua, a Station for Your Majestys Ships of War, the Legislature of that Island have for preventing surprize from an Enemy, made Provision for building a Fort to command the Entrance into the said Harbour; And by an Act passed there in September 1725 Intituled An Act to invest certain Lands in His Majesty His Heires and Successors for the use of His Majestys Ships of War:—They have vested in the Crown, for the use of Your Majestys Ships and the said Harbour Twenty Acres of Land contiguous thereto:—The Lords of the Committee having considered of the said Act, are humbly of Opinion that the same is proper to receive Your Majestys Royall Confirmation. [p. 68.]

19 Nov. [Orders accordingly.] [p. 79.]
(1731.)

28 Oct. [The following representation of the Board of Trade of 31 Aug. is referred to the Master General of the Ordnance for an

1729.

estimate—] Storehouses have been lately built at Your Majestys Expence at English Harbour in the Island of Antigua which has been thought a proper Place for Careening and refitting such of Your Majestys Ships of War as may be employed upon that station.

The People of Antigua have granted Your Majesty a proper Tract of Land contiguous to the said Harbour upon which they have at their own Charge Erected a Stone Fort for the Defence of Your Majestys Ships and Storehouses and they humbly Pray that Your Majesty will be pleased to grant them Twelve Peices of Cannon to be mounted in the said Fort, six of which they desire may be Twelve Pounders and the rest Eighteen Pounders with Carriages, Rammers, Sponges, Ladles and all other necessarys requisite for the Service of the said Cannon. [The Board of Trade, after consultation with Governor Cosby, recommend compliance with the request.]

[pp. 458-9.]

(1731.)
23 Dec.

[The estimate is approved, and orders given for sending the stores and for including the expense in the next estimate to be laid before Parliament by the Ordnance. The details are given, making a total of 976*l.* 18*s.* 4*d.*] [pp. 520-1.]

[186.] [Reference to a Committee of a memorial from the Admiralty of 19 Sept.] setting forth that the Judge of the Court of Vice Admiralty of North Carolina hath made Complaint to them of the Hardships and Interruptions he has met with in the Execution of his Office from Sir Richard Everard who is Proprietary Governor and from Mr. Gale the Chief Justice of the Generall or Provinciaall Court there; and therefore proposing that the Governor of North Carolina should be Directed to take care that the Provinciaall Court do not interfere with the Court of Vice Admiralty. [p. 51.]

26 Sept.
North
Carolina.

[The Committee, on considering the memorial,] apprehending that this point of Jurisdiction may be very likely to come before them by way of appeale are of opinion to Postpone the Consideration of this Memoriall. [p. 67.]

23 Oct.

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1729.
26 Sept.
Barbados.

[187.] [Reference to the Committee for Appeals of the petition of Governor Worsley of Barbados for a short day for hearing his appeal] from a Decree of Adjudication given against him in the Court of Vice Admiralty in the said Island of Barbadoes on the 25th day of February last, in favour of Thomas Daverse Esquire relating to the Dividing the Ship La Marie Victorie, Simon Gonson Master and her Cargoe which was adjudged by the said Court to be forfeited and confiscated. [p. 52.]

14 Oct.
Newfound-
land.

[188.] [Reference to a Committee of a report from Henry Pelham, Secretary at War,] relating to the sending an Independent Company to Placentia. [p. 56.]

8 Dec.

[Committee.] Report . . read. The Lords think it proper to putt this Report into the Hands of the Secretary of State to receive His Majestys Pleasure thereupon. And the same was accordingly Delivered to the Duke of Newcastle.

[p. 105.]

14 Oct.
Maryland.

[189.] [Reference to a Committee of the] Petition of Jacob Henderson Clerk Rector of Queen Anns Parish in Prince Georges County in Maryland in behalf of the Clergy of the said Province Complaining of an Act past there on the 3d of October 1728, Intituled An Act for improving the Staple of Tobacco. Whereby a fourth part of what has been granted and Established for the support and maintenance of the Clergy by an Act past there in 1702, And Confirmed by Her Majesty Queen Ann in Councill, is entirely cutt off, and the remaining three parts of their Subsistance rendered precarious—And therefore praying that His Majesty will be pleased to Order this matter to be Examined into, whereby His Majestys Royall Prerogative and the Rights of the Clergy may be ascertained and maintained. [p. 57.]

3 Dec.

[Committee for Plantation Affairs postpone the hearing till 17 Dec.—on the petition of Cecil Calvert that it might be delayed till the arrival in England of his brother, Lord Baltimore, whose rights as proprietor might be affected.]

[p. 101.]

1729.
18 Dec.

[Committee.] . . the Lord Baltimore's Sollicitor attended their Lordships and acquainted them he was just arrived in England, and prayed that in regard his Lordship as Proprietor had constantly Enjoyed and exercised the Power of Approving and Repealing the Laws of the said Province His Lordship might Hear and Determine the Complaint which his Lordship had Engaged to doe upon the Petitioners application to him with all expedition and to grant them proper relief, The Lords of the Committee upon Consideration thereof, And hearing what the Petitioner had to offer in Objection thereto, were pleased to Suspend for the present all further proceedings upon the said Complaint. [p. 125.]

[190.] [The Committee, on taking into consideration the petition of Francis Wilks and Jonathan Belcher, agents for the House of Representatives of Massachusetts Bay, complaining against Governor Burnet, and a report of the Board of Trade thereon of 8 Sept.,] were attended by the Petitioners thereupon who acquainted their Lordships they had the day before received advices from New England of the Death of the said Governor Burnet, and therefore Submitted it to their Lordships whether it was proper to Enter into such parts of their Petition as were altogether Personal against him they being Determined by his Death, and that as to the Article of Complaint against him for refusing to issue Warrants for the pay of the Assembly Men, they have been informed by the Lords Commissioners of Trade that they had received a Letter from Governor Burnet assuring them he had then lately redressed that Greivance, And therefore the Petitioners insisted only on laying before their Lordships the following points as being of a Publick Nature and affecting the Welfare of the Province—Vizt.

23 Oct.
Massachu-
setts Bay.

First that Governor Burnet had not concurred with a Resolve of the House of Representatives for Supply of the Treasury with 20,000 pounds Bills of Credit for the Support and Defence of the Government, but had refused to consent to any Form for Supply of the Treasury but what was practised before the Year 1721.

1729.

Secondly, That he had exacted extraordinary and illegall Fees on the Shipping.

As to the first of which Articles It appeared to their Lordships that the Method of supplying the Treasury by way of Resolve was very improper and not warranted by their Charter no Power being thereby given to raise money but by Acts of Assembly—It also appeared in the Wording this Resolve the House of Representatives had reserved to themselves a Power of allowing and passing all accounts before the Governor could Issue any Money for the payment of them which their Lordships conceived to be wholly unwarrantable, and the Petitioners Agents for the said Province Admitting that the Method of the House of Representatives ought to be regulated in these two particulars in the manner hereafter Directed, and they engaging to write to the House of Representatives to acquaint them therewith. Their Lordships are therefore of Opinion that Instructions should be prepared for the Governor or Commander in Chief for the time being of that Province Requiring him to take care for the future that no Money be raised in that Province but by Act of Assembly in which Act one or more Clauses of appropriation may be inserted, but that the issuing of all Moneys so raised be left to the Governor with the advice of the Council according to their Charter Subject Nevertheless to a future Inquiry of the then present or any other Assemblies, as to the application of such money.

That as to the Second Article relating to illegall Fees exacted upon Shipping, It did appear upon the Oath of severall Captains of vessels that since Governor Burnets time a New Fee of Twelve Shillings had been demanded of every Ship for a let pass, and that instead of Six Shillings as a Register Fee for the Governor, Twenty Shillings had been demanded, And their Lordships looking upon this as a Matter of very ill Consequence especially as it Affects the trading Vessels, are therefore of Opinion that Instructions should be prepared for the Governor or Commander in Chief of the said Province for the time being

not to exact any such Fees for the future, or to Demand any other Fees than what are legall or have been Customarily taken by Governors of that Province.—

And their Lordships taking Notice, that they had received no advice of the Assemblys having complied with His Majestys Instructions relating to the Settlement of a Salary on His Majestys Governor for the time of his Government, are pleased to Direct the Lords of Trade to inform themselves of the said Agents what steps have been taken by the said Assembly in compliance with this Instruction as are intended, and their Lordships are forthwith to Report to this Board the full state of this Matter that the same may be laid before His Majesty for His Directions thereupon :— [pp. 64-5.]

[The Committee present for his Majesty's approval a draft of instructions prepared by the Board of Trade in accordance with the Committee's report of 23 Oct. As to the Governor's salary, the Board of Trade] having thereupon discoursed with the said Agents did this day inform the Committee that the Agents had nothing New to offer upon this Head, but desired to be referred to the last Resolution of the Assembly thereupon, By which Resolution it appears, that the Assembly had not agreed to the Settling any fixed Salary on Your Majestys said late Governor—But the said Lords Commissioners further Informed this Committee, that the Agents had declared their readiness to transmitt any Proposition to the Assembly, that the said Lords Commissioners should make to them, and that they would, so far as was compatible with their Stations, enforce the success thereof.—And therefore the said Lords Commissioners laid before this Committee a Proposal in Writing, and humbly begged that they might have leave to transmitt the same to the said Assembly—And that Your Majesty would be pleased to Suspend Your just resentment against the said Province untill such time as the Effect of the said Proposition should be known :—The Lords of the Committee considering the importance of this Affair and being desirous that Your Majestys Intentions herein, which appear so evidently 12 Nov.

1729.

for the Interest of Great Britain and for the Service of that Province, should be Complied with—And apprehending that the Death of Mr. Burnett may have abated the Animosity of this Dispute, which was become almost entirely Personall, and may have Caused some alteration in the Temper of this Province, [recommend compliance with the wishes of the Board of Trade]. [p. 73.]

2 Dec. [Orders accordingly.] [pp. 95-6.]

31 Oct. [191.] [The Committee for Appeals, on consideration of several
Jamaica. letters from Governor Hunter to the Duke of Newcastle and Mr. Delafaye, his Grace's secretary, relating to the making a settlement at Port Antonio and to the building a fort in the mouth of the harbour there, approve the designs as tending greatly to the defence and security of the island, and being of opinion that nothing should be omitted that may serve to complete the settlement of the north-east part of the island, refer such parts of the letters as relate thereto to the Board of Trade for a speedy report] whether any and what Encouragement is necessary to be given for that purpose, Besides what is contained in the Acts which have already been Confirmed by His Majesty or in any other Acts which may have since been past in the said Island and transmitted for His Majestys Royal approbation. [pp. 67-8.]

11 Dec. [Reference to a Committee of a representation from the Board of Trade offering for confirmation three Jamaica Acts relating to the settlement of the north-east part where Port Antonio is situated, viz.] An Act to Encourage the Settling the North East Part of this Island—Passed in 1721.—An Explanatory Act for the further Encouraging the Settling the Parish of Portland—Passed in 1728.—An Act for the better carrying on and Securing the New Settlements at Port Antonio in the Parish of Portland—Passed in 1728. [p. 110.]

18 Dec. [Committee. The Board of Trade having reported that they do not apprehend any further encouragements are at present

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expected by the people of Jamaica for completing the said settlement except the confirmation of the three Acts, the Committee advise that these be ratified as being of public service.] [p. 123.]

1729.

[Order accordingly.]

[p. 129.] 31 Dec.

[192.] [On a memorial from the Admiralty, a draft of instructions is ordered to be prepared by the Board of Trade directing them to assist the deputy receivers in foreign parts in collecting the sixpence a month from seamen's wages for the Royal Hospital at Greenwich according to Act of Parliament, and to each of these orders to the Governors is to be annexed a copy of the printed instructions sent to their deputies in foreign parts by the Commissioners for collecting the duty.]

19 Nov.
Plantations.

[p. 82.]

[The drafts of additional instructions to the Governors are approved. These are not sent to the Leeward Islands, Carolina and New England, for which colonies general instructions are now being prepared, in which this will be included. P.R.] [p. 136.]

(1730.)
22 Jan.

[193.] [Reference to the Committee for Appeals, Complaints, &c., from the plantations of the petition of John Moore, Collector of the Customs in Pennsylvania, that an Act of 25 Aug., 1727, for the establishing of Courts of Judicature in this province may be repealed, and such order and directions given touching the premises as to his Majesty shall seem meet.] [p. 84.]

19 Nov.
Penn-
sylvania.

[Committee for Appeals direct that all parties concerned appear to be heard on 6 May] And that in the mean time the proper party who appears to Support the said Act do put in an Answer to the said Petition. [p. 230.]

(1730.)
22 April.

[Committee for Appeals consider the petition and the answer of Springett Penn, grandson and heir at law, and of John, Thomas, and Richard Penn, devisees under the will of the late William Penn, and as the Act is now before the Board of

(1730.)
14 May.

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1729.

Trade, order that they report their opinion as soon as conveniently they can. A copy of the petition and answer are sent to the Board of Trade, and consideration of the matter by the Committee suspended till the report is made.]

[p. 238.]

(1731.)
7 July.

[Committee. The Board of Trade having reported this day, and the solicitor for the Penns having prayed a day for hearing them upon the report and Act, 23 July is appointed.]

[p. 425.]

(1731.)
23 July.

[The Committee agree with the Board of Trade in recommending disallowance of the Act as it] may prove highly prejudicial to Your Majestys Revenue in Pensilvania and be an Encouragement to illegal Trade in that Province by putting the officers of the Customs under great difficultys in Prosecutions upon Seizures made of Contraband Goods or other merchandize imported contrary to Law. [Moore alleged] that severall suits and informations which he had commenced in the supreme Court there by the advice of Your Majestys present Attorney Generall and the late Sir Clement Wearg, upon seizing a Ship Laden with East India and other contraband Goods illegally imported into the said Province are now discontinued, and the said Supreme Court (which had a Power of a Court of Exchequer by the Law of Pensilvania) Declared to have no Jurisdiction therein and the said power is by the said Act given to the County Court which consists chiefly of merchants.

[p. 435.]

(1731.)
12 Aug.

[The Act is disallowed.]

[p. 444.]

2 Dec.
Barbados.

[194.] [Reference to the Committee for Appeals of the petition of James Crow of Barbados, merchant, that a short day may be appointed for hearing his appeal from a decree of the Chancery there, 9 July, 1729, in favour of Gelasius MacMahon and Frances his wife and Elizabeth Holdip, widow and administratrix of Henry Holdip, relating to a portion of the estates of Richard Holdip, deceased.]

[pp. 96, 102, 235.]

- [On the Committee report of 14 May, the decree is reversed and further proceedings in Chancery ordered.] [pp. 236-7, 244.] 1729.
(1730.)
11 June.
- [195.] [Committee.] Report of the Lords Commissioners for Trade and Plantations with Heads of an Act of Parliament concerning the Newfoundland Fishery ; Considered—The further Consideration hereof Postponed till the Lords receive an Account from the Lord Vere Beauclerk at Newfoundland of his proceedings under the New Powers granted to him and Captain Osborne. [p. 105.] 8 Dec.
Newfound-
land.
- [Committee.] Ordered that the Report of the Board of Trade upon the State of the Fishery in Newfoundland, Be postponed till Lord Vere Beauclerc (who is gone Commadore on the Newfoundland Station) shall send a full account of the state of that Trade. [p. 240.] (1730.)
27 May.
- [Commission and instructions for George Clinton, commander of H.M.S. *Salisbury*, as for Capt. Osborn in 1729,] with an addition only of the two last articles, whereby Captain Clinton is directed to enquire what effect has attended the commission given to his Predecessor for creating Justices of the Peace and other civil officers in that Island—and also to frame a scheme of the Quantity of Fish taken annually at Newfoundland, with the Numbers of Ships Boats and Men employed on that service in a more Methodical manner than has been hitherto practiced. [p. 389. P.R.] (1731.)
11 May.
- [Commission and instructions for Captain Edward Falkingham of H.M.S. *Salisbury* as for Capt. Clinton,] with an addition only to the 65th Article whereby the Governor is directed to enquire into the Truth of severall complaints against the Justices of the Peace there—and to prevent their interfering with the Fishing Admirals in such matters relating to the Fishery as are reserved to the Jurisdiction of the said Admirals by Act of Parliament. [p. 655. P.R.] (1732.)
18 May.
- [196.] [Commission approved for Jonathan Belcher to be Governor of Massachusetts Bay and New Hampshire. P.R.] 11 Dec.
New
England.
[p. 110.]

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1729.

(1730.) [His instructions and a representation from the Board of
10 April. Trade are referred to a Committee.] [p. 219.]

(1730.)

15 April. [The Committee recommend approval of the instructions, as the most material alterations from former instructions are conformable to Orders in Council, and the rest are for his Majesty's service.] Their Lordships beg leave upon this Occasion, humbly to represent to Your Majesty, that during the whole time the late Mr. Burnet was Governor of Massachusetts Bay, he did not receive any Salary or allowance whatsoever from the Assembly of that Province—And although severall Sums had been from time to time Voted for him, And particularly one of Six Thousand Pounds of that Country Money in August last, Yet as the same were offered to him, on terms contrary to those required by Your Majestys Instructions to him, He did in Duty to Your Majesty and in just regard to the Trust reposed in him, refuse to accept thereof:—In consideration whereof, and that by such his steady pursuit of Your Majestys Instructions his Family hath been deprived of any Advantage which might otherwise been received from that Government—And in regard no recompence whatever hath been made to him or his Children any other way for such his Services—Their Lordships are humbly of Opinion that the present Governor of that Province, should be Directed to acquaint the said Assembly in Your Majestys Name, That it is expected they should make Good to Mr. Burnetts Children the Sum voted to their late Father in August 1729. Or at least, such a Sum as shall appear Due to him for the whole time of his Government, at the rate of One Thousand pounds Sterling per annum being the Sum recommended in Your Majestys Instructions to be settled upon him in the said Province. [pp. 221-2.]

(1730.)

8 May. [Instructions approved; Oath taken; order given in accordance with recommendation of Committee. P.R.]

[pp. 232, 234.]

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[Reference to the Board of Trade of a letter of 10 Dec. from Gov. Belcher to the Duke of Newcastle with an Act of the Assembly relating to the settling a salary upon the said Governor during his administration.] [p. 339.]

1729.
(1731.)
10 March.

[The report of the Board of Trade is referred to a Committee.] [p. 411.]

(1731.)
1 July.

Letter from the Clerk of the Council to the Secretary of the Board of Trade for some of that Board to attend a Committee [on 4 Aug.] on the Massachusetts Act for settling the Governor's salary. [p. 437.]

(1731.)
27 July.

[The Committee hear the agents for the Governor and for the Province, and refer to the Board of Trade a petition of Jonathan Belcher, son of the Governor, that his father may be allowed to assent to an Act passed in June last for paying him his salary to May, 1732. If the Board of Trade approve of the petition, they are to prepare an instruction accordingly.] [p. 438.]

(1731.)
4 Aug.

[Committee. To the first Act, Oct., 1730, the Governor had refused his assent in accordance with his instructions; on the petition of his son that he may accept the 5,400*l.* granted him by the Act of June, 1731, the Board of Trade present a draft instruction, which the Committee recommend for his Majesty's approval. The report of the Board of Trade sets forth] That they cannot without concern reflect upon "the Obstinacy with which the generall Assembly of this Province Persist, in their refusal to settle a fixed Salary upon their Governor for the time being, Yet considering on the other hand that the present Governor must necessarily have been at large Expence out of his private Fortune since his Entrance upon that Employment; As he has hitherto paid an Exact obedience to Your Majestys Commands by refusing to accept of any Salary contrary to the tenour of his Instructions; and as his Family must unavoidably be very great Sufferers should he be left to support the Dignity of his Station out of his own

(1731.)
11 Aug.

1729.

Estate :—The said Lords Commissioners are therefore of opinion, that for this time only Your Majesty may be graciously pleased to permit Governor Belcher to give his assent to the aforesaid Bill, as a particular Grace and Favour to the said Governor and his Family, and in consideration of his Faithfull adherence to Your Majestys Commands, Provided Nevertheless, that this Condescention on the part of the Crown shall not in any wise be drawn into Precedent for the future, nor be in any Degree construed to enervate the Validity of Your Majestys former Instructions upon this head which the Governor should be commanded to inforce, by requiring the next generall Assembly to Settle his Salary for the future in such manner as may be most conformable to Your Majestys Royall Pleasure. [pp. 439-40.]

(1731.)

12 Aug. [Instruction approved authorising the Governor to assent to the Act. P.R.] [p. 445.]

(1732.)

10 Aug. [Reference to the Board of Trade of a memorial of Jonathan Belcher, jun., agent for his father, the Governor of Massachusetts Bay, praying that the latter be permitted to assent to a bill passed on 13 June for paying him 3,000*l.* currency for his support. A copy of the bill is also referred.] [III. p. 45.]

(1733.)

11 Jan. [The report of the Board of Trade of 17 Dec., 1732, is referred to the Committee.] [III. p. 96.]

(1733.)

26 Jan. [The Committee, whose minute does not quote the report,] being of opinion with the said Lords Commissioners that it may be adviseable for His Majesty to permit Governor Belcher to give his assent to the aforesaid Bill are hereby pleased to Order that the said Lords Commissioners of Trade and Plantations do prepare a Draught of an Instruction to Empower the said Governor to give his assent thereto and lay the same before this Committee. [III. p. 108.]

(1733.)

15 Feb. [The Committee offer the instruction for his Majesty's royal approbation.] [III. p. 110.]

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- [The instruction approved. P.R.] [III. p. 113.] 1729.
(1733.) 21 Feb.
- [Reference to the Committee of a memorial of J. Belcher,
jun., similar to that of 10 Aug., 1732.] [III. p. 236.] (1733.)
4 Oct.
- [The Committee refer the memorial to the Board of Trade.] (1733.)
2 Nov.
- [Committee, on consideration of the report of the Board of
Trade of 13 Nov., order the Board of Trade to prepare an
instruction similar to that approved on 21 Feb.] [III. p. 247.] (1733.)
23 Nov.
- [Committee offer the instruction for his Majesty's royal
approbation.] [III. p. 254.] (1734.)
8 Jan.
- [Instruction for assenting to Act of 20 June, 1733,
approved. P.R.] [III. p. 283.] (1734.)
10 Jan.
- [Reference to the Board of Trade of another similar memorial,
which adds the petition that the yearly grant instead of 3,000l.
should be 1,000l. sterling.] [III. p. 288.] (1734.)
8 Aug.
- [Board of Trade report referred to the Committee.] (1734.)
19 Sept.
- [Committee agree that the Act may pass and that the
Governor use his best endeavour with the Assembly to have
his salary made equivalent to 1,000l. in accordance with his
instructions—3,000l. in bills of credit being of less value than
1,000l. sterling. The Board of Trade is instructed to prepare
an additional instruction for assenting to the Act.] [V. p. 10.] (1734.)
1 Nov.
- [Committee report with draft of instructions.] [V. p. 15.] (1734.)
5 Nov.
- [Instruction for assenting to Act of 8 June approved. P.R.] [V. p. 26.] (1734.)
7 Nov.
- [Reference to the Committee of another memorial for leave
to assent to a Salary Act of 7 June, granting 3,000l. in bills of
credit, and for] a General Licence for receiving his Support [V. p. 29.] (1734.)
7 Nov.
- [Reference to the Committee of another memorial for leave
to assent to a Salary Act of 7 June, granting 3,000l. in bills of
credit, and for] a General Licence for receiving his Support [V. p. 32.] (1735.)
13 July.

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1729.

for the future as it may be raised from time to time by the Assemblys provided the sum does not fall below the sums granted him by former Assemblys. [V. p. 217.]

(1735.)

14 Aug. [Committee refer the petition to the Board of Trade.] [V. p. 222.]

(1735.)

27 Oct. [Committee order the Board of Trade to prepare the draft of an additional instruction in accordance with the petition, the Salary Act to be the first passed before other business is proceeded with in the session in which it is proposed.]

[V. p. 236.]

(1735.)

5 Nov. [Committee report with draft of instructions.] [V. p. 240.]

(1735.)

6 Nov. [The instruction approved. P.R.] [V. p. 246.]

11 Dec.
Plantations.

[197.] [Reference to a Committee of the petition of Thomas Coram representing that the whale fishery in the plantations has been greatly discouraged by the seizure of the produce by the Governors on the pretence that whales and such other fishes are royal fish, and praying that, in order to encourage settlers,] the respective Governors should be prevented from seizing or taking any of the said Oyle or Finns, or other produce of any sort of Fish which may happen to be taken, and that all kinds of Fishery may be entirely free. [p. 111.]

18 Dec.

[The Committee] looking upon the said proceedings of the Governors to be unwarrantable and to tend greatly to the Discouragement of so advantagious a Trade as that of the Fishery, and being of opinion that all kinds of Fishery ought to be entirely free to all His Majesty's subjects [order the Board of Trade to prepare drafts of instructions for the Governors of plantations requiring them not to give any discouragement to the fishery but on the contrary to give all proper encouragement to the same.] [p. 124.]

(1730.)

18 Feb. [Committee offer the draft instructions for his Majesty's approval.] [p. 167.]

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[The instructions approved. P.R.] Memorandum this
Order was publish't in the Gazette. [p. 174.]

1729.
(1730.)
21 Feb.

[Reference to a Committee of the petition of Ralph Noden, agent to John Pitt, Lieutenant Governor of Bermuda,] setting forth that the profits arising by Licences granted for the Fishing of Whales there computed at the value of one hundred pounds per annum have been always assigned to the Lieutenant Governor of those Islands as a part of their Salary. But that as His Majesty hath lately Prohibited the said Governors as well as other Governors of His Colonys in America from laying any Claim to the produce of Whales for the future, whereby the said Lieutenant Governor Pitts Salary will be reduced—He most humbly prays, that in Lieu of the said Licences, His Majesty will be graciously pleased to order the said one hundred pounds per annum to be paid to the said Lieutenant Governor out of such of His Majestys Revenue as His Majesty shall think fit to appoint. [p. 247.]

(1730.)
11 June.

[Committee refer the petition to the Board of Trade for examination and report.] [p. 370.]

(1731.)
14 April.

[Committee order the Board of Trade, in accordance with their report of 11 May, to prepare the draft of an additional instruction] for the said Lieutenant Governor to recommend in His Majestys Name to the Assembly of Bermuda that they do take the proper means for raising and paying an adequate Salary to him in lieu of the profits that did arise to him from Granting such Licences not exceeding the annuall Sum of One hundred pounds. [p. 424.]

(1731.)
7 July.

[Committee report with the draft instruction. The Board of Trade report is quoted, declaring it reasonable that the inhabitants should make satisfaction to the Governor, as the fishery is now left free and open to them and they only reap the benefit thereof.] [p. 503.]

(1731.)
10 Dec.

[Instructions approved in Council. P.R.] [p. 518.]

(1731.)
23 Dec.

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1729.
 (1748.) [To the Committee for Plantation Affairs is referred an
 22 March. address from the Assembly of Bermuda, setting forth] That
 it having been found by Experience for several Years during
 the Payment of such Sum to be a greater Hardship to the
 Inhabitants of those Islands than when the Whale Fishery
 was upon the former establishment they therefore humbly
 beseech his Majesty to be graciously pleased to remove such
 Instruction or to redress them in such manner as His Majesty
 shall think most proper. [XI. p. 620.]
- (1748.)
 26 March. [The Committee refer the matter to the Board of Trade.]
 [XI. p. 627.]
- (1748.)
 25 June. [The Committee agree with the report of the Board of Trade
 of 10 June recommending] that the Whale Fishery should not
 any longer remain open to the Inhabitants of those Islands
 but that His Majestys said Governor should be directed to
 take to himself the profits arising from granting Licences
 for Fishing for Whales as heretofore unless the Assembly
 shall comply with the said Article of His Majestys Instructions ;
 [and order the Board of Trade to prepare a draft instruction.]
 [XII. p. 41.]
- (1748.)
 30 June: [The Committee approve of the draft instruction, and]
 agree to lay the same before Your Excellencys for Your
 Approbation. [XII. p. 42.]
- (1748.)
 30 June. [The instruction is approved.] [XII. p. 47.]
- 11 Dec.
 South Caro- [198.] [Commission for Robert Johnson to be Governor
 lina. approved. P.R.] [p. 109.]
- (1730.)
 11 June. [His instructions, with a representation of the Board of
 Trade of 10 June, are referred to a Committee.] [p. 246.]
- (1730.)
 14 July. [The Committee adjourn consideration of the instructions
 till the 21st when the Board of Trade and the Attorney and
 Solicitor General are to attend.] [p. 262.]
- (1730.)
 21 July. [The Committee order the Board of Trade to make the
 following alterations]: That the Name of Benjamin

1729.

Sehenckinh be left out of the list of Councillors, and the Name of Robert Wright inserted in lieu thereof.—

That all the Articles relating to the Scheem for creating a New Paper Currency be omitted, and in lieu thereof, an Article inserted to empower the Governor in generall terms to give his Assent to a Law, for the Establishing a New Paper Currency upon such a foot as may best answer the necessitys of the Province and be most Conducive to the Publick Utility thereof But he is to be required to take care that a Clause be inserted in such Act to suspend the execution thereof untill His Majestys Pleasure shall be known thereupon.

That at the end of the Sixty third Article the following Clause be added—Vizt.—

But in the mean time You are to take especiall care that no Office or Place whatever in our said Province be executed but by Commission to be Granted by Us—or by You our Governor under the Seale of our said Province. [p. 263.]

(1730.)
4 Aug.

[Committee recommend approval of the amended instructions.] [p. 266.]

(1730.)
17 Sept.

[Instructions approved, and Governor Johnson takes the oaths. P.R.] [pp. 272, 275.]

[199.] [Reference to a Committee of the] Petition of John Lord Carteret, setting forth his right to an Eighth part of the Province of Carolina, and humbly praying for the reasons therein contained that his said Part may be Set out and allotted to him proposing at the same time to Surrender up to His Majesty his Share and Interest in the Government of the said Province and to convey Release and Confirm to His Majesty the other Seven Parts of the said Province. [p. 120.]

18 Dec.
Carolina.

[The Committee for Appeals refer the petition to the Board of Trade.] [p. 237.]

(1730.)
14 May.

[Committee. The report read] The consideration of it Postponed—And Duke of Newcastle desired to look out for Lord Carteret's Letters offering to Sell his said Eighth part to the Crown. [p. 240.]

(1730.)
27 May.

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1729.
(1730.)
21 July. [The Committee] order, that the said Lords Commissioners for Trade do send to the Lord Carteret to know what value his Lordship sets upon his said Eighth part of that Province in order to treat for the Surrender thereof to the Crown—and make Report of their Proceedings therein to this Committee. [p. 264.]
- (1730.)
9 Sept. [Committee.] Report of the Board of Trade with a Copy of a Letter from Lord Carteret concerning his Disposing of his Eighth part of the Province of South Carolina to the Crown—read—Nothing done upon it. [p. 270.]
- (1742.)
24 Aug. [The Committee] did some time since take the Petition into their Consideration. [They now propose in agreement with the report of the Board of Trade] that the Lord Carterets Property should be seperated from that of Your Majestys wherein he should enjoy whatsoever he is entituled to by the Charters of Carolina, [and that the method proposed by himself as the most effectual be adopted, that the Governors of North and South Carolina or either of them, as his Majesty shall direct, appoint five Commissioners to confer upon the delimitation with five appointed by Lord Carteret, and report within eighteen months ; that on the approval of their report, Lord Carteret abandon all pretensions to the government of the province, and to the other seven-eighths of the soil ; and that the Commissioners appointed on his Majesty's behalf follow and observe such instructions as may from time to time be given them by his Majesty or by those who act under his authority.] [VIII. p. 216.]
- (1742.)
15 Sept. [Order given accordingly.] [VIII. p. 229.]
- (1744.)
21 Mar. [The return of the Commissioners, and the plan of the lands allotted by them is referred to the Committee for Plantation Affairs.] [IX. p. 257.]
- (1744.)
9 May. [The Committee rehearse the history of the case, and report that by the report of the Commissioners of 9 Dec., 1743,] they have allotted to his Lordship one full Eighth part of the

1729.

Provinces of Carolina in one entire Separate District in the province of North Carolina next adjoining and Contiguous to the Province of Virginia which Eighth part is bounded to the North by the Line in the said Plan that divides Carolina from Virginia to the East by the great Western Ocean commonly so called and as far Southerly as a Cedar Stake set upon the Sea side in the said Latitude of Thirty five Degrees and Thirty four Minutes of North Latitude being Six Miles and a half to the Southward of Cluckinacomack Inlet from that Stake by a West Line which passed Twenty five feet to the Southward of the House where Thomas Wallis liveth and so West as far as the Bounds of the Charter granted to the Lords proprietors of Carolina by His Majesty King Charles the Second which West Line went within 1,660 Poles to the North of the South end of Bath Town, All which Boundarys are marked out and ascertained by the said Plan.

[The Committee recommend that the return be approved, and that the Attorney and Solicitor General be instructed to draw up all necessary instructions and deeds of transfer.]

[IX. pp. 298-301.]

(1744.)
9 May.

[Orders accordingly.]

[IX. p. 306.]

[200.] [On the petition of Samuel Gledhill setting forth that he returned immediately from Placentia on being recalled from his Lieutenant-Governorship there by the Secretary at War to answer some complaints made against him by merchants and masters of fishing ships, and is now arrived here with several of the principal inhabitants to testify as to the truth of the particular contents of such complaints, and praying an opportunity of justifying himself, the complaints are referred to a Committee for examination and report.] [p. 130.]

31 Dec.
Newfound-
land.

[The Committee appointed to consider of the Irish Bills and other matters order that] Colonel Gledhill forthwith putt in a particular answer to every charge contained in the severall Papers which were transmitted to him by His Majestys Secretary at War:—And their Lordships do hereby further

(1730.)
24 Jan.

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1729-30.

Order, that Notice be given to the Complainants to prepare themselves to make out their Charge against him, at such time as their Lordships shall think proper to appoint for hearing this Affair—of which Notice shall be given to them. [p. 148.]

(1730.)
20 April.

[Committee order that copies of Col. Gledhill's answer and of the affidavits delivered in by him in support thereof be delivered to the solicitor for the complainants, who is to prepare to make good the complaints before the Committee.]

[p. 229.]

(1730.)
27 May.

[Committee. Lord Vere Beauclerk having] informed their Lordships that he had Examined into and regulated the severall Matters Complained of before the Petitioner left Placentia, and the Petitioner had Submitted to such regulation—And that his Lordship had no New matter of Complaint against him—And the Sollicitor for the Merchants and Masters of Ships of Barnstaple and Biddeford having this day attended their Lordships and informed them that as the Lord Vere when he was last at Placentia had Settled all Matters there to the entire Satisfaction of the said Complainants, And as the said Governor Gledhill had by his answer submitted to such the Lord Vere's Determination, he therefore on behalf of the said Complainants desired leave to withdraw their Complaints. [The Committee recommend that the merchants be allowed to withdraw their complaints.] [p. 239.]

(1730.)
11 June.

[Order accordingly.]

[p. 243.]

(1730.)
11 June.

[On Gledhill's petition, the suspension laid upon his pay on account of the complaints, is taken off.] [p. 244.]

1730.
22 Jan.
Antigua.

[201.] [Reference to the Committee for Appeals of the petition of John Dubois of Guadeloupe for a short day for hearing his appeal from a sentence of the Admiralty Court in Antigua, 20 Sept., 1729, condemning his ship *St. Ann*, which had been seized by order of Capt. Toller of the *Pearl* man of war on pretence of unlawful trade.] [p. 138; III. p. 4.]

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- [On Committee report of 20 July, the appeal is dismissed for non-prosecution with 10*l.* costs.] [III. pp. 4, 19.] 1730.
(1732.)
21 July.
- [202.] [Reference to the Committee for Appeals of the petition of Solomon de Paz of London, merchant, and his attorneys David and Benjamin Bravo of Jamaica, merchants, for the dismissal of their own appeal granted them by the Jamaica Chancery from its decree of 19 April, 1726, in a case between them and David and Isaac Gabuy or Gabay.] [p. 159.] 2 Feb.
Jamaica.
- [Committee report that the appeal may be dismissed.] 4 Mar.
[p. 191.]
- [Order accordingly.] [p. 214.] 16 Mar.
- [203.] [Reference to the Board of Trade of a copy of the representation of the Governor and Council of New York that the Attorney General there hath laboured under great hardships for some years past for want of a salary and recommending him for a like salary with that which was settled upon Mr. Rayner, his predecessor: also of the Attorney's memorial to the Governor.] [p. 177.] 21 Feb.
New York.
- [204.] [Committee for the Irish Bills and other matters. A copy of a letter to Lord Townshend relating to abuses in the African trade is referred to the Board of Trade] who are to Enquire into the severall matters contained therein, and in case they find the allegations to be true and that the merchandizes necessary for carrying on the Trade to Africa are to be bought at a cheaper rate in Holland than they are here, that they Do then Report to this Committee what they shall Judge proper to be done here for easing His Majestys Subjects Trading to Africa, and enabling them to buy their Goods as cheap here as they are bought in Holland.—And that they do likewise Report what they conceive necessary to be done towards preventing great cargoes of Goods being carried from Holland to the West Indies by English Ships which go to Holland under pretence of buying a Cargoe of Goods for the Coast of Africa—Yet do not dispose of any Quantity thereof in 12 Mar.
African
Trade.

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1730.

Africa but in reality do Import the greatest part of those Goods so bought in Holland into His Majestys Plantations.

[p. 192.]

9 Sept. [Committee.] Report . . . read and Postponed. [p. 270.]

10 April. [205.] [Reference to a Committee of a memorial from the Plantations. Admiralty desiring that directions be given to the Governors of plantations] to use their best endeavours to assist the Officers of the Vice Admiralty Courts in their Governments in all matters that may properly and Judicially come under their Cognizance, and also for restraining the Provinciaall Judges from Interfering with them therein. [p. 217.]

15 April. [The Committee recommend the issue of instructions accordingly. The memorial was prepared on complaints from the officers of the Vice Admiralty Courts in the plantations of interruptions in their proceedings by prohibitions by the provincial judges,] whereby the Course of Justice hath been very much Obstructed, by the interfering of the Jurisdictions of the Common Law, and that of the Admiralty, and Your Majestys Subjects in those Parts have Suffered great Hardships.

[p. 223.]

20 April. [Order accordingly.] [p. 220.]

10 April. [206.] [Reference to a Committee of a memorial from the Piracy. Admiralty of 30 March.] [p. 217.]

15 April. [Committee. The memorial proposes] for the better Encouragement of the Officers and Companys of Your Majestys Ships to be vigilant in the Destroying of Pirates which now infest the American Seas That Your Majesty would be Graciously pleased to Grant unto such of them, who shall be actually on board at their first coming up with, or engaging and taking any Piraticall Ships or Vessells in any parts, All such Ships or vessells so taken of what Nation soever, together with the Goods and Effects found on board, which shall not be duly claimed within a Year and a day after Condemnation

1730.

thereof, as also a Bounty of Five pounds for every man who was living on board such Piratical Ship or Vessel at their first coming up with or engaging and taking them as aforesaid ; And that the same may be paid by the Treasurer of the Navy upon Bills made out by the Navy Board, and the whole to be Divided among them, in such Share and Proportions as was done pursuant to an Act of Parliament in the late War with France.

[The Committee recommend that the proposed encouragements be given] Provided there be any proper Fund out of which such money can be paid.

Memd. This Report was never approved of. [p. 223.]

[207.] [Reference to a Committee of a memorial of 20 March from the Admiralty desiring to be empowered to appoint vice-admirals, judges and other officers requisite for Courts of Vice Admiralty at the Island of Minorca, Gibraltar, Nova Scotia, &c.] 10 April. Nova Scotia. [p. 218.]

[Committee refer it to the Attorney and Solicitor General to report in what manner the Admiralty may most properly be empowered to appoint such officers where they have not hitherto been appointed.] 15 April. [p. 224.]

[Committee.] Report of Mr. Attorney and Solicitor General. Read and Postponed. 23 Nov. [p. 297.]

[Committee. The Admiralty] having lately made application to this Committee desiring that the Consideration of this affair may be now revived. Their Lordships have accordingly reconsidered the said Memorial and also the said Report of the late Attorney and Solicitor General thereupon, and Do Agree humbly to Report to Your Majesty as their Opinion, that Your Majesty may, by Letters Patent under the Great Seal, grant Authority to the Lords Commissioners of the Admiralty, to Constitute and appoint Vice Admirals, and also Judges of Courts of Admiralty, and proper Officers of such Courts in the Island of Minorca, Gibraltar, and Nova Scotia, and such

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other of your Majesty's Foreign Dominions belonging to the Crown of Great Britain, where they shall Judge it necessary for your Majesty's Service, in like manner, as Vice Admirals, Judges, and other Officers of such Courts, have been constituted by the Lord High Admiral or Commissioners of the Admiralty for the time being, in places, where they have been usually heretofore appointed: And if it shall be your Majesty's pleasure to Grant such powers, the same may be hereafter continued, by inserting a proper Clause for that purpose in future Commissions to be granted to the Lord High Admiral or Lords Commissioners of the Admiralty for the time being.

[VI. p. 331.]

(1739.)

6 Sept.

[Order accordingly.]

[VI. p. 337.]

10 April.
Connecticut.

[208.] [Reference to the Committee for Appeals, &c., of the petition of Jonathan Belcher and Jeremiah Dummer on behalf of the colony of Connecticut,] setting forth the great Inconveniencys brought upon the said Colony by the repeal of an Act which had been past there for settling Intestates Estates, and humbly praying that Notwithstanding the said Act is repealed—That His Majesty will be pleased to confirm to the Inhabitants of the said Colony the Estates they now hold and are in possession of under the said Act and to Quiet them therein, and to enable them to Divide the Lands of Intestates in the same manner for the future—with a saving clause as to the Estates of John Winthrop Esquire upon whose application the said Act was Repealed.

[p. 220.]

15 April.

[Committee refer the matter to the Board of Trade for consideration and report. By the Act] the reall Estates of Persons Dying Intestate were to be divided equally amongst the Children of the Intestate, Save only that the Eldest Son was to have a double Share which Method of Dividing Intestates Estates the Petitioners represent to have been observed as an established rule from the first settlement of that Province, and that the annulling the said Act without

1730.

substituting some Provision in lieu thereof, would introduce the greatest confusion and occasion a total alteration in the property of the People there.

[Committee.] Report of the Board of Trade . . . being read, and a motion being made, for hearing Counsell against the said Report, in favour of the Petitioners, as likewise of Mr. Winthrop—The Lords were of Opinion, that the Solicitors for the Petitioners ought to have applied for leave to be heard against the said Report, and they were called in and acquainted therewith, and that upon their application, the Lords would appoint a day for hearing them. [p. 344.]

(1731.)
10 Mar.

[209.] [Reference to the Committee for Appeals, &c., of the petition of Samuel Waldo of Boston, merchant,] on behalf of Elisha Cooke Nathaniel Hubbard Esqrs. and severall others Proprietors of Lands near the River Penobscot, setting forth that they have been interrupted in making settlements upon the said Lands by David Dunbar Esquire Surveyor General of the Woods in America, who insisted on their taking Grants of the said Lands from him—And humbly praying in regard they have a Clear Title to the said Lands both by Grant from the Crown and Purchase from the Natives, that they may carry on their intended Settlements upon the same, and that Mr. Dunbar may be Directed not to obstruct or Disturb them therein. [p. 220.]

10 April.
Massachu-
setts Bay.

[The Committee refer the petition to the Board of Trade for examination and report.] [p. 225.]

15 April.

[Reference to a Committee of the petition of Sir Bibye Lake, Bart., grandson and heir of Capt. Thomas Lake of Boston, merchant, in behalf of himself and Col. Edward Hutchinson of Boston and John Wolcott of Salem, son and heir of Joseph Wolcott of Salem, deceased, who with Col. Hutchinson was grandson and heir of Major Thomas Clark of Boston, deceased, praying that they may not be disturbed or molested in some lands in New England to which they have a right, but within

(1731.)
8 April.

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1730.

the limits of which Col. Dunbar pretends to have received orders from his Majesty to make settlements, &c.] [p. 366.]

(1731.)

14 April.

[The Committee, finding the petition to be of like nature with that referred by them on 15 April last to the Board of Trade, refer this also to the Board, who are to receive the opinion of the Attorney and Solicitor General on both petitions, and report.] [p. 369.]

(1732.)

12 July.

[Committee grant the petition of the Massachusetts Agent for a copy of the Board of Trade report.] [Vol. III. p. 4.]

(1732.)

2 Aug.

[Committee report on the petitions :] Both which petitions set forth inter alia the right of the Petitioners to several Tracts of Land lying between the Rivers of Kennebeck and St. Croix in that part of His Majestys Province of the Massachusetts Bay in New England lying adjacent to His Majestys Province of Nova Scotia which they Claimed some by purchase from the Indian Saggamores or Sachams allowed of and Approved by the General Court for the Government of the Massachusetts Province, and others by Grant from the Council Established at Plymouth for the Planting Ruling Ordering and Governing New England in America ratified and Confirmed by the several Charters granted to the Subjects of the said Province, and further Setting forth that the Petitioners and their Ancestors had been ever since the time of such their purchases and Grants in the enjoyment and possession of the said Lands and from time to time laid out very considerable Sums of Money in Settling and improving the same and in Erecting Buildings thereon and houses of Defence and in defending the same from the Indians and had a Magistrate and Courts of Justice Established amongst 'em But which Settlements and Improvements were broke up and destroyed by the frequent Warrs with the Indians Saving only as to some Blockhouses of Defence which the Indians were not able to take whereby the Petitioners and their Ancestors had Sustained many and great Losses Notwithstanding which on every peace with the

Indians they had alway endeavoured to effectuate the Settlement of the said Premises, and particularly on the Conclusion of the last Warr with the Indians which broke out in or about the Years 1722 or 1723 the Petitioners were very Vigorously pushing forwards the Settling and bringing these Lands into a Capacity of receiving and Securing a Number of Inhabitants and being intent and resolved on continuing and finishing their said Settlements with the utmost dispatch they had actually laid out several Townships and provided a Minister and had a hundred and twenty Familys ready to go and settle one of the said intended Towns—But further Setting forth that to their great Surprize Disappointment and Loss to the great prejudice of the Province and His Majestys Interest there they had met with an Interruption therein from David Dunbarr Esqr. Surveyor General of His Majestys Woods in America who had forbid the Petitioners going on with their said Settlements and informed them that he could not permit their going on with the same on any other Terms but their taking Grants from him in the same manner as if they had not already any Title thereto pretending he had some Instructions or a Commission from his Majesty to make Settlements within the Limits of the Petitioners Lands and in other places in the Eastern parts of the said Province of the Massachusets Bay and to Erect the same into a Separate Government from that Province altho' the same is included in the Charter granted to the Subjects of the said Province and notwithstanding Mr. Dunbarr had been waited on and made fully acquainted with the Petitioners Title to their said Lands and Premises yet he insisted he should enter upon and make Settlements therein unless His Majesty should forbid or restrain him therefrom.—

The Petitioners therefore by their said Petitions prayed that His Majesty would be pleased to send the necessary Orders or Instructions to the said David Dunbarr not to intermeddle with the Tracts of Land to which the Petitioners were so Entitled or molest them therein and that he should not

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interrupt obstruct or Disturb the Petitioners their Tenants and Agents in carrying on their Settlements on any pretence whatsoever that so the Petitioners might be Quieted in the Possession thereof under the Government of His Majestys Province of the Massachusets Bay and be at liberty to proceed in Settling the Premises without Molestation:—

And the Lords of the Committee thought it proper before they formed any Opinion on the said Petitions to referr them to the Lords Commissioners for Trade and Plantations with directions that they should consider the same and receive the Opinion of His Majestys Attorney and Sollicitor General thereon and afterwards make Report to this Committee of the whole matter with what they conceived proper to be done thereupon:—

That when the said Lords Commissioners for Trade and Plantations received the said Directions they apprehended it necessary for their better Information in the Premises to call the Agent for the said Province before them and to draw up a State of a Case Setting forth the Nature of the Claim which the people of the Province had to the Lands in Question and how little had been done by the Province for the Defence or Improvement of the said Country and also Stating the Changes that had happened in this District in point of Dominion by the Conquest which the French made over it in 1696 and by the reconquest thereof in the Year 1710 by the English under General Nicholson And to which Case the said Lords Commissioners Subjoined the following Querys which with the said two Petitions they referred to the Consideration of His Majestys Attorney and Sollicitor General Vizt.

First—Whether the Inhabitants of the Massachusets Bay if they ever had any right to the Government of the said Tract of Land lying between St. Croix and Kennebeck or Sagadahock have not by their neglect or even refusal to defend take care of and Improve the same forfeited their said right to the Government and what right they had under the Charter and now have to the Lands—

Secondly—Whether by the said Tracts being Conquered by the French and afterwards reconquered by General Nicholson in the late Queens time and Yielded up by France to Great Britain by the Treaty of Utrecht that part of the Charter relating thereto became Vacated and Whether the Government of that Tract and the Lands thereof are not absolutely revested in the Crown and whether the Crown hath not thereby a Sufficient power to appoint Governors and Assign Lands to such Familys as shall be desirous to Settle there—

Whereupon His Majestys Attorney and Sollicitor General certified to the said Lords Commissioners for Trade and Plantations by their Report of the 11th of August 1731 That having Considered the said Case and Petitions and having been Attended by Mr. Paxton Sollicitor for the Affairs of His Majestys Treasury and by the respective Agents of the Province of the Massachusetts Bay in New England and of the Petitioners having heard Counsel in behalf of the Crown and of all the said Partys at which hearing were laid before them a Copy of the Charter granted by their late Majestys King William and Queen Mary to the Inhabitants of the Massachusetts Bay together with several Affidavits and Copys of Divers Conveyances of particular parcells of Land lying within the Tract in Question which were Certified under the Seal of the said Province—It appeared to them as follows—

That all the said Tracts of Lands lying between Kennebeck and St. Croix is amongst other things granted by the Charter to the Inhabitants of the said Province and that thereby power is given to the Governor and General Assembly of the said Province to make Grants of Lands within the said limits Subject to a provisoe that no such Grants should be of any force until their said late Majestys their Heirs or Successors should have Signified their Approbation of the same—

That it appears also by the said Charter that the rights of Government granted to the said Province Extend over this Tract of Land

1730.

That it doth not appear to them that the Inhabitants of the said Province have been guilty of any such Neglect or refusal to Defend this part of the Country as can create a forfeiture of that Subordinate right of Government of the same or of such property in the Soil as was granted to them by the said Charter it being sworn by several of the said Affidavits that a Fort was Erected there and for some time defended at the Charge of the Province and that Magistrates and Courts of Justice have been appointed within this District and that one of the Council of the Province hath always been chosen for this Division and tho' it is certain that this part of the Province hath not been improved equally with other parts thereof yet considering the Vast Extent of Country granted by this Charter and the great Improvements made in several parts of it the Attorney and Sollicitor conceive that will not create a forfeiture because in such cases it is not to be expected that the whole should be cultivated and improved to the same Advantage and whether there hath been such a neglect or nonuser of any part as may amount to a forfeiture must be judged of not upon the particular Circumstances Attending that part only but upon the Circumstances of the whole—

And if the Province had incurred any forfeiture in the present case no advantage could be taken thereof but by a Legal proceeding by Scire facias to repeal their Charter or by Inquisition finding such forfeiture.

As to the Question Stated in the case upon the Effect of the Conquest of this Tract of Country by the French and the reconquest thereof by General Nicholson, It is the Opinion of the Attorney and Sollicitor General that the said Tract not having been Yielded by the Crown of England to France by any Treaty the Conquest thereof by the French created according to the Law of Nations only a Suspension of the property of the former Owners and not an extinguishment of it and that upon the reconquest by General Nicholson all the Antient rights both of the Province and of Private persons

Subjects of the Crown of Great Britain did revive and were restored Jure postliminij

That this rule holds the more Strongly in regard it appears by the Affidavits that the Province joined their forces to those that came thither under the Command of General Nicholson in this Service—

For these reasons the Attorney and Sollicitor General are of Opinion that the said Charter still remains in force and that the Crown hath not power to appoint a particular Governor over this part of the Province or to Assign Lands to persons desirious to Settle there nor can the Province grant these Lands to private proprietors without the Approbation of the Crown according to the Charter—

And As to the Case of the Petitioners in the two Petitions who insist upon particular Titles in themselves to certain parcels of Land lying within the District in Question the Attorney and Sollicitor General have examined into their Claims and find by the abovementioned Copys of Deeds and Writings produced by them that several of the Petitioners and those under whom they Claim have had Conveyances made to them of several of the said parcells of Land some from the Council of Plymouth which was Constituted by Charter in the Reign of King James the first, and whose Grants are Confirmed by the Charter of King William and Queen Mary and others from Indians pretending to be Owners thereof under which Grants large Sums of Money appeared by the Affidavits to have been laid out in Endeavouring to Settle and Improve the Lands therein comprized several of which Sums were expended not many Years ago particularly a sum of two thousand pounds by Sir Bibye Lake in the Year 1714 and other Sums of Money by others of the Petitioners in the Years 1719 and 1720 and tho' these Settlements and Improvements have been in great measure interrupted and defeated by frequent Warrs and incursions of the Indians yet several of the Petitioners or their Tenants appeared to be still in possession of some parts of the said Tract of Land.—

1730.

The Attorney and Solicitor General Observe in their Report that some Objections were made before them to the Nature of the Grants and Conveyances under which the Petitioners claimed and to the manner of deducing down their Titles but they conceive that in Questions of this kind concerning rights to Lands in the West Indies and upon Enquirys of this nature the same regularity and exactness is not to be expected as in private Suits concerning Titles to Lands in England but that in these cases the principal regard ought to be had to the possession and the Expences the partys have been at in endeavouring to Settle and Cultivate such Lands.—

Therefore upon the whole matter they are of Opinion that the Petitioners their Tenants or Agents ought not to be disturbed in their possession or Interrupted in carrying on their Settlements in the Lands granted to them within the District in Question.—

Which Report of His Majestys Attorney and Solicitor General having been laid by the Lords Commissioners for Trade and Plantations before this Committee by their Report of the 6th of June last:—

The Lords of the Committee this day proceeded to take the whole matter into their Consideration and Do thereupon humbly Report to Your Majesty that they Agree in Opinion with His Majestys Attorney and Solicitor General that the Charter of the said Province doth still remain in force And that the Crown hath not power to appoint a particular Governor over this part of the Province or to Assign Lands to persons desirous to Settle there—nor can the Province grant these Lands without the Approbation of the Crown according to the Charter—And that the Petitioners their Tenants or Agents ought not to be disturbed in their possession or interrupted in carrying on their Settlements in the Lands granted to them within the District in Question And their Lordships are therefore further of Opinion that it may be adviseable for Your Majesty to Revoke the Instructions given by His Majesty on the 27th of April 1730 to Richard Philips Esqr. Governor of Nova

Scotia and to the aforementioned David Dunbar Surveyor General of the Woods relating to the Settling the said Lands— And to Order the said David Dunbarr to Quitt the Possession of all the said Lands. [III. pp. 32-8.]

1730.

[Order accordingly. P.R.]

[III. p. 44.]

(1732.)
10 Aug.

[210.] [Reference to the Committee for Appeals of the petition of Daniel Sabere of Newport, R.I., for a short day for hearing his appeal from a judgment of the General Court of Trials on the first Tuesday in Sept., 1729,] upon an action brought by Ann Sabere Widow of John Sabere and Deborah and Mary Sabere their Children, for a Partition of a Piece of Land with a dwelling House and its Appurtenances lying in the said Town of Newport, which the Petitioner alleges he had purchased Joyntly with the said John Sabere. [pp. 229, 351, 373.]

20 April.
Rhode
Island.

[The judgment is reversed on the Committee report of 7 May.]

[pp. 380, 388.]

(1731.)
11 May.

[211.] [Reference to a Committee of a letter from the Admiralty to the Duke of Newcastle desiring him to move his Majesty to omit for the future the clause usually inserted in commissions for Governors of plantations empowering them in time of war to constitute and appoint captains, lieutenants, masters of ships and other commanders and officers: together with the opinions of Dr. Sayer and Mr. Serjeant Baynes therein enclosed concerning the legality of the said clause.] [p. 218.]

10 April.
Plantations.

[Committee.] The whole Instruction to the Governors relating to this Affair—read—And it appearing to their Lordships therefrom, that the Governors are restrained from intermeddling with any of the Crew belonging to His Majestys Ships.—It is therefore ordered that the further consideration of this Memorial be postponed. [p. 224.]

15 April.

[212.] [In Sept.-Oct., 1720, when a commission was issued for the trial of pirates in South Carolina, North Carolina was still under the government of the proprietors and no such

8 May.
North
Carolina.

1730.

commission was sent thither.—As his Majesty has now appointed a Governor, it is ordered, on a representation of 30 April from the Board of Trade that a commission for trying pirates pursuant to an order of 23 Nov., 1728, be prepared for] George Burrington Esquire Your Majestys Captain General and Governor in Chief of Your Majestys Province of North Carolina in America or the Governor or Commander in Chief of the said Province for the time being.—The Vice Admiral or Vice Admirals of the said Province for the time being.—The members of Your Majestys Council in the said Province for the time being.—The Judge of the Vice Admiralty in North Carolina or the Judge or Judges of the Vice Admiralty in the said Province for the time being.—The Captains and Commanders of Your Majestys Ships of War within the Admiralty Jurisdiction of North Carolina for the time being.—The Secretary of the Province of North Carolina for the time being.—The Treasurer or Receiver General of the said Province for the time being.—The Surveyor General of Your Majestys Customs in Your Majestys Southern Provinces on the Continent of America for the time being.—The first or Chief Justice of the Provincial or Supream Court of North Carolina for the time being. [p. 232.]

9 July. [Commission approved.] [p. 259.]

11 June. [213.] [Reference to a Committee of an Ordnance report as
South to a supply of great guns and other arms for South Carolina
Carolina. and of a report of Governor Johnson relating thereto.]
[p. 246.]

21 July. [The Committee, on discoursing with the Governor, judge it necessary for the security of South Carolina, as the southern frontier of all the provinces on the continent of America, to send stores, and direct the Master of the Ordnance to furnish a new estimate,] leaving out the Oake Carriages with Iron Trucks, and also the Pistolls, and reducing the Number of Musquetts, Swords and Cartouch Boxes to Three hundred of each sort. [p. 263.]

[The Committee direct that there be added to the estimate a further list of necessary materials for South Carolina presented by the Governor as omitted in his first list.] [p. 267.] 1730.
18 Aug.

[Committee. The first report from the Ordnance represented that they had no allowance from Parliament for supplying the plantations with stores ; but, as in 1728 stores were sent to the Bahamas by authority of an Order in Council and the charge ordered to be included in the next estimate to be laid before Parliament by the Ordnance, it is recommended that the same course be taken in the present case.] [p. 293.] 23 Nov.

[On the Committee's report, the Council order the stores, estimated at 4,508*l.* 19*s.* 7*d.*, to be sent at once, and the charge included by the Ordnance in the next estimate laid before Parliament.] [p. 299.] 14 Dec.

[214.] [Reference to the Committee for Appeals of the petition of Charles Dunbar of Antigua, administrator of his wife Alice, deceased, that, as all the proceedings are duly transmitted, an early day may be appointed for hearing his appeal from a decree of the Antigua Chancery, 16 Jan., 1725, in a case between him and William Glanville, William Yeamans, Valentine Morris, and Christopher Stoodley.] [p. 248.] 11 June.
Antigua.

[Similar reference of Dunbar's petition that the appeals of his four adversaries from the decree of 16 Jan., 1725, and from an Order of the Chancery Court of 30 June, 1726, may be dismissed with costs for non-prosecution.] [pp. 248, 256.] 11 June.

[On the Committee report of 4 July their appeals are dismissed with 10*l.* costs.] [p. 258.] 9 July.

[No one having appeared for the respondents, the decree is varied in Dunbar's favour, on the Committee report of 10 March.] [pp. 318, 343-4, 362.] (1731.)
8 April.

[215.] [Reference to the Committee for Appeals, etc., of the petition of Thomas Brooke of Maryland that Michael Macnamara's appeal from a judgment of the Court of Appeals 11 June.
Maryland.]

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1730.

and Errors, 15 May, 1729, affirming a judgment of the Provincial Court, 21 May, 1728, in favour of the petitioner, may be dismissed for non-prosecution.] [p. 248.]

23 Nov. [The Committee, finding that the appeal has not been prosecuted, though it was admitted above a year and a half since, recommend that it be dismissed with 5*l.* costs.] [p. 296.]

14 Dec. [Reference to the Committee for Appeals of the petition of Michael Macnamara of Ann Arundel County, Maryland, son and heir of Thomas Macnamara, that, as all the proceedings are duly transmitted, an early date may be appointed to hear and determine his appeal from a judgment of the High Court of Appeals held by the Governor and Council, 24 May, 1729, affirming a judgment of the Provincial Court in favour of Thomas Brooke.] [pp. 301, 351.]

(1731.)

11 May. [On the Committee report of 28 April, the judgments are reversed, and Macnamara restored to all he has lost by them.] [pp. 375, 386.]

11 June. [216.] [Reference to the Committee for Appeals, &c., of the Maryland. petition of Thomas Nelson of Maryland, lessee of John Digges of Maryland, that, as all the proceedings are duly transmitted, a short day may be appointed for hearing his appeal from two judgments of the Provincial Court and the Court of Appeals and Errors, 18 Oct., 1726, and 6 Feb., 1729, in favour of John Beale, relating to a grant of 750 acres of land there.] [p. 248.]

(1737.)

20 June. [Committee.] Upon a Motion made to their Lordships for dismissing the Appeale of Thomas Nelson against John Beale from Maryland for non Prosecution. It was Ordered that precedents should be Searched for dismissing Appeales for non Prosecution where the Petitions of Appeale have been Preferred to His Majesty and referred to a Committee.

[V. p. 240.]

(1737.)
25 June. [Committee agree to hear the appeal on Friday.]

[V. p. 242.]

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[The Committee recommend that the appeal be dismissed for non-prosecution with 10*l.* costs.] [V. p. 244.]

1730.
(1737.)
1 July.

[Order accordingly.]

[V. p. 261.]

(1737.)
21 July.

[217.] [Reference to a Committee of a memorial from the Admiralty (and papers annexed),] relating to some complaints made to them by Mr. Brown Judge of the Court of Vice Admiralty in Pensilvania, of his having received Sundry Hardships, and been greatly discountenanced and interrupted in the Execution of his Office by the Governor and Chief Justice of that Province. [p. 259.]

9 July.
Penn-
sylvania.

[Committee. The memorial proposes that] Directions may be given for the Support of the Admiralty Jurisdiction wherein the Interest of His Majestys Trading Subjects is so nearly concerned, and for preventing such Irregular practices for the future. [It is referred with the other papers and the report of Sir Henry Penrice, Judge of the Admiralty, to the Board of Trade for examination and report.] [p. 261.]

14 July.

[Committee. The Board of Trade reporting on 7 Sept., 1730, that they have transmitted copies of all the papers to the Deputy Governor for his answer, with instructions to allow Mr. Brown and any other persons concerned to make affidavits of what they know concerning the complaint, and have given all necessary directions for having the matter transmitted hither in due form, they are ordered to lay the proofs and any other papers before the Committee as soon as they are transmitted.]

(1731.)
14 April.

[p. 371.]

[218.] [Reference to the Committee for Appeals of the petition of Philip De Witt and Ann his wife that, as all the proceedings are duly transmitted, a short day may be appointed for hearing their appeal from a decree of the Nevis Chancery, 2 Dec., 1729, in favour of Edward and Ann Abbott] upon a Bill filed by the Petitioners against them for restitution of the Possession of the Lands and premises, whereof the petitioner Anne had been disseized by Richard Abbott deceased. [p. 261.]

9 July.
Nevis.

288 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1730.
(1731.) [On the Committee report of 2 Nov. the appeal is dismissed.
25 Nov. De Witt's bill was against Richard Abbott, eldest son and heir
of Richard Abbott, deceased, Edward Abbott youngest son of
the deceased and Ann Abbott his widow and executrix.]

[pp. 466-7, 480.]

9 Sept.
South [219.] [The Committee approve a representation from the
Carolina. Board of Trade of 23 July as to the settlement of 600 Swiss
Protestants in Carolina, and direct them to prepare instructions
for the Governor of South Carolina] agreeable thereto, Except
only in that part where the said Lords Commissioners propose
that the said Swiss Familys shall dwell together in one or more
Townships, as to which, The Lords of the Committee are
of Opinion that they should not be confined to dwell together,
but that the Governor should be left at liberty to settle them
in such Place and manner as shall be Judged most conduive
to the Interest and Security of the said Province. [p. 270.]

(1731.) [Committee. Draft instructions referred back to Board of
23 Nov. Trade] to alter the same according to the Direction they
received at the Board. [p. 472.]

(1731.) [Committee. The Board of Trade having represented]
1 Dec. that the Sieur Jean Pierre Purry of Neufchatel in Switzerland
was in the Year 1725, recommended by the Lords
Commissioners for Trade and Plantations to the late Lords
Proprietors of Carolina as a Person well Qualifyed for making
a settlement of Swiss Protestants in that Province—That
thereupon the said Lords Proprietors under the Seale of that
Province did make severall Grants in Trust for the said Purry
amounting to the Number of Forty Eight Thousand Acres,
which Grants containing certain conditions to be performed
by the said Lords Proprietors which were never complied
with, that Scheme proved abortive, and those Grants are now
become void—Whereupon the said Purry had lately made
fresh application to the said Lords Commissioners and proposed
to settle Six hundred Swiss Protestants in South Carolina,
including women and children at their own expence within the

space of Six Years to be accounted from Christmas next on condition that the said Six hundred Swiss shall be received and treated there as Your Majestys own Subjects and intituled to the same priviledges, Provided also that Your Majesty shall be graciously pleased to grant the said Purry in consideration of his Trouble, Labour and expence Twelve Thousand acres of Land in that Province to him and his Heirs free from Quit Rents.

These Conditions appearing very reasonable to the Lords of the Committee except that the said Twelve Thousand Acres of Land to be granted to the said Purry should after the expiration of ten Years be subject to pay a Quit Rent to Your Majesty in like manner with the rest of the Lands in the said Province, and the Design of the said Purry appearing to be very advantageous to Your Majestys said Province of South Carolina which is a Southern Frontier of the British Colonys in America, and lyes much exposed both to the French and Spanish settlements in those Parts, and where their Lordships are informed there are not at present above Three Thousand White Familys.—

[The Committee ordered the preparation of draft instructions accordingly, to be presented to his Majesty with the report, but a marginal Memorandum reads] This Report was never presented to His Majesty Mr. Purry having afterwards applied for 48,000 Acres of Land, which was granted to him as Vide Pages.— [pp. 495-6.]

(1732.)
9 Mar.

[The Committee for Plantation Affairs refer to the Board of Trade together with the draft instructions for granting 12,000 acres a] Representation of John Vat on the behalf of Mr. John Peter Purry and such Swiss Protestant Familys as design to settle in South Carolina, praying that a Grant may be made to the said Purry of Forty eight Thousand acres of Land in that Province subject to the usuall Quit Rents after the first ten Years—for the better enabling him to carry on his Design in setling six hundred Swiss Familys—And that

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1730.

the said Lands may be laid out contiguous to the Township called Purrysbourg on the Great Yamasee Bluffe on the Savanna River. [p. 616.]

(1732.)
6 June.

[The Committee for Plantation Affairs order the Board of Trade to prepare a draft of additional instructions to grant Purry 48,000 acres of land on the conditions named in the report of the Board of Trade of 26 May and the further condition that if any of the lands are not cultivated at the expiration of ten years, such lands shall then revert to the Crown. The conditions proposed by the Board of Trade are,] That the said Swiss or so many of them as are of a competent age for that purpose do upon their arrival in Carolina take the usuall oaths of Alligeance to His Majesty.

That after they shall have taken the said Oaths, Lands shall be assigned them by His Majestys Governor where they shall dwell together in one or more Townships in such Place and manner as may be most for the security of the said Province.

And that the said Purry shall not be intituled to the Grant of Forty eight Thousand acres till the service undertaken by him shall been fully performed, and that it shall appear to His Majestys Governor in South Carolina by Certificates from one or more Officers of the Customs that the said Purry hath caused to be imported into South Carolina six hundred Swiss Protestants including Men Women and Children.

[p. 664.]

(1732.)
12 July.

[Committee report as on 1 Dec., 1731 :] But that as to the request of the said Purry for twelve thousand Acres free from Quit Rents for ever The Committee did not think the same proper to be Complied with in regard all Lands to be granted there ought to pay the usual Quit Rents of the Province— Whereupon the said Purry withdrew his said request, and instead thereof humbly Offered that in case he might obtain a Grant of forty eight thousand Acres of Land (being the same Quantity which the late Lords Proprietors had Agreed to give him) he was willing to pay the usual Quit Rent for the

1730.

same—The Lords of the Committee having no Objection to the said request thought proper to Order the Lords Commissioners for Trade and Plantations to prepare a Draught of Additional Instructions for His Majestys Governor of South Carolina to empower him to make a Grant of Lands to the said Purry not exceeding forty eight thousand Acres under certain Conditions. And likewise to require him to Settle the said Six hundred Swiss Protestants when they shall Arrive in the said Province—And the said Lords Commissioners having accordingly prepared a Draught of Instructions proper to be sent to the said Governor in this behalf—The Lords of the Committee humbly Offer the same to Your Majesty for Your Royal Approbation. [III. p. 1.]

[Committee.] It is Ordered by their Lordships that the 2d Article of Governor Johnsons Instructions relating to the Settling Six hundred Swiss Protestants in South Carolina be altered and made Conformable to the Order of this Board of the 9th of September, 1730. [III. p. 8.]

(1732.)
20 July.

[The additional instructions approved. P.R.] [III. p. 18.]

(1732.)
21 July.

[Reference to the Committee of the petition of Charles Purry, attorney for John Peter Purry, that the Governor of South Carolina be empowered to grant Col. Purry part of the 48,000 acres in proportion to the number of Swiss already imported and as from time to time hereafter imported.]

(1733.)
10 May.

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

[III. p. 162.]

(1733.)
22 May.

[III. p. 168.]

[Committee report in favour of the petition and present a draft of instructions prepared accordingly by the Board of Trade. The petition as here summarised includes a further prayer that the grant may be marked out in the lands adjoining the Swiss townships in South Carolina.] [III. p. 184.]

(1733.)
3 July.

[The instruction approved. P.R.]

[III. p. 194.]

(1733.)
19 July.

1730.
(1734.)
17 April.

[Reference to a Committee of Purry's petition] that His Majesty would be graciously pleased to Order the Governor of South Carolina to Order the Six Miles Round the Township of Purrysburgh (on that side of the river where the said Township is scituated originally intended by His Majestys Instructions for the bounds of the said Township) to be surveyed and set apart for the use of the said Town notwithstanding any Surveys made thereof since the said Town was first cut out and that the said Lands may be reserved as well for the intended Grant of 48,000 Acres to the Petitioner as for the use of such Swiss or other foreign protestants as the Petitioner or his Agents has or shall Cause to be transported to Settle and occupy the same and that such of the most Substantial and prudent Inhabitants as are employed and directing and assisting the rest to make their respective Settlements may in consideration of their Charge and Trouble respectively be allowed such Additional Quantity of Lands within the Six Miles limits round the said Town by the Governor of South Carolina as shall be thought to be an Adequate reward for their Services provided that no one persons Additional Lands do exceed 300 acres and that their Services be Certified to the said Governor by the Petitioner, and further humbly praying that such of the Inhabitants whose Lotts are Scituated on the aforesaid Rivulet on Condition of their cleansing and clearing the said Rivulet may be allowed a Double Lot in the said Town in Consideration of their extraordinary Charge and labour in performing that work—And that as Several fforeign Protestants have been Obliged to fly their Country in Germany and other parts of Europe for the sake of their Religion and who are well Skilled in the production of Silk and Wine are willing to go and settle at Purrysburgh he humbly prays that they may be reputed and received amongst the Number of Swiss Protestants which the Petitioner has Obliged himself to carry to that Place.

(1734.)
18 April.

[Referred by Committee to Board of Trade.] [III. p. 477.]

- [The Committee approve the Board of Trade report of 5 Sept. and order instructions for the Governor to be prepared accordingly.] [IV. p. 25.] 1730. (1734.) 1 Nov.
- [Committee report with draft of instructions. The Board of Trade, having consulted the Attorney and Solicitor General, reported that Col. Purry's requests were reasonable and ought to be complied with.] [IV. p. 82.] (1735.) 15 Jan.
- [Report and instructions approved. P.R.] [IV. p. 99.] (1735.) 12 Feb. (1735.) 11 June.
- [Reference to the Committee of Purry's petition] Setting forth that the Late Lords Proprietors of Carolina did pursuant to His late Majestys Commands Grant and Convey unto Stephen Godin and another person in trust for the Petitioner one Barony or Tract of Land containing 12,000 Acres in the said Province of Carolina at a Pepper Corn rent yearly as an Encouragement to him to carry over severall Swiss Familys to Settle in that Province. That the said Grant was sent to the Petitioner in Switzerland but never came to his Hands and therefore the said Lands were never set out. That as the Estate and Interest of the said late Lords Proprietors is now by Act of Parliament become vested in His Majesty—And as the Petitioner upon the Credit of the said Grant hath taken up and Borrowed Severall Sums of Money to Enable him to transport himself and Family and others to Carolina. He therefore prays that Her Majesty will be pleased to Direct that a New Grant may be made to Peter Goodin Son of the said Stephen Godin now Deceased at a Peper corn rent in trust for such uses as the Petitioner shall by any writing Direct and Appoint. [IV. p. 177.] (1735.) 18 June. (1738.) 25 May.
- [Referred by Committee to Board of Trade.] [IV. p. 180.]
- [Reference to the Committee of Charles Purry's petition] that the Governor of South Carolina may be Directed to carry into Execution His Majestys Instructions to the late Governor for laying out the Lands within Six Miles round the Township of Purrysburgh. [V. p. 548.]

1730.
(1738.)
27 May. [Committee refer the petition to the Board of Trade who are to insert an article in Col. Horsey's instructions requiring him to take care that the former instructions are carried out as desired.] [V. p. 553.]
- 17 Sept.
Jamaica. [220.] [Reference to a Committee of a memorial from the Admiralty] relating to the Sending over Stores and building Forts upon the Island of Jamaica for the Service of His Majestys Ships of War in securing the Entrance into the Harbours there And also relating to the appropriating twenty Acres of Land upon Lynches Island to His Majestys Navall Service. [p. 273.]
- 23 Nov. [The Committee find that the first part of the memorial which is dated 10 July] setts forth the necessity of Erecting a Fort or Close Battery upon Lynches Island in the Island of Jamaica (lately purchased for the use of the Navy) for the better securing the Entrance into the Harbour of Port Antonio whereby the said Harbour may become safe and usefull to Your Majestys Ships of Warr, as likewise for the security of the Docks and Yards which are to be made on the said Island for the use of the Navy—And therefore humbly request that Your Majesty will be pleased to give Orders for Erecting such a Fort, as also for a supply of Twenty Guns which may carry weight of Metall such as shall be Judged proper with a proportion of Ordnance Stores, to be disposed of, as the Governor with the advice of the Engineer now there, shall think necessary for the Security of the abovementioned Harbour.
- Which request appearing to the Lords of the Committee to be for the Service of Your Majestys Navy, they are humbly of Opinion that it may be advisable for Your Majesty to Direct the Board of Ordnance to prepare an Estimate of the Charge of the said Fort and Stores and to lay the same before Your Majesty in Council for Your Royall approbation.
- The Second part of the said Memorial Setts forth that the Assembly of Jamaica have in pursuance of Your Majestys Recommendation passed a Law to vest in the Crown Twenty

1730.

Acres of Land in Lynches Island (which had been reserved by a former Act) to be disposed of as Your Majesty shall think proper—And therefore the Lords Commissioners of the Admiralty humbly desire that the necessary Directions may be given that the said Land may be solely appropriated to Your Majestys Naval Service in regard they have purchased the rest of the said Island for that Service.—

As to which request the Lords of the Committee are of Opinion that Orders should be sent to the Governor of Jamaica to make a Grant of the said Twenty Acres of Land for the sole use of Your Majestys Navy.—

The last part of the said Memoriall setts forth, that there is a New Channell in Kingston Harbour, in the said Is.and of Jamaica, now much used and well known, but is not under the Protection of Fort Royall which commanded the old Channell—And that the Officers Stationed there have proposed that a small Fort should be built upon Muscheto Point or on the Sand opposite to it which will command both the Channells And the said Lords Commissioners therefore request Your Majesty to take the same into Your Consideration and to give such Directions therein as to Your Majesty shall seem meet.—

As to which last request Their Lordships are of Opinion that the Building such a Fort is absolutely necessary for the Security of the Island against any Invasion from an Enemy and for the protection of that Harbour where the Chief Trade of the Island is carried on—And that therefore the Governor of Jamaica should be Directed to recommend it to the Assembly to make provision for the Erecting such a Fort. [pp. 294–5.]

[Orders accordingly.]

[p. 300.]

14 Dec.

(1731.)

4 Aug.

[Letter from Mr. Secretary Vernon to the Master of the Ordnance to prepare forthwith the estimate for guns and a fort in Jamaica ordered on 14 Dec., 1730.]

[p. 438.]

(1731.)

25 Oct.

[The Committee consider the report of the Officers of the Ordnance to the Duke of Argyle, Master General, by which]

1730.

it appears that the said Principall Officers have no Survey, Plan or Design of the Fort or close Battery so as to be Erected and are absolute Strangers to the price of Materialls or Workmanship in Jamaica. And that they do not know what Nature of Guns it may be proper to send for that Service— But their Lordships observing from a Copy of a Letter Writ by the Secretary of the Admiralty to the Board of Ordnance which came annexed to the said Report of the Ordnance— That the Lords Commissioners of the Admiralty have sent an order to Admiral Stewart now at Jamaica to transmit to them an account of what Fortifications should be Judged necessary to be erected for the Defence of Lynches Island with a Plan thereof and an Estimate of the Charge, as also what Nature of Cannon might be most fitt for that Service, [the Admiralty are directed to transmit the account to the Ordnance as soon as received that the estimate ordered on 14 Dec., 1730, may be prepared]. [p. 456.]

17 Sept.
Jamaica.

[221.] [Reference to the Attorney and Solicitor General of a memorial from the Admiralty] Setting forth that the principall Officers and Commissioners of His Majestys Navy, have represented to them that Mr. John Potter, late Navall Officer at Jamaica, hath drawn Bills on them to the amount of Thirty two Thousand and Sixty four pounds, and that Notwithstanding the many orders from them he neglects to send home any Vouchers for his Disbursements of the Sums of Money he stands Charged with, or to return to England pursuant to repeated Orders sent to him. And therefore the said Lords Commissioners of the Admiralty humbly Desire that His Majesty will be pleased to give Orders to the Attorney General at Jamaica to Exhibit a process against the said John Potter there in order to oblige him to account for the money and Stores which he hath received and is Charged with.

[p. 273.]

12 Nov.

[On the report of the Attorney and Solicitor General, it is ordered] that His Majestys Attorney General at Jamaica do

1730.

File an English Bill in his Name on His Majestys behalf in the proper Court there to compell the said John Potter to come to an account and to pay the Ballance which shall be found due thereupon to His Majestys use—And His Majesty doth thereby further Order, that if the said Attorney General shall find reason to suspect that the said Mr. Potter is likely to withdraw himself from the said Island in Order to avoid accounting, He do apply for a Ne Exeat Insula against him, according to the Laws of that Island that he may be prevented from flying from the Justice of the Court there, without giving Security to perform the Decree to be made on the hearing of the Cause. [p. 283.]

[222.] [Reference to a Committee of the] Petition of the Planters, Traders and other Inhabitants of His Majestys Island of Barbados thereto Subscribing Setting forth the great Disadvantages they labour under by the French supplying the Northern Colonys, and the Kingdom of Ireland with Sugar, Rum and Molasses—And also by the Petitioners being obliged to bring their Sugars and other Comoditys in Great Britain before they are at liberty to carry them to any Forreign Markets—And therefore humbly praying that the Importation of every Comodity the Growth or produce of Forreign Colonys into the British Plantations or into Ireland may be prevented untill they have been first imported into Great Britain and paid the same Dutys as Goods from the British Sugar Colonys are liable to, or that they may have a liberty to carry the produce of the British Sugar Colonys to Forreign Markets without being Obligated to bring them first to Great Britain. [p. 274.]

17 Sept.
Sugar
Colonies.

[Reference to the same Committee of the] Petition of severall Merchants Planters and others Interested in and Trading to His Majestys Sugar Colonys in America; praying that a Stop may be putt to a Trade carried on of late Years between the French Sugar Colonys and His Majestys Kingdom of Ireland and his Northern Colonys on the Continent of America,

12 Nov,

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1730.

which the Petitioners apprehend if not timely prevented, will not only very much Impoverish His Majestys Sugar Colonys, but will also endanger the loss of them. [p. 285.]

12 Nov. [Similar reference of the petition of Richard Partridge, agent for New Jersey and Rhode Island, to be heard against the Barbados petition.] [p. 285.]

23 Nov. [Similar reference of like petitions (1) from London merchants and others trading to Massachusetts Bay, New Hampshire, New York and North and South Carolina, (2) from Ferdinando John Paris of London, gentleman, for the inhabitants of, and merchants and traders to, Pennsylvania.] [p. 292.]

23 Nov. [Committee: the five petitions to be heard on 21 Jan.] [p. 296.]

23 Nov. [Letter from Mr. Secretary Vernon to Alured Popple, Secretary to the Board of Trade, transmitting copies of the petitions and desiring the presence of their Lordships at the hearing on 21 Jan. as] the matter in Dispute between them is of great Consequence to the Trade of Great Britain as well as to the Interest of the Sugar Islands. [p. 297.]

(1731.)

12 Jan. [Committee: the hearing put off to 25 Jan.] [p. 318.]

(1731.)

23 Jan. [Committee for the Affairs of Jersey and Guernsey: Counsel for the northern colonies being unable to attend on the 25th, the hearing is put off to 2 February.] [p. 322.]

(1731.)

23 Jan. [Letter from Temple Stanyan, Clerk of the Council, to the Board of Trade intimating the change of date.] [p. 323.]

(1731.)

28 Jan. [Reference to the same Committee of a petition against the trade from] the Mayor Aldermen, Merchants and Owners of Ships of His Majestys Burrough and Port Town of Liverpool in the County Palatine of Lancaster trading to and from His Majestys Colony of Barbados, and other His Majestys Colonys and Plantations in America: [and of one from the

merchants of Dublin against the misrepresentations in the petition from Barbados]. [pp. 325-6.]

1730.

[Committee. Counsel appearing in behalf of all the petitions, but] Counsell for the Petitions from Ireland and the Northern Colonys objecting to the entering into the meritts of this affair in regard the said Colonys have not yet had an opportunity of returning their reasons against the said Petitions of Complaint [the hearing is put off to 26 April]. [p. 328.]

(1731.)
2 Feb.

. . . the merchants and Planters concerned in the said Petitions from the Sugar Colonys, having by their Memoriall this day delivered to the Committee, represented that they have now made application to the Parliament to be relieved in the Matters complained of in their said Petitions, and therefore prayed to be permitted to withdraw their Petitions so referred by Your Majesty to this Committee—Their Lordships Do thereupon agree humbly to offer as their Opinion to Your Majesty, that the Petitioners may be accordingly permitted to withdraw their said Petitions. [p. 353.]

(1731.)
30 Mar.

[Order accordingly.] [p. 363.]

(1731.)
8 April.

[223.] [Reference to a Committee of the petition of Viscount Perceval, the Hon. Edward Digby and others] praying His Majesty to Grant them a Tract of Lands in South Carolina lying between the River Savana and Alortamalla in order to Establish a Charitable Colony thereon, and likewise to Grant them a Charter of Incorporation whereby they may be enabled to enter into Contract with such Familys as are willing to settle there, and to receive Charitable Benefactions of all those who are willing to promote the said Undertaking.

17 Sept.
Georgia.

[p. 274.]

[Committee refer it to the Board of Trade to report the properest method to render the same of most service to the public. The petition sets forth] that the Citys of London and Westminster and Places adjacent Do abound with great Number of Indigent Persons who are reduced to such

23 Nov.

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1730.

necessity as to become burthensom to the Publick, and also would be willing to Seek a livelyhood in any of His Majestys Plantations in America if they were provided with a Passage and means of settling there—And humbly proposing to undertake the trouble and Charge of Transporting all such Poor Persons and Familys, provided they may obtain a Grant of Lands in South Carolina for that purpose together with such Powers as shall Enable them to Contract with Persons inclinable to Settle there, and to receive the Charitable Contributions and Benefactions of all such Persons as are willing to Encourage so good a Design. [p. 295.]

(1731.)

12 Jan.

[Committee. The petitioners, among whom the Hon. George Carpenter and James Oglethorpe are now named, propose some alterations in the Board of Trade report. A paragraph of the report and the proposed alterations are referred back to the Board of Trade who are to consult with the petitioners, and again report.] [p. 316.]

(1731.)

18 Jan.

[Committee. The Board of Trade] have reported to this Committee that the Design appears to be very laudable in every respect, and to deserve due Encouragement, and may if happily Executed, produce many good effects to the Publick—And do therefore propose, that Your Majesty would be graciously pleased to incorporate the Petitioners, according to the Prayer of their Petition, as a Charitable Society, by the Name of the Corporation for Establishing Charitable Colonys in America, with perpetuall Succession—And to Grant them all such reasonable Powers as may be necessary for promoting and carrying on the said undertaking, The most material of which Powers, are particularly mentioned in the said Report of the Lords Commissioners for Trade and Plantations :—The Lords of the Committee having taken the said Report into their consideration, and been attended by the Petitioners, who proposing severall alterations to be made therein particularly with regard to their being Empowered to appoint and Displace all officers Civil and Military for the Term of Twenty one

Years; The Committee thought it necessary to receive the further opinion of the said Lords Commissioners for Trade thereupon; who having considered thereof have no objection to Your Majestys granting the Petitioners such a Power: The Lords of the Committee do therefore agree humbly to lay before Your Majesty, the severall Powers proposed by the said Report of the Lords Commissioners for Trade to be granted to the Petitioners, together with such alterations as they thought proper to make therein for Your Majestys Royall approbation.

“That the Petitioners may be impowered to purchase Lands of Inheritance in Great Britain, to the value of one Thousand pounds per annum, and Estates for Lives or Years and Goods and Chattels to any value, and to receive and take by Grant, gift purchase or otherwise any Lands in America with Power to make reasonable By Laws, not repugnant to the Laws of Great Britain, for the Government of their Corporation, together with all Clauses usuall and necessary for such a Corporation, and to lay an Annuall account of all Moneys or Effects by them received or expended for the carrying on this Charity, before the Lord Chancellor, the Lord Chief Justice of the Kings Bench the Master of the Rolls, the Lord Chief Justice of the Common Pleas, the Lord Chief Baron of the Exchequer, or any two of them.

“That Your Majesty may be graciously pleased to Grant to the Petitioners and to their Successors for ever, All that Tract of Land in Your Province of South Carolina lying between the Rivers Savanah and Alatomaha to be bounded by the most Northern Stream of the Savanah and the most Southerly Stream of Alatomaha, with the Islands in the Sea lying opposite to the said Land; reserving to Your Majesty Your Heirs and Successors a Quit Rent at the rate of four Shillings Proclamation Money for every hundred Acres contained in the said Tract which shall be Leased or Granted out by the Corporation to their Undertenants, or settled or Improved by them or their Agents, The said Quit Rent not to commence

1730.

or be paid till ten Years after such Leases, Settlements or Improvements respectively.

“That to the end Your Majesty may always be duly informed of what Quantities of Land are granted, settled, or improved by the said Corporation, that a constant Register be Kept by their Officers, of all such Leases, Grants, Settlements, and Improvements, and authentick Transcripts thereof annually transmitted to Your Majestys auditor of the Plantations or his Deputy, and also to Your Majestys Land Surveyor in South Carolina, reserving to the said Surveyor in Your Majesty behalf, a right of inspecting the Lands so Leased, Granted improved or Settled, to prevent any abuses with respect to the Quit Rents, intended to be reserved upon such Lands— Provided that neither the said Auditor, nor his Deputy, nor the said Surveyor, shall take or demand any Fee or reward from the Corporation, or from any Person holding under them, on transmitting the said accounts, or for Inspecting the said Lands.

“That the Tract of Land Petitioned for, which at present intirely uninhabited except by some few Indian Familys, should be seperated from the Province of South Carolina, and made a Colony Independant thereof, with respect to their Laws, Government and Oeconomy both Civil and Military, save only the chief command of their Militia, which is to remain with Your Majestys Governor of South Carolina for the time being, and saving always the Dominion of the Crown and the Dependance which every British Colony ought to have upon Your Majesty—And for this purpose, that the Corporation should have power under their Common Seale, from time to time to Constitute Courts of Record and other Courts to be held in Your Majestys Name, And for the space of Twenty one Years to appoint and Displace all Officers Civil and Military, except such Officers as shall be constituted and appointed for Receiving, Collecting, and managing Your Majestys Revenue within the said District, and should likewise have such other Powers as may be necessary for the Support and Defence of the said Colony.

1730.

“That the Corporation should be further impowered from time to time to prepare Laws for the Government of the said Colony to be laid before Your Majesty in Council and if such Laws shall not be disapproved by Your Majesty within three Calendar Months after they shall have been so laid before Your Majesty that they may then be sent over, and be in full force, untill Your Majesty shall think fitt to signify Your disallowance of them.

“And lastly, that as in process of time it is to be hoped, this Colony may prove a Flourishing settlement; The said Colony should have liberty given them, to import and export their Goods from any Port that shall be appointed by Your Majesty, without being obliged to touch at any other Port in Carolina.

“And tho’ this Colony be a New and Seperate District, Yet ought it to be Subject to the Act passed in the seventh and eighth of His late Majesty King William, and to all other Acts now in force in Great Britain, relating to Your Majestys Plantations in America in generall, as if this Colony had been Established before the passing the said Acts; and the Corporation ought also to lay constant accounts of the progress of the Colony, before one of Your Majestys Principal Secretarys of State, and the Lords Commissioners for Trade and Plantations that Your Majesty may be duly informed thereof.”

If Your Majesty shall be pleased to approve of what is herein proposed, The Lords of the Committee are humbly of opinion that Mr. Attorney and Sollicitor General should be directed to prepare a Draught of a Charter agreeable to the said Heads.

[pp. 319-21.] (1731.)

[Order accordingly.] [p. 323.] 28 Jan. (1731.)

[Report of Attorney and Sollicitor General with draft charter referred to a Committee.] [p. 451.] 12 Aug. (1731.)

[The Committee, on considering the draft charter, and hearing the petitioners thereon] are hereby pleased to refer 14 Dec.

1730.

back the said Draught to Mr. Attorney and Sollicitor General to reconsider the following Points and to make proper alterations and to insert proper Clauses therein and lay the same before this Committee as soon as conveniently they can Vizt.

That at the end of the Blank left for the Names of the present Corporation words be inserted to include the Members hereafter to be Elected—

That as it is intended this Corporation should not extend to the settling any other Colony than that of Georgia in South Carolina, so the Title and other parts of this Draught are to be made correspondent thereto.—

It being the opinion of the Committee that the Common Council men to be appointed should be continued during their good behaviour—That therefore all Clauses relating to a New Choice by way of Rotation be left out or made conformable to this opinion.

That as the Members of the Corporation are no more at present than twenty one It is proposed that the Number of Common Council men should be no more than fifteen. But in regard it is expected the members of the Corporation will be encreased to a greater Number. A Clause is therefore to be inserted Directing that as soon as the said Members shall be encreased, That the Number of Common Council men should by Election be augmented to twenty one.

That a Clause be added to restrain the Members of the Corporation from having any Grants of Lands made to themselves or to any others in trust for them—

And that another Clause be added to declare all Grants of Lands to be made by the Corporation in this Colony Void unless such Grants shall be registered within a limited time, with the auditor of the Plantations.

[The following points are referred for a report to the Board of Trade]:—For settling a western Boundary to the Colony to be Established by this Charter and for ascertaining the Distance of the Islands upon the Eastern shore from the Continent.

1730.

As likewise for fixing the Number of Acres proper to be granted to each Person who shall settle there. [pp. 505-6.]

(1732.)
19 Jan.

[Committee for Plantation Affairs, having considered the draft of a charter] for Establishing a New Colony in the Province of South Carolina by the name of Georgia in America . . . and having filled up the Severall Blanks left therein and made such alterations as they Judged most proper for answering the ends proposed thereby Do Agree humbly to lay the said Draught before Your Majesty as proper for Your Royall approbation. [p. 556.]

[The charter approved. P.R.] [p. 574.]

(1732.)
27 Jan.
(1732.)
21 July.

[Reference to the Committee of the] Petition of the Trustees for Establishing the Colony of Georgia in America Setting forth that being incorporated by His Majestys Royal Charter bearing date the ninth day of June last for Settling a regular Colony within the bounds of the Province of South Carolina they find it necessary for carrying on the said Service that Notice should be given of the said Charter to the Governor of the said Province with a Signification of His Majestys Pleasure that all due Countenance and Encouragement should be given for the Settling of the said Colony—And therefore humbly pray that Her Majesty would be pleased to give such Instructions to the Governor of the said Province as may be proper upon this occasion, and likewise a Direction for registering the said Charter in the Records of the said Province from a Copy to be annexed to the said Instruction.

[III. p. 23.]

[Committee order the Board of Trade to prepare a draft of instructions accordingly.] [III. p. 27.]

(1732.)
25 July.

[Committee offer the draft of instructions for his Majesty's royal approbation.] [III. p. 49.]

(1732.)
7 Sept.

[Instructions for Governor Johnson approved. P.R.] [III. p. 59.]

(1732.)
28 Sept.

306 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1730.
12 Nov.
Massachu-
setts Bay.

[224.] Whereas it hath been represented to His Majesty at this Board that Jonathan Belcher Esqr. His Majestys Governor of the Province of Massachusetts Bay is preparing for a military Expedition against Fredericks Fort formerly called the Fort of Pemaguid in order to remove Severall Irish Protestants lately Settled upon certain Lands there by Colonel Dunbarr Surveyor General of His Majestys Woods in those parts, to which Lands no private Persons have hitherto set up any Claim—And Whereas it hath been further represented that the People of Massachusetts Bay do Claim a Right of Government over the said Tract by virtue of a Clause in their Charter—And that a State of the Case concerning such Right is now preparing in order to be laid before His Majestys Attorney and Sollicitor General for their opinion thereupon :—His Majesty this day took the same into His Royall Consideration and looking upon an attempt of this Nature to be unjustifiable, and that it may in its Consequence prove fatal to many of His Majestys good Subjects in those parts—Is hereby pleased with the advice of his Privy Councill to order that His Majestys Governor . . do immediately upon the receipt hereof Abstain from Military Execution and cause a Stop to be put to all proceedings of any kind in this affair untill the Right to the said Tract of Land shall be Determined, and His Majestys further pleasure signified thereupon.

[p. 283.]

(1732.)
4 May.

[Reference to the Committee for Plantation Affairs of a memorial of the Council and Representatives of Massachusetts Bay in General Court assembled] complaining of Colonel Dunbar for presuming to erect a Fort and to abuse and Disturb His Majestys Subjects who would Inhabit and resettle their antient possessions and Improvements upon the Lands lying between Nova Scotia and the River of Sagadehock which Lands they alledge to be included within the Charter of the Province of the Massachusetts Bay and by which Charter the People inhabiting thereon are put under the authority and Protection of the Government of that Province, and humbly

praying that [the order of 12 Nov., 1730, may be superseded,]
That so His Majestys Governor of the said Province of
Massachusets Bay may give the necessary orders relating
thereto for the Protection and preservation of His Majestys
Subjects in their lawfull Business according to the said Charter
and the Laws of the Province. [p. 647.]

1730.

[225.] [Reference to the Committee for Appeals of the petition
of William Andrews of Worcester, gent., and of Samuel Osborn
and Thomas Stokes, his attorneys in Barbados, and of Richard
Morris of Barbados, gent., 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 of
Barbados as a Court of Errors, 14 April, 1730, reversing a
judgment of the Court of Common Pleas there of 15 Sept., 1729,
on a declaration in ejectment filed in the name of Morris on
the demise of Andrews by his attorneys against Isaac Le Gay,
gent., casual ejector and John Wood tertenant, for 107 acres
of land with buildings in the parish of St. Thomas and precinct
of St. James.] [p. 285.]

12 Nov.
Barbados.

[Reference to the Committee for Appeals of the petition of
William Andrews and his attorneys for a day for hearing their
appeal from a judgment of the Governor and Council as a
Court of Errors, 14 April, 1730, confirming a judgment of the
Court of Common Pleas of 12 Sept., 1729, in an action for
several negro and mulatto slaves brought by the petitioners
against Joseph Young, Esq., and James Caswell, merchant, and
afterwards continued against Young and John Ashley, Esqr.,
attorneys to Robert Hales, Esqr., and Sarah his wife.]

12 Nov.

[pp. 285, 335, 344.]

[A similar petition of the same persons against a judgment
of the Court of Errors of 1 Sept., 1730, on arguing a special
verdict of the Court of Common Pleas of 7 Feb., 1730, upon
a declaration of ejectment similarly filed by them against
Richard Moseley, gent., casual ejector and John Wood, gent.,

(1731.)
28 Jan.

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1730-1.

tertenant for 127 acres of land with buildings in the parish of St. Joseph and precinct of St. Andrews.] [pp. 325, 335.]

(1731.)

8 April.

[The appeals concern the will of Thomas Wardall, whose daughter Lucretia was wife of George Andrews of Barbados. They had offspring, Wardall Andrews and a daughter Sarah, now Sarah Hales. Wardall Andrews had a son William, who died under age and without issue, whereby the petitioner, his cousin, apprehends that he became well entitled to the estate. On the Committee reports of 24 March, the three appeals are dismissed.] [pp. 345-50, 364.]

23 Dec.
Nova Scotia.

[226.] [Reference to a Committee of the petition of Laurence Armstrong, Lieutenant Governor of Nova Scotia, to be allowed one full moiety of the salary payable to Col. Philips as Governor during the time the petitioner carried on the government in Col. Philips' absence.] [p. 306.]

(1731.)

6 Feb.

[Committee. Armstrong's claim is for the period from 29 May, 1725, when he arrived and assumed the government in Col. Philips' absence till 20 June, 1729, when Col. Philips arrived. On hearing counsel for the petitioner and for Governor Philips, the Committee report] That the Pay of Colonel Philips as Governor of Nova Scotia not arising from any Salary, Fees or Perquisites in the said Province, but being founded on the Establishment of Your Majestys Land Forces, and the same having been paid to him pursuant to the said Establishment—Their Lordships do not conceive this case to be within the Jurisdiction of Your Majestys Privy Council and are therefore humbly of opinion that Your Majesty may be pleased to order the said Petition of Lawrence Armstrong to be Dismist this Board. [p. 330.]

(1731.)

10 Mar.

[Order accordingly.]

[p. 337.]

1731.

28 Jan.
New York.

[227.] [Reference to the Board of Trade of the petition of Anthony Rutgers of New York, merchant, praying that the Governor of New York may be empowered] to grant the Fee

1731.

Simple of Inheritance of a Tract of Land containing about Seventy Acres called the Swamp to the Petitioner, his Heirs and assigns, under the reservation of such Moderate Quit Rents as shall be thought proper. [p. 325.]

[Board of Trade report referred to a Committee.] [p. 410.] 1 July.

[The Committee offer recommendations in accordance with report of the Board of Trade, which represents]—That they have been attended upon this occasion by Persons acquainted with the Province of New York, and the Premises Petitioned for, who have informed them that the said Swamp does contain about Seventy Acres almost all of it Boggy Land, and that there is a small Stream of fresh water running from the said Swamp into the South River:—That it was once thought a Wet Dock might have been made in this Swamp for the use of the Province, but they were informed it is impracticable:—That they find by An Act past at New York in the Year 1698, this Swamp is reserved for the use of the Governor for the time being, and Fort at New York, But that as this Land continues to be a Bogg, and has never been of any Use either to the Governor of the Fort, and that on the contrary the Stagnated water in the Swamp having occasioned Distempers many of the Inhabitants who lay contiguous to it have been obliged to remove their Habitations, and that for the convenience of the Town Your Majestys Governor of New York had agreed to the Petitioners request: The said Lords Commissioners have no objection why Your Majesty may not be graciously pleased to Grant the prayer of the Petition of the said Mr. Rutgers under the Quit Rent now paid for Land at New York with Provisoes that the said Swamp be drained in the space of one Year from the date of the Grant. And that if any fresh water remains which may be of service to the Inhabitants of the Town, It should be reserved for publick and common Use with a convenient Road thereto. [pp. 418-9.] 7 July.

[Order accordingly. The land is described as] a certain swamp and Fresh Pond called the Fresh Water adjacent 12 Aug.

1731.

to the Dukes Farm upon the Island Mahhattan now called New York Island, beginning at a Stake sett in the Ground on the South side of the said Pond and at the North East corner of the Land belonging to William Merrit thence running along the South side of the said Swamp and Pond by the Upland to the Beach on the East side of Hudsons River so along the beach to the Upland thence crossing a small Gutt of the said Swamp to the Land on the East side thereof thence by the said Land as it runs to the East side of the Tan Yards and thence to the Place where it begun containing in all seventy Acres. [p. 445.]

3 Mar. Appeals. [228.] The Lords of the Committee of Council beg leave humbly to represent to your Majesty, that a practice hath of late been introduced by the Partys, who have Causes depending before the Council, to Print and deliver a State of their Case to the Lords, at the time of hearing the said Causes; which printed cases have not been signed by any Counsell learned in the Law—Their Lordships looking upon the same to be an Irregular and Improper way of proceeding, do therefore humbly propose to Your Majesty, that for preventing the like for the future, Your Majesty would be pleased to order that no Person whatsoever do presume to deliver any printed Case or Cases to any Lords of the Council or any Committee thereof, unless such Case or Cases shall be signed by one or more of the Counsell, who shall attend at the hearing of the Cause. [p. 335.]

10 Mar. [Order accordingly.] [p. 336.]

10 Mar. Nova Scotia. [229.] [Reference to the Committee of a representation from the Board of Trade of 9 Feb. proposing a means for the more speedy settling of the province of Nova Scotia.] [p. 338.]

30 Mar. [The Committee approve of the proposal, and order the Board of Trade to prepare drafts of instructions accordingly for the Governor of Nova Scotia and for the Surveyor of the Woods there.] [p. 353.]

1731.
3 May.

[The Committee for Appeals approve the draft instructions. The original representation of the Board of Trade is quoted, setting forth] :—that by the 29th Article of Your Majestys Instructions to Colonel Philips . . He is Directed not to Grant any Land to private Persons untill certain Tracts which should be found upon a Survey to be most proper for producing of Masts and other Timber for the use of Your Royall Navy lying contiguous to the sea coast or Navigable Rivers not amounting to less than two hundred Thousand Acres should have been marked out and set apart for the Service of Your Majestys Royall Navy, in which said Tracts so sett apart no person whatsoever was to cutt fell or Destroy Trees of any Dimensions upon pain of Your Majestys Highest Displeasure, and of the utmost Penalty the Laws could inflict :—And that by another Instruction given to Colonel Dunbarr Your Majestys Surveyor General of the Woods in America and of the Lands of Nova Scotia, Your Majesty was pleased to Direct the marking out of one hundred Thousand Acres of Land in the Country between the Rivers St. Croix and Kennebeck over and above the aforesaid Two hundred Thousand Acres before any Land should be granted to private Persons ; and further setting forth that Your Majestys said Governor of Nova Scotia and Surveyor of the Woods and Lands there have represented to the said Lords Commissioners for Trade that that if they are obliged to follow the Letter of these Instructions, it would be a great discouragement to the settlement of the said Province, in as much as the finding out of proper Tracts of Wood Lands for the Service aforesaid would require much time and consequently delay if not disappoint the Intention of such Persons as may be at present disposed to settle in Nova Scotia more particularly great Numbers of Palatines and Irish Protestants who are now will and desirous to become Planters there ; wherefore the said Lords Commissioners humbly proposed by their said Representation in order to remove this obstacle the said Surveyor General of the Woods might be empowered Notwithstanding the said

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1731.

Instructions, so soon as he shall have marked out any Quantity of Wood Lands for the Service of Your Majestys Royall Navy, to sett out an equall Quantity of Land not fit for that Service for such Persons as shall be disposed to settle in the Province of Nova Scotia, always taking care that the Lands for the Use of the Royall Navy be first marked out and that those intended for private settlements be on such Lands only as are not fit for the Service aforesaid ; By which means the Service of the Royall Navy will be effectually provided for, and the settlement of this Province may at the same time go forward.

[pp. 376-7.]

11 May. [Order accordingly. P.R.] [p. 385.]

10 Mar. [230.] [Reference to the Board of Trade of the petition of
Jamaica. John Ayscough, late President of the Council of Jamaica, to be restored to his place there] from which he hath lately been removed upon a misrepresentation to His Majesty. [p. 330.]

8 April. [Board of Trade report of 26 March referred to a Committee.] [p. 365.]

14 April. [Committee. The Board of Trade having reported that Mr. Ayscough behaved himself with very commendable zeal when the government devolved upon him by the death of the Duke of Portland, and that it would be an act of great justice and goodness to restore him to his place, but that as there is no vacancy, he should not be readmitted till one occurs, the Committee refer it back to the Board to report whether any inconveniency would arise if Mr. Ayscough were readmitted immediately.] [p. 360.]

3 May. [Committee. The former report of the Board of Trade set forth that Governor Hunter] did by his Letters of the 15th of January and 8th of March 1728 acquaint the said Lords Commissioners that he found great difficulty in assembling so many of Your Majestys Council in that Island, as made a Quorum for the dispatch of Business, in regard some of them lived in remote parts in the Country, and others were absent

1731.

in England:—And that the said Governor did at the same time acquaint them that the Petitioner Mr. Ayscough was upon the Point of Embarking for this Kingdom for the recovery of his health from whence the said Governor apprehended the Petitioner had no thoughts of returning to that Island. [On their representation of 27 May, 1729, Edward Charlton was therefore appointed in Ayscough's place; Ayscough is now restored to health and about to return. Their report this day received sets forth that he may be at once restored] either by adding him to the Number of Councillors which consists of twelve, and is at present compleat, and thereby augment the Number to thirteen—or otherwise by suspending the Youngest Councillor there from sitting and acting, till a New Vacancy shall happen; [the Committee recommend the adoption of the latter method]. [p. 379.]

[Order accordingly.]

[p. 385.]

11 May.
(1732.)
21 July.

[Reference to the Committee of Ayscough's petition that, as Governor Hunter has obtained leave of absence, the petitioner may be restored to his rank as President of the Council and receive an order to take upon him the command of the island during the absence of Governor Hunter, to prevent any dispute that may arise in case the Governor should have left and a younger Councillor assumed the command before Ayscough's arrival.] [III. p. 23.]

(1732.)
25 July.

[Committee order the Board of Trade to prepare a draft of instructions for the Governor or Commander in Chief for the time being agreeable to the petition.] [III. p. 28.]

(1732.)
2 Aug.

[Committee offer the draft for his Majesty's royal approbation.] [III. p. 31.]

(1732.)
10 Aug.

[The draft of instructions approved. P.R.] [III. p. 44.]

[231.] [Reference to a Committee of the petition of] Sir Joseph Eyles, Jonathan Perrie, John Drummond and Thomas Watts, in behalf of themselves and of severall other Merchants and

10 Mar.
New York.

1731.

Traders of the City of London, praying that His Majesty would be pleased to make a Grant to them and their Heirs under the Great Seale of Great Britain of a Tract of Land within the Province of New York in America containing about Sixty Two Thousand Acres, commonly called or known by the Name of the Equivalent Land, upon which Land the Petitioners propose to settle one hundred Persons in the space of seven Years, and to encrease the Number from time to time as they shall find encouragement from the Place and Trade intended to be carried on there. [p. 330.]

24 Mar. [Committee for Appeals refer the petition to the Board of Trade.] [p. 350.]

30 Mar. [Committee agree with the Board of Trade report] That the Governor of New York is obliged to insert in all Grants of Land the following conditions—Vizt. That the Grantee do pay a Quit Rent of two Shillings and six pence per Annum for every hundred Acres—And that he do cultivate three Acres in every Fifty contained in the Grant within three Years after the date thereof. And that the Petitioners are willing to agree to the first of these conditions, but that instead of the last they have proposed to cultivate the aforesaid Proportion within the space of seven Years from the date of their Grant—Whereupon the said Lords Commissioners have offered as their opinion that in regard the Petitioners are willing to pay the usuall Quit Rent of Two shillings and six pence for every hundred of the whole sixty two Thousand Acres, comprehending the bad as well as the Good Land, [their request be granted] saving nevertheless the Right of such Persons as may have a lawfull claim to any Lands within the said Tract by virtue of Grants made and authenticated to them before the passing of the Grant now Petitioned for. [p. 352.]

8 April. [Order accordingly.] [p. 362.]

(1733.)

21 Feb. [Reference to the Committee of a further petition that the land granted] may be either Erected into a County or United

- 1731.
- to such other Contiguous County or Countys of the said Province as shall be found most convenient. [III. p. 114.] (1733.)
- [Committee refer the petition to the Board of Trade.] 23 Feb.
- [III. p. 117.] (1733.)
- [The Committee approve the Board of Trade report that the lands should be annexed to some contiguous county by an instruction to the Governor of New York, Col. William Cosby, and direct the Board of Trade to prepare such an instruction.] 22 May.
- [III. p. 169.] (1733.)
- [Committee offer the instruction for her Majesty's approbation.] 21 June.
- [III. p. 177.] (1733.)
- [The instruction approved. P.R.] 19 July.
- [III. p. 194.] (1733.)
- [232.] [Reference to a Committee of] the Memorial and Petition of Sir Cyril Wych Barronet His Majestys Envoy Extraordinary to the Hans Towns in lower Saxony, setting forth that the late Lords Proprietors of the Province of Carolina did by Letters Patents under the Great Seale of that Province bearing date on or about the 4th of March 1699—Grant unto the Honourable John Wych Esquire the Memorialists late Father the Title of a Landgrave of the said Province and also Forty Eight Thousand Acres of Land there to hold to him and his Heirs for ever, which Lands not having been hitherto taken up or markt out—The Memorialist most humbly Prays that His Majesty will be pleased to Grant to him his Royall Licence to take up the same in such parcells and at such Places as he can or shall find most to his good liking not already legally Granted and laid out to any other Person or Persons in any part of that Country between Cape Fear and the River Savanah, and that his Title thereto may be confirmed under the Great Seale of Great Britain. [p. 366.] 8 April. Carolina.
- [The Committee refer the petition to the Attorney and Solicitor General.] 14 April.
- [p. 368.]
- [233.] [Reference to the Committee for Appeals of the petition of Joseph Bennet and Samuel Freeth of Birmingham and 8 April. Massachusetts Bay.]

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1731.

William Walker of Whitton Hall in Warwickshire, merchant, for liberty to appeal from] a Judgment given in the Supream Court of Judicature held at Boston on the Second Tuesday of August 1728, reversing a Judgment given in the inferiour Court of Common Pleas on the 4th of Aprill 1729, in favour of the Petitioners, upon an action of Trespass and Ejectment brought by the Petitioners against Benjamin Gray of Boston aforesaid Terretenant of William Gold for one Moyety of a certain messuage or Tenement with the Land thereto belonging, lying at the Southerly end of Boston known by the Name of William Golds Farm. [p. 367.]

28 April. [Committee for Appeals recommend that the appeal be admitted on the usual conditions.] [p. 375.]

11 May. [Order accordingly.] [p. 387.]

11 May. [234.] [Reference to a Committee of the] Memorial of George Bahamas. Phenny Esqr. late Governor of the Bahama Islands and Captain of the Independant Company there . . . that he may have such an allowance made him for his Expences and losses in the Service of the Publick, as to His Majesty in His Great Wisdom and Goodness should seem meet. [p. 391.]

19 May. [Committee refer to the Board of Trade the petition] together with a Copy of a Certificate from the Members of the Council for the Bahama Islands. [p. 395.]

7 July. [Committee. The petition sets forth] that during his Government there, he had by advice and consent of Your Majestys Council in those Islands continued certain small Dutys on the Tonnage of Vessells Rum and other Commoditys which Dutys he found Subsisting upon his arrival in those Islands, and that he had also by the like advice and concurrence of the Council consented to another small Impost upon the Clearing of Vessells which was appropriated to the building of a Church;—But that no part of the Moneys arising from the said Dutys ever came into his Hands or was ever applied for his private use and advantage the same remaining in

the hands of the Treasurer of the Island till it was Issued, for the publick service by the consent and advice of His Majestys said Councill—That Woods Rogers Esquire the present Governor of the Bahama Islands having convened an Assembly in those Islands (which he was authorized to do by Your Majestys Royall Instructions) the said Assembly had come to a Resolution that the Petitioner should either refund the severall sums which had been levied in the course of his administration or give Security to answer the same before he should be permitted to Depart the Bahama's; upon which Resolution Governor Rogers did oblige the Petitioner to become bound with two Suretys in the Sum of Twelve hundred pounds to Peter Goudet Treasurer of those Islands or to the Treasurer for the time being to answer the payments of all such Moneys raised as aforesaid within Six Months after the same should be Lawfully recovered—And the Petitioner further Sets forth that during his Government he had with great assiduity and Labour repaired the Forts and built three additional Bastions for the Defence and Protection of those Islands—And that he was under the necessity of Building two large Sloops at his own expence to fetch Provisions from other Colonys for the Support of Your Majestys Garrison in the Bahama's which being cast away at Sea in their return to those Islands the loss he sustained thereby over and above the Insurance amounted to upwards of eight hundred Pounds. [The Board of Trade report] That the said Goudet hath made Oath before them that the severall Sums raised and paid into his hands during Mr. Phenneys administration were justly issued and applied to the Service of the publick; and that regular accounts of his generall receipts and Disbursements had been laid before the Assembly of the Bahamas.

That the said Lords Commissioners apprehend that the said Assemblys Objections relate Solely to the Legality of the method in which the money was levied and not to the application of it when raised.

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Whereupon they further reported that during Mr. Phenneys Government there was no Assembly constituted in the Bahamas so that the Money was raised by the highest authority that then Subsisted in those Islands and by the same power under which his predecessor had Levied Taxes for the same purposes For which and for severall other reasons The said Lords Commissioners think Mr. Phenneys proceedings to be very Justifiable and that it would be a very great hardship therefore if he should be obliged to stand the Event of a Suit at Law in the Bahamas upon the abovementioned Bond.

That as to the other part of the said Petition which relates to the Petitioners fitting out Sloops to fetch Provisions for the Garrison at the Bahamas—The said Lords Commissioners reported that altho' he may have been a considerable Sufferer by their being cast away in their return to those Islands, Yet as it does not appear that he had any orders for that Equipment They submit this Article together with that of the Fortifications upon which the Petitioner appears to have taken a great deal of Pains, to Your Majestys Goodness and Compassion.

[The Committee agree with the Board of Trade that the bond should be cancelled, and] do further humbly Report to Your Majesty, that as to the other part of the said Petition which relates to the loss of the Sloops built by the Petitioner as also to the great Pains he hath taken about the Fortifications—The same is not properly under the cognizance of this Committee. [pp. 419-21.]

12 Aug. [Order to Governor Rogers accordingly. A further clause of the petition is given,—] that he had been forced to make over his small Estate there with his whole Effects to his suretys to indemnify them from the said Bond, whereby he has been hindred from receiving the Rents and Profits of his Estate. [p. 446.]

11 May. [235.] [Reference to a Committee of the memorial of Thomas Beake, agent for St. Christopher,] complaining in behalf of the Legislature of that Island, against Wavill Smith Esquire

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one of the Councill and Secretary of that Island, for having refused to attend the Assembly and lay before them a List of the Fees taken by him in all the Branches of his Office of Secretary altho' summoned for that purpose, and for endeavouring to protect himself in so doing on account of his being a member of the Council of that Island.—And humbly praying . . . that he may be removed from being a Member of His Majestys Councill for that Island. [p. 391.]

[Committee refer the memorial to the Board of Trade.] [p. 395.] 19 May.

[236.] [Reference to a Committee of the petition of Alured Popple, Secretary to the Board of Trade,] setting forth that from the first Establishment of the said Office certain Voluntary Gratuitys have been always paid by Persons reaping benefit from the labour of the Petitioner, his predecessors and Clerks as a compensation for the same—But that such Gratuitys not having hitherto obtained the Sanction of an Establishment from His Majesty or his Royall predecessors, as the Fees of most other Officers have done. The Petitioner most humbly prays that the Schedule of Fees thereto annexed (which being much less than the Voluntary Gratuitys have hitherto amounted to) may be Examined and if upon due consideration, His Majesty would be graciously pleased to Establish them by order in Councill. [p. 392.]

11 May.
Board of
Trade.

[Committee refer the petition to the Board of Trade, who are also to certify from what persons the said fees are to be demanded.] 19 May. [p. 396.]

[The Committee recommend that orders be given in accordance with the Board of Trade report] that the said Fees are to be paid only by private Persons for Business Dispatched in their Office, from whence they may reap some personall advantages, And that all publick Business whatever to be transacted there is to be done ex officio without any Fee or reward :—That they find it hath been usuall, for Persons reaping benefit from Business Dispatched there by the Petitioner his Predecessors and their Clerks to give Voluntary

7 July.

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Gratuities for the same—which have generally exceeded the Fees contained in the said Schedule. And that altho' the said Custom hath prevailed for a very long time and no complaint made against the same, Yet the present Lords Commissioners had thought it proper to Suspend the further Receipt of such Gratuities untill Your Majesty should be pleased to convert the said Gratuities into reasonable Fees, to be received as in other Offices under the Sanction of Your Majestys Royall Orders—In regard whereto, and that the Petitioner hath behaved himself with such Diligence and Integrity as to deserve Encouragement The said Lords Commissioners are not only of opinion that it may be reasonable to grant the Prayer of his Petition, but do likewise make it their request, that the said Fees may be Established by Your Majesty. [The Committee further offer] that in consideration thereof the Petitioner and his Clerks should be restrained from Demanding or receiving any other Fee, Gratuity or reward on any pretence whatsoever, and that they be required to hang up the said Schedule of Fees (which is hereto annexed) in some publick place in their Office.—

List of Fees for the Plantation Office.		£	s.	d.
Draughts of Commissions for Governors .. .. .	.. .. .	6	0	0
Draughts of their Generall Instructions .. .. .	.. .. .	12	12	0
Draughts of their Instructions for Trade .. .. .	.. .. .	6	0	0
Representations for recommending Councillors in the Plantations	.. .. .	4	4	0
Representations on private Business at the request of the Persons concerned .. .. .	.. .. .	2	2	0
Representations on private Acts of Assembly at the request of the Persons concerned . . . . .	.. .. .	2	2	0
Caveats entered by Private Persons, with relation to any Business depending in this Office .. .. .	.. .. .	0	10	0
References to the Attorney or Sollicitor Generall or to any of the Kings Counsell upon private Business at the request of the Partys .. .. .	.. .. .	0	10	0
Examining the Proprietary Governors Security and the Draught of a Bond for his observing the Acts of Trade .. .. .	.. .. .	4	4	0
Entring Patents for Employments in the Plantations .. .. .	.. .. .	2	2	0
Certificates of the Dates of Commissions, or of any matter granted at the request of Private Persons .. .. .	.. .. .	0	10	0
Issuing Summons at the particular request of any Party .. .. .	.. .. .	0	10	0
For Copys of Papers . . . . .	.. .. .	0	10	0

[pp. 421-3.]

1731.

[Order accordingly.]

[p. 447.] 12 Aug.

* [237.] [The commission for William Cosby, and for future Governors is ordered to be altered in accordance with the following report of the Board of Trade of 10 June]—

12 June.
Leeward
Islands.

It having been lately represented to us that Inconveniencies may arise from the Devolution of Government in the Leeward Islands, as it is at present settled by Your Majestys commission to Your Governor in Chief and Captain General over those Colonies, We beg leave to inform Your Majesty, that by His Commission it is directed, That in the absence of the Captain General the chief command shall Devolve upon the Lieutenant General and in his absence upon the Lieutenant Governor of Nevis and upon the President of the Council in that Island in the absence of the Lieutenant Governor.

In all probability the first cause of giving this preference to the Island of Nevis was it's having been entirely settled before any other of the Leeward Islands, But as St. Christophers and Antigua are now become much more considerable, The reason of that preference ceases, and we most humbly offer to Your Majesty that for the future the Chief command in these Islands shall in the absence of the Captain General and the Lieutenant General devolve upon the eldest Lieutenant Governor being resident in any of the four Islands, according to the priority of their commissions of Lieutenant Governors.

We are induced to recommend the Lieutenant Governors preferably to the Presidents of the severall Councils, because the former have the Honour to bear Your Majestys Commission, and generally speaking are Persons of greater consequence and better acquainted with the Nature and Methods of command and authority, But if it should happen that neither the Governor in Chief the Lieutenant General nor any of the Lieutenant Governors should be resident in the Islands we would humbly propose in that case that the chief command should devolve upon the President of the Council of St. Christophers, and the Reason why we give preference to this

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Island is, that it was first discovered and planted by the English in conjunction with the French, and had it not been for that partition it would probably been first Named in the Governors Commission, but the French part having been surrendered to the Crown of Great Britain by the Treaty of Utrecht it is now entirely settled by Your Majestys Subjects, and is become equal to, if not of greater consequence than any other of the Leeward Islands.

The Government of the Leeward Islands is now devolved upon the President of the Council of Nevis, and we should have proposed this alteration sooner had there ever been any probability that this would have happened.

If Your Majesty shall be pleased to approve of this alteration, we take leave humbly to propose that it may be made in the Draught of the commission lately prepared for Colonel Cosby. [pp. 403-4.]

12 June. [238.] [To a Committee is referred a representation from the
Antigua. Board of Trade of 27 May for his Majesty's disallowance of an Antigua Act of 12 Oct., 1728,] to supply the defects of a certain Act of this island entituled An Act for constituting a Court of Chancery in the absence of the commander in chief of the Leeward Islands from this island, and for regulating the proceedings in Chancery causes and for setting the value of things in Question on appeals to His Majesty when the value shall be doubtfull. [p. 405.]

1 July. [A petition of several traders to Antigua asking to be heard in support of the Act is similarly referred.] [p. 414.]

7 July. [Committee agree to hear petitioners on 23 July.] [p. 424.]

23 July. [Committee. The representation of the Board of Trade sets forth] "That this Act being of an extraordinary Nature has a clause inserted in it to prevent it from taking Effect till Your Majesty should be pleased to approve thereof—That there are many Provisions in this Act for regulating the

proceedings of the Court of Chancery in Antigua, and for supplying some defect in a former Act referred to in the Title, But the main purport of this Act is to enable the Lieutenant General in the absence of Your Majestys Captain Generall the Lieutenant Governor of Antigua in their absence and the President of the Council of Antigua in the absence of the other three officers aforesaid to preside in and hold Courts of Chancery there, for the hearing of Causes and the Dispatch of such Business as shall be depending in the said Court.

“That the said Lords Commissioners offer no objection to such parts of this Act as relate simply to the Regulation of proceedings in the Court of Chancery but cannot approve that part of it enabling the Lieutenant Generall or in his absence the Lieutenant Governor of Antigua or the President of the Council of Antigua in the absence of the others to Preside in and hold Courts of Chancery in the said Island, because they apprehend that the appointment of Judges and Chancellors being a very material part of the Royall Prerogative always to be exercised immediately by Your Majesty or by some persons to whom Your Majesty shall especially Delegate that power, and not by a clause in an Act of Assembly; and the rather because Your Majesty may from time to time make such alterations or additions to Your own Royall Orders and appointments as may be suitable to the occasions and advantage of Your Subjects, But an Act of Assembly cannot be repealed whatever Inconveniencys may ensue from it without the consent of the People—and therefore the said Lords Commissioners have humbly proposed as the most proper method of attaining what is intended by this Act most suitable to Your Majestys Royall Prerogative and equally safe and expedient for the People of Antigua, that Your Majesty should be pleased especially to appoint some Person in Antigua to preside as Chancellor and execute all the Functions of that office in the absence of Your Majestys Captain General or Commander in Chief by which means the Course of Justice would be continued without Interruption

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and the complaint which occasioned this Act and which has been much insisted upon by severall merchants and others who attended the Board of Trade in support of this Act of the great Delays in the Chancery Court by the frequent absence of the Governor and of granting and revoking Injunctions by the Governor Generall when absent from Antigua might likewise be entirely removed, and the only objection to the doing of this arises from some words in the first Chancery Act already referred to whereby it is presumed Your Majesty cannot in any case or on any emergency appoint another Person to Preside in the said Court during the residence of the Commander in Chief in any other of the Leeward Islands, Because it is by that Law enacted—That from thenceforth all any every Court and Courts of Chancery which shall be holden for this Island of Antigua shall consist of and be holden by the Captain Generall or Governor in Chief of the said Leeward Islands for the time being and five or more of the Councill of this Island at least.—But that this Difficulty if it be real one may be easily removed by the Assembly of Antigua's passing a New Law empowering Your Majesty Notwithstanding the aforesaid Chancery Act or any thing therein contained from time to time to Nominate such Person or Persons as Your Majesty shall think most proper to supply the Duty of the Commander in Chief and Preside during his absence in the Court of Chancery in Antigua"—And therefore the said Lords Commissioners propose that the present Act should be Disallowed.

[On examination of the petition, the Committee find no reason to differ from the Board of Trade in their report ; but, while recommending disallowance of the Act,] their Lordships would humbly propose at the same time, that in regard many Delays and Inconveniencys may arise to the Inhabitants of Your Majestys Island of Antigua, in the prosecuting their Rights in Chancery by reason of the Chief Governors absence from the said island, when he visits the other Islands under his Government, that therefore proper remedys should be provided against the same ; But as it is doubtfull whether

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by the Act past in Antigua in 1715, (which hath received the Confirmation of the Crown) Your Majesty hath power to appoint an other Person to preside in the Chancery Court during the Residence of the Chief Governor in any other of the Leeward Islands—Their Lordships are therefore of opinion, that for the obviating the same the Lords Commissioners for Trade and Plantations, who are now preparing Draughts of Instructions for Colonel Cosby whom Your Majesty hath lately appointed Governor of the Leeward Islands, should be ordered to insert therein an Instruction directing him to recommend to the Assembly of Antigua the passing an Act to repeal as much of the said Act as restrains the power of the Crown therein—And that they should be likewise ordered to prepare another Instruction proper for Your Majesty to give upon this occasion for redressing the aforementioned inconveniencys in order to take place as soon as the Assembly shall have past the said Act of Repeale. [pp. 432-5.]

[Orders accordingly.]

[pp. 443-4.] 12 Aug.

[To a Committee is referred] the humble Petition of John Yeamans Esq. Agent for the Island of Antigua, for and on behalf of all the Inhabitants of the said Island, and the merchants trading thither [praying that the instructions ordered for Colonel Cosby on 12 Aug.] may be now ordered to be forthwith prepared and sent to the Commander in Chief of the Leeward Islands for the time being, with directions to carry the same into immediate execution.

9 Dec.

[p. 500.]

[The Committee order the Board of Trade to prepare the instructions, and lay them before the Committee.] [p. 504.]

10 Dec.

(1732.)

[Yeaman's petition sets forth that his request was due to his] being informed Colonel Cosby was not to go over Governor of the said Islands and apprehending it might be some time before a Governor in chief should arrive there and the Inhabitants and Traders being in the utmost distress for

19 Jan.

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 want of Courts of Chancery being held among them. [The Committee agree to lay the draft instructions before his Majesty.] [p. 557.]
- (1732.)
 27 Jan. [Instructions approved, and ordered to be sent. P.R.] [p. 575.]
- 12 June. [239.] [To a Committee is referred a representation from the Board of Trade of 19 May upon a Virginia Act for amending the staple of tobacco and for preventing frauds in his Majesty's customs,] which Act the said Lords Commissioners humbly propose to lye by probationary untill the effects of it may be seen. [p. 405.]
- Virginia.
 7 July. [The Committee,] finding that the subject matter of this Act is of very great consequence as it relates to so principal a Branch of the Plantation Trade as that of Tobacco, in which great Numbers of Your Majestys Subjects are concerned —and as it is not yet certain whether it may tend to the encreasing or lessening of Your Majestys Revenue upon that Commodity [agree with the recommendation of the Board of Trade]. [p. 417.]
- 12 Aug. [Order accordingly.] [p. 441.]
- 1 July. [240.] [Reference to the Committee of a representation of the Board of Trade upon an Act of Massachusetts Bay, entitled "An Act for providing a more sure support for his Majesty's Governor," and of an address of the House of Representatives of that province complaining of articles 16, 27, and 30 of the Governor's instructions] relating to the Omission of 30,000*l.* only in Bills of Credit, to the settling a salary upon the Governor of the Province for the time being, And to the Treasury being taken from the care of the House of Representatives and vested in the Governor and Council. [p. 411.]
- Massachusetts Bay.
 7 July. [Committee refer to the Board of Trade the consideration of those parts of the address which relate to articles 16 and 30.] [p. 426.]
- 1 Dec. [Committee. The Board of Trade report] That the 16th Article was added to the Governors Instructions in

order to put a stop to a practice that had prevailed for some time in severall of Your Majestys Plantations of striking and issuing Bills of Credit in lieu of Money, which had been attended with very ill consequences in the said Plantations and particularly in this Province of Massachusetts Bay where the current money of the Province was at so great a Discount that three hundred and forty pounds was only equal to one hundred pounds Sterling, and by means whereof the British Merchants trading to that Country had been considerable losers.—

That the said Lords Commissioners conceive the liberty given to Your Majestys Governor by the said Instruction to issue 30,000*l.* in Bills of Credit for the support and current service of the Government of the Province of Massachusetts Bay, is a condescension on the part of the Crown, which ought to have satisfied the said Assembly especially as they have not informed Your Majesty by this address, what Funds they have or might propose to establish for the Discharge of such New Bills as they desire to add to their present Paper Currency, and in what proportions, and by what methods the same should be cancelled—Therefore the said Lords Commissioners are of opinion that Your Majestys 16th Instruction to the Governor of this Province ought not to receive any alteration :—

And that as to the complaint made in the address concerning the 30th Article of the Governors Instructions the said Lords Commissioners have reported that the pretension of the House of Representatives to reserve to themselves a Power of determining what accounts shall or shall not be paid after the Services are performed, is a point which hath already been solemnly debated and Determined before Your Majestys Privy Council upon which Determination the said 30th Article was added to the Governors Instructions—And the said Lords Commissioners observe that if Your Majesty should withdraw Your Instruction on this Head the Assembly of Massachusetts Bay would be left in possession of a Power superior to any which the British House of Commons lays

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claim to in cases of the same Nature and which the Assembly hath fallen into the practice of in direct contradiction of the Tenour of their Charter, By which Charter tho' they are impowered to raise money by Acts of Assembly for the support and defence of the Province, Yet the Distribution of that money is expressly reserved to the Governor for the time being with the advice and consent of the Council and therefore the said Lords Commissioners are humbly of opinion that this Article of the Governors Instructions ought not to receive any alteration.

[The Committee having considered this report and having been attended by Mr. Wilks, agent for Massachusetts Bay, and heard him in support of the address, report] that for the reasons contained in the said Report, and particularly in regard Your Majesty hath not by the said 16th Article restrained the Governor from assenting to any Act for Issuing Bills of Credit to a greater value than 30,000 $\%$, Provided he do insert a clause in such Act to prevent its taking effect till Your Majesty shall have approved or confirmed the same :— And that in regard the 30th Article was framed upon very mature consideration, to prevent the unwarrantable proceedings of the said Assembly in assuming to themselves such extraordinary powers of Judging and Determining what accounts should or should not be paid after the money hath been raised and appropriated, and even after the Services have been performed, which Powers are vested in the Governor and Council of Your Majestys said Province—Their Lordships are humbly of opinion that no alterations ought to be made in either of the said Articles. [pp. 494-5.]

23 Dec.
(1733.)
21 Feb.

[Order accordingly.]

[p. 517.]

[Reference to the Committee of the address of the Council and Assembly of Massachusetts Bay praying his Majesty to withdraw the 16th and 30th articles of Governor Belcher's instructions.] [III. p. 114.]

[Committee refer the 30th article to the Attorney and Solicitor General to] Report to this Committee with all convenient speed, whether the same be Agreeable to the Charter granted by their late Majestys King William and Queen Mary in the third Year of their Reign to the Inhabitants of that Province.

[III. p. 117.]

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(1733.)
23 Feb.

[The Committee report] that by the 16th Instruction the Governor is required not to give his Assent to or pass any Act whereby Bills of Credit may be Struck or Issued in lieu of Money without a Clause be inserted in such Act declaring that the same shall not take Effect until the said Act shall have been Approved and Confirmed by Your Majesty except only for the annual Support and Service of Your Majestys Government not exceeding 30,000*l.* in such paper Bills—And this permission to continue only until Your Majestys further pleasure should be know thereupon: And the Governor is likewise to take especial care that no more than 30,000*l.* of such Bills be ever Current at one and the same time.—

(1733.)
28 Mar.

And by the 30th Instruction the Governor is required to take care for the future that no Money be raised or Bills of Credit Issued but by Act or Acts of Assembly in which Act or Acts one or more Clauses of Appropriation may be inserted but that the passing all Accounts for payment and the Issueing of all Moneys so raised or Bills of Credit be left to the Governor or Commander in Chief of the Province with the Advice and Consent of the Council according to their Charter—Subject nevertheless to a future Enquiry of the then present or any other Assembly as to the Application of such Moneys.—

[The origin and history of these instructions is as follows]:—

With regard to the Sixteenth Instruction It appears that a Most pernicious practice had for many Years prevailed in several of Your Majestys Plantations in America of passing Acts for striking Bills of Credit and Issueing the same in lieu of Money in Order to Discharge their publick Debts and for other purposes, From whence great inconveniencys having

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arisen—His late Majesty thought proper in the Year 1720 to send Additional Instructions to all His Governors in America (and amongst the rest to Colonel Shute the then Governor of the Province of the Massachusetts Bay) to restrain them from giving their Assent to any Act for Striking or Issueing Bills of Credit without inserting a Clause in such Act to prevent the same taking effect till approved by the Crown, excepting Acts for raising and Settling a publick Revenue for defraying the necessary Charge of Government in the respective Provinces.—

That under Colour of this Exception the Assembly of Your Majestys Province of the Massachusetts Bay continued to pass Acts for Striking and Issueing Bills of Credit whereby a greater Number of such Bills were Circulated and the publick Debt increased—And as the provision made for the gradual Discharge of these Bills was not Satisfactory to the Publick their Credit was so far Sunk that 340*l.* of them was only equal in Value to 100*l.* Sterling which could not but tend to the great Detriment of the Creditors of the Province to the Entailing a heavy Load on all the Estates there and to the Loss of the British Merchants trading to the Massachusetts Bay.

In Order therefore to remedy these inconveniencys and to put an Effectual Stop thereto for the future Your Majesty was pleased in the Year 1727 when the late William Burnet Esqr. was appointed Governor of this Province to Instruct him not to Assent to any Act for the Issueing new Bills of Credit without inserting a Clause to prevent such Act taking Effect till Your Majesty should Approve thereof—Which Instruction Subsisted till the Year 1730 when Your Majesty was pleased to appoint Jonathan Belcher Esqr. to be Governor of this Province who having represented that in Order to Supply the Annual Service of the Government it was absolutely necessary to issue a further Quantity of paper Money—Your Majesty was graciously pleased to allow him to assent to the issueing any Number of New Bills of Credit

for the Current Service of the Year not exceeding 30,000*l.* in Value, provided that no more than 30,000*l.* of such Bills should be ever Current at one and the same time—Which being added to the aforementioned Instruction given to Mr. Burnett formed the 16th Instruction now Complained of—And Your Majesty was pleased at the same time to require Governor Belcher to take care that the Bills of Credit then standing out should be called in and Sunk according to the periods and provisions of the respective Acts by which they were Issued:—

[The proceedings in 1731 are then recounted.]—And as the present Application is of the same nature with the former and as no new reasons are offered by the Assembly—The Lords of the Committee do humbly report it as their Opinion to Your Majesty that no Alteration ought to be made in the said 16th Instruction.

That as to the occasion of giving the 30th Instruction relating to the manner of Supplying the Treasury with Money and the Method of Issueing the same—The Lords of the Committee do humbly Report to Your Majesty—That in the Year 1729 The Agents for the House of Representatives presented a Petition to Your Majesty in Council containing several Articles of Complaint against the then Governor William Burnett Esqr. and amongst others that he had refused to Agree with the Assembly in the Methods proposed by them for the Supply of the Treasury for the Current Service of the Year. This Petition being Examined into by the Lords of this Committee they found that the Method so proposed by the said Assembly for raising Money was by way of Resolve and that in such Resolve they had reserved to themselves a power of Determining what Accounts should or should not be paid even after the Services had been performed and before the Governor was at liberty to issue any Money for payment of such Accounts; Which Method of raising Money appeared to the Committee to be very improper and not warranted by the Charter granted to the said Province no power being

1731.

thereby given to raise Money but by Act of Assembly—And it further Appeared the issueing and disposing of all Moneys when raised is by the said Charter left to the Governor with the Advice and Consent of the Council, and the said Agents attending this Committee upon such Examination did admitt that the Method of the House of Representatives in these particulars ought to be regulated and Engaged to write to the said House to acquaint them therewith—This gave occasion to the issueing the 30th Instruction requiring the Governor to take care for the future that no Moneys should be raised or Bills of Credit issued but by Acts of Assembly in which Acts one or more Clauses of Appropriation might be inserted—But that the passing all Accounts for payment and the Issueing of all Moneys so raised or Bills of Credit should be left to the Governor with the Advice and Consent of the Council agreeable to the Charter of the Province ; Subject nevertheless to a future Enquiry of the then present or any other Assembly as to the Application of such Moneys—

[The proceedings in 1731 are then recounted.]

After this Declaration of Your Majestys Royal Pleasure it was to have been expected that the Assembly would have paid a dutifull regard thereto and been fully convinced that the Method they had taken was contrary to the Tenour of their Charter—But it appears by the present Address of the Council and Assembly to Your Majesty that they still insist upon recalling of the said Instruction as not agreeable to their Charter—Wherefore the Lords of the Committee thought it proper to Direct Your Majestys Attorney and Sollicitor General to Consider of the said 30th Article of Your Majestys Instructions to Governor Belcher and Report to this Committee—

Whether the same be agreeable to the Charter granted by their late Majestys King William and Queen Mary in the third Year of their Reign to the Inhabitants of the Province of the Massachusetts Bay—

In answer whereto they have given their Opinion in the following words—vizt. We are of Opinion that the said

30th Article of His Majestys Instructions to Governor Belcher is perfectly agreeable to the said Charter—The power of raising Money or issueing Bills of Credit which is only one Method of raising Money being granted to the General Court or Assembly and ought to be exercised only by Acts of Assembly—As to the issueing and disposition of the money after it is granted the words of the Charter are very plain that it shall be by the Governor with the Advice and Consent of the Council for His Majestys Service in the necessary Defence and Support of the Government of the Province and the protection of the Inhabitants and tho' it is added according to such Acts as are or shall be in force within Our said Province yet we conceive the true meaning and Construction of those words to be that the Money should be applied according to such General Clauses of Appropriation describing the nature of the Services for which it was given as should be mentioned in such Acts but not to restrain the Governor and Council from making such a Distribution upon the particular Articles of those Services or from passing the Accounts or paying the persons by whom such Services should be performed in such manner as they should think fit consistently with the General Clauses of Appropriation—But such Distribution Accounts and payments will be Subject to future Enquirys to be made in a regular Method by the Assembly or House of Representatives as to the Application of the Money and the Consistency thereof with the Appropriating Clauses for which a proper reservation is made by the Instruction.—

The Lords of the Committee do therefore humbly Offer to Your Majesty as their Opinion that no Alteration ought to be made in the said thirtieth Instruction And their Lordships cannot but observe to Your Majesty that these repeated Applications of the House of Representatives upon points, some of which have been given up by their own Agents, and all of them more than once been under Your Majestys Consideration, and determined by Your Royal Instructions and Subsequent Orders in Council thereupon, are instances of

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great undutifulness to Your Majesty—And that the power insisted upon by the said Assembly in not Suffering the Governor to Issue any Money for the Maintenance of the Officers and Soldiers of Your Majestys Forts and Garrisons for the necessary repairs of the Fortifications, and for the payment of other Demands for Services actually performed, before they have examined the particular Demand of each person and Agreed to the payment thereof, Evidently shows, that their Design is to Assume to themselves the Executive power of the Government of the said Province, and has a direct tendency to throw off their Dependence upon Great Britain, which is so necessary to be maintained even for their own preservation ; And their Lordships take leave further humbly to represent to Your Majesty, that if the said Assembly shall still persist in their refusal to Supply the Treasury of the Province so that neither the Soldiers can be paid, the Fortifications kept up, the Dignity of Your Majestys Government Supported, nor the Security of the Province provided for,—They will be answerable for all the Consequences of their own ill Conduct. [III. pp. 128-32.]

(1733.)

10 May.

[Order accordingly.] And His Majesty doth hereby Declare and Signify his high Displeasure at these repeated Applications upon points which have been already maturely Considered and Determined by His Majesty in Council. [III. p. 153.]

1 July.
Maryland
and
Pennsyl-
vania.

[241.] [Reference to a Committee of the petition of Charles, Lord Baltimore,] that His Majesty will be graciously pleased to order the Proprietors of the Province of Pennsylvania forthwith to joyn with the Petitioner in settling and ascertaining the Boundarys of the said Provinces, and that in case they shall refuse to comply therewith, or in case the same shall not be settled or ascertained within the space of Twelve Months from this time, that then His Majesty will be pleased to hear the matter in dispute, and make such Determination touching the said Boundarys as to His Majesty in His Great Wisdom shall seem meet. [p. 412.]

[Committee refer it to Board of Trade] to call all Parties herein concerned before them—And to endeavour to bring about an agreement . . . But if the same cannot be effected then . . . to consider what orders may be most proper for His Majesty to give herein and make Report thereof to this Committee. [p. 425.]

1731.
7 July.

[Reference to the Board of Trade of the] Petition of Charles Lord Baltimore setting forth that His late Majesty King Charles the first . . . did Grant unto the Petitioner's Ancestor Cecilius Baron of Baltimore and his heirs for ever all that part of a Peninsula lying in the parts of America which is particularly described and bounded in the said Letters Patents That some doubts having formerly arisen upon the words *Hactenus inculca* mentioned in the Preamble of the said Letters Patent The Petitioner most humbly prayed for avoiding the like for the future that His Majesty would be graciously pleased by a further Charter or Letters patent to confirm unto him and his Heirs and Assigns the whole of such part of the Peninsula as is contained within the Limits of the said Charter notwithstanding the said Words of *Hactenus inculca*. [IV. p. 10.]

(1734.)
8 Aug.

[Reference to the Committee of the] Petition of Richard Penn Esq. the Youngest Surviving Son of William Penn Esq. deceased in behalf of himself and of his Two Elder Brothers John Penn and Thomas Penn Esqrs. who are in Pensilvania Setting forth their Right to the three Lower Countys upon Delawar Bay in America for a Grant of which the Lord Baltimore hath lately Petitioned His Majesty and praying such Relief as is therein mentioned. [IV. p. 50.]

(1734.)
19 Dec.

[Reference to the Committee of the] Petition of the People called Quakers whose Names are thereunto Subscribed in behalf of Several thousand Familys of Quakers who are at this time Inhabitants of the 3 Lower Countys of Newcastle Kent and Sussex upon Delaware in America humbly praying [for a copy of the petition of Lord Baltimore,] also of the

(1735.)
9 Jan.

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1731. Report that may be made thereon by the Board of Trade and that the Proprietors of Pensilvania who are now in that Province, and the Inhabitants of the said three Countys may have an Opportunity in a reasonable time to be heard by themselves. [IV. p. 73.]
- (1735.)
- 12 Feb. [Board of Trade report of 16 Jan. on Baltimore's petition referred to the Committee.] [IV. p. 101.]
- (1735.)
- 13 Feb. [Committee. Copies of the report to be delivered to all parties.] [IV. p. 106.]
- (1735.)
- 4 Mar. [Committee appoint the first meeting after Easter Term to consider the petitions.] [IV. p. 110.]
- (1735.)
- 10 May. [Committee.] . . it appearing that on the 10th of May 1732 Articles of Agreement had been entred into between the Lord Baltmore and the said John Thomas and Richard Penn for adjusting the Boundarys of the Lands granted to them by their respective Charters Which Articles had not been carried into Execution within the time thereby limited, But notwithstanding such Lapse of time, the Validity of the said Articles being insisted on by and on the behalf of the said John Thomas and Richard Penn—The Lords of the Committee do agree humbly to Report to Your Majesty as their Opinion that the Consideration of the said Report and Petitions should be adjourned untill the end of Michaelmass Term next in Order to give an Opportunity to the said John Thomas and Richard Penn to proceed in a Court of Equity to obtain relief upon the said Articles of Agreement so insisted upon by them according as they shall be advised. And that after the Expiration of the said time either party should be at Liberty to apply to the Committee of Council for Plantation Affairs, as the Nature of the case may require. [IV. p. 157.]
- (1735.)
- 16 May. [Order accordingly.] [IV. p. 160.]
- (1737.)
- 17 Mar. [Reference to the Committee of the petition of the President, Council and Assembly of Pennsylvania, that, as great outrages

have been committed upon the border by the inhabitants of Maryland, orders be given by his Majesty to prevent all further acts of violence to the people of Pennsylvania until the said boundaries shall be adjusted.] [V. p. 139.]

1731.

[Committee. A copy of the petition to be transmitted to Lord Baltimore for his answer.] [V. p. 145.]

(1737.)

19 Mar.

(1737.)

[To the Committee is referred a petition of Lord Baltimore] praying for several reasons therein set forth, and particularly in regard to the great Disorders that have been and still Continue to be Committed by the Inhabitants of Pensilvania on the Inhabitants of Maryland, that His Majesty will be pleased not to signifie his Royal approbation of George Thomas Esqr. to be Deputy Governor of the three Lower Countys For which the Proprietors of Pensilvania have recommended him to His Majesty But that His Majesty will be Graciously pleased to appoint some indifferent person to have the said Command over the said three Lower Countys untill some matters now in Dispute between the Petitioner and the said Proprietors of Pensilvania touching the Boundarys of their respective Provinces shall be determined or at least that the said George Thomas Esqr. if to be appointed Governor of the said Countys may be so appointed by Commission directly from His Majesty and not by Commission from the Proprietors of Pensilvania and that all matters arising within the said three lower Countys may be tryable there only and not in any of the Courts of Pensilvania and the Petitioner further humbly prays that all proper and necessary directions may be given for preventing any Persons being disturbed or Molested in their possessions on either side near the Boundarys which have been Claimed or pretended to on either side until the said matters in dispute shall be finally adjusted here at home and that His Majesty shall be pleased to give all such directions in the Premisses as the Nature of the Case shall require.

21 April.

[V. p. 212.]

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1731,
(1737.)
5 May.

[Committee. The report of the Board of Trade upon the representation of John, Thomas, and Richard Penn recommending George Thomas to be Deputy or Lieutenant Governor of Pennsylvania and of the three lower counties is referred back to the Board of Trade, together with the petition of Lord Baltimore. The petition of the President, Council and Assembly of Pennsylvania and Lord Baltimore's answer, with several papers annexed, are also transmitted to the Board of Trade, in order that they may, if they think fit, examine them at the same time as the other petitions and report to the Committee,] otherwise to retransmit the said papers.

(1737.)

[V. p. 220.]

21 July.

[Reference to the Committee of (a) another petition of Lord Baltimore about the appointment of Thomas which he requests may come on to be heard at the same time as his former petition and the report of the Board of Trade thereon, (b) a petition of the Governor and Council of Maryland complaining of outrages on the borders and praying his Majesty's royal interposition and commands for the preservation of the peace on the said borders and also for the trial of all those who have violated the same : (c) a petition of the Commissary and clergy of Maryland] complaining that the People called Quakers have industriously and at great Expence opposed a Law passed in Maryland and Confirmed by the Crown in 1702 for the Establishment of Religious Worship in Maryland according to the Church of England and for the Maintenance of Ministers, and that the said Quakers together with other Sectaries under their influence are still so disaffected to the said Law that they spare no pains to render it ineffectual as appears from their Continued Practice of Seducing the Inhabitants of Maryland to transferr the Acknowledgment of their Rights to their Lands and Payment of their Rents and Publick Taxes from the Government of Maryland to that of Pensilvania upon Insinuations that the legal Dues of the Established Clergy are intolerable Hardships and humbly praying that His Majesty will be Graciously pleased to Order

1731.

an Examination of these Matters and that on Proof of these and other Facts of such Dangerous Consequence a Stop may be put to the Violent Proceedings of the Government of Pensilvania and a Regular Clergy encouraged to reside under the Royal Protection not only on the Borders but in their whole Province and disputed Territorys: [(d) a petition of William Rumsey, gent., Deputy Surveyor of Cecil County and of William Cannon of Baltimore County, planter,] complaining that they were Seized in the Year 1734 by Virtue of Warrants issued from the Government of Pensilvania and were immediately carried to the Goal in that Province where they lay for some time, that they have since been indicted in the Courts of that Province for facts Committed in Maryland and therefore not Cognizable by the said Courts, And further Complaining that the Supreme Court of Pensilvania hath refused to proceed and give Judgment upon the said Indictments and therefore humbly praying that His Majesty would be graciously pleased to direct [that they be either discharged or else tried and allowed to appeal and granted copies of all proceedings; and that the Supreme Court of Pennsylvania be ordered to return their answer to this petition.] [V. pp. 264-6.]

(1737.)
29 July.

[The Committee consider petitions (b) and (c), and considering the allegation that the inhabitants of Pennsylvania] have set fire to the House of one Cressap, when himself Wife, Children and Six others were in it, and burnt the same to the Ground and that whilst the said Persons endeavoured to escape the Flames several Guns were fired at them, whereby one Man was killed and others wounded, and several were taken Prisoners and carried to the Goals in Pensilvania; [they recommend that instructions be given to the respective proprietors with duplicates to be sent to their Governors, that they] Do not upon pain of incurring Your Majestys Highest Displeasure, permit or Suffer any Tumults, Riots or other Outrageous Disorders to be committed on the Borders of their respective Provinces, But that they do immediately put a

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1731.

Stop thereto, and use their utmost endeavours to preserve Peace and Good Order amongst all your Majesty's Subjects under their Government Inhabiting the said Borders, And . . . as a means to preserve Peace and tranquility . . . that they do not make Grants of any part of Lands in Contest between the Proprietors of the said Provinces respectively nor of any part of the three lower Countys commonly called Newcastle Kent and Sussex nor permit any Person to settle there or even to attempt to make a Settlement thereon until Your Majestys Pleasure shall be further signified. [V. p. 272.]

(1737.)

18 Aug.

(1737.)

29 Nov.

[Order accordingly.] [V. p. 282.]

[Reference to the Committee of (a) a petition of the Deputy Governor and the upper and lower Houses of Assembly of Maryland complaining of disorders committed by persons living in Pennsylvania or pretending to act under that Government; and (b) a petition of the proprietors of Pennsylvania complaining of the Order of 18 Aug. and praying, as it is to continue only till his Majesty's pleasure be further signified, that the matter be taken into consideration.] [V. pp. 306-7.]

(1738.)

20 Jan.

[Upon a motion of Lord Baltimore that the complaints of disturbances on the borders be heard before the Board of Trade report relating to the appointment of George Thomas, the Committee fix 27 Jan. for hearing the latter and 3 Feb. for the former.] [V. p. 387.]

(1738.)

23 Jan.

[Reference to the Committee of a petition of Ferdinando John Paris, agent for Pennsylvania, complaining of several new violences and outrages, and proposing, in order to put a stop to these, that his Majesty prescribe precise limits of jurisdiction to continue without prejudice to either party till the boundaries are settled.] [V. p. 393.]

(1738.)

25 Jan.

[Committee postpone consideration both of the disturbances and of Thomas's commission till after 4 Feb.] [V. p. 397.]

(1738.)

4 May.

[Committee report. On 23 Feb.] the Counsel desiring that some reasonable time might be allowed the Proprietors to

conferr together in Order to come to some Agreement amongst themselves that so the Peace and Tranquility of both Provinces may be preserved until such time as the Boundarys can be finally Settled, [this was complied with, and the Committee now recommend that his Majesty approve the propositions agreed to by the respective Proprietors, viz.]

1st. That so much of His Majestys Order in Council of the 18th of August 1737 as Orders that the Governors of the respective Provinces . . do not upon pain of Incurring His Majestys Highest Displeasure permit or Suffer any Tumults Riots or other Outrageous Disorders to be Committed on the Borders . . Do Stand in force and be observed.

2d. That there being no Riots that appear to have been Committed within the three lower Countys . . It is therefore not thought necessary to continue the latter part of the said Order in Council as to the said three lower Countys. . .

3d. That all other Lands in Contest between the said Proprietors now possessed by or under either of them shall remain in the Possession as they now are (although beyond the Temporary Limits hereafter mentioned) And also the Jurisdiction of the Respective Proprietors shall Continue over such Lands until the Boundarys shall be finally Settled And that the Tennants of either side shall not Attorn to the other nor shall either of the Proprietors or of their Officers receive or accept of Attornments from the Tennants of the other Proprietor.

4th. That as to all Vacant Lands in Contest between the Proprietors not lying within either of the three Lower Countys and not now possessed by or under either of them as the East side of the River Susquehannah down so far South as fifteen Miles and one Quarter of a Mile South of the Latitude of the most Southern part of the City of Philadelphia And on the West side of the said River Susquehannah down so far South as Fourteen Miles and Three Quarters of a Mile South of the Latitude of the most Southern part of the City of Philadelphia. The Temporary Jurisdiction over the same is agreed to be

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1731.

Exercised by the Proprietors of Pensilvania and their Governor Courts and Officers, [and south of this line by the authorities of Maryland] without prejudice to either Proprietor and until the Boundarys shall be finally Settled.

5th. That the Respective Proprietors shall be at free Liberty to grant out on the Common and usual Terms all or any Vacant Lands within the said Provinces of Pensilvania and Maryland in Contest between the said Proprietors (that is to say within their own Respective sides of the said several Limits mentioned in the Last foregoing Paragraph) For the which Lands and the Profitts of the same also each Proprietor shall account to the other who may be adjudged to be the Proprietor thereof upon the final Determination of the Boundarys between the two Provinces.

6th. That all Prisoners on both sides on Account of being concerned in any Riots or Disturbances relating to the Bounds or for any act or thing done thereat or for any other Act touching the Right of either of the said Provinces in relation to their Bounds be forthwith released and Discharged on entring into their own respective Recognisances in a reasonable Sum to Appear and Submit to Tryal when called upon by further Order from His Majesty.

7th. That this be Declared to be a Provisional and Temporary Order to Continue until the Boundarys shall be finally settled and be Declared to be without Prejudice to either Party.

8th. That His Majesty be most humbly moved to Discharge so much of the Order of the 18th of August 1737 as Varys from this Agreement, And that the several other Petitions of Complaint now depending before His Majesty in Council relating to any Disturbances may be withdrawn by the Respective Petitioners. [V. pp. 429, 446, 515.]

(1738.)

25 May. [His Majesty in Council approves and gives orders accordingly.] [V. p. 541.]

1 July. [242.] [Reference to a Committee of the petition of Richard New Jersey. Partridge, agent for New Jersey, that the Board of Trade

1731.

may be directed to lay before his Majesty for his confirmation or disallowance several laws of that province which have been transmitted to them.] [p. 414.]

[Referred by Committee to Board of Trade.] [p. 428.] 7 July.

[A representation from the Board of Trade of 23 June 14 Aug. recommending the disallowance of three Acts—(1) for shortening lawsuits and regulating the practice and practitioners of the law and other officers, (2) concerning the acknowledging and registering deeds and conveyances of land, and declaring how the estate or right of a Femme Covert may be conveyed or extinguished, (3) for the frequent meeting and calling of the General Assembly of this province, and for the alternate sitting thereof; a representation from the Board of Trade of 14 July recommending the disallowance of an Act of Feb., 1728, for appropriating of the interest money paid into the Treasury by virtue of a law of this province to the incidental charges of this Government and for subjecting the residue to future appropriation; and a petition of Richard Partridge to be heard in support of the four Acts, are referred to a Committee.] [pp. 449–50.]

[The Committee report in favour of repealing the first 23 Nov. three Acts. The first two] are in substance the same with two Acts past in the said Province in March 17 $\frac{1}{2}$ —Which Acts were repealed by His late Majesty as being destructive of the Jurisdiction of the Supreme Courts of Law there—And that by Your Majestys Instructions to all the Governors of the Plantations they are expressly forbid to re-enact any Laws, which have formerly been repealed by the Crown, unless they first receive Your Majestys Permission for that purpose, or do insert therein proper clauses declaring them of no effect, untill they shall be confirmed by Your Majesty; neither of which having been observed in the passing these Laws. [The third] appears to be of a very extraordinary Nature For Assemblys being thereby made triennial, a very

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great change is created in the constitution of the Province of New Jersey which if it should have been thought proper to be made ought to have taken its rise from the Royall authority, which first gave being to the form of Government establishd there, and not from the Assembly of that Province— And the Suspending Clause being also omitted in this Act.

[After hearing counsel on behalf of Mr. Partridge, and examining several witnesses, farther consideration of the fourth Act is postponed.] [pp. 470-1, 474.]

25 Nov. [The 3 Acts disallowed.] [pp. 478-9.]

1 July. [243.] [Reference to a Committee of the appeal of John and
Antigua. Rachel Pare of Antigua from a Chancery decree passed there on
2 Oct., 1730, in favour of Henry Palmer of London, upon
Palmer's bill filed against the petitioners, and Archibald
Cochrane, Thomas Kirby, Edward Chester and John Saunder-
son, executors of Richard Cochrane.] [p. 415.]

(1732.)

21 July. [In accordance with the Committee report of 20 July, the
appeal is sustained, but the respondents' bill is ordered to be
retained for further proceedings in the Chancery Court of
Antigua.] [III. pp. 4, 5-8, 19.]

12 Aug. [244.] [Reference to a Committee of a representation of the
Jamaica. Board of Trade of 13 July recommending the disapproval of
a Jamaica Act of Mar., 1730, for the better regulating slaves
and rendering free negroes and mulattoes more useful, and
preventing hawking and peddling, and enlarging the time for
the Commissioners collecting the outstanding debts.] [p. 448.]

23 Nov. [Committee agree with Board of Trade, who represent that
the Act should be disallowed for the following reasons:—]
That it is entirely destructive of former Laws passed at
Jamaica in favour of severall Negroes who had been made
free for their faithfull services and particular merit towards
their respective Masters and of the Descendants of such

1731.

Negroes who were born free—That it is particularly inconsistent with and does in effect repeal two Acts past at Jamaica in February 170 $\frac{7}{8}$ and in March 1716, to prevent Negroe Slaves being received as evidence in any case whatsoever against John Williams Dorothy his wife and their Descendants John, Thomas and Francis all of them Christians and free Negroes either by emancipation or by Birth who by their extraordinary Industry have acquired a large estate in Jamaica and by virtue of the aforesaid Laws confirmed by the Crown have obtained a plenary Enfranchisement which gives them a Title to the entire protection of the Laws of this Realm in common with all Your Majestys Subjects:—That this Act is impolitick in its Tendency with respect to the Interest and Welfare of Jamaica as well as unequitable towards the Persons abovementioned and to the whole order of free Negroes since it manifestly tends to discourage the Integrity of the Slaves in that Island, as well as the Industry of those who are become free. [p. 468.]

[Order accordingly.]

[p. 476.] 25 Nov.

[245.] [Reference to the Committee of a representation of 29 July from the Board of Trade recommending for disapproval two Virginia Acts]:— 12 Aug. Virginia.

1. An Act against importing Tobacco from Carolina and other Ports without the capes of Virginia—Past in October 1705.

2. An Act for the more effectual preventing the bringing Tobacco from North Carolina and the Bounds in Controversy—Past in 1726. [p. 449.]

[Committee agree with Board of Trade that both should be repealed for the following reasons]—That the Inhabitants of Albemarle county in North Carolina have represented the great hardships they labour under from being denied the liberty of exporting their Tobacco to Great Britain from the Ports in Virginia:—That the only commodious Port 23 Nov.

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1731.

in North Carolina being at Cape Fear scituated near the Southern Boundary of that Country :—If those Planters who are settled to the Northward near the Borders of Virginia are cutt off from all communication with that Province both by land and water as these Acts import they will lye under very great difficultys in exporting their Tobacco to Great Britain, and therefore will probably desist from Planting that commodity and turn their Industry to other manufactures which may be attended with very bad Consequences to the Trade of this Kingdom from whence the Inhabitants of North Carolina have hitherto taken considerable Quantitys of British Manufactures which they have been enabled to pay for by their Tobacco.

That these Laws are therefore manifestly disadvantagious to the Trade of this Kingdom and that it would seem highly unreasonable that any of Your Majestys Subjects should be debarred from the liberty of making use of any Ports belonging to Your Majesty or from carrying on a Legal Trade not prohibited by the Laws of Great Britain in any part of Your Majestys Dominions.

That these Laws are inconsistent with an Act of Parliament Passed in the 25th Year of the Reign of King Charles the Second, Entituled An Act for the encouragement of the Greenland and Eastland Trades, and for the better securing the Plantation Trade. [p. 469.]

25 Nov. [The Acts repealed.] [pp. 476–7.]

12 Aug. [246.] [A Massachusetts Act in addition to an Act entituled
Massachu- an Act for ascertaining the number and regulating the House of
setts Bay. Representatives is referred to the Board of Trade.] [p. 449.]

23 Dec. [The Act and the Board of Trade report are referred to
(1732.) a Committee.] [p. 523.]

19 Jan. [The Committee refer the Act to the Attorney and Solicitor
General.] [pp. 558–60.]

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[The Committee, after considering reports from the Board of Trade, and the Attorney and Solicitor General, and heard counsel for the Massachusetts agent in favour of the Act, reported] that the reason for passing this Act as set forth in the Preamble of it is, That by an Act made and passed in the thirteenth Year of His late Majesty King George Entituled an Act for enlarging the pay of the Members of the Great and Generall Court of this Province The first Clause in the Act for ascertaining the Number and regulating the house of Representatives made in the fourth Year of King William and Queen Mary enjoying each Town within this Province having forty families to send a person to represent them in the General Court was repealed and made null and Void and that no provision is made by Law to Oblige any Town to send a Representative, which may be found inconvenient Upon which the Lords of the Committee Do humbly Report to Your Majesty that the abovementioned Act of the 13 of His late Majesty which repealed the said first Clause in the said Act of King William and Queen Mary appears to this Committee to have been only a Temporary Law and to be now Expired—And that upon the Expiration thereof It is their Lordships Opinion the said first Clause in the Act of King William and Queen Mary did revive again, and is now in force—as this entirely destroys the reason for this new Act Their Lordships humbly propose that Your Majesty would be pleased to Signifie Your Disallowance of the said New Act.

1731.
(1733.)
6 Dec.

[III. pp. 269-70.] (1734.)

[The Act disallowed.]

[III. p. 288.] 10 Jan.

[247.] [Reference to the Board of Trade of a petition of London merchants trading to the plantations,] setting forth that as the Laws now stand in some of the said Colonys and Plantations His Majestys Subjects residing in Great Britain are left without any remedy for recovery of their just Debts, or have such remedy only as is very partial and precarious—And further setting forth that in severall of the said Colonys greater

12 Aug. Plantations.

1731.

and higher Duties and Impositions are laid on the Goods and Ships belonging to the Petitioners and other Persons residing in this Kingdom than are laid on the Goods and Ships of Persons Inhabiting there—all which tending to the great Discouragements of Trade to those parts—The Petitioners most humbly pray His Majesty to Grant such relief in the premisses as to His Majesty in His Great Wisdom shall seem meet. [p. 451.]

(1732.)

27 Jan. [Board of Trade report of 21 Jan., 1732, referred to the Committee for Plantation Affairs.] [p. 578.]

(1732.)

3 Feb. [The Committee direct the Board of Trade to prepare instructions for the Governors of the colonies in America agreeable to their report that the Governors] should be forbid upon pain of His Majestys highest Displeasure to give their assent for the future to any Laws wherein the Natives or Inhabitants of the respective Colonys under their Government are put on a more advantagious footing than those of Great Britain ; And that the said Governors should be directed to pay due Obedience to His Majestys Royal Instructions whereby he hath been graciously pleased to forbid them to pass any Laws by which the Trade or Navigation of this Kingdom may be any ways affected. [p. 588.]

(1732.)

26 April. [Committee for Plantation Affairs propose the draft instructions for approval.] [p. 635.]

(1732.)

4 May. [Instructions approved.] [p. 643.]

28 Oct.
Bermuda.

[248.] [Reference to a Committee of the petition of Ralph Noden, in behalf of himself and the rest of the London merchants trading to the American colonies and particularly to Bermuda and in behalf of the inhabitants of Bermuda,] that the Independant Company which was lately removed from thence to New Providence may be ordered back again to the Island of Bermuda That so the Estates of His Majestys Subjectos trading thither as well as that valuable Island may be duly Protected and preserved. [p. 462.]

1731.

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

23 Nov.

[p. 473.]

[The Committee for Plantation Affairs on reading the report of the Board of Trade, this day presented, report their opinion that the return of the company is necessary for the security of the Bermuda Islands. The report of the Board of Trade sets forth—] That they have been informed that the Negroes at Bermuda have lately poisoned severall of the Inhabitants and have frequently formed themselves into small Parties which have put the Inhabitants under the apprehension of an Insurrection.

10 Dec.

That they have likewise been informed that a Spanish Ship from Porto Rico came in August 1730, with a design to Land men to Plunder those Islands but was blown off the Coast by a storm and that none of these things had happened during the time that the Independant Company (which was sent there by King William) remained on the Islands.—

That with respect to the Bahama Islands . . besides the Bermuda Company lately removed thither whose compliment is forty Nine men there is another Independant Company of His Majestys forces there which ought to consist of one hundred men—but that they are informed neither of those Companys are compleat and that there have not been above one hundred men in both the Companys together since the arrival of the Bermuda Company at the Bahamas—And that altho an additional Independant Company might be necessary at the Bahama Islands yet considering their present Fort will not contain more than one hundred men and that should the Bermuda Company be sent back and the Bahama Company effectually compleated to that Number the Bahamas would not be in a worse condition nor more exposed than they have been since the Bermuda Company has been there : The said Lords Commissioners therefore offered as their opinion that it may be for Your Majestys Service to order the Bermuda Company to those Islands again.

[pp. 502-3.]

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1731.
 .23 Dec. [Order accordingly to the Secretary at War.] [p. 517.]
- 28 Oct. [249.] [Reference to a Committee of the petition of Patrick
 St. Christopher. Blake of St. Christopher, and Martin, a minor aged about 17,
 his son and heir by his late wife, Mary Anne, praying for the
 disallowance of a St. Christopher Act passed in April, 1712,
 for settling the estates and titles of the inhabitants of this
 island to their possessions within the same.] [p. 462.]
- 23 Nov. [Referred by Committee to Board of Trade.] [p. 473.]
 (1732.)
 3 Feb. [Committee. On a motion made in behalf of Blake to be
 heard against the report of the Board of Trade, copies of the
 report are granted to all parties concerned, who, when they are
 prepared, are to apply for a day to be heard thereon.] [p. 589.]
- (1732.)
 24 Feb. [Reference to the Committee for Plantation Affairs of a
 further petition of the two Blakes for disallowance of an Act
 of 3 March, 1719, for the general quiet of the inhabitants of
 the island of St. Christophers in their estates and possessions
 and for avoiding of vexatious lawsuits.] [p. 610.]
- (1732.)
 9 Mar. [Committee for Plantation Affairs appoint the hearing for
 24 Ap.] [p. 617.]
- (1732.)
 26 April. [Committee for Plantation Affairs after hearing all parties
 refer petition, report and Acts to the Attorney and Solicitor
 General to report] what provisions may be proper and
 reasonable for quietting Possessions in the Island of St.
 Christophers. [p. 639.]
- 28 Oct. .[250.] [Reference to the Committee for Appeals, &c., of the
 Bahamas. petition of John Colebrook of Providence Island, merchant, for
 reversal of a judgment given at the General Gaol Delivery and
 General Quarter Sessions of the Peace for the Bahama Islands,
 27 May, 1731, by which he was fined 750*l.* current money and
 ordered to be imprisoned during his Majesty's pleasure,] for
 being a Common Barrater, a continual and publick disturber
 of the Peace &c. [pp. 462, 490, 589.]

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1731.
2 Nov.
(1732.)
- [Committee for Appeals, &c., allow the petition to be withdrawn by his counsel and amended.] [p. 467.]
- 13 April.
[Order, in accordance with Committee report of 2 March, revising the judgment and discharging proceedings thereon.] [pp. 611, 625.]
- 20 Nov.
Plantations.
- [251.] [Letter from the clerk of the Council to the secretary to the Board of Trade desiring the presence of some of the Board at a Committee on the 23rd to consider of several representations and reports lately made by the Board of Trade.] [p. 467.]
- 29 Nov.
New Hampshire.
- [252.] [Reference to a Committee of (a) a representation of the Board of Trade of 4 Nov. upon the claim of Col. Dunbar, Lieutenant Governor of New Hampshire, to command there in the Governor's absence, and (b) of the petition of Jonathan Belcher, jun., to be heard on the matter in behalf of his father.] [p. 489.]
- 1 Dec.
(1732.)
- [Committee. On a motion made in his behalf, Belcher is granted copies of the papers. When he is ready to be heard, he is to make application to the Committee to appoint a day.] [p. 496.]
- 20 July.
(1735.)
- [Committee. On the petition of Jeremiah, brother of Col. David Dunbar, that a day may be appointed to take into consideration the Board of Trade report, consideration is delayed] till such time as the Agent for the Governor shall have notice. [III. p. 8.]
- 12 Feb.
- [Reference to the Committee of the petition of David Dunbar, Surveyor General of his Majesty's Woods in America and Lieutenant Governor of New Hampshire,] praying that Your Majesty would be graciously pleased to provide such means for the Preservation of the said Province and of the Rights and Interests of His Majestys and His Subjects therein and for the Support and relief of the Petitioner in due Discharge of his several Dutys as to His Majestys Royal Wisdom and goodness shall seem meet. [IV. p. 103.]

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1731.
(1735.)
27 Mar.

[Committee. A copy of the petition to be sent to Gov. Belcher for his answer. The petitioner alleges] that Mr. Belcher the Governor in Chief of that province being likewise Governor in Chief of the Province of the Massachusetts Bay and residing Chiefly in the last province It had been found to be very prejudicial to His Majestys Service in the said Province of New Hampshire and very inconvenient to the Inhabitants thereof Complaining that the said Governor Belcher deprives the Petitioner of all Power and Authority whatsoever as Lieutenant Governor of New Hampshire and also of all Salary Perquisites and Emoluments relating to the Government of the said Province which he Apprehends to be contrary to His Majestys Express Commands contained in His Commission and Instructions to both the Governor in Chief and the Petitioner. [IV. p. 132.]

29 Nov.
North
Carolina.

[253.] [Reference to a Committee of the petition of Sir Richard Everard, the late Governor, complaining of some proceedings of George Burrington, the present Governor of North Carolina.] [p. 490.]

17 Dec.

[Committee for Appeals. A copy of the petition to be transmitted to the Governor for his answer: depositions to be freely taken and to be exchanged by the parties within a month of receipt of this order, and replies thereupon exchanged within twenty days thereafter; the whole to be transmitted to the Committee within six months of the date hereof.—In the margin it is noted that the time limited was extended by order of 17 May, 1732.] [p. 511.]

29 Nov.
North
Carolina.

[254.] [Reference to a Committee of the petition of William Smith, Chief Justice of North Carolina,] on behalf of the Assembly several members of the Council, the Principal Inhabitants Planters Merchants Patent Officers and Traders [complaining of Governor Burrington]. [p. 490.]

17 Dec.

[Committee for Appeals: as in previous section answers and depositions are to be taken in Carolina and transmitted under

1731.

the seal of the province] And in regard Mr. Lovick late Secretary of the said Province and Mr. Little late Receiver thereof are charged in the said Petition of Complaint with having lett out great Quantitys of Land at a low Quit Rent without any authority from the Crown or the late Proprietors of the Province and without having rendered any account thereof to His Majesty—The Lords of the Committee do therefore hereby order that Copys of the said Petition be likewise transmitted to the said Mr. Lovick and Mr. Little.

[p. 512.]

(1732.)

[Committee for Plantation Affairs. The time limited is extended for six months on the representation of the petitioner] That some affairs relating to the said Province having required his attendance here till this time He hath on that account been prevented from carrying over the said order to the said Province, where he apprehends his presence may be necessary for putting the same in Execution.

17 May.

[p. 651.]

(1732.)

[Reference to the same Committee of new articles of complaint contained in a further petition of] William Smith, Esq., Chief Justice and Chief Baron of the province of North Carolina.

2 June.

[p. 660.]

(1732.)

[Committee for Plantation Affairs: order for answers and depositions as upon the former petition.]

5 June.

[p. 662.]

[255.] [Reference to the Master General of the Ordnance for an estimate of the following representation of the Board of Trade of 22 Dec.—] We have lately received a Memorial from the Agent for Your Majestys Island of St. Christophers setting forth the Weak and defenceless condition of that Island which is lately rendred much worse by the Destruction of the principal Magazine of that Island by Lyghtning wherein were deposited the greatest part of the Arms and Amunition of the Island which by this Unfortunate accident are become unserviceable That the Distance betwixt this Island and

23 Dec.

St.
Christopher.

1731.

the French Colonies is so small that in case of a Rupture with France St. Christophers might be subject to an Invasion ; and considering the French are much superior in Number to Your Majestys Subjects in that part of America there is reason to fear that in the present Naked and Defenceless condition of this Island, the Colony would not be able to make any Considerable Defence, and as the Legislature of that Island are repairing and putting in order the severall Forts and Fortifications with all possible Expedition, they humbly pray that Your Majesty would be graciously pleased to order them to be Supplied with Sixteen Cannon for Brimstone Hill Eight of which to be Twelve Ponders and the other Eight Nine Ponders Five other Cannon for French Figg Tree Fort Three of which to be Nine Ponders and the other two twelve ponders. Twelve other Cannon for Fort Londonderry Six of which to be Twelve Ponders and the other Six Eighteen Ponders with Carriages, Rammers, Spunges, Ladles and all other things proper for the same as likewise five hundred Small Arms with Bayonets fixed to them and Two hundred Barrells of Powder.

Upon this occasion we have discoursed with William Mathew Esquire Your Majestys Lieutenant General of the Leeward Islands and Lieutenant Governor of St. Christophers, and considering the Importance of this Colony to Great Britain and the danger it might be subject to in case of a Rupture betwixt Your Majesty and the most Christian King—We take leave humbly to propose that Your Majesty would be graciously pleased to grant this Request.

Lieutenant General Mathew having informed Us that there are severall Pieces of old unserviceable Cannon now on that Island and the other Leeward Islands, We beg leave to Submit to Your Majesty whether it may not be expedient that some of Your Majestys Ships of War attending that Station should be directed upon their return home to bring away the said old Cannon to be delivered to Your Majestys Office of Ordnance here.

[pp. 521-2.]

ACTS OF THE PRIVY COUNCIL (COLONIAL). 355

[The estimate (given in detail and amounting with freight to 3,931*l.* 11*s.* 11*d.*) is approved, the stores are ordered to be sent and the expense to be included in the next estimate laid before Parliament by the Ordnance.]

1731-2.
(1732.)
19 Jan.

[256.] [To the Committee for Plantation Appeals is referred a representation of 2 November, 1731, from the Board of Trade recommending Benning Wentworth, Richard Waldron, Anthony Reynolds, Benjamin Gamblin, Theodore Atkinson, Joshua Pierce, to be councillors of New Hampshire in place of some who are dead and others who have ceased to reside, and David Dunbar the Lieut.-Governor to be added to the Council with the rank of first councillor.] [p. 551.]

1732.
19 Jan.
New
Hampshire.

[Reference to the Committee of the petition of Jonathan Belcher, jun., on behalf of his father, against the appointment of Atkinson.] [p. 584.]

1 Feb.

[The Committee refer the petition to the Board of Trade; they also refer back to them the nomination of Reynolds. The others they approve, the Lieutenant-Governor to be the first councillor, and the other four to replace John Wentworth, Mark Hunkins, Archibald MacPhedris and Samuel Penhallow, deceased.] [pp. 585-6.]

3 Feb.

[The five councillors approved.]

[p. 606-8.]

24 Feb.

[The Committee, on the report of the Board of Trade, recommend Atkinson's appointment, in place of Joseph Smith, who does not reside within the province. Atkinson's refusal, as Deputy Collector of the Customs, to deliver up the seal of the office on the death of the principal Collector, of which Mr. Belcher complained, is held to have been only an error of judgment not sufficient to disqualify him.] [p. 636.]

26 April.

[Atkinson appointed.]

[p. 645.]

4 May.

[257.] [Reference to the Board of Trade of the Jamaica planters, merchants and traders seeking effectual encouragements to plant coffee in Jamaica and the other sugar colonies in America.] [p. 552.]

19 Jan.
Jamaica.

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1732.

- 3 Feb. [Board of Trade report of 28 Jan. referred to Committee for Plantation Affairs.] [p. 584.]
- 3 Feb. [Committee.] Report . . was this day read to their Lordships. [p. 589.]
- 19 Jan. [258.] [Reference to the Committee for Appeals of (1) the petition of Thomas Beake, agent for the island, praying on behalf of the Assembly for an inquiry into the displacement of Jeremiah Brown by Lieutenant Governor Mathew from the office of Chief Justice of the King's Bench and Common Pleas : (2) of Brown's petition for restoration to his office : and (3) of Mathew's petition to be heard in reply.] [p. 553.]
- St. Christopher.
- 9 Mar. [Committee for Plantation Affairs : report on the petition of Mr. Brown as to his removal on 14 Feb., 1730]. . . The cause of which removal he finds to have been grounded upon two several complaints preferred against him in the Council of the said Island by the said William Mathew—Vizt.—
- 1st. That in a Cause tryed before the Petitioner on the 17th of July 1728, between Joseph Crisp Esquire or his Lessee Plaintiff in Ejectment and James Stephens Defendant. The Petitioner had given his opinion against the validity of a certain Patent Granted by the said Mr. Mathew.
- 2d. That in another Cause depending between one Hercules Aylway Plaintiff and John Gallway Defendant—The Petitioner had refused to sign a writ of subpœna for the Examination of Witnesses before Thomas Pilkington Esquire one of the Judges of the said Court of Kings Bench and Common Pleas at his House in Bassetere.
- That as to the first of these Articles the Petitioner alledges that the opinion he gave against the validity of the said Patent was founded upon a full conviction (from what appeared to him) that the said Patent had not past according to the usuall and necessary forms of Law.
- And as to the second, That he refused to sign the Writt of Subpœna he alledges that he apprehended it would be setting

an illegal Precedent to issue Subpœna's returnable in any other place than in the said Court, and that the Examination of Witnesses at the private House or Chamber of a Judge was irregular and unwarrantable.

But that not having been allowed any opportunity to Defend himself against the said complaint he does in Justice to his private character humbly lay this his Case before Your Majesty praying that if it shall appear that he hath been undeservedly removed from his said office that he may be restored to Your Majestys Service.

[Mathew's petition sets forth] that his removal of the said Mr. Brown was with the advice and consent of the Council of the said Island of St. Christophers—And that he had severall Instances of Mr. Brown's misbehaviour in his said Post to lay before Your Majesty, and therefore [prays] to be heard against the above recited Petition of the said Mr. Brown. [The Committee, having heard counsel in support of both parties, and examined several witnesses, refuse to enter into the other instances of Mr. Brown's misconduct, they not having been signified to his Majesty as the cause of his removal, and agree to report that the said removal was without good and sufficient cause signified to his Majesty and the Board of Trade, as enjoined in the Governor's 42nd instruction.]

[pp. 614-16.]

[Report approved.]

[p. 625.] 13 April.

[Letter from one of the Clerks of the Council, enclosing a copy of the report and his Majesty's approbation thereof, to be laid before the Duke of Newcastle. Addressed to Charles Delafaye, Esq., secretary to the Duke of Newcastle.]

[p. 628.]

[259.] [Reference to the Committee for Appeals of the petition of Sir William Codrington of Dodington, Gloucestershire, for a short day for hearing his appeal from some decrees and orders of the St. Christopher Chancery, 4 Dec., 1729, 7 Dec., 1730, and 13 Feb., 1731, in a suit between him and Benjamin

19 Jan.
St.
Christopher.

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1732.

Markham and Ann his wife] relating to the Right to a Negroe Woman called Crook and her two sons called Jack-Ham and Peroe. [p. 554.]

(1733.)

10 Jan.

[Committee report. Codrington's petition sets forth that the negroes were in 1688 sold by Colonel Roger Elrington of St. Christopher to Monsieur St. Alban, a French subject in the French part of St. Christopher, that in 1696 they were captured by Christopher Codrington sen., by whom and his heirs they were quietly possessed till in 1718 the Markhams claimed them as heirs of Roger Elrington.]—The Lords of the Committee this day took the said Petition and Appeale into their Consideration and were attended by Counsel learned in the Law on both sides—But the Counsel for the Respondents moving for liberty to bring a Cross Appeale on their parts from the said Decree of the 4th December 1729—And that the hearing this Appeale might in the mean time Stand adjourned over that so both Appeales might come on to be heard at the same time—Their Lordships thereupon thought proper to postpone the Consideration of this Appeale till such Cross Appeale should be brought by the said Respondents.—Which Cross Appeale they are humbly of Opinion Your Majesty may be pleased to grant to the said Respondents upon Condition that they do pay unto the Petitioner ten pounds Sterling for the Costs of this day and that they do enter into the usual Security for prosecuting the said Appeale. [III. pp. 8, 87, 93-5.]

(1733.)

11 Jan.

[Order accordingly.]

[III. p. 96.]

(1734.)

11 April.

[In accordance with the Committee report of 5 April, order is given] That the Decree made in the Court of Chancery of the Island of St. Christophers on the 4th of December 1729 with all the Subsequent Orders in the said cause be reversed and that a Perpetual Injunction be Deceed against both the Judgements Obtained by Markham and his Wife on the 11th of June 1724 and the second Tuesday in

1732.

July 1730—[and that further proceedings may be taken in the Court of Chancery in St. Christopher.]

[III. pp. 162, 391, 420-3, 454.]

[260.] [Reference to the Committee of a representation of 24 Feb. 8 Feb. from the Board of Trade proposing the repeal of a Bermuda. Bermuda Act of July, 1731, to supply the deficiency of the several funds in these islands and for defraying the charges of the Government.] [p. 610.]

[The Committee agree with the Board of Trade that the 23 Mar. Act should be disallowed as containing a provision of a very particular nature and detrimental to the trade of this kingdom.] In regard it is thereby enacted, that for the term of two Years from the publication of the said act all goods and merchandize of what nature or kind soever belonging to any persons not being inhabitants of the Bermudas shall pay at the rate of three pounds of the current money of Bermuda for every hundred pounds value imported into those islands. [p. 621.]

[The Act disallowed.] [p. 624.] 13 April.

[261.] [Reference to the Committee for Appeals of the appeal 13 April. of Thomas Alden, John and Judith Standish, Alexander and Jamaica. Anne Geikie (which said Thomas, Judith and Anne are the three surviving children of Charles Alden), Edward and Elizabeth Brown, executor and executrix of Edward Brown, deceased, who was the surviving executor of the said Charles Alden, deceased, from a sentence of the Jamaica Chancery of 12 April, 1731, in favour of Charles Chaplin.]

[pp. 621, 627.]

[In accordance with Committee report of 5 June, the appeal 13 June. is sustained, the respondent's plea overruled, and the respondent ordered to put in a full and perfect answer to the appellant's bill.] [pp. 651, 661, 667.]

[262.] [Reference to the Committee for Plantation Affairs of 13 April. the petition of Agatha Campbell of Annapolis Royal, widow of Nova Scotia.]

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1732.

Hugh Campbell, late an ensign in Col. Philips' regiment, on behalf of herself and five children,] complaining of the said Colonel Philips Governor of the said Province in dispossessing her of an Estate there, Descended to her from her Father—and in defrauding her of eighty pounds due to her said late Husband. [p. 627.]

20 April. [Committee. A copy of the petition is ordered to be sent to Col. Philips, who is to return his answer thereto with all convenient speed.] [p. 634.]

17 May. [Committee. Upon a motion made on behalf of the petitioner for appointing a day for hearing the case, and for granting her a copy of Col. Philips' answer, the copy is granted her, and 6th June appointed for hearing the case.] [p. 652.]

6 June. [Committee recommend that the petition be dismissed as frivolous and vexatious. The estate claimed was alleged] to have descended to her from her ancestors (who held the same under a Grant from the French King) and to be confirmed to her on the Conquest of that Province from the French by General Nicholson in the Year 1710. [p. 665.]

13 June. [The petition dismissed.] [p. 668.]

(1733.)

2 Aug. [Reference to the Committee of Agatha Campbell's petition for an inquiry into her claim and for restitution or the grant of an equivalent.] [III. p. 226.]

(1733.)

15 Aug. [Committee refer the petition to the Board of Trade.] [p. 232.]

(1733.)

23 Nov. [Committee. The Board of Trade having reported] That they have discoursed with Colonel Philips Your Majestys Governor of Nova Scotia and likewise with the Petitioner Mrs. Agatha Campbell who laid before them several Papers and Affidavits relating to her Title to the aforesaid Lands and quit rents in Nova Scotia from whence it appears amongst other things That the Petitioners Ancestors have been in possession of a Considerable part, if not of the whole province

of Nova Scotia as well under Grants from the Crown of Great Britain whilst the said Province was under the Dominion of the Crown of Great Britain, as under Grants from the Crown of France during the time the said Province was under the Dominion of that Crown and that the Petitioner with her Brothers and Sisters were found in possession when the said Province was Yeilded up by the Treaty of Utrecht to the Crown of Great Britain in the Year one thousand seven hundred and thirteen; That by the fourteenth Article of the said Treaty a Liberty was reserved to the Subjects of France to remove themselves elsewhere with their Effects within the space of twelve Months or otherwise to remain under the Government of Great Britain at their own Choice—That under this Liberty the Petitioners Brothers and Sisters did remove themselves But the Petitioner continued to remain in possession and afterwards intermarried with a protestant Subject of Your Majestys who was an Officer of the Garrison there by whom she had now Severall Children That the Petitioner from this time Enjoyed her possessions and Received a Rent or Quit rent of About 80*l.* or 90*l.* Sterling per annum from the Inhabitants of Mines and others in the said Province till the Year 1730 when Colonel Philips Your Majestys Governor of Nova Scotia putt a Stop thereto, in consequence of Your Majestys Orders, untill the Petitioners Title to receive the same should be enquired into, and Your Majestys Pleasure known thereupon—The Lords of the Committee upon consideration hereof, Do agree humbly to Report as their Opinion that it may be advisable for Your Majesty to issue Your Royal Orders to Colonel Philips, or the Governor or Commander in Chief of the Province of Nova Scotia for the time being, to give the necessary Directions for the payment of all arrears of Rents or Quit Rents due to the Petitioner from the Inhabitants of Mines or others, since the Year 1730 and that it may be likewise adviseable for Your Majesty to allow the Petitioner a Reasonable Sum for the purchase of the said Quitt Rents, and

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1732.

for the Extinguishment of any Claim or Right of Seigneurie which she may have to any part of the said Province.

(1733.)

[III. pp. 252-3.]

20 Dec.

[Orders accordingly, the Treasury to consider of a reasonable sum to be paid for the purchase of the quit-rents and right of seigniory, and of the manner of effecting the purchase.]

[III. p. 274.]

GEORGE II. VOL. III. (21 July, 1732—18 July, 1734.)

21 July.
Jamaica.

[263.] [Order is given in accordance with the following memorial from the Admiralty :—] Rear-Admiral Stewart who Commands His Majestys Ships at Jamaica having acquainted us that pursuant to Our Directions, in Obedience to His Majestys Commands signified to Us in that behalf by Letter from His Grace the Duke of Newcastle dated the 29th of November last and with the Approbation of His Majestys Engineer he hath Caused to be left there by His Majestys Ships the Lyon Gosport and Tartar lately sent Home Twelve pieces of Ordnance of 24 pounders, Eight 12 pounders and four of 6 pounders and twenty Musquets with their Carriages, Furniture and a proper quantity of Ammunition for the Security and Defence of Port Antonio and of the Magazines of Stores to be lodged there We do most humbly pray that Your Majesty will be pleased to give Orders to the Master General of the Ordnance to allow on the Accounts of the Respective Gunners of the said Ships of the Guns and Ordnance Stores by them left as aforesaid ; And that they be charged to the Account of John Hardin whom for that purpose Rear Admiral Stewart has appointed Gunner of the Southampton Hulk and of the Fortifications to be Erected at Port Antonio on Navy Island.

[pp. 19-20.]

21 July.
Nova
Scotia.

[264.] [Reference to the Committee of the] Petition of John Hart Esqr. humbly proposing to make a Settlement of one

1732.

hundred persons within the Space of five Years and of another hundred within the further Space of ten Years upon a Peninsula uninhabited in the Bay of Fundy in His Majestys Province of Nova Scotia extending Eastwards from Holt Island in the said Bay to the River Chignicto containing about fifteen Leagues in length and one and half in Breadth by an Average And therefore humbly praying Her Majestys Orders to the Surveyor General of the Lands in that Province to Survey and lay out a part of the said Peninsula beginning from Holt Island inclusive and extending Eastward to the Main Land containing by Estimation about twelve Leagues in length and about one League and half in Breadth at an Average—Bounded North South and West by the Bay of Fundy in Order to the Making a Grant thereof to the Petitioner—And also further praying that Orders may be sent to Colonel Philips Governor of the said Province or to the Lieutenant Governor thereof to pass a Grant under the Seal of the said Province to the Petitioner and his Heirs of the said Lands so to be laid out and that the said Lands may be Exempt from Quit Rents for the Space of ten years and that after the said term a Moderate Quit Rent may be paid not exceeding that at present paid in Virginia. [p. 24.]

[Committee refer the petition to the Board of Trade.] 25 July.
[p. 29.]

[Committee] . . . whereas the said Lords Commissioners for Trade and Plantations have Reported that it may be for His Majestys Service to Grant the said Lands to the Petitioner and His Heirs—And that they have no Objection to the Exempting the said Land from Quit Rents for the Space of ten years But as to that part of the Petition which relates to the Payment of the same Quit Rent as is at present paid in Virginia which being no more than two Shillings per hundred Acres the said Lords Commissioners are of Opinion it ought not to be complied with And that the Petitioner should be Obligated to pay three Shillings per Hundred Acres— 7 Sept.

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1732.

The Lords of the Committee are thereupon pleased to Order that the said Report (a Copy whereof is hereunto annexed) Be referred to the Auditor General of His Majestys Revenues in America to Consider that part thereof relating to the payment of a Quit Rent of three Shillings per Hundred Acres, And Report his Opinion thereupon to this Committee.

[p. 56.]

11 Dec.

[The Committee adopt the Board of Trade report recommending that the grant be made, the peninsula being entirely uninhabited, and Col. Philips having informed them] that this Tract of Land is the usual Rendevouz for the Eastern and Western Indians when they consult to do Mischief to Your Majestys Subjects in those parts. For which reason he conceived a Settlement there would be of very great use to the Province. [The Board of Trade] further offered that for preventing Disputes which may hereafter arise in case any former Titles should be set up to part of the Lands contained in the District Petitioned for it might be proper that Colonel Philips or the Lieutenant Governor of Nova Scotia for the time being in his absence should be directed to insert in the Grant to be made a General Saving Clause for all previous rights. [The Committee] having consulted Horatio Walpole Esqr. Auditor General of Your Majestys Plantations . . . Do humbly propose that a Quit Rent of four Shillings Sterling be reserved to Your Majesty Your Heirs and Successors for every one hundred Acres to be contained in the said Grant And that the same be made payable at the Expiration of the term of ten Years from the Date thereof.

[p. 79.]

21 Dec.

[Orders accordingly (1)] that the Surveyor of His Majestys Lands in Nova Scotia for the time being or his Deputy Do forthwith Survey and lay out the Lands desired by the Petitioner that is to say—Holt Island as also a part of the aforesaid Peninsula containing twelve Leagues in length to be Computed from the most Western point thereof, and Extended to the Main Land of Nova Scotia: [(2) That the

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Governor pass a grant to Hart on the conditions proposed in the report.] [p. 88.]

1732.

[265.] [Reference to the Committee for Appeals of (1) the Appeal of Gawen Corbin of Virginia against a judgment of the General Court of 24 April, 1730, on an action of trespass and ejectment brought by Thomas Corbin, in the name of his lessee, Robert Faldo : and (2) the petition of the other parties that the appeal be dismissed for non-prosecution.]

7 Sept.
Virginia.

[p. 48.] (1735.)

[In accordance with the Committee report of 24 Jan., restitution of the estate to the petitioner is ordered to be made forthwith.]

12 Feb.

[pp. 119, 122, 142, 153, 539,
IV. pp. 84, 89-90, 100.]

[266.] [Reference to the Committee for Appeals of the petition of Jahleel Brenton that, as the proceedings are now transmitted, a short day may be appointed to hear his appeal from a judgment of the Superior Court at Newport, R.I., the first Tuesday in Sept., 1731, reversing a judgment of the Inferior Court there in favour of the petitioner, and adjudging him to account to Francis Boreland and Jane his wife for 300*l.* as bailiff and receiver of the rents and moneys of the said Jane, when sole, and to pay costs of court.]

7 Sept.
Rhode
Island.

[p. 49.] (1733.)

[On the Committee report of 3 July, the appeal is dismissed for non-prosecution.]

19 July.

[pp. 184, 196.]

(1734.)

[Reference to the Committee for Appeals of the appeal of Francis Boreland of Boston, Mass, and Jane, his wife, from a judgment of the Superior Court at Newport, R.I., on the first Tuesday of Sept., 1732, and another of the Governor and General Assembly on 15 June, 1733, in their action against Jahleel Brenton.]

31 Jan.

[pp. 308, 309, 319, 418, 428.]

(1734.)

[The Council grant the petition of Jahleel Brenton, executor of the late Jahleel Brenton, that the appeal of 1732 dismissed on the death of the elder Brenton and on its non-prosecution

11 July.

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1732.

by his agent for want of orders, should be revived and put in the same condition as at Brenton's death] in Order its being heard on the Meritts. [pp. 456, 496, 519.]

(1735.)

3 April. [On the Committee report of 20 March, the judgment of 15 June, 1733, is reversed, and Brenton left to proceed in the Superior Court with his complaint against the verdict on the merits.] [IV. pp. 84, 119, 125, 145.]

(1736.)

13 Oct. [Reference to the Committee of Brenton's appeal from the judgment of the Superior Court, 2 Sept., 1735, confirming the judgment of June, 1732, in Boreland's action against the petitioner's father.] [V. p. 2.]

(1738.)

12 Jan. [In accordance with the Committee report of 19 Dec., 1737, the appeal is dismissed with 20% costs.] [IV. pp. 343, 367.]

28 Sept.
Antigua.

[267.] [Reference to the Committee for Appeals of the petition of Frederick Voguel and Frances his wife and of Richard Roe, their lessee, that the appeal of William Gregson from a judgment of the Governor and Council of Antigua as a Court of Errors, 9 Dec., 1730, should be dismissed for non-prosecution.]

(1733.)

[p. 63.]

25 Jan.

[On the Committee report of 17 Jan. Gregson's appeal is dismissed for non-prosecution, with 10% sterling costs.]

[pp. 99, 105.]

9 Oct.
Plantations.

[268.] [Committee.] Whereas the Governors of His Majestys Plantations in America are required by their Instructions not to permit any Clause whatsoever to be inserted in any Law for levying Money or the Value of Money whereby the same shall not be made liable to be accounted for unto His Majesty in His Kingdom of Great Britain and to the Lords Commissioners of His Treasury or to the Lord High Treasurer for the time being and are likewise Strictly enjoyned upon pain of His Majestys Highest Displeasure to take care that fair Books of Accounts of all Receipts and payments of all such Money should be duly kept and the truth thereof Attested upon Oath, and that the said Books should be transmitted

every half Year or Oftener to the Lords Commissioners of His Majestys Treasury or to the Lord High Treasurer for the time being and to the Lords Commissioners for Trade and Plantations and Duplicates thereof by the next conveyance— In which Books are to be Specified every particular Sum raised or disposed of, together with the Names of the Persons to whom any payment should be made, to the end His Majesty may be Satisfied of the right and due Application of the Revenue of his Plantations, with the Probability of the Increase or Diminution of it under every head or Article thereof : And Whereas the Lords of the Committee of Council have been this day informed that notwithstanding the said Instruction the said Governors have for many Years past neglected to transmit any such Books . . by means whereof His Majesty hath been unacquainted with the Revenues that have been raised in His Plantations as also with the Application thereof—The Lords of the Committee are therefore hereby pleased to Order the Lords Commissioners for Trade and Plantations to write Circular Letters to all His Majestys Governors in America who have received the said Instruction taking notice of such their Neglect and requiring them to pay a due and exact Obedience to His Majestys said Instructions for the future. [p. 67.]

[269.] [Reference to the Committee for Appeals of the petition of John Bennett of Barbados, of Jane, his wife, widow and executrix of Dudley Woodbridge, deceased, and previously widow and executrix of Edward Willey, merchant, for relief and a short day for hearing their appeal from an order of the Barbados Chancery, 10 May, 1732,] Whereby a Petition presented by the Petitioners to the said Court praying that a Ne Exeat issued out against the Petitioner John Bennett at the Suit of Henry Warren and Jane his Wife and also a Bond Entred into thereupon might be Discharged And that a Writt of Duces tecum granted against the Petitioner John and the attachment thereon might be Superseded and that in the

30 Nov.
Barbados.

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1732.

mean time the Execution of the said Attachment might be Suspended was Dismist. [pp. 76, 87, 110, 117, 121.]

(1733.)

29 Mar.

[In accordance with the Committee report of 9 March, order is given] that so much of the said Order of the Court of Chancery of the 10th of May 1732 as relates to the Writt of Ducens tecum and the Attachment thereon be reverst, and that the said Writt of Ducens tecum and Attachment be Superseeded, And so much as relates to the Ne Exeat Insulam and Bond thereon be Affirmed, But that the said Bennetts coming over to England shall not be Deemed a Forfeiture of the said Bond, provided the said John Bennett returns to the said Island and puts in a full Answer to the Satisfaction of the said Court within twelve Months from the date of Your Majestys Order to be made hereupon, and performs all the other Conditions of the said Bond. [pp. 123-7, 135.]

(1735.)

9 Jan.

[Reference to the Committee of the petition of John Bennett and his attorneys in Barbados, Jonathan Blenman and Abel Alleyne, and of Dudley Woodbridge of Barbados, for a short day for hearing their appeal from a decree of the Chancery there, 22 Dec., 1733, in a case between them and Dr. Henry Warren and Jane, his wife.] [IV. p. 74.]

(1735.)

26 Nov.

[On the Committee report of 17 Nov., their appeal is sustained.] [IV. pp. 106, 253, 263.]

21 Dec.

West Indies.

[270.] [Reference to the Attorney and Solicitor General of the petition of Samuel Bonham, Christopher Astley, Benjamin Weale and Joseph Croucher of London, owners of the *Ann* galley, 130 tons, Joseph Snackman master, for letters of reprisal for the seizure of the ship by Spaniards,] or that His Majesty will be pleased to Direct His Ships of War to continue to make Reprisals till Satisfaction be made them. Or else that some other Expedient may be found out whereby they may have restitution for their said Loss—But if the same cannot be obtained they pray it may be Signified to them that they may not go on in encreasing their Loss. [p. 91.]

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- [Reference to the Committee of the petition of the owners setting forth that notwithstanding his Majesty's goodness in obtaining from the King of Spain a cedula to his officers in Cuba, dated Seville, 25 Feb., 1733, they find that satisfaction is not likely to be had, as of those concerned in the privateer who are ordered to make restitution, most are not to be found, some are unable to pay, and the remainder can evade payment in many ways by making it over to the Church. They accordingly beseech his Majesty's favour and assistance in obliging the King of Spain to pay them 14,700*l.* stg. out of the revenues of Spain or the Indies.] [p. 172.] 1732.
(1733.)
4 June.
- [Committee refer the petition to the Attorney and Solicitor General.] [p. 208.] (1733.)
25 July.
- [Report of the Attorney and Solicitor General on Bonham's first petition referred to the Committee.] [p. 224.] (1733.)
2 Aug.
- [Committee postpone consideration of the report] till the Attorney or Solicitor General makes Report on Bonham's Second Petition. [p. 233.] (1733.)
15 Aug.
- [Reference to the Committee of a further petition and of three letters thereto annexed, from which it appears that the *Ann* was taken on the high seas by the Spaniards on 13 June, 1728, on her way from Guinea to Jamaica. The petitioners pray that, as the orders of the King of Spain appear to be no more than a delusion or shew of justice never intended the petitioners, and as his Majesty will not grant them letters of reprisal, he may give them] not only leave, but his Favour and Assistance in Petitioning to the Parliament to grant them such relief for their great loss and Damage as they in their Great Wisdom shall seem meet. [p. 322.] (1734.)
7 Feb.
- [Committee. The value of the captured ship and goods was 10,500*l.* The King of Spain had allowed that it was an unjust capture, but the petitioner's agent at Havana had reported to the British Ambassador at Madrid by a letter of 12 July,

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1733, that his orders are ineffectual for obtaining justice in the West Indies. His order of 28 Dec., 1731 (N.S.), required restitution to be made if the seizure were not justified by proof of unlawful commerce on the coast of the Spanish dominions where it was prohibited, or if otherwise that information should be given and the proceedings transmitted. The cedula of 25 Feb., 1733 (N.S.), ordered restitution without reply or delay, as the prize had been taken after the arrival of orders at Cartagena for the cessation of hostilities. Yet no satisfaction has been obtained, and the Committee recommend that his Majesty's Minister at the Court of Spain represent to the Catholick King that Your Majesty looks upon Yourself as Obliged by this failure of Justice in the West Indies to Your Majestys Subjects, to insist that His Catholick Majesty do forthwith Cause reparation to be made to the Petitioners for the Damages they have sustained by the Seizure of the said Ship Ann Galley and Cargo according to the Tenour of the fifth Article of the Treaty of Seville.

- (1734.) [p. 328.]
 21 Feb. [Order accordingly.] [p. 337.]
 (1734.)
 11 July. [Reference to a Committee of a further petition for satisfaction out of the Treasury of Old Spain, as no redress has yet been obtained.] [p. 523.]
 (1735.)
 6 Mar. [Committee postpone further consideration till the arrival of advice as to the relief secured to the petitioners by the last cedula given in June.] When the Petitioners will be at liberty again to Apply if those Advices prove not to their Satisfaction. [IV. p. 114.]
 1733.
 21 Feb. [271.] [Reference to the Committee of the memorial of Bahamas. Richard FitzWilliam, Governor of the Bahamas, with proposals in view of the present bad state and condition of the said islands.] [p. 114.]
 23 Feb. [Committee refer the memorial to the Board of Trade.] [p. 117.]

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[Committee refer the Board of Trade report so far as it concerns the Ordnance to the Duke of Argyll, Master General of the Ordnance.] 27 April.
[p. 145.]

[Committee. FitzWilliam having requested that a Company of Invalids might be sent, in lieu of that lately remanded to Bermuda, in like manner as was sent a few years ago to South Carolina, and the Board of Trade having approved the proposal, but suggested that, if it be impossible at present, the company already at the Bahamas be augmented to 150 effective men, officers included, the Committee order that the Secretary at War] do lay before them the Number of Effective Men belonging to the Regiments now in the Leeward Islands and the Province of Nova Scotia and also of those belonging to the several Independant Companys in America together with an Account where and in what manner the several Companys belonging to the said Regiments as likewise the said Independant Companys are at present disposed That their Lordships may be the better enabled to Consider of the most proper means for providing for the Defence and Security of the said Bahama Islands. 27 April.
[p. 145.]

[The Committee order Mr. Shelton, Secretary to the Lords Proprietors, to report whether, and upon what terms, Lord Carteret is willing to surrender his right in the islands.] 27 April.
[p. 145.]

[The Committee are informed by Mr. Shelton that Lord Carteret is willing to surrender his rights on the same terms as the other proprietors.] 22 May.
[p. 169.]

[Committee report. FitzWilliam proposes] that the Right in the Soil of the Bahama Islands should be purchased of the Proprietors and a power given to the Governor for the time being to grant out the Lands to such persons as are willing to become Inhabitants there under a Quit Rent to be Settled by Your Majesty.—That a Company of Invalids be sent thither in Lieu of that which was lately remanded from thence to 25 July.

1733.

Bermudas in like manner as was sent a few Years since to South Carolina That the present Fort in the Island of Providence be thoroughly repaired and that for the better Security both of the Fort and the whole Island a New Fortification be Erected upon the Hill behind the Fort and that at the same time proper Magazines Cisterns and other conveniencys may be erected for the use of the Garrison.—That an Engineer be sent to the said Islands under the Direction of the Board of Ordnance in Order to Carry on these Works in a lasting Manner—That so many Bombardiers Gunners and Matrosses may be sent thither as shall be thought necessary—That Arms for three hundred men be sent over with an Armoror to keep them in constant Repair and Readiness to be put into the hands of the Inhabitants for the Defence of the Islands as occasion may offer—And that provision be made of Defraying the Charge of making Carriages for Guns of the wood that grows in those Islands, which is said to be much more durable than that of England and for such other Necessarys as may be found wanting on a Survey of the Stores lately sent thither.—

[As to the first proposal, the Committee consider that to vest the soil in the Crown would be for the interest of Great Britain] in regard they are by their Scituation most Convenient for the reception of such British Ships as may at any time be sent into those parts for the protection of Our Trade, and of Privateers for the Annoyance of an Enemy in time of Warr—And to that end their Lordships had some time since directed the Lords Commissioners for Trade and Plantations to treat with the proprietors for a surrender thereof to Your Majesty Whereupon the said Lords Commissioners received a Signification under the hands of the Duke of Beaufort Lord Craven Lord Berkley Sir John Colleton and Robert Abdy as one of the Executors and Devisees of Sir John Tyrrel deceased that they were willing to make a Surrender of their Right in the said Islands for the sum of one thousand Guineas to be paid to each of them clear of all Fees and Expenses, reserving

to themselves the Arrears of Rent that shall at the time of their Surrender be due from the Lessees or Assignees of their Lease. That as the Lord Carteret was the only proprietor who had not Signified his consent to this Surrender the Committee . . . sent to Mr. Shelton the Secretary to the said Proprietors to wait upon the Lord Carteret and to know his resolution thereupon. And the said Mr. Shelton having accordingly been with the Lord Carteret Did attend this Committee and inform them that he had received the Lord Carterets Directions to Signifie his consent to the Surrender of his right in the said Islands upon the same terms and Conditions offered by the other proprietors. The Lords of the Committee hereupon proceeded to Consider of the said proposals, together with the importance of the said Islands to the Dominion and Trade of Great Britain in those parts, are humbly of Opinion that it may be adviseable for Your Majesty to accept a Surrender of the said Proprietors, of all their Right Property and Royalty in and over the Soil of the Bahama Islands for the sum of one thousand Guineas to be paid to each of them clear of all Fees and Expences—Upon Condition that they do relinquish to Your Majesty all manner of Right to Rents or Arrears of Rents, and to all Demands of what Denomination soever which they shall or may have a Claim to, at the time of their making such Surrender of the said Islands.—

And the Lords of the Committee do further humbly Report to Your Majesty that having been informed that the said Proprietors had some time since granted lease of the said Islands for a term of Years five Whereof are as yet unexpired, with power to the Lessees or their Assignes to make Grants of Lands in perpetuity under a Quit Rent to be paid to the said proprietors Originally set at three pence per annum for each Acre, but lately reduced to one penny per Acre. They thought proper to direct the Lords Commissioners for Trade and Plantations to enquire into the same and to discourse with

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the Lessees about the Surrender of their said Lease—Whereupon the said Lords Commissioners have represented to this Committee that such Lease as aforementioned, is now Subsisting—But that the Lessees have informed them that they have hitherto granted few or none of the said Lands—And that the said Lessees have likewise informed them that they have laid out very considerable Sums in improvements in the said Islands, in sending over Inhabitants Provisions and Stores, dislodging the Pirates who had Settled themselves there and in defending those Islands from the attempts of the Spaniards—And that therefore the said Lessees hoped the same sum would be paid to them, as should be paid to the Proprietors of the Bahamas for the Purchase of those Lands—Hereupon the Lords of the Committee beg leave humbly to Observe to Your Majesty that altho Your Majesty should be pleased to accept of the Surrender of the Proprietors Right yet unless the right of these Lessees be likewise purchased Your Majestys Governor of these Islands cannot be impowered to make any Grants of Lands to people inclined to come and settle there, during the five Years continuance of the said Lease, and consequently no improvements can be made, or the Islands Strengthened with Inhabitants, during that time—In regard whereto Their Lordships are humbly of Opinion that it may be adviseable for Your Majesty to cause the Right of the Lessees to be likewise purchased, and considering that they may have been at some Charges in making improvements upon the said Islands, Their Lordships humbly conceive that the sum of two thousand pounds will be a reasonable consideration for the purchase of the said Lease and of all their Right and Demands whatsoever in and to the said Islands.—

As to the proposal of Governor FitzWilliam to send a Company of Invalids to the Bahama Islands, The Lords of the Committee have considered thereof, and are of opinion, That it may be more adviseable for Your Majesty to Order, that the Independant Company already in those Islands consisting of ninety nine private men, may be Augmented to

the Number of one hundred and fifty Effective Men Commission and non Commission Officers included.—

That as to all the other proposals relating to the repairing the Old Fortification and Erecting a New one with Proper Magazines and other Conveniencys, under the Direction of an Engineer to be sent thither as also to the sending over an Armourer Bombardiers, Gunners and Matrosses and making provision for defraying the Charge of Carriages for their Guns and for such other necessarys as may be found wanting upon a Survey of the Stores and Small Arms formerly sent thither—The Lords of the Committee have consulted the master Generall and Principall Officers of the Board of Ordnance and the Lords Commissioners for Trade and Plantations thereupon, And do agree humbly to propose to Your Majesty that an experienced Engineer now upon the Establishment may be sent over with Governor FitzWilliam to View the said Islands and Fort, and to make General and particular Surveys and Plans—And to Report to Your Majesty in Conjunction with the said Governor, what is necessary to be done upon the said Severall points, as well as such others, as may be found wanting upon the said Survey; and at the same time to lay before Your Majesty an Estimate of the Expence that will all end the same—Whereby Your Majesty will be enabled to judge what will be necessary to be done for the further Security and Defence of the said Islands And the Lords of the Committee beg leave further to propose to Your Majesty that the Engineer to be sent on this service may have his present pay encreased to twenty Shillings per day as hath been usually done on the like Occasions, and to be continued to him during the time he shall remain on this Service.—

[FitzWilliam's proposal to purchase land in Providence Island for the erection of fortifications is referred to the Board of Trade.] [pp. 204–8.]

[The report approved and orders given accordingly, (1) to 2 Aug.
the Treasury to consider the properest method to complete the

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purchase of the proprietors' rights ; (2) to the Master of the Ordnance to give directions for sending an experienced engineer with Governor FitzWilliam to make plans and surveys and submit an estimate, said engineer to have his pay increased to twenty shillings a day during this service ; and (3) to the Secretary at War to give directions for augmenting the independent company to 150 men, officers included.]

(1734.)

[p. 215.]

12 June.

[Treasury report on the purchase of the islands referred to the Attorney and Solicitor General.]

[p. 488.]

7 Nov.

[Reference to the Committee of] a Report made by Richard FitzWilliam Esqr. His Majesty's Governor of the Bahama Islands with an Account of the Severall Repairs and New Works necessary to be done at Fort Nassau in the Island of Providence one of the said Bahama Islands together with Plans thereof and an Estimate of the Charge attending the same And also with an Account of the Stores which are already there and what Stores will be further necessary to be sent thither.

[IV. p. 35.]

(1735.)

6 Mar.

[Referred by Committee to Board of Trade.]

[IV. p. 113.]

(1735.)

30 July.

[Reference to the Committee of the] Address of the Council and Assembly of the Bahama Islands, praying that His Majesty would be graciously pleased to Direct that care be speedily taken to put the said Islands in a better Posture of Defense than they are at present and that some means may be thought of to Augment the Number of Inhabitants which are at least one third Diminished by a Contagion that has lately razed amongst them.

[IV. p. 216.]

(1735.)

14 Aug.

[Referred by Committee to Board of Trade.]

[IV. p. 221.]

21 Feb.

Massachusetts Bay.

[272.] [Reference to the Committee for Appeals of the petition of Samuel Waldo of Boston, Mass., for leave to appeal from a judgment of the Superior Court at Boston, 8 Aug., 1732, in the petitioner's action for recovering from Thomas Fairweather possession of all the deeds and writings of the

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petitioner's father, Jonathan Waldo, deceased : also of Waldo's petition for leave to appeal from a decree of the Governor and Council, 13 Jan., 1732, affirming a judgment of the Court of Probates, 27 Dec., 1731, denying his petition that Fairweather be compelled to deliver up to him all the books of accounts, notes, bonds, mortgages and other specialties belonging to his father's estates.] [p. 114.]

[Committee recommend that the appeals be admitted on the usual security.] 28 Feb. [p. 119.]

[Orders accordingly. In April William Parkin and Joshua Channing enter into security of 100*l.* in each of the two suits for Waldo's prosecution of each appeal.] 29 Mar. [p. 134.]

[Reference to the Committee for Appeals of Waldo's petitions for a short day for hearing his two appeals.] 10 May. [p. 163.]

[The Committee appoint the first meeting in January to hear both appeals.] 21 June. [p. 179.] (1734.)

[On a motion made in behalf of Waldo, the Committee order that, as Thomas Fairweather is dead, the appeals of Samuel Waldo be revived against the executors, Hannah and John Fairweather.] 22 Mar. [p. 389.] (1734.)

[Committee. The two revived appeals to be heard on 10 Dec.] 5 Nov. [IV. p. 31.] (1734.)

[The Committee recommend that the judgments of 27 Dec., 1731, and 13 Dec., 1732, be affirmed and the appeal denied. The petitions set forth] that being absent at the time of his Fathers Death the other Executors proved the will of the said Jonathan before Joshua Willard Judge of the Probate of Wills and Thomas Fayrweather one of the Executors possessed himself of all the Testators Books of accompt, promissory Notes, Bonds Mortgages and other Specialtys ; That soon after the Petitioners arrival in New England he accepted the administration committed to him in his absence, and afterwards applyed to the said Thomas Fairweather for

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the Books of Accompt &c., which he was denied, whereupon the said Petitioner presented a Petition to the said Judge of Probates that the said Thomas Fairweather might deliver up to the Petitioner the said Books of Accompt &c. but was denied the same by the said Judge of Probates on the 27th of December 1731, from which denial the Petitioner appealed to the Governor and Council of that Province, who on the 13th of January 1731 Affirmed the said Denyal or Judgment of the Court of Probates. . . [IV. pp. 37-8.]

(1734.)

12 Dec.

[The Committee recommend that the other appeal of S. Waldo v. Fairweather be upheld, the judgments of 4 July and 8 Aug., 1732, reversed, and the appellant allowed to bring a new action if he shall think fit: This appeal set forth] that he is entitled to Severall considerable real Estates of Jonathan Waldoe his Father late of Boston aforesaid as his Eldest Son and Principal Heir at Law and also as Devisee thereof but that being absent in great Britain at the time of his Fathers Death, Mr. Thomas Fairweather who married one of the Petitioners Sisters taking advantage of such his Absence possessed himself of all the Deeds and Writings relating to the said Several real Estates, and refused to Deliver up the same to the Petitioner on his return back into New England Whereupon the Petitioner on or about the 20th of June 1732 brought His Action before the Justices of Your Majestys Inferior Court held for the County of Suffolk against the said Thomas Fairweather for recovery of the said Deeds To which Action the said Fairweather Pleading not guilty The Petitioner demurred thereto, as being an uncertain Imperfect improper and insufficient Plea in Matter and Form, after which the said Fairweather without leave of the Court razed out his said Plea and Wrote on the face of the Writ a Second Plea But that the Court refused to receive the said second Plea Declaring the first plea of not Guilty, should stand and Ordered the case to be tried by a Jury, tho' no issue was joined and that the Petitioner had Demurred to the said Plea whereupon the Jury

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found for the said Fairweather Costs of Suit, and on the 4 of July 1732 the Court gave Judgment that Fairweather should recover Costs of Suit, From which Judgment the Petitioner appealed to the next Superior Court of Judicature to be holden for the said County of Suffolk which coming on to be heard on the 8th of August 1732 the following Judgment was given That this Appeale be dismist there being no issue joined when the cause was committed to the Jury, the Plea of not Guilty being not a proper Plea to an Action of Detinue and that the said Samuel Waldoe shall recover against the said Fairweather Costs of Court, That the Petitioner conceiving himself aggrieved by this last Judgment and being deny'd by the said Court leave to Appeale therefrom, upon Application to Your Majesty he was admitted by Your Majestys Order in Council of the 29th of March 1733 to bring this his Petition and Appeale. . .

[IV. p. 39.]

(1735.)

[Orders in accordance with both reports.]

[IV. p. 58.]

9 Jan.

[273.] [Reference to the Committee for Appeals of (1) the petition of Edward Jones, late Secretary and Provost-Marshal of Bermuda, for confirmation of the report of Mr. Holford, one of the Masters of the High Court of Chancery, in accordance with an Order in Council of 9 Aug., 1726, for settling accounts and taxing costs due to him on his appeal against Governor Bennet, and also praying to be allowed subsequent costs with interest on the amount awarded by Mr. Holford: and (2) the petition of Benjamin Bennet to be heard on exceptions taken by him to Mr. Holford's report.—See Vol. II, § 910.]

29 Mar.
Bermuda.

[p. 137.]

[Committee. Holford awarded Jones 106*l.* 6*s.* 3*d.* sterling with 255*l.* 17*s.* 6*d.* costs. On consideration, the Committee are of opinion that the said Exceptions should be over-rated and the Masters Report Confirmed by His Majesty—And their Lordships are further of Opinion that Interest be allowed on the said 106*l.* 6*s.* 3*d.* after the rate of 5 per Cent. per annum from the 13th day of January 1713 being the time the said

2 Nov.

1733.

Jones filed his Bill in the Court of Chancery of Bermudas And do therefore hereby Referr it back to the said Master Holford to Compute the said Interest and to tax the said Costs accordingly In which taxation he is not to allow anything for the Items contained in the said Jones's Charge exhibited before him in which the said Jones did not prevail And that what the said Master shall find to be due for the said Interest and Subsequent Costs be added to the said sum of 106*l.* 6*s.* 3*d.* and 255*l.* 17*s.* 6*d.* which are to be paid by the said Bennett to the said Jones—And the said Master is to make his Report hereupon to this Committee with all convenient speed. [p. 246.]

(1734.)

5 April.

[The Committee order that Mr. Holford's report, this day presented,] be confirmed unless sufficient Cause be shewn to the Contrary on or before the first Committee which shall be held after Easter. [p. 425.]

(1734.)

13 June.

[Committee. No cause to the contrary having been shown, it is recommended that Holford's report be confirmed, the total sum to be paid by Bennet to Jones amounting to 669*l.* 2*s.* 9*d.* sterling.] [p. 492.]

(1734.)

11 July.

[Order accordingly.] [p. 518.]

29 Mar.

South
Carolina.

[274.] [Reference to the Committee of the] Petition of Robert Thorpe Setting forth that in September 1731 he purchased of Isaac and Thomas Lowndes a Tract of Land in the Province of South Carolina containing Nine thousand Acres being part of a Barony of twelve thousand Acres granted by the late Lords Proprietors of that Province to the said Isaac Lowndes in trust for the said Thomas—That upon Application to the Surveyor General of the said Province he hath Allotted and Sett out the said Barony of twelve thousand—Whereupon the Petitioner took possession of his part thereof But finding some Doubts have arisen concerning the Legality of such Survey it being made without a Warrant from His Majestys Governor to empower the said Surveyor General so to do.

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The Petitioner therefore most humbly prays His Majesty will be graciously pleased to Give Orders to the Governor of the said Province that he may not be Molested in his possession of the said Lands. [p. 138.]

[Committee. The following clause is added to the petition as given above]—and in regard the said Governor hath refused to Grant Warrants for Surveying Lands claimed under Patents or Grants from the said late Lords Proprietors without knowing His Majestys pleasure concerning such Grants notwithstanding the same are excepted in the Act of Parliament for confirming the Surrender of the said late Lords Proprietors Interest in that Province to His Majesty. [It is referred to the Board of Trade] to state the Facts alledged in the said Petition and to examine, whether the Petitioners Grant doth differ from other Grants of Lands made by the late Lords Proprietors and in case any Difference shall appear to them then to Réport to this Committee wherein such Difference doth Consist. [p. 147.]

[Committee. Copies of the Board of Trade report are] granted to the Sollicitors on both sides. [p. 210.]

[275.] [Reference to the Committee for Appeals of the appeal of Edward Pratter and James Rigby of Jamaica, Esqrs., and Edward Manning of Jamaica, merchant, as attorneys of Catherine Morice, relict of Humphrey Morice of London, against a judgment of 1 Dec., 1732, in favour of Richard Basnett, John Tymms and Edmond Hyde of Jamaica.] [p. 139.]

[In accordance with the Committee report of 3 July, the appeal is sustained.] [pp. 141, 143, 181-3, 195.]

[276.] [On a representation of the Board of Trade, a commission in the usual form is approved for Gabriel Johnston, Esq., to be Governor of N. Carolina. P.R.] [p. 159.]

[Instructions and Board of Trade representation of referred to Committee.] [p. 196.]

27 April.

25 July

29 Mar.
Jamaica.

19 July.

10 May.
North
Carolina.

19 July.

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- 25 July. [The Committee approve the instructions which omit an article relating to complaints against Sir Richard Everard who is now dead, and insert a non-personal direction] to make a particular inquiry into the Grants of Land which have been made in the said Province since the Year 1728, and upon discovery of any fraudulent practices therein to Order the necessary prosecutions for vacating the same, of all which he is directed to transmitt particular accounts to be laid before Your Majesty. [p. 202.]
- 2 Aug. [Orders accordingly. Johnston takes the oaths. P.R.] [pp. 219, 227.]
- 10 May. [277.] [Reference to the Committee of the memorial of Plantations. Charles Dunbar, Surveyor General of the Customs in Barbados, Bermuda and the Leeward Islands, praying to be appointed of the Council in each of these islands and to be allowed by the Clerks of the respective Councils copies of all Acts relating to trade, navigation or revenue, as he shall judge necessary for his Majesty's service and without paying any fee or reward.] [p. 161.]
- 22 May. [Committee refer the petition to the Board of Trade.] [p. 168.]
- 3 July. [The Committee agree with the Board of Trade report] that it would be for His Majestys Service that not only the Petitioner but likewise the Surveyors General of His Majestys Customs in America for the time being should be admitted to sit and Vote in the respective Councils of the several Islands and Provinces within their District as Councillors Extraordinary during the time of their residence there :—But that if thro' length of time they should become the Senior Councillors in any of the said Islands or Provinces Their Lordships intention is that they shall not by Virtue of such Seniority be ever capable to take upon them the Administration of the Governments upon the Death or Absence of any of the Governors or Lieutenant Governors But whenever that case happens the Government shall devolve upon the Councillor next in Seniority

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to them. But where His Majesty is pleased to Nominate the said Surveyors Councillors in Ordinary in any of the Governments within their Survey there they shall not be excluded any benefit which Attends the Seniority of their Rank in the Council. [The Committee thereupon order that the Board of Trade prepare draft instructions for all his Majesty's Governors in America ; in case any of the said surveyors are already admitted members of the Council then additional instructions are to be sent conformable hereunto ; in the instructions to be prepared for the Governors of Barbados, Bermuda and the Leeward Islands a clause is to be inserted requiring them to move their respective Assemblies to provide for the expense of making copies for Mr. Dunbar of all acts and papers which bear any relation to the duty of his office, and in the mean time to give orders that he be allowed a free inspection in the public offices within his district of all such acts and papers without paying any fee or reward for the same ; and the Board of Trade are to] draw up the said several Instructions in such manner as may best Answer the Intention of the Committee and lay the said Draughts before them. [p. 185.]

[The Committee, on examining the circular instructions, find that George Phenny, Surveyor General of the Customs in the Southern District of America, has already been admitted a councillor in ordinary in Virginia and South Carolina, and order that he be continued as such, but that his successors shall be only councillors extraordinary unless specially admitted by his Majesty as councillors in ordinary. The instructions are to be made conformable to these directions.] 15 Aug. [p. 231.]

[Committee report with drafts of instructions.] [p. 253.] 23 Nov.

[Reference to the Board of Trade of Dunbar's memorial praying to be admitted a member of the council in ordinary in all the islands, but especially in Barbados and Bermuda where he proposes chiefly to reside.] 23 Nov. [p. 254.]

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29 Nov. [The circular instructions approved. P.R.] [p. 263.]
(1734.)
- 18 June. [The Committee, on the report of the Board of Trade that Dunbar is a person of considerable fortune, and of good repute, have no objections to his appointment as vacancies occur in the several islands.] [p. 497.]
(1734.)
- 11 July. [Order accordingly.] [p. 517.]
- 10 May. [278.] [Reference to the Committee for Appeals of the petition
Massachu- of William Stoddard of Boston for a short day for hearing his
setts Bay. appeal from a judgment of the Superior Court at Boston in the Fall Sittings which commenced 8 Aug., 1732, in favour of John Barrell, sen., reversing a judgment of the same Court, and ordering restitution of everything taken in execution of the earlier judgment, and condemning the petitioner in costs.]
(1734.) [p. 162.]
- 8 Jan. [On the death of John Barrell, the Committee allow the appeal to be revived against his executors, John, Anna and Abiah Barrell.] [pp. 259, 286.]
(1735.)
- 12 Feb. [On the Committee report of 20 Jan., the judgment of Aug., 1732, is reversed, and that of Feb., 1732, affirmed.]
[pp. 311, IV. 41, 84, 86-8, 99.]
- 4 June. [279.] [Reference to the Committee for Appeals of the petition
Massachu- of Nathaniel Byfield, Judge of the Vice Admiralty Court in
setts Bay. Massachusetts Bay, for leave to appeal from a judgment of the Superior Court at Boston in 1732 reversing a judgment of the Inferior Court of Common Pleas upon an action brought by Samuel Swasey, shipwright, against the petitioner for "extorsively" taking from him as his fee for his definitive decree twenty shillings more than by the laws of the said province is allowed, and condemning him to pay 10*l.* currency and 40*s.* in bills of credit and costs of Court.] [p. 172.]
- 21 June. [Committee recommend that the appeal be admitted on the usual security.] [p. 178.]
- 19 July. [Order accordingly.] [p. 195.]

[280.] [Committee. In the draft instructions for Governor William Mathew the Board of Trade have inserted the name of John Vernon as councillor of Antigua in place of Edward Warner, deceased, and those of Wavell Smith, John Douglas, Abraham Payne, Joseph Phipps, and William Mathew, jun., to fill five vacancies in St. Christopher, of whom the first four had some time since been appointed by the Governor. The Committee approve of all, except of Wavell Smith, who should not be appointed unless he surrender the offices of Clerk of the Council, Clerk of the Courts, Clerk of the Ordinary Register in Chancery and Register of the Admiralty. Charles Bridgewater, jun., lately appointed to the Council of Nevis, is proposed for dismissal unless he surrender his offices as deputy to Wavell Smith in his offices as Secretary and Clerk of the Crown.

1733.
21 June.
Leeward
Islands.

[p. 175.]

[Orders accordingly.]

[p. 192.] 19 July.

[281.] [Reference to the Committee of the petition of Thomas, Lord Fairfax] that His Majesty will be pleased to Order a Commission to issue for running out, marking and Ascertaining the Bounds of the Petitioners District of Land, in the Province of Virginia agreeable to the Discription thereof as expressed and contained in the Grants thereof from the Crown—And that His Majesty will be pleased to cause such a Number of Commissioners to be named for that purpose in behalf of the Province of Virginia as shall be thought proper to be joined with an Equal Number of Commissioners on the Petitioners behalf and that a reasonable time may be limited within which the said Boundarys are to be ascertained but in case the same shall not be Effected within the time to be so limited that then the Petitioners may be heard by his Council thereupon, and such Determination made concerning the same as to His Majesty shall seem meet and that in the mean time, the Governor of Virginia may be restrained from making any Grants of Lands lying within the Boundarys insisted on by the Petitioner.

19 July.
Virginia.

[p. 198.]

1733.
 25 July. [Committee refer the petition to the Board of Trade.] [*p.* 210.]
- 2 Nov. [Committee. The limits of Fairfax's claim are given in the petitions as] Bounded by and within the first heads and Springs of the Rivers Tappahannock alias Rappahannock and Quinough alias Pataworreck Rivers the Courses of the said Rivers from their said first Heads or Springs, as they are commonly called and Known by the Inhabitants and Discriptions of those Ports, and the Bay of Chesapeyock together with the said Rivers themselves and all the Islands within the Outermost Banks thereof. [The Committee, having received the opinion of the Board of Trade, and] having been informed that disputes have arisen upon Grants made by Your Majestys Governors of Virginia, of Lands scituate within the District in Question Do therefore agree humbly to Report as their Opinion That Your Majesty may be pleased to issue Your Orders to the Lientenant Governor of the Province of Virginia to Nominate 3 or more Commissioners not exceeding five (for the Prevention of too Great an Expence) who in conjunction with a like Number to be named and Deputed by the Lord Fairfax, may Survey and Settle the marks and Boundaries of the said District of Land agreeable to the terms of the Patent under which the Lord Fairfax Claims, within the Space of two Years after the Arrivall of Your Majestys Orders for that purpose, and that in the interim the said Lieutenant Governor of Virginia be restrained from making any Grants of Lands within the abovementioned Tract.
[*pp.* 245-6.]
- 29 Nov. [Order accordingly.] [*p.* 263.]
 (1738.)
- 21 Dec. [Reference to the Committee of the petition of Thomas Lord Fairfax that the report of the commissioners be confirmed.] [VI. *p.* 66.]
 (1739.)
- 12 Jan. [The Committee refer all papers in the case to the Board of Trade, with instructions to report a state of the case, and such observations as shall occur to them. Lord Fairfax's petition sets forth the history of the case, and continues]

That pursuant to the said order three of the Council of Virginia were appointed Commissioners by the said Lieutenant Governor and the Petitioner appointed three Commissioners on his behalf. That the said Commissioners appointed Surveyors on each side who Surveyed the said Disputed Boundaries That after the said Surveys were made the Petitioners proposed to the Virginia Commissioners to meet together and to agree on one General Plan and to join in a Report thereof but which the Virginia Commissioners refused to Comply with so that as no General Plan or Report could for this Reason be Settled between them the Commissioners for Virginia on the 10th of August 1737 made their Seperate Return and Reports directed to the Lords Commissioners for Trade and Plantations transmitting therewith a Plan or Survey of the said Disputed Boundaries with several other Papers mentioned in and referred to by their Report And the Petitioners Commissioners the next day made their Seperate Return and Report likewise directed to the said Lords Commissioners for Trade and Plantations also transmitting therewith a Plan or Survey of the Disputed Boundary together with several Papers mentioned in and referred to by their Report both which Reports and Surveys are now lying before their Lordships The Petitioner therefore humbly prays that His Majesty will be graciously pleased to take the said Surveys into His Royal Consideration and that the said Report of the Petitioners Commissioners and the said Survey so returned by them as aforesaid may be both of them Confirmed and Approved by His Majesty and that His Majesty will be pleased to Order and Direct the Dividing Line between the Petitioners said District of Land and the said Province of Virginia to be run and the boundaries thereof fixed and ascertained agreeable to the said Plan and Survey thereof so returned by the Petitioners said Commissioners within a time to be limitted for that purpose And that the Petitioner may have all such further and other relief in the premises as the Nature and Circumstances of his Case shall require. [VI. pp. 74-6.]

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1733.
(1739.)
2 Nov. [The Committee consider the Board of Trade report of 27 July, and, thinking it necessary to have before them] the best and most accurate Maps that have been taken of the said Colony of Virginia or any other of the Neighbouring Colonys about the Year 1686 or at any time before that Year wherein the Limits and Boundarys of the Land claimed by the Lord Fairfax may be particularly described, [order that the Board of Trade] (in case they have any such Maps in their Office) lay the same before this Committee. [VI. p. 385.]
- (1739.)
27 Nov. [The solicitor for Lord Fairfax praying that a day may be appointed for discussing the report of the Board of Trade, and the solicitor on the other side offering no objection, the Committee appoint 13 Dec. for the hearing.] [VI. p. 432.]
- (1739.)
11 Dec. [Letter from the Clerk of the Council (Temple Stanyan) to the Secretary of the Board of Trade for some of the Board to attend the Committee at the hearing on 13 Dec.] [VI. p. 452.]
- (1739.)
13 Dec. [Committee for Plantation Affairs: 16 members present: in the margin appears the word Virginia; the remainder of the page is left blank.] [VI. p. 453.]
- (1745.)
29 Mar. [Committee for Plantation and other affairs: 21 present: the case is heard in part, and adjourned till 5 April.] [X. p. 20.]
- (1745.)
5 April. [Committee for Plantation Affairs: 15 present.] Report of the Kings Commissioners Read—Evidence to Support the said Report Read—And their Lordships adjourned the further hearing of this Affair, till to-morrow evening six o'clock. [X. pp. 25-6.]
- (1745.)
6 April. [Committee: 14 present. The Committee rehearse the case, and recommend that] the question being only concerning that Boundary which ought to be drawn from the first head or spring of the River Rappahannock to the first head or Spring of the River Pattawomeck alias Potowmack the Committee do Agree humbly to Report to Your Majesty

as their Opinion that within the Words and meaning of the Letters Patent Granted by King James the second bearing date the 27th day of September in the fourth Year of his Reign the said Boundary ought to begin at the first Spring of the South Branch of the River Rappahannock now called Rappidan which first Spring ought to be the Spring of that part of the said River called Rappidan as is called in the Plans returned by the name of Conway River and that the said Boundary be from thence drawn in a Streight Line North West to the Place in the Alagany Mountains where that part of the River Patawomeck alias Potowmack which is now called Cohongoroota alias Cohongoronton first Arises the other Boundaries being the said Rivers themselves as they run from their said respective Heads till they fall into Chesapeyock alias Chesapeak Bay, And that Your Majesty's Governor of Virginia should be directed to Nominate three or more Persons not exceeding five who in Conjunction with a like Number to be named and Deputed by the Lord Fairfax are without Delay to run and Mark out the Boundary and Dividing Line between the said Province and the Petitioners Land from the said first Spring of the said South Branch of the said River Rappahannock now called Rappidan, and to be from thence drawn in a Streight Line North West to the said Place in the Alagany Mountains where that part of the said River Pattawomeck alias Potowmack which is now called Cohongoroota alias Cohongoronton first arises and to make a Plan from those drawn by the said former Commissioners Copies whereof were returned with their Reports as before mentioned and therein to describe the said Boundary or Dividing Line by Metes and Marks and also the Courses of the said Rivers as they run from their said Respective Heads, till they fall into Chesapeyock alias Chesapeak Bay aforesaid and to transmit the same to Your Majesty in Council in Order to its being preserved among the Records of Your Majestys Privy Council, And that the said Governor should be further Directed not to make any Grants of Lands lying within the said Boundaries

1733.

nor molest or Disturb the Petitioner in the Quiet Possession and Enjoyment of the Lands contained therein but the said Lands to be Subject to the Grants made of any parts thereof by Your Majesty or any of Your Royal Predecessors and so as the said Lord Fairfax do Comply with his Proposal herein after mentioned And the Committee do further humbly Report to Your Majesty that the Petitioner the Lord Fairfax hath appeared in Person before this Committee and proposed and Consented that all the Grantees of Lands under the Crown within the Boundaries aforementioned shall quietly Enjoy their Lands according to their Respective Grants and likewise to do and Consent to all such Acts as shall be thought necessary by Your Majesty to Confirm and Secure such Grantees in the Quiet Possession of their said Lands pursuant to their Grants and to Discharge Your Majesty from all Demands of the said Lord Fairfax on Account of Quit Rents that have been received by Your Majesty And to Yield up to Your Majesty all Arrears thereof that have hitherto become due, upon Express Condition nevertheless that the said Lord Fairfax shall for the future be intitled to all the Advantages, profits and Emoluments whatsoever to arise from Grants made by the Crown of Lands within his Boundaries which the Crown would or might have been intitled unto by the Terms or in Consequence of the said Grants and where upon such Grants, Quit Rents are reserved that he the said Lord Fairfax shall be intitled to Demand and receive the same from the Grantees to his own Use and Benefit from the time that Your Majestys Pleasure to be Signified hereupon shall be made known to the Governor and Receiver General of Your Majestys Quit Rents in that Province Whereupon the Lords of the Committee are humbly of Opinion that what is so proposed by the Lord Fairfax is reasonable and proper to be complied with and that in order to make the same effectual it may be adviseable for Your Majesty to Direct Your Attorney and Sollicitor General to Consider of and lay before Your Majesty what they Conceive necessary to be done either on the part

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of the said Lord Fairfax to Confirm and Secure the said Grantees in the Possession and Enjoyment of their Lands as likewise to Discharge Your Majesty from all Demands of the said Lord Fairfax on Account of the said Quit Rents that have been received by Your Majesty and to Yield up to Your Majesty all Arrears thereof that have hitherto become due or on the part of Your Majesty to Enable the Lord Fairfax for the future to receive the Quit Rents or any other Benefit reserved by or which may Arise from the Grants under the Crown of Lands within his Boundarys.

[X. pp. 29-31.] (1745.)

[Orders accordingly.]

[X. pp. 34-36.] 11 April.

[282.] [Reference to the Committee of the appeal of Thomas Garbrand, eldest son and heir of Joshua Garbrand, deceased, by his guardians Mathias Philip and William Perrin, and of Edward Pratter, against several interlocutory orders made by the Governor of Jamaica as Chancellor on 6, 16, 23, 27 Nov., and 13 Dec., 1732, upon a bill brought against the petitioners by Robert Strachan,] Executor of Caleb Garbrand deceased and Caleb and Anna Maria Garbrand Son and Daughter of the said Caleb Infants by their next Friend, and Samuel Wallis and Susannah his Wife who was Widow of the said Caleb Garbrand deceased Richard Mill and Richard Basnett Esqrs. Joshua Crosby Merchant and Alexander Brown Apothecary Creditors of the said Caleb Garbrand. [p. 200.]

19 July.
Jamaica.

(1735.)

[Order in accordance with the Committee report of 13 Feb. that the orders of Nov. and Dec., 1732, be reversed with all proceedings grounded thereon, and that Strachan restore to the appellants anything of which he has secured possession by virtue of these orders, but this to be without prejudice to any direction to be given by the Jamaica Chancery at the hearing of the case.]

[pp. 201, 221, 242, 248, IV. pp. 41, 84, 91, 93, 95, 104, 143.]

3 April.

[283.] [Reference to the Committee for Appeals of the petition of Charles Huggins for leave to appeal from a judgment of the President and Council of Barbados as a Court of Errors

1 Nov.
Barbados.

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reversing a judgment of the Barbados Court of Exchequer, 28 Sept., 1722, in favour of the petitioner in an action brought in his name by John Hope against Robert Warren for the profits of the office of Clerk and Remembrancer of the Court of Exchequer.] [p. 241.]

20 Dec.

(1735.)

5 Feb.

[The appeal admitted. Security given the same day by] John Huggins of the parish of St. Martins-in-the-Fields, Middlesex, and John Thornhill of the same parish, Esqr. [pp. 270, 277.]

[Committee. The petitioner alleges that, being appointed Clerk and Remembrancer of the Exchequer by royal letters patent, he named Nicholas Hope his deputy :] But one Robert Warren being in possession of the said Office, as he pretended under some appointment by the Chief Baron or other Barons of the said Court of Exchequer or of some other Persons he refused to Deliver up the possession thereof whereupon the said Nicholas brought an Action in the said Court of Exchequer in the Petitioners name against the said Warren, for recovery of the Profits of the said Office, which coming on to be heard on the 28th of September 1722 after a full hearing, the Barons gave Judgment for the Petitioner, whereby he recovered 8*l.* 6*s.* 4*d.* for Costs and Damages which the said Warren not only paid but Delivered up the possession of the said Office, with all records to the Petitioners said Deputy Nicholas Hope, who afterwards continued to Execute the said Office for ten Years without the Interruption of any Person whatsoever, After which time, and in the Absence of a Governor in the said Island, the said Robert Warren brought a Writt of Error before the President and Council of the said Island, which coming on to be heard on the 6th of March 1732 they reversed the aforesaid Judgment given in favour of the Petitioner after so long an Acquiescence.

[It is recommended that the judgments be reversed, the special verdict set aside by reason of its uncertainty, and that new process be awarded by the Court of Exchequer for trying the case *de novo*.] [pp. 290, IV. pp. 84, 93, 94.]

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- [Order accordingly.] [p. 100.] 1733.
(1735.)
12 Feb.
- [284.] [Reference to the Committee of the petition of several London merchants trading to South Carolina complaining of an Act passed there, 20 Aug., 1731, for appropriating the sum of 104,725*l.* 1*s.* 3¼*d.* towards payment of the public debts, and praying to be heard against the Act and that it may be repealed.] [p. 265.] 29 Nov.
South
Carolina.
- [Committee refer the petition to the Board of Trade.] 6 Deco.
[p. 270.] (1734.)
- [Committee order that copies of the Board of Trade report be granted to the solicitors on both sides.] 5 April.
[p. 429.] (1734.)
- [Reference to the Committee of the] Petition of Colonel John Peter Purry setting forth that he hath transported a Considerable Number of Swiss and other Protestants to the Province of South Carolina and has now Actually on the Road near four hundred more to be transported and settled there; That for Encouraging New Comers, An Act hath been past in that province for appropriating a Certain sum to be applied to the buying Tools and other necessarys and provisions for any Poor Protestants that should go and be willing to settle there, which Act, the Petitioner is informed hath been under the consideration of the Lords Commissioners for Trade and Plantations and Represented by them as not proper to receive His Majestys Royall Approbation, That if the said Act should be repealed, The Petitioner humbly conceives that not only those Protestants that he hath already settled in that Province, but also those who are now going thither, will be deprived of the necessary Assistance provided for them by the said Act, and be rendered utterly unable to Subsist and settle themselves in the said Province; wherefore the Petitioner humbly prays, that the said Act may not be repealed. [p. 525.] 11 July.
(1734.)
- [Reference to the Committee of the remonstrance of the Governor, Council and Assembly praying for the confirmation of the Act.] 18 July.
[p. 538.]

394 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1733.
(1734.) [Committee refer to the Board of Trade their former report,
23 July. Purry's petition and the remonstrance from South Carolina.]
[p. 538.]
- (1735.)
23 July. [Committee. A copy of the Board of Trade report, requested
by the agent for the province, to be given him.] [IV. p. 212.]
- (1735.)
14 Aug. [The Committee report, agreeing with the Board of Trade,
and submitting a draft instruction prepared by the Board of
Trade. The Board of Trade had reported] that upon the
whole Considering the unsettled State of the Paper Credit in
South Carolina and the Inconveniencys that might arise both
to the Merchant and the Planter by diverting the Present
Fund appropriated for Sinking the said Sum of 104,775*l.* 1*s.* 3*¼d.*
for which Orders have been created and issued bearing an
Interest of five per Cent. before another fund should be Settled
for the same uses which would leave the Province destitute of
Money for the Encouragements already contracted with the
said Colonel Purry for Settling a Colony of Swiss and other
Foreign Protestants in South Carolina they were of Opinion
that the said Act should for the present be suffered to lye by
Probationary and that an Instruction should be forthwith sent
to the Governor or Commander in Chief for the time being in
South Carolina to move the General Assembly there to pass
a New Law to provide that the Produce of the Dutys upon
Strong Liquors and Negroes imported into that Province
commonly called the Sinking Fund be in the first Place applied
to the Encouragement and Assistance of such Foreigners and
others being Protestants as shall go over and Settle there and
for Applying the overplus of the said Dutys, if any shall
remain after the Demands and Expences requisite for the
Service of such New Settlers be fully Satisfied, to discharge
and Sink the Old Paper Bills which Subsisted in this Province
in February 1732 at which time An Act was passed there
Entituled An Act for calling in and Sinking the Paper Bills
to which Service the said Sinking Fund was applied before
the Passing this Act commonly called the Appropriation Law

1733.

in August 1731 and that the Assembly should likewise make Effectual Provision in the new Law for the payment and Sinking of such part of the said Sum of 104,775*l.* 1*s.* 3¼*d.* as shall then remain unpaid and extant in the aforesaid Orders bearing an Interest of 5 per Cent. But that if the Assembly should refuse to Comply with these Instructions that then the said Appropriation Act of the 20th of August 1731 might be immediately repealed. [IV. p. 220.]

(1735.)

[Orders accordingly. P.R.]

[IV. p. 227.]

13 Oct.

[285.] [Reference to the Committee of the petition of several Bristol merchants complaining of two South Carolina Acts,] the one on the 5 of December 1696 for preventing persons being arrested for any Debt contracted before their arrival there till they shall have been resident five years in that province and the other on the 20th of August 1731 whereby the Funds which were settled for calling in and Sinking the one hundred and Six thousand pounds paper Money, are otherwise applied and a further sum of 104,725*l.* 1*s.* 3¼*d.* of paper Credit is imposed on His Majestys Subjects and by which Act an Exorbitant Duty of ten pounds per Head is imposed and Continued on all Negroes Imported by His Majestys Subjects into the said Province and therefore humbly praying for the reasons therein contained that they may be heard by their Council against the said Acts and that the same may be repealed. [p. 266.]

29 Nov.
South
Carolina.

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

6 Dec.

[p. 271.]

(1734.)

[The Committee agree with the Board of Trade that the Act of 1696 should be disallowed, the report of the Board of Trade showing] that by the said Act it is provided that no person or persons residing in South Carolina or that shall hereafter transport themselves into that Province, there to Plant and Inhabit shall be Arrested sued or Impleaded in any Court or Imprisoned for any Debt whether the same be by

22 Mar.

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Bill Bond or any other Specialty Accounts or Reckonings whatsoever contracted before their Arrival there until the Expiration of five Years after his or their Arrival in South Carolina, and that they conceive this Clause to be in its own Nature repugnant to the Common Law of England as it proves extremely detrimental to the Interest of Your Majestys Trading Subjects by screening ill disposed persons who may be guilty of fraudulent Practices towards their Correspondents and Creditors which must naturally tend to destroy the good faith and Credit that ought allways to Subsist between Merchants. [p. 384.]

(1734.)

3 April.

[The Act disallowed.]

[p. 416.]

29 Nov.

South
Carolina.

[286.] [Reference to the Committee of the] Petition of Thomas Cooper, Esqr. James Greeme and Rowland Vaughan of South Carolina Gent. complaining of the Proceedings of the Assembly of that Province for committing several of the Deputys of the Surveyor General to the Custody of their Messenger for running out Patent Land and Lands already Surveyed contrary to the Quit Rent Act &c. and also for Committing the Petitioner Cooper for aiding and Superintending the said Deputy Surveyors and likewise the other Petitioners Greeme and Vaughan for assisting in taking out and Serving Writts of Habeas Corpus upon the said Messenger and further Complaining of an Act past in the said Province Entituled an Act for prevention of Suits and Disturbances to His Majestys Judges and Magistrates in this Province on account of the Habeas Corpus Act and humbly praying for the reasons contained in the said Petition to be heard by their Counsel against the said Act and that the same may be repealed and that the Petitioners may be granted such further and other relief in the Premisses as His Majesty shall think fit. [p. 266.]

6 Dec.

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

(1734.)

[p. 271.]

5 April.

[Committee agree to hear counsel on the Board of Trade report on Friday next.]

[p. 428.]

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[Committee. The petition alleges that the Act complained of was passed] in Order to Debarr the Petitioners from pursuing their just and legal remedys against the Officers and Ministers in the said Province, by whom they had been injured and to Shelter the said Officers and Ministers from the Penalties which they had incurred by refusing them the benefit of the Habeas Corpus Act. [The Committee report] that the said Act being of a very Extraordinary Nature and no Clause being inserted therein for Suspending the Execution thereof till Your Majestys Royall Pleasure concerning it should be known, in which point, it is contrary to the 24 Article of Your Majestys Instructions to the said Governor that therefore they are humbly of Opinion the said Act ought to be repealed.

[Consideration of the other parts of the petition complaining against the Governor has been postponed till a copy of the petition be sent him and his answer received. The order for sending a copy of the petition to the Governor follows.]

[The Act repealed.]

[A copy of Gov. Johnson's answer to be delivered to the petitioners.]

[287.] [Reference to the Committee of the petition of] Lewis Morris Esqr. setting forth that he hath been lately removed from his place of Chief Justice of the Province of New York by Colonel Cosby His Majestys Governor of that Province and that being ignorant of the reasons for such his removal He most humbly prays that he may be allowed copys of the said Reasons which are returned by the said Governour and that he may be heard in his Defence against the same, and in case those Reasons shall not appear to be good and Sufficient that His Majesty will be pleased to restore him to His said Office with all Profitts and advantages thereto belonging.

[Committee order Gov. Cosby to transmit forthwith the reasons for Morris's removal.]

1733.
(1734.)
9 April.

[pp. 433-4.] (1734.)
[p. 452.] 11 April.
(1735.)
15 Jan.

[IV. p. 84.] 29 Nov.
New York.

[p. 267.] (1734.)
8 Jan.
[p. 285.]

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1733.
(1734.) [Committee. A copy of Cosby's answer to be delivered to
1 Nov. Morris's solicitor.] [IV. p. 29.]
(1735.)
- 7 Mar. [Committee agree to hear the complaint] in course next
after the Petition of Lord Baltimore against the Penns.
(1735.) [IV. p. 119.]
- 27 Oct. [Committee agree to hear the complaint on 1 Nov.]
(1735.) [IV. p. 239.]
- 5 Nov. [Committee hear counsel and adjourn further hearing to
(1735.) 7 Nov.] [IV. p. 241.]
- 7 Nov. [Committee report that the reasons for Morris's dismissal
from being Chief Justice of New York were not sufficient.]
(1735.) [IV. p. 252.]
- 26 Nov. [Report approved.] [IV. p. 261.]
- 20 Dec. [288.] [Reference to the Committee of a Board of Trade
Antigua. representation of 11 Dec.] proposing that a Supply of Cannon
Shott may be sent to the Island of Antigua as necessary for
the better defence and Security of the said Island of Antigua
in case of a Rupture between His Majesty and the most
(1734.) Christian King.— [p. 278.]
- 26 Jan. [Committee. The Board of Trade received a memorial
from the agent for Antigua in pursuance of directions from
the Lieutenant Governor, Council and Assembly of the island,
alleging that they have very few cannon shot and praying to
be allowed a supply of 5,370 shot of different sizes specified
in the Register. Although the people of Antigua are unable to
defray the expense, yet the Board of Trade deem it necessary
for their defence, and considering the importance of the
island to British trade and the danger to which it is exposed
from the neighbourhood of the French colonies, recommend
that the request be granted; the Committee concur, in
regard the island of Antigua lies more exposed than others
(1734.) of his Majesty's islands in the West Indies.] [p. 300.]
- 31 Jan. [Report approved; the Master General of the Ordnance
to prepare an estimate.] [p. 304.]

[The estimate of 214*l.* plus 110*l.* for freight is approved, the shot ordered to be sent, and the expense to be made an article in the next estimate laid by the Ordnance before Parliament.]

[p. 379.]

1733.
(1734.)
20 Mar.

[289.] [Reference to the Board of Trade of the] Petition of Colonel Samuel Horsey, setting forth that on the 21st of December 1726 the Late Lords Proprietors of Carolina signed a Warrant to make him a Landgrave of the said Province and to grant him four Barrons or forty eight thousand acres of Land which were to be annexed to the said Honour of Landgrave. But that the Petitioner being at that time concerned in procuring a Surrender to His Majesty of the said Province from the said Late Lords Proprietors He did not attempt to take up the said Lands being Willing to avoid any thing which might give the least Obstruction to the Compleating the said Surrender and chose rather to Depend on His Majestys Goodness for the same, when His Majesty should be in full possession of that Province The Petitioner therefore prays, in regard to his Good Services and Great Trouble in Solliciting and perfecting the said Surrender, for which he hath never had any Consideration, that His Majesty will be pleased to direct that a Grant may be made to him of the Lands contained in the warrant so signed by the Late Lords Proprietors That he may be enabled to pursue his intention of making a Settlement in that province.

[p. 279.]

20 Dec.
South
Carolina.

[Board of Trade report of 15 Feb. referred to a Committee.]

[p. 418.]

(1734.)
3 April.

[Committee order that the report] do lye by till the Quit Rent Law and other Matters relating to Grants of Lands in South Carolina comes under Consideration.

[p. 429.]

(1734.)
5 April.

[Committee report. The Board of Trade having reported that the allegations of the petition are true and that the petitioner has assured them of his intention to make a settlement and having recommended a grant to him of

(1735.)
25 June.