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Citation: 6 Acts of the Privy Council of England James Munro & W. Fitzroy eds. 200 1912



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200 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1728.

12 June. [407.] *BAHAMAS. Government and defence.* Order referring
III. pp. to the Committee a B. of T. report of 10 Nov. 1726, with
194-6. (I) the report and (II) a list of stores wanted, with particulars
of what were sent with Govs. Rogers and Phenny, and of
what remained there on 1 Jan. 1726.

3 Aug. ———. Ordnance report with estimate.

12 June. [408.] *ST. CHRISTOPHER. Grant of lands to R. Cunningham.*
III. pp. Petition of Margaret Bridgewater &c.; Order of reference to
198-200. the Committee; and Committee report of 31 July. Also
petition of T. Pilkington*, and Committee report of 31 July.

Read [409.] *BARBADOS. Petition of the Secretary, F. Whitworth,*
12 June. with a detailed account of sums due to him; and B. of T.
III. p.200. report of 20 June.

16 July. [410.] *CONNECTICUT. Complaints of J. Winthrop.* Extracts
III. pp. from the records of the colony authenticated by the Governor.
150-1. (1) 20 Nov. 1644. County Court *re* distribution of the
effects of Nathaniel Foot—showing double portion of eldest
son and equal shares of the other children.

(2) 20 Dec. 1655. Distribution of the estate of N. Foot
in Wethersfield.

(3) 5 Nov. 1668. Distribution of the estate of Thomas Wells.

(4) 7 Sept. 1671. Distribution of the estate of Richard Jones.

(5) Capital laws established 1 Dec. 1642—(1) for worshipping
any other god but the Lord God; (2) for witchcraft; (3) for
blaspheming and cursing God; (4) for murder.

23 Oct. [411.] *BARBADOS. Act for raising money for fortifications*
III. pp. &c. B. of T. report for disapproving the Act, which sought to
203-4 make an address of the Assembly necessary before the Governor
could sign warrants for making payment for stores or repair
of fortifications.

I. Extract of the minutes of the Barbados Council, 6 Aug.
1728—proposing amendments to the Bill, including the omission
of the clauses referred to above.

* His wife's maiden name was Fenton, *not* Penton.

II. Text of the Bill, with the amendments proposed by the Council (and rejected by the Assembly) underlined. Passed the Assembly *nem. con.* 25 July 1728. (30 large pp.)

[412.] PLANTATIONS. *Proclamation against migration and carrying money or bullion from Ireland.* Report of the Prime Serjeant, the Attorney and Solicitor General of Ireland.* The Act 5 Richard II cap. 2, made in England and still in force in Ireland, prohibits the emigration of any persons save the lords and other great men of the realm, true and notable merchants and the King's soldiers; if any other leave the realm without the King's special licence, he is to forfeit all he has in goods; the ship in which he sails is to be forfeited; and the wardens or searchers of the port who suffer such a thing to be done are to lose their goods and office and be imprisoned for one whole year. By the same Act gold or silver is forbidden to be exported on pain of forfeiture (with a saving for a passenger's reasonable expenses). 2 Nov. III. pp. 205-6.

A proclamation may be issued under the Great Seal prohibiting persons from leaving the realm without special licence; the officers at the ports may prevent any ship from sailing with such passengers and may search all persons on board for coin or plate other than their reasonable expenses.

———. Committee report, with letter of 23 Nov. from the Lords Justices of Ireland. 11 Dec.

[413.] PLANTATIONS. *Commissioners for the trial of pirates.* B. of T. representation submitting lists of the officials to be appointed, *e.g.* for Jamaica—the Governor, Vice Admiral, members of the Council, Chief Justice, Vice Admiralty Judge, naval captains and commanders within the jurisdiction, Receiver General, Secretary, Surveyors General of Customs, and Collectors of plantation duties. The several commissions are for (1) Jamaica; (2) Barbados; (3) Leeward Islands; (4) Bahamas; (5) Virginia, Carolina and Maryland; (6) New York, New Jersey, Pennsylvania and Connecticut; (7) Massachusetts. 6 Nov. III. p.202.

* Henry Singleton, Thomas Marlay, and Robert Jocelyn.

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1728. § 413 *cont.*]

Bay, New Hampshire and Rhode Island ; (8) Nova Scotia ; (9) Newfoundland ; (10) Bermuda.

The Bahamas Council is as given at III. p. 823 with Simon Ferrald and Kenneth Frazer instead of J. White and J. Jenner. The commissions for Nova Scotia and Newfoundland show the following variations from those given for 1761 in Vol. IV, pp. 486-7 :—*Nova Scotia* : Lieutenant Governor included ; Councilors not mentioned by name ; no Vice Admiral ; commissioned officers in the garrisons of Annapolis and Canso included ; also any commissioned officers who may be ordered into Nova Scotia (during their stay there) : the following are omitted—Chief Justice, Vice Admiralty judge, Secretary and Surveyors General. *Newfoundland* (instead of the Lieutenant Governor of Placentia) includes all Governors, Lieutenant Governors, or commanders of any other garrisons to be erected in Newfoundland. Flag officers and commanders of squadrons are not specially mentioned.

14 Nov. ———. B. of T. representation for giving rank to flag officers and commanders of squadrons after the Vice Admirals.

5 Dec. [414.] PLANTATIONS. *Linen and woollen manufactures.*
III. p.204. B. of T. report. By discourse with several persons who had been colonial Governors, it appeared “ that in the colonies of New England, New York, New Jersey, Connecticut, Rhode Island, Pennsylvania, and in the county of Somerset in Maryland, the people have fallen into the manufacture of woollen and linen cloth for the use of their own families ; but we cannot learn that they have ever manufactured any for sale in any of the colonies, except in a small Indian town in Pennsylvania, where some Palatines have of late years settled.

“ The reasons . . are, 1st : That the product of these colonies being chiefly stock and grain, the estates of the inhabitants depend wholly upon farming ; and as this cannot be carried on without a certain quantity of sheep, their wool would be entirely lost, were not their servants employed at

leisure times of the year, but chiefly during the winter, in manufacturing it for the use of their families.

“2nd : Flax and hemp are likewise easily raised, and the inhabitants manufacture them into a coarse sort of cloth, bags, plough traces and halters for their horses, which they find do more service than those they have from any part of Europe.

“3rd : Those settlements which are distant from water carriage, and are remotely situated in the woods, have no opportunities of a market for grain ; and therefore as they don't raise more corn than is sufficient for their own use, they have more time to manufacture both wool and flax for the service of their families, and seem to be under a greater necessity of doing it.”

The people had not had the same temptation to go on with these manufactures during the time that the bounty on naval stores subsisted and encouraged them to employ their leisure in a more profitable way ; “for the height of wages and the great price of labour in general in America makes it impracticable for the people there to manufacture linen cloth at less than 20 *per cent.* more than the rate in England, or woollen cloth at less than 50 *per cent.* dearer than that which is exported from hence for sale ; but as the small quantities which they manufacture for their own use are a diminution of the exports from this kingdom, it were to be wished that some expedient might be fallen upon to divert their thoughts from undertakings of this nature ; and so much the rather because these manufactures in process of time may be carried on in a greater degree unless an early stop be put to their progress.” The most natural alternative would be to induce the people to make naval stores “whence we may be furnished in return for our own manufactures, and much money might be saved in the balance of our trade with the Northern Crowns, where these materials are chiefly paid for in specie.”

The Board refer to their report of 20 March, and propose that, when premiums are offered by an Act of Parliament, the

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1728-9. § 414 *cont.*]

further growth of the woollen and linen manufactures should be prohibited. An Act of 10 and 11 William III prohibits the export of wool or woollen goods from the plantation in which they grew or were manufactured. This might be carried further, and woollen goods made in the plantations forbidden to be exposed to sale, leaving the poor planters who cannot purchase British manufactures free to clothe themselves by their own labour. Similar care should be taken about the linen manufacture; the Palatines in Pennsylvania have already made small quantities for sale there.

1729.

1729.

1 Feb. [415.] PLANTATIONS. *Naval stores and woollen and linen*
III. p.204. *manufactures*. Committee report concurring with the B. of T. reports of 20 March and 5 Dec. 1728, and recommending that provision be made accordingly by Act of Parliament: Docketed "Mem. This was only heads of a report put together."

1 Feb. [416.] NEW YORK. *Indian trade*. Order referring to the
III. p.209. Committee a petition of London merchants interested in the New York trade complaining of several Acts passed there to the prejudice of trade.

I. Copy of the petition: 15 large closely-written pages with 74 signatures. The proceedings in 1725 are rehearsed. Before the Committee met to consider the B. of T. report and the second petition of the merchants, the latter were given to understand that matters would be compromised at New York, and the hearing was not pressed on. A free trade with the far Indians west of Albany was soon afterwards permitted, and the merchants apprehended that the prohibitions would be wholly discontinued. But when several of the traders had gone on such trading voyages, the former Acts were renewed to the end of the session 1728 and a duty was laid on strouds,—the traders who had already set out to pay double duty.

The provisions of four Acts complained of (1726-7) are very fully given. (1) Duties were laid on strouds, cottons and kettles carried west of Albany and double duties on the same carried northward, and these duties were let out to the highest bidders. The traders were required to give an account on oath half-yearly of the quantities of the said goods they had had in their possession. Licenses were required for trade with the Indians or French; those licensed to trade with the Indians to the west are not to trade to the north of Albany or to the east of Onondaga Falls. (2) An explanatory Act provided for the erection of a public office by the farmers to receive recognisances and grant licenses. (3) A building was to be erected at Onondaga Falls for regulating the trade; each trader was to give six days work thereat and each canoe to carry an axe; appropriations for the expense were made from the fines and forfeitures. All trade with the western Indians was to be carried on at this post. (4) Instead of the proposed building, a good stone house two storeys high had been erected at Oswego at a cost estimated till April then next at 1,682*l.* 17*s.* 3½*d.* All persons suspected of trading with the French were to be required to clear themselves by oath; those who refused were to be adjudged convict; in a case of perjury arising from this, no inhabitant of the county of Albany was to be admitted a juryman; provision was also made against fraudulent conveyances to evade the levying of fines and forfeitures; Commissioners were appointed for executing the Acts.

All the Western Indians are in the French interest, and in order to trade all must pass the carrying place at the isthmus of "Iagara" or the Great Falls, which is in the possession of the French; "and after a short land carriage they enter the east side of Cataraqui Lake and go along the side thereof, which is guarded by armed boats, till they come to Cataraqui river, which carries them to Monreall and thence they go by the river St. Lawrence to Canada. And they have no other way but over this carrying place unless

1729. § 416 *cont.*]

they go round the northwest part of Cataraqui Lake inhabited by the French Indians, which they seldom do because of the difficulties of that passage, and the French have several settlements and forts behind that general carriage place, as also over all the far Indian countries, whereby they have a command over all the passages of the Indians, but particularly at Iagara Falls. And Gov. Burnet himself was so sensible of the consequence of this carrying place that he was about building a fort there, but was prevented therefrom by the English nations of Indians, who told him it could not be done without war. And then besides these far Indians who lie on the west of New York there are great and many nations of far Indians to the north of New York that lie directly behind Canada and from whom the best beaver and fur come, and who can't anyways come to trade with New York or Albany but through Canada itself.

“ . . amongst the far Indians there are a great number of French Indian private traders who go about and traffic with the far Indians in the nature of pedlars, and who by means thereof have the greatest influence amongst them, the French having with very great industry settled and interspersed themselves everywhere amongst the far Indians and married amongst them, and have great numbers of priests residing amongst them.” The French Company, with whom these traders are restricted to deal, sell so high and buy so low as to leave them one-third less profit than they would have in dealing with the English. Before the Acts, the New York and Albany merchants carried on a trade with these Indian private traders, not with the French Canada Company, which would have lost its trade and been undone but for the intervention of the New York legislature. The trade, which revived on the expiry of the former Acts, is again burdened by the imposition of 1,000*l.* penalties under the new Acts, “ there being no possible way of keeping up the fur trade but by trading with these private French Indian traders, and which yet this Act prohibits.”

It is not to be supposed that “ the French who are possessed of Canada and have forts and settlements amongst all the far Indians will permit our English traders to come into their dominions to trade . . or if they would, these foreign Indians are too remote for the New York people to carry on any considerable trade with by travelling into their country.”

The petitioners complain of the oath imposed by the Acts and of their many unheard of and uncommon provisions, “ impracticable as well as pernicious.”

Exports of woollens to New York and imports of beavers therefrom have fallen off one half since the passing the first of these Acts, while a former export of 20 or 30 thousand skins direct to Holland has been prohibited by Act of Parliament. The quantity of goods now ordered from England for the Albany trade is very inconsiderable : in spite of the high duties imposed, the prices have fallen and the goods become “ a meer Drugg.” “ It is hardly expected the New York market will the next year afford a sufficient quantity of beaver to supply the hatters of the province . . the French Company at Canada receive yearly seven or eight large merchant ships, where before they had only one or two and never exceeded three, and they this last year received above 1,300 bundles of beaver of 120*lbs.* each bundle, as also a very large quantity of beaver coats, besides a vast quantity of dressed deerskins and peltry.”

Since the Acts were passed, the price of beaver has doubled, not from any increase in consumption but from a scarcity of the commodity. It has been imported by manufacturers more cheaply from Holland than from New York.

If the French continue to undersell us in foreign markets, the English industry of making beaver hats &c. will be lost, as the Dutch and others will work it up. The French have also been induced by these Acts to find means of supplying themselves with goods for the Indian trade, and have even made strouds and imported them into Canada.

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1729. § 416 *cont.*]

The Acts are represented to be contrary to the Governor's instructions, as lacking a suspending clause, although they concern the trade and navigation of this kingdom, as laying a duty on European commodities, and as repugnant to the laws of England. The petitioners can foresee no prejudice to the British interest from the repeal of the Acts.

19 Nov. ———. B. of T. report. The Acts are liable to the same objections as those formerly repealed—the oath exacted from the traders and the excessive powers of the Commissioners and of the Farmers of this revenue, “who have authority to search at all times and in all places by day or by night for certain species of Indian goods, without being obliged to take any Peace Officer with them in such searches, though the said Farmers are to gain one moiety by the confiscation.” The Acts should be repealed—six titles are given, from Nov. 1725 to Sept. 1728. The utility of the design projected by them, however, under proper regulations, is fully set out in a former report; the Board has always deemed it of very great importance to prohibit trade with French subjects in America in goods proper for the Indian trade.

29 March. [417.] MARYLAND. *Forward v. Hunt (Bordley's executor)*. II. p. 785. Committee report.

19 Ap. [418.] MASSACHUSETTS BAY. *Governor's salary*. Petition III. p.108. of J. Belcher and F. Willes, agents for the House of Representatives, praying to be heard shortly in support of the Address of that House.

12 Nov. ———. B. of T. representation (enclosing a draft instruction III. p.255. for Lt. Gov. Dummer *re* methods of raising money and *re* fees for ships' passes). The Board had proposed to the agents that the Assembly should pass one general Act, whereby a future provision should be made for their Governor, Council and Assembly. The agents seemed to embrace the same with great readiness, but it appeared that their intention was to make provision for all of these by annual Acts. When asked whether they believed the Assembly would make

such provision for the Governor as would render him independent of the Assembly, "they answered positively No, for that to their certain knowledge Mr. Burnet had attempted to engage the Assembly to a three years' provision only, in private discourse with the members, but that the same had been absolutely refused."

The Board were about to prepare a report "on the repeated attempts the Assemblies of this province have made towards the shaking off their obedience to the Crown and their dependence on their mother country," when the agents offered to transmit any proposal made by the Board and, so far as was compatible with their stations, enforce the success of it. The "Proposal," after suggesting the necessity of laying their undutiful behaviour before the Legislature of Great Britain, expresses the hope that upon cooler reflection a law will be passed voting to the Governor a salary of 1,000*l. stg.* clear of all deductions, to be paid out of the money raised for the support of the government and defence of the province.

[419.] NEWFOUNDLAND. *Establishment*. Letter from the 25 Ap. War Office. A chaplain is allowed on the establishment of III. p.252. the garrison of Placentia at 6*s. 8d.* a day. There is no account in this Office of the attendance given there by Mr. Rice, who died in September; but Mr. Hume, who was appointed in his place, was at the same time indulged with leave to travel abroad with the young Earl of Lincoln. Copies of the establishment of Gov. Phillips' regiment and of the garrisons in Nova Scotia and Newfoundland for the last and this year, were enclosed, but are not now in the bundle.

———. Report of H. Pelham, Secretary at War. 12 June. There are no Independent Companies in the plantations that can conveniently be sent to relieve the Company of Col. Phillips' regiment now at Placentia. Even New York, which has more companies than any other colony, objected to the removal of a company to the Bahamas, and had the order recalled. The only way would be to turn one of the regiments

1729. § 419 *cont.*]

now in the West Indies into Independent Companies, which would be an entire change of the establishment of the army in these countries.

Lt. Gov. Gledhill has been informed of his dismissal and required to return home to answer complaints.

Chaplains and staff officers on the establishment of the regiment and garrisons in Nova Scotia have been required to repair to their posts, as also have the officers of the other plantations.

17 June. [420.] ST. CHRISTOPHER. *Act for building a Court House &c.* III. p.851. B. of T. representation; and Order of reference to Committee, 26 June. [The Act postponed by the Committee on 31 July.]

20 June. [421.] LEEWARD ISLANDS. *Duties on sugar &c.* B. of T. III. pp. 222-4. representation on complaints from merchants of London against Acts of Antigua and Nevis for raising an additional salary for Lord Londonderry, and against two St. Christopher Acts for laying duties on sugar &c. The objection is that, though the duties are laid on the produce of the island, yet they are collected at their shipping; whereby, in addition to the delay caused to the voyage, the charge fell upon the merchants. The question was raised whether a suspending clause should not have been required, but counsel for the Acts showed that a similar St. Christopher Act imposing a higher duty for seven years had formerly been confirmed by his late Majesty. Most of the produce is shipped on the account, and at the risk, of the planters; such part as fell on the merchants could be met by raising the price of British goods sent in exchange.

The B. of T. think that there may be some impediment to navigation in the mode of collecting the duties, but that the repeal of the Acts might be attended with great confusion. They propose that the Acts lie by, and that the Governor be directed to have others passed in their stead, charging the

duties on the planters, to be collected before the goods are removed from their premises.

The total sum granted by the Additional Salary Acts amounts to 2,666*l.* 13*s.* 4*d.*

[422.] BARBADOS. *Refusal to pay a levy for the Governor's salary.* 26 June. Order referring to the Attorney and Solicitor General III. p.232.

(a) a letter of 20 June from the B. of T. to the Duke of Newcastle, transmitting (b) an extract of a letter of 20 Ap. from Gov. Worsley. Mr. Peers, Speaker of the Assembly, having received the opinions of Mr. Reeve and Mr. Lutwyche about the determination of the Act, met 16 of the other members, and agreed to send to the others a copy of those opinions, which take no notice of the proclamation published on 21 Nov. 1727 for continuing officers in the plantations. Many members of the Assembly have refused to take a list of negroes (on whom the tax is laid), and 13 out of 17 of the Vestry of St. Michael's parish, led by Mr. Haggat, a member of the Council, have refused to lay a tax on their houses and estates. The opinion of the Attorney General of the island was taken by the other four members of the Vestry, but the Governor wishes it had been less dubious. (c) The opinion of the Attorney General (J. Blenman) dated 10 Ap. 1729. (d) H. Peers' letter to the absent members of the Assembly, 2 Ap. 1729, enclosing the opinions (dated 1 Feb.) of T. Reeve and T. Lutwyche, described by Peers as "two gentlemen of the greatest note in England." Worsley's second commission was not dated within six months after the death of George I. (e) Order of 25 July 1728 approving Worsley's instructions : Article 28 empowers him to continue to receive the additional salary settled by the Act.

(f) Another letter from Gov. Worsley, 1 June 1729, enclosing (g) a former opinion of T. Reeve upon the Act, dated 15 Jan. 1728, contrary to his later opinion ; Worsley had been continued as his Majesty's Captain General &c. and the King in law never dies ; and (h) a minute of the Assembly, 2 May

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1729. § 422 *cont.*]

1729, at which representations were read from St. Michael's and other parishes thanking the members for their diligence in sending to England for learned opinions. The Governor in his letter says he has been informed that Mr. Haggat, the leader—along with Mr. Peers—of the malcontents, laid the foundation of the disturbances that happened in New England whilst Col. Shute was there. His goods have been put up to sale, but no one will purchase, under the notion that the law is not in force and that they cannot have a good title.

1 Aug. ——. Opinion of Yorke and Talbot on Worsley's letter of 20 Ap. The Act is still in force. Worsley was continued as Governor by the proclamation and there has been no interruption. The grant was made to "his Majesty, his heirs and successors." "His Majesty's Captain General" similarly means "The King's," and the King never dies.

2 Sept. [423.] NORTH CAROLINA. *Complaints against Gov. Everard.*
 III. pp. B. of T. report. Copies of complaints against officers in the
 247-8. colonies are usually transmitted to them for their answer, but these charges are of so high and heinous a nature that a new Governor should be directed to make a strict inquiry and see that exemplary justice be done.

23 Oct. ——. Committee report to the same effect.
 Docketed "22 Jan. 1730. Read and approved and an Order to issue to Gov. Burrington hereupon."

9 Nov. [424.] NEW YORK. *Salary of Attorney General.* Memorial
 III. p.271. of R. Bradley, the Attorney General, to the Governor. Since Dec. 1724 he had had no salary, the quitrents being already charged by the home government with as much as they would extend to pay. His fees and perquisites for prosecutions ordered by the Courts and Government have not been paid for over five years, and the arrears now amount to more than 900*l*. His predecessors, J. Rayner and S. S. Broughton, had each, as he is credibly informed, a salary of 150*l*. paid from home, out of the Privy Purse or Civil List.

§ 424 *cont.*]

1729-30,

(a) Representation of the Governor and Council to the King, 21 Ap. 1729. Docketed "In the Attorney's letter of 22 Nov. 1729." A Committee of the Council had reported on 10 Ap. that Bradley's allegations were true, and the Council accordingly recommend that similar provision be made for him as was made for his predecessor.

[425.] PLANTATIONS. *Collection from seamen's wages for Greenwich Hospital.* B. of T. representation with drafts of additional instructions for Colonial Governors: the Leeward Islands, New England and South Carolina are excepted, as general instructions are being prepared for these colonies, in which this will be included. 30 Dec. III. p.814.

1730.

1730.

[426.] NEW YORK. *Council.* B. of T. report for removing L. Morris and appointing P. Courtland.* 7 Jan. III. p.834.

[427.] ST. CHRISTOPHER. *Act re building a court-house &c.* B. of T. representation; with Order of reference to the Committee, 22 Jan.; and Committee report of 24 Jan. 14 Jan. III. p.851.

[428.] NORTH CAROLINA. *Gov. Burrington's commission.* B. of T. representation. 15 Jan. III. p.819.

[428A.] List of business for the Council—with marginal notes "to be approved," "to be referred to Mr. Attorney and Mr. Solicitor General," "to be approved and the complaints to be put into the hands of Mr. Burrington" (*i.e.* the Committee report on complaints against Gov. Everard of North Carolina—*cf.* 423) &c. Of 12 items 7 relate to colonial matters, the other 5 being the prorogation of the Convocations, appointment of sheriffs, Irish Bills, quarantine on ships from the Levant, and a petition for a charter to make iron with sea or pit coal. There are many such lists of business in later bundles, but they are not included in this calendar. — Jan.

* In this, as in several other cases, a letter to the Duke of Newcastle enclosing the representation, is also preserved.

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18 Feb. [429.] PLANTATIONS. *Instructions about whale fisheries.*

III. pp. B. of T. representation.

264-5.

10 June. [430.] PENNSYLVANIA. *Complaints from Joseph Browne,*
III. p.287. *the Vice Admiralty Judge.* Report from Sir Henry Penrice,
Judge of the High Court of Admiralty, to the Commissioners
of the Admiralty. On 21 Feb. 1727 sundry goods were
condemned in the Vice Admiralty Court of Pennsylvania
on the information of the Collector, Mr. Moore, but
Gov. Gordon as Chancellor issued an injunction to stay
execution. Joseph Browne petitioned against the injunction,
but the Governor and Mr. Moore took their shares in kind,
and put up to sale only the King's third.

Sir W. Keith certified on 16 Dec. 1729 that the Vice
Admiralty Judge had received $7\frac{1}{2}$ per cent. on all condemna-
tions while he was Governor; a letter of 19 Feb. 1727 from
Mr. Harrison (?) at New York showed that the same fees
had been allowed to the judges there without any authority
other than their own appointment. Gov. Gordon of his
own authority reduced this to $3\frac{1}{2}$ per cent.; the settlement
of the fees is submitted to the consideration of the Admiralty.

In July 1727 Moore brought an information against the
schooner *Sarah* before Browne's deputy, Isaac Miranda;
but, before anything was determined, the Governor as
Chancellor, on Moore's own motion, issued an injunction
to stop proceedings in the Vice Admiralty Court, on the ground
that Browne had revoked his deputation to Miranda and
was himself prejudiced and therefore an incompetent judge.
It was alleged that Browne had very unjustly prevented
Moore in his seizure and put him to unnecessary charges.
It appeared by the affidavit of N. French that, after the trial
had commenced, Browne revoked Miranda's commission
upon advice of the great irregularity of his proceedings.
When the Governor later dissolved the injunction, Browne
refused to try the vessel on account of the aspersion on him,
and it was afterwards acquitted by the Court of Common Pleas.

About 24 Aug. 1727 the Governor brought a civil action for scandal against Browne, who was committed to prison by special order of the Governor and not admitted to bail. When the sheriff represented the illegality of such commands, "the Governor said he would protect the sheriff right or wrong, and that he expected to be obeyed."

On 26 Sept. 1727 David Lloyd, Judge of the Supreme Court, issued a prohibition against Browne's taking cognisance of the case of David Lupton, even before the case had been received.

Sir H. Penrice reports that, to support the Admiralty jurisdiction in Pennsylvania, application should be made to his Majesty in Council, as in the similar case of Robert Quarry in 1699. The proprietors should be directed by the Privy Council to instruct their Lieutenant Governor to support the Vice Admiralty Court and prevent encroachments on its jurisdiction.

Nineteen documents are referred to in the margin, but are not found in this bundle.

———. Admiralty memorial.

3 July.

———. B. of T. report.

7 Sept.

[431.] CONNECTICUT. *Law for dividing the estates of intestates.* B. of T. report on the petition of J. Belcher and J. Dummer. His Majesty may comply with the request as to the quieting of possessions, by his licence to pass an Act for that purpose, but the course of succession ought not to be established for the future on a footing different from that of Great Britain. In return for so great a favour, the people of Connecticut ought to accept an explanatory charter, and become as dependent upon the Crown as the people of Massachusetts Bay, whose charter was formerly the same with theirs. The people of Connecticut have not for many years transmitted their laws or any account of their public transactions: "their Governors, whom they have a right to choose by their charter, ought always to be approved

31 Dec.

III. pp.

274-5.

1730-1. § 431 *cont.*]

by the King, but no presentation is ever made by them for that purpose; and they, though required by law to give bond to observe the Laws of Trade and Navigation, never comply therewith; so that we have reason to believe they do carry on illegal commerce with impunity; and in general we seldom or never hear from them, except when they stand in need of the countenance, the protection or assistance of the Crown." If this method of giving them relief is not thought advisable, they may apply to Parliament, which, it is to be hoped, will take care to secure their dependence on the Crown.

1731.

1731.

6 Feb. [432.] CONNECTICUT. *Law of inheritance in case of*
 II. *pp.* *intestacy.* Petition of J. Winthrop against that of Belcher and
 274-5. Dummer (*cf.* 431). Besides the partition of estates, objection
 is made to the power given to the (spiritual) Court of Probates
 to hold pleas of freehold estates, which by law can only be
 subject to the jurisdiction of temporal courts.

The Assembly, far from paying any deference to the Order
 of 15 Feb. 1728, have obstinately refused to receive or comply
 with it.

31 July. [433.] PENNSYLVANIA. *Vice Admiralty jurisdiction.* Answer
 V. *p.* 287. of Deputy Gov. Gordon to Browne's complaints (35 *pp.*), with
 39 enclosures. There were four subjects of complaint relating
 respectively to (A) the condemnation of certain goods in the
 Vice Admiralty Court in Feb. 1727; (B) the trial of the
Sarah in July 1727; (C) Browne's arrest and the refusal of
 bail; (D) the prohibition issued to Browne by D. Lloyd,
 Judge of the Supreme Court.

The Governor's answer gives an account of all his
 enclosed proofs. 1-11 relate to (A). 1, which is missing
 from the bundle, is Moore's affidavit and is similar to 2—
infra. Browne has imposed on Sir H. Penrice in making
 it be believed that the condemnation was on 21 Feb.; it
 was on 11 Feb., and the decree of 21 Feb. was made only

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to get the goods into the hands of his bought servant, the Marshal; the Judge's $7\frac{1}{2}$ per cent. and the Marshal's 5 per cent. would have taken $12\frac{1}{2}$ per cent. from the seizure; the Collector was responsible for the whole and did not consider the Judge or the Marshal fit persons to be trusted with the goods. During Keith's administration there was only one condemnation in the Admiralty Court, and the Judge and the Marshal then exacted as their fees 25*l.* out of a total value of less than 120*l.* The $3\frac{1}{2}$ per cent. allowed by Gordon to the Judge was based on the practice in New York. The case of *Lumley v. Quarry* was quoted against the Judge's intermeddling to take a ship and goods into his possession.

Enclosures 12-21 relate to (B). 12-16 are missing. 12 was an affidavit of Miranda. When the reclaimer became apprehensive that the *Sarah* would be condemned, Browne interposed with his deputy, Miranda, by several letters, and, when that failed, revoked his commission, sending the revocation to Mr. Greeme, attorney for the reclaimer. The letters suggest that, if the vessel is not acquitted, it will be believed that he had stipulated with the Collector. Greeme wrote to Browne asking him to return before the day of trial.—“In my life I have never been more mistaken than in ——,” *i.e.* in Miranda. The revocation followed this letter. No. 13 was an affidavit of P. Evans, counsel for the King in this case, who drew up a paper accusing Browne of partiality and corruption, and filed a Bill (14), upon which the Governor issued an injunction. (15) was an affidavit of P. Baird, the Register, that he received the revocation of the commission from Mr. Greeme to be given to Miranda. (16) was a declaration by Baynton, who refused to answer interrogatories on oath. He admitted in the answers he made (not on oath) that Browne had some gold, tea and sugar from him, which were charged to the schooner's account; and that the revocation of Miranda's commission was a service to him. Nathaniel French, a merchant, swore to the proceedings in the various courts, in which he was not present; and his account does not

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agree with that of P. Evans (13), nor with the record of the proceedings under the hand of the Register (18). The reason why the dissolution of the injunction was not opposed was the loss that would be involved, were the vessel and cargo allowed to continue under seizure without any proceedings being taken thereon. Further it put Browne in a difficulty between his engagements to Baynton and his already compromised reputation. He declined the trial, as he says, on account of the aspersions on him. No particulars have ever been produced by Browne of the "irregularities" on account of which he revoked Miranda's deputation. As for the subsequent acquittal of the schooner in the Court of Common Pleas, it is no new thing for juries to be prejudiced in cases of seizure. The Governor denies that he had ever been intimate with Miranda: he had not been an hour in his company since he was admitted as Browne's deputy.

Enclosures 22 to 36 relate to (C). As to Browne's character, he fled from Maryland out of the custody of the sheriff; a large sum was recovered against him there by Mr. Boardley for some insolent and abusive treatment. 29 to 31 are missing. 29 was an examination of Palmer by Browne agreeing with his affidavit and avoiding the points on which he had been contradicted by Biddle. 30 was a certificate of the present sheriff and several justices to the credibility of Biddle. The sheriffs are elected by the people and therefore not subservient to the directions of the Governor. Palmer was disappointed of a certain office he solicited about 1727, and has ever since kept at a distance from the Governor. Sprogell was a foreigner who had been naturalised and was returned to the Assembly as the tool of a party; the ship *Vine* in which he was interested had been acquitted by Browne, whom he used frequently to assist with money. Notes of 30*l.* so paid by Sprogell to Browne (it appears by 31, an affidavit of B. Barnes, Sprogell's son-in-law) were found in the former's papers after his death, without any entry in his books or charge made to Browne. This was probably paid

on account of his former services ; for, if it had been a loan, Browne would not have waited till the matter was discovered before offering payment to Sprogell's poor widow. In any case, does it not appear "that he is an imprudent judge, and in a fair way to be an unjust one, who makes it his practice to borrow money of the suitors in his court?" Sprogell's own circumstances were such (*cf.* enclosure 24) that his kindness to Browne was probably not disinterested. Sprogell and Tresse were both amongst the members of the Assembly who refused to sit in 1728 and so disabled the House from acting.

To the fourth charge, (D), the Governor was entirely a stranger when he read it, but, as Chief Justice Lloyd is dead, he endeavours to throw light on it. Vice Admiralty Courts have cognisance of seamen's wages, as in these cases the contract is made with the master ; but in many cases it has been denied that they have any right to hold plea concerning masters' wages, because the contract is there made with the owners ; the prohibition was therefore legally issued in Lupton's case. The proceedings show that the case had been received before the prohibition was served. "Writs of that nature are always listed the last day of the preceding term."

The charges amount to this—(A) He prevented the embezzlement of the King's share of a considerable seizure. (B) He interposed to prevent the trial of a seizure by a person who has been proved to be partial to the owners. (C) Malicious insinuations supported by no proof. (D) A complaint arising entirely from the ignorance of the complainants. "So that Mr. Browne's avarice and corruption are as apparent under the two first heads as are his malice and ignorance under the two last. . . Mr. Browne's indiscretions were so great that his court became very much disregarded, and men of any skill in the law refused to plead there, or appear before him as a judge."

The papers in the bundle are :—

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(2) Copy (22 July 1731) of a letter from J. Moore to the Commissioners of the Customs, 27 Feb. 1727, giving an account of the Judge's demand of $7\frac{1}{2}$ *per cent.* on a seizure, the sale to be made by his creature, the Marshal. Security was not offered till after Moore had secured an injunction. "The person who gave the information of this seizure had his house broke open at midnight, and was in a barbarous manner cut and mangled with 40 wounds and left for dead upon the spot and is now a miserable though living object."

(3) Affidavit of Andrew Hamilton, 7 June 1731. At the instance of Gov. Gordon he had spoken to Moore and endeavoured to remove his distrust of Browne and the Vice Admiralty Court; he had also spoken to Browne, who professed to have no personal gain in view and agreed to leave his allowance to the Governor's honour and the goods in Moore's hands. Some days after the condemnation of the goods, however, the Judge made an additional sentence that the goods be sold by the Marshal and the money brought into Court. This being in breach of Browne's promise to Hamilton, the latter concluded that Moore's estimate of Browne was right, that Browne could not be trusted with such a value, and that the Governor might grant an injunction "so far as to prevent the Judge from hindering or preventing the execution of his own sentence which he first gave in that cause."

(4) Affidavit of Peter Evans to the same effect. The relations between Moore and Browne had previously been shown by the arrest of Moore and his imprisonment till he had paid certain fees, and by his successful action for damages on that account.

(5) Similar affidavit of Patrick Baird. The Marshal, Matthew Pratt, was Browne's servant, and the fees taxed to him were generally received by Browne to his own use.

(6) Affidavit of David Evans, innkeeper. Pratt was assigned to him in 1728 as an indentured servant as consideration for a debt due from Browne, and acted as drawer for three

months, but was found to be so much given to drink that he was not trusted to draw wines any more, though he remained in his service about 18 months.

(7) Copy of Article 11 of Gov. Gordon's instructions (for assisting Customs officers).

(8) [Printed, and much torn : 4 *pp.*] New York ordinance establishing fees of Vice Admiralty Court.

(9) Copy of Article 21 of Gov. Gordon's instructions (for regulating fees).

(10) Moore's answer to interrogatories put to him by Browne, 26 June. Nothing to the purpose elicited ; three of the five questions are practically put aside as irrelevant.

(11) Similar answer of P. Baird to five questions. Col. Quarry as Admiralty Judge received $7\frac{1}{2}$ *per cent.* on condemnations. It was reported that sometime after the acquittal of the *Vine*, Browne borrowed money from one of the owners, Sprogell.

(17) Peter Baynton's answers to seven interrogatories (not on oath). He was owner of one-third of the cargo of the *Sarah*. Browne revoked Miranda's commission ; the schooner was cleared ; some time after, Browne asked him to be bound for him in a suit for 70*l.*, and on his refusal, angrily accused him of ingratitude, and declared that, were it not for his own reputation, he would expose him to the world.

(18) Minutes of the proceedings in the Chancery Court on the injunction. It was granted on 23 Aug., ordered on 21 Sept. to be dissolved unless good cause were shown in two days, and this decree was made absolute on 27 Sept.

(19) I. Miranda's answers to twelve interrogatories, 21 June. He has no evidence of the corruption charged against Browne but a paper put into his hands by P. Evans. He paid 100*l.* of Browne's debts, accepting notes and demands on other persons in exchange, but has not been able to collect one-half. Browne reflected on Miranda as an abandoned wretch before the Judges of the Common Pleas, and on Miranda's endeavouring to expostulate with him in the street, swore

1731. § 433 *cont.*]

the peace against him, whereby he was required to give 400*l.* security.

(20) P. Evans' answers to twelve interrogatories. The chief proofs of the charge of corruption were (a) Browne's receiving money from Baynton ; (b) his later quarrel with Baynton ; (c) his letters to Miranda and insistence on trying the case himself. Browne suggested that John Ramsay, Gov. Keith's servant, had officiated as Marshal, but Evans insisted on "the injustice and unreasonableness of the Collector's being obliged to deliver a seizure after condemnation into such hands as the Judge shall think fit . . . when by the words of the decree or sentence of condemnation the Collector (who is informer) is charged with and obliged to make satisfaction to the King and Governor for their shares."

(21) Baynton's answers to four interrogatories (not on oath), 26 June 1731. (a) He gave Brown no gold at Newcastle ; the only transaction was five months after the trial, when Browne gave notes and demands in return for the money he received of Gordon ; the only service done him by Browne was the revocation of Miranda's commission, for which he had never asked, neither knows by what means it was done. (b) Browne reproached him with ingratitude, but said nothing about his reputation. He understands from Browne's friends that the Judge was a very great sufferer by revoking the commission.

(22) Affidavit of P. Evans, 7 June 1731, that pending the prosecution in July 1727 Browne reflected on Gov. Gordon's honour and honesty, and showed such prejudice that he could not be an impartial judge of a cause wherein the Governor was interested.

(23) Affidavit of I. Miranda, 17 June—to the same effect.

(24) Affidavit of Owen Owen, who was sheriff in 1727, denying that the Governor instructed him not to admit Browne to bail or promised to protect him right or wrong &c. Browne was admitted to bail, but one of his sureties, L. C. Sprogell, was arrested for debt in May 1729 and died in prison.

(25) Affidavit of Wm. Biddle, keeper of the gaol, that he did not tell Browne's sureties that it was the special command of the Governor not to admit him to bail. Browne was only in his custody from 10.30 *a.m.* 24 Aug. 1727, was allowed to go to a tavern in the evening, and was released at 8 the next morning, the sheriff having gone out of town on the afternoon of the 24th.

(26) Affidavit of Anthony Palmer, one of Browne's sureties, 25 June, making the allegations denied by Owen and Biddle. James Greeme, Browne's counsel, applied to David Lloyd, the Chief Justice, for a *Habeas Corpus* on 25 Aug.

(27) Certificate of Palmer's refusal to be cross-examined—12 July, on the ground that the proposed twenty interrogatories seemed to be intended to entrap him, and that he had answered many of them in a former affidavit. The twenty interrogatories are enclosed. The last four suggest that Palmer did not draw up the affidavit himself; that Browne displayed a copy of it the day before it was sworn to; that at the time of swearing to it interlineations were made because one of the Justices present gave a hint that facts had been stated as consistent with Palmer's own knowledge, when they were really only hearsay; and that Palmer had solicited sundry persons to give evidence in behalf of Browne against the Governor—particularly Baynton and J. Lawrence.

(28) Joshua Lawrence's answers to four interrogatories, 26 June. Greeme did apply to C. J. Lloyd for a *Habeas Corpus* in an action by Gov. Gordon against Browne, but the date and the cause of the action he cannot remember. Browne and Palmer asked him in May to sign an account of the sheriff's refusal to take bail, but he refused, as there were sundry things in it which he did not know to be true. The sheriff was brought by Greeme to the Chief Justice. The sheriff later admitted he had been afraid to take bail in that action, but did not say why.

(29) Barnaby Barnes's answers to five interrogatories, 16 July 1731. Barnes was son of Sprogell's widow. He was

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asked about Browne's debts to Sprogell; and Browne's proposal to pay them to Mrs. Sprogell about a month since—it is alleged, after inquiries had been made about the matter on behalf of the Governor.

(32) Copy of a letter from Browne to Sprogell, 3 Mar. (?) from Maryland. Browne was about to sail for England. “. . . if you also please to send me an account of the money you are in advance, I will send you my bond, which I hope to discharge sooner than some people imagine.”

(33) Copy of J. Moore's letter to the Customs, 4 Nov. 1725, *re* the acquittal of the *Vine*, of which Sprogell was one of the owners. There were goods from Europe and from Curaçao on board, but the master, sailors and passengers were allowed to claim some of the goods and refuse to give evidence, as being interested, the importers thus throwing the *onus probandi* on the Crown officials and eluding the intention of the Acts of Trade.

(34) Affidavit of Thomas Tresse, 19 Sept. 1727, giving an account of a call made by Browne and himself on Gov. Gordon about 27 May last. The Governor offered an account of the usage he had received from “that spark” (Browne) and used much opprobrious language. Browne left on being called “Saucy Prig.” He had behaved with great respect and given no provocation.

(36) Certificate of Tresse's refusal to be cross-examined, 12 July 1731. Browne admitted having drawn up the affidavits of Tresse and Palmer. Thirteen questions were prepared for Tresse, showing appreciation of the fact that he had been taken to the interview as a witness and was actuated by malice.

(37) Affidavit of P. Baird, 10 May 1731. In Sept. 1727 David Lupton, master of the *Phœnix*, brought an action in the Vice Admiralty Court against Joseph Dyer, one of the owners, for his wages; a plea to the jurisdiction was overruled; but then a writ of prohibition was issued from the Supreme Court forbidding the Vice Admiralty Court to take further cognisance of the matter.

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(38) Minutes of the Vice Admiralty Court in Lupton's case.

(39) Certificate of Charles Brockden, Deputy Master of the Rolls. The first commission appointing D. Lloyd Chief Justice is dated 23 Sept. 1717, and no other person held the office during Gov. Keith's administration.

The originals of Nos. 10, 19, 20, 21, 26 and 28 are found in the bundle; also (unnumbered) the answer of W. Biddle to three interrogatories about Browne's imprisonment. The sheriff left no orders with him not to admit Browne to bail.

———. A petition of Browne for a hearing by the Committee (Undated) of the Privy Council. He has been deprived of the just rights and profits of his office for five years by the Governor's arbitrary encroachments, and is now detained in England to attend the result of the affair.

1732.

1732.

[434.] MASSACHUSETTS BAY. *Claim to Sagadahoc*. Order referring to the Committee a memorial of the General Court. 4 May. III. pp.

306-7.

I. The memorial. "This tract of land hath heretofore been considerably settled and improved, several towns and plantations set up and brought forward, and a good town well peopled at Pemaquid in particular, and your Majesty's subjects in those towns and settlements went on very successfully with their improvements in husbandry, the fishery, and in trade and commerce, not only in this country but to foreign parts, and became so large and numerous, that they were erected into a county by the name of Cornwall." Some of the inhabitants held from the Crown and some by purchase from the Indians; but the settlements were laid waste in the Indian Wars. The lands between Nova Scotia and Sagadahoc are expressly included in the Massachusetts Charter, yet the Government of Massachusetts is restrained from exercising its authority by an Order of 12 Nov. 1730, which "was founded on a very unjust and groundless representation that your Majesty's Governor was preparing a military

1732. § 434 *cont.*]

expedition against Frederick's Fort, heretofore called the fort of Pemaquid." The sheriff of the county of York had arrested some persons there for notorious assaults and robberies, and they were duly convicted and punished; the Lieutenant Governor had been ordered to visit the fort with 7 or 8 other gentlemen and to report on the state of the settlement; there was no other ground for the representation.

The Attorney and Solicitor General, it is pointed out, have reported in favour of the Massachusetts claim.

6 June. ———. Committee report on the claims of S. Waldo
 III. *pp.* and of Sir B. Lake. According to Waldo, on 3 Nov. 1620 the
 275-83. Plymouth Company granted the land between the Kennebec
 and the St. Croix to John Beauchamp and Thomas Leveret.
 On 9 May 1691 (after the death of Beauchamp and in ignorance
 of Leveret's title), Sir W. Phips bought the land from
 Modakowando, chief sachem of the Penobscot Indians. The
 country was in the hands of the French from 1696 to 1710.
 In Aug. 1719 Leveret bought out the Phips claim by a pay-
 ment to Spencer Phips, Sir William's adopted son and heir;
 and then entered into a deed of association with Elisha Cooke
 to settle two towns of 80 families each; they broke up land
 for two more towns, built saw-mills and blockhouses, and
 maintained a captain and 20 soldiers for over 12 months
 to defend the workmen. The French Indians attacked
 them in 1721, but were at length repulsed; on war being
 declared between Massachusetts Bay and the Indians, the
 blockhouses were handed over to the government till the
 owners should have occasion to use them. When peace was
 restored under Gov. Burnet, they received a letter from him
 to the chief of the Penobscot Indians, and were going on with
 the settlement of the lands, when interrupted by Col. Dunbar,
 Surveyor-General of H.M. Woods, who required that they
 should take grants from him.

Lake's grandfather, Capt. Thomas Lake, and Major Thomas
 Clark (grandfather of E. Hutchinson and great-grandfather

of J. Walcot) purchased lands on the Kennebec in the east of Massachusetts Bay from the Indians; and about 1650 built several houses and sawmills, and settled many families between the Kennebec and the Penobscot. Ships and conveniences for handicraft trades were also built, and over 20,000*l.* was spent on the settlement by the founders. The General Court in the years 1673 to 1675 named the district Devonshire and appointed commissioners, including Lake and Clark, to hold courts &c. Most of the settlement was destroyed, and Lake was killed, in the Indian War of 1676. Clark and Lake's widow attempted to revive the settlement, but renewed hostilities made this impracticable till after the Treaty of Utrecht, when the petitioners sent John Watts to resettle Arrowsick Island. On Watts' death his widow married Mr. Penhallow, who took care of the settlement till the Indians again destroyed most of it in 1722 or 1723. The efforts at colonising were renewed, but Col. Dunbar interposed, as in the case of Waldo.

A state of the case was submitted to the Attorney and Solicitor General to consider whether the claims of Massachusetts had been forfeited by their neglect to improve the territory, or vacated by the French conquest and occupation, 1696–1710. On 11 Aug. 1731 Yorke and Talbot reported that the rights of Massachusetts had not been forfeited or vacated. The Crown has not power to appoint a particular governor for the territory: lands there can be granted only by the province with the approbation of the Crown. The petitioners, too, ought not to be disturbed in the tracts claimed by them; the same regularity and exactness of titles cannot be expected as in England, and more regard must be paid to possession and expenses in settling and cultivating.

The Committee propose that, if Col. Dunbar is directed to restore the lands, a *salvo* should be made of the rights of the Crown, as fresh matter may arise to vary the case from the state it appeared in when it was laid before the Attorney and Solicitor General.

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II. Report of Yorke and Talbot, 11 Aug. 1731 (32 *pp.*). Two addresses of the Massachusetts Assembly declining to re-fortify Pemaquid on account of the expense and of its distance from other settlements are quoted—24 Oct. 1705 and 10 Ap. 1717. About a year ago the Surveyor of the lands in Nova Scotia was directed to settle some Irish and Palatine Protestants in the territory—(180 miles long from the mouth of the Kennebec to the mouth of the St. Croix)—: upon which Massachusetts reasserted her claims. Most of the report is incorporated in that of the Committee, but not (*e.g.*) the detailed limits of the lands granted to Leveret or bought by Lake and Clarke.

Enclosed in the report are:—

(a) 7 Jan. 1731. Affidavit of Jeremiah Dunbar, Surveyor of the Woods, that in his travels in Jan.–Feb. 1730, he saw no house or sign of settlement between the Kennebec and the St. Croix, save what was done by families who went over with his brother, Col. Dunbar, in Oct. 1729.

(b) 26 Jan. 1731. Affidavit of J. Dunbar in confirmation of (c).

(c) A paper transmitted to his brother by 32 settlers, asking that a grant be made to them before winter, as otherwise they will lose the summer's improvement.

(d) 7 Jan. 1731. Affidavit of Thomas Coram to show the neglect of the territory by Massachusetts. When the fort at Pemaquid was restored in 1692 or 1693 for a show of their government over that tract, only a few raw and undisciplined men were left as soldiers and remained in a naked, starving and comfortless condition. Capt. March secured liberty to return to Boston; and John Chubb, who was left in command, surrendered to the French in Aug. or Sept. 1696 without offering any defence. The French continued in possession of the country after the Treaty of Ryswick and built a church near the Kennebec in 1698. The Massachusetts Assembly in

1704 refused to settle the land again, as it would be in her Majesty's power hereafter to grant it to others, it being believed that there was a design to give it to Col. Dongan for a settlement of Roman Catholics from Ireland. The country remained in the possession of the French till 1710, and was then ceded by the articles of surrender of Gen. Subercase to Gen. Nicholson. (*Cf.* § 366.)

(e) 4 Feb. 1731. Affidavit of Sir B. Lake, giving the particulars quoted in the reports of the Law Officers and of the Committee.

(f) 26 Jan. 1731. Affidavit of Ebenezer and Wm. Wentworth, late of Portsmouth, New Hampshire, that there was no settled peace for three years together between New England and the Indians for nearly 40 years from 1686, at which date there was a town named Sheepscutt near Pemaquid, where their brother Daniel and Elihu Guninson, a noted shipwright, lived, and where William's father-in-law, Wm. Tucker, often cured fish. They had also seen the ruins of other settlements made in the Eastern parts of New England and demolished by the Indians on the fresh breaking out of war.

(g) 28 Jan. 1731. Affidavit of the Wentworths and of James Alford, late of Boston, that the French made no settlements in Sagadahoc, and that in Massachusetts a councillor was chosen each year for Sagadahoc.

(h) 13 Jan. 1731. Affidavit of Alford, John Blower, captain of an Independent Company at Plymouth, and James Erskine, Lieutenant in Col. Philips' regiment, about Massachusetts' share in the capture of Port Royal in 1710. 500 mariners under Col. Reading were sent from England; 2,000 men were raised by New England (especially Massachusetts) in four regiments commanded by Sir Charles Hobby and Cols. Whiting, Wm. Taylor, and Shadrach Walton.

(i) 21 July 1731. Affidavit of Joshua Winslow, of Boston. In 1718 he went with Gov. Shute to ratify

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a peace with the Indians, and found 40 houses inhabited by English families on Arrowsick Island in the Kennebec, one of them strongly fortified and commanded by a captain in the pay of Massachusetts.

(j) 23 July 1731. Affidavit of Samuel Penhallow, late of New Hampshire. His brother married the widow of Watts, Lake's agent at Arrowsick Island, and commanded the soldiers in the pay of Massachusetts there.

(k) 21 July 1731. Affidavit of Wm. Clark of Boston, who in 1726 went with Lt. Gov. Dummer to ratify a peace with the Indians, and found 20 good houses inhabited by English families on Arrowsick Island, with the fort commanded by Capt. J. Penhallow, and the ruins of many more houses. At Richmond, north of Arrowsick, he saw a large fort commanded by Capt. Joseph Heath with soldiers in the pay of Massachusetts.

5 May. [435.] PENNSYLVANIA. *Complaints of J. Browne, Vice III. p.287. Admiralty Judge.* B. of T. representation, transmitting Gordon's answer and other papers to the Committee; with (a) list of the 39 papers sent by Gordon; (b) list of 31 papers sent by Browne, 2 Nov. 1731; (c) A-H: list of cross-examinations of Gordon's witnesses, sent by Browne, 18 Oct. 1731.

27 June. ———. B. of T. representation transmitting (a) a letter of 10 May from Browne at Philadelphia, with (b) an affidavit of J. Greeme in South Carolina, 4 Ap. 1732, enclosing (c) the writ for Browne's arrest dated 13 June 1727, bail being marked at 2,000*l.*; (d) a writ of *Habeas Corpus* drawn by Greeme; (e) the return which the sheriff said he would make to the writ if it were granted—*i.e.* that Browne was detained at the suit of the Deputy Governor and until the latter should approve of the bail offered; and (f) Browne's application for his *Habeas Corpus*, 25 Aug.

The affidavit (b) recites Greeme's application to Chief Justice Lloyd, his bringing the sheriff to the Chief Justice, the sheriff's visit to the Governor, and the acceptance of bail.

1733.

1733.

[436.] NOVA SCOTIA. *Complaint of Agatha Campbell.* Her 23 Oct.
 petition set forth the grant of the government of Nova Scotia III. pp.
 by Louis XIII, 8 Feb. 1632, to Charles de St. Estienne, Sieur 359-62.
 de La Tour, her grandfather. In 1651 La Tour's son, on
 being acquitted of charges of treason and maladministration,
 was confirmed as Governor and in possession of all the lands
 granted to his father there. But no copy of the patent of
 1632 was produced. La Tour disposed of the lands to the new
 inhabitants at a very low rate, but the contracts were
 plundered or burned during the last Indian raid, in which
 her first husband was killed. Even if copies cannot be found
 in the public offices in Nova Scotia, she contends that her
 claim is made good by long possession and the uncontested
 payment of rents to her down to 1729-30. The younger
 La Tour died in 1704, and his children enjoyed the inheritance
 under the guardianship of their mother until the cession
 of the province in 1713. A letter of 23 June 1713 from
 Queen Anne to Gen. Nicholson is quoted, directing him (in
 consideration of the release of certain Protestants from the
 galleys) to allow French settlers in Acadia and Newfoundland
 who should be willing to continue there as British subjects
 to retain possession of their lands or to sell them, if they
 chose to leave the province. La Tour's other children then
 retired to the neighbouring French provinces, and the peti-
 tioner remained sole proprietor on conditions agreed upon
 between them. The conveyances were produced, bearing
 date 9 Nov. 1714. Her revenue from lands at Minas
 amounted to 80*l.* or 90*l.* The people have refused to pay,
 and she dares not go thither for fear of the Indians, by whom
 she was seized seven years since.

Orders of Gov. Philips for payment of the rents due to
 her were produced, dated 5 July 1721 and 19 Sept. 1722; also
 a certificate of the Rev. Robert Cuthbert, chaplain to
 Col. Philips' regiment at Annapolis, that he had several times
 seen the rents paid by the French, and that her claims were
 not disputed during his residence there. Affidavits of

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Mary Barton, John Welsh and Wm. Tipton corroborate this, and add that Mrs. Campbell was a Protestant of the Church of England and greatly beloved by her tenants.

Gov. Philips admitted the facts as to the value of the rents received by her. Their collection was stopped in 1730, on his representation that her title should be inquired into.

Sir W. Alexander's grant of Nova Scotia in 1621 and his sale of it to La Tour in 1630 to be held under the Crown of Scotland are recounted. Charles I in 1632 made some sort of concession of the country to France reserving the rights of the proprietors ; yet on 11 May 1633 he granted to Sir Lewis Kirke and others full privileges of trading, colonising and building forts on either side of the river of Canada. Cromwell had Nova Scotia seized in 1654, as anciently a part of the English dominions, to which the French had no just title. La Tour's rights were again recognised, and on 20 Nov. 1656, were made over by him to Sir Thomas Temple and Wm. Crowne. In accordance with the Treaty of Breda, 1667, Nova Scotia was again delivered to the French in 1670. As La Tour's children were found in possession in 1713, it is reasonable to believe that they were restored by the King of France in 1670. Mrs. Campbell's claim to the possessions and rents not disposed of by her father and grandfather is considered valid, but the extent of her rights is indefinite because of the want of the letters patent of 1632. Some valuable consideration should be paid to extinguish her claims in Nova Scotia. Directions should also be given for the payment of arrears, and for confirming her possession until the equivalent should be paid.

I. Affidavits of M. Barton, J. Welch, and W. Tipton ;
23 June 1733.

II. An abstract of the report.

1734.

1734.

20 May. [437.] CUBA. *Restitution of the ship ANNE.* (a) Extract
III. *pp.* of a letter from Mr. Keene at Madrid to the Duke of Newcastle ;
368-70. with (b) copy of his letter to Mr. Patiño, 13 May, 7 *pp.* in

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1734.

French ; (c) extract of Keene's letter to the Duke of Newcastle, 27 May, with (d, e) copy of Patiño's letter to Keene, 24 May, and translation ; (f, g) copy of King of Spain's cedula, 24 May, for restoration of the ship, and translation ; and (h, i) copy of Patino's letter, 24 May, to the Governor of Havana, and translation.

———. Another petition of the owners : with Order of 11 July. reference ; and a letter of 10 Ap. from J. Dennis and L. Cocke in Cuba to Capt. Bonham, reporting that the Governor had stopped not only any payment to them but even the receipt of their remonstrances—owing to the posture of affairs at present in Europe. This is the seventh petition.

———. Letters of Capt. Bonham to the Clerk of the 12 and 26 Council asking if the matter had been before the Council July. and the Committee respectively.

———. Letter from Bonham, enclosing (j) a letter of 8 Aug. 10 June from J. Dennis, his agent in Cuba, reporting that 1,861 pieces of eight had been delivered and 560 more promised in 20 days ; two old negroes of no value had also been received ; but nothing more was to be expected from Cuba while the present Governor remained. (k) The same, with an addition of 10 July, promising a copy of the proceedings in Cuba, with a view to another application to the Court of Spain ; with (l) a letter from Mr. Courand of 10 Aug. enclosing it. (m) Another copy of (k) marked as having been left at the Office by Bonham on 6 Dec. 1734.

———. Letter from Bonham transmitting (n) the latest 29 Oct. accounts from his agent in Cuba.

———. Another letter from Bonham asking whether 11 Nov. anything has been done by the Council.

———. List of Bonham's papers—Nov. 1732–Feb. 1734.

[438.] JAMAICA. *Gov. Cunningham's instructions*. B. of T. 10 July. representation (and letter). III. pp.

413–5.

[439.] MARYLAND AND PENNSYLVANIA. *Boundaries*. 8 Aug. Petition of Lord Baltimore. The petition recites the grant III. p.335.

1734. § 439 *cont.*]

of Maryland on 20 June 1632 ; an Order of 4 Ap. 1638 (on Claiborne's petition), declaring the right to the Isle of Kent and other places to be in Lord Baltimore ; and an Order of 7 Nov. 1685, that the Delaware peninsula was not uninhabited by Christians at the date of the patent in 1633, and that it should be divided in equal parts between the King and Lord Baltimore. He therefore prays that the words "*hactenus inculta*" be not interpreted to exclude from his grant "any part of the said peninsula lying within the limits of the said charter, although some very small parts thereof should at the date thereof happen to have been inhabited by the subjects of foreign powers."

18 Dec. ———. Petition of R. Penn, setting forth that the disputed lands were in 1633 in the hands of the Swedes, and passed later to the Dutch and then to the English. By a grant from the Crown in 1681 and one from the Duke of York in 1682, they passed to Penn. The Order of Nov. 1685 for dividing the peninsula was disputed by Baltimore, but was confirmed in 1708 and 1709.

W. Penn sold a great part of his inheritance in England and Ireland, purchased the land from the Indians and improved it so far as to make it the most flourishing colony in America for its age, there being 70,000 inhabitants in the three Lower Counties alone. The Penns have lost many thousands of pounds through this work ; in the Lower Counties the dispute about the boundary prevents them from receiving the quit-rents due to them. Lord Baltimore made a proposal in 1731-2 which the Penns accepted in order to put an end to the dispute ; but, when the Commissioners began to mark out the boundary, it was contended by those of Maryland that "a circle of 12 miles distance drawn from Newcastle" meant a circle of 12 miles circumference—*i.e.* less than two miles distant from Newcastle. Baltimore's petition for the whole of the disputed area is in these circumstances "what your petitioners could not have expected." The first notice of that petition was received by R. Penn from the B. of T.

§ 439 *cont.*]

1734-5.

about 17 Oct. The matter was partly heard on 21 Oct. and a further hearing appointed for 20 Dec. The two elder sons of W. Penn, who know more about the matter and have all the papers, are now absent, and owing to the season of the year the petitioner has had no opportunity of informing them of Baltimore's petition. He therefore prays for a reasonable time to be heard, and that Baltimore's petition be dismissed, and the agreement of 1732 confirmed.

1735.

1735.

[440.] JAMAICA. *Maroon Rebellion*. Letter of 21 Oct. Received 1734 from President Ayscough, and other papers, with letter 10 Jan. from Mr. Courand transmitting them to Mr. Sharpe.

"The party" having become demoralised in private quarters at Port Antonio (by drinking and sickness) and being separated from the rebels by a rapid river, the Legislature removed them to Port Morant. But the people have only made a trade of these parties and no benefit has been gained by the 100,000*l.* spent on them during the last 5 years. Some negroes of our side have kept up a correspondence with the rebels and supplied them with gunpowder. The parties were accordingly dismissed at the request of the Assembly. At this the people of Titchfield near Port Antonio broke out into flames of sedition, and on 2 Sept. applied to Sir Chaloner Ogle for the assistance which, they alleged, the President would not afford them. The rebels have attacked a sugar-work called Edward's Fort, in St. George's parish, belonging to one Broadgates. The master and two servants being some distance from the house escaped into the woods; his wife and two negroes successfully defended a little fort, and the rebels retired after setting fire to the canes and burning part of the house. The President sent "50 shot" to the relief of those settlements, and summoned the Assembly, who passed an Act for putting the country under martial law for six months.

I. Examination of Lieut. James Draper, 14 May 1734, about the sale of liquor to the party men, their employment

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1735. § 440 *cont.*]

by the inhabitants, and the relations of the latter with the rebels.

II. Minutes of the Council, 16-17 Aug., about the removal of the parties from Port Antonio.

III. The letter from Titchfield to Sir C. Ogle, 27 Sept.

IV. The President's speech to the Assembly, 1 Oct.

V. Address of the Assembly, 3 Oct. IV. and V. concern defence and do not relate to the Titchfield letter.

VI. Address of the Assembly expressing the deepest abhorrence of that malicious, scandalous and false libel, (III). They had expelled a member of the House for signing it, and recommend that the Attorney General be directed to prosecute the offenders. The President's answer thanking them is appended.

16 Jan. [441.] MARYLAND AND PENNSYLVANIA. *Boundary*. B. of
III. p.336. T. report. Richard Penn and the agent for the Pennsylvania proprietors, after promising an account of their title, now refuse to proceed therein. From the books of this Office, it appears that, on the appointment of Deputy Governors from 1702 to the last nomination in 1733, a declaration saving the right of the Crown to the three Lower Counties was always made by the proprietors. There is no doubt, on the other hand, that the disputed lands were included in Baltimore's patent in 1632; the words *hactenus inculta* occur in the preamble but not in the granting part of the charter. In 1633 and 1638 his right to the whole peninsula was affirmed; in 1683 and 1685 it was denied by the Privy Council. If the right is judged to remain in the Crown, the B. of T. recommend Lord Baltimore's pretensions on the ground of the money spent by his family in colonising Maryland. But to whomsoever the lands may be granted, the religious and civil rights of the inhabitants should be safeguarded.

11 Feb. [442.] CUBA. *Restitution of the ship ANNE*. Petition
III. pp. of Capt. Bonham, with letters of 10 June and 10 July 1734,
368-70. and a statement of accounts by J. Dennis, his agent in Cuba.

§ 442 *cont.*]

———. Committee minute, postponing consideration.

1735-6.
6 March.

———. Letter from J. Courand, enclosing to the Clerk of the Council (a) a letter of 29 Sept. from Capt. Bonham ; (b) a letter of 29 July from Dennis at St. Iago de la Vega ; and (c) a letter of 23 July from Benjamin Woolley, Bonham's agent at Havana. Dennis doubts not but every Spanish West Indian Governor has orders to disregard directions for making restitutions, and to observe the peace with the English according as they behave ; the only way is to seek redress at the Court of Spain. Woolley corroborates the view " that they are shuffling." Dennis had been removed from Havana on some villainous accusation, of which he hoped soon to clear himself ; Bonham would have heard of it at the South Sea House.

16 Oct.

1736.

1736.

[443.] LEEWARD ISLANDS. *Complaints of W. Smith and S. Cust, Secretary and Clerk of the Crown.* Petition—42 Articles [very dirty and ragged]. An Act of June 1724 establishing a Court of King's Bench and Common Pleas appointed the Judge's Clerk to receive certain fees belonging to the Secretary ; the B. of T. recommended that the Act be amended in this particular, but the Assembly rejected the amended Bill in March 1731. An Act of 1732 appropriated the liquor fund foreign to its original use, so that his Majesty's officers become dependent on the Assembly, " which dependence is the darling project of the West India Assemblies " ; the Act was made retrospective, and a debt of 319*l.* 5*s.* due to Smith was received by him in sugar at one-third loss. Another Act of Aug. 1732 assigned 60*l.* *per annum* to the Secretary in lieu of all demands for public business done by him. Another Act reduced fees and required the Secretary and his deputy to give 1,000*l.* security. These and other objectionable measures were passed in a precipitate manner by the President of Nevis in the absence of a Governor. In March 1734 another fee was reduced. On Smith's petition against the 60*l.* a year Act and claiming arrears of 554*l.* 10*s.* 9*d.*, the Assembly

Received
9 March.
III. *pp.*
495-6,
502.

1736. § 443 *cont.*]

recommended that the arrears be paid and the 60*l.* increased to 110*l.*, but a month later the Council resolved by a majority of one that the whole of Smith's account was discharged by the Act settling 60*l.* That Act ordered payment to be made in currency—an illegal currency by which one-seventh of silver payments and one-fifth of gold is lost. Smith has also been fined on several indictments for extortion, though the fees he took had been allowed by the Chief Justices for 30 years. Gov. Mathew permits the Assembly to encroach on the prerogative in the appropriation and issue of money, by clauses in temporary tax bills and in the Treasurer's bond. In 1735 a docket of the Secretary's fees—about one-half the accustomed amounts—was prepared by the Assembly and adopted by the Council. The Governor has taken the drawing and countersigning of patents and commissions from Smith and given them and the fees therefor to a private pretended secretary. The petitioners claim 1,878*l.* 2*s.* 6*d.* as due to them from the Government of Antigua. A schedule of five indictments for extortion is appended.

29 Ap. ———. Order of reference.

Received ———. Petition of W. Smith for leave to appeal against a
29 Ap. fine, and Order of reference, 21 May.

Received ———. Petition of Smith and Cust against the docket
9 Nov. of fees, and Order of reference, 24 Nov.

(*a, b*) Two copies of Gov. Mathew's order of 9 Feb. 1736 for enforcing the docket. One is marked in red ink—"His Majesty's 57th Instruction to Gov. Mathew is not recited because this Order is in the teeth of it."

(*c*) Minute of the Council of Antigua, 2 Feb. 1736, for enforcing the docket, with marginal notes by Smith. G. Thomas and G. Lucas protested.

(*d*) Copy of Article 54 of the Governor's instructions—about appeals.

17 March. [444.] MASSACHUSETTS BAY. *Act to exclude New Hampshire*
III. *pp. paper notes.* B. of T. report against the Act. The notes were
506-7. issued by an association of private persons, bore interest at

§ 444 *cont.*]

1736.

1 *per cent.*, were payable at the expiry of 12 years, and were not enforced as legal tender.

———. Petition of F. Wilks, agent for Massachusetts, 31 May. to be heard in support of the Act.

———. List of the persons concerned in issuing the 10 July. notes, laid before the Committee by Mr. Tomlinson, the agent : 18 named,—four members of the Council, the Speaker and five members of the Assembly, another esquire, four merchants, three gentlemen ; “ besides a great number of gentlemen and others of the best fortunes of the province.”

[445.] PENNSYLVANIA AND MARYLAND. *Conflict on the* 1-15 Dec. *boundary.* Six letters. III. *pp.*

(a) 1 Dec. Gov. Ogle to President Logan : reports the 338-9. burning of Capt. T. Cresap's house and the murder of some of those who tried to escape from it. Edmund Jennings, the Secretary, and Daniel Dulany, Commissary General and Attorney General, have been appointed to request the aid of the Pennsylvania Council in securing justice on the aggressors and compensation to the victims.

(b) 7 Dec. Application of Jennings and Dulany to the President and Council of Pennsylvania, giving an account of the attack on Cresap's house by Samuel Smith, sheriff of Lancaster county, and 40 others, on 24 Nov.

(c) 10 Dec. President Logan's answer. Any proposal to hand over the aggressors for trial in Maryland implies an admission that the disputed area in which the Act was committed belongs of right to Maryland, which has never been admitted. The respective claims are still *sub judice*. The provocation for the attack was very great, Cresap and others having plotted “ to throw out of their dwellings and expose to all the rigours of a severe winter season about three-score innocent families,” who had declined the jurisdiction of Maryland—Germans who had been misled at the time of their settlement by Cresap and others. To carry out the plot, arms and ammunition had been brought up from Annapolis

1736. § 445 *cont.*]

and men enlisted at 12*l.* *per annum* by “Cresap, a man raised for the savageness of his temper and daring resolution from the lowest infamy to bear command.” The sheriff was called upon to bring Cresap to justice, and, in the execution of his duty, near 20 miles within his county, was forced by violent resistance to give way to measures for which he is liable to answer to the proper courts—in Pennsylvania. It is alleged also that the person killed was shot by one of Cresap’s party, and that the house burned did not belong to Cresap but to an old inhabitant of Pennsylvania. Unless the Government of Maryland enter into effectual pacific measures with us for the security of the border lands, the whole case must be offered to his Majesty’s consideration.

(*d*) 11 Dec. Second remonstrance of the Maryland commissioners. Cresap held the land on which his house was built by a grant from Lord Baltimore long before the agreement for dividing the peninsula, which has not been carried into execution but is awaiting the determination of the Lord Chancellor of Great Britain. The accusations against Cresap have been brought forward only to colour the proceedings of the sheriff, but these proceedings are not justifiable even were the charges true. No actual violence had been committed by any of those who sought to restrain these ignorant foreigners from disavowing their allegiance to the proprietor of Maryland, from whom they had received their possessions.

Many years since there was another attack on Cresap’s house, when one of the assailants was killed : this was styled murder by the Pennsylvanians. The excuses about the actual firing of the shot and the ownership of the house do not affect the real issue. The sheriff’s expedition is responsible for all the evils that followed ; in order that the dispute as to jurisdiction may not enable offenders to escape, it is asked that they be apprehended so as to be answerable when his Majesty’s pleasure shall be declared as to the place of trial ;

§ 445 *cont.*]

1736.

and that Cresap, Miles Joy, Michael Risner, Jacob Mathias Minshar and George Bear be admitted to bail to be likewise forthcoming when his Majesty shall so direct. As for any attempt to throw the blame of the disturbances on Maryland, offers were made in 1734 and have been repeated since, which, had they been accepted, would have prevented the conflicts and preserved good feeling.

(e) 14 Dec. Letter from President Logan to Jennings and Dulany. The County Levy Rolls &c. of Pennsylvania show that the scene of the disturbance was surveyed and occupied by Pennsylvanians years before Cresap was known in these parts. The attempt to execute a legal warrant against a criminal cannot rightly be termed aggression; Cresap's character is well known to be infamous. A letter from Gov. Gordon to Gov. Ogle, 15 May 1736, is referred to as answering the statement about the proposal made in 1734. The sheriff's action in overcoming the resistance offered to his Majesty's lawful authority does not on examination appear illegal, but if any charge is made, the jurisdiction of Pennsylvania is the proper tribunal. "We are as fully assured that the place where Cresap was apprehended is within the province of Pennsylvania, as that there is such a province; we are equally certain that the offences committed in that place are tryable in Pennsylvania."*

(f) 15 Dec. Letter of Jennings and Dulany to the President and Council of Pennsylvania, pointing out the incongruity of keeping Cresap in prison and refusing to apprehend those guilty of violent actions which the President in his first letter said he and the Council could not encourage. A postscript asserts that the President first agreed to accept bail for all those in custody save Cresap, and then refused, as some objections had been started.

* The Germans who arrive in Pennsylvania are required, besides swearing allegiance, to promise fidelity to the proprietors, lest they should desert to the French, whose language they know better than English. The Maryland reply points out that this seems unnecessary, or inadequate for the purpose alleged.

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Received [446.] MARYLAND AND PENNSYLVANIA. *Boundary*
 9 March. *conflicts.* Petition of the President, Council and Assembly
 III. pp. of Pennsylvania; and Order of reference, 17 March. In
 336-40. spite of the agreement of 1732, Cresap had been invested
 with civil and military powers and employed to survey lands
 and arrest Pennsylvanian settlers twenty miles on the
 Pennsylvania side of the proposed boundary. In 1735 the
 proprietors of Pennsylvania exhibited a bill in Chancery.
 The Deputy Governor of Maryland rode into Lancaster county
 to confirm the German settlers in their adherence, and when
 his efforts failed, he sent 300 men to Cresap in Sept. 1736 and
 later 200 small arms and ammunition to throw the people out
 of their plantations—the design has been confessed by some
 of the confederates who were seized in Pennsylvania. Cresap
 enlisted more men, “breathed rage and fury, threatened
 destruction, concerted with his people the murder of some
 and burning the houses of others.” The people menaced
 called upon the sheriff to execute a warrant for Cresap’s
 arrest. The reading of the warrant was answered by oaths
 and shots; at the close of the day fire was set to the house,
 and the men rushing out and firing wounded one of the
 sheriff’s men and killed one of their own. As further injuries
 are still feared from the government of Maryland, his Majesty’s
 intervention is desired. The petition is dated 11 Dec. 1736.

22 Ap.

———. Lord Baltimore’s answer (2 copies). The boundary
 of Maryland is that described in the grant of 1632 and is
 unaffected by the subsequent grant of Pennsylvania. It is
 the people of Pennsylvania who have encroached on Maryland.
 The agreement of 1724 not to molest holders of land in the
 disputed territory and not to permit fresh settlements was
 not observed by Pennsylvania. In the agreement of 1732
 for fixing the boundary, Lord Baltimore was grossly deceived
 and imposed upon by the Penns, but that agreement has
 lapsed, as it was to become void if the lines were not run by
 25 Dec. 1733. The matter is now pending in Chancery. Balti-
 more’s only communication to the commissioners was a letter

§ 446 *cont.*]

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declining to take advantage of a clause of the agreement by which the proprietors of Pennsylvania had become liable for 5,000*l.* forfeiture for the failure of a sufficient number of their commissioners to attend according to an adjournment. The only difference between the commissioners was a mathematical one, and the opinion of "two as able mathematicians as any in those parts of the world" was given in favour of the Maryland contention.

The commissioners sent to Philadelphia were not allowed to send any letters to Lord Baltimore.

Cresap had a grant of the land on which his house stood in 1728; his loss by the fire is estimated at 800*l.* The old charge of murder against Cresap was a case of just defence against a similar aggression; he was tried in Maryland and acquitted; no more was heard of it till it was revived to give some show of justification to the present act of violence. The President responsible for these proceedings is a Quaker and as such unqualified to act as Governor. The Pennsylvanian Courts have made it a practice to keep any of the people of Maryland arrested by them a long time in prison before accepting bail and then to delay the trial in spite of all applications. People of the Three Lower Counties are regularly carried to Philadelphia for trial, although they have a distinct legislature, and should be triable only by their own laws.

———. Petition of the Deputy Governor and Council of Maryland; and Order of reference, 21 July. When the Palatines sought to transfer their allegiance to Pennsylvania, they made the excuse of being unwilling to contribute to the maintenance of the ministers of the Church of England or to conform to the laws about the militia. As such behaviour might be attended with dangerous consequences to other plantations, the sheriff was directed to secure them, and some of the militia were sent with him lest "these unfortunate people had been privately encouraged by some persons daring enough to protect them against any prosecution." Finding

Received
1 June.

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1737. § 446 *cont.*]

them shut up in a house, which an armed number of Pennsylvanians had taken possession of, the sheriff departed in a peaceable manner after distraining some few of their goods for their proportion of taxes. The government of Pennsylvania then issued a proclamation calculated to inflame the inhabitants of the border, the effect of which was seen in the attack on Cresap's house. Application was made to Pennsylvania for the arrest of the offenders to await his Majesty's determination as to the place of trial, but this was refused.

Received ———. Petition of Charles, Lord Baltimore, that, until 25 June. the right be determined, no Deputy Governor for the Three
III. p.564. Lower Counties be appointed by commission from the Pennsylvania proprietors, but only from the Crown. This had been the practice while the Governors of Maryland were disabled by being Roman Catholics or by infancy, but that disability is now removed; and the Counties are admitted to have been included in the grant of Maryland. The Penns and President Logan may be regarded as likewise disabled by being Quakers.

Received ———. Petition of the Commissary and Clergy of 12 July. Maryland; and Order of reference, 21 July; complaining of the opposition of the Quakers to an Act of 1702 establishing the Church of England, and of their seducing the inhabitants "to transfer the acknowledgment of their rights to their lands and payment of their rents and public taxes from the government of Maryland to that of Pennsylvania upon insinuations that the legal dues of the established clergy are intolerable hardships"; and praying that, on proof of facts of such dangerous consequence, "a stop may be put to the violent proceedings of the government of Pennsylvania, and a regular clergy encouraged to reside under the royal protection, not only on the borders but in their whole province and disputed territories." An account of the Cresap affair is included. 23 signatures; dated Annapolis, 6 May 1737.

21 July. ———. Order referring to the Committee the petition of W. Rumsey and W. Cannon of Maryland complaining of

§ 446 *cont.*]

1737.

proceedings of the Supreme Court of Pennsylvania against them : with Committee report of 29 July, and Order of 18 Aug.

———. Address of the Deputy Governor and Assembly Received of Maryland—5½ very large pages—similar to the petition 1 Nov. of the Maryland Council (*cf.* 1 June) : and Order of reference, 29 Nov.

———. List of papers depending before the Committee. 2 Nov.

———. Petition of the Penns against the Order of 18 Aug., Received alleging that the Committee report was obtained by surprise 2 Nov. and upon spurious representations *ex parte*. They desire that they be protected and their tenants quieted.

———. (a) Address of the Assembly of Maryland to Undated. Lord Baltimore, representing fresh encroachments by the government of Pennsylvania, in arresting and detaining in prison W. Rumsey, W. Cannon, — Powell and others.

(b) A relation of Cresap's case, witnessed by Risner, Joy and Minshar.

(c) List of 33 of those concerned in Cresap's affair.

[447.] SOUTH AND NORTH CAROLINA. *Reward for boundary commissioners.* B. of T. report on the petition of A. Skene and J. Abercromby, proposing to follow precedents of 1711 and 1729 (Virginia—Carolina boundary) for payment by a warrant from the Treasury. In 1729 the Treasury determined the sum, the fund, and the proportion in which it was to be distributed. In 1711 100*l.* was paid to each commissioner though but a month out, and 20*s.* a day to each surveyor. 14 June. III. *pp.* 566–7.

[448.] LEEWARD ISLANDS. *Complaints of W. Smith and S. Cust.* Gov. Mathew's answer (10 *pp.*). Cust, Smith's trustee, is regarded as a nominal person only. Smith artfully blends the preservation of his Majesty's prerogative with his own private claims and treats the Governor coarsely through his whole petition. The controversy is not so much between Smith and the Governor as between Smith and the people of Antigua. Mathew has never discountenanced 20 June. III. *pp.* 496–7.

1737. § 448 *cont.*]

Smith's lawful rights, and the trouble has arisen from Smith's wilfulness in rejecting the Governor's protection and control. When Mathew arrived as Governor in the latter end of 1733, Smith had provoked most people by exacting exorbitant fees, and about that time judgments were given against him for extortion, and many more suits were designed (over 50 by Wm. Glanville), but Mathew regarded the multiplication of these as vexatious and intervened with the Attorney General to put a stop to the proceedings. Before Mathew's arrival the Assembly had complained of a pretended customary docket of fees set up by Smith. The Governor attempted to mediate, and it was referred to three able lawyers and the gentleman who was Secretary when the docket of 1703 was established to prepare a new docket. Smith's objections to this were heard by the Governor and the Council of Antigua. In the end the Governor could not assent to the docket prepared, because the Council refused to make any allowance for transcribing the minutes of the Council for transmission to the Board of Trade. At the very time that Smith was petitioning against the Governor for lessening his just fees &c., the Council addressed the Governor with a complaint of his countenancing Smith's exactions &c.—a proof of his impartiality. In the case of the judgment for F. Carlisle, in which the sum was below that limited for an appeal, Smith did not apply to the Governor for a writ of error, but obtained an Order from his Majesty. Although Smith represented the later case of T. Jarvis as similar, the Governor judged it otherwise; further, the special Order in the other case did not authorise him to dispense with his instruction generally, and accordingly he did refuse a writ of error. As to the species of money in which the Secretary is paid, he could have sought legal redress in the island and the Governor would never have interposed. But the docket of 1703 was settled before Queen Anne's proclamation or the Act of Parliament settling the value of coins, and the money current in Antigua was lower in value than it is now. The proclamation and Act fixed the value of the Spanish

§ 448 *cont.*]

1737-8.

coins (then the only specie current in all the colonies) so much above the par of exchange that the Spanish coins were exported from all the colonies, and gold and foreign silver (not Spanish and not comprised in the proclamation or Act) have become the chief currency. From the necessity of having small pieces of money to pass in change, Spanish reals have been taken in payments for 30 years at the rates now current (above the value limited by the proclamation), but this could not be prevented by Government. Mathew consulted the Council about it in 1715, when he was acting in the absence of the Governor, and was unanimously advised that no action should be taken, as it was impracticable to execute the Act. If the Secretary were paid all his fees in Spanish coins according to the proclamation, he would remit them to Great Britain, and the whole amount now current would be exported in two years. As for the docket of 1703 enforced in Feb. 1736, it is the only one established by a proper power and has never been disallowed; it appears of equal validity with the fees fixed for the Provost Marshal at the same time, which have remained the only rule for that officer until now. The Governor was in St. Christopher when the Assembly and Council of Antigua requested him to enforce the docket, so that he cannot be suspected of influencing them. An order reciting what are the fees legally established cannot be deemed arbitrary or against law; it was left to the Attorney General to prosecute extortions contrary to law. Smith continues to receive fees for services other than those comprised in the docket. He was not heard before the proclamation was issued, because it was only a reminder of existing laws; when a new docket was proposed, Smith's objections were heard.

1738.

1738.

[449.] MARYLAND AND PENNSYLVANIA. *Boundary conflicts.* Petition of F. J. Paris, agent for Pennsylvania; and Order of reference, 23 Jan. Three cases of violence by

20 Jan. III. pp. 340-2.

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1738. § 449 *cont.*
the Maryland authorities since the Cresap affair are described, and his Majesty asked to fix a temporary boundary. (1) About 29 Dec. 1736 Capt. Higginbotham with an armed force seized some Pennsylvanians who were digging a grave to bury a child, beat and abused them, and drove them night and day over hills and mountains without clothes or subsistence 114 miles to Annapolis, where they are detained in a cold nauseous prison amongst felons for no offence whatever. (2) About 29 June 1737 a worthy ancient Justice of the Peace of Nottingham County, Pennsylvania, Elisha Gatshell, and several others, were likewise beaten, abused and haled away for no crime or offence. (3) About 26 Oct. the gaol at Lancaster was forced open in the dead of night, the gaoler and his family beaten and abused, and four prisoners charged with high and grievous offences taken away in triumph.
- 21 Jan. ———. Reply of the President, Council and Assembly of Pennsylvania to Lord Baltimore's answer of 22 Ap. 1737. "The answer . . is very untrue, imperfect and insufficient to be replied unto; and this the said replyants are ready to aver, maintain and prove as your Lordships shall award."
- 4 May. ———. Committee report: with a copy of the agreement between the proprietors.
- 18 July. [450.] LEEWARD ISLANDS. *Complaints of W. Smith and III. pp.* *S. Cust.* Four petitions; and Orders of reference, 20 July. 497–8, (a) About the docket of fees of 1703; (b) about raising the 504, 615. value of coins; (c) appeal against the executors of F. Carlisle; (d) about a writ of error against T. Jarvis.
- (b) contains a comparison of Proclamation Money at 130 *per cent.*; Antigua currency as it has been for many years till lately, at 160 *per cent.*; and Antigua currency as it is, at 170 *per cent.* One pound in each of these currencies would represent respectively 15s. 4d.; 12s. 6d.; and 11s. 5d. *sterling*. Spanish pistoles received by the officers of the Customs at 23s. are imposed on other subjects at 28s., although notoriously clipt and reduced from 104 to 96 grains. Gold coins have been

§ 450 *cont.*]

1738.

suffered to take an extraordinary rise contrary to proclamation, Act of Parliament and instructions.

———. Petition of J. Yeamans, agent for Antigua, that time be allowed to receive instructions to make a defence. The soonest return he can expect will not be before March next. Smith had alleged that his complaint about the docket of 1703 contained nothing but what had been included in his former petition, that a Committee of the Antigua Council had been appointed in May 1736 to inspect and remit all necessary papers to the agent, and that he would let the agent have copies of any papers he might desire. But Yeamans denies that the petition contains nothing new—*e.g.* Smith now asserts that the docket of 1703 “was void in its creation, that it was made to deprive the patentees of the greatest part of their fees, that it never was transmitted to England as required by the royal instructions, that it had been departed from by all the Chief Justices, that it was worn out and defaced in many particulars and deficient in others.”

1 Nov.

A minute of the Antigua Council at Parham, 9 March 1738, is quoted showing that the Committee of both Houses had not then reported, and authorising the Treasurer to pay what the Committee shall think a reasonable fee to the Secretary for examining and attesting papers which he had hitherto refused to deliver. The delay in sending papers to the agent is ascribed to (1) the negro conspiracy which put a stop to all public business for about nine months; (2) a dispute about privilege between the Council and the Assembly, which put a stop to public business for twelve months more; (3) the activity of the Legislature in providing for the public safety by procuring white settlers and making provision for the subsistence &c. of the troops; (4) a visitation of small-pox, which keeps some members in the country and others absent from the island, so that a quorum can sometimes not be collected. Fees appear to have been paid to Smith for 516 folios; but Yeamans has not yet received these, which are

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1738-9. § 450 *cont.*]

the only ones upon which he can with safety to the country rely. If Smith's revised petition of July is answered within nine months, he cannot complain of undue delay, as 12 months is allowed for the prosecution of appeals from the island.

17 Nov. ———. Affidavit of John Banister, Comptroller of Customs in Antigua, who was a clerk in the Secretary's office in 1735—about the fees taken there. The present reduction will render the office of very little value after paying the clerks and other necessary expenses. Parts of the docket of 1703 are not legible, and no provision is made by it for many articles of the Secretary's business. Smith has taken only the fees that were paid to his predecessors for many years past. He corroborates the statements made about the rate of coins current in the island.

I. Reasons for admitting Banister's affidavit without examining him upon interrogatories. He is about to leave England; and it is customary for the Council to receive the testimony of witnesses in such cases by affidavit. "Nothing can more evince its being new at the Council Board to examine upon interrogatories than its being impossible after the most diligent search to find before whom such examinations on interrogatories have ever been taken; and though there have been references on appeals to Masters in Chancery to take an account, yet such references are conceived to be similar to references by the House of Lords to merchants to take an account, and which in the one case and the other is always done by agreement of parties, for else in the one case it must have gone to the Master of the Court and in the other back to the plantations to the proper officer there."

1739.

1739.

5 March. [451.] LEEWARD ISLANDS. *Complaints of W. Smith.*
III. p.498. Affidavit of George Lucas, enclosing details of the account of the Secretary, Charles Hedges, from Feb. 1716 to June 1719, paid by Lucas as Treasurer—252*l.* 11*s.* 8*d.* The fees were the same as those taken by Smith; the proposed reductions

§ 451 *cont.*]

1739.

make the allowance not worth the while of any person properly qualified. It was admitted by the Committee of the Assembly that Smith had not created or increased any fee. Lucas also declared that the exchange had risen from 40 *per cent.* or 50 *per cent.* to 70 *per cent.* "Provisions in the said island are so excessive dear to persons who are not planters, but are obliged to buy everything with ready money, that . . a frugal merchant or other housekeeper of any repute and business cannot live there under 700*l.* or 800*l.* *per annum* that money."

[452.] MASSACHUSETTS BAY. *Paper money.* B. of T. 11 Ap. representation on a Bill for emitting 60,000*l.* in bills of credit, III. p.562. to which Gov. Belcher had refused his assent; and Order of reference, 12 June. The merchants concerned in the trade to that colony, on being consulted, made the following observations:—(1) 60 or 70,000*l.* of the paper money emitted in 1714, 1716, 1720 and 1727 is still outstanding, though the time for payment of the whole is expired. (2) All bills emitted before 1727 should be forthwith called in and sunk; and only so much allowed to be emitted annually as shall be equal in value to the paper currency of later date than 1727 sunk in each year. (3) Care should be taken that the new bills may be fixed in their value and no one obliged to take them at a higher rate. Whereas this Act directed that an ounce of silver should be exchanged for 6*s.* 8*d.* of the new bills, it had become worth 20*s.* of the old outstanding bills. (4) The Act provided that the borrowers repay one-tenth to the Trustees at the end of each year for 10 years (in silver at 6*s.* 8*d.* *per* ounce or in gold at 98*s.* *per* ounce). The Trustees are to pay off half the value of the bills to the possessors at the end of five years. The merchants object both to the detention of the bullion in the hands of the Trustees and to so large a sum being paid out of the Treasury at one time, lowering the exchange to the prejudice of New England and causing a sudden fluctuation. They proposed that the

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1739-40. § 452 *cont.*]

payments in gold and silver be made at the end of 3, 6 and 10 years. (5) As the Trustees are to be nominated by the Assembly, the merchants propose that the province at each of the terms of payment make good any deficiency arising from the insolvency of the borrowers. (6) The merchants desire that special contracts to make payment in silver or gold may not be annulled by any Act of this nature ; but they admit that an emission of notes of the value proposed is necessary for carrying on the trade and business of the province.

The B. of T. accordingly propose that the Governor be authorised to assent to an Act upon the conditions proposed by the merchants and containing a suspending clause. A copy of the Bill is enclosed.

26 July. [453.] GEORGIA. *Act about pilots*. Order of reference to III. p.639. Committee ; also B. of T. report of 31 Aug. making no objection ; “ but as we cannot judge what effect the execution of it may have, we could have wished it had been rather a temporary than a perpetual law.”

1740.

1740.

8 Feb. [454.] GEORGIA. *Act about pilots*. B. of T. report. The III. p.639. agents have submitted objections, but have not had time to consult their colonies as to the probable consequences of the Act.

I. Considerations on the Act, submitted by the agents in Dec. 1739. The Act does not make definite provision for the appointment, stations and duty of pilots, but leaves these and the penalty for neglect to be determined by the Common Council. (The penalty, however, is not to exceed 12*l.* and is to be payable to the Trustees : to recover it, it must be proved by the oath of the master and one other that the pilot neglected or refused to be ready *at his station*, or that he had the ship in charge, or was *required* to undertake the charge of it.) The duty for pilotage is also to be fixed by the Common Council, and is not to exceed 3*d. stg.* per ton, a great and heavy duty. Though a duty not to exceed 1½*d.* per ton

§ 454 *cont.*]

1740-2.

is imposed on account of the beacon on Tybee Island, there is nothing in the Act to enforce the regular continuance of the beacon so as to be of use. The Common Council is also left to determine the amount of the Port Duty, which is not to exceed $2\frac{1}{2}d.$ *stg.* or $\frac{1}{4}lb.$ of gunpowder *per* ton : ($\frac{1}{4}lb.$ of gunpowder is worth nearly double $2\frac{1}{2}d.$). If any sum has been laid out in Georgia for making ports, it has been at the expense of this kingdom. As much is to be paid by ships going into any natural inlet as by those entering a port. The Act appears to have retrospect from Michaelmas last. There is no exception for the King's ships. "Nor is there any matter obligatory upon the Trustees to be done or performed on their part, in consideration of all these duties ; and seems to be, under the name and form of an Act to be approved by the Crown, really a grant of further powers (in some sort indefinite) to the Trustees or their Common Council."

[455.] EMBARGO. Order protecting three Hudson Bay 7 March. Company ships on condition of providing one-third of their III. p.631. complement for the Navy.

[456.] JAMAICA. *Divorce Act (E. Manning)*. B. of T. 7 Aug. report ; and Committee report of 26 June 1741. III. pp. 681-3.

1741.

Nil.

1742.

1742.

[457.] ANTIGUA. *Double tax on absentees*. Petition of Received 10 planters resident in Great Britain ; and Order of reference, 11 Sept. 15 Sept. "The double taxing of such absentees is entirely III. p.738. without precedent, and is attended with many ill consequences to the prejudice of the petitioners and their property and to the injury of the mother country ; and hath been suffered in no other part of your Majesty's dominions ; and, should this precedent be permitted, the Assemblies in America may in effect wholly ease themselves by taxing your Majesty's

1742-3. § 457 *cont.*]

subjects resident in Great Britain to what degree they shall think fit."

2 Nov. [458.] GEORGIA. *Petition of the Trustees about release of*
III. p.729. *the quitrents and about the importation of rum and brandy.*

B. of T. report. The House of Commons adopted a resolution last session for reducing the quitrents in Georgia from 4s. to 2s. *per* 100 acres in order to promote settlement. As to the Georgia Liquor Act, there is one clause in it open to objection, reserving power to the Common Council to make rules from time to time for the buying and selling of rum. A merchant importing rum might find such regulations of the Common Council in force as might prevent the sale of the rum and defeat the scheme of his voyage to the great loss of the fair trader.

1743.

1743.

10 Dec.

[459.] RATTAN. *Spanish Designs.* Letter from Gov. Trelawney. He had summoned the Council to consider measures for the maintenance of Rattan, but sickness hindered two of the members from attending and there was no quorum. He encloses (*a*) a report by Capt. Wm. Cunningham, the engineer, with a plan of Port Royal harbour at Rattan.

"The air is temperate and serene, refreshed with frequent rains and continual sea breezes that sometimes blow very high. There is no land wind, the island not being above five miles broad and narrower towards the east end. From the middle of Oct. to the beginning of Jan. excessive rains fall attended with thunder and lightning. This season is not sickly, but the months of June and July are, occasioned by the more sudden transition from heat to damps and colds.

The island is about 32 miles in length, one continual ridge of hills from end to end, no low grounds except gullies, sandy beaches and places next the sea side overgrown with mangroves. The hills are of a red barren

channely clay, the gullies of a very rich black mould, and I believe proper for any kind of produce. Several of the gentlemen at Augusta tried experiments with different kinds of seeds, but did not answer from the badness of the soil where they are hutted.

On the south side are 22 harbours and lagoons, on the north side three or four; some of them have deep soundings and safe anchoring; the rest all reefbound; that of Port Royal is the best I have seen; it forms a crescent of about 3 miles, the soundings very unequal, from 3 and 4 fathoms falling suddenly into 12 and above; some coral rocks. The entrance is betwixt 50 and 60 fathom over, the channel next the lee reef is from 9 to 12 fathoms sounding. As the wind is mostly easterly, the ships are obliged to loof up into 4 or 5 fathom.

Fort George is situate on the extremity of Port Royal Island, which extends 8 or 900 paces to the eastward, and may be a convenient situation for a town, if completely fortified and supplied with water, not being liable to bombardment or annoyance except from the entry of the channel, where an enemy must be exposed to the fire of the forts. . . The town of Augusta, where the troops now are, is situate near the middle of the harbour on a hill watered on both sides. . . This situation has no conveniency but fresh breezes and water. Half a mile to the eastward is the town of Williamsburgh, which I laid out and gave a plan of before leaving Rattan; it is commanded by a hill, which in my plan I reserved for the King's use, in case it should be thought necessary to build a small citadel. Some houses are already built and a great many lots bespoke for the civil inhabitants who don't care to leave the Mosquito Shore till the settlement is confirmed, there not being above 6 or 8 families yet come over.

The loose rock and conks on Port Royal Island make very good lime; there is abundance of stone to the

1743. § 459 *cont.*]

westward of the harbour proper for rough building and the island in general furnishes plenty of wood. There are plenty of wild hog on the island, a few deer, numbers of Indian conies, duck, teal and wild pigeons. The mariners and Indians supplied us at reasonable rates with great plenty of turtle, manatee, limes, plantains, yams &c.; as to all other commodities we had them at 70 and 100 *per cent.* above the Jamaica price.

When the works were finished at Rattan, I passed some time over at Truxillo and Mosquito Shore; most of the people there except two or three families are very poor and very idle, being accustomed to a roving life, hate to apply to anything but fishing and what supplies their immediate necessity, so that I imagine they will make bad subjects for any new colony. The people of the Bay of Honduras, I take, will be as improper, for, if they are more industrious, yet they are so few in number that a greater force would be necessary if it is thought proper to carry on the logwood trade.

I won't pretend to give your Excellency a particular account of the trade that may be carried on upon the Spanish Main, as you no doubt have it from people who make it their business to know these things; all I shall observe is that the lower part of the country is very pleasant, seems to be of a fertile soil well-watered and pierced with lagoons, which I imagine in length of time and with industry may be improved into harbours for sloops. The present trade appeared to me very inconsiderable, but make no doubt will increase with our settlement. When I was there, frequent disputes happened amongst the traders; the Dutch (who carefully watch these opportunities) carried it from them all.

It would be necessary that a form of government should be established to prevent this and protect the Spaniards from being imposed on or cheated while they trade with the merchants, and escorts to conduct them

past the Spanish guards, which might be easily done with a small number of our men mixed with Mosquito Indians, and I make no doubt they would cheerfully defray the expense.

. . . If any more works are intended it will require a greater number of forces to defend them, with a small detachment of the artillery. When I left them they had not numbers sufficient for their guards with two nights abed, so that a supply will be absolutely necessary."

The Governor gives his opinion about the proposed colony. "The trade of Guatemala, which is a large and rich province, might even on the northern side be considerable ; but as the few English that have traded thither as well as along the Mosquito Shore in the neighbourhood, have been of the lowest sort and have acted in a lawless violent manner with the Spaniards, the Dutch, who have dealt not much better but more cunningly with them, have got almost all that trade into their hands ; likewise at the Bay of Honduras, the Dutch carry about half, some say three-fourths, of the logwood that is cut there to Holland, though the cutters are all English ; and moreover the Spanish privateers very much infest the logwood traders." A form of government is proposed to regulate the trade, and a man-of-war to protect it from Spanish privateers and Dutch rivals. The Spaniards would prefer to deal with the English, who can let loose or keep quiet the Mosquito Indians. Twenty to twenty-five thousand tons of logwood are cut annually. "If there had been any port or harbour proper for a man-of-war on the Mosquito Shore, there would have been no need of Rattan ; for we do not want more islands, having more land on this than we can cultivate." Admiral Vernon took up Trelawney's plan of bringing the English in those parts together to make a small settlement for a careening place at Rattan in a higher strain than the Governor intended, and the latter then declined it. But after the unhappy expedition intended against Panama, Vernon had the plan executed, although Trelawney

1743. § 459 *cont.*]

suggested a postponement, on receiving the news of a descent upon Georgia. All the advantages that can accrue from the settlement at Rattan, in the Governor's opinion, are (1) securing the logwood trade and extending that from Guatemala; (2) a place for refitting vessels disabled in the Bay of Honduras; (3) a port to leeward, more easily reached than Jamaica from Carthagená or Portobello, and useful for ships cruising between Havana and Cape Antonio to intercept the treasure from Vera Cruz.

Postscript.—The Governor's share in the advancement of the settlement has been only to appoint a chief magistrate and empower him to grant lands. The person appointed is esteemed the prudentest as well as the richest and most influential in these parts. At first he had hopes of inducing many to settle in Rattan, but since has despaired of it until an establishment is formed by his Majesty.

Some of the medicines sent for Wentworth's troops, which arrived after he was gone, were sent to Major Caulfield on his application. Also enclosed in the letter is—

(b) “*An account of what has been done at Black River on the Mosquito Shore towards settling a commerce with the Inhabitants of Guatemala.*”—The river is navigable from the mouth about 90 miles or 3 days setting (?) up, *i.e.* shoving with long poles, for flat-bottomed boats that carry about 4 or 5 tons of goods with 5 hands. From this place a road is cut through the woods to a savannah or open plain in length 3 days journey for a single man not loaded.

N.B. The woods and country about through which the road is made from the barcadier to the first savannah belongs to Piaco Indians, who are friends to and in some measure depend upon the Mosquito Indians, who acknowledge his Majesty's government. The royal officers of Spain will not dare to come near that wood, and it is impossible for them to guard all the avenues to the savannah, from which the Spanish trader may at once

§ 459 *cont.*]

1743-4.

turn into it and be in safety ; so that in all probability a secure commerce may be carried on this way ; whereas the roads that lead to Truxillo and the other places, where the trade has hitherto been carried on, are so narrow that they may easily be beset with guards, and no trade can be carried on without the connivance of the royal officers.

The road is but just made a little before the rainy season, so that not much more than 40 or 50,000 pieces of 8 in indigo chiefly and some small matter of silver and gold, has been yet brought down that way ; but they write from thence that they have great expectation for the spring.

———. Extract of a letter from Sir C. Ogle to the Duke of Newcastle, first about arrangements for paying the troops at Rattan, then quoting Capt. Cunningham's account of the island. Ogle agrees that the garrison is reduced to too small a number : there should be at least 300 regular forces there till the strength of the inhabitants increases. Means should be found to persuade the troops that they will be relieved in some reasonable time : the want of this has already occasioned several mutinies and desertions. A Paymaster and a Commissary should be appointed : supplies must be had from Jamaica till the island is better improved : the settlers should be provided with flour at the public expense for the first year. A 50 or 40 gun ship and a 20 gun sloop should be stationed at the island. The form of civil government should be communicated to them and established as soon as possible. Cunningham's report stated that some of the fortifications were unfinished : Ogle is therefore sending 1,000*l. stg.* to complete the defences. Cunningham has been compelled by ill-health to go home : if Rattan is to be maintained, another officer of his qualifications should be sent out as engineer.

24 Dec.

1744.

1744.

[460.] RATTAN. *Spanish designs.* Letter from Sir C. Ogle at Port Royal. H.M.S. *Greenwich* sprang a leak at 19 Feb.

1744. § 460 *cont.*]

Rattan on 28 Dec., but caulkers were sent to her aid from Jamaica. On 6 Jan. a Spanish sloop was brought in; on 9 Jan. a recaptured English brigantine; and on the 10th H.M.S. *Lively* from Antigua with a naval storeship under her convoy. It is difficult to obtain certain intelligence of De Torres's squadron, though the general fame is that they are fitting at Havana to go to Europe. Copies of the last three informations obtained are enclosed, agreeing that they are superior to any strength that Ogle could bring against them. (1) 16 Jan. Don. Francisco Yudice, a Genoese married at Port Royal, master of the captured Spanish sloop, declared that three months ago there were 14 ships of war at Havana well supplied with provisions and cordage by the French, but still largely deficient in men. He has been set ashore at the South Keys, on promising to procure more exact information. (2) 3 Dec. J. Wimble, captain of the English privateer *Revenge*, lately cast away upon Hispaniola, gives a list of 12 ships, and an estimate of the population of Cuba—47,200 (Havana alone being 20,000). (3) 2 Feb. Capt. Policarp Taylor of H.M.S. *Fowey* at the South Keys, with information that a fortnight before 1,500 men had been pressed at Havana and four ships were under sail for Rattan—with the names of these and of eight other ships of war at Havana. Ogle thinks a Rattan expedition improbable at this time of the year, as the Spaniards are extremely cautious of moving upon that coast during the season for north winds, but he has sent the *Montague* to Rattan with 1,904*l. stg.* to subsist the land forces till 24 June; if not required at Rattan, she is to intercept the Vera Cruz trade off the Tortuda banks near the mouth of the Gulf. Three months provisions for 300 men have also been sent to Rattan under convoy of the *Assistance*, which is to remain there. A sloop has arrived which left Rattan in tranquillity 20 days since, and other ships have come in from places which a Spanish expedition must have passed, and have reported that no Spanish vessels had been in sight. The inhabitants at Rattan do

§ 460 *cont.*]

1744.

not exceed 60 in number. (4) A melancholy account of the garrison from Major John Caulfield, dated 5 Dec., is enclosed. Sixty-three men have died since their arrival; the writer continues very ill; the works require frequent repairs owing to heavy rains; as he does not desire to have more money in his hands than there is immediate necessity for, he asks that for the next payment of troops 1,777*l.* Jamaica currency be sent instead of 1,960*l.* as heretofore. In a letter of 18 Jan. Caulfield urged that fortifications should be raised with brick or stone, the present fascine works constantly mouldering and being liable to be washed away by heavy rains; but the necessary engineers and utensils cannot be supplied from Jamaica. The rains in the West Indies this year have been unusually heavy; and "I do not despair but this island will soon recover its character of being a healthy place."

The ships of the squadron at sea are—*Prince of Orange* off Cape de Vele on the Spanish Main; *York* between Sta. Martha and Carthagená; *Rippon* protecting the Jamaica trade by the Windward Passage; *Falmouth* curbing privateers between Hispaniola and Porto Rico; *Experiment* protecting trade to the south of Hispaniola; *Thunder* bomb off the East End and Morant Keys; *Orford* coming from Bluefields, and *Basilisk* from the South Keys, where the *Fowey* remains; *Astrea* at Piscataway waiting for naval stores.

Of the ships in port five are fit for sea; of these one is bound for Rattan and one for England; five others are careening or fitting for sea.

"I am informed by my cruisers from Hispaniola that the French discover a good deal of jealousy by throwing up little breastworks and places of defence in the bays and landing places upon the coast where they apprehend any annoyance from an enemy."

———. Letter from Gov. Trelawny, enclosing a return 18 Aug. from Caulfield of the effective detachments at Rattan, 21 June 1744—162 non-commissioned officers and centinels and a train of artillery with 17 men—and a letter of 22 June asking

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1744. § 460 *cont.*]

to be reinforced in view of the war with France. Jamaica can send no reinforcements; "so far from it, that we are impatient for the success of our humble address to his Majesty desiring 2,000 soldiers more."

27 June. [461.] ANTIGUA. *Double tax on absentees*. B. of T. report III. *pp.* for granting the petition of the planters resident in Great Britain.
738-9.

841.

14 Dec. ———. B. of T. representation on another Act providing for double taxation of absentees; and Order of reference to Committee, 27 Dec.

Received [462.] WEST INDIES. *Court Martial*. Petition of G. Fry.
9 Aug. He complained of being browbeaten at the court martial
III. *pp.* and not allowed to examine *viva voce* the witnesses against
794-6. him, whose depositions ran "in a language and terms very different from what it was reasonable to imagine such illiterate and ignorant people should express themselves in."

7 Sept. ———. Letter from the Admiralty transmitting copies of the proceedings and other papers: with (a) minutes of the proceedings; and (b) six papers submitted on behalf of Fry, (c) a copy of the sentence and of several letters; and (d) 11 papers in support of Capt. Laws' charges. The disturbance* occurred on 19 Dec. 1742. The trial was delayed in 1743 by the absence of H.M.S. *Greenwich* (on which the mutiny occurred,) and therefore of the witnesses, at Rattan, where the ship sprang a leak (*cf. pp.* 259-60). Fry then desired that five witnesses should be sent for, and these arrived in the *Bonetta* on 18 Feb. 1744, with some who were required by Capt. Laws. The witnesses were examined by the Judge Advocate, and the trial took place on 14-15 March.

29 Oct. [463.] TOBACCO FOR FRANCE. Report of Attorney and III. *p.* 797. Solicitor General with draft of a pass; and another report and draft of 8 Ap. 1745.

* Caused by Capt. Laws' discharge of a sloop that had been captured. The recalcitrant officers believed the Captain was concerned in the sloop.

1744-5.

[464.] NEWFOUNDLAND. *Defences*. Letter from Capt. G. Sediere. Capt. T. Smith, the late Governor, left him in command of Fort William at St. John's with 90 soldiers and 80 Protestant fishermen. The new Governor has arrived ; war has been declared with France, but the fishermen are discharged, having been engaged only till 1 May ; fortifications are discontinued and artificers discharged for want of cash and orders ; the Captain has been obliged to use his own credit, that his Majesty's troops might not want bread in this miserable country.

17 Nov.

1745.

1745.

[465.] ANTIGUA. *Double taxation of absentees*. Two petitions of S. Martin ; and one from some absentee proprietors for an early hearing, as two similar Acts have been passed in St. Christopher. The Assemblies meet in May or June, and the Acts are executed before it is possible for his Majesty to exercise his judgment.

Read
27 Feb.
III. pp.
738-40.

———. Committee report.

5 March.

———. " B. of T. representation on the two St. Christopher Acts ; and Order of reference, 11 April. The first Act had been carried into execution, but the second should be repealed, and an instruction given against passing such Acts for the future.

27 March.

———. Petition of J. G. Douglas, and Order of reference, 23 May, docketed " This was not heard, the Acts being expired." The petition alleged, as the justification of the double taxation of absentees, that the resident planters were subject to burdensome personal duties and risks, on frequent alarms of invasion during a time of war. If the tax induced the absentees to return, it would strengthen the island greatly.

Received
21 May.

Five reasons are given against the repeal of the second Act. (1) It raises the necessary annual supplies for government and defence. (2) Antigua has been allowed four such Acts ; this is the first year St. Christopher has laid extra duties on absentees, although these own half the property in the island. (3) The duty is payable, and will have been

1745. § 465 *cont.*]

collected, on 25 March; and great inconvenience would be caused by the repeal of the Act. (4) Repeal would be a fatal wound to the credit of the island. (5) Besides Antigua, Jamaica furnishes a precedent in its annual deficiency laws from 1718.

28 Feb. [466.] NOVA SCOTIA. *Grant of Sable Island*. B. of T. III. p.808. report, with (a) J. Gorham's memorial, and (b) Minute of the Nova Scotia Council at Annapolis, 24 Sept. 1744, transmitted by President Mascarene. Gorham represented that he had raised a company of Mohawks, who might with two proper vessels "land in all the different harbours of the province and rout out the greatest part if not all the Indians, partly by destroying and partly by hindering them from coming near the seashore, from whence they get great part of their subsistence, and consequently the French inhabitants who live chiefly by the Indian trade would soon follow." The vessels should be on the same establishment as H.M. ships of war; there being no prizes to be taken, a bounty ought to be given for the heads of those brought in dead or alive. Gorham and his partners have been at great expense in improving the Isle of Sables since 1738—a dangerous place where 9 or 10 vessels have stranded since that time: the crews in such cases must perish if not supported by inhabitants being settled there. The partners have built houses and have two vessels laden with live stock ready to be carried thither. During the last six years, 250 people have been saved and supported till they could be transported elsewhere. Gorham offers to erect lighthouses at his own expense, if a grant be made to him of the island, "without any incumbrances by the government at home, and proper duties laid upon shipping trading between Newfoundland and New York, according to their tonnage, for the support of the said lighthouses."

The Nova Scotia Council unanimously recommended the plan in the strongest terms.

The B. of T. having discoursed with some persons who had been on the Isle of Sables, reported that the island "is

§ 466 *cont.*]

1745.

between 15 and 20 miles in length and about 2 broad, of a sandy soil, producing at present nothing but a coarse grass and wild peas, and that only on some small parts of it; that the said island is uninhabited, but has been sometimes made use of to feed cattle, there being plenty of fresh water therein; that the navigation near it is dangerous on account of the great shoals of sand and strong currents there; that vessels from Newfoundland to Nova Scotia pass between the said island and Nova Scotia, and those from New England to Europe on the south-east side thereof, and that several ships have been stranded thereon of late years." They propose that a grant be made on a moderate quitrent, and submit whether the grantees should not be obliged to settle a reasonable number of inhabitants within a certain term. "We are doubtful whether such lighthouses would answer the ends proposed by Capt. Gorham, the said island lying so low, and the shoals running so far out into the sea, that (as we are informed) they would not often be discovered, and therefore might rather be detrimental than serviceable to the navigation in those parts."

[467.] GEORGIA. *Three Acts re sale of liquor and re quitrents.* B. of T. report. Mr. Fane, K.C., had no objection in point of law, but the Board could not recommend the Acts. (1) The House of Commons had voted that it would be of advantage to Georgia to permit the import of rum from other British colonies; the Act proposed to allow such import only on condition of receiving in exchange lumber or other merchandise of the province of Georgia. (2) Offenders against the licensing law for retailers of rum are to be kept in gaol for three days without bail and not delivered until sufficient securities have been found in the penal sum of 10*l. stg.* not to offend again. There may be "insuperable difficulties in procuring security in so great a value in so poor a country." (3) The Tenures Act establishes both fee simple and fee tail, which may cause confusion in titles. Out of the

28 Feb.
III. pp.
842-3.

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reduced quitrent of 2*s.*, 6*d.* was to be paid to Lord Carteret. But he has had his whole eighth part set out and divided and proper Acts of surrender passed : the quitrents ought for the future to be reserved entire to his Majesty. It is submitted whether, if the quitrents be reduced from 4*s.* to 2*s.*, the Trustees should not be released from the condition in the Charter which makes them accountable for the payment of the quitrents.

30 Ap. [468.] BERMUDA. *Gov. W. Popple's instructions.* B. of T.
IV. *p.* 4. representation. Article 65 contains the substance of the former 65, 66, 67 about privateers in the plantations.

7 July. [469.] WEST INDIES. *Defences.* Extract of a letter from Gov. Robinson of Barbados, and letter from the B. of T. transmitting it to the Duke of Newcastle, 19 Sept. Monsr. Caylus's squadron sailed on 1 June to Europe. While his squadron remained at Martinique, Robinson sent flags of truce with prisoners whenever possible, in order to gain information. Caylus did not assume the government on his arrival, but left it under the Marquis of Champigny, intending himself first to conduct some expedition. It was first proposed to attack Antigua and St. Christopher, but they were deterred by the report of Knowles's fortification of Antigua. The 1,500 recruits who had been raised were then sent to St. Lucia, which is daily becoming a place of more importance to the French and danger to the British. Robinson deems it his duty again to enforce his opinion of the importance of this island. On 23 March (only two days before Caylus's arrival in the West Indies), Robinson received powers from the Duke of Montagu to grant lands there, but settlers will not come from other islands, in view of the increasing power of the French and the expected arrival of a more powerful squadron from France to complete this new settlement and attack our old ones. The Governor desires that the French may be forestalled by a British naval force. Five fascine batteries have been completed, but some large cannon are still required.

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[470.] MASSACHUSETTS BAY AND RHODE ISLAND. *Boundary.* 27 Feb.
 Petition of C. Kilby, agent for Mass. (Three copies—5 large III. pp.
 pages each.) The reasons offered for granting a Commission 447-8.
 of Review are, (1) the plans and proofs transmitted by the
 commissioners are very imperfect; (2) a plan of their
 boundaries transmitted by Rhode Island to the B. of T.
 unfavourable to their later pretensions became known to
 the Massachusetts solicitor in England only a fortnight before
 the hearing by the Committee; but the Committee would
 not consider it, as it had not been produced before the com-
 missioners in America; (3) by two Massachusetts Acts of
 6 William and Mary, confirmed by the Crown, new townships
 were made out of the towns now assigned to Rhode Island :
 from their notoriety these Acts were not laid before the com-
 missioners and were therefore not considered by the Com-
 mittee; (4) as it is a question of jurisdiction only, the greater
 influence of the Crown in the constitution of Massachusetts
 should be considered, “whereas in Rhode Island government
 they deem his Majesty’s royal authority to be entirely given
 up by their charter,” their disobedience to the King’s orders
 being particularly seen in the instance of their paper currency;
 (5) Rhode Island has never assisted as Massachusetts has
 in French and Indian wars : this year Massachusetts has saved
 the garrison of Annapolis and the whole of Nova Scotia from
 falling into the hands of the French; (6) Massachusetts would
 suffer great inconvenience by losing the townships which had
 long been in its possession and which had been relied on for
 a proportion of the large debt incurred for the public service;
 (7) the line proposed intersects several townships and will
 separate houses from lands, pastors from their congregations,
 and children from their parents; (8) the award will weaken and
 discourage a province which has always been ready to use
 its strength for the service of his Majesty’s dominions, and
 will add strength to a colony which has never done so.

[471.] LEEWARD ISLANDS. *Double taxation of absentees.* 16 June.
 Committee report. III. p.740.

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- 29 Ap. [472.] NEW JERSEY. *Paper money*. B. of T. report on
IV. pp. the agent's petition for allowing the Governor to assent
24-5. to an emission of 40,000*l*. The instruction does not forbid
the Governor to assent, if the Act provides proper funds for
sinking the bills and contains a suspending clause. Further,
it does not appear that the petitioner had any particular
authority from the legislature to make such an application.
- 1 May. [473.] JAMAICA. *Differential taxation of absentees*. B. of T.
IV. p. 39. report for giving the like instructions to Gov. Trelawny as
to the Governor of the Leeward Islands. The annual
"Deficiency Law" imposed penalties for not having a
sufficient proportion of white people on plantations.
- 1 July. ———. Petition of the agent against the report, and Order
of reference (*much torn*). The Antigua Act was complained
of as soon as passed; the Jamaica Acts have been passed
yearly since 1730 with only one exception, and the penalty
is imposed only on those who fail to send over white servants
to strengthen the island. As the circumstances are not
similar to those in the Leeward Islands, the agent asks time
to consult his constituents, and to be heard upon their
objections before any instruction be sent to the Governor.
- Undated. ———. (a) A memorial signed by 25 planters. Pending
the agent's petition, the Assembly goes on passing similar
Acts; an early hearing is desired.
(b) A petition of 24 planters to the same effect.
- 7 Aug. [474.] HONDURAS. *Defence*. B. of T. report on a memorial
IV. pp. of P. Pepper. In accordance with a previous B. of T. report
41-2. of 3 May 1744 upon a report of the Master General of the
Ordnance, the First Lord of the Admiralty and Marshal Wade
on a memorial of John Gerald proposing a settlement at
Belize river, Gov. Trelawny reported on 24 Nov. 1745 that
Major Caulfield, commander at Rattan, had been instructed
to send the engineer to examine all the particulars required.
The engineer was unable to go, but Major Caulfield in a letter
of 2 Aug. 1745 gave it as the opinion of himself and his officers

that more service would be done by keeping a sloop and three periaguas there to pursue the Spaniards up the river than by raising forts and batteries. The memorialist Pepper agreed with this view. The B. of T. recommend the sending of such ships, but, as, by the best information they can get, the settlers on Honduras Bay do not exceed 50 whites and 120 blacks, they cannot advise the establishment of a Governor or the sending of land forces.

I. Extract of Caulfield's letter of 2 Aug. 1745. He had sent the Bay people 30 good arms and proposed that ball and flints should also be sent. Trelawny adds a note that these supplies had since been sent.

[475.] NEW YORK. *Suspension of D. Horsmanden.* (a) 27 Sept. Gov. Clinton's reasons for suspending him, and (b) proofs IV. p. 58. of his allegations. (1) He has no visible estate and is deeply involved in debt—reference is given to Mr. Clarke, late Lieut.-Governor, if further information is desired. (2) He is a principal contriver and actor in a faction formed to distress the Governor and get control of the administration—the faction went by the name of the Joint Committee of Council and Assembly, and the whole of their proceedings were kept entirely secret; they met at a tavern once a week; Horsmanden was the most constant attendant at their meetings; further proof may be had from Peter Wraxhall, who left the province two months since and may be found at Messrs. Drake and Long's, merchants in London. The Governor has no doubt that Horsmanden was the author of the late representations from the Assembly, but the evidence of members of the Assembly would be necessary for complete legal proof. Horsmanden also behaved factiously in communicating the minutes of the Council to some members of the Assembly, which is proved by an affidavit in the hands of Mr. Guerin, the Governor's agent. (3) The faction have attempted to curtail supplies and to put the moneys raised into the hands of persons dependent on them; seven Acts are referred to as

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proofs, besides the Governor's messages and the resolves of the Assembly. (4) They attempted to make civil and military officers dependent on them by making appointments, fixing salaries and granting extraordinary rewards—*e.g.* to Horsmanden for services not stated ; various Acts are referred to in proof of this. (5 and 6) The faction have slandered the character of the Governor and of those of the administration who supported him. An Address of the Council was published in the common newspapers for no reason but to make the Governor's person and character odious to the people. The two motives of the faction are a levelling republican spirit and a desire for a kind of neutrality between New York and Canada—which in Queen Anne's war enabled the French to turn their whole force against New England, and even to supply themselves with ammunition and other necessities and to sell their plunder at Albany. The neglect of the people of Albany to build forts on the frontier, although money was granted them by the Assembly for that purpose, and the inaction of the Commissioners for Indian affairs at Albany, who connive at conferences between the Six Nations and the Governor of Canada, are all evidence of such a plan of neutrality and trade with the French.

Reasons for not communicating these reasons to the Council or to Horsmanden at the time of his suspension :—Others of the Council have joined in the same criminal practices, but are men of greater influence, whom the Governor is anxious to reclaim. He forbore all resentment, while a fleet was expected to co-operate with an expedition to Canada ; but now that the forces are disbanded, the Assembly must go upon business for the security of the province. The faction are openly blamed, and the Governor's patience may have a good effect ; but, if not, " he must go on against some others, not doubting of his receiving his Majesty's approbation and the approbation of his Majesty's ministers ; but it may be easily perceived, that it cannot be in the power of any Governor of this province effectually to crush factious proceedings in it, which by long

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continuance, have gained such root and strength, without some more vigorous assistance from his Majesty's ministers than has been hitherto given, especially as these factions from republican and levelling principles are encouraged by the like in all the neighbouring colonies, but more particularly in this."

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[476.] NEW YORK. *D. Horsmanden's suspension.* His Received
petition; and Order of reference, 10 Feb. 23 Jan.

IV. p. 58.

———. B. of T. return, enclosing Clinton's reasons and 5 April.
proofs. (*Cf.* 475.)

———. Letter from Gov. Clinton to the Lord President. 30 Oct.
Horsmanden came to New York a fugitive from the Sheriff of Essex, and at first lived as a person of some estate; but, his bills all coming back protested, he was reduced to the lowest necessity and lived on the hospitality of the gentlemen of the place. Being bred to the law, he was found a fit person for the factions that arose in Mr. Cosby's administration and has since been a principal actor in all public dissensions. Everyone believes that he is the writer for the faction in the Assembly. The examination of the necessary witnesses would be called a breach of their privileges by the Assembly, and the Chief Justice would offer all the opposition possible. Now that peace is restored, the Governor has let the Assembly know his resolve to put a stop to the innovations they have introduced by taking the power of government into their own hands. An address, resolves and other papers are enclosed [but not now in the bundle], which show the obstinacy of the faction. The Governor is anxious to remain in New York until he has resettled the government upon the same footing as in the time of his predecessors, some points having been yielded during the war purely to avoid obstructing his Majesty's service. He asked Gov. Shirley (whom his Majesty's service had brought to New York) to report as an

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impartial observer on the state of the government: this report has been sent to the Duke of Bedford. Shirley thought that several encroaching Acts should be disallowed and instructions sent to Clinton not to assent to the like for the future; the commission for Chief Justice De Lancey as Lieutenant Governor, which was committed to Clinton to deliver to him, on himself quitting the province, encourages the faction greatly; and Shirley thought that Clinton should be permitted to suppress the commission. The commission was obtained by Sir Peter Warren for his brother-in-law, who has laboured to distress Clinton for the sake of getting the government himself.

24 May. [477.] NEW ENGLAND. *Casco Bay*. B. of T. report on III. *pp.* the memorial of the Rev. J. Woodside. The proposal was 789-91. referred to Gov. Shirley, who reported in a letter of 6 Feb. 1748—several previous letters having miscarried—that the members of the Council acquainted with the eastern part of the province “assured him that his Majesty’s maintaining a garrison there would be of little or no public service, at least not more than keeping a garrison in any other private garrisoned house, of which there is a great number in those parts.” His Majesty ought not to be advised to be at any expense in accepting the proposal.

24 May. [478.] NEWFOUNDLAND. *Administration of justice*. B. of IV. *p.* 55. T. report on a letter from O. Hamilton. It has been usual to appoint the commander of the ships of war on the Newfoundland station Governor during his stay there, empowering him to appoint justices of the peace &c.; but the commission and instructions to such officers have been discontinued since the reduction of Cape Breton. This was represented to the Duke of Bedford, Secretary of State, and since then Charles Watson, commander of the fleet at Cape Breton, has been appointed Governor of Newfoundland with the usual instructions. (*Cf.* IV. *p.* 777.)

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[479.] JAMAICA. *Differential taxation of absentees.* B. of T. 29 June. report with a draft instruction; also Committee report of IV. p. 40. 30 June.

[480.] NOVA SCOTIA. *Defence of Annapolis.* Petition of 30 June. Otis Little; and Order of reference. Little was a member IV. p. 66. of the Assembly at Boston in 1744, when Col. Mascarene and the Council of Nova Scotia applied for aid. Annapolis was garrisoned with about 60 men only, several suspected to be Roman Catholics and others unfit for service. Little raised a company of volunteers which went with the others to Annapolis, a thousand French and Indians retreating on their landing. Little was afterwards captured and taken to Louisbourg. Being released on parole, he was able to give exact intelligence to the expedition which was being fitted out at Boston when he arrived there, but could not bear arms until exchanged for a French captain of marines in July 1745, when he immediately repaired to his duty at Annapolis. He prevailed on his men to remain on duty till reinforcements arrived from England in May 1746, during which time the fortress sustained several sieges. Since the companies were disbanded, most of the officers have been provided for in the American regiments and Company of Rangers. Little was always admitted to rank with the officers of the army on duty at Annapolis. In Dec. 1745 Col. Mascarene sent him to Boston "with a representation of the conduct of the Nova Scotians, who seemed inclinable to revolt, on a report of the rebellion in Scotland; and to procure clothing for the auxiliary companies." In Feb.-Ap. 1746 he went to England with despatches from Gov. Shirley on the affairs of Nova Scotia and a plan he had formed for the reduction of Canada. For all his services, "he never received any other consideration than a temporary subsistence whilst his company was on duty, which was not equal to what he expended in raising of it." An account for 1,221*l.* is enclosed, which shows that in this mission

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in the spring of 1746 he came by way of the Orkneys to Leith.

30 June. ———. Petition of W. Foye; and Order of reference. In June 1740 Foye was commissioned as Lieutenant in Col. Wm. Gooch's regiment and served in Gen. Wentworth's expedition in the West Indies. He was sent to raise recruits in New England, but while he was on this duty the regiment was reduced. On the declaration of war with France, Nova Scotia appealed for aid to Massachusetts, and Foye was one of those who raised a company for the defence of Annapolis by commission from Gov. Shirley. He kept his men on duty for two years and stood four sieges before reinforcements arrived from England. Foye has never received more than one year's pay.

14 Dec. [481.] SOUTH CAROLINA. *Grant of lands.* B. of T. report against granting the petition of J. Hamilton for 200,000 acres.

IV. *pp.* 60-1. No proof was produced that he had procured any number of persons to go and settle there, that the merchants had made any binding engagement with Hamilton, or that his proposals would be carried into effect. "Great mischiefs have already arisen from making grants of large quantities of land in his Majesty's plantations without a sufficient foundation for the settlement and cultivation thereof, whereby many useful and industrious inhabitants have been excluded the benefit of such lands."

23 Dec. [482.] EAST NEW JERSEY. *Disturbances.* Petition of the IV. *p.* 76. Council of Proprietors. In 1702 the 24 proprietors of East New Jersey surrendered the government to the Crown, but retained their rights to the soil and rents. Great numbers of men, taking advantage of a dispute between the branches of the legislature and of the Jacobite rebellion, entered into combination to subvert the constitution of the province, endeavouring to infuse into the minds of the people that the Crown of England had no right to the soil or government of America. In Sept. 1745 they broke open the gaol of the

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county of Essex and released a prisoner, "and have since that time gone on like a torrent, bearing down all before them, dispossessing some people of their estates and giving them to their accomplices, plundering the estates of others who do not join with them, and dividing the spoil amongst them, breaking open your Majesty's prisons . . and keeping daily in armed numbers and travelling often in armed multitudes to different parts of this province for those purposes." Regardless of their allegiance, they "have presumed to establish courts of justice and appoint captains and officers over your Majesty's subjects, to lay and collect taxes, and to do many other things in contempt of your Majesty's authority, to which they refuse to pay any kind of obedience. . . Yet such is the weakness of this government, that they have not been able to bring one of them to trial and punishment . . the House of Assembly, after neglecting the thing for a long time, have at last refused to afford the government any assistance." It is therefore necessary to seek protection from his Majesty.

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[483.] BERMUDA. *Complaints against Gov. Wm. Popple.* Address of the Assembly and Principal Inhabitants, with 223 signatures; 31 Articles of Complaint, dated 25 March; and Order of reference, 12 June.

8 April.
IV pp.
83-4.

(1-7) Relate to an illegal trade with the enemy, monopolised by the Governor, the Naval Officer, the Collector of the Customs and several other his particular friends: the Governor, "pretending it to be a legal trade, yet nevertheless refused granting the like to any others than the aforesaid persons." (8-9) concern his neglect of the defences, neither inspecting the militia and the fortifications nor filling up the deficiency in the Independent Company. (10) He requested the Assembly on 4 Feb. 1748 to expunge the records of 5 Dec. 1747 relating to the report of the Committee of Grievances. (11-14) refer to his dispute with the Assembly (*cf.* IV. pp. 62-5). The new Assembly in March 1748 contained 27 of the old members; the Governor

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refused the Speaker presented by them and adjourned them from day to day ; he allowed 15 of those elected to secede without qualifying themselves as members ; after adjourning the 19 opposition members, he allowed three of the seceders to meet at the Assembly House ; the 19 refused to join them, and writs were then issued for electing 17 members ; the seceders and four others constituted themselves the Assembly and passed an Act for a salary for the Governor. (15) To obtain a salary, the Governor dispensed with the 71st Article of his instructions restricting vessels to enter and clear in the town or castle. A letter to five members of the Assembly is quoted ; on their application and with the advice of the Council he had “ directed the Collector of the Customs no longer to put that instruction in force.” (16-17) He refused a trial of a French prize ; and, as judge, wrongly discharged a Spanish prize, refusing an appeal to Great Britain. (18-19) He has never laid the public accounts before the Assembly, and has issued orders for the payment of money by the advice of some few of the Council. (20) He has assumed the power of appointing a Clerk of the Assembly. (21) He forcibly took from the Clerk and still detains the rough minutes of the proceedings on 14 Jan. 1749. (22) He has granted a dispensation from an Act for preventing the destruction of fish by haling with nets. (23) He allows the Deputy Collector to retail dry goods in the apartment in the Custom House where all entries are made. (24) Without the advice of the Council, he turned out the pilot at the West End and put another less qualified in his place. (25) Although the Assembly which passed the Salary Act has been declared illegal, he persists in retaining the money unjustly received. (26) He has neglected to publish or enforce an Act for securing duties on foreign-made sailcloth, and yet has seized sails for want of the sailmaker’s stamp. (27) Since his arrival he has passed no laws nor done anything for the service of the islands. (28) He has allowed salvage to be settled by private persons, not by Justices of the Peace as directed

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by Act of Parliament. (29) He has summoned persons before him and heard matters determinable only before the ordinary courts of justice. (30) He refused to allow the remains of a wrecked Dutch ship to be sold for the benefit of the owners. (31) "Lastly that the said William Popple by his bad example, contrary to the express commands of Almighty God, and to the great discouragement of virtue and religion, from time to time on the Lord's Day, has by his great and open violation of the Articles of Religion and in maintenance of irreligion and immorality, actually broke through all rules of decency in disregard to the Lord's Day, played at cards and other games publicly in the fields, which said bad example will be of evil tendency to corrupt the weak minds of the youth in these islands, and will undoubtedly incur the displeasure of the Almighty."

[484.] NEW JERSEY. *Disturbances*. Petition of the House of Representatives. Many irregularities and controversies have arisen from the division of their lands amongst themselves by the proprietors. The inhabitants have behaved dutifully and loyally, "excepting of late some imprudent people have in a riotous manner obstructed the course of legal proceedings brought against them by their antagonists touching some of those controversies about lands." The controversies are between a number of poor people on one side and such rich, understanding and powerful men, on the other side, as James Alexander, the Surveyor General, and Robert Hunter Morris, the Chief Justice. The latter did not yield to determine the matters by a few trials at law, but discovered a disposition to harass the people by a multiplicity of suits. Morris's father, as Governor, had given their commissions to the other judges of the Supreme Court and had appointed the sheriffs. If a large number of suits were determined against the people, they would be so weakened as to be unable to appeal to an impartial tribunal—the Privy Council. Gov. Morris acted so detrimentally to the welfare

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of the colony that the Assembly proposed to provide for his support "on condition he would do the duties of government, which was the reason he would not accept it and therefore died without having any salary for about twenty months." His son maintains a feeling of resentment against the Assembly for not paying these "arrear"; and because the Assembly has been impartial in the land controversies, he charges them with abetting these disorderly people. As an argument of the loyalty of the Assembly, it is represented that they granted over 24,000*l.* for the late war, including a loan for arming and clothing the forces raised in the province for the intended expedition against Canada. The colony has become greatly involved in debt by its zeal for the success of his Majesty's arms, and has passed a Bill for striking 40,000*l.* in bills of credit.

In less than two years the Assembly have passed four Bills for enabling the legislature to settle the quotas of each county, as a step preparatory to levying provincial taxes for the support of the government and discharge of the public debt; but the Council has amended these Bills so that the House could not agree to them. The Council deemed them repugnant to one of his Majesty's instructions, which the Assembly understood in a different light. To them the action of the Council seemed "to discover some sinister views in them, they being possessed of large tracts of profitable lands, which by the said Bills, as passed by the Assembly, would have been liable to be taken an account of in order to be hereafter taxed." The petition is marked, "Several of the members of the House, being of the people called Quakers, agree to the matter and substance of this petition, with their usual exception to the style."

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1 June. [485.] NEW JERSEY. *Disturbances*. B. of T. report IV. *pp.* (128 *pp.*—with appendices, 167 *pp.*). R. H. Morris 76-9. attended the Board with information. First, the right of the Crown to the soil and government by discovery is asserted,

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because the disturbers have set up the right of the Indians in opposition thereto, and many facts in the case depend on the proper understanding of this question. Besides instructions to the Governors, two Acts of 1683 and 1703 forbade purchases from the Indians without authority from the government.

In 1736 New Jersey received a Governor of its own, separate from New York ; but, as no allowance was made to him by the Crown, he was left dependent on the goodwill of the people. "As the people of this province are in a particular manner by principle averse to kingly government, and have always taken every opportunity of trampling upon the authority of the Crown, so they did not fail to make their advantage of a power so absolutely placed in their hands." They refused to grant money unless the Governor would comply with every measure they proposed, however unjustifiable or contrary to his Majesty's instructions. Advantage was taken of these disputes, of the war with France and Spain and the Jacobite rebellion, by "a great number of persons, chiefly the dregs of the people, and many of them Irish," who had occupied lands under pretence of purchases from the Indians or without any title at all, to enter into combinations to subvert the laws, denying his Majesty's right to the soil or government of America.

On 19 Sept. 1745 the rioters released Samuel Baldwin from the gaol at Newark. On 28 Sept. Gov. Morris recommended the Assembly to provide against such disturbances by a Militia Act or otherwise. On 3 Oct. the Assembly replied "that, as far as they knew, the laws then in force were sufficient for the punishment of those that are guilty of the breach of them." On 18 Oct. the Governor sent a message that provision would have to be made for the force necessary to quell such riots and for the officers and courts necessary to convict the rioters ; he also ordered the Attorney General to prosecute the delinquents and the Sheriff of Essex to apprehend the rioters. Three were committed to gaol, but were rescued along with two others confined for debt. The

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case of the rioters—"in defence of their property"—was published in a letter in the *New York Weekly Postboy* of 17 Feb. 1746. Counsel for the Proprietors represented to the legislature in answer to this that they had several times proposed to try their claims and had even offered to lend the people money to transmit their case to England. On the Governor's speech of 4 March representing the probability of these insurrections ending in open rebellion, a Militia Bill was brought in and finally passed on 8 May 1746, but has not been transmitted to the Board of Trade.

After the death of the Governor on 21 May 1746, Messrs. Alexander and Morris wrote to the B. of T. that 40 fighting Indians had come to live at Cranberry and given out that 300 more were coming, ostensibly to be Christianised by one Mr. Braniard; but it was apprehended from the threats of the rioters that the gathering of the Indians was concerted by them. On 24 Ap. the Council sent down a Riot Act to the Assembly, which ordered it to lie on the table, but had it printed in order to expose the Council to the resentment of the rioters. Two petitions of the claimants under Indian titles were laid before the Assembly on 17 Ap., and although Mr. Neville, the Speaker, disproved the allegations and proposed that they be dismissed, yet on 28 Ap. they were sent up to the Council along with the proposals of a "Committee for the Petitioners." On the Governor's death, the Proprietors accepted the proposal—which was to accept the offer of trying the disputes by a single action to be carried into England by appeal; but when the case was called, no one appeared for the defendant.

On May 21 the Council heard that the infection of the Newark rioters was spreading into New York and West New Jersey, where the people were agreeing to stand by one another in defence of their possessions against the government or the proprietors. The paper signed by the people of Hunterdon county, West New Jersey, bound them to dispossess all who refused to sign it.

President Hamilton's speech to the Assembly on 28 June asked for vigorous measures to restore the peace of the province, but the Assembly adjourned till 9 Oct. without considering the speech. On 1 Nov. they sent a message to the President that they had gone through all their business ; and, although they had taken no steps regarding the dispossession of several persons by the rioters, yet they were adjourned to the 25th. On 2 Dec. Abraham Anderson was rescued from the gaol of Somerset county. On a threat of pulling down the Speaker's house (for refusing to deliver up bonds for money due to him) the sheriffs were ordered, in case of any unlawful assembly, to raise the posse of their respective counties to suppress it.

On 19 March 1747 President Hamilton acquainted the Council that, being himself in a bad state of health, he had asked Messrs. Morris and Alexander to lay the state of the province before the Secretary of State, and communicated to them copies of several letters and a state of the facts which had been sent to the Duke of Newcastle. On 25 March the Proprietors published a narrative of the failure of the rioters to bring their claims to trial. To this the "Committee for the Petitioners" replied that their title was acquired under a license from the Governor in 1666 and before any laws were made to prohibit purchases from the Indians ; that they were ready to prosecute an appeal from a Court of Common Law without further process, but that the Proprietors proposed a suit different from what was before published ; that the Proprietors had refused to release Mr. Smith, who had consented to undertake for the petitioners as their counsel, if released ; and that to acquiesce in the advocacy of attorneys assigned them by the Court would be to commit the decision of the whole affair to the Proprietors. Land riots spread to New York, Long Island, Pennsylvania and New England. They gave out that they would stand by each other and use fire-arms, if opposed by fire-arms ; and "that the King himself

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was unable to quell mobs in England any other way than by granting their desires."

To the Governor's speech of 6 May, the Assembly replied that they were called only to make further provision for the forces against Canada, and that the framing of laws for suppressing the riots would require great consideration and more time than they had at present. The Council were ready to pass a Bill, but, in view of the determination of the Assembly to do nothing, they advised an adjournment to the 25th. The rioters were encouraged to more flagrant rebellion and in July broke open the gaols of Perth Amboy and other places.

Gov. Belcher arrived in Aug. In answer to his speech on the 20th, the Council and Assembly appointed committees to confer about measures to put a stop to the riots, but the Assembly was adjourned to 17 Nov. and the riots continued in various parts. The Governor then asked that, as the joint committee had not acted, a disinterested committee should be appointed and should sit *de die in diem* till able to report what measures should be adopted. On 5 Dec. the Council assured the Governor of their best assistance. On 7 Dec., it was reported that the rioters were coming to Burlington to apply to the Governor and Council, and the Committees of the two Houses severally resolved that such proceeding was an infringement of the privileges of the legislature. These resolutions were successful in preventing the execution of the design.

On 9 Jan. 1748 the Committee of the Council sent a state of the riots to the Committee of the Assembly, hoping that the province might yet act so that it would be unnecessary for a great force to be sent thither, which would be a very great hardship upon the innocent, on whom the burden would be laid. On 19 Jan. the rioters presented a petition to the Assembly stating their grievances about the lands claimed by them and their willingness to have a fair trial before disinterested persons, and desiring that an Act of Indemnity should be passed. The Committee of the Assembly

reported that an Act must be passed to prevent such troubles for the future and that the Governor had agreed to send down a Bill for pardoning offenders. A Committee about an expedition to Crown Point also reported that provision should be made as occasion required for defraying the expenses of calling together the forces of the colony to repel invasions, suppress insurrections &c. Both reports were adopted by the Assembly. The Indemnity Act was passed on 17 Feb. : all who had been indicted were to take the oaths to the government within six months and give 100*l.* security to keep the peace for three years, restore possessions forcibly taken and pay the fees of their prosecution. Another Act was passed for avoiding actions of slander and for staying proceedings against the rioters till 1 Oct. 1748. A third Act imposed as the penalty for future riots a fine of 10*l.* with the option of three months imprisonment. In spite of this lenity, only 23 rioters complied with the terms of the Indemnity Act ; possession of the seized lands was retained and further violences committed. In Nov. 1748 Amos Roberts, the chief of all the rioters, was forcibly released from the gaol of Essex county, and new engagements were entered into, officers appointed, and money levied for their defence.

The Council replied to the Governor's speech of 3 Dec. by recommending three Acts—(1) for those indicted for high treason to surrender on pain of being deemed convict ; (2) for the Governor to issue commissions for the trial in any county of those indicted ; and (3) for strengthening the hands of the Governor by a necessary force. On the other hand, the Assembly were of opinion “ that the laws ought to be more fully put in execution, and if they proved insufficient, their particular defects might be pointed out to the next meeting of the Assembly.” The Governor replied that, if no money were voted for the protection of the government, he should represent the state of the province to his Majesty.

The Assembly intimated to the Council on 10 Dec. that they should apply to the Governor to put an end to the sitting,

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as they had nothing else before them. On the 12th the Council sent to the Assembly resolutions of a Committee—that the Governor had acted rightly in refusing to issue any commission of Oyer and Terminer and Gaol Delivery to the counties of Essex, Hunterdon and Somerset, in which there are many hundreds of traitors and rioters known and unknown; that an Act should be passed to enable the Governor to issue commissions to other counties for the trial of those criminals; that no court can expect to be safe in the trial of those people without a sufficient force to guard them, and that it is the duty of the legislature to vote supplies to maintain the necessary troops. “There had been above twenty riots, traitorous and unlawful assemblies within three years last past.” The Assembly were reminded of the proceedings of these three years and of the danger of the utter subversion of the constitution. On 15 Dec. the Assembly asked what the Council had done in respect to the Bill for the support of the government: nothing else was before the Assembly. The Council repeated that two messages demanding a conference had already been laid before the Assembly.

On 16 Dec. Messrs. Morris and Antill, who had been appointed by the Council to inspect the Journals of the Assembly, reported that on 7 Dec. the question whether a new law was necessary for bringing the rioters to justice was decided in the negative by 15 votes to 3, and that on 15 Dec. resolutions were passed resenting the message from the Council as an infringement of the rights of the Assembly, and that to continue a sitting to maintain a controversy with the Council would be very expensive to the colony, and therefore no other answer should be given to the message. These resolutions were also delivered to the Council by two members of the Assembly (Van Middlesworth and Leaming).

The Council thereupon resolved that the Assembly’s conduct “was a neglect of the duty they owed to their Sovereign, manifestly tending to encourage the traitors and rioters,” and that it was the duty of the Council to lay the state of the

province before his Majesty and his ministers. The Governor assured a deputation (Morris, Kemble, Leonard) that he would join with the Council in anything reasonable. Resolutions were communicated to the Assembly denying that their rights had been infringed. The Governor, desiring longer time to examine the proofs of the matters in question, prorogued the Assembly to 15 Feb. 1749—an extraordinary course, as he himself had laid the proofs before the Assembly on 24 Nov. 1748. Daily acts of violence continued.

The Assembly was dissolved in Jan., and another met on 20 Feb. 1749. In answer to the Governor's speech, the Assembly censured him for calling them together at that time and represented that the circumstances of the province would not admit of their raising money for guarding the gaols. They also rejected an amendment made by the Council (in accordance with his Majesty's instructions) in a Tax Bill, and refused to confer on the subject.

On 16 Mar. a petition was presented for an Act of Grace; and a proposal was made to Messrs. Alexander and Morris for one or two trials—a device to delay any request for the King's interposition; the proponents, however, failed to produce proper powers from the persons concerned, and the negotiation fell through. The Assembly transmitted the petition and proposal to the Governor on 21 March, and also desired a conference with the Council, who replied that they could not confer about the proposed pardon, which was a prerogative of the Crown; but appointed a Committee to confer about measures for restoring the public peace. All that the Assembly's Committee would propose, however, was an Act of Pardon and an Act for staying process concerning titles of land.

The Assembly also addressed the Governor: The province could not afford money to guard the gaols; but this would, they hoped, be unnecessary if the proposal of the rioters were accepted. At their desire, they were adjourned till 18 May.

On 28 March the Council addressed a letter to the Duke of Bedford representing the facts. There was another riot

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in the county of Bergen on 23 May. In June the rioters proposed to have trials in the county of Essex, where they would be sure of acquittal. Mr. Alexander replied that it would be dangerous for any member of the Council to recommend the issuing of such a commission in the circumstances. On 15 July the gaol of Essex county was again broken open and prisoners accused of treason released.

The Assembly met on 25 Sept. 1749. On 13 and 17 Oct. affidavits were laid before the Council about the return of one of the rioters by the sheriff of Somerset county to serve on the jury. One-third of the people of Essex county are rioters, and almost everyone in the county is related to some of the rioters. Of the rioters only one-fifteenth had originally Indian titles, two-fifteenths are squatters who have obtained Indian titles since the rioting began, one-fifth have no land, but waste timber and plunder the estates of others; the remaining three-fifths hold lands under the Proprietors. Burwell and Ball, released by force on 15 July, were now induced to surrender, the Assembly on 14 Oct. petitioning the Governor to have them tried in Essex county. On 20 Oct. the Council advised that no commission for such a trial be granted. The Assembly again rejected the Council's amendments to a Supply Bill, and on their own request were prorogued till 30 Nov.

On 9 Nov. the rioters dismantled the house of Abraham Philips and burned some stacks of grain and flax; and on 2 Jan. an attack was made on John Hacket. On 26 Jan. 1750 the Governor issued a proclamation requiring all officers to be vigilant in apprehending rioters.

The Assembly met on 13 Feb. 1750. The Assembly blamed the Council for the lack of harmony, and ascribed the continuance of the disturbances to their failure to issue a commission for trials in Essex county. They again rejected the Council's amendments to the Supply Bill, and the session passed without any measure against the spirit of riot and rebellion.

The B. of T. observe that Gov. Belcher first refused to join with the Council in a representation to his Majesty,

then mentioned the riots in a letter (June 1747) without transmitting any papers; in April 1748 he observed "that things carried the countenance of quiet and good order," and again in Oct. and Nov. last reported great confusion and disorder without transmitting any proofs. "That his dependence upon the Assembly has been the motive of his conduct may be hard to say, but very easy to believe." Through the obstinacy of the Assembly and the weakness of the government, New Jersey is in open rebellion and the neighbouring provinces but too well inclined to receive the infection.

The case of the rioters is analysed from the papers published by them and transmitted by the Council. Before he disposed of New Jersey to Berkeley and Carteret, the Duke of York sent over a Deputy Governor. At a date subsequent to the sale in England, the Deputy Governor gave a license for the purchase of lands from the Indians, under which Elizabeth Town was purchased. Of the 80 persons interested in this purchase, all but one took out confirmatory grants from the proprietors. The riots have taken place on lands 30 or 40 miles distant and not in the same circumstances, the rioters refusing to acknowledge any right in the Crown over the soil of America. The rioters are not persons who have suffered any injustice from the Proprietors, "but are a set of freebooters, who enter upon any lands and cut down and destroy the timber, though the lands have been ever so long granted to others under the King's title."

The Attorney and Solicitor General have reported adversely to the Acts for pardon and for stay of proceedings. The Act imposing a 10*l.* penalty for riots seems to encourage disturbances, as the penalty is less than under the existing law. These Acts should be disallowed.

Order cannot be re-established while the Governor remains absolutely dependent on the Assembly. He should, therefore, have a competent salary settled upon him at home. (1) A sufficient military force might be sent from England, or (2) the four companies at New York employed. (3) The

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government of New Jersey might be re-annexed to that of New York to save expense and to add weight to the Governor's authority—the legislatures remaining distinct, as formerly. The Governor must be entrusted with all necessary powers (to use force, grant pardons &c.) in order to re-establish the peace of the province. An abstract of precedents is annexed.

Letters from Gov. Belcher have just been received; there is no money in the Treasury; “the matter of the rioters so spreads its influence and has so many abettors as that all things of the legislature seem to be stagnated by it.”

As to the petition of the House of Representatives, the agent declined to enter into the merits of it, and merely submitted the letters and papers sent to him. Richard Smith, a member of the Assembly directed to correspond with him, wrote to Partridge on 20 Dec. :—“Thou urgest the raising of money to guard the gaols, which is a thing quite impracticable here because of the general outcry or dislike to those called the Proprietors . . . neither do they desire thou wilt any further enter into that affair than to save this province and the Assembly of it from anything that may be charged on them to their disadvantage for neglect.” On the other side, Mr. Paris pointed out that the petition was voted on 19 Oct. and printed the same day in order to inflame the province, but not transmitted to England till Dec., nor presented till 11 April, with a view to delaying any action against the rioters. This libel on the faithful servants of the Crown blames them for those parts of their conduct which have been most approved of here, and was transmitted without any evidence. The Council's amendment to the Supply Bills was in obedience to an instruction not to consent to any Act laying a tax upon unprofitable lands.

The report concludes by characterising the transmission of the petition without evidence as “a further proof of the bad conduct of the Assembly of this colony, an insult upon the Crown, and an injury to the persons complained of therein.”

(a) Abstract of precedents on the occasion of Bacon's rebellion in Virginia, 1675.

(b) 3 March 1746. Letter from D. Ogden to J. Alexander about the failure of negotiations for a single trial. Such procedure to be effective must find the equity of the case : a special verdict would be of no service.

(c) 17 Oct. 1749. Assembly's message to the Governor. Contains a long complaint of the late Governor's conduct in rejecting Bills and holding long and frequent sessions of the Assembly. Morris's salary was withheld because " he refused to do the duties of government, except the Assembly would give him such a salary as he asked, and in his own mode and way ; which, without resigning their liberties, they could not do." There was a precedent in the case of Lord Cornbury. These so-called " arrears " find no support in the colony save among those immediately interested, and will never be looked upon as a just debt.

(d) 14 Oct. 1749. Address of the Representatives to the Governor ; an account of proceedings from Aug. 1747 ; proposal to have Burwell and Ball tried.

(e) 27 Nov. and 20 Dec. 1749. Two letters from R. Smith to R. Partridge. He believes the design of the Council in not passing " the Support Bill " is to keep the Governor and the agent out of their money. The Governor is not liked by the Council, coming in by a wrong interest ; the Assembly is blamed for appointing an agent, which by law should be done by the Governor, Council and Assembly.

———. Petition of R. Partridge for a copy of the B. of T. 28 June. report.

———. Three petitions and Orders of reference—(a) from inhabitants of Newark ; (b) from a Committee appointed by the possessors of land in Newark ; and (c) from a similar Committee for Middlesex and Somerset counties : (with an abstract in each case).

(a) 4 large pages and 407 signatures. The claim is based on a purchase of 11 July 1667 with the advice of Gov. Carteret,

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seven supplementary purchases between 1678 and 1703, and two deeds of confirmation in March 1745. The petitioners declare that they have always paid all rates and taxes for the support of government. They regard the grant to the Duke of York as conveying to him only a right to purchase lands from the native owners, and their own prior title as founded on an equally valid license to purchase from the natives. The other interpretation of the Duke's grant, ignoring all native claims to ownership, is contrary to the Law of Nature and Nations and apt to irritate the Indians. They have been at great expense, moreover, in improving the lands, while the Proprietors have done nothing for them. An impartial trial of titles was impossible in the province, Gov. Morris, the Council, judges, officers and the freeholders outside of Newark and Elizabeth Town, all belonging to the other party. The petitioners admit that, when oppressed by a multiplicity of suits without hope of any fair impartial hearing, they felt themselves driven in self-defence to illegal methods; in no other particular have they attempted anything like disloyalty or rebellion. Their conduct was less excusable under "Gov. Belcher, whom we cannot mention without great gratitude and thankfulness to your Majesty for bestowing the highest place of power in this province upon a man so long and well experienced in government and so universally and justly reputed for integrity and uprightness."

The petitioners profess that they have endeavoured to bring the disputes to issue in one or two trials, and throw the blame for the failure of the negotiations on the other party. The disturbance to the peace of the province is maliciously exaggerated by the Council; the allegation that they established courts and officers to collect taxes is untrue. "We have demeaned ourselves with entire submission to the laws . . and behaved ourselves . . as quiet, peaceable and faithful subjects, unless in the matter abovementioned, where we have through weakness and want of better counsel been unadvisedly

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led on to oppose force to the injurious oppressive proceedings of our adversaries.”

(b) 3 pages, seven signatures : with a state of the possessors' case (4 pages), and 13 affidavits. As an explanation of the little advantage taken of the Act of Pardon, it is alleged that the notice of the time and place appointed for accepting it came so late that the time was near expired. The “Case” and the first three affidavits are designed to show that the Indians have opposed settlements save where their title has been purchased, as by the petitioners, and that in such cases they have peaceably acquiesced and never sought to reclaim the land ; that trials under the Act of 1703 against Indian titles were withdrawn and the inhabitants left in quiet possession for over 30 years more ; that Alexander, Morris and Ogden, well knowing that the claimants under Indian titles had a right of pre-emption from the Proprietors, yet professed to have bought the lands from the true owners under the Proprietors, and denied that the possessors had any right at all.

The affidavits were made by (1) John Morris and Abraham van Giesin, 18 Nov. 1745 ; (2) Michael Ureland, 21 Nov. 1745 ; (3) Abraham van Giesin and Jacob Ureland, 17 Sept. 1747 ; (4) John Low and John Cundict, 5 Sept. 1749—that J. Alexander had refused in 1745 to be limited to two or three trials ; (5) Samuel Harrison and John Cundict, 30 Oct. 1749,—that Ogden required that the possessors should give up their lands if, on appeal to England, the matter were not decided in their favour within 18 months ; (6) N. Wheeler, J. Cundict, J. Day and N. Harrison, 30 Oct. 1749,—about their endeavours to find counsel to act for them ; (7) Wheeler, Cundict, Day, S. Baldwin, S. Morrison, and T. Ball, 5 Sept. 1749,—that they offered security to stand a trial in April 1749, which was not accepted ; (8) John Roberts, 3 Oct. 1749,—that Alexander said Burwell and Ball could not be bailed nor tried in their own county, and that, as the Assembly would not make provision for their trial in another county, he did not know

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when they would come out of gaol unless they came out as they did before ; (9) J. Johnson, 3 Oct. 1749,—that Alexander said he would not advise a special court to try Ball, no, not for 30,000*l.*, nor even for the value of his own neck ; (10) Andries Bowman, 9 Dec. 1749,—about being dispossessed of land which he had bought and had occupied for 20 years ; (11–13) Peter White, 9 Dec., and Hendrick Hogelant and Cornelius de Hart, 11 Dec. 1749,—also about being dispossessed and harassed by the Proprietors.

(c) 4 pages, signed by Dollius Hagerman. The possessors' title was derived from Dr. Cox ; afterwards they had to pay part of the Indian purchase. They began to cultivate 46 years ago. Twenty-five years later Peter Sonmans brought an unsuccessful action against them ; his successor, Samuel Neville, obtained an award against some of them, and others repurchased their lands from him. Then the grandson of Dr. Cox brought a number of suits against them, and, the Governor affording them no relief, they were drawn in to join the others who had before obstructed the course of law. A verdict in favour of Hagerman against Neville was set aside by C. J. Morris, because two of the jury afterwards swore that they would not have agreed to the verdict, but that they feared they should have suffered for want of victuals and drink.

(i) A state of the case : 7 pages.

(ii) Copy of the verdict in Hagerman's case against Neville, and of the record of its being set aside, 16 and 20 Aug. 1745.

(iii) Affidavit of J. Skinner, 19 Aug. 1745,—that he would not have agreed to the verdict but that he found it was in vain to stand out any longer.

(iv) Similar affidavit of J. Clarkson,—who was distressed from long keeping up from the air and victuals.

(v) Letter of J. Corle to Hagerman, 18 Jan. 1748,—about the High Sheriff's conversation with Clarkson, questioning the verdict.

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(vi, vii, viii) Affidavits of J. Martin, J. and M. FitzRandolph, D. Correll, members of the jury,—that they consider the verdict just and good, 13–14 Jan. 1748.

(ix) Affidavit of S. Molford, 15 Jan. 1748,—to the same purpose as (v).

(x) Affidavit of J. Wetherill, 16 Jan. 1748,—that he saw J. Neville bring Clarkson and Skinner to town on 19 Aug. 1745, and heard that they had been brought to recall their verdict.

[486.] BERMUDA. *Complaints against Gov. Popple*. Address 2 July. of the Council; 10 signatures. Several persons having IV. p. 84. resigned or been removed, the Governor can find no one to act as Chief Justice; and all the avenues to justice are stopped. Justices of the Peace have also resigned in several tribes and parishes; the rates and the minister's salary are not collected, and the night watches wholly neglected. No laws can be passed, on account of the disunion of the Governor and the Assembly. "The rash and precipitate proceedings of the Governor is the chief source from whence all the present unhappy circumstances . . . flow."

———. Four Depositions taken before Gov. Popple. 27–28
(1) *Robert Brewton*. The articles of complaint were altered Sept. and additions made, after signatures had been secured in the country. Brewton was employed to engross a new copy just before the ship sailed which conveyed them to London (March–April 1749). Signatures were received on a blank piece of paper, which was afterwards attached to the new copy. To his knowledge, in one case at least the signature was not made by the person whose writing it purported to be. The last five or six articles were added while he was employed in copying the petition. The agent in London was to omit the charge against the Collector and Deputy Collector if they should behave satisfactorily.

(2) *Brewton*. In Jan. or Feb. 1749, he was induced by John Tucker, then Chief Justice, to decline appointment by the Governor as Clerk of the Assembly, as he would be looked

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on as an enemy to Bermuda if he accepted. Tucker persuaded him to add such words as "being instrumental to the disturbing the quiet and tranquillity of Bermuda."

(3) *Brewton*. He heard the Speaker, Cornelius Hinson, in the presence of most of the Assembly on the Parade in Jan. or Feb. 1749, say he would give a soldier (who was offering blacking-balls for sale) five pounds (or pistoles) to shoot the Governor; Col. Henry Tucker swore he would not want money for doing it; and many of the members laughed.

(4) *George Forbes and William Selby*,—that Brewton declared that he subscribed these depositions voluntarily and not under any threat or promise.

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16 Jan. [487.] BERMUDA. *Complaints against Gov. Popple*. Order IV. p. 84. referring the Address of the Council.

Received ———. Popple's return to the complaint of the Assembly.

21 May. "His not being capable of being influenced by the Assembly to suffer the large encroachments they have in a variety of instances attempted to make on the Royal prerogative, is the sole foundation of this complaint." (1) Few of those who signed ever saw the articles. (2) They are not the articles of the Assembly; such would have been signed by the Speaker and the Clerk of the Assembly. (3) They are not the articles of the principal inhabitants; most of the names are of the lowest inhabitants; a list is enclosed giving the "addition" of each signatory—merchant, planter, mariner, carpenter &c.—most of them incapable of understanding the facts, and dependent upon the few whose aim is to force the Governor to yield to their schemes against the Royal prerogative. (4) They are not the articles existing at the time the signatures were collected—*cf.* (§ 486). (5) The articles added cannot be looked upon as the act or complaint of the subscribers. (6) This causes a suspicion of similar management in connection with the other articles. (7) The agent in London was empowered to omit articles relating to the

Collector if he should behave to the satisfaction of the petitioners; the Collector had now become one of the principal opponents of the Governor.

———. Letter from Popple to Lord Granville. Acknowledges Granville's protection at the time of his father's death, and trusts to be not unworthy of his patronage now. His Lordship will be "sensible how unjustly and for what reasons I have been pushed at." 13 Sept.

[488.] NEW YORK. *State of New York*. B. of T. report 2 April. (96 pages), with two abstracts of the evidence in the books IV. p. 97. of the Office (265 pages and 65 pages respectively); also Committee Order of 6 Aug.

The delay in reporting is excused on the ground of the variety of the papers to be consulted and the extraordinary matters of importance referred to the Board which have taken off their attention.

"There is nothing so essentially necessary to the preservation of his Majesty's government in the American provinces as the careful and strict maintenance of the just prerogative, which is the only means by which those colonies can be kept dependent on the Mother Country, or the Governors themselves representing the Crown maintain any power over their Assemblies or any agreement with them. No Governor ever departed from the prerogative in one instance but he raised in the Assembly a confidence to attack it in another; which as constantly brings on contests, which again create animosities, which in the end obstruct all parts of government."

Gov. Clinton arrived at New York in Sept. 1743. The Assembly met, 8 Nov., and passed Acts for the support of government limited to one year, which Clinton on 5 June 1744 recommended for confirmation, although sums were granted to officers by name. Till 1737 the disposal of public money had been left to the Governor and Council as directed, and for 28 years previously provision had been made in five-yearly periods

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from the appointment of each governor and without special appropriations. In 1737 the grant was made for one year only, and sums were assigned to particular services and salaries.

On 22 June 1747 Clinton ascribed his acquiescence in the measure of 1744 to the advice of Chief Justice De Lancey, whom he then trusted too much. At their meeting in April 1744 the Assembly passed an Act for repairing the fortifications, and directed money to be issued to the commissioners named in the Act without warrant from the Governor and Council; and this method has been kept up since, so that the Assembly has control of nominating officers and fixing their salaries, custody of the naval stores, direction of the fortifications, the power of regulating the militia, the passing of the muster rolls of all the troops save the four Independent Companies; they have appointed paymasters and have empowered the Commissioners for Indian Affairs to raise and employ scouts. The Governor excused his compliance by alleging the danger from the French and Indians, and on the approach of peace looked forward to recovering the executive power.

Clinton refused his assent to a Bill of 11 Nov. 1748 which enlarged the former usurpations. Since then the Government has continued without any support, and "every necessary and salutary measure of government . . . uniformly sacrificed to faction and personal quarrel." In these disputes the Assembly has been assisted by some members of the Council.

The report quotes (*a*) a *Remonstrance of the Assembly*, 9 Oct. 1747 (*pp.* 13-46). This refers to the harmony which prevailed in June 1746 at the time of the intended expedition to Canada, and the "artifices . . . to distract and divide us . . . ever since you have thought fit to place your sole confidence in that person* who styles himself the next in the administration, and have been pleased to submit yourself to his direction and influence . . . a man so obnoxious, who by the whole course of his conduct seems to have only his own interest in view, without any regard to the safety and welfare of the colony."

* Colden.

The Assembly, having refused supplies on 2 Sept., addressed the Governor on the 9th and on the 11th about preserving the fort at Saratoga, but received no answer. On 16 Sept. they resolved that Col. Johnson should be bound by and perform his contract for supplying the garrison at Oswego.

They deny that they were acquainted with the temper of the Six Nations before the Governor's treaties of the previous year, "Your Excellency having kept Indian affairs a most profound secret the greatest part of your administration; and for what reason you have thought fit to divert them from the ancient channel, to wit, from the conduct of the Commissioners appointed . . . Your Excellency can best tell: We conceive your Excellency was very ill advised in the taking those affairs out of their hands." The Governor's failure to supersede the existing Commissioners while he took such contrary measures with the Indians has "been the sole means of distracting and perplexing affairs with the Indians." Again, they assert that the Commissioners had rightly advised that the Six Nations were very unwilling to enter into the war—for example, among the French Indians the Caughnawagas were a branch derived from the Mohawks; and that it would have been better "to have been left to fight our own quarrel with the French, than to have treated with them to enter into the war, and after a great profusion of treasure at the expense of the Crown and this colony, to have them still upon a precarious footing and to be retained only by the repeated gratification of unreasonable expectations." The Assembly profess to have as little knowledge of the success of the treaties as they have of the opposition the Governor complains of having met.

The Governor had referred to his drafts on the British Treasury for presents to the Indians and also to the great expense to which the people of Great Britain were put in defending the liberties of Europe; the Assembly consider, "as we hear no reports of presents lately made, that your Excellency must have a very considerable sum in bank on

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that score . . we cannot but think everyone entrusted with disposing the Crown's money should be religiously careful in its distribution. The expression of your Excellency's concern for the welfare of the people of this colony may perhaps amuse people at a distance." Several instances are alleged in which his deeds did not evidence such concern—the withdrawal of the garrison at Saratoga in 1745, the failure to allow the levies at Albany to assist in harvesting the crops there, and the withdrawal of the remainder of the new levies to the opposite side of the river below Albany. Had the musters of the new levies been justly and fairly taken, there would have been a considerable saving to the Crown in their pay. He has treated the people and the Assembly with contempt "in terms so opprobrious as are not fit to be published." "We have been harassed with frequent, short and unnecessary adjournments without consent of his Majesty's Council"—of which particulars are given; but "no treatment your Excellency can use towards us, no inconveniences how great soever that we may suffer in our own persons, shall ever prevail upon us to abandon (or divert us from steadily pursuing) the interest of our country."

The Assembly repudiate the charge of parsimony; since the war began the colony has been put to the expense of 70,000*l.*, which their constituents will be apt to think too heavy for them to bear; but they are heartily willing to do everything that can be reasonably expected of them.

(*b*) *Gov. Clinton's message to the Assembly, 13 Oct. 1747 (pp. 47–80).* He is pleased to see by a resolve of 8 Oct. that the scheme concerted by the Commissioners of New York, Massachusetts Bay and Connecticut has been approved; it differs in nothing material from that concerted by Clinton with Mr. Shirley and Mr. Warren, save that the expense will fall on the colonies and not on the Crown.

As to the 4th resolve about the money in the Governor's hands for presents to the Indians, "of this you have not the least appearance of evidence, while you thus endeavour

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to throw so gross a slander on your Governor's character." On the contrary, he asks whether there be any person of the least note or curiosity in this country, who has not heard of parties of Indians sent out last summer and since against Canada and with presents to the distant Nations—or that the province has paid one farthing of the expense. Before his treaty he could hardly get a score of Indians as scouts, and now Col. Johnson engages to bring 1,000 on any reasonable notice. The Sachems have given up war belts given them by the Governor of Canada; nations at a distance are now courting our friendship and ready to declare against the French. But the Governor is not accountable to the Assembly for money, none of which was given by them. The object of the slander is to take authority from the Governor and place it in the hands of the men with whom they propose to deposit the money.

The 5th resolve shows how little they consider the danger of the garrison at Oswego, and the 6th how they disregard the honour of the province and its obligation to protect the old men, women and children of the Six Nations, while the young men were out fighting its battles. The Assembly had professed to be advised that the forces at Albany were to be discharged from his Majesty's pay; Clinton reminds them they can learn his Majesty's orders only from the Governor; "this resolve seems a very forced introduction of a very modest claim of the command of the army under the title of regulations. . . You will soon have none of these forces at Albany to make any regulations about, if you do not accept of them under such regulations as his Majesty thinks proper. . . You must accept of them on the footing I proposed or not accept of of them at all. His Majesty will not part with the least branch of his prerogative relating to military affairs."

The orders of the Assembly about Saratoga it is impracticable to carry out. They design merely to raise a clamour against the Governor for what was not in his power to prevent, the Assembly having opposed all reasonable measures proposed

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to them. The Constitution does not give the Assembly any share in the execution of military orders, because they have neither the special skill nor the knowledge of facts that is required; those who are so qualified agree with the Governor that the frontier cannot be secured by the fort at Saratoga.

On 8 Oct. Clinton had sent a message that he would receive nothing from the Assembly on any other subject till he knew their resolutions as to the securing the frontiers. The next day they sat with locked doors; if this were intended to prevent the Governor from having access to them, it was an insult to his Majesty's authority. By the Resolves of the 9th, the Assembly assume all the rights and privileges of the House of Commons—*i.e.* they assume the right to be a branch of the supreme legislature of the kingdom and deny their dependence on the Crown and Parliament. If they have not these rights, then the giver of the authority by which they act can put bounds to their rights and privileges and restrain them if they endeavour to transgress them. The Governor has his Majesty's commands not to allow them to bring some matters into the Assembly, and it is the custom for the Clerk to show the Governor the minutes of the House every day; it is undutiful to keep secret from the Governor anything that is under their consideration. "In short, Gentlemen, I must likewise tell you that every branch of the legislature of this province, and all of them together, may be criminal in the eye of the law, and there is a Power able to punish you, and that will punish you, if you provoke that Power to do it by your misbehaviour; otherwise you must think yourselves independent of the Crown of Great Britain."

The Assembly have taken up an unmannerly method of serving the Governor from time to time with copies of their resolutions—a method warranted by no practice in Parliament, assuming in some sense an authority over the Governor and a direction of his conduct.

Some members came to the Governor in his own house when he was busy and without previous notice offered to read a large bunch of papers, a Remonstrance from the Assembly. The Governor refused under these circumstances, to receive the papers or allow them to be left with him. He is resolved, further, never to receive in public anything from the Assembly, the contents of which have not previously been communicated to him in private, that he may judge whether it is necessary for his Majesty's service and the public good to give access for the purpose.

The Assembly at the opening of the present session proceeded to several resolves without having communicated with the Governor and received any message from him: By the third resolve a Committee was directed to bring in a Remonstrance on the state of the province, which was produced in a very short time, and there was scarcely time to read it hastily over before the Committee brought it to the Governor's house—a proceeding without precedent in any nation “but where a faction had resolved to usurp the whole authority and power over that nation.” It can be proved from the minutes of the Assembly that some of the assertions in the Remonstrance were known by them to be false. He denies the charge of misapplying any of the 1,800*l.* *currency* which he has received from England for presents to the Indians, and retaliates on the Assembly, who have put 60,000*l.* into the hands of commissioners without ever calling them to account. “Is it because all men in this province, excepting your Governor, are incapable of turning any part of the public money to their private use? Or because all of them were either of your number, or near relations to some of you, or in special friendship with the leading men among you?”

The refusal to supply the King's troops with provisions can only be with a view to their dissolution, but it is the Governor's duty to prevent this. If the troops are not furnished with provisions, they must be withdrawn into some other parts of the province, where they can subsist.

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The repeated dissolutions were to give time for unreasonable heats and passions to cool; at the opening of each session the Governor showed no remembrance of differences that had appeared in the preceding sessions; the Assembly omitted no opportunity to renew differences.

The Governor recommends that supplies be voted for the prosecution of the war, intimating that he will not assent to any Bill in which the disposition of the public money is directed otherwise than as his Instructions direct, or which in any way lessens his Majesty's authority in the Governor's hands with respect to military affairs.

The B. of T. report goes on to consider the evil effect of these dissensions on the disposition of the Six Nations. It was not till two years after the Peace that any steps were taken for making them the usual presents upon that occasion.

It is hoped that a new Governor, with stricter instructions to get the prerogative restored, and free from the prejudices of particular people, may succeed in re-establishing the constitution. It would remove the source of future dissensions, if the Legislature could be prevailed upon to pass a perpetual Revenue Act. A letter has lately been received from Col. Johnson intimating that the Six Nations have renewed the treaty of alliance; and Gov. Clinton has reported that he has invited the Governors of all the American provinces to join in a treaty with the Indians at Albany in June next. A sum for Indian presents should be included in the proposed general Supply Act.

Clinton's last letters of 2 Dec. 1750 show that the Assembly had voted supplies, but in the same objectionable way as in 1748 when he dissolved them and left the province without support.

Abstract of the evidence. Gives details of the Assembly's conduct during the war more fully than the report. On 13 March 1745 the Speaker of the Assembly observed that the last two clauses of a Bill to prevent the issuing of paper

money in America, which had been laid before the House of Commons, "were foreign to the title and scope of the Bill, contrary to the constitution of Great Britain, and would in effect subject all the British colonies in America to the absolute will of the Crown and of those acting under its authority." A Committee reported to the Assembly "that this Bill would establish such an absolute power in the Crown in the plantations as would be inconsistent with the liberties and privileges inherent to an Englishman, while he is in a British dominion."

On 30 Nov. 1745 Clinton represented the Assembly's failure to attend to his recommendations about building forts; "that, while they are at the charge of maintaining a Governor, it will never be otherwise; that, as they are jealous of the power of the Crown and are Levellers by principle, nothing but an independent Governor could bring them to a just sense of their duty."

At the time of the proposed Canada expedition in 1746, the Governor passed a Bill for emitting 40,000*l.* in bills of credit, excusing himself on the ground of the extraordinary occasion.

On 27 Oct. 1746 the Commissioners for purchasing provisions acquainted the Assembly that the High Sheriff of Albany had, by an order from Col. Roberts, forcibly broken open the storehouses there and taken away a large quantity of provisions for the four Independent Companies. On 8 Nov. the Assembly condemned the proceedings as arbitrary and illegal. The Governor replied that he had assured the Commissioners that, if the Assembly would not allow the provisions, he himself would pay for or replace them; as there was an absolute necessity to subsist the men, and no provisions were to be had at Albany, Col. Roberts and the Sheriff (Mr. Holland) had only done their duty; the stores would be accounted for as if they had remained in the care of the Commissioners. The Assembly on 26 Nov. resolved to make no further allowance for provisions till assurances were given that such abuses should be effectually prevented.

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The Governor on the 28th gave what he considered satisfactory assurances, and on 6 Dec. prorogued the Assembly to 13 Jan. 1747.

On 9 Dec. Colden transmitted a copy of his Treaty with the Indians. The Introduction mentions that of the Council only Messrs. Colden and Livingstone had attended at Albany and assisted the Governor as he desired. He also sent a copy of the *New York Weekly Postboy* with an account of proceedings of the Council on 4 Dec. which did not appear in the Council minutes transmitted by the Secretary. On Mr. Colden's admission that the Introduction to the Treaty was printed by his directions, the Council resolved that it was a misrepresentation of facts and an invidious reflection on the members not present at Albany.

The Council in Dec. and Jan. at first conditionally approved joining with Massachusetts and Connecticut in an attack on Crown Point; but, on being pressed for explicit advice, declared the attempt in their opinion impracticable.

On 24 April Clinton told the Assembly what measures he had taken: "he was suspicious that all the difficulties he had met with in treating with the Indians and engaging them in the war arose from the views which a few men of considerable estates and interest had to their private advantage, gained by the trade with Canada." The Assembly on 29 May replied in a representation justifying their loyalty by an account of their votes, and denying knowledge of any correspondence with the enemy. The Governor adjourned the Assembly to 2 June and forwarded the representation to England with his remarks thereon: "as to the Assembly's recounting the provision they had made during the war, it was evasive; as the charge against them was for neglecting what was at present recommended to them, which cannot be denied."

On 2 June Clinton asked that, if the Assembly would not advance pay for the troops, they would indemnify his family from the consequences of bills which he himself would draw.

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The Assembly denied all liability: they were to supply provisions but not pay for the troops; the Governor's proposal showed such a distrust of the King as ought not to be suggested.

On 22 June the Governor sent an account of the state of the province to the B. of T., observing that the government was "wrested out of his hands by the violence of a faction, that he could not answer for the safety of the province without the interposition of his Majesty." He regretted his reliance at first on the advice of De Lancey and the grant to him for life of a commission as Chief Justice, and submitted whether the commission could not be revoked.

On 12 Sept. 1747 a Committee of the whole Assembly resolved that it was unreasonable to require them to victual the Independent Companies or the levies raised in the Southern colonies, and that the orders to the Governor to make presents to the Indians were still in force. On 27 Sept. Clinton wrote to the B. of T. "that without some extraordinary assistance of Parliament, Governors would not long be able to support the King's authority; that the first means of checking the power of factions would be to fix a certain support for the officers of government, which might be done by a quitrent on the lands equally rated."

After recounting the suspension of Horsmanden and Bayard, the Remonstrance of the Assembly of 9 Oct. and the Governor's Message of 13 Oct. (*cf. pp.* 296-302), the *Abstract* mentions that, on the abandonment of the Canada expedition, the Assembly resolved on 20 Oct. to make provision for eight companies of 100 men each of the levies posted at Albany; but on the 21st a Committee reported that the colony was unable to provide for the pay of the troops levied for the expedition. Clinton on 26 Oct. asked that provision be made for a detachment of militia; the Assembly pointed to their vote for maintaining the Albany levies and reflected on the Governor's "unsteady counsels." Clinton replied that he had proposed to employ the militia, because the Assembly "had refused

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to give the King credit for such sums as were necessary to pay the forces, and had proposed to reduce the pay of the officers of the companies, which were to be retained so low that no one would accept a commission." The Assembly on 3 Nov. unanimously adopted a Committee report that heavy conditions about the pay of the troops had been imposed by the Governor, so that the province might not employ them and the poor people might be harassed by having to make detachments from the militia. On 7 Nov. the Council agreed that the pay allowed to the officers by the Assembly was too small, and advised the Governor to apply to the merchants for the pay of the troops. On 10 Nov. Clinton reported to the B. of T. that the militia regiment of New York had refused to obey orders from the Crown without an Act of Assembly; and that the Assembly had publicly avowed the neutrality with the enemy at Canada.

The Assembly was dissolved on 25 Nov.; the objections made by Colden in the Council to several of the Acts passed are rehearsed—about the issue and emission of bills of credit, and about the appointment of commissioners to state the public accounts from 1713. Clinton pleaded the necessities of the province as an excuse for passing Money Bills liable to so many objections.

On 12 Feb. 1748 the new Assembly met. Massachusetts having objected to the 11th Article of the agreement of the Commissioners of New York, Massachusetts and Connecticut, for carrying on the war, the New York Assembly on 20 Feb. unanimously refused to agree to the alterations proposed by Massachusetts, and later threw the blame for the lack of concerted action entirely upon that province.

In an Act for the payment of salaries, services and contingencies of the government, the Assembly inserted a clause appointing Robert Charles their agent, independent of the Governor and Council. In a letter of 22 Ap. the Governor asked that no memorials be received from Charles unless by previous notice from himself.

On 9 Aug. the Proclamation for a Cessation of Arms was read and ordered to be published.

On 14 Oct. Clinton announced to the Assembly that he could not assent for the future to annual salary Acts such as the Assembly had been accustomed for some years to pass. The Assembly replied on the 19th "that he had acceded to those terms for good reasons and valuable considerations . . they were so well convinced, that the method was salutary that they could never depart from it." When desired to appoint a time for receiving the Address, Clinton said he had not seen a copy of it. The Assembly then voted that he had no right to insist on any such copy, and that to deny to the Assembly access to the Governor tended to the destruction of all intercourse between the branches of the Legislature and consequently to the subversion of the constitution. On proroguing the Assembly on 12 Nov., the Governor declared that they assumed privileges greater than those of the House of Commons, and that by printing their address they had declined his Majesty's justice, the legal method of redress in all differences betwixt them.

The Governor refused his assent to two Supply Bills, and pressed the Board on 15 Nov. and again on 24 Feb. and 3 June 1749 to send him instructions for his conduct. On 27 June he asked the Assembly for a revenue in accordance with his instructions. On 5 July a Committee prepared an address questioning the meaning of the instructions,—“there appeared no royal injunction in them to grant a revenue for the support of government for five years, of which method Governors were fond of engrossing the sweets, and from which no benefit ever had or could result to the people.” Clinton again refused to receive the address until he had seen a copy in private; but, having become acquainted with its contents, agreed to receive it on the 7th. On the 12th he answered that his demand had no reference to five years or one; the instruction related to the method of issuing money. The Assembly on the 14th replied “that the whole of his speech seemed to

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mean *an indefinite support, if not one for five years . . .* that they knew it was the custom of Parliament to leave to his Majesty the disposition of money raised for the public service, but that there was great difference between the condition of such subjects as lived under his Majesty's immediate government and those whose unhappy lot it is to be under the command of the Governors of provinces; that the *King neither had* nor could have interest separate from his people. . . But that the Governors of plantations, being generally strangers to the people whom they are sent to govern, and having no estates in the colonies to which they are appointed, have separate interests to which they make the public welfare subservient, and employ all means to raise estates to themselves; that should public moneys be left to their disposition the grossest misapplication would be the consequence, in which case Governors could not be called to account by the Assembly, and no security was to be hoped from the Council, who might be intimidated by sudden suspensions . . and that they were informed that practice of appropriating moneys granted was agreeable to a former declaration of the B. of T."

Clinton sent a message again on 20 July, hoping that some method of paying for public services "might be found without an entire breach of the constitution and taking the executive power out of the King's hands." On the 28th he wrote to the B. of T. "that from his having no orders or instructions upon those points, the present session had brought things to a plain issue, vizt. that either his Majesty must support his authority, or the administration of government must be given up to the Assembly. . . He concludes with entreating the Board speedily to consider the dangerous state of affairs in his government."

In his speech on proroguing the Assembly from 4 Aug. to 12 Sept., Clinton said he had made diligent search for 30 years past, and was persuaded no instance could be given of any Governor's attempting to misapply public money, and that, as he had offered to consent to any clause

that tended only to prevent such misapplication, it must be for other purposes that the Assembly had refused to grant supplies conformable to the King's commission, to which they owed their existence. On 7 Aug. and 17 Oct. he again appealed to the B. of T. for instructions. In Aug. he thought "that, if a few loquacious members were changed, the *nem. con.* would be on the other side of the question, which is put out of doubt by the members disapproving without doors what they have consented to within."

On 26 Nov. he proposed that the Province Treasurer be suppressed and moneys paid to the Receiver General, as before Gov. Hunter's time; and also that an able lawyer be sent from England as Chief Justice. As things were, the faction could secure large sums for their designs, which the Governor could not command for the King's service; and so long as judges head the faction, the Governor cannot compel obedience to any orders.

In view of French intrigues with the Indians, he again entreated immediate directions on 19 March and 3 April 1750. On 7 June he proposed that application be made to the Court of France to restrain the attempts of the Governor of Canada; and on 30 July complained that he had not yet obtained the least answer to any of his letters about the hardships he was under in his administration. He had dissolved the Assembly; a new one met on 4 Sept. which voted 800*l.* for presents to the Indians and 150*l.* for the Governor's journey to Albany. On 24 Nov. it was prorogued to 2 April 1751. Clinton assented to Acts providing for the services of the two past years and the current year, although passed in the form objected to by the British Government. He excused himself to the B. of T. on 2 Dec. on the grounds of necessity and of the want of any commands in answer to his many representations.

On 29 Jan. he reported that he proposed to meet the Six Nations and the Governors of the other colonies at Albany in June, "in order to establish peace among all the Indian

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nations in alliance with Great Britain, to concert measures for the future management of Indian affairs, and to draw up a state of them to be laid before his Majesty."

The second abstract covers the same ground, and is really an abstract of the first.

7 June. [489.] NEW JERSEY. *Death of the Prince of Wales*. Address of the Governor, Council and Assembly. "It is quite out of our power to draw the character of this great Prince (of your Royal lineage) nor dare we attempt it, but must content ourselves in a silent admiration of the variety of his princely and private virtues. . ."

12 Aug. [490.] NEW JERSEY. *Disturbances*. Report of IV. pp. Attorney and Solicitor General with draft of a Commission 79-80. for an inquiry. They submit (a) whether the Governor should not be instructed to recommend to the judges on all trials of ejectment for lands in the three counties to have all the evidence found, so that the whole may come fairly and fully before the Privy Council on an appeal. The nature of the question being once understood, a general remedy by legislation may be required. Or (b) there may be ground for an application to the Court of Equity in New Jersey; in which case likewise all the evidence and circumstances must come before his Majesty on an appeal.

17 Aug. ———. Letter from the Attorney and Solicitor General (Ryder and Murray) to Mr. Sharp, Clerk of the Council. The Commissions about the Connecticut-Mohegans dispute do not form a true precedent, because (1) the present complainants can obtain justice in the courts of the province; between the Province and the Indians there was no common court of justice there; and (2) the present Commission is for inquiry only, not for inquiring and determining. For the same reasons, boundary disputes between two provinces are not precedents. There is no reason to vary the report.

23 Oct. ———. B. of T. report with the draft of an additional instruction for the Governor.

[491.] CONNECTICUT. *Appeal of the Mohegan Indians* 1751-2.
Committee report. 26 Nov. III. p.538.

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[492.] JAMAICA. *Appeals of Yeamans and Thomas v. Attorney General*. Committee reports. 8 Feb. IV. p. 152.

[493.] BERMUDA. *Complaints against the Governor*. Letter 11 March. from Gov. Popple. He is on leave of absence and looking Cf. IV. out for an exchange; but, if nothing offers, he hopes to be pp. 84, allowed to return. He is not putting in his answer to the 164. complaints, as he is assured the other party are not ready: but he encloses a copy, and an abstract, of a paper he has given to Lord Halifax, on the causes of the disunion and means for settling the peace of Bermuda. "*Postscript*—I do not want to return to avoid putting in my answer, for that I can and am ready to do before I go, and shall, if our solicitors do not otherwise agree."

The "Causes" are said to be three.—The Assembly's claims (1) to appoint their clerk, and (2) to tax bills and issue money arising from the Liquor Act; and (3) the obliging all vessels to come into the town or castle harbour to enter and clear.

(1) Is against the Royal prerogative as exerted in Great Britain, but is dispensed with in Barbados and other colonies. Popple suggests that it might be allowed in Bermuda also by instruction to the Governor.

(2) Is also yielded in Barbados, where four of the Council and six of the Assembly are a Committee for settling the public accounts. By the Bermuda Act of 1704, 10 persons were named to be a Committee with the Governor and Council, and though these are now dead, former Governors have allowed the Assembly to appoint others, upon an equitable construction of the Act. Popple proposes that the Governor be instructed to allow the Assembly to appoint a Committee to act with the Governor and Council.

(3) Does not concern the Royal prerogative, but lays the foundation of the present disunion. The present

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instruction is ineffective, because vessels call at the West End, where there is no officer, before entering and after clearing at the town. On the other hand, trade is damaged through the regulation, (a) by the delay caused in waiting at the town for a wind before they can get back to the West End, (b) by delay in reaching the town, which, besides the expense caused, may involve missing a good market both in the West Indies and in Bermuda, and (c) by the dangerous navigation between the town and the West End. Popple proposes that the instruction be revoked by another allowing vessels to enter and clear without coming to the town.

The alternative is to insist on the Assembly's surrender of the first two points, and, if they decline, to dissolve them and refuse to call another Assembly till his Majesty's pleasure is known; and to insist on a strict observance of the former instruction about loading and unloading at the town.

4 May. [494.] NEW JERSEY. *Disturbances.* Petition of a Committee of the people of Essex county; and Order of reference, IV. pp. 80-1.

6 Aug. The sheriff or under-keeper of Perth Amboy granted a prisoner liberty to go home for a few days, "with a design on both sides, as is thought, that he might move some of his inconsiderate acquaintances in a back corner of the country far distant from hence, to come afterward and by violence deliver him." The sheriff and 40 men then suffered 13 men, supposed to be from the back parts of New Jersey and Pennsylvania, to break open the gaol and carry off the prisoner without opposition. Some of the people of Essex county have since prevailed upon the prisoner voluntarily to surrender to his keepers.

9 July. ———. B. of T. representation; with a letter of 1 May from Gov. Belcher, and papers transmitted by him relating to the riot and release of Simon Wickoff from the gaol at Perth Amboy on 13 Ap.

The papers are the minutes of a meeting of the Council of New Jersey on 24 Ap., when only Messrs. Hude, Kemble

and Ogden were present, who deferred giving any opinion till the next meeting, hoping before then to receive further directions from his Majesty about the disturbances. On the 11th, John Waller, keeper of the gaol, informed the Governor that he feared an attempt to rescue Wickoff, and the Governor accordingly made out a warrant to William Deare, sheriff of the county, to use all possible means to prevent it.

The following papers were laid before the New Jersey Council by the Governor :—(a) His warrant to the sheriff ; (b) His letter to Andrew Johnston, one of the Council, and Samuel Nevill, one of the judges of the Supreme Court, desiring them to assist the sheriff ; (c) Nevill's answer, dated 14 Ap., blaming the weakness of the government, through the Assembly's refusal to make provision to support it, and the seeming reluctance of the people to the obedience of authority ; mentioning that Waller had permitted Wickoff to go home from the 3rd to the 6th and provided him with a horse for the purpose ; and enclosing (*d, e, f*) the affidavits of James Nevill, Thomas Fox, and William Deare. The number of rioters is in each case given as 20 : the only names mentioned are Benjamin Corle and a son of Adrian Hegeman.

———. B. of T. representation ; with a letter of 19 May 23 July. from Belcher ; and minutes of the Council on 11 May (present, Messrs. Hude, Johnston, Alexander and Ogden), when, in hopes of receiving speedy orders from his Majesty, they declined to do anything, and recommended that the Assembly should not be summoned. Deare had issued his summons to 70 men to guard the gaol, but none appeared. Waller should be prosecuted for allowing Wickoff to go home for three days when in his custody on a charge of treason.

———. B. of T. report on the Attorney and Solicitor 23 July. General's report and draft of a Commission of inquiry. The grievances are fully examined in the B. of T. report of 1 June 1750, and the purpose of an inquiry is fully answered by it. If a commission is to be issued, there is a precedent in the case of Bacon's rebellion, and the provisions of the Commission

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then issued are similar to those of the draft. The commissioners should be chosen from the neighbouring colonies or sent from England—the latter would be least liable to suspicion of interest, prejudice or partiality. Instructions should be given to the commissioners as to the methods and the particular points of the inquiry. It is submitted whether instructions should not be sent to the Governor to have the questions as to the property of lands tried as proposed by the Attorney and Solicitor General.

28 Aug. ———. Letter from Belcher to the Duke of Newcastle. "I understand some unreasonable persons at home are carping at my administration and endeavouring to have me removed . . . but I believe it will be found upon the fullest and strictest inquiry, my Lord Duke, that this province has not been at any time in greater peace and tranquillity than it now is ; as to the rioting, it began here above 50 years ago, and I am told my late immediate predecessor was one of the first that combined with others to break open the King's gaol and to rescue himself therefrom ; but, let that be as it will, no Governor of this province has yet been able to apply any remedy or to suppress the vile spirit of mobbing and rioting ; and that it has not been done, I take to be owing to the neglect and aversion that the Assemblies from time to time have been guilty of in not joining with the other parts of the Legislature in some good laws for bringing the vile authors of such malpractices to condign punishment ; and, till some special orders arrive from the King in this matter (and which have long been expected), I have no prospect of seeing the head of this hydra cut off or the general and universal peace of the province established." He asks for full time to answer any complaint exhibited against him.

29 Nov. ———. B. of T. representation ; with an extract of a letter of 13 Aug. from Belcher, and minutes of the Council of 10 and 11 Aug. The Council resolved that there was no reason to hope for any success from a meeting of the Assembly before receiving his Majesty's commands. No particular

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direction need be given about prosecutions; the Attorney General should proceed according to the known laws of the land.

[495.] JAMAICA. *Gov. Knowles's instructions*. B. of T. 14 May.
representation. IV. pp.
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[496.] BERMUDA. *Complaints against Gov. Popple*. (A) 5 June.
His answer to the Assembly (55 pp.), and (B) His answer to
the Council (28 pp.).

(A) Besides repeating that the Articles were not really approved by the Assembly and principal inhabitants (*cf.* p. 294), the Governor answers each of the 31 heads (*cf.* p. 275). (1-7) He denies having been engaged during his government in any kind of trade whatever; the complainants' grievance is that they were refused flags of truce, under which they erroneously apprehended that they might have carried on the illegal trade of which they now complain. If any trade with the enemy has been carried on, it has been without his knowledge. (8-9) He has revived and repaired the fortifications; he often proposed to the Council the reviewing the militia, but it was put off on account of some difficulties, and no inconvenience arose therefrom; for his conduct as Captain of the Independent Company he is accountable, not to the Assembly but to the Commissioners of the Army, by whom his accounts have been passed to Christmas 1751. (10) His request was made because he believed the Committee of Grievances had been appointed in an unconstitutional manner and in derogation of the prerogative; he left it entirely to the Assembly to do as they should see fit. (11-14) Were determined by the Council five years ago; yet, in case it is to be again taken into consideration, he offers a narrative of the events of Feb.—Ap. 1748 in extenuation of his conduct. (15) In extenuation of his suspending an instruction till his Majesty's pleasure should be known, he cites the request of the Assembly

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and the advice of the Council, and the universal approval of the measure in Bermuda, as being for his Majesty's service, for the interest of the revenue and for the public utility, without any the least possibility of any private advantage to himself. He also claimed that the 73rd instruction gave him a discretionary power in matters of trade, and his commission particular power with respect to the conveniency of shipping. He alleged that the 71st instruction was shown by letters from the late Governor in 1743 not to have been put in force, till the Assembly out of particular pique to the Council called upon him to do it. The letter to the five members was written after he had publicly consented as Governor to delay the execution of the instruction. "The very favours and indulgences the Assembly ask from this respondent, when obtained they turn into complaints by a most matchless ingratitude." (16-17) He acted with the advice of the Council. The French ship was sacred as a Flag of Truce : its cargo was acquitted on trial and no appeal prayed. He acted as judge in the other case in virtue of his commission as Vice Admiral, and because he conceived the case concerned the treaties between England and Holland. He offered to allow an appeal, if the words "pretended authority" were left out. (18-19) He has on several occasions laid the public accounts before the Assembly at their desire, but refused to agree to their taxing bills contrary to his instructions, which required it to be done by the Governor and Council ; he never did so without a quorum of the Council. He submits "whether this matter is not a dispute between the Crown and Assembly, with this further circumstance that it is an absolute assumption of right and not a dutiful remonstrance or claim on their parts against the Royal authority." (20) He acted in accordance with letters from the B. of T. of 10 Aug. and 8 Oct. 1742, and against the Assembly's encroachments on the prerogative. (21) He took the minutes from Thomas Smith, a publican, who had refused to accept a commission from the Governor as Clerk of the Assembly ; he denies that he ever detained

the minutes from the Assembly. (22) He appointed Capt. Samuel Burt to give permits to haul for fish in boisterous and stormy weather and to distribute the catch equally amongst the inhabitants ; this is a constant custom in Bermuda and absolutely necessary for the subsistence of the poorer inhabitants. (23) He has never heard of this : no complaint has been made to him ; if it be an offence, complaint should be made to the proper Customs authorities. “ Almost every member of the Council and Assembly and every officer of Government in Bermuda (except this respondent) keep retailing shops.” (24) There had been several repeated complaints against the former pilot ; the capacity, repute and subsistence of the man appointed by Popple are shown by a certificate annexed. (25) He differed from the Assembly only as to the manner of having the money restored ; he himself had not received it and so could not detain it ; he proposed that the restoration should be effected by an Act of the three Estates, not by his order merely. (26) Relates more to the Custom House and Naval Office ; the Act had been published by the President before his arrival ; when he knew of any complaints, he ordered an examination ; he carried on no prosecution, but referred the whole matter home. (27) “ He never refused his assent to any Bill sent up and concurred to by the Council . . he hath done everything in his power for the service of Bermuda consistent with his duty to his Majesty, and submits to your Lordships whether from the whole complexion of these Articles it does not clearly appear that the struggle now making by the Assembly is whether the power of government should be in the hands of his Majesty or of the Assembly.” (28) He has followed the constant usage of Bermuda ; the Acts of 12 Anne and 4 George I do not apply to the plantations ; no complaint has ever been made by those immediately concerned. (29) He absolutely denies the fact ; he has heard only maritime and ecclesiastical cases as Vice Admiral and as Ordinary respectively ; the charge contains nothing definite. (30) The Dutch, the only parties

1753. § 496 *cont.*]

interested, have made no complaint ; the captain of the ship, (which did not strand but sank three leagues from the nearest point of land), was merely a tool of John Tucker, one of the principal engineers of all the disturbance in Bermuda, and was blamed for his behaviour by the Governor of Curaçao. The same method was followed in this case as was arranged with Capt. Charles Fielding, who was wrecked on the West End of the island and was perfectly satisfied with what was done. (31) Two presentments of the Grand Jury have witnessed to the Governor's endeavours to discountenance all manner of vice and his good example becoming the dignity of his character and station.

He expresses his surprise and abhorrence that any body of men should abuse the Royal ear with such gross falsehoods, "and with articles in which it is a question whether malice, weakness or contempt of government prevails most."

Eleven extracts of papers are appended. (*a*) From Popple's letter to the B. of T., 16 Feb. 1748, about the irregular Committee of Grievances of five members, appointed, he believes, in order to force a dissolution and deprive him of the power to receive a salary (which had to be voted by the *first* Assembly). (*b*) From Popple's letter to the B. of T., 10 Oct. 1748. (*c*) Resolutions of the Assembly, 12 Jan. 1749, that bills should be taxed by the Governor, Council and Committee of the Assembly. (*d*) A memorial with 34 signatures, 4 Oct. 1750, about the custom of permits to haul fish in stormy weather. (*e*) From Popple's letter to the B. of T., 3 March 1749, giving an instance of the pilot's neglect to succour a ship in time. (*f*) Affidavit or protest of the captain of that ship, 25 Nov. 1748. (*g*) Certificate in favour of the new pilot, Nathaniel Bethell, 3 Oct. 1750 : 66 signatures. (*h* and *i*) Two presentments of Grand Juries—*re* the Governor's conduct. (*j* and *k*) Should have been transcribed immediately after (*b*) : (*j*) from Popple's letter to the Speaker, 5 Dec. 1747, pointing out the irregularity of appointing particular members to be a Committee of Grievances, but granting an adjournment

to the first Monday in Feb. (*k*) From Popple's message to the Assembly, 3 Feb. 1748—that, when a regular Committee of Grievances is appointed according to the usage of Parliament, he will be ready to consider what they report.

(*B*) *Answer to the Council.* The Governor shows that in the differences with the Assembly in 1747–8 he acted with the consent of the Council. The resignation of Judges Bascome, Harvey and Gilbert was occasioned by Capt. James telling Bascome that the Governor had taken from him a letter of attorney proved before the Judge, declaring that it ought to have been proved before the Governor. Bascome and the others resigned without making any communication to the Governor in order to clear up the matter. The Governor's difficulty in filling the places of these judges shows that endeavours were made to make his administration uneasy, and that he persevered in doing his duty. His removal of the new judges was considered in Council, but no advice or opinion given; those removed have made no complaint. Against his subsequent appointees there is no grievance; but Chief Justice Burrows resigned before long and is since dead.

The Governor has earnestly endeavoured to keep the channel of justice open. The Council gave it as their opinion on 23 June 1750, “that the effects *thereof* [*i.e.* of the stagnation of justice] will not be of such moment as appointing judges altogether unqualified for such an high office.” “The thus shutting up the courts was not owing to this respondent, who exerted every endeavour in his power to have kept them open, but to the unprecedented and illegal obstructions given thereto by those who were determined to overturn all government if they could not get it into their own hands.”

The evils resulting from the want of Justices of the Peace are to be ascribed to the Council, the members of which should have acted themselves if they could not recommend fit persons. The Governor was always ready and willing to appoint judges or ministers, but the spirit of faction was too strong for any fit person to accept these trusts.

1753. § 496 *cont.*]

In the disputes between the Governor and the Assembly, which are represented as hindering legislation, the Governor is maintaining the rights of the Crown, and it is the duty of the Council to support him. On the contrary, however, they blame his "rash and precipitate proceedings" for the troubles, but do not specify particular facts. He retaliates with a charge of "a combination to distress government in order to assume the powers of government to themselves in defiance and contempt of the royal prerogative."

By his defence of the prerogative he has already been a considerable loser ; he proposes that he may reimburse himself out of the perpetual liquor duty voted in 1698 and confirmed in 1704, and receive an annual salary from the same source. The payment of the Governor should be made a public concern ; the public interest suffers by treating his support as his private property. This course is recommended "as the only effectual means to prevent any further disputes between his Majesty's Governors of these islands and the people, and as a measure which will in the end be more beneficial to this country than to leave Governors dependent upon their wills for their support."

Fourteen papers are given in an appendix. (a) Address of 13 subscribers to the Governor and Council to discountenance the custom of privateers bringing vessels of truce into this island for condemnation, 29 July 1747. (b) Letter from N. Butterfield, 9 Feb. 1748, approving the Governor's proceedings. (c) Reasons of 15 members (the supporters of the Governor) for seceding from the Assembly, dated 8 March 1748. (d) Opinion of Attorney General J. Slater, 16 March 1748, that members of the House of Commons meeting during an adjournment and attempting to act as a legislative body run the risk of incurring the penalties of *præmunire*. (e and f) Letters from F. Jones (the President) and from N. Bascome, not objecting to the Governor's message but begging him not to think of a prosecution, 15 March 1748. (g) Letter from the Council of Bermuda to the B. of T., 27 May 1748, exonerating the Governor in the matters of undue elections and of the

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§ 496 *cont.*]

1753-4.

suspension of his 71st instruction. (*h* and *i*) Letters from N. Bascome and from F. Jones (5 Aug. 1748), *re* the former's resignation as Chief Judge. (*j*) Opinion of Attorney General Ryder and Solicitor General Murray, 13 Ap. 1750, "that the Judges of the King's Bench had full power to issue their precept to the freeholders and compel them to execute it, in the case put of a Justice of the Peace resigning." But the want of due returns of jurors ought not to be allowed to stop the course of justice, if there are on the whole jurors sufficient for the business of the court. (*k*) Letter of 16 May 1750 from T. Hill, enclosing the report, on the direction of the B. of T. (*l*) Letter of 1 June 1750 from F. Jones (the President) that, as the new Sail-Duck Act came over in the same vessel as the Governor, no sails could be inquired into in consequence of the Act before his arrival. (*m*) An address which Popple proposed should be presented to his Majesty as from the Governor and Council, stating the facts of the Assembly's claims to appoint their Clerk and to be represented in taxing public bills. (*n*) Schedule of particulars of sums due to Gov. Popple—for salary, whale fishery, deficiency in number of negroes allotted, firewood, a boat, and rent of land—with a balance still due of 3,035*l.* 9*s.*

———. Replications of the Council, and of the Assembly, that they are ready to aver and prove their complaints as his Majesty in Council shall award. Referred
27 Oct.

[497.] NEW YORK. *Gov. Osborne's instructions.* B. of T. representation, and copy of Article 39. 5 July.
IV. *pp.*
207-10.

1754.

[498.] GEORGIA. *Complaint against Lt. Col. Heron.* Letter from Lieut. Charles Mackay. Being admitted to the Council Chamber on 26 Feb., he was vastly surprised to hear several noble Lords speak greatly against the author of a petition, without allowing the author to be heard against Lt. Col. Heron. 1754.
2 March.

1754.

§ 498 *cont.*]

He then declared himself the author ; the petition was drawn by a solicitor in what he said was the due form ; he is willing to prove the substance of the complaint, and doubts not of having justice done him.

I. A printed copy of his petition on behalf of the oppressed inhabitants of the towns of Darien and Frederica in Georgia. Mackay went to Georgia in 1735 as a volunteer under Gen. Oglethorpe ; he was a Lieutenant in the Independent Company when it was disbanded in 1747. On his refusing to join in Heron's inhuman, cruel and arbitrary oppressions over the poor inhabitants of Darien, he was in that year confined and obliged to give bail not to see or speak in public or private with Heron while in Georgia. To obtain justice, he left all his effects in Georgia and came over to England.

The charges against Heron relate to (1) the condemnation of a Spanish ship at Frederica—after vainly trying to bribe his predecessor, Major Horton, to condemn it ; (2) his fraudulent detention of 1,600*l.* security given by Capt. Caleb Davis, owner of several privateers, and his later imprisonment of Davis himself ; (3) the pulling down the houses of the people of Darien, when they had refused to enlist ; (4) his obliging the people of Frederica to clear and finish fine gravel-walks for him at Southwood ; (5) his putting a stop to the building a lighthouse on St. Simon's Island off Frederica Harbour ; (6) his being "a public cheat and defrauder," having fraudulently borrowed money of the gentlemen and merchants, as appears by their petition to the Secretary of State ; (7) his supplying the Spaniards at St. Augustine with provisions in time of war, while the British troops and inhabitants were reduced to want and extremity, Indian corn being sold at 3*s.* or 3*s.* 6*d.* a bushel. In the last article several words are blacked out ; they appear to associate with Heron, "Crissal Williams, who called himself the King's Store-keeper."

29 May. [499.] JAMAICA. *Proposed change of the seat of government.*
IV. *pp.* Orders of reference of 5 petitions for transferring the govern-
248-9. ment to Kingston, and of one for suspending judgment,

1754.

I. Petition of St. Andrew's parish in favour of Kingston,
"the metropolis of trade and only place of safety and defence
in this your Majesty's island." 69 signatures.

———. Order referring two petitions for removal and 12 Nov.
two against. All these petitions are in the bundle : Hanover
with 50 signatures and St. James with 186, for Kingston ;
and against it, St. Iago, with 28, and Cornwall with 224 giving
their designations. *Cornwall* represented the greater danger of
fire, of pestilence, and of tumults and disorders at Kingston ;
St. Iago could be made less liable to attack than Kingston,
and, if it were attacked, the records could be removed to
St. Thomas in the Vale, a place by nature the most defensible
in the island. The removal of the capital would tend to the
impoverishment and depopulation of St. Iago and discourage
the further settlement of the island. *St. Iago* (on 24 June)
represented that the Governor, after refusing to procure
copies of papers for them or to intermeddle further with
a matter the decision of which was not before him, had
unfurnished and quitted his Majesty's house at St. Iago and
resided for the dispatch of business in a house in Kingston,
hired by a subscription of private persons, where the Council
and the Courts of Ordinary and of Chancery meet, and whither
many of the records have been brought for a time.

———. B. of T. representations desiring explanations 13 Dec.
of the references of 26 Nov., asking whether they should and
consider the Cornwall and the St. Iago petitions with those 19 Dec.
formerly referred, or proceed on the merits of each separately.

[500.] BERMUDA. *Gov. Popple*. Report of the meeting 1 July.
between Messrs. Popple, Noden, Hammersley and J. Sharpe. IV. *pp.* 84,
Two instructions having been despatched to the President 229.
on 14 May, the hearing of the complaints is to be suspended
till the effect of the instructions is known—if Popple's leave
of absence may be extended. If Popple is required to depart
more speedily, both parties are to apply to the Committee
for an early hearing.

1754. § 500 *cont.*]

The bundle also contains an abstract of the proceedings from 1749 to 1753.

12 Nov. [501.] JAMAICA. *Dispute between Gov. Knowles, the Assembly and the Courts.* Order referring the B. of T. representation of 15 Oct. to the Committee; with an abstract of the representation (11 pages).

The dispute arose from the Governor's refusing his assent to a Money Bill and other Bills, as not agreeable to his instructions. At their next meeting the Assembly asserted (a) their right to receive and issue money voted by them, and (b) the danger and inconvenience of inserting suspending clauses in Acts passed; to which practice the House cannot consent "without giving up the rights of the people, their own liberties and the happy constitution which they have enjoyed . . . above 70 years."

(a) The Assembly have annually appointed Committees to examine and settle the public accounts, and have taken upon themselves, on their report, "to execute all those powers judicial as well as ministerial, which of right belonged to his Majesty's officers and courts of justice." The necessity for the Governor to assent to Acts contrary to his instructions arises from the Assembly's having constantly refused to provide for the additional subsistence of the troops (beyond the 8,000*l.* perpetual revenue voted in 1728) any otherwise than by annual grants, in which the Assembly include other favourite purposes of their own. If the troops are necessary to Jamaica, some less inconvenient method for their subsistence should be permanently established.

(b) Permission to the Governor to assent to Acts of certain kinds provided a suspending clause be inserted, is rather a gracious condescension on the part of his Majesty than an infringement of the right of the Assembly in framing Bills. Bills of such a nature could not otherwise have had their existence as Acts and come before his Majesty in so short and so easy a manner. A letter has been sent to the Governor in order that the misapprehension may be cleared up.

(c) The dispute with the law courts arises from an Act of 1751 for appointing Commissioners of *Nisi Prius* and enlarging the jurisdiction of the Justices of the Peace in matters of debt. Mr. Morse, one of the Justices, held a court of *Nisi Prius* without commission from the Governor; the Governor directed him to be prosecuted, but the Superior Court refused to issue process. The Attorney General has reported that Morse had no authority to hold the Court, and that the Superior Court were wrong in refusing process not for any irregularity but upon the merits. It is submitted whether Morse and the judges of the Superior Court are fit persons to be continued judges.

(d) Knowles made further complaints of improper proceedings. Mr. Fuller, the Chief Justice, had opposed his directions, as Chancellor, for money to be paid into Court pending a suit, declaring publicly that his doing so was arbitrary and contrary to law. Fuller also sought to get a law passed to prevent him, as Chancellor, from sending orphans' money out of the island to be placed in the Funds in England; and obstructed the Governor's endeavours to get a state of the island with respect to grants of land according to his instructions, "spreading reports that he is officiously doing this to inspect into the titles of people's estates, and if he can find any flaw in them to seize them." "It was also alleged that he declared, when the printed Bill proposed in Parliament here for the cultivation of the island was sent over, that the people would do right to knock all them in the head who should attempt to execute such law; and, to confirm the people in his sentiments or that the Parliament had no right to inspect into the titles by which they held their lands, he sent for the proclamation of King Charles II. as a Magna Carta, by which he told them they held their tenures."

(e) Knowles complained of personal affronts, impudent ballads and clamours, insults to his wife in his absence, and a boycott by traders, who would not sell to his servants in the market, and by doctors, who would not attend his child in

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1754-5. § 501 *cont.*]

its illness. "His house was broke open and the mace taken out and broke to pieces and scattered before the door." The B. of T. hope that, when the dispute about the change of the seat of government is settled, such irregular and unwarrantable proceedings will be discontinued and peace, order and good government restored.

1755.

1755.

22 Ap. [502.] NEW YORK. *Sir C. Hardy's instructions*. B. of T. IV. pp. representation. The defective part in the Register (*Cf.* IV. 280-4. p. 281) should read, "directing his Majesty's Governor to remove any of his Majesty's Council" &c.

22 Ap. [503.] SOUTH CAROLINA. *W. H. Lyttelton's instructions*. IV. pp. B. of T. representation. 276-9.

14-17 May. [504.] JAMAICA. *Proposed removal of the Supreme Court and Records*. Address of the Council and Assembly, submitting three Acts. IV. pp. 250-1.

Received ———. Petition of S. Dicker, J. Ord, and N. Lloyd on 5 Dec. behalf of the Jamaica factors for British merchants. Their former petition having been held over by the B. of T. in July till the sense of the legislature should be known, and the above three Acts having been now transmitted, they desire a speedy hearing.

6 Aug. [505.] NOVA SCOTIA. *Bedding for troops*. B. of T. representation; with a letter from Gov. Lawrence enclosing a return by Will. Catherwood, Barrack Master, Halifax, 28 June. Lawrence reported that numbers of the soldiers were lying on the boards, and that in the meantime he would endeavour to procure some bedding from the continent to make good the deficiency.

26 Nov. [506.] WEST INDIES. *Powder duty*. Ordnance report on IV. p. petition of J. Sharpe, with letter of 29 Nov. transmitting it 317. to the Council. The powder duty is 1*lb.* for every ton of

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§ 506 *cont.*]

the ship's burden, and $\frac{1}{2}$ lb. for every ton is a very reasonable allowance for the defence of the ship.

1755-7.

1756.

1756.

[507.] JAMAICA. *Proposed transfer of Supreme Court and Records to Kingston.* Committee report for repealing four Acts. IV. pp. 251-2.

———. B. of T. representation laying before his Majesty an Address of the Assembly. 16 Dec.

[508.] ANTIGUA. *English Harbour.* Ordnance report; and letter of 14 May transmitting it. Mr. Horneck, the engineer sent over, died before completing his report, but this has been done by another engineer. The works of English Harbour are greatly gone to ruin; the expense of repairing them is estimated at 3,787*l.* 16*s.* 6*d.*; the annual expense of maintaining them it is impossible to estimate, as the climate is so subject to hurricanes. The greatest normal expenses will be for a Paymaster during repairs and for a Resident Storekeeper: these Horneck was not able to estimate. If English Harbour is repaired, good guns and carriages will be necessary for Charles Fort and other places. The works at English Harbour were erected by the Navy during the last war.

Antigua is wholly out of the department of the Ordnance Office, and if that office is to be directed to provide for the repair and maintenance of the fortifications, the expense must be provided for by Parliament.

Copies are enclosed of (a) a Committee order of 9 Feb. 1749, referring to the Ordnance an Admiralty memorial about English Harbour; and (b) the Ordnance representation of 7 Ap. 1749 (*cf.* IV. pp. 75-6). The Order in Council of 26 Nov. 1751 is also said to be enclosed, but is not now in the bundle.

1757.

1757.

[509.] JAMAICA. *Proposed removal of the records &c. to Kingston.* B. of T. report on the Address of the Assembly. IV. pp. 253-5.

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1757. § 509 *cont.*]

8 Dec. ———. B. of T. report about the means of carrying the former report into execution ; naming four places to be made ports of entry and clearance by orders to the Receiver General and other officers, and proposing that it be recommended to the Legislature of Jamaica to make provision for salaries.

As the intervention of Parliament in the internal affairs of particular colonies has not been usual, it might be more advisable to recommend the Jamaica Legislature to pass a law for establishing circuit courts, but to obviate difficulties the Attorney and Solicitor General might prepare the heads of a proper Bill to be used as an instruction to the Governor. The B. of T. append the plan of a division of the counties in which courts are to be established, in which they have the concurrence of the principal persons interested, by whom they had been attended throughout the whole progress of the affair. Instead of an instruction to hold courts where the Governor thinks most proper, it is proposed that the directions be contained in the Order in Council repealing the Act of May 1755 for removing the Offices of Record to Kingston.

26 Aug. [510.] MASSACHUSETTS BAY. *W. Shirley*. (A) His petition, and (B) his letter to Earl Granville—which repeats the substance of the petition. He set forth his services in the defence of Nova Scotia 1744–7 and 1754, and in the direction of the Lakes in 1755. In 1756 a new disposition was made of the command of the forces, but Shirley was informed that this was not from any dissatisfaction with his services, and that it was his Majesty's intention to appoint him Governor of Jamaica. After his arrival in England, complaints were made against him by his successors, but he has till now waited in vain for an inquiry ; he now seeks to have an opportunity of vindicating his honour. Neither the loss of Oswego, which happened 50 days after he quitted the command, nor the failure to prosecute the expedition against Crown Point, can with justice be imputed to him ; and in the management

§ 510 *cont.*]

1757-8.

of the public money he has been as faithful as at the end of the intended Canada expedition of 1747, when he liquidated the expenses of the several governments concerned in such manner as to save the nation about 50,000*l.*

The letter to Earl Granville (from Upper Grosvenor Street) suggests that there is not matter enough in the allegations against him to found a charge of misconduct upon, and that what matter there is, is not supported with any evidence. He writes instead of waiting upon his Lordship, as he is confined at home with an indisposition.

1758.

1758.

[511.] JAMAICA. *Proposed removal of courts &c.* Letter from James Ord, at Muffets near Hatfield, Hertfordshire; with Remarks on the report of the B. of T. He objects to the repeal of the Act of 1755 appointing one Grand Court at Kingston; the passing of the Act to establish circuit courts necessarily repeals it, but the Spanish Town party insist that it should first be repealed, with the particular view of having the Grand Court at Spanish Town and getting the whole government into their own hands. He thinks Mr. Beckford and Mr. Fuller the only planters in England who appear to insist on repealing the Act.

5 Jan.
IV. pp.
253-5.

The "Remarks" express doubt whether additional ports of entry and clearance can be established by the royal authority, as a law of the island must first be repealed. As to the three circuit courts, a question arises as to the keeping of the records; he supposes they should be deposited where there is the greatest multiplicity of business. One consideration as to the Governor's residence is that it should be in such a situation as to be able to maintain an easy and certain communication with his Majesty's commander by sea.

Lord Halifax's opinion is added that if the directions to the Governor are not to be contained in an Order of Council, they may be conveyed by a direction to the B. of T. to transmit the Bill prepared by the Attorney and Solicitor General, with

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1758-9. § 511 *cont.*]

such instructions upon it as appear to them most proper for carrying it into execution.

28 June. ———. Committee report.

I. List of proceedings before the Council from 29 May 1754 to the report of the Attorney and Solicitor General, 3 May 1758.

6 June. [512.] MASSACHUSETTS BAY. 71 *Acts*. B. of T. IV. *pp.* representation. Three Acts were referred to the Attorney and Solicitor General for their opinion whether they were 804-5. not *ultra vires* and therefore null and void.

1759.

1759.

2 June. [513.] MONTE CHRISTI. *Trade with the enemy*. Extract IV. *p.* 443. of letter from Gov. Haldane of Jamaica, enclosing copies of affidavits made on 1 June about several vessels belonging to British subjects in the North American colonies laden with French rum and sugar at Monte Christi, but taken on or about 18 May, and brought into Jamaica by Cpts. Marsh, Langdon and Edwards of H.M.Ss. *Harwich*, *Edinburgh* and *Assistance*.

(a) Thomas Mansfield, cooper. The *Fair Lady* left Saileham (? Salem), New England, about Feb. with lumber and money; at Monte Christi, the master, Benjamin Lovett, exchanged the lading for sugar and molasses, which were brought up in boats from Cape François without ever being landed at Monte Christi. The Spaniards have no sugar works near these parts, but he has seen over 150 sail in Monte Christi roads, all, as he believes, North American vessels in the same trade.

(b) Constant Freeman, master of the *Betty*. Left Boston with fish and lumber on 16 Jan. Exchanged cargo with Spaniards for sugar and molasses; believes there are sugar works at some distance from Monte Christi. Admits that the Spaniards do get French produce to sell to the English there, though he believes his cargo is Spanish produce.

(c) Nathaniel Davis, master of the *Speedwell*. Left Boston in Jan. with boards, hoops, shingles and straked hogsheds,

besides money, which he exchanged with the Spaniards at Monte Christi for French sugar and molasses. He knows two British subjects belonging to North America—Cooke and Tilley—who reside at Monte Christi to effect such transactions. Ships which bring provisions are sooner despatched than those which bring only lumber and money; the goods are purchased by the Spaniards for the use of the French.

(*d*) Nicholas Tracy, master of the *Dolly*. From Massachusetts Bay in Feb. with fish, boards, staves and bricks, and money. Believes his cargo of sugar and molasses is Spanish produce, but from what part of the Spanish settlements he cannot set forth.

(*e*) John Harper, master of the *Penguin*. From Rhode Island in Jan. with horses, lumber, and fish, and money; consigned to Peter Cooke. Believes his cargo is French produce.

(*f*) Samuel Hinkley, master of the *Polly*. From Boston in March with lumber, fish, empty hogsheads and barrels, and money. Believes his cargo French produce.

(*g*) Benjamin Tucker, master of the *Polly*. Sailed from Rhode Island in March in the *Ruby* with horses and lumber. Sold his cargo to John Michael Laroche, and purchased the *Polly* from Lawrence Barrother, a Spaniard. The goods received in exchange are French produce. Another agent at Monte Christi is named—Woodworth.

(*h*) John Northam, master of the *Defiance*. From Rhode Island on 31 Dec. with lumber, fish and money. Believes his cargo French produce. Names another agent—Richards.

(*i*) Andrew Boin, mariner and passenger on the *Fair Lady*. He shipped from Rhode Island on the *Dolphin* for St. Thomas, but the ship instead went to Monte Christi, where he joined the *Fair Lady*. *Cf.* (*a*).

(*j*) Thomas Hooper, mariner of the *Speedwell*, which stayed over three months for a cargo, sugar and molasses having “grown scarce owing to the great number of American vessels that were there upon the same trade.” *Cf.* (*c*).

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1760-1.

1760.

11 July. [514.] BERMUDA. *Council*. Order for T. Smith and IV. p. 785. J. Burch.

15 July. [515.] PENNSYLVANIA. *Partial repeal of Acts*. Committee reference of B. of T. report to the Attorney and Solicitor General. Com-IV. p. 440.

28 Aug. [516.] JAMAICA. *N. Witter's debts*. Committee report. IV. pp. 399-400.

27 Oct. [517.] ACCESSION OF GEORGE III. Proclamation for continuing officers in the plantations; Order of 27 Oct. for 462-3. temporary use of the old seals; Orders of 30 Oct. for conveying proclamations to the plantations, and approving instructions about altering the prayer for the Royal Family; circular letter of 31 Oct. about proclaiming the King, and Order about its conveyance.

1761.

1761.

20 Jan. [518.] APPEALS. Committee report on *Grant v. Newton* [IV. pp. (Nova Scotia); and another of 27 June on *Bayly v. Furnell* 447, 401.] (*Jamaica*).

17 Feb. [519.] PLANTATIONS. *Appointment of officials*. B. of T. IV. pp. representations for continuing several officials. 473-83.

1 Ap. ———. B. of T. reports with commissions or warrants for 31 appointees.

24 Ap. ———. B. of T. reports with drafts of instructions; & 28 Ap. others on 6 and 19 May and 23 June.

29 Ap. ———. B. of T. representation with draft commission for IV. p. 778. Gov. Webb of Newfoundland; another of 1 May with his instructions; another of 19 May with commission for Gov. Graves.

6 May. ———. B. of T. representation for three South Carolina IV. p. 797. councillors.

18 June. ———. Committee reports on drafts of instructions.

1761.

[520.] NOVA SCOTIA. *McNutt's Irish settlement*. B. of T. 5 March.
representation ; with a copy of McNutt's proposals. IV. p. 532.

He asked (1) that lands be granted to his colonists on the same terms as to the families settled in the new townships of Horton, Cornwallis and Falmouth under the Governor's proclamation of 11 Jan. 1759 ; (2) that he should himself receive 100 acres for every 500 so granted ; (3) that the lands be laid out in townships of 100,000 acres each ; (4) that an annual quitrent of 1s. for every 50 acres should begin to be payable 10 years from the date of the grant ; (5) that 3 acres in every 50 be improved within 3 years according to the nature of the soil ; (6) that the clauses in the grants in Horton, Cornwallis and Falmouth reserving claims under former grants be omitted, as occasioning doubts and suspicion.

On a representation that the instruction that one-third must be cleared and cultivated within 10 years, two-thirds in 20 years and the whole in 30 years, required the cutting down of all the wood in the whole of the grant, the B. of T. agreed that the provisions of a Virginia Act of 1713 should be adopted instead. They proposed that the Governor should be authorised to grant lands on the terms set forth by McNutt.

[521.] JAMAICA. *Defences*. B. of T. representation, sub- 1 Ap.
mitting (I) an address of the Lieutenant Governor, Council and Assembly of Jamaica (dated 15 and 17 Dec. 1760). The insufficiency of the regular troops was evinced in the late rebellion ; the petitioners therefore beseech his Majesty that the company on the Mosquito Shore (of the regiment of which Major-Gen. Walsh is Colonel), and the four companies on the coast of Africa (of the regiment of which Sherington Talbot is Colonel), may join their regiments in Jamaica. If absentee planters would reside in the island, their influence over their slaves would help to prevent conspiracies and insurrections. The reinforcement of another regiment is also desired ; a Bill has already been passed providing for the building of barracks for their accommodation.

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14 Ap. [522.] GEORGIA. *Grants of lands*. B. of T. report IV. pp. submitting a draft instruction.

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15 Ap. [523.] NOVA SCOTIA. *Act to prevent the importing disabled, infirm and other useless persons, repealed*. B. of T. representation. Sir M. Lamb reported no objection in law ; but the Board considered the description of the persons to be excluded too loose and general, and the liability of the master of the ship unreasonable, as the overseers of the poor were not restrained from exacting the security or penalty even in cases where the disability of the passenger may have happened by common casualty in the course of the voyage.

21 Ap. [524.] SOUTH CAROLINA. *Gov. Boone's leave of absence*. IV. p. 485. B. of T. representation ; also their report of 6 May with license of absence.

4 May. [525.] PLANTATIONS. *Commissions for trying pirates*. IV. pp. Admiralty memorial ; also B. of T. report of 16 June with 485-7. the names of Commissioners.

29 May. [526.] PENNSYLVANIA. *Five Acts*. B. of T. report ; also IV. p. 808. Committee report of 5 June.

18 June. [527.] ACTS REPEALED. Committee reports on two S. IV. pp. *Carolina Acts*, and on one *Georgia Act* ; B. of T. representations 487-93, of 23 June on a *Georgia Act*, on two *Nova Scotia Acts*, and on 808. another *Nova Scotia Act*, which depended on one repealed in April.

23 June. [528.] GEORGIA. *Act for issuing paper money, confirmed*. IV. p. 802. The Act contained a suspending clause. Bills issued under previous Acts, which had not suspending clauses and were disallowed, are to be called in ; their reissue makes up 4,437*l.* 16*s.* of the 7,410*l. stg.* provided for by the present Act. The Bills are to be lent out in sums of 10*l.* to 80*l.* on mortgages of at least double the value in lands, tenements and slaves at 6 *per cent.* interest ; they are to be legal tender within the province (but not for debts due to residents in

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Britain), and current for seven years. The interest is appropriated to the reparation of the Church at Savannah and the maintenance of the clergy. The B. of T. objected to the bills being made legal tender and remaining current for so long a term, but H. Ellis, who was Governor when the Act passed, urged that the colony had no trade which brought in any gold or silver; that it was impossible for a colony so inferior in trade, wealth and population to redeem its currency within as short a space as might be expected from the old and established New England colonies; and that the mode of lending out the new currency in small sums at a low rate of interest would extend cultivation and settlement.

[529.] WEST INDIES. *Pension*. Admiralty report for 10 Nov. Lieut. Nathaniel Vincent, of H.M.S. *Temple*, who lost a leg in an attack on Grenada.

[530.] NEW YORK. *Land grants, and judges' commissions*. 11 Nov. B. of T. representation, with (I, II, III) extracts of three IV. *pp.* letters to them from Lt. Gov. Colden. 494-500.

I. 28 Feb. On Gen. Amherst's recommendation, he had issued a proclamation inviting settlement on the Mohawk, and was receiving applications for grants of land.

II. 2 June. A Bill had been passed making the judges dependent on the Assembly for their salary from year to year.

III. 12 Aug. Clinton and De Lancey had granted commissions to judges during good behaviour; the judges applied for a renewal of these on the demise of the Crown, but Colden put off consideration. He had also taken the Bill into further consideration; and, expecting it to occasion difficulties in the administration, may be under the necessity of complying with what the Council and Assembly seem to have much at heart.

———. B. of T. representation, submitting (IV, V) two more 18 Nov. letters from Colden of 25 Sept. and 6 Oct. (IV.) The Bill has been repassed, and he has again delayed his assent in order

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1761-2. § 530 *cont.*]

to receive directions. At different times, Colden had privately proposed (a) that the Governor might be restrained from removing any judge without the written consent of seven of the Council, an address from the Assembly, or the express command of the King ; and (b) that provision should be made for the judges' salaries to have the same continuance with their commissions. (V.) The second letter states that the judges refuse to act unless their commissions are renewed during good behaviour.

21 Nov. ———. Committee report.

24 Nov. [531.] VIRGINIA. *Act confirmed.* B. of T. representation. IV. p. 810.

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20 Jan. [532.] NEW YORK. *Council.* B. of T. representation for IV. p. 793. W. Alexander.

27 Jan. [533.] JAMAICA. *Three Acts repealed.* B. of T. representation. IV. pp. 509-20.

9 Feb. [534.] VIRGINIA. *Act confirmed.* B. of T. representation. IV. p. 810.

25 Feb. [535.] SOUTH CAROLINA. *Storekeeper.* Memorial of J. Hume. Marked "10 May 1762. Ordered to be laid before the Master General."

10 May. ———. Letter from Lord Ligonier to Earl Granville, enclosing the above, and recommending that orders be given ; as stores granted to the American provinces "have remained neglected and often spoiled for want of this necessary attention."

14 May. ———. Draft of Order (with several emendations).

27 March. [536.] JAMAICA. *Evils of Monte Christi trade.* B. of T. representation submitting (a) an Address of the Council and Assembly of Jamaica of 19 Dec. 1761. "It is a commerce that has already been productive of many and great evils,

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and may, if not prevented, afflict us with the most accumulated distress."

Docketed, "Ordered by Lord President to lay by, as we are at war with Spain."

[537.] NOVA SCOTIA. *A. McNutt's settlement.* B. of T. 8 Ap. representation. The 300 Irish settlers "upon their arrival IV. *pp.* appointed a committee to view the lands reserved for them 532-3. by the Governor, the remainder employing themselves in the meantime in common day labour in and about the town of Halifax, which had the good effect to reduce the price of labour from four shillings to two shillings per day." Their committee reported very favourably, and the whole body of these people expressed their great satisfaction in the conduct of Mr. McNutt. He immediately prepared to return to Ireland, having arranged at Londonderry for the hire of 10,000 ton of shipping to carry over 7,000 or 8,000 more settlers. The Board commend McNutt's able and faithful execution of his plans, and propose that the Governor be instructed to grant lands to the persons already engaged. But it is submitted how far it would be wise to encourage further migration. "It is our duty at the same time to observe that the eager disposition which appears in the inhabitants of the North of Ireland to migrate into the American colonies has not been particularly excited by the prosecution of this plan; it has long prevailed among them, and agents are continually employed to avail themselves of it, under whose directions many thousands have gone over" on terms less advantageous to themselves and the public than those offered by McNutt. McNutt has confessed that, if he is not suffered to proceed with his present plan, "he shall endeavour to procure settlements for the persons he has engaged with in some other parts of America."

[538.] NEW YORK. *Tenure of judges.* B. of T. repre- 11 June. sentation for repealing an Act of Dec. 1761 for the payment IV. *pp.* of salaries of several officers to 1 Sept. 1762. The Council 550-1, rejected the Bill sent up by the Assembly for making the 807.

1762. § 538 *cont.*]

judges' commissions during good behaviour. The judges had accepted commissions during pleasure, only on condition that, if an instruction would authorise commissions during good behaviour, the Governor should revoke the former and grant new commissions on the latter condition; but, on the passing of the Annual Salary Act for judges holding commissions during good behaviour (the Act now repealed), they declined to act.

Chief Justice Pratt, who alone continued to act, should receive a salary out of the quit-rents until the Assembly make proper provision. The Board consider Lt. Gov. Colden blameable for passing the Annual Salary Act with such a condition, although he represented that he did it to save the salaries of the other officers, considering that the clause had been added in hopes that he would reject the Bill.

I. Copy of Colden's letter of 11 Jan. The usual allowance for the Chief Justice is insufficient, but the Assembly wish to have a gentleman of estate in New York as Chief Justice, whereas Colden thinks a stranger without private connections and interests would be more likely to be impartial. They expect that Pratt's want of salary will compel the Governor soon to appoint a new Chief Justice, but if "a Chief Justice for life, with large family connections form a party to serve ambitious or interested views, the Governor must either become the tool of this party or live in perpetual contention. This is not a mere hypothesis; we had not long since a glaring instance of it." He therefore proposes that Pratt be granted a salary out of the quit-rents.

II. Extract of Colden's letter of 11 Feb., giving his reasons for assenting to the Act. He observes that binding the Governor by instructions has no effect on the Assembly, and this lessens their force in the minds of the people.

III. Extract of the Act.

IV. Extract of minutes of New York Council, 15 July 1761, when the memorial of the judges for the renewal of their commissions was deferred.

V. Extract of minutes of New York Council, 14 Oct. 1761, when Colden announced that he had represented the matter to the Government in England, and the judges agreed to accept commissions pending a reply.

———. B. of T. representation, submitting (VI.) a letter from Pratt, of 14 May. The salary has never exceeded 300*l.* currency; but, when that was first granted, it could better support a Chief Justice than 400*l. stg.* would now. The currency is now 85 or 90 *per cent.* worse than sterling. The quit-rents are a sufficient fund for a salary of 400*l.* or 500*l. stg.* without breaking in upon any prior appropriation. . A competent salary independent of the people would make the office of Chief Justice useful in securing the dependence of the colony on the Crown and its commerce to Great Britain. 24 Nov.

(1) The office should be made worth a lawyer's acceptance, because the legislative power in the various colonies is gradually carrying their systems away from the Common Law, and so diminishing their connection with the Mother Country. (2) A skilful and independent judge is required to determine cases of violation of the Acts of Trade. (3) His Majesty's lands cannot be safe from the intrusions of men of influence in the colony, if the Chief Justice depends on precarious annual grants from the Assembly. (4) The Chief Justice should not have to attach himself to a popular party; if a Governor should be neglectful of his master's interests, the Crown should still have some security in the Chief Justice. (5) Where there is such an unequal distribution of property and influence as at New York, the people's rights and properties and the prosperity of the colony will be in danger unless the Judge is able to do his duty without peril of his subsistence.

[539.] JAMAICA (2), VIRGINIA AND RHODE ISLAND. *Appeals.* 15 July. Committee reports on *Perrin v. Malchir*, *Bradburn v. Macanuff*; *IV. pp.* *Rickards v. Hudson*; and *Read v. Nicholls.* 398,493-4, 531-2,544.

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17 Nov. [540.] NEW YORK. *Gold and silver mines*. Petition of IV. p. 549. C. Scott and H. Holding. They claim that they have been at considerable expense in searching after minerals in New York, and have "from certain signs in mineralogy the strongest indications that there are royal mines . . which do belong . . unto your most Excellent Majesty (no grant or lease thereof having at any time heretofore been made thereof)."

24 Nov. [541.] BERMUDA. *Two Acts for the payment of members of* IV. p. 802. *Council and Assembly, confirmed*. B. of T. representation.

22 Dec. [542.] NORTH AND SOUTH CAROLINA. *Boundary*. B. of T. IV. pp. representation. In 1755 they had called for and received the 552-3. sentiments of the Governor and Council of both provinces, but owing to the war nothing further had been done. Recent proceedings of the Governor and Courts of North Carolina threaten great mischiefs, and a temporary arrangement is desirable.

I. Copy of Gov. Boone's letter of 9 Oct. The ejectments were issued on pretence of a prior right of Gov. Dobbs himself to the lands by virtue of a grant from the North government. "He seems to forget his public character whilst he is asserting his private pretensions." Boone has enjoined "a magistrate to use every lawful means to protect the properties and persons of colonists settled under the sanction of this government."

24 Dec. [543.] NORTH CAROLINA. *Escheat of grants to Crymble* IV. p. 553. *and Huey*. B. of T. representation, submitting (a) an extract of a letter from Gov. Dobbs, of 17 May. Settlement having been impeded by the war and by confusion on the South Carolina boundary, he proposes a delay in enforcing escheats. The grantees will dispose of the bad land with the good; but if the inferior and unsettled lands are escheated or surrendered, they cannot be sold at any price while better land remains ungranted, and the Crown will lose the quit-rents.

[544.] SIR W. JOHNSON. *Meetings with the Indians in 1761-2.* B. of T. representation. Sir W. Johnson had reported that the complaint of the Delawares against the proprietors of Pennsylvania was brought to an amicable conclusion, and suggested that the proprietors should make a present to the Indians. The proprietors assured the Board that they had already given the Indians 200*l.* at Easton and 400*l.* at Lancaster.

14 Jan.
IV. pp.
555-6.

As to the settlement at Wyoming, the Pennsylvania proprietors declared that they had ordered the people to remove, had applied to Major General Amherst, and had written to the Government of Connecticut, which issued a proclamation to discountenance the proceedings. As Sir W. Johnson is doubtful whether this will restrain the people from persisting, the Board submit whether effectual measures should not be immediately taken to put a stop to the settlement.

I. Copy of Johnson's letter transmitting his proceedings (A) at Easton, (B) on the way to and at Detroit and (C) at a meeting with the Six Nations. "Your Lordships will observe that the Indians are not only very uneasy, but jealous of our growing power, which the enemy (to engage them firmly in their interest) had always represented would prove their destruction, as we should *hem* them in and in the end extirpate them." They consider that the posts erected during and since the war can have no other use but to check and at last to surround them. The French remind them of this in mistaken zeal for the interests of their monarch; the British treat them less liberally than the French and this adds to their discontent. Johnson has made temporary regulations for the Indian trade, and has used the late instructions to the Governor of New York to convince them of his Majesty's intention to do them justice. The Mohawks alone remain discontented, alleging that they have been unjustly deprived of large tracts of land at Queensborough between the Mohawk and the Hudson (patented in 1708 but still unsettled), the Mohawk Flats, claimed by the corporation of Albany, and the Upper Mohawk Castle at Canajoharee.

1763. § 544 *cont.*]

Johnson adds some remarks on Indian policy ; frontier forts give no adequate security to the settlers against Indian raids ; peace and the friendship of the natives must be assured. The British must therefore adhere faithfully to their engagements and indulge them with a free and plentiful trade under proper regulations. The Department of Indian affairs should be carried on with regularity and uniformity. He will shortly transmit a state of certain alterations and retrenchments which he is making with the consent of Sir J. Amherst.

(A.) *Johnson's report on the dispute with the Delawares and the conference at Easton, June 1762. (31 pages.)* "On the 15th of June I arrived at Easton, but could not proceed on business before the 18th, the Indians being until that day drunk." The Indians claimed that certain lands on the Delaware between Easton and the Blue Mountains had never been purchased from them or their forefathers ; the proprietors claimed under Wm. Penn's purchases of 1682 and 1686, but had to prove the authenticity of a copy of the latter, the original being lost. The tract granted extended back into the woods "*as far as a man can go in one day and an half.*" No complaint was made by the Indians till 1734, but on examination they were satisfied of the authenticity of the grant of 1686, and confirmed it by a deed signed at Philadelphia on 25 Aug. 1737, when it was agreed to fix the limits of the day and a half's walk by appointing proper persons to walk over the ground. The walk was performed in Sept. 1737 in the presence of several Indian deputies. Early in 1741 some of the Delawares again complained of the settlement of certain lands, and it was agreed to submit the dispute to the Six Nations, who in July 1742 declared the Delawares absolutely in the wrong and ordered them to remove from the disputed land. The Delawares acquiesced and did not renew their claims till 1756, when an allegation of forgery was made against the Proprietors. In Aug. 1761 this was withdrawn, but it was maintained that all the consideration for the land was not paid and that the walk was not fairly performed.

On 22 June the Indians denied that they had understood the proceedings of the previous day, and reflected on Johnson and Croghan as not intending to do them justice. Israel Pemberton and some of the Committee of the Pennsylvania Assembly encouraged and supported the Indians in this conduct. "The different views and interests of each government, the general public good, and the private advantage of self-interested individuals, frequently clashing, must produce nothing but parties and confusion amongst the Indians to the prejudice of his Majesty's interest and that of the colonies in general."

After further discussion the Indians agreed on 28 June to sign a release for the lands. The only point about which they were dissatisfied was the way in which the walk was performed; but, being desirous of living in peace and friendship, they would bury all controversies about land. The Governor replied that it was unnecessary to confirm the release, and promised them a present.

(B.) *Minutes of Johnson's proceedings in 1761 on the way to and at Detroit*, whither he was sent by Sir J. Amherst to establish peace with the Northern and Western Indians. (123 pages.) Contains accounts of the following conferences:—

(1) Fort Johnson: 1 July. With the Mohawks; they entreated that a stop be put to further encroachments, and were assured that no more land should be taken from them without being fairly purchased.

(2) Canajoharee, 5 July. Similar discussion.

(3) Burnetsfield (German Flats), 7 July. With Oneidas and Tuscaroras—about the murder of a German by an Oneida a month before; about a stop to encroachments on Indian lands; and about the regulation of trade. The speeches are fully reported. Johnson introduced to the Indians the Rev. Mr. Occum, sent to instruct them in the principles and practice of the Christian religion.

At Canada Creek (a tributary of Wood Creek, 8 miles from Fort Stanwix), Col. Eyre overtook Johnson with a letter from

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Amherst, enclosing one of 17 June from Capt. Campbell commanding at Detroit. Deputies from the Six Nations had been sent to all the nations from the Bay of Gaspé to the Illinois, inviting them to take up the hatchet against the English. The time fixed for beginning hostilities at Detroit, at Sandusky and on the Ohio was the end of June; but Campbell, having received warning from the Wyandots, communicated with the commanders at Presqu'île and at Fort Pitt. Three Mohawks from Canajoharee arrived immediately after and confirmed the report.

On the 17th an Iroquois chief at Fort Brewerton (West end of L. Oneida), denied any knowledge of an intended rising, and declared that, if there were any such agitation, it must come from the Senecas alone. On the 19th Johnson arrived at Oswego.

(4) Oswego, 21 July. With the Onondagas—about the rumoured rising; distribution of medals to those who served at Montreal; the regulation of trade; and a request for powder. The Indians disliked his going to Detroit: “the only Council fire burns at your house, excepting that which we have at Onondaga.” Johnson replied that the English conquests and increased trade and alliances had made it necessary to have agents in several quarters, at Pittsburg and at Montreal.

On 24 July Johnson arrived at Niagara, where he received another letter (of 8 July) from Campbell at Detroit. The other tribes refused to act without those near Detroit, whom Campbell had secured—thanks to the information given by the Wyandot and Ottawa interpreters. Considerable expense will be necessary to retain the friendship of the Indians. The sale of rum is forbidden at Detroit, but the Albany traders sell great quantities of it and little of anything else at Niagara, which makes the Indians troublesome and ill to manage. Other goods the Indians secure only from the Pennsylvania traders and from Mr. Sterling of New York. Minutes are enclosed of a conference of the deputies of the Six Nations with the Ottawas, Wyandots, Chippewas and Pottewattamies at

the Wyandot town near Detroit, on 3 July (when the Iroquois proposed an attack on the English); and of councils at Detroit, 4-5 July, when the plan was discovered to the English in presence of the Iroquois deputies, who promised to abandon the project.

(5) Niagara, 28 and 30 July. With the Chippewas: about the meeting at Detroit and friendly relations, and about the chiefs' poverty and personal wants.

(6) Niagara, 1 Aug. With some Wyandots: about the Detroit meeting, presents, and reassuring them about Major Gladwin's expedition to explore the Lakes and take possession of the French posts.

(7) Niagara, 8-9 Aug.* With representatives of the Senecas; they professed ignorance of the message to the Detroit Indians, and ascribed it to Indians near Fort Pitt; whereupon Johnson returned their wampum and required a deputation of their chiefs to attend at Detroit and repeat their protestations before all the Indians there. At their request, he allowed them some powder and clothing.

On the 11th there was a meeting of the Mohawks and Oneidas with the Senecas, at which Johnson was requested to be present. The Mohawks threatened a rupture of the confederacy if the Senecas behaved so badly; the latter protested their innocence.

From the 12th to the 19th was occupied in getting the Indian presents &c. over the carrying place and up to Lake Erie. Johnson embarked on the 19th and arrived at Detroit on 3 Sept. with 140 Royal Americans, provincials and Indians, in 13 bateaux and canoes.

On 4 Sept. Johnson received and was welcomed by (a) the Delawares, Shawnees, Mohegans, Wyandots, and Six Nations residing over the Lakes or on the Ohio; (b) the people of the Wyandot Castle near Detroit; (c) the Pottawattomies, Ottawas

* On 9 Aug. Johnson transmitted to Major Walters at Niagara and to Major Duncan at Oswego the regulations he had drawn up for the Indian trade, stipulating the quality and quantity of goods to be exchanged for furs.

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and Chippewas. Croghan delivered to Johnson minutes of a conference on 21 Aug., at which the Delawares addressed the other tribes protesting their desire for peace ; on 25 Aug. the Wyandots had held a similar council.

On 6 Sept. the Ottawas represented their wants and the case of the French interpreters, whom they wished to have continued in their employments. On the 8th Johnson explained his speech to the interpreters, and also prepared instructions for the officers going to the several posts.

(8) Detroit : 9–12 Sept. : with Wyandots, Saguenays, Ottawas, Chippewas, Pottawattomies, Kickapoos, Twightwees, Delawares, Shawnees, Mohegans, Mohawks, Oneidas and Senecas. On the 9th, Johnson and a Mohawk spoke ; on the 10th, a Huron (3 times), an Ottawa (twice), and a Chippewa. One of the Seneca messengers declared that the other had met him and persuaded him to accompany him to Detroit, where he was greatly astonished to hear the proposals made by his companion. On the 11th, the Delawares and Shawnees spoke, and the presents were divided by the Indians. On the 12th Johnson spoke to the Seneca messenger and declared that on his return home he would call a meeting of the Six Nations to investigate the matter, and, if they were sorry, to make up the breach between them and the English.

The effects of the discussion were described in similar terms by the speakers—*e.g.* the Mohawk spoke of the dark clouds thrown over the earth by the French by plucking the sun out of the firmament ; “with this belt I now clear away and remove the clouds and put the sun in its proper place, so that you may again behold your brethren and friends, and be enabled to pay attention to your own interest.” After some further interviews, Johnson proceeded on the 17th to

(9) a Huron village near Detroit, where the Indians asked that credit be allowed to their hunters as was formerly done by the French fur-traders. Johnson replied that he had left regulations for the trade and fixed the prices of goods

§ 544 *cont.*]

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very low ; he could not compel the traders to give credit and it must depend on their inclinations.

On 18 Sept. Johnson instructed Croghan to go to Sandusky and the Ohio to collect English prisoners held by the Indians, to send a smith and hoes from Pittsburg to Detroit for the Indians, and to lay the accounts of recent Indian expenses before Gen. Monckton at Philadelphia. Sir William arrived again at Fort Johnson on 31 Oct.

In answer to questions put to the interpreters and some intelligent people at Detroit, Johnson was informed (1) that the five allied tribes near Detroit could muster 1,180 fighting men ; (2) that the French garrisons at Detroit numbered 20, at Miamis, St. Joseph, and "Waisiaghta" 10 or 12 each ; the Indians did not dislike such garrisons and liked the number of traders to increase, but they suspected the building of new forts ; (3) the French had a vessel on Lake Superior and one on Lake Huron, but they did not answer their purpose ; navigation is open on Lake Superior from the middle of June to the end of Sept., on Lakes Michigan and Huron from 20 or 25 May to the end of Oct., and on Lake Erie from the middle or end of April to the end of Nov. Lake Superior is most practicable for navigation by reason of its many places of shelter against storms ; Lake Huron is more difficult ; and Lakes Michigan and Erie very shallow. The most considerable trading posts are "Le Baye, Le Pointe de Chagouamigon, Le Nipigon and Kamanistygouyo."

(C) *Minutes of Johnson's proceedings with the Six Nations at Johnson Hall, 20-28 Ap. 1762. (40 pages.)* Sir William made his speech on the 22nd. The excuse of the Senecas was that the Wyandots had first proposed hostilities against the English ; that ever since the capture of Niagara they had been warning the Six Nations that the English were surrounding them ; that the envoys had been sent merely to discover the real intentions of the Wyandots, and that one of them had stated without any authority that the Six Nations would come within ten days and fall upon the English.

1763. § 544 *cont.*]

On the 23rd the chief of the Chenussios replied to Johnson's remark on their small numbers, that the badness of the roads and the weather had detained all but the warriors; "we are in fact the people of consequence for managing affairs, our sachems being generally a parcel of old people, who say much but who mean or act very little, so that we have both the power and ability to settle matters." The speaker of the Onondagas asked that no more rum should be brought to their country, and expressed gratitude for Gen. Amherst's prohibition of importing it.

On the 24th Johnson renewed the Covenant Chain. At night three sachems of each nation came to him and desired a private conference about a message sent by Mr. Woodbridge of Stockbridge in New England to the Six Nations concerning a settlement on the Susquehanna. Johnson in reply explained the nature of the purchase made by John Lydius of Albany on behalf of a number of people in Connecticut.

On the 25th the Chenussios expressed their repentance for what the French had persuaded them to do, and promised to deliver all their English prisoners. An Oneida sachem complained of the treatment of the Indians at the several garrisons, "neither can we see that you have any occasion for the posts between the German Flats and Oswego (which we had been told were only to remain for a time) as the French are now entirely conquered. I am in the next place to speak to you at the request of the women of the Six Nations, who on your first summons were desirous to come down and assist in the good work which you had in hand, but afterwards were informed you did not desire their attendance; however, as it was always the custom for them to be present on such occasions (being of much estimation amongst us, in that we proceed from them and they provide our warriors with provisions when they go abroad), they were therefore resolved to come down and hear the good words which you had to say, which hath afforded them great satisfaction; they now therefore hope you will consider

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their fatigue in coming so far, and that his present Majesty will follow the same good steps of his royal grandfather, by considering their wants agreeable to his example, and affording them clothing and petticoats to cover them, as our warriors for want of ammunition cannot take care of them as formerly."

On the 26th Sir William declared he could make no present to the Chenussios till they had restored the prisoners. Any ill-treatment of the Indians he ascribed to their own drunkenness; the posts between the German Flats and Oswego could not be abandoned even on a peace, as a wise people should always be prepared against the worst that can happen; besides which the posts are necessary for the security and regulation of trade. He wished that no more persons would attend any meeting than are necessary for the discharge of the business, but provided some clothing for the women, as well as arms &c. for the men. He then delivered the presents to be distributed by the Indians themselves.

On the 28th, Abraham, the chief sachem of the Mohawks, again questioned Lydius's purchase, alleging that the Indians had been made drunk; Johnson replied that he had always opposed the settling of that land, and that he should omit nothing in his power to secure it to them.

———. B. of T. report, with (*a*, *b*) drafts of instructions to the Governors of Pennsylvania and of Connecticut to put a stop to the Wyoming settlement. (c) Committee report of 7 June. 30 May.

[545.] NOVA SCOTIA. *Two Acts confirmed*. B. of T. representation; also Committee report of 3 March. 21 Jan. IV. pp. 557-8.

[546.] NOVA SCOTIA. *A. McNutt's settlement*. B. of T. representation, submitting (I.) copy of a memorial of McNutt. He had raised 300 men to serve at Louisbourg when the regular troops were withdrawn to relieve Quebec. Gov. Lawrence invited him to continue his endeavours to procure settlers for Nova Scotia. In 1760 he obtained 1,000 families from 21 Jan. IV. p. 533.

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New England, New York, Pennsylvania and Virginia. In 1761 his further plans were laid before the Board and favourably reported on by them ; he proceeded to execute them, but, on arrival in Nova Scotia, found that the necessary orders had not been given to the Lieut.-Governor.
- 25 Jan. [547.] PLANTATIONS. *Cases of murder within the Admiralty*
IV. pp. *jurisdiction*. B. of T. representation, submitting (I.) the
530-1. draft of a Bill.
- 31 Jan. [548.] JAMAICA. *P. Pinnock's debts*. B. of T. representation ;
IV. pp. and (I.) extract of a letter of 25 June 1762 from J. Kennion
554-5. to Admiral Knowles,—that Pinnock had declined his proposals and declared he would pay in different instalments as it suited himself. "He is thoroughly versed in all the glorious uncertainties of our law-proceedings, and very well inclined therewith to parry off every just demand against him." Also Committee report of 3 March.
- 31 Jan. [549.] MASSACHUSETTS BAY. *Act disallowed*. B. of T.
IV. pp. representation, containing a proposal to signify his Majesty's
558-9. displeasure to the Governor for assenting to the Act contrary to his instructions ; also Committee report of 3 March not containing this recommendation.
- 17 Feb. [550.] JAMAICA. *Prizes and foreign sugars*. B. of T. repre-
IV. p. sentation, submitting (I.) copy of a letter from Gov. Lyttelton
520. 13 Oct., enclosing (a) copy of his speech on opening the General Assembly, 28 Sept. ; (b) answer of the Assembly ; (c) another message from the Governor ; (d) the Assembly's answer ; and (e) Lyttelton's speech on proroguing the Assembly.

The first answer of the Assembly was that on mature consideration they did not incline to accept the proposition that they should re-enact the provisions of the Prize Act of 1756 : "nor can admit the objection of the Lords Commissioners for Trade and Plantations to that Act to carry any weight, as they are by no means disposed to submit their sentiments

to the determination of their Lordships, nor ever will at any time suffer them in any respect to direct or influence their proceedings by any proposition or decision whatever."

They appointed a Committee to examine into their Acts passed since 1728 and not reported by the B. of T. for confirmation or disallowance, intending to ground thereon a complaint of neglect, to be forwarded along with their grievance in the case of the Acts now repealed.

The second answer of the Assembly disavowed any disrespect to his Majesty or the Privy Council, and expressed their resentment at the action of the Board in representing them to his Majesty in a disadvantageous light and as objects of the severest censure, "and that in language not used by that Board in regard to the Acts of the Legislature of this island, whilst the Rt. Hon. the Earl of Halifax presided there."

Lyttelton in his letter pointed out the aim of the Assembly to obtain the same powers and privileges as the House of Commons, their refusal to insert suspending clauses and their withholding of supplies. The Treasury is very bare during three-quarters of the year, and when the Assembly sits (about Oct.) the taxes are brought in, because the Assembly by a stretch of power orders the collecting constables and churchwardens to be taken into custody if they do not pay them in by a certain day. The troops cannot subsist without the additional pay which is voted by the Assembly from year to year, and may commit disorders if that pay is not found for them.

Before the Governor received the B. of T. report, the Assembly had a copy of it from their agent. Lyttelton asks that the contents of his letters be not communicated to the agent or other gentlemen of Jamaica further than is necessary for any special purpose.

(II.) Lyttelton's letter of 24 Oct., enclosing a copy of his speech on the resumption of the Assembly and the proceedings of the Assembly and of the Council thereon.

1763. § 550 *cont.*]

The attack on the B. of T. was not followed up, but seven resolutions were adopted; No. 4 declaring that a B. of T. representation to the House of Lords, 27 Jan. 1734, had declared it to be the constitution of Jamaica that its laws should be in force until rejected by his Majesty in Council; and No. 7 declaring that the comment of the B. of T. in their report of 27 Jan. 1762* about the irregularity of temporary Acts without suspending clauses is a misrepresentation of the constitution, "and would, if admitted, deprive us of some of our most valuable and established rights, abridge the power of the Legislature and draw this colony into many inconveniences, as well as into a dangerous and unconstitutional dependence upon that Board." Mr. Bayly dissented from the 7th resolution.

The Governor writes that this opinion is so universal among the inhabitants that a dissolution would result in the return of the same members. The need of supplies is felt especially for the subsistence of the troops; he asks for a privy seal to draw bills of exchange upon the Treasury if absolutely necessary, as was done by Gov. Trelawny in a similar case.

He asserts that the Council was originally a Privy Council to advise the Governor, but that it has of late assumed also, as far as possible, the functions of the House of Lords; meeting also without the Governor's particular command, forming addresses to the Governor, receiving messages from the Assembly, appointing Committees, ordering persons to attend them on pain of being taken into custody, and requiring the Receiver General to lay the state of the revenue before them. Similarly, the Assembly have taken the House of Commons as their model: "whatever the Assembly have found, upon consulting the journals of the House of Commons, to have been constitutionally done there, they have judged to be a sufficient authority for them to proceed in the same manner here."

"The causes of the difficulties I experience are not accidental or temporary only . . either this country must

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be thrown into a state of the greatest confusion and distraction by a denial on my part of the validity of the pretensions of the Council and Assembly, unless that denial be supported by a solemn declaration of the Crown, not to say the Parliament also, of such a sort as may bring back this government to its first principles again; or his Majesty's authority and the honour of your Lordships' office must suffer by an acquiescence in me, which nothing but a conviction of the inefficacy and ill consequences of a contrary conduct without an extraordinary support, could possibly induce me to."

A resolution repeating the resentment of the Assembly towards the B. of T. and their determination to vindicate themselves to his Majesty from its harsh and unjust aspersions, was negatived, "but this, my Lords, I am sorry to say does not appear to have been owing to a sense of duty to the King or respect for your Lordships, but to an opinion that a complaint to his Majesty would not avail them, and also that it became them better to assert their own rights and liberties by resolutions of the Council and Assembly than to refer them to a decision of any third party, even of the Crown itself."

———. Reference by Committee to the Law Officers.

3 March.

[551.] PLANTATION TRADE. (a) Petition of J. Read for 23 Feb.
compensation, out of moneys arising from the sale of French Referred
prizes taken before the war, for his ship *Industry* taken by to
the French in March 1756 by way of reprisal for these captures. Treasury.
(b) A similar petition of T. Harris, relating to the *Somerset*.
Both vessels were West India traders. (c) A list of 17 ships
seized by the French by way of reprisals, most of them not
in the plantation trade. A note adds that the only applications
for compensation were *a* and *b supra*. The prizes taken by
the English before the declaration of war were sold for
650,000*l.*; the French prizes did not exceed 20,000*l.* in value.

[552.] VIRGINIA. *Two Appeals of Professors in William* 12 March.
and Mary College. Committee reports. IV. p.530.

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15 March. [553.] NORTH CAROLINA. *Act confirmed*. B. of T. IV. p. 807. representation.

15 March. [554.] NEWFOUNDLAND. *Alteration of Instructions*. B. of T. p. 778. representation. An additional measure is necessary to secure the exclusive possession of the whale fishery in the Strait of Belleisle, the salmon and seal fishery from the Strait to the St. Lawrence and in the St. Lawrence, off Gaspé, Canso, the Magdalene Islands, St. John's and Cape Breton.

The French have rights in the North West of Newfoundland, and within the Gulf may come within 3 leagues of the coasts and islands. Much will depend on the discretion of the naval officer superintending the Newfoundland fishery. The French commerce with the Indians of the Labrador Coast can only be stopped by a British settlement there or by stationing cruisers there with instructions to seize all French ships coming within a certain distance of the coast. The situation of St. Pierre and Miquelon is so convenient for an illicit trade with North America, that particular caution is called for, and communication between these islands and Newfoundland should be prevented. The preparation of a definite plan will require the united labour and experience of different departments and the issue of orders from other offices not under the control of the B. of T.

20 March. ———. B. of T. report with a draft of instructions. Articles 2-5 are new, as required by the Treaty; so are 6, 7 and 71, to obtain more accurate accounts of the island and the fishery. These instructions do not extend to Cape Breton, Prince Edward Island, or the coasts of Canada, Acadia or Labrador.

25 March. ———. B. of T. report with draft commission.

18 March. [555.] MASSACHUSETTS BAY. *Act repealed*. B. of T. IV. pp. representation. The Board referred to the proceedings of 559-60. the Committee of the Pennsylvania Assembly (*cf.* p. 343) as an example of the inconvenience caused by the interference of one colony with any general plan for the management of Indian Affairs in North America.

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[556.] LEEWARD ISLANDS. *Councils*. Two B. of T. representations for A. Warner (Antigua) and for S. Crooke (St. Christopher) respectively. 18 and 23 March. IV. pp. 782, 796.

[557.] NORTH AND SOUTH CAROLINA. *Boundary*. B. of T. representation, submitting (*a*, *b*) instructions to the respective Governors. Also Committee report of 30 March thereon. 29 March. IV. p. 552.

[558.] SMUGGLING. Draft order for distributing money arising by the sale of smuggling vessels and prohibited goods: with a note from Attorney General Yorke (7 June) that he has altered a few words in the recital, but thinks the draft very proper. 1 June. IV. pp. 560-2.

[559.] NEW YORK. *Royal mines*. Petition of F. Philipse. On his manor of Philipsburgh, 15 miles from New York, there are 300 tenants; four years ago one of them discovered a silver mine on the manor near Hudson River, but did not communicate the discovery to the petitioner till two years ago. He postponed his application for a grant, because the main body of the ore had its course towards the river, and a large number of artificers would be necessary, whom it would be prejudicial to the public service to engage during the war. 11 June. IV. p. 550.

[560.] QUEBEC EXPEDITION. Admiralty memorial for a pension for Denis de Vitre. 21 June. IV. pp. 565-6.

[561.] NOVA SCOTIA. *Act confirmed*. B. of T. representation; also Committee report of 9 July, docketed "Approved, 20 July." To enable creditors to recover debts from the effects of absent or absconding debtors;—similar to laws in other colonies, in London and in the Duchy of Lancaster. A suspending clause provided "that so much only of the Act as relates to the commencement of the action 22 June.

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and attachment of the goods is to be in force until it shall have been allowed and confirmed.”

1763. SECOND BUNDLE.

6 July. [562.] VIRGINIA. *Act repealed.* B. of T. representation ;
IV. *pp.* also Committee report of 9 July.

563-5.

7 July. [563.] SOUTH CAROLINA. *Settlement of French Protestants.*
IV. *pp.* Letter from the Treasury, transmitting (I.) a memorial of
539-40. Monsr. Gibert (in French). 6,000 are determined to go if
the first are encouraged ; 400 of these have promised to
embark at the first favourable moment, and 200 are ready
to start. They propose to apply themselves principally
to the cultivation of vines and the production of silk ; Gibert
asks for 30 square miles of land. Mr. Jenkinson (Secretary to
the Treasury) had told Gibert that it was useless to ask for
lands anywhere but in Carolina ; he cannot, however, refrain
from observing that greater and more immediate returns
could be procured if the grants were made in a climate
less warm and more suited to vines and mulberries—
such as that of the Ohio valley. In accordance with the
views of the Government, he asks to be allowed to select
land on the east side of the Savannah river between
Purrysburg and Fort Moore. In order to avert the evils
which, he is informed, have almost totally ruined Purrysburg
and the Vaudois colony in Georgia, he asks for prompt and
regular surveys and registration of titles, for exemption from
quit-rents or any other imposts for six years (and in the case
of lands not at first occupied, for ten years from their being
taken up), and for the appointment of some of the settlers as
Justices of the Peace and a Council to try petty cases of all sorts.

The inhabitants of Carolina have been exempted from
paying a duty on negroes on condition of their furnishing
transport and one year's provisions to new settlers ; to avoid
any dispute with the people of Carolina, Gibert asks that a
certain sum be allowed out of the Negro Duty to each settler

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to enable him to provide himself with transport and with food until his first crop.

———. B. of T. report; Committee report; draft of Order; and particulars of arms and ammunition to be given to the settlers. 18 Nov.

[564.] JAMAICA. *Serjeant v. Gale*. Committee report.

9 July.

IV. p.557.

[565.] JAMAICA. *Act disallowed*. Committee report. 9 July.

The Act is to explain those already repealed relating to prizes IV. p.803. and foreign sugars. (*Cf.* 550.)

[566.] LOUISBOURG EXPEDITION. *Pension*. Petition of S. Jones, master of H.M.S. *Hynd*, who lost the perfect use of his limbs by rheumatic pains contracted on that coast; with (a) copy of a certificate of his discharge, from Philip Durell on board H.M.S. *Princess Amelia* in Halifax Harbour, 18 Ap. 1759. 20 July.

———. Admiralty report—that his infirmities are partly the consequence of old age, and he has not served long enough to entitle him to half-pay or a pension. 18 Aug.

[567.] LABRADOR. *Grant of land*. Order referring to the B. of T. (I.) the petition of A. R. Bondfield. Martel Brouage held this fishing post from 1728 to 1759 under a French grant. He then withdrew to Quebec and died there in 1761. Bondfield married one of his three daughters and has agreed to make satisfaction to the other two for their share in the buildings, stock &c., if a grant should be made to him. 31 Aug. IV. p.568.

[568.] PLANTATIONS. *Customs revenue*. Order in accordance with (I.) a Treasury memorial of 4 Oct.

5 Oct.

IV. pp.

569–72.

[569.] GEORGIA. *Southern boundary extended*. Draft of Order to the Attorney General.

5 Oct.

IV. pp.

572–3.

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10 Oct. ———. B. of T. representation, proposing that the Governor be notified by Instruction, Order in Council, or other instrument.

29 Oct. ———. Report of Attorney General Yorke with (a) the draft of an instrument.

13 Oct. [570.] JAMAICA, NORTH AND SOUTH CAROLINA. *Councils*.
IV. *pp.* B. of T. representations for G. Ford, B. Heron, and T. Skottowe
787, 794, respectively.
797.

13 Oct. [571.] VIRGINIA. *Act confirmed*. B. of T. representation.
IV. *p.* 810.

25 Oct. [572.] THE NEW GOVERNMENTS. *Admiralty jurisdiction*.
IV. *p.* 574. Admiralty memorial.

26 Oct. [573.] JAMAICA. *Dispute with Assembly*. B. of T. repre-
IV. *pp.* sentation, submitting (I.) a letter of 9 July from Gov. Lyttelton.
520-1. Asks whether the Assembly have a right to administer an
oath of secrecy to their Clerk, and whether the Governor has a
right to view the minutes when he thinks necessary. During
the last session and for some years past, the Speaker has
sent the minutes to the Governor once a week only.

4 Nov. ———. Order of reference to the Committee. Docketed
“ 29 Nov. 1763, laid before Lord President and ordered to
lie by for the present and until the report of the B. of T.
relating to the proceedings of the Assembly of Jamaica about
the repeal of four laws is taken into consideration.” (*Cf.* 550.)

3 Nov. [574.] FLORIDA. *Settlement to be encouraged*. B. of T.
IV. *pp.* representation *re* Florida. The method of encouragement
609-10. which has been found most advantageous and successful
in the northern colonies has been that of laying out lands
into small townships and granting them to persons of sub-
stance who enter into proper engagements for their settlement.
(I.) Order of reference, 4 Nov. (II.) Committee report
of 11 Nov.

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[575.] THE NEW GOVERNMENTS. *Grants of land.* Order 4 Nov. referring to the Committee a letter from the Attorney General, IV. p.576 with (I.) a memorandum of his proposal; (II.) his letter of 21 Oct. suggesting that a clause in the Commission would make the direction more notorious than an instruction to the Governors; (III.) his letter of 25 Oct. enclosing the clause, and explaining that its purpose is to meet the objection "that the grantee will never be secure of the validity of his grant, unless the instructions upon which the validity must depend, shall be made known in the province and from time to time entered upon record." Also Committee report of 11 Nov.

[576.] PLANTATION TRADE. *The Kinnicut.* Memorial of 18 Nov. J. Sherwood. The ship left Surinam for Rhode Island on IV. pp. 27 March 1763 with molasses, linen and china to the value 611-2. of 2,566*l. stg.*, and was taken on 1 April. The preliminary articles of peace had been ratified on 22 Nov. 1762. The vessel which took the *Kinnicut* was said to be owned by the Spanish Governor of Trinidad, and that occasioned it to have no legal trial pursuant to the Articles of Peace. The crew were afterwards marooned in distant and uninhabited places, with the apparent design that no more might be heard of them and no remonstrance made to his Majesty.

[577.] ACTS CONFIRMED. B. of T. representations for Acts 25 Nov. of *Barbados* (25 Nov.), *Virginia* (1 Dec.), and *Nevis* (15 Dec.). IV. *App.* III.

[578.] MASSACHUSETTS BAY. *Mount Desert Island.* Petition 12 Dec. of F. Bernard for confirmation of a grant made to him by the IV. p.614. General Court on 27 Feb. 1762.

[579.] APPEALS. Committee reports on Nash *v.* Clarke 15 Dec. (*Barbados*); Hearn *v.* Webb's executors (*Newfoundland*); IV. pp. Potter *v.* Hazard (*Rhode Island*); Steward *v.* Buchanan, and 548,501-2, Tabb *v.* Edmundson with cross appeal (*Virginia*). 548-9, Others on 19 Dec., on Cross *v.* Attorney General and 562-3,443.

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Dicker's executors (*Jamaica*), and on *Harvey v. Ceely* (*Antigua*). [IV. pp. 448, 550.]

15 Dec. [580.] NOVA SCOTIA. *Grants of lands*. B. of T. representa-
IV. pp. tion *re* Sieur de Stumpell. Others of 20 Dec. *re* (a) disbanded
610-1, troops, and (b) J. Marteilhe.
613-4.

20 Dec. [581.] PLANTATIONS. *Survey*. B. of T. representation on
IV. pp. (I.) Capt. S. Holland's proposals.
619-23.

21 Dec. [582.] N. ZEE. Petition for a pension. He alleged
Cf. IV. p. that he had been encouraged and promised a pension by
719. Earl Granville.

21 Dec. [583.] WEST INDIES. *Court Martial*. Petition of W. Owen,
late Lieutenant of H.M.S. *Richmond*, for restoration. He
claimed that after the reduction of Louisbourg he was thanked
for conducting the troops safe over and down again the falls
of St. John's in the Bay of Fundy ; on the Havana expedition
he was materially serviceable to various Captains whom he
conducted safely down the Bahama Straits to Havana with
reinforcements from North America. A new Captain brought
with him a Lieutenant senior to Owen ; and, on the Captain's
complaint, Owen was dismissed for disrespect by the majority
of a court-martial at Jamaica on 30 Dec. 1762.

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1764. FIRST BUNDLE.

Received [584.] ST. VINCENT AND ST. LUCIA. *The Duke of Montagu's*
5 Jan. *grant of* 1722. Petition of the Earl of Cardigan and others ; and
IV. pp. Order of reference, 27 Jan. 500 white settlers sent by Montagu
618-9. took possession of St. Lucia, 15 Dec. 1722 ; but, a few days
after, the Governor of Martinique landed 1,500 persons and
obliged the English to leave the island. The French also
supplied the Caribs of St. Vincent with arms, and prepared
a force of 2,500 men to oppose any English settlement there.
The commanders on both sides agreed that the islands should
be evacuated until the claims of the two Crowns were decided.

Montagu and Marshal d'Estrées, who had a grant of the islands from the King of France, attempted in 1725-6 to negotiate a division of St. Lucia, but it did not take effect. In Jan. 1728 Montagu petitioned for a grant of Tobago instead of the other islands; the B. of T. reported favourably, but no grant was ever made. In 1730 the evacuation of the two islands was agreed to by the French and British governments.

When it was proposed to attack St. Lucia in the French war in 1745, Montagu, at the instance of the Duke of Newcastle, then Secretary of State, sent powers to the Governor of Barbados to grant lands in St. Lucia. Knowles's expedition, however, was diverted to the defence of Jamaica. The islands were again neutralised by the Treaty of Aix-la-Chapelle, and fruitless negotiations were carried on by commissioners of the two Crowns in 1750-1 and 1754. A partition, however, was agreed to in the Treaty of Peace in 1763, Britain taking Dominica, St. Vincent and Tobago; and France, St. Lucia.

I. Copy of Montagu's petition for the grant; and Order of reference, 11 Jan. 1722.

II. Copy of a memorial of Lady Cardigan (undated), that the interests of Montagu's devisees be considered in any treaty with France; and that compensation be made to them if either or both islands are ceded.

III. Report of the Advocate, Attorney and Solicitor General on (II.)—24 Dec. 1763 (received 6 Jan. from Lord Halifax's Office); and Order of reference, 27 Jan.

———. Petition of Lord and Lady Beaulieu to be heard 22 March. touching their right.

———. Committee report. 22 March.

[585.] PRINCE EDWARD ISLAND. *Lord Egmont's petition*, 7 Feb. with list of the officers associated with him—16 sea-officers, IV. *pp.* 14 land-officers and 5 merchants; 4 more merchants and 21 654-9. reduced officers who had previously applied and were sent to Lord Egmont by the B. of T.; 15 others who have applied

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since the memorial; “besides several other gentlemen which for want of room cannot be contained in this list.” The list contains eight Members of Parliament.

14 May. ———. Committee minute directing separate applications to the B. of T.

1 March. [586.] GRENADA. *Settlement*. B. of T. representation, IV. *pp.* with (a) a plan of settlement, under 22 heads; and (b) a 580–609. proclamation.

6 March. [587.] NOVA SCOTIA. *Gov. M. Wilmot's instructions*. B. of IV. *pp.* T. representation; also Committee report of 7 March. 579–80.

6 March. [588.] JAMAICA. *Double taxation of absentees*. B. of T. IV. p.490. report—on an Order of reference of 29 June 1761, “which was not delivered to us until the 27th day of last January.” The Act originally aimed at the maintenance of the number of white people, but by the inadequacy of the penalty has become a mere mode of raising money for the annual support of the regiment stationed there. Since the instruction against double taxation of absentees, the Legislature has doubled the penalty, but directed the Justices and Churchwardens to remit half to the residents. Since the late Lieutenant-Governor deviated from his Majesty's instructions in assenting to the Act, two more have been passed, each for one year only. The present Governor's general conduct is irreproachable, and the Board cannot conceive how he has been so far misled as to consent to these Acts. Measures should be taken to enforce an exact obedience to his Majesty's instructions, “which we have the mortification to find are too little regarded in many of the colonies.”

7 March. [589.] PLANTATION TRADE. Committee report. IV. p.623.

9 March. [590.] CAPE BRETON ISLAND. *Petitions for grants of land*. IV. *pp.* Petition of Hon. W. Howe [much torn]; and Order of reference. 659–60. The others associated with Howe were Brig.-Gen. Williamson,

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Col. Dalling, Lt.-Cols. Oswald, Moneypenny and Smith, Capts. Williamson, Garth, Marsh, Leslie, Foster, Hayes, Messrs. Wier and Porter.

A memorandum says Cols. Dalling and Hervey Smith desired their names to be left out, and Lt.-Col. Spittal, Capt. Collingwood and Lieut. French desired theirs to be inserted.

———. Letter transmitting, by order of Lord Halifax, 21 March. (a) a memorial of the Duke of Richmond for a grant of the island ; (b) Committee report of 21 May.

———. B. of T. representation on (a) the petition of 10 July. Sieur G. D'Arrigrand for confirmation of (b) a grant of 12 May IV. p.816. 1751 from Louis XV. ; [*a*, *b*, both in French]. Under the surrender he has no claim of right, but he made some improvements on the land before the war, and is now old and without other subsistence. A grant should be made to him on the same terms as to other persons in the province. Also Committee report of 17 July.

———. B. of T. report *re* collieries. “ The high price of 10 July. coals in almost every part of this kingdom, and especially IV. *pp.* in this metropolis is a cruel burthen upon the poor and a 660-1. very great drawback upon every manufacture carried on by your Majesty's subjects; and we are humbly of opinion that the great exportation of this commodity cannot but very much enhance the price upon the consumer at home. This exportation does and must increase every year to your Majesty's American colonies, in proportion as the wood which is their general fuel decreases and is cleared away near their great towns, and therefore the supplying these colonies with coals from Cape Breton will be of very great benefit” alike to manufactures at home, to the settlement of the plantations and to the revenue of the Crown.

Joseph Gerrish's plan for the improvement of the coalmines in Nova Scotia is well-concerted, but the mode of advertising for the best bidder will be attended with much delay and uncertainty, and so ought not to be adopted if any immediate satisfactory plan is offered.

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Howe's proposal is rather a petition for a grant as a reward for military services than an offer of terms proportionate to the value of the mines. If his Majesty does not extend his bounty to Howe and the others, the proposal of Sir S. Fludyer should be accepted, except that the duty or toll on the coals should continue at the low rate for seven years only, and that the payment to his Majesty must not fall below 1,000*l.* a year for the first seven years nor below 2,000*l.* thereafter. The township should accompany the grant of the mines and not for a longer period, unless as proposed by Mr. Gerrish.

I. Copy of Gerrish's scheme. An elaborate calculation shows a saving of $\frac{1}{3}$ to purchasers in America by producing coal in Nova Scotia instead of bringing it from Britain ; besides a profit of the same amount to the contractor and a duty to Government also of the same amount (3,443*l.* for 13,772 chaldron). The mines should be let to the highest bidder for seven years. He also proposed that a township of 100,000 acres should be laid out between Miré and "La Bradore" rivers, as shown on the plan annexed.

II. Howe's memorial.

III. The memorial of Fludyer, A. Drummond and A. Bacon : undertaking to settle 600 people, 100 of them within five years ; offering a quit-rent of 2*s.* 1*d.* per 100 acres for half the grant after ten years, and for the other half as fast as they can settle it ; and asking for a 30 years' lease of the mines, paying 2*s.* 6*d.* per chaldron (of 36 bushels) exported for ten years, and 5*s.* thereafter.

IV. Letter of 11 Ap. from Howe, proposing to pay 2*s.* on every chaldron exported.

16 July. ———. B. of T. report on Howe's memorial, referring to the report of 10 July, a copy of which is annexed.

20 July. ———. Another memorial from Howe, renewing his application for the lands on such terms as his Majesty may be pleased to appoint.

14 March. [591.] PLANTATIONS. *Admiralty jurisdiction.* Admiralty IV. p.663. memorial. A Treasury memorial referred to the Admiralty

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on 5 Oct. 1763 proposed that, for greater certainty in the trial of seizures and the execution of such regulations as Parliament may think proper to make, some uniform plan should be adopted for establishing the Admiralty jurisdiction in America under persons properly qualified. It was suggested that an eminent "civilian" be appointed Judge of the Admiralty for all North America, having concurrent powers with the several Vice Admiralty judges but no appellate jurisdiction. The Admiralty consulted the Advocate, Attorney and Solicitor General, who held that such a judge could be appointed, though he could not have jurisdiction in cases where particular Acts of Parliament had confined the recovery of penalties to local jurisdictions.

———. Letter from the Treasury approving the proposals of the Admiralty. 7 Ap.

———. Draft of Committee report. 16 Ap.

———. Draft of Order in Council. 18 Ap.

———. Admiralty memorial for power to appoint a Vice Admiral &c. for all America; also Committee report of 7 May; and Order of 9 May. 24 Ap.

[592.] NEWFOUNDLAND. *H. Palliser's Commission*. B. of T. 20 March. representation. IV. p.661.

———. B. of T. representation on his instructions; and Order of reference, 11 Ap. 10 Ap.

[593.] WEST FLORIDA. *Stores*. B. of T. representation 23 March. on (a) Gov. Johnstone's memorial for a transport ship to carry stores &c. to Pensacola. The Admiralty had refused to allow the stores and Indian presents to be carried on H.M.S. *Tartar*, and the Ordnance to give the stores to the same ship in which he should send the Indian presents. He thinks that dignity and economy would both be consulted by hiring a ship to carry all that is required on the first establishment of so material an acquisition as West Florida. IV. pp. 661-2.

———. Letter from the Ordnance agreeing that the guns &c. desired by Gov. Johnstone are necessary: with detailed estimate. 30 March.

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7 Ap. ———. Admiralty memorial that the Ordnance should provide a vessel.

16 Ap. ———. Committee report; also Order of 18 Ap.; and establishment proposed for the Office of Ordnance in West Florida (from Lord Granby's letter received 4 May).

27 March. [594.] GRENADA. *Stores*. Ordnance report and estimate; IV. *pp.* with Order of reference, 11 Ap.; and Committee report, 662-3. 16 Ap. Also estimate of establishment for the Office (from Lord Granby's letter received 4 May).

1764. SECOND BUNDLE.

11 Ap. [595.] JAMAICA. *Reinforcements*. Order referring to the IV. *pp.* Committee an Address of the Council and Assembly. 665-6.

13 Ap. [596.] EAST AND WEST FLORIDA. *Lands held under grants* IV. *p.* 653. *from the Spaniards*. B. of T. representation with draft instructions; also Committee report of 16 Ap.

16 Ap. [597.] EAST FLORIDA. *Stores*. Committee report, with IV. *p.* 662. (a) Ordnance estimate of 6 Ap.; and (b) establishment of storekeepers &c.

1 May. [598.] EAST AND WEST FLORIDA. *Clergymen*. B. of T. IV. *p.* 715. representation. Parliament having made provision for four ministers, the Board asked the S.P.G. to recommend persons, and they have accordingly proposed one for Mobile and one for St. Augustine. But as there is no precedent for such appointments in a new colony, the Board asks for directions.

9 May. [599.] TOBAGO. *Hulks as temporary official headquarters*. IV. *pp.* Draft of Order in Council. 617-8.

8 May. [600.] EAST AND WEST FLORIDA. *Grants of land*. B. of T. IV. *p.* 813. representation for seven grants to D. Rolle and others; also Committee report of 14 May.

15 May. [601.] GRENADA. $4\frac{1}{2}$ *per cent. duty*. Report of Attorney IV. *p.* 616. and Solicitor General, with drafts of several Bills. General

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powers for levying the poll tax in Grenada are included, but they have not sufficient information of the manner of collecting it to enable them to prepare particular and specific powers.

[602.] NEW YORK. *Council*. B. of T. representation for 18 May.
R. Morris ; also Committee report of 21 May. IV. p.793.

[603.] NEW YORK. *Grants of lands*. B. of T. repre- 18 May.
sentation on (a) Major P. Skene's memorial. Also Com- IV. pp.
mittee report of 21 May. Skene had applied for lands 817-8.
on Wood Creek, Lake Champlain, in 1759 ; on 13 June 1760
the Board asked further information from the Lieutenant-
Governor and directed him not to grant any of the land applied
for in the meantime. Skene prepared to erect sawmills and
a manufactory of hemp, potash &c. ; but, being sent on the
expedition to Martinique and Havanna, he found on his return
that a great part of the lands had been granted to others
by the person on whom the government had devolved. The
land he now asks for is part of that for which he applied in 1759.

Also a representation and report of same dates for J. Napier,
with extract of a letter of 10 Dec. 1763 from him to
Mr. Middleton. He asked for land near Fort Edward, west
of Hudson river, as some of his particular friends had lands
adjoining and would help him ; "and as I have saved a
little money, I had rather lay it out in cultivating a territory
here than be a Jack Lack-land at home."

———. Committee report for Lieut. D. Campbell. 21 May.

[604.] NOVA SCOTIA AND FLORIDA. *Quit-rents altered*. 21 May.
B. of T. representation. IV. pp.
668-9.

[605.] PENNSYLVANIA. *Royal v. proprietary government*. 23-8 May.
Petition of B. Franklin and R. Jackson, agents for the province, IV. p.741.
that they may present as one petition several petitions from the
inhabitants that the Crown should resume the government of
Pennsylvania.

Of the first and shortest petition there are eight printed
copies with signatures attached to each. Several are docketed :

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"Presented to the House, 23 (or 24) May." Other marks are, Merion 60 ; P. City 127 ; Horsham 9 ; and Abingdon 82. Four have no place of origin assigned, and no addition made of the number of signatures.

Of the second petition there are 23 printed copies. Those specifying any locality are Chester Co. 62 ; P. City 209 ; G.T. 137 ; Roxbury &c. 65 ; Ph. City 33 ; Ph. City and Southwark 123 ; P. City &c. 191 ; "Heydeberg," Northampton Co. ; P. City &c. 173 ; Springfield, Bucks Co. ; Bucks and Phila. Co. 40 ; Merion &c. 16. These were presented on 23, 24 and 28 May.

Of the third petition there are two printed copies in German.

28 May. [606.] PLANTATIONS. *Fees*. B. of T. report ; also IV. p.670. Committee report, and copy of additional instructions.

28 May. [607.] EAST FLORIDA. *Sea-cows*. B. of T. report ; IV. pp. Committee report of 6 June ; and additional instruction. 670-1.

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5 June. [608.] BERMUDA. *Governor's salary*. B. of T. representation on (a) a memorial of Gov. Bruere. Also Order of IV. pp. reference, 6 June. 669-70.

5 June. [609.] NEW HAMPSHIRE. *Council*. B. of T. representation IV. p.790. for P. Levins.

5 June. [610.] NOVA SCOTIA. *Grants of land*. B. of T. representation ; and Order of reference, 6 June. Besides the 23 names given in Vol. IV., John Tucker, Richard Oswald and Levett Blackbourne were recommended for 20,000 acres each. In the Order of reference, there is a cross opposite each of these names. (*Cf.* E. Florida, IV., p. 814.) IV. p.816.

5 June. [611.] WEST FLORIDA. *Grants of land*. B. of T. representation, and Order of reference, 6 June. Cock is described as late Captain of a troop of Rangers in Virginia, and Robinson as late Lieutenant in the British and Captain in the Portuguese service. Also another B. of T. representation of 18 June. 813-4.

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[612.] JAMAICA. *Bayly v. Jackson; and Bayly v. the Attorney General.* Two petitions of Z. Bayly. 6 June. IV. pp.

472, 612.

[613.] NOVA SCOTIA. *The Acadians.* B. of T. representation about allowing the Acadians to become settlers in the province. 19 June. IV. pp. 671-2.

[614.] ACTS REPEALED. B. of T. representation *re a Nova Scotia Act; and one of 2 July re a North Carolina Act.* 20 June. IV. pp. 683-4.

[615.] NEW YORK. *Grants of land.—Petition on behalf of King's College.* Sir James Jay represented that he had collected 5000*l.* in England, including 400*l.* from the King; that little more could be expected from the province; and that this was insufficient to carry on the design even in its present confined manner. 11 July. IV. p. 681.

———. *Petition of Capt. W. Edmeston* for himself and his brother. William had been a commission officer over 17 years, served under Gen. Braddock and in all the American campaigns since; he commanded a company of grenadiers at the sieges of Louisbourg, Quebec, Montreal and Martinique; at Martinique he was wounded and lost the use of his right arm. Robert has been in the service nine years and was at the reduction of Belleisle and Havana. 10 Oct. IV. p. 818.

———. Two B. of T. representations for grants to *Col. C. Lee and Capt. W. Patterson.* 29 Nov.

[616.] MASSACHUSETTS BAY. *Grants in Sagadahoc.* Two B. of T. reports *re* (a) J. Duncan &c.; (b) F. Bernard. 16 July. IV. pp.

(a) No effectual settlement of the territory has been made till now, the General Court having made no grants and having constantly opposed their pretensions to the soil to every attempt that has been made to settle it under immediate grant from the Crown. They now seek to encourage settlement east of the Penobscot and have marked out 12 townships of about 25,000 acres each, for six of which Duncan and his associates have applied. The Board consider (1) how far it

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is consistent with policy to permit the extension of the Massachusetts constitution so far beyond the limits to which it has hitherto been confined ; and (2) how far the conditions of the grants are consistent with the laws of England and of Massachusetts.

(1) As a matter of policy, the extension is doubtful, because an increase of townships means an increase of the Assembly, which since 1692 has been enlarged from 84 to 170 members, while the Council remains at 28. In the election of officers chosen by the Council and Assembly voting together, the proportion of the Council to the Assembly has thus been reduced from $\frac{1}{3}$ to $\frac{1}{6}$. Further, the remoteness of these settlements from the seat of government must cause great inconvenience and insecurity to the inhabitants on every occasion that may require attendance upon the General Court or the courts of justice.

(2) The grantees are required to build a suitable meeting-place for public worship in each township, and to make provision for a Protestant minister. Taken along with the laws of the province in respect to the support of, and manner of electing, ministers, this may require members of the Church of England to contribute to the support of ministers of a different persuasion,—contrary to a law of the province which provides that in any township where there is a contribution for the support of a minister not of the Church of England, the contributions of members of the Church of England shall be paid to any minister of that Church with whom he usually attends public worship in that or some neighbouring township. It is a matter of policy as well as of law whether such establishment and enforcement of a form of religion very different from the established Church of this kingdom should be allowed.

It is submitted whether these observations are sufficient to defeat a measure for improving a very valuable part of his Majesty's dominions, extending the commerce and adding to the riches of his subjects : " Which salutary purposes,

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however, would, in our humble opinion, be more effectually attained if this district could be severed from the Charter of the Province of Massachusetts Bay and erected into a separate province under the immediate government of the Crown ; but how far this may be done without the consent and concurrence of the General Court of the Massachusetts Bay, we do not take upon us to determine."

(b) Bernard's grant involves further consideration in view of the prohibition of the acceptance by Governors of gifts or presents from the Assembly ; but Bernard's conduct has been without reproach, and there is no room to suspect undue influence in the case of a grant which cannot take effect without his Majesty's permission. "The two branches of the legislature are represented to have concurred merely from considerations of the very great expense which the Governor has been at in taking out two commissions for that government before he could receive any advantage from it. The B. of T. recommend confirmation of the grant unless it may tend to invalidate any right of the Crown.

[617.] NEW YORK AND NEW JERSEY. *Boundary*. B. of T. 20 July. report proposing the names of commissioners ; and Com- IV. p.687. mittee report of 14 Dec.

[618.] APPEALS. Committee reports on *Webb and Herbert* 27 July. v. *Bourke (Nevis)* ; *Macfarlane v. Dickinson (Jamaica)* ; *Freebody v. Brenton (Rhode Island)* ; *Mackenzie v. Woodhouse (Jamaica)* ; *Dupouy v. Laraldi &c. (Jamaica)* (with another report of 28 July) ; *Bayly v. Jackson (Jamaica)* ; *Danielson and West v. Fish* ; and *Danielson v. Throop (Connecticut)* ; *Dudley v. Richards (Massachusetts Bay)*.

[IV. pp. 687-8 ; 536 ; 395-6 ; 436-7 ; 527 ; 472 ; 325 ; 688.]

[619.] MASSACHUSETTS BAY. *List of 13 Acts passed in* 10 Sept. *June*. Received from B. of T. IV. p.805.

[620.] SOUTH CAROLINA. *Palatine settlers*. Petition of 13 Sept. P. Cust &c. IV. pp. 689-90,

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5 Nov. ———. Letter from the Treasury, transmitting (a) a memorial from the Receiver General of South Carolina. The Treasury will defer carrying out the Order of 14 Sept. till his Majesty's pleasure be known.

(a) In accordance with the Order of 18 Nov. 1763, the Receiver General made payment out of the quitrents for surveying lands for French Protestants; but apprehends such Order would not have been granted, had their Lordships been acquainted that in South Carolina all foreign Protestants on their arrival have lands granted to them free of quitrents for 10 years in accordance with the Governor's instructions, and the expence of surveying, laying out and granting the land is paid by the General Assembly, which also gives a bounty of 5*l.* proclamation money to each person above 12 years old and half that sum for children over 2 and under 12 years. It is needless therefore to issue an Order for the payment of the expenses of surveys for the Palatine settlers.

3 Oct. [621.] MASSACHUSETTS BAY. *Complaints of J. Temple,*
IV. pp. *Surveyor General of the Customs.* Extract of a letter from
692-3. Temple to the Commissioners of the Customs. He refers to a previous letter, in which he had acquainted them that the Governor and Mr. Cockle, collector of Salem, had been advised by a letter from Anguilla of certain forged certificates for vessels at Salem a week before they informed Temple of it. Cockle confessed that in his proceedings he had been guided by Gov. Bernard. Temple has appointed W. Browne in Cockle's place. The quantity of molasses entered at the ports in this district under Anguilla clearances is estimated at over 5,000 hogsheads, the duties on which would amount to more than 13,000*l. stg.*

There are two copies of Temple's "State of the Facts," but one contains fewer affidavits &c. than the other. Since the beginning of March, 2,000 hogsheads of molasses and other effects, the produce of foreign plantations, were imported

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at Salem under alleged clearances from Anguilla. On 20 Aug. Mr. Cockle received a letter from the Customs Officers at Anguilla that the clearances were counterfeit. He came to Boston and communicated the letter to Gov. Bernard on the 22nd. On the 25th, in order to obtain their shares of the forfeitures, instead of prosecuting for the King's duties, they caused an information to be exhibited in the Vice Admiralty Court. The matter was not communicated to Temple till the 27th. Two vessels which had come in under false clearances actually left Boston during that time, and he has great reason to suspect it was in consequence of a hint from those who were in the secret. The trials for forfeiture were compounded with Gov. Bernard's consent for $\frac{1}{3}$ of their estimated value, which amounted to less than one half of the King's duties. The sum compounded for, 2,500*l.*, will be shared between Gov. Bernard, Mr. Cockle and the province. Temple desires directions about the recovery of the duties in such cases.

He encloses copies of (a) Cockle's declaration of 4 Sept. giving an account of his proceedings ; (b) Letter of complaint from Temple to Bernard, 28 Aug., announcing that he must report the matter at home ; (c) Temple's letter of 14 Sept. to C. Russell, the Vice Admiralty Judge, desiring that whatever sum is compounded for be assigned to his Majesty for the duty ; (d) Russell's reply—13 (?) Sept.—nothing can be done without proper application to the Court, and it should be considered whether it be practicable before any application be made ; (e) Deposition of Sampson Fowey, Cockle's clerk (27 Sept.), about Cockle's corrupt neglect to prosecute the master of the sloop *Gloucester* in May for breaking bulk before entry ; (f) Fowey's deposition, 27 Sept., that Cockle had been in the habit of receiving and sharing with Gov. Bernard gratuities of wine and fruit from masters of vessels entering from Lisbon, for entering them with salt and ballast only and passing over their cargoes of wine, fruit &c. ; (g) Temple's deposition, 3 Oct., that Cockle had admitted he was altogether

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in his power, and had offered him 700*l. stg.*, his share of the composition money, to pass over his proceedings; (*h*) Copy of Temple's letter to Cockle, intimating his suspension, 28 Sept.; (*i*) Deposition of Woodward Abraham, waiter of the Customs for Salem and Marblehead, 3 Oct., to the same effect as (*f*), but without mention of the Governor.

The other copy contains *e*, *f*, *g*, *i*; and (*j*) a deposition by Temple, 3 Oct., that in July a coaster arrived at Boston from Falmouth with molasses, the clearance not stating that they were of British produce. Bernard asked that the Falmouth officer should be pardoned for the improper clearance, and the molasses forfeited $\frac{1}{3}$ to the province, $\frac{1}{3}$ to himself, and $\frac{1}{3}$ to the prosecutor. Temple said he would punish the officer and insist on the payment of the duty at Boston, if it had not been paid at Falmouth. An express from Falmouth, however, reported that the molasses were foreign produce and had paid the duty there, and that the mistake in the clearance was owing to hurry and mistake of the clerk.

(I.) Copy of a letter of 29 Nov. from J. Fremantle at the Custom House, London, transmitting the above to the Treasury, and (II.) a similar letter of 26 Dec. from the Treasury to the Clerk of the Council.

5 Nov. ———. Letter from the Treasury transmitting (III.) Temple's earlier letter of 10 Sept. with (*k*) Cockle's deposition of 4 Sept.; (*l*) the letter of 30 July from Anguilla to Cockle, certifying the names of all the vessels cleared thence for Salem in the preceding year (three in all, with salt, cotton and cottonwool); no molasses were cleared from Anguilla till May, when Gov. Gumbs sent 5 hogsheads from his plantation to New London; (*m*) extract of Temple's letter of 28 Aug. to Bernard.

12 Dec. ———. Order of reference to Committee.

26 Oct. [622.] RHODE ISLAND. *Riot*. Letter from the Treasury
IV. *pp.* to the Clerk of the Council; and (I.) another of 11 Oct. from
690-2. the Admiralty to the Treasury, transmitting (II.) an extract

of a letter from Rear Admiral Lord Colville to the Admiralty, Halifax, 26 July. Four vessels had been sent to raise men in the harbours between Casco Bay and Cape Henlopen. Lieut. Hill first returned, having met "with very little success, the merchants having to all appearance entered into a combination to distress us as far as they are able, and by threats and promises to prevent seamen from entering for those vessels." Colville also transmits an account of the behaviour of the people of Rhode Island, observing that from Hill's conversation he has reason to think there are many aggravating circumstances.

(III.) Hill's narrative. On his seizure of the *Basto* of New York, Wingate master, from Monte Christi, with 93 hogsheads of sugar, "the owner, being apprehensive that I intended to carry her to Halifax, had me arrested and obliged me to find bail that she should be brought to Newport and tried there. On the 4th July the Collector of the Customs reseized the brig and cargo under a pretence that I was not properly qualified; although I imagined that I had taken all the necessary oaths at Halifax, yet it seems the oath of office had been omitted. I immediately set out by land for Boston to consult with the Surveyor General on this matter, and in my absence the mob of Newport endeavoured to destroy the King's vessel."

On the afternoon of 9 July a boat was sent to bring off Thomas Moss, a deserter. A large crowd assembled and rescued him; seeing the boat's crew in danger, the *St. John* fired a swivel unshotted, as signal for the boat to come on board. "The mob took Mr. Doyle, officer of the boat, prisoner, and wounded most of the boat's crew with stones, which fell as thick as hail round and in the boat; and they threatened to sacrifice Mr. Doyle, if the pilot was not immediately sent on shore and delivered up to their mercy; they even threatened to haul the schooner on shore and burn her." The mob manned a sloop, "and bore right down to board us, but, seeing us determined to defend the vessel, they thought proper to

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sheer off and go on shore again." The *St. John* was then directed to get under way and anchor close under the stern of H.M.S. *Squirrel*. "As soon as the mob saw our design, they sent a sloop and two or three boats full of men to the battery on Goat Island and began to fire on us, notwithstanding the Lieutenant of the *Squirrel* went on shore and forbade the gunner to do any such thing; they even knocked him down, and it was with much difficulty he got from them. They fired eight shot at us, one of which went through our mainsail whilst we were turning out. At 8 we anchored in 10 fathom water within half a cable's length of the *Squirrel*, and received one shot more from the battery which went close under the *Squirrel's* stern. They threatened to sink us if we did not immediately weigh and run into the harbour again; but, upon the *Squirrel's* getting a spring upon her cable, and bringing her broadside to bear upon the battery, they left off firing. At 11 next morning they set Mr. Doyle at liberty."

Received [623.] NORTH CAROLINA. *Fees*. Memorial of the Governor 22 Nov. and nine other officials for repealing an Act of 1748, which IV. p.693. made fees payable in proclamation money or bills of credit. Proclamation money in the plantations is fixed by Act of Parliament at 4*l.* for 3*l. stg.*, but the North Carolina currency has so much decreased in value as not to be worth more than 2*l.* for 1*l. stg.* Many services, too, have no fees attached, owing to the smallness of the population, the fees having been fixed in the infancy of the province, when less severe duty was requisite in the different offices than at present.

7 Dec. [624.] NAVAL SERVICES. Petition of Peter Burne to be continued in the service. From June 1762 till the end of the war he was employed in command of the armed tender *Bonetta* to carry intelligence &c. between Newfoundland, Halifax and Louisbourg. He has received no pay as commander of the *Bonetta* nor any satisfaction for the additional

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expense he was put to ; and he has now been out of employment about 12 months.

[624A.] BARBADOS. *Rev. T. Bernard*. B. of T. representation, submitting (*a*, *b*) extracts of two letters from Gov. Pinfold, 22 June and 23 Aug. ; (*c*) Order of reference, 12 Aug. 12 Dec. IV. p.653.

[624B.] MASSACHUSETTS BAY AND NEW YORK. *Proceedings of the Assemblies*. Committee report. 14 Dec. IV. p.692.

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[625.] BERMUDA. *Governor's salary*. Treasury report. Also Committee report of 19 March. 3 Jan. IV. pp. 669-70.

[626.] QUEBEC. *Civil government*. List of papers transmitted by B. of T. "Mem. The original representation and memorial and other papers annexed were all sent back to the B. of T." 11 Jan. IV. pp. 695-6.

[627.] MASSACHUSETTS BAY. *Complaints of J. Temple*. Draft of letter transmitting Temple's letters &c. to the B. of T. 12 Jan. IV. p.693.

———. Letter from the Treasury, enclosing (*a*) a letter of 26 Jan. from the Customs, approving Temple's zeal, and transmitting (*b*) a letter from him, of 30 Nov. While he was away making a general survey of the Northern district, a journey of 900 miles, Gov. Bernard went to Salem to try to invalidate the depositions taken by Temple ; he also drew up Cockle's answer for him. "I cannot help representing the shocking appearance it has to see the Governor of a province moving heaven and earth to screen and cover such a delinquent, making trifles of the most gross corruption, traducing all Custom House powers, and taking upon himself to determine all things concerning them, with many indecencies, which were I to mention, would look like endeavouring to draw on him the resentment of the Board. . . . This man

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has filled his budget, and I believe does not now care how soon he is dismissed."

21 May. ———. Letters from the Treasury, and to them from the Customs (14 May), enclosing (c) a letter of 2 Feb. from Temple; and (d) an affidavit of 15 Jan. 1765 by Philemon Warner, blacksmith, part owner of the *Gloucester*, that the owners considered that the 50*l.* was kept by Cockle for releasing the seizure and not as a deposit; it was only after his suspension that Cockle gave them to understand that it should be returned. Warner's was the principal, if not the only, evidence the Governor had been able to procure; and Temple encloses this later deposition, which further shows that the former one had been induced by the Governor's promise that the 50*l.* should be repaid.

12 June. ———. Letters from the Treasury, and to them from Lord Halifax, 4 March, transmitting two letters from Gov. Bernard.

I. Letter of 7 Dec. For the first two years of his Governorship, he exerted himself in defence of the Admiralty and Custom House officers, and his conduct has been neither forgotten nor forgiven by the unfair traders. At that time the Customs officers used to acquaint the Governor of any frauds or any seizure of forfeitures; but Mr. Temple, when he came out as Surveyor General, displayed a haughty jealousy of the Governor and came to an open rupture with him. It became dangerous for the Customs officers to consult the Governor. In cases of which Temple took the conduct, seizures were quitted and prosecutions dropped though the fraud was notorious, and the Governor received information of the proceedings not from the officers but from the talk of the town. A reconciliation took place a year since; but, when the new regulations arrived for enforcing the Laws of Trade, Temple insisted that trade was his department and not the Governor's, and each should keep to his own department.

In June a sloop was seized by a naval officer at Boston, but resealed by a Customs officer on the pretext of irregularity

in the first seizure. The sloop had received near Falmouth 140 hogsheads of molasses out of the *Sally* from Cape François. The officer at Falmouth offered to depose that the duty had been paid on molasses by the *Sally*, but refused to alter the form of his deposition or answer any question as to whether the duty was paid on 260 or on 400 hogsheads. The 140 hogsheads were then delivered to the owner, contrary to the Governor's protestation. Bernard was meditating a complaint about this, when the case of the *Gloucester* occurred.

On receiving information from Cockle, he advised with the Advocate General, who recommended immediate prosecution under the Molasses Act, lest collusive prosecutors should be set up. Cockle's suspension was due to his consulting the Governor; the accusation of bribery against him is not proved and is not generally believed. "If the Surveyor General should succeed in his scheme to get this man turned out, which he has declared he will spare no pains to effect, it will afford the highest triumph for smugglers which they have known within my time or perhaps at any time whatsoever."

The Surveyor General's contention is that Cockle "should have converted the forfeiture, long after it had taken place, into a duty." Bernard shows that Temple's attempt to have the forfeiture decreed to the King for the duties was neither legal nor practicable nor expedient. "If he could establish in himself a discretionary right of dispensing with the penalties of the law by admitting those who have attempted to break through them to a reconciliation upon their submitting to what they cannot avoid, he would be by much the greatest man in America; as all the merchants in his district who would choose to try experiments and to run risks would be dependent upon his favour and constantly solicitous to engage and procure it. But nothing could give greater encouragement to illegal trade than this practice, as it would amount to a kind of insurance of attempts to run goods in case they should fail. I have been long ago advertised of intended schemes

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of the illegal traders to conduct matters so, that, if they were prevented in running the goods, they should nevertheless be admitted to an entry."

"The very history of this ship was sufficient to render her very suspicious." She had been recently in trouble for carrying unbonded rice to Hispaniola, and again for having Dutch gunpowder on board and not in her manifest.

"I have from an unwillingness of troubling my superiors with complaints submitted to many indignities and overlooked some suspicious proceedings. But that time is over. If the Surveyor General has any complaint to make against me (as I hear say he has), let him speak out, and loud; for I defy all mankind to charge me with a single act of corruption since I have been in the government."

(e) Temple's letter to the Judge of the Admiralty, 14 Sept., about assigning the forfeiture to his Majesty for duties; and the Judge's answer, 23 Sept.

(f) Copy of Bernard's certificate of Cockle's general conduct, 24 Nov. (6 *pp.*). Before the recent orders for enforcing the Laws of Trade, he overlooked the importation of foreign molasses and sugar and of Spanish wine and fruit, in common with every other Customs officer in North America. Since the orders, he has not connived at such importation without payment of the whole duties. He has received gratuities to the value of less than 40 guineas in four years, but no bribes for neglecting to prosecute. He has a reputation for strictness; in support of which the Governor refers to conversations he had had with several merchants. "He may truly be said to be one of the best Custom House officers in America."

II. Bernard's Letter of 29 Dec., giving an account of Temple's abusing Mr. Hollowell, Comptroller of Boston, and Mr. Hale, the Collector, for consulting the Governor about a seizure. Temple and Hale had come to blows and a duel was arranged, but frustrated by the Governor. The Surveyor declared that he had eight Governors under him, that he was

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superior to them, that he had more sense than all of them put together &c.

———. Report from the Customs. A letter from the Treasury on 25 Oct. (upon Temple's complaint) had directed that Cockle should be dismissed. The present report relates to the case of the *Polly* from Surinam, which had reported (at Deighton on Swanzev ziver, in Massachusetts Bay but in the Rhode Island Collector's district), 63 casks of foreign molasses, but was found to be loaded with about double that quantity. The Collector seized the overplus, but, in the absence of the searcher (Nicholas Lechmere) at a tavern on shore, the boat was carried off; and, as soon as it was dark, 40 armed men with blacked faces unloaded the cargo. When the Collector returned, the vessel was stripped of her sails and rigging and had run aground; he was then arrested at the suit of the owner for 300*l.* damages by the seizure. He remained two days in Taunton gaol, while the magistrates refused to grant warrants to search houses and stores for the lost goods, until a proclamation requiring their aid was issued by the Governor and Council of Massachusetts Bay on the particular representation of the Surveyor General. 13 Aug.

The cargo was unloaded on the night of Sunday, 7 Ap. Temple applied to Bernard for orders on 12 Ap. and complained because Bernard did not act immediately, but consulted the Council the next morning. On the 13th Temple, having heard of the collector's imprisonment, called on the Governor along with Mr. Dowse, Customs officer at Salem, when an altercation took place. The Governor on Monday the 15th gave an account of this to the Council, which censured the Surveyor General. Both on the 13th and on the 15th, Temple declined to attend the Council.

The Commissioners of the Customs express their opinion that the Surveyor General and the Collector of Rhode Island have in these matters acted according to their duty, and that it is of the highest importance to the American revenue that the Customs officers should be supported in the most effectual manner.

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(g) Copy of P. Warner's affidavit; *cf.* (d).

(h) Letters and papers transmitted by Temple in the case of the *Polly* (63 pages). (1) Extract of the letter of John Robinson, the Rhode Island Collector, of 9 Ap., about the unloading of the goods. (2) Extract from his letter of 22 Ap. about his imprisonment, and the recovery of some of the goods after his release. (3) Temple's letter to the Customs, 7 May, reporting the matter. (4) Temple's letter of 18 May, enclosing an account of the treatment of Robinson by the Governor and Council. (5) A narrative of the proceedings, from the entry of the 63 hogsheads by Timothy Dogget, master of the *Polly*, and Job Smith, of Taunton, the owner; signed by Robinson and Antrobus, 4 May. This contains (6-11) the narrative of Robinson and Lechmere, 9 Ap.; Robinson's letter to Temple, 11 Ap.; letter from Capt. Antrobus of H.M.S. *Maidstone* (acting with Robinson) to Temple; application of Robinson and Antrobus to Ezra Richmond and Jerathmeel Bowers, justices of the peace, for a warrant to recover the goods (11 Ap.)—which Bowers declared the Province Laws did not permit them to grant, it being the business of the Justices of the Superior Court; Robinson's letter to Temple, 13 Ap.; and Temple's letter to Antrobus and Robinson, 13 Ap. (12) Deposition of Robinson, 18 May, *re* his complaint to Gov. Bernard about the justices and the discussion in the Council thereon. This encloses (13-16) letter from the Governor to Robinson, 9 May, requiring an account of the seizure with a view to prosecution; Robinson's reply, 9 May, intimating the intention of prosecuting the seizure at Halifax, and complaining of the justices; account given verbally by Robinson to the Council, 11 May; and his written complaint against Justices Richmond, Bowers, White, Fales and Williams, 9 May. (17) Minutes of the Council, 13 and 15 Ap. (*re* the proclamation and *re* Temple's interview with the Governor). (18) Bernard's account of what passed between him and Temple, 12-13 Ap. This encloses (19-28) two letters from Temple to Bernard,

two from Bernard to Temple ; one from the Council to Temple, two from Temple to the Council, 15 Ap. ; one from the Council to S. White, justice of the peace ; one from the Council to each of five justices of Bristol County (13 Ap.) ; and one from White to the Council (15 Ap.). (29) Dowse's account of the conversation between Temple and Bernard on 13 Ap. ; given orally to the Council on 15 Ap. (30) Account given to the Council by Charles Paxton, surveyor and searcher of Customs at Boston, about the spirited assistance given by the justices after he went to Taunton on Sunday the 14th by Temple's orders. (31) Minute of Council, 20 Ap., about Temple's disclaiming any reflection on the Council—in such a way as to imply that he *had* an intention to reflect upon the Governor. (32) The proclamation of 13 Ap.

(i) Bernard's letter to Lord Halifax, 1 May (10 *pages*). "The whole story is this, a Custom House officer charged with a seizure deserted his post, and the owners took that opportunity to recover the seizure and carry it off. Two justices being applied to to grant search warrants upon this occasion doubted their authority for that purpose, as it really was doubtful ; but, upon the arrival of the Governor's orders, five justices joined together and acted separately in procuring the Custom House officers a free liberty to search all suspected places, and sufficient assistance to secure and carry off the goods discovered. All this was accompanied with an entire obedience and submission of the whole people."

———. Another Customs report on (j) Bernard's letter 13 Aug. to Lord Halifax, 11 May, about the prosecution. The informer has power to sue either in any Court of Record or in the Court of Admiralty for the particular province or for all America. Bernard had represented that there was no good reason to prosecute at Halifax, and that, as "all the colonies in America have expressed their uneasiness at being liable to have their causes carried to Halifax, it must be highly improper to use that power wantonly without any real

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necessity, and contrary to the advice and protestation of the Governor of this province.

“ But no opportunity is to be lost to impeach the Governor’s authority in matters of trade, and to induce the officers of the Customs to disregard it. It is part of an avowed system to build up the power of the Surveyor General upon the ruins of that of the Governors.”

3 Oct. ———. Letters from the Treasury transmitting to the Council the two reports of the Customs.

23 Jan. [628.] JAMAICA. *Bonyng v. Pusey*. Appearance entered ; IV. p.704, also Order of reference, 22 Feb.

30 Jan. [629.] RHODE ISLAND AND NEW YORK. *Riots*. Letter IV. pp. from the Treasury, transmitting a letter of 8 Dec. from the 691, 714. Admiralty, with three enclosures.

(1) Extract of a letter from Lord Colville to the Admiralty, 24 Aug. This encloses (2) and (3).

(2) Extract of a letter from Capt. Smith of H.M.S. *Squirrel* to Lord Colville, 12 July. The gunner of the fort fired on the King’s colours (the *St. John* schooner), on orders from two of the Council to stop the ship, the Deputy Governor being absent at the time. The Captain and Lieutenant waited on the Governor and Council for an acknowledgment of their conduct, but found them very ignorant ; they agreed that the gunner had acted by authority, and that they would answer for it when they thought it necessary. “ I am very sorry they ceased firing before we had convinced them of their error. But I hope it will by your Lordship’s representation be the means of a change of government in this licentious republic.” He encloses a copy of the account given by the Lieutenant of the *Squirrel*, which, Lord Colville observes, is in Capt. Smith’s writing and was not signed by the Lieutenant, “ as I imagine from forgetfulness.”

(3)* Letter from Lieut. Thomas Laugharne, commander of H.M. armed sloop *Chaleur*, Halifax, 11 Aug. He had met with no success on his recruiting cruise, when he saw five vessels

* Not the paper intended to be enclosed—see next page.

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under Long Island ; suspecting that they were carrying on illicit trade, he sent the boat to examine them, and, if they were well manned, to impress such men as could be reasonably spared, not exceeding one out of five exclusive of the master. One was taken out of each vessel. The next morning Laugharne went ashore at New York. His boat was at once seized by the mob, who declared that the men impressed were fishermen. The Lieutenant replied that the men had never claimed to be fishermen, but that it was his most distant thoughts to impress fishermen or out of market boats. He sent a note for the men, on condition that nothing should happen to his Majesty's boat ; but, after the men were delivered up, the mob drew the boat before the City Hall and burned it, Laugharne being warned by a note from Capt. O'Brien of H.M.S. *Juno* not to appear publicly, as his life would be in danger. He sent to the Mayor (the Lieut.-Governor not being in the city), but before the Mayor arrived the boat was burned and the mob dispersed. The Lieutenant gave information against three of the ringleaders, two of whom were apprehended. The charge against them was delivered to the Attorney General.

A docket,—with a line scored through it—runs—"Mem. Inquire of Mr. Stephens whether Lieut. Laugharne's letter dated 11 Aug. 1764 is the same as is mentioned in Mr. Stephens to the Secretary of the Treasury and said there to be dated 12 July—for the letter of 11 Aug. relates to the behaviour of the people of *New York* and not *Rhode Island*."

———. Two Committee reports.

15 March.

———. Letter from the Treasury, transmitting a letter from J. Robinson and J. Nicoll, respectively Collector and Comptroller of Rhode Island, 30 Aug., enclosing a "particular and detailous account" of the *St. John* riot. The letter is written on board the *Cygnat* on account of the Stamp Act riots. One of the *St. John*'s men was arrested for stealing two small pigs and a few poultry belonging to one Harrison, a miller ; he implicated two others of the crew ; and the mob, irritated

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by a seizure and by the pursuit of a deserter (who had been impressed not long before), demanded the surrender of these men, while refusing to let the master of the schooner return to his ship. The pilot, Mr. Dogget, a native of the neighbourhood and unpopular with the people because of the seizure, was now in charge of the schooner and at first refused to admit the officer charged with the warrant; the officer was afterwards allowed to come on board, but the two men had gone to the *Squirrel*. The master of the *St. John* was not released till next day. At the beginning of the riot the *St. John* fired a swivel gun, and another when about to weigh anchor for the protection of the *Squirrel*. On account of this, a warrant was granted for Dogget's arrest, and the gunner at the fort on Goat Island was ordered to stop the schooner, the order being signed by two of the Council, Peleg Thurston and Gideon Cornell. When Lieut. Baikie of the *Squirrel* went ashore and asked who commanded, the mob replied "We all command."

The two men were delivered up; after some months the three were condemned, "and were afterwards sold for a term of years in order to advance a sum of money [to pay for the pigs and poultry and cost of prosecution], by which his Majesty's fleet was deprived of three able-bodied seamen."

On Capt. Smith's request, the Governor and Council met to consider the proceedings "in the midst of a great concourse of people of all denominations, who were indiscriminately permitted to be present, when the conduct of the said magistrates was approved of and justified . . . by asserting that the Government was not obliged to look on the said vessel as belonging to his Majesty, in regard that the commander thereof had not made a report of her to the Governor.

"It is not possible to give the names of any of the rioters; the affair has been countenanced by the Government, and no one, out of the many who wish for a change of this constitution, would venture to appear in the affair" except officers of the Crown. The licentiousness

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of the people, which is evident also in the burning a boat belonging to H.M.S. *Maidstone*, springs "from the principles of the constitution of the government, which is the most popular that can be formed." It is evident "that the same causes will be the sources of future riots and disturbances."

[630.] MASSACHUSETTS BAY AND NEW YORK. *Votes of* 1 Feb. *Assembly*. Order for laying them before Parliament. IV. p.692.

[631.] MASSACHUSETTS BAY. *Three Acts*. Order of 1 Feb. reference. IV. p.805.

[632.] NEW YORK. *Grants of land*. (1) Petition of W. 13 Feb. Rutherford. He had lost several hundred pounds in improving IV. p.818. the Niagara Portage, from which he was afterwards ordered to desist, the public service requiring it.

(2) Petition of Capt. H. Balfour. He commanded the four companies of the Royal Regiment that stormed the Morro Castle.

(3 and 4) Petitions of J. Adair and of Capt. F. Legge, 14 Feb. who have served 22 and 23 years respectively in the Army, particularly in America. Also four Orders of reference.

Petition (5) of J. Christie (to produce pearl ashes, hemp 2 March. and flax); and (6) of Capt. J. Graeme, 4 Feb. (for hemp and flax).

———. Committee report for grant to King's College. 25 March. (IV. pp. 681-2.)

———. (7) Petition of Capt. J. Williams. 29 March.

[633.] EAST FLORIDA. *Grant of land*. Petition of J. 13 Feb. Hamilton of Bargeny, M.P.; and Order of reference, 14 Feb. IV. p.814.

[634.] NEW YORK. *French ship condemned*. Petition of 14 Feb. the owners of the *Maxwell* and the *St. Stephen*; and Order of IV. p.701. reference.

[635.] NEW ENGLAND. "*Laconia*." Petition of J. T. 14 Feb. Mason; and Order of reference. The petitioner had served IV. p.699,

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as Lieut.-Colonel of Marines at Port Mahon, Senegal and elsewhere.
- 14 Feb. [636.] NEW YORK. *Settlement of reduced officers.* Order IV. *pp.* referring the petition of Capt. J. Campbell.
699-700.
- 20 Feb. [637.] JAMAICA. *Fees.* Petition of several officials; and IV. *pp.* Order of reference, 22 Feb.
701-2.
- 4 March. [638.] GEORGIA. *Grant of land.* Petition of W. Knox. IV. *p.* 821. As he does not reside in the province, he is informed that his attorneys cannot obtain for him a grant from the Governor and Council.
- 11 March. [639.] PRINCE EDWARD ISLAND. *Grants of land.* Petition IV. *pp.* of H. Mure &c. to the B. of T. The petitioners were the first 713-4, applicants for townships in the island and were encouraged 659. by Lord Hillsborough, but they agreed to settle under the Earl of Egmont's plan, if it were approved. Egmont's plan was rejected, and the Board now decline to grant any townships until the whole island is surveyed and divided. The petitioners ask for an immediate grant of one of the four townships which were formerly proposed by them, as they have already undertaken a settlement at great expense.
- 18 March. ———. B. of T. report, denying that they had given such encouragement to the petitioners as to justify their engaging in any expense, or that there was any reason to deviate from the plan for the settlement of the island.
- 13 Ap. ———. Another petition to the Council. The petitioners are willing to ballot for three of the townships, but desire one at present for the settlers they have sent and are sending out.
- 27 Aug. ———. Committee report that the petitioners are deserving of countenance and favour, and that the Governor should not disturb the petitioners' agents in their commerce and present possession until his Majesty's pleasure be known about the future settlement of the island.

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List of proceedings before the Council on this application. Undated.
4 March—27 Aug. Opposite the Committee's opinion recorded on 27 Aug. there appears—"Note. No report was made to his Majesty in Council in this matter."

———. Order referring a memorial of Sir C. Saunders. 18 Oct.

[640.] BARBADOS. *Rev. T. Bernard*. Representation of Advocate, Attorney and Solicitor General; also Committee report of 19 March. 11 March. IV. pp. 653-4.

———. B. of T. representation, transmitting (a) another impatient letter of 6 July from Gov. Pinfold. Bernard has seen his parish only one month in nine years. His example will be followed by others, if the Governor's representations are disregarded. 24 Sept.

[641.] JAMAICA. *Privileges of the Assembly*. Committee report; also draft of letter to the Governor, with 17 signatures, 19 March. 15 March. IV. pp. 704-8.

[642.] JAMAICA. *Council*. B. of T. representation for A. Sinclair. 15 March. IV. p.787.

[643.] EAST AND WEST FLORIDA. *Clergymen*. Committee report. 25 March. IV. p.715.

[644.] NEWFOUNDLAND. *Losses by the cession of St. Pierre to the French*. Petition of J. Mauger and others. 28 March. IV. p.717.

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[645.] BAHAMAS. *Council*. B. of T. representation for S. Gambier. 11 Ap. IV. p.783.

[646.] NEW YORK. *Grants of land*. Petition of Haldane and G. Campbell. 16 Ap. IV. p.818.

———. Petition of Capt. A. Hamilton. He has served for 17 years, including the war in America since Gen. Braddock's expedition. He was entrusted with despatches from Gen. Amherst at Crown Point to Gen. Wolfe at Quebec, was captured by the French Indians within hearing of the 22 Ap.

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cannon at Quebec, and exchanged on its capture. He was afterwards wounded in Col. Montgomery's expedition. Also petitions of Sir W., E., and R. Mayne.

15 May. ———. Petitions of (1) R. Leake, (2) J. Brebner, (3) J. Gordon, (4) Capt. P. Gordon, and (5) Capt. H. Gordon. (4) Served in Gibraltar, at Minden and in Grenada; (5) in Flanders, in Braddock's fight, with Forbes at Fort Duquesne (he constructed Fort Pittsburgh), and at Martinique and Havana.

1 June. ———. B. of T. representation; and Order of reference IV. p.819. for J. and C. de Bernière &c.

6 June. ———. B. of T. report on 22 New York applications, 11 West Florida, 2 East Florida and 1 each Georgia and Nova Scotia. It is impossible for the Board to ascertain the particular ability of each petitioner to carry out his proposals; and they have in general recommended the grant of half the number of acres petitioned for. This method, however, lacks the precision which follows the rules of proceedings for grants by the Governors and Councils in the colonies. "The giving special and immediate direction from his Majesty for the passing grants of land in America has been but rarely practised, and then only in cases where some particular advantageous plan of settlement has been proposed upon terms and conditions different from those prescribed by his Majesty's instructions in the ordinary course of granting lands." The Board propose that no petitions for lands in America be referred to them, "unless they do relate to the new or unsettled colonies, or do contain some particular extraordinary reasons, or some propositions of public advantage in the mode of settlement." The old method of granting lands in America "demands particular attention and better regulation than it is under at present."

11 June. ———. Petitions of 19 Deputy Commissaries, and of Rev. W. Halyburton, chaplain for 18 years to the second battalion of the Royal Regiment of Foot. Halyburton "claims some small share of the honour acquired by that

battalion in the late war, as he failed not to mingle with other instructions the sound military doctrines of bravery and regard to discipline."

[647.] NEWFOUNDLAND. *The fisheries—French complaints.* 16 Ap. Draft of B. of T. representation (with considerable alterations IV. p. 718. in a wide margin), 37 pp. Notice is first taken of the intention of the French to send ships of war to the part of the coast where they are allowed a concurrent fishery, which the Board consider a dangerous violation of his Majesty's rights. (1) The first French complaint, that a brigantine had been forbidden to fish in the Gulf of St. Lawrence by the commander of an English frigate, is unsupported by any particulars, not even the name of the frigate being given. (2) The objection to English vessels fishing within a certain limit from the shores of St. Pierre and Miquelon is not justified by anything in the Treaty of Paris. (3) French ships were not compelled to quit the coast before their fishing was over, but only ordered to stay no longer than was necessary for taking, drying and shipping their fish,—the object of this regulation being to prevent illicit trade. (4) The position of Point Riche in 50° 30' N. has already been proved by the Board in a representation of 20 Ap. 1764. A chart produced by the French is inaccurate and filled with ill founded notes and observations injurious to British rights; the Board do not admit that it was produced by the British at the time of the Treaty of Utrecht, and that treaty makes no reference to it. (5) The complaints of obstructions in the concurrent fishery are of a trivial nature, such disputes as arise even between fishermen of the same nation. The French Ambassador admits that reasonable complaints were redressed by the officers in charge of the fishery to the satisfaction of the French, and even to the dissatisfaction of the British. (6) The Governor is not to be censured but to be commended for forbidding a French captain to have commerce with the Eskimos: the circumstances of the case justify rather a complaint by the English.

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The instructions given to the Governor for the execution of the treaties give full security to the French in the exercise of their rights, and have been punctually observed by the Governor.

On the other hand, the Governor has several complaints to make against the French :—(1) on leaving the country they destroy several stages &c. ; (2) on their return they use the material of other stages to repair those they select ; (3) they cut down great quantities of timber ; (4) they import great quantities of salt for the inhabitants ; (5) they have laid up a ship at New Ferrol : there is no doubt that her crew are collecting furs in Labrador ; (6) their boats from St. Pierre and Miquelon fish in the Bays of Placentia, Fortune and Despair ; (7) they obstruct the British in taking bait by running their boats among the nets &c. ; they are also endeavouring to establish an illicit trade ; (8) St. Pierre is used as a rendezvous for military forces, contrary to the Treaty ; (9) a French ship of war has entered the Gulf of St. Lawrence, contrary to the commander's promise to the Governor ; (10) from the North of Newfoundland the French go to fish at the island of Belleisle on the coast of Labrador.

It is hoped that these abuses may be stopped upon a proper representation to the Court of France.

29 Ap. ———. *Fishermen v. Settlers*. B. of T. representation (27 pp.). The Act of 1699 was designed to benefit the ship fishery, but left their stages &c. to all persons who had erected or should erect such, which had not belonged to ships since 1685. This did not open very much of the coast for settlement, because almost all of the Newfoundland shore which was then in the possession of England had been used by fishing ships since 1685. But when the whole island was ceded to Britain in 1713, the question arose whether the Act allowed the erection of stages &c. by inhabitants and by-boat keepers all along the coast. The coast has been so occupied in many parts to the exclusion of the ship fishery.

The Board, having received the opinion of the Law Officers, that the Act of 1699 does not extend to the parts ceded in

1713, advise that the Governor be instructed not to allow exclusive possession to be taken of any lands, rivers or islands in the north of Newfoundland upon pretext of the Act, and that further regulations be considered. For this purpose they submit a state of the island, its dependencies and the fisheries.

From the best accounts, the number of constant residents is about 15,000 ; most of these are Roman Catholics ; there is no regular civil government, save justices of the peace who often use their authority for their private interest. The necessary offices of religion are not administered save at St. John's, and the people abandon themselves to every species of debauchery and extravagance. For seven months in the year there is not employment for a tenth of the inhabitants, and the time is spent in idleness and every species of violence and wickedness. They burn and destroy woods near the harbours, which ought to be preserved for building boats and structures necessary for the fishery. They receive double the value of provisions from the other plantations that they do from this kingdom. The goods imported are engrossed by a few opulent merchants, who retail them at exorbitant prices, and so keep the inhabitants poor and in debt and dependent upon them, having to mortgage their fish to them before they are caught. " Their only study is how to defraud their creditors, contract fresh debts with other merchants, and so become indifferent about prosecuting their fishery ; and if they do prosecute it, it is only to sell their fish clandestinely to others for immediate supplies, or to the French."

It is the object of the merchants " by every method to induce and compel such as come out passengers from England and Ireland to remain in the country, exercising every scandalous art to defraud and cheat those servants whom they cannot persuade to run out their wages in truck or liquor." All the ship rooms &c. which were the ancient possession of the Crown of Great Britain have become the private property of merchants who reside constantly in the

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island; the ship fishery and the rules for its regulation are entirely dropped. There is no proper establishment for the execution of the Laws of Trade, and illicit commerce is carried on, especially with the French at Miquelon and St. Pierre. Lastly, it is believed that many of the ships employed as British belong to Spaniards or other foreigners.

The Board admit that it was impossible by any regulations to prevent inhabitaney, and that a sedentary fishery has many advantages. As many ships are now employed and fish cured, as in the most flourishing time of the fishery under the ancient establishment, and the value of the exports to the island is five times as great; "and, though it be true, as is represented, that the value of what they take from the colonies is double what they take from this kingdom, yet that must not be accounted for loss, since whatever profits are gained by them, finally centre in this kingdom."

The Board suggest that, under some more perfect and uniform plan of government, property and inhabitaney should be allowed, except in that part of the island where there is a concurrent fishery.

The whale, seal, and sea-cow fisheries in Labrador and the islands annexed to Newfoundland, will require special regulation. The French plan was to grant exclusive leases of parts of the coast, and the British Governor of Quebec adopted the same plan before the coasts were annexed to Newfoundland. The Governor of Newfoundland is to be directed to make a full inquiry into the number and extent of these posts and the terms of the leases, and also into the commerce that may be established with the savage inhabitants.

I. Extract of the report of the Advocate, Attorney and Solicitor General, 21 March 1764, that the Act of 1699 was not meant to extend to such parts of Newfoundland &c. as were then left in the possession of the French.

6 May. ———. B. of T. representation with a draft instruction for the Governor of Newfoundland.

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[648.] NEWFOUNDLAND. *Naval services.* Admiralty report on the petition of P. Burne. He cannot be promoted to a lieutenancy while there are so many Lieutenants upon the list and so great a part of them unemployed. There is no establishment of commanders of tenders, and he has been paid as master of the *Siren*. No account of his additional expenses has been received by the Admiralty. 18 Ap.

[649.] JAMAICA. *Bayly v. Harvie.* Petition of A. Harvie. 5 May. IV. p.672.

[650.] DETROIT. *Proposed Settlement.* Petition of T. Mant &c. Sixty names are given of persons who propose to transport in all 624 families. A memorandum proposing a species of distinct government gives the following account of Detroit. 8 May. IV. pp. 567-8.

The improvements extend nine miles from the fort along the Eastern bank and seven miles along the Western. "The purity and wholesomeness of its air and richness of soil equal if not surpass any the best part of America; every European grain flourishes here in its utmost perfection, and hemp and flax might be raised to the greatest advantage; everywhere the woods are filled with vines of spontaneous growth, and their grape yields a juice of most excellent flavour.

"English inhabitants there are at present but few; the French are computed to be about 600, women and children included. The men are healthy and robust; they are well instructed in the use of fire-arms, and all those capable to assist in the defence of the settlement are enrolled and formed into three companies of militia, properly officered. The oaths of allegiance have been administered, and they seem entirely disposed to partake the blessings of your Majesty's happy government.

"The savages hereabout, of whose confidence the French have wholly possessed themselves, are very numerous; their steps in this particular it is absolutely necessary we should follow by practising all the conciliating methods and showing them every possible act of kindness. In order to this, part

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of the Indian trade—that is, arms and ammunition,—should be entirely taken into the hands of government; for the villainies practised by private adventurers have ever been, and were in particular almost the sole cause of the late war with them. These articles being good in their kind and reasonable in their prices would give them an high idea of our national honour, and produce a very profitable return of immense quantity of their fur. And the other part of their trade should be superintended by a person appointed by Government of approved fidelity.

“Yet the petitioner begs to be understood, that though an uniform honesty in our dealings with them may be almost the only way to gain their affections, nothing can thoroughly secure the friendship of so unstable a people, but a respectable force to overawe them.” This would be effectually supplied by the proposed settlement.

15 May. [651.] QUEBEC. *The assault on T. Walker*. Order referring IV. pp. a B. of T. representation; also Order of 21 June. 719–20.

21 May. [652.] JAMAICA. *Bayly v. Ord and Prevost*. Bayly's IV. p.724. petition and appeal—36 large closely-written pages.

21 May. [653.] JAMAICA. *Fees*. B. of T. report; also Committee report of 13 June. 702–4.

30 May. [654.] QUEBEC. *Ecclesiastical affairs*. B. of T. report, with IV. p.715. 24 “Heads of a Plan.” (1) That liberty of worship be reserved to the Roman Catholics, conformable to the Treaty of Paris. (2) That, to this end, “a proper person be licensed by his Majesty during pleasure to superintend the affairs of the Romish Church.” (3) That this person “do not take upon him any outward pomp or parade incident to the dignity of episcopacy in Roman Catholic countries; nor take himself, nor appoint others to take, cognisance of any matters of a civil or criminal nature; nor use any other powers than such as are

absolutely necessary to the exercise of the Roman Catholic religion by his Majesty's new subjects." (4) No new regulations or appointments to benefices are to be made in the Roman Catholic Church in Quebec without the consent of the Governor. (5) The person licensed to superintend the affairs of the Romish Church is to take the oath of allegiance. (6) He may be suspended by the Governor for acting contrary to the regulations, or to the danger, scandal or reproach of the Government ; the reasons for the suspension to be transmitted to the B. of T. (7) For his support, he is to be admitted Superior of the Seminary of Quebec, and to have a stipend out of its revenues and those of the Montreal Seminary which is to be consolidated with it. (8) That the Jesuit community in Quebec be abolished, " and all their lands and property (personal effects excepted) be seized into the hands of the Crown, and vested in the Society for the Propagation of the Gospel in foreign parts, for the maintenance and support of a Protestant ministry and Protestant schools in the said province of Quebec." (9) All missionaries among the Indians are to be recalled, where it can be done with safety, and Protestant missionaries appointed in their places. (10) The chapter of Quebec (Dean and 12 canons) to be abolished as useless and unnecessary. (11) The Récollet friars to be continued for the present to supply the vacant parochial benefices, but the office of Provincial Commissary to be abolished ; no new friars to be admitted, and the revenues to be appropriated to the support of a Protestant ministry, in proportion as the present members die or depart the province or are appointed to vacant cures ; when the whole community is dissolved, their lands and tenements to be vested in the S.P.G., as in the case of those of the Jesuits. (12) That the seminaries of Quebec and Montreal be consolidated, " in order to provide a succession of pastors for the several parishes ; but that the number admitted in order to become priests be limited ; and that the revenues be applied, first to the payment of a stipend to the Superintendent, then to such

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parts of the establishment as it shall be thought necessary to continue, and the remainder to be applied to Protestant uses." The members of the Montreal Seminary are to be transferred to Quebec, and their superior "allowed such a support as may enable him to retire out of the British Dominions, as it would be giving him a mortification not intended, to submit to the government of a new Superior."

(13) The convents of women to be continued, but no new admissions to be allowed. When they are entirely dissolved, their revenues to be used like those of the Jesuits and Récollets.

(14) None but secular priests, natives of Quebec (save the Récollets, as already provided,) are to be appointed to any Roman Catholic benefice in the province, and their names are to be registered in a proper office of record.

(15) The oath of allegiance is to be taken by every member of a religious community or holder of ecclesiastical employment in the Romish Church in Quebec. (16) The King and the Royal Family are to be prayed for in all places of public worship.

(17) No church, convent or other religious house is to be a sanctuary to any offender against the laws. (18) All connection which the priesthood or religious communities in Canada had with the established Church in France or with any ecclesiastical establishment there is to cease and determine; any order or ordinance establishing such connection is to be null and void; no ecclesiastical or spiritual jurisdiction is to be allowed in the province, other than is directed and carried on by his Majesty's authority; no appeal is to be allowed to any foreign jurisdiction in any case, civil or ecclesiastical.

(19) Ecclesiastical persons of the Church of Rome are inhibited from tampering with Protestants in matters of religion, and the priests are forbidden to inveigh against the Church of England or deter the people from assisting at Protestant ceremonies. (20) No public processions or ceremonies of pomp or parade are to be allowed; the rites of the Roman Church are to be observed with moderation and simplicity. (21) The churches are to be used by the

English as well as the Romish Church, the times of service being so settled as to avoid disputes. (22) Protestants are exempted from paying tithes to the Romish clergy; in grants of lands to Protestants it is to be a condition that the grant is forfeited by the possessor becoming a Roman Catholic. (23) Protestant ministers and schools are to be appointed in such numbers as the Bishop of London and the Society for Propagating the Gospel think necessary "not only for the present number of Protestants, but to the purpose of weaning by degrees the inhabitants in general from the errors of the Romish Church." (24) If the estates of the Jesuits &c. are applied as proposed, an ample fund should be provided for the ends designed, and an annual account of the income and expenditure of the fund should be laid before the Privy Council by the S.P.G.

[655.] NEW JERSEY. *Islands in the Delaware*. Letter 5 June. from E. Sedgwick (by order of Lord Halifax) transmitting IV. p.681. (I.) a petition of seven owners; and (II.) a letter from Gov. Franklin enclosing it, 21 Feb.

(I). The owners represented that they had purchased their land for a valuable consideration from possessors, several of whom had bought the land from the Indians, and that they had improved it at a considerable cost; but that, as they are out of the jurisdiction of any of his Majesty's courts, the islands have come to serve as places of refuge for malefactors from the adjacent colonies.

(II). The Governor adds that the petitioners "might be easily brought to consent to pay at least ten times the usual quitrent . . . which, with what could be raised by *leasing* those islands that are not yet occupied (of which there are several of value), might in time, if properly managed, produce a revenue nearly equal to, if not quite sufficient for, the civil establishment of this province." The Crown has no revenue arising from the province, and its officers are therefore dependent on the Assembly. Even "in times of the best harmony between