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1769. § 120 *cont.*].

made, that the same is granted or reserved to your Majesty, your Heirs and Successors for the Public uses of the said Island etc. And that a Clause be inserted, declaring that the Money arising by the operation of the said Law or Ordinance shall be accounted for unto [his Majesty and the Treasury in England, and audited by the Auditor General of the Plantations or his deputy].

Nevertheless . . until the Institution of Government in Grenada and the Dependant Islands, annexed to the British Empire at the Conclusion of the late Peace, no positive Instruction was given by the Crown for the Actual Insertion of a Clause in all acts for raising Publick Monies, directing the same to be accounted for, as above described ; the constant form of the Royal Instructions till that Period to the respective Governors being, “ That they were not to permit any Clause whatsoever to be inserted in any Law for levying Money, or the Value of the Money, whereby the same shall not be made liable to be accounted for to Your Majesty here in this Kingdom, and to your Commissioners of your Treasury, and audited by your Auditor General of your Plantations.” It does not appear upon what reasons the new form of Instruction was made to deviate from that above recited, which is still allowed to obtain in the old Colonies, but if, as we conceive, nothing more is intended by this regulation, than to bind the officers employed in the Provincial Revenues to a due and faithful application of the publick Monies by rendring their accounts subject to Examination, in this light we are humbly of opinion, that the alteration made in the Royal Instructions is by no means necessary, and that to prevent the alarm, which every Innovation of this sort is apt to occasion, especially in newly erected Governments, it would be adviseable to revert to the former Instruction.

[*pp.* 29, 54-6, 69, 80.]

28 June. [121.] [Reference to the Committee of an Ordinance
Nova Scotia. representation on considering several reports and plans of
Halifax, setting forth] that if it is the intention of Government

§ 121 *cont.*]

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to make use of that place as an Arsenal and Place of Arms the whole Enceinte must be in some degree forfeited and that the several expences attending the same must be very great in proportion to the degree of Security thereby acquired and as the place could not be put into a posture of Defence without an Enormous Charge, they have not formed any particular Plans or Estimates, till they receive particular Orders for that purpose. - [p. 73.]

[122.] [Reference to the Committee, and by them on 21 Dec. to the Board of Trade, of an extract of a letter from Governor John Wentworth of New Hampshire to Lord Hillsborough transmitting a copy of a proclamation issued by him on 2 March, 1769, for ascertaining the value of gold and silver foreign coin current in the province.] [pp. 81, 178.]

14 July.
New
Hampshire.

[On the Board of Trade report of 7 June that Richard Jackson, K.C., had given them his opinion that the proclamation was not warranted by the Act of 6 Anne, and was therefore void in law without revocation, the Committee ordered an additional instruction to be prepared requiring the Governor] to take such measures with the Advice of the Council of that province as shall be necessary and effectual for putting an immediate Stop to the Operation of the said proclamation, and also to recommend to the Assembly to form and prepare a Bill (if such shall be found necessary) for the purpose of preventing any prejudice to private persons in any Transactions that may have passed under the said proclamation.

(1770.)
11 June.

[On the Committee report of 4 Dec., the instruction was approved on 9 Dec. (P.R.).] [pp. 411, 623, 654.]

[123.] [Reference to the Committee, and by them on 21 Dec. to the Board of Trade, of several papers transmitted by the Governors of North and South Carolina to Lord Hillsborough, relative to a boundary line proposed to be run between the said provinces.] [pp. 94, 179.]

4 Aug.
North
and South
Carolina.

[On 24 April the Board of Trade were attended by the agents for the provinces and proposed that instructions be

(1771.)
7 June.

1769. § 123 *cont.*]

given to each government to appoint commissioners to continue the boundary. The Committee gave orders for the preparation of a draft on 25 May, and on their report of 3 June, the instructions are now approved (P.R.).

The boundary is to be fixed] from the Salisbury Road where it now ends, along said Road, to where it enters the Catawba Lands, from thence along the Southern, Eastern and Northern Boundary of said Lands, on the North, from thence to follow the Middle Stream of that River Northerly to the Confluence of the Northern and Southern Branches thereof and from thence due West, until it reaches the Line agreed upon with the Cherokee Indians, as a Boundary between their Country and the Settlements of Your Majestys Subjects ; and that . . the Line beginning at the Sea thirty miles distant from the mouth of Cape Fear River on the South West thereof following the Direction in which it has been already run out and marked, as far as the Salisbury Road near the Catawbaw Lands and as now proposed to be continued from Station point on that Road to the Cherokee Line above mentioned [shall be the final boundary between the provinces].

[VIII. *pp.* 238, 241, 248.]4 Aug.
Vandalia

[124.] [Reference to the Committee, and by them on 20 Nov. to the Board of Trade, of the petition of Thomas Walpole and others for a grant (on terms mentioned in their petitions) of 2,400,000 acres of land at the back of Virginia, sold by the Six Nations and other Indians to his Majesty.]

[*pp.* 95, 144.](1770.)
24 May.

[Reference to the Committee, and by them on 25 May to the Board of Trade, of a memorial of Walpole, Benjamin Franklin, John Sargent, and Samuel Wharton, showing that on the suggestion of the Board of Trade they had presented a petition to the Treasury for purchasing a large Tract of Land on the River Ohio in America sufficient for a separate Government, Whereupon their Lordships were pleased to acquaint the Memorialists [on 7 April 1770] that they had no objection to accepting the proposition made by them

§ 124 *cont.*]

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with respect to the purchase Money and Quit Rent to be paid for the same, if it should be thought adviseable by those departments of Government to whom it belonged to Judge of the propriety of the Grant both in point of Policy and Justice that the Grant should be made [whereupon they renew their application for a grant, reserving the rights of present occupiers within the tract prayed for].

[*pp.* 374, 386.]

[Committee minute on considering the Board of Trade report and Walpole's petition to be heard against it.] . . their Lordships came to a Resolution that the petitioners could not be heard formally against the Report of the Board of Trade, but that their Lordships would admit them to go into the whole matter they might have to offer in support of their original petition to His Majesty. And the petitioners being called in the minute of the said Resolution was read to them, Upon which Mr. Walpole proceeded to open the matter by reading a paper Setting forth the several Steps the petitioners had taken in the prosecution of their petition at the Board of Trade and Concluded by begging leave to referr to the observations on and answers to the Report of the Board of Trade (which the petitioners had printed) and added that they were prepared to answer the objections in point of policy by Evidence. (1772.) 5 June.

Memorial of Mr. Walpole and his Associates Setting forth their proposals . . was then read, and the Question being asked what Number of Acres the Grant Prayed for might contain? replied they could not say—being asked in what manner they proposed to establish their allegations, began to read from the observations etc. on the Report of the Board of Trade before mentioned—Read several Paragraphs tending to prove that the Lands in Question are not within the Limits of the province of Virginia—Read also (to the same End) Extract of the Treaty held at Lancaster in June 1744 between the Lieutenant Governor of Pensilvania and the Six Nations—The Question being asked whether the said Treaty was

1769. § 124 *cont.*]

published by authority ?, Dr. Franklyn replied he remembered it well, that it was done by order from the Governor and that the Secretary of the province attended all the time—Read also (to the same end) Extract of a Letter from Mr. Nelson President of the Council of Virginia to the Earl of Hillsborough Dated 18th October 1770—The Question being asked, who made the Grant to the Ohio Company in 1748–9, Replied, the Governor of Virginia, and admitted that there have been several Grants made by the Governor and Council of Virginia of Lands beyond the Allegany Mountains, but added, that they do not conceive any of the Lands Comprized within the Limits of the Grant prayed for by the Petitioners to belong to the province of Virginia—That the whole belonged to the six Nations, and are now vested in the Crown by the purchase made in 1768 at the Treaty held at Fort Stanwix—Respecting the Claim of the Cherokees to part of the Lands in Question—Read from the observations etc. on the Report of the Board of Trade, and likewise produced a Letter from the Committee of Council of Virginia to their Agent Mr. Montagu tending to prove that the Claim of the Cherokees was never taken up till since the era of Mr. Stewart's Superintendency—Read also extract of a Treaty between Mr. Stewart and the Cherokees in April 1770 at a place called Longaree Reciting a former Treaty, wherein the Cherokees only Claimed it to a place called Chiswells Mines.

Admitted that the Cherokees did not set up their Claim prior to Mr. Stewarts Superintendency, and that the petitioners are not beyond the boundary Line as settled by the Treaty at Fort Stanwix with the Six Nations.

Petitioners profess to admit of any proper Clause to be inserted in their Grant for saving any legal Rights that may be within the Limitts of the Grant prayed for by the Petitioners.

Respecting the state of the Settlements made before the Purchase in 1768 Read again from the observations etc, on the Report of the Board of Trade, and likewise called upon Major Trent who acquainted their Lordships that he was certain there were not less than 500 Families settled on the Monangehela

between the Years 1765 and 1768—The Question being asked from whence those Families came? Replied they all came from the Colonies.

Colonel Mercer—said that in 1765, He was Informed by Governor Fauquier that several Families were settled over the Mountains, and that he (the Governor) had sent a party of the Militia to remove them but could not Effect it.

Mr. Wharton—said He was present when the Detachment marched from Fort Pitts in order to remove the Settlers at Read Stone Creek, and that they returned without effecting it—Mr. Trent offered to produce the Orderly Book to prove the Detachment being sent etc. but the proceedings were admitted, and the parties directed to proceed to prove the Number of Settlers—Read Extracts of Letters from several Persons in Pensilvania—one from Colonel Croghan dated August 1st 1769 mentioning that between four and five thousand Improvements had been made that Summer. Do. from Captain Callander dated January 3rd 1771. Do. from Mr. Gallway (Speaker of the Assembly of Pensilvania) Dated 12th October 1771 That the Country which is the intended Object of the New Settlement is daily Settling—already five thousand Families not Subject to any Laws—Letter from Colonel Croghan to Mr. Walpole dated November 1771 Before the Congress at Fort Stanwix above five hundred Families settled on the Lands in Question, and since the Indian Cession not less than five thousand—That the Complaints of the Indians respecting Encroachments on their Boundary Line are almost incessant—that he had resigned his Office for reasons given in a Letter to General Gage dated 2d November 1771 (Copy of when he sent to Mr. Walpole) Vizt. on account of the ungoverned State of the Settlers on Lands beyond the Allegantries Mountains.

Letter from Justice Innis of New Hampshire in Virginia, giving account that the Number of Settlers is above 5,000 and daily encreasing.

Mr. Paterson (a Gentleman concerned in the Silk Manufacture

1769. § 124 *cont.*]

being called on by the petitioners to give an Account of the Quantity of the Silk Imported from the Lands in Question—acquainted the Committee that Dr. Franklyn had Shewn him some of the said Silk in 1770—that 150*lb.* of it had been put up at Publick Sale, Quality very good and at a good price—that about 60*lb.* of it had been worked at his (Mr. Patersons) Silk Mills, and wound as well as the best Italian Silk ; that he thought nothing was wanting but a Method of working it up clean, and more proper for the Manufacturer ; with respect to other Articles produced on the Lands in Question, the petitioners read from the observations etc. on the Report of the Board of Trade and likewise with regard to the conveniency of Carriage, and called upon Colonel Mercer respecting the Roads and Price of Waggonage, who informed the Board that there is a waggon Road from Fort Cumberland on the River Pottowmack to Pittsburgh and Red-stone Creek—that the distance from the River Pottowmack to the Yochio-geni one of the Navigable Branches of the Ohio is about 40 miles—That the general Price of waggonage upon the nearest Calculation reckoning the water Carriage does not exceed five shillings and nine pence per hundred weight that the Distance from Fort Cumberland to Red-stone Creek is about Seventy Miles, but when this Country comes to be settled, apprehends the Road will be shortned, and the expence of Carriage one half lessened—That they generally carry about 15 hundred weight with four Horses—The Question being asked whether the Currents of the River were rapid or not ? Colonel Mercer replied that they are not very rapid, but that of the Ohio more so than the Monanghela or the Yochio-geni several Accounts produced by the Petitioners to shew that the expence of carriage from the Lands in Question is not equal to the price paid from Pensilvania—Colonel Mercer observed that the produce of the Lands on the Ohio can at all times be sent down the River 50*l.* or 60*l.* per Cent. cheaper than from Pensilvania several Policies of Insurance produced upon Goods brought down the

Ohio from Fort Pitt to Fort Charters etc. Fort Charters above 1,200 Miles from the Sea One Policy of Insurance in 1767 for 6,000*l.* Vizt. At and from Fort Charters in the Illinois Country to New Orleans—At and from New Orleans to New York—at and from New York to London ; Skins, Furrs, Beef and Flour sent down from the Illinois Country to New Orleans—Deposition of Mr. James Milligan Sworn before the Lord Mayor february 1st 1772 relative to the Number of Settlers over the Allegantry Mountains, below the South Boundary Line of Pensilvania etc. Read—Mr. Hanny, lately arrived from America, examined ; Acquainted the Committee, that he left North America about March last, and arrived in London the beginning of May ; that he was in New Jersey, Maryland, Pensilvania and Virginia before he Sailed for Ireland, was chiefly in the back parts of those provinces and in travelling thro' the Frontiers from October to March, apprehends he did not meet less than three hundred waggons ; supposes there might be five or six hundred Families in those waggons ; The Question being asked, how many persons he meant by a Family ? replied upon an average six or seven persons to each Family—said that some people travel in Sledges during the Winter, that those he met generally told him they were going to Redstone Creek—Which he understood to be the first landing place on the Waters of the Ohio ; that from the Red-stone Creek they generally emigrate down into the Country—That in his Travels he met Colonel Washington and Mr. Smith—That the Colonel had been down the Ohio three hundred Miles and told him that a great many People were settled there and were very troublesome—That Mr. Smith had been up the River Ohio to look for Settlement liked the Soil and the Country, and intended to return again in the Spring—that he hardly expected to be believed but that there were 30,000 Settlers, who lived without any jurisdiction that he (Mr. Hanny) was told there were not less than 5,000 Families settled on these Lands from the Middle Colonies in the Course of last Season—The Question being asked what

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the Distance might be from Williamsburgh to the Lands in Question? Colonel Mercer replied about 400 miles—Distance from Philadelphia to Fort Pitt reckoned 320 Miles.

The Petitioners then acquainting the Committee that they had gone thro' all they had to offer they were directed to withdraw, and their Lordships deferred the further Consideration of this Matter 'till another Day.

[IX. *pp.* 271–5.]

(1772.) [Orders for carrying into execution the proposals of the
14 Aug. Committee report of 1 July, and for apprizing the Indians of the intention to form a settlement on the lands purchased from them in 1768.

The bounds of the proposed settlement were thus given in the application to the Treasury on 4 Jan., 1770:—] Beginning on the South side of the River Ohio opposite to the Mouth of Sioto, thence Southerly through the pass in the Ouasioto Mountains to the South side of the said Mountains thence along the side of the said Mountains North Easterly to the Fork of the Great Kenhawa made by the Junction of Green Briar and New River thence along the said Green Briar River on the Easterly side of the same unto the Head or Termination of the North Easterly Branch thereof, thence Easterly to the Allegheny Mountain thence along the said Allegheny Mountain to Lord Fairfax's Line, thence along the same to the Spring Head of the North Branch of the River Powtomack thence along the Western Boundary of the province of Maryland to the Southern Boundary Line of the province of Pensilvania, Thence along the said Southern Boundary Line of the Province of Pensilvania to the End thereof, Thence along the said Western Boundary Line of the said province of Pensilvania until the same shall strike the River Ohio, Thence down the said River Ohio to the place of beginning. And for which they offered to pay the Sum of 10,460*l.* 7*s.* 3*d.*, being the whole of the Money paid by Government for all the Lands purchased of the six Nations at Fort Stanwix, and the Memorialists did further offer to pay a Quit

Rent of two Shillings for every hundred acres of Cultivable Land within the said Tract, praying an Exemption from the payment of the said Quit Rent for the space of Twenty Years but offering to pay the said purchase Money to the Order of the Treasury.

[The Committee, having received the Board of Trade report and heard further evidence produced by the petitioners, reported—]

1st. That the Lands in Question have been for some time past, and are now in an actual State of Settling, Numbers of Families, to a very considerable amount, removing thither continually from your Majesty's other Colonies.

2d. That the Lands in Question do not lye beyond the Reach of advantage Intercourse with this Kingdom, it appearing from divers Policies of Insurance, laid before this Committee, that Sundry Commodities, the produce of those Lands, are exported from thence, to a considerable amount, and Evidence having been likewise produced of a person being employed to Collect and Ship from hence a Cargo of British Merchandize for the use and Consumption of the said Settlers and the Natives.

[In case his Majesty shall be pleased to make a grant of any part of these lands, the petitioners have the first claim, but while recommending a grant to them, the Committee proposed that the Superintendent for Indian Affairs apprise the Six Nations of the intended settlement, that the Board of Trade prepare a clause to be inserted in the grant to save prior claims to lands within the limits of the grant, and to forbid settlement between the treaty boundary of the Indian hunting grounds and the line proposed by the petitioners from the mouth of the Scioto to the south of the Ouasioto mountains, until his Majesty's permission shall be obtained: and lastly that the settlement be erected into a separate government under regulations to be proposed by the Board of Trade.]

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(1773.) [Reference to the Committee of a Board of Trade report
19 May. of 6 May proposing a plan of government for Walpole's
intended colony of Vandalia.] [X. p. 196.]

(1773.) [The Committee direct the Attorney and Solicitor General
3 July. to prepare the draft of a grant to Walpole on the terms
proposed by the Board of Trade.] [X. p. 238.]

(1773.) [On the representation of the law officers] that the granting
28 Oct. the said lands in Joint-Tenancy will probably render it
impossible to make any under Grants with Compleat Titles ;
That the Description of the thing to be granted is much more
loose and uncertain than hath been usual in Royal Grants or
than hath been practised so far as they know, in any but the
Grants which were made for the Erection of Colonies to the
first Adventurers in America, while it was wholly unknown ;
And further that the Quit Rents will not be so well secured
to His Majesty if they are not reserved from the Lands under
Granted, instead of being made payable by the Grantors
[the Committee direct them to prepare the draft of a grant
as proposed by the Board of Trade, except that quitrents
are to be made payable (twenty years after leasing or settling)
by undertenants as well as by the grantees. A map of the
land prayed for is also transmitted, and the law officers are
to insert the bounds of the lands in the grant as they are
described in the Board of Trade report of 6 May, 1773].

[X. pp. 321-3.]

(1774.) [Reference to the Committee of the petition of Thomas
12 Aug. Walpole on behalf of himself, the Earl of Hertford, Earl Temple,
Lord Camden, Richard Walpole, Robert Walpole, Sir Harry
Featherstonhaugh, Bart., Sir George Colebrooke, Bart., Thomas
Pitt, Richard Jackson, Samuel Wharton and their associates,
that the establishment of Vandalia be no longer delayed and
that the grant of lands on the Ohio agreed upon be expedited.]

[X. p. 206.]

15 Sept. [125.] [Reference to the Committee of the petition of
Rhode Alexander Grant, merchant of Newport, Rhode Island, for a
Island. day for hearing his appeal from an order of the Superior Court

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§ 125 *cont.*]

1769.

in Sept., 1768, affirming a judgment of the Inferior Court, 16 Nov., 1767, condemning him to pay to Charles Hardy 251*l. stg.* and costs for the value of certain bills of exchange.]

[*pp.* 107, 268.]

[On the Committee report of 9 July, the appeal is dismissed. (1771.)
Solicitor for the appellant informed their Lordships that he 19 July.
had no orders to proceed further.] [VIII. *pp.* 325, 343.]

[126.] [Reference to the Committee of (a) a representation 25 Oct.
of the House of Representatives of Massachusetts Bay, Massachu-
containing divers charges against Governor Bernard, and (b) setts Bay.
Bernard's petition for an early day for hearing the charges;
and, on 29 Nov., of (c) a petition of Denys de Berdt, agent
for the Assembly, for time and opportunity to make good
their allegations.] [*pp.* 117, 154.]

[Reference to the Committee of de Berdt's petition that (1770.)
the hearing (which on 21 Dec. had been fixed for 27 Jan.) 19 Jan.
be deferred for some months to give time for obtaining proofs of
their charges from a distance. On 20 Jan. the Committee gave
peremptory order for hearing on 28 Feb.] [*pp.* 180, 211, 213.]

[Committee minute.] . . the said Mr. De Berdt and (1770.)
Sir Francis Bernard attended and were called in when the 28 Feb.
agent for the Complainants presented to their Lordships a
Memorial, wherein he declined proceeding upon the Complaints
without having further time allowed him to procure the
necessary proofs from his Constituents, which Memorial
being read, their Lordships asked Mr. De Berdt several
Questions touching the Steps he had taken to procure the
necessary evidence in support of the Charge to which he
answered in Substance as follows,

Being asked about what time he had wrote to his
Constituents to send him over proofs?—He said it was some-
time in August last as he Believed, that he wrote to the
Speaker for that purpose, but had never received any Answer
from him on that head—Being asked if He had received any
and how many Letters from the Speaker since that time,—
Replied he might have had five or six Letters from the

1769. § 126 *cont.*]

Speaker since, but no Answer in any of them, as to the proofs or Documents to be sent over to him in support of the Complaints nor ever received any List of the proofs to be exhibited—Being asked if He had ever received Answers touching other matters contained in His Letters to the Speaker,—Replied he had, but nothing relative to the Claimants or Documents ; said that he was ordered to present the petition to His Majesty, immediately on receiving it, and was told the Documents would soon follow—Being ask'd if he ever wrote to the Speaker desiring a Letter of Attorney might be sent him to Prosecute Sir Francis Bernard—said no, but that his Letter to the Speaker was to this effect, that if they meant any proceedings against Sir Francis Bernard they should send him (Mr. De Berdt) a proper power—Being ask'd again if Mr. Cushing (the Speaker) made any Answer to that part of his Letter desiring a power of Attorney to be sent him to prosecute Sir Francis Bernard—Replied he had no Answer—Being asked under what authority he appeared as Agent for the Complainants—Replied, He appeared as standing Agent for the House of Representatives—Being asked, whether he ever received any Directions or Instructions, or was ever desired to print the petition of Complaint, or anything relative thereto in the News Papers—Replied, that he could not be positive, whether he had, or had not—that he did not Assert, he never had received any such directions—but could not recollect.

Sir Francis Bernard being then called upon to know what he had to offer against granting further time to the Agent for the Complainants to make good the Charge, Referr'd himself to the printed Journals of the Assembly, where it appeared, that a former petition to His Majesty to remove the Governor had been brought into the House, the 30th of May 1768, which petition had been recommitted, in order to the obtaining Evidence in support of diverse Articles—and that the next Year, Vizt. on the 27th June 1769, the petition of Complaint (now under Consideration of the Committee)

was brought into the House and passed the same day without any proofs—Sir Francis Bernard then observed, in answer to what was set forth in the Memorials presented by Mr. De Berdt—vizt. That the Assembly having been prorogued from time to time, prevented him from receiving proofs and Instructions from his Constituents, That it was the frequent practice in the American Colonies, to appoint a Committee to Correspond with the Agent of the Colony upon any Business during the recess of the Assembly—which was confirmed by Mr. Israel Mauduit, Brother and Assistant to Mr. Jasper Mauduit late Agent for the province of Massachusetts Bay, who said, he always understood that if Letters arrived during the Recess of the Assembly, they were immediately delivered to the Speaker, and some other Members of the Assembly appointed for that purpose, and they answered them—Mr. De Berdt being then asked whether since he has been employed as agent he has ever been in the situation of Corresponding with a Committee during the Recess of the Assembly—Replied—that during the three Years he has been concerned, he never heard of any such thing as a Committee appointed to Correspond with the Agent during the Recess of the Assembly—Mr. De Berdt being then asked—whether he meant to abide by His petition of the 15th Instant praying to be allowed seven Months further time to make good the Complaints, or whether he meant by his Memorial this Day presented to their Lordships, to abandon the Complaint—He expressly declared that he declined proceeding on the Business now, or at any future time, unless he was allowed the time he had applied for (namely seven Months) and, as much more at the expiration thereof as might be necessary for him to receive Instructions from his Constituents, which, He said; Depended on the sitting of the Assembly.

[The parties having withdrawn, the Committee agreed to report that the complaints be dismissed, and directed the Clerk of the Council to prepare a draft agreeable to a precedent

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of 1739 in the case of complaints against the Governor of North Carolina.] [pp. 269-71.]
- (1770.) [On the Committee report of 7 March, the petition is
14 Mar. dismissed as groundless, vexatious and scandalous.] . . the House of Representatives having omitted to send over to their Agent, the Documents necessary to make good their Complaints although it appears by the aforesaid printed Journals, that the House continued sitting eighteen Daies after the passing of the said Order of the 27th of June 1769, could only be with a view to keep up a spirit of Clamour and discontent in the said province; and . . several of the said Articles of Complaint against the Governor could not be supposed to affect the Governor, but are rather a Charge against your Majesty's Government. [pp. 279-82, 286.]
- 25 Oct. [127.] [Reference to the Committee of the petition of
Jamaica. George Richards and Jane his wife (*née* Cussans), and Thomas Cussans, administrator of Dolorosa Favel Hodgins, spinster, for a day for hearing their appeal from a decree of the Jamaica Chancery, 18 Feb., 1769, in favour of William, John and Philip Miles and Samuel Alpress, executor of George Alpress and administrator *de bonis non* of Edward Hodgins, in a case relating to a legacy of 3,000*l. stg.* left by the last-named to Dolorosa.] [p. 117.]
- (1771.) [On the Committee report of 9 July, the decree is reversed
19 July. and the appellants are declared entitled to one moiety of the legacy with interest: directions are given for payment thereof. Names occurring in the report are Cholmondeley Deering, Patrick Taylor, John Edward Hodgins, Edward Morant, William Gale, Milborough Hodgins or Cargill or Cradock, Jane Alpress or Deering, Andrew Arshdeshore (? Arcedeckne), Arthur Gregory, Charles Mitchell, Daniel M'Queen, Matthew Gregory, Sir Simon Clarke, Richard Cargill, James Roden, William Hodgins, Pierce Cook, Stephen Fuller, Gilbert Ford, and Edward Hodgins, jun.] [VIII. pp. 316-21, 341.]
- 25 Oct. [128.] [Reference to the Committee of the petition of
St. Vincent. Harry Smith, collector of customs in St. Vincent, for a day

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for hearing his appeal from a judgment of the Court of Errors there, 4 July, 1768, affirming a judgment of the Court of Common Pleas, 25 June, 1768, in Richard Ottley's action of trover to recover from him two hogsheads containing about 30 *cwt.* of sugar seized in lieu of the $4\frac{1}{2}\%$ duty on sugars grown by Ottley on lands newly purchased by him in the island. An appearance had been entered for Ottley on 7 July, and a petition that the appeal be dismissed for non-prosecution had been referred on 4 Aug.] [pp. 77, 96, 118.]

[129.] [Reference to the Committee of the petition of Richard Holden and John Jones, merchants of Kingston, Jamaica, for a day for hearing their appeal from a decree of the Chancellor, 25 Aug., 1768, allowing Robert Duff's bill for an injunction to stay their proceeding at law on a judgment against Duff and John Herdman for 435*l.* 18*s.* 10 $\frac{1}{2}$ *d.*] [p. 126.]

1 Nov.
Jamaica.

[130.] [Reference to the Board of Trade of a petition of the New York Assembly, by their agent, Robert Charles, praying that the Governor be directed to pass into law a bill carried in May for emitting 120,000*l.* in bills of credit: a copy of an address of the Assembly to the Governor is also referred.] p. 132.]

10 Nov.
New York.

[The bill is forbidden to be passed, in accordance with the Committee report of 20 Jan., on considering the opinions of the law officers and the Board of Trade, that the 25th clause may be construed to be contrary to the Act of Parliament of 4 George III—to prevent paper bills of credit hereafter to be issued in any of his Majesty's colonies or plantations in America, from being declared to be a legal tender and such bills, as are now subsisting, from being prolonged beyond the periods limited for calling in and sinking the same.]

(1770.)
9 Feb.

On the same date a Board of Trade representation of 8 Feb., for repealing a New York act of 5 Jan., 1770, for emitting 120,000*l.* in bills of credit, was referred to the Committee, and by them to the law officers, to be compared

1769. § 130 *cont.*]

with the bill of May, 1769. A letter of 9 Feb. desiring the attendance of Attorney General de Grey on 12 Feb. is also given in the Register. On 14 Feb. the act was disallowed, in accordance with the Committee report of 13 Feb., agreeing with the Board of Trade, who had represented that when they reported on the former act on 20 Dec.] the Lieutenant Governor was acquainted with the several Steps which had been taken on this Occasion, and with the difficulties which had arisen in point of Law, upon those Clauses of the Bill, by which the paper Notes to be emitted were made a legal Tender in the Treasury and Loan Office of that Colony.

[Yet, on 5 Jan., the Lieut.-Governor assented to a new act differing in no material point from the old one still under his Majesty's consideration,] and thereupon it becomes necessary for us to lose no time in humbly laying this Act, which was received at our office yesterday, before your Majesty to the end that, if your Majesty shall be pleased to signify your disallowance of it, either upon the ground of the Doubts in point of Law which occurred to the former Bill, or upon a Consideration of so irregular a proceeding as that of entering upon a proposition of this Nature, and passing it into an Act, pending the Consideration of it before your Majesty in Council, there may be no delay in having your Majesty's pleasure thereupon signified to the Colony, so as to reach it before that part of the Act, which authorizes the emission of the Bills, can take effect that is to say, on the last Tuesday in June.

How far the Lieutenant Governor is justified in the Conduct he has thought to pursue on this occasion must be submitted to Your Majesty, upon the reasons Assigned by him in his Letter to one of your Majesty's principal Secretaries of State, and to this Board. [The instruction of July, 1766, on the ground of which he says the Council advised him to this step, forbids the passing of any such law without a suspending clause]. [pp. 212, 225, 229, 234-5, 244-6, 248.]

29 Nov. [131.] [Reference to the Committee of the petition of
 Montserrat. George Scandret and William Anderton, executors of Samuel

§ 131 *cont.*]

1769.

Martin, who was the surviving acting executor of Nathaniel French, for a day for hearing their appeal from a decree of the Montserrat Chancery, 2 March, 1769, allowing a demurrer put in by Michael White to a bill filed against him and Harry Webb for 3,464*l.* 12*s.* 8½*d.*, with 8 *per cent.* interest from 13 Oct., 1752, to the time of payment, the sum being the difference between two appraisements.] [*pp.* 155, 411.]

[On the Committee report of 9 July, the decree is affirmed. (1771.) William Mackinnen, French's other executor, and Michael 19 July. Lynch and John Daly, who made one of the valuations, are also named in the report.] [VIII. *pp.* 29, 314–5, 342.]

[132.] [Reference to the Committee of the petition of 29 Nov. Esther Swete (widow), residuary devisee and legatee, Francis Jamaica. Baxter and Charles Gardiner, executors, and Robert Richards, of Kingston, administrator in Jamaica, of Mary Hynes, for a day for hearing their appeal from an order of the Chancellor, 18 Feb., 1769, dismissing their bill against Thomas Beach and Helen his wife and Janet Sadler, relating to the division of Mary Hynes' estates.] [*pp.* 155, 259.]

[On the Committee report of 9 July the order is reversed : (1771.) Mrs. Swete is to have possession of one third of Beeston Spring 19 July. estate, and its produce from the death of the testatrix ; she is also to have the equity of redemption of a third part of four plantations (the Retrieve, Aikindoun, Strathbogie and the Bogue), which had been mortgaged to Peter Beckford ; costs of the suit below are awarded against Beach. Names occurring in the report are John Hynes, father of Mary Hynes named above ; his first wife, Mary, and her father, Charles Brayne ; William Hall and Mary his wife, Edward Pratter, George Bennett, Henry Dawkins, John West, Janet, daughter of James Guthrie and Hynes' second wife, of whose daughters Elizabeth Hynes, or Elletson, died without issue, and Helen is now wife of the respondent Beach ; Elizabeth, Helen, Mary and John Guthrie ; William Beckford, Alderman Turner, of London ; Bridget Bennett, William Hayman, and Sir William Trelawny, the Governor.] [VIII. *pp.* 304–14, 340.]

1769.

2 Dec. [133.] [An appearance for the possessors of lands in Connecticut, Connecticut to the appeal of the Mohegan Indians is entered by Thomas Life, of Basinghall Street. (*Cf. Acts of the Privy Council*, IV. pp. 723-4.)] [p. 157.]

12 June. [The Committee hear counsel and adjourn. Similar entries on 13 June and 7 Nov., 1770, 3 June and 11 June, 1771. On the last day they finished hearing counsel, but postponed making their report.] [pp. 414-5, 551; VIII. pp. 241, 264.]

(1772.) [Letters to the Master of the Rolls and Sir Fletcher Norton 27-8 June, to attend a Committee meeting, if possible, on Tuesday next to determine this matter, both parties and the Lord President being desirous to conclude it before the recess.]

[IX. pp. 340-1.]

(1773.) [On the Committee report of 19 Dec., the appeal is 15 Jan. dismissed. The judgment of the Commissioners of Review, 16 Aug., 1743, hereby affirmed, was as follows :—] Whereupon it is Considered, Determined and Decreed by the Court of our Lord the King, that the Definitive Decree in writing by Joseph Dudley Esquire, Edward Palmes, Gyles Sylvester, Jahleel Brenton, Nathaniel Byfield, James Avery, John Morgan, John Avery, Thomas Leffingwell made and published on the 24th August in the Year of our Lord 1705, in favour of Oweneco Uncas, then Chief Sachem of the Mohegan Indians, and the Mohegan Indians at a Court of Commissions then holden at Stonington in the said Colony by Virtue of and in pursuance of Letters Patents from Her late Majesty Queen Anne bearing Date at Westminster in the third Year of Her Reign, and every part thereof, be revoked repealed and made void, excepting only as to so much of the said Definitive Decree as concerns that part of the Sequestered Lands, lying between New London Old Line and the South bounds of Norwich containing between four and five thousand Acres, now in the possession of the said Mohegan Indians, and Secured to them by one Act of Assembly of the Colony of Connecticut passed on the 11th May, 1721, [which part of the decree is confirmed].

[IX. pp. 513-5; X. p. 10.]

1769.

[134.] [On a Board of Trade representation of 6 Dec., a commission was approved for the Earl of Dunmore to be Governor of New York (P.R.). The Governor took the oaths on 22 Jan., 1770. A Board of Trade representation of 21 May, with his instructions, was referred to the Committee on 24 May : on their report of 25 May, the instructions were approved on 6 June (P.R.). The Board of Trade showed that they had made the following changes from Governor Moore's instructions, viz. : that the general instructions about the regulation of the Assembly (*cf.* p. 40), and about lotteries (*cf.* p. 188), were included, as also one of 1756, restraining the grant of woodland near his Majesty's forts and garrisons:] That the former part of the 16th Article of general Instructions to the late Governor which directed him to recommend to the Assembly to make provision for the support of the Civil Establishment of Government is omitted, the Earl of Hillsborough having signified to the Lords Commissioners, Your Majesty's intentions to give Salaries to the Governor, and to the officers appointed for the Administration of Justice in New York out of the Revenue of Duties and Customs arising to Your Majesty in the Colonies. [Also omitted are article 20, about laws for issuing paper bills of credit, which has been fully provided for by Act of Parliament ; articles 40-3, about the discontinued office of Surveyor General of the Customs ; and articles 83-5, about the connections between the Six Nations and the French of Canada, which relate to cases no longer existing :] Articles 49, 50 and 51, are entirely new and contain Regulations and Restrictions in respect to the Exercise of the Governors power of Granting Lands within that District, which was annexed to the province of New York by your Majesty's Determination of the Boundary Line between that province and New Hampshire, also within that district, which lies on such part of Lake Champlain as is within the Limits of the Government of New York and within a third district, being part of the Lands ceded to your Majesty by the Indians at the Treaty of ffort Stanwix which

13 Dec.
New York.

1769. § 134 *cont.*]

Articles do contain the substance of such directions as have been already given to your Majesty's Governor of New York [by Order in Council, additional instruction, or letter from the Secretary of State]. [pp. 168, 218, 372, 376-7, 396.]

13 Dec. [135.] [Reference to the Board of Trade of Governor
Massachu- Bernard's petition for confirmation of the grant of Mount
setts Bay. Desert Island made to him by the General Court of
Massachusetts Bay.] [p. 169.]

(1771.) [On the Committee report of 8 March, the grant is confirmed,
28 Mar. without prejudice to the rights of the Crown. It is quoted as
follows :—]

By the Governor, Council and House of Representatives
of the province of Massachusetts Bay in New England in
the Great and General Court Assembled.

Whereas their late Majesties King William and Queen Mary by their letters Patent bearing date the 7th day of October in the 3rd Year of their Reign did give and Grant unto the Inhabitants of the province of the Massachusetts Bay (among other things) all those Lands and Hereditaments Lying between the Territory of Nova Scotia and the River Sagadahock then and ever since known and distinguished by the Name of the Territory of Sagadahock, together with all Islands lying ten leagues of the Main Land within the said bounds, To Have and to hold the same unto the said Inhabitants and their Successors to their own proper use and behoof for evermore. Provided always that no Grant of Lands within the Territory of Sagadahock made by the Governor and General Assembly of the said province should be of any force or effect until their Majestys their Heirs or Successors should signify their approbation of the same : [they grant to Francis Bernard under this proviso and the reservation to the Crown of one fifth of all gold, silver and precious stones] all that Island lying North Eastward of Penobscot Bay within the bounds of the Territory of Sagadahock aforesaid commonly called and known by the Name of the Island of Mount desert.

[The grant is dated 27 Feb., 1762, and is signed] By the

§ 135 *cont.*]

1769.

Governor Francis Bernard. For the Council by order A. Oliver Secretary. For the House of Representatives. James Otis Speaker. [VIII. *pp.* 96, 131-2.]

[136.] [Reference to the Committee of a letter from Col. Alexander Johnstone to Lord Hillsborough with eight articles of complaint against Governor Melville.] [p. 189.] 22 Dec. Grenada.

[The Committee order a copy of the complaints to be sent to the Governor for his answer. A letter of the same date to the Governor is given, enclosing the complaints, and intimating that, as soon as the answer is sent in, a meeting of the Committee will be appointed to consider them : also the following letter of 15 Jan. :—] I am sorry I happened to be gone from the Office on Saturday, at the time you intended me the favour of seeing you, and thereby caused you the trouble of sending to my House a Duplicate of the Letter left for me at the Office—I have laid the Contents thereof before Lord President, and have his Lordships directions to Acquaint you, that Mr. Johnston's Letter to the Earl of Hillsborough transmitting the Eight Articles of Complaint against you, not appearing to the Lords of the Committee to have any connection with the Articles of Complaint their Lordships did not think it necessary to order a Copy to be sent you ; but in consequence of your desire Lord President has given me directions to transmit the same to you, which is herewith enclosed, and is the only paper which has ever been Lodged in this office relative to the said Complaints. [pp. 204, 205, 209.] (1770.) 10 Jan.

[Committee minute.] Their Lordships took into consideration the Complaints against the Governor of the Grenadas—Colonel Johnstone called in, and asked by whom he was authorized to exhibit the eight Articles of Charge against Robert Melvill Esq. Governor of the Grenada Islands—Answered—That it was by the Resolution of the Assembly, ordering the Committee of Correspondence to correspond with the agent of the Colony and the Members of the Assembly residing in England; with regard to the proceedings of the Assembly—Said that he imagined himself intitled to (1770.) 20 Feb.

1769. § 136 *cont.*]

exhibit Complaints against the Governor as a proprietor of Lands in the Island—That he thought it a point which he owed in gratitude to the Gentlemen of the Island—That he makes Representation on behalf of the Island in consequence of authority received in the Course of Correspondence—That the Letters from the Speaker are very strong and very expressive—They do not Authorize him to exhibit these Articles of Complaint particularly but to make Representations in General—Being asked when he received the two Letters signed by the Speaker (the one dated 16th January, the other 22nd of March 1768) Answered, It might be about six weeks, or two Months after the dates—Said that he did not comply with the proposal of the above Letters to Publish certain papers etc. therewith transmitted in the London Gazette and other papers—Said that there is a continuation of the Correspondence—That he imagined those Letters, signed by the Speaker, who shew the sence of the Gentlemen of the Island, and that he imagined himself justified in representing those Circumstances which had been transmitted to him.

Governor Melvill being called in, was informed of the Memorials of Colonel Johnstone praying that the matter might be putt off Eight or ten days longer, on Account of the absence of Mr. Mackintosh (who was a principal witness) and that the Complainants might be heard by Council—Being asked what objections he had thereto—Replied, that he never conceived there had been any necessity to produce Witnesses, but imagined the matter would have rested upon the evidence contained in the Minutes of the Council and Assembly of Grenada referred to by Colonel Johnstone (in his Letter to the Earl of Hillsborough transmitting the eight Articles of Complaint) That he (Governor Melvill) had drawn upon his answer to the said Complaints accordingly—That he earnestly requested the affair might be determined upon the footing it now stood, and appealed to the evidence referred to by Colonel Johnstone—That he thought it of great consequence to the King's Service, as well as to his own

Character that he should not go out to his Government before the Affair was determined—Represented his situation with respect to the Ship in which he had taken his passage being now waiting for him at Plymouth, and objected to the putting the matter off, because he had no conception of its being delayed, and had made no preparations for producing evidence, other than what had been originally proposed—(namely the Minutes of the Council and Assembly)—and said that Mr. Campbell and Mr. Hume, two very necessary Witnesses on his part, were set out for Plymouth, observed to the Lords, that there is an agent properly appointed for the Colony ; and that while the Act is in force for his appointment, the Assembly could not properly depute another person to make Representations.

Colonel Johnstone being asked to what particular points Mr. Mackintosh was to give evidence, replied, that he was a Material Evidence on many of the Articles—Being asked on what head he now desired to be heard by Counsel—Replied—That upon considering Governor Melvills answer, he was required by the Gentlemen (on behalf of whom he acted) to request, the Counsell might be heard on the Constitutional points.

[The following papers were read :—] Resolution of the Assembly [of 24 Dec., 1767], ordering the Committee of Correspondence to correspond with the Agent of the Colony and the Members of the Assembly in London with regard to the proceedings of the House.

[Two letters of 16 Jan., and 22 March, 1768, from the Speaker, Alexander Winnett,] giving an Account of the Assembly having passed the Resolution afore mentioned.

Memorial of the proprietors of Lands in the Grenada Islands against Governor Melvill returning thither as Governor.

[Johnstone's letter of 1 Dec., 1769, to Lord Hillsborough.]

Parties called in.

Introduction to Governor Melvills answer to the Complaints exhibited against him by Colonel Johnstone—Read.

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1769. § 136 *cont.*]

The first five articles, Melville's answers and Johnstone's replies were read, and also—*on article 1*—minutes of the Council, 4, 11 and 15 Jan. 1768.

On article 2, minutes of the Council, 18 Nov., 2 and 5 Dec. 1767, and 4 Jan. 1768; also] Warrant of the Commitment of Mr. Cazaud, signed by the Council in Governor Melvill's presence.

[*On article 3*—minutes of the Assembly, 19, 21, 22 and 24 Dec., 1767.]

Clause in the Election Law of Grenada relative to the Qualifications of Candidates.

[*On article 4*—] Copy of the 11th Article of Governor Melvill's Instructions.

Act to free Augustine a Negroe Slave in Grenada.

[*On article 5*—] Extract of a Letter from the Earl of Hillsborough to Governor Melvill inclosing an attested Copy of His Majesty's Pardon to Philip and Piquet two Negroe Slaves who had been Condemned for Murder, together with a Letter from Governor Melvill to the Earl of Shelburn, soliciting said Pardon, dated 2nd December 1767.

[After reading articles 6, 7, and 8, the Committee adjourned till the next day.] [*pp.* 256–9.]

(1770.) [Order approving the Committee report of 21 Feb., that the
26 Feb. charge contained in the articles has not been made out. The complaints are quoted as follows :—]

1st. That the said Robert Melvill did Summons and call together His Majesty's Council of the Island of Grenada, and did direct and permit them to sit in a Legislative Capacity on the 15th January 1768, notwithstanding that the Assembly of the Island was then prorogued by him the Governor; and further allowed the said Council thus unconstitutionally Convened to pass and publish several Resolutions reflecting on the Representatives of the people and destructive of the publick peace conceived in Language unbecoming a Board Stiling themselves his Majesty's Council.

2nd. That the said Robert Melvill did permit and

encourage the aforesaid Council unconstitutionally sitting in a Legislative Capacity while the Assembly was Dissolved to call before them several of the Inhabitants of His Majesty's Colony of Grenad contrary to Law and to Commit them to Custody and to Prison, particularly Mr. Cazaud, a Gentleman of Fortune and Credit, under the pretence of his having been Guilty of a Contempt to the said Council Board—The warrant for whose Commitment was actually signed by the different Councillors in the presence of him the Governor; That no Lawyer was permitted to plead in the Defence of the said Mr. Cazaud tho' desired by him and tho' he was ignorant of the English Language, nor was he permitted to be bailed or removed from the most loathsome prison; until he had signed such Declarations as the said Illegal Convention had dictated.

3rd. That the said Robert Melvill did take upon himself to Release Walter Robertson a person Committed by the Assembly for a Breach of their Privileges, thereby overthrowing the whole authority of that Branch of the Legislature.

4th. That the said Robert Melvill did promote the passing of a Bill in two hours thro' both Houses entituled a Bill to free Augustine a Negroe Man Slave belonging to Monsieur Couston of the Parish of St. John's in the Island of Grenada; notwithstanding the dissent of the owner of the said Slave to this Transaction, and notwithstanding the Kings Instructions requiring a proper time to be given in the passing of all Bills which may affect private property, and notwithstanding the standing Rules of the House of Assembly against such proceedings, and notwithstanding the said Augustine was then publicly accused of having Committed a Rape on a white woman, and of having murdered Mr. Vandell, and of other Atrocious Crimes; To screen him from the Punishment due to which, was the intent of so extraordinary a Law, since thereby Negroe evidence (from his becoming a freeman) was inadmissible against him according to the Laws of the Island; and further the said Robert Melvill to screen the aforesaid

1769. § 136 *cont.*]

Augustine did harbour him for several Months at his House nigh St. George's until he was presented by the Grand Jury for the aforesaid Crimes and a warrant was issued in consequence thereof to apprehend him, the effect of which Warrant was disappointed and he allowed to make his Escape.

5th. That the said Robert Melvill did permit John Graham, Peter Gordon and other Justices of the peace of the Island of Grenada to use the Severest and most Cruel Tortures upon the Bodies of five Negroes Suspected of Committing Murder, and this with a view to induce them to confess the said Crime and to accuse their Master Monsieur La Chancellerie ; which Accusation after repeated Tortures was actually extorted from them, and the said La Chancellerie was thereupon apprehended and imprisoned and they the said Negroes Condemned to death upon their own Confession this Extorted ; which Sentence would probably have been executed upon the said Negroes if the most respectable Inhabitants of the Colony had not remonstrated against such illegal and unnatural proceedings, which occasioned a delay of their execution, until the Master was represented to the King's Ministers, who ordered the prisoners to be Liberated ; nevertheless three had died from injuries they had received by the Torture together with their long Confinement before the said Order arrived ; Notwithstanding which the said Justices were still continued by the said Robert Melvill in the Commission of the peace.

6th. That the said Robert Melvill did order Lieutenant Thomas Ross of the Royal Artillery to be taken into the Custody of the Deputy Provost Marshall without any legal Crime having been alledged against him and without any Authority in the said Governor to vindicate such Cruel proceedings, but on the Contrary in direct violation of His Majesty's Instructions ; and further that the said Robert Melvill did direct and countenance the most unjust, Cruel and illegal prosecution against the said Lieutenant Ross where the persons whom he was supposed to have offended, sat as his Judges.

7th. That the said Robert Melvill did promote by the means of his private Secretary Mr. Alexander Symson the most injurious Petition on the Subject of Religion from the meanest of the Inhabitants of Grenada against the most respectable of the Inhabitants under false pretences, having thereby sown irreconcilable Divisions between His Majesty's New and Old Subjects.

8th. That the said Robert Melvill forgetting his Duty as Governor and Chief Magistrate did take upon him to write Sundry Letters to the Justices of the Peace directing them in their decisions in their Judicial Capacities and particularly a Letter of the 27th of April 1767, directed to the most Worshipfull Bench of Justices and which was read in open Court.
[*pp.* 262-5, 267.]

[137.] [Reference to the Committee of] several papers relative to two Riots which have happened at Newport in the Colony of Rhode Island and at New London in the Colony of Connecticut, wherein a Sloop and a boat, in the Service of the Revenue were burnt and several of the officers grossly abused and Assaulted.
[*p.* 189.]

22 Dec.
Rhode
Island and
Connecticut.

[138.] [On a Committee report of 21 Dec., order is given in accordance with an Ordnance report referred on 28 June, showing] that they having taken into serious Consideration the several accounts received from the Grenada Islands, and enquired into the Method of conducting the Business of that office in those parts, they found many extraordinary expences have been incurred, and great irregularities in most of the Vouchers; but Governor Melvill having assured them that the Difficulties attending a new Settlement was the Cause of the former, and that notwithstanding the irregularities in the Vouchers, he verily believes the whole of the money had been really disbursed for the publick Service, and that he has no reason to doubt the Integrity of any of the officers employed upon the several Services for which the Disbursements are charged, The Board of Ordnance have therefore agreed that the Bills may be allowed so far as they are vouched and that

1770.
5 Jan.
Grenada.

1770. § 138 *cont.*]

application be made for the Repayment of such articles as may belong to any other publick office ; That they have likewise taken into Consideration the present Establishment, which being formed for the ceded Islands in general, they find that all the officers and others thereto belonging, have fixed themselves at Grenada, and whenever required to go to any other of the Islands have charged travelling and the Hire of Boats and other expences to a considerable amount, which may for the future be avoided by dividing the Establishment and allotting the proper officers to each Island respectively, The said Board have therefore prepared a new establishment for those Islands, in which provision is made for the incidental expences of House Rent Fire and Candle to the several officers and others, calculated as moderately as the Nature of the several places will admit, and according to the Information given by Governor Melville by which means the Stores in each Island will be better taken care of, many Articles of expence lessened, and the whole Charge of the Establishment and Incidents clearly ascertained.

[The old establishment amounted to 1,909*l.* 3*s.* 1½*d.*, the new to 1,534*l.* 2*s.* No establishment was made for Dominica, where there were no barracks, stores or men : 969*l.* 4*s.* 6*d.* was allowed for Grenada, 339*l.* 2*s.* 6*d.* for St. Vincent, and 225*l.* 15*s.* for Tobago. Details are given in the Register.]

[*pp.* 72, 174-5, 195-7.]

5 Jan. [139.] [Order in accordance with a Board of Trade representation of 22 Dec. on a letter of 30 July, 1769, from John Plantations. Stuart, Superintendent of Indian Affairs in the Southern department, referred to them by Lord Hillsborough, stating the expediency of appointing him a member of the councils of the colonies within his district. The Board of Trade agreed that it would be advantageous that he should be enabled to consult with and advise the Governors and Councils on Indian affairs, but while he should be made a Councillor extraordinary, he should be restrained from acting judicially in cases of civil

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§ 139 *cont.*]

property, and from assuming the government in case of vacancy.] [pp. 202-3.]

1770.

[140.] [Reference to the Committee, and by them on 13 Feb. to the Board of Trade, of a letter from William Bull, Lieut.-Governor of South Carolina, to Lord Hillsborough, relative to the following vote of the Assembly, 8 Dec., 1769 :—] Ordered that the publick Treasurer do advance the sum of 10,500*l.*, Currency out of any Money in the Treasury to be paid into the hands of Mr. Speaker, Mr. Gadsden, Mr. Rutledge, Mr. Parsons, Mr. Ferguson, Mr. Dart, and Mr. Lynch, who are to remit the same to Great Britain for the Support of the just and constitutional Rights and Liberties of the People of Great Britain and America. [The Board of Trade are to report the state of the constitution of the province, the usage with respect to raising and issuing money, and their opinion thereon.] [pp. 230, 247.]

9 Feb.
South
Carolina.

[The Committee consider the Board of Trade report of 23 Feb., and order them to prepare the draft of an additional instruction, forbidding the Assembly to order the issue of public money in such an illegal and unconstitutional manner.] [p. 310.]

3 April.

[On the Committee report of the same date, the instruction is approved (P.R.), and the Attorney General of the province is directed to prosecute the public treasurer according to law. The Board of Trade report rehearsed the grant to the proprietors on 20 March, 1663, and the extension of the bounds of their charter on 30 June, 1665. They had all the powers and rights ever enjoyed by any Bishop of Durham in the kingdom of England.]

5 April.

That in Consequence of the powers given to the proprietors by these Charters, they, in 1669, agreed upon and framed a Form of Government for the Colony under the Title of fundamental Constitutions of Carolina, which were from time to time altered and enlarged ; But not having been received and adopted by the people they never obtained the force of Laws in the Colony, and having been at length laid aside by the

1770.

§ 140 *cont.*]

proprietors themselves as impracticable the Colony was Governed by Laws made and enacted in a general Assembly consisting of three Branches of Legislature Vizt.

First—A Governor appointed by the Lords proprietors.

Secondly—An Upper House, composed of the Deputies of the proprietors (which Deputies acted as a Council of State) and of the Landgraves and Cassiques, who were summoned by Writ whenever an Assembly was Convened.

Thirdly—A lower House of Assembly consisting of a certain Number of Representatives elected for each County.

That the Laws passed by this authority were to be in force for two years, unless disallowed of by the Lords Proprietors in England ; but it does not appear, from any Records in the Plantation Office, what was the exact form and Method of proceeding in the Granting appropriating and issuing Monies for publick Services.

That in 1719, the Inhabitants of Carolina, being dissatisfied with being under the Government of the proprietors, refused any longer to submit thereto, and having publicly disavowed all further obedience to it, the King, with the advice of His Privy Council, and at the request of the Inhabitants, resumed the Government of the said Colony into his own hands, and appointed provisionally a Governor by Commission under the Great Seal, which was also accompanied by Instructions prescribing the Mode and Form under which the Government in that Colony was for the future to be administred.

By this Commission, and by the Instructions which accompanied it a new Form of Constitution for this Colony was Introduced, the Legislative part of which was Composed as follows—Vizt.

First—A Governor appointed by the King during Pleasure.

Secondly—An Upper House of Assembly consisting of Twelve persons to be appointed by the Governor until his Majesty's Pleasure should be known, who were also to assist the Governor as a Council of State.

Thirdly—A lower House of Assembly, or House of

Representatives, to be elected according to the Laws and Usage of the said Province.

That to these three Branches of the Legislature a power was given by the said Commission to enact Laws for the good Government of the Colony ; provided such Laws were not repugnant to the Laws of England, and were Transmitted to the King for His Disallowance or approbation within three Months after they were passed.

That it was further provided that the Governor should have a Negative in the passing of all Laws Statutes and Ordinances of all kinds and nature whatsoever.

That with regard to the Mode of granting raising and issuing Publick Money, it was provided for as follows :—

First—That in all Acts and Orders for levying Money or imposing ffines and penalties express mention should be made that the same was granted and reserved to His Majesty His Heirs and Successors for the Publick Uses of that Province and the support of the Government thereof, as by the said Act or order should be directed.

Secondly—That no Clause whatever should be inserted in any Law for having Money, or the Value of Money, whereby the same should not be made liable to be accounted for unto His Majesty in this Kingdom, to the Commissioners of His Majesty's Treasury, or to His High Treasurer of Great Britain for the time being.

Thirdly—That fair Books of Accounts of all Receipts and Payments of all such Money should be duly kept and the Truth thereof attested upon Oath ; and the said Books should be Transmitted every half Year or oftner to the Commissioners of His Majesty's Treasury or to His High Treasurer for the time being, and to the Commissioners for Trade and Plantations and Duplicates thereof by the next Conveyance, in which Books should be specified every particular Sum raised or disposed of together with the Names of the persons to whom any payment should be made, to the End His Majesty might be satisfied of the right and due application of the Revenue,

1770. § 140 *cont.*]

Fourthly—That no publick Money whatever should be issued or disposed of otherwise than by Warrant under the Hand of the Governor, by and with the advice and Consent of the Council, but the Assembly might nevertheless be permitted from time to time to view and examine the Accounts of Money or value of Money disposed of by virtue of Laws made by him which was to be signified to them as there should be occasion.

That on the 29th day of May, 1721, The Form of Government above mentioned was promulged in Carolina, an Assembly was soon after called in consequence thereof, and several Acts were passed for carrying into execution such parts of the Commission and Instructions as required to be enacted by Law, and among other things, a Law was passed declaring that the Publick Treasurer and other Revenue Officers, who were by the former Constitution to be elected by the Commons House of Assembly only, should for the future be appointed by Ordinance assented to by the three Branches of the Legislature.

That from the year 1721, to 1731, the Mode of granting and issuing publick Money under the foregoing Form of Government was usually as follows—Vizt.

When Publick Services were to be provided for, an Estimate was made of what should be wanted for the Current Service of the ensuing Year, and an act was passed for raising the Sum by such Taxes and Impositions as were thought fit.

By this Act the Money to be raised was granted to His Majesty's use for the publick Service of the Colony; the Services to which it was appropriated were enumerated in the Act, it was ordered to be issued out of the Treasury to those Services by Order of the General Assembly, upon the Treasurer and not otherwise, and if the Treasurer paid any part of the Money to any other use than that to which it was appropriated unless by Act or Ordinance consented to by the said General Assembly, that is to say, by all three Branches of the Legislature he was to forfeit double the Sum so paid.

In Consequence of this established Mode of Taxation, no appropriated Money was paid out of the Treasury, but by an Order upon the Treasurer, concurred in by the Governor Council and Assembly, and attested by their proper officers, and if any extraordinary unforeseen exigence occurred, and the State of the Treasury would admit of its being provided for out of any funds therein, the Treasurer was Ordered to issue it to those Services by an Act or Ordinance regularly passed by all the Branches of the Legislature for that purpose.

That in the year 1732, or about that time the Mode of granting Supplies was altered, and instead of granting Money upon Estimate for the Current Service of the ensuing Year the Service was performed upon Credit, the account was called for at the end of the Year, audited and examined by Committees of both Houses of Assembly, and Schedules having been made of the Publick Debts, an Act passed for raising the amount thereof by such Taxes as were thought proper, the Money to arise by such Taxes and Impositions was granted to His Majesty for the publick Uses of the Colony, and directed to be paid by the Publick Treasurer, according to the Schedule of the Publick Debts which was annexed to the act and not otherwise ; and though the Acts passed under this new Form of proceeding, did not, as the Laws under the former mode, contain any Clauses by which it was expressly provided, that the Money should be issued out of the Treasury to the Service to which it was appropriated by order of the General Assembly only ; yet it does appear from their Journals that for several Years afterwards the orders upon the Publick Treasurer were concurred in, and attested by Governor Council and Commons House of Assembly, conformable to what was the practice antecedent to the alteration made in the Mode of granting the supplies as above stated. . .

That when the Commons House of Assembly first began to authorize the Treasurer by an order of that House alone to advance Money out of the publick Treasury for such Services as that House thought fit the said Lords Commissioners

1770. § 140 *cont.*]

are not able precisely to ascertain but it is observable from Mr. Bulls Letter that it is a practice which has obtained only of late Years, and therefore upon the whole they concur with your Majesty's Attorney General in the following opinion contained in his Answer to certain Questions founded on the foregoing facts, which Questions were stated to him by the Earl of Hillsborough, and have together with his answer been Communicated to them by His Lordship Vizt.

First—That the Commons House of General Assembly of South Carolina cannot, by the Constitution of that Colony, without the Concurrence of the Governor and Council legally direct the Treasurer of the Colony to issue out of the Ballance or Surplus of funds arising from Taxes granted to the King and appropriated by the Legislature of the Colony to certain Publick Services, any Sums of Money for such other Publick purposes of the Colony as the House of Assembly shall alone think fit.

Secondly—That such a power would be Contradictory to the first and fourth Articles of Your Majesty's Commission and Instructions, repugnant to the Nature of the Grant; by which the Surplus must remain disposeable by the same authority that raised it, and that it cannot be Warranted by the Modern practice of a few Years, irregularly introduced and improvidently acquiesced in.

Thirdly—That the order of the Assembly of the 8th of December last is not to be supported in point of Law, not only as they cannot legally issue the publick Treasure by their Sole Authority but as the Sum is directed to be paid out of any Money in the Treasury, without regarding the payment of the appropriations mentioned in the Act of Assembly, and as it is to be applied not to the particular Service of the Colony and the Support of the Government thereof, but to be remitted to Great Britain for the vague and indefinite purpose of supporting the Rights and Liberties of Great Britain and America, to be ascertained by the arbitrary Pleasure of seven particular Persons and without an

§ 140 *cont.*]

1770.

immediate reference to the Service of that Colony : [the Board of Trade submitted to the Committee what measures it might be proper to advise.] [pp. 311-8, 323-4.]

9 Dec.

[Reference to the Committee of the petition of Charles Garth, agent for South Carolina,] setting forth, that the petitioner has received Commands from the Commons House of Assembly of the said Colony to express their Grief and concern under an apprehension of having incurred His Majesty's displeasure manifested in a late additional instruction of the 14th of April last to their Governor which they most humbly conceive would not have taken place had they known of the Representation transmitted in time to have been heard and to have vindicated the proceedings of the House before His Majesty's Ministers previous to the issuing of such Instruction and therefore to Implore His Majesty's Reconsideration [and withdrawal] of the said Instruction . . which now puts a full stop to the payment of the public Debts and the necessary provision for the expences of Government and that His Majesty will see Cause to enjoin a Communication for the future of all such Representations as may be intended to be sent from His Majesty's Governors relating to the proceedings of the House in order that it may be prepared to answer and to vindicate their actions and proceedings thereby to prevent Censure and avert the Royal Displeasure. [p. 657.]

[On the Committee report of 25 May, agreeing with the Board of Trade, who heard Mr. Garth in person, the petition is dismissed.] (1771.)
7 June.

[VIII. pp. 237, 255.]

[An instruction like that of 1770 is given to Lord William Campbell, the new Governor (*cf.* Appendix I)] And as it restrains the Governor from assenting to any Bill, by which any Money already issued by Order of the Assembly alone shall be directed to be replaced ; We humbly conceive the End and object of that additional Instruction will be fully answered, and the Assembly will have no longer any pretence to say they are not left at liberty to frame their Money Bills as they think fit. [It is here stated that the proceedings in (1774.)
6 July.

236 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1770. § 140 *cont.*]

1770 arose from the transmission by order of the Assembly of 1,500*l.* to the Society of the Bill of Rights.] [XI. *p.* 181.]

9 Feb.
Jamaica.

[141.] [Reference to the Committee of the petition of Edward Gardiner for a day for hearing his appeal from an order of the Chancellor of Jamaica, 15 Feb., 1769, directing that a case should stand over for want of parties. This action was brought by him against Ann Bennett, George Rosewell Bennett, John Williams, Edward Manning, and William Pullen for payment of what was due from the estates of George Bennett, sen. and George Bennett, jun. to the estate of Edward Pratter. Manning and Pullen were since deceased, and the order was made in favour of the other defendants with George Paplay, Benjamin Hume, and Charles Spencer.]

[*pp.* 210, 231.]

(1771.)

[On the Committee report of 20 Dec., the order is discharged

9 Jan.

and the Court directed to proceed to hear the case upon the merits.] [*p.* 686 ; VIII. *p.* 19.]

(1776.)

[Reference to the Committee of G. R. Bennett's petition

26 Jan.

for a day for hearing his appeal from a Chancery decree of 19 Jan. 1775.] [XI. *p.* 518 ; XII. *p.* 308.]

(1776.)

[On the motion of Gardiner's solicitor, the Committee direct

4 Mar.

that Bennett's counsel attend to be heard at the next committee for hearing plantation appeals, and that in case of default the appeal be dismissed for non-prosecution.]

[XII. *p.* 392.]

(1777.)

[On the Committee report of 10 April, when all parties were

30 April.

heard, the appeal is dismissed by consent, without costs. Other names in the report are Peter Furnell, Edward Garthwaite, John Roberston, Dr. John Burn, Elizabeth Catherine Spencer, Peter French, John Peeke Sutton, and Samuel Howell.] [XIII. *pp.* 412-7, 475.]

14 Feb.
Jamaica.

[142.] [Reference to the Committee of the petition of William McFarlane, Esq., and Thomas Priddie, planter, for a day for hearing their appeal from part of a decree of the Chancellor of Jamaica, 16 Feb., 1769, on a bill filed by

§ 142 *cont.*]

Thomas Hersey Barritt against William McFarlane and Walter McFarlane, deceased.] [p. 255.]

1770.

[On the Committee report of 20 Dec. the appeal is dismissed. (1771.)
Other names in the report are John Garbrand, Edward Pyott, 9 Jan.
and Charles White.] [pp. 687-8; VIII. p. 20.]

[143.] [Reference to the Committee of the petition of 14 Mar.
Dugald Clark, late of St. Thomas in the East parish, Jamaica, Jamaica.
setting forth] That the petitioner although a Natural born
Subject labours under a Disadvantage of being descended on
the Mothers side from a black woman, and that in many of
the Colonies the Descendants from a Black woman unto the
fourth Generation do lye under some general and particular
Inconveniencies ; [and praying that his Majesty will declare
by Order in Council] that the petitioner and his Issue shall
be as free to all Intents and purposes, in all His Majesty's
Colonies and Plantations, as if the Petitioners Father and
Mother were both white persons ; and . . declare the
petitioner to be His Majestys Free Subject and Denizen, as
well for Trade and evidence as for all other Intents and
purposes whatsoever in the said Colonies and Plantations.

[p. 292.]

[144.] [Reference to the Committee of the petition of 14 Mar.
John White, late of Grenada, complaining of being dispossessed Grenada.
of the Hospital Estate, which he purchased from the Fathers
of the Order of Charity under the late Treaty of Peace, and
praying to be restored.] [p. 292.]

[145.] [On a Committee report of 3 April, agreeing with 5 April.
a Board of Trade representation of 2 March, referred to them Grenada.
on 14 March, John Graham, William Lindow, Frederick Corsar,
Thomas Townsend, John Melvill and Thomas Williams are
ordered to be restored to the Council of Grenada, from
which they had been suspended by Lieutenant-Governor
Ulysses Fitzmaurice, in the absence of Governor Melville : at the
time of their restoration, the Governor is to reprimand them for
their unjustifiable conduct : the Board of Trade representation

1770. § 145 *cont.*]

and this Order in Council are to be entered in the Council Register of Grenada. It was proposed by the Board of Trade that Paul Mignet Devoconnu and Charles Nicholas Chanteloup, who had been appointed by Fitzmaurice on the suspension of the six councillors, should be appointed to the first vacancies.]

[*pp.* 291, 309, 324.]

5 April.
Pennsyl-
vania and
Connecticut.

[146.] [Reference to the Committee, and by them on 25 May to the Board of Trade, of the petition of Thomas and Richard Penn that the inhabitants of Connecticut be removed from their forcible possession of a certain tract of land within the petitioners' charter, that the Governor and Company of Connecticut set forth their claim for his Majesty's determination, and in the meantime forbear making further encroachments.]

[*pp.* 327, 387.]

(1771.)

7 June.

[Order approving the Committee report of 25 May, agreeing with the Board of Trade, who reported that the request that the Governor and Company of Connecticut may be ordered to set forth their claim appeared to them] to be a very proper one, and to contain the only matter necessary for Your Majestys Consideration in the Case to which their petition refers, they had therefore thought fit to call the Agents for the said Colony before them, and the said Agents having signified that they have no Instructions to avow the proceedings of the Settlers upon the Lands in Question, as founded upon any authority from that Colony or to set forth on the behalf of the Colony any Claim to the said Lands, the said Lords Commissioners are clearly of opinion that the forcible intrusion alledged by the proprietaries of Pensilvania, is a matter entirely within the Jurisdiction of that Province and that it would be both unnecessary and Improper for Your Majesty to Interpose Your Authority in a Case where there is not the least Colour of a plea, that the Charter of the province of Pensilvania does not Contain the powers necessary to the decision of any Suits which may be brought into the Courts there in Cases where the Title to the Lands may be in question nor that the State of the province does not afford the means

§ 146 *cont.*]

1770.

to support the Execution of the Laws preserve the publick peace, and enforce the legal process of the Magistrates and Courts of Judicature. [VIII. *pp.* 236, 255.]

[Reference to the Committee, and by them on 26 Aug. to the Board of Trade, of the petition of Thomas and John Penn for the appointment of Commissioners to ascertain the northern, southern, and western boundaries of Pennsylvania.] (1773.) 7 April.

[X. *pp.* 168, 286.]

[Reference to the Committee, and by them on 19 Dec. to the Board of Trade, of a petition of the proprietors of Pennsylvania, complaining of the colony of Connecticut for having avowed encroachments made by some of its inhabitants, and praying that they be required to set forth their claims and in the meantime to forbear making further encroachments: and also that his Majesty will declare Connecticut to be bounded west by New York according to the determination made in 1664 and 1683, and that the petitioners be quieted in the possession of their province, according to the extent of the grant to William Penn.] (1774.) 14 Sept. [XI. *pp.* 212, 310.]

[Reference to the Board of Trade of the petition of John Penn, an infant of 15, by his mother, Lady Juliana Penn, to have the two former petitions revived by inserting his name in place of that of his father, Thomas Penn, deceased.] (1775.) 28 April. [XI. *pp.* 494-5.]

[Reference to the Committee of the petition of Eliphalet Dyer to be heard against the Penns' petitions and relative to his own petition of 1764.—*Cf. Acts of the Privy Council*, Vol. IV, *p.* 680.] (1775.) 16 June. [XII. *p.* 10.]

[147.] [Reference to the Committee of the petition of Thomas Gray, William Lloyd, James Borton, and James Powell, for a day for hearing their appeal from an order of the Chancellor of Jamaica, 31 Aug., 1769, granting an injunction to stay proceedings on judgments obtained by them against Sarah, Thomas, Samuel, Anthony, Edward and Lettice Shreyer, and Joseph Williams and Mary his wife, *née* Shreyer, for recovering debts due from the estate of Godfrey Shreyer, deceased.] (1775.) 5 April, Jamaica. [p. 328.]

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1770. § 147 *cont.*]

(1771.) [On the Committee report of 11 July, the appeal is dismissed.

19 July. Names occurring in the report are John Nimbhard, George Seaton, Zachary Bayly, Alexander Shand, and Patrick Leslie.]

[VIII. *pp.* 330-2, 343.]

27 April. [148.] [Reference to the Committee of the petition of
Jamaica. James, John and Euphine Macqueen, John Hanbury Taylor, George Richards and Walter Grant, some of the surviving executors of Patrick Taylor, for a day for hearing their appeal from part of a decree of the Chancellor of Jamaica, 23 May, 1769, on a bill filed against them by Simon and John Taylor for payment of what was due from the deceased's estate.]

[*pp.* 362, 433.]

(1771.) [On the Committee report of 9 July, part of the decree is

19 July. reversed; and the master is to inquire whether Macqueen has applied any part of the estate to his own use, and, if so, to charge his estate with 6 *per cent.* interest for the same. Names occurring in the report are Andrew Arcedeckne, Arthur and Matthew Gregory, Charles Mitchell, Daniel Macqueen, Sir Simon Clarke, Taylor's executors; his daughters Susan and Ann; his third son Robert; Peter Valette, and William Foster.]

[VIII. *pp.* 321-5, 341.]

(1772.) [Reference to the Committee of the petition of S. and J.

15 Jan. Taylor that the appeal of Mitchell's representatives be dismissed for non-prosecution. The appellants are named—Gilbert Mathison and Ann his wife, John Kinlock, William Harris, Charles, William and George Hanbury Mitchell. The representatives of Daniel Macqueen, another of Taylor's executors, successful in their appeal *supra*, are given, with the omission of James Macqueen and Walter Grant, and the addition of Matthew Gregory; Euphine Macqueen is now wife of John Cussans.]

[IX. *p.* 40.]

(1772.) [On the Committee report of 11 Feb. the appeal is dismissed

17 Feb. for non-prosecution.] [IX. *pp.* 68, 74.]

(1772.) [Reference to the Committee of the petition of S. Taylor
22 April. for a day for hearing his appeal from a Chancery Order of 27 April, 1771, upon a bill about P. Taylor's estate, filed in

§ 148 *cont.*]

1770.

June, 1769, by Roger Hope Elletson, James Ord, and Peter Prevost.

[IX. p. 178.]

[Reference to the Committee of the petition of Mitchell's executors that the order of 17 Feb. be discharged and leave given them to prosecute their appeal. They allege that they were only omitted from being joined with Macqueen's representatives in their successful appeal through a mistake of the solicitor employed.] (1772.) 18 Dec.

[IX. p. 511.]

[On the Committee report of 17 Dec. the order of dismissal is discharged on payment of 50*l.* costs to the respondents, and order given as in the case of Macqueen's representatives in July, 1771.] (1773.) 31 Dec.

[X. pp. 374-6, 396.]

[149.] [Reference to the Committee of the petition of Michael Scott and Maria Martha Victoria Cornette de St. Cyr, his wife, for a day for hearing their appeal from an order of the Grenada Chancery, 9 Sept., 1767, on a bill filed against them by James Brebner and Ninian Home, administrators of Joseph Herbert, and on their cross-bill against Herbert's administrators and his infant niece and heiress, Joanna Victoria Adelaide Herbert.] 27 April. Grenada. [p. 363.]

[On the Committee report of 9 July, part of the decree is reversed: the Scotts are to be guardians of the infant and of the estate, for the proceeds of which they are to give security. Names occurring in the report are Leon Marie Herbert du Jardin, of Martinique, brother of Joseph Herbert and late husband of Maria Scott; his sons Herbert and Louis Charles Marie Herbert, born respectively before the reduction of the island and after its restoration to the French; John Bellidentes du Pradel, guardian of the daughter Joanna, who was born in Martinique while it was in the hands of the British; and Patrick Maxwell, Master in Chancery.] (1771.) 19 July.

[VIII. pp. 299-304, 339.]

[150.] [Reference to the Committee, and by them on 25 May to the Board of Trade, of Sir Jeffrey Amherst's petition for a grant of the estates belonging to the Jesuits in Canada.] 24 May. Quebec.

[pp. 374, 386.]

1770. § 150 *cont.*]

5 July. [The Committee read the Board of Trade report and postpone further consideration.] [p. 445.]

9 Nov. [On the Committee report of 2 Nov. the Attorney and Solicitor General are directed to prepare the draft of an instrument for granting the Jesuits' estates to Amherst,] reserving to your Majesty your Heirs and Successors for publick Uses the Colledges and Chappels, with their Appurtenances, which belong to the Society in Quebec, Montreal, and Trois Rivieres, the Grantee engaging to make satisfaction to such of the present possessors as were in Possession at the time of the Conquest. [pp. 545, 555.]

21 Dec. [Reference to the law officers of Amherst's petition that the above order to them be renewed, and of an affidavit of General Murray. These documents contain an account of the estates to be granted, and if the Attorney and Solicitor General find it authentic, they are to prepare the draft accordingly, a nominal rent of one shilling to be payable on every first of January, if demanded. The description runs—] the Estates of the Jesuits in Canada consisting of the Seigneuries, Con-seigneury, Lordships, Domains, fiefs, Lands, Tenements and Hereditaments after mentioned, situated lying and being as hereafter described (that is to say) Les Seigneuries de St. Foy, de Bel-Air, de Charlebourg, de L'Ancienne Lorrette et de La Nouvelle Lorrette et la Conseigneurie de Beeau Port et la Terre de notre Dame des Anges and a Fief in the Seigneurie of Lausanne and parish of St. Nicholas—[all in the district of Quebec]; Le Seigneuries de Batiscan et de la Madeleine [in the district of Three Rivers]; and Les Seigneuries de la Prairie et du Sault St. Louis [in the district of Montreal]; and the estate and Lands formerly belonging to the said Society at Sillery; and in and about Fort Chartres and Isle Picquet, and all that the late College House or Seminary of the Society of Jesuits with all and singular the Edifices Buildings thereunto belonging Situated in the said District of Quebec; which said several Seigneuries [etc. belonged at the conquest to the Jesuits and were in the occupation or

§ 150 *cont.*]

1770.

possession of] Father Glapion, ffather La Brosse, Father Geraue, Father Germain, Father Hocquer, Father Wels, Father Hughes, Father Dujany, Father Porhier and Father Gordon, together with all and singular Lands Messuages Houses Buildings Gardens Orchards Tenements and Hereditaments to the said Society and premises or any part or parcel thereof belonging or in any wise appertaining with the Rights Members and appurtenances thereof as the same are most particularly Entered and Described in the General Registry established with the Civil Government in Grenada after the Cession of that Country to His Majesty [reserving the colleges and chapels as above]. [pp. 700-1.]

[Reference to the Attorney and Solicitor General of (1771.)
Amherst's petition, setting forth] That the petitioner having 8 Mar.
had lately transmitted to him from Canada a particular Account and Description of the Estates of the Jesuits in that province certified by George Alsopp Clerk of Enrollments, the proper officer, to be Conformable to the Registers of the Intendants Office and those of the Superior Council of Quebec, The petitioner laid the same (after being authenticated by the Affidavit of Patrick Murray Esquire) before His Majesty's Attorney and Solicitor General in aid of the Account and Description contained in Major General Murrays Affidavit; But in respect that by His Majesty's Order in Council of the 21st of December last, they were confined to the Consideration of the Affidavit singly, they refused to receive and Report upon [Alsopp's account: and praying that the law officers prepare the grant in accordance with the latter account and receive evidence in support of it. The law officers are directed to consider these papers and further accounts and proofs, and to prepare the draft of a proper instrument for making the grant]. [VIII. p. 106.]

[Letter to the Attorney General, transmitting a letter from (1771.)
the Bishop of Quebec to Governor Carleton and an address 8 May,
and memorial to Carleton relating in part to the Jesuits' estates.] [VIII. p. 183.]

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1770. § 150 *cont.*]

(1779.) [Amherst's petition for a renewal of the orders of 9 Nov.,
29 Mar. 1770, and 8 March, 1771, is referred to the law officers, who
are to receive further evidence tendered by the petitioner for
ascertaining the description, boundaries and tenure of the estates
and to prepare the draft accordingly.] [XVI. p. 377.]

6 June. [151.] [On a Committee report of 25 May, agreeing with a
New York. Board of Trade representation of 11 April referred to them
on 27 April, a New York act of Jan., 1770—declaring certain
persons therein mentioned incapable of being members of the
General Assembly of this colony—is disallowed. The Board
of Trade represented that] This Act being of a new and
extraordinary nature and Importance, affecting your Majestys
prerogative, and having, on the ground of reasons not
applicable to the State of that Colony made a very essential
alteration in it's constitution, ought not in our opinion, to have
been passed so as to have taken Effect, until your Majesty's
Royal pleasure could have been known. [pp. 362, 384, 397.]

6 June. [152.] [On a Committee report of 25 May on a Board of
New Jersey. Trade representation of 11 April, referred on 27 April, a New
Jersey act of Nov., 1769—supplementary to an act appointing
commissioners for finally settling and determining the several
rights, titles and claims to the common lands of the township
of Bergen, and for making partition thereof in just and
equitable proportions among those who shall be adjudged by
the said commissioners to be entitled to the same—is
disallowed. The Board of Trade reported that the act
contained a clause suspending its execution till Sept. next,
and that the Governor had stated when transmitting the act]
that the Circumstances of the Case made such an Act absolutely
necessary ; inasmuch as the Claims of the several parties, who
conceive they have a right to a share of the Commons Allotted
to the Secaucus Patent are of so various, complicated and
intricate a nature, that it is impossible they should be ever
Settled in the ordinary course of Law,

[In answer to this observation a petition from William Bayard

§ 152 *cont.*]

1770.

of New York, set forth] That in right of a patent of the Island of Secaucus granted the 10th of December 1663, to his Grandfather Nicholas Bayard and Nicholas Varlet, as Joint Tenants, and Confirmed to them by Governor Carteret on the 13th of October 1667, He had Claimed before the Commissioners (appointed under the Act to which this refers) an Allotment of the said Common Lands of the Township of Bergen; That Sundry other Persons claiming the said Common Lands in virtue of a Sale from the said Nicholas Bayard [commenced a suit against him, that a special verdict had been found and the judges were ready to give judgment thereon,] That in the mean time advantage had been taken of his Absence from the Province to obtain the above Supplementary Act, for the purpose of removing this Question of Right, which is entirely of a private Nature, and a mere point of Law depending between individuals, from the Ordinary course of Justice, where it has been brought by themselves in a regular course of procedure, to a new erected Court of Commissioners, whose Determination is to be final; thereby depriving the Petitioner of his legal right to the Judgment of the Supreme Court of Judicature, and of his Appeal from thence, if necessary; for which Reasons, amongst others, he humbly prays that Intercession may be made with Your Majesty to prevent this Act from passing in a Law.

[Further, the minutes of the Council of New Jersey show that on 13 Oct. 1769, Bayard petitioned, by way of caveat, against the passing of the bill. For this reason, and because of the want of a suspending clause, the bill should be disallowed.] [pp. 362, 382-4, 398.]

[153.] [Reference to the Committee of the petition of David Rieusset and Leeson Blackwood, of Kingston, Jamaica, and Thomas and Yvon Thomas, merchants of London, that their appeal from a decree of the Jamaica Chancery, 18 May, 1769, in favour of Dr. Thomas Cockburn and Sarah his wife, be dismissed without costs, as they have been advised not to prosecute it. The appellants represent the estates of

6 June.
Jamaica.

246 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1770. § 153 *cont.*
Thomas Jaffrey, Ezekiel Barbould, Peter Thomas, and Thomas Thomas sen., and the defendants that of John Drinkwater.] [pp. 111, 402.]
- 15 June. [On the Committee report of 11 June, the appeal is dismissed without costs.] [pp. 410, 420.]
- 6 June. [154.] [Reference to the Committee of the petition of
Dominica. Robert Malloun, Esq., of Dominica, for a day for hearing his appeal from a sentence of the Vice Admiralty Court, 24 June, 1769, condemning 18 slaves, part of the cargo of the schooner *Young Crow Lane*, in favour of Francis Mashart.] [pp. 404, 442.]
- (1771.) [Reference to the Committee of Malloun's petition that
24 Feb. Mashart's cross-appeal be dismissed for non-prosecution. On 7 June Mashart's petition for a day for hearing his appeal is referred.] [VIII. pp. 82, 260.]
- (1772.) [On the Committee report of 26 June, both appeals are
8 July. dismissed. Names in the report are Ulysses Fitzmaurice, the Governor; James Ashley Hall, the Judge Surrogate; Durham Hall, Hillary Tully, John Hill, Israel Alleyn, and Francis Margaret.] [IX. pp. 331-5, 368.]
- 22 June. [155.] [Reference to the Committee of a state of the
Massachusetts Bay. disorders, confusion and misgovernment which have lately prevailed in Massachusetts Bay, transmitted to the Clerk of the Council by John Pownall, secretary to Lord Hillsborough, and of the several papers therein referred to.] [p. 424.]
- 26 June. [Committee minute. Read—] State of the Disorders, Confusions and Misgovernment which have lately prevailed and still continue to prevail, in the province of the Massachusetts Bay.

Governor Bernards Letter of the 31st August 1767, relative to the Inflammatory publications.

Message from the Assembly to the Council Board of the 8th of September 1766, enquiring whether the Governor knew of any act requiring the Registry of Ordinances which the Legislature of the province had not consented to.

Message of the 9th of same Month to know whether the

Governor had made provision for the Troops lately arrived and in what manner—and

Message from the Board to the House the same day refering them to the Governor for an answer—[the last three from the minutes of the Council].

Message from the Assembly to the Governor of the 30th of January 1767, to the same effect as those sent up to the Council Board 8th and 9th December 1766, together with the Governors Answer thereto of the same Day, laying before them a Copy of a Minute of Council making provision for the Artillery Companies pursuant to the late Act of Parliament—from the printed Journals of the House of Representatives.

Report of the Committee upon the Governors Answer charging this Measure as a violation of their Charter—from the printed Journals of the Assembly of the 4th January 1767.

Circular Letter from the Assembly of the Massachusetts Bay to the Speaker of the several Assemblies in the Continent of America, inviting them to concurr in petitioning for Redress in Case of the Revenue Laws—Dated 11th February 1768.

Letter to the Earl of Shelburn written by order of the Assembly—Dated January 5th 1768, from the Appendix to the printed Journals in 1767, and 1768.

Minutes of the Council [18 March, 1768] Relative to a Question put to them by the Governor whether it might not be adviseable at that time to take some measures for Securing the Peace of the Town—from the Journals of the Council.

Affidavit of Mr. Wooton one of the Inspectors General with respect to his being threatned with Mischief.

Extract of a Letter from Governor Bernard dated 19th March 1768, Inclosing the aforesaid Affidavit of Mr. Wooton, and giving an account of several proceedings of the Mob the preceeding Day.

Minute of the Council [11 June, 1768], proposing, that such Members of the Council as were Justices of the Peace, should make enquiry into the particular Disorders in the Town of Boston, and Report the same to the Governor.

1770. § 155 *cont.*]

Minute of the said Council of the 13th of June 1768 wherein after debate it was proposed to raise a Committee of the Board in their Legislative Capacity, to join with a Committee of the Assembly, to Consider of the matter.

Minute of the Council of the 22nd of July 1768, appointing the 27th of that Month to consider Measures for restoring vigour and firmness to the Government, and directing such Members of the Board as lived within a Days Journey to attend.

Minute of the Council of the 27th July 1768, wherein after Debate of the several Disorders stated to them by the Governor, the matter was referred to the whole General Court then sitting—[the last four from the Journals of the Council].

Letter from Governor Bernard to the Earl of Hillsborough, dated Boston 16th September 1768, relative to the proceedings and Declaration of the Faction upon hearing the Troops were ordered to Boston.

Captain James Scott Master of the Lydia, belonging to Mr. Hancock of Boston, lately arrived with returned Goods, called in and sworn—Sayd he left Boston May 19th and had a great Quantity of Bale Goods on Board, for which he signed Bills of Lading, but was unacquainted with the Contents—That the persons to whom they belonged, Re-Shipt them—Believes they were reship in pursuance of the Resolution of the Town meetings—But can't say whether all the merchants reship their Goods willingly or not—That Mr. Hancock the owner of the vessel gave up the freight Back—Being asked, whether there was any written notice given by Mr. Hancock that the said Goods might be reship on Board his vessel freight free? Replied, that such Notice was only Verbal—Being asked, what Reason Mr. Hancock had to offer his vessel to carry Goods back freight free? Replied for the good of his Country, and that he had a right to reship the same—That he believed any of the Importers who had chosen to keep their Goods might have done so.—That the Importation of several Articles are allowed according to the Agreement—That the

Merchants agreed to store their goods from the 1st of January 1769, to the 1st of January 1770, and that no body hindred the selling such Goods as the Merchants had in their Stores—That when he came away, the place was in great Confusion—That he was in the Trade before the Year 1766 ;—Being asked, what he knew particularly of the Agreement entered into among the Merchants, Replied he knew nothing particularly, but from public Report—Does not know whether Goods returned paid Duty—That the Goods he carried did pay duty, or the Ship would not have been cleared at the Custom House—Being asked, whether he had any Goods on his own Account ? Replied in the Negative—Being asked why ? answered, knowing the State of the Country, did not make use of his priviledge to Trade for himself—That he had about 130 Ton of Goods shipt out, and believes he brought back about 100 Ton—That Hemp, Sail Cloth, Baize, Warlike Stores, and materials for the ffishery, are Allowed to be delivered—That some persons made a difficulty about reshipping their Goods, but could not avoid it by reason of the Resolution of the Town Meetings—That Mr. Hancock is a Man of great Influence at Boston,—That he believes the Resolutions printed in the Boston Gazette are authentick—Being asked, whether he signed Bills of Lading for the goods he brought back tho' he received no freight ?—Replied—that he did.

Mr. Benjamin Hallowell late Comptroller of the port of Boston, called in and Sworn—Say'd, that he was in Boston in the Year 1768—That information was given to the Collector, who acquainted the Commissioners of the Customs, that a vessel had run her Cargo, the Solicitor of the Customs was Consulted, and advised the Seizure of the vessel, which was accordingly seized, on the 10th of June 1768, between 6 and 7 in the evening, and put under Charge of the Romney Man of War—That may People had said, that if a seizure was made there would be a great Uproar, and they would not be answerable for the Consequences, that the people abused, beat and wounded him and the Collector very much—That he was

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assisting to the Collector, and the Mob considered him as the person, thro' whose means the Ship was seized—That the Mob came to his House, and broke his windows, and committed great Outrages—That there was a Consultation on the Saturday and Sunday, and it was advised to put it off till Monday—That great Numbers of the people Assembled in different parts of the Town—That a Negotiation was entered into between Mr. Harrison and Mr. Hancock,—That Mr. Hancock offered Security, in case she should be afterwards Condemned, if they would release the vessel; but the Negotiation was broke off, Mr. Hancock keeping no Measures—That the vessel was condemned and sold, and the Money distributed to the officers of the Man of War—That there was a Town Meeting on the Tuesday, when the Mob determined that the Commissioners who had taken refuge on Board the Romney Man of War, should not come on Shore again—That Mr. Temple did not go on Board with the other Commissioners—That he (Mr. Hallowel) went on Shore on the Monday, but was advised by his friends to take care of himself—That a Board of Commissioners was held on Board the Romney on the Monday—That Bills were put up in several parts of the Town, threatening the Commissioners in case they came on Shore again—That the Magistrates were acquainted with the Riot, but did not exert themselves to quell it,—That he was on board the Romney from the 12th to the 20th of June, during which Time the Commissioners did Business on Board—That the General Assembly was sitting at that time, but did nothing in order to suppress the Riots—That he was under great apprehension from giving his evidence, being obliged to go back to America, and that he had already suffered very much in his family and Circumstances.

Mr. — Bridgeham lately arrived from Boston, called in and Sworn—Acquainted their Lordships, that he is a Merchant, and has lived in the Country thirteen Years, but cannot give an Account from the beginning—That he left Boston in May last,—Cannot say the Country was quiet when he left it—

That he is a witness to the agreement among the Merchants, not to Import British Goods, 'till the Acts, laying a duty upon paper, Glass Tea and appointing Admiralty Judges in America were repealed—That he believes the Agreements printed in the Boston Gazette are true—That several Articles, such as Warlike Stores, and Goods for the fishery, are allowed to be imported, and that the same are mentioned in the Boston Gazette—That the Agreement among the Merchants is not general, there being many who have not signed and do not observe it, That he was on the Spot on the 5th of March last, since which the Country is less quiet—That the Soldiers do not come into the Town—That Messrs. Hancock and Adams are leading Men—That Mr. Hancock came into the agreement and strictly adheres to it—That people not coming into the Agreement, kept open Shops, but were sometimes insulted—That the Governing Power have forced the Merchants into the agreement—Being asked whether he had imported Goods from England since the Agreement,—Replied that he never had at any time Imported Goods—Believes that many people would not think themselves safe to act Contrary to the Agreement, tho' they had not come into it—That violences had been committed against people not observing the Agreement, particularly against Mr. Jackson—That such violences have always been perpetrated in the Night—That the Magistrates must have known of these disorders, but does not know that they ever issued any Proclamation or took other Steps for the discovery of the Rioters—That the Magistrates were very active in taking examinations relative to the Affair of the 5th of March, but have not been so since—that he was present when Judge Oliver was speaking of Richardsons Children being good evidence—That there was a general hiss, and the Mob cried out Guilty—Being asked, whether there was any other Insult offered to the Judge? Replied, there was not—That he was not present when the Affair of Captain Preston came on, nor when they adjourned the Court to July—That the Judges

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were Interrupted by the Town Committee, who came into Court in an Indecent manner, when they were examining the Affair of Admitting to Bail—Lastly he acquainted their Lordships, That vessels were admitted to entry and clearance, and that Mr. Temple is the only Commissioner who attends the Custom House—And that he knows no Reason why other Commissioners do not attend, nor why Mr. Temple thinks himself safer than others.

John Robinson Esq. one of the Commissioners of the Customs in America—called in and Sworn—acquainted their Lordships that he left the Country 16th March last—That he was appointed at the same time as the other Commissioners, but did not arrive so soon as them—That he came to England in a great Measure for private Affairs—but the embarrassed State of the Service was some inducement—That the embarrassed State of the Service of the Revenue, had been laid by the Board before the Lords of the Treasury from time to time—That the faction represented the establishment of the Board in an odious Light, to prejudice the people against the Commissioners—That the Establishment of the Board was considered by many as an unconstitutional measure, because the last Revenue Laws which the Board was to carry into execution, were considered in that light—That from the first Establishment till about the latter end of April, he does not remember any seizure attempted in the Town of Boston—That upon such attempts, resistance had been made in many Instances particularly a great Tumult had happened in April 1768, on account of the seizure of a vessell by Lieutenant Dawson, which vessell was Condemned and the Money distributed—That another Seizure was made on the 10th of June following, and a very great Riot ensued early in the evening, and continued till about twelve at night—Does not know whether the Disturbances may be properly called Riots as the Rioters appear to be under Discipline—That on the Night of the Tenth of June as soon as the populace had burnt the Boat, a person that appeared their Leader cryed out, We

will defend our Liberties by the strength of our Arms, to your Tents O Israel, or to that effect; whereupon the people immediately dispersed, That some time after an attack was made upon his Mr. Robinsons Gardens in the Country—Being asked, why the Commissioners went to the Castle? Replied, that they considered their persons in Danger of Insult and violence and that their Commission might be dishonoured by staying in Town—That he had been in America and seen the proceedings in Relation to the Stamp Act, and that he was apprehensive, the Mob might carry them to Liberty Tree, and extort a Resignation of their Commission, which might have caused a Stop of all Business in all the ports under their Commission—That he was of opinion the Commissioners could not remain on Shore to execute their Duty with safety or prudence, being apprehensive of such Insults and therefore did retire to the Castle; That several of the other Commissioners did give the same Reasons for their going to the Castle—That after the disturbance of the 5th of March last, there were a Number of Men under Arms every Night during the time he continued at Boston under pretence of defending the Town from the Military—Being asked some Questions in respect to Mr. Temple? he (Mr. Robinson) made some difficulty of Answering, and observed he did not know how far it was proper to speak of a Brother Officer unless called upon by the Lords of the Treasury—But being again asked as there was no legal objection against it—Acquainted their Lordships, that Mr. Temple (whose father was a Gentleman of small fortune from Ireland) was before the Establishment of the Board Surveyor General—That he does not think he was satisfied with the change from the office of Surveyor General, to that of Commissioner of the Customs,—That he Married the Daughter of Mr. Bodwin, who since his connection with Mr. Temple is become a principal person of the faction but was before considered as a Friend to Government—Being asked, whether Mr. Temple was not considered as the Author of a certain paper signed Candidus published in winter 1769—

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Replied that such paper was considered by many people to be written by Mr. ffenton under the direction of Mr. Temple his Brother-in-Law—That Mr. Temple when he is in the Chair reads the papers through and then does the Common Forms of Business, but at other Times, does not lend his assistance to carry on the Service, in the manner it were to be wished—That at the Funeral of the Man who was Shot on the 5th of March, Mr. Temple made one of the procession—That on the 14th March, two days before he (Mr. Robinson) left Boston, Mr. Adams Mr. Hancock and several other of the Committee Dined at Mr. Temple's House, and proceeded from thence to the Court House, to prevent the Adjournment of the Court, in order that the prisoners might be brought to a speedy Trial—That he (Mr. Robinson) speaks of many of these Facts of his own immediate knowledge and of the rest either as coming officially before him or as having had them from such authority as he verily believes the same to be true.

[*pp.* 426–33.]

27 June. [Committee minute.] Mr. Joseph Harrison Collector at Boston called in and sworn—Acquainted the Lords that he entered upon his office in the Month of November 1766, That every thing was at that time Calm, but soon after on the News of the Acts imposing Duties on paper etc. and the appointing Commissioners of the Customs, the Spirit of opposition revived,—That some wine was reported to have been run, and that there was a general Spirit for running of Goods—That Mr. Hancocks vessel from Madeira was expected and that he the Collector kept a strong look out—That it was a general apprehension, if the officers of the Customs attempted a Seizure they would meet with resistance—That a vessel from Madeira arrived on the 9th of May and the greatest part of the Cargo was run—That notwithstanding he knew the above, could get no legal Information thereof till a Month after, when Information on Oath was made by one of the Tidesmen on the 10th of June—That the Tidesman had been confined under Hatches while the people took out what they

thought proper—That he was afterwards dismissed with Severe threats if he ever divulged—Sayd it was one Captain Marshall who spoke to him—That all these Circumstances were mentioned in the Tidesmans Affidavit—That the Information was laid before the Commissioners of the Customs and referred to their Solicitor who gave it as his opinion in writing that the vessel was liable to seizure—Whereupon he with the Comptroller and his Mr. Harrison's Son went to make the Seizure—That Mr. Harrison and his Son who was one of his Clerks went on Board and went thro' the necessary forms of seizing the vessel, and met with no Interruption then—That in regard other seizures had been rescued he got the assistance of the Romney Man of Wars Boat, and put the vessel under the Charge of the Man of War—That on his return Home, he his Son and Mr. Hallowell were much abused and wounded, and he was obliged to take Shelter in a Friends House,—That the Mob in greater Numbers attacked his and Mr. Hallowells House—That the Gentleman of whom Mr. Harrison hired the House with some of his friends coming to his Assistance prevented the House being plundered—That the Mob was told he had a private pleasure Boat, which they took and Burnt—That the next day the Town was in great Confusion and the Commissioners and principal officers of the Customs were obliged to Fly—That some of his Friends came to him and proposed his delivering the vessel to Mr. Hancock upon his giving Security—That he answered he had no objection thereto provided the Commissioners of the Customs agreed to it,—That accordingly a Negotiation was set on foot but broke off, Mr. Hancock being determined not to give any Security—Being asked if any application had been made to the Civil power? Sayd he imagined there might be, and added that the Assembly was sitting at that time and he was informed the thing was mentioned in the House—That on the Monday he was advised by his friends to make his escape and that he and his family retired with the Governors leave into the Castle as did also the Commissioners of the Customs—That he

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stayd there five weeks and then took a Journey into the Country—That the Sloop was afterwards libelled and condemned—Being asked if he knew any of the people who abused him so much and if there were any people of consequence among them? Sayd they appeared to be of the lower class but he knew none of them—That he endeavoured to get evidence in order to prosecute the people who were concerned in Burning his Boat, but found it impracticable—That Grand Juries are appointed at the Town meetings and that one or two of the principal persons concerned in the Riot were appointed of the Grand Jury—Being asked if he knew of any application to the Grand Jury to present the Rioters?—Replied, he did not; Being asked if the Riots were public and Notorious? Replied Yes, but he never saw any Attempts of the Magistrates to suppress them—That he staid in the Country a year and an half afterwards and that Commodore Hood sent some Men of War into the Harbour which overawed the people—That the Regiment arrived from Halifax the latter end of September 1768, and that the people were more intimidated at the Men of War than by the Troops.

Sir Francis Bernard—called in and sworn, was desired to give their Lordships an account of the Disturbances in general from the beginning—Upon which Sir Francis desired to be at Liberty to Correct his account from his Letters Acquainted their Lordships—That he entered upon his Government on the 2nd August 1760, from which time to the beginning of July 1765, every thing was regular and orderly, and no Governor lived better with the people—That from the beginning of July the Disorders began and several Inflammatory publications came out—That there was a small opposition but not sufficient to distress Government—That on the arrival of the News of the Repeal of the Stamp Act, the party in oposition greatly Triumphed attributing the Repeal to the Disturbances they had caused—That Mr. Otis and his Son were discontented on Account of Mr. Otis the ffather being excluded from being a Judge by the Appointment

of Mr. Hutchinson to be Chief Justice—That the first Act done by the Faction against Government was upon the Election of the Council in 1766, when the Lieutenant Governor, two of the Judges, Attorney General and Secretary were turned out of the Council—That he the Governor resented this proceeding in a Speech—Observing it was a very unsuitable return for the repeal of the Stamp Act, to turn out so many of His Majesty's Officers—From that time the Doctrine that the Colonies were not Subject to Taxation here began to be publicly avowed; which Doctrine was taken up by the Assembly from what passed in Parliament upon the Repeal of the Stamp Act—That the Doctrine of the Colonies not being Subject to Parliament was till then unknown,—That the Right of Parliament to Tax the Colonies had been admitted in Mr. Otis's Book pending the Stamp Act, but had never been agitated in the Assembly till about the time the Stamp Act took place and frequently when Mr. Otis disputed the Right of Parliament in the Assembly to Tax the Colony, a Member produced his own pamphlet against him in which he Admitted that Right—That they used to make a Distinction, between the Kings Instructions and Acts of Parliament holding themselves bound by the latter and not by the former—That these new Doctrines were adopted with great vehemence—That they set out with making a Distinction between external and Internal Taxes—That he understood at first they Admitted the Right of Parliament to Impose port Duties, which they afterwards denied and Construed every duty into an Internal Tax—That they next excepted to such acts as mentioned the raising a Revenue—Afterwards to such Acts as raised a Revenue without mentioning the same in the preamble—That there was always a set of Traders ready to take the advantage of running Goods—That from this time they began to be very uneasy on pretence of Restrictions laid upon their Trade—That about three or four Rescues had been made and the Officers of the Customs grew very indifferent about making Seizures, That he the

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Governor had always applied to the Council on such Occasions but seldom with effect—That the Law could not be executed—That when the Affair of the 10th of June happened the Council advised that the Attorney General should be ordered to prosecute, but tho' the Riot happened before Sun set and there were reckoned to be about 400 people concerned the Attorney General told him (the Governor) he could not get evidence against any one of them—That the friends of Government in the Council from that time grew weaker, and at the Election of the Council in May 1768, the party turned and every Body, that was suspected to be Friends to Government—That from that time he (the Governor) had no Influence in the Council, and when he found himself obliged to give up the Council, from that time he considered all Government as at an end, as he could not enforce the Laws,—That the Council sat by themselves which he deemed unconstitutional and that they would not Submit to the Oath of Secrecy—Being asked, if the Assembly were divided? replied they were so for some time, but the friends of Government gradually became the Minority, and that Brigadier Ruggles sometimes gave his single vote on the side of Government—That when there were but four or five votes on the side of Government the party sometimes got them to leave the House in order that their Resolutions might pass unanimous—Being asked as to the Associations? Sayd that they were intirely done by force, and to this Hour intirely effected by having a trained Mob—That the Mob was disciplined and that the people were obliged to send their Goods Home—Being asked, whether the Boston Gazette is a paper published by Authority? Sayd it was not, but a paper peculiar to the Faction, in which all their Resolutions have been published—That since they ruined Mr. Mein late a Stationer and Bookseller at Boston, in whose paper alone, any publication on the other side was admitted, all the papers are at the Disposal of the party—That it is the opinion of the best people there that the Disturbances are grown too strong

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for Government, unless parliament interferes—That they have erected a sort of State Inquisition and Summon people there for speaking against them—Being asked the Business of Town Meetings? Answered—They are properly for laying Town Taxes and Chusing Grand and petty Juries, and observed it was remarkable that one Malcolm who was known to have been making a forceable Importation of Goods liable to dutys without paying the same, and in the Riot of the 10th of June was Chosen one of the Grand Jury—Being asked, what the Number of the Inhabitants of the Province might be? Sayd that by returns made to him in 1764, there was near 250,000 Men, Women and Children including civilized Indians and Negroes—Being asked as to the Number of white people? Sayd there was not above 10,000 Indians and Negroes to be taken from the 250,000—Imagines that by this Time the Number of White people may amount to 250,000—That they Reckon about one fighting Man in five, and that he had once Rolls of the Militia which amounted to about 40,000—That every Body is Armed, by Law and that the Town had about 800 stand of Arms—That the Arms were cleaned and laid in the Hall and that the party often pointed to them in their Speeches in which they commonly talked of their being wanted against the French, and that no Body knew how soon the enemy might come upon them, but they had sometimes dropt expressions unguardedly of their being to be used against the Kings Troops—That they frequently over-hauled the Arms and cast Bullets as if an Enemy was near—Lastly he added—That there were continual Letters and Advertizements in the Boston papers, advising the Collecting of Arms and Instructing the people how to Discipline themselves.

[Read]—Proceedings of the Freeholders and other Inhabitants of Boston assembled at Faneuil Hall 12 September 1768,—upon an apprehension of Troops ariving, and requesting the Governor to call an Assembly together with several Resolutions relative to levying Taxes keeping a standing

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Army—appointing a Committee of Convention and arming the Inhabitants—from the *Boston Gazette* of 19th Sept. 1769.

Petition to Governor Bernard of a Number of Gentlemen Committee from the several Towns in the province assembled at Faneuil Hall the 22 September 1768, praying an Assembly may be convened and for redress of Grievances.

Writing from the Governor refusing to receive the same as that would be to admit the Committee of Convention to be a legal Assembly.

Message from the Governor to those Gentlemen admonishing them instantly to break up the Assembly.

Message by five Gentlemen from the Committee to the Governor declaring that their meeting was not to do propose or Consent to anything oppugnant to or Inconsistent with Government—[the last four from *Boston Gazette*, 26 Sept., 1768].

Result of the Conference and Consultation of Committees Chosen by a Number of Towns and Districts Convened at Boston 22 September 1768, in Consequence of the Governors Message admonishing them to sepearate themselves—[*Boston Gazette*, 3 Oct., 1768].

Message from the Assembly to the Governor of the 31st May 1769, acquainting the Governor that the Military aid had been declared unnecessary by the Council and that they had a Right to expect the Removal of the fforces by Sea and Land.

Resolutions of the Assembly of that day declaring that the keeping an armed force in the Metropolis whilst the Assembly sitting is a Breach of Privilege.

Governors answer thereto that he considered the same as a Message from the Assembly and would give them an Answer when they had chosen their Speaker.

Vote of the Assembly chusing Mr. Cushing Speaker.

Governors approbation of Mr. Cushing the Speaker.

Governors Answer to their former Message acquainting the Assembly that he had no Authority over his Majesty's ships or Troops nor could he give any orders to remove them,

Message to the Governor by a Committee of the House on the 13th of June 1769—That they are Sorry the Governor has no authority over the forces and can give no orders for the removal of the same.

Resolution of the Assembly of 21st June 1769—That the House will at all times to their utmost support and maintain the Honor and Dignity of the Crown—That the British Constitution admits of no Military force but for offensive and Defensive war and that the proceeding of the House while a Military Force was Quartered in the Same was from necessity and not to be considered as a precedent.

Further Resolution of the Assembly of the 7th of July 1769—Declaring their Loyalty and firm Allegiance to the King—That the Right of Imposing Taxes is in the Representatives—That of the Subject to petition the King for Redress of Grievances and several other Resolves—[all these from the printed Journals of the Assembly].

Copy Letter from the Committee of Merchants to the Merchants at Salem, earnestly desiring them to procure a meeting of the Merchants with them and to concur in the Agreement not to Import Goods (except a few Articles) until the Revenue Laws are repealed—Dated Boston 10th November 1769.

Instructions from the Town of Boston to the Representatives dated 15th May 1770, printed in the Boston Gazette of 17th May 1770.

Message of the Lieutenant Governor to both Houses of Assembly of 7th April 1770, with their answer thereto—and

Further Message from the Lieutenant Governor to both Houses of Assembly—Dated Cambridge Council Chamber 26th April 1770—from a printed paper inclosed in Lieutenant Governor Hutchinsons Letter of 27th April 1770.

[*pp.* 434–41.]

[Committee.] Mr. Robinson (being called in) produced a Copy of the Letter of the 10th of May 1769, from the Committee of Merchants at Boston, to the Merchants at Salem, (which 4 July.

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Letter had been read at the former Committee,) and being asked how the said Letter was authenticated? Acquainted the Lords, that he took it from a Letter shewn to him by a Friend as the original, which had several Names Subscribed to it—Among which were those of Mr. Cushing and Mr. Hancock—That he (Mr. Robinson) having upon other Occasions seen Mr. Cushing and Mr. Hancocks Names in their own writing, tho' he had never himself seen them write their Names, judged their Names Subscribed to the said Letter to be of their own Signature, and believes the Copy of the said Letter to be a true one—Being asked as to some particular Instances of his own knowledge of the forceable Importation of Goods lyable to Duties, without the same being paid? replied that he had not been privy of his own knowledge to any such Importations, but that such things were notorious in the Town of Boston, and particularly mentioned a vessel which arrived there from Fiall in the Winter 1769 with a Cargo of Wine which was Landed in the Night in an high handed manner by Mr. Malcolm and several others Assembled for that purpose.

[The Committee on mature consideration agreed to make the following report :—] . . that the Instances in which those Disorders do more particularly appear are,

First—The Encouragement given to, and the Impunity with which, Seditious and Libellous publications have been put forth in that province, having a Tendency and apparently manifesting a design to excite the people to Acts of violence, and opposition to the Laws, and to the authority of Parliament.

Second—Goods lyable to dutys have been forceably landed without payment of those duties; And lawful Seizures have been rescued by force of Arms, and the Officers of the Revenue, insulted abused and violently treated, in the execution of their Duty.

Third—The illegal and unwarrantable Acts and proceedings of the Inhabitants of Boston, in the Town Meetings of the 13th of June, and 12th of September 1768, and the Convention

of Committees from other Towns in the province which was held at Boston, on the 22nd of the said Month.

Fourth—The Association and Combination not to Import Goods from Great Britain, entered into by the Merchants and others of Boston, on the 1st of August 1768, and the various Resolutions and proceedings of the said Associators and their Committees in consequence thereof.

Fifth—The Declarations and Doctrines inculcated by the House of Representatives, in repeated Resolutions and Messages to the Governor and Lieutenant Governor of that province and by the Town of Boston in the Instructions to their Representatives on the 15th of May 1770.

Sixth—The Disposition of the Council to adopt those principles, and to Countenance such illegal Acts and Proceedings, Evidently manifested in their backwardness to concur with the Governor in such measures as were necessary to restrain and Suppress them, and their taking upon them to meet and Act as a Council of State, without a Summons from the Governor, or without his being present, and causing their Resolutions to be printed and published.

. . as the Declarations contained in the Assemblys Answer to the Lieutenant Governors Message of the 7th of April 1770, may encourage the people of that province to Commit further violence, and as the Instructions from the Town of Boston to their Representatives on the 15th of May 1770, shew an evident Disposition to support by force the unconstitutional Doctrines, which have been inculcated—The Committee are humbly of opinion that the Rendezvous of your Majesty's Ships, Stationed in North America, should be in the Harbour of Boston, and the Fortress which Commands the Harbour be put into a respectable State of Defence and Garrisoned by your Majesty's Regular Troops.

These precautions the Committee Recommend as the means to check further violences and prevent illicit Trade and to Defend and support the officers of the Revenue in the Execution of their duty, and the Magistrates in the enforcement of the Law.

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But the Committee are of opinion that the weakness of Magistracy, and the Inefficacy of the Law may be most effectually redressed by the Interposition of the Wisdom and Authority of the Legislature; wherefore the Committee humbly Submit to Your Majesty, That it may be adviseable for your Majesty to Recommend the Consideration of the State of the province of Massachusetts Bay to Parliament.

[*pp.* 442-5.]

6 July. [Orders to the Admiralty, the Ordnance and the Secretary at War in accordance with the Committee report.] [*p.* 448.]

(1771.) [Governor Hutchinson's instructions, approved this day

28 Mar. (*cf.* Appendix I), contain the following additions :—] Article 5th containing such Directions to your Majesty's Governor as they hope may have some Effect to put a stop to a practice equally unwarrantable and unprecedented which was taken up by the Council of that province in the late Governors administration of meeting and transacting Business in their Capacity of a Privy Council without any Summons from the Governor or without his being present at such meetings.

Article 16 forbidding the Governor to give his Assent to any vote for the payment of Money to any persons whatsoever who shall be appointed to Negotiate the Affairs of that province in this Kingdom, other than such as shall be thereunto appointed by some Concurrent Act of the whole Legislature, which restriction appears to them to be very necessary in consequence of a practice which has of late prevailed of the Council and Assembly in their separate and distinct Capacities, each appointing, without the Governors Concurrence, a separate person under the Stile and with the authority of an Agent, for negotiating the Affairs of that province in this Kingdom the Inconvenience and Impropriety of which is fully set forth in a Representation of that Board to Your Majesty on the 4th Day of february 1768.

Article 27 contains Directions to the Governor not to assent to any Law by which any persons employed in your Majesty's Service whose offices have no peculiar relation to the said

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province shall be liable to be taxed for such Salaries and allowances as do not issue out of monies granted by Act of Legislature there, and that this article is inserted in consequence of a Complaint made by the Commissioners of your Majesty's Customs in North America, that they have been and are compelled by a Law of this province to pay Taxes within the said province for the amount of the Salaries allowed them by your Majesty.

Article 43 relative to the custody of Castle William is inserted in order to remove any Doubts which may have been entertained from Reports industriously spread by ill designing persons that it was your Majesty's intention, in directing that Fortress to be garrisoned by your Majesty's Troops to take away from your Majesty's Governor that Command and authority in respect to the said Fort, which he Derives from the Charter of the Government of that province and from your Majesty's Commission in Consequence thereof.

[VIII. *pp.* 106, 112-5, 126.]

[156.] [Reference to the Committee of a Board of Trade representation of 15 June proposing that the Governor of Jamaica be instructed not to assent to bills sent up with tacks or clauses for applying the surplus arising from the operation of the Revenue Law.] [p. 424.]

22 June.
Jamaica.

[An additional instruction, submitted by the Board of Trade on 19 Dec. in accordance with a Committee order of 6 Dec., is approved (P.R.). The original representation was made on considering two letters of 31 Dec., 1769, and 3 March, 1770, from Governor Trelawny to Lord Hillsborough, with papers enclosed relating to a dispute between the Council and the Assembly, which had inserted appropriation clauses in supply bills, whereupon the Council had stopped the passage of the rum and poll tax bills. Upon a full consideration of the arguments on both sides, and of an Act of 1728, for granting a revenue for the support of the government of this island, and for reviving and perpetuating the acts and laws thereof, the Board of Trade represented] That your Majesty's Governor

(1771.)
9 Jan.

1770. § 156 *cont.*]

and Council have each respectively a Right, equally with the Assembly, of appropriating any Surplus that should arise out of all Duties and Taxes imposed by that Act, and that the appropriation of it by a Clause in any Annual Money Bill, the object of which is to provide for Annual Services by Annual Grants, leaves the Governor and Council under the unavoidable Dilemma of either assenting to an appropriation which they may not approve, or by a Rejection of the whole Bill defeating many essential and important Services, and therefore that such practice is in fact an improper Tack, operating to take away the equal Right which is vested in Your Majesty's said Governor and Council by the Revenue Law.

[p. 635 ; VIII. p. 24.]

22 June. [157.] [Reference to the Committee, and by them on 5 July
New York. to the Board of Trade, of the] petition of several officers and soldiers who served in North America during the late War, and were reduced at the peace, setting forth, amongst other things, that in pursuance of His Majesty's Royal Proclamation of the 7th of October 1763, the petitioners did obtain warrants from the Lieutenant Governor of His Majesty's province of New York for sundry Tracts of Land to be surveyed and also patents for divers Tracts of Land in the Northern parts of the said province which Lands the petitioners alledge do yet remain unsettled owing to a Claim of several Grantees under the Government of New Hampshire [and to the instruction of 29 Nov., 1769 ; and praying that Lord Dunmore, the Governor of New York, be permitted] to grant Lands to such of the petitioners at whose Expence they have been located and Surveyed and to confirm to others the Grants which have already been made. [pp. 425, 446.]

(1772.) [Reference to the Committee, and by them on 17 June to
15 Jan. the Board of Trade, of a letter of 10 (or 20 ?) Aug., 1771, from the Governor of New Hampshire to Lord Hillsborough, enclosing a report of the Council of that province upon the state of private property and jurisdiction of land west of Connecticut river.] [IX. pp. 39, 302.]

§ 157 *cont.*]

1770.

[Reference to the Committee, and by them on 17 June to the Board of Trade, of several papers transmitted by the Governor of New York to Lord Hillsborough, with reference to disputes about grants made under the French government of Canada on Lake Champlain (*cf.* p. 146), and on Connecticut river.] (1772.) 22 April.

[IX. pp. 176, 302.]

[Orders in accordance with a Committee report of 2 Mar. agreeing with the following report of the Board of Trade :—] (1773.) 5 Mar.

That the District between the Rivers Hudson and Connecticut, within which these Disorders and Disputes have arisen lies to the North of the Northern Limits of Massachusetts Bay established in 1740, and is described to be of great Fertility, of very considerable Extent, and abounding in parts with Valuable Timber fit for Masts and other Naval uses ; That in early times the Government of the Massachusetts Bay, under its Antient Charter, which was vacated in 1684, assumed a Jurisdiction and granted Lands within that part of this District, which lies to the East of a Line drawn at Twenty Miles distance from Hudsons River, and there are now some Townships remaining, which are derived under patents from that Colony ; and altho' the province of New York set up pretensions to this District under the general descriptive words of King Charles the Seconds Patent to the Duke of York in 1664 and the Governors of that Colony did in late times make some Grants of Lands within the same yet it does not appear that any attempts were made to disturb the possessions of the proprietors of the antient Towns settled under Grants from the province of Massachusetts Bay nor were any Establishments made Competent to the Exercise of any regular Jurisdiction therein, but when by the Determination of the Boundary Line between Massachusetts Bay and New Hampshire in 1740, it was declared that the latter of those provinces should Extend West from Merrimack River till it met with Your Majesty's other Governments, and when in Consequence thereof the said province claimed to Extend to within twenty miles of Hudsons River the Government of

1770. § 157 *cont.*]

New York insisted upon their Claim with greater earnestness, and the two provinces became involved in a Controversy, which after much heat and altercation on both sides ended in 1750 in an Agreement to refer the point in Question to the Crown, and each Party made a Representation of the State of their Case But after several hearings at the different Boards, the Agents on both sides desired further time to Consult their Constituents, and the War breaking out in America soon after, the Business was allowed to lye over, 'till the restoration of publick peace, when the Dispute being revived with much heat and Animosity, it appeared that the Governor of New Hampshire had taken the opportunity, *pendente lite*, to grant away a very considerable Number of Townships of six miles Square each in this Country to the Westward of Connecticut River ; That this proceeding accompanied as it was with other disreputable Circumstances, was fully stated in a Representation made to Your Majesty by the Board of Trade in 1764 ; [whereupon the boundary was fixed at the western bank of the Connecticut from where it enters Massachusetts to 45° N. ; but this decision being unaccompanied by the usual reservation with respect to private property, Lieut.-Governor Colden of New York re-granted several of the townships formerly granted by the Governors of New Hampshire ; and upon complaint to the Privy Council it was made (and still continues) an instruction to the Governor of New York to make no grants west of the Connecticut in the lands formerly claimed by New Hampshire till his Majesty's further pleasure should be signified. (*Cf. Acts of the Privy Council*, IV, pp. 673-4 ; V, p. 89.)

That on the petition referred to them June-July, 1770 *supra*, the Board of Trade had on 6 June, 1771, entered into a full consideration of the best means of settling the district, which was still proceeding when the references of 17 June, 1772, were made, which contained two objects of consideration :—]

1st. The Propriety or Impropriety of reannexing to New Hampshire the Lands West of Connecticut River, which the

Governor and Council of that province represent to be a measure of essential Importance to it's Interests and of great publick Advantage.

2nd. The Conduct of your Majesty's Governor of New York in having in Contradiction, to the Letter of the Forty ninth Article of his Instructions taken upon to pass Patents of Confirmation of several of the Townships heretofore granted by the Government of New Hampshire within that District and having also made other Grants of Lands within the same.

[First, although] there is but too great Reason to believe that many of the proprietors of Lands in the Townships granted by the Governor of New Hampshire, who have bona fide made actual Settlement and Improvement thereon, have sustained great Injury, and suffered great oppression by the irregular Conduct of the Governor and Council of New York, in granting Warrants of Surveys for Lands under such actual Settlement and Improvement, Yet such a reprehensible Conduct, on the part of Your Majesty's Servants in New York, ought not in their Judgment to weigh in the scale of Consideration against those principles of true policy and sound Wisdom, which appear to have dictated the proposition of making the River Connecticut the boundary Line between the two Colonies, and therefore the said Lords Commissioners cannot advise any alteration to be made in that measure.

[Second, the Governor's conduct is submitted to consideration] upon the grounds and reasons assigned by that Gentleman in his Letter of 2nd of February then last ; but . . it is a Step of such a Nature, as to have rendered nugatory and impracticable, almost every proposition contained in the Report of the Board of Trade of the 6th of June 1771, and has as well for that Reason, as on Account of the further Information contained in the papers respecting the State of that district made it necessary to take up the Consideration of it upon new Ground and to recommend a variety of new propositions—That upon the fullest Examination into all the Circumstances, which at present Constitute the State of that

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1770. § 157 *cont.*]

District and out of which the greatest Disorders and Confusions have arisen, it seems that the principal Objects of Attention in the Consideration of any measures, that can be suggested for restoring publick Tranquility and Quieting possessions, are,

1st. Those Townships which having been originally Settled and established under Grants from the Government of the Massachusetts Bay, fell within this District by the determination of the Northern boundary in 1740.

2ndly. Those Grants of Lands made within this District by the Government of New York, previous to the establishment of the Townships laid out by the Governor of New Hampshire after the Conclusion of the peace and which Lands now lye within the Limits of some one or other of those Townships.

3rdly. Those Townships, which having been originally laid out by the Governor of New Hampshire, either continue in the same State or have been confirmed by Grants from New York; and also those, which have since originated under Grants from the latter of those Colonies.

[As to the first group,] upon Consideration of their nature and origin, and the numberless Difficulties to which the original proprietors of them must have been Subjected in the Settlement of Lands, exposed to the incursions of the Savages and to every distress which the Neighbourhood of the French in Time of War could bring upon them, and adding to these Considerations the great Reason there is to believe that the Grants were made upon the Ground of Military Services against the Enemy, the said Lords Commissioners Submit it as their opinion that the present proprietors of these Townships ought both in Justice and Equity to be quieted in their possessions, and that all Grants whatever made by the Government of New York of any Lands within the Limits of those Townships whether the Degree of Improvement under the Original Grant had been more or less, are in every Light in which they can be viewed, oppressive and unjust, but as the said Lords Commissioners are sensible that such Subsequent Grants made by the Government of New York, however unwarrantable

cannot be set aside by any authority from Your Majesty in case the Grantees shall insist upon their Titles, they Submit whether it might not be expedient in Order to quiet the Original proprietors in their possession to propose that all such persons who may Claim possession of Lands within the Limits of such Townships under New York Grants, should upon Condition of their Quitting such Claim, receive a Grant under the Seal of New York, upon the like Terms and free of all expence of an equal number of Acres in some other part of the District lying between the Rivers Hudson and Connecticut ; and in Cases where any Actual Settlement or Improvement has been made by such Claimants, that they should in such Case receive fifty acres of Waste Land for every three Acres they may have improved—

[As to the second group, that those upon which any actual improvement has been made,] appear to deserve the same Consideration, and that the proprietors thereof ought not to be disturbed in their possessions, whether that Improvement be to a greater or lesser extent ; but the said Lords Commissioners observe, that in both these Cases no Consideration ought to be had to any Claims, where it shall appear that no regular possession, has ever been taken, and no actual Settlement ever been made.

[As to the third class,] that, provided such Townships do not include Lands within the Limits of some antecedent Grant, upon which Actual Improvement has at any time been made, it would be adviseable, that they should be Confirmed as Townships, according to the Limits expressed in the Grants thereof ; and that all persons having Possession of any Shares in the said Townships, whether as original Grantees, or by purchase or Conveyance, and upon which Shares any Actual Improvement or Settlement, has been made, ought not in Justice to have been, or to be in future disturbed in the possession of such Shares ; nor ought they to be bound to any other Conditions, whether of Quit Rent or otherwise than what is contained in the Grant.

1770. § 157 *cont.*]

That having thus stated every Case that appears to the said Lords Commissioners to deserve Consideration on the Ground of legal Title followed by actual Settlement and Improvement they do not hesitate to Submit their Opinion that all other Lands whether the same be, or be not contained within the Limits of any Township or of any other Grant whatever, and of which no possession has ever been taken, or any Actual Settlement or Improvement made, should be disposed of in manner following—Vizt.—

First. That such persons who Claim possessions of Lands under Grants from New York, within the Limits of any of the Townships antiently established by the Government of the Massachusetts Bay, have the first Choice of such a Quantity of the said Lands, as shall be Equivalent to the Quantity granted within the said Townships, excepting only that in Case of Actual Improvement upon such Grants, they shall receive fifty for every three Acres so improved, as has been already Suggested.

[(2) That officers and soldiers, who, under the proclamation of 1763, obtained warrants of survey from the government of New York for lands between the Hudson and the Connecticut, but have been unable to complete their grants owing to the instruction to the Governor, be confirmed in possession of these lands by immediate grants, but if the lands have been actually settled under previous grants from New York or New Hampshire, they are to receive not these lands but an equivalent in some other part of the district.

(3) That in every township there be reserved as a glebe for a Protestant minister not over 500 acres; and not over 250 for a schoolmaster.

(4) That the residue of the lands, not granted or not improved, be disposed of to intending settlers upon condition of paying the usual quitrent of 2s. 6d. per hundred acres and a consideration of 5l. per hundred acres at the time of making the grant.]

That the said Lords Commissioners have already Stated that

§ 157 *cont.*]

1770.

the District in Question between the Rivers Hudson and Connecticut, and particularly in the Neighbourhood of the latter, does abound in many parts of it with Trees fit for Masting for the Royal Navy, and for other Naval purposes and the said Lords Commissioners observe from the Minutes of the proceedings of the Council of New York, that one of Your Majesty's Assistant Surveyors of the woods in America especially appointed by the Lords of the Treasury for the Survey of this District, has made Report to them of two Tracts of Land, which he has discovered upon Connecticut River containing a very considerable Growth of White Pines and therefore the said Lords Commissioners Submit whether it will not be necessary in whatever plan shall be adopted for the final Settlement of this valuable Country, that the greatest Care should be taken, and the most precise Instructions given, that the Limits of those Tracts should be ascertained, so as that they be not included within the Limits of any Grant, or any Settlement made thereon, and that if it shall so happen that any part of those Tracts is included within the Limits of any grant already made, and Actual Settlement and Improvement has taken place in consequence thereof, that proper Endeavours be used to induce the proprietors to quit such possession by offering them Grants of Wast Lands in some other part of the District, equal in Quantity to what is claimed by them in consequence of such Possession, with a further allowance of Fifty acres for every three Acres under Actual Cultivation and Improvement.

[That the claim of the Society for Propagating the Gospel (*cf. pp. 88-9*) should be met by offering compensation at the rate of 30*l.* for each township in which the Governor of New Hampshire had reserved 500 acres for them, the money to be taken from the proceeds of the sale of forfeited shares.

That the above, with the proposals submitted by the Board of Trade in the case of the township of Hinsdale, completes the consideration of the disputes arising within this district:] and that it only remains to State a Short observation or two,

1770. § 157 *cont.*]

with regard to the Mode of regranting those parts of the Land in this District, which after provision has been made in the manner suggested for such Claims, as are in Equity and Justice Objects of Attention shall remain for Your Majesty's disposal—That the Circumstance that more particularly makes this an object of Consideration, is the proposition the said Lords Commissioners have Submitted for the Sale of these Lands for a valuable Consideration, and the necessity there is therefore, that the Grant or Conveyance should be burthened with as little expence as possible, because the facility of selling them upon the Plan and for the price Submitted will be greater or less in proportion to that Expence ; and because it will be utterly impossible to dispose of them at all upon any such Plan, if the Grants are to pass through all the forms now adopted in New York upon Grants of Lands, and are to be Subject to the payment of the Fees at present taken by the Governor and other officers of that Colony—That the said Lords Commissioners have upon former Occasions found it necessary to take Notice of the Complaints, which have been made of the Injustice and Extortion of the Servants of the Crown in New York in this respect ; and have at all times considered the Liberty they have assumed to themselves of taking greater and other Fees upon Grants of Lands, than what were established by the Ordinance of the Governor and Council of the Year 1710, as most unwarrantable and unjust. By that Ordinance the Fees allowed to be taken upon Grants of Land by the Governor, the Secretary and the Surveyor, are considerably larger than what are at this day received for the same Service in any other of the Colonies nor are fees allowed, as the said Lords Commissioners Conceive, to any other officers than those they have mentioned—That of later times however the Governor, the Secretary, and the Surveyor have taken and do now exact considerably more the double what that Ordinance allows ; and a Number of other officers do upon various pretences take fees upon all Grants of Land ; inso-much that the whole Amount of these fees upon a Grant of

One thousand acres of Land is in many instances not far short of the real value of the Fee Simple ; and the said Lords Commissioners think they are justified in Supposing, that it has been from a Consideration of the Advantage arising from these Exorbitant Fees that Your Majesty's Governors of New York have of late Years taken upon themselves, upon the most unwarrantable pretences, to elude the restrictions contained in Your Majesty's Instructions, with regard to the Quantity to be granted to any one person, and to Contrive, by the insertion in one grant of a Number of Names, either fictitious, or which, if real are only lent for the purpose to Convey to one person in one grant, from twenty to Forty thousand acres of Land, an abuse, which is now grown to that height, as well to deserve attention ; in the present Case however the only point for Consideration is, whether, if the Measure before Suggested should be adopted, to advise Your Majesty to give the most positive Instructions to the Governor of New York, that upon any application made to him for the Lands proposed to be granted on the Conditions above stated, he do upon payment of the Consideration Money to Your Majesty's Receiver General, issue his Warrant for a Survey of the Tract applied for, and upon a return of such Warrant into the Secretarys Office, the Grant to pass without any other form or process whatsoever, and without any Fees whatever to be taken either by the Attorney General, The Receiver General or the Auditor, and that [no fees be taken other than those prescribed by the Ordinance of 1710] : That upon the whole the said Lords Commissioners are Sensible, that many difficulties will occur in the execution of any plan, that can be suggested for putting an end to those disorders and abuses, which have so long dishonoured Government, and disturbed the peace and Quiet of a very valuable part of Your Majesty's possessions ; that it is impossible to suggest every proposition, that may be necessary in a case involved in so much difficulty and perplexity ; and that the practicability or impracticability of those now Submitted will

1770. § 157 *cont.*]

depend in great Measure upon the Acquiescence on one hand, and upon the obstinacy on the other of those, whose different Claims have been Stated ; but if the plan of accommodation Chalked out shall in the general outline of it meet with approbation, it is all the said Lords Commissioners can presume to hope for ; and Submit that such Steps should be taken thereupon as should be thought expedient.

[X. *pp.* 51–63, 77.]

(1773.) [Reference to the Committee of the petition of the deputies
29 Oct. from the townships on the west side of Connecticut river, complaining of injustice and oppression by the government of New York, and praying for re-annexation to New Hampshire.]

[X. *p.* 326.]

6 July. [158.] [Reference to the Committee of three appeals by
Pennsyl- John Swift, deputy collector of customs at Philadelphia, from
vania. judgments of the Supreme Court against him in April, 1768, in his actions to recover various sums due upon bond for foreign duties on sugars imported in the snow *Abbey* from Guadeloupe by (a) Henry Jones and Robert Smith, (b) George Hawkins and John Moore, and (c) Abraham Mitchell and Thomas Lightfoot.]

[*pp.* 450–1, 692–3.]

(1773.) [On Committee reports of 18 Dec., the judgments are
31 Dec. reversed, with 50*l.* costs in each case. The appeals were heard *ex parte*, no appearance having been entered for any of the respondents.]

[X. *pp.* 323–4, 383–5, 393–4.]

27 July. [159.] [Reference to the Committee of the petition of
Jamaica. James Hardyman of Jamaica for a day for hearing his appeal from part of an order of the Chancellor, 20 July, 1769, overruling some of his exceptions to a master's report in an action brought against him and Mary, widow of James Lawrence and of Mark Hardyman, in relation to the estate of the former, by his sons Richard James and James Lawrence, and three of his executors Thomas Hibbert Montague, James and Charles Bernard. A cross-appeal was also referred on 14 Sept.]

[*pp.* 469, 472, 486.]

§ 159 *cont.*]

1770.

[At the request of counsel on both sides, the appeal is ordered to stand over to a future day.] [IX. p. 338.] 26 June. (1772.)

[Reference to the Committee of Hardyman's petition for a day for hearing another appeal from a decree of the Chancellor, 11 July, 1767, in relation to the estate of James Lawrence.] [X. p. 318.] 8 Oct. (1773.)

[160.] [Reference to the Committee, and by them on 4 Dec. to the Attorney and Solicitor General, of the] petition of William Wharton, Joseph King, William feuilleteau, Aretas Akers, Christopher Mardenbrough and Henry Seaton of the Island of St. Christophers Esquires complaining of several unwarrantable proceedings of the Assembly of the said Island in 1769, and particularly for having ordered the petitioners and Anthony Bryan (since deceased) to be taken into Custody and confined in Goal; and also complaining against Craister Greathead Esquire Chief Justice, and Alexander Douglas, Henry Bennett and Francis Phillips Assistant Justices of the said Island, for having on the 10th of April 1770 (in consequence of a Letter received from the Assembly) ordered Sundry Actions brought by the petitioners against James St. John Serjeant at Arms, and Henry Berkeley Esquire the Deputy Provost Marshall to be discontinued with Costs: [and praying that these orders be set aside and the actions brought to a fair trial,] that His Majesty will pass such Censure upon the proceedings of the said Assembly and Judges as in His Majestys great wisdom shall seem meet; And that his Majesty in Compassion to His Subjects of the said Island would give such directions as shall in future secure to them their Rights and Liberties. [pp. 485, 627.] 14 Sept. St. Christopher.

[Similar references of a like petition of John Gardiner. His actions were brought against John Fahie, Speaker of the Assembly, and were dismissed on 12 June, 1770, Douglas not being included among the judges. The Chancellor and Chief Justice have refused to discharge him although he has brought writs of *Habeas Corpus* returnable before them.] 30 Nov. and 4 Dec.

[pp. 605, 626.]

1770. § 160 *cont.*]

(1772.) [Orders in accordance with the Committee report of 31 March, 22 April. agreeing with the Attorney and Solicitor General, who reported] That the two first Articles in which the petitioners are immediately concerned are in a Judicial Course of proceeding, In the third they have no peculiar Interest, and in all the parties complained of are unheard. That by the Representations laid before Your Majestys Attorney and Solicitor General, *exparte*, and without hearing what may be alledged on the other side, the House of Assembly seems to have corrupted it's own Constitution by affecting a power which they have not, analogous, and coequal to that of the House of Commons in Great Britain under Colour of which they have Voted, that no member of the Council shall vote in the Election of Members of Assembly, in direct Violation of the Law for freedom of Elections ; That they have taken upon them to Declare a Seat in their Assembly void by their own Authority and to command the issuing of a new writ ; To swear in Members, to punish absent Members and Strangers by imprisonment ; to Declare privileges and Enforce them by punishment, and to Act by less than a legal Number of Members—These pretensions they have carried to such excess as to Imprison seven Gentlemen of their own Body, one of whom has lost his life by their violence, and when they sued out Writs of Habeas Corpus returnable before the Governor, and other such Writs returnable before the Court of Kings Bench and Common Pleas, the prisoners were not only denied redress in both Places, but the Counsel who argued for them were Imprisoned by the Assembly as for a Contempt of their House, and when Actions at Law were brought for such Imprisonment in the Court of Kings Bench and Common Pleas, the Assembly took upon itself to Command the Judges of that Court to Order a Discontinuance of such Actions with Costs to be paid by the Plaintiffs—That Your Majestys Attorney and Sollicitor General conceive it is manifestly unfit to give the petitioners any relief in this course, which may possibly be obtained by them in one more regular, But that they

think the Order of Court that the several Actions brought by the petitioners should be discontinued with Costs to be paid by the plaintiffs was an Arbitrary proceeding, in which no Attention was had either to the Substance or forms of Justice, that the Record, if it should be thus unjustly corrupted could not be brought up in the common course of Appeal to Your Majesty so as to give the parties Injured Redress, and therefore they conceive it necessary to Justice and proper that an Order should be issued to the Court of Kings Bench and Common pleas to proceed as if no such undue Order had been made, and for that purpose that the proper Continuances should be entered, Or in case the several plaintiffs should be advised to discontinue and proceed anew that no such Irregular Interruption should be given to them for the future ; That the Authority of the House of Assembly to Imprison will then come directly in Question on those Actions, and they conceive it will be unfit to give any Directions or Express any Opinion which may prejudice the merits of a Question which may probably come before this Committee in its Judicial Capacity, But they think it may be adviseable for Your Majesty to give Instructions to the Governor of the said Island to keep his Assembly more within the legal Bounds of a provincial Council, and to hinder them from usurping Authorities inconsistent with the peace and good government of the Island.

[The law officers considered Mr. Gardiner's case precisely similar,] except only in one Circumstance, which is, that at the time of signing his petition he remained in the Common Goal, but as that would be over at the rising of the Assembly they thought it unnecessary to give any opinion on that Head especially as it would be impossible for Your Majesty to send over any Orders for his Deliverance without deciding upon the very point of the Actions which are now Depending between all the petitioners and the officers of the House of Assembly.

[IX. pp. 132-6, 171-3.]

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1770. § 160 *cont.*
- (1772.) [Reference to the Committee of a Board of Trade report of
28 May. 21 May with a draft of the instructions to the Governor, and
also an address of the Assembly of St. Christopher to the late
Governor with their answer to a remonstrance presented to him
by Wharton and others similar to that presented to his
Majesty.] [IX. p. 266.]
- (1772.) [On the Committee report of 17 June, the instruction ordered
19 June. on 22 April is approved—P. R.] [IX. pp. 292, 315.]
- (1775.) [Reference to the Committee of Gardiner's petition for leave
5 April. to appeal from a judgment of the Court of Errors, 13 May,
1774, affirming a judgment of the Court of King's Bench and
Common Pleas, 15 March, 1773, in his action against St. John
for illegally imprisoning him.] [XI. p. 476.]
- (1775.) [On the Committee report of 21 June, the appeal is admitted,
30 June. and order given for allowing the petitioner properly
authenticated copies of all the proceedings. The appeal was
referred on 20 Sept., 1776, and on 10 April, 1777, was ordered
to be heard on 17 July.] [XII. pp. 31, 56 ; XIII. pp. 140, 428.]
- 19 Sept. [161.] [Reference to the Committee of the petition of
Pennsyl- Samuel Pike, merchant of London, and late of Cork,
vania. brother and heir of Richard Pike of Stoke Newington,
showing that he preferred a bill in Chancery in London
in 1757 against Richard's executors, Samuel Hoare and
Nathaniel Newberry, merchants of London, which bill was
dismissed in 1763 and the petitioner advised to try the matter
in Pennsylvania where the disputed lands lay: that on
30 Mar., 1769, the Supreme Court there, after refusing several
very material evidences, gave judgment against him: that
his counsel took exception to the verdict in order to appeal
to his Majesty in Council: and praying, that as he has not
yet received the proceedings of the Court of Philadelphia, he
may be permitted to prosecute his appeal even after the
expiry of the 18 months allowed by an act of Pennsylvania.]
[p. 488.]
- 30 Nov. [Reference to the Committee of Hoare's petition that Pike's
petition and appeal be dismissed with costs.] [p. 605.]

- ACTS OF THE PRIVY COUNCIL (COLONIAL). 281
- § 161 *cont.*] 1770.
- [Committee order that the appeal be not received unless presented on or before 12 Feb., 1771.] 20 Dec. [p. 694.]
- [On the Committee report of 11 June, the appeal is dismissed with 20*l. stg.* costs for non-prosecution.] (1771.) 14 June.
- [VIII. pp. 261, 274.]
- [162.] [Reference to the Committee of the petition of Robert Alexander, master of the brigantine *Edinburgh*, on behalf of the owners, for leave to appeal from the condemnation of ship and cargo in the Vice Admiralty Court at New Providence, 5 Feb., 1770, in favour of Robert Sterling, Advocate General, and of Ralph Dundass, commander of H.M. schooner *St. Lawrence*.] 1 Nov. Bahamas. [p. 543.]
- [On the Committee report of 7 Nov., the appeal is admitted. Security is given on 5 Dec. by Robert White and Thomas Goostrey, of St. James parish, Westminster.] 9 Nov. [pp. 550, 556.]
- [On the Committee report of 18 Dec., the decree is reversed and ship and cargo, or their value, ordered to be restored. The case was heard *ex parte*, no appearance having been made for the respondents. Yet there is an appearance entered in the Register under date 3 Nov. 1772.] (1773.) 31 Dec.
- [pp. 658, 675 ; IX. pp. 25, 467 ; X. pp. 87, 382, 392.]
- [163.] [Reference to the Committee of the petition of Felix Doran, John Kirwan, William Irish, Charles Molineux, and Charles O'Gara, executors of James Doran, of Montserrat, for leave to appeal from a judgment of the Court of Errors, 23 Jan., 1767, reversing a judgment of the Court of King's Bench and Common Pleas, 15 May, 1767, in James Doran's action against Richard Farrill for 261*l.* 8*s.* 9*d.* with interest, damages and charges.] 9 Nov. Montserrat. [p. 558.]
- [164.] [Order explaining that the forty days' quarantine imposed on 1 Nov. (on account of the plague in the Levant) on vessels having rags or cotton-wool on board, does not apply to ships coming from America and the West Indies. Several particular cases occur of ships with West India cotton on board being freed from detention under this order. 10 Nov. Plantations.]

1770. § 164 *cont.*]

In November and December permission was given to four ships with wine, raisins, lemons, iron and salt from Malaga to proceed to New England, the people on board being perfectly healthy. Amongst similar entries in 1771-2 several relate to ships trading to Newfoundland, New England and Quebec.] [pp. 573 *etc.*]

9 Dec.
New
Hampshire.

[165.] [A New Hampshire act of Mar., 1769,—to restrain the taking excessive usury—is confirmed, in accordance with the Committee report of 4 Dec., agreeing with a Board of Trade representation of 20 July, referred to them on 27 July.

Mr. Jackson reported] that, exclusive of the Objections which he thinks lie to restraining the Rate of Interest in a new settled country, he is of opinion, that the Admitting a Debtor to discharge himself of his Debt by swearing to a secret usurious Bargain, unless the Creditor by his Oath shall deny it, is such an encouragement to Perjury, as ought no where to subsist.

[The Board of Trade, however, represented] That the Clause, by which this Regulation is introduced, is the same as was contained in a former Act for the same purpose passed in 1765, to which Clause no objection was then stated, though the Act was for other Reasons then disallowed, and is now reenacted with a Clause suspending its execution, until Your Majesty's pleasure shall be known, with an omission of those provisions which were before stated to be the only ones liable to objection.

[The Governor has stated that the act is of the greatest importance, as] the almost insupportable Scarcity of Money exposes the Inhabitants of New Hampshire to the unrestrained exorbitancy of merciless Usurers, and must certainly produce the most universal Distress, unless prevented by this or some other Law of the like Effect [and the Board of Trade therefore submitted whether the act should not be confirmed].

[pp. 467, 615, 645.]

1770.

[166.] [On the Committee report of 6 Dec. a New Jersey act of May, 1768—for choosing representatives in the counties of Morris, Cumberland and Sussex, and directing the Morris County taxes to be paid into the Eastern treasury of this colony—is confirmed, and a letter ordered to be sent to the Governor with a copy of the circular instruction of 1767 requiring Governors not to assent to any laws affecting the numbers, duration or qualifications of the Assembly.

9 Dec.
New Jersey.

The Board of Trade representation of 20 July, referred on 27 July, showed that Mr. Jackson had reported] That although this Act contains matter of high importance in point of public policy, and would have been altogether improper without a Clause of suspension ; yet such Clause being Subjoined, no objection occurs to him to this Act in Case your Majesty in your Royal Wisdom shall deem it proper for the present State of the province ; and he remarks that the giving Representatives to Counties, that have sometimes Subsisted without them, until their population and Importance have been thought sufficient to intitle them to such Representation, has been usual in that province ; and that the number of the Assembly will not be very great, when thus increased.

It is our Duty however to represent to your Majesty, that in the Original Constitution of the present form of Government existing in the Province of New Jersey, the directing what Counties and Districts should send Representatives appears to have been considered, as a regulation entirely at your Majesty's discretion, and though there may have been one or two instances of a deviation from this Rule, yet we humbly apprehend it was not proper for your Majesty's Governor to have given his Assent to any Law of this Kind, even with a suspending Clause, without your Majesty's Consent previously obtained ; and such Conduct of your Majesty's Governor is the more extraordinary, as he represents in a Letter to your Majesty's Secretary of State of the 9th of July 1768, which Letter his Lordship hath communicated to us, that many of those, whom he looks upon to be the best disposed towards

1770. § 166 *cont.*]

Your Majestys Interest in that province, were of opinion, that it would not be expedient for the Crown to confirm it at that Juncture, and therefore it appears to Us, that the enacting the provisions of it into a Law could have no other effect, than to Subject your Majesty's Servants here to the Dilemma either of recommending the confirmation of a Law, which the Friends of Government in the Colony thought inexpedient, or to seem to oppose the wishes of the Legislature by a negative, that under such Circumstances, it was the duty of the Governor to have given in the first instance.

Upon the whole however we are of opinion, that the arguments stated by Mr. Jackson do weigh strongly in favour of the Act; and as it is probable, that the Grounds of the objection, which was made to it at the time it was proposed may not now exist [the act is submitted for confirmation. The Committee added the recommendation to send a copy of the instruction to the Governor.] [*pp.* 468, 633-5, 646-8.]

9 Dec. [167.] [A New Jersey act of June, 1765,—for regulating the
New Jersey. practice of the law and other purposes therein mentioned—
is disallowed, in accordance with the Committee report of 4 Dec., agreeing with a Board of Trade representation of 20 July, which was referred to them on 27 July.

Mr. Jackson reported] That it contains sundry innovations in the Laws of the province without sufficiently stating the Inconvenience, the remedy of which is intended; and inasmuch as above five years have passed without any application in it's support, notwithstanding the intimations given by the Governor, that the Assembly would instruct the provincial agent to solicit it, who, if such reasons had Subsisted, would probably have been enabled to supply them, he therefore conceives this Act is not fit for Your Majesty's approbation. [*pp.* 468, 619, 649.]

9 Dec. [168.] [Four New York acts of 1767-9 are disallowed on the
New York. Committee report of 4 Dec., agreeing with a Board of Trade representation of 15 June, referred to them on 22 June :—]

1st. An Act to declare the extention of several Acts of Parliament made since the establishment of a Legislature in this Colony, and not declared in the said Acts to extend to the plantations.

2nd. An Act to empower Justices of the peace, Mayors, Recorders and Aldermen to try causes to the value of ten pounds and under, and for suspending an act therein mentioned.

3d. An Act for preventing suits being brought in the Supreme Court of this Colony for any Sum not exceeding fifty pounds.

4th. An Act to explain and amend . . . An Act for regulating elections of Representatives [of 8 May, 1699].

[On the first act, Mr. Jackson observed] that altho' this Act introduces no Law or part of any Law of this Kingdom, the substance of which, upon a careful perusal, does appear of public Utility to that province, yet it does not seem fitting they should be thus adopted in Cumulo, and that too without stating more of the several Acts than their Titles and the numbers of sections adopted ; That nothing can be more obvious than that such a Cumulative Act deprives both the Crown and it's Governor of that distinct approbation or disapprobation that is essential to the Constitution of the province, and to all similar constitutions, and that the perusal of the Acts of Parliament themselves, makes it palpable, that such an Introduction by way of reference will frequently occasion great difficulties in the Construction, and those sometimes, such as ought not to be left to a Court of Justice to Decide.

[Mr. Jackson considered the second and third acts] by no means proper in point of Law, inasmuch as they run directly counter to the Juridical policy of this country, and cannot but occasion mischievous effects under the specious appearance of facilitating Justice.

[The Board of Trade represented that the fourth act altered a law confirmed by the Crown, and should not have been assented to without a suspending clause.] [pp. 424, 617-9, 648.]

1770.

9 Dec.
West
Florida.

[169.] [A West Florida act of June, 1769,—to encourage the settlement of that part of this province lying to the westward of Charlotte county—is disallowed, on the Committee report of 4 Dec., agreeing with a Board of Trade representation of 20 July, which was referred to them on 27 July.

Mr. Jackson had reported] that it seems highly probable, that the general plan adopted by this Act, would be of great political benefit to this country, and might tend much to the security and welfare of the province itself if properly carried into execution ; but that he cannot think it adviseable, that a provincial Act should receive the Royal approbation, which in effect creates a Subordinate province [and the Board of Trade gave their opinion] that this Law is highly improper, not warranted by any Authority, under which the Governor, Council and Assembly of that Colony exercise the power of Legislation.

[pp. 469, 620, 650.]

9 Dec.
Virginia.

[170.] [A Virginia act of 1769—for the ease and relief of the people by paying the burgesses in money for the last Convention and present session of Assembly—is disallowed, on the Committee report of 4 Dec., agreeing with a Board of Trade representation of 23 Nov., referred to them on 26 Nov., viz. :] That as there is nothing in the Form and Constitution of the Government of Virginia that does, as we apprehend authorize any other meeting of the Burgesses than in Assembly, in consequence of Writs issued by the Governor in Your Majesty's name, We cannot but consider the Convention to which this Act refers, as illegal and unconstitutional, and therefore are humbly of opinion that it is in every light highly expedient that a Law which authorizes the Treasurer to pay to the Members who constituted such convention wages out of the public Treasury of that Colony should be disallowed.

[pp. 594, 622, 651.]

9 Dec.
Virginia.

[171.] [Orders in accordance with a Committee report of 6 Dec., agreeing with a Board of Trade representation of 23 Nov., referred to them on 26 Nov., about two Virginia acts

of Dec., 1769, (a) for laying an additional duty upon slaves imported into this colony, and (b) for the better support of the contingent charges of government.

The Board of Trade represented that by these two acts, the first of which has a suspending clause,] Additional Duties are Imposed upon the Importation of Negroes to the Amount of fifteen per Cent. upon every purchase (payable by the purchaser) over and above all other Duties upon Slaves imported, laid by former Laws now in force ; And that these Duties which amount in the whole to twenty five per Cent. upon every purchase must have the effect and are they apprehend, intended to operate as an entire prohibition to the importation of Slaves into Virginia ; [that the strongest reasons had been given for disallowing an act of 1728 for laying a duty on slaves imported into Virginia (*cf. Acts of the Privy Council*, III, *pp.* 64-5) :] that in the Year 1731 it was thought fit to allow the Governors of Your Majestys Colonies, to consent to Laws laying moderate Duties upon Negroes imported, provided such Duties were paid by the purchaser, and not by the Importer, and they humbly apprehend that it was under the Sanction of that permission, that Laws in the Colony of Virginia, subsequent to that period, laying Duties of ten per Cent. upon Negroes Imported have been suffered to pass, and therefore both from principle and experience the said Lords Commissioners might well entertain a Doubt of the propriety of the policy, on which that permission was grounded, and are able to show that the Distinction made between Duties paid by the Importer and the purchaser is fallacious, and that in fact the operation of either mode is the same ; Yet they should not have suffered that Doubt and opinion to have now opposed themselves to a practice, that has without Complaint from the Merchants of this Kingdom universally prevailed in all Colonies which Import Slaves, had those Duties in the present Case, been confined within the Limits of Moderation ; But when the privilege of laying moderate Duties payable by the purchaser is extended so far, as to have the effect of a

1770. § 171 *cont.*]

prohibition, the objections made to the practice in the Year 1729 do stand forth in their full force and extent ; For which Reason and for as much as the Merchants of Bristol Liverpool and Lancaster trading to Affrica, have both by their Representatives and by Memorials stated to the said Lords Commissioners the prejudice which these Laws will be of to the Trade and Commerce of those ports, it becomes their Duty, agreeing with them in opinion humbly to propose, that the first mentioned of these Laws may be disallowed ; permitting the other which is made to continue only to October 1771, and has also reference to other matters which will require a different consideration, to expire by it's own Limitation ; And that Your Majesty's Governor may be Instructed that he do not for the future give his assent without Your Majesty's permission first obtained to any Law, by which the Duties of ten per Cent. upon Slaves imported into that Colony imposed by former Laws shall be increased.

[On 4 Dec. the Committee ordered the instruction to be prepared (P.R.). It forbade the continuation of the act of Nov., 1769, and the enacting of any measure) by which the Importation of Slaves shall be in any respect prohibited or obstructed. [pp. 594, 624, 631-3, 653.]

(1772.) [Reference to the Committee, and by them on 19 Dec.
31 July. to the Board of Trade, of a letter from Lord Dunmore to Lord Hillsborough, with an] Address of the House of Burgesses of Virginia, humbly beseeching His Majesty to remove all restraints upon His Majesty's Governors of that Colony, which inhibit their assenting to such Laws as might check the Importation of Slaves into the Colonies from the Coast of Africa, The Importation of such Slaves having long been considered as a Trade of great Inhumanity and under its present Encouragement, they have too much reason to fear will endanger the very Existence of His Majesty's American Dominions. [IX. pp. 395, 524.]

9 Dec. [172.] [Reference to the Committee of the petition of
Grenada. Charles Philip Clozier, François Clozier Decosteaux

§ 172 *cont.*]

1770.

Louis François de Chantenille, Nicholas François de Buret, Charles François Da Raniel, Claude Passé Lamelirie and Mary Charlotte Clozier, his wife, and Jean François de Vernon, of Grenada, for a day for hearing their appeal from a Chancery decree of 10 Jan., 1770, on a bill filed against them by Paul Antoine Dufaur, administrator of his wife, Rose François Dufaur, touching the guardianship and administration of an estate.] [p. 658 ; VIII. p. 85.]

[On the Committee report of 20 Jan. the decree is varied in (1772.) several particulars. François Pierre de St. Luc is the only 29 April. additional name in the report.] [IX. pp. 44-6, 192.]

[173.] [Reference to the Committee of the petition of 9 Dec. Lewis Le Jeune and Louise Victoire de Flavigny, his wife, Grenada. that their appeal from a decree of the Grenada Chancery, 2 Nov., 1768, in favour of Andrew Irwin, relating to the purchase of some plantations, be dismissed without costs, as they have been advised not to prosecute it.] [p. 659.]

[On the Committee report of 20 Dec., the appeal is dismissed (1771.) without costs.] [p. 691 ; VIII. p. 20.] 9 Jan.

[174.] [Reference to the Committee of a Board of Trade 14 Dec. report on a letter of 10 July from Governor Melville, proposing Grenada. that separate commissions be issued for the trial of pirates in the governments of Grenada and Dominica under the act of 11 and 12 William III, agreeable to the form observed in the commission for the Leeward Islands.] [p. 664.]

[The Committee order the Board of Trade to submit the 15 Dec. names of persons proper to be appointed to carry the commissions into execution.] [p. 675.]

[On the Committee report of 12 April, the Advocate General (1771.) and the Advocate of the Admiralty are ordered to prepare 15 April. drafts of the commissions. Charles Winstone, his Majesty's counsel at law in Dominica, as well as the Governor of Grenada, had represented the great charges and the difficulty of procuring witnesses (there being no fund for defraying their expenses), in cases of pirates taken within the government of Grenada

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1770. § 174 *cont.*]

and tried within that of Antigua. Besides the Governor, the Vice Admiral, Flag Officers and Commanders-in-Chief of squadrons within the Admiralty jurisdiction, the Chief Justice of each island, the Judge of Vice Admiralty, captains and commanders of ships of war within the Admiralty jurisdiction, the Secretary or his deputy, the Surveyors General of Customs, and the Collector of Plantation Duties under an act of 25 Charles II, the members of the respective Councils are included in the commissions as follows :]

Grenada :—Francis Gore (Lieut.-Governor), Robert Turner, John Graham, Patrick Maxwell, William Lindow, Frederick Corsar, John Harvey, Thomas Townsend, William Lucas, John Melvill, Thomas Williams and Paul Mignot Devoconnu.

St. Vincent :—Ulysses Fitzmaurice (Lieut.-Governor), Richard Ottley, Henry Sharpe, Harry Alexander, Robert Wynne, William Fitzheugh, Josiah Jackson, Rowland Ash, William Byam, Harry Smith, Thomas Hackshaw, George Young and John Hunt.

Tobago :—William Young (Lieut.-Governor), Robert Stewart, Benjamin Brown, Archibald Kennedy, Peter Campbell, John Leith, James Duncan, William Hall, Alexander Sympson, Walter Robinson, Adam Fairhelm, Joseph Robley and Edmund Lincoln.

Dominica—separate commission :—William Stewart (Lieut.-Governor), James Ashley Hall, Andrew Dewar, Alexander Stewart, John Weir, Charles Dunlop, John Gregg, Robert Seaman, Abraham Shaw, Charles Winstone, Oliver Nugent, Garrat Burton and James Furlong. [VIII. *pp.* 138–9, 145–7.]

21 Dec. [175.] [Reference to the Committee of the petition of
Jamaica. Jane Stone for a day for hearing her appeal from a decree of the Chancellor of Jamaica, 20 Aug., 1770, on a bill filed by Robert Wadham Spragge and James Trower against her for an account of the estate of Robert Spragge, deceased.]

[*p.* 701 ; VIII. *p.* 45.]

(1771.) [Reference to the Committee of a cross appeal of Spragge
11 Feb. and Trower. They and George Lumsden, now deceased, filed

§ 175 *cont.*]

1770.

a bill praying that the marriage of Spragge's father with Jane Veale should be decreed to be a revocation of a will of 1764 in favour of Jane Stone in relation to his real estate, and that a will of 1766 in favour of his wife and the infant petitioner be established in relation to his personal estate.] [VIII. *p.* 67.]

[On the Committee report of 11 July, Jane Stone's appeal (1771.) is dismissed with 20*l.* *stg.* costs, and the cross-appeal 19 July. adjourned for six months. Other names in the report are Robert, James and Jonathan McGhie, George Spragge, Henry Cunniffe, and John Simpson.] [VIII. *pp.* 327-30, 342.]

[On the Committee report of 27 Mar., so much of the (1773.) decree of 1770 as established the will of 1764 with reference 31 Mar. to the real estate, is reversed, the subsequent marriage and birth of a son being held to have revoked it: the costs of all parties are to come out of the real estate.] [X. *pp.* 110-6, 126.]

GEORGE III. VOL. VIII. (January—December, 1771.)

1771.

[176.] [Reference to the Committee of a Board of Trade 11 Feb. representation of 6 Feb. for disallowing a Nova Scotia Act Nova Scotia. of July, 1768,—for taking special bails in the country upon acts depending in his Majesty's Supreme Court of this province.] [p. 63.]

[Committee—Board of Trade representation] Read and 23 May. ordered to lye by. [*Cf.* *p.* 335.] [p. 218.]

[177.] [Reference to the Committee, and by them on 24 Feb. 23 May to the Board of Trade, of the petition of the Hon. St. Samuel Crooke of St. Christopher, setting forth] that he having Christopher. obtained a Judgment in the Court of King's Bench in the said Island on the 14th August 1770 against Edward Gilliard upon an action brought by the petitioner for the recovery of 3,088*l.* 7*s.* 5½*d.* Currency secured by Bond, the said Edward Gilliard did thereupon bring his writ of Errors in order to stay execution, which was served upon the Provost Marshal . . But that by Reason of the absence of some of the Members of

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1771. § 177 *cont.*]

the Council and others being interested in the Event of this Cause there are not persons properly Qualified to Constitute a Court for the Tryal Thereof, according to an Act of Assembly passed in 1724—And therefore humbly Praying His Majesty's appointment of a full legal and Competent Court of Errors in the said Island, or that His Majesty will give orders for reestablishing immediate activity to a Subsisting Court of Errors and that such Court may proceed to the Trial and Determination of the said writ of Error so depending against the petitioner. [pp. 83, 217.]

(1772.) [Order approving the Committee report of 10 Jan., giving
15 Jan. their opinion that,] as since the said petition was presented to Your Majesty four New Members of the Council, resident upon the Island, have been appointed, and one of the Absent Members is returned, . . the obstruction complained of by the Petitioner is entirely removed, and that it will be unnecessary for Your Majesty to give any further Orders thereupon. [IX. pp. 22, 38.]

28 Mar. [178.] [On a Committee report of 8 March, his Majesty
Bounty. declares his intention of bestowing his bounty on Lieutenant William Pierie, of the Royal Regiment of Artillery. Under orders from the commanding officer of artillery in North America, Pierie and his wife set sail on 22 Nov. 1766 on the sloop *George* from Halifax for New York, but were forced by tempestuous and contrary winds to make for the West Indies on rations reduced to one biscuit and half a gallon of water a day. They were barbarously treated by the Spaniards at Puerto Rico; his wife's health was greatly affected; and amongst other losses were those of a collection of books and drawings, sketches and observations of the various countries in which Pierie had travelled; his other losses were estimated by him on affidavit at the value of 346*l*. The Ordnance, to which Pierie's petition was referred on 27 July, 1770, had reported to the Committee that the facts were true, but that it was not in their power to grant him relief.]

[VII. p. 471; VIII. pp. 67, 96-7, 127.]

1771.

[179.] [Reference to the Committee of the petition of Arnold Nesbitt and Moses Franks, merchants of London, that the Council dismiss for non-prosecution the appeal of Jeremiah Meyler and Charles Hall from an order of the Jamaica Chancery, 25 Jan., 1770, in the petitioners' action for moneys due to them.] [p. 131.] 28 Mar. Jamaica.

[On the Committee report of 11 June, the appeal is dismissed with 30*l.* *stg.* costs for non-prosecution.] [pp. 262, 275.] 14 June.

[180.] [Reference to the Committee of a Board of Trade representation of 24 April, proposing that the instruction to the Governor of Quebec about the granting of land be revoked,] and that the Governor should be authorized to Grant with the advice of His Council, the Lands remaining Subject to His Majestys Disposal in Fief and Seigneurie, as hath been practised heretofore, omitting in such Grants Haute Moyenne et Basse Justice, the exercise whereof hath been long disused in that Colony. [p. 174.] 1 May. Quebec.

[An instruction allowing such grants subject to ratification by the Crown and registration in the colony, is approved (P.R.). Preparation of the instruction was ordered on 7 June in accordance with a Committee report of 25 May. The Board of Trade had expressed the opinion] upon the best Information they are able to obtain of the antient Usage and practice of granting Lands in that Colony, that it was well calculated to promote Settlement upon Terms of publick advantage, and . . . that the introducing different Tenures of Land in the same Colony leads to inconvenience and Confusion.] [pp. 235, 254, 287.] 27 June.

[181.] [Reference to the Committee of the petition of Michael Brislane for a day for hearing his appeal from a judgment of the Montserrat Court of Errors, 17 July, 1770, affirming a sentence of the Court of King's Bench, 24 April, 1770, found by a Grand Jury against him for the murder of his wife, Elizabeth.] [p. 175.] 1 May. Montserrat.

[On the Committee report of 27 March, the appeal is dismissed as inadmissible. The petition set forth] That on the 20th of (1773.) 6 May.

1771. § 181 *cont.*]

April 1770, a Bill of Indictment was found by the Grand Jury in the Island of Montserrat against the petitioner for the Murder of Elizabeth Brislane wife of the Petitioner; [that he pleaded not guilty, and the jury found a special verdict] that the petitioners said wife, was in the Night of the 1st of April 1770, cruelly beat and bruised, and on that very Night she left the petitioners House and went to Elizabeth Carrolls in a bloody Condition, and begged protection, and that she there stayed the Remainder of the Night, That early on Monday morning she went to her Mothers Junima White's, in the like bloody condition, and on the same Night the petitioner came to the said Junima White's House, with his Negro Man armed with a Gun and Cutlasses and Chopped at the Doors—That on Thursday the 5th Instant she was met coming to Town, and declared she was going to a Justice of the Peace, to complain of her Husbands ill treatment, and that she returned to her Mother where she languished until Tuesday the 10th of April when she died, and that she declared on her death Bed, that the petitioner was the person that so cruelly beat her with a Hammer and his fists, and was the occasion of her Death, but that she forgave him, and prayed to God to do the same—That Thomas Fogarty Surgeon examined the Corps, which he found much bruised and declared the Bruises were sufficient to occasion her Death, and they found that those Bruises were the Cause of her Death;—That upon the whole, they doubted how the Law was, If for the petitioner, they found him not Guilty, and if for the King they found him Guilty;—That the petitioner was thereupon remanded to Goal, and Ordered to be brought to the Barr of the Court on the Tuesday then next—That on the Tuesday being the 24th of April, the special Verdict was argued and the Chief Justice pronounced Sentence for the Execution of the petitioner on the 12th of May then next—That on the 11th of May 1770, the Court upon the petition of the petitioner, Ordered that the said Sentence should be respited, until the Second Tuesday in June then next—That the Petitioner brought his writ of Error, and

§ 181 *cont.*]

1771.

Assigned Error in the Record of the said Judgment, that the same was not sufficient in Law to Warrant the Sentence of Death pronounced against him; and at a Court of Errors held in the said Island on the 17th of July 1770, the Judgment given in the Court of King's Bench was affirmed, from which Judgment two of the Judges of the Court of Errors dissenting, the petitioner prayed an Appeal to Your Majesty in Council which was granted.

[A copy of the following Committee minute was forwarded by the Clerk of the Council on 12 May to Mr. Pownall to be laid before Lord Dartmouth :—] . . the Committee judging it proper that some Directions should be sent upon this Matter to the Governor of the Leeward Islands from the Secretary of State, recommended it to the Earl of Dartmouth to write to the said Governor, and acquaint him, that the Lords of the Council were of opinion, That the Verdict ought not to have been received by the Judges who tried the petitioner because it doth not find any Facts, but only Evidence of Facts Committed by him, and though that Evidence seems to be strong enough to have warranted the Jury in giving a special Verdict against him, Yet the Court is not to judge of the Relevancy of Evidence and Try the Fact, but to declare the Law upon such Facts as are found by the Jury to have been Committed by the Criminal and to give Judgment accordingly, and as the Verdict in this Case is a mere Nullity, no Judgment ought to have been given upon it against the petitioner, and he ought not to be executed, and it will be proper for the Governor to reprieve him, in Order that the Law Officers of the Crown in the Island of Montserrat and the petitioner may respectively take such Measures as they shall think fit thereupon.

[X. *pp.* 119–21, 187, 191.]

[182.] [Reference to the Board of Trade of the petition of several landholders in Georgia, who derived their titles from grants by the Trustees for services rendered or on the reduction of General Oglethorpe's regiment, 1748–9, when the soldiers received 50 acres each, setting forth that Sir William Baker

1 May.
Georgia.

1771. § 182 *cont.*]

claimed the land on pretence of a prior grant of 12,000 acres from the proprietors, and that his heirs have proposed to relinquish their claim for a consideration. The petitioners are too poor to defend their just title, and pray that the Attorney General be directed to defend them at his Majesty's expence, or that an equivalent grant be made to Baker's heirs elsewhere.]

[*p.* 176.]

(1772.) [The petition is dismissed on the Committee report of 19 June. 17 June, agreeing with the Board of Trade that his Majesty is not called upon to interpose either in point of justice or equity, and that compliance with the request would establish a precedent that might lead to great inconvenience.]

[IX. *pp.* 297, 319.]

15 May. [183.] [Reference to the Committee of a Board of Trade
Grenada. representation of 15 May, with a draft of an additional instruction to Governor Leyborne empowering him to accept additional salaries from the Assemblies of Grenada, the Grenadines, St. Vincent, and Tobago.] [*p.* 188.]

24 May. [On the Committee report of 23 May, the instruction is approved (P.R.). Leyborne's salary was 1,200*l.* a year. Additional sums must be voted at the first Assemblies after his arrival and before proceeding to any other business, and must continue to him and his successors or at least for the whole period of his government.] [*pp.* 196, 224.]

15 May. [184.] [Reference to the Committee of the petition of
Virginia. John Hunter, merchant of Virginia, that the Council dismiss for non-prosecution the appeal of Philip Ludwell Lee from a final judgment of the General Court, 3 May, 1770, on Hunter's action of debt against him.] [*p.* 188.]

7 June. [Similar reference of Lee's petition for a day for hearing his appeal.] [*p.* 260.]

(1772.) [On the Committee report of 26 June, when all parties

8 July. were heard, the appeal is dismissed.] [IX. *pp.* 328, 367.]

15 May. [185.] [Reference to the Committee of the petitions of
Jamaica. Alexander Hood and Bryan Edwards that the Council dismiss

§ 185 *cont.*]

1771.

for non-prosecution (*a* and *b*) two appeals of Jasper Hall from Chancery orders of 20 April, 1770, overruling his demurrers to bills brought by the petitioners and Zachary Bayly, since deceased, for an account of prizes taken by ships of war for which in the one case Hall, and in the other Hall and Malcolm Laing, was or were agents, and for the unclaimed shares forfeited to Greenwich Hospital, of which Hood is Treasurer and Bayly and Edwards his agents in Jamaica.]

[*pp.* 47, 188-9.]

[On Committee reports of 11 June, the appeals are dismissed for non-prosecution.] 14 June.

[*pp.* 263, 275-6.]

[Appearances for Hood and others to (*c* and *d*) appeals by Nicholas Bourke and other executors of George Paplay, and (*e*) an appeal by Patrick Lynch (referred on 6 Nov., 1772,) from an order of 23 Oct., 1771, relating to prizes taken between 1756 and 1762.] (1772.)
2 Mar.

[IX. *pp.* 99, 475.]

[Reference to the Committee of (*f* and *g*) two appeals by Hall from orders of the Chancellor, 13 Feb., 1773, confirming a report of Charles White, Master in Chancery, in disputes about money forfeited to Greenwich Hospital.] (1774.)
9 Mar.

[X. *pp.* 320, 466-7.]

[On the Committee report of 20 June, John Armistead's appeal (*h*) from a decree of 9 Feb., 1773, is dismissed with 10*l.* costs for non-prosecution.] (1774.)
6 July.

[X. *p.* 320; XI. *pp.* 23, 149, 172.]

[Reference to the Committee of the petition of (*i*) Elizabeth Bourke, widow, John and Thomas Bourke, Charles Palmer, Jasper Hall, William Patrick Browne, Richard Welch, Robert Cooper Lee, and James McCabe, for a day for hearing their appeal from a decree of the Chancellor of Jamaica, 23 Nov., 1774, in favour of Alexander Hood, Bryan Edwards, and John Woolfreys, in a case about moneys due from the estate of Nicholas Bourke to Greenwich Hospital. The respondents claim as representing the daughters of James Gunman, Treasurer of the Hospital.] (1776.)
12 April.

[XI. *p.* 506; XII. *p.* 512.]

[On Committee reports of 27 May the appeals (*c* and *d*) of Nicholas Bourke, Jasper Hall, Henry and Philip Livingston, 13 June. (1777.)

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1771. § 185 *cont.*]

and Charles Dawes, jun., executors of George Paplay (from orders of 23 Oct., 1771) ; and (*j*) of John Armistead (from an order of 9 Feb., 1773) are each dismissed with 20*l. stg.* costs for non-prosecution.]

[XIII. *pp.* 456–8, 519–23 ; XIV. *pp.* 14–5.]

(1778.) [On Committee reports of 26 June (*e*) is dismissed without
1 July. costs after hearing both sides : (*f*, *g*, *i*) are dismissed for non-prosecution, (*f* and *g*) each with 40*l.* costs, and (*i*) with 20*l.* costs. Other names occurring in the reports are Hubert Tassell and James Barclay, Gunman's agents in Jamaica ; Capt. Charles Holmes, of H.M.S. *Enterprise*, and Samuel Howell.] [XV. *pp.* 237–44, 263–5.]

24 May. [186.] [An additional instruction is approved for the
New York. Governor of New York to pass a grant to Frederick Philipse for 99 years of all mines of gold or silver discovered by him or his agents or workmen on the manor of Philipsburgh (P.R.). Philipse's petition was referred in Mar., 1764—(*Cf.* Vol. IV. *p.* 550.) On a Board of Trade report of 22 Feb., 1771, the Committee on 29 April ordered the preparation of an instruction, which they submitted for approval on 23 May.

The Board of Trade, having considered (*a*) a letter of 19 Nov., 1770, from Lord Dunmore to Lord Hillsborough, stating that he had taken advice of counsel on Philipse's petition to him to support his application, and that no objection had been raised, and (*b*) a minute of the Council of New York that a mine appeared to have been discovered on Philipse's manor, recommended that the Governor be instructed to pass a grant on the following conditions :—]

1st. That there be reserved to Your Majesty . . one fifteenth Dish of the gross ore . . or one twentieth part of the Gold or Silver which shall be extracted therefrom to be accounted for upon oath [and paid] to the Receiver General of Your Majestys Revenue of the province of New York . . who shall have liberty to keep one or more Clerks at any of the Mines worked by the petitioner

or his Assigns to Inspect the same and take account of the produce thereof.

2ndly. That if any assessment whatever shall be made by the petitioner of the whole or any part or Share of the said Mines, without a proportional property in the Soil being Conveyed together with such assignment, or if the petitioner his Executors Administrators or Assigns shall not open or work some Mine, and produce therefrom some profit to Your Majesty Your Heirs and Successors within five years from the Date of the Letters patent so to be granted as aforesaid, or shall cease to work and produce such profit out of any particular Mine opened within the said Manor of Phillipsburgh for any five successive Years during the Continuance of the said Lease, the said Lease so to be Granted shall in all or any of such Cases become null and void to all Intents and purposes.

3rdly. That in Case the Soil under which the petitioner his Executors Administrators or Assigns, have already found or shall search for, find, gain, dig or open any Mine or Mines either Gold or Silver within the said Manor shall belong to, or be the private property of any person or persons whatsoever, such Compensation or allowance shall be made for the Damage such person may thereby sustain, as shall be assessed and thought reasonable by a Jury to be Summoned and Sworn for that Purpose by the Sheriff of the County of West Chester at the County Court and their Verdict to be returned into and filed in the County Court Office the Charges whereof and of all proceedings for ascertaining such Damages aforesaid to be borne by the Petitioner his Executors Administrators and Assigns.

[The petition for mines which may extend beyond the manor,] supposes a Case, which may or may not happen, and therefore they conceive it is not a proper object of the present Consideration, it being impossible to suggest with any precision, every restriction and condition that may be necessary according to the different circumstances that shall attend the

1771. § 186 *cont.*]

pursuit of any discoveries beyond the Limits of the said Manor.

[*pp.* 163, 193-6, 223.]

26 May.
Pennsyl-
vania.

[187.] [Orders on several Pennsylvania acts of 1769-70, in accordance with a Committee report of 23 May upon a Board of Trade report, not dated. (*Cf.* Appendix III.) Four out of 20 acts referred on 11 Feb. were discussed by the Board :—]

1st. An Act for the Relief of John Relfe and Abraham Howell prisoners in the Goal of Philadelphia with respect to the imprisonment of their persons.

2d. An Act for the Relief of John Galbreath a languishing prisoner in the Goal of Chester with respect to the imprisonment of his person.

Upon these two Acts Mr. Jackson observes that besides the general objection, to which they are liable as private Acts of Insolvency, he conceives them to be faulty, inasmuch as they contain no Clause excepting Debts due to the Crown, nor any Clause in favour of Landlords, as to Goods Subject to Distress nor a Clause in favour of distant or absent Creditors, every one of which Clauses he thinks should make part of an Insolvent Act ; on the other he observes, that it is probable, the object of one of these Acts being confined in a Country Goal is not Indebted in any Mercantile Debt ; that Relfe the Bankrupt one of the objects of the other, appears to be intitled in Justice to his personal Liberty, having complied with the Laws of Bankruptcy in this Kingdom, and that these Clauses having frequently as he observes, been inserted in former Insolvent Laws of this province, it may be presumed they would have had their place here had there not been some proof given that there was no occasion for them, which is the more probable as there has been no objection made to the Acts, though they passed above eighteen Months ago nor does there appear to have been any opposition to them in America.

[On (3), an act of 1769]

For the relief of the languishing prisoners in the Goals of the several Counties within this province with respect to the Imprisonment of their persons.

. . Mr. Jackson observes that it is defective in the particulars mentioned in the observations above stated but that these Defects are in a Degree obviated, by the Trustees being required to act under the Directions of the Court, nevertheless he observes that he should humbly submit his opinion for the Repeal of this Act, thinking as he does these provisions necessary in such Laws, unless it should be deemed sufficient for this year to rely on the Controul given to the Court, intimating however in such manner as shall seem fitting what should be the contents of future Laws of this Kind.

(4) An Act for the sale of Goods distrained for Rent, and to secure such Goods to the person distraining for the same for the better Security of Rents and to prevent Frauds and Abuses committed by Tenants. [1770.]

Upon this Act Mr. Jackson observes, that the greater part thereof is almost necessary in a Country, where Lands and Houses are frequently occupied by Tenants ; and so much of this act has therefore long since been made part of the Law of England by Act of Parliament, but that there is besides a Clause in this Act, empowering two Justices to deliver possession of the demised premises, in case of a Tenants holding over, that goes beyond any provision in our Law, That there is in this act a direction for Impannelling a Jury to try the fact of Demise, but as it is possible the Title may sometimes be in Question, (as for instance where the original Lessor being dead, his Will or the Construction of it is disputed) he thinks it by no means proper such a Question (perhaps a point of Law) should be decided by two Justices, as it must sometimes be as the Act now stands and therefore he wishes that an Amendment of this Law may be made by a further Act of Assembly, enabling the Tenant to alledge, that the Title is disputed at the same time naming the person, who he alledges disputes the Title and in Case such Person shall on summons enter into Recognizance to prosecute his Claim within a limited time, the Justices to stay their proceeding,

1771. § 187·*cont.*]

but in default of such prosecution, or of the Tenants appearing, Judgment to be by default.

[The Board of Trade added the observation] that the proprietaries of Pensilvania having in the Laws of that Colony for sometime past been usually stiled true and absolute proprietaries of the province of Pensilvania, and of the Counties of New Castle Kent and Sussex on Delaware, and it appearing that such stile so far as it relates to the Counties on Delaware, is highly improper and unwarrantable, this Board in July last did accordingly represent the Impropriety of this Innovation to the said proprietaries requiring it to be discontinued, in consequence of which Intimation Henry Wilmot Esquire Agent and Attorney to the said proprietaries who has attended Us on the Subject of the above Laws, has informed us that the said Proprietaries did accordingly give Instructions thereupon, and that the Deputy Governor in answer thereunto by a Letter Dated the 6th of March last, writes to the following effect, vizt. That the Assembly being then upon the point of breaking up the Laws passed that Session must be in the usual form, but that at the next meeting he shall take care to change it.

[The Committee recommended that No. 4 be declared void under the Privy Seal, and the other acts allowed to continue in force according to their own limitation.] [*pp.* 63, 197-202, 224-5.]

24 May. [188.] [Order to the Secretary of State to give directions
St. Vincent. to the Governor of St. Vincent about four acts of that island of 1767-8, in accordance with a Committee report of 23 May, agreeing with the following Board of Trade representation of 27 Mar., referred to them on 28 Mar. :—]

1st. An Act for establishing a publick Treasury in this Island for the raising a Fund for the Discharge of a publick Debt, and towards defraying the contingent Expences of the same by a Tax upon Vintners and Retailers of Spirituous Liquors, and an Impost upon Spirituous Liquors Imported into this Island and for appointing a Treasurer.

2d. An Act for Laying a Tax on Lands and Slaves in this Island.

3d. An Act for laying a further Duty upon all Rum imported into this Island.

4. An Act for regulating the vestries in this Island Impowering them to raise Taxes within their respective parishes and directing the application of the same.

these Acts appear to Us to be in general equally commendable in the objects of them and unexceptionable in the provisions made for obtaining those objects ; save only, that in the Act for establishing vestries, as well as in each of the Revenue Laws, there is a Clause that makes it necessary for Us humbly to lay them before Your Majesty for Your Majestys Royal Consideration.

With regard to the Revenue Laws the object of them is the speedy raising a fund as well to pay off publick Debts already incurred, as to defray all publick Contingent Charges of Government by Duties that do not appear to Us in any respect liable to objection, and therefore the only Doubt or Observation that has occurred to Us upon these Laws, applies to that Clause, by which provision is made for the Issue and Disposal of the publick money, in which Clause It is Enacted that the Governor or Commander in Chief may, with the consent and advice of the Council and Assembly, issue forth his Orders to the Treasurer for the payment of as well all such publick Debts already incurred as all others which shall and may hereafter arise.

By Your Majestys Commission under the Great Seal of Great Britain to Your Governor of the Southern Charribbee Islands, it is expressly declared that “all publick monies Raised or which shall be raised by any Act thereafter to be made within all or any of Your Majestys said Islands, be issued out by Warrant from your said Governor by and with the Consent of Your Majestys Council and not otherwise.”

This Clause which is inserted in Your Majestys Commissions to all Your Majestys other Governors in America hath been We

1771. § 188 *cont.*]

humbly conceive introduced into those Commissions, in order to mark more distinctly and with greater precision the just Limits and Extent of the Authority of the Legislative and Executive parts of Government in the raising appropriating and issuing publick money according to the true principles of the Constitution of and the Invariable practice in this Island ; and tho' it be true, that by acquiescence or inadvertence, most if not all Your Majestys Colonies in America have been suffered to go on in a practise more or less deviating from this Rule, Yet how far it may be proper, to allow such a deviation in the first Instance, wherein the Assembly of this Island have exercised the power of Legislation, it becomes our Duty humbly to submit to Your Majesty.

It has been frequently alledged and We do not deny that in Your Majestys Colonies in America there is a necessity that the Laws for raising publick Money, should, for a variety of Reasons, be guarded with greater Checks in respect to the issue and disposal of it than are requisite or usual in this Kingdom, but if the proper Security can, as we humbly apprehend it may be obtained by Strict Clauses of appropriation and by the exaction of full and sufficient Security for persons Entrusted with publick Money, there will be the less Reason for making the Consent of the Assembly necessary for the issue of it, which is, we conceive, not only unconstitutional, but may also be attended with great Inconvenience to the public, the necessities of which be they ever so great, cannot under the restriction of such a Clause be provided for but during the Sittings of the Assembly.

On the other hand when we Consider the present State and Condition of the Island of St. Vincent, the difficulties it has to struggle with, from many Peculiar Circumstances of Danger and insecurity, and the greater necessity thence arising, that provision should be made by Law for defraying the Contingent Charges of Government, We cannot without great Repugnance propose the Disallowance of Laws by which those Services appear to have been amply and in all other Respects, save

this mode of issuing the public money so properly provided for.

With regard to the Act for establishing Vestries it contains many useful and necessary Regulations for the Chusing parochial Vestries for the purposes of raising Levies and Taxes, for building and Repairing and Defraying all Charges relative to the Churches within the Respective parishes of this Island conformable to a Law enacted and approved of in Your Majestys Leeward Charribbee Islands in the first Establishment of Government there ; There is however a Clause no ways Connected with the purposes of this Act, and which seems to have been added by way of Tack to it, declaring that no Ecclesiastical Law or Jurisdiction shall have power to enforce, confirm or Establish any penal mulct or punishments in any case whatever, any thing in this Act or any other to the contrary notwithstanding.

In the insertion of this Clause the Legislature of St. Vincents appears to have had in view a Law passed in Your Majestys Island of Barbados in the 1719, intituled

An Act to quiet the Minds of the Inhabitants of this Island, against the Terrors and Apprehensions they lye under of a Spiritual Court, and to provide that no Ecclesiastical Law or Jurisdiction shall have power to enforce, confirm or Establish any penal Mulct or punishment in any case whatsoever within this Island.

Upon a review of the proceedings relative to that Law soon after it was passed it appears to have been founded as indeed the Title of it imports upon an attempt made without any authority from the Crown, to establish in that Island, a Spiritual Court, which gave great and We apprehend not unreasonable Alarm to Your Majestys Subjects there, the provisions however of that Law appeared to go so far beyond the object of it, that the Privy Council, upon Consideration, advised that it should be laid aside, as not proper to be Confirmed, and We humbly apprehend that it would have been disallowed, had not the Legislature of Barbados thought fit by a Subsequent Explanatory Law to declare that nothing

1771. § 188 *cont.*]

herein contained should extend or be Construed to extend to hinder prevent or obstruct the Lord Bishop of London or any other Bishop or Bishops nor their Commissaries from exercising spiritual and ecclesiastical Jurisdiction over the Clergy resident in the Island, according to the Tenor of His Majestys Commission granted for that purpose.

Upon this State of the Case, and of the president from which the Clause in the St. Vincents Act appears to have been drawn, We humbly apprehend that Clause will appear to Your Majesty to be in every respect highly Improper and Exceptionable ; and therefore we should not have hesitated to lay it before Your Majesty for Your Majestys Royal Disallowance ; But in this Case as well as in that of the Revenue Laws the general Utility and propriety of them lay Us under the necessity of Submitting it to Your Majesty to take such measures thereupon as shall upon the whole appear to Your Majesty to be most adviseable.

If Your Majesty should not think fit to disallow these Laws upon the Ground of the objections we have stated, We would humbly recommend that Your Majestys Governor of the Southern Charribbee Islands who is now preparing for his departure should be instructed to Use his Utmost Endeavours to obtain a revision and reconsideration of them, which will we trust have the effect, upon a full Explanation of the objections, to produce such amendments as may remove them, and in the mean time Your Majestys Subjects in that Island will reap those Benefits which the Laws have in view, and which would be intirely defeated by a Disallowance of them ; and therefore should Your Majesty think fit to adopt the last mentioned proposal, we would in that case humbly recommend that these Acts should be allowed to lie by till such time as the effects of the proposed Instruction to Your Majestys Governor shall be known. [pp. 129, 202-6, 226.]

7 June. [189.] [Orders are given upon a St. Vincent act of Feb.,
St. Vincent. 1768,—for regulating the towns, rendering them healthy, establishing markets ; encouraging the raising, and prohibiting

§ 189 *cont.*]

1771.

the exportation of cattle, and other live stock from this island ; settling the price of fresh provisions ; preventing the forestalling and regrating the same, for settling the weights to be used in this Island ; and preventing abuses about the Fishery in this Island—in accordance with a Committee report of 25 May, agreeing with the following Board of Trade representation of 15 Mar., referred to them on 28 Mar. :—] Richard Jackson . . has reported to Us, that it appears to him to be an act of publick utility if it did not contain an attempt to limit the price of provisions in General ; an attempt that must always be nugatory when much above the common Rate, and highly dangerous when moderate, as no man will bring provisions or raise them at rates that he deems not a sufficient encouragement ; the price of provisions he observes, depends altogether on the quantity compared with the demand, and is in no mans power arbitrarily to augment for any length of time ; that the only way to make them cheap is to permit every Man to hope for the price that he can get, and experience has frequently shewn, that an attempt to limit the price directly, may hazard the starving a Country, but can never make provisions cheaper.

[The act should therefore be disallowed.] But as it does not appear to Us, that the said Law is exceptionable in any other particular, than what fixes the prices to be given for provisions ; On the contrary, that it enacts many prudent and beneficial Regulations, respecting the internal police and Œconomy of the Island, We humbly submit whether it would not be adviseable for Your Majesty upon the disallowance thereof to Empower Your Governor of Grenada to give his assent to the passing another Law in all particulars corresponding therewith, save only the Clause above objected to ; But as this Clause is founded on the practice of Your Majestys Leeward Islands, where the prices of provisions have been fixed by a Law, from which this of St. Vincents seems throughout to have been taken, We see no Reason why the Regulation in question should not be made the Subject of a

1771. § 189 *cont.*]

Seperate temporary act, whereby experience may be had of its effect, and humbly propose to Your Majesty to empower Your said Governor to assent to such an Act ; provided the same be made to continue in force for one year only.

[*pp.* 130, 233-4, 246-8.]

7 June.
North
Carolina.

[190.] [Two North Carolina acts of Dec., 1768,—to encourage the importation of British copper halfpence, and for making them a tender for the payment of small debts ; and—for declaring certain lots in the town of Newbern taken up by the trustees for promoting the publick school in the said town saved and improved according to Law and to impower the said Trustees to collect the subscriptions due to the said school—are disallowed, on the Committee report of 23 May, agreeing with a Board of Trade representation, referred to them on 14 Dec., 1770,* which shows] that by the first of these Laws which is to continue in force for the space of five years It is enacted, that British copper halfpence shall be received and taken in all payments at the Rate of twelve of the said halfpence for one shilling proclamation Money, with a restriction that no person shall be obliged to receive more than the value of ten Shillings proclamation money in such halfpence for the payment of any Debt whatsoever. [Mr. Jackson reported that the act should be disallowed,] as it introduces into Commerce a legal tender, whose intrinsick value is far inferior to that given it by the Legislature of the Colony and that if the Legislative value had been confined to the proportion proclamation Money in Silver Coin bears to Sterling Money it might have been of publick utility. [The Board of Trade also] apprehend it will open a way to great Frauds and Abuses by the introduction of base and counterfeited coin to the prejudice of legal Creditors and to the general detriment of the Colony.

[Mr. Jackson also reported against the second act,] as it contains a Dispensation with the Law of Limitations, than which no Law is more essential to the quiet of Property, that

* The order of reference is not given in the Register.

§ 190 *cont.*]

1771.

it is true the wound given to this Law in the present case is but a small one, but that it is a dangerous president ; That he has always Considered Laws for limitting actions as founded on the maxim, that a Debt ought to be presumed to be paid after the time elapsed, and therefore ought not in Justice to be set up again without the Consent of the Debtor, which makes a new Debt. [pp. 209, 249.]

[191.] [A New Jersey act of Nov. 1769,—to erect courts in 7 June. the several counties in this colony for the trial of causes of ^{New Jersey.} 10*l.* and under—is disallowed in accordance with a Committee report of 23 May upon the following Board of Trade representation of 19 Dec., referred to them on 9 Jan. :—] That by this Act which is to continue in force for two years, a former Act passed the preceeding Year intituled An Act to erect and establish Courts in the several Counties in this Colony for the trial of small Causes—is repealed, and actions of Debt and other Demands, to the amount of ten pounds proclamation money are made cognizable before any one Justice of the peace, which by the provisions of the former Act were limited to the amount of six pounds only ; This Act likewise contains a proviso, that in Actions where the Real Debt or Demand exceeds the Sum of forty Shillings, either party may Demand a Jury, the verdict of which Jury is to be final, and it further provides, that in any Judgment given as aforesaid for the sum of Twenty shillings or more, either party may appeal from such Judgment to the next Court of General Quarter Sessions of the peace, to be held for the County, City or Town Corporate after the Judgment given.

[The Board of Trade submitted the following reasons given by Mr. Jackson for the disallowance of the act at this time at least :—] That Summary and Domestick Justice, under the specious pretext of facilitating the Recovery of Debts necessarily encourages a litigious Spirit, and frequently the practice of perjury, both highly pernicious in every Country much more so in a commercial one and the last Subversive of every public and private Benefit derived from the

1771. § 191 *cont.*]

Institution of civil Society ; that it serves too often to favour the establishment of much petty Tyranny in men altogether unfit to be intrusted with such power, and that these Reasons have weighed so far with the Legislature of Great Britain, that this kind of Jurisdiction has been always given with caution, sometimes with reluctance, and never hitherto to his knowledge, extended beyond the Sum of forty Shillings Sterling ; That nothing is of greater importance to every Country, than that its Laws should be certain, and depend as little as possible on a Man's discretion or affections ; That without this Certainty Law ceases to be what it ought to be an universal measure of Justice, and no longer answers the End of it's institution ; That the Laws of a country cannot be certain unless they are uniform, and they can neither be uniform nor certain, where probably more than one hundred Judges are to determine, each according to his own Notions of Justice ; that the uniformity is necessary to the publick welfare in all Countries, it is much more so in a Colony, where, without it it is evident, that a conformity of the Laws of Great Britain, cannot long be preserved, for that the continuance of this Conformity can only be hoped for from frequent determinations of the supreme Court, affecting the property in every part of the Colony ; That if humour and caprice may injure this uniformity, and produce injustice, as much at least as may be expected from partiality ; every plaintiff will naturally resort to a Justice, that is his Friend, Friendship often biasses insensibly the honest man, but should he be dishonest there seems little Remedy in the power of demanding a Jury, for the Justice may order the Jury to be Summoned from any Town or precinct ; That the Causes provided for by this Act are not triable in the County Court, the Trouble and Expence of bringing on a Cause there must be much less than the trouble and expence of recovering the same Sums in England, even should a Writ of Error be brought in the Supreme Court, and that one of the Mischiefs of the present Law is that an Appeal is prohibited, where there has been a

§ 191 *cont.*]

1771,

Verdict ; But that if there is a probability, that the mischiefs resulting from the present mode of Recovery as well as the advantages to be Expected from the Extension of the Act of preceeding year may be greater than appears to him, it is surely too early after the passing that Act to make so wide a stride, that he made no objection to the former Act, because other Colonies have extended these Laws as far, or nearly so, and this Colony has many years had one to five pounds extent, but that this Subject is at least one, that requires great caution and slow progress. [pp. 25, 210-2, 250.]

[192.] [Three New York acts of Jan., 1770, are disallowed, 7 June. New York.
on the Committee report of 25 May, agreeing with a Board of Trade representation of 15 Mar., referred to them on 28 Mar. :—]

1st. An Act for the relief of Insolvent Debtors within the Colony of New York with respect to the Imprisonment of their Persons.

2d. An Act more effectually to enable persons to recover Debts in this Colony on promisory Notes.

3d. An Act for the relief of James de Peyster of the city of New York Merchant an Insolvent Debtor and others therein named.

[Mr. Jackson reported that No. 1] appears to him to be faulty, in that it does not give time to Creditors to come in and prove their Debts in other Colonies to require some Months Notice of a Distribution, before such Distribution be made, and to give eighteen Months to make such distribution in ; that this is time enough for British Creditors to come in, and such there may probably be in the Colony of New York. . . Altho' by it's Limitation it will probably expire before Your Majestys Pleasure can be known, Yet for the sake of the example, and to mark the Impropriety of such omissions in a regulation respecting property, by which the Interests of Your Majestys British Subjects may be affected [the Board of Trade proposed that it should be disallowed].

[Mr. Jackson reported that No. 2] is now become totally

1771. § 192 *cont.*]

unnecessary by the repeal of the Act on which it is founded ; that the repeal of the present Act is therefore consequential, and that then the Law of the Province will stand, as it did before the passing of either Act, in which Situation no inconvenience was found.

[No. 3 appeared to Mr. Jackson] so far to exceed the usual Bounds of Insolvent Acts as to have been unfit to pass without more foundation laid for it than is stated in the preamble ; that a Debtor, who in the course of his Business may be greatly indebted to British Creditors, as well as others is not only discharged from Imprisonment, but from all his subsisting Debts without the Consent of any part of those Creditors, and even without a suspending Clause ; He therefore humbly proposes the repeal of this Act, and the rather, because, in case the Act has been fairly carried into execution, no great difficulty will occur in passing another Act, free from the Defects of the Act repealed, and which shall provide for all the security and quiet justly due to the Insolvent.

[*pp.* 128, 230-2, 251.]

7 June.
West
Florida.

[193.] [Three West Florida acts of 1767-9—(1) concerning attachments and for regulating the Marshal's proceedings ; (2) for subjecting and making liable to attachment the estate real and personal of absent debtors in the custody or power of any person or persons within this province ; and (3) empowering the magistrates and freeholders of Charlotte county occasionally to prohibit the selling of rum or other strong liquors to the Indians—are disallowed, on the Committee report of 23 May, agreeing with a Board of Trade representation of 20 (or 21) Feb., referred to them on 24 Feb. Mr. Jackson, K.C., reported] that as to the two Attachment Laws above recited, although Laws giving an Attachment against the Goods of Debtors in general are become almost universal in the American Colonies, he is humbly of opinion that they ought not to be increased, until they are put upon a footing considerably more Qualified than they now stand and inasmuch as neither of these Laws are sufficiently Limited in their

§ 193 *cont.*]

1771.

Extent, and are the first Laws of the kind in this province he humbly recommends the Repeal of them, to the end that in Case a Law of the like kind should pass hereafter, it may be confined to Debtors who abscond, or keep, or go out of the province to avoid paying their Debts; because if made general as the present Law stands, it must in the Execution be liable to great Frauds on absent persons, who either truly own nothing, or mean honestly to pay their Just Debts [*cf.* § 203.

The third Act] not only gives a kind of legislative authority; but what is more empowers a Magistrate to examine and convict offenders on their own Oath, a kind of inquisitorial authority, little conformable to the British principles of Justice; He therefore humbly recommends the Repeal of it, unless it's utility should be thought a sufficient protection of it, which he conceives it is not. [*pp.* 82, 212-4, 253.]

[194.] [Reference to the Committee of a Board of Trade representation of 29 May for disallowing a St. Christopher act of April, 1771,] to amend . . an Act to Enable the several parts of this Island formerly belonging to the French, to chuse and send Representatives to serve in the Assemblies of this Island; to declare and ascertain the number of Representatives for the whole Island, what number each parish shall Elect, and the several Qualifications of the Electors and Candidates; to secure the Freedom of Elections, and for repealing an act [of 13 Nov., 1711,] for preserving the freedom of Elections and appointing who shall be deemed freeholders and be capable of Electing or being Elected Representatives. [*p.* 258.]

7 June.
St. Christo-
pher.

[The act is disallowed on the Committee report of 10 Jan., agreeing with the Board of Trade, who represented that the act (which reduced the quorum of the Assembly from 15 to 13) being inconsistent with the additional instruction of 11 Dec., 1767 (*cf.* *p.* 40), should have had a suspending clause.]

(1772.)
15 Jan.

[IX. *pp.* 9, 28.]

[195.] [Reference to the Committee of a Board of Trade representation of 29 May for disallowing an Antigua act of

7 June.
Antigua.

1771. § 195 *cont.*]

May, 1769,—for the ease and relief of several insolvent debtors.]
[*p.* 258.]

(1772.) [On the Committee report of 10 Jan., the act is disallowed.

15 Jan. Mr. Jackson reported to the Board of Trade that this should be done for the sake of the precedent, although the act had probably in great measure had its effect :] That there is not only no probability that any distant Creditor will be able to come in for a Share of the Insolvents Effects but tho' the whole Estates of Pine and Stockpole (two insolvent Debtors, Objects of this Act) are directed to be applied in payment of the executions already in the hands of the Provost Marshall in the first place ; Yet that all their future acquired Estates are protected against all their Creditors whatsoever, and that even the other Debtor has an Indulgence under the Act, not bestowed by the Insolvent Laws of England. [*IX. pp.* 10. 29.]

7 June. [196.] [Reference to the Committee of a Board of Trade
Montserrat. representation of 29 May for disallowing a Montserrat act of June, 1767,—for attaching moneys, goods, chattels and effects in this island of Montserrat belonging to persons absent therefrom.] [*p.* 259.]

(1772.) [On the Committee report of 10 Jan., the act is disallowed

15 Jan. in accordance with Mr. Jackson's opinion] That although Laws of the above Description are become almost universal in America, and that it seems hard to deny any Colony the privilege of putting themselves on an Equality with their Neighbours, Yet that it is contrary to the Principles of Natural Justice, and also to those requisite to the very foundation of Commerce, that a Man at a distance should be stripped of his property (perhaps perishable) for the purpose of paying a Debt that perhaps too is altogether fictitious, without the possibility of making an effectual Defence, and although it is true that a writ of Error may be afterwards brought by the Owner, Yet that this must be after the Goods are sold and dispersed, and perhaps the Security to answer Damages worth little or nothing ; or however sufficient, Yet that it is well known such Damages never amount to an adequate Compensation

§ 196 *cont.*]

1771.

for the loss, that these objections he thinks would not lie against an Attachment Act confined to the Case of Debtors abounding or at least keeping off the Island to avoid payment of Debts ; but that they have their full weight against a Law, by which an Attachment may be sued out against the Goods of a person, that never was within, nor meant to be within a province, and against whom no presumption lies, that he meant to defraud his Creditors. [*Cf.* § 203.] [IX. *pp.* 11, 30.]

[197.] [A New Jersey act of March, 1770,—to explain and amend an act of 10 George III, for the relief of insolvent debtors, and for other purposes therein mentioned—is disallowed, on the Committee report of 23 May, agreeing with a Board of Trade representation of 11 May, referred to them on 15 May, giving the opinion of Mr. Jackson, K.C. :— that the frequent and Occasional Interposition in the Legislature in the Cases of Individuals for the purpose of Stopping or diverting the usual Course of legal proceedings, cannot but be attended with danger of great Injustice, and therefore it is to be wished that general Acts of Insolvency may be penned with such Care and Attention, as at the same time to include every proper Case, and likewise to provide for the most Equal Justice among the Creditors both present in the Colony and absent so as to make further private Acts of this sort unnecessary, which, however well intended, and probably for the most part founded on the true Interest of the Creditors, Yet should be avoided, except in very Urgent Cases, and then should be supported by a preamble, specially stating at large all the Circumstances, particularly the Consent, express or implied of the Creditors . . that in the several Cases provided for by this Act there are no particular Directions for the Security of the Creditors, not even a reference to the general insolvent Acts before passed ; and if there was no other objection to the Law but what arises from the total discharge of William Hewlings by the last Clause, because the precedent is so Dangerous, inasmuch as it is not even alledged to be for the benefit of the Creditors ; But that the

7 June.
New Jersey.

1771. § 197 *cont.*]

Clause staying all proceedings against William Gerrard for five years, and which is not alledged to be for the benefit of all his Creditors, tho' said to be at the desire of the principal ones probably well intended, appears to him to be likewise too dangerous a precedent to be allowed of, and that he therefore advises the disallowance of this Act.

[*pp.* 187, 214, 252.]7 June.
Georgia.

[198.] [A Georgia act of March, 1768,—for granting to his Majesty a duty upon raw meat hides exported from this province, and for preventing the exportation of unmerchantable tanned leather—is disallowed, on the Committee report of 25 May, agreeing with a Board of Trade representation of 15 March, referred to them on 28 March :—] The imposing a Duty upon raw Hides, whereby an Article of Importation in such general Use and of such Consequence to the manufactures of this Kingdom, would be further enhanced in its price, (already so much the subject of Complaint, cannot but be prejudicial to the Interests of the Mother Country, and tends to give a preference to the Manufactures of the Colony against that of Great Britain.

[*pp.* 129, 232, 252.]14 June.
America.

[199.] [Reference to the Treasury of the petition of Major Robert Rogers for his Majesty's bounty in consideration of his sufferings, services and losses in his Majesty's service in North America.]

[*p.* 277.]

(1772.)

17 Feb.

[Reference to the Committee, and by them on 25 Feb. to the Board of Trade, of Rogers' petition, showing] that in the Month of September 1765 the petitioner preferred a proposal to the Board of Trade for an attempt by Land to Discover a Navigable Passage by the North West into the Great Pacific Ocean ; That he has since been employed in an Important Command in the midst of the Interior Parts of the Great Continent of North America in which through his official intercourse with Numerous Savage Nations, and through divers persons who had served as Provincial Officers during the last War, he collected a great Fund of additional

§ 199 *cont.*]

1771.

Intelligence, tending to Evince and almost positively establish the existence of such Navigable passage the discovery of which is only practicable by Land; that the Petitioner is now convinced a smaller number of adventurers than were formerly proposed, for this Enterprize, will provide against the Contingent of Mortality, and that the expence of his first proposal may be reduced to a very moderate Sum, [and praying that he may be directed to attempt to discover a North West passage according to a subjoined route and estimate]. [IX. *pp.* 76, 87.]

[The Committee refer the petition and the report of the Board of Trade to the Treasury to report whether they have any objection to the execution of the plan.] [IX. *p.* 114.] (1772.) 18 March.

[Reference to the Committee of Rogers' petition for lands on the eastern bank of Penobscot river.] [XVIII. *p.* 253.] (1780.) 14 July.

[200.] [Reference to the Committee of a Board of Trade representation of 14 June for disallowing two West Florida acts of Jan. and June, 1770, (*a*) to erect Mobile into a county and to establish a court of common pleas therein; and (*b*) for the order and government of slaves.] [p. 288.] 27 June. West Florida.

[The acts are disallowed, on the Committee report of 10 Jan., agreeing with the Board of Trade, who represented:—] By the first of these Acts, Mobile and the Lands adjacent are erected into a County by the Name of Charlotte County; It gives authority likewise to the three Senior Justices of the Peace residing in the said County to hold Courts of Common Pleas, with Jurisdiction over Causes to the amount of Thirty Pounds Sterling, besides Costs of Suits, without any appeal. [Governor Chester in a letter of 25 Dec., 1770, having objected] that it prescribes no more for the proceedings of the aforementioned Courts of Common pleas, which the said Justices are empowered to hold, which Courts he observes, previous to the passing this Law, were established by Commission under the Great Seal; but that this Law enlarges the powers contained in the Commission beyond what they ought to be; [and Mr. Jackson having also objected to giving the County (1772.) 15 Jan.]

1771. § 200 *cont.*]

Court final jurisdiction up to 30*l.* ; the act should be disallowed.

Upon (*b*) the Governor observed] that this Law after directing the mode for the Trial of Slaves for Capital Offences, authorizes the Major part of the Court (of whom one is to be a Justice) if they judge the Criminal Guilty of a Capital offence, to give Sentence of Death ; and forthwith by their Warrant, directed to the Provost Marshall, to cause immediate execution to be done by the Common or any other Executioner ; which he is of opinion deprives the Crown of its Power of reprieving, pardoning or extending Mercy in any Shape to the Criminal. [But Mr. Jackson reported that this clause] does not deprive the Crown either of its Power of Pardoning, or of its power of reprieving that the first of these Powers unquestionably remains in the Crown notwithstanding the Act of the 25th of George the Second, intituled An Act for better preventing the horrid Crime of Murder ; and though there is a Clause in that Act of Parliament, saving a Power to the Judges to respite, he conceives the Power of the Crown did not need that saving ; and he takes it, that the Clause, that gives Occasion to the Governors observation, stands in the several Laws of other Colonies, made for similar purposes, and has been deemed of use to the safety of these Colonies.

Upon this state of the Case, though we have no doubt, that Mr. Jackson is well founded in the above opinion, Yet it does not appear to Us, that the Act of Assembly would* have been more clear and perfect, if, agreeable to what was done in the Act of Parliament, referred to by Mr. Jackson, a Clause had in like manner been inserted, saving a Power to the Judges to stay the execution of the Sentence, in case there should appear reasonable Cause. [IX. *pp.* 14-6, 31.]

27 June. [201.] [Reference to the Committee of a Board of Trade
Virginia. representation of 19 June for disallowing a Virginia act of June, 1770,—to explain certain doubts touching the jurisdiction of the Court of Hustings in the city of Williamsburgh.] [*p.* 288.]

* The sense seems to require the insertion of " not " here.

§ 201 *cont.*]

1771.

[The act is disallowed on the Committee report of 25 Feb., agreeing with the Board of Trade, who represented] That the Jurisdiction of this Court of Hustings appears to have been originally confined to the City of Williamsburgh but that by an Act passed in the Year 1736 intituled “ an Act to Confirm the Charter of the Borough of Norfolk, and for enlarging the Jurisdiction of the Court of Hustings in the City of Williamsburgh ” It is provided, that the said Court shall thenceforth have Jurisdiction, and hold plea of all actions, personal and mixt, and Attachments, whereof any County-Court within that Colony by Law has, or can take Cognizance.

(1772.)
28 Feb.

By this Extensive Jurisdiction of the Court of Hustings of Williamsburgh to all Cases Cognizable in the County Courts, the Jurisdiction of which is by the Constitution of that Colony unlimited, all Your Majesty’s Subjects and more especially the Merchants of this Kingdom, being Creditors in that Colony, reaped very great advantages, and found great ease and facility in the recovery of those just Debts, which they were before obliged to prosecute either in a County Court, or in the General Court ; in both which the proceedings are Stated to be extremely dilatory, and that in the former the Judges are very seldom Qualified for so extensive a Jurisdiction.

[No complaint has been made against the act of 1736, and the London merchants trading to Virginia have solicited the disallowance of the present act, which, the Board of Trade agree, ought not to have set aside the former upon a bare suggestion of doubt, without explaining what that doubt was.]

[IX. pp. 84, 92.]

[202.] [Reference to the Committee of a Board of Trade representation of 21 June for disallowing two South Carolina acts of April, 1770,—(a) for stamping and issuing the sum of 70,000*l.* for defraying the expense of building the several courthouses and gaols appointed to be built in the several districts of this province and for other purposes therein mentioned : and (b) to encourage the making of flax, linens and thread in this province.]

27 June.
South
Carolina.

[p. 289.]

1771. § 202 *cont.*]

(1772.) [The acts are disallowed, on the Committee report of 10 Jan.,
15 Jan. agreeing with the Board of Trade, who represented] That by the first of these Acts Commissioners are appointed for preparing, Stamping and signing Draughts or Orders equal to the Sum of seventy thousand Pounds Current Money of that province, in order to defray the Expences incident to the Services stated in the Title of the Act ; and it is declared, that these Draughts or Orders shall pass in Payment of all Duties and Taxes to the Treasurer for the value therein expressed, [—a provision similar to that for which a New York act of 1770 had already been disallowed (*pp.* 215–6)].

That the Second of these Acts, besides giving Bounties on Flax, an encouragement, which is not only proper but Commendable, gives a Bounty also of Thirty Pounds for every hundred weight of Linnen made in the Colony, which being a Manufacture of this Kingdom we cannot but be of opinion, that the Establishment of it in the Colonies ought in sound Policy to be discouraged, as much as possible.

[IX. *pp.* 16, 32.]

27 June. [203.] [Reference to the Committee of a Board of Trade
New Jersey. representation of 21 June for disallowing two New Jersey acts of Oct., 1770,—(a) supplementary to an act for the better enabling persons to recover their just debts from persons who abscond themselves ; and (b) to enable persons who are his Majesty's liege subjects either by birth or naturalisation to inherit and hold real estates notwithstanding the purchase, grant or devise were made before naturalisation within this colony.] [*p.* 289.]

(1772.) [The acts are disallowed and an instruction for all colonial
15 Jan. governors ordered to be prepared, in accordance with the Committee report of 10 Jan., agreeing with the Board of Trade, who represented] That by the first of these Acts the Lands, Tenements, Goods, Chattels, Rights and Credits of persons who have never resided within the Colony are made liable to be attached for the Recovery of Debts due from such persons and altho' the situation of New Jersey and its Connections

§ 203 *cont.*]

1771.

with the Colonies of New York and Pensilvania in which the owners of Lands and Effects in New Jersey do frequently reside, do in some Degree distinguish it in this Case from other Colonies, Yet we are clearly of Opinion that the Mischievous Consequences of such a Law when General must greatly outweigh the Utility of it.

That by the Second of these Acts the Title and Claim of every Inhabitant of that Colony to any Lands or Tenements granted or made by any alien before Naturalized by Law shall not be defective or disputable on the Ground of such alienation either in the Grantors or Grantees ; a Provision which though evidently founded on principles of humanity and good policy, Yet is of such a Nature, and does so materially affect Your Majesty's Rights derived from the Laws and Constitution of this Kingdom, that it ought not to have been the object of a Law of that Colony without Your Majesty's permission first obtained from whose Bounty and Goodness alone an Indulgence of this Nature ought to have flowed.

[A circular instruction, directing governors not to assent to any act providing for attachments for debt against the lands or goods of persons who have never resided within the colony, was approved on 3 Feb.—P. R.] [IX. *pp.* 17, 33, 34, 60.]

[204.] [Reference to the Committee of the petition of Elizabeth Jones, widow, and Luke Lightfoot for a day for hearing their appeal from a decree of the Jamaica Chancery, 23 Jan., 1771, on their bill to recover from Jasper Hall 4,000*l.* and interest due under the will of John Reid, late of St. Thomas in the East.] [pp. 290, 403.] 27 June. Jamaica.

[On the Committee report of 21 March, the petitioners are allowed to withdraw their appeal, as the agents in Jamaica have omitted to make the proper parties in the bill.] (1772.) 25 Mar.

[IX. *pp.* 119, 125.]

[Reference to the Committee of a new appeal from a Chancery decree of 23 Oct., 1776. John Reid, son of Gabriel Ball Reid, brother of the testator, is added as a respondent.] (1777.) 19 Mar.

[XIII. *pp.* 373, 464.]

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1771. § 204 *cont.*]

(1778.) [On the Committee report of 26 June, the appeal is dismissed.

1 July. Other names in the report are the testator's widow, Elizabeth, and his cousin, Theophilus Lightfoot, father of the appellants ; James Harvey, who married Mary, daughter of Gabriel Reid ; John Rennion (? Kennion), and George Paplay.]

[XIV. *p.* 409 ; XV. *pp.* 228-236, 263.]

27 June. [205.] [Reference to the Committee of the petition of
Jamaica. Alexander Ross and John Nixon, Esqs., and Marmaduke Hilton, merchant, that the Council dismiss with costs for non-prosecution the appeal of William and Peter Beckford from an order of the Jamaica Court of Errors, 27 Oct., 1769, on the petitioner's action to recover 72½ acres of land, part of the estate of Peter Valette, whose executors and devisees they were.] [*p.* 290.]

11 July. [The Committee agree to recommend the dismissal of the appeal unless it is presented within six weeks.] [*p.* 332.]

(1772.) [On the Committee report of 10 Jan., the appeal is dismissed

15 Jan. for non-prosecution.] [IX. *pp.* 20, 37.]

19 July. [206.] [Reference to the Committee of a Board of Trade
Georgia. representation of 27 June for disallowing a Georgia act and four ordinances of Feb. and May, 1770, for appointing various executive officers in the colony, and proposing that the Governor be instructed for the future not to assent to such acts and ordinances.] [*p.* 346.]

(1772.) [The Act and ordinances are disallowed, and an instruction
15 Jan. ordered to be prepared, in accordance with the Committee report of 10 Jan., agreeing with the Board of Trade representation, which showed that the legislature of Georgia had of late fallen into a practice of passing laws, under the name of ordinances, for the appointment of persons to various executive offices, appearing to imply a claim in the Assembly to concur in the choice of such officers, thus impairing the constitutional rights of the Crown. The ordinances were for appointing inspectors of hemp, flax and wheat flour for the ports of Savannah and Sunbury ; for appointing James Kitchin

§ 206 *cont.*]

1771.

collector and comptroller of the country duties at Sunbury (both on 27 Feb., 1770); for appointing packers and inspectors for the ports of Savannah and Sudbury, and also cutters and inspectors of lumber in the said ports; and for appointing Andrew Elton Wells harbour master at Savannah (both 10 May, 1770). The act—also of 10 May, 1770,—was] to regulate and ascertain the Rates of Wharfage of Shipping and Merchandize, and also to ascertain the Rates of Storage in the several Ports of this Province, and for the better regulation of Wharfs and of Shipping in the said Ports; and for ascertaining the Duty of an Harbour Master for the port of Savannah.

[The instruction was approved on 2 Feb. (P.R.)]

[IX. *pp.* 18, 35, 36, 60.]

[207.] [A Massachusetts Bay act of June, 1768,—in addition to an act for erecting the new plantation called Hunts Town in the county of Hampshire, into a town by the name of Ashfield—is disallowed, on the Committee report of 20 July, agreeing with a Board of Trade representation of 31 May, referred to them on 7 June, which showed] That by this Act the proprietors of Lands in the above Township of Ashfield are impowered to levy and Collect such Taxes and Assessments as they shall judge necessary to Compleat the Building of a Meeting House, and for settling and supporting an Independent Minister; and . . . That the Monies, so granted, shall be assessed upon the Lands of each Original Right in the said Town (consisting of two hundred and fifty acres each) every part of which, in whose hands soever the same may be, is made sufficient to the payment of it's proportionable part of such monies, so granted for the purposes aforesaid. That this Clause, whereby all persons of whatever Sect or Perswasion in Religion, occupying Lands in this Township are equally and indiscriminately taxed for the support of the Independent Church therein established, is equally unusual and unreasonable, particularly in the case of the Sect commonly called

31 July.
Massachu-
setts Bay.

1771. § 207 *cont.*]

the Anti-pædo-Baptists, it appearing, That out of seventeen Families, of which this Township at its first Settlement consisted, Twelve of them were of the above Sect or perswasion.

[The Committee, on 20 July, was attended by only five members of the Council (including the Archbishop of Canterbury and the Bishop of London), and they recorded their opinion in a minute] that at a full Board it will be necessary to consider whether it may not be proper to advise His Majesty to give Instructions to the Governor of the Massachusetts Bay not to assent in future to any Act containing a Clause of the same nature with that objected to in the preceeding Report. [pp. 259, 348-9, 363.]

- 13 Nov. [208.] [Reference to the Committee, and by them on
Virginia. 29 Jan., 1772, to the Board of Trade, of the petition of John Wadman for a grant, on certain conditions, of Cape Henry and the desert adjoining in Princess Ann county, Virginia, for the purpose of making salt and oil of tar thereon. A similar petition, with a view to porpoise fishing, had been referred to the Committee on 27 March, 1767, and to the Board of Trade on 23 May, 1767.] [V. pp. 193, 303; VIII. p. 435; IX. p. 53.]
- (1772.) [Reference to the Committee, and on 5 May by them to
22 April. the Board of Trade, of Wadman's petition for 5,000 acres in Virginia.] [IX. pp. 177, 207.]
- (1772.) [On Committee reports of 17 June, the former petition is
19 June. rejected, and the latter granted in consideration of Wadman's disappointment and losses. The grant is made on the usual conditions, with the proviso that it be not in any part where the Governor is restrained from making grants. The Board of Trade reported that on hearing Wadman on his petition of 1767 they had not judged it advisable to recommend a grant to him of Cape Henry, and that on his petition to the Council of Virginia, the latter] being of opinion that the said Shores and Lands adjoining were extremely Useful to the Inhabitants for carrying on a Fishery, and also very proper for erecting and Supporting a Light House and Fort, advised and Ordered

§ 208 *cont.*]

1771.

that the whole of the said Lands as well the Desert as the Sea and Bay, be reserved for Your Majesty's Use. The Board of Trade see no reason for departing from these opinions :] as to what Claims the petitioner may have for entry made in his behalf for the Lands in Question, and Rights paid for into Your Majesty's Treasury of Virginia, as stated in the petition it is a Question, whereon the said Lords Commissioners can form no opinion, but must leave it to the petitioner to seek such redress in the matter, as by the Laws and Constitution of that Colony may belong to his case. [IX. *pp.* 295, 300, 318.]

[209.] [Reference to the Committee of the petition of Joseph Keeling to be heard by counsel on his complaint that he has been unable since Aug., 1765, to bring to a trial his actions of ejectment against the tenants of certain estates in Barbados, owing to the powerful combination of parties interested.] [p. 435.]

13 Nov.
Barbados.

[On reading the petition and several papers received from Lord Hillsborough's office, the Committee order] that Precedents be searched to see whether in Cases of Complaint against Judges, Orders have been sent for them to proceed, and in what manner, *pendente Lite*. [IX. *p.* 26.]

(1772.)
10 Jan.

[On the Committee report of 21 March, it is ordered that the Court of Common Pleas proceed without delay in trying Keeling's actions in the order they stood in April, 1768. The disputed estates were held in 1653 by Thomas, eldest son of Sir Marmaduke and Dame Elizabeth Rawdon. Between 1653 and 1666, when he finally left the island, he leased the estate in parcels to diverse tenants for the term of 99 years. Keeling married Hester, only child of Marmaduke, the grandson of Thomas Rawdon. On his sending to Barbados at the expiration of the leases, the tenants formed a combination to prevent him from obtaining possession; and the judges by acceding to this with flagrant partiality have delayed a trial for five years.] [IX. *pp.* 117-9, 124.]

(1772.)
25 Mar.

[Reference to the Committee of Keeling's complaint that the judges have not obeyed the above order and petition for

(1773.)
8 Feb,

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1771. § 209 *cont.*]

leave to appeal from the judges' refusal to grant his motion for enlarging the terms in the ejectment.] [X. p. 31.]

(1773.) [On the Committee report of 6 March, order is given that

26 Mar. the judges proceed, within one month after service hereof, to give judgment on Keeling's motion. The judges of the Court of Common Pleas are named in the report—Benjamin Niccols, Benjamin Alleyne Coxe, Thomas Ostrehan, and Thomas Applewhaite. At a court held on 9 Sept., 1772, they allowed counsel for the defendants] to Declaim against your Majesty's said Order for some hours with such illiberal indecent Freedom of speech as ought to have been restrained by the Judges as Language highly Derogatory to Your Majestys Supreme Jurisdiction over the Colonies ; That the Memorialist had good Reason to expect after such repeated procrastinations, and the Defendants Council being fully heard that the Judges would no longer Delay to give Judgment on his Motion, but upon Your Memorialist applying to them for that purpose they positively refused not only to give Judgment then but also to assign him any Day in Court on which they would give Judgment insultingly telling him that they would do it sometime between their Sittings that Court and the ensuing Year, tho' they well knew that by the Laws of Barbadoes that was the last Court that Could be held for the present Year and that they could not legally pronounce any Judgment 'till the January following ; That some days afterwards and in the Vacation the said Judges privately and out of Court delivered into the Hands of the Clerk of the Court a paper Writing Subscribed with their Names, purporting to be their Sentiments upon Your Majesty's Order in Council by which it will be manifest that their Sole Intention is by an arbitrary Construction to evade paying obedience to Your Majesty's said Order, it being impossible according to their said Sentiments to gain the Effects of Your Majesty's order as the Number of Causes on the List and actually untried at the Conclusion of the last Court for the Year 1772 amounting to upwards of one thousand four hundred All which Causes it

§ 209 *cont.*]

1771.

is apparent from their sentiments they the said Judges notwithstanding Your Majesty's Order intended to try previous to those of the Memorialist; That the Judges of the said Court by not granting the Memorialists Motion to enlarge the Terms in the said Ejectments have in effect put the said Causes into a State not Competent for Tryal and have introduced a new Delay of Justice by not giving a Determinate opinion upon the Memorialists said Motion which was in itself no more than a motion that ought to have been granted of Course.

[X. *pp.* 83-7, 97.]

[Reference to the Committee of Keeling's appeal from a judgment of the Court of Errors, 15 May, 1776, affirming a judgment of the Court of Common Pleas, 16 Sept., 1774, on his ejectment against Joseph Niles. On 16 April, 1777, similar appeals were referred against the Rev. Haynes Gibbs, Ann Beeby, and Isaac de Piza respectively.] (1776.) 20 Nov.

[XIII. *pp.* 216, 451-2, 526-8, 532.]

[On the Committee report of 13 Dec. the judgments in favour of Niles are reversed, and the Court of Common Pleas is required to award a *venire facias de novo*. The report gives a history of the estates from a grant by the proprietor, Lord Carlisle to Sir Marmaduke Rawdon, Edmund Forster and others. While Rawdon was serving the King in the Civil War, James Holdipp, his agent, converted the estate to his own use. His widow and his daughter (Forster's widow) authorised his son, Col. Thomas Rawdon, to take possession of the estates in Barbados. The latter also bought land from John Wadloe, and *inter alia* made a building lease for 99 years at a peppercorn rent to Henry Lee and Thomas Isaack. Thomas Rawdon died in 1666, his son Marmaduke in 1691, and his grandson Marmaduke in 1752. The last left only a daughter, Hester, who married the petitioner, and died in 1756.] (1778.) 6 Mar.

[XIV. *pp.* 368, 387, 403-9, 556.]

[210.] [Reference to the Board of Trade of the memorial of Henry Remsen and his associates, that they purchased from the Indians for a valuable consideration sundry lands 28 Nov. New York.]

1771. § 210 *cont.*]

in the county of Albany on the north and south sides of the Mohawk River, that they have lost the most valuable part of their purchase by grants since made by the Crown or from the province ; and praying that the residue of their purchase be confirmed to them on the tenure by which Sir William Johnson holds the most valuable part of the said tracts, *i.e.* by the annual quit rent of one beaver skin.] [p. 462.]

(1772.) [Reference by the Committee to the Board of Trade of
5 May. a similar petition rather more fully described. The petitioners disclaim any pretensions from their purchase, which was contrary to the standing rules observed in the distribution of American lands, but, having united with forty gentlemen, petition for a grant of such of the residue as is capable of cultivation.] [IX. p. 206.]

(1772.) [The first memorial is dismissed, on the Committee report
19 June. of 17 June, agreeing with the Board of Trade, who reported that the Governors of New York had been instructed] First—Not to grant to any persons whatever Lands purchased of the Indians without Licence first obtained from the said Governors for that purpose—Secondly—Not to grant such Licences, until the Land proposed to be purchased had been Surveyed by a publick Surveyor in the presence of the Indians, and a Report thereof Certified by them and by the Surveyor, returned into the proper office of Record in the Colony—Thirdly,—That the Quantity of Land allowed by such Licence to be purchased by any one person, either in his or her own Name, or in the Names of any person or persons in Trust for him, or her, do not exceed one thousand acres. [In the present case there is no evidence that any one of these requisites has been complied with, or that any attempt has been made since 1766 to record the purchase in the proper offices, or any caveat entered by the petitioners against grants to others of parts of this purchase.] [IX. pp. 295–7, 319.]

(1773.) [Committee. Board of Trade report on the second petition
2 Mar. of Henry Remsen and others] Read—Ordered that the said petition be dismissed. [X. p. 68.]

- [211.] [Reference to the Committee of the petition of John Vernon, and John Pigot and Richard Drakeford, merchants of London, for a day for hearing their appeal from an order of the Jamaica Chaacery, 25 Aug., 1771, allowing Henry Edward Hayman's exception to the report of a commissioner appointed by the consent of all parties in a suit between the petitioners and the devisees, executors and representatives of John Waller, merchant.] [pp. 464, 466.] 1771-2.
29 Nov. Jamaica.
- [On the Committee report of 17 Dec. the order allowing the exception is affirmed.] [X. pp. 372, 390.] (1773.)
31 Dec.

GEORGE III. VOL. X. (January—December, 1772.)

- [212.] [Two Bahama acts of 1762 and 1769 are disallowed, on the Committee report of 10 Jan. on a reference of 12 June, 1771, not entered in the Register.] 1772.
15 Jan. Bahamas.

An Act to prevent vexatious tedious and troublesome Law Suits for trivial and small Debts, and directing how the same shall be recovered and for suspending an Act [of 6 George III continuing another act for the same purpose.

On this Mr. Jackson reported to the Board of Trade] That great inconvenience may arise from the Obligation therein laid on every person who is suspected to have Effects of a Defendant in his Possession being called on in a Summary way in every Case to discover such Effects, and thereout to pay the value of the Demand to the Constable. This (he observes) is a mode of Proceeding that must be highly dangerous in a Country of Commerce, and that the same Act gives a Jurisdiction to Justices of the Peace in Suits to the amount of six Pounds value and makes the plaintiffs Oath Evidence in actions of Debt in such Suits, that this appears to him to be extended too far.

An Act for erecting a special Court and better

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1772. § 212 *cont.*]

establishing and regulating the other Courts of Judicature within these Islands.

[On this Mr. Jackson reported] that it prohibits appeals to His Majesty in Council from the special Court thereby erected, and that this Prohibition, tho' it seems as fit in the Case of such a Special Court, as it can be in any, is altogether inconsistent with the Constitution of the Colony, and certainly should not be imposed, at least without a Clause suspending the Execution of the Act, the words limiting the Duration of the Act, till his Majesty's pleasure shall be known, amounting in Truth to nothing. [pp. 12, 30.]

15 Jan.
Massachu-
setts Bay.

[213.] [Reference to the Committee, and by them on 17 June to the Board of Trade, of a letter of 5 Nov., 1771, from Governor Hutchinson of Massachusetts Bay to Lord Hillsborough,] stating some Doubts that have Occurred in cases where the Governor and Council of the said province act together as a Court for proving wills and administrations and deciding controversies and concerning Marriage and Divorce. [pp. 40, 301.]

(1773.)
1 Sept.

[On the Committee report of 26 Aug., it is ordered that in the above cases the Governor may acquiesce in the determination of the majority of councillors present although he should differ in opinion from them. The Board of Trade reported the opinion of Mr. Jackson, K.C. in this sense,] because he conceives it to be past Doubt that by the Clause in the Charter (which provides that in all Acts of Government by the General Assembly or in Council the Governor shall have a Negative Voice, nothing more is intended by the words Acts of Government in Council, than Executive Acts of State in exclusion of Judicial Acts which though they are the Exercise of a Power derived under Government are never he believes comprehended under the Description of Acts of Government, That he further Observes, it is so unsuitable to the nature of a Court of Justice, to consist of two Branches, each possessing a Negative on the other, that, tho' something like it may be found, Yet he Conceives no Construction ought to be founded

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- § 213 *cont.*] 1772.
- on the possibility of the Existence of such a Court, because the Instances of such, if any, will be found to stand on principles not applicable to the present Case.
- [X. *pp.* 282, 298.]
- [214.] [Reference to the Committee of the petition of Alexander Willock and Arthur Morson for a day for hearing their appeal from a judgment of the Antigua Court of Errors 13 Oct., 1770, in an action by David and Clinton Williams relating to a trading voyage to be made by Clinton Williams in Essequibo and elsewhere in America.] [pp. 41, 42.] 15 Jan. Antigua.
- [On the Committee report of 17 Dec., the appeal is dismissed.] (1773.)
- [X. *pp.* 374, 391.] 31 Dec.
- [215.] [Reference to the Committee of the petition of Thomas Crowder for a day for hearing his appeal from an order of injunction by the Jamaica Chancery, 25 May, 1771, in a case between him and Nicholas Bourke, Jasper Hall, Lucius Tucker and Fanny his wife, relating to a plantation mortgaged to the petitioner by Daniel Monro.] [p. 63.] 3 Feb. Jamaica.
- [On the Committee report of 27 March, it is ordered that the injunction be dissolved unless the respondents pay 2,500*l.* into court within six months.] (1773.)
- [X. *pp.* 116-8, 126.] 31 Mar.
- [216.] [Reference to the Committee of the petition of Mary Ballard Beckford Beckford, an infant, by Donald Campbell, her next friend, for a day for hearing her appeal from an order of the Jamaica Chancery, 23 Feb., 1771, dismissing her bill against Sarah, Thomas, Samuel, Anthony and Edward Shreyer,] touching the Right and Enjoyment of the waters of a River called Post Maria Eastermost River. [p. 96.] 28 Feb. Jamaica.
- [217.] [Reference to the Committee of the petition of Keylock Rusden, master of the ship *Lawrence*, on behalf of himself and the owners, William Reynolds, Thomas Gowland, William Smith and others, for a day for hearing his appeal from a judgment of the Jamaica Court of Errors, 11 April, 1770, affirming the condemnation of the ship and cargo by the
- 28 Feb. Jamaica.

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1772. § 217 *cont.*]

Superior Court, 15 April, 1769, on a libel filed by Daniel Maclean, collector of customs at Montego Bay.] [p. 96.]

(1777.) [On the Committee report of 10 April, the judgment is reversed without costs, by consent. Maclean's brother Hector, is the only other named in the report.]

[XIII. pp. 410-1, 472.]

16 Mar. [218.] [In accordance with an Admiralty report of 28 Feb.
Jamaica. on a reference of 17 Feb., Anthony Gibbs, late Lieutenant and commander of H.M. schooner *Sir Edward Hawke* is restored to his former rank in the Navy. A court martial at Port Royal, Jamaica, on 26 Aug. last, ordered his dismissal from the Navy during his Majesty's pleasure] on a Charge of Disobedience of Orders and suffering Your Majestys Colours to be insulted and disgraced by two Spanish Guarda Costas, whom he was prevailed on by Threats to accompany into the Harbour of Carthagena, without making any resistance. [Several favourable circumstances appeared at the trial, and Gibbs was given a good character by the officers he had served under during the twenty years he had been in the Navy.]

[pp. 76, 110.]

16 Mar. [219.] [Reference to the Committee of the petition of
Jamaica. James Stirling and William Anderson, administrators of John Park of Jamaica, for a day for hearing their appeal from a Chancery order of 18 April, 1770, on their demurrer to a bill filed by Richard Welsh, Attorney General, on behalf of Robert Poultney, late commander of H.M. sloop *Fly*, with the officers and mariners, for an account of the estates of Park and Stirling to be applied in payment of a recognisance entered into by them for payment of 2,332*l.* 16*s.* 7½*d.*, being the appraisement of the sloop *Greyhound* and her cargo, condemned for illegal trade.] [p. 112.]

(1773.) [On the Committee report of 18 Dec., the order is affirmed,
31 Dec. with 30*l.* *stg.* costs.] [X. pp. 381, 393.]

25 Mar. [220.] [Reference to the Committee of (a) a Board of Trade
Delaware. report of 17 March on a petition of William Henry, Earl of

§ 220 *cont.*]

1772.

Rochford, for a grant of several islands, grounds and shoals in Delaware Bay and River, below Station Point, in latitude 40°–41°; and (b) a petition of Thomas and John Penn to be heard against the report.] [pp. 128–9.]

[Committee. The report and petition read: agent for the Penns intimated that his counsel were not come to town: business ordered to be postponed to 12 April.] [p. 143.] 31 Mar.

[Order in accordance with the Committee report, allowing the petition to be withdrawn without prejudice to the question of right, which has not been fully considered or determined. The Committee heard evidence on 8, 9, and 10 April, and reported on 14 April. The Board of Trade represented] That they found upon the Books of their office a Variety of proceedings upon former Applications made to Your Majestys Royal predecessors for Grants of the Islands in the River Delaware, where the proprietaries of Pensilvania had opposed such Grants upon the Ground of a Claim to the said Islands, and as it appeared that they had in the Year 1767, Entered a a Caveat against any Grant thereof being made to any person whatever without their having an Opportunity of being heard in Opposition thereto, it became their Duty to apprize them of the present petition, and having in Consequence thereof been attended by the agents on one side and the other, and heard what each party had to offer by their Counsel on the merits of the said petition, it did not appear that any of the Islands situated in the Bay and River of Delaware within the Limits Described in the Earl of Rochfords petition have at any time been granted to any person by Your Majesty or Your Royal Predecessors—That it did not appear nor had it been pretended that either the province of Pensilvania or that of New Jersey had at any time Exercised any Jurisdiction or Authority whatever in any of those Islands or that any of them have at any time been considered as parts or parcels of either of the said provinces—That it appeared . . . that some Improvements have been made on several of them by persons residing in Pensilvania and New Jersey, principally for the 22 April.

1772. § 220 *cont.*]

purpose of raising Grass and feeding Cattle but that there has been no settled residence or Inhabitaney on any of them Except on one lying near to the Town of Burlington, on which a House is said to have been built by a person who is a fugitive for Debt from the Colony of New Jersey ; that these Improvements have not been stated to have been made or any Acts of Ownership Exercised under any legal Title whatever, except only in the Case of one of the said Islands said to be claimed under a Title derived from the Descendents of the Dutch who were formerly possessed of that Country, but no proof whatever laid before them of any such Title ; That under these Circumstances the said Lords Commissioners see no Objection from any Evidence Adduced of any Title or Colour of Title to any of these Islands to Your Majestys full Right to make a Grant thereof in case Your Majesty shall be pleased so to do.

[The Board of Trade, on an application for a grant in 1721, reported that no grant should be made of any islands on which considerable improvements had been made ; and on another application in 1756 that no grant should be made till the claim of the Pennsylvania proprietors derived from a grant of 1682 from the Duke of York had been determined. As to the improvements, no legal title has been proved by the possessors, and no application for a confirmation of title made since the accession of James II. It must, therefore, be for his Majesty's wisdom and equity to determine the treatment of the possessors of improved lands, and also to secure absolute freedom of navigation and fishery within the river and bay. As to the Pennsylvania claim, it does not appear, on full consideration, that it ought to restrain his Majesty from exercising his right to the islands. Another objection made in 1756 that there was no foundation of merit on the part of the applicant does not apply to Lord Rochford. If a grant be made, a quitrent should be reserved as usual.

The Committee found by the *viva voce* evidence given before them and not before the Board of Trade] that several of the Islands in the River Delaware comprized within the Limits

§ 220 *cont.*]

1772.

of the Grant desired by the Earl of Rochford, have been cultivated and some of them in a very high Degree by persons who have from time to time entered upon and taken possession of several of the said Islands. [Lord Rochford, on being apprised of this, was] unwilling to be the means of obstructing the pretensions of the said Occupiers and Improvers upon the said Islands, whose case may at any future time be laid before Your Majesty, and did therefore and upon those Grounds by his Counsel Declare himself desirous of withdrawing his petition.

[*pp.* 147, 151, 152, 154-8, 166.]

[221.] [Two Nova Scotia acts of July, 1771, are disallowed 22 April. in accordance with a Committee report of 31 March, agreeing Nova Scotia. with a Board of Trade representation of 13 Feb., referred to them on 17 Feb., showing] that by One of the said Acts, intituled

An Act in further addition to [an act of 32 Geo. II] relating to Treason and Felonies.

It is Enacted that any person or persons who shall before the Judges of the Supreme Court or other persons Empowered by Law to take Bail or Bails, represent or personate any other person or persons, whereby the person or persons so represented or personated may be liable to the payment of any Sum or Sums of Money for Debt or Damages, to be recovered in the same Suit or Action, wherein such person or persons are represented or personated as if they had really acknowledged and entered into the same, being lawfully convicted thereof shall be judged, esteemed and taken to be Felons, and suffer the pains of Death, and incurr such Forfeitures and Penalties as felons in other cases convicted and attainted do by the Laws of England loose and Forfeit.

[On 6 Feb., 1771, the Board of Trade had objected to a similar provision in a particular case in a Nova Scotia act of July, 1768 (*cf.* § 176), and as this act establishes the provision as a general rule in all cases, it should be disallowed.]

An Act in addition to [an act of 32 Geo. II] relating

1772. § 221 *cont.*]

to Wills, Legacies and Executors, and for the Settlement and Distribution of the Estates of Intestates

Appears to have been Enacted in Order further to Extend the power and Jurisdiction of the Judge and probate of Wills and Testaments, and of his Commissaries or Deputies, and to Arm them with Authority to punish those persons who refuse or neglect to attend the Courts upon due citation.

Mr. Jackson . . . observes, that although at first sight it may seem calculated to do summary and Effectual Justice, Yet he conceives the power of the Judge of probate under this Act is not only too general and undefined, but the manner in which the power given is to be Exercised, and the Use to be made of the Examinations when Submitted to should certainly have been more particularly described and directed, That it may perhaps be very fit there should be a power in some Court in Nova Scotia, like that Exercised by the Court of Chancery in England, and perhaps in matters Testamentary it may possibly be proper to vest this power in the Judge of probate, but then that Judge should either be made Chancellor for that purpose, and the Judge directed to proceed as the Court of Chancery, or the proceeding in the new Court should be Specially and fully directed ; That under this Act the Limits of the Judges power are very loose and consequently the power Arbitrary and may therefore be made a very ill use of ; that it is besides very doubtful whether it may be Expedient to introduce a kind of posthumous Bankruptcy under the Direction of the Judge of probate instead of the course of administration established by the Law of Great Britain especially in a Country to which the Ordinary Laws of Bankruptcy do not Extend. [pp. 75, 141-3, 167.]

22 April. [222.] [Three North Carolina acts are disallowed, and a
North
Carolina. fourth allowed to expire, and an instruction ordered to be prepared thereon, in accordance with a Committee report of 31 March, agreeing with the following Board of Trade representation of 26 Feb., referred to them on 28 Feb. :—]

1. An Act for preventing Tumults and Riotous

Assemblies ; for the more speedy and effectual punishing the Rioters, and for restoring and preserving the public peace of this Province.

2. An Act for founding Establishing and Endowing of Queens College in the Town of Charlotte in Mecklenburgh County.

3. An Act for Authorizing Presbyterian Ministers regularly called to any Congregation within this province to Solemnize the Rites of Matrimony under the regulations therein mentioned.

4. An Act to Encourage the further Settlement of this Province.

The first of these Acts was passed for the purpose of preventing Disturbances and Insurrections, to which of late the province of North Carolina has been exposed, and contains many useful and proper Regulations ; Nevertheless We cannot pass over a Clause, which Enacts, that “ Upon Indictment found or presentment made against any person for any of the Crimes described in the Act, the Judges or Justices of the Court shall issue their proclamation, to be affixed or put up at the Court House, and at each Church or Chapel of the County, wherein such Crime was Committed commanding such offender to Surrender within sixty Days and Stand Trial on failure of which he shall be deemed Guilty .. and it shall be lawful for any one to kill and destroy such offender and his Lands and Chattels shall be confiscated to the King for the Use of Government.”

[Mr. Jackson reported :—] “ Altho’ the Circumstances of the province may excuse the inserting such Clause in this Act Yet that it is altogether unfit for any part of the British Empire and therefore he Submits that the said Act is fit to be repealed.” And altho’ from late Occurences in North Carolina, the Legislature of that province may be warranted in some Extension of the penal Laws against riotous and disorderly persons, Yet we cannot but think this Clause highly Exceptionable, as being full of Danger in it’s operation,

1772. § 222 *cont.*]

and irreconcilable to the principles of the Constitution, depriving withal the Crown of it's prerogative of extending Mercy to Offenders, by committing the Execution of the Law into the hands of the Subject; Nevertheless as the total repeal of this Act, might, in the present state of Affairs, Sensibly Endanger the peace and safety of the province, and revive perhaps that Dangerous Spirit amongst some of the Inhabitants, (as yet not wholly subsided) which has been productive of so much Tumult and Confusion, more especially as the Act, by it own Limitation in time is now upon the point of Expiring; [the Governor should be instructed] to recommend to the Legislature in case they shall proceed to Enact a New Law for the above general purposes, to pass it with an Exception as to the Clause in Question, or with such Alteration and Amendment thereof as shall free it from the objections above stated.

[The instruction was approved on 15 May. P.R.]

[Mr. Jackson found no objection to the second act in point of law. Governor Tryon observed in his letter of 12 March, 1771,] that it is but the Outline of a foundation for the Education of Youth, that the necessity for such an Institution in that Country is obvious and the propriety of the mode therein adopted must be Submitted to Your Majesty; That altho' the president is to be of the Established Church, and licensed by the Governor, Yet the Fellows, Trustees and Tutors he apprehends will be generally Presbyterians, the College being promoted by a respectable Settlement of that persuasion from which a considerable Body marched to Hillsborough in September 1768 in Support of Government.

From this Report of Your Majestys Governor and from the prevalency of the Presbyterian persuasion within the County of Mecklenburgh, we may venture to conclude, that this College if allowed to be incorporated will in Effect operate as a Seminary for the Education and Instruction of Youth in the principles of the Presbyterian Church, sensible, as we are of that tolerating Spirit which generally prevails throughout

Your Majestys Dominions, and disposed, as we particularly are, in the Case before Us, to recommend to every reasonable Mark of Favour and Protection, a Body of Subjects who by the Governors Report have behaved with such Loyalty and Zeal during the late Troubles and Disorders, still We think it Our Duty to Submit to Your Majesty, whether it may be adviseable for Your Majesty to add Encouragement to toleration, by giving the Royal Assent to an Establishment which in its consequences promises such great and permanent advantages to a Sect of Dissenters from the Established Church, who have already extended themselves over that province in very considerable numbers.

By this Act a Duty of sixpence per Gallon is laid on all Rum and other Spirituous Liquors brought into and Disposed of in Mecklenburgh County as a fund for raising a Revenue for support of the Institution ; In what manner this Clause may operate as a Tax upon the Consumption of British Spirits, or from the looseness of its wording, how far it may be Strained to Exempt Spirits Manufactured within this County from the Duty imposed, We cannot pretend to foresee, but it should seem that a foundation, professedly for general Uses ought not in regularity to be supported by a Tax upon any one County in particular. [The act also lacks a suspending clause.]

The Third Act which is passed with a Clause of Suspension proposes to repeal so much of a former Act for Establishing an Orthodox Clergy, and also of one Explanatory thereof, as relates to the prohibition of Presbyterian Ministers from Solemnizing the Rites of Marriage by publication of Banns in their meetings or by Lycence without paying a Fee of Twenty Shillings to the Episcopal Minister or Incumbent of the parish, this prohibition by the Act now Submitted is intended to be taken off . .

This Regulation may it please Your Majesty appears to Us to be Exceptionable, as being calculated to deprive the Orthodox Clergy of a Fee or Perquisite settled and imposed

1772. § 222 *cont.*]

by Act of Assembly, and in effect to operate as a Bounty to the tolerated Religion at the Expence of the Established.

By the fourth and last of these Laws, persons coming immediately from Europe in any vessell for the purpose of settling in this province, are declared exempt from paying any public, County or parish Taxes for the Term of four Years next after their arrival, and Your Majestys Governor Reports “that it was Enacted in behalf of several Ship-Loads of Scotch Families which have been landed in that province within three Years past from the Isles of Arran, Durah, Islay and Gigha, but chief of them from Argyleshire, and that they are mostly settled in Cumberland County ; that the Numbers of these New Settlers are computed at Sixteen hundred Men, Women and Children, That the Reason they Alledged for coming to America was, that the Rents of their Lands were so raised that they could not live upon them ; and those who were Mechanics, were particularly Encouraged to settle there by their Countrymen who have been many Years settled in that province.

Mr. Jackson . . Submits whether the Encouragement of Exemption from Taxes should not have been Extended to all persons, as well as to those, who shall come Immediately from Europe, inasmuch as such Exclusive Encouragement may have a tendency to encrease the migration from Your Majestys European Dominions.

The prejudice to be apprehended to the Landed Interests and Manufactures of Great Britain and Ireland from the Emigration of the Inhabitants to Your Majestys American Colonies, has been frequently matter of Consideration at this Board, and was particularly insisted upon [in the Board of Trade report of 21 June, 1771, on a petition from some inhabitants of Skye for 40,000 acres in North Carolina—*p.* 346.]

[*pp.* 94, 136–41, 168–70, 248.]

(1773.) [A North Carolina act of Dec., 1771,—to amend an act for
7 April. founding, establishing and endowing of Queens College, in the town of Charlotte in Mecklenburg county,—is disallowed, on

§ 222 *cont.*]

1772.

the Committee report of 5 April, agreeing with a Board of Trade representation referred to them on 26 March, showing that the act was passed in the same year with that which it proposed to amend, and before any intimation of his Majesty's pleasure touching the same had been received ; and that the previous act having been disallowed, this becomes nugatory and improper.] [X. *pp.* 102, 135, 165.]

[223.] [A North Carolina act of Jan., 1771,—to encourage and support the establishment of a post-office in this province—is disallowed, and an instruction for the governor ordered to be prepared, in accordance with the Committee report of 5 May, agreeing with the following Board of Trade representation of 13 April, referred to them on 22 April :—] That this act directs “That every Owner or Keeper of a publick Ferry within the above province shall without Fee or Reward give immediate Dispatch to any Post Rider or Mail Bearer in preference to any other passenger, who may be there, and about to cross the Ferry, and that for so doing every Ferryman shall be allowed double the Sum allowed by Law for the like Service in other Instances, to be paid by the Treasurer of the District ; it likewise provides, that in case of the Mails being stopped or Delayed by any Accident, the person nearest resident to the place, where such Accident may happen, shall upon Application made for that purpose, convey the Mail to the next Stage, on Delivery whereof he shall be Entituled to receive from the acting Post Master General of the province or his Deputy, one shilling for every Mile he may have carried the said Mail.”

6 May.
North
Carolina.

[As the Postmaster General, on being consulted, objected to the charge of a shilling per mile in certain cases, the Board of Trade proposed that the act be disallowed, and the Governor instructed to recommend the passing of an act free from this objection,] as the Encouragement held forth in the first and second Clauses may operate in Aid of the particular provision contained in the post office Act of the ninth of Queen Ann, respecting the free passing of Ferries, and as the whole seems calculated for the general

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1772. § 223 *cont.*]

purposes of Expedition and Security in the Conveyance of the Mails.

[The instruction was approved on 15 May. (P.R.)]

[*pp.* 174, 204-6, 211-3, 248.]

6 May. [224.] [References to the Treasury and to the Board of
New York. Trade of (a) the address of the Rector and inhabitants of the city of New York for remission of quitrents on a tract of land in Gloucester county granted by Lieut.-Governor Colden to that corporation for the use of the church belonging thereto ; and (b) an address of the Governors of the College of New York for remission of quitrents on lands lately granted them, and also for constituting that seminary a University with such an establishment of professorships as his Majesty shall approve.]

[*p.* 215.]

1 July. [The Committee read the reports of the Treasury and the Board of Trade, and postponed consideration.] [*p.* 348.]

15 May. [225.] [Reference to the Committee, and by them on
Prince Edward Island. 19 Dec. to the Board of Trade, of the petition of Major Allan Maclean, proprietor of lot 23 in Prince Edward Island and purchaser of half of lot 24, that, as these lands are bad and ill-situated, the quitrent be reduced to two shillings per hundred acres.] [*pp.* 251, 523.]

19 June. [226.] [Three New York acts of 1770-1 are disallowed, on
New York. a Committee report of 17 June, agreeing with a Board of Trade representation of 1 May, referred to them on 6 May. The titles are :—]

An Act to amend and continue . . An Act for the Relief of Insolvent Debtors within the Colony of New York with respect to the Imprisonment of their persons.

An Act to amend . . an Act for the more Effectual vesting the Real and Personal Estate whereof Abraham De Peyster Esquire late Treasurer of this Colony, died Seized and Possessed in Trustees for the payment of his Debts.

An Act to prevent abuses committed by Tenants or by

other persons entering and keeping possession of Messuages Lands and Tenements before a legal Title to the same is obtained.

[The first two are supplementary to acts already disallowed. On the third Mr. Jackson observed that it] is too great an Invasion, of the Jurisdiction of the Supreme Court, the extent of which Jurisdiction it is of the highest importance both to the Mother Country and to the Colonies to preserve ; That besides this Invasion, it cannot but frequently happen, that in the Execution of the Jurisdiction given by the Act Titles will come in Question before those, who cannot be competent for the purpose of restoring Possession only (tho' not similar to any in this Country, and perhaps otherwise Faulty) it might have been free from this last objection ; but that a Plaintiff under the last Clause of the Act is to support his Ownership, as well as his former Possession, and must consequently produce a Title for the opinion of three Justices.

[*pp.* 214, 286, 312.]

[227.] [Three Dominica acts of 1769–71 are disallowed, on a Committee report of 17 June, agreeing with the following Board of Trade representation of 12 May, referred to them on 15 May :—]

19 June.
Dominica.

An Act to naturalize John De la Tour of the Island of Dominica Merchant, a Protestant, but an Alien born.

. . How far the practice which has obtained in some of Your Majesty's Colonies of admitting Aliens, after a Short residence therein, to all the privileges and Capacities of Natural born Subjects by Acts of Assembly may be founded in Policy, or strictly consonant to the Terms and prescriptions of the Brittish Acts of Parliament in that case provided must be Submitted to Your Majesty's wisdom to determine, in the present Case however we think it our duty to observe, that the Act now before Your Majesty gives to the Object of its provision all the privileges of Naturalization in terms more general and enlarged than have hitherto been made use of in Laws of the like Nature in other Colonies. . .

1772. § 227 *cont.*]

An Act for establishing a Publick Treasury, for regulating the Duty of a Treasurer; and for fixing his Salary.

An Act to regulate the proceedings of the Assembly on all Bills to impose any Tax on the Inhabitants of this Island.

[Mr. Jackson reported :—] that the former of these Acts does not only Subject the Treasurer's account to the Audit of the Committee of the two Houses of Assembly, before the payment of Demands on the Publick; but renders the Treasurer incapable of giving a vote of a Money Bill though he be a Member of either House, a provision of a very singular nature and certainly not fit to be a Law without the previous Consent of the Crown.

The last of these Acts Ordains, that no Tax Bill shall be brought into the House of Assembly, until six days after the same shall be moved for, or read as a Bill, until the Speaker shall have Summoned all such of the Absent Members to attend as shall at that time be upon the Island—This regulation, Mr. Jackson observes, may induce a doubt upon the validity of future Acts of Assembly, which regulation Your Majesty not having in Your Wisdom deemed a fit part of the Original Constitution of the Assembly should not, as he thinks, be now made a part thereof, before the same be first Submitted to the Crown, in the mean time all that is useful in the Act may be effected, as far as is proper in point of safety by Order of the respective Houses.

[Both acts, although of a new and extraordinary nature, lack a suspending clause.] [pp. 250, 287–9, 313.]

19 June. [228.] [Two West Florida acts of 1770–1 are disallowed, and a letter ordered to be written to the Governor in accordance with the Committee report of 17 June, agreeing with the following Board of Trade representation of 7 May, referred to them on 13 May :—]

West
Florida.

An Act to indemnify the Officers, or others Commanding the Forts at Rose Island, and in the Town of Mobile from Prosecutions in the Cases therein mentioned.

By this Act the Officers, or Persons Commanding at the Forts on Rose Island, and in the Town of Mobile, are empowered and required to Fire a Gun or Guns with Shot at any Vessel (Coasters excepted) the Master of which shall refuse or neglect to bring to, being thereto Summoned by the firing of one Gun without Shot, in order to Compell the said Masters to shew their Fort Passes . .

Mr. Jackson . . observes, "That such a Law is very dangerous, as it provides an indemnity upon Terms so little circumscribed, as to render that Indemnity a probable encouragement to an improper use of it ; that the neglect or refusal mentioned in the Act may be a very proper ground for Seizure and forfeiture, but ought not without further Circumstances, as he apprehends to be made a warrant for Firing with Shot with a general impunity, be the consequences what they will ; That We have Statutes in England authorizing expressly the use of arms against Offenders, but then the Authority is confined to Cases, where the Offenders resist with Arms and do not barely refuse to Submit ; and the Common Law Indemnifies those, who kill offenders in certain Cases but which are utterly unlike the present, besides the Act implies, that this dangerous Power is to be exercised only for the purpose of obliging vessels to take out the Governors pass, without regard to the obedience due to the Acts of Parliament of Great Britain."

[The Board of Trade agreed that,] altho' it evidently seems necessary, that some regulation should be laid down agreeable to the general Principle of the Act for preventing Masters of Vessels from departing out of the Ports of Pensacola, or Mobile without proper Clearances at the Custom House of the said respective Ports, yet . . the Mode of enforcing this Law is much too abrupt, and may lead to dangerous and Sanguinary consequences.

[The Committee proposed that a letter be written to the Governor to recommend the passing of a new law free from these objections.]

1772. § 228 *cont.*]

2nd. An Act to prevent Masters of Vessels from carrying off persons in Debt from this Province; for improving the Coasting Trade, and for repealing the Acts of this province therein mentioned.

By a Clause contained in this Act all Vessels having obtained a Coasting pass shall be allowed to pass any Fort in the province without being stopped, or obliged to shew any let-pass whatsoever, upon hoisting a certain Signal directed and appointed by the Governor. . .

[Mr. Jackson, having considered attested copies of the act and of the dissent of the collector of Pensacola, a member of the Council, transmitted by the Commissioners of the Customs in America, reported] that they do certainly contain an insurmountable objection to the Act in Question, namely, that it is repugnant to the provisions of an Act passed in the fourth Year of Your Majesty's Reign for granting certain duties in the British Colonies and plantations in America, and other purposes. [pp. 241, 289-92, 314.]

19 June. [229.] [On a Committee report of 17 June, the petition of
North James Macdonald of Portree and Norman Macdonald of Sleat,
Carolina. in Skye, for themselves and Hugh Macdonald, John Betton, and Edmund and Alexander Macqueen of Sleat, the Rev. William Macqueen and Alexander Macdonald of Skye, for 40,000 acres in North Carolina—which had been referred to the Board of Trade on 14 June, 1771—is dismissed. The Board of Trade reported on 21 June, 1771,] that the emigration of the inhabitants of Great Britain and Ireland to the American Colonies is a circumstance in their opinion cannot fail to lessen the strength and security, and to prejudice the Landed Interest and Manufactures of these Kingdoms, and the great extent to which this Emigration has of late years prevailed, renders it an object well deserving the serious attention of Government. [VIII. p. 276; IX. pp. 298, 319.]

19 June. [230.] [Reference to the Committee of a Board of Trade
Dominica. representation of 16 June on a memorial from Governor

§ 230 *cont.*]

1772.

Leyborne praying that all grants and leases of lands in Dominica may be granted under the seal of the Governor of Grenada in spite of the separation of Dominica from the government of Grenada.] [p. 322.]

[On the Committee report of 19 Dec., the Board of Trade (1773.) are directed to prepare instructions for the Governors of 15 Jan. Grenada and Dominica, and the Treasury to give directions to the Commissioners for Sale of the Lands. The Board of Trade had represented that the order for passing grants in Dominica under the seal of the government of Grenada had not been superseded and must be complied with until his Majesty should signify his pleasure to the contrary; and the Committee thereupon recommended that instructions be prepared revoking this arrangement and requiring grants of land in Dominica to be passed under the seal of that island. These instructions were approved on 26 Feb., 1773. (P.R.) [p. 319; X. pp. 12-4, 44.]

[231.] [Reference to the Committee of a Board of Trade 19 June. representation of 16 June on several proceedings of the New New York. York Assembly from 7 Jan. to 24 March,] containing Resolutions touching the Disqualification of certain Members of that Assembly and tending to Subvert the principles of the Constitution of the Colony. [p. 323.]

[Committee postpone consideration.] [p. 525.] 19 Dec.

[232.] [Reference to the Committee of a Board of Trade 8 July. representation of 24 June] upon considering the Case of the Labrador. Landholders in Canada proprietors of Seal fisheries on the Coast of Labrador and their Lessees, as also of the possessors of certain Seal fisheries on that Coast under Grants from the Governor of Quebec. [p. 368.]

[Committee. The representation is referred back to the Board 19 Dec. of Trade to confer with the Governor of Newfoundland thereupon, and report how far the seal fisheries on the Labrador coast may be relieved from the detriment caused by the Governor's regulations for whale and cod fisheries without prejudice to

1772. § 232 *cont.*]

the considerations of policy which led to the annexation of Labrador, Anticosti and the Magdalene Islands to Newfoundland by the proclamation of 7 Oct., 1763.

On the same day the Committee postponed consideration of Monsr. Hocquart's claim to a fishing post on the coast of Labrador.] [pp. 520, 525.]

(1773.) [Committee. Board of Trade report on Hocquart's
2 Mar. memorial] Read and postponed. [X. p. 68.]

(1773.) [On the Committee report of 7 April, order is given to the
22 April. Attorney and Solicitor General to prepare an instrument for reannexing to Quebec the coast between the river St. John and Anse des Espagnols, or Bay Phélypaux, and Anticosti and the Magdalene Islands.

The Board of Trade represented on 24 June] That they have had under their Consideration a Paper Communicated to them by the Merchants of Great Britain interested in the Trade of Quebec . . describing the particular Nature and Circumstances of those Fisheries, and Stating the great Loss and Detriment which have ensued, by those fisheries being made Subject to such Rules and Regulations, as the Governor of Newfoundland has thought necessary to be laid down for the Fisheries of Cod and Whale, since the said Coast of Labrador has been annexed to that Government, That they have likewise taken into their Consideration [a similar memorial of sundry inhabitants of Quebec to Governor Carleton : whereupon they represent] That while Canada remained in the Hands of the French, and the Coast of Labrador was considered as a dependency thereupon, a Fishery for Seals was amongst other objects of National concern, attempted and brought to a Degree of perfection, and the returns from this branch of the Exports of Canada amounted annually to about Ten thousand pounds Sterling ; In consequence of these attempts, Grants of several Islands in the River and Gulph of St. Lawrence and some Tracts on the Main Land, with the exclusive Privilege of Seal Fisheries &c. were made in times past by the Crown of France to certain persons and the rights

of Property thereby vested in them have passed as Inheritances, and been Sold and Leased to Tenants at Pleasure ; Various other Species of Claims have been exhibited as derived from French Tenures, which it is needless now to Enumerate and which have passed by Succession through different Hands ; and since the Cession of Canada, these fisheries have been again taken up, and sundry of Your Majesty's Subjects have Possessed themselves of posts and Settlements, either in virtue of Leases from proprietors under French Titles, or by Grants from Your Majesty's Governor of Quebec for a Term certain, or until such time as Your Majesty's pleasure should be known, In Confidence of the Validity of these Tenures, it is stated that many Adventurers have followed the Established Practice of Canada by Purchasing from the former Grantees the whole of their Dwelling Houses, Fishing Implements, Utensils and Warehouses, appropriated to particular Posts or passes, and large Sums are said to have been employed in re-establishing these fisheries ;—That the Fishery for Seals it is asserted, cannot be prosecuted in the open Seas, and made general like those for Cod and Whales, but is practised in a manner widely different from any other fishery in the Gulph or River St. Lawrence, and requires much Judgment and circumspection, it is chiefly formed by the contiguity of small Islands or Rocks to the Main Land, which occasion Strong Currents, called passes, where only such fisheries can be exercised, and to which the make and Contexture of the Nets must be particularly fitted ; it is chiefly followed in the winter Season, and the immediate operation of Catching these Animals commences in December and lasts only about fifteen Days ; but the fishers employed in the Business must be at their Station in the course of the Month of September, and cannot get away from it before the end of May—[that in 1763 Labrador and the islands were annexed to Newfoundland in order to extend the freedom of the fishery to their coasts : but that to subject the seal fishery to the same rules as cod and whale fisheries would be to destroy it :] That the Seal

1772. § 232 *cont.*]

Fishery being of necessity a sedentary fishery, requiring great Expence, Nets of a particular quality and Construction, immediately fitted to the pass they belong to, employing materials of a bulky nature, and requiring Houses for wintering the fishers, cannot be made open and general in the manner of fisheries abovementioned ; nor can the Posts occupied by Adventurers in the Business be quitted at pleasure, or Transferred to first Comers, as is practised in the Newfoundland fishery ; and accordingly they find not only from the papers under present Consideration but from various other Documents in the Plantation Office, that many and great Complaints have been preferred against the Rules and Regulations, which have been extended to this Coast, since it has been annexed to the Government of Newfoundland ; and which Rules being calculated with a view to encourage the two great fisheries for Cod and Whales, and contrived to Quicken the Activity and emulation of Adventurers of Great Britain, by laying the several Posts and Passes open to the first Arrivers, have been found absolutely incompatible with the principles on which the Seal fishery can alone be conducted ; to prevent therefore any further disturbance to Individuals in their private Claims and Possessions and to save the Mother Country the Advantages to be drawn from this branch of Commerce, which seems to be no inconsiderable Object ; [the Board of Trade submitted whether the Labrador coast from the river St. Johns to the Strait of Belleisle along with the adjacent islands should not be reannexed to Quebec in view of the inconveniences which have occurred, and which could not have been foreseen from the information before his Majesty in 1763, leaving the coast from the Strait of Belleisle to Hudson Strait, where there are very valuable cod fisheries, under the government of Newfoundland.

On the reference by the Committee on 19 Dec., 1772, the Board of Trade reported] that the Regulations, which have been made for the encouragement of the fisheries for Cod and Whales, are in their present State incompatible with that permanent residence and continued possession, which are

essential to the Seal and Salmon Fisheries and that those fisheries cannot be relieved from the loss and detriment, which the proprietors of the different posts upon that Coast complain of, whilst the Regulations above mentioned are continued in force ; It was not however upon this Ground altogether that they recommended the annexing to Quebec, that part of the Coast described in the Representation above-mentioned ; for, when it appeared upon examination, that a great part of it was claimed as private property under Grants from the Government of Canada, and that Your Majesty was bound by Treaty to admit those Claims, the Consideration of Policy was out of the Question ; And Your Majesty could not as they conceive, in Justice, warrant the enforcing any Regulations which both in their Nature and Principle were Subversive of those Rights ;—That those Claims do not appear upon further examination to comprehend all the Coast between the River St. John and the Streights of Bellisle, and that they extend no further than the Ance des Espagnols or Bay Philippeaux ; whatever therefore lies to the Eastward of that Limit may very properly continue within the Government of Newfoundland, and the disadvantage in point of fishery, of re-annexing the remainder to the Government of Quebec (if any) will be the less, as by far the greater part of it is Rocky and inaccessible, and therefore can be of no use to the Cod Fishery.

[X. pp. 144–9, 181.]

[233.] [Reference to the Committee of a Board of Trade representation of 24 June for disallowing a Jamaica act of Dec., 1770,—for dividing the parish of St. James into two distinct parishes for the ease of the inhabitants.] [p. 369.]

8 July.
Jamaica.

[Committee. The representation is referred back to the Board of Trade with a petition of Stephen Fuller, agent for Jamaica, declaring that he has many reasons to offer which may induce the Board to recommend the confirmation of the act.] [p. 521.]

19 Dec.

[The act is disallowed, and an additional instruction ordered to be prepared, in accordance with a Committee report of

(1773.)
5 Mar.

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1772. § 233 *cont.*]

2 March, agreeing with the Board of Trade, who reported that the act, in spite of an instruction to the Governor, provided for the addition of two members to the Assembly and was not accompanied by a suspending clause ; but, in view of Mr. Fuller's assurances that it would relieve the inhabitants of an extensive and opulent parish from many inconveniences, and of the fact that, despite the prodigious increase of the people and products, the Assembly had not been enlarged for half a century, recommended that the Governor be allowed to assent to a new law corresponding in all respects to that repealed. The instruction was approved on 26 March. (P.R.)] [X. pp. 63-5, 78-9, 99.]

8 July. [234.] [Reference to the Committee of a Board of Trade
St. Vincent. representation of 24 June for disallowing a St. Vincent act of July, 1771,] declaring all purchases and Conveyances made or Agreements entered into with the Charribbs of St. Vincent, to be ipso facto null and void ; and for inflicting punishments on such persons, as shall hereafter receive from the Charribbs any Conveyance of the Lands they hold under his Majesty's Sufferance. [p. 369.]

(1773.) [On the Committee report of 19 Dec., the act is disallowed
15 Jan. and order given for bringing writs of intrusion against purchasers of Carib lands.

On considering the act, an instruction of 25 Jan. 1771 to Governor Melville, and other papers, Mr. Jackson reported] "That there appear to him great and insurmountable Objections to the Act ; particularly that Notice was not publicly given of the bringing in the Bill in the parish Church, wherein the Lands affected by it lye, three Sundays successively before the Bill proposed ; and that it does not contain a Clause suspending its execution. . .

That it is true, the Act is grounded on an Additional Instruction, which had it been strictly pursued, might perhaps have removed the latter objection but which could not certainly have been intended to supersede the regulation, on which the first objection is founded.

And as the Act varies so materially from the Directions of the additional Instruction, he conceives the other objection is at least as weighty as the former, and that an Act of so unusual and extraordinary a nature ought to have contained a suspending Clause, unless the whole of the Act, or at least the Substance of it, as it now stands, had been previously Submitted to the approbation of Your Majesty in Council."

He observes, "That the Additional Instruction confines itself to two objects ; one, the declaring all purchases already made, or Agreements entered into with the Charribbs for the purchase of any part of the Lands they now hold under Your Majesty's Royal Protection and Clemency, to be ipso facto void ; The other the inflicting proper punishments, on such person or persons as shall presume to receive from the Charribbs any Grant, Lease, or Conveyance whatsoever of Your Majesty's said Lands, or to enter into any Agreement for that purpose.

That the Act makes void not only Sales, Leases, Contracts, and Agreements already made, but all such Sales &c. made after publication of the Act ; and extends the provision to all Lands in the Island, though perhaps it is not an extravagant supposition, that the Charribbs may purchase under your Majesty's Grant to some of Your Majestys White Subjects.

That, however equally proper it might have been to have extended the Instruction to after-purchases, had Your Majesty in Your Wisdom so thought fit ; Yet the Cases, he Observes, certainly differ, and the Legislature of St. Vincents, are not warranted by the Instruction to put them on the same footing without a suspending Clause ; That many reasons might determine Your Majesty to consent to a declaratory Law, making void purchases, the circumstances of which had perhaps been already laid before Your Majesty ; but that the declaring void all future purchases is certainly a Measure, that widely differs from the other ; and it besides palpably appears to have been the View of the Instruction to Vacate the former purchases, because unfit Objects for punishment ;

1772. § 234 *cont.*]

to restrain future purchases by punishment, because punishment is in this case deemed a Sanction of the Law sufficient.

That, besides, that it may well be doubted, whether the punishment inflicted by the Law is that proper punishment intended by the Instruction, it is here extended to a case not within the view of the Instruction ; That to use any means or endeavour to persuade the Charribbs into a belief, that they have a right to sell or dispose is a description of a Crime much too indefinite for any Law, but that it is certainly not warranted by the Instruction, and ought not therefore to have made part of a Law unaccompanied by a Suspending Clause.

That the Clause, which limits the duration of the Act, is besides incongruous with the rest of the Law ; that to extend this Clause to the whole of the Act would be absurd, because it would be absurd to make purchases void for three Years, and afterwards revive them ; it would besides be short of the Instruction, as to the Sales past ; that if the Clause does not extend to the annulling part of the Act, it is uncertain to what it does extend ; and the Act besides becomes obnoxious to that part of Your Majesty's eleventh General Instruction, which directs, that no perpetual Clause be part of any temporary Law ; That upon the whole, he is of opinion, that Your Majesty's additional Instruction is no foundation for this Act, and does not therefore take the Act out of the Rule respecting Laws of an unusual and extraordinary nature."

[The Board of Trade agreed that the act should be disallowed ;] and altho' we are clearly of opinion that a Law properly framed, conformable to Your Majesty's Instructions, would have been the most effectual and proper Method of defeating the many unwarrantable Attempts made to set up a Right in the Charribbs to Lands, the property of which we conceive to be in Your Majesty ; Yet if Your Majesty shall think fit in consequence of the Objections above Stated to disallow the present Law ; We see no other Remedy than that of directing the Law Servants of the Crown in that Government to bring Writs of Intrusion against the persons

§ 234 *cont.*]

1772.

who do now claim possession of any Lands in Your Majesty's said Island of St. Vincent, in consequence of purchases made or pretended to have been made of those Charribbs without Your Majestys Licence. [pp. 515-8; X. p. 11.]

[235.] [Reference to the Committee of the petition of Pierre Roubaud, formerly a Jesuit in Canada, setting forth that on the conquest he took the oaths and was employed by the Government: that, when he was sent to England by General Murray, the Jesuits, in Murray's presence, agreed to pay him a pension of 120 guineas a year, but refused to pay the same after the first year: and praying that the Jesuits be caused to pay to him in London—and on his decease to his wife—a pension of 200 guineas a year instead of 120, with all arrears and interest.] [p. 370.]

8 July.
Quebec.

[236.] [Reference to the Committee, and by them on 19 Dec. to the Board of Trade, of the petition for relief of William Bollan, late his Majesty's advocate for Massachusetts Bay, in consideration of his services with respect to trade and connections with the colonies, and of several hardships suffered in the course of their performance.] [pp. 370, 522.]

8 July.
Plantations.

[The Council refer it to the Treasury to grant relief in accordance with the report of the Committee of this date, agreeing with the Board of Trade,] That the merit of the Memorialist not only in the Instances of Publick Service stated in his Memorial, but also in many others equally Useful and Important, has been verified upon the fullest Evidence and Testimony . . . and therefore when the said Lords Commissioners consider this Gentlemens merit and combine that Consideration with the Hardships sustained, in his Removal from his Offices of Advocate of the Vice Admiralty Court, and Collector of Your Majesty's Customs at Salem, [they cannot but recommend him for relief.] [X. pp. 143, 167.]

(1773.)
7 April.

[237.] [Reference to the Committee of the petition of Don Pedro Joachin de Rotaldi and Esprit Barrall, merchants of Jamaica, that the Council dismiss for non-prosecution the

8 July.
Jamaica.

1772. § 237 *cont.*]

appeal of James Ord and James Prevost from an order of the Chancellor, 22 Nov. 1770, in a case relating to several bonds.]

[*p.* 371.]

18 Dec. [James Ord having died since the appeal was admitted, Prevost and John Ord, of Lincoln's Inn, petition that the appeal be revived and heard, and are referred to the Committee. Other names in this entry are Bryan Edwards, Peter Barrall, and Juan Arracheretia.]

[*p.* 510.]

(1773.) [The Committee revive the appeal by making John Ord a party.]

[*X.* *p.* 95.]

(1773.) [On the Committee report of 18 Dec., the order is varied

31 Dec. by the consent of all parties.]

[*X.* *pp.* 380, 392.]

31 July. [238.] [Reference to the Committee, and by them on 19 Dec. to the Board of Trade, of the petition of Robert Campbell, gent., late planter in North Carolina, for relief and provision for his future subsistence in view of his services and losses during the war and particularly during the late unhappy commotions in that colony.]

North
Carolina.

[*pp.* 396, 523.]

21 Aug. [239.] [On reading letters from Rear Admiral Montague, commander in chief of H.M. ships in North America, to the Secretary of State and to the Admiralty, and from the Governor of Rhode Island to the Secretary of State, giving an account of the burning of the *Gaspée* schooner and the wounding of her commander in Providence river, and a report of the Attorney and Solicitor General thereon ; these law officers are directed to prepare the draft of a commission for the Governor of Rhode Island, the Chief Justices of New York, New Jersey, and Massachusetts Bay, and the Judge of the Vice Admiralty Court for Massachusetts, Rhode Island, and Connecticut, or any three of them, to inquire into the matter and report to his Majesty in Council; and also to prepare the draft of a proclamation offering pardon to any of those concerned who shall discover any of their accomplices (those being excepted who respectively assaulted the commander and assumed to be sheriff of the province), and

Rhode
Island.

§ 239 *cont.*]

further offering 500*l.* reward for information leading to a conviction.

A letter of 22 Aug. to the Attorney General requests that the drafts be prepared with all possible expedition and transmitted on Tuesday, as the ship which is to carry the commission and proclamation is ready to sail, and the Council meets on Wednesday. A postscript mentions that the letters are enclosed, and are to be returned with the drafts:] As to the New England Commission in 1663 it is not in this office.

[*pp.* 421, 423.]

[The commission and proclamation are approved and the Chancellor directed to have the Great Seal affixed to the latter. Both documents are given in full in the Register. The commissioners appointed were the officials named above, *i.e.* respectively, Joseph Wanton, Daniel Horsmanden, Frederick Smyth, Peter Oliver, and Robert Auchmuty. The commander of the *Gaspée* was Lieutenant William Dudingston. Lieut.-General Gage, commander-in-chief of the forces in North America, is instructed to hold himself in readiness to send a sufficient force into Rhode Island whenever called on by the commissioners. The Governor is to deliver any persons arrested to the admiral or commander in chief of the fleet on that station in order that they may be sent to England for trial,] taking care to give the persons so to be sent over due notice for getting their Witnesses ready to attend their Tryal here, as also to see that proper Witnesses be likewise sent over in support of the Charge against such offenders. [Similar orders are given to the naval commander. A letter to the Treasury requests that orders be given to their solicitor to pass the commission through the several offices.]

[*pp.* 424–30, 433.]

[Reference to the Admiralty of Captain Dudingston's petition for such support as in his Majesty's wisdom shall seem meet. He set forth that being ordered to cruise in the *Gaspée* on the coast of Rhode Island, he] made several seizures, and put almost an intire stop to the illicit Trade of that Colony,

1772.

26 Aug.

18 Dec.

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1772-3. § 239 *cont.*]

which so exasperated the Inhabitants, that at Midnight between the 9th and 10th of June 1772, while the said Schooner lay aground on a Spit of Sand in Providence River, about two hundred Men in seventeen armed long Boats attacked the said Schooner took and burnt her, That the petitioner in doing his Duty in Defence of the said Schooner was dangerously wounded, and still labours under an expensive and ineffectual Cure.

[*p.* 512.]

(1773.) [On the Admiralty report of 28 Jan., Dudingston is allowed
8 Feb. five shillings a day on the ordinary estimate of the Navy besides his half-pay; and the expenses of his cure are also allowed in the same manner as if he had been wounded in fight with the enemy.] [X. *p.* 29.]

GEORGE III. VOL. X. (January, 1773—April, 1774.)

1773.

15 Jan. [240.] [Reference to the Committee of the petition of
New York. James Jackson, and of his lessors, Thomas Williams, Harmen van Hoesen, William W., Cornelius, and Volckert G. Vandenberg, Anthony van Tevere, and Dirk Bradt van Schoenhoven, that the Council dismiss with exemplary costs for non-prosecution the appeal of John van Rensselaer from a judgment of the Governor and Council of New York, 19 June, 1770, affirming a sentence of the Superior Court, 23 June, 1763, in an action to recover some lands and premises in the county of Albany.] [*p.* 18.]

31 Mar. [On the Committee report of 27 March, the appeal is dismissed for non-prosecution.] [*pp.* 118, 127.]

8 Feb. [241.] [On an Admiralty memorial of 18 Jan., a pension of
Nova Scotia, 100*l.* on the ordinary estimate of the Navy is allowed to Joseph
Antigua and Gerrish, who after 16 years service is resigning the office of
Jamaica. storekeeper of the dockyard at Halifax, N.S., owing to age and infirmity.] [*p.* 29.]

(1775.) [On an Admiralty representation of 9 Feb., 100*l.* a year is
10 Feb. settled on Lieutenant James Burnett, who has been obliged to

§ 241 *cont.*]

1773.

resign the office of storekeeper of the dockyard at Jamaica] by the unfortunate Loss of Eyes. [XI. p. 404.]

[100*l.* a year is allowed to Henry Topham, naval storekeeper at Antigua, who has been deprived of his mental faculties.] (1781.) (5 Sept.) [XIX. p. 510.]

[40*l.* a year is allowed to Thomas Sutton, chief clerk in the naval storekeeper's office in Jamaica.] (1783.) [XXI. p. 347.] 11 July.

[242.] [Reference to the Board of Trade of the petition of Major-General John Bradstreet for a grant to him and his associates, on the like terms with Sir W. Johnson's grant, of 300,000 acres purchased by him for a valuable consideration at a public meeting with the Auchyuagey Indians, held in 1769, in the presence of Sir W. Johnson and of Governor Moore of New York, and by authority of the said Governor, agreeably to the terms of the proclamation of 7 Oct. 1763.] [p. 81.] 5 Mar. New York.

[243.] [Reference to the Committee of the petition of Conway Richard Dobbs and Edward Brice Dobbs, Esqrs., of the kingdom of Ireland, that the Council dismiss with costs for non-prosecution the appeal of Abner Nash, attorney-at-law, of North Carolina, from a Chancery order of 16 Jan. 1771, overruling the demurrer of Abner and Justina Nash to a bill filed by the petitioners, the sons and devisees of Arthur Dobbs, the late Governor.] [p. 103.] 26 Mar. North Carolina.

[Similar reference of the petition of Nash and his wife, the widow of Arthur Dobbs, for a day for hearing their appeal.] [p. 258.] 28 July.

[On the Committee report of 12 May, the decree is reversed. Other names in the report are William Tryon, the Governor ; Samuel Smith, the testator's agent in London ; and Frederick Gregg, attorney for C. R. and E. B. Dobbs in Carolina.] (1774.) 20 May.

[XI. pp. 48-55, 77.]

[244.] [Reference to the Committee of the petition of Elizabeth and Isaac Smith, William Taggart, Israel Church, and Sarah his wife, all of Middletown, Newport co., Rhode Island, that the Council dismiss for non-prosecution the 31 Mar. Rhode Island.

360 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1773. § 244 *cont.*]

appeal of Giles Sandford and Elizabeth his wife, from a decree of the Superior Court in Sept. 1771, affirming a verdict of the Inferior Court in May 1771, in a case relating to a house and land in Middletown, formerly the estate of Edward Smith.] [IX. p. 480 ; X. p. 127.]

4 Aug. [On the Committee report of 29 July, the appeal is dismissed for non-prosecution.] [pp. 261, 266.]

31 Mar. [245.] [Reference to the Committee of the petition of Rhode Island. John Dockray, of South Kingstown, King's County, Rhode Island, that the Council dismiss with exemplary costs for non-prosecution the appeal of Gervase Elam from a judgment of the Superior Court in Sept., 1771, on an appeal from a judgment of the Inferior Court in May, 1771, in Elam's action to recover 4,000*l.* currency upon a promissory note.]

[IX. p. 480 ; X. p. 128.]

22 April. [Elam's petition for a day for hearing is also referred.] [p. 183.]

(1774.) [On the Committee report of 12 May, the judgment of Sept. 1771, is reversed, and the parties left at liberty to proceed upon the former judgment. Other names in the report are James Robinson, Giles Hosier and W. Chaloner.]

[XI. pp. 33-9, 74.]

7 April. [246.] Whereas it has been Represented to His Majesty, Plantations. that the State and Condition of His Majesty's Colonies and Plantations in America, do both in Justice and Expediency require that the Authority for Granting Lands contained in the Commissions and Instructions given to His Majestys Governors in the plantations should be further regulated and restrained and that the Grantees of such Lands should be Subjected to other Conditions than those at present prescribed in the said Instructions—[It is ordered that the Board of Trade take the matter into immediate consideration and report what alterations they think fit and necessary :] and until His Majesty's further pleasure be Signified, all and every His Majesty's Governors, Lieutenant Governors, or other persons.

§ 246 *cont.*]

1773.

in Command in His Majestys Colonies in North America, who are entrusted with the Disposal of His Majesty's Lands in the said Colonies [are to] forbear upon Pain of His Majesty's Highest Displeasure, and of being immediately removed from their offices, to issue any Warrant of Survey, or to pass any Patents for Lands in the said Colonies or to Grant any Licence for the purchase, by private persons of Lands from the Indians, without especial Direction from His Majesty for that purpose, under His Majesty's Signet or Sign Manual, or by Order of His Majesty in His Privy Council, excepting only in the Case of such Commission and non-Commissioned officers and Soldiers who are Intitled to Grants of Land in Virtue of His Majesty's Royal Proclamation of the 7th October, 1763 to whom such Grants are to be made and passed, in the proportions and under the Conditions prescribed in His Majesty's said Proclamation.

Memd. The Order in Council to prohibit the Governors of the Plantations from granting Lands till further Order was transmitted by the Secretary of State to the following Colonies Vizt.—Nova Scotia, New Hampshire, New York, Virginia, North Carolina, South Carolina, Georgia, East Florida, West Florida.

[p. 157.]

[Reference to the Committee of a Board of Trade sketch of additional instructions.] 9 June.

[p. 220.]

[The Committee order the preparation of drafts conformable to the sketch for all the colonies except Quebec] within which Province His Majesty hath to the great satisfaction of all His Majesty's faithfull Subjects there, directed that the Lands shall be granted in the same mode and upon the same Conditions as were practised when that Colony was under the Dominion of the Crown of france. 28 Oct.

[p. 323.]

[Instructions for the colonies named in the memorandum above are approved, with an amendment proposed by the Committee in their report of 25 Jan., omitting the proposed table of fees, as these have been settled by laws in the several colonies, and directing merely that the fees be such as are allowed by law and no other.] (1774.) 2 Feb.

[pp. 414–5, 426.]

1773.

7 April.
Virginia.

[247.] [Three Virginia acts of April, 1772,—(a) to amend an act to prevent malicious maiming and wounding; (b) for continuing and amending several acts and reviving one act for laying duties upon slaves imported; and (c) to compel ships importing convicts, servants or slaves infected with the gaol fever or small pox to perform quarantine—are disallowed, on the Committee report of 5 April, agreeing with a Board of Trade representation referred to them on 26 March :—] That the first of these Acts above recited contains certain provisions for the punishment of Offenders, who shall be found guilty of Maliciously maiming and wounding any of Your Majesty's Subjects in that Colony; [Mr. Jackson has reported] that although this Act appears to him to be expedient as to it's objects; Yet he conceives the mode adopted is not proper for the Attainment of those objects, inasmuch as it has a tendency to confound the principles of legal proceedings, by giving the effect to a Criminal prosecution to an Action upon the Case, and because under it, it is not impossible that a person of the first Condition in the province may by a passionate and hasty Verdict (giving outrageous damages) be exposed to Corporal punishment; and as every view of this Act may be answered by another, facilitating the proceeding by Indictment, and giving with permission of Your Majesty, a Share of the Fine to be Imposed on the Delinquent to the prosecutor, he is of opinion that it will be proper to recommend the repeal of it. [The Board of Trade concurred] for these Reasons, as likewise forasmuch as the said Act contains a Clause, which makes it lawful for any person whatever in his own Name to prosecute for any Injury by an Action upon the Case, where the person wounded shall neglect for three Months to commence and prosecute his Action for the same, which Clause appears to the said Lords Commissioners highly exceptionable.

[The second act revives and continues part of an expired act of 10 George III, which laid an additional duty of 5% on the purchase of slaves imported, although the Governor

§ 247 *cont.*]

1773.

had been instructed not to assent to any such act for the future. (*Cf.* 171.)

The third act is liable to the same objections as were made to a similar act of 1767, disallowed in 1768 (*pp.* 163-4), and the contractor for the importation of convicts has represented that the restraints provided by the act must operate as a total prohibition of the importation of convicts to Virginia and so far counteract the spirit of the Act of Parliament in that case provided.] [*pp.* 101, 132-5, 161.]

[248.] [A Montserrat act of July, 1770,—for constituting a Court of Chancery to be held in and for this island—is confirmed, on the Committee report of 5 April, agreeing with a Board of Trade representation of 15 March, referred to them on 26 March, showing the delay and inconvenience caused to suitors by the general residence of the Chancellor (the Governor) in Antigua. The court was to consist of the Governor with five of the Council at least, or, in his absence, of the Lieut.-Governor or President with four of the Council at least. The act was accompanied by a suspending clause, and although the Board of Trade found that their predecessors in 1731, in commenting on an Antigua act which contained regulations of a similar nature, had questioned the propriety of allowing a Court of Chancery to be established by Act of Assembly, it being a material part of the royal prerogative that ought always to be exercised by the Crown or by persons to whom the Crown might specially delegate the power, yet that law and others like it had been approved, the efficacy of royal commissions in such cases was questionable, and in this instance the advantages to be derived from the act outweighed the objections to it.] [*pp.* 102, 137, 162.]

7 April.
Montserrat.

[249.] [Two Antigua acts of June 1771,—(a) for determining differences by arbitration; and (b) for vesting a certain proportion or parcel of land situate to the eastward of the common jail in the town of St. John's belonging to the heirs of Samuel Lyons, deceased, or to some other person or persons

7 April.
Antigua.

1773. § 249 *cont.*]

claiming a right thereto, in his Majesty, his heirs and successors for certain public uses—are disallowed, and an additional instruction ordered to be prepared, on a Committee report of 5 April, agreeing with a Board of Trade representation of 15 March, referred to them on 26 March, showing that Mr. Jackson had disapproved (*a*) because it excluded the jurisdiction of the Court of Chancery, without any exception such as is made in the English act of 1698, in cases of fraud, corruption or misbehaviour of the arbitrators, and proposing that the Governor be empowered to assent to a new act thus amended : this instruction was approved on 6 May—P.R. ; (*b*) set a price on the lands of persons unknown without giving them an opportunity of opposing the act, and did so without the prior notice requisite in private bills and without a suspending clause.] [pp. 102, 138, 163-4, 187.]

7 April. [250.] [A St. Vincent act of June 1769,—for the relief of
St. Vincent. John Earls and Robert Hunter, insolvent debtors,—is disallowed, on a Committee report of 5 April, agreeing with a Board of Trade representation referred to them on 26 March. Mr. Jackson reported :—] that altho' the Objects of this Act may well deserve the Compassion of the Legislature, and altho' they will probably be out of the reach of process before his Majestys Disapprobation can arrive in the Island, Yet that the Act ought not to acquire the force of a Precedent because it gives the Prisoners the full benefit of our Bankrupt Laws without subjecting them to the Penalties contained in those Laws, in case they do not bonâ fide comply with them ; That he observes it is well known, that the Laws of Bankrupts in this Kingdom have too frequently given encouragement to notorious Frauds ; but that these frauds are practised to the prejudice of Creditors, who know of the existence of the Laws ; That those who trust Dealers in the plantations do it at least under hopes that they are not lyable to this Species of Fraud ; Besides, that it seems doubtful, whether the Effects of these Insolvents are not to be applied to the payment of the Debts

§ 250 *cont.*]

1773.

with which they stand Charged in Execution, to the exclusion of all others. [pp. 101, 136, 164.]

[251.] [Out of thirty Pennsylvania acts of March and Sept., 1772, delivered on 22 Dec. and referred on 15 Jan. (*cf.* Appendix III), observations were made on two by the Board of Trade; and on a Committee report of 7 April, (*a*)—to dissolve the marriage of George Keehmle of Philadelphia, barber, with Elizabeth his wife, late Elizabeth Miller, and to enable him to marry again—was declared void, and (*b*)—to enable William Kembell of Philadelphia, tailor, to hold lands, and to invest him with the privileges of a natural born subject of this province—was reserved for further consideration.

7 April.
Pennsyl-
vania.

On (*a*) the Board of Trade reported] That the dissolving Marriages by Acts of Legislature, tho' not altogether without Example, is a power which has been rarely and recently Assumed in Your Majesty's Colonies in America; That the first Instance they find of such a power in the province of Pensilvania, was in the Case of an Act passed in the Year 1769 for dissolving the Marriage of Curtis Grubb with Anne his Wife and to enable him to Marry again; That as this Act appeared to be of a new and Extraordinary Nature, and as they conceive, that it is of very great Importance that care should be taken that the Assemblies in Your Majesty's Colonies do not assume the exercise of powers beyond what the nature and principles of the Constitution admit, [the Board of Trade referred that act to Mr. Jackson, who reported] that he was inclined to be of opinion that the same was not repugnant to the Laws of England, but as near as might be agreeable to the same, the situation and Circumstances of that province as well as of the other Colonies considered, because the Laws of this Kingdom gave validity to Marriages celebrated according to the Rites and Ceremonies established by the respective Laws not only of the Colonies parcel of the Dominions of Great Britain, but by the Laws of Foreign States, and that it seems as reasonable and as little inconvenient to give Faith to the Dissolution of that Contract under an Equivalent Sanction;

1773. § 251 *cont.*]

That it is true that altho' he conceived an Act of Assembly establishing a Mode of celebrating Marriage different from the legal forms of this Kingdom would if not disallowed by His Majesty be good in point of Law, Yet he could not but presume, that such Act would be disallowed, in case there did not appear sufficient Ground for the alteration established, and therefore if he had not thought the power of Dissolution very expedient in general, and the particular case a proper one for the exercise of that power, he should have thought the Act ought to have been disallowed; But he observed it was evident, that the Marriage of persons residing in the Colonies can hardly be dissolved unless by their own respective Assemblies, and it certainly appeared that in the present Case the Assembly had properly exercised the power, which he was inclined to think they ought to be entrusted with, but inasmuch as the exercise of this Power might frequently affect other parts of Your Majesty's Dominions out of the Limits of the province, and very important Consequences might therefore be drawn from the allowance of such an Act he begged leave to advise, that the said Act be referred to the Consideration of His Majesty's Attorney and Solicitor General. [This was accordingly done, but the law officers have made no return; and as the legislature of Pennsylvania have now passed the present act for the like purpose, the Board of Trade felt it their duty] no longer to withhold the Submitting this matter to consideration, to the end that if it shall be thought that the Acts of Divorce in the plantations more especially in Cases where there does not appear to have been any Suit instituted in any Ecclesiastical Court, nor any Verdict previously obtained in a Court of Common Law, are either Improper or Unconstitutional, Your Majesty may be advised to give such Directions as shall have the effect to prevent the Laws passed by the Legislature of Pensilvania becoming a Precedent and Example for the Exercise of the like powers in other Colonies.

[The Board of Trade had reported that (b)—and also the

§ 251 *cont.*]

1773.

third, the sixth, and the last of those given in Appendix III—contained the like clauses with acts for similar purposes reported on by them on 20 July, 1770, and 13 April, 1772, and submitted what advice may be proper to give thereon. The Committee referred (b) and the Board of Trade report thereon, and also the Board of Trade report of 13 April, 1772, on a Pennsylvania act of March, 1771, for the naturalisation of Peter Mierken, to the Attorney and Solicitor General, to report whether the exercise of such powers by the legislature of Pennsylvania be not repugnant to an Act of Parliament of 13 George II for naturalising foreign Protestants in the American colonies, and to the Acts of Parliament for regulating plantation trade. Letters of 8 April to the Attorney and Solicitor General are also given, requesting their opinion with all possible despatch, as, by the charter of Pennsylvania, acts stand in full force if not declared void within six months of delivery to the Privy Council.]

[*pp.* 14, 152–5, 166, 169–70.]

[Order declaring (b) also void, in accordance with a 19 May. Committee report of 19 May, agreeing with the opinion of the law officers :—] That there is nothing in the Act which is repugnant to the Act of the thirteenth of King George the second, but they are of Opinion that the privileges which this Act offers to Confer, are considerably more Extensive than any provincial Assembly hath authority to give. That it hath been doubted whether the Parliament of Ireland, which is a Kingdom and of great Antiquity, could naturalize to any Effect ; and proved irrefragably, that it could not give, as this Act Imports, all the privileges of a Natural born Subject in any other place than that Island. The Doubt was conceived upon this, that the King cannot naturalize, and their power is derived from His Majesty's Charter, and it had never been Used before the tenth of King Charles the first : which objections apply much more distinctly in point of Fact and History to the American Colonies. But supposing they are thought Competent to Naturalize to Effects merely local and which don't interfere with the Laws of Great Britain, the Act

1773. § 251 *cont.*]

now under Consideration, is Exceptionable, because it purports to give all the Qualities of a Natural Born Subject of Great Britain and particularly the Liberty of Trading contrary to the plantation Act. [pp. 192-3, 194.]

6 May.
Jamaica.

[252.] [Reference to the Committee of the petition of John, Thomas and Robert Cargill and John McDonald, acting executors of George Richards, that the Council dismiss with costs for non-prosecution the appeal of Samuel Smith from an order of the Chancellor of Jamaica, 20 Aug., 1770, in an action by Richards as representative of William Donaldson against Smith as representative of Samuel Johnson, who along with James Barclay in 1749 gave a bond to Donaldson for securing 3,964*l.* 13*s.* 10*d.* currency with interest.] [p. 189.]

4 Aug.

[On the Committee report of 29 July, the appeal is dismissed for non-prosecution.] [pp. 261, 265.]

19 May.
Newfound-
land.

[253.] [Reference to the Board of Trade of the petition of John Agnew of Sheuchan, Wigtonshire, and his associates, for a grant of] all Mines Minerals and Metals already discovered or hereafter to be discovered in the Island of Newfoundland and in the Coast or Country of Labrador between the River St. Lawrence and Hudsons Streights at a certain Limited Distance not Exceeding sixty Miles from the Sea, or flowing of the Sea Water, on any part of the said Coast of Labrador under such Reservations and Restrictions as have been Usual on like Occasions. [p. 197.]

3 July.

[The Committee direct the Attorney and Solicitor General to prepare a draft of a grant on the terms proposed by the Board of Trade report of 3 June. The Labrador coast is now described as bounded by the river St. Johns and the southern limits of the territory granted to the Hudson's Bay Company:] [p. 239.]

(1774.)

[On the Committee report of the same date, the draft is approved and orders given for passing the grant to Agnew, George Stewart of Wigtonshire, and Alexander Dunn, collector

2 Dec.

§ 253 *cont.*]

1773.

of customs for Newfoundland,] for 999 years, with the following Conditions and Restrictions ; Vizt.—

First—That the petitioners shall annually lay before Your Majesty in Council an Account, attested upon Oath of the State of their Works, the number of Persons employed therein, the Quantity of Ore, Mineral or Metal dug up and to what places exported.

Second—That in Case the petitioners shall not lay before Your Majesty in Council satisfactory Proof of their having within seven Years from the date of their Charter, caused diligent Search to be made for, and used their endeavours to discover some Mine or Mines, and shall not within fourteen Years from the said date lay full evidence, if required, before Your Majesty, as aforesaid, of their having opened, dug, and effectually worked some Mine or Mines or extracted some Mineral, or Metal, then and in either Case, upon an Order or Declaration of Your Majesty in Council, the Letters patent shall cease determine and become void.

Third—[One tenth of all ores, minerals and metals that shall be discovered is reserved to his Majesty.]

Fourth—[The grant is without prejudice to the rights of the Canadians under the Treaty of Paris.]

Fifth—[A clause is to be inserted to prevent any establishments by the grantees prejudicial to the fishery.]

Sixth—[The grant is not to debar his Majesty] from granting to any other persons within the said Limits a Liberty of searching and digging for Minerals, and Metals ; Provided such persons do not search for, or dig within four Miles of any Shaft, Pit or place, where [any discovery has been made by the petitioners.] [XI. *pp.* 283–6, 289.]

[Reference to the Committee of] a Report of Thomas Halse (1778.)
Overseer and Director, and of John Dun the clerk to the Mines 28 Jan.
and works now carrying on at Shoal Bay on the South East side
of Newfoundland [in virtue of the above grant]. [XIV. *p.* 467.]

[Reference by Committee to Board of Trade, who are to (1778.)
prepare an additional instruction to the Governor of 7 Feb.

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1773. § 253 *cont.*]

Newfoundland to receive a tenth of all ores extracted from the mines and pay the same to such person as the Treasury shall appoint. A letter of 13 Feb. encloses this order to the Treasury for their directions as to the disposal of the tenth part of the ores.] [XIV. *pp.* 496, 504.]

(1778.) [On the Committee report of 4 May, the instruction is approved (C.R.).* The report of Halse and Dunn showed] 13 May. That there has been a Quantity supposed to be about six Tons of Copper ore chiefly Grey taken out but as the same has not been cleaned and dressed the exact quantity cannot be ascertained, but that no part of it has been or shall be exported without first due notice being given to the Governor for the Time being, or such person as His Excellency shall chuse to appoint to receive the tenth part thereof for Your Majesty's use. [XV. *pp.* 67, 91-2.]

9 June. [254.] [Reference to the Committee of the petition of Pennsylv-
vania. John Hurst, merchant of London, setting forth] That in the last Century James Duke of York by two Deeds of Enfeoffment granted certain Lands, named the Lower Counties of Newcastle Kent and Sussex on the River Delaware, with the Town of Newcastle, and a Circle of twelve Miles round the same, to William Penn proprietary of Pensilvania, but under Express Condition of reserving particular Rents to the Crown; That this Condition tho' Calculated to be productive of much Benefit to the Crown lay wholly unknown to Government for above eighty Years, until the Petitioner in the Year 1770 made the Discovery and pointed out the advantages that might result from a proper Use of the Reservation—And . . praying . . for a Grant of the Reservations due to the Crown from the Lands in Question, for two Lives or such a Term of Years as may be most agreeable to the great munificence of His Majesty. [p. 219.]

30 June. [255.] [Reference to the Committee of a Board of Trade New
Hampshire. representation of 10 May, 1773, on the complaint of Peter

* "C.R." means that the instruction is given in the Council Register.

§ 255 *cont.*]

1773.

Livius, a member of the Council of New Hampshire, against Governor Wentworth, with other papers, enclosed in a letter from Lord Dartmouth to the Lord President.] [p. 231.]

[The Committee heard counsel on 22 July and 29 July, and on the latter date directed the Clerk to transmit the papers to the Speaker. The letter and list of papers enclosed is given under date 30 July. Besides the letter and representation, these comprised (1) a memorial of Sir Thomas Wentworth and others against the representation; (2) minutes of New Hampshire Council, 30 July, 1767—4 Dec., 1772; 77 pages authenticated under seal; (3) 91 pages of depositions; (4) 11 depositions from that of Henry True to that of Nathaniel Peabody; (5) George Wentworth's deposition about the Family Alliance of the Governor and Council; (6) Duplicate of an old grant of lands by Governor Benning Wentworth; (7) Board of Trade's book, entitled New Hampshire Grants of Land to 28 Nov. 1764; (8) extract from the Governor's commission and instructions about land grants; (9) Secretary of State's book—Laws of New Hampshire; (10) index to the proofs in support of Mr. Livius's complaint.

8 Oct.

On the Committee report of 26 Aug., the complaint was dismissed and the Governor directed on no pretence to fail to transmit to the Board of Trade regularly and punctually authentic copies of the journals of the Council as a Council of State.

The reference of 30 June is stated to have been made in consequence of a memorial presented by Sir Thomas Wentworth, Bart., Paul Wentworth, Esq., and Thomas Macdonogh, secretary to Governor Wentworth. The Committee after full consideration reported that the first charge alleged] "That Your Majestys Governor of New Hampshire, has, in concurrence with the Council for the said Province, composed almost altogether of his own Kindred or Relations, by Blood or Marriage, taken upon him to resume and to regrant many large Tracts of Lands within the said Province, the property of Your Majestys Subjects, in Virtue

1773. § 255 *cont.*]

of former Grants, upon bare Suggestion only, that the Conditions of such former Grants had not been complied with and without the Intervention of a Jury or any proof or Evidence whatever to Establish the Fact of such Default."

. . by the Law of England when Lands are granted to a Man and his Heirs upon Condition the breach of the Condition must be found by a Jury under a Commission issuing out of the Court of Chancery, before Your Majesty can Seize and regrant the same : But in the province of New Hampshire, there is no Court of Chancery, or other Court Impowered to Issue such a Commission ; and though the general Rule is that the Law of England takes place in Your Majesty's Colonies, Yet it must be always understood to mean such part of the Law as is suited and adapted to the State of the Colony, and to the Frame and Nature of the Constitution, which hath been Established there ; and no single Instance hath been produced in the province of New Hampshire where the Non performance of the Conditions contained in the Grants of Lands there hath been found by the verdict or Inquest of a Jury previous to the resuming and regranting the same, and such a Mode of Proceeding is not suited and adapted to the State of this Colony and to the Frame and Nature of the Constitution Established there . . Yet no Evidence hath been laid before the Committee of any such Resumptions and regrants having been made without proof or Publick Notoriety that the Conditions of such former Grants had not been complied with ; and no Complaint hath been or is now made by any Person supposed to be injured by such resumptions and regrants.

The Second Article States—" That these Resumptions have been made without any Notice (Except in one or two cases) to the Proprietors of such Tracts so resumed, and that in some Instances in which the Governor and Council did think fit to allow time to the proprietors of certain Tracts to make good the Conditions of their Grants, such Grants were nevertheless resumed and the Lands regranted long before the Expiration

§ 255 *cont.*]

1773.

of the Time allowed and without any Notice given to the Parties.”

. . it hath not been proved that any Resumptions have been made, without notice to the proprietors ; [and the other part of this article not being included in Livius’s original complaint], and the Governor not having had an Opportunity of Answering that Complaint the Lords of the Committee are humbly of opinion no Notice can be taken of it.

The Third Article Represents—“ That the said Governor did without any legal process whatever resume and regrant several Tracts of Land reserved to the late Governor within each of the Townships Granted by him, and which reservations he had by his Will devised to his Widow, and that such Resumption was made in Consequence of a Resolution of the Council, that the said Reservations did not Convey the Premises they being Granted by the Governor to himself.”

. . the Lands were Granted but not reserved to the late Governor and his Heirs in each of the Townships granted by him, but being granted by Your Majesty in Your Majestys Name and Not in the Governors Name, the Grants were sufficient to convey the Lands so Granted to him, and the Council was mistaken in thinking them insufficient ; and . . after such opinion given by the Council, the Governor did with their advice resume and regrant several Tracts of Land, which had been granted to the late Governor within each of the Townships granted as aforesaid : But it hath not been proved that the said Lands were Regranted In Trust for himself, and in many Instances it hath been proved that such Lands were regranted to different Inhabitants in the said Province for their own Use and Benefit ; and the Representatives of the late Governors Widow, to whom he had Devised the same, have not complained of any Injury or oppression by such Resumption and Regrants.

And the fourth Article alledges—“ That pending an action brought in the Inferior Court of Common Pleas in which Your Majestys Governor was Interested, and which he Admits was

1773. § 255 *cont.*]

brought for his Benefit, the Judges were in three successive Terms changed, and special Judges appointed ; That in the standing Court of Common Pleas, which first sat in Judgment upon the Action brought by the Governor, a Question arising out of the Action was decided against the Governors Interest ; That in the second Term two New Judges were appointed, which together with one of the Judges of the Standing Court above mentioned, adopted the Decision of the former Court ; That in the third Term two of the Judges were again changed, when the same Question was again brought forward, and decided in the same manner as above ; That in the fourth Term two of the Judges who sat in the former Court were removed, and a New Bench appointed consisting of Jacob Sheaffe and John Philips Esquires who had not acted in that Capacity in any of the preceeding Terms, and of Nathaniel Folsom who had served in the two preceeding Terms, and who is stated to have been uniformly of opinion for the Governor” [and that a judgment was this time given for the Governor, but was afterwards reversed in the Superior Court on a writ of error].

. . it appears in Evidence to have been the constant practice when any of the Standing Justices of the Court were Interested in any Suit there depending either by being related to any of the parties or otherwise for special Judges to be appointed ; That there were other Causes Depending at the same time in the Inferior Court of Common Pleas, wherein the standing Justices were either Interested or akin to the parties, and there is no proof that the special Judges were appointed on account of the particular Cause wherein the Governor was concerned ; But by many Depositions, and particularly by the Deposition of the Defendant in the said Cause, it appears that the special Commissions were Solicited in the Common form and manner as usual in the province of New Hampshire . . And the Defendant in the said Cause Swears that he neither at that time nor since had any objection either to the said Commissions, or to the Justices therein named and appointed or to either of them.

And as to [the observation of the Board of Trade] "That the Governor omitted from the Commencement of His Administration to transmit the Journals of the Council as a Council of State."

. . this Practice was begun in the late Governors time, who acquainted the proper officer on his Delivering a Copy of the said Journals in the Month of June 1760, that he need not give himself the trouble to make out such Copies for the future, without his special Directions, and from that time the practice has been discontinued both by the late and present Governor: But [the Committee think it may be proper to revive the practice and have copies transmitted to the Board of Trade.

The Committee submit that the charges afford no foundation for any censure on the Governor,] whose general Conduct in the Administration of Affairs within Your Majestys Government of New Hampshire is represented to have tended greatly to the Peace and prosperity of the said Province.

[*pp.* 241, 260, 263, 270-5, 315.]

[256.] [Reference to the Committee of the petition of William James, surviving partner of the firm of Lloyd and James, of Bristol, for a day for hearing his appeal from a sentence of the Governor and Council of New Hampshire as a Court of Appeals, 8 Oct. 1771, affirming a judgment of the Superior Court in Sept. 1771, in his action to recover from Samuel Moffatt and George Meserve, merchants of Portsmouth, New Hampshire, 1,551*l.* 13*s.* 2*d.* On 17 Dec. the Committee appointed 22 April 1774 for the hearing, and ordered a summons to the respondents to be affixed on the Royal Exchange. On 12 May 1774, the Committee ordered the appeal to be heard at their next meeting.] [*pp.* 236, 379; XI. *p.* 55.]

30 June.
New
Hampshire.

[257.] [Reference to the Committee, and by them on 26 Aug. to the Attorney and Solicitor General, of a Board of Trade representation of 16 July] proposing His Majestys approbation and allowance of an Agreement duly Executed

28 July.
New York
and Massa-
chusetts
Bay.

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1773. § 257 *cont.*]

between the Commissaries appointed by the provinces of New York and Massachusetts Bay for Establishing the Line of Jurisdiction between the said provinces. [pp. 255, 285.]

(1774.) [The agreement, which was submitted for approval by
2 Feb. Governors Tryon and Hutchinson, is confirmed in the form drafted by the law officers and approved by the Committee on 25 Jan. The appointment of commissioners was directed in 1766, but was delayed by various difficulties. By an act of 8 March 1773, the New York legislature appointed John Watts, William Smith, Robert R. Livingston and William Nicoll, and by an act of 25 April 1772, Massachusetts appointed William Brattle, Joseph Hawley and John Hancock to act as commissioners. These met at Hartford, Connecticut, on 18 May 1773, and agreed that the boundary should be a line beginning at a place fixed upon by the governments of New York and Connecticut about 1731] for the North West Corner of a tract of Land commonly called the Oblong or equivalent Land and running from the said Corner North twenty one Degrees ten Minutes and thirty seconds East as the Magnetic Needle now points to the North Line of the Massachusetts Bay. [pp. 415-7, 426-9.]

28 July. [258.] [Reference to the Committee of a Board of Trade
Virginia. representation of 1 July,] upon several Extraordinary Resolutions of the House of Burgesses of the Colony of Virginia of the 12th of March, 1773. [The marginal heading adds—"relative to the appointing a standing Committee of Correspondence."] [p. 255.]

28 July. [259.] [Reference to the Committee of a Board of Trade
New representation of 1 July on a vote of 500*l.* by the Assembly
Hampshire. of New Hampshire to the Governor.] [p. 255.]

1 Sept. [The Board of Trade representation, founded on an examination of the Journals of the Assembly for 1772, transmitted by the Governor, set forth] that on the 16th of January 1772, a Vote of the Lower House of the Assembly on the 3rd of that Month, was brought up to the Council and read, and

concurred by them, by which Vote the sum of five hundred pounds lawful Money is granted to the said Governor in Consideration of Extraordinary Services &c.

As the Governors of all Your Majestys Colonies in America under Your Majestys Immediate Government are Strictly forbid by their Instructions to accept any Gift or present whatsoever from the Assemblies, We think it our Duty to Submit this Transaction to Your Majesty's Consideration ; but [the Governor in a letter of 26 May 1772, to Lord Hillsborough], after reminding his Lordship of his having mentioned in a former Letter that the province owed him eleven hundred pounds Sterling for Agency when he was in England states that the above Sum of five hundred pounds was voted to him in full for that Demand, and had no Connection with or operation on the very small provincial Salary granted to him as Governor of that Province—How far this Explanation . . . does Justify the Governors Acceptance of the Sum thereby granted to him, is submitted to Your Majesty but We cannot but be of Opinion, that he ought not in his Situation to have accepted from the Assembly any Allowance whatever out of Monies granted to Your Majesty, without having first represented the State of his Claim, and having received Your Majestys Permission for that purpose.

[Order is given approving the Committee report of 26 Aug.,] that if the said five hundred pounds was paid . . . for Business transacted as Agent for the said Colony . . . the same ought to have been so Stated in the said Vote of the Lower House of Assembly. [pp. 281, 297.]

[260.] [Reference to the Committee, and by them on 26 Aug. 28 July. to the Board of Trade, of the petition of Francis Plowden, of New York. New Quay, Montgomeryshire, to be restored to the enjoyment of Plowden or Long Island (off the coast of Northern Virginia, between 39° and 40° North latitude), with part of the adjacent mainland, granted to his ancestor, Sir Edward Plowden, Kt., by letters patent under the Great Seal of Ireland, dated 21 June, in the 10th year of the reign of Charles I.] [pp. 257, 289.]

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1773.

- 28 July. [261.] [Reference to the Committee of the petition of
Jamaica. Abraham Solomons, merchant, for a day for hearing his
appeal from a decree of the Jamaica Chancery, 22 June, 1772,
in an action of account brought by Sarah Israel.] [p. 257.]
(1774.) [On the Committee report of 12 May, the decree is reversed.]
20 May. [XI. pp. 46-8, 77.]

- 28 July. [262.] [Reference to the Committee of the petition of
Jamaica. Thomas Cussans, of St. Thomas in the East, Surrey county,
Jamaica, eldest brother and one of the next of kin to Jane
Richards, widow, deceased, for a day for hearing his appeal
from a decree of the Court of Ordinary, 3 July 1772, in a
case between him and Richard, John and Thomas Cargill
and John Macdonald, about the administration of
Mrs. Richards' estate.] [pp. 258, 321.]
6 July. [On the Committee report of 20 June, the appeal is dismissed.
Mrs. Richards' husband was named George, and her children
George Cussans and Elizabeth Mary.] [XI. pp. 140, 169.]

- 28 July. [263.] [Reference to the Committee of the petition of Peter
New Jersey. Wickoff and Joseph Reed, assignees of Ezekiel Forman, late
of New Jersey, for leave to appeal from a judgment of the
Governor and Council as a Court of Errors, reversing a verdict
of the Supreme Court in April, 1770, in Forman's action
against William Ouke, manager of Bill Island Lottery, to
recover the amount of a fortunate ticket held by Forman.]
[p. 258.]

- 4 Aug. [264.] [Reference to the Committee of the petition of John
West Campbell, Esq., of Pensacola, that the Council dismiss with
Florida. exemplary costs for non-prosecution the appeal of Samuel
Thomas and Phillips Comyn from the condemnation of the
brig *Africa* in the Vice Admiralty Court of West Florida,
2 June, 1772.] [pp. 240, 266.]

- 31 Dec. [On the Committee report of 17 Dec., the appeal is dismissed,
with 20*l.* *stg.* costs, for non-prosecution.] [pp. 377, 396.]
(1774.) [Reference to the Committee of Campbell's complaint that
19 Dec. the Chief Justice, William Clifton, has issued a writ of

§ 264 *cont.*]

1773.

prohibition against all concerned in executing the Order in Council of 31 Dec.] [XI. p. 318.]

[Order, in accordance with the Committee report of 12 Jan.,] (1775.)
that the party should not proceed upon the Writ of Prohibition, 23 Jan.
but that the Chief Justice should Order a Consultation, and
that the Governor should be directed to give proper Orders
for enforcing the sentence of the Court of Vice Admiralty of
the 13th of June, 1772. But a marginal memorandum and a
separate entry of 6 March 1775, show that "This Order was
directed not to be issued until further Directions." The
case concerned a trunk belonging to Campbell, shipped at
London but not delivered at Pensacola. Clifton's reason for
intervening was that the Admiralty Court was incompetent
to determine the claim; but the respondents had acceded to
its jurisdiction by their proceedings. John Stephenson and
Thomas Bouker are also named in the report.]

[XI. pp. 353-8, 374, 442.]

[265.] [Three New Jersey acts of Aug.-Sept., 1772, are 1 Sept.
disallowed, and one confirmed, in accordance with a Committee New Jersey.
report of 26 Aug. on a Board of Trade representation of 27 May,
referred to them on 9 June :—]

1. An Act to naturalize John Felthausen.

2. An Act for the Relief of Benjamin Ayars now a
prisoner in the Goal of the County of Cumberland.

3. An Act to Enable all persons who are His Majestys
Liege Subjects, either by Birth or Naturalization, to
Inherit and hold Real Estates, notwithstanding any
Defect of Purchases made before Naturalization within
this Colony.

4. An Act to Dissolve the Marriage of David Baxter
with Margaret his Wife late Margaret McMastry.

[1. Disallowed. The Board of Trade declared that it was
for the law officers to determine whether the colonies were
warranted in passing such acts of naturalisation, and, if not,
suggested a circular instruction to that effect. *Vide infra* and
Appendix I.

1773. § 265 *cont.*]

2. Disallowed. It enacted] that Benjamin Ayars a prisoner for Debt in the Goal of the County of Cumberland shall be discharged from his Confinement, and his Person and future Estate and Effects Exempted from all legal process whatever during the Space of five Years, in which time it is proposed that he shall discharge the Amount of his Debts by Annual Installments of Twenty pounds Proclamation Money to be paid to Trustees appointed for receiving and distributing the same amongst the Creditors in proportion to their several Debts ; And although the said Act does contain a proviso that the said prisoner shall not be discharged from his Confinement, until Security be given that he shall not Depart from the Colony within the said five Years without leave of his Creditors ; Nevertheless it does appear to Us that the Relief granted to him by this Act and the mode laid down for sinking and Discharging his Debts would with more Justice and propriety have been settled and agreed upon by the Creditors themselves or their Trustees ; And We would therefore Submit to Your Majesty, whether it is a Matter becoming the Interposition of the Legislature of the province, and whether it is proper by Act of Assembly to supercede the right of Action, which by the Law of the Land appertains to all Creditors, and establish a mode for their receiving Payment of Debts due to them, which if all the Creditors had been consenting thereunto (a circumstance not ascertained by this Act) might have been adjusted without the Interposition of the Legislature.

[3. Allowed, his Majesty waiving his right of escheat for the sake of quieting possessions. The act secured] persons who hold and claim real Estates within this Colony under purchases from Aliens against any future forfeiture or defeat from defect of their Titles arising from Alienism in the Original Grantees or purchasers. [It had a suspending clause, and] a Proviso for Excepting Lands or Tenements heretofore vested in the Crown by office, found, or which after such finding, any of Your Majesty's Natural born Subjects*

* Something has evidently been omitted here by the clerk.

[4. Disallowed, as liable to the same objections as other divorce acts (*cf.* 251 *e.g.*), and also because imposition can never be deemed sufficient ground to dissolve a marriage.

The Committee also proposed the preparation of instructions to all colonial governors not to assent to acts about naturalisation like 1 and 3. *Cf.* Appendix I.]

[*pp.* 219, 276–8, 292–4.]

[266.] [Two New York acts of 1772—(1) more effectually to prevent private lotteries: and (2) to prevent infectious distempers in the counties therein mentioned—are disallowed, in accordance with a Committee report of 26 Aug., agreeing with a Board of Trade representation of 1 July, referred to them on 28 July. 1 Sept. New York.]

Mr. Jackson reported on (1)] That this Act besides a Power given to three Justices of the Peace to levy so large a Penalty as five hundred Pounds, contains another power, given to a single Justice very much unlike any given to any Judge by the English Constitution, and certainly not to be entrusted to any Person unless it should be on some Occasion of the highest Importance, and though it is not to be Denied, but that the prevention of Private Lotteries, is a measure highly Expedient in every Country; Yet he conceives the Expediency will not be thought sufficient to Warrant the Power given by this Act to one Justice of Peace to Compel any one to answer on Oath whom he shall have reasonable Cause to Suspect to be privy to such a Lottery; and notwithstanding the Act Exempts such person from it's Penalties, Yet he cannot but Report this Law as fit to be repealed. [On the recommendation of the Committee, permission was given to re-enact it without the objectionable provisions.]

[On (2),] That however fit it may be to regulate the practice of Inoculation it is too much to prohibit the practice within a Quarter of a Mile of a Dwelling House or place of Landing, notwithstanding the Exception in the Act, and even though the Law should not be construed to prohibit all Inoculation in any Dwelling House Except that of the Owner (a Construction

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1773. § 266 *cont.*]

the Act will bear) he conceives the Law to be Improper to continue in Force, unless it should receive such Alterations by some Explanatory Act, as will perhaps be more Difficult than to pass a New Act. [pp. 254, 279, 295.]

1 Sept.
Prince
Edward
Island.

[267.] [On a Committee report of 26 Aug., agreeing with a Board of Trade representation of 14 June referred to them on 30 June, the islands of Panmure, Boughton and Lenox are granted to James Montgomery, Lord Advocate of Scotland, at a quitrent of 4s. per 100 acres. The islands are adjacent to land already in Montgomery's possession, and Governor Paterson reported to the Board of Trade on 27 Nov. 1772, that the first two at the entrance to Cardigan Bay are about 800 acres each, Lenox in Richmond Bay a little larger, and that, although the soil is reported to be good, there is no immediate prospect of selling them to advantage. Montgomery's great zeal and activity in carrying on the settlement of the island are specially commended by the Board, and this new grant is recommended as being for his Majesty's service and the public good.] [pp. 232, 283-5, 298.]

(1775.)
30 June.

[Reference to the Board of Trade of the petition of Thomas Desbrisay, Lieut.-Governor of the island of St. John, for the grant of the other small islands adjacent and belonging to St. John,—about 800 acres in all.] [XII. p. 58.]

29 Oct.
New
Hampshire.

[268.] [Reference to the Committee of the petition of George Wentworth of Portsmouth, New Hampshire, for relief from the many delays of justice and expenses he has incurred in prosecuting his right to 1,000*l.* due to him as executor of George Wentworth, deceased.] [p. 327.]

29 Oct.
Dominica.

[269.] [Reference to the Committee of the petition of John Fordyce, Andrew Grant, and William Trotter, merchants of London and partners, for a day for hearing their appeal from a decree of the Governor and Council of Dominica as a Court of Errors, 26 June, 1773, reversing a judgment of the Court of Common Pleas, 26 May 1772, in their action to recover 24,057*l.* 15*s.* 10*d.* due upon bond from James Morson,

§ 269 *cont.*]

1773.

surviving partner of Messrs. Hunter, Morson and Gemmell.]

[*pp.* 328, 456.]

[On the Committee report of 12 Jan., the decree of 1773 is reversed. Other names in the report are Walter Skirrett, and John Morson.] (1775.)
23 Jan.

[XI. *pp.* 349–51, 373.]

[270.] [Reference to the Committee of the petition of Charles Dudley, collector of customs in Rhode Island, for a day for hearing his appeal from a judgment of the Superior Court in March 1773, awarding John Innis Clarke and Joseph Nightingale, owners of the schooner *Industry*, 500*l.* 14*s.* 7*d.* and costs for refusing to receive the duties on 26 hogsheads of sugar and 55 hogsheads of molasses seized on board the vessel.] 29 Oct.
Rhode
Island.

[*pp.* 328, 446.]

[On the Committee report of 21 June, the judgment is reversed. On arriving at Newport on 27 June 1772, James Munro, the master of the *Industry*, reported at the Custom House only 33 hogsheads and 12 tierces of molasses, but later on the same day John Linzee, commander of H.M.S. *Beaver*, seized an additional quantity of molasses and sugar found on board the vessel, which were condemned in the Vice Admiralty Court. On 1 July the owners, who lived 30 miles from Newport, tendered the duties on the goods seized, but Dudley refused to admit them to an entry. A customs officer was on board at the time of the seizure, which took place before the schooner arrived at Providence, where she was owned and to be exchanged: no part of the cargo had been unloaded.] (1775.)
30 June.

[XII. *pp.* 26–31, 54.]

[271.] [Reference to the Committee of the petition of Charles Dudley, collector of customs in Rhode Island, for leave to appeal from certain orders of the Superior Court in 1772–3, in favour of Nathaniel Shaw relating to the condemnation of 109 casks of molasses and 2 casks of coffee seized on board the brigantine *Mermaid*, and for the stay of proceedings on a writ of restitution.] 29 Oct.
Rhode
Island.

[*p.* 329.]

[On the Committee report of 19 Dec., the appeal was 31 Dec.

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1773. § 271 *cont.*]

admitted and proceedings stayed. On 5 Jan., 1774, security was given by John Martin Leake, Esq. of the Treasury, Whitehall, and Thomas Francis, gent. of Chancery Lane. The appeal was referred on 14 Sept. 1774, and on 21 June 1775, the Committee fixed 3 Aug. for the hearing.]

[*pp.* 376, 394 ; XI. *p.* 213 ; XII. *p.* 33.]

29 Oct. [272.] [Reference to the Committee of the petition of
Rhode Robert Keeler, late captain of H.M.S. *Mercury*, for leave to
Island. appeal from a judgment of the Superior Court of Rhode Island in March 1773, in an action of assault commenced by William Rhodes against him, although the sum of 94*l.* recovered by Rhodes is less than the law requires in cases of appeal.]

[*p.* 329.]

17 Dec. [The Committee] did not think proper to comply with the prayer of the petition.] [*p.* 377.]

29 Oct. [273.] [Reference to the Committee of the petition of
Maryland. Ann Thomas, of Ann Arundel co., Maryland, widow of Philip Thomas, that the Council dismiss with costs for non-prosecution the appeal of John Beale Bordley and Margaret his wife, and William Paca and Mary his wife, from a decree of the Court of Appeals, 19 Feb. 1771, in a case relating to the estate of Samuel Chew.] [*p.* 330.]

31 Dec. [On the Committee report of 17 Dec., the appeal is dismissed with 20*l. stg.* costs for non-prosecution.] [*pp.* 378, 397.]

10 Dec. [274.] [Order to the Attorney and Solicitor General to
Virginia. prepare the draft of a proclamation for giving currency to a new coinage of copper for Virginia].

Whereas the Legislature of the Colony of Virginia have by two several Laws, [of 1 Geo. II. and 10 Geo. III.] made provision for the Currency in that Colony of Copper Coin under certain Regulations, in Case the Crown should think fit to permit such Coin to be brought into and pass within the same ;—And Whereas His Majesty was pleased upon the application of an Agent of the said Colony specially appointed for that purpose, to direct (by a Warrant Dated the 20th of

§ 274 *cont.*]

1773.

May 1773, and Countersigned by the Lords of the Treasury) the Master and Worker of His Majesty's Mint in the Tower of London to cause a Quantity of Copper to be coined into Halfpence of a certain Weight and Fineness, and with such Marks and Devices as are expressed in the said Warrant [and whereas the law officers have reported] That if the Coinage had been according to the English Rates and Proportions and the Value of the Copper had Corresponded then it might have passed by the Laws of Virginia; But as the Coinage differs, it is absolutely necessary that it should receive its Denominative Value from some signification of His Majesty's Pleasure, and tho' by the Laws of the province that may be done by Instruction, Yet it seems more regular and convenient to do it by Proclamation.

[*pp.* 346-7.]

[On the report of the Attorney and Solicitor General, the proclamation is approved (C.R.), and the Lord Chancellor ordered to affix the Great Seal.] [XI. *pp.* 266-8.]

(1774.)
16 Nov.

[275.] [On an Admiralty memorial of 30 Nov., allowance is made in the accounts of the gunner of H.M.S. *Princess Amelia* (Capt. Marshall) for stores to the value of 29*l.* 19*s.* 3*d.* furnished by order of Admiral Rodney to the King of the Mosquito Indians, when he visited Jamaica for the purpose of acknowledging himself and his subjects to be under the sovereignty of his Majesty.] [*p.* 349.]

10 Dec.
Mosquito
Coast.

[276.] [Reference to the Committee of a letter from Benjamin Franklin, agent for the House of Representatives of Massachusetts Bay, and an address therewith transmitted to Lord Dartmouth from the House of Representatives praying for the removal of Governor Thomas Hutchinson and Lieut.-Governor Andrew Oliver.] [*p.* 350.]

10 Dec.
Massachu-
setts Bay.

[Letters to Franklin and to William Bollan, agent of the Council, to attend to-morrow when Israel Mauduit is to be heard by his counsel on behalf of the Governor and Lieut.-Governor.] [*p.* 405.]

(1774.)
10 Jan.

1773. § 276 *cont.*]

(1774.) [Committee minute.] . . the parties being called in, and
 11 Jan. the said Address of the House of Representatives being Read, Dr. Franklin acquainted their Lordships that he knew nothing of the Intention of hearing Counsel till Yesterday that he had no such Intention himself, but proposed to lay before their Lordships Copies of the Resolutions of the House of Representatives, and the Letters on which those Resolutions were founded, and Submit the Matter to their Lordships Judgment and Decision ; but if Council was heard on behalf of the Governor and Lieutenant Governor, he should also pray to be heard by Counsel at a future Day. Mr. Mauduit Observed that he was not Master of all the Minuteness of the Constitution of the Province and was unwilling to rest the Defence of the Governor and Lieutenant Governor on himself without the Assistance of Counsel. Copy of the Resolutions of the Assembly Entitled Extract from the Journals of the House of Representatives Dated 16th June 1773 and Copies of the Letters (on which those Resolutions were founded) annexed to two Certificates tending to prove the Authenticity of the Copies of said Letters being proved by Dr. Franklin and read ; Objections were made by the Counsel for the Governor and Lieutenant Governor to admitting the Copies of said Letters ; but the objection being afterwards waived, and the Counsel for the Governor and Lieutenant Governor declaring himself willing to admit that the Letters (of which the above Exhibit purported to contain Copies) had been wrote, reserving to himself at the same time a right to ask such Questions as he might find necessary, touching the manner of obtaining such the Original Letters and the person to whom the same were addressed. Their Lordships at the then further Instance of the Agent for the House of Representatives to be heard by Counsel at a future day were pleased to appoint Saturday the 29th Instant (each party consenting thereto) to resume the Consideration of this Matter, and hear Counsel on both sides thereupon.

[pp. 406-7.]

§ 276 *cont.*]

1773.

[In accordance with the following report of the Committee of 29 Jan. (when 35 members of the Council were present), the petition was dismissed.]

(1774.)

7 Feb.

[The Committee, on hearing counsel on both sides, and considering the evidence adduced by Franklin, reported] that the said House of Representatives have by their said petition taken upon themselves to bring a general Charge against Your Majesty's said Governor and Lieutenant Governor and to complain of their Conduct, "as having a natural and efficacious tendency to interrupt and alienate the affections of Your Majesty from that Your Loyal Province—To Destroy that Harmony and good Will between Great Britain and that Colony which every honest Subject would strive to Establish,—To Excite the Resentment of the Brittish Administration against that province,—To defeat the Endeavours of their Agents and friends to serve them by a fair Representation of their State of ffacts,—To prevent their Humble and repeated Petitions from reaching the Ear of Your Majesty or having their Desired Effect; and finally Charging Your Majesty's said Governor and Lieutenant Governor with having been among the Chief Instruments of introducing a Fleet and an Army into that province, to Establish and perpetuate their plans, whereby Your Majesty's said Governor and Lieutenant Governor have been not only greatly instrumental of Disturbing the peace and Harmony of the Government, and causing unnatural and hateful Discords and Animositities between the several parts of Your Majesty's extensive Dominions, but are justly chargeable with all that Corruption of Morals, and all that Confusion Misery and Bloodshed, which have been the natural Effects of posting an Army in a Populous Town"; But the Lords of the Committee cannot but express their Astonishment, that a Charge of so serious and extensive a nature against the persons whom the said House of Representatives acknowledge by their said Petition to have heretofore had the Confidence and Esteem of the people and to have been advanced by Your Majesty from the purest Motives

1773. § 276 *cont.*]

of rendering Your Subjects happy to the highest places of Trust and Authority in that province, should have no other Evidence to support it but inflammatory and precipitate Resolutions founded only on certain Letters written respectively by them (and all but one before they were appointed to the Posts they now hold) in the Years 1767, 1768 and 1769, to a Gentleman then in no Office under the Government, in the course of Familiar Correspondence, and in the Confidence of private Friendship, and which it was said (and it was not denied by Mr. Franklin) were surreptitiously obtained after his Death, and sent over to America, and laid before the Assembly of the Massachusetts Bay; And which Letters appear to Us to contain nothing Reprehensible, or Unworthy of the Situation they were in, And We presume that it was from this Impropriety that the Counsel did Disclaim on behalf of the Assembly any Intention of bringing a Criminal Charge against the Governor and Lieutenant Governor; but said that the Petition was founded Solely on the Ground of the Governor and Lieutenant Governor being as they alledged, now become obnoxious to the people of the Province; and that it was in this Light only that the said Petition presented to Your Majesty; And there being no other Evidence now produced than the said Resolutions and Letters, together with Resolutions of a Similar Import by the Council of the said Province founded, as it was said on the same Letters;—

. . the Committee . . Report . . that the said petition is founded upon Resolutions, formed upon False and Erroneous allegations, and that the same is groundless, Vexatious and Scandalous and calculated only for the Seditious Purpose of keeping up a Spirit of Clamour and Discontent in the said province And . . that nothing has been laid before them, which does or can, in their opinion in any manner or in any Degree, Impeach the Honour, Integrity or Conduct, of the said Governor or Lieutenant Governor. And

. . that the said Petition ought to be Dismissed.

[pp. 422–5, 442.]

- [277.] [Reference to the Committee of a letter from Lieut.-Governor Bull of South Carolina, and an address from the Council of that province transmitted therewith,] complaining of some proceedings of the Commons House of Assembly, tending as they conceive to affect the Constitutional Rights and Privileges of the said Council ; And praying His Majesty would Vouchsafe to give them such Countenance and support, as their present Dangerous and Critical situation may Deserve. [p. 350.] 1773.
10 Dec.
South
Carolina.
- [Reference to the Committee of the petition of Charles Garth, provincial agent of South Carolina, complaining of several proceedings of the Council of that province, and praying for the removal of such of them as ordered the imprisonment of Thomas Powell, a Charleston printer, for printing a protest of two of the members against a resolution of the Council on two bills sent up by the Assembly.] [p. 402.] 31 Dec.
- [The Committee refer all the above papers and the Governor's commission and instructions to the Attorney and Solicitor General to report] whether the Council . . is or is not a part of the Legislature of the said province. [pp. 459-60.] (1774.)
9 Mar.
- [Letter to the Attorney General to expedite his report.] (1775.)
[XI. p. 505.] 5 May.
- [278.] [Reference to the Committee of the petition of James Styles (casual ejector on the demise of Timothy Hurst), for a day for hearing his appeal from a judgment of the Superior Court of Pennsylvania, 10 April, 1773, in his action to recover from Joseph Kirkbride and Thomas Riché a messuage and lands in Buckingham co., Pennsylvania.] [pp. 343, 351.] 10 Dec.
Pennsyl-
vania.
- [Peremptory order for hearing at the first Committee in Jan. next. Respondent's solicitor moved for such an order or dismissal for non-prosecution : appellant's solicitor offered reasons for the delay.] (1775.)
[XII. p. 32.] 21 June.
- [On the Committee report of 10 April, leave is given to withdraw the appeal on paying 30*l.* costs to the respondents, as agreed between the parties.] (1777.)
[XIII. pp. 422, 476.] 30 April.
- [279.] [Reference to the Committee of the petition of James Borton of Jamaica, administrator of the estate of 10 Dec.
Jamaica.

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1773-4. § 279 *cont.*]

William Beckford Ellis not administered by his widow, Susanna, and also administrator of Susanna, who had married him on Ellis's death, and of Ellis's infant son and heir, William Beckford Ellis, by Borton, his guardian, for a day for hearing their appeal from a decree of the Chancellor of Jamaica, 21 Feb. 1772, in favour of Angus Campbell.] [p. 351.]

(1775.) [On the Committee report of 12 Jan., the decree is varied in
23 Jan. part and otherwise affirmed without costs. Names occurring in the report are Susanna Addenbrook, already a widow when she married Ellis, John Venn, James Prevost, Thomas Fuller, Joseph Lee, Robert Cooper Lee, Edmund Goldegay, and James Powell.] [XI. pp. 337-49, 373.]

31 Dec. [280.] [On the Committee report of 17 Dec., the appeal
Virginia. *Wilson v. Darrell*, referred on 10 July, 1765 (*cf.* Vol. IV. p. 727), is dismissed.] [pp. 371, 389.]

1774. [281.] [A Bahama act of Dec. 1770,—for regulating the
2 Feb. proceedings on attachments issuing out of courts of judicature
Bahamas. within these islands—is disallowed, in accordance with a Committee report of 25 Jan., agreeing with a Board of Trade representation of 1 July, referred to them on 28 July. Mr. Jackson, K.C., objected that the act gave an attachment against the goods of absentees, whatever the cause of absence, and although they had never been within the colony: that this was contrary to the principles of the English laws and highly dangerous to commerce: and that such proceedings should be confined to persons absenting themselves purposely to avoid the process of the court.] [pp. 254, 417, 430.]

2 Feb. [282.] [Reference to the Committee of the petition of
Jamaica. Sir Simon Clarke, Bart., for a day for hearing his appeal from an order of the Jamaica Chancery, 19 Feb. 1773, in an action of account brought by John Reid and Mary, his wife.] [pp. 435, 456.]

(1775.) [On the Committee report of 2 Feb., the order is reversed,
6 Feb. solicitor for the respondents consenting thereto.]

[XI. pp. 391, 398.]

1774.
2 Feb.
Jamaica.
- [283.] [Reference to the Committee of the petition of William Harvey, Walter Farquhar and Ann, his wife (*née* Harvey), Thomas McLean and Milborough his wife (*née* Harvey), Elizabeth Harvey, widow, and Thomas and Elizabeth Harvey, infants, by their guardian, William Harvey, for a day for hearing their appeal from a decree of the Jamaica Chancery, 19 Jan. 1773, in Daniel Lascelles' action for 57,349*l.* 3*s.* 5*d.* *stg.* alleged to be due on bonds and mortgage.] [p. 436.]
- [On the Committee report of 16 May, the appeal is allowed (1776.) to be withdrawn.] [XII. *pp.* 564, 581.] 21 May.
- [284.] [Reference to the Committee of the petition of Barlow Trecothick, alderman of London, and surviving partner of John Apthorp and John Thomlinson, that the Council dismiss for non-prosecution the appeal of John Palmer and Rosa his wife from a decree of the Chancellor of Jamaica, 22 Aug. 1770, in an action of account.] [p. 436.] 2 Feb.
Jamaica.
- [On the Committee report of 20 June, the appeal is dismissed 6 July. for non-prosecution.] [XI. *pp.* 150, 172.]
- [285.] [Reference to the Committee of the petition of James Straker, Thomas Ostrehan and Alexander Stevenson that the Council dismiss for non-prosecution the appeal of Robert Lucas from a decree of the Barbados Chancery, 10 July, 1772, dismissing a bill brought by him with costs.] [p. 437.] 2 Feb.
Barbados.
- [Lucas's petition for a hearing is also referred. Lucas, a 9 Mar. Bristol merchant, was represented in Barbados by Hamlet Fairchild: the respondents were sued as assignees of James Bees.] [p. 468.]
- [On the Committee report of 19 Jan., the decree is reversed (1775.) without costs, and directions given for further proceedings. 6 Feb. Names occurring in the report are William Nash, James Polgreen, George Guise, John Thomas, John Carter, Abraham Comberbatch, and Sampson Wood.] [XI. *pp.* 150, 363-9, 397.]
- [286.] [Committee order. Whereas Lord Dartmouth laid 19 Feb. before the Lords of the Council now present] a State of the Massachusetts Bay.

1774. § 286 *cont.*]

late proceedings at Boston in North America relative to the Tea Imported there, for Sale by the East India Company, together with a Report from His Majesty's Attorney and Solicitor General upon certain Questions put to them by the said Earl of Dartmouth touching the said Proceedings—And Whereas several persons lately arrived from Boston did this day attend their Lordships and being called in were examined relative to the said proceedings at Boston, and their Examinations having been reduced to Writing, did verify the same upon Oath, [copies of the depositions are referred to the Attorney and Solicitor General to report] whether any and what persons are Charged by the said Depositions with the Crime of High Treason.

[A Committee minute in practically the same terms (though shorter, because less formal) precedes this entry, and the following memorandum is appended :—] No Return was made to this Order by the Attorney and Solicitor General nor was anything further done by the Council, the Matter being afterwards taken up in Parliament. [pp. 449–50.]

25 May. [Reference to the Committee of a Board of Trade representation of 20 May with the draft of an additional instruction for Governor Gage] containing the appointment of certain persons, whose Names are inserted therein, to be the Council or Court of Assistants for the said province during His Majesty's pleasure, pursuant to the powers vested in His Majesty by an Act passed in the present Session of Parliament, intituled "An Act for the better regulating the Government of the Province of Massachusetts Bay in New England." [XI. p. 81.]

1 June. [On the Committee report of this date, the instruction is approved. The Board of Trade] Trust that this salutary Measure will contribute to restore Peace and Tranquility within that Province and to induce for the future a due obedience to the Authority of the Supreme Legislature.

That with regard to the other Directions contained [in the draft,] they are such as appear to them to be necessary in pursuance of the Provisions contained in the said Act of

§ 286 *cont.*]

1774.

Parliament, and to correspond with the Regulations in respect to the Councils in other Your Majesty's Colonies, in so far as such Regulations can be adopted in the present Case. [The 36 nominees were] Thomas Oliver [the Lieut.-Governor], Thomas Flucker, Peter Oliver, Forster Hutchinson, Thomas Hutchinson, Harrison Grey, Samuel Danforth, John Erving Senr. James Russell, Timothy Ruggles, Joseph Lee of Cambridge, Isaac Winslow, Israel Williams of Hatfield, George Watson of Plymouth, Nathaniel Rae Thomas, Timothy Woodbridge, William Vassal, William Brown of Salem, Joseph Green, James Bontenau, Andrew Oliver of Salem, Josiah Edson Bridgewater, Richard Letchmere, Joshua Loring, John Worthington, Timothy Paine, William Pepperel, Jeremiah Powell, Jonathan Simpson, Murray of Rutland, Daniel Leonard, Thomas Palmer, Isaac Royal, Robert Hooper of Marblehead, Abijah Willard and John Erving Junior Esquires. [XI. *pp.* 112-5.]

[287.] [A Massachusetts act of Feb., 1773,—to regulate the sale of goods at public vendue and to limit the number of auctioneers—is disallowed, on the Committee report of 18 March, agreeing with the Board of Trade, to whom it was referred on 19 May 1773, and who, after consulting Mr. Jackson, concluded that, while otherwise expedient, the act was open to the objection] that it places the power of Licencing in the Select Men, when it is more fit that such power should be intrusted to Your Majesty's Governor, by whom it is more likely to be Impartially Executed.

13 April.
Massachu-
setts Bay

[*pp.* 196, 472, 502.]

[288.] [A New Jersey act of Sept. 1772,—to enable certain persons to erect and draw a lottery for raising the sum of 150*l.* to be applied for the purposes therein mentioned—is confirmed, on the Committee report of 18 March, agreeing with a Board of Trade representation of 20 Jan. referred to them on 2 Feb. The Governor represented that the beneficial effects would warrant them in waiving the

13 April.
New Jersey.

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1774. § 288 *cont.*]

objections usually made to the raising of money in the colonies by lotteries.] [pp. 431. 471. 502.]

13 April. [289.] [On a Board of Trade representation of 10 March,
Plantations. it is ordered that an armed vessel of the like nature with that at present employed in the service of Capt. Samuel Holland, surveying the northern district of North America, be put under the direction of the surveyor of the southern district, William Gerard de Brahm.] [p. 505.]

13 April. [290.] [Reference to the Committee, and by them on
New York. 20 June to the Board of Trade, of the petition of John Evans and David Price, master and commander in H.M. service, for a grant of lands in New York, with full power to open and work such mines as may be discovered, on] paying the usual Duty of One Tenth per Ton upon all Ores and the Customary Quit Rents upon Lands. [p. 509 ; XI. p. 138.]

13 April. [291.] [Reference to the Committee of the petition of
Rhode Island. Samuel Bean, merchant of London, bankrupt, and his assignees, Isaac Walker, Francis Newton, and John Colville, for leave to appeal from a judgment of the Superior Court of Rhode Island, affirming a judgment of the Inferior Court, 18 Nov. 1771, in an action by Samuel and David Bean to recover 21*l.* 13*s.* 10*d.* from Gideon and John Wanton, executors of William Rodman.] [p. 510.]

6 July. [On the Committee report of 20 June, the appeal was admitted. Security was given on 12 Aug. by Thomas Bell and John Colville, merchants of London. The appeal was referred on 12 May 1775, and on 21 June appointed to be heard at the first Committee in Jan. 1776.]

[XI. pp. 148, 170, 509 ; XII. p. 35.]

1774. GEORGE III. VOL. XI. (May, 1774—May, 1775.)

4 May. [292.] [Reference to the Committee of the petition of several
New Hampshire. proprietors of lands in New Hampshire, complaining that the

§ 292 *cont.*]

1774.

Governor had taken away their lands after they had been at great expense in clearing them, and regranted them to others under a pretence of non-compliance in some of the conditions of the first grant.] [p. 17.]

[293.] [An appeal is entered by Philip Laurens from a sentence of the Royal Court in Jersey, 12 Feb. 1774, awarding 50*l.* and costs to Nicholas Mallet for breach of an agreement to carry certain persons and goods on board the sloop *London Expedition* from Little Degrat in Isle Madame to Jersey. The Viscount of the island is directed to summon the respondent to appear before the Council, giving him 40 days notice. By the rules of the Privy Council, all Jersey and Guernsey appeals are heard between the beginning of Easter and the end of Trinity term.] [p. 32 ; XII. p. 381.]

11 May.
St.
Lawrence.

[294.] [On the Committee report of 28 May, a Massachusetts act—to empower the inhabitants of the town of Rochester to regulate the taking of fish within the harbours and coves of said township—is disallowed. Out of 26 Massachusetts Bay acts of Feb.–March, 1773, referred to the Board of Trade on 30 June, 1773, this was the only one to which objection was taken. Mr. Jackson found it inconsistent with the charter of the province, which provides that no subject of England shall be debarred from fishing on the sea-coasts, creeks or saltwater rivers.] [X. p. 232 ; XI. pp. 101–4, 115.]

1 June.
Massachu-
setts Bay.

[295.] [A New Hampshire act of Jan., 1773,—for the divorce of Eliphalet Pattee of Chester from his wife, formerly Abigail Elliott—is disallowed, on the Committee report of 28 May, agreeing with a Board of Trade representation of 31 March, referred to them on 13 April, which showed that the act was inconsistent with a general instruction given since its passing to all colonial governors not to assent to divorce acts. Mr. Jackson, K.C., raised further objections to this act] as the Preamble does not lay a sufficient Foundation for the enacting part, the Act resting singly on the Confession of the Wife without Proof of the facts, in Case they were of

1 June.
New
Hampshire.

1774. § 295 *cont.*]

themselves sufficient Ground, that besides this the Petitioning party does not reside within the Province which of itself he conceives would be a sufficient Objection even though it were clear that it was competent to the Legislature of New Hampshire to pass a Law of this kind.

[X. *p.* 507 ; XI. *pp.* 105, 115.]1 June.
North
Carolina.

[296.] [Five North Carolina acts are disallowed, on a Committee report of 28 May, agreeing with a Board of Trade representation of 31 March, referred to them on 13 April :—]

1. An Act for the Relief of Insolvent Debtors, with respect to the Imprisonment of their persons.

2. An Act for the Relief of Persons, who have or may suffer by their Deeds and mesne Conveyances not being proved and registered within the time heretofore appointed by Law.

3. An Act to regulate and ascertain the Fees of the Clerks of the Pleas in the Superior and Inferior Courts in this Colony, directing the Method of Paying the same and for taxing Law Suits.

4. An Act for directing the Method of appointing Jurors in all Causes Civil and Criminal.

5. An Act to continue an Act for the more speedy Recovery of all Debts and Demands under five pounds proclamation Money within this province.

[Mr. Jackson reported on No. 1] that he conceives there are weighty objections thereto, inasmuch as it fixes so short a time as sixty days from the appointment of the Commissioners at most, for beginning to examine the Claims of Creditors, after which there is no further delay allowed for absent Persons ; but the Commissioners certainly may and seem to be required to make their Dividend forthwith ; That it is besides a great defect in this Law, that there is no saving in respect of Debts due to Your Majesty.

[No. 2] is improper in point of Law, in that there is no saving for the Right of Purchasers without Notice ; [the Governor also observes] that it is indeed apparently well

§ 296 *cont.*]

1774.

designed; but that since he passed it, he finds, under a specious Title, it is calculated as a Stratagem to indemnify persons, who are desirous to defraud Your Majesty's Revenue by withholding their Quit Rents, by keeping the Receiver General in Ignorance of the Lands they hold.

The Acts No. 3, 4, and 5 are all passed with Clauses limiting their duration for Six Months only; and altho' it does appear from what is stated by Your Majesty's Governor, that the Reason for passing these Acts for a Term of so short duration was, in order to make them correspond and be coeval with the temporary Court Acts; which were rejected; Yet . . the Practice of passing Acts in Your Majesty's American Colonies for Terms of so short continuance without Clauses suspending their execution till Your Majesty's Pleasure shall be known, ought as We conceive, for very obvious reasons, to be resisted.

[X. p. 507; XI. pp. 106-8, 116.]

[297.] [Committee order.] It is this Day ordered by their Lordships, that for the better facilitating the Dispatch of the Plantation and other Causes depending before this Committee, the following Days be considered as standing Days for hearing such Causes Vizt. 20 June. Appeals.

The Day before the first Seal (appointed by the Lord Chancellor) preceding every Term, at ten o'clock in the morning, and upon the day of the first Seal at twelve—And in Case those days should not prove sufficient to Dispatch the Causes, Their Lordships will sit occasionally upon the day of the second Seal preceding Michaelmas, Hilary and Easter Terms.

. . that no Cause be heard on any of the days abovementioned, but such as have been set down and due Notice given to the opposite Party on or before the Sitzings of the Committee in the preceding Term.

And . . that when Appeals are set down upon the List for hearing on any of the days abovementioned, the Appellants and Respondents or their Agents or Solicitors, shall deliver into the Council Office, the printed Cases upon their respective

1774. § 297 *cont.*]

Appeals at least one Week antecedent to the day on which such Appeals are intended to be heard, and in Case either Party shall neglect to deliver their said Printed Case as above Directed, Their Lordships will (upon application of the other party who shall have delivered his Case) proceed to the hearing of such Appeal without further Delay. [p. 151.]

6 July.
Pennsyl-
vania.

[298.] [Out of 15 Pennsylvania acts of Feb. 1773, referred to the Board of Trade on 2 Feb., objection was taken to three only, and on the Committee report of 20 June, two of these were ordered to be declared void under the Privy Seal. The second of the three was not recommended for disallowance by the Committee.]

1. An Act appointing Wardens for the Port of Philadelphia and for other purposes therein mentioned.

2. An Act to Enable the persons therein named to hold Lands and to invest them with the privileges of natural born Subjects in this Province.

3. An Act for making perpetual . . . an Act for laying a Duty on Negroes and Mulatto Slaves Imported into this province.

The first of these Acts . . . after enacting many useful and Convenient Regulations for putting the Pilots, Lighthouse Buoys and Piers belonging to that Port, under one general Direction, contains a Clause, whereby any Person or Persons Convicted in any Court of Quarter Sessions of having destroyed or removed any of the said Buoys, or Beacons, or of having burnt or otherwise Destroyed the Light House erected on Cape Henlopen, or of having been aiding and assisting in the said Offences, shall forfeit and pay the Sum of one thousand pounds and suffer three Years Imprisonment without Bail or Mainprize, and be whipped once in every year during such Imprisonment at the Common Whipping Post with any Number of lashes well laid on his bare back not exceeding thirty nine and to these Pains and Penalties all persons are Subjected upon Conviction at the Court of Quarter Sessions to which they shall be brought, tho' apprehended in another Government,

§ 298 *cont.*]

1774.

and although the said Lighthouse at Cape Henlopen is out of the Province and under a distinct Legislature—The Impropriety of thus creating a Crime and assuming a Jurisdiction without the Limits of the Province, and the very heavy Fine, the long course of Imprisonment, and the Corporal Punishment inflicted by this Clause, with a Degree of Severity so Contrary to the Spirit of the Laws of this Country, are objections in their apprehension of so material a nature, that [the act should be disallowed.

No. 2 is contrary to an additional instruction forbidding the passing of naturalisation acts, but it was passed before the instruction and has already had its effect.

No. 3 lays an additional duty of 10*l.* on every slave imported, and is probably intended as a prohibition on this article of trade—to the prejudice of a very important branch of British commerce. The impolicy of this has already been pointed out in a representation on a Virginia act—*cf.* § 171.]

[X. *p.* 432 ; XI. *pp.* 132–5, 165–6.]

[299.] [A New York act—to continue and amend an act for the more effectual punishment of persons who shall be guilty of any of the trespasses therein mentioned in the cities of New York and Albany and township of Schenectady—is disallowed, in accordance with a Committee report of 20 June on a Board of Trade representation referred to them on 20 May. 6 July. New York.]

Mr. Jackson reported that the act was improper] in that it provides for a Purgation by Oath in a Criminal Matter, which is at once contrary to the Genius of the Laws of this Country and cannot but prove too frequently an irrestable temptation to perjury.

This objection . . . appears to Us to have such Weight, and the consequences to which a regulation of this Sort would most probably lead, ought with such Caution to be avoided, that although the Act is for the continuance of an useful Law, Yet [it should be disallowed.

An act for naturalising sundry persons, which was referred at the same time, was left unrepealed, as it was