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## ERRATA.

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*P.* 118, *ll.* 24-6, should read :

“ the Act of 1699 allòwed them to keep such of these  
as had not belonged to ship-fishermen since 1685.  
As the fishery in 1685 was only one-third of what it  
had been in 1675-7, and remained near upon the  
same foot from 1685 to 1699, there” [was ample  
room &c.].

In *l.* 9 also, 1699 should be read for 1698.



# ACTS OF THE PRIVY COUNCIL (COLONIAL).

## VOL. VI.

### PART I. UNBOUND PAPERS 1676-1783.

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1676.

1676-96.

[1.] LEEWARD ISLANDS. Précis of Orders *re* trial of 26 Feb. Col. Warner for the murder of his brother. Sept. 1675— I. pp. 634-5, 654-5.  
Feb. 1676.

1696.

1696.

[2.] PIRACY. *Henry Avery*. I. Petition of the East India July-Aug. Company (16 July), complaining of his piracies in the Persian Gulf, with (a) an extract of a letter from Bombay, 28 May 1695 ; (b) account of a letter from Venice, 25 May, reporting the plunder of four vessels, one belonging to the Mogul, on their way from Mocha and Jeddah to Surat ; and (c) account of letters from Bombay to the East India Company, 12 Oct. 1695, about the consequent disturbances and hostility to the English traders at Surat.

II. Memorial of the East India Company, read 10 Aug. 1696, asking that search be made for the pirates and their booty in Ireland and in the plantations, especially at New Providence ; with (d) a list of 27 out of Avery's 130 men.

III. Memorial of the owners of the *Charles the Second*, the ship seized by Avery at Corunna in May 1694, read 10 Aug.

IV. Draft of part of a proclamation offering a reward.

V. Memorial of the East India Company, 20 Aug., for restoration of the booty and against further pardons.

VI. Governor Trott's account of his proceedings, dated Providence, 16 Ap. 1696, with a minute of the Council, 30 March 1696. The pirates pretended to have been trading



#### 4 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1696- § 2 *cont.*]

99. on the Guinea Coast, and, as nothing appeared against them, they were allowed to come in. Their ship was unseaworthy and was abandoned : it has since driven on a reef. Whatever can be salvaged will be preserved for the owners. If no other owners appear, the guns will be used for the fort and citadel. Such security as they could procure was taken for the appearance of the men in twelve months and a day, if anything should be alleged against them. In the Governor's statement to the Council, it was alleged to be the pirates' intention, if refused admittance, to go to Petit Guaves or to force an entrance at New Providence, knowing that most of the strength of the island was away at the salt ponds. A proclamation was issued by the Governor and Council for the maintenance of order.

VII. Abstract of letters about the sloop *Isaac* of Providence, which came into Westport in Ireland on 7 June 1696 with gold, silver and muslin, which was conveyed away and the ship sold ; (e) abstract of letters from Londonderry about the *Seaflower* of Jamaica, arrived on 20 June 1696 at Dunfanaghy ; (f) extract of a letter of 2 Aug. 1696 from Lord Justice Porter who examined Joseph Goss ; (g) Examination of John Dann, 3 Aug. 1696.—*Cf.* C.S.P. X. pp. 262-4.

1697-8.

1697 and 1698.

12 Aug. [3.] MARYLAND AND NEW YORK. *Orders for sending and 20 Jan. Church Books.*

II. p. 19.

1699.

1699. [4.] BERMUDA. *Complaints against Governor Day.* July-Sept. Customs representation of 3 July 1699 about the imprisonment of E. Randolph, with (a) copy of the order of the Bermuda Council committing him to custody, 16 May 1699.

(I) B. of T. representation for Randolph's release, 6 July.  
(II) B. of T. representation on further complaints, 20 July.  
(III and IV) Two letters from the B. of T. to Governor Day, 12 and 20 Sept. 1699.—*Cf.* C.S.P. XII. 668, 776, 800.

1700.

1700.

[5.] PLANTATIONS. *Piracy*. B. of T. representation 11 Jan. for the trial of pirates in some of the plantations.—II. p. 341. Cf. C.S.P. XIII. 29.

[6.] BARBADOS. *Dorothy Bishop*. Petition about her 11 Jan. husband's removal from his judgeship.—Cf. C.S.P. XIII. II. p. 347. 27. I.

[7.] PLANTATIONS. *Denization*. Report of Attorney and 17 Jan. Solicitor General (Trevor and Hawles).—Cf. C.S.P. XIII. 44. II. p. 348.

[8.] NEW HAMPSHIRE. *S. Allen*. Petition about the waste 18 Jan. of the woods &c.—Cf. C.S.P. XIII. 42. I. II. p. 347.

[9.] BERMUDA. *Governorship*. (a) Petition of Francis 25 Jan. Burghill for the Governorship: (with a clause of the grant II. p. 349. of Bermuda).—Cf. C.S.P. XIII. 57. I.

(b) B. of T. report on (a), 29 Feb.—C.S.P. XIII. 172.

(c) B. of T. report of 15 Feb., submitting the qualifications of Sir T. Lawrence, Captain B. Bennet, Captain J. Meade and J. Woollaston. On the same sheet is a certificate in favour of Captain G. Brook, but the date is 8 May 1700.—C.S.P. XIII. 131, 410.

(d, e, f) Petitions of Brook (11 Ap., C.S.P. XIII. 339. I.); II. p. 352. Woollaston and Meade (both 30 May).

(g) Petition of Daniel Hunt, who had served in New York against the French Indians, and carried despatches from Bermuda in 1693 and from New York in 1698, and has now brought over Captain Kidd's treasure from New England. 12 June.

[10.] NEW YORK. *Council*. B. of T. representation for 4 April. appointing R. Walters.—Cf. C.S.P. XIII. 285. II. p. 820.

[11.] BAHAMAS. *Governorship*. (a) Petition of Captain April—Elias Haskett, 4 April.—C.S.P. XIII. 505. I. June.

(b) Another copy, with the proprietors' nomination of II. p. 352. Haskett.

(c) B. of T. report about security to be given by the proprietors, 12 June.—C.S.P. XIII. 539.

6 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1700. § 11 *cont.*]

(d) Attorney General Trevor's report of 20 June, with copy of B. of T. report and Order of reference.—C.S.P. XIII. 540, 566.

(e) B. of T. report of 26 June in favour of Haskett.—C.S.P. XIII. 596.

(f) A memorandum inquiring whether the "Act for the more effectual suppression of piracy" passed last session should be added to the oath about the Acts of Trade.

12 April. [12.] SPANISH WEST INDIES. *The ship* FRIENDSHIP. II. p. 333. Petition of Thomas Dalton, with certificate of Alexander Stanhope (12 March), that he had received no answer to his application for redress.

16 April. [13.] JAMAICA. *Act*. B. of T. representation for confirming an Act which had been defaced.—Cf. C.S.P. XIII. 327.

18 April. [14.] NEW ENGLAND. *Export of timber to Spain and Portugal*. Petition of certain London merchants against the prohibition of this trade by Lord Bellomont.—C.S.P. XIII. 336. 1.

12 June. [15.] LEEWARD ISLANDS. *Governor Codrington*. Admiralty II. p. 354. report against supplying accommodation for transporting the Governor, the usage in the case of the Leeward Islands being for the Treasury to allow money and for the Governor himself to find transport.

19 June. [16.] BERMUDA. *Henry Ford's will*. Petition of Charles II. p. 355. Walker for probate of the will &c.

19 June. [17.] PIRACY. *The BECKFORD galley*. B. of T. report, II. pp. with a description of Ryder and of the galley, and a draft of 353-4. a circular letter to colonial Governors.—Cf. C.S.P. XIII. 567.

4 Dec. [18.] WEST INDIES. *Naval accounts*. Petition of Elizabeth II. p. 349. Townsend, and Admiralty memorial of 14 Jan. 1701. [*Very ragged.*]

5 Dec. [19.] BARBADOS. *Delay in the Chancery Court*. (a) Order II. p. 359. in Council, with the petition on which it was founded.—C.S.P. XIII. 975.

(b) Petition of I. Hawkins, 12 Dec.—C.S.P. XIII. 993. 1.

- |   | 1701.   | 1701.          |
|---|---------|----------------|
| [20.] NEW YORK. <i>Deduction from pay of troops.</i> B. of T. representation.—C.S.P. XIV. 41.   | 16 Jan. | II. p. 316.    |
| [21.] BARBADOS. <i>Council.</i> Presentment of the Customs that S. Cox be appointed a Councillor.   | 22 Jan. | II. p. 808.    |
| [22.] JAMAICA. <i>Settlement of the Revenue.</i> B. of T. representation.—C.S.P. XIV. 67.   | 23 Jan. |                |
| ———. Letter from the B. of T. submitting a draft letter to the Governor.—C.S.P. XIV. 127.   | 4 Feb.  |                |
| ———. Letter from the Treasury that they have nothing to add to the letter, nor any objection to make to it.   | 14 May. | II. pp. 361-2. |
| [23.] NEWFOUNDLAND. <i>Supplies for troops.</i> B. of T. representation.—C.S.P. XIV. 62.  | 23 Jan. | II. pp. 360-1. |
| [24.] PIRACY. Admiralty report about filling up blanks in a proclamation for the seizure of pirates; and B. of T. representation submitting the proclamation, (4 March).—C.S.P. XIV. 205.   | 5 Feb.  | II. p. 342.    |
| [25.] JAMAICA. <i>Council.</i> B. of T. representation for J. Walters, C. Sadler, and T. Clark.—C.S.P. XIV. 136.  | 7 Feb.  | II. p. 811.    |
| [26.] VIRGINIA. <i>Ellis Mann, widow.</i> Petition for relief, which mentions that she had been long in slavery in Virginia, and when returning to England was taken to France, where by most cruel and barbarous usage she hath lost both her feet.  | 13 Feb. |                |
| [27.] JAMAICA. <i>Patent Officers' deputies.</i> Petition of L. Compere and T. Cotton, that an Order of 16 Feb. 1699 for patent officers in the plantations to reside there in person be explained to apply only to future patents and not to those then already existing; with (a) an order of the Governor and Council of 2 Sept. 1700 that John Lewis be not admitted as Compere's deputy. | 26 Feb. | II. pp. 351-2. |
| Compere's wife's uncle, Thomas Martin, a London merchant, lost 13,000 <i>l.</i> in ships and goods taken by the   |         |                |

8 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1701. § 27 *cont.*]

French; instead of letters of reprisal Charles II granted to him and Compere and to the survivor of them the office of Receiver General of Jamaica, 3 Ap. 1674: Martin died in 1685. The Governor has refused deputies nominated by the petitioner who offered good security, and put in others who paid Compere none of the profits. The office of Chief Clerk of the Supreme Court was granted on 16 Sept. 1672 to Robert Clowes in trust for Sir Thomas Lynch, father of Cotton's wife. Compere's estate in Jamaica was ruined by the earthquake and the French invasion to the value of 11,000*l.*, and nothing left but these offices. The Assembly of Jamaica followed up the proclamation of 16 Feb. 1699 by an Act empowering the Governor and Council to appoint officers in place of patent officers who did not reside in the island, but the Act was declared void. Lewis was refused as deputy on the ground of the proclamation itself.

The petition is docketed, "This is done already."

6 March. [28.] BARBADOS.  $4\frac{1}{2}$  *per cent. duty*. B. of T. representation.—C.S.P. XIV. 220. I.

6 March. [29.] PIRACY. Petition of N. Gellibrand *re* seizure of King, the pirate. II. p. 367.

6 May. [30.] LEEWARD ISLANDS. *Lieutenant Governors*. B. of T. II. *pp.* representation for removing J. Norton, Lieutenant Governor 356–7, of St. Christopher, and for appointing A. Hodges to be 799. Lieutenant Governor of Montserrat.—C.S.P. XIV. 405.

7 May. [31.] MARYLAND. *Council*. B. of T. representation for II. p. 814. E. Lloyd, W. Holland and J. Saunders.—C.S.P. XIV. 410.

27 May. [32.] JAMAICA. *Stores*. Ordnance report and estimate. II. p. 368.

28 May. [33.] MASSACHUSETTS BAY. 13 Acts of May 1700 (printed II. *pp.* copies attested by Lord Bellomont): and B. of T. representation 844–5. tion that three are temporary and ten should be confirmed.—C.S.P. XIV. 484.

1701.

[34.] MARYLAND. *Secretary*. B. of T. representation for 12 June. appointing Sir T. Lawrence. (Colonel Blakiston, the Governor, II. p. 369. had recommended Mr. Bladen.)—C.S.P. XIV. 534.

[35.] ST. CHRISTOPHER. *Governorship*. B. of T. report 19 June. on petitions of Lieutenant G. Wingfield and Lieutenant H. II. p. 369. Harris.—C.S.P. XIV. 556.

[36.] MASSACHUSETTS BAY AND NEW HAMPSHIRE. 27 June. *Governor Dudley's commissions*. B. of T. representation.—II. p. 369. C.S.P. XIV. 591.

[37.] JAMAICA. *Governor Selwyn*. B. of T. representation 16 July. submitting his commission : also a representation of 24 July II. p. 795. on his memorial for stores.—C.S.P. XIV. 647. I. and 666-7.

[38.] PLANTATIONS. *Ships having commissions from* 29 July. *Colonial Governors*. Admiralty memorial about colours to II. p. 371. be used.

[39.] BARBADOS. *Appeal re the REBECCA*. Petition of 21 Aug. T. Symcocks and Order of reference. II. p. 376.

[40.] COURT MARTIAL. Admiralty memorial for restoring 23 Oct. Captain Richard Griffith of H.M.S. *Trydent*, dismissed in Jan. 1693 for taking from the seamen the plunder they had got at Petit Guaves, &c.

[41.] NEVIS. *Acts*. B. of T. representation for confirming 20 Nov. six and disallowing two.—C.S.P. XIV. 1020. II. p. 846.

[42.] ST. CHRISTOPHER. *Petition of W. Freeman*.—23 Nov. C.S.P. XIV. 1091. I. II. p. 380.

[43.] NEW HAMPSHIRE. *Allen v. Waldron*. Committee 10 Dec. report. II. p. 366.

[44.] VIRGINIA. *Secretary*. B. of T. report on claims 22 Dec. of E. Jennings, W. Spencer, and W. Bird.—C.S.P. XIV. II. p. 368. 1107.

10 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1702.

6 Jan. [45.] NEW JERSEY. *Surrender of proprietors' charter.*  
II. p. 383. B. of T. representation with drafts of (a) commission and  
(b) instructions for a Governor.

8 Jan. [46.] NEVIS. *Stores.* B. of T. representation *re* 600 fire-  
II. p. 382. locks.

27 Jan. [47.] BARBADOS. *Governor Crowe's Commission.* B. of T.  
II. p. 792. representation: and (a) another of 5 March submitting his  
instructions.

29 Jan. [48.] PENOBSCOT. Petition of John Crowne for relief  
and for vindication of his right to the province of Penobscot.  
The B. of T. had reported that the province belonged to  
Crowne's father, when ceded to the French in 1668: this  
report was ordered to be given to Mr. Secretary Vernon in  
Jan. 1701 (II. p. 362); nothing further was done before his  
Majesty's departure for Holland, but, on petitioning for  
relief, Crowne received 50*l.* from the Treasury, which is now  
spent. The claims of the French having prevailed at the  
Treaty of Ryswick, the land can be of no use to the petitioner  
till they are compelled to recognise it as part of his Majesty's  
dominions.

5 Feb. [49.] ST. CHRISTOPHER. *Complaint of William Freeman.*  
II pp. 380-1. B. of T. report. According to the petition, Freeman holds  
the manor of Godwyn by letters patent of 8 Aug. 1699. His  
father formerly held it, but, being captured by the French  
in 1664 or 1665, was obliged to sell it to one Monsr. de  
Chambré, who never paid the full price. After Freeman  
had spent several thousand pounds on improving the lands,  
the estate was forcibly seized from his agents (John Pogson  
and Leonard Woodward) by two pretended Justices of the  
Peace (Samuel Crook and Stephen Payne) and Robert  
Cunningham, agent for Colonel Codrington, pretending to  
act for Mme. de Chambré and to have been formerly in  
peaceable possession. Soon after Colonel Codrington took  
possession of the plantation for his own use and still enjoys it.

1702.

On behalf of Colonel Codrington, though without instructions from him, Archibald Hutcheson replied that Freeman's letters patent were secured by connivance from Captain Norton, the Lieutenant-Governor, who was in possession of half the estate at the time of the view made by the justices. Monsr. de Chambré or his agents remained in possession till the English part of the island was again taken by the French in the late war. At some date subsequent to the letters patent, the estate must have been wrongfully taken from the representatives of De Chambré by the petitioner's agents. Cunningham's proceedings upon the view of the justices were as valid against a possession of less than two years' continuance as would have been an inquiry by way of a jury. Hutcheson was not instructed about the alleged occupation by Colonel Codrington, but prayed that nothing be done against Cunningham's rights save by legal procedure, or in prejudice of Colonel Codrington till he had had an opportunity of answering the complaint.—*Cf.* C.S.P. XIV. 1091. 1.

[50.] NEVIS. *Complaints of Wm. Mead, Wm. and Mary Shipman and Thos. Harvey.* 13 Feb. The petitioners allege that II. p. 380. Mead was ejected from certain plantations on a motion by Thomas Herbert, encouraged by Colonel Codrington, who was commonly reported to be treating with Herbert for the purchase of his pretended title. Mead had been unable to obtain a hearing of his appeal to the Governor and Council, and attributed the delay to a desire to let Herbert reap the benefit of a crop of sugar canes worth 3,000*l.*

For Colonel Codrington, Mr. Hutcheson and Mr. Cary reply that the report of the Governor's design to purchase Herbert's title is false; that the suit in Herbert's name is of old standing—having begun in 1686 and been interrupted by the war; and that the present ejectment was brought before Codrington's arrival as Governor. Mead's appeal has been heard on 6 Sept. by the Governor and Council in Antigua, and, on their confirmation of the previous judgment, an appeal has been entered to the Privy Council.



12 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1702. § 50 *cont.*]

Mead has denied all knowledge of this; but the proceedings cannot be reversed till the appeal is laid before his Majesty. —*Cf.* C.S.P. XIV. 1090. 1.

18 March. [51.] NEWFOUNDLAND. *Embargo*. Petition of James II. p. 392. Doliffe for the *Speedwell*; with a certificate from the Lieutenant of H.M.S. *St. George*.

18 March. [52.] NEW ENGLAND. Contracts with Wm. Wallis II. p. 404. and with John Tayler to bring masts from New England. 6 *pp.*

24 March. [53.] NEWFOUNDLAND. *Embargo*. Ordnance representation II. p. 402. *re* four storeships.

26 March. [54.] NEW ENGLAND AND NEW YORK. *Powder*. Ordnance II. *pp.* report on Dudley's petition. 396–7.

26 March. [55.] NEW YORK. *Chief Justice Atwood*. His wife's petition that he be continued in that office. Docketed "Respited till the Council of Trade shall report relating to the present troubles in New York."

26 March. [56.] VIRGINIA. *Embargo*. Petition of Micaiah Perry for II. p. 392. the *Richard and Sarah*.

6 April. [57.] NEW ENGLAND. *Masts for the Navy*. Letter from the Admiralty to Mr. Secretary Vernon to have her Majesty's license sent to the contractors, so that they may not be obstructed by the Surveyor.

17 April. [58.] BARBADOS AND LEEWARD ISLANDS.  $4\frac{1}{2}$  *per cent. duty*. II. *pp.* 405 B. of T. representation: 11 *pages*. "Read the same day. -8, 427–32. Suggested in order to be further considered by the Council of Trade." Later elaborated into the reports given in II. *pp.* 405–6, 427–32.

29 April. ———. The B. of T. report quoted at II. *pp.* 405–8.

21 May. ———. B. of T. representation with drafts of letters to the Governors. II. p. 408.

1702.

[59.] BARBADOS. *Governor Crowe*. His petition that the — April.  
letters patent for his appointment pass without further delay.

[60.] VIRGINIA. *Council*. B. of T. representation for 7 May.  
excusing L. Burwell and appointing P. Ludwell, W. Bassett II. p. 824.  
and H. Duke.

[61.] SURINAM. *J. Clifford's claims*. B. of T. report. 29 May.  
II. p. 269.

[62.] PLANTATIONS. *New seals*. B. of T. representation. 29 May.  
II. p. 396.

[63.] VIRGINIA. *Contribution to defence of New York*. 8 June.  
B. of T. representation submitting a letter to Governor II. p. 404.  
Nicholson.

[64.] BAHAMAS. *Complaints against Governor Haskett*. 16 June.  
B. of T. representation. The charges were that Haskett II. pp.  
extorted a present of braziletto wood to himself, imprisoned 410-2.  
those who would not comply and barbarously used them  
till they ransomed themselves by large sums of money in  
proportion to their abilities ; imposed excessive port charges ;  
allowed or disallowed laws formerly enacted as suited his  
own interest on particular occasions, not allowing the Assembly  
to regulate these matters ; beat masters of ships who com-  
plained of the fees &c. exacted, and declared that there was  
no other law in that country but his pleasure ; monopolised  
corn at a time of scarcity and sold it to Spaniards and  
Portuguese, who exported it ; appointed Admiralty officers by  
virtue of his own commission in opposition to the officers  
commissioned by his late Majesty ; imposed an unlawful  
oath on all masters of vessels to deliver all letters to him—  
which he opened and detained as he thought fit ; beat the  
Collector of Customs and would not suffer him to execute his  
office ; engrossed the ordinary trade to himself and carried  
on an illegal trade with the French.

He was therefore seized and sent home under guard, but  
at New York procured his own liberty and the confinement

14 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1702. § 64 *cont.*]

of his accusers. In England he attended the B. of T. once and seemed prepared to make his defence, but has since absented himself and is not to be found.

An account of this has been sent to the proprietors of the Bahamas, but no answer returned. At the time of Haskett's appointment the B. of T. had proposed that security be given for his behaviour, but it could not be obtained from the proprietors. It is proposed that they be directed to take care of the safety of the islands and to appoint a worthy governor.

22 Aug. ———. B. of T. representation. Haskett had attended and alleged that his deportation was due to his prosecution of divers offenders against the Navigation Laws and his attempt to reform the disorderly way of living of the inhabitants. This had been confirmed by John Dogget, the Secretary, who had also been forcibly detained, but had escaped. As no one had appeared on behalf of the inhabitants, the facts could not be determined by the Board, who proposed a Commission of Inquiry. The proprietors should again be recommended to take care for the defence and regular administration of the government of the islands, and in particular that justice may be done in Haskett's case.

16 June. [65.] VIRGINIA. *Stores*. Ordnance report and estimate—II. p. 412. with Governor Nicholson's memorial to the Secretary of State, which shows that the last stores sent were destroyed by the fire which burned down the State House of the colony.

29 July. [66.] VIRGINIA. *Queen Anne proclaimed*. Letter from Governor Nicholson announcing his proclamation of the Queen, and wishing that she may outdo Queen Elizabeth by humbling both the French and Spaniard.

5 Aug. [67.] BARBADOS. *Estate of W. Binyon*. Appeal of W. II. p. 417. Battyn, and Order of 6 Aug. referring it to the Committee.

18 Aug. [68.] GOVERNORS. *Commission and instructions* for Lord II. App. I. Cornbury (N.J.) : instructions for Colonel Codrington (Lee. Is.) and Sir B. Grenville (Bs.). B. of T. representations. Also,

§ 68 *cont.*]

1702.

on 21 Aug., one with Bennet's instructions (Bermuda); and one with commission and instructions for a Governor to be appointed for Jamaica. And one of 16 Oct. submitting instructions for Governor Nicholson (Va.), and trade instructions for the Governors of Virginia, New Jersey, Jamaica, Barbados, Leeward Islands and Bermuda, and for the proprietors of Carolina and of the Bahamas.

[69.] BARBADOS. *Defences*. B. of T. report for sending frigates and troops. 21 Aug. II. p. 416.

[70.] BARBADOS. *Sir J. Colleton*. (a) Two copies of his petition : (b) Order of reference, 22 Oct. ; and (c) Committee report of 22 Dec. 22 Oct. II. pp. 344-5.

[71.] LEEWARD ISLANDS. *S. Barons' petition re ship* 30 Oct. AMERICA. (a) Petition, with (b) an Order of 18 Dec. 1701 ; II. p. 378. (c) a letter of 9 May 1702 from William Thomas in Antigua informing Barons of his ineffectual application to the Governor with the Order of 18 Dec. : (S. Martin, who formerly represented Barons in Antigua, had been murdered by his own slaves) ; (d) a copy of the letter with an addition of 9 June stating that Colonel Codrington had gone to Nevis and St. Christopher without leaving his promised answer in writing ; (e) Order of reference, 30 Oct. ; (f) Committee report, 8 Dec.

[72.] WEST INDIES. *Trial of prizes*. (a) Presentment of the Commissioners for Prizes to the Lord High Treasurer proposing the establishment of courts ; and (b) Admiralty report of 7 Dec. 4 Nov. II. pp. 421-2.

[73.] PENNSYLVANIA. *Lieutenant Governor*. B. of T. representation for appointing Andrew Hamilton. 11 Nov. II. p. 419.

Four queries proposed to Mr. Penn by the Board in May and June 1702 are enclosed :—

“ 1. Whether all persons in judicial or any other offices in Pennsylvania and the 3 Lower Counties do take the oath directed by the law of England or the affirmation allowed to Quakers ?

1702. § 73 *cont.*]

2. Whether all persons, who in England would be obliged and are willing to take an oath in any public proceedings, are permitted so to do in Pennsylvania ?

3. At what rate pieces of 8/8 do go in Pennsylvania ; and the reason why they are advanced above the rate current in her Majesty's other plantations ?

4. By virtue of what title does he the said Mr. Penn pretend to the propriety of the soil and power of Government in the 3 Lower Counties ? ”

11 Nov. [74.] BERMUDA. *Act*. B. of T. representation for II. p. 831. disallowing an Act to prevent the oppression and extortion of officers ; with (a) a copy of the Act. It was passed upon occasion of the crimes charged against E. Jones, the Secretary.

24 Nov. [75.] RHODE ISLAND. *Command of Militia*. B. of T. II. p. 421. representation on a letter from Governor Dudley of Massachusetts Bay. Dudley had published his commissions as Vice Admiral and as Captain General of the Forces &c. in Rhode Island and the Narragansett country, at which the Quakers raged indecently saying they were ensnared and injured. When he proposed to review the militia, and asked the names of the officers, he met with an obstinate refusal, and their resolutions signified that they would rather choose to lose all at once than by pieces, as they expressed themselves. The Mayor of Newport refused to muster the militia there, alleging that he must observe the directions of the Governor and Council or of the General Assembly. Governor Cranston and the Council insisted that the power of the militia was granted to them by their charter and intermixed with the power of civil government. Dudley was obeyed in the Narragansett country till the Governor and Council interposed to bring that people also into confusion. He adds that Rhode Island has over 2,000 men fit to bear arms : that there are several persons of good estates, ability and loyalty, but the Quakers and their friends monopolise all places of trust in the government, though the major part of

§ 75 *cont.*]

1702.

the people very much desire to be brought under her Majesty's immediate government.

The B. of T. do not conceive how the colony can be secured against the attempt of an enemy, to which they lie exposed, otherwise than by the legislative power of this kingdom; and referring to a report of the Attorney General and Solicitor General in July 1694 (that in the case of danger through the neglect or weakness of a proprietor, his Majesty may appoint a Governor), propose that Governor Dudley may be given civil as well as military authority over Rhode Island.

[76.] BARBADOS. *Regulation of appeals.* B. of T. representation that the persons most interested in Barbados have II. p. 386. represented that any alteration in the regulations may be prejudicial to the inhabitants, and that no application for the proposed alteration has been made directly from the island. They propose that no determination be made till the papers have been communicated to the Governor and Council, and the general sense of the inhabitants ascertained; which is the more necessary, as the other plantations are concerned in the consequences of any alteration.

[77.] EMBARGO IN PLANTATIONS. Admiralty report *re* 30 Nov. the *Richard and James*. II. p. 395.

[78.] PENNSYLVANIA. *Captain Kidd's treasure.* Petition 3 Dec. (?) of Robert Bradinham. A report from Sir John Cook, the II. p. 379. Advocate General, to whom a former petition was referred on 21 May, and a certificate from the Admiralty Office, are said to be annexed, but are not in the bundle.

[79.] NEW HAMPSHIRE. *Act.* B. of T. representation for 3 Dec. confirming the Act and allowing Governor Dudley to receive II. p. 847. 250*l.*

[80.] JAMAICA. *Settlement of the Revenue.* B. of T. letter 4 Dec. to Lord Nottingham proposing that, in Lord Peterborough's II. p. 362. instructions, they extend the time allowed to the Assembly

18 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1702. § 80 *cont.*]

for passing an Act to settle the revenue, from March till October, as the Governor has not yet been despatched.

8 Dec. [81.] NEW HAMPSHIRE. *Allen v. Waldron*. Committee II. p. 366. report : and Allen's petition, read 17 Dec.

10 Dec. [82.] MARYLAND. *Governorship*. Petition of merchants trading to Maryland for the appointment of Captain Matthew Smyth (55 signatures).

10 Dec. [83.] ST. CHRISTOPHER. *Act*. B. of T. representation for II. p. 852. disallowing an Act for the settling and strengthening his Majesty's part of this island, in agreement with the opinion of the Attorney General. (1) Attainting persons not named is useless, as no one could be executed under such an Act without a trial ; if it were done, it would be a very bad precedent. (2) It is unjust to attaint those of the conquered who remained in their habitations and submitted. (3) It is unreasonable to destroy all titles in the Crown or its grantees of over twelve years standing, the Act not being restricted to those who had not had possession or begun their suits within that time. (4) It is unreasonable to make void patents passed by the Governor without the consent of the Council ; if a previous law forbids this practice, the titles can be proceeded against at law. (5) It is unreasonable to make patents void for non-improvement in three years, as no previous law required such improvement within any limited time. (6) It is unreasonable to declare void patents passed to papists since the beginning of the war, as this would also make void assignments by them to Protestants for valuable considerations.

17 Dec. [84.] NEW YORK. *Appeal from condemnation for treason*. II. p. 414. Petition of N. Bayard ; and Order of reference to the Committee. Bayard was tried before Special Commissioners appointed for the purpose. There were only 11 jurors, several of whom were aliens. The libels on which the charge was founded were addresses to the King and Parliament containing just

§ 84 *cont.*]

1702.

complaints lawful for English subjects to make, and an address of congratulation to Lord Cornbury on his arrival. The addresses were not produced at the trial, nor was full proof made that Bayard had signed them or caused others to sign them. Reasons offered by him in arrest of judgment were not answered, but overruled; and he was sentenced to death. Only short minutes of the trial were allowed to be taken by the Clerk, who died before the Order of 2 July for the transmission of records arrived in New York. The papers were sent up to Albany (150 miles) to be examined and signed by Lord Cornbury, but the public seal being at New York it could not be affixed in time, the ships sailing before the Governor's return from Albany.

[85.] JAMAICA. *Compensation for impressment of ship* 17 Dec.  
JOSEPH. Petition of Sir John Fleet. The owners could get II. p. 251.  
no return from the Committee to the reference of Oct. 1693  
till 10 Nov. 1702. The Committee now declare that the  
petition does not properly lie before them and they can take  
no cognisance of it; and that they cannot return the papers  
as they are fixed in the Book of their office.

[86.] VIRGINIA. *Convoys*. Admiralty memorial. 23 Dec.  
II. pp.  
425-6.

[87.] NEW YORK. *Acts*. B. of T. representation for 31 Dec.  
disallowing six Acts, and for removing five councillors and II. pp.  
appointing others. (1) An Act for continuing the revenue &c., 849-50,  
"is in effect little more than a specious pretence for giving 425.  
away divers sums out of the revenue to several persons who  
have been since discharged by his Lordship from their employ-  
ments for misbehaviour in the government, and does not  
seem to be otherwise necessary, because a former act for  
settling the revenue does continue in force till 16 May 1705,  
before which time we presume the Lord Cornbury will have  
taken further care in that matter." (2) An Act for paying  
the debts of the government &c., tends to charge the province



20 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1702-3. § 87 *cont.*]

for goods taken from merchants by Leisler and his party, upon pretence that the same were for his Majesty's use, and is contrary to the instructions to Lord Bellomont that no Act should be passed having retrospect to the disputes at the time of the Revolution. (3) An Act about the liberties of the city of New York, in effect overthrows the charter and tends to the great prejudice of that city. (4) An outlawry Act, was directed against men, otherwise innocent, for default of appearance within 10 days—which is unjust and repugnant to the laws of England, which allow a much longer time. (5) An Act increasing the number of representatives in the Assembly, is an alteration not fit to be made in the constitution, and tends to burden the people of some places in the province, who have already as many members as they are willing to maintain. (6) The Act regulating the election of magistrates for Kingston, tends to the ruin of the said town.

31 Dec. [88.] BAHAMAS. *Ex-Governor Haskett*. His petition for II. p. 426. command of a fifth-rate ship, he having offered to the Lord Treasurer and the Earl of Nottingham several matters wherein he can be of great use to her Majesty's service in the West Indies.

— Dec. [89.] NEW YORK. *Petition of Captain John Evans*, who served as a commander in the Navy in the last war. Lord Bellomont conceived a prejudice against him for bringing home his predecessor without his orders, had him recalled from New York, and brought various false accusations against him, upon which King William, without hearing his justification, directed the Admiralty not to employ him. He now seeks to be heard, and, on acquittal, to be re-employed.

1703.

1703.

4 Jan. [90.] EMBARGO IN PLANTATIONS. Admiralty report re II. p. 396. *Golden Lion* and *Baltimore*, with (a) the owners' petition, received 30 Dec. 1702.

- 1703.
- [91.] NEW YORK. *Earl of Stirling's claims.* Petition of Robert Lee, trustee for Stirling's younger children, about arrears of an annuity of 300*l.*, which was agreed in 1674 to be paid in commutation for 3,500*l.* due as the consideration for the release of his claims in 1663; or for a grant of part of Long Island: with (a) a B. of T. report of 5 March recommending the children to her Majesty's consideration and bounty. (b) Two copies of the petition with a proposal to accept part of the debt at present and the rest as it shall arise out of her Majesty's share of prizes taken in the West Indies. Read 7 Jan. II. p. 271.
- [92.] MARYLAND AND NEW YORK. *Governors.* B. of T. representation submitting commission for Col. J. Seymour, and trade instructions for Lord Cornbury: and another of 11 March with instructions for Seymour. 13 Jan. II. pp. 798, 801.
- [93.] WEST INDIES AND NEW YORK. Petition of Daniel Hunt for a reward for his services.—*Cf.* § 9. 13 Jan. *Cf.* II. p. 367.
- [94.] NEW YORK. *Councillors suspended.* Petition of W. Atwood and T. Weaver for copies of papers—with Atwood's answer (7 pages), objecting to charges made only after his suspension and certified by Mr. Henan without the seal of the province, and making counter-charges against Lord Cornbury of being implicated in illegal trade &c. He hopes not to be obliged to make any further answer till he has an opportunity to exhibit articles against Lord Cornbury and the Attorney General, Broughton. Received 14 Jan. II. pp. 424-5.
- [95.] MARYLAND. *Act.* B. of T. representation for confirming an Act about religious worship, a draft of which had been sent out to the colony.—(II. pp. 362-3.) 18 Jan. II. p. 837.
- [96.] BARBADOS. *Colleton's case.* B. of T. representation submitting an instruction to the Governor to remove the obstructions complained of. 20 Jan. II. p. 345.

## 22 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1703.

22 Jan. [97.] BAHAMAS. *Ex-Gov. Haskett*. Admiralty report II. p. 426. against giving him a command in the Navy, as it would be prejudicial to officers who had served in the last war.

27 Jan. [98.] NEW YORK. *Act. B. of T.* representation for dis-II. p. 850. allowing an Act of 26 Oct. 1700 making East Chester a separate parish, the Bishop of London having objected that it establishes no fixed maintenance for a minister in East Chester, while impeaching a former Act which made such settlement.

Read [99.] ENGLISH TOBACCO. Petition of Dorothy, widow of 4 Feb. John Gray, who discovered divers plantations near Bristol—II. p. 264. with note that the Customs had reported to the Treasury. Copies of the report could not be obtained till the petitioner had applied to the late House of Commons. Justice was then promised, but has since been refused.

4 Feb. [100.] BARBADOS. *Ship pass*. Petition of Thomas Clarke of Mincing Lane for a protection for the *Britannia* to return from Barbados with 25 men. She was badly damaged on the outward voyage and all the crew left her, but she has now been repaired. With the protection of a pass, it is hoped to secure New England men to navigate her on the homeward voyage.

Read [101.] PRIVATEERS. Petition of the owners of the *St. George* 4 Feb. and the *Fame* (Capts. W. Dampier and G. Clark) that their II. p. 426. men be not impressed; (a) a state of the case; (b) another petition read on 11 Feb., which shows that the Admiralty had refused to give any relief without special direction from her Majesty.

11 Feb. [102.] SURINAM. Petition of Jeronimy Clifford, alleging II. p. 269. that since 1697 the Earl of Jersey has obstructed him in the matter of redress for his losses, and that Mr. Secretary Hedges has refused to send the papers to Holland as ordered on 31 May 1702, and has suppressed a subsequent petition in October. Hedges' excuse was that the packets were too large

to go in the mail and too expensive for her Majesty to send forth; but in 1700 a larger packet was sent for the petitioner from the Secretary's office at Whitehall to his Majesty at Loo by order of the Lords Justices. (a) A copy of the Order of 31 May 1702.

[103.] EMBARGO. *Virginia and Maryland*. Petition of 11 Feb. traders to be freed from the embargo in order to proceed with the convoy—with a letter to John Povey desiring his favour to promote the reading of the petition.

———. *Virginia*. Petition of merchants and masters of 4 March. 15 ships on this side Gravesend (named in margin). II. p. 394.

———. *Newfoundland*. Petition of owners of fishing ships 4 March. for protections for their men and permission for 18 ships named to sail: and another petition of 20 March for two more ships.

[104.] WEST INDIES. *Naval services*. Petition of Martha, 13 Feb. widow of Admiral Benbow: and Admiralty report of II. p. 426. 24 Feb.

[105.] PLANTATIONS. B. of T. representation for sending 25 Feb. her Majesty's picture and arms. II. p. 427.

[106.] BARBADOS. *Will of W. Binyon*. Committee report 3 March. on W. Battyn's appeal: and draft of Order of 4 March. II. p. 417.

[107.] LEEWARD ISLANDS. *Act confirmed*. B. of T. 4 March. representation for allowing Gov. Codrington to accept 1,200*l.* II. p. 836. voted to him:—in view of his services in reducing St. Christopher, and as his salary of 700*l.* is not proportionable to his necessary expenses.

[108.] LEEWARD ISLANDS. *Two Acts disallowed*. B. of T. 18 March. representation. (a) The Act "for the better observation of the II. p. 836. Lord's Day and suppressing of profane cursing and swearing," declares all Acts of Parliament for securing to his Majesty's subjects their religion, lives, liberties and properties to be in force in the Leeward Islands—a clause foreign to the title

24 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1703-4. § 108 *cont.*]

of the Act and in its substance infringing the royal prerogative, while the laws about property that would be thus set up might be unsuitable and create vexatious lawsuits; (b), "for the better and more certain support of ministers," was referred to the Bishop of London, and appears to be inconvenient and prejudicial to the clergy.

18 March. [109.] NEW YORK. *Act confirmed*. B. of T. representation II. p. 850. to allow Lord Cornbury to receive 2,000*l.* currency voted to him, his salary being only 600*l.* sterling.

16 Dec. [110.] CONNECTICUT. *Appeal*. Petition of Edward Palmes II. p. 453. that his appeals be admitted and heard, in spite of the refusal of the Court of Assistants to allow appeals to England. The Order of 12 June 1701 in Hallam's case is referred to as a precedent.

1704.

1704.

5 Jan. [111.] LEEWARD ISLANDS. *Gov. Matthew's commission*. II. p. 797. B. of T. representation.

13 Jan. [112.] RHODE ISLAND. *Irregularities*. B. of T. representation II. p. 457. The irregularities are (1) refusal to submit to Dudley's orders about the militia; (2) refusal to transmit copies of Acts passed; (3) harbouring pirates, smugglers, deserters, and runaway servants; (4) erection of an unauthorised Admiralty jurisdiction—to further their illegal practices in matters of trade. An Act relating to this court should be disallowed and the colony ordered to submit to the court constituted by H.R.H. in those parts. The opinion of Attorney General Ward and Solicitor General Trevor is quoted that, in case of extraordinary exigency by default or neglect of any proprietor, his Majesty might constitute a Governor; and it is proposed that Col. Dudley be appointed Governor of Rhode Island as well as of Massachusetts during the war.

16 Feb. ———. B. of T. representation with a draft letter to the Governor and Company.

1704.

[113.] PLANTATIONS. *Trial of Prizes*. B. of T. representation proposing that directions be given : and another of 26 Jan. II. pp. 422-3.  
16 Feb. enclosing draft letters to Governors.

[114.] JAMAICA. *Seat of Government*. B. of T. representation (15 pp.) (1) An "Act to invest her Majesty in land in 3 Feb. II. p. 834.  
Kingston for the reception of the sufferers by the late dreadful fire at Port Royal, declaring Kingston to be the chief seat of trade and head port of entry, and fortifying West Chester;" has been considered with two petitions from Jamaica and one from Bristol.

For the Act, it was alleged that the ground on which Port Royal stood was too little for a town of trade, one third part whereof was made land out of the sea ; that being surrounded by the sea and lying very low it is in danger of being washed away ; and that if a town were to be built there, the houses would be in danger of being again destroyed by earthquakes, hurricanes, accidental fires or bombs from an enemy : that Port Royal had no water but what was brought by boats ; that the fort was not of any security to the port or island, because a channel had been lately found out, by which ships might pass into Kingston Harbour at a mile's distance from the said fort, so that in case of an attack they could neither be relieved with men or water, nor make their retreat. Major-Gen. Selwyn, Admiral Benbow and the Engineer considered the place untenable, and that a fort on Mosquito Point would much better secure the entrance to Kingston Harbour. The island had been much impoverished and the inhabitants diminished by the earthquake and fire, and if such misfortunes should happen again, it would be the ruin of the island. Kingston is not liable to such inconveniences : the harbour is very capacious and can be made one of the safest in the world, whereas ships in Port Royal harbour cannot be so easily defended.

Against the Act, it is replied that the plot of land on which Port Royal stood is sufficient to build a town as great as the trade of the island requires ; that it is secured from

1704. § 114 *cont.*]

inundations by a wall and from enemies by a fort ; that Mosquito Point is a quicksand, not having sufficient foundation whereon to build a fort ; that the entrance into Port Royal cannot be secured by any fort built there ; that the forts now standing are of great security to the port and by consequence to the whole island (no enemy having ever attempted to attack the same) ; that the new channel has not yet been used, nor will any master venture to carry a ship through it ; that Kingston is the most unhealthy place in the island (273 having died there in the last nine months, double the proportion of mortality in any other part of Jamaica) ; that it has once already been deserted on account of sickness ; that its inhabitants frequently resort to Port Royal for the sake of their health ; that seafaring men will not inhabit there and can work only four hours a day at lading or un-lading ships there and many days not at all by reason of sea breezes which make the harbour as rough as the open sea, whereas at Port Royal they may work at all times and ships of 300 tons may lie close to the wharf ; that the *Gloucester* man-of-war having been almost lost in Kingston Harbour was brought to Port Royal by Admiral Benbow's orders and careened there ; that the channel to Kingston is so difficult that scarce any ships go up or down without running on ground more than once ; that the *Bristol* man-of-war ran on ground there and was in danger of being lost ; that ships going to Kingston spend two or three days going up from Port Royal and cannot ride in safety when they arrive, several having been lately cast away in the harbour ; and that an enemy could block up Kingston Harbour by sinking a vessel in the narrow channel, which could not be cleared in several months, if ever.

Both parties agreed that the fort at Port Royal had cost over 100,000*l.*, and would be useless, if the town were not restored to its former privileges.

Against the Act, it is further urged that it would be injurious to property and private rights, "depriving those of

Port Royal from the conveniency of building upon their own lands, since they can neither have markets, sell liquors, or receive the common necessaries of life''; that it violates contracts for rebuilding, and for payment of rents and annuities, with no compensation but the same number of square feet of land at Kingston as they possessed at Port Royal; that the rental of the land at Port Royal amounted to 27,000*l. per annum*; that on more mature consideration 7 out of 11 councillors and 14 out of 32 members of Assembly had signed petitions against the Act.

The Attorney General reported adversely to the clause about rents and Vice-Admiral Whetstone unfavourably as to Kingston, which is liable to sudden floods by reason of the nearness of the mountains behind it: the new channel is not good, and he believed that neither it nor the south channel would ever be used by an enemy: if the south angle were turned into a half moon, the fort at Port Royal would be made more secure than Kingston can be.

The Admiralty reported that if the merchants would fortify Mosquito Point at the entrance to Kingston Harbour, it would be the more secure, but that Port Royal was fitter for expedition and more healthful.

The B. of T. thereupon recommend the disallowance of the Act (1), and of two others touching the same matter—(2) to prevent the resettling of Port Royal, and (3) for making the quay whereon Fort Charles and Fort William are erected a port of entry. By an Act confirmed in Dec. 1695, Kingston had been made a port of entry, so that both ports possess equal liberties and immunities in the enjoyment of their estates and the carrying on of their trade.

Among the Acts transmitted by Lt.-Gov. Handasyd on 27 Nov. was one "for raising a revenue . . for the support of the government . . and for maintaining and repairing her Majesty's forts and fortifications," which continues the revenue for 21 years; wherein the Board conceive Col. Handasyd has done her Majesty very good service and deserves her Majesty's favour.



28 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1704.

3 Feb. [115.] VIRGINIA. *Beverley v. Ballard*. Order of reference II. pp. of R. Beverley's petition; with copy of the petition; and 446-7. Attorney General Northey's opinion, read 10 Feb.

16 Feb. [116.] NEW ENGLAND. *French and Indian attacks*. B. of T. II. p. 458. representation for sending 400 firearms to Massachusetts, (§§ 920, and letters to Connecticut and Rhode Island enjoining them 922.) to assist their neighbours on occasion for their mutual security.

21 Feb. [117.] LEEWARD ISLANDS. *Military Stores*. B. of T. II. p. 458. representation; and copy of Ordnance estimate.

9 March. [118.] CONNECTICUT. *Mohegan Indians*. B. of T. representation on a complaint against an Act, by which lands reserved to the Indians by several treaties are to be taken from them and divided to the Governor and several others. The Mohegans claimed that they had always hitherto assisted the English, but, if no redress can be had, they will be necessitated to withdraw their obedience and join with the Eastern or French Indians. They therefore desired the appointment of a Commission of Inquiry.

The Attorney General reported "That it doth not appear to him that the lands now claimed by the Indians were intended to pass or could pass to the corporation of the English colony of Connecticut; or that it was intended to dispossess the Indians, who before and after the grant were the owners and possessors of the same"; that the Act was therefore illegal and void, and that her Majesty might establish a Court to do justice to the Indians.

It was accordingly recommended that a commission be issued to Gov. Dudley and Lt.-Gov. Thomas Povey, of Massachusetts; Edward Palmes, James and John Avery and John Morgan, of New London, Connecticut; Francis Brinly, of Rhode Island; Giles Silvester and Jahleel Brenton, of Boston; Nathaniel Byfield, of New Bristol, Massachusetts; Thomas Hooker, of Hartford, Connecticut; and Thomas

Lepingwell, of Norwich, Connecticut. As the Indians have not the use of money, the charges of passing the commission should be defrayed by her Majesty,

[119.] LEEWARD ISLANDS. *Complaint about slaves seized.* 9 March. Petition of Peter Vanbelle; with a statement of his case. II. p. 459. In spite of a permit from Lt.-Gov. Norton of St. Christopher, 41 slaves whom Vanbelle had sent from St. Thomas in a foreign sloop to his plantation in St. Christopher were seized on the estate by William Mead and declared forfeited at a Court of Admiralty held in Nevis by President Burt. He desired that the proceedings in the case should be transmitted and his appeal heard: also that security be taken in London and that taken in St. Christopher discharged—on account of the present hazardous circumstances of that island in time of war.

———. B. of T. report, in accordance with the opinion 13 June. of the Attorney General, that a letter be sent to Gov. Matthew to transmit the proceedings to the Privy Council if the sentence was given as by the Council; if it was given under authority from the Admiralty in England, Vanbelle must proceed as in cases belonging to the Court of Admiralty.

[120.] ST. CHRISTOPHER.  $4\frac{1}{2}$  per cent. duty. Attorney General 23 March. Northey's draft of an Act—sent to the Secretary of State II. pp. 454–5. for a warrant to be prepared for passing it under the Great Seal. Also an extract of proceedings before the Council in 1703–4.

[121.] PENNSYLVANIA. *Charter of Trade.* (a) Draft of 20 April. charter to Thomas Byfield, Micaiah Perry, Walter Benthall, II. pp. 464–9. Thomas Cowper, Richard Edmundson, John Frame, Henry Gouldney, Silvanus Grove, John Hodgkins, John Knight, Joseph Marshall, and Samuel Waldenfeild; (b) Order of reference to Attorney and Solicitor General, 20 April; (c) report of Northey and Harcourt; (d) Order of reference to the Customs, 17 June; (e) answer of the petitioners to

30 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1704. § 121 *cont.*]

the law officers' report; (f) an offer by other merchants to import the stores without a charter, 10 Aug.; (g) Customs report of 25 Nov.; (h) Committee report of 6 Dec.

21 June. [122.] JAMAICA. *Grant of 2,000*l.* to Gov. Selwyn's heir.*  
II. p. 474. B. of T. representation.

21 Sept. [123.] BARBADOS. *Councillors suspended.* Petition of  
II. p. 477. G. Lillington, M. Terrill, D. Ramsay, and B. Cryer. They  
had opposed an Act for raising standing forces and laying  
a tax, on the plea that it would provide the Governor with  
a revenue forbidden by his instructions. Factionous conduct  
was alleged against all of them by Sir B. Grenville, and absence  
from the Council against the last three. Lillington's name  
was alleged to have been mistaken in the instructions; and  
Cryer had married without licence from the Governor.

26 Oct. [124.] BARBADOS. *Obstruction of Assembly by absentees.*  
II. pp. 477, 479. (a) B. of T. report, with (b) an extract of Grenville's com-  
mission. In an Assembly of 22 members, 15 form a quorum;  
and 8 members have taken advantage of this to prevent the  
passing of a bill by absenting themselves. From 27 Oct. to  
24 Nov. 1702 and from 7 Jan. to 2 March 1703, the Assembly  
had to adjourn five times before Grenville's arrival, and since  
then so frequently that there was a total cessation of business.  
It is proposed that the quorum be reduced to 12 by the  
exercise of the royal prerogative—by order under her Majesty's  
sign manual. Another such order is proposed declaring that  
councillors in the plantations should have no privilege by  
virtue of their position which may tend to the interrupting  
of justice or to the detriment of other subjects of her Majesty;  
(c) Order of 26 Oct. referring the report back to the B. of T.  
to consult the law officers; (d) letter from W. Popple to the  
Attorney and Solicitor General enclosing the report, 27 Oct.;  
(e) report of Northey and Harcourt, 1 Feb. 1705. The  
Governor's commission empowers him with the Council and  
Assembly or major part of them to make laws—therefore

§ 124 *cont.*]

1704.

12 out of 22 should form a quorum, and the order of the Assembly making 15 a quorum is irregular. The absentee members might be proceeded against in the ordinary courts for misdemeanour and contempt of her Majesty's authority; but it is submitted whether such action without an application from the Assembly might not tend to her Majesty's disservice by creating an uneasiness in the Assembly and unwillingness to serve therein; (f) B. of T. report of 20 Feb. 1705, submitting the opinion of the law officers; (g) Order of reference back to the law officers with a petition on behalf of the absent members, 22 Feb. 1705; (h) Northey's report of 28 March 1705 repeating the former opinion. The particular case of the petitioners depending before the B. of T. had not been referred to his consideration. The power of the Assembly to expel members, and an agreement made by members to forfeit four shillings per hour (up to 20 shillings a day) for voluntarily absenting themselves, do not exclude her Majesty from punishing the members for contempt; (i) B. of T. report of 23 Nov. 1704, for the taking of depositions on the complaint of seven members of the Assembly against Governor Grenville and Alexander Skene, the Secretary; and also in the case of the suspended councillors (*cf.* previous section).

[125.] BARBADOS. *Cowse v. Sharpe*. Committee report. 6 Dec.

II. p. 365.

[126.] BARBADOS. *Leave of absence*. B. of T. report on 13 Dec.  
petition of E. Chilton.

II. pp.

476-7.

[127.] ST. CHRISTOPHER. *Two Acts approved*. B. of T. 14 Dec.  
representation.

II. p. 852.

[128.] NEW YORK. *Act reversing attainders*. B. of T. 15 Dec.  
representation. Those who acted innocently against Bayard II. p. 414.  
and Hutchins must be safeguarded by the recognizances of  
the latter to bring no actions against them, or by amending  
the Act.

## 32 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1704-5.

18 Dec. [129.] PRIVATEERS. Draft of instructions (12 *pp.*): Form II. *p.* 473. of oaths and pass required by the Convention with Denmark (8 printed *pp.*): Copy of Articles 11 and 12 of Treaty of 1661 with Sweden and form of the pass (5 printed *pp.*).

23 Dec. ———. Order approving the draft, with copies of the above papers and Orders of 2 and 14 Nov. 1704 approving additional instructions to H.M. ships of war—(not largely colonial).

1705.

1705.

Received [130.] BARBADOS. *Complaints against Gov. Grenville.*

11 Jan. Petition of John Lesley, Philip Kirton, Christopher Estwick, II. *pp.* Enoch Gretton, and Thomas Maxwell, members of the late 478-9. Assembly. (7 *pp.*). The complaints are :—

(1) The militia have been commanded upon duty to remote places and upon the mountains by the Governor alone without the consent of the Council, which is required by the Militia Act.

(2) This has been done with a view to incline the Assembly to pass a Bill giving the Governor authority to raise two companies of Grenadiers, which would prove destructive to the militia and evade the prohibition to the Governor to receive presents, since the incidental charges for provisions &c. were to be paid into the hands of the Governor, who, not being accountable in any manner, would have an opportunity of gaining at least 3,000*l. sterling.*

(3) The Bill having been defeated on the third reading, members who voted against it and other inhabitants believed to be of the same opinion have been discharged from offices and places of trust as factious and turbulent persons. By such a removal of officers there is scarce a complete regiment in the whole island.

(4) The officers appointed instead of those turned out are unqualified and wholly devoted to the Governor's private ends. By such favours the Bill has been passed by 12 out of the 22 members; it was solely to hinder its passing by such violent and unwarrantable methods that the petitioners absented themselves.

(5) The Governor has also received from the Assembly (contrary to his instructions) two sums of 600*l.* and 500*l.* To conceal the present, as the Governor desired, the minutes of the Assembly were altered, verbal orders being given to the Treasurer to make the payment.

(6) The Governor has also accepted other presents from the Jews, the Scots and other private persons, who have by such means been advanced to the greatest places of trust, profit and honour—"to the great dissatisfaction of many of your Majesty's English subjects who live in great dread (the present circumstances of affairs considered) of the growing power of the Scotch in that island."

(7) In a complaint against Arthur Slingsby, Chief Clerk of one of the Courts of Barbados, the chief evidence against him was Francis Lee, a solicitor. The hearing of the complaint was delayed till the sailing of the last fleet, and then Lee was shipped off the island by the contrivance of Slingsby, Alexander Skene (the Secretary), and Nicholas Wanley, Lieut. of H.M.S. *Dolphin*, and brought to England.

(8) Instead of the 300*l.* allowed by her Majesty's directions, the Governor's house will cost the island 600*l.* *sterling per annum*, besides the loss of 5,000*l.* expended on buildings on land leased for 20 years at 120*l.* ground rent, the land and buildings reverting to Thomas Pilgrim at the end of that period.

(9) Abuses have been introduced with regard to fees in connection with granting ships liberty to sail from the island.

(10) The Governor explained the non-hearing of a complaint by Nicholas Paston against Col. John Holder in Sept. 1703 by saying that Holder had the most part of the Assembly in his interest, else he would have heard the same.

(11) Freedom of election has been violated in the choice of Assembly men. Freeholders opposed to the Governor were kept on guard the day of election: others were turned out of places or threatened.

1705. § 130 *cont.*]

(12) The Governor has refused to allow H.M. ships of war to cruise against the enemy unless they would agree to his terms by letting him have a share, and has sent them to cut wood in Tobago. In May 1704 he stopped a whole fleet from sailing under convoy upon the applications and presents of particular persons.

(13) Traders have left and are leaving the island through dissatisfaction with the Governor's arbitrary proceedings.

The petitioners request a hearing and the examination of their witnesses.

29 March. ———. B. of T. report (31 *pp.*). The summary of the complaints adds a reference to the appointment as Speaker and Chief Justice of Common Pleas of Col. William Holder, though he is not known to be of any Christian community, nor has yet been baptized.

Charge (1) was supported by the depositions of T. Maycock, W. Tirrell, Laurence Row and John Curl. For the Governor, objection was made to three of the witnesses, and the movement of the militia explained by the necessity of keeping guard on the coasts in time of war. The charge of harassing the militia was not sustained.

(2) was supported by Maynard and Tirrell with a calculation of the cost of provisions by Guy Ball and William Heysham. It was answered that the Assembly themselves brought the Bill forward to ease the inhabitants from the hard duty of guards. Affidavits of Alexander Walker, Col. John Holder, and John Harper were produced to show that three of the complainants were on the Committee for drawing up the Bill, and that three of them voted for depositing a much greater sum in the Governor's hands for getting of intelligence. The charge in any case was but a bare supposition, and affidavits by Col. Sharp and Col. Johnstown were produced to show that the Governor had declared that he would expunge in the Council anything that looked like an advantage to himself or not pass the Bill. The charge that the Governor procured the bringing in of the Bill was not sustained.

To (3 and 4) it was answered that the officers were removed not for voting against the Bill, but for obstinately absenting themselves from the Assembly, there having been five adjournments in 1702-3 before the arrival of Gov. Grenville. The B. of T. report that the removal of these persons was justly merited.

As to (5), the 600*l.* was stated in the minutes to be given to reimburse the Governor for expenses incurred in gaining intelligence, in receiving flags of truce from Martinique, and in defraying the expenses of his household till Pilgrim's House should be fitted for his reception: and the other grant—"a convenient sum," not specified—for furnishing the Governor's cellar for his reception and accomodation as has been accustomed. The money was raised by a levy of 1*s.* 10*d.* per head on negroes. In both cases the Board held that the Governor had not duly observed her Majesty's instructions. The Governor should be required to answer the charge of altering the minutes.

(6) No proof was offered regarding presents from the Jews or Scots, nor was it found that the Governor had made any national distinction in the disposal of places.

(7) Capt. St. Loe of the *Dolphin* admitted impressing Lee at Skene's request, and stated that, on his applying to the Governor, the latter replied that Lee was an idle fellow and that he might keep him without fear of being damaged on that account. The Board censured the proceedings of Skene and Capt. St. Loe, and gave their opinion that the Governor should not have consented but endeavoured to prevent them.

(8) The Governor declared that the question of irregularities in fees for allowing ships to depart concerned Skene, the Secretary, only; and that he was not concerned. The Board recommended that the Governor and Council make a strict enquiry into the complaint, and transmit a true account for her Majesty's directions. *Re* Col. Holder, no proof has been offered of the allegation that he was never christened.



1705. § 130 *cont.*]

(10) The Governor was exonerated by the deposition of Col. Cleland that the petitioner had refused to sign his information against Holder, desired that it might not be heard, the matter being false, and stated to Cleland that he was put upon presenting the petition by the complainants : further, that the person said to have been murdered; has since been seen several times.

(11) Maycock and Tirrell alleged that Samuel Osbourn, in command of the guard, would not allow the voters on guard to stir, and that William Gourdon refused to swear a voter and shut up the poll four hours sooner than he ought to have done, under pretence of being affronted—for which he was preferred from a place of 80*l.* to one of 100*l.* a year. Gourdon replied that Maycock and Tirrell wrested from him the Bible and the Book of Laws, denying him to act as the law appointed ; and that, when he shut up the poll, they continued to collect votes. By minutes of the Assembly of 24 Aug. it appeared that Maycock and Tirrell were voted guilty of using violence to the sheriff and menaces to other people at the poll, and were therefore not qualified to be elected representatives. In any case the Governor was in no way concerned—and so the Board reported.

(12) Capt. Samuel Martin, of H.M.S. *Blackwall*, made affidavit that he had been told he must make the Governor a present and that everybody did it ; that the Treasurer, Capt. Charles Thomas, told him that he might cruise against four French Guinea ships, and, if he took any, that he was to give the Governor 20 of the best negroes : that he received orders on 20 May to convoy a fleet for England, on the 24th an order to sail next day, and on the 25th an order not to sail till the 30th or further orders from the Governor. Some of the ships sailed without him and several were taken. Guy Ball added that he gave 210*l.* to the Secretary to procure an order from the Governor for stopping the convoy till the 29th. There was no proof that the Governor had the money, and it was claimed that he acted on a petition

§ 130 *cont.*]

1705.

signed by 24 merchants, of whom Ball was one. Part of Martin's evidence was dismissed as hearsay: the Governor had sent over a charge of misdemeanours against Martin before he received this affidavit, and the Board were informed that a court martial was to follow. The Governor and the Secretary are required to answer the allegations made by Ball.

(13) In answer to the allegation of departures from the island owing to dissatisfaction with Gov. Grenville, an address of the Council and Assembly and a petition of planters resident in England commending the Governor were laid before the Board.

The four suspended Councillors having publicly disavowed all support of the absentee members of the Assembly, the Board report that they may be readmitted on making due submission and promise of good behaviour. The Councillors appointed in their place should also continue Councillors, which would raise the number of resident Councillors above twelve.

———. B. of T. representation that they find in the 15 June. proceedings of the Governor, Council and Assembly referred to them on 23 Ap. no reason to alter their previous report.

[131.] RHODE ISLAND AND CONNECTICUT. *Complaints* 12 Feb. against *Charter governments*. Order: and another of 7 Feb. II. p. 481. 1706.

[132.] EMBARGO IN PLANTATIONS. *Richard and James* and 26 Feb. *Rumbo galley*. Admiralty report: and another of 3 March II. pp. on 11 ships (referred on 1 March). The *Bonadventure* alone is 455-6. allowed to proceed at once. Two reports of 13 March for taking off the embargo from several ships bound to (1) Barbados; and (2) Leeward Islands.

[133.] RHODE ISLAND. *Appeals of E. Palmes*. Four 14 June. depositions authenticated by Gov. Cranston. (1) Recog- II. p. 453. nissance entered into by Palmes, Samuel Rogers and

1705. § 133 *cont.*]

Thomas Rose for prosecution of the appeals; (2) account by Nicholas Hallam, Rogers and Rose of Palmes' delivery of the order of 7 Jan. 1704 and other papers to the Court of Assistants on 22 May 1705; (3) account by Bevel Waters, of Hartford, of his offer in Court to be bound along with Palmes, Rogers and Rose: and certificate of Dr. Thomas Hooker and Richard Lord that Waters' estate is of greater value than 1,500*l.* New England currency; (4) deposition of Hallam, Rogers and Rose that Waters made the above offer. Hallam's age is given as 40, Rogers' as 65, Rose's as about 50—all are of the county of New London.

27 June. [134.] BARBADOS. *Petition of Richard Downes*. B. of T.  
 II. *pp.* report. (1) The Governor and Council alleged that in her  
 478-9. Majesty's letter for his admission to the Council, he was  
 styled Col. Richard Downes: whereas he never had  
 a commission as Colonel, and there are several persons  
 called Richard Downes in the island. Downes replies  
 that he had a commission as Lieutenant Colonel, and the  
 only other Richard Downes was only a Captain; (2) Downes  
 was to be sworn when there was a vacancy: it was alleged  
 that, when he produced the letter, the Council was complete.  
 Downes declares that he presented the letter on the death  
 of Colonel Farmer and on the death of Mr. Callow; (3) the  
 Council also alleged that he was known to be the author of  
 faction and confusion in the Assembly, and referred to a  
 deposition by Rev. James Erwin and to a letter from Downes  
 to Mr. Horn. Downes replies that this was only an insinuation,  
 and that he could procure testimonies of his good behaviour  
 from persons of great credit in the island; (4) it was alleged  
 that Downes had appeared in Court in justification of one  
 Waddel, tried for perjury at an election at which he voted for  
 Downes, and that on his conviction he paid his fine in open  
 court. Downes replies that Waddel had not knowingly sworn  
 falsely: the fact that he was not a freeholder was shown only  
 by production of the will of his wife's former husband, which  
 he had not seen when he swore himself a freeholder; (5) as

§ 134 *cont.*]

1705.

Treasurer of the island for three years, he was alleged to have misapplied the money and has not yet accounted for it. Downes replies that he had misapplied no money, that several of his accounts have been balanced, and that an account is now lying before a Committee of the Council and Assembly but cannot be passed without a particular order from the Governor; (6) the Council alleged that Downes publicly slighted and condemned her Majesty's letter by disrespectful and indecent expressions; which Downes absolutely denies; (7) it was alleged that Downes falls under the category of persons who should not be admitted to public trusts and employments because their ill fame and conversation may occasion scandal. He turned out of doors his wife, by whom he had a considerable estate, and lived for seven years with another woman. The Court of Chancery allowed Mrs. Downes 150*l.* alimony. Downes denies that he turned his wife out: he allowed her 150*l.* per annum, a sum proportionable to the fortune she brought him: he is ready on any legal prosecution to clear himself of the other aspersion; (8) the Council alleged that Downes violated the freedom of elections and prevented the determination of the Assembly thereon by getting so many of the members to absent themselves that there was no quorum; and that he required the Governor to admit him to the Council in an arrogant and insolent manner; both which facts he absolutely denies, abstaining from recriminations in order to heal the divisions in the island.

[135.] NEW YORK. *Council*. B. of T. representation for 6 July.  
R. Mompesson, J. Barberie, and A. Philips. II. p. 821.

[136.] VIRGINIA. *Wright and Burgess v. Rees*. Committee 6 July.  
report. II. p. 487.

[137.] BARBADOS. *G. Lillington*. (1) His petition and (2) 11 Oct.  
heads of complaint; (3) B. of T. representation of 22 Oct.; II. pp.  
(4) further petition, and (5) order of 29 Nov. for hearing 492-3  
this petition in Dec.

40 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1705-6. § 137 *cont.*]

Lillington was fined 2,000*l.* for having spoken scandalous and seditious words concerning the Governor. The informer against him was Thomas Lesly, a servant whom he had dismissed and who had threatened to have revenge on him. Lillington alleged that his defence was obstructed in several irregular ways at the trial. His second petition was for the rectification of certain misrecitals and defects in drawing up the Order of 26 Oct., and for a copy of the Committee report on which it was grounded.

Read [138.] BARBADOS. *Petition of Edward Chilton*. He heard 5 Dec. of one indictment for words supposed to be spoken against II. p. 496. the Governor only three hours before he was forced to come to trial, and no longer time allowed him to bring his witnesses from a distance. He was never arraigned upon, nor ever pleaded to, the second indictment. On the first he was fined 25*l.* and on the second 50*l.*

[139.] CHARTER AND PROPRIETARY GOVERNMENTS. Copy of a "Bill brought into Parliament in 1705 for vacating Charter Governments in America." 4 *pp.*

1706.

1706.

10 Jan. [140.] CONNECTICUT. *Appeals of E. Palmes*. His petition II. p. 453. for a hearing : and Committee report of 9 Ap. (8 Ap. in Vol. II.)

7 Feb. [141.] PENNSYLVANIA. *Acts*. Order on 105 Acts. II. p. 851.

27 Feb. [142.] NEWFOUNDLAND. *Convoy for fishing trade*. Admiralty II. p. 504. report.

7-9 Mar. [143.] PLANTATION TRADE. *Ships freed from embargo*. II. *pp.* 10 Admiralty reports : and one of 11 Sept. 490-1.

19 March. [144.] BARBADOS. *Act*. B. of T. representation for dis- II. p. 829. allowing an Act to ratify all instruments relating to the titles of lands and tenements, slaves and other hereditaments.

§ 144 *cont.*]

1706.

The Attorney General reported that, as the Act is drawn, it would, instead of quieting possessions, create more disturbances and controversies at law.

[145.] BERMUDA. *Complaints against E. Jones, the Secretary.* 19 March.  
B. of T. report. II. pp. 447-8.

[146.] NEW YORK AND NEW JERSEY. *Lt.-Gov. Ingoldesby.* 8 April.  
B. of T. representation. II. p. 505.

[147.] NEW YORK. *Acts.* B. of T. representation for con- 11 April.  
firming two Acts. II. p. 850.

[148.] MILITARY STORES. *New York.* Ordnance report and 16 May.  
estimate; with lists of stores sent in 1700-1 and of those II. p. 505.  
demanded in 1703 and in 1705; and an account of stores  
expended in New York from June 1702 to Feb. 1705. The  
estimate of stores now thought necessary amounts to  
655*l.* 12*s.* 6*d.*

———. *Plantations.* Ordnance report with an account of 22 June.  
all stores (a) sent to the several plantations since the accession  
of Queen Anne; (b) issued there; and (c) remaining in the  
plantations. The "expense and remains of stores" have been  
received from New England to 25 Sept. 1705: from Jamaica  
to 16 Nov. 1705; from New York to 16 Feb. 1705; and  
from Barbados to 1 Feb. 1706. (a) is given under the heads,  
Barbados, Jamaica, Virginia, and Leeward Islands; (b) for  
New England, Jamaica, New York, Virginia, and Barbados;  
(c) for Barbados, St. Christopher, Antigua, Jamaica, Nevis and  
New England. (b) and (c) are given in tabular form, (b) extending  
to 4 large pages and (c) to 9: both are dated 30 May.

[149.] BAHAMAS. *Defence and Government.* B. of T. report. 24 May.  
CAROLINA. *Proprietors' charter.* Order of reference. 10 June.  
BAHAMAS AND CAROLINA. Order. 26 June.  
II. pp. 506-7.

[150.] PLANTATIONS. *Market for English woollens.* (a) 29 May.  
Representation of R. Butler, W. Ashton, H. Pacey and II. p. 507.

## 42 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1706. § 150 *cont.*]

others, with details of the proposal: (b) a second petition of 29 Nov. with further thoughts; (c) another petition—undated—answering eight objections made to the proposal: and (d) B. of T. report of 3 Dec.

(a) [Nine pages in paper cover.] Prays an order to transmit certain queries to colonial Governors, the answers to which may be laid before the House of Commons at the next meeting of Parliament. The project is to raise funds for the prosecution of the war by manufacturing woollen clothing for 200,000 people annually and by certain duties.

“First. That the Planters in your Majesty’s Carribbee Windward and Leeward Islands having got vast runs of lands gratis, only paying a small acknowledgment and having plantations settled with great numbers of white servants, negroes and Indian slaves, who have not had such a regard to England their native country as to clothe their white servants and slaves with an English manufacture: and the colonies on the main of America being well peopled have great tracts of lands following husbandry as in England, having their lands gratis as aforesaid, plant tobacco, build ships to carry their grain and provisions &c. abroad to foreign ports, and do also furnish the islands aforesaid to the great prejudice of the trade of England, having opportunity of underselling us by reason their ports lie nigher to the said islands, and can make two or three trips in the time our ships in England make one, whereby they are grown very wealthy; having many white servants, negroes and Indian slaves and paying them no wages further increases the planters’ riches, who never paid taxes to any wars;

“2. Therefore it is proposed that the said planters may be by an Act here obliged to clothe their white servants, negroes and Indian slaves with an English manufacture, *vizt.* of linsey-woolsey for the islands made of  $\frac{3}{4}$  coarse wool and one quarter hemp for jackets and breeches for men, petticoats and waistcoats for women. . . This clothing to be disposed of to the planter by way of barter so cheap as not to exceed

§ 150 *cont.*]

1706.

the value of one piece of eight for each shape, which will save the planter ready money which he now pays for a coarse hempen clothing for breeches and petticoats for his house negroes, since the planters cannot find any clothing from their own produce.

“ 3. That the planters never having been obliged by any Act of Parliament in England or voluntary Act of their own to pay any taxes towards the war, whilst England to protect and secure them from enemies is at vast expense in peace and war, and has long laboured under heavy taxes ”;

4. They should be obliged to clothe their servants and slaves with a warm clothing manufactured in England all of coarse wool, not exceeding 20s., each shape, to be paid by barter of naval stores or what produce they make. “ And is no more than what the Dutch, French and Spaniards do, who oblige their plantations to be clothed from France, Holland and Old Spain : by this means so vast a quantity of wool will be consumed at home yearly as will employ a great number of poor in England, will constantly advance the price of wool at home, raise the markets for our drapery abroad and prevent the clandestine exportation of our wool to foreign parts, for want of which these foreigners (especially the French) will be put to great difficulties in their woollen manufactures either for clothing themselves or others.”

5. That for the expense of establishing the manufacture the managers appointed to settle it receive funds from the duties proposed below : the barter when returned will over and above defray the charge of the manufacture for the future.

6. That officers be appointed to see that each planter gives to the Governor on oath a list of all his slaves and servants, to be transmitted to the managers, in order that the requisite clothing may be sent, and to adjust the barter accordingly.

That the Collectors and Naval Officers be also empowered to collect the following duties and lay them out on commodities of the several plantations, which are to be shipped



1706. § 150 *cont.*]

off by particular invoices for the Custom House in England, where they are to carry on the manufacture of clothing and provide a fund for the expenses of the war. This "will effectually prevent the Northern Plantations in America from running into the woollen manufacture, which they are now doing to the great detriment of England."

i. Wines imported into the colonies in ships built in Ireland, Jersey, Guernsey, or other colonies on the mainland of America, to pay *4l. per tun.*

ii. Brandy similarly imported to pay *1s. per gallon.*

iii. Beer, ale or cider so imported into the Carribbee Islands to pay *16s. per tun.*

iv. Mum, mead and metheglin, *40s. per tun.*

v. Rum and limejuice so imported, or exported to Spanish West Indies or English colonies, *4d. per gallon.*

Like duties on the importation of fish, flour, beef, pork, and butter; cheese, biscuit, fine sugar white, tobacco, candles, ginger, indigo, cocoanuts, logwood from Campeachy or Honduras Bay, cochineal and drugs from the Spanish West Indies, Irish linen cloth, servants and horses; negroes exported to the colonies or Spanish West Indies. Jews to pay *10l. per head per annum.* Ships trading to the plantations and not built in England to pay *1s. per ton* each voyage, to be gauged according to the Book of Rates of 1671. Licenses for retailing wine to cost *5l. annually.* Quitrents on lands granted (which are not already appropriated) to be also paid annually to the managers of the woollen manufacture for a term of years.

These small duties on provisions, liquors &c. exported from Ireland and the colonies to the West Indies "are highly necessary to encourage the exportation . . . duty free from England, by which means the islands will be furnished more plentifully than now they are." For the expense of adjusting the proposal the petitioners pray to be considered.

Ten queries are proposed to be sent to the Governor of Jamaica, relating respectively to (1) the number of slaves

and servants in the island ; (2) the sort of clothing they wore ; (3) account of wines imported from 1698 to 1701 from Ireland, Jersey, Guernsey and the continental colonies ; (4-9) similar accounts of the other imports and exports proposed to be taxed, of licenses, and of quitrents ; (10) whether the clothing proposed would be suitable and might be bartered at the rate suggested.

The questions for New England are similar but not identical. (2) asks for a return of all ships exporting provisions to Virginia, Maryland and the Carribbees. The warm woollen clothing of 20s. value (coat, waistcoat and breeches for men ; gown, waistcoat and petticoat for women) is for New England ; the linsey-woolsey clothing of one piece of eight for Jamaica.

———. (b) Makes an offer of clothing gratis for St. Christopher and Nevis ; and abates one-fourth of the price in the other colonies, and also one-fourth or half of the proposed duties.

———. (c) The petitioners, not being apprised of the substance of the B. of T. report, and fearing lest it be too general and not take in the full merits of the proposal, pray that a paper of objections and answers thereto, which they presented on 4 July, and a memorial with further objections and answers which they laid before the B. of T. on 29 Nov., be referred to a Committee of the Council. The objections relate to (1) the great duties already imposed on their produce, which by law must be brought to England :—answered that this duty falls not on the planter, but on the merchant in England who supplies the planter and takes his produce in return, and that the merchants can well afford to pay the duties ; (2) annual taxes already exist for defence :—answered that, besides the provision for the militia made by the islands, soldiers and guns are also sent from England ; (3) taxation only by their Assemblies :—answered by reference to the Navigation Acts ; (4) some of the commodities mentioned are already taxed for the several

1706. § 150 *cont.*]

governments:—answered by a claim that officials' salaries be allowed to be paid out of the  $4\frac{1}{2}$  *per cent.* duty; (5) estimated cost of clothing challenged; (6) liability to vermin; (7) unreasonableness of the various duties proposed; (8) the misfortunes suffered by the islands at the hands of the French. The paper concludes,—“as matters now stand, it is presumed there will be no need of sending the queries to the Carribbee Islands, it being now intended by the proposal, that the planters in the said plundered islands shall receive a clothing for their white servants and negroes, out of the said linsey-woolsey manufacture, gratis, for the term of three years, or as long as it shall be thought convenient, in consideration of the great damage they have lately sustained by the French.”

———. (d) B. of T. report. The proposal could not be carried out unless the colonial assemblies or Imperial Parliament passed Acts to compel the inhabitants so to clothe their slaves and servants. “Wares and merchandises of any sort to be sent from England for the supply of your Majesty's plantations ought rather to be recommended to your subjects there by their proper goodness, usefulness and cheapness than be imposed upon them at a rated price by the power and compulsion of laws, which would be the greatest discouragement to trade.” General opposition would be caused by the taxes to be laid upon most branches of trade; “so that instead of what is proposed by the petitioners, we have advised them to apply themselves to the promoting of this manufacture by sending over in the ordinary course of trade some specimens or patterns of linsey-woolsey shapes or clothes, that so, upon trial of them first had, it may be made appear that what is proposed by the petitioners was designed more for a public benefit than for a particular profit or interest. We have also acquainted them that the woollen goods of all sorts from England will be at present in great demand in several parts of the continent, inasmuch as those people have been induced by proper encouragements to desist from carrying

on and working that manufacture in America, and in lieu thereof have applied themselves to the produce of pitch, tar and other naval stores, of which considerable quantities are now arrived, in barter whereof the woollen manufacture of England will be readily accepted of."

[151.] BARBADOS. *Acts.* B. of T. representation for confirming nine Acts and disallowing three. (1) An Act to encourage privateers, entrenches on the prerogative by giving for ever the whole of the prizes taken to the captors, and disables commanders of ships of war to press any seamen out of privateers; (2) an Act to secure the peaceable possession of negroes &c. has a clause forbidding the carrying away of white servants without consent of the owners, whereby children stolen from England cannot be reclaimed at the instance of their parents: innocent persons ought further to be protected by inserting the words, "knowing such person to be a servant;" (3) an Act for fitting out ships of war, is liable to the same objection as (1) with regard to prizes.

(I.) An Abstract of the nine Acts confirmed. (7 *pp.*)

[152.] BARBADOS. *Land Bank.* B. of T. representation on an Act to supply the want of cash and to establish a method of credit for persons having real estates in this island—with a letter enclosing the report to the Secretary of State, as it is necessary that the Act be repealed with all expedition. "The principal matter contained in the Act is briefly this: That every person inhabiting and having an estate of inheritance in Barbados may have a bill or bills of credit signed and sealed by John Holder, Esq., nominated in the Act for that purpose, to the value of the fourth part of his real estate. The bills to pass in all parts of the island as ready money to the full value of the sum therein mentioned; And no person to refuse the same under the penalty of forfeiting a full moiety of the sum contained in the bill. The bills to pass but for one year, but renewable from year to year till the last year before the expiration of the said Act,

1706. § 152 *cont.*]

which is to continue five years and no longer. The end or intent of the Act is declared in the preamble to remedy or supply the want of cash in the island and to help creditors to pay their debts."

The B. of T. represent that the proper method of supplying the deficiency of cash is to encourage a quicker importation of silver: to put a disuse upon money by setting up substitutes tends to slacken the industry of the merchant in procuring it; and at the expiration of the Act, the scarcity of money may be greater than before it.

Eight *per cent.* is to be paid each year for the bills, and no provision is made for turning them into money. A bill taken up at 108*l.* can never be turned into money at more than 100*l.*, and, if it be turned into goods, the merchant will consider the charge, risk, trouble and other accidents to which bills are more liable than money, and will rate his goods accordingly, so that the Act will alter the price of all commodities to the great confusion and disturbance of trade.

The bill imposes an intolerable hardship upon creditors, and no one will lend money in Barbados during the continuance of the Act—to the manifest disadvantage of trade.

The Treasurer is required to accept the bills in payment of taxes, whereby her Majesty's revenue will be greatly damnified, and the Treasury will never be possessed of sums in ready money.

On the insolvency of any of those who have entered into obligations on account of the bills, it is provided that the sums be made good from the public funds—which is charging her Majesty's revenue with the insolvencies of private persons.

The plan will obstruct the trade with the continental colonies and the import of provisions, for the importers will not accept in payment bills current only in the island.

Anyone with a good title can always raise money on his land at a satisfactory rate of interest: under this bill he

ACTS OF THE PRIVY COUNCIL (COLONIAL). 49

§ 152 *cont.*]

1706-7.

must pay 8 *per cent.* per year—40 *per cent.* in five years. Of the 8 *per cent.*, five are applied to him who issues the bills, his clerks and cashiers.

The B. of T. condemn the bill as “hurtful to trade, injurious to creditors, prejudicial to the revenue and safety of the island, and an unnecessary charge upon the inhabitants.”

[153.] BARBADOS. *G. Lillington*. His petition; and Order 21 Oct. in Council thereon. II. p. 493.

[154.] VIRGINIA. *Mrs. Burgess*. Her petition; Order of 14 Nov. reference; and Committee report of 13 Dec. *Mrs. Burgess* II. p. 487. was kept out of possession of her plantation by Col. Wm. Cleland and his tenant, Bartholomew Rees. The Governor declared that the order of 9 July 1705 was only the Queen’s declaration and no order to him to put the appellant in. Alexander Walker, one of the Council and judge of the Court, and Samuel Osborne, one of the assistants of the Court, declared themselves attorneys for Col. Cleland, who had written to them to make all opposition; and Walker said that he was not to take notice of the Queen’s letter.

[155.] LEEWARD ISLANDS. *Lt.-Governors*. B. of T. representation confirming Gov. Park’s transference of W. Hamilton 11 Dec. from St. Christopher to Nevis, and his appointment of M. Lambert to St. Christopher. On a petition for the appointment of Daniel Smith to St. Christopher, he is recommended to Gov. Park for the first vacant post of Lieut-Governor. II. p. 521.

[156.] VIRGINIA AND MARYLAND. *Convoy*. B. of T. 20 Dec. representation. II. pp. 514-6.

1707.

1707.

[157.] EMBARGO IN PLANTATIONS. Admiralty report for 6 Jan. protecting a vessel:—two others in this bundle. II. p. 491.

[158.] BARBADOS. *Appeal of G. Lillington*. Committee 8 Jan. report; Lillington’s petition; an affidavit by him (3 Jan.); II. p. 493.

50 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1707. § 158 *cont.*]

another by his son, George, (7 Jan.); and an abstract of the proceedings in the case with the opinion of the Attorney General thereon. The Governor had been ordered to restore 2,000*l.* to Lillington. Instead he had him imprisoned for treason, and extorted a receipt for the money (without payment of any), before he would release him.

8 Jan. [159.] BARBADOS. *Appeals of E. Chilton*. Committee II. p. 496. report, with Chilton's petition of 4 Jan.

8 Jan. [160.] BARBADOS. *Appeal of Mrs. Burgess*. Committee II. p. 487. report.

14 Jan. [161.] BARBADOS. *Defences*. B. of T. representation. (a) II. p. 511. The Treasury are the best judges whether it be advisable, as proposed, that the 4½ *per cent.* be disposed of in Barbados for the fortifications, instead of being remitted to England and then sent back again. (b) A regular and disciplined force is required for Barbados. As it lies most to windward, the forces sent thither may conveniently succour the other Caribbee Islands in case of distress. The Council and Assembly of Barbados had represented that an Act was being passed for providing free quarters as an addition to the pay of the soldiers.

20 Jan. [162.] WEST INDIES. *Court Martial*. Admiralty memorial II. p. 510. on petition of W. Olive, with minute of court martial. The charge was "being drunk and negligent of duty in time of service."

29 Jan. [163.] NEWFOUNDLAND. *Trade and Fisheries*. B. of T. II. *pp.* representation about the needs of the soldiers (with an estimate), 512-4. and about convoys.

29 Jan. [164.] CONNECTICUT. *Grievances of Mohegans*. B. of T. II. p. 461. representation submitting the draft of a commission of review.

5 Feb. [165.] BARBADOS. *Petition of John Lyon*—that Patrick Mein be removed from the Council till he satisfies the petitioner's just demands. Mein married the widow of John Johnson

§ 165 *cont.*]

1707.

and got possession of the estate. He has refused to give any accounts to Lyon and Archibald White, who have claims in right of their respective wives, Johnson's two surviving daughters.

[166.] NEW ENGLAND. *Trade with French and Indians.* 20 Feb. Petition of W. Rouse, E. Coffin, and J. Phillips for the dis- II. p. 516. allowance of Acts imposing fines on them. In Dec. 1705 Rouse was sent by the Governor of New England to effect an exchange of prisoners at Port Royal. While there, he induced the Governor of Port Royal to dismantle a captured English brigantine, the *Mayflower*, which was being fitted out as a privateer to cruise upon the coast of New England, the petitioner promising to secure an order for her redemption. In return for his humanity to the French prisoners in that cold season, the Governor ordered his brother, Mr. Le Ronde, whom he was sending to Boston, to give the petitioner a pass for one or two vessels to fish on the shore of Nova Scotia. The Governor and Council of New England approved the agreement about the brigantine, and sent Rouse in April to redeem it and also some captured sloops and seamen and some children who had been carried away by the Indians. Goods for the redemption of the vessels were shipped on board the *Anne* (Coffin, master). In virtue of his pass from Le Ronde, Rouse also hired another small sloop (Phillips, master). At Port Royal he redeemed the brigantine, and, being unable to agree about the price for the other vessels, bartered the rest of his cargo for coal (of which Boston was then in great need), and for furs and other goods. When he returned to Boston in June, the whole country was in an uproar occasioned by an irruption of the Indians upon their frontiers. At the instance of a violent multitude, the petitioners were convened before the Assembly, and by it committed to gaol upon suspicion of having aided the French and Indians. Although their transactions could cause no prejudice to New England, they were impeached and fined by several Acts—Rouse 1,200*l.* (three times more than he is worth), Coffin 50*l.*, and Phillips



1707. § 166 *cont.*]

100*l.*—"which your petitioners are advised is an extraordinary method of proceeding and without precedent."

20 Feb. ———. Similar petition of S. Vetch, J. Borland and R. Lawson; with a state of their case. "The petitioner Vetch during the late peace between England and France traded to Canada and had from thence bills of exchange to 800*l.* value payable in France, which were not paid before the present war commenced, but the merchant his debtor in Canada sent him word that he would, notwithstanding the war, pay his debt in the merchandise of that country when any opportunity should offer.

"In 1705 the Governor of Canada sent one Curtemash to the Governor of New England to treat about the exchange of prisoners, but Curtemash's commission empowering to treat only for such prisoners as were in the hands of the French, and not for such as were taken by and in the hands of the Indians, the Governor and Council of New England thought fit to send one back with Curtemash to treat with the Governor of Canada for the prisoners taken by the Indians; and the petitioner Vetch speaking French very well was pitched upon to go on that occasion."

He agreed to go without reward if he might bring back the value of his debt. In Aug. 1705 they arrived at Canada. Vetch "agreed with the Governor of Canada to forbear all hostilities on the frontiers of New England till the last day of February following, and entered upon a further treaty for a total cessation of arms between those two Governments, which the Governor of Canada expected a confirmation of from the Governor and Council of New England before the end of February."

Vetch received his debt in beaver, but, before he could ship it, a new Intendant arrived from France with orders that no beaver should be shipped off from Canada but in French ships bound directly for France. His debtor then offered to bring the debt in beaver to Little Canser (? Canso) (midway between Quebec and Boston) in May 1706, if Vetch

§ 166 *cont.*]

1707.

would meet him there with some merchandise proper for the Indian trade and fishing.

The French observed the truce till the end of February, which saved the country 10,000*l.* and many lives. The Governor and Council applauded Vetch's conduct and thanked him. The Governor was informed of his plan for recovering his debt and seemed to think it reasonable. In April 1706 Vetch hired a ship from Borland and Lawson, who were concerned only as owners of the vessel and as Vetch's agents to ship his goods. "The vessel was entered for Newfoundland, because Little Canser is no port and within the limits of New England charter, lying in Accadia or New Scotia and inhabited only by straggling Indians who never had any war with the English." Vetch waited twenty days at Little Canser, but his debtor did not come; and, as the weather was stormy and the vessel of only 20 tons burden, he had to put in every night to some harbour on the coast of Nova Scotia. "The Indians and a Frenchman or two, who had married and lived amongst them, seeing the sloop, came to her, and offered to truck some furs for blankets, rum and drop-shot, which the smallness of his vessel and of his crew (it consisting but of five men) obliged him to comply with at several places, lest they should upon his refusal have fallen upon him, but the whole goods he bartered for did not exceed 50*l.* He brought back all the rest of the goods he had carried out, and arriving at Cape Anne in New England he put the furs he had traded for and the rest of his goods into a boat, and went for Boston.

"At his arrival he found the General Court of Assembly sitting, and the people of the country in a great ferment on the following occasion. . The Governor and Council of New England had neglected to send a proper person to Canada to conclude the articles concerted between the Governor of Canada and Vetch in 1705 for a total cessation of arms between the two Governments, but only sent a country farmer, who was not master of the language, nor of address

1707. § 166 *cont.*]

suitable to that character, and without any orders to agree to such a cessation. This exasperated the haughty French Governor, who, to show his power of doing mischief, gave liberty to the Indians under his command to fall upon the English frontiers, which they did and destroyed several families.

“The news of this incursion arrived at Boston a little before the petitioner returned, and because he had been at sea on the coast of Nova Scotia, in the way to Canada (tho’ the Indians he had bartered with there were not the Indians that fell upon the frontiers, but lived 1,000 miles distant from New England), the multitude accused him to the General Assembly of having supplied the French and Indian enemies with goods.” He was summoned before the House, questioned and dismissed on giving 1,000*l.* security. Four days later he was committed to prison by warrant from the Speaker. Borland and Lawson were also examined, dismissed with thanks for their candour, and within a few days committed to gaol. The sloop and cargo were condemned in the Court of Admiralty without any defence or any appeal being allowed. After they had been kept in prison thirty days, the petitioners, by the Governor’s advice, submitted to the judgment of the Assembly and petitioned to be heard. The Assembly, on adjourning for a month, passed an Act to continue the petitioners in prison without bail till their next meeting. When the Assembly met again, the petitioners were impeached, but the evidence given by the master of the sloop and two of the sailors under threats from the mob was so deficient that they were convicted by Acts of Assembly and fined—Vetch 200*l.*, Borland 1,100*l.*, and Lawson 300*l.*, besides the charges of their prosecution and imprisonment till payment.

“This violent proceeding arose from their fear of the mob, who, instigated by a party of enemies to the Governor, scattered about papers threatening to cut them to pieces, unless they would immediately hang up those who were accused of trading with the French. As a testimony that these Acts were not

§ 166 *cont.*]

1707.

the result of their judgment, but of their fear, it was proposed by the Assembly before they passed the Acts to send Vetch as their agent to Canada; and, after they had passed the Acts, it was proposed in both Houses to send him their agent into this Kingdom to endeavour, after an union of England and Scotland should be made, to procure a body of Scots to settle in Nova Scotia. The Governor was frightened into an assent to these Acts by the threats of the mob to pull down his house, and accusing him as a party concerned; but he ordered the fines should be paid into the Public Treasury and not to be disposed of till her Majesty should signify her pleasure therein."

[167.] BARBUDA. *Col. Codrington's title*. Order of Gov. 18 March. Park requiring Codrington to give an account how, and by virtue of what authority, he holds Barbuda, which is included in Park's commission. There is said to be a fort on the island and several white men and negroes maintained by Codrington.

[168.] BARBADOS. *Complaint of C. Squire*. Petition, and 3 April. B. of T. report. II. p. 517.

[169.] MASSACHUSETTS BAY. *Lason v. Serjeant*. Committee report. The appeal cannot be admitted, but Lason may petition again upon the equity of his case, if he thinks fit. 3 May. II. p. 500.

[170.] COUNCILS. *Barbados*. B. of T. representation for 7 May. Rev. S. Beresford (and letter enclosing it). II. App. II.

———. *New Jersey*. B. of T. representation for 9 May. P. Sonmans. [Wrongly docketed "New York."]

———. *Nevis*. T. Belman, L. Brodbelt, and J. Milliken 9 May. vice P. Andrews, deceased; and in view of the refusal of T. Butler to serve, the ill-health of J. Smergin, who is bedridden, and the absence of D. Smith, A. Piney, and T. Minor.

[171.] MARYLAND. *French privateer made prize*. 17 May. Admiralty report on a petition by the captor, Richard Johnson. II. pp. 519-20.

1707.

3 June. [172.] LEEWARD ISLANDS. *Defences*. Admiralty memorial II. p. 519. *re* stores delivered by Sir J. Jennings,—with lists of the stores.

9 June. [173.] JAMAICA. *Acts*. B. of T. report, and letter enclosing II. pp. it. Eight expired; seven to be confirmed; and three left 527, 835. probationary. Of the probationary Acts, one for Cary Bodle to sell lands, wants a clause saving the rights of other parties,—(a report of Attorney General Harcourt on this Act is also included in the bundle, dated 12 July); the others relate to the collection of debts, and to an additional duty and impost—which carries out the directions of an Order of 15 July 1706 about the duty on bottled beer, ale &c.

Special orders are given about an Act to provide subsistence for H.M. officers and soldiers from Feb. 1706 to Feb. 1707, which was liable to the same objections as an Act with the same title repealed on 14 Nov. 1706. Gov. Handasyd had laid before the Assembly the reasons for repealing the former Act and signified her Majesty's pleasure that such clauses should not be passed for the future: yet all but one were repeated. Besides temporary provision for the soldiers, the Act makes several perpetual provisions. The Act entrenches on the royal prerogative in declaring all but natural born subjects of England, Ireland or the plantations incapacitated from holding office in the island (save that they may serve in the regular forces) under penalty of 500*l*. Any officer or soldier who marries an inhabitant of the island is to lose his share of the money raised by the Act: no officer of the regular forces is to be capable of civil employment or command in the militia, and all persons in civil employment are, under penalty of 100*l*., to take oath that they are not officers in the regular forces. Such discouragements are the more unreasonable at a time of danger. But the Act should not be repealed before the time limited for providing the additional subsistence.

11 June. [174.] BARBADOS. *Egginton v. Chamberlain &c.* Com-II. p. 518. mittee report.

1707.

[175.] NEW ENGLAND. *Title to lands*. Committee report 11 June. on petition of A. Harris, T. Field, N. Waterman and Nathaniel II. p. 495. Thomas.

[176.] JAMAICA. *Estate of Priscilla Emery*. Order of 23 June. reference, with copy of petition of Catherine Sparling : also II. p. 521. Committee report of 11 July.

[177.] JAMAICA. *Petition of T. Barrow*. Petition and B. of 23 June. T. report of 21 July. Barrow had been about 25 years in II. p. 522 Jamaica, and, although blind, was at the end of that time Attorney General of the island, when he was dismissed by Gov. Handasyd. He left Jamaica in May 1703, and on his return in Dec. 1706 was forbidden by the Governor to practise as an attorney. Handasyd alleged some ill practices against her Majesty's authority, as well as blindness, as the reason for Barrow's dismissal, and asserted that during his absence from the island he had sowed sedition and taken part with the disaffected in New England, New York, Carolina and Bermuda. The B. of T. find that no proof is given of this general charge, and, having received a good character of Barrow from Sir Gilbert Heathcote, one of the agents for the island, and from Col. Laws, who was many years Chief Justice there, report that he has a right to practise, until convicted of misbehaviour amounting to a forfeiture of that right.

[178.] BERMUDA. *Acts*. B. of T. representation on Acts 27 June. passed from 1690 to 1704, with letter enclosing it. Three are II. p. 832. expired ; 24 are confirmed ; three are left probationary ; and five are disallowed.

*Probationary* :—(1) *An Act for vacating indefinite Acts made in 1690*—none of these were on record, no authenticated copies extant, none transmitted to England ; the Act was intended to avoid disputes in case any of the Acts were found. As some of these Acts might be fit for confirmation, this repealing Act is to be left probationary.

1707. § 178 *cont.*]

(2) *An Act laying an imposition on Jews trading in the islands*—In twelve years there have been no complaints against this Act; it may be left, in case just cause for repeal should hereafter be offered.

(3) *An Act for punishing officers and soldiers that mutiny or desert*—to continue only during the war with France. The B. of T. question whether it be fitting that a court martial, in which the majority may be militia officers, should have power not merely to suspend, but to cashier, her Majesty's commissioned officers, in cases of false musters &c.

*Disallowed* :—(1) *An Act for the trial of cases under 20s. by a Justice of the Peace.* (a) It leaves the Justice to determine what is evidence; (b) he is empowered, if the sale of the party's goods do not satisfy the debt, to hire him out to service till the debt and charges are met—but there is no provision to determine how the defendant shall again obtain his liberty.

(2) *An Act for the recovery of debts from persons insolvent* is liable to a similar objection. Persons failing to pay within ten days may be made servants—which might apply to strangers of good ability, who should through misfortunes or accidents be unable to pay in ten days.

(3) *An Act for quieting estates and preventing lawsuits* is for a necessary purpose, but is so badly drawn as to have the opposite effect. It should have been made agreeable to the Statute of Limitations of 21 James I. (a) A title is made good by twenty years unchallenged possession after the Act, or by twenty before the Act and five after: five is deemed in this case too short; (b) the interests of persons having a title in reversion or remainder are not properly secured.

(4) *An Act for the alteration of several Acts.* (a) Part of this varies (1), but is liable to the same objection; (b) it takes from the Governor the power of establishing Special Courts.

(5) *An Act for restraining and punishing privateers and pirates* is unnecessary, in view of the Act of Parliament and the commissions issued to the Governors pursuant to it.

Lastly a Militia Act is submitted, like that in force in Jamaica, although the B. of T. object to a clause giving to a court martial jurisdiction (saving life and limb) over cases of revenge taken upon superior officers, when out of arms, for anything done in pursuance of their duty.

[179.] JAMAICA. *Briscoe v. Hodgings*. Petition and Order 1 July. of reference. Persons named in the report are Robert II. p. 526. Briscoe, the petitioner's uncle; his ward John Hodgings; his executors, Capt. William Cook and John Taylor; Elisha Clark, who mortgaged land to him for 1,000*l.*; John Favel, later guardian of Hodgings; and George Clark, heir of the mortgagor.

[180.] ANTIGUA. *Council*. B. of T. representation for 11 July. L. Crabb *vice* H. Pearn, deceased. II. p. 806.

[181.] BARBADOS. *Land Bank*. B. of T. representation 21 July. for confirming an Act to ascertain the payment of bills issued II. p. 829. pursuant to the Act to supply the want of cash &c. repealed on 21 Oct. 1706. The new Act was passed, in accordance with her Majesty's letter of 8 Nov., to indemnify any who had suffered by debts being paid them in such bills. The Act provides for the appointment of commissioners to pay off the bills. The merchants and others concerned agree that the Act will in a great measure remedy the inconveniences complained of.

[182.] NEW YORK. *Grants of Mohawk lands &c.* B. of T. 29 July. representation on two Acts: (A) vacating grants made by II. p. 850. Governor Fletcher, 2 March 1699; and (B) declaring void several Acts and ordinances published as Acts, Nov. 1702.

On Lord Bellomont's arrival, he was informed of the extravagant grants by a memorial of 30 June 1698, from the Attorney General of New York. He made a report on 9 July, whereon the B. of T. made a representation on 19 Oct. (All of these are enclosed, with a number of depositions &c. *vide infra*.) On 10 Nov. the Lords Justices wrote to Bellomont



1707. § 182 *cont.*]

“to put in practice all methods whatsoever allowed by law for the breaking and annulling” of these grants; to report to the B. of T. in case of any difficulty; and to make no grant for the future “under a less reservation of quitrent than 2s. 6d. for every 100 acres, nor without an obligation upon the grantees to plant, settle and effectually cultivate the same within the space of three years at the furthest, under the penalty of the forfeiture.” Bellomont then called the Assembly on 2 March 1699, and passed the first Act, vacating the following grants:—

(a) Godfrey Dellius and others, on Mohawk river, 50 miles by four.

(b) G. Dellius E. of Hudson river, 70 miles by 12.

(c) Col. Bayard, on a creek running into the Mohawk, 24 or 30 miles long.

(d) Capt. Evans, W. of the Hudson, 40 miles by 20.

(e) Ditto, on Manhattan Island, area unknown.

(f) Trinity Church, seven years' lease of the King's Farm, Manhattan Island—rent, 60 bushels of wheat.

(g) Col. Caleb Heathcote, part of the King's Garden, 50ft. by 27, perpetual grant at one shilling rent.

(h) Ditto, 41 years' lease of another part of the Garden, at 4s. rent.

There are other exorbitant grants, which at a fitting season may be similarly vacated.

When the Act was transmitted, it was objected that other properties would be made precarious; that the instruction to break the grants by *legal* means meant by laws then existing—i.e. by proceedings in the courts of justice: that *a, b, c* were purchased from the Indians and only confirmed by paying small quitrents to the Crown; that no mortgage could be made of these lands by a lessee, no improvements carried out, no long lease accepted; the grants, if extravagant, should be retrenched rather than annulled; the revocation of grants is a dangerous power to leave to Governor, Council and Assembly, as the Governor may have enough influence in

the Council and Assembly to make arbitrary and unjust revocations, from which redress could not easily be obtained ; that, his late Majesty having declared under the Great Seal that grants by the Governor and Council should be good against the Crown, it would lessen the royal credit.

Mr. Champante, agent for New York, replied that the Assembly is the constitutional power to " break " or " annul " previous proceedings : that grants *a, b, c* were obtained surreptitiously, most of the proprietors being out against the French and the few remaining made drunk ; and that, when cited by Lord Bellomont, two of the patentees of the Mohawk land surrendered their part of the grant, declaring that their meaning was that the land should be kept by them in trust for the Mohawks ; that the Indians by a public address thanked the King for restoring their land ; that if Dellius's grant be not revoked, the Indians will desert to the French ; that particular claims may be afterwards provided for ; that the grants from the demesnes of the royal forts are extravagant, though not in extent, yet in their nature ; that there is not a Christian inhabitant on Dellius's grants, and the others are liable to as great exceptions. A strong argument against the grants is that they contain great quantities of timber fit for masts and naval stores.

Sir John Hawles, Solicitor General, also reported on the Act.

When Lord Cornbury arrived in New York, the Act (B) was passed to repeal three Acts passed by Bellomont, (i) *for regulating elections &c.*—which had been confirmed on 5 Sept. 1700, and was deemed by the B. of T. a good law ; (ii) *to prevent vexatious suits &c.* ; and (iii) the Act (A) *supra* ; as well as all Acts passed at an Assembly from 19 Aug. 1701 to 18 Oct. 1702. The preamble thus characterises the Acts to be repealed—" with plausible and colourable titles and pretences, some of them incongruous and unjust in themselves, others to obtain private and sinister ends under the cloak of public good ; many pretended Acts as laws by

1707. § 182 *cont.*]

persons unqualified by right or law to sit or act in the legislative power, and by several as were not the choice of the people; and all of them, instead of being for the profit and advantage of the subject, as they ought to be, have been and proved to the destruction of property, the confining and enervating of liberty, ruinous to trade, to the impoverishing of the people, a discouragement to industry and hurtful to the settlement and prosperity of the colony."

Lord Cornbury gave no proofs to make good these allegations, extraordinary as are those relating to the undue elections. As the Acts proposed to be repealed appear to be for her Majesty's service and the good of the province, the B. of T. recommend that (B) be disallowed.

(A) should be confirmed and the grants vacated. Lord Cornbury represented that he was only induced to consent to the inclusion of (A) in the Acts to be repealed by the passing of a Money Bill. An allowance of not over 2,000 acres at a quitrent of 2s. 6d. per hundred acres should, however, be made to each of the grantees, on condition that within three years he effectually cultivate at least three out of every fifty acres—the lands to be so regranted to be equitably set out by the Governor, Lt.-Governor, Collector, Secretary and Surveyor-General, or three of them including the Surveyor General. For the protection of naval stores, the grantees should be restrained from burning the woods to clear the land, and all trees of 24ins. diameter at 12ins. from the ground should be reserved for masts for the Navy, as well as other trees fit for planks, knees &c. (16 pp.)

Enclosures are (I) *Report of Attorney General of New York (James Graham)*, 30 June 1698. (6 pp.)

Fletcher's extravagant grants were made after hearing of Bellomont's appointment, and without consulting with the Attorney General as former Governors were accustomed to do. "And now in the whole province there is scarcely one foot of land for His Majesty to grant, that is suitable for settlement; and what granted, in so few people's hands

that they are not able to settle it themselves; and planters are unwilling to settle, except the freehold be in themselves, the clearing of land being very chargeable, costing at least 4*l.* per acre; by which means all our youth must desert the province, and go settle and strengthen our neighbour colonies, where they can have lands at easier rates, and this province must decay both in its strength, people and trade, and his Majesty's revenue fall. . ."

II. *Bellomont's report of 9 July 1698 (6 pp.)* on the grant of 50 miles of Mohawk land to W. Pinhorn, G. Dellius and others. On an address from the City of Albany, an inquiry was appointed to be held at New York on 16 May; but, though it was postponed till 31 May, the grantees still failed to attend. Two Mohawk Christians, Henry and Joseph, deposed that they had understood that the paper they signed under persuasion of the patentees was for the security of the lands to them and their posterity. Bellomont found that the object was to put a trust in the patentees for the use of the Indians. The deposition made by the two Indians on 31 May 1698 is appended. (4 *pp.*)

III. *B. of T. representation of 19 Oct. 1698. (8 pp.)*

The grant of the Mohawks' land is valued at 25,000*l.*: the quitrent is one beaver skin for the first seven years, and five beaver skins thereafter. The other cases are similar. The sums of money given to Gov. Fletcher in consideration of the grants (10*l.* or 20*l.*) are trifling in comparison with the value of the grants, but he wished not only to confirm his own supporters but to embarrass Lord Bellomont, of whose appointment he had advice. This is confirmed by the grants from the King's farm and garden, which formerly supplied produce for the Governor. Fletcher would have granted "Nutten Island (convenient for grazing a few coach-horses and cows for the Governor's family) to one formerly his footman, but that the Council were ashamed to consent to it." P. Schuyler and D. Wessells resigned their share in the Mohawk lands, but the other three grantees insisted on their rights. Bellomont

1707. § 182 *cont.*]

accordingly examined the whole matter and reported as above. An account of the number of the Indians about Albany shows that they are diminishing : no discouragement should be put upon them, whereby they may desert and leave the province exposed to the French.

IV. *Copies of the resignations of their share of the Mohawk lands by P. Schuyler and by D. Wessells, 19 April 1698.* They admitted that their intention had been to hold the land to the use of the Indians.

V. *Account of the inhabitants of Albany*—a return to an order of Gov. Fletcher, 3 May 1697 :—

## CITY AND COUNTY OF ALBANY :

1689. 662 men, 340 women, 1014 children = 2,016.

1697. 382 „ 272 „ 805 „ = 1,459.

## FIVE NATIONS AND RIVER INDIANS :

Mohawks in 1689 .... 270                      in 1697 .... 110

Oneidas „ .... 180                      „ .... 70

Onondagas „ .... 500                      „ .... 250

Cayugas „ .... 300                      „ .... 200

Senecas „ .... 1,300                      „ .... 600

River Indians „ .... 250                      „ .... 90

Total ..... 2,800                      1,320

## CHRISTIANS DEPARTED SINCE THE BEGINNING OF THE WAR :

Departed ..... 142 men, 68 women, 209 children.

Prisoners ..... 16

Killed by Enemy 84

Died ..... 38

280 + 68 + 209 = 557

VI. *Sir J. Hawles' report of 27 June 1700 on the Act (B) (10 pp.)* Whether the instruction to vacate the grants by legal means intended legislation or prosecution at law, “is to me very doubtful; and therefore I thought it most fit to report what had been materially said for or against the said Act.”

§ 182 *cont.*]

1707.

VII. *Objections to the Solicitor General's report by Mr. Champante.* (3 pp.) (1) The allegations do not properly lie before the Solicitor General, who should have reported only on the reasonableness and lawfulness of the Act,—that it is legal and highly advantageous to his Majesty's prerogative, reinvesting great tracts of land in the Crown, restoring to the Governor the necessary conveniences of living, and to the Indians the lands of which they had been defrauded; (2) five other objections are given, which may be summed up in the concluding words, "the allegations for the said Act are not set forth with the proof, nor as fully as they were offered."

VIII. *Allegations which ought to be inserted in Hawles' report if the "Objections" are overruled* (3 pp.)—enforcing the case against some of the grants, where the report had suggested that definite proof had not been given of extravagance, deceit &c.

[183.] BARBADOS. *Displacement of four Councillors.* B. of T. 28 Oct. representation. Gov. Crowe having been instructed, on II. p. 809. his arrival, to make an examination and to displace Councillors whose behaviour has given just cause for complaint, he reported in a letter of 8 Aug. that he should obey this direction by turning out Cols. Sharp, Cox, Mills and Walker, who had voted for the Paper Act. The B. of T. represented that their vote had been known before Crowe sailed, and yet they had been continued as Councillors; that he was instructed to allow freedom of debating and voting in all affairs of public concern; and that, if Councillors should be liable to dismissal for error of judgment in voting, it will be difficult to find persons of any tolerable ability to serve. On the inconvenience being pointed out, the four Councillors had done all that in them lay to procure a remedy by having a Bill passed in the Assembly. The Board recommend that her Majesty's pleasure be signified to the Governor by the packet-boat now ready to sail, that the Councillors be not displaced, or, if already suspended or displaced, that they be at once restored.

1707-8.

12 Nov. [184.] NORTH CAROLINA. *Act to encourage settlement*. B. of II. p. 832. T. representation for declaring the Act null and void, an abuse of the powers granted to the proprietors and a forfeiture of their charter. The Act provides that no persons henceforth transporting themselves into the province shall for five years after their arrival be impleaded or imprisoned for any debt contracted before their arrival, save for debts to the Queen or to the Government in which they lived; persons coming from Virginia are not to have exemption for debts contracted within six months before their arrival: no one is to have the benefit of the Act a second time, after leaving the province and returning to it.

The B. of T. consider the Act of very pernicious consequence to Maryland and the more northern plantations. The generality in Maryland are much indebted to the merchants in this kingdom, who would suffer accordingly by their migration, as would her Majesty's revenue in the duties on tobacco. Several families have already removed from Maryland.

An opinion of the Attorney and Solicitor General on another Act in 1706 is quoted (*Cf.* II. pp. 506-7), and the same procedure is recommended to be followed as on that occasion.

1708.

1708.

Feb.-Oct. [185.] EMBARGO IN PLANTATIONS. Seven petitions and II. p. 492. reports.

13 Feb. [186.] COUNCILS. *Maryland*. B. of T. representation for II.App.II. J. Contee, S. Young, T. Greenfield, and S. Biggs. Several of the members live at the other side of the Bay and are not able to attend in bad weather.

29 Ap. ———. *Jamaica*. B. of T. representation for J. Peeke.

1 July. ———. *Leeward Islands and New Jersey*. B. of T. representations for four St. Christopher and four Nevis councillors, and for restoring L. Morris in New Jersey. The New Jersey Company had proposed to leave out D. Cox or P. Sonmans, but the B. of T. leave out J. Harrison, the last member proposed by them (on 30 May).

§ 186 *cont.*]

1708.

———. *Virginia*. B. of T. representation for W. Bird. 10 Aug.

———. *Jamaica and Barbados*. B. of T. representations for V. Mumby (*Ja.*) and J. Hallet (*Bs.*). 23 Aug.

———. *Leeward Islands*. B. of T. representations for F. Phips (*St. C.*) and W. Byam (*Anta.*). 22 Nov.

[187.] ST. CHRISTOPHER. *Losses in French war*. B. of 19 March. T. report on petition of S. Duport. Earlier proceedings are II. p. 568. rehearsed. After the Order of reference of 16 July 1698, Duport was obliged suddenly to return to the Leeward Islands upon information that Governor Codrington had offered to give his plantation away, and there were no further proceedings. To an estimate of his losses in 1689, delivered in 1698, he now adds 1,500*l.* for growing sugar canes, which he had then omitted. The former estimate was 10,007*l.* 5*s.* The B. of T. report very favourably on Duport's character, his services as agent for St. Christopher, and his deserts in regard to his great losses.

[188.] NEW YORK. *Military Stores &c.* Memorial of 5 May. Lord Lovelace *re* guns, barrack furniture, and presents II. pp. for Indians necessary for the province. He has endeavoured 551-2. to get the best information he can, and thinks "he cannot do your Majesty, nor your subjects in those parts, better service before his arrival in that government, than to represent to your Majesty the information he hath received." Lists of stores required and of the last presents sent to the Indians in 1697 are given, and the importance of the defence of New York emphasised. He reports "that there are some guns at New York, which do belong to the Scotch Indian Company, but that he cannot learn the exact number of them, which were left there by the said Company's ships upon their return from Darien; and the said Company being to be satisfied for them out of the Equivalent Money by the Commissioners appointed for the distribution of the same," he prays that the guns may remain at New York as part of the number required. The presents for the Indians consisted of (1) guns,



68 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1708. § 188 *cont.*]

ammunition &c. ; (2) clothing (including laced hats) ; (3) brass kettles, hatchets, looking glasses and knives ; (4) some linen to make bags for powder.

I. *An Ordinance report of 16 May 1706, enclosing :*

(a) Estimate of stores necessary to be sent—amounting to 655*l.* 13*s.* 6*d.* (16 May 1707).

(b) Estimate of stores sent in 1700–1—(942*l.* 13*s.* 1*d.*).

(c) Estimate of ordnance demanded, 13 April 1703—(5,468*l.* 1*s.* 6*d.*).

(d) Estimate of stores demanded, 3 March 1705—(667*l.* 9*s.*).

(e) Account of stores expended in New York, May 1702—Feb. 1705.

II. *First Ordinance Report, 26 May 1708, enclosing I., and an Estimate of Ordinance necessary to be sent in pursuance of the Order of 10 May 1708—*(18,158*l.* 15*s.* 8½*d.*).

III. *Order of 26 June* referring this report to the Lord High Treasurer.

IV. *Treasurer's Report* (received 21 July), enclosing

V. *Second Ordinance Report, 8 July 1708, with estimate of 6,782*l.* 15*s.* 3*d.* for the most necessary stores.*

20 May. [189.] BARBADOS. *Copp v. Raynor*. Petition of W. Copp ; II. *pp.* Order of reference ; and Committee report of 30 June. 559–60. Raynor's wife was executrix of Copp's mother.

21 May. [190.] ANTIGUA. *Elliot, Earle and Lingham v. Dove*. II. *p.* 548. Depositions of John Fisher and of Edward Worlidge, who were sent over in 1707 to solicit the claim of the sisters of John Lingham to certain plantations in Antigua. The estate had been held by Col. Pearne, and the generality of the people were bigoted to his memory—he had been very hospitable—and to the interest of his son, Henry, a minor. Fisher returned *re infecta* on finding that there were no courts opened. After several debates in the Council and Assembly, a Court of Common Pleas was opened in April, on the Governor's threat to call a Special Court. The foreman

§ 190 *cont.*]

1708.

of the jury, Joshua Jones, behaved more like a counsel for the defendants, giving his opinion in open court before the trial was over. Mr. Pember, the Attorney General, and Worlidge asked for a special verdict, but this was based only on the evidence for the defence. The evidence of Mr. Yeamans, Governor of Antigua, for the plaintiffs was slighted, and that of Col. Rowland Williams, an ancient gentleman, examined at his own house before the Chief Justice, refused to be read. The only evidence to show constraint on Lingham's wife in the execution of the deed was not present at the execution, but said that Lingham threatened his wife some time before.

———. Deposition of Worlidge, Edmund Dumer and Thomas 15 June.  
Moore that the transcript of the verdict and judgment is lost; and of Worlidge that a writing annexed is a true copy of it. To this copy are annexed notes on the proceedings by Worlidge. The Chief Marshal of Antigua is John Perry, one of the guardians of Henry Pearne. He resides in London, but his deputy is his brother, who is a violent adversary in this case, "and what foul play a person so violently bigoted to the Parnes may use in packing a jury let any one judge. . . . I presume there is a punishment for juries that will go against positive and direct evidence."

[191.] NEW YORK AND NEW JERSEY. *Lord Lovelace*, 31 May.  
*Governor*. B. of T. report enclosing draft instructions for II. *pp.*  
replacing two New Jersey councillors, who had been concerned 800-1,  
in arbitrary proceedings: and another report of 10 June 819.  
enclosing Trade Instructions.

[192.] PENNSYLVANIA. *Deputy Governor*. B. of T. 2 June.  
representation for Capt. C. Gookin *vice* J. Evans: and II. *p.* 802.  
B. of T. report of 8 July with instructions for the proprietor.

[193.] JAMAICA. *Escheats*. B. of T. report on several 15 June.  
complaints. In the case of James Whitechurch, an Order II. *pp.*  
has already been made; affidavits of Col. Richard Lloyd and 549-50.

70 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1708. § 193 *cont.*]

Mrs. Katherine Freeman establish the facts that negroes have been seized on the pretence of a defective title, and that the Governor had asserted that he could not regrant them to their owners, but must by his instructions grant them to the first informer. The B. of T. point out that, on the contrary, the instructions forbid the disposal of escheats, fines or forfeitures until they have been reported to the Treasury and the Board of Trade, and her Majesty's directions had therein. The case of Capt. Samuel Jones is also included in the report.

30 July. ———. B. of T. representation enclosing an instruction to Gov. Handasyd.

22 June. [194.] JAMAICA AND BERMUDA. *Acts*. Two B. of T. II. *pp.* representations (*a*) for confirming two Jamaica Acts; (*b*) for 832, 835, approving two amended Acts of Bermuda about the trial of 563-4. debts under 20s. and about quieting estates; and for allowing a Bill to be passed for building a house at the ferry.

26 June. [195.] NEW HAMPSHIRE. *Allen v. Waldron*. Allen's II. p. 367. petition for a hearing; and another of — Aug.

28 June. [196.] NEW YORK. *Attorney General*. B. of T. representation in favour of J. Rayner, with a certificate signed by II. *pp.* Littleton Powys and seven others on 13 May. 522-6.

8 July. [197.] BARBADOS. *Complaints against A. Skene, the Secretary*. B. of T. representation. (1) As to the deportation II. *pp.* of F. Lee, Skene denied that he was an accessory, having 489-90. been called only to suppress a riot and prevent bloodshed. (2) To the affidavits of William Bailly and Henry Keys that in May 1704 they were denied liberty to sail until they had paid the unwonted fees of 17s. 6d. for a petition to the Governor and 3s. 9d. for license to depart, Skene replied that he took only the customary fee of 5s. for the license and 12s. 6d. for drawing the petition as public notary: he referred to a minute of the Barbados Council, 21 Nov. 1704, that all vessels sailing from the island should first make application by way of petition

§ 197 *cont.*]

1708.

to the Governor. (3) As to the charge of receiving 210*l.* from Guy Ball for stopping a fleet then ready to sail, Skene denied the truth of Ball's affidavit, instancing the Governor's order of 24 May 1704, *not* for stopping the ships but for allowing such as were not ready to stay behind: he further referred to his trial in Barbados (upon which he was acquitted).

The B. of T. find (1) not proved, the evidence of Capt. St. Loe, the only witness, being chiefly hearsay. (2) is established by Skene's own admission; the minute of the Council six months after his exactions cannot justify him, her Majesty's dislike of such evil practices as a burden on trade should be signified to the Governor. In his answer to (3), Skene evades the point, and, from what appears to the Board, he is guilty of having exacted unusual fees and of bribery.

———. Order for Skene's dismissal from being Secretary. 18 Aug.

———. Skene's petition for a review of the proceedings. 20 Sept.

[198.] BERMUDA. *Complaint of Matthew Newnam* 15 July.  
(*cf. pp.* 77–8). B. of T. representation, finding Newnam guilty II. *pp.*  
of abusing the Governor, judges and Justices of the 605–6.  
Peace, and being a frequent disturber of the peace; yet  
that the bail and fine imposed were excessive, and that he  
may now be released on conditions.

[199.] JAMAICA. *Sir Wm. Beeston's will*. Petition of 1 Aug.  
Sir C. Orby and Dame Anne Hopegood. The will is said II. *p.* 564.  
to have been signed by the witnesses in an adjoining room  
where the testator could see and converse with them.

[200.] PLANTATIONS. *Prizes*. Presentment from the Com- 8 Aug.  
missioners of Prizes: with opinions of Attorney General Northey II. *pp.*  
and Solicitor General Montagu. Northey thought the prizes 567–8.  
taken during the period when the two Acts overlapped should  
be brought to England entire, and determined by an  
explanatory Act or by the Court of Exchequer. Montagu  
considered her Majesty well entitled to the moiety of the

72 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1708. § 200 *cont.*]

prizes taken in America during the time the Prize Offices were allowed to continue, *i.e.*, he held, till 24 June.

Read [201.] BERMUDA. *Complaints of E. Jones, Secretary and*  
18 Aug. *Provost Marshal, against Governor Bennett.* (1) Petition, infor-  
II. p. 448. mation and complaint (3 *pp.*); (2) 87 articles by way of  
information and complaint (16 *pp.*).

(1-2) The Governor issues commissions and grants lands in his own and not the Queen's name.

(3-4) relate to his suspension of Jones and the grant of his offices to others.

(5) He has misapplied moneys raised by Act of Assembly, and has made John Davis, his private secretary, Treasurer of the island without taking any security.

(6) The Secretary's office has been rifled, and none of the original Acts of the island are now to be found.

(7) He had an Act passed granting a duty on liquors imported for two years only, discontinuing an Act of Gov. Day's time which contained no such limitation.

(8) No accounts of the receipt of powder-money have been allowed to be given to the public for several years.

(9) The Governor puts the public seal to commissions to privateers and others, which he does not record in the Secretary's office.

(10) He gives passes to persons leaving the island, for French Governors to use them kindly, promising to do the like to French prisoners.

(11) He allows French and Spanish prisoners to go about all over the island, and does not suffer the Provost Marshal to have charge of them.

(12) He embezzles the stores and ammunition, which he has taken out of the charge of the Provost Marshal, and entrusted to a sentinel of the Company of which he himself is captain.

(13) This sentinel, Daniel Ubanks, he has also made marshal of the Admiralty Court for trying pirates &c.

(14) The Governor retains the rents of the glebe lands on pretence of keeping them for the next incumbent.

(15) When Mr. Robert Baron, the late minister, complained of this at home, the Governor and Council got numbers of the most scandalous persons in the island to swear debauches against him, although, on his leaving the island, the Governor and Council had given him a certificate of piety, good life and behaviour.

(16) The Governor is a great trader to St. Thomas, Curaçao and other foreign ports, to the prejudice of the Customs and of honest merchants.

(17-8) In Aug. 1705 he traded illegally with three ships bound from Lisbon to Virginia, which lay off the island.

(19) That in exchange for French prisoners sent to Martinique in a privateer he was concerned in, he brought back not English prisoners but brandy and wines : " who on the return of the said ship met with several of the Council on one of the small islands and drank to such a pitch of the said brandy and wines that they stripped themselves and danced naked before Mr. Holland, the minister, and would have burned their clothes and fired their guns (which must have alarmed the country) in the middle of the night, had they had fire with them."

(20) Vessels coming in for wood and water are allowed to trade on making the Governor a present.

(21-2) A sloop, which had merchandise belonging to the Governor on board, being plundered by the Spaniards, another trader brought an action, and in an unfair trial recovered the value for the Governor from the owner of the sloop.

(23) The Governor examines letters carried on board ships entering or leaving, and keeps back what he pleases, to the great prejudice of trade.

(24-6) He allows the soldiers of his Company, on giving him their pay, to keep public-houses &c. and never do duty but at a muster ; he suffers false musters ; he " discharges

1708. § 201 *cont.*]

soldiers for money, which they generally raise by marrying the inhabitants, and when discharged leave their wives and children to take care of themselves."

(27) He encourages idlers to cheat the inhabitants and run into their debt by enlisting them in place of those he discharges; he has thus taken out of prison, *e.g.*, one taken up for clipping, one committed for felony, and one "in on execution."

(28) He keeps only seven or eight soldiers on duty at the forts, and uses two of the barracks as his private storehouses.

(29) A Justice of the Peace, a friend of the Governor's, having inherited a debt due from the Governor, was displaced without cause signified.

(30) By the Governor's orders, Mr. Minors, who acted as Secretary during Jones's suspension, removed the books from the Secretary's office, and "wrote fair in other books what was thought fit," but would not return the original books and papers nor make oath that the others were true records. In one case the new records did not correspond with an attested copy which Minors had formerly given to Lieut. Robert Henley.

(31) The proceedings of the Quarter Sessions have been removed from the Secretary's office. No copies are to be allowed without special orders from the Justices of the Peace—which have several times been refused.

(32) He has made Col. Anthony White Chief Justice. White was formerly arrested by Jones as an accomplice of pirates. He is believed to have married his mistress to his own son, and, when the latter resented it, sent him to England and had him kept in Bedlam as a lunatic till he died.

(33) In an action by White against his predecessor, Capt. Gilbert Nelson, for words spoken on the Bench, execution was stayed till the Lord Chief Justice of England's opinion was had; yet Nelson was committed to prison and has had his bed and provisions taken from him and been detained three years by order of the Governor.

(34) Chief Justice White, in order to oppress Nelson, has made an order that no prisoner may bring an action unless he first give security to pay costs and damages.

(35) John Dickenson, White's son-in-law, has been made a Justice of the Peace, although of very ill principles and an accomplice of the notorious pirate, Thomas Tue.

(36-42) Among the papers removed from the Secretary's office were records of proceedings against Daniel Smith, a known pirate, who had confessed to being with Capt. Avery when he seized the Mogul's ship. Smith was sent home with copies of the proceedings, but the captain of the ship on which he sailed was his cousin, the son of Col. White; and he did not deliver the papers. By order of Gov. Day, Jones had seized Smith's lands, and for this he was, on Smith's return, indicted by permission of Gov. Bennett, and Smith was made one of the jury who found the indictment. Bennett declined to allow further proceedings against Smith until the Secretary's office had been rifled. Col. White and Col. Walker, both uncles of Smith, were allowed to qualify as commissioners for the trial of pirates along with Capts. Richard Peniston and Thomas Harford, both great favourites of the Governor. Mr. Woodward, Register of the Court of Admiralty, was also turned out without cause shown and Mr. Minors appointed. Smith was then acquitted, and given a certificate to protect him from being prosecuted elsewhere.

(43) To strengthen his party, the Governor has by commissions granted in his own name raised a troop of dragoons of eight officers and 40 men. This is in any case a hardship to the rest of the inhabitants, "who are obliged to do duty and watch for those who are entered into the troop, whilst they are excused from all such service."

(44-5) The Governor grants commissions in the militia to seafaring men, which often protects them from being impressed. When these men go to sea, he regrants the commissions and so is able to oblige many of the inhabitants. More than 40 such commissions were granted in 16 months.



1708. § 201 *cont.*]

(46) In this way and by commissions of the peace &c., the Governor has great power over the election of the Assembly. "The Governor issues out his writs directed to the Justices of each Tribe to choose four to serve as Assembly-men, the Justice himself (by the express words of the writ) not being exempted but liable to be chosen. At the day of meeting the Justice sets up or names one to the inhabitants as a fit person, who thereon sets up or names the Justice, who then sets up or names a third, who sets up or names a fourth. And all that are so set up or named are generally chose, so that of 36, which is the number of the Assembly, the Governor is sure to have 27 of his own commissioned officers or creatures, by which means he gets what he pleases passed and done in the Assembly, who administer an oath of secrecy to each other, so that whatever he proposes to them is past and done without any person knowing thereof."

(47-8) On 25 Oct. 1701 he issued a proclamation that no Justice of the Peace or Judge of Assizes suffer any affidavit to be made against any person till the person complained of had notice, so that he might be present—on penalty of being put out of the commission. In this way no complaint of oppression can come to a hearing in the island.

(49) In contempt of the Order in Council in Jones's favour, the Governor refused to reinstate him in his offices or to let Mr. Minors, the Secretary, and Mr. Greatbatch, the Provost Marshal, account to him for the profits of these offices since his suspension. So long as he was in the island, the Council and the Chancery Court were not allowed to meet, nor were any Assizes held.

(50-1) Writs of error have been several times refused—*e.g.*, to Jones himself. In 1700 Col. White and Thomas Smith (father of Daniel), whom he had arrested on warrants from Chief Justice Nelson, were acquitted of an assault on him; and in Dec. 1701 he was sentenced to a fine and imprisonment for perjury—in bringing an action for assault against White and Smith and then swearing that White did not

strike him but held him while Smith beat him. The fine has been remitted by the Privy Council, but the Governor has always refused a writ of error, by which the scandal of the judgment should be taken off. This case "is the chiefest pretence that hath been made use of to support and carry on a seven years' prosecution against him."

(52) For signing a certificate in favour of Jones, Samuel Duffy, formerly of the Council and Justice of the Peace, was fined 50*l.*, and William Bryan expelled from the Assembly.

(53-5) The greatest part of the money raised in the island during the last seven years for fortifications and other charges has been spent in prosecuting Jones and others. The inhabitants have been further impoverished by the pay of the Assemblymen, and by making them travel from place to place to follow the adjournments of courts, Assemblies &c. Great taxes have been imposed for carrying on the prosecution of Jones, and persons imprisoned and their goods seized for failure to pay it.

(56-7) That the Sunday before Jones came away the Governor encouraged Davis to challenge him; and, if he had not privately left the town that evening, he had been waylaid.

(58-60) That the Governor granted a writ of *ne exeat regno* against one Capt. John Bayly, when at the same time he would hold no courts, and refused to accept undeniable security.

(61) The Governor holds a "Testamentary Court" monthly, wherein he hears by way of petition matters which are triable only at Common Law.

(62-4) He has appointed as Attorney General Thomas Burton, whom the Court of Quarter Sessions formerly declared incapable of holding any office. Capt. Matthew Newnam was prosecuted for having accused Burton to the Governor of bribery &c.; but, witnesses having been produced to prove justification, the case was adjourned from time to time till words were extorted from Newnam for which they fined him 100*l.*, for which he is now a prisoner, no further notice

1708. § 201 *cont.*]

being taken of the original charge. At this trial Burton objected to ten out of the twelve jurors returned by Jones without showing any cause, and this he also does in other cases.

(65-7) Bennett's predecessor, Gov. Day, was detained in the island till he died, by Bennett's allowing him to be prosecuted there in several trifling and vexatious suits. When he pleaded the Act of Parliament for punishing Governors in England, the judge declared "that if the said Day would be tried by English laws, he must go to England for them, for they would try him by their own laws." Day was fined 50*l*. "for speaking the following words as pretended, viz. 'Christian is a conjurer, Clipp Castle is another, and so is Ambition the Christian's brother.'" The minister, Mr. Baron, was reprimanded by the Governor for praying with Day when he was sick, and durst not visit him but by stealth.

(68-70) Mr. Larkin, who was sent out to settle the Admiralty Courts for trying pirates in America, was closely imprisoned for several months, and no letters allowed to pass to or from him. He died from the effects of this soon after an order had been received for his release. While he was in the island, no Admiralty Courts were held. The warrant for his imprisonment was said to be granted by the Governor and Council, but nothing appears thereof in the minutes of Council delivered into the Secretary's office. Bennett "held his sword to the breast of one of the Queen's slaves, a mulatto, and who lived as a servant to the Governor, threatening to run her through if she would not swear a rape against Mr. Larkin, and because she refused to do it had her publicly whipped."

(71) Thomas Barrow, having a dispute with the master of a ship which was to carry him to Jamaica, said that he did not question but to have justice done him when he came to Jamaica. For this he was imprisoned and fined 40*l*., and such a character of him was given to the Governor of Jamaica that he would not let him practise at the bar.

(72) On the death of Capt. Sandys, Lieut. Robert Henley waited on the Governor to write in his favour for the Queen's Independent Company of soldiers. For words said to be spoken on the Governor's announcing that he meant to have it for himself, Henley was imprisoned for twelve months and his wife and five children almost starved. On his release, he and his family were drowned on their way home to England.

(73) On the trial of Capt. Gilbert Nelson for proceedings whilst he was Chief Justice, he proved, by the Council Book and his commission, that the witnesses against him had sworn falsely; yet the Governor allowed the same persons to act as his judges in subsequent cases.

(74) Dr. Josiah Starr has been persecuted since an action of assault was brought by him in 1701 against Jeremiah, brother of Daniel Smith, the pirate. He was repeatedly made to give security without being brought to trial till 1704, when a worthless person made oath that he had heard the doctor read a letter saying that an account should speedily be given of the recent protection of villainy, perjury and roguery in the island. The doctor offered to prove a copy of his letter, which did not contain such words; but he was found guilty and sentenced to be whipped by the common hangman, and accordingly received 39 lashes on his bare back before the Governor's window, where he and the Council stood to behold the same. They "kept him tied to a post above an hour with his naked back in the scorching sun, while they contrived an order (grounded upon a sham information) for breaking open and rifling the said Doctor's study and taking away his papers. On his attempting to secure a writ of error to have the sentence of whipping reversed, the persecution was resumed from July 1705 to June 1707, and he was continued in prison from assizes to assizes without trial.

(75) John Woodward, (the former Register of the Admiralty Court), was similarly kept in prison for near two years

1708. § 201 *cont.*]

without trial, while his wife and four children were starving. Attorney General Burton had alleged that Woodward said to him that he (Burton) led the Governor by the nose.

(76) Jones contrasts with the treatment of Dr. Starr and others the Governor's admission to bail of an Indian fellow, belonging to Thomas Smith, who had been committed by the whole bench of justices.

(77) The only window for air on the side of the prison where the wind commonly blows in summer was stopped up by the Governor in the midst of summer, and the door of the small room in which Nelson, Starr, Newnam, Woodward and others were confined kept close locked.

(78-9) Generalised from the foregoing cases.

(80) On the oath of Richard Peniston that Adam Baldock was drunk and drew his sword upon him, the Justices, without indictment, information or jury, had Baldock publicly whipped in open court. After this, he took the first opportunity to leave the island with his family.

(81) In face of the Court of Quarter Sessions, Daniel Serogham, a favourite of the Governor, assaulted Samuel Harvey, formerly a Councillor and Judge. Harvey complained, but was himself fined and bound over to the next Quarter Sessions, and so from one sessions to another for a considerable time.

(82) Thomas Dunscomb having been fined 40s. by the Justices for insulting words to Mr. Holland, the minister, a fee of 12s. was levied from him by distraining and selling a slave, but no surplus was returned.

(83) "The Justices make a trade of summoning people before them upon every trivial occasion, and take 11s. or 12s. commonly for hearing every paltry matter."

(84-5) After the order for Larkin's release, Bennett got a petition for his longer continuance in the government signed by calling out the militia and bringing each man to the drumhead to sign in his presence. "Such as refused were reprimanded and threatened, and several have since felt his displeasure."

§ 201 *cont.*]

1708.

On a later occasion he got his petition signed by calling all the inhabitants of each tribe to appear at their respective churches to give an account of the number of persons in their families.

(86) The Governor keeps immoral servants, drinks to excess &c.

(87) The Governor has caused a heavy tax to be levied—in truth for carrying on his prosecution of Jones; and has promised thereout 500*l.* besides expenses to Col. White and George Tucker, whom he has sent to England.

[202.] JAMAICA. *Hutchins v. Russell*. Petition of J. Clarke; 18 Aug.  
and Order of reference. II. p. 570.

[203.] NEWFOUNDLAND. *Supply of powder*. Admiralty 10 Sept.  
memorial *re* Capt. Clifton's accounts. II. pp.  
570–1.

[204.] BARBADOS. *Mackaskell v. Robinson*. Petition of 11 Oct.  
N. Mackaskell; and Order of reference of 17 Oct. II. p. 571.

[205.] NEW HAMPSHIRE. *Military Stores*. B. of T. repre- 8 Nov.  
sentation for sending stores for the inhabitants, who are much II. pp.  
weakened by the attacks of the French Canadians and frontier 571–4.  
Indians;—the stores to be issued by the Governor only as  
necessary defence requires, and regular accounts to be  
transmitted. Fort William and Mary, near finished by  
Col. Romer when recalled, is the most considerable place of  
strength in the province. Romer then offered to have it finished  
for 100*l.*, but he now judges 200*l. sterling* necessary to finish  
it with barracks and a guardhouse. If this be granted, the  
Governor should be directed to exhort them to provide for a  
sufficient guard to be regularly kept in the fort, and also to  
take care that the powder duty be duly paid in kind. The  
agent's proposals for sending 200 disciplined men to do duty  
in the fort, for a fourth rate man-of-war to cruise off the  
Eastern coast, and for packet-boats to be set up for the  
continental colonies as they are for the islands, were not con-  
sidered, the Board deeming the ships of war usually appointed

1708. § 205 *cont.*]

to be "sufficient for the security of the province, and to protect the inhabitants while they are at work in the woods ; especially if your Majesty's Governor of New York do take effectual care to support and encourage the five Indian Nations subject to your Majesty, as by his instructions he is required to do."

Appendix "A" is an account of stores sent to New Hampshire in the *Charity*, Samuel Carket master, 30 July 1692. "B" is an account of stores in Fort William and Mary, 29 Sept. 1707. The rest of the report is quoted in Vol. II.

23 Nov. [206.] MARYLAND. *Act re arrears of Lord Baltimore's rents.*  
II. pp. B. of T. representation.  
837-8.

30 Dec. [207.] NEWFOUNDLAND. *Provisions.* Letter from the Admiralty Office. A convoy is now getting ready. On 22 Jan. last, there was an Order in Council for sending a year's provisions for the garrison at St. John's ; if it is intended to send again, an Order should be sent to the Lord High Admiral.

Referred [208.] BAHAMAS. *Defence and Government.* Petition of  
30 Dec. traders to North America and Jamaica and of the inhabitants  
II. p. 550. of the Bahama Islands. "That the Bahama Islands being situated in the Northern latitude of 22 to 27 degrees, making the Eastern branch of the Gulf of Florida, include the only convenient passage for our North American traders in their voyages to Jamaica. That the said islands (especially New Providence) are the best refuge for all such vessels that trade to North America when beat from that coast by the strong north-west winds.

"That the Grand Bahama Island (lying in the latitude of 27 degrees) is the extreme land next to the ocean to the northward that bounds the Gulf of Florida, and therefore may be said to lie at the foot of the said Gulf.

"That the head of the said Gulf (lying near one of the Bahama Islands called Andros Island in the latitude of 24 degrees

and odd minutes and almost contiguous with the island of Cuba and the Havannah) may encourage a practicable communication between the head and the foot of the said Gulf within the said Bahama Islands out of the stream of the said Gulf, and thereby give a sufficient British fleet (which may safely ride under the said Grand Bahama Island in all winds except from the South to the North-West who then have room enough to retire into ocean water) an opportunity absolutely to command the said Gulf and give a good account of the Spanish galleons and flota, who by the frequent easterly winds are obliged to keep the said Grand Bahama Island and the rest of the Bahama Bank on board lest they fall to leeward on the shoals and foul ground on the Floridan coast.

“That the island of New Providence aforesaid is a very useful and safe harbour, and when made tenable (by a garrison and a man-of-war or two for cruising among the said islands) will be capable of protecting merchant ships and of annoying our enemies.

“That the said island of New Providence has been often plundered and is almost continually insulted and threatened to be settled by the Spaniards, which threats if once executed, the said island may be so sustained by the neighbourhood of the island of Cuba, that it may prove extremely difficult for our British forces to reclaim it.

“That the said Bahama Islands are by their product of great use to Great Britain, *vizt.* cottonwool which has the finest and longest staple of any wool in the Indies, also braziletta wood, which is nowhere else to be found in so great perfection, besides other dyeing woods, sugar, indigo, whale oil, spermaceti, ambergris and tortoiseshell &c. But the said islands are of inestimable value to all the plantations in North America, Newfoundland &c. and indeed to all the English plantations in the West Indies, the said islands (every year) constantly producing an inexhaustible stock of salt sufficient to supply all their necessities.”



84 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1708-9. § 208 *cont.*]

The petition closes as quoted in II. p. 550. There are 91 signatures.

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[209.] BARBADOS. *Land Bank*. Extracts (*a*) from an Act passed on 26 April, for appointing a Committee for settling the public accounts &c.; and (*b*) from an Act passed on 12 May, supplemental to that for ascertaining the payment of bills issued pursuant to an Act to supply the want of cash &c.

1709.

1709.

9 Jan. [210.] MARYLAND AND PENNSYLVANIA. *Boundaries*.  
 II. p. 582. Petition of Lord Baltimore; with (*a*) a copy of a letter from Mr. Secretary Conway about fixing the boundary of Penn's grant, 2 April 1681; and (*b*) copy of a letter from Penn, 10 Feb. 1682. Penn, finding that the boundary originally fixed would not give him a port on Chesapeake Bay, obtained another letter of 19 Aug. 1682 by misrepresentations. This he has laid aside and offered to fix the original boundary, if Baltimore would allow him to have a convenient port at the head of Chesapeake Bay at reasonable and gentle rates. On 7 Nov. 1685, by falsely suggesting that Baltimore's grant contained no land but what was cultivated by savages, Penn obtained an Order of Council for dividing the isthmus between Delaware Bay and Chesapeake Bay, thus endeavouring to deprive the petitioner of his inheritance without his being heard or having notice of the Order. Baltimore therefore prays that this Order be set aside, and the boundary ascertained according to the letter of 2 April 1681.

Penn's letter of Feb. 1682 was conveyed by his kinsman, Wm. Markham, to whom he had left "the manage" of his affairs. "I only beg one thing; 'tis short, but the text of all that can be said (do to me as thou wouldst be done to). I am a stranger in the affairs of the country, he can have little light from me. I do so much depend upon the influence and prevalence the King's goodness will have upon thee that I omit to be any further solicitous, believing that a great and prudent man will always act with caution and obedience

§ 210 *cont.*]

1709.

to the mind of his prince, so that this letter was rather to be civil than to pass so ill a compliment upon the Lord Baltimore or the King's letter as to think it could give any aid to the one or light to the other.

"I shall conclude with the request that 'twould please thee to give my cousin and deputy all the despatch possible in the business of the bounds, that, observing our just limits in that and all other things, we may begin and maintain a just and friendly intercourse, which I do here promise to endeavour and observe on my part with all the truth and care imaginable, and whatsoever favours he receives I shall place to my account; and perhaps there are many ways by which I may discharge them, which may give the Lord Baltimore reason to believe I do not undeserve the usage and quality of his very true friend."

———. Petition of Wm. Penn. On Lord Baltimore's 27 Jan.  
complaint in 1683 that Penn was invading his boundaries, Penn came over to England to the vast prejudice of his interest in America. The matter was referred to "the Lords Committee for trade and plantations (then consisting of the whole Privy Council)," on whose report an order was made in Nov. 1685. Now after 23 years' quiet possession and improvement of the land assigned to Penn, Baltimore has petitioned that the Order of 1685 be set aside; and the matter has been referred to the B. of T. Penn "prays that the Queen will not countenance an attempt so injurious to property and the rights of her subjects, but will order the Lord Baltimore's petition to be dismissed."

This petition and that of Lord Baltimore *supra* are both docketed: "Memorandum. This petition having been mislaid on repairing the Office was found the 30th of August 1742."

———. Another petition of Penn, setting forth his endeavour 16 April.  
to have the boundary settled as directed by the B. of T. and his disappointment on finding that Baltimore's agents on the spot had no instructions to that purpose, and praying

1709. § 210 *cont.*]

fresh directions to pursue the instructions given after many deliberate hearings in the years 1683-5.

I. Letter from Wm. Popple to Penn, 24 Aug. 1697, to give directions for a joint survey of the boundary determined by the Order of 13 Nov. 1685.

II. Penn's letter of 1 Sept. 1697 to Col. Markham, to pursue the directions of the B. of T. He believes Markham has the original Order of Nov. 1685 or an exemplification of it.

III. Extract of a letter from the B. of T. to Gov. Nicholson, 2 Sept. 1697, enclosing a copy of the Order and of Penn's letter to Markham.

IV. Letter of 20 Aug. 1698 from Gov. Nicholson (Maryland), that he had not been able to perform their Lordships' commands, because the Order of Nov. 1685 and Penn's letter to Markham were not with their Lordships' duplicate. "For I suppose they underwent the fiery trial in North Carolina."

V. Extract of a letter from the B. of T. to Gov. Blakiston (Maryland), 20 Sept. 1699, enclosing another copy of the Order, that he may endeavour to have it executed whilst Mr. Penn remains in the country.

21 Jan. [211.] BARBADOS. *Councillors suspended*. B. of T. representation on a letter from W. Sharp, A. Walker and S. Beresford complaining of their suspension, which is confirmed by a letter from Major Pilgrim, although no account of such a proceeding has yet been received from the Governor, as is required by his instructions. He is also stated to have appointed two councillors in place of those suspended, but at least six were left residing on the island at the time of the suspension, and he is only empowered to bring the number up to seven. The complainants represented that several of the other councillors protested against their suspension, but were not allowed to have the protest recorded in the Council Books or the suspended members heard in their defence.

§ 211 *cont.*]

1709.

———. B. of T. representation on Gov. Crowe's answer to the complaints mentioned in a B. of T. representation of 3 Dec. 1708. The three councillors delivered an account of the complaints they were making against the Governor privately and respectfully to himself at his own house; they avoided any scurrilous or indecent expressions; the Governor admits several of the facts in his answer, though not as set forth in the complaint. If the complaint had been made to her Majesty without informing the Governor, he would not have suspended the complainants while the matter was under examination; there is less reason for his doing so when they enabled him the better to make an early defence and clear himself, if innocent. 11 Feb.

[212.] BAHAMAS. *Government and Defences*. B. of T. 2 Feb. report. What the petitioners allege is fully established; II. p. 551. the substance was represented by the Board on 17 June 1707. The side of the fort next the sea has been demolished and still lies unrepaired; the guns in the fort were spiked and thrown over the wall by the French and Spaniards in 1703; of 150 families formerly on the island of New Providence only 12 remain. The Board recommend in accordance with two opinions of the Attorney and Solicitor General (*a*) that the government of the island be resumed into the Crown; and (*b*) that a Governor well experienced in military affairs be at once sent out with men and stores necessary to repair the fort and defend the islands—as recommended by the Board on 24 May 1706 and 17 June 1707.

I. Opinion of Northey and Harcourt, 17 May 1706, that the proprietors have forfeited their powers, which may be vacated by *Scire Facias* or by *Quo Warranto*; and that her Majesty may constitute a Governor before any suit be commenced.

II. Opinion of Northey and Harcourt (undated) in the case of Rhode Island, upholding the report of the Attorney and Solicitor General in July 1694, that the Crown has the right, in case of neglect and danger, to constitute a Governor in a chartered colony.

## 88 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1709.

3-15 Feb. [213.] EMBARGO IN PLANTATIONS. Two petitions and  
II. pp. three Admiralty reports.

544-5.

14 Feb. [214.] ANTIGUA. *Complaints against Gov. Park. B. of*  
II. p. 597. T. report on petition of Mrs. Mary Bowden. On 30 April 1708  
the Board wrote to Gov. Park to allow an examination  
by the Council of St. Christopher, Mrs. Bowden having no  
evidence in England but professing her ability to make good  
her claims upon the place. The Governor has returned a  
report of the Lieutenant Governor and Council, 12 Nov. 1708,  
that Mrs. Bowden could show no title to the plantation in  
dispute, that the Governor had paid her the full of what her  
negroes were appraised at; and that, so far from hindering  
her from coming to England to complain, he had himself  
become her security when she was arrested for debt, which  
was the true reason of her being stopped.

I. Copy of Mrs. Bowden's petition.

II. Report of the Lieutenant Governor and Council of  
St. Christopher. (9 pp.) The evidence of Margaret Tyson,  
Daniel Burton, Daniel Stoner and Christopher Dean for  
Mrs. Bowden was chiefly hearsay. The Lieutenant Governor  
and Col. Garnett, old inhabitants, thought there were  
very few, if any, canes upon the land claimed. The grant  
was said to be dated in April 1704; at that time grants were  
only made for  $2\frac{1}{2}$  years. The appraisers of the estate,  
Cols. Lambert and Payne and Capt. Burrell, swore  
that they had valued it at 397*l.*, for which Park gave  
Mrs. Bowden bills of exchange on Messrs. Micaiah Perry and  
Lane in London, which have been paid. The witnesses  
about the circumstances of her leaving the island were John  
Helden, who was then Secretary; Thomas Young, Deputy  
Provost Marshall; and Mrs. Rachel Symmonds, who had Mrs.  
Bowden arrested by order of her attorney, Jedediah Hutchinson.  
With regard to the sugar canes, it was stated that the French  
had carried off so many of the negroes that the people had  
not been able that year to take off the canes on the French

ground ; in 1706-7 the Governor himself made only 108,305*lbs.* of sugar, though he had over 100 working negroes. As many canes perished that year for want of negroes and coppers as would have made several hundred thousand pounds of sugar, though the Governor had denied nobody that asked him liberty of going into the French ground to make what sugar they were able. Finally, the Governor offered her three months to decide whether she would return the money paid and take back everything the Governor had had from her. The Council reported "that the whole and every part and paragraph of her petition is false and scandalous."

———. Petition of complaint against Col. Park, with 31 March, 44 signatures. Begins with allusions to the glories of her Majesty's reign ; then informs her with regret that the people of Antigua are oppressed, insulted and tyrannised over by a Governor, who has taken no care for the defence of the island and has dispensed with and trampled upon all laws.

*Articles of Complaint* :—1. Soon after his arrival he frequently declared publicly "that he had assurance from my Lord High Treasurer of England and the Duchess of Marlborough, that he should be supported and protected, let him do what he would."

2. He threatened the witnesses and justices in the case of Edward Chester, who was accused of killing Thomas Sawyer. The coroner's inquest found that Sawyer died a natural death, but Park had vowed the ruin of Chester upon the most groundless displeasure conceived against him.

3. He tried to compel people to give him an account how and by what authority they held their estates, *e.g.*, Col. Codrington's right to Barbuda, which his father and uncle had held for 25 years by several patents passed in due form.

4. He has employed soldiers in business properly belonging to constables, customs officers &c., and also in ejecting people from their freeholds, breaking open doors and windows.

5. When the Assembly represented this as a grievance, he told them they had nothing to do with it ; when they

insisted on their privileges, he answered that he knew no privileges they had ; and soon after dissolved them.

6. In the writs for a new Assembly, he introduced the new qualification that the members chosen must be freeholders of the division or town where elected.

7. After a dispute about the determination of an election (the Assembly being in favour of Capt. Edward Piercie, and the Governor in favour of James Nisbitt), he dissolved this Assembly. Similar obstructions have been given to the present Assembly, and the colony thus left destitute of suitable provision in its greatest concerns.

8. He has interfered with the freedom of election by threats.

9. He has all along been guilty of unsoldierlike neglect : deserted the fort of Monk's Hill and occupied himself with fortifying, and concentrating guns and men at, the town of St. John's, which is commanded by the neighbouring hills ; this without the advice of the Council, contrary to practice, and against the opinion of a Council of Officers. The design is attributed to the Governor of surrendering everything at the first push.

10. He has declared that as Chancellor he will judge as he thinks equitable and reasonable, regardless of precedent &c. He has drawn almost all business into Chancery, and thus men's goods and persons are at the mercy of his passions, resentments, avarice and whim.

11. He has threatened to displace Common Law judges, especially the Chief Justice, Samuel Watkins, for not being applicable to his purposes ; and has commanded them to sign processes contrary to the law of England and of the island.

12. He has broken his oath to observe the Acts of Trade. A cargo of brandy having been run, he had the cellars guarded by soldiers : in a few hours he withdrew them, but later made the owner of the brandy, Edward Chester, account to him for 150*l.*, the third part of the " seizure."

§ 214 *cont.*]

1709.

13. He has had unwarrantable seizures made, in assurance that the Admiralty Judges he had appointed would condemn them ; other seizures have been made without being informed against, much less condemned—*e.g.* some butter belonging to John Barbotaine.

14. He exempted sloops belonging to Antigua from paying the powder duty—contrary to the law : but on his groundless displeasure against the people, “ did by a contrary ordinance command the said officer to exact the same of all vessels without exception, which is the most barefaced and bold dispensing with and trampling upon laws that ever was attempted by any subject.”

15. He has increased his fees without so much as communicating the same to the Council.

16. In Sept. 1707 the brigantine *Anne* for Barbados was forced into Antigua by storm. She had lost her register, and the Governor was asked for a new one. In return he demanded a present and received 10 barrels of flour.

17. He has made Justices of the Peace of the lowest rank, who dare not do the plainest duty without the Governor's direction.

18. He has given the command of one of his privateer sloops to John Ham, a notorious pirate, guilty of the treacherous murder of five or six Spaniards in cold blood.

19. He has frequently declared his implacable malice against the island of Antigua ; at the house of Col. Francis Rogers he said that were it not for a few friends he would send Antigua to the devil.

20. At the house of John Lucy Blackman, and on several other occasions, he declared that, if he knew any person was going home to complain of him to the Queen, he would clap them in a dungeon, and there they should perish, and there was more ways to kill a dog than one.

21. In return for commissions to privateers, he exacts one-tenth of all prizes.



92 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1709. § 214 *cont.*]

22. It is his practice to roam the streets at night eaves-dropping, from house to house, in disguises though well-known in all of them, and privately armed.

16 Feb. [215.] BARBADOS. *Complaint of N. Mackaskell*. Petition II. p. 596. about his imprisonment for refusing to answer at once on oath questions put to him in the Governor's house on 29 Dec. about the proceedings of the late Court of Grand Sessions : with copy of the oath tendered, and of the warrant for his commitment.

18 Feb. [216.] BARBADOS. *Case of A. Skene*. B. of T. report. II. p. 490. The evidence of Capts. Wentworth, Taylor, Lemmon and Goswill, Mr. Fullerton and Mr. Tryon shows that, in time of war, it has been customary to pay 3s. 9d. for license to sail, 5s. for the Governor's order, and 12s. 6d. to whoever drew the petition. As to the charge of receiving money for stopping a convoy, Skene produced a certificate from George Woodbridge, one of the judges, that he had been acquitted on that charge in Barbados. The Board consider that Skene had justly incurred her Majesty's displeasure ; but, as he had not been the first to introduce the objectionable practices, and, as he has been three years suspended, they recommend that he be now restored.

22 Feb. [217.] NEW YORK. *Act for regulating the current coin*. B. of T. representation. By this Act, foreign coins are raised to a higher rate than is allowed by the Act of Parliament of last session ; and in assenting to an Act altering the value of current coins without her Majesty's leave, Lord Cornbury has acted contrary to his instructions. When the proclamation of 1704 for settling the rate of foreign coins was sent over, it was suspended by the Governor, only because New York would suffer, as Massachusetts and Pennsylvania did not obey it ; but no objection was made to the rates fixed. If the separate provinces are to be allowed to raise the value of foreign coins as they think most to their own advantage, the intent of the Act of Parliament will be entirely defeated.

I. An address of the Governor, Council and Assembly submitting the Act. (22 signatures.) It would not have been passed without first obtaining her Majesty's permission but for the shortness of the time before the Act of Parliament comes into force (1 May). The rate it establishes is that at which the coins pass in New York and neighbouring provinces. "It is an undoubted truth that nothing brings money into this province, but the trade to your Majesty's islands in the West Indies, and to those subject to the States General of the United Provinces; from the latter of which we bring nothing but heavy money. The chief returns from this province to Great Britain are made in heavy money; and if the money must pass here at the same rate it does at Jamaica and other islands of the West Indies, as by the said Act is directed, it will not be worth the merchants' while to bring money but will rather bring the produce of those islands in return for the produce of these parts, which they carry thither, and so leave this province without money; for want whereof the merchants here will not be able to make such returns to Great Britain as they used to do, and consequently this province will not be able to take off, by a great deal, so much of the manufactures of that your Majesty's kingdom, as it has hitherto done, to the great damage of this province, as well as the manufactures of Great Britain."

[218.] BARBADOS. *Mackaskell v. Robinson*. Committee 5 March.  
 Report. II. p. 571.

———. Robinson's petition, claiming that the decision 14 March. of the Committee against him was "not from any clear view that the appellant had title or that your petitioner's lessors had none, but because the verdict was such upon which no judgment ought to have been given"; and asking that the Order be explained, so as to allow him to bring a new ejectment.

[219.] VIRGINIA AND CAROLINA. *Boundaries*. B. of T. 14 March.  
 representation. II. p. 588.

1709.

19 May. [220.] WEST INDIES. *Seamen's wages*. Petition of the  
II. p. 603. dependants of seamen of H.M.S. *Sheerness*.

2 June. [221.] NEWFOUNDLAND. *Petition of James Campbell*. His  
II. p. 602. brother, whom he had settled as his agent in Newfoundland,  
came over to England in 1702 to give intelligence of incursions  
by the French. In Jan. 1705 he aided in the repulse of  
De Subercase by Capt. Moody, although the petitioner's  
effects to the value of 3,500*l.* then became the prey of the  
enemy. Further, at Moody's request, he again proceeded  
to England in a sloop manned by his own fishermen  
to represent the condition of the place, which, after being  
captured by the French and ransomed for 100 guineas, he did.  
Her Majesty paid the ransom and freight of the sloop, but  
the petitioner's other expenses have not been repaid. He  
sent his brother back to take care of his effects in Newfound-  
land, but he was again captured and remains a prisoner at  
St. Malo's. The estate had been meanwhile left in charge  
of Capt. Moody; on his recall, it was transferred to another,  
who was twice plundered and at last carried to France, where  
he died in prison. The petitioner appointed a new agent,  
but the capture of St. John's in Dec. 1708 caused a further  
loss to him of over 5,500*l. stg.*—making a total of over 9,000*l.*

2 June. [222.] BERMUDA. *Petition of T. Barrow for remission of a*  
II. p. 522. *fine* (cf. p. 78).

2 June. [223.] JAMAICA. *Petition of Dr. Richard Walton*. During  
II. p. 605. the government of Charles, Earl of Carlisle, some of the  
soldiers on the island were sold by their officers to the planters.  
Walton would have been sold by Major Featherston, but  
Sir Thomas Lynch, who became Governor for the second  
time, sent him home with Sir Francis Watson (who had been  
Major-General on the island) in the *Falcon* (Capt. Churchill,  
now Admiral Churchill, commander), to receive 1,186*l.* 1*l.* 2*½d.*  
due to him for medicines and instruments. Charles II  
ordered Sir Richard Haddock, one of the Commissioners of the

§ 223 *cont.*]

1709.

Navy, to pay this sum, but it has never been done. One of the Clerks of the Navy Office offered Walton 500*l.* for his interest, and said that, if he would not take that, he would never have one penny, for that the books would be shut up the next day ; but the petitioner refused the offer. Haddock promised James II that he would pay the money within a week. The petitioner is now grown very aged, has a wife and family to maintain, and has suffered long imprisonment for debts contracted for the medicines supplied in Jamaica.

[224.] WEST INDIES. *Naval allowances.* Admiralty report 17 June. on petition of Martha, widow of Admiral Benbow. It has II. *p.* 427. not been usual to allow Table Money to other Flag Officers than those who have had the highest ranks in the fleet. Benbow's accounts were not passed in full for want of vouchers ; but his pay was made up to that of Admiral of the Blue, in full of all pretensions in the said account, unless he could, when he next proceeded to the West Indies, procure the missing vouchers, which hath not since been done.

[225.] VIRGINIA. *Lord Fairfax's Lands.* His petition to 23 June. exchange them for others in Derbyshire. On 8 Nov. 1708 II. *p.* 606. the Lord Treasurer referred the proposal to Mr. Blathwayt, who reported on 22 Jan. that the Fairfax-Culpeper title to lands in the Northern Neck was good, but that it would be to the interest of her Majesty's subjects there to have the land wholly vested in the Crown. A grant of the Derbyshire "lot and cope and office of Bergmaster" &c. had been suspended till the beginning of Trinity Term to allow Fairfax to make this application ; he now prays a further stay till the affair can be settled by Parliament ; or at least to be heard before her Majesty in Council.

[226.] NEW YORK. "*Lieutenant-Governor.*" B. of T. 2 Sept. representation about Col. Ingoldesby's assumption of this II. *pp.* office. It does not appear by the books of the Office of 609-10. the Secretary of State whether the warrant revoking his

96 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1709-10. § 226 *cont.*]

commission (according to Order of 11 April 1706) was signed by her Majesty and sent, or not.

6 Sept. [227.] VIRGINIA AND CAROLINA. *Indian Trade*. B. of T.  
II. pp. representation.

610-3.

24 Oct. [228.] PENNSYLVANIA. *Six Acts disallowed*. Order in  
II. p. 851. Council; and copy of preamble thereto.

9 Nov. [229.] LEEWARD ISLANDS. *Lieutenant-General*. B. of T.  
II. p. 610. representation for appointing Walter Hamilton, Lieutenant-Governor of Nevis, to be Lieutenant-General of the Leeward Islands, which involves no additional salary during the presence of the Captain-General.

I. Certificates in Hamilton's favour (a) from J. C. Holt, commander of the troops sent from here for the defence of the Leeward Islands (29 Oct.); (b) from N. Blakiston, who witnessed his conduct in command of Sir Timothy Thornhill's Barbados regiment in the Leeward Islands in 1689, and has heard that he has since distinguished himself in attacks on the French in Martinique, Guadeloupe and St. Christopher (28 Oct.); and (c) from 17 persons interested in and trading to the Leeward Islands.

II. Certificate of precedents found by the Clerks of the Council for the office of Lieutenant-General of the Leeward Islands. (1) By Order in Council, 31 May 1699, to Col. Francis Collingwood; (2 and 3) without Orders in Council—Col. Thomas Hill and Col. Edward Fox. There are included (a) the Order for Collingwood's appointment; (b) an Order of 14 Nov. 1689 approving Hill's commission; and (c, d, e) copies of the three commissions, dated respectively 13 June 1699, 14 Nov. 1689, and 15 Nov. 1699.

1710.

1710.

5 Jan. [230.] BARBADOS. *Petition of John Walter* to have counsel assigned him in a suit brought by George Nicholas, who has retained all the practising counsel there, being three—Thomas Hodges, James Cowse and Richard Carter.

1710.  
16 Feb.  
II. pp.  
603-4.
- [231.] BARBADOS. *Act affecting patent officers repealed.*  
B. of T. representation about an Act of 1667, which not only took from the Secretary and the Provost Marshal the power to appoint the clerk and the marshal of certain courts, but also settled their fees and those of the judges. The repeal of this Act will take away the authority under which these fees are paid, and the Assembly will require to be moved to pass an Act for settling a salary or reasonable fees on the judges and for restoring their fees to the clerks and marshals.  
I. Certificates from Mr. Blathwayt and from Mr. Povey that it does not appear by the Council Books (on two searches) that the Act of 1667 had ever been confirmed or repealed.  
14 March and 2 June 1709.  
II. B. of T. report of 24 March 1709 on the petition of G. Gordon, provost-marshal.  
III. B. of T. report of 3 June 1709 about the searches.  
IV. Copy of Order of 9 June 1709.  
V. Draft of Order of Jan. 1710 revoking that of 9 June.  
VI. Petitions of Gordon, and of Skene, the Secretary; the former enclosing a petition signed by 17 planters and inhabitants. (Read 26 Jan. 1710.)
- [232.] EMBARGO IN PLANTATIONS. Admiralty report *re* 2 June.  
six ships. II. p. 623.
- [233.] MARYLAND. *Acts passed after death of Gov. Seymour.* 26 Oct.  
B. of T. representation for disallowing 15 Acts. II. pp.  
838-40.
- [234.] NEW YORK. *Settlement on the frontier.* B. of T. 26 Oct.  
representation for altering instruction to Gov. Hunter. II. p. 626.
- [235.] JAMAICA. *Escheats.* B. of T. representation with 31 Oct.  
"docket" of six judgments upon escheats, which were affirmed II. pp.  
for the Queen in May Grand Court, 1709, in the cases of 626-7.  
Bernard, Bird, Castell, Jincks, Ivings and Feathers respectively.

98 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1711.

1711.

- 16 Feb. [236.] NEW JERSEY. *Act re seat of government*. B. of T.  
 II. p. 848. representation for confirming an Act of 1709 fixing the place  
 of meeting for the Assembly at Burlington. By the Governor's  
 instructions the meetings were to be at Burlington and at  
 Perth Amboy alternately, but Gov. Hunter reported  
 that the meeting at Amboy had been found inconvenient  
 "for want of a sufficient accommodation for the members,  
 and for that Amboy is at a very great distance from some  
 of the counties in the Western Division." No one appeared  
 to oppose the Act.

- Read [237.] EMBARGO IN PLANTATIONS. Petition of owners of  
 18 Feb. seven ships.  
 II. p. 624.  
 22 Feb. [238.] CAROLINA. *Governor*. B. of T. representation  
 II. p. 794. approving nomination of C. Craven on usual conditions.

- 22 Feb. [239.] VIRGINIA AND CAROLINA. *Boundaries*. B. of T.  
 II. pp. representation.  
 588-93.

- 1 March. [240.] NEWFOUNDLAND. *Complaints against Major T.*  
 II. pp. *Lloyd*. (I) Draft of Order of 1 March.  
 634-7. (II) Petition of David, brother and executor of Major Lloyd,  
 against the order. (22 March.)

(III) Order of reference of 23 June.

(IV) State of D. Lloyd's case, received 5 July. His wit-  
 nesses being seafaring men and about to sail, he desires that  
 their affidavits may be taken. No charge was made against  
 Major Lloyd till after his death, though he lived two years a  
 prisoner in the enemy's power. It is hoped not only to clear  
 him of any neglect or remissness, but "that a violent presump-  
 tion of treachery will be made out against the person who gave  
 in the said memorial, not from any service designed the  
 Government, but to serve his own sinister ends."

(V) D. Lloyd's answer to the complaints: read 16 Aug.  
 (For the charges, see Vol. II.)

(a) He doubts not to prove that no rum, molasses or tobacco were had in 1707 from Messrs. Belcher, nor bills on the Ordnance drawn by R. Latham; Lloyd did, however, on all proper occasions secure to himself due quantities of rum and tobacco for the benefit of the soldiers, as their best preservative in so cold a country; the molasses were ordered by the Government in lieu of malt and hops, and 15*l.* 13*s.* allowed yearly therefor by the Victuallers of the Navy.

(b) Lloyd did not meddle with the palisados and repairs, as matters properly belonging to the engineer,—save from 23 Oct. 1707 to 10 May 1708, when no engineer happened to be in the country; during that period no charge for such matters is made in the accounts.

(c) Condemned provisions were never served to the soldiers, nor any provisions sold to the inhabitants but what belonged to the officers and their servants.

(d) It is confessed that, on special application from masters of ships on the death or defection of their men, soldiers were here and there lent to prevent the ruin of the voyage, “and then only to such masters and boatkeepers as fished within the call of drum and always to the common benefit of the company.”

(e) On the application of the militia, they were supplied with powder and ball; receipts can be produced for 10*lb.* of powder for each Company with ball and flint in proportion: “and further this respondent cannot inform himself as to this article.”

(f) Neal, the Canadian, voluntarily entered the English service in spring 1708, and served well as pilot for Capt. Peary in the *Winchelsea* in an expedition to St. Pierre. He was induced to desert by a New England master—a frequent practice—but reclaimed by Major Lloyd. He was never officer of the guard.

(g) “Major Lloyd had no gown on when taken, as Keen well knows, who was witness to the surgeon’s certificate



100 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1711. § 240 *cont.*]

of the wounds the Major received in defence of the garrison, which was surprised in about three minutes from the first alarm."

(VI) Affidavit of W. I'Anson (7 July, read 16 Aug.), corroborating the above from his own knowledge. (Three very large pages.)

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[241.] VIRGINIA. *Annual Accounts of quitrents and of compositions for escheats, 1705-11.* The items in 1705 are : I. On the "Charge" side—(a) balance due from last account ; (b) quitrents of each county separately (20 items) ; (c) compositions for escheats. II. "Discharge"—(a) Attorney General's salary ; (b) allowance of 10 *per cent.* to the sheriffs ; (c) allowance of 7½ *per cent.* to the Auditor and Receiver General. III. Balance due to her Majesty.

The totals in the respective years were :—

25 Ap. 1705,	7,599 <i>l.</i> 3 <i>s.</i> 7 <i>d.</i>	(including previous balance of 5,745 <i>l.</i> 10 <i>s.</i> 1¼ <i>d.</i> ).
„	1706, 8,489 <i>l.</i> 11 <i>s.</i> 5½ <i>d.</i>	(including previous balance of 7,222 <i>l.</i> 0 <i>s.</i> 2¾ <i>d.</i> ).
„	1707, 4,017 <i>l.</i> 15 <i>s.</i> 7¾ <i>d.</i>	(including previous balance of 2,060 <i>l.</i> 12 <i>s.</i> 4¾ <i>d.</i> ).
„	1708, 4,533 <i>l.</i> 4 <i>s.</i> 7 <i>d.</i>	(including previous balance of 3,508 <i>l.</i> 19 <i>s.</i> 1 <i>d.</i> ).
„	1709, 2,044 <i>l.</i> 2 <i>s.</i> 7 <i>d.</i>	(including previous balance of 191 <i>l.</i> 8 <i>s.</i> 10¼ <i>d.</i> ).
„	1710, 2,316 <i>l.</i> 14 <i>s.</i> 6¾ <i>d.</i>	(including previous balance of 1,143 <i>l.</i> 1 <i>s.</i> 2 <i>d.</i> ).
1 June 1711,	1,814 <i>l.</i> 19 <i>s.</i> 2½ <i>d.</i>	(including previous balance of 925 <i>l.</i> 17 <i>s.</i> 10 <i>d.</i> ).

Leaving a balance due from the accountant of 433*l.* 0*s.* 11½*d.*

The 1706 account includes in "Discharge," 3,000*l.* paid into H.M. Exchequer by warrant of 2 Ap. 1705 ; 2,745*l.* 10*s.* 1¼*d.* similarly paid by warrant of 20 Ap. 1706 ; two years' salary for Mr. Commissary Blair—200*l.* ; allowance to Mr. Jennings, who brought over the Virginia Laws and attended the B. of T. during their inspection—200*l.* ; the

ACTS OF THE PRIVY COUNCIL (COLONIAL). 101

§ 241 *cont.*]

1711-12.

Auditor's allowance is 5 *per cent.* and the Receiver's 3 *per cent.*; small allowances are also made to one sheriff who had served three years, and to another who discovered 4,660½ acres more than had been formerly paid for.

Similar items occur in the other accounts. 1,418*l.* 5*s.* was paid to Gov. Hunter by warrant of 28 Ap. 1708, and thereafter a yearly salary of 500*l.* By warrant of 21 March 1709, 500*l.* was paid towards rebuilding the College, and another 500*l.* by warrant of 18 Ap. 1710. (*Cf.* 263.)

1712.

1712.

[242.] ANTIGUA. *Murder of Gov. Park.* Committee minute. 3 Jan.

II. p. 649.

[243.] EMBARGO IN PLANTATIONS. Admiralty report about 15 Jan.  
17 ships.

II. p. 624.

[244.] PENNSYLVANIA. *Appeal of J. Macarell.* Petition; 17 July.  
and Order of reference. As the *Society* of Dublin, his ship II. p. 664.  
had an English pass for a voyage from Flushing to Bilboa, the Canaries, the Spanish West Indies and so back to England. At Bilboa a Spanish pass was got for the ship under the name *St. John Baptist*. On the illness of the master and failure to procure a suitable cargo for Carthagea, the ship returned to Cork. Parks was made master in place of Fitzgerald, and a cargo of English goods and Irish linen laden for Philadelphia, whence it was proposed to proceed to Carthagea, Jamaica and Great Britain. At Philadelphia Parks entered into a confederacy to defraud his owners. He sailed to Petit Guaves and exchanged his cargo for goods which he shipped on the *St. John Baptist* and another vessel, the *St. Joseph*, which he hired. He returned to the Delaware, smuggled part of the lading, and then arranged a collusive information and seizure, claiming one-third of the ship and cargo through his hired informer.

[245.] HISPANIOLA. Petition of Mary, widow of James 18 Aug.  
Nevill, purser of H.M.S. *Rupert*, with certificate of the II. p. 666.  
circumstances of his death.

## 102 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1712-13.

27 Aug. [246.] NEW JERSEY. *Four Councillors dismissed.* B. of T.

II. *pp.* report on a letter from Gov. Hunter. These members 667, 819. had rendered all his endeavours for her Majesty's service ineffectual: 14 Bills were rejected, most of them on the second reading; those committed were reported without amendments and so rejected, or were clogged with such clauses that it was impossible the Assembly should pass them, three of these being the Bills which the Governor had been instructed to endeavour to have passed into laws—*re* relief of the creditors of bankrupts in this kingdom; qualification of jurors; and building and repair of gaols. Wm. Morris is named amongst the new councillors to be appointed, in addition to those given in Vol. II.

? Sept. [247.] CANADA. *The Hill-Walker Expedition of 1711.*

II. *p.* 660. Petition for relief of five widows of soldiers who had served in Gen. Merriday's regiment and were lost in the St. Lawrence on 22 Aug. 1711, whither they had been sent under the command of Col. Winder. The women (with 13 children) escaped, having been sent on board hospital ships to look after the sick. They had an Order the last Council to the Admiralty, but that Board can do nothing, as the men belonged to the land service.

1713.

1713.

Received [248.] ST. CHRISTOPHER. *Old French lands.* Address of 18 May. the Council and Assembly, commending Lt.-Gov. Lambert; II. *p.* 569. and hoping that, when the old French lands are disposed of, the inhabitants of the island may be first preferred.

28 July. [249.] JAMAICA. *Orby and Hopegood v. Long.* Minute of II. *pp.* the Council of Jamaica, on an allegation by Sir C. Orby and 566-7. Dame Anne Hopegood, about the clandestine altering of the minutes of the Council by R. Rigby. Resolutions were passed condemning the neglectful or malicious conduct of R. Mackenzie, the Clerk, in not entering an order to Rigby and J. Stewart to revise and settle the minutes in this case, nor their report, which was adopted by the Council.

[250.] BARBADOS. *Act confirmed*. B. of T. representation. 16 Oct. 1713-15.  
II. p. 831.

[251.] VIRGINIA AND MARYLAND. *Defence*. Petition of Received  
13 merchants for a ship of war to secure the coasts from 26 Nov.  
pirates. One pirate took six of the best ships, but was II. p. 676.  
captured and his prizes retaken by H.M.S. *Shoreham*. Several  
pirates still skulk about the Capes, and there is only a small  
ship of war of 18 guns to defend the coast.

[252.] ANTIGUA. *Murder of Gov. Park*. State of pro- ———  
ceedings (10 Nov. 1712 to 11 June 1713) in the cases of II. p. 651.  
Kirby, Smith, Mackinnen and Watkins. 10 Nov. Kirby's  
petition for bail. 20 Jan. Report of Attorney General thereon.  
4 May. Referred to Committee, along with a petition of  
Park's relations. 27 May. Committee report. 31 May. Order  
thereon. 11 June. Petition of Mackinnen, Smith and Watkins  
for bail. Nothing yet done therein.

1714. 1714.  
[253.] PLANTATIONS. *Proclamation of King George*. B. of 6 Aug.  
T. representation for despatching proclamations in two II. p. 682.  
small vessels, one to New England and Newfoundland, the  
other to the West Indies.

1715. 1715.  
[254.] BERMUDA. *Gov. Bennett*. B. of T. representation 4 March.  
with commission for B. Bennett as Governor of Bermuda. II. p. 794.  
———. Bennett's petition to be restored (in French, with Received  
English translation). Alleges that the Earl of Oxford turned 30 Ap.  
him out, on the ground not of any misbehaviour but that there  
must be a rotation, and claiming that by his Majesty's happy  
accession there has been another rotation. His successor,  
Gov. Pulein, had clapt him in gaol, and released him  
only on two securities in 15,000*l.* not to depart the islands  
without his leave.

I. Petition of Sir John Bennett on behalf of his brother.  
The commission restoring Bennett to the command of the

104 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1715. § 254 *cont.*]

Independent Company was sent over in the middle of March ; but his commission as Governor, which now lies before the Council for his Majesty's signature, is delayed by Mr. Pullein's application.

II. Petition of Thomas Pullein, on behalf of his son Henry—received 30 Ap. On the recommendation of Mr. Dampier, a famous voyager, H. Pullein was judged the properest person to be consulted by the Earl of Oxford in settling the South Sea Company, and in consideration thereof was appointed to succeed Bennett, who had been Governor 14 years, which is longer than any Governor was ever continued, and had procured himself a very good estate. Pullein is now to be superseded after the vast expense of establishing himself and before he has reaped the least benefit by the said post. T. Pullein was Studmaster of England under King William, was turned out under Anne, and had applied to be restored by George I ; but, if his son should be again made Governor, he would resign his pretensions.

30 June. ———. B. of T. representation with instructions for Gov. Bennett.

6 May. [255.] NEW YORK. *Two Acts confirmed.* B. of T. representation. One lays an excise ; the other directs how it is to be applied in paying the debts of the colony.

6 May. [256.] NEW YORK AND NEW JERSEY. *Gov. Hunter's instructions.* B. of T. representation.  
II. pp. 800, 802.

11 May. [257.] BARBADOS. *Morris v. Williams.* Committee report.  
II. p. 681.

24 May. [258.] WEST INDIES. *Naval pension—Mrs. Wren.* (Cf. II. Admiralty report against renewing the pension granted in p. 212.) 1692, which had been discontinued by his Majesty's particular order.

15 June. [259.] MARYLAND. *Instructions on appointment of Gov. Hart.* B. of T. representation.  
II. p. 798.

1715.

[260.] BARBADOS. *Whetstone v. Carter*. Committee report. 16 June.  
II.

pp. 675-6.

[261.] WRECKS IN AMERICAN SEAS. Committee report on 24 June.  
petitions of W. Sandys and M. Randyll. II. p. 697.

[262.] VIRGINIA. *Act declaring who shall not bear office*. 6 July.  
B. of T. representation. Persons who are not natives are to II. p. 853.  
be eligible only after three years' residence; as the Act is  
intended to encourage settlement, the Board consider that  
persons of character and capacity should be eligible on their  
arrival. The clause is also repugnant to the Act of Parliament  
of 7 and 8 William III, for preventing frauds and regulating  
abuses in the plantation trade, which reserves to the Treasury  
and Customs in England the appointment of Customs officers.  
Pursuant to the Act of Parliament, Wm. Keith was empowered  
by the Customs, as Surveyor General of the Southern district,  
to examine and suspend officers and appoint others till further  
order. He accordingly suspended George Luke, collector  
of the lower district of James River, and appointed Francis  
Kennedy, who is being prosecuted for breach of the Act  
under discussion. Col. Jennings, President of the Council,  
has explained that the Act was not intended to apply to  
officers commissioned from Britain, but to restrain the  
Governors from giving the best places to their favourites.  
The Board consider that Mr. Kennedy should be understood  
to come within this exception to the Act, and that the Act  
should be repealed and another passed free from the objections  
made.

[263.] VIRGINIA. *Revenue*. Address of the Council and Received  
Burgesses, dated 17 Dec. 1714. The revenue from the duty 14 July.  
on tobacco exported, tunnage and head money, being II. pp.  
inadequate for the charges of government owing to the great 700-1.  
decay of the tobacco trade, precedents have been searched  
to discover a supplementary fund. In 1684 the quitrents  
were ordered to be so applied, and this was done till about

106 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1715. § 263 *cont.*]

nine years ago, when they were called into the Exchequer in England. The petitioners pray that the quitrents be again employed to supply deficits. (*Cf.* 241).

19 July. [264.] BARBADOS. *Grey v. Hothersall*. Committee report. II. p. 677.

Received [265.] BERMUDA. *The Independent Company*. Petition of 1 Aug. Ensign Walter Mitchell for an allowance of bedding and II. p. 701. eight brass kettles.

Received [266.] ST. CHRISTOPHER. *Grant of lands*. Petition of 7 Aug. S. Duport on behalf of A. Thauvett. II. p. 701.

10 Aug. [267.] NEW JERSEY. *Act confirmed*. B. of T. representation. The Act applied to the support of the government the remainder of a sum raised for an expedition to Canada and other public expenses. II. p. 848.

Received [268.] NEW YORK. *Stores for the forts at New York and Albany*. Petition of Gov. Hunter, with a list of stores 15 Aug. II. p. 701. wanted.

20 Aug. [269.] BAHAMAS. *Defences and Government*. Recommendation of the Proprietors that R. Mostyn be made Governor. II. pp. 698-9. (a) B. of T. report of 14 Dec. enclosing (I) a previous report of 2 Feb. 1709, and (II) an opinion of the Attorney and Solicitor General, 17 May 1706.

(a) The report (13 pp.) gives an abstract of the previous proceedings and an account of the position of the islands. The B. of T. representation of June 1707 was occasioned by a similar nomination by the proprietors in spite of the proceedings in 1706. (The reference of Aug. 1710 to devise the best way of putting into force the recommendations of the B. of T., was apparently to the B. of T. itself, and not to the Law Officers, as stated in Vol. II.) This report of 14 Dec. again recommends the resumption of the government by the Crown.

1715-16.

[270.] BARBADOS. *Act confirmed.*—(No. 554.) B. of T. 15 Dec.  
representation. II. p. 831.

[271.] AFRICAN COMPANY. B. of T. report on petition of 20 Dec.  
the Company to be allowed ships of war for the protection  
of its trade. It is not a time of war, nor is piracy the cause  
of the application. Encroachments by the natives and by  
foreign competitors were alleged, but all that appears is  
the progress made by the French on the Gambia under an  
arrangement of the French and English Companies not to  
molest each other there. If a ship should, however, be  
granted, it should be ordered to protect all his Majesty's  
subjects alike. The interfering of the Company and separate  
traders gives an advantage to foreign rivals, and should be  
regulated as soon as may be by Parliament, as the African  
and West Indian trade is of very great importance to this  
nation.

1716.

1716.

[272.] NEVIS. *Two Acts confirmed.* B. of T. representa- 14 Nov.  
tion. II. p. 846.

[273.] LEEWARD ISLANDS. *Military Stores.* B. of T. 14 Dec.  
representation, repeating their opinion of 22 June that the II. p. 709.  
Leeward Islands should be supplied with stores. An account  
is given of the  $4\frac{1}{2}$  per cent. duty. By an Act of 9 and 10  
William III the duty was taken from the service of the islands,  
for which it had been granted, and applied to the use of the  
Civil List in England. When the Act expired on the King's  
death, the House of Commons, on 23 March 1702, addressed  
the Queen that the duty should be expended on the fortifica-  
tions and defence of the islands, and an annual account laid  
before the House. This address was referred to the B. of T.  
on 17 and 29 April 1702, and, on their recommendation, it  
was approved by her Majesty, and the means of carrying out  
the proposal referred to the Lord High Treasurer and the  
Master General of the Ordnance. By an Act of 1 Anne and



1716. § 273 *cont.*]

another of 1 George I, the  $4\frac{1}{2}$  *per cent.* was excepted out of the revenue appropriated for the service of the Household &c.

An account from the Customs shows that since 1702 the  $4\frac{1}{2}$  *per cent.* from Barbados and the Leeward Islands amounts to 78,528*l.* 2*s.* 5 $\frac{1}{4}$ *d.*, while the Ordnance accounts show that the Leeward Islands have been furnished with stores to the value of 15,241*l.* 4*s.* 10*d.*—leaving 63,286*l.* 17*s.* 7 $\frac{1}{4}$ *d.* How much more has been expended on stores or other services for the Leeward Islands or Barbados is more properly before the Treasury.

As it is now a time of peace, and great improvements may be hoped for from the settling of the French part of St. Christopher, the  $4\frac{1}{2}$  *per cent.* revenue will probably increase. If, as the Ordnance represent, the Leeward Islands formerly supplied themselves with stores at their own expense, it must have been when the  $4\frac{1}{2}$  *per cent.* was at their own disposal. The Board do not know but the stores already sent might have been sufficient, had not Nevis, St. Christopher and Montserrat been ravaged and plundered of everything valuable by the French. The part of the Ordnance proposal relating to the care of the stores is answered by the instructions to the Governor about transmitting accounts, settling store-houses &c.; “whereof we shall not be wanting to remind him, which we hope may be a means to prevent such great demands for the future.”

17 Dec. [274.] PENNSYLVANIA. *Instructions on appointment of* II. p. 803. *Deputy Gov. Keith.* B. of T. representation.

20 Dec. [275.] ST. CHRISTOPHER. *Grant of lands.* B. of T. II. p. 701. report on case of A. Thauvett. Thauvett commanded in Mariegalande for some time, but by the persecution against the Protestants was forced to take shelter in New York in 1687. Being in Antigua three years later, he was recommended to Col. Codrington and served in his expedition to Guadeloupe and Mariegalande. In 1696, after the reduction of the French part of St. Christopher, Codrington granted

§ 275 *cont.*]

1716-18.

110 acres (formerly belonging to Monsr. Lachicott, Messrs. Picaudeau, &c.) to Thauvett and Gabriel Papine. In 1691 he had sent by Thauvett an invitation to the French Protestants of New York to settle in St. Christopher. By the Peace of Ryswick, Thauvett's grant and others were restored to the French who had formerly possessed them. In March 1698 Codrington made another grant to Thauvett in the English part of St. Christopher, the land having been forfeited by Andrew Bodkin for rebellion. Martial law alone being in force in the island at the time, Bodkin was not declared a rebel in due form, and a year ago his son-in-law, one Blake, obtained a judgment for restitution of the estate to him. The B. of T. propose that Thauvett be restored to his first grant, according to his petition.

1717.

1717.

[276.] JAMAICA. *Grant of an escheated estate.* B. of T. report on the petition of E. Pennant and A. Swymmer, with copy of the petition.

16 Oct.  
II. pp.  
732-4.

1718.

1718.

[277.] NEWFOUNDLAND. *Fisheries.* B. of T. report (48 pp.) on the state of the fisheries, which have been "obstructed and discouraged for many years past not only by the late wars, but by the irregularities of the inhabitants, traders and fishermen who reside in and resort to that island."

19 Dec.

The fishery was at first settled by adventurers from the western parts of England, "and successfully carried on for many years under the restriction of such customs and laws as were agreed upon by the fishermen among themselves." The harbours were for some time left free to all nations, but many British ships and seamen were employed by the adventurers in bringing salt from France and Portugal and carrying their fish to foreign markets, and in supplying provisions and manufactures from England. The fishing ships required more hands than were necessary for mere navigation : hence they carried servants who had not hitherto

1718. § 277 *cont.*]

been acquainted with the sea, and so increased the number of seamen for the service of the Crown. To promote diligence and emulation, the crew were not paid by the month or voyage, but two-thirds of the proceeds went to the owners and the remainder was divided between the crew in proportion as had been agreed upon.

The first account of the fishery met with is from Anthony Parkhurst, who says that 30 English ships were employed in the Newfoundland fishery in 1574; and 50 in 1578. War with Spain checked development, but after the peace in 1604 the trade flourished exceedingly. In 1615 Capt. Richard Whitburn, who was sent by the Admiralty to report on abuses, declared that 250 vessels were employed, that the average burden was 60 tons, crew 20 men, catch 120,000 fish and 5 tons of train oil. In 1610 the London merchants asked for a grant of land to make a settlement in Newfoundland, "but after they had expended large sums to no purpose, they quitted their design, being convinced that the country was not capable of subsisting English colonies, and, if it had, that the charge of supporting and governing them was too great to be borne by a fishery." Some of the looser sort of the planters and mariners remained in the country and were supplied with rum and tobacco from New England, which they retailed contrary to the rules of the fishery among the seamen. Idleness and debauchery increased, till the masters had to petition Charles I to restrain the disorders. Charles made a grant of the island to proprietors, ordaining at the same time that no person should plant or inhabit within six miles of the sea-shore between Cape Race and Cape Bonavista. Regulations were made by the Star Chamber in Jan. 1634; and on 20 Feb. "the Western Charter" was granted to all Englishmen trading to Newfoundland, confirming the customs of the fishery. The clauses made provision (1) for trials in England for murder or for stealing 40s.; (2) about throwing out ballast; (3) against defacing stages, oock-rooms &c.; (4) for the first arrival in each harbour to

be Admiral there ; (5) against altering marks on boats &c. to defraud the right owners ; (6) against thefts from the fishing ships ; (7) against setting fire to the woods or rinding the trees except for cook-rooms ; (8) against anchoring so as to interfere with seines ; (9) against theft of nets or bait ; (10) against the establishment of any tavern ; (11) for attending divine service on Sundays. The Mayors of Southampton, Weymouth &c. were to take cognisance of all complaints about offences committed on land ; and the Vice Admirals of Hants, Dorset, Devon and Cornwall to proceed against offenders on the sea. The Admirals of each harbour were directed to proclaim these laws.

The English traders thrived after this in spite of obstructions from those who had settled under the grant of 1628 ; most of their foreign competitors were constrained to abandon the fisheries. The best account of the fishery under this regulation which is to be found at the B. of T., is in a representation of the Western Merchants in 1674, which asserts that in 1644 270 ships were engaged in the fishery besides those that brought salt &c. and those that carried the fish to market. The average tonnage may be computed at 80 and the crew at 40 ; to each ship at least ten boats should be allowed, generally manned by five men and making 200 to 300 quintals of fish, which sold at 7*s.* to 8*s.* the quintal in this country in a normal season. The Great Rebellion interrupted progress—by measures in 1650 and 1655 for settling a Governor and colonies, by losses in the wars with Holland and Spain, and by a practice of carrying to Newfoundland by-boat keepers and their crews and servants to assist the inhabitants in their fishing. At the Restoration, the fishing had become very inconsiderable.

On the petition of the Western Adventurers, the Charter was confirmed by letters patent of 26 Jan. 1661 with an additional clause to prevent the transporting by-boat keepers and servants. The prohibition was not enforced by proper penalties and was evaded by some masters and owners, who preferred to

1718. § 277 *cont.*]

lessen their complement of men and boats and hence their share in the fishery, in order to carry passengers and trifling adventures to be disposed of to the inhabitants. As the number of ships and men in the English fishing trade diminished, the price of fish rose and the foreign consumption fell off. The London merchants took advantage of this to set up a fishery in New England; the French were encouraged to establish themselves at Placentia and to rival us in the markets of Spain, Portugal and Italy. It was not till the end of 1663 that letters were addressed by the Council to the magistrates of the Western Corporations to be careful that the law should be punctually observed, while the Customs officers were directed to admonish all masters of ships. The Order had to be repeated in Feb. 1670, when it was directed that offenders should be stopped from proceeding and their names reported. On 4 Feb., too, the proposal to establish a Governor in Newfoundland, which had been resisted by the Adventurers, was rejected by the King-in-Council. In Dec. the Adventurers petitioned that the Mayors of the western ports should be empowered to depute persons to execute the laws for the fishery; on 11 Feb. 1671 this was discussed in Council and the whole question referred to the Council of Plantations, who reported on 2 March. On 10 March the new regulations which had been proposed were approved, except one for encouraging the inhabitants to remove to Jamaica, St. Christopher or some other colony. But without this the Adventurers were very indifferent about adding the other articles to their charter. Capt. Davies, the commander of the convoy in 1671, asserted that the trade was not two-thirds as good as he remembered it, when 200 sail and 10,000 men were yearly employed.

The agitation for a Governor was renewed in 1674, and, on a reference of 12 Feb. 1675, the Committee reported on 15 April, (1) that the Adventurers had lost many of their ships in the late war, that the New Englanders took 60,000

quintals of fish on their own coast yearly, and that the French had considerably advanced their fishery at Newfoundland : (2) that the inhabitants destroyed the woods and whatever the Adventurers yearly left behind, early possessed the places of greatest conveniency, and sold wine and brandy to withdraw the seamen from their labour and seduce them to stay on the place : (3) that a Governor could not remedy this, because (a) the planters lived scattered in 25 harbours which are almost 80 leagues asunder ; (b) in winter when the abuses are done, there is no passing by sea or land from one place to another ; (c) the charge of forts and of a Governor could not be supported by the fish trade, and they are in any case unnecessary for defence, since the coast is defended by ice in winter and by the resort of his Majesty's subjects in summer : (4) that " against a colony there are not only the rigours of the climate and the infertility of the land, but that they the inhabitants chiefly consumed the products of New England and other foreign parts &c." : (5) that the French managed their trade by yearly voyages, finding this the cheaper way, and that the English Adventurers preserved a superiority in cheapness, quality, expedition and marketing.

In consequence of the report, it was ordered on 5 May that the commander of the convoy admonish the inhabitants either to return home or to betake themselves to other plantations, and that the various Governors be directed to receive them with favour.

In Jan., 1676 the new Charter confirmed all the old laws and added new ones. (1-2) His Majesty's subjects may take bait, fish and wood, if they observe these articles, but no alien is to take bait or fish between Cape Race and Cape Bonavista. (3-4) Planters are not to cut down wood or inhabit within six miles of the shore, nor to take up stages &c. before the arrival of the fishermen. (5-10) Masters are not to carry more men than their own ship's company, nor more than 60 persons to 100 tons, every fifth man to be a green man and not a seaman ; victuals and other necessities save

1718. § 277 *cont.*]

salt to be provided in England ; no one to sail for Newfoundland before 1 March in any year ; masters to give bond not to carry persons to Newfoundland, but to bring back all their crew save such as are to carry the fish to foreign markets ; no master to take up any stage already built with less than 25 men ; no fisherman to remain in the country after the voyage is ended. (11-14) Admirals, Vice-and Rear-Admirals are to preserve the peace and execute the laws in the harbours and on shore, to secure offenders and bring them to England, to publish on 20 Sept. in each harbour orders forbidding seamen to remain after the end of Oct., and to keep journals and deliver copies to the Council for Plantations. (15) In case of murder or stealing over 40s., the prisoner is to be taken to England and the case reported to the Secretary of State for his directions.

Under this encouragement the Adventurers employed :—

			1675.	1676.	1677.
Ships	..	..	105	126	109
Men	..	..	3,278	4,556	4,475
Boats	..	..	677	894	892.

In these years the number of inhabitants (besides women and children) was :—

Planters	..	..	140	138	152
Servants	..	..	1,250	943	1,355
Boats	..	..	277	206	337.

On 18 May 1677, the planters secured an Order that they be continued in possession of their houses and stages till further orders ; and, flushed with this success, they again made proposals for the appointment of a Governor. Thereupon the Customs reported on 26 March 1680 that the plan would be prejudicial to the English fisheries and would benefit the planters, the New Englanders and the French ; a fort might, however, be erected at St. John's, and a military Governor appointed with civil power for punishing vice and keeping good order, without having a power over the fishery. On 18 April this suggestion was referred to the magistrates of

the western ports, who prayed that his Majesty's sovereignty might be maintained rather by ships of war to be sent thither annually. The plan was accordingly laid aside, but the fishery declined from the time when the Order for removing the planters was revoked.

		1682.	1684.
Adventurers' Ships	.. ..	32	43
„ Men	.. ..	1,012	1,489
„ Boats	.. ..	183	294
Inhabitants' Boats	.. ..	299	304.

Besides this the New Englanders spirited away fishermen, so that the trade, “which was formerly the great nursery for breeding up stout and able mariners, was now become a mere drain that carried off very many of the best and most useful of all the British sailors, and it is too notorious that this practice has prevailed ever since.” According to Sir Francis Wheeler, commander of the convoy in 1684, the planters paid one-third more than the Adventurers for wages and provisions, but were helped by selling strong liquors to the fishermen.

Under James II the Treaty of Neutrality of 1686 restricted the fishing rights of the English traders, the French having already prodigiously increased their fisheries at Placentia and north of Cape Bonavista. After 1682 the value of the fish taken by the English Adventurers fell 100,000*l.* short of what it had been in 1676.

The war of 1689 added to the misfortunes of the traders, but some ships were employed every year, as they could get protection for their men. The inhabitants maintained about 300 boats till the French ravaged the harbours in 1696. A fort was then erected at St. John's. The Adventurers resumed the trade vigorously after the Peace, and in 1698 employed 143 ships and 532 boats, while the inhabitants and by-boat keepers had 397 boats—in all 929 boats, which took 265,198 quintals of fish,



116 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1718. § 277 *cont.*]

In the Speech from the Throne on 9 Dec. 1698 William III recommended it to Parliament to employ their thoughts about some good Bills for the advancement of trade, and in that session an Act was passed to encourage the trade to Newfoundland. An abstract of the Act is given in the Report; *inter alia*, an appeal was allowed from the determinations of the Fishing Admirals to the commander of any of H.M. ships of war.

		Adven- turers' Ships.	Adven- turers' Boats.	By-boat keepers' Boats.	Inhabi- tants' Boats.
	1699	168	669	115	457
	1700	171	800	90	674
	1701	75	338	97	558
	1702	16	35		380
	1703	23	44		214
	1704	23	—		—
Average	1705	20	60		200
during the	1706	46	136		232
war, 41 or	1707	70	196		257
42 ships a	1708	49	170		356
year.	1709	35	130		258
	1710	49	153		365
	1711	62	168		439
	1712	66	198		370
Average of	1713	46	162	195	288
respective	1714	106	441	133	362
columns, 86,	1715	108	376	197	468
324, 177, 381.	1716	86	319	184	408.

In 1644, about 2,160 boats took about 250 quintals of fish each = 540,000 = 3,375 tuns of train oil. On an average from 1713 to 1716, 882 boats took 108 quintals each = 95,424 = 365½ tuns of oil. In 1644 40 quintals, and in 1713–6 64 quintals, go to the hogshead of oil. Adding the loss in freight, the B. of T. make out the annual loss to England by the decay of the trade to be 313,973*l.*—not including in the account

§ 277 *cont.*]

1718.

gains by sales in foreign markets, or expenditure on provisions and liquor from New England.

The fishery, then, has flourished according as the inhabitants have been discouraged. 1644, its high-water mark, was a time when the colony was in a manner deserted and the foreigners fairly driven out of the trade. The first cause of disorders and decay was the encouragement given to transporting passengers by appointing John Treworkey Governor in 1650 and by granting a patent in 1655 to Sir David Kirke, John Claypole and others. The beneficial order of 1675 for admonishing the planters to return was revoked in 1677, and the trade has ever since been at a low ebb. Till 1677 the adventurers' ships carried 50 men for every 100 tons, in the last four years only 20 men; for the same tonnage they employ 2,666 men fewer than their predecessors, each of which men would have taken to England at least the value of 20*l*. The inhabitants, on the other hand, gain nothing; they are idle, indigent and necessitous, always indebted and enslaved to the traders from New England; England receives from them only the cost of transporting their servants and the value of certain goods, in all about 12,633*l*.

	1677.	1701.	1715.	1716.
Number of inhabitants				
and their servants	1,507	2,159	3,153	2,611
Number of their boats	337	558	464	408.

In the last two years, this gives six and three-fifths men per boat, or 920 men more than were required for the same number of boats before the war. Yet in 1716 servants were so scarce in Newfoundland that 18*l*. to 20*l*. per man had to be paid for the fishing season. As, then, the supernumeraries were not employed in the fishery, it is manifest that they were carried away by the New Englanders, whose fishery at present is probably superior to that at Newfoundland. Capt. Passenger, commander of the last year's convoy, advised the Board on 1 Oct. that he was very well informed the New England vessels had carried away from Newfoundland

1718. § 277 *cont.*]

in 1716 1,300 men. The carrying of passengers to Newfoundland has been one of the principal causes of the want of seamen for the Navy.

The most irregular and pernicious practice of the inhabitants is the retailing of rum and other strong liquors among the fishermen. The charter of Charles I prohibited the setting up of taverns; and, since this regulation has been disused, the fishery has yielded only one-third of the profit it formerly did. The Act of 1698 restrained publicans only from selling on the Lord's Day, and, even so, it imposed no penalty. "Newfoundland is now become a perfect scene of drunkenness and debauchery." The inhabitants have greater expense in carrying on the fishery and sell at the same price as the fishermen; they make a profit by retailing liquor; the fishermen in this way spend a large part of their wages, become negligent, careless, refractory, ungovernable and dishonest; their masters are therefore discouraged from such voyages. The men prefer employment with the boat-keepers, as in that case they are exempted from working on the passage; the boat-keepers thus arrive early and the Admirals give them the best positions, as being freighters of ships. Some of the boat-keepers remain during the winter and make stages, cook-rooms &c.; the Act of 1698 allowed them to keep such of these as did not take the place of others in existence in 1685. As the fishery was not very extensive in 1685, there was ample room for the planters to occupy, and now the shipping cannot be accommodated in the principal harbours where the planters generally remain. Sir John Norris reported that in 1698 the fishermen had to hire conveniences from the planters at 5*l.* to 15*l.* per boat—one of the causes of the decline in the trade soon after.

The cession of the French part of Newfoundland in 1713 has given the fishermen no advantages save at St. Pierre. At Placentia the stages &c. are engrossed by inhabitants who bought them from the former French owners.

§ 277 *cont.*]

1718-19.

The importation of wine and other necessaries (except salt) from Spain and Portugal is a discouragement to the Adventurers, whose ships are victualled in England. The consuls and merchants in Spain, Portugal and Italy report that of late years the fish brought from Newfoundland has been ill-cured and the trade is in danger of being lost.

The B. of T. therefore report that the fishery cannot be restored till it is again carried on by fishing ships according to its ancient custom, and that the most effectual way to secure this would be to remove the inhabitants to Nova Scotia or some other colony in America ; but, to remedy the hardships that might be inflicted on those who have erected houses &c. under the encouragement of the Act of 1698, the Board will shortly offer the heads of a Bill for remedying the abuses in the Fishing Trade.

1719.

1719.

[278.] VIRGINIA. *Jones v. Winder*. Order of reference, with copy of the petition of Robert and Elizabeth Jones.

6 Feb.  
II, pp.  
755-6.

[279.] PENNSYLVANIA. 11 *Acts disallowed*. Copy of Order.

21 July.  
II, p. 852.

[280.] ANTIGUA. *Mackinnen and Kennedy v. De Witt*. Petition of appeal, and Order of reference.

25 Aug.  
II, pp.  
765-6.

[281.] COUNCILS. *Virginia*. Committee report for the continuance or restoration of W. Byrd.

28 Oct.  
II, pp.  
762-3.

———. *New York*. B. of T. representation for F. Harrison.

5 Dec.  
II, App. II.

[282.] NEVIS. *Act confirmed*. B. of T. representation.

12 Nov.  
II, p. 846.

[283.] RHODE ISLAND. *Carr v. Holmes and Martin*. Committee report.

18 Nov.  
II, pp.  
747-8.

120 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1719-20.

18 Nov. [284.] BERMUDA. *Jones v. Bennet.* Committee II. pp. report.

449-50.

5 Dec. [285.] JAMAICA. *Lord A. Hamuton's accounts.* B. of T. II. p. 715. report.

(?) 29 Dec. [286.] NOVA SCOTIA. *Seizure of French ships at Canso.* II. pp. Memorial of J. de Hiriberry, in French (printed) and in English 757-9. (written)—for satisfaction at the expense of Capt. Smart and the people of Boston.

I. Copy of Order of the Lords Justices for restitution of the ships, addressed to Gov. Shute, 16 June 1719.

II. Copy of Order of 9 May 1719, allowing Smart to dispose of the ships and goods.

III. *Procès verbal* relating to the seizure, Canso, 14 Oct. 1718, "which justifies that what was taken away was put on board 33 boats, galleys and brigantines." (In French and in English.)

IV. Letter from Gov. Shute to Capt. Smart, 6 Oct. 1719, and Smart's reply of 8 Oct. Shute communicated the Order for restitution, and Smart declared that he would take care to give the Lords Justices all the satisfaction in his power.

1720.

1720.

8 Jan. [287.] VIRGINIA. *Winder v. Jones.* Order of reference, II. p. 756. with copy of the petition of Mrs. Winder and Mr. and Mrs. Kenner.

8 Jan. [288.] VIRGINIA. *Corbin v. Roscow.* Order of reference, II. p. 766. with copy of petition of G. Corbin, and Committee report of 24 Feb.

8 Jan. [289.] PENNSYLVANIA. *Petition of ex-Gov. Gookin for some islands* in the Delaware, which he apprehends "to be capable of improvements, by banking out the tides and clearing the grounds and planting corn, tobacco, hemp and flax, and erecting a sturgeon fishery which will be of very great advantage to trade."

- 1720.
- [290.] PENNSYLVANIA. *Act disallowed*. Copy of Order. 8 Jan.  
II. p. 852.
- [291.] BARBADOS. *Storekeeper's accounts*. Petition of H. Received  
Peers. 19 Feb.  
II. pp.  
773-5.
- [292.] ST. CHRISTOPHER. *Estates of French Protestants*. 20 Feb.  
Petition of Katherine Assailleés. II. p. 696.
- [293.] ANTIGUA. *Mackinnen and Kennedy v. De Witt*. 25 Feb.  
Committee report. II. pp.  
765-6.
- [294.] BARBADOS. *Whipping of B. Cook*. His petition, 22 March.  
and Order of reference. II. pp.  
775-6.
- [295.] NOVA SCOTIA. *Seizure of French ships at Canso*. 25 March.  
Depositions of Joseph Haines and David Pulcifer about the II. pp.  
quantity of fish seized. 757-9.
- . Certificate of Capt. Cyprian Southack about the 6 Ap.  
sale of the fish for 307*l.* 12*s.* 6*d.* Massachusetts paper money.
- . Protest of Joseph Hiller, notary public, making 21 June.  
a claim for all losses sustained by Capt. Smart's failure to  
comply with the Order for restitution.
- . Letter from Gov. Shute to Mr. de Hiriberry, 26 June.  
reporting that he could not obtain restitution from Smart.  
He adds that Mr. Emery, formerly consul at Terceira, who  
has recently come from Carolina, had been informed by a  
French officer who deserted that the climate of the settlement  
at the mouth of the Mississippi is very unhealthy, "that  
there is a great mortality among the new inhabitants and  
that they curse Mr. Law and other projectors who have sent  
them to so miserable a place."
- . B. of T. report that, in view of the contradictory 6 Oct.  
Orders of 9 May and 16 June 1719, they can see no way  
of satisfying Mr. de Hiriberry but by paying a sum of money  
as compensation.

1720.

30 Aug. [296.] CAROLINA AND NOVA SCOTIA. *Defence against the*  
 II. pp. *French*. B. of T. representation about frontier defence :  
 778-80. with (a) copy of Order of 11 Aug. for appointing a royal  
 Governor for Carolina and referring the question of defence,  
 to the B. of T. ; and (b) copy of Order of 27 Sept. for bringing  
 a *Scire Facias* against the Charter.

The representation accompanies a draft of instructions for Gov. Nicholson, and goes into the question of defence, although the Board are preparing a representation on the state of all the colonies. Carolina and Nova Scotia, "the two frontiers of the British Empire in America to the North and to the South [are] both of them at this time in the utmost disorder." Carolina being divided into North and South, a Lieutenant Governor should be appointed for North Carolina, subject to such orders as he may receive from the Governor of South Carolina as his superior.

"Your Excellencies are no doubt fully apprized of the great industry at this time employed by the French to extend their territories on the continent of America, and that they have opened a communication from Quebec on the river St. Lawrence, through the said river and lakes adjacent to the river Mississippi, and from thence to the Bay of Mexico, marking their boundaries by small forts at convenient places, and sparing no expense to gain the native Indians to their interest, whereby, no doubt, they one day promise themselves an universal empire in America, which may possibly happen, if the proper measures are not taken to prevent a design so destructive to the British interest and commerce.

"But your Excellencies being always disposed to do everything that in you lies for the service of Great Britain in general and more particularly at this time for the preservation of the British colonies in America, we have reason to hope this design will prove abortive, and we are encouraged to propose to your Excellencies an expense for this great and necessary end, being persuaded that the same will be fully

justified by the consequence thereof to the trade and welfare of these kingdoms.

“The tract of land possessed at this time on the continent of America by the French from North to South, *vizt.* from the 51st to the 28th degree of N. lat., contains no less than 460 leagues in length, to which they reckon themselves entitled ; how justly, we shall not determine, but by their manner of proceeding it would seem, that they were of opinion that continued possession in an uninhabited country was a better title than a charter without possession ; and for the same reason, no doubt, it would behove us to extend ourselves as far as may be, by building forts in convenient places, to mark our possessions likewise on the frontiers of our several colonies on the continent of America.

“But the necessity of doing this is still greater and more immediate in Carolina than in any other provinces.

“It is evident by the steps the French have hitherto taken, their chief care is that of making themselves strong and considerable at the two heads of their Colonies, North and South ; they have made a great progress in this to the North, where Quebec and Cape Breton seem to threaten a conquest of Nova Scotia upon the first rupture ; and Carolina, where our bounds have never yet been ascertained any other way but by the charters to the Lords Proprietors, seems still to be in more immediate danger from the great settlements and encroachments the French have made and are making to the Southward ; for notwithstanding the great prospect they had of becoming masters of an immense trade by being possessed of the river Mississippi is in some measure damped by the difficulties they find, of getting out and in at the mouth of the said river where it empties itself into the Bay of Mexico, for which reason they found themselves obliged not long ago to take a port from the Spaniards, Pensacola, which we understand has since been restored.

“Yet it is certain this disappointment will put the French upon a necessity of finding out other expedients, and we



1720. § 296 *cont.*]

have some reason to suspect they have thoughts of opening a communication from their great settlement upon the river Mobile down the Altamaha or some other of the rivers that empty themselves to the Northward of Fort St. Augustine into the Western Ocean, and should they succeed in this design, the British interest in America would receive a more fatal blow from thence than from any other possession the French have hitherto acquired on the continent of America.

“Your Excellencies by one slight view of the chart of these countries will easily judge of the consequence of this matter, and be induced to believe that there is an absolute necessity of securing the mouths of all the rivers emptying themselves into the main ocean between St. Augustine and Port Royal in Carolina, for which purpose no time should be lost in erecting forts to secure the trade and navigation of the said rivers at proper places, the choice whereof may be left to his Majesty’s Governor; but we would in a more particular manner propose the securing of the river Altamaha, lest the French, who have formerly given that river the new name of May, should pretend a title to it.

“It will likewise be absolutely necessary to build some small forts towards the inland frontiers, as well for the security of the trade, as to ascertain our boundaries; and as the Cherokee Indians, a warlike nation inhabiting a long ridge of mountains called Apalacha, lying east and west between 35 and 36 degrees of N. latitude, whence several rivers take their source, that flow different ways, are hitherto in our interest and utter enemies to France, it would be for his Majesty’s service that some small forts should likewise be built among them for their encouragement and our security.”

An instruction is included for Gov. Nicholson to cultivate a good understanding with the Indians, “and so much the rather, because we do not find that the savages in general are apt to commit any great barbarities, but upon provocation first given them on our part.”

Four battalions of foot with great guns and warlike stores for the proposed forts should be sent to Carolina, which has lately shaken off the proprietary government as incapable of affording them protection, exposed as they are to danger from the Indians, from their European neighbours, and lately from their own slaves, who are too numerous in proportion to the white men there.

By a letter from Gov. Phillips it appears that "Nova Scotia is in very great disorder, and likely to be still in greater confusion upon the removal of the French inhabitants from thence, who will never be good subjects to his Majesty, wherefore we would likewise propose to your Excellencies that four other battalions of foot should likewise be sent to Nova Scotia."

The expense is not to be put in balance with the importance of the service to be done by the soldiers, who may, on due encouragement, in a few years become planters in America and ease the public of the charge of their pay. More is to be offered on this point in the general report.

Seals and commissions for trying pirates should be prepared for the two provinces.

1721.

1721.

[297.] TRIAL OF PIRATES ON AFRICAN COAST. Admiralty 9 Jan. memorial with names of persons to be inserted in the Com- III. p. 8. mission.

[298.] NOVA SCOTIA. *French ships seized at Canso.* 13 March. Memorial of Monsr. de Chammorel—in French and in English. II. pp. The French losses are estimated at 20,000*l. stg.* The settle- 757-9. ment was delayed by a report that the French and Indians had carried off from Canso English goods to the value of 7,000*l.* or 8,000*l. stg.*, but Monsr. de St. Ovide, the Governor of Cape Breton, reported that the French had no hand in the invasion, and that he had ordered the restitution of all the effects which the French had seized after the English had abandoned the island. De Hiriberry was offered 200*l.*

1721. § 298 *cont.*]

by the British Government, but declined to receive it, as inadequate.

14 March. ———. Memorial of de Hiriberry to Lord Carteret—printed in French and written in English. The B. of T. postponed his case on 18 Oct. 1720, on hearing of the incursion of the French and Indians, which was regarded as a reprisal. The death of Mr. Secretary Craggs caused further delay. De Hiriberry alleges that the Governor of Cape Breton Island has ordered restitution on the part of the French. The French title to Canso as one of the islands in the Gulf of St. Lawrence is asserted; and in any case the Commissioners under the Treaty have not yet made any award of the island to England.

26 March. ———. (Letter of De Chammorel, to stop execution against the ship *L'Amitié* of Bayonne, Michel Giraudel captain: with a petition of Giraudel in English and a memorial in French. The ship was bound from Martinique to Nantes, and was seized by the British at Vigo, and condemned on 13 July 1720.)

25 May. ———. Supplementary memorial of De Chammorel in the case of De Hiriberry.

14 Aug. ———. Two more of the same. All three merely repeat what had been said in former memorials.

24 Aug. ———. Order of reference.

28 Oct. ———. Capt. Smart's answer. In Ap. 1717 he was sent on a voyage for the service and protection of the government of New England. Complaints were made of French encroachments on the English fishery at Canso. In spite of warnings, 300 French had taken entire possession of the island. In Aug. 1718 he was ordered by the Governor and Council of Massachusetts Bay to secure the withdrawal of the French by the Governor of Cape Breton, if possible. Failing this, he was to seize goods belonging to the French within the English limits, and compel them to quit the place, except such as the English there regarded as friendly. Monsr. de St. Ovide had in person abetted the French at Canso, and he refused to comply with Smart's proposal. The latter then ousted

the French and seized various goods. His proceedings were approved by Gov. Shute on 10 Oct. and by the Admiralty in a letter to Smart on 2 Jan. 1719. He acted throughout in obedience to his orders.

———. Copy of Order dismissing Smart from further attendance in connection with the case. Also a list of the papers relating to the matter. 11 Nov.

[299.] BARBADOS. *Suspension of six Councillors by 30 March. President S. Cox.* B. of T. representation for removing Cox and restoring the Councillors, while Frere is to come to England to answer complaints against him. II. *pp.* 768-71; III. *v.* 815.

I. *Extract of a letter of 23 Jan. from Cox*, explaining why he allowed Frere to be sworn—(he did not deem himself capable of any act of government till assisted by a Council, and Frere was still the senior member, as he did not withdraw on the reading of the Order of the Lords Justices); and intimating the suspension of the Councillors for neglect of duty and contempt of the Governor's authority, and the appointment of five others in their room. The Clerk of the Assembly has refused to transmit the minutes of the Assembly from the time they were last transmitted to Cox's appointment, but the President encloses:—

The *minutes of the Council*, 5 Dec. 1720 to 18 Jan. 1721. (46 *pp.*) The six members had upheld Frere's right to sit as a member of the Council, though he had been adjudged by the Lords Justices guilty of contempt of his Majesty's authority. When Cox was suspended by Gov. Lowther in Feb. 1720, the Governor's party feared that he would be restored and might have to act as President. Hence a Tranquillity Act was passed forbidding the Governor for the time being to displace any officer without the consent of seven members of the Council. The Act was taken over to England by Gov. Lowther, but had not been either confirmed or disallowed. The six members insisted that it was in force and that the Governor could not therefore lawfully suspend Frere. The President held

1721. § 299 *cont.*]

that the law was invalid ; it infringed on the prerogative, and should not therefore be passed without a suspending clause or the previous intimation of his Majesty's pleasure. Gov. Lowther suspended Cox in order that the government might devolve on his own nephew, Frere ; the Councillors approved of this in spite of a letter from the Secretary of State of 25 March ; on 5 Aug. Frere was supported by the six Councillors in his refusal to surrender the government to Cox, as ordered by another letter from the Secretary of State : they persisted in regarding Frere as lawfully President from Aug. to Dec.

II. Copy of Article IX. of Gov. Lowther's instructions, by which the suspension of a Councillor requires the consent only of a majority of the Council (of which five was the quorum).

III. Copy of the Tranquillity Act, passed 13 May 1720.

11 June. ———. Petition of Sir C. Cox on behalf of his brother. Asserts that Lowther turned out the old judges and justices who might take affidavits against him, and put in their places persons who were not qualified, but were devoted to himself. In Frere's time the judges refused to prove the deeds of the true freeholders, and many sham voters were admitted to elect an Assembly in Frere's interest. Despite several opportunities of sailing, Frere remained on the island 18 weeks after the order of 12 Oct. was served on him, riding about the island, spreading false reports, and stirring up cabals to embarrass the government, and finally obeying only on threat of compulsion. Cox prays for a copy of a petition addressed to the Board by Frere. A later petition asks for copies of representations made by the B. of T. against S. Cox.

— June. ———. Letter of S. Cox to the Secretary of State, with his answer to the representations of the freeholders of St. Michael's and other parishes, and copies of four of the representations. The grievance complained of is the failure of the President to publish writs for the return of members of the Assembly by the parishes of St. James and St. Andrews

§ 299 *cont.*]

1721.

Overhills at the same time as for the other parishes at the recent General Election. Cox asserts that the writs were duly issued and that the delay in publishing them was not due to him, and that new writs were issued at the earliest convenience. The Provost Marshal was reprimanded by the Governor and Council for not despatching the writs in due time. Eight of the members refused to sit in an incomplete House; Cox alleges that their true motive was that they represented the Lowther party and were a minority of the 18 members then returned. Precedents are given by Cox for the Assembly acting in similar cases before being completed. Besides issuing new writs for the two omitted parishes, Cox issued new writs for those represented by the eight absenting members, claiming that these representatives had withdrawn or "removed" themselves; a copy of an order to Sir B. Grenville in a similar case in 1705 is annexed. Cox finds further justification for his action in the return of other members by two of the four parishes by very great majorities; the members for the other two accepted their second election and were sworn accordingly.

———. Petition of Frere, asserting that Cox has displaced 29 June.  
40 justices possessed of 10,000 acres in Barbados (a tenth of the whole island), while the 40 whom he has put in are not owners of 550 acres, and some of them in as desperate circumstances as Cox himself, who owes over 8,000*l.* on judgment and is generally reputed to be more indebted than he is worth.

———. Committee report for leaving the question of 13 July.  
reinstating Frere to Lord Belhaven's discretion.

———. B. of T. report with copies of letters &c. 28 July.  
complaining of Mr. Cox—recommending that Lord Belhaven proceed at once to Barbados, arrest Cox and send him over to England. Cox has sent no account of his proceedings since 4 Feb.

i. Letter from W. Terril to his brother in London, 12 May,  
with an account of the election and Cox's vile, bare-faced

# 130 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1721. § 299 *cont.*]

trick to have just such a number of members chosen as would do his business : also of the meeting of the representatives and the escape therefrom of the eight opposition members in spite of endeavours to detain them so as to constitute a House.

ii. Letter from Judge Sutton to Col. Frere, 13 May 1721, with another account of "this glorious retreat of our eight patriots." Also complains of the commutation of the powder duty to such articles as butter, candles &c.

iii. Letter from E. Sutton, 7 June, about the issue of new writs for six parishes, and the creation of new voters in two of them.

iv. Protest of the members for St. Thomas against the issue of new writs, 5 June.

v. Two petitions of the freeholders of St. James parish.

vi. Remonstrance of the eight members, 16 May 1721.

9 Aug. ———. B. of T. representation with a draft of Lord Belhaven's instructions. Cox is not included in the Council, but Frere is left in. Provision is added to provide against such disturbances in the future as have arisen from the sweeping changes made by President Cox in all offices both civil and military. An article is added on a complaint from the Customs that their officers in the plantations are frequently called upon to serve on juries or to appear in arms. There are several other changes—*e.g.* Article 100 of Lowther's instructions about workhouses is omitted, there being a great want of white people in Barbados. (*Cf. pp.* 131–2.)

9 June. [300.] BERMUDA. *Council*. B. of T. representation proposing three members.

9 Aug. [301.] JAMAICA. *Seizure of indigo &c.* B. of T. report.  
III. *pp.*  
24–6.

10 Aug. [302.] ANTIGUA. *B. of T. report against two Acts.* (a) *Re*  
III. *p.* 844. the qualifications of electors and privileges of Assemblies

§ 302 *cont.*]

1721.

(Feb. 1719)—the possession of land of the value of 300*l.* *per annum* is required for a representative, and a freehold of 10 acres or a house valued at 20*l.* in the division for an elector ; the privileges claimed include all those enjoyed by the House of Commons and more. (b) For establishing a court, settling an administration, and limiting a time for executions out of the Court of Chancery. This Act has corrected some of the faults for which a previous Act was repealed, but it is still open to nine objections ; it exempts all freeholders from arrest ; the only qualification for jurors is that they be Protestants, there is no oath to be taken by them, no remedy against a corrupt verdict ; on a day of trial, either party can put off the hearing on payment of costs not exceeding 5*l.* ; the oath of the defendant's agent or attorney that no part of the effects has been concealed or made away, is admitted to prevent execution being actually levied on lands or tenements ; negroes, cattle &c. seized in execution are to be returned to the defendant on security of double the value for redelivering them within 60 days ; the Provost Marshal is made liable to a fine of 20*l.* for any breach of this Act sworn to by a single witness ; officers of Courts have an attachment granted for their fees without proof by jury or otherwise ; the Justices of the Peace are made the standing Judges of Oyer and Terminer ; no execution is to be issued on any judgment for debt contracted before the Act, unless the plaintiff will forbear to levy the execution for two years after the date of the Act.

[303.] PLANTATION TRADE. *Barbados sloop taken by pirates.*  
Petition of John Seinzac.

Read  
24 Aug.  
III. pp.  
26-8.

[304.] JAMAICA. *Duke of Portland's instructions.* Order of reference, with B. of T. representation of 13 Dec. Changes common to this and Lord Belhaven's instructions (*p.* 130) relate to suspending clauses in private Acts and in those

14 Dec.

III. pp.31,  
816.



132 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1721. § 304 *cont.*]

about paper currency, additional salary for the Governor, powers of a President, encouragement to African trade, and exemptions for Customs officers. The articles about certificates for clergymen and licenses for schoolmasters are altered ; the Bahamas are now excluded from the jurisdiction of the Jamaica commission for trying pirates ; Article 65 is omitted, being provided for in the separate Trade Instructions, in which the only change is the insertion of a clause for preventing illegal trade by ships from the East Indies (conformable to an order of 2 Oct. 1720).

Read [305.] ANTIGUA. *Mann v. Gamble*. Petition of Edward  
14 Dec. and Mary Mann. (10 *pp.*) Mrs. Mann was mother of  
III. *p.* 31. Mrs. Gamble. Other names in the petition are Samuel  
Hilder (Mrs. Mann's former husband), Daniel Mackinnen,  
Peter Lee, Robert Thornton, Thomas and Margaret Young,  
John Gamble, John Manwaring, and Robert Harrison.

28 Dec. [306.] PENNSYLVANIA. *Grant of small islands*. Petitions  
II. *pp.* of (a) C. Gookin and (b) Hannah Penn ; with Orders of reference.  
772-3. Gookin lost his rank in the Army by accepting the government  
of Pennsylvania ; on account of his opposition to the Stewart  
principles of the inhabitants, he received only a small allow-  
ance from them, much of which is still in arrear. He proposed  
that he should receive a grant of all the islands on condition  
of paying those in occupation for all improvements made,  
and suggested that the renewed opposition of the proprietors  
of Pennsylvania after the Attorney and Solicitor General  
had reported that the property still lay in the Crown, was  
designed merely to delay matters and weary him out by  
attendance and expense. Mrs. Penn alleged that, even if  
the islands were not strictly included in Penn's grant, they  
had always been esteemed part of Pennsylvania, and proposed  
that in order to quiet possessions they should be included  
in a new grant. She referred incidentally to an uncom-  
pleted bargain in 1712 for the transfer of the government  
of the colony to the Crown, for the carrying out of which and

ACTS OF THE PRIVY COUNCIL (COLONIAL). 133  
§ 306 *cont.*]

1721-2.

for applying the produce to the benefit of his widow and children Penn by his will appointed the Earl of Oxford and Earl Poulet trustees.

I. B. of T. report of 1 Sept. for a grant to Gookin under the government of New Jersey (as being more under his Majesty's control than Pennsylvania) of such of the islands as were not inhabited at the time of his application.

1722.

1722.

[307.] JAMAICA. *Council*. B. of T. representation for 8 Feb.  
W. Cockburn. III. p.827.

[308.] BARBADOS. *Dismissal of H. Gibbs, Chief Baron of the Exchequer*. Letter from President Cox. Gibbs granted an injunction which had been denied by the Court of Chancery and persisted therein in spite of Cox's orders. 9 Feb. III. p. 36.

I. Copy of the President's *Supersedeas* of the commission appointing Gibbs, with an account of the proceedings in the case of W. Rawlin *v.* J. Jenkins.

II. Copy of a petition of W. Rawlin, complaining of the injunction and of Cox's orders to the Marshal of the Court of Exchequer, Aug. 1721 and Jan. 1722.

———. Gibbs's petition and Order of reference to the Committee. He admits the facts, but declares that the Exchequer Court had no knowledge of any proceedings in Chancery, that Cox's interference as Chancellor with the Exchequer Court was irregular, that the order of Aug. was addressed not to him but to the Marshal, and that of Jan. served three days after the date of the *Supersedeas* which was alleged to be based on non-compliance with the order. A note appended to Gibbs's petition (but with lines scored across it) deprecates delay by any further reference to Barbados. 28 Ap.

[309.] PLANTATION TRADE. *Barbados sloop taken by pirates*. Advocate General N. Lloyd's report. 28 Feb. III. pp.

27-8.

134 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1722.

2 March. [310.] JAMAICA. *Deputy Receiver General's accounts*. Committee report and letter of 7 March from H. Thompson, pointing out that orders had been given for payments both to J. Knight and to Lord A. Hamilton out of the first and readiest of his Majesty's revenue in Jamaica, and proposing, as payment might be delayed on the pretext of not knowing to which to give the preference, that Knight's order contain an exception in favour of his Lordship.

3 May. [311.] PENNSYLVANIA. *Grant of some islands in the Delaware*. Committee report: also abstract of Mr. Gookin's papers 8 Jan. 1720, 28 Dec. 1721, and 3 May 1722.

14 June. ———. B. of T. report. The islands which have been improved are Hollander's Creek Island, Carpenter's Island near the mouth of Schuylkill river, Tenecunk by the side of the river, and Fisher's Island; and these are not properly in Delaware river but near the Pennsylvanian shore and surrounded by other waters flowing from that province. If not included in Pennsylvania, they might be granted to the present possessors on a reasonable quitrent. Burlington or Stacy's Island might be granted to the town of Burlington and added to the province of New Jersey. The islands which remain for the Crown to grant are a little island next the Falls; Byle's Island, Biddle's or Pensbury Island and a small marshy island between these; Burden's Island; Fairman's Island; two little shifting islands or mud-banks; League Island and Hog Island; three little islands near Tenecunk; Tenecunk in the middle of the river; two islands on the eastern shore opposite Chester.

10 May. [312.] BARBADOS. *Pirate ship taken*. Admiralty report for II. p. 778. granting to the captors, H.M.Ss. *Rye* and *Squirrel* (Capts. T. note. Whorwood and T. Smart) the whole of a piratical ship, the *Royal James*, and goods, taken by them off Barbados in Feb. 1720, and condemned in New England.

14 June. [313.] JAMAICA. *Piracy*. Petition for pardon for the crews III. p. 37. of the *Morning Star* and *Good Fortune*, who claim that they

§ 313 *cont.*]

1722.

were unwillingly forced to serve Bartholomew Roberts, the pirate, but deserted him about 18 Ap. 1721 in the hope of obtaining pardon. Docketed "Received 6 July 1722 from the hands of John Ellwood, of the island of St. Christopher, America. He says he was master of a ship of 120 tons called the *Nightingale* which was taken by these pirates in the island of Tertegas in April last, they being then commanded by one Thomas Anstys—that having been with them about seven weeks they gave him his liberty on condition he should bring this petition home, and accordingly he left them the 14th June on the banks of Newfoundland, they being then commanded by John Pinn and having two ships, one a vessel of 32 guns, the other a brigantine of 22 guns. They were in number 146, besides some Spaniards and negroes."

[314.] COUNCILS. *New Jersey*. B. of T. representation for 5 July.  
J. Alexander and J. Smith. III.

*App. II.*

———. *New York*. B. of T. representation for A. Van 8 Aug.  
Horn and W. Provoost.

[315.] PIRACY. *Trials on the coast of Africa*. Order 19 July.  
referring an Admiralty memorial to the Advocate, Attorney III. *pp.*  
and Solicitor General: and their report of 27 July. 8-9.

[316.] RHODE ISLAND. *Admiralty jurisdiction*. Order 7 Aug.  
referring an Admiralty memorial to the Committee. III. *pp.*

I. The Admiralty memorial of 2 Aug. 38-40.

II. Copy of a letter from J. Menzies, Judge of Vice Admiralty at Boston, 20 July 1721. (9 *pp.*) Associated with Norton were Joseph Whipple and his brother, and Christopher Almy. Their ship was alleged to be taken by the pirate Roberts at St. Lucia, but after six or seven weeks they took a Dutch built ship of 250 tons, loaded her with sugar, cocoa and negroes and gave it to Norton in exchange for his brigantine, though of much greater value. He appears to have been entrusted with the disposal of the cargo in

1722. § 316 *cont.*]

Rhode Island. He anchored in Tarpaulin Cove and fired guns to alarm ships which approached and to attract his confederates, who sent sloops to convey the goods to Providence Plantation. But the accessories were so many and the cargo so considerable that the Customs officers of Massachusetts and Rhode Island (between which Tarpaulin Cove lies) seized both the remainder of the cargo, Norton having absconded, and also a sloop belonging to one Draper.

III. Committee report of 24 Aug.

6 Oct. [317.] VIRGINIA. *Jones v. Winder*. Petition of Mr. and II. p. 756. Mrs. Jones, and order of reference.

20 Oct. [318.] BARBADOS. *Rev. W. Gordon v. Ex-Gov. Lowther*. II. pp. Attorney General Raymond's report (14 pp.), with (a) Order 753-5. referring it to the Committee, 29 Nov. ; (b) copy of Lowther's petition, and (c) of several articles of his instructions, referred to by him in his petition ; (d) copy of Gordon's declaration in his action *v. G. Macmahon*, and (e) affidavit of its authenticity by Lowther.

On 28 June 1715 an address of the Assembly complained of Mr. Gordon as a person of scandalous and infamous life. In July 1716 Gordon brought to Lowther a commission from the Bishop of London (constituting him Commissary in Barbados) for the Governor's allowance ; but Lowther did not think this was permitted by his instructions, and asked Gordon to procure further evidence of his authority from the Bishop. In spite of this Gordon set up an Ecclesiastical Court, which sat in St. Michael's town on 25 Oct. 1716. The Bishop of London sent a letter on 14 Feb. 1717 in support of Gordon's authority. On 26 Ap. the Governor answered that he could not admit his commission till he had seen some authority from his Majesty for granting it, and also represented Gordon as a very improper person, giving the following description of him from the address of the Assembly and depositions taken at that time :—

“ . . you could not have pitched on a more insidious, restless, meddling and ambitious person than Mr. Gordon. . . you could not have appointed a worse liver and more flagrant incendiary, or one who hath given greater marks of disaffection to our happy establishment. Two-thirds of his time is spent in gaming, trading, and caballing and mischief-making. He came a contracted servant to this island : after he was out of servitude, he got to be an usher, then into Holy Orders, after that to be a parson of St. James’s parish, and then to be a parson of St. George’s, where for many months together he neither administered the sacraments, visited the sick, preached, prayed, christened, buried or performed any pastoral duty whatever : in short he left his flock so often and so long, and went so frequently from thence to the Leeward Islands that the Antegonians called him The Wandering Apostle, and the French at Martinique La Marchand Spiritual. Notwithstanding all which, all his profligate patrons Mr. Wm. Sharp and Mr. Wm. Walker preferred him to a benefice of 600*l.* a year, which he now enjoys : but where’s the wonder ? Since he had been their tool so long and is a man so entirely after their own hearts. . . The sermon he preached on the day of thanksgiving, which I appointed to be observed for the happy suppression of the late unnatural Rebellion, was nothing but a virulent satire against the King’s best subjects and friends. He had the impudence to assert that the Whigs were the fomenters and contrivers of the late Rebellion, that it was from them all our animosities arose and from them all our danger proceeded. . . ”

On 17 July 1719 the Council unanimously resolved that this character of Gordon was just and true, and thanked the Governor for his letter and for opposing the attempt to erect a spiritual court in the island ; an Act was also passed for depriving Gordon of his living. On 17 Dec. 1718 the Grand Jury also thanked the Governor for opposing an ecclesiastical court. Their address was printed in the *Postman and Whitehall*

1722-3. § 318 *cont.*]

*Evening Post* on 4 May 1719, soon after which there appeared a most scandalous and wicked libel, entitled "A Representation of the miserable state of Barbados under the arbitrary and corrupt administration of his Excellency, Robert Lowther Esq., the present Governor." It was proved by several affidavits before Lord Chief Justice Pratt that Gordon wrote a preface to the pamphlet, and procured the whole to be printed in London. On 15 Oct. 1719 the Governor, with the advice of the Council, published a "Declaration" in answer to the libel. Lowther's petition next dealt with President Cox's removal of his opponents, repeated after their restoration upon an Order in Council of 28 May 1721—*e.g.* in place of Chief Justice Edmund Sutton he appointed his son-in-law Mr. Beekless. Two Acts were also repealed—one of May 1720, not yet confirmed, about security to be given by appellees; the other, about returning special verdicts with a view to appeals. Then Gordon brought an action against Lowther's attorney, G. Macmahon, for losses sustained through the publication of the "Declaration." Lowther, therefore, prayed that execution be respited on any judgment obtained against him by Gordon, on his giving sufficient security in England to answer his Majesty's final determination.

The Attorney General recommends that the Act of May 1720 be confirmed and that repealing it disallowed, but submits whether the petition should be granted, as that would be in effect to make a new law for this particular case. As to Mr. Cox's behaviour, the Attorney General had had no proofs before him nor had any opportunity to hear the parties concerned.

1723.

1723.

10 Jan.

[319.] PIRACY. B. of T. representation for a proclamation of pardon, which should induce pirates to surrender by ordering Governors not to seize goods in the possession of the pirates, but to leave the owners to recover their effects by due course of law.

ACTS OF THE PRIVY COUNCIL (COLONIAL). 139

- 1723-4.
- [320.] JAMAICA. *Revenue Act*. Treasury report: with 22 July.  
(a) copy of an additional instruction of 19 July 1722; (b) a III. pp.  
state of the revenue 1717-21, drawn from the Receiver General's 48-53.  
accounts and signed by Alured Popple; and (c) copy of a  
Jamaica Act, passed on 7 Feb. 1723, for granting an additional  
salary to the Duke of Portland.
- [321.] JAMAICA. *Complaint of S. Brown*. Order of 14 Nov.  
reference. III. p. 60.
- [322.] JAMAICA. *Act*. B. of T. representation, and Order 11 Dec.  
of reference to Committee, 17 Dec. III. p. 843.
- [323.] BARBADOS. *Council*. B. of T. representation for 12 Dec.  
J. Dottin; and Order of reference to Committee, 17 Dec. III. p. 823.
- [324.] MARYLAND. *Petition of J. Brown*. Lord Baltimore's 28 Dec.  
letter for a copy of the petition. III. p. 60.
1724. 1724.
- [325.] JAMAICA. *Act confirmed*. Committee report. 22 Jan.  
III. p. 843.
- [326.] NEW JERSEY. *Redistribution of seats in Assembly*. 22 Jan.  
Committee report on draft of an additional instruction. III. p. 62.
- [327.] PENNSYLVANIA. *Copies of two Acts about paper* 8 Feb.  
*currency*. 1. For emitting 15,000*l.*, 2 March 1723: 2. For  
emitting 30,000*l.*, 12 Dec. 1723. Docketed "Received the  
originals from Mr. Graham, 8 Feb. 1723-4. Delivered into  
the B. of T. the 11th do. with a letter from the Governor and  
another to Lord Carteret by the hands of Mr. Stanyan."
- [328.] PENNSYLVANIA. *Condemnation of the ship FAME*. 25 Nov.  
Letter from Gov. Keith, with Minutes of the Pennsylvania III. p. 120.  
Council of 12 Nov., and other papers.
- I. A letter of 31 Oct. to Keith from John Moore, collector  
of customs at Philadelphia, stating that about midnight, the  
*Fame*, then under seizure, had been cut out and carried down  
the river.



1724. § 328 *cont.*]

II. A letter from Keith to Samuel Lowman, collector at Newcastle, 31 Oct., directing him to secure the *Fame* as she comes down the river.

III. Petition from John Cathcart, the merchant or supercargo, and Wm. Lea, the master, 7 Nov., about Moore's seizure of part of the cargo which is not liable to forfeiture.

IV. Moore's answer refusing a proposal by the Governor that Moore's alleged seizure of the vessel be dropped, and proceedings taken upon Keith's own subsequent seizure, the profits to go to Moore as if it had been made by him.

On the Governor's account of the proceedings, the Pennsylvania Council declined to offer any opinion save that the Governor had used great diligence in taking effectual measures to bring back and secure the ship. (On 2 Nov., Keith had ridden 30 miles to Chester, and then rowed up the river till he found the *Fame* five miles below Philadelphia.)

V. Letter from Keith to Moore, 16 Nov., to secure the goods, and aid in prosecuting at a Special Court to be held on 19 Nov. an information laid by Keith against the *Fame*.

VI. Moore's reply of 17 Nov., objecting that the jurisdiction of the County Court is incompetent, that the notice is too short, and that he, the collector, is not privy to the information lodged. He claims that the goods were properly seized by him before the seizure on which Keith's information was founded, and refuses to violate his duty and do apparent injustice to the party by countenancing that information.

VII. Keith's answer, 18 Nov. (1) The Court of Common Pleas at Philadelphia is a Court of Record, and is intended by an Act of Geo. II to have cognisance of such cases as the present, especially where there is no Court of Admiralty in being. (2) Special Courts are allowed by the constitution in extraordinary cases: if any material evidences cannot be had at the time proposed, the Court will allow reasonable time. (3) Moore was inexcusably remiss and deficient in his duty in neglecting to make a seizure of the ship (but only of certain goods), whereby, through the collusion of his officer, a large

§ 328 *cont.*]

1724-5.

quantity of prohibited goods is believed to have been run ; while Moore himself took no steps to recover the vessel. (4) His desire for further delay is also suspicious. (5) He will refuse his aid at the trial at his peril.

VIII. Additional observations. (1) Although he had 14 strong evidences, Moore neglected to seize the ship and allowed it to discharge for a whole day. (2) The person he sent on board was not qualified by any oath and was evidently corrupted. (3) Moore's refusal to join in the prosecution and the withdrawal of his evidences might have enabled the parties to be cleared, had not the Governor sent the Naval Officer with a warrant to search, and so made a discovery of arrack, which made them confess to the information. (4) By 14 Car. II. c. 17 Moore's failure to prosecute forfeits all his right, the second seizure having been prosecuted to effect. (5) There is no excuse for Moore's failure to go or send after the ship when she was carried from the wharf ; no one with any authority was refused access or resisted ; his pretended fears were altogether groundless and his neglect or connivance evident to the whole people of the place.

IX. Copy of the Pleas at the Special Court on 19 Nov.—the condemnation of the *Fame*. Keith's letter of 25 Nov. complains of Moore's conduct and asks for assistance and protection in matters of this kind for the future.

1725.

1725.

[329.] ANTIGUA. *Hamilton v. Horne*. Petition, and Order of reference.

5 Feb.  
III. p.111.

[330.] BERMUDA. *Complaint of S. Eveleigh against Gov. J. Hope*. Hope's answer (on left hand page) to 16 Articles (on right hand page)—in all 32 pp. (1) Hope asserts that, while Eveleigh's sloop *George and Elizabeth* was cleared from South Carolina for Barbados, it was manifestly intended for Martinique, as appears by the original invoice. (2) Eveleigh professed that he intended to assist the colony sent to St. Lucia by the Duke of Montagu ; the

15 Feb.

III. pp.  
84-7.

1725. § 330 *cont.*]

Governor asserts that he had been engaged in trade with the French, who can undertake no expedition of 3,000 men for 10 days without provisions from France or from his Majesty's subjects, and that it was only because of a general prohibition of trade with English subjects after an unfair expedition by the Governor of Martinique, that the ship put into St. Lucia. (3) Eveleigh declared that the ship took on board at St. Lucia a cargo for Virginia, but put in at Bermuda owing to stress of weather, where a seizure was made though none of the cargo was landed or intended to be landed. Hope replies that the goods shipped at St. Lucia were admittedly bought from the French inhabitants of Martinique. (4) That a commission was issued to W. Outerbridge and H. Tucker as an Admiralty Court to try the seizure the same day; the former, Hope replied, had been an Admiralty judge 30 years and the latter 9 years. (5) The information against the sloop is correctly described, and Hope claims that the condemnation was legal. (6) St. Lucia was described in the libel as "a controverted, maroon and uninhabited island, and being no place, country or port where such foreign goods before-mentioned ever were legally produced or shipped on board any vessel whatsoever." Eveleigh alleged that St. Lucia was not uninhabited, but governed by the Duke of Montagu, and that the goods were shipped at a time when the *Winchilsea* man-of-war was there for the preservation of the inhabitants and trade of the place, and that the sloop was searched by the Lieutenant of the *Winchilsea*. The Governor replies that it was proved that the sloop remained at St. Lucia from 4 May till 7 Sept., while the mate sailed several times to Martinique under French colours and exchanged his cargo for French goods. The Duke of Montagu's colony had left St. Lucia on 15 Jan.—more than three months before the sloop arrived. (7) That several other ships took in goods at the same time at St. Lucia; Hope replies, that if any such come to Barbados, they will be prosecuted in the same way. (8) A correct account of the condemnation of the sloop.

(9) That a letter from the Governor to the Judges was read in Court directing them to condemn the sloop.—“ This paragraph is such an inhuman invention that it calls loudly for justice from your royal hand and for vengeance from that of the Almighty ! . . . But I return thanks to God, who has indued me, at least, with more understanding than my stupid accuser ; for such an order or letter as I am taxed with, is so inconsistent with common sense, and by the nature of things so diametrically opposite in its intention to the inevitable effect it must have produced, that I am convinced, this absurd notion never entered into the mind of any other man but that of Samuel Eveleigh.” Even the proctors for defending the sloop signed a declaration of the Governor’s innocence of this charge. (10) That ship and cargo were appraised at less than half their real value and sold for much more than that valuation.—The behaviour of the appraisers does not concern the Governor ; the parties entitled to condemned goods take their thirds in specie over all the plantations : if appraised low, the goods are generally repurchased by the former owners. (11) That the Governor then sent the sloop to Honduras Bay on his account.—Admitted. The Governor has no instruction that forbids him to trade, and any Governor of Bermuda who does not, must both be ruined and starved. (12) That the master of the sloop remains destitute of means to leave Bermuda.—“ If James Wall had made his necessity known to me, I should have relieved him, as I did the rest of the crew.” (13) Objects to the mode of constituting the Court (by commission from the Governor, who is interested in the forfeitures) and declares that the ship had not acted in breach of any law in being.—The Governor’s instructions require the consent of the Council to the appointment of any judges. The Act of 7 and 8 William III makes ships in the plantations subject to the same rules, searches &c. which vessels and their ladings are subject to in England. (14) That the Governor and Judges dispute his Majesty’s title to part of his dominions.—“ If this affair

1725. § 330 *cont.*]

is examined, Samuel Eveleigh will be found, not only to have resolved firmly to remember nothing, but it will appear he is abandoned by human understanding: for the English colony was forced from St. Lucia several months before the arrival of Samuel Eveleigh's sloop." He did not, then, trade with the English planters there. "I hope there is no more harm in saying that it is a maroon uninhabited island . . . than there is in saying that there are a great many of your subjects who have been and still are pirates. It is known to all the world, that the abandoned traders of all nations do there meet on purpose to trade with the pirates." (Special mention is made of the case of B. Norton of Rhode Island, *cf. pp.* 135-6.) "When these wretches want to careen their ships, the convenience of that harbour and the assistance they receive from these accessories to piracy does there particularly invite them. When any gang of them wants to recruit, this is the place where their new forces join them. When they want to disband, this is the most convenient place in the West Indies for that purpose: for from thence a large crew can dissipate soon, by being carried off one or two at a time by any vessel, who easily and undistinguished lands them in one government or other." (15) There was no design to break bulk at Bermuda, and there has been no breach of the Acts of Trade.—

• "Are not pirates and smugglers prosecutable everywhere?" (16) "This last paragraph and the long prayer of the petitioner is one and the same thing repeated over and over again, in a very incoherent, disorderly and distracted manner."

The Governor submits whether he has done his duty, and asks that the petition and answer may be printed, "that all who knew me in the Duke of Marlborough's war and in your Majesty's army, may still be convinced of the uprightness of my intentions as they are of my fidelity to your Majesty."

1 June. ——. Order referring to the Committee, (I) Hope's answer to Eveleigh's petition, similar to the answer to the 16 Articles, and (II) the answer of W. Outerbridge and H. Tucker, the judges, (15 Feb.) denying that the Governor had

§ 330 *cont.*]

1725.

written to them to condemn the sloop: they could have given no other sentence, and the proceedings were all according to precedent. The Court has always been styled "High Court."

[331.] ST. CHRISTOPHER. *Dispute of Cunningham and Spooner about land.* Committee report. 25 March.

III. pp.

113-5.

[332.] COUNCILS. *New York.* B. of T. representation for P. Livingstone. 16 Ap.

III. Ap. II.

———. *Barbados.* B. of T. representation for R. Weeks and A. Alleyne. 29 Ap.

———. *St. Christopher.* B. of T. representation for C. Pym. 11 Nov.

[333.] PENNSYLVANIA. *Condemnation of the ship FAME.* 8 May. Customs report, with (a) an abstract of the facts, as represented by Keith; (b) the same, as represented by Moore; (c) an estimate of the value of the ship and prohibited goods, made for the Customs by Maurice Birchfield on 12 March (=6,138*l.* 10*s.* 10*d.*).

The evidence of sailors who were on board the *Fame* was produced by Moore's son-in-law, Peter Evans, and showed that the ship was seized by the waiter, Hugh Hughes, by Moore's orders, before she was carried down the river. By the affidavits of Nicholas Fleatham and Charles Starkey, it appears that the witnesses who could prove Moore's prior seizure were, during Keith's proceedings, frequently assaulted by the crew and others, so that they had to be sent out of the way. In Keith's information the ship and goods were valued at 2,600*l.*, yet they were sold for 824*l.* 2*s.* 5*d.* currency.

The Attorney General had reported that Moore's seizure was not invalidated by Keith's proceedings, and that the Court of Common Pleas was not a proper Court for the trial. The condemnation is not certainly void, but may be reversed upon an appeal. The Customs recommend that justice may be done as the Attorney General advised—*i.e.*, that an information be brought by way of *Devenerunt* against those who seized

1725. § 333 *cont.*]

the ship after it had been seized by Moore, or an English information in the Court of Exchequer in the name of the Attorney General for the King and at the relation of the Collector; but, if the Governor and others continue beyond sea, that a petition must be preferred to his Majesty in Council.

(a) A letter of 26 Nov. from Patrick Baird adds to Keith's account that the captain of the *Fame* had used his crew very ill, and 14 of them gave information to the Collector, and that "most of the masters of vessels and sailors" cut the ship loose and let her drive with the tide till she anchored five miles below Philadelphia, and landed various goods with the privity of the waiter.

(b) From Moore's letter of 31 Oct. it appears that the prohibited goods were secreted under a parcel of lumber and necessaries for 150 Palatine passengers. The ship and most of the cargo, he is told, belongs to Mr. Pollins [? Pillans,] of Amsterdam, though the Register takes no notice of him; the managers on board were Messrs. Carcar and Robert Alexander. Enclosed in the letter were copies of the information of two quartermasters about the goods imported from Rotterdam, and of 14 sailors about the removal of the ship down the river. In a letter of 12 Nov. from Moore there is enclosed the depositions of C. Starkey, boatswain of the *Fame*, and of seven others, showing that Moore did seize the ships, that the waiters he put on board attempted to do their duty, but were threatened with violence, and that it was proposed to carry the ship to sea, whereon seven of the crew left her. Moore's letter of 24-8 Sept. adds that he employed boats and twenty hands to search on both sides of the river, and found a quantity of wine, brandy &c. hid underground. The doors of the store where he deposited the goods were, after the trial, broken open and the goods taken away by order of the sheriff. A postscript complains of nightly riots and assaults on the witnesses and their lodgings. He sent his son-in-law, P. Evans, to lay his case before the Commissioners of the Customs. Moore's letter of 16 Dec.

§ 333 *cont.*]

1725.

intimated that 221*l.* 0*s.* 8½*d.* currency had been paid him the previous night as the King's third of the seizure (after 161*l.* 0*s.* 4*d.* had been deducted from the proceeds of the sale for expenses). Three affidavits of the quartermaster, the boatswain and one of the mariners of the *Fame*, taken in London on 11 Feb. (with a supplement in one case of 15 Feb.) 1725, show that the witnesses were assaulted by a mob and had to be sent to New Jersey or New York, and that the Governor took no steps to secure or prosecute the rioters. Two of the witnesses allege that six or seven large hampers of European wines were delivered to Sir W. Keith three or four days after the arrival of the ship and before she was seized.

(c) If the master had been sued for double the value of the goods and these valued according to a moderate estimate, Mr. Birchfield maintains that the King's share would have been 3,073*l.* 17*s.* 9¼*d.* instead of only 157*l.* 1*s.* 6*d.* *stg.*

———. Letter from the Treasury transmitting papers, 21 July. as the Attorney General has reported that, since the parties continue beyond sea, they must each exhibit petitions of complaint before the Privy Council.

The papers enclosed include, besides those already summarised, a petition of Col. Spotswood on behalf of Keith, complaining that the Commissioners of the Customs would not permit him to attend their *ex parte* investigation in Keith's interests, and asserting that Birchfield, whose opinion was taken, had been always at utter variance with Keith. He claims a fair hearing for the Governor, who, he says, charges Moore "with concurring with some other disaffected persons to invite over to the Church of Philadelphia the famous Dr. Welton and to support him there in that benefice, in opposition to the Governor's positive commands, notwithstanding the said Doctor audaciously refuses to pray for the King and Royal Family: insomuch that your memorialist when lately at Philadelphia, as well as all others who profess their affection to King George, could not with decency frequent the Church service there."



148 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1725. § 333 *cont.*]

Read ———. Another petition of Spotswood that, as a new  
20 Nov. and extraordinary charge has been made by Moore, the  
hearing be deferred till the Governor can have a reasonable  
time to send instructions for his defence.

4 May. [334.] MURDERS ON THE GUINEA COAST. Admiralty  
III. *pp.* memorial : with Order of reference to a Committee (15 May)  
116-7. and information of Benjamin Bush of Bristol, surgeon  
(17 Dec. 1724). The occasion of beating the men was the  
breaking of a jar of palm oil of about 6s. value.

15 May. [335.] BARBADOS. *Complaint against E. Sutton.* Petition  
III. *pp.* of R. Hales and T. Hodges ; and Order of reference to the Com-  
117-8. mittee ; also an Order of 20 July for an inquiry by the Governor :  
with an affidavit of J. Young, 27 May, vouching for the following  
papers—(1) a record of proceedings at Pilgrim, 2 June 1724 ;  
(2) a letter of 23 Ap. 1724 from Sutton to T. De Witt ; (3) a  
deposition of J. Geraughty, 25 Ap. 1724 ; (4) a state of Young's  
case authenticated by J. Blenman, 7 Nov. 1724 ; and (5)  
another state, of 27 March, 1725, authenticated by T. Baxter,  
his counsel.

(1) *Present*—the Governor, four Councillors, the Speaker  
of the Assembly, the Treasurer, the Master in Chancery and  
the Provost Marshall. The Governor submitted a narrative  
of discourses between Sutton and Richard Lightfoot, who  
had alleged that the Governor was instigating Young to  
swear against him. A deposition of Young's of 9 Dec. 1723  
was also read, and the Governor declared that, while he  
had never made any step for turning Sutton out of the Council,  
Mr. Hammond (the attorney for Hales and Hodges) had  
only done his duty in endeavouring to give all the light he  
could upon the management of Col. Hallett's affairs since  
his death. If the will were not produced, he declared he would  
turn Sutton out of the Council.

(2 and 3) De Witt was a prisoner in the gaol, as was  
Geraughty. Sutton's letter promised De Witt a hogshead of  
sugar. Geraughty often had discourse with De Witt about  
a prosecution Sutton was to bring against Young.

(4 and 5) Young was for many years Col. Hallett's town agent ; and, on his death in 1716, was so continued by Sutton, one of the executors, till they quarrelled about a year ago. Sutton accused Young of breaking into Hallett's house on the night of his death, and taking several things of value. Young was acquitted with honour, yet Sutton made another attempt to stop him from coming off the island by an accusation that he had hired ruffians to murder him. Sutton and Young had been intimate for seven years, until Sutton was sued for a debt by Young and also became afraid that Young would be an evidence against him in a suit brought by Hallett's heirs for an account of the estate.

[336.] NEW YORK. *Indian Trade*. B. of T. representation, 16 June. and Order of reference to Committee, 20 July : with a printed III. p. 68. supplement of 24 pages, comprising (a) a map of the country of the Five Nations belonging to the province of New York and of the Lakes near which the Nations of Far Indians live with part of Canada taken from the map of the Louisiane done by Mr. De Lisle in 1718.—Ten miles to the inch. "N.B. The Tuscaroras are now reckoned a Sixth Nation, and live between the Onondages and Oneidos, and the Necariages of Misilimakinac were received to be the seventh nation at Albany, May 30th 1723, at their own desire, 80 men of that nation being present besides women and children. The chief trade with the Far Indians is at the Onondages river mouth, where they must all pass to go towards Canada." (b) Petition of S. Baker, S. Storke and other London merchants trading to New York, against an Act of Nov. 1720. (c) Order of 30 Ap. 1724, referring the petition to the B. of T. (d) B. of T. minute of 7 July 1724—Mr. Sharp's argument for the petitioners. (e) B. of T. report of 14 July 1724. (f) Report of a Committee of the New York Council, 6 Nov. 1724. (g) A memorial of C. Colden, Surveyor General of New York, to Gov. Burnet, 10 Nov. 1724. (h) Another petition from the London merchants.

(b) The Act complained of prohibited for three years all

1725. § 336 *cont.*]

trade between the people of New York and the French of Canada or any French subjects. The Act has not been confirmed or disallowed, and is now about to be revived. "Besides the nations of Indians that are in the English interest, there are very many nations of Indians who are, at present, in the interest of the French, and who lie between New York and the nations of Indians in the English interest; and this Act prohibiting all trade between New York and the French of Canada, or any of the subjects of France, the French and their Indians would not permit the English Indians to pass over by their forts, so as to carry on a free trade with New York, but prevented their passages, as much as possible, whereby that most considerable and only valuable branch of trade from New York, hath, ever since the passing the said Act, very much lessened . . and all the Indian goods have, by this Act, been raised in their price 25*l.* to 30*l. per cent.*" There are 20 signatures.

(d) Mr. Sharp said that the Five Nations "were two or three hundred leagues distant from Albany, and that they could not come to trade with the English but by going down the river St. Lawrence, and from thence through a lake, which brought them within eighteen leagues of Albany. And that the French having made settlements along the said river, it would be in their power, whenever they pleased, to cut off that communication."

(e) Gov. Burnet having reported that, since the passing of the Act, some of the far Indians had come 1,000 miles to trade at Albany, and that the traders there "began to be sensible of their error in sharing a trade with the French, which they now perceive they can keep wholly to themselves," the Board recommended that copies of the merchants' memorial and objections to the Bill be sent to the Governor, and no directions given till his answer be received.

(f) The Committee of the New York Council correct the geography of the merchants. "There are NO nations of Indians between New York and the nations of Indians in the English interest." The Mohawks are only 40 miles

§ 336 *cont.*]

1725.

from Albany and English farms extend 30 miles further West; the Senecas, the furthest of all these nations, are not above 240 miles from Albany. Goods are carried by water all the way (save three to five miles between the Mohawk river and Wood Creek) without going near the St. Lawrence; the merchants' account of the route "is to the same purpose as if they should say, That one cannot go from London to Bristol but by way of Edinburgh." On the contrary, the Senecas between Lakes Erie and Ontario lie in the way of French trade with the Western Indians, who have also to pass "our trading-place upon the Cataraqui Lake, at the mouth of the Onondaga river"—[Oswego], the south shore of the lake being a nearer and safer way than the northern shore, where the French have settled at Fort Frontenac [Kingston].

The Committee maintain that the rise in the price of furs must be due to increased demand in Britain, as the supply from New York has increased each year since the passing of the Act.

The principal goods proper for the Indian markets are woollens (especially strouds) and rum, which the French must obtain in England and carry through the dangerous Gulf of St. Lawrence; thus, strouds, which sell at 10*l.* at Albany, were 13*l.* 2*s.* 6*d.* at Montreal before the Act and are now over 25*l.* The supplying of the French with these commodities has been opposed by the Five Nations in all their treaties with this government, as "the building the French forts with English strouds."

The alleged ill effects of the Act being disproved, the Committee set forth its good effects.—(1) It has induced English traders to travel into the Indian countries to trade—over 40 have gone as far as the Lakes and succeeded so well that greater numbers are resolved to follow their example. (2) "This Government has built a public trading-house upon Cataraqui Lake at Irondequat in the Sennekas land, and another is to be built next spring, at the mouth of the Onondagas river." (3) Several tribes of Indians have come

1725. § 336 *cont.*]

to Albany in 1723 and 1724—from the neighbourhood of Michillimakinac, of Detroit, and the Miamis—to open up trade with the English. (4) The export of beaver and the import of woollens &c. have greatly increased. (5) The strategical advantage of having the Western Indians friendly is of great importance: the feeling of security has increased so much on the frontier that our settlements are now extended above 30 miles further west than before the passing of the Act.

The motive of the London traders who supply the French through factors in New York is obviously their own immediate gain: the merchants' policy is that of the Dutchman who defended his commerce with the Spaniards in 1638—"he was very free to own, that if to get anything by trade it were necessary to pass through Hell, he would venture to burn his sails."

The Committee proposed that the petition and the answer be printed to expose the whole "to the examination of everyone in this place, where the truth of the matters of fact is best known."

(g) In view of the French design (indicated *e.g.* by a map published by the King's Geographer) of extending New France from the St. Lawrence to the Mississippi and cutting the British settlements off from the interior of the continent, Colden had examined the advantages of the French and English colonies respectively in carrying on the Indian trade. He found that New York traders had so far the advantage over Canadian in the first buying of their goods for exchange and in the safe, speedy and cheap transportation of them from Britain to the Lakes, that they could sell at half the price the people of Canada could. He explains the neglect of the trade in former times to the hostility between the Iroquois and the Western Indians, and to the wars of William III and of Marlborough. The Five Nations were then won over by the French and began the clandestine trade from Albany to Montreal, acting also as spies. "Our merchants were

fond of the Canada trade, because they sold large quantities of goods without any trouble, the French taking them from their doors, whereas the trade with the Indians is carried on with a great deal of toil and trouble ; and as to the interest of the country, they either never thought anything about it, or if they did, had no regard to it." By the peace now existing, the difficulties in the way of a trade with the Western Indians on the Lakes have been removed. The English colonies have a further advantage by the fur-trade of Canada being restrained to one company, which has a monopoly of the importation of beaver : they have to pay duties and therefore pay their Indian traders only half what the English do. British trade would benefit further by extending our frontiers as far as the Lakes, as the country on the Mohawk river is full of the largest pines for masts and is also suitable for raising of hemp.

*The B. of T. report of 16 June 1725* shows that the merchants admitted some mistakes in their geography, but attempted to find arguments in the exports and imports and especially in the rise in the price of beaver. The total exports and imports are given for the three years before and for the three years after the Act was passed. Exports from New York rose (to the nearest pound) from 156,720*l.* to 163,517*l.* for the three-year period, while the value of furs imported from New York fell from 25,330*l.* to 22,538*l.* The merchants held that the diminution in the trade was greater than these figures indicated, since (1) before 1722, beaver was not an enumerated commodity and some was exported directly to foreign countries ; and (2) the price had risen in England as well as in New York. The Board, however, were not convinced and held that there was a tendency to increase again, and that "no just conclusion can be drawn from an accidental diminution in the infancy of a trade so lately put in a new channel." Ex-Gov. Hunter strongly supported the Acts as necessary for attaching the Indians to the English. Yet, as the Acts are liable to

1725. § 336 *cont.*]

great objections—an oath imposed on all traders, fine and imprisonment for refusing it, execution in the hands of a sergeant, corporal or common soldier,—the Governor should be instructed to repeal them by a new Act giving proper encouragement to this new channel of trade.

(h) *The merchants' second petition*, also referred to the Committee on 20 July 1725, complains of the printing of the papers by Gov. Burnet, and repeats that if the Acts be suffered to be continued "at least the trade of New York is undone, if the whole interest in America be not fatally affected thereby." They pray that the Acts be repealed; that, before the Governor be directed to pass another of like tendency, they be heard on the advantages of an open trade; that he be instructed not to pass any such Act for the future; and that forfeitures already exacted under the Acts be repaid.

Received [337.] MARYLAND. *Case of J. Forward, contractor for*  
29 Oct. *transporting felons*. Two copies of Forward's petition, one  
II. *pp.* fuller than the other: and Order of reference to Committee,  
781-5. 4 Nov.

Referred [338.] SOUTH CAROLINA. *Complaints against Gov. Nicholson*.  
4 Nov. Petition of merchants and planters (30 signatures). (1) He  
III. *p.* 82. has evaded an Order for the repeal of two Acts of 1721 and  
1722 for paper currency to the amount of 57,246*l.*, by main-  
taining it as part of the general recoinage of all the paper  
money, confounding therein the security upon which the  
old bills were established. (2) He has presided in the ordinary  
lawcourts, overawed judges and juries, and prevented several  
lawyers from practising. (3) He has prescribed who should  
be elected to the Assembly for Charleston, published reflections  
on some of the candidates by beat of drum while the poll was  
being taken, and threatened to remove the Assembly and  
the lawcourts from Charleston unless his creatures were  
chosen. (4) He caused the former petition of the British  
merchants against him to be proclaimed by beat of drum,  
in order to raise a clamour against them and "veil

over his male-administration with a cloud of addresses" in favour of himself. (5) He has intercepted letters, forced persons to discover on oath what passed in private conversation, and made use of apprentices and servants to betray their masters. (6) He has shown manifest hatred to the Dissenters (a considerable part of the inhabitants), and terrified the French Protestants by pretending they were on no footing in the colony, although their ancestors were the first planters of the province, and they have always been distinguished for their zeal and loyalty. (7) He has refused freedom of debate to the Council, and in his Majesty's name forbidden keeping company with some of them, although gentlemen of the best figure and education in the province and most zealously affected to his Majesty and the happy Succession.

[339.] ANTIGUA. *J. Vernon's Act confirmed.* B. of T. 4 Nov. representation. III. p.123.

[340.] BARBADOS. *Council.* B. of T. representation for 11 Nov. restoring F. Bond on the first vacancy. He had been III. p.824. suspended for his share in the whipping of B. Cook, but Cook acknowledged that Bond had been the most favourable to him of any person then upon the Bench. Other testimony was also produced in favour of Bond as a person of great integrity and substance, well-beloved in his country.

[341.] BARBADOS. *Council.* Petition of Major Jos. Mason 25 Nov. for the appointment of G. Lillington *vice* Col. Blackman. III. p.123. Lillington's father had been President of the Council, had educated his son at Oxford and the Temple, and had left him a plentiful fortune. Lillington himself has served with credit as Judge of the Grand Sessions. Since he came to England he has had but an ill state of health, and he intends to return to Barbados in the spring.



1726.

1726.

Received [342.] PENNSYLVANIA. *Condemnation of the ship FAME.*  
 22 Jan. Petition of Sir W. Keith; his observations on Moore's petition,  
 III. pp. and on the Customs report (dated 25 Nov.); and a number  
 120-1. of affidavits &c.

*The Petition* complains of the hearing by the Commissioners of the Customs as "an *ex parte* examination of two or three most scandalous evidences before a non-competent judicature, who denied Col. Spotswood the liberty of access to them . . on your petitioner's behalf." He asks an impartial and favourable hearing before the Privy Council for his agents, Col. Alex. Spotswood and Thomas Beake.

*The "Observations" on Moore's petition* cover the whole ground, denying Moore's allegations and emphasising his original neglect as the cause of all the trouble. The paper ends with a counter-charge that Moore "has been in almost a constant practice of cheating the Crown for these twenty years by past, and particularly in making of many foreign and home seizures which he has afterwards taken off and discharged by clandestinely compounding with the parties without the judicial trial, verdict or order of any court; 2nd, by his premeditated roguery in procuring himself in Col. Quarry's time to be made Deputy and Acting Judge of the Court of Admiralty, whereby many records and proceedings of the said court were defaced, lost or mislaid, so that only a small and later part of the said John Moore's rogueries can now be proved by witnesses who still remain alive."

*The "Observations" on the Customs report* repeat that Moore could not have seized the ship, as on 30 Oct. he attended the discharge of goods without any examination, and on that evening the vessel was carried off from the wharf. If a seizure had been made, the goods could not have been unloaded without an order of some Court. Again, it had been alleged that Moore's witnesses had vainly complained of mob-violence to the Governor in Council without redress; Keith sent home the original paper, but he and the Council "were every one truly at a loss to understand what was the

meaning and intent of such a paper or what order could be made upon such exquisite and inimitable nonsense." He also sent home an attested copy of the Mayor's warrant to take up the rioters and the record of the court that punished the offenders. The report of the Attorney General in favour of Moore's contentions was founded on a private and partial state of the case. The Customs report had admitted that the master had declared at Dover that he had some goods on board for Honduras Bay, which did not require to be entered in Britain ; on the seizure in Philadelphia these were not saleable for the prime cost, and must have been designed for another market ; the owner's intention was that they should be reported without being entered at Philadelphia just as at Dover ; the seizure may be due to a mistake or breach of orders by a stupid master. " It is not less necessary to avoid discouraging the design of a fair trader in America where there is little or no duties and from whence we chiefly bring bullion home, than it is to punish with the severest penalties a fraudulent one."

*Affidavits*—(1) Of R. Rennald, to prove an *alibi* for T. Lawrence, alleged to have been among the rioters.

(2) Of R. Asheton, alleging the informer's drunkenness as the reason for his refusing to admit him to make an affidavit about the prohibited goods on the *Fame* : the affidavit was later made before Mr. Read.

(3) Of Patrick Baird, who filed the information by Keith's orders, giving an account of all the proceedings.

(4) Of T. Graeme, Naval Officer at Philadelphia, about the collector's inaction while the vessel was taken down the river and the contraband goods discharged.

(5) Of T. Sober, about Keith's examination of H. Hughes, the waiter on the *Fame*, who declared that only some wine and brandy had been seized, and that Moore had forbidden him to seize the ship.

1726. § 342 *cont.*]

(6) Of T. Sober, about Keith's purchase of some wines from Capt. Lea of the *Fame*, Sober acting as arbiter to fix the price.

(7) Of T. Lawrence, Justice of the Peace, giving an account of an affidavit made by Hughes before him.

(8) Of T. Lawrence, about the unloading of the *Fame* at the wharf on 30 Oct. 1724.

(9) Of T. Lawrence, that he was not on the *Fame* when she was carried off nor privy to the design.

(10) Of Lawrence's wife, that he was not out of his room on the night of 30 Oct. 1724.

(11) Of the Mayor and five other citizens of Philadelphia, testifying to Lawrence's good character.

All of these authenticated by the Mayor, 27 Nov. 1725.

(12) Of Henry Brooke, collector at Lewes upon Delaware, confirming Keith's proposal to Moore to admit the Governor's seizure of the *Fame* on receiving a third of the forfeiture—authenticated by W. Till, Justice of the Peace, 20 Nov. 1725.

*Copy of proceedings against W. Cable and J. Kennedy, two of the rioters*, 5 Jan. 1725 : and of a warrant of 25 Nov. 1725 for arresting W. Crookshanks, J. Waterman, W. Greeves, Cable and Kennedy. Cable was fined 3s. 4d. and Kennedy 6s. 8d., and Cable lay in prison a considerable time after judgment, not being of ability to pay the fine and charge.

*The petition of N. Fleatham*, delivered to the Governor and Council by Moore on 12 Nov. 1724. Says nothing whatever about being assaulted. Mainly a series of rhetorical questions about contraband trade as carried on by the *Fame*. Pillans, the chief owner, "is not [only] a bankrupt but a fugitive from Britain, and many poor families suffers want of bread when he with their wants supplies himself with varieties of wine. Now, as he has carried away many thousand pounds of other men's moneys, it ought not to be allowed that this money should be employed to further destruction." The prayer of the petition reads,—“I humbly beg this memorial

§ 342 *cont.*]

1726.

may have the good effects of its design, which is to assure you of the sole aim of assuring our loyalty and dutiful allegiance more than personal profit. To which I humbly refer myself not doubting that your wisdom and goodness will esteem me to be as in duty bound " &c.

Keith's answer to Moore's petition. Received 7 June. 6 Ap.  
Contains nothing new.

[343.] ST. CHRISTOPHER. *Grants of Land*. B. of T. 25 Feb.  
representation on dispute between J. Brown and J. Burnet; III. pp.  
and Committee report of 29 March. 111-2.

[344.] RHODE ISLAND AND CONNECTICUT. *Boundaries*. Received  
Answer of Richard Partridge, agent for Rhode Island, to 29 March  
the objections of Jeremiah Dummer, agent for Connecticut. III. p. 11.  
(1) Insistence on a prior grant to Connecticut is barred by  
previous agreements on the part of Connecticut to accept  
a determination according to the true boundaries of the  
Rhode Island charter. (2) A power of transferring juris-  
diction from one colony to another is not asserted: the two  
colonies have left it to the Crown to preserve the jurisdiction  
of each. (3) The Rhode Island agent considers the opinion  
of the B. of T. unquestionably right that the instrument given  
to the Connecticut commissioners by the Assembly in 1702  
not merely referred to, but confirmed, the agreement between  
the agents at London in 1663. (4) The Rhode Island Com-  
missioners were, like those of Connecticut, fully empowered  
to make the agreement of 20 May 1703. (5) The award of  
E. Cranfield and others in 1683 was made upon a commission  
obtained by surprise to serve the private ends of some people  
in Massachusetts who had obtained a grant of lands from  
Indians in Providence Plantation contrary to a law of Rhode  
Island. These Commissioners would not exhibit their  
authority to the Rhode Islanders, who consequently refused  
to maintain their right before them, and their report was  
made *ex parte*. (6) An opinion of Att. Gen. Trevor in favour

160 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1726. § 344 *cont.*]

of Connecticut was given on a case not authoritatively stated, and was not accepted by Rhode Island.

15 Ap. [345.] PENNSYLVANIA. *Trade instructions on appointment*  
III. p.124. of *Deputy-Gov. P. Gordon*. B. of T. representation.

Received [346.] BERMUDA. *Suspension of G. Tucker, Secretary and*  
2 May. *Provost Marshal*. His petition. In 1722 he appointed his  
III. p. 86. sons Richard and John to act as his deputies. In Ap. 1725  
Gov. Hope suddenly summoned him to St. George's, told  
him that Richard had behaved like a villain, and required  
him to execute the offices personally. He continued thus  
to oppress and exhaust him in spite of his indisposition.  
Accusations relating to his stay of an irregular execution  
against one Nairn and to the appraisement of Thomas Wood's  
estate were brought against him by Robert Dinwiddie, the  
collector of Customs and an intimate friend of the Governor;  
the Council dismissed the case, but on its rising the Governor  
sent his footman to summon Tucker before him and pro-  
nounced sentence against him. On another occasion the  
Governor struck him, in order to provoke him to retaliate  
and so find a pretext for suspending him. The Governor  
also debarred Tucker from receiving payment of several  
fees. A certificate in favour of the Tuckers being drawn up,  
the Governor examined singly and committed to the fort,  
prison or castle those whom he suspected to have the inten-  
tion of signing it. In Aug. John Chaplain was appointed  
Deputy with the Governor's approbation. In Oct. he was  
ejected and papers were removed from the office; Tucker  
was suspended, and one Samuel Smith, a person entirely  
unqualified and ignorant of such business, put into the offices  
by the Governor.

31 May. [347.] BARBADOS. *Hamilton v. Sutton and Jenkins*.  
III. p.126. Petition of D. Hamilton, and Order of reference to Committee.  
John Sutton left a widow Margaret, a son Edmund and a  
daughter Anna. Margaret died in 1714, leaving another

§ 347 *cont.*]

1726.

daughter, Mary Jenkins. Anna married Claudius Hamilton; both died, leaving a daughter Margaret, who is also dead. Claudius' brother Daniel assigned his interest to the petitioner's father, Sir David Hamilton. Two of Claudius' executors, John Anderson and Thomas Gordon, are also named in the Order.

[348.] JAMAICA. *Revenue Act*. Report of Att. Gen. Yorke and Sol. Gen. Talbot on the draft of an Act proposed to be passed in Jamaica: with (a) a draft of the Act (27 pp.); (b) an estimate of the present revenue and expenditure of the government of Jamaica; (c) B. of T. report of 4 May; and (d) Committee order referring it to the law officers. 20 June. III. pp. 74-5.

The report of the Attorney and Solicitor General proposes a number of verbal changes. The only change discussed is the making it clearer for what the collector is to account—i.e. not for the 1,250*l.* for forts and fortifications only, but for the whole revenue.

The B. of T. added 2,000*l.*, the estimated expenditure for the maintenance of the two Independent Companies, and left a blank in the draft for the Duke of Portland to insert proper funds for the purpose, appropriating to it such branches of the revenue as have been raised by annual Acts for contingent expenses and have been found to answer the sum for which they were given.

*Estimate of the present branches of the revenue and heads of the present expenses chargeable thereon.*

CHARGES :—Governor, 2,500*l.* Forts and fortifications, 1,250*l.* Chief Justice, 120*l.* Attorney General, 400*l.* Officers and gunners at Fort Charles, 839*l.* 12*s.* 6*d.* Captain of the Train in Spanish Town, 45*l.* 12*s.* 6*d.* Clerk of the Council, 200*l.* Provost Marshal, 200*l.* Auditor General, 202*l.* 10*s.* Clerk of the Crown, 30*l.* Waiters, 120*l.* Register in Chancery (for issuing writs of election), 30*l.* Ordinary charges=public buildings, deputy marshals for prisoners and executing writs of election, Receiver-

1726. § 348 *cont.*]

General's commission, issuing Orders of Council and King's evidence &c.—on a seven years' average, 1,530*l.* Contingent charges, 532*l.* 12*s.* 6*d.* Additional subsistence for the Independent Companies, 2,000*l.*

Total, 10,000*l.* 7*s.* 6*d.*

REVENUE:—Impost (seven years' average), 2,966*l.* 2*s.* 1*d.* Quitrents, 1,460*l.* 14*s.* 3*d.* Fines, forfeitures and escheats, 487*l.* 13*s.* 3*d.* Wine licenses, 200*l.* Gunpowder, 257*l.* 2*s.* 11*d.* A new impost including indigo at 3*d.* per *lb.* and sugar at 1*s.* per *cwt.*, 3,000*l.* Other duties found sufficient by experience to produce 2,000*l.*

Total, 10,371*l.* 12*s.* 6*d.*

28 July. [349.] MASSACHUSETTS BAY AND NEW HAMPSHIRE. *Pay-*  
III. p.104. *ment of Gov. Shute's salary.* B. of T. representation. His Majesty should recommend in the most strenuous terms under his sign-manual that the Massachusetts Assembly pay the arrears at the rate usually allowed, and make provision of at least 1,000*l.* *sterling per annum* for the future. As it is doubtful whether they will pay ready obedience to the Order, Shute's expenses for his voyage may be allowed him, and "if the people of New England shall not comply with his Majesty's directions herein, we know no other method so effectual to reduce them to a compliance as to lay a state of that province before the Parliament." Less opposition was expected from New Hampshire, as more immediately depending upon his Majesty's pleasure.

28 July. [350.] REGULATION OF APPEALS. B. of T. representation  
III. pp. with instructions for colonial governors (including those  
126-7. of the charter and proprietary colonies) to suspend execution in case of appeals unless security be given by the appellee. Barbados and Massachusetts Bay are not included, as the purport of the instruction is provided for by a Barbados Act and by the Massachusetts charter,

1726.

[351.] ANTIGUA. *Carpenter v. Parry*. Petition of N. Carpenter, and Order of reference to Committee. The executors of S. Parry were his widow Elizabeth, Wm. Yeamans, Henry Lyons, Archibald Cockran, and Thomas Kerby. J. Parry claimed that Carpenter was indebted to Catherine Loyd, widow; he married Amy, one of her three daughters. John Buckeridge, collector of the  $4\frac{1}{2}$  per cent. duty, and Henrietta Symes, widow of another John Parry, are also mentioned in the petition. 9 Aug. III. pp. 132-3.

[352.] ANTIGUA. *Codrington v. Philips's executors*. Petition of Sir W. Codrington, and Order of reference. In spite of Codrington's opposition, N. Crump was allowed to sit as a member in determining the cause, as, though he was one of the executors, he was not at all interested therein. Crump then declared that he would act no longer as an executor. The case was decided by his casting vote, Valentine Morris dissenting and having the reasons of his dissent entered. 6 Sept. III. p.134.

[353.] CANADA. *Sir Hovenden Walker*. Admiralty report on his widow's petition. 8 Sept. III. pp. 33-4.

[354.] CONNECTICUT. Proclamation of Gov. Joseph Talcott for a day of public thanksgiving for "the smiles of Divine Providence on this government and the people thereof, in so plentifully crowning the current year with the fruits of God's bounty and goodness and with general health and peace; and in an especial manner, in continuing the life of our most gracious sovereign King George, under whom we enjoy our privileges so desirable unto us; and making his naval preparations so serviceable for the maintaining the peace of Christendom." 15 Oct.

[355.] VIRGINIA AND NORTH CAROLINA. *Boundary*. Order referring B. of T. representation to the Committee. 4 Nov. III. pp.

I. The B. of T. representation of 31 Aug. submitting proposals of the Governors, to which the proprietors of Carolina have but very lately assented. 135-7.

II. Copy of the proposals.



1726.

4 Nov. [356.] ANTIGUA. *Act confirmed.* Order referring to Committee a B. of T. representation of 8 Sept., with copy of the representation.

10 Nov. [357.] NEW HAMPSHIRE. *Boundaries with Massachusetts Bay and Maine.* B. of T. report on the petition of Mr. Newman, agent for New Hampshire, and Order of 29 Nov. referring it to the Committee. The General Court of Massachusetts Bay on 28 June appointed Commissioners to treat about the boundary, and the Board reserve an opinion till they have the Commissioners' report before them.

*Preservation of timber.*—"By virtue of strained constructions put upon the laws made here for the preservation of timber fit for the service of the Royal Navy, they do assume to themselves a right of cutting down the same within their townships, and do frequently lay out new townships for that end only." It is therefore recommended that the Governors be ordered to desist from laying out townships or making grants in the contested lands till the boundary be finally determined.

NOVA SCOTIA :—In view of the constant disputes with the Surveyor in these provinces, the waste of woods, especially in parts adjacent to water carriage, and the scarcity of trees fit for masting the Navy, Gov. Phillips of Nova Scotia was instructed to grant no lands there "till 200,000 acres of wood should have been set apart for the service of your royal Navy near the sea coast or navigable rivers, wherein no person whatsoever should be permitted to fell any trees without your Majesty's permission under the highest penalties.

"But as this has not yet been done . . the Surveyor General of the Woods, or in his absence your Majesty's Governor of that province, should be directed, without further loss of time, to set apart the said 200,000 acres of land, your Majesty's service being greatly concerned therein, as well for the preservation of the timber as for the peopling of that

province, which cannot be settled till the Governor shall be at liberty to grant lands there, under the restrictions and reservations in his instructions for that purpose.

“Nova Scotia is a very valuable province in many respects ; it is capable of producing naval stores of many kinds in great quantities ; and the best fishery in America is now on that coast, but your Majesty has at present no subjects settled there besides a part of Col. Phillips’ regiment and some few inhabitants, whom the advantage of the Canso fishery has drawn thither ; but the French have still near 3,000 people settled in the heart of this province, who, according to the Treaty of Utrecht, by which Nova Scotia was ceded by France to the Crown of Great Britain, ought long since either to have quitted the country or to have taken the oaths of allegiance to your Majesty, both which they have hitherto refused to do, and will in all probability continue to do so, till your Majesty’s subjects there shall be strong enough to compel them to it.”

[358.] BERMUDA. *Lieut.-Gov. Hope.* His answer to 19 Nov. S. Eveleigh’s second complaint. E. Jones had received on III. p. 86. 5 Oct. 1724 an Order of Council repealing the  $4\frac{1}{2}$  *per cent.* Act, but he did not signify it to the Lieutenant Governor till 8 Dec. Hope suspected a similar proceeding with the Order which he expected for answering Eveleigh’s complaint ; he therefore sent the Deputy Provost Marshal to order the master of Capt. Smith’s schooner to bring all his letters. The Deputy Provost Marshal produced them the next day at the Council ; Jones was sent for and ordered to open the packet suspected, which he refused to do. The Lieutenant Governor broke it open and found the Order along with papers reflecting on himself and directing Jones how to circumvent the Admiralty judges and blacken the Lieutenant Governor. All the other packets were given to Jones unopened and no others were ever stopped by the Lieutenant Governor. The opened packet was also directed to be returned to him

1726. § 358 *cont.*]

by an order of the Council, 3 Feb. 1725, but he declined to receive it, having received the originals, of which the contents of the packet were duplicates, on the same day as the packet was opened in Council.

Jones was committed to prison, not by the Lieutenant Governor but by a justice of the peace, for refusing to pay the  $4\frac{1}{2}$  *per cent.* duty on goods sold by him before 8 Dec., when the repeal was first signified. Jones ran away from the island without a ticket, by the connivance of the Deputy Secretary, Richard Tucker, who gave the skipper his seabrief without taking security in the Plantation Bond.

I. Affidavit of E. Jones, sworn before the Committee, 21 June 1726. About 18 Feb. 1722, when on a voyage to London in his own ship *Salamander*, he was stopped and imprisoned at St. George's for refusing to pay a duty of 5 *per cent.* for some merchandise which was consigned to him. Richard Jennings, the Collector of the duty, informed him that he had particular orders from Gov. Hope to issue out the warrant. The merchants who had consigned the goods warned Jones not to pay the duty, as the Act was not in force, "being passed conditionally (*vizt.*) in order to be presented to his Majesty for his allowance." Jones therefore refused to pay, unless he was compelled to; the duties were forced from him, but that constituted a discharge to him from the merchants.

About 29 Aug. 1723 Jones arrived at Bermuda in the *Salamander* with European and East India goods. The next day he delivered to the Governor an Order of 27 June 1723 under the seal of the Council Office, repealing the 5 *per cent.* Act. Hope asked from whom Jones had received the Order, and on being told it was from his father, the Governor returned it, saying, "Sir, I shall take no more notice of it than I would of a blank paper," and asserting that the Collector should do his duty; and that he would call the Assembly and pass another Act, and send home to see if they would

repeal that. Jones also delivered the Order to the Council, when Hope again questioned him and declared that he would not obey the Order. W. Outerbridge afterwards told Jones that he had protested against disobeying the Order. In Sept. another Act was passed laying an import duty of 4 *per cent.* (2 *per cent.* only on inhabitants). Richard Tucker refused to clear the *Salamander* until a permit had been received from the Collector of the 5 *per cent.* duty; the Captain, Wm. Bell, had therefore to pay the duty, as had John Bennet, Charles Hogg, and Patrick Macknight for merchandise sold by them after the repeal of the Act had been notified to Gov. Hope.

In Sept. 1724 Jones received a letter from several London merchants enclosing an Order of 4 July repealing the 4 *per cent.* and 2 *per cent.* Act. This he delivered to the Governor and Council about 8 Dec. On 4 Feb. 1725 Jones was imprisoned for refusing to give an account of all goods sold by him since the repeal of the Act; he then gave the account and paid the duty. Leonard White, the Collector, gave him a receipt for the money, but refused him a receipt for the account of sales. White declared that he acted under Gov. Hope's orders in demanding the duty, and that the Governor and Council had promised to protect him.

The *Salamander* was seized in Aug. last; it is now called the *Express*, and he believes Gov. Hope is the sole owner. When the *Salamander* was seized, Jones offered sixteen freeholders as securities in 10,000*l.*, to admit him to bail the ship and goods for a reasonable time that he might produce a cocket from the Custom House at London; but this was refused.

In March 1724 the *Salamander* was stopped for several days, on pretence of putting in execution an Act of 1698 for preventing the exportation of palmetto tops and brooms (or "platt," which is the chiefest manufacture and the principal support of the poor there); two months before, a ship belonging to Robert Dinwiddie, the present Collector,

1726. § 358 *cont.*]

had been cleared with several thousand pounds worth of "platt" on board.

The cargo of Eveleigh's ship *George and Elizabeth* was appraised much below its value. Jones would have purchased many of the sugars at double the appraised value, had they been put up to public sale.

Jones has several times received threatening messages from Hope :—he would break his neck ; he would ruin himself but he would ruin Jones. The Governor also in a speech to the Council charged him with high crimes and misdemeanours ; and had him imprisoned on 4 Feb. 1725 by a warrant of Leonard White. Jones paid the unjust demands on 6 Feb., and, on the advice of his friends, secretly left the island on the *Olive Branch*, commanded by David Burch. The ship went to South Carolina for a new mast ; but soon after she left that place the main boom broke, and it was thought best to return to Bermuda to ask leave to repair the damage, and to bring away an anchor and cable she had left behind. The Governor returned no answer to their request, and, as they feared that he intended to surprise them, they proceeded with great hazard of the ship and their lives to London, where they arrived in May.

The Governor sent several queries to the lawyers in the island, to get an opinion that Jones' departure was a piratical act. Jones had applied for a permit to leave the island in Jan. 1725. He dares not return to the island while Hope is Governor, and so proposes to settle in Virginia. Many merchants in the island complain of the hardships they endure, but are afraid to do so openly so long as Hope continues Governor.

Attached to the affidavit are, (a) Warrant for Jones's commitment, 18 Feb. 1723 ; (b) copy of Order of 27 June 1723, repealing the 5 *per cent.* Act ; (c) deposition of C. Hogg, about the exaction of the 5 *per cent.* duty from him after its repeal, and about Jones's escape from the island ; (d) deposition of J. Bennet, about the exaction of the 5 *per cent.* duty from him after its repeal, and about the refusal

§ 358 *cont.*]

1726.

of bail for the *Salamander*, by the Collector, John Aytoun ; (e) letter of 10 July 1724 from five London merchants, transmitting to Jones the Order repealing the 4 *per cent.* and 2 *per cent.* Act ; (f) warrant for Jones's commitment, 4 Feb. 1725 ; (g) receipt for his payment of the 4 *per cent.* and 2 *per cent.* duty, 6 Feb. 1725.

(h) Gov. Hope's speech to the Council, 2 Feb. 1725. "When Edward Jones delivered his Majesty's Order in Council for repealing the 4 and 2 *per cent.* Act he then declared upon oath that the only reason of his having concealed it so long was that his ship the *Salamander* was then under seizure and had not time, and that he had no other reason ; I wish to God he had spoke truth.

"For now the effects and his seditious behaviour do declare to the world that the reason of his keeping up of that Order was to confound and disturb the peace of this colony, and to render the Government thereof contemptible.

"He now declares openly that he will not pay any of that tax and that all the money collected by virtue of that Act is illegal and an oppression ; he has so insinuated his seditious principles by different ways into the different tempers that honest men and well-affected people do believe that the collection of that tax does cease from the date thereof, and he has the pleasure to see (that during the two months which he concealed it) that it is scarce possible to determine the levy for that time without laying a hardship upon particular persons.

"This is what is plain and apparent from the behaviour of almost all concerned, who under one pretence or other are resolved to stand a prosecution at law rather than pay it.

"This is the effects which that fellow's impudence and presumption in keeping up of his most sacred Majesty's Order has produced, and no great wonder considering the use he made of it while in his scandalous custody.

"Immediately upon his receipt of it, he published that it was arrived, but he believed (he said) the Governor was

1726. § 358 *cont.*]

keeping of it up for reasons of state ; and I was actually asked by several people if I had it."

The Governor had heard that an Order had been made for him to answer Eveleigh's complaint ; he is convinced that it has been kept up either by Jones or some of his vile confederates on purpose to serve their villainous designs. He has therefore ordered Jones to appear and open in the presence of the Council some letters directed to him, which arrived yesterday. For discovering the plots and intrigues carried on against the Government, and the barbarous aspersions lately published in print against Hope himself, it is absolutely necessary that the letter in which it is found be read before this Board.

Jones refused to open the letters in presence of the Council, and protested against its being done by any member of the Council ; " whereupon the Governor told the said Jones that if he did protest he would throw him over the stairs, and immediately with his own hands did open the packet he suspected, and found therein " (1) a duplicate of the Order of 22 Aug. with three copies, which were delivered to Major Tucker, Col. Outerbridge and Richard Tucker for their answer ; (2) Judge Trott's advice relating to Mr. Jones's queries ; (3) Samuel Eveleigh's letter to E. Jones ; (4) a paper dated at Bermuda, Jan. 1725 ; (5) instructions relating to Eveleigh's petition ; (6) copy of Eveleigh's affidavit ; (7) a letter to Capt. Jeremiah Burrows (unsealed).

The papers were ordered to be put under seal in order to be read to-morrow in Council.

(i) Answers of four judges to five queries by Gov. Hope, 1 March 1725. The forfeiture of the sloop's anchor and cable does not come under Admiralty jurisdiction and must be determined by the common law.

" As to Mr. Jones and Mr. Burch running away with the said sloop in the night-time we conceive it to be a fault, but cannot conclude it to be in a piratical manner, because we are informed that they had their clearings and let pass

ACTS OF THE PRIVY COUNCIL (COLONIAL). 171

§ 358 *cont.*]

1726-7.

and major part of owners on board, waiting only a permit to pass the fort, and if the fort suffered them to pass, they are obliged to answer it."

(j) Jones's demand for a permit to leave the island, 2 Jan. 1725 ; R. Tucker's reply, 5 Jan., inclosing a ticket not signed by the Governor ; " who ordered me not to send it him, for he would not sign it, but to deliver it to you unsigned ; and if you have a mind to get it signed to wait on his Excellency with it :—these papers attested in South Carolina on 22 Jan. 1725."

[359.] BERMUDA. *Council*. B. of T. representation for 24 Nov.  
J. Butterfield and F. Jones. III. p.826.

[360.] BARBADOS. *Gordon v. MacMahon* (attorney for 14 Dec.  
*Lowther*). Committee report. III. pp.  
138-9.

[361.] MARYLAND. *B. L. Calvert nominated Lieutenant 15 Dec.*  
*Governor*. B. of T. representation for approving the appoint- III. p.138.  
ment on the usual conditions.

1727.

1727.

[362.] ANTIGUA. *Hamilton v. Horne*. Committee report 20 Jan.  
for reviving the appeal against W. Nugent, administrator of III. p.111.  
Mrs. Horne's estate.

———. Hamilton's petition for a hearing, and Order of 2 Nov.  
reference to the Committee.

———. Petition of Horne and Nugent that the appeal 14 Dec.  
be dismissed, " in regard the matter in dispute is considerably  
under the value of 500*l.*, and that there is a want of proper  
parties thereto " ; and Order of reference to the Committee.  
Wm. Kennedy was also seized of other part of the lands  
charged with Mrs. Horne's annuity ; he is dead, and the  
appeal has not been revived against his representatives.

[363.] CONNECTICUT AND RHODE ISLAND. *Boundaries*. 20 Jan.  
Committee report. III. pp.  
11-16.



172 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1727.

20 Jan. [364.] BARBADOS. *Moore v. Ford and Barry*. Committee  
III. pp. report.

124-5.

2 Feb. [365.] BARBADOS. *Hamilton v. Sutton*. Committee report.

III. p.126.

Received [366.] NEW ENGLAND. *Petition of T. Coram*. (1) He

8 Feb. was employed in 1691-2 to detect frauds in the stated burden  
III. p.167. of ships hired as transports. (2) He then carried shipwrights  
&c. to New England, by his Majesty's permission, to promote  
shipbuilding there and so preserve British oak fit for the  
Navy. (3) He resided in New England ten years and carried  
merchandise thither to increase commerce. (4) Considering  
that naval stores could be constantly and cheaply produced in  
New England instead of being obtained in a precarious manner  
and at arbitrary rates from Sweden and Russia, he returned  
to England in 1704 and solicited strongly at his own expense  
the Act passed a few months later to encourage the making  
of tar and pitch in the plantations, which had the effect of  
reducing the price of supplies from the Baltic, and obtaining  
from the plantations more tar and pitch than were required,  
so that some was exported to other countries. (5) During  
the war, he commanded several ships in the mercantile navy.  
(6) In 1712 he built a large ship for the trade to Asia, but,  
on the *Peace*, he sold the ship, and promoted a settlement of  
disbanded soldiers and others under his own supervision  
to grow hemp &c. on a stretch of coast 180 miles long between  
New England and Nova Scotia. But the government of  
Massachusetts Bay claimed this territory, and the petitioner had  
to prove at his own great expense that the true title was in the  
Crown. (7) He also solicited and obtained an Act taking off a pro-  
hibition which had continued for 60 years against the importa-  
tion of fir masts &c. from Germany, which had the immediate  
effect of lowering the high price of these stores from Norway.  
"Your petitioner also strenuously endeavoured for many other  
things, tending to the advantage of the [Navy], and all at his  
own expense, but never reaped any advantage himself thereby."

1727.

8 Feb.

III. p.

139.

[367.] CONNECTICUT. *Complaint of J. Winthrop.* His petition, and Order of reference to the Committee. (A type-written copy of the petition is also in the bundle.) "As your petitioner saw the government there wholly vested in the hands of persons of levelling spirits and antimonarchical principles . . . your petitioner looked upon it as his particular duty as being the grandson and heir of the person who obtained the grace and bounty of this charter at your Majesty's royal predecessor's hands and which the said Company have so greatly abused, to come over to England in person to lay those grievances before your Majesty." There are 29 articles.

1st. "The Governor is never sworn according to the several Acts passed here extending to the plantations and requiring the same.

2nd. "The said Governor and Company have not taken themselves, nor do they administer to any of the inhabitants there, the oaths of allegiance and supremacy, nor have they made any provision in or by any of their laws for taking the said oaths.

3rd. "In the oaths of their military officers no obedience is sworn to the Crown.

4th. "All proclamations issue in this province in the name of the Governor only; the issuing of proclamations is apprehended to be only in the Crown.

5th. "All the commissions they grant, as well of the Peace as otherwise, run in their own names and not in that of the Crown, and they have passed an Act in their Assembly for granting Commissions of Sewers in their own names and no recognizances are taken *Domino Regi*.

6th. "They take no care to secure your Majesty's interest and that of your Majesty's subjects in those parts of your Majesty's dominions, but neglect to guard and fortify the most important harbour on all that sea coast, called New London port, and which is a key to all those your Majesty's dominions, and is most liable to a foreign invasion.

1727. § 367 *cont.*]

7th. "They have presumed, without any leave of the Crown or any power given them for that purpose by their charter, to pass Acts from time to time for the coining and emitting a sort of paper money stamped with their own impress and which they have coined and emitted accordingly, and which they force to pass as current coin for the sums mentioned in such bills and to be accepted in all payments at such price, though they are at above two-thirds discount, which is to the irretrievable damage of trade and detrimental of the inhabitants, and part of the penalties on counterfeiting such bills are a forfeiture of all the counterfeiter's estate to the colony and not to the Crown.

8th. "They never transmit their laws home for the approbation and sanction of the Crown.

9th. "They have made and passed several laws absolutely repugnant and directly contrary both to the common and statute laws of England, in violation of their charter and the liberties and privileges of the subject.

10th. "They have passed several Acts laying and imposing an impost or duty on the importation of liquors, and which duties are in some instances very excessive, particularly a duty of 15*l.* a hogshead upon rum, though of the produce of your Majesty's other plantations, and an excise duty thereon when imported (which duties are not raised by way of grant to the Crown), and which they force to be paid, and in default of such duties being paid they have enacted such liquors to be seized and forfeited, one moiety to the informer, the other moiety to the Treasurer of the colony, and that too without any appropriation, so that no part thereof comes to the Crown, all which is apprehended to be noways warranted by their charter and to be contrary to the several Acts passed in England relating to Trade and Navigation.

11th. "They have passed an Act intituled an Act concerning free trade, wherein they take upon them to give leave to merchants to bring their ships into the ports of Connecticut in order to trade, but before any of the cargo of such ships

can be offered to sale they oblige a duty of 12*s.* 6*d.* *per cent.* thereon *ad valorem* to be paid and to swear before a Justice of the Peace to the truth of her invoice under penalty of forfeiting the whole cargo, one-third to the informer, the other two-thirds to the Public Treasury, which duty is not raised by way of grant to the Crown nor any share of the forfeiture to go to the Crown. All which is humbly apprehended to be directly contrary to their charter and destructive to the trade and navigation of these kingdoms and directly contrary to the several Acts made now in relation thereto.

12th. "They have passed laws laying and imposing toll and other rates and imposts on the people there, which they enforce by empowering the Treasurer to issue out execution for the same in a summary way, and under which laws such rates &c. are levied on your Majesty's subjects there, though not free of their company, and which rates are not granted to the Crown, all which is apprehended to be noways warranted by their charter.

13th. "They have passed laws to prevent persons coming to and settling amongst them, and particularly have passed one law whereby a fine is laid on any inhabitant who shall sell an estate to a stranger, though such stranger was desirous to come and settle in the colony, and which is in such law mentioned to be done on purpose to prevent any strangers coming and settling amongst them, which is directly contrary to the words and intention of the charter, prejudicial to the interest of the Crown, and injurious to the true interest of the said colony, by preventing the increasing the strength and riches thereof.

14th. "The said Governor and Company have, on base and illegal pretence and contrary to the laws of God and the English nation, passed Acts to disseize the male issue from their right of succession to real estates of inheritance, by enacting that the female issue should be coheirs with the male issue and should inherit as such, directly contrary not only to the said charter but also an Act of the colony

1727. § 367 *cont.*]

passed soon after the said charter and never afterwards repealed, by which all lands in the said colony are declared to be held by the possessors, their heirs and assigns of your Majesty in common soccage as Lord of the fee, and also contrary to the common law of England.

15th. "They will not allow the common law of England to take place there, even when they have no particular law of their own.

16th. "The said Governor and Company have denied the subject there the benefit of Acts of Parliament passed in Great Britain which have particularly mentioned the plantation, particularly an Act intituled [title omitted—11 and 12 Wm. III given in margin]; the benefit whereof your petitioner demanded of them and was refused.

17th. "They have no law to make felony punishable with death, nor burglary until the third time of conviction.

18th. "The justices and members of all their Courts of Justice throughout the said colony are the leading members in their General Assembly, and bear the whole sway in all matters transacted there.

19th. "They assume to themselves Admiral jurisdiction by suffering their justices to try facts which are only cognizable by a Court of Admiralty, in opposition to a Court of Admiralty established in New England by commission from the Admiralty in Great Britain, and have passed Acts giving the Courts of the colony such a jurisdiction.

20th. "They have erected Courts called Special County Courts and Special Superior Courts, which are called and held at pleasure, contrary even to laws made by themselves, and that without any certain stated known times of meeting, and which was done as your petitioner humbly apprehends to vex, entangle and destroy the property of the subject, and to these special called Courts persons are surprized in actions of great consequence only at six days' notice (the action being brought and tried in that time), and all which particularly happened in several actions lately depending.

between your petitioner and Thomas Lechmere and his wife, your petitioner's sister."

Articles 21 to 27 refer to proceedings on Winthrop's action against his sister and her husband. *Cf. III. pp. 140-8.*

26th. "The Superior Court of this colony deny to grant appeals to your Majesty in Council, notwithstanding it was signified to them by her late Majesty that it was the inherent right of the Crown to receive, hear and determine appeals from all the plantations without exception, and they have not only denied granting such appeal but insisted their charter knew nothing of your Majesty in Council, and have dared the subject demanding such appeal to go and complain that they denied to allow such appeal to your Majesty, publicly bidding him to take evidence of their so doing as if they were an independent Commonwealth of their own and owed no allegiance to your Majesty, which they particularly did to your petitioner on his demanding an appeal from judgments lately given by them against your petitioner in favour of the said Lechmere and his wife.

27th. "That the said Governor and Company in General Assembly have also dismissed applications made to them for appeals from the judgment of the Superior Courts to your Majesty in Council and have treated the demanding the same as a contempt of their authority under their charter and have imprisoned and fined the subject for humbly insisting on such appeal and claiming the benefit of the Common Law of England and of Acts of Parliament passed in Great Britain expressly mentioning the plantations, and for humbly asserting the English liberties expressly granted them by their charter, and for leaving a caution against their proceedings in prejudice to the property of the subject against the said laws, all which was done by them in their last Sessions in relation to your petitioner as will appear on the Journals of the said Assembly.

28th. "Fines and penalties imposed by the Courts of the colony are by Acts of Assembly there given to such Courts to defray their charges.

178 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1727. § 367 *cont.*]

29th. "That the said Governor and Company have not *Jura Regalia* granted them by their charter, yet they pretend an absolute authority without any dependence on the Crown, and they alone of all your Majesty's dominions pay no acknowledgement nor own any service to the Crown."

18 Feb. ———. Committee report for a copy of the petition to be sent to the Governor for his answer.

19 Sept. ———. Gov. Talcott's answer to the 29 articles, with various papers authenticated by him. (The bundle also contains copies of these papers.)

(1) Denied. Record of the administering of the oaths to Gov. G. Saltonstall, 14 May 1724, enclosed.

(2) Record of the Governor, Deputy Governor, Assistants and Deputies taking the oaths on the same date.

(3) The only oath for military officers is for the Sergeant-Major, but he and other officials take the freemen's oath, which puts first allegiance to the Crown. Copies are enclosed.

(4) The same form is used in issuing proclamations as in Massachusetts. (Copy enclosed.) The corporation stands ready to correct it when they shall be better instructed.

(5) Denied, and a copy of a commission enclosed. The law for Commissioners of Sewers prescribes no form at all.

(6) The colony has been kept secure hitherto: a French privateer was repulsed at New London without loss. There are four cannon there, although it is not a security to the other ports.

(7) Paper money was not issued till necessitated by Queen Anne's orders to furnish the troops in expeditions against the French. It has been called in ever since and only 12,000*l.* or 13,000*l.* is outstanding.

(8) The Charter does not require the laws to be sent home.

(9) Any laws contrary to British statutes have been passed in ignorance, and they are ready to repeal them. But they understand the clause in the Charter to refer only to Acts made for the plantations, and that they might make laws

diverse from the common law of England, Wales and Berwick-on-Tweed. If this be so, it answers the next five articles.

(10) The duty was reduced after five months to *3d. per gallon*. Its employment for the support of the government was concluded to be for his Majesty's service.

(11) This is an ancient law: it contains restrictions to trade not prohibited by law and not against the Navigation Acts. A resolution of 13 Oct. 1726 is enclosed declaring that the Act applied only to persons coming from the neighbouring plantations.

(12) It would be unreasonable to erect a corporation and allow no means for its support.

(13) The object is to keep vicious and chargeable persons from thrusting themselves into towns without their consent; some got in formerly by the purchase of a few feet of land in such cases the vendor is now to pay 20*l.*; "strangers" means strange to the town, not to the colony. A copy of the Act is enclosed.

(14) Winthrop's principal object. Partition, and not primogeniture, is the rule of inheritance in all the New England colonies, and the Massachusetts Act has presumably been approved. Two variations have always been made:—(a) If the estate is likely to be damnified by dividing the land, the eldest shall have it, paying to the other children their rateable parts; and (b) daughters shall take their portions in moveables so far as they will extend, and the residue only in the lands.

(15–16) No particular law is mentioned. The courts are better furnished with books of the common law than could be reasonably imagined from the poverty of the country.

(17) A gross mistake. There is a whole chapter of capital laws, and many have suffered death by the hands of justice.

(18) "A charge against the colony for improving the most able men to fill our seats of judgment."

(19) No instance is given, "and I am not able to name any."



1727. § 367 *cont.*]

(20) The same length of time is allowed in all other courts, and appeals and reviews are allowed there as in other courts.

(26) After the first hearing, Winthrop demanded an appeal and was told that he must first go through the course of law in the colony—a review by the court and then a petition to the General Assembly. The Chief Judge, “out of the great veneration he had for his ancestors, lest the opinion that he inherited their authority as well their effects should carry him forth to such a degree as would expose the court to contempt or himself to censure, as he had sometimes formerly had occasion to observe, treated him with all gentleness, care and tenderness, at length prevailed with him to take the next step.” But instead of further process, he “with an uncommon air of majesty demanded his appeal, which the court informed him they had no law nor rule to grant.”

(27) The record of the General Assembly, 12 May 1726, is enclosed to show that Winthrop’s application was dismissed on account of his own neglect to take the proper and usual measures for his relief. The Charter prescribes no form of procedure in relation to appeals, and no particular direction has been given by Act of Parliament or by Order in Council. “All that I have understood by the word ‘appeal’ in the common law is a complaint, and that in the ecclesiastical courts only is the word in use in England as it is here improved for the removal of the whole cause to an higher tribunal; and I never understood that his Majesty in Council ever took the trouble of the trial of titles of land, and many of the actions here are conversant about nothing else.”

(28) A misrepresentation. The fees and fines are all or most of them paid into the Treasuries, out of which the courts are paid according to the allowances made them by Acts of the Assembly.

(29) The Governor doubts not of the sufficiency of his preceding answers to take off all accusations of disloyalty and the usurpation of arbitrary power.

ACTS OF THE PRIVY COUNCIL (COLONIAL). 181  
 § 367 *cont.*]

1727.

There is one more enclosure from the records of the Assembly *re* Lechmere's petition considered on 12 May.

Also two copies of (a) a letter from the B. of T., 23 Feb. 1698, requiring the transmission of the laws of Connecticut, and (b) another letter of 24 Ap. 1699 stating that a copy of the laws had been transmitted to the Board by Col. Winthrop on 27 Oct. 1698.

And two copies of a paragraph in a Connecticut law about houses and lands to be secured for heirs, the eldest to have a double portion unless otherwise ordered by County Court or Court of Assistants.

———. Order referring the Governor's answer to the Committee. 4 Dec.

List of papers *re* Winthrop's complaint, from his petition dated 16 Jan. 1727 to papers referred to in Gov. Talcott's second answer and delivered by Mr. Dummer, 11 Dec. 1728.

[368.] ANTIGUA. *Barton v. Bondinot*. Committee report for receiving the appeal. It appeared from the examination of Thomas Clark that the papers had long since been sent by the ship *Cleopatra*, which had never been heard of since she left Antigua. 18 Feb. III. p.120.

[369.] COUNCILS. *New Jersey*. B. of T. representation for C. Van Horn. 23 Feb. III.

*App.* II.

———. *Virginia*. B. of T. representation for W. Dandridge; and another of 29 March for J. Custis. 22 March.

[370.] ACTS CONFIRMED. *Antigua*. B. of T. representation; Order of reference to Committee, 13 May; and Committee report, 31 May. 9 March. III.

*App.* III.

———. *Virginia*. B. of T. representation; Order of reference, 13 May; and Committee report, 31 May. 16 March.

———. *New York*. B. of T. representation.

12 July.

———. *Jamaica*. B. of T. representation.

23 Aug.

# 182 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1727.

11 March. [371.] SOUTH CAROLINA. *Paper money.* Petition of  
III. p.167. the General Assembly. In 1722 an Act for issuing 120,000*l.*  
in paper bills was disallowed, but most had been issued before  
the repeal was announced. 55,000*l.* previously appropriated  
to the support of the government was called in and burned ;  
13,645*l.* has been paid into the Treasury and burned ;  
13,432*l.* 9*s.* 6½*d.* is due for duties and not yet burned. The  
Assembly ask that this last sum and what more may arise  
from duties hereafter may not be burned but applied to  
the defences of this frontier province, menaced by the French  
at Mobile, the Spaniards at St. Augustine, and the Yamassee  
Indians.

14 March. [372.] JAMAICA. *Gov. R. Hunter's commission.* B. of T.  
III. p.159. representation.

19 July. ———. B. of T. representation submitting Hunter's  
III. p.816. commission : and another of 25 July with his instructions :  
each with a letter transmitting it to the Duke of New-  
castle. As compared with the Duke of Portland's instruc-  
tions—Articles 1 and 2 are combined ; Article 21 provides  
for the settlement of the revenue, including the subsistence  
of the Independent Companies, which were formerly provided  
for in Article 44 ; an instruction is added against duties on  
negroes landed for refreshment only ; Article 52 about  
persons to be sent over as prisoners was formerly part of  
the 93rd Article, of which another part about accessories in  
cases of piracy has been omitted as being provided for by  
an Act of 8 George I ; an addition to Article 55 relates to sus-  
pending execution of a judgment in case of an appeal ; Article 61  
provides for more readily supplying vacancies in the Customs  
service in the absence of the Surveyor General ; Article 70, in  
restraint of vice, is added on the petition of the Bishop  
of London ; Articles 92–3 prohibit correspondence with  
“enemies” instead of with “the French.” The instruction  
about additional salary is the same as for the Duke of  
Portland.

1727.

[373.] MASSACHUSETTS BAY. *Complaint of Church of England clergymen.* [Very much torn; a typewritten copy 20 March. with many gaps is also in the bundle.] The Independents, III. p.156. having forgotten the liberty of conscience secured to all Protestants by the charter of the province, "have usurped and assumed to themselves the authority of an established Church." Especially objectionable are an Act of 4 William and Mary for the settlement and support of the ministers and school-masters, an amending Act of the following year, and an additional Act; an Act of 1 Anne making more effectual provision and one of 4 Geo. I in addition to it; and an Act of 2 George I for maintaining and propagating religion. The petitioners ask for the repeal of these Acts, because (1st) no national church is established by the charter, but liberty of conscience allowed to all Protestants; (2nd) the Acts set up Independency above other Protestants, take away liberty of conscience and the security of religion, and invade civil liberties and properties; (3rd) the General Court is not empowered to make assessments for the support of a teacher of any particular opinion; but only for his Majesty's service; in any case the charter did not intend to prefer the Independents to the Church of England; (4th) the Acts deter the inhabitants, who would otherwise do so, from embracing the worship of the Church of England; (5th) the laws may be of the most dangerous consequence to the Church of England in other colonies.

The petitioners are T. Cutler, S. Miles, James Honyman, James MacSparran, Matthias Plant, George Pigott and Samuel Johnson, all clergymen of the Church of England.

[374.] JAMAICA. *Revenue Law.* Remarks by Brigadier Hunter. The refusal of the Assembly to pass a perpetual revenue law is due (1) to their having been ordered to pass a draft sent over to them. By the instructions to the Duke of Portland, 7 July 1726, the matters contained in the draft are to be recommended to them in the strongest manner, and they may make the Act their own by receding from

Received  
7 Ap.  
III. pp.  
79-81.

1727. § 374 *cont.*]

the form, though not from the substance of the draft. (2) The provision of 2,000*l.* a year for the Independent Companies was objected to in a perpetual Act, as his Majesty had declared that the Companies were to be continued only until the island should be provided with sufficient white people for its own defence. The Assembly promised to make provision by temporary Acts so long as necessary. A similar dispute arose when the Earl of Carlisle was Governor in Charles II's reign, and the point was yielded by the Home Government. The persons who are most affected by the suspension of the laws are the leading planters and English merchants; the majority of the people are not disturbed at a state of affairs, which exempts them from paying either debts or taxes.

If the Assembly persist, the only remedies are (*a*) an Act of Parliament here, or (*b*) a change in the constitution of government there. "Both these, supposing them practicable, must be attended with this evil, that a colony of the greatest importance to the trade and wealth of Great Britain already in a declining state, must, under new measures which distinguish them from all the other colonies, be laid under such discouragements as may tend to or end in their utter ruin. And it is much to be doubted, whether such an Act (if his Majesty should think fit to submit the regulation of his plantations to his Parliament) could be easily carried through a House of Commons where the trading interest has so just and great a weight.

"As to the other, it being a maxim in our constitution, that free men cannot be taxed, or money levied upon them, but by virtue of laws to which they have given their consent either by themselves or their representatives duly elected by them as such; it must either be made out that the subjects in Jamaica are not a free people, or the laws relating to levies and taxes must be passed by a representative body of the people, and then the case will stand as it does, with this difference only, that such a body may in all probability meet in no better humour or disposition than the former,

and rather worse on account of any innovation they may conceive to have been made in their constitution.

“The Governor must, and most undoubtedly will, keep strictly to the observance of his instructions without any regard to the consequences of his doing so, for which reasons he begs that these matters may be well weighed and considered before he goes, and humbly submits it, whether it may not be more expedient at this critical juncture to make departing from mere points of form and manner an Act of his Majesty’s gracious condescension to the inclinations of the people there, than by insisting upon them to risk certain evils of dangerous consequence, the remedies for which, if they should happen, are uncertain and at best remote.

“And whether upon the appointment of a new Governor such condescension may not be seasonable, in order to give him due weight and influence with the Assembly and people there, and so enable him to procure a solid and lasting settlement for the interests of the Crown and quiet and good of the people.”

Two letters from Mr. Ayscough, President of the Council Received of Jamaica ; one to the Duke of Newcastle, the other to the 11-12 Ap. B. of T. and transmitted by them to the Duke. The Assembly met on 18 Oct., and disputed about swearing their members till the 22nd, when there was a dreadful hurricane, after which they adjourned from day to day till the 28th. Ayscough allowed them to be sworn in their own House, but they put off the consideration of his speech till 3 Nov., when, by the advice of the Council, the President sent them a message to remind them of it. This they resented, and refused to proceed to any other business till they had satisfaction. The President sent a message which he hoped would please them, but they voted it unsatisfactory and resolved that whosoever proposed the message in Council was an enemy to the very being of Assemblies, to his country &c. They reduced their quorum to five to meet and adjourn, and the rest dispersed to their abodes. They continued these adjournments

1727. § 374 *cont.*]

till 7 Dec., when the Assembly was prorogued to 2 Jan. No quorum of the Council was obtained till 10 Jan. A printed copy of the President's Speech on 10 Jan. is enclosed. Immediately on hearing it, they returned to their House, rejected the draft with disdain, ordered a Bill to be brought in for reviving and continuing their laws, and voted only six months' subsistence to the soldiers in a separate Bill. In the Perpetuity Bill they voted, though not inserted in their minutes, to give the King no more than the old revenue mentioned in the late 21 years' laws. They passed the usual Additional Duty Bill, to which, on the advice of the Council, the President assented. He then dissolved the Assembly and issued writs for calling a new one, though with little expectation of better success.

The letter of 26 Jan. to the Duke of Newcastle adds that nothing has been heard from Admiral Hosier since he sailed on 26 Dec., and that it is not improbable that some unquiet spirits may endeavour to distress the government by stirring up merchants at home to make a clamour against the measures taken by the President and Council to assist the Admiral with men and enable him to put to sea. (*Cf.* 383.)

21 Ap. ———. Order referring the two letters to the Committee.

3 May. ———. Committee report.

16 July. ———. Extract of another letter from President Ayscough.

In a letter of 24 Ap. he had given an account of the undutiful behaviour and dissolution of the then Assembly. Another was called for 23 May, but entered upon justifying the proceedings of former Assemblies, ordering the Provost Marshal to be taken into custody, and answering the President's Speech by a very indecent message. They are now prorogued till 22 Aug. "Most of them are lately buoyed up with some private letters they have received from home, that his Majesty will recede from the draft of the Bill which has been recommended to them; if so, my successor will be very easy for the first year in his government; but it is obvious to the meanest capacity, that when once the Assembly have got their laws

§ 374 *cont.*]

1727.

made perpetual, and that a sufficient revenue is not therein provided for the support of his Majesty's government equal to the annual charge, a Governor must be dependent upon them, and continual broils will ensue." The charges of the government increase yearly; the proposed impost on indigo will not produce 3,000*l.*, allowing a free trade, and should a rupture happen with France, it will totally sink. Even with a revenue of 10,000*l.*, there would be a considerable deficiency.

A copy of *The Weekly Jamaica Courant with News Foreign and Domestic*, Numb. CCCCLXIX., Wednesday, 22 March 1727, is enclosed in the letter of 26 Ap. It was "published by authority"—a single sheet, costing "one bit or 7*s.* 6*d.* per quarter," and besides the President's Speech to the Assembly on 1 March, contained only advertisements. (The advertisements may be thus classified :—Runaway white servants (2), runaway negroes (2), demands from the estate of persons deceased (3), sloop for sale, cabinet ware, casks found on a wharf, negroes for sale, lands for sale (2), chariot and four horses for hire.)

———. Letter from the B. of T. to the Duke of Newcastle enclosing Ayscough's letter, and proposing that more sufficient funds be substituted in place of the duty on indigo before their laws are confirmed; also that the Governor should be sent there with all convenient speed properly instructed. 7 Sept.

———. Order referring to the Committee the above extract and letter. 20 Sept.

[375.] MARYLAND. *Trade instructions on appointment of B. L. Calvert as Deputy Governor.* B. of T. representation, with Order of reference of 21 Ap. and Committee report of 3 May. Changes in Articles 5—in order to prevent counterfeiting of certificates about landing plantation goods in this kingdom, all such certificates will be signed by four of the Commissioners of the Customs in London or Edinburgh; and 18, where a clause is added from an Act of 9 George I to prevent the importation of stripped tobacco; Articles 22 and 23 are added to prevent Customs officers from being interrupted by 14 Ap. III. p. 817.



188 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1727. § 375 *cont.*]

having to serve on juries, in the militia or in parochial offices ; and for more readily supplying vacancies that may happen during the absence of the respective Surveyors General of the Customs.

Received [376.] PENNSYLVANIA. *The ship FAME. Petition of W. Moore.* On 20 Nov. 1725 it had been ordered that Moore should be at liberty to proceed upon his seizure of the *Fame* ; and on the advice of Sir P. Yorke and Sir C. Wearg he prosecuted an information in the Supreme Court in Sept. 1726, and obtained judgment. On a writ of inquiry, goods to the value of 6,495*l.* 11*s.* 8*d.* were certified to have been on the ship when seized, and much more might be proved if all the witnesses were to be had. Moore then began a prosecution against one of those principally concerned in the riot ; and also filed an information upon another seizure made by him. But, at the instance of some of the persons concerned in the riot and on the petition of others of the inhabitants, the Assembly passed a resolution that no original process be issued out of the Supreme Court in civil cases, thus depriving the petitioner of the remedy pointed out by the Attorney and Solicitor General.

26 Ap. [377.] VIRGINIA. *Act laying a duty on liquors.* B. of T. representation. William and Mary College was to consist of 153-6. a President, six masters or professors and about 100 scholars. Of the trustees, only Gen. Nicholson, Dr. Blair, and Stephen Fauce survive.

27 Ap. [378.] CANADA. *Sir Hovenden Walker.* Treasury report on his widow's petition.

11 May. [379.] ANTIGUA. *Lyons v. Lyons.* Committee report admitting a cross-appeal ; and Committee report of 18 May 133-4. determining both appeals.

12 May. [380.] VIRGINIA. *Col. Spotswood's lands.* B. of T. representation on his petition. He explained that the demand for naval stores from the plantations had led him to engage

§ 380 *cont.*]

1727.

deeply in that undertaking, that he had taken up large tracts of desert land, employed 300 persons, and “at last sent home the first pig-iron and the first hemp of Virginia growth that were ever imported from thence into Great Britain.” By an order of 6 Aug. 1723 that no one may hold over 1,000 acres in two new counties, he is now in danger of losing the greatest part of his possessions. Since his removal from his government, he has not been able to carry on his undertakings in so extensive a manner, and prays to be allowed to surrender such lands as he had taken up with the view of making tar (which, it has been found, cannot be made there), or to hold the lands for a yearly rent of a barrel of tar; and that the Order be so explained that he remain in quiet possession of the rest of his lands. He holds 85,027 acres in nine tracts—Massaponax (1,350 acres), Upper Massaponax (500), The Fork (1,920), Barrow’s (177), Germanna (3,229), The Wilderness (3,065), The Mine Company (15,000), The Spotsylvania Company (40,000), intervening lands to connect the last six (19,786). All but the last two were regularly patented in or before 1719; these 25,241 acres, when granted, were in other counties and liable to quitrent; they are now in Spotsylvania, and if the petition were granted, would be free from quitrent for seven years. For the other 59,786 acres he should have imported one servant or paid five shillings for every 50 acres; but after the Assembly had petitioned for an exemption of these dues and of quitrents for a term in the new counties, the Governor and Council made grants on receiving bonds for the payment of the dues, if they should be demanded by his Majesty. On being superseded, Spotswood tendered such bonds to the Deputy Auditor, who refused them, lest the acceptance should be deemed a confirmation of the grants. He has offered some proofs “of his having imported numbers of white servants and of having made such improvements upon the lands in question, as would have entitled him to have held a greater quantity of lands than he now possesses, had the same been regularly taken up before the Lords Justices’

190 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1727. § 380 *cont.*]

instruction, and not subject to the restrictions therein specified for seating these new counties."

18 May. [381.] ANTIGUA. *Staple v. Glanville*. Committee report. III. p.151.

Received [382.] PENNSYLVANIA. *Proposed transfer of the government*  
 27 May. *to the Crown*. Petition of John, Thomas, Richard and  
 III. p.157. Margaret, the surviving children of Wm. Penn. The negotiations began in 1710, and, on the report of the B. of T. and of the Attorney General, Queen Anne agreed in 1712 to purchase the powers of government for 12,000*l.* 1,000*l.* was actually paid by a warrant under the sign-manual of 9 Sept. 1712. Penn made the Earl of Oxford and Earl Poulet trustees for carrying out the bargain, and his wife Hannah executrix for the equal benefit for her and her children. Hannah and her children (including one Dennis Penn, deceased) disclosed the will in the Court of Exchequer against Springett Penn, grandson and heir at law of William Penn, Joshua Gee and other mortgagees of the province, Lords Oxford and Poulet, and the Attorney General. The last put in a general answer that he was a stranger to the premises. On 13 Dec. 1726 the Court of Exchequer ordered the case as concerning his Majesty to be heard in Easter term, when the necessary directions should be given for conveying the powers of government. The widow having since died, her children have sought that the suit be revived and heard next term, and now ask that directions be given to the Attorney General, so that a final decree may be made not only in their interest but in that of the people of the province.

Read [383.] JAMAICA. *Impressment for Admiral Hosier's squad-*  
 31 May. *ron*. Petition of 43 traders, planters &c. remonstrating  
 III. p.157. against the impressment of seamen out of merchants' ships in the West Indies contrary to an Act of 6 Anne for the encouragement of the trade to America, and also of white servants, free mulattos and negroes. The fear of the impressment of their sailors has deterred the New Englanders from

importing provisions into Jamaica : and this at a time when the negroes' provisions growing on the island have been destroyed by a hurricane. The poorer planters are so distressed that many are preparing to leave Jamaica, and the diminution of white people may encourage the slaves to make themselves masters of the island. The ships, which lack men to bring home this year's crop, are being destroyed by worms, which will prove a great discouragement to merchants to continue a trade with Jamaica.

[384.] JAMAICA. *Duties on negroes and on flour.* B. of T. 31 May.  
representation on petitions against these duties from the III. *pp.*  
South Sea Company and from other merchants, referred to 159-61.  
them on 10 Dec. 1724. The delay in reporting has been  
caused by waiting for further information from Jamaica.  
An instruction not to assent to any Act laying a duty on  
the re-exportation of negroes landed only for refreshment  
was sent to Sir N. Lawes in 1717 by the Secretary of State,  
but, as it was not communicated to the B. of T., it was not  
included by them in the instructions to the Duke of Portland.  
On consideration of several annual Acts since passed for laying  
duties on negroes, another and more effective instruction  
is now being prepared for Gov. Hunter. Duties are not to  
be laid on slaves landed for refreshment only, nor on a whole  
cargo when only a part is sold ; but the Company are not  
to be relieved from duties on slaves purchased by them in  
Jamaica, for such purchase " makes the price of negroes  
much dearer to the inhabitants, which will be in time a great  
load upon the sugar trade, wherein we are already outdone  
by some of our neighbours." Nor can there be any pretence  
to exempt the Company or private merchants from the duty  
on flour, which " would lay the island under great difficulties  
and inequalities of trade, especially at a time when they are  
necessarily obliged to pay several other taxes and duties  
for the support of your Majesty's government there."

———. Committee report.

31 Oct.

192 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1727. § 384 *cont.*]

7 Nov. ———. B. of T. representation with additional instruction about duties on negroes.

31 May. [385.] ANTIGUA. *Carpenter v. Parry*. Committee report III. p. 133. for varying the decree. .

17 June. [386.] PLANTATIONS. *The New Reign*. B. of T. representation for despatching proclamations by two small vessels —one to New England and Newfoundland, the other to the West Indies.

17 Aug. ———. MASSACHUSETTS BAY. *A Proclamation* (printed), “requiring all persons being in any office of authority or government at the decease of the late King, to proceed to the execution of their respective offices.”

23 Aug. ———. PLANTATIONS. *New seals*. B. of T. representation.

Read [387.] NOVA SCOTIA. *Indian attack on fishery at Canso*.  
5 July. Petition of J. Elliot. In 1722 “the fishery became impractic-  
III. pp. able from the attacks and barbarities the Indians made on  
167-8. all vessels that were a fishing, destroying those and murdering  
the people that belonged to them.” Gov. Phillips proposed  
to arm two ships and man them with volunteers to go  
against the Indians. Elliot received a commission as com-  
mander of one sloop with 26 men and sailed on 25 July;  
on the 28th the commander of the other sloop abandoned  
the expedition and turned back. On the 29th Elliot encountered  
seven Indian sloops and schooners, and after an engage-  
ment of several hours took and killed most of the crews and  
released 18 prisoners, himself receiving nine wounds. He has  
very lately returned to England and petitions to be made  
Collector for the towns of Newbury, Capan, and Squam in  
New England.

23 Aug. [388.] VIRGINIA. *The Earl of Orkney's commission*. B. of  
III. p. 820. T. representation, with a letter transmitting it.

23 Aug. [389.] NEW YORK AND NEW JERSEY. *Gov. J. Montgomery's*  
III. p. 819. *commissions*. B. of T. representation, with a letter trans-  
mitting them.

ACTS OF THE PRIVY COUNCIL (COLONIAL). 193

1727-8.

[390.] PLANTATIONS. *Order appointing Committee for Appeals.* 20 Sept. III. p.158.

[391.] ANTIGUA. *Act re foreign attachments.* B. of T. 6 Nov. representation, and Order of reference to Committee, 14 Dec. III. p.180.

[392.] JAMAICA, NEW YORK AND NEW JERSEY. *Rights of Admiralty and pirates' effects.* B. of T. representation with additional instructions; the like to be included in future instructions to Governors. 8 Nov. III. pp. 171-2.

[393.] ANTIGUA. *Act confirmed.* B. of T. representation, and Order of reference to the Committee. 17 Nov. III. pp. 179-80.

[394.] NEW YORK. *Act disallowed.* Order referring B. of T. representation to the Committee. 22 Dec. III. pp. 180-2.

1728.

1728.

[395.] LEEWARD ISLANDS. *Earl of Londonderry's commission.* B. of T. representation. 9 Jan. III. p.817.

———. Londonderry's petition to be allowed to receive a vote of additional salary either from the Assembly subsisting at his first arrival or from the first new Assembly called by him. 10 Jan.

[396.] APPEALS. Petition of Gilbert *v.* Byam (*Antigua*), and Order of reference—other names in this case are Jas. and Thos. Howey and Sam. Phillips. Committee reports on Wetherill *v.* Codrington (*Antigua*), 21 May; on Barton *v.* Bondinot (*Antigua*), 26 July; on Heale *v.* Ball (*Virginia*), 2 Aug.; and on Lynch *v.* Gallway (*Montserrat*), 4 Dec. [III. pp. 182, 179, 120, 177, 190-1.] 10 Jan.

[397.] MARYLAND. *Petition of J. Forward &c.* (4 large pp. ragged: relates history of the case from 1717.) Read 10 Jan. II. pp. 784-5.

1728.

29 Feb. [398.] ST. CHRISTOPHER. *Act erecting an office for registering deeds.* Petition of W. Smith and S. Cust; and Order of reference; also Committee report of 6 June.

20 March. [399.] PLANTATIONS. *Naval stores.* B. of T. report on III. p.204. an Admiralty memorial about woods and naval stores in the plantations, referred to them on 15 Feb. The chief cause of the destruction of the woods in New England is the construction of a clause in an Act of 8 George I so as to leave to his Majesty no property in any trees growing in any township. New Hampshire accordingly got the greatest part of the colony granted out into townships. Some years since the B. of T. presented a Bill to Parliament to remedy this, but it had not the desired effect.

“His Majesty gave directions upon this paragraph.” The Surveyor General of the Woods should constantly reside in the plantations; he should be allowed two or more deputies (ship-carpenters by profession) with competent salaries.

The interests of private landowners being opposite to that of the public, “it has by long experience been found impracticable to put the laws in execution in their ordinary course,” and the jurisdiction of the Admiralty Courts has accordingly been substituted for that of the Common Law Courts.

“His Majesty gave directions upon this article.” The Surveyor General should be directed to proceed at once to Nova Scotia to see to the execution of Gov. Phillips’ instruction for reserving 200,000 acres on the coast or rivers.

The premiums upon naval stores imported from the colonies have had very good consequences in reducing prices, but all except that on hemp have now expired: they should be renewed. By an Act of 3 and 4 Anne (for nine years) continued for 11 years by an Act of 12 Anne, the following premiums were given *per ton*—tar and pitch 4*l.*, resin and turpentine 3*l.*, masts, yards and bowsprits 1*l.*, hemp 6*l.* These expired in Jan. 1726; that on hemp, renewed by an Act of 8 George I, will not expire till about 1741. Special

encouragement was offered, by the Act of 8 George I and by a Bill presented to the House of Commons about four years since, for the making of tar by a new method; but, on an adverse report from makers and importers of tar, the Board propose that any premium offered be given upon "all tar clean, good, merchandable, well-conditioned, clear of dross or water, and fit in every respect for making cordage." Additional encouragement might be given to the new method, which is understood to be that practised in Sweden.

The traders and the Commissioners of the Navy differ in opinion as to the amount of the premiums to be offered *per* ton :—

	Tar and Pitch.	Turpentine.	Masts, Yards and Bowsprits.
Traders .. ..	3 <i>l.</i>	3 <i>l.</i>	1 <i>l.</i>
Navy Board ..	2 <i>l.</i>	1 <i>l.</i> 10 <i>s.</i>	— 17 <i>s.</i> 3 <i>d.</i>

(1) *Tar and pitch.* The traders estimate their disadvantage in first cost and freight as compared with Finland at 7*s.* *per* barrel; the Navy Board consider, however, that the difference in freight is overstated by 1*s.* 6*d.* *per* barrel. This would make it reasonable to give a premium of 5*s.* 6*d.* *per* barrel.

(2) *Turpentine.* Here the colonies have a monopoly of supply; the premium proposed by the Navy Board should suffice: it is only a little more than the duty on importation, 28*s.* 9*d.* *per* ton.

(3) *Masts &c.* 17*s.* 3*d.* is deemed a proper premium, because, since the former premium of 1*l.* expired, an import duty of 2*s.* 9*d.* has been taken off.

On the complaint of the merchants that the premiums are paid irregularly in Bills which are always at a discount, it is recommended that they "be made payable in the new course of the Navy." No further premium need be given on resin which is made in England from turpentine; but 20,000 tons of iron are annually imported from foreign countries, and the want of it was seriously felt in the late war with Sweden; in the plantations there is great plenty of iron ore and wood for



1728. § 399 *cont.*]

the furnaces ; the removal of the import duty of 3*s.* 9½*d.* *per* ton, which was offered in a Bill which formerly passed the House of Commons, might induce the planters to supply the English manufacturers with iron in pigs and sows.

The draft of a Bill agreeable to these recommendations was submitted with the report, but it was submitted that, before the Bill should be offered to the House of Commons, a clause should be added that premiums should be repaid on stores re-exported from England, the object of the premiums being to obtain supplies “for the service of the British Navigation.”

4 Ap. [400.] PLANTATIONS. *Instructions re alteration in prayers*  
III. p.814. *for the Royal Family.* Order to B. of T. to prepare instructions ;  
Order of 12 June approving them.

I. The Order of 15 June 1727 for making the change.

10 Ap. [401.] TOBAGO. *Duke of Montagu's petition for a grant.*  
Letter from the Duke of Newcastle to the Treasury transmitting  
the petition and a B. of T. report.

12 June. ———. Order referring these papers to a Committee.

13 Aug. ———. Report of Att. Gen. Yorke and Sol. Gen.  
Talbot : enclosing (a) Committee order of reference to them,  
29 June ; (b) copy of the petition ; (c) B. of T. report,  
27 March ; and (d) the King's warrant for a grant. There are  
also in the bundle, (e) an abstract of the grant ; and (f) an  
abstract of foreign bills drawn by sundries on account of the  
settlement of St. Lucia.

(b) The petition recites that the Duke, having received a grant of St. Lucia and St. Vincent, sent a regiment of 500 men to St. Lucia with 60 cannon &c., who were obliged to abandon the island by a French force of 2,500 men. Having hopes of an accomodation with France, he at that time declined an offer of Tobago instead of St. Lucia. Negotiations were conducted for a joint settlement by Montagu and a French grantee, the Duc d'Estrées, but nothing has come of them, whereas the French, in breach of an agreement made

when Montagu's settlers left St. Lucia, have settled over 300 families there. He accordingly now asks for Tobago, offering to resign the other islands. Barbados produces 25,000*l.* a year in sugar duties, of which 10,000*l.* belongs to the Crown as part of the civil list revenue. In less than seven years the new land of Tobago would probably produce as much ; there will be a new market for British products and manufactures and employment for British shipping ; there will be a surplus to be re-exported and open up foreign trade ; the settlement of Tobago will increase Britain's strength in the West Indies against the growing power of France, which requires every ship going to her sugar colonies to carry thither a certain number of families ; it has an important strategic position on the route to New Spain ; finally, if Britain does not occupy the island, some other power will.

(c) The B. of T. report adds to this :—The French have more fresh sugar land than the British and have lately encouraged their planters by allowing them to carry sugar directly to foreign markets, where they undersell the British. Other British colonies oppose a new plantation, as tending to reduce the price of sugar. Were Barbados lost, Tobago is favourably situated to windward as a base for recapturing it.

For these reasons Tobago may be granted to the Duke, but the following changes should be made from the conditions upon which St. Lucia was granted :—“ As we have found by experience that all proprietary colonies, where the government is not in the Crown, are highly detrimental to your Majesty's service and to the welfare of Great Britain . . the absolute sovereignty, dominion and government of Tobago ” should be reserved to the Crown as it is exercised in Barbados. The Duke is to be Governor for his life, with power to name a deputy to be approved by the King, and removable by either the Duke or the King. The island may be exempted from the 4½ *per cent. duty* for 10 years, on condition that, at the end of the Duke's government, all the fortifications become vested in his Majesty without payment therefor. Instead

198 ACTS OF THE PRIVY COUNCIL (COLONIAL)

1728. § 401 *cont.*]

of an exclusive right of fishing within 20 miles of the shore, that right is granted only within low-water mark, as is usual in several grants to Lords of Manors in England. The laws of England to be put in force in Tobago are to be those only which have been heretofore used in Barbados. The first twelve Councillors may be appointed by the Duke, but all future appointments should be made by the King. Laws passed in the island are to be transmitted within three months as in other American colonies, not within twelve months as was proposed for St. Lucia.

The abstract (*e*) was based on the draft of the grant in its original form. The warrant (*d*) was altered by the Law Officers in the margin in accordance with their report. No change was made in the quitrent (2s. 6d. per 100 acres) or in the conditions of settlement (500 white people to be transported in three years, one quarter of the island to be settled in 13 years, and another quarter in 23 years). Grants to be made by the Duke are to be over 15 and under 500 acres, &c. The changes made by the Attorney and Solicitor General were:—(1) The surrender of St. Lucia should be first completed and recited as a condition of the grant. (2) Instead of erecting Tobago into a manor and dividing it into bailiwicks, the Duke should be empowered to divide it into counties, hundreds and towns, to grant fairs and markets, and to erect manors and seignories. (3) Persons appointed by the Crown are to be permitted to examine the surveys and make new ones; and yearly accounts of grants and the progress of settlement are to be transmitted by the Duke. (4) An express reservation is inserted of the right of appointing all future Governors. (5) The *whole* of the laws in force in Barbados concerning private property and criminal matters are to be in force in Tobago until altered by its own legislature.

(*f*) A list of 31 bills drawn by N. Uring, G. Medley, Capt. Bradshaw, Mr. Mathew, P. George, Mr. Crofts and Mr. Willet—amounting in all to about 3,000l. It is not specified

§ 401 *cont.*]

1728.

in most cases for what the bills were drawn, but the following items are mentioned—wine, sundries at Barbados, hire of a sloop, passage of certain people, salaries of others.

[402.] LEEWARD ISLANDS. *Gov. Hart's salary.* His Read  
petition against an Act passed in St. Christopher; and B. of 11 Ap.  
T. report of 17 Ap. On 14 June 1727 Hart left for London, III. p.191.  
having obtained leave of absence to recover his health. On  
19 Dec. Lt. Gov. Mathew assented to an Act repealing that  
of Ap. 1722 for allowing the Governor a salary of 2,000*l.*,  
the Act having passed the Assembly and the Council that  
same day, all within three hours.

[403.] BARBADOS. *Gov. H. Worsley's commission.* B. of T. 17 Ap.  
representation (and letter to the Duke of Newcastle enclosing III.  
it). pp. 191-2.

———. Committee report, with his instructions, including 16 July.  
the changes in the Council given at p. 824 of Vol. III.

[404.] NEW ENGLAND. *Petition of J. Eliot to be appointed* 23 May.  
*Collector at Newbury.* B. of T. report. III. pp.  
167-8.

[405.] PLANTATIONS. *Interpretation of the Treaty of* 3 June.  
*Neutrality of* 1686. Report of Att. Gen. Yorke and III. pp.  
Sol. Gen. Talbot on Articles 5 and 6 with a copy of these 192-3.  
Articles. These Articles provide for the seizure and confiscation  
of ships of either kingdom trading or fishing in the possessions  
of the other. This is to be understood as authorising the  
courts in the British colonies to condemn French ships and  
*vice versa*, and not as directing either power to condemn the  
goods of its own subjects for contravening the Treaty. In  
the case of Britain such intention would have required the  
confirmation of an Act of Parliament or of Acts of the colonial  
Assemblies. As there has been some doubt about this, the  
instruction might be expressed more explicitly and particularly.

[406.] PIRACY. *Commission for Trials on African coast.* 12 June.  
Admiralty memorial for H.M.S. *Sapphire*, Capt. John Smith. III. p. 9.