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400 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1733.

48,000 acres at a quitrent of 4s. proclamation money for every 100 acres, one-third thereof to be cultivated within ten years from the grant; the Committee concur, on condition that the lands be not taken up within six miles of any of the townships erected or to be erected under article 43 of the Governor's instructions.] [IV. p. 182.]

(1735.)

9 July. [Order accordingly.] [IV. p. 199.]

20 Dec.
Antigua.

[290.] [Reference to the Committee of the] Petition of Thomas Dunbar Parke of His Majestys Island of Antigua Esqr. and Lucy his Wife setting forth that there was due to Daniel Parke Esqr. formerly Governor of the Leeward Islands from the Island of Antigua the sum of 4,363*l.* 9*s.* 4*d.* Antigua Money in lieu and Satisfaction for the rent of a House during his residence and abode in that Island and that the said Daniel Parke having by his will bequeathed all his Estate both reall and Personall in the Leeward Islands to the Petitioner Lucy the Petitioners had made repeated applications to the Legislature of the said Island for Payment of the said Money— But not being able to Obtain the same they most humbly pray that His Majesty will be pleased to Direct Mr. Mathew Esqr. the present Governor of the Leeward Islands to lay the Petitioners Demand before the Assembly of Antigua and to use his best endeavours with them to provide a Fund for the payment thereof in like manner as His Majesty was pleased to Do to the Governor of New England in relation to the arrears due to Governor Burnett at his Death or else that His Majesty will be graciously pleased to Order the same to be paid out of such Dutys as are granted His Majesty by the Assembly of the said Island and not appropriated. [p. 279.]

(1734.)

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

(1734.) [p. 284.]

11 July. [Reference to the Committee of the petition of John Yeamans, agent for Antigua, to be heard against Park's petition.] [p. 525.]

[291.] [Reference to the Committee of the appeal of John Humphrey of St. Iago de la Vega, administrator of his wife, Elizabeth, deceased, who was one of the daughters of Rowland Williams, late of the parish of Clarendon, Jamaica, deceased, from an order of the Governor as Chancellor, 25 June, 1733, in favour of Samuel Smith, Esq. and Mary his wife.] [p. 280.]

1733.
20 Dec.
Jamaica.

[On the report of the Committee of 27 March, the appeal is in part sustained, in part dismissed.]

(1735.)
3 April.

[IV. pp. 84, 126, 127-31, 146.]

[292.] [Reference to the Committee for Appeals of the] Petition and Appeale of John Toller Esqr. commander of His Majestys Ship the Pearl when stationed at the Leeward Islands on the behalf of His Majesty from an Order made by the Governor and Councill of Antigua as a Court of Errors and appeales on the 24th and 28 of July 1730 affirming part of a Sentence given by the Court of Admiralty held for the said Island the 23d of January 1729 whereby a Sloop called the Catherine of Boston and the Cargo on Board had been decreed forfeited to His Majesty as having been used in Committing of Piracy and complaining that the said Court of Errors and appeales ought not to have taken cognizance of the said Cause, being of Admiralty Jurisdiction; and therefore praying that a Short day may be appointed for hearing and Determining this Appeale and that the usual Summons may be issued for John Burke as agent of the Owners of the said Sloop to attend and that the said Order of the Court of Errors and Appeales may be reverst and set aside for want of Jurisdiction and likewise that the Cross appeale of the said Burke from the said Order may be reverst.

20 Dec.
Antigua.

[p. 280.]

(1734.)

[Committee appoint 9 April to hear the appeal, and order a summons to be affixed on the Royal Exchange and elsewhere in the usual manner requiring all parties to attend.] [p. 390.]

22 Mar.

(1734.)

[The Committee report that the Lieutenant General and Council of Antigua had no jurisdiction, and that their orders

9 April.

1733.

should be reversed, and Burke's cross appeal dismissed for non-prosecution with 10*l.* sterling costs. On 12 Dec., 1725, Toller exhibited a libel against the vessel in the Admiralty Court of Antigua; Burke on behalf of Peter Papillon and other merchants of Boston, claimed the sloop; on 23 Jan., 1730, she was condemned with tackle, furniture, apparel, ammunition, and such portions of the cargo as had been libelled against as piratical goods, subject to restitution when the rightful owners made their property appear; all other goods on board were to be delivered to Burke, unless libelled against within one month: Burke, on behalf of the claimants, appealed not to the High Court of Admiralty of Great Britain, but to the Lieutenant General and Council at Antigua, who confirmed the forfeiture, but decreed that whatever part of the cargo was not proved to be piratically taken belonged to the owners of the sloop and ordered that it should be restored to them. From this decision, Burke on behalf of the Boston merchants claiming the sloop and goods, and Toller, the captor, both appealed to the Council.] [p. 430.]

(1734.)

11 April.

[Order accordingly.]

[p. 454.]

20 Dec.

Rhode
Island.

[293.] [Reference to the Committee for Appeals of the petition of Joseph Torrey of South Kingstown, King's County, R.I., clerk, for a short day for hearing his appeal from a judgment of the Superior Court at Newport, the last Tuesday in March, 1733, confirming a judgment of the Inferior Court of Common Pleas, the last Tuesday in June, 1732, in favour of George Mumford upon an action of trespass and ejectment brought against him by Torrey to recover possession of 280 acres of land—part of 300 acres assigned for the use of an orthodox minister.]

(1734.)

[pp. 281, 489, 504.]

16 July.

[Committee report. The petition sets forth] that John Hull and several others being of the Denomination of Christians called Presbyterians heretofore of the said Colony being Seized in Fee of a Large Tract of Land called the Petaquam-sent purchase lying in the said Colony at a Meeting by them

held at Newport the 4th of June 1668 agreed that a Tract of three hundred Acres of the best land in a convenient Place in the said Petaquamset purchase should be laid out and for ever set apart as an Encouragement the income and Improvement thereof wholly for a Person in their Sentiments Orthodox that should be Obtained to preach Gods word to the Inhabitants and that three hundred Acres of Land were accordingly laid out and allotted to and for the use of the Ministry and the same was entered upon Record in December 1679 in these For the Ministry three hundred Acres That afterwards at a meeting of the Proprietors of the said Purchase held in 1692 for the further Settling and Confirming the said Lands so laid out and allowed as aforesaid it was agreed and Ordered by the said Proprietors that Mr. John Smith Surveyor should enter upon the Original plat of the said Purchased Lands in the Ministry Lott the word Ministry, that the same might be thereby distinguish'd from other Lands laid down in the said Plat and be the better Known and ascertained That the said three hundred Acres of Land being thus set apart for the use of the Presbyterian Ministry in the Year 1702 the Reverend Mr. Samuel Miles of the Presbyterian Perswasion was chosen by the People of Kingstown to preach the Gospell among them who upon his entring into the said Office was put into the Possession of two hundred and eighty Acres part of the said three hundred Acres of the said Ministerial Land and held and enjoyed the same and received the Rents and Profitts thereof for Severall Years That the said Samuel Miles in 1714 removing from Kings Town entered into an Agreement to Lease the same to one James Bundy who executed a Bond to redeliver possession of said Land to the said Samuel Miles or any other person entrusted with his Interest therein That Mr. Samuel Miles having left Kingstown the Petitioner who is an Orthodox Minister according to Law and to the Method and usage of Presbyterians was on the 17th of May 1732 duly Settled and Ordained to preach Gods word to the Inhabitants of South

1733.

Kingstown aforesaid Whereby the Petitioner became Entitled to Enter into and take possession of the said Land and to hold and Enjoy the same that so he might according to the true intent of the said Agreement receive and have the Income and profits thereof, during his Continuance and performance of the said Ministeriall Office in that place in the same manner as Miles his prediceessor had done before him. [George Mumford having got possession of the said tract of land refused to give it up, whereupon on 30 May, 1732, the petitioner brought an action of trespass and ejectment in the Inferior Court of Common Pleas. On the last Tuesday in June, 1732, a verdict was found in favour of Mumford, from which the petitioner appealed to the Superior Court, which on the first Tuesday of September, 1732, found a special verdict,] That if the Court should be of Opinion that the Petitioner was an Orthodox Minister according to Law, then they found for the Petitioner the Land sued for and Costs of Court if not they found for the Appellee a Confirmation of the said former Judgment and Costs of Court upon which Verdict the Court Afterwards, on the last Tuesday in March 1733, adjudged that the Petitioner was not an Orthodox Minister according to Law, and therefore confirmed the former Judgment for the said Mumford and condemned the Petitioner in Costs, That at the time of giving the said Last Judgment four of the Judges who tryed the said Cause Dissented from the rest of the Bench and entred such their Dissent in form. [The Committee recommend] that both the said Judgments be reverst and that the Appellant be put into possession of the Lands in Question. [pp. 527-9.]

18 July. [Order accordingly.] [p. 537.]

20 Dec. [294.] [Reference to the Committee for Appeals of the petition
Antigua. of Giles Watkins, Esq., of Antigua, and his wife, Elizabeth, daughter of John Morris, sen., deceased, that the appeal of Thomas Morris from a Chancery decree of 13 Jan., 1732, may be dismissed for non-prosecution.] [p. 281.]

[On the report of the Committee of 6 Feb. the appeal of Thomas Morris is dismissed for non-prosecution, with 10*l.* costs.]

[*pp.* 311, 320.]

1733-4.
(1734.)
7 Feb.

1734.

[295.] [Reference to the Committee for Appeals of the petition of Cornelius Waldo of Boston, merchant, for leave to appeal from two judgments, one in the Court of Common Pleas for the county of Worcester, 8 May, 1733, the other in the Superior Court, 19 Sept. 1733, on an action of ejectment brought against his tenants, Daniel Gookin, Robert Barber, and John Alexander, in the names of Samuel Waldo, Jonathan Waldo, and Thomas Fairweather, as executors of Jonathan Waldo, deceased, and of Edward Tyng and Anna his wife, executrix of the said Jonathan Waldo, to recover possession of 710 acres of land with buildings and appurtenances in the county of Worcester.]

[*p.* 290.]

10 Jan.
Massachu-
setts Bay.

(1734.)

[On the report of the Committee of 28 Jan. the appeals are admitted on the usual security. On 2 April, 1734, William Parkin of London, ironmonger, and Joshua Channing of London, haberdasher, entered into the security required.]

31 Jan.

[*pp.* 304, 419, 426; IV. *pp.* 95, 106.]

(1735.)

[Committee. The petition set forth] that the Petitioner having Mortgaged to Jonathan Waldoe Gent. deceased in Fee the Farm and Lands in the Petition mentioned in the Town of Worcester in the said Province, under a Proviso to be void on payment of 1,060*l.* to the said Jonathan Waldoe his Heirs or Executors on or before the 10th of June 1729 the said Jonathan Waldoe dyed about June 1731 having made his will and devised the said Farm and Lands to his Eldest Son Samuel Waldoe and made the said Samuel Waldoe and Jonathan Waldoe, Anne Waldoe and Thomas Fayrweather Executors, and complaining that on the 22d of January 1732 an Action of Ejectment was brought against the Petitioners Tenants, in the Inferior Court of Common pleas for the said County of Worcester, in the name of the said Samuel Waldoe Jonathan Waldoe Thomas Fayrweather and

4 March.

1734.

of Edward Tyng and the said Anne his Wife as Executors of the said Jonathan Waldoe, to recover the Possession of the said Mortgaged Premises, and that the said Samuel Waldoo disavowed the said Action, and the said Now Appellant was admitted a Defendant in the room of his said Tenants, and that the Plaintiffs after the said Cornelius Waldoe had pleaded, without taking issue on the Facts pleaded, or demurring or replying to the said Plea brought the said Action on to a hearing on the 8th of May 1733, when the said Court called on the said Cornelius Waldoe for a further Plea, which he was advised to decline, And that thereupon the said Inferior Court gave Judgment that the Plaintiffs should recover against the said Cornelius Waldoe the sum of 1,186*l.* to be paid within two Months, with Costs, or, on failure of payment to recover against the Petitioner the Possession of the Premises sued for, with 8*l.* 10*s.* 6*d.* Costs, [which judgment was confirmed in the superior Court].

[The Committee recommend that the judgment of 19 Sept., 1733, be varied in such a way] that Samuel Waldoe Jonathan Waldoe Thomas Fayrweather and Edward Tyng and Ann his Wife qualified as aforesaid shall recover against the said Cornelius Waldoe possession of the Messuages, Lands, and Premises sued for and Costs of suit in the Courts in this Province unless the said Cornelius Waldoe shall pay to the [Executors] the sum of 1206*l.* in good Bills of Credit on the Province aforesaid or in Silver Money together with the Subsequent Interest to be computed upon the Principall Money at the rate of Six per Cent. to be Settled by the Proper Officer of this Court within Six Months from this time and Costs of Suit as Aforesaid, and in case such payment shall be made as aforesaid then the said Respondents and the said Samuel Waldoe shall thereupon reconvey the Estate to the Mortgagor or such Person as he shall appoint at the Costs of the Appellant and if the Partys differ about the reconveyance then the same to be settled and Adjusted by the said Proper Officer, And that the said Judgment so varied and altered,

be entered up in the said Superior Court And do stand as the Judgment in this Cause to be proceeded upon.

[IV. pp. 107-9.]

1734.

[Order accordingly.]

[IV. p. 143.] 3 April.

[296.] [Reference to the Committee for Appeals of the] Petition of James Gooch Merchant Abraham Blish Felt Maker James Allen Merchant James Gooch Junior Distiller all of Boston in his Majestys Province of the Massachusetts Bay in New England and of Francis Wilks of London Merchant praying to be admitted to Appeale from a Judgment given in the Superior Court of Judicature held at Boston on the 8th day of February 1731 upon An Action brought by the Petitioners against Samuel Dummer of Wilmington in the County of Midlesex in the said Province Esqr. sheriff of the said County to recover against him the Damages they had sustained by reason of Daniel Gookin his under Sheriff having refused to Execute a Writ against Michael Gill at the Petitioners suit and confederating with the said Gill had suffered him to make his Escape.

[p. 307.]

31 Jan.
Massachu-
setts Bay.

[Committee recommend that the appeal be admitted on the usual security.]

[p. 310.]

6 Feb.

[Order accordingly: Security entered into on 20 July by Francis Wilks of London, Esqr.]

[p. 320.]

7 Feb.

(1735.)

[Petition for an early hearing referred to the Committee for Appeals.]

[IV. p. 166.]

22 May.

(1735.)

[Committee appoint 22 Jan., 1736, to hear the appeal.]

[IV. p. 185.]

25 June.

[297.] [The recommendation of the Board of Trade that Abraham Payne, jun., be appointed to the Council of St. Christopher in place of Col. Peter Soulegré resigned, is referred to a Committee.]

[p. 305.]

31 Jan.
St.
Christopher.

[Committee refer it to the Board of Trade to inquire how many of Payne's family or relations are members of the Council.]

[p. 385.]

22 Mar.

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- 18 June. [The Board of Trade report of 12 April shows that among the present members of the Council are Payne's father Charles, his uncle Abraham, his brother-in-law Mr. Estridge, and Joseph Phipps, a distant relation. The Committee therefore deem it inadvisable to appoint Payne and refer it back to the Board of Trade to propose some other person.] [p. 498.]
- 20 Mar. [298.] [Reference to the Committee of a Board of Trade
Barbados. representation of 8 Mar.] relating to the Defenceless condition of the Island of Barbados, and proposing that the utmost care should be taken of so important an Island, and such Suplys granted as to His Majesty in his Great Wisdom shall think proper. [p. 380.]
- 22 Mar. [Committee.] Order that the Master Generall of the Ordnance do cause to be laid before this Committee an Account of what Stores hath been formerly sent to the said Island and at what time. [p. 386.]
- 17 April. [Reference to the Committee of a Board of Trade representation of 11 April] relating to the sending to the Leeward Islands some Recruits for the Regiments Quartered there as also a Supply of Stores for the better Security of those Islands. [p. 475.]
- 18 April. [Committee refer both representations back to the Board of Trade] to reconsider the same and to get the best information they can of what Stores are necessary for the Defence of all the said Islands Distinguishing the Particular Stores for each Island respectively—and to inspect the Severall Laws which have been past in each of the said Islands for raising Money for the repairs of the Fortifications for the Establishing a Militia or other Defence of the said Islands, and to enquire what Money has been charged and raised on the Inhabitants of each of the said Islands for the said Purposes and to what uses such Money has been Applied—And likewise to enquire into the Reason of the Decrease of White Men in the said Islands; And the said Lords Commissioners for Trade and

1734.

Plantations are to lay the same before this Committee with their Opinion thereupon. [p. 476.]

[The Committee also require the Master General of the Ordnance to present an account of what ordnance and small stores can be spared for the immediate defence of Barbados and the Leeward Islands.] 18 April. [p. 477.]

[The Committee, on considering the Board of Trade report of 24 July, order an estimate to be prepared, distinguishing the value of those for which it is proposed the Crown should pay from that of those to be paid for by the respective islands. The proposed list of stores is appended.] 6 Aug. [IV. p. 1.] (1735.)

[The Committee recommend that the stores to be paid for here be sent at once, and the charge included in the next estimate laid before Parliament: that the other stores be sent on payment being made or security given by the agents for the islands: and that the stores for the Leeward Islands be delivered in Antigua, which being most to the windward they may from thence be easily distributed to the rest of the islands, such distribution to be made by the Governor in proportion to the numbers of the militia in each island. As to the quantity of stores it is proposed] that Your Majesty may be pleased to Order the like Quantity of Ordnance Stores with those sent thither in 1702 to be now sent to Barbados excepting the Train of Artillery which was sent with the Stores at that time but is not at present demanded and that Your Majesty may be likewise pleased to Order a Supply of four Thousand Firelocks with Bayonets for their Militia But their Lordships humbly propose that these Small Arms should be paid for by the said Island of Barbados in regard the Inhabitants are Obligated by their Militia Acts to Supply themselves with such Arms. 6 Mar.

That with respect to the Leeward Charribbee Islands Their Lordships do find that a Considerable Supply of Stores have been sent thither since the Year 1702 and that a great part of the Stores now demanded appear upon Examination to be

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noways fit for the Service of Islands so Soituated and Circumscribed as these are—Wherefore the Lords of the Committee are of Opinion that only the following List of Stores should be sent thither—Vizt.

Steel Spades	200
Shovels Shod	200
Pickaxes with Helves	200
Iron Crows	50
Wheelbarrows packed	100
Round Shot for Six Pounders	1,000
Iron Trucks	
For 18 pounders	60 Pr.
12 Pounders	80 Pr.
9 and 6 pounders	60 Pr.
Match	1 Ton
Tents, Poles Pins and field Colours for His Majestys Regiment	
Corn Powder fine	200
Muskett Shott	5 Tons.
Light Muskets or Carbines with Bayonets and Slings	500
Musket Flints	20,000
Cartouch Boxes Sword Belts and Frogs for Bayonets	1,500
Light Horsemens Swords	400
Tents Poles Pinns Field Colours and Bell Tents for two Battallions of Militia Foot a Squadron of 150 Horse and a Squadron of 100 Dragoons	

But their Lordships humbly propose that such parts of the said List which Consists of Powder Ball Flints, Carbines, Bayonets Cartouch Boxes Sword Belts Frogs Horsemens Swords ought to be paid for by these Islands in regard the Inhabitants are obliged by their Acts of Assembly to Supply themselves with such Arms and Stores And that as to the Tents Poles Pinns Field Colours and Bell Tents which are designed likewise for the Service of their own Militia Foot Horse and Dragoons Their Lordships thinking it reasonable that they should be also paid for by the said Islands.

[IV. pp. 111-2.]

3 April. [Orders accordingly.]

[IV. p. 137.]

20 Mar. [299.] [Reference to the Committee of the petition of Robert South Carolina, Wright, Chief Justice of South Carolina,] setting forth that

1734.

His Majesty was pleased by his Royall Sign Manual of the 30 of November 1730 to require Robert Johnson Esqr. Governor of the said Province to cause letters Patents to be passed under the Seal of that province for Appointing the Petitioner Chief Justice and that he was appointed accordingly but that since the said Appointment An Act hath been passed empowering the Governor to Nominate two or more Assistant Justices to sit in Judgment and hear and Determine all Causes in the said Court together with the Chief Justice for the time being in pursuance whereof the said Governor hath accordingly appointed two Assistants Judges Wherefore the Petitioner most humbly prays that as the said Act is an Ineroachment on His Majestys Prerogative and undoubted Right of Appointing Judges and as the persons appointed are intirely ignorant of the Laws and over rule the Petitioner in all Judicial Acts and have pretended a Right to take several of his Perquisites that His Majesty would be pleased to give such Instructions concerning the same, as His Majesty in His Great Wisdom shall think fit.

[p. 381.]

[The Committee refer the petition to the Board of Trade.] 22 Mar.

[p. 389.]

[Reference to the Committee of Wright's petition] setting 19 Dec.
forth that an Act was past by the General Assembly of that Province on the 9 of Aprill last Entituled an Act for the Better Regulating the Courts of Justice in this Province and for altering the time of holding Courts which Act contains many Clauses expressly contrary to His Majestys Royall Instructions Manifest infringments of the Prerogative Repugnant to the Laws of Great Britain and Generally Prejudiciall to Private Property and the Publick Administration of Justice as well as Injurious to the Petitioner in the Commission he enjoys of Chief Justice Wherefore he humbly lays the said Act before His Majesty together with a Protest Entered by the Petitioner against it and severall other papers relating thereto. . .

[IV. pp. 49, 73, 80, 239.]

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1734.
(1736.)
4 Mar. [The Acts are repealed on the Committee's report of 28 Feb. that they have referred the matter to the Board of Trade, and that the Acts are liable to objections in many respects, particularly in that the clause allowing the Governor to appoint two Assistant Judges is an encroachment upon the royal prerogative.] [IV. pp. 381, 407.]
- 20 Mar.
Leeward
Islands. [300.] [Reference to the Committee of the petition of Richard Coope, agent for St. Christopher, complaining of the proceedings of Michael Smith, President of the Council of Nevis, who acted as Commander in Chief of the Leeward Islands on the death of the Earl of Londonderry, for discharging several inhabitants of St. Christopher from fines and imprisonments to which they had been legally condemned.] [p. 381.]
- 25 June. [Committee order that Mr. North put in Smith's answer as soon as he receives it.] [p. 504.]
- 20 Mar.
Virgin
Islands. [301.] [Reference to the Committee of the petition of Sir Charles Payne of St. Christopher] setting forth his Right to a Considerable Part of Land in the Island of St. Johns one of the Virgin Islands, in America, and humbly praying His Majesty will be pleased to make a Grant of the said Land to him and his Heirs in Order to the settling the same And in regard a small Number of People who pretend to be Danes did in the Year 1717 come and take up their Abode in the said Island without any Colour of Right so to do that His Majesty will be pleased to give directions for Dispossessing them, or otherwise Compelling them to become Tenants of the Lands they are now in possession of under the Petitioner. [p. 382.]
- 22 Mar. [Committee refer the petition to the Board of Trade.] [p. 387.]
- 12 June.
South
Carolina. [302.] [Act of 15 Feb., 1734, for settling the estate of Richard Beresford, Esq., deceased, referred to Committee with Board of Trade representation of 18 April recommending its disallowance.] [p. 488.]

1734.

[Committee agree with the Board of Trade that the Act should be repealed] in regard the Legislative Bodys of South Carolina have by this Act made Great Alterations in the Will of the aforesaid Richard Beresford Esqr. having taken part of his Estate from one of his Sons and given it to another and altered certain limitations and Bequests expressly contrary to the Direction of the said Will which should it be allowed might prove a Precedent of ill Consequence to Your Majestys Subjects in this Colony and derogatory to the Statutes in force concerning Wills—and likewise in regard this Act is unprovided of the proper Saving Clauses which ought to be inserted in all Private Acts. [p. 546.] 23 July.

[The Act disallowed.] [IV. p. 7.] 8 Aug.

[303.] [The Commission for Henry Cunningham to be Governor of Jamaica, being in the usual form, is approved. P.R.] 12 June. Jamaica. [p. 488.]

[His instructions and the Board of Trade representation thereon of 10 July referred to Committee.] 11 July. [p. 521.]

[Committee approve the trade instructions, but report that the following changes have been made in the general instructions]: 23 July.

They have omitted in this Draught the 13 Article of the Instructions given to Major Generall Hunter concerning the manner of Electing Members of the Assembly the same having been provided for by an Act past in Jamaica now Confirmed and rendered perpetual by the Crown Entituled An Act appointing the Number of the Assembly by which the Method is prescribed for Electing the Members of that Body.—

To the 23d Article of this Draught which prescribes Rules to be Observed by the Governors in passing Private Acts The said Lords Commissioners have added the following Words— And that a Certificate under Your hand be transmitted with and annexed to every such Private Act Signifying that the same has passed through all the Forms abovementioned— In the Patent Draught they have omitted that Part of the

1734.

21st Article of the late Instructions to Major General Hunter which related to the passing a Law for granting a Revenue to Your Majesty Your Heirs and Successors and for perpetuating the Laws and Acts of Jamaica as they now stand and are used a Law having been lately passed to this purpose which renders the said Instruction Necessary.—

Your Majesty having been graciously pleased to Order Six Independant Companys to Jamaica for the Defence of that Island The said Lords Commissioners have formed a New Instruction in that behalf which makes the 29th Article of the Present Draught in the following Words.—Vizt.

And whereas upon Application to us from the Council and Assembly of Our said Island respecting the Great Danger the Inhabitants thereof are exposed to from the Rebellious and Runaway Negroes there and from the Invasion they apprehend of Foreign Enemies in Case of Warr and therefore beseeching Us to send them Aid and Assistance We have been graciously pleased to Order Six More Independant Companys to that Island for their protection and Defence. It is therefore Our Will and pleasure that You recommend to the Assembly in the most effectual manner that Provision be made for the reception of the said Companys as likewise for their Subsistance as hath been usual for the other two Companys now there so long as the Circumstances of the Island shall require their Continuance at Jamaica.—

In the 39th Article of the Present Draught whereby Rules are prescribed for the improvement of Your Majestys Quit Rents in Jamaica the said Lords Commissioners in order to render the same more effectual have added the following Words.—

And whereas an Act was passed in that Island in 1703 Entituled An Act ascertaining Establishing and more speedy Collecting Her Majestys Quit Rents in which are many Good Clauses for that purpose It is Our Will and pleasure that you make full enquiry what Effect the said Act has had whether the same has been effectuell and has answered the ends

1734.

purposed thereby And if not what is still further Wanting for the purposes aforesaid and give an Account of all Your Observations thereon as soon as Conveniently may be after Your Arrival in that Government unto us and to Our Commissioners for Trade and Plantations.—

And lastly the said Lords Commissioners have omitted in the present Draught such parts of the 95 Article of the last Instructions as related to the Tryall of Pirates taken in the Bahama Islands Your Majesty having been pleased to grant a Commission for that purpose to Mr. FitzWilliam Your Majestys present Governor of the Bahamas.— [pp. 544–5.]

[Instructions approved. P.R.]

[IV. p. 5.] 8 Aug.

[304.] [Act of Nov., 1733, to empower the Vestry of the parish of Jamaica in Queen's County to dispose of 60*l.* now in the hands of the Church Wardens of the said parish for the use and benefit of that parish, is referred with the Board of Trade representation of 13 June to a Committee.] 11 July.
New York.

[p. 522.]

[Committee agree with the Board of Trade, whose representation sets forth]:—That in 1693 An Act was passed at New York for Settling a Ministry in that Province and raising a Maintenance for them whereby it was enacted that the sum of Sixty pounds in Country Produce at Money Price should be annually assessed and Levied for Maintenance of the Minister of the above mentioned Parish of Jamaica in Queens County to be paid him by the Church Wardens of the Parish in four equal Quarterly payments by Virtue of Warrants Signed by a Majority of the Vestry in the manner directed by the Act which Act has received the Royall Assent—That Mr. Poyer late Minister of the aforesaid Parish dying in January 1731 was succeeded about a Year afterwards by Mr. Colgan and the abovementioned Sum of Sixty pounds which makes the Subject of this Act is Money collected upon the Inhabitants during the Vacancy of their Church between the Death of the last and the Induction of the present incumbent That by a 23 July.

1734.

Statute passed at Westminster in the 28 Year of Your Majestys Royall Predecessor King Henry the Eighth for the Restitution of the First Fruits in time of Vacation to the next Incumbent it was provided that after the avoidance or Vacation of any Benefice all the Tithes Rents and Revenues thereof shall belong to the next Incumbent and his Executors towards payment of the first Fruits to the Crown for payment of the person who should serve the Cure during the Vacation and for defraying the Charge of Collecting the Tithes Fruits and Rents of the Benefice. That this Law Extends to all Your Majestys Dominions and as the people of New York have no municipal Law which may exempt them from the Observation of it, which in this Case would be a very Great Hardship upon the Present Incumbent who has Officiated as Curate of the Parish above half the time of the Vacancy The said Lords Commissioners therefore see no reason why the Law of England to which this Act is repugnant should not take place in the Province of New York and therefore propose that this Act should be repealed. [pp. 546-7.]

8 Aug. [The Act disallowed.] [IV. p. 5.]

11 July. [305.] [Reference to the Committee for Appeals of the petition
Antigua. of Joseph French, formerly of Antigua but now of Barbados, for a short day for hearing his appeal from a decree of the Antigua Chancery, 1 Nov., 1733,] in favour of Richard Sherwood and Johanna his Wife and William Denbow and Thomas Kerby Whereby . . the Petitioners Bill for a Discovery amongst other things of the Debts and demands they had upon the Estate of George Gamble late of Antigua deceased was Dismist.

(1737.) [p. 526.]

21 April. [The case concerns the estate of George Gamble, who] by his Will dated the 27th of July 1709 Devised all his Real and Personal Estate to his Uncle John Gamble and his Heirs Subject to payment of the Annuitys in his Will mentioned, And appointed John Yeamans Esqr. Lieutenant Governor of the said Island, his two Brothers in Law John and Samuel

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1734.

Frye Doctor Daniel Machiner, Lieutenant Colonel Francis Rogers, the Petitioner, Mr. Thomas Kerby and his said Uncle John Gamble Executors.

[In accordance with the Committee report of 18 April, it is ordered] that the said Order made in the Court of Chancery of Antigua on the 1st of November 1732 be Reversed and that both the said Pleas of Richard Sherwood and Joanna his Wife and of Wm. Denlow and Thomas Kerby, do Stand for Answers with Liberty for the Appellant to Except thereto, and that the Benefit of the said Pleas be saved to the hearing of the Cause. [V. pp. 188-94, 211.]

[306.] [Reference to the Committee for Appeals of the petition of John Burke of Antigua, merchant, and James Duncan of Kirkcaldy in Scotland, mariner, for a short day for hearing their appeal from two decrees of the Antigua Chancery, 25 April and 5 May 1733,] in favour of Robert Weir, Walter Weir, Francis Weir, William Paynter Edward Byam an Infant George Thomas George Byam and Thomas Freeman Surviving Executors of William Byam Deceased. Edward Byam John Thomlinson Francis Carlisle Anne Chester Thomas Stevens and Charles Dunbar. [p. 526.]

11 July.
Antigua.

[Committee. On the motion of the solicitor for the appellants, the appeal, which had been abated by the death of John Burke, intestate, is revived, by making Elizabeth Burke, his widow and administratrix, and John Burke, his son and heir, parties thereto.] [VII. p. 290.]

(1740.)
2 Dec.

[Committee. The appeal is revived, on the motion of the] Solicitor for the Appellant setting forth that since the making the said Order the said Appeal is become further abated by the Deaths of the said Edward Byam John Tomlinson Francis Carlisle and Ann Chester who were the Surviving Executors of John Paynter the Elder deceased and also by the Deaths of the said William Paynter and Robert Weir And that the said Elizabeth Burke was since Intermarried with George Crump

*(1750.)
17 Dec.

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And therefore praying the said Appeal might be revived by making the said Walter Weir Party thereto as Heir at Law and personal Representative of the said Robert Weir as well as in his own Right and also by making William Gunthorpe of Antigua Esqr. Party thereto as nephew and Heir of the said William Paynter who was Son and Heir of the said John Paynter the Elder and also as personal representative of the said John Paynter the Elder and William Paynter deceased and also by making the said George Crump and Elizabeth his Wife partys to the said Appeal. [XIII. p. 128.]

11 July. [307.] [Reference to the Committee for Appeals of the peti-
Antigua. tion of Sir William Codrington late of Antigua, but now of
Doddington in the County of Gloucester, that a short day
be appointed for hearing his appeal from a decree of the
Antigua Chancery, 28 Feb., 1732,] in favour of William Byam
Nathaniel Crump Archibald Cockran and Francis Carlisle
as Executors of Samuel Philips deceased and against Robert
Tint Gent. and Rebecca his wife, Dorothy and Elizabeth
Philips Spinsters which Rebecca Dorothy and Elizabeth are
(1736.) the Daughters and coheirs of the said Samuel Philips. [p. 526.]

3 April. [In accordance with the Committee's report of 2 April, the
appeal is dismissed.] [IV. pp. 90, 133-6, 146.]

18 July. [308.] [Reference to the Committee of a memorial from the
South General Assembly of South Carolina representing the state and
Carolina. condition of the province.] [p. 538.]

23 July. [Committee, in regard the matters contained therein relato
to the preservation of the said province, refer the memorial
to the Board of Trade to examine maturely into every
particular part thereof and report.] [p. 547.]

GEORGE II. VOL. IV. (1 Aug., 1734—23 Sept., 1736.)

8 Aug. [309.] [Reference to the Committee of the petition of the
Barbados. agents of Barbados to be heard against the Board of Trade

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report for the repeal of an Act for the further, better and more certain regulating and appointing the fees of the several offices and courts of this island.]

1734.

[Committee hear counsel on the Act of 10 Dec., 1733, and the petitions on opposite sides of the agents and of the patent officers of Barbados, and adjourn further consideration till to-morrow night.]

(1735.)

30 Jan.

[p. 91.]

(1735.)

31 Jan.

[Committee. The agents represent that several such Acts have been passed and that this re-establishes the table of fees with new fees only for new business and that the Act was passed agreeable to the 36th instruction to the present Governor. Francis Whitworth, Anthony Crachrode, Thomas Reynolds, Francis Reynolds and John Cornelius, holders of patent offices, allege that the Act affects his Majesty's prerogative as well as their property, and that by means of it several of them have been deprived of their offices since Jan., 1734. The Committee report] that in regard some of the Laws recited in the Present Act, as the foundation for passing the same, are at least of Dubious Authority, And likewise that severe Penaltys, particularly the Forfeiture of Offices held by Patents from the Crown are inflicted by this Act, and that the said Penaltys are to be recovered in a Summary way before the Governor or one Justice of the Peace on the Oath of a Single Witness, They are therefore humbly of Opinion that it may be adviseable for Your Majesty to Signifie Your disallowance of the said Act, and their Lordships are further of Opinion, that such of the Patent Officers or their Deputys who have been removed from their Offices by Virtue of the said Act, should be forthwith restored to the possession thereof.

[p. 92.]

[Orders accordingly.]

[p. 98.]

(1735.)

12 Feb.

(1735.)

6 Mar.

[The Committee,] conceiving it proper that an Enquiry should be made into the Fees taken for several Years past in the Several Offices and Courts in Your Majestys Island of

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1734.

Barbados, beg leave humbly to propose to Your Majesty that in Order thereto, the Governor or Commander in Chief of that Island, may be directed to transmitt to Your Majesty a Particular Account of the Fees taken in the severall Offices and Courts of that Island at the time of her late Majesty Queen Annes accession to the Crown, with what Variations have been since made therein, distinguishing the same in Soperato Columns. [p. 113.]

3 April. [Order accordingly.] [p. 147.]

8 Aug. [310.] [Reference to a Committee of] the Petition of John Da
America. Costa of London Merchant in behalf of himself and severall Merchants and others His Majestys Subjects Setting forth that there is a Tract of Land in America bordering on the Sea above 800 Miles in length wherein the Petitioner hath lately made discovery of a place which lies above 400 Miles distant from any European Settlement, and which Tract of Land is in the possession of the Original Natives and was never possessed by any Christian Prince or State That the said Country abounds with very Valuable Comodities and necessary for the Support of life, and that great advantages may arise to this Nation from carrying on a Trade to the said place the Petitioner therefore proposes, with the Assistance of Severall Merchants and others to take possession of the said Land, in case they could be assured of His Majestys Royall Protection and also of His Majestys granting unto the Petitioner and his Associates the Countrys so to be discovered and possessed and to that end he most humbly prays His Majesty to take the premises into His Royall Consideration, and to give such Orders for the Petitioners Encouragement therein as to His Majesty in his Great Wisdom shall seem meet. [p. 11.]

1 Nov. [Referred by the Committee to the Board of Trade.] [p. 28.]

19 Dec. [On Da Costa's petition, the Committee recommend that
(1735.) he be allowed to withdraw his former petition.] [p. 54.]

9 Jan. [Order accordingly.] [p. 62.]

1734.

[311.] [Reference to the Committee of the address of the Council and Representatives of Massachusetts Bay for cannon and warlike stores for the defence of the province agreeable to a list annexed, but not given in Register.] [p. 16.]

19 Sept.
Massachu-
setts Bay.

(1735.)

[Referred by Committee to Board of Trade.] [p. 113.] 6 Mar.

[312.] An Act past in the Province of New York on the 1st day of November 1733 Entituled An Act to repeal part of a Clause in the Act therein mentioned [is referred, with the Board of Trade representation recommending its confirmation, to the Committee]. [p. 16.]

19 Sept.
New York.

[The Committee recommend its confirmation. By the representation of the Board of Trade] it appears that the Clause repealed by this Act is part of an Act past at New York in 1699 whereby it was amongst other things provided that it should not be in the power of any of Your Majestys Governor or Commanders in Chief of that Province to grant or demise for any longer Term than their own Continuance in the said Government a Certain Swamp and Fresh pond called the fresh Water and Adjacent to the Kings Farm commonly called the Dukes Farm on the Island Manhattens—

That Your Majesty was lately pleased by Your Order in Council bearing Date the 12th day of August 1731 upon the humble Petition of Anthony Rutgers of the City of New York Merchant to Empower the Governor or Commander in Chief of the Province of New York to pass a Grant under the Provisoos therein mentioned to the said Rutgers his Heirs and Assignes of the aforesaid Tract of Land called the Swamp containing about seventy Acres Subject to the Quit Rent now paid for Land in New York.—

That due Obedience might be paid to Your Majestys said Order in Councill it became therefore necessary to repeale the Aforesaid Clause of the Act of 1699 But the said Lords Commissioners Observed that when Acts of Assembly are passed in Your Majestys Plantations by which former Laws are

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1734.

repealed they ought in Conformity to Your Majestys Royall Instructions to be provided with a Clause to Suspend the Execution of them till Your Majestys Pleasure should be known thereupon and this Act being destitute of such a Clause The said Lords Commissioners should for that reason have laid the same before Your Majesty for Your Disallowance.—

But that as this Act is passed in Conformity to Your Majestys Royall Instructions Signified to the Governor of New York by Your Majestys Order in Council which he might Consider as a Sufficent Authority to Exempt him from the Observation of the Ordinary Rule to be practised in Cases of the same Nature they had therefore humbly layed the said Act before Your Majesty for Your Royall Confirmation.

[pp. 23-4.]

7 Nov. [Order accordingly. P.R.]

[p. 33.]

19 Sept.
New York.

[313.] [Reference to the Committee of a petition of the Bristol merchants for the repeal of a New York Act] to repeal the Act and to cancel the Bills of Credit therein mentioned and to grant unto His Majesty severall Dutys for Supporting His Majestys Government in the Colony of New York untill the first day of September which should be in the Year 1737 By which Act a Duty of five Ounces of Seville Pillar or Mexico Plate or forty Shillings in Bills of Credit of that Colony is laid on every Slave of four Years of Age and upwards imported into that Colony from Africa.

[pp. 16, 27, 239.]

(1736.)

28 Feb.

[Committee. On a reference by the Committee on 1 Nov., 1734, the Board of Trade reported] That they have been Attended by the Agent for the Petitioners and have heard what he had to Offer in Support of their Petition and that having Considered the said Act they find the three following Clauses inserted therein—Whereby it is Provided that there shall be paid to Your Majesty—1st, For every Slave (Male or Female) of four Years of Age and upwards imported directly from Africa the Quantity of five Ounces

of Sevil Pillar or Mexico Plate or forty Shillings in Bills of Credit made Current in this Colony.—2d, For every Negroe Mulatto or Indian Slave (Male or Female) of four Years of Age and upwards imported from all other Places by Land or Water the Sum of four Pounds in like Money—3d, For all European or East India Goods imported with proper Certificates from the British Islands in the West Indies the sum of five pounds in like Money for every hundred pounds Value Prime Cost and after that Rate for a greater or a lesser Quantity.—

That the said Lords Commissioners conceiving these Clauses to be greatly prejudicial to the Trade and Navigation of this Kingdom and likewise expressly Contrary to Your Majestys Instructions to the Governor of New York by which he is directed not to pass any Act for imposing Dutys upon Negroes payable by the Importer or whereby the Trade or Navigation of this Kingdom might be any ways Affected unless a Clause be inserted in such Act for Suspending the Execution thereof till Your Majestys Pleasure should be known concerning the same they were of Opinion that the said Act should be laid before Your Majesty for Your Disallowance But Considering the Inconveniencys and Confusion that might arise in the Province of New York if this Act which Settles Funds for the Support of Your Majestys Government there should be repealed before other Provisions are made for the same purposes The said Lords Commissioners have therefore humbly proposed that this Act might be Suffered to lye by for the Present and that Orders should be immediately sent to Your Majestys Governor of New York to move the Council and Assembly of that Province forthwith to pass a New Law for repealing the three foregoing Clauses and for providing and Settling other Funds for the like purposes not liable to the same Objections. [The Committee recommend that orders be given accordingly.]

If Your Majesty shall be pleased to Approve hereof—The Lords of the Committee beg leave humbly to lay before Your

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Majesty a Draught of an Additional Instruction prepared for this purpose by the said Lords Commissioners for the Governor or Commander in Chief of Your Majestys Province of New York. [pp. 379-381.]

4 Mar. [Orders accordingly. P.R.] [p. 403.]

19 Sept. [314.] [Reference to the Committee of the petition of some
New Jersey. Bristol merchants against a New Jersey Act for making 40,000*l*.
in bills of credit.] [p. 17.]

1 Nov. [Referred by Committee to Board of Trade.] [p. 28.]
(1735.)

6 Nov. [Board of Trade representation on Act of 13 Aug., 1733,
(1736.) referred to Committee.] [p. 248.]

4 Mar. [The Act is confirmed, as the Committee agree with the
Board of Trade that] there is no Essential Difference between
this and a former Law to the like purpose, which hath been
executed with good Effect and proved beneficial to the
Province. [pp. 381, 404.]

24 Oct. [315.] [Reference to the Committee of the memorial of Gover-
Jamaica. nor Cunningham praying for] Directions that the Troops sent
thither may be Supplied with Salt Provisions in like manner as
the Troops are Supplied at Gibraltar and other His Majestys
Garrisons abroad till His Majestys Subjects in that Island shall
be in a Condition to furnish the same, that so the Service
may not be delayed or the Troops Subjected to any
extraordinary hardships in the Discharge of their Duty—
And further praying that the List of Ordnance Stores there-
unto annexed may be sent to Jamaica as absolutely necessary
for the Defence and Security of that Island and which are
not to be had there nor are the inhabitants at present able to
provide them. [p. 20.]

(1735.)

6 Mar. [Committee] Order Mr. Cunningham to lay before them on
Friday next an Estimate of the Number of Men he proposes
to be victualed and for what time. [p. 114.]

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- [Committee refer to the Board of Trade that part of the memorial which relates to the supply of stores.] [p. 159.] 1734.
(1735.)
10 May.
(1735.)
18 June.
- [The Committee] finding that the said Troops do receive an Additional pay from the Inhabitants of the said Island over and above the pay allowed them by Great Britain . . are therefore of Opinion, that it is not reasonable there should be any further Additional Allowance made to the said Troops on Account of Provisions by Great Britain but that the Council and Assembly of Jamaica may in lieu of the Additional Pay granted by the said Island, furnish such Provisions to all the said Troops or such a Part of them as shall be actually upon Duty, during their Continuance upon Duty, according as they shall Judge necessary and proper.
- [As for the stores desired by the Governor and the implements mentioned in the Board of Trade representation of 12 June, the Master General of the Ordnance is directed to prepare an estimate of the charge,] Distinguishing the Value of the small Arms and Powder from the other Stores, the same being to be paid for by the said Island. [p. 179.] (1735.)
9 July.
(1735.)
30 July.
- [The report approved.] [p. 196.] (1735.)
30 July.
- [Reference to the Committee of the address of the President, Council and Assembly of Jamaica, praying for] a Supply of Warlike Stores to be sent for the Defence of that Island more particularly of Cannon and Small Arms. [p. 216.] (1735.)
14 Aug.
- [316.] [Reference to the Committee of the petition of some Bristol merchants for the repeal of a New Jersey Act of 16 Aug. for the better support of that government, whereby a duty of 40s. per ton is laid on all copper ore exported thence not directly for Great Britain.] [p. 20.] 24 Oct.
New Jersey.
- [Referred by Committee to Board of Trade.] [p. 28.] 1 Nov.
(1735.)
27 Oct.
[p. 239.]

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1734.
(1736.)
18 Mar.

[Committee.] Whereas it Appeared by a Clause in this Act that a Duty of forty Shillings per Ton is laid on all Copper Ore Exported out of New Jersey to any of the Neighbouring Colonys, and not carried directly from thence to some Port or Place in Great Britain, to which the same may be lawfully carried, and that every Person and Persons before he or they Do lade or take on Board the said Copper Ore shall either pay to the Collector or Collectors of the Customs or their Deputys the said Duty or become bound to the said Collectors with good Security in the sum of one thousand pounds Money of Great Britain on Condition to carry the Copper Ore by him or them to be Shipped, directly to some Port or Place in Great Britain, and not to any of the Neighbouring Colonys And it having further Appeared by the Report of the Lords Commissioners for Trade and Plantations that the Ships which take the Copper Ore on Board Do usually go to New York and other Neighbouring Colonys to compleat their Lading for Great Britain, in which case the said Ore becomes liable to the said Duty, altho it was never intended to be sold in America. The Lords of the Committee cannot therefore but look upon this Duty as affecting the Trade of Great Britain For which Reason, they agree in Opinion with the said Lords Commissioners that the Governor of New Jersey should be Instructed to move the Generall Assembly of that Province to pass a New Law, which may reenact the Several Clauses of this Act, except that aforementioned relating to the Duty of forty Shillings a Ton upon Copper Ore—As to which, the Committee think it proper that he should be Enjoyned to take particular Care that the said Duty be not made Payable nor the Bonds liable to be forfeited on Account of the Shippes putting into any other of His Majestys Plantations, But only in case such Ship shall break Bulk in such other Plantation and that the said Ore shall be there sold or otherwise Disposed of—And it is hereby Ordered that the said Lords Commissioners for Trade and Plantations do prepare a Draught of an Additional Instruction for the said Governor in such

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- manner as they conceive will best answer this Purpose, and
lay the same before this Committee. [pp. 417-8.] 1734.
- [Committee report with draft of instructions.] [p. 470.] (1736.)
3 June.
- [Orders accordingly: the instructions approved. P.R.] (1736.)
16 June.
- [p. 479.]
- [317.] [Reference to the Committee of the petition of Richard 24 Oct.
Shelton, late Secretary to the late Proprietors of Carolina,] South
*Setting forth that the said Lords Proprietors in Consideration Carolina.
of his long and faithfull Services and also of the Money then
due to him as their Secretary, did in the Year 1722 Grant
to Your Petitioner one Barony or Tract of Land containing
12,000 Acres and Ordered that proper Grants should be passed
for the same to Your Petitioner his Heirs and Assignes for
ever reserving only the Rent of a Pepper Corn Yearly if
Demanded That the Petitioner did not take up the said Lands
because of the unsettled State of the Affairs of that Province
the Petitioner therefore most humbly prays His Majesty to
give directions that the said Grant be Confirmed to the
Petitioner upon the Terms mentioned in the Warrant of the
said Late Lords Proprietors. [p. 21.]
- [Referred by Committee to Board of Trade.] [p. 28.] 1 Nov.
- [The Committee agree with the Board of Trade report] That 19 Dec.
they have examined into the said Petition and Do find the
Allegations thereof to be true and that in regard to the great
Singularity of this case and in Consideration of the Petitioners
Services they are humbly of Opinion Your Majesty may be
graciously pleased out of Your Royal Goodness and Com-
passion to Comply with the Purport of the Petitioners request
either by Confirming the abovementioned Grant of the late
Lords Proprietors of Carolina or by making a New Grant to
the Petitioner his Heirs and Assignes for ever of the same
Quantity of Land either in one Plott or in parcells as he shall
think proper at the same rent and under the same Condition
with that already made to him by the Lords Proprietors . .

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But in regard Your Majesty hath been pleased by Your 43d Instruction to the present Governor of South Carolina to require him to mark out and set apart Eleven Townships upon the several Rivers within that Province, And not to permit any Person (except the Inhabitants of such Townships) to take up any Lands within Six Miles of each of the said Townships—The Lords of the Committee do therefore humbly propose that in the Grant to be made to the Petitioner a Clause be inserted to restrain him from taking up the whole or any part of the said Twelve thousand Acres within the Compass of Six Miles round any of the said Townships, which are now or shall hereafter be Erected pursuant to Your Majestys said Instruction—

[pp. 55-6.]

(1735.)

9 Jan.

[Order accordingly.]

[p. 61.]

24 Oct.
Barbados.

[318.] [Reference to the Committee for Appeals of the petition of Oliver Kennedy of Barbados that, as the proceedings are now transmitted, a short day may be appointed for hearing his appeal from two orders of the Governor and Council, as a Court of Chancery, 3 Oct., 1733, and 20 Mar., 1734, in favour of Burch Hothersall and Anne his wife,] relating to the rescuing and concealing Isaac Crump against whom a Writt of No Exeat Insulam had been issued at the Application of the Petitioner.

[p. 21.]

24 Oct.
Massachusetts Bay.

[319.] [Reference to the Committee for Appeals of the petition of Giles Dulake Tidmarsh, surviving partner and executor of Samuel Appleton, deceased, that a short day be appointed for hearing his appeal from a judgment of the Superior Court at Boston in Aug., 1733,] in favour of Joseph Brandon relating to the sum of 1,634*l.* 5*s.* 3*d.* due from the said Brandon to the said Appleton deceased.

[p. 21.]

(1736.)

3 June.

[Committee] . . . both sides Agreeing to referr the Accounts in Question on this Appeale to the Examination of Merchants resident in London—Their Lordships are thereupon pleased to Order that the said partys Do Draw up their said Agreement

in writing and lay the same before this Committee at their next meeting together with the names of such Merchants as they shall propose to be appointed Commissioners for Examining into and Settling the said Accounts.

1734.

[pp. 379, 465, 469.]

(1736.)

[Committee] Order by the Consent of all parties that it be referred to Sir John Barnard and Mr. Thomas Sandford Merchant on the behalf of the Appellants and Mr. Alderman Willimot and Samuel Holden Esqr. on behalf of the Respondents to take an Account of all Dealings and Transactions whatsoever between the said Samuel Appleton or the Appellant Tidmarsh as his Executor and the Respondent Brandon from the foot of the Stated Account Set forth in the Pleadings and bearing date the 24th of June 1728 And that for the better taking the said Account the Partys and the several Witnesses be Examined on Oath in such manner as the said Referrees or any two of them shall direct and to produce upon Oath before the said Referrees all Books of Accounts Papers and Writings in their Custody or Power relating to the matters in question or true Copys of so much thereof as relate thereto and in such manner as the said Referrees shall direct And the Lords of the Committee do hereby Desire the said Referrees or any two of them to proceed in this Affair, upon giving four days Notice and Report to this Committee what they shall think proper to offer thereupon —And the Lords of the Committee do Order that all further Directions be reserved till after the said Report shall be made.

7 June.

[p. 476.]

(1736.)

[By consent of both parties, Silas Hooper is accepted as a referee in place of Samuel Holden who declines to act.]

23 July.

[p. 505.]

(1737.)

[Order, in accordance with the Committee report of 22 Dec., confirming the decision of the referees that the order of August, 1733, be reversed] and that the Action brought by the Respondent Brandon be Dismist And that the aforementioned

19 Jan.

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1734. Sum of Five Hundred twenty one pounds one Shilling and Seven pence Current Money of New England be paid by the Respondent Brandon to the Appellant Giles Dulake Tidmarsh as Executor of Samuel Appleton And that the said Appellant be Allowed all his Costs in the Courts below to be taxed by the proper Officers in the said Courts.
[IV. pp. 241-5 ; V. p. 55.]
- 24 Oct. [320.] [Reference to the Committee for Appeals of the petition of the Hon. Nathaniel Crump and Nathaniel Gilbert, Esqrs., executors of Joseph Redhead late of Antigua, planter, deceased, for a short day for hearing their appeal from Chancery orders there of 9, 20, and 25 June and 23 July, 1733, in favour of Valentine Morris and William Yeamans, the surviving executors of William Glanvill, deceased.] [p. 21.]
Antigua. (1736.)
- 24 Nov. [Reference to the Committee of the appeal of Morris and Yeamans from the decree of 9 June, 1733, relating to the payment of a bond entered into by Redhead for paying Glanvill 1,383*l.* 5*s.* 2*½d.*] [V. p. 21.]
(1737.)
- 21 April. [Order, in accordance with Committee report of 4 April] that all proceedings subsequent to the Report of the Master of the Court of Chancery in Antigua of the 12th of May 1733 should be set aside and that the said Master should be directed to review his said Report as to the several Matters therein contained . . And that after the said Master shall have made his Report the said Court of Chancery in Antigua do proceed in this Cause in such manner as shall be just.
[pp. 165-177, 210.]
- 7 Nov. [321.] [Reference to the Committee for Appeals of the petition of John Waldo of Boston, distiller, to be admitted to appeal from judgments of the Inferior Court at Boston, 3 July, 1733, and of the Superior Court, 4 Aug., 1733,] upon an Action of Ejectment brought against the Petitioner in the Names of Samuel Waldoe Jonathan Waldoe, and Thomas Fairweather as Executors of Jonathan Waldoe deceased and of Edward Tyng
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1734.

and Anne his Wife as Executrix of the said Jonathan Waldoe to recover the possession of a Peice of Land and Still House in Boston with two Stills one containing 120 Gallons and the other 20 Gallons and two Worms and Worm Tubbs with all and Singular the Utensils and Appurtenances thereunto belonging as fixed in the said Still House. [p. 35.]

(1735.)
18 Mar.

[The Committee, on hearing all parties, recommend that no appeal be granted. The petition set forth] that the Petitioner having Mortgaged in Fee to Jonathan Waldoe Gent. since deceased the piece of Land in the Petition mentioned, under a proviso to be void on payment of two hundred and fifty pounds to the said Jonathan Waldoe his Heirs or Executors on or before the fifth of March 1729 The said Jonathan Waldoe dyed about June 1731 having made his Will and Devised (as the Petitioner apprehends) the said Mortgaged Lands to his Eldest Son Samuel Waldoe and made his said Son Samuel and his Son Jonathan Daughter Ann and Son in Law Thomas Fayrweather Executors and Complaining that on the 9th of June 1733 an Action of Ejectment was brought against the Petitioner in the Inferior Court of Common Pleas held at Boston aforesaid in the name of the [executors] to recover the possession of the said Premises but that the said Samuel Waldoe disavowed the said Action as a Plaintiff and the other Plaintiff declared they would maintain it without him, That the Petitioner Pleaded to the said Action and the Plaintiffs without taking Issue on the Facts pleaded, or demurring to the Petitioners Plea brought on their Actions to a hearing at the Settings which commenced on the 3d of July 1733 when the said Court overruled the said Petitioners and required the Petitioner to plead to Issue which he refusing the said Court gave Judgment that the Petitioner should pay the said Jonathan Thomas Edward and Ann 315*l.* 12*s.* 6*d.* in two Months with 5*l.* 4*s.* 6*d.* Costs, or in default thereof, that the said Plaintiffs as Executors as aforesaid should recover of the Petitioner possession of the Mortgaged Premises Sued for with

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1734.

Costs—That the Petitioner Appealed from the said Judgment And his Appeale came on to be heard before the Superior Court of Judicature at their Sittings begun the 14 day of August 1733 when the said Superior Court gave Judgment that the said Jonathan Thomas Edward and Ann as Executors of the said Jonathan Waldoe deceased, should recover against the Petitioner Possession of the Premises sued for with 16*l.* 8*s.* 0*d.* Costs unless the Petitioner should pay them 320*l.* within two Months after entring up the said Judgment with Costs That the Petitioner moved for an Appeale from the said last Judgment to Your Majesty in Council, which the said Court refused him . . . [IV. pp. 120-1.]

3 April. [Order accordingly.] [p. 145.]

7 Nov. [322.] [Reference to the Committee for Appeals of the petition of Gillam Philips of Boston, son and heir of Henry Philips of Boston, gent., deceased, for leave to appeal from an order of the Governor and Council of Massachusetts Bay, 2 Nov., 1733] Approving of a Division which had been made of the Real Estate of the said Henry Philips between the Petitioner his Mother and Sisters pursuant to two Orders of the Judge for Probate of Wills on the 6th of April and 15th of May 1733.

Massachusetts Bay.

(1737.) [p. 36.]

20 April. [The appeal was admitted on the usual security on 12 Feb., 1735, but the Committee order] that before a day be appointed for hearing the same the Solicitor for the Appellant do Satisfye their Lordships, that all the Respondents have been duly Summoned. [pp. 95, 100, 166, 186; V. p. 203.]

(1737.)

21 July. [Reference to the Committee of a memorial of Samuel Wilks, agent for Massachusetts Bay, setting forth that the judgment from which Philips appeals is] founded upon a General Law passed in that Province for Settling Intestates Estates That as the said Law hath been Constantly Observed and put in Practice ever since the same hath been passed and hath long since Obtained the Royal Approbation, [and praying]

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in behalf of the said Province that the Validity of the said Law may not be any ways drawn into Question on the hearing of the said Appeale or if it be that the General Court of the said Province may be heard by their Counsel in Support thereof and that nothing may be done to impeach the force and Validity of the said Law but that the same may remain and Continue in full force.

[V. p. 267.]

(1737.)

[Committee appoint 13 Jan. to hear the appeal, on which day they hear counsel and adjourn the case till 16 Jan.]

23 Dec.

[V. pp. 353, 374.]

(1738.)

[Committee report. The petition sets forth] that the said Henry Phillips being seized of a considerable Real Estate and also possesst of a large Personal Estate in Boston aforesaid dyed some time since intestate and without Issue leaving behind him his Mother Hannah Phillips Widow the Petitioner his only Brother his Sister Hannah Savage Wife of Habijah Savage Esqr. Faith Savage Wife of Arthur another Sister and the Representatives of Mary Butler deceased who was a third sister of the said Intestate that upon the Death of the said Henry Phillips that is to say on the 17th of July 1730 Administration of his Goods and Chattles Rights and Credits was granted to the Petitioner his only Brother who duly administred the Personal Estate that the Petitioners said Mother and Sisters and the Representatives of the said third Sister upon the death of the said Henry Phillips insisted that they were intituled to an equal distributory Share of the Intestates Real Estate with the Petitioner under two several Acts past in the said Province the one in the fourth Year of the Reign of their late Majestys King William and Queen Mary intituled an act in addition to and for the explanation of the Act for Settlement and Distribution of the Estates of Intestates, whereas the Petitioner insisted that he was by the Common Law of the Realm Solely intituled thereto as Heir at Law to his Brother and that no Act of that Province could vary the Common Law of the Realm or change or alter the

16 Jan.

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Course of Discents And that the said two Acts were void and Null for want of Power in the Assembly of the said Province to enact the same and the Petitioner refused to Distribute the said Intestates Real Estate That thereupon on the 6th of April 1733 The Judge of the Probate of Wills and granting Administrations made an Order empowering five Freeholders to make an equal Division of the said Intestates Real Estate between his Mother Brother and Sisters and their legal Representatives in five equal parts and upon the 7th of May 1733 the said five Freeholders made their Return of Division and Partition of the said Intestates Real Estate which was Valued at four Thousand pounds And they Divided the Estate into five parts and sett off and allowed one fifth for the Petitioner and one fifth a piece for his Mother and the two Sisters and the Children of the third Sister, which Return being presented to the Judge of Probates and Administrations he was pleased by his Order of the 15th of May 1733 to allow and approve thereof That the Petitioner conceiving himself aggrieved by the said Orders directing and approving the said Division and Distribution and also by the said Division and Distribution itself on the 10th of October 1733 preferred his Petition of Appeale therefrom to the Governor and Council of the Massachusetts Bay Assigning the three following reasons First That he was the only Brother and Heir at Law of the said Henry Phillips and as such the whole Real Estate of the said Henry Phillips by the Law of England Descended to him Second That the Power given the Province of making Laws was by their Charter expressly restrained so as the same be not repugnant or contrary to the Law of the Realm of England But that the Act of the fourth of King William and Queen Mary for Distribution of Intestates Real Estates and the proceedings of the Judge of the Probates and Administrations grounded thereon was repugnant or contrary to the Laws of the Realm of England and consequently ipso facto Void And Third That by the Law no Judge of Probate had any thing to do with Real Estates or the Crown of Descents

The Right and Trial thereof appertaining to the Kings Courts and therefore in the Form of the Letters of Administration no Power was Delegated to the Administrator concerning the Real Estate And therefore the Petitioner by his said Petition to the Governor and Council prayed Reversion and Costs That the Petitioners said Appeal came on to be Argued before Your Majestys Governor and Council of the said Province on the 2d of November 1733 when the Court Affirmed the said Order of the said Judge of Probates for Dividing the Real Estates of the said Henry Phillips among his Mother Brother and Sisters That the Petitioner conceiving himself greatly aggrieved by the Order made by the Governor and Council on the 6th of November 1733 preferred his Petition to the said Governor and Council praying leave to Appeale from the said Order of the 2d of November 1733 to Your Majesty in Council on entering into the usual Security, upon reading which Petition the same was Ordered to be Dismist That the Petitioner thereupon applyed by Petition to Your Majesty in Council to be Admitted to an Appeale from the said three Orders . . The Lords of the Committee having on the 13th of this Instant and again on this day fully heard the said Appellant and also Faith Savage one of the Respondents by their Council learned in the Law (the other Respondents not appearing tho' duly Summoned in New England) And their Lordships having likewise fully Examined and maturely Considered all the Proceedings in this Cause humbly represent to Your Majesty that it appeared to their Lordships that the Act of Assembly aforementioned Intituled an Act for the Settlement and Distribution of the Estates of Intestates was passed in the said Province of the Massachusetts Bay so long since as the Year 1692 soon after the New Charter of Incorporation was granted to the said Province by King William and Queen Mary And that the said Act was Ratified and Confirmed on the 22d of August 1695 by the then Lords Justices in Council and that several other Acts of Assembly in Addition thereto and Explanatory thereof have been since .

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passed in the said Province of the Massachusetts Bay and particularly An Act passed there so lately as the Year 1731 Intituled An Act in Addition to the Act Intituled An Act for the Settlement and Distribution of the Estates of Intestates, which last Act appears to have been confirmed by Your Majestys Order in Council of the 27th of January 1731 And their Lordships further humbly Represent to Your Majesty that by Certificates under the hands of Josiah Willard Esqr. Judge of the Court of Probate of Wills and for granting Letters of Administration &c. in the said Province and of John Boydell Register of the said Court duely transmitted under the Seal of the said Province the last of which Persons had been possessed of the said Office of Register from the Year 1717 and certified that he had carefully Examined the Records of the said Court from the Year 1692 It appeared to their Lordships that from that time it had been the Constant usage for the several Judges of the Court of Probates &c. to cause the Estates of all Persons dying Intestate to be distributed pursuant to the Tenour and according to the Direction of the said several Acts of Assembly. Their Lordships Do therefore Agree humbly to Report as their opinion to Your Majesty that the said three Orders and the Division made under the same now Appealed from be Affirmed and that the said Appeal be Dismist.

(1738.)

[V. pp. 375-8.]

15 Feb.

[Order accordingly.]

[p. 424.]

19 Dec.

Rhode
Island.

[323.] [Reference to the Committee of a representation of the Governor and Company of Rhode Island] setting forth that there has been a long Controversy between them and the Province of the Massachusetts Bay about the Eastern Bounds of the said Colony and therefore humbly praying that His Majesty will be graciously pleased to Determine the same and that in the Interim Instructions may be given to prevent any Violent attempts for the future by either party on the Inhabitants of the lands in Dispute.

[p. 49.]

(1735.)

13 Jan.

[Referred by Committee to Board of Trade.]

[p. 80.]

[Committee order copies of the Board of Trade report to be given to both parties.] 1734.
(1738.)
19 May.
(1738.)

[Reference to the Committee of the petition of Francis Wilks, agent for Massachusetts Bay,] that he may be heard by his Council against the Issuing any New Commission for ascertaining the Eastern Boundaries between that Province and the Colony of Rhode Island And that the Settlement and Determination thereof made in 1664 by Commissioners appointed by King Charles the Second may stand And that the Petition of the Governor and Company of Rhode Island may be dismissed. 20 July.
[V. p. 598.]

[Committee order the report and petition to be heard on 1 Nov.] (1738.)
26 Oct.
[VI. p. 10.]
(1738.)

[Committee report. The Board of Trade report] that they have been attended by the Agents of the respective Colonys and their Counsel and upon hearing what they had to offer on each side, it appeared to them, that this matter has been contested at different times ever since the Year 1664 and that so lately as in the Year 1733 both Provinces being sensible of the Inconveniencys that might arise for want of a final Settlement in this matter, did by their respective Acts of Assembly, each of them appoint three indifferent Persons to decide the matter in Question, with a Power if they could not agree to name a Seventh as an Umpire between them; That these Commissioners accordingly met, but could neither agree in Settling the Boundaries nor in the Choice of a Seventh Person, wherefore the said Lords Commissioners are of Opinion, that the most effectual Method for putting an end to this Dispute will be by Your Majestys Appointing and Authorizing Commissioners to be Chosen from out of the neighbouring Provinces in America, to meet within a Limited time, and mark out the Dividing Line between the said Province of the Massachusetts Bay and Rhode Island Eastward and that in the mean time Your Majesty may be graciously pleased to 1 Nov.

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send Orders to the Governors of the respective Provinces, that the People may continue in the Peaceable Possession of their Property without Molestation on either side.

[On considering this report and Wilks' petition, the Committee recommend] that the said Petition of the Agent of the Massachusetts Bay ought to be rejected, And that Your Majesty will be pleased to Authorize Commissioners, to be appointed out of the Neighbouring Provinces of America, to Settle the said Boundaries, and that Your Majesty will be pleased to Order the Governor of the said Provinces respectively to take care that the People in the mean time do continue in the Peaceable Possession of their Property without Molestation on either side according to what is proposed in the Report of the said Lords Commissioners for Trade and Plantations.

And the said Petition Appearing to the Lords of the Committee to be frivolous and Vexatious and to have been preferred only with intent to delay and prevent the Settling of the Boundaries of the said Provinces, Their Lordships humbly conceive it may be necessary in Order to prevent such frivolous and Vexatious applications for the future which tend not only to Delay and interrupt the Course of Proceedings but also to bring unnecessary Expences upon those who are obliged to Defend themselves against such Applications That Your Majesty may be pleased to Order that the Lords of the Committee of Your Majestys most Honourable Privy Council for Plantation Affairs do not proceed upon any Applications by Petition or otherwise, praying to be heard against any Determinations of the Lords Commissioners for Trade and Plantations upon any matters which have or shall be referred to them by Your Majesty in Council or by the Lords of the Committee for Plantation Affairs, upon which it shall Appear that the said Lords Commissioners have heard the Persons concerned, either by themselves their Counsel or Agents unless such Petitioner or Petitioners or some Person in his or their behalf Do first Enter into some Sufficient Security to pay such Costs as shall be awarded by Your Majesty in Council thereupon

1734.

And their Lordships do further humbly propose that Your Majesty may be pleased to Order the same Rule to be Observed in all cases, which shall Come before the said Committee of Council in consequence of any Commissions that may have been or shall hereafter be issued by Order of Your Majesty in Council for Settling or Adjusting any Boundaries or other Special matters in Dispute in any of Your Majestys Colonys of Plantations in America.

[VI. pp. 13-15.]

(1738.)

[Orders accordingly.]

[VI. p. 36.]

30 Nov.

[Committee. The Board of Trade to lay before the Committee the names of persons proper to be Commissioners.]

(1738.)

1 Dec.

[VI. p. 53.]

(1739.)

[Committee recommend approval of the nomination by the Board of Trade of] the five Eldest Councillors of the three Neighbouring Provinces Vizt.—Cadvallader Colden, Abraham Vanhorn Philip Livingston, Archabald Kenneday and James De Lancey Esqrs. for the Province of New York.—

12 Jan.

John Hamilton, John Wells John Reading Cornelius Vanhorn and William Provost Esqrs. for the Province of New Jersey.—

William Skene William Shirreff Henry Cope, Erasmus James Phillips and Otho Hamilton Esqrs. for the Province of Nova Scotia which last mentioned Gentleman the said Lords Commissioners have Substituted in the Place of Major Paul Mascarine who was formerly left out by Your Majesty on a like Occasion because he had an Estate in the Province of the Massachusetts Bay.

[VI. p. 72.]

(1739.)

[Order accordingly.]

[VI. p. 80.]

17 Jan.

(1740.)

[Committee order, referring it to the Board of Trade to hear parties on a petition of the Governor and Company of Rhode Island as to the issuing a commission for settling the boundaries agreeable to the heads thereto annexed, praying that the Massachusetts agent be required to attend to declare his objections, if any, and that the whole charges of the

6 May.

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commission be borne in equal moieties by the said colony and province. The Board of Trade are thereupon to submit a draft of such heads and clauses as they shall think proper to be contained in the commission.] [VII. p. 46.]

(1740.)

26 June. [Committee order for delivering to the parties copies of the Board of Trade report and draft of heads for the commission.]

(1740.)

[VII. p. 132.]

1 July.

[Committee report submitting the draft articles for approval, and proposing that circular letters be sent giving notice of the commission to the Governors of the provinces whose senior councillors are to act as Commissioners, intimating the time and place of meeting of the Commissioners and directing them to recommend it strongly to such of the Commissioners as are able to go and attend this duty. It is also proposed that letters be sent to the Governors of Massachusetts Bay and Rhode Island to recommend to their Councils and Assemblies] to appoint two of their Publick Officers residing in the said Province and Colony on either of whom or at whose Place of Abode any Notices Summons or final Judgment of the said Commissioners may be served or left And to send the Names and Places of Abode of such Officers to the said Commissioners at their first Meeting together with a Plan and full State of their Demands or pretensions in Writing describing where and in what Places the Boundaries between the said Province and Colony ought to begin and what Courses and how far the same ought to run respectively. And to acquaint them that in case of their Omission so to do the said Commissioners are empowered to proceed Ex partê.

Draught of Heads and Clauses proper to be contained in a Commission for the Settling and Adjusting the Boundaries between the Province of the Massachusetts and the Colony of Rhode Island.

1. Whereas a Dispute hath been long subsisting between His Majestys Province of the Massachusetts Bay and His Colony of Rhode Island in America relating to the Eastern Boundaries of the said Colony towards the said Province.

2. His Majesty therefore doth Nominate Authorize and appoint [as Commissioners the Councillors proposed by the Committee on 12 Jan., 1739, or any five or more of them].

3. His Majestys Will and Pleasure therefore is that the said Commissioners do repair by the first convenient Opportunity to the Town of Providence within the said Colony being most conveniently Scituated for that Purpose and there hold there first Meeting on the First Tuesday in March which shall be in the Year of Our Lord 1740-41 from which Day and any future Days of Adjournment they may Adjourn to such time and times as may be most convenient for them.

4. That in case five of the Commissioners shall not be present on the said first Tuesday in March 1740-41 or on any other Day of Adjournment then such or a Majority of such of them as shall be present shall and may Adjourn the further Execution of this Commission in manner aforesaid.

5. That at their first meeting they do make choice of One or more Clerk or Clerks to enter their Minutes and Proceedings and at the first Meeting where five or more shall be present that they do make choice of one or more Skillful Persons to prepare Draughts or Plans of the County or Boundaries as there shall be from time to time Occasion.

6. That they do Administer to such Clerks or other Persons as they shall Employ an Oath (or if they shall be of the People called Quakers an Affirmation) for the due and faithfull Execution of their Trusts.

7. That of the Commissioners present at any Meeting he who is first Named in the List of Commissioners shall Preside at such Meeting and shall issue out the necessary Summons for such Witnesses as either Party shall require.

8. That the said Commissioners do use all convenient Dispatch in this Affair.

9. That all Determinations be made by a Majority of the Commissioners who shall be present at the respective Meetings Provided there shall be then Present five or more of the said Commissioners.

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10. That in case either the said Province of the Massachusetts Bay or the said Colony of Rhode Island shall neglect to send to the Commissioners at the first Day of Meeting of the Commissioners the Names and Places of Abode of two of their Publick Officers residing in the respective Province and Colony on either of whom or at whose Place of Abode any Notice Summons or final Judgment of the said Commissioners may be served or left And in Case either the said Province or the said Colony shall neglect to send to the said Commissioners at the first day of Meeting of the Commissioners a plain End and full State in Writing of the Demands or Pretensions of the said Province and Colony respectively where and in what Places the Boundaries of the said Colony Eastwards ought to begin and what Courses and with what Variation and in what manner and how far the same ought to run (to the End that Copys thereof may be mutually Exchanged in Order to prevent any unnecessary Delay and that each Party may come fully prepared) then in either of those cases the said Commissioners or any five or more of them to Proceed *Ex partê*.

11. That no Witness or Witnesses be allowed of by the Commissioners to give Evidence but such as shall be Sworn (or being of the People called Quakers shall take a Solemn Affirmation) before the Commissioners in open Court (which Oath or Affirmation the Commissioners or any five or more of them are hereby impowered to Administer).

12. That all Interrogatorys and Questions which shall be put to such Witnesses before the Commissioners shall be set down in Writing and that the whole of what such Witnesses shall Offer to the Commissioners shall also be set down in Writing by the said Clerk or Clerks in the Presence of the Commissioners and of the respective Witnesses and that the same be read over to and Signed by the respective Witnesses.

13. That the Commissioners shall appoint such time as they shall find reasonable within which all the Witnesses on each side shall be produced to be Examined.

14. That Entryrs be made of all Charters, Grants, Deeds, Evidences, Proofs and Plans received by the Commissioners in this affair and also of all the Commissioners Proceedings and Resolutions throughout the same and that such Plans Maps or Draughts of the Boundary Lines as shall be agreed upon by the Commissioners be annexed to and made part of the Commissioners Determination.

15. That when the Commissioners shall have made their final Determination and Signed the same a Copy thereof shall be forthwith sent to such Publick Officer or Officers as beforementioned in the said Province and Colony respectively, together with Notice of another Meeting to be held by the Commissioners at the Distance of two Months or at such further reasonable time not exceeding three Calendar Months as the Commissioners shall appoint.

16. That at such future Meeting the said Province and the said Colony respectively or either of them who shall find themselves aggrieved may enter their Appeal to His Majesty in His Privy Council with a Declaration what Parts of the Determination of the Commissioners they respectively Abide by or Appeale from.

17. That if the said Province or the said Colony shall not enter their respective Appeale or Exception against such Determination at such last Meeting then no Appeale or Exception shall be afterwards received or admitted from such of the Partys who shall Omit to enter their respective Appeals or Exceptions at such last Meeting of the Commissioners And in case neither the said Province nor the said Colony shall then enter any Appeale or Exceptions the Determination of the Commissioners (being confirmed by His Majesty in Council) shall be final and conclusive to both the said Province and Colony.

18. That the said Province and the said Colony be permitted to take out at their own respective Expence Copys of the whole Proceedings, Proofs, Exhibits, Plans and all other Papers and Writings in this Affair to be Attested by three or more of the Commissioners.

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19. That the Commissioners do return a fair Copy of the whole Record attested by three or more of them to His Majesty in Council.

20. That the Charge of this Commission and of the carrying it into Execution and of the Commissioners their Clerks, Surveyors, and Officers be born and paid in equal Moietys by the said Province and the said Colony. [VII. pp. 135-140.]

(1740.)

10 July. [Orders accordingly. The Attorney and Solicitor General to prepare a draft commission agreeable to the proposed heads inserting any other articles tending to the better carrying into execution of the intentions of the Lords Justices in Council. The Board of Trade to write the letters to the Governors.] [VII. p. 154.]

(1740.)

14 Aug. [The commission, which was referred to the Committee on 31 July, and approved of by them on 13 Aug., is approved. P.R.]

(1742.)

[VII. pp. 185, 193, 197.]

29 July. [To the Committee for Appeals is referred the appeal of the Governor and Company of Rhode Island] from several Particular Parts of the Determination of the Commissioners.

(1742.)

[VIII. p. 204.]

15 Sept. [The appeal of Massachusetts Bay against every part of the said determination is similarly referred.] [VIII. p. 235.]

(1744.)

11 Dec. [The Committee, after meeting on 6 Nov., 13 Nov., and 26 Nov., recommend dismissal of both appeals, and confirmation of the determination of the Commissioners, which was pronounced on 30 June, 1741, in the following words]:—The Court took into Consideration the Charters Deeds and other Evidences, Claims, Pleas, and Allegations produced and made by each Party referring to the Controversy before them, and after mature Advisement, came to the following Resolutions—That there is not any One Evidence proving, that the Water between the Main Land on the East and Rhode Island on the West, was ever at any time called Narraganset River—That though there be Evidencè, that the Place where the Indian

called King Philip lived near Bristol was Pauconoket, and that another Place near Swansey was called Sowams or Sowamsett, Yet no Evidence has been produced of the Extent of the Pauconoket Country to Seaconk or Pautucket River as it runs to the Line of the late Colony of the Massachusetts Bay ; For though there be some Evidence, that the Indians at Enmity with King Philip, or with other Indians in Amity with him, lived on the West Side of the said River, and that the Indians Subject to King Philip, or in Amity with him, lived on the East Side of the said River, there is no Evidence that all the Indians Subject to, or in Amity with King Philip lived in the Pauconoket Country—That the Province not having produced the Letters Patent constituting the Council of Plymouth, nor any Copy thereof, the Recital of said Letters Patent in the Deed from the Council of Plymouth to Bradford and his Associates is not sufficient Evidence against the Kings Charter—That the Council of Plymouth being a Corporation, could not create another Corporation, and that no Jurisdiction within the Kings Dominions in America can be held by Prescription, or on the Foot of Prescription—That the Determination of the Boundaries of the Colonys of Rhode Island and New Plymouth by the Kings Commissioners in the Year 1664 appears to have been only a Temporary Order for preserving the Peace on the Borders of both Colonys without determining the Rights and Titles of either Upon the whole nothing appears whereby the Colony of Rhode Island and Providence Plantations can be barred or hindred from extending their Jurisdiction Eastward towards the Province of the Massachusetts Bay according to the true Intent and Meaning of their Charter—But some Dispute having arisen between the Partys, as to the true Construction and Meaning thereof, The Court is of Opinion, That the Narragansett Bay, is, and extendeth itself from Point Judith on the West to Seaconet Point on the East, and including the Islands therein, layeth and extendeth itself unto the Mouth of the River which runneth towards the Town of Providence, and that as it so

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lies or extends, it has, and may be considered as having, One Eastern Side, as the Eastern Coast of the said Bay runs up Northerly from Seaconet Point, And one other North Eastern Side, from near Mount Hope to Bullocks Neck, as the said Bay runs up North Westerly towards the Town of Providence—And that the Lands adjacent to the said North Eastern and Eastern Coasts, and included within the following Lines, and the said Bay, are within the Jurisdiction of the Colony of Rhode Island Vizt.—On the North East Side of the said Bay—One Line running from the South West Corner of Bullocks Neck North East three Miles—One other Line running from the North East extremity of said Line until it be terminated by a Line three Miles North East from the North Eastermost part of the Bay on the West side of Rumstick Neck—And one other Line from the Termination of the last Line to the Bay, at or near Towoset Neck, running so that it touch the North East Extremity of a Line running three Miles North East from the North East Corner of Bristol Harbour—And on the Eastern Side of the said Bay—One Line from a certain Point on the Eastern Side of the said Bay opposite to the Southermost Part of Shawomet Neck and Four hundred and Forty Rod to the Southwards of the Mouth of Fall River running East three Miles—One other Line running from the Eastermost Extremity of the said Line till it be terminated by the Eastermost End of a Line, three Miles East from the Eastermost Part of a Cove in the said Bay which is to the Southward of Nanequaket—And one other Line from the Termination of the last Line to the Sea, running on such Course as to be three Miles East from the Eastermost Part of the Bay adjoining to Scitehawest on Rhode Island—And that the said Distances of three Miles East and North East are to be Measured from High Water Mark—And this Court doth hereby Settle, Adjust and Determine, that the Eastern Boundary of the said Colony of Rhode Island and Providence Plantations towards the Massachusetts Bay, is, shall be, and runs from a certain Point (where a Meridian Line passing thro' Pautuokot

1734.

Fall, cuts the South Boundary of the Colony of Massachusetts Bay) South to Pautucket Falls, Then Southerly along the Eastward Side of Seaconte River, and the River which runneth towards the Town of Providence to the South West Corner of Bullocks Neck Then North East three Miles, and then along the aforesaid Lines running at three Miles Distance from the Eastermost Parts of the said Bay, to the said Bay at or near Towoset Neck—Then as the said Bay runs to the Southermost Point of Showomat Neck, And then in a Streight Line to the aforesaid Point opposite the said Neck, then East three Miles, and then along the aforesaid Lines running at three Miles Distance from the Eastermost Parts of the said Bay to the Sea—All which Lines are to be run by making the proper Allowance for the Variation of the Magnetic Needle from the Miridian—And for the better understanding of the Description of the Lines beforementioned, The Court hath caused the Boundary Lines of the Lands adjacent to the most Eastern and North Eastern Parts of the said Bay, to be delineated on the Map or Plan of the said Bay and Countries Adjacent now in Court, and the same are distinguished on the said Map or Plan, by, A, B, C, D, E, F, G, H. [IX. pp. 595-597.]

(1746.)

27 Feb.

[To a Committee is referred the petition of Christopher Kilby, agent of Massachusetts Bay] praying for the reasons therein contained that His Majesty will be graciously pleased to Order a Plan transmitted to the Lords Commissioners for Trade and Plantations in the Year 1720 by the Government of Rhode Island of the Boundaries of that Colony, and also several Acts of Assembly of the Massachusetts Bay for Erecting New Townships, and now laying amongst His Majestys Records, to be laid before His Majesty previous to His Majestys taking the Report of the Lords of the Committee of Council of the 11th of December 1744, relating to the Boundaries, into His Royal Consideration, and that thereupon His Majesty will be pleased to reverse the Judgment of the Commissioners appointed to Settle the Boundaries of the 30th of June 1741

1734.

and to Affirm a Judgment of the Commissioners appointed to Settle the Boundaries in 1664 and to Order the great River called Narraganset to be the Eastern Boundary of Rhode Island agreeable to the Claim of the said Province and the Determination of the said first Commissioners in 1664 or else that His Majesty will be graciously pleased to issue a New Commission to review the Determination of the said last Commissioners that so the said Province may have an opportunity of laying the said Plan and Acts in Evidence before them and which the Petitioner submits as the more reasonable in regard the Determination of the first Commissioners in 1664 is fully in Favour of the said Province, so that at present there are two Determinations of different Commissioners clashing with each other which the Petitioner apprehends is the strongest Reason possible for a Commission of Review, Or that His Majesty will be graciously pleased to make such other Order in the Premises as His Majesty in His Royal Wisdom shall think proper and as the Nature and Circumstances of the Case shall require. [X. pp. 367-8.]

(1746.)

27 Feb.

[Similarly referred is the petition of Richard Partridge, agent for Rhode Island, praying that the petition of the Massachusetts agent] may be rejected as a Precedent of the most dangerous Consequence, and that the said Report may be laid before His Majesty in Council for His Royal Pleasure, in the same manner as, and according to the constant Course of Proceedings in all other Judicial Appeals whatsoever.

(1746.)

[X. p. 368.]

21 April.

[The Committee consider both petitions,] and were attended by Counsel thereupon and think it proper on this occasion humbly to observe to Your Majesty that both the said Provinces were very fully heard in all they had to offer upon their Appeals beforementioned from the Determination of the said Commissioners at four several Meetings of this Committee Vizt. on the 6th 13th and 26th of November and the 11th of December 1744, at which times full Liberty was

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given to either side to lay all proper Evidence before this Committee And the Committee did thereupon Agree in Opinion that both the said Appeales should be Dismissed and that the Determination of the Commissioners of the 30th of June 1741 should be Affirmed, and a Report was accordingly drawn up on the said 11th day of December to be laid before Your Majesty in Council for Your Royal Approbation ; That the present Petition of the Massachusetts Bay is calculated with a view to induce Your Majesty to postpone Your Royal Approbation of the Report so made by this Committee for the final Determination of this Affair and by means thereof not only to keep alive the Disputes that have already Subsisted too long between the said Provinces, but at the same time to endeavour to introduce a New Method of proceeding at this Board by admitting of Rehearings or otherwise to have a Commission to Review this matter after it had been so fully heard before this Committee and Our Opinion given thereupon That as they could not produce any Precedents of Appeales being Reheard before this Board (all Attempts formerly made for that purpose having been constantly discountenanced as being attended with dangerous consequences) And as they did not lay any new matter of Evidence before this Committee, Their Lordships Agree humbly to Report to Your Majesty, that they do abide by their former Opinion, That the Judgment or Determination of the Commissioners appointed to Settle the Boundaries of the 30th of June 1741 should be Affirmed and both the Petitions of Appeale therefrom be Dismissed—

[X. pp. 452-3.]

(1746.)

[The report of 11 Dec., 1744, is confirmed, and the petition of Kilby dismissed.]

28 May.

[pp. 492-3.]

[324.] [Reference to the Committee for Appeals of the petition of Charles Price and Sarah Price, widow, both of Jamaica, that, as the proceedings are transmitted, a short day be appointed for hearing their appeal from a decree of the Governor

19 Dec.
Jamaica.

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as Chancellor, 30 April, 1733, in favour of Ann Price, relating to the estate of Thomas Price, Esq., deceased.] [*p.* 51.]

(1736.)

21 July. [Committee appoint 23 July to hear the appeal.] [*p.* 500.]

(1736.)

23 July. [Committee. Peremptory order that the appeal be heard on 2 Nov.] Memo. The Partys having agreed all Matters in Dispute on this Appeale the Committee did not hear it. [*p.* 506.]

19 Dec.
Massachu-
setts Bay.

[325.] [Reference to the Committee for Appeals of three petitions of Samuel Waldo that, as the proceedings are transmitted, a short day be appointed for hearing his three appeals from judgments given upon actions brought (*a*) by Thomas and Hannah Fairweather, (*b*) by Jonathan Waldo, and (*c*) by Edward and Ann Tyng, against the appellant to render an account of all money in his hands belonging to Jonathan Waldo, deceased.] [*pp.* 51-2, 84, 106, 109, 122.]

(1735.)

20 Mar. [Committee report. In the original action the plaintiffs charged that Jonathan Waldo] by his Will had given to the Petitioner Samuel Waldoe five thousand pounds to be taken out of the Stock and Personal Estate of the Testator in his hands which the Plaintiffs averred amounted to 12,245*l.* 12*s.* 8*d.* And after Several other Legacys had devised the Residue of his Estate unto his Children the said Samuel Waldoe and Jonathan Waldoe Hannah Wife of the said Plaintiff Thomas Fayrweather and Ann then the Wife of Edward Tyng in equal parts to be divided, and had made the said Samuel Jonathan Ann and the said Thomas Fayrweather Executors And that the Petitioner Samuel had received of the Estate of the said Testator since the Testators decease several Sums therein mentioned amounting with what he had in his hands at his Fathers decease above the 5,000*l.* Legacy to 13,649*l.* 15*s.* 8*¼d.* And that the Plaintiff Thomas as Executor as aforesaid had of the Clear Estate of the Testator in his hands only the sum of 1,465*l.* 10*s.* 9*d.* And that the two other Executors had also

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in their hands each the like sum of 1,465*l.* 10*s.* 9*d.* of the Clear Estate of their said Testator and no more And therefore the said Plaintiffs demanded of the said Samuel Waldoe an Account of the aforesaid Money in his hands and payment of their Equal and rateable part thereof so as with the said 1,465*l.* 10*s.* 9*d.* then in the Plaintiffs hands to make up and Compleat their Residuary Legacy of one fourth part of the Residue of the Testators Estate That the Petitioner put in a Demurrer to the said Action and the Plaintiffs replied thereto but the said Court refused to receive the Replication and the said Demurrer came on to be heard before the said Court at their Sittings begun the first Tuesday in July 1733 when the said Court overruled the said Demurrer and Directed the Petitioner to plead to Issue which he refusing the said Court gave Judgment that the said Thomas Fayrweather and Hannah his Wife should recover against the Petitioner the sum of 3,046*l.* 1*s.* 2*¾d.* Money Damage and Costs of Suit which were taxed at 2*l.* 1*s.* 0*d.* That the Petitioner Appealed from the said Judgment to the next Superior Court of Judicature for the said County and pending the said Appeale the said Thomas Fayrweather (one of the Originall Plaintiffs) died having first made his Will and Hannah Fayrweather his Widow and John Fayrweather his uncle Executors thereof who proved the same That the said Appeale came on before the said Superior Court at their Sittings which begun on the Second Tuesday in August 1733 when the said Superior Court adjudged that the said former Judgment should be Confirmed And that the said Hannah Fayrweather and John Fayrweather qualified as aforesaid should recover against the Petitioner the sum of 3,046*l.* 1*s.* 2*¾d.* Money Damage and Costs taxed at 9*l.* 5*s.* 0*d.* And the said petitioner having Appealed from the said last Judgment to Your Majesty in Council prays that both the said Judgments of the said Inferior Court and Superior Court may be reverst. [The Committee recommend that the appeal be dismissed] and that both the said Judgments be Affirmed there being no Exceptions taken in the Courts below for want

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of partys, And there being two other Actions of the like Nature brought by the two Executors, which were heard in the said Superior Court at the same time with the said Action brought by the said Thomas Fayrweather and Hannah his Wife.

[Similar reports are made on 7 and 20 March respectively on the other appeals.] [pp. 115-6, 122, 123-5.]

3 April. [Orders accordingly dismissing the appeals.] [p. 144.]

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9 Jan. [326.] [Reference to the Committee of a letter received by
St. Cruz. the Earl of Wilmington, President of the Council, from Lord Harrington, Secretary of State,] acquainting him that the Island of St. Cruz in America has been Sold by the French to the Danish West India Company, and that a Contract has been made and Concluded for the Sale thereof, in Pursuance of which contract the Danes have sent a Ship to the said Island to take possession of it, and to plant a Colony there.

[p. 70.]

6 Mar. [Referred by Committee to Board of Trade] to examine what Right the Crown of Great Britain may have to the said sland and make report thereof to this Committee. [p. 114.]

9 Jan. [327.] [Reference to a Committee of the] Petition of William
South Chapman Knt. and Bart. John Bristow Esq. Joseph Chitty
America. Edward Gibbon Alexander Hume Francis Salvador Junr. and Alvaro Lopos Swasso of London Merchants of severall other Persons whose Names are thereunto Subscribed in behalf of themselves and of Several Merchants and others His Majestys Subjects setting forth that there is a Tract of Land on the South Continent in America bordering on the Sea about 800 Miles in length which was never in the possession of any Christian Prince or State and that a Discovery hath been lately made in the said Country of a Place which is above 400 Miles Distant from any European Settlement and abounds with all necessarys for the Support of life and from whence by its Situation His Majestys Subjects may carry on a Trade

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to that Continent without depending on any other Nation Wherefore the Petitioners humbly with the Assistance of other Merchants to Settle and Establish a Colony therein at their own Expence and to that end they most humbly pray His Majesty to grant them a Commission empowering them and such other Persons as shall be Assisting them in this enterprise to take possession of and Settle the said Discovered Country and also to grant unto them the said Place and Country so to be possessed and Settled together with all Mines of Gold Silver, and precious Stones that shall be found therein rendring unto His Majesty his Heirs and Successors the usual Part and Proportion thereof with such other Clauses to be inserted therein as His Majesty shall think fit. [p. 72.]

[Referred by Committee to Board of Trade.] [p. 81.] 13 Jan.

[The Committee report that it is not advisable to grant the petition, the Board of Trade having discoursed with the petitioners and reported] that this Tract of Land is Scituate in the Country of the Brazils and that it is uncertain from the Evidence laid before them whether there are not Settlements already made on the said Land. 25 June. [p. 184.]

[The petition dismissed.] [p. 204.] 9 July.

[328.] [To the Committee is referred a New Hampshire Act of 3 Dec., 1730, for removing three of the Courts of General Quarter Sessions of the Peace and Inferior Court of Common Pleas from Portsmouth to Exeter, Hampton and Dover, together with the Board of Trade representation recommending its disallowance.] 9 Jan. New Hampshire. [p. 71.]

[Committee agree with Board of Trade that the Act should be repealed,] in regard there does not appear any reason for removing the abovementioned Courts from Portsmouth which is the Capital of New Hampshire and much more Populous than any other Town in that province and also in regard to the great Number of Saw Mills Erected at Exeter Hampton and 7 Mar.

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Dover which might give great Encouragement to the Destruction of Your Majestys Woods because these Towns being the Chief Seats of the Loggers or Wood Cutters it would be very difficult if not impracticable to find a Jury there who would give an impartial Verdict betwixt Your Majesty and the Offenders. [p. 117.]

3 April. [The Act disallowed.] [p. 141.]

9 Jan. [329.] [To the Committee is referred a New Jersey Act of New Jersey. 16 Aug., 1733, for the better enforcing an ordinance made for establishing fees and for regulating the practice of the law, with the Board of Trade representation recommending its disallowance.] [p. 71.]

7 Mar. [Committee agree that the Act should be repealed as it contains no suspending clause as required by the Governor's instructions and also] in regard the same is of an Extraordinary Nature containing many absurd Clauses and provisions that vary from the Law of England and tend to Weaken the Security of the Creditor. [p. 116.]

3 April. [The Act disallowed.] [p. 142.]

9 Jan. [330.] [Reference to the Committee of the petition of John Antigua. Yeamans, agent for Antigua,] setting forth that the Act for laying a Duty of one pound of Pistoll powder per Ton on every Vessell that enters and Clears in that Island will expire in February next and that therefore another Act is now preparing for the same purpose But apprehending that the Governor will refuse to give his assent thereto from the restraint he is under by His 23d Instruction the Petitioner therefore most humbly prays that His Majesty will be pleased to permit the said Governor to pass a New Law, under such Restrictions as His Majesty shall think fit. [p. 74.]

13 Jan. [Referred by Committee to Board of Trade.] [p. 80.]

13 Feb. [Committee agree with Board of Trade that it may be advisable to permit the Governor to assent to such an Act for

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three years,] provided care be taken to Oblige the Proper Officer for collecting this duty to receive it in kind only if Gunpowder may possibly be procured and likewise that he be in that case restrained from commuting Gunpowder for Money. [The Board of Trade are directed to prepare an instruction accordingly.] [p. 105.]

[Committee report with draft instruction.] [p. 117.] 7 Mar.

[The instruction approved. P.R.] [p. 140.] 3 April.

[331.] [Reference to the Committee of a Board of Trade representation of 19 Dec. on the petition of Robert Hume in behalf of himself and others] praying that the Governor of South Carolina might be Directed to pass Grants of certain Lands within that Province which had been Surveyed for them in Order to Enable them to try the Validity of some Old Dormant Patents for Lands and of the Surveys made under Colour thereof. [p. 101.] 12 Feb. South Carolina.

[Committee. Copies of the representation to be delivered to the parties.] [p. 106.] 13 Feb.

[Reference to the Committee of Hume's petition to be heard on the Board of Trade representation.] [p. 149.] 3 April.

[Reference to the Committee of the petition of Peregrine Fury, agent for the colony, to be heard in favour of that part of the representation,] Whereby the said Lords Commissioners Submitt it to His Majesty wether it might not be reasonable that the several Claims or pretensions of the said Hume and others whether legall or Equitable should not be examined and adjudged by the Barons of His Majestys Court of Exchequer lately erected in South Carolina in a Summary way with as Little Expence as possible to the Suitors previous to the Issuing the Grants prayed for by the said Hume and others. [p. 163.] 16 May.

[332.] [Reference to the Committee of the] Petition of the Minister Elders and Members of a German Lutheran Congregation Settled in the Prince of Oranges County, (formerly called 12 Feb. Virginia.

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Spotsylvania County) in Virginia humbly praying for the reasons therein contained that His Majesty would be graciously pleased to give His Royal Instructions to the Governor of the said Province of Virginia to recommend to the Council and Assembly to renew part of an Act past in that Province in 1720 to Exempt them from the paying of all Parish Levys during such time as His Majesty shall seem meet.

[p. 102.]

13 Feb. [Referred by Committee to Board of Trade.] [p. 106.]

7 Mar. [Committee agree to the renewal for ten years of the exemptions granted in the 1720 Act for erecting the counties of Spotsylvania and Brunswick for ten years or till they should maintain a minister of their own, and order the Board of Trade to prepare draft instructions accordingly.] [p. 118.]

18 Mar. [Committee report with draft instruction.] [p. 120.]

3 April. [The instruction approved. P.R.] [p. 140.]

12 Feb. [333.] [Reference to the Committee of the petition of the
Montserrat. Council and Assembly of Montserrat, that, as the island is in a defenceless condition, some cannon, small arms, stores and ordnance may be sent thither.] [p. 103.]

6 Mar. [Referred by Committee to Board of Trade.] [p. 114.]

12 Feb. [334.] [Reference to the Committee of the petition of Robert
South Hume, late Speaker of the Lower House of Assembly in South
Carolina. Carolina, complaining of proceedings of Gov. Johnson] tending to discourage and menace the Petitioner in his Practice of the Law there and therefore praying His Majestys Favour and Protection And that the said Governor Johnson may be Ordered forthwith to Answer the Premises And in the mean time not to Molest the Petitioner in his Practice.

[p. 103.]

7 Mar. [Committee. A copy of the petition to be sent to Gov. Johnson for his answer]. [p. 119.]

[335.] [Reference to the Committee of a letter of 9 Jan. from Gov. Belcher to the Duke of Newcastle, Secretary of State,] wherein he desires that a thousand Bushells of the best Riga Hempseed may be sent from hence to the poor Farmers within that Province. [p. 184.]

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3 April.
Massachu-
setts Bay
and
New
Hampshire.

[Referred by Committee to Board of Trade.] [p. 153.] 1 May.

[Reference to the Committee of a Board of Trade representation of 4 Sept.] proposing that five hundred Bushells of the best Riga Hempseed may be sent into the Province of New Hampshire and that two or three Persons Skillfull in the Management of Hemp should also be sent over to that Province for two or three Years at His Majestys Expencc to Instruct the People in the Hempen Manufacture. [p. 228.]

(1736.)

[Committee. The Board of Trade report of 12 June on the proposal to send 1,000 bushels as a present to the farmers in Massachusetts Bay, and their representation of 4 Sept., are referred back to them for reconsideration.] [p. 433.]

21 April.

[336.] [Reference to the Committee of the memorial of Thomas Coram, gent.,] together with a Petition of several of His Majestys Royal Subjects in and about London and Westminster in behalf of themselves and many others relating to the making a Settlement on His Majestys Province of Nova Scotia and also on Catt Island in the Bahama's. [p. 148.]

3 April.
Nova Scotia
and
Bahamas.

[Referred by Committee to Board of Trade.] [p. 153.] 1 May.

[337.] [To the Committee is referred a St. Christopher Act of 21 Aug., 1732, for continuing the duties of gunpowder and small arms upon the tonnage of vessels trading to and with this island, with the Board of Trade representation of 21 March for its disallowance.] [p. 147.]

3 April.
St.
Christopher.

[The Committee agree with the Board of Trade that the Act should be disallowed, but] Observing that by the 23d Article of the Instructions given to the Governor of the Leeward Islands He is Directed not to pass any Law for

24 May.

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Laying Dutys upon British Shipping or by which the Trade or Navigation of this Kingdom may be anyways affected And Observing further that an Additional Instruction was judged necessary to be transmitted to the said Governor of the Leeward Island to impower him to give his Assent to an Act for continuing a Powder Duty upon all Vessells Enttring into and Clearing in the Island of Antigua The Committee [therefore order the Board of Trade to consider the advisability of preparing a similar instruction for St. Christopher] taking Care that the same be not liable to the same Objections contained in the Representation of the Lords Commissioners and that they do lay the same Draught before this Committee. [p. 167.]

25 June. [Committee report with draft of instruction. The Act is contrary to article 17 of the Governor's instructions in providing not merely, according to its title, for a powder duty but for its commutation in money, which is inconsistent with the intention of supporting the magazines : and also contrary to article 23 in laying a duty on British shipping.] [p. 183.]

9 July. [The Act repealed—and instruction approved. P.R.] [p. 198.]

3 April. [338.] [Reference to the Committee of the petition of Richard Rhode Island. Partridge, agent for Rhode Island,] setting forth that the said Colony have at their own Charge lately built a Regular Fortification at the Entrance of the Harbour of Newport their Principal Town, which cost them upwards of ten thousand pounds their Currency and that having at present but a few Cannon and several of them not fit for use, The Inhabitants of the said Colony have sent over humbly to request His Majesty to bestow upon them a Number of Cannon and Shot answerable to their said Fortification. [p. 148.]

1 May. [Referred by Committee to Board of Trade.] [p. 153.]

3 April. [339.] [Reference to the Committee of the petition of Robert South Carolina. Wright, Chief Justice of South Carolina, that directions should be given for the future payment of his salary with arrears for

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three years during which no provision has been made although his Majesty's pleasure was signified to the Assembly that a convenient salary should be appointed for him.] [p. 149.]

[Referred by Committee to Board of Trade.] [p. 154.] 1 May.

[Committee refer to the Treasury the Board of Trade report that the salary should be paid for the future out of the quit-rents arising in that province.] 25 June.
[p. 185.]

[340.] [Reference to the Committee for Appeals of the petition of Edward Pelham of Newport, R.I., that the appeal of Peter Coggeshall from a judgment of the Superior Court at Newport in March, 1733, in favour of Pelham relating to some land and buildings, may be dismissed with costs for non-prosecution.] 3 April.
Rhode
Island.
[p. 149.]

[In accordance with the Committee report of 1 May, the appeal of Coggeshall is dismissed for non-prosecution, with 5*l.* stg. costs.] 16 May.
[pp. 154, 161.]

[341.] [Reference to Committee for Appeals of the] Petition of Mathew Norris Esqr. praying that the Appeale of Solomon Medina Mossesson, Moses and Abraham Medina and Roderigo Pacheto from a Sentence past in the Vice Admiralty Court in New York on the 4 of September 1727 whereby 401 Bags of Spanish Snuff and 100 Rolls of Tobacco Signed by the Petitioner was condemned as lawfull Prize, may be dismist with Costs for non-prosecution. 3 April.
New York.
[p. 150.]

[342.] [Reference to the Committee of the] Petition of Thomas Rutherford Setting forth that he is (by purchase) possessed of a Grant of twelve thousand Acres of Land in South Carolina bearing date the 25th of October 1726—And humbly praying for the Reasons therein contained, That His Majesty will be pleased to give the necessary Directions to the Surveyor Generall of South Carolina now and for the time being to run out and Plan to the Petitioner His Heirs and Assignes the said twelve thousand Acres of in such Tracts as the Petitioner 16 May.
South
Carolina.

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his Heirs or Assignes shall think meet, such Tracts to be Subject to the Regulations and Rules of Surveys and no part of the said Land to be permitted to be run out in Purrysburgh or any other of the Townships directed to be set out by His Majestys Royall Instructions or within Six Miles round any of the said Townships. [p. 162.]

24 May. [Referred by Committee to Board of Trade.] [p. 170.]

2 July. [The Committee agree with the Board of Trade, who reported that they] found the allegations of the Petition to be true, and that considering it might tend to the better peopling the Province of South Carolina, if the large Tracts of Land granted by the late Lords Proprietors should be Divided into lessor Parcells or Lotts, which may be capable of being Cultivated by Persons of small Subsistance They were of Opinion that the abovementioned twelve thousand Acres should be surveyed and sett out to the Petitioner His Heirs and Assignes in Squares or Plotts not less than five hundred Acres each, Subject to the Establisht Regulations of Survey and the Several Instructions given to His Majestys Governor of South Carolina upon that Head. [p. 187.]

9 July. [Order accordingly.] [p. 199.]

16 May. [343.] [Reference to the Committee of the] Petition of Samuel
New York. Storke and Peter Van Brugh Livingston proposing to make a Settlement on a Tract of Land in the County of Albany, and Province of New York of about Six Miles in length and Six Miles in Breadth upon the Banks of the Mohawks River commonly called by the Natives by the name of Tionondague which is not the property of any Private person, nor is there any considerable Plantation settled on near it—And therefore praying that His Majesty will be pleased to Grant them the said Tract of Land under such Services, Quit Rents or Acknowledgments as His Majesty in his great Wisdom shall think fitt. [p. 163.]

- [Referred by Committee to Board of Trade.] [p. 170.] 1735.
24 May.
(1737.)
- [Committee. The petitioners to have a copy of the Board
of Trade report.] [V. p. 52.] 18 Jan.
(1737.)
- [Committee report for the dismissal of the petition. The
Board of Trade reported] that they had received an Account
from the Lieutenant Governor of New York that above one
half of the Land Petitioned for, had already been granted to
other Persons, who had purchased their Right thereto from the
Indians for Valuable Considerations, antecedent to their
Obtaining a Grant thereof, and that having acquainted Mr.
Storke one of the Petitioners therewith, he so far acquiesced
therein, that he declared he would give the said Lords Com-
missioners no further Trouble upon this Subject. [V. p. 179.] 6 April.
(1737.)
- [Order accordingly.] [V. p. 209.] 21 April.
- [344.] [Reference to the Committee for Appeals of the peti- 16 May.
tion of Matthew Ellis late of Medford, Middlesex co., Mass., Massachusetts Bay.
husbandman, a member of the Church of England, for leave
to appeal from judgments of the Inferior Court, 11 Dec., 1733,
and of the Superior Court 29 Jan., and 30 July, 1734, in his
action against Richard Sprague for assaulting, beating, wound-
ing and imprisoning him, and detaining him in prison till he
paid Sprague a fine of 3*l.* 1*s.*] [p. 164.]
- [Order on the recommendation of the Committee, that 9 July.
the appeal be admitted on the usual security and that Ellis
be allowed copies of the proceedings under the seal of the
province on paying the usual fees.] [pp. 191, 200.]
- [Ellis's petition for an early hearing referred to the Com- 30 July.
mittee for Appeals.] [p. 218.]
- [Committee appoint 25 Feb. to hear the appeal.] [p. 223.] 14 Aug.
- [345.] [Reference to the Committee for Appeals of the petition 16 May.
of William Leighton, gent., of Kittery, in what was formerly Massachusetts Bay.
called Maine, against two decisions in favour of John Frost,

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and praying that in any similar suits against his master Ralph Gulston, his agents or workmen, appeals may be allowed to his Majesty in Council, though the sum recovered be less than 300*l.* stg.] [p. 164.]

(1736.)

2 April.

[On 9 July, 1735, the appeal is admitted on the usual terms, Ralph Gulston entering into security. After several postponements, the Committee report that Leighton's petition sets forth] that for the better providing and furnishing Masts for the Royal Navy their late Majestys King William and Queen Mary did by their Charter granted in the third year of their Reign to the Inhabitants of the Province of the Massachusetts Bay Reserve to themselves their Heirs and Successors All Trees of the Diameter of twenty four Inches and upwards at twelve Inches from the ground growing upon any Soil or Tract of Land within the Province of Main or other of the Lands Granted to them which had not before been granted to any Private Person—That on the 19th of June 1730 Your Majesty granted Licence to Ralph Gulston of the City of London Merchant his Agents and Workmen to Search the Woods in the said Province of Main and Colonys of New England where the Property in any Woods or Trees and the right of Cutting them was reserved to Your Majesty as aforesaid and there to cut down so many good and Sound Trees as might Answer the Number and Dimensions expressed in a certain Contract therein mentioned—That by Virtue of the said Licence the Petitioner did as a Workman of the said Gulston by the direction and Order of Samuel Waldo of Boston in New England Merchant the Agent of the said Contractor Ralph Gulston enter into a Tract of Land which was part of the Woods within the said Province of Main and had not been granted to any Private Persons before the Date of the said Charter and did cut down Several Trees—That on the 4th of March 1733 one John Frost of Berwick in the said County of York Yeoman sued out a Writ of Attachment against the Petitioner and one Ephraim Joy (which last person

was not Served therewith) Commanding the Sheriff of the said County of York to Attach the Goods or Estate of the Petitioner and of the said Ephraim Joy to the Value of two hundred pounds and for want thereof to take their Bodys and them safely to keep so that he had them before the Justices of the Inferior Court of Common Pleas to be held at York with and for the said County of York on the first Tuesday of April then next to Answer to the Plaintiff John Frost in a Plea of Trespass for that the Defendants with the Assistance of others to the Plaintiff unknown with force and Arms some time in or about the Months of December January and February then last past had entered into and upon a certain Tract or Parcell of Land of the Plaintiffs and in his Possession containing five hundred and twenty Acres more or less Scituate in Berwick aforesaid and called Caroline Farm and bounded by the Marks and Trees in the said Writ mentioned or however the same was bounded in the Return thereof made to Charles Frost Esqr. deceased on Kittery Record appeared And then and there the Defendants in manner aforesaid had Cut down Seven Pine Trees of the Plaintiffs then standing and growing thereon of more than one foot Diameter Vizt. about three foot Diameter each Tree and each Tree of the Value of ten pounds Six of which Trees they had since haled away And had also cut down one other Pine Tree of more than one foot Diameter Value forty Shillings and four Beach Trees of more than one foot Diameter each Tree Value forty Shillings each and one Maple Tree and four Hemlock Trees of more than one Foot Diameter each Value forty Shillings each Tree and also twenty Beach Trees or Poles three Spruce Trees or Poles five Maple Trees or Poles and two Black Birch Trees or Poles under one foot Diameter and of the Value of twenty Shillings each Tree all which Trees were standing and growing on the said Land . . and other Enormitys the Defendants then and there had perpetrated and done contrary to your Majestys Peace and contrary to An Act of Assembly of the Province of the Massachusetts Bay of the 12th Year of the Reign of Your

1735.

Majestys late Royal Father Entituled An Act in Addition to and for rendring more effectual an Act for preventing of Trespasses which (as the Plaintiff alledged by the said Writ) was to his Damage two hundred pounds which should be made to appear with other due Damages—That the Sheriff of the said County attached a Horse and other things of the Petitioner and left a Summons for the Petitioner to Appear at the return of the said Writ which he did and put in his Plea thereto in writing wherein the Petitioner by his Attorney defended the force and Injury when &c. And as to the coming with force and Arms sayed that he was in no wise guilty thereof and of that he put himself on the Country And as to the Cutting down of the said Seven Pine Trees and haling away Six of the same and the Cutting down of the other Trees and Poles in the said Declaration mentioned the Petitioner said that the Plaintiff his aforesaid Action for the same ought not to have against him because of the said Charter to the Province and Licence to the said Ralph Gulston his Agents and Workmen both which the Petitioner Set forth as is herein before mentioned and made profert of the said Licence, And the Petitioner averred as before is Stated that he did as a Workman of the said Gulston by the Direction and order of the said Waldo his Agent enter into the aforesaid Tract wherein the said Trees and Poles grew which was part of the Woods within the Province of Main and had not been granted to any Private Persons before the aforesaid 7th day of October and cut down the said Seven Pine Trees the same having been first Viewed and allowed by David Dunbarr Surveyor as aforesaid and haled away Six of the same for Your Majestys said Service which said Trees then were of the Dimensions of upwards of three feet Diameter each Tree And on the aforesaid 7th of October were of the Diameter of twenty four Inches or upwards at twelve Inches from the Ground and did also cut down the aforesaid other Trees and Poles in the said Declaration mentioned in Order to the felling and carrying away the said Seven Pine Trees for Your

Majestys Service as aforesaid the Cutting down of which other Trees and Poles was absolutely necessary for that Purpose And this the Petitioner was ready to Verify wherefore he prayed Judgment if the Plaintiff his aforesaid Action ought to have against him—That the Plaintiff brought on his Cause at the said Inferior Court on the 2d day of April 1734 without ever replying or demurring to the said Plea which therefore as the Petitioner conceives was and ought to be taken as true and as admitted by the Plaintiff to be so and therefore was a full Bar to the Plaintiffs action But the said Inferior Court was of a Different Opinion and therefore overruled the same and called upon the Petitioner to make some other Plea but the Petitioner being advised that his Plea was a good Bar to the Plaintiffs Action and ought to have been allowed as such refused to put in any other Plea Whereupon it was considered by the Court instantly and immediately (without any Proof of the Plaintiffs property or any proof of the Supposed Damages or Value of the same or referring it to a Jury to enquire of the Plaintiffs pretended Damages) that the Plaintiff should recover of the Petitioner a particular Sum of one hundred and twenty one pound Damages and Cost of Court taxed at forty Shillings—That the Petitioner appealed from such Judgment to the Superior Court of Judicature and the Appeale came on to be heard before the said Superior Court of Judicature for the said County of York (by Adjournment upon the 19th day of June 1734 at which time the said Court declared as their Opinion that the Petitioners Plea containing Sundry matters of Fact tryable by a Jury should have Concluded to the Country or the Petitioner should have pleaded the General Issue and given the Special matter in Evidence And therefore the said Superior Court considered that the former Judgment of the Inferior Court should be affirmed and that the Plaintiff should recover against the Petitioner the Sum of one hundred and twenty one pound Damages and Costs of Suit taxed at four pound Eighteen Shillings From which Judgment Your Majesty was pleased by Your Order in

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Council of the 9th of July last to allow the Petitioner to bring this his Petition of Appeale to your Majesty in Council. [He therefore prays that the judgments may be reversed, and the money restored to him. The Committee recommend that the judgments should be reversed and the money paid restored to Leighton : that he should withdraw his plea and plead not guilty, and on the general issue be at liberty to give any special matter in evidence. At the new trial the evidence is to be reduced into writing and recorded with the verdict, and an appeal allowed to the King in Council.]

[*pp.* 179, 200, 217, 223, 419, 421-5.]

(1736.)
29 April.
(1738.)
21 Dec.

[Order accordingly.]

[*p.* 438.]

[Reference to the Committee of Leighton's petition complaining that the Governor, Council and Superior Court of Massachusetts Bay have refused to carry into execution the Order in Council of 29 April, 1736.]

[*VI. pp.* 66, 11.]

(1739.)
23 Feb.

[Committee report. The petition sets forth the order of 29 April, 1736. On 18 Sept., 1736, the petitioner's attorney produced it before the Superior Court of Massachusetts, where it was publicly read and ordered to be recorded, but consideration postponed till the sitting in June, 1737. On the third Wednesday in June, 1737, the petitioner's attorney by his written motion moved the Court to award execution against Frost] and also moved in writing that the said order might be observed and complied within all respects, the Petitioner being ready (as he had at all times been) to comply with what was thereby enjoined him to be done on his part And on reading such Motion the said superior Court made an Order declaring that as the Subject matter of that motion requiring the most Mature consideration, the Court would advise thereon until their next sitting That such Order of the Superior Court delayed the Petitioner another whole Year and at the said Inferior Courts next sitting for the said County of York on the third Wednesday of June 1738 the said Superior Court made another Order That having advised upon the said

Motion till that term they did then in Answer thereto, say that in case the Action mentioned in the said Royal Order came upon Tryal again before that Court in the Method directed to, they should endeavour to do what to Justice appertained, but, as to giving an Order for an Execution against John as prayed for, that Court having considered the Royal Charter, together with the Laws of that province and the Constant usage and practice of that Court were of Opinion that they had no Authority to give Order for such an Execution ; That the said Superior Court having thus taken near two years time to consider whether they would obey Your Majestys said order or not and having at length declared they could not pay Obedience to it the Petitioner had no other Resort in that Country, but to apply to Your Majesty's Governor there (who was particularly charged to take Notice of such Order and Govern himself accordingly). [Leighton therefore presented a petition to Belcher, setting forth the state of the case, and praying for the execution of the Order in Council.] Such petition was not addrest to your Majestys said Governor in his Council, but nevertheless the said Governor thought proper to lay the same before the Members of the Council in that Province (who are not of your Majestys Nomination but elected by the Assembly from time to time subject to the Governors putting a Negative on or rejecting any such Councillors) That the said Council on the 14th of September 1738 returned their Opinion upon the said Petition to the said Governor in writing, That as the said Leighton had layd Your Majestys Order therein mentioned before the Justices of the Superior Court and moved the said Court that they would award Execution for the One hundred and twenty one pounds Damage and four pounds Eighteen Shillings Costs and that your Majesty's said Order might be observed and complied with in all Respects and the said Court had given their Opinion that they had no Authority to give Order for such an Execution which Opinion was made matter of Record in the said Court and for as much as no Application

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had been made to the Governor, till after those proceedings in the Superior Court, the Council were of Opinion that, in those Circumstances it was not proper for the Governor to do any thing in that Affair that the said Governor was not content to guide himself meerly as by the Opinion of the said Council before whom he had layd the said Petition but in Order to shew his own Sence thereof he on the 18th of September 1738 with his own hand signed an Answer at the Foot of the Petitioners said Petition to him, that the there foregoing advice of his Council, being agreeable to his own Sentiments he was prevented from doing any Service in the Affair. [Leighton, considering that he is labouring to vindicate, at his own expense, his Majesty's right to the woods reserved for the Royal Navy, and that his Majesty's authority has been set at naught in this matter, prays for relief. The Committee, after hearing counsel on both sides, recite the order of 29 April, 1736, and recommend] that the same be forthwith and without delay carried into Execution And for the better Enforcing the said Order that Your Majesty may be pleased to Direct the said John Frost immediately to restore to the Petitioner the Money paid by him for Damages and Costs and that in Case he shall refuse to comply therewith the Superiour Court in the said Province do take the necessary Steps to Compell him thereto. And that your Majesty may be pleased likewise to Direct the Petitioner forthwith to withdraw his former plea in the Inferiour Court and to plead the General Issue not Guilty And their Lordships Do further humbly Report as their Opinion that as well the Inferior Court as the Superiour Court of Judicature in that Province may be required to pay due Obedience to Your Majesty's Aforementioned Order, as likewise to Your Majestys Order to be made hereupon And to Cause such Order as likewise the Aforementioned Order to be Recorded in the said Courts if they have not already Recorded the said former Order And that nothing may be wanting to carry Your Majestys Commands hereby Signified into due Execution Their

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Lordships are of Opinion that Your Majesty may be pleased to Order and require Your Governor of the said Province to Support Your Majestys Authority and to cause every particular herein contained to be without delay duly and punctually complied with. [VI. p. 113-118.]

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[Orders accordingly.]

[VI. pp. 137-142.]

(1739.)
22 Mar.
(1743.)
23 Mar.

[Reference to the Committee of the memorial of David Dunbar, surveyor-general of his Majesty's woods in North America, setting forth that the order in favour of Leighton has not been complied with, and] apprehending that if an Order from his Majesty in Council be immediately sent to the present Governor to put the said former Order in Council in force it will have so good an effect as to deter others from attempts of the like kind. [VIII. pp. 351-2.]

[Committee : the memorial is read, and consideration thereof postponed.] [VIII. p. 420.]

(1743.)
31 May.
(1743.)

Letter from the Clerk of the Council to the Governor of the Province of the Massachusetts Bay relating to the enforcing an Order in Council made upon the Appeale of William Leighton against John Frost.

21 June.

Sir,

Colonel David Dunbar Surveyor General of His Majestys Woods in North America has presented a Memorial to His Majesty in Council Setting forth that some of the Undertakers for supplying His Majestys Royal Navy with Masts Yards and Bowsprits in New England have been Sued there for cutting Trees by His Majestys Royal Licence by Proprietors of Lands on pretence that such Lands were private property before the Reservation of Pine Trees in the Charter granted to the Colony of the Massachusetts Bay by King William and Queen Mary upon which Suits Damages were recovered in the Courts there against the said Undertakers That upon hearing an Appeale brought before His Majesty in Council by William Leighton against John Frost the Judgments of the Courts in

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New England were reversed and the pretended proprietors were Ordered to repay the Money and Costs they had received and the then Governor Mr. Belcher and the Judges were directed to give due Obedience to the said Order in Council—And the said Memorialist Complains that the said Governor and Judges have refused to obey the said Order and that he Conceives such Opposition and Interruption may be of the most dangerous Consequence to His Majestys Service if not timely prevented Which Memorial having been taken into Consideration I am Commanded by the Lords of the Privy Council to transmit to You a Copy of the said Order in Council made upon Leightons Appeale dated the 29th of April 1736 and also a Copy of an Order in Council dated the 22d of March 1738 for enforcing the said former Order, and at the same time to Signify to You His Majestys Pleasure that in case the said Orders have not been already carried into Execution that You do Cause the same to be Complied with forthwith and without further delay—And You are to transmit an Account of Your proceedings herein to His Majesty in Council And in case the said Orders have been already carried into Execution you are then to transmit an Account thereof to His Majesty in Council—I am &c.

W. Sharpe. [VIII. pp. 452-3.]

18 June.
Jamaica.

[346.] The Lords of the Committee this day took into their Consideration the State of the British Islands and Colonys in America And being attended thereupon by the Lords Commissioners for Trade and Plantations the Committee recommended it to them to draw out with all expedition a Particular State of each of the said Islands and Colonys, and also to cause an Abstract to be made of all the papers relating thereto which were moved for in the Addresses of the House of Commons of the 12th of May last And lay the same before this Committee together with their Opinion thereupon And the said Lords Commissioners were desired to begin first with the Island of Jamaica and to lay a State thereof before this Committee on Wednesday next at Seven o'clock. [p. 180.]

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25 June.

The Earl FitzWalter this day laid before the Committee a Particular State of the Island of Jamaica from the first Settlement thereof to this time prepared by the Lords Commissioners for Trade and Plantations—And His Lordship likewise laid before the Committee a List of all the Representations made by the said Lords Commissioners to the Crown of all the Letters wrote from the said Lords Commissioners to the Principall Secretarys of State relating to the said Island from the Year 1715 to this time together with a List of all the Laws in force in Jamaica upon the 31st of March 1731 and of such as have been past since that time for raising Money in that Island. Part of the said Papers were read and considered And the further Consideration thereof was adjourned to this day Sennight at Eleven o’Clock against which time the Lords Commissioners for Trade and Plantations were desired to cause Abstracts to be made of the said State of Jamaica and also to prepare a State of the Island of Barbados.

[p. 185.]

2 July.

[The Committee] finding that the Present Distrest condition of the said Island hath arisen chiefly from the want of a Sufficient Number of White Inhabitants and that the Great Obstruction to the Increase of such Inhabitants hath been owing to the Granting exorbitant Tracts of the most Fertile and best Scituated Lands to a few of the Inhabitants by means whereof there remains at present none for the Reception of New Comers but what they must purchase at an Exorbitant price And their Lordships finding likewise that all the Laws hitherto made to prevent the same have proved ineffectuall do therefore hereby Order that the said Lords Commissioners for Trade and Plantations taking to their Assistance the Attorney or Solicitor Generall do prepare Heads of a Bill proper to be past by the Council and Assembly of that Island for the dispossessing the Proprietors of all such Extensive Tracts of Land as lye uncultivated in Order to the Granting the said Lands anew to such persons who will come to Settle

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in the said Island and cultivate the same within a Limited time And as this Appears to be the only means which can effectually provide for the Happiness and Security of the said Island, [the Board of Trade are ordered to prepare a draft of an additional instruction to Governor Cunningham to press on the Council and Assembly the passing of such an Act,] And to acquaint them that as His Majesty hath been graciously pleased to comply with everything which they thought necessary to request for the Security and Defense of the Inhabitants of the said Island So His Majesty doth expect that they shall on their part comply with such measures as His Majesty judges Necessary for their own Happiness and Security—And that if they shall neglect or refuse the same that then the said Governor do immediately inform His Majesty thereof that the same may be laid before the parliament of Great Britain. And the said Lords Commissioners are to prepare the said Heads of a Bill together with the said Draught of Instructions before this Committee. [pp. 189–90.]

9 July. Report of the Board of Trade with Heads of a Bill for Dispossessing the proprietors of Large Tracts of uncultivated Lands in Jamaica Read and Considered, and sent back to the Board of Trade for their further Consideration. [p. 193.]

23 July. [Committee report as on 2 July with the addition—] And the Committee are further of opinion, that it may likewise be necessary to instruct the said Governor not to make any Grant of Lands to any person whatsoever already possessed of one thousand Acres or more within that Island nor to make any Grant hereafter of more than one thousand Acres to one person—And to take care that no Grant be made but upon this Express Condition That each Grantee shall have and maintain One white Man for every hundred Acres he shall have granted to him; And that he do Annually pay the usual Quit Rent for every hundred Acres so to be granted—

And the Committee finding that altho a good Law was past in that Island, and Confirm'd by the Crown in 1704 to Oblige

the Inhabitants to keep and maintain a Proportionable Number of White Servants for the Negroes they should possess which was absolutely necessary for their Defence against Rebellious Negroes or other Enemys Yet that the People of Jamaica have been so Negligent of their own Welfare in this Particular, that by Subsequent Laws they have Allowed each Inhabitant to keep a Greater Proportion of Negroes for every White Servant, and even for want thereof to pay an Annual Acknowledgment in Money, by which means as also by teaching all sorts of Handicraft Trades to their own Negroes, there are not at present on the Island so many White Inhabitants as there were formerly—Their Lordships are therefore of Opinion that the Governor of Jamaica should be further instructed not to give his Assent upon any Pretence to any Law whatsoever for lessening the proportion of White Servants as Directed by the Aforesaid Act confirmed in 1704.

If Your Majesty shall be pleased to Approve of what is above proposed, The Committee beg leave humbly to lay before Your Majesty a Draught of Additional Instructions prepared by the Lords Commissioners for Trade and Plantations for the Governor of Jamaica, upon each of the said Heads—

[pp. 210–11.]

[The report and instruction approved. P.R. Memo. The 30 July. following heads of a Bill were prepared by the Board of Trade and approved of by a Committee of Council and were put into Governor Cunningham's hands at the same time with the abovementioned additional instruction,] Vizt.—That all Lands in any Part of Jamaica now held by any Person or Persons by or under any Grant or Grants from the Crown either mediately or Immediately if not already cultivated shall from the Time of the making of this Act be held by such Person or Persons Subject to the following Condition that is to say That all and every such Person and Persons shall within three Years after the making of this Act constantly maintain, and employ in the Cultivating of the said Lands

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one white Man for every hundred acres—And that if any such Person or Persons shall fail in the Performance of this Condition the Grant or Grants from the Crown by which the said Lands are holden shall from thenceforth be null and Void to all Intents and Purposes and such Person or Persons his, her, and their Heirs and Assignes shall from thenceforth and for ever thereafter be divested of all His her and their Right and Title to the said Lands, and the said Lands shall be immediately vested in His Majesty His Heirs and Successors in as full and ample manner to all intents and purposes as if such Grant or Grants had never been made, and it shall and may be Lawfull for His Majesty His Heirs and Successors to grant the same to any other Person or Persons Subject to the following Condition—That in every Future Grant there be a Condition expressly inserted That every such Grantee his Heirs or Assignes shall within one Year after the Date thereof constantly maintain and employ in the Cultivating of the premises thereby granted one white man and that he do constantly maintain and employ in the Cultivating of the said Premises one other white man, and so annually encreasing the Number Till he or they shall maintain and imploy in the Cultivating of the said Premises after the proportion of one white man for every Hundred Acres—And in case such Grantee his Heirs or Assignes shall Fail, in the Performance of this Condition or any Part thereof, that from thenceforth the said Grant shall be null and Void . . and it shall and may be Lawfull for His Majesty his Heirs and Successors to Grant the same to any other Person or Persons, Subject to the like Condition. [pp. 214-5.]

13 Oct. [Reference to the Committee of the memorial and proposal of London, Bristol and Liverpool merchants and of others interested in Jamaica relating to the state of the island and the better settling the same.] [p. 229.]

27 Oct. [Referred by Committee to Board of Trade.] [p. 236.]

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(1736.)
23 July.

[Committee report.] . . the Memorialists in order to prevent the Mischiefs with which they apprehend Jamaica to be threatned and to render that Island more Valuable and to encrease the Trade and Navigation of this Kingdom propose several particulars by way of Advice to His Majesty the most material whereof are as follow Vizt. First to give Instructions to the Governor of that Island to pass a Law whereby all Persons may be divested of those large tracts of Land belonging to them which lye uncultivated and that no part of such Lands shall be regranted but to such persons as shall be New Settlers in or new comers to the Island—Secondly To make Provision for the Space of one Year for all Persons with necessarys of Life that shall transport themselves to the Island and become fixed Inhabitants in it—Thirdly That every Owner of Negroes shall be Obliged to keep a White Man or Woman for his every first ten Negroes, two for his first twenty, and one for every twenty after, or pay a certain Sum in Default And that a Register be taken of all Negroe Tradesmen &c. at this time and that no Negroes be brought up to Trades &c. for the future—Fourthly That the Ships of Warr already stationed at Jamaica may be encreased by a Number of proper Ships—Fifthly that immediate Directions may be sent to the Governor for the time being that he do not give his Assent to any Act of Assembly to Proclaim Martial Law or that he do not put Martial Law in force by Virtue of an Act Entitul'd An Act for Settling the Militia for the future but in Case he shall have received some very particular and certain information of an Invasion or a Design in almost the whole or a very great Number of Negroes to rise—And that the same be done by and with the Advice of a Council of Warr to be Summoned for that purpose—[The Committee, after considering the memorial and the representation of the Board of Trade, report] that it appears to them that all the Points therein recommended have been fully Considered and Provided for by the Crown either in the whole or in part long before the Date of this Remonstrance as far as they were practicable

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in themselves and Consistent with the State and Circumstances of the Island—And their Lordships are therefore of Opinion that this Remonstrance ought to be Rejected by Your Majesty. [pp. 502-3.]

11 Aug. [Order accordingly.] [p. 511.]

9 July. [347.] [Reference to the Committee of the] Petition of William South Carolina. Wragg and Samuel Dean Merchants in Behalf of themselves and others Planters in the Province of South Carolina in America Setting forth that in the Year 1713 a Design was undertook by the Petitioners and others to Erect a Sawery and Severall Saw Mills for the Sawing of Boards and Planks in South Carolina in which undertaking they had expended near 3,000*l*. And that for the better carrying on the same they had sent over Severall persons from England and Holland and had purchased from the late Lords Proprietors Six thousand Acres of Land for which a Warrant was granted to them and their Heirs on the 20 of October 1713. But by means of the Indian War breaking out at that time and the said late Proprietors Shutting up their Land Office they were prevented from having a Grant signed there for the said 6,000 Acres That as the said Province is now under His Majestys Protection the Petitioners are more Desirous to carry on their said undertaking [and therefore pray that the said 6,000 acres be granted them]. [p. 204.]

23 July. [Referred by Committee to Board of Trade.] [p. 211.]

30 July. [348.] [Reference to the Committee of the] Petition of the Georgia. Trustees for Establishing the Colony of Georgia in America Setting forth that the Protection of His Majestys said Colony by well Fortifying the same is of the Greatest importance to His Majestys other Dominions on the Southern Part of America and that as the Petitioners are now preparing to make a new Settlement for His Majestys Service which will stand in great need of Defence. They most humbly pray that Her Majesty will be graciously pleased to give Directions for the Ordnance Stores therein mentioned to be delivered to them as soon as possible. [p. 216.]

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[Referred by Committee to Board of Trade.] [p. 221.] 1735.
14 Aug.

[349.] [Reference to the Committee of the] Petition of Sam 30 July.
Wragg of London Merchant who was Several Years one of the South
Council of the Province of South Carolina under the Govern- Carolina.
ment of the late Lords Proprietors and of Joseph Wragg his
Brother now in Carolina and one of the present Council of that
Province by His Majestys Royal Direction and Appointment
humbly praying that Her Majesty would be graciously pleased
to Order that a Tract of 12,000 Acres of Land in Granvill
County on the River May which were formerly granted to
His Grace the Duke of Beaufort and have since been
Surrendred to the Crown may be set out for The Petitioner
Samuel Wragg and that another Tract of 12,000 Acres at
Wyman in Craven County—which were also formerly granted
to the said Duke of Beaufort and are now become vacant
Lands may be likewise sett out to the Petitioner Joseph Wragg
and in Order to their Planting and Settling the said Lands.

[p. 217.]

[Referred by Committee to Board of Trade.] [p. 222.] 14 Aug.
(1737.)

[Committee. A copy of the Board of Trade report to be 24 Mar.
given to] Mr. Johnson who lays Claims to the said Lands.

[V. p. 156.] (1737.)

[The Committee postpone the report as Mr. Johnson] hath 6 April.
not yet laid his pretentions before their Lordships.

[V. p. 182.] (1738.)

[Reference to the Committee of the] Petition of Elias Forsine, 20 July.
Daniel Laroche Thomas Laroche William Honiton Hugh
Swinton David Shaw Caleb Evans and William Brown on
behalf of themselves and several others possessed of
Plantations in that part of Glanville County and Craven
County in South Carolina formerly granted to the Duke of
Beaufort praying for the reasons therein contained that they
may be heard against the granting some Lands in the said
Countys to Samuel and Joseph Wragg. [V. p. 598.]

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13 Oct. [350.] [Reference to Committee of a Board of Trade representation of 13 Aug. with a draft of an additional instruction for Montserrat. William Mathew, Governor of the Leeward Islands, to pass an Act in Montserrat for levying a duty of gunpowder on the tonnage of shipping trading to that island.] [p. 227.]

27 Oct. [Committee report agreeing with the Board of Trade and submitting the instruction for his Majesty's approval. The Board of Trade representation shows that Gov. Mathew finds himself under great difficulty to procure gunpowder, his instructions forbidding him to consent to any Act which may affect the trade and navigation of Great Britain, and that it is necessary to put the island into a state of defence and impossible for the inhabitants to purchase military stores for themselves.] [p. 233.]

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

13 Oct. [351.] [Reference to the Committee of a Board of Trade representation of 27 Aug.] [p. 228.]
Massachusetts Bay.

27 Oct. [Referred by Committee to the Duke of Argyll, Master General of the Ordnance. The representation is quoted—] We have received a Letter from Mr. Belcher His Majestys Governor of the Province of the Massachusetts Bay dated the 9th of January last wherein he informs us that the Assembly of that Province have upon his repeated recommendations Voted a Supply of a Considerable Sum of Money for the repair of Castle William and the Addition of New Works to that Fortress—But as there is no Engineer in that Province capable of making Fortifications He desires that Major Paul Mascarene a Captain in Colonel Philipps's Regiment now in Garrison at Annapolis Royal in Nova Scotia who was employed by the Office of Ordnance as Engineer in Nova Scotia for eight Years together whilst the Fortifications were repairing in that Province may now be sent to repair His Majestys Fortifications in the Province of the Massachusetts Bay whereupon Considering the necessity and Importance of

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this Province—We humbly take leave to propose that Major Mascarene may have leave to be Absent from his Regiment for eighteen Months without Prejudice to his Rank or Pay in the said Regiment and that he may receive proper Directions from the Office of Ordnance to attend the Service of His Majesty's Fortifications in the Province of the Massachusetts Bay during that time. [pp. 238-9.]

[352.] [Reference to the Committee of a Board of Trade representation of 28 Aug. proposing that Rip van Dam be dismissed from the Council of New York and James Alexander from the Councils of New York and New Jersey, and that John Moore and Paul Richards be appointed in New York, and Robert Lettice Hooper, the Chief Justice of New Jersey, and Joseph Warrell in New Jersey, in place of Lewis Morris and Alexander.]

13 Oct.
New York
and New
Jersey.

[p. 228.]

[Reference to the Committee of the petition of Ferdinando John Paris of London, gent., in behalf of Rip van Dam, praying for a copy of the charges against him that he may defend himself before being removed from the Council.] [p. 250.]

6 Nov.

[Committee. A copy of the petition to be sent to Gov. Cosby for his answer.]

17 Nov.

[p. 255.]

[Committee. Copies of Cosby's charges allowed to Lewis Morris, and to Paris on behalf of Rip van Dam and James Alexander.]

17 Nov.

[p. 258.]

(1736.)

[Reference to the Committee of van Dam's petition to be restored to his place and precedence in the Council of New York.]

28 May.

[p. 468.]

(1736.)

[Committee order the Board of Trade to lay before them any reasons they have received from the province for suspending the petitioner and any other papers in their hands relating thereto which may be proper for the information of the Committee.]

3 June.

[p. 472.]

(1736.)

[Reference to the Committee of a Board of Trade representation enclosing a letter from Mr. Clarke, President of the

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Council of New York, with copies of several papers relating to the suspension of van Dam and to disorders occasioned there by him and others—and of another letter from Mr. Clarke to the Duke of Newcastle with further papers.] [p. 481.]

(1736.)

17 Dec.

[Committee. Consideration of the Board of Trade representation and all other papers relating to disputes about the rights of Presidentship to lie by till a Governor is appointed, unless new advices should arrive from New York which may make it necessary to take them into consideration.] [V. p. 40.]

13 Oct.

South
Carolina.

[353.] [Reference to the Committee of the petition of William Hodgson, landgrave and cacique of Carolina,] Setting forth that in 1715 the then late Lords Proprietors of Carolina by Letters Patents granted four Baronys to the Petitioner annex to his Title of Landgrave and also Baronys annex to his Title and Cassique and that the Petitioner had caused several Parcellls of Land to be planned and Admeasured But that the late Governor of that Province would not permit the Petitioner to Register his Plans or to run out the rest of His Lands alledging that the same was contrary to His Instructions [and therefore praying that his case may be looked into, and if his title be found good, the next governor ordered to permit him to enjoy his baronies]. [p. 230.]

27 Oct.

[Referred by Committee to Board of Trade.] [p. 237.]

13 Oct.

South
Carolina.

[354.] [Reference to the Committee of the petition of George Morley, Provost Marshal of Carolina,] Setting forth that he has been at great Expencc in going over to Carolina in America to put the said Office into Order in accomplishing whereof he found very great difficultys, that there being no Salary annexed to the Office nor any Provincial Jail for the Confinement of Prisoners, the Petitioner has been obliged at his own Cost and Charges to hire a House and Fit it up in a Proper and Suitable manner and therefore humbly praying that Her Majesty will be graciously pleased to grant him such an Allowance out of the Quit Rents of that Province as may

enable him to provide for the better Security of the Prisoners and Encourage his Diligence in the faithfull Execution of this Office. [p. 231.]

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[Referred by Committee to Board of Trade.] [p. 237.] 27 Oct. (1736.)
13 May.

[The Committee, agreeing with the Board of Trade report of 26 Nov. that the Governor should be directed to recommend the General Assembly in the strongest manner to make provision for erecting a gaol or gaols and keeping the same in repair according to the practice of other British colonies, order the Board of Trade to prepare an additional instruction accordingly.] [p. 450.]

(1736.)
10 July.

[Committee report with draft of instruction. It is also recommended that the petitioner receive an allowance out of the quitrents of South Carolina.] [p. 484.]

[The instruction approved. P.R.] [p. 488.] 15 July.

[355.] [Reference to the Committee for Appeals of the petition of John Lewis formerly of Kingston, Jamaica, and now of Blackheath, Kent, and of Samuel Collett, Richard Fenton and John Barker, assignees of his real and personal estate under a Commission of Bankruptcy, that a short day be appointed for hearing their appeal from a decree of the Jamaica Chancery, 12 Aug., 1734, on a bill exhibited by Lewis as heir of his deceased brother William against Samuel Smith and Anne his wife and John Vassall.] [p. 231.]

13 Oct.
Jamaica.

(1736.)

[Order in accordance with Committee report of 2 Nov., that the appeal be sustained, but without prejudice to any further proceedings which may be taken in Jamaica.]

4 Nov.

[pp. 384, 506. V. pp. 5-10, 15-20.] (1737.)

[Reference to the Committee of the petition of Collett, Fenton and Barker that, as soon as the proceedings are transmitted, a short day be appointed for hearing their appeals from the judgments in two actions by Samuel and Anna Smith against John Lewis.] [V. p. 214.]

21 April.

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13 Oct. [356.] [Reference to the Committee of the petition of Lewis
Jamaica. Williams for a short day for hearing his appeal from several
orders of the Jamaica Chancery and reports of Commissioners
and Masters of Chancery in 1730, 1733 and 1734, and from
a Chancery decree of 14 Oct., 1734, in a case between him
and Robert Saunders.] [p. 231.]

(1737.)

19 Jan. [The case concerns the will of Col. Thomas Raby of
Jamaica, of which his wife Priscilla and Rowland Williams
were executors. In accordance with the Committee report of
8 Dec., 1736, the appeal is in part sustained, in part dismissed,
and further proceedings ordered in the Jamaica Court of
Chancery.] [p. 506. V. pp. 27-31, 54.]

13 Oct. [357.] [Reference to the Committee for Appeals of the appeal
Antigua. of Charles Dunbar of Antigua and of Richard Roe his lessee from
a judgment of the Governor and Council as a Court of Errors,
30 Dec., 1734, affirming a judgment of the Court of King's
Bench and Common Pleas, 14 April, 1733, in favour of John
Kerr on their action of trespass and ejectment against him
for recovering possession of 68 acres of land with a messuago,
mills, &c., and 64 slaves,] which had been part of John Kerr
the Younger of the said Island deceased. [p. 232.]

(1737.)

21 April. [Order, in accordance with Committee report of 24 March]
that the Judgment of the Inferior Court of the 14th of April
1733 and the Judgment of the Court of Errors of the
30th of December 1734 Affirming the same should be both
reversed and that the Plaintiff in the action of Trespass and
Ejectment should recover three fifths of the Messuago Mill
Lands Buildings and Negroes in the Declaration mentioned
found to be in the Possession of the Defendent together with
Costs of Suit in the Courts in Antigua.

[V. pp. 116, 148-156, 210.]

13 Oct. [358.] [Reference to the Committee for Appeals of the petition
Antigua. of William Smith of Antigua and Mary his wife formerly widow
and administratrix of Patrick West of Antigua, merchant,

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and of Thomas Kirby of Antigua, Esq., for a short day for hearing their appeal from a Chancery decree of 19 May, 1733, and two-subsequent reports of the Master in Chancery and orders confirming the same] upon a Bill filed in the said Court against the Petitioners Mary and Thomas Kerby by Joseph Mathews James Salmond Patrick Lynch John Turnell Cæsar Rodeney James Read and Paul Fisher of Antigua Merchants Robert Lone William Snelgrave and Edward Jones Mariners and Robert Weir of the said Island Esqr.

[p. 232.] (1736.)

[Order, in accordance with Committee report of 24 May, 28 May. that the decree, with all subsequent proceedings, be reversed and set aside.] And that the Respondents should be at Liberty to amend their Bill by making the Heirs at Law of the said Patrick West or any other persons they think proper or their Lawfull Attorneys parties to the said Bill, upon paying the Costs of the day of Hearing in the said Island of Antigua such Costs to be Settled by the Court there according to the Custom of that Court. [pp. 459-62, 468.]

[359.] [Reference to the Committee of the petition of Rip van 6 Nov. Dam, late President of the Council of New York, setting forth New York. that Governor Cosby] had Commenced a Suit against the Petitioner in the Exchequer Court there for a Moiety of the Salary and Perquisites which the Petitioner had received between the time of Governor Montgomerys Death and the said Governor Cosbys arrival in that Province That the Petitioner conceiving himself intituled to a Moiety of what had been received by the said Governor during the said time filed his Action at Law in the Supreme Court of that Province against the said Governor for that purpose But the said Governor having refused to appear to the said Action and the Petitioner not being able to compell him thereto—most humbly prays that His Majesty would be graciously pleased to Order the said Governor to appear to the Petitioners said Action or any other Suit which the Petitioner shall Commence

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1735.

against him and likewise to direct the Governor for the time being to appear and answer in any of the Courts of the said Province any Suits to be Commenced against them by any of His Majestys Subjects there to recover from the said Governors any Sums of Money or other property unjustly detained from them by the said Governors . . together with all such further and other relief in every part of the Petitioners Case as to His Majestys Royal Wisdom and Goodness shall seem meet. [p. 249.]

6 Nov.
Jamaica.

[360.] [Reference to the Committee of a Jamaica Act of 3 May, 1735, for raising several sums of money and applying the same to several uses for subsisting the officers and soldiers of the eight independent companies and preventing the exportation of several commodities into the French and Spanish islands, together with the Board of Trade representation of 31 Oct., urging several objections.] [p. 247.]

17 Nov.

[Committee agree with the Board of Trade that the Act should not be disallowed but that an instruction should be drawn up by the Board of Trade, and sent to the Governor not to pass any law for the future liable to the objections taken by the Board of Trade.] [p. 255.]

15 Dec.

[Committee report with draft of instructions. The Act imposes a penalty of 100%, and loss of the additional subsistence provided in the Act, upon any officer allowing any person in the island to be enlisted in the independent companies, which provision is irregular and unwarrantable, as the companies were sent on the request of the inhabitants for their better security and defence, and are a part of the forces on the establishment of Great Britain and should not be subject to other orders or regulations. The Act is not disallowed as that would leave the companies destitute of all provision on the part of the island. The instruction requires the Governor, in case any complaint arises necessitating orders for better regulating the companies, to transmit an account

to his Majesty, in order that proper directions may be given.] [p. 273.]

1735.

[Report and instruction approved. P.R.] [p. 282.] 18 Dec.

[361.] [Reference to the Committee for Appeals of the petition of John Collins, master of the sloop *Patuxent* of Newbury in New England for a short day for hearing his appeal from a decree of the Vice Admiralty Court in Maryland, 31 July, 1734, whereby the sloop, tackle and goods mentioned in the information exhibited in the said Court by John Rousby, Collector of the Customs, were forfeited, $\frac{1}{3}$ to the Crown, $\frac{1}{3}$ to Governor Ogle, and $\frac{1}{3}$ to the informer.] [p. 251.] 6 Nov. Maryland.

[362.] [Reference to the Committee for Appeals of the petition of Stephen and Robert Hassard of South Kingstown, King's County, R.I., for leave to appeal from judgments of the Court of Common Pleas at Kingstown, Jan., 1735, and of the Superior Court, Mar., 1735, on an action of trespass and ejectment brought against them by John Potter] for Recovery of a Sedge Bed containing eight Acres. [p. 251.] 6 Nov. Rhode Island.

(1739.)

[The appeal was admitted on the usual security on 17 Nov. and after several postponements came on for hearing on 21 March, 1739. In accordance with the Committee report, the appeal is dismissed.] 12 June.

[pp. 253, 263. V. pp. 24, 34. VI. pp. 128-30, 209.]

[363.] [Reference to the Committee of the petition of the Trustees for Establishing the Colony of Georgia] setting forth that they are informed Endeavours are using to Obtain from the Lieutenant Governor of South Carolina, Grants of Lands to the South of the River of Alatamaha, and being apprehensive that any Attempt of making a Settlement on those Lands will necessarily involve both the Provinces of Carolina and Georgia in a War with the Indians and other Neighbours, [and therefore praying that he be strictly enjoined by an additional instruction not to permit any such grants or settlements]. [p. 264.] 26 Nov. Georgia.

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1735.

8 Dec. [Referred by Committee to Board of Trade.] [p. 270.]

(1736.)

22 Dec. [Committee postpone consideration of the Board of Trade report with an additional instruction to the Lt.-Gov. of South Carolina to prevent his granting any lands to the southward of the river Alatamaha.] [V. p. 47.]

26 Nov. [364.] [Reference to the Committee of the petition of Lewis
New York. Morris, freeholder of Albany, N.Y., on behalf of himself and the other freeholders there, complaining against Governor Cosby,] for having sent to the Major of Albany to attend him with a Deed made by the Mohock Indians containing a Grant of a very large and Valuable Tract of Land called Tiondorogue to the said Freeholders of Albany, and for causing the said Deed to be destroyed. And humbly praying in regard they cannot proceed against the said Governor Cosby by due Course of Law for the Damages they have Sustained by the Destroying the said Deed, whilst he continues in the Post of Governor, that His Majesty will be pleased to take the Premises into His Royal Consideration, and afford such relief therein as His Majesty in his Great Wisdom and Justice shall seem meet.

[p. 264.]

15 Dec. [Committee. A copy of the petition to be transmitted to Gov. Cosby for his answer.] [p. 274.]

(1736.)

5 Feb. [Reference to the Committee of (a) the petition of Morris complaining of several matters affecting the government of the province by Cosby: (b) the petition of several of the corporation of the City of Albany complaining of the destruction of their deed, and praying that for the future their deeds be not destroyed or set aside but by the law of the land to which they have always readily submitted.] [p. 359.]

(1736.)

21 April. [Committee. Cosby to have copies of both petitions and to return his answer.] [p. 431.]

26 Nov.

Rhode
Island.

[365.] [Reference to the Committee for Appeals of the petition of Josiah Arnold of James Town, Newport Co. R.I., that the

appeal of Ezekiel Johnson from a judgment of the Superior Court, 26 Mar., 1734, be dismissed for non-prosecution.]

1735.

[p. 264.]

[On the report of the Committee of 8 Dec., the appeal is dismissed.]

18 Dec.

[pp. 269, 283.]

[366.] [Reference to the Committee of the representation of several traders to Jamaica and others in behalf of the Jews who are inhabitants there, setting forth that several Acts have been passed which lay extraordinary taxes and hardships upon the Jews, and praying for directions to the Governor] not to pass any Act whereby such extraordinary Taxes and hardships may for the future be laid upon the Jews residing there, but on the Contrary that the said Jews may freely and fully enjoy all the Rights Privileges and Immunitys which they are legally intituled to in common with any of his Majestys Natural Born Subjects in that Island.

18 Dec.
Jamaica.

[p. 284.]

(1736.)

[Referred by Committee to Board of Trade.]

[p. 317.]

24 Jan.

(1736.)

[Committee. The Board of Trade report] That they find the Legislature of Jamaica have frequently inserted Clauses in their Annual Acts for raising the necessary Supplis, whereby the Jews who live there, have been taxed seperately as Jews, and are distinguished by such Taxations from the rest of Your Majesty's Subjects, and altho some pretences are alledged in those Clauses for Proceeding in this manner towards the Jews, Yet that they are not Sufficient to Justifie the Rigourous Hardships and Taxations complained of by the Petitioners and that the said Jews seem to have the better Title to Redress, in regard many of them are Your Majestys Subjects by Virtue of Letters of Denization, and are Persons of Substance largely engaged in the Trade of that Island and therefore the said Lords Commissioners proposed that the Governor of Jamaica might be instructed not to give his Assent to any Tax to be imposed on the Jews as Jews only, over and above what is laid upon the rest of your Majestys

13 April.

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1735. Subjects there. [The Committee concur and present the draft instructions for approval.] [p. 420.]
- (1737.)
- 23 Dec. [Committee report. Having received the opinion of the Board of Trade and been attended by Gov. Trelawny the Committee are not yet so fully informed as to be able to offer an opinion, and propose therefore that the Governor receive an instruction that on his arrival he make due inquiry into this affair and transmit a particular state thereof to his Majesty in Council, and that in the meantime he do not assent to any Act taxing the Jews as Jews.] [V. p. 351.]
- (1738.)
- 12 Jan. [The instruction submitted is approved. P.R.] [V. p. 362.]
- (1739.)
- 11 Jan. [Reference to the Committee of a letter of 19 July, 1738, from Gov. Trelawny to the Duke of Newcastle with some papers containing reasons for laying an extraordinary tax on the Jews residing in Jamaica.] [VI. p. 69.]
- (1739.)
- 23 Jan. [The Committee report] that Notwithstanding the Reasons therein contained for continuing the said Additional Tax upon the Jews residing in that Island, Their Lordships are of Opinion that it will not be proper for Your Majesty to Authorize the Governor of the said Island to continue the Distinguishing these Inhabitants from the rest of Your Majestys' Subjects in that Island by laying such an Additional Tax upon them and the rather as it has been represented to them by the Lords Commissioners for Trade and Plantations that, as they are informed, many of the said Jews are Your Majestys Subjects by Virtue of Letters of Denization, But their Lordships Considering that this Additional Tax has been annually raised for several Years past, and that the putting an immediate Stop thereto may Occasion a Difficiency in the Supplys to be raised for the Current Service of this Year and may put the present Governor under several Difficultys on his first Arrival in this Government are therefore of Opinion that . . Your Majesty may be pleased to grant unto Your said Governor a Discretionary

1735-6.

Power to Act therein for the present Year as he shall find the Circumstances of the Island may require, But their Lordships humbly Offer at the same time that the said Governor should be restrained in the Strongest Terms from giving his Assent to any Act or Acts for Continuing such Extraordinary Tax after the Expiration of the present Year. If Your Majesty shall be pleased to approve hereof, The Lords of the Committee humbly propose that Your Majestys Pleasure herein may be signified to Your said Governor by a Letter, to be Signed by the Lords of Your Majestys Privy Council.

[VI. pp. 77, 85.]

(1739.)

[Letter to Governor Trelawny in accordance with the report, signed by 11 Councillors, and concluding:—] in Order to prevent any inconveniency that may hereafter arise for want of the Supply usually raised by this said Additional Tax, We do hereby recommend it to You, to consider of some Expedient to answer such deficiency either by laying a Tax upon Dry Goods and Spirituous Liquors retailed in that Island which are referred to in the Paper of reasons transmitted by you upon this Subject or by Providing for the same in such other manner as You shall Judge most proper for that purpose.

22 Mar.

[VI. p. 134.]

1736.

[367.] [Reference to the Committee of a petition of the merchants of London, Bristol, and Liverpool] in behalf of themselves and other His Majestys Trading Subjects to the British Colonys and Plantations in America, complaining of several hardships affecting the Trade to those Colonys, and humbly praying that His Majesty will be graciously pleased to give Instructions to the Governors of all His said Colonys and Plantations to prevent the like for the future.

22 Jan.
Plantation
Trade.

[p. 310.]

[Referred by Committee to Board of Trade.]

[p. 316.]

24 Jan.

[368.] [Reference to the Committee of the] Petition of Henry McCulloh of London Merchant. . .

[p. 311.]

22 Jan.
North
Carolina.

[Referred by Committee to Board of Trade.]

[p. 317.]

24 Jan.

1736.

2 April.

[Committee report. The petition sets forth] That there are vast Quantities of Land in your Majesty's Colony of North Carolina uncultivated and particularly on the Branches of Cape Fear River wherein few or no Settlements have been made till within these twelve Years and them at present very inconsiderable that if the same were cultivated and improved they might not only increase Your Majestys Quit Rents but be rendred greatly Advantageous to this Kingdom in the Production of Hemp Pitch Tarr and other kinds of Naval Stores as also in the making of Pot Ashes which has hitherto miscarried for want of Applying a Proper expence in engaging Persons from Foreign Parts to go over there who are well Skilled in making that Commodity the Importation whereof from the Baltick to Great Britain is Yearly above two thousand three hundred Tons which at twenty four pounds per Ton at first Cost Duty and Freight excepted Amounts to fifty five thousand two hundred pounds ; Besides which Advantages the said Lands are well Soituated for carrying on a Firr Trade with the Indian Nations in that Neighbourhood That the Petitioner is willing to Settle two Tracts out of the said large Quantitys of uncultivated Lands if Your Majesty shall be pleased to grant the same to him, that is to say, one Tract of Seventy two thousand Acres Soituated upon the North East Branch of Cape Fear River from the Second High Bluff upwards or thereabouts and leading towards the Point of Trent River on the East side, and on the West towards the Head of the Black River and the other Tract of Sixty thousand Acres Soituated towards the North West at or near a Place there commonly called or known by the name of the Haw Fields and lying between the North West Branch of Cape Fear River and the Head of the Neus River and the Petitioner will undertake to Settle thereon three hundred Protestants in the Space of ten Years and to encrease that Number from time to time as he shall find encouragement from the Place and Trade intended to be carried on there whereby he hopes in time to prove very beneficial to

1736.

Great Britain and to considerably Augment Your Majestys Quit Rents But that as an undertaking of this kind will be attended with very great Hazards and even the most fortunate of them with great Expences at their first Outsett and particularly to the Petitioner who intends to Contract with Persons from Foreign Parts from whence Pott Ashes are now Imported into this Kingdom to go over to the said Colony to carry on the making of that Commodity there and that as a great many Servants and Slaves will be necessary more than the said three hundred Persons above engaged to be Settled and as both the said Tracts of Land are some hundred Miles from the Seat of Government and will be a kind of Barrier to the more inner Parts of the said Colony the Petitioner humbly hopes that all reasonable encouragement may be given to the undertaking and Particularly an Exemption from Quit Rents for the Space of ten Years. The Petitioner therefore most humbly prays that Your Majesty would be graciously pleased to direct the Surveyor of your Majestys Lands in North Carolina or his Deputy to Survey and lay out the said two Tracts of Land and Your Majestys Governor there to pass a Grant under the Seal of the said Colony to the Petitioner and His Heirs of the said Lands so to be laid out with the aforesaid encouragement Subjects to be void as to so much thereof as the Petitioner shall not Settle according to the Proposals aforesaid—[The Board of Trade having reported favourably, the Committee recommend that the petition be granted] with a Saving Clause as to the right of such Persons as may have a lawfull Claim to any of the said Lands by Virtue of Grants made and Authenticated to them before the Passing of the Grant hereby proposed to be made to the Petitioner. [pp. 425-7.]

[Orders accordingly.]

[p. 438.] 29 April.

[369.] [The Committee report that only the fact that it is a temporary law about to expire prevents them from recommending the repeal of a Massachusetts Act of 24 Dec., 1731, to

2 Feb.
Massachu-
setts Bay.

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1736.

exempt persons commonly called Quakers within this province from being taxed for and towards the support of ministers : by the Charter liberty of conscience is allowed to all Christians except Papists, and the exemption ought not therefore to have been confined to Quakers. The Board of Trade are directed to prepare an instruction for the Governor not to assent to such an Act in future unless it be strictly conformable to the terms of the Charter.] [p. 331.]

5 Feb. [370.] [Reference to the Committee of three petitions
New York. setting forth the bad state and condition of the city and colony of New York, and the need of an agent, and proposing that his Majesty receive representations in behalf of the petitioners from Lewis Morris. The petitions come respectively from (1) the Council of the province of New York and the Aldermen, Common Council and inhabitants of the City of New York : (2) the freeholders and inhabitants of Queen's County : (3) the freeholders of the county of Ulster.] [p. 358.]

(1736.)

21 April. [The Committee report] that this Method of applying to your Majesty by way of Petition for the Appointing Agents for Your Majestys Plantations is irregular and unprecedented. But that in case such Method had not been irregular, yet in regard the present Application is made only by some Inhabitants of Particular parts of the Province who have taken upon them to Nominate a particular person to Your Majesty as Agent for the whole Province the same cannot therefore but be lookt upon as an Innovation which may prove Detrimental to Your Majestys Service in the Plantations in Case the same should receive any Countenance from Your Majesty and therefore the Committee humbly propose to your Majesty that the said three Petitions may be rejected.

[p. 430.]

29 April. [Order accordingly.]

[p. 442.]

4 Mar. [371.] [Reference to the Committee of a Board of Trade
Plantations. representation of 6 Feb.] setting forth That Having been

1736.

informed that in some of His Majestys Colonys in America, the Governors do sit and vote as Members of their Respective Councils in all Ordinary Cases, And even some times when the Council Acts in their Legislative Capacity which Appearing to them to be inconsistent with the Tenour and Intention of His Majestys Commission and Instructions to the said Governors The said Lords Commissioners have taken the Opinion of His Majestys Attorney an Solicitor General thereupon who being of Opinion that the said Governors ought not in any case whatsoever to sit and Vote as Members of the Council in their Respective Governments. The said Lords Commissioners therefore Submit it to His Majesty whether the said Governors should not be Directed to conform themselves thereto. [p. 408.]

[The Committee] finding that the said State of the case is drawn in too general and Extensive a manner And that the Attorney and Solicitor General had not before them the several Commissions Instructions and Charters relating to the respective Governments at the time when they considered the said case. Their Lordships Do therefore hereby Order that His Majestys Attorney and Solicitor General do reconsider the Papers abovementioned. [Any other papers necessary are to be furnished to them by the Board of Trade, when required.] 21 April. [p. 432.]

[372.] [Reference to the Committee of the] Petition of George Burrington, late Governor of North Carolina praying that he may be paid his Arrears of Salary as likewise his Expences in causing Surveys to be made and Draughts Drawn of the Ports and Harbours in that Province pursuant to His Majestys Instructions And further praying that his Conduct as Governor may be Examined into and that He may be restored to His Majestys Royal Favour. 29 April. North Carolina. [p. 444.]

[Committee recommend that the petition be dismissed,] finding the same to be very irregular, in regard it consists of Matters of such a Nature as cannot properly receive any Determination in your Majestys Privy Council. 13 May. [p. 448.]

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1736.

21 May. [Order accordingly.] [p. 454.]

29 April. [373.] [Reference to the Committee of the petition of]
 North Daniel Hanmer late Cheif Justice of North Carolina Setting
 Carolina. forth that he hath been removed from the said Post by the
 present Governor of that Province without the Consent of the
 Councill without any cause being Assigned and humbly
 praying that he may have an Opportunity of being heard and
 of clearing himself against any charge whatsoever if any hath
 been made or shall be made against him or otherwise that he
 may be restored to the said Post of Chief Justice. [p. 444.]

13 May. [Committee. A copy of the petition to be sent to Gov.
 Johnson for his answer.] [p. 450.]
 (1737.)

2 Nov. [Committee. Mr. Hanmer's solicitor to have a copy of
 Gov. Johnson's answer.] [V. p. 294.]
 (1738.)

13 Mar. [Committee report. Johnson in his answer] Alledges that
 he did not remove the Petitioner from the said Office of Chief
 Justice without the Advice and Consent of the Council But
 that upon his the said Governors Arrival in that Province,
 being informed by the Council that the aforementioned
 Wm. Smith who had been appointed by Your Majesty to be
 Chief Justice of that Province together with the Secretary,
 the Attorney General and the Judge of the Admiralty who
 had likewise been appointed to their said Respective Offices
 by Your Majesty were all suspended therefrom, and drove
 out of the Province by the late Governor Mr. Burrington who
 had put into their Places persons of very indifferent Characters,
 and not equal to those Employments He the said Governor
 in the Proclamation (which was of course to be issued for
 continuing all Officers Civill and Military in their Respective
 Employments 'till further Order) did, by the advice of Your
 Majestys Council in the said Province, insert a Clause, Requir-
 ing all Officers appointed by Your Majesty, who had been
 Suspended, removed or prevented from the Exercise of their
 Offices, to resume their Respective Functions 'till further

1736.

Order, And that in Consequence thereof the said Mr. Smith, together with the other Officers aforementioned, did again enter upon their Respective Employments ; And that neither the said Daniel Hanmer, nor any other of those who had been Appointed to Act in their Room ever made Compleat it thereof to the said Governor Notwithstanding they had frequent Opportunitys for so doing—The Lords of the Committee this day took the said Matter into their Consideration And were attended by Counsel as well for the Petitioner as for the said Governor Johnston—But the Counsel for the Petitioner declaring that they did not intend to Alledge or insist in any thing as matter of Complaint against the Governor but only to Clear the Petitioner against any Charge, which might prevent his being restored to the Office of Chief Justice—Their Lordships did not think fitt to proceed on this Complaint the said Mr. Smith who is at present in possession of the said Office not having been made a party thereto But that the Petitioner may not be precluded from laying his Grievances before your Majesty if he has any just reason to complain their Lordships are humbly of Opinion that Your Majesty may be pleased to allow him to withdraw his present Petition and to preferr such other Petition to Your Majesty in lieu thereof as he shall be Advised.

[V. pp. 487–8.]

(1738.)

[Order accordingly.]

[p. 506.] 6 April.

[374.] [Reference to Committee of the] Petition of Wavel Smith and Savile Cust Esqrs. Secretary and Clerk of the Crown to all His Majestys Leeward Charibee Islands in America complaining of Several proceedings in the said Islands whereby the Fees of the said Offices are reduced and the Petitioners propertys otherwise affected And humbly praying to be relieved in the Premises.

[p. 445.]

29 April.
Leeward
Islands.

[The Committee] finding the same to be of a very complicated Nature, and to contain Different matters of Complaint in Different Islands with regard to Acts of Assembly, Orders

13 May.

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of the Governor Proceedings of the Councils and Assemblies Judgments of the Courts of Law, with other Matters Which come under Distinct Considerations, and require different Methods of proceeding upon them. Their Lordships are therefore of Opinion that the said Petition is irregular and that it may be adviseable for Your Majesty to Dismiss the same— But that this should be done without prejudice to the Petitioners preferring to your Majesty such other and Distinct Petitions as they shall be advised according to the different Nature of the Complaints, to the end the same may receive a proper and regular Examination. [p. 447.]

21 May. [Order accordingly.] [p. 453.]

24 Nov. [Reference to the Committee of the petition of Smith and Cust that an order of the Governor at St. Christopher, 9 Feb., 1735–6, affecting the fees of their offices in Antigua, be reversed, and that order be given for observing the Act of 6 Anne for regulating the coins in the plantations.] [V. p. 25.]

22 Dec. [Committee order for sending a copy of the petition to Gov. Mathew for his answer. The order complained of was] Directed to the Petitioners Deputy at Antigua Commanding him instantly to Conform to an Old Pretended Docket of Fees alledged to have been Established in 1703 but which was never once followed by any Grantee of the said Office and by which means the Petitioners now Stand Divested of almost the whole Profits of the Fees and Perquisites of the Office in the said Island And also Complaining that his said Deputy hath been obliged to accept of payment of the Fees in Money advanced against An Act of Parliament of Great Britain By means whereof the Petitioners are defrauded of one Seventh part of the Fees allowed to be taken if paid in Silver and one Fifth of such as are paid in Gold. [V. p. 46.]

(1738.)

25 Jan. [Committee order a copy of Mathew's answers to be given to the complainants.] [V. p. 397.]

(1738.)

30 June. [Committee appoint 5 July to hear the complaint.] [V. p. 572.]

[Committee report as on 13 May, 1736, and indicate three heads for distinct petitions, viz.] :

1736.
(1738.)
5 July.

1st. With regard to their not being paid for the Publick Business of the Island of Antigua done and performed in their said Offices.

2. With regard to a Docquet of Fees made in Antigua in the Year 1703, by the then Governor and Council and also to an Order made by the present Governor in Chief of the Leeward Islands on the 9th of February 1735 requiring the Petitioners to comply with the aforesaid Docquet of Fees.—

3. And with regard to any Injurys the Petitioners may have Sustained upon account of any Order for raising the Coins or making any alterations in the Value thereof contrary to the Act of Parliament of the 6th of Queen Anne—For ascertaining the Rates of Foreign Coins in His Majestys Plantations in America—or to any Act of Assembly made in the Leeward Islands for regulating the Value of Coins current there.

[V. p. 572.] (1738.)

[Order accordingly.]

[V. p. 590.] 20 July.
(1738.)

[Reference to the Committee of three petitions of Smith and Cust under the heads given above.]

[V. p. 601-2.] 20 July.
(1738.)

[Committee order copies of the three petitions to be given to the agent for Antigua.]

[p. 610.] 27 July.
(1738.)

[Committee. On a motion for a short day for hearing the petitions of Smith and Cust as to their fees, the agent for Antigua prayed that he might till he receive certain papers and proper instructions from Antigua. Smith offering to allow the agent copies of any papers that have been transmitted, the agent is ordered to lay before the Committee at the next meeting a list of the papers he desires.]

[VI. p. 9.] (1738.)

[Committee. On the petition of John Yeamans, the Antigua agent, that no day for hearing be appointed till a reasonable time be allowed for receiving instructions from Antigua, the order made at the last Committee is discharged.]

[VI. p. 15.] 1 Nov.

said Governor and Council had allowed the Petitioner Smith the said Sum . . which they thought reasonable as well because the Several Articles were allowed the Petitioners Predecessors as that it was the Opinion of that Board that he had acted in his Post with Great Faithfulness Diligence and Fidelity That the said Assembly having also Examined into the said Account Did agree to allow the said Sum . . and an Order passed on the Treasurer for the Payment of the same That on the 19th of July 1731 the Petitioner Wavel Smith Preferred another Petition to the Lieutenant Governor and Council of Antigua to be paid Two hundred thirty one pounds one shilling and six pence with an Account annexed That the said Lieutenant Governor and Council examined the said last Account and approved the same and on the 19th of July 1731 sent it to the Assembly who postponed the Consideration thereof till near a year afterwards—Vizt. to the 17th of April 1732 and then they were pleased to resolve.

That the Publick is no ways Chargeable nor Ought to make any Allowance to the Secretary or his Deputy for Copys or Draughts of Minutes of Council delivered to the Governor or Commander in Chief in Order to be sent for Great Britain The House being Unanimously of Opinion That it is his Duty Ex Officio.

They further Resolved He ought not to be paid for Recording the Acts or for Pens Ink and Paper the Petitioner having a small allowance of Sixteen Pounds per Annum and six shillings for a Dinner on the Days the Council Meet as Clerk of the Council And for that this is a Branch of the Secretarys Office which is Valuable otherwise.

And they Ordered all and every the Articles in the Account of the above Nature and which were very considerable and amounted to One hundred thirty eight pounds four shillings and six pence to be deducted and that they would not pay any of the like Nature for the future.

That the Petitioners after waiting three Years and all that time performing a great deal of Business for the Publick

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1736.

without Payment for the same the Petitioner Wavel Smith on or about July 1735 layd before the Governor and Council two Accounts wherein were stated all the Various Business Performed by the Petitioner as Secretary and Clerk of the Crown from 13th August 1723 to May 1735, being for near twelve years Service and wherein also Credit was given for all the Money that was paid to the Petitioners or his Deputyts and the Ballance then remaining due amounted to One thousand eight hundred seventy eight pounds two shillings and six pence Antigua Money, That the said General Account was on or about the 23d August 1735 referred by the Governor and Council to the Assembly who Audited and Examined the same and deducted therefrom One thousand seven hundred forty three pounds and ten shillings allowing only to be due One hundred thirty four pounds twelve shillings and six pence and an Order on the Treasurer payable for no more issued to the Petitioners. That since the said time a great Variety of Publick Business has been Crowded upon the Office amounting from the 12th of May 1735 to the 12th of November 1737 to Seven hundred twenty eight pounds one shilling and five pence as appears by the Affidavit of the Petitioners Deputyts and which wholly remains unpaid to the Petitioners. The Petitioners therefore Pray that Your Majesty will be Graciously pleased to Order the Governor and Council to Examine and Settle the said Accounts and make out Orders for Payment thereof and that Your Majesty's Governor do earnestly recommend to the Assembly of the said Island the making Provision for the immediate Payment thereof and also taking Care to Pay for the future whatever shall become due to the Petitioners for such Services as shall be performed by them or their Deputyts for the Publick, And that they may have all such further and other Relief in the Premisses as to Your Majesty shall seem meet—[The Committee, after careful examination, report their opinion] That the salary of sixteen pounds per Annum and the Six shillings a Day allowed to the Petitioner Smith for each Day the

1736.

Council meets, is not a sufficient or Adequate Allowance for his Trouble and Expence in transacting the Publick Business of that Island, And that therefore it may be Adviseable for your Majesty to Order the Governor of Your Majesty's Leeward Charribbe Islands together with the Council of the Island of Antigua to Examine into and Settle the Petitioners Accounts for all Publick Business that hath been already performed and for which the Petitioner hath not been paid as also from time to time to Examine and Settle the Petitioners Accounts for the like Business to be hereafter performed by him or his Deputy, And to make a reasonable and Adequate Allowance for the same—And that the said Governor do then recommend to the Assembly of Antigua the making Provision for the Payment of what shall appear upon Stating the said Accounts to be now due, And do likewise from time to time recommend it to them to make Provision for what hereafter shall become due for the said Services.

[VI. pp. 390-2.]

[Order accordingly.]

[VI. p. 412.] 22 Nov.

[375.] Upon a Motion this day made to their Lordships praying for a Copy of the Instruction given to William Mathew Esqr. His Majestys Governor of the Leeward Islands relating to the said Governor allowing Appeals from those Islands It is Ordered by their Lordships that a Copy of the said Instruction be given to the Solicitor accordingly. [p. 451.]

13 May.
Leeward
Islands.

[376.] [Reference to the Committee of a Board of Trade representation of 7 May relating to the settling 6,000 Swiss Protestants at their own expense in North Carolina.] [p. 455.]

21 May.
North
Carolina.

[377.] [Reference to the Committee of three petitions setting forth the great inconveniences that have attended the province by a single person being governor both of New Jersey and of New York and praying that a separate governor may be commissioned for New Jersey. The respective petitioners are (a) the President and Council, and the Speaker and divers

21 May.
New Jersey
and
New York.

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members of the General Assembly of New Jersey: (b) the Grand Jury returned to serve at the Supreme Court at Perth Amboy: and (c) Richard Partridge, agent for the province.

[p. 456.]

24 May. [Referred by Committee to Board of Trade.] [p. 463.]
(1737.)

13 April. [Committee postpone further consideration of the Board
(1737.) of Trade report.] [V. p. 187.]

21 July. [On a representation from the Board of Trade of 30 June,
Lord Delaware's commissions as Governor of New York and
New Jersey are approved. P.R.] [V. p. 262.]
(1738.)

15 Feb. [On a representation from the Board of Trade of 25 Jan.
Lewis Morris's commission as Governor of New Jersey is
approved. P.R.] [V. p. 426.]

21 May. [378.] [Reference to the Committee for Appeals of the petition
Antigua. of Wavell Smith, Secretary of the Leeward Islands, for leave to
appeal from a judgment of the Court of King's Bench and
Common Pleas in Antigua, 28 May, 1734, whereby he was
found guilty of extortion and fined 10%.] [p. 457.]

23 July. [Committee. The petition shows that the indictment
charged Smith with] having on the 26th of May 1732
Extortiously demanded and taken of the Honourable Francois
Carlisle of the said Island Esqr. two Fees of one Pound Nine
Shillings and Nine Pence Current Money of Antigua for
entring in the said Office of the Petitioner two Declarations
and Continuances thereon in two Actions in the said Indict-
ment mentioned which Fees were laid to be more than appointed
by a Docket therein also mentioned that after the Grand
Jury had found the Bill of Indictment the Petitioner removed
it by Certiorari into the Court of Kings Bench and Common
Pleas for the said Island of Antigua where the said Indictment
came on to be tryed on the 16th of Aprill 1734—And the Jury
found a Special Verdict, That on the 28th of May 1734
the said Special Verdict was Argued before the Judges of the

said Court who gave Judgment thereupon against the Petitioner as Guilty of Extortion and also fined him ten pounds that the Petitioner conceiving himself aggrieved by the said Judgment was advised to Appeal there from but the said fine being under the Sum limited in General for the Allowance of Appeales the Petitioner could not be admitted to appeal therefrom—Wherefore he most humbly prays in regard to the Circumstances of his Case and that altho the said Fine amounts only to ten pounds Yet the right Determined thereon being a Fee of Office which in the Course of Business is of Considerable more Value than the Sum limited for the Allowance of Appeals that he may therefore be permitted to Appeal to His Majesty from the said Judgment. The Lords of the Committee in Obedience to His Majestys said Order of Reference this day took the said Petition into their Consideration and Do Agree humbly to Report to Your Majesty as their Opinion that it is not Adviseable for Your Majesty to grant the Petitioner liberty to Appeal to His Majesty in Council from the said Judgment given in the Court of Kings Bench and Common Pleas in Antigua in regard such Appeales ought only to be admitted from the Determination of the Superior Courts in His Majestys Plantations in America and there being a Court of Errors Establisht in the Island of Antigua the Petitioner ought therefore first to carry his Appeal to that Court; But their Lordships Observing that the Fine to which the Petitioner is Condemned amounts to no more than ten pounds And finding that the Governor of the Leeward Islands is restrained by His Majestys 54th Instruction from Admitting Appeales to the Court of Errors unless the Sum or Value Appealed for do exceed three hundred pounds Sterling and likewise from Admitting any Appeales from the Determination of the said Court of Errors to His Majesty in Council unless the Sum Appealed for do Exceed five Hundred pounds Sterling Their Lordships are therefore of Opinion that His Majesty's said Instruction should be dispensed with in this particular Instance, [and the Governor

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1736.

ordered to admit the petitioner to bring a writ of error, from which either party may, if they so desire, appeal to his Majesty in Council]. And their Lordships Observing that this Affair hath been depending a Considerable time in the said Island of Antigua Do further humbly propose to Your Majesty that the said Governor may be directed to proceed to the hearing thereof without delay after the said Writ of Error shall be brought. [pp. 503-5.]

11 Aug. [Order accordingly.] [p. 511.]
(1738.)

20 July. [Reference to the Committee of a petition of Wavell Smith for a short day for hearing his appeal from the judgment of the Governor and Council of Antigua as a Court of Errors, 31 Jan., 1737, reversing the judgment of 28 May, 1734. Though the earlier judgment is reversed, no order has been made for repaying the fine and restoring the petitioner to everything he has lost by means of the judgment of the Inferior Court.]

(1738.) [V. p. 600.]

26 Oct. [Committee. The respondents, Nathaniel Gilbert and John Thomlinson, executors of Francis Carlisle, not having entered an appearance, order is made for hearing the appeal on 15 Nov. and for affixing the usual summons on the Royal Exchange and at Lloyd's Coffeehouse.] [VI. p. 10.]

28 May. [379.] [Reference to the Committee of the petition of Murray
North Crymble and James Huey of London, merchants, on behalf of
Carolina. themselves and others for a grant of lands in North Carolina] and praying to make a settlement thereon of Six thousand Swiss Palatines and other Protestants of Guernsey within the space of ten Years. [p. 469.]

3 June. [Referred by Committee to Board of Trade.] [p. 473.]

8 Dec. [Committee order that the solicitors receive a copy of the
(1737.) Board of Trade report.] [V. p. 35.]

6 April. [Committee refer their report back to the Board of Trade to receive further proposals from the petitioners as to the

1736.

manner and times of settlement and to consider what share of mines or minerals should be reserved to the Crown.]

[V. p. 181.] (1737.)

5 May.

[Committee report. The desired lands are upon the heads of the Pedee, Cape Fear, and Neuss rivers. The petitioners] are willing to undertake the Settlement upon the following Conditions, viz. :—That they be allowed one Million two Hundred thousand Acres of Land to be Surveyed in twelve different Parcells of one hundred thousand acres each.

That these twelve Parcells be laid out as Contiguous as may be but none of them to be at any greater distance than ten Miles from some other of them.

That these twelve Parcells so Surveyed be granted by the Governor to the Petitioners and their Associates in such proportions as shall be required by them but no Grant to contain less than twelve thousand Acres.—

That the Petitioners and their Associates do pay the usual Fees for Surveying and passing the Grants of the said Tracts.

That all the Grants be made by the Governor immediately upon the return of the Surveys to him and that they do bear equal Date with each other.

That the Commencement of the Quit Rent be computed from the Expiration of ten Years from the Date of such Grant which Quit Rent is to be four Shillings Proclamation Money for every hundred Acres included in the said Grants.

That in case any Mines shall be found in the Land Petitioned for one fifth part of all Gold and Silver Ore and one tenth part of the Ore of all other Mines and Minerals whatsoever be reserved to Your Majesty.

The Lords of the Committee having considered the said Proposals Do humbly Report to Your Majesty, That altho the Quantity of Land proposed to be Settled is very great, amounting to the proportion of two hundred Acres for each Person to be Settled thereon, yet their Lordships do not apprehend that any inconvenience can arise from the granting the same to the Petitioners in regard the said Lands are

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Scituated in the Extremity of the Province near to the Cherokee Mountains and at a very great Distance from the Seat of Government; And that there are several Millions of Acres of Vacant Land between the said Land prayed for and the Land already Settled—That this Province being by its Scituation liable to the Excursions of the Indians, a Settlement formed in this part, will be of great Service to the said Province, in Protecting their Frontiers, as well as Encouraging the further Settlement of the said Vast Tracts of Vacant Lands, That as the Petitioners have proposed to form the said Settlement without any Expence to the Crown And as the Cultivating the said Lands will be a means of Encreasing Your Majestys Quit Rents, and likewise of Improving the Trade and Extending the Settlement of the said Province. The Lords of the Committee are therefore of Opinion, that this undertaking will be very much for your Majestys Service and the Interest of the Province, And that it may be Advisable for Your Majesty to Comply with the request of the Petitioners, and to order Your Governor of North Carolina to grant to them the Land prayed for upon the Conditions aforementioned, and to take care in the Grants to be made for this purpose, that no part thereof be already granted to any other Persons; And that he do insert a Clause in the said Grants, to make the same Void, as to so much of the said Lands as shall not be settled within the space of ten Years, according to the proportion of one White Person for each two hundred acres of Land together with a Proviso that till such time as the Crown shall think fitt to resume the said Lands as forfeited for want of being so settled within the said Term of ten Years the Grantees be obliged to pay the Quit Rent for the same.

[V. pp. 216-18.]

19 May. [Orders accordingly for the Governor to grant and the Surveyor General to lay out the lands.] [V. pp. 225-6.]

3 June.
Massachu-
setts Bay.

[380.] [On the petition of Francis Wilks, the agent for Massachusetts Bay, the Committee agree to hear him on 9 July in

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support of an Act of April, 1735, to prevent the currency of certain bills or notes of hand emitted by a society or number of persons in the province of New Hampshire.] [p. 473.]

[Letter to Alured Popple, Secretary to the Board of Trade, for their Lordships to attend the Committee on 10 July when the Act is to be considered and Mr. Wilks heard.] 7 July. [p. 484.]

[The Committee, on considering the report of the Board of Trade for disallowing the Act, and counsel for Mr. Wilks in its support,] and being informed that Bills of Credit to a great Value have been issued in the Several Provinces which formerly were a part of and called New England Vizt. Massachusetts Bay, New Hampshire Rhode Island and Connecticut Do think it proper to Order that the said Lords Commissioners for Trade and Plantations Do Consider of and lay before this Committee a State of the Paper Currency in those Provinces. 10 July. [p. 485.]

[381.] [Reference to the Committee for Appeals of the] 16 June.
Petition of Grosvenor Bedford Gent. Collector of His Majesty's Penn-
Customs at the Port of Philadelphia in the Province of sylvania.
Pensilvania Setting forth that Peter Evans Gent. Deputy
Collector of the Customs at the said Port of Philadelphia hath
Appealed from a Verdict and Judgment given in the Court
of Common Pleas of Philadelphia upon an Information filed
in the said Court of Common Pleas in December Term last
by the said Peter Evans against the Ship Hope Daniel Reed
Master for that divers Goods Wares and Merchandizes were
imported in the same Ship from Holland or Germany not
having been bona fide laden and Shiped in Great Britain or
His Majestys Rates and Dutys for the same duly paid And
for that it did not appear that the said Ship was wholly owned
by His Majestys Subjects And humbly praying that a Short
day may be appointed for hearing the said Appeale. [p. 482.]

(1737.)

[On the recommendation of the Committee of 5 May, the appeal is dismissed.] 19 May.
[V. pp. 47, 91, 223 227.]

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8 July. [382.] [Mr. Paris enters an appearance for Rev. John Tittle
St. to the appeal of Benjamin and William Estridge.] [p. 484.]
Christopher.

24 Nov. [Reference to the Committee of (a) the petition of Benjamin Estridge of St. Christopher for a short day for hearing his appeal from two Chancery decrees, 5 Aug., 1734, and 20 Nov., 1735, condemning him as executor of George Strachan, to account for the third of Strachan's estate to the Rev. John Tittle, who married Strachan's daughter : and (b) Tittle's petition to be allowed to bring a cross appeal and to have attested copies of such parts of the proceedings as are necessary.] [V. p. 23.]

(1742.)

17 May. [After several postponements and partial hearings, order is given on the report of the Committee of 12 April,] That the Decree of the 20th November 1735 be reversed and that the Bill of the Appellant John Tittle as against the Respondent Benjamin Estridge be dismissed without Costs. [Certain sums are to be paid by William Estridge to Tittle, and the remainder of the account inquired into and arranged by the Master in Chancery.] [V. pp. 41, 45, 56, 270, 379. VIII. pp. 111, 121-5, 136.]

15 July. [383.] [Reference to the Committee of (a) a letter of 18 Feb. from John Gregory, President of the Council of Jamaica, to the Duke of Newcastle, relating to some disputes between the President and the Council : and (b) a letter of the same date from the Council to the Duke of Newcastle, with an address and representation complaining of the President.] [p. 489.]

(1737.)

17 Mar. [Reference to the Committee of an address of the President Council and Assembly of Jamaica relating to the present distressed condition of the island, with two letters from the President to the Duke of Newcastle and other papers relating thereto] as likewise to the Behaviour of four Members of the Council, who have withdrawn themselves from any further Attendance upon the Council. [p. 138.]

(1737.)

19 Mar. [Referred by Committee to Board of Trade.] [p. 145.]

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- [Committee. The report of the Board to lie by till a Governor is appointed.] [p. 187.] 1736.
(1737.)
13 April.
(1738.)
- [Order that the papers relating to the disputes between the President, John Gregory, and four Councillors, Edward Charlton, Henry Dawkins, William Gordon, and Temple Laws, be put into the hands of Governor Trelawny, who is to examine into the disputes on his arrival in Jamaica and report to the Privy Council.] [p. 362.] 12 Jan.
(1739.)
- [Three Councillors appointed in place of Charlton, Dawkins and Gordon who refuse to re-accept office. See Appendix II.] 22 Mar.
[VI. p. 136.]
- [384.] [Reference to the Committee of the petition of Cuthbert Jackson and John White in behalf of themselves and all the inhabitants of the Bahamas complaining of Gov. FitzWilliam, together with the heads and articles of complaint annexed.] 15 July.
Bahamas.
[p. 490.]
- [Committee. A copy of the petition and articles to be sent to the Governor for his answer.] 21 July.
[p. 499.] (1738.)
- [Reference to Committee of Board of Trade representation of 2 March on the complaint of Chaloner Jackson, collector of Customs in the Bahamas.] 8 Mar.
[V. p. 480.] (1738.)
- [Reference to Committee of FitzWilliam's petition to be heard on this representation.] 6 April.
[V. p. 508.] (1738.)
- [Committee order copies of Gov. FitzWilliam's answers to be given to the agents of both parties.] 19 May.
[V. p. 537.] (1738.)
- [Committee. The solicitor for Cuthbert Jackson and White desiring that they may be permitted to withdraw their complaint, and the principal matter of the complaint being before the Committee in the Board of Trade's report on Chaloner Jackson's petition, it is recommended, in order that these may be more regularly laid before the Committee, that leave be given to withdraw the former petition.] 21 Nov.
[VI. p. 30.] (1738.)
- [Order accordingly.] [VI., p. 38.] 30 Nov.

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(1738.)
9 Dec. [Committee order in accordance with FitzWilliam's petition]
Setting forth That in the Representation made by the Lords
Commissioners for Trade and Plantations upon the Complaint
of Chaloner Jackson Collector of the Customs in the said
Islands which is now depending before this Committee an
Article is inserted relating to the Petitioners having beat the
said Mr. Jackson for refusing to give a Certificate that certain
Goods had been legally Exported or had any cocquet from
the Port of London from whence the Ship in which they were
carried was Cleared That the said Mr. Jackson had laid his
Affair some time since before the Commissioners of His
Majestys Customs who have Examined into the same and as
the Petitioner has heard did come to some Resolutions there-
upon—That the Petitioner conceives that all the Papers and
Proceedings before the said Commissioners will be necessary
to be laid before the Committee that the truth of this matter
may fully appear but being informed that it is not usual to
Grant Copys of such Papers without some Order or Direction
for that purpose He therefore humbly prays that the Com-
missioners of the Customs may be Directed to transmitt
thereof to this Committee. [VI. pp. 54-55.]
- (1738.)
13 Dec. [Committee recommend that FitzWilliam be permitted to
withdraw his petition for a hearing.] [VI. p. 61.]
- (1738.)
21 Dec. [Order accordingly.] [VI. p. 64.]
- (1739.)
12 Jan. [Committee order for considering the Board of Trade
representation on 23 Jan.] [VI. p. 77.]
- (1739.)
23 Jan. [Committee order for the Board of Trade to transmit a
state of the evidence laid before them in support of the articles
on which they have given their opinion.] [VI. p. 89.]

GEORGE II. VOL. V. (1 Oct., 1736—4 Sept., 1738.)

- 13 Oct.
Barbados. [385.] [Reference to the Committee for Appeals of the petition
of William Rawlin, one of the Searchers of his Majesty's duties

1736.

and customs of $4\frac{1}{2}$ % at Bridgetown, for leave to appeal from a judgment of the Court of Exchequer, 27 Feb., 1736, and another of the President and Council affirming the former, 18 May, 1736, upon the petitioner's information] to have Condemnation and Distribution of three Hogsheads of Clayed Sugar and two Hogsheads of good Muscovado Sugar which he had Seized pursuant to an Act of Assembly of the 12th of September 1663 And which Sugars were claimed by Henry Warren Esq. Doctor of Physick. [The appeal is admitted on the usual security, and heard by the Committee.]

[pp. 2, 31, 56, 215, 223, 565.] (1738.)

[The case concerns the seizure of] three Hogsheads of Clayd Sugar and two Hogsheads of very good Muscovado Sugar all of the Growth or Produce of the said Island which had been put in a Boat and Carryed into Carlisle Bay with an Intent to have been Loaded on Board a Ship called the George whereof Thomas Sharpe was Master and in such Ship to be conveyed into Parts beyond the Seas the imposition due for the same not being paid or Compounded for or Lawfully tendered to the Collectors or their Deputys or any of them or agreed for. [On the recommendation of the Committee of 30 June, the appeal is sustained, and the five hogsheads declared forfeited, one-half to the King, one half to Rawlin.]

[pp. 568-70, 591.]

[386.] [Reference to the Committee of the petition of the Council and Assembly of South Carolina] Complaining of Several Obstructions given to the Trade of that Province by the Persons Employed in the Government of the New Colony of Georgia. 24 Nov. South Carolina and Georgia. [p. 21.]

[Referred by Committee to Board of Trade.] [p. 32.] 8 Dec. (1737.)

[Reference to the Committee of the petition of the Trustees for Georgia complaining] against the Lieutenant Governor and Councill and Assembly of South Carolina for having Opposed the Execution of an Act approved by His Majesty 31 Jan.

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in Council on the 3d of April 1735 Entituled an Act for maintaining the Peace with the Indians in the Province of Georgia And also for having passt an Ordinance in an illegall manner for raising 2,000*l*. Sterling to indemnifye the Traders from Carolina in their Contempt of the said Act By means whereof Several Disorders have arisen—And an House within the Bounds of the Colony of Georgia hath been pulled down.

(1737.)

[p. 100.]

4 Feb.

[Referred by Committee to Board of Trade. In due course copies of the Board of Trade report, and of one made to the Board of Trade by the Attorney and Solicitor General are delivered to the solicitors of both parties.]

(1738.)

[pp. 114, 294, 342, 345.]

16 Jan.

[Committee agree to consider the dispute on 25 Jan. On 25 Jan., 4 Feb. and 11 Feb. the case is heard in part, and postponed.]

[pp. 379, 397, 404, 416.]

(1738.)

24 Feb.

[Reference to the Committee of a Board of Trade representation on a South Carolina Ordinance of 26 June, 1736.]

(1738.)

[p. 432.]

28 Feb.

[Committee. A copy of the above representation to be delivered to the solicitors.]

[p. 445.]

(1738.)

18 Mar.

[Committee report. The petition referred on 24 Nov., 1736, complains] that the Magistrates or other Persons employed in Georgia by the Trustees of that Province under Colour of a Law past by the said Trustees for maintaining Peace with the Indians in that Province have Molested and Obstructed the Inhabitants of South Carolina in carrying on their Trade with the Indians notwithstanding they were regularly licenced in Carolina for that purpose And that the said Magistrates or other persons have likewise Seized the Goods belonging to the said Inhabitants of Carolina under pretence that they were within the Province of Georgia And that the said Inhabitants ought not to Trade there without taking Licences at New Savannah in Georgia from the Commissioner appointed by

the Trustees for that purpose. [On considering this and the petition referred on 31 January] it appearing that the matters in dispute between these two Provinces relate Chiefly to the manner of their carrying on a Trade with the Indians—And their Lordships Considering that these differences whilst they Subsist may occasion the loss of those Advantages which would otherwise arise by the said Trade to the mutual benefit of both the said Provinces—And may likewise be a means of interrupting and destroying that Amity and good Correspondence which ought to be maintained and cultivated with the said Indians Do therefore think it most adviseable that the matters in difference between the two Provinces should be accomodated if possible in an Amicable manner. Their Lordships therefore did not think it proper to come to any final Determination but do humbly propose to Your Majesty to recommend it to the Trustees for the Province of Georgia and likewise to Instruct Your Governor of South Carolina to recommend it to the Council and Assembly of that Province to prepare Acts respectively for Settling the Indian Trade to the mutual Benefit and Satisfaction of both Provinces And that in the mean time an Instruction may be given to the Trustees of Georgia to direct their Commissioner in that Province to grant Licences to all Persons who shall apply for the same and shall bring Certificates from the Governor and Council of South Carolina that they are Persons proper to be Licenced to Trade with the Indians such Persons giving reasonable Security to demean themselves well towards the Indians in Amity with the Crown of Great Britain—And that the said Trustees may likewise be instructed to forbear (as they alledge they have hitherto done) to levy upon such Traders the five pounds or any part thereof which they are impowered to raise upon the Indian Traders by Virtue of the aforementioned Act for maintaining the Peace with the Indians—The Lords of the Committee Do further humbly represent to Your Majesty that with regard to the Ordinance past in South Carolina on the 26th of June 1736 which is Complained of by

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1736.

the Trustees of Georgia Entituled " An Ordinance for Asserting and Maintaining the Rights and Privileges of His Majesty's Subjects of this Province of South Carolina to a free open and uninterrupted Trade with the Creek Cherokee and other Indians in Amity and Friendship with His Majestys Subjects and for the better preserving those Indians in the Interest of Great Britain " It appeared to their Lordships that the same was past in a very irregular and precipitate manner the Governor having issued his Proclamation on the 16th of June 1736 for Convening the Assembly on the 24th of the said Month notwithstanding the said Assembly was under an Adjournment from the 29th of May preceeding to the First Tuesday in September following And it appeared likewise that the said Ordinance was past by the said Assembly And also by the Council and Assented to by the Lieutenant Governor in so short a Space of time as between the 24th and 26 days of the said Month of June And their Lordships do further humbly Represent to Your Majesty that the Lieutenant Governor in giving his Assent to the said Ordinance hath Acted contrary to Your Majesty's Instructions And the Lords of the Committee being of Opinion that it is of the utmost Consequence to Your Majesty's Service and Absolutely necessary for the well Governing the several Plantations and Colonys in America that such Extraordinary and unjustifiable Proceedings should be Discountenanced Do therefore humbly Advice that the aforementioned Ordinance should be disallowed by Your Majesty. [pp. 499-502.]

(1738.)

25 May. [Orders accordingly.] [pp. 539-40.]

(1738.)

20 July. [The instructions for the Trustees of Georgia and for the Governor of South Carolina approved.] [pp. 593-4.]

24 Nov.
Antigua.

[387.] [Reference to the Committee of the petition of Thomas Morris of Antigua that as the proceedings have been transmitted a short day may be appointed for hearing his appeal from a Chancery order of 11 April, 1736, in favour of Giles

Watkins and Elizabeth his wife upon a bill filed by them for payment of a legacy left to Elizabeth Watkins by her father John Morris, grandfather of the appellant.] [p. 21.]

1736

(1739.)

[The case concerns the will of John Morris, senior, who divided his estate among his children William, Thomas, Richard, Valentine and Elizabeth. Order is given in accordance with the Committee report of 16 May that the Chancery order of 11 April, 1735, be upheld, but that the appellant be at liberty to file exceptions within six months from the date of this order.] [VI. pp. 179, 186, 187-94, 210.]

12 June.

[388.] [Reference to the Committee of the petition of Charles Dunbar, Surveyor General of Customs in Barbados, the Leeward Islands and Bermudas, for a short day for hearing his appeal from the judgment of the Admiralty Court at Antigua, 29 June, 1736, in favour of Henry Lory and Richard Todman, on appellant's information to have condemnation of the sloop *Nancy* for having come to Antigua and there laden without giving notice thereof to the Governor or the Naval Officer and without performing such other matters as are required by law.] [p. 22.]

24 Nov.

Antigua.

(1740.)

[Committee order for hearing on 27 June, and, as no appearance has been entered, for affixing the usual summons on the Royal Exchange and elsewhere.] [VII. p. 92.]

6 June.

(1740.)

[Committee report. The appeal sets forth] that on the 25th of May 1736 A Sloop (the name whereof and of the Master and Owners were then unknown to the Appellant) Arrived at the Island of Antigua and there unladed diverse Goods and Commodities (the particulars whereof were then likewise unknown to the Appellant) before the Master of the said Sloop had made known to the then Governor of the said Island or to the Naval Officer there the said Arrival of the said Sloop with her name and the Surname of her Master And before he had delivered to the said Governor a true and perfect Inventory or Invoice of her Lading together with the Place or

11 Nov.

1736.

Places in which the said Goods was Laden or taken into the said Sloop That on the 27th of the said Month the said Sloop Laded and took into her in the said Island of Antigua diverse other Goods Wares and Merchandizes Vizt. Six Trunks containing Diverse Goods lockd up two Beds a blue painted Chest three Beef Barrells one of them filled with Guinea Corn and one of them having some Beef in it a Butter Firkin fill'd with brown Sugar and another Butter Firkin fill'd in part with Butter Nine Boxes Eight of which were fill'd with diverse Goods and one of the same Boxes was filled with Twenty Seven hands of Tobacco One Brass Kettle filled with Guinea Corn two Bedsteads a Copper Kettle a Pail Two Musquets One Silver hilted Sword One Sadle and Bridle two Negroe Men One Negroe Boy two Negroe Women and two Negroe Sucking Children and another Negroe Child before the Master of the said Sloop had made known to the Governor of Antigua or the Naval Officer the Arrival of the said Sloop and before he had delivered to such Governor a perfect Inventory or Invoice of her Lading together with the Place or Places in which the said Goods were Laden on Board the said Sloop in Express Violation of the Act of the 15th of King Charles the Second That the said Sloop likewise was not Registred nor a due Certificate and proof had of her being duly Registred as a Vessel Qualified to Trade to from or in any of the Plantations in America as required by another Act of the 7th and 8th of King William the Third The Appellant hereupon in Virtue of this Seized the said Sloop and all the Goods beforementioned and afterwards on the first of June 1736 the Appellant filed his Information or Libel in the High Court of Admiralty for the said Island of Antigua Setting forth to the Effect before Stated and humbly prayed due process of Law against the said Sloop with all her Guns Ammunition Tackle Furniture and Apparel and Goods as aforesaid and that the same might be Condemned as forfeited to be distributed One third part thereof to the use of His Majesty One other third part thereof to his Excellency William Mathew Esqr. Governor of the said

1736.

Island and the remaining One third thereof to the Appellant That the said Court of Admiralty on the Second of June 1736 made an Order for delivering up the said Sloop Slaves and Goods so libelld against to the Partys Claiming the same on their Giving Security to the Register of the Court to redeliver the same or pay the Appraised Value thereof in Case Condemnation should pass against the same. [On June 29 Henry Lory, a planter, claimed the sloop, guns, &c., denying the facts as set forth by the petitioner, and stating that the slaves and goods were simply the necessary servants and effects of certain passengers ; Richard Todman, a planter, likewise by his attorney claimed property in two slaves and two chests, setting forth that he had sent them on board as necessary for his person and subsistence in a voyage which he purposed in order to make a settlement in Tortola ; and on 29 June, 1736, judgment was given in their favour. The Committee having heard the appeal *ex parte*, no appearance having been entered for the respondents, recommend that the sentence be reversed, Todman's goods and negroes delivered to him, and the sloop condemned and forfeited.]

[VII. pp. 234, 240-245.]

[Order accordingly.]

[VII. p. 262.] 16 July.

[389.] [Reference to the Committee of the petition of Michael Arnold for a short day for hearing his appeal from an order of the Court of Chancery in St. Christopher, 13 Nov., 1735, in favour of the Hon. Gilbert Fleming, Lieut.-Governor of the island, Mary Symonds and Thomas Bowry her son, relating to a contract for the purchase of a plantation by appellant, Symonds and Bowry, from Fleming and others the Crown Commissioners for the Sale of Lands in St. Christopher.]

24 Nov.
St.
Christopher.

[p. 22.] (1737.)

[The petitioner sets forth that he went into partnership with Mary Symonds for the purchase from the Commissioners of a plantation of which she was at the time in possession. The Commissioners at first refused to treat, alleging that it

19 May.

518 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1736.

was or had been Church land, and was therefore to go toward the maintenance of a college or school intended to be founded in Bermuda, but finally on 26 March, 1728, agreed to sell at 10*l.* per acre. Though the petitioner offered to pay the third of the purchase money demanded at the time, it was finally paid half by him and half by Mary Symonds, and he has since paid interest on the remainder. Early in 1734 Bowry and Symonds in collusion with Fleming forcibly expelled the petitioner, his overseer and negroes, from the plantation. The petitioner therefore brought a bill against them, to which they put in a demurrer that on his own showing he had not fulfilled his partnership with Mrs. Symonds. On 13 Nov., 1735, the Court held that as to any breach of covenant to his damage he should not have sought relief in equity but at law, and left him to take his remedy thereat, and that as to his complaint that the land was not rightly forfeited, he should seek relief in the Court of Exchequer. On the Committee report of 20 April his appeal from this order is sustained, and both the demurrers overruled with costs.]

[*pp.* 194, 195-202, 227.]

24 Nov.
Rhode
Island:

[390.] [Reference to the Committee of the petition of James MacSparran, clerk, incumbent of St. Paul's in the Pettiquamscot Purchases and in King's County, Rhode Island, complaining of proceedings in the Inferior and Superior Courts upon his writ of ejectment against Robert Hassard, tenant to Joseph Torrey, for recovery of 280 acres of land set apart for an orthodox minister, and of having been denied liberty to appeal on 30 March, 1736; and praying that the Courts be ordered] to try the Merits of the said Cause securing to the said Hassard some pleas filed by him in Barr to the Petitioners action, [or that the petitioner's appeal from the judgments already given be admitted.] [*p.* 24.]

(1737.)

26 Jan.

(1737.)

21 Feb.

[Committee report for admitting the appeal.] [*pp.* 91, 95.]

[Order accordingly. Security given on 2 March by MacSparran and Thomas Sandford of London, merchant.] [*p.* 128.]

1736.
(1738.)
28 Feb.

[Committee report. The appeal sets forth] That Samuel Wilber and others since called the Partners in the Petequamscut Purchase having purchased from the Indian Natives the Inheritance of one or more large Tracts of Land which are now with the said Colony of Rhode Island (and which Purchase was called the Petequamscut Purchase from a great Pond or Lake of that Name Comprised therein) and being Seized thereof The said Partners Agreed amongst themselves to give a Tract of that Land for the Benefit of an Orthodox Minister And thereupon at a meeting of them held on the 4th of June 1668 they drew up and Signed an Agreement in writing containing Several Clauses relating to the said Purchase (and one amongst the rest) in the following Words—"That a Tract of three hundred Acres of the best Land and in a Convenient Place be laid out and for ever set apart, as an Encouragement the Income or Improvement thereof wholly for an Orthodox person that shall be Obtained to preach Gods Word to the Inhabitants"—That there having been some difference between those Purchasers and the Purchasors of other Lands relating to Bounds and other Matters, a finall Deed of Agreement was duly Executed Sealed and delivered by all Partys on the fifth of December 1679, whereby it was finally Agreed Determined and Concluded for the said Partys and their Heirs for ever that the Lands that were Sold and laid out by the said Samuel Wilbor and Company to Ivich Bull and several other Persons mentioned in a List annexed to that Deed which should happen to be without the Western side of their Tract, should be allowed and made good to them; And in the List annexed to that Deed amongst several Parcels of Lands for the said Ivich Bull and others was expressly mentioned in the following Words "For the Ministry 300 Acres"—That afterwards many Particular Parcels or small Tracts of Land being laid out or granted to particular Persons and the said Company of Purchasers being Encreased in Number they became a Town called King's Town in King's County (and which Kingstown is since Divided into South

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Kingstown and North Kingstown) And a General Survey of the said Petequamscut Purchase was made and of the Particular Parts and Shares which had been laid out therein, And at a meeting of the said Proprietors in or about the Year 1692 John Smith their Surveyor, did by their Order upon the Platt of the said Purchase and on that Lott thereof which was Designed for the Ministry, Write the Word—Ministry That the same might be thereby distinguished from other Lands laid down in the said Platt which was a further and a final Confirmation of the said 300 Acres of Land for the Ends and purposes aforesaid—That the said Township not having obtained an Orthodox person to preach Gods Word to the Inhabitants for some Considerable time after the said Original Donation Laying out and Confirmation of the said 300 Acres Mr. Henry Gardner the Elder entred as Occupant on about 20 Acres, part of the said Ministerial Lands and one James Bundy a very poor Man entred (as it is now pretended) as Occupant on some other Part thereof which said Bundy was so far from being Settled thereon, or having any Interest therein that it appears by the Votes of the Town Council that from the Year 1702 to the Year 1715 he was frequently Warned out of the Town unless he could procure Security to Indemnify the Town from any Charge which he or his Family might Occasion and that under threats of Corporal punishment in Case he did not depart—That at a Quarter meeting of the Town Council on the 7th day of December 1713 they passed a Vote in the following Words—" Voted that Whereas there is a Farm of 300 Acres of Land laid out and given by the Petequamscut Purchasers for the Ministry And for as much as no Minister has Appeared, Yet, to Accept of the said Land It is Ordered that the Town Council of this Town shall and is hereby Empowered to lett out the said Land to him or them, until such time that a Minister do Appear to accept of the same."—That at another Town Council held on the 8th of March 1713 One William Congdon Offered to the Town Council 10*l*. 13*s*. a year for Seven Years for the Land laid

to the Ministry by the Purchasors of Petequamscut an three persons were Appointed to give a Lease to the said Congdon by Order of the said Town Council but nothing further was done thereon, nor any Lease granted, Neither had the said Inhabitants as Yet obtained any Orthodox person to preach the Word of God to them.—That in the Month of June 1720 the said Inhabitants applyed to the Lord Bishop of London and to the Society for the Propagation of the Gospel in Foreign Parts to Obtain an Orthodox person to preach the Word of God to them—That in August and September 1720 the Petitioner was duly admitted into Deacons and Priests Orders Successively and was Appointed a Missionary by the said Society to those Parts—That in October 1720 the Petitioner duly obtained a Licence from the Lord Bishop of London to Exercise the Petitioners Function in New England and also a Testimonial of the Petitioners Subscription and Declaration to Conform to the Litingy of the Church of England as by Law Established—That in the Year 1721 the Petitioner (who then was and still is an Orthodox person) Arrived in Rhode Island and took Possession of the said Church of Saint Pauls (which Stands within the said Purchase) and Officiated therein and preached the Word of God to the Inhabitants of the said Purchase And before the Petitioners said Arrival there the said Henry Gardner delivered to the Petitioner the Possession of 20 Acres part of the said 300 Acres the Ministerial Land and the Petitioner enterred thereon and possesses the same to this day having leased out the same at the rent of 7*l.* 10*s.* per Annum to a Tenant one Mr. Thomas Potter But one George Mumford a Person Dissenting from the Church of England having got into the Possession of the remaining 280 Acres, refused to deliver up the same—That the Original Donation of the said 300 Acres in 1668 for an Orthodox Person to preach Gods Word to the Inhabitants was a matter Publickly known by Tradition in that Country And it was well known that the said Original Instrument was in the hands of one Jahleel Brenton Esqr. (a Gentleman who

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professed himself to be a Dissenter from the Church of England) and to him the Petitioner Caused a Civil Application to be made, to Deliver up or else to Record that Agreement or Donation as being the Original foundation of the Petitioners Right, in regard the Subsequent Transaction alone without that mentioned meerly that the Land was, for the Ministry which was a Doubtfull Phrase But the said Jahleel Brenton thought fit to refuse to Deliver the said Original Agreement and even to deny that he had the same in his Custody altho the Petitioner has now lately discovered and proved that the said Jahleel Brenton then had the same and showed it privately to his Relations That the said George Mumford refusing to deliver up the said 280 Acres to the Petitioner and the said Jahleel Brenton Concealing and Denying the said Original Donation the Petitioner did as well as he could in such Case and brought his Action of Ejectment for the said 280 Acres against the said Mumford in the General Court of Tryals to be held at Newport for the said Colony of Rhode Island on the first Tuesday of September 1723 In which Action of Ejectment the Petitioner founded his Title upon the said Transactions in 1679 and 1692 only and did not nor Possibly could set up the said Original Donation in 1668 which so particularly exprest for whom the said Land was intended And the said Mumford Appeared and Pleaded to the said Ejectment but on a Tryal thereof in September 1723 and again by rehearing in March 1724 the Jury found for the Defendant in the said Action Costs of Court And the said Mumford Continued in the Possession of the said 280 Acres That in 1732 One Mr. Joseph Torrey Alledging that he was called to the Dissenting Ministry somewhere in New England Came into South Kingstown and pretended to preach to Persons of the Presbyterian Perswasion And he Demanded possession of the said 280 Acres from the said Mumford who altho' of the like perswasion with the said Torrey did not care to part with his Possession—Whereupon the said Torrey brought His Ejectment in the inferior Court of Common Pleas to be

held at South Kingstown against the said Mumford for the said 280 Acres, and the said Torrey having more favour with the said Jahleel Brenton than the Petitioner had, he in his Declaration set out for Title the said Original Donation in 1668 and the Subsequent Transactions in 1679 and 1692 also But he Alledged, tho without Foundation that all or the Major Part of the said Proprietors of the Petequamscut Purchase had been Presbyterians and in setting forth the Words of the Original Donation in his Declaration he inserted several Words to Express that the Donors gave the said Lands for a Person (in their Sentiments) Orthodox to preach &c. Whereas no such Words are contained in the said Donation And he therein Charged that the said Lands had remained in Abeyance from the time of the first Grant to the 17th of May 1732. That the said Mumford appeared and pleaded to the said Torreys Ejectment and the Cause was Tryed by a Jury in June 1732 who found a General Verdict for the Defendant Mumford And the said Torrey Appealing to the Superior Court the Cause was tryed by another Jury in September 1732, when the Jury found a Special Verdict That if it was the Opinion of the Court that the said Torrey was an Orthodox Minister According to Law then they found the Land sued for and Costs of Court but if not they found for the said Mumford Costs That the said Superior Court on the last Tuesday of March 1733 on Arguing the said Special Verdict Adjudged that the said Torrey was not an Orthodox Minister According to Law and therefore Confirmed the Judgment of the Inferior Court That the said Torrey thereupon desired and for his part was immediately Admitted by the Court to Appeal to His Majesty in Council . . And during such time (as the Petitioner has been informed) some overtures were made by the Friends of both those Partys to prevent that Disputes affecting the Common Cause or Interest of the Presbyterians That the said Lords of the Committee on that Appeale between Torrey and Mumford and on the Evidence given in that Cause and on the Defence which was then made Reported their

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Opinion to Your Majesty And Your Majesty by Your Royal Order in Council of the 18th of July 1734 was pleased to reverse both the said Judgments below and to Order that the said Torrey should be put into Possession of the Lands in Question which the said Mumford was so willing to Comply with that he did not only Permit the said Torrey to take the possession but upon the 21st of October 1734 (which was as soon as ever Your Majesty's Order Arrived in Rhode Island) the said Mumford on the back of the said Order Endorst and Signed with his own Name a formal Livery and Seisin of the Premisses there within mentioned to the said Torrey, and this he did so early and hastily as 5 days before ever your Majesty's Order was recorded there which was a matter no ways required by the said Order and which the Petitioner humbly represents to Your Majesty as an Instance that the said Mumford was not upon Adverse Terms with the said Mr. Torrey, That the Petitioner finding that the said Mr. Torrey could and had got at the said Original Donation in 1668, And had now put it upon Record, so that the Petitioner also might get at the same was preparing to bring his Ejectment against the said Torrey in Order to a Real Tryal of the right of the said 280 Acres . . so soon as ever the Determination of the Cause between Torrey and Mumford should be known But the Petitioner was for a short time prevented therein For the said Mr. Torrey Flusht at his good Success in the Cause with Mumford as to the 280 Acres in a few days after the Arrival of Your Majestys aforesaid Order in Rhode Island—Presently sued out a Writ against Ephriam Gardner Esqr. and afterwards on the 25th December following filed his Declaration in Ejectment against him in the said Inferior Court of Common Pleas for the remaining 20 Acres which were in the Occupation of the Petitioners said Tenant Potter That the said Ephriam Gardner as being the Defendant named in the Plaintiffs Declaration Nominally appeared and Pleaded and Defended the said Action for the said 20 Acres but under the Petitioners Direction whose right alone (and not the said Gardners) was

to be Affected by the said Action And the said Action came on to be Tryed by a Jury before the said Inferior Court on the 24 of June 1735 who found a General Verdict for the defendant and Costs of Court From which the said Torrey Appealed to the Superior Court where the same was again Tryed by another Jury on the 2d of September 1735 who again found another General Verdict Confirmation of the former Judgment and Costs of Court That as soon as ever the said Torreys Ejectment against Gardner for the 20 Acres was over, the Petitioner (against the next inferior Court) did on the 2d of December 1735, Sue out a Writ against Robert Hazard Gent. Tertenant of the said 280 Acres, and filed his Declaration in Ejectment before the said Inferior Court of Common Pleas on the 24 of the same December against the said Hazard for the said 280 Acres [the detention of which] he laid to be to his Damage 4,000*l*. Current Money of New England and thereupon he brought his Suit &c. That on the 31st of the same December the said Defendant Hazard filed a most extraordinary Plea and Answer (as called) to the same wherein the said Hazard came into Court and Defended the Force and Injury when &c. and offered (in one and the same paper) two Pleas in Abatement Three more Pleas in Barr to the said Action and finally the general Issue not Guilty That thereby the said Hazard insisted that the Petitioners Action ought to abate First Because the Land was not bounded Westerly upon the High way as the Petitioner had Declared, Secondly Because the Petitioner had omitted Setting forth the Northerly Bounds.—In Barr First For that the Reverend Mr. Samuel Nyles a Gentleman of the Presbyterian Perswasion who was Chosen by the People of Kingstown to preach the Gospel among them was upon his Entrance into the Ministerial Office in the Year 1702 put into the Actual Possession of the Lands Sued for and from that time by himself and Tenants enjoyed a Quiet and uninterrupted Possession of the same in right of the Presbyterian Ministry (under which the said Hazard said he held) for more than twenty Years which the

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Defendant was ready to Verify wherefore he prayed Judgment if the Petitioner of his Action ought not to be barred, Second, For that the Petitioner the Plaintiff had on the 4 of July 1723 in his aforesaid Capacity and on the pretended Right of the Church of England brought his Ejectment against Mumford for the very same Lands now Sued for which was Tryed in September 1723 and a Verdict was found and Judgment was given for Mumford to recover Costs of the Petitioner and that the Petitioner entered and Prosecuted a Rehearing at the next General Court of Tryals held at Newport on the last Tuesday of March 1734, And the aforesaid Verdict and Judgment were Affirmed and the said Mumford assigned his Costs and that the Petitioner Demanded but did not prosecute, an Appeal to Your Majesty in Council therefrom which the Defendant was ready to verify and thereupon he said the Petitioner of his aforesaid Action ought to be barred being Litigious and Vexatious and of that he prayed Judgment—Third for that the Reverend Mr. Jos. Torrey Clerk as the Setled Preacher of the Word of God to the Inhabitants of South Kingstown of the Presbyterian Perswasion was on the 21 of October 1734 put into the Actual Seisen and Possession of the said Tract of Land by the Petitioner Demanded and that Pursuant to Your Majestys Order in Council of the 18 of September 1735 by one Deed of that Date in writing Indented and under the hand and Seal of the said Joseph Torrey the said Land was by the said Joseph Given Granted Assigned and made over in Trust unto Peter Coggeshall David Cheesbrough Benjamin Church and Nathaniel Townshend Junior all of Newport Gentlemen and William Mumford and James Holme both of South Kingstown Gentlemen, To have and to hold unto the said feoffees in Trust their Heirs &c. for the ends and purposes in the said Deed mentioned and Expressed as by the said Deed in Court to be produced will Appear under which the said Peter Coggeshall David Cheesbrough &c. Defendant now holds the premisses all which the Defendant is ready to Verify and thereupon prays the Judg-

ment of the Court if the Plaintiff ought not by Law to be barred of his said Action—But if the Court should overrule the said Pleas in Abatement and Bar, then the Defendant (reserving them for a further hearing at the next Superior Court) Pleaded to issue not guilty of the Trespass and Ejectment in manner and form as the Plaintiff had declared And of that he put himself upon his Country &c.—That the said Cause came on before the said Inferior Court of Common Pleas on the 6th of January 1735 at which time the said Court Overruled the Defendants Pleas in Abatement and the Defendant reserved the same Then the Court in their Judgment recite at length the Defendants first Plea in barr . . upon which Plea the said Inferior Court barred the Petitioner and gave Judgment that the Defendant should recover of the Petitioner his Costs, Taxed at three Pounds four Shillings and Eight Pence That the Petitioner Appealed therefrom to the next Superior Court of Judicature and duly presented his reasons of Appeale Answering the Defendants several Pleas in Barr and shewing why the said Judgment was Erroneous and ought to be reverst And therein Shewed first how manifestly untrue the said Defendants said first Plea in Barr was and Appeared to be of the Defendants own shewing Secondly the Petitioner insisted upon the Falsity contained in the Defendants Second Plea in Barr there being in Truth no proceedings between the Petitioner and Mumford at all, in the Year 1734 nor within ten Years of that time—Thirdly the Petitioner insisted that the matter of the Defendants third Plea was no Barr in Law to the Petitioners Action And after Shewing how the Defendants several Pleas clashed and Militated with each other the Petitioner insisted that the Defendant ought by Law to be held to his first Plea or otherwise to wave that and stick to his Second or third Pleas And prayed a Reversion of the former Judgment That the Defendant put in his General Answer insisting the Judgment Appealed from was right and Just and therefore praying a Confirmation thereof and Additional Costs That in the said Inferior Court and again

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in the said Superior Court both the Defendant Hazard and the Petitioner put into Court several proofs and Records which were received by the Court and go to the Merits of the Cause and accordingly those Offered by the Defendant the Court have made a part of the Record but those offered by the Petitioner the Court (after five days keeping and Considering the same) delivered out again and would not Suffer to be part of the Record That on the 30th day of March 1736 the said Appeal was heard before the said Superior Court of Judicature whose Judgment is entred up in the following words—" The Appellees First Plea in Barr being Overruled the Court Ordered the Second Plea in Barr to be amended by altering the Date of the Judgment therein recited making it 1724 when it was in the Answer 1734 against the Consent of the Appellant who insisted upon it to be contrary to Law And upon the Appellees remaining Pleas in Barr reserved the Court do Barr the Action and Assign the Appellee his Costs of Suit Taxed at four Pounds fourteen Shillings and four Pence And the Court reject the Papers that were delivered to the Clerk after the Case was pleaded to and Determined because they were never heard during the Tryal " The Appellant prayed for an Appeal to Your Majesty in Council but not granted that the Petitioner conceiving himself very greatly aggrieved by the proceedings and Judgments of the said Courts and being Advised that the said Superior Court of Judicature which was only a Court of Appeales and had no Original Jurisdiction and how had not the Original Record of the Action and pleas before them only a Copy or Transcript thereof could not in any case upon an Appeal to them Amend the Defendants Plea put in before the Inferior Court and that whatever power the Court might have yet that by the Rules of Law they ought not upon the Arguing of a Plea to suffer such a Plea to be amended as went to the destruction of the Action—But that howsoever that might be the Petitioner was Advised that from his having formerly brought One Ejectment against one Mumford (a Stranger to these Partys) in 1723 And upon a quite different Title also

1736.

and failing to recover therein—Or from Mr. Torreys having brought an Ejectment in 1732 against the said Mumford and recovered therein on an Appeale to Your Majesty in Council as between those Partys only Torrey and Mumford there was not the least Shadow or Pretence for a Barr to the Petitioners Ejectment against Hazard a meer Stranger and a Person whom the Petitioner sued upon a different Title But that the same was made a handle of Purely to delay and prevent the Petitioners coming to his Right and to Expose him to a very grievous expence and the Trouble of Several Voyages to England and Several Applications to Your Majesty for Justice And which Design Appears the more plain in the very last Act of the said Superior Court whereby the said Superior Court tho' they had finally and absolutely barred the Petitioners Action did nevertheless refuse him the Common Priviledge of an Appeale to Your Majesty in Council when the very same Court on giving Judgment for the same Individual 280 Acres of Land against Mr. Torrey instantly and immediately allowed him an Appeale to Your Majesty in Council [wherefore he humbly begs a short day for hearing his appeal. The Committee] thereupon Agree humbly to Report to Your Majesty as their Opinion That so much of the Judgment of the Superior Court held on the 30 of March 1736 as Barred the Appellants Action Be Reverst ; And that the said Respondent do restore to the Appellant the four Pounds fourteen Shillings and four Pence Costs tax against him in the said Court And that it be remitted to the said Court to proceed in hearing the Merits of the Cause. [pp. 433-45.]

[Order accordingly.]

[p. 476.] 8 Mar.
(1740.)

[Reference to the Committee of MacSparran's petition for a day for hearing his appeal from a judgment of the Superior Court of Rhode Island, 2 April, 1739, on Hassard's writ of ejectment to recover 280 acres of land set apart for an orthodox minister.]

[VII. p. 160.]

10 July.

1736.
(1741.)
28 April. [Committee order for hearing on 8 May.] [VII. p. 463.]
(1752.)
7 May. [On 25 Feb., 1752, the Committee appoint a day for hearing. On the report of the Committee of 2 May, it is ordered] that the said Judgment of the said Superior Court, Be, and it is hereby affirmed. [The report of the Committee seems to show that no proceedings had taken place in the long interval.]
[XIII. pp. 525, 536; XIV. pp. 46, 51, 70.]
- 27 Dec.
Virginia. [391.] This day Ferdinando John Paris Sollicitor Entered an Appearance for Mr. John Hack to the Appeale of Frances Burges Widow from Virginia. [p. 48.]
(1737.)
- 21 Feb. [Reference to the Committee of the petition of Frances Burgess, widow, and of Lemuel Gulliver her lessee, for a short day for hearing their appeal from a judgment of the General Court of Pleas in Virginia, 15 April, 1736, in favour of John Hack in an ejectment brought against Hack in the name of Gulliver on the demise of Frances Burgess for recovery of ten messuages and 2,266 acres of land with their appurtenances.] [p. 130.]
(1737.)
- 2 Nov. [Committee. On perusal of the proceedings] It appeared that the Case agreed upon between the Partys, and which was received by the Court in Lieu of a Special Verdict, and upon which the Judgment Appealed from was founded was defective in not having Stated how the said Frances Burgess became Heir at Law to David Tox the Testator in the said Proceedings mentioned—And their Lordships Apprehending this to be a Material Fact and necessary to be Asserted before they can make their Report to His Majesty on this appeale Do therefore think it proper to Order that the said Record be remitted back to the said General Court of Pleas who is hereby required to State how and when the said Frances Burgess Lessee of the said Lemuel Gulliver became Heir at Law to the Testator David Tox and how she derives her Pedigree as such from the said David Tox And in case the Fact shall not be agreed upon by the Parties, that the same be tried by a Jury and Establishd and made part of the said Case Agreed upon between the

1736-7.

Partys and received in lieu of a Special Verdict in this Cause and decreed as part thereof And that the said Court do give the proper and necessary Directions for Carrying this Order into Execution and that they do return the Record so amended with all Expedition. [p. 293.]

(1739.)

[Committee order for hearing on Tuesday next.]

23 Nov.

[VI. p. 427.]

(1739.)

[Committee hear counsel and adjourn to another time.]

27 Nov.

[VI. p. 432.]

1737.

[392.] [Reference to the Committee of a Board of Trade report of 10 June] upon a Representation of Mahomet Chief Sachem of the Mohegan Indians Setting forth the Good Services that have been done to the English by his Ancesters and their Tribe for a hundred years past and Complaining of the Injurys which the Mohegan Indians have received from His Majestys Subjects of Connecticutt who have unjustly deprived them of their Lands and reduced them to the necessity of deserting their Native Country for want of Subsistance.

19 Jan.
Connecticut:

[p. 60.]

[Committee. A copy of the Board of Trade report to] be delivered to the Sollicitors.

26 Jan.

[p. 97.]

[Committee postpone consideration of the report] till the agent of Connecticutt attend.

4 Feb.

[p. 116.]

[Committee agree to consider the report on Tuesday next.]

2 Mar.

[p. 135.]

[Committee report. From the Board of Trade representation] it Appears that a Complaint of the like Nature was made in the Year 1703 by the then Chief Sachem of the Mohegan Indians And that Her then Majesty Queen Ann was pleased in Order to redress any Grievances that the said Indians might have received from the said Colony to Direct a Commission to be Issued under the Great Seal appointing the Governor of the Massachusetts Bay and several others to be Commissioners

9 Mar.

1737.

to Examine into the said Complaints and to make such Determination therein as should be agreeable to Equity and to restore the said Indians to their Settlements in case they had been unjustly dispossessed thereof And to Allow an Appeale to Her said late Majesty in Council from such Determination That the said Commission having been Executed and a Determination made by the said Commissioners in favour of the Indians and the Colony of Connecticutt being Condemned in Costs Sir Henry Ashurst Agent for the said Colony brought an Appeale from the said Determination of the Commissioners before her said late Majesty in Council who was pleased upon hearing the same to Order that such part of the said Determination as condemned the said Colony in Costs should be reverst and as to the other Facts thereof Her said late Majesty directed that a Commission of review should be issued to the Governor and Council of New York to hear and Determine the Pretentions of the said Indians but it not Appearing whether such Commission was ever Carryd into Execution The said Lords Commissioners for Trade and Plantations Do therefore propose that a fresh Commission of Review should be granted to such persons as His Majesty shall think proper investing them with the same Authority and Powers for rehearing and Determining all matters in Dispute as were granted by the aforesaid Commission of Review. [The Committee after hearing the agents for the Indians and for Connecticut agree that the suggestion of the Board of Trade is the best expedient, and therefore order the Board of Trade to prepare a draft of such fresh Commission of Review with a list of commissioners and to lay the same before the Committee.] [p. 136.]

13 April. [Committee report, submitting for approval the commission prepared by the Board of Trade for the Governor and Councillors of New York and the Governor and Assistants of Rhode Island, the quorum to be not less than five. It is also proposed in view of the poverty of the Indians that as in

1737.

1703 the charges of passing the commission and all other despatches be defrayed at the expense of the Crown.] [p. 185.]

[Order accordingly for passing the commission. P.R.] 21 April.

[p. 204.] (1739.)
12 June.

[Reference to the Committee of the petition of John and Samuel Mason, gents., of New London. Conn., on behalf of the Chief Sachem and Tribe of Mohegan Indians. The petitioners state that they are sons and heirs of Capt. John Mason and trustees and guardians of the Mohegans and of their lands, and complain] of the Proceedings of the Government of Connecticut in conjunction with several of the Commissioners from Rhode Island appointed by His Majestys Commission of Review . . And complaining likewise of the Determination made by the said Rhode Island Commissioners thereupon And therefore humbly appealing from the said Proceedings and Determination to His Majesty, as unjust illegal Null and void and as being wholly contrary to the Intent and Directions of His Majesty's said Commission of Review and praying to be relieved in the Premises.

[VI. p. 219.] (1739.)

[Committee. A copy of the petition to be sent to the solicitor for the colony of Connecticut.] 14 June.

[VI. p. 222.] (1739.)

[The Committee being informed that the Commissioners have made a return to the Board of Trade, this petition is also referred to the Board of Trade for their report.] 24 July.

[VI. p. 284.] (1739.)

[Reference to the Committee of the return of the Commissioners appointed under the Great Seal on 3 June, 1737.] 22 Nov.

[VI. p. 416.] (1739.)

[Committee refer the return to the Board of Trade.] 23 Nov.

[VI. p. 425.] (1740.)

[Committee order a copy of the Board of Trade report to be delivered to the agent for Connecticut.] 6 May.

[VII. p. 49.] (1740.)

[Committee. On a motion for hearing, the solicitor for Connecticut desired time to peruse some papers lately received thence, and this was agreed to.] 13 June.

[VII. p. 110.]

1737.
(1740.)
22 July.

[Committee report. The petition sets forth that notwithstanding the decision of the Commission appointed in the reign of Queen Anne] the said Colony had refused to restore the said Indians to the Possession of their Lands Denying the Authority of Her said late Majestys Commission and of the Commissioners thereby appointed to make such Determination Whereupon in 1736 Samuel Mason One of the present Petitioners together with his Father and also Mahomet the then Chief Sachem of the said Mohegan Indians (both of whom are since dead) came over and presented their humble Petition to His Majesty Setting forth that they could not Obtain restitution of their said Lands and therefore prayed for His Majestys Royal Justice. [The various proceedings on this petition, and the issue of a new Commission of Review are then set forth, and the petition proceeds] That this last Commission being issued and carried over two of the Council in New York together with the Governor of Rhode Island and Six of his Assistants Opened and Publisht the same But that the said Governor and his Assistants not Suffering the Determination of the former Commissioners to be read which Determination they were required by the Commission to Review and Examine and the two Councillors from New York having insisted on the same as also on other Material Prints which were all of them overruled by the said Governor and Assistants of Rhode Island the said New York Councillors protested against their Proceedings and then withdrew After which the said Rhode Island Commissioners proceeded to reverse the Determination of the former Commissioners except only as to One Field called the Mohegan Field, which they have Declared to be the property of the Sachem and Tribe of the Mohegan Indians—The Petitioners therefore pray in regard to the Extraordinary proceedings of the said Rhode Island Commissioners that His Majesty will be pleased to Grant such Relief to the said Tribe as to His Majesty shall seem meet—[Upon the return made by the Governor and Assistants of Rhode Island, the Board of Trade

report that after hearing counsel on both sides and examining all papers, it appears to them] that this last Commission was Executed by two Commissioners from New York and Seven from Rhode Island who met and entred upon Business the 24th of May 1738 at Norwich Town—That this being a Commission of Review the former proceedings and Judgment ought to have been Examined by the Commissioners but it did not appear by the Return that the said Judgment was ever taken into Consideration or even read by the Court—That the said Commissioners refused to hear the Indians in their own behalf whom they had Summoned and who were present in Court and desired to be heard and likewise refused to hear Mr. Mason who is Guardian to the said Indians without whose Consent as it is alledged the Indians could not alienate their Lands the Legal property thereof being vested in the said Masons Family as their Trustee ; That the Commissioners from New York being dissatisfyed with these proceedings filed their Protest against them and withdrew and after the withdrawing of the said Commissioners from New York those of Rhode Island proceeded without them and Declared one Ben Uncas to be Chief Sachem of the said Indians (of whose Right the said Lords Commissioners for Trade do not think themselves competent Judges) after which Two Deeds were produced Signed by the said Ben Uncas and a part of his Tribe one Dated the 28th of February 1737-8 and the other the 24th of April 1738 both of them Subsequent in Date to His Majestys Commission whereby the said Uncas and a part of his Tribe released and Quitted Claim to the Government of Connecticut not only all the Lands in Question but likewise all the right accrewing to them from the Judgment given in their Favour by Governor Dudley and the other Commissioners Joined with him in the former Commission dated 19th July 1704 Whereupon the said Commissioners from Rhode Island took upon them to repeal the said Judgment respecting the Lands in Controversy with Exception only to a certain Tract at Present in Possession of the Mohegan Indians And

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therefore the said Lords Commissioners are of Opinion that the proceedings in the Execution of this Commission have been very irregular and therefore Submit whether His Majesty may not be advised to grant a New Commission of Review upon this Occasion. [The Committee agree to report that the proceedings of the Rhode Island Commissioners were very irregular and should be set aside, and that a new Commission of Review should be passed under the great seal, a draft of which commission with a list of suitable names, should be laid before the Committee by the Board of Trade.]

(1740.)

[VII. pp. 163-7.]

31 July.

[Order accordingly.]

[VII. p. 175.]

(1740.)

13 Aug.

[Committee. Copy of Board of Trade report on the draft commission to be delivered to the agent for Connecticut.]

(1740.)

[VII. p. 194.]

11 Nov.

[Committee read the report and adjourn consideration to the next meeting at the request of the Connecticut agent.]

(1740.)

[VII. p. 246.]

19 Nov.

[Committee. Copy of the petition of the Connecticut agent to be heard on the Board of Trade report to be given to the solicitor for the Mohegans.]

[VII. p. 248.]

(1740.)

22 Nov.

[Committee. Copy of a petition of the Masons in behalf of the Indians to be delivered to the Connecticut agent.]

(1740.)

[VII. p. 255.]

5 Dec.

[Committee. The Board of Trade report referred back to them with the above petitions to be examined. The Connecticut agent petitioned that the Governor and Assistants of Rhode Island might be inserted as Commissioners or that two of the Councillors of New York included in the last commission might be omitted in the present. The Masons petitioned against this.]

[VII. p. 297.]

(1740.)

22 Dec.

[Committee. Copies of the new Board of Trade report to be delivered to the parties.]

[VII. p. 319.]

[Committee report for approving the draft commission—to be issued to the Governors and Councillors of New York and New Jersey. The commission is conformable to that of 1737, except that a clause is added] giving Liberty to any of the Parties to Enter their Appeale within a limited time to Your Majesty in Council from the Determination of the said Commissioners in case they shall find themselves aggrieved thereby. [In regard to the poverty of the Indians, the charges of the commission should be defrayed by the Crown as in 1737.]

[VII. p. 346.]

1737.
(1741.)
26 Jan.

[Order accordingly. P.R.]

[VII. p. 376.]

(1741.)
29 Jan.
(1746.)
23 July.

[Reference to the Committee of the appeal of 86 Indians, whose names are given,] (which said Old John Uncas is by Birth-right the Rightful Sachem and the other Appellants are the greater part of the Tribe of the Moheagan Indians who immemorially have been Settled in and intitled to a large Tract of Land on the Continent of America lying within the limits which are now called His Majestys Colony of Connecticut) on the behalf of themselves and the rest of their Tribe by John Mason and Samuel Mason Gentlemen the Trustees for and Guardians of the said Tribe from a Decree made by the Commissioners of Review on the 16th of August 1743 in favour of the Governor and Company of His Majestys English Colony of Connecticut in New England in America and George Richards Esqr. and others in relation to some Lands Claimed by the said Indians within the limits of the said Colony—And humbly praying that so much of the said Decree as reverses any part of a former Decree of Joseph Dudley Esqr. and others in August 1705 may be reversed and that the Petitioners may be otherwise relieved in the premises—

[X. p. 535.]

(1749.)
16 Mar.

[Reference to the Committee of the petition of Samuel Mason that the Treasury had advanced him a sum of money for the expenses attendant on passing the commission, &c.,] but the same not being sufficient to answer the ends proposed

1737.

the Petitioner was obliged to advance a Considerable Sum of his own Money which together with the other Expences to bring the Appeale of the said Indians from the Sentence of the said Commissioners to a final Determination will at the lowest Computation amount to 807*l.* 4*s.* 1*d.* The Petitioner therefore prays that His Majesty will be pleased to Order the Lords Commissioners of the Treasury to issue to the Petitioner the Amount of the said Charges out of the Duty of four and half per Cent. or to make such further Order for giving Relief to the said Indians as His Majesty in His great Goodness shall think just. [XII. p. 231.]

(1751.)

30 April.

[Reference to the Committee of the petition of the Connecticut agent setting forth that Mason has already received nearly 500*l.*, and should not be further helped as under pretence of aiding the Mohegans he is really furthering his own private interest.] [XIII. p. 220.]

(1751.)

24 Oct.

[Committee. On a motion on Mason's behalf] it appearing that the Solicitor for the Petitioner had not given Notice of this Motion to the Agent of Connecticut Ordered that it be put off and that the said Solicitor for the Petitioner do give notice of his next Motion to the said Agent. [XIII. p. 330.]

(1751.)

26 Nov.

[Committee. Mason's petition sets forth that he has received 531*l.* 12*s.* 7½*d.*, of which 321*l.* 12*s.* 7½*d.* was for the charge of the Commission, and 210*l.* for answering the expenses attending its execution and all other dispatches relating thereto; that he has further advanced 216*l.* 4*s.* 1*d.*, for which he craves repayment, and likewise the grant of a further sum to enable him to prosecute the present appeal of the Indians. The Committee set forth the state of the case, and report] That they look upon the several Commissions which have been issued and particularly the last in 1740 permitting an Appeal to Your Majesty together with Your Majestys Orders that the Charges of the said Commissions and all the Dispatches relating thereto shall be paid out of

1737.

Your Majestys Treasury as a Mark of Your most gracious Intentions to bring these Complaints to a final Determination : And therefore they humbly conceive that the aforementioned Order upon Your Majestys last Commission of 1740 to defray all Dispatches relating thereto, does extend to the prosecution of the Appeale to Your Majesty therein contained which most gracious Concession would otherwise be rendered ineffectual to these poor people whose Agent has hitherto proceeded without any Advantage to himself, and is not of Substance to carry the said Appeal into Execution.

That with respect to the Petition of Richard Partridge Agent for the Colony of Connecticut, The Lords of the Committee are of Opinion that the same ought to be dismissed.

[XIII. p. 398.]

(1752.

[The report is approved, and ordered to be transmitted to the Treasury. Partridge's petition is dismissed.] [XIII. p. 424.]

14 Jan.

(1756.)

[Committee. Upon a motion this day made to their Lordships, praying that a day may be appointed to hear the appeal of the Indians from the decree made by the Commissioners of Review on 16 August 1743 in favour of the Governor and Company of Connecticut, and of 224 possessors of the lands in controversy, whose names are given,] —And also further praying, in regard no appearance hath been entered to the said Appeal, for any of the said Respondents, except for the Governor and Company of the said Colony of Connecticut, although thirteen Years are expired since the said Decree was given by the said Commissioners of Review, that therefore the usual Summons may be affixed on the Royal Exchange and in the New England Coffee house,—Their Lordships are thereupon pleased to Order, that the said Appeal, be heard at this Committee, on Thursday the 9th of December next at Six of the Clock in the Evening, and that a Summons be affixed on the Royal Exchange, and elsewhere, in the usual manner*. . [XVI. pp. 286-8.]

18 Aug.

* No further reference to this matter is found in the Register, up to the death of King George II in 1760.

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- 19 Jan. [393.] [Reference to Committee of two St. Christopher Acts with Board of Trade representation, viz. : An Act of Aug., 1732,] for granting to His Majesty a Duty of eight Shillings per Poll on all Negroes and other Slaves within this Island and also of five per Cent. upon all Rents of all Houses Warehouses Shops and Tenements in the several Towns within the said Island to be Applied towards the Discharge of the Publick Debts and for ascertaining and Settling the Salarys of the Several Officers therein mentioned, [and an Act of 4 March, 1734,] for Reducing the Fee of three Shillings per Sheet taken by the Secretarys as Clerk in Chancery for the Copys of Bills and Answers in the said Court filed in the Secretarys Office and for Appointing a more reasonable Fee in the room thereof. [p. 61.]
- 21 Jan. [Committee order] that Copys of the said Report be given to the Solicitors. [p. 90.]
- 9 Feb. [Reference to the Committee of the petition of Wavell Smith and Savile Cust, Secretary and Clerk of the Crown of the Leeward Islands, to be heard against the two Acts and for an order to the Council and Assembly that they may be paid for the public business of the island according to the usual and accustomed manner.] [p. 118.]
- 19 May. [Reference to the Committee of the petition of Richard Coope, agent for St. Christopher, praying to be heard in support of the Poll Tax Act.] [p. 229.]
- 13 July. [Committee hear counsel and adjourn till 16 July.] [p. 248.]
- 16 July. [Committee report. Smith and Cust allege] that by the first of the said Acts they are deprived of their usual and accustomed Fees for Publick Business And that in lieu thereof a Salary is Settled but that the same is in no Sort equal to such Fees, or a Suitable Satisfaction for the Duty of their Office in that respect. And that by the last mentioned Act the Petitioners are Contrary to all right deprived of a Just and due fee of Office.

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[The Board of Trade recommend repeal of the first Act] in regard the same hath been past in breach of Your Majestys 17th and 34th Instructions to Your Governor of the Leeward Islands. [The Committee having hereupon heard counsel concur,] But in regard the Petitioners Smith and Cust have represented that ever since August 1732 (the time of passing the said Act) they have not been paid the Fees due to them for the Publick Business of the said Island of St. Christophers, having received only the Sixty pounds a Year given by the said Act in lieu thereof, And that unless Your Majesty shall be graciously pleased to interpose in their behalf it may be doubtfull whether they shall Obtain any further allowance for their Services during that time The Committee Do thereupon beg leave humbly to propose that Your Majesty may be pleased to Order that the Governor or Commander in Chief of Your Majestys Leeward Charribbee Islands for the time being, together with the Council of the Island of St. Christophers do Examine and Settle the Account of the said Secretary for all Publick Business done since the passing the said Act—And that the said Governor do then recommend to the Assembly of the said Island of St. Christophers the making such reasonable Allowances to the said Secretary for the same, as have been usually made for the like Services. [The Committee also agree with the Board of Trade as to the other Act] that this Act being to make some alteration in the Act passed at St. Christophers in 1715 by lessening the Fee thereby given to the Secretary as Clerk in Chancery, the Governor has followed the Direction of Your Majestys Instructions by inserting therein the Clause for Suspending its taking Effect till Your Majestys Pleasure should be known upon it.—And that as this Act Appears to have been passed to redress the Grievances of the Suitors of the Court of Chancery, complained of by them to the Legislature of the Island, the Fee granted by the former Act being much larger than what is paid in England for the same Service . . . Your Majesty may be pleased to Confirm the same.

[pp. 250-2.]

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21 July. [Orders accordingly.] [p. 257.]

19 Jan. Barbados. [394.] [Reference to Committee of an Act of 6 Feb., 1736, concerning the surveying of lands in this island, and of the Board of Trade representation recommending its repeal.] [p. 62.]

4 Feb. [Committee order copies of the Board of Trade report to be given to the solicitors.] [p. 116.]

17 Mar. [Reference to the Committee of the petition of John Sharpe, Peter Leheup and George Lewis Tessier, agents for Barbados, to be heard in support of the Act.] [p. 139.]

19 Mar. [Committee agree to consider the report at their next meeting.] [p. 148.]

21 Mar. [Committee report agreeing with the Board of Trade that the Act should be disallowed. On hearing counsel it appeared] that the said Act was past by the president of Your Majestys Council in that Island And that by the 28th Article of Your Majestys Instructions to the Governor of Barbados Empowering the President of the Council to take upon him the Administration of the Government in case of the Governors Death or Absence The said President is Expressly forbid to pass any Acts but what are immediately necessary for the Peace and Welfare of the Island. [This Act, not being of that nature, should be repealed.] [p. 157.]

31 Mar. [The Act disallowed.] [p. 159.]

19 Jan. West Indies. [395.] [Reference to a Committee of the petition of] Richard Partridge Agent to Joseph Whipple late Sole Owner of the Sloop Humility and for Edward Caine the Master thereof both of the Colony of Rhode Island in New England Setting forth that the said Sloop was taken by a French Man of War in the West Indies in December 1732 And Carried into Martinico Where She was condemned with her Cargoe, on pretense of unlawfull Trade and of her having Sailed within One League of the French Shore and humbly praying that Satisfaction may

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be made for the loss of the said Sloop and Cargoe out of the Produce of two French Ships lately taken by William Mathew Esqr. His Majestys Governor of the Leeward Charribbee Islands. [p. 63.]

[Reference to the Committee of the petition of Daniel Smith, Esq., one of the Council in Nevis, Henry Slingsby, Esq., of Barbados, Thomas Walker, planter of Nevis, John Williams, merchant of St. Christopher, and Edward Jessup, planter of St. Christopher, now in London, in behalf of themselves and others in the Leeward Islands, complaining against Gov. Mathew for passing an Act with the Council and Assembly of Montserrat on 5 June last for the more effectual preventing all trade in these parts between his Majesty's subjects and the French,] And likewise for having Caused some French Ships to be Seized on the High Sea and Condemned in the Admiralty Court of that Island for Sailing within a League of the Shore And humbly praying that the said pretended Act may be repealed and disallowed And that the said Governor may be Commanded immediately to attend His Majesty in Councill in Order to an Examination into his Conduct in this matter and his receiving such Censure as to His Majesty in His Royal Wisdom shall seem meet and proper. [p. 119.]

[Committee. The complaint to] lye by till the Report of the Board on this Affair be transmitted from the Duke of Newcastles Office. 2 Mar. [p. 135.]

[Reference to the Committee of the Board of Trade report of 17 Dec. on the Montserrat Act and on complaints from the Court of France as to the seizures. Also of a Board of Trade report of 8 March on] a Memorial of Monsieur Hop Envoy Extraordinary from the States General complaining of Several Damages and Acts of Hostility being Committed by the English against the Dutch Inhabitants of St. Eustatia and that William Mathew Esqr. Governor of the Leeward Islands had granted Commissions to several Persons to Cruise 31 Mar.

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on the Coast of that Island who forcibly visited Ships going to and returning from thence and took some of them which they Carried to Montserrat where they were condemned.

[p. 160.]

13 April. [Committee report. The French ships seized were the *Fortune* and the *Fleuron* of St. Malo, the latter confiscated at Montserrat. From the Board of Trade report] it appears, that in the Year 1727 an Edict was Issued by the Court of France wherein amongst other things It is Ordered that Strangers shall not touch with their Vessells in the Ports Creeks or Roads of the Islands and Colonys belonging to the French, no Sail within a League thereof under pain of Confiscation of their Vessells and Cargoes and also under a Penalty of one thousand Livres—And it likewise appears that Your Majestys said Governor of the Leeward Islands did on the 5th of June last pass an Act in the said Island of Montserrat whereby it is Enacted that if any French Ship or Vessel shall be met at Sea within a League of any English Shore or Sailing within the Extent of the Government of Your Majestys Leeward Islands And having actually Traded anywhere with any of Your Majestys Subjects, Such Ship or Vessel shall be Seized and Confiscated; By Virtue whereof this last mentioned Vessel Called the *Fleuron* was Seized and Condemned.

[On consideration of this report and of that on the Dutch complaint], their Lordships having been informed by the Duke of Newcastle One of Your Majestys Principal Secretaries of State that Your Majesty had been pleased to send Directions to Your Majestys Ambassador at the Court of France to make the proper Instances and Representations to the said Court that the matters in question might be amicably Settled and Determined to Mutual Satisfaction, and that there is Grounds to hope that what hath been thus proposed on the part of Your Majesty may have the desired Effect—Their Lordships are therefore humbly of Opinion that it may be adviseable for Your Majesty to respite the further Consideration of the said

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Reports till such time as the Result of the Instances which are making at the Court of France shall be laid before Your Majesty.
[pp. 183-5.]

[Order accordingly.]

[p. 205.] 21 April.

[Reference to the Committee of the petition of] James Buchanan of London merchant and others concern'd and Interested in the Ship Scipio Alexander Mackpherson Commander which was Seized and taken on the High Sea by a French Ship and Carryed into Martinique and there prosecuted at the Suit of the Director of the Customs Setting forth the Applications that the said Buchanan hath already made to His Majesty in this Affair together with His Majestys Directions to His Minister at the Court of France in his Behalf and likewise the proceedings of the Court of Judicature thereupon And further Setting forth that the Petitioners have now received for Answer at the Court of France that right or Wrong the said Ship Scipio should pay for a French Ship called the Fleuron which had been taken by the Governor of the Leeward Islands That they conceiving this to be a Denyal of Justice and a Violation of the Treaties Subsisting between the two Crowns The Petitioners therefore humbly pray His Majesty to take their Case unto His Royal Consideration and that His Majesty will give such Directions for their Obtaining Speedy Satisfaction as to His Majesty shall seem meet.

18 Aug.

[p. 286.] (1738.)

[Committee respite consideration of this petition till the result of instances being made at the Court of France shall be known.]

23 Feb.

[p. 431.] (1738.)

[Reference to Committee of a letter of 3 Aug., 1737, from Gov. Mathew to the Duke of Newcastle as to the seizures, together with the Admiralty proceedings in Montserrat and other papers.]

4 Mar.

[p. 465.] (1738.)

[The Committee report] That Your Majestys Ambassador at the Court of France should be Directed to propose that

7 Mar.

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mutual Restitution be made of the Scipio and the Fleuron ; And it appearing by the Report of the Board of Trade that the Master of the Fortune had been Obligated to give Security to the said Governor Mathew for the Value of the said Ship and her Cargo although no illegal Trade was proved against her, and consequently the said Governor was not Authorized to Exact such Security—Their Lordships are therefore of Opinion that the said Security be delivered up—And their Lordships expecting some further Lights and informations in relation to the other matter contained in Governor Mathews said Letter and Papers, Did not think proper to proceed further in this Affair at Present. [p. 466.]

(1738.)

8 Mar. [Orders accordingly.] [p. 471.]

19 Jan.
South
Carolina.

[396.] [Reference to the Committee of the petition of George Morley, James Wedderburn, Thomas Gudsen, William Saxby, sen., William Saxby, jun., and Samuel Wheatly, patent and warrant officers under his Majesty in South Carolina, to be heard against an Act passed there in May for ascertaining public officers' fees.] [p. 64.]

21 Feb. [Committee refer the petition to the Board of Trade before whom the Act is depending.] [p. 89.]

31 Mar. [Act and Board of Trade representation recommending its repeal referred to Committee.] [p. 162.]

6 April. [Committee agree with the Board of Trade that the Act should be disallowed. The Board of Trade on hearing Mr. Morley and an agent for the other petitioners and also the agent of the colony did not find] that there was reason for Complaint against any of the Petitioners for Extortion in their several Offices, Nor does the Preamble of the Act accuse any of them therewith, So that any Act for ascertaining Publick Officers Fees was unnecessary. But that if Complaints had been made against any of the said Officers, Your Majesty's Governor with the Consent of the Council is Empowered and Directed by Your Majesty's 53d Instruction to regulate all

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Salarys and Fees, and to take care that they be within the Bounds of Moderation, And that no Exaction be made on any Occasion whatsoever—That as this Act is of an Extraordinary Nature, and greatly affects the Property of Your Majestys Patent Officers, whom the Governor by Your Majestys 74th Instruction is directed to protect in the Enjoyment of their Legal and accustomed Fees, there ought to have been a Clause inserted therein, for Suspending the Execution thereof untill Your Majesty's Pleasure could have been known according to Your Majestys 22d Instruction. [p. 180.]

[The Act disallowed.]

[p. 209.] 21 April.

[397.] [Reference to the Committee of the] Petition of Sebastian Zouberbuhler of the Canton of Appenzel in Swisserland Setting forth that he hath made a Contract with the Council of South Carolina for Settling a Township up the River Savannah on a Place (formerly an Indian Village then Called Savannah Town at present New Windsor) and for bringing over one hundred Protestant Familys in the Space of one Year with a Further promise to bring over two hundred Familys more after the first hundred shall be Settled and able to Subsist themselves And humbly praying that as An Encouragement for his said undertaking His Majesty will be graciously pleased to grant unto him and his Assignes 48,000 Acres of Land half of them within the Six Miles of the said Township called New Windsor And the other half Contiguous to the said Land to be marked out before the first of October next being the time Limited by the said Contract with an Exemption of Quit Rents for the first ten Years And further praying that His Majesty will be pleased to Order His Governor of South Carolina to recommend to the Assembly of that Province that the Sum of 2,800*l*. Carolina Currency may be given to the Petitioner (being the same sum as was granted to Colonel Purry upon making a like Settlement That he may be the better enabled to perform this undertaking with all possible Speed.

19 Jan.
South
Carolina.

[pp. 64-65.]

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21 Jan. [Referred by Committee to Board of Trade.] [p. 89.]

7 July. [The Committee will agree to the Board of Trade report] in case the Petitioner Signify his being Satisfied therewith. [p. 247.]

29 July. [Committee refer back to the Board of Trade their report of 5 May with a memorial from Mr. Zouberbuhler. The Board of Trade reported] that they see no Objection why His Majesty may not be pleased to grant the Prayer thereof except with Regard to the two thousand Eight hundred pounds And Whereas the Lords of the Committee have likewise taken into their Consideration a Memorial presented to them this day by the said Mr. Zouberbughler Setting forth that the Sum of 400*l*. Sterling, which is equivalent to two thousand Eight hundred pounds Carolina Currency was given to Mr. Purry by Act of Assembly past the 20th of August 1731 which Money was part of the 3,000 per Annum (arising out of the Duty upon Negroes Liquors &c.) which His Majesty had granted on Condition that it was Employed in Settling poor Protestants in Carolina and humbly praying in regard thereto and that the Proposed Settlement of Six hundred Swiss Protestants at New Windsor lyes one hundred and fifty Miles Higher up the River Savannah then Purrysburgh and that the Charges will be of course much larger And likewise in regard to the great Charges he hath already been at in procuring fifty Familys actually Arrived in South Carolina in February last and to the Far greater Charges he must necessarily be at in compleating the remaining Number That he may therefore be allowed the said Reward of two thousand Eight hundred pounds Carolina Currency. [pp. 280-1.]

2 Nov. [Committee order a copy of the Board of Trade report to be delivered to Mr. Zouberbuhler.] [p. 294.]

23 Dec. [Committee refer to the Board of Trade Zouberbuhler's petition] That His Majesty will be graciously pleased to Order the Governor of South Carolina to put him in possession of

1737.

the forty eight thousand Acres of Land mentioned in his former Petition free of all Fees of Grants Plats and Surveys and that those Fees may be paid out of His Majestys Revenues in Carolina or else that His Majesty will be Graciously pleased to grant him twelve thousand Acres of Land more as contiguous as may be to the proposed Settlement of New Windsor over and above the forty eight thousand Acres aforementioned And that in regard there is above a Year Expired of the two Years in which he was to compleat the Introduction of Six hundred Swiss for the proposed Settlement of New Windsor which hath been Owing to the Delays he has met with in Solliciting this Affair he humbly begs His Majesty will be pleased to Grant that the said two Years may be deemed to begin from October 1738.

[p. 353.]

(1738.)

[Committee. A copy of the Board of Trade report to be delivered to Mr. Zouberbuhler.]

[p. 415.]

7 Feb.

(1738.)

[Committee. By the Board of Trade report of 20 Jan.] it appears that the said Mr. Zouberbuhler had not made out to the Satisfaction of the said Lords Commissioners that he had been at any Extraordinary Charges in the Introduction of the Fifty Familys already Arrived in South Carolina and the Committee being attended hereupon by the said Mr. Zouberbuhler who informed them that he had been at Considerable Charges on Account of the Introducing the said Familys in the said Province And that he could produce Mr. Simond a Merchant of London being a Person of undoubted Credit to Certifye the Truth thereof The Lords of the Committee are therefore hereby pleased to referr back to the said Report to the said Lords Commissioners for Trade and Plantations that they may Examine the said Mr. Simond and such other Persons as the said Mr. Zouberbuhler shall produce as likewise such Papers or Vouchers as he shall lay before them to Verifye his Allegations concerning such Extraordinary Charge.

[p. 488.]

13 Mar.

1737.
(1738.)
5 July.

[Committee report. By the Board of Trade report] it appears that the Petitioner did propose to the Lieutenant Governor and Council of South Carolina to bring Over one hundred Protestant Swiss Familys within the Space of one Year, Provided that one Years Provision with the necessary Cattle and Tools might be allowed to the said Familys at their Arrival in the same manner as was granted to the People transported by Colonel Purry—And Provided that Lands might be set out and reserved for the said Familys—And that thereupon the third Lieutenant Governor and Council granted the Prayer of this Petition and allotted the Township of New Windsor formerly called Old Savannah upon the Savannah River for the reception of the said One hundred Familys and limited the time in which the Petitioner was to fulfill the Terms of his Proposal to October 1737—That the Petitioner likewise promised to bring over two hundred Familys more when the said one hundred should be Settled and able to Subsist from their own Product—And that the Petitioner declares he hath already sent over to the said Province Fifty Familys in part of the aforementioned One hundred Familys.—

Upon consideration whereof and of the great Advantages that will arise by the Settling of so many Familys in that Province—The Lords of the Committee are of Opinion that your Majesty may be pleased as an Encouragement to the Petitioner to carry on the said Undertaking, to Direct Your Governor of South Carolina to grant to the Petitioner the Forty eight Thousand Acres of Land prayed for, and to cause the same to be forthwith Surveyed, and laid out, one half thereof within Six Miles to be reserved round the Township where the said Familys are to be Settled, and the other half contiguous thereto Provided the said Land be not already granted to any other Persons—But that no more of the said Forty eight Thousand Acres be given to him before his completion of his Proposals, than in proportion to such part of the hundred Familys which he shall from time to time Transport thither And which is to Consist of Six hundred People

1737.

including the Fifty Familys which the Petitioner alleges to have already sent over to that Province.

And their Lordships are further of Opinion that the said Lands should be Exempt from the Quit Rent of Four Shillings Proclamation Money for the Space of Ten Years from the Date of the Grants—And that in regard the Petitioner hath been some time in England and thereby prevented from transporting all the said Familys within the time contained in the Proposal which he made to the Council of South Carolina—The Lords of the Committee are of opinion that Your Majesty may be pleaded to allow him two Years from October next for his performing the same And to Direct the Governor of that Province to reserve the said Township of New Windsor for two Years to Commence from the said Month of October for the Settlement only of such Persons as shall be introduced by the Petitioner That as to the Petitioners request that Your Majesty would be pleased to Direct the Governor to recommend to the Assembly the Allowing him 2,800*l.* Carolina Currency, the better to enable him to perform this undertaking—the Committee have taken likewise the Opinion of the Lords Commissioners for Trade and Plantations thereupon And it appearing that the Petitioner in his Proposals to the Lieutenant Governor and Council of South Carolina did Agree to undertake this Affair without making any Demand of this kind and considering that the Province is to allow him Provisions for one Year with the necessary Cattle and Tools—Their Lordships cannot therefore think it adviseable for Your Majesty to grant this request of the Petitioners. [*pp.* 574–7.]

(1738.)

[Order accordingly.]

[*p.* 586.] 20 July.

[398.] [Reference to the Committee of the petition of Joseph Gibbs of Barbados, practitioner in physic and surgery, for a short day for hearing his appeal from a Chancery decree of 1 Sept., 1736, dismissing with costs a bill filed by him against John Howell] to Compell him to come to an Account with the Petitioner for what was due to him upon a Bond Entered

19 Jan.
Barbados.

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1737.

into by the said Howell and his Father John Howell deceased for paying the sum of 1,600*l.* to the Petitioner And likewise for an Account of the Particulars and true Values of the Real and Personal Estates of the said John Howell the Father. [p. 65.]

(1738.)

12 Jan.

[On the report of the Committee of 23 Dec., the Chancery decree is reversed, the respondent's demurrer overruled, the appellant's bill ordered to be retained, and any costs paid by him to the respondent to be repaid.] [pp. 345, 349-51, 367.]

31 Jan.

South
Carolina.

[399.] [Reference to the Committee of the petition of the merchants of London in behalf of themselves and those of Bristol and the rest of the kingdom trading to South Carolina against an Act passed there in May, 1736,] for Stamping Emitting and making Current the sum of two hundred and ten thousand pounds in Paper Bills of Credit, and for ascertaining and preserving the future Value thereof To be let out at Interest on Good Security, at eight pounds per Centum per Annum And for Applying the said Interest to the Purposes therein after mentioned And for exchanging the Paper Bills of Credit in this Province and making them less Subject to be Counterfeited And also to encourage the Importation of Gold and Silver into this Province. [p. 100.]

4 Feb.

(1738.)

[Referred by Committee to Board of Trade.] [p. 114.]

20 July.

(1738.)

[Reference of the Board of Trade representation and of the Act to the Committee.] [p. 595.]

27 July.

(1739.)

[Copies of the Board of Trade reports to be delivered to the solicitors.] [p. 611.]

15 Mar.

[Committee report, agreeing with the recommendations of the Board of Trade report] that they have been attended at different times by several Merchants and Planters of, and Traders to Carolina, as well as by the Agent of that Province and having heard what has been offered for and against the said Act, it appeared to them—That the General Purport of

1737.

the Act was Agreeable to Your Majesty's 21st General Instruction given to Robert Johnson Esqr. late Governor of South Carolina and has many good Clauses and Provisoos in it, But that there are some particulars to which they have Objections Vizt. There is a Clause directing the Treasurer to discount or allow 10 per Cent. on all Dutys inwards which shall be paid into the Treasury in Silver or Gold which is evidently against the Intention of the Proclamation published by Her late Majesty Queen Anne the 18th of June 1704 which was Enacted into a Law in 1707 to prevent the drawing Money from one Colony to another by Setting an unequal Value thereupon to the great Prejudice of Trade.

There is a Provision in this Act for Creating a Security for an Old Debt of one hundred Thousand Pound in paper Money, now Current in that Province out of the Interest arising by the Loan of one hundred thousand and ten Pounds part of the New Bills but there is no Clause in it to oblige the Borrowers to repay any Part of the Principal towards the Sinking of the said Bills which ought to have been Provided for by gradual Payments annually, and should have commenced at least upon the Acquisition of a Sufficient Fund for the Discharge of the Old Debt The said Lords Commissioners therefore proposed that the said Act might lye by and that the Governor or Commander in Chief of the said Province should be instructed to recommend to the Council and Assembly the passing another Law for the same purpose not lyable to these Objections.

[VI. p. 127.]

[Order accordingly.]

[VI. p. 137.]

[Reference to Committee of Board of Trade report of 27 June with draft instructions for passing a new Act.]

[VI. p. 259.]

[400.] [Reference to the Committee of the petition of John Yeamans, agent for Antigua, and of various planters and merchants interested in the island,] setting forth that there hath been a conspiracy among the Negroes in that Island to

(1739.)
22 Mar.
(1739.)
10 July.

21 Feb.
Leeward
Islands

554 ACTS OF THE PRIVY COUNCIL (COLONIAL).

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blow up the Governor and all the Principal Inhabitants and likewise to destroy all the White People in that Island And therefore humbly praying that His Majesty will be graciously pleased to Augment the Forces in the Leeward Islands in such Speedy and effectuall Manner as His Majesty in his Consummate Wisdom shall think fit. [p. 130.]

6 April. [Committee.] Ordered that the petition . . be further considered at the next Committee. [p. 182.]

13 April. [Committee report. The petitioners declare that, though this conspiracy was discovered and timely prevented from being carried into execution, yet as there are 24,000 blacks to 3,000 whites in the island, and only five companies of 31 men each of the Leeward Islands Regiment quartered in Antigua, an augmentation of the forces is necessary for security.] And it appearing to their Lordships that this Petition does not come from the Inhabitants of the Island of Antigua but was preferred to Your Majesty by the said Agent and Subscribed only by Persons resident here without the Knowledge or Privity of any Persons residing at present in the said Island, And Mr. Yeamans upon a further Examination not being able to Satisfye their Lordships whether any Additional Force to be sent to the said Island could be either Subsisted or Provided with Quarters—The Committee are therefore humbly of Opinion that it is not advisable for Your Majesty to give any Orders for an Augmentation of the Forces in the said Islands on this Application. [p. 187.]

21 April. [The report is approved.] [p. 205.]
(1739.)

11 Jan. [Reference to the Committee of the petition of the Council and Assembly of Antigua] Setting forth the Great Apprehensions of Danger they have been under ever since the late Insurrection of the Negroes in that Island and proposing to Grant an Allowance of Subsistance to such additional Troops as His Majesty shall be pleased to send thither as well as to those that are upon the present Establishment And also to

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provide for the Building of Barracks and an Hospital for the said Troops as far as their Circumstances will permit them to do, And therefore humbly praying that His Majesty will be pleased to grant them an Additional Number of Forces and that His Majesty would also be pleased in Consideration of the present Condition of that Island further to grant them such Sum of Money towards compleating the said Barracks and Hospital or such other Relief as His Majesty in His Great Wisdom shall think proper.

[VI. p. 69.]

(1739.)

[Committee order for hearing on 17 Jan., and for Major George Lucas of the Leeward Islands Regiment and the agents of the several islands to attend. Order to Sir William Yonge, Secretary at War, to lay before the Committee a computation of the charge of increasing the number of men in the Duke of Marlborough's foot regiment to the full complement of other foot regiments.]

[VI. p. 76.]

12 Jan.

(1739.)

[Committee. Mr. Yeamans, agent for Antigua, informs the Committee that, if the forces are augmented, that island proposes to raise money for paying additional subsistence: to each Lieutenant 15*d.* per day, Ensign 12*d.*, Serjeant 6*d.*, Corporal 4*d.*, drum 4*d.*, private 3*d.* It is ordered that the agent inform the Committee whether the island will undertake to raise money for the following purposes, vizt.] To Build Barracks for all the Men with Houses for the Accomodation of the Officers, Kitchen for the Officers and Men, Cisterns for Water, and also an Hospital for the Sick Men.

23 Jan.

To provide Fire and Candles for the Barracks.

To provide for all such Private Men who after ten Years shall be rendred incapable of further Service in that Regiment by Admitting them as Matrosses upon the pay of the Island.

To provide for all such Private Men as are quite disabled after ten Years Service by making an Allowance of twelve pounds per Man per Annum.

[The agents of St. Christopher, Montserrat, and Nevis are to furnish similar information and to intimate what number of men they deem necessary for each island.]

[VI. pp. 85-8.]

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1737.
(1739.) [Reference to the Committee of the petition of John
6 Sept. Yeamans, Thomas Butler, and Richard Coope, Esq., agents
for Antigua, Nevis, and St. Christopher, praying for stores
contained in a schedule annexed.] [p. 341.]
- (1739.)
9 Nov. [Referred by Committee to Board of Trade.] [p. 393.]
(1739.)
- 23 Nov. [Committee order for hearing next Wednesday and for
Gen. Dalziel and Mr. Yeamans to attend.] [VI. p. 427.]
(1739.)
- 28 Nov. [Committee report. Mr. Yeamans desired for Antigua from
400 to 624 men, and now intimates that he has received further
instructions from Antigua as to the particulars proposed by
the Committee. The island is willing to provide as follows :—]
1st To Build Barracks and an Hospital and to make Cisterns
and to provide all other Conveniencys necessary for 624 Men
including Officers and Soldiers in Case Your Majesty shall
be Graciously pleased to allow half the Expence of Building
the said Barracks the whole Expence of which the said Agent
apprehended would Amount to 6,000*l.* Sterling.
2d. To provide Fire and Candles for the said Barracks.
3d. To make provision for such Soldiers as shall be
discharged by their Officers as Invalids by Employing them
in the Forts of the said Island as Gunners or Matrosses when
Vacancys shall happen.
4th. To allow twelve pounds per Annum to such Soldiers
who shall be quite disabled after ten Years Service not
exceeding three for each Company—And in Case such disabled
Soldiers shall at any time exceed that Number then the Island
is willing to bear the Expence of transporting such Men to
Great Britain in Order to their being Admitted into Chelsea
Hospital.
5th. And the said Agent acquainted the Committee that
He was further Instructed to propose that the Additional
Allowance of three pence per day agreed to be paid by the
Island to the private Men be not paid in Money but in pro-
visions by the Hands of the Treasurer of the Island in Order

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to prevent the many and great inconveniencies which would attend their being paid in Money.

[The Committee recommend that the augmentation be granted and not more than 2,000*l.* sterling be allowed towards building barracks, on the conditions proposed by the island, modified as follows : in article 4 are included soldiers disabled or regularly discharged as invalids after 10 years service : and in article 5 payment in kind is prescribed for the corporals and drums as well as for the privates.] [VI. pp. 435-8.]

(1739.)

[Committee. Board of Trade report on the petition of 6 Sept. read and ordered to lie by.] [VI. p. 439.]

28 Nov.

(1739.)

[Orders in accordance with report of 28 Nov. on Antigua.]

27 Dec.

[VI. p. 482.]

(1740.)

[Committee. Board of Trade report on the petition of 6 Sept.] Read and Postponed. Ordered that search be made, what Applications have been made and Stores sent to these Islands in the Year 1734 and from thence to this time.

[VII. p. 49.]

(1740.)

[Committee refer the Board of Trade report to the Ordnance to report how far it may be advisable to supply the islands with the stores prayed for.]

29 July.

[VII. p. 174.]

(1740.)

[Committee report, recommending that orders be given in accordance with the Ordnance report addressed to the Duke of Montagu, the Master General, vizt.—] . . We have accordingly my Lord had the same under Consideration and having Estimated the Demand, We find the Expence of the whole will amount to 7,820*l.* 14*s.* 2*d.*

22 Oct.

It is necessary hereupon to inform Your Grace that Ordnance and Stores to the amount of 9,400*l.* and upwards have been given these Islands within these nine Years last past.

The Lords Commissioners of Trade and Plantations Sett forth in their Report to the Lords of the Committee of Council that there is An Act in force in the Leeward Islands which Obliges every Vessel that comes to leave a certain Quantity

1737.

of Powder for Supplying the Magazines and on the 3d of April 1735 the Lords of the Committee of His Majestys most Honourable Privy Council recommended it to His Majesty that Powder Musquets or Carbines with other Particulars then Demanded (which Demand is now received) should be paid for by these Islands And Assigned the following reason In regard the Inhabitants are Obliged by their Acts of Assembly to Supply themselves with such Arms and Stores His Majesty took the same into Consideration and was pleased with the Advice of His Privy Council to approve thereof And to Order it accordingly—By Virtue of that Order my Lord they received His Majestys Bounty but never Applied for the Stores which were to have been paid for the Agents Alledging as they do now that it was not in their Power to comply therewith but surely my Lord if the Islands ever intended to provide for their own Safety in any Degree they might before this time have Enabled their Agents to pay for the said Arms and Stores.

In the Supply Ordered to be sent to Montserrat no Powder was given and the Musquets Bayonets Cartouch Boxes Shott and Flints proposed were expressly excepted against by His Majestys Order in Council of the 27th of December last And in another Order of the same Date for the Province of New York no Powder was Allowed And the small Arms proposed were in like manner excepted against.

No Powder is given to the Bermuda Islands by His Majestys Order in Council of the 12th of May last and by the several like Orders for Supplying Penzance Fowey Helstone St. Ives Sunderland and Hartlepoole the Magistrates and Gentlemen who Petitioned for the Ordnance and Stores are directed to furnish themselves with Powder at their own Expence; The Agents for the said Islands indeed have Assured the Lords Commissioners of Trade and Plantations that notwithstanding the Duty aforesaid they have not a Suffioient Quantity of Powder in their Magazines and have accordingly Demanded Double of what they did in 1735 But as that Duty

, still does and ought for ever to Subsist and as it was laid on the Shipping coming in there to the end that their Magazines might at no time be in want of a Sufficient Quantity of that Valuable Store without which all other Military Provisions are Useless and of no Effect if the same has been dropt or otherwise commuted for We earnestly recommend it to Your Grace that His Majesty be Apprizd thereof that a Stop may effectually be put to a Practice of so pernicious a Consequence and that they be constrained to have a certain and a Sufficient quantity always in Store by actually receiving the Specifick Duty in Powder and if the same should prove insufficient that they make up the Deficiency at their own Charge.

The Lords Commissioners of Trade and Plantations have Reported likewise concerning the Small Arms demanded that altho the Country is obliged to furnish each of the Militia with one Firelock it may be necessary in the present posture of Affairs that there should be a Store of Spare Arms to Supply any loss that may happen in Service.

We Agree with their Lordships as to the necessity of a Store of Spare Arms but are of Opinion that the Islands should take this Precaution themselves. We must Observe to Your Grace that the five hundred Musquets compleat which with other Stores given to St. Christophers in 1731 were unquestionably intended for a Store and not to be issued to the Militia or used on any other occasion but when the safety of the Island was endangered And if this has been the Case my Lord as it ought to have been then that Island must have now in Store five hundred good and Serviceable Arms to which We shall beg leave to Add that General Dalziels Regiment now doing Duty in these Islands which formerly consisted only of 360 private Men has been this Year Augmented to 780 and the same has been supply'd with a Sett of New Arms and Tents compleat.

Having thus laid before Your Grace what Supplys these Islands have lately received what the King determind with respect to their former demand of Powder and small Arms

1737.

what His Majesty has been graciously pleased to Order for other Plantations under the like Circumstances with these Islands and for several Places at home and having duly weighed and Considered the whole We do not think it adviseable they should be Supplied with Powder, Small Arms, and their Appurtenances out of His Majestys Stores without paying for the same.

As to their Demand of Field Peices &c. for the whole Government to be Distributed on any Emergency We believe my Lord it may be proper at this Juncture to furnish them therewith but are of Opinion that it would be very necessary the Distribution should be made here for each Island Montserrat included it being hard to imagine should any one of them be attacked whilst unprovided therewith that those who have them in possession will part with them readily and seasonably for the relief of their Neighbours when they are humbly in Expectation of the same fate We are further of Opinion that the Field Peices &c. should not be sent them till they have actually paid for the Powder and small Arms which they have demanded that they should then be Strictly enjoined to have a Particular regard that they be used for the Publick Safety only also to preserve them carefully and expend them properly being thoroughly convinced that the Publick Stores have been Shamefully neglected and unnecessarily expended in all His Majestys Colonys and Plantations.

[VII. pp. 213-6.]

(1740.)

23 Oct. [The report approved. The Ordnance to furnish an estimate of the stores which they deem necessary for each island. The list annexed to the petition is given in the Register. The Board of Trade is to prepare additional instructions for the Governor of the Leeward Islands concerning the powder duty and the preservation of the stores.]

[VII. p. 222.]

(1740.)

5 Dec. [Committee refer back to the Board of Trade their draft of an additional instruction as to the preservation of the stores

to be reconsidered and adapted to an Order of 8 March 1738 giving directions to the Governor of Jamaica on the dispatch of stores thither.] [VII. p. 296.]

1737.

[Committee report for approving the Ordnance estimate and proposal for distribution of the stores to the several islands, the total amounting to 3,969*l.* 19*s.* 8*d.* Particulars are given in the Register. The stores are not to be sent till the islands satisfy the Ordnance that they have furnished themselves with powder.] [VII. p. 352.]

(1741.)
26 Jan.

[Order accordingly. The particulars are given in greater detail. The totals for the several islands are Antigua, 1,971*l.* 11*s.* 2*d.*; St. Christopher, 1,141*l.* 16*s.* 8*d.*; Nevis and Montserrat, each, 428*l.* 5*s.* 11*d.*] [VII. p. 367.]

(1741.)
29 Jan.

[Committee recommend that the draft instruction for strict preservation of the stores be approved.] [VII. p. 419.]

(1741.)
9 April.

[Order accordingly.]

[VII. p. 437.] 23 April.

[401.] [The Committee agree with the Board of Trade report on 26 Massachusetts Acts, of which three are the following, viz. :]

2 Mar.
Massachu-
setts Bay.

An Act for Supplying the Treasury with the Sum of Seventy Six thousand five hundred pounds Bill of Credit for discharging the Publick Debts &c. pass'd in November 1733.

An Act for repairing His Majestys Castle called Castle William and for Supplying the Treasury with Bills of Credit for defraying the Charge thereof passed in February 1733-4.

An Act for Supplying the Treasury with the sum of twenty Seven thousand three hundred Seventy one pounds thirteen Shillings and four pence Bills of Credit and for the Issuing the sum of two thousand one hundred Ninety Eight pounds Eighteen Shillings a Surplus now Remaining in the hands of the Treasury for discharging Publick Debts &c. passd in May 1734. [The report declares] that these Acts not being Agreeable to His Majestys Instructions they should have given their Opinion for the Repeal of them but for the Confusion

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into which they apprehend such a Step might throw the Province And that as they found the Act for Emitting Twenty Seven thousand three hundred Seventy one Pounds thirteen Shillings and four pence was Expired and the money call'd in and that there remained but forty three thousand nine hundred twenty five pounds current of the Money issued by the two other Acts which must all be call'd in at several Periods ending in the Year 1741 The said Lords Commissioners therefore Submitted it whether it might not be Adviseable to let these Acts Expire of themselves and to send the Governor a Peremptory Instruction not to give his Assent for the future to any Act of this Nature without a Suspending Clause for preventing its taking Effect until His Majestys Pleasure be known thereon. [p. 132.]

19 Mar. [Eight acts are temporary, and have already expired; fifteen are confirmed; for the above three orders are given in accordance with the report.] [p. 144.]

21 April. [Order approving the additional instruction requiring a suspending clause in] any Act for Striking or Issuing new Bills of Credit in lieu of Money Except only to the Value of thirty thousand pounds for the Annual Support of Government or to any Act for reissuing Old Bills of Credit or that shall continue any Bills current beyond the time limited by the Acts for Emitting them. [p. 207.]

(1739.)

12 June. [Reference to the Committee of a Board of Trade representation of 11 April with a Massachusetts Act of the 12th year of George II for the emission of 60,000*l.* in bills of credit of a new form and tenor to be redeemed by silver and gold.]

(1739.)

[VI. p. 216.]

14 June. [Committee. A copy of the representation to be delivered to the agent of the province.] [VI. p. 222.]

17 Mar.
Georgia.

[402.] [Reference to the Committee of the petition of Sarah, wife of Joseph Watson of Georgia, merchant,] Complaining of Mr. Causton one of the Chief Magistrates as also of the Trustees

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of that Province on the behalf of Her said Husband who hath been imprisoned there for above two Years past and praying that he may be discharged and his Effects restored to him and that liberty may be granted him to sell the same and return to England. [p. 140.]

[Committee. The Georgia trustees to have a copy of the petition and return their answer with all convenient speed.] 19 Mar.
[p. 146.]

[Committee. Mrs. Watson to have a copy of the answer and of the proceedings annexed.] 5 May.
[p. 224.]

[403.] [Reference to the Committee of the petition of Benjamin Brenton of Newport, R.I., for a short day for hearing his appeal from a judgment of the Superior Court, 30 March, 1736, affirming a judgment of the Court of Common Pleas, 6 Jan., 1736, on his action of account against Jahleel Brenton, executor of Jahleel Brenton, deceased,] for the time his said testator was Bailiff of the Petitioners Seventh Part of three Messuages and 2,460 Acres of Land in South Kings Town wherein he was Tennant in Common with the said Testator from the 5 of February 1710 'till the 8th of November 1732 And for which the said Executor Since his Death refused to account to the Damage of the Petitioner 2,000*l*. [p. 140.]

17 Mar.
Rhode
Island.

(1739.)

[The matter concerns the will of William Brenton, great-grandfather of the petitioner, who left property to his children Jahleel, William, Ebenezer, Sarah, Mehetabel and Abigail, and to his sons-in-law Peleg Sandford and John Poole, and constituted his eldest son Jahleel executor. Order is given, in accordance with the Committee report of 7 Feb., that the appeal be dismissed, but without prejudice to the petitioner bringing a proper action in the courts of the colony, if he shall think fit.] 22 Mar.
[VI. pp. 95, 96-8, 143.]

[404.] [Reference to the Committee of the memorial of the proprietors of Pennsylvania nominating George Thomas Deputy Governor in place of Patrick Gordon, deceased.] [p. 162.] 31 Mar.
Pennsyl-
vania.

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4 April. [Referred by Committee to Board of Trade.] [p. 177.]

21 April. [Reference to the Committee of Lord Baltimore's petition that in view of the disorders Thomas be not approved Deputy Governor of the three lower counties but that an indifferent person be appointed by his Majesty till the disputes be determined or at least that Thomas hold his commission directly from the Crown and not from the Penns, that cases arising in the three lower counties be not triable in the Courts of Pennsylvania, and that, pending settlement of the dispute, all necessary directions be given for preventing all persons near the disputed boundary from molestation.] [p. 211.]

5 May. [Fresh reference by Committee to Board of Trade.] [p. 220.]

20 June. [Committee. A copy of the Board of Trade report to be delivered to the solicitors.] [p. 241.]

21 July. [Another petition of Lord Baltimore referred to the Committee.] [p. 264.]
(1738.)

20 Jan. [Committee to hear the Board of Trade report on 27 Jan.] [p. 387.]
(1738.)

25 Jan. [Committee postpone consideration to 4 Feb.] [p. 397.]
(1738.)

4 Feb. [Committee. The agent for the petitioner having signified that a suit was pending in Chancery as to the right to the three lower counties and that Lord Baltimore was willing to wait till this should be decided and would make no objection to the nomination of Thomas, it is recommended that he be allowed to withdraw his petitions.] [p. 404.]

(1738.)
6 Feb. [Order accordingly.] [p. 408.]
(1738.)

7 Feb. [Committee agree with Board of Trade report approving the appointment on the usual conditions. The oaths are to be administered by the Governor or the Lieutenant Governor of the Leeward Islands, where Thomas is at present residing.] [p. 413.]

1737.

[Orders approving the appointment and directing the Governor of the Leeward Islands to administer the oaths and take security.] (1738.) 15 Feb. [pp. 422-3.]

[405.] [Reference to the Committee of a petition of divers of his Majestys loyal subjects for a tract of lands for a settlement in Nova Scotia and for a charter of incorporation for that purpose.] 31 Mar. Nova Scotia. [p. 163.]

[Referred by Committee to Board of Trade.] [p. 177.] 4 April.

[Committee postpone consideration of the Board of Trade report on the petition of Thomas Coram and others.] 5 May. [p. 223.]

[Committee. The petition and report to be put into the hands of Sir Charles Wager to confer with Mr. Coram.] 7 July. [p. 247.]

[406.] [Reference to the Admiralty of the] Petition of Thomas Lowndes Setting forth that he hath a proposal to Communicate of Great Advantage to the Royal Navy and that he is ready to lay the same either before the Lords Commissioners of the Admiralty or before the Surveyor General of the Navy in Conjunction with Captain Gascoin and Mr. Jones of York Buildings and praying that in Case his proposal when disclosed shall be found beneficial he may be permitted (as a reward for his Service) to run out a Barony of 12,000 Acres of Land within any one of the Townships or Districts of the same Ordered to be laid out in South Carolina in Tracts not less than one thousand Acres each and at the Quit Rent reserved in the Petitioners present Grant and to be Subject to the Established Rules of Survey. 31 Mar. South Carolina. [p. 163.]

[Order dismissing the petition in accordance with the Admiralty report of 28 June] that We did referr the Consideration thereof to the Principal Officers and Commissioners of Your Majestys Navy who having discoursed upon it with the Petitioner and with several other Persons acquainted with the 21 July.

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Country and laid before Us their thoughts upon the whole matter We are humbly of Opinion that the putting the Petitioners Proposal in Practice may be attended with very great Difficultys and an extraordinary Expence but will not in any wise as We conceive be of Advantage to Your Majestys Navy. [p. 263.]

6 April.
South
Carolina.

[407.] [Consideration of a Board of Trade representation on the proposal of Samuel Jenner and others relating to the settling of Swiss Protestants in South Carolina is] postponed till application shall be made to their Lordships by the Persons Concerned. [p. 182.]

21 April.
Carolina.

[408.] [Reference to the Committee of the] Petition of Alexander Skene and James Abercromby Setting forth that they were appointed Commissioners by the late Governor of South Carolina for Settling and Adjusting (pursuant to His Majestys Royal Instructions) the Boundary between that Province and North Carolina and for which Service the Lieutenant Governor and Council of that Province thought it reasonable that the Petitioners should be allowd each of them a Guinea a day, Provisions and Horses to be allowd them beside amounting to about 300*l*. and did therefore lay the same before the Lower House of Assembly But the Petitioners not being able to Obtain more than about fifty Pounds for the whole which scarce made amends for the Horses lost in the several Expeditions They therefore most humbly pray that His Majesty would be graciously pleased to give Directions for making the Petitioners full Satisfaction for the Trouble and Expence they have been at in Settling the said Boundarys. [p. 213.]

5 May. [Referred by Committee to Board of Trade.] [p. 221.]

25 June. [Committee order] that a Letter be wrote to the Board of Trade to transmit Copys of such Papers as are in their Office relating to the Sums which were paid to the Commissioners for Settling the Boundarys between Virginia and North

1737.

Carolina and also of the Fund out of which such Sums were directed to be paid and if they have not the Copys of the Warrants in their Office then to Write to the Secretary of the Treasury for them. [p. 242.]

[Copy of letter from W. Sharpe, Clerk of the Council, to Alured Popple, Secretary of the Board of Trade, to transmit copies of papers.] 2 July. [p. 246.]

[Copy of letter from Sharpe to John Scrope, Secretary of the Treasury, to transmit copies of two warrants of 1711 and 1729 or 1730 for paying the Commissioners.] 6 July. [p. 246.]

[Committee on considering the Board of Trade report of 14 June direct the Board to prepare a draft of an additional instruction to the Lieutenant Governor of South Carolina.] 29 July. [p. 281.]

(1738.)

[Committee. As it appears by the report of 14 June] that upon settling the Boundarys between the Provinces of Virginia and North Carolina in 1729—the Commissioners appointed for that Service were paid by Warrants from the then Lords Commissioners of the Treasury out of the Quit Rents of the said Province of Virginia And that the Service of the Petitions being of the same Nature, The said Lords Commissioners conceive the same Method to be the most proper to be followed in the present Case—Whereupon the Lords of the Committee think it proper hereby to refer the said Report (a Copy whereof is hereunto annexed) to the Auditor General of His Majestys Revenues in America to Consider thereof and to Report to this Committee whether he hath any Objections to the paying the Petitioners for their said Services out of the Quit Rents arising in the Province of South Carolina. [p. 489.]

(1738.)

[The Auditor General having no objection to payment from the quitrents it is referred to the Board of Trade to consider what sum beyond the 50*l.* already paid should be granted to the petitioners.] 4 May. [p. 523.]

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21 April. [409.] [Reference to Committee of the petition of Anthony
Massachu- Stoddard, William Stoddard, merchant, and William Clarke,
setts Bay. of Boston for a short day for hearing their appeal from three
judgments given in the Courts of Massachusetts Bay, 18 Sept.,
1733, 23 April 1734, and the third Tuesday of April 1736,]
in favour of John Jones and Hannah his Wife, Elizabeth
Willard, Hebzibah Mortimer Mary Alden and Mary Alden
Thomas Alden Elizabeth Alden, Ann Alden Mary Brightman,
Nathaniel Howard and Hepzibah his Wife, Elizabeth Butterly,
Peter Briton and Lydia his Wife Mary Alden, Zachariah Alden
Samuel Kneeland and Mary his Wife, Timothy Green and
Elizabeth his Wife, and Nathaniel Alden Heirs of John Alden
deceased upon an Action of Trespass and Ejectment brought
by the Petitioners against Ezra Clap and Samuel Lyon Tenants
in possession for recovery of several Parcells of Mortgaged
Lands. [p. 215.]

(1738.)

12 Jan. [Order in accordance with the Committee report of 19 Nov.
dismissing the appeal with 30*l.* costs.] [pp. 295-7, 365.]

19 May. [410.] An Act relating to the Biennial and other Assemblies
North and regulating elections and members [is referred to the Com-
Carolina. mittee with Board of Trade representation of 20 April].
[p. 228.]

27 May. [Committee agree with the Board of Trade in recommending
that the Act be disallowed as by it] a power is given to the
Assembly of Meeting without the Consent of the Crown . .
a privilege entirely derogatory to Your Majestys Prerogative.
[p. 234.]

21 July. [The Act disallowed.] [p. 256.]

21 July. [411.] [Commission for Edward Trelawny to be Governor of
Jamaica. Jamaica approved on Board of Trade representation of
30 June. P.R.] [p. 263.]

6 Oct. [Instructions and Board of Trade representation of 14 Sept.
referred to Committee.] [p. 291.]

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21 Dec.

[Committee report approving the instructions save as to the names of the Councillors. The names of the four absentee Councillors, Edward Charlton, Henry Dawkins, William Gordon and Temple Laws, should be omitted till Governor Trelawny examines their dispute with President Gregory and reports. He should be empowered to admit them to the Council if undeserving of censure, or otherwise to transmit along with an account of the proceedings the names of four proper persons to supply their places in the Council. Further, William Needham has desired leave to resign, and John Stewart is recommended in his stead. In the Trade Instructions, Article 13, for the better securing the duties on foreign sugar, molasses, &c., is new, having been inserted at the request of the Commissioners of the Customs; the Committee recommend its approval.]

[p. 345.]

(1738.)

12 Jan.

[Instructions approved. P.R. Trelawny takes the oaths as Governor.]

[pp. 360-1.]

21 July.

North
Carolina.

[412.] [Reference to the Committee of complaints against Governor Johnson of North Carolina: (a) by divers members of the General Assembly, for proroguing the Assembly to Newborn, about 100 miles from the seat of government, in order to prevent them from laying their grievances before his Majesty: (b) by Maurice Moore and Samuel Swann on behalf of themselves and other members of the late Biennial Assembly and other principal inhabitants with several articles of complaint and praying a royal commission to enquire into them: (c) by John Martin Franck for himself and other German Protestants complaining that on Governor Johnson's arrival he was fraudulently induced by the Governor, the Chief Baron and the Attorney General to surrender a tract of 10,000 acres of fertile land, purchased by him in 1709, and received in return warrants for only 5,000 acres, on very hard conditions, while the Governor reserved the good land for himself and his friends: (d) by Francis Brice who has been similarly deprived of 372 acres of land which he occupied and

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improved for four years till 1735 when he was intimidated into surrendering it in exchange for other lands by the threat of the Chief Justice, Attorney General, Governor and Secretary, that his grant might be vacated: (e) by Maurice Moore, James Castellan, Samuel Swann, Thomas Bryant, Arthur Mabson, John Dawson, Robert Peyton, John Starkey and Thomas Luten, and others, the major part of the General Assembly.] [pp. 267-9.]

29 July. [Committee. Copies of the five petitions to be sent to Governor Johnson for his answer.] [pp. 275-7.]
(1738.)

26 Oct. [Committee. Copies of Johnson's answers to be delivered to the solicitors: also that of Nathaniel Rice, Secretary of the province, to Francis Brice's complaint (d).] [VI. p. 12.]
(1739.)

16 April. [Committee order for hearing on 8 May.] [VI. p. 179.]
(1739.)

8 May. [Committee report. No one appeared for the petitioners on 29 July, 1737, but, in order that no time might be lost, copies of the petitions were sent to the Governor and other officers for their answer:] And the answer of the Governor having layn before their Lordships ever since the 13th of October last, and no Steps having been taken by the Petitioners to bring on the said Complaints to a hearing, The Agent for the said Governor represented to the Committee that the said Complaints had raised great Discontents in the said Province which were likely to Subsist as long as the same remained unheard, And therefore prayed that a day might be appointed for the hearing thereof or otherwise that the said Petitions might be Dismist for Non Prosecution—Whereupon the Agent for the Petitioners attended the Committee and prayed that the hearing of the said Petitions might be deferred, and that in the mean time a Commission might be granted for Examining Witnesses in the Province to make out the several Articles of Complaint contained therein This was Objected to by the Governors Agent, who offered several reasons to shew, that the desiring such a Commission at this time could be with no

other View than to delay the hearing of the said Complaints, and amongst other things, he observed, that as the Principal Articles thereof were against the Governors proceedings in his Publick Capacity, The same might be made appear from the Minutes of Council and other Publick Papers transmitted by the Governor to the Lords Commissioners for Trade and Plantations, to which Papers the Petitioners Agent would undoubtedly have had recourse, if there had been any real Foundation for the said Articles of Complaint ; Upon Consideration whereof, the Lords of the Committee thought it would be proper for them to examine into the Nature of the said Complaints and also into such Evidence as the Petitioners might have ready to produce in Support thereof, From whence it might appear, whether there was any and what Foundation for making the said Complaints, And that the Petitioners might at the same time have an Opportunity to point out those Articles upon which they conceived it necessary to send over the Commission desired. And to that end, their Lordships Directed all persons concerned therein to come prepared to be heard as on this day, And accordingly their Lordships were this day attended by Counsel as well on behalf of the said Petitioners as of the said Governor, And the Counsel for the Petitioners opened the several Articles of Complaint contained in the said Petitions, But when called upon to produce their Evidence and proofs they owned they had not the least Evidence to make out any One of the said Articles and therefore Concluded with only renewing the same request which had been before made by the Agent for the Petitioners requesting that a Commission might be sent to the said Province for Examining Witnesses there to make good the allegations of their said Petitions—As to which, their Lordships considering that the Petitioners ought to have been prepared with Evidence to Support their Charges at the time of the preferring their said Petitions, or at least that they might have been Sufficiently prepared since the preferring thereof, which is now near two Years, And that if such Commission was proper

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and necessary to have been granted, the Application for the same should have been made immediately after presenting the said Complaints, And that therefore the Applying for such a Commission after the Governors Agent had moved to bring on the Complaints to a hearing, could only be with a View of further Delay, and in the mean time of keeping up a Spirit of Clamour and Discontent in the said Province, especially since there has not been any one Step taken in the whole Progress of this Affair on the behalf of the Petitioners to bring it to a Determination—And their Lordships considering likewise that several of the said Articles of Complaint against the said Governor could not be Supposed to affect him, but are rather a Charge against the Proceedings of Your Majesty's Privy Council, and of the Lords Commissioners for Trade and Plantations, on Account of the Orders and Instructions which have been transmitted from hence to the said Governor, they are therefore of Opinion upon the whole that the said Petitions are Vexatious, Scandalous Seditious and Groundless and ought to be Dismist.

[VI. pp. 184-6.]

12 June. [Order accordingly.]

[VI. p. 209.]

21 July.
South
Carolina.

[413.] [Reference to the Committee of the] Petition of John Hamilton Esq. Setting forth that there are very great Tracts of Land in the Province of South Carolina lying uncultivated that are well adapted to the Culture of Vineyards for Wine and Fruit for Coffee Cocoa Nuts Olives for Oyl Hemp Flax and several other Commodities very advantageous to the Trade and Commerce of England That the Petitioner being desirous of making a Considerable Settlement in the said province he has been at great pains and Expence to procure about 140 Protestant Familys Skilled in the Cultivation of such Commodities who are all ready to Embark as soon as the Petitioner can be ready to receive them in that Province and that being able to procure many hundred more upon proper Encouragement given He most humbly prays His Majesty will be graciously pleased to grant him a Tract of 200,000 Acres

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of Land in South Carolina for the purpose aforesaid which he will oblige himself to take up in one two or four parcell or parcells in the most convenient place or places for such Commoditys where it has not been set out to any other person Or that His Majesty will be pleased to Direct that the Petitioner may take up part of the said Land in some of those Townships which were set out by the Governor pursuant to His Majestys Order and which are not yet Settled—and that the said Lands may be granted to the Petitioner free from Quit Rents for the first ten Years. [p. 270.]

[Referred by Committee to Board of Trade.] [p. 278.] 29 July.

[414.] [Reference to the Committee of the] Petition of Herbert Pelham of Bures Hamblett in the County of Essex Esqr. praying to be admitted to Appeale from the Judgment given in the Inferior and Superior Courts of Judicature in the Province of the Massachusetts Bay on the 20th of May 1735—29th of July 1735 and on the 29th of July 1736—upon a declaration in Ejectment filed by the Petitioner against Samuel Stone Isaac Hunt and Thomas Bent to recover the possession of a Tract of Land containing Seven hundred Acres of Land and upwards. [p. 271.] 21 July. Massachusetts Bay.

[On the recommendation of the Committee the appeal is admitted.] [pp. 274, 284.] 18 Aug. (1738.)

[Committee report. The case concerns the will of Herbert Pelham who died about the year 1673, leaving as issue his sons Waldegrave, Edward, and Henry, and a daughter Penelope. The original ejectment was brought by the petitioner against Samuel Stone, Isaac Hunt, Jonathan Fisk and Thomas Bent. After several postponements, the Committee this day took the case into consideration] and the Counsel for the Appellant offering in the Course of their Evidence to read out of their proceedings in the cause below an Exemplification of the will of Herbert Pelham dated in the Year 1672 under the seal of the Prerogative Court of Canterbury, the Counsel for the Respondents Objected thereto 17 Nov.

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insisting that the Exemplification of a Will from Doctors Commons, could not be read as Evidence to affect a Real Estate in the Colony of the Massachusetts Bay, and the Counsel being withdrawn the Lords of the Committee took the same Objection into Consideration, and being of Opinion that the said Exemplification ought not to be admitted to be read as Evidence. The Counsel on both sides were called in and acquainted therewith, And the Counsel for the Appellant Declining to Offer anything further to the Committee [the Committee recommend that the appeal be dismissed].

(1738.) [pp. 309, 342; VI. pp. 5, 20, 24-6.]

30 Nov. [Order accordingly.] [VI. p. 38.]

19 Nov. [415.] [Committee. A memorial of Governor Trelawny praying instructions as to the grant of royal mines and the reservations to be made therein, is referred to the Board of Trade for a report, and, if they think fit, a draft instruction.] [p. 297.]
Jamaica.

(1738.)

13 Mar. [Committee report with the draft instruction submitted by the Board of Trade] To Authorize and Empower him to make Grants of Royall Mines in Your Majestys said Island to any Person or Persons who shall apply for the same with Authority to Search Dig for, Open and Work, the said Mines and to Erect any Works and do any other thing necessary for working the said Mines upon Condition that they do pay to Your Majesty Your Heirs and Successors one full fifth part of the Gold Silver and Precious Stones or the Value thereof which shall be found in the said Mines after the Charges upon such Gold Silver and Precious Stones shall be first deducted And also upon Condition that the Grantees their Executors Administrators or Assignes shall Open or Work some Mine or Mines within five Years from the Date of their Respective Grants And produce some profit to Your Majesty Your Heirs and Successors out of the same according to the Above reservation Otherwise that the said Grants be Void—And the Governor is thereby especially instructed not to Grant all the Royal Mines to any one Person or any Sett of Persons united

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in one Body, And if application shall be made to the said Governor for a Grant of Royal Mines lying in the Lands which are the Property of any Private Person such Private Person or his Representative shall have Notice thereof and Liberty to take out such Grant for his or her own Benefit Subject to the same Conditions with other Grantees of Royal Mines, But if the Proprietors of the said Land shall neglect or refuse to take out such Grant within twelve Callender Months after Notice given then the Grant may be made to the Persons applying for the same.

[The Committee agree with the report, but] Observing that as there is no Limitation of time inserted therein for the continuance of the said Grants the Governor will be thereby left at liberty to make Grants of the said Mines in perpetuity or for any Term of Years he shall think fitting—And their Lords conceiving that the time for which such Grants should Subsist ought to be particularly Specified as hath been usually done in Grants of this Nature, and apprehending that the Term of Fifty Years will be Sufficient to give encouragement to persons to Search for and Work the said Mines Their Lordships have therefore inserted the said Term in the said Draught.

[pp. 485–6.] (1738.)

[Instruction approved. P.R.]

[p. 539.] 25 May.

[416.] [Reference to Committee of the petition of Benjamin Charnock for a short day for hearing his appeal from a decree of the Barbados Chancery, 19 April, 1737, in favour of Elliot Saer and George Gascoigne.]

29 Nov.
Barbados.

[p. 307.] (1738.)

[Reference to Committee of Saer's petition for leave to bring a cross appeal from the judgment of 19 April, 1737, on his bill against Charnock, Gascoigne, and Thomas Maxwell.]

12 Jan.

[p. 371.] (1738.)

[Order, in accordance with Committee report of 19 May, for admitting Saer's cross-appeal with reference only to the matter of costs. Saer's petition sets forth that the case concerns an] execution levied upon a Judgment entered into

25 May.

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by the Petitioner and one William Ramsay to Thomas Maxwell deceased Father and Testator to the said Thomas Maxwell for one thousand three hundred Pounds and for Relief in this Case That the said Charnock and Gascoigne put in their Answers to the said Bill and Examined some Witnesses, particularly one John Bourne who endeavoured to prove the Petitioners being Privy and consenting to Ramseys running off the said Island which being to a matter neither put in issue nor even insinuated in either of the Answers ought not to have been examined to in the said Cause. [pp. 527-8, 558.]

(1739.)

22 Mar. [Order, on the Committee report of 19 Feb., that the Chancery decree of 19 April, 1737, be reversed, and that further proceedings be taken by the proper officer in Barbados.]

(1749.)

[VI. pp. 45, 105-110, 144.]

12 Oct. [Appearance entered for Charnock to Saer's appeal.]

(1749.)

[XII. p. 323.]

23 Nov. [Reference to the Committee of Elliot Saer's appeal from a decree of the Barbados Chancery of 23 Nov., 1748,] in favour of Benjamin Charnock Esqr. whereby several Exceptions made by the said Charnock to a Report of a Master in Chancery there (in relation to an Account directed to be taken by His Majestys Order in Council of the 22d of March 1738 in a Cause depending between the Petitioner and the said Charnock) were adjudged to be good and the said Report of the Master Set aside.

[XII. p. 366.]

(1752.)

11 Mar. [On 6 April, 1741, Charnock took three objections to the report of the Master, which were argued on 17 Feb., 1742, two of them adjudged to be good, and the case referred back to the Master. On 6 Aug., 1745, the new Master made a special report, which was published on 4 Sept., 1745. On 20 Dec., 1745, Charnock filed several objections to this, which were argued on 23 Nov., 1748, and adjudged good. From this last decision Saer appeals. On the report of the Committee of 25 Feb., 1752, judgment is given] That no part of the

1737.

Money levied out of the Estate and Effects of Ramsay be applied in Satisfaction of the said Judgment But that upon payment of 2,600*l.* by the Appellant Saer to the Respondent Charnock in Barbados within Six Months after the Registering hereof in the Court of Chancery in Barbados together with his Costs in the Court of Chancery there to be taxed by the proper Officer there the Defendant Charnock shall Cause Satisfaction to be acknowledged on the said Judgment at the Expence of the Appellant Saer if required and that the Injunction already obtained be made perpetual—But in Case the Appellant Saer do not pay to the Respondent Charnock what is directed to be paid him as aforesaid That then the said Appellants Bill shall stand dismissed with Cost and the Injunction be dissolved But that the said Injunction shall continue to the End of the said Six Months.

[XIII. pp. 503, 514–525, 548–9.]

[417.] [Reference to the Committee of the petition of Augustus Boyd, Esq., and John Denn, his lessee, for a short day for hearing their appeal from a judgment of the Court of Errors in St. Christopher, 21 Feb., 1737, reversing a judgment of the Court of King's Bench and Common Pleas, 26 Aug., 1735, in their action against Anthony Johnson, William Machan, Richard Emery, William Hart, Joseph King, John Johnson, Isaac Thomas, Christopher Dean and Anne Cameron for recovery of several lands and premises.] 29 Nov.
St.
Christopher.

[p. 308.]

(1738.)

[The case concerns lands in the French part of St. Christopher, which were granted by King William III to Andrew Thauvett and Gabriel Papin, who held them till the peace of Ryswick, when they lapsed to the French. After the peace of Utrecht, Gilbert Fleming, the King's Commissioner, sold the lands in fee simple to the respondents, who were at the time in possession. On Papin's death, his claim on the lands passed to Thauvett, and on his death to his nephew Augustus Boyd. The St. Christopher Court of King's Bench held that the surrender of the lands at the peace of

20 July.

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Ryswick had not extinguished the claim, but Gilbert Fleming, the Lieut.-Governor, and his Council, sitting as a Court of Errors, reversed this Judgment. On 19 June the Committee report that, no appearance for the respondents having been entered, in spite of the usual summons affixed on the Royal Exchange and elsewhere, they have heard the case *ex parte*, and recommend that the appeal be dismissed. Order is given accordingly.] [pp. 524, 558, 559-63, 592.]

29 Nov.
Jamaica.

[418.] [Reference to the Committee of the petition of Stephen Browne for a short day for hearing his appeal from an order of the Jamaica Chancery of 29 Nov., 1736, retaining a bill filed there by John Burke and his wife for the very same matters for which they had already exhibited a bill against him in the High Court of Chancery of Great Britain.]

[p. 308.]

(1738.)

13 Mar.

[Committee order for hearing on 24 April. As no appearance has been entered, though fifteen months have expired since the sentence was given, a summons is to be affixed on the Royal Exchange and elsewhere in the usual manner, and also to be served on Burke's wife and solicitor.] [pp. 490, 491.]

(1738.)

19 May.

[Committee. Burke's solicitor declares that Burke is in Jamaica, and that neither his solicitor nor his wife has had any intelligence from him.] And the said Solicitor Expressing some Doubt whether this Appeale had been regularly granted in Jamaica and all the proceedings duly transmitted Their Lordships proceeded to look into the said proceedings and it appearing that only a small part of the proceedings in Jamaica were transmitted their Lordships were therefore hereby pleased to order and allow the Petitioner time to the 22nd day of Novr. next to lay the whole of the said proceedings before this Committee on failure whereof their Lordships will Report to His Majesty as their Opinion that the said Petition of Appeale should be dismissed.

[pp. 525, 526.]

[On Browne's motion, Committee allow till 22 Dec. next for bringing over the proceedings] at which time the said Stephen Browne is peremptorily to bring in the said Proceedings. 1737.
(1738.)
17 Nov.
[VI. p. 27.]

[In accordance with the recommendation of the Committee of 16 April, the appeal is dismissed.] [VI. pp. 167, 177, 211.] (1739.)
12 June.

[419.] [Reference to Committee of the petition of Dorothy Stout, widow, and Mathias Philip, acting executor, of Henry Stout, Esq. of Jamaica, deceased, for a short day for hearing their appeal from an Ordinance of the Commander in Chief of the island as Ordinary, 19 April, 1737, and a sentence of the Ordinary of 2 May, 1737, in favour of James Stout, relating to the will of Henry Stout.] 29 Nov.
Jamaica.
[p. 309.]

[The appeal sets forth that on the day of his death Henry Stout dictated a will, leaving his property to his wife Dorothy, his brother Alexander and sister Martha, who were at the time in England, and appointing as his executors the petitioners and William Perrin and Jacob Wilkinson. This was done in the presence of several witnesses, reduced to the form of a will by an indifferent person, read over to the testator and assented to by him; but before the will could be signed, the testator died, and his younger brother James and one of the executors opposed the granting of probate] the chief of his Evidence being to Sett forth all the disputes and Discords which any of the Witnesses had ever heard between the Appellant Dorothy and her said Husband, and to throw remote imputations on the Character of the Person who drew the Will. [In accordance with the report of the Committee of 23 Nov., the appeal is sustained, and the Governor ordered to decree a probate.] (1739.)
27 Dec.
[VI. pp. 422-4, 491.]

[420.] [Reference to the Committee of the petition of William Arnoll, Esq., of Barbados for leave to appeal from a judgment of the President and Council as a Court of Errors, 17 Feb., 1736, 29 Nov.
Barbados.

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1737. reversing a judgment of 17 Sept., 1735, upon his action of Detinue against Margaret Phillips for recovery of five negroes.] [p. 310.]
- (1738.)
- 12 Jan. [On the recommendation of the Committee, the appeal is admitted.] [pp. 338, 366.]
- (1740.)
- 12 June. [The case concerns five negroes, named Harry Jack Carraway Cubbenah, Sharper Ben Mimbah Binnebah, Phillis Omah Jubbah, Sharry, a child, and Phillida. On the report of the Committee of 6 June, the judgment of 17 Sept., 1735 in favour of the petitioner is confirmed, and the later judgment reversed.] [p. 599 ; VI. p. 11 ; VII. pp. 50, 88-9, 96.]
- 29 Nov. [421.] [Reference to the Committee of the petition of Robert Connecticut. Wheeler of Connecticut for leave to appeal from a judgment of the General Assembly, 27 Aug., 1734, in favour of Thomas Levenworth relating to the recovery of possession of 25 acres of land.] [p. 310.]
- 15 Dec. [Committee recommend that the appeal be admitted.] [p. 338.]
- (1738.)
- 12 Jan. [Order accordingly.] [p. 366.]
- 29 Nov. [422.] [Reference to the Committee of the petition of Samuel Connecticut. Clark of Connecticut for leave to appeal from a sentence of the Superior Court, the first Tuesday of March, 1733, upon a writ brought by him against] Thomas Towsey Esq. and Hannah his Wife on their Own Account and against the said Thomas Towsey as Guardian to John Clark an Infant as also against Thomas Clark on his own Account and as Guardian to Gamaliel Clerk an Infant and against Richard Bryon Guardian to the Children of his late Wife Mehitabell deceased relating to the Division of the Real Estate of Samuel Clark Esqr. deceased.] [p. 310.]
- (1738.)
- 25 May. [On the recommendation of the Committee, the appeal is admitted.] [pp. 343, 521, 544.]

- [Reference to the Committee of his petition for leave to appeal from a judgment of the said Superior Court of 17 Feb., 1741, upon a writ of review brought by the petitioner to reverse their former verdict.] [VIII. p. 120.] 1737.
(1742.)
1 April.
- [On the recommendation of the Committee, the appeal is admitted on the usual security.] [VIII. pp. 125, 137.] (1742.)
17 May.
- [His appeal is referred to the Committee, by whom the first meeting in Feb., 1743, is appointed for a hearing.] [VIII. pp. 166, 175.] (1743.)
24 June.
- [To the Committee is referred his petition, rehearsing the case, and setting forth that his later proceedings were due to his being in Connecticut, and not receiving any advice of his earlier appeal being granted. Security has been given for prosecuting the later appeal, but as his counsel informs him that he cannot prove his case without the records of the Inferior Court, in which the case was originally tried, and as he is unable to obtain these, he prays that on giving security he may be allowed to proceed on the order of 25 May, 1738.] [VIII. p. 429.] (1745.)
18 July.
- [On the report of the Committee of 4 July, the petition is dismissed.] [X. pp. 133, 144-5, 166.]
- [423.] [Committee. On consideration of an Ordnance report on a list of stores desired for Jamaica by the late Governor, it is found that several particulars have not been so sufficiently described and explained as to enable the Ordnance to prepare a complete estimate, and as it does not appear what part of the stores are necessary at this time, a copy of the list and report is to be sent to Gov. Trelawny to prepare a new list of what he shall think necessary.] [p. 348.] 21 Dec.
Jamaica.
- [Committee refer to the Duke of Argyll, Master General of the Ordnance, for an estimate, Governor Trelawny's list of stores necessary for defence and implements for opening roads and building defensible barracks.] [p. 352.] 23 Dec.

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24 Dec. [Letter from Temple Stanyan, Clerk of the Council, to the Ordnance]: Sir, The Lords of the Committee of Council having issued an Order to the Master General of the Ordnance to cause an Estimate to be prepared of the Expence of Stores proposed by the present Governor of Jamaica to be sent to that Island. I am to acquaint You that this List is in Lieu of the former, which was delivered in by the late Governor Mr. Cunningham and upon which Nothing was done in regard Your Board could not prepare a Compleat Estimate of the Charge for want of Several Particulars being more fully Explained—You will see by the present List, when the Master General transmitts it to Your Board that those Particulars are now fully Explained and that some Articles of the former list are omitted and others Added. It is not certain whether the Articles of Firelocks and Pistols will be Allowed unless paid for by the Island—And therefore it would be proper to Estimate the Value and Freight of these two Articles singly which may prevent Your having another trouble about them in case they should be excepted, those things not being Judged material enough to be inserted in the Order to the Master General I was Directed by the Lords of the Committee to hint them to You by way of Letter. [p. 364.]

(1738.)

13 Jan. [Committee agree to consider papers relating to the stores on 20 Jan.] [p. 374.]

(1738.)

14 Feb. [Committee report, submitting the list and estimate, and recommending that the stores be sent and the charge included in the next estimate to be laid before Parliament.] But the Committee beg leave to represent to Your Majesty, that there having been little or no Care hitherto taken of the Stores which have from time to time been sent to your Majesty's Plantations and considering that the present supply of Stores proposed to be sent to Jamaica, will amount to a very considerable Sum of Money; Their Lordships thought it necessary, before they made their Report hereupon to Your Majesty, to Consider of some proper Method to prevent the Loss and

Embezzlement of the said Stores; And to that end their Lordships humbly propose that Your Majesty may be pleased to Order—

That Your Governor of Jamaica do appoint some proper Person residing in that Island to be Store Keeper, with a Salary Suitable to that Office, which Salary the Committee are of Opinion ought to be paid by the said Island, And that the Governor be therefore Directed to recommend it to the Assembly to provide for the payment of the same—

That as soon as such Officer be Appointed, the said Governor do put all the Stores which are now there, as well as those which are proposed to be sent thither, under his Care and take Security from him to be accountable for the same to the Master General and principal Officers of Your Majestys Ordnance—

That such Storekeeper be Obligated to keep a Journal of the Stores issued and Expended, And that he do enter therein the Names of the Persons to whom they are issued and also for what Services—

That he do not issue any Stores but by an Order in writing Signed by the Governor for the time being—

That every Six Months he do transmitt a Copy of the said Journal, together with an Account of what Stores are remaining and in what condition they are, to the Master General and principal Officers of Your Majestys Ordinance, in Order to their being Audited and Examined And that such Journal and Account be Signed both by the Governor and Store Keeper.

[pp. 419-20.] (1738.)

[Orders accordingly. The list of stores, amounting to 8,206*l.* 3*s.* 8*d.*, is given in the Register.] [pp. 72-5.] 8 Mar. (1740.)

[Reference to the Committee of a letter from Gov. Trelawny to the Duke of Newcastle praying that 6 field pieces may be sent for the defence of St. Iago de la Vega.] [VII. p. 33.] 1 May. (1740.)

[Committee refer an extract of the letter to the Ordnance for an estimate of the 6 field pieces and necessary stores belonging thereto.] [VII. p. 44.] 6 May.

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1737-8.

(1740.) [Committee report for sending the field pieces and stores. 22 Oct. The Ordnance on 10 Sept. estimated the cost at 453*l.* 10*s.* 4*d.*, and considered that the field pieces would be of service] on any Sudden Emergency, it being easy to move the same from Place to Place as Occasion may require. [VII. p. 211.]

(1740.)

23 Oct. [Order accordingly with detailed estimate.] [VII. p. 219.] 1738.

12 Jan. [424.] [Reference to the Committee of a Board of Trade representation proposing that a supply of powder, match and cartridge paper be sent to Bermuda and that the Governor be directed on his arrival to send over a particular account of what other stores are wanting.] [p. 369.]
Bermuda.

14 Feb. [Committee desire the Duke of Argyll to cause an estimate to be prepared of the cost of the desired stores—50 barrels of powder, 50 skeins of match, and 10 reams of cartridge paper.] [p. 420.]

18 Mar. [Committee report submitting the estimate. Gov. Popple in asking for the stores set forth that the inhabitants had] been at so great a Charge and Expence in making a thorough Repair of all their Fortifications, that they are not now able to purchase Sufficient Stores of Ammunition to render the said Fortifications usefull. [p. 502.]

6 April. [Orders for sending the stores and for including the charge in the next estimate laid by the Ordnance before Parliament. The estimate is as follows :—]

				<i>l.</i>	<i>s.</i>	<i>d.</i>
50 Barrels of Powder Hazle hooped	..	..	..	102	10	0
50 Skains of Match about 3 cwt.	..	..	..	4	1	0
10 Reams of Cartridge Paper	..	..	..	9	6	8
5½ Tons Freight and Incidents	..	..	..	19	5	0
				<hr/>		
				£195	2	8
				<hr/>		

(1739.)

(p. 505.)

22 Mar. [Reference to the Committee of a letter of 23 Sept., 1738, from Gov. Popple to the Duke of Newcastle transmitting an

- address of the Council and Assembly praying for a supply of ordnance stores.] (1738.)
[VI. p. 147.] 29 Aug.
- [Committee refer letter and papers to the Board of Trade, who are to report what stores have been sent to Bermuda, what remain fit for service, and what are necessary to be sent at this time.] (1739.)
[VI. p. 334.] 24 Dec.
- [Committee refer the Board of Trade report of 5 Dec. and list of stores wanting to the Master General of the Ordnance for an estimate of the great guns and their appurtenances.] (1740.)
[VI. p. 467.] 6 May.
- [Committee report. The Board of Trade having reported that their books show that since King William's time no stores save those named under 6 April, 1738, have been sent to Bermuda, and that the inhabitants are willing to raise two new platforms and batteries, the Committee agree with them that 25 six-pounders and 15 three-pounders be sent with their appurtenances, at a cost estimated by the Ordnance at 2,229*l.* 19*s.* 10*d.*] (1740.)
[VII. p. 35.] 12 May.
- [Orders for sending stores with detailed estimate amounting to 1,717*l.* 7*s.* 8*d.*: and for the Governor to take care that batteries be erected and the stores carefully preserved.] (1746.)
[VII. pp. 51, 53.] 23 July.
- [Reference to the Committee of the memorial of Governor Popple, reciting the previous order, and stating] That it having been thought adviseable for the still greater safety of the said Islands to Erect some New Forts and Batterys and likewise to repair and add New Works to the Old and the Inhabitants having at their proper Cost and Expence Erected in part a New Fort called Popple Fort in a most advantagious Scituation The Memorialist humbly prays that the following Ordnance and Stores may be sent thither—Vizt. Ten Eighteen pounders for the Castle—Six Eighteen pounders for Fort Popple and Four Eighteen pounders for Southampton Fort without Carriages, with Shott suitable thereto and Fifty

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Wooden Boxes for Cannon Cartridges from 18 to three pounds and such other Stores as are proper and necessary for the abovementioned Cannon. [X. p. 532.]

(1746.)

7 Aug. [The Committee refer the memorial to the Master General of the Ordnance for an estimate.] [XI. p. 7.]

(1747.)

30 July. [Committee. The Ordnance, having no plan or profile either of the new works or of the additions made to the old ones, cannot judge of the propriety of the demand, but have drawn up an estimate of the cost of the Governor's demand, amounting to 1,506*l.* 9*s.* 10*d.* The Committee recommend that the stores be sent.] [XI. p. 342.]

(1747.)

7 Aug. [Order that the stores, a detailed list of which is given, be sent.] [XI. pp. 350-2.]

12 Jan.

Antigua.

[425.] [Reference to the Committee of the petition of Benjamin and William or Billy Johnson of Antigua] Setting forth that they have been accused by several Negroes some of whom were under Sentence of Death and not pardoned of being concerned in a Conspiracy with the said Negroes to destroy all the White Inhabitants in that Island Whereupon the Petitioners were taken up and Committed to Goal—But the Testimony of Heathen Slaves not being allowed by the Laws in force in that Island to be good Evidence against the Petitioners who are freemen and Christian—A Bill was brought in and past by the Council and Assembly there To attaint the Petitioners of High Treason Which Bill was so unusual and extraordinary in its nature as well as in the manner of its passing That the Governor hath refused to give his Assent thereto untill His Majestys pleasure should be known and Signified touching the same in Order Whereto the said Bill (as the Petitioners are informed) hath been transmitted for His Majestys Assent or Dissent thereto—The Potitioners therefore humbly pray (for the Reasons contained in the said Petition) that His Majesty will be most graciously pleased to deny the Royal Assent to the said Bill and Direct the same to

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be rejected and Extend such relief to the Petitioners as the Nature of their Case may require and in His Majestys Clemency and Wisdom may seem meet. [p. 369.]

[Referred by Committee to Board of Trade.] [p. 374.] 13 Jan.

[Committee. Copies of Board of Trade report to be delivered to the agents of both parties.] 19 May. [p. 537.]

[Committee agree with the report of the Board of Trade, who had considered the bill, the petition and a letter from the Governor, and heard the petitioners' solicitor, the agent of the Assembly and his solicitor, Mr. Kerby, who was Speaker of the Assembly when the bill passed, and some of the justices who took the first examinations concerning the conspiracy. As the matter seems to be doubtful, it is held more advisable to incline to the side of mercy and to disallow the bill and restore the petitioners to the state they would have been in had there been no such bill.] 26 June. [p. 566.]

[Order accordingly.] [p. 585.] 20 July.

[426.] [Reference to the Committee of the appeal of Susannah Brome of the parish of St. Lucy in Barbados, widow, and of William Brome, an infant, by the said Susannah, his mother and guardian, from two Chancery orders, 13 Oct., 1736, and 16 March, 1737, on Sir Joseph Eyles' bill against them, in relation to a mortgage made by Susannah's late husband, William Brome, on his estate to secure payment of 10,925*l.* 4*s.* 3*d.* due by him on a bond to Eyles.] 12 Jan. Barbados. [pp. 370, 525.]

[Reference to Committee of a petition of Susannah and William Brome with regard to their appeal from a Chancery decree of 1 Dec., 1737, in favour of Eyles], humbly praying that they may be admitted to enter into the usual Security in His Majestys Council Office and that the Seal of Barbados may be Affixed to the Proceedings in this Cause upon paying the usual Fees for the same and that a Day may be Appointed for hearing. 30 Nov. [VI. p. 45.]

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(1742.) [Order in accordance with the Committee report of 19 Dec.,
1 April. 1741, that the three orders in Chancery be reversed, that Thomas Harrison and Hilary Rowe come to an account with the said Susannah before the Master in Chancery, and that Sir John Eyles, Executor of Sir Joseph Eyles, deceased, be at liberty at any time within the next two years to take further proceedings in the proper court in Barbados.]

[VI. pp. 100, 110, 145; VII. pp. 531-2;

(1744.) VIII. pp. 18, 19, 26, 115.]

8 Mar. [Reference to the Committee of the petition of Sir John Eyles setting forth the delays and undue practices of Susannah and William Brome and the impossibility of obtaining a fair and impartial verdict in the precinct of St. Peters, wherein the premises lie, and praying that the time during which he is at liberty to bring his ejectment may be enlarged, and the trial directed to take place in some other precinct.]

(1744.) [IX. pp. 236-7.]

21 Mar. [Order dismissing the petition, on the report of the Committee of 15 March] that this Affair did not Properly lye before Your Majesty in Council. [IX. pp. 240-46, 254.]

12 Jan. [427.] [Reference to the Committee of the petition of William
Virginia. Hunt, of London, merchant, for a short day for hearing his appeal from a judgment of the Royal Court of Virginia, 15 April, 1736, on his action against James Hill and Joyce, his wife, executrix of William Clopton, for recovery of 1,094*l.* 16*s.* 11*d.* due to the petitioner as balance of an account in partnership between him and Clopton.] [p. 370.]

(1740.)

27 Nov. [The petitioner sets forth that on Clopton's death their partnership account was unsettled. On 27 Feb., 1733, he drew up the account, in which there was due from Clopton on 27 August, 1730, the last date on which tobacco or other effects had been remitted, the sum of 973*l.* 3*s.* 11*d.* Agreeable to the constant custom and usage of merchants in such cases, he added 121*l.* 13*s.* 0*d.* as interest at 5 per cent. to date. During

the partnership] the Petitioner had the Misfortune to sell on the usual Credit of the Tobacco remitted by the said William Clopton to the Petitioner on the Partnership account 27 Hogsheads to William Franks and 16 Hogsheads to Joseph Lacy both of whom proved Insolvent by which there accrewed a Loss of 1,416*l.* 16*s.* 2*d.* to the said Partnership Estate (Tobacco being generally if not always sold upon Credit) and the same being entirely lost the Petitioner (agreeable to the constant Custom and usage of Merchants in the like Cases) did not give the said William Clopton any Credit in the said Accounts for his Moiety or any part of the Purchase Money for the said Tobacco no part thereof having been ever received by the Petitioner but the Petitioner having paid the Dutys on the said Tobacco Charged the said William Clopton with one Moiety of the Dutys he had so paid on the said Tobacco as is constantly done in the like cases. [The executors protested against paying either interest or duty. After several trials, the jury on 15 April, 1737 brought in a verdict for the petitioner of 359*l.* 0*s.* 2*d.* stg. and 241*l.* 19*s.* 3*d.* currency, and 505*lbs.* of tobacco costs] but this Judgment as to the said Current Money Damages only was to be Discharged by the said Defendants assigning unto the Petitioner a Moiety of the Outstanding Debts remaining upon the Co-partnership between the said Testator and the Petitioner in two equal parts to be Divided by William Mason and William Merriwether (who were named and appointed by the Court for that Purpose) or either of them who were to have respect to the Solvency or Insolvency of the respective Debtors to the best of their judgment. [The jury further refused to allow the petitioner any part of the interest he had charged.] The Court refusing to Direct the jury whether they should or should not Allow the Petitioner a Moiety of the Dutys paid by him on the Tobacco Sold to Lacy and Franks as aforesaid. The Jury by their Verdict allowed the Petitioner the first penny only of the said Dutys not taking upon themselves to Determine Whether the Petitioner ought to be allowed the same or not

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after the Court had declined giving their Opinion therein. [In accordance with the report of the Committee of 11 Nov., this verdict is affirmed, except the method of payment of the currency debt by an assignment of a moiety of the outstanding debts of the partnership, which is reversed.]

[VII. *pp.* 175, 234, 235-40, 263.]

12 Jan.
Massachu-
setts Bay.

[428.] [Reference to the Committee of the petition of Herbert Pelham, Esq., of Bures Hamblett, Essex, for leave to appeal from three judgments in the Courts of Massachusetts Bay, 20 May and 29 July, 1735, and 27 Jan., 1736, on a declaration of ejectment against Samuel Bannister, merchant, and Thomas Soden, yeoman, to recover possession of several tracts of land with a dwelling house and barn to the amount of 2,000*l.*]

[*p.* 371.]

23 Jan.

[On the report of the Committee of 16 Jan., the appeal is admitted. Security given on 27 Jan. by Robert Marsh of Basinghall Street.]

[*pp.* 378, 392.]

(1739.)

22 Mar.

[In accordance with the report of the Committee of 13 Feb., the appeal is dismissed in the same manner and for the same reasons as Pelham's earlier appeal against Samuel Stone and others.]

[*pp.* 410, 415; VI. *pp.* 5, 99, 100-103, 143.]

12 Jan.
Pensions.

[429.] [Reference to the Admiralty of a petition for his Majesty's bounty, by Ursula, widow of Captain Digby Dent, who died in August last commander of his Majesty's ships at Jamaica.]

[*p.* 371.]

8 Mar.

[On the Admiralty report of 25 Feb. confirming the allegations of the petitioner, a pension of 100*l.* a year is settled on Mrs. Dent and is to be placed on the ordinary estimate of the Navy.]

[*p.* 478.]

(1739.)

27 Dec.

[Reference to the Admiralty of a petition of Elizabeth, widow of Capt. the Hon. John Forrester, for his Majesty's bounty for the loss of her husband. In 1737 he was sent by Commodore Dent to Campeachy to demand satisfaction for the ship *Woolball*. He had to anchor many leagues from the

land, and in going ashore to solicit that affair, contracted such a cold that it ended in a consumption whereof he died in his passage back to Jamaica, leaving his widow and child in the greatest want and misery.] [VI. p. 495.]

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[On considering the Admiralty report of 12 April that the facts stated in the petition are true, but that pensions have not been settled on the ordinary establishment of the Navy on the widows of officers slain or dying in the service, otherwise than by the immediate orders of the Crown, the petition is dismissed.] [VII. p. 334.]

(1740.)

24 Dec.

[Reference to the Admiralty of the petition of the mother and sister of Captain John Nevinson who perished with all the crew of his Majesty's sloop *Hawk*, which he was sent to fetch home from South Carolina on the dismissal of Capt. Gascoigne.]

(1741.)

29 Jan.

[VII. p. 380.]

(1742.)

[To the Admiralty is referred the petition of the widow of Lord Aubrey Beauclerk, killed before Carthage on 24 Feb., 1741, while on board H.M.S. *Prince Frederick*. [VIII. p. 186.]

13 July.

(1742.)

[On the Admiralty report of 20 July, a pension of 200*l.* a year is settled on her, in regard his untimely death prevented him making that provision for his family which his promising great qualities might have entitled him to had he lived.]

29 July.

[VIII. p. 202.]

[430.] [To the Committee is referred the representation of the Board of Trade that John Rindge be appointed to the Council of New Hampshire in place of Benjamin Gamlin, deceased.] [p. 393.]

23 Jan.

New
Hampshire.

[Reference to Committee of the petition of Jonathan Belcher, jun., on behalf of his father, the Governor of the province, against the appointment of Rindge who has constantly opposed all such measures as have been proposed and deemed necessary by the said Governor for his Majesty's interest and service in the said province.] [p. 427.]

15 Feb.

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5 July. [Committee appoint 7 July to consider the recommendation and petition.] [p. 579.]
- 7 July. [Committee approve the recommendation.] [p. 580.]
- 20 July. [Rindge appointed.] [p. 584.]
- 23 Jan. [431.] [Reference to the Committee of the petition of John Barbados. Burke, merchant of Barbados, and Elizabeth, his wife, for a short day for hearing their appeal from a Chancery decree of 2 Aug., 1737, on a bill filed by Martha Lane, widow, calling herself the surviving executrix of John Lane, against the petitioner and against Mary Lane, and Robert Burnet and Mary, his wife.] [p. 393.]
- 30 Nov. [Reference to the Committee of two further appeals from the judgment of 2 Aug., 1737, one by Robert and Mary Burnet and the other by Mary Lane.] [VI. pp. 5, 10, 18, 44.]
(1739.)
- 22 Mar. [Mary Lane is widow and executrix of Anthony Lane, who was the father of Elizabeth Burke and Mary Burnet. In accordance with the report of the Committee of 7 March, the Chancery decree is reversed, and further proceedings in Chancery ordered.] [VI. pp. 120, 121-4, 144.]
- 6 Feb. [432.] [Reference to Committee of the appeal of John Tomlinson, Esq., of London, agent for the House of Representatives of New Hampshire, on behalf of the inhabitants of that province, against the determination of the Boundary Commissioners appointed 2 Sept., 1737, and praying such orders and determinations as may be necessary for settling the boundaries and relieving the people of New Hampshire.] [p. 411.]
New England.
- 6 Feb. [Reference to the Committee of the petition of the representatives of New Hampshire complaining of the proceedings of the Governor and Council for several years past and particularly with regard to the execution of the Boundary Commission, and praying that proofs and further information as to their melancholy circumstances be received from their agent, John Tomlinson, and speedy relief given.] [p. 411.]

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[Committee. A copy of the petition to be sent to Gov. Belcher for his answer.] 7 Feb. [p. 414.]

[Reference to the Committee of the exception of the province of Massachusetts Bay against the Commissioners' settlement of the New Hampshire boundary, and praying that the ancient boundaries be confirmed according to their claim.] 20 July. [p. 599.]

[Appearance for Tomlinson in answer to this exception entered by Ferdinando John Paris.] 26 July. [p. 603.]

[Reference to the Committee of the petition of Francis Wilks and Richard Partridge, agents for Massachusetts Bay, that Tomlinson's petition be dismissed.] 12 Oct. [VI. p. 4.]

[Committee. Copies of Governor Belcher's answer to be delivered to the solicitor.] 26 Oct. [VI. p. 12.]

[Committee. The petition of Wilks and Partridge complains that the Commissioners] had rejected and refused to make part of the case an authentick copy of a Plan therein mentioned which had been produced by the Committee from the Massachusetts Bay ; [it further sets forth that Tomlinson is not the agent for New Hampshire but only for the House of Representatives of that province, and that in his appeal he makes many complaints against the Governor and Council which are no part of the evidence given before the Commissioners. The Committee recommend that the petition be dismissed] but without prejudice to their being permitted to make their Objections against the regularity of the aforementioned Appeale of John Thomlinson, when the same shall come on to be heard before this Committee. [VI. pp. 15-17.] 2 Nov.

[Order accordingly.] [VI. p. 37.] 30 Nov.

[Committee. On a motion made by the solicitor of the representatives of New Hampshire, they or their agent are to be permitted to take copies of such minutes and proceedings of the Governor and Council, of the Council, of the Council 9 Dec.

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in Assembly, and of the Assembly, as they think necessary for their case: and these are to be authenticated by the Governor under the seal of the province on payment of the usual fees.] [VI. p. 55.]

(1739.)

17 Jan. [Reference to the Committee of the petition of Tomlinson against Governor Belcher and praying that the government of New Hampshire may be separated from that of Massachusetts Bay.] [VI. p. 82.]

(1739.)

30 Jan. [Committee. The solicitors for New Hampshire setting forth that the Assembly is lately dissolved, and requesting that the desired copies may be taken by George Jaffrey, Theodore Atkinson, John Rindge and Thomas Parker or any other to be appointed by them, order is given accordingly. The secretary is to attest them as true copies and the Governor to affix the seal of the province.] [VI. p. 94.]

(1739.)

29 Aug. [Committee. The complaint of the representatives against the Governor to be heard in Nov.] [VI. p. 335.]

(1739.)

12 Nov. [Committee hear counsel, examine evidence, and adjourn to 21 Nov.] [VI. p. 398.]

(1739.)

21 Nov. [Committee report. The petition of the representatives sets forth] that Jonathan Belcher Esq. their present Governor hath been guilty of Arbitrary and partial proceedings in his Administration abetted thereto by a Majority of the Council consisting of Persons promoted to that Honour and Trust upon his Recommendation, In nonconcurring for five Years past the most wholesome Laws the House of Representatives could desire In causing frequent Dissolutions to be made of the several Houses during that time and In making reproachfull and Opprobrious Speeches upon the said several Dissolutions—And further Setting forth amongst other things that several Encroachments having been from time to time made by the Province of the Massachusetts Bay upon the Lands belonging to the province of New Hampshire—The Petitioners were Obliged some Years since to lay the same Humbly before

Your Majesty Whereupon Your Majesty was graciously pleased to Constitute under the Great Seal certain Commissioners to make out the Boundary Lines, The Heads of which Commission the Governor communicated to the House of Representatives at their Sessions in April 1737—In Obedience to which they immediately resolved to contribute what in them lay to expedite that important Affair by a punctual Compliance with all Your Majesty's Instructions and a Suitable preparation for the Commissioners when to their great Surprize and Disappointment (before any necessary Step could be taken in Obedience to Your Majesty's Commission) they were prorogued to the 6th day of July and again further prorogued to the 4th of August and again by Orders from the Governor at Boston prorogued by the President of the Council to the 10th of the said Month by which Prorogations the Governors design too plainly appeared of frustrating Your Majesty's Gracious Intentions and delivering them up a Prey to their adversaries the Province of the Massachusetts Bay—The Petitioners conceive nothing else could move him to deprive them of all Opportunitys of making the necessary Preparations against the appointed day but a premeditated Design to embarass and perplex their Affairs in Order to which upon the said Governors meeting the House of Representatives at Hampton (ten days after the Commissioners first Meeting) he recommended the Choice of two Publick Officers residing within the Province on either of whom or at whose Places of Abode any Notices Summons's or final Judgment of the said Commissioners might be served or left though knowing at the same time that the Committee appointed by the General Assembly to Attend the said Commissioners pursuant to Your Majesty's Commission and as was absolutely necessary to be done had on the first day of the Commissioners Meeting appointed such Officers who were accordingly accepted and Recorded This the Petitioners think was evidently throwing difficultys in their way The design of which (they apprehend) must have been to possess the Commissioners with a Notion

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of the Illegality of accepting such Officers so appointed The Consequence of which must have proved fatal to New Hampshire had it had its desired effect for thereby they should have been excluded from the Right of exhibiting their Claims which consistently with Your Majesty's Commission were to be preferred at the first Meeting of the Commissioners, and the Commissioners laid under a necessity of proceeding ex parte and granting the Massachusets unreasonable Demands, Nor have the Governor and a Majority of the Council been less industrious during the whole Sessions in defeating all the prudent and well advised Measures the Representatives of New Hampshire could fall upon towards issuing Speedily this important Affair Every thing proposed by the House of Representatives of New Hampshire was disagreeable, All Votes Nonconcurrent, No Money to be had towards defraying the Expences necessarily Attending such an Affair Nor Agent appointed by Concurrence of both Houses, Nor Money to prosecute before Your Majesty in Council That all necessary Steps were taken by the House of Representatives of New Hampshire to make Your Majesty's Commission effectual but unhappily defeated by the Governor and Council—That immediately after the Commissioners had made up their Judgment and before the Petitioners could obtain a Copy thereof the Governor prorogued the General Court of the said province of New Hampshire to the day before the Commissioners had adjourned their Court as their last day to receive Appeals or Exceptions from either Government that thought themselves aggrieved at their Judgment so that the Petitioners had only part of One day to prepare their Appeal which Stripped the Petitioners of the benefit intended by the Six Weeks Adjournment directed in Your Majesty's Commission This the Petitioners look upon as a hardship especially knowing the Massachusets Court was kept sitting till they had prepared their Appeal, Voted Money to carry it on and Agents to pursue it—These things have been denied to New Hampshire contrary to Your Majestys Intentions Signified by Your Commission

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and to the Peace and Welfare of the said Province and by those persons whom Your Majesty hath intrusted the Power of granting the unappropriated Land within the said Province of New Hampshire and who have since the Judgment of the said Commissioners granted the only Tract of unappropriated Land within the said Province and out of Controversy, to Persons the most of whom were great Opposers of the Settlement of the Lines and who never contributed one penny towards the Charge that hath attended it, Innumerable instances of this Nature induce the Petitioners to Supplicate Your Majesty for Relief. [The Committee, after full hearing and examination of evidence, agree to report] That it appears to their Lordships that the Governor hath Acted with great Partiality By proroguing the Assembly of New Hampshire from the 6th of July 1737 to the 4th of August following being three days beyond the time appointed for Opening the Commission. In Disobedience to Your Majesty's Order in Council which had been transmitted to him by the Lords Commissioners for Trade and Plantations and which was Proved to have been delivered to him in due time. And also by further proroguing the said Assembly from the 2d of September 1737 to the 13th day of October following whereby the said Province of New Hampshire were deprived of the time intended by Your Majesty's aforementioned Order in Council to be allowed them to Consider of the Determination of the said Commissioners and (if they found themselves aggrieved thereby) to prepare a proper and regular Appeal therefrom to Your Majesty in Council, in Order to a final Determination of the matters in Dispute between the said Province and that of the Massachusetts Bay, and thereby to frustrate the intention of Your Majesty's said Commission.

[VI. pp. 399-402.] (1739.)

[The report approved.]

[VI. p. 489.] 27 Dec.
(1740.)

[After two postponements, the appeals and counter-appeals of the two provinces are heard on 5 March, and adjourned till 10 Mar.

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this day, on which, after further hearing, the Committee report that by the report of the Commissioners it was held that if the Massachusetts Charter of William III granted to Massachusetts Bay all the lands granted by the Charter of Charles I] lying to the Northward of Merrimack River, Then the Court Adjudge and determine that a Line shall run, Parallel with the said River, at the Distance of Three English Miles North from the Mouth of the said River, beginning at the Southerly side of the Black Rocks, so called, at Low Water Mark, and from thence, to run to the Crotch or Parting of the said River were the Rivers of Pemigewasset and Winnepiseokee meet, and from thence due North, Three English Miles, and from thence due West toward the South Sea, untill it meets with his Majesty's other Governments, which shall be the Boundary or Dividing Line between the said Provinces of the Massachusetts Bay and New Hampshire on that side, But if otherwise, then, the Court adjudge and Determine, that a Line, on the Southerly side of New Hampshire, beginning at the Distance of Three English Miles North from the southerly side of the Black Rocks aforesaid, at Low Water Mark, and from thence, running, due West, up into the Main Land towards the South Sea, untill it meets with His Majesty's other Governments, shall be the Boundary Line between the said Provinces on the side aforesaid; [on this point they are in doubt, and leave it to be decided by the King in Council;] And as to the Northern Boundary between the said Provinces, the Court resolve and determine that the Dividing Line shall pass up, thro' the Mouth of Piscataqua Harbour and up the Middle of the River into the River of Newichwannock (part of which is now called Salmon Falls) and thro' the Middle of the same to the furthest Head thereof and from thence, North two Degrees Westerly, until 120 Miles bẽ finished from the Mouth of Piscataqua Harbour aforesaid, or until it meets with His Majestys other Governments, and that the Dividing Line shall part the Isles of Shoals, and run thro' the Middle of the Harbour between the Islands to the

Sea on the Southerly side ; and that the Southwesterly part of the said Islands shall lye in and be accounted part of the Province of New Hampshire, and that the North Easterly part thereof shall lye in and be accounted part of the Province of the Massachusetts Bay, and be held and enjoyed by the said Provinces respectively in the same manner as they now do and have heretofore held and enjoyed the same and the Court do further Adjudge that the Cost and Charge arising by taking out the Commission, as also of the Commissioners and their Officers Vizt. The Two Clerks, Surveyor, and Waiter for their travelling Expences and Attendance in the Execution of the same be equally born by the said Provinces. The Lords of the Committee having Considered the whole matter and heard all partys concerned therein by their Counsel learned in the Law Do Agree humbly to Report to Your Majesty as their Opinion That the Northern Boundarys of the said Province of the Massachusets Bay are and be a Similar Curve Line, pursuing the Course of Merrimack River, at three Miles Distance on the North side thereof beginning at the Atlantick Ocean, and ending at a Point due North of a Place in the Plan returned by the said Commissioners called Pantucket Falls, and a Strait Line, Drawn from thence, due West, cross the said River, till it meets with your Majesty's other Governments And that the rest of the Commissioners said Report or Determination be affirmed by Your Majesty.

[VI. pp. 562, 635, 642, 665-7.] (1740.)

[Orders accordingly to the respective Governors, Councils and Assemblies, and to all others whom it may concern ; orders to the Board of Trade to prepare the draft of an instruction to the Governor] for enforcing the due Execution of the said Order and requiring him in the Strongest Terms to cause His Majestys Commands in this behalf to be Executed in the most Effectual and Expeditious manner to the end that His Majestys Intentions for promoting the Pceace and Quiet of the said Provinces may not be frustrated.

[VII. pp. 16-21.]

9 April.