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under the command of Sir Hyde Parker, were also saved by having the soundings in the offing of Sable Island—*vide* Sir H. Parker's letter annexed.* Capt. Collins, in the leading ship (*Zebra*) saved from being destroyed in Buzzard's Bay the whole of the shipping and armament under the command of Gen. Gray, which proved completely successful, by said Captain happening to have received a copy of the memorialist's work—*vide* Capt. Collins's letter."*

Tables are given comparing the sums claimed by Des Barres with those allowed to Mr. Holland upon similar services. Des Barres would still have received less by 10,847*l.* 11*s.* 10*d.*, exclusive of interest on money borrowed, losses in his private fortune, and the want of promotion in his profession.

1783.

1783.

6 Jan. [1025.] DROITS OF ADMIRALTY. Petition on behalf of a
V. p. 461. privateer and her tender which took the American ship
Friends. The prize was bound from Edenton in North
Carolina to St. Thomas with tobacco, hogshhead staves, and
naval stores.

Received ———. Petition (dated New York, 1 Nov. 1780) for
26 May. the *Betsey* sloop, taken by the armed schooner *Reid*.

18 Jan. [1026.] PENSIONS. Admiralty reports for W. Charters
V. pp. and for T. Love ; others of 3 July for W. Furnivall and T.
359, 420. Sutton. Petitions of J. Skinner (18 July), and of R. Mends
(27 Aug.). Skinner was wounded at Fort Lee on the Hudson,
and Mends by a French battery in York river.

28 Jan. [1027.] ACTS. Committee report for confirming a *Quebec*
Ordinance (V. p. 526).

Committee report of 28 Jan., and letter of 15 July from
Lord North, for confirming a *Bermuda* Act (V. p. 578).

Two Committee reports of 15 May for disallowing *Nova*
Scotia Acts, with Orders of 16 May thereon (V. pp. 539-41).

* Not in the bundle.

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1783.

Committee report of 24 June for disallowing a *Barbados*
Act (V. *pp.* 509-11.).

[1028.] OMOA. *Distribution of plunder.* 13 large printed To be
pages, including (1) Memorial of Gov. Dalling, May 1780 ; heard
(2) Memorial of Capt. J. Luttrell, Ap. 1780 ; (3) Petition of before the
G. Dyer, May 1780 ; (4) Petition of H. Lutwidge, May 1780 ; Com-
(5) Report of Mr. Chamberlayne, Solicitor for the Treasury, mittee,
on Luttrell's memorial, July 1780 ; (6) Dalling's second 28 Jan.
petition, Aug. 1781 ; (7) Luttrell's second petition, Aug. 1781 ; V. *pp.*
(8) Copy of agreement of Aug. 1780 ; (9) Dalling's third 480-2.
petition, referred 10 Ap. 1782 ; (10) Sir P. Parker's petition,
28 Aug. 1782.

———. Committee report.

28 Jan.

[1029.] JAMAICA. *Debts of R. H. May.* Committee report. 28 Jan.

V. *p.* 526.

[1030.] PRINCE EDWARD ISLAND. *Quitrents.* Petition of 21 Feb.
Edward Layton of St. George's, Southwark. He owns lot 21 V. *p.* 439.
and half of lot 65, and has regularly paid the quitrents thereon,
answering the bills drawn upon him as they became due.
Yet his lands have been included amongst those to be sold
for arrears. He was not aware until a few days ago of the
Order that payment of the quitrents was to be made in the
island.

———. Memorial of the proprietors of land that con- 23 Ap.
sideration of the Act for enforcing payment of the quitrents
be postponed for a few days, as they are not entirely prepared
with their case.

———. Petition of the proprietors (*ragged*) ; copy of Received
same ; and Committee Order of reference to the Treasury, 30 Ap.
1 May. The petitioners express gratitude for the establish-
ment of a separate government in 1769 and for Parliamentary
support in 1776. The war has obstructed settlement to
such an extent that many of the landowners are in a worse
state than in the commencement of the undertaking from
the losses that have accrued. Yet in 1781 lands were sold

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for arrears of quitrents, "when there was no specie on the island for payment of the quitrent conformable to the Order of 1778,* nor any commerce or other intercourse with it, by which the proprietors could have remitted their respective quotas in the course of exchange." The cases of lots 35 and 49 (Lt. Gen. Maitland and Robert Clarke) are mentioned as specially hard. The time is also approaching when the quitrents are to be doubled.

The petitioners have still a favourable opinion of the soil, climate and harbours of the island, if they meet with his Majesty's favour in the mitigation of the quitrents. It may supply the fisheries and the ships of war with fresh provisions, and carry on an important trade with the West Indies. The subjects of the United States have by the provisional treaty no right to cure fish ashore on the island, and these fisheries may be so extended as to compensate for the loss which will arise from the privileges granted to the States of fishing on the Banks of Newfoundland.

"That, lying in the vicinity, it will prove of great support to Cape Breton, and may be highly useful in possible contingencies from the continental situation of Nova Scotia; and, being in the direct line of access to Canada, it is calculated to serve as a key and store to the resources and produce of that province, and for drawing the same nearer to exportation under the protection of the British Navy.

"That under these circumstances every hand that can be spared from agriculture will be so invited to trade as not to apply to manufacture, and from hence all the produce of both soil and commerce must eventually centre in Great Britain. . .

"The subjecting the effects of the under-settlers to distress for default of their principals" amounts "to an absolute prohibition against the settling the island."

If their own discouragements and difficulties are removed, the proprietors are most earnestly desirous of holding out liberal terms of settlement to the loyalist refugees.

* *i.e.* that quitrents should be received nowhere but in the island.

(I.) Extracts from minutes of the Council, Charlottetown, 18 and 19 Feb. 1781. On 18 Feb. the Receiver General was ordered to proceed against all lots in arrear of quitrent. On 19 Feb., upon a letter from W. Nesbitt, the Receiver General, the Council agreed "that it would not only be cruel but unjust to distrain the whole property of innocent settlers holding from 50 to 100 acres each, for the arrears of quitrent on a township of 20,000 acres, no part of which is justly their debt. . . And . . that the Receiver General do proceed against the lands only, unless where the proprietors are themselves present."

———. Petition of Capt. John Macdonald of the 84th regiment. He had a promising settlement on the island, when called away by the most pressing instances from Brigadier Gen. Allan Maclean and Lieut.- Col. Small to join in measures for restraining the Scots, emigrated to the revolted parts of the colonies, in their allegiance, and to raise the 84th regiment. This kept him from his lands for eight years. His settlers have gone off to other proprietors, and his lands have been dismantled and all his improvements and hopes of a revenue lost. The lands are now under execution for arrears of quitrent. 2 May.

———. Treasury report, agreeing to a mitigation of the quitrents. 19 June.

[1031.] NOVA SCOTIA. *New Assembly to be called.* Committee report ; with (a) an additional instruction. 15 May. V. p. 506.

[1032.] NEWFOUNDLAND. *Provisional articles agreed upon with the United States.* Committee report ; and Order of V. p. 557. 15 May. 16 May ; with additional instruction.

[1033.] ST. VINCENT. *Grants of land.* Petition of Major G. Fead ; of J. Graham, Lt. Governor of Georgia and Superintendent of Indian Affairs for the Western division of the Southern district, Knightsbridge, 17 Nov. ; and of the sons of Sir James Wright, Governor of Georgia, 26 Nov. 30 May.

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Fead had been in the service of the Crown for 30 years, and had sustained losses in the Gulf of St. Lawrence, in Minorca and in West Florida. He asks for 5,000 acres.

Graham's lands in Georgia being confiscated, he removed 209 negroes in July last to East Florida, where he settled four plantations. That province is now ceded to Spain. His negroes are too many to settle with any prospect of advantage in the Bahamas. He asks for 500 acres.

The estates of the Wrights in South Carolina and Georgia were confiscated. Alexander Wright removed 494 negroes to Jamaica twelve months since, but, through sickness and want of employment, they have earned little more than enough to pay all expenses. The Wrights ask for 1,000 acres.

12 June. [1034.] PRINCE EDWARD ISLAND. *Complaint against Gov. Patterson.* Letter from Lt. Gov. Thomas Desbrisay,* enclosing (I.) his memorial; (II.) copy of process served on him for trespass at the instance of Walter Patterson, 31 July 1781; (III.) copy of declaration filed in the Supreme Court, 15 Feb. 1783, *re* an alleged debt of 1,200*l.* due from Desbrisay to Patterson.

When the island was under the government of Nova Scotia, some officers of that establishment were sent to build two houses and lay out the town of Charlotte. They cut a few avenues in the woods, raised two shells of houses which might have cost 100*l.* each, and were paid 3,000*l.* by the Treasury.

When the island became a separate government, 3,000*l.* was granted by Parliament for building a Church, an Assembly House and a Court House with proper prisons. The money was drawn from the Treasury by Gov. Patterson, but none of it has been applied to the purposes for which it was granted. The island has been a separate government for 12 or 13 years, and is yet without any place for the performance of Divine service or the securing a criminal. "Church is sometimes held in a barrack, sometimes in an ale-house, sometimes in a

* A docket says—"Found in press in corner room."

schoolhouse, and sometimes in the Governor's brew-house. The Supreme Court is held in the same miserable manner."

On 18 Feb. 1773 Patterson granted to Miss Susannah Torrianno 520 acres of lot 65, which was reserved by the Crown for the use of the officers and men belonging to the fort and barracks, which were formerly there, but have been dismantled by the Governor: all of which has been done without the advice of the Council, contrary to the Governor's instructions. On 15 Nov. 1774 Miss Torrianno conveyed the land to the Governor, who has leased it to Wm. Saville at a rent of 200*l*. It is an excellent farm, which had been cleared by the troops—the most valuable property the Crown had in the province.

Other grants of town and pasture lots to the Governor, to Att. Gen. Callbeck, and to Mr. Wright, Surveyor, are discussed by Desbrisay. Callbeck and Wright jointly received a fifty years' lease of a common, which was the best pasture which the cattle of the people of Charlottetown had.

By opposing these oppressive grants, Desbrisay has incurred the Governor's resentment, and the latter has now for 16 months been prosecuting him for 1,400*l*., "which he unwarrantably claims as the tenth part of the money expended by him in London, whilst he remained there soliciting the ministry to have the salaries of the officers of government paid out of the Exchequer instead of out of the quitrents of the island." The Governor, with the aid of the Attorney General, puts off the case from term to term, having every reason to believe it must go against him, although Desbrisay would have to plead for himself, Callbeck being the only lawyer in the island.

———. Letter from Lt.-Col. Timothy Hierlihy of the Royal Nova Scotia Volunteers, with 14 (? 13) enclosures. 4 July.

(I.) Letter from Capt. Curgenvin to Gov. Patterson, with various papers *re* bills drawn by the barrack-master, which come back protested; and about money due to the Corps, which would have been paid, had it not been stopped by

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the Governor's order. A letter to Curgenven from the Barrack Office, Halifax, 20 May 1782, states that Gen. Campbell is much concerned at what Curgenven has set forth, but that he cannot interfere, as the transaction was prior to the time when the Barrack department in Prince Edward Island was placed under the district of his command.

(II.) Charges exhibited by Hierlihy against Patterson, 4 July 1783 :—(a) Concealing the Mutiny Act ; (b) interfering with military regimental duty ; (c) attempting to keep the commissary appointed by the King from doing the duty of his employment ; (d) stopping public moneys in an unjust and arbitrary manner and converting them to his own use.

(III.) Explanations of the charges :—(a) In a letter to Hierlihy, 9 Jan. 1781, the Governor asserted "that the preventing the evils complained of must depend on the military till there was a law of the island passed for that purpose, though he had then actually in his possession the Act of Parliament of such essential consequence to his Majesty's service in time of rebellion."

(b) He "took upon himself to release a captain, (who has been since broke by a general court-martial with infamy) charged with heavy crimes, from the arrest he was ordered into by his commanding officer ; he frequently took upon himself to give orders to the officers of the day and guard on duty without mentioning the same to the officer commanding the troops ; he also allowed to be absent from the garrison contrary to the orders of the officer commanding the troops. By the Governor's thus interfering with military duty, the Island Company have been generally scattered over the island as labourers, and only five or six old men incapable of work returned to do military duty. This Company, consisting of about 32 rank and file, draws provisions for about 40 women and children, exclusive of illegitimate children and others returned as volunteers."

(c and d) are supported by the other papers annexed.

(IV.) Letter from Curgenvén to Hierlihy complaining of his failure to obtain a conviction against one of the inhabitants for buying shoes from a soldier.

(V.) Patterson to Hierlihy, 9 Jan. 1781—that, until there is a law of the island, the remedy depends more upon the military than the civil power.

(VI.) Patterson to Capt. McMullen, 21 Dec. 1780, releasing him from arrest, until he should have the benefit of a general court martial.

(VII.) James MacNutt, commissary of prisoners and private secretary to Gov. Patterson, to John Stewart, officer of the day and to all succeeding officers of the day and guard till further orders, 3 Nov. 1781—to keep two American prisoners, Josiah Martin and Ebenezer Clap, in custody, from half an hour before dark every evening till daylight, as they had been plotting an escape, there not being any other place of safety to lodge them in at present.

(VIII.) Callbeck to Curgenvén, 29 Ap. 1782, and Curgenvén's answer, 1 May. Callbeck considers the troops to be under the command of the Governor. Curgenvén intends to act upon the orders given by the Brigadier General of the district, Gen. Campbell. "I therefore give you my positive orders that you will call in immediately the 15 men you return "absent by leave," to do duty in the garrison; otherwise I must take such steps as will, I fear, prove injurious to you."

(IX.) Campbell to Curgenvén, 5 Nov. 1781. No officer whatever can oblige soldiers to work, save on fortifications &c. for the King's service. The commanding officer is to prevent any repetition of the complaint that Gov. Patterson should think of giving orders for their employment otherwise.

(X.) Copy of a weekly state of Capt. P. W. Callbeck's Company, 13 Jan. 1782. 15 out of 31 men are with Gov. Patterson at the farm and absent by leave.

(XI.) John Webster to Hierlihy, 7 July 1781. "There can be no doubt of my being reinstated in the office of

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Commissary of stores and provisions for this island. I am, therefore, to request that you would be pleased to put me in possession of the provisions now arrived and addressed to you for the supply of H.M. troops," &c.

(XII.) Hierlihy to C. Jenkinson, Secretary at War, 9 July 1781. He was pleased to reinstate Webster, whom he considered to have been injured by unfair means; but the Governor has declared that Webster should be no longer Commissary than while Hierlihy remained on the island.

(XIII.) Jenkinson to Hierlihy, 29 Sept. 1781. "Until there shall be cause to complain of Mr. Webster's behaviour respecting his duty, I shall be ready to confirm to Gov. Patterson the sentiments contained in my letter to him of 6 Aug. 1780.

27 June. [1035.] PRINCE EDWARD ISLAND, QUEBEC, AND NOVA V. pp. SCOTIA. *Settlement of loyalists*. Letters from Lord North 535-8. with draft instructions; Prince Edward Island—27 June (with Committee report of 18 July); Quebec—5 July: for provincial troops in Nova Scotia and Quebec—5 Aug., with Order of 8 Aug., and copy of the instruction.

2 July. [1036.] NOVA SCOTIA. *Revocation of grants of land*. Order V. p. 541. referring (a) a letter from Lord North. Also Committee report of 18 July, and draft of Order of 25 July.

15 July. [1037.] BERMUDA. *Dissolution of Assembly*. Letter from V. p. 542. Lord North accompanying a draft instruction.

18 July. [1038.] NEW YORK. Petition of Murray, Sansom and Co. *re* pearl-ashes not admitted to an entry, because of a doubt "whether the city of New York can be considered as a part of the said United States."

3 Sept. ———. Petition of T. Galbreath *re* linseed oil imported from New York; Order of 3 Sept.; second petition, 13 Sept.; and letter from the Custom House to the Clerk of the Council, 19 Sept.

Pot-ashes are admitted duty free if accompanied by a certificate that they are the produce of America; but not

so linseed oil. Even if such a certificate had been produced, the duty would still be payable.

The second petition represented that "before this period linseed oil was never known to come from America (this being the first instance ever known), whereas linseed has been exported from time to time regularly in great quantities from America to Great Britain, duty free." But owing to the late war the American linseed was not sent to market : therefore it was manufactured into oil. The duty exacted is almost prohibitive (the same as on foreign oil, nearly 25*l.* per ton). If the petitioner has to pay this, it will take away most of the value of the remittance, by means of which he intended to pay his just debts. Owing to the part he took in the war, he lost property in America to the value of over 2,000*l.*, and has been proscribed by the Americans as a spy. He has had to pay the duty and enter the goods at present in order to prevent a prosecution for detention of the vessel.

[1039.] **BAHAMAS.** *Mayaguana.* Petition of D. Rolle 10 Sept. for this island (north of Turks Island), by way of compensation for his losses in East Florida. An elaborate "State of Settlements" made by Rolle in East Florida is appended. His expenses exceeded 23,000*l.*, and the value of lands, negroes, buildings &c. was, on the very lowest estimation, 28,488*l.*

N.B.—"In conformity with the terms and conditions of the grants, D. Rolle at various times sent great numbers of white people to his said plantation, almost all of which were seduced from him, many even by the magistrates of the province ; besides which he had continually inexpressible difficulties thrown in his way by those magistrates on his application to them for redress of injuries, and otherwise. From thence, from the villainy of captains of vessels D. Rolle chartered to said province, from the dishonesty of agents in the management of his property and their cruelty to his settlers, servants and negroes, and other malconduct, D. Rolle

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has experienced the greatest distresses both of body and mind of any gentleman who ever engaged in undertakings of this kind."

"OBSERVATIONS:—The Higher Plantation, consisting of 76,085 acres, of 23 miles in length and 8 to 9 in breadth, has the most secure boundary for cattle by water round three sides of it, and an impassable swamp; contains the finest feed for cattle in the inhabited part of the province, in which in the year 1769 and 1770 there were supposed to be about one thousand head of cattle till 1771 a villainous agent sold them at vendue to himself for 150*l.* by a sinister contrivance and then immediately sold them unnumbered to another person for 400*l.*, though worth 3*l.* per head on an average. Negroes, after cruel usage, sold many to himself, and then to others in like manner; with stores, supposed by some to have been worth 7,000*l.*, for 1,000*l.* only, and was protected in his villainy from coming to account by the then Chief Justice.

"These pastures would have even now produced an annual income from 220 head of cattle in Feb. 1782, with its increase of the last and present year, to a considerable amount, had not it been defeated by the starving condition of the refugees forcing them to depredation. In the former time a flock of sheep and goats thrived greatly and exhibited a considerable profit from that kind of land which has the epithet of barren annexed to it (Pine barren), but produces the agreeable food for those animals, and furnished a quantity of fine mutton to the *bon vivants* in Augustine at the time of the sale in 1771. A few sheep was placed now lately.

"Though the accumulating so great quantity of land might appear needless in respect of what may be occupied in tillage, yet it not only gives the owner power of choosing for that purpose, as his leisure or strength of hands permits, yet enables him also to enlarge his turpentine manufacture, engrossing a vast extent of ground to make any considerable quantity from, but also a large range is absolutely necessary for the run of cattle, and persons in Georgia and Carolina are obliged to retire further

back as plantations increase, unless they have large grants of land. It must be observed on this article of cattle, sheep, hogs and goats, with poultry, half the garrison of St. Augustine might have been served in 1770 from D. Rolle's plantation, if not embezzled, and it would have proved a reciprocal benefit to the garrison and proprietor.

"The value of uncleared swamp land is 10s. per acre, of pine 1s., as sent over under the seal of the province at this time.

"The valuation of D. Rolle's land was not sent over, as there had been till lately hopes of remaining a planter in the province, but some advices from the province mention 5*l.* per acre as the value for cleared rice land and 3*l.* per acre for cleared corn and orange grove land.

"The rice land is well known to produce 4*l.* per acre in the clean unbroken rice fit for market, besides the small rice as good for plantation use, the shed rice fattening hogs and poultry, the second crop springing from the roots the same year fattening also the cattle in the latter season.

"The pine land produces the naval stores, as turpentine, tar, &c. One negro tends 2,500 trees or more producing 60 barrels; the clear profit appears from sale at the present low price of 16s. per hundred, all expenses deducted, 1*l.* 1s. 7½*d.* per barrel. Two barrels being produced on each acre, 2*l.* 3s. 3*d.* is the first year's income: the second being less, and the third less again—for the two years say 2*l.* 16s. 9*d.*, making for the three years 5*l.* Tar is also made from the remaining part of the exhausted trees, and cannot be ascertained in value; but suppose 1*l.* more may reasonably be added for the 4th year—in all 6*l.*, if the land was afterwards destitute of produce, infertile, if tilled, yet there accrues a permanent interest of 6s. for the 6*l.* for ever. But low pine lands at the Indian store near the settlement has produced a crop of Indian corn 14 feet high and a good burthen. The negro coopers are said by the agent to be completely taught under a white cooper, and therefore not only sufficiently

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able for providing for the tar and turpentine manufactory, but are capable of executing more stores for sale to others and export to the West Indies ; and the sawyers can produce a vast quantity of lumber for like sale and export. Colonel Mulrein of Georgia's chief income arose from the sawing by hand, and that to a great amount. The list of products then appears according to this state :—

Turpentine from 14 hands or crops :	840 barrels at	
1 <i>l.</i> 1 <i>s.</i> 6 <i>d.</i>	903 <i>l.</i>
Tar and lumber from 4 pair of sawyers and 3 coopers		200 <i>l.</i>
Rice, Indian corn, Guinea corn, rye, from 700 cleared acres, above use Beni	100 <i>l.</i>
Cattle, hogs, poultry, orange juice 100 gallons in a good year, cotton	200 <i>l.</i>
		<hr/> 1,403 <i>l.</i>

“Indigo has been made on this land and sold for 10*s.* 6*d.* a pound. And cotton, fine as in Brazil : hides, honey, wax, myrtlewax. It is a great vine country ; the Madeira grape ripens well. Wine certainly may be made also.”

24 Oct. ———. Rolle's further petition for instructions to the Governor of the Bahamas to allow him to remove his stock to “Moguana” (or “Mogane”), before the Spaniards arrive in Florida (*i.e.* 19 Dec.).

11 Nov. ———. Letter from Rolle (in Devonshire) to Lord Stormont, Lord President of the Council. Since he left town, Government has offered transports to accomodate the inhabitants in their removal. “If, not trespassing on the necessities of the poor loyalists, I might have any assistance in conveying my cattle, the finest stock in Florida I believe, I trust your Lordship's candour in submitting the consideration thereof to his Majesty in Council.” There is danger of the negroes running away to Georgia, for fear of being sold to the Spaniards and sent to Havana. Rolle has therefore promised partial enfranchisement on arrival in the islands to two of his slaves, as a sign for others to expect the same after a

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faithful service. He hopes “to *strengthen* the island against enemies by their attachment to their landed and produce interest therein.”

[1040.] GOVERNORS’ INSTRUCTIONS. Committee reports 18 Sept. for E. Mathew (*Grenada*) and for J. Ordo (*Dominica*), V. App. I. including an additional instruction *re* Mathew’s salary.

[1041.] ST. VINCENT. *Resumption of irregular grants*. 15 Nov. Letter from Lord North; and Committee report of 25 Nov. V. p. 446. on a draft instruction.

[1042.] NOVA SCOTIA. *Surveys*. Committee report; and 25 Nov. Order of 28 Nov., for an allowance to J. F. W. Des Barres V. pp. for his contingent disbursements. 500-1.

[1043.] ST. VINCENT. *Governor’s salary*. Order approving 18 Dec. (a) an additional instruction. V. p. 547.



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ADDENDA.

ADDENDA.

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| | 1702. | 1702-35. |
| [1044.] | WEST INDIES. Copy of Declaration for the encouragement of regiments sent to the West Indies. | 19 Nov.
II. pp.
420-1. |
| | 1715. | 1715. |
| [1045.] | BERMUDA. Gov. B. Bennet's Commission. | 4 March. |
| Cf. 254. | | II. p. 794. |
| | 1735. | 1735. |
| [1046.] | NEW YORK. Complaint against Gov. Cosby. | Undated. |
| | Abstract of L. Morris's petition (8 pp.). | ? 26 Nov. |
1. "The Council through the influence of the Governor have refused to give their assent to Bills passed by the Assembly for appointing an agent, by means whereof the Province have been without an agent to represent their grievance to the Crown."
 2. "The present Governor, as also other Governors of that province, have of late years sat in the Council and acted and voted as Councillors in the passing of all laws, and afterwards as Governors have assented to such laws."
 3. Though the General Assembly is called by writs issued in the King's name and under the seal of the province, yet the Governor prorogues it by a proclamation in his own name and under his own private seal at arms—sometimes before it has met pursuant to the King's writs.
 4. The Assembly have taken upon them to direct the disposition of public money by votes and resolves of their House; and the late and present Governor, contrary to their instructions, "have for the most part governed

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themselves in drawing warrants for disposing of public money pursuant to such resolves."

5. The Governor did not communicate to the Assembly, as required, the instruction restraining him from receiving any gift or present from the Assembly. The Assembly voted that 1,000*l.* be paid him out of money appropriated by an Act as a fund for sinking Bills of Credit, but upon condition that the warrant for payment should not be issued till the Bills of Credit should be sunk and destroyed. Yet the Governor immediately drew a warrant, and received the money; so that the Bills of Credit remained uncanceled, and there is no fund for sinking them.

6. "That the Governor permitted a French sloop from Louisbourg, a new settlement under the Dominion of the French King, to trade to New York upon pretence of a scarcity of provisions at that place—that there was on board the said sloop several officers, soldiers, an engineer, and pilots, who took all the depths, courses and landmarks from ten leagues distance at sea to the city of New York, and marked them down on a chart they had for that purpose: that, being permitted freely to walk the streets, they took a view of all the forts and fortifications in that city, which were in a ruinous condition; that some of them returned by land to Canada, and others went in the sloop through the Sound, which is another way of access to the port of New York, where it is presumed they made all the discoveries they could, and left with the Governor a considerable present in wine, brandy and oil. The petitioner submits the conduct of the Governor in this respect to his Majesty's consideration."

7. The apprehensions caused by the knowledge which the French thus acquired gave rise to an Act for striking Bills of Credit to the value of 12,000*l.* for fortifying the city of New York. Contrary to his instructions, the Governor assented to the Act without any suspending clause being inserted therein—upon a joint address made to him by the Council and Assembly at his own request.

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1735.

8. "That, upon an enquiry made into the state and condition of the four Independent Companies in that province, it was discovered by the oath of Hugh Monro, one of the lieutenants (ready to be produced when called for) that, instead of 100 men in each of the Companies, there were not forty, and these for the greatest part were Roman Catholics or transported convicts;—that, though the Governor receives about 1,300*l.* *sterling* for the yearly clothing the Companies, yet he does not lay out above 50*l.* or 60*l.* in old blue duffle coats for them;—that there had been but one muster from the Governor's arrival in Aug. 1732 to Dec. 1733, but, notwithstanding, the same muster rolls signed with the name of Francis Harrison (one of the Council there) have been offered to the said Monro to sign, which he refused to do; since which time the said Monro hath been confined to his house by the Governor on pretence of his having refused obedience to the Governor's orders commanding him to go to Oswego, a frontier garrison 400 miles distance from New York, at that time not his turn to go nor was he able from his ill state of health."

9. "That the Governor will make no grant of lands but where he becomes a sharer in some proportion in the said lands, or else is paid the value thereof in money, besides his fees and those of his officers, which are extravagantly high, unless it be under a secret trust for himself—by means whereof several of his Majesty's subjects have been forced to go into Pennsylvania to procure lands to the great improvement of that country and impoverishing of New York."

10. Contains a very large and particular account of the Court of Chancery which, by Act of Assembly, was made to consist of the Governor and Council. Lord Cornbury suspended the Court, and by an Ordinance in Council erected a Court of Chancery, and lodged the sole power of judging in the Governor, exclusive of the Council. Gov. Hunter opened the Court of Chancery by a Proclamation, upon which foot it has continued ever since. The petitioner then takes notice of Cosby's suit against Rip Van Dam for half the salary

1735-40. § 1046 *cont.*]

and perquisites he received as President of the Council from the death of Gov. Montgomery, together with the petitioner's determination thereupon as Chief Justice.

11. He has caused a sense of insecurity as to the holding of land, by directing informations to be filed in his Majesty's name in the Court of Chancery (of which he is sole judge) to set aside a grant of lands made by his predecessor; and has overruled the pleas put in to the informations.

12. Cosby's proceedings in Minorca and in New York, especially in destroying the Indian grant of lands made to the Corporation of Albany, leave no room to hope for clemency from him.

13. When the Assembly brought in a Bill to prevent the Indians from disposing of the lands to any other persons, the Governor adjourned them for six months.

14. The presents he made to the Five Nations were far short of what was raised for the purpose, "the greater part thereof being applied to his own use to the dissatisfaction of everybody."

15. Van Dam, Alexander and Morris have been unable to obtain a copy of the charges against them made by Cosby to the Board of Trade, and it will be impossible for them to return any particular answer thereto.

16. On 23 Nov. last, when the Governor was very ill, a Council was held in his bedchamber, when he suspended Van Dam "in order to make way, as is apprehended, for Mr. George Clark to become president in case of the said Governor's death."

17. The report that Van Dam raised a riot on the report of the Governor's death is false.

18. He prays that the Governor be recalled, the Courts of Equity established in a manner beneficial and satisfactory to his Majesty's subjects, and justice duly administered.

1740.

1740.

Undated. [1047.] NOVA SCOTIA. *Claim under the grant to Sir W. Alexander.* Petition of W. Beawes and S. Waldo, that, upon

§ 1047 *cont.*]

1740-61.

their paying the usual fees, the B. of T. should produce before the Attorney and Solicitor General such books and papers belonging to the Plantation Office as are necessary to make out the petitioner's allegations. The B. of T. had declined to do this until the pleasure of the Committee of the Privy Council should be known.

1746.

1746.

[1048.] NEW JERSEY. *Gov. J. Belcher's commission.* 22 Aug. Copy of a clause about the establishment of courts and the IV. p. 29. appointment of commissioners to administer oaths.

1758.

1758.

[1049.] JAMAICA. *Clerk of the Council reinstated.* Committee report. 3 May. IV. p. 358.

1759.

1759.

[1050.] MASSACHUSETTS BAY. Extract from Gov. Bernard's ? 27 Nov. commission about granting pardons. IV. p. 777.

1761.

1761.

[1051.] PRAYERS FOR ROYAL FAMILY. B. of T. representation with draft of circular instructions to colonial IV. p. 775. Governors. 24 Sept.

[1052.] NORTH CAROLINA. *Acts for establishing Courts.* 3 Dec. B. of T. representation. Gov. Dobbs alleged in justification IV. pp. 504-6. of his assenting to these laws that he had acted on the advice of the Chief Justice and the Attorney General, and that he had procured the insertion of a clause in the Act for establishing a Supreme Court, that, if the Act were not confirmed in two years from 10 Nov. 1760, it should from thenceforth be null and void.

The B. of T. represent that the course adopted by the Governor is a heavy aggravation of his offence. "In cases of this nature it is the duty of every Governor to act upon his own judgment; and, if it were ever to be admitted that he could be dissolved by the opinions of others from the obligation of obedience . . . the interests of the Crown

1761-3. § 1052 *cont.*]

and the mother country must depend solely for security on the uncertain wills, interests, and instructions of any person whose advice and opinion the Governor might think proper to ask."

The clause in the Supreme Court Act is no restraint on its immediate operation, and by no means answers the intention of the suspending clause.

(a) Opinions of Charles Berry, Chief Justice, and of Thomas Child, Attorney General, 22 and 20 May respectively, on the Governor's queries about assenting to the Bills. The Law Officers considered that the present desperate situation of affairs in the colony required the Governor's assent to be given. Although the clause appears, on viewing the surface only, to be contrary to the Governor's instructions, precedents are to be found in other colonies. No act of the Governor's can diminish the just rights and powers of the Crown: his Majesty has still the power of disallowance.

Child declared "that such a deviation from the letter of your instructions can only tend to bring the constitution of this province to a nearer degree of affinity with its mother country, and to dispense to his Majesty's loyal subjects here those rights and privileges which they claim by birthright as the unalienable inheritance of their ancestors. It is my advice and recommendation to your Excellency that you would give your immediate assent to these two Bills, remembering that the act of restoring life and energy to government and to the subject protection of his liberty and property is a primary civil duty, which at all times and in all circumstances is obligatory and indispensable."

1762.

1762.

3 Aug. [1053.] COLLEGES AT PHILADELPHIA AND NEW YORK.
IV. pp. Petition of Dr. W. Smith and Dr. J. Jay for a brief.
545-8.

1763.

1763.

Received [1054.] MASSACHUSETTS BAY. List of 16 Acts passed in
14 Sept. May and June 1763.
IV. p. 805.

1764.

1764-80.

[1055.] NOVA SCOTIA. *Grant of lands*. Committee report 4 Feb.
on the petition of J. Marteilhe. IV. p. 611.

1765.

1765.

[1056.] MASSACHUSETTS BAY AND NEW YORK. List of 1 Feb.
copies of papers transmitted to the Council Office *re* proceedings IV. p. 692.
of the Assemblies of Massachusetts Bay and New York before
the passing of the Stamp Act, and of Orders issued thereon
from the Council Office. There are six items, beginning
with the B. of T. representation of 11 Dec. 1764 and ending
with the Order of 1 Feb. 1765. There is also a draft of the
list.

1766? '67.

1766? '67.

[1057.] EAST FLORIDA. *Grants of Lands*. Petitions of 26 June.
S. Tolfrey and A. Routledge. V. p. 591.

1767.

1767.

[1058.] MASSACHUSETTS BAY. *Indemnity Act*. List of 5 May.
papers transmitted to Lord Chief Justice Wilmot. V. pp.
86-8.

1773.

1773.

[1059.] BARBADOS. *J. Keeling*. His memorial about 8 Feb.
the contempt shown by the Court of Common Pleas for his V. pp.
Majesty's Order. 325-6.

1774.

1774.

[1060.] DOMINICA. Copy of an Act for regulating the 6 Sept.
manumission of slaves. V. p. 450.

1780.

1780.

[1061.] TRADE WITH PLACES IN NORTH AMERICA UNDER —
THE PROTECTION OF HIS MAJESTY'S ARMS. Printed copy V. p. 447.
of the Act, 20 George III. c. 46.

Undated.

[1062.] ———. Copies of two Rhode Island Acts (*a*) for
the better regulation of attachments in civil actions,
(*b*) "to enable creditors to recover their just debts of such

§ 1062 *cont.*]

persons who have removed out of the colony, and of others not inhabitants thereof, or who conceal themselves therein."

Undated.

[1063.] NEWFOUNDLAND. "Heads of a plan proposed by H.M. Attorney and Solicitor General for erecting a Court of Civil Jurisdiction"; with "additions and alterations proposed by the Committee of Privy Council for Trade."

Undated.

[1064.] "GRENADINE ISLANDS. Draft of a law for $4\frac{1}{2}$ per cent. duty."

(625)

APPENDICES.

APPENDIX I.

BUNDLE OF PRECEDENTS, &c.

1. INSTRUCTIONS TO LAY MATTERS BEFORE COLONIAL ASSEMBLIES.

“ A strict search has been made into the Council Registers from the Revolution to this time, in order to ascertain what words have been commonly made use of in the Acts of Council where the Governors of the Plantations have been directed or instructed to lay any matters before the Councils and Assemblies there. . . It appears that in the body of the general instructions given to the respective Governors the following words are made use of, viz.—*recommend—propose—move—use your endeavours—take care to dispose* the General Assembly—*call upon* the Council—*signify* to the Assembly—*get a law passed—take care that a law be passed.*”

The same words are used in additional instructions, and also in Orders of Council, except in ten instances given :—

(a) 28 Jan. 1704. “ Requiring and commanding the Governor and Company to submit to the Admiralty jurisdiction established by the Lord High Admiral.”

(b) 23 March 1704. Rhode Island and Connecticut, “ willed and required to assist the neighbouring provinces.”

(c) 10 June 1706. The proprietors and Assembly of Carolina were “ enjoined and required forthwith to declare certain laws null and void.”

(d) 18 Feb. 1714. The Governor, Council and Assembly of Pennsylvania were “ enjoined and required forthwith to declare certain laws null and void.”

(e) 14 May 1718. The Proprietors and Assembly of Carolina were "required" not to permit an Act laying a duty of 10 *per cent.* on British goods to be put in execution.

(f) 28 March 1728. In Gov. Burnet's instructions, in the articles about his salary, he was required to acquaint the Council and Assemblies of New Hampshire and Massachusetts Bay that, as they hope to recommend themselves to the continuance of the royal grace and favour, "they must manifest the same" by an immediate compliance.

(g) 8 May 1730. Gov. Belcher's instructions for Massachusetts Bay direct him to *recommend* to the Assembly "that they do forthwith comply with this proposal [*re* his salary] as the last signification of the royal pleasure" to them upon this subject.

(h) 11 Ap. 1745. Instructions to the Governors and Companies of Rhode Island and Connecticut. "It is our express will and pleasure that you do forthwith assist our province of Nova Scotia with what aid the safety and security of your government can spare."

(i) July 1753. Sir D. Osborne's instructions for New York (Art. 39). "We do strictly charge and enjoin them [the Council and Assembly] for the future to pay to our said commission and instructions due obedience, receding from all unjustifiable encroachments upon our legal authority and prerogative."

(j) 27 May 1761. Bernard's instructions for Massachusetts Bay (Art. 41). "To require and press the Council and House of Representatives vigorously to exert themselves in fortifying all places necessary for the security of the province."

Also a list of expressions used in *recommending* the Assembly to pass certain Bills, 1703 to 1765.

2. COMPLAINTS AGAINST VARIOUS GOVERNORS.

(a) St. Christopher, 1731. *Brown v. Matthew*. Committee reported that Brown was removed from the office of Chief Justice without good and sufficient cause.

(*b* and *c*) Gibraltar. 1736. *Cuming v. Sabine*; and 1738, *Fachima v. Sabine*. Both petitions dismissed.

(*d*) Minorca, 1770. *Universities of Mahon v. Johnston*. No cause to censure the Governor.

(*e*) Grenada, 1770. *Johnston v. Melville*. Charges not made out.

(*f*) New Hampshire, 1773. *Livius v. Wentworth*. No foundation for any censure.

(*g*) Massachusetts Bay, 1774. House of Representatives *v. Hutchinson and Oliver*. Petition dismissed.

(*h*) Quebec, 1779. *Livius v. Carleton*. No sufficient cause for displacing Livius, who should be restored.

(*i*) Bahamas, 1781. Lieut.-Governor and some of the Council *v. Browne*. Committee would have recommended the Governor's removal, did it not appear that such removal had already taken place.

(*j*) Prince Edward Island, 1789. Sundry proprietors of land *v. Patterson*. Committee would have recommended removal, had removal not already taken place by his Majesty's Order.

(*k*) Dominica, 1793. *W. Knox (Agent for the Assembly) v. Orde*. Complaint dismissed.

These were all complaints against Governors in the exercise of their governments at the time the complaints were heard (except the case of Patterson of Prince Edward Island). In 1753 one Davis lodged a complaint against Lieut.-Col. Heron, formerly Governor of Georgia; but it does not appear that this complaint was ever prosecuted.

3. COMMISSIONS FOR TRIAL OF PIRATES, 1760—1810.

Under the headings, East Indies—Plantations—Africa—Grenada and Dominica—Nova Scotia (including Prince Edward Island and Cape Breton Island) and New Brunswick—New South Wales—Quebec—Cape of Good Hope—Ceylon—Grenada—Barbados—Lower Canada—Cape of Good Hope—Dominica—Cape of Good Hope—Ceylon.

4. ACCOUNT OF THE PROCEEDINGS ON GRANTING LANDS IN
SOUTH AND NORTH CAROLINA, 1735-8.

Also a Memorandum about grants of lands in Carolina,
1732-8.

5. SOME INSTANCES IN WHICH PROCEEDINGS HAVE BEEN
HAD AGAINST B. OF T. REPORTS AND REPRESENTA-
TIONS BEFORE THE COMMITTEE OF THE PRIVY
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(a) 1721, *re* removal of several of the Council in Barbados.

(b) 1728-9, *re* complaint against A. Middleton, President
of the Council of Carolina.

(c) 1731, *re* repeal of an Act about a Court of Chancery in
Antigua.

(d) 1731, *re* the right of the Lieut.-Governor of New
Hampshire to command in chief whilst the Governor is resident
in Massachusetts Bay.

(e) 1735, *re* certain grants of land in South Carolina.

(f) 1735, *re* removal of several Councillors in New York.

(g) 1737, *re* an Act for surveying lands in Barbados.

(h) 1738-9, *re* the complaint of C. Jackson against R.
Fitzwilliam, Governor of the Bahamas.

6. LIST OF PAPERS RELATING TO THE FORTIFYING
NEWFOUNDLAND, JAN. 1740—DEC. 1742.

7. SOME INSTANCES OF MATTERS RELATIVE TO H.M.
PLANTATIONS IN WHICH THE HOUSE OF COMMONS
HAVE INTERPOSED, TOGETHER WITH THE RESOLUTIONS
OF THE HOUSE THEREUPON (*two copies*).

(a) 10 May 1733. Memorial of the Council and Repre-
sentatives of Massachusetts Bay presented to the House—*re*
the issue of public money and *re* Bills of Credit. The House
of Commons resolved "that the complaint contained in the
memorial and petition was frivolous and groundless, an

high insult upon H.M. Government, and tending to shake off the dependency of the said colony upon this kingdom. to which by law and right they are and ought to be subject." The memorial was not presented to the House until the Committee of the Privy Council had advised his Majesty to lay an account of the undutiful behaviour of the Council and Assembly of Massachusetts Bay before the Legislature of Great Britain.

(b) 10 May 1733. A complaint was made to the House of Commons against the Massachusetts House of Representatives for passing a vote of censure against Jeremiah Dunbar, for giving evidence before a Committee of the House of Commons. The House of Commons resolved that this was "an audacious proceeding and an high violation of the privileges of the House of Commons." A Committee was appointed to inquire who were the authors and abettors of the proceedings, but it does not appear that the Committee did anything thereupon.

(c) 25 Ap. 1740. Four resolutions were voted by the House of Commons *re* the enforcement of an Act of Queen Anne for ascertaining the rates of foreign coins in H.M. Plantations in America; for issuing a proclamation to ascertain the rates at which foreign gold coins should be received in the American Colonies; that the issue of paper bills of credit in the colonies as legal tender frustrated the good intentions of the above Act of Queen Anne, and discouraged the commerce of this kingdom; and desiring orders to the Governors to observe the instruction not to pass any Act for the issue of paper money without a suspending clause.

(d) 23 May 1757. Resolutions upon the proceedings of the Assembly of Jamaica, which had claimed the right to appoint a person to receive and issue public money. This claim the House of Commons pronounced illegal, repugnant to the Governor's commission and derogatory of the rights of the Crown.

8. ABSTRACT OF PROCEEDINGS *re* THE CIVIL GOVERNMENT
OF QUEBEC (JAN. 1773. 9 pp.).

- (a) Revenue, 21 June to 22 Nov. 1765.
- (b) Ecclesiastical affairs, 19 March to 13 June 1765.
- (c) Ordinances, 2 Oct. 1765 to 17 Feb. 1766.
- (d) Courts of Judicature, 1 Feb. 1765 to 14 June 1771.

9. ACCOUNT OF THE SEVERAL APPLICATIONS FOR IMPORTING
RUM & C. INTO JAMAICA DUTY FREE, WITH THE ORDERS
MADE THEREUPON, 1726 AND 1739-41.

10. ESTABLISHMENT OF CUSTOMS OFFICERS IN THE
PLANTATIONS FOR THE HALF-YEAR ENDING AT
CHRISTMAS 1723.

There are about 37 items aggregating 1,700*l*. Maurice Birchfield, Surveyor-General of the Southern part, and Thomas Lechmere, Surveyor-General of the Northern part, are entered (with a clerk, a boat, and four boatmen each), at 247*l*. 10*s*. each. The other officers named, who are all Collectors save where otherwise stated, were as follows :—Thomas Gadsden, Charleston ; Adam Cockburne, Roanoke ; John Banister and Thomas Michell, James River ; Joseph Walker, York River ; Richard Chichester, Rappahannock River ; Griffith Bowen, Surveyor, Cape Charles ; Henry Scarburgh, Accomack and Northampton Counties ; William Deacon, North Potomac ; John Rousby, Patuxent ; Ben Tasker, Surveyor, Annapolis ; Thomas Collier, Surveyor, Williamsted ; Stephen Knight, Riding Surveyor, Bahama and Sassafras ; John Moore, Philadelphia ; Samuel Lowman, Newcastle ; Henry Brooke, Lewes ; William Alexander, Comptroller, Philadelphia ; William Fairfax, Bahamas ; Robert King, Perth Amboy ; John Rolfe, Bridlington, (West New Jersey) ; Archibald Kennedy, New York ; Robert Elliston, Comptroller, New York ; John Jekyll, Boston ; William Lambert, Comptroller, Boston ; Butts Bacon, Piscataway ; Charles Blechynden, Salem and Marblehead ; Nat. Kay, Rhode Island—the last

three each Collector and Surveyor: Archibald Cumings, Newfoundland; and Thomas Brooke, Bermuda.

11. PRECEDENTS ABOUT THE PROVINCE OF NOVA SCOTIA,
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12. PRECEDENTS ABOUT THE ISLAND OF TOBAGO, 12 MAY
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13. EXTRACT OF PROCEEDINGS BEFORE THE COUNCIL *re* THE
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APPENDIX II.

Seven maps or plans, copies of which are included in the unbound papers, are reproduced at the end of this volume. Two (*Nos.* 1, 7,) have been reduced to half the scale of the original.

1. accompanies § 336, *p.* 149. (Indian Trade.)
 2. „ § 459, *p.* 254. (Rattan.)
 3. „ § 590, *p.* 364. (Cape Breton Island.)
 4. „ § 685, *p.* 421. (Van Rensselaer.)
 5. „ § 721, *p.* 434. (Detroit.)
 6. „ § 732, *p.* 440. (Lake Champlain.)
 7. „ § 740, *p.* 442. (New York—New Hampshire.)
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