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1759.

unworthy to continue in it, and your Majesty will accordingly remove him from his Seat in the said Council. [The Order adds an instruction (not included in the Committee report) to report the result of the proceedings in this matter to the Board of Trade to be laid before his Majesty at this Board.]

[XVIII. *pp.* 479, 484.]

(1764.) [Reference to the Committee, and by them on 6 June to  
18 May. the Board of Trade, of the petition of Hutchison Mure, merchant, Andrew Miller, bookseller, and Sir Alexander Grant, Bart., all of London, and of Robert and Alexander Maitland, merchants of London, on behalf of Daniel Moore, merchant of Jamaica, praying for the removal of Witter from the Council of Jamaica or other relief to enable them to recover their just rights, which they have prosecuted in vain for several years.] [Geo. III. Vol. III. *pp.* 447, 466.]

(1764.) [On the Committee report of 17 July agreeing with the Board  
20 July. of Trade that Witter's estate is covered by collusive mortgages and deeds of trust and his person protected as a Councillor, order is given for sending a copy of the petition to the Commander-in-Chief of Jamaica, who is to deliver it to Witter with the same warning as in 1760, and to report the result.]

[III. *pp.* 532-3, 557.]

19 Jan. [372.] [Reference to the Committee of the petition of  
Jamaica. Hannah Blake, of Jamaica, widow, for a day for hearing her appeal from a Chancery decree of 31 March, 1758, on a bill filed by Alexander Paterson for her to account with him for his salary as overseer of the estate of Deans Valley and his disbursements on account of the estate.]

[*pp.* 260, 329.]

29 Mar. [On the Committee report of 8 March, the decree is reversed and Paterson's bill ordered to be dismissed with costs.]

[*pp.* 389, 402, 453.]

25 Jan. [373.] [An appearance is entered by F. J. Paris for Peter  
Jamaica. Furnell, respondent to the appeal of Zachary Bayly and others from Jamaica.] [p. 337.]

1759.  
9 Nov.

[Reference to the Committee of Furnell's petition that the Council dismiss for non-prosecution the appeal of Zachary and Nathaniel Bayly from a Chancery decree of 22 Aug., 1758, on Furnell's action against them in relation to the estate of Robert Thackeray, deceased.] [XVIII. p. 192.]

[The Baylys' petition for a hearing is referred to the Committee.] [XVIII. p. 335.] (1760.)  
5 April.

[On the Committee report of 27 June, when all parties were heard, the appeal is dismissed. The only other names mentioned are — Gutterez and Organ Furnell.] (1761.)  
2 July.

[Geo. III. Vol. I. pp. 362, 407-9, 425.]

[374.] [In accordance with the Committee report of 1 Feb., agreeing with a Board of Trade representation of 18 Jan., referred to them on 30 Jan., a Virginia Act of 1752, for erecting a lighthouse at Cape Henry, is repealed. The Board of Trade represented] That this Act being of an Extraordinary Nature in as much as the Trade and Shipping of this Kingdom would be affected by the general Duty of Tonnage which it imposes has been passed with due regard to Your Majestys Instructions relative to such Acts accordingly contains a Clause suspending its Execution till it shall receive Your Majestys Approbation. 2 Feb.  
Virginia.

But there are several particulars in which this Act is defective. For it neither expresses any Computation of the Expence of erecting nor of maintaining the intended Light House nor does it appropriate the Surplus of the Duty which it imposes for those purposes and besides these Defects it is liable to One Objection which alone appears to Us to render it unfit to receive Your Majestys Confirmation and Allowance For the Duty of Tonnage being laid in General on all Ships and Vessels coming into and going out of the Bay of Chesapeak all Vessels Trading to and from Maryland would be comprized in those Words and be liable to that Duty And thus the Trade and Navigation of that province would be tax'd by the Legislature of Virginia to whose Authority the province of

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Maryland cannot by the Express Exemptions of its Charter be in any Case liable. [pp. 339, 348, 350.]

2 Feb.  
North  
Carolina.

[375.] [In accordance with the Committee report of 1 Feb., agreeing with a Board of Trade representation referred to them on 30 Jan., a North Carolina Act of Oct., 1755, to quiet the freeholders in the possession of their lands and for other purposes, is disallowed. The Committee find] that this Act being passed without any suspending Clause took immediate Effect from the day of its Publication and the several Provisions of it being in Substance the same as those contained for the like purposes in An Act for securing the Payment of Quit Rents due to His Majesty and Earl Granville for quieting the Freeholders in the possession of their Lands and for other purposes. Which was passed in the said Province in January 1755, with a Clause suspending its Execution until it should receive Your Majestys Approbation and which now lies before the Lords Commissioners of Your Majestys Treasury for their Consideration and Opinion in a Matter wherein Your Majestys Revenue is so greatly Interested; It appears to the Committee to be very improper that the said first mentioned Act should in the mean time be suffered to continue in force. [pp. 339, 347, 351.]

2 Feb.  
Penn-  
sylvania.

[376.] [Reference to the Committee, and by them on 12 April to the Board of Trade, of the petition of Benjamin Franklin, agent for the Assembly of Pennsylvania,] relating to the Differences Subsisting between His Majestys Subjects and the Indians bordering upon the said Province concerning large Quantitys of Land which the said Indians alledge they have been deprived of without their Consent or Satisfaction made them for the same particularly of Lands which are included within the Forks of the River Delawar and also of other Lands on both Sides the said River.

[pp. 355, 474.]

29 Aug.

[Order is given in accordance with the Committee report of 19 July, agreeing with the Board of Trade that directions



be given to the Agent for Indian Affairs that he] examine thoroughly into the Complaints of the Delawar Indians with respect to Lands which they alledge they have been defrauded of by the Proprietaries and that for this purpose he do take the earliest Opportunity of signifying to them that he has in Consequence of what passed at the Conferences in July and August, 1757, received His Majestys Orders to enquire into their Grievances and press them to appoint such time and place as shall be most convenient to them for that purpose ; That he do likewise give timely Notice of such meeting to the Commissioners appointed by the Proprietaries to Act on their part to the end they may come properly instructed and prepared to support the Claims of their Constituents and that when he shall have made a full and particular Enquiry into the Circumstances of the Case and heard what all Partys may have to offer he do transmit his proceedings in this Business to the Lords Commissioners for Trade and Plantations in Order to be laid before His Majesty together with his Opinion of what may be proper to be done thereupon. [XVIII. pp. 75, 124.]

[377.] [Reference to the Committee of the petition of Joseph Janson and Bartholomew Pomeroy (surviving assignees of the estate and effects of John Philpot and John Hutchinson, bankrupts), William Black and William Gale, merchants trading to Virginia, for a day for hearing the appeal of William Nelson and Francis Whiting from a judgment of the Court at Williamsburgh, 10 Oct., 1751, on an action against them by Richard Ambler, collector of customs in the port of York River, to recover the duties payable on a French prize, the *Elizabeth* of Nantes, and her cargo, carried into York River by the privateers, *Banstead*, *Neptune* and *Richmond*. An appearance for Ambler was entered on 19 Feb., by Henry Symon, solicitor of H.M. Customs.] [pp. 355, 366.]

2 Feb.  
Virginia.

[378.] [Order is given in accordance with the following representation from the Ordnance of 23 Feb. :—] We the

3 Mar.  
Plantations.

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principal Officers of Your Majestys Ordnance humbly beg leave to represent—That the Establishment of Engineers Confirmed by Order in Council of the 22d day of August 1717 being too small to Answer the Services which have since arisen other Establishments were made from time to time for the Foreign Garrisons and the Number of Practitioners at home have been increased and some of the Engineers being Superannuated have allowances granted to them upon the Establishment.

These several Additions and Alterations have in course of time caused such Confusion that it is hardly possible to comply with any of the beforementioned Establishments without distressing the Service in time of War and the necessity of the times likewise requiring Forts to be Erected and Maintained in various parts of Your Majestys Dominions at home and abroad and enterprizes of great importance to be undertaken in America which hath occasioned so many Demands for Engineers that at this time there are no more than Five left in Great Britain which are not sufficient for compleating the Works carrying on here.

It is therefore of the utmost Consequence to provide speedily for the increase and better regulating of the Corps of Engineers.

For which reasons We beg leave to lay before Your Majesty an Account of the Establishments as they now stand shewing the present Charge thereof as also a Scheme for making One entire New Establishment whereby all the Engineers will be formed into one Corps their pay will be made the same as other Officers of the like Rank receive in the Army the Number will be Increased from 49 to 61 and the Annual Charge will be no more than Eight thousand Ninety Three pounds Seventeen Shillings and Six pence provided the Superannuated persons are not included therein.

If the proposed Scheme for a New Establishment should meet with Your Royal Approbation We humbly pray to receive Your Majestys Commands for discontinuing all the former Establishments of Engineers, also for carrying the New

Establishment into immediate Execution and for charging to parliament the pay of the Superannuated Engineers for the future which We apprehend will greatly tend to the good of Your Majestys Service and will be a much Cheaper Method of Increasing the Engineers to the Number now necessary than if an Augmentation should be made by adding the same Number to the present Establishment.

[Under the old establishment, Annapolis had 1. chief engineer at 365*l.* *per annum*, 1 engineer at 273*l.* 15*s.* and 1 at 109*l.* 10*s.*, St. Johns and Placentia had each 1 at 365*l.* and 1 at 109*l.* 10*s.*, and Halifax, 1 at 273*l.* 15*s.* All the establishments at the foreign garrisons are to cease for the future, and in lieu thereof extra allowances are to be made when employed on those services.] [pp. 391-4.]

[379.] [In accordance with the Committee report of 2 March on a Board of Trade representation of 2 Feb., referred to them on 20 Feb., six Georgia Acts are repealed for reasons given by the Board of Trade and quoted by the Committee as follows :—] An Act to prevent Fraudulent Deeds and Conveyances. Passed in March, 1755. Sir Matthew Lamb in his Report to Us upon this Act observes that it has a Retrospect to the Registring of all Deeds Conveyances and Wills heretofore made in the Province of Georgia without any Limitation of time That it makes void all Wills formerly made and not recorded unless they be registred within three Months from the passing of this Act and annulls all Wills hereafter to be made that shall not be registred within three Months from the Testators Death To these Provisions he objects that they are such as are not contained in any Act of the like Nature the intention of such Acts being only to give Notice upon a Record to be Searched, to Purchasers and Mortgagees of the Incumbrances which affect Estates but no Deed or Will is made void for want of registring by any of those Acts Sir Mathew further observes that the Act in general is loosely worded and liable to be attended with Inconveniencies in the

3 Mar.  
Georgia.

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Execution and therefore in his Opinion unfit to receive Your Majestys Royal Allowance.

An Act for declaring and establishing the Method of drawing and Summoning Jurors in the Province of Georgia. Pass'd in December 1756.

To this Act Your Majestys said Counsel has Stated the following Objections.

1st. That it does not ascertain the Qualification of Jurors which ought to be fixed the present Usage of impanelling those only who are possessed of Fifty Acres of Land or upwards being improper as it excludes Householders and Traders possessed only of Town Lotts who are often Men of Substance.

2d. That the time fixed for the ballotting for Jurors being Six Months before the Courts are held may defeat the end of ballotting by giving the Parties so long Opportunity of tampering with such Jurors.

3d. That the ballotting for Grand Jurors who are always the principal persons in the place and do not try Matters of Property as well as for Jurors in Criminal Cases is unusual and unnecessary as they cannot be supposed liable to influence as in Cases of Property.

To these Objections We beg leave to add one other to which this Act appears to Us to be liable namely that it would oblige Your Majestys Chief Justice to take an Oath for the due Observance of this particular Law which We conceive to be altogether New and improper as it seems to imply a Suspicion highly derogatory to the honour and dignity of his Station.

An Act to explain and amend an Act entituled An Act for declaring and establishing the Method of drawing and Summoning Jurors in the Province of Georgia. Pass'd in February 1757. This Act is entirely dependent on the foregoing.

An Act for the better Regulation of the Courts of Request. Pass'd in December 1756.

Upon this Act Sir Mathew Lamb observes that it is too extensive and goes further than any Acts of the like Nature in any of Your Majestys Colonies For it makes all Causes of the Value of Ten pounds Sterling triable by Justices of the Peace without Juries and declares that such Causes shall not be tried in any other Court whereby the Authority of Your Majestys Courts and the Rights of the Officers thereto belonging are infringed and the Properties of Your Majestys Subjects made liable to partial Determinations.

An Act for the Ease of dissenting Protestants within this Province who may be scrupulous of taking an Oath in respect to the manner and form of Administring the same.  
Pass'd December 1756.

Your Majestys said Counsel in his Report upon this Act observes that it excuses all Dissenters from swearing on the Holy Evangelists either as Jurors Witnesses or Parties in all Causes Civil or Criminal and requires them only to make the Declaration and Affirmation therein prescribed in all Cases where an Oath is requisite That this degree of Indulgence is not conformable to the Laws of this Kingdom for by the Act of Toleration here Protestant Dissenters are not exempted from taking Oaths on the Holy Evangelists, and Quakers who are exempted therefrom are for that reason disqualified by the Act of the 7th and 8th of King William from giving Evidence in any Criminal Case from serving on Juries or bearing any Office or Place of Profit.

An Act for the better settling the Province of Georgia.  
Pass'd July 1757. Upon this Act We beg leave humbly to represent to Your Majesty That the Object of it as set forth in the Preamble is to add Strength and Security to the Colony by increasing the Number of its Inhabitants and for that end it declares that all persons who within the space of three years shall come from any other Colony whatsoever (except only from that part of South Carolina which lies to the Northward of the River Savanna) and become Inhabitants of Georgia shall be protected for

1759.

Seven Years from all Arrests and Actions for any Debts owing by them before their Arrival in Georgia except for such Debts as they may owe in Great Britain Ireland Georgia or the part of South Carolina above excepted.

But however desirable an Object the better peopling of Your Majestys said Colony may be We can by no means approve the Measure proposed for the attainment of it The Establishment of an Asylum for the Protection of Debtors against their lawful Creditors appears to us to be inconsistent with the Principles of Justice as well as of good Policy And for that reason not to mention other Objections to which this Act is liable, We are humbly of Opinion that it is unfit to receive Your Majestys approbation. [pp. 376, 382-5, 394.]

3 Mar.  
North  
Carolina.

[380.] [In accordance with the Committee report of 2 March on a Board of Trade representation of 27 Feb., referred to them on 28 Feb., a North Carolina Act of Jan., 1755,—for appointing parishes and vestries, for the encouragement of an orthodox clergy, for the advancement of the Protestant religion, and for the direction of the settlement of the parish accounts—is repealed. The Board of Trade referred the Act to the Bishop of London, who reported as follows :—]

The Act having made provision for constituting a Vestry and directed in what manner they shall be Elected and Qualified goes on to ascertaining the Powers of the Vestry ; and in the first Place gives them a Presentation to every Church in the Colony Though the whole Right of Patronage is undoubtedly in the Crown and the Kings Governor in Chief has a right to exercise that Right in virtue of the Kings Patent granted him But to keep up some Appearance of Conformity with the Law of England the Act gives the King or his Governor a Right to present upon a Lapse, if the Vestry neglects to fill up within twelve Months after the Vacancy and the person who comes in by the Crown has a Right to enjoy the whole Salary which in the former part of the Act is settled at Fifty pounds a Year But even this small Gratuity bestowed upon the Crown is withdrawn again by the

following Provision, "Provided nevertheless that in case the Vestry of any Parish that shall be vacant one Year shall procure some neighbouring or other Minister to serve in the Cure of such vacant Parish by performing Divine Service once in three Months they shall thereby save to themselves and retain the right of Presentation for so long time as such Minister shall so serve in the Cure of such vacant Parish." It is observable that no Salary is appointed for the hired Preacher who perhaps may be had at a cheap rate and below fifty pounds a Year which would be a Temptation to the vestry men to take this method to provide for the Churches.

And not contented with having thus appropriated the Patronage to themselves of all the Livings in the Province (to the manifest injury of the Crown) they go on to set up a new Jurisdiction which is quite inconsistent with the Government of the Church of England and excludes any Bishop from examining or correcting any Misbehaviors of the Church and takes from the Crown the Right of Appeal and in the next Paragraph it is enacted That the Minister of such respective Parish shall be obliged to officiate in such parts of the Parish and at such times as the Vestry or a Majority of them shall direct And it is observable that though one of the Clauses of the Act takes notice of the Bishop of London and impowers him to certify that every Minister to be elected to serve in any Parish hath been duly ordained conformable to the Doctrine and discipline of the Church of England and is of a good Life and Conversation yet in the next Clause all Authority is taken away from him and a New Court is erected to judge and to punish any Minister who shall be guilty of any notorious Immorality.

After all these Provisions what becomes of the Kings Supremacy or the Bishops Jurisdiction? It seems to me to be all transferred to the vestrys of the several Parishes.

[pp. 380, 385-7, 395.]

[381.] [Reference to the Committee, and by them on 14 Mar. 15 March to the Board of Trade, of a letter from the Jamaica.

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Earl of Leicester, Postmaster General, to William Pitt, Secretary of State, with a memorial of Edward Dismore, Deputy Postmaster General of Jamaica, complaining of his removal from this office by the Lieut.-Governor and House of Assembly.] [pp. 437, 440.]

15 Dec. [Order is given in accordance with the Committee report of 14 Dec. which was based on the Board of Trade report and the opinion of the Attorney and Solicitor General, and set forth] That the Memorialist Edward Dismore was on the 31st of July 1754 regularly appointed the Deputy Post Master of Jamaica by the late Earl of Leicester and Sir Everard Fawkner, Your Majestys Post Master General during their pleasure pursuant to the Powers vested in the Post Master General for that purpose by an Act of Parliament made in the Ninth Year of her late Majesty Queen Anne, intituled An Act for establishing a General Post Office for all her Majestys Dominions and for settling a Weekly Sum out of the Revenues thereof for the Service of the War and other Contingent Services. Yet notwithstanding the same the Lieutenant Governor of Your Majestys said Island did on the 19th of October 1758 upon an Address of the Lower House of Assembly take upon him to remove the said Edward Dismore from his said Office of Deputy Post Master of that Island and appointed Robert Loch another person to act in his room which imports an actual Dismission. Whereupon the Lords of the Committee agree humbly to report to Your Majesty as their Opinion.

That the said Edward Dismore having been thus invested with the said Office he was removeable only by the Post Master General and that the said Lieutenant Governor has by such Removal acted contrary to his Duty and in violation of the aforementioned Act of Parliament of the 9th of Queen Anne.

That the Assembly have no Authority whatsoever to contravene the Act of Parliament aforementioned and that this Method of Addressing the Lieutenant Governor to remove



Mr. Dismore from his Office is illegal and an Encroachment upon Your Majestys just Rights (as all these Nominations flow from your Majestys appointment under the Great Seal of this Kingdom) and a contempt of the Legislative Authority of the Parliament of Great Britain.

The Lords of the Committee do therefore humbly propose to Your Majesty that the said Edward Dismore should be reinstated in his said Office of Deputy Post Master of Your Majestys Island of Jamaica ; and that he should be left to take his course at Law against the said Robert Loch his Successor, for the profits of His Office in such Manner as he shall be advised.

The Lords of the Committee take leave humbly to observe to Your Majesty that they have not entered into the Consideration of the Charge against the said Dismore, or his Defence, because the Lieutenant Governor and Assembly have usurped to themselves the power of hearing and punishing, which belonged only to Your Majesty, in Case the Post Master General, upon a reasonable Complaint had refused to do Justice, The Act therefore which has been done must be first undone before these pretended Grievances can be taken into Consideration. [XVIII. pp. 213-4, 218.]

[382.] [An appearance is entered by F. J. Paris for Samuel Sherburne, Peter Gillman and Dorothy his wife, and Joseph Langdon and Anne his wife, to the appeal of John Sherburne from New Hampshire.] [p. 442.] 15 Mar. New Hampshire.

[Reference to the Committee of Sherburne's petition for a day for hearing his appeal from a sentence of the Supreme Court of Probate of Wills, 29 June, 1758, in favour of the above respondents.] [Geo. III. Vol. II. p. 16.] (1762.) 2 Jan

[On the Committee report of 16 March, the judgment is reversed, as the Court of Probates has no jurisdiction so far as the will relates to real estates : upon the rest of the case a judgment of the first Court of Probates, 29 April, 1758, is affirmed. The case concerned the will of Henry Sherburne, father of John, Samuel, Dorothy and Anne. A deceased (1762.) 5 April.

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son Henry had a son of the same name, and John had also a son John. Others named in the report are the Rev. Samuel Langdon, the Rev. Samuel Haven, Arthur Brown, William Parker and Richard Wibird.] [II. pp. 127-30, 168.]

29 Mar.  
Antigua.

[383.] [In accordance with the Committee report of 15 March on a Board of Trade representation referred to them on 14 March, an Antigua Act of Aug. 1754, for preventing wrongs and inconveniencies arising from dormant judgments, is repealed. The Committee found] That this Act is of an unusual and extraordinary Nature and such as does not appear to be more necessary in Antigua than in this Kingdom where there is no such Law, the Statute of Limitation here being confined to promissory Notes and simple Contracts, and not extended to Judgments and . . . this Act can only operate in favour of the careless or ignorant Debtors and may in particular Cases defeat the Just Creditor of his Right. [pp. 436, 439, 452.]

29 Mar.  
Jamaica.

[384.] [In accordance with the Committee report of 15 March on a Board of Trade representation referred to them on 14 March, a Jamaica Act of Dec. 1756, to reverse the sentence against Thomas Kello, a prisoner in the gaol of St. Iago de la Vega, is disallowed. The Committee found] That this Act recites, that the prisoner having been convicted in the Supreme Court of Judicature of Harbours and employing a Negro Boy the property of Anne Peake was sentenced to pay her the sum of 52*l.* and also 100*l.* Penalty and to suffer Twelve Months Imprisonment That the Assembly upon the Prisoners petition having caused the said Sentence, and other proceedings to be brought before them, it appeared to them upon due Inspection, that there was not sufficient Foundation upon the Evidence produced at the Trial to ground the said Sentence, wherefore the Act declares that the Sentence and all other proceedings had thereon shall be reversed and the Prisoner be freed and discharged from all the Penalties and Forfeitures thereby inflicted on him. That

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Sir Mathew Lamb one of Your Majesty's Counsel at Law whose Opinion the said Lords Commissioners thought proper to take upon this Act has reported That it is an Act of the most extraordinary Nature and the first Instance where the Legislature even of Jamaica although it has assumed great powers in several Acts have taken upon them to reverse a Sentence passed by legal Judges upon the Trial of a person for a Breach of the Laws of the Island ; That after Sentence passed the Assembly ought not to have taken upon them to review the Proceedings upon such Trial, and to Declare that there was not sufficient Foundation for such Sentence it being very possible some Facts or Circumstances might appear to the Judges upon the Trial which did not appear on passing this Act : That as the Laws of the Island have invested the Judges with the power of trying persons for the Breach of the Laws to them only it belongs ; and that if this Act should be confirmed or allowed it might be a precedent of the most dangerous Consequence. [pp. 437, 439, 453.]

[385.] [An appearance is entered by Edmund Wilson of New Court in the Temple, for John Bourke and John Flaherty to the appeal of Thomas Peters, Nicholas Barritt, and Thomas Biggs from Jamaica.] [p. 471.] 11 April. Jamaica.

[Reference to the Committee of the petition of Sir John Molesworth, Bart., of Pencarrow in Cornwall, and of Peters, his attorney, for a day for hearing their appeal from a decree of the Jamaica Chancery, 27 May, 1758, and a subsequent order of 21 Aug., 1758, in a case between them and John Bourke and others, relating to the Pothouse Land in St. Dorothy parish.] [XVIII. p. 131.] 29 Aug.

[An appearance for the Hon. Thomas Fearon to Molesworth's appeal, is entered by Mr. Goostrey.] [XVIII. p. 493.] (1760.) 18 Sept.

[Reference to the Committee of the petition of Molesworth and Peters for a day for hearing their appeal from a Chancery decree of 15 Nov., 1759, on Fearon's bill to be quieted in the possession of Byndlosses Bog in the parishes of St. Dorothy and St. Catherine.] [Geo. III. Vol. I. p. 187.] (1761.) 28 Jan.

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(1762.) [On the Committee report of 6 April, the appeal of 29 Aug. 12 April. 1759, is ordered to stand over with liberty for the respondent Bourke to add Thomas Hercey Barritt and Thomas Biggs, whom he deems necessary parties. On the appeal of 28 Jan., 1761, such part of the decree as grants an injunction in the case is affirmed, but the other part reversed and further proceedings ordered to be instituted in Chancery to determine which of the defendants, Molesworth and Matthew Byndloss, had a right to the land and is entitled to the purchase money from the plaintiff. Names occurring in the report are Thomas Peters Fearon, deceased, son of the plaintiff; Elizabeth Barritt, Nicholas Bourke; Duncan Thomson and Edward Warnes or Worms, two surveyors; Mr. Welch, counsel for the plaintiffs, and Mr. Ford, for the defendants.] [II. *pp.* 176-87, 202.]

(1765.) [The decrees of May and Aug., 1758, are reversed, in 26 July. accordance with the Committee report of 18 July on Peters' amended appeal of Aug., 1759, Thomas Hercey Barritt having been substituted for his father, deceased. No appearance was made for Barritt or Biggs, Bourke being the only respondent represented by counsel.] [IV. *pp.* 169, 298, 305.]

14 April. [386.] Representation of the Board of Trade, proposing North Carolina. that an Instruction may be sent to the Governor of North Carolina, to recommend to the Assembly the passing an Act for amending two Acts passed there in the years 1748 and 1754. Read and Referred to a Committee. [*p.* 479.]

31 May. [The instruction, prepared by the Board of Trade on a Committee order of 26 April, is approved, on the Committee report of 28 May. The Board of Trade representation set forth that they considered the Acts, one of 1748] intituled, An Act for granting unto His Majesty the Sum of Twenty One Thousand Three hundred and Fifty pounds proclamation Money and for stamping and emitting the said Sum 21,350*l.* Publick Bills of Credit of this Province at the Rate of Proclamation Money to be applied towards building Fortifications in this province, payment of the publick Debts exchanging the present Bills of Credit and for making proper

provision for defraying the Contingent Charges of the Government &c.

And the other passed in 1754 Intituled.

An Act for granting to His Majesty the Sum of Forty Thousand pounds in publick Bills of Credit at the Rate of Proclamation Money to be applyed towards defraying the Expence of raising and subsisting the Forces for His Majestys Service in this province to be sent to the Assistance of His Majestys Colony of Virginia and for other purposes therein mentioned.

That the said Lords Commissioners have been attended by several of the said Merchants and Gentlemen and heard what they had to offer against the said Acts, and thereupon represented That in each of these Acts there is a Clause declaring that the Bills of Credit thereby to be emitted shall be a lawful Tender in all payments whatsoever as proclamation Money or as Sterling Money at the proper difference there is between proclamation Money and Sterling that is to say at four Shillings Proclamation Money for three Shillings Sterling That upon this Clause the Petitioners observed that the plain Meaning and constant Effect of it is that 133*l.* 6*s.* 8*d.* Paper Currency shall be a good and lawful Tender in payment of a real Debt of 100*l.* Sterling although in fact 133*l.* 6*s.* 8*d.* paper Currency will not purchase more than 70*l.* Sterling ; A Provision which they conceive to be a Notorious Breach of public Faith contrary to justice and Equity and no less inconsistent with the Interest of the Inhabitants of North Carolina than it is prejudicial to the Interests of those in Great Britain who have any commercial Dealings with them in as much as it operates to the Total Destruction of the Trade and Credit of the province since no Man can trust any property in a Country where such Laws are subsisting. That from these Allegations it appeared to the said Lords Commissioners that the Evils arising from these two Acts are such in their Nature and Extent as call for the most speedy and effectual Remedy and to that end they should humbly propose the immediate

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Repeal of them did they not consider the infinite Confusion which must arise in the Province from the Repeal of Acts of this Nature which have been so long since carried into Execution and continued in force for so many Years (particularly the first of them) and under which such a Variety of Dealings must have been transacted That the Petitioners have not requested this Species of Redress but conceive the Remedy lately applied in a Case of the like Nature in the Colony of Virginia may be effectual and the most expedient on the present Occasion. [An instruction is to be given to the Governor to have an amending act passed to declare that all debts between British subjects and the inhabitants of N. Carolina are to be] payable in the said Bills of Credit (if the Creditor be willing to accept the same and not otherwise) not according to their nominal Value as declared by the said two Acts, but according to the real difference in Value between such Paper Bills and Sterling Money at the time of discharging such Debts, [and that paper currency is not to be legal tender in payment of quitrents or any debt due to his Majesty. The Governor is not to assent to any future act for emitting paper money unless such clauses are inserted.] [p. 493 ; XVIII. pp. 11-13, 14.]

14 April.  
North  
Carolina.

[387.] [Order is given in accordance with the Committee report of 2 March on the petition of Francis Child, Attorney General of North Carolina, referred to them on 20 Feb. The petition set forth] That by the 54th Article of the General Instructions to Gabriel Johnston Esq. late Governor of North Carolina dated in August 1733 Your Majesty was graciously pleased to appoint the annual Sum of Two hundred pounds towards defraying the Expence of holding Courts of Oyer and Terminer there in every Year ; Which Allowance was from thenceforth applied accordingly and so continued to be applied 'till June 1754 from which time Mr. Dobbs the present Governor thought fit to Order the same to be discontinued judging that as the holding the said Courts was for the particular benefit and ease of the Country the Charge ought to be properly

defrayed at its own Expende which it was then in a Condition to bear and that it has since provided for the same by an Act of Assembly ; Which Allowance has been from that time to the present discontinued accordingly ; That in 1745 the petitioner was appointed Attorney General of the said province To hold the said Office with the Salaries Fees Profits and perquisites thereunto belonging.

That to the said Office was annexed a Yearly Salary of Eighty pounds only the greatest part of which is still in arrear and owing to him occasioned by a Deficiency in the Annual Collections of Your Majestys Quit Rents as the petitioner has been informed but no adequate provision has been yet made for payment of Fees to him on executing the particular Branches of the Crown Business incident to his Office, to the known disparagement of Your Majestys Service as well as to the petitioners very great Loss and prejudice ; He therefore most humbly prays, That the said Annual Sum of Two hundred Pounds commencing from June 1754 to the present time . . . may be granted to him in lieu of Fees on executing the particular Branches of the Crown Business incidental to his Office and in full of all Demands whatsoever on that Account, And that Your Majestys proper Officers of Your Revenue in the said Province may be authorized and enjoined forthwith to pay the same to the Petitioner in the Provincial Currency, ad Valorem of so much Sterling Money in Great Britain. [The Committee, finding by a certificate from John Rutherford, the Receiver General, that the facts were correctly stated, recommended that the petition be granted.]

[pp. 376, 387-9, 480.]

[388.] [Reference to the Committee of the petition of Lewis Burwell, gent., of the county of James City, Va., and Frances, his wife, the widow and one of the executors and sole residuary devisee of James Bray, for a day for hearing their appeal from a decree of the General Court, 10 April, 1758, dismissing their bill against Carter Burwell, an executor of James Bray, and against Philip Johnson and Elizabeth, his

14 April.  
Virginia.

1759.

wife, daughter and heiress of Thomas Bray, for an account of the slaves belonging or due to James Bray at his death, and for delivery of the said slaves.] [p. 487.]

(1762.) [On the Committee report of 16 March, the decree is affirmed. The case concerns the estate of James Bray, grandfather of the James Bray whose widow is now Frances Burwell. She was the daughter of Edwin Thacker, and they with Lewis and Carter Burwell, were her husband's executors. The heirs of James Bray, senr., were his daughter, Elizabeth Allen, his grandson, James Bray, and his son, Thomas Bray.]  
5 April. [Geo. III. Vol. II. pp. 130-5, 168.]

23 April. [389.] [On the Admiralty report of 18 April on a reference  
Cape Breton of 14 April, the petition is granted of John Thane, late  
Island. lieutenant of H.M.S. *Tilbury*] setting forth That he was wrecked in the said Ship in September 1757 on the Island of Cape Breton, and being sent Prisoner to Old France on his arrival there, by express Order from the French King was confined and treated in a cruel and most singular manner for no other Reason than because he was an Officer under Admiral Warren when Louisbourgh was taken last War and from thence had perfect knowledge of that place and was known to some of the French Officers to have been Instrumental and active in that Service. That after Eighteen Months Imprisonment he was Exchanged and from real cruel treatment is become an Object of His Majestys Compassion and therefore humbly praying that His Majesty will be graciously pleased to Order the Petitioner his full pay from the time of his being so Shipwrecked to the time of His Arrival in England. [pp. 486, 488.]

23 April. [390.] [Reference to the Committee of the petition of  
Antigua. Henry Wilmot, agent for Antigua, for cannon, field pieces and other particulars for the defence of the island. On 26 April the Committee referred the petition to the Ordnance for a report, and, if the stores are necessary and can be spared, for an estimate.] [pp. 489, 494.]



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[391.] [An appearance is entered by Mr. Gregg of St. Thomas the Apostle's for Samuel Lindsey to the appeal of Francis Delap from Jamaica.] 25 April, Jamaica. [p. 490.]

[Reference to the Committee of Delap's petition for a day for hearing his appeal from a Chancery order of 23 Aug., 1758, overruling exceptions taken by him to a report of a Master in Chancery concerning several notes and effects of his late brother, William Delap.] 29 Aug. [XVIII. p. 132.]

[On the Committee report of 27 June, the order of 23 Aug., 1758, is reversed, costs both here and below since the earlier decree of 23 Feb., 1758, are to be paid to the respondent, and Christopher Hooke, the master, is to review the report made by him in accordance with that decree. The report and order, through the laches of the appellant, were strictly regular, but by them manifest injustice must be done. William Delap left his estate to his father and mother, the Rev. Samuel and Sarah Delap of Letterkenny in Ireland, and appointed William Delap of Dublin and the respondent Lindsey, his executors. Other names occurring in the report are Nesbitt and Co. of London, George McCulloh, Mr. Edwards, solicitor, Atkins of Bristol, ——— Demetre, and James Ramage.] (1761.) 2 July. [Geo. III. Vol. I. pp. 362, 396-402, 425.]

[392.] [An appearance is entered by Thomas Life of Broadstreet Buildings, for the Rev. John Poole, Theodore Stone, Esq., and Francis Birbeck, merchant, executors of Richard Wilson, to the appeal of Zachary Bayly from Jamaica.] 26 April, Jamaica. [p. 497.]

[Bayly's petition for a hearing is referred to the Committee.] (1760.) 5 April. [XVIII. p. 334.]

[On the Committee report of 7 July, part of a Chancery decree of 22 Aug., 1758, is reversed, and directions are given for further proceedings. Wilson had three sisters, Mary Hobby, Rachel Smith, and Ann Kelly, whose children were to divide his estate. Mary Hobby had a son, William, and a daughter, Mary, who married Charles Knights Cole. On 27 Oct., 1753, Charles Cole assigned his share to the appellant,] (1760.) 11 July.

1759.

who is now allowed to amend his bill by making Mary Cole, the widow, a party.] [XVIII. pp. 418, 418-22, 442.]

27 April. [393.] [An appearance is entered by Francis Duroure Rhode Island. of Throgmorton Street, for Esek Hopkins on behalf of himself and others to the appeal of Boyle Moss from Rhode Island.] [p. 497.]

28 Sept. [Reference to the Committee of the petition of Boyle Moss, of Dublin, mariner, for a day for hearing his appeal from a judgment of the Superior Court of Rhode Island at Providence in Oct. 1757, forfeiting the brigantine *Sally*, of which he was master, to Esek Hopkins, commander of the *Providence* privateer, and his owners, and awarding 119*l.* 19*s.* costs to be paid by Moss.] [XVIII. p. 159.]

14 May. [394.] [Reference to the Board of Trade of a memorial of Virginia. the clergy of Virginia] complaining of an Act lately past in that Colony whereby their Salarys hitherto paid in Tobacco are now to be discharged at about half their Value in a paper Currency of no intrinsick Worth of itself and of no Value at all out of the said Colony of Virginia. [p. 505.]

11 July. [Reference to the Committee of a Board of Trade representation for the disallowance of four Virginia Acts.] [XVIII. p. 61.]

10 Aug. [On the Committee report of 3 Aug., the Acts are disallowed, viz. :—] An Act for paying the Ministers of the Parishes of Frederick in the County of Frederick and of Augusta in the County of Augusta and of Hampshire in the County of Hampshire One hundred pounds annually instead of the Salaries now allowed—passed in December 1753.

An Act for enabling the Inhabitants of the Counties of Princess Anne and Norfolk to pay their publick Dues in Money—Passed in July 1755.

An Act to enable the Inhabitants of this Colony to Discharge their Tobacco Debts in Money for this present Year—Passed in November 1755.

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An Act to enable the Inhabitants of this Colony to Discharge their Publick Dues, Officers Fees, and other Tobacco Debts in Money for the ensuing Year—Passed in October 1758.

[A petition against the Acts was heard by the Committee from the Convention of the clergy of the Church of England settled in Virginia, and against the last Act from the merchants of London trading to Virginia.]

[XVIII. *pp.* 84, 86-7, 100.]

[An instruction prepared by the Board of Trade, on an order from the Committee on 3 Aug. is approved, requiring the Lieutenant Governor strictly to observe and obey the directions of Article 16 of his instructions relating to the passing laws, upon pain of his Majesty's highest displeasure and of being immediately recalled from his government.]

[XVIII. *pp.* 84-6, 126.]

29 Aug.

[395.] [Reference to the Committee of the petition of John Weatherby, John Stephens, and Diederich Jacobi of Jamaica, for a day for hearing their appeal from an order of the Chancery there, 26 Nov. 1757, on a bill filed by Andrew Rait against them for payment of 1,833*l.* 6*s.* 8*d.* with interest from 1 July, 1750.]

15 May.  
Jamaica.

[*pp.* 275, 513.]

[Committee. On the request of the appellants' solicitor, the hearing is adjourned till December. The appellants' agent has lately failed, and the solicitor expects to receive fresh instructions from the appellants themselves in a few months.]

(1760.)  
7 July.

[XVIII. *p.* 430.]

[On the Committee report of 20 Jan. when all parties were heard, the appeal is dismissed with 100*l.* costs.]

(1761.)  
28 Jan.

[Geo. III. Vol. I. *pp.* 155, 178.]

[396.] [Reference to the Committee of a Board of Trade representation of 16 May, proposing an additional instruction to the Governor of Georgia, to revoke the first article of his general instructions and instead of the councillors named therein to appoint the following,] Sir Patrick Houston, James Habersham Noble Jones Francis Harris Jonathan Brian

21 May.  
Georgia.

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James Mackay James Edward Powell William Knox William Grover William Clifton and Charles Pryce Esqrs. and also further proposing that in case it shall be thought proper to restore [? remove] Mr. Clement Martin who was suspended by the late Governor that then William Butler Esqr. may be added to the Eleven persons aforementioned. [p. 516.]

26 June. [On the Committee report of 26 June, the Council approve an instruction prepared by the Board of Trade in accordance with an order of the Committee on 31 May. The occasion for the changes was a letter from Governor Ellis to the Board of Trade, acquainting them that Patrick Mackay and James Reid, who had been appointed to the Council, were in their characters and conduct so very improper to have seats at that Board that he should not summon them till his Majesty's pleasure should be known upon the matters set forth in his letter. The Board of Trade were convinced by the letter that Mackay and Reid should not be continued as councillors, and as Pickering Robinson had been absent from the colony for over three years and William Russell declined to act as a councillor, they proposed a new instruction giving the names of the council. On the Governor's recommendation the suspension of Clement Martin and the appointment of William Butler were also confirmed.] [XVIII. pp. 16, 37, 40.]

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GEORGE II. VOL. XVIII. (2 May, 1759—10 July, 1760.)

24 May. [397.] [Reference to the Treasury of the petition for Nova Scotia. reimbursement and satisfaction for his time and trouble of Benjamin Stansbury, who sets forth] That in 1745 The petitioner expended the Sum of 1,300*l.* and upwards in purchasing Materials and in paying Workmen employed in building a Fort upon Canso Hill in Nova Scotia and that in 1746 the Petitioner raised a Company of Forty five Men for the Train of Artillery in the intended expedition against

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Canada and also maintained the said Company from the 8th of June 1746 to the 31st of October 1747 The Expence whereof amounted to 3,879*l*. [p. 8.]

[398.] [Reference to the Committee of the petition of Jasper Hall, John Evans and Lucy his wife, the widow and acting executrix of Humphrey Morley, for a day for hearing their appeal from an order of the Jamaica Chancery, 27 May, 1758, disallowing six exceptions taken by the appellants to the report of a Master in Chancery, in a case between them and Benjamin Tanner relative to the estate and effects of of Conyers Dobby, deceased.] [p. 8.] 24 May. Jamaica.

[399.] [Reference to the Committee of the petition of Samuel Adams, of Jamaica, for a day for hearing his appeal from an order of the Jamaica Chancery, 21 Aug., 1758, on a bill filed] by John Nimbhard and William Orgill Executors of Daniel Peyton deceased against the Petitioner and also against William Tyrrell and James Urshaw Tyrrell Executors of John Tyrrell, Thomas Wheeler and George Papley Executors of Samuel Seagrave William Aikenhead and James Barclay Administrators of Ann Ellis and Charles Seymour and William Nedham Surviving Executors of Henry Nedham for an Injunction to stay the Petitioner and the other Defendants proceedings at Law for the Recovery of the Debts owing to them by the said Daniel Peyton deceased. [pp. 24, 61.] 11 July. Jamaica.

[On the Committee report of 7 July, the part of the decree complained of is reversed and the injunction in respect of Adams dissolved. In the report the name of Nathaniel Basnett, of London, is also mentioned, and Nimbhard is described as a practitioner in physic and chirurgery.] [pp. 418, 422-5, 443.] (1760.) 11 July.

[400.] [Reference to the Committee, and by them on 19 July to the Board of Trade, of a Board of Trade representation of 11 July, laying before his Majesty a petition transmitted by the Governor of Jamaica in the names of Edmund Hyde, Charles Dawes, Philip Pinnock and John Scott, members of the Council,] Setting forth their Doubts 16 July. Jamaica.

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and Objections as to the present Validity of the Commission whereby Henry Moore Esqr. was appointed Lieutenant Governor of Jamaica and to his Precedence in Council in Consequence thereof. [pp. 72, 76.]

10 Aug. [Orders are given in accordance with the Committee report of 3 Aug., agreeing with the following Board of Trade report :—] That the Allegations of this Petition appear to Us to consist of three Points Vizt.

1st. The Doubt of the Petitioners whether Mr. Moores Commission did not become null and void on the Arrival of Governor Haldane.

2d. Their Doubt as to his Right as Lieutenant Governor (supposing the said Commission to be still valid) to take Place of the other Members of His Majestys Council—And

3d. A Charge against Mr. Moore whom the Petitioners accuse of Oppression and Resentment towards themselves and of many wrong Measures in his Administration.

That with respect to the first of these Points We beg leave to acquaint Your Lordships that Governor Haldane in a Letter of the 23d of April last informed Us that this Doubt had arisen upon his first meeting of the Council ; That he had nevertheless upon the Opinion of the Attorney General of Jamaica thought it his Duty to Administer the Oaths to Mr. Moore as Lieutenant Governor ; But that he was very desirous that this Matter should be brought to a Speedy Determination here as very disagreeable Consequences might ensue, if by any Accident to himself the Right and Authority of Government should be disputed ; We did thereupon immediately referr the Case to Sir Mathew Lamb One of his Majestys Counsel at Law and have already transmitted to Governor Haldane a Copy of his Report upon it And We beg leave to lay before Your Lordships the annexed Copy of that Report by which it appears clearly to Us that Mr. Moores Power of exercising Government ceased only on the arrival of Mr. Haldane and will revive again whenever it shall happen

by his Death or Absence, that there is not a Governor in Chief resident on the Island.

As to the Second point We humbly conceive that Lieutenant Governors in His Majestys Plantations during the Residence and Administration of a Governor in Chief, can only take place in Council, according to the Seniority of their respective Appointments as Councillors This Opinion is supported not only by the Precedent of Mr. Stewart cited in the petition but also by Mr. Delancey Lieutenant Governor of New York who during the Administration of Sir Charles Hardy, appears, by the Minutes of Council to have taken his Seat at that Board according to the Order in which his Name was placed in His Majestys Instructions to that Governor.

With regard to the last point namely the Charge against Mr. Moore, The Petitioners in support of an Accusation conceived in the most general Terms have thought proper only to specify one single Fact, and that Fact upon Examination appears to be very imperfectly and untruly Stated They say in their petition That they have presumed to declare their Fears of a Repetition of such Oppressions and Resentments as they have before suffered from their having been refused their Seats at the Council by the said Henry Moore notwithstanding His Majestys Royal Order in Council for their Restoration which Order was transmitted to the Petitioners under His Majestys Privy Seal. That Your Lordships may be able to judge how far the Charge contained in those Words is founded We beg leave to lay before You a short State of the whole matter as it appeared in the Books of Our Office.

In Our humble Representation to His Majesty upon the Draught of General Instructions which We prepared for George Haldane Esqr. they gave Our humble Opinion that for the Reasons therein contained the Petitioners together with Ballard Beckford Esqr. should be restored to their Seats in the Council of Jamaica and We accordingly inserted their Names in the first Article of the said Draught of Instructions And His Majesty by His Order in Council of the 8th of May

1759.

1758 was graciously pleased to Order that the said Gentlemen should be restored accordingly And *to that end* that their Names do remain in the said first Article of the said Governors General Instructions.

It appears by the Minutes of the Council of Jamaica that the Petitioners having delivered to Mr. Moore a Copy of that Order in Council, and demanded by Virtue of it to be immediately restored to their Seats, he, on the 2d of October 1758 laid the said Copy before the Council and desired their Opinion upon the Case and the Council were unanimously of Opinion, that the said Order in Council implied nothing more than a Direction to the Board of Trade that the Names of the Gentlemen thereinmentioned should be inserted in Mr. Haldanes Instructions that they might take their Seats on his arrival in the Island But they did not apprehend that it was His Majestys pleasure that the said Gentlemen should be admitted before that time as no Order appeared to have been issued addressed to the Commander in Chief, for that purpose as had been usual in Cases of the like Nature.

Upon this Opinion Mr. Moore refused the Claim of the Petitioners to be immediately admitted to their Seats in Council, and We doubt not but Your Lordships will agree with Us in Opinion that his Proceedings upon this Occasion were regular and proper and his Determination conformable to the true Sense and Meaning of His Majestys said Order in Council.

Upon the whole my Lords We cannot but be of Opinion that it is not only irregular but indecent in so small a Minority as a third part of His Majestys Council to present a Petition to His Majesty full of severe Reflections on the Administration of His Lieutenant Governor and to presume to Request, that, on Account of the Vague, general and unsupported Accusations therein contained he should not be admitted to the Exercise of any further power over them. [pp. 88-92, 100.]

10 Aug. [401.] [Reference to the Committee of the petition of  
Jamaica. Zachary Bayly, of Jamaica, attorney there for John



1759.

Hanbury, David Barclay, Thomas How, and John Wilcox, of London, merchants, principal creditors and surviving assignees of Sarah, widow of Jonathan Gale, late of London, for a day for hearing his appeal from a sentence of the Ordinary of Jamaica, 23 Nov., 1758, directing that letters of administration of the goods and chattels of Jonathan Gale in Jamaica unadministered by Isaac and John Gale and Mary Samms, should be granted to William Gale.] [p. 110.]

[On the Committee report of 14 Dec., that the cause was so far agreed between the parties that it was not intended to prosecute the appeal (to which no appearance had been entered by the respondents), leave was given to withdraw the appeal.] 15 Dec. [pp. 215, 217.]

[402.] [Reference to the Committee of the petition of Richard Oswald, Alexander Oswald, Michael Herries and Company, merchants of Glasgow, owners of the snow *Kilmair*, on behalf of themselves and Ralph Sampson, merchant of St. Eustatius, that the Council dismiss for non-prosecution the appeal of Gedney Clarke, Collector of the 4½ per cent. duty at Bridgetown, Barbados, from a sentence of the Vice-Admiralty Court there, 4 April, 1758, dismissing his information against the *Kilmair* for contraband trade.] 10 Aug. Barbados. [p. 111.]

[On the Committee report of 26 March, the appeal is dismissed with 30*l. stg.* costs.] (1760.) 5 April. [pp. 310, 329.]

[403.] [Reference to the Committee of the petition of Dr. Samuel Ranshin, of Jamaica, for a day for hearing his appeal from a Chancery order of 23 Aug, 1758, in favour of David Dove and Elinor his wife, overruling the petitioner's exceptions to a report of a Master in Chancery relating to the estates of George Gale, deceased.] 29 Aug. Jamaica. [p. 132.]

[Committee order for reviving the appeal by making Thomas Harper, merchant of Port Royal, a party in place of Samuel Ranshin, deceased, whose executor he is.] (1761.) 23 June.

[Geo. III. Vol. I. p. 361.]

[On the Committee report of 27 June, the Chancery order of 23 Aug., 1758, is reversed, costs are to be paid to the (1761.) 2 July.]

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respondent both here and below since the former decree of 22 June, 1757, and the Master in Chancery, John Dee Cammun, is to review the report on Gale's estate made by him in accordance with this decree. The report and order thereon are strictly regular, through the laches of the appellant, but it appears that manifest injustice would be done by them. George Gale died intestate in 1743, leaving a widow, Esther, who afterwards married the appellant, Ranshin, and an infant daughter, who married David Dove in 1754. Other names occurring in the report are Robert Rivett, Edward Morgan and Andrew Arcedeckne.] [Geo. III. Vol. I. pp. 362, 402-7, 424.]

12 Sept.  
Guadeloupe.

[404.] [On a Board of Trade representation of 21 Aug., William Burke is appointed] Secretary and Register of the Island of Gaudeloupe and its dependencies in America. [A warrant for the appointment is also approved:] [pp. 142-3.]

(1760.)  
16 Feb.

[The following Board of Trade representation of 31 Aug., 1759, is referred, with a copy of the articles of capitulation at the reduction of the island, to the Attorney and Solicitor General, to report whether the proposals relating to trade and to civil jurisdiction can be established at this time, consistent with the terms granted to the inhabitants :—] The Island of Guadeloupe having been subjected to Your Majestys Dominion and Sovereignty, by the Success of Your Majesty's Arms, and its Produce having been admitted into Great Britain upon the same Terms and under the same Regulations as the Produce of other Your Majestys Colonies and Plantations in America, We think it Our Duty humbly to submit to Your Majesty's Consideration, whether the Trade and Commerce of the said Island will not of necessary Consequence, become subject in all Cases and Circumstances (in which it is not otherwise provided for by the Terms of the Capitulation) to the same Regulations and Limitations as the Wisdom of the Legislature to the great Benefit of the Crown, and its Subjects, has prescribed for other Colonies, by the Act of Navigation, and by other subsequent Laws made for regulating and securing the Plantation Trade. If Your Majesty should be

of Opinion that the several Acts of Parliament for securing and regulating the Plantation Trade, will have Effect, and Operation upon the Trade and Commerce of Guadeloupe, it seems to follow of Consequence that the same Provisions and Regulations for the due Observance and Execution of those Laws and the same Jurisdictions for the Tryals of Breaches of them, as have taken place in other Colonies, should likewise be established in Guadeloupe And therefore We humbly beg leave to state in general what those Provisions and Regulations are.

The Regulations and Jurisdictions established in Your Majesty's Colonies for the Execution of the Acts of Trade, form themselves into one regular System, consisting of a Variety of Parts dependent upon, and subordinate to, each other.

By the Act of the 7th and 8th of King William the 3d. Cap. 22 Sec. 6 all Ships, their Masters and Commanders loading and unloading in any of Your Majesty's Plantations, are subject to the same Regulations and Forfeitures as Ships, their Masters and Loadings are subject to in England; and Officers established there have the same Powers of Search, Seizure &c. In Consequence of this Act proper Officers are established by the Lords Commissioners of Your Majesty's Treasury, and by the Commissioners of the Customs in the several Plantations. But independent of these general Provisions the Acts of Trade have established many Regulations peculiar to the Colonies, in the Execution of which, the Governors of those Colonies are very largely concerned. And a great Variety of Duties is required to be performed by them and by their Officers, commonly called Naval Officers, for the due Performance of which, the said Governors are obliged, under severe Penalties, to take an Oath, before they enter upon their Governments. And to the End, that may not be ignorant of the Laws and of the Duties required of them, a Body of Instructions, prepared by this Board and examined from time to time by the Commissioners

1759.

of the Customs, is given by your Majesty to every Governor, in which Instructions the several Laws are referred to and the Provisions of them are set forth and explained. With regard to the Breaches of the Laws of Trade, they are cognizable either in the Courts of common Law in the Plantations, or in the Court of Admiralty, which has, in most such Cases, if not in all, a concurrent Jurisdiction with the Courts of common Law ; and in which a more effectual and impartial Execution of Justice is to be expected, than in the Courts of Law, where it too often happens that Juries are for the most part Offenders in the very Case in which they are to judge ; And for this Reason Courts of Admiralty have been established in most, if not all, of Your Majestys Colonies.

Another Matter which We think it incumbent on Us humbly to submit to Your Majesty's Consideration, is whether it may be proper to establish any or what Civil Jurisdictions in the Island of Guadeloupe, independent of those which the Inhabitants have, by the Terms of the Capitulation, reserved to themselves ; For although by that Capitulation they have reserved to themselves their own Civil Government Courts and Jurisdictions, it must nevertheless be humbly submitted whether the Jurisdiction of that Civil Government or of those Courts and Judicatories can extend itself to Cases either of a criminal Nature, or concerning Property, wherein Your Majesty's other British Subjects, resorting to, or residing in, the said Island, are wholly and solely interested ; If it cannot, it seems necessary to consider, how such Cases are to be provided for, and to that End We humbly beg leave briefly to state to Your Majesty, what Authorities there are for the Establishment of Civil Jurisdictions, and how those Jurisdictions are executed in other Colonies. The Governors of every Colony not incorporated by Charter nor vested by Grant in particular Proprietaries, is impower'd by his Commission under the Great Seal, to erect Courts of Judicature ; And accordingly, in the Infancy of the Colonies, Courts of Judicature were established under that Authority, which

Courts have in most of them been confirmed and their Proceedings regulated by Provincial Laws ratified by the Royal Approbation. But in Colonies of a later Establishment ; as Nova Scotia and Georgia, the Courts of Judicature exist, and act under the Appointment of the Governor, in virtue of his Commission. And for the Establishment of those Courts, as well as for authenticating all their Acts and every other necessary Act of Civil Government a publick Seal has been given to every Colony, of which Seal the Governor is the Keeper.

The Number and Jurisdiction of the Courts of Judicature in Your Majesty's several Colonies, varies according to their different State and Circumstances but it has been found of absolute necessity to have a Chief Justice in every Colony, to preside in and direct the Proceedings in all cases of Property or of a criminal Nature. The inferior Judges have usually been appointed from amongst the Members of Your Majesty's Council, which consists of Twelve Persons appointed by Your Majesty ; And as this is an Establishment which has been found necessary in every Colony where any Form of Civil Government has taken place, We beg leave humbly to submit to Your Majesty, whether it may not be a necessary Establishment in Guadeloupe, in case Your Majesty should think it expedient, to establish in that Island any Form of Civil Government ; independent of that which is reserved to the Inhabitants by the Terms of the Capitulation.

[pp. 261-4.]

[405.] [Reference to the Committee of the petition of William and Julinus Beckford and Rose Fuller, late of Jamaica and now of Great Britain, surviving executors of George Ellis, sen., of Jamaica, for a day for hearing their appeal from a Chancery decree of 17 Feb., 1759, dismissing their bill against Robert Halked, sen., devisee, residuary devisee and administrator of Richard Halked, for 5,000*l.* currency or what should appear due on account of the purchase money and interest of the moiety of a plantation or sugar work called

12 Sept.  
Jamaica.

432 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1759.

Rio Flora or the Waterwork Plantation in the parish of St. Thomas in the Vale.] [pp. 48, 145.]

(1760.) [On the Committee report of 7 July, the decree is reversed

11 July. and directions given for taking further accounts.]

[pp. 418, 426-30, 442.]

9 Nov.,  
Nevis.

[406.] [Reference to the Committee of the petition of Andrew, Richard and John Denn, late owners of the schooner *Nelly* for a day for hearing their appeal from the condemnation of the ship and cargo in the Vice Admiralty Court of Nevis, 15 Oct., 1757, on a libel exhibited by Horatio Herbert, deputy collector of customs there.] [p. 189.]

(1760.) [On the Committee report of 10 July, the sentence is  
11 July. reversed, the information dismissed with costs to the time of the sentence, and the schooner and cargo, or the value thereof, ordered to be restored. The libel set forth that] John Cort, the Master of the said Schooner *Nelly* did import into Nevis in the said Schooner Sundry Boxes of Soap, Cases of Oil and Boxes of Candles and other things of the Growth Production and Manufacture of France and other parts of Europe, without having Loaded or Shipped the said Merchandize on Board the said Schooner in Great Britain, and without having Imported the same in the said Schooner directly from Great Britain into Nevis but having Imported the same directly from his Majesty's Garrison and Town of Gibraltar in Europe into Nevis, And the said Schooner, at the time of the said Importation, not being a Vessel of the Built of Great Britain or Ireland or of any of his Majesty's Plantations, and not wholly owned by the People of any of them, nor Navigated with the Master and three fourths of the Mariners of any of the said Places, contrary to the several Statutes in such Cases provided. [The Denny denied that any of the laws of trade had been transgressed, and claimed the vessel as their own property, and the cargo on behalf of themselves and Messrs. Lazaro, Damniani and Lacelloti, of Leghorn.]

[pp. 197, 430, 434-5, 444.]

1759.

[407.] [Reference to the Committee of the petition of Thomas Dering, of Boston, executor of Henry Dering, for a day for hearing his appeal from a judgment of the Superior Court of New Hampshire, 12 Dec., 1758, affirming judgments of 8 Dec., 1757, and 10 June, 1758, in his action against Thomas Packer of Portsmouth, N.H., for payment of a debt of 2,460*l.* and six per cent. interest due to Henry Dering, in good public bills of credit of Massachusetts Bay or current lawful money of New England secured by a bond in the penalty of twice the amount of the debt.] [p. 189.]

9 Nov.  
New  
Hampshire.

[Order is given in accordance with the Committee report of 10 July. The case arises from the depreciation of the many issues of paper money in the New England colonies. The appeal set forth] That no part of this Bond was paid 'till April 1744, when, and at several subsequent times untill April 1750, the said Thomas Packer made several Payments to the said Henry Dering upon account in old Tenor, money amounting in all to 3,110*l.* All which are regularly endorsed upon the Bond ; and it appeared by Calculation, that upon the 16 of April 1750, after allowance of the several Sums so paid the Principal Sum of 2,123*l.* 14*s.* 5*d.* old Tenor, remained due on the said Bond. That some time in the year 1750, the said Henry Dering died, having first made his Will and the Petitioner his Executor. That in February 1751, the said Thomas Packer offered the Petitioner some Paper Bills on the Credit of New Hampshire, which he alledged were of the value of 2,000*l.* and upwards Old Tenor, and some Bills of Credit on the Colony of Connecticut, pretended to be of 200*l.* Old Tenor value, and desired the Petitioner to satisfy himself thereout for what was due on the said Bond, but the Petitioner objected that as the Bond was payable in Lawfull money of New England or good publick Bills of the Massachusets (which New Hampshire and Connecticut Bills were not) he could not take the Bills offered without an allowance of the Discount for the difference between the value of the Bills tendered, and then the Current lawfull money of New England or

(1760.)

11 July.

Massachusetts Bills, which at that time were of greater value than either those of New Hampshire or Connecticut, but the said Thomas Packer refused to allow the same, and desired the Petitioner to put the Bond in Suit. That the Petitioner apprehending his demand to be clear and reasonable, expected the said Thomas Packer would not have persisted in his refusal to satisfy him according to the Tenor of the said Bond, and therefore did not put it in Suit 'till November 1757, when he brought his Action of debt for 4,920*l.*, the Penalty of the said Bond (being of the value of 3,600*l.* Sterling) against the said Thomas Packer in the Inferior Court of Common Pleas in the Province of New Hampshire to which Action the said Thomas Packer pleaded Conditions performed, but as there was no Evidence or even pretence, that the Debt was paid, the Jury found a Verdict for the said 4,920*l.* Whereupon the said Thomas Packer moved to be heard in Chancery upon the forfeiture according to the Law of the said Province in such Case, which being granted, he pleaded a tender made in February 1750-1, and insisted that Interest ought to cease from that time, the Court allowed the said Tender, though made in Bills on the Credit of New Hampshire, not Current in the Massachusetts, and adjudged that Interest ought to cease from that time, and that the Petitioner should recover only 345*l.* 6*s.* 9½*d.* Bills of Credit of the said Province of New Hampshire, of the New Tenor, and 7*l.* 8*s.* like Bills for Costs of Suit, whereas in fact, upwards of 3,000*l.* lawfull money of New England were then due. [On appeal, the Superior Court gave the same judgment, and Dering then obtained a review in the same Superior Court, alleging that Packer] had made no legal tender of the money due on the Bond, the Condition whereof was to pay 2,460*l.* in good Publick Bills of Credit of the Massachusetts Bay or Current Lawful money of New England with lawfull Interest on or before the 30 of January 1735. And that in February 1750-1 upwards of 2,460*l.* of said money was due, at which time Bills of Credit of Massachusetts were of greater value than any of the Bills



of Credit either of New Hampshire or Connecticut of the said Denomination or Tenor, because there was then in the Treasury of Massachusetts, Gold and Silver to Redeem said Bills, and the times of Redemption were by the Laws of the said Province fixed to begin in 1750, which was not the Case with respect to the Bills of New Hampshire or Connecticut. And the Petitioner further alledged, that the said Thomas Packer in fact never shew'd him one Bill of Credit either of Connecticut or New Hampshire, but only said he had such a Sum in those Bills; however the Petitioner insisted, that Bills of on Connecticut or New Hampshire, could by no means be a Legal Satisfaction of a Bond for Bills of Credit on Massachusetts, or lawful Silver money of New England, and a tender of ever so many of such Bills, could be of no Validity in this Case. That by the aforesaid Judgments of the said Courts, upon the Equity of the Bond, the Petitioner was not only aggrieved, by the allowance of such tender and the Stopping of Interest, as aforesaid, but also by a further allowance of the sum of 165*l.* old Tenor, which the said Court made upon the bare Oath of the said Thomas Packer that the Petitioners Testator Henry Dering was indebted to him in 165*l.* for three fourths of 220*l.*, which one Jeremiah Smith had paid to the said Testator upon his the said Thomas Packers Executing a Conveyance dated 28 January 1734-5 to said Jeremiah Smith and one William Nelson of certain Land in the Town of Londonderry in the said Province of New Hampshire (three fourths whereof the said Thomas Packer alledged to him) and for which the said Thomas Packer alledged that the said Testator had never made him any allowance, whereas the Petitioner insisted, that this Alligation was supported by no Evidence except Packers own Oath, and that this transaction, as well as the date of the said Conveyance, was prior to the date of the Bond given by Packer to the Testator, and that the Petitioner had never heard of this pretended debt 'till after the Commencement of the Action, and therefore the same ought not to be allowed. [The former judgments being

1759.

affirmed, Dering appealed to his Majesty in Council, by whom it is now ordered] that all the said Verdicts and Judgments, except the Verdict and Judgment of the Superior Court of Judicature for the Penalty of the Bonds and Costs, be reversed And that the Item of 165*l.* claimed by the Respondent be rejected.—And that Interest ought not to stop. But that upon the Respondents paying to the Appellant within Six months after Your Majestys Order herein shall be Entered in the said Superior Court of Judicature in New Hampshire 1187oz. 14dwts. 20grs. of Silver (which is ascertained to be Equal to the sum of 2,197*l.* 7*s.* 11*d.* of the late old Tenor Bills of the Massachusetts Bay being the Principal Interest and Costs now remaining due on the said Bond, computed at the rate of thirty seven Shillings to the Ounce of Silver) together with the Subsequent Interest which at the time of such Payment shall become due on the Principal Sum of 1,349*l.* 11*s.* 5*d.*, to be paid in Silver, valued and Computed at the Rate aforesaid, he be relieved against the said Judgment and Penalty of the said Bond, and thereupon all Proceedings to be stayed and the said Bond delivered up to be Cancelled, and in default of such Payment within the time above-mentioned the Appellant is to be at Liberty to Sue out Execution upon the said Judgment for the same together with five pounds Sterling for Costs. [pp. 431, 435-9, 443.]

9 Nov.  
Jamaica.

[408.] [Reference to the Committee of the petition of Dally Jackson Woodhouse of Jamaica, a minor, by Peter Woodhouse, merchant, his next friend, that the Council dismiss with exemplary costs for non-prosecution the appeal of Colin M'Kenzie from an order of the Jamaica Chancery, 23 Aug., 1758, on a bill filed by Woodhouse for an account of his mother's estate withheld from him by M'Kenzie.] [pp. 23, 193.]

(1760.) [Reference to the Committee of M'Kenzie's petition for a  
5 April. day for hearing his appeal from the above order and a Chancery decree of 4 May, 1756.] [p. 335.]

(1764.) [On the Committee report of 27 July, the order of 23 Aug.,  
3 Aug. 1758, is reversed and further proceedings directed on the order

of 4 May, 1756. McKenzie's claim to the estate is based on his marriage with Mary Woodhouse, mother of the plaintiff. Names mentioned in the report are Daniel Fleming and William Forster.] [Geo. III. Vol. III. pp. 568-70, 593.]

[409.] [Reference to the Committee, and by them on 22 Nov. to the Ordnance, of a Board of Trade representation with an extract of a letter of 20 July, from George Haldane, late Governor of Jamaica, representing the bad state of the fortifications and cannon, and entreating that some ship guns (if better cannot be had) with good carriages may be forthwith sent.] [pp. 196-7.] 16 Nov.,  
Jamaica.

[410.] [Reference to the Treasury of a Board of Trade representation] with a Copy of a Letter to them from the Lieutenant Governor of New York transmitting Copys of two Inquisitions and other papers relating to two Houses and some Lotts of Ground in the City of New York lately belonging to Patrick Smith deceased of the annual Value of 26*l.* New York Currency (making about 15*l.* Sterling) and also relating to a Farm of 218 Acres of Land in Orange County in the said province of the Yearly Value of Six Pounds lately belonging to Johannes Mutts deceased, which Houses and Lands had been found escheated to His Majesty, and which the said Lieutenant Governor by the Advice of the Council had promised to make Grants of without any Fee to the Great Seal (upon Applications made to him for that purpose) The Houses and Lands in the City of New York to the Legatees of the Widow of the said Patrick Smith and the Farm in Orange County to Mr. Kemp late Attorney General and to Mr. Banyar Deputy Secretary of the said Province. But the said Lieutenant Governor upon looking over his Instructions finding that by the 62 Article he was restrained from disposing of any Escheat until he should have transmitted to the Lords Commissioners of His Majestys Treasury and to the Lords Commissioners for Trade and Plantations a particular Account of such Escheat and the Value thereof 29 Dec.  
New York.

438 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1759-60.

and should have received His Majestys Directions thereupon He had therefore forbore making the said Grants but takes leave to recommend the Petitioners for the same to His Majestys Favour. [pp. 221-2.]

1760.  
24 Jan.  
Barbados.

[411.] [Reference to the Admiralty of the memorial of Joseph Pickering, agent for Barbados,] Setting forth, That at the Commencement of the present War the French Prisoners which were brought into that Island were maintained by the Commander in Chief of His Majesty's Squadron Stationed there at the Expence of His Majestys Government but from the time the said Commander left that Station, which was on the 2d of September 1756, until the 4th of October 1757 (when the Agent authorized by the Commissioners for exchanging Prisoners of War arrived in that Island) and took upon him the Care of the said Prisoners the whole Expence of Maintaining them fell upon, and was borne by the said Island amounting to 1,852*l.* 7*s.* 0*d.* the particular Accounts whereof have been transmitted to the Memorialist as Agent for the said Island together with Affidavits properly certified to vouch the several Charges made therein.—And humbly praying that His Majesty will be pleased to give such Directions relating to the said Accounts, and reimbursing the said Island as to His Majesty in His great Wisdom shall seem meet. [p. 233.]

5 April.

[On the Admiralty report of 4 April, it is ordered that the money expended by the island in maintaining the prisoners of war from 2 Sept., 1756, to 4 Oct., 1757, be defrayed by the Commissioners for Sick and Wounded.] [p. 331.]

1 Feb.  
Barbados

[412.] [Reference to the Committee, and by them on 20 Feb. to the Ordnance, of the address of the Governor, Council and Assembly of Barbados, setting forth their deficiency in the necessaries of war, the extraordinary expenses of the public and the distress of individuals from the extreme badness of the late crops, and praying for assistance and that an engineer be sent to inspect their fortifications and be a guide to their future works.] [pp. 240, 266.]

1760.  
16 Feb.  
Quebec.

[413.] [The following Admiralty memorial of 29 Jan. is approved, and orders given accordingly :—] Vice Admiral Saunders having laid before us a representation from Captain Goostrey, who was Commander of Your Majesty's Ship the *Dublin* the late Expedition to Quebec, that his Pay is stopt upon account of Stores spared to the Army ; and Mr. Saunders having informed us, that the Captains of most of the Ships late under his Command upon that Expedition, are in the like situation ; We do humbly propose that Your Majesty will be pleased to direct the Master General of the Ordnance to allow of the Issues of all such Ordnance or Ordnance Stores as were delivered for the use of the Army, by order of Vice Admiral Saunders from any of the Ships or Vessels which were under his Command in the late Expedition to Quebec.

[p. 253.]

[414.] [In accordance with a Board of Trade representation of 20 Dec., 1759,] containing an Account of the Proceedings of the Governor and Council of Nova Scotia, with regard to the settling the Lands evacuated by the Removal of the French Inhabitants from that Province, as well as other Tracts of Land in the Wild and uncleared Part of that Country, and also with regard to the Terms and Conditions upon which the said Governor and Council have agreed to make Grants of the said Lands : [the plan adopted is approved as a means of the speedy settling the vacant lands].

16 Feb.  
Nova Scotia

[p. 255.]

[415.] [Reference to the Committee, and by them on 20 Feb. to the Board of Trade, of a Pennsylvania Act of 29 Sept., 1759 (delivered this day), for appointing an agent to apply for and receive the distributive share and proportion which shall be assigned to this province of the sum of money granted by Parliament to his Majesty's colonies in America.]

16 Feb.  
Penn-  
sylvania.

[pp. 256, 266.]

[Reference to the Committee, and on same date by the Committee to the Board of Trade, of 18 Pennsylvania Acts of 1758-9 (delivered this day), and of a petition of Thomas and Richard Penn to be heard against 11 of the Acts.]

13 Mar.

[pp. 291-3.]

440 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1760.

15 July. [The Committee refer the Board of Trade report on 19 Pennsylvania Acts to the Attorney and Solicitor General for their opinion,] Whether in case there be Clauses and Provisions in any of the said Acts which are not consonant to reason, or which are repugnant or contrary to the Laws Statutes and Rights of England or inconsistent with the Kings Sovereignty or lawful Prerogative, or contrary to the Allegiance due from the Proprietarys or the Inhabitants of the said Province or not warranted by the power given by the Charter to make Laws ; His Majesty may repeal and annul the said Clauses and Provisions and adjudge and declare the same to be void, without repealing other unexceptionable parts of the said Acts ; And in Case his Majesty shall so do, Whether the said Clauses so annulled and repealed and adjudged and declared to be void will not be annulled and repealed to all intents and purposes from the time of such Declaration.

[p. 456.]

27 Aug. [The Committee consider a petition of Benjamin Franklin and Robert Charles, agents for the province, against the report and in support of the acts, hear counsel on both sides, and adjourn further hearing to 28 Aug.]

[p. 473.]

2 Sept. [Orders are given in accordance with the Committee report of 28 Aug :—] . . The said Lord Commissioners have made their report upon all the said Acts to this Committee ; And it appearing by the said Report, that the said Lords Commissioners were of Opinion, that Seven out of the said Eleven Acts, complained of by the said Proprietaries, were proper to be repealed by Your Majesty, The Agents for the House of Representatives made Application to this Committee praying to be heard in Support of the said Seven Acts, and having entered into the usual Security, according to the Rules of the Council Board, to be answerable for Costs in case it should be judged necessary to require them to pay the same, The Lords of the Committee thought proper to comply with their Request, and accordingly, on the 27th of this Instant and likewise on this day, took the said Nineteen Acts and

Report into Consideration, [and report that six of the acts should be disallowed and eight confirmed. That referred on 16 Feb. has been permitted to run out six months since it was laid before his Majesty and is thus confirmed in accordance with the charter of the province. Three others are expired.—*See App. III.*]

As to the Act Intituled An Act for granting to His Majesty the Sum of One Hundred Thousand Pounds and for striking the same in Bills of Credit in the Manner herein after directed, and for providing a Fund for striking the said Bills of Credit by a Tax on all Estates Real and personal, and Taxables within this Province (passed 17th April 1759). The Lords of the Committee were of Opinion that the said Act is fundamentally wrong and unjust, and ought to be repealed unless the following Alterations and Amendments could be made therein Vizt.

1. That the Real Estates to be taxed be defined with Precision, so as not to include the unsurveyed waste Land belonging to the Proprietaries.

2. That the Located uncultivated Lands belonging to the Proprietaries shall not be assessed higher than the lowest Rate at which any Located uncultivated Lands belonging to the Inhabitants shall be assessed.

3. That all Lands not granted by the Proprietaries within Boroughs and Towns be deemed located uncultivated Lands, and rated accordingly, and not as Lots.

4. That the Governors Consent and Approbation be made necessary to every Issue and Application of the Money to be raised by Virtue of such Act.

5. That Provincial Commissioners be named to hear and determine Appeals brought on the Part of the Inhabitants as well as of the Proprietaries.

6. That the Payments by the Tenants to the Proprietaries of their Rents shall be according to the Terms of their respective Grants as if such Act had never been passed.

The Proprietaries Thomas Penn and Richard Penn, and Benjamin Franklin and Robert Charles, Agents for the Province, being acquainted with the Opinion of the Committee, The Proprietaries declared, that for the Sake of Peace, and to avoid further Contest, they would instruct their Governor to assent to An Act for discharging the said Debt of One hundred Thousand Pounds in the Form of the said Act now under Consideration so altered and amended.

[The agents, in order that the present act might not be repealed, made the following offer,] and have signed such Undertaking in the Books of the Council Office . .

We the undersigned Benjamin Franklin and Robert Charles Agents for the Province of Pensilvania, do hereby Consent that in Case An Act passed in the said Province in April 1759, Intituled, An Act [etc.] shall not be repealed by His Majesty in Council, We the said Agents do undertake that the Assembly of Pensilvania will prepare and pass, and offer to the Governor of the said Province of Pensilvania, An Act to amend the aforementioned Act, according to the Amendments proposed in the Report made by the Lords of the Committee of Council this day (upon the said One hundred thousand Pound Act, and other Pensilvania Acts) and We will indemnify the Proprietaries from any Damage that they may sustain by such Act not being so prepared and passed by the Assembly, and offered to the Governor—Witness Our Hands this 28th day of August 1760. [The original agreement signed by the agents is entered in the Register at *p.* 505.]

Lest some Inconveniencies should arise from the Repeal of the said Act, in respect of the good purposes thereof, The Lords of the Committee are humbly of Opinion, that your Majesty may rely upon this Undertaking for the Assembly of Pensilvania by their Agents, and permit this Act to stand unrepealed, because the Objections upon which this Committee should have founded their Advice for the Repeal, will certainly be removed in a Way more agreeable and convenient to the Province.

[*pp.* 474–9, 483.]



1760.

[416.] [Reference to the Committee of the petition of Thomas and John Edmundson of Essex co., Virginia, merchants, for leave to bring a cross appeal from two Chancery decrees of 10 April and 2 Oct., 1758, in favour of William, Martha, and Humphrey Toy Tabb, in a case relating to the estate of Sarah Allaman, deceased.] [p. 256.]

16 Feb.  
Virginia.

[On the Committee report of 26 March, the appeal is admitted. On 23 April security for its prosecution is given by John Hyndman, merchant, and Charlton Palmer, gent., both of London.] [pp. 310, 330, 347, 399.]

5 April.

[The Tabbs' cross-appeal is referred to the Committee.] (1762.)

[Geo. III. Vol. II. p. 203.] 12 April.

[On the Committee report of 15 Dec., the two decrees are reversed, the Edmundsons' appeal is dismissed, and they are (1763.)

21 Dec.

to repay whatever they may have received under the decrees. The case concerns the estate of Thomas Allaman, who died intestate in 1706, leaving a daughter Judith, mother of the Edmundsons, and, by another marriage, three sons, John, Thomas, and William. On the death of his brothers, William received the estates and died intestate in 1732, leaving a widow, Ann, a son Thomas, and a daughter Sarah. Ann married John Tabb and had issue Humphrey and Martha Tabb. Thomas and Sarah Allaman both died intestate and without issue, whereupon the estate fell to be divided between their mother Ann, and their aunt Judith, next of kin on the father's side. Other names in the report are John Page, Charles Blacknall, Francis Whiting, and Thomas Booth. The names and values of twelve negro slaves are also given. Five men average 44*l.*, five women 40*l.*, and two boys 18*l.*]

[III. 172-6, 192.]

[417.] [On reading the following Board of Trade representation of 31 Aug., 1759, viz. :—] George Haldane Esquire Your Majesty's Governor of the Island of Jamaica, having transmitted to Us the Depositions of the Masters and other Officers of several Vessels belonging to Your Majesty's Subjects in North America which being laden with Rum, Sugars and

16 Feb.  
Monte  
Christi.

other Produce of the French Islands, have been taken and carried into Jamaica, by Captain Edwards of Your Majesty's Ship Assistance, We beg leave humbly to lay before your Majesty the annexed Copies of the said Depositions and to represent to your Majesty thereupon—

That it appears from these Depositions that a very considerable Trade has, during the Course of the present War, been carried on by Your Majesty's Subjects in the Northern Colonies to Monte Christi, a Spanish Port in the Island of Hispaniola : That the Cargoes of the Vessels employ'd in this Trade (of which there have been an hundred and fifty trading at one time in the Road of Monte Christi) have consisted of Provisions and Lumber, which have been sold there. And that in return for the Proceeds of these Cargoes and for Cash, which the Masters of the said Vessels have brought with them from the Northern Colonies, to a very great Amount, they have received large Quantities of Rum, Sugar and Melosses, the Produce of the French Settlements at the Cape and at Port Dauphine, in the Neighbourhood of Monte Christi, purchased for them by the Spaniards (who grow no Sugars in that part of the Island) and put on board these Vessels, without being landed at Monte Christi.

From these Facts it appears that Your Majesty's Subjects have, during the Course of the War, upon pretext of trading to a neutral Port, carried on a most pernicious and destructive Trade with Your Majesty's Enemies not only furnishing them with Provisions and other Necessaries for their Plantations, and taking off their Produce in return but also supplying them with that Cash which this Kingdom has been under the Necessity of remitting to the Northern Colonies for the Support of the War, and which instead of returning to the Mother Country in Payment for its Produce and Manufactures, is, by this iniquitous Trade, transferr'd into the Hands of Your Majesty's Enemies.

It is evident that so much of this Trade as consists in Provisions is expressly contrary to the Act of Parliament

passed in the 30th Year of Your Majesty's Reign, for prohibiting during the present War, the Exportation of all sorts of Provisions from Your Majesty's Colonies to the Colony or Dominion of any foreign Prince or State. And although the trading to a Neutral Port with other Articles of British Plantation Produce, may not, in general Light of it, appear to be contrary to the Letter of the Law, Yet We beg leave humbly to submit it to Your Majesty's Consideration, whether, in the particular Circumstances of this Commerce, in which it clearly appears that the Interposition of a Neutral Port is only a Cover to direct Trade with the Enemy, is not absolutely inconsistent with the general Principles of Law and Policy which prevail in all States. From the Depositions annexed it will appear to Your Majesty that a very considerable part of this destructive Trade is carried on from the Charter Governments, and in particular from the Colony of Rhode Island, which Colony, as well as that of Connecticut, under pretence of the Powers granted to them by their Charters assume to themselves an absolute Government, independant not only of the Sovereign Government of the Crown, but of the Legislature of the Mother Country. For they not only do not transmit any of their Acts and Proceedings, either judicial or legislative, for the Royal Approbation, but likewise do not conform to the Laws of Trade, Their Governors never being presented to the Crown for Approbation nor does it appear that they take any Oath for the due Observance of the said Laws, both which Qualifications appear to Us to be required by the Act of the 7th and 8th of King William the third, for regulating the Plantation Trade But it is not only in this branch of illicit Trade that the Inhabitants of these Colonies are engaged; for from the various Representations which have from time to time been made to Us by the Governors of the Neighbouring Colonies that they carry on illicit Trade in other Branches of a very pernicious Nature and to a great Extent, importing into the said Colonies, directly from Holland and other foreign

Parts a variety of Merchandize which, by Law, can be imported into the Plantations, only from Great Britain.

Whether the Nonconformity of the Charter Governments to the Laws of Trade, and the pernicious Commerce carried on by the Inhabitants of them arise from any Powers in their Charters inconsistent with, or from any Defects in the framing of those Laws or from the neglect and Corruption of those whose Duty it is to watch over the Execution of them, We cannot take upon Us to say ; Neither can We, doubtfull and uncertain as We are with respect to the Legality or Illegality of a great part of the Trade to Monte Christi, under the circumstances stated in the Depositions, presume to point out to Your Majesty a Remedy to the Evil, or in what manner the Persons concerned in it may be punished. We would therefore humbly submit whether it may not be proper that the whole of this Case, as well what regards the particular Circumstances of the Trade to Monte Christi, as what relates to the Nonconformity of the Charter Colonies to the Laws of Trade, and the unlawfull Commerce in general carried on by the Inhabitants of them should be referr'd to Your Majestys Attorney and Sollicitor General, for their Opinion ; To the End that a proper Remedy may be speedily applied to Evils of so great an extent and importance.

We would however humbly submit to Your Majesty whether in the mean time it may be not adviseable to put forth a Proclamation in Your Majestys Name, in all the Northern Colonies, stating the informations which have been received of the nature and extent of this pernicious Trade to Monte Christi, and exhorting and requiring the Legislatures of the said Colonies and all the subordinate Jurisdictions of Courts, Offices and Officers to do their utmost to put a Stop to all Trade and Commerce which may be carried on from the said Colonies directly with Your Majesty's Enemies, and to punish Offenders therein to the utmost rigour of the Laws, and to take care that all the Laws for regulating the Plantation Trade be duly observed and all branches of them punished

as the Laws direct. And We apprehend the doing this by Proclamation to be the more necessary, as We doubt whether any Act of Government less solemn wou'd have a due Effect on the Charter Governments of Rhode Island and Connecticut the former of which appears to have been so largely concerned in this pernicious Commerce :

[The representation and papers are referred to the Attorney and Sollicitor General, who are to report upon the whole of this case, and if they consider that a proclamation may be a means of answering the end proposed, to prepare a draft accordingly.] [pp. 258-61.]

[418.] [Reference to the Committee of the petition of John Grant, of Halifax, N.S., agent of Robert Grant, contractor and agent victualler to a department of the Navy under Admiral Saunders in North America, for leave to appeal from a sentence of the Vice Admiralty Court, 13 July, 1759, on a bill filed by Henry Newton, collector of customs at Halifax, for condemnation of the ship *Rising Sun* and her cargo of wine, fruit and other refreshments for the fleet freighted in Portugal.] [p. 278.]

4 Mar.  
Nova Scotia.

[On the Committee report of 13 March, the appeal was admitted. On 24 March, security was given by Robert Grant and William Bearsley, of London, merchants.] [pp. 291, 295.]

20 Mar.

[On the Committee report of 20 Jan., the judgment is reversed, and Newton and Herbert Lawrence, representative of the late Governor, Charles Lawrence, are to restore to the owners within six months 4,038*l.* 18*s.* as the value of the cargo, and 210*l.* as the value of the ship. No costs are allowed to either party.]

(1761.)  
28 Jan.

[pp. 307, 311 ; Geo. III. Vol. I. pp. 111, 120, 153-4, 177.]

[419.] [An appearance for Alexander Home to the appeal of John Willet from St. Christopher is entered by Henry Wilmot.] [p. 323.]

29 Mar.  
St.  
Christopher.

[420.] [Reference to the Committee of the petition of Richard Cross, of Jamaica, that his appeal from a Chancery

2 May.  
Jamaica.

1760.

decree of 23 Jan., 1748, on a bill filed by the Attorney General against Samuel Dicker and the petitioner for the moiety of a legacy bequeathed by William Cross to Eleanor Jones and now lapsed by her death, may be now received though out of the strict and usual time.] [p. 367.]

12 June. [On the Committee report of 3 June, the appeal is admitted,] saving nevertheless to the Respondents the Right of making such Exceptions as they shall think proper to offer at the Hearing of the said Appeal with regard to the length of time the Appellant hath omitted to prosecute the same. [pp. 398, 402.]

19 June. [Committee order for hearing in December, and for making Michael Atkins, John Curtis, and Mark Davis, of Bristol, merchants, parties in place of Dicker, who is dead and whose executors they are.] [pp. 409, 412.]

(1761.) [Committee order allowing the appellant to amend his

29 June. appeal and staying his share of the lapsed legacy in the hands of the respondents till the hearing of the appeal or further order.] [Geo. III. Vol. I. pp. 333, 418.]

(1763.) [On the Committee report of 19 Dec., the decree is reversed

21 Dec. and the bill dismissed. The case concerns the will of William Cross, of Kingston, Jan., 1738, bequeathing his estate to his cousins John, Eleanor and Elizabeth, children of Edmund Jones, of Molverly, in the county of Montgomery. Richard Mills was named executor, and, in case of his decease, Rose Fuller, Samuel Dicker, and Anthony White, of whom Dicker alone acted. By the death of one of the devisees, Eleanor, in the lifetime of the testator, one third of his estate became distributable amongst his next of kin, *i. e.* his brothers, Richard, the petitioner, and Thomas Cross. In 1743 Thomas made over his share to Richard. His share, however, it was alleged by Robert Penny, the Attorney General, had been forfeited by Thomas's previous conviction for forgery in England in 1738. The decree of Jan., 1748, ordered Cross and Dicker to come to an account with the Receiver General before Sidney Marriott, Master in Chancery, for Thomas Cross's moiety of Eleanor Jones's share of the estate.] [III. pp. 184, 186-90, 194.]

1760.

20 May.  
Virginia.

[421.] [On the Committee report of the same date on a Board of Trade representation referred to them on 13 May, three Virginia Acts are repealed, and the Governor admonished to observe more strictly the 18th article of his instructions. The Acts are for vesting lands in Philip Jackson (Oct., 1758), and in Philip Whitehead Claiborne (April, 1759), and for the payment of the debts of Major General Alexander Spotswood by the executors of John Spotswood (April, 1759). The Committee find] that altho the said Acts are in the Nature and by the provisions on them Acts affecting the Rights and properties of your Majestys Subjects yet they have been passed by the Legislature of Virginia without regard to any one of those regulations which your Majesties Governor of Virginia (in Common with the Governors of the Colonies in America as required by the 18th Article of your Majesties Instructions to observe in the passing of all Acts of such a Nature and Tendency, for in these Acts there is no Certificate of any previous notification in the parish Church of the Intention of the respective Parties to apply for such Act nor any Proof (which has sometimes been admitted instead of the said Certificate) of the Consent of the several persons interested in them respectively. There is no saving of the right of your Majesty, or of any Body Politic or Corporate or of any private persons not mentioned in these Acts, neither is there any Clause suspending their Effect untill the receipt of your Majestys royal Approbation. These regulations so essential to the Security not only of the Right and Property of your Majestys Subjects but also the Just rights of your Majesty are coeval with the Constitution of the British Colonies, and being founded upon that Principal of Equity and Justice which has invariably taken place and been observed in all of them of allowing Appeals to your Majesty in Council in all Cases affecting private property, they do form an Essential part of that Constitution and cannot be sett aside without subverting a Fundimental Principle of it wisely framed for the security and protection of your Majesty's Subjects in

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whatever may affect their Private Rights and Interests And therefore the said Lords of the Committee humbly are of Opinion that not only your Majestys displeasure should be signified to the Lieutenant Governor for having given his Assent to the Laws but that the Laws themselves should be repealed, with permission however to the Legislature to re-enact them provided it be done in due Conformity to your Majestys Instructions. [pp. 374, 375-6, 386-8.]

(1761.) [Reference to the Committee, and by them on 5 March to  
27 Feb. the Board of Trade, of an address of the Council and Burgesses of Virginia with a representation] Containing the Reasons which induced them to pass several acts which were afterwards disallowed by his Late Majesty and hoping to be justified from endeavouring to encroach upon the Royal Prerogative and then humbly beseeching his Majesty to permit the Governor not only to give his Assent to such acts as from time to time may be found necessary for the Relief of His Majesty's faithful subjects in Cases of the most urgent and pressing necessity altho' the should be of less Continuance than two Years, but also to all such acts as may alter or repeal any other acts which only relate to the people of that Colony wherein the Royal Prerogative or the Trade of Great Britain shall not be affected. [Geo. III. Vol. I. pp. 216, 228.]

20 May. [422.] [On the Committee report of the same date, a  
Jamaica. Jamaica Act of Nov., 1758, for ascertaining the value of Spanish milled money and for rendering the payment of debts more certain, is repealed, and the Governor admonished to adhere more strictly to his instructions relative to the passing of laws. The Board of Trade representation on the Act, referred to the Committee on 13 May, is as follows :—]  
. . . after having considered the said Act with the utmost attention, and Examined the most Eminent Merchants trading to Jamaica as well as several planters from that Island, and having heard everything which has been alledged by the Agent in support of the Act, we are fully of Opinion and accordingly beg leave humbly to represent to your Majesty ;



That the provisions in this Act appear to us both from the Evidence we have Examined and from the Nature of the Thing itself, not only unnecessary, but Extremely Prejudicial to the Welfare of that Island, in its internal Traffick, in its Commerce with the other Colonies, and in its intercourse with Great Britain. That they are in their Tendency highly injurious to the rights of Individuals introductory to Fraud and Usury, derogatory to your Majestys Royal Prerogative, and repugnant to the true principals of the Act passed in the sixth Year of Queen Ann, for ascertaining the Rates of Forreign Coins in her Majestys Plantations in America from which Act this Bill departs in almost every one of its provisions and therefore ought not as we humbly conceive to be suffered to pass into a perpetual Law, by receiving your Majesties Royal Approbation.

It is observable that Parliament having perceived the great Injuries that have arisen from the different Rates, at which Coins whose value was intrinsically the same, had passed in different Colonies in order to remedy this Inconvenience laid it down as a Fundamental Principle in the Act of the 6th of the Queen upon which all its Regulations were to proceed, that one and the same rate of money should prevail equally throughout the whole Extent of your Majesties plantations in America. That Fundamental principle this Bill directly contradicts and fixes a Value upon several Species of Coins not only (as we apprehend by the rate which it imposes but by the Addition of a Tax) different from what was regulated by the said Act departing from that uniformity which the Legislature had been so careful to Establish without alledging any reason supported by valid and sufficient Evidence why the same Species of Coin ought to pass in that Island, even at a Different much more at a higher Rate, than that, at which they are Estimated by the Act of the Queen, and at which they are now legally current in the other Plantations in America.

The Act of Queen Ann proceeding upon the same principals of policy and Justice, has regulated with great precaution the

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value of those Coins to which it Extends, according to the report of the Assay Master of her Majesties Mint concerning their respective Weight and Fineness. But this Bill takes upon itself (for anything that appears to us to the Contrary) to fix a value altogether arbitrary on the several Species of Coin therein Specified without any Assay made or any Method whatsoever taken to ascertain either the Value of any one Particular Species, or to adjust the relative value which the several Coins ought to bear to each other according to the Weight and Purity of their Metal. And this Neglect in any Circumstance extremely material is in this Case of Greater Consequence, as we are well informed that there are now Current in Jamaica, Dollars in their general denomination exactly the same but in their real Value Extremely different. And this Bill Establishes no distinction between the light and the heavy Coin when they come according to the regulations Prescribed, to receive the stamp which is to conferr on them their Additional Value. By which Omission it is obvious, that many Frauds may be committed with Impunity, and a private gain be made greatly to the publick Detriment.

The Act of the Queen likewise Extends its regulations equally, and fixes precicely the same value upon all and every piece of the same Species of Coin containing the required weight and purity of Metal; But this Act by confining the new value to a certain determinate Number only, causes this remarkable inconvenience, That some pieces of the very same Species of Money without any advantage in their weight or Fineness, or perhaps even with a considerable Disadvantage in both, shall pass for more than others, only because they are distinguished by a certain Stamp, so that by engrossing or otherwise artfully managing this Stamp and therefore raised Coin, it may be in the power of Rapacious and Opulent persons greatly to embarass Trade, and to oppress the people by usury and Extortion. And this Inequality which arrises from the Stamp is further aggravated by the Inequality of the Tax imposed upon Stamping, For the silver Coin paying

a Duty and the Gold paying none, there arises a new Artificial Inequality between the Gold and Silver Coin, in Addition to the Inequality that was before made between the Silver Coins amongst themselves. In this likewise departing from the Act of Queen Ann which made no Regulations about Gold Coins, but left them at large, as an Article of Commerce.

The Act of Queen Ann in ascertaining the rates of Forreign silver Coins Guards, by an Express Proviso, against making them in any Case legal or Compulsory Tender agreeable to the Course of the Common Law with regard to all Forreign Coins. But this Jamaica Act not only fixes a Value as we have before observed on Forreign Coins different from the Value settled by that Act and without the just precaution therein taken but actually makes that Coin, this Arbitrarily raised, a legal and compulsory Tender, in all payments to the Detriment of those who Trade to Jamaica from the other American Plantations who can only pass those several Coins in their respective Colonies according to their Original Valuation in the Act of Queen Ann, and not according to their New and enhanced Value in Jamaica.

The pretended necessity which gave Rise to this Bill is that the Species of Coin regulated by the Act of the Queen, is no longer made in the Spanish West Indies, but has been succeeded by another species called Milled Money about which as there is no Regulation, there is therefore no Money which by being legal Tender might enable the Inhabitants to pay their Debts to individuals and their Taxes to Government. The Idea of a Necessity peculiar to this Juncture in Jamaica, has arisen as we apprehend from a Misunderstanding of the true meaning of the Act of Queen Ann, by supposing it to have been in some particulars more Extensive, and in others more restrained than it really is For first we apprehend that Áct never Extended so farr as to make any Forreign Coin a legal Tender in any of the Plantations, in that respect therefore Jamaica is not in a worse Condition with the New, than it was with the Old Coin, the old itself never having been at

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one Time payable as a legal and Compulsory Tender And as they imagined that in this Instance the Act conveyed powers which it neither did, or ever meant to convey, so they have supposed it to be defective in that particular for which it has sufficiently provided. For it has Established a Standard not only for such forreign Silver Coins as were then in Use and are therein specified Nominatim but for all such others as might hereafter be introduced by directing that they shall be valued in Proportion to the Weight and Purity of their Metal according to the Rate imposed upon those Coins which are Expressly particularized in that Act. So that the Act of Queen Ann has already provided a better and Juster Regulation for any new Species of Coin which might be afterwards introduced, than is provided by this very Bill as farr as Relates to the ascertaining its Current Value but not indeed for making it a Legal Tender, which never was the Intention and is directly Contrary to the Express Declaration of that Act.

But besides that We apprehend the Act of the Queen has provided effectually for the Difficulty (if any such did Exist) which is stated in the preamble of the Bill and which has also been alledged by the Agent, several persons of large property in that Island having been Examined do not admit that any Difficulty or Inconvenience of that kind subsists, but assert on the Contrary, that Payments are made with as much Facility as usual. And we are further informed that the Species called Milled Money differs rather in Form, than in Value and Substance from those Species, the rate of which is Particularly ascertained in the Act of the Queen.

For these Reasons it appears to us that this Law is not only unnecessary, but that the Regulations of it are Extreemly ill conceived ; And we cannot help observing that the Ends which this Bill proposes in the Preamble, which are specious and imposing, are absolutely contradicted by the Body of the Law itself. For though the Preamble proposes to reduce the Value of the Coin in order to bring it nearer to its Currency in

Great Britain, for the Conveniency of their mutual Trade and Intercourse, The Regulations are not to reduce, but to raise the Value of the Coin still higher and Consequently to put it more out of the Reach of the British Merchant. And Merchants being Examined have given it as their Opinion that this would be the Effect and that they therefore Judged these Regulations would prove prejudicial to their Interest.

It has been alledged by the Agent, that one of the principal Hardships proposed to be removed by this Bill, is that the Planters might be no longer obliged to pass their Money for two pence per Dollar less than they received it. In Order to remedy that Grievance they have by this Act not only raised it two pence, but added two pence more to the Value of each Dollar, raising it not only from six shillings and four Pence to six and sixpence, but to the Additional Value of six shillings and eight pence by which means the Original Hardship of which they complain is indeed removed, but a new Injustice is created the Loss of two pence per Dollar is transferred only from the person who pays the Coin to the Person who receives it.

We apprehend further that the putting a Stamp upon Money to ascertain its Value, to make it legal Tender, and to impose the penaltys of High Treason on those who shall counterfeit the said Stamp, is to all Intents and Purposes setting up a Mint, which we conceive to be no less than an Usurpation of your Majestys Prerogative; besides that it has never been thought Adviseable, even by Virtue of that Royal Prerogative, to Establish a Mint in any Part of your Majesties American Dominions.

We further beg leave humbly to represent to your Majesty that independant of its General Scope and purpose, this Bill contains another Regulation which appears to us Extreemly Exceptionable By which all Debts contracted in Jamaica, upon Bond, Mortgage or other Specialty before the passing of this Act, whensoever they may be discharged, are made payable in such Manner as if the Rate of Exchange between Great Britain and Jamaica, was at the Time of such payment

at the rate of Forty pounds per Cent., although the actual Rate of Exchange should be higher or lower. A Regulation which we apprehend must of Necessity be injurious either to the Debtor or Creditor, according as the Rate of Exchange, at the Time such Debts shall be respectively paid, may happen from the Situation of the Trade and other Circumstances to be in Favour of the one or the other And we conceive that nothing can be more Unjust than to enact (as this Law does) that Debts already contracted shall be hereafter discharged according to the Accidental Rate of Exchange at the Time of passing this Law. Nor can anything be more Impossible than to fix the Rate of Exchange, a Thing so uncertain in its Nature, depending upon Circumstances so very variable, and which must therefore be perpetually fluctuating.

Having thus stated to your Majesty the particular objections to which the Several Provisions of this Act appear to us to be liable, We must likewise beg leave humbly to represent, that this Act though unusual and Extraordinary in its nature and Importance, though it affects the Proverty of Individuals, the Trade of this Kingdom, and your Majestys Royal Prerogative and therefore required in every Respect the necessary Check of a Suspending Clause, has been passed without that Restriction prescribed by your Majesties Instructions. And this appears to us the more Exceptionable, because the Act of the Sixth of Queen Ann by reserving to the Crown the power of Consenting to such Provincial Laws as might be hereafter necessary for altering the Rates of Coins Established by that Act, does by that very reservation expressly mark out to the Colonies that before any such Law could take Effect your Majestys Royal approbation was a Sanction indispensably necessary.

Notwithstanding these Objections we think it necessary to inform your Majesty, that the Agent for the Island of Jamaica has alledged, that the Act has been productive of several Advantages and that the Imediate Repeal of it would be attended with inconvenience, and has therefore requested,

that the Royal Disallowance might at least be postponed till the arrival of Mr. Lyttelton at the Government of Jamaica, But as we are thoroughly convinced that the principles which Originally induced the Legislature to Establish an Uniformity of Value for Forreign Coins in your Majestys plantations in America Subsist in their full Vigor at this Day, and as the Wisdom and Equity of the Legislature, in regulating the respective Values of those Coins is equally evident, We do not think ourselves authorized to recommend it to your Majesty to suspend Your Royal Disallowance of the said Act. On the Contrary we think it adviseable still to adhere to the Regulations of the Act of Queen Ann, founded upon General Principles, and adopted upon Mature Deliberation, rather than break that uniformity so prudently and so Equitably Established by that Act, in Favour of a Law which professes to have proceeded upon local Convenience only, and Establishes a Difference of Currency not only in Different plantations, but even with regard to the same Coin in the same Country, valuing it without any Assay, Establishing (what was never done by the Act of Queen Ann) a Rate upon Gold Coins, Declaring forreign Coins to be legal and compulsory Tender, and Subjecting those, who should Counterfeit it to the Penalties of High Treason; in Breach of your Majestys instructions, in Violation of your Royal Prerogative, in Contradiction to the Common Law, and to the Express provisions of the Act of Queen Ann. [pp. 374, 376-82, 388-9.]

[423.] [Reference to the Committee, and by them on 12 June. 19 June to the Board of Trade, of (a) the] Petition of Canada.  
 William Earl of Stirling, who is nearest Heir Male to William the first Earl of Stirling, and also to Henry Earl of Stirling, who died in the Year 1739; and of William Phillips Lee of the City of York Esquire, and Mary Trumbull of Easthampted Park in the County of Berkshire Spinster, which said William Phillips Lee and Mary Trumbull are Heirs at Law of the said Henry the last Earl of Stirling humbly praying that His Majesty will be most graciously pleased to give proper

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Directions for putting Petitioners in the possession of a Tract of Land Part of the Main Land of New England called the County of Canada (granted to the said first Earl of Stirling in the year 1635 by the Council for the Affairs of New England) with all the Rights and Privileges granted to the said first mentioned Earl of Stirling. And that His Majesty would likewise be pleased to give Orders to the Governor of Massachusetts Bay to withdraw and cease to exercise any Jurisdiction therein in order that so valuable a part of His Majestys Dominions in America may be quietly and peaceably settled and improved by the Petitioners : [and (b) of another petition of the same] that His Majesty would be graciously pleased, to Order Payment to be made to them of 7,000*l.* and Interest agreed to be paid by the Duke of York afterwards King James the second for the purchase of the Islands of Stirling or long Island, which had been granted to the said first Earl of Stirling in 1635 by the Council for the Affairs of New England, or that His Majesty will be pleased to give Directions, that such Lands in the said Islands of Stirling or long Island, as have not hitherto been granted by the said Duke of York afterwards King James the Second or any of his Successors may be restored to the Petitioners ; And the Quit Rents now arising from the Lands which have been so granted may for the future be paid to the Petitioners. [*pp.* 404-5, 411.]

28 Aug. [The Board of Trade having stated several objections and proposed a reference to the Attorney and Solicitor General, the Committee give order accordingly.] [*p.* 480.]

17 June. [424.] [Reference to the Committee of a Board of Trade  
New York. representation of 13 June] for his Majesty's Approbation of the Proceedings of the Lieutenant Governor and Council of New York in making a Grant of a New Township, and for exempting the Grantees from the Payment of Quit Rent for ten Years. [*p.* 408.]

11 July. [Order in accordance with the Committee report of 19 June, agreeing with the Board of Trade, who represented] that they have lately received a Letter from James Delancey Esquire



Your Majestys Lieutenant Governor of the Province of New York, acquainting them, that in Consequence of the Success of Your Majestys Arms in the Reduction of Ticonderoga, and Crown Point, and of the Security thereby derived to the North Eastern Frontiers of the said Province, he had issued a Proclamation, inviting all Persons to return to those Settlements which they had abandoned, offering to make Grants of any unpatented Lands in those Parts to such Persons as shou'd apply for them, on Condition of immediate Cultivation and promising as a further Inducement, to use his Endeavours to obtain for the Grantees an Exemption from the payment of Quit Rents for such a Number of Years as Your Majesty should be pleased to indulge them in. That in Consequence of the said Proclamation the said Lieutenant Governor had received Applications from two Sets of Men from the Colony of Connecticut for Grants of Townships, of Six Miles Square, between Fort Edward and Lake George. That One of these Petitions having been referred to the Consideration of Your Majesty's Council it appears that in Conformity to their Advice, a Grant of such a Township has been passed, on the Conditions, Limitations Quit Rents and Restrictions directed by Your Majesty's Instructions respecting the granting of Land within the said Province of New York That as the said Lords Commissioners apprehend the Establishment of a Township within the said Tract of Land, will tend greatly to the future Security, and consequently to the further Settlement of that part of the Province they humbly propose, that Your Majesty would be graciously pleased to declare Your Royal Approbation of the Proceedings of the said Governor and Council in making the said Grant ; And as the effecting such an advanced Settlement must be attended with great Difficulty and Expence to the Grantees, [that exemption from quitrents be granted for ten years, as in the case of the thirteen new townships in Nova Scotia].

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19 June. [425.] [Reference to the Attorney and Solicitor General of  
New Jersey. a Board of Trade representation of 17 June,] relating to the  
Difficulties the Governor of New Jersey has laboured under  
and the confusion which has arisen in that Province, from  
a Claim set up by Robert Hunter Morris Esquire to resume  
the Office of Chief Justice to which he was formerly appointed  
in opposition to the Right of Nathaniel Jones Esq., whom His  
Majesty was pleased to appoint to that Office in June 1759.  
[The law officers are to report] what Measures are most proper  
to be taken in order to support His Majesty's Right of  
Nomination against the extraordinary and unprecedented Claim  
of Mr. Morris. [p. 410.]

(1761.) [Reference to the Attorney and Solicitor General of a Board  
18 April. of Trade representation of 17 April, with copies of a letter from  
Governor Boone and of Morris's memorial to him setting  
forth the grounds on which he thinks himself entitled to  
resume the seat of Chief Justice.] [Geo. III. Vol. I. p. 302.]

1 July. [426.] [Reference to the Committee of the petition of Charles  
Rhode Whitfield, mariner of Newport, R.I., that the Council dismiss  
Island. with costs for non-prosecution the appeal of Paul Creagh  
from a judgment of the Superior Court in Aug., 1758, affirming  
a judgment of the Inferior Court, 15 Nov., 1757, in an action  
of Sur Trover brought by the petitioner for damages laid at  
5,000*l.* New England currency.] [p. 417.]

11 July. [On the Committee report of 7 July, the appeal is dismissed  
with 20*l. stg.* costs.] [pp. 425, 444.]

1 July. [427.] [Reference to the Committee, and by them on  
Massachu- 10 July to the Board of Trade, of the] Petition of Reuben  
setts Bay. Cognetew a Mohegan Indian of the Tribe commonly  
known by the name of the South Shore Indians in behalf of  
himself and the rest of the said Tribe of Indians, relating to  
their Right to a Tract of Land within the Province of the  
Massachusetts Bay, and complaining that the English  
Inhabitants of the said Province have of late Years unjustly  
encroached upon the said Lands and hindered and obstructed

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the Indians in the just Right they have to fish in the River Mashbee within the said Limits; And humbly praying that His Majesty will be graciously pleased to take the Case of the said Indians into His Royal Consideration and grant them such Relief as to His Majesty in His Great Wisdom shall seem meet. [pp. 417, 439.]

[On the report of the Board of Trade, it is ordered by his Majesty in Council, that a copy of the petition be sent to the Governor of Massachusetts Bay,] who is hereby required to lay the same before the General Court of the said Province and acquaint them that His Majesty does expect that they (whose Duty it is, according to a Law passed in 1746 and revived and amended in 1758 to see that Justice be in all Cases done to the several Tribes of Indians within the Province) do forthwith make a strict and impartial Enquiry into the Conduct of those Persons who have been appointed Guardians of this particular Tribe, and that they do transmit to the Lords Commissioners for Trade and Plantations, in order to be laid before His Majesty at this Board, a full and particular Account of the Result of such Enquiry, not only with regard to the particular Grievances set forth in the Petition, but to whatever else may appear to them to have been done amiss by the said Guardians, with respect to the said Indians, to the end, that His Majesty may thereupon give such Directions as he shall judge necessary and expedient for doing Justice to the said Indians in the several Matters of which they now complain, and for securing to them the quiet Possession and peaceable Enjoyment of all their just Rights in future.

12 Aug.

[p. 464.]

[Reference to the Committee of a Board of Trade representation of 10 Sept., with an extract of a letter from Governor Bernard and a copy of the report of the Committee of the Council and Assembly appointed in obedience to the above Order to inquire into the complaints of the Mashbee Indians and the conduct of the guardians of that tribe.]

(1761.)

12 Oct.

[Geo. III. Vol. I. p. 558.]

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11 July.  
Jamaica.

[428.] [Reference to the Committee of the petition of the Duke of Argyll and Earl of Ilay, and Andrew Fletcher, Lord Milton, formerly Lord Justice Clerk and now one of the Lords of the Council in Scotland, and John and Matthew Gregory of Jamaica, for a day for hearing their appeal from a decree of the Jamaica Chancery, 16 June, 1759, in favour of William, Earl of Home, on a bill filed by him and his wife, Elizabeth, but to which the Countess was afterwards made a defendant, relating to an account of her estates in Jamaica for the discharge of incumbrances on the Earl's estates in Scotland. An appearance for the Earl of Home was entered on 10 Oct.]

[*pp.* 450, 503.]

11 July.  
Barbados.

[429.] [Reference to the Committee of the petition of George Augustus Selwyn, of Matson, Gloucestershire, for a day for hearing his appeal from a judgment of the Court of Errors in Barbados, 11 July, 1759, affirming a judgment of the Court of Common Pleas, 30 March, 1759, in his action to recover from John Murray 280*l.* 13*s.* 11½*d.* Barbados currency, received by him for the use of the petitioner between 22 April and 13 July, 1752, by the fees and profits of the offices of Chief Clerk, Register, and Sole Examiner in the Chancery of Barbados.]

[*p.* 450.]

(1761.)  
16 Feb.

[On the Committee report of 5 Feb. both judgments are reversed. No appearance was entered for the respondent.]

[*Geo. III. Vol. I. pp.* 78, 196, 203.]

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GEORGE III. VOL. I. (25 Oct., 1760—31 Dec., 1761.)

25 Oct.  
The New  
Reign.

[430.] [Order for a warrant to authorise the use of the old public seals in the plantations till new ones are prepared.]

[*p.* 6.]

27 Oct.

[Fourteen warrants for this purpose are approved: as are proclamations for continuing officers, and for proclaiming his Majesty, in the plantations.]

[*pp.* 11, 13, 19.]

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- [On a Board of Trade representation, the Admiralty are ordered to appoint two small vessels for the speedy conveyance of the proclamations and other directions to the governors of the plantations in America.] The one to New York which will serve for all the Provinces on the Continent and from thence to Cape Breton and Placentia in Newfoundland and the other to Barbados and any one of the Leeward Islands, Guadaloupe, Jamaica and Bahamas. [p. 27.] 30 Oct.
- [Circular letters to the Governors enclosing the two proclamations, signed by 12 members of the Privy Council. The form to be used in proclaiming the King is also enclosed and is given in the Register. The circular is addressed to the Commander-in-Chief in 22 colonies or garrisons in America, and similar letters are sent to the proprietors of Pennsylvania and Maryland. Order is given for having the letters conveyed by the ships appointed.] [pp. 30-5.] 31 Oct.
- [Orders for preparing new seals for the plantations, the engraver to receive directions from the Board of Trade.] [p. 59.] 11 Nov.
- [The drafts are approved, and the seals ordered to be engraved.] (1762.) [II. p. 215.] 21 April.
- [431.] [Reference to the Committee of the petition of John Larkin, yeoman, of Westerly, King's co., R.I., for a day for hearing his appeal from a judgment of the Superior Court in Oct., 1759, affirming a judgment of the Inferior Court of Common Pleas in Feb., 1759, on an ejection brought against him by Edward York to recover a parcel of land in Quannicontague Neck with an island in a pond there.] [p. 18.] 27 Oct.  
Rhode Island.
- [On the Committee report of 27 June, both judgments are reversed.] (1761.) [pp. 170, 362, 410, 426.] 2 July.
- [432.] [Reference to the Admiralty of the memorial of Lovell Stanhope, agent for Jamaica, setting forth that the island was at very considerable expences in guarding, maintaining and exchanging French prisoners from the 11 Nov.  
Jamaica.

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outbreak of the war till an agent of the home government arrived and took over that charge, and praying that the island be reimbursed for these expenses, vouchers for which have been transmitted to him with directions to receive the money on behalf of the island.] [p. 62.]

(1761.) [On the Admiralty report of 17 March, order is given, as in  
25 Mar. the case of Barbados, for the expense to be defrayed by the Commissioners for Sick and Wounded ; and] as Your Majestys Islands in the West Indies will be entirely eased of the whole Expence of taking Care of and supporting Prisoners of War, . . . that the Exchanges of Prisoners may for the future be carried on, under the Direction of the respective Commanders in Chief of Your Majestys Ships, for the time being, at those Islands, which may be a means of preventing the illicit Trade so notoriously carried on under Cover of the many Flags of Truce sent with exchanged Prisoners. [p. 265.]

3 Dec.

North  
Carolina.

[433.] [On a Board of Trade representation of 2 Dec. upon a letter of 19 Jan. from Governor Dobbs, informing them that by the unanimous advice of the Council he had suspended Francis Corbin, and on consideration of the minutes of the Council of 24 Jan., giving the reasons for the suspension, Corbin is removed from the Council of North Carolina.] [p. 96.]

1761.

16 Jan.  
Georgia.

[434.] [The Board of Trade are directed to prepare an additional instruction for the Governor of Georgia in accordance with their representation of 13 Jan.,] setting forth, that Henry Ellis Esqr., Governor of His Majesty's Province of Georgia hath transmitted to them an Account of his Proceedings in the Execution of His late Majesty's Instruction dated the 9th of February, 1759, by which he was authorized for the Reasons and purposes therein set forth, to make Sale of the two Islands of Ossata and Sappalo, and of a Tract of Land lying between the Town of Savannah and Pipemakers Creek, containing about four Thousand Acres which the Creek Indians ceded to His said Majesty in April 1758 ; And that it appears by that Account, that the said Governor found almost

the whole of the said four Thousand Acres to be in the actual Possession of several Persons who by Virtue of Allotments made by the late Trustees of Georgia, settled there in 1752, and have continued to cultivate and improve the said Lands ever since ; That conceiving that it could not be the Royal Intention that Lands so occupied (though not excepted in the said Instruction) should be sold, he therefore forbore giving any Disturbance to the present Possessors ; On the contrary he thought it his Duty to recommend them as fit objects of the Royal Favour and Protection humbly hoping that His Majesty upon Consideration of their particular Circumstances will be graciously inclined to confirm to them severally their respective Possessions. And as the said Lords Commissioners entirely agree in opinion with Mr. Ellis as to the Reason and Equity of the Indulgence which he recommends, They therefore propose that His Majesty would be graciously pleased by His Royal Instruction to authorize the said Governor to give and grant, by Patent, in the usual form, under the Publick Seal of the Colony to each and every Person possessing any Lands between the town of Savannah, and Pipemakers Creek, by virtue of any Allotment or Grant from the late Trustees, the Quantity of Land whereof he is so possessed, subject to the Payment of such Annual Quit Rent as is prescribed by His late Majesty's Instructions to the said Governor. [p. 146.]

[The instruction is approved.]

[p. 307.]

30 April.

[435.] [Reference to the Committee of the petition of Edmund Hyde, Esq., of Jamaica, for a day for hearing his appeal from a Chancery order of 14 Dec., 1759, on a bill filed against him and Francis Gale by Foster March for an account of the estate of Hanbury Sanders Pestell, deceased.]

16 Jan.

Jamaica.

[pp. 70, 149.]

[On the Committee report of 29 June, the order is affirmed save what relates to the report of a Master in Chancery, which is directed to be reviewed by the Master. Pestell left his estates to his mother for her life, and thereafter several specific

2 July.

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legacies to Hyde, and the residue to his cousin, William Sanders. Hyde and Gale were his executors. March claimed under the will of William Sanders, who is dead.] [pp. 411, 412-3, 424.]

16 Jan. [436.] [Reference to the Committee of the petition of  
St. Benjamin Herriott, of St. Christopher, late master and owner  
Christopher. of the ship *Pitt*, on behalf of himself and John Willett, merchant  
of St. Christopher, late owner of the cargo of the said ship,  
for a day for hearing his appeal from the condemnation of  
the ship and cargo by the Vice Admiralty Court, 4 Aug., 1759,  
on a libel filed by Alexander Home, searcher of customs at  
Basseterre, for shipping goods there to be carried out to sea  
from thence contrary to divers Acts of Parliament.] [p. 149.]

2 July. [On the Committee report of 27 June, the appeal is  
dismissed.] [pp. 362, 409, 426.]

28 Jan. [437.] [Reference to the Committee of the petition of  
Nevis. David Chollet, owner of 600*l.* 6*s.* condemned as part of the  
cargo of the sloop *Hunter*, for a day for hearing his appeal from  
this sentence pronounced in the Vice Admiralty Court of  
Nevis on a libel filed by Alexander Mackay, waiter of the  
customs in the port of Nevis.] [p. 185.]

(1762.) [Order in accordance with the Committee report of 16 March,  
5 April. which shows that the appeal set forth] that the said  
Alexander Mackay on the 23d of February 1760 Exhibited  
a Libel in the Court of Vice Admiralty of Nevis . . . thereby  
Stating that between the 1st of February 1760 and the Day of  
Exhibiting the Libel, certain Persons to the Informant  
unknown, did at Montserrat (One of the Leeward Charribbee  
Islands) Load or Cause to be laden on Board the Sloop called  
the Hunter, whereof John Furlong was Master (being of less  
than One hundred Tons Vizt. of Eighty Tons burthen) two  
Casks of Indigo of the growth and produce of his Majestys  
Plantations in America without having first given Security of  
One thousand Pounds or having produced a Certificate from  
the Officers of any Customhouse of Great Britain, England,  
Ireland, Wales or the Town of Berwick upon Tweed that such



Bond or Security had been duly given before the Loading of the said two Casks of Indigo, to carry the said two Casks of Indigo in the said Sloop to some other of his said Majestys British or English Plantations or to some part of Great Britain, England, Wales or the Town of Berwick upon Tweed and there to unload and put the same on Shore against the form of the several Statutes made in the 12th 15th 22d and 23d Years of the Reign of his late Majesty King Charles the Second and in the 7th and 8th years of his late Majesty King William the Third or some or one of them . . .

—That between the said 1st of February 1760 and the Day of Exhibiting the said Libell certain Persons to the said Informant unknown at the said Island of Montserrat did lade on Board a certain other Sloop called the Hunter, the Master whereof was unknown to the Informant divers other Goods and Commodities (Vizt.) Two Casks of Indigo, Three hundred and Sixty five Firkins of Butter, One Box of Foreign Gold and Silver Coin, and one Box of Silk Cloaks and other things to be carried in the said Ship out of the said Island of Montserrat to the Island of St. Eustatia belonging to the States General the said Sloop not being . . . duly Registered and qualified to Trade from, or in the said Island of Monserrat [as required by Acts of 7 and 8 Wm. III. and 15 and 16 Geo. II.]. To which Libel William Davies Esquire the Proctor for the Appellant put in a Claim and thereby (amongst other things) claimed the said Box of Foreign Gold and Silver Coin in the said Libel contained on his giving Security in the Penalty of Thirty Pounds pursuant to Act of Parliament and pleaded not guilty and Issue was joined and several Witnesses were Examined. And on the 23d of February 1760 the said Cause came on to be heard when the Judge of the said Vice Admiralty Court, upon Reading the Depositions and Proofs and hearing Counsel on both sides was pleased by his Sentence to adjudge the said Sloop Hunter with all her Boats, Tackle Apparel and Furniture and two Casks of Indigo, Three hundred and Sixty three firkins of Butter, a Box of Foreign

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Gold and Silver Coin, a Box of Silk Cloaks and other things, laden and found on Board the said Sloop to be forfeited and lost, to be divided and distributed according to the Prayer of the Libel, and that the Claimants thereof should be respectively Condemned in Costs to be Taxed. [On the hearing by the Committee,] the Counsel for the Respondents Alledging that several other Appeals were Allowed from the said Sentence with respect to the Sloop and the rest of the Cargo, which have never been prosecuted—Their Lordships do therefore agree humbly to report as their Opinion to your Majesty that so much of the said Sentence of the Vice Admiralty Court of the Island of Nevis of the 23d of February 1760 as relates to the Gold and Silver Coin should be Reversed and that the Appeals of the other Parties should be dismissed.

[Geo. III. Vol. II. pp. 125–7, 167.]

28 Jan.  
Jamaica.

[438.] [Reference to the Committee of the petition of Robert Mantle, late commander of the *Thurloe* privateer, for a day for hearing his appeal from part of a decretal order of the Jamaica Chancery, 24 Sept., 1759, relating to his seizure of the French brigantine *Mentor*, and praying that the appeal of Charles Le Conte, commander of the *Mentor*, from the other part of the order, be dismissed with costs for non-prosecution. The *Mentor* was condemned in the Vice Admiralty Court, 26 Aug., 1758 : Le Conte filed a bill in Chancery for restitution.] [p. 185.]

(1762.)  
5 April.

[On the Committee report of 16 March, part of the decree is reversed and part affirmed. The case was heard *ex parte*, no appearance having been entered for Le Conte. The appeal set forth] That the Appellant being on a Cruize against his Majestys Enemies Seized a French Brigantine called the *Mentor*, Loaded with Provisions and Stores of every kind, bound from Jamaica for the French at Mississippi Charles Le Conte Commander and brought her into the Island of Jamaica and Libelled the said Brigantine and her Cargo in the Vice Admiralty Court there ; and the usual Preparatory Examinations being taken and the Ship's Papers

brought in and the said Brigantine and her Cargo claimed by the said Charles Le Conte as a Flag of Truce, the same came on very fully to be heard on the 26th Day of August 1758, when the Court Condemned the said Brigantine Mentor and her Cargo to the said Appellant as Prize ; from which Sentence the Claimant prayed and was allowed an Appeal to the Lords Commissioners for Appeals in Prize Causes and gave the usual Security, but hath never prosecuted the same ; That notwithstanding the aforementioned Appeal pending, the said Charles Le Conte upon the 13th of April 1758 Filed his Bill in the High Court of Chancery of Jamaica, thereby Stating that he as Commander of the Brigantine Mentor was a Publick Agent Commissioned Ratified and Allowed for the Exchange of Prisoners of War between the Province of Louisiana and the Island of Jamaica by Virtue of and under the General Cartel Settled and Ratified between their Britannick and Christian Majestys for the Exchange of Prisoners of War during the present War and prayed that the Appellant might make unto the Respondent full Discovery and Restitution of the said Brigantine called the Mentor and of all the Goods and Effects taken and Spoiled on Board the said Brigantine and also of all his Costs and Expences and losses disbursed and suffered in that behalf ; And that it might be referred to one of the Masters of the Court of Chancery to take an Account thereof and to Ascertain the same ; And that the Appellant and his Agents might be Restrained and enjoined by the Court from Selling and disposing of the said Brigantine called the Mentor and the Goods by him Seized on Board the same ; And that a proper Person might be appointed to take the said Brigantine Mentor and all the Goods taken on Board the same into his Possession, Subject and liable to the further Order of the Court ; And that the Appellant might give sufficient Bail or Security that he would not go or attempt to go into any parts beyond the Seas or leave this Island without the leave of the Court to him first Granted for that purpose ; And for a Writ of Ne Exeat against the Appellant and an Injunction

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to stay the Sale of the Ship and Cargo, and for further Relief. On the 13th of September 1758 the Governor as Chancellor upon the bare Allegations in the Bill on the Petition of the Respondent Ordered a Writt of Ne Exeat Insula to Issue against the Appellant to restrain him from departing the Island, until he should have fully Answered the Bill and have given Security before one of the Masters of the said Court to perform and abide by such Order, Sentence or Decree as should be made in the Premises for the Respondents Relief. That on the 20th of October 1758 the Appellant put in his Plea and Answer to the said Bill. That the Respondent Le Conte never Replied thereto but the Plea and Answer was on his own Petition set down to be Argued and accordingly on the 24th of September 1759 it came on to be heard before the Lieutenant Governor when his Honour was pleased to make the following Decree. "This Cause coming on this Day to be heard on Bill and Answer before the Chancellor, the Honourable John Ayscough and William Lewis Esquires Assistant Judges of the Supreme Court of Judicature, having been first called in by his Honour for their Advice and Assistance according to the form of the Statute in that Case made and provided, Mr. Gordon of Counsel with the Plaintiff opened the Bill and Mr. Welch of Counsel with the Defendant opened the Plea and Answer and upon Arguing the said Plea and hearing what could be Alledged by Counsel on both sides, his Honour was pleased by and with the Advice and Assistance of the said Judges to Order that the said Plea should and do stand for an Answer ; And his Honour was pleased further to declare the Opinion of the Court that the Plaintiff under the Circumstances aforesaid by any defence made in the Court of Admiralty or by any Appeal from thence ought not to be precluded from the Protection and Justice of this Court ; And his Honour was pleased further to declare the Opinion of the Court that the Commission of Truce and Letters of safe Conduct ought to Extend only to the Plaintiff his Officers, Mariners and Prisoners his and their necessary

and proper Goods and Effects and to the Brigantine and Vessel called the Mentor her Apparel Tackle and Furniture and to the necessary and Suitable Provisions for the Voyage ; but ought not to be deemed to extend to protect or give Countenance to any illicit Trade, or to any Goods, Wares or Effects laden on Board the said Brigantine as Merchandize or Supplies to the Enemy ; His Honour by and with the Advice and Assistance aforesaid was therefore pleased to Order adjudge and Decree that the Defendant do forthwith make Restitution of and deliver unto the said Plaintiff the said Brigantine called the Mentor in the Pleadings of the Cause mentioned with her Apparel Tackle and Furniture : and also the proper and necessary Goods and Effects of the said Plaintiff his Officers Mariners and Prisoners and also the necessary and Suitable Provisions of and belonging to the said Brigantine Mentor and by the said Defendant taken and detained as in the Pleadings of the said Cause mentioned. And as to so much of the said Bill as seeks Relief for any Goods or Effects laden on Board the said Brigantine and Exported as Merchandize or Supplies for the Enemy ; His Honour by and with the Advice aforesaid was pleased to Order, Adjudge and Decree that the same and such part of the said Bill be and stand dismissed and reserve all further Considerations until the Court shall be informed after what manner this Decretal Order shall be Complied with." [From this dismissal of his bill Le Conte appealed, while Mantle appealed from the order for restoring the ship, etc. Mantle's appeal was upheld, and Le Conte's dismissed.]

[*pp.* 361 ; II. 121-3, 167.]

[439.] [Reference to the Committee of the petition of Jasper Hall, merchant, of Kingston, Jamaica, that the Council dismiss with exemplary costs for non-prosecution the appeal of John Harvey, Esq., of Kingston, one of the surviving executors of Alexander Macfarlane, Esq., from a Chancery order of 17 Nov., 1758, quashing the report of a Master in Chancery in a case relating to a partnership account.] [*p.* 186.]

28 Jan.  
Jamaica.

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 20 Mar. [On the Committee report of 14 March, the appeal is dismissed.] [pp. 244, 257.]
- 28 Jan. [440.] [Reference to the Committee of the petition of  
 Jamaica. Vicente Abendana, master and part owner of the Spanish ship *Armitad* or *Friendship*, and Don Francisco Xavier da Costa on behalf of himself and Juan Antonio de la Sierra and Andres Sesey, the other part owners, for a day for hearing their appeal from the condemnation of the ship in the Vice Admiralty Court of Jamaica, 27 Jan., 1757, on its seizure by the *Hawke* privateer, John Alexander, commander.] [p. 186.]
- (1762.) [On the Committee report of 6 April, when the case was  
 12 April. heard *ex parte*, no appearance having been entered for the respondent, the judgment is reversed, and the ship and goods, or value thereof, ordered to be restored to the appellant.]  
 [II. pp. 135, 174, 200.]
- 28 Jan. [441.] [Reference to the Committee of the petition of  
 Jamaica. Zachary Bayly, administrator of Mark Warkman, merchant of Jamaica, deceased, for a day for hearing his appeal from a decree of the Jamaica Chancery, 22 Feb., 1758, on a bill filed against him and others by Thomas Jackson, planter, for 488*l.* 2*s.* 6*d.* currency for three pieces of Genoa damask.] [p. 187.]
- (1762.) [On the Committee report of 6 April, when the case was  
 12 April. heard *ex parte*, no appearance having been entered for the respondent, the decree is reversed and Jackson's bill dismissed. Maria Paxton, administratrix of Thomas Paxton, is named in the report as another defendant.]  
 [II. pp. 136, 173, 200.]
- (1764.) [Reference to the Committee of Bayly's petition for leave  
 6 June. to appeal from an order of the Chancellor, 20 May, 1763, refusing to order Thomas Jackson to repay to him 977*l.* 0*s.* 9*d.*]  
 [III. p. 472.]
- (1764.) [On the Committee report of 27 July, the appeal is admitted.  
 3 Aug. Security is given on 6 Aug. by Nathaniel Bayly and John Edwards of Lincoln's Inn Fields.] [III. pp. 586, 600.]

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[On the Committee report of 16 July, order is given enforcing the order of 12 April, 1762. The money paid out of court by the Register, Charles Stanhope, is to be returned to Bayly by the respondent, with interest from the day when it was so paid out, 19 Nov., 1759. The Governor is to do everything necessary for this purpose,] but this to be without prejudice to any relief the Respondent may be advised to seek against the Sentence for Reversing the said Decree by Your Majestys said Order in Council of the 12th of April 1762.

[IV. pp. 10, 132, 272, 302.]

[442.] [Reference to the Committee of the petition of John Doe, planter, and his lessors, Robert Stirling, Esq., and Joseph Hatton, gent., of Jamaica, complaining that the Lieut.-Governor refuses to hear a writ of error brought by Richard Corr from a judgment of the Supreme Court in May 1758, in favour of the petitioners in their action of trespass and ejectment to recover lands in the parish of St. Mary, in regard the Lieut.-Governor was examined as a witness for the defence in the Court below, and praying that the judgment of the Supreme Court may be affirmed with costs or the Lieut.-Governor be ordered to determine the case immediately.]

28 Jan.  
Jamaica.

[p. 188.]

[443.] [Reference to the Board of Trade of the memorial of Edward Ephraim Cooke, late commander and principal owner of the *Cicero* privateer, setting forth his services in the capture of St. Bartholomew and St. Martin from the French, and praying the government of these islands with liberty to improve the lands near the forts which he will erect at his own expence, or other compensation for his services and outlays, which are as yet unrewarded.]

15 Feb.  
West  
Indies.

[p. 205.]

[444.] [On a Board of Trade representation of 17 Feb., Governor W. H. Lyttelton was continued Governor of Jamaica, and a commission ordered to be prepared for him. On 10 March, the commission and warrant for passing it were approved. On 30 April the Board of Trade

27 Feb.  
Governors  
continued.

1761.

Jamaica. draft of his instructions was referred to the Committee, and approved on 15 May in accordance with the Committee report of 5 May. The trade instructions were conformable to those given to other governors in the West Indies : in the general instructions, the Board of Trade report showed :—] That they have omitted the 35th Article of the former General Instructions whereby the Governor was directed jointly with the Council and Assembly to revise the several Laws in force in the Island and to frame them into a New Body, The same having been productive of much Confusion in Virginia. That they have also omitted in these general Instructions such Articles of the former Instructions as appeared to have become useless and unnecessary, the purposes for which they were formerly given having since been sufficiently provided for by the Laws of the Island Vizt. The 47th Article concerning the Qualification of Jurors, The 48th for securing the Life, Limb and property of the Subject ; The 49th directing Proof to be transmitted with Criminals to this Kingdom ; The 55th respecting the Regulation of Fees ; and the 82d concerning Registers of Births and Burials.

[pp. 216, 232, 310, 317, 326.]

Virginia. [The same measures for continuing Governor Jeffrey Amherst, of Virginia, were taken on the same respective dates. The Board of Trade representation on his instructions showed] That at the End of the 31st Article of the present Draught they have added some Words requiring the Governor to discourage and restrain any Attempts which may be made to set up any such Manufactures or Trades as are or may be prejudicial to this Kingdom—That they have omitted in this Draught several Articles of the former Instructions which appeared to have become obsolete useless and unnecessary the several purposes for which they were formerly given having been sufficiently provided for by the Laws of the Colony Vizt. The 13th Article directing that the Election of Representatives shall be made by Freeholders only ; The 39th to the 48th both inclusive containing directions relative to the Habeas



Corpus ; the 49th for securing the Life, Limb and Property of the Subject ; The 50th for Restraining inhuman Severitys towards Servants and Slaves ; The 51st directing all Writs to be Issued in His Majestys Name ; The 52d concerning the Reparations of Prisons, the 95th directing Registers of Births and Burials to be kept and the 96th and 97th concerning the Militia ; That they have also Omitted the 107th Article relating to the Observance of the fifth and sixth Articles of the Treaty of Neutrality as useless and improper in time of War ; And that they have likewise omitted in this Draught the 74th Article of the former General Instructions whereby the Governor was Authorized to make Grants of Lands to the Westward of the great Ridge of Mountains, it having been found by Experience that the Settlements made in those parts on Lands which the Indians conceived to have been reserved to them for Hunting Grounds have been the Principal Cause of those Merciless Devastations, which have greatly distressed the Western Frontiers of this and other the Neighbouring Colonys. [pp. 217, 232, 310, 314, 324.]

[The same measures for continuing Governor Francis Bernard of Massachusetts Bay were taken on the same respective dates. The Board of Trade representation on his instructions showed that they had added words to Article 20 for discouraging manufactures and trades prejudicial to English interests ; omitted the former Art. 20 about the revision of the laws, and also several obsolete provisions regarding security of life, limb and property, severity towards servants and slaves, reparation of prisons, regulation of fees, registers of births and burials, the militia, storehouses for preserving arms and ammunition ; also the former Art. 48,] whereby the Governor was forbidden to give his Assent to any Act for Erecting a New Town or dividing an Old one without a Clause suspending the Execution of such an Act until the Royal Pleasure should be known upon it as improper to be continued, it being doubtful to them whether it may be consistent with the Constitution for the Crown to restrain by Instruction to

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Massachu-  
setts Bay.

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the Governor, the Exercise of those Powers which are Vested in the Legislature there by express Words in the Charter and by a Law confirmed so long since as the Year 1692 and acted under ever since. [pp. 217, 233, 310, 315, 324.]

Barbados. [The same measures for continuing Governor Charles Pinfold of Barbados were taken on the same respective dates. The only alterations in his instructions were the omission of several particulars now sufficiently provided for by the laws of the island—Articles 32, for the security of the life, limb and property of the subject : 33, requiring proof to be transmitted with criminals to this country : and 34–41 concerning the Habeas Corpus.] [pp. 216, 233, 310, 316, 325.]

Bermuda. [On the same respective dates Governor William Poppel, of Bermuda, was continued and his commission approved. His instructions were referred on 16 June, reported on 18 June, and approved on 25 June. The Board of Trade representation showed] That in the first Article of this Draught of General Instructions they have inserted the Names of Eleven Members of the Council, of which the ten first were appointed by his late Majesty, and the last named John Harvey Esquire was appointed by your Majesty in January last and so soon as they shall be Informed of the Name and Character of a Person well qualified to serve your Majesty in that Station, they will humbly recommend him to Your Majesty to compleat the number of the said Council—That [they have omitted Art. 18 directing a revision of the laws]; That they have omitted as useless and unnecessary the 29th Article of the former Instructions containing a Revocation of one formerly given to oblige all Vessels to enter and clear at Castle Harbour or St. George Harbour and have added some Words to the 30th Article of the present Draught in Order to render it Comprehensive and expressive of the whole intention of the two Articles of the former Instruction concerning the Entry and Clearance of Vessels. [Obsolete articles are also omitted relating to security of life, limb and property ; proofs to be transmitted with prisoners ; severity towards servants and

slaves; the issue of all writs in his Majesty's name. Two articles about the disposal of public lands are superseded by one which directs the execution of the additional instruction of June 1758 and reports thereon to the Treasury and the Board of Trade. The articles about the treaty of neutrality, and about assisting other plantations in distress, are also omitted :] the first being unusual and improper in time of War and the last appears to be useless as well on Account of the great distance from any other Colony as the Inability of the Bermuda Islands to comply with such direction.

[pp. 216, 233, 343, 346, 371.]

[The same measures were taken for continuing Governor Arthur Dobbs, of North Carolina, on the same respective dates as in the case of Governor Popple. The Board of Trade representation on his instructions showed] That in the first Article of the present Draught of General Instructions they have, in Obedience to Your Majestys Order in Council of the 30th of April last, inserted the Name of John Rutherford Esquire in his Place and Rank amongst the Members of Your Majestys Council, and they have left a Vacancy for James Murray Esquire, untill further Enquiry can be made into his past Conduct and Behaviour: and to the seven other Persons formerly appointed by His late Majesty they have added the name of John Sampson Esquire whom Your Majesty was pleased to appoint, and Alexander McCulloh and Henry Eustace McCulloh who have been recommended to them as Persons well qualified to serve Your Majesty in the Council of North Carolina.—[A direction is added to Art. 33 to discourage manufactures prejudicial to this kingdom]. That they have omitted the 13th Article of the former General Instructions, whereby the number of Representatives to be chosen by each County and Town in the Province was fixed and Declared, because several new Counties and Towns have since been erected, and old ones divided, of which Mr. Dobbs has not yet transmitted any such Account as might enable the said Lords Commissioners to know with Precision what is the present

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North  
Carolina.

number of Representatives or of Counties and Towns which are represented in the Assembly.—In lieu therefore of this Article, they have inserted some Words in the 12th Article of the present Draught, directing the Governor to issue Writs to the proper Officer in the several Counties, Towns or Districts which have been authorized by His late Majesty's Instructions, or are otherwise qualified to send Representatives to the General Assembly—That they have omitted as much of the 16th Article of the former Instructions as required the Governor to confirm by Charters of Incorporation, all the Rights and Priviledges deriv'd to certain Towns and Counties by certain Acts which were repealed by His late Majestys Order in Council of the 8th of April 1754, That Direction having, at the humble Request of the Assembly, been revoked by an Additional Instruction given by their Excellencys the Lords Justices in June 1755. [Other articles omitted related to the revision of the laws ; the establishment of courts of justice ; the speedy administration of justice ; Habeas Corpus ; security of life, limb and property ; proof to be transmitted with criminals ; qualification of jurors ; severity to servants and slaves ; grants of offices by the late proprietors, and the treaty of neutrality.] That in the 74th Article of the present Draught of General Instructions which relates to the Grants made in 1746 of one Million Two hundred Thousand Acres of Land to Murray Crimble and James Huey, and their Associates, in pursuance of His late Majestys Orders in Council of the 19th of May 1737, as the Term of Ten Years, limited for the Settlement of those Lands by the said Orders, and also the further Term of Three Years granted by His late Majestys Order in Council dated the 13th of October 1756, are now both expired ; They have inserted Words authorizing and requiring the Governor without further Delay to seize and take Possession in Your Majesty's Name and Right of all such Parts of the said Lands as shall not have been actually settled according to the Terms of the said Grants. [The Committee altered this last instruction so as to limit the

seizure of the escheated land to] all such parts and Tracts of the said Land as lye to the Southwards of the Earl of Granvilles South Boundary Line, and which shall not have been actually settled according to the Terms of the Grants.

[pp. 217, 232, 342, 350-3, 373.]

[The same measures for continuing Governor Benning Wentworth, of New Hampshire, were taken on the same respective dates. The Board of Trade representation on his instructions showed that] They have Arranged the several Articles of the present Draught of General Instructions in such Order, as that the several matters which have any relative Connection may be found together in proper Succession; making the whole Conformable as well in Expression as in Arrangement to the Instructions of late Years approved by his late Majesty and to those which they have prepared for the several Governors appointed by your Majesty.

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New  
Hampshire.

In the first Article of the present Draught, they have inserted the Names of Twelve Members of Your Majestys Council, of which the Nine first were appointed by his late Majesty and the three last named William Temple, John Nelson and Henry Apthorp Esquires have been recommended to them as Persons well qualified to serve your Majesty in that Station.

[Words are added to Art. 32 directing the discouragement of manufactures prejudicial to this kingdom, and other instructions are added, which have been given to governors of other colonies and are no less applicable to New Hampshire, viz. :—] The 14th and 15th Articles concerning the Priviledges claimed by Assembly Men. The 24th forbidding any partial Laws giving undue preference to the Natives and Inhabitants of the Province—The 25th relative to the Duties on Negroes and Felons—The 44th respecting Patent Officers and their Deputys—The 45th concerning officers appointed here by Patent or by your Majestys Sign Manual—The 48th directing that the Surveyors General of your Majestys Customs be Councillors extraordinary in the several Provinces within their respective Districts—The 57th regulating the Fees on the

1761.

Condemnation of Prize Ships and the 62d to the 69th Articles inclusive concerning Publick Worship, Churches, Benefices, Vestries, Orthodox Clergy, the Jurisdiction of the Bishop of London, School Masters and the Table of Marriages.

[Articles omitted related to security of life, limb and property ; the issue of all writs in his Majesty's name ; reparation of prisons ; and the treaty of neutrality ; also] The 19th and 21st for restraining the Emission of Paper, Bills of Credit, that matter being effectually provided for by the Act of Parliament passed in the 24th Year of his late Majestys Reign for restraining Paper Currencys in the four Colonies of New England—The 59th relative to a Commission formerly Issued for Authorizing the Bishop of London to exercise Ecclesiastical Jurisdiction in the Plantations, which Commission no longer exists—and the 85th concerning the Boundary between New Hampshire and the Massachusets Bay, which has long since been fully and finally determined.

[*pp.* 217, 232, 343, 349–50, 372.]

17 Mar. [George Thomas is continued Governor of the Leeward Islands. His commission is approved on 14 April. On 25 June a Board of Trade representation of 19 May with his instructions is referred to the Committee, on whose report of 29 June, the instructions are approved on 2 July. The Board of Trade represented that the only changes were as follows :—

Leeward  
Islands. James Brebner is added to the 11 councillors in Antigua : eleven are appointed in each of the other islands and the number will be completed when the Board of Trade are informed of suitable persons. Art. 24 about the rates of foreign coins in pursuance of the Act of 6 Anne, is reinserted, it having been omitted by mistake in Thomas's former instructions. Articles omitted related to a revision of the laws ; security of life, limb and property ; proofs to be sent with prisoners ; severity to servants and slaves ; reparation of prisons ; and the treaty of neutrality.]

[*pp.* 245, 278, 392, 417, 421, 630–1.]

1761.

[On a Board of Trade representation of 17 March, Thomas Boone is appointed Governor of South Carolina *vice* Thomas Pownall, resigned. His commission is approved on 14 April, and his instructions on 19 Oct., the Board of Trade having reported on 21 Sept. that the only changes are as follows :—] In the first Article of the present Draught of General Instructions We have inserted the Names of Ten Persons to be Members of your Majestys Council for this Province, of which the first seven were appointed of the said Council by His late Majesty, and the three last mentioned, have been lately appointed by your Majesty, and so soon as We shall be informed of the Names and Characters of proper Persons to compleat the Established number of the said Council We shall humbly recommend them to your Majesty.

20 Mar.

South  
Carolina.

[Words are added to Art. 28 directing the discouragement of manufactures prejudicial to this kingdom, and articles are omitted which dealt with a revision of the laws ; Habeas Corpus ; security of life, limb and property ; proofs to be sent with criminals ; qualifications of jurors ; and the treaty of neutrality.] [pp. 257, 278, 561–2.]

[On a Board of Trade representation of 17 March, Josiah Hardy is appointed to succeed Thomas Boone as Governor of New Jersey : his commission is approved on 14 April. On 16 June his instructions are referred to the Committee and on 18 June he takes the oaths ; on 25 June the instructions are approved, on the Committee report of 18 June. The only changes from the instructions given to Boone are the insertion of the names of twelve councillors, the addition of directions to discourage manufactures prejudicial to this kingdom, and the omission of articles about security of life, limb and property ; the transmission of proofs with criminals ; and severity to servants and slaves.] [pp. 258, 277, 343, 344, 348, 372.]

20 March.

New Jersey.

[On a Board of Trade representation of 17 March, Henry Ellis is appointed Governor of Nova Scotia *vice* Charles Lawrence, deceased : on 14 April, his commission is approved.]

Nova  
Scotia.

[pp. 258, 278.]

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1761.

25 Mar. [On a Board of Trade representation of 17 March, James Wright is appointed Governor of Georgia *vice* Georgia. Henry Ellis. His commission is approved on 14 April. His instructions are referred on 16 June, reported on 18 June, and approved on 25 June. The only changes are in the names of two councillors, Gray Elliot, lately appointed, and Clement Martin, now added to complete the number: the addition of the direction to discourage manufactures prejudicial to British trade; and the omission of the article requiring proofs to be transmitted with prisoners to this kingdom, which appears to be no longer necessary, as courts of justice are now fully established in Georgia.] [*pp.* 261, 277, 343, 353-4, 372.]

————— [On the same respective dates, like measures are taken for appointing Robert Monckton, Governor of New York *vice* Sir Charles Hardy, resigned. The following changes are made from Hardy's instructions:—Benjamin Pratt, the Chief Justice, is appointed to complete the number of 12 Councillors, New York. it being usual in the plantations to give the Chief Justice a seat at that Board: the clause forbidding assent to a temporary law for raising money for the support of government is omitted, permission to give such assent having been granted to Hardy in 1756 until a permanent revenue could be established: manufactures prejudicial to British trade are to be discouraged: the instruction to revise the laws in force and pass them into a new body is omitted, for the same reasons as in the case of Massachusetts Bay; articles whose purpose is sufficiently provided for by the laws of the province are omitted—for securing life, limb and property, for sending proofs with prisoners to England, for restraining inhuman severities towards servants and slaves, and for all writs to be issued in his Majesty's name: the article about the neutrality is also omitted, as usual in time of war.]

[*pp.* 261, 278, 343, 347-8, 371.]

25 June. [A commission for William Shirley as Governor of the Bahamas is approved: on the same day his instructions with a Board of Trade representation of 23 June are referred



1761.

to the Committee, on whose report of 29 June, they are approved on 2 July. The only change from the instructions of 1758 is in the names of the Councillors: only six are inserted, but others will be recommended when the Board of Trade are better informed: of the six, four are old members, and the addition of Charles Marshall and Isaac Cox is now recommended.] [pp. 376, 392, 417, 421, 630.]

Bahamas.

[445.] [On a Board of Trade representation of 17 Feb., the following Lieut.-Governors are continued; commissions are issued for their appointment on 10 March:—Francis Fauquier for Virginia; Thomas Hutchinson for Massachusetts Bay; and Benjamin Carpenter for Montserrat.]

27 Feb.  
Officials  
appointed.

On the same respective dates the following officials are continued and warrants issued therefor:—Charles Berry, Chief Justice of North Carolina; George Tucker, Secretary and Provost Marshal of Bermuda; Andrew Oliver, Secretary of Massachusetts Bay; George Clarke, Secretary of New York; Gilbert Ford, Attorney General of Jamaica; and Peyton Randolph, Attorney General of Virginia.] [pp. 217–20, 234–6.]

[On Board of Trade representations of 11 March, the following officials are continued:—] Gilbert Fleming, Lieut.-General of the Leeward Islands and Lieut.-Governor of St. Christopher; Lord Hawley, Lieut.-Governor of Antigua; Ralph Payne, Chief Justice of St. Christopher; Thomas Warner, Attorney General of the Leeward Islands; Henry Moore, Lieut.-Governor of Jamaica; William Bull, Lieut.-Governor, and David Graeme, Attorney General of South Carolina; William Grover, Chief Justice, William Clifton, Attorney General, and James Habersham, Secretary, of Georgia; Jonathan Belcher, Chief Justice of Nova Scotia; John Tabor Kemp, Attorney General of New York; Christopher Coates, Secretary, and Joseph Warrell, Attorney General of New Jersey; and William Burke, Secretary and Register of Guadeloupe. Commissions or warrants for all save Joseph Warrell were approved on 14 April.]

17 Mar.

[pp. 245–9, 279–84.]

1761.

25 Mar. [On Board of Trade representations of 17 March, Cadwallader Colden was appointed Lieut.-Governor, and Benjamin Pratt, Chief Justice, of New York, both *vice* James De Lancey, deceased; James Johnston, Lieut.-Governor of Nevis, *vice* Lancelot Storey, deceased; Jonathan Belcher, Lieut.-Governor of Nova Scotia, *vice* Robert Monckton; Thomas Cottle, Solicitor General of the Leeward Islands; Charles Skinner, Chief Justice of South Carolina, *vice* Peter Leigh, deceased; Thomas Falkner, Secretary and Clerk of the Crown in North Carolina, *vice* Henry McCulloh, deceased; Robert Jones, jun., Attorney General of North Carolina *vice* Thomas Child, resigned. Warrants or commissions were approved in each case on 14 April.] [pp. 261-4, 279-85.]

10 Mar. [446.] [On an Admiralty report of 21 Feb. on a reference Pension. of 3 Dec., 1760, a bounty of 200*l.* to be paid out of the head of "Wages," is allowed to Rachel, widow of Captain John Rous of H.M.S. *Sunderland*, a resolute, diligent and good officer, to enable her to return to America, of which she is a native, and where her friends live. A pension cannot be granted by the Admiralty, as her husband was not killed in the service, but she is entitled to one from the Charity for the Relief of Sea Officers' Widows.] [pp. 100, 231.]

17 Mar. [447.] [Reference to the Committee of the petition of Jamaica. Dr. John Burn, of Kingston, Jamaica, in right of his wife Anne, daughter and residuary legatee of Jacob Allin, of Westmoreland parish, deceased, for a day for hearing his appeal from an order of the Lieut.-Governor as Ordinary, 29 Nov., 1759, repealing the letters of administration of Allin's estate granted to the petitioner, and substituting a joint administration by him and Julia Cole, another daughter and residuary legatee of Allin.] [p. 248.]

(1762.) [On the Committee report of 6 April, the order was affirmed.

12 April. The appeal was heard *ex parte*, no appearance having been entered for the respondent.] [p. 360; II. pp. 172, 200.]

17 Mar. [448.] It is this day Ordered by His Majesty in Council Committee for Appeals. that the whole Privy Council or any three of them, Be, and

1761.

they are hereby appointed a Committee for the Affairs of Jersey and Guernsey, Hearing of Appeals from the Plantations, and other Matters that shall be Referred to them, And that they proceed to Hear and Examine such Causes as have been already Referred to Committees of the Council and Report the same with their opinion thereupon to His Majesty at this Board. [On the same date the Privy Council had been dissolved and a new one named and sworn.] [p. 252.]

[449.] [On a representation from the Board of Trade, Governor Boone is allowed to return to England and to remain there for twelve months for the settlement of his private affairs. A warrant containing his Majesty's licence is approved on 8 May.] 30 April.  
South  
Carolina. [pp. 309, 318.]

[450.] [Reference to the Committee of a letter of 23 May, 1760, from Samuel Swann, Speaker of the Assembly of North Carolina, to William Pitt, Secretary of State, with an address of the Assembly complaining of the maladministration of Governor Dobbs, and praying for speedy relief.] 30 April.  
North  
Carolina. [p. 310.]

[The Committee order copies of the letter and address to be sent to Governor Dobbs for his answer.] 5 May. [p. 314.]

[451.] [On the representation of the Admiralty that new commissions should be issued to Governors of plantations for trying pirates, as the present ones will shortly determine, the Advocate General and the Advocate of the Admiralty are ordered to prepare commissions in like manner with those of the late reign, leaving blanks for the names of the commissioners. The Board of Trade are directed to submit the names of persons fit to be appointed.] 8 May.  
Piracy. [pp. 317-8.]

[The Advocates are instructed to insert the names submitted by the Board of Trade,—in each case, the Governor, the Vice Admiral, Flag Officers and Commanders-in-chief of any squadron within the Admiralty jurisdiction of the plantation, the Lieut.-Governor and the Council, the Judge of the Vice Admiralty, captains and commanders of H.M. ships within the Admiralty jurisdiction of the colony, the Secretary, the 25 June.

1761.

Surveyors General of Customs in America, and the collectors of plantation duties under the Act of 1674. The Chief Judges of the civil courts are included with variations of title in each colony. The names of the existing Governor and Councillors are given in the Register, and in the Leeward Islands the Lieut.-Governor and Council of each island are included. In some cases the Treasurer or Receiver General of H.M. Revenue is added. A single commission serves for South Carolina, and Georgia, another for N. Carolina, Maryland, and Virginia; another for New York, New Jersey, Pennsylvania, and Connecticut; another for Massachusetts Bay, New Hampshire, and Rhode Island. The other commissions are for Jamaica, Barbados, Leeward Islands, Bahamas, Nova Scotia, Newfoundland, and Bermuda. The Newfoundland commission varies from the others as civil government had not been established. It is here quoted, and that for Nova Scotia is also given for purposes of comparison:—] Commissioners for Nova Scotia. Henry Ellis Esquire Captain General and Governor in Chief of Your Majestys Province of Nova Scotia or Acadia in America, and the Governor of Your Majesty's said Province for the time being—The Vice Admiral of the said Province for the time being—The Flag Officers and Commanders in Chief of such Squadron of Your Majestys Ships of War as shall happen to be within the Admiralty Jurisdiction for the time being—Jonathan Belcher Esquire Lieutenant Governor of the Province of Nova Scotia and the Lieutenant Governor of the said Province for the time being—Jonathan Belcher, Benjamin Green, Montagu Wilmot, John Collier, Robert Grant, Charles Morris, Thomas Bulkeley, Joseph Guerish, John Grant, Edmund Crawley and Henry Newton Esquires Members of Your Majesty's Council in the said Province, during their being of Your Majesty's said Council, and the Members of Your Majesty's Council in the said Province for the time being—The Chief Justice of the said Province for the time being—The Judge of the Vice Admiralty in the said Province for the time being—The

Captains and Commanders of Your Majestys Ships of War within the Admiralty Jurisdiction of the said Province for the time being—The Secretary of the said Province for the time being—The Surveyors General of Your Majestys Customs in America for the time being—The Collectors of Your Majestys Plantation Duties in America pursuant to An Act passed in the 25 of King Charles the 2d for the better securing the Plantation Trade for the time being—

Commissioners for Newfoundland—Thomas Graves Esquire Governor and Commander in Chief in and over Your Majesty's Island of Newfoundland and the Governor and Commander in Chief of the said Island for the time being—The Flag Officers and Commanders in Chief of such Squadrons of Your Majestys Ships of War as shall happen to be within the Admiralty Jurisdiction of the said Island for the time being—The Lieutenant Governor of the Fort and Garrison of Placentia for the time being—The Commodores, Captains, Commanders, Lieutenants and Masters of all Your Majestys Ships of War at or near the Coast of Newfoundland for the time being—All Captains, Lieutenants, Ensigns and other commission'd Officers in Your Majesty's Service in Newfoundland for the time being—The Masters of all British Ships at Newfoundland of the Burthen of Two hundred Tons and upwards for the time being. [pp. 377-87.]

[Eleven commissions for the trial of pirates presented by the Advocate General and the Advocate of the Admiralty, are approved.] (1762.)  
2 Jan. [II. p. 7.]

[452.] [On the Committee report of 18 June, agreeing with a Board of Trade representation referred to them on 16 June, two South Carolina Acts of 1759 are repealed. The titles are :—] 25 June.  
South Carolina.

An Act to supply the defects in Evidence, where original Wills cannot be produced, and to make the proceedings upon questions arising upon such Wills more easy and effectual, and for repealing so much of the Second Clause of an Act for making more effectual, last

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Wills and Testaments, as contradicts or repeals the Ninth Clause of the Act against Bastardy.

An Additional Act to An Act intituled An Act to ascertain the manner and form of Electing Members to represent the Inhabitants of this Province in the Commons House of Assembly, and to appoint who shall be deemed and adjudged capable of choosing or being chosen Members of the said House, passed the 21st of September in the Year of Our Lord 1721, and for repealing several Clauses in the said Act.

The Lords of the Committee this day took the said Representation and Acts into their Consideration, And do find, that the first mentioned Act is for establishing a method in regard to the Proof of Wills, concerning real Estates, which is not allowed of by the practice of the Courts of Law in England: The Acts of Parliament, and the practice of the Courts of Law have established a method for the Execution of such Wills, and for the proofs thereof, which has been done to prevent frauds and Injuries to Heirs at Law, and this Province has hitherto, as well as the other Provinces, proceeded in the same method. And altho' it might be convenient to have some way less tedious and expensive than is at present, to make Wills concerning real Estates to be Evidence in Courts of Law, yet as this Province has the same way of proving Wills concerning real Estates in Chancery (per Testes) and exemplifying the same, so as to make them Evidence, as is usually practised here, there should be no distinction for this Province, but the Laws should remain there as it is at present, agreeable to the Law and practice of England to prevent inconveniences that may arise by such alteration as is intended—Besides this Objection, this Act is liable to another of great weight For it repeals part of a just and reasonable Law passed in 1734, founded on the Act of the 29th of King Charles the Second, for preventing Frauds and perjuries, and against which no complaint, in the Course of so many Years has ever been made, And by such Repeal, restores and revives

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a Clause in an Act against Bastardy, whereby persons having legitimate and illegitimate Children, are restrained from making by their last Wills, any Provision for the illegitimate how considerable soever their Estates may be, further than to the amount of one hundred pounds Currency of that Province—That with respect to the last mentioned Act, their Lordships do find, that it repeals and alters several parts of the Act of 1721, to which it is called Additional, without good and sufficient reasons assign'd, and without the Clause of Suspension required in all such Cases by Your Majestys Instructions—It is relative to matters formerly provided for by An Act passed in 1747, which was disallowed by His late Majesty, and repeals that Act, as if still in force, although it has been annulled and declared void by His said Majesty's Order in Council dated so long since as the 31st of October, 1751.

[pp. 344, 355-6, 373.]

[453.] [On the Committee report of 18 June, agreeing with a Board of Trade representation referred to them on 16 June, a Georgia Act of April, 1760, to enable Femmes Couvertes to convey their estates and for confirming and making valid all conveyances and acknowledgements heretofore made by Femmes Couvertes, is repealed. The Committee reported] that this Act is exceptionable, in as much as it enacts, that a Femme Couverte, consenting to part with her right, by becoming a party with her Husband in the Sale of any Lands, shall sign and Seal an acknowledgement of such Consent before the Chief Justice, or his Assistant Judges, or one of your Majestys Justices of the Peace in the Parish where such Contracts shall be made—The practice of this Kingdom requires that such acknowledgement be made after private examination before one of your Majestys Judges, and as there are in Georgia a Chief Justice and assistant Judges, and as the Settlements of that Province are not extended to any great distance from the Seat of Government, it is unnecessary and inexpedient to permit a departure from the practice of the Mother Country, which would transfer a matter of so

25 June.  
Georgia.

1761.

much Importance to the Security of the Femme Couverte, into the hands of a Provincial Justice of the Peace.

[*pp.* 343, 354, 374.]

25 June. [454.] [Reference to the Committee, and by them on  
Jamaica. 29 June to the Board of Trade, of a petition of the Jamaica planters residing in Great Britain,] complaining of an Act passed in the said Island of Jamaica in the last Session of Assembly held there to oblige the Inhabitants to provide themselves with a sufficient number of White People in proportion to their Negroes and Cattle or pay certain Sums of Money in Case they shall be deficient and for applying the same to several Uses—By which Act the Taxes imposed on the Petitioners are twice as much as on the Residents and the Petitioners Agents in Jamaica have been compelled by the said Act to pay the same. [*pp.* 394, 417.]

(1764.) [The Committee order a copy of the Board of Trade report  
7 Mar. to be sent to the Governor.] [III. *p.* 276.]

25 June. [455.] [Reference to the Committee of the petition of  
Jamaica. Frances Perrin, widow, sole acting executrix in England of William Perrin of Jamaica, deceased, that the Council dismiss without costs her husband's appeal from a Chancery order of 14 Feb., 1757, discharging a former order which dismissed for non-prosecution a bill exhibited against him by Theophilact Blechynden and Florence, his wife. In this entry a blank is left for the date of the Chancery order: it is supplied from the Committee report.] [*p.* 395.]

2 July. [On the Committee report of 29 June, the appeal is  
dismissed without costs.] [*pp.* 420, 427.]

2 July. [456.] [On the Committee report of 29 June on a Board of  
Georgia. Trade representation of 23 June, referred to them on 25 June, a Georgia Act of Nov., 1759—for establishing and confirming the titles of the several inhabitants of this province to their respective lands and tenements—is repealed. The Committee find] that although this Act in its Title and Provisions effects to be of General Extent and operation, in all Cases of Titles



to Lands throughout the whole Province, yet the avowed Object of it is to secure to certain persons the property of Lands near the Town of Savannah, of which they are possessed in Virtue of Grants from the late Trustees, but the property of which Lands is also claimed by other Persons, as part of a Barrony purchased of the Lords Proprietors of South Carolina, long before the date of the Charter for the establishment of Georgia—In order to attain this end, the Act provides that all persons possessed of Lands, as well under Grants from the late Trustees, as under Grants from the Crown, since the surrender of the Charter, shall be established in that Possession, and those Grants are ratified and confirmed against all manner of persons claiming any Estate or Interest therein, under the late Lord Proprietors of Carolina, or by, or under, any former Grants before the date of the Charter, any Act, Law, or Statute to the contrary notwithstanding—The motives assigned by the late Governor (by whom the Lords Commissioners for Trade and Plantations had been attended upon this occasion) for passing this Act, are the great hardship and injustice which the possessors of those Lands would have been subjected to in particular, and the discouragement it would have been to settlement in general, if persons claiming those Lands under a Grant from the Lords Proprietors, were permitted to harrass and distress by vexatious Suits and Litigations, those who had settled upon them under the faith of the Charter, and had been at great labour and expence in Cultivation and Improvement. In answer to this reasoning it has been alledged by the Sollicitor for the Claimants under the purchase from the Lords Proprietors that this purchase made by them of the Barrony, of which these Lands are part, was of considerable amount, that it was legally and fairly made, and their Rights secured to them by the reservations of the Act of Parliament which was passed for vesting the property of Carolina in the Crown, in consequence of the purchase made of the Lords Proprietors, and that they have constantly and uniformly given due Notice, and made repeated Entries of the Claims

as far as the defective and incomplete State of the Offices of Record in Georgia would admit, and therefore they represent this Act as arbitrary, unjust and irregular—Upon the whole the Lords of the Committee are humbly of opinion, that as on the one hand it is just and expedient that persons who have been long in possession of Lands in America which they have cultivated and improved with great labour and expence, should be protected against the Vexatious Suits and Litigations of those who may claim a Right to the said Lands under Ancient uncertain titles without having settled or cultivated them which has so manifest an operation to the prejudice of the publick Interests, so on the other hand, the Committee cannot but be of Opinion that the determining upon a question of this nature by a partial Act of Legislature without any hearing of Partys or any of those Regulations and Exceptions which justice and Policy has prescribed in all general Laws for quieting possessions, is arbitrary, irregular and unjust, and Subversive of those established Principles of the Constitution by which disputes and questions in all matters of Private property and private Claims are referred to the decision of the Courts of Law. For these reasons therefore, and for as much as this Law although of an extraordinary nature, affecting private property, has nevertheless been passed without a Clause suspending its Execution until Your Majestys could have been known; And as the Sollicitor for the Claimants under the Grant from the Lords Proprietors have declared with great moderation, that admitting their right to be good, it is not their intention to dispossess the present Occupants, and that they are ready and willing to enter into an accommodation with them upon such terms as shall be thought just and reasonable, by which means the apprehensions of the present possessors, of being turned off the Lands which the Governor represents to have been the Motive for passing the Act will be removed—[The Committee report that the act should be repealed.]

[pp. 393, 414-6, 422.]

1761.

[457.] [On the Committee report of 29 June, agreeing with a Board of Trade representation of 23 June referred to them on 25 June, two Nova Scotia Acts of March, 1760—one to prevent any private trade or commerce with the Indians; and the other for continuing this Act—are repealed. The Committee find] that by the first mentioned Act all Private Traders in the Province, however unexceptionable or substantial are excluded from the advantage of the Indian Trade, which is the Object of this Act to convert into a Monopoly, to be carried on with the publick money, by such persons only, as shall be licensed by the Governor, who is impowered to grant or withhold such Licence by no other rule than his Discretion, that this Act was transmitted in March last, and as this plan of Trade with the Indians, could not but appear extremely exceptionable, as being inconsistent with the Principles of Commerce, and the freedom which your Majestys Subjects ought to enjoy therein, and introductory of an heavy expence to the publick, the Act would for those reasons have been immediately laid before your Majesty for your Royal disallowance, but as it appeared that it would expire in May next, and that a Trade having already been opened, at some expence under the authority of it, much loss and confusion might arise, from the immediate repeal thereof, it was thought at that time, more expedient to communicate the said Objections to your Majesty's Lieutenant Governor of the Province, to direct him to put a speedy end to all proceedings under that Act, and to mark out to him a better plan for regulating the Indian Trade. But the last mentioned Act having been lately transmitted, whereby the former is made perpetual—[The Committee report that the acts should be repealed.]

[pp. 393, 416, 424.]

[458.] [An appearance for John McAnuff to the appeal of Richard Bradburne from Jamaica, is entered by Mr. Anthony Pye.]

22 July.  
Jamaica.

[p. 443.]

[Reference to the Committee of McAnuff's petition that Bradburne's appeal from a Chancery decree of 17 Feb., 1761,

(1762.)  
28 May.

1761. dismissing his bill against McAnuff for delivery of John Cross's estates, be dismissed with costs for non-prosecution.] [II. p. 246.]
- (1762.) [On the Committee report of 15 July, the appeal is dismissed  
3 Aug. without costs.] [II. pp. 300, 324.]
- 12 Oct. [459.] [Reference to the Committee of the petition of John  
Barbados. Stone, Esq., of Barbados, and Margaret, his wife, widow of George Ball, who was a qualified executor of Joseph Ball, for a day for hearing their appeal from a Chancery order of 6 May, 1760, overruling a demurrer to a bill filed against them by Joseph Maynard, gent., and Elizabeth, his wife, daughter of Joseph Ball, for payment of a legacy and annuities.] [pp. 558, 568.]
- (1762.) [Reference to the Committee of Jonas Maynard's petition  
15 Feb. for leave to withdraw his appeal from a Chancery order of 17 May, 1759, allowing a plea put in by John and Margaret Stone, as he is advised that his bill was improperly drawn. Joseph Ball's widow Mary afterwards married Jonas Maynard, and is now dead. John Lyte is named as another executor of Joseph Ball.] [II. p. 75.]
- 5 April. [On the Committee report of 16 March, Jonas Maynard's appeal is dismissed without costs.] [II. pp. 120, 170.]
- 12 April. [On the Committee report of 6 April, Stone's appeal is dismissed with 150*l. stg.* costs.] [II. pp. 153, 175, 201.]
- 17 Nov. [460.] [Reference to the Committee of a Board of Trade  
New York. representation of 11 Nov.] upon several Letters and Papers received from the Lieutenant Governor of New York in America relating to certain Measures of Government there, but more particularly to the Granting Lands and making Settlements upon the Mohawk River and in the Country adjacent to Lake George and also to a proposition made to the Lieutenant Governor by the Council to grant Commissions to the Judges during good behaviour. [p. 577.]
- 23 Nov. [Order for preparing instructions in accordance with the Committee report of 21 Nov. agreeing with the Board of Trade

whose representation set forth] That they have had under their Consideration several Letters and Papers which they have received from Cadwallader Colden Esquire Lieutenant Governor and late Commander in Chief of Your Majestys Province of New York in America and as those Letters and Papers have reference to certain Measures of Government there which have either been acted upon or become the Subject matter of Discussion, and which appear materially to affect your Majestys Service and the Interest and Welfare not only of that Province but of all other Your Majestys Colonies and Plantations in America, they thought it their indispensable Duty to lay the same before your Majesty with such Observations as have occurred to them thereupon.— That the Material Points to which those Papers refer and to which the said Lords Commissioners confine their Observations, are

1st. The measures which the Lieutenant Governor and Council have Entered upon for Granting Lands and making Settlements upon the Mohawk River, and in the Country adjacent to Lake George.

2ndly. The Proposition made to the Lieutenant Governor by the Council to Grant Commissions to the Judges during good behaviour, the Limation of which Commissions is, by your Majestys Instructions to all Your Governors in America to be during Pleasure only.

That the said Lords Commissioners shall not upon this Occasion, take upon them to controvert the general Principles of Policy upon which either one or other of these general Propositions is founded, but however expedient and Constitutional they may appear in the Abstract View and Consideration of them, Yet, they apprehend, that when they come to be applied to the present State of Your Majestys Colonies, they will appear in a very different Light and be found, the one to be dangerous to their Security, and the other destructive to the Interests of People and Subversive of that Policy by which alone Colonies can be kept in a just dependance upon the Government of the Mother Country.

1761.

That this is the general Light in which they see these Measures, but as they are in their Nature separate and distinct, so they will as the said Lords Commissioners apprehend require a separate and distinct Consideration and therefore they humbly offer to Your Majesty what has occurred to them upon each in the Order in which they have placed them.—That it is unnecessary as it would be tedious, to enter into a Detail of all the Causes of Complaint which our Indian Allies had against Us at the Commencement of the troubles in America, and which not only induced them, though reluctantly to take up the Hatchet against Us and desolate the Settlement on the Frontiers, but encouraged our Enemies to pursue those Measures which have involved Us in a dangerous and critical War, it will be sufficient for the present purpose to Observe that the Primary Cause of that discontent which produced these fatal Effects was the Cruelty and Injustice with which they had been treated with respect to their Hunting Grounds in open Violation of those Solemn Compacts by which they had yielded to Us the Dominion, but not the property of those Lands ; It was happy for Us that We were early awakened to a proper sense of the Injustice and bad Policy of such a Conduct towards the Indians, and no sooner were those Measures pursued which indicated a Disposition to do them all possible Justice upon this Head of Complaint than those Hostilities, which had produced such horrid Scenes of Devastation, ceased and the Six Nations and their dependants became at once from the most inveterate Enemies our fast and faithful Friends.

That their Steady and intrepid Conduct upon the Expedition under General Amherst for the Reduction of Canada, is a striking Example of this truth and they now trusting to Our good Faith, impatiently wait for that Event, which by putting an End to the War, shall not only ascertain the British Empire in America, but enable your Majesty to renew those Compacts by which their property in their Lands shall be Ascertained and such a System of Reformation

introduced with respect to our Interests and Commerce with them, as shall, at the same time that it Redresses their Complaints and establishes their Rights give equal Security and Stability to the Rights and Interests of all your Majestys American Subjects.

That under these Circumstances and in this Situation the Granting Lands hitherto unsettled and establishing Colonies upon the Frontiers before the Claims of the Indians are ascertained appears to be a Measure of the most dangerous tendency and is more particularly so in the present Case as these Settlements now proposed to be made especially those upon the Mohawk River are in that part of the Country of the Possession of which the Indians are the most jealous having at different times expressed in the strongest Terms their Resolution to oppose all Settlements thereon as a manifest Violation of their Rights.

That the Principles of Policy which the said Lords Commissioners have laid down, are, they apprehend in their Nature so clear and Uncontrovertable, that it is almost unnecessary to add any thing further to induce your Majesty to give immediate Orders for putting a Stop to all Settlements upon the Mohawk River and about Lake George until the Event of the War is determined and such Measures taken thereupon with respect to Our Indian Allies as shall be thought expedient and yet it may be proper to Observe that independant of what regards our Connection with the Indians the Conduct of those who have in former times been intrusted with the Administration of the Government of New York, has, in Reference to Granting of Lands in General been very exceptionable and has held forth a very bad example to their Successors.

That the exorbitant Grants of Lands which Governors and others have heretofore made, greatly to the benefit of themselves, but very much to the prejudice of the Interests of the Crown and of the People in general have long been the Subject of great Complaint; And the said Lords

Commissioners cannot but think, that the Lieutenant Governor and the Council would have shewn a greater regard to your Majestys Interest and the Welfare of the Province in General by a pursuit of such Measures as might have operated to Correct those Abuses and remedy the Evils arising from so improper a Conduct in their Predecessors in Government than by Entering upon Measures for making fresh Grants and Settlements which they have great reason to apprehend from Information, which may be depended upon are more for the benefit of themselves and their Families than for the Subject in General and therefore they Submit to your Majesty whether this may not be an Additional reason why speedy and positive Orders should be given for putting a Stop to Measures which appear in every light so destructive of Your Majestys Interests and the general Welfare and Security of the Colony.

That with respect to the other Point relative to the granting the Judges Commissions during good behaviour, it will be less necessary to detain Your Majesty long upon this Question as it has been already so Solemnly determined in the Case of a Law some time since passed in Jamaica and one lately in the Proprietary Government of Pensilvania for Establishing such a Constitution.

That the Principles laid down in the Attorney and Solicitor General's Report upon the Jamaica Law and that of the said Lords Commissioners Predecessors in Office upon the Act passed in Pensilvania are so clear and explicit that it is almost unnecessary to add any thing thereto, But as the People of New York appear, from the Lieutenant Governors Letter, to be so strenuous upon this Point, alledging the Precedent and Example of the Mother Country the said Lords Commissioners Observe that the Cases are in no Degree Similar.

That the Change which the Tenure of the Judges Commissions underwent at the Revolution in this Kingdom was founded upon the most conclusive and repeated Proofs of Arbitrary and illegal Interposition under the Influence of the



Crown upon Points of the greatest Importance to the Constitution and the Liberty and Rights of the Subject: It was not however by the Tenure of their Commissions alone that they were rendered Independent, but such Salaries were Settled upon them, as not only rendered them less liable to be Corrupted, but was an Encouragement for the ablest Men to engage in that Profession which qualified them for such high Trusts.

That the same Circumstance does in no Degree exist in the American Colonies where, as there is no certain Established Allowance that may encourage Men of Learning and Ability to undertake such Offices, Your Majestys Governors are frequently obliged to appoint such as offer from amongst the Inhabitants however Unqualified to sustain the Character, and though a more fit Person should afterwards be found, yet if the Commission was during good behaviour, such Unqualified Person could not be displaced.

That late Years have produced but too many Examples of Governors having been Obligated for want of such an Establishment as might induce able Persons to offer their Service to confer the Office upon those who have accepted it merely with a View to make it Subservient to their own Private Interests and who added to their Ignorance of the Law have too frequently become the Partizans of a factious Assembly, upon whom they have been dependant for their support and who have withheld or enlarged that support according as the Conduct of the Judges was more or less favourable to their Interests.

That it is difficult to conceive a State of Government more dangerous to the Rights and Liberties of the Subject, but aggravated as the Evil would be by making the Judges Commissions during good behaviour without Rendering them at the same time Independent of the Factious Will and Caprice of an Assembly The said Lords Commissioners cannot but consider the Proposition as Subversive of all true Policy, destructive to the Interests of Your Majestys Subjects and

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tending to Lessen that just dependance which the Colonies ought to have upon the Government of the Mother Country.

That this was in a great Degree the Opinion of the Lieutenant Governor himself as will evidently appear from a Letter to the said Lords Commissioners of the 2d of June last, in which he acquainted them with his having rejected a Bill passed by the Assembly for this purpose and urges as a reason, that there was no fixed Salary to the Judges, that it was dependant from Year to Year on the Pleasure of the Assembly and that while they were thus dependant upon the People for their Subsistance such a Measure might be highly prejudicial to the just Right of the Crown and the Acts of Trade ; That these were then the sentiments of the Lieutenant Governor and though the said Lords Commissioners are at a loss to guess at the Motive which could have induced him to declare, as he does in his Letter to them of the 12th of August following, that he apprehended he should be under a Necessity of giving way to the Proposition, Yet they cannot but be of Opinion, that if under these Circumstances he should have complied with so pernicious a proposition he would justly have deserved Your Majestys Royal Displeasure.

[The Board of Trade were directed to prepare instructions accordingly for all the colonies to which the respective orders were applicable.] [pp. 581-5, 587.]

3 Dec. [On the Board of Trade report of 2 Dec., two drafts of instructions are approved,] The one for the Governors of such of His Majestys Colonys upon the Continent of North America as are under His Majestys immediate Government and where the property of the Soil is in his Majesty forbidding them to pass Grants of or Encourage Settlements upon any Lands within the said Colonies which may interfere with the Indians bordering thereon ; And the other for the Governors of His Majestys American Islands and for the Governors of those Colonies on the Continent of America which are under His Majestys immediate Government containing directions with respect to the Tenure of the Commissions to be by them

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granted to the Chief Judges and Justices of the Courts of Judicature in the said Colonies. [p. 604.]

[461.] His Majesty in Council was this day pleased to appoint all the Lords and others of His Majestys most Honourable Privy Council, The Chief Baron of His Majestys Court of Exchequer, the Justices of His Majestys Courts of King's Bench and Common Pleas and the Barons of the Court of Exchequer now and for the time being or any three of them to be Commissioners for receiving Hearing and Determining of Appeals from any Sentences already made or that shall hereafter be made in the Cases of Prizes either in the Courts of Admiralty of Great Britain or Ireland or in the Plantations in America or any other His Majestys Dominions abroad.— [A warrant for passing a commission for this purpose was ordered to be prepared.] [p. 585.]

23 Nov.  
Appeals  
relating to  
prizes.

[Letter from W. Sharpe, Clerk of the Council, to Samuel Martin, Secretary to the Treasury, that the Lords of the Treasury may direct their solicitor to pass the new commission through the several offices with despatch as the time for renewing commissions will expire about the end of next month.]

31 Dec.

A copy of the commission is given in the Register with a marginal note, “ Mem. on the 13th of June 1765 The original Commission was delivered to Nathaniel Bishop Esq. Deputy Register of the Court of Appeals in order to be deposited in the Registry.”] [pp. 626-9.]

[462.] [Reference to the Committee of the petition of Lawrence Hearn, late master of the snow *Industry*, 115 tons, owned by Martin Murphy and Richard Gaul, of Waterford, merchants, for leave to appeal from a sentence of the Vice Admiralty Court at St. Johns, Newfoundland, 28 July, 1760, on an information by James Webb, commander of H.M.S. *Antelope* against the *Industry*, for importing contraband goods into Harbour Grace.] [p. 590.]

23 Nov.  
Newfound-  
land.

502 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1761.  
 (1762.) [On the Committee report of 16 March, the appeal is  
 5 April. admitted. Security is given on 22 Sept. by James Dormer  
 and James Fanning, merchants, of Copthall Court, London.]  
 [II. pp. 120, 169.]
- (1763.) [On the Committee report of 15 Dec., the appeal is dismissed.  
 21 Dec. Hearn alleged that the *Industry* carried beef, pork and other  
 provisions from Waterford, and was seized at Harbour Grace  
 by William Brown, lieutenant of the *Antelope*, for carrying  
 some boxes of candles, about two hundredweight, which,  
 Hearn alledged, were part of the stores for the use of the  
 master and crew. Webb being dead, the respondents are his  
 executors, Henry Gapper and James Young.]  
 [II. pp. 399, 401, 468 ; III. pp. 176-7, 193.]
- 23 Nov. [463.] [Reference to the Committee of the petition of  
 Rhode Joseph Wanton, of Newport, R.I., that the Council dismiss  
 Island. with costs for non-prosecution the appeal of Peter Simons  
 from a sentence of the Superior Court in March, 1758, affirming  
 a judgment of the Inferior Court in Nov., 1757, on his action  
 against Simons to recover 6,542*l.* 13*s.* 4*d.* old tenor of Rhode  
 Island.] [p. 590.]
- (1762.) [On the Committee report of 6 April, the appeal is  
 12 April. dismissed with 20*l.* *stg.* costs.] [II. pp. 175, 201.]
- 3 Dec. [464.] [Reference to the Committee of the petition of  
 Antigua. Peter Prudden, late commander of the sloop *Beckey* in behalf  
 of the owners thereof, for a day for hearing his appeal from  
 the condemnation of the sloop with sundry boards and planks  
 in the Vice Admiralty Court of Antigua, 17 Nov., 1759, on a  
 libel exhibited by John Halliday, collector of customs for the  
 port of St. John.] [p. 606.]
- 14 Dec. [465.] [Orders for disallowing 3 North Carolina Acts of  
 North May, 1760, and for reprimanding the Governor, are given in  
 Carolina. accordance with the Committee report of 10 Dec., agreeing  
 with a Board of Trade representation referred to them on  
 3 Dec. :—]An Act for Establishing Superior Courts of Pleas  
 and Grand Sessions and Regulating the Proceedings therein.

An Act to Establish Inferior Courts of Pleas and Quarter Sessions in the several Counties in this Province.

An Act for the better Care of Orphans and Security and Management of their Estates.

[The Board of Trade represented :—]

That by these Acts the Courts of Judicature Constituted and the Regulation made for the Administration of Justice in this Province by certain Laws Enacted there in the Years 1754 and 1755 (which Laws were Repealed by His late Majesty) are re-established with some Alterations and Additions in respect to the Qualifications of the Judges of the Superior Court the Duration of their Commissions and the Jurisdiction of the Inferior and County Courts.

That the first of these Laws divides the Province into five Districts and Appoints Courts to be held in each of them at Stated times, by the Chief Justice and three Associate Judges to whom full Jurisdiction is given in all Civil Actions Real Personal and mixed where the value of the Action exceeds 10*l.* 0*s.* 0*d.* and also in all Cases of a Criminal Nature respecting Treason, Felony, Breaches of the Peace and other Crimes.

That the Second Act Establishes inferior Courts of Pleas or Quarter Sessions in each County composed of the Justices of the County to whom Jurisdiction is given in all Causes at Common Law, where the Cause of Action is above Forty Shillings and does not exceed Fifty Pounds and in all Cases of Petty Larceny, Assaults, Batteries, Trespasses and Breaches of the Peace, and of filial Portions, Legacies and Distribution of Intestates Estates for any Sum whatever.

That the General System of Judicature Established by these Laws is not only Regular and Uniform in itself, but is also Consonant to the Principles and Constitution of the Mother Country, the Laws and Usage of other Colonies and properly adapted to the Situation and Circumstances of that Province, for by the Establishment of the Superior Court the Inhabitants who Live Scattered Wide extended Settlements, will have justice brought to their own Doors and by the

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Establishment of the Inferior County Courts will be freed from the Inconvenience of going through a tedious uncertain and expensive Process of Law upon every trivial Dispute.

That as to the Rules of Proceeding in the several Courts Established by these Acts, the Propriety of them depends upon Questions of Law of which the said Lords Commissioners are not Competent Judges, but as Sir Mathew Lamb One of Your Majestys Counsel at Law, to whom the said Acts have been referred has made no Objection thereto, The said Lords Commissioners presume they are Consonant and agreeable to the Rules of Proceeding in like Cases in the Courts here.

That in this General View and Consideration of these Laws they do not appear to the said Lords Commissioners liable to objection and when they consider of how great Importance they are to the Welfare and Interests of the Province in General, to the Liberties and Properties of its Inhabitants and other Your Majestys Subjects Trading to it, the said Lords Commissioners cannot but lament that the said Laws should in some particular Provisions be so exceptionable that they are Compelled in Duty to your Majesty, to lay them before you, for your Royal Disapprobation.

That the Points in which these Laws appear exceptionable are

1st. In what regards the Qualification of the Associate Judges of the Supreme Court and the Duration of their Commissions.

2dly. The Jurisdiction and Power given to the Inferior or County Courts in particular Cases.

For it is Enacted by the first of these Laws, That no Person shall be appointed a Justice or Judge of the Supreme Court, who shall not have been regularly called to the Degree of Outer Barrister in some one of the Inns of Court in England, and is not of five Years standing there, or shall not have Practised the Law in the Principal Courts of Judicature of that or some adjacent Province ; And it is further Enacted, That they shall hold their Offices Quam diu se bene gesserint

and by the Second and Third of these Laws it is Declared, That the Justices who Compose the County Courts shall not only have Jurisdiction in all Civil Actions to the extent of Fifty Pounds, but shall also have Concurrent Jurisdiction with the Supreme Court in all Cases of filial Portions, Legacies, Distribution of Intestates Estates, Guardianship and Care of Orphans and their Estates without any Limitation at all.

That the Consequence and Effect of that Clause in the first Act, which ascertains the Qualification of the Judges, is so Obvious and Apparent, that it is almost unnecessary to Observe upon it, further than that it will not only necessarily operate to preclude Your Majesty in the Appointment of any Person from hence to be an Associate Judge in that Province, but is also an Unconstitutional Restraint upon the Power of appointing Judges which your Majesty has thought fit to delegate to your Governor under the Great Seal; And the said Lords Commissioners Observe that Mr. Dobbs does assert in a Letter to the Board of Trade, That this Clause was framed with a View to compel him to appoint three Particular Persons to whom the Qualification was peculiarly adapted.

That as to the Clause by which the Associate Judges are to hold their Offices *quam diu se bene gesserint*, The said Lords Commissioners have so lately had an Occasion to lay their Sentiments before your Majesty upon that Point, That they shall only add, That the Irregularity of such a Constitution is the more striking in this Particular Case, as the Chief Justice appointed by your Majesty and who is to preside in the Supreme Court, holds his Office by Your Majestys Appointment during Pleasure only.

That with respect to those parts of the Second and Third of these Acts, which Ascertain the Jurisdiction of the Inferior or County Courts, the said Lords Commissioners have already set forth the Nature and Extent of this Jurisdiction, and they humbly apprehend, that the bare State of the fact sufficiently marks out the Impropriety of this Regulation; For by these Laws, Actions to the Amount of 50*l.* Value (greatly beyond

1761.

what is allowed in most, if not all other Colonies) are made Cognizable in the Inferior Courts, which are Causes, as they apprehend, of too great Consequence and Importance to be adjudged and determined in those Courts Considering what must be the Qualification and Abilities of those who Compose them, but there is still greater Absurdity in restraining the Jurisdiction of these Courts in Common Actions at Law, to a limited Value and giving them an Unlimited Jurisdiction in other Causes of a more Important and delicate Concern, which is upon the face of it, altogether inconsistent with reason and Justice and they further add, that their having a concurrent Jurisdiction in these Matters with the Superior Court, must, in their Opinion necessarily introduce such Confusion as cannot fail of Operating to the Obstruction of Justice, and the prejudice of Private property.

[The Board of Trade recommended the repeal of the Acts,] trusting that when the Repeal shall have been promulged, the Legislature of the Province of North Carolina will in Dutifull Obedience to your Majesty and from a just regard to Your Majestys Rights and the Interest and Welfare of their Constituents make speedy Provision for the Re-establishment of these Courts of Justice by Laws which shall not be liable to the Particular Objections above Stated.

And the said Lords Commissioners having further Represented the Particular Conduct of your Majestys Governor of North Carolina in the passing these Laws, and that if Governors of Your Majestys Colonies are suffered to go on in such Repeated Acts of Disobedience to your Majestys Instructions upon Points so Essential to the Constitution, The Dependance of those Colonies upon the Authority of the Crown and the Just Government of the Mother Country, already too much relaxed, will stand upon a very precarious foot— [proposed that his Majesty's displeasure be signified to the Governor with orders to adhere more strictly to his instructions.]

[pp. 606, 611-4, 616.]



GEORGE III. VOL. II. (1 Jan., 1762—30 April, 1763.)

[466.] [Order for transmitting to the governors of planta- 2 Feb.  
tions copies of the commissions and instructions given to Privateers.  
privateers in view of the war with Spain, declared on 2 Jan.]

[pp. 1-4, 32.]

[467.] [An embargo is laid for six weeks on all ships in 5 Feb.  
the ports of Great Britain and Ireland laden with provisions, Embargo.  
except those intended for his Majesty's service.] But it is  
his Majestys Pleasure that the said Embargo do not extend  
to any Ships or Vessels employed in carrying Provisions to  
his Majestys Colonies Islands and Plantations in America ;  
Provided that the owners of such Ships and Vessels do engage  
that they shall proceed under Convoy of one of his Majestys  
Ships to his Colonies and shall not desert their said Convoys  
on their Voyage, and give security to the proper Officers of  
the Customs for performance of the said Conditions, and that  
they be likewise obliged to produce Certificates of their having  
delivered their Cargoes at the Places for which they shall be  
Entered before their Securitys be delivered up. [p. 39.]

[Orders for continuing the embargo for a month were given  
on 11 March and 12 April ; on 14 May it was continued till  
30 June, on 19 June till 11 Aug., on 3 Aug. till 30 Sept., on  
17 Sept. till 12 Nov., and on 3 Nov. till 24 Dec. On 10 Nov.  
the embargo was taken off.]

[pp. 111, 197, 231, 262, 324, 367, 396, 404.]

[The embargo was taken off in particular cases as follows :—18 Feb., six  
ships are allowed to carry beer, spirits and other liquors from Bristol to  
America and the coast of Africa : on 18 March, the *Hanson* frigate, John  
Walker, London to Guadaloupe, and the *Royal Duke*, Michael Tovey, and  
*St. James*, Malachi Foot, Cork to West Indies ; the South Carolina and  
Georgia merchants are also allowed to re-export their rice to Holland,  
Germany and the Baltic on the usual security, and this is extended on  
24 Sept. to Norway, Sweden and Denmark : on 2 April, the *Hawke*, Charles  
Wilson, London to Guadaloupe and Martinique, and the *Lyon*, John  
Bastard, Plymouth to Guadaloupe ; the Bristol merchants engaged in the  
slave trade are also allowed to ship beans, pease and grain for the sustenance  
of the negroes : on 20 April, the *Bristolington*, Edward May, Bristol to  
Martinique and Guadaloupe with wine, beer, etc., and the *Hertford* and

*Susanna*, Bristol to Jamaica with bread and pease : on 27 April, the *Hawke* and the *Charlotte*, both captains named Campbell, Glasgow to Martinique and Jamaica with herrings ; the Bristol merchants engaged in the Newfoundland fishery are also allowed to ship provisions at Bristol and in Ireland : on 30 April, the *Julius Cæsar*, Israel Allan, Bristol to Guadaloupe and Martinique : on 6 May, the *Olfiston*, John Smith, Bristol to Barbados : on 19 May, the *Lord Anson*, Robert Woolcombe, London to Quebec with pease and flour, and the *Mary*, William Axford, Cowes to Martinique : on 24 May, the *Jonas and Mary*, Jonas Suken, London to St Croix in America, with beans, oats and flour : on 8 June, the *Sea Nymph*, Charles Mackay, Portsmouth to Martinique with fish, etc. : on 21 June, the *Boscawen*, David Jenkins, the Thames to Quebec with flour : on 24 June, the *Catherine*, Thomas Leathes, Cork to Nova Scotia : on 25 June, the *Scorpion*, John Beart, the Thames to Guernsey and Guadaloupe with flour : on 29 June, the *Tyravly*, Edward Cotton, the Thames to Nevis with oats, beans, etc. : on 7 July, the *Sisters*, Bristol to Madeira and West Indies, and the *Good Elizabeth*, Daniel Leary, Bristol to Barbados with herrings, butter, etc. : on 13 July, the *Charlotta*, Edward Brownnett, Bristol to Jamaica with corn and cheese : on 26 July, the *Brilliant*, Robert Boyd, the Thames to Martinique with flour : on 4 Aug., the *Italian* frigate, Benjamin Cuite, to Martinique with flour : on 6 Aug., the *Phoenix*, Joseph Judge, London to Martinique and Guadaloupe, with 100 quarters of wheat meal, bacon and tongues : on 14 Aug., the *Prince Edward*, William James Wallace, Cork to Martinique and Guadaloupe : on 26 Aug., to Jamaica, the *Leopard* from London, the *New Grace*, Clark, the *Catherine*, Bolton, the *Beaver*, Johnson, and the *Josepha*, French, from Cork, and the *Warwick*, from London and Cork ; the *Friendship*, Wardle, London to New York with pease, and the *Elizabeth*, Thomas Love, the Thames to Martinique with flour : on 3 Sept., the *Jupiter*, Michael Connor, Liverpool and Cork to Barbados with fish, etc ; ships from Waterford to America are allowed to proceed to Cork to join the convoy there : on 9 Sept., the *Jamaica* sloop, Peter Griffin, Bristol to Jamaica with beef, etc., the brigantine *Kitty*, William Gordon, Waterford to New York with beef, etc., and the *Charlotte*, Giles Denning, Portsmouth to Martinique with flour : on 14 Sept., the *Elizabeth*, Thomas Love, Cork to Martinique with beef and pork, and the *Aurora*, John Macowan, London to Antigua with hams, etc. : on 16 Sept., to Jamaica, the *Bacchus*, Thomas Eaton, from Bristol and Cork with beef, etc., and the *Nancy*, Joseph Mulls, from Liverpool and Cork, with fish, etc. : on 18 Sept., from Bristol the *Gallant*, Richard Forrest, to Jamaica with bacon, etc., and the *Ruby*, Daniel Henderson, to St. Christopher or Nevis with bacon, etc. : on 21 Sept., the *True Briton*, Thomas Harrison, London to West Indies with beef, etc. : on 24 Sept., the *Rawlinson*, Moses Benson, Cork to the Leeward Islands with beef : on 27 Sept., the *Fortune*, Antrobald Tranas, London to Havanna with corn, etc. : on 29 Sept., the *Elizabeth and Mary*, Waterford to Jamaica with beef, etc. : on 30 Sept., the *Jupiter*, Gould, Cork to Jamaica with beef, etc. : on 1 Oct., from Bristol, the *Peggy*, Gabriel Stringer, to Jamaica, and the *Duke of Cumberland*, to Martinique, with beef, pork, etc. : on 5 Oct., the *Betsy*, Joshua Watts, London to Antigua with bacon, etc. : on 6 Oct., to Antigua, the *Alexander*, James Reed, from London, the *Fox*, John Rookings, from Bristol, and the *Rebecca and Catharine*, Bartholomew Sennet, from Bristol and Cork : the *Swan*,

James Thompson, and the *Drake*, Abraham Bailleau, Bristol to Martinique and Guadaloupe, the *Duke of Cumberland*, John Studdy, and the *Nancy* sloop, Edward Manlove, Bristol and Cork to Martinique: on 8 Oct., the *Cæsar*, William Prince, Liverpool and Cork to Jamaica with beef, pork, etc.; from London, the *Brotherly Love*, Elisha Bell, to Jamaica and Havanna, the *Hawke*, Charles Wilson, to Guadaloupe with beef, etc., and the *Jane and Betsey*, Thomas Wills, to Martinique with flour, etc.; the *Only Daughter*, Poole to Newfoundland with beef, pork, etc.; and the *Love Day*, Wm. Mortley, and *Success*, Joseph Cookson, Bristol and Cork to West Indies: on 12 Oct., the *Mary*, Edward Reed, London to Guadaloupe with beef, etc., and the *Port Royal*, Gregory Parkins, Bristol to Havanna: on 14 Oct., the *Prussian Hero*, Thomas Quirk, *Jupiter*, John Perkins, *Orange Cove*, Thomas Birch, and L'Blond, Wm. M'Nimara, Cork to Jamaica and Havanna with beef, pork and butter, *Lady Augusta*, Eggleston, London to Grenada with flour and beef: on 16 Oct., *St. Petre*, Thomas Smith, Liverpool and Cork to Jamaica, and *Royal Charlotte*, George Calbreatt, London to Guadaloupe with hams, corn and biscuit: on 20 Oct., the *Hopewell*, Richard Twine, Bristol and Cork to Jamaica, the *London* frigate, James Alexander, London to Martinique and Guadaloupe, with flour, pease and pork, and the *Elizabeth*, William Browne, Cork to Guadaloupe with beef, pork and butter: on 22 Oct., to the Leeward Islands, the *Royal Charlotte* (see 16 Oct.), and the *Molly*, John Smith, from Cork with beef and pork; *Lydia and Jane*, Francis Brison, Cork to Martinique with beef: on 25 Oct., the *Royal Exchange*, John Halse, Plymouth to Martinique with beef, etc., the *Prince of Orange*, Thomas Dunbar, Waterford to Martinique and Guadaloupe, the *Industry*, William Moreton, Cork to Guadaloupe, the *Wilson*, Thornton, Cork to Jamaica, all with beef and pork: on 28 Oct., the *Gorrell*, Thomas Rymer, and the *Mentor*, Evan Evanson, Cork to Jamaica, the *General Monckton*, Tingley, Cork to New York with beef, the *Tartar*, Michael Nowlan, Cork to Martinique with beef and pork, the *Friendship*, Thomas Bell, and the *Bien Aimé*, Richard Wicheloe, London to Havanna, and the *Kitty*, John French, Bristol and Cork to Antigua with beef, etc.: on 30 Oct., the *Hope*, Arthur Meadows, London to Guadaloupe with cheese, hams, etc., and the *Moro Castle*, Scott, Cork to Jamaica with beef, pork, etc.: on 2 Nov., the *Prince George*, John Arny, Liverpool to Guadaloupe and Tortola; and from Cork, the *Eleanor*, George Casey, to Martinique and the Leeward Islands, and the *Sally*, William Floyd, to Martinique and St. Christopher, all with beef and pork: on 5 Nov., to Jamaica, the *Gallant*, Forrest, from Bristol with bread, the *Unity*, Alexander Ogilvie, and the *King of Prussia*, Thomas Darling, both from London; to Martinique, the *George*, Robert Crannel, from Dublin, and the *Prince of Wales*, John Cox, from Plymouth, with beef and pork; the *Reynolds*, Liverpool to the Leeward Islands with beef and herrings; and the *Success*, Joseph Cookson, Bristol to Barbados with beef and beans: on 9 Nov., the *Phæbe*, John Atkinson, Waterford to Jamaica.]

[468.] [Order in accordance with the Committee report of 11 Feb. agreeing with a Board of Trade representation of 27 Jan., referred to them on 2 Feb. The Board of Trade represented:—] We have had under our Consideration three Acts

15 Feb.  
Jamaica.

1762.

passed in your Majesty Island of Jamaica in the Years 1759 and 1761 which are Entitled as follows. Vizt.

An Act for the giving Licence to the Captors other Proprietors and Purchasers of Prize Goods brought into and Condemned as such in this Island to Export the same under certain Regulations free from any Duties imposed by the Laws of this Island and for laying a Duty on certain Wines that may be brought in and Condemned as Prize and Sold in this Island and not already liable to any Duty or Impost [passed in 1756].

An Act to Prohibit the Importation of Sugars Rum and Molasses of the growth of the French, Spanish, Dutch and Danish Colonies in America into this Island and for preventing several Frauds committed by Persons trading to and from the Northern Colonies [passed in 1759].

An Act to explain and amend [the above Acts : passed in 1761.]

These Acts appear to Us to apply themselves to two Objects. Vizt.

1st. The Regulation of Prize Ships and Goods.

2dly. The Prohibition of Importing into the Island of Jamaica Sugar, Rum and Molasses the Produce of Foreign Colonies; which propositions, though irregularly and improperly blended together in the last mentioned Act, are yet in their nature separate and distinct and therefore We shall consider them separately in the Observations which we shall humbly take leave to offer to your Majesty upon them.

The first mentioned Act passed in 1756, has reference only to the first of these Propositions and the sole Object of it, is to exempt Prize Goods, brought into the Island of Jamaica and afterwards re-exported from certain Provincial Duties payable upon them there, which appearing to Us to be a measure tending to encourage an Annoyance of the Enemy and a Vigorous Prosecution of the War and being also Conformable both in its Policy and Provisions to the Act of

Parliament of the 30th of his late Majesty for the relief and Encouragement of the Captors of Prizes is not in our humble Opinion liable to any very material Objection ; But as the Duties taken off by this Act were Granted to his late Majesty and his Successors for ever, by the Revenue Act passed in Jamaica in 1728 which Received the Royal Confirmation, We humbly apprehend, that they could not have been regularly and Constitutionally rescinded by a Temporary Act made to take place before your Majestys Royal Assent could be known ; and therefore however reasonable and proper the Act may appear with respect to the Object it has in View, it is, nevertheless so exceptionable in the mode of obtaining that Object, that it becomes our indispensable Duty to lay it before your Majesty for your Royal Disapprobation, to the end, that, the Legislature of the Island of Jamaica may be apprized of your Majestys determined Resolution to discountenance the irregular practice which has but too much prevailed in all your Majestys Colonies of setting aside the Provisions of Perpetual Laws confirmed by the Crown, by Temporary Laws made to take immediate effect without the Royal Consent And it is with the less reluctance that We advise this Repeal, as it can have no effect to defeat the Operation of the Encouragement given by the Law to the Captors of Prizes, in as much as your Majesty may at the same time that you Repeal the Law and in the very Act of Repeal itself be graciously pleased to grant your Royal Permission to re-enact the Provisions of it to take place immediately, which, under that Circumstance of the Royal Assent, will become a regular and proper Law.

The next Object under the first General proposition, which the Legislature of the Island of Jamaica has attempted to provide for is, the Restraining Prize Goods brought to that Island from being Exported directly from thence to any Foreign Port without being first carried to Great Britain ; and to this end it is Enacted by the last mentioned of these Acts that whenever the Captors, Claimants or any other

Owners Proprietors or Purchasers of Prize Vessels and their Cargoes or their Agent or Agents shall be desirous, that such Vessels with their Cargoes so Acquitted or Condemned and no Appeal allowed should depart from the Island without breaking Bulk, that then and in such Case, such Person or Persons their Agent or Agents, shall before such Vessel be permitted to depart deliver to the Receiver General a Manifest or Inventory of the Cargoe upon Oath, and shall enter into Bond with good and sufficient security in such Sum as the Receiver General shall judge necessary according to the quantity and quality of the Goods, which Bond is to be Void upon producing to the Receiver General within twelve Months a Certificate or Certificates from the proper Officer or Officers of his Majestys Customs of the Landing of such Cargoes in some part of the British Dominions or that such Cargoe has been Reported at the proper Office of the Customs in Great Britain for Exportation to some other Port in Europe.

This Provision of the Act of April 1761 is Complained of by Mr. Muir a Merchant concerned in the Trade to Jamaica and Principal Agent for the Captors of Prize Ships and Goods as materially operating to the prejudice of the property and Interest of his Constituents and having upon this occasion been attended by Mr. Muir and heard what he had to offer upon it by Mr. De Grey and Mr. Wedderburn his Counsel, and also what Mr. Stanhope Agent for the Island had to offer in support of it we humbly beg leave to Represent to your Majesty

That this Provision of the Act appears to Us to proceed upon one or other of these two Suppositions either that it is illegal as the Laws for Regulating the Plantation Trade now stand to Export Prize Goods from the Colonies to Foreign parts, but that such Laws are ineffectual or that if it is not illegal as the Laws now stand it ought to be made so.

Whatever the Case may be with Regard to either one or other of these Suppositions, which is a question of too great delicacy and Importance for Us to decide upon, the defect, if

there is any, can only in our humble Opinion be remedied by the Authority of the British Legislature, it being a matter of General Policy having Reference to the Trade and Interest of your Majestys Subjects in General in places and under Circumstances to which the Jurisdiction of the British Legislature alone can extend. In this light therefore it appears to Us (without entering into the Merits of the Question whether Prize Goods may or may not, or ought or ought not to be Exported directly to Foreign parts) that this Attempt of the Legislature of the Island of Jamaica to make Regulations in matters of General Policy in respect to the Commerce of your Majestys Subjects by Acts the Operation of which are confined to that Island only, is such an Arrogant Assumption of Power as is not Warranted by the Constitution and which justly deserves the Severest Censure ; for which reason and for as much as it appears to Us that this Clause in the Act may by Construction operate to restrain the Exportation of Prize Goods from Jamaica to any other British Colony, which is Undoubtedly expressly contrary to the Laws of the Mother Country, it is our Duty to propose that the Act may receive your Majestys Royal Disapprobation.

These however, though the Principal are not the only Objections to which this Act appears to be liable, for there is a Provision in the Act that if such Prize Vessels or their Cargoes so acquitted or Condemned and no Appeal Allowed, the Owners of which are desirous of departing without breaking Bulk, should belong to any Persons other than your Majesty's Subjects, that then they shall be permitted to Sail upon giving in a Manifest or Inventory of the Cargoe, and entering into Bond of the same Form and Tenor with those directed in the preceding Clause in the Case of Ships and Cargoes belonging to your Majestys Subjects, Subject to a Condition to be Void in Case such Cargoes or any part thereof be not relanded in the Island.

The Rigour and impropriety of this Provision in the Operation it will necessarily have upon the Persons and Properties

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of the Subjects of neutral States, is so Obvious upon the face of it as scarcely to need any Comment.

The Law of Nations requires that in times of War, the Subjects of neutral States should Enjoy every Protection and liberty both in respect to their Persons and Properties which a State of War and the Laws of Government will admit of, and the Justice and propriety of strictly adhering to this Principle exists in no Case so strongly as in that of a Capture of their Ships and Goods upon a Supposition of their being Contraband or Enemys property, under these Circumstances the Laws of Humanity impose a double Obligation on every belligerent State to Allow that Protection and Liberty to their utmost extent in Order to alleviate those Misfortunes, which from the Nature of the Case will Admit of no other Remedy.

The Legislature however of the Island of Jamaica, seems by this Act to have Adopted a very different System and by laying the Subjects of neutral States under a variety of Restraints and imposing upon them a variety of rigorous Penalties, they have greatly aggravated the Misfortunes of those who have been so unhappy as to have their property irregularly and illegally Seized (for in the Case of an Acquittal to which this Provision of the Act applies itself, the Seizure must be supposed to be illegal) and have rendered it, if not impossible at least very difficult for them to Avail themselves of such Acquittal and to depart freely with their Ships and Goods.

The obliging a Foreigner who must therefore be supposed to be a stranger in the Place to enter into Bond with Security to whatever Amount the Receiver General shall arbitrarily require not to do that, for which if he does he is liable to the Penalty of the Law does (independant of the injustice of it in that light) impose upon him an almost insurmountable difficulty and if he cannot overcome it he has no other Remedy but to make a Deposit of his property, which Deposit never can be redeemed, or in Case he should be able to find security that security Cancelled, because it never can be in his power



to prove that he has complied with the Condition of the Obligation : The Injustice of this Provision is so apparent, that We shall not trouble your Majesty any further upon it, but shall close our Observation upon this part of the Act, by Submitting it to your Majestys Consideration what the fatal Consequence would be of permitting the Legislature of a Colony to Violate in so extraordinary a manner as this Act does those principles which the Law of Nations has established with respect to the Persons and property of the Subjects of neutral States.

These, may it please your Majesty are the principal Objects of these Laws in so far as they relate to Prize Ships and Goods ; it is necessary however we should State to your Majesty not only those Provisions in the last mentioned Act, which regard it's Execution with a View to the Principal Objects, but also the Objections to which they have been Stated to Us to be liable.

These Provisions apply themselves principally to explain the Duty of the Receiver General of the Island and his Subordinate Officers in respect to the Care and Custody of Prize Ships and Goods immediately upon their Arrival and in Cases where the Cargoes are desired to be Landed after Condemnation or Acquittal either for preservation or otherwise ; and the Objection to these Provisions is, that, they are contrary to the Act of the 29th of his late Majesty commonly called the Prize Act, which Enacts, that all Captures brought into the Colonies shall, without breaking bulk stay there and be under the joint Care and Custody of the Collector and Comptroller of the Customs, or when there is no Comptroller of the Naval Officer of the Port and the Captors or their Agents Subject to the direction of the Court of Admiralty.

It is our Duty however to Observe to Your Majesty that the Objection does not, upon a full Consideration of those Provisions appear to Us to have great Weight in as much as the Duty required to be performed by the Receiver General and his Officers, has Reference only to the Laws of that Island and

the Security of the Dutys thereby imposed upon certain Articles which may be brought in as Prize and the Provisions of it, in this respect do not appear to Us to extend or can possibly be Construed to extend in any Degree to the Care and Custody of such Ships and Goods Considered merely as Captures, in which light they will necessarily be Subject to the Care and Custody of those Officers named in the Prize Act, who will not, We humbly apprehend be any way checked or Comptrolled in the Execution of the Duty prescribed in that Law, by the Regulations of this Act made with a View only to the Observance of the Laws and the Security of the Revenue of Jamaica, to which the Act of Parliament does in no respect apply itself.

As to several other Objections which have been made to these Provisions in Reference to the improper Penaltys thereby imposed and the innacurate manner in which the Clauses are framed it will be sufficient for Us without Entring into a Particular Observation upon every Clause to say in general that the Penalties do appear in many Cases to be greivous and oppressive and imposed without a due regard to the Nature of the supposed Offence and that as the Clauses are worded, they are of difficult Construction and liable to different Interpretations, which must be attended in the Execution of them, with great inconveniency and will necessarily tend to Render the Acts ineffectual to the purposes for which they are made.

There are some other Clauses in the last mentioned Act in so far as it regards Prize Ships and Goods imposing Dutys and laying Restraints upon the Officers of your Majestys Revenue of Customs, and therefore as they appeared to Us to fall more immediately under the Consideration of those employed in that Department of your Majestys Service, We thought it our Duty to desire their Sentiments upon them, but as We have not been favour'd therewith, the fate of these Acts, so far as regards the first proposition must rest upon the Objections We have Stated to the other parts of them

and We shall proceed humbly to lay before your Majesty what has Occurred to Us upon the Second General Proposition to which they apply themselves namely the Prohibiting the Importation into the Island of Jamaica of Rum, Sugar and Melasses the produce of foreign Colonies.

But before we enter into the particular Examination of the Acts which relate to this proposition (the Titles of which We have inserted at the beginning of this Representation) it is necessary for Us to Observe that the Act passed in 1759 was not the first Act of this nature passed in Jamaica; the Regulation took rise in 1752 when an Act was passed to continue for two Years, and was reenacted again in 1756 without limitation of time, notwithstanding which the Act referred to in this Representation was passed in 1759 as if no such former Act had existed, and therefore whatever Order your Majesty shall be pleased to make in Consequence of what we shall humbly lay before you with respect to this measure, it will be necessary that it should comprehend the Act of 1756 as well as that of 1759.

In the Preambles to the Acts passed in 1756 and 1759 for this purpose it is set forth that this Regulation is made in Obedience to his late Majestys Commands Signified to the Governor by a Letter from the Lords Commissioners of this Board, and therefore it is our duty to State to your Majesty, what appears upon the Books of the Office in reference to this Affair.

In February 1752 a Committee appointed at the General Meeting of Merchants Planters and others interested in and trading to the British Sugar Colonies, attended this Board and stated several grievances and inconveniencies attending the Commerce with those Colonies and amongst other things that a pernicious practice had prevailed of illicitly importing Sugar, Rum and Melasses the produce of foreign Colonies into those belonging to your Majesty and from thence into Great Britain as British Produce.

Their Lordships upon Consideration of this, which appeared to them to be and undoubtedly was, a great fraud and abuse operating to the prejudice of our own Colonies, thought it adviseable to Write a circular Letter to the Governors of all the Sugar Colonies directing them to use their best endeavours to procure Laws to be passed in each Government, containing regulations for preventing the illicit and Clandestine Importation of the produce of foreign Colonies ; but We humbly apprehend that their Lordships whose experience in matters of this Nature and whose Zeal for your Majestys Service were so well known, could not have in their View (and indeed the Letter and whole Tenor of these Orders imply the contrary) to recommend the passing Laws to Prohibit absolutely the Importation of Sugar Rum and Melasses the produce of foreign Colonies, which is repugnant to the Act of the 6th of his late Majesty Allowing the Importation of these Commodities into any of the British Plantations on Payment of certain Duties therein Specified—In this light therefore the Prohibitions established by this Law appear to Us to be Repugnant to Act of Parliament and therefore by the 9th Section of the Act of 7th and 8th of William the third, the Law is ipso facto null and void and ought to be so declared by Your Majestys Order in Council : this reason alone is, We humbly apprehend sufficient to induce your Majesty to rescind this Law ; but as it appears to us liable to Objections in other parts of it, it is our Duty to State what those Objections are, to the end that, if the Legislature of Jamaica should as it will be their Duty so to do, consider of some other Regulations, which shall operate as a Remedy to the evil Complained of in 1752 without Contradicting the Laws of the Mother Country, they may be, by your Majestys Directions apprized of every Objection that has occurred to the Law now in Question and thereby Instructed to Avoid the Errors they have unhappily fallen into on this Occasion.

Amongst other Provisions made by this Law for the better Preventing the Importation of the produce of foreign Colonies

there is a Clause, by which a Power is intended to be given to Officers of your Majestys Ships and Vessels of War to Seize such Produce either on Land in Port or at Sea, which is contrary to the Acts of the 13th and 14th of Charles the Second &c. and 7th and 8th of William the Third by which as well as by Letters Patent the right of Appointing Officers of the Customs in the Plantations is Vested in the Commissioners of the Treasury and Customs and the Seizure of Ships and Goods for Unlawful Importation or Exportation or for Non payment of Duties may be made only by Officers of the Customs or Persons Authorized by Warrant of the Treasury or by Special Commission under his Majestys Great or Privy Seal and if made by any other Persons they are Void.

It likewise appears to Us that the giving the whole of the Seizures and Forfeitures as is done by this Act to the Officers of his Majestys Ships of War who shall make the Seizure, is Unprecedented and contrary to the usage and Practice here, in all Cases of this kind where a part of the forfeiture is always given to your Majesty.

These Objections will we humbly apprehend sufficiently mark out to your Majesty the impropriety of the Law of 1759 and therefore it only remains for Us to take notice of these Clauses in the Act of April 1761, which Enforce and are said to be intended to explain it.

For this purpose it is Enacted, that every Person who shall Import into that Island any Sugar, Rum and Melasses of the growth and produce of any foreign Colony contrary to the true intent and meaning of the Act of 1759 shall be deemed guilty of Felony and suffer Death as a Felon without benefit of Clergy, and whoever shall give Information against any Person so offending, so that the Offender be lawfully Convicted such Persons so Informing shall receive the Sum of Five hundred Pounds.

It is difficult for Us to find Words to express our Concern that the Legislature of Jamaica could have so far departed from the known and Established Principles of Justice Equity

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and Reason, and the Laws of the Mother Country as to have framed so Sanguinary a Clause as this appears to be, and that too, in so loose a manner as to admit of its being applied by Construction to Cases that never could be Comprehended in the intention of it.

The Punishment of Death is, by the Laws of England applied only to the most atrocious Crimes, such as are Destructive to Society and Subversive of Government and are in no instance, that We know of applied to such a Case as this is ; and therefore the Act is in this Light null and void, as being Repugnant to Justice, Reason and the Laws of England ; but aggravated as the impropriety of it is, by the Extraordinary and Unprecedented Encouragement given to Informers we are perswaded your Majesty will not hesitate to declare your Royal Disallowance of it.

[The report concludes with a recommendation that the Order repealing the Acts should contain] such Declaration of your Majestys Royal Disapprobation and Animadversion, as the Conduct of the Legislature of the Island of Jamaica in passing Laws of so Extraordinary and Unprecedented a Nature, shall appear to your Majesty to deserve.

[*pp.* 36, 42-9, 62-3.]

(1763.) [The Committee refer to the Attorney and Solicitor General  
3 Mar. a Board of Trade representation with several papers relative to the proceedings of the Council and Assembly of Jamaica with respect to the repeal of the above acts, and also a copy of the Governor's commission and instructions.] N.B. The Right Honourable Charles Townshend Esquire (first Lord Commissioner of the Board of Trade) being present, undertook to transmit the above Papers to Mr. Attorney and Sollicitor General, and also to discourse with them thereupon. [*p.* 514.]

(1763.) [Reference to the Committee of a Board of Trade representa-  
4 Nov. tion of 26 Oct. with an extract of a letter from Governor Lyttelton] relative to the inconveniences likely to arise from an Oath of Secrecy administred by the Assembly of that Island to their Clerk, under which Oath he does not think himself at liberty

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to deliver the Minutes of that House to the Governor without their leave for that purpose. [III. p. 137.]

[Committee. The representation] Read and Ordered to be postponed. [III. p. 240.] (1764.) 4 Feb.

[Committee postpone two representations of the Board of Trade on the proceedings of the Assembly with respect to the repeal of the laws and on the oath of secrecy.] [IV. p. 61.] (1764.) 14 Dec.

[469.] [Order in accordance with the Committee report of 11 Feb., agreeing with the following Board of Trade representation of 27 Jan., referred to them on 2 Feb]. We have had under our Consideration an Act passed in your Majestys Island of Jamaica in December 1760, Entituled

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An Act to Oblige Persons in whose Favour Judgments of Law have been or shall be Obtained and the Monies due thereon are satisfied to enter Satisfaction on the Record of such Judgments in a limited time after the Debt and Costs are so Paid and to Oblige the Provost Marshall to discharge in his Books all Writs of Execution and Venditioni Lodged in his Office upon a proper discharge being produced to him for that purpose.

This Act having been complained of by the Provost Marshall General of that Island, who holds his Office in Virtue of Letters Patent under the Great Seal of Great Britain as injurious to the Rights of his Office and tending to take away the legal Emoluments of it Established and Confirmed to him by different Acts of the Legislature of that Island, and We having heard as well what he had to offer upon it by Mr. Forrester his Counsel, as what the Agent of the Island had to offer in support of it, We shall humbly beg leave without Entering into a Minute detail of the Arguments urged either on the one side or the other, humbly to State to your Majesty what has occurred to Us upon the Result of the whole, from a due Consideration of its Propriety as well in reference to his Majestys Instructions as to the particular Object and Provisions of it.

The Objection Stated by Mr. Forrester to this Act under the first of these Considerations is, that it is contrary to the

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55th and 22d Articles of his late Majestys Instructions to the Governor of Jamaica by the first of which, he was directed to support all Patent Officers in the full Enjoyment of the Rights and Emoluments of their Offices and by the Second he was not to Pass any Bill of any unusual or extraordinary nature affecting the property of your Majestys Subjects without having first transmitted a Draught of such Bill or inserting a Clause Suspending its Execution until his Majestys Pleasure could be known.

We shall not take upon Us on this Occasion to determine whether this Act does not come within either one or other of the Cases described in those Instructions nor shall We presume to give an Opinion whether a Governors Disobedience of Instructions relative to the passing of Laws which We humbly apprehend are directory to himself alone, does or does not affect the propriety and Validity of the Acts themselves as contended for by Mr. Forrester ; these are Questions which we humbly beg leave to refer to your Majestys Determination upon a Consideration of what has been the usual Construction and Interpretation of the Instructions in this respect and therefore we shall proceed to consider the Act in Reference to the Object and Provisions of it.

Mr. Stanhope Agent for the Island has upon this Occasion endeavoured to support the necessity and propriety of this Law by stating a great Variety of Abuses and Oppressions in the Execution of the Provost Marshall's Office as well in respect to Demands made of exorbitant Fees as to other irregular and improper Practises and it is our Duty to Observe that there is great reason to apprehend, not only from the facts stated by Mr. Stanhope, but from what appears on the Records of our own Office, that such abuses have been Committed.

General Complaints however of this Nature, be they ever so well founded, have no reference to the Act in question, which applies itself to one single fact and therefore the only Observation which We shall make upon them is that, if the Laws for regulating and explaining the Duty of the Provost



Marshall have not sufficiently provided Remedys for the Abuses and Oppressions to which the Office is liable in the Execution of it, the Legislature of the Island of Jamaica may be assured that your Majesty will from your Equity and Justice and that regard which you are ever ready to shew to the just Complaints of your Subjects most Zealously concur with them in any proper Law they may think proper to Pass for the Restraint and Punishment of such Abuses and Oppressions.

The fact Stated in the Acts itself as the ground and foundation upon which those Provisions of it, which regard the Provost Marshall do proceed, is described in the Preamble to the Enacting part in the following Words Vizt.

“Whereas the Provost Marshall General of this Island hath refused to enter up and discharge in his Books several Defendants who have brought Discharges to him from the several Plaintiffs unless such Defendant or Defendants would Pay to him the full Fees on the Monies specified in such Discharge, notwithstanding there is or are no Writ or Writs of Execution or Venditioni Lodged in his Office against such Defendant or Defendants at the time he, she or they produce to the said Provost Marshall such Discharges by means whereof great Expences are contrary to Law brought upon such several Defendants and large Sums of Money are by means thereof unduly kept in the said Provost Marshall’s Office under Colour that such Writs are Unsatisfied in his Office and all Monies that are Levied on junior Writs are by him returned Subject to Prior Executions when and the same time such Prior Writs have been actually paid and discharged by the several Defendants to the several Plaintiffs, but only remain open in his Books, by which means large Sums of Money are by him received and detained belonging to the Suitors of the said Supreme Court.”

The Stating this Preamble in its full length appeared to Us the more necessary as from the loose and innacurate manner in which it is Worded, the Conclusion seems upon the face of it to Contradict the Premisses, for if no Writs of Execution

have been lodged in the Provost Marshalls Office as the first part of the Preamble seems to imply the Conclusion that the Provost Marshall does under Colour of such Writs not being Satisfied in his Office, retain in his hands Monies Levied upon Subsequent Executions, must in so far as such Writs refer to the Writs mentioned in the preceding part of the Preamble be a false Conclusion.

In Order therefore to explain this seeming Contradiction between the Premises and the Conclusion Mr. Stanhope has Stated to Us that he apprehends that this recital has reference not to Cases where no Writs of Execution have ever been lodged in the Provost Marshall's Office, but to Cases of Writs taken out upon Cautionary or other Judgments in which Cases, it not being the intention of the Parties that any further Process should be immediately had the Writs are returned by the Provost Marshall into Court the Day of their Delivery to him ; but which, being Entered in the Provost Marshall's Office he avails himself of that Entry as a Plea for their not being Satisfied.

Upon this Occasion it is our Duty to Observe that, to whichever of these Cases the Act intends to refer, either to that where no Writ of Execution is Lodged or where a Writ is only Issued pro forma in the Case of a Cautionary Judgment upon which no further Process is intended to be had, it does appear to Us that the Provost Marshall is not by Law Entitled to any Poundage in either one or other of these Cases, and had the Enacting part of the Law Confined it's Regulation to this Object only, We do not apprehend it could have been exceptionable. But We are humbly of Opinion it will, upon due Consideration be found unjustly and oppressively to take away from the Provost Marshall those Fees of Office, which were Established by an Act of that Island passed in 1711, and Confirmed to him by Subsequent Laws, for it is Enacted "That the Provost Marshall shall upon Application being made to him by any Person or Persons and producing to him a Discharge from the Plaintiff or Plaintiffs, his her or their

Executors Administrators Attorney or Attorneys, Assignee or Assignees for the Debt or Damages and Costs of any Writ or Writs lying open in his Office against such Defendant or Defendants or a Certificate under the hand of the Clerk of the Supreme Court of Judicature of this Island, Setting forth that Satisfaction hath been Acknowledged on such Judgement or Judgments in his Office and upon which Judgement or Judgements Writs of Execution or Venditioni have at any time been lodged in the said Provost Marshall's Office discharge in his Books such Writs of Execution or Venditioni and for each of which Discharges the said Provost Marshall shall be paid the Sum of Two Shillings and Six Pence and no more."

This Clause, We humbly apprehend does not Confine itself to the Case Stated in the Preamble, but must in Construction be extended to every Case where the Debt for which Judgment has been given shall have been Satisfied either in the whole or in part after the return of Levy and therefore must necessarily operate, in every such Case to take away from the Provost Marshall the Fee of Poundage Established by the Act of 1711 and Confirmed to him by the Act of 1735.

In Order however to explain this matter more fully, it is necessary for Us to Observe to your Majesty that by the Act of 1681 directing the Marshall's Proceedings it is Enacted "that in Case of Levy upon Writs of Execution the Negroes working Cattle necessary Utensils &c. upon any Estate shall not be removed but remain still in the Defendants Possession," which appears to have been a necessary Provision in Order to prevent the Ruin of Estates, the Value of which, in that Country, does, from the Nature of them depend almost entirely upon the Negroes and other Stock ; under this Construction therefore, the Levy appears to have been only a Process pro forma binding the Goods and Effects of the Debtor, leaving him at Liberty to satisfy his Creditor for the Debt, either in the whole or in part as they could agree.

That this has been the Construction of the Law of 1681 and the Constant Usage under it appears evidently from the

Law of 1735 for more effectually directing the Marshalls Proceedings, by which it is Enacted "That when any Levys are made upon Writs of Execution, the Provost Marshall is to give Notice of it to the Defendant and not to demand or take any Fees upon the return of the Levy until the Debt be paid or in proportion to such part of it as shall be Paid," which evidently implys that the Levy is a matter of form only, binding the Goods and Effects of the Debtor, and as by this Clause an opening is left to the Debtor to Discharge his whole Debt to the Plaintiff or Compound for any part of it, without the knowledge of the Provost Marshall, the only Security he can have for the Payment of his Poundage Fees, which in this Case will be justly due to him is the Debt remaining open in his Book.

Upon the whole it appears to Us from this general View of the Law and usage of the Island as it now stands in respect to Writs of Execution and Levies upon them, that the Provost Marshall is justly Entitled by Law to his Poundage Fees upon the full Amount of all Monies paid in Satisfaction of Debts, for which Judgements have been given, Writs of Execution Issued and Levys made and returned in Consequence thereof, that he is well Warranted in refusing to enter up and discharge in his Books all Defendants, whose Cases come within this Description, unless his just Dues be paid, and that in so far as the Act extends itself to such Cases it will operate to take away from him those just Dues.

For which reasons We humbly beg leave to propose that the Act may receive your Majestys Royal Disallowance.

[*pp.* 37, 50-3, 64.]

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[470.] [Reference to the Committee of the petition of Helen Sinclair, widow of Robert Sinclair, shipwright of Jamaica, for a day for hearing her appeal from a Chancery decree of 15 Feb., 1759, dismissing her husband's bill against Samuel Shiffner, Esq., and Sibella Elizabeth, his wife, and George Papley, Esq., to stay proceedings at law on a return

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made by commissioners appointed to settle their mutual demands.] [p. 74.]

[On the Committee report of 6 April, the decree is affirmed. 12 April.  
The case was heard *ex parte*, no appearance having been entered for the respondents.] [pp. 136, 174, 201.]

[471.] [Reference to the Committee of the petition of 15 Feb.  
Augustin Dupouy, merchant of Jamaica, for a day for hearing Jamaica.  
his appeal from two Chancery orders of 23 Feb., 1760, and 18 May, 1761, in favour of Dominic Laraldi and Margaret Blancau in a case relating to the ship *Santa Rosa* and her cargo.] [pp. 74, 265.]

[Reference to the Committee of the petition of Margaret (1763.)  
Blancau *alias* Renaire, widow and universal heiress of John Blancau, merchant of Bordeaux, deceased, and of Dominic Laraldi, of Cape Francois in America, merchant, that they may waive their appeal from the decree of 18 May, 1761, for paying 1,629*l.* 13*s.* 2*d.* to Augustine Dupouy out of money deposited in court by William Foster, deceased, and that it be dismissed without costs.] [III. p. 36.] 15 June.

[On Committee reports of 27 and 28 July, both appeals (1764.)  
are dismissed. Names occurring in the report are John 3 Aug.  
Draper, commander of H.M.S. *Adventure*, Robert Foster, Francis Anthony Picarere, and Charles White.] [III. pp. 574-8, 589-90, 598, 599.]

[472.] [Reference to the Committee of the appeal of 15 Feb.  
Benjamin Rolfe, Daniel Carter, Timothy Simons, John Evans, New Hamp-  
John Chandler, Abraham Colby, and Abraham Kimball, shire.  
from two verdicts of the Inferior and Superior Courts of New Hampshire in Sept. and Nov., 1760, in favour of the proprietors of Bow relating to certain lands.] [p. 74.]

[On the Committee report of 17 Dec., the judgments are 29 Dec.  
reversed, and the appellants ordered to be restored to all they have lost by means of them. The appeal set forth the settlement of Pennycook or Rumford (*cf.* pp. 239-40), adding the directions given by the committee for bringing

forward the settlement,] That the Land should be divided into One hundred and three Lotts or Shares and that One hundred Persons or Families, able to make their Settlements should be admitted, and each Settler to pay for his Lott five pounds, for the Use of the Province, and be obliged to build a good House for the Family within Three Years, and break up and fence in a certain Quantity of Land, and the Houses and Lotts to be on each Side of the River, and that a Meeting House should be erected ; and several Lotts were to be assigned for the Use of a Minister, and for a school, and the Charge of the Committee was to be borne by the Settlers.

. . . That in 1726 the Town of Pennycook was laid out and divided into Lotts amongst the Proprietors who begun and carried on a Settlement there with great Difficulty and Cost, it being above Twenty miles up into the Indian Country, beyond any English Settlement then made, and being a perfect Wilderness, having not the least sign that Human Foot had ever trod the Ground there. And notwithstanding the Difficulties they were under in establishing a New Town in so remote a Desart they pursued their Undertaking with such Industry and Pains clearing the Lands, building Houses, Sowing Corn &c. that within a few Years a Town was erected and the Place capable of receiving their Familys who were then removed up there. That on the 6th of August 1728, in consideration that five hundred Acres of Land, which had (prior to the aforesaid Pennycook Grant) been granted to Governor Endicott, fell within the Pennycook Boundary the Assembly of the Massachusetts Bay came to a Resolution, which was concurred in by the Governor and Council, That the Pennycook Settlers should be allowed and impowered, by a Surveyor and Chainmen upon Oath, to extend the South Bounds of their Township, One hundred and Thirty Rods the Breadth of their Town ; and the same was accordingly granted and confirmed to them as an Equivalent for the said five hundred Acres of Land ; and in a few Years they had so far

erected and settled a Town [—made a township in 1733 by the name of Rumford].

That on the 6th of August 1728 David Melvin and William Ayer Petitioned the General Court or Assembly of the Massachusetts Bay for themselves and others who had served as Volunteers against the Indians in the then late War under Captain John Lovewell praying a Tract of the Province Land might be granted to them for a Township in Consideration of the Services they had done and the great difficulties they had under gone in the War, which Petition being read in the House of the Representatives, it was Resolved, That Six Miles square of Lands, lying on each side of Merrimack River, of the same Breadth from Merrimack River as the Township of Pennycook, and to begin where Pennycook New Grant determines, and from whence to extend the Lines of the East and West Bounds on right Angles, until the Six Miles Square should be compleated, be and is hereby granted to the Forty Seven Soldiers, and the legal Representatives of such of them as were deceased, who marched out with Captain Lovewell (himself included) when he engaged the Enemy at Pigwackett. That on the 9th of July 1729 the said David Melvin and others Petitioned the Assembly of the Massachusetts Bay, setting forth, That they had caused the said Tract of Land to be surveyed and Platted, and praying a Confirmation thereof, and that the Grantees might be impowered to Assemble, chuse a Clerk, pass Votes, and be impowered to admit the Persons in Captain Lovewells first March to be associated with them ; and the Survey or Plan of the said Tract which is annexed to the Petition and mentions it to begin at the South East Corner of the said other Town of Pennycook, and from thence to run out according to the Grant, it was ordered That the Lands described in the Plan should be confirmed to the Petitioners and their Associates, and their Heirs and Assigns for ever, provided it exceeded not Six Miles Square, nor interfered with any former Grant ; And the Assembly on the 23rd of September following, ordered a preference to be given to those

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Soldiers who were actually with the Captains in the Engagement when he killed several of the Indians; and the said Resolutions of the Assembly were concurred in by the Governor and Council. That the Sun Cook Proprietors carried on their said Settlement, which adjoined at Pennycook otherwise Rumford, in like manner as the Pennycook or Rumford Settlers had done and in 1737, had a Minister settled there, and by their Industry, Labour and Charges it became a good Parish filled with Inhabitants.

[The determination of the New Hampshire boundary and the aggression of the proprietors of Bow, who claimed 1,000 acres as part of their grant of 81 square miles from John Wentworth, Governor of New Hampshire, in 1727, are described as on *pp.* 240-1.] [*pp.* 433, 441-5, 453.]

15 Feb.,  
Virginia.

[473.] [Reference to the Committee of the appeal of the Rev. John Camin from a judgment of the General Court of Virginia, 10 Oct., 1759, in favour of the Rector, Visitors and Governors of William and Mary College, whereby he was deprived of the office of Professor of Divinity there. Similar reference is made of the like appeal of the Rev. Richard Graham, Professor of Natural Philosophy.] [*pp.* 75-6.]

(1763.)  
16 Mar.

[On the Committee report of 12 March, the appeals are sustained. Camin was appointed 5 May, 1749, and Graham 30 March, 1747. Being removed without reasonable cause, they obtained writs of mandamus for their restoration unless good cause were shown at the next General Court at Williamsburgh. A return was made to these writs on 10 April, 1759, and, on arguing the case on 10 Oct., Francis Fauquier, the Lieutenant Governor, and the rest of the judges of the General Court ordered the writs to be quashed.]

[*pp.* 521-3, 534-5.]

11 Mar.  
Plantations.

[474.] [On a Board of Trade representation of 10 March,] Setting forth, that a doubt hath occurred to them, whether as the Law now stands there is in any of his Majestys Colonies in America (unless by Laws which might have been passed



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in the said Colonies) any Competent Jurisdiction for the Tryal and Punishment of Persons guilty of Murder within the Admiralty Jurisdiction in the said Colonies and therefore proposing that a Bill with New Provisions adapted to such Crimes, may be prepared immediately to be Offered to the Consideration of Parliament in the present Sessions [and on considering the opinion of the law officers of the Crown on questions put to them by the Board of Trade about Acts for the punishment of murder, the Board of Trade are ordered, with the advice of the Advocate, Attorney and Solicitor General, forthwith to prepare the draft of such a bill to be laid before Parliament.] [p. 107.]

[475.] [Reference to the Committee of the petition and appeal of] Samuel Rickards, Archibald Maclane, Israel Mauduit, Edmund Lardner and William Cooke of London Merchants Assignees of the Estate and Effects of George Buchanan and William Hamilton late of London Merchants and Bankrupts Executors of the last Will and Testament of Neil Buchanan late of London Esquire Deceased, Francis Jerdone and Robert Duncanson of your Majestys Colony of Virginia Merchants and Ann Buchanan of the City of Glasgow in North Britain Widow another of the Executors of the said Neil Buchanan Deceased from a Decree made in the General Court of Chancery in Virginia on the 10th of April 1761 in favour of John Hudson and Ann his wife William Johnson and Martha his wife Roger Gregory Executor of Lane Jones, Orlando Jones, Rolling Jones and Francis Barber Jones relating to the Payment of several Legacys. [p. 196.]

9 April.  
Virginia.

[On the Committee report of 15 July, the decree, which should not have been carried into execution pending the appeal, is reversed, and the money received by the respondents is to be repaid with 4% interest, deducting the dividend of seven shillings in the pound now payable under the commission in respect of debts from the bankrupt's estate, which, debts with 4% interest to the time of the bankruptcy,

3 Aug.

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amounted to 3,858*l.* 16*s.* 9*d.* Ann Hudson, Martha Johnson, and the Joneses named above were all children of Lane Jones deceased, and other names mentioned in the report are Elizabeth Milner of the Strand, London; her nephew, William Timson, of Virginia; her niece, Mary Barber; Anna Maria, the wife, and William and Samuel (*alias* John), the sons of William Timson; Maurice Keys, William Goslin, and Walter Robotham, executors of Mrs. Milner's will, dated 20 March, 1719: Lane Jones and William Timson, cousins of the younger Timsons; another William Timson, son of John: Sarah, the widow, and Walter and Charles, sons of Robotham the executor, Mr. Manly, Col. Edmund Scarborough, whom Anna Maria Timson or Barber married on the death of Mr. Barber, John Thornton, another husband of Anna Maria, James Buchanan, a London merchant, Mr. Hanbury, and Charlton Palmer.] [pp. 288-93, 326.]

12 April. [476.] [Reference to the Committee of two Board of  
Nova Scotia. Trade representations of 5 March, 1761, and 8 April, 1762,]  
relative to a Plan of Mr. Alexander McNutt for making a large  
Settlement in His Majestys Province of Nova Scotia.

[p. 199.]

29 April. The Lords of the Committee this Day took the said Representations into their Consideration, By the first of which it appears that the said Mr. McNutt had engaged Six hundred Persons from the Continent of America to become Settlers on several Tracts of Land, which the late Governor of that Province reserved and Allotted to him for the Establishment of Seven Townships of One hundred thousand Acres each, and that he intended to compleat the Settlement of the said Townships by the Introduction of Colonists from the Northern parts of Ireland and therefore prayed that Grants might be made him of the said Lands upon the Terms he had proposed to the said Lords Commissioners and by the Subsequent Representation it further appears, that Mr. McNutt did the last year carry over with him about three hundred Persons

from the North of Ireland to Nova Scotia, and that he had since returned to Ireland where he has engaged Shipping to carry over Seven or Eight thousand Persons this year from that Kingdom to Nova Scotia. And the Lords of the Committee being of Opinion that however desirable an Object the Settling of Nova Scotia may be, yet the Migration from Ireland of such great numbers of his Majestys Subjects must be attended with dangerous Consequences to that Kingdom do therefore hereby Order that the said Lords Commissioners for Trade and Plantations do prepare a Draught of an Instruction for his Majestys Governor or Commander in Chief of Nova Scotia, requiring him not to Grant Lands to or permit any of his Majestys Subjects from Ireland to become Settlers in that Province, Except such as have been Resident either in Nova Scotia or some other of his Majestys Colonies in America for the space of five Years. And that the said Lords Commissioners do lay such Draught of Instruction before this Committee. [p. 221.]

[Reference to the Committee of a Board of Trade representation of 21 Jan.,] setting forth that since their Representation of the 8th of April last . . . the said Lords Commissioners have received another Memorial from that Gentleman representing that having at great expence transported to the said Province some hundreds of familys he had the misfortune to find upon his arrival there that the Lieutenant Governor had not received any Orders or authority from His Majesty for granting Lands to such Settlers as the Memorialist might introduce upon the terms by him proposed to the said Lords Commissioners, that being thereby obliged to desist from all further prosecution of his Plan in violation of his Engagements and at the loss of allmost the whole of his Expence he is in danger of utter Ruin, being altogether unable to support so heavy a loss. [p. 482.]

[Committee.] . . . their Lordships being . . . sensible that the Case of Mr. McNutt and those persons who Entered into Engagements with him to quit their Country and

(1763.)  
4 Feb.

(1763.)  
3 Mar.

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settle under his direction in Nova Scotia is extremely hard and deserving of Compassion [they direct the Board of Trade to prepare the draft of an instruction to the Governor of Nova Scotia] requiring and empowering him to grant Lands to Mr. McNutt and to the people already introduced by him, upon the terms and Conditions proposed in the Board of Trades Representation of the 5th of March 1761, [and to report] whether any and what compensation in Lands may be proper to make to Mr. McNutt for the loss and Damages he alledges to have sustained by his Engagements not having been confirmed. [p. 513.]

(1763.)  
20 May.

[An instruction to grant lands to Mr. McNutt and his settlers is approved, on the Committee report of 11 May, which gives a history of the proceedings since Mr. McNutt engaged his settlers in 1760. With his seven or eight thousand settlers, he had contracted to bring 500 bushels of hemp seed to encourage its production in Nova Scotia. Nothing is to be done at present with regard to Mr. McNutt's losses, as no satisfactory account of these has been produced, but a precise return is to be made by the Governor of the persons transported and the grants made.] [III. pp. 6-8, 12.]

12 April.  
Surinam.

[477.] [Order in accordance with the following Committee report of 13 March:—] Your Majesty having been pleased to refer unto the Consideration of this Committee the humble Petition of George Lookup, Richard Perrott, Richard Kilsha, John Sherratt, William Hewitt, Thomas Browne, Richard Earnshaw and Richard Moreland Assignees of the Estate and Effects of Jeronimy Clifford heretofore residing at Surinam in South America Merchant and Planter and late of London Deceased, Complaining that the said Jeronimy Clifford a Natural born Subject of England, had been unjustly deprived of certain Plantations and Effects which he had heretofore possessed in the aforementioned Colony of Surinam by the Dutch Governor and Council, who had not only prevented him from removing his said Estates and Effects from thence to the Island of Jamaica

(contrary to the Articles of Capitulation made upon the Surrender of that Colony to the Dutch in the Year 1674) But had also deprived him of other Goods and Effects to the Value of several thousand Pounds and by very unjust proceedings had Caused him to be imprisoned for many Years in the said Colony :—And containing likewise a full Account of the several Steps taken by the said Jeronimy Clifford from the Commencing of this affair in 1687 to the time of the said Cliffords Death in 1737 in Order to Obtain Redress and of the Proceedings had thereupon in the Reigns of their late Majestys King William and Queen Anne particularly the Repeated Orders given by their said late Majestys to their respective Ministers at the Hague to demand Satisfaction for such injurious treatment of the said Jeronimy Clifford ; but that notwithstanding the same, none had ever been Obtained from the States General ; [and imploring his Majesty to interpose with the States General in order to obtain satisfaction] ; And your Majesty having been likewise pleased to refer unto this Committee a Report made on the 21st of December last by your Majestys late Attorney General (now Lord Chief Justice of your Majestys Court of Common Pleas) upon Examining into the said Petition, together with several Papers and Documents therewith transmitted to verify the Allegations thereof : [The Committee submit a copy of this report which contains a full history of the case, and propose that the petition be granted and representations made by the Minister at the Hague,] in regard it appears, that the said Jeronimy Clifford had been greatly injured in his property by the Governor and Council of Surinam and prevented from disposing of his Estates and removing his Effects from thence contrary to the Treaty subsisting between the Crown of England and the States General, and that he had received other Damages and losses amounting to a very Considerable Sum of Money and likewise suffered a long Imprisonment there without having any Satisfaction or Reparation ever made him for the said Injuries. [pp. 114, 202.]

536 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1762. .  
 (1763.) [Reference to the Committee of the petition of Clifford's  
 4 Nov. assignees for letters of reprisal against the Dutch] until  
 payment shall be made of the sum of 217,971*l.* 0*s.* 7*d.* due  
 to them to the 10th of October 1763 with the growing  
 Interest thereon, and the great expences that have been  
 incurred in prosecuting their just Right—or such other  
 Relief as to His Majesty . . shall seem meet. [III. *p.* 140.]
- 12 April. [478.] [Reference to the Committee of the petition of  
 Jamaica. Walter McFarlane, Esq., and Dr. William McFarlane, for a  
 day for hearing their appeal from a judgment of the Jamaica  
 Court of Errors, 26 Oct., 1759, affirming a judgment of the  
 Supreme Court, on an action of trespass and ejection brought  
 against them by Ezekiel and Caleb Dickinson, in the name of  
 John Doe, for the recovery of lands, etc., in the parish of St.  
 Elizabeth.] [p. 203.]
- (1764.) [On the Committee report of 27 July, the appeal is dismissed  
 3 Aug. by consent of the parties.] [III. *pp.* 585, 600.]
- 14 May. [479.] [On 7 April, 1759, when a very considerable supply  
 South of stores was ordered to be sent to South Carolina, the  
 Carolina. appointment of a storekeeper was directed. John Hume was  
 accordingly appointed and gave security, but the Assembly  
 refused to provide any salary. Further, no sufficient  
 arsenals have been appointed in the province to contain the  
 stores. The Governor is directed to signify to the Assembly  
 that his Majesty looks upon their conduct as] a very  
 undutifull Return for the favour so Graciously bestowed  
 upon them by the Crown . . and at the same time recommend  
 in the strongest manner to them the making Provision for  
 the abovementioned Services. [p. 232.]
- 14 May. [480.] [Reference to the Committee of a Board of Trade  
 Georgia. representation submitting an address of the Council of Georgia  
 relating to the behaviour of William Grover, Chief Justice  
 and member of the Council.] [p. 232.]
- (1763.) [Grover is removed from the Council and from being Chief  
 16 Mar. Justice, in accordance with the Committee report of 3 March,

that they had considered the address and the report of a Committee of the Georgia Council appointed to consider the journals of the Lower House of Assembly upon preparing the tax bill for 1761, whereby it appeared,] that a Committee of the Members of the said Lower House of Assembly had come to a Resolution not to make any Provision for the Publick Officers of the Colony in their Tax Bill for the said Year, Declaring that the Estimate allotted for those Officers ought not to be paid by the Publick of the Colony, in regard His Majesty had allowed each of them a Competent Salary. That the said Resolution being of an unusual and extraordinary nature, The Council of the Colony judged it proper to direct a Committee of their own body to make enquiry into the Cause thereof, and to Report whether there were any and what Grounds for their coming to the said Resolution; That the Committee had thereupon Reported, that it appeared to them, to have been founded upon an information the said Committee of the Lower House had received from the aforementioned Mr. Grover the Chief Justice of the Colony, and likewise a Member of Your Majestys there, who had not only voluntarily offered himself to appear before the said Committee of the Lower House but had actually deposed upon Oath before them to the following Effect—Vizt. “That in a Conversation which he had three Years before in London with a Noble Lord, who was at that time the first acting Commissioner in Your Majestys Board of Trade and Plantations he had been told by his Lordship (amongst other things) that he must expect no Fees for his Office of Chief Justice from the Publick of Georgia, as the Province provided none in their Tax Bill for the Publick Officers for Publick Services.” But the said Committee further Reported that notwithstanding this Information of Mr. Grovers and the Resolution taken by the Committee of the Lower House thereupon that it appeared by the Estimate annexed to the Tax Bill passed for the said Year, that the usual Provisions were made therein for most of the said Officers. And the Committee then concluded their

1762.

Report with the following observations upon this proceeding of Mr. Grovers—Vizt. That a Chief Justice in submitting himself to be examined upon Oath before a Committee of the Lower House of Assembly, or to attend that House without leave first obtained for that purpose from Your Majestys Governor of the Colony, is a Precedent which they apprehend to be of dangerous Consequence, and entirely subversive of the Constitution of the General Assembly of the Province, as established by Your Majestys Commission and Instructions to Your Governor. And likewise that the said Chief Justice had taken upon himself to Report as the Words of that Noble Lord, Expressions that do not consist with the Knowledge his Lordship must be presumed to have of the Fact, by the Office his Lordship held at that time. The Lords of the Committee having thus laid before Your Majesty the State of the Case with respect to the Conduct and Behaviour of the said Mr. Grover, together with the sense of Your Majestys Council of that Province thereupon, take leave to make only this one observation of their own. That in Case any Credit had been given to Mr. Grovers Information, the Publick Officers of the Province must have been left destitute of their allowance for a whole Year, it not appearing that Your Majesty had made any such Provision in lieu thereof.

[pp. 509-10, 534.]

28 May. [481.] [Reference to the Committee of the] Petition of  
S. Carolina. several Poor French Protestants, Setting forth, That being in their Native Country deprived of the Liberty of Conscience and persecuted for not Conforming to the Ceremonies of the Romish Church, have fled thither to seek Refuge from their Oppressors and being mostly bred to Agriculture have not hitherto been able to get Employment and thereby earn their Living, but have been maintained principally by the Charity of his Majestys Subjects, That as they are greatly Ambitious of becoming by their Industry useful Subjects to his Majesty and being informed they may have an Opportunity so to do by Settling in some of the British Colonies in America, they



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therefore humbly pray that his Majesty will be graciously pleased to give such Orders in their favour as his Majesty shall think meet. [p. 246.]

[Reference to the Board of Trade of a letter from the Secretary of the Treasury,] transmitting a Memorial of Monsieur Gibert relating to the settling a Colony of French Protestants in North America. [III. p. 65.] (1763.) 29 July.

[The Board of Trade report is referred to the Committee. South Carolina is mentioned as the place of settlement.] [III. p. 150.] (1763.) 14 Nov.

[Orders are given in accordance with the Committee report of the same date, agreeing with the Board of Trade, who had reported] That upon a full examination of this Memorial, and of the Circumstances of these People, the Terms and Conditions upon which Ycur Majesty's Governor is already authorized by Your Majestys Commission and Instructions to make Grants of Land, are sufficiently advantageous and beneficial, so far as regards the Quantity of Land to be allowed to each Person and the Nature of Cultivation and Improvement, that the said Lords Commissioners should therefore, without troubling Your Majesty with any particular Propositions relative thereto, give the proper Directions to Your Majestys Governor for such a Distribution of Lands to these People as shall be expedient for their Settlement and Accommodation in the manner the most eligible and convenient to themselves, and the most advantageous for the Colony and the Publick ; and have accordingly prepared a Letter to Your Majestys Governor upon this Subject, in which they have recommended these Persons to his particular Care and Protection ; But in consideration of their Distress and indigence, the said Lords Commissioners recommend, That Orders should be given for exempting them from the Payment of any Quit Rent until the expiration of Ten Years from the Date of their respective Grants, that the Expence of surveying and laying out their Lands should be defrayed out of the Quit Rents arising to Your Majesty within that Province, and that a

(1763.) 18 Nov.

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proper Number of Musquets not exceeding Two hundred, and a proportionable Quantity of Ammunition should be given them out of Your Majestys Stores in this Kingdom, which the said Lords Commissioners apprehend will be necessary for their Support and Defence.

[The stores are to be delivered to Mr. John Challie, merchant, to be shipped on the same vessel which carries the settlers, that they may be distributed amongst them on their arrival.] [III. pp. 151-4.]

2 June. [482.] [Reference to the Committee of the petition of  
Nova Scotia. James Major of Guernsey, for himself and James Le Roy of the same island, merchant, owners of the cargo of the snow *Two Brothers*, and of Nicholas Le Mesurier of the same island, late master of the said snow, for the owners James and John Le Roy, for a day for hearing their appeal from the condemnation of the vessel in the Vice Admiralty Court at Halifax, 23 Sept., 1761, at the instance of Henry Newton and Thomas Burnet.] [p. 250.]

(1763.) [On the Committee report of 12 March, the sentence is  
16 Mar. reversed, and ship and cargo ordered to be restored. The case was heard *ex parte*, no appearance having been made for the respondents. The petition set forth] that the said Snow *Two Brothers* is Plantation Built, was duly registered and regularly manned and navigated according to Law and in May 1761 landed at Guernsey, a Cargo of Wine (part whereof was Prize) some Brandy, Cyder, and Stockings the produce and Manufacture of Guernsey, and other things for Quebec and for such Goods as were Prize, the proper Certificate was obtained. That the said Snow sailed on the 17th of May, but being by contrary Winds obliged to put into Plymouth, and finding the *Antelope Man of War*, Captain Le Mesurier put himself under her Convoy and was regularly searched paid the Port and other Charges, and Searchers Fees obtained the usual Permit and Sailed with the *Antelope*, as far as the Banks of Newfoundland, and then steered the most direct course for the River St. Lawrence, and on the 19th of July

1761 arrived at the Isle of Beck in the said River, but was prevented going higher by contrary winds whereupon the Appellant Major went on Shore, and by Land to Quebec and waited on General Murray to know whether he would permit the Cargo to be landed who answered, Major might Land all the Cargo (Brandies excepted) whereupon Major agreed with one John Wynne of the Dolphin to come to the Isle of Beck for unloading the Snow of her Cargo (Brandys excepted) and on the 29th of July General Murray gave Wynne a Pass for that purpose and that Wynne went down and the Snows Cargo (Brandys excepted) on the 1st of August, began to be unloaded into his Sloop, when Captain Burnett of the Rochester Man of War came on board, and forceably seized the Snow and her Cargo, though at same time he was acquainted with the Reason of unloading and shewn General Murrays permission and detained the Snow and her Cargo and that Captain Burnett carried her and her Cargo, out of the Jurisdiction where he seized her, to Halifax in Nova Scotia, And that on the 8th of September 1761 Henry Newton . . exhibited a Libel against the Snow and her Cargo in the Vice Admiralty Court at Halifax . . and . . prayed an Order for the Snow and Cargo to be taken into Custody of the Marshall of the Court, and that the Snow was taken into the Marshall's Custody accordingly, and on 9th September, the Appellants, Major and Le Mesurier, claimed Ship and Cargo, and put in their answer to the Libel, insisting that the above Acts do not prohibit the importation of the growth, Production or Manufacture of Europe, in Ships properly Navigated into any of His Majestys Dominions subdued by Conquest for that during the present War Canada is not within the meaning of the Statutes, His Majesty not being restrained to rule it by any particular Laws, but according to his pleasure, and that the Government of Canada had, from its conquest, been under the terms of Capitulation by such Proclamations, Military Rules, Orders, and Regulations as his Majestys Governor there had thought proper for the Service of His

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Majesty. That the General not only permitted the Importation of the Snow's Cargo (Brandys excepted) but the Sale thereof, and that if it had been his Majestys Pleasure that the Acts of Trade should extend to this new Conquest, the General would have been sworn to the observation thereof And that the Snow took in her loading at Guernsey a free Port, where there is no Custom house Officer granting Coquets or clearances, and pursued the usual methods in loading the said Vessel. And that the Captain did on his arrival at Plymouth, report to the Custom house there, his whole Cargo, as in the Bill of Loading mentioned, and paid all the fees in the Port, And that there was no breaking of Bulk, or importation of any of the Cargo of the Snow, until the above permission (vizt.) 1st of August 1761, and within the Jurisdiction of His Majestys Governor at Quebec and its dependencys, and not within the Jurisdiction of the Court of Halifax, And that the Cause being at Issue, Captain Burnett on his Examination declared, that seeing the Sloop Dolphin along side the Snow, he went on board and was told they were unloading Wines out of the Snow into the Sloop by General Murrays Orders, which were produced to him, together with the Light house Bill from Plymouth, and the Snows Register and other papers, and on his Cross Examination declared he did not see the Bulk broke before the first of August, but brought before that time, four dozen of Claret and three of Pruniac, and one of his Lieutenants told him the Master had informed him, they had been obliged to scuttle the Decks to get them. And that George Forbes Master of the Rochester, being examined confirmed the Captains Evidence, and said he had heard of some dozens of Wine coming on board the Rochester; That Captain Burnett did not tell him he seized the Snow for that Reason nor did he so understand it himself. That he heard the Master of the Sloop tell Captain Burnett he had orders from General Murray to take out of the Snow all her Cargo (Brandys excepted) and carry them to Quebec and that on behalf of the Appellants sundry witnesses were

examined, who deposed as before stated, And that on the 23rd of September 1761 [the Judge decreed the ship and cargo forfeited] and ordered the same to be sold at publick Sale by the Marshall of the Court, or his Deputy, having first been duly appraised . . . And that the Snow and her Cargo have been Sold pursuant to the Sentence, and the Nett proceeds thereof amount to the Sum of 3,178*l.* 12*s.* 7 $\frac{1}{4}$ *d.* Nova Scotia Currency. [pp. 446, 523-6, 535.]

[483.] [On a petition of the principal merchants of Albany, N.Y., to the Board of Trade,] Setting forth that since the Conquest of Niagara, his Excellency Sir Jeffery Amherst has Granted Ten thousand Acres of Land at the Niagara carrying Place to Captain Rutherford, Lieutenant Duman and others who have already Settled thereon ; That such Settlement will not only reduce Thousands of his Majestys Subjects to want by Monopolizing the Indian Trade, but will also be of the greatest prejudice to his Majestys Interests and the Welfare of his Colonies by giving offence to the Confederated Nations of Indians ; The Lands so Granted being part of those reserved to the said Indians for their Hunting Grounds by the Solemn Treaty of 1726 ; [and on the representation of the Board of Trade] that they have Considered the Allegations contained in the said Petition, but as they have not Received from any of his Majestys Officers in America or other Person whatever any Information respecting such Grant or Settlement as the Petitioners Alledge to have been made and as they do not know of any Authority given to Sir Jeffery Amherst to Grant Lands in those parts, they are therefore inclined to hope that the Petitioners have proceeded upon Misinformation and mistake, but in Case it should appear upon Enquiry that such Grant and Settlement have actually been made, the said Lords Commissioners do agree that it will be productive of many mischievous and dangerous Consequences and therefore proposed that his Majestys Royal Orders should be immediately dispatched requiring the said Settlers forthwith to quit and remove from

19 June,  
Niagara.

the said Lands. [It is now ordered that a copy of the petition be sent to Sir J. Amherst for his answer ;] But if through want of information in Affairs of this kind any such License or Grant of Lands as is complained of may have been made by the said Sir Jeffery Amherst, it is his Majestys express Commands, that he do forthwith and without delay recall and Vacate the same, and cause all such Persons, who may have settled themselves upon the said Lands to quit and remove therefrom, his Majesty being determined to Observe the aforementioned Treaty of 1726 and to adhere strictly to his Royal Instructions given in December 1761 to his Governors of Nova Scotia, New Hampshire, New York, Virginia, North Carolina, South Carolina and Georgia, prohibiting them in the strongest Terms from Granting Lands or making Settlements, which may interfere with the Indians bordering on those Colonies, a Copy of which Instruction is likewise hereunto Annexed. [p. 264.]

3 Dec. [Letter from Henry Fane, Clerk of the Council, to John Pownall, Secretary to the Board of Trade, transmitting a letter from Sir Jeffrey Amherst relating to the settlements at Niagara with thirteen accompanying papers to be laid before the Board of Trade.] [p. 426.]

25 June. [484.] [Reference to the Committee of the petition of Benjamin Nicholls, of Newport, R.I., executor of Jonathan Nicholls, praying that the Council dismiss with exemplary costs for non-prosecution the appeals of William Read, merchant of Newport, from a judgment of the Superior Court in March, 1759, affirming that of the Inferior Court in May, 1758, in Read's action to recover a debt due from Jonathan Nicholls, and from another judgment of the Superior Court in Aug., 1760, barring a writ of *scire facias* for the petitioner to show cause why Read should not have execution against his goods.] [p. 268.]

3 Aug. [On the Committee report of 15 July, the appeals are dismissed without costs.] [pp. 299, 325.]

Rhode  
Island.

1762.

[485.] [Order is given for issuing letters patent in accordance with] the joint Petition of William Smith Doctor in Divinity, Agent for the Trustees of the Colledge, Academy and Charitable School of Philadelphia in the Province of Pensilvania, and Provost of that Seminary, and of James Jay Doctor of Physic Agent for the Governors of the Colledge of the Province of New York in the City of New York in America, setting forth, that the growth of those Provinces and the continual great accession of People to them from different parts of the World being some Years ago observed by several of His Majestys good Subjects that they became seriously impressed with a view of the Inconveniences that must necessarily arise among so mixt a multitude, if left destitute of the necessary means of Instruction, differing in Language and Manners, unenlightened by Religion, uncemented by a common Education, Strangers to the humane Arts and to the just use of rational Liberty. That these Considerations were rendered the more alarming sundry other Circumstances and particularly that the Popish Emisaries were every where perceived to take for the Propagation of their peculiar Tenets, and the many Establishments which they were making for that purpose in all the Countrys of America belonging to them ; while His Majesty's numerous Subjects there, and particularly in the 2 important and central Provinces aforesaid remained too open to their Corruptions by being spread abroad on a wide Frontier, with scarce a Possibility of finding a sufficient Supply of Protestant Ministers and Teachers for them, so long as opportunities were wanting to educate them there, and but few Men of proper Qualifications here could be induced to exchange the Hopes in the Kingdoms for a laborious Employment in a remote Wilderness where they were to but small secular Advantage to reward their Toil: That these Inconveniences began to be greatly felt, not only by the Society for propagating the Gospel in foreign Parts, but also by the various Denominations of other Protestants in His Majesty's Colonies,

12 Aug.  
Philadel-  
phia and  
New York.

so that the good Purposes which they severally had a view for the support and Extension of the reformed Religion in these remote Countries were like to be grievously affected through the want of fit Persons to send forth as Instructors and Teachers. That from a deep sense of these growing Evils, the two Seminaries aforesaid, distant about a hundred Miles from each other, were began in two of the most important and populous trading Cities in His Majesty's American Dominions nearly at the same time and with the same View, not so much to aim at any high Improvements in Knowledge, as to guard against Total Ignorance; to instil into the minds of Youth just Principles of Religion, Loyalty, and a Love of our Excellent Constitution, to instruct them in such Branches of Knowledge and useful Arts as are necessary to Trade, Agriculture and a due Improvement of His Majestys valuable Colonies, and to assist in raising up a Succession of faithful Instructors to be sent forth not only among His Majestys Subjects there, but also among the Indians in alliance to His Majesty to teach both in the way of Truth, to save them from the Corruption of the Enemy, and help to remove the Reproach of suffering the Emisaries of a false Religion to be more zealous in propagating their Slavish and destructive Tenets in that part of the World, than Britons and Protestants are in promoting the pure Form of Godliness, and the Glorious Plan of Publick Liberty and Happiness committed to them. That for the better answering these great and important Purposes, the aforesaid Seminaries are under the Direction of the chief Officers of Government, sundry of the Clergy of different Denominations and other Persons of Distinction in the respective Cities where they are placed, and their usefulness has been so generally felt and acknowledged that amidst all the Calamitys of an Expensive War near ten thousand Pounds Sterling have been contributed in each of the said Provinces towards their respective Seminaries and some hundred of Youths continually educated



as well on Charity as otherwise. But as designs of so extensive a Nature, even in the most wealthy Kingdoms, have Seldom been compleated unless with the united Generosity of many private Benefactors, and often by the particular Bounty of Sovereign Princes, the Petitioners are persuaded it will not be thought strange that Individuals in young Colonies should find all the Resources in their Power inadequate to such a work, and that the Governors and Trustees of the said Seminaries should have the just apprehension of seeing all that they have raised for their support speedily exhausted, and an End put to their Usefulness, unless they can procure assistance from distant Places, as the Expence of each of them is about four hundred Pounds Sterling yearly above their Income, the defraying of which would require an Additional capital of above Six thousand pounds Sterling a piece : That under such Circumstances, at a Time when the Success of His Majesty's Arms in America opens a New Field for the advancement of Divine Knowledge there, and renders the Design of such Seminaries more peculiarly important, it was hoped that Benefactors would not be wanting to give that kind Assistance to pious Foundations in His Majesty's Colonies, which has always been so readily bestowed upon every Design of the like kind in these Kingdoms, and seldom denied to Protestant Brethren even in foreign Nations. That the Petitioners being accordingly appointed to solicit and receive such Assistance, and sensible that the highest satisfaction which his Majesty's Known Piety and Humanity can derive from the Prosperity of his Arms and Extension of His Dominions will be to see these Advantages improved for enlarging the Sphere of Protestantism increasing the Number of good Men and bringing barbarous Nations within the Pale of Religion and Civility, they are therefore encouraged humbly to pray—That His Majesty will be pleased to direct that a Royal Brief may be passed under the Great Seal of Great Britain authorizing the making a Collection through

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1762.

the Kingdom from House to House for the joint and equal Benefit of the two Seminaries and Bodies Corporate aforesaid.

[pp. 338-9.]

- 14 Aug. Barbados. [486.] [Robert Wadeson, of Furnivall's Inn, enters an appearance for Gedney Clarke, collector of customs at Bridgetown, Barbados, to the appeal of William Nash from the condemnation of the *King of Prussia* in the Vice Admiralty Court, 5 June, 1761.] [p. 343.]
- (1763.) [Reference to the Committee of Clarke's petition that the appeal be dismissed with full costs for non-prosecution. Nash is described as a merchant of St. Michael's parish, Barbados : he sued on behalf of himself and of Richard Wall, mariner. The master of the ship was Robert Riddle : 47 bags of cotton and 30 bags of cocoa were condemned with the ship.] [p. 536.]
- 16 Mar. (1763.) [On the Committee report of 15 Dec., the appeal is dismissed for non-prosecution.] [III. pp. 181, 194.]
- 21 Dec. 1 Sept. New Jersey. [487.] [On a Board of Trade representation of 25 Aug., a commission for William Franklyn to be Governor of New Jersey was approved. His instructions were also approved, including the additional instruction of Dec., 1761, to grant judge's commissions during pleasure only. The only other change was in the names of the council, a blank being left for filling the place of Andrew Johnston, deceased, when the Governor shall recommend a suitable person. On 9 Sept. Franklyn took the oaths.] [pp. 351-2, 358.]
- 1 Sept. Jamaica. [488.] [Reference to the Master General of the Ordnance of an address of the Council and Assembly of Jamaica, praying a supply of field artillery and mortars, etc. to preserve the island from the designs of the enemy and from internal commotions, as those formerly given to the island are in a decayed state.] [p. 353.]
- 1 Sept. Rhode Island. [489.] [Reference to the Committee of the petition of John Potter, of South Kingston, R.I., yeoman, for a day for hearing his appeal from two judgments of the Inferior and

Superior Courts, 11 Aug. and 5 Oct., 1761, in favour of George Hazard, defendant to an action of trespass and ejectment brought by the petitioner to recover possession of Little Comfort Island in Point Judith Pond, South Kingston.] [p. 353.]

[On the Committee report of 15 Dec., the appeal is dismissed with 20*l. stg.* costs. The original writ was against Benjamin Peckham, jun., Hazard's tenant in possession, but Hazard was admitted as defendant before the case was tried. The island is further described as near Mumford's Island. The defence was that Potter's action was barred by twenty years uninterrupted possession.] [III. pp. 182, 192.] (1763.) 21 Dec.

[490.] [Reference to the Committee of the petition of William Moizard, of Guadeloupe, master and part owner of the petty auger called the *Augustus Cæsar*, for the restoration of his ship and some money on board, confiscated by Lord Rollo, commander-in-chief at Dominica, for a pretended breach of the condition of a pass granted by the Governor of Guadeloupe for trading to and from any of the islands within that government.] [p. 399.] 3 Nov. Guadeloupe.

[491.] [Reference to the Committee, and by them on 17 Nov. New York. 19 Nov. to the Board of Trade, of the petition of Charles Scott, Esq., and Henry Holding, merchant, both of London, for a grant under the Great Seal of a 99 years' lease of all royal mines of gold and silver found, gained, dug or opened by them in New York,] rendring to His Majesty His Heirs and Successors One fifteenth dish of the Gross Ore that shall be gotten, or One twentieth part of the Gold and Silver which may be extracted therefrom by smelting or amalgamation with powers to be granted to the Petitioners to dig, sink, try, open, search for, and find out the said Royal Mines, and to do all other things necessary for the working of the said Royal Mines with such Provisoos, Powers and Restrictions as are mentioned in their said Petition, and as His Majesty shall think proper and are usual in Leases of the like nature. [pp. 413, 415.]

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1762.

(1764.) [Reference to the Committee, and by them on 19 March  
9 Mar. to the Board of Trade, of the petition of Frederick Philipse of the manor of Philipsburgh, West Chester co., New York, praying that in the lease of royal mines, those on the above manor may be excepted and that they be leased to the petitioner for 99 years, and that, if the mine already discovered there extends, as the petitioner apprehends, into the Hudson river beyond the limits of the manor, he may be entitled to the ore and have the same power to search for it as if the mine were wholly within the manor.]

[III. *pp.* 312, 319.]

15 Dec. [492.] [Reference to the Committee of the petition of  
Antigua. John Harvey, planter, of Antigua, for a day for hearing his appeal from a judgment of the Court of Errors, 15 Dec. 1761, affirming a judgment of the Court of Common Pleas, 17 Sept., 1761, in his action against Christopher Ceely, Alexander Harvey, and Elizabeth his wife, Rebecca Darcy, Anthony Brown, and Allan and Nathaniel Evanson, for a plantation of a hundred acres in St. Mary's parish.] [*pp.* 432, 436.]

(1763.) [On the Committee report of 19 Dec., the judgment of  
21 Dec. Dec., 1761, is affirmed.] [III. *pp.* 184, 190, 195.]

15 Dec. [493.] [Reference to the Treasury of a letter from Mr.  
New York. Pratt, Chief Justice of New York, and a representation of the Board of Trade,] relating to the proceedings of the Assembly of the Province of New York in absolutely refusing to grant any Salary to the Judge in that province, unless their Commissions were made during good behaviour notwithstanding the said Assembly knew the tenor of the Commission to Benjamin Pratt Esquire the present Chief Justice and of His Majesty's Instructions, that Commissions to the Judges should be granted during His Majesty's Pleasure only. By which Representation it appears amongst other things, that although the Assembly passed an Act in December last for the payment of the Salaries and Services of the several Officers of the Government to the first of September 1762, in which is a certain Salary to the Judges,

yet that Salary is for the year only and on the express Condition that they hold their Commissions during good behaviour, In consequence whereof the Judges declined acting except Mr. Pratt the Chief Justice, whose disinterested Zeal prevented a total stop being put to the administration of the Justice in the province, and in regard the said Mr. Pratt was at the head of his profession at Boston, where he left a beneficial Practice and came to New York with the best Character, as well with respect to his integrity, as to his knowledge in the Law, and now Acts alone in the service of the Publick at his own Expence. The said Lords Commissioners humbly recommend that His Majesty will be graciously pleased to grant to Mr. Pratt as Chief Justice of New York, a Salary out of the Quit Rents in that Province : But lest such appointment should be continued by the Assembly to release them from all further Obligation of providing for a Chief Justice, they would humbly propose that the Grant of such Salary be made not generally to the Office of Chief Justice, but confined personally to Mr. Pratt, and to continue only until the Assembly shall return to a sense of their Duty, and make proper Provision for the Chief Justice's support. [The Act had been repealed on 12 Aug., 1762 : *cf.* App. III.] [p. 435.]

[494.] [Reference to the Committee, and by them on 31 Dec. to the Board of Trade, of the memorial of Richard Gridley, a reduced captain of General Shirley's first regiment of foot now on half pay, praying a grant of the Magdalene Islands in the Gulf of St. Lawrence for carrying on] the Sea Cow and Seile Fishery. [pp. 454, 458.]

29 Dec.  
Magdalene  
Islands.

[Reference to the Board of Trade of the memorial of Anthony Bacon, Anthony Richardson, Gilbert Franklyn, and John Blackburn, merchants of London, for a grant of 2,000 acres of land on the Magdalene Islands,] to enable them to carry on very extensive Fishery in the Gulph of St. Lawrence for Whales, Codfish, Sea Cows and Seals.

(1763.)  
31 Aug.

[III. p. 88.]

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1762.

(1764.) [Committee. Board of Trade representation on Gridley's  
4 Feb. petition,] Read and Ordered to lay by for the present.

[III. p. 240.]

29 Dec.  
Barbados.

[495.] [Reference to the Committee, and by them on  
31 Dec. to the Treasury, of the memorial of Joseph Pickering,  
agent for Barbados, praying that the island be reimbursed  
18,619*l.* 3*s.* 5*d.* *stg.* expenses incurred in sending ten  
companies of foot properly accoutred and 600 negroes to  
the expedition against Martinique.] [pp. 454, 458.]

29 Dec.  
Carolina.

[496.] [Reference to the Committee of a Board of Trade  
representation of 22 Dec. setting forth that disputes  
and inconveniences are caused by the want of a certain  
and equitable line of division between N. and S. Carolina, and  
proposing that the line agreed to and partly set out in 1735  
be made the temporary line of jurisdiction, till the proposals  
of the two provinces can be considered and determined.]

[p. 455.]

(1763.)  
30 Mar.

[The representation was approved on 12 March by the  
Committee, and the Board of Trade directed to prepare  
instructions for the Governors accordingly. These instructions  
are now approved, on the Committee report of 30 March.  
The representation was founded on a letter from Governor  
Thomas Boone of S. Carolina, which] sets forth the great  
Mischiefs and Confusion that are likely to arise from some  
late Proceedings of the Governor and Courts of Justice of  
North Carolina, who have served Writs of Ejectment on  
Persons long deemed to be Inhabitants of the Southern  
Province, and caused Surveys to be made, and Lines  
to be run over the Hunting Grounds, and over Burial  
Places of the Catawbias, to the great Alarm and Disquiet  
of that friendly Nation of Indians. And the said Lords  
Commissioners having represented (amongst other things  
that it appears to be of the greatest Importance to both  
the said Provinces, that the most speedy End be put to  
the bad Consequences of the Transactions set forth by

Governor Boone, and all further Disputes of the like nature be prevented, and that it were to be wished those Objects could at once be attained by the immediate Establishment of a certain Line of Partition as well to Property as Jurisdiction ; But necessary and desirable as that Remedy is, it cannot they conceive be applied with that Degree of Dispatch which the present Case appears to require. [They therefore agree that the line of 1735 be temporarily adopted as the limit of jurisdiction,] and in Case it shall appear that the said Line has not been marked out so far North as the Thirty fifth Degree of North Latitude, that then Commissioners should be appointed by both Provinces to continue it in the same Direction in which it has hitherto proceeded to the said Thirty fifth Degree of North Latitude, and from thence due West until it meets the Eastern Limits of the Lands claimed by the Catabaws, and that no Settlement whatever should be made, or Jurisdiction of either Province exercised upon the Lands claimed by the said Indians, until the said Claims shall be finally adjusted, and further, That the Forts which have been erected in either Province, to the Westward of the said Lands, so claimed by the Catawbaws, be deemed to belong to, and continue to be maintained by that Province, at the Expence of which they were erected, and have hitherto been supported.

[*pp.* 526, 542, 547.]

[497.] [Reference to the Committee, and by them on 12 March, 1763, to the Board of Trade, of a Board of Trade representation of 24 Dec. with a letter from Governor Arthur Dobbs of North Carolina,] submitting whether it may not be for the benefit of His Majestys Revenue of Quit Rents that an alteration should be made in the 74th Article of His Instructions, by which he is directed to seize as escheated all such parts of the Lands granted by His late Majesty to Murray Crimble and James Huey and their Associates as are not settled according to the Condition of their Grants.

29 Dec.  
North  
Carolina.

[*pp.* 455, 527.]

554 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1762.

(1763.) [Order in accordance with the Committee report of 11 May,  
20 May. agreeing with the Board of Trade, who reported] That as the War with the Cherokee Indians has long since ceased, and by the happy Conclusion of Peace with France, every Circumstance which operated to distress the Planter and retard the Settlement is now at an End, They see no reason for making the Alteration proposed by Mr. Dobbs, in the 74th Article of Your Majestys Instructions, but are of Opinion that the said Article may now be carried into Execution without Prejudice to Your Majesty's Quit Rents or hardship to the Grantees. [Execution of the instruction is not to be delayed upon any pretence whatsoever.] [III. pp. 5, 13.]

29 Dec.  
Jamaica.

[498.] [Reference to the Committee, and by them on 31 Dec. to the Board of Trade, of the petition of Charles Knowles, setting forth] that when he was Governor of Jamaica he sold a House and some Land to Philip Pinnock Esquire a Member of Your Majesty's Council in that Island for the sum of Two thousand pounds, for which he gave the Petitioner a Bond payable in England in three Months and that notwithstanding the most repeated and Solemn promises from the said Pinnock to discharge the said Debt the Petitioner hath never been able to obtain Payment, Mr. Pinnock setting him at defiance and screening himself from Prosecution under the Privilege of his Seat in the Council; And humbly praying that His Majesty will be graciously pleased to give Orders that the said Pinnocks being a Member of the Council of Jamaica may be no Obstruction to the recovery of the Petitioner demand on him, or such other directions as to His Majesty shall seem meet. [Some extracts of letters from Mr. Pinnock, annexed to the petition, are also referred.]

[pp. 455, 458.]

(1763.) [Order in accordance with the Committee report of 3 March  
16 Mar. agreeing with the Board of Trade, who reported] that they have been attended by Admiral Knowles who had laid before them a Letter from his Agent John Kinnion Esquire (who is also a Member of Your Majestys Council in Jamaica) giving



an account of his Proceedings with Mr. Pinnock upon the receipt of the Admirals Orders to put the Bond in Suit, by which Letter the Allegations of the Petitioner are not only verified with respect to Mr. Pinnocks setting the Petitioner at defiance and screening his person under the Privilege of his Seat in the Council, but that he has also sheltered his Estates under Mortgages or Settlements so that the Petitioner by obtaining a Judgement in the due course of Law can only aggravate his Loss, by the expence of the Suit without the possibility of obtaining satisfaction of his debt. [They therefore proposed the same procedure as, they understand, was effectual in the case of Norwood Witter (May, 1760). A copy of the petition is to be sent to the Governor, who is to deliver it to Mr. Pinnock and warn him that if he attempts to defeat the lawful demands of his creditors, he will be removed from the Council. The Governor is to report the result of his proceedings to the Board of Trade.]

[pp. 510-1, 533-4.]

[499.] [Reference to the Committee of a Board of Trade representation] upon a Report made by Sir William Johnson His Majestys superintendent of the Affairs of the Indian Nations in the Northern district of North America, upon Examining into the Complaint of the Delawarr Indians against the Proprietors of Pensilvania concerning certain Lands of which those Indians deemed themselves to have been defrauded, and also upon another point set forth in Sir William Johnsons Report relating to the Complaints that have been made by the Delawarrs, that the People of Connecticut were coming to settle at Wycoming on the River Susquehanna, which had greatly alarmed the Jealousy of the Indians.

1763.

21 Jan.  
Pennsyl-  
vania and  
Connecticut.

[p. 473.]

[Committee.] . . it appearing that the Disputes between the Proprietors of Pensilvania and the Delawarr Indians concerning the Lands of which those Indians deemed themselves defrauded, is happily brought to a Conclusion, it therefore becomes unnecessary for their Lordships to give

3 Mar.

1763.

any directions whatever thereupon. . . with respect to the other point relating to the people of Connecticut having alarmed the Jealousy of the Indians by attempting to make Settlements at Wycoming which is claimed by the Indians as part of their hunting Lands, The Committee has been informed by the Earl of Egremont one of His Majestys Principal Secretarys of State, that he had signified His Majesty's Commands to the Governor of the Colony of Connecticut as likewise to Sir Jeffery Amherst Commander in Chief of His Majestys Forces in America, requiring them to exert every legal Authority and Employ their utmost Influence to prevent the Prosecution of any such Settlement, and his Lordship having laid Copys of the said Letters before the Committee [it was referred to the Board of Trade to report] whether they conceive any or what further Measures necessary to be taken for a putting a Stop to the said Settlement.

[p. 512.]

11 May. [The Committee order instructions to be prepared in accordance with the Board of Trade report, which] proposed that Instructions should be sent to the Governors of Pensilvania and Connecticut directing them to proceed in like manner with respect to the Settlers at Wycoming, as the Governors of South Carolina, and Georgia had done in the Year 1759 for the removal of certain Persons who had settled themselves to the Southward of the Altamaha.

[III. p. 6.]

15 June. [On the Committee report of 7 June, instructions are approved for the Governors to appoint each a commissioner to repair to the settlement, assemble the inhabitants, and proclaim to them his Majesty's orders for their removal.]

[III. pp. 27, 33.]

23 Feb. [500.] [Reference to the Committee of the petition] of  
Martinique. Alexander Francis de Vassow De Longpre and Jacque Fourniols Merchant both of the Island of Martinico, complaining of Major Heathcote for confiscating two hundred of their Negro Slaves in direct violation of the twelfth Article

of the Capitulation made upon the Conquest of the said Island [and praying restitution with all costs, damages and expenses]. [p. 505.]

1763.

[Committee order for the Secretary at War to send to Major Heathcote a copy of the petition with this order for returning his answer with all convenient speed.] [p. 514.]

3 Mar.

[501.] [Reference to the Committee of the petition of Francis Gale, Esq., of Jamaica, that the Council dismiss with costs for non-prosecution the appeal of Peter Serjeant and Gibbons, his wife, formerly Gibbons Gale, widow, from a Chancery decree of 22 Dec., 1761, in a case relating to the estate of Jonathan Gale, deceased, in which the petitioner is plaintiff, and which has been revived to include Zachary Bayly as a defendant in place of Isaac Gale.] [p. 505.]

23 Feb.  
Jamaica.

[On the Committee report of 9 July, the appeal is dismissed with 20*l.* *stg.* costs.] [III. pp. 48, 55.]

20 July.

[502.] [Reference to the Committee of the petition of Richard Cleeve and John Hinde, surviving assignees of the estate and effects of Pearson Pettit, late of London, merchant, a bankrupt, for a day for hearing their appeal from a decree of the Virginia Chancery, 10 Oct., 1761, in favour of James Mills and others in relation to the payment of several sums of money due from them to the said bankruptcy.] [p. 506.]

23 Feb.  
Virginia.

[On the Committee report of 27 July, the appeal is dismissed. The other respondents are William Bird, John Robinson, Richard Bland, William Jordan, Presly Thornton, and James Power; and other names in the report are, Charles Dolby, John Pettit, Francis Rybott, Thomas Hitt, James Garland, William Beverley, William and Thomas Nelson, and John and Capel Hanbury.] [III. pp. 570-4, 598.]

(1764.)

3 Aug.

[503.] This day Thomas Goostrey Esq. entered an Appearance for Barclay and Johnson against Crowder from Jamaica. [p 521.]

10 Mar.  
Jamaica.

[504.] [Two Nova Scotia Acts of 1759 and 1761 are confirmed, on the Committee report of 3 March agreeing with

16 Mar.  
Nova Scotia.

1763.

the following Board of Trade representation of 21 Jan., referred to them on 4 Feb. :—] An Act concerning Marriages and Divorce, and for punishing Incest and Adultery and declaring Polygamy to be Felony.

In this Act there is a Clause which declares that Decrees of Divorce shall be obtained not only for the usual Causes of Impotence of Kindred, or of Adultery, but also in the Case of Wilfull Desertion and withholding necessary maintenance for three Years together. As it appeared to us from the Report of Sir Mathew Lamb, One of Your Majestys Counsel at Law, that this Clause in so far as relates to the last mentioned Cause of Divorce, is inconsistent with the Laws of this Kingdom, we communicated the Objection to Your Majestys Lieutenant Governor of the said Province, and directed him to recommend it to the Assembly to pass another Act for removing it. According we have received from the said Lieutenant Governor an Act passed in July 1761, pursuant to Our recommendation, Entituled An Act for the Amendment of [the above Act].

By this Act the Objection is removed, and in the opinion of Your Majestys said Counsel it is not liable to any other in point of Law, For these reasons therefore, and because it contains a Clause suspending its Execution untill Your Majestys pleasure shall be known (whereby the operation of the amendment is prevented while the former exceptionable Act remains in full force) We think it our Duty humbly to lay both the said Acts before Your Majesty for Your Royel Approbation.

[pp. 483, 511, 531.]

16 Mar.  
Massachu-  
setts Bay.

[505.] [A Massachusetts Act of April, 1762—for enabling Mary Hunt to dispose and convey her lands and interest in Holden—is disallowed, in accordance with the Committee report of 3 March, agreeing with a Board of Trade representation of 31 Jan. referred to them on 4 Feb., by which] it appears that the object of this Act is to impower a Femme Couverte, who, by Decree of the Governor and Council has been seperated from her Husband as to Bed and Board, to Sell

1763.

certain Lands which were her Estate before Marriage, for the maintenance of herself and three Children. And although a Case of so unusual and extraordinary a Nature seems peculiarly to claim a punctual observance of the several Regulations prescribed by Your Majestys Instructions to Your Governor with respects to the passing of Private Acts, yet this Act hath been passed without the least regard to any of those Regulations neither is there any Certificate of due Notice having been given of the Parties intention to apply for such Act, nor any proof of the Husbands consent to it without which, it is, in the opinion of Your Majesty's Council (attending the said Lords Commissioners) contrary to Law that a Femme Couverte should sell her real Estate for her own use, neither does the Act contain any Clause suspending its execution until it should have received Your Majestys Approbation, and therefore proposing that the said Act should receive Your Majestys Disallowance. [pp. 483, 512, 533.]

[506.] [Reference to the Committee of the petition of William Johnstone, Captain Lieutenant in H.M. Royal Regiment of Artillery, now at Quebec, praying leave to appeal from a judgment of the Military Court of Quebec, 22 Aug., 1762, in favour of the Sieur Houdin, touching some bills of exchange purchased of him by the petitioner.] [p. 536.]

16 Mar.  
Quebec.

[Committee. Petition] Read and the Solicitor for the Petitioner directed to lay before their Lordships an Affidavit of the value of the Money paid for the said Bills of Exchange before their Lordships proceed in the further Consideration of the said Petition. [III. p. 184.]

15 Dec.

[507.] [Reference to the Committee of a Board of Trade representation of 18 March for repealing a Massachusetts Act of Feb., 1762—to incorporate certain persons by the name of the Society for Propagating Christian Knowledge among the Indians of North America.] [p. 538.]

21 Mar.  
Massachu-  
setts Bay.

[On the Committee report of 11 May, the Act is disallowed. The representation shows] That this Act is liable to the following

20 May.

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1763.

Objections—Vizt. 1st That the Operation of the Act, though the Society itself would consist only of the Inhabitants of the Massachusets, erected by an Act of that Province, would extend beyond the Limits of the Province itself. 2dly That so extensive a Power given to One Colony, may hereafter interfere with any general Plan Your Majesty may think it adviseable to pursue for the Management of Indian Affairs in North America ; Besides which the Society is by the Act subject to no Controll, Audit or Examination, though they are made capable of receiving any Grants of Lands and of disbursing sums for any Services to a very great Extent.

[III. pp. 5, 12.]

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GEORGE III. VOL. III. (1 May, 1763—30 Sept., 1764.)

20 May. [508.] [Reference to the Committee, and by them on  
Massachu- 4 Feb., 1764, to the Board of Trade, of the petition of  
setts Bay. Samuel Waldo, Esq., Francis Waldo, Esq., Isaac  
Winslow, Esq. and Lucy his wife, Thomas Flucker, Esq.  
and Hannah his wife, all of Boston, for confirmation of a grant  
of land near the river Penobscot made to them by the  
Governor, Council and House of Representatives of  
Massachusetts Bay, 6 March, 1762.] [pp. 19, 240.]

1 June. [509.] Whereas by an Act made in the last Session of  
Smuggling. Parliament, intituled, “ An Act for the further Improvement  
of His Majesty’s Revenue of Customs ; and for the  
Encouragement of Officers making Seizures ; and for the Pre-  
vention of the clandestine Running of Goods into any part  
of His Majesty’s Dominions,” it is, amongst other things,  
enacted, that for the more effectual Prevention of the infamous  
Practice of smuggling, and for the better Encouragement of  
the Officers and Seamen of all such Ships and Vessels of War  
belonging to His Majesty, His Heirs, and Successors, who may  
be employed in preventing the Clandestine Running of Goods

on the Coasts of Great Britain and Ireland, and of the other Dominions and Colonies belonging to the Crown of Great Britain, one moiety of the nett Produce arising by the sale of smuggling Vessels and prohibited Goods, which shall be so seized after the first day of May 1763, and condemned and Sold according to Law (the charges whereof being first deducted) shall be vested in the said Officers and Seamen ; And His Majesty is thereby empowered to cause the same to be divided amongst the said Officers and Seamen, in such Proportions, and in such manner, as His Majesty, His Heirs, and Successors, shall think fit to order and direct, by any Order or Orders of Council, or by any Proclamation or Proclamations to be made or issued from time to time, for that purpose, and His Majesty is likewise empowered by the said Act, to make a Distribution of any other part of all and every the Seizure and Seizures that shall be made by such Officers and Seamen respectively the money arising by the sale of which other part is directed by the said Act to be paid into the Exchequer [the proportions for officers and men are accordingly prescribed,] And His Majesty doth hereby further order, direct and appoint, that in case any Seizures shall be made in any of the Colonies abroad, belonging to the Crown of Great Britain, by His Majestys Ships or Vessels, being part of the Squadron, or acting under the Orders of a Flag Officer, or a Commodore, with a Captain under him, such Flag Officer or Commodore shall have one fourth part of the other Moiety of the said Seizure, which is directed by Act of Parliament to be paid into the Receipt of His Majesty's Exchequer : And in case any Sea Captain, Inferior Commission or Warrant Sea Officers, belonging to any such Ship or Vessel, for whom any Shares of Seizures are hereby allowed, be absent at the Time of making such Seizure, the share of such Sea Captain, Inferior Commission or Warrant Sea Officers shall be cast into the Shares hereby allowed to the Trumpeters, Quarter Gunners, Carpenter's Crew, Steward, Cook, Armourer, Steward's Mate, Cook's

1763.

Mate, Gunsmith, Cooper, Swabber, Ordinary Trumpeter, Barber, Able Seamen, Ordinary Seamen, and Marine or other Soldiers, and all other Persons doing Duty or assisting on Board any such Ship or Vessel, to be equally divided amongst them. Provided, that if any Officer or Officers, on Board of any such Ships or Sloops, at the time of making such Seizures, shall have more Commissions or Offices than One, he or they shall be entitled only to the Share, which according to the abovementioned Distribution, shall belong to his or their respective superior Commissions, or Offices. [pp. 23-5.]

(1764.) [Letter from Philip Sharpe, Clerk of the Council, to William  
21 Sept. de Grey, Solicitor General, to consider the above order with the Act referred to therein and a subsequent Act (for granting certain duties in the British Colonies in America and for applying the same, etc.,) wherein a clause is inserted respecting the shares of seizures made in America, and also the late Attorney General's opinion with regard to the distribution of seizures in America under the Order of Council, and desiring him, if he considers that the clause in the new Act makes it necessary to issue a new Order of Council that he prepare a draft of such an Order.] [p. 622.]

(1764.) [A new order is issued repeating the provision for the  
12 Oct. distribution of seizures made at sea and rehearsing a clause of the later Act for distributing seizures made in the colonies,  $\frac{1}{3}$  to the King,  $\frac{1}{3}$  to the Governor, and  $\frac{1}{3}$  to the seizer.] [IV. pp. 17-20.]

15 June. [510.] [Reference to the Committee of the petition of  
Virginia. Thomas Buchanan, merchant of Hanover co., Virginia, that the Council dismiss with exemplary costs the appeal of Charles Steuart, merchant, of Portsmouth co., Virginia, from a judgment of the General Court, 10 April, 1762, affirming a judgment of a court for Hanover county, 2 Aug., 1759, in favour of the petitioner and other creditors of William Dickenson, John Smith, and William Green, late of Newcastle, Hanover co., merchants, and declaring void a mortgage to



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Steuart of all their lands, etc., of which Dickenson had continued in possession.] [p. 36.]

[On the Committee report of 15 Dec., the appeal is dismissed.] [pp. 180, 194.] 21 Dec.

[511.] [A Virginia Act of Dec., 1762—for relief of insolvent debtors, for the effectual discovery and more equal distribution of their estates—is disallowed, in accordance with the Committee report of 9 July, agreeing with the Board of Trade representation of 6 July referred to them on 7 July, which set forth] that as this Act appeared to the said Lords Commissioners to affect the Property of British Creditors, they Communicated a Copy of it to the Principal Merchants of London trading to Virginia, to the end, that if the Act should in their judgment be prejudicial to their Interests, they might have an opportunity of being heard against it. And that the said Lords Commissioners having accordingly been attended by several of the said Merchants in behalf of themselves and the Merchants of Bristol, and also by the Agent of the Colony, and having heard what each party had to offer in Objection to, and in support of the said Act, it appeared, that the Operation of this Act being not confined to Insolvents in Prison, but extended to Debtors in general, it was principally in the Nature and Spirit of a Bankrupt Law, which although just and equitable in its abstract principle, had always been found in its execution to afford such opportunities for fraudulent practices that even in this Country, where in most cases the whole number of Creditors are resident on the spot, it might well be doubted whether the fair Trader did not receive more detriment than benefit from such a Law; But in a Colony where it is computed that not above a tenth part of its Creditors reside, a Bankrupt Law had hitherto been deemed inadmissible on account of the Injustice of its Operation with respect to the other Nine tenths of the Creditors residing in Great Britain. And that upon this Consideration, His late Majesty was pleased, in consequence of a Representation of the said Lords Commissioners dated the 29th of June 1758,

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to repeal an Act passed in the Province of the Massachusetts Bay in 1757, for providing Remedy for Bankrupts and their Creditors. That exclusive of this general Objection to the Principle of the Act, as a Bankrupt Law, there were several of its Provisions which the said Merchants complained of as unequal to the Creditors in general, or injurious to themselves in particular, the most material of which were—

First That by this Act the Insolvent Debtor had it in his power to clear himself by a Voluntary Surrender of all his Effects, which the Creditors were obliged to accept; But that they had no means of compelling him to such Surrender, and therefore that the advantage was not reciprocal.

Secondly. That within Ninety days after Surrender, the Creditors resident in Virginia were, by Majority of Number (without regard to value as the English Law requires) to chuse two Assignees from amongst themselves, in which choice, the Creditors residing here could have no share.

Thirdly. That these Assignees were within three months to sell the Debtors effects by Auction, upon twelve months Credit; whereby the Recovery of the whole produce of such Sale was rendered precarious: And the Security of such part of it as might happen to be received was also endangered, by the want of any obligation on the Assignees to appoint a Treasurer (as is the practice here) or to place it in other safe custody.

Fourthly. That the Assignees were to be allowed five per Cent. for their trouble, which was contrary to the practice of this Country and an unreasonable diminution of the Insolvents effects, to the prejudice of his Creditors.

Fifthly. That it was indeed Enacted that Creditors in Great Britain might transmit their Claims, duly proved, to their Agents, which being produced at any time before the Dividend was made should be allowed; But as the Act also declared that the Debtor might disprove any Demand and the Assignees might set one debt against another, and allow no more than should appear to be due on the Ballance of such an Account, the Merchants apprehended that they were thereby exposed to

the possibility of great injustice by making them Debtors for consignments, which though made, might never have been received, or at Prices, which the Commodities, though received, might never fetch.

Sixthly. That the Assignees might make a Dividend at the end of the twelve months after Sale of the Debtors Estate, but they were obliged (except in the Case of extraordinary circumstances in the recovery and Sale of the Insolvents effects) to make a final Dividend within Eighteen months after their appointment, and from thenceforth the Insolvent was made free and clear, whereby the British Creditor, if at this distance he should not have timely Notice of his Debtors Insolvency, or if his power of Attorney should miscarry, might frequently lose his whole debt.

And lastly, that this Act gave to Insolvents an allowance of Poundage on their Dividends without Limitation of any certain sum, which was conceived to be highly unreasonable and an improper encouragement to run in Debt, and that though the British Statute of Bankruptcy allowed the Bankrupt a Poundage and at the same Rates yet it restrained the amount of that allowance to the sum of three hundred pounds.

That for these Reasons the Principal Merchants of London and Bristol trading to Virginia, and the Merchants of Glasgow and Liverpoole (by Memorials presented to the said Lords Commissioners) had requested that this Act which took effect the 1st of June last, might not be suffered to continue in force.

[pp. 42, 45, 54.]

[512.] [Order in accordance with the following Admiralty memorial of 21 June :—] Denys de Vitré, who was a French Prisoner of War, having laid before Us a Memorial, representing, That he is a Native of Canada, and was taken Prisoner in the Year 1757, when he was Master of a Merchant Ship, bound from Bourdeaux to Quebec ; That in the Year 1759, he was prevailed upon to act as Pilot on board the British Fleet, which was employed in the Expediton against

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Quebec, and was very serviceable in piloting the Ships of War and Transports, up and down the River Saint Lawrence ; That he was also employed the following Year as Pilot on board the Squadron under Commodore Swanton, which relieved Quebec, when besieged by the French Forces ; And that, as his Services on those Occasions are too Notorious ever to admit of his returning to France, he hopes that a comfortable Subsistence for himself and family may be assigned him here, And Sir Charles Saunders having informed Us, that while he commanded the Fleet on the Expedition to Quebec, the said Pilot exerted a most uncommon Zeal and Assiduity in the Services on which he was employed, many of which were of very great Importance and Utility to the Success of that Expedition, And that he often Assured the said Pilot (as he was authorized to do) that if he behaved well the Government would provide handsomely for him the rest of his life . . . We do therefore humbly propose to Your Majesty, that he may be allowed a Pension of two hundred pounds a year, and that the same be placed upon the Ordinary estimate of the Navy. [p. 56.]

31 Aug. [513.] [In accordance with their memorial of 30 Aug., the  
Havanna. Admiralty are empowered to survey six Spanish ships of war taken in the harbour of Havanna and to purchase on the cheapest terms such of them as they shall find strong and well built and fit for his Majesty's service. Of the ships, the *Soverano*, *Reyna*, *Aquilon* and *Tygre* carry 70 guns each, and the *Conquistador* and *St. Antonio*, 60 each.] [p. 74.]

(1764.) [Reference to the Committee of an Admiralty memorial  
25 April. of 24 April that they had purchased the three last-named ships, and submitting, whether the others, although not in good condition, may not also be purchased] in regard to the Expence which Attended the fitting of the said Ships in Order to be brought to England and in Order to prevent any of them being purchased by Foreigners. [p. 416.]

(1764.) [On the Committee report of 7 May, the purchase is  
9 May. authorised provided the same can be done upon terms that are

reasonable. The report mentions that troops were brought home in five of the ships.] [pp. 422, 429.]

[514.] [On an Admiralty representation of 17 Aug., a commission for trial of pirates on the African Coast is granted to Archibald Cleveland, the Hon. Peregrine Bertie, and Benjamin Caldwell, the captains of H.M.S. *Phoenix* and *Shannon* and the *Martin* sloop respectively, and the principal officers of the African Company on the Gold Coast, in Senegal, and on the Gambia. But] with regard to that part of the above Representation which desires the like powers to be extended to the Captain or Commander for the time being of any Ship or Sloop of His Majestys that may be from time to time employed on the Coast of Africa, His Majesty is pleased to order, that the Consideration thereof be postponed for the present. [pp. 77-9.]

31 Aug.  
Piracy.

[515.] [Reference to the Board of Trade of the petition of Sir Robert Davers, Bart., late of Rysbrooke, in Suffolk, for a grant on certain terms] of an Island in the mouth of the River Detroit called Gros Isle, and several other little Islands surrounding it or near to it and the Isle Aux Dinds which Islands together with an Ouque of Land on the Eastern Shore of the same River and is bounded by the said River on the West, by Lake Erie on the South, by the River de la Presque Isles on the East, and by the River Aux Canards on the North, which lay entirely neglected and uncultivated. [p. 88.]

31 Aug.  
Detroit.

[Reference to the Board of Trade of] the Petition of Thomas Mant, Major of Brigade to Colonel Bradstreet, on an Expedition to Detroit in the Summer 1764, setting forth, that the Petitioner and the Major part of the Officers employed on that expedition (whose names are thereto annexed) are desirous to be permitted to send at their own expence, the number of Families set against each of their names to the Settlement of Detroit; And therefore humbly praying, that His Majesty will be graciously pleased to grant one hundred and fifty Acres of Land on the River Detroit to each of the

(1765.)  
15 May,

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Families so to be settled and also a quantity of Land to themselves in proportion to the number of Families they shall send thither . . . together with the memorandum thereto annexed concerning Detroit. [The petition also requested that the settlement might] be erected into a specie of distinct Government as the present rotation of Military duty may not always afford Affairs [? officers] of abilities equal to so important a Trust. [*Cf.* App. V, Canada.] [IV. p. 194.]

31 Aug. [516.] [Reference to the Board of Trade of the petition of  
Labrador. Ackton Rickaby Bondfield, merchant, of London, for a grant of] the Post or Bay Phelypaux in North America together with four Leagues of Land on the Coast of Labrador adjoining to the said Bay and the right of fishing along the said Coast in the same manner as it hath heretofore been granted by the French King to one Martel Brouage, or in such other manner as to His Majestys Royal Wisdom shall see meet. [p. 88.]

31 Aug. [517.] [Reference to the Board of Trade of the petition of  
Dominica. John Fordyce, Andrew Grant, Robert Malcolm, and William Adam, merchants of London, Robert Adam, William Johnston and George Dempster of Westminster, and Andrew Stewart of Edinburgh, for a grant of a tract of land] lying near the Rivulet called Massacre in the Island of Dominica with all Mines and Minerals therein (Royal Mines excepted). [p. 88.]

31 Aug. [518.] [Reference to the Committee of the petition of  
Barbados. Thomas Suleven, planter of Barbados, and Alice, his wife, late the widow of John Patterson, for a day for hearing his appeal from a Chancery decree of 1 Sept., 1762, making perpetual an injunction to stay their proceedings on a verdict found for them against Dr. Reynold Skeete in an action for dower.] [pp. 89, 607.]

(1765.) [On the Committee report of 16 July, the decree is reversed  
26 July. and Skeete's bill in Chancery dismissed.] [IV. pp. 276, 305.]

31 Aug. [519.] [Reference to the Committee of the petition of  
Virginia. Thomas Howlett of Virginia, for a day for hearing his appeal from a judgment of the General Court, 10 April, 1762, setting

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aside a special verdict of 10 Oct., 1760, in his favour, on an action of ejectment brought against him by John Doe on the demise of Thomas Osburne to recover 150 acres of land, etc., in the parish of Dale in the county of Henrico.] [p. 89.]

[On the Committee report of 18 July, the judgment is reversed, and the petitioner ordered to be restored to all he has lost thereby.] (1765.)  
26 July. [IV. pp. 300, 307.]

[520.] [The following memorial of 4 Oct. from the Treasury is approved, and the Earl of Halifax, Secretary of State, the Admiralty, and the Board of Trade instructed to give directions in accordance therewith :—] 5 Oct.  
Plantations.  
We the Commissioners of your Majestys Treasury beg leave humbly to represent to your Majesty, that having taken into Consideration the present state of the Duties of Customs imposed on your Majestys Subjects in America and the West Indies, We find, that the Revenue arising therefrom is very small and inconsiderable having in no degree increased with the Commerce of those Countries, and is not yet sufficient to defray a fourth Part of the Expencc necessary for collecting it. We observe with concern that through Neglect, Connivance and Fraud, not only the Revenue is impaired, but the Commerce of the Colonies is diverted from its natural Course and the salutary Provisions of many wise Laws to secure it to the Mother Country are in great Measure defeated: Attention to Objects of so great Importance, we are sensible is at all times our Duty, but at this it is more indispensable when the Military Establishment necessary for maintaining these Colonies requires a large Revenue to support it, and when their vast Increase in Territory and Population makes the proper Regulation of their Trade of immediate Necessity, lest the continuance and extent of the dangerous Evils abovementioned may render all Attempts to remedy them hereafter infinitely more difficult, if not utterly impracticable. We have endeavoured therefore to discover, and as far as the Power of our Department will allow, remove the Causes, to which the Deficiency of this Revenue and the contraband Trade with other European

Nations are owing. For this Purpose We have ordered all the Officers belonging to the Customs in America and the West Indies to be fully instructed in their Duty to repair forthwith to their respective Stations and constantly to reside there for the future ; and where We find, that a sufficient number of proper Officers are not yet established, it is intended to supply the Deficiency by the appointment of others. We have directed that all the Officers of the Revenue in your Majestys Plantations should be furnished with new and ample Instructions, enforcing in the strongest manner the strictest attention to their Duty, and requiring that by regular and constant correspondence, they give an Account as well of their own Proceedings, as of the conduct of the Officers under them, and inform Us likewise of any Obstructions they may meet with in discharging the Business of their respective Offices. We have ordered them to transmit exact Accounts of the Imports and Exports in their several Districts, of the state of the Revenue, and of the illicit Commerce with other European States from time to time in consequence of these directions, with such Observations as may occur to them in regard either to the Efficacy and Inefficacy of any subsisting regulations or to such Alterations as they may judge conducive to the farther Improvement of the Revenue to the prevention of those Frauds by which it is impaired, and to the Suppression of the contraband Trade which has been hitherto carried on with too much Impunity : and We have directed the Commissioners of your Majesty's Customs immediately to dismiss every Officer, that shall fail to pay obedience to these Instructions or be any way deficient in his Duty. But as the Restraint and Suppression of Practices which have unhappily prevailed too long will certainly be encountered with great difficulties in such distant Parts of your Majestys Dominions, We apprehend that these Our Regulations will not fully answer the end for which they are designed, unless, in consequence of your Majestys Commands, the other Departments of Your Government afford their utmost Assistance



in support of them. With this View, We thought it became us thus to lay Our Proceedings before your Majesty, and further humbly to represent, that it appears to Us of the highest Importance, that strict Orders should be given to the Governors of all the Colonies, to make the Suppression of the clandestine and prohibited Trade with foreign Nations, and the Improvement of the Revenue, the constant and immediate Objects of their Care, and by a vigorous discharge of the duty required of them by several Acts of Parliament and a due exertion of their legal Authority, to give the Officers of the Revenue the necessary Protection and Support, and that they from time to time transmit such Observations as occur to them on the state of the Illicit and Contraband Trade, and on the conduct of all Persons, whose duty it is to prevent the same, in order that the necessary Directions may be given for punishing such Persons, as shall appear to be guilty of any Misbehaviour and correcting all abuses for the future.—We are further humbly of opinion that it will greatly contribute to the same salutary ends, and to the carrying of the several Laws and Regulations into execution with Success, if all Officers both Civil and Military are strictly commanded to give their Assistance upon all proper Occasions, and if the Commanders in Chief of Your Majestys Ships and Troops in America and the West Indies are directed to attend to this object with the utmost care, and to make such a Disposition of the Force under their respective Commands as will be most serviceable in suppressing these dangerous Practices, and in protecting the Officers of the Revenue from the violence of any desperate and lawless Persons, who shall attempt to resist the due execution of the Laws in the same manner as is practiced in England.—The Advantages of a Sea Guard more especially in those Parts are sufficiently obvious. We depend upon it as the likeliest means for accomplishing these great Purposes : and the good Effects, that have already been experienced from the Measures lately taken for that purpose at Home, make us earnestly wish, that the same may not only be continued, but even

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extended and strengthened as far as the Naval Establishment will allow.—And lastly it appears to Us highly necessary that there should be established by Law a new and better method of condemning Seizures made in the Colonies; The Commissioners of the Customs have reported to Us, that they have received various Complaints of great Difficulties and Partialities in the Trials on these Occasions, and the several Statutes in force from the 12th of Charles the Second to the third of Your Majesty vary so much both as to the Mode and Place of Trial, that the Officers of the Revenue when they have made a Seizure cannot but be under great doubt and Uncertainty, in what manner they should proceed to the condemnation of it. It is therefore humbly submitted to Your Majesty whether from the Importance of this Object it would not be of the greatest Public Utility, that an Uniform Plan be prepared for establishing the Judicature of the Courts of Admiralty in that Country under Persons qualified for so important a Trust, in order that Justice may hereafter in all Cases be diligently and impartially administered and that such Regulations, as Parliament may think proper to make, may be duly carried into Execution. [pp. 97–100.]

5 Oct. [521.] [On the following Board of Trade report of 28 Sept.,  
E. Florida. addressed to the Earl of Halifax, Secretary of State, viz.:—] In Obedience to His Majestys Commands signified to Us by Your Lordships Letter of the 19th Instant, We have taken into Our Consideration, the Memorial of Colonel Grant His Majesty's Governor of East Florida, setting forth the expediency of extending the Northern Boundary of that Province as far as the River St. Mary, and although there was reason to induce this Board to propose in their former Representation to His Majesty that the Tract of Country between the Rivers St. Juans and St. Mary should be annexed to the Province of Georgia, We are nevertheless of Opinion, that the considerations of fixing the limits by a River, which is a natural Boundary, and that the southern parts of East Florida are represented to be less fertile, and therefore not so well

adapted to Settlement and Cultivation, do favour Governor Grants proposition ; therefore if it be His Majestys pleasure— We shall prepare the Draught of the Proclamation and of the Governors Commission, which We are directed to lay before His Majesty conformable thereto : [it is ordered] that the River St. Mary, from its entrance to its source with a Line drawn from thence to that part of the River Apalachicola where the Catahouchee and Flint Rivers meet be the Northern Boundary of the said Province of East Florida.

[The Attorney General is directed to report how this alteration in the boundary should be notified to the Governor of Georgia and his commission revised in this particular : if an instrument under the Great Seal appears to be necessary, he is to prepare a draft.] [p. 100.]

[The draft of an instrument (submitted by the Attorney General on 29 Oct.) for revoking Governor James Wright's commission so far as it related to the territory transferred, is approved.] [p. 134.]

4 Nov.

[522.] [A proclamation relative to the settling the new governments in America is approved.] Mem. this Proclamation was signed by His Majesty and dated the 7th Inst.

5 Oct.  
The New  
Govern-  
ments.

[pp. 101-6.]

[On the representation of the Board of Trade, H.M. Chief Engraver of Seals is directed to prepare drafts of seals for the new colonies agreeable to the following descriptions :—]

5 Oct.

For the Province of Quebec : On the One side His Majestys Effigies, pointing to a Chart of that part of America through which the River of St. Lawrence flows, including the Gulph and with this Legend or Motto underneath, *Extensæ gaudent agnoscere Metæ* ; and this Inscription around the Circumference, *Sigillum Provinciæ nostræ Quebecensis in America* ; and on the Reverse His Majestys Arms, Crown, Garter, Supporters and Motto with this Inscription round the Circumference, *Geo : III Dei Gratia Magnæ Britanniæ, Franciæ et Hiberniæ Rex, Fidei Defensor Brunsvici et Luneburgi Dux, Sacri Romani Imperii Archi Thesaurarius et Elector.*

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For the Islands of Grenada etc.: On the One side a Representation of a Sugar Mill with Slaves at Work and underneath this Motto or Legend *Hæ tibi erunt Artes* and this Inscription round the Circumference *Sigillum Insularum Grenadæ, Grenadillorum, Tobagæ, Sancti Vincentii et Dominicæ*: [the reverse as for Quebec].

For East Florida: On the One side a Representation of a fortified Town and Harbour with this Motto or Legend underneath, *Moresque viris et Mænia ponit*, and this Inscription round the Circumference *Sigillum Provinciæ nostræ Floridæ Orientalis*: [the reverse as for Quebec].

For the Province of West Florida: On the One Side a Representation of a cultivated Country interspersed with Vineyards and Corn Fields and with this Motto or Legend underneath *Melioribus utere fatis*, and this Inscription round the Circumference *Sigillum Provinciæ nostræ Floridæ Occidentalis*: [the reverse as for Quebec]. . . . [pp. 107–8.]

4 Nov. [On an Admiralty memorial of 25 Oct that they are only empowered to constitute Vice Admirals at such places where Vice Admirals have been usually appointed by the High Admiral, a commission is ordered to be passed under the Great Seal granting them authority to appoint Vice Admirals and officers for Vice Admiralty courts in the four new Governments.]  
[p. 133.]

21 Dec. [The drafts of the seals are approved and they are ordered to be engraved. On 11 April, 1764, the seals for Quebec, West Florida and Grenada are approved, and warrants for their use ordered to be prepared. That for East Florida was approved on 25 April, 1764.] [pp. 202, 366, 416.]

5 Oct. [523.] [Reference to the Committee of a Board of Trade  
The new representation of 4 Oct. with drafts of commissions for the  
Governors. Hon. James Murray to be Governor of Quebec, James Grant, of East Florida, George Johnstone, of West Florida, and Robert Melville, of Grenada, etc.] [p. 109.]

6 Oct. [The Committee consider the representation, which sets forth] That in the Description of the Governments of Quebec,

East Florida, and West Florida they have conformed to the Limits and Bounds which your Majesty has been pleased to direct and approve, and as they conceived it to be Your Majestys Royal Intention, that the Form and Constitution of Government in these new Colonies, should be as near as may be similar to what has been established in those Colonies, which are under Your Majesty's immediate Government, they have therefore prepared these Commissions accordingly, by which the Governors are empowered and directed so soon as the Circumstances of the Colonies will admit thereof, to summon and call General Assemblys of the Freeholders in their respective Governments in such Manner as is practised in Your Majestys other Colonies ; That they have omitted in these Commissions any Power that it may be necessary to grant to the Governors and Councils of Your Majestys said new Colonies to make Temporary Regulations until Assemblys can be called, because they were of Opinion that an immediate and publick Declaration of the intended permanent Constitution, and an Insertion in the first Commissions of the Power of calling Assemblys so soon as the Circumstances will admit, is expedient for Your Majestys Service, and will give Confidence and Encouragement to such of Your Majestys Subjects as shall incline to settle in Your said new Colonies, and because such Power of making temporary Regulations may be given in the General Instructions which they shall prepare and lay before Your Majesty with all possible Dispatch. That there are in the Commissions to the Governors of Your Majesty's other Colonies some Clauses respecting the Power of suspending and comptrolling the Council, but as they conceive these Matters may be more properly and regularly provided for in the Instructions under those Articles which direct the Nomination of the Council, ascertain their Authority and point out their Duty and Methods of Proceedings, they have therefore omitted these Clauses in the present Draughts in order to insert them in the Instructions. [The Committee propose that] the following Addition should be made to each of the said

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Commissions at the End of that Article whereby the said Governors are empowered to make Grants of Land—Vizt. Provided the same be made conformable to the Instructions herewith delivered to You, or to such other Instructions as may hereafter be sent to You under Our Signet and Sign Manual, or by Our Order in Our Privy Council. [pp. 112-3.]

7 Oct. [The commissions, as submitted by the Committee, are approved.] [p. 117.]

4 Nov. [A Board of Trade representation with instructions for the Governors is referred to the Committee; as is a letter from the Attorney General to Lord Halifax proposing an addition to the clause in the commissions relative to the granting lands.] [pp. 138, 139.]

14 Nov. [On one Committee report of 11 Nov., the instructions are approved: on another of the same date, the proposed addition in the commissions is ordered to be made, viz. :—] Which Instructions, or any Articles contained therein, or any such Order made in Our Privy Council, so far as the same shall relate to the Granting of Lands, as aforesaid, shall from time to time, be published in the Province, and entered of Record, in like manner as the said Grants themselves are hereby directed to be Entered. [pp. 143-4, 147-8.]

21 Dec. [The oaths are taken by Governors Grant and Johnstone: by Governor Melville on 23 May, 1764.] [pp. 202, 463.]

5 Oct. [524.] [Reference to Committee of a Board of Trade  
Nova Scotia. representation with draft of a commission for Montagu Wilmot to be Governor of Nova Scotia.] [p. 110.]

7 Oct. [The commission is approved with an addition proposed by the Committee in their report of 6 Oct., which quoted the representation of the Board of Trade that] they have so described the Northern and Eastern Limits of this Province, as to make it conformable to what has been already approved in respect to the Southern boundary of the Province of Quebec, and to comprehend the Islands of Cape Breton and St. Johns, that they have also made the River St. Croix the Boundary to the Westward, for, although it be true that the ancient

Limits of this Province, as it was possessed by France under the Treaties of Breda and Ryswick and ceded to Great Britain by the Treaty of Utrecht under the name of Acadia, did extend as far West as the River Pentagoet or Penobscot, yet as it appears to have been determined in the Year 1732, upon a full examination of the Claims of the Province of Massachusetts Bay, as well by the Attorney and Sollicitor General, as by this Board, and finally by His Majesty in Council, that the said Province had a right of jurisdiction and property under the Limitation of the Charter, to the Country between the Rivers Sagadahock and St. Croix, and as in consequence of this Examination, the Instructions given to Colonel Dunbar, and to the Governor of Nova Scotia to make Settlements within that Tract were revoked, and it was Ordered that the Province should not be disturbed in the possession they claim to have of this Country it does not appear to them that this question is for the present open to a New Discussion: But as they conceive there are many material circumstances in favour of Your Majesty's Right to the Country as far Westward as the River Penobscot which were not stated in the Case laid before the Attorney and Sollicitor General in 1732, upon which Case their Opinion and the Decision of the Council were founded, they do not think it adviseable that this Restriction of the Western Bounds of Nova Scotia to the River St. Croix should pass without some reservation of Your Majestys Right to the Country between that River and Penobscot, being entered upon the Council Books; And they rather humbly propose this to Your Majesty, as it may be a means of hereafter removing any Objection which may be taken on the part of the Province of Massachusetts Bay to the Southern Line of Quebec, as far as it concerns their Northern Limits, for if such Objection should be made, and it should appear upon examination they have any just ground of Complaint, it will be in Your Majestys power to make them a reasonable Compensation, by allowing their Jurisdiction to extend as far Eastward as the River

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St. Croix, between which and the River Penobscot they have lately made some considerable Settlements.

[The Committee] being of Opinion that Your Majestys Right to the Country between the River St. Croix, and the River Penobscot (the ancient Limits of the said Province) ought to be reserved in a more publick manner than by an Entry in the Council Books, do therefore propose that the following alteration should be made in the said Draught of a Commission for that purpose Vizt. After the appointment of Montagu Wilmot to be Captain General and Governor in Chief in and over the Province of Nova Scotia, the description of the Boundarys of the said Province to be left out, and the following words inserted in lieu thereof. Which We have thought proper to restrain and comprize within the following limits Vizt. to the Northward, Our said Province shall be bounded by the Southern Boundary of Our Province of Quebec as far as the Western extremity of the Bay des Chaleurs; To the Eastward by the said Bay and the Gulph of St. Lawrence, to the Cape or Promontory called Cape Breton in the Island of that Name including that Island, the Island of St. Johns, and all other Islands within Six Leagues of the Coast; To the Southward by the Atlantick Ocean from the said Cape to Cape Sable, including the Island of that Name, and all other Islands within forty Leagues of the Coast, with all the Rights, Members and Appurtenances whatsoever thereunto belonging; And to the Westward although Our said Province hath anciently extended, and doth of Right extend as far as the River Pentagouet or Penobscot, it shall be bounded by a Line drawn from Cape Sable across the Entrance of the Bay of Fundy, to the mouth of the River St. Croix, by the said River to its source, and by a Line drawn due North from thence to the Southern Boundary of Our Colony of Quebec.

[The same proviso is added by the Committee to the instruction about granting lands as in the commissions for



the new governments, and on 14 Nov. the further addition proposed by the Attorney General. (*Cf. pp. 575-6.*)

[*pp. 114-5, 118, 139, 143, 147.*]

[The instructions, which were referred to the Committee (1764.) on 2 March, are approved on their report of 7 March, 9 Mar. agreeing with the Board of Trade representation, which shows] That in the Draught of General Instructions they have omitted all those Articles, the Objects of which have been already provided for, or do no longer exist, and that they have inserted the following new Articles or parts of Articles—Vizt.

A Clause in the first Article restraining the Chief Justice of the Province, although the Senior Councillor, from taking upon him the Administration of Government upon the Death or Absence of the Governor or Commander in Chief; The Offices of Chief Justice and Commander in Chief appearing to be incompatible in respect to the Instructions for Regulating Appeals, by which Appeals, in some Cases, are Allowed and directed to be made from the Courts in which the Chief Justice Presides, to those Courts in which the Commander in Chief Presides.

Article II Containing the Substance of the several Regulations relative to passing Laws contained in Articles 13, 16, 17, 19, 25, 26, 27, 28 of the former Instructions, which the said Lords Commissioners have endeavoured to render more clear and explicit, Conformable to what has been approved by your Majesty in your Instructions to the Governors of the New Established Colonies.

Articles 45, 59, requiring a Reservation to your Majesty of Tracts of Land which are best adapted to the production of Masts and other Naval Timber, and also reserving in all Grants, Coals and Mines of Gold, Silver, Copper and Lead.

Article 46, requiring the Governor to give all due Encouragement and Assistance to the Person or Persons whom your Majesty shall Authorize to make Surveys of your Colonies in America.

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Articles 47 to 56 inclusive, respecting the Regulations to be Observed in the Granting of Lands which are Conformable to what your Majesty has already approved in the Instructions given to your Majestys Governors of the Province of East Florida West Florida and Quebec.

Article 57, for Obliging the Grantee of any Lands fit for producing Hemp and Flax, to sow a proportionable part of the said Land with Hemp and Flax Seed, which is Conformable to an Article in your Majestys Instructions to the Governor of the Province of Quebec.

Article 58, restraining the Governor from Granting Lands in the Islands of St. John, or Cape Breton, or any other of the Islands under his Government, without your Majestys express Orders for that purpose, the great Value and Importance of the Lands in those Islands appearing to the said Lords Commissioners, to make such a Restriction necessary until accurate Surveys shall have been made, and a more perfect knowledge of the State of them obtained.

[The trade instructions are the same as were given to Governor Charles Lawrence.] [pp. 272, 274-5, 312.]

4 Nov. Grenada. [525.] [Reference to the Committee, and by them on 18 Nov. to the Treasury, of a Board of Trade representation of a plan for the more speedy and effectual settlement of the newly acquired islands in the West Indies and for the disposal of his Majesty's lands there.] [pp. 138, 152.]

(1764.) [On 10 Feb. a plan and proclamation were ordered to be prepared in accordance with the Committee report of 4 Feb. 26 Mar. Drafts were referred to the Committee on 2 March, recommended by them on 22 March, and approved by the Council on 26 March. The Board of Trade representation was as follows :—]

As the commercial Advantages to be derived to this Kingdom from the speedy and effectual Settlement of Your Majesty's Islands of Grenada, the Grenadines, Dominica, St. Vincents, and Tobago, do, in Our humble Opinion, materially depend upon the Division of them into convenient

Districts, upon the laying out the Lands, which belong to Your Majesty, into Allotments proper for Plantations, and upon the method which shall be pursued in the Disposal of such Allotments ; these important Regulations are become necessary Objects of Our Attention in preparing a Draught of Instructions for Your Majesty's Governor of these Islands, but as the Consideration of them has Reference as well to Your Majesty's immediate Property and Revenue, as to the commercial Interests of Your Subjects ; We have not inserted in the Draught of the General Instructions to the said Governor any Directions with respect to this important Service, thinking it our Duty previously to submit our Opinions of the proper mode for the Division of the Islands and the Allotment of the Lands ; and also humbly to lay before Your Majesty the Propositions, that have occurred to Us for the disposal of those Lands, that Your Majesty, having a state of the whole before You, may be pleased to signify Your Commands for carrying into Execution such plan, as shall appear to Your Majesty to be the most expedient ; [in the mean time the Governor has been restrained from making grants by an article in his instructions].

As the several Islands differ from each other in many Circumstances of Advantage and Disadvantage, arising from Situation, natural Soil, Cultivation and Inhabitants, it may be useful to mention each of them separately, and just to touch upon such of those Circumstances as are necessary to Our purpose.

The Island of Tobago, about thirty English Miles in length and twelve wide in the broadest part, is supposed to contain above an hundred thousand Acres of Land ; it is said to be one of the most valuable of the Charibbee Islands, as well in respect to the fertility of the Soil, which is unencumber'd with Mountains, and produces a great Variety of useful Timber, as to the other natural Advantages of many Rivulets and Springs and tolerably convenient Bays ; it was formerly as well settled Colony, although at present almost an entire waste

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of Woodland, there being no Settlement or Habitation upon it, except a few Huts belonging to the Caraiibes, and to some French Turtlers, who resort thither in the proper Season for that Employment.

It does not appear from any Information we have received, that an actual Survey of this Island has ever been taken by Authority ; We would therefore humbly recommend that such Survey should be made with all possible Dispatch, and that the Island should be divided into convenient Districts or Parishes, containing not less than six thousand, nor more than ten thousand acres each, according as proper natural Boundaries shall present themselves ; each Parish to extend from the Sea Shore towards the interior part of the Island.

After this division, and the setting apart such Lands in different Situations of the Island as shall be thought proper for erecting Fortifications, for Yards for the use of the Navy, and other Military purposes by Engineers acting under the Direction of Your Majestys Governor and Council, We would recommend the following Reservations to be marked out in each Parish.

1st. Not less than five hundred Acres, nor more than one Thousand for a Town in that part of the Parish most convenient for Trade and Navigation ; such Town to consist of a proper Number of Lots of different extent for Houses and Gardens, and for small Fields of Pasture, not to exceed six Acres for each Town Lot of sixty feet in front, and in the laying out such Town Lots, it will be proper that Reservations be made for publick Wharfs, and Quays, and for all other necessary Publick Uses.

2dly. Not less than one hundred Acres, nor more than two hundred, as a Glebe for a Minister conveniently situated for the said Town.

3dly. Not less than thirty Acres, nor more than sixty for a protestant Schoolmaster, and,

4thly. As the fertility of these Islands depends upon those refreshing Showers, which are produced by the Preservation

of a sufficient quantity of wood in proper Situations, and as many of Your Majesty's Sugar Islands already settled have been distressed by the entire Waste of that Wood, which is necessary, not only for the construction and repair of Mills, but also for Fortifications and other publick buildings, We humbly recommend, that a proper number of Acres of wood land (which we cannot take upon us to ascertain) should be reserved for these purposes, in such parts of each Parish as are most hilly, and therefore least adapted to Cultivation, and most useful in the preservation of the Seasons.

These Reservations being marked out, We would recommend, that the Remainder of the Lands in each parish should be laid out into Allotments for Plantations, consisting of not less than one hundred nor more than three hundred Acres in general, with some few Lots in proper and convenient Situations of four hundred or five hundred Acres each ; in the making of which Allotments it will be necessary, that each have, as far as Circumstances will allow, an equal Proportion of whatever conveniencies the nature of the ground will admit, and that the Lots do not extend lengthways along the Sea Coast or Banks of Rivers, but up into the Country allowing at least three Rods in length for one in front.

It will however be expedient for the more effectual Peopling this Island with white Inhabitants, that small Lots, containing not less than ten nor more than thirty Acres each, amounting in the whole to not more than eight hundred Acres in each Parish, be laid out for the Accommodation of poor Settlers, in such parts of the said Parishes respectively, as are not well adapted for Sugar Plantations, and as near, as conveniently may be, to the great Roads which we would humbly propose should be laid out for the Convenience of Communication between Town and Town, and that such other Roads should also be laid out, as shall be necessary for the Accommodation of each Plantation.

In order to carry the foregoing Propositions into Execution, it will be necessary to appoint able Surveyors, with

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Engineers to assist them, and we would recommend, that they should be instructed to make a full Report in writing of all their proceedings in the execution of this Service, to the Commissioners of Your Majesty's Treasury to this Board and to Your Majesty's Governor and Council, and to annex to such Report a Map of the Island, in which the Parishes, the several Reservations, The Allotments of Lands, together with all Roads, Rivers and Bays, shall be particularly and accurately described, such Allotments being marked numerically to correspond with a Reference descriptive of each respectively. And it may also be proper, that the said Surveyors should report their opinion, and mark out upon the Map, which of the Towns, proposed to be laid out in each Parish, will be most proper for the Capital or Seat of Government.

The Island of Grenada is about twenty four Miles in length and twelve in breadth, containing by Estimation sixty seven thousand four hundred and twenty five English Acres ; about thirty five thousand five hundred and sixty eight of which are under actual Cultivation and Improvement ; and the produce of the last year in Sugar (which is esteemed of the best sort) in Coffee, Cocoa, Rum and Melasses amounted in Value to a Sum not less than two hundred thousand Pounds ; the uncultivated Lands lye chiefly in the interior part of the Island, which is mountainous and woody, but is nevertheless, except as to a small part, claimed as private Property under Grants from the French King, but as, we are informed, those Lands have not been occupied, either conformably to the Terms of the Grants, or the Regulations, which have been made from time to time, by the Court of France, for the Cultivation of Lands in general, we presume they may be declared to be forfeited, as have been frequently practised under the French Government.

This Island is already divided into six Parishes, of greater or less Dimension, as the Nature of the Country and Convenience of Navigation has pointed out ; each Parish has a Town, and includes a certain part of the Sea Coast, extending

from thence towards the Range of Mountains which divide it from East to West, producing various species of useful Timber.

The number of white Inhabitants is about three thousand five hundred, and of Slaves about ten thousand.

As to the Grenadillas which are dependant upon Grenada there are about Thirty of them of moment, of which Cariacou and Becona are the Chief being as we are informed, private Property, under actual improvement and producing at present Cotton and Cocoa ; there are about twenty more containing from twenty to a hundred Acres each, and between thirty and forty that have from two to twenty Acres surface, besides a multitude of Rocks with their heads above Water.

It appears from the foregoing State, that almost every necessary regulation with respect to the Division of this Island into proper districts, and the building of Towns, has already taken place, and been established, (and probably upon a proper and convenient plan) If therefore the Stipulations of the Capitulation, by which the Inhabitants reserve to themselves their property to the lands, are understood to be in force, what We have to propose, with regard to Grenada and the Grenadillas, will be confined to such lands as may remain ungranted, which appears from the foregoing State to be not considerable in quantity, nor very profitable from their Situation ; for as to any lands, which may be vested in Your Majesty by forfeiture or Escheatage, which are mere contingent Events, they cannot be the objects of any immediate regulation.

We humbly propose therefore, that all Lands, which, upon examination into the Titles of the French Inhabitants, shall appear to be ungranted, be immediately surveyed by an able and skilful Surveyor, in such manner that the true Quantity of them, their Nature, quality and Situation may be precisely and exactly known ; but if it should appear, that these circumstances can be ascertained from the Survey, which we understand has already been taken of this Island, and transmitted to Your Majesty's Secretary of State, such Resurvey will be unnecessary.

We shall not trouble Your Majesty with any further proposal in respect to these Lands, than that they should, as far as the Nature and Circumstances of Your Majesty's property will admit, be laid out into Allotments for Plantations, in the same manner as we have recommended for the lands in the Island of Tobago, with the like reservations of wood-lands, Glebes for Ministers, and Lots for Schoolmasters, and poor Settlers.

The Island of St. Vincents is about twenty five English miles in length and fifteen broad, in general mountainous and hilly, but intermixed with a great deal of good plantable Land more especially near the Sea Coast, and upon the sides of the Hills which rise in gentle ascents from the Sea ; It is in part possessed by wild Caraibes and Negroes, supposed to be from four to five thousand in number, who consider themselves to be, and really are, an independent people, very jealous of any settlement by Europeans upon this Island, which they look upon to be their own property ; several Settlements have, however, at different times, been made and established by the French, who are computed to amount to about One thousand three hundred Souls, employing about three thousand four hundred Negro Slaves, and having a considerable quantity of Sheep, horned Cattle and beasts of labour ; the chief of their produce is Cocoa, Coffee, and Tobacco.

These Settlements of the French having been made in open violation of the Agreements between the Crowns of Great Britain and France, for the mutual Evacuation of this Island, and expressly contrary to the publick Orders given by France in consequence thereof, if therefore the Inhabitants did, as we are informed, surrender at discretion when Your Majesty's Forces took possession, the Sole property in the Lands is, We humbly apprehend, absolutely and entirely vested in your Majesty, unless the Claim of the Earl and Countess of Cardigan, asserted in a Memorial which we have received from them, and a Copy of which we herewith humbly lay before Your Majesty, should, upon examination, appear to be well founded ; But if it should appear, that such Claim is without



foundation We humbly recommend that the same plan may be pursued in laying out this Island into Parishes, Allotments for Sugar Plantations, and Lots for poor Settlers, as we have already pointed out for the Island of Tobago ; but the Surveyors are to take care that the Lands reserved for poor Settlers are not Lands that have been cleared and cultivated, and to make the same Reservations for Fortifications and other military purposes, allotments for Ministers and Schoolmasters, for Towns, woodlands and publick highways as have been already proposed, distinguishing in their report, and in the Map of the Island to be annexed thereto, the cleared Lands from those that are not cleared, and stating, in the most accurate manner, the nature and quality of each, with an estimate of the value of the cleared Lands, and of the works and buildings made and erected thereon.

We have already mentioned that a considerable part of this Island is possessed by Caribes and wild Negroes ; and as these people are jealous of their property and sufficiently numerous to defeat any settlements attempted to be made without their Consent ; We humbly apprehend no survey can be safely made, or Settlement undertaken, until that consent is obtained, and the affections and good Will of these people conciliated to Your Majesty's Subjects, by such means as Your Majesty's Governor of these Islands shall find to be most effectual.

Dominica is an Island forty five miles in length from North to South, and in breadth from east to west, twenty one miles, containing about three hundred thousand Acres of good and fertile Land well watered with no less than eighty three Rivers and Rivulets sufficient for Sugar Mills ; but the Country is so remarkably mountainous and hilly, that it is less adapted to Sugar Plantations than the other Islands. The Quantity of cleared Land under actual Improvement, which lyes chiefly on the Sea Coast round the Island, and upon the sides of the hills next the Sea, amounts only to about six thousand and fifty four Acres, and produces annually about one million six

hundred and Ninety thousand pounds of Coffee, about two hundred and seventy thousand pounds of Cacao, and about seventeen thousand pounds weight of Cotton, the value of which produce is upwards of seventy thousand pounds. The number of white Inhabitants on this Island is one thousand seven hundred and eighteen of all Ages ; of Blacks, five thousand eight hundred and seventy two ; and about sixty families of free Caraiibes.

We find by a Survey and Map taken under the direction of Admiral Rodney, that this Island is already divided into ten parishes or districts, which, though more unequal in extent than appears to us to be eligible, are We presume, laid out as has been found most convenient for Settlement, or as the nature of the Country would admit ; and therefore it only remains for us to recommend, that the same plan of reservations, which we have already proposed for Tobago and St. Vincent's should be pursued in every parish or district in this Island ; but we are humbly of opinion that the allotments for Plantations should be smaller for the following reasons.

First, because the Island is not so well adapted to Sugar plantations, as any of the other, and

Secondly, because the situation of this Island makes it of great Importance that it should be well and speedily peopled with white Inhabitants ; for, as it lyes between the Islands of Martinico and Guadaloupe, it is equally exposed in time of War to sudden Invasion from these Islands, and capable of distressing them, with regard to their communication and commerce.

As therefore the nature of the Island will not allow, nor is it expedient from other Considerations, that there should be so many allotments for Sugar Plantations as in the other Islands ; We would recommend, that, after the proposed reservations are made, the remainder of the lands in each Parish should in general be laid out into Allotments from fifty to one hundred Acres each, except in such places as shall appear particularly

commodious for Sugar Plantations, where the allotments should be of the same size, as we have recommended in the Island of Tobago.

. . But as we apprehend, that the first great object of Attention should be the speedy Settlement of these Islands, it is by no means our Intention, that the disposal of the lands should wait the general Survey of each Island ; but that, so soon as convenient part of any of the said Islands shall be laid out, suited to that mode of disposal which Your Majesty shall be pleased to direct, the Surveyors shall make Reports thereof to Your Majesty's Governor, and to the persons whom Your Majesty shall appoint for the execution of this Service, in order that such mode of disposal may take place with all expedition.

And this brings us humbly to submit to Your Majesty, what has occurred to us upon this Subject, in the Consideration of which, we shall endeavour as much as possible, to reconcile the two great Objects of Attention, vizt. The speedy settlement of this important part of Your Dominions, and the raising such a Sum of Money as shall bear a reasonable proportion to the value of the Lands ; and as it appears from what we have already stated, that Your Majesty's property in these Islands does consist partly of Lands, which have been cleared and cultivated, and are now under actual Improvement, and partly of Lands which have not been cultivated, cleared and improved ; we shall for the greater precision consider the Lands under each Description separately, and state what has occurred to Us upon each of them.

It will be necessary however, before we proceed to lay before Your Majesty any propositions for the disposal of the cleared land, to state to Your Majesty, what has occurred to us upon a consideration of the Measures, which it may be expedient to take in respect to the french Inhabitants of St. Vincents and Dominica, whose number and their property in Slaves and Effects render this Object of more Importance than immediately appears.

We have already stated, that their Number amounts to upwards of three thousand, having in their possession, and constantly employed upon their Lands near ten thousand Slaves. The Value of these Slaves, exclusive of their Buildings and other moveable Stock, is, at a moderate Computation, about three hundred thousand pounds, and the value of the annual produce of their Labour may reasonably be calculated at one hundred and ten thousand pounds.

The immediate benefit arising to the Commerce and Navigation of this Kingdom, and to Your Majesty's Revenue from the produce of the Lands occupied by these people, which does necessarily employ no inconsiderable Quantity of Shipping and the duties upon which amount to a very large Sum, are circumstances which demand our serious attention ; And as it is Our Duty to Suggest every thought, that has occurred to us for retaining so large a Number of Inhabitants, productive of these Advantages to Your Majesty's Kingdoms, and for preventing their being transferred to Our natural Rivals the French, which we have too much reason to fear would be the case were the Inhabitants of these Islands to be entirely disposed of their Lands, since it does not appear to Us, by what means Your Majesty could in this Case make them such a Compensation, or provide for their Settlement or accommodation, in such a manner as would induce them to lay aside their natural prejudices in favour of their Country and Religion, and prevent their removal to the French Islands, where very great encouragement is offered to Settlers in general, and where these people would be particularly acceptable, from the property in Slaves and other Effects which they would carry with them, and from their knowledge in the Culture peculiar to these Islands.

As to any danger which may be supposed to arise to the Security of the Islands from the religious and national Attachments of these people, although it may, at first sight, carry with it the appearance of an Objection to the retaining

them, yet experience shews, that the possession of property is the best Security for a due obedience and submission to Government.

Upon the whole therefore, as it appears to us to be desirable, that these French Inhabitants should remain under Your Majesty's Government, We must submit to Your Majesty, whether this Object can be otherways effected, than by permitting them to retain, under proper restrictions, those Lands, which they had cleared by their own Industry, and which they were in possession of at the time of the Surrender of these Islands ; Provided such permission in respect to Aliens is consistent with the Laws now in being.

If Your Majesty should be of this Opinion, the next consideration will be, in what manner this Indulgence can be allowed to them with the greatest Safety, and at the same time not preclude Your Majesty, in present, or in future, from the Advantages which may be reasonably expected from the value of the Lands.

The Methods, that have occurred to us, are,

First. To put up the Lands to Sale by publick Auction, allowing these people to bid for them in common with others.

Secondly. To allow them to become purchasers of the Lands at an appraised value, to be set upon them by persons specially appointed for that purpose ; and,

Thirdly. To grant them Leases of the Lands for a term of twenty one Years, at a small Fine, and a small annual Quit Rent, not less than six pence per Acre.

The Advantage of the two first of these propositions is, that either of them tends to the raising an immediate Sum for Your Majesty's use, but as it appears to us, that this would not be sufficient Encouragement to attain the end proposed and as We apprehend, from the best Information We have received of the state and Circumstances of these French Inhabitants, that they are in no ability to make an absolute purchase of their Lands, we are humbly of Opinion, that the granting the Lands upon lease will be the most eligible and

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effectual ; and if Your Majesty shall approve this method, we would humbly recommend, that the Leases should be made under the following Conditions, and with the following restrictions and reservations ; viz.

That no Lease of such lands shall be granted to any French Inhabitants of these Islands, who shall not first take the Oath of Allegiance, and make and subscribe the Declaration and Abjuration.

2d. That no Lease shall be made to any French Inhabitant but of those Lands, which, at the time of the Surrender of the Island, were and still are in his or her possession, and under actual Improvement and Cultivation ;

3d. That no Lease or any part of the Lands, contained therein shall be alienated without a licence from Your Majesty's Governor, to be approved of by this Board ; and in case of any such alienation, without Licence, or that the Lessee shall not actually reside upon and occupy the Lands, the Lease to be forfeited, and the Lands to revert to your Majesty.

4. That all Lands, which shall be necessary for Towns, Fortifications, or other military purposes, for Glebes for protestant Ministers, and Allotments for Schoolmasters, for highways, and all other publick uses, referred to in the foregoing Plan, should be reserved for those uses. With regard to all other cleared Lands, which shall have been laid out into Allotments for Plantations, in the manner already proposed, we do not hesitate humbly to recommend to Your Majesty, that they should be disposed of by publick Sale to the best bidders, to be put up to Sale at such a Price per Acre to be set upon the Land, as that, in Case there should not be more than one bidder for any one Lot, Your Majesty may still receive a Consideration in some degree proportioned to its Value.

That each Purchaser shall immediately pay into the Hands of such Person, as shall be appointed by Your Majesty to receive the same, twenty per Cent of the whole Purchase Money ;

That upon such Payment the Purchaser shall receive a Bill of Sale of the Lands, which Bill of Sale, together with a

Certificate of the Persons authorized to make such Sale, shall entitle the Purchaser to a Grant or Conveyance in Fee Simple under the Seal of the Islands, subject to the following Conditions ; Vizt.

That the Remainder of the Purchase Money shall be paid by different Installments, at the rate of ten per Cent. in each successive year, until the whole is paid ;

That each Purchaser shall within the space of three months from the Date of his Grant or Conveyance, settle and constantly keep, upon the Lot he shall have purchased, one white Man or two white Women, for every forty Acres contained in his said Lot.

That each Purchaser shall, besides the purchase Money, be subject to the Payment of an annual Quit Rent to Your Majesty of six pence per Acre ; such Quit Rent to commence from the date of the Grant, or other Conveyance, and the first Payment to be made at the expiration of the first Year.

That upon Failure of any of these Conditions, the purchase be void, and the lands forfeited to Your Majesty.

We beg leave to represent to Your Majesty, that, with regard to the disposal of the uncleared and uncultivated Lands in these Islands, two propositions have principally offered themselves to Our Consideration.

The First, To sell the Lands by Publick Auction to the Highest Bidders, in the manner we have proposed for the cleared Lands.

The Second, to make Grants of the Lands in Fee Simple at small Quit Rents, and upon proper Conditions of Cultivation and Improvement, which, We humbly apprehend, was the method practised in the first Establishment of all Your Majesty's Colonies in the West Indies.

The Objection to the first of these propositions, besides it's being intirely new, and consequently its Effects doubtfull, is, that it will probably impede and obstruct the speedy Settlement of the Islands, which ought ever to be the first Object of Attention ; for it is hardly to be supposed, that any

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persons of moderate Fortune would risque a considerable part of that fortune in the purchase of Lands, the Nature and Quality of which can be but little known, and the Advantage of Settlement very precarious.

If therefore any purchasers do offer, they will probably consist, either of the opulent Planters in the other Islands, who may combine to buy up the Lands at a small price, with a view of preventing their Settlement, from a Consideration that such Settlement may reduce the Value of what they now possess ; Or of such persons as may have views of selling the Lands again at an advanced price, when an opportunity shall offer ; in either of which Cases, not only speedy Settlement will be impeded, but the object of raising a Sum of Money, in proportion to the Value of the Lands, may, by such Combinations, be in great measure defeated.

As to the second Proportion, however it may, in its abstract Principle, appear, to promote speedy Settlement, by holding out Advantage and Invitation to persons of small Fortunes, whose chief Dependence is upon their Industry, yet we fear it would be difficult, where the Quantity of Land is limited, to suggest any plan for the execution of this measure, that might effectually check that partiality, Fraud and Abuse, which it is too probable would take place, and discourage industrious Planters, and at the same time pave the way for those Combinations which are reasonably to be apprehended in the Case of Sale under the first Proposition.

In order to obviate the objections which we have stated to both the foregoing Propositions, and to obtain the Advantages resulting from each, We would humbly propose, that each Lot should be put up to Sale at so low a price, that, on the one hand, if no advance shall be offered, the benefit to a purchaser may be nearly equal to a gratuitous Grant, and consequently no obstruction given to speedy Settlement ; And, on the other hand, if an Advance shall be offered, a reasonable Sum may be raised for Your Majesty's Service.



Upon the whole therefore We think this will be the best method of disposing of the uncleared lands, as it will invite a greater Number of Persons to bid for the Lands, and together with the Regulation, that no one Person shall be allowed to purchase more than one Lot either in his own Name, or in the name of others in Trust for him, so far defeat all Combination to keep the Lands unsettled, and may also prevent the Operation of any Partiality, or undue Influence, that would attend the making gratuitous Grants without exposing the Lands to publick Sale.

But whatever Mode of disposing of these uncleared Lands Your Majesty shall be pleased to adopt, whether by gratuitous Grants or by the foregoing or any other method of Sale, We would humbly recommend, that the Grants or other Conveyances, to be made in such manner as Your Majesty shall direct, should contain the following Conditions, Vizt.

That the Purchaser or Grantee shall clear and cultivate in each Successive Year two acres for every twenty contained in his Lot, and shall also settle and constantly keep thereon one white man, or two white Women for every forty Acres as the same shall be cleared.

That every Purchaser or Grantee shall pay an annual Quit Rent to Your Majesty of six pence per Acre for every Acre of cleared land, to commence at the expiration of twelve Months from the time such Land is cleared ; and if the Lands are Sold, (in which case each Purchaser is to make an immediate Payment of twenty per Cent. of the whole Purchase,) That such Purchaser shall pay the remainder of the Purchase Money by Installments of ten per Cent. in each Successive Year, as has been already proposed for the cleared Lands, and that, in case of failure of any of the above conditions, the Grant or purchase shall be void.

Having humbly laid before Your Majesty, what has occurred to Us with respect to the disposal of the cleared and uncleared Lands, proposed to be laid out in Allotments for Plantations, We shall proceed in the next place humbly to propose to Your

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Majesty, what seems necessary and expedient, in respect to the lands intended to be reserved for poor Settlers, and for Towns in the several parishes, into which the Islands are to be divided ; and we would humbly recommend that the Lots reserved for poor Settlers should be granted in Fee Simple by Letters patent under the Seal of the Islands.

Having already proposed, that the Lots of Land for poor Settlers should be from ten to thirty Acres each, we would recommend, that they should be granted to such Settlers, in proportion to their Ability to cultivate the same, and to the number of persons in their families ; and that each Grant should contain the following conditions vizt.

That the Lands shall be free from the payment of Quit Rent whatever for four Years from the date of the Grant ; At the expiration of which Term, the Grantee to pay a Quit Rent of six pence per Acre for each Acre of Land, actually cleared, and under cultivation at that time, and so in proportion for every Acre that shall be thereafter cleared and under Cultivation, agreeable to the Conditions of the Grant.

That each Grantee shall enter upon and occupy the Land within three Months from the Date of the Grant, and shall continue to occupy and improve the same for twelve successive Months from the time of such first Settlement ;

That these Lands, for the Term of seven Years from the date of the Grant, shall not be alienated by Sale, nor shall the same be let, set or assigned over during the same term, otherwise than to the use and benefit of any Child or Children of such original Settler, without special Licence in writing first had and obtained from Your Majesty's Governor or Commander in Chief ; That in case of Failure in the performance of any of the foregoing conditions, the Grant be void, and the Lands revert to Your Majesty.

In regard to those Lands that are to be reserved for Towns, we would propose, where the reservation consists of Lands not already cleared, that the Lots intended for Tenements and Gardens, and the fields intended for pastures to each Town

Lot, should be granted in fee simple, and without fee or reward by the Governor or Commander in chief of your Majesty's said Islands under the Seal of the said Islands, to such persons as will give proper Security to build within a reasonable time upon the Lots, which shall be granted to them for that purpose in the intended Town, and to inclose, and fence, and properly clear for pasture the field that shall be granted with such Tenement. But We humbly apprehend it will be necessary Your Majesty's Governor should be particularly instructed, not to grant more Lots to any one person, than shall be sufficient for his own use, and to reserve for publick buildings such parts of the said Towns, as shall be proper for those Purposes ;

That the Field or pasture Ground shall be granted to the proprietors of Tenement Lots in the proportion of one Acre for every ten feet in front of such Lots.

That each Tenement shall be charged in the Grant with the payment of a ground rent of one penny per foot in front, and six pence per Acre for each Acre of the field granted with such Tenement, the said rents to commence within two Years from the date of the Grant.

All which propositions do equally apply themselves to the Towns proposed to be reserved and laid out on cleared Lands save only, that in such case, we would recommend, that the Lots should be put up to Sale to the best bidder, and the purchase money paid in the same manner as we have proposed for the cleared Lands laid out for Plantations, and that the Ground Rents and Quit Rents should be payable from the date of the Grants or other Conveyances.

Having laid before Your Majesty what we have to offer with respect to the Disposal of the Lands, we have only further to recommend, that due Care be taken to insert in the Grants or Conveyances a reservation to Your Majesty of all Mines of Gold and Silver, which are or may be hereafter discovered.

We shall now proceed humbly to lay before Your Majesty the Method, which appears to Us to be proper for carrying the

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foregoing Propositions into Execution ; and to this End we would humbly propose, that, when the Reports of the Surveyors shall have been made, as aforesaid, and considered and confirmed by the Governor, and the Persons appointed for the disposal of the Lands, such Persons shall proceed to agree upon and fix the Price per Acre (proportioned to the Value) below which each Allotment of cleared Land for Plantation shall not be sold, as also the Price per Foot for the Town Lots, and the Price per Acre for the Field Lots, belonging to each Tenement in every Town ; and if it shall be Your Majesty's Pleasure to sell the Allotments for Plantations in the uncleared Lands, in the manner which has been proposed, the said Persons shall also fix the before mentioned low Price per Acre, under which the said Allotments shall not be sold.

When these several Arrangements shall have been settled, the said Persons should consider and appoint such Time, and place for the Sale and Disposal of the Lands as aforesaid, as shall appear to them most convenient for that purpose ; so that all Persons who may be inclined to undertake Settlements in these Islands, may have timely notice of such Sale, and Proper Opportunity to inspect the Lands, and inform themselves of every Circumstance necessary to be known.

And to this end we would humbly propose; that the Persons appointed for the Sale of the Lands, as aforesaid, should be directed to publish an Advertisement in the several Islands in the West Indies, and in Your Majesty's other Colonies, giving notice of such time and place of Sale and disposal, and setting forth in the most full and particular manner, the number of Lots of cleared and uncleared Lands, laid out in Plantations, which are to be disposed of in each Island, and also the Town Lots, the Lots for Pasture to be sold or otherways disposed of, and the Lots of Land reserved for poor Settlers ; the general Situation of such Lots in all respects ; the number of Acres contained in each, the Terms, and Conditions, upon which the said Lots are to be sold or granted, as well of purchase and Quit Rent, as of Settlement

and Cultivation together with the time and manner of paying such purchase Money, or Annual Rents.

Besides these publick Notices, proposed to be given in the Islands where the Distributions of Allotments are to be made and the several Rates and prices fixed, We think it will be expedient for Your Majesty's Service that, so soon as Your Majesty shall have determined upon the Plan for the disposal of the Lands, it should be made publick in these Kingdoms either by a Proclamation or Advertisement in the Gazette, setting forth in general what the Plan is; the Terms and Conditions upon which the Lands will be either Sold or Granted; and the provision made for the accommodation of poor Settlers; by this means Persons in this part of Your Majesty's Dominions, who may be inclined to become adventurers in the Settlement of these Islands, by Purchasing Plantations, will have timely notice of the intended disposition, and will employ proper Agents to inspect the Lands and make the Purchases for them; and the Encouragement given to poor Settlers may probably induce industrious foreign Protestants to resort thither.

In reviewing the several propositions, which We have humbly offered to Your Majesty for carrying into execution the plan for the disposal of Your Majesty's Lands, it appears necessary to observe, that the powers proposed to be vested in the Persons, who are to execute this plan are very great, and much more must necessarily be left to their discretion and decision than is to be wished, if the nature of the Service did not absolutely require it, but as speedy Settlement is, in our humble Opinion, to be attended to before all other considerations, We think their determinations both in respect to the Price per Acre, below which the Lands under different descriptions are not to be sold, and the Sale itself ought to be final, and that any suspension of the Sale or Grant, until it shall be confirmed here, would, in it's Consequence, operate to discourage Adventurers, and obstruct such speedy Settlement, in order however, that Your Majesty may be fully informed