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ACTS
OF
THE PRIVY COUNCIL (COLONIAL).

ACTS OF THE PRIVY COUNCIL (COLONIAL).

VOL. V. 1766—83.

GEORGE III. VOL. V. (Aug., 1766—Jan., 1768.)

1766.

[1.] Whereas there was this Day laid before His Majesty at this Board an Order made by His late Majesty in Council on the 11th Day of March 1752 containing several Rules and Regulations relating to His Majestys Colonies and plantations in America particularly with respect to the Correspondence to be carried on between the Lords Commissioners for Trade and plantations and the Governors of the said Colonies and plantations respectively; His Majesty taking the aforementioned Order into His Consideration; Is hereby pleased with the Advice of His Privy Council, to revoke and repeal the same and every Clause, Article and thing therein contained; and His Majesty doth hereby Signify His further pleasure that the Lords Commissioners for Trade and plantations do Cause a Copy of this Order to be entered upon the Books of the plantation office, and that one of His Majestys principal Secretaries of State do Cause Copies thereof to be sent to the Governors of His Majestys Colonies and Plantations in America to the End that all persons concerned may govern themselves accordingly. And His Majesty doth hereby further Order that the said Lords Commissioners for Trade and plantations do prepare the Draft of an Additional Instruction to be sent to the Governors and Commanders in Chief of all His Majestys said Colonies and plantations respectively as well in America as Elsewhere revoking and annulling all

8 Aug.
Plantations.

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1766. § 1 *cont.*]

and every such part and parts of the General Instructions to them as do direct the said Governors to Correspond in matters relative to their said Governments respectively with the said Lords Commissioners for Trade and plantations only, and signifying His Majestys Pleasure, that in all Cases where the said Governors are directed and required to transmit any particular or General Accounts of their proceedings or of Matters relative to their Government they do for the future transmit the same to His Majesty by one of His Majestys principal Secretaries of State; and also transmit Duplicates thereof to the Lords Commissioners for Trade and Plantations, for their Information, Except in Cases of a Secret Nature. [p. 2.]

10 Sept. [On a Board of Trade report of 9 Aug., additional instructions are approved] for the Governors of Jamaica, Barbados, Leeward Islands, Granada Islands, Bahama Islands, Bermuda Islands, Newfoundland Quebec Massachusetts Bay, New York, New Jersey, Virginia, North Carolina, South Carolina, Georgia, East Florida, West Florida, and Senegambia, for regulating their Correspondence pursuant to his Majestys Order in Council of the 8th of last month. [p. 30.]

8 Aug. [2.] [As John Penn's commission as Deputy Governor of Pennsylvania expires on 1 Dec., his nomination by the proprietors for a further term of three years is approved on the usual conditions. The Board of Trade are to prepare a draft of instructions, and the Governor of New York or of one of the neighbouring provinces is to administer the oaths and take security in the penalty of 2,000*l. stg.* for observance of the Acts of Trade.] [pp. 3-4.]

(1767.) [On the Committee report of 2 April, the instructions referred to them on 13 Feb. are approved. Such variations and additions were made in Arts. 5, 10, and 16,] relating to the Observance of the Laws of Trade, as have been recommended by the Commissioners of your Majestys Customs in the like Instructions given to the Governors of your Majesty's other Colonies in America. [pp. 172, 198, 216.]

§ 2 *cont.*]

1766.

[Penn is continued for three years ; his instructions—which (1769.)
omit a clause relating to the office of Surveyor General of 15 Sept.
Customs now discontinued—are approved on 5 Jan., 1770.
—P.R.—*Cf.* App. I.] [VII. *pp.* 106, 201.]

[3.] [Reference to the Committee of a Board of Trade 8 Aug.
representation of 1 Aug. with several papers] relative to the Grenada.
Governor of the Grenada Islands having called a particular
Assembly for Grenada and the Grenadine Islands which met
on the fifteenth of April last, and to his having thought it
Expedient to Dissolve the same. [p. 4.]

[Reference to the Committee, and by them on 28 Aug., to (1767.)
the Board of Trade, of the petition of the Merchant 26 Aug.
Adventurers of Bristol,] setting forth that notwithstanding
the great Advantages that have arisen by the Island of
Dominica being made a free port yet the Spirit of Settling
there is greatly depressed by the Dependency of the Island
on that of Grenada for the final determination of Suits at
Law which is attended with such great expence hazard and
loss of time, as no Trade can Support, and may tend to defeat
the good intentions of Government in making the Island a
free port ; Wherefore the petitioners humbly Pray that His
Majesty will be graciously pleased to Order a Government
and Legislature to be Established at Dominica independent
of any other Island. [*pp.* 459, 463.]

[Reference to the Committee, and by them on 9 Oct. to the (1767.)
Board of Trade, of] a Copy of an Address of his Majestys New 7 Oct.
Subjects in the Island of Grenada, Transmitted to the Earl
of Shelburne one of his Majesty's Principal Secretarys of
State Praying to have some share in the Administration of
Government in that Island, together with a Memorial
containing several Considerations concerning the Islands of
Grenada, St. Vincents Dominique and Tobago. [*pp.* 482, 486.]

[Reference to the Committee of (a) a Board of Trade repre- (1768.)
sentation for disallowing an ordinance of the Governor of 11 Mar.
Grenada, Sept. 1767, for establishing an assembly in the
island of Dominica and regulating the elections thereof ;

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1766. § 3 *cont.*]

and (b) a Board of Trade representation for disallowing
7 Grenada acts.] [VI. p. 104.]

(1768.) [Reference to the Committee of a Board of Trade repre-
29 June. sentation of 10 June for disallowing an ordinance of the
Governor of 15 Feb. for establishing a General Council in
Tobago.] [VI. p. 225.]

(1768.) [The Committee postpone consideration of these reports
9 Aug. and representations to their next meeting.] [VI. p. 294.]

(1768.) [A letter from Stephen Cottrell, Clerk of the Council, to
3 Sept. William de Grey, Attorney General, enclosing a draft of the
Committee report, and requesting his opinion whether any
objection can possibly arise in point of law, particularly with
regard to the clause] which recites the several Qualifications
under which His Majesty's new Subjects in Grenada, being
Roman Catholicks, shall be capable of being appointed of
the Council &c.

[De Grey's report, dated 5 Sept., expressed the opinion that
the proposals contained nothing exceptionable in point of
law.] And with regard to the admitting His Majesty's New
Roman Catholic Subjects in those Islands to a Participation
of the Offices therein mentioned Subject to the Restrictions
and Limitations specified in the said Proposals, I think it is
a Measure altogether of Political Consideration, and that it
may be legally adopted and carried into Execution, If His
Majesty shall be pleased to think it expedient so to do ; for
the Sovereignty of this Realm in exclusion of all Foreign
Powers and his Majestys Supremacy, Inseparably Inherent
in His Crown, being secured by the Oath of Supremacy to
be taken by all persons Admitted into Office, and their
Personal Obedience to His Majestys Government being
enforced by the Oaths of Allegiance and Abjuration I think
that is all which the Constitution of this Country requires ;
and that the Statutes Imposing Disabilities upon Roman
Catholics, or requiring any Farther Test from Persons in
Employment, do not extend to His Majesty's New Subjects,

§ 3 *cont.*]

1766.

in the Colonies, ceded to His Majesty by the Last Treaty of Peace.

[VI. pp. 325-6.]

[7 acts and 3 ordinances are disallowed; and orders given to Lord Hillsborough and additional instructions ordered to be prepared for the Governor for carrying into execution the recommendations of the Committee report of 13 Aug. on the Board of Trade representation, and on certain proposals by Lord Hillsborough for the better governing the Southern Carribbee Islands, viz. :—] (1768.)
7 Sept.

1st. That the several Laws and Ordinances reported upon by the Lords Commissioners for Trade and Plantations and also an Ordinance passed by the Governor and General Council of Grenada on the 25th of February 1767—for establishing an Assembly in the Island of St. Vincent and regulating the Elections thereof, the Titles of which Laws and Ordinances are hereunto annexed, be disallowed.

2d. That the Establishment of a General Council for all the Islands, comprized in General Melvill's Commission be revoked, and the said Council dissolved.

3d. That Grenada, Dominica, St. Vincent, and Tobago, have each a separate Council to Consist of Twelve Persons to be Appointed in like manner as the Members of Councils in other Colonies, and to have the same Authorities, Powers and Jurisdictions; but not to have any Jurisdiction, Power or Authority as a Council of State, in any manner to draw into Question, determine or Dispose of the Lands, Tenements, Hereditaments, Goods or Chattles of any of your Majesty's Subjects; but that the same be adjudged and Determined in the Ordinary Course of Law.

4th. That Grenada Dominica and St. Vincent have each a House of Representatives, to be constituted for the present in manner following Vizt.

[Grenada, 24 : St. George town, 4 ; St. John and St. George parishes together, 5 ; St. David and St. Andrew, 5 ; St. Patrick and St. Mark, 6 ; Carriacou and the Grenadines, 3. Quorum to be 11.

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§ 3 *cont.*]

Dominica, 19 : of which Roseau to have 3, and Portsmouth on Prince Rupert's Bay, 2. Quorum to be 9.

St. Vincent, 13 : Kingstown, 2 ; *St. George* parish, 2 ; *St. Andrew*, *St. Patrick* and *St. David* parishes, 3 each. Quorum to be 7.]

5. That the Writs to be issued in Your Majesty's Name and Directed to the Provost Marshall or his Deputies, who are in all Cases to be the returning Officers.

6. That the Right of Election for Representatives in the said several Assemblies shall be in the Freeholders of the respective Towns and Parishes, the Nature and Quantum of which Freehold as well as of the Freehold the Possession of which shall entitle any Person to be Elected a Representative, to be hereafter ascertained by the seperate Assemblies.

7. That the Governor be permitted to assent to such Acts as shall be necessary for this Purpose, and also for regulating the mode of Elections, but that he be forbid to give his Assent to any Acts by which any alteration shall be made in the Places which are to send Representatives ; The Number to be Elected for each Place ; The Oaths to be taken by the Members ; The manner and form of issuing the Writs, or the Duration of Assemblies, all which Points ought to be reserved for such Directions as Your Majesty Your Heirs or Successors may think Proper to give thereupon from time to time.

8. That such of Your Majesty's new Subjects in Grenada being Roman Catholicks, who were or whose Parents or Ancestors were Actual Inhabitants of that Island and Possessors of Lands or Tenements therein at the time of the Treaty of Paris, and who were born at the time of the said Treaty and are now Actual Inhabitants therein, shall be Capable, during Your Majesty's Pleasure, of being Appointed Members of the Council, Elected into the Assembly, and of holding Offices of Trust under the following Limitations Vizt.—

That the Number to be Admitted into the Council shall not Exceed two at one and the same time.

That the Number to be Elected into the Assembly shall not exceed three at one and the same time, that is to say That one may be elected for the united Parishes of St. John and St. George, one for the united Parishes of St. David and St. Andrew, and one for the united Parishes of St. Patrick and St. Mark—

That one of the said new Roman Catholick Subjects may be appointed an Assistant Judge, and one Admitted into the Commission of the Peace for each Town, Parish or District respectively—

That in all Cases of Your Majesty's new Subjects under the above Description, being Elected into the Assembly, appointed Members of the Council, Assistant Judge or Justices of the Peace, they be required to take no other Oaths than those of Allegiance and Supremacy Prescribed by the Acts of the 1st of George the 1st and the 6th of your Majesty, any thing contained in Your Majesty's Commission under the great Seal to the Contrary thereof notwithstanding.

9. That as the present Mode of establishing and collecting the Duty of $4\frac{1}{2}$ per Cent. on Produce exported may be liable to Litigation and consequently doubtful in its Effect, the Governor be instructed to Acquaint the respective Assemblies to be chosen in manner above directed for the Islands of Grenada, Dominica and St. Vincent, that Your Majesty will desist from demanding the said Duty under the Authority of the Great Seal, provided they will respectively Enact Laws (of the same Nature and Tenour as that Passed in the Island of St. Christopher in 1726) for Establishing the said Duty under the like Appropriation and Mode of Collection, prescribed by an Act passed in the Island of Barbados in 1663, for granting His Majesty a Duty of $4\frac{1}{2}$ per Cent. in that Island.

10. That the Governor be also Instructed to Acquaint the Assembly of Grenada, that as on the one Hand, the most precise Orders will be given, in Conformity to the Treaty of Paris, that your Majesty's new Subjects enjoy the Free

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1766. § 3 *cont.*]

Exercise of the Roman Catholick Religion, as far as the Laws of England permit, so, on the other Hand, a due Attention ought to be had to the Establishment and Support of the Church of England ; and that as this is a Point Your Majesty has much at Heart, as Your Majesty will be graciously Pleased to desist from demanding the Capitation Tax, on Condition that due Provision be made by Law for such a Stipend to a Minister of the Church of England, in each Parish of the Island as is usually Allowed to Ministers in the Leeward Islands, and also for erecting a Church in each Parish.

11. That the Governor be further Instructed to Assent to such Laws as shall be from time to time proposed by the respective Assemblies of the said Islands of Grenada, Dominica, and St. Vincent, for Grants to Your Majesty of Such Sums of Money as the Publick Exigences of the Islands shall require, Provided the money so to be granted be collected by and placed in the Hands of Officers to be Appointed by Your Majesty, and issued by Warrant of the Governor and Council under such Minute and Particular Appropriations and Subject to such Security, Cheque, and Account, as the Assemblies shall think fit to prescribe and require.

12. Lastly, That the said Governor be directed to Acquaint the respective Assemblies, that though Your Majesty considers the Establishment of Courts of Justice as a matter of the Expediency and mode of which Your Majesty is the Sole Judge, yet as the other Islands have been Indulged in the Practice of Establishing Courts of Chancery by Acts of Legislature, Your Majesty is graciously Pleased to permit and allow that they do pass Laws for the like purpose, and also for the Establishment of a Militia, under such reasonable and moderate Regulations as have been adopted in the Island of Jamaica, Provided that the Laws to be passed for both the above mentioned purposes have clauses inserted in them, suspending and deferring their Execution until Your Majestys Pleasure can be known thereupon. . .

Acts and Ordinances passed in Grenada in 1767, and 1768
and proposed to be Disallowed by the foregoing Report.

Acts.

An Act for regulating the Elections of the General Assembly of Grenada and the Grenadines and for the better ascertaining the Qualifications of Electors and the Elected—[Oct., 1767].

An Act to Enable His Excellency the Captain General and Governor in Chief to Associate to himself as Chancellor, the Members of His Majesty's Council in this Island, and to make the Court of Chancery for the future to Consist of the said Captain General and Governor in Chief or other person commanding for His Majesty in the said Island of Grenada, and the Members of His Majesty's said Council—[Jan., 1767].

An Act to regulate, restrict and direct the Conduct of the Publick Treasurer of these Islands, and to fix his Salary—

An Act for appointing a Treasurer for the Island of Carriouacou, and declaring Rules and Regulations for his Conduct in that Office—

An Act for raising a Sum of Money to pay off the Debts of these Islands, and to Answer the present Exigencies of the publick—

An Act for establishing a Militia for the Defence of this Island—

An Act declaring the several Articles Martial Law shall Consist of—[the last five passed in April, 1767].

Ordinances.

An Ordinance for the Establishing an Assembly in the Island of Dominica and regulating the Elections thereof—Published in Sept., 1767.

An Ordinance for Establishing a General Council in the Island of Tobago—[Feb., 1768].

An Ordinance for the Establishing an Assembly in the Island of St. Vincent and regulating the Elections thereof—[Feb., 1767].

[VI. pp. 313-9, 328-31.]

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1766. § 3 *cont.*]

(1768.) [Reference to the Committee of two petitions for a separate
28 Sept legislature for Dominica, one from the Council for the island,
the other from the representatives of the people.] [VI. p. 336.]

(1768.) [Additional instructions for carrying into execution the plan
12 Oct. adopted on 7 Sept. are approved on the Committee report of
10 Oct., on a reference of 7 Oct. (P.R.) The Committee found]
that in said Draught the said Lords Commissioners have con-
formed as near as may be to the said Directions contained in
Your Majesty's said Order in Council, save only that they have
inserted the Establishment of a House of Representatives
for the Island of Tobago, having been Informed by your
Majestys Governor lately Arrived from those Islands, that he
had Constituted such a House of Representatives for the said
Island of Tobago in like manner as had been done in the other
Islands of Grenada St. Vincent and Dominica, and in the
Form (both as to the Places which are to Elect Representatives,
the Number to be Elected for each place) in which such House
of Representatives is proposed to be established by this
Draught.

And the Lords of the Committee being of Opinion that the
Establishment of a House of Representatives for the Island
of Tobago was properly inserted in the said Draught of
Additional Instruction, Do therefore Agree humbly to lay the
same before Your Majesty for Your Royal Approbation.

[VI. pp. 348, 349, 351.]

(1769.) [Reference to the Committee, and by them on 20 Nov. to
25 Oct. the Board of Trade, of the memorial of Sir George Colebrooke,
Sir James Cockburne, John Stewart, and John Nelson on
behalf of the proprietors of Dominica] relative to the Erecting
the Island into a distinct Government independent of the
Grenada Islands.

[VII. pp. 116, 144.]

(1770.) [Orders in accordance with the Committee report of 25 May,]
6 June. That although the separate Council and Assembly already
established and the constitution of separate Courts of
Judicature in the Island of Dominica, may be a remedy for
many of the Grievances and Inconveniencies stated in the

§ 3 *cont.*]

1766.

several Memorials, Yet those Grievances and Inconveniencies, though they are objects of Your Majesty's Care and Attention, are not however the only considerations in this important Question.

The situation of Dominica with respect to the possessions of France in the Islands of Guadeloupe and Martinique, the latter of which lies between that Island and the Island of Grenada, exposes it, in time of War, to constant and imminent Danger, and in time of Peace gives facility to that contraband Trade which our Rivals the French are but too eager to avail themselves of; and the Circumstances of its being made a free port, at the same time that it opens a prospect of Commercial advantage, will, unless the Regulations of the Act of Parliament be most carefully and strictly enforced, afford frequent opportunity of extending that prejudicial Trade.

When therefore the situation and Commerce of the Island of Dominica is adverted to in this general view of it; and when it is considered how greatly the Commerce and Improvement of our possessions in the West Indies depend upon internal Strength and Security, and how strongly this policy is adopted in respect to this Island both by the principles and provisions of the Act for making it a free port, by which it is become the great Mart and Magazine for the Merchandize of which the Commerce of that part of the world does consist, the Lords of the Committee cannot be of opinion that it is either Expedient or adviseable that the Government of it should continue to be administered, and the Military force necessary for its protection commanded by a person whose Residence is in another Island, so remote in Distance, and the Communication with which is, from the nature of those Seas and the Situation of the possessions of France, so tedious and precarious, and therefore the Lords of the Committee concur in opinion with the Lords Commissioners for Trade and plantations, that it is necessary for the security of this important Island, for the welfare of its Inhabitants, for the

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 § 3 *cont.*]

Interest of the proprietors of Land there, and for the Advantage and Improvement of Commerce that it should be erected into a separate Government independent of the Island of Grenada or any other Island whatever, and with a separate Governor having authority both Civil and Military competent to every Emergency which can happen.

And the Lords of the Committee concurring also with the Lords Commissioners for Trade and plantations with respect to the salary it may be proper to allow the Governor and the means of providing for it, are of Opinion, That the Salary of the Governor should not be less than that which is enjoyed by the Governor of your Majesty's Leeward Islands which is stated to amount to three thousand pounds per Annum and that such Salary to the Governor should be made up in the following manner Vizt.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
First—By a Grant from the Legislature of the Island of a Sum of Two thousand pounds Currency amounting in Sterling Money to	1,200	0	0
Secondly—By the Annual Amount of Fees of Office Estimated at ..	600	0	0
Thirdly—By an Allowance from Your Majesty out of the Four and a Half per Cent. duties collected in that Island as soon as the same shall be fixed by Act of Assembly there	1,200	0	0
	<hr/>		
	£3,000	0	0 sterling.

With regard to the first Article in the above Estimate it appears by the Report of the Lords Commissioners for Trade and Plantations, That the Assembly did come to a Resolution to Grant that Sum to a Governor during his residence whenever your Majesty should think fit to erect the said Island

§ 3 *cont.*]

1766.

into a separate Government, and there is no doubt, from the assurances given, but that the Assembly will make good that Resolution by a permanent Law to be granted out of the first Supplies that shall be raised in that Island.

With regard to the last Article, the Sum proposed is no more than what is allowed by your Majesty to the Governor of the Leeward Islands, and will in part be compensated for by a saving of four hundred pounds per Annum at present allotted to a Lieutenant Governor of this Island, the utility of which establishment will cease in case your Majesty shall think fit to comply with the Terms of this proposal so that the addition will only be that of eight hundred pounds.

[Lord Hillsborough and the Treasury are to receive his Majesty's pleasure about the appointment of officers: the Board of Trade are to devise the form of a seal for the government and prepare a commission and instructions for the Governor.] [VII. *pp.* 378-80, 395-6.]

[On a Board of Trade representation of 10 July, a commission (1770.) for Sir William Young, Bart., to be Governor of Dominica was 27 July. approved. (P.R.) The chief engraver was directed to prepare the draft of a seal, showing on one side a ship in a port and several persons landing from it, with the legend *Animis opibusque parati*. On 14 Sept. the draft was approved, as were the Governor's instructions on 9 Nov. (P.R.), on the Board of Trade representation of 7 Nov., which showed that all the usual articles which were applicable to the island were included along with others intended to promote its settlement and improvement. On the same day the Governor took the oaths. The seal was approved on 9 Jan., 1771.]

[VII *pp.* 464, 485, 557; VIII. *p.* 25.]

[4.] [Reference to the Committee of a Board of Trade representation of 1 Aug., with a copy of a letter from the Governor of Jamaica] relative to his having prorogued the new General Assembly the Writs for which were made returnable on the 13th of May last to the 24th of June following. [p. 5.]

8 Aug.
Jamaica.

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10 Sept. [5.] [Order on Lieut. Donald Campbell's petition for
New York. 100,000 acres of land in New York (*cf.* Vol. IV. *p.* 820), is given in accordance with the Committee report of 6 Sept., agreeing with the Board of Trade, who reported] that altho' the Facts set forth in Mr. Campbells Memorial distinguished his Case from that of most other petitioners for Lands, Yet the said Lords Commissioners can by no means think it either Reasonable or Expedient for the Crown to Grant away so Extensive a Tract of Land in the Province of New York, as the Petitioner prays for and they are fully perswaded, that the allowing him to Locate Lands to the amount of One hundred thousand Acres in Parcels of not less than two thousand Acres each, according to his own Choice and Convenience where the Benefit of Soil or Situation should Incline him to take up Lots would be attended with Prejudice and Inconvenience to Your Majestys said Colony, Nevertheless, as Your Majesty in Consequence of a Representation made by their Predecessors in Office on the 18th of May 1764 was Graciously pleased to Grant to the said Lieutenant Campbell, Thirty thousand Acres of Land in the said Province to be Surveyed in one Contiguous Tract and as the said Petitioner now sets forth the Difficulties and Inconveniencies which he is Under from the said Condition which Directs the former Grant of thirty thousand Acres to be Surveyed in one Contiguous Tract, The said Lords Commissioners Propose that Orders may be given to the Governor of New York directing him to cause the said thirty thousand Acres to be Surveyed in Six separate Tracts of Five thousand Acres each, and on the Return of such Surveys, agreeable to Your Majestys Directions in Your General Instructions to pass a Grant for the said Six Tracts as above, respectively, to the Petitioner his Two Brothers George and James Campbell and his Sisters Rose Graham Margaret Estace, and Lilly Murray, and if Your Majesty in further Consideration of the peculiar Hardships which the said Lieutenant Donald Campbell and his Family have Suffered from the Losses and Disappointments which

§ 5 *cont.*]

1766.

may have befallen them in their attempts to Settle a Considerable Part of the Frontier of the said Province should be Graciously pleased by the addition of five thousand Acres more to his former grant to make the Lot of Lieutenant Donald Campbell amount to ten thousand Acres, in that Case your Majestys said Governor may be Directed to pass the said Grants of thirty five thousand Acres accordingly under the seal of the Province Subject to the payment of the Quit Rent Prescribed in the said General Instructions and to such other Terms and Conditions of Cultivation and Settlement as are usually inserted in Grants of Land made in that province.

[*pp.* 16-7, 31.]

[Reference to the Committee, and by them on 23 May, 1771, (1770.)
to the Board of Trade, of Campbell's petition that the order 27 April.
of 10 Sept., 1766 may be revised, as he had not an opportunity of praying to be heard on the merits of his petition for 100,000 acres.]

[VII. *p.* 365: VIII. *p.* 217.]

[6.] [Reference to the Committee of the petition of David Inglis, master of the snow *Expedition* for a day for hearing his appeal from the condemnation of the vessel, guns, &c. and 18 hogsheads of rum, in the Vice-Admiralty Court of Grenada, 18 Oct., 1765, on an information exhibited by Richard Burke, collector of customs.]

15 Oct.
Grenada.

[*p.* 63.]

[On the Committee report of 10 June, the sentence is (1767.)
affirmed. It was alleged that the rum was shipped at 26 June.
St. George before bond had been given, and that other goods were laded for some other British colony without a sufferance from the collector—both contrary to an Act of 4 Geo. III.]

[*pp.* 88, 328, 359.]

[7.] [Reference to the Committee of the petition of Nathaniel Green, merchant of Warwick, Kent co., R.I., that the Council dismiss with costs for non-prosecution the appeal of Benjamin Arnold and other the grandchildren of Benjamin Green, from a judgment of the Superior Court, 3 Sept., 1765, affirming a judgment of the Inferior Court, on their action of trespass and ejectment to recover from the

15 Oct.
Rhode
Island.

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1766. § 7 *cont.*]

petitioner's tenant 237 acres in Cranstown, Providence co., with a dwelling-house thereon and lying at a place called Seconasset.] [p. 64.]

(1767.) [On the Committee report of 10 June, the appeal is dismissed
26 June. for non-prosecution.] [pp. 330, 360.]

15 Oct. [8.] [Reference to the Committee of the petition of Patrick
Pennsyl- Crawford, brother and executor of James Crawford, owner
vania. of the ship *Chance* and part of its cargo, and Charles Smith, owner of the rest of the cargo, for leave to appeal to the Council from the condemnation of the ship and cargo in the Vice-Admiralty Court at Philadelphia, 8 Oct., 1765, at the instance of James Hawker, commander of H.M.S. *Sardoine* for illegal trade. An appeal had been allowed to the Commissioners of the Admiralty or High Court of Admiralty, but the appellants are informed that their proctor was mistaken as to the proper jurisdiction.] [p. 64.]

(1772.) [Reference to the Committee of Hawker's petition that
3 Feb. the appeal be dismissed with exemplary costs for non-prosecution.] [IX. p. 62.]

(1772.) [On the Committee report of 8 April, the appeal is dismissed
22 April. with 20*l.* *stg.* costs for non-prosecution. Robert Ruecastle is named instead of Patrick Crawford as representing James Crawford.] [IX. pp. 148, 173.]

7 Nov. [9.] [Reference to the Committee of a Treasury report, a
Cape Breton Board of Trade representation and other papers relating to
Island. several proposals for working coalmines in Cape Breton Island.] [p. 76.]

3 Dec. [Order in accordance with the Committee report of 29 Nov., agreeing with the Treasury, who represented] that in the late Grants of Lands in America Your Majesty had been advised to make an Express reservation of Mines of Coal which, although of less immediate and intrinsic Value than Gold, Silver and Copper, may yet, from other incidental Circumstances, and as a Material leading to Extensive manufactures, be consequentially and finally of as great, if not greater National Moment—That it has been the policy of

this Century, to give large Bounties, upon the produce of pig and Bar Iron in Order to Divert the Colonies from the manufacture, that from the same Contemplation the Legislature has forbid the Erection of Slitting Mills in America, and that in Consequence of these Wise provisions, Iron is at present imported from the Colonies in the Material and returned to them in the Manufacture ; That it appeared to them that it might seem a Sudden and Direct Contravention of this Excellent Policy, were they to advise Your Majesty to furnish America with the only possible means of Establishing a Manufacture, which Parliament has Exerted so much Authority and taken so many measures to prevent, that it has been alledged to the said Lords Commissioners, that the Quality of the Cape Breton Coal is the same as the Coal of Scotland, and therefore unfit for the manufacture of Iron by the Hammer but that they had no Satisfactory Evidence of this Fact laid before them, and that one of the petitioners, in particular, being Examined to this essential point, answered with great Candour and Disinterestedness “ that he thought more than probable, that Coal fit for any Manufacture, might be found in a Vein of such Extent as that of Cape Breton is represented to be ” That the Argument in the Representation of the Lords Commissioners of Trade and plantations, drawn from the high price of Coals in England seems to be a good Reason for preventing the Exportation of them to America, but does not touch the other, and, as they think, the higher Considerations which spring from the Nature of Commerce, and the Relation of the Colonies.—That as the prudence of the measure is equivocal, the object of Advantage proposed, but it is very Confined, in as much as the utmost Expectation of Revenue for five years, amounts to no more than twenty five thousand pounds and after that time it is supposed the profits may be doubled.—That having opened the Mines of Coal in Cape Breton, it might be very Difficult afterwards to refuse the same privilege upon equal necessity or Convenience alledged to other provinces, where Coal proper for the Hammer

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1766. § 9 *cont.*]

might meet the Bar and everything necessary for the Manufacture of Iron be found within the provinces themselves ; that for these Reasons the said Lords Commissioners of Your Majestys Treasury are humbly of opinion that the opening Coal Mines in America to be worked at Large is in itself at least a Disputeable measure, in point of Expediency, an Innovation in the system hitherto pursued in the Regulation of the Colonies, too Doubtful in the principle, and too Delicate in the Consequences to be adopted and recommended by an office.

[The Committee accordingly reported] that it will not be adviseable for Your Majesty at present to authorize or Encourage the opening Coal Mines to be Worked in the Island of Cape Breton and that all Petitions for that purpose ought to be dismissed.

[*pp.* 99–100, 110.]

7 Nov.
Massachu-
setts Bay.

[10.] [Reference to the Committee, and by them to the Board of Trade on 29 Nov., of nine Massachusetts acts of June, 1766, delivered by the agent on 7 Nov.] [*pp.* 77, 101.]

(1767.)

24 July.

[One of these acts,—for repealing two acts one entitled an act for preventing fraud in debtors and for securing the effects of insolvent debtors for the benefit of their creditors, the other additional to the former, both passed 5 Geo. III,—is repealed on the Committee report of 30 June agreeing with the Board of Trade, who reported :—] That the Governor of this Province in a Letter to them which accompanied the first of the Acts now repealed by this Law represented, That the province of the Massachusetts Bay had long Laboured under the want of a Bankrupt Act ; and that of late every Insolvency had afforded Instances of great Partiality and Injustice ; That the Common Method had been, for the Creditor who got the Earliest Advice of a persons becoming Insolvent, to sue out Attachments against the Goods and Credits of the Insolvent according to the Custom of the Country, and help himself to such part thereof as he pleased ; That a general Scramble ensued there being no regular Audit of the Accounts of the Creditors ; That the Goods were Sold in a hurry at a low Value, and great part of the Effects of the Debtor spent

in Law Proceedings and Contests between Contending Attachments; That this had been felt and Complained of ever since he had been Governor there but no Adequate Remedy Attempted before; That a Gentleman who had Acted considerably as a Banker had lately Stopt Payment for One hundred and seventy thousand Pounds Sterling; That this was like an Earthquake to the Town Numbers of people were Creditors, some for their All, every one dreaded the Consequences, lesser Merchants began to fail, a Stop to all Credit was Expected and a general Bankruptcy was Apprehended for a time, That in this State of things Application was made to the General Court for Relief, but it was difficult to say, what could be done there: That at last it was thought proper to send to New York for Copies of their Acts for the relief of the Creditors of Insolvent Debtors, which having Your Majesty's Consent, either tacit or expressed it was presumed that a Bill of the like Nature would be Admissable there; That from the New York Acts the former of these Acts now repealed by this Law was framed and it did not as he conceived differ materially from them; That it must be expected, that Experience would point out some necessary emendations of that Act and therefore it was Enacted only for three Years. That with respect to the second Act repealed by this Law, the Governor Observes, That it was Calculated to Improve the Provisions and extend the Equity of the former; That by this Act where a Creditor has made a partial Attachment of Goods, he had his Option whether he will adhere to his Attachment, or to his Share in a general Dividend; That if he Chuses the latter he must bring in the Attacked Goods to the Common Fund, and that this is Equity and would help to do justice to foreign Creditors who stand no Chance in a general Scramble.

That these are the reasons Assigned by the Governor for Passing these Laws, and upon a full Consideration thereof and a due Attention to the Laws themselves, they appeared to the said Lords Commissioners, to be both in their Principal

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1766. § 10 *cont.*]

and provisions just and necessary Regulations and that it was a great Satisfaction to them to see the Legislature of this Province Adopting a Measure calculated in general to give Stability to public Credit and Security to the foreign Creditor —As it appeared however that the Laws were of Temporary Duration the said Lords Commissioners thought it Adviseable to suffer them to lie by Probationally, Trusting, that what the province had for the present only Adopted as an Experiment, would have been found so Convenient and Advantageous, as might have induced a future Law, by which a provision in Cases of Insolvency might have been made in this (as it is in most other Colonies) a permanent part of the Constitution. But that by the present Act both these Laws are intirely set aside upon a general Suggestion of Inconvenience, unaccompanied with any Representation of what that Inconvenience was, or without any Clause suspending the Execution of this Act of Repeal until Your Majesty's pleasure could have been known, and therefore the said Lords Commissioners recommend that it may be Adviseable for Your Majesty to reject it.

[pp. 373–5, 386.]

7 Nov. [11.] [A memorial of William Bollan, his Majesty's
Plantations. advocate for the province of Massachusetts Bay,] representing the inefficacy of the present Regulations for preserving the White pine Trees in America for his Majestys service, and proposing a method for securing a perpetual supply of Masts &c. for the use of the Royal Navy, [is referred to the Committee, and by them on 29 Nov. to the Treasury, the Admiralty and the Board of Trade.] [pp. 77, 101.]

(1767.) [Committee. Board of Trade report] postponed till a
24 Aug. fuller meeting of the Council. [p. 425.]

(1767.) [The Committee refer to the Treasury the joint report of the
9 Oct. Admiralty and the Board of Trade, dated 24 July.] [p. 485.]

(1769.) [Order in accordance with the Committee report of 28 Jan.
20 Feb. advising that the Treasury] do take such measures, as their Lordships shall judge Expedient for causing a Careful Inspection to be forthwith made into the State of all Lands not

§ 11 *cont.*]

1766.

Claimed or Possessed as private Property, lying within the District of Quebec, and that part of New York which lies on Lake Champlain as likewise within the Province of New Hampshire and that part of New York which extends Westward from Connecticut River to Hudsons River, and within the Eastern part of Massachusetts Bay and that part of Nova Scotia which lies to the North of the Bay of Fundy ; and further that the said Lords Commissioners of the Treasury Do give directions for Actual Surveys to be made of all such parts thereof as shall produce any Considerable Growth of White Pine Trees ; every Tract so Surveyed to be distinguished by Boundary Lines or Marks, and a Map thereof Transmitted to the said Lords Commissioners of the Treasury, accompanied with Reports in writing Explanatory of such Map, describing every Circumstance of Advantage or Disadvantage, with the greatest exactness, and also by what means any Particular Disadvantage or Difficulty either in Conveying the Trees to such Places where they may be Shipped for this Kingdom, or of any other kind may be removed with exact Estimates of the Expence—And the Lords of the Committee do further offer as their opinion to Your Majesty, that when such actual Surveys with the Reports annexed, shall be returned to the Lords Commissioners of the Treasury their Lordships do lay the same before Your Majesty in Council in Order that such further measures may be pursued as may be found necessary for the purposes of preserving White Pine Trees in America, and Securing a perpetual Supply of Masts and other Naval Stores for the use of the Royal Navy. [VI. *pp.* 434–5, 454.]

[12.] [Reference to the Committee of the petition of Charles Spooner and John Willes, Esqrs., and the Rev. Charles Willes, for revocation of a grant of Reeds Island, Antigua, made by Governor Thomas, 3 April, 1766, to Valentine Morris Horne, or for such other relief as to his Majesty's wisdom and justice shall seem meet.] [p. 77.]

7 Nov.
Antigua.

[13.] [Reference to the Committee of the petition of George Bonner, Esq., brother and heir at law of Henry Bonner,

7 Nov.
Jamaica.

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1766. § 13 *cont.*]

deceased, for a day for hearing his appeal from an order of the Governor of Jamaica as Chancellor, 20 Sept., 1765, overruling his demurrer to a bill filed in Chancery by William Greig and Jane his wife, for payment of an annuity of 200*l.* currency left to Jane by Henry Bonner, her late husband, with arrears and interest.] [pp. 78, 331.]

(1768.) [On the Committee report of 7 July, the order is reversed
15 July. and the demurrer allowed. The case was heard *ex parte*, no appearance having been entered for the respondents.]

[VI. pp. 232, 247.]

7 Nov. [14.] [Reference to the Committee of the petition of John,
Rhode Thomas and Samuel, sons and executors of John Freebody,
Island. late of Newport, Rhode Island, for a day for hearing their appeal from so much of an order of the Supreme Court in Sept., 1765, as directs that the interest on 28,179*l.* lent on 52 acres mortgaged to Freebody by Joseph Whipple, deceased, should be paid by them to Jahleel Brenton, Benjamin Wickham, and George Gardiner, Whipple's executors,] in good and passable Bills of Publick Credit of the said Colony emitted before the Year 1748 at the rate of Six per Cent. from the 2d of October 1754 to the first Monday in September 1765 together with Costs the same not being Conformable to An Order made by His Majesty in Council on the 3rd of August 1764. [p. 79.]

(1768.) [Reference to the Committee of a similar appeal from an
15 Jan. order of the same date in a case concerning another mortgage on 287 acres of land in Middletown.] [VI. pp. 8, 244.]

(1769.) [Reference to the Committee of two cross-appeals from the
11 Jan. above judgments.] [pp. 423-4.]

(1769.) [On Committee reports of 15 March, the orders for the
14 April. computation of interest are varied. The dispute concerned the date from which interest was to be computed and the rate at which the old depreciated paper currency should be reckoned.] [pp. 502-13, 538-9.]

(1772.) [Reference to the Committee of the Freebodys' petition,
3 Feb. complaining of two decrees of the Superior Court in March, 1771, as repugnant to the Orders in Council of

§ 14 *cont.*]

1766.

14 April, 1769, and praying that these Orders be carried into execution.] [IX. p. 62.]

[The Committee order a copy of the petition to be sent to the Judges of the Superior Court, who are to return their answer within three months of receipt thereof.] [IX. p. 336.] (1772.) 28 June.

[Committee order for hearing the complaint and the judges' answers at their next meeting.] [X. p. 387.] (1773.) 18 Dec.

[On the Committee report of 20 June, when counsel were heard on both sides, peremptory order is given to the Judges of the Superior Court to comply with the Orders of 14 April, 1769. The petition is rehearsed in the report, giving a long account of the proceedings in Rhode Island since 1765, but no record is given of the discussion in the Committee. One of the four judges dissented from the two decrees complained of, and declared that the Order in Council ought to be carried into execution according to the tenor thereof.] (1774.) 6 July.

[XI. pp. 141-8, 170.]

[15.] [Reference to the Committee of the petition of the legal representatives of Jeronimy Clifford that his Majesty will call for the report of the Committee, to which their former petition was referred on 4 Nov., 1763 (*Cf. Vol. IV. p. 536.*)] [p. 80.] 7 Nov. Surinam.

[16.] It is this Day Ordered by his Majesty in Council that the Lords Commissioners for Trade and Plantations to proceed in the Consideration of all the plantation Acts now before them or that shall hereafter be transmitted to them and that they do from time to time in the Usual manner report their opinion thereupon to his Majesty at this Board. [p. 122.] 3 Dec. Plantations.

[Reference to the Committee of a Board of Trade representation of 16 April on several ordinances and acts of Quebec, Nova Scotia, New Hampshire, Massachusetts Bay, New York, Virginia, North and South Carolina, Georgia, Nevis and Bermuda.] [p. 261.] (1767.) 13 May.

[The Committee adjourned consideration of the report, but,] (1767.) observing that mention is therein made of Eighteen Acts 19 May.

1766. § 16 *cont.*]

passed in the Province of the Massachusets Bay for erecting and incorporating sundry Plantations into Townships, which are all in their nature and consequences exactly similar and as such liable to one and the same objection, [ordered the Board of Trade to report] whether there are any and what peculiar Rights and Privileges belonging to Persons inhabiting Townships exclusive of the Rights allowed such Townships (as are specified in the said Report) having a certain number of Freeholders to send Representatives to the General Assembly.

[*p.* 273.]

(1767.) [Orders are given in accordance with the Committee
26 June. report of 23 May. Save where noted the Committee agreed with the following Board of Trade report :—] as far the greatest part of these Laws are such as have either from the period of their own Limitation of Course expired, or which having relation merely to points of Domestick policy or regulation, furnish no matter of Observation or Objection, We shall in this Our humble Representation to Your Majesty beg leave to recite such only as in Our Judgment ought not to be allowed, or which do either from the nature of them, or from the Terms and Conditions upon which they were passed require Your Majesty's Confirmation.

In pursuing this plan we shall arrange the several Laws and Ordinances whereon we have any Observations to submit to Your Majesty, under the General Titles of the respective Provinces to which they referr beginning with those Ordinances which have been passed in Your Majesty's Province of Quebec.

Quebec.

Amongst the Ordinances made and promulged by the president and Council of Quebec, since Your Majesty's Governor left the province, there is one only, which appears to us in any respect objectionable, and concerning which we have any Observation to submit to Your Majesty. This Ordinance is Intitled

An Ordinance for granting Licences for Retailing Rum and other Spirituous Liquors and for suppressing unlicensed houses.

This Ordinance is substituted in the place of one of the like nature and Tendency passed in November 1764 which upon Examination was found lyable to objection and in consequence thereof was Repealed ; the objections to that Ordinance were, in the first place, that too large a discretionary power was given thereby to the Magistrates in the Visitation and search of Unlicensed Houses, and secondly, that by the mode of appropriating to publick Uses the money directed to be paid for Licenses, it became virtually a Tax which the Governor and Council are expressly restrained from imposing ; In the present Ordinance the first of these Objections is effectually removed but no alteration or amendment having been made in the latter particular with regard to its operation as a Tax, We [recommend its disallowance].

Besides the Ordinances which during the above Period have been made and promulged in this province Drafts of two others have been prepared and transmitted for Your Majesty's approbation.

These are intitled

The Draught of an Ordinance for Regulating and Establishing the Currency of this Province.

The Draught of an Ordinance for appointing Pilots and Establishing Rules and Regulations to be observed by the Masters of Ships Sailing up or Down the River St. Lawrence to or from the City of Quebec, and for other purposes therein mentioned.

The first of these is proposed to be substituted in the place of an Ordinance of the like nature and Tendency published in September, 1765.

The Reasons which induced the Repeal of this Ordinance were founded in the apprehensions that were entertained of the very Prejudicial Consequences which might be expected to result to the Interests and property of your Majesty's

1766. § 16 *cont.*]

Subjects from the operation of a Law of this Nature which did appear to be very loosely and improperly Framed, in no respect correspondent to the Statute of the 6th of Queen Anne, and in one very essential particular directly adverse to it, enacting that the Coins therein enumerated should be received according to their Rates, as a legal Tender when by a proviso in that Statute, it is on the Contrary expressly declared that no person shall be compelled to receive them as such.

Now altho' the Draught in question professes to settle the Rates of the several Species of Foreign Coins therein Described at a Standard as nearly as possible conformable to the Rates ascertained in the said Act of Parliament yet the Compulsory Clause respecting the legal Tender not being revoked the most material objection stands unremoved, and the Chief reason which operated for the Repeal of the former Ordinance still remains in force against Your Majesty's allowing this Draught to pass into a Law.

As to the latter of these two Ordinances though we approve the object of it, and think the Establishment it proposes to make usefull and necessary ; Yet as it levies a Tax or Duty upon all Ships and Vessells navigating the River St. Lawrence it does under that Circumstance fall within the Description of those Regulations which the Governor and Council of Quebec are expressly restrained by Your Majesty's Instructions from Enacting ; and therefore We cannot advise Your Majesty to consent to its being promulged as a Law.

Having thus submitted our opinion to Your Majesty upon the several Ordinances herein described We think it our Duty on this occasion to suggest to Your Majesty, the expediency which we conceive there is, that, as soon as ever the Circumstances of Your Majesty's Province of Quebec will admit of it, and there can be found a sufficient number of Protestant Subjects duely qualified to form an Assembly, this necessary Establishment in which the Legislature of that Province is at present Defective may be supplied, by which

means the Laws and Regulations which may be found expedient for the administration of that Government may have their full and compleat Force and Validity according to the true principles of the Constitution.

[This ordinance was approved as the Committee considered the levies not as a tax, but as a reasonable satisfaction for the necessary employment of persons for the benefit of navigation.]

Nova Scotia.

New Hampshire.

Two Laws of a similar Nature and tendency having been passed in Your Majesty's Province of Nova Scotia and New Hampshire, and being withall the only Acts of those respective Legislatures on which we have any observations to submit to Your Majesty We beg leave to state them jointly under the same general Head or Division in as much as they both in our opinion stand lyable to one and the same objection—

The first is an Act of the Legislature of Nova Scotia passed on the 17th June 1765 and intituled

An Act to establish the number of Representatives to be Elected in the several Counties and Townships which are now established in this Province.

The second was passed in the province of New Hampshire on the 9th of May 1764, and is intituled

An Act for ascertaining what places may send Representatives to the General Assembly.

The Act by which the Legislatures of Your Majesty's Provinces of Nova Scotia and New Hampshire respectively assume to themselves a right of Regulating and ascertaining the privileges and Qualifications for electing and sending Representatives to the General Assembly are in our opinion lyable to objection as interfering with the Right which the Governor and Council have, of issuing Writs in your Majesty's Names, which right forms as we conceive an undoubted Branch of Your Majesty's Royal prerogative, and was upon Reference made to Your Majesty's Attorney and Solicitor

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1766. § 16 *cont.*]

General in the Year 1747 in consequence of the Assembly of the above Province of New Hampshire Contesting that privilege confirmed by their opinion and Directions recommended to be given for supporting the Members returned upon those Writs in their several Seats.

A further objection which occurs to Us upon the Subject of these Laws, is that by Empowering and qualifying a number of Towns and parishes either jointly or separately to elect Members of the General Assembly they will (if suffered to be carried into execution); operate to the augmentation and Encrease of the Representative Body in each of these Provinces thereby leading to all those Inconveniencies which have been found to arise from the Encreasing Greatness and Disproportion of the number of that Branch of the Legislature.

[The acts were disallowed.]

Massachusetts Bay.

In examining the several Acts passed in this Province We have Selected such only as contain matter worthy Your Majesty's observation and these are as follow vizt.

An Act for granting unto his Majesty several Rates and Duties of Impost and Tonnage of Shipping.

An Act to enable Abigail Lyttell of Pembroke formerly the Widow of Isaac Thomas late of said Pembroke Gentleman, deceased, to recover of the Children and Heirs of the said Isaac certain Sums of Money due from them to the said Abigail for Right of Dower in the Real Estate that was the said Isaac's.

The first of these is an Annual Act of Revenue and does appear to Us to be in no other respect objectionable than as it directs a double Impost to be paid for all Goods in general imported by the Inhabitants of other Colonies, by which means it might happen that Goods Imported from Great Britain, and coming through the Channell or Intervention of other Colonies would be subjected to the payment of the Duties of Impost as upon foreign Commodities.

If this objection therefore seems to Your Majesty to have weight, We would humbly propose an Instruction to be given to Your Majesty's Governor of the said Province for procuring an Amendment to be made in this particular Clause exempting from Duties of Impost all British Goods coming, thro' the Channel of all of the other provinces or Colonies on this Continent or of the British West India Islands to which likewise it may be expedient to annex an Exception in favour of all such foreign Goods and Merchandize as shall be imported from Great Britain either directly or through the Intervention of other British Colonies provided such foreign Goods &c. have paid the Duties in Great Britain. [On a Board of Trade report of 24 July, this instruction was approved on 26 Aug., 1767 (*p.* 432).]

With respect to the latter of these Acts, Sir Matthew Lamb one of Your Majesty's Counsel at Law whom We have consulted thereupon in his Report to Us observes—

That this Act relates to a Contract or Agreement made between parties in their private Concerns, in which it is alledged, that some of them have broke their Contract, and this Act is for enforcing and carrying the same into execution That he is of opinion This is not a matter for the Legislature of the province to interfere in ; That it is a matter of Right determinable in the Courts of Law there and that the party aggrieved must seek for Redress in such Courts, when all the parties concerned will have an opportunity to make their Defence, which it does not appear by this Act they have had ; for which reason he is of opinion, that this Act ought not to be confirmed.

This is Sir Mathew Lamb's Report upon the subject matter of this Act, which as it affords an Instance of the General Courts making a Decree, in Equity whatever may be the Merits of that Decree, We must consider it as a matter which does not fall within this jurisdiction, and however this objection may seem to be softened by the want of a regular Court of

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1766. § 16 *cont.*]

Equity in that province, yet as we apprehend great Inconveniencies and Irregularities may ensue upon such extra judicial Proceedings being allowed of and further as this Act has not a Clause suspending its execution till Your Majesty's Pleasure upon it should be known [it should not be confirmed].

It remains now for Us to observe to Your Majesty upon various Acts, which have been passed in the province for erecting and Incorporating sundry plantations into Townships, There is no occasion, as we conceive for us to recite these several Laws, which are eighteen in number in as much as they are all in their nature and Consequences exactly similar and as such lyable to one and the same objection.

By these Acts for the Institution of Townships, the said Towns become thereby invested with all the privileges, powers and Immunities that Towns in this province by Law enjoy of sending Representatives to the General Assembly.

By the Charter granted by their Majesty's King William and Queen Mary every Town is empowered to Elect two persons to serve for and represent them in the General Assembly ; This privilege by an Act of Assembly passed in the fourth year of the same Reign is limited to a stated number of Freeholders according to these restrictions no Town is allowed to send two Members but what has one hundred and Twenty Freeholders, every Town that has forty Freeholders, is obliged to send one Representative, a Town that has above thirty and under forty Freeholders may send a Representative or not as they please ; and a Town under thirty Freeholders may send a Representative or join with the next in the Choice of one.

By these regulations it follows, that every Township thus intituled by Act of the Legislature of that Province becomes of Course intituled to such Privileges as other Towns therein have and do by Law enjoy even altho' the Act for their Institution is silent in regard to their being represented. When therefore such a Township has a sufficient number of Freeholders it becomes intituled to a precept as a matter of Right

§ 16 *cont.*]

1766.

and should every Town avail itself of such its Right and privilege to send Representatives the number of that Body is capable of a very considerable increase even tho' there were no new erected Townships to contribute to it, whilst at the same time Your Majesty's Council in the said Province are limited and Confined to a fixt and very disproportionate Number.

This being the state of the Case these Acts for erecting so many new Townships appear to Us to lead to Inconveniencies arising from too great an encrease of the number and Influence of the Representative Body, and from a Disproportion to the other Branches of the Legislature and we could wish that some proper methods might be advised for Limiting and restraining the general number of Representatives.

By what means these purposes can be best accomplished, Whether as the Governor Suggests in his Letter to us of the 30th of April 1763 by enlarging the number of Freeholders that shall give a Town a right to send one member and by joining others together in the choice of one Representative who have not such a number, as many already are, or whether by proposing an Act of Assembly, ordaining that no Towns shall be incorporated to send Members but what have the full Number of Inhabitants according to the first Regulation of the Charter, or by what other Rule and method of proceeding, are points that must be left to the Wisdom of Your Majesty and Your Council to consider and determine thereupon. And we humbly submit to Your Majesty, whether this is not a Case, that does, from the nature and Importance of it require immediate attention, it being represented to Us by Your Majesty's Governor, that the number of Representatives who compose the Assembly of that Province, and who at the time of granting the Charter amounted only to 84, are now increased to upwards of 180.

[With regard to the 18 acts, the Committee referred it back to the Board of Trade to report what rights, if any, besides that

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1766. § 16 *cont.*]

of representation, belong to persons inhabiting townships. On 24 Aug. the Committee ordered the report to lie by (*p.* 425).]

New York.

There are but three Acts passed by the Legislature of this Province with respect to which We have many observations to submit to Your Majesty, The first of these is intitled

An Act further to continue An Act intitled An Act for granting to His Majesty the several Duties and Impositions on Goods Wares and Merchandize imported into this Colony, therein mentioned. [1763.]

2d. An Act for regulating the Militia of the Colony of New York. [Dec., 1765.]

3d. An Act for erecting certain Lands lying on the West side of Connecticut River within the Colony into a seperate County, to be called by the Name of the County of Cumberland, and for enabling the Freeholders and Inhabitants thereof to erect and build a Court House and Goal in the said County.

The first of these is an annual Act of Revenue which imposes a Duty of five per Cent. on all East India or European Goods, imported into this Colony ; This as we conceive is owing to a Deviation from the Terms of the original Act, which directs that these Duties of Imposts shall be levied upon all Goods and Merchandize imported from the British Islands in the West Indies which last recited words (*vizt.* in the West Indies) being in the subsequent Act thro' mistake, as it is probable omitted and that omission since continued, We are of opinion, that His Majesty's Governor should be instructed to cause the above mentioned Words to be restored upon the next publication of the Act, so that the Distinction made in the original Law relative to the British Islands in the West Indies may be recited for the future, and the Act no longer left open to so vague and general an Interpretation.

With respect to the Militia Act we have only to observe, that there is incerted a new and unusual Clause, which in case of

Alarm or Invasion, directs, that, provided His Majesty's Commander in Chief be absent the Command of the Provincial Military Force shall be vested in the respective Colonels of the Independant Companies without any reference to the power and authority of the Governor of the province.

The Motives that may have prevailed with the Legislature of New York for the framing and inserting this new Clause, We are not acquainted with, neither has Your Majesty's Governor furnished Us with any observations upon it, We can therefore only in general submit it to Your Majesty as a matter proper to be observed upon ; And We further think that as this Law for regulating the Militia has respect to a constant and permanent Establishment, such an Institution is not properly an Object for an Annual Act, and as any Temporary Regulations, by being put in Force before Your Majesty's Approbation can be had upon them do preclude Your Majesty and Your Council from making such observations and amendments as may seem necessary upon Consideration thereof, We are of opinion, that it would be adviseable, that Your Majesty's Governor of New York should be Instructed to procure such a Permanent Act to be passed for regulating the Militia as shall be approved of by Your Majesty, and at the same time maturely to consider what is likely to be the Effect of the abovementioned newly inserted Clause, whether any objection lies against it, and accordingly report his opinion thereupon.

[The third act should be disallowed for the same reason as the Nova Scotia and New Hampshire Acts. It] reserved to the Legislature of this province a power in the fixing the Choice of Members to represent this new Elected County in the General Assembly.

Virginia.

The Acts which come next under Our Consideration are those passed by the Legislature of Your Majesty's Province of Virginia are intituled as follows

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1766. § 16 *cont.*]

1st. An Act to revive and amend an Act, intituled An Act for Establishing a Trade with the Indians in Alliance with his Majesty, and also to amend one other Act for directing the Trustees of the Indian Factory of Virginia to sell the Goods imported by them and to pay the money arising by such Sale into the Treasury for the use of the Publick.

2d. An Act for exempting the Exporters of Dressed Hides or Skins from the payment of Duties for such as had been before imported.

3d. An Act for the Sale of the useless Military Stores in the Magazine in Williamsburg.

By the first of these Acts a certain number of persons are named and appointed Trustees and Directors for the better managing and carrying on the Indian Trade on the publick account with power and authority to act in all things as they shall judge expedient for managing and conducting the same.

This as it appears to Us is in effect instituting a Monopoly for, tho' there is a Clause in this Act, by which it is made Lawful for any other person to Trade with the said Indians having first obtained a Licence for that purpose from the Governor and Executed a Bond for his observance of the Rules and Directions of this Act, yet every advantage which could be derived to any private Adventurer from this License, would, as We conceive be effectually superceeded by the Tenor and operation of this Act and every independant Trader, subjected to all such Rules and Regulations as the Trustees appointed under this authority should think fit to impose A power of this sort, vested in any Body Corporate, must in the end operate to the exclusion of all others from any Share in a Trade which is thus subjected to their entire management and Direction ; And as We cannot but consider all such Institutions and Restrictions as destructive of that General Freedom of Trade and Traffick which both by the Laws of this Country, and the Policy of all Commercial Nations is

and ought to be open and accessible to every individual, [we propose its disallowance.]

The second of these Acts whereby the Exporters of Dressed Hides and Skins are relieved from certain Duties paid upon their Importation, is an express and avowed Act for the promotion and management of a Manufacture as an article of Exportion and Commerce, as every attempt in the Colonies to check or Interfere with the Manufactures of this Country ought in policy and Reason to be discouraged and suppressed, [we propose its repeal.]

The third Act which directs the Sale of sundry Stores in the publick Magazines, seems to Us highly exceptionable and irregular, and We cannot but remark the impropriety of allowing an Act of this sort to pass without a suspending Clause annexed to it : When money is granted to the Crown and invested in the purchase of Military Stores, such Stores become the property of the Crown, and are consequently at Your Majesty's Disposal ; We think therefore that this Act should be disallowed.

There yet remain sundry Laws of this Province, which being passed with Clauses suspending their Execution till Your Majestys pleasure concerning them can be known, make it necessary for Us to lay them before Your Majesty, The Titles of them are as follows,—vizt.

1st. An Act for amending and declaring the Law concerning the Escape of Debtors out of the prison Rules, and for other purposes therein mentioned.

2d. An Act to prevent the practise of selling persons as Slaves, that are not so and for other purposes therein mentioned.

3d. An Act to amend the Act for the better government of Servants and Slaves.

4th. An Act for amending the Act, intituled An Act directing the Trial of Slaves committing Capital Crimes, and for the more effectual punishing Conspiracies and

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1766. § 16 *cont.*]

Insurrections of them, and for the better Government of Negroes Mulattos and Indians, Bond and Free.

5th. An Act for enlarging the Jurisdiction of the Court of the Hustings in the Borough of Norfolk.

These five Acts having respect to matters only of Domestic Policy and Convenience no Objections occur to Us why they should not be carried into Execution . . .

North Carolina.

The Acts passed in Your Majesty's Province of North Carolina, which appear to Us to be, exceptionable are intituled as follows—(Vizt.)

1st. An Act for the more effectual suppressing of Felonies and punishment of Counterfeiters of the paper Currency of this province and of Virginia.

2d. An Act for rendering more effectual the Laws making Lands and other Real Estates liable to the payment of Debts.

3d. An Act confirming the Title of William Dry Esquire to certain Lands therein mentioned.

The first of these Acts is extended in a very rigorous manner against persons charged with Crimes, and not surrendering themselves, or escaping from prison, by empowering any person whatever to kill and Destroy such persons in case they do not comply and Surrender themselves within a Limited time to be given for such their Surrender—This We conceive, is a Clause of a very extraordinary and dangerous nature, a power, which has never been given, and which is liable to be made a very unfit Use of ; We are therefore of opinion, that an Act so contrary to the Spirit and principle of the British Laws should not be allowed, and We accordingly recommend it to Your Majesty to be repealed.

With respect to the second of the above recited Acts Sir Mathew Lamb, one of Your Majesty's Council at Law whom We have consulted thereupon observes in his Report to Us,

§ 16 *cont.*]

1766.

that it recites part of the Act of Parliament of the 5th Year of King George the Second, intituled, An Act for the more easy Recovery of Debts in His Majesty's Plantations and Colonies in America ; By which Act Real Estates are made lyable to the payment of Debts and declares the same shall be assetts for satisfaction thereof in like manner as Real Estates are by the Law of England lyable to the satisfaction of Debts due by Bond or other Specialty, and directs the manner of proceeding for Raising and satisfying the same notwithstanding which this Act recites, that it hath been of late doubted whether Sales of Estates made for satisfaction of Debts under the Directions of the said Act of Parliament are well and sufficiently Warranted thereby, And therefore Enacts divers other matters and makes some alterations, and particularly that no Real Estates shall be subject to the payment of any Debts or Demands unless the same shall be sued for within five Years after the passing this Act or the Death of the person charged therewith ; Whereupon he apprehends, that this province should have followed the Directions of the said Act of Parliament in which they are included as all Your Majesty's plantations and Colonies in America are, and that the same would have fully answered the purpose intended by it, and that they should not by any Act of their own attempt to vary or alter any part thereof For which Reasons he is of opinion, that this Act should not be confirmed, In this opinion we concur . . .

The last mentioned Act does in every respect fall under the Description of a Private Law, and as such ought to have been accompanied with a Clause suspending it's execution till Your Majesty's pleasure should be known ; As it is Defective in this particular contrary to the Express Directions relating to the passing private Acts were are of opinion, that it should not receive Your Majesty's Confirmation.

South Carolina.

○ Amongst the Acts passed in Your Majesty's province of

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766. § 16 *cont.*]

South Carolina the following only appears to Us liable to objection—The Title of this Act, is,

An Act for establishing a Parish in Berkeley County by the Name of Saint Matthew, and for declaring the Road therein mentioned to be a publick Road.

This Act which is for establishing a new parish, gives authority to them to elect two Members to serve in the General Assembly, [and should be disallowed] for the reasons assigned in the Case of the new Hampshire and Nova Scotia Acts.

[The Committee propose an instruction to all governors not already so instructed to refuse their assent to any act for altering the number or duration of the Assembly, the qualifications of electors or elected, or making any regulations with respect thereto inconsistent with their instructions or prejudicial to their authority as governors. These instructions were approved on 26 Aug., 1767 (*p.* 458).]

Georgia.

No objection occurs to Us against any of the Acts passed in Your Majesty's Province of Georgia, except in the Case of the following Law, intituled,

An Act for the better ordering and governing Negroes and other Slaves in this Province, and to prevent the inveigling or carrying away Slaves from their Masters or Employers.

Sir Mathew Lamb . . observes that by this Act Slaves within this province are declared to be Chattels personal in the hands of their Owners and possessors and their Executors Administrators and Assigns; That it has been the Policy of the American Provinces to make Slaves Real Estate descendible to the Heir with the Lands, and when it has been attempted by Laws to make them otherwise, the same have been rejected from the Inconvenience that would attend it. For as the Slaves are the necessary and Valuable part of a Plantation, which cannot be supported without them they have been in a manner

annexed to the Lands and along with them to the Heir, were they to be Chattels Personal they would go and be divided according to the Statute for Distribution of Intestates Estates and might be separated and taken from the Lands, so that the plantations might sink and become useless in the hands of the heir for want of the Slaves that would be taken therefrom—These are the objections stated by Sir Mathew Lamb against this Act, and as they do appear to Us to be well founded and of importance, and as we are of opinion, that this Act if allowed to pass would not only be attended with prejudicial Effects to Individuals, but might also be of publick ill consequence by preventing and obstructing the Cultivation and Improvement of Farms and plantations in Your Majesty's Province of Georgia, We [propose its disallowance].

Leeward Islands.

Amongst the Acts passed in the Leeward Islands there is one which respects the Local Regulation for the Island of Nevis which being passed with a Clause suspending its Execution till Your Majesty's pleasure thereupon shall be known, makes it necessary for Us to recite it, it is intituled—

An Act to repeal three Acts, intituled, Acts for the more easy repairing the Highways &c. and for making another Act to the same purpose more effectual.

No objection whatever occurring to Us upon Consideration of this Act We humbly recommend it to Your Majesty to signify Your Royal Allowance thereof.

Bermuda.

The two following Acts were passed in Your Majesty's Islands of Bermuda in February 1764, and are intituled as follows—Vizt.

1st. An Act for raising a Fund for defraying the Charges of cleaning amending and enlarging the Highways and Publick Paths in and throughout these Islands, and for other purposes therein particularly mentioned.

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1766. § 16 *cont.*]

2d. An Act directing the Tryal of Slaves in Criminal Cases.

The former of these Acts which directs the raising a Fund for the purposes of Repairing the Highways in these Islands has reference to two former Acts of this Legislature passed in October 1761, one of which is entitled—

An Act for the Repealing of an Act for repairing of the Highways [and of two additional and explanatory acts.]

The other intituled,

An Act for the more effectually cleaning, amending and enlarging the Highways and publick paths in and throughout these Islands.

At the time when these Acts were passed a Law was made for raising a Fund for repair of the Roads by Lottery, which mode being disapproved of by the then Board of Trade, their Lordships recommended it to the late Governor to cause some less exceptionable method to be taken for providing for this Service, and till that was done signified to him that they should proceed no further upon the two Acts above recited the former of which has a suspending Clause, and the latter cannot be carried into Execution till Your Majesty's pleasure in relation to the former is known.

In consequence of this proceeding, the Act now submitted to Your Majesty which directs the raising this Fund by Duties of Tonnage upon Vessels owned by the Inhabitants and by an Impost upon Rum and Horses has been framed which mode of Taxation not being in our opinion lyable to such Fraud and as the former proposed method, and the object of this Act being merely the local convenience and internal police of the Islands, We [recommend confirmation of all four acts].

The second Act submitted to Your Majesty institutes a summary method of trying Slaves in Criminal Cases, which as it has respect to matters of Domestick policy in which the good Government and Safety of Islands are concerned ; and

as no particular objection occurs to Us against it, We think it may be proper and expedient for Your Majesty to confirm it, but as it has a Clause by which it is made not to commence until Your Majesty's Royal Assent shall be had and given to an Act of this Legislature of the same Date intituled,

An Act for repealing an Act intituled An Act for trying Negroes and Slaves passed in the Year 1690 or 1691 and sayd to be Confirmed the 3d of August 1704, and also one other Act, intituled an Addition to the Act for the trying of Negroes in Criminal Causes passed in the Year 1698 and sayd to be Confirmed the 20th of February 1707-8 and also one other Act intituled An Act for the further and better regulating Negroes and other Slaves and for the more effectual and Speedy Way of prosecuting them in Criminal Causes which said last mentioned Act was passed the Legislature of these Islands the 3d day of July in the Year 1711.

And as the Repealing Act has a Clause suspending it's Execution till Your Majesty's pleasure shall be had thereupon, We [recommend confirmation of both acts].

We have now in obedience to your Majesty's Commands gone through the Examination of all the Plantation Acts and Ordinances which were before Us, And We cannot conclude this Our humble Representation thereupon, without observing to Your Majesty how highly requisite it does appear to Us to be, that the strictest Attention and regard should at all times be paid to these Acts of the several provincial Legislatures in which not only the Welfare and interests of the respective provinces wherein they take place are intimately concerned ; but with which also Considerations of the Highest Importance to the Commerce and Manufactures of this Country to Your Majesty's Royal Prerogative, and the Authority of the British Legislature are frequently blended and Connected, points, which we observe with Concern are not in general so strictly and constantly attended to by Your Majesty's several

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1766. § 16 *cont.*]

Governors, as from their Importance they ought to be, nor has this neglect as we conceive been owing to the want of frequent Admonitions from this Board to the said Governors who have been from time to time called upon by our Predecessors in Office to a more regular observance of their Instructions relative to the passing and assenting to Laws many of which being of an Improper Nature are under the necessity of Reporting for Disallowance and others from the Governors neglecting to provide a suspending Clause to be annexed to them being of a Temporary nature of Consequence have their full operation and Effect before Your Majesty's pleasure with respect to them can be obtained.

These few general Observations We have thought it Our Duty to lay before Your Majesty that in case the Subject of them should appear to Your Majesty of that Consequence which it seems to Us to carry Your Majesty may in Your great Wisdom direct such means to be used for obliging the Governors to pay a more regular Attention to their Instructions in this respect as may to Your Majesty and Your Council seem best adapted to that end. [pp. 282-302, 340-52.]

3 Dec. [17.] [Reference to the Committee of (a) the report of the
New York and Solicitor General with the draft of a commission
and
New Jersey. for settling the boundary between New York and New Jersey ;
and (b) a petition of Henry Wilmot, agent for New Jersey,
that Charles Stewart, Surveyor General of Customs for the
Northern District be appointed in place of John Temple,
the late Surveyor General, and that] Messrs. Buckley, Morris,
Gerrish and Gorham may (merely on account of their residence
in Nova Scotia) be struck out from being Commissioners.

[p. 123.]

(1767.) [The Committee refer Wilmot's petition to the Board of
2 April. Trade. The objection to Nova Scotia is that it] is at so
great a distance from New Jersey, that those Provinces have
no intercourse with each other, and answers can be sooner
received in New Jersey from England than from Nova Scotia.

[p. 207.]

§ 17 *cont.*]

1766.

[The list of commissioners having been amended by the Board of Trade in consultation with Mr. Wilmot and Mr. Charles, agent for New York, the commission is approved, on the Committee report of 12 June. The Nova Scotians are excluded except Morris, who is Surveyor of Lands. Stewart, Surveyor General of Customs for the district of Quebec, is added; Temple, Surveyor General for the Northern District, being retained. The quorum is reduced to five. *Cf.* Vol. IV of *Acts of the Privy Council (Colonial)*, p. 687.] [*pp.* 333, 353.] (1767.)
26 June.

[Reference to the Committee of a letter from John Pownall, Secretary to Lord Hillsborough, transmitting several papers from the commissioners appointed to determine the boundary.] (1770.)
14 Feb.

[VII. p. 254.]

[Reference to the Committee of the petition of the colony of New York by their agent, Robert Charles, and by William Bayard, one of their agents for managing the boundary controversy, praying that the majority of the commissioners present at the next meeting shall have the same power of receiving appeals, attesting copies, and returning the commission to his Majesty in Council, as is given by the commission to any five or more of them.] (1770.)
5 April.

[VII. p. 328.]

[On the Committee report of 7 April, the petition, in which the agent for New Jersey concurred, is granted and order made accordingly. The papers referred on 14 Feb. included a letter of 11 Dec., 1769, from four of the commissioners with minutes of their proceedings on 8, 9, and 11 Dec., but these are not further described in the Register.] (1770.)
27 April.

[VII. *pp.* 344, 352.]

[A New York Act of Feb., 1771, and a New Jersey Act of Sept., 1772, for establishing the boundary and confirming titles and possessions, are confirmed in accordance with a Committee report of 26 Aug., on a Board of Trade representation of 27 May referred to them on 9 June. Both parties had entered appeals to his Majesty in Council from the determination of the commissioners, but no petition of appeal had been presented and these Acts of the Assemblies appear to be a disavowal of the appeals interposed by the agents. The (1773.)
1 Sept.

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1766. § 17 *cont.*].

New York Act, it was pointed out by the Board of Trade, confirmed the titles of several persons in possession under New Jersey grants of lands that appear properly to belong to the Crown.] [X. *pp.* 218, 280-1, 296-7.]

3 Dec.
Quebec.

[18.] [Reference to the Committee, and by them on 11 May, 1767, to the Board of Trade, of a petition of Anthony Merry, merchant of London, on behalf of himself and three merchants and inhabitants of Canada, George Alsop, Joseph Howard, and Edward Chinn, setting forth] that in consequence of a proclamation issued by his Excellency General Murray, Governor of the province of Quebec on the 31st of January, 1765, Declaring the Trade from those parts to his Majestys posts of Tadousac and Chegolimi on the River Sequenay in the neighbourhood of Lake St. John to be free and open, the petitioners were Encouraged to load a Vessell with sundry Merchandize provide Canoes and every thing necessary and proper for Carrying on the said Trade, but having built a Shed or Warehouse for the reception of their Goods, and at a very considerable Expence Established themselves and made a Settlement on Lake St. John, they were prohibited from prosecuting their plan by the Receiver General, and president and Council of the said province, and humbly praying that his Majesty will be pleased to Grant them an order for Liberty to Dispose of such Goods as they had sent up, or his Majestys Royal Mandate for a Grant of such Lands as are mentioned in the Annexed petition presented by them to Governor Murray, Or to be otherwise Relieved in the premises.

[*pp.* 124, 249.]

(1767.) [On the Board of Trade report of 2 June and the Committee
26 June. report of 12 June, the petition is dismissed. The Committee found] that the Petitioner had no right by Your Majestys Proclamation of the seventh of October, 1763, to Trade at the Posts of the Royal Domain at Tadousac and Chegotimi on the River Saguenay in the Province of Canada, or to erect any Magazines, or make any Establishment for the Purpose of Trade there ; and that your Majestys Right thereto

§ 18 *cont.*]

1766.

ought to be Considered as Excluded from the General right of Free Trade granted by the said proclamation, and ought to be carried on only by Your Majestys Lessees under Your particular Licence for that Purpose ; And that the Buildings and Magazines erected at the said Posts by the Petitioners should be demolished, And that the Goods sent there by the Petitioners be returned to them, notwithstanding the manner in which they conveyed them thither.

[On 16 June a copy of the Committee report had been sent by Robert Walpole, Clerk of the Council, to Charles Lowndes, Secretary to the Treasury, to report any objections,] their Lordships understanding that the Subject Matter of keeping the said Posts in the Hands of the Crown has been under the Consideration of the Lords of the Treasury.

[*pp.* 336, 338, 355.]

[19.] Petition of Dennis Rolle Esquire Setting forth the Discouragements he has met with in endeavouring to make a Settlement in East Florida and representing the inefficacy of the mode required to be pursued in settling that province and praying for a Grant of Lands there under the Conditions Specified in his said Petition—Ordered to be Dismissed.

3 Dec.
East
Florida.

[*p.* 125.]

[20.] Petition of George Clarke Esquire Secretary of the province of New York complaining of the Governors having Removed him from a Branch of his office and praying to be restored to the same—Ordered to be Dismissed. [*p.* 125.]

3 Dec.
New York.

[Reference to the Committee of the petition of George Clarke, Secretary of New York, complaining of Governor Tryon for dispossessing him and his deputy from a branch of his office—that of Registrar to the ordinary and prerogative Court for the granting probates of wills, letters of administration etc. and for appointing thereto his private secretary, Edmund Fanning.]

(1772.)
15 Jan.

[IX. *p.* 40.]

[The Committee order a copy of the petition to be sent to the Governor for his answer.]

(1722.)
21 Mar.

[IX. *p.* 122.]

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1766. § 20 *cont.*]

(1774.) [The Committee refer to the Board of Trade the petition,
21 Feb. the Governor's answer and several papers transmitted by the
Governor.] [X. p. 451.]

(1774.) [On the Committee report of 12 April, order is given for
13 April. reinstating Clarke. The Board of Trade reported] That having
duly weighed and examined what is set forth by the Parties
concerned on each side the Question, they are of opinion that
the Duty of Register to the Ordinary or Prerogative Court
of the province of New York for granting probates of Wills and
Letters of Administration and other Business of that kind
together with all Fees Perquisites and Emoluments legally
appertaining thereto is a Branch of the office of Secretary of
the said province constantly held and Enjoyed both by the
Deputy of the present patentee, and all other preceeding
Secretaries; and agreeable to such Usage was Virtually
confirmed and renewed to the Petitioner by Your Majesty's
Letters Patent under the Great Seal of Great Britain bearing
Date the 10th day of April in the first Year of your Majesty's
Reign when the Commission of Secretary was renewed to him,
together with all Fees Rights privileges and advantages
whatsoever thereunto belonging in as full and Ample manner
as any Secretary in the said Colony had heretofore held and
Enjoyed or of Right ought to have held and Enjoyed the same :
And the said Lords Commissioners think that Your Majesty's
Governor, Mr. Tryon was not warranted in Excluding the
petitioner and his Deputy from the possession of the said
Branch of his office and in disposing of the same in favour of
Edmund Fanning Esquire his private Secretary thereby
depriving the said patentee of the Exercise of the Ministerial
Parts of the office of Register to the Ordinary together with
the Fees and Emoluments incident thereto, which are stated
to constitute a considerable part of the profits appertaining to
the general office of Secretary—That with respect to the
reasoning adopted by Mr. Tryon in his Answer to the Petition,
wherein he Contends that by an Act of the Colony passed in
the Year 1692, there was a severance of the Registry from

§ 20 *cont.*]

1766,

the Secretary's office and the said Registry put under the Disposal of the Governor, the said Lords Commissioners can by no means concur with him in his interpretation of this Act, on the Contrary it does appear to them to operate rather in Confirmation of the petitioners Claim and against the Governors Position inasmuch as the Courts of Common Pleas, which in some of the Counties are empowered by this Law to take the Examination of Witnesses to Wills, are thereby expressly required to Transmit the same with the will to the Secretarys Office, that the probate thereof may be granted accordingly, thereby implying a precedent Right in the Secretary to Issue such Probates—That viewing the Case of the petitioner in this Light the said Lords Commissioners think it their Duty to propose that Your Majesty may be Advised to Comply with the prayer of the petition by Instructing and Directing the Governor to revoke and Declare Void the Grant appointment and authority given by him to the said Edmund Fanning to do and transact the aforesaid Branch of Business of Register to the Ordinary appertaining to the said Patent office of Secretary, and to restore the petitioner and his Deputy to the Exercise and Enjoyment of the same as fully as it was held and Enjoyed before the late Innovation took place and also to restore the said petitioner to such Fees as it shall appear he has lost by means of the said Acts and proceedings of Your Majesty's said Governor.

[X. pp. 494-5.]

[21.] Petition of the Inhabitants of several Townships in the County of Albany in the province of New York praying to be Quieted in their Possessions—Ordered to be Dismissed.

3 Dec.
New York.

[p. 125.]

[22.] [A letter from W. Blair, Clerk of the Council, to John Strettell, merchant in Richards Court, Lime Street.] General Murray Governor of Quebec having applied to my Lord President of the Council to appoint a Meeting of the Lords of the Council to Examine into the Complaints that

5 Dec.
Quebec.

1766. § 22 *cont.*]

have been exhibited against him, and being informed that You are concerned in the Complaints that have been presented on behalf of Mr. Walker of Quebec and also of Sundry Merchants trading thither I am directed to apprise You of this that in Case You have anything to offer to the Lords of the Council upon the Subject Matter of the said Complaints, You may have an Oppertunity to be heard thereupon. [p. 126.]

(1767.) [Order in accordance with the following Committee report
13 April. of 2 April :—] Your Majesty having been pleas'd to refer unto this Committee several Petitions in the names of the French Inhabitants, of the City of Montreal in the Province of Quebec, and of several British Merchants and Traders in behalf of themselves and their Fellow Subjects Inhabitants of the said Province together with other papers containing matters of Complaint against the Honourable James Murray Esquire Your Majesty's Governor of that province—The Lords of the Committee did some time since cause Notice to be given for all Persons concerned in prosecuting any Complaints against the said Governor Murray to attend their Lordships on this day, and having been accordingly attended by Mr. Joshua Sharpe, and Mr. Turnbolt Solicitor for the Complainants and also by Mr. Walker who appeared as a Correspondent of some of the Complainants in Canada ; The said several persons were respectively called upon, to declare whether either of them would enter into Security to pay Costs (which the Committee thought in justice ought to be done) in case they should fail to make good their Charges, against the said Governor Murray, on a time to be fixed for hearing the same, and they having severally refused to enter into such Security, and Mr. Walker as the principal Correspondent, having declared, that the papers sent over from Canada, were never intended to come before the Council in a judicial way, and that he had no Witnesses to support any of the Charges against Governor Murray—Their Lordships do agree humbly to report to Your Majesty as their Opinion that the several petitions and Complaints against the said

§ 22 *cont.*]

1766.

Governor Murray should be dismissed, as groundless, Scandalous, and Derogatory to the Honour of the said Governor, who stood before the Committee unimpeached.

[*pp.* 202, 218.]

[23.] [Reference to the Committee of the petition of John Holmes, yeoman of Middletown, Newport co., Rhode Island, that the Council dismiss for non-prosecution the appeal of Thomas Freebody, merchant of Newport, from a judgment of the Superior Court in March, 1765, affirming one of the Inferior Court, 21 Nov., 1763, in Holmes's action of trespass and ejectment for 125 acres of land and a house and barn in Middletown.]

10 Dec.
Rhode
Island.

[*p.* 129.]

[On the Committee report of 7 July, the appeal is dismissed with 20*l.* *stg.* costs for non-prosecution.]

(1768.)
15 July.

[*VI. pp.* 239, 249.]

[Reference to the Committee of Holmes's appeals from two judgments of the Superior Court in March, 1766, and March, 1768, in cases against Freebody concerning the same property.]

(1769.)
14 April.

[*VI. p.* 549.]

[On the Committee report of 7 April, the judgments of March, 1766, and March, 1768, are reversed and that of March, 1765, reaffirmed. In spite of Freebody's appeal from the earlier judgment, the General Assembly had ordered a new trial in the Superior Court, at which Holmes, relying on the jurisdiction of the Privy Council, made no appearance. On judgment passing against him, he was only enabled to bring the matter before the Council by applying for a new trial, and then appealing. The General Assembly declined to carry into effect the Order of 15 July, 1768, till the case should be determined on this new appeal. Names occurring in the report are Margaret Holmes, James Green, and Freebody's father, John, and brothers, John and Samuel.]

(1770.)
27 April.

[*VII. pp.* 190, 332-40, 359.]

[24.] [Reference to the Committee of the petition of Jane Brown, of Newport, Rhode Island, widow, and Matthew Robinson, gent., and Robert Brown, yeoman, of South Kingstown,

10 Dec.
Rhode
Island.

52 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1766-7. § 24 *cont.*]

the executors of John Brown, merchant of Newport, that the appeal of John Bannister, of Middletown, Rhode Island (to which an appearance had been entered for them on 1 Oct.) be dismissed with costs for non-prosecution. Judgments for the defendant had been given in the Rhode Island courts on 21 Nov., 1763, and in March, 1765, on Bannister's action to recover from Brown several sums due to him on book account.]

[*pp.* 52, 130.]

(1767.) [Bannister's petition for a day for hearing his appeal is
26 June. referred to the Committee. The name of Isaac Brown appears in place of that of Jane Brown.] [*p.* 369.]

(1768.) [On the Committee report of 7 July, the appeal is dismissed
15 July. with 20*l.* *stg.* costs. The appellants desired to withdraw their petition and the respondents asked that it be dismissed with costs.] [VI. *pp.* 239, 249.]

1767. [25.] [Reference to the Committee of the petition of Walter
27 Mar. Tullideph for a day for hearing his appeal from a decree of
Montserrat. the Montserrat Chancery, 27 Oct., 1766, dismissing his bill against Bethia Symes, widow, John Symes and Elizabeth his wife, of Montserrat, Thomas Dorsett and William French, deputy provost marshals of Montserrat, Alexander Willcock, merchant of Antigua, and Walter Skerrett, merchant of Montserrat, to recover the principal and interest of a loan on the mortgage of Symes's plantation in the parish of St. Anthony.] [*pp.* 192, 337.]

(1769.) [On the Committee report of 13 March, the decree is
14 April. reversed and directions given for selling the estate and taking accounts. Other names in the report are Alexander Gordon, Robert King, Henry Dyer and James Symes.]

[VI. *pp.* 489-92, 536.]

27 Mar. [26.] [Reference to the Committee of the petition of Jasper
Jamaica. Hall, merchant of Kingston, Jamaica, for a day for hearing his appeal from a judgment of the Court of Appeals, 18 Aug., 1766, reversing a judgment of July, 1763, in his action against Malcolm Laing, the Receiver General, for 836*l.* currency,

§ 26 *cont.*]

1767.

alleged to have been received by him for the use of the petitioner.] [pp. 192, 521.]

[On the Committee report of 7 July, the judgment of 1766 (1768.) is reversed and that of 1763 affirmed. The petition set forth] 15 July.

That in the Year 1762, the Appellant Jasper Hall ordered his Correspondent in Great Britain, to fit out a Ship on his Account, for the Coast of Affrica, for a Cargo of Slaves which in her return was to touch at the Island of Jamaica there to receive the Appellants Direction as to the Disposition of the Cargo, which the Appellant Informed his Correspondent was not Intended for Sale in that Island :—That the Appellants Correspondent according fitted out a Vessell called the Africa, on the Appellants Account, and sent her under the Care of Robert Cowie Master, to the Coast of Affrica for a Cargo of Slaves, to be carried to the West Indies, and to touch at the Island of Jamaica for receiving the Appellants Instructions where to proceed.

That the Ship having taken in a Cargo, of 630 Slaves sailed from the West Indies, and about the Middle of October, 1762, arrived off the East End of Jamaica ; but being in want of water and provisions, and the Slaves of Refreshment, Cowie the Master wrote to the Appellant, acquainting him of his arrival and the State of the Ship and Cargo, whereupon the Appellant Immediately sent the necessary water and Provisions to bring the Ship into Kingston Harbour, where she arrived the 24th of that Month—That the Ship Proving Leaky, and unfit to Proceed further without Repair, the Appellant for avoiding all Question as to her Destination, the very Day after her Arrival in Kingston Harbour, had her and her Cargo Reported to the Registers Office, and the several other Publick Offices in Jamaica, as bound for the Havannah, whither he had Determined to send the Cargo on having received Information, of its Reduction, and as well for Repair of the Vessell, as refreshment of the many Sickly Negroes who wanted Landing for Recovery of their Health, he, a few days after the Ships arrival in the Harbour,

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landed them to the Number of 630, many of whom being taken with the small Pox, and 400 Inoculated, they necessarily continued in the Island until the January following, when all that remained alive, being but 521, were by the Appellant and on his Account, reshipped on Board the *Affrica*, and cleared out for the Havannah their Original and real Destination—That the Respondent Malcolm Laing then Receiver General of the Island was well apprized of the *Affrica's* Arrival in Kingston Harbour with a Cargo of Negroes the Appellants Property; but the Appellant having on her Arrival Reported both Ship and Cargo as bound for the Havannah and the Landing of Negroes being evidently for the Purpose of Refreshment only, and giving time for Repair of the Vessel, Cowie the Master was therefore never called upon to Repair to the Receiver Generals Office, there to give in the account, and take the Oath required by an Act of Assembly Passed in Jamaica the 31st of October 1761, nor was the Appellant as Owner of the Cargo, ever required to Enter into Bond for not delivering the Slaves without the Certificate directed by an Act in Case of Negroes Imported for Sale, nor, notwithstanding the Omission of such Account Oath and Bond, was any forfeiture or Penalty charged or attempted to be levied either upon the Master of the Ship or the Appellant as Owner of the Cargo, as by the Act Imposed upon Non-Performance of those requisites where Negroes are Imported for Sale; which was Indeed so far from the Appellants Intent that he had notoriously refused applications for Selling any of these Negroes in Jamaica as intended for a far better Market, That the Respondent, however upon the Appellants attempting in January 1763, to reship the remaining part of his Negroes for the Havannah, thought fit to Demand of him and insist upon the payment of 315*l.* Currency as the Duty of 10*s.* per Head on the 630 Slaves that had been so Landed—And Likewise 521*l.* as the Duty of 20*s.* per Head on the 521, Slaves then remaining alive, and to be reshipped and Cleared out for the Havannah, which

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the Appellant refused. . . but the Respondent still Insisting on his Demand, without which he would not clear out the Ship and Slaves from his Office, the Appellant for fear of loosing the opportunity found himself under a necessity of Complying, and accordingly paid the Respondent the several Sums of 315*l.*, and 521, making together 836*l.* Currency, as the Import and Export Duties on Negroes, but Protesting at the same time against the Exaction, and declaring to the Respondent that he would bring an Action against him for Repayment of the Money—That the Ship and the remaining part of the Negroes were cleared out from the Receiver Generals Office 31st January 1763, as bound for the Havannah for which they were then Actually Destined, but just as the Ship was going to Sail, the Appellant received Advice from his Agent at the Havannah to whose Care he had in the Preceding October Sent a Cargo of two hundred Slaves for Sale, that it would not be Prudent or Adviseable for him to send this Cargo thither on Account of the Governor of the Havannah's Grant to a person resident there of an Exclusive Right of Importing and Vending Slaves, whereby this Correspondent had been prevented from Selling such Cargo in Open Market, and laid under the necessity of selling the whole Cargo thereof at an under price, and great loss to the above mentioned person ; so the Appellant finding his Scheme of selling the Negroes at the Havannah frustrated, sent the Affrica and her Cargo to Hispaniola where the Negroes were Sold for his Account and Ship never after returned to Jamaica.

That the Appellant in pursuance of his Declaration to the Respondent, brought an Action against him for Recovery of the 315*l.*, and 521. . . [VI. *pp.* 233–8, 248.]

[27.] [Reference to the Committee of the petition of William Nash of St. Michael parish, Barbados, that the Council dismiss for non-prosecution the appeal of Capt. Thomas Taylor of H.M.S. *Griffin* from a judgment of the Barbados Chancery, 27 Nov., 1765, dismissing Taylor's bill for continuing

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Barbados.

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 an injunction against Nash's taking out execution on a judgment for 1,000*l.* [pp. 88, 193.]
- 26 June. [On the Committee report of 10 June, the appeal is dismissed for non-prosecution.] [pp. 329, 360.]
- 13 April. [28.] [In accordance with the Committee report of
 Prince Edward Island. 2 April, the petition of Sir Charles Saunders, Admiral Keppel, and others for a grant of the island of St. John is dismissed (*cf.* Vol. IV. pp. 658-9). The Committee found no reason to deviate from the system of making grants founded upon the experience of former times and confirmed by the Order of 9 May, 1764. The rejection of the petition is without prejudice to applications for separate grants on these conditions.] [pp. 203, 218.]
- 23 May. [The Committee refer to the Board of Trade the following petitions for lands in St. John:—For 20,000 acres each, William Mathew Burt and thirteen others, Robert Adair, Major Patrick Gordon, John Murray, John Dickson, Hon. Capt. Robert Moore, Capt. Daniel Shaw, Joshua Mauger, John Pownall, Secretary of the Board of Trade, Capt. James Smith, Samuel Doggat, John Tutté, Richard Cumberland, Jacob Nelstrup, Zachary Macaulay, Chauncy Townshend, Capt. David Higgins (who also asks for a small island), Edward Lewis, Lieut. Col. Stuart Douglas, Capt. William Douglas, Capt. Stair Douglas, R.N., John Pringle, Colonel Richard Maitland, Col. Alexander Maitland, Major General James Murray, James Montgomery, Lord Advocate of Scotland, George Spence, John Mill, Huchinson Mure, Robert Cathcart, Francis Mackay, Samuel Mackay, Hugh Finlay.—For 10,000 acres each, Capt. Alexander McLeod, Lieut. David Forbes, Lieut. John Hayter.—For 5,000 acres each, Capt. John Saxton, Capt. John Carden.—For 30,000 acres, Col. Richard Worge.—For 146,000 acres, Col. Simon Frazer and the other Officers of the 78th Regiment.—For a lot each, Major Thomas Moncrief, Capt. William Shirreff, Hugh Owen.] [p. 302.]
- 24 Aug. [Committee. The Board of Trade having reported that they had given public notice by advertisement in the *Gazette*

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of certain days for hearing the proponents in support of their applications and annexed a copy of their proceedings therein, the Committee recommend that grants be made as proposed on the production of an order from his Majesty in Council, and that to that end a copy of the minutes of the Board of Trade be sent to the Governor of Nova Scotia.] [p. 419.]

[Order in accordance with the Committee report of 24 Aug. 26 Aug. The Board of Trade minutes to be transmitted are given as follows :—

5 June, 1767. Lord Clare, Mr. Jenyns, Mr. Roberts, Mr. Robinson. Order for advertising in the Gazette that applicants will be heard on 17 and 24 June and 1 July.]

It being proposed in the Plan approved by His Majesty for the Island of St. John, that one intire parish should be granted to the Earl of Egmont for himself and Family ; A Letter to His Lordship inclosing a List of the parishes and desiring his Lordship would point out which of those parishes he desires to Have a Grant of was agreed to and signed.

[11 June. Lord Clare, Mr. Roberts, Mr. Robinson.] Read a Letter from the Earl of Egmont to the Board, dated the 6th Instant, signifying that he has no Intention to take up any Lands in the Island of St. John.

[17 June. Lord Clare, Mr. Jenyns, Mr. Fitzherbert, Mr. Roberts, Mr. Robinson. Several applicants heard : no particulars in the minutes.

24 June. Lord Clare, Mr. Jenyns, Mr. Roberts.]—Their Lordships made a further progress in the Consideration of the Applications. . .

[1 July. Lord Clare, Mr. Fitzherbert, Mr. Robinson.—A similar entry.]

[8 July. Lord Clare, Mr. Fitzherbert, Mr. Robinson.]—The Board took into Consideration the Merits and pretensions of such of the proponents for Lands in the Island of St. John as had either personally or by their Agents appeared before their Lordships to Support their Petitions, and agreed to recommend to the Lords of the Committee of Council, to advise his

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Majesty, to cause the several Lots or Townships into which the said Island is Divided, to be granted under the Seal of the province of Nova Scotia to the said proponents, according to the following Distribution, that is to say, [the same list as under 23 July *infra*, but in different order].

Resolved that it be Recommended, that the Lots on Mr. Hollands Survey, hereunto annexed, appendix No. 1 marked No. 40 and 59, be absolutely Granted, the former to Messrs. Spence Mure and Burns, the other to Messrs. Mill Cathcart and Higgins ; in consideration of the Expence they have been at in establishing a Fishery, and making Improvements on this Island in consequence of Assurances given to Messrs. Mure, Spence, Mill and Cathcart in the year 1764 that they should have a Choice of Situation.

Resolved that the Remainder of the Lots or Townships as marked on Mr. Hollands said Survey be Ballotted for by the persons whose names are contained in the above List in the following manner (that is to say)

That the Names of such persons to whom a Township is to be seperately Granted and also the Name of any one of the proponents Associated together (and to which Associates one or more Townships are to be Granted be respectively wrote on a Slip of Paper or Ticket ; That the said Slips of paper be put into a Balloting Box, and that a Day be appointed for drawing out the same by some Indifferent Person, That the person whose name shall be contained in the first drawn Ticket shall be Intitled to Lot No. 1, and if it be the Name of him who answers, for an Associated Number, such Association shall be entitled to as many other Lots following numerically in order of progression, as are allotted above to the said Association ; and that this Rule of Determination (except in the Case of the two Lots No. 40 and 59) be followed until all the Tickets are Drawn out.

Resolved that it be Recommended that the several Townships be Granted on the following Conditions and Reservations, that is to say,

1st. That the Quit Rents to be reserved on the several Lots, be, as near as may be, proportioned to the Value of the Lands, all Circumstances of Convenience and Advantage considered.

2nd. That a Quit Rent of Six Shillings per 100 acres be reserved to His Majesty His Heirs and Successors on Lots [5, 13-9, 24-6, 32-5, 37, 39, 40, 54-9, 63-4.]

3d. [4s. per 100 acres on lots 6, 8-12, 21-3, 27-9, 31, 36, 38, 41-50, 53, 61-2, 65.]

4th. [2s. per 100 acres on lots 1-4, 7, 20, 30, 51-2, 60, 67.]

5th. That the several foregoing Quit Rents be payable on the feast of St. Michael, or within fourteen Days after, in every Year, to commence and become payable, upon one half of the Land, on the said Feast of St. Michael, which shall first happen after the expiration of five Years from the Date of the Grant, and to be payable on every ensuing Feast of St. Michael, or within fourteen Days after and the whole Quantity to be Subject in like manner to the like Annual Quit Rent at the Expiration of ten years.

6th. That there be a Reservation to His Majesty his Heirs and Successors of all such parts of each Township respectively as have already been set apart or shall hereafter be thought necessary to be set apart for erecting fortifications, building Wharfs, Inclosing Naval Yards or laying out Highways for the convenience of Communication between one part of the Island and another.

7th. That there be also a Reservation in a proper part of each Township of one hundred Acres of Land for the Scite of a Church and as a Glebe for a Minister of the Gospel, and thirty Acres for a Schoolmaster.

8th. That in order to promote and Encourage the Fishery for which many parts of this Island are conveniently Situated, there be a Clause in the Grant of each Township that abutts upon the Sea Shore, containing a reservation of Liberty to all His Majestys Subjects in general of carrying on a free Fishery on the Coast of the said Township, and of erecting

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Stages and other necessary Buildings for the said Fishery within the Distance of five hundred Feet from high water mark.

9th. That there be a reservation to His Majesty his Heirs and Successors of all Mines of Gold Silver and Coals.

10th. That the Grantee or Grantees of each Township do settle the same within ten years from the Date of the Grant in the proportion of one person for every two hundred Acres.

11th. That if one third of the Land is not Settled in the above mentioned proportion within four years from the Date of the Grant, the whole be forfeited to His Majesty his Heirs and Successors.

12th. That the Settlers so to be Introduced be protestants from such parts of Europe, as are not within his Majestys Dominions ; or such persons as have resided within His Majestys Dominions in America for two years antecedent to the Date of the Grants.

Resolved that it be recommended that all such parts of the Island of St. John as have been reserved and set apart for the Building of Towns as Delineated upon the Survey, and expressed and Described in the Explanatory table, referring thereto, Appendix No. 2 hereunto annexed be laid out for that purpose in manner following, that is to say,

That the number of Lots for Houses in each Town, and the Extent of the Town itself be determined at the discretion of the Surveyor appointed to lay out the said Town ; and who is to exercise his Judgment in this matter according to the Nature and Scituation of the Ground.

That great care be taken in laying out the Ground for each Town, That proper parts thereof are reserved and allotted for the Scite of a Church, Town House, Markett, and other necessary publick Buildings.

That the Lots for Houses be of different Extent so that none do exceed Sixty Feet in Front and 100 Feet in Depth nor less than 20 Feet in Front and 30 Feet in Depth.

That after the Scite of a Town shall have been so laid out fixed and ascertained the remainder of the Land contained in

the Reservation marked upon the Survey, be disposed of in manner following, that is to say,

That a proper District, and in a convenient situation, be marked out and set apart for a Common to each Town of such Extent as shall be proportioned to the size of the Town.

That the Residue of the Lands belaid out into pasture Lots, proportioned in Number and Extent to the number and size of the Town Lots, allowing one Acre of pasture Lot for every ten feet in Front of the Town Lot.

That if the residue of the Town Lots over and above what shall be necessary for the Town, shall not be sufficient in Quantity for Common and pasture Lots according to the above plan, that the Land to be assigned to each Town Lot for a pasture shall be less in Quantity keeping however the same proportion, and if on the contrary there should be more than sufficient for the above purpose according to the said proportion, the Surplus to remain as Demesne Lands of the Crown, subject to such future disposition as his Majesty shall Direct.

Resolved, That it be recommended that the above mentioned Town and pasture Lots be Granted in Fee simple, under the seal of the province of Nova Scotia to such person or persons as will give proper Security to Build within a Reasonable time upon the Town Lot, and to Inclose and Fence, and properly clear for pasture the Lots set apart for that purpose ; but no one person to have a Grant of more than one Town and pasture Lot.

That in every Grant of a Town and Pasture Lot there be a Reservation to His Majesty his Heirs and Successors of a Ground Rent on the Town Lot of one penny for every Foot in Front and a Quit Rent on the pasture Lot of three pence per acre.

That the foregoing Ground Rent and Quit Rent shall be payable on the Feast of St. Michael or within fourteen Days after in every Year, to commence and become payable on

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the said Feast of St. Michael, which shall first happen after the Expiration of two Years from the Date of the Grant.

Resolved that it be recommended that the Lot 66 be reserved also as Demesne Lands of the Crown, Subject in like manner to future Directions from his Majesty his Heirs and Successors.

Resolved that Notice be given by Advertizement in the London Gazette to all such persons as have appeared in Support of the several Applications for Lands in the Island of St. John to attend the Board on Friday the 17th Instant in order that they may be Informed of the Boards Determination upon their respective petitions and of the manner in which and the Terms and Conditions whereon the said Lands will be granted.

[17 July. Lord Clare, Mr. Fitzherbert, Mr. Robinson.]—The several proponents for Land in the Island of St. John or their Agents who have appeared before their Lordships in support of their several petitions, attended, and their Lordships Minutes of the 8th Instant relative to the Distribution of the several Lots and the Terms and Conditions whereon they are proposed to be granted were read to them.

Ordered that the several Lots be Ballotted for by the respective proponents on Thursday next conformable to the plan resolved upon in the said Minutes.

[23 July. Lord Clare, Mr. Roberts, Mr. Fitzherbert, Mr. Robinson.]—The following Distribution of the Lots or Townships in the Island of St. John according as they are mentioned upon the Map or Survey of the Island, was this Day Decided upon, in their Lordships presence, by ballot ; in the form and manner set down in the Minutes of the 8th Instant, several of the said proponents or their Agents attending—Vizt.

Lot 1. Philip Stephens Esq. Secretary to the Lords of the Admiralty ; 2. James Hunter, William Hunter Merchants ; 3. Chauncey Townsend Esq. ; 4. Honourable Augustus Keppel Esq. ; 5. Edward Lewis Esq. ; 6. William Crowle Esq. ; 7. James Montgomery Esq., His Majestys Advocate of Scotland ; 8. Arnold Nesbitt Esq. ; 9. Honourable James

Murray Esq., Governor of Quebec ; 10. Simon Lutterell Esq. ; 11. Hunt Walsh Esq., Colonel of the 28th Regiment of Foot ; 12. Hutchison Mure, Robert Cathcart Merchants ; 13. John Pownall Esq., Secretary to the Lords of Trade ; 14. John Campbell Esq., Captain in the Royal Navy ; 15. Guy Carleton Esq., Lieutenant Governor of Quebec ; 16. John Tuttle Esq., David Forbes, John Hayter Lieutenants ; 17. Bingham Burke, Theobald Burke Esqs. ; 18. Robert Stuart Esq. Lieutenant Colonel, William Allanby Esq. Captain ; 19. Walter Paterson Esq. Captain, John Paterson ; 20. Theodore Holtain, Thomas Basset Esq. Captain ; 21. Lauchlin Macleane Esq. Secretary to the Earl of Shelburne, Henry Macleane Lieutenant ; 22. John Gordon, William Ridge Esq. Captain ; 23. Allan McLeane Lauchlin Macleane ; 24. Charles Lee Esq. Lieutenant Colonel, Francis Macleane ; 25. Archibald Kennedy, James Campbell ; 26. John Stewart Lieutenant, Peter Gordon Esq. Major ; 27. James Searle, John Russel Spence Merchants ; 28. Samuel Holland Esq. Captain and Surveyor of Lands ; 29. Right Honourable Sir Charles Saunders Knight of the Bath ; 30. John Murray Esq. of Philiphaugh ; 31. Adam Drummond Esq. ; 32. William Young Esq., Commissioner for Sale of Lands in the West Indies ; 33. Richard Worge Esq. late Colonel ; 34. John Dickson Esq. ; 35. Alexander Maitland Esq. Colonel ; 36. George Spence, John Mill Merchants ; 37. William Spry Esq. Captain, James Barker Esq. Captain ; 38. 39. 41. 42. Simon Fraser Esq. Colonel, James Abercrombie Esq. First Major, John Campbell Esq. second Major, John Macdonnell Esq. Captain for themselves and the rest of the Officers of the 78th Regiment ; 40. George Spence, John Mill Merchants George Burns Lieutenant ; 43. Sir George Bridges Rodney Baronet ; 44. William Fitzherbert Esq., Robert Campbell Merchant ; 45. William Matthew Burt Esq., John Callander Esq. ; 46. Alexander Fordyce Banker, Robert Gordon Esq. ; 47. Gordon Graham Esq. Lieutenant Colonel, Robert Porter Esq. ; 48. Samuel Touchet Esq., James Cunningham Esq., Lieutenant Colonel ; 49. Gabriel Christie

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Esq. Lieutenant Colonel, James Stephenson Esq. Captain ; 50. Henry Gladwine Esq. Lieutenant Colonel, Peter Innes Esq. Captain ; 51. John Pringle Esq. ; 52. Stuart Douglas Esq. Lieutenant Colonel, William Douglas Esq. Captain, Stair Douglas Esq. Captain ; 53. Richard Huck M.D., John Williams Merchant, George Campbell Lieutenant ; 54. Robert Adair Esq. Surgeon to His Majesty ; 55. Francis Mackay Esq. Surveyor of Woods, Samuel Mackay Esq. of Montreal, Hugh Finlay Esq. Postmaster at Quebec ; 56. Right Honourable George Viscount Townshend ; 57. Samuel Smith Merchant, James Smith Esq. Captain in the Navy ; 58. Joshua Mauger Esq. ; 59. Hutchishon Mure Merchant, Robert Cathcart, Merchant, David Higgins Captain ; 60. John Wrightson late Major, Daniel Shaw late Captain in the 42 Regiment of Foot ; 61. Richard Cumberland Esq. ; 62. Richard Spry Esq. ; 63. Hugh Palliser Esq. ; 64. Richard Maitland Esq. Lieutenant Colonel ; 65. Richard Wright Esq., Hugh Owens Esq. ; 66. To be reserved as Demesne Lands of the Crown ; 67. Honourable Robert Moore Esq.

The Persons attending being withdrawn, their Lordships approved the Draught of a Report to the Lords of the Committee of Council thereupon.

[An “ Explanation referring to the Townships ” occupies fourteen pages of the Register. It is given in tabular form in nine columns—the number of the lot, its extent, its boundaries North, South, East and West, the quality of the lands and woods, cleared lands and houses, and remarks. Where the entry under the eighth head is “ none,” it is here omitted.]

1. 23,000 acres. N. by the North point or North Cape. S. by the Division Line of No. 2 runs East and West 10 Miles 600 Feet. E. by the Sea $7\frac{1}{2}$ Miles along the Coast from the Extent of the North point. W. on the North West by the Sea. The Lands as well as the Woods bad, mostly nothing but small Spruce. The Coast is steep and rugged from 40 to

70 feet high, has several Fresh Waterponds and Rivers. The Cod Fishery to the east is exceeding good.

2. 20,000. N. by the North point or North Cape. S. by the Division Line of No. 3 East and West 12 Miles. E. by the Sea 2 Miles 2,700 Feet, North and South. W. by the Sea Cape Gage to the North West. The Lands and Woods as above. The Coast and Fishery as above.

3. 20,000. N. by the Division Line of No. 2 East and West 12 Miles. S. by the Division Line of No. 4 East and West 11 miles 3,000 Feet. E. by the Sea Cape Kildare, Breadth from South to North 2 Miles 2,800 Feet. W. by the Sea. The Woods and Soil as above. The Coast and Fishery as above.

4. 20,000. N. by the Division Line of No. 3 East and West 11 Miles 3,000 Feet. S. by the Division Line of No. 5 East and West 10 Miles 4,400 Feet. E. by Kildare Creek Breadth from North to South 2 Miles 4,700 Feet. W. by Monckton Cove. The Woods and Soil are better than the former. The Coast to the East is Marshy and Low and is Convenient for Fishery; the Woods to the West at Monckton Cove are tolerably good.

5. 20,000. N. by the Division or Line of No. 4 East and West 10 Miles 4,400 Feet. S. by the Division line of No. 6 East and West 9 Miles 500 Feet. E. by Ilchester Creek and Stavordale Creek and part of Holland Bay. W. by the Division Line of No. 7 two Miles 4,700 Feet from North to South 3 Miles 800 Feet. The Woods and Soil pretty good principally to the East. This Township is very good, as having a fine Harbour the Advantage of good Fishing, Woods and Lands and finely watered.

6. 20,000. N. by the Division Line of No. 5 East and West 9 Miles 500 Feet. S. by the Division Line of No. 9 and 10 East and West 7 Miles, 4,000 Feet. E. by Foxley River and Cove, and Holland Harbour. W. by the Division Line of No. 7 three Miles 4,000 Feet. The Woods and Soil are very good. Houses 4 Cleared Lands 50 Acres. This Township is

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good but not equal to the former, nothing but small Craft can come up Foxley River ; the cleared Lands makes it near equal.

7. 20,000. N. by the Sea. S. by the Division Line of No. 8 East and West 7 Miles 4,000 Feet. E. by the Division Line of No. 5 and 6 North and South 6 Miles 2,400 Feet. W. by Wolfe Cape and the Sea. The Woods and Soil but Indifferent. This Township is bad having indifferent Lands and Woods and no Fishery, and the Sea Coast Steep and Rocky.

8. 20,000. N. by the Division Line of No. 7 East and West 7 Miles. S. by Wolfe Marsh and Inlet and a long sandy point. E. by the Division Line 5 Miles. W. by the West point and the Sea. The Woods and Lands to the South good. This Township is good for Agriculture, and the Marshes at Wolfe Inlet will make fine Meadows.

9. 20,000. N. by the Division Line of No. 6 four Miles 3,100 Feet East and West. S. by the sand Cove and the Sea towards Perceval point. E. by the Division Line of 9 and 10 South and North 8 Miles. W. by the Division Line of No. 8 South and North 5 Miles. The Woods and Lands are both good. The Lands on the South Marshy, fit for Meadows at Sandy Cove.

10. 20,000. N. by the Division Line of No. 6 and part of Foxley Cove East to West 3 Miles 3,600 Feet. S. by Percival and Enmore Rivers. E. by the Division Line of No. 12 South and North 9 Miles. W. by the Division Line of No. 9 South and North 8 Miles 2,000 Feet. The Woods and Lands are very good. The Lands fit for Meadows and Agriculture but Marshy along the Percival and Enmore Rivers.

11. 20,000. N. by Holland Bay and Stephen Cove. S. by the Division Line of No. 12 East and West 6 Miles 3,000 Feet. E. by Cavendish Channel and Frederick Creek. W. by the Division Line of No. 10 South and North 4 Miles 4,400 Feet. The Lands and Woods are good. 4 Houses 120 Acres. This Township has the same advantages as No. 6. The Marshes along Cavendish Channel can make fine Meadows ; but this Channel is only navigable for Canoes.

12. 20,000. N. by the Division Line of No. 11 East and West 6 Miles 3,000 Feet. S. by the Division Line of No. 13 East and West 6 Miles. E. by Lenox Channel Good Wood River and Conway Cove. W. by the Division Line of No. 10 4 Miles 1,200 Feet. The Lands and Woods as above. This Township is well situated for Fishery, and the Lands fine for Agriculture ; shallows should come up Goodwood River.

13. 20,000. N. by the Division Line of No. 12 East and West 6 Miles. S. by the Division Line of No. 14 East and West 10 Miles 4,000 Feet. E. by Good Wood River Richmond Bay and Village Cove. W. by Enmore River and part of the 1st Division Line of No. 15 from North to South 3 Miles 1,000 Feet. The Lands and Woods are very good. One Church 24 Houses and Barns 750 Acres. This is one of the best Townships on the Island as well for its situation in Fishery as for the cleared Lands and Crossing the Island at Enmore River.

14. 20,000. N. by the Division Line of No. 16 East and West 5 Miles 3,000 Feet. S. by Richmond Bay and Ellis River. E. by the Division Line of No. 15 three Miles 3,300 Feet. W. by the Division Line of No. 13 East and West 10 Miles 4,000 Feet. The Lands and Woods are very good. 12 Houses and Barns 350 Acres. This Township is near as good as the above having Ellis River, which is Navigable for Ships of any Burthen and has fine Lands, but has no Communication with the Sea to the West.

15. 20,000. N. by Enmore Head and the Division Line of No. 16 East and West 3 Miles 1,300 Feet. S. by the Sea from Cape Egmont towards Sandbury Cove. E. by the Division Line of No. 17 South and North 3 Miles 1,100 Feet. W. by the Sea Haldimand River Red head and Egmont Cape. The Lands and Woods indifferently good. Cleared Lands 10 acres. This Township having a great Extent along the Sea might turn out to great advantage in Agriculture.

16. 20,000. N. by the Division Line of No. 14 East and West 5 miles 3,000 Feet and Ellis River. S. by the Division

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Line of No. 15 and 17 East and West 9 Miles and Bentinck Cove. E. by Richmond Bay and Bentinck Point. W. by the Division Line of No. 15 North and South 2 Miles 4,700 Feet. The Lands and Woods are very good. This Township having the advantage of Ellis River and Richmond Bay may turn out to Advantage for Fishery and Agriculture.

17. 20,000. N. by the Division Line of No. 16 East and West 5 Miles 3,800 Feet. S. by Sandbury Segwick and Wilmot Coves. E. by No. 19 Line North and South 3 Miles 3,000 Feet. W. by the Division Line of No. 15 South and North 3 Miles 1,100 Feet. The Lands and Woods are good. This Township being situated on the Neck of Land between Richmond and Halifax Bays and with the Advantage of Good Lands on both sides it must turn out to advantage.

18. 20,000. N. by Princes County Town Lot March Water and the Sea. S. by the Division Line of No. 19 East and West 6 Miles 2,400 Feet. E. by the Division Line of No. 20 South and North Six Miles long. W. by Darnly Bason and Prince Town Lot, Chichester Cove and Richmond Bay. Good. This Township surrounding the County Town is conveniently Situated for Fishery with the advantage of Good Lands must in Time become of Value.

19. 20,000. N. by the Division Line of No. 18 East and West 6 Miles 2,400 Feet, and Webber Cove. S. by the Line of No. 25 East and West 9 Miles, Wilmot Creek. E. by the Division Line of No. 20 South and North 3 Miles 2,300 feet. W. by the Division Line of No. 17 North and South 3 Miles 5,000 Feet. Good. Two Houses one Saw Mill 20 Acres. This Township having Water Communication with Richmond and Halifax Bays and the carrying place by Land which is a good Road makes it of Value.

20. 20,000. N. by the Sea. S. by the Division Line of the Inland Lot East and West 3 Miles 4,000 Feet. E. by the Division Line of No. 21 North and South 8 Miles 3,000 Feet. W. by the Division Line of No. 18 and 19 with part of 25 North and South 10 Miles 4,000 Feet. Indifferent. This

Township will be of little Value until the Neighbouring Townships are Settled.

21. 21,000. N. by the Sea Grenville Bay and Stanley River. S. by the Division Line of the Inland Tract East and West two Miles 4,700 Feet. E. by the Division Line of No. 22 North and South 7 Miles. W. by the Division Line of No. 20 and the Inland Tract North and South 12 Miles 3,700 feet. Better than the former. This Township is well Situated for fishery but Grenville Bay is only fit for Small Craft.

22. 21,000. N. by Grenville Bay. S. by the Division Line of No. 31 East and West 2 Miles 3,500 feet. E. by the Division Line of No. 23 North and South 13 Miles. W. by the Division Line of No. 21 North and South 10 Miles 4,600 Feet. The Lands and Woods are something better than the former. This Township has the same advantages of the former.

23. 21,000. N. by the Sea. S. by the Division Line of No. 31 and 32 East and West 2 Miles 2,400 Feet. E. by the Division Line of No. 22 North and South 13 Miles. W. by the Division Line of No. 24 and 25 12 Miles. The Woods and Lands are very good above Hunter River. The part of the Township where Hunter River with its small Branches intersects it is very good.

24. 20,000. N. by the Sea, Cape Turner and Harris Bay. S. by the Division Line of No. 32 East and West 3 Miles 2,300 feet. E. by the Division Line of No. 33 North and South 4 Miles 4,000 feet. W. by the Division Line of No. 23 North and South 12 Miles. The Woods and Lands are very good with some Oak. None, but some Winter Cabbins 60 Acres of Cleared Land. This Township is one of the best on the Island, as well for its Fishery as Lands, the Woods being very good will pay for the clearing it.

25. 20,000. N. by the Division line No. 19 East and West 9 Miles and Wilmot Creek. S. by the Division line of No. 26 East and West 6 Miles 4,500 Feet. E. by the Division Line of No. 20 the Inland Tract North and South 3 Miles 2,500 Feet.

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W. by Dunk River and Wilmot Creek. Lands and Woods very good. 8 Houses and Barns, Clear Lands 225 Acres. This Township is one of the best for Agriculture and has good Water Communication to Halifax Bay.

26. 20,000. N. by the Division Line of No. 25 East and West 6 Miles 4,500 Feet. S. by the Division Line of No. 27 East and West 9 Miles 2,500 Feet. E. by the Division Line of the Inland Tract North and South 2 Miles 3,500 Feet. W. by Salutation point Grahams Head and Indian point. Lands and Woods very good. 560 Acres 10 Houses. This Township is good for Agriculture and Woods and has the Advantage of Dunk River and Halifax Bay.

27. 20,000. N. by the Division line of No. 26 East and West 9 Miles 2,500 feet. S. by the Division line of No. 28 East and West 8 Miles 1,500 Feet. E. by the Division Line of the Inland Tract 3 Miles 3,700 feet. W. by Boquet Gordon and Carletons Coves. Lands and Woods good. This Township may in time become of Value for Agriculture.

28. 20,000. N. by the Division Line of 27 East and West 8 Miles 1,500 Feet. S. by Augustine Cumberland and Tryon Cove. E. by the Division line of No. 29 North and South 5 Miles 4,000 Feet. W. by Guy, Amherst and Provost Coves and Cape Traverse. Lands and Woods good. 450 Acres of Cleared Lands, 20 Houses and Barns. For Agriculture this Township is very good the Woods along the Coast are mostly Spruce and Indifferent ; but in the Country good, from Cape Traverse is the Shortest Cut to the Continent.

29. 20,000. N. by the Inland Tract East and West 3 Miles 4,800 Feet. S. by Brockelsby and Rice Coves and by Brokelsby and Marle Head. E. by the Division Line of No. 30 North and South 9 Miles 3,000 Feet. W. by the Division line of No. 28 and 27 North and South 6 Miles 500 Feet. The Lands and Woods good. Cleared Lands 100 Acres 4 Houses and Barns. This Township is near as good as the former but not so much Communication with the Sea Coast.

30. 20,000. N. by the Inland Tract East and West three Miles 4,800 Feet. S. by the Sea and Allens Cove. E. by the Division Line of No. 65 North and South 11 Miles 2,800 Feet. W. by the Division Line of No. 29 North and South 9 Miles 3,000 Feet. The Woods along the Coast Small Spruce but are better with the Lands up the Country. This Township having neither Coves or Rivers and the Sea Coast Steep can be of but little Value in the beginning of the Settling of the Island.

31. 21,000. N. by No. 22 and 23 Breadth East and West 4 Miles. S. by Elliot River. E. by No. 32 Length North and South 9 Miles. W. by No. 30 Length North and South 6 Miles 4,200 Feet. The Lands and Woods are both good. 200 Acres 7 Houses. Well situated for Agriculture as it has an immediate and short Communication with the Intended Metropolis by means of Eliot River but is not convenient for Fishing.

32. 20,000. N. by the Division Line of No. 23 and 24 from East to West 4 Miles 1,600 Feet. S. by Elliott River and part of the Chief Town Lott. E. by the Division line of No. 33 in length 4 Miles 2,500 Feet and York River. W. by No. 31 Length North and South 9 Miles. Lands and Woods the same as in No. 31. 150 Acres 7 Houses. The Situation rather more Convenient than No. 31 as it has a Communication with the Chief Town, by means of both York and Elliot Rivers.

33. 20,000. N. by Harris Bay and Harrington Bay. S. by the Division Line of the Chief Town Lot East and West 3 Miles 1,800 Feet. E. by the Division Line of No. 34 North and South 8 Miles 380 Feet. W. by the Division Line of No. 24 and 32. 9 Miles 1,700 Feet. Woods good and tolerable good Soil. Good Fishing upon the North Shore of this Township and it has also a safe Harbour for Shallops.

34. 20,000. N. by the Sea and Stanhope Cove 3 Miles 2,750 Feet. S. by Hillsborough River. E. by the Division Line of No. 35 7 Miles 4,500 Feet. W. by the Division Line of No. 33 and the Chief Town Lot 10 Miles 4,300 Feet. Woods very good and an Extreme Fertile Soil particularly on the

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North side. 300 Acres 10 Houses. A pretty good place for fishing, but most advantageously situated for farming, it has also an Excellent Communication with the Interior part of the Island.

35. 20,000. N. by the Sea and Bedford Bay. S. by No. 48 East and West 3 Miles 2,600 Feet. E. by No. 36 length 7 Miles 472 Feet. W. by No. 34 and 48 Length 11 Miles 4,500 Feet. Very good Lands and good Woods where it has not been destroyed by the Fire. 600 Acres 16 Houses 2 Water Mills One Windmill and a Decayed French Battery upon the River of Hillsborough. Extreemly well situated for Fishing and Farming Hillsborough River running through the Township makes an Easy Communication to the Fort and St. Peters it also abounds with Game, particularly about Johnstons River and the French ffort.

36. 20,000 N. by the Sea and part of Bedford Bay. S. by No. 48 East and West 13 Miles 1,200 Feet. E. by the Division Line of 37 North and South 10 Miles 3,400 Feet. W. by the Division Line of No. 35 7 Miles 4,720 Feet. Tolerable good Ground and Timber on the South part Indifferent on the North Coast almost entirely destroyed by Fire. 250 Acres 8 Houses and a ruined Mill.

37. 20,000. N. by the Sea East and West 2 Miles 4,000 Feet. S. by No. 49. E. by the Division Line of No. 38 and Savage Harbour 11 Miles 2,400 Feet. W. by the Division line of No. 36 North and South 11 Miles 4,700 Feet. The North part is burned Woods near Hillsborough River they are very good and upon the above and Hill River the Soil is Excellent. 1,000 Acres 30 Houses. Pretty well Situated for fishing and Tillage or pasture inferior to none upon the Island here is also plenty of Game and Fish.

38. 20,000. N. by the Sea and Savage Harbour. S. by 66 and 51 East and West 3 Miles. E. by No. 39 and 51 North and South 10 Miles 4,400 Feet. W. by No. 37 North and South 11 Miles 2,400 Feet. North part burned Soil and Woods to the Southward much the same as No. 37. 700 Acres,

14 Houses and Barns. For Fishing the same as No. 37 for Agriculture not quite so good.

39. 20,000. N. by the Sea and St. Peters Bay. S. by No. 51 and 52 3 Miles 2,300 Feet. E. by the Division Line of No. 40 Eight Miles 4,530 Feet measured across St. Peters Bay. W. by the Division Line of No. 38 nine Miles. About St. Peters burned Woods and Small Brushes, on the Borders of Morell River pretty good Timber and Soil but Stony. 1,600 Acres, part of which is only Cultivated. 34 Houses and Barns and a Water Mill. This Township seems to have the advantage of the whole Island being well situated for fishing and Agriculture, and abounds also with Fish and plenty of Game, the harbour can receive into it Vessells of 200 Tons but the Entrance is Narrow and Hazardous.

40. 20,000. N. by the Sea 3 Miles 4,900 Feet. S. by the Sea and No. 53 with part of the Numbers 52 and 54. E. by the Line of No. 41. 8 miles 3,400 Feet. W. by the Division Line of No. 39. 8 Miles 4,530 Feet. Soil much as St. Peters, about St. Peters Bay in general the Woods are burned; on Morell River and in the Country good. 400 Acres only part of which is Cultivated—18 Houses—Enjoys the advantage of Fishing at St. Peters, as well as game and Fish, in Morell River is also taken Salmon, though hitherto but few, all of which are killed with a Harpoon; in Morrell is good Wintering for Shallops and small Vessels.

41. 20,000. N. by the Sea East and West 3 Miles 4,900 Feet. S. by the Sea No. 54 and 55. E. by the Division Line of No. 42 North and South 6 Miles 3,800 Feet. W. by the Division Line of No. 40 8 Miles 3,400 Feet. Soil about the South End of St. Peters Bay very good for farming and other places Barren in general and Burned Woods. It is not very convenient for a Fishery as there is no good Creek on the Coast for fishing Vessels, and is at too great a Distance to go out and come in St. Peters Bay it however enjoys the advantage of a Carrying place from St. Peters to the Bay of Fortune going through the Township.

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42. 20,000. N. by the Sea East and West 4 Miles 4,750 Feet. S. by No. 55 and 56. E. by the Division Line of No. 43 Length North and South 5 Miles 1,460 Feet. W. by the Division Line of No. 41 North and South 6 Miles 3,800 Feet. Pretty good Soil the Woods for the most part burned ; near the ruined Village of 5 Houses there is a grove of Cypress Shrubs. 100 Acres of cleared Lands only part were Cultivated 5 Houses. Its Advantages in Agriculture rather better than No. 41, and its Situation for Fishery or Communication not so Convenient.

43. 20,000. N. by the Sea East and West 2 Miles 3,210 Feet. S. by the Sea Coast from Howe to Rollo Bay including the Bay of Fortune. E. by the Division Line of No. 44 North and South 8 Miles 4,800 Feet. W. by the Division Lines of No. 42 and 46 North and South 12 Miles 1,310 Feet. The North part of this Township bad Land and burned Woods about the Bay of Fortune pretty good soil and Woods. 800 Acres though not all Cultivated. 12 Houses and 2 Mills. It's Advantage of Situation for fishing is good by its having the Coast about the Bay of Fortune, There are plenty of Trout, Els, and Oysters, though no Harbour but for Shallops.

44. 20,000. N. by the Sea East and West 3 Miles 1,800 Feet. S. by the Sea and Rollo Bay. E. by the Division Line of No. 45 North and South 8 Miles 808 Feet. W. by the Line of No. 43 and Colvill Bay North and South 8 Miles 4,800 Feet. The whole but indifferent Lands and Woods. Neither so good for Agriculture or Fishery as No. 43.

45. 20,000. N. by the Sea East and West 3 Miles 2,005 Feet. S. Colvill Bay. E. by the Division Line of No. 46 North and South 9 Miles. W. by the Division Line of No. 44 North and South 8 Miles 808 Feet. The Lands and Woods as in 44. For Fishing or Farming much the same as No. 44.

46. 20,000. N. by the Sea East and West 9 Miles 3,600 Feet. S. by the Sea. E. by the Division Line of

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No. 47 North and South from Silvester point 8 Miles. W. by the Division Line of No. 45 Length North and South 9 Miles. The Lands and Woods as in No. 45 but well watered. Much better Situated for Fishing than the former No. 44 and 45, as it has a Convenient Cove on the North Side where small Vessels may be Sheltered from Northerly Winds.

47. 20,000. N. by the Sea East and West. S. by the Sea along the Coast from the East point 8 Miles 2,500 Feet. E. by the East point. W. by the Division Line of No. 46 8 Miles long from Silvester point North and South. Burned Woods and Brush with Sandy Barren Lands. 40 Acres 5 Houses. Conveniently Situated for fishing but has not a good Harbour for Vessels, Surveyors Creek being the best and that not being able to receive a Shallop but at High Water.

48. 23,600. N. Hillsborough River and Nos. 35 and 36. S. By No. 49 East and West 12 Miles 2,300 Feet. E. by 37 and part of 49. W. by Hillsborough River and the Harbour of Port Joy Breadth Irregular. Soil and Woods good. 100 Acres and 4 Houses and a Mill. Convenient for farming but ill situated for Fishing.

49. 22,000. N. by No. 48 and 37 Length of which Lines East and West about 15 Miles. S. by No. 50 the length of which 8 Miles east and West and Great Bay of Hillsborough. E. by the Inland Tract North and South. W. Hillsborough Bay. Good Land and Woods. 600 Acres 40 Houses and Barns. A good Township for Farming Settlements but for Fishing as indifferent as No. 48.

50. 20,000. N. by No. 49 East and West 8 Miles. S. by No. 57 and Orwell Bay. E. by the Inland Tract North and South three Miles 3,300 Feet. W. by Pownall Bay. Pretty Good Soil and Woods. 400 Acres 32 Houses. It's Situation and Conveniencies exactly the same as the two preceeding Numbers.

51. 20,000. N. by Nos. 38 and 39 East and West 2 Miles 3,700 Feet. S. by No. 59. E. by No. 52 length 11 Miles 4,800 Feet. W. by the Inland Tract and No. 38. Soil and

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Woods pretty good. As this Township has not any Communication with the Sea or any Rivers Except the Top of Montagu River, it is of little Value.

52. 20,000. N. by Nos. 39 and 40 East and West 2 Miles 2,500 feet. S. by the Top of Montagu River. E. by No. 30 length 11 Miles. W. by No. 57 length North and South 11 Miles. Soil and Woods as in No. 51. In point of Situation very little superior to No. 51.

53. 20,000. N. by No. 40 East and West 3 Miles 500 Feet. S. by the North side of Montagu River. E. by No. 54 length 8 Miles 2,000 Feet and by George Town Lot 1 Mile 4,300 Feet. W. by No. 52 length North and South 11 Miles. Soil and Woods very good. Its Situation more Convenient than either of the two last Townships as it has a good Communication with George Town by the three Rivers of Cardigan Brudenell and Montague Rivers.

54. 20,000. N. by No. 40 and 41 East and West 3 Miles 1,900 Feet. S. by Cardigan River. E. by No. 55 North and South 10 Miles 3,300 Feet. W. by No. 53 North and South 8 Miles 2,000 Feet. Soil and Woods as in No. 53. 40 acres 2 Houses. This Township is good for Agriculture and fishing having the Convenience of Cardigan River, up which Vessels of any Burthen may go ; it also lies contiguous to George Town Lott.

55. 20,000. N. by No. 41 and 42 breadth East and West 2 Miles 3,500 Feet. S. The North Shore of Cardigan Bay. E. by No. 56 and Boughton Bay Division Line 56 is 8 Miles 2,000 Feet. W. by No. 54 North and South 10 Miles 3,300 feet. Soil and Woods very good. 5 Acres 4 Houses. Good, both in is Situation for farming and Fishing Boughton River being very Shallow will not admit any Vessell into it, but small Craft and that not without Difficulty.

56. 20,000. N. by No. 42 Breadth East and West 13 Miles 2,400 feet. S. by Boughton River and Spry Cove. E. by the Division Line of No. 43 length 12 miles 310 feet. W. by the Division Line of No. 55 length North and South 8 Miles

2,000 Feet. About the River of Fortune and the Carrying place most burned Woods in other places pretty good Wood and very fertile Soil. 150 Acres 7 Houses. Very Convenient for Fishing and Cultivation and the Carrying Place from the Bay of Fortune to St. Peters Bay going through the Townships is a very great advantage to that Communication Inland.

57. 20,000. N. by No. 50 Division Line 3 Miles 4,000 Feet. S. by No. 58 East and West upon this line 15 Miles 4,000 Feet. E. by the Inland Tract and No. 59 North and South 4 Miles. W. by Orwell Bay and the Great Bay of Hillsborough. Very good Lands. 450 Acres 12 Houses and a Church. A very good Township for Farming Settlements but ill Situated for fishing.

58. 20,000. N. by the Division Line of No. 57 Length East and West 10 Miles. S. by the Division Line of No. 60 East and West 10 Miles. E. by the Lines 59 and 61 North and South 2 Miles 4,300 Feet. W. by the Sea and Jennyns point. Very Good Land and large Timber. 300 Acres 22 Houses. An Excellent Township for Tillage or pasture but Jenyns River Unluckily is shallow at the Entrance which makes it Capable of receiving nothing but small Vessels.

59. 20,000. N. by the Inland Tract of No. 57 Length of both East and West is 5 Miles and Montagu River. S. by the Division Line of No. 61 Length East and West 9 Miles 4,700 Feet. E. by St. Andrews Town and Livingstons Bay. W. by Nos. 57 and 58 North and South two Miles 2,800 Feet. The Lands but Indifferent the Woods very good. 40 Acres and the Fishery—6 or 7 Houses and a Fish Stage. A very good place for Building Small Vessels ; at present an Established Fishery here.

60. 20,000. N. by No. 58 Length East and West 10 Miles. S. by No. 62 Length 9 Miles. E. by No. 61 and 63 Breadth North and South 3 Miles 1,700 Feet. W. by the Sea and Gascoine Cove. The Lands and Woods very bad. A Township of very little value neither Good for Fishery or Agriculture.

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61. 20,000. N. by No. 59 East and West 9 Miles 4,700 Feet. S. by No. 63.—12 Miles 3,000 Feet. E. by the Sea Coast Sturgeon and St. Marys Bays. W. by Nos. 58 and 60 North and South 2 Miles 5,000 Feet. The Lands something better than in No. 60 the Woods very good. Inconvenient in Situation as the Coast is very Shallow ; its being Convenient to George Town is its greatest advantage.

62. 20,000. N. by No. 60 length East and West 9 Miles. S. by the Sea Coast and Wood Islands. E. by No. 63 and 64 Breadth 5 Miles 700 Feet. W. by the Sea Coast. The Soil in most places bad, the Woods in general very good. 10 Acres of cleared Lands, and 2 Houses. There are some good Marsh which would do very well for pasture or produce a good deal of Hay ; it is too far from the fishing Ground to have any advantage in that respect.

63. 20,000. N. by No. 61 length East and West 12 Miles 3,000 Feet. S. by Murray Harbour and River. E. by the Sea Coast. W. by the Division Line of No. 60 and 62—two Miles 2,000 Feet. Good Soil and Timber. 20 Acres 7 Houses. Well Situated for Agriculture and Fishing great Quantities of Fish being off Bear Cape in the beginning of the Season.

64. 22,000. N. by Murray Harbour and River. S. by the Sea Coast. E. by the Sea Coast. W. by No. 62 North and South 4 Miles 2,000 Feet. Same as No. 63. Conveniencies as No. 63.

65. 21,000. N. by Eliot River, and Division Line of No. 22 East and West 2,800 Feet. S. by the Sea Coast from the West point of port Joy to Allen Cove. E. by the Harbour and port Joy, and the Line of No. 31 North and South 6 Miles 4,200 Feet. W. by No. 30 North and South 11 Miles 2,800 Feet. Soil and Timber very good. 400 Acres, 8 Houses including the house of the Surveyor General Built at Observation Cove. Well Situated for Agriculture, as it has a fine Communication By Eliot River, but a present most of the Cleared Lands are above the Fort and taken up for the fort

Lot, which has 1,000 Yards South and North and East and West from the Centre of the Fort and Contains 520 Acres.

County Town Lots.

Charlotte County Town Lott 7,300 Acres. N. by No. 32 and 33 East and West 4 Miles 2,350 Feet. S. by Hillsborough River. E. by No. 34 North and South 2 Miles 600 Feet. W. by York River. Very good Land and Woods. Not any Cleared Lands or Houses. Is the most advantageously Situated of any place on this side the Island, having an Immediate Communication with the Harbour of Port Joy, and the three Rivers of Hillsborough, York, and Elliot, the Ground is no where Commanded, and the Creek on the South side the Township is capable of being made a Secure place for small Vessells—Add to this there is a very proper Depth of Water for Shipping to ride near the Town in good Ground.

George County Town Lot 4,000 Acres. N. by Cardigan River. S. by Brudenell and Montagu Rivers. E. by Cardigan River. W. by the Division Line of No. 53 North and South 1 Mile 400 Feet. Very Good Land and Woods. Scarce any Cleared Lands, two Houses. This County Town Lot has great advantage from its Situation as having the Inland Communication by Montagu Cardigan and Burdenell Rivers Surrounded by Water, Except by the Division Line of No. 53 in respect to Trade and shipping no place can be more Convenient, the Entrance into the Rivers with the help of two or three Buoys being fixed will be fair and open with Water for the largest Ships to Enter, and to ride with great Safety in Albion Bay Montague River and in the Bay formed by Sandy Hook in Cardigan River the Entrance into the Rivers may be Effectually Secured by good Batterys on each side of the Town.

Prince County Town Lott 4,000 Acres. N. by Richmond Bay and Darnly Bason. S. by March Water and No. 18 East and West 2 Miles. E. by No. 18 Length which Sub Division Line is one Mile. W. by March Water and Richmond Bay.

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Soil and Timber good. No Cleared Land or Houses. This County Town Lot for a Fish Trade is Superior to any other place upon the Island being near the Entrance of Richmond Bay makes it peculiarly Convenient for Fishing Vessels, as they loose but little time in going to the Fishing Ground ; there is also Water enough for large Ships, and great part of the Township being included within a peninsula may be Securely Fortified at a small Expençe ; there is a very Convenient Harbour for small Vessels in Darnly River.

Island of St. John

7th October 1765

Samuel Holland. [pp. 433-58.]

(1768.) [Order to the Governor to grant lot 34 to James Montgomery, H.M. Advocate for Scotland, *vice* John Dickson. 1 Feb. Dickson had written to Mr. Spotteswoode authorising the change, but died before it could be effected. His brother and heir, David Dickson, has also approved the transfer.]

[VI. p. 47.]

(1768.) [Reference to the Committee, and by them on 28 June to 13 June. the Board of Trade, of a petition of the proprietors that the island may be formed into a separate government on terms to be approved by the Board of Trade. The Committee considered that the plan under proper restrictions might be of public advantage and promote the settlement of the island, and directed the Board of Trade, in case they can suggest a method whereby the expense of carrying it out can be met without any additional burden upon this kingdom, to prepare a plan with an estimate of the expense and the ways and means by which it may be defrayed.] [VI. pp. 203, 217.]

(1768.) It having been represented to His Majesty, that several 29 June. Persons, who have obtained Orders of His Majesty in Council for Grants of Land in His Majesty's Island of St. John in North America, have neglected to take out such Orders, or if taken out to present them to His Majesty's Governor of Nova Scotia by means whereof His Majesty's Gracious Intentions, with respect to the Settlement of that Island, may

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be defeated, and the Cultivation and Improvement thereof greatly obstructed and retarded; [it is ordered that the Governor pass no grants in the island for which Orders in Council are not produced to him before 1 May, 1769, and that this Order be published in the *London Gazette*.]

[VI. p. 221.]

[On the Committee report of 21 June, orders are given for (1769.) making Prince Edward Island a separate government: the 28 June. Secretary of State to receive his Majesty's pleasure about the appointment of officers in his department: the Treasury to give directions for the establishment so far as pertains to their department: the Board of Trade to prepare a commission and instructions for a Governor and also the device of a seal.

The memorial of the proprietors referred on 13 June, 1768, set forth] That the petitioners are very desirous of fulfilling your Majesty's Royal Intentions in the Grants your Majesty has been graciously pleased to make of the said Island, by the most speedy and effectual Settlement of the same, That this Island must, if properly encouraged, become a place of great Trade, and of very considerable Advantage both to great Britain and the Colonies, as well from its Convenient situation with regard to the Fisheries, and the fertility of the Soil, so well adapted to the production of Corn, of Hemp, Masts and other Naval Stores, as from the excellence of its Bays and Harbours. That notwithstanding these great Natural advantages the Settlement of this Island will be very much retarded by its dependance on the Government of Nova Scotia, as no legal Decisions can be obtained, nor any Matters of property determined without a tedious and Expensive voyage to Hallifax (where the Superior Courts of Judicature and all the publick Offices of Government are held) which during the Winter Months is impracticable on Account of the Ice; This must unavoidably be attended with great Detriment both to the Trader and Planter; That many Industrious and able Settlers are deterred by these Considerations from bringing their Families and property to a

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place so circumstanced. That these Inconveniences would be effectually remedied, and the Settlement rendered speedy and certain if it should please your Majesty to form this Island into a separate Government.

[The Board of Trade reported] That as the said Order of reference to them amounted to a resolution that the establishment of a separate Government for the Island of St. John should not take place unless the expence could be defrayed without any additional Burthen to this Kingdom, the means of obtaining such a Fund as would answer this Intention, and be adequate to the purpose of a proper Civil Establishment, necessarily became the first object of their Attention; and upon Consulting with some of the principal proprietors, they suggested, that they were ready and willing to consent, as far as concerned themselves, that the payment of the Moiety of the Quit Rents reserved upon each of their Lots respectively, and which by the Original Condition of the Grants was to Commence, at the expiration of five years from their dates, should commence and begin to be paid from the 1st of May 1769, provided Your Majesty should think fit to accept the same as a fund for defraying the expence of a Civil Government, and would be graciously pleased to consent that the payment of the other Moiety, which was to take place at the expiration of Ten Years, should in Consideration thereof, be postponed for Ten years longer, so as not to take effect till the expiration of Twenty years from the dates of the Grants.

That as the proposal appeared to suggest the only Method by which the Intentions of this Committee could be probably answered, the said Lords Commissioners thought proper to give Attention to it, but as it did at the same time carry with it the Consent of only a small part of the proprietors, it became necessary that the whole should be consulted upon it, and their Sentiments known before any proposition fit for the Consideration of this Committee could be made.

That after several meetings held by the proprietors for this purpose, The proposal as above stated has at length received the Concurrence of all the said proprietors, except eight, and they have now declared themselves ready and willing, on these Conditions, to take out fresh Grants from the Governor of Saint John's, when appointed, in exchange for those they have already taken out from the Governor of Nova Scotia pursuant to the Directions of your Majesty's Orders in Council, provided such Grants are made out to them without fee or reward.

That as the main Scope and Object of the proceedings of the said Lords Commissioners in this Business have been to Endeavour at the Attainment of such a Fund for defraying the Civil Government in the Island of St. John, as, without bringing any Burthen upon this Kingdom, or charge upon your Majestys Treasury here, would be sufficient for the present, and until the Island should be in a State to provide for its own Establishment, it became necessary fully to explain to the proprietors, that they should not think themselves justified in laying the said proposition before this Committee, unless it was understood and acquiesced in by them, that this Appropriation of a Moiety of Your Majesty's Quit Rents to the Support of the Civil Establishment under the Conditions proposed should be only for a Limited time, that is to say, not to exceed the space of Ten Years, and that in Case the amount of them should fall short of the intended Establishment, either by a failure of Consent in any Number of the proprietors to the Alteration now proposed in the Conditions of their Grants, or hereafter by any other Accident or defect whatever, the Salaries and Allowances to the Officers should be diminished in proportion, and no Demand whatever brought either upon Parliament or upon the Treasury to make good such Deficiency.

That to these Conditions the proprietors have readily assented and therefore it is under this explanation fully acquiesced in by them, that the said Lords Commissioners

1767. § 28 *cont.*]

lay this proposition before the Committee, and submit it as a measure that will not only facilitate the Settlement of this Island for the publick Advantage, but will also hereby promote the Interest of the Crown by more effectually securing the Payment of a very Considerable Quit Rent, which will after a short Period revert into Your Majesty's Treasury.

That the said Lords Commissioners in Conformity to the directions of this Committee have added an estimate, not only of what will be the amount of the Fund that will be by this means created for supporting for the present the Civil establishment (of which Fund the Rents proposed to be reserved upon Town and pasture Lots hereafter to be granted ought they think to make a part) but also of what the expence of such Establishment may reasonably amount in the present State of the Island, which being almost wholly unsettled, and void of Inhabitants does not appear to require, at least until an Assembly or House of Representatives can be formed upon the plan and Constitution of the other American Colonies, more establishments than are necessary for the Administration of Government by a Governor and Council, and of Justice in Civil and Criminal Matters by a Supreme Court exercising the Authority of the Courts of Kings Bench and Common Pleas and Exchequer in Westminster Hall, under the Laws of England, as far as they apply to the situation and Circumstances of that Island ; for the forming of which Courts, as well as for the establishment of all other necessary Rules of Government under such a Limited plan, the example of the several New Colonies lately established under similar Circumstances furnish every useful and necessary precedent ; but as the said Lords Commissioners wish, in the Course of this Business, to adhere as closely as possible to the Opinion so justly adopted by the Committee, that no new establishment of this Nature ought to be undertaken either at the expence of this Kingdom, or by Charges upon the peculiar Revenues of the Crown, so they cannot close their Report without suggesting, that the Governor of this Island should, in their Opinion (in which

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Opinion the proprietors also concur) be fully instructed, that so soon as an House of Assembly shall be formed, and the Circumstances of the people will admit of it, he shall make the strongest Requisition, in your Majesty's Name, for the establishment of such a permanent Revenue by proper duties or Taxes as may amount to all the expences of Government upon some certain Estimate.

Estimate of the Annual expence of the proposed Establishment for the Island of St. John.

The Governor, 500*l.*; Chief Justice, 200*l.*; Secretary and Register, 150*l.*; Attorney General, 100*l.*; Clerk of the Courts and Coroner, 80*l.*; Provost Marshall, 50*l.*; Minister of the Church of England, 100*l.*; Agent and Receiver of Quit Rents, 150*l.*; Contingent Expences, 140*l.* Total, 1,470*l.*

Estimate of the Amount of the Fund . . according to the proposals of the Proprietors.

Twenty six Lotts at 6*s.* per one hundred Acres a Moiety of which is 780*l.*; Twenty nine Lotts at 4*s.* per one hundred Acres, 580*l.*; Eleven Lotts at 2*s.* per one hundred Acres, 110*l.*; Rent of Town and pasture Lotts uncertain. [VII. *pp.* 48-52, 67-8.]

[On a Board of Trade report of 10 July, a commission is approved for Walter Patterson to be Governor (P.R.), and the Chief Engraver is ordered to prepare a seal with] a Representation of a large spreading Oak, with a Shrub under it, and this Legend or Motto underneath, *Parva sub ingenti*, and this Inscription round the Circumference, *Sigillum Insulæ Sancti Johannis in America* [and the usual inscription &c. on the reverse]. (1769.) 14 July.

[VII. *pp.* 78-9.]

[On a Board of Trade report of 27 July, the instructions are approved—P.R.; the oaths are also taken. On an Admiralty memorial of 27 July, a commission is ordered to be passed under the Great Seal authorising them to appoint a Vice-Admiral and judges for a Vice Admiralty Court in the new government. The draft of the seal is also approved; and the seal itself approved and ordered to be sent on 25 Oct.] (1769.) 4 Aug.

[VII. *pp.* 92-4, 116.]

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1767.

13 April. [29.] [New seals are approved for the following 14 colonies,
Plantations. and orders given for sending them and for the return of the
old seals to be defaced]—Jamaica, Barbados, Leeward Islands,
Bahama Islands, Bermuda Islands, Nova Scotia, Massachusetts
Bay, New Hampshire, New Jersey, New York, Virginia, North
Carolina, South Carolina, Georgia. [p. 219.]

(1768.) [The old seals returned from Jamaica, Barbados, Leeward
20 April. Islands, South Carolina, Georgia, Nova Scotia, New York,
New Jersey, and Massachusetts Bay are defaced by his
Majesty.] [VI. p. 143.]

(1770.) [Old seals from North Carolina, New Hampshire and
14 Sept. Bermuda are defaced by his Majesty.] [VII. p. 485.]

13 April. [30.] [Reference to the Committee of a Board of Trade
Massachu- representation of this date on a Massachusetts act of 6 Dec.,
setts Bay. 1766, for granting compensation to the sufferers and of free
and general pardon, indemnity and oblivion to the offenders
in the late times.] [p. 223.]

1 May. [Committee.] . . several Precedents having been read to
their Lordships, they adjourned the Consideration of this
Affair until Monday next the 4th of this instant at half an
hour after Eleven o'clock in the Morning, and directed
precedents to be looked out with respect to the words usually
made use of in the Acts of Council where Governors of the
Plantations have been Ordered to lay any Matters before the
Councils and Assemblies. [p. 233.]

4 May. [The Committee] looking upon the matter of declaring the
said Act Null and Void Ab initio to be of great importance,
agreed to adjourn the further consideration thereof till
Saturday next the 9th of this instant at half an hour after
Eleven o'clock in the forenoon, and directed Letters to be
wrote to Mr. Attorney and Sollicitor General, desiring them
to take that point into Consideration, and to come prepared
to give their opinion thereupon to their Lordships at that time.

[The letter, signed by Philip Sharpe and dated 4 May, is
also given. It states that the Committee had already con-
sidered an opinion of the Attorney and Solicitor General as

§ 30 *cont.*]

1767.

well as the Board of Trade representation, and a postscript mentions that there are enclosed] a Copy of the said Representation and Act, and likewise Extracts from the Governor's Commission and Instructions, and an Extract of the Massachusetts Charter, so far [—the foot of the page here cuts off the last line of the entry]. [pp. 234, 236.]

[Orders in accordance with the report of the Committee, 13 May. who, after a diligent inquiry into precedents, recommended that the act be disallowed,] The said Assembly having therein unwarrantably incorporated an Act of Pardon, with an Act of Compensation, without having obtained Your Majesty's previous consent to such Act of Pardon, And that it may likewise be adviseable for Your Majesty to direct Your Governor of the Massachusetts Bay, forthwith to require the said Assembly to pass a particular and effectual Act for compensating all or any of the Sufferers, unmixed with any other matter whatsoever, in case such Compensation shall not have been already made—And the Committee submit this opinion to Your Majesty, without prejudice to the Consideration of any question touching the Nullity of the Act now under Consideration, ab initio, whenever the same may judicially come into question. [pp. 240, 250.]

[In accordance with addresses of 14 May, copies of the 17 May. act and of the references, reports and orders of the Council, Committee and Board of Trade, were on 18 May laid before the House of Lords by Lord Shelburne and before the House of Commons by John Shelley, Treasurer of the Household. Philip Sharpe's letter of 17 May transmitting the papers to Shelley adds—] The Board of Trade and Secretaries of State are likewise called upon by the Address for Copies of all papers relative to this Act, which I suppose they will take care to present to the House themselves. [pp. 264–5, 270–1.]

[On an address of the House of Lords of 18 May for precedents of Orders in Council or opinions of the law officers of the 22 May. Crown for declaring colonial acts null, illegal or void, the following papers were laid before the House by Lord Shelburne :

88 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1767. § 30 *cont.*]

Virginia. 27 Oct., 1676. Proclamation for suppressing the rebellion and for pardoning the offenders and declaring his Majesty's pleasure upon several acts passed in the Assembly during that time.

18 Jan., 1678. Order approving a Committee report for abrogating three laws of pardon, attainder, and pains and penalties,—these to be in due time abrogated and made void—drafts of new laws to be prepared and sent to Virginia.

Pennsylvania. 31 Aug., 1699. Order declaring an act for preventing frauds and regulating abuses in trade null and void from the time of making the said act, and likewise all other acts which are or shall be made in the said province contrary to the known laws and statutes of this kingdom.

Connecticut. 15 Feb., 1727. Order on the appeal of *Winthrop v. Lechmere*, declaring an act for the settlement of intestates' estates null and void and of no force or effect.

New Jersey. 21 July, 1749. Report of Attorney and Solicitor General on an act of 1748 to pardon rioters and on four other acts.

The following precedents were not laid before the Council, having been found on a search made subsequent to 9 May, 1767.

Carolina. 10 June, 1706. Order declaring two acts relative to religion null and void, and requiring the proprietors and Assembly not to permit them to be carried into execution, but to declare them null and void.

14 May, 1718. Similar order on an act laying a duty of 10% on British manufactures imported: the Governor to be reprimanded for passing it.

Jamaica. 11 and 15 Feb., 1762. Committee report and Order in Council for disallowing three acts of 1756 and 1761, and declaring one of 1759 *ipso facto* null and void.]

[*pp.* 267–70.]

13 April. [31.] [Reference to the Committee of the petitions of
New York and New Hampshire. (a) Samuel Robinson, of Bennington, in North America, and
(b) the Incorporated Society for the propagation of the Gospel
in foreign parts; complaining that 100 townships on the west

§ 31 *cont.*]

1767.

side of Connecticut river, which had been granted by Benning Wentworth, Governor of New Hampshire, were on 20 July, 1764, declared by his Majesty to lie within the government of New York, and that the Governor of that province has made grants interfering with the earlier grantees and making no reservation, as in the earlier grants, for a glebe for the Church of England and for the benefit of a school. Robinson prayed on behalf of himself and more than a thousand other grantees that their title should be confirmed and the country made a separate colony or annexed to New Hampshire: the Society petitioned that the grants made by the Governor of New Hampshire for pious uses be confirmed. On 19 May the latter petition was referred by the Committee to the Board of Trade.]

[*pp.* 224-5, 273.]

[On the Committee report of 30 June on the two petitions, 24 July. it is ordered that the Governor of New York] do not (upon pain of His Majesty's highest displeasure) Presume to make any Grant whatsoever of any Part of the Lands described in the said Report until His Majesty's further Pleasure shall be known concerning the same.

[*pp.* 375, 387.]

[32.] [Reference to the Committee, and by them on 4 May to the Admiralty and to the Board of Trade, of the memorial of Samuel Bowen, of Georgia, setting forth,] that he was confined as a Prisoner in China near four Years, during which time he observed the great utility of their Sago powder, and the several things made from thence in the nature of Vermicelli and other gelatinous pastes; that after being at liberty he returned to Britain, and from thence to Georgia, where having purchased a small Plantation, he applied himself vigorously and successfully in Cultivating the Raw material, dressing, preparing, and perfecting the Sago Powder, and the several compositions into which it is made; that as the bringing this Commodity into its present State has been attended with great labour, many hazardous Voyages, and at least one thousand pounds expence, the Memorialist proposes, either by a settled Contract for a certain term of Years, to furnish

13 April.
Georgia.

1767. § 32 *cont.*]

the Navy at a fixed price (for the due performance of which he is ready to give security) or by the absolute purchase of his secret, and method of Management to disclose the same for the benefit of the King's Subjects in the Southern Colonies, the health of the British Seamen and the giving a new and valuable Commodity to Commerce; And therefore humbly praying that His Majesty will be graciously pleased to direct the Lords of the Admiralty to take the same into their Consideration, and under their Patronage, or that such other relief may be given to the Memorialist as His Majesty in his great Wisdom shall judge proper. [pp. 225, 235.]

9 May.
Quebec.

[33.] [A letter to General Murray, Governor of Quebec, signed by Philip Sharpe, desiring him to attend the Committee at the Council Chamber at the Cockpit, Whitehall, at 11.30 on Monday, 11 May, to give information relative to the government of Quebec.] [p. 242.]

11 May.

[The Committee consider a Board of Trade report with draft instructions relative to the constituting courts of civil judicature, and after reading several papers and being attended by General Murray thereupon, adjourned further consideration.] [p. 243.]

21 May.

[A letter from Lord Shelburne to the Lord President asking for papers to be laid before the House of Lords pursuant to an address of 20 May. The papers called for were:—(1) The proclamation of 7 Oct., 1763. (2 and 3) Murray's commission and instructions. (4) An ordinance for regulating courts, &c. in Quebec, 17 Sept., 1764. (5) Presentment of October Sessions at Quebec, 16 Oct., 1764. (6) Representation of the Canadians on the Grand Jury to Governor Murray, 26 Oct., 1764. (7) Address of several Canadians transmitted by Murray and laid before the King, 19 Jan., 1765. (8) Report of Attorney and Solicitor General to Board of Trade, 10 June, 1765. (9) Board of Trade report of 2 Sept., 1765. (10) Board of Trade report on several ordinances, 24 Sept., 1765. (11) Additional instruction about juries, 17 Feb., 1766. (12) Board of Trade representation transmitting the law

officers' report to the Committee. (13) Report of Attorney and Solicitor General on civil government in Quebec, 14 April, 1766. (14) Order for preparation of fresh instructions agreeable to this report, 13 June, 1766. (15) Copies of any other proceedings at the Board of Trade or Privy Council relative to the civil government of Quebec since 13 June, 1766. (16) The capitulation of Canada. (17) The Treaty of Peace of Paris signed at Montreal, 1763. (18) Board of Trade report with a plan for the establishment of ecclesiastical affairs in Quebec. (19) Letter from Murray to the Secretary of State or President of the Board of Trade in Nov., 1764.

The papers transmitted from the Council Office to Lord Shelburne, and laid before the House of Lords on 27 May, were 1, 9, 10, 13, 14, 18 *supra*; an address of several Canadians transmitted by Murray, annexed to a Board of Trade report of 9 Jan., 1765, and laid before his Majesty, 1 Feb., 1765; and a Board of Trade report of 3 June, 1766, transmitting a draft of an additional instruction for constituting courts of judicature in Quebec.] [pp. 277-80.]

[Committee.] Draught of the new Instructions for the Governor of Quebec relative to the constituting Courts of Judicature in that Province—Read—General Murray the Governor of Quebec attending was called in. Ordinances for the Establishment of Courts of Judicature proposed by the said Instruction to be Repealed—Read. 29 May.

That part of the New Instructions requiring New Ordinances to be framed in lieu thereof, was also Read, and it was proposed, that the above Ordinances should not be repealed till the New ones were passed and took Place.

Article 1st relating to the Court of Chancery—Read—No Objection made to it.

Second about a Superior Court of Judicature, uniting in itself those powers and Jurisdictions in Criminal as well as Civil Cases Incident to the Courts of Kings Bench, Common Pleas, and Exchequer in Westminster Hall, The Chief Justice to be Appointed by the Crown, and to be Assisted by three

1767. § 33 *cont.*]

Puisne Judges (to be Appointed by the Governor) who are in all Cases of difficulty, as to the Customs of Canada, to conferr with the Canadian Lawyers—Some few Objections were made to the Appointing the said Persons to be Judges of all the said Courts, and a doubt was made, whether the Exchequer Court was to be Vested with the Powers of a Court of Equity, like the Exchequer Court in Westminster Hall, and it was proposed to leave out that part of the Instruction, requiring the Judges to confer with the Canadian Lawyers, as likely to be partial in their Advice.

Mr. Pownall Secretary of the Board of Trade was called in, and the Lords desired he would furnish them with Precedents about giving Governors Power to appoint Judges, and their Lordships reserved the Consideration of the Salaries proper to be paid them.

Third Article relating to Circuit Courts of Assize, Nisi Prius Oyer and Terminer, and Goal delivery ; which are to be held by the Chief Justice and his Assistants, twice a Year with the like Authorities used and Exercised with respect to the Circuit Courts and Courts of Nisi Prius and Assize in this Kingdom—Read—Objections were made by the Lord President to the giving the Court of Nisi Prius the same powers as are Exercised by that Court in England—General Murray Acquainted the Lords that the Expence of the Judges upon these Circuits is Attended with 500*l.* a Year, besides an allowance made the Attorney General, who always attends them, but it was observed by Lord President that his Allowance was not necessary.

Fourth Article relating to the Appointing Justices of the Peace, and to the powers given them to Try Causes of small value—Read—Notice was taken that by these Powers, the Justices were in Effect made Judges, tho' of an Inferior degree.

Fifth Article relating to Proceedings in Capital Cases by way of Indictment or Presentment, of a Grand Jury—Read—No objection made to this.

Sixth Article, relating to the form of Tryals which are to be held by Juries conformable to the Usage of England on which Juries Canadians are to be impannelled indiscriminately with Natural Born Subjects except only where the Person tried is a Canadian, in which Case the Jury are to be all Canadians, and if a Natural born Subject, then to be all Natural born Subjects—Read—Lord President objected to this manner of Tryal.

The Lords Ordered a Search to be made in the Council Office for a Report of the Attorney and Sollicitor General, signifying, that tho' Papists may Hold Employments in America, yet, if they appear to be Recusants Convict, they should not.

Seventh Article, allowing Canadians to Act as Attorneys Proctors &c. and in Case of their taking the Oath of Allegiance and Fidelity to be Admitted indiscriminately with other Subjects into the Commission of the Peace and the Execution of other offices in the Lower Courts—Read Lord President objected to the making Canadians Justices of the Peace &c.

Eighth Article relating to the dividing the Province of Quebec into three Counties and to the appointing Sheriffs annually for each County—Read—Lord President objected to the great Powers Vested by Law in Sheriffs and apprehended that in some Cases their Power might Clash with that of the Governors, and said that the Provost Marshall stands in the place of Ministerial Sheriff.

Ninth Article containing several Rules by which the Judges are to Model their Conduct—Read—Lord President objected to that part which Directs the Determinations to be made according to the Local Custom in force.

Tenth Article relating to the Issuing a proclamation Explantory of the proclamation of the 7th October 1763—Read—No objection made to this.

Eleventh Article relating to the preparing a plan for regulating the form of Process and Practice of Courts—Read—No objection made to this.

1767. § 33 *cont.*]

Their Lordships then adjourned the further Consideration of these papers to another time, and desired Governor Murray would in the mean time make a Computation of the Annual Expences of all the Courts of Judicature, Including Salaries to the Judges.

Mr. Pownall was also desired to look into the Commissions granted to the Governors of the Plantations, to find what Alterations have at any time been made in their respective Commissions and lay the same before this Committee specifying the Alterations in each distinct Commission, that it may appear whether the said Alterations were essential and material.

Mr. Pownall was likewise desired to look for an opinion of the Attorney and Solicitor General about Popish Recusants Convict. [pp. 308-11.]

24 Aug. [The Committee postpone till their next meeting a Board of Trade report with a draft instruction relative to the constituting courts of judicature.] [p. 425.]

28 Aug. [Order in accordance with the Committee report of the same date on the Board of Trade report of 24 June, 1766 :—] that the same is so general and so unsupported by any Specific or particular Proof of any Grievances in Judicature to which any particular and effectual Reform or Remedy can be applied (except what has already been given) and especially as since the return of General Murray No Governor or locum Tenens, or any of Your Majesty's Law Officers have represented in their Correspondence any Gravamens arising to the Subjects in the province from any Defects in the State of Judicature as it at present exists (which had any material ones existed it was their Duty to do, and they certainly would have done) Except a paragraph in a Letter from Colonel Irving dated 20th August 1766 Vizt.—“ All that to me seems wanting at present is a permanency to the Inferior Courts and a more ample Authority for the Judges of it to adhere to the Coutumes de pais ”—a Defect if it Subsists so concisely and unexplicitly stated as not to be understood so as to found a judgment of

§ 33 *cont.*]

1767.

the Remedy to be applied that the Lords of the Committee cannot without further Information advise your Majesty to approve thereof, and Order the same to be carried into Execution—But as their Lordships are truly Sensible of Your Majesty's Royal Constitutional and paternal Regard for all and every part of Your Majesty's Dominions, and Your Subjects Inhabiting therein, the Committee do after the most Serious and mature Deliberation on the Subject referred by Your Majesty to them for their Advice thereupon, Submit as their Humble Advice to Your Majesty, That in Order to amend any Defects in the present State of Judicature in the province of Quebec (if any such Subsist) it is proper and Absolutely necessary after a Competent Experience now had of the State of the Province, so particularly Composed of English and Canadian Subjects and of the Judicature and Administration of Justice now subsisting to obtain from your Majesty's Servants there on whose Information alone Your Majesty's Servants in this Kingdom can rely with any reasonable Degree of Confidence, precise, solemn and authentic Information of the Defects, if any, that are now existing, together with the Remedies, Reforms, Additions or Alterations which they would propose for your Majesty's Royal Consideration, that so your Majesty's Servants here may be enabled to Advise your Majesty on the best Light that can be obtained, it being as the Lords of the Committee conceive unwise and Dangerous to the province to frame or reform Laws in the Dark, and upon Speculation only ; And for the purpose of Obtaining such necessary Information on so serious and Important a Subject, Their Lordships humbly Submit to Your Majesty to Order Your now Governor of the said Province or his locum Tenens with the Advice and Assistance of the Council, the Chief Justice and Attorney General of Your Majesty's Province, and taking such other Assistance as shall be thought necessary to report to Your Majesty—

1st. Whether any and what Defects are now Subsisting in the present State of Judicature.

1767. § 33 *cont.*]

2dly. Whether the Canadians in particular are or think themselves aggrieved according to the present Administration of Justice : Wherein, and in what Respects ? Together with their Opinions of any Alterations, Additions or Amendments that they can propose for the general Benefit of the said Province, and that such Alterations or Amendments, for the clearer apprehension thereof, be Transmitted in Form of Ordinances, but not Passed as such, and that such Report be returned signed by your Majesty's Governor or locum Tenens, the said Chief Justice and Attorney General, but if they should not Concur the Person or persons differing in opinion be required to report the Difference of his Opinion, together with his reasons for such Difference of Opinion fully and at large—And that a fitt and proper person be sent with such Instructions and to bring back such report, for the most Convenient dispatch, and who being properly recommended to the said officers may be enabled to explain any Difficulties, if such should arise from the said Report. [pp. 461–3, 467.]

(1768.) [Reference to the Committee of two letters to Lord Hills-
28 Sept. borough,] the one from the Canada Committee dated New York Coffee House the 13th of April 1768 and the other from Sundry Merchants Trading to and deeply interested in the Province of Quebec dated New York Coffee House the 20th of September 1768 humbly recommending that a full Legislature may be speedily granted to the Province of Quebec, and that a Number of His Majesty's Roman Catholick Subjects there may be admitted into the Council and House of Representatives.

[The Committee on the same date referred to the Board of Trade the letters and] a Report made by His Majesty's Advocate and Sollicitor General upon the Heads of a Plan for establishing Ecclesiastical Affairs in that Province . . . to consider the same together with the present State of the said Province in respect to the Administration of Justice Religious Establishments and Revenue, and Report to this Committee their Opinion, whether it may be adviseable for His Majesty to

§ 33 *cont.*]

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direct an Assembly to be Convened, and if so, under what Regulations and Limitations such Assembly should be constituted and what may be proper to recommend to their Consideration for the Welfare and Interest of the Province in the several Points above mentioned. [VI. pp. 336, 338.]

[The Committee, on reading the Order of 28 Aug., 1767, (1769.)
postpone consideration of the Board of Trade report of 20 Nov.
10 July on the state of Quebec.] [VII. p. 135.]

[Marginal heading only.] Quebec. Report of the Governor, (1770.)
Chief Justice, and Attorney General of this province relative 19 Oct.
to the Courts and Administration of Justice. Referred to a
Committee. [VII. p. 527.]

[Reference to a Committee of] several addresses and (1771.)
petitions of the Inhabitants of Quebec, and also two addresses 1 May.
of the said Inhabitants to Governor Carleton containing
representations of the Disorders and Inconveniencies attending
the present Defective Mode of Government in that Colony.

[VIII. p. 175.]

[On the recommendation of the Committee, who, on this (1771.)
date, considered the last two references and a Board of Trade 14 June.
report of 10 July, 1769, the following papers are referred to
the Advocate, Attorney and Solicitor General to draw up a
general plan of civil and criminal law for the province with
the assistance of the Governor, now in England, and of such
other persons as they think fit.]

The first 36 items here given were inclosed in Governor
Carleton's despatch No. 23 of 18 Sept. 1769 :—

15 Sept. 1769. (1) Report of the Governor and Chief
Justice of the Province of Quebec upon the Laws and Courts
of Judicature in that province, [and (2) appendix thereto].

(3.) 11 Sept. 1769. Attorney General Maseres's opinion.

(4–21.) *Loix et Usages suivis en Canada* Avertissement—
Introduction—Titres 1–16: Quels Biens sont Meubles et
Quels Immeubles. Des Fiefs. Des Censives et Drots Seigneur-
iaux. De la Complainte. Des Actions personnelles et
D'Hypoteques. De la prescription. Du Retrait Lignager.

1767. § 33 *cont.*]

Des Saisies, Arrêts, Executions, et Gageries. Des Servitudes et Rapports des Jurés. De la Communauté de Biens. Des Douaires. Des Tutelles et Curatelles. Des Donations et Don Mutuel. Des Testaments et Execution d'iceux. Des Successions. Des Criées.

(22.) Loix Criminelles suivies en Canada.

(23.) Loix de Police.

(24.) Extrait des Edits Declarations, Reglemens, Ordonnances, Provisions et Commissions de Gouverneurs Generaux et Intendants, tirés des Regitres du Conseil Superieur faisant partie de la Legislature en Force dans la Colonie du Canada, aujourd'hui province de Quebec.

(25.) Copy of a Commission from the French King to Monsr. De Mezy Governor.

(26.) Creation du Conseil Souverain de Quebec 1663.

(27.) Declaration of the French King which confirms and Regulates the Establishment of the Superior Council of Canada Dated 5th June 1675.

(28.) Copy of a Commission to Monsr. Duchesneau Intendant of Canada 5th Juin 1675.

(29.) Copy of a Commission to M. Jean Gloria Royal Notary.

(30.) Copy of a Commission from the French King to M. Dennis Joseph Ruette Dauteuil Attorney General.

(31.) Copy of Commission from the French King to M. Rene Louis Chartier De Lotbiniere to be judge of the prevoté of Quebec.

(32.) Copy Arrêt of 23d January 1747 for augmenting the Duties on the Importation of Wine, Brandy and Rum into the Colony of Canada for the Term of 3. years.

(33.) Copies of Edict of February 1748 Imposing Duties on the Importation of Goods into Canada and on Goods Exported therefrom, and of the Arrêt of 25th February 1748 establishing the Tariff or Rates of Duties on the said Goods respectively.

(34.) 7 Nov. 1768. Copy of the procès verbal or Report of the Superior Council of Quebec on the Code Civil or ordinance of April 1667.

(35.) June 1769. Copy Edict of the French King for putting into Execution the ordinance of April 1766 or *Redaction du Code*.

(36.) Copy Regulations made by the Governor and Intendant of New France the 2d. May 1743 on the Importation of Liquors into the Colony of Canada.

(37.) Copy of a Letter from the Bishop of Quebec to Governor Carleton Dated Quebec July 8th 1770.

(38.) Copy Memorial of several Inhabitants of Quebec to Governor Carlton Dated 24 July 1770.

(39.) *Memoire des Habitans de Quebec au Roi*.

(40.) Copy of the address of the French Inhabitants of Quebec to Governor Carleton.

(41.) Memorial of the French Inhabitants of Montreal to the King.

(42.) *Memoire des Habitans Francois de Quebec au Roi*.

(43.) Copy of an address of the British Freeholders &c. in Quebec to the King.

(44.) Report of the Lords Commissioners for Trade and plantations relative to the state and condition of the province of Quebec Dated 10th July 1769. [pp. 267, 269-73.]

[Letters to the law officers apprising them of the reference (1771.) and transmitting to the Advocate General the original papers, 21 June. which are to be returned with the report. On 1 July Mr. Cottrell presents his compliments to the Advocate General and informs him that the Attorney General would be glad to peruse the papers : therefore desires when he has done with them he will please to send them to the Attorney General.]

[VIII. pp. 281, 295.]

[A letter informing the King's printer that Mr. Masères (1772.) of 5 King's Bench Walks in the Temple, will be glad to see 30 Jan. him at 10 to-morrow about the printing for the use of the Privy Council of several papers in his hands relative to Quebec.]

[IX. p. 58.]

[Another letter to the printer—] My Lord President approves (1772.) the printing of those papers pointed out by Mr. Maseres as 14 Mar.

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1767. § 33 *cont.*]

the most immediately wanted, You will therefore proceed in printing the French King's Edicts and Declarations and send them when done to this office, together with the abstract of the Custom of Paris and the Loix de police (already printed) But with respect to the papers proposed to be printed the whole together in the small Type, his Lordship would not have you proceed therein till further Orders. [IX. p. 107.]

(1772.) [Order that the Advocate, Attorney and Solicitor General
31 July. make their separate reports on the reference of 14 June, 1771, with all convenient speed. On 2 Dec. a letter to the Attorney General (Thurlow) inquires if his report is ready, and desires him to expedite it.] [IX. pp. 393, 500.]

26 June. [34.] [A North Carolina act of May, 1765,—for establishing
North an orthodox clergy—is confirmed, on the Committee report of
Carolina. 19 May, on a Board of Trade representation of 31 March referred to them on 13 April. The Committee had also considered a letter from the Bishop of London to the Board of Trade; and on their recommendation, order was given for preparing an additional instruction to pass an explanatory act, directing that, when the incumbent of any parish shall be suspended, the whole or a reasonable part of the proclamation money allowed to such incumbent, shall continue to be paid to some deserving clergyman, who may be appointed to officiate during the incumbent's suspension. The additional instruction was approved on 24 July.]
[pp. 223, 272, 339-40, 388.]

26 June. [35.] [Reference to the Committee, and by them on 24 Aug.
Maryland to the Board of Trade, of the petition of Frederick, Lord
and Baltimore and Thomas and Richard Penn for his Majesty's
Pennsyl- ratification and confirmation of the articles of agreement of
vania. the respective proprietors about the boundaries of Maryland
and Pennsylvania on 10 May, 1732, of an enrolled decree of the Court of Chancery of Great Britain, 15 May, 1750, of a subsequent order of that Court, 29 March, 1751, of an indenture of agreement by the petitioners, 4 July, 1760, and

of a Chancery decree of 6 March, 1762, and that the same be for ever established as between the petitioners.]

[*pp.* 368, 423.]

On the report of the Committee, who on 22 Dec. considered (1769.) a report of the Attorney and Solicitor General transmitted 11 Jan. by the Board of Trade, the agreements and proceedings are confirmed with reservation of the rights of his Majesty and of private owners and occupiers.] [VI. *pp.* 395, 417.]

[The petition of the proprietaries, entered at the end of the Register, George III, Vol. VI, rehearses the agreement of 1732 as follows :—]

First—That the plan Printed in the Margin which contained a Map of the peninsula therein mentioned and also of the Tracts of Ground wherein the Province of Maryland (or part thereof) the said three lower Counties part of the province of Pensilvania and part of Virginia do lye is a true Copy of those which had been sent over from America to the parties by their respective Agents in those parts for their Assistance in the Settling the said Disputes and by which the said Agreement was to be Explained and Understood.

Second—That there should be the Circle mentioned in the Charter of Pensilvania and Deed of Bargain and Sale or Feoffment of Newcastle therein mentioned (or so much thereof as is requisite) drawn and marked out at the twelve miles distance from the Town of Newcastle which twelve Miles should be twelve English Statute Miles.

Third—That a due East and West Line should be drawn across the said Peninsula (or across so much of it as should be requisite) such East and West Line to begin on the East part at the place in the said Map called Cape Hinlopen which lies South of Cape Cornelius on the Eastern side of the said Peninsula towards the Main Ocean and at the point of the said Cape and to run towards the Western side of the said Peninsula which lies upon the Chesopeak Bay but to stop in the Exact Middle of that part of the same Peninsula when so running a due East and West Course.

1767. § 35 *cont.*]

Fourth—That from the Western point or End of the said East and West Line (which Western Point or End should be just half way across the said Peninsula) a strait Line should run Northward up the said peninsula (and above the said peninsula if it should require it) till it should so touch the Western part of the Periphery of the said Circle as to make a Tangent thereto The said Strait Line (as at that present apprehended) would run pretty near South and North (but however it might bear on the Compass) such Strait Line should be run Northward up the said Peninsula and above the said Peninsula if it should require it) and should begin at and from the Western Point or End of the aforesaid East and West Line and should run until it should touch and make a Tangent to the Western part of the periphery of the said Circle and there the said Strait Line should End.

Fifth—That at the Northern point or End of the said Strait Line a Line should begin and should from thence run due North above the said Peninsula but so far only until it should come into the same Latitude as fifteen English Statute Miles due South from the most Southern part of the City of Philadelphia.

Sixth—That a due East and West Line should be run in manner following, It should begin at the Northern Point or End of the said due South and North Line and should from thence run due West cross Susquehannah River to the Utmost Western Extent of the said Province of Pennsylvania or so far in part thereof as should be then requisite in regard that as the same was to be a due East and West Line the beginning part thereof might be Sufficient to continue the same by when further Occasion should require and when the Lands Westward in the said Provinces of Maryland and Pennsylvania should be better settled and that it would occasion a very Great Expence and likewise be then needless to run the same to the utmost Extent Westward of the said Province of Pennsylvania however the same should (then) be run across Susquehannah River and about five and twenty English Statute Miles further on the Western side of the said River.

Seventh—That the part of a Circle then drawn with Red Ink upon the said plan and the Red Lines also drawn thereupon were then drawn to serve as an Explanation to the said Agreement but not with Exact Certainty in regard the said plans so sent over had neither Scale nor compass to them.

Eighth—That the first above mentioned due East and West Line . . and the said Strait Line to run from the Westward Point thereof . . and the said due South and North Line to run from such Tangent 'till it should meet with the upper or more Northern East and West Line and the said upper East and West Line . . were and should be and at all times for ever thereafter should be allowed to be the true and Exact Limits between [Maryland and the three lower counties and between Maryland and Pennsylvania] . . excepting only, that in Case the said north Line from the Tangent of the Circle of Newcastle should break in upon the said Circle in such Case so much of the said Circle as should be cut off by the said Line should belong to and be part of the County of Newcastle.

Ninth—That the [respective proprietors] should by proper powers and Instruments within two Months appoint a sufficient Number of proper persons not more than seven on each side to be their Commissioners with full power to the said seven persons or any three or more of them for the actual running marking and laying out the said part of a Circle and the said Lines which said Commissioners should give due Notice to each other and should fix upon a time to begin and proceed in the running the same and the same should be begun at the farthest sometime in October then next and be proceeded in with all fairness Candour and Dispatch and the said Lines should be marked out by Visible Stones Posts Trees Pillars Buildings Landmarks or other Certain Boundaries which might remain such Boundaries to be marked on one Side with the Arms of the said Charles Lord Baltimore and on the other side with the Arms of the proprietors of Pensilvania and such Lines should be Compleatly so run (as

1767. § 35 *cont.*]

far as by the said Agreement was intended) on or before the 25th day of December 1733, and when so done a true plan and survey thereof with the best and most certain Descriptions that could possibly be given of the same should be made up Signed and Sealed by the said Commissioners on both sides and by their principals and should be Entered in all the Publick Offices in the said several Provinces and Counties And moreover it should be recommended by the respective proprietors to the Assemblies of the said several Provinces and Counties forthwith to pass Acts of Legislature for the Visitation upon Certain Fixed Days to be agreed on on both sides (at least once in every three Years) and for the Continual Reparation of the said Boundaries and Bound Marks and that no Disputes might arise thereafter concerning the same.

Tenth—[Each party renounces, releases and quits claim to the territories whch by this agreement are awarded to the other, it being then known that the grants of the respective charters overlapped.]

Eleventh—[To quiet possessions, occupiers in land assigned by the agreement to one party, who hold by grant from the other party previous to 15 May, 1724, may attorn and become tenants to the new proprietors and receive similar grants from them on the same conditions as their other tenants] with a proviso therein that in Case any person during the Disputes which had subsisted had taken double Titles (that is to say) from both the said proprietors under which they had sheltered themselves by turns against each of the said proprietors And also in Cases where any persons during the said Disputes had of their own Authority Seated themselves down upon any parcels of Land without Lycence or Authority from either of the said proprietors such Persons in respect of such Lands were by no means to be Included in this Article but were (however) to be treated with Moderation and with some regard and the more so in Case they had theretofore actually paid the Usual Quit Rents to either of the said Proprietors and Provided they should Surrender their former

Grant and Submit to hold only Under the proprietor as the Case might be.

Twelfth—That in Case the parties could conclude upon any further Clauses in favor of the Occupiers of any Lands within the Bounds theretofore disturbed the same should be Contained in a subsequent Agreement between them.

. . the said Charles Lord Baltimore being not willing to perform the said Agreement did on the 8th Day of August 1734 present a Petition to his Majesty insisting that the lower Counties were within the Limits of His Grant. . .

[The proceedings thereupon are rehearsed. *Cf. Acts of the Privy Council*, IV. pp. 335-6. In accordance with an Order of 10 May, 1735, the Penns brought a bill in Chancery against Baltimore in June, 1735. The latter alleged fraud and imposition in obtaining the agreement of 1732, but on 15 May, 1750, the Lord Chancellor decreed that the articles must be carried into execution and the lines marked out by the last day of April, 1752. Disputes about the instruments were to be referred to Mr. Spicer, Master in Chancery; and it was declared with regard to three questions (of which the first two had been raised in America by Baltimore's commissioners)] that according to the true Intent and Construction of the said Articles the Centre of the said Circle ought to be fixed in the Middle of the Town of Newcastle as near as the same could be computed and that the said Circle ought to be of a Radius or Semidiameter of twelve Miles and that Cape Hinlopen ought to be deemed and taken to be Situated at the Place where the same was laid down and described in the Plan annexed to the said Articles.

[Commissioners were accordingly appointed, but further objections being raised by those acting for Lord Baltimore,] Thomas and Richard Penn on or about the 16th Day of March 1750 presented their humble petition to the said late Lord High Chancellor pursuant to the Reservation in the said Decree (humbly setting forth the new objections which had

1767. § 35 *cont.*]

been so made and praying (amongst other things) that it might be Declared that the Circle Round the Town of New-castle ought to be at twelve Miles Distance from the Centre according to Horizontal and not Superficial Measure and that the fifteen Miles due South of the Southernmost part of the City of Philadelphia ought to be Computed according to the like Measure ; [and a declaration to this effect was made by the Lord Chancellor on 29 March, 1751.]

. . the said Charles late Lord Baltimore died in England about the 23d day of April 1751 leaving Your Petitioners Frederick Lord Baltimore his only Son and Heir then an Infant. . .

. . the Commissioners appointed by the said Charles late Lord Baltimore and by Your Petitioners Thomas and Richard penn proceeded in America towards the Execution of the said agreement and Decree especially in such parts to which no Difficulties had been raised and particularly the said Commissioners before the twenty sixth Day of April One thousand seven hundred and fifty one duly Signed a Minute in Writing and declared it to have agreed by them First that a due West Line should be run and marked out by visible Stones Trees Buildings or Landmarks to begin at a point on the Verge of the Main Ocean (being at the Distance of 139 perches due East from a Stone fixed by the said Commissioners on the Northern part of the Land called Fenwicks Island) near to Four Mulberry Trees there growing across the peninsula to the Bay of Chesopeak . . And Secondly that the said Point or Place of beginning should be agreed to be the Place where the Cape called in the Articles Cape Hinlopen was Situated and that the said Line when so laid out should be esteemed and be the East and West Line . . across the said Peninsula . . Subject nevertheless to the Alteration or Confirmation by the Right Honourable the Lord High Chancellor of Great Britain or the joint order or Direction of their Constituents.

. . the said Commissioners and their Surveyors in Consequence of such their Agreement began in their own persons to Execute the same and fixed a Meridian Line and measured and marked out the said East and West Line due West from the said point or place of beginning on the Verge of the Main Ocean and found the Extent of the said West Line from the Verge of the Ocean on the East part as far as to a certain place or water called Slaughters Creek on the West part at which place or water the said Charles Lord Baltimores said Commissioners insisted the said Line should Stop) amounted to sixty six Miles and two hundred and forty eight perches and an half But that when such Line was continued on farther West quite to the verge of the East side of Chesopeak Bay To which Bay (the Commissioners of Your Petitioners Thomas and Richard Penn insisted the same Line ought to run and extend) the same amounting to sixty nine Miles and 298 perches.

. . the said East and West Line when Extended West to the verge of the Bay of Chesopeak runs through Taylors Island and through a small part of James's Island at or near the Southern End of the said James's Island.

. . the measuring and marking out the said East and West Line was a Work attended with a large and heavy Expence to the parties and although some part of the said Work was carried on by the Commissioners and Surveyors in America after the day of the Decease of the said Charles late Lord Baltimore in Great Britain Yet the same was bona fide carried on and Finished long before the respective Commissioners in America received any Information there of the Death of the said Charles Lord Baltimore and the consequence of Extending the said Line West to the said Bay of Chesopeak was that [the tangent to the Newcastle circle should be drawn from a point 34 miles 309 perches from Cape Henlopen].

[On 8 Nov., 1764, the Penns exhibited a bill in Chancery against the new Lord Baltimore and others for revival of the decree and orders obtained against his father and for

1767. § 35 *cont.*]

determination of the point where the line across the peninsula should end. About 22 March, 1755, Lord Baltimore put in his plea, insisting on] certain Settlements said to be made of the said province of Maryland by Indentures of Lease and Release of the 30th and 31st Days of December in the Year of Our Lord 1698 and by other Indentures of Lease and Release of the 10th and 11 Days of July in the Year of Our Lord 1730 and that Your Petitioner Frederick Lord Baltimore by virtue of and under the said Settlements or one of them was Seized to him and the Heirs Male of His Body of the Province of Maryland which he pleaded in Bar to the Relief Sought by the said last mentioned Bill and Insisted that his Right and Interest to the said Provinces of Maryland and Pensilvania and the three lower Counties or any of them ought not to be bound by the Articles Executed by his Father.

[After examining copies of these family settlements, the Penns amended their bill in Dec., 1755, but before any answer was put in to the amended bill, Baltimore agreed by an indenture of 4 July, 1760, to accept the proceedings of the commissioners appointed in 1750, and the determination of the western end of the line according to the contention of the Penns : the mid-point of this line was to be clearly marked and commissioners appointed within 30 days to complete the demarcation of the boundaries ; and all claims were released to what should thus fall to the other party.

Commissioners are now proceeding with the determination of the line, and with Baltimore's consent the indenture has been confirmed by the Lord Chancellor on 6 March, 1762. His Majesty's confirmation is also sought in order to quiet the minds of his subjects there, and as a further testimony that a final end and period has been put to all their contests and litigations by the agreement of 1760.] [VI. pp. 581-612.]

26 June.
Antigua.

[36.] [Reference to the Committee, and by them on 24 Aug., to the Master General of the Ordnance, of the petition of Henry Wilmot, agent for Antigua, that 124 pieces of cannon now at English Harbour under the care of the storekeeper

§ 36 *cont.*]

1767.

of the Board of Ordnance, be delivered to supply the forts and fortifications, the public of the island undertaking to return to the Ordnance at their own expense all the old useless cannon in the island.] [pp. 368, 423.]

[On the Committee report of 21 Dec. agreeing with the Ordnance, such of the guns and carriages as are wanted are granted on the terms proposed. A letter of 13 Jan. to Philip Stephens, Secretary to the Admiralty, requests him to search for and return a report and survey of the state of Antigua, with plans of the batteries and forts, which were sent to them with an Ordnance report of 4 May, 1756. The Ordnance have desired its return and it has been found that it was sent to the Admiralty office in 1756.] (1770.)
[VII. pp. 175, 197, 209.] 5 Jan.

[37.] [Reference to the Committee of the petition of Hutchison Mure, merchant of London, and Dugald Malcolm, merchant of Jamaica, for a day for hearing their appeal from an order of the Jamaica Chancery, 16 Sept., 1766, granting an injunction to stay their proceedings on a judgment confessed by Thomas Fogerty for 3,509*l.* 5*s.* 3*d.* currency.] 26 June.
[p. 369.] Jamaica.

[On the Committee report of 13 March, the decree is reversed and Fogerty's bill dismissed. The case was heard *ex parte*, no appearance having been entered for the respondent.] (1769.)
[VI. pp. 492, 540.] 14 April.

[38.] [Reference to the Committee of the petition of John Watson and Samuel Gregory, merchants of Kingston, Jamaica, surviving partners of Peter Delmestre, for a day for hearing their appeal from a Chancery decree of 19 Jan., 1767, dismissing their bill against Lettice, widow of James Laird, for her to deposit with one of the Masters in Chancery the deeds of conveyance or reconveyance of a moiety of Chesterfield Plantation with the negroes etc. thereto belonging, that the same may be confirmed, or in default, that the moiety be decreed to have been Laird's property in fee and as such liable to the petitioners' demands.] 26 June.
[pp. 369, 393.] Jamaica.

[On the Committee report of 2 April, the decree is reversed.] (1770.)
[VII. pp. 296, 355.] 27 April.

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1767. § 38 *cont.*]

(1775.) [Reference to the Committee of Mrs. Laird's appeal from a
26 July. Chancery order of 19 July, 1774, on a bill filed by Watson and
Gregory for the production of certain deeds relating to
Chesterfield plantation.] [XII. *pp.* 77, 462.]

(1777.) [On the Committee report of 10 April, the appeal is dis-
30 April. missed with 20*l.* *stg.* costs. Exelba Lawford, a Master in
Chancery, is mentioned in the report.] [XIII. *pp.* 422, 478.]

26 June. [39.] [Reference to the Committee of the petition of
Quebec. Anthony Peter Houdin, merchant of Quebec, that the Council
dismiss for non-prosecution the appeal of John Ord, Jacob
Rowe and William James, assignees of William Johnstone,
captain-lieutenant in his Majesty's regiment of Artillery, from
a sentence of the Governor and Council of Quebec, 18 April,
1766, reversing a judgment of the Supreme Court, 19 Aug.,
1765, on their action to recover from the petitioner a debt
due to Johnstone on a bill of exchange for 60,000 *livres* in
Treasury bills drawn by Houdin in 1759 and payable in 1761.]
[*pp.* 127, 370.]

24 July. [On the Committee report of 30 June, the appeal is
dismissed for non-prosecution.] [*pp.* 377, 387.]

26 June. [40.] [Reference to the Committee, and by them on
New York. 24 Aug. to the Board of Trade, of the petition of] Captain
Samuel Bayard of New York in America, Sir James Say of
Pall mall in the County of Middlesex Knight, and Henry
Flower of London Gentleman [for confirmation of a deed poll
of 10 Aug., 1700, by which] Sundry Indians being the
Right Owners and Natural Proprietors of certain Parcels
or Tracts of Land therein Described in the province of New
York and called by them Rhmapough, Iapough, Iandakagh,
Aringee and Campque, did give Grant Bargain and Sell unto
Blandina Bayard all and singular the said Parcels or Tracts
of Land To Hold unto the said Blandina Bayard her Heirs
and Assigns for ever.] [*pp.* 370, 424.]

24 July. [41.] [Order in Council extending the period for the free
Plantations. importation of wheat and wheat flour from the American

§ 41 *cont.*]

1767.

colonies from 1 Aug. to 1 Feb., 1768, pursuant to powers vested in his Majesty by an Act of Parliament last session. The draft of the Order was submitted to the Attorney General by W. Sharpe, Clerk of the Council, on 22 July.] [*pp.* 384–5.]

[42.] [Reference to the Committee of a Board of Trade representation of 8 July on a New Jersey act of June, 1766,—^{New Jersey.} to extend certain Acts of Parliament (of 12 Anne and 4 George I) for the preserving all such ships and goods thereof, which shall happen to be forced on shore or stranded.] [*p.* 389.]

[The Committee, who had on 24 Aug. postponed consideration till their next meeting, now order the representation to lie by.] ^{28 Aug.} [*pp.* 425, 463.]

[On the Committee report of 23 Feb. the act is disallowed, ^(1768.) and notice of the opinion of the Attorney and Solicitor General ^{26 Feb.} ordered to be sent to all colonial governors. As their report depended on the question whether the Acts of Parliament referred to, do or do not, in virtue of their own provisions, extend to the American colonies, the Board of Trade took the opinion of the law officers, and they recommended that it should be communicated to the Governors, as they had reason to believe that his Majesty's subjects in general in the colonies do not apprehend that the said Acts of Parliament do extend to, and are in force in America. The law officers reported] That as the Title of the Act of the 12th Ann, Statute 2d, 6, 18, expressly imports to be an Act for Preserving Ships and Goods forced on Shore, or Stranded upon the Coasts of this Kingdom, or any other of Her Majesty's Dominions, and the Enacting Part has words extending to Her Majesty's Dominions in General the said Act of the 12th Ann extends to and is in force in Your Majesty's Colonies and Plantations in America notwithstanding the Special Promulgation of the Law, and some other provisions in it are applicable only to this Kingdom—That they are likewise of opinion That so much of the Act of 4th Geo. 1st Chap 12, as declares the 12th Ann to be perpetual extends to America—But that as to the 3d Clause of that Act which Introduces a new Crime,

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1767. § 42 *cont.*]

by a Provision altogether Independent of the former part of the Act and made to render an Act of the 1st Ann more effectual, they are Inclined to think it does not extend to Your Majesty's Colonies and Plantations in America; That Clause being expressed in general Terms without any Reference to the Colonies, and the 11th George 1st Chap 29, Sec. 7, which directs the Mode of the Prosecution of these Offences when committed within the Body of any County of this Realm, or upon the High Seas, making no mention of the manner of Trial if such Offences should be committed in any of Your Majesty's Plantations or Colonies in America.

[VI. *pp.* 74-6, 86-8.]

26 Aug.
Georgia.

[43.] [A Georgia act of March, 1766,—for encouraging settlers to come into the province, and for granting to his Majesty 1,815*l. stg.* to be issued on certificates by the commissioners herein named for the said purpose, and also for the rebuilding the courthouse in Savannah in consequence of an act of the General Assembly of 29 Feb., 1764,—is disallowed, in accordance with the committee report of 24 Aug., agreeing with a Board of Trade representation of 17 July, referred to them on 24 July, showing] that by this Act it is provided, that for three Years after the Passing it, “ when any Number of Families being protestants, not less than Forty, each Family to Consist at least of One Man, above the Age of sixteen Years, and one Woman, shall arrive in this Province, and shall produce to the Governor and Council, sufficient Testimony of their good Character, a Township shall be immediately allotted and laid out in some Convenient Spot for their residence, which allotment, and the several Surveys of the respective Tracts, in proportion to the Number in each Family, and also the several fees due to the several offices for passing their grants through their respective Offices, shall be defrayed by the publick, and paid by the Treasurer as is hereinafter directed ” That however commendable and expedient it might have been in the first Establishment of this Colony to have given general Encouragement to

§ 43 *cont.*]

1767.

Protestant Inhabitants to come and Settle there, yet the said Lords Commissioners can by no means think it is now, when so great a Number of useful Inhabitants of these Islands, many of whom there is reason to fear are Manufacturers are daily emigrating to the American Colonies, and when your Majesty, from a just Sense of the disadvantages which Accompany such emigration, has thought it expedient to make it a Condition of Settlement in the Neighbouring Province of East Florida, that the persons to be Introduced, shall not be drawn from this or from the neighbouring Kingdom of Ireland—That for this reason and for as much as the Legislature there have thought fit, by Enacting that Townships shall be laid out for the persons Introduced by the Operation of this Law, to interfere in the disposal of Your Majesty's property there, which does of right belong Solely to the Governor under the power delegated to him by his Commission, the said Lords Commissioners propose that is Law may be disallowed. [pp. 390, 413, 429.]

[44.] [A Georgia act of March, 1765, is disallowed, and additional instructions are approved for the Governors of South Carolina and Georgia, in accordance with a Committee report of 24 Aug., on drafts ordered by them on 30 June on considering a Board of Trade representation of 26 May on the act referred to them on 26 June. The Act was intitled]—

26 Aug.
Georgia and
South
Carolina.

An Act for the better strengthening and settling of this Province by Compelling the several persons who Claim to hold Lands within the same under any Grant or Grants from His Majesty witnessed by the Governor of South Carolina to bring or send into this Province a Number of White Persons or Negroes in Proportion to the Lands they Claim to hold Agreeable to His Majestys Royal Instructions for granting Lands and to Cultivate and improve the same, And for the better ascertaining the said several Tracts of Land by regulating the Surveys and making the Lines thereof and recording the several Plats in the Surveyor Generals

1767. § 44 *cont.*]

Office ; Also for registering and Docketting such Grants in the other proper Offices in this Province.

[The Governor of South Carolina is instructed] to give positive Orders to the proper officers in that Colony forthwith to prepare Transcripts duly Authenticated of all the Patents Granted under the Seal of that Province for Lands to the Southward of the River Alatemaka and also of all Orders, Warrants and Proceedings thereupon, and to Transmit the same with all Convenient Dispatch to the Governor of the province of Georgia : [and the Governor of Georgia] to cause such Transcripts when received by him to be entered upon Record in all the Proper Offices in that Colony. And also . . to recommend it to the Council and Assembly of the province of Georgia to pass An Act for establishing a Method of enforcing the Cultivation of Lands, not lyable to the Objections made to the Act Passed in March 1765, and for the Erecting a Court of Commission before whom the several Persons claiming Lands to the Southward of the River Alatomaha by Virtue of Patents granted under the Seal of the province of South Carolina are to make and Substantiate their respective Claims within the Space of a Year, and in Case the Grantees or others Claiming under them shall neglect to establish their Grants before such Commissioners within that time the Lands shall become forfeited and be revested in his Majesty his Heirs, and Successors without any further or other Process.

[*pp.* 364, 376, 412, 430-1.]

26 Aug. [45.] [Reference to the Committee, and by them on 9 Oct.
Georgia. to the Board of Trade, of the petition of Isaac Levy, of Lancaster Court, London, setting forth] that by a partial and illegal Treaty carried on for some time by His late Majesty's Governor of the province of Georgia with a person Named Thomas Bosomworth, the petitioner was illegally disposed of his Right and Title to a Moiety of two Islands called Oseta and Sapalo lying on the Coast of the said province ; And [praying for restitution or for a grant of] some Lands in His Majesty's Ceded Islands in the West Indies, or a Grant of the

§ 45 *cont.*]

1767.

Coal Mine in the Island of Cape Breton for a Term of Years and under such other Conditions as His Majesty shall please to Order. [pp. 460, 486.]

[The Committee considered the Board of Trade report, and] (1768.)
observing that the Board of Trade have reported three several 31 May.
times against Mr. Levy's applications directed him to be
acquainted therewith and to be advised to apply for a Grant
of Lands in some other Province. [VI. p. 194.]

[Reference to the Committee, and on the same date to the (1768.)
Board of Trade, of Levy's petition for 20,000 acres of land 28 Sept.
in some convenient place in America, the ceded islands
excepted.] [VI. pp. 337-8.]

[46.] [Reference to the Committee of the petition of 26 Aug.
Godfrey Laycock, merchant of Halifax in Yorkshire, for a Rhode
day for hearing his appeal from a judgment of the Superior Island.
Court at Newport, Rhode Island, in March, 1767, abating
an action brought by him in the Inferior Court about 10 Feb.,
1766, to recover from James Clarke of Newport and Solomon
Southwick of Dartmouth, Bristol co., Massachusetts,
1,862*l.* 0*s.* 11½*d.* *stg.* due to him by book debt, and condemning
him in costs of suit.] [p. 460.]

[Committee orders for reviving the appeal in the name of (1768.)
Hannah, widow of Godfrey Laycock, for hearing it on 5 Oct., 7 July.
and for affixing summons on the Royal Exchange and in the
New England Coffee House.] [VI. pp. 240-1.]

[On the Committee report of 13 March, the judgment of (1769.)
1767 is reversed and that of 1766 affirmed. The case was 14 April.
heard *ex parte*, no appearance having been entered for the
respondents.] [VI. pp. 493, 539.]

[47.] [Reference to the Committee of a letter of 3 Aug. 7 Oct.
from the Secretary to the Treasury, transmitting to the Clerk Virginia and
of the Council] a Memorial addressed to their Lordships, of Maryland.
John Stewart, Contractor for Transporting Felons [from
Newgate, Bucks and the five counties of the home circuit],
Praying Protection with respect to the Laws passed in

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1767. § 47 *cont.*]

Virginia and Maryland Prohibiting the Importation of Felons there. [p. 480.]

9 Oct. [The Committee postpone consideration as no attested acts have been laid before them.] [p. 488.]

(1768.) [On the Committee report of 9 Aug., showing that no attested copy of the act has been transmitted from Maryland, Lord Hillsborough is directed to receive his Majesty's pleasure] for directing the Lieutenant Governor of the Province of Maryland to Transmit over an Attested Copy of the said Act and at the End of every Session of Assembly to Transmit Authentick Copies of all the Acts passed in such respective Session of Assembly to one of His Majesty's Principal Secretaries of State in Order to be laid before His Majesty. [The title of one Maryland act is given—to oblige infected ships and other vessels coming into this province to perform quarantine.]

[VI. pp. 274, 299.]

7 Oct. [48.] [Reference to the Committee of] the Memorial of
North Carolina. Henry McCulloh on behalf of himself, George Augustus Selwyn, Henry Eustace McCulloh and John Campbell, his Associates in Interest, humbly Praying that His Majesty's Gracious Intentions under the Orders in Council of the 13th of October 1756 and 14th of October 1762 respecting the Memorialists Lands in North Carolina may be carried into Execution, by directing a Bond given to abide His Majesty's Determination as to the Quit Rents of the Escheated Lands, Surrendered to be cancelled, and that the Memorialist and his Associates and Tenants holding in fee under them are not at any time to be liable to pay Quit Rents for any other of the Lands contained in the said Grants than such proportions thereof as are reserved to them respectively in right of Settlement on the Surrenders; And that the Memorialist and his said Associates may in a Course of sett off of Quit Rents on the Lands reserved by them duly receive the Ballance of the Treasury Warrant dated in November 1756, and for such further relief as to His Majesty in his great Wisdom and Goodness shall seem meet, [p. 480.]

§ 48 *cont.*]

1767.

[The Committee order the memorial to stand over on account of the Auditor of the Plantations not being present.] [p. 488.]

9 Oct.

[On the Committee report of 26 Jan. it is declared that quitrents are not due upon the surrendered lands, and that the bond to abide his Majesty's determination upon the demand for payment from March, 1760, till the surrender in April, 1767, be cancelled and delivered up.] [VI. pp. 16, 44.]

(1768.)

1 Feb.

[Reference to the Committee of] the Memorial of Alexander McCulloh, setting forth, that on the 3d of March, 1765 (O.S.) a Grant of 12,500 acres of Land lying on Branches of Johnston and Peedee Rivers in North Carolina, was part to the Memorialist, as one of the Associates of Murray Crymble and James Huey, pursuant to the directions of His late Majesty's Order in Council dated 19th May 1737; that the Memorialist on viewing the Lands contained in said Grant, found they were not Surveyed in the situation intended and that the Lands which of right belonged to him, had been given to others, and therefore declined having any concern in said Lands, and left them to be settled by any person under the Crown, as Vacant Lands, and never received or endeavoured to receive any benefit or Advantage therefrom; that some time since the Receiver General of the said Province having made a Demand for the Quit Rents thereof, the Memorialist agreed to Submit himself to His Majesty's pleasure on that head, in the same manner as had been done by Selwyn and McCulloh, two other of the said Associates, and in consequence thereof Executed a Surrender of the Grant to His Majesty agreeably to the Royal Instructions given to the Governor of the said province in 1766, and at the same time entered into a Bond, bearing date the 15th December 1767 to produce His Majesty's order on this head, and abide by the same, within two Years, or to pay the Quit Rents demanded, amounting to 170*l.* or thereabouts; [and praying that the bond be delivered up and cancelled]. [VI. p. 458.]

(1769.)

20 Feb.

[On the Committee report of 21 June, the bond is ordered to be cancelled and delivered up.] [VII. pp. 56, 70.]

(1769.)

28 June.

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1767.

6 Nov. [49.] [An appearance is entered by Thomas Goostrey of
Jamaica. Sherrard Street, near Golden Square, for David Bernard and Elizabeth his wife, to the appeal of Edward and William Woollery from Jamaica.] [p. 507.]

(1768.) [The appeal is referred to the Committee. The case arose
17 Feb. from the will of John Woollery, deceased, and a bill filed by the Bernards for legacies thereunder to be paid by Aaron Baruch Lousada and James Dunn, the executors, and the testator's sons, the appellants named above, and John and Robert Dunstan Woollery. The Chancellor's decree of 23 Jan., 1767, from which the appeal is brought, dismissed so much of the bill as related to Lousada.] [VI. pp. 63, 76.]

(1768.) [Reference to the Committee of Lousada's petition for a
11 Mar. day for hearing his appeal from the Chancellor's decree of 4 July, 1767, declaring him accountable along with Dunn as one of the executors of John Woollery. On 4 May Dunn's appeal from this decree is also referred, and on 29 June the four Woollerys entered an appearance as respondents to each of these appeals.] [VI. pp. 105, 162, 228.]

(1769.) [On the death of Lousada and Bernard, the Committee order
11 Mar. that the appeals be revived by including their respective executors as parties—Charles Bernard; and Rachel Baruch Lousada, widow, Benjamin Dias Fernandes and Jacob Feurtado, merchants. The appeals are to be heard together and proofs in the one taken as evidence in the others.] [VI. pp. 482-3.]

(1770.) [On Committee reports of 30 Jan., all the appeals are
9 Feb. dismissed, with 100*l.* costs from Dunn to the Woollerys, 50*l.* from the Woollerys to Mrs. Bernard, and none against Lousada.] [VII. pp. 220-1, 227-8.]

18 Nov. [50.] [Reference to the Committee of a Board of Trade
St. representation of 14 Oct. on a St. Christopher act of Aug., 1766,
Christopher. for constituting a Court of Chancery in this island.] [p. 517.]

(1768.) [On the Committee report of 23 Feb. the act is disallowed,
26 Feb. but the Governor is to recommend the passing of a new act of the same tenor, to take effect without further signification

§ 50 *cont.*]

1767.

of his Majesty's pleasure. The Act is] framed for the Accommodation and Relief of Your Majesty's Subjects in this Island who are represented to be under great difficulties and Inconveniencies in Prosecuting Suits in the Court of Chancery before the Captain General whose residence is established at Antigua—But . . ought to have been prosecuted in a more regular and Constitutional manner by Petition and Address to your Majesty, with whom alone resides the Right of erecting Courts of Judicature, and from [whom] their Jurisdictions are derived.

[VI. *pp.* 68, 80.]

[51.] [Reference to the Committee of the petition of David Jeffries of Boston, for leave to appeal from a judgment of the Superior Court, 24 June, 1766, on his writ of review for reversing a judgment of 25 June, 1765, affirming a judgment of the Inferior Court, 25 Sept., 1764, on his action of ejectment to recover from Nathaniel Donnell near 2,000 acres of land between Merrymeeting Bay and Winnegance.]

18 Nov.
Massachu-
setts Bay.

[*p.* 520.]

[On the Committee report of 23 Feb., the appeal is admitted. Security is given on 21 April by George Hayley, Esq., of Aliff Street, Goodman's Fields, and Richard Wilsonn, laceman, of Lombard Street.]

(1768.)
26 Feb.

[VI. *pp.* 76, 88, 98.]

[On the Committee report of 12 June, the judgment is reversed and the parties set at liberty to proceed to a new trial in the Superior Court. The appeal was heard *ex parte*, no appearance having been entered for the respondent.]

(1771.)
14 June.

[VI. *pp.* 163, 168, 484; VIII. *pp.* 264, 274.]

[52.] [Reference to the Committee, and by them on 20 Nov., 1769, to the Board of Trade, of the memorial of George Mercer on behalf of the Ohio Company that their grant be renewed or provision made by Parliament for reimbursing their expenses.]

12 Dec.
Ohio.

[*p.* 529; VII. *p.* 145.]

[53.] [Reference to the Committee, and by them to the Board of Trade on 3 March, 1768, of the petition of Lieut. George MacDougall, on half pay of the Royal American Regiment, for a grant of Hog island three miles above Detroit.

12 Dec.
Detroit.

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1767. § 53 *cont.*]

He alleged that the officer commanding at Detroit in 1761 had allowed him to cultivate the island, that after he had cleared 50 acres and built a house, his settlement had been destroyed in the Indian War, and that his losses exceeded 200*l.*]

[*p.* 529 ; VI. *p.* 95.]

(1768.) [Order in accordance with the Committee report of 3 May,
4 May. agreeing with the Board of Trade,] That the above mentioned Island lying within that Territory which by Your Majesty's Proclamation of the 7th of October, 1763, is reserved and set aside as Hunting Grounds for the several Tribes of Indians, it follows that no Absolute Grant of the same can be made consistently with the Terms and reservations of the said Proclamation; and therefore it will not be Adviseable for Your Majesty to Comply with the Prayer of the Petition as to this particular in it's full Extent, But as the Merits of the Petitioner in clearing part of the said Island . . appear to be true, and as he has sustained considerable Damage . . more especially as it is evident that very Considerable Savings may be, and actually have been made in the article of Supplies and provisions for the Garrison at Detroit, by stocking and cultivating Lands in the Neighbourhood thereof, the said Lords Commissioners are of opinion, That Advantages may be derived to the Publick Service from the Settlement and Improvement of this Island ; and as the petitioner as well from his Intercourse and Acquaintance with the Indians, as by his Interest and Connections in those parts (he being married and having a Wife and Family now resident at Detroit) does appear both able and willing to carry his Proposals into Execution, and as it is represented, that the said Island though within the Limits of the Indian Territory, yet has always been considered as an Appendage to the Fort, The said Lords Commissioners are of opinion that every Encouragement should be given to him in the Settlement of the said Island, as far as the Tenor of the Proclamation above recited will allow ; And this they think can best be done by referring the Matter to the Commander in Chief in America recommending

§ 53 *cont.*]

1767.

to him to allow the Petitioner a Temporary Occupation of the said Island so long as Your Majesty shall think fit to continue an establishment at Detroit, provided this can be done without Umbrage to the Indians, and upon Consideration that the Improvements projected by the Petitioner will be directed to the more easy and effectual Supply of Your Majesty's Fort and Garrison maintained at Detroit. [VI. *pp.* 151-3, 159.]

[54.] [Reference to the Committee of the petition of William Coleman, merchant of London, for a day for hearing his appeal from a decree of the St. Christopher Chancery, 12 June, 1767, on a bill filed against him on a matter of account by Thomas Truman, Abednego Matthew and Jane his wife, and others. A cross-appeal is similarly referred on 11 May, 1768.] [p. 530 ; VI. *pp.* 106, 178, 195.] 12 Dec. St. Christopher

[On the Committee report of 14 March, both appeals are dismissed. Sir Charles Paine is the only other name mentioned in the report.] [VI. *pp.* 496, 537.] (1769.) 14 April.

[55.] [Reference to the Committee of the petition of Gabriel Christie, deputy-Quartermaster-General of the forces in North America, for a day for hearing his appeals from judgments of the Lieut.-Governor and Council of Quebec, 29 Dec., 1766, affirming judgments of the Supreme Court, 14 Sept., 1765, on actions brought against him by (a) Francis Noble Knipe and John Le Quesne, merchants of Montreal, and (b) by Knipe alone, for trespass by impressing several artificers and workmen employed by them.] [*pp.* 493, 538.] 23 Dec. Quebec.

[On Committee reports of 31 May, the judgments are reversed and the actions dismissed. Knipe and Le Breton were building a ship of 250 tons to send to London with a cargo in Sept., 1763, and Knipe another of 230 tons to be sent in May, 1764. In July, 1763, the workmen engaged on the former vessel and in Feb., 1764, those on the latter, were impressed by Christie for his Majesty's service, under instructions from Brigadier General Burton, Governor of Montreal, and employed in building and repairing boats. The petitioners (1768.) 13 June.

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1767-8. § 55 *cont.*]

alleged that they had suffered by depredations of stores etc. on board the vessels by the inhabitants after the removal of the workmen, besides the loss of the profits they had counted on making by the voyages : they also claimed that Christie had acted " of his own wrong " in taking away the workmen. In Knipe's action] a venire was thereupon awarded for a Jury to come before the Honourable William Gregory Esquire Your Majesty's Chief Justice Assigned to hold Pleas in your Majesty's said Supreme Court for the Province of Quebec aforesaid at the City of Quebec on Saturday the 24th day of August 1765, to Try the said Issues so Joined between the Parties—But instead of Trying the said Issues so Joined by a Jury before the said Chief Justice the said Francis Noble Knipe did enter up an Interlocutory Judgment in the said Action by Default against the Petition as if no Plea had been put in or no Issue had been Joined therein And without ever Trying the said Issues so Joined did award a Writ of Inquiry directed to the Provost Marshall to enquire what Damages the said Francis Noble Knipe had Sustained and to return the Inquisition on Tuesday the 21st Day of January then next 1766, And the said Francis Noble Knipe on the 14th day of September 1765 having Convened a Jury before the Deputy Provost Marshall proceeded to Assess Damages.

[Knipe's claim for the profits which his voyage might have made swelled the amount awarded (including costs) to 2,574*l.* 4*s.* 6*d.* currency. Christie brought a writ of error before the Lieut.-Governor and Council, but the former verdict was affirmed and 70*l.* 18*s.* 11½*d.* added to the costs. In the other case, after similar proceedings, damages and costs were awarded to the amount of 3,533*l.* 4*s.* 6*d.*, and 71*l.* 4*s.* 11*d.* costs of the writ of error.] [VI. *pp.* 3, 183-91, 203.]

GEORGE III. VOL. VI. (Jan., 1768—April, 1769.)

1768.
15 Jan.
Massachu-
setts Bay.

[56.] [Reference to the Committee of the petition of Richard Pateshall, of Boston, administrator of Robert Pateshall,

§ 56 *cont.*]

1768.

who died intestate, that the Council dismiss for non-prosecution the appeal of Charles Ward Apthorpe from a judgment of the Superior Court in June, 1766, on his writ of review, by which Apthorpe was adjudged to pay the petitioner 542*l.*]

[*p.* 7.]

[On the Committee report of 9 Feb. the appeal is dismissed with 20*l. stg.* costs for non-prosecution.] 17 Feb.
[*pp.* 55, 60.]

[57.] [Reference to the Committee of the petition of Ann, widow and executrix of Isaac Seguín, master of the ship *Diadem*, that her husband's appeal from the condemnation of the ship in the Vice Admiralty Court at Halifax, 11 Dec., 1765, in favour of William Nesbitt, Attorney General, Henry Newton, collector of customs, Thomas Hayward, commander of H.M.S. *Senegal*, and Henry Hervey, commander of the schooner *Magdalene*, be revived in her name and a day appointed for hearing it.] 1 Feb.
Nova Scotia.
[*p.* 50.]

[At the request of Mrs. Seguin's solicitor and on the Committee report of 30 Jan., the appeal is allowed to be withdrawn without costs.] (1770.)
9 Feb.
[VII. *pp.* 223, 228.]

[58.] [An appearance for Henry Stanyford, gent. of London, George Garrett, weaver of Spitalfields, and John Stevens, silkman of London, to the appeal of Samuel Adams from Jamaica is entered by Mr. Elbro Woodcock of Lincoln's Inn.] 5 Feb.
Jamaica.
[*p.* 52.]

[Reference to the Committee of the petition of the respondents that the appeal—from a Chancery order of 23 Sept., 1767,—be dismissed for non-prosecution. The case concerns the petitioners' mortgage on certain estates from Henry Strudwick, jun.] (1769.)
25 Oct.
[VII. *p.* 118.]

[On the Committee report of 22 Dec. the appeal is dismissed for non-prosecution with 20*l. stg.* costs]. (1770.)
5 Jan.
[VII. *pp.* 182, 200.]

[59.] [Two Jamaica acts of Aug., 1766,—to make void all bills, bonds, mortgages, judgments, recognizances, fines and amerciaments and all and every other writings obligatory whatsoever whereon no payment hath been or shall be made, or

17 Feb.
Jamaica.

1768. § 59 *cont.*]

which have not been or shall not be legally demanded within the space of twenty one years from the time they respectively became or shall become due nor from the last payment thereon ; and—for the setting mutual debts one against another—, are disallowed, on the Committee report of 9 Feb., agreeing with a Board of Trade representation of 24 Dec., referred to them on 15 Jan. ; but permission is given to re-enact the latter act at once to take effect without further signification of his Majesty's pleasure, as the regulation is represented by the agent to be necessary and salutary, and as the principal motive which induced the Board of Trade to propose its repeal was the omission of a suspending clause.

The Board of Trade reported] That the Object and Intention of both these acts are fully expressed in their Titles and do not in the General View of them appear liable to any material Objection, but as they do both of them revive Establishments and Regulations heretofore disallowed by Your Majesty's Royal Predecessors they ought not to have been passed without your Majesty's Permission first obtained, and without a Clause respectively annexed to each, suspending and deferring the Execution thereof, until Your Majesty's Pleasure thereupon might have been known, a Precaution which is of the greatest Importance, and the Neglect whereof may tend, by Usage, to establish that as a Rule which is irreconcilable to the first Principles of Government, and with that just Authority of the Crown, in the Controul of the Legislative Acts of Government in the Colonies, so necessary to preserve their Dependence ;—That the Regulation for the setting mutual Debts one against another, was attempted to be established by a Law passed in November 1757, and Disallowed in August 1759 ; And therefore this Case being too recent not to have been adverted to it is a Circumstance that renders the Conduct of the Legislature there in Passing this Act for the revival of it, without a Suspending Clause the less excusable ; That the other Regulation for rendering void all writings obligatory whereon neither Payment nor

Demand has been made within a certain Period, has heretofore been under the Consideration of Government, and made part of an Act passed in this Island in the Year 1709, Intituled “ An Act for the further Quieting of Possessions and Preventing Vexatious Suits of Law ” ; This Act not only on Account of the General Inexpediency of it, but, in Particular, from the objections made by the then Attorney and Sollicitor General, to the Clause for establishing this Regulation now attempted to be revived, was disallowed and repealed ; and in Consequence thereof an Act was Passed and Confirmed in the Year 1711, whereby the practice and Constitution of that Island relative to all Bills Bonds, Mortgages &c. as expressed in the Act now under Consideration, was regulated and adjusted upon Principles clear of all those objections, for which the former Law had been repealed,—That this being the Case they could not but Consider the Act before them, as lyable to a double objection, not only as it attempts to revive a Regulation already disallowed, but as it supercedes a Law approved of, and Incorporated into the Constitution of that Island, according to which the practice relative to every Species and form of Obligation recited in the present Act, has been long regulated and Conducted.

[*pp.* 6, 53, 59.]

[60.] [A Virginia act of Dec., 1766,—for giving a salary to the Speaker of the House of Burgesses—is disallowed, and the Governor permitted to provide for the same service in the constitutional way, in accordance with the Committee report of 23 Feb., agreeing with a Board of Trade representation of 24 Dec., referred to them on 15 Jan., showing] That they find this Act directs the Treasurer of the Colony to pay to the Speaker of the House of Burgesses an Annual Allowance of Five hundred Pounds Sterling during the Continuance of the present General Assembly, and in Case of a Dissolution thereof until the meeting of the Succeeding one, and is granted in lieu of those Profits and Emoluments which accrued to him while the Treasurership was annexed to his Office ; That the Principle of this Act is undoubtedly just and commendable,

26 Feb.
Virginia.

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1768. § 60 *cont.*]

inasmuch as it gives a respectable provision to an Office of great Civil Dignity and Importance, but . . it does in the Mode prescribed for payment of the Salary settled upon the Speaker supersede the necessity of a Warrant from the Governor and Council which by the express directions of the 19th Article of Your Majestys Instructions to the Governor of Virginia is required in all Cases of the Issue of Publick Money from the Treasury. [pp. 7, 71, 81.]

26 Feb.
Virginia.

[61.] [Two private acts of Virginia—vesting lands in John Syme and others in fee simple, and settling other lands in lieu thereof (Dec., 1764); and—empowering the executors of Charles Carter, late of King George, to sell part of his lands (Dec., 1766)—, are disallowed, in accordance with a Committee report of 23 Feb. agreeing with the opinion of Sir Matthew Lamb, quoted in a Board of Trade representation of 5 Feb., which was referred to them on 17 Feb. The first act deals with the property of Mrs. Syme, deceased, which the husband holds as a tenant by courtesy for his life, subject whereto the whole belongs to his eldest son and heir, an infant, who should not be bound by an act of the legislature to which he is incapable of consenting. The other act contains no suspending clause, and it does not appear that notice of application for the act was given in the parish church on three successive Sundays—requisites which should never be dispensed with in private acts.

Another act of Dec., 1766, empowering trustees to sell lands whereof Charles Carter, sen., is seized as tenant in fee tail, was postponed by the Committee on 23 Feb. Sir M. Lamb and the Board of Trade found the act so much intended for the benefit of the whole family interested that they recommended that it be confirmed, though not strictly within the rules practised in the province, which are against the barring of an entail unless equally valuable property is settled to the same uses as the entailed estate. On the Committee report of 28 June the act was confirmed on 29 June. P.R.] [pp. 62, 69-71, 84, 211, 223.]

1768.

26 Feb.

North
Carolina.

[62.] [A North Carolina act of 1767—to lay a tax on pedlars and other itinerant traders coming into this province—is disallowed on the Committee report of 23 Feb., agreeing with a Board of Trade representation of 24 Dec. referred to them on 15 Jan., showing] that by this Law, all Pedlars, and other Itinerant Traders coming into this Province are, unless within certain exceptions made liable to an Impost or duty of ten per Cent. on the Sworn value of their Goods, besides being compelled to take out a Licence for carrying on their Trade, under the Penalty of Fifty Pounds Proclamation Money; That the Tax which this Act Imposes, and the Penalty under which it is enforced, together with the Fee required to be paid by those Itinerant Traders to the Governor and other inferior Officers seem calculated to discourage, if not Prohibit, the free circulation of all such Petty Trade and Traffick, as has hitherto been carried on by Persons under the above description within the limits of this Colony and altho it is possible this may arise at the present, to any Considerable Amount, Yet . . the Act itself does appear to be Constructed upon a principle discouraging to Industry and Adventure in Individuals, and in a general light restrictive upon Trade and the dispensation of British manufactures throughout this Continent.

[pp. 6, 72, 85.]

26 Feb.

Nova Scotia

[63.] [A Nova Scotia act of Nov., 1766—for continuing an act for reviving an act of 33 George II. for prolonging a resolution of the Governor and Council, revived and put in force by the General Assembly in the 32nd year of his Majesty's reign—is disallowed, on the Committee report of 23 Feb., agreeing with a Board of Trade representation of 24 Dec. referred to them on 15 Jan., showing] that this Act has reference to a Resolution of the Governor and Council of Nova Scotia; Published and Declared at the first Settlement of that Colony; and tho' it is nowhere described either in the Title, or Body of the Law what the object of that Resolution was, it appears to have been for Declaring " Foreign Debts not to be pleadable in that province Except for Goods Imported

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1768. § 63 *cont.*]

into it"—That this Ordinance (calculated merely for the Temporary encouragement and promotion of an Infant Settlement) was, upon the Completion of Legislature in that Province, revived and put in force, by an Act of General Assembly, in the 32^d Year of His late Majesty's Reign, which Act having been from time to time continued until the 28th of August 1762, was at that Period suffered to Expire ; But upon Representation being made by Your Majestys Governo^r of this Province, 'of the Use and Expediency of continuing this Regulation for some time longer, it was Revived and put in force by An Act of Assembly passed in the Year following, whereby those Persons who were Inhabitants of the Province, Previous to the date of the above expiration, were, agreeable to the Tenor of the Original Ordinance, Protected from Debts not Contracted therein, for the further Space of three years ; That altho' this Indulgence to Settlers who had Originally come into the province under the Sanction of these Laws, and were actually therein, when the same Expired in 1762, was at that Period Judged reasonable, Yet from the present Circumstances of the Colony it does not appear necessary to Prolong this Exemption which could only be Intended as a Temporary relief and Indulgence, and which tho' Allowed for a time in Consideration of the Weak State of an Infant Settlement, might, if carried into too great an Extent, be productive of many inconveniencies ; and . . the Regulation itself is formed upon a Principle evidently Contrary to the Spirit and Intention of an Act of Parliament made and Passed in the fifth Year of the Reign of his said late Majesty, intituled " An Act for the more easy Recovery of Debts in His Majesty's Colonies and Plantations in America." [pp. 7, 73, 86.]

23 Mar. [64.] [Reference to the Committee of the petition of
Virginia. Edward Dixon, gent., and his sons, Harry and Turner, all of Virginia, for a day for hearing their appeal from two decrees of the General Court, 10 April, 1764, and 10 Oct., 1766, in favour of Thomas and Harry Turner, by their respective

§ 64 *cont.*]

guardians, Thomas Jett and Anthony Thornton, Walker Taliaferro and Sally, his wife, late Sally Turner, and Thomas Jett, John Skinker, and Joseph Murdock, executors of Thomas Turner, in cases relating to the estate of Col. Thomas Turner of King George co., Virginia, deceased.] [pp. 110, 164, 208.]

[On the Committee report of 2 April, the decrees are reversed (1770.) in part and directions are given for taking accounts. 6 July. Col. Turner had by his first wife two sons, Harry and Thomas, and by his second wife a daughter, Sarah. Harry married Elizabeth Smith and died in 1751, leaving an only child, the respondent Thomas. His brother Thomas died intestate in 1747, leaving two children, the respondents Harry and Sally. Sarah married the appellant Edward Dixon, and died in 1751 leaving two sons, also appellants. Others named in the report are Elizabeth Smith's father and brother, both called Nicholas, and two slaves, Mariah and Betty.] [VII. pp. 299-308, 449.]

[65.] [Reference to the Committee, and by them on 31 May to the Board of Trade, of the petition of Henry Bostock or Bostwick of Canada, but now of London, merchant, on behalf of himself and twenty others, setting forth] that they lately presented a petition to His Majesty for a Grant of all Mines Minerals, Metals already discovered, and hereafter to be discovered in, about and under Lake Superior in North America and the Islands therein, and the Countries all round the said Lake within the Distance of sixty Miles thereof and of any and every part thereof; and that the Petitioners might be incorporated with all the usual Powers; that His Majesty was Pleased to refer the said petition to the Lords Commissioners for Trade and Plantations and the Merits of the said petition coming on to be heard before their Lordships on the 21st of April last, the further hearing thereof was Adjourned; that the Petitioners being desirous so valuable a discovery should not be lost, by way of Supplement to their former Petition, Submit to take such Grant under such a reasonable reservation of a Share of the Ores to be raised, and under

4 May.
Lake
Superior.

1768. § 65 *cont.*]

such regulations and Restrictions as to His Majesty shall seem proper. [pp. 161, 191.]

12 Aug. [Order in accordance with the Committee report of 9 Aug.] that the petitioners have represented that the Quantity of Copper Ore annually extracted from the Mines of this Kingdom and brought to Market is of late Years considerably diminished and the Price thereof from this as well as other Circumstances highly enhanced within the Period of a few Years last past,—That Copper is an Article of great Importance in the Manufactures and Commerce of this Kingdom, and as there is great reason to believe from the Reports made of the Country described in the Petition that it does abound with Mines of Copper Ore of a very rich and valuable Quality, [that reasonable encouragement should be given to the petitioners]. But as the System adopted by Your Majestys Proclamation of the 7th of October 1763 does preclude all Establishment in the interior Country adjacent to the great Lakes and as Your Majesty's Interests in that Country do appear from the Representations given of the Present Temper and Disposition of the Indians to be in a precarious State and to make it prudent to avoid all Measures that can Possibly operate to encrease to Jealousy and Discontent of the Savages, [that any determination should be suspended, while copies of the petitions are sent to the Commander in Chief in America and to Sir William Johnson to make a full enquiry,] and to Report their Opinion what Effects the Execution of this Measure would Probably have as to Your Majesty's Interests with respect to the Indians inhabiting that Country, and by what means they might be induced to consent to such Establishment as would be necessary for obtaining the advantages stated to arise from the Proposals made by the Petitioners, in Case Your Majesty should upon further Consideration think it Adviseable to Comply therewith.

[pp. 272, 299.]

(1769.) [Reference to the Committee, and by them on 21 June to 9 June. the Board of Trade, of an extract of a letter from Major

§ 65 *cont.*]

1768.

General Gage, commander in chief in America, dated Boston, 3 Nov., 1768, and a copy of a letter from Sir William Johnson, Superintendent of Indian Affairs, dated Johnson Hall, 23 Dec., 1768—both addressed to Lord Hillsborough in consequence of the order of 12 Aug., 1768.] [VII. pp. 45, 62.]

[The Committee refer to the Attorney and Solicitor General (1769.) the petitioners' memorial and the Board of Trade report of 20 Nov. 17 July.] [VII. p. 146.]

[On considering the reports of the Board of Trade and of (1770.) the law officers, the Committee direct the latter to prepare 25 May. the draft of a charter accordingly.] [VII. p. 385.]

[Reference to the Committee of an extract of a letter of (1770.) 6 Oct. 1770, from Gage to Hillsborough,] relative to some 9 Dec. proceedings by certain persons stiling themselves the Mining Company on Lake Superior, and also an Extract of an Address of the House of Burgesses of Virginia relative to the circulation of Copper Coin in that Colony. [VII. p. 657.]

[The Committee refer Gage's letter to the Board of Trade, (1771.) and also their report of 17 July, 1769, for reconsideration.] 23 May. [VIII. p. 216.]

[The Committee, on considering the report of the Board of (1772.) Trade on Gage's letter, refer the draft charter of the Mining 10 Jan. Company back to the Attorney and Solicitor General] to prepare and add thereto such Clauses as they shall Judge proper

1st. For restraining the Adventures as a Company from interfering with the Trade for Peltry.

2nd. For restraining the said Company from searching for Mines or having any Post or Establishment within Twenty miles of any part of the Channel which forms the passage from Lake Huron into Lake Superior.

3rd. For restraining the said Company from Erecting any Fortifications whatsoever in any part of the District comprehended within their Grant except for their Personal Security and such as shall be approved of by such person as His Majesty shall appoint.

4th. For restraining the said Company from possessing

1768. § 65 *cont.*]

themselves of any Lands except for the purposes of erecting Works and Buildings and that the Quantity of Lands in any one place whereon such works and Buildings are to be erected shall not exceed Fifty Acres. [IX. p. 23.]

(1772.) [On the Committee report of 17 June, the charter is approved,
19 June. as follows :—] . . Whereas it hath been represented to Us by the Petition of Henry Bostwick on behalf of himself and the several other persons hereafter named That a Discovery hath been made by them or some of them of several places Bordering upon or about Lake Superior in the Country of the Chippewas and other Indians in America where Copper Ores and other Valuable Metals and Minerals may be procured And that the prosecution of such Discovery by a Stock or Fund to be subscribed by them for that purpose if they should be Incorporated and Countenanced by Our Royal Favour and protection would not only be advantageous to this Country but would greatly tend to the cultivating the right and good understanding which at present subsists between Our Subjects, particularly the said Petitioners and the Indians residing in the said Countrys, and also to the making of further Discoverys and strengthening the present Colonies And also to the promoting of many great and commercial advantages very beneficial to Our Kingdoms and the Manufactures thereof . . We . . Do Ordain Constitute and Declare that The Honourable Sir Edward Walpole Knight of the Bath, The Honourable Charles James Fox, Chace Price Esquire John Campbell Doctor of Laws, Sir Thomas Charles Bunbury Baronet, Thomas Allan of Berners Street in the City of Westminster Esquire, Francis Eyre of Surrey Street in the City of Westminster Esquire, Baker John Littlehales of Gerrard Street in the City of Westminster Esquire, Edmund Proudfoot, Richard Chapman of Cornhill in the City of London Esquire, Edward Sleech Samuel Touchet of the parish of St. Margarets in the City of Westminster Esquires, John Spottiswoode of Northumberland Street in the City of Westminster Esquire, Alexander Baxter, John Cruickshank, John Grier, Robert

Hunter, Martin Kuyck Van Mierop, Joshua Readshaw, John Readshaw, John Townson all of the City of London Merchants, Thomas Chabot of the City of London Refiner, Captain George McDougall of Detroit in America, Henry Bostwick, Alexander Baxter Junior, John Chinn, John Baptist Cadott Alexander Henry all of St. Marys near Lake Superior in America Merchants and all such others as are now or hereafter shall be admitted or become proprietors or sharers in the Joint Stock of the Company and Society hereafter mentioned, shall from Time to Time and for ever hereafter be one Body Corporate and Politic in Fact and Name by the Name of The Governor and Company of Adventurers for Working Mines in about and under Lake Superior in America . . And further that the said Governor and Company and their Successors shall and may for ever hereafter have a Common Seal . . And We do . . Grant unto the said Governor and Company and their Successors all Mines Minerals and Mettals as well Gold and Silver as Copper Tin Lead Quicksilver and all other Minerals and Mettals And also all pearls precious Stones and Ores of what kind soever already Discovered or which the said Governor and Company and their Successors shall Discover [within sixty miles of the Lake, with power to smelt the ores and land on which to erect the necessary buildings, and all other requisite powers and privileges], Reserving to Us Our Heirs and Successors full and free Liberty to Grant the like powers privileges and authoritys or such of them to any other person or persons . . in within or upon any place or places within the Limitts of this our Grant, not being within or nearer than the Space of four Miles of any place or places where the said Company or their Successors or any of them or their Agents Servants or Workmen or any of them shall have Discovered and shall be actually sinking or carrying on any pitt shaft or other work for the Discovering or Raising of any Mines Minerals Mettals or any other of the said Granted premises, or which after so beginning to Dig or sink they shall not have abandoned and given over working for the space of twelve

1768. § 65 *cont.*]

Calendar Months together or upon any Branch or Branches of the Vein or Veins where the said Governor and Company their Agents Servants or Workmen shall be so actually Digging, Sinking and Working, and shall not have abandoned or given over Effectually working for the space of twelve Calendar Months together and without prejudice of any Erections Buildings Works and other Conveniencies then made begun and carrying on and enjoyed by the said Governor and Company . . To be Holden of Us Our Heirs and Successors as of Our Manor of East Greenwich in the County of Kent in free and Common Socage and not in Capite or by Knights Service Rendring therefore to Us Our Heirs and Successors by the hands of Our Receiver or Substitute to be appointed as is hereafter mentioned One tenth part and no more of all and every of such Minerals . . And Further We . . Appoint that for the better Ordering and Managing of the Affairs and Business of the said Company and their Successors there shall be One Governor, One Deputy Governor and Twelve Assistants [Sir Edward Walpole to be Governor, Samuel Touchet Deputy Governor, and Thomas Allan, Alexander Baxter, John Campbell, John Cruickshank, Francis Eyre, Robert Hunter, Baker John Littlehales, Martin Kuyck Van Mierop, Joshua Readshaw, Edward Sleech, John Spottiswoode, and John Townson Assistants.

Provision is made for the annual election of these officers in November, for their taking the oaths, for meetings of the Company (the General Court) in November and March and at other times when called by the Governor, or in his absence, by the Deputy Governor or seven Assistants, and for the appointment of committees both in London and in America.

Powers are granted to] take Ship Transport and Carry away for and towards the plantation and Defence of the said hereby Granted premises such of Our loving Subjects or of the Subjects of any other power or powers in Amity with Us as shall or will willingly accompany them there except such person or persons as are or shall be therein restrained by Us Our Heirs

and Successors or by the Laws of this Kingdom And also to Ship and Transport all and all manner of Goods Chattles Merchandizes and other things whatsoever that are or shall be Useful or necessary for the service of the said Company and may lawfully be Transported thither nevertheless not to be Discharged of payment to Us Our Heirs and Successors of the Duties Customs and Subsidies which are or ought to be paid or payable for the same to make Ordain and Establish all manner of wholesome and reasonable Bye Laws, Rules Ordinances Directions Instructions and Commissions not Contrary to the Laws of this Our Realm of England as well for settling the forms and Ceremonies necessary for the well Ordering and Conducting of the said Company their Servants and Agents, as for naming and stiling all Sorts of officers and for distinguishing and setting forth the several Duties powers and Limits of every such office and place as also for the Disposing and Ordering of the Election [of officers, administering the oath to them and giving them commissions], and for the Imposition of Lawful Fines Mulcts or other punishments upon such of the Companys Agents Servants or others residing there under them in the manner after mentioned who shall be offenders and Delinquents according to the Course of other Corporations within our Kingdom of England.

[Land is to be bought and held from the Indians subject to regulations by the Crown. Officials are to be responsible to the General Court. Shares in the joint stock may be sold after five years but not before.]

And it having been Represented to Us that the said Undertaking or Concern is at present Divided into Twenty eight Shares We Do by these presents further give Grant and Confirm unto the said Governor and Company that they may be at Liberty to Sub-Divide the said Twenty eight Shares into One hundred and Twelve parts or shares and not more for the purpose of making Qualifications for the Governor Deputy Governor and Assistants of the said Company and also for

1768. § 65 *cont.*]

the purpose of voting at any General Court Assembly or meeting touching the affairs relating thereto And that the Governor and Deputy Governor of the said Company for the time being shall not have less than an Original or Twenty Eighth part or Share and each of the said Assistants one fifty sixth part or Share and each Voter at every General Assembly or meeting not less than a One hundred and twelfth part or Share and that every person having or being Intitled to one twenty eighth part shall be intitled to four Votes and so in proportion. [Proxies are not to be admitted.

A Court of Record is to be established with Bostwick, Baxter jun., Cadott, and Chabot as judges in personal actions. John Chinn is to act as sheriff till September, in which month the judges shall each year appoint a Sheriff. Detailed instructions about judicial procedure are given, but] the Jurisdiction of the foresaid Court of Judgment and of the Judges thereof and also of the Court of Oyer and Terminer and Goal Delivery and of the justices of the peace and every other Judicial Capacity hereby Conferred or which shall hereafter be Conferred upon any person or persons whatsoever within the District aforesaid in virtue of these presents shall Extend only to and over the officers agents and Servants actually Employed by or for the said Company and their Successors and such of them who shall have left their Service for a less or shorter Time and space than Six Months without a Consent in writing had and obtained for that purpose from the said Governor and Court of Assistants or from the Committee or one of the said Committees of Correspondence and all and every person and persons whatsoever Inhabiting Dwelling or being within the said District and Territory by the order Direction and appointment of the said Company and their Successors.

[Other regulations concern defaulting shareholders, the Receiver of Crown dues, the four points mentioned in the entry of 10 Jan., 1772, the removing all works 500 hundred yards from any fort or public building, and the annual production

of accounts. If accounts are not produced for seven years, or if they show that 50 tons of copper, tin, lead or other ores have not for three years been got by the Company, this grant may be made void by an Order in Council.]

. . such presents as the said Governor and Company and their Successors shall from Time to Time find necessary to be made to secure the Good Will of the Indian Natives shall be made by them at their Sole Expence without any Claim upon the said Revenue so Reserved to Us. . . and lastly . . these Our Letters Patent shall be firm good and Effectual in the Law to all Intents Constructions and purposes whatsoever according to Our True Intent and meaning herein before Declared and shall be construed Reputed and Adjudged most favourable on the Behalf and for the Benefit of the said Governor and Company . .

[IX. pp. 284, 311, and 23 *unnumbered pages at end of Vol. IX.*]

[66.] [Reference to the Committee of a Board of Trade representation of 7 May on the acts and proceedings of the legislature of New York in their last session] subsequent to the 1st of October 1767, being the day fix't for the Commencement of the Act of Parliament made in the seventh Year of His Majesty's Reign, for restraining the said Legislature from Passing any Acts of Assembly until Provision shall have been made for Furnishing the King's Troops with all the necessaries required by Law. 11 May.
New York.

[p. 176.]

[The Committee refer to the Attorney and Solicitor General the representation, the Act of Parliament, and New York acts of 6 June and 21 Dec., 1767, for furnishing the troops with necessaries etc.] 28 June.

[p. 216.]

[On the Committee report of 9 Aug., the Board of Trade are directed to proceed to consider the other New York acts in the usual manner. 12 Aug.

The Board of Trade represented :—] On the 6th of June 1767, the Legislature of New York, Passed an Act intituled—
“An Act granting unto His Majesty the Sum of Three thousand Pounds for furnishing necessarys for the Troops

1768, § 66 *cont.*]

Quartered within this Colony and for paying Captain Philip Martin the Losses he Sustained in the House of Major James, on the first of November one thousand seven hundred and sixty five."

By this Act it is Provided, that the Treasurer of that Colony shall out of certain Funds therein mentioned pay [to the Commander in Chief 3,000*l.* for furnishing necessaries for the troops within the colony,] and no mention whatever is made of the Persons by whom, or the Mode in which the Service shall be Performed, nor is there any Specification of the Particular Articles to be furnished to the Barracks.

On the same day that this Act was Passed, the General Assembly was Prorogued, between which time and their meeting again in November Your Majesty's Governor received the Act of Parliament and on the 18th of November 1767, he communicated it to the Council and Assembly of New York, who, in their Address in Answer to the Speech made by him upon that occasion expressed their Concern at having fallen under the Displeasure of the British Parliament, and refer to what they had done in the Preceding Session as such a Compliance with the Act of Parliament as did in their Opinion take away any Scruple the Governor could have to concur in such things as the Publick Good of the Colony might require.

In this Opinion Your Majesty's Governor appears to have acquiesced, and accordingly the General Assembly Proceeded to Business in the usual manner, and several Laws were made and Enacted, among which there is one for making a further Provision of fifteen hundred Pounds for furnishing Your Majesty's Troops Quartered in that Colony with necessaries ; and the Sums requisite for Quartering Your Majesty's Troops are directed to be drawn out of the Treasury by warrant of the Governor and Council without any Specification either of the manner in which the Service shall be Performed or of the Articles which are to be furnished.

From these Proceedings it evidently appears that the Legislature of Your Majesty's Province of New York have

considered the Act Passed by him in June 1767 as a full and Compleat Obedience to and Compliance with the Acts of Parliament before recited, and when we consider the Nature and Terms of the Act of Parliament of the Seventh Year of Your Majestys Reign (which in the enacting part is entirely Silent as to the Mode of Providing the Necessaries required by the former Laws) and compare that Act with the Provisions of the Law Passed in New York in 1767, We cannot but be of Opinion that the Object and Intention of it are thereby in effect Answered and Provided for.

But how far in the strict and legal Construction of this Law it is such a Compliance as can give Validity to all Acts and Proceedings there Subsequent to the first of October 1767, is a Question which it is Our Duty humbly to Submit to Your Majesty's Determination, upon such Opinions and Advice of the Law Officers as Your Majesty shall think fit to take thereupon.

[The Committee agreed with the law officers that the act of June 1767 was a sufficient compliance with the Act of Parliament:] the only Object of the Act of Parliament appears to them to have been fully accomplished by the Supply of the Money which is admitted to be competent to the Service, The Mode of applying it, and the Specification of the Articles made no part of the Condition, the Performance of which was to restore the Legislature of the Colony to their former Activity.

[*pp.* 288–91, 309.]

[67.] [Reference to the Committee, and by them on 31 May to the Board of Trade, of] the Memorial of Phineas Lyman Esquire Mayor General of His Majesty's Provincial Forces through the late War in America in behalf of himself and of the Officers and Soldiers of the said Provincial Forces, and in behalf of a Company called Military Adventurers for settling on some of the conquered Lands in America, and also in behalf of four thousand three hundred and twenty who Subscribed under Mr. Samuel Hazard of Philadelphia in 1755, to settle a Colony on the Ohio and have ever since been

11 May.
Virginia.

1768. § 67 *cont.*]

Pursuing their Memorial for that Purpose, and for any other of His Majesty's Colonists who shall hereafter incline to join in the same Design, setting forth, amongst other things that there is a Tract of Land of a very rich Soil in the Western parts of Virginia bounded Westerly by the Ohio Southerly by the great Kanaway Creek, Easterly on the Allegany or Endless Mountains, Northerly on the Western parts of Pensilvania which Tract of Land will be sufficient to form a very good Settlement and Government separte by itself; And humbly Praying that His Majesty will be graciously pleased to Grant to His Provincial Forces and others the Petitioners Tracts of Land in the said parts in the proportions mentioned in said Petition.

[*pp.* 176, 192.]

(1769.) [Committee.] Report of the Board of Trade . . Read and
21 June. ordered to lye by. [VII. *p.* 64.]

11 May. [68.] [Reference to the Committee, and by them on
Carolina. 31 May to the Board of Trade, of the petition of Daniel Coxe of New Jersey, on behalf of himself and other descendants of Daniel Coxe, setting forth the grant of Carolana by Charles I to Sir Robert Heath, and its transfer in 1696 to Dr. Daniel Coxe,] And humbly praying that his Majesty's Royal will may be known whether his Majesty will accept the Surrender of the said Estate to the Crown for such Compensation as to His Majesty shall seem meet, or that the Family should Proceed to the Settlement and Improvement of these Territories and the Exercise of the Powers granted to Sir Robert Heath, and in that Case that Orders may be given to all the Governors of the Provinces within the Limits of their Patent forbidding them to issue any further Grants to the Detriment of the Petitioner and his Associates, and that his Majesty will be graciously Pleased to confirm to them by Letters Patent the Royal Grant made to Sir Robert Heath excepting thereout, what is held by any of his Majesty's Subjects by Posterior Grants of the Crown or that his Majesty will be pleased to grant such other Relief as their Title Losses and

§ 68 *cont.*]

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Disappointments may be thought in his Majesty's great Wisdom and Grace to require. [pp. 177, 193.]

[Committee. Board of Trade report read, Mr. Coxe called in, and further consideration postponed.] [p. 345.] 4 Oct.

[The Committee order the petitioner to lay the papers on which his claim is founded before the Attorney General, who is to report what mode and method is proper to be taken whereby the petitioner and his associates shall make full and absolute cession and surrender to the Crown of all right and title to the province of Carolana.] [p. 402.] 22 Dec.

[On considering the Attorney General's report, the Committee] being of opinion that the said Daniel Coxe and his Associates should be recommended to His Majesty for a Grant of one hundred thousand Acres of Land in the Province of New York, free from Quit Rents for Ten Years, upon his first executing a Grant Release and Surrender to His Majesty of the said Territory and Islands in the Manner proposed by the said Report, [direct Coxe to submit the draft of such an instrument to the Attorney General, who is to report where it should be enrolled and deposited.] [p. 470.] (1769.) 9 Mar.

[Order in accordance with the Committee report of 10 April, which quotes the Board of Trade report—] That although the pretended Title of the Petitioner and his Associates, would as they conceive be adjudged to be void and Direlict the same having never been revived during so long a period of time as has elapsed since the last proceedings had in this matter, notwithstanding the many Acts of Right and Possession which the Crown has Exercised with respect to the Provinces comprized within the Limits of this Extensive Patent ; nevertheless as the Petitioner has humbly offered to relinquish all claim or pretension to this patent upon such Terms and Considerations as to your Majesty shall seem proper, [the Board of Trade proposed that 40,000 acres in New York should be granted in return for such surrender. On considering the report of the Attorney General and Coxe's petition that the grant be extended to 100,000 acres, the Committee (1769.) 14 April.

1768. § 68 *cont.*]

recommended that this larger amount be granted free of quitrent for 10 years and located in tracts of not less than 20,000 acres each in districts to be chosen by the petitioner and his associates, William Coxe, merchant of Philadelphia, Rebecca Coxe of Trenton, New Jersey, spinster, and John Tabor Kemp, Attorney General of New York, and Grace Coxe, his wife:—provided that they first execute a grant, release and surrender of Carolana in terms given at full length in the Register. Special provision is made for securing Mrs. Kemp's consent by separate examination.

In the instrument Heath's grant of Carolana is described as comprising] All that River of Saint Mattheo on the South part And all that River of Passo Magno on the North part and all the Lands between the said Rivers to the Ocean on the East and West part to the Continent And all those Islands of Veanis and Bahama and all other Islands there or near and lying Southward from the Continent in America which are all between the thirty first and thirty sixth Degrees of North Latitude inclusive.

[The preamble to the instrument recited that Dr. Daniel Coxe] in his life time did at a very large expence and almost to the ruin of his Family and fortune exert his endeavours to carry the intention of the said Letters Patent into execution by attempts of Colonization and Settlement All which failed not through his own default but unavoidable and insurmountable obstacles. [P.R.] [pp. 529–33, 544.]

(1774.) [Reference to the Committee of Coxe's petition for an order
8 June. to the Governor of West Florida for taking up and locating any quantity of land not less than 53,000 acres.] [XI. p. 125.]

11 May. [69.] [Reference to the Committee of the petition of Eleazer
Quebec. Levy, merchant, for a day for hearing his appeal from a judgment of the Lieut.-Governor and Council of Quebec, 18 May, 1767, reversing a judgment of the Supreme Court, 24 Aug., 1766, in his action against Ralph Burton, Daniel Disney, Daniel Robertson and William Jones, for forcibly

§ 69 *cont.*]

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entering his house in Montreal and carrying away goods to the value of 1,000*l.* Quebec currency.] [p. 177.]

[On Burton's death the Committee revive the appeal by making his sole executor, Robert Burton, a party.] (1769.) 22 Dec.

[VII. p. 183.]

[On the Committee report of 20 July, the judgment of 1767 is reversed and that of 1766 affirmed. The petitioner, when acting at Montreal as agent for the bankrupt estate of Thomas Wilson, refused to give preference to a demand for payment by Daniel Robertson, a lieutenant in the Army. Robertson applied to the Military Council, and without notice to Levy obtained a decree on 20 Oct., 1763, for payment in preference to every other debt. Although Levy did not yet possess any effects belonging to Wilson, Lieut.-Governor Burton ordered Daniel Disney, the town major, to cause his goods to be sold for payment, and this was accordingly done by William Jones, the provost marshal. Burton and the other officers pleaded that they were executing a decree of the Military Court under the military government then existing in the province. The verdict of 1766 awarding 500*l. stg.* and costs was given by a jury on a trial before Chief Justice Gregory: this was reversed in 1767 on a hearing by the Lieut.-Governor and Council on a writ of error.] (1771.) 31 July. [VIII. pp. 349-53, 364.]

[Reference to the Committee of Levy's complaint that Chief Justice Hey has not carried into execution the Order of 31 July, 1771, and has allowed the destruction of a recognisance entered into by Colin Drummond and Henry Kneller on behalf of the respondents.] (1774.) 19 Oct. [XI. p. 228.]

[70.] [Reference to the Committee, and by them on 28 June to the Board of Trade, of an extract of a letter of 16 Jan. from Governor Moore of New York to Lord Shelburne, relative to the settling the boundary between that province and Quebec.] 13 June. Quebec and New York. [pp. 204, 218.]

[Order in accordance with the Committee report of 9 Aug., agreeing with the Board of Trade, who reported,] That it having been mutually agreed upon between Sir Henry Moore 12 Aug.

1768. § 70 *cont.*]

and the Commander in Chief of the Province of Quebec, at a meeting for that Purpose appointed, that the Line of Division between these provinces should be fixed at the 45th Degree of North Latitude, Conformable to the Limits laid down in Your Majesty's Proclamation of October 1763, and it having been ascertained and Determined by proper Observations where the said Line would pass . . . these Proceedings above stated should be confirmed by Your Majestys Order in Council directing that the said Line of Division should be run out and continued as far as each Province respectively extends ; But they further Recommended a Proviso to be Inserted in the said Order that nothing therein contained should extend to affect the Properties of Your Majesty's New Subjects having Possessions under Proper Titles on those Parts of the Lands on the South side of this Line, the Dominion of which was not disputed on the part of the Crown of Great Britain ; and also a Proviso, that such Determination shall not operate wholly to Deprive Your Majestys said New Subjects of such Concessions on the South side of the said Line, on which they may have made Actual Settlement and Improvement, although the Lands may have been disputed by the Crown of Great Britain ; but that such Possessors shall be entitled to so much of the said Concessions as shall be Proportioned to their Improvements at the rate of Fifty Acres for every three Acres of Improvement ; Provided they take out Grants for the same under the Seal of the Province of New York, Subject to the usual Quit Rents, and Provided also, that the Grant to no one Person shall exceed twenty thousand Acres.

[*pp.* 287, 308.]

(1769.) [Reference to the Committee, and by them on 9 March to
20 Feb. the Board of Trade, of the] petition of Major General James Murray, setting forth That in the year 1764 he Purchased from Monsieur Francois ffoucault a ffief and Seigniory belonging to him situated upon Lake Champlain in Canada extending in front from the Seigniory belonging to Monsieur de Noyan to the point de Algotin and by Different Depths back to the

§ 70 *cont.*]

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Bay of Missiskony ; That in Consequence of the late Regulation for settling the boundary between the provinces of Quebec and New York the Line which Separates the two Provinces runs thro' the said Seigniory whereby the greatest part now falls within the province of New York and that Sir Henry Moore His Majesty's Governor of that province having Signified his Intention of making Grants of the Lands which by the Boundary now established are annexed to his Government to such Persons as may be intitled to the same ; The Petitioner therefore prays that the whole of His Right to the said Seigniory may be preserved and Confirmed to him in such effectual manner as to His Majesty shall seem proper.

[*pp.* 457, 472-3.]

[Reference to the Committee, and by them on 21 Dec. to the Board of Trade, of an extract of a letter from Governor Moore of New York, to Lord Hillsborough, transmitting a bill passed in April, 1769, to confirm estates claimed by or under aliens.] (1769.)
4 Aug.

[*VII. pp.* 94, 178.]

[On the Committee report of 20 Nov. the Council approve an additional instruction, which was proposed by the Board of Trade in their report of 9 May, and of which a draft was ordered by the Committee on 21 June—(P.R.) The Board of Trade reported] That whether the Lands purchased and possessed by Major General Murray were or were not originally included within the undisputed Territory of France, and of consequence how far the same are or are not liable to be disposed of, and his Rights therein superseded by Grants under the Seal of the Province of New York is a Question the said Lords Commissioners shall not take upon themselves to decide ; but as the petitioner sets forth that he purchased the above Lands at a considerable price, That his Title Deeds were conveyed to him according to due Form of Law and that all proper Rules have been observed for registering and proving his Property, it appears to the said Lords Commissioners, that, under these Circumstances, it would at all events be matter of Hardship, if Sir Henry Moore (who from

(1769.)
29 Nov.

1768. § 70 *cont.*]

the different and indeterminate Descriptions that have been given of the Original Limits of New York, may possibly consider such part of this Tract as falls within that province now open to Settlement) should from thence be induced to grant away all or any part thereof, whereby the petitioner would find himself Involved in Difficulties and Inconveniencies and reduced to the necessity either of giving way to the Counter pretensions of Claimants under new Grants, or of proving and exhibiting a prior Title by a regular process at Law. That to obviate therefore these Inconveniencies, not only in the instance of Major General Murray (whose Merits in the publick Service intitle him to every equitable Indulgence) but for the purpose likewise of relieving others under the like predicament (in particular Lieutenant Colonel Gabriel Christie, and Captain Robert Stobo) [the Governor of New York should be instructed] in no Case to make any Grants of Lands to the Northward of Crown point until the petitions and proposals for grants of any part or parts of such Lands shall have been Transmitted and laid before His Majesty, and his Majesty's approbation thereof shall have been signified to the said Governor.

[VII. *pp.* 60-2, 136-8, 150.]

(1772.) [Reference to the Committee, and by them on 17 June to
22 April. the Board of Trade, of several papers from Lord Hillsborough's office, some from the Governor of New York relating to difficulties about titles to lands derived under the French government of Canada particularly upon Lake Champlain and Connecticut river, others from the French Ambassador about Mr. Hocquart's claim to lands on Lake Champlain and at the Gross Mecatinat.]

[*pp.* 176-7, 302-3.]

(1772.) [Reference to the Committee, and by them on 17 June to
12 June. the Board of Trade, of the petition of Michel Chartier de Lotbinière, Chevalier, Seigneur d'Alainville d'Hocquart, etc., complaining of being deprived of the lordships of Alainville and Hocquart at the head of Lake Champlain—the best and richest land in New York, to which they were annexed

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§ 70 *cont.*]

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18 months after the treaty of peace—and praying to be reinstated and reimbursed for his losses and expences.]

[*pp.* 280, 303.]

[Reference to the Committee of the memorial of Janet, (1775.)
wife of David Richardson of Panton Square, and Margaret, 16 June.
wife of Robert Lockhead, writer in Glasgow, sisters and heirs
of Capt. Stobo of the 15th, representing that, amongst other
properties of his Majesty's new Canadian subjects, Stobo's
purchase of the Seignory Aux Loutres on Lake Champlain and
Otter Creek had been infringed and mutilated by grants made
after the Treaty by the precipitate inadvertency of the
Lieut.-Governor of New York.] [XII. *p.* 11.]

[The Committee agree with the opinion of the Board of (1775.)
Trade (*infra*), but deeming Mr. de Lotbinière deserving of 21 Dec.
compensation elsewhere, refer it back to the Board of Trade
to determine what lands should be granted to him.]

[XII. *pp.* 262-4.]

[Order in accordance with the Committee report of 4 Mar., (1776.)
which quotes the Board of Trade report of 25 May, 1775 :—] 15 Mar.
That the Petition of Monsr. de Lotbiniere refers to two Tracts
of Land under very different Circumstances—With regard to
that Tract which is claimed by the Petitioner under a Title
derived from a purchase made by him of Monsr. d'Hocquart
in April 1763, after the Conclusion of the Peace with France
it consists of two Seigneuries, which amongst several other
Seigneuries were granted by the most Christian King or under
his Authority by the Governors of Canada upon Lake Cham-
plain after France had in Violation of the Rights of the Crown
of Great Britain usurped the possession of that Lake and the
Circumjacent Country, and forcibly maintained that possession
by Erecting in the Year 1731, a Fortress at Crown Point—That
it appears by the most Authentick Evidence upon the Books
of the Plantation Office that Lake Champlain and the
Circumjacent Country were at all times claimed by the five
Nations of Indians, as part of their possessions, and that by
Agreement with them the Land on both sides that Lake to

1768. § 70 *cont.*]

a very great Extent was granted by the Governors of New York to British Subjects long before any possession appears to have been taken by the Crown of France, which having by the Express Stipulation of the fifteenth Article of the Treaty of Utrecht, acknowledged the Sovereignty of the Crown of Great Britain over the five Nations, had upon every principle of Justice and Equity precluded itself from any Claim to the possession of any part of their Territory—That upon these Grounds it was, that Erecting a Fort at Crown Point in 1731, was then and ever after complained of as an inroad upon the British Territories, and a Violation of Our Rights—[and further, as] the Stipulations of the Treaty of Paris by which Canadian Property is reserved, do both in the Letter and Spirit of them refer only to the property and possession of the Canadians in Canada of which the Country upon Lake Champlain was no part, they cannot recommend the advising Your Majesty to comply with what is requested by the petitioner—That with regard to the other Tract claimed by the Petitioner under the Description of the Concession of d'Alainville, when the said Lords Commissioners consider it's Situation to the South of Crown Point, That it is stated to have been granted to the Petitioner at a Time when Your Majesty's Armies had penetrated into and Occasionally possessed themselves of the Country, and that independent of these Objections, there is no Evidence of the Grants having been ratified by the Crown of France, or registred within the Colony ; They cannot recommend the advising Your Majesty to give any Countenance thereto ; But that the petitioner [be left to establish his title by due course of law.

The supplementary Board of Trade report of 13 Feb., 1776, stated that they could not] see any such foundation in his Pretensions to Alainville as can warrant the advising any Compensation whatever to be made to him for his interest in that Lordship, so that whatever they have to recommend will be grounded Solely on his Claim to the Lordship of Hocquart and the Consideration of the Losses and Expences in which

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1768.

he has been involved by the proceedings of the Governors of New York.

The Lordship of Hocquart is described as lying on the East side of Lake Champlain, extending four Leagues in Front, and five Leagues in Depth, and may be computed to contain, about one hundred and fifteen thousand acres of Land ; That by the proceedings of the Council of New York on the 2nd of September 1771, it appears that almost the whole of this Lordship was granted away under the Seal of New York principally to officers and Soldiers according to Your Majesty's proclamation of the 7th of October 1763.

That as the greatest part thereof and probably the best in quality of those Lands has been thus granted away they think that the most Equitable way of making Compensation to Mr. Lotbiniere will be for Your Majesty to direct the Governor of Quebec to make a new Grant to Mr. Lotbiniere of other Lands within that Colony equivalent as nearly as may be in point of Extent, and in the advantages of Soil and Scituation to that of Hocquart to be held upon the like Terms and Conditions as Lands are now held by Your Majesty's other Canadian Subjects, provided that upon his being put in Possession of this Grant he shall cause a full and ample Surrender to be made of all his Right and Title to the aforesaid Lordship of Hocquart so that the present Occupants . . may be quieted and Secured in their possessions.

[The Committee agreed with the recommendation, but proposed that the grant be enlarged to 150,000 acres, as the land may probably be in a state of uncultivation.]

[XII. *pp.* 383-7, 457.]

[71.] [Reference to the Committee, and by them on 13 June. 28 June to the Board of Trade, of two memorials addressed by Lord William Campbell, Governor of Nova Scotia, to Lord Hillsborough, setting forth] that the Rules and Orders he is enjoined to observe by his Instructions, in making out Grants of Land, are of such a Tenour, as to have totally discouraged People from taking up Lands in the said Province—

Nova Scotia
and
Cape Breton
Island.

1768. § 71 *cont.*]

That many Persons obtained Votes of Council for Lotts of Lands in several Townships, and sepearate Tracts, during the Time of Mr. Lawrences Government long before the late alterations were made in the Conditions of Cultivation and Settlement and under Sanction thereof, did Actually settle thereon, and have continued improving the same till now ; but from Various causes have not yet obtained Grants for their respective Lotts—That there are a Considerable number of people resident at Louisburgh in the Island of Cape Breton who are obliged to pay the duties of Impost and Excise established in Nova Scotia which they conceive a great Hardship as they cannot, in consequence of injunctions laid upon the Memorialist, be indulged with any Land or houses in the said Island and are therefore without real property.

[The Governor therefore proposed] That his Instructions for granting Lands in general should be made conformable to a Scheme laid down in his said Memorials, That he should receive a sepearate Instruction to Grant these people their Lands, who are Actually resident on, and improving the same, as aforesaid, either on the Terms they first were intended to be granted, or such others as may be thought proper, And that in Order to revive the large Town of Louisburgh which is now going to Ruin, he should be impowered to grant away the same, together with as much Land at least as will be, to every Person a Town Lott, under certain Fines and reserved Rents to His Majesty. [pp. 204, 218.]

16 Dec. [Reference to the Committee, and by them on 22 Dec. to the Board of Trade, of a letter of 26 Sept. from the Lieut.-Governor of Nova Scotia to Lord Hillsborough,] containing his opinion of the best method of finally disposing of the Houses at Louisbourg and the Land in the Neighbourhood thereof. [pp. 389, 404.]

29 June. [72.] [A Massachusetts act of June, 1767—for enabling
Massachu- Abigail Conqueret, of Lancaster, Worcester co., to bring and
setts Bay. defend actions against Francis Morris and Thomas Legget, of Leominster, Worcester co.—is disallowed, on the Committee

report of 28 June, agreeing with a Board of Trade representation of 18 Feb., referred to them on 26 Feb., showing that besides the want of a suspending clause, the following objections have been made by Sir M. Lamb :—] That this Act is of a very new and extraordinary kind, being to enable a married woman to prosecute Actions, and making her Liable to be prosecuted in the same manner as if she was a Female Sole, her Husband having left her some Years and gone to Foreign Parts, and no Person being empowered in the province to bring any Actions in his behalf : That this relates to a private concern between the Parties, and is a Matter in which (as he thinks) the Legislature should not Interfere ; That the Woman is in the same Condition as all other Married Women are, and must submit to such Remedies as the Law will admit of under the Circumstances of her Case ; That, was the Legislature to make a Law for every Particular Case, That may happen the Inconveniences would be very great ; And that in this Case there is something extraordinary, for by this Act the Defendant, in an Action brought by the Woman, may have his Costs levied on the Goods and Chattles of her Husband, who is no ways Privy to the Action brought and yet may be liable to suffer by it. [pp. 89, 210, 223.]

[73.] [Reference to the Committee of the petition of John Millward, James Lewis, and Thomas Penoyre, executors and trustees named in the will of John Gardner, for a day for hearing their appeal from a decree of the Jamaica Chancery, 6 July, 1767, in a case arising out of an annuity in lieu of dower payable from Gardner's estate to Grace, wife of John Lindsay.] 29 June, Jamaica. [pp. 225, 244.]

[On the Committee report of 15 Mar., the decree is affirmed, (1769.) and directions given for carrying into execution the agreement 14 April. for payment of the annuity. The Lindsays are to allow their names to be made use of for recovering her dower out of the real estate, on being indemnified.] [pp. 501-2, 538.]

[74.] [Order in accordance with the following Treasury 6 July. representation of 2 July :—] Whereas by an Act Passed in Plantations.

1768. § 74 *cont.*]

the last Session of the last Parliament intituled an Act for the more easy and effectual Recovery of the Penalties and forfeitures inflicted by the Acts of Parliament relating to the Trade or Revenues of the British Colonies and Plantations in America, it is enacted that from and after the first day of September 1768, all forfeitures and Penalties inflicted by any Act or Acts of Parliament relating to the Trade or Revenues of the British Colonies or Plantations in America may be prosecuted, sued for and recovered in any Court of Vice Admiralty appointed or to be appointed, and which shall have Jurisdiction within the Colony Plantation or place where the Cause of such Prosecution shall have arisen, and that in all Cases where any prosecution or Suit shall be Commenced and Determined for any Penalty or forfeiture inflicted by any such Act or Acts of Parliament in any Court of Admiralty in the respective Colony or plantation where the offence shall be Committed, either party who shall think himself Aggrieved by such Determination, may appeal from such determination to any Court of Vice Admiralty appointed or to be Appointed, and which shall have Jurisdiction within such Colony Plantation or Place ; And Whereas it will greatly Contribute to the due Collection of your Majesty's Revenue ; and to the Prevention and Punishment of Frauds committed against the same, and will likewise tend to the more Speedy and effectual Administration of Justice within the said Colonies and Plantations, and be agreeable to the Intention of the Legislature in passing the said Act that a sufficient Number of such Courts of Vice Admiralty be constituted and established at proper and convenient places within the said Colonies and Plantations ; We humbly Submit to Your Majesty whether it may not be expedient and necessary for the Purposes above-mentioned to revoke the Commission appointing one only Court of Vice Admiralty over all America, and in lieu thereof, to establish four other Courts of Vice Admiralty the first at Halifax in the province of Nova Scotia ; the Second at Boston in the province of New England ; the third at Philadelphia in

the Colony of Pennsylvania, and the fourth at Charles Town in the Colony of South Carolina : the said Courts to have Jurisdiction within certain districts to be Allotted to them respectively by Your Majesty, [a plan of which districts is submitted], each of the Judges of the said Courts respectively to be allowed such Salary as Your Majesty shall think proper, to be paid, in the first Place, out of Your Majestys Moiety of the Money arising from any Penalties and Forfeitures to be levied within the said Colonies and Plantations and if this fund shall not be sufficient, out of the Money arising from the Sale of Old Naval Stores ; and the said Judges to be expressly enjoined in their Commissions, upon pain of losing their offices, not to take any Fee, or gratuity whatsoever, for any Judgment given, or Business done, in their respective Courts.

[Plan of the districts. (1) HALIFAX : original jurisdiction in all cases (a) arising within the limits of Quebec, Newfoundland and Nova Scotia, and within three leagues of the shores thereof ; (b) arising from the capture of ships to the northward of 43° 15' N. or of ships whose port of destination is within the above colonies.

(2) BOSTON : (a) New Hampshire, Massachusetts Bay, Rhode Island and Connecticut ; (b) between 40° 30' N. and 44° 30' N.

(3) PHILADELPHIA : (a) New York, New Jersey, Pennsylvania, Delaware, Maryland, and Virginia ; (b) between 41° N. and 36° 15' N.

(4) CHARLESTON : (a) N. and S. Carolina, Georgia, E. and W. Florida ; (b) to the southward of 36° 45' N.]

Each court to have appellate jurisdiction from Vice Admiralty Courts in these colonies. [pp. 228-232.]

[On an Admiralty memorial of 25 Aug., the judges' salary is fixed at 600*l.* each.] 7 Sept. [p. 331.]

[75.] [Reference to the Committee, and by them on 10 Oct. to the Board of Trade, of the petition of George Milner, merchant of Poole, for relief with respect to the losses he has sustained by being divested of his property in Newfoundland.] 15 July. Newfoundland
[pp. 252, 350.]

1768. § 75 *cont.*]

(1772.) [The petition is dismissed, on the Committee report of
19 June. 17 June, agreeing with the Board of Trade, who reported]
That the Fishing Post to which the Petitioner sets up an
exclusive Right, and of which he states himself to have been
dispossessed, appears to be situated upon that part of the
Coast of Newfoundland lying between Bonavista and Point
Riche; That by an additional Instruction given by your
Majesty to the Governor of Newfoundland in 1765, he is
directed upon no pretence whatever to allow any exclusive
possession to be taken as private property of any Lands
Rivers or Islands within the said District, between Bonavista
and Point Riche; And the said Lords Commissioners conceive
that this Instruction, so essential to the preservation of the
public Peace, and to the securing to the Subjects of France, the
Rights of a concurrent Fishery allowed them by Treaty, was
given upon the clearest Evidence, not only that the Governors
of Newfoundland had no Authority whatever to make Grants
of any part of the Island of Newfoundland; but also upon
the opinion of your Majesty's Servants in the Law that the
Act of King William referred to by the petitioner did not
extend to that part of the Island of Newfoundland, which was
not in the possession of the Crown of Great Britain, at the
time the Act was passed. [IX. pp. 299, 320.]

5 Aug. [76.] [On Board of Trade representations of 3 Aug.,
Virginia. a commission is approved for Norborne, Baron de Botetourt,
to be Governor of Virginia—P.R.— and his instructions are
referred to the Committee.] [pp. 258–9.]

12 Aug. [The instructions are approved (P.R.), on the Committee
report of 9 Aug., showing that articles relating to the late
office of Surveyor General of the Customs, and to the
Governor's conduct with regard to the Indians, which is now
regulated by the Proclamation of 7 Oct., 1763, had been
omitted, and that an additional instruction of 1766 was
included exempting supplies for the Navy from duties on
liquors, etc.]

[The Board of Trade had also omitted the names of the

§ 76 *cont.*]

1768.

Council in the first article,] and the Governor is by the second Article referred to such other or further Instructions as he may receive from Your Majesty relative to the said Council in which Alteration it is their Intention humbly to Submit to Your Majesty to give such Directions in respect to the Persons, who are to Compose Your Majesty's Council for Virginia, as your Majesty shall Judge fit not thinking themselves Warranted to propose to Your Majesty a re appointment of the same Persons who do at present Constitute the said Council, it appearing by the papers communicated to them by Your Majesty's Command that the Greatest part of them if not all had Concurred with the House of Burgesses in certain Claims and Pretensions set up by them in respect of some late Acts of Parliament which Claims and Pretensions as they do contain a direct denial of the Legislative Authority of the Parliament of Great Britain in certain Cases, are, they humbly Conceive, inconsistent with the principles of the British Constitution, and Subversive of that Dependence which the Colonies ought to have on the Legislative authority of Great Britain.

[The Committee amended this article by omitting the words, "to be constituted" after "Council," and after "said Dominion," the words "in such manner and form and to be composed of such persons as we shall think fit to direct and appoint by such further or other Instructions as you may receive from us under our Signet and Sign Manual or by Our Order in Our Privy Council."

[On 19 Aug. Lord Botetourt took the oaths.]

[*pp.* 268-70, 297, 320.]

[77.] [Reference to the Committee, and by them on 22 Dec. to the Treasury, of a Board of Trade representation of 4 Aug.] Proposing, that an Annual Income accruing from the receipt of His Majesty's Quit rents in the Colony of New Hampshire for a period of ten Years now coming may be applied in Cutting Clearing and rendring Passable some principal Roads through the Interior part of that Province and that some small

5 Aug.
New
Hampshire.

1768. § 77 *cont.*]

rewards be granted thereout for the encouragement of Agriculture. [pp. 264, 405.]

5 Aug. [78.] [Reference to the Committee of the petition of Charles
Jamaica. Kelsal, planter of St. Catherine parish, Middlesex co., Jamaica, that the Council dismiss for non-prosecution the appeal of William Morris from a Chancery decree of 7 July, 1767, in a case arising from a bill filed by Stephen Lost against Kelsal, Morris and Morris's wife Mary, touching the discharge of sundry bonds with interest thereon.]

[p. 265.]

(1769.) [On the Committee report of 22 Dec. the appeal is dismissed

11 Jan. with 20*l.* *stg.* costs for non-prosecution.] [pp. 399, 422.]

12 Aug. [79.] [On the Committee report of 9 Aug., an additional
Nova Scotia. instruction is approved for the Governor of Nova Scotia to require the Assembly to repeal two acts of Aug., 1767, explaining and amending the several laws relating to the duties of impost and excise respectively on beer, rum and other spirituous liquors, and to pass others establishing the duties upon the same footing as before the acts of Aug., 1767. On 4 May a Board of Trade representation of 29 April had been referred to the Committee, who on 28 June directed the preparation of the above instruction, finding] that these laws appear to be calculated for the encouragement of a Commodity manufactured in, and imported from another Colony, in prejudice to a Domestick Manufacture long established in the province of Nova Scotia undertaken at a great expence, and conducted with Answerable Success, That this is a measure clearly contradictory to all true policy, and which cannot but operate to the disadvantage of that Improving Colony and to the discouragement of that Commerce which it carries on with the West India Islands ; that His Majesty's Revenue is likely to be prejudiced by the Alteration these Acts propose to make in the mode of Collecting the Duties, and . . the Duties of Impost are much more Subject to fraud and evasion than the Duties of Excise. [pp. 161, 215, 271, 298.]

1768.

12 Aug.

New
Jersey.

[80.] [A New Jersey act of June, 1767,—appointing commissioners for supplying the several barracks erected in the colony of New Jersey with furniture and other necessaries for accomodating the King's troops in or marching through the same, for supplying deficiencies and defraying other incidental charges—is disallowed, and the Governor admonished, on the Committee report of 9 Aug., agreeing with the following Board of Trade representation of 10 June, referred to them on 29 June :—] by an Act of Parliament Passed in the fifth Year of Your Majesty's Reign “for amending the Mutiny Act, and for rendring it more effectual in Your Majesty's Dominions in America,” Various Regulations and Directions are laid down, relative to the Quartering Your Majesty's Troops in the Colonies, The Mode Pointed out in which that Service is to be provided for, and the Articles enumerated of which those Supplies are to Consist.—In the provincial Law now Submitted to Your Majesty, the Nomination of the Commissioners . . is made the Act of the general Legislature deviating thereby from the Directions of the Act of Parliament, which empowers the Governor and Council to authorize and appoint those Commissioners, and upon neglect or refusal of such Governor and Council vests that Nomination and Appointment in any two or more Justices of the Peace residing in or near such place where Your Majesty's Troops shall be Quartered.

Another Provision wherein this Law appears to Us not Strictly Conformable to the Act of Parliament is with respect to the articles wherewith it is Directed that Your Majesty's Troops shall be Supplied ; These are Particularly enumerated in the Act of Parliament, and are as follow Vizt. Fire Candles Vinegar and Salt, Bedding, Utensils for Dressing their Victuals and Small Beer or Cyder (not exceeding five Pints) or half a pint of Rum mixed with a Quart of Water to each Man. The Provincial Law does not recite the above Particulars as enumerated in the Act of Parliament, but directs only that Your Majesty's Troops shall be provided with fire wood

1768. § 80 *cont.*]

Bedding Blanketts and other necessities as have been heretofore usually furnished to the several Barracks in this Colony, and by a sepearte Clause further Enacts that they shall be Provided with Vinegar and Small Beer, the latter of which is Limited to a less Quantity for each Man per Day than is prescribed by the Act of Parliament.

There is another Clause likewise which Provides that the Monies thereby given shall not be applied to Purchasing necessities for more than one Regiment in the Colony at any one time except during the time of relieving the Regiment Quartered therein.

[The Board of Trade, in recommending the disallowance of the act, referred to a similar New Jersey act of 1766, also disallowed.] [pp. 224, 274-6, 300-1.]

12 Aug.
West
Florida.

[81.] [Orders in accordance with a Committee report of 9 Aug., agreeing with a Board of Trade representation of 29 July, referred to them on 5 Aug. Of 15 West Florida acts of Jan., 1767, observations were required on 3 only:—]

1st. An Act appointing the Number of the Assembly, and regulating Elections.

[This is the first act of the Assembly summoned by the Governor's proclamation of 18 Aug., 1766, but must be disallowed as an infringement of his Majesty's rights and contrary to the Governor's instructions—*Cf. p. 40.*]

2d. An Act for granting certain Duties to His Majesty.

By this Law various Duties and Taxes are Imposed, the whole Produce of which is, with a few exceptions, appropriated as a Fund for raising an Allowance to the Speaker and Members of the Assembly, and which Allowance is, by the above Bill of Election recommended for repeal, settled at the Rate of Ten Shillings Sterling per Day during their Attendance to every member, and fifteen shillings to the Speaker. This Mode of Application, so flagrantly partial and Oppressive, renders any observations upon the Nature of the Duties themselves Superfluous; and we would humbly submit it to Your

Majesty, whether it would not be expedient, in as much as this Law is Actual, and has already had its Effect, to Direct such Measures to be Pursued, as shall Prevent the Passing any Act of the like improper Nature for the future. [The Governor was directed not to assent to any such act for the future.]

3d. An Act to encourage Foreigners to come into, and Settle in this Province.

[This act should be repealed, as it lacks a suspending clause and] the encouragements it holds forth to all Persons Professing the Roman Catholick Religion, who at the time of Passing this Act were Inhabitants of this Province, or thereafter might become so, are general, and not Confined to Your Majesty's new Subjects. [pp. 262, 276-8, 301-3.]

[82.] [Five New Hampshire acts are disallowed and one confirmed, in accordance with the Committee report of 9 Aug. on a Board of Trade representation of 3 Aug., referred to them on 5 Aug.; of 82 acts of 1762-6, observations were offered only on these six :—] 12 Aug. New Hampshire.

1st. An Act for granting to Edward Emerson the Sole Privilege of erecting necessary Works for carrying on the Manufacture of Potash in the Town of Portsmouth. [1765.]

[To be disallowed,] as it tends to establish a Monopoly in an Article of General Use, to the production of which in the American Colonies encouragement has been given by this Kingdom. The Sole Privilege likewise, which it Grants to Edward Emerson, is an Improper Regulation for an Act of General Assembly, and should be Conferred only by Your Majesty's Letters Patent for that Purpose.

2d. An Act for ascertaining the Value of Coined Silver and Gold and English Half pence and Farthings and the Rates at which they shall pass for the future in this Province. [1765.]

[To be disallowed.] The ascertaining and fixing the value of the Coin of this Kingdom and the rates at which the same shall pass in the several Colonies agreeably to the Powers

1768. § 82 *cont.*]

vested in Your Majesty by Your Royal Prerogative, ought as we conceive to be done by Your Majesty's Proclamation, and not as in the present Case, by act of General Assembly. This Law is likewise unaccompanied with a Clause of Suspension, and inasmuch as it fixes the Value of several Spanish and Portuguese Coins current and Passing in that Province it must so far be Considered as contrary to the Act of Parliament of the 6th of Queen Anne for ascertaining the rates of Foreign Coins in all the Plantations.

3d. An Act to restrain and Prevent the taking excessive Usury. [May, 1765.]

[To be disallowed. Sir M. Lamb reported that it] fixes the Interest of Money in this Province at six per Cent from and after the 1st day of August next ensuing ; and that it contains a Clause, which reduces the Interest of all Monies owing at a higher Rate at the time of Passing the Act to the Rate of 6 per Cent. from the end of seven Months after the Passing thereof, whether the parties consent thereto or not ; This he thinks is an unreasonable Clause . . and was never done in any of the Acts of Parliament for the reduction of Interest.

4th. An Act to make void a certain fraudulent Deed therein mentioned to Declare the Record thereof to be void and that neither the said Deed nor any Copy thereof may be given in Evidence in any Case whatever. [1766.]

[To be disallowed. Sir M. Lamb reported that it concerned the employment of fraudulent deeds to the prejudice of the purchaser of an estate by private bargain ; and that the matter was cognisable in the courts of law and unfit for the interference of the legislature.]

5th. An Act for a more easy and expeditious Method of making Partition of Land or other Real Estate held in Common. [1766.]

[Confirmed—against the opinion of Sir M. Lamb, who reported :—] That this Act gives a General Power to the Judge of Probate at all times to make Partition of Lands which he apprehends to be extended too far, and that such Partitions

should continue to be made only upon Particular applications when necessary and as the Circumstances of the Case require, of which the Legislature will at such times be the proper Judges, and how far it will be fit to Consent thereto, That this Act has a Suspending Clause, and in his Opinion should not be Confirmed.

[The Board of Trade submitted the act for his Majesty's direction, with the observation] that the Governor in his Letter to us of the 30th of September 1767, Particularly recommends this Act, as a beneficial and Useful Regulation, and which if passed will save great and frequent expence to Individuals and to the Publick.

6th. An Act to enable Daniel Merrill John Hale, and Henry Hale Junior to review and Prosecute in the Course of Law certain Actions wherein they were Defendants and were Defaulted by Mistake and Judgment entered against them in Causes which upon a Fair Tryal would have been against the Plaintiffs as they Supposed. [1766.]

[To be disallowed, for the same reason as No. 4. Sir M. Lamb thought] the parties applying for the Act would have by a Tryal what they Desired and that therefore this Act is to restrain and Direct the proceedings in the Courts of Law, which he conceives to be highly Improper, as the parties are intitled to such Redress as the Courts upon application allow of in such Cases. [pp. 263, 278-81, 303-5.]

[83.] [Orders in accordance with a Committee report of 9 Aug. on 7 Virginia acts of April, 1767, agreeing with a Board of Trade representation of 29 July, referred to them on 5 Aug. :—] 12 Aug. Virginia.

First. An Act for the Punishment of Persons, who shall Aid or Assist Prisoners for Debt to escape or Attempt to escape out of Prison.

[To be disallowed.] By this Law any Person, who shall Convey or cause to be conveyed into any Goal or Prison any Instrument or Arms whatever proper to Facilitate the Escape of a Prisoner, and shall deliver or cause the same to be delivered

1768. § 83 *cont.*]

to such Prisoner, without the Consent of the keeper, shall be deemed guilty of a Misdemeanour, and made Liable to fine and Imprisonment.

This regulation, may it Please your Majesty, appears to us highly objectionable, being evidently of an oppressive Nature and tendency, and by the loose and indefinite Terms, in which it is expressed, liable to Arbitrary extension and abuse ; it seems likewise to be an unnecessary and Superfluous Provision, inasmuch as the remedies and redress, already Provided by the Common Law, are, as we conceive, fully sufficient for all the Purposes of this Act.

Second. An Act to amend . . . An Act for Preventing Frauds in the Customs, and in clearing of Ships ; for ascertaining Collectors and Naval Officers Fees, and to Prohibit and Prevent the Casting Ballast, or dead Bodies into Rivers or Creeks.

[To lie by for the present.]

This Act, which Proposes an Amendment to a former Act made in the 22d Year of His late Majesty's Reign, by obliging all Naval Officers, Comptrollers and Collectors to Sign Receipts on Payment of their Fees, further Enacts, That in such receipts they shall Specify, whether the vessell entered and cleared, be or be not a Free Bottom of this Colony.—This Regulation for distinguishing Vessells Termed Free Bottoms (by which is meant such as belong wholly to the Inhabitants of this Colony), has reference to a Provision in the former Act, whereby Vessells under this description are relieved from Payment of one Moiety of the Fees therein Directed to be paid, as it will be for Your Majesty's Consideration, how far it may be expedient to allow a Law hitherto unconfirmed, in which there is any regulation that gives Advantage to the Trade and Shipping of the Colonies in Preference to that of Great Britain, we submit to Your Majesty's Determination the Confirmation or Repeal of the Law now laid before Your Majesty, and which is accompanied with a Clause of Suspension, as a matter entirely dependent on the Measures Your Majesty shall think fit to

take with respect to the Act formerly Passed, for the Amendment of which this Law is Constructed.

Third. An Act for establishing Fairs in the Town of Mecklenburg in the County of Frederick.

[Left to his Majesty's direction by the Board of Trade ; disallowed on the Committee report that it interfered with the prerogative, and gave a local and partial preference to a particular place.] By this Act an exemption from all Arrests, Attachments, and Executions is granted in general to all Persons Attending the Fairs herein appointed, the said exception to be in force not only for the respective Days on which the said Fairs shall be held, but for two Days next following ; how these Privileges and Exemptions, if Partially granted, and in certain Cases only, may operate to Particular Disadvantage ; or how if the same be Universal, they may affect the General Interests of the Colony by being multiplied in too many Instances, is a Question relating to the Internal Policy of this Province, which we are not sufficiently Instructed in, the right of Instituting and establishing Fairs and Markets, by Granting Privileges and Patents for that Purpose to any Person or Persons, Bodies Politick or Corporate, is undoubtedly a Branch of Your Majesty's Royal Prerogative, and consequently cannot regularly be Assumed and Executed by Act of Assembly ; but . . this is a regulation of a mere Domestick nature (no ways affecting the Trade or Interest of Great Britain) and . . the said Act is accompanied with a clause recognizing Your Majestys just Right and Prerogative above mentioned.

Fourth. An Act to Compell Ships importing Convicts, or Servants infected with the Goal Fever or Small Pox, to Perform Quarantine.

[To be disallowed.] By this Act the Master of every Vessell, importing Convicts or Indented Servants is Prohibited from Allowing any such to quit the Vessell before entry at the Naval Office, and oath by him made, that none of the Persons have been infected with the Goal Fever or small Pox at any

1768. § 83 *cont.*]

time within Fifty Days last past ; upon refusal of which oath, or if it shall appear to such Naval Officer, that the said Vessel ought to make Quarantine, certain Rules and Directions in that Case given are to be carried into execution. Upon a due Consideration of this Law (in the Course of which we have been Attended both by the Agent on the Part of the Province, and the Contractor for the Transportation of Convicts, and heard what each respectively had to offer), we are humbly of opinion that this Law, however unexceptionable in Point of Principle, does nevertheless contain certain regulations and restrictions of an improper Nature ; in Particular the Vague and Arbitrary Powers given to the Naval Officer, the hardship of imposing an Oath to be taken upon circumstances, which in their Nature must be so uncertain and indeterminate, and the severity of the Fines, Pains and Penalties inflicted on the non-observance of the Provisions contained in this Act, are in our opinion, liable to great objection ; . . in addition hereunto, we Submit to Your Majesty the further Consideration, how far this Law, by Subjecting Masters of the British Vessels to the above disabilities and restraints, may be said to Counteract the Spirit of the Act of Parliament for the Transportation of Convicts.

Fifth. An Act to repeal an Act [of 30 George II] to empower the Justices of the County of Norfolk to agree with Persons to keep certain Ferries, and to levy the expence thereof upon the Inhabitants of the said County, and for other Purposes therein mentioned.

[To be disallowed, although of a domestic nature ; because, although for the repeal of a former law, it lacks a suspending clause, and the Board had on 20 May, 1761, on an address from the Virginia Assembly, represented that the rule requiring such a clause should not be relaxed.]

Sixth. An Act for laying an additional Duty upon Slaves imported into this Colony.

[To be disallowed.] By this Act a Duty of Ten per Cent. on the Original Purchase is levied on the Buyers of Slaves

imported or Brought into this Colony, over and above the several Duties already Imposed; and this Additional Duty is Declared in the Preamble of the Act to be the only one, which without oppression to Your Majesty's Subjects can be laid upon the Import or Export of this Colony, A declaration of this Sort, introduced after so abrupt and unusual a manner, seems to us highly unnecessary and Improper in this Place, and what can only Opperate to restrain and deter the Legislature of Virginia from making further Provisions, if such shall be required of them in future Cases of Emergency.

Seventh. An Act to Confirm the Title to Lands claimed by descent, or Purchase from Aliens.

[To be confirmed, as equitable and proper, provided with a suspending clause, and liable to no objection in point of law.] [pp. 261, 281-5, 305-7.]

[84.] [A Jamaica act of Dec., 1767—for vesting in trustees several messuages and tracts of land, part of the estate of Ballard Beckford, Esq., deceased, in trust to sell and dispose of the same for payment of the debts of the said Ballard Beckford, and other purposes therein mentioned—is disallowed, on the Committee report of 9 Aug., agreeing with a Board of Trade representation of 4 Aug., referred to them on 5 Aug. Sir M. Lamb reported] That this Act is for the Sale of Part of the Estates of an Infant, which descended to her upon the Death of Her Father, who left large Debts, and the Money Arising by the Sale is Directed to be applied for the Payment of such Debts, and the Guardian of the Infant has consented for and on her behalf to the Passing this Act. That he should therefore have no objection to this Act, was the Money which will arise by the Sale directed to be applied in Payment of the several Debts according to their Degrees and Priority in due Course of Law; But that although the Act recites that the Deceased was Indebted to divers Persons by Judgment, Bond, Note, and Simple Contract to the Amount of Twenty thousand Pounds and upwards, yet that it directs, that the Money arising by Sale shall be applied in Payment of the

12 Aug.
Jamaica.

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1768. § 84 *cont.*]

Debts in equal Shares and Proportions, until the whole of the Debts be fully satisfied so that all the Creditors are thereby put upon an equal footing, and the Priority of the Judgment and Bond Creditors taken away, which is an Injustice to them who ought first to be paid, and the whole Money ought to have been directed to be applied so far as it will go to the Payment and Discharge of the Debts according to their several Degrees and Priority and to the usual and due Course of Law.
[*pp.* 262, 286, 307.]

28 Sept. [85.] [Reference to the Committee, and by them on the
New York. same day to the Board of Trade, of a letter of 26 Jan. from Governor Moore of New York to Lord Hillsborough,] relative to an Act passed by the Council and House of Assembly of that Province during the Course of the last Session for the Repeal of Two Acts concerning Insolvent Debtors, to which Act the said Governor had refused his Assent as being Contrary to the 13th Article of his Instructions, forbidding the repealing of Acts passed there, although the Royal Assent had not been given to them, and Submitting whether in Matters relating entirely to their internal Policy and in which neither the Particular Interests of the Crown nor its Power and Dignity are concerned a Relaxation of this Instruction may not be thought proper and be attended in many Circumstances with Benefit to the province. [pp. 335, 337.]

(1769.) [Committee. Board of Trade report] Read. Nothing to be
18 Feb. done thereupon. [p. 450.]

7 Oct. [86.] [A South Carolina act of April, 1768,—for establishing
South courts, building gaols and appointing sheriffs and other
Carolina. officers for the more convenient administration of justice in this province,—is rejected, in accordance with a Committee report of 4 Oct., on a Board of Trade representation of 15 Sept., referred to them on 28 Sept.

[Sir M. Lamb reported to the Board of Trade] That there are many very useful things contained it, which will be for the Ease and benefit of the people there, but that there are some

particulars which he has thought fit to represent to them, not knowing what previous Instructions or directions were given for making such Alterations by Act of Assembly :—That there is a Clause which Impowers the Judges in the Circuit Courts to determine, without Jury, in a Summary way, all Disputes cognizable in the said Courts for any Sum not exceeding Twenty pounds Sterling, That this is a large Sum to be determined in that Way, and in some of the Provinces Objections have been made to Acts that were extended to much less Sums, That by this Act the office of Provost Marshal of this Province is for ever abolished, and Sheriffs are to be appointed for the several Districts, who are to execute all Process, and do all other Acts, as are done by Sheriffs in Great Britain That the Office of Provost Marshal being held by Patent from the Crown, he must presume some directions may have been given to Authorize the Abolishing the same, and taking away the Right of the Crown, as well as making satisfaction to the Patentee, without which this Act would have no Colour to be confirmed, That there is a Clause in this Act, which he cannot imagine was inserted by any Directions, and is no ways necessary for the execution of any part of the Act Vizt. The Providing Salaries for the Chief Justice and Justices of this Province, whenever it shall please Your Majesty to appoint them during their good behaviour. That he is at a Loss to account for the inserting such a conditional Provision for the Judges ; and why a Supposition should be Introduced into an Act of Assembly of such Appointment. That nothing at present calls for it, and if at any time it should, it would then be time enough to make such provision, and Instructions to be given for that Purpose. That therefore he must Submit, whether it is not derogatory to Your Majesty Dignity, the Confirmation of this Act with such a Clause, which purports a sort of stipulation or Proposal to obtain what they want, which they should apply for in some other way than by taking it to an Act that dont require it. That there is a Salary Provided for the Attorney General, and

1768. § 86 *cont.*]

Clerk of the Common pleas, but that it goes no further than to those present Officers, and not to any future.

[The Board of Trade accordingly set forth the transactions which gave birth to the law. A memorial was presented by the agent for the province to Lord Shelburne in July, 1767, and referred to the Board of Trade, who, on 22 July, reported] That in the present Circumstances of the Province of South Carolina where Cultivation and Inhabitaney had arrived to a considerable State of Improvement, and where Settlements were extended to a great Distance from the Seat of Government, and established in great Numbers, the Board was clearly of opinion, that a Division of it into Counties, with an establishment of Sheriffs for the same, in lieu of a Provost Marshall, would be not only of Publick use and Convenience, as conducing to the more speedy and due Administration of Justice, but would be an Institution more correspondent to the Usage and Constitution of this Kingdom, and [that the Governor should be instructed to assent to an act for this purpose, provided compensation were made to the present patentee and a suspending clause inserted in the act. These provisoes were observed in the act under consideration.

The Board of Trade considered that by the instructions it was intended] First—That the office of Provost Marshall should be Abolished. Secondly—That Courts of Judicature should be established, and Sheriffs and other Officers appointed in the several Districts or Counties of this Province, both which having been provided for by this Law . . it remains only for them humbly to represent to Your Majesty what has Occurred to them as well upon those particular Provisions objected to by Sir Mathew Lamb, as upon some others which appear to require observation.

[(a) As to the summary jurisdiction in cases not exceeding 20*l.*], as there is an Exception of all Cases where the Title of Lands may come in Question, and as it is further Provided, that in Case both parties shall desire to have the said Causes tried by a Jury, or any Application of either Party at his own

expencc, then the said Judges shall immediately Order Issue to be joined, and the Cause to be tried by a Jury, the said Lords Commissioners humbly Submit whether this objection has not weight, which Sir Mathew Lambs Report, Passing over these essential exceptions, appears to give it.

[(b) As to the provision of salaries for justices who may be appointed during good behaviour], the granting those Offices in the Colonies upon such Terms as Your Majesty shall think fit, is, the said Lords Commissioners humbly conceive, a Matter which the Constitution has, in the spirit and Principles of it, left intirely in Your Majesty's Discretion, weighing the State and Circumstances of the said Colonies, and exercising Your Majesty's own Judgment, as well with respect to the Nature and extent of any Alteration it may be thought expedient to make, as to the time when it may be proper to make it, and whether it should or should not be extended to all the Colonies or confined to some particular Colony, the State and Condition of which might appear to admit of such a Change in its Constitution, and therefore when they consider the Case in this view of it, and that Your Majesty has, by a general Instruction given to all Your Governors in America, since Your Royal Accession to the Throne, declared, that it does not appear, that in the present situation and Circumstances of the said Colonies it would be for their Interest or Advantage that the Judges should hold their offices during good Behaviour, and hath strictly forbid Your Governors to assent to any Laws whereby the Tenure of the Judges Commissions shall be regulated or ascertained in any manner whatsoever, The said Lords Commissioners cannot but be of Opinion, that the inserting this Provision in the Act was both unnecessary and Improper, and when considered in the Light of a Stipulation, is still more objectionable, seeing that the granting the Judges Commissions during good behaviour is thereby made Absolute, without that Constitutional Limitation of their being removable by addresses of both Houses of Parliament, which having been Provided for in the Case of the Judges of this Kingdom,

1768. § 86 *cont.*]

is a Limitation that the said Lords Commissioners humbly apprehend Your Majesty will not dispense with in the Colonies, in Case Your Majesty should at any time think it proper to make any Alteration there in the present Tenure of the Judges Commissions.

[(c) Sir M. Lamb's last objection was to a provision] by which the Salaries given to the Attorney General and Clerk of the Common Pleas are confined to the Persons at Present holding those offices ; and although it has been stated by the Agent for the Province, that the Legislature had no other Intention in giving these Allowances, than to make a personal Compensation to the Gentleman at present in office, For the Trouble they would have in carrying the Law into execution, and gave this Compensation in the Shape of a Salary in order that the Reward might not go beyond the Service Performed in Case of their Deaths or Removals ; Yet the said Lords Commissioners humbly apprehend, that this is an explanation that does not remove the obvious Objections that occur to a Provision of this Nature, and that such a Limitation does not Correspond with the general View and object of the Law itself, which is to making a lasting and Permanent establishment for the Administration of Justice in a new Form, and therefore it does seem reasonable that the Provision made for the support of the Officers necessary for it's execution ought to have been coextensive with the other Provisions of it.

[(d).] That as it is a principal Object and view of this Law to Substitute the office of Sheriff in Place of that of Provost Marshall, the Mode of appointing the Sheriff deserves some Consideration ; it is therefore necessary to observe to Your Majesty, that the Provisions of the Law in this Case direct, that the Court of Common Pleas shall in every second Year after the Act takes effect, at the October meeting, nominate three Persons for each District or Precinct, whose Names are to be presented to the Governor, in order that he may commissionate one of them to be Sheriff for such District or Precinct, which mode of appointing Sheriffs, though it does

§ 86 *cont.*]

1768.

in general Confirm to what has been enacted and established in several of the Neighbouring Colonies, and, in giving the Right of the Nomination to the Judges of the Court of Common Pleas, is less exceptionable than what has been approved in some of those Colonies, where the Right of Nomination is vested in the County Court ; Yet the said Lords Commissioners observe, that it leaves no discretionary Power in the Governor to reject or set aside the Persons Nominated, and to appoint any other, and therefore does not, as they conceive, correspond with the Usage and Practice in this Kingdom, or with the original Constitution of Carolina, where the Nomination of the Provost Marshall, who was in Fact the Sheriff, and had all the powers and authorities of such officer was entirely in the Crown.

[The Board of Trade submitted whether these objections should induce his Majesty to disapprove an act whose general regulations were founded in wisdom and propriety and of the greatest importance to the happiness and prosperity of the people.] [pp. 335, 339-45, 347.]

[87.] [Reference to the Committee of the petition of William Pusey for a day for hearing his appeal from an order of the Chancellor of Jamaica, 21 Sept., 1767, allowing Sir Simon Clarke's demurrer *ore tenus* to a bill filed by W. Pusey for reviving a suit commenced by John Pusey against Clarke, Andrew Arcedeckne, and George Bonynges and his wife, relating to legacies left by Cornelius Wellekins.]

7 Oct.
Jamaica.

[p. 348.]

[Committee report for reversing the order and reviving the suit.]

(1769.)

[p. 497.]

14 Mar.

[Reference to the Committee of Bonynges's appeal from an order of the Chancellor, 19 Oct., 1771, on a bill filed by John Edwards and his wife about Wellekins' estate.]

(1772.)

20 Nov.

[IX. pp. 380, 450, 491.]

[On the Committee report of 17 Dec., the appeal is dismissed.]

(1773.)

[X. pp. 373, 391.]

31 Dec.

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1768.

7 Oct. [88.] [Reference to the Committee of the petition of John
Virginia. Hiscox, merchant of London, for a day for hearing his appeal
from a decree of the Virginia Chancery, 10 Oct., 1767,
condemning him and Thomas Reynolds to pay certain sums
to Humphrey Hill, as surviving executor of George Braxton.]
[p. 348.]

(1771.) [On the Committee report of 20 Dec. 1770, the appeal is
9 Jan. dismissed. Other names in the report are John Robertson
or Robinson, Samuel Guest, and Matthew Anderson.]
[VII. pp. 13, 685 ; VIII. p. 19.]

26 Oct. [89.] [Reference to the Committee of the petition of Jacob
Jamaica. Carrillo Saldana for a day for hearing his appeal from a judg-
ment of the Jamaica Court of Errors, 10 Nov., 1767, reversing
a judgment of the Supreme Court, 14 Feb., 1767, in his action
to recover from Arthur Forrest the cost of his expenses at law
on the seizure, by Forrest's directions, of his sloop *Dragon*
or *St. Antonio de Padua* on 8 April, 1762.] [p. 360.]

(1770.) [On the Committee report of 11 June, the appeal is
15 June. dismissed without costs.] [VII. pp. 172, 408, 418.]

26 Oct. [90.] [Reference to the Committee of the petition of Robert
St. Mitchell, merchant of London, and George Scott, merchant
Christopher. of Santa Cruz, to be admitted to appeal from the condemnation
of the *Charming Betsey* (James Carney master) and nine hogs-
heads of rum in the Vice Admiralty Court of St. Christopher,
18 Sept., 1766, in favour of John Tasker, waiter of customs
at Sandy Point : and that the Governor affix the great seal
of the islands to a copy of the proceedings.] [p. 360.]

(1769.) [On the Committee report of 13 March, the appeal is
14 April. admitted. Security is given on 29 April by Charles Grosett,
merchant, of Friday Street in the parish of St. Matthew,
London, and Robert Jardin, merchant, of Bond Street in the
parish of St. George, Hanover Square, Middlesex.]

[pp. 495, 543.]

(1772.) [On the Committee report of 26 June, the sentence is
8 July. reversed, and the schooner and rum, or value thereof, ordered

§ 90 *cont.*]

1768.

to be restored to the appellant. Mitchell alleged that the rum was being carried from Santa Cruz (Danish) to St. Eustatius (Dutch) and that the ship touched at St. Christopher only owing to contrary winds and want of water and provisions. The case was heard *ex parte*, no appearance having been made for the respondents.]

[VII. pp. 12, 14, 694 ; IX. pp. 329-31, 367.]

[91.] [Reference to the Committee of the petition of Francis Brerewood, Esq., of St. Martin's in the Fields, Middlesex, setting forth] that Lord Baltimore, Proprietary of the Province of Maryland, did about the Year 1752, forceably and arbitrarily take from the Petitioner an estate called the Lord Baltimores Gift lying in Baltimore County within the said Province, that the Petitioner hath brought his ejectment in Maryland in order to recover Possession of the said Estate but most of the officers, Judges, Lawyers Councell and Magistrates, being dependants upon and Subservient to Lord Baltimore he Dispairs of obtaining Justice therein in the Courts at Maryland that the Petitioner having by his Agent applied to the Commissary or Proper Officer in the said Province to issue a Citation to Compell the Representatives of William Dallam to bring in an Inventory of the personal estates of Thomas Brerewood the Elder and William Brerewood the petitioners Son, the said Commissary refused to issue such Citation, being, as the Petitioner believes, under the Influence of the said Lord Baltimore [and praying his Majesty to interpose and require Lord Baltimore to answer his complaint and make restitution with arrears and damages.]

26 Oct.
Maryland.

[p. 361.]

[On a motion to the Committee praying them to take Brerewood's case into consideration, and on hearing Lord Baltimore's solicitor,] Their Lordships were pleased to declare that they had no Jurisdiction in this Affair as it stands at present and recommended the Petitioner to try the Cause in the Law Courts of Maryland.

(1769.)
13 Mar.

[p. 495.]

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1768.

23 Nov. [92.] [Reference to the Committee of the petition of
Jamaica. George, William, Thomas and John, infant sons and devisees
of William Reid, of Jamaica, by their uncle and guardian,
Thomas Reid, for a day for hearing their appeal from a
Chancery decree of 8 July, 1767, overruling their demurrer
to a bill filed by Thomas Bourke for a perpetual injunction
against them for recovering some land in Norman's Valley,
St. James parish.] [p. 376.]

(1770.) [On the Committee report of 6 April, the decree is reversed
27 April. and the demurrer allowed.] [VII. pp. 330, 358.]

(1776.) [Reference to the Committee of the appeal of G., T., and
25 Oct. J. Reid, (Wm. being dead), from a decree of the Court of
Appeals, 1 and 2 Dec., 1774, in favour of Bourke with reference
to Norman's Valley.] [XIII. p. 168.]

(1777.) [On the Committee report of 27 May, the appeal is dismissed
13 June with 20s. costs.] [XIII. pp. 514-7: XIV. p. 13.]

23 Nov. [93.] [Reference to the Committee of the petition of
Antigua. Thomas Coursey, master and owner of the ship *Peggy*, and
most of her equipment, on behalf of himself and William
Kirkpatrick, planter, of St. Christopher, owner of 14 out of
the 24 guns, for a day for hearing his appeal from the
condemnation of the ship in the Vice Admiralty Court of
Antigua, 21 Dec., 1767, in favour of Thomas Underwood.]
[pp. 376, 403, 440.]

(1770.) [On the Committee report of 6 April, the sentence is reversed,
27 April. and ship, tackle and cargo, or their value, ordered to be
restored.] [VII. pp. 331, 357.]

23 Nov. [94.] [Reference to the Committee of the petition of Peter
Jamaica. Furnell, Esq., of Jamaica, for a day for hearing his appeal from
a Chancery decree of 1 July, 1767, on a bill filed against him
by John Ashburne, praying a stay of proceedings on a judg-
ment of the Supreme Court in Oct., 1764, in an action of
account by the petitioner against Ashburne's father.] [p. 377.]

(1769.) [On the Committee report of 11 March, the decree is
14 April. reversed, and Ashburne's bill dismissed. The case was heard

§ 94 *cont.*]

1768.

ex parte, no appearance having been entered for the respondent. Other names in the report are Furnell's wife, Sarah Archbould, his partner,—Hutchison, and Henry Archbould.

[*pp.* 404, 481–2, 541.]

[95.] [Reference to the Committee of the petition of Jacob Isaacks, merchant of Newport, Rhode Island, for a day for hearing his appeal from judgments of 28 May, 1764, and March, 1765, in William Stead's action against him for 1,200*l.*]

16 Dec.
Rhode
Island.

[*p.* 387.]

[On the Committee report of 2 April, the judgments are affirmed.] (1770.)

[VII. *pp.* 297, 356.] 27 April.

[96.] [Reference to the Committee, and by them on 9 March 1769, to the Board of Trade, of the] Memorial of sundry Inhabitants of Great Britain Virginia and Maryland who have formed themselves into a Company by the Name of the Mississippi Company, proposing with the approbation and protection of His Majesty to settle as speedily and effectually as possible, some part of that vast Country, to the Westward of the Alligany Mountains now unquestionably His Majesty's Territory by the late Treaty of Peace, and therefore humbly praying His Majesty to Grant unto the Memorialists to be fifty in Number by the Name of the Mississippi Company 2,500,000 acres of Land in one or more Surveys to be located or laid off between the 38th and 42d Degrees of North Latitude the Alligany Mountains on the Eastward, and thence Westward to the Dividing line the running of which His Majesty has lately been pleased to order, and that the Memorialists shall have Liberty of holding their Lands 12 Years or any greater Number that his Majesty shall approve (after Survey of these be made and returned) clear of all Imposition Money Quit Rents or Taxes; and that the Memorialists shall be obliged to seat the said Lands within twelve Years, with 200 Families at least (if not interrupted by the Savages or some Foreign enemy) and return Surveys

16 Dec.
Mississippi.

1768. § 96 *cont.*]

thereof to such office as his Majesty shall be pleased to direct otherwise to forfeit the Grant. [pp. 388, 471.]

(1771.) [Reference to the Committee, and by them on 10 Jan., 1772,
27 Dec. to the Board of Trade, of the] petition of Archibald Earl of Eglintoune, William Taylor, late acting Brigadier General in the Southern District of North America and Montfort Brown late Lieutenant Governor of West Florida, representing . . that from a carefull enquiry into the fertile, tho' uncultivated part of His Majesty's Dominions adjoining to the Mississippi in North America, they are fully convinced a Colony there, would be of the utmost advantage to Great Britain, whether considered in a Commercial or Political view, whether established with a design to encrease the British Trade, or with an intention of securing the Trade already carried on, from the interruption of a formidable Neighbour; [praying that his Majesty will consider the petition and give orders conducive to the national prosperity with respect to a settlement on the British Mississippi.] [VIII. p. 515; IX. p. 24.]

(1772.) [Reference to the Committee, and by them on 20 Aug.,
19 June. 1773, to the Board of Trade, of the petition of John, Earl of Moira, and others, styling themselves the Mississippi Company for 5,000 acres each in West Florida.] [IX. p. 323; X. p. 288.]

(1774.) [Reference to the Committee of an extract of a letter from
6 July. Lord Dunmore to Lord Dartmouth with a petition from sundry inhabitants of the frontiers of Augusta, Botetourt and Fincastle cos., Virginia, for relief from the many hardships they will be put to by being included in the new government on the Mississippi.] [IX. p. 183.]

16 Dec. [97.] [Reference to the Committee, and by them on 22 Dec.
Georgia. to the Board of Trade, of an extract of a letter of 5 Oct. from the Governor of Georgia to Lord Hillsborough acknowledging his Majesty's goodness in permitting him to pass a law for regulating slaves provided they be not thereby declared to be chattels personal and desiring to be instructed,] whether

§ 97 *cont.*]

he is at all events to reject any Negro Law that may be framed, provided it does not declare Slaves to be real Estate, and descendible to the Heir with the Lands.

[*pp.* 389, 405.]

1768.

[Order in accordance with the Committee report of 18 Feb., which quotes the report of the Board of Trade as follows :—] That the opinion reported to them by their late Council in Consequence of which the Law referred to in the above extract declaring Slaves to be Chattels personal was Dissallowed, appeared to have been founded upon the Circumstance of His late Majesty's having in 1752, disapproved an Act passed in Virginia, whereby it was proposed to Repeal a former Law of that Colony passed in 1705, by which Slaves are declared to be real estate and descendible to the Heir with the Lands ; . . But as they found upon referring to the Virginia Law of 1705, still in force, that it is Qualified with a proviso enacting " That Slaves shall be liable to the payment of Debts and may be taken by execution for that end, as other Chattels or personal estate may be." And as it seemed reasonable and proper that the Policy and Constitution of Georgia should be made as much as possible to Conform and accord to those of the Neighbouring Colony of South Carolina (in which Colony a Law now prevails declaring Slaves to be Chattels personal) [the Board of Trade recommended that the Governor be allowed to assent to an act, declaring slaves to be chattels personal, especially as this appears to be conformable to the statute of 5 George II for the more easy recovery of debts in the plantations. The Committee concurred, with the proviso that a suspending clause must be inserted].

[*pp.* 441-2, 465.]

(1769.)

6 Mar.

[98.] [Reference to the Committee, and by them to the Board of Trade on 5 April, 1773, of a letter of 9 Sept. from Governor Grant of East Florida, to Lord Hillsborough, with several papers relative to the claims of John Gordon, Jesse Fish and others to lands purchased from the Spaniards.]

16 Dec.

East
Florida.

[*p.* 389 ; X. *p.* 140.]

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178 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1768-9. § 98 *cont.*]

(1773.) [Reference to the Committee, and by them on 5 April to
8 Feb. the Board of Trade, of Gordon's memorial, praying that his title be examined, and if found good, that it be allowed and established or compensation made to him and his associates.

Another petition, alleging that they had paid over 10,000*l.* for the land, and suggesting a means of compensation, was referred to the Committee on 2 Feb., 1774, and to the Board of Trade on 2 Dec. 1774.] [X. *pp.* 32, 140, 435 ; XI. *p.* 286.]

(1776.) [The Committee refer the Board of Trade report and Gordon's
4 Mar. scheme for better collecting the quitrents and casual revenue to the Treasury to report] whether they have any objection to the granting the Memorialist an Assignment on the Quit Rents and Casual Revenue in America as proposed by the said Lords Commissioners for Trade and plantations for the Sum of Fifteen thousand Pounds which he States to be the amount of his losses ; provided the said Assignment be without prejudice to any other Appropriations which His Majesty may have already thought fit to make from those Funds.

[XII. *p.* 390.]

1769. [99.] [A North Carolina act of Nov., 1766—for confirming
11 Jan. a lease made by the Tuscarora Indians to Robert Jones, jun.,
North William Williams, and Thomas Pugh, Esquires,—is approved
Carolina. (P.R.) on the Committee report of 22 Dec., agreeing with a Board of Trade representation of 22 Nov., referred to them on 23 Nov., showing that the Governor had observed] That it did appear to be a necessary Step for reimbursing the Money that was Advanced to Transport one hundred and fifty Indians from the Tuscarora Tribe settled on the Eastern Banks of Roanoke River to the Six Nations on Susquehanna River ; That the Removal of these Indians was effected at the particular request of Sir William Johnston, and with the Approbation of Mr. Stuart ; Superintendants of Indian Affairs ; That this Lease is advantageous to the proprietor of the Soil Earl Granville, as it lets him into the Immediate receipts of the Quit Rents, which he had no Claim to, while the Indians lived on that Land, and that the Sum Advanced for the

§ 99 *cont.*]

1769.

Removal of these Indians and the Contingencies amounted to near 2,000*l.*, Proclamation Money ; That he further observes that the remnant of this Tribe are one hundred and four Men, Women and Children, and occupy about half the Tract of Land allotted them by Act of Assembly passed in 1748, a large Proportion for their Numbers ; [that Sir M. Lamb had no objection in point of law, and that Lord Granville had made no reply to their repeated applications to him about his proprietary interests]. [pp. 374, 398, 421.]

[100.] [Reference to the Committee of the petition of Hutchison Mure, merchant of London, and James Kerr of Jamaica, for a day for hearing their appeal from an order of the Jamaica Chancery, 11 Feb., 1768, allowing several exceptions filed by John Palmer and Rosa his wife to the report of a Master in Chancery in an action of account between them.] [pp. 355, 423.]

11 Jan.
Jamaica.

[On the Committee report of 15 March, the order is reversed, and the appellants are allowed the articles contained in the exceptions. Other names in the report are Norwood Witter and George Ash, former husbands of Rosa Palmer, Luke Ash, Thomas and Mary Tickell, Alexander Campbell, Alexander Callender, John and William Witter, John Boyd, Roger Hope Elletson (Lieut.-Governor and Chancellor), Capt. Forbes of the *Good Cecilia*, Capt. Smith, of the *Lucca*, and Capt. Campbell, of the *Mary*.] [pp. 513-7, 541.]

14 April.

[Reference to the Committee of the petition of Mure and Kerr, administrator of Mure's late partner, Alexander Campbell, merchant of London, for a day for hearing their appeal from a Chancery decree of 24 July, 1769, on their bill (about an estate called the Bogue) against Norwood and William Witter ; Robert Stirling, Aaron Manby, administrator of Aaron Manby, deceased, Thomas Hibbert, the Hon. Charles Price, and Archibald Sinclair, executors of Alexander Innes ; Benjamin Dias Fernandes, Andrew Arcedeckne, Matthew Gregory and Sir Simon Clark, Bart., executors of Patrick Taylor ; James Crockatt, Philip Prioleau and Daniel Crockatt,

(1770.)
9 Feb.

180 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1769. § 100 *cont.*]

Richard Curtin, Samuel Pereira Mendes, James Peterkin, Joan Harper, administratrix of Thomas Harper, Philip Dehany, executor of David Dehany, and James Watson, executor of Alexander McFarlane: of whom N. Witter, J. Crockatt, and C. Price are since deceased.] [VII. p. 232.]

(1770.) [Committee order for hearing on 5 Feb. An appearance
20 Dec. had been entered for John and Rosa Palmer as respondents on 5 July, but for none of the others. Among the latter there are several changes. Archibald, William and James Stirling, Gilbert Matheson, Malcolm Laing, and Alexander Grant appear in place of Robert Stirling; Mary Curtin, James Dyer and Thomas Simcocks in place of Richard Curtin; Alexander instead of James Peterkin; William Jackson and Joan his wife in place of Joan Harper; Sir Alexander Grant, Mark Davis, and George Watson are added, and Arcedeckne disappears, along with those already reported to be deceased.]

[VII. pp. 447, 693.]

(1771.) [On the Committee report of 20 July, the decree is reversed
31 July. in part and other directions given for taking accounts.]

[VIII. pp. 353-6, 364.]

(1774.) [Appearance for Mure and others to an appeal of the
13 Sept. Palmers.] [XI. p. 211.]

27 Jan. [101.] [Reference to the Committee of (a) an address of
Jamaica. the Jamaica Assembly of 21 Sept., 1768,] setting forth their Reasons why they did not Comply with His Majesty's Requisition to repay to the British Treasury a Sum of Money which was issued from thence for the Island Subsistence of His Majesty's Troops upon that Station during the late intermission of Assemblies: [and (b) a memorial of Stephen Fuller, agent for Jamaica, to be heard in support of the memorial. Money for subsisting officers and men was obtained in 1765 and 1766 by the officers of the 36th and 66th regiments by bills drawn on the British Treasury and countersigned by Governor Lyttelton.

A letter of the same date, requesting Fuller's attendance at the Committee on 28 Jan., is also given.] [pp. 431-2, 434.]

ACTS OF THE PRIVY COUNCIL (COLONIAL). 181
§ 101 *cont.*]

1769.

[The Committee] having been informed by the Earl of Hillsborough that Sir William Trelawny the New Governor of Jamaica has Instructions forthwith to call a new Assembly and to lay before them the matter in Question Their Lordships think it proper to postpone the further Consideration of the said address and Representation till Accounts shall be received from the Governor of the proceedings of the New Assembly—That when such Accounts shall have been received Mr. Fuller shall be heard at this Committee. But that his Majesty has been already advised by the Lords of the Committee of Council to lay the whole matter before Parliament. [p. 435.]

28 Jan.

[Reference to the Committee of a letter of 16 Jan. from Governor Trelawny to Lord Hillsborough, with papers relative to the refusal of the Assembly of Jamaica to reimburse the Treasury.] [VII. p. 10.]

3 May.

[Reference to the Committee of an extract of a letter of 20 Nov. from Trelawny to Hillsborough, representing that until his Majesty's pleasure be known, he shall desist from making further requisitions for reimbursing the money.]

(1770.)

14 Feb.

[VII. p. 254.]

[Letter desiring Fuller's attendance on the Committee at the Cockpit on 1 June, when he will be heard in support of the Address of the Assembly of 21 Sept., 1768.] [VII. p. 389.]

(1770.)

25 May.

[Order approving the Committee report of 1 June, which showed that the Assembly had refused to comply with the requisition and given the Governor no encouragement to renew it :] That the Money advanced by the Treasury for the Additional pay of the Troops is clearly a Debt due from the Island of Jamaica to Great Britain, and that the same ought to be repaid, and . . . that unless, before the next Session of Parliament, the Assembly of the Island of Jamaica shall have made provision for reimbursing the Treasury the Money advanced for the additional pay of the Troops, it may be adviseable for Your Majesty to cause the whole matter to be laid before Parliament. [VII. pp. 391-2, 397.]

(1770.)

6 June.

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1769.

- 27 Jan. [102.] [Reference to the Committee of the petition of
Jamaica. David Cunningham and Mary his wife, for a day for hearing
their appeal from an order of the Jamaica Chancery, 8 July,
1767, overruling their demurrer to a bill filed by James Reid
on an action of account.] [pp. 247, 432.]
- 14 April. [On the Committee report of 14 March, the appeal is
dismissed, with 20*l.* *stg.* costs.] [pp. 497, 540.]

20 Feb. [103.] [Reference to the Committee of a Board of Trade
Labrador. representation recommending a grant of 100,000 acres of land
in Labrador and of military stores to the Society of the
Unitas Fratrum.] [p. 456.]

3 May. [Orders in accordance with the Committee report of 24 April
agreeing with the Board of Trade.

The memorial presented by the Society to Lord Hillsborough stated] That the said Society are desirous of prosecuting their Intention of establishing a Mission on the Northern Coast of Labrador for the purposes of Civilizing and Instructing the Savages, called Eskimaux, inhabiting that Coast ; in which undertaking the Memorialists represent, That they have already taken some Steps in consequence of Encouragement received from that Board in 1765, But that there is a necessity of having Permission to occupy such a Quantity of Land on that Continent, as may Induce the Eskimaux to settle round the Missionaries ; That for this purpose they had pitched upon Eskimaux Bay, and praying for a Grant on that Spot of one hundred thousand acres of Land or about twelve Miles Square ; with Liberty in Common with other British Subjects, of ffishing and Trading on that Coast ; Submitting at the same time the expediency of Governments erecting a Block House near the said intended Settlement to protect the Eskimaux and their Missionaries from the violences and encroachments of any disorderly people, who might happen to come into that Bay.

[The Board of Trade represented] That in the year 1765, the Society abovementioned having, with the approbation of Government, deputed four of their Brethren to visit and

explore the Coast of Labrador, with a view to propagate the Gospel amongst the Savage Inhabitants, those persons, though unavoidably prevented from compleating their design in its full extent, did however, by the assistance and under the direction of Mr. Palliser, your Majesty's Governor of Newfoundland, make some progress in the laudable purposes of their Mission, by establishing an Intercourse and concluding a Treaty with those Savages ; Whereupon in the year following, upon the favourable Report made by Your Majesty's said Governor, touching the Conduct and behaviour of these Missionaries, and in consequence of a petition from the said Society, the Board of Trade did, in an humble Representation to your Majesty, dated March 27th 1766, Submit, whether it might not be adviseable to allow this Society to occupy such a District of Land, not exceeding one hundred thousand acres upon the Coast of Labrador, as they should think best situated for the purposes of their Mission.—From this opinion of their Predecessors in office they see no Reason to dissent . . as well from the pious and laudable object of it's Institution, as from the publick and Commercial advantages to be derived from it [they recommended that the Society be allowed to occupy and possess during his Majesty's pleasure 100,000 acres of land in Eskimaux Bay, that the Governor of Newfoundland be directed to give them all reasonable assistance,] and by a Proclamation, to be published in Your Majesty's Name, Signifying that this Establishment is formed under Your Majesty's Express Authority and Direction, to warn all persons from Molesting and disturbing the said Settlers ; and in Case it should appear to him to be necessary for their welfare and security, that one or more of the principal Missionaries should be vested with the authority of Justice of the Peace, that he should in that Case issue the proper Commission for that purpose, Conformable to the powers delegated to him by your Majesty's Commission under the Great Seal. [The Board of Trade did not approve the erection of a blockhouse,

1769. § 103 *cont.*]

which] would probably be attended with considerable Publick Expence, and for which there does not appear to them to be any immediate necessity ; but as they think it highly proper, that every reasonable and necessary Measure should be taken for the Security of Persons, who shall establish themselves on this Savage and uncivilized Coast, They would humbly recommend to your Majesty to direct, that the persons, who shall engage in this Settlement, shall be furnished out of Your Majesty's Stores with fifty Musquets and a proportionable Quantity of Ammunition which they conceive may be sufficient for their Personal Security and defence.

[The trustees for the Society are named in the Committee report, vizt. :—] James Hutton of Lindsay House Chelsea Gentleman, Benjamin La Trobe of Lindsay House Chelsea Clerk, Charles Metcalfe of Chelsea Gentleman, John Edmonds, of St. Andrews Holbourn Brewer, Philip Hurlock of St. Pauls Church Yard Surgeon, John Wollin of Lindsay House aforesaid Gentleman and Jens Haven of Lindsay House aforesaid Catechist.

[*pp.* 562–5 ; VII. *pp.* 2–4.]

(1774.) [Reference to the Committee of a Board of Trade representation of 14 Feb., proposing an increase of the grant to the Unitas Fratrum.] [X. *p.* 455.]

21 Feb.

(1774.) [On the Committee report of the same date, the missionaries are allowed to occupy 100,000 acres north of Nain, and as much south of Nain. The memorial of the society to the Board of Trade enclosed a] Report of the last Years Proceedings of the Mission at Nain on the Coast of Labrador, and praying for the Reasons in the said Memorial set forth, that the Missionaries may have leave to take up some thousand acres of Land for the use of such Eskimaux, as shall incline to Conversion, somewhere about the 54 or 55 Degree to the Southward of Nain wherever it shall be found most agreeable to the Arbatoek Tribe, as likewise some thousand Acres of Land to the Northward of Nain, somewhere in the parts that lye from the 57th to the Sixtieth Degree on the Eastern Coast of Labrador.

9 Mar.

[The Board of Trade recommended that the petition be

§ 103 *cont.*]

1768.

granted, as] the propagating the Lights of the Gospel Salvation amongst the Barbarous and uninstructed Tribes, which frequent the Coasts of Labrador, is an object in every respect so meritorious, and the Endeavours of these Missionaries appear to have been so sincere, and are attended withal by so fair a promise of Success from the reception they have met with . . at the same time we humbly beg leave to advise that Your Majesty's Governor be instructed to take due care, that the Spots chosen by these Missionaries for their Settlements be such, as may in no respect Interrupt or annoy the Fisheries carried on upon this Coast.

[X. *pp.* 458, 461.]

[104.] [Reference to the Committee of the petition of Hugh Palliser, late Governor of Newfoundland, setting forth that Daniel Bayne and William Brymer brought an action against him in the Court of King's Bench at Westminster for causing their servants William Lead and Francis Carpenter to remove with their effects from a post at Cape Charles on the Labrador coast granted them by the Governor of Quebec ; that the case was put off by the Court on 15 Dec., 1768, as improper to be canvassed at law in that court, and it was proposed that it be laid before the Board of Trade : that this had been done and the jurisdiction declined by the Board also, who declared that it was a matter proper to be submitted to his Majesty in Council. Palliser accordingly submits his case, hoping] it will appear therefrom, that he has acted in this matter agreeable to the Statute for regulating the fisheries, or as that act has always been understood, and the usage and practice has been under the same, and likewise agreeable to His Majesty's Instructions and his Royal Proclamation, and in obedience and Conformity thereto, and that he shall stand justified, and be Indemnified by Government against all Damages and Expenses.

20 Feb.
Newfound-
land.

[*p.* 457.]

[Reference to the Committee of a similar petition by Bayne and Brymer. The tribunal of 15 Dec., 1768, consisted of the Lord Chief Justice Mansfield and a special jury of merchants,

14 April.

1769. § 104 *cont.*
and Mansfield held that the case was not proper to be discussed before a jury. The Board of Trade declined to treat a matter relating to private right and property.] [*p.* 547.]
- (1769.) [Letter to Messrs. Jenkins and Bray, solicitors for Bayne
3 May. and Brymer, giving them notice that the Lord President desires to speak to them and their clients at this office to-morrow morning at 9.45.] [VII. *p.* 13.]
- (1769.) [Committee.] Their Lordships being Informed that this
20 Nov. Affair was Compromised between the parties—Ordered that nothing further be done on these Applications. [VII. *p.* 147.]
- 20 Feb. [105.] [Reference to the Committee of the petition of
Jamaica. Isaac Tripier of Jamaica, a pauper, that the Council dismiss for non-prosecution the appeal of Thomas Rennalls from a Chancery decree of 12 Feb., 1768, on Tripier's bill to cancel an indenture of assignment of his estate to Rennalls as obtained by fraud and imposition, and that the petitioner be admitted *in forma pauperis* as he was in the court below, and that Alexander Forrester may be assigned as his counsel and John Way as his solicitor.] [*p.* 461.]
- 13 Mar. [Committee.] Ordered That the said Appeal be Reported to be dismissed, unless the same shall be presented, on or before the 8th day of April next. [*p.* 495.]
- 14 April. [On the Committee report of 10 April, the appeal is dismissed for non-prosecution. Rennalls' solicitor had informed Tripier's on 6 April that he had taken the opinion of counsel and was advised not to prosecute the appeal.] [*pp.* 533, 544.]
- 6 Mar. [106.] [Of 12 Pennsylvania acts of 1767-8, which had
Pennsyl- been referred on 23 Nov. and 16 Dec. (*cf.* Appendix III)
vania. two only were commented on by the Board of Trade:—]
11. An Act for regulating the fishery in the River Brandy Wine. [Feb., 1768.]
12. An Act for raising by way of Lottery the sum of five thousand two hundred and fifty pounds for purchasing a publick Landing in the Northern Liberties and Paving the Streets of the City of Philadelphia. [Feb., 1768.]

[The Board of Trade objected to No. 12] That this Method of Establishing Provincial Lotteries, and raising Money thereby for Domestick Purposes and Improvements, has been frequently practised, and Acts of Assembly for that purpose have been allowed, nevertheless altho' the application of the Sum proposed to be raised by the Lottery Projected in the said Act, did appear to be directed to purposes evidently Commodious and Beneficial, they could not omit observing that this is a practice which in their Opinion ought by no means to be Encouraged, as obviously tending to disengage and mislead Adventurers therein from Industry and Attention to their proper Callings and Occupations, and introduce a Spirit of Dissipation prejudicial to the fortunes of Individuals and the Interests of the Publick.

[No. 11] is for laying open the Fishery of the above River to all persons inhabiting the Country adjacent thereto, under certain restrictions, Prohibiting under severe penalties all persons from making and erecting any Dams or Obstructions or fixing any Nets across the Stream of the said River, whereby the ffish may be obstructed from going up the same. By this and other prohibitions contained in this Act it is obvious that the Rights of Private Persons claiming exclusive property on the said River may be affected ; That it does not however appear from any Information they had received that any of Your Majestys Subjects had suffered under this supposed predicament ; nor were they apprized of any applications or Complaints whatever having been made relative to the above regulations either in the province at or before the time of passing the above Act, or since its Transmission hither, they therefore Submit it to this Committee to give such Advice to Your Majesty touching the Confirmation or Repeal of this Law as shall be thought fit.

[On the Committee report of 18 Feb., these acts were allowed to remain in force, but in the case of No. 12 Lord Hillsborough is to acquaint the Lieut.-Governor that this is only because the act has proceeded to have effect in part, and to signify]

1769. § 106 *cont.*]

His Majestys total Disapprobation of any Acts of that nature as highly Improper in any of the provincial Settlements, And therefore strictly enjoining the said Lieutenant Governor on no Pretence whatever to give his assent to any future act for raising any Sum or Sums of Money by Way of Lottery without previously writing home to know His Majesty's Pleasure therein and fully stating the several Reasons which may appear to him to make the passing such Act adviseable.

[*pp.* 375, 391, 443-6, 462-5.]

13 Mar. [Reference to the Committee of a Board of Trade representation of 7 March, recommending that instructions be given to colonial governors not to assent to acts for raising money by lotteries ;] but that in all Instances where the Exigency of the Case may seem to Warrant a Departure from such General Restriction that the Governor be instructed to Transmit proposals as heads of Bill stating the Reasons which make such Measure expedient, and submitting the whole before it is attempted to be passed into a Law, to His Majesty's Consideration and Decision. [*p.* 487.]

24 April. [The Committee direct the Board of Trade to prepare instructions as proposed.] [*p.* 572.]

28 June. [On the Committee report of 21 June, the instructions are approved—(P.R.) The Board of Trade representation was as quoted under 6 March *supra*, and added] That if however exigencies have arisen that seem in some instances to warrant this mode of raising Moneys by the Institution of Publick Lotteries, nothing, as they conceive, can be said in excuse for the practice that has too much prevailed in some Colonies, of passing Laws to empower persons to set up private Lotteries. [VII. *pp.* 53, 68.]

6 Mar. [107.] [Reference to the Committee of the petition of
Labrador. Nicholas Darby of Bristol, setting forth his losses in endeavouring to establish a fishery on the coast of Labrador, and praying relief] in regard he was the first British Adventurer on the said Coast, and the only sufferer. [*p.* 467.]

24 April. [Committee.] Ordered, that the petitioner be acquainted

§ 107 *cont.*]

that if he chooses to be heard before their Lordships they will appoint a day for that purpose ; but that their Lordships are of opinion his application ought to have been made to the Treasury. [p. 576.]

1769.

[108.] [Reference to the Committee of a Board of Trade representation of 7 March for repealing a New Hampshire act of Sept., 1767—in further addition to an act for the relief of idiots and distracted persons.] [p. 487.]

13 Mar.
New
Hampshire.

[On the Committee report of 8 May, the act is repealed. It is a supplement to an act of 1714 which was repealed by order of 27 Aug., 1718. As the latter appears to be still in force, a copy of the Order of 1718 is directed to be sent to the Governor to be put into immediate execution. A proposal of Mr. West, whose opinion on the earlier act was quoted by the Board of Trade, that the Governor as chancellor should issue commissions for the custody of idiots and lunatics, was by the Committee referred back to the Board of Trade, as it does not correspond with the usage and practice in this kingdom.] [VII. pp. 18-9, 26.]

26 May.

[On the Committee report of 21 Dec., the Governor of New Hampshire is authorised, as Chancellor,* to apply for power to issue commissions for the custody of idiots agreeable to the usage and practice in this kingdom.] [VII. pp. 176, 199.]

(1770.)
5 Jan.

[Reference to the Committee of a letter from John Pownall, secretary to Lord Hillsborough, to the Clerk of the Council, transmitting a letter of 20 Sept., 1770, from the Governor of New Hampshire, requesting powers to issue commissions as above.] [VIII. p. 66.]

(1771.)
11 Feb.

[On the Committee report of 25 May, it is ordered that Lord Hillsborough receive his Majesty's pleasure to signify to the Board of Trade that in all future commissions to colonial governors a clause be inserted to give them as Chancellors the necessary powers to issue commissions as above.] [VIII. pp. 235, 244.]

(1771.)
7 June.

[109.] [Reference to the Committee of a Board of Trade representation with a commission and instructions for John Byron as Governor of Newfoundland.] [p. 546.]

14 April.
Newfound-
land.

1769. § 109 *cont.*]

3 May. [The commission and instructions are approved (P.R.) and the Board of Trade directed to prepare a plan for the better regulating the government and encouraging the fishery, to be ready for the consideration of Parliament next session, as recommended by the Committee, who quoted the Board of Trade representation, showing that they had made the following changes :—] In that part of the Commission which directs the taking and administering the State Oaths, the said Lords Commissioners have altered the present Draught in such manner as to make it Correspond with the Act of Parliament, passed in the sixth year of your Majesty's Reign, for altering the Oath of abjuration,—That it appearing to the said Lords Commissioners from the Reports made by the late Governor of the State of the fishery, That Foreigners are become Sharers in the Commerce and fishery of that Island, by being part owners of Vessells under English Names, the said Lords Commissioners have added some words to the 10th Article of the Instructions directing an enquiry to be made into the nature and extent of this illicit practice in order to such further directions thereupon as shall appear to be necessary.—That the said Lords Commissioners have also added the 17th 18th 19th 21st 22d 23rd 24th 25th and 28th Articles, the first nine of which contain directions for enquiry into the state of those Territories which have been added to the Government of Newfoundland since the Treaty of Paris, and the last mentioned Article contains the Substance of an additional Instruction given to Your Majestys late Governor in 1765, relative to the Fishery between Bona Vista and point Riche. That to the 62d Article which Relates to the Traffick and Intercourse with the Savages the said Lords Commissioners have added some words directing a Proclamation to be published in Your Majesty's name enjoining all Officers and Magistrates to be diligent in the discovering and apprehending Persons Guilty of Murdering the said Indians, in order that such Inhuman Crimes, which the said Lords Commissioners are Informed, do but too much prevail in that

§ 109 *cont.*]

1769.

Island, may be Judged and determined as the Act of Parliament directs—That it is very much to be wished that the State of the Island of Newfoundland in respect to its Commerce and Fishery (so Important to this Kingdom) was such as not to require any further Orders or Regulations ; but that it is their duty humbly to represent to Your Majesty that notwithstanding the advantages obtained by the support which Your Majesty's late Governor has given to the Fishery, and by his diligent attention to it's Real Interests, and wise and prudent regulations, yet it appears by His Reports, to be at present carried on, upon such a plan as does in no respect Correspond with the provisions of the Statute of the 10th and 11th of William the third, is Subject to abuses, which do entirely defeat the objects of that Law and in his opinion operate in the highest degree to the prejudice of the Commerce and Navigation of this Kingdom.

[The Board of Trade refer to their report of 29 April, 1765, but are not to be understood to be of opinion that all defects can be remedied and the fishery established on the most beneficial footing by enforcing the regulations of the act of William III, being] Sensible that the provisions of that Statute do not, in many instances, correspond with the present state of Newfoundland and it's Fisheries and therefore, What will be the best Method of promoting the National Interests in respect thereto ; is greatly altered from what it was when that Law was made, But . . the encreasing the Number of Seamen and extending the Navigation of this Kingdom, upon which its wealth and safety depend have been and ought to be Invariably the objects to be first attended to in whatever Regulations shall be adopted in respect to Newfoundland the State of which at present as set forth in their said Representation, does, in their humble opinion require immediate and deliberate Consideration. [pp. 557-9 ; VII. pp. 1-2.]

[110.] [Reference to the Committee of the petition of Naphthali and Isaac Hart, merchants of Newport, Rhode Island, for a day for hearing their appeal from a judgment of 14 April. Rhode Island.

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1769. § 110 *cont.*]

the Superior Court in March, 1768, affirming a judgment of 16 Nov., 1767, in an action of account with Abraham Solomons, touching the half part of a ship called the *Confirmation*.]

[p. 548.]

14 April. [111.] [Reference to the Committee of the petition of Mary
Jamaica. and James Hardyman, of St. James parish, Cornwall co., Jamaica, executrix and executor and residuary devisees of Mark Hardyman, for a day for hearing their appeal from a Chancery decree of 23 April, 1768, overruling their exception to a report by a Master in Chancery in a case between them and Grace Goodin.] [p. 548.]

(1770.) [On the Committee report of 30 Jan., the decree is reversed
9 Feb. and the Master directed to review his report.]

[VII. pp. 222, 226.]

GEORGE III. VOL. VII. (May, 1769—Dec., 1770.)

3 May. [112.] [Order on two Nova Scotia bills (which had been
Nova Scotia. transmitted for his Majesty's approbation) in accordance with the Committee report of 24 April, agreeing with a Board of Trade representation referred to them on 14 April :—]

An Act to prevent the importing impotent, Lame and Infirm Persons unto this Province.

[This bill is disapproved as liable to some of the objections on account of which a previous act of 1760 was disallowed—the vagueness of the description of the persons who may be required to give security for indemnifying the town from charge; and the penalties and inconveniences to which masters of vessels are exposed.]

An Act for establishing the rate of Interest.

The Regulation of Interest proposed by this Bill has already, as in the former Case, been attempted by an Act of Assembly passed in this province, intituled, “An Act for establishing the rate of Spanish Dollars, and the Interest of Money within this province.” This Act likewise received

your Majesty's Disallowance ; but as it was repealed upon objections noways affecting the provisions of the Bill now Submitted, and altogether on Account of its being contradictory to the principles and Provisions of the Act of Parliament of the sixth of Queen Ann for ascertaining the Rates of fforeign Coin in the plantations, it does not appear to Us, that any reason obtains, why the general purposes of this Bill should not be carried into execution ; But as the Bill now proposed does not appear to Us sufficiently clear and Explicit with respect to the saving and Indemnifying Persons may have previously made Contracts and Agreements upon loan at Interest of another rate than that prescribed by the Bill in Question, we would humbly recommend to Your Majesty to direct Your Governor, before he Assents to pass this Bill into a Law, to take Care, that a Clause be inserted therein to the above purport and effect.

[VI. *pp.* 546, 560-1 ; VII. *p.* 9.]

[113.] [Reference to the Committee, and by them on 3 May.
8 May to the Board of Trade, of the petition of Sir Thomas New Jersey.
Mackworth, Bart., heir at law to his cousin of the same name, showing] That James Smith Esquire late Secretary of the Province of New Jersey did by his Will dated the 17th of March 1720, give all his Estate in New Jersey and elsewhere to the Petitioners said Cousin and died some few years after seized of a Tract of Land in the said Province containing about one thousand seven hundred Acres which was granted to him and his Heirs by Letters patent from King George the first bearing date the 15th of December 1722 ; That the Petitioner is well advised that the said Estate did not pass by the said Will, owing to it's being made prior to the date of the said Grant but that the same would legally descend to any Person that could prove himself or herself to be Heirs at Law to the said James Smith ; That the said James Smith has been dead upwards of Thirty years and no person has been able to make out any Title to the same as his Heir at Law, in Consequence whereof the same legally reverts to His

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1769. § 113 *cont.*]

Majesty and has, ever since the Death of the said James Smith remained uncultivated and unoccupied [and praying directions that the estate be granted to him agreeably to Smith's intention and design]. [pp. 11, 19.]

3 May. [114.] [Reference to the Committee of the petition of John
Nova Scotia. Wilson, mariner of New York, attorney for Luke Van Ranst, Francis Welsh, James Sacket, Jacobus Lefforts, Peter Clopper, William Carlisle and others, for a day for hearing his appeal from a sentence of the Vice Admiralty Court of Nova Scotia, 29 June, 1761, condemning the brigantine *Polly* and part of her cargo, with costs in favour of William Nesbitt, Advocate General of Nova Scotia, and Thomas Francis, commander of H.M.S. *Greyhound*.] [p. 12.]

(1770.) [On the Committee report of 22 Dec., the judgment is reversed
5 Jan. and the ship and cargo, or value thereof, ordered to be restored to the owners. The case was heard *ex parte*, no appearance having been entered for the respondents.] [pp. 83, 181, 200.]

3 May. [115.] [Reference to the Committee, and by them on
Jonathan Carver. 21 June to the Board of Trade, of the petition of Jonathan Carver, late commander of a company of provincial troops in Massachusetts Bay, for some recompence for] his many services in the interior and unfrequented parts of North America, and the Expences he has been put to in making Discoveries keeping Journals and taking Charts, none of which he hath hitherto published or discovered to any person. [The Board of Trade are to inquire into the facts, and report] what utility may arise to the publick from the Charts Plans and Discoveries made by the said petitioner; with their opinion what may be adviseable to be done thereupon. [pp. 13, 63.]

29 Nov. [In accordance with the Committee report of 20 Nov., his Majesty declares his intention of bestowing his bounty on the petitioner upon his surrendering to the Board of Trade all maps, charts, plans, discoveries and observations made by him during his expedition.

The Board of Trade reported to the Committee] that they have been attended in person by the petitioner, who has exhibited to them, the attested Copy of a warrant from Major Robert Rogers, Governor Commandant of His Majesty's Garrison of Michillimackinac, dated the 12th of August 1766 appointing the petitioner, with an Allowance of eight shillings per Day, for the purpose of making Discoveries and Surveys of the Interior parts of North America, especially to the West and North West of that Garrison, and making out the Route he was to follow in his expedition for that purpose ; That in Consequence of this Commission it appeared, that the petitioner undertook and performed a Journey of great extent, thro' the Interior and unfrequented parts of the Continent of North America, travelling to the Westward of Michillimackinac, as far as the Heads of the great River Mississippi, directing his Course from thence Westward almost to the South Sea, and in his return, exploring the whole Circuit of the Great Lake Superior, That in this Service under the Commission above stated, the petitioner sets forth, that he was engaged for a considerable course of time with great hazard and Fatigue, incurring thereby an expence, which on account of his pay at the above rate of eight shillings per day, together with other incidental Charges, amounts in the whole, as appeared by an extract of his Account to the Sum of 735*l.* 11*s.* 3*d.* of which Charge no part appears to have been defrayed, Major Rogers at the Petitioners return to Michillmackinac, being then under Confinement and General Gage as appeared by Certificate under his hand declining to make him any Compensation or Allowance for as much as Major Rogers was not empowered to employ him.

[From Carver's general answers to their inquiries and from such observations as they could form from his route, as laid down in the chart exhibited by him, the Board of Trade] are inclined to think, that no discoveries of general and National importance appear to have been made in the course of his Travels ; nor do his Journals, as they conceive furnish any

1769. § 115 *cont.*]

other Lights than what relate to the courses of Rivers, the fertility of the Country, the Mines of different sorts, with which in some parts it is found to abound, and such other general Articles of Curiosity, as might be supposed to offer themselves to the observation in traversing a new and unexplored Country . . . that the petitioner having engaged in this Expedition, under a Commission from Major Rogers which that officer was by no means authorized to grant, He cannot now by virtue of such appointment, make any regular claim or demand for Indemnification for his Labour and Expences; Nevertheless as the hardships and difficulties which the petitioner asserts to have undergone, have the Testimony of General Gage for their Truth; and as Captain Carver does appear, as well from the above Certificate of General Gage, as Likewise by a Letter from Brigadier Ruggles to Governor Bernard to have acquitted himself in his Majesty's Service with Reputation and fidelity, The said Lord Commissioners think it a Case of Compassion, and, as such submit it to this Committee to act thereupon, either for his Relief or otherwise as shall be thought meet. [pp. 142-3, 152.]

(1770.) [A letter to Thomas Bradshaw, Secretary to the Treasury,
7 June. (who had intimated on 15 March that the Treasury were at a loss in determining what bounty should be given to Mr. Carver), repeats the grounds of the recommendation, and encloses a] Copy of a Subsequent Memorial from Captain Carver, addressed to Lord President, humbly praying, over and above the reimbursement of his expences incurred during the Expedition some reasonable compensation for his loss of time, and further Costs in preparing his Charts &c. to be delivered up to the [Board of Trade, the whole amounting to 1,129*l.* 15*s.* 3*d.*] [p. 405.]

26 May. [116.] [Orders are given for preventing the passing of a
New Jersey. bill transmitted by the Governor of New Jersey for making current 100,000*l.* in bills of credit; and for proceeding in accordance with a Committee report of 8 May, agreeing with a Board of Trade representation of 2 May, referred to them

§ 116 *cont.*]

1769.

on 3 May, which showed] That this Bill . . enacts, That the said Bills of Credit should pass current in the above Province for the several Sums for which they shall be struck, thereby importing that the same shall be received within this province as a legal Tender in payments of Money ; [which cannot be allowed, as being contrary to an Act of Parliament of 4 George III]. But as your Majesty's Governor of New Jersey strongly represents the necessity of an Act of this nature, free from the objection above stated, and therefore prays to receive your Majesty's Instructions thereupon, before the next meeting of the Council and Assembly, at which time he expects they will pass such another Bill and press for his assent ; [the Board of Trade see no objection] in Case the actual necessity of emitting Bills of Credit upon Loan to the High amount now proposed, can be made to appear, and provided care be taken effectually to observe the restriction of the Act of Parliament, prohibiting such Bills to be deemed a Legal Tender . . but as many regulations may be found necessary, when a Measure of this Consequence shall come under Consideration, which cannot now be pointed out and prescribed [it should either be transmitted, as in this case, in the form of a bill, or a suspending clause should be inserted in the act].

[*pp.* 10, 16-7, 27.]

[On a Committee report of 25 May, a New Jersey act of (1770.) Nov., 1769—for striking 100,000*l.* in bills of credit—is 6 June. disallowed. The Board of Trade representation of 11 April referred to the Committee on 27 April had shown that while a suspending clause was inserted as ordered above, section 49 provided that the bills should continue to be taken by the Commissioners of the Loan Offices in payment of all debts and mortgages for 20 years, being in substance the same with a clause in a New York act disallowed on 14 Feb. (*p.* 216). The Board of Trade] submitted the act for such directions as your Majesty shall with the advice of your Privy Council, think fit to give thereon.

[*pp.* 362, 381-2, 398.]

198 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1769.

26 May. [117.] [Reference to the Committee of the petition of
Newfound- Edmund Shannahan, master of the brig *Bridget*, which he
land. claims for the owner, Paul Farrell, merchant of Waterford,
for a day for hearing his appeal from its condemnation by the
Vice Admiralty Court at St. Johns, Newfoundland, 17 Aug.,
1768, in favour of Alexander Dunn, collector of customs ; and
for liberty to produce the evidence which was refused in the
Vice Admiralty Court.] [pp. 30, 47.]

(1770.) [On the Committee report of 6 April, the sentence is
27 April. affirmed.] [pp. 329, 358.]

9 June. [118.] [Reference to the Committee of the petition of
Pennsyl- David Franks and others] that if any Grant or Surrender of
vania. Lands made by the Indians at the present Treaty held at
Fort Stanwix by way of Retribution for losses sustained through
their Depredations wherein the names of the Petitioners are
or shall not be inserted, should be presented to His Majesty
for Confirmation, His Majesty would be pleased not to confirm
the same, otherwise than to some person or persons in Trust
for the Common use and benefit as well of the petitioners as of all
others who suffered by means of French or Indian Depredations
committed on His Majestys Subjects in America from 1750 to
1763, or [for other relief : cf. App. V. "America"]. [p. 44.]

9 June. [119.] [Reference to the Committee of a Board of Trade
Labrador. representation and a petition] of Thomas Pecholier of London
Merchant, Agent for Messrs. Cugnet and Tacket and others of
Quebec together with several other papers relative to the
Claims and pretensions which several Inhabitants of the
province of Quebec and heretofore Subjects of France set up
and exhibit, of property in and Exclusive possession of Land
and fishing Ports on the Coast of Labrador in the Gulph of
St. Lawrence. [p. 45.]

28 June. [120.] [On a Committee report of 21 June, a Dominica bill
Dominica. is disallowed and Lieut.-Governor Fitzmaurice commended
for withholding his assent ; and on 14 July, an additional
instruction for the Governor of Grenada, submitted by the

Board of Trade on 6 July, is approved (P.R.), directing that the instruction about levying money and imposing fines, forfeitures and penalties be made conformable to the usage in the old colonies.

The bill was] For laying a Tax on all Taverns Punch-houses, retailers of Rum, and other Spirituous Liquors, and all Billiard Tables ; and also for establishing a Publick Treasury, and for fixing a Salary for a Treasurer.

[The Board of Trade representation referred on 26 May showed] That by a Clause contained in this Bill it is proposed to be enacted, That all accounts and Demands against the Publick of this Island shall be audited and settled by a Committee, consisting of three Members of the Council, and five of the Assembly ; and upon such Committees Certifying the Accounts to be just the Governor or Commander in Chief is required to issue his Warrants to the Treasurer for Payment ; The issue of all Publick Monies raised by Acts of Assembly being by your Majesty's Commission under the Great Seal vested in the person of your Governor by and with the Advice and Consent of your Council, and not otherwise, this Regulation, which is for making the Previous Certificate of a Committee necessary, before the Treasurer can issue Monies to the Warrant of the Governor, cannot but be considered as repugnant to the Article above referred to, and as by the further Provisions of this Bill sufficient Care seems to be taken for guarding against any Misapplication of the Public Revenues, no pretence as we conceive, can be Assigned for the institution of this Committee ; besides that under this regulation, in Case of the Assembly's being dissolved, a stop might be put to the issue of all publick Monies whatever ; For these Reasons, we are of opinion that, this Clause ought by no means to be allowed.

[The bill also fails to comply with two directions of article 11 of the present instructions to the Governor of Grenada,] That in all Laws or Ordinances for levying Money, or imposing fines, Forfeitures, or Penalties, express mention be