

## APPENDIX XXIV.

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Papers relating to the acts passed by the fifty-ninth, sixtieth, sixty-first, sixty-second, sixty-third, sixty-fourth assemblies under the Charter of 1700, from October 15, 1759, to September 20, 1765.

### SECTION I.

1. Proprietary Objections to Chapter 452.

### SECTION II.

1. Minutes of the Provincial Council, February 24, 1761.
2. Minutes of the Provincial Council, February 28, 1761.
3. Message from the Governor to the Assembly, March 10, 1761.
4. Message from the Assembly to the Governor, March 11, 1761.
5. Minutes of the Provincial Council, March 12, 1761.
6. Minutes of the Provincial Council, March 14, 1761.
7. Minutes of the Provincial Council, April 8, 1761.
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9. Minutes of the Provincial Council, April 14, 1761.
10. Minutes of the Provincial Council, April 18, 1761.
11. Minutes of the Provincial Council, April 22, 1761.
12. Minutes of the Provincial Council, September 22, 1761.
13. Minutes of the Provincial Council, September 24, 1761.
14. Minutes of the Provincial Council, September 26, 1761.
15. Minutes of the Provincial Council, January 27, 1762.
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17. Minutes of the Provincial Council, February 10, 1762.
18. Minutes of the Provincial Council, February 16, 1762.
19. Minutes of the Provincial Council, February 18, 1762.
20. Minutes of the Provincial Council, March 9, 1762.
21. Minutes of the Provincial Council, March 17, 1762.

22. Minutes of the Provincial Council, March 23, 1762.
23. Minutes of the Provincial Council, March 24, 1762.
24. Minutes of the Provincial Council, March 25, 1762.
25. Minutes of the Provincial Council, March 26, 1762.
26. Minutes of the Provincial Council, May 13, 1762.
27. Minutes of the Provincial Council, May 14, 1762.
28. Minutes of the Provincial Council, January 18, 1763.
29. Minutes of the Provincial Council, February 8, 1763.
30. Minutes of the Provincial Council, February 15, 1763.
31. Minutes of the Provincial Council, February 22, 1763.
32. Minutes of the Provincial Council, February 23, 1763.
33. Minutes of the Provincial Council, February 25, 1763.
34. Minutes of the Provincial Council, February 28, 1763.
35. Minutes of the Provincial Council, March 3, 1763.
36. Minutes of the Provincial Council, March 4, 1763.
37. Minutes of the Provincial Council, April 2, 1763.
38. Minutes of the Provincial Council, July 8, 1763.
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40. Minutes of the Provincial Council, September 30, 1763.
41. Minutes of the Provincial Council, October 22, 1763.

## SECTION III.

1. Bill for Granting Thirty Thousand Pounds, April 17, 1761.
2. The Governor's Amendments, April 21, 1761.
3. Message from the Governor to the Assembly, April 22, 1761.
4. Message to the Governor from the Assembly, April 23, 1761.
5. Certificate of the Rev. Richard Peters, Secretary of the Province, April 30, 1761.
6. Opinion of Sir Charles Pratt (afterwards) Lord Camden, June 10, 1761.

## SECTION IV.

1. Bill for Granting Seventy Thousand Pounds, March 19, 1762.

## SECTION V.

1. The Governor's Amendments to Chapter 464, March 12, 1764.

## SECTION VI.

1. Letter from Henry Wilmot to Governor John Penn, May 30, 1764.
2. Rev. Richard Peters' Draft of the Governor's Objections to the "Supply Bill," May 30, 1764.

## SECTION VII.

1. Supplement to bill for Granting Fifty-five Thousand Pounds, February 7, 1765.

## SECTION VIII.

1. Order of Reference, February 11, 1766.
2. Board of Trade Journal, February 18, 1766.
3. Opinion of Sir Matthew Lamb, May 3, 1766.
4. Board of Trade Journal, June 2, 1766.
5. Board of Trade Journal, June 3, 1766.
6. Board of Trade Journal, June 9, 1766.
7. Board of Trade Journal, June 13, 1766.
8. Representation of the Board of Trade, June 13, 1766.

## The Proprietaries' Objections to Chapter 452.

Vide the objections to the act, entitled "An act for the continuance of an act of assembly of this province, entitled 'A supplementary act to the act, entitled "An act for preventing the exportation of bread and flour not merchantable, and for the new appointment of officers to put the said law in execution."'"

Which said objections were settled before this act came over.

I perceive by this act the assembly have continued the act for seven years and from thence to the next sitting of assembly, and the officers for four years and from thence until a new nomination by the assembly and the appointment of these officers by the assembly alone, is the objection made by the proprietaries to this act.

From a copy in the collection of the Historical Society of Pennsylvania.

## SECTION II.

## 1.

At a Council held at Philadelphia, Tuesday the 24th February,  
1761.

Present:

The Honorable James Hamilton, Esquire, Lieutenant-Governor,  
&c.,

Benjamin Shoemaker,	} Esquires.
Thomas Cadwalader,	
Richard Peters,	

The several bills that had been presented to the governor for his concurrence, were read, viz.:

\* \* \* \* \*

A bill, entitled "An act to enable the owners and possessors of the northern district of Kingsess meadow land, in the county of Philadelphia, to keep the banks, dams, sluices and floodgates in repair, and to raise a fund to defray the expense thereof," were on Friday or Saturday presented to the governor for his consideration and concurrence, but as the day is too far advanced to read all these bills, the council adjourned till to-morrow morning at ten o'clock, *twist* [sic] reading.

A petition from the merchants against the last bill, on consideration whereof it was agreed that the governor should send a message to the assembly, recommending the use requested in the petition.

The bill for the regulating of wagoners, carters, draymen and porters was amended.

The bill for enabling Thomas Yorke, &c., to sell the province-ship, and the merchants' petition upon it, was again considered, and it was recommended to the governor to send it down with a message to the House to reconsider it and grant the petitioners their prayer.

A Message from the Governor to the Assembly.

"Gentlemen: Soon after you sent me up the bill, entitled 'An act to enable Thomas Yorke, James Child, Daniel Rundle, Peter Chevalier and Enoch Story, or any three of them, to sell the pro-



vincial ship of war,' I received a petition from very many of the principal merchants of this city, setting forth the great interruption given to navigation almost every winter by the ice and the frequent losses sustained for want of a place of safety for their ships between the capes and this town; and that, as the surplus money to be disposed of by this bill was raised and paid by the owners of ships and importers of certain commodities into this city, they had an intention of making application to you for a different and, as they apprehend, more useful disposition of it, namely, for the erecting piers in some proper part of the river to secure their ships from the ice, but that, unfortunately, this bill had passed your house, and had been sent up for my concurrence before they had any intimation that such a bill was intended and, therefore, praying that I would send down the bill to your house for a reconsideration.

Sensible of the great inconveniences and losses the trade of the city [and] province is subjected to from the want of such protection or security as is mentioned by the petitioners, and being desirous to oblige so considerable [a] body of men, by giving them an opportunity of applying to their representatives in a matter they think of so much importance, I have been induced to comply with their request, and to send down the bill for your reconsideration and at the same time to acquaint you that if, upon hearing what can be said upon the subject, you shall incline to alter the appropriation of the money named in the bill and apply it to the purposes prayed for by the petitioners, I shall readily consent to it; if otherwise, I will give my assent to the bill as it stands.

JAMES HAMILTON.

February 26, 1751."

A bill, entitled "An act to regulate the assize of bread," was presented to the governor for his concurrence and returned to the House with a message that he would pass it.

Colonial Records, Vol. VIII, p. 573.

## 2.

At a Council held at Philadelphia, on Saturday, the 28th of February, 1761.

Present:

The Honorable James Hamilton, Esquire, Lieutenant-Governor,  
&c.

Benjamin Shoemaker,	}	Esquires.
Lynford Lardner,		
Thomas Cadwalader,		
Richard Peters,		

A bill, entitled "An act to enable the owners and possessors of the meadow at the west side of the mouth of Darby creek, by the river Delaware, in the township of Ridley, in Chester county, to keep the banks, dams, sluices and floodgates in repair forever, and to raise a fund to defray the expense thereof," was delivered to the governor and returned to the House with his assent.

A bill, entitled "An act for laying a duty on negroes and mulatto slaves imported into this province," was presented to the governor for his concurrence.

A petition from the merchants of the city upon the subject of the said act, was presented and read in these words:

A Petition from the Merchants against the Bill for Duty on the Negroes.

"To the Honorable James Hamilton, Esquire, Lieutenant-Governor of the Province of Pennsylvania, &c., &c.:

The Petition of Divers Merchants of the City of Philadelphia, Trading to His Majesty's Colonies in the West Indies,

Humbly Showeth: That we are informed there is now a bill before your Honor for your assent, laying a duty on the importation of negroes, and that it is to take place immediately on the publication.

We, the subscribers, ever desirous to extend the trade of this province, have seen, for some time past, the many inconveniences the inhabitants have suffered for want of laborers and artifi-

cers, by numbers being enlisted for His Majesty's service and near a total stop to the importation of German and other white servants, have, for some time, encouraged the importation of negroes, and acquainted our friends and correspondents in several parts of His Majesty's dominions (who are no way apprehensive of a bill of this nature), that an advantage may be gained by the introduction of slaves, which will likewise be a means of reducing the exorbitant price of labor and in all probability bring our staple commodities to their usual prices; and as many of us have embarked in this trade through the motives before mentioned, we humbly beg your Honor will take into consideration the hardships we shall labor under by such a law taking immediate effect, when we have it not in our power to countermand our orders or advise our friends; therefore, humbly pray that such time may be allowed (before the law takes place) as your Honor shall think most conducive to extricate your petitioners from the impending danger.

Philadelphia, 1st March, 1761.

John Bell,	Benjamin Levy,
Humphry Robinson,	Henry Harrison,
Reed & Pettit,	John & Joseph Swift,
William Coxe,	John Nixon,
Charles Batho,	Daniel Rundle,
Philip Kearney, Jr.,	Francis & Relfe,
James Chalmers,	Stocker & Fuller,
Joseph Wood,	Scott & McMichael,
Willing, Morris & Co.,	John Inglis,
Thomas Riche,	David McMurtrie,
David Franks,	Samuel & Archibald McCall,
Hugh Donaldson,	Joseph Marks."

3.

10th March, 1761.

A Message from the Governor to the Assembly.

"Gentlemen: I now return the bill, entitled 'An act for laying a duty on negroes and mulatto slaves imported into this province,' with some amendments, in order to make it more agree-

able to and consistent with the nature of an English constitution.

For I cannot help observing, Gentlemen, that in the framing of this, you have not only fixed upon the officer to put [it] in execution, but have, likewise, inserted the name in the bill, without having previously acquainted me with your intention, and obtained my concurrence to such nomination.

Nevertheless, although I am well assured from the best authority that this practice is altogether unconstitutional and see no foundation for it in the charter of privileges or laws of the province, yet, from my having nothing to object to the gentlemen you have thought fit to name, I am, indeed, on the present occasion, to waive the right inherent in me as one branch of the legislature, and to let the bill stand as it does in that respect.

But, at the same time, Gentlemen, I think myself obliged to acquaint you that in all future instances of appointing an officer by act of assembly, I shall hold myself indispensably bound, in maintenance of His Majesty's prerogative, to object to any officer that shall be named in such bill, unless his appointment shall have been first mutually agreed upon betwixt you and me in a conference for that purpose, however agreeable or acceptable to me the person might otherwise be.

JAMES HAMILTON."

Amendments to the Bill, entitled "An act for laying a Duty on Negroes and Mulatto Slaves imported into this Province."

"Page 2d, line, after the word [after] insert [the expiration of the term of six months from].

"Page 19. Dele from the word [duty] at the end of the 8th line to the word [Province], inclusive, at the end of the 11th line, and instead thereof say [until the end of the next sitting of assembly, and no longer, during which said sitting a new appointment shall be made by act of general assembly].

"Page 21, lines 9 and 10. Dele the words [seven years from and after the publication] and insert these words [four years from and after the commencement]."

## 4.

11th March, 1761.

The Governor received from the House a paper in answer to his amendments of the Negro Bill:

The Assembly's Answer to the Governor's Amendments of Negro Act.

"Amendment, 1st, page 2, line 6. The House request the governor would be pleased to reconsider his amendments, as they apprehend considerable mischief may attend the postponing the force of the act for six months, as in that time great numbers of negroes may be imported from the West Indies and other places; besides the house conceive no great inconveniency or loss can happen to the merchant, as slaves are now in great demand in the neighboring colonies, and to allow an importation for six months would, they apprehend, be virtually a bounty to the importer during that time, as no others can afterwards import them on equal terms, during the continuance of the act.

"Amendment 2d, page 19. The House request the governor would be pleased to recede from his amendment, as it may render the act ineffectual in case of the death or resignation of the governor and misbehavior or death of the officer happening at the same time, for, by an act of this province, passed in the tenth year of Queen Anne, entitled 'An act for the further securing the administration of the government,' no other law under these circumstances could be enacted for appointing an officer to execute this law.

"Amendment 3d, page 21. The House agrees to the governor's amendment."

11th March, 1761.

The Governor's reply to the Assembly's Answer to the Bill for laying a Duty on Negroes and Mulatto Slaves imported into this Province.

"Amendment 1st, page 2, line 6. The governor recedes from this amendment.

"Amendment 2d, page 19. The governor adheres to his amendment."

5.

12th March, 1761.

The three following bills having been presented to the Governor for his concurrence, were agreed and returned to the House with a message that he would pass them:

A bill, entitled "An act for the preservation of fish in the river Delaware, Susquehanna and [the] Lehigh, commonly called the Western Branch of Delaware."

A bill, entitled "An act for making the river Schuylkill navigable, and for the preservation of the fish in the said river."

A bill, entitled "An act for raising, paying and clothing three hundred men, properly officered, for relieving the several forts and posts within the communication to Pittsburgh, and for continuing 'An act for regulating the officers and soldiers in the pay of the province.'"

Colonial Records, Vol. VIII, p. 582.

6.

At a Council held at the State House, on Saturday, the 14th March, 1761.

Present:

The Honorable James Hamilton, Esquire, Lieutenant-Governor,  
&c.

Richard Peters,	}	Esquires.
Thomas Cadwalader,		
Lynford Lardner,		

The Governor sent the following verbal message to the House by the Secretary:

"The Governor commands me to acquaint the House that as a considerable number of Indians may be expected to come and treat with the government some time in the summer in consequence of the invitations that have been sent to them, he desires the House will appoint a committee to attend the treaties and to make provision for the expense that will attend them."

The Governor required the attendance of the House in the council chamber immediately, in order to enact into laws the several bills that have been agreed to, and the speaker, with

the whole House, accordingly waited on the Governor, and presented the following bills, which were enacted into laws, and after the great seal was affixed to them they were lodged in the Rolls office.

The speaker presented to the Governor an order or certificate for one thousand pounds, for which the Governor returned his thanks to the House.

“An act to enable the owners and possessors of the meadow at the west side of the mouth of Darby creek, by the river Delaware, in the township of Ridley, in Chester county, to keep the banks, dams, sluices and floodgates in repair forever, and to raise a fund to defray the expense thereof.”

“An act to enable the owners and possessors of the Northern district of Kingsess meadow land, in the county of Philadelphia, to keep the banks, dams, sluices and floodgates in repair, and to raise a fund to defray the expense thereof.”

“An act to enable certain trustees to sell lands in the county of Philadelphia in trust for the use of the minister of Oxford and to receive the voluntary donations of the inhabitants, and, with the moneys arising therefrom, to purchase other lands to be settled to the same use.”

“An act for regulating wagoners, carters, draymen and porters within the city of Philadelphia, and for purposes therein mentioned.”

“An act to enable Thomas Yorke, James Child, Daniel Rundle, Peter Chevalier and Enoch Story, or any three of them, to sell the provincial ship of war.”

“An act to regulate the assize of bread.”

“An act for laying a duty on negroes and mulatto slaves imported into this province.”

“An act for the preservation of fish in the rivers Delaware, Susquehanna and the Lehigh, commonly called the Western Branch of Delaware.”

“An act for making the river Schuylkill navigable and for preservation of the fish in the said river.”

“An act for raising, paying and clothing three hundred men properly officered, for relieving the several forts and posts within the communication to Pittsburg and for continuing the

act for regulating the officers and soldiers in the pay of this province.”

A Message from the Assembly delivered to the Governor in Council, was read in these words:

A Message from the Assembly to the Governor.

“May it please your Honor:

“The report of the committee of His late Majesty’s most Honorable Privy Council relating to the act passed in this province in the year one thousand seven hundred and fifty-nine, entitled ‘An act for granting to His Majesty the sum of one hundred thousand pounds, &c.,’ and His late Majesty’s determination thereupon were no sooner laid before the House than we thought it our duty to appoint a committee to inquire into the state of the taxations under that law, and particularly so far as it regarded the taxing the proprietary estate, which committee, after a full and careful examination of the taxes laid throughout the province, have made their report, whereby it appears:

“First. ‘That no part of the unsurveyed waste lands belonging to the proprietaries have in any instance been included in the estates taxed.’

“Secondly. ‘That some of the located uncultivated lands belonging to the proprietaries in several counties remain unassessed and are not in any county assessed higher than the lands under like circumstances belonging to the inhabitants.’

“Thirdly. ‘That all lands not granted by the proprietaries within boroughs and towns remain untaxed, excepting in a few instances, and in those they are rated as low as the lands which are granted in the said boroughs and towns.’

“And, ‘That the whole of the proprietary tax of eighteen pence per pound throughout the province in one year amounts to five hundred and sixty-six pounds, four shillings and ten pence; and the sum of the tax of the inhabitants for the same year and at the same rate amounts, through the several counties, to twenty-seven thousand one hundred and three pounds twelve shillings and eight pence.’

“And it is the opinion of the said committee, ‘That there has not been any injustice done to the proprietaries, or attempts



made to rate or assess any part of their estate higher than the estates of like kind belonging to the inhabitants are rated and assessed, but, on the contrary, the committee find the proprietary estates are rated in many instances below others.'

"This report appears to the House, upon an inspection into the provincial assessments now lying before us, to be just and true; and your Honor will permit us to add that the major part of the members of the present assembly, having also been members of the assembly in the year one thousand seven hundred and fifty-nine, when the act was passed, are well assured that it never was the intention by that act either to tax the proprietaries' unlocated lands, or to contravene the stipulations and agreements entered into with the proprietaries for the payment of their quit-rents, but that those stipulations and agreements should remain as binding upon all the parties concerned therein, as they were or could be before the passing of that act.

"And we beg leave further to remark, that by the law now under our consideration, the commissioners and assessors are obliged to lay before the assembly, for the time being, their rates and taxations for every year, whereby the assembly will be enabled to judge of any variations from the present mode of taxation, and if it shall then appear that any injustice is offered to the proprietaries, or if the governor, in behalf of the proprietaries, can point out any injury they may receive in the execution of the said act, we doubt not the then assembly will cheerfully and readily offer a bill to the governor to do them justice.

"In the mean time, as the taxes are now assessed and no other or further assessment can be made to the next year, we apprehend the proprietaries can receive no damage from the law as it now stands, and which must soon expire by its own limitation, we request the Governor will be pleased to lay a fair and candid state of this matter before our superiors, in which case we have great reason to hope and believe that the act passed by your Honor in the year one thousand seven hundred and sixty may and will receive the royal approbation, and by the means satisfy

the proprietaries and prevent the great evils and confusion which the repeal of that law might bring upon this province.

“Signed by order of the House.

“ISAAC NORRIS, Speaker.”

The members that delivered the message acquainted the Governor that the House having finished the principal business before them, inclined to adjourn to the 7th of September, if his Honor had no objection thereto.

Colonial Records, Vol. VIII, p. 583.

## 7.

8th April, 1761.

A bill, entitled “An act for laying a duty on negroes and mulatto slaves imported into this province,” was presented to the Governor for his concurrence.

[Large blank in Council Book.]

Colonial Records, Vol. VIII, p. 596.

## 8.

11th April, 1761.

The Governor returned the bill for laying a duty on negroes and mulatto slaves imported into this province, with a message that he was ready to pass it.

The same day a bill, entitled “An act to prevent the exportation of bad or unmerchantable staves, heading, boards and timber,” was presented to the Governor by two members for his concurrence.

Colonial Records, Vol. VIII, p. 601.

## 9.

At a Council held at Philadelphia, on the 14th April, 1761.

Present:

The Honorable James Hamilton, Esquire, Lieutenant-Governor,  
&c.

Joseph Turner,  
Benjamin Chew,  
Richard Peters,

} Esquires.

The Governor returned the bill, entitled "An act to prevent the exportation of bad or unmerchantable staves, heading, boards and timber," with a message that he would pass it.

Colonial Records, Vol. VIII, p. 602.

## 10.

At a council held at Philadelphia, on Saturday, the 18th of April, 1761.

## Present:

The Honorable James Hamilton, Esquire, Lieutenant-Governor,  
&c.

Richard Peters,	} Esquires.
Benjamin Chew,	

A bill having been presented to the Governor for his concurrence, entitled "A bill for granting to His Majesty the sum of thirty thousand pounds, and for striking the same in bills of credit, and for providing a fund for sinking the said bills of credit," the same was read and considered, and it appearing to have in it the very matters for which some former acts of assembly were repealed by the King in Council, the Governor was advised to repeal it and assign his reason in a written message, and to send the secretary with the following verbal message to know what certificates had been given out by the assembly.

A Verbal Message delivered by the Secretary, by order of the Governor, to the Assembly:

"I am ordered by the Governor to desire the House will furnish him with a particular account of all the certificates and draughts on the provincial treasurer; and also with the amount of the money due to the masters or owners of servants heretofore enlisted into His Majesty's service, and to the public housekeepers for quartering soldiers, which are made payable out of the supply bill now before him."

Colonial Records, Vol. VIII, p. 605.

## 11.

At a Council held at Philadelphia, 22d April, 1761.

Present:

The Honorable James Hamilton, Esquire, Lieutenant-Governor,  
&c.

Richard Peters,  
Benjamin Chew, } Esquires.

The following message to the Assembly was read, and approved of and sent to the House:

A Message from the Governor to the Assembly.

“Gentlemen: It was no less surprise than concern to me, on perusing your bill for granting to His Majesty the sum of thirty thousand pounds, to find that within a few months after his late Majesty had so expressly declared his disapprobation of several provisions contained in your late acts, as to make them the foundation of their repeal, you have again ventured to renew them, and insert them in the present bill, as if no such censure or disapprobation had ever passed.

With what view or intention you have done this, I do not take upon me to determine, yet thus much I must have leave to say, that it is a strong evidence of your paying but a very slender regard to the judgment of the King and his Ministers, when of all the particulars objected to by them, so far as they are applicable to this bill, you have not thought fit to conform to their sentiments in respect to any of them.

You cannot be unacquainted, Gentlemen, that in the report of the Lords of Trade and Plantations, approved and confirmed by his late Majesty in Council, the three following particulars were not only objected to, but severely censured, as being either encroachments on the prerogative of the Crown or acts of injustice with regard to your proprietaries, viz.:

First, The blending and connecting together in the same bill, things which in their own nature are totally separate, by which the Crown is reduced to the alternative either of passing what it disapproves or of rejecting what may be necessary for the public service, and which is expressly called a tack.

Secondly. The vesting in yourselves alone the application of the public money, usurping by this means one of the most inviolable prerogatives of the executive power, not countenanced by any example of the British Parliament, who always considered the application of the public money subject to account as one of the most indisputed powers of the Crown.

Thirdly. Your contending that the proprietaries should be bound to receive their rents in paper currency, notwithstanding the express words of their covenants in sterling.

Having thus recited the purport of his late Majesty's sentiments upon these several points, I shall proceed to show that, by the bill sent up for my concurrence, every rule and principle therein established is either directly or virtually contravened and set at nought; but in order to do this the more clearly, it is necessary to state the facts upon the first and second objections fully, by which means the proof of both may be comprised under one and the same article.

Since the commencement of the present war, the Parliament of Great Britain have, from time to time, granted large sums of money to be apportioned by the King to the several colonies, for reimbursing them a part of the expenses they have been put to by the aids they have granted to His Majesty for prosecuting the war in America. In consequence hereof, a considerable sum of money hath been allotted, and is ready to be paid, for the use of this province, whenever a person shall be properly authorized by both branches of the legislature to receive it, and not otherwise; for, as the money was granted to the whole legislature, the board appointed to pay it have insisted that the person applying to receive it should be empowered by the same authority. The Governor, as one branch of the legislature, in September last, did offer to join with assembly in appointing agents to apply for and receive the money so granted, on condition of his retaining a concurrent power with them, in the superintending and applying it to the purposes to be appointed by law. The assembly, on the contrary, being desirous to deprive the Governor of any share or management of the money granted, or to be granted, by Parliament as aforesaid, and to subject the whole to their own power independent of him, under the pre-

tense, indeed, of applying it to the payment of the public debts and in abatement of the taxes, did present to him a separate bill 'for the appointment of agents to receive the same and invest it in the public stocks in their own names, and empowering the trustees of the loan office, when thereto required by the immediate direction of the House, to draw upon them for the money and apply it to the purposes aforesaid.' But as they had therein attempted to deprive the Governor both of his share in the nomination of the agents and of any concurrent power with themselves in the superintendence and due application of the money, and had not limited a time in which the said money should be drawn for and applied as aforesaid, he, therefore, refused his assent to the bill, and which the House, no longer expecting to accomplish their purposes by a separate bill, have now seized the occasion of His Majesty's demanding an aid from the province to blend and connect these unconstitutional claims with the supply bill, which they will not suffer to be altered or amended, in order to oblige the governor either to give up so essential a branch of the prerogative or to subject himself to the King's displeasure for refusing the supplies offered him.

If these facts be rightly stated, Gentlemen, as I conceive they are, then the clause in your bill relating to the management and disposition of the money granted by Parliament, which is the same in effect I refused my assent to before, and its being inseparably joined to the clauses for granting an aid to His Majesty, will, in my opinion, be a convincing proof that the present bill is justly liable to the censure passed upon the former acts, of being both a tack to the supply bill (by which the King's representative is denied the free use of his negative in the legislature) and as tending to usurp one of the most inviolable prerogatives of the executive power in the application of the public money subject to account, which being once given up, would be to change, in a great degree, the constitution and sap the foundations of government.

With respect to the third point, the Lords of Trade, in their report, of which you have a copy, have reasoned so fully and so much better than I am capable of, on the subject of your con-

tending that the proprietaries should be bound to receive their quit-rents in paper currency, notwithstanding their express covenants in sterling, and have also expressed His Majesty's opinion in respect to reservations of that kind in colonies immediately under his own government, that I shall not venture to say anything further upon that head, but only put you in mind that your present bill contains a clause of the same nature with that objected to by His Majesty in council, and that you have not offered any compensation to the proprietaries for the loss they are to sustain thereby, though former assemblies were both sensible of the justice of such compensation and made it accordingly.

I was in great hopes, Gentlemen, that on your being convened to consider of His Majesty's requisition, you would not have fallen short of the other colonies in a zealous and ready compliance with it, considering the importance of the service for which your aid is required; and I flatter myself that this might have been easily done without laying any new burdens upon the people or running the risk of our falling into fresh contentions about the means of doing it, as has been too often the case in respect to bills of this nature; but as these means do not seem to have occurred to you, I hope to be excused for pointing them out to you.

You are sensible, Gentlemen, that there is a sum of money lying in the hands of your agents in England (part of the Parliamentary grant), more than sufficient to answer all the purposes of the present bill, even though you had double the number of men thereby granted to His Majesty; and since the making use of this money could occasion no controversy between you and me, why might not a bill have been prepared, empowering the trustees forthwith to draw for it and pay the produce, or such part as should be necessary, into the hands of the commissioners, to be applied to the present service? Or to what end should you think of overwhelming the province with floods of paper money, at a time when that currency is depreciating so fast as must necessarily prove injurious, not only to the English merchants trading hither, but to every man in the province who is possessed of property in a personal estate, and more particu-

larly to widows and orphans? Or why would you choose to propose creating a fund for sinking this money, upon terms which you well know I neither ought or can accept of without breaking in upon the just and established rights of government, when all these difficulties and inconveniences might be so easily avoided by making use of that fund which is absolutely in your power?

Perhaps you will say, Gentlemen, that the money lying in your agents' hands is by law appropriated to the payment of the public debts, and, therefore, ought not to be diverted to any other service. But pray, Gentlemen, has one shilling of it as yet been applied to that purpose? Or, if that was an objection to our using it for any other service, does it not equally lie against the making use of the money heretofore allotted and not received, as a fund for sinking the sum of thirty thousand pounds in bills of credit voted to His Majesty, as you have proposed in the present bill? The cases, then, are exactly similar, except that you choose to give money of which we are not possessed rather than that of which we are.

But further to obviate that objection, you may please to remember, Gentlemen, that there is an express provision in the act empowering the governor and assembly to dispose of the money in your agents' hands to any purpose they think fit; and I do not think it can be better disposed of than by granting such a part of it to His Majesty as may be sufficient for the present service, and applying the remainder (if any) to the payment of the public debts and in abatement of the taxes; for I can, by no means, think it reputable to or becoming any government to be trafficking with the people's money, while they, at the same time, are paying taxes for it. Dealing in the stocks has always been deemed as a more reputable sort of gaming, by which loss as well as gain may accrue to the adventurers. Individuals may do as they please with their own money, but the giving ease to the people by lightening the burden of their taxes ought not to be delayed under the precarious expectations of increasing the public stock.

Upon the whole, Gentlemen, a regard to the just rights of government, which I shall on all occasions think myself indispensably obliged to support and maintain, and the greatest



deference I bear to the judgment and opinion of our late gracious sovereign and his ministers, who have actually repealed some of the acts of this province for the reasons I have above set forth, render it impossible for me to give my assent to the bill now before me. At the same time, I cannot but express the highest concern lest His Majesty's service should be obstructed, if any difference in opinion between us, on the present occasion, should deprive him of the aids he demands from this province. I must, therefore, recommend it to you, Gentlemen, in the warmest manner, to reconsider the bill, and if you will not accede to the amendments I have proposed thereto, to fall on some other means of complying with His Majesty's most reasonable requisition, by forming a new bill, free from the objections I have herein pointed out to you.

JAMES HAMILTON.

April 22nd, 1761."

Amendments to the Bill, entitled "An act for granting to His Majesty the sum of thirty thousand pounds and for striking the same in bills of credit, and for providing a fund for sinking the said bills of credit."

"Page 4, line 5. Dele the words [John Sergeant] and insert the words [David Barclay, junior, and John Barclay].

"Page 5, line the last. After the word [house], add as follows [countersigned by the governor and commander in chief of this province for the time being, and not otherwise].

"Page 6, line first. Dele the name [John Sergeant] and insert [David Barclay, junior, and John Barclay].

Same page, line 4. After the word [same], add as follows: [together with all the gain, profits, interest or emoluments thereon arising or accruing, or that may or shall, by any ways or means whatsoever be made thereof].

"Same page, line 6. Dele the name [John Sergeant] and insert [David Barclay, junior, and John Barclay].

"Same page, line 14. After the word [being], insert [by a resolve of the house of assembly, countersigned by the governor and commander in chief of this province for the time being, and not otherwise].

“Page 7, line 3. After the word [colony], add [and all the profits, interest or emoluments that shall or may arise thereon as aforesaid].

“Same page, line 8. Dele the words [so much of the] and instead thereof insert the words [all and every the sum and sums of].

“Same page. Dele from the word [as], in the 12th line, to the word [use], inclusive, in the penult line.

“Same page, last line. After the word [for], add [in manner aforesaid].

“Page 9, line 1. Dele the words [residue of the].

“Page 9, line 8. After the word [destroy], insert the following clause, viz.: [Provided always, and be it further enacted by the authority aforesaid, That if the said Benjamin Franklin, Robert Charles, David Barclay, junior, and John Barclay, or the survivors or survivor of them, shall not have received, within the aforesaid term of two years after the passing this act or within six months after a peace between the Crown of Great Britain and France shall be proclaimed within this province, the whole money which is or shall be allotted to this colony as the distributive share and proportion of the sum or sums of money granted, or to be granted, as aforesaid, then and in such case, the residue of the said sum and sums of money, with the interest, profits and emoluments thereof, if any, shall be drawn for in manner aforesaid within the term of six months after the respective receipts of the same by them, or the survivors or survivor of them; and the said trustees, towards sinking the said several sums of money heretofore granted to His Majesty's use and in abatement of the taxes laid for that purpose, shall pay all the money arising by the said bills or draughts in bills of credit, into the hands of the committee of assembly aforesaid, who shall burn, sink and destroy the same in manner hereinbefore directed].

“Page 15, line 9. After the word [whatsoever], add [rents reserved, or debts due or to become due and payable in sterling money to the proprietors of this province, only excepted and foreprised].

"Same page, penult line. After the word [received], add [except as before excepted].

"Page 22, line 7. Dele the words [John Sergeant] and instead thereof insert the words [David Barclay, junior, and John Barclay].

"22d April, 1761."

The two bills to which the Governor gave his assent, the one, entitled "A supplement to the act, entitled 'An act for laying a duty on negroes and mulatto slaves imported into this province,'" the other "A supplement to the act, entitled 'An act to prevent exportation of bad and unmerchantable staves, heading, boards and timber,'" having been compared with the engrossed copies and the House, with their speaker, attending in the council chamber, they were enacted into laws and the Great Seal affixed to them, and they were afterwards lodged into the Rolls Office.

On the 23rd of April, the following message, in answer to the Governor's of yesterday, was delivered by two members, who acquainted the Governor that the House inclined to adjourn to the 7th of September next, to which he made no other objection than that it would be more agreeable to him, if they could agree to frame a new bill or accede to his amendments of the one rejected.

A Message to the Governor from the Assembly.

"May it please your Honor:

"We have taken into consideration your message which attended the bill for granting supplies to the Crown, in pursuance of His Majesty's gracious requisition and cannot, consistent with the rights of assembly and that duty we owe the people we represent, admit of the amendments proposed therein, nor can we think of framing a new bill for this purpose, as we have already prepared and presented to your Honor, a bill similar in its essentials to one which had received the approbation of His Majesty, and as we apprehend reasonable and just in all its parts; besides, we know of no other method consistent with our rights, but may be liable to objections of equal weight with those made by your Honor to the said bill.

The House being very much fatigued with the great length of time spent in the public business at this inconvenient season of the year, are obliged to content themselves for the present with this general answer, but as your two last messages contain matters which we think it our indispensable duty to answer in a more particular manner, we have appointed a committee to report more fully thereon to the House at their next meeting.

“Signed by order of the House,

“ISAAC NORRIS, Speaker.

“April 23rd, 1761.”

Colonial Records, Vol. VIII, p. 605.

12.

At a Council held at Philadelphia, on Tuesday, the 22nd September, 1761.

Present:

The Honorable James Hamilton, Esquire, Lieutenant-Governor,  
&c.

Joseph Turner,  
Thomas Cadwalader,  
Richard Peters,  
Benjamin Chew,

} Esquires.

The two following bills having been presented to the Governor for his concurrence, were read and considered, namely, a bill, entitled “An act to enable the owners and possessors of Schuylkill point meadow land, in the county of Philadelphia, to keep the banks, dams, sluices and floodgates in repair, and to raise a fund to defray the expense thereof.” A bill, entitled “An act for appointing certain persons to apply for, and receive the distributive shares and proportions which are or shall be allotted to this province, out of the sum or sums of money granted or to be granted by Parliament to His Majesty’s colonies in America.” To the first bill there was no objection and it was returned to the House with a verbal message, that the Governor would be ready to pass it when presented to him for that purpose. As to the second bill, the governor was advised to pass it, but before he signified his assent to the House, it appeared to them that

the governor should inform himself whether the trustees of the loan office had drawn for that Parliamentary grant which was allotted to this province for the year 1758, amounting to the sum of £26,902 8 0 sterling, whereupon the governor sent to the House the following verbal message by the secretary:

“The governor has now under consideration the bill for appointing certain persons to apply for and receive the distributive shares and proportions which are or shall be allotted to this province out of the sum or sums of money granted by Parliament to His Majesty’s Colonies in America; but before he returns the same, or gives an answer thereto, he desires the House will inform him whether the trustees of the loan office have drawn for the sum of twenty-six thousand nine hundred and two pounds eight shillings sterling, the part of the Parliamentary grant allotted to this province for the year 1758, which, by an act passed in the thirty-third year of His late Majesty, was expressly directed to be drawn for by them and applied in abatement of the public taxes and which he understands has already been received by Mr. Franklin.”

The secretary likewise was ordered to demand a list of the certificates and draughts already drawn or to be drawn by the House for the service of the current year.

On the 23d of September, a message was delivered from the House to the governor, acquainting him that the House had, previous to his verbal message of yesterday, entered into a resolve and given orders to the trustees of the loan office for the said sum of money in the hands of Mr. Franklin, and they delivered to the governor a copy thereof for his satisfaction.

## 13.

At a Council held at Philadelphia, on Thursday, the 24th September, 1761.

Present:

The Honorable James Hamilton, Esquire, Lieutenant-Governor,  
&c.

Joseph Turner,	}	Esquires.
Benjamin Chew,		
Richard Peters,		

A bill, entitled "An act for the relief of William Griffiths," was read and amended and sent to the House with a message that [the] Governor would pass the bill, provided they agreed to the amendments.

Colonial Records, Vol. VIII, p. 666.

## 14.

At a Council held at Philadelphia, on Saturday, the 26th September, 1761.

Present:

The Honorable James Hamilton, Esquire, Lieutenant-Governor,  
&c.

Richard Peters, Esquire.

The House acquainted the Governor that the amendments made by him to the bill for the relief of William Griffiths were agreed to, which, with the bills assented to, were engrossed; whereupon Mr. Peters compared them with the originals, and having reported to the Governor that they agreed, his Honor sent a message to the House requiring the attendance of Mr. Speaker and the House in the Council Chamber immediately, and they accordingly waiting on the Governor and presenting the three following bills, entitled "An act to enable the owners and possessors of Schuylkill Point Meadow Land, in the county of Philadelphia, to keep the banks, dams, sluices and flood-gates in repair and to raise a fund to defray the expenses thereof," "An act for appointing certain persons hereafter

named to apply for and receive the distributive shares and proportions which are or shall be allotted to this province out of the sum and sums of money granted or to be granted by Parliament to His Majesty's Colonies in America," and "An act for the relief of William Griffiths with respect to the imprisonment of his person," the Governor enacted the same into laws.

Colonial Records, Vol. VIII, p. 667.

## 15.

At a Council held at Philadelphia, on Wednesday, the 27th day of January, 1762.

Present:

The Honorable James Hamilton, Esquire, Lieutenant-Governor,  
&c.

Joseph Turner,	}	Esquires.
Benjamin Chew,		
Richard Peters,		

A bill, entitled "An act to regulate the courts of justice of this province, to limit the continuance of actions, to ascertain the manner of taking the depositions of aged and infirm witnesses, and persons about to leave the province, and to compel the better attendance of jurors on the several courts within this province," having been presented to the Governor by the assembly for his concurrence, was read and considered, and the council adjourned 'till the afternoon.

P. M. Present as Before.

The above bill was further considered and the following amendments were made thereto and sent, with the bill, to the assembly by the secretary:

"Amendments to the Title of the Bill, entitled "An act to regulate the Courts of Justice of this Province, &c."

"Line 1, after the word [the], insert the words [times of holding the]."

"Lines 2, 3, 4. Dele the words [to limit the continuance of actions]."

## Amendments to the Bill, entitled "An act to regulate the Courts of Justice, &amp;c."

"Dele from the word [Whereas], in the ante-penult line of the first page, to the word [and], inclusive, in the penult line of page 10.

"Page 11, line 2. Dele the word [transaction]; instead thereof, insert the word [transacting].

"Page 11, line 4. Dele the words [authority aforesaid], and instead thereof insert as follows, viz.: [Honorable James Hamilton, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute proprietaries of the Province of Pennsylvania, and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same].

"Dele from the word [and], in the 10th line of page 13, to the word [execution], inclusive, in the 10th line of page 19.

"Page 20. Dele from the word [the], in the fifth line, to the word [Witnesses], inclusive, in the 8th line, and instead thereof insert as follows, viz.: [in all cases where any seafaring persons, or others about to depart from this province, or any ancient or infirm persons shall or may be material witnesses in any action now pending or which hereafter may be brought and depending in any of the courts of civil judicature in this province, the depositions of all and every such witness or witnesses].

"Same page, line 10. After the word [province], add [where such action is or may be depending].

"Same page, line 13. After the word [aforesaid], add [on the trial of the said cause]."

Colonial Records, Vol. VIII, p. 673.

Note.—No copy of this bill has been found.



## 16.

At a Council held at Philadelphia, on Monday, the 8th day of  
February, 1762.

Present:

The Honorable James Hamilton, Esquire, Lieutenant-Governor,  
&c.

Benjamin Shoemaker,	} Esquires.
Benjamin Chew,	
Richard Peters,	

A bill, entitled "An act for recording warrants and surveys, and for rendering the real estates and properties within this province more secure," was read and taken into consideration, and it appearing to be formed on the same plan with the one lately repealed by His Majesty in Council, to contain several matters injurious to the rights of the proprietors of this province, and to be incapable of amendment, it was returned to the House with the following message:

A Message from the Governor to the Assembly.

"Gentlemen: I have carefully considered the bill sent up for my concurrence, entitled 'An act for recording warrants and surveys, &c.,' and heartily wish the provisions contained in it had been such that I could freely have given my assent to it; but, instead thereof, I am sorry to find that the present bill is formed on the same plan, and liable to the most material part of the same objections for which your late law respecting these offices, was, after a full hearing, repealed by His Majesty in council.

I have endeavored, as much as in me lay, to amend it so as to make it conformable to what I conceive just and reasonable upon the subject, but have found, upon trial, that the necessary alterations and amendments would be so numerous and perplexing, that a new bill, I hope, agreeable to both our sentiments might, with less difficulty, be framed to answer all the good purposes intended by the law now before me.

I am commanded, gentlemen, by the proprietaries, to declare that it is their desire to render the people as secure in their

landed properties as possible, without injuring their ancient officers, or giving up their right of appointing new ones; and I can, for myself, with great truth assure you, that I sincerely entertain the same sentiments, as an earnest whereof I will not scruple to acknowledge that the several offices, where the only evidences of the original rights of the freeholders in this province, have heretofore been deposited and kept, have long appeared to me to stand in need of some regulations.

I have ever been of opinion that a law for erecting the offices of proprietary-secretary and surveyor-general into public offices, and requiring the persons appointed from time to time to fill them, to give sufficient security to the King or to the proprietaries, as should be thought most expedient, in trust nevertheless for the people; and moreover, to oblige them to take an oath or affirmation for the faithful and impartial discharge of their duty, would be extremely proper and of great public utility

It seems also an object, no less worthy the attention of the legislature, that proper precautions should be taken to guard against the mischiefs and confusions that would necessarily ensue to the people in case the records and papers lodged in these offices should be destroyed by fire or any other accident.

I cannot, therefore, but highly approve of the proposal of taking duplicates and fair copies of such records and papers, and confirming such as have heretofore been taken, after they have been carefully compared and examined, to be preserved in some place of safety, to be made use of as evidence on the loss of the originals of any of them, but not otherwise, reserving the appointment of the officer who may have the custody of them, under the like oath and security as above mentioned, to the governor, which is a branch of the royal prerogative that I ought not and, therefore, cannot give up.

A bill formed on these general principles I would at any time cheerfully give my assent to, after which I may be bold to say that the landed estates of the people of this province would be as substantially and effectually secured as they are in any part of the King's dominions, or as in reason and justice could be desired.

But as to the bill now before me, I cannot assent to it as it stands, and, therefore, return it to the House.

JAMES HAMILTON.

“February 8th, 1762.”

[No copy of this bill has been found.]

A bill, entitled “An act for opening and better amending and keeping in repair the public roads and highways within this province,” was read, considered and agreed to, and returned to the House with a message acquainting them with the governor’s assent thereto.

Then was also read a bill, entitled “An act for vesting the State House and other public buildings with the lots of ground whereon the same are erected, together with other lots situate in the city of Philadelphia, in trustees, for the uses therein particularly mentioned,” and several amendments were made thereto, which, with the bill, were returned to the House.

A bill, entitled “An act for the recovery of the duties of tonnage upon ships and vessels and certain duties upon wine, rum, brandy and other spirits and upon sugar, which became due by virtue of a law of this province lately expired and which were not received during the continuance thereof, and for appropriating the surplus of the said duties,” was read and returned to the House with one amendment.

Colonial Records, Vol. VIII, p. 674.

17.

Memorandum:

On the 10th day of February, 1762, a bill, entitled “An act for the more effectual suppressing and preventing of lotteries,” was presented to the governor, and the next day returned to the House with one amendment.

Colonial Records, Vol. VIII, p. 676.

18.

At a Council held at Philadelphia, on Tuesday, the 16th February, 1762.

Present:

The Honorable James Hamilton, Esquire, Lieutenant-Governor,  
&c.

Benjamin Shoemaker,	} Esquires.
Richard Peters,	
Thomas Cadwalader,	
Lynford Lardner,	

A bill, entitled "An act to enable the owners and occupiers of the Wiccaco Meadows, in the county of Philadelphia, to keep the banks, dams, sluices and floodgates in repair, and to raise a fund to defray the expense thereof," being sent up to the governor for his concurrence, was read and approved and returned to the House without any amendment.

The Governor laid before the board a letter from the Right Honorable the Earl of Egremont, His Majesty's Principal Secretary of State, dated the 12th December, 1761, as also one from General Amherst, dated at New York the 9th February, 1762, making a requisition from this province to raise troops for His Majesty's service the ensuing year, which were read and the Governor having prepared a message to the assembly, it was read and sent to the House by the secretary, with the above mentioned letters:

A Letter from the Right Honorable the Earl of Egremont to the Governor.

Whitehall, 12th December, 1761.

"Sir: As the King has nothing so much at heart as to secure and improve the great and important advantages gained since the commencement of this war in North America, and having seen his good dispositions to restore the public tranquillity entirely frustrated by the insincerity and chicane of the court of Versailles, in the late negotiation; and as nothing can so effectually contribute to the great and essential object of reducing the

enemy to the necessity of accepting a peace, on terms of glory and advantage to His Majesty's Crown, and beneficial in particular to his subjects in America, as the King's being enabled to employ, as immediately as may be, such part of the regular forces in North America as may be adequate to some great and important enterprise against the enemy, I am commanded to signify to you the King's pleasure, that in order the better to provide for the full and entire security of His Majesty's dominions in North America and particularly of the possessions of His Majesty's conquest there, during the absence of such part of the regular forces, you do forthwith use your utmost endeavors with the council and assembly of your province to induce them to raise, with all possible dispatch, within your government at least the same number of men as was required from your province by Mr. Pitt's letter of December 17, 1760, viz.: two-thirds of what they raised the preceding campaign, and forming themselves into regiments as far as shall be found convenient, that you do direct them to hold themselves in readiness and particularly as much earlier than former years as may be, to march to such place or places in North America as His Majesty's commander in chief there, or the officer who shall be appointed to command the King's forces in those parts shall appoint, in order to be employed there, under the supreme command of His Majesty's said commander in chief, or of the officer to be appointed as above, in such manner as from the circumstances and situation of the enemy's posts and the state and disposition of the Indian nations on that side, he may judge most conducive to the King's service; and the better to facilitate this important service, the King is pleased to leave it to you to issue commissions to such gentlemen in your province as you shall judge from their weight and credit with the people, and their zeal for the public service may be best disposed and enabled to quicken and effectuate the speedy levying of the greatest number of men. In the disposition of which commissions, I am persuaded, you will have nothing in view but the good of the King's service and a due subordination of the whole to His Majesty's commander; and all officers of the provincial forces, as high as colonels, inclusive, are to have rank according to their several respective commissions, agreeable to the regula-

tions contained in His late Majesty's warrant of the 30th December, 1757, which has been renewed by His present Majesty.

"The King is further pleased to furnish all the men so raised as above with arms, ammunitions and tents as well as to order provisions to be issued to the same, by His Majesty's commissaries, in the same proportion and manner as is done to the rest of the King's forces. The whole, therefore, that the King expects and requires from the several provinces, is the levying, clothing and pay of the men; and on these heads, also, that no encouragement may be wanting to this great and salutary service, His Majesty is further most graciously pleased to permit me to acquaint you that strong recommendations will be made to Parliament, in their session next year, to grant a proper compensation for such expenses as above, according as the active vigor and strenuous efforts of their respective provinces shall justly appear to merit.

"It is His Majesty's pleasure that you do, with particular diligence, immediately collect and put into the best condition, all the arms issued last campaign, which can be any ways rendered serviceable or that can be found within your government, in order that the same may be again employed for His Majesty's service.

I am further to inform you that similar orders are sent by this conveyance to Maryland, Virginia, North Carolina and South Carolina. The Northern governments are also directed to raise men in the same manner, to be employed as His Majesty's commander in chief shall judge most conducive for the King's service in North America.

"It is unnecessary to add anything to animate your zeal in the execution of His Majesty's orders, in this important conjuncture, which is finally to fix the future safety and welfare of America, and of your own province in particular; and the King doubts not, from your known fidelity and attachment, that you will employ yourself with the utmost application and dispatch in this promising and decisive crisis.

"I am, with great truth and regard, Sir,

"Your most obedient humble servant,

"EGREMONT.

"Deputy Governor of Pennsylvania."

A Letter from His Excellency Sir Jeffery Amherst to the Governor.

New York, 9th February, 1762.

Sir: By the general wall packet, which arrived here this morning, I am honored with a letter from the Earl of Egremont, one of His Majesty's Principal Secretaries of State, bearing date the twelfth of December last, wherein his Lordship is pleased to acquaint me that as the King has nothing so much at heart as to secure and improve the great and important advantages gained since the commencement of this war in North America, and having seen his good dispositions to restore the public tranquillity frustrated by the insincerity and chicane of the court of Versailles in the late negotiations, His Majesty is again obliged to take into his royal consideration what ulterior operations can be entered upon by such part of the troops under my command as can be spared for other service, without the least diminution of the full and entire security as well of His Majesty's former dominions as of those acquired by conquest in North America. In order that everything may be in readiness for an early campaign and to be able to employ an adequate number of the regular forces in whatever attack may be resolved upon, His Majesty has thought it necessary to lose no time in dispatching his orders to the several governors in North America, for levying, with the utmost expedition, the quotas required of the respective provinces.

His Majesty's directions on this subject to the several governors are so fully specified in the circular letter wrote by the Earl of Egremont, of which his Lordship has sent me a copy, that it only remains with me most earnestly to entreat you to lose no time in convening your assembly and laying before them the aforesaid letter of the Secretary of State; and that you will forthwith use your utmost endeavors and influence with the council and assembly, to induce them to raise, with all possible dispatch, within your government, at least the same number of men as was required from your province, by Mr. Pitt's letter of December 17th, 1760, viz.: two-thirds of what they raised the preceding campaign.

I cannot think, Sir, that I need urge any arguments to con-

vince you of the necessity of an early compliance with His Majesty's commands, as it is more than probable that this campaign, if opened in time and carried on with vigor, must be that which will at last compel our enemy to treat in earnest, on such terms as will be equally glorious and advantageous for His Majesty's Crown, and permanently beneficial to his American subjects; and I, therefore, trust the assembly will enable you to put those commands into immediate execution, since they terminate in a point wherein they are so nearly concerned and that the King's principal object has been for their present security, as well as their future welfare and prosperity.

You will observe, by the Earl of Egremont's letter, that as a further encouragement to a proper exertion on the part of the provinces, His Majesty has ordered, as heretofore, that the provincial forces should be victualled in the same manner and in the same proportions as the regulars; and that they should be supplied with arms and tents at the expense of the Crown; moreover, that strong recommendations will be made to Parliament, in their session next year, to grant a compensation to the provinces as their respective vigor and strenuous efforts shall justly appear to merit.

I have also, in command from His Majesty, to enjoin you to collect and cause to be put in proper condition all the serviceable arms that can be found within your province; for every one of which that shall be brought to the field and shall not return by reason of being spoiled in actual service, I shall pay the usual allowance of twenty-five shillings per firelock.

As it is very essential to the services I may have in command from the King that I should be, as early as possible, informed of the resolves of your assembly on this head, and of the time the troops will be ready, I beg that as soon as you are acquainted therewith you will signify the same to me by express, that I may regulate myself accordingly.

I have likewise received a letter from the Earl of Egremont, of the same date with the former, signifying His Majesty's intentions of completing the regular regiments serving in North America by recruits to be raised by the several provinces (over and above the quotas demanded in the other letter), on such



terms and conditions as I shall propose. I shall, in obedience thereto, as soon as I have fixed on the numbers necessary to be furnished by the respective provinces, communicate to you the encouragement which His Majesty is graciously pleased to empower me to give for effecting this most essential service; and, in the meantime, I think it my duty to acquaint you of this intended measure, that you may be prepared for exerting your utmost influence with your assembly, to grant the number of men that I shall be obliged to require of your province, that His Majesty's commands may be duly obeyed.

I am, with great regard, Sir,

Your most obedient humble servant,

JEFF. AMHERST.

A Message from the Governor to the Assembly.

"Gentlemen: By the packet just arrived, I had the honor to receive a letter from the Right Honorable the Earl of Egremont, one of His Majesty's principal Secretaries of State, setting forth, that the King, having nothing so much at heart as to secure and improve the great advantages gained since the commencement of this war in North America, and having seen his good dispositions to restore the public tranquillity entirely frustrated by the insincerity and chicane of the Court of Versailles in the late negotiations; and as nothing can so effectually contribute to the great and essential object of reducing the enemy to the necessity of accepting a peace on terms of glory and advantage to His Majesty's Crown, and beneficial in particular to his subjects in America as the King's being enabled to employ as immediately as may be such part of the regular forces in North America as may be adequate to some great and important enterprise against the enemy; he is, therefore, commanded to signify to me the King's pleasure, that in order the better to provide for the full and entire security of His Majesty's Dominions in North America and particularly of the possession of His Majesty's conquests there, during the absence of such part of the regular forces, I should forthwith use my utmost endeavors and influence with the council and assembly of this province to raise, with all possible dispatch, within my government, at least

the same number of men as was required from this province by Mr. Pitt's letter of the seventeenth of December, 1760, viz.: two-thirds of what they raised the preceding campaign; and that, forming the same into regiments as far as shall be found convenient, I should direct them to hold themselves in readiness and particularly as much earlier than former years as may be, to march to such place or places in North America as His Majesty's commander in chief there, or the officer who shall be appointed to command the King's forces in those parts shall appoint, in order to be employed there, under the supreme command of His Majesty's said commander in chief or of the officer to be appointed as above, in such manner as from the circumstances and situation of the enemy's posts and the state and disposition of the Indian nations on that side, he may judge most conducive to the King's service.

“And the better to facilitate this important service, the King is pleased to leave it to me to issue commissions to such gentlemen in this province as I shall judge, from their weight and credit with the people and their zeal for the public service, may be best disposed and enabled to quicken and effectuate the speedy levying of the greatest number of men; and further, to allow all officers of the provincial forces, as high as colonels, inclusive, to have rank according to their respective commissions, agreeable to the regulations contained in His late Majesty's warrant of the 30th December, 1757, which has been renewed by His present Majesty.

“The King is likewise further pleased to furnish all the men so raised as above with arms, ammunition and tents, as well as to order provisions to be issued to the same by His Majesty's commissaries, in the same proportion and manner as is done to the rest of the King's forces.

The whole, therefore, that the King expects and requires from the several provinces is the levying, clothing and pay of the men; and on these heads also, that no encouragement may be wanting to this great and salutary service, His Majesty is further most graciously pleased to permit me to be acquainted that strong recommendations will be made to Parliament, at their sessions next year, to grant a proper compensation for such expenses as

above, according to the active vigor and strenuous efforts of the respective provinces shall justly appear to merit.

“In consequence of the above requisition, and of His Majesty’s further intentions signified to him by the Secretary of State, I have also received a letter from his Excellency Sir Jeffery Amherst, commander in chief of the forces in North America, which, as the matters therein contained will probably soon come under your consideration, I have judged proper to communicate to you.

“As by the letters above mentioned, which I have ordered to be laid before you, you will be fully possessed of what the King expects and requires of you on this important occasion, it would be needless for me to attempt enlarging thereon, since the reasons and interesting motives therein set forth to induce a speedy and effectual compliance with His Majesty’s demand, are so striking and self-evident that they must necessarily lose of their force when handled by any inferior authority. Nevertheless, as in obedience to the King’s command, it is my duty forthwith to use my best endeavors and influence to induce you to raise, with all possible dispatch, at least the same number of men as was required from this province by Mr. Pitt’s letter of the seventeenth of December, 1760, viz.: two-thirds of what you raised the preceding campaign. I do, accordingly, in the strongest and most earnest manner, recommend this measure to be pursued by you, as being what, in my opinion, the present situation of these colonies loudly call for, and by your speedy and effectual compliance with which you cannot fail to entitle yourselves to the continued favor and protection of the best of Kings.

“JAMES HAMILTON.

“February 16th, 1762.”

Then were read and considered two bills which had been just sent up to the Governor for his concurrence, entitled as follows, viz.:

“An act to enable the owners and possessors of the Southern District of Darby Marsh or Meadow Ground, in the county of Chester, to embank and drain the same, to make and keep the outside banks and dams in good repair and to raise a fund to defray the yearly expenses accruing thereon.”

“An act to enable the owners and possessors of a certain tract of Marsh and Meadow Land therein described, situate in the counties of Philadelphia and Chester, to keep the banks, dams, sluices and floodgates in repair, and to raise a fund to defray the expense thereof.”

Colonial Records, Vol. VIII, p. 677.

## 19.

Thursday, the 18th of February, 1762.

## Memorandum.

The Governor sent down to the House the two above mentioned Meadow Bills, having agreed to the first and made one small amendment to the latter, and at the same time ordered the secretary to acquaint the House that he had appointed Mr. Peters and him to compare all the bills, to which he had given his assent, with the engrossed copies.

## Eodem Die, P. M.

The Governor being in the council chamber, received a verbal message from the House by two members that the House proposed to adjourn till the 15th March next, to which his Honor answered that he could not consent to such an adjournment.

The bills that had passed the House with the Governor's concurrence, having been compared with their copies, and the speaker, with the House, attending according to order, the speaker presented the seven following bills to his Honor to be passed, which were accordingly enacted into laws and a warrant signed for affixing the Great Seal thereto.

The Laws passed are as follows, viz.:

“An act for opening and better amending and keeping in repair the public roads and highways within this province.”

“An act for the recovery of the duties of tonnage upon ships and vessels and certain duties upon wine, rum, brandy and other spirits and upon sugar, which became due by virtue of a law of this province lately expired, and which were not received during the continuance thereof, and for appropriating the surplus of the said duties.”

“An act for vesting the State House and other public buildings with the lots of ground whereon the same are erected, together with two other lots situate in the city of Philadelphia, in trustees for the uses therein particularly mentioned.”

“An act for the more effectual suppressing and preventing of lotteries.”

“An act to enable the owners and occupiers of the Wiccaco Meadows, in the county of Philadelphia, to keep the banks, dams, sluices and floodgates in repair and to raise a fund to defray the expense thereof.”

“An act to enable the owners and possessors of a certain tract of marsh and meadow land therein described, situate in the counties of Philadelphia and Chester, to keep the banks, dams, sluices and floodgates in repair, and to raise a fund to defray the expense thereof.”

“An act to enable the owners and possessors of the Southern District of Darby marsh or meadow ground, in the county of Chester, to embank and drain the same, to make and keep the outside banks and dams in good repair and to raise a fund to defray the yearly expenses accruing thereon.”

The House then adjourned to the 8th of March without the Governor's consent.

Colonial Records, Vol. VIII, p. 683.

20.

Tuesday, the 9th March, 1762.

Memorandum.

The assembly having acquainted the Governor, by two members, that a quorum was met, pursuant to their adjournment, and that the House was ready to proceed on the business laid before them at their last meeting, and desired to know if his Honor had anything further to communicate to them. The Governor sent to the House the following message, accompanied with letters from the Earl of Egremont and Sir Jeffery Amherst, received since the adjournment of the House.

A Letter from the Right Honorable, the Earl of Egremont, to the Governor.

“Whitehall, December 12, 1761.

“Sir: The King, having taken into his most serious consideration how highly essential it is to the interests and security of his subjects in North America that the regular regiments serving in that country be recruited with all convenient expedition to their full complement of effectives, and at the same time seeing the impracticability of completing them from Great Britain, considering how this country is drained by the great number of men furnished for the various services in all parts of the world; I am, therefore, to signify to you the King’s pleasure that you do, immediately on the receipt of this letter, exert your utmost influence to induce your province to carry into the most speedy and effectual execution this very important object, by immediate compliance with any requisition which Sir Jeffery Amherst shall, in consequence to His Majesty’s orders, make for furnishing on certain conditions which he will explain to you, such a number of recruits from your province as he shall demand as their quota towards completing the regular regiments which have been sent to America, for the defense and protection of the possessions of His Majesty’s subjects there; and the King cannot doubt but that the province will cheerfully and readily comply with this reasonable demand so obviously calculated for their own security and advantage, at the same time that your zeal for His Majesty’s service will naturally excite you to use all your influence and power in bringing effectually to bear a measure which His Majesty has so much at heart and with regard to which any failure or disappointment would be extremely disagreeable.

“I have it also in command from the King to acquaint you, that though the present situation of affairs would have justified the having required of the provinces as large a number of men [as] they ever have raised for any of the former campaigns, instead of the quota which was demanded the last year; yet His Majesty, considering the high importance of the service, which makes the subject of this letter, and being desirous to ease the burdens of his faithful subjects as far as shall be consistent with

their own safety, has been pleased to require only the same number of men as for the last year, in order thereby to facilitate a measure so essential as the completing the regular regiments by recruits to be furnished from the provinces in North American; and the King is persuaded that the said provinces, duly sensible of His Majesty's tender and paternal care for their welfare, will, in return, readily and cheerfully comply with the orders now sent you.

"I am, with great truth and regard, Sir,

"Your most obedient, humble servant,

"EGREMONT.

"Deputy-Governor of Pennsylvania."

A Letter from His Excellency General Amherst to the Governor.

"New York, February 21st, 1762.

"Sir: As I acquainted you in my letter of the 9th instant, that I had been honored with His Majesty's commands for completing the regular corps serving in North America, by recruits to be raised by the several provinces, on such terms and conditions as I should propose; in consequence of these commands and in obedience thereto, I have duly considered not only the numbers that will be necessary to be furnished by the respective colonies, but the encouragement to be given to induce the men voluntarily to enlist into the service, which I am persuaded, if properly backed by the provinces [will] have the desired effect.

The number of men expected from your province for this service, with the method proposed for raising them, I shall now lay before you, and the Earl of Egremont's letter, which I herewith enclose to you, will show you how much the King has this measure at heart, and how disagreeable any failure or disappointment therein would be to His Majesty.

"The quota to be furnished by your province, agreeable to the proportions from the other colonies, is four hundred and eighty-two men; I must, therefore, most earnestly request you will use your utmost influence with the assembly to raise that number over and above those already demanded by my letter of the ninth instant, by paying them the same levy money as to the

others; and as an encouragement to induce the men to enter into the regular service, I propose to allow five pounds New York currency, bounty money, to each man not under eighteen nor above forty years of age, who shall enlist to serve during the war or until the regiments return to Europe; they shall be clothed and enter into pay without any further expense to the province than their first levying; and at the expiration of their time above mentioned shall be sent back to their respective homes; and in order to encourage the provincial officers to forward this essential service, I leave it to you to appoint any officer or officers you shall think proper to persuade the men to enter into the regular service on the above conditions; for every one of which that he shall so enlist and that is approved of by a regular officer whom I shall appoint for that purpose, the said provincial officer shall receive a reward of forty shillings, New York currency; it will, therefore, be necessary that I have the earliest notice of the time when you think the men will be raised, that I may send an officer to approve of them, receive them and to pay the bounty and reward as already promised.

I have only to add, that to render this service effectual, and to prevent desertion, I shall expect the province will provide for replacing such men as do desert, which, when known, I am persuaded will prevent any of them from leaving their corps, since they cannot expect protection in the colonies.

“You will please to observe that the execution of this measure must, by no means, retard or interfere with the requisition made by His Majesty for the provincial service. The King, ever mindful of the ease and welfare of his faithful subjects, demands only such assistance as may be granted without subjecting them to any heavy burden, and, therefore, has been pleased to make his requisitions agreeable thereto; and I trust, from your known zeal for His Majesty’s honor and the good of the service, you will enforce the necessity of both measures, when you meet your assembly, in such manner that, as these measures are calculated for the prosecution of a war, in which the immediate security and future interests of the provinces are so essentially concerned, they will cheerfully and readily comply



with His Majesty's commands and thereby approve themselves faithful and obedient subjects to the best of Kings.

"I am, with great regard, Sir,

"Your most obedient, humble servant,

"JEFF. AMHERST."

A Second Letter from His Excellency General Amherst to the Governor.

"New York, February 22nd, 1762.

"Sir: I am this moment favored with your letter of the seventeenth instant, acquainting me with the reason for your having adjourned your assembly for a fortnight, with which I am well satisfied, as I am in hopes they will, by that time, be fully prepared for complying with the King's commands, contained in the Earl of Egremont's two letters, the last of which respecting the filling up of the regular corps by recruits from the several provinces you will receive by this post, together with one from myself on the same subject.

"I am, with great regard, Sir,

"Your most obedient, humble servant,

"JEFF. AMHERST."

A Message from the Governor to the Assembly.

"Gentlemen: Since your adjournment, I have been honored with a second letter from the Right Honorable the Earl of Egremont, one of His Majesty's Principal Secretaries of State, bearing date the twelfth of December last, acquainting me that the King, having taken into his most serious consideration, how highly essential it is to the interests and security of the subjects in North America, that the regular regiments serving there be recruited with all convenient expedition to their full complement of effectives; and at the same time seeing the impracticability of completing them from Great Britain, considering how that country is drained by the great number of men furnished for the various services in all parts of the world, he is, therefore, commanded to signify to me the King's pleasure, that immediately after the receipt of the said letter, I should exert my utmost influence to induce this province to carry into the most speedy

and effectual execution this very important object, by an immediate compliance with any requisition Sir Jeffery Amherst shall, in consequence of His Majesty's orders, make for furnishing, on certain conditions, which he will explain to me, such a number of recruits from this province as he shall demand, as their quota towards completing the regular regiments which have been sent to America for the defense and protection of the possessions of His Majesty's subjects there. And that the King cannot doubt but that the provinces will cheerfully and readily comply with this reasonable demand, so obviously calculated for their security and advantage, which His Majesty hath so much at heart, and with regard to which any failure or disappointment would be extremely disagreeable.

"His Lordship is also, by His Majesty's command, further pleased to acquaint me that though the present situation of affairs would have fully justified the having required of the provinces as large a number of men as they ever have raised for any of the former campaigns, instead of the quota which was demanded last year, yet, that His Majesty, considering the high importance of the service which makes the subject of his letter, and being desirous to ease the burdens of his faithful subjects, as far as shall be consistent with their own safety, hath been pleased to require only the same number of men as for the last year, in order thereby to facilitate a measure so essential as the completing the regular regiments, by recruits to be furnished from the provinces in North America; and that the King is persuaded that the said provinces, duly sensible of His Majesty's tender and paternal care for their welfare, will, in return, readily comply with the orders now sent.

"At the same time that Sir Jeffery Amherst transmitted to me the above mentioned letter from the secretary of state, he was, likewise, pleased to honor me with one from himself, ascertaining, pursuant to the trust reposed in him by the King, as well the number of men required to be furnished by this province for completing the regular corps serving in North America as the method proposed for raising them, by which you will perceive that the number expected from us, agreeable to the proportions from the other colonies, amounts to four hundred and

eighty-two men, over and above those required by his letter of the ninth of the last month. And as an inducement to the men to enter into the regular service, he proposes that we should pay to them the same levy money as is given to the provincials, in addition to which, as a further encouragement, he will allow the sum of five pounds, New York currency, to each man approved of by a regular officer to be appointed for that purpose, who shall enlist to serve during the war or until the regiments shall return to Europe; that the men so raised shall be clothed and enter into immediate pay, without any further expense to the province than their first levying, and at the expiration of their time, as above mentioned, shall be sent back to their respective homes.

“He is also pleased to signify to me that to render this service effectual and to prevent desertion, he does expect that the province will provide for replacing such men as do desert; which, when known, he is persuaded, will prevent any of them from leaving their corps, since, in that case, they cannot expect protection in the colonies. And lastly, that the execution of the above measure must by no means retard or interfere with the requisition made by His Majesty for the provincial service.

When you call to mind, gentlemen, the present critical state of affairs, both in Europe and America, the unhappy prospect of a continuance of the war with France, and the great reason there is to apprehend that His Majesty may soon be obliged to enter into a new one with another formidable power, for vindicating the honor of his crown and the commercial interests of his subjects, in which the service of the regular regiments, when complete, cannot fail to be of the utmost importance.

“When you reflect on the seasonable and powerful protection these colonies have received from the mother country, by means of these very regiments and the utter impracticability of recruiting and completing them from Great Britain, already drained of men by the various and extensive services in all parts of the world, and, above all, how much His Majesty hath the execution of this measure at heart and how very disagreeable any disappointment therein must consequently prove to him:

“I say, gentlemen, when you shall have duly weighed and

considered these several very important and interesting circumstances, I flatter myself and, indeed, cannot entertain a doubt but that you will cheerfully and readily comply with His Majesty's commands hereby signified to you, and in so doing approve yourselves faithful and affectionate subjects to the best of sovereigns; to which I most earnestly press and exhort you, and for your more particular information I have ordered the several letters from which this message is chiefly an extract to be laid before you.

“JAMES HAMILTON.

“March 8th, 1762.”

Colonial Records, Vol. VIII, p. 685.

21.

Memorandum, 17th March, 1762.

The Governor, not having received any message from the House since their sitting, relating to His Majesty's demands, sent them the following message, viz.:

A Message from the Governor to the Assembly.

“Gentlemen: It being of the greatest importance to the King's service that Sir Jeffery Amherst should, as soon as possible, be acquainted with your proceedings upon His Majesty's two requisitions, some time since laid before you, that he may know not only what assistance he has to depend upon from this province in the ensuing campaign, but your resolutions likewise with respect to the other essential measures of a quota of men for filling up and completing the regular regiments, so strongly recommended and enjoined by His Majesty, I am to desire that you will acquaint me with your determination upon those several heads, that I may forthwith apprise him thereof, in order that His Excellency, who impatiently expects an account of them, may be thereby enabled to regulate his measures accordingly.

“JAMES HAMILTON.

“March 17th, 1762.”

And the same day the Governor received from the House the following answer, viz.:

A Message to the Governor from the Assembly.

“May it please your Honor:

“The representatives of the people of this province, ever desirous of demonstrating their loyalty to the Crown and the utmost readiness in complying with His Majesty’s most gracious requisitions, as far as the circumstances of the province will permit, at the beginning of this sitting, took into consideration His Majesty’s demand of a number of provincials to serve under his commander in chief in these parts, upon which they have cheerfully resolved, notwithstanding the heavy burden of taxes already imposed on this young colony, to raise a thousand effective men to be employed as His Majesty’s commander in chief shall order and appoint. A bill for this purpose is now before us, and will, in a short time, be presented to your Honor for your assent.

“It would have given us pleasure could we accede to the other requisition made on this province, of furnishing a number of men towards recruiting the regular corps serving in North America, but when we take a view of the large number of recruits had from this province for that purpose, which we apprehend amount to more than has been supplied by all the other colonies, besides, whereby it is already drained of men, we are obliged to inform your Honor, we find it impracticable to comply with a measure so warmly recommended by His Majesty’s Secretary of State, and we cannot doubt, were His Majesty apprised of the large number of men recruited in this province and the present difficulties of the people arising therefrom, our inability in this respect will not be esteemed an instance of want of due regard to the requisition of the Crown.

“Signed by order of the House,

“ISAAC NORRIS, Speaker.

“March 17th, 1762.”

## 22.

At a Council held at Philadelphia, on Tuesday, the 23rd day of  
March, 1762.

Present:

The Honorable James Hamilton, Esquire, Lieutenant-Governor,  
&c.

Benjamin Shoemaker,	} Esquires.
Richard Peters,	
Joseph Turner,	

In pursuance of the Governor's message of the 16th ultimo, to the assembly, setting forth His Majesty's requisitions from this province to raise and pay a number of troops for the service of the present war, the House sent up to the Governor for his concurrence a bill, entitled

"An act for striking the sum of seventy thousand pounds in bills of credit and giving the same to His Majesty, and for providing a fund for sinking the bills of credit to be emitted by virtue of this act."

Which the Governor having considered and found to be directly repugnant to the judgment and determination of His Majesty in council on acts of the like kind, which had been repealed, his Honor laid the bill before the board, with his objections thereto, and a message to the House, which was read and approved, and the bill was returned to the House with the following message, viz.:

A Message from the Governor to the Assembly.

"Gentlemen: On the important occasion of His Majesty's several requisitions from this province, it would have given me the greatest pleasure to have received such a bill from you for carrying them into execution, as I could cheerfully and willingly have given my assent to.

"And I flatter myself that the solemn decision of His late Majesty in council on certain points long contested between the different branches of our legislature would have fixed them so certainly that each would have rested satisfied and that no future contention could have arisen about them.

“Judge, then, of my surprise and concern, when, on perusal of the supply bill now sent up for my concurrence, I found it to contain the very same clauses and provisions on account of which, principally, some of your late laws were repealed.

“I would have amended your bill, Gentlemen, in such manner as to have made it correspond with the declared judgment and opinion of his late Majesty’s Privy Council on an act of the like sort, and with the stipulations entered into on your behalf by your agents in England, but that was found impracticable without being obliged, in a great measure, to new model the bill, a province more particularly belonging to you. I shall, therefore, content myself at present with pointing out to you two clauses or provisions which were required by their Lordships to be inserted in a former supply bill as a necessary condition to prevent it’s being repealed, one of which is not only entirely omitted, but both of them are virtually contravened by the present bill, and the opinion of the Lords of Trade with regard to a third point in which the bill now before me is liable to the strongest and most material objection.

“The first relates to the disposition of the public money, on which their Lordships are pleased to insist, ‘That the governor’s consent and approbation be made necessary to every issue and application of the money to be raised by virtue of such act.’

“The second regards acts for creating and issuing paper bills of credit in lieu of money, on which their Lordships have given their judgment that the payments by the tenants to the proprietaries of their rents shall be according to the terms of their respective grants as if such acts had never passed.

“The third relates to the connecting and blending things together in the same bill, which have not the least necessary relation to each other, on which the Lords of Trade were pleased to express themselves in the following words:

“We have, likewise, my Lords, another very material objection to this bill, as it is now constituted, arising from the remission being connected with the loan to Colonel Hunter, with which it has not the least necessary relation. By this method of blending together in the same bill, things which are in their own nature totally separate, the Crown is reduced to the alterna-

tive of passing what it disapproves or of rejecting what may be necessary for the public service. And this manner of framing laws has been always so exceptionable to His Majesty that in governments more immediately under the control of the Crown, it is a standing instruction to the governor not to give his assent whenever it was proposed that matters of a different nature should be regulated in the same law.

“I do, therefore, earnestly request you, gentlemen, to reconsider your bill, and to make such alterations therein as may render it agreeable to the judgment and opinion of His Majesty’s Privy Council in the points above mentioned; and, further, that in consequence of the opinion of the Lords of Trade, so strongly and deliberately given, you will also exonerate it of their Lordship’s objections by separating from the bill of supply all such parts and clauses as have no necessary relation to it, that I may be at liberty to judge more impartially of their merits when regulated apart and by themselves.

“When these essential objections, Gentlemen, which I have now laid before you, are removed, I am in hopes there are few other difficulties remaining but what may be got over in favor of so necessary and important a measure as ought to make the principal object of this bill, and for that purpose I now send it down to you.

“JAMES HAMILTON.

“March 23rd, 1762.”

“A bill, entitled ‘An act for erecting the Southern suburbs of the city of Philadelphia into the district of Southwark, for making the streets and roads already laid out therein public roads and highways and for regulating such other streets and roads as the inhabitants thereof may hereafter lay out, and for other uses and purposes therein mentioned,’ being presented to the Governor for his assent, was read and approved and returned to the House without any amendment or objection to it.

“Then was read also a bill, entitled ‘An act for regulating, pitching, paving and cleansing the highways, streets, lanes and alleys and for regulating, making and amending the water-courses and common sewers within the inhabited and settled



parts of the city of Philadelphia, and for raising of money to defray the expenses thereof.' ”

Eodem Die.

Memorandum.

The assembly sent up the supply bill to the Governor by two members with a verbal message that the House adhered to the bill.

Colonial Records, Vol. VIII, p. 692.

23.

24th March, 1762.

The Governor returned to the House the bill, entitled “An act for regulating, pitching, paving and cleansing the high-ways, &c.,” with a few literal amendments, having no objection to it in general.

The secretary, by the Governor’s order, acquainted the House that his Honor intended to send the House his result upon the supply bill some time to-morrow morning.

Colonial Records, Vol. VIII, p. 692.

24.

25th March, 1762.

Memorandum.

The Governor returned the supply bill, with the following message to the assembly:

A Message from the Governor to the Assembly.

“Gentlemen: The alterations proposed to be made in your supply bill were in consequence of the judgment and opinion of his late Majesty’s Most Honorable Privy Council, on a bill of the like nature with this when, after having heard the merits of it debated before them by learned counsel on both sides, their Lordships were pleased to report it to His Majesty as their opinion that the same ought to be repealed, unless, among others, two of the alterations I have now offered to your consideration should be made therein.

And as that august judicatory is deservedly constituted the

last resort in all cases from the plantations, I was in hopes and, indeed, made no doubt but you would have acquiesced with their determination and regulated your bill in conformity to it.

It could not, therefore, but give me the greatest concern to find, by your message of the twenty-third instant, that you adhered to the bill as sent up to me, thereby refusing to admit of any of the alterations proposed and thence, of necessity, depriving His Majesty of all benefit from your grant.

For whatever the present occasion for supplies may be (and you have heard from the best authority that they were never greater), I am confident His Majesty would think them purchased at too dear a rate were they to be obtained by giving up any of the just, legal and essential powers of government.

"I forbore, Gentlemen, to enter particularly into several other parts of your bill, which, though not agreeable to me, might yet have been got over in favor of so important a service, and confined myself to the three particulars which had already undergone the censure of the Board of Trade and Privy Council, and received their determination. I cannot, however, omit to observe that although you are pleased to style it a grant to His Majesty of seventy thousand pounds, yet, in reality, not more than thirty thousand of this money, even at the highest estimate, was to have been made use of for the purpose of the King's requisitions, a considerable part of the remainder being ordered to be applied to the discharging of old debts and new services, many of which had not the least necessary relation to the present supply bill, and others for which payment had already been ordered from the treasury and loan office.

You are sensible, Gentlemen, that the sole intention of your continuing to sit at this time, was to consider of His Majesty's requisitions, and to make provision for carrying them into execution, and this, I acknowledge, would have been done in a certain, though very inadequate degree, by the bill sent up for my concurrence, had you not at the same time rendered it ineffectual by having blended with it several matters totally foreign to, and which had no necessary connection with the supply granted to the King; and, moreover, by your insisting to retain in it several clauses and provisions which flatly contradict the judgment

and decree of His late Majesty in council, which I shall always think it my duty to regard with the greatest deference and respect.

“If the several provisions respecting the debts now chargeable, or which may hereafter become chargeable to the province (and with which your supply bill is clogged), be really for the public good, as I profess to have as high a regard for the honor and interest of the province as any person in it, you may be assured that I now am, or shall at any future time, be ready to take into consideration and to concur with you in any measure which shall appear just and reasonable for rendering them beneficial to the public. I can, therefore, see no occasion you have for blending or tacking them to the present bill of supply, as you thereby necessarily overthrow your own work and, instead of advancing the King’s service, impede and obstruct it.

“Upon the whole, Gentlemen, if, as I would willingly hope, you are seriously and heartily disposed to render the grant you have made to the Crown effectual, you will no longer delay to separate from your bill such parts and clauses as have no necessary relation to the principal end and intention of it, the supply of His Majesty. And you will also adopt and insert in it the two clauses or provisions I mentioned to you in my message of the twenty-third instant, which were required by the Lords of His Majesty’s Council to be inserted in a former supply bill, as a necessary condition to prevent its being repealed, the one for the sake of justice, the other from a regard to the legal powers of government and as not at all interfering with any of the rights or privileges of your House, either under your charter or other fundamental law of this province; which, if you shall longer decline to do, I am afraid you will find no little difficulty in convincing His Majesty’s ministers of the sincerity of your intentions in the grant you have now nominally made to the King.

“Let me, therefore, intreat you, Gentlemen, before it is too late, to reconsider your bill and to return it again to me as soon as conveniently you can, freed and exonerated of the above mentioned objections in such manner as that I may cheerfully concur with you in giving my assent to it without injuring the just rights of government or wounding my own honor. For however

solicitous I may be that His Majesty should receive from this province the best aid and assistance we are able to afford him at this critical and important juncture, which so loudly and importunately calls for it, yet I can never consent to obtain it by inflicting so deep and severe a wound both in the executive and legislative powers of this government as the passing of your bill, as it now stands, would amount to.

“JAMES HAMILTON.

“March 25th, 1762.”

The same day two members waited on the Governor to know what time he would be pleased to appoint for the attendance of the House in order to pass the two bills which had received his assent.

25.

26th March, 1762.

The Governor, by his secretary, having acquainted the House that he was in the council chamber and required their attendance, the Speaker and the House waited on his Honor accordingly and presented to him the two following bills, which the Governor enacted into laws and by his warrant ordered the Great Seal to be affixed thereto, viz.:

“An act for erecting the southern suburbs of the city of Philadelphia in[to] the district of Southwark, &c.”

“An act for regulating, pitching, paving and cleansing the highways, streets, &c.”

The speaker then acquainted the Governor that the House proposed to adjourn till the 6th of September next, to which the Governor, seeing no probability of their agreeing about the terms of the supply bill, made no objection.

26.

At a Council held at Philadelphia, on Thursday, the 13th of  
May, 1762.

Present:

The Honorable James Hamilton, Esquire, Lieutenant-Governor.

Joseph Turner,

Richard Peters,

Benjamin Chew,

Thomas Cadwalader,

} Esquires.

Yesterday the Governor received from the House for his concurrence two bills, entitled as follows, which were this day read and approved, viz.:

“An act for granting to His Majesty the sum of twenty-three thousand five hundred pounds for the purposes therein mentioned.”

“An act to enable the trustees of the State House to purchase certain lots of ground, the remainder of the square whereon the State House now stands.”

Colonial Records, Vol. VIII, p. 715.

27.

14th May, 1762, P. M.

Memorandum.

The Governor received the following message from the assembly in answer to that he had sent to the House of the 3rd instant, at the opening of their sessions.

A Message to the Governor from the Assembly.

“May it please your Honor:

“On our first meeting at this inconvenient season of the year, we immediately took into consideration your message of the third instant and, with the utmost dispatch, have presented to your Honor a bill for granting to His Majesty the sum of twenty-three thousand five hundred pounds for the protection of the city of Philadelphia and other purposes for His Majesty’s services.

“As to the requisitions of the 12th of December, laid before

our House at their last sitting, and again repeated in your present message, give us leave to remind your Honor that we, at that time, presented you with a bill for that purpose, to which you were pleased to refuse your assent; the answer to the reasons offered in your message for refusing to pass that bill are contained in the report of our committee, approved of by the House, with a copy of which we shall furnish you.

“To which we beg leave to add, that had your Honor accepted the aids offered, the men probably might then have been raised, and His Majesty’s service received the benefit intended from them; since which, such as were then likely to enlist, have engaged in contracts for the season and the province has been so drained of men by the recruiting parties of the Crown and neighboring governments, that we now apprehend should we grant the aids required there would be no possibility of raising the men.

“As to the requisition relating to recruiting His Majesty’s regular corps, we find no reasons to alter our sentiments thereon, communicated to your Honor in our message of the seventeenth of March last, to which we beg leave to refer.

“Signed by order of the House,

“ISAAC NORRIS, Speaker.

“May 14th, 1762.

The Governor then returned to the House, by the secretary, the two above mentioned bills, with a verbal message that his Honor agreed to them and was ready in the council chamber to enact the same into laws, for which purpose he required the attendance of the speaker and the House.

Soon after the speaker and the whole House waited on the Governor accordingly, in the council chamber, where his Honor passed those two bills into laws and signed a warrant to affix the Great Seal to them.

Then the speaker delivered to the Governor the following report of the committee on the Governor’s messages of the 23rd and 25th of March last, relating to the supplies then offered, viz.:

The Report of the Committee on the Governor’s Messages.

“In obedience to the order of the House, we have taken into consideration the Governor’s messages relating to the bill for

granting seventy thousand pounds to His Majesty's use, and notwithstanding the pains the Governor has taken in both of them to demonstrate a design in the assembly of infringing 'the just, legal and essential powers of government,' of inflicting a deep and severe 'wound on both the executive and legislative part thereof, and of depriving His Majesty of all benefits from their own grant,' which he is pleased to call a 'nominal one;' when their conduct in this respect is impartially weighed, your committee conceive those high charges will vanish and the whole censure with all the ill consequences attendant on his refusal of the supplies, can be imputed with propriety to none but himself.

"Your committee also conceive the representative body of the people have no motive to deviate from their duty in the mode of granting supplies to the Crown, none to wound the constitution or to trifle with His Majesty by offering him 'nominal grants,' with a design at the same time 'of depriving him of all benefit therefrom;' they have no attachment to private interest to interfere in this respect, no instruction from individuals to restrain their understandings, nor any inducement but the service of the Crown and the welfare of the subjects arising from the free and unfettered exercise of their reason and judgment. It is their undoubted right to grant supplies in their own way, so as to be least oppressive and injurious to the people on whom they are to be levied. This, your committee apprehend, they have done, in such manner as by no means merited the severe animadversions made on their conduct by the other branch of the legislature.

"But, more particularly to consider the Governor's objections: The first is that there is no clause in the bill by which 'the Governor's consent and approbation is made necessary to the issue and application of the money to be raised by virtue thereof.'

"How groundless this objection is will readily appear from the words of the bill, which directs that certain commissioners therein named, 'or a major part of them, with the consent and approbation of the Governor, shall order and appoint the disposition of the moneys arising by virtue of that act.' From the natural and common import of these expressions, 'the Govern-

or's consent and approbation' are made necessary to the issue and application of the money granted by the act, for we see no difference between 'the issue and application' of money and the 'ordering and appointing the disposition' thereof, which, by the express words of the bill, was to be done 'with the consent and approbation of the governor.' This appears so self evident that we cannot think it necessary to make any further remarks thereon.

"The second objection appears to us as unreasonable as the first was groundless. The Governor insists that a clause should be inserted in the bill, 'that the payments by the tenants to the proprietaries of their rents, shall be according to the terms of their respective grants, as if such acts had never passed.' Here, your committee beg leave to remark, that as the proprietaries' contracts for quit-rents and many ground-rents reserved, and other contracts amongst private persons are made in the same terms, there appears no reason why the former should have been particularly exempted in our late bill of the same tenor with all the other paper money acts of this province, which, though they are as much affected, the interest of every inhabitant of Pennsylvania under like circumstances were both assented to by the proprietary governors and confirmed by the Crown. And your committee are of opinion, with the House, that all contracts and property of the same nature within this government, ought to be equally secured by its laws, since a depreciation of our currency must otherwise necessarily ensue, to the great loss of the British merchants trading hither and of the whole province; yet the clause so repeatedly insisted on by the governor as a necessary part of our bill, besides the *partial* exemption it contains of the proprietary contracts must tend to produce this depreciation of the currency, which it ought to be the principal concern of every person engaged in the administration to guard against and prevent.

"And as to the last objection, we are at a loss to remark particularly on it, as the governor, in neither of his messages, has been explicit enough to enable us to discover his meaning with certainty. In his first, he contents himself with hinting (by inserting a transcript from a late report from the board of trade)



that the bill contained 'things which are, in their own nature, totally separate,' but leaves the House the task of guessing what those things are. In his second message, he is a little more plain and has enabled us to discover that the several matters he conceives to be totally foreign to the supplies granted to the Crown, are 'the debts chargeable to the province,' and made payable out of the moneys offered by the bill; upon perusal of which we find the purposes, the expense whereof was to be defrayed thereby, besides the clothing and paying a thousand effective men (officers included) for the King's service were:

"First, certain purposes mentioned and contained in an act of assembly, entitled 'An act for appointing certain persons thereafter named, to apply for and receive the distributive shares and proportions which are or shall be allotted to this province, out of the sum and sums of money granted or to be granted by Parliament to His Majesty's Colonies in America,' which were to be defrayed, by the tenor of the bill, out of the same fund from which the supplies were offered. These purposes were principally debts due from the Crown, one of them to defray a debt due to the persons whose servants were enlisted by His Majesty's recruiting officers; another to pay a debt due to the tavern-keepers on whom His Majesty's soldiers were billeted without receiving an adequate compensation for the same. A third for the payment of the Governor's judges and other certificates due to persons concerned in the administration of government. A fourth and fifth to pay a thousand pounds given towards opening the river Schuylkill and three thousand pounds for supporting the Pennsylvania Hospital, but to all these purposes the Governor had given his consent by the before recited law, so that we cannot suspect that any objection would arise to the re-enacting in this bill what he had before so fully and effectually assented to.

The other purposes are particularly expressed in the bill; one of them was 'for the support of such of the late inhabitants of Nova Scotia as were real objects of charity,' and sent into this province by his late Majesty's military officers, another for the payment of certificates for salaries of officers and other incidental charges of government. A third for paying and sinking

certain provincial notes which had been issued for the use of the Crown, and a fourth for paying for two hundred copies of laws to be given to the proprietaries, the governor, assembly and the several officers of justice within this province, and a fifth towards defraying the expense of a treaty expected to be held with the western and northern Indians. All of them, purposes to which the Governor had before given his assent by the above recited law, or for the payment of debts arising from a grant heretofore made to the Crown or for the immediate use of His Majesty or his officers of government.

“Upon the whole, your committee conceive the first of the Governor’s objections is expressly supplied by the words of the bill; that the second is so unreasonable and full of ill consequences to the welfare of the province, that no legislature ought to comply with it; and that the third can by no means have any weight, when it is considered that the purposes he is pleased to call ‘totally separate in their own nature,’ are either such as he has expressly approved of by a law now in force or for the service of the Crown; which is nevertheless submitted to the House by

“JOSEPH FOX,

“JOSEPH GALLOWAY,

“SAMUEL RHOADS,

“EDWARD PENINGTON,

“HENRY WYNKOOP,

“JOHN MORTON.”

The Governor then acquainted the speaker that he was unwilling to detain the House any longer at this busy season of the year, but if he should find it necessary to make any observations on their report, he would send a message to them at their next meeting.

The House adjourned to the 6th day of September next.

*Colonial Records, Vol. VIII, p. 715.*

28.

At a Council held at Philadelphia, on Tuesday, the 18th January, 1763.

Present:

The Honorable James Hamilton, Esquire, Lieutenant-Governor,  
&c.

Joseph Turner,	} Esquires.
Richard Peters,	
Benjamin Chew,	

The proprietaries having directed the Governor to move the assembly to pass a bill for altering and amending the act of assembly passed in April, 1759, for granting one hundred thousand pounds to His Majesty, &c.," so as to make it conformable to the terms expressed in the report of the committee of council, made the ——— day of ———, in the said year, his Honor laid before the council the draught of a message to the assembly, agreeable to the proprietary direction, which was read, approved and sent to the House by the Secretary.

#### A Message from the Governor to the Assembly.

"Gentlemen: "An act of assembly of this province, passed in the year 1759, entitled 'An act for granting to His Majesty the sum of one hundred thousand pounds,' &c., having, pursuant to the royal charter, been laid before His Majesty in Council, and the merit thereof having been fully debated, as well on the part of the honorable proprietaries as of the assembly and people of this province, before a committee of His Majesty's Most Honorable Privy Council for Plantation Affairs, their Lordships, after a full hearing, were pleased to report as their opinion, to His Majesty, that the said act was fundamentally wrong and unjust, and ought to be repealed unless certain alterations and amendments specified in the body of the said report could be made therein.

"Whereupon, the agents for the assembly, sensible of the inconveniences which must necessarily arise to the people from a repeal of the said act, and desirous to prevent the same, did pro-

pose, agree to and subscribe in the books of the Privy Council, an engagement in the following words, viz.:

“We, the undersigned, Benjamin Franklin and Robert Charles, agents for the province of Pennsylvania, do hereby consent that in case an act passed in the said province in April, 1759, entitled ‘An act for granting to His Majesty the sum of one hundred thousand pounds and for striking the same in bills of credit, in the manner hereinafter directed and for providing a fund for sinking the said bills of credit by a tax on all estates, real and personal, and taxables within this province,’ shall not be repealed by His Majesty in Council, we, the said agents, do undertake that the assembly of Pennsylvania will prepare and pass and offer to the governor of the said province of Pennsylvania an act to amend the afore mentioned act according to the amendments proposed in the report made by the Lords of the Committee of Council this day, upon the one hundred thousand pounds act, and other Pennsylvania acts; and we will indemnify the proprietaries from any damage they may sustain by such act not being so prepared and passed by the assembly and offered to the Governor.

“In full confidence that the above engagement would be duly performed on the part of the assembly and in respect to other good purposes of the said act, their Lordships were thereupon induced to represent to His Majesty that he might rely upon this undertaking for the assembly by their agents, and permit the said act to stand unrepealed, because the objections upon which they should have founded their advice for the repeal would certainly be removed in a way more agreeable and convenient to the province.

“His Majesty having taken the said report into his royal consideration, was pleased with the advice of His Privy Council, to approve of all that was therein proposed to be done, and by his order in council of the second of September, 1760, to declare, that the above-mentioned act of assembly should accordingly stand unrepealed.

“Very soon after the aforesaid report and order of council came to my hands, viz.: on the twenty-eighth day of January, 1761, I laid them before the then assembly, acquainting them at

the same time by a message in writing, that whenever they should think proper to prepare and offer to me a bill to alter and amend the afore-mentioned act so as to make it conformable to the sentiments of the Lords of the Committee aforesaid, approved by His Majesty, and to the express stipulations of their agents, as set forth in the said report, I should think it my duty to concur with them by enacting it into a law. To this, some time after, they were pleased to return me an answer, though by no means a satisfactory one, inasmuch as they did not declare whether they would or would not comply with the engagements entered into by their agents in their behalf, although I had more than once particularly urged them for an explicit answer to that point.

“In this situation, things have hitherto continued and the performance of the stipulations entered into by your agents, on your behalf, yet remains to be complied with, although there is the greatest reason to believe that those very stipulations were the means of exempting the province from the many inconveniences it would have been subjected to by a repeal of the afore-mentioned act of assembly.

“I am now to acquaint you, Gentlemen, that I have a command from the proprietaries, to move you to pass a bill for altering and amending the aforesaid act of 1759, for granting one hundred thousand pounds to His Majesty, &c., so as to make it conformable to the terms expressed in the report of the committee aforesaid and to the engagements entered into by your agents; and I do, accordingly, recommend this measure as fit to be taken into your present consideration, not only because it appears to me to be extremely just, but because a refusal or further delay on your part may be productive of those mischiefs and inconveniences which a former assembly seemed so much to apprehend from a repeal of the said law, and which it was manifestly the intention of your agents to avert by entering into the aforesaid engagements. And I cannot but think it a lucky circumstance that one of the gentlemen who acted as your agent in England during the whole of this transaction is now upon

the spot and capable of explaining to you the very good reasons and motives that induced him to enter into those engagements.

“JAMES HAMILTON.

“January 18th, 1763.”

The Governor laid before the board two bills sent up by the House for his Honor's concurrence, the one entitled “A supplement to an act, entitled ‘An act to enable the owners and possessors of a certain tract of marsh and meadow land therein described, situate in the counties of Philadelphia and Chester, to keep the banks, dams, sluices and floodgates in repair and to raise a fund to defray the expense thereof,’” and the other entitled “An act for extending and enlarging the southern district of Darby marsh or meadow ground,” which were read and considered and there appearing nothing objectionable to them, they were returned to the House, with a verbal message that the Governor was ready to pass them into laws whenever they should be presented to him for that purpose.

Colonial Records, Vol. IX, p. 9.

29.

At a Council held at Philadelphia, on Tuesday, the 8th of February, 1763.

Present:

The Honorable James Hamilton, Esquire, Lieutenant-Governor,  
&c.

Richard Peters,	}	Esquires.
Benjamin Chew,		
William Logan,		

The three following bills having been sent to the governor for his concurrence, his Honor laid them before the board and they were read and considered, viz.:

“An act directing the choice of inspectors and for holding the general elections in the counties of Lancaster, York, Cumberland, Berks and Northampton,” which was sent to the House with a verbal message that the Governor agreed to it.

“An act the better to enable the persons therein named to

hold land and to invest them with the privileges of natural born subjects of this province," which was returned to the House with amendments, founded on the petition of Nicholas Weaver and a certificate of his taking the oaths, which were sent with the bill.

And "An act for the relief of persons whose apprentices or servants have enlisted in the late King's or his present Majesty's service," which was also ordered to be returned to the House with several amendments thereto.

Colonial Records, Vol. IX, p. 17.

30.

At a Council held at Philadelphia, on Tuesday, the 15th February, 1763.

Present:

The Honorable James Hamilton, Esquire, Lieutenant-Governor,  
&c.

Joseph Turner,	}	Esquires.
William Logan,		
Richard Peters,		
Benjamin Chew,		

The Governor laid before the board three bills that had been presented to him by the assembly for his concurrence, viz.: one entitled "An act for the regulation of apprentices within this province," which was read and considered and returned to the House with a few small amendments.

Another bill, entitled "An act for regulating the fines imposed upon the assessors chosen or to be chosen within this province," which, being read and approved, was returned to the House with a verbal message that the Governor agreed to it.

And the other bill, entitled "An act to limit the continuation of actions in the courts of judicature within this province," which was read and considered and being disapproved was returned to the House with the following message:

## A Message from the Governor to the Assembly.

"Gentlemen: I have very carefully weighed and considered the bill, entitled 'An act to limit the continuance of actions in the courts of judicature within this province,' I would with great pleasure concur with you in any laws which, in my judgment, had a tendency to promote the public good and the happiness of the people, but I am fully satisfied that this bill will by no means answer those valuable ends. On the contrary, from the nature of it, in many cases it may, and some of necessity must, be subversive of justice.

"The judges of every court of record have a power to make rules for the expediting and bringing to a speedy determination all cases depending before them, which are binding and have the force of laws to all intents and purposes on the suitors and gentlemen of the law in such courts.

"In the several courts of judicature in England the rules made by the judges are different, according to their different circumstances and constitutions, and are varied from time to time and new ones made, when, upon experience, they are found to be defective; if, therefore, any inconveniences have arisen in the courts of this province from the too long continuance of actions, I cannot but be of opinion that it is much safer to leave this mischief to be redressed by the courts, who are entrusted with the administration of justice, in whose hands the wisdom of our Mother country hath lodged this power and who ought to judge of the reasonableness of any motion to put off a trial than to lay them under the necessity of compelling the parties to a trial at a certain fixed time, let the exigency or circumstances of the case be what they may; for which reason I cannot assent to this bill.

"JAMES HAMILTON.

"February 15th, 1763."

Colonial Records, Vol. IX, p. 17.

31.

Tuesday, the 22nd February, 1763.

Memorandum.

The assembly having presented to the Governor for his concurrence the following bills, entitled



“An act to enable certain persons therein named to erect a court-house at Easton, in the county of Northampton, and to levy a tax on the inhabitants of the said county to defray the expense thereof,” and

“An act concerning horses, cattle and sheep trespassing within this province,”

His Honor returned them to the House by the secretary, with his assent to the former and one amendment to the latter, without any other objection to it.

Colonial Records, Vol. IX, p. 19.

### 32.

Wednesday, the 23rd February, 1763.

The Governor having received no answer from the assembly to his message of the 18th January last, sent to the House the following message by the secretary, viz.:

#### A Message from the Governor to the Assembly.

“Gentlemen: In pursuance of orders from the Honorable Proprietaries, I moved you, by my message of the eighteenth of last month, to pass a bill for altering and amending the act passed in this province, in the year one thousand seven hundred and fifty-nine, for granting one hundred thousand pounds to His Majesty, &c., so as to make it conformable to the sentiments of the Lords of the Committee of His late Majesty’s Most Honorable Privy Council, expressed in their report of the twenty-eighth of August, one thousand seven hundred and sixty, and to the stipulations entered into on your behalf by your agents in England, both which have been long since laid before you.

“But as no bill hath yet been offered to me for that purpose and you have not been pleased to return any answer to my message, I am under the necessity of mentioning this matter again, and of desiring that you will, in your present session, acquaint me with your resolution, whether you will or will not comply with the engagements entered into by your agents, by passing and offering to the governor of this province, ‘An act to amend the afore mentioned act,’ according to the amendments

proposed in the report of the committee of council aforesaid, in order that I may transmit the same to the proprietaries with all convenient dispatch.

“JAMES HAMILTON.

“February 23rd, 1763.”

Colonial Records, Vol. IX, p. 19

33.

Friday, 25th February, 1763.

The Governor received by two members a message from the House of assembly, in the words following, viz.:

A Message to the Governor from the Assembly.

May it please your Honor:

“We have taken into our most serious consideration your messages of the 18th of January and the 23rd instant, which we find to be of the same tenor with your message of the 28th January, 1761, to which the then assembly returned an answer wherein they say, after the strictest inquiry, it appeared to them, that the proprietaries had never received the least injury from the act for granting one hundred thousand pounds to the King’s use, passed in the year 1759; and that, if it should appear to the House that any injustice was offered to the proprietaries, or if the governor, in behalf of the proprietaries, should point out any injury they might receive in the execution of the said act, they did not doubt the assembly for the time being would cheerfully and readily offer a bill to the Governor to do them justice; but as no injustice has since appeared to us or been showed by the Governor to be done the proprietaries, we are of the same sentiments with that House, who, on the most careful inquiry, ‘found that there had not been any injustice done to the proprietaries or attempts made to rate or assess any part of their estates higher than the estates of like kind, belonging to the inhabitants, are rated and assessed, but, on the contrary, that they were, in many instances, rated below others;’ and, as we find by the returns now before us from the several counties, that no change has been since made in the mode of taxation, we hope we

may refer to our former message to the Governor on this head, and more especially as the acts by which their estates are taxed are temporary and will expire in a few years by their own limitation.

“Signed by order of the House,

“ISAAC NORRIS, Speaker.

“February 26th, 1763.”

Colonial Records, Vol. IX, p. 20.

34.

At a Council held at Philadelphia, on Monday, the 28th February, 1763.

Present:

The Honorable James Hamilton, Esquire, Lieutenant-Governor,  
&c.

Richard Peters,	} Esquires.
Benjamin Chew,	
William Logan,	

A bill, entitled “An act for preventing abuses in the Indian Trade, for supplying the Indians, friends and allies of Great Britain, with goods at more easy rates and for securing and strengthening the peace and friendship lately concluded with the Indians inhabiting the northern and western frontiers of this province,” having been presented to the Governor for his concurrence, was laid before the board, read and duly considered, and it appearing to contain a clause directly repugnant to the judgment of His Majesty and Council in points of the same kind and being also liable to other objections, it was amended and the board were of opinion that it should be returned to the House with the amendments, and the following message which the Governor had prepared for that purpose.

A Message from the Governor to the Assembly.

“Gentlemen: On considering the bill, entitled ‘An act for preventing abuses in the Indian Trade, &c.,’ I am necessarily led to remind you that by his late Majesty’s order in council of the

2nd of September, 1760, 'An act of assembly of this province, passed in the year 1759, for granting to His Majesty the sum of one hundred thousand pounds,' was adjudged to be fundamentally wrong and unjust, in many instances respecting the taxation of the proprietaries' estate; and that the engagement entered into by your agents in England and signed by them in the books of the council (by which they undertook that the assembly would prepare and pass and offer to the Governor of this province, an act to amend the afore mentioned act according to the amendments proposed in the report of the Lords of the Council aforesaid), was the principal motive and inducement which prevailed on His Majesty to suffer that act to stand unrepealed at that time.

And although a former assembly, before whom the said order of council was laid, did not incline to carry that engagement into execution and yourselves, in your present session, notwithstanding my recommendation, have also declined to comply with it, yet, after so full and explicit a declaration from the Crown, I say I little expected to find that in any future bill for the raising of money, you would have inserted a clause that prescribes the very same mode of taxation which His Majesty in Council had pronounced to be fundamentally wrong and unjust, as it appears you have done by the bill now under consideration.

"I am very sensible, Gentlemen, that a law for regulating the Indian Trade and to prevent those people from being ill-used or defrauded in their commerce with us, may be very conducive to His Majesty's interest and the welfare of the province; and therefore, I am very well disposed to concur with you in enacting one for that purpose, provided it be so framed that I can, consistent with my duty, give my assent to it. But at the same I think it incumbent on me to acquaint you, that in respect to points of this nature the judgment of the King and Council has, and I trust ever will have, such weight and influence with me as to prevent my acting in direct opposition to it.

"I flatter myself that on reflection you will be of opinion that I could not be justified in departing from the rule of taxation which after mature deliberation has received the approbation and sanction of so wise and august a body as that of the coun-

cil board; and that you will either alter the bill herewith sent down, so as to make it conformable to the above-mentioned order of council, or consider of some other less exceptionable means to secure the money which the commissioners for the Indian Trade may have occasion to borrow; and that no time may be lost I have ordered the secretary to lay before you some amendments which appear to me necessary to be made in the other parts of the bill.

“JAMES HAMILTON.

“February 28th, 1763.”

A bill, entitled “An act to prevent and remove certain nuisances in and near the city of Philadelphia,” was also laid by the governor before the board, read and considered and several amendments being made thereto, it was ordered to be returned to the House with the same.

A bill, entitled “A supplement to the act, entitled ‘An act for regulating, pitching, paving and cleansing the highways, streets, lanes and alleys and for regulating, making and amending the watercourses and common sewers within the inhabited and settled parts of the city of Philadelphia, and for raising of money to defray the expenses thereof,’” being presented to the governor for his concurrence was read and considered and ordered to be returned to the House with some amendments.

The four following bills having been presented to the governor by the assembly for his concurrence, were also laid before the board, read and approved, and the secretary was directed to carry them down to the House with a verbal message that the governor assented to them, viz.:

“An act for erecting a house of correction in the county of Lancaster.”

“A supplement to the act, entitled ‘An act for opening and better amending and keeping in repair the public roads and highways within this province.’”

“An act for altering and enlarging the time of holding the courts of the general quarter sessions of the peace and gaol delivery in the county of Bucks, and for enlarging the time of holding the courts of general quarter sessions of the peace and gaol delivery in the county of Chester.

“An act to continue an act, entitled ‘An act for regulating wagoners, carters, draymen and porters within the city of Philadelphia and for other purposes therein mentioned.’”

Colonial Records, Vol. IX, p. 20.

## 35.

Thursday, the 3rd March, 1763.

## Memorandum.

The assembly having requested the Governor, by a verbal message, that he would appoint two members of council to compare the bills which had received his assent, with the engrossed copies, his Honor named Richard Peters and Thomas Cadwalader, Esquires, for that purpose, who, with two members of the House, examined and compared the same in the afternoon and his Honor appointed to-morrow at 12 o'clock for the attendance of the House in order to enact them into laws.

Colonial Records, Vol. IX, p. 23.

## 36.

Friday, 4th March, 1763.

The Governor, by his Secretary, acquainted the assembly that he required the attendance of Mr. Speaker and the gentlemen of assembly in the council chamber, to pass the bills to which he had given his assent. Accordingly the speaker and the whole House attended in the council chamber, where his Honor enacted fifteen bills into laws and signed a warrant for affixing the Great Seal thereto.

The titles of the several laws passed are as follows, viz.:

1. “An act to continue an act, entitled ‘An act for regulating wagoners, carters, draymen and porters within the city of Philadelphia, &c.’”
2. “An act for erecting a house of correction in the county of Lancaster.”
3. “An act for altering and enlarging the time of holding the courts of general quarter sessions of the peace and gaol delivery in the county of Bucks, and for enlarging the time of holding the courts of general quarter sessions of the peace and gaol delivery in the county of Chester.”

4. "A supplement to the act, entitled 'An act for opening and better amending and keeping in repair the public roads and highways within this province.' "
5. "An act directing the choice of inspectors and for holding the general elections in the counties of Lancaster, York, Cumberland, Berks and Northampton."
6. "An act concerning horses, cattle and sheep trespassing within this province."
7. "An act to prevent and remove certain nuisances in and near the city of Philadelphia."
8. "An act to enable certain persons therein named to erect a court-house at Easton, in the county of Northampton, and to levy a tax on the inhabitants of the said county to defray the expense thereof."
9. "An act for the regulation of apprentices within this province."
10. "An act the better to enable the persons therein named to hold lands and to invest them with the privileges of natural born subjects of this province."
11. "An act for the relief of persons whose apprentices or servants have enlisted in the late King's or His present Majesty's service."
12. "An act for regulating the fines imposed upon the assessors chosen or to be chosen within this province."
13. "An act for enlarging and extending the Southern District of Darby Marsh or Meadow Ground."
14. "A supplement to an act, entitled 'An act to enable the owners and possessors of a certain tract of marsh and meadow land therein described, situate in the counties of Philadelphia and Chester, to keep the banks, dams, sluices and floodgates in repair and to raise a fund to defray the expense thereof.' "
15. "A supplement to the act, entitled 'An act for the regulating, pitching, paving and cleansing the highways, streets, lanes and alleys, and for regulating, making and amending the watercourses and common sewers within the inhabited and settled parts of the city of Philadelphia, and for raising of money to defray the expense thereof.' "

The speaker then acquainted the Governor that some further business having come before the House this morning, they intended to make a short adjournment to the 28th of this instant March, instead of that to the 12th September, which they had yesterday proposed. And his Honor, having no objection thereto, the House made their adjournment accordingly.

Colonial Records, Vol. IX, p. 23.

### 37.

At a Council held at Philadelphia, on Saturday, the 2nd April,  
1763.

Present:

The Honorable James Hamilton, Esquire, Lieutenant-Governor,  
&c.

Richard Peters,  
Benjamin Chew,  
William Logan,

} Esquires.

The assembly, having met on the 28th March last, pursuant to adjournment, sent up to the Governor, for his concurrence, the two following bills, entitled "An act for preventing abuses in the Indian Trade and for securing and strengthening the peace and friendship lately concluded with the Indians inhabiting the northern and western frontiers of this province," and,

"An act for the better regulating the keepers of inns, taverns and other houses of entertainment and more effectually to prevent the keeping public houses without license, and to suppress immorality within this province," which bills, being read and considered, the former was returned by the secretary with one amendment and the latter with the following message to the House, refusing the Governor's assent.

A Message from the Governor to the Assembly.

"Gentlemen: Being well assured that the laws relative to the keeping of public houses within this province are fully sufficient to answer the purposes of preserving good order and regularity in them; and that were the justices made acquainted, from time



to time, with any transgression of the said laws, they would readily use their authority to enforce the execution of them and punish the offenders, I cannot think the provisions in the bill, entitled 'An act for the better regulating inns, taverns,' &c., sent up for my concurrence to be at all necessary and, therefore, cannot give my assent to the said bill.

"JAMES HAMILTON.

"April 2nd, 1763."

Eodem Die, P. M.

The Governor, having appointed this afternoon for the passing of the Indian Trade Bill, sent a verbal message to the House by the secretary, that he waited in the council chamber for that purpose, and required the attendance of the House. The speaker and the whole House attended accordingly and presented to the Governor the bill, entitled "An act for preventing abuses in the Indian Trade, and for securing and strengthening the peace and friendship lately concluded with the Indians inhabiting the northern and western frontiers of this province," which his Honor enacted into a law and signed a warrant for affixing the Great Seal thereto.

Colonial Records, Vol. IX, p. 24.

38.

At a council held at Philadelphia, on Friday, the 8th July, 1763.

Present:

The Honorable James Hamilton, Esquire, Lieutenant-Governor,  
&c.

Richard Peters,	} Esquires.
Thomas Cadwalader,	
Benjamin Chew,	

The Governor laid before the board two bills which the House sent up for his Honor's concurrence, viz.:

"An act for regulating the hire of carriages to be employed in His Majesty's service."

"An act for regulating the officers and soldiers in the pay of this province."

And the same being read and approved were sent by the secretary to the House with the Governor's assent.

The House then sent two members to the Governor, to know at what time his Honor would be pleased to pass the said bills; and the Governor desired then to acquaint the House that he should be ready, in the council chamber, at half an hour after 12 this afternoon for that purpose.

Eodem Die, 12½ O'Clock.

The Governor, by his Secretary, acquainted the House that he waited in the council chamber and required their attendance there, in order to pass the bills which had received his assent. The Speaker and the whole House attended accordingly and presented to the Governor the bill, entitled "An act for regulating the hire of carriages to be employed in His Majesty's service," and a bill, entitled "An act for regulating the officers and soldiers in the pay of this province," which his Honor enacted into laws and signed warrants for affixing the Great Seal thereto. The laws were ordered to be deposited in the Rolls Office after they were sealed.

Colonial Records, Vol. IX, p. 36.

39.

At a Council held at Philadelphia, on Thursday, the 29th September, 1763.

Present:

The Honorable James Hamilton, Esquire, Lieutenant-Governor,  
&c.

Richard Peters,  
Benjamin Chew, } Esquires.

A bill, entitled "An act for striking and emitting the sum of twenty-five thousand pounds in bills of credit, and giving the same to the King's use, and for providing funds to sink the bills so to be emitted by continuing an excise upon wine, rum, brandy and other spirits, and by applying the net proceeds of the stock and effects now in the hands of the commissioners for Indian Af-

fairs," having been sent up by the Governor for his concurrence, his Honor, after considering it and finding it to contain a clause directly repugnant to the judgment and determination of His late Majesty in Council on points of the same kind, laid the bill before the board, with other objections to it, and the following message to the House, which was read and approved, and the bill was ordered to be returned to the House with the message.

A Message from the Governor to the Assembly.

"Gentlemen: I observe, by the supply bill sent up for my concurrence, entitled 'An act for striking the sum of twenty-five thousand pounds and giving the same to the King's use, &c.,' that the sum of twenty-five thousand pounds in paper bills of credit is directed to be struck and issued in lieu of money, and that the said bills are made a legal tender in discharge of all debts, dues and demands whatsoever, although at the same time everybody must be sensible that they are by no means equal to, but fall greatly short of the nominal value at which they are to be emitted. Hence it is that with real concern I find myself obliged to differ with you upon this head and to remind you of certain transactions before His late Majesty in Council, relative to an affair of precisely the same nature with that under consideration.

"You will be pleased, Gentlemen, to remember that among the several provisions in the supply bill of one thousand seven hundred and fifty-nine, to which your proprietaries objected, one was that the bills of credit to be thereby issued, were made a legal tender for the discharge of all debts and contracts whatsoever at the rates at which they were emitted, by which they conceived themselves liable to great injustice in the payments of their rents and quit-rents and, thereupon, made application to His Majesty in Council for redress. And the Lords of the Council having heard, among others, the merits of the above-mentioned clause or provision fully canvassed and debated before them by learned counsel on both sides, were pleased to report to His Majesty their opinion that the said act was fundamentally wrong and unjust, and ought to be repealed unless certain alterations and amendments by them specified could

be made therein: Of which alterations, that which principally relates to the present bill is to the effect following, to wit: That instead of the clause which makes paper bills of credit at the rate they are emitted a legal tender to the proprietaries for their rents, which are reserved in sterling, the provisions should be, that the payments by the tenants to the proprietaries of their rents, shall be according to the terms of their respective grants as if such act had never been passed. Upon which report of their Lordships there is little room to doubt but the first-mentioned act would have been repealed at that time, had not your agents, then in England, interposed and prevented it by undertaking by their agreement entered in the books of the Privy Council, that (in case the said act should not be repealed) the assembly would amend it according to the amendments proposed by the Lords of the Committee of Council in their report of that day. Upon which said undertaking on behalf of the assembly, His Majesty was graciously pleased so far to rely as to permit the said act to stand unrepealed.

“Having thus laid before you the proceedings of our superiors in [a] case exactly similar to that now before us, I may venture to appeal to yourselves whether, after so explicit a declaration from His Majesty and his Privy Council, it can be reasonably expected of me to act in direct contradiction to their judgments and give my assent to a measure which, after the most mature deliberation they have pronounced to be wrong and unjust? Not to mention the very great inconveniences that might result to the province, should I presume, in contempt of His late Majesty’s decree, to pass this bill into a law, since it can scarcely be doubted but that application would immediately be made for its repeal in the same manner as was done before, and with the greater prospect of success for its having been passed in direct opposition to the declared sentiments of His Majesty and his ministers; and I leave it to you to judge of the confusion that would ensue upon the repeal of any of our money laws while the bills are circulating in the hands of the people.

“I observe, also, that by the bill now under consideration, although the Indian Trade Commissioners are directed to dispose of the goods and effects in their possession and to pay into the

hands of the provincial treasurer the amount thereof in bills of credit, to the end they may be sunk and destroyed, yet, by a subsequent clause, it is provided that the money arising from that fund is not to be actually sunk, but still to be kept on foot, if the excise, together with the said fund, does not produce, in seven years, sufficient to sink the twenty-five thousand pounds to be emitted by the bill and pay all incidental charges. You will please to remember, Gentlemen, that the sum of fourteen thousand pounds was, by a late law, taken out of the money granted by Parliament for the purpose of easing the people of the heavy taxes imposed upon them, and lent to the Indian Trade Commissioners, to enable them to carry on that trade, hoping by that means to cultivate the friendship of the Indians. But, as by the unhappy war we are now engaged in with the Indians, all trade with them is at an end, and you yourselves are of opinion there is no further occasion for that fund, I cannot see how you can, consistent with the end for which the Parliamentary grant was made or, indeed, with justice to the people, now avoid the sinking that money in ease of their taxes. The excise itself is sufficient to sink the twenty-five thousand pounds to be emitted by the present bill, or, if it was not, you have made provision for its continuing after the term of seven years until the said sum shall be sunk.

"I must, therefore, entreat you, Gentlemen, to reconsider your bill and amend it in these particulars, so that I may, consistent with my duty, be able to give my assent to it and thereby do my part for establishing a fund so absolutely necessary at this time, to enable us to protect our frontiers and to put a stop to the cruel and barbarous depredations now carrying on by the savages against the persons and effects of our inhabitants.

"JAMES HAMILTON.

"September 29th, 1763."

The Governor also laid before the board a bill sent up by the House for his concurrence, entitled "An act to continue an act, entitled 'An act for regulating and continuing the nightly watch and enlightening the streets, lanes and alleys of the city of Philadelphia and for raising money to defray the necessary

expense thereof,'” which, being read and approved, was returned to the House with a verbal message that the Governor agreed to it.

Eodem Die, A. M.

The House again sent up the supply bill to the Governor by two members, with a verbal message that the House did not incline to make any alterations in it and requested that his Honor would pass it as it now stands.

4 O'Clock, P. M.

The Governor again returned, by the secretary, the supply bill, with the following message to the House, viz.:

A Message from the Governor to the Assembly.

“Gentlemen: I am extremely concerned to find, by your verbal message of this day, that you decline amending your bill for granting money to the King in the particulars by me pointed out to you.

“I beg leave, before you separate, once more to recommend to your unprejudiced consideration the great mischiefs which may ensue to the province from your so tenaciously adhering to a measure that has been solemnly adjudged against you by His Majesty in Council.

“There has not been wanting, on my part, the most sincere disposition to perfect this bill by enacting it into a law. But as you have not thought fit to accept of it on such terms as my duty would allow me to pass it, I must endeavor, in case any misfortune should follow, to satisfy myself with the reflection that nothing hath been proposed by me, but what hath appeared to me to be founded in justice and equity and hath been so adjudged by the most explicit declaration of the King and Council on a similar clause in a former bill of our legislature.

“JAMES HAMILTON.

“September 29th, 1763.”

## 40.

Friday, the 30th September, 1763, A. M.

The Governor having considered the two following bills sent up by the House for his concurrence, returned them to the House by the secretary, with a verbal message that he gave his assent to them, viz.:

“An act for the erecting a light-house at the mouth of the bay of Delaware, at or near Cape Henlopen, for placing and fixing buoys in the said bay and river Delaware, and for appointing commissioners to receive, collect and recover certain sums of money heretofore raised by way of lottery, and to appropriate the same to the purposes aforesaid,” and

“An act to enable the commissioners for paving the streets of the city of Philadelphia to settle the accounts for the managers, and to sue for and recover from several persons such sums of money as are now due and unpaid on account of the several lotteries set up and drawn for paving the streets of the said city.”

Eodem Die, 5 O’Clock P. M.

The Governor having again received the supply bill by two members this forenoon, with a verbal message from the assembly that they had reconsidered the bill, but declined making the amendments proposed by the Governor, and desired that he would give his assent to it as it stood; his Honor not thinking it consistent with his duty to pass it without the proposed alterations, ordered the secretary to return the bill and acquaint the House that he could not recede from the proposals he had made with respect to their amending it, and, at the same time, to inform them that he was waiting in the council chamber to receive the whole House in order to pass the bills which had received his assent. The Speaker and the House accordingly attending in the council chamber, the Governor enacted the following bills into laws, and signed a warrant for affixing the Great Seal thereto, viz.:

1. “An act to continue an act, entitled ‘An act for regulating and continuing the nightly watch and enlightening the streets, lanes and alleys of the city of Philadelphia, &c.’”

2. "An act for erecting a light-house at the mouth of the bay of Delaware, at or near Cape Henlopen, for placing and fixing buoys, &c."
3. "An act to enable the commissioners for paving the streets of the city of Philadelphia to settle the accounts of the managers, and to sue for and recover from certain persons such sums of money as are now due and unpaid on account of the several lotteries, &c."

Colonial Records, Vol. IX, p. 52.

41.

At a Council held at Philadelphia, on Saturday, the 22nd of October, 1763.

Present:

The Honorable James Hamilton, Esquire, Lieutenant-Governor,  
&c.

Benjamin Shoemaker, }  
William Logan, } Esquires.

The Governor laid before the board the three following bills sent up by the House for his Honor's concurrence, which were read and approved, and the secretary directed to return them to the House with a verbal message that the Governor agreed to them, viz.:

"An act to prohibit the selling of guns, powder or other war-like stores to the Indians."

"An act for granting to His Majesty the sum of twenty-four thousand pounds for the defense and protection of this province," and

"An act for regulating the officers and soldiers in the pay of this province."

At the same time, the House desired the secretary to give notice to the Governor that they will attend his Honor, if it suits him, at half after twelve o'clock this day, to pass the said bills into laws.

Eodem Die, 1 O'Clock.

The Governor acquainted the House by the secretary that he



was waiting in the council chamber, where he required the attendance of the speaker and members of assembly, in order to pass the bills which had received his assent. The House attending accordingly, the speaker presented the following bills, which his Honor immediately passed and signed a warrant for affixing the Great Seal thereto, and ordered them to be deposited in the Rolls Office, viz.:

“An act to prohibit the selling of guns, gun-powder or other warlike stores to the Indians.”

“An act for granting to His Majesty the sum of twenty-four thousand pounds for the defense and protection of this province and for other purposes therein mentioned,” and

“An act for regulating the officers and soldiers in the pay of this province.”

The speaker then acquainted the Governor that the House proposed to adjourn to Monday, the 16th of January next, to which his Honor made no objections.

Two members of assembly waited on the Governor and delivered him a written message from the House, in the following words, viz.:

#### A Message to the Governor from the Assembly.

“May it please your Honor:

“We return you our thanks for laying before us the letter you have received from Sir Jeffery Amherst, of the sixteenth of this instant, with the intelligence inclosed therein from Sir William Johnson respecting the bad intentions of the savages against our frontiers. For this intelligence we are likewise obliged to His Excellency, but at the same time we are greatly at a loss how to understand the meaning or design of that part of his letter wherein he expresses his ‘surprise at the infatuation of the people of this province, who (he alleges) tamely look on while their brethren are butchered by the savages, when, without doubt it is in their power, by exerting a proper spirit, not only to protect the settlements but to punish any Indians that are hardy enough to disturb them.’ Can it be possible that the general is, at this day, unacquainted with the vigorous meas-

ures which this government has pursued, much beyond any of the rest of the colonies, for the protection and defense of their long-extended frontier?

“Your Honor well knows that on the eleventh of June last, you convened the provincial commissioners, who cheerfully agreed to raise an hundred men for the reinforcement of Fort Augusta, a garrison on Susquehanna, then but weakly manned, and a post of great importance to the provincial defense.

“On the fourth of July the assembly met, in pursuance of your summons, when you laid before them the necessity of an additional number of men to repel the savage attempts of those barbarians; and that, in pursuance of a letter from the general, which you also communicated to them, with equal cheerfulness and expedition they granted the additional number of seven hundred men and passed a law for furnishing carriages for the transportation of provisions for the use of the troops destined for the western communication.

“These troops, so granted, were accordingly raised with the utmost expedition and they have been, as we are informed, placed at proper stations on the frontiers, under your command, and been active since in the protection thereof, and that with more vigor and spirit than has been known or experienced [in] the whole late war. Several parties of Indians have been intercepted and repulsed, and the inhabitants in a great measure preserved from the intended massacres, and a large body of them now engaged in an expedition against the Great Island, which has heretofore served as a station from whence the savages usually issue for the annoyance of our settlements.

“As these things are facts, we cannot help, in our turn, being much surprised at the censure contained in His Excellency’s letter, by which it is evidently intimated that the good people of this province are utterly regardless of the distresses of their fellow subjects and ‘tamely look on while they are butchered by the savages.’

“A hard censure this! But for what part of the government it was intended is not clear from the letter. If intended for your Honor, we have reason to believe you have done everything, as commander in chief of the forces, that could be expected. If

for this part of the legislature, the large number of men in the pay of this government at a time when the province is loaded with a debt extremely burdensome (occasioned by their late generous and large aids to the Crown for the protection of the colonies during the late war), will evidently show it is without foundation; and if the poor people on our frontiers, their present distressed situation, and the uncommon military spirit and resolution so manifest among them ever since the late Indian incursions, ought at least to have excused them from it.

“But the General is of opinion that it is in our power, by exerting a proper spirit, not only to protect the settlements, but to punish any Indians that are hardy enough to disturb them. Would he give himself the liberty of one moment’s reflection on our circumstances, must he not see the injustice as well as impracticability of our defending a frontier near three hundred miles in length, which covers and protects, in a great measure, those of Maryland and New Jersey, without the least contribution or aid from either of those colonies. Is it reasonable that this province, already heavily loaded with debt, should be at the sole expense of defending not only her own frontiers but so great a part of those of her neighboring colonies? And is it not evidently impossible that this young colony, against whom the Indian force has been principally aimed, should alone without any assistance from the rest of the provinces, defend a frontier so extensive against all the lurking and perfidious parties of so powerful a confederacy as is mentioned in the General’s intelligence?

“You, Sir, are well acquainted with the circumstances of the province and its present distress, and, therefore, we presume you readily see how vain the expectation must prove, that any one particular colony can defend itself against the united power of so many confederated nations.

“Signed by order of the House,

“ISAAC NORRIS, Speaker.

“October 22nd, 1763.”

Colonial Records, Vol. IX, p. 63.

## SECTION III.

## 1.

A BILL FOR GRANTING TO HIS MAJESTY THE SUM OF THIRTY THOUSAND POUNDS AND FOR STRIKING THE SAME IN BILLS OF CREDIT, AND FOR PROVIDING A FUND FOR SINKING THE SAID BILLS OF CREDIT.

Whereas it hath been represented to this House by the Secretary of State's letter, dated the seventeenth day of December, 1760, that His Majesty, having nothing so much at heart as by the most vigorous prosecution of the war to reduce the enemy to the necessity of accepting a peace on terms of glory and advantage "to His Majesty's Crown and beneficial in particular to his subjects in America," and for these purposes requesting the aids of his loyal and dutiful subjects within this province, we, the representatives of the freemen of the Province of Pennsylvania, being desirous to assist His Majesty towards these salutary ends, as far as lies in our power, have cheerfully and voluntarily given and granted and do hereby give and grant unto His Majesty the sum of thirty thousand pounds over and above the several sums heretofore given and granted to the King's use and do pray that it may be enacted:

And be it enacted by the Honorable James Hamilton, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said province in General Assembly met, and by the authority of the same, That the sum of thirty thousand pounds in bills of credit so as aforesaid to be struck by virtue of this act, in the manner hereinafter mentioned, shall be given to the King's use; and to the end the said thirty thousand pounds in bills of credit so as aforesaid struck may be duly and fully sunk and destroyed:

Be it further enacted by the authority aforesaid, That Benjamin Franklin, Robert Charles and John Sergeant, or the survivors or survivor of them, are hereby appointed and fully authorized and empowered, in a due and proper manner, to make application to His Majesty, or such person or persons as shall

be appointed for the payment thereof, for the sum or sums of money which is, are or shall be allotted to this colony as the distributive share and proportion of the sum and sums of money granted or to be granted as aforesaid, and to take and receive the same of and from such person and persons as shall be appointed for the payment thereof and when received to invest the same in some of the public funds or stocks, with full power to buy or contract to buy of any person or persons whatsoever, upon transferring thereof according to the usual manner of transferring the said stock or stocks and to pay such sum or sums of money or consideration for the purchase of all such capital stock or stocks upon transferring thereof, from time to time, and likewise to sell, dispose of and transfer the same whenever thereunto required by the representatives of the people of this province for the time being; by a resolve of the House, to be transmitted to the said Benjamin Franklin, Robert Charles and John Sergeant for that purpose as shall be most for the advantage and interest of this province, where the same shall be and remain in the names of the said Benjamin Franklin, Robert Charles and John Sergeant for the use of the province, subject to the draughts and bills of exchange of the trustees of the general loan office of this province for the time being, which said draughts and bills of exchange the said trustees are hereby authorized and enjoined to make and draw whenever thereunto required by the representatives of the province for the time being, in such manner as shall be most for the advantage and interest of the public, until they shall have drawn for the whole sum and sums so given, granted and allotted to this Colony, and when drawn, to sell and dispose of the said bills or drafts for the best price that may be had for the same in bills of credit of this province.

Provided always, and be it further enacted, That so much of the money granted or to be granted and allotted to this Colony as their distributive share and proportion of the moneys heretofore allotted or to be allotted to this province by His Majesty as shall be sufficient to purchase bills of credit of this province of the value of thirty thousand pounds hereby granted to the King's use, shall be drawn for within six months after a peace

between the Crowns of Great Britain and France shall be proclaimed within this province or within two years after the passing of this act, as either of them shall first happen, in order that the said bills of credit shall be delivered into the hands of the committees of assembly, to be sunk and destroyed as is hereinafter directed and enjoined.

And be it further enacted by the authority aforesaid, That the said trustees, towards sinking the bills of credit made current by virtue of this act and towards sinking the several sums of money heretofore granted to His Majesty's use and in abatement of the taxes laid for that purpose shall pay all the residue of the money which shall arise by the sale of such bills or drafts in bills of credit aforesaid into the hands of the committees of assembly, who shall be yearly appointed to settle the public accounts, which bills of credit the said committees are hereby authorized, enjoined and required to burn, sink and destroy.

And be it further enacted by the authority aforesaid, That bills of credit to the value of thirty thousand pounds current money of America, according to an act of Parliament made in the sixth year of the reign of Queen Anne for ascertaining the rates of foreign coins in the plantations in America shall, within one month next after the passing of this act, be prepared and printed on good strong paper, under the care and direction of the trustees of the general loan office aforesaid, the change whereof shall be paid by the said trustees out of the bills of credit hereby made current, which bills shall be made and prepared in manner and form following, and no other, viz.:

This bill shall pass current for \_\_\_\_\_ within the province of Pennsylvania, according to an act of assembly made in the first year of the reign of King George the Third, dated the fourteenth day of May, 1761.

And the said bills shall have such like escutcheons as in the margin hereof, with such other devices on the said bills as the said trustees shall think fit, as well to prevent counterfeits as to distinguish their several denominations, each of which said bills shall be of the several and respective denominations following, and no other, viz.:



Three thousand of the same bills of the sum of five pounds.

Six thousand of the same bills of the sum of two pounds ten shillings.

And the trustees shall use the best of their care, attention and diligence during the printing of the said bills, that the number and amount thereof, according to their respective denominations aforesaid, be not exceeded nor any clandestine or fraudulent practice be used by the printer, his servants or others concerned therein.

And for the perfecting the said bills, to make them current within this province, according to the true intent and meaning of this act:

Be it further enacted by the authority aforesaid, That all and every of the said bills shall be signed by the following persons, or any three of them: That is to say, Evan Morgan, Thomas Clifford, Thomas Gordon, Joseph Stretch, Peter Reeve, Charles Jones, Samuel Burge, Joseph Morris and Charles Thomson, who are hereby nominated and appointed to be signers of all the bills of credit to be emitted by virtue of this act, in the manner hereinbefore directed, and the several signers shall, before they receive or sign any of the said bills of credit, take an oath or affirmation to the following effect, viz.:

They shall well and truly sign and number all the bills of credit that shall come to their hands for that purpose by the direction of this act, and the same so signed and numbered will deliver, or cause to be delivered, to the trustees of the general loan office of the province of Pennsylvania, pursuant to the direction of this act.

And be it further enacted by the authority aforesaid, That the said trustees, after the said bills are printed, shall deliver them to the said signers to be signed and numbered by parcels, for which the said signers, or some of them, shall give their receipt, of all which bills of credit so delivered by the trustees to be signed true accounts shall be kept by the signers, who, upon the re-delivery of each or any parcel of the said bills of credit by them signed and numbered to the trustees of the general loan office, shall take the receipt of the said trustees, to charge them before any committee of assembly to be appointed for that pur-

pose, and the said signers shall have fifteen shillings apiece for every thousand of the aforesaid bills by them respectively signed and numbered, to be paid by the trustees of the general loan office out of the bills to be made current by virtue of this act.

And be it further enacted by the authority aforesaid, That all the aforesaid bills of credit to be made as this act directs shall be current bills of this province until the fourteenth day of May, in the year 1763, and no longer, and as such shall, during the said term, be received in payment for the discharge of all manner of debts, rents, sum and sums of money whatsoever due, payable or accruing upon any or by reason of any mortgage, bill, bond, specialty, note, book account, promise or other contract or cause whatsoever, as if the same were tendered or paid in the coins mentioned in such bond or other writing, book account, promise, assumption or any other contract or cause whatsoever, and at the rates ascertained in the said act of Parliament, and shall be so received in all payments by all persons whatsoever.

And be it further enacted by the authority aforesaid, That if any person or persons shall presume to counterfeit any of the said bills of credit made current by this act, or shall be aiding and assisting therein or shall enlarge the sum expressed in any of the said bills or shall utter, or cause to be uttered or offered in payment any such bill or bills, knowing the same to be forged or counterfeited, or the sum or value therein altered, with an intent to defraud any other person he, she or they so offending and being thereof legally convicted, shall, for every such offense, incur and suffer the same pains and penalties respectively as forgers, counterfeiters or alterers of bills by former acts of assembly now in force, or any of them, are directed to incur and suffer. And the discoverer or prosecutor, by virtue of this present act, shall be entitled to like rewards as by the said former acts, or any of them, are directed in respect to the bills thereby made current.

And be it further enacted by the authority aforesaid, That Lynford Lardner, Thomas Cadwalader, Joseph Fox, John Hughes, Joseph Galloway and John Baynton, Esquires, or the



major part of them, or of the survivors of them, with the consent and approbation of the governor or commander in chief of this province for the time being, shall order and appoint the disposition of the moneys arising by virtue of this act for and towards raising, paying and clothing five hundred effective men (officers included) to act in conjunction with a body of His Majesty's forces, until the twenty-fifth day of November next ensuing, in such offensive operations as shall be carried on and prosecuted by His Majesty's commander in chief, and the said Lynford Lardner, Thomas Cadwalader, Joseph Fox, John Hughes, Joseph Galloway and John Baynton, or a majority of them, shall, and they are hereby required, as often as there shall be occasion for money for the purposes aforesaid, to draw orders upon the trustees of the general loan office, which orders so drawn and paid shall be produced to the committee of assembly for the time being and by them allowed in discharge of so much of the money granted to the King's use by virtue of this act. And the said commissioners, for their trouble in discharging the duties of commissioners hereby required, shall have and receive thirty pounds each, and no more, to be paid in the manner hereinbefore directed for defraying the charges arising upon printing and signing the bills of credit made current by virtue of this act.

And whereas sundry certificates and drafts on the provincial treasurer by order of assembly for salaries of officers and services done the public remain yet unpaid through a deficiency of money in his hands to such purposes aforesaid.

Be it therefore enacted by the authority aforesaid, That the trustees of the general loan office shall and they are hereby authorized and empowered, out of the moneys arising by virtue of this act, to pay and discharge all such certificates and drafts on the provincial treasurer and make payment to the masters or owners of servants heretofore enlisted into His Majesty's service, and also to the public house keepers for quartering of soldiers of such sum and sums of money as shall appear to the governor and commissioners aforesaid to be justly due and properly chargeable to this province.

And whereas there yet remaineth in the hands of the said

commissioners a quantity of clothing provided for the use of the troops heretofore raised by this government:

Be it enacted by the authority aforesaid, That the same shall be and are hereby directed to be used and applied towards clothing the additional number of men levied by virtue of this act for His Majesty's service, and in case of any deficiency therein it shall and may be lawful for the said commissioners, with the assent and approbation of the governor, to purchase and provide such further quantity of clothing as may be sufficient to habit and equip the men hereby given and granted as aforesaid, and the expense of the said clothing shall be deducted out of the pay due to each respective soldier clothed in manner aforesaid.

And be it further enacted by the authority aforesaid, That the trustees of the general loan office shall have and receive, for their trouble in receiving and paying the moneys and performing the duties required of them by this act, the sum of ten shillings for every hundred pounds, and no more.

And be it further enacted by the authority aforesaid, That the said Benjamin Franklin, Robert Charles and John Sergeant shall have and receive, for their care and trouble for receiving and paying the moneys and performing the duties required of them by this act, the sum of ten shillings for every hundred pounds and no more.

April 17, 1761.

From the original in the collection of the Historical Society of Pennsylvania.

## 2.

AMENDMENTS TO THE BILL, ENTITLED "AN ACT FOR GRANTING TO HIS MAJESTY THE SUM OF THIRTY THOUSAND POUNDS AND FOR STRIKING THE SAME IN BILLS OF CREDIT AND FOR PROVIDING A FUND FOR SINKING THE SAID BILLS OF CREDIT.

Page . . . , line . . . Dele the words [John Sergeant], and insert the words [David Barclay, Junior, and John Barclay].

Page . . . , line . . . After the word [house], add as follows. [countersigned by the governor and commander in chief of this province for the time being, and not otherwise].

Page . . . , line . . . Dele the name [John Sergeant], and insert [David Barclay, Junior, and John Barclay].

Page . . . , line . . . After the word [same], add as follows:

[together with all the gain, profits, interest or emoluments thereon arising or accruing, or that may or shall by any ways or means whatsoever be made thereof].

Page . . . , line . . . Dele the name [John Sergeant], and insert [David Barclay, Junior, and John Barclay].

Page . . . , line . . . After the word [being], insert [by a resolve of the house of assembly, countersigned by the governor and commander in chief of this province for the time being, and not otherwise].

Page . . . , line . . . After the word [colony], add [and all the profits, interest or emoluments that shall or may arise thereon as aforesaid].

Page . . . , line . . . Dele the words [so much of the], and instead thereof, insert the words [all and every the sum and sums of].

Page . . . , line . . . Dele from the word [as], in the 12th line, to the word [use], inclusive, in the penult line.

Page . . . , line . . . After the word [for], add [in manner aforesaid].

Page . . . , line . . . Dele the words [residue of the].

Page . . . , line . . . After the word [destroy], insert the following clause, viz.: Provided always and be it further enacted by the authority aforesaid, That if the said Benjamin Franklin, Robert Charles, David Barclay, Junior, and John Barclay, or the survivors or survivor of them shall not have received, within the aforesaid term of two years after the passing of this act or within six months after a peace between the Crowns of Great Britain and France shall be proclaimed within this province, the whole money which is or shall be allotted to this colony as the distributive share and proportion of the sum or sums of money granted or to be granted as aforesaid, then, and in such case the residue of the said sum and sums of money, with the interest, profits and emoluments thereof, if any, shall be drawn for in manner aforesaid within the term of six months after the respective receipts of the same by them, or the survivors or survivor of them, and the said trustees, towards sinking the said several sums of money heretofore granted to His Majesty's use and in abatement of the taxes laid for that purpose, shall pay

all the money arising by the sale of such bills or drafts in bills of credit into the hands of the committee of assembly aforesaid, who shall burn, sink and destroy the same, in manner hereinbefore directed.

Page . . . , line . . . After the word [whatsoever], add [rents reserved or debts due or to become due and payable in sterling money to the proprietors of this province only excepted and fore-prized].

Page . . . , line . . . After the word [received], add [except as before excepted].

Page . . . , line . . . Dele the words [John Sergeant], and instead thereof, insert the words [David Barclay, Junior, and John Barclay].

21st April, 1761.

From the original in the collection of the Historical Society of Pennsylvania.

### 3.

#### A Message from the Governor to the Assembly.

Gentlemen: It was no less a surprise than concern to me, on perusing your bill for granting to His Majesty the sum of thirty thousand pounds, &c., to find that within a few months after His late Majesty had so expressly declared his disapprobation of several provisions contained in your late acts as to make them the foundation of their repeal, you have again ventured to renew them and insert them in the present bill, as if no such censure or disapprobation had ever passed.

With what views or intention you have done this, I do not take upon me to determine; yet thus much I must have leave to say, that it is a strong evidence of your paying but a very slender regard to the judgment of the King and his ministers; when of all the particulars objected to by them so far as they are applicable to this bill you have not thought fit to conform to their sentiments in respect to any one of them.

You cannot be unacquainted that in the report of the Lords of Trade and Plantations, approved and confirmed by His late Majesty in council, the three following particulars were not only

objected to but severely censured as being either encroachments on the prerogative of the Crown or acts of injustice with regard to your proprietors, viz.:

1stly. The blending and connecting together, in the same bill, things which in their own nature are totally separate, by which the Crown is reduced to the alternative either of passing what it disapproves or of rejecting what may be necessary for the public service and which is expressly called a tack.

2ndly. The vesting in yourselves alone the application of the public money, usurping by this means one of the most inviolable prerogatives of the executive power, not countenanced by any example of the British Parliament, who always consider the application of the public money subject to account as one of the most indisputed powers of the Crown.

3rdly. Your contending that the proprietors should be bound to receive their rents in paper currency, notwithstanding the express words of their covenants in sterling.

Having thus recited the purport of His late Majesty's sentiments upon these several points, I shall proceed to show that by the bill sent up for my concurrence, every rule and principle therein established is either directly or virtually contravened and set at naught. But in order to do this the more clearly, it is necessary to state the facts upon the first and second objections fully, by which means the proof of both may be comprised under one and the same article.

Since the commencement of the present war the Parliament of Great Britain have, from time to time, granted large sums of money to be apportioned by the King to the several colonies for reimbursing them a part of the expenses they have been put to by the aids they have granted to His Majesty for prosecuting the war in America. In consequence hereof, a considerable sum of money hath been allotted and is ready to be paid for the use of this province whenever a person shall be properly authorized by both branches of the legislature to receive it, and not otherwise; for, as the money was granted to the whole legislature, the board appointed to pay it have insisted that the person applying to receive it should be empowered by the same authority. The Governor, as one branch of the legislature, in September last,

did offer to join with the assembly in appointing agents to apply for and receive the money so granted, on condition of his retaining a concurrent power with them in the superintending and applying it to the purposes to be appointed by law. The assembly, on the contrary, being desirous to deprive the Governor of any share or management of the money granted or to be granted by the Parliament as aforesaid, and to subject the whole to their own power, independent of him (under the pretense, indeed, of applying it to the payment of the public debts, and in abatement of the taxes), did present to him a separate bill for the appointment of agents to receive the same and invest it in the public stocks in their own names, and empowering the trustees of the loan office, when thereto required, by the immediate direction of the House, to draw upon them for the money and apply it to the purposes aforesaid. But as they had therein attempted to deprive the Governor both of his share in the nomination of the agents and of any concurrent power with themselves in the superintendence and due application of the money, and had not limited a time in which the said money should be drawn for and applied as aforesaid, he, therefore, refused his assent to the bill. After which the House, no longer expecting to accomplish their purposes by a separate bill, have now seized the occasion of His Majesty's demanding an aid from the province to blend and connect these unconstitutional claims with the supply bill, which they will not suffer to be altered or amended, in order to oblige the Governor either to give up so essential a branch of the prerogative or to subject himself to the King's displeasure for refusing the supplies offered him.

If these facts be rightly stated, Gentlemen, as I conceive they are, then, the clause in your bill relating to the management and disposition of the money granted by Parliament (which is the same in effect I refused by assent to before), and its being inseparably joined to the clauses for granting an aid to His Majesty will, in my opinion, be a convincing proof that the present bill is justly liable to the censure passed upon the former acts of being both a tack to the supply bill (by which the King's representative is denied the free use of his negative in the legislature), and as tending to usurp one of the most inviolable prerogatives of

the executive power in the application of the public money subject to account, which, being once given up, would be to change, in a great degree, the constitution and sap the foundations of government.

With respect to the 3rd point. The Lords of Trade, in the report (of which you have a copy), have reasoned so fully and so much better than I am capable of, on the subject of your contending that the proprietors should be bound to receive their quit-rents in paper currency, notwithstanding their express covenants in sterling; and have also expressed His Majesty's opinion in respect to reservations of that kind in colonies immediately under his own government, that I shall not venture to say anything further upon that head, but only put you in mind that your present bill contains a clause of the same nature with that objected to by His Majesty in council, and that you have not offered any compensation to the proprietors for the loss they are to sustain thereby, though former assemblies were both sensible of the justice of such compensation and made it accordingly.

I was in great hopes, Gentlemen, that on your being convened to consider of His Majesty's requisition, you would not have fallen short of the other colonies in a zealous and ready compliance with it, considering the importance of the service for which your aid is required. And I flatter myself that this might have been easily done without laying any new burdens upon the people or running the risk of our falling into fresh contentions about the means of doing it, as has been too often the case in respect to bills of this nature, but as those means do not seem to have occurred to you, I hope to be excused for pointing them out to you.

You are sensible, Gentlemen, that there is a sum of money lying in the hands of your agents in England (part of the parliamentary grant), more than sufficient to answer all the purposes of the present bill, even though you had doubled the number of men thereby granted to His Majesty; and since the making use of this money could occasion no controversy between you and me, why might not a bill have been prepared empowering the trustees forthwith to draw for it and pay the produce, or such

part as should be necessary, into the hands of the committees, to be applied to the present service? Or to what end should you think of overwhelming the province with floods of paper money, at a time when that currency is depreciating so fast as must necessarily prove injurious not only to the English merchants trading hither, but to every man in the province who is possessed of property in a personal estate, and, more particularly, to widows and orphans? Or why would you choose to propose creating a fund for sinking this money upon terms which you well know I neither ought or can accept of without breaking in upon the just and established rights of government? When all these difficulties and inconveniences might be so easily avoided by making use of that fund which is absolutely in our own power.

Perhaps you will say, Gentlemen, that the money lying in your agents' hands is by law appropriated to the payment of the public debts and, therefore, ought not to be diverted to any other service, but pray, gentlemen, has one shilling of it as yet been applied to that purpose? Or if that was an objection to our using it for any other service, does it not equally lie against the making use of the money heretofore allotted and not received as a fund for sinking the sum of thirty thousand pounds in bills of credit voted to His Majesty as you have proposed in the present bill?

The cases, then, are exactly similar, except that you choose to give money of which we are not possessed rather than that of which we are. But further, to obviate that objection, you may please to remember, gentlemen, that there is an express provision in the act empowering the Governor and assembly to dispose of the money in your agents' hands to any purposes they think fit, and I do not think it can be better disposed of than by granting such a part of it to His Majesty as may be sufficient for the present service and applying the remainder (if any) to the payment of the public debts and in abatement of the taxes, for I can by no means think it reputable to or becoming any government to be trafficking with the people's money while they at the same time are paying taxes for it. Dealing in the stocks has always been deemed but as a more reputable sort of gambling, by which loss as well as gain may accrue to the adventurers. Indi-



viduals may do as they please with their own money, but the giving ease to the people by lightening the burden of the taxes ought not to be delayed under the precarious expectations of increasing the public stock.

Upon the whole, Gentlemen, a regard to the just rights of government which I shall on all occasions think myself indispensably obliged to support and maintain, and the great deference I bear to the judgment and opinion of our late gracious sovereign and his ministers, who have actually repealed some of the acts of this province for the reasons I have above set forth, render it impossible for me to give my assent to the bill now before me; at the same time, I cannot but express the highest concern lest His Majesty's service should be obstructed if any difference in opinion between us on the present occasion should deprive him of the aids he demands from this province, I must, therefore, recommend it to you, Gentlemen, in the warmest manner to reconsider the bill, and if you will not accede to the amendments I have proposed thereto, to fall on some other means of complying with His Majesty's most reasonable requisition by forming a new bill free from the objections I have herein pointed out to you.

JAMES HAMILTON.

22nd April, 1761.

From the original in the collection of the Historical Society of Pennsylvania.

4.

A Message to the Governor from the Assembly.

May it please your Honor:

We have taken into our consideration your message which attended the bill for granting supplies to the Crown, in pursuance of His Majesty's gracious requisition, and cannot, consistent with the right of assembly and that duty we owe the people we represent, admit of the amendments proposed thereon, nor can we think of framing a new bill for this purpose, as we have already prepared and presented to your Honor a bill similar in its essentials to one which hath received the approbation of His Majesty, and, as we apprehend, reasonable and just in all its parts; be-

sides, we know of no other method consistent with our rights but may be liable to objections of equal weight with those made by your Honor to the said bill.

The House being much fatigued with the great length of time spent in the public business at this inconvenient season of the year, are obliged to content themselves for the present with this general answer, but as your two last messages contain matters which we think it our indispensable duty to answer in a more particular manner, we have appointed a committee to report more fully thereon to the House at their next meeting.

Signed by order of the House,

ISAAC NORRIS,

23rd April, 1761.

Speaker.

From the original in the collection of the Historical Society of Pennsylvania.

5.

By the Honorable James Hamilton, Esquire, Lieutenant-Governor and Commander in Chief of the Province of Pennsylvania and Counties of Newcastle, Kent and Sussex upon Delaware:

To all whom it may concern, Greeting:

On the thirtieth day of April, in the year of our Lord one thousand seven hundred and sixty-one, came Richard Peters, Esquire, Secretary and Clerk of the Governors' Council of the said province, and made oath on the Holy Evangelists as follows: That is to say, that on the seventeenth day of this instant a bill [entitled "An act for granting to His Majesty the sum of thirty thousand pounds and for striking the same in bills of credit, for providing a fund for sinking the said bills of credit"] was presented by the House of Representatives of the said province, then sitting, unto the said Governor Hamilton for his concurrence, a true copy whereof is hereto annexed, marked No. 1. And saith that there having been made thereto certain amendments by the said Governor Hamilton, this deponent, the twenty-first day of this instant came and delivered the same, with the said bill, by His Honor's orders, to the said House of Representatives, then sitting, a true copy of which amendments,

marked No. 2, is hereunto annexed. That on the same day the House of Representatives, as the said Governor Hamilton informed this deponent, returned the said bill to him, with a message, by two of the members, that they, the said House, adhered to the bill and desired the Governor would be pleased to pass it as it stood without amendments. And that on the twenty-second day of this instant this deponent, by order of the said Governor Hamilton, carried and delivered the said bill, with a message in writing from him, unto the said House of Assembly, then sitting, a true copy of which message, marked No. 3, is hereto also annexed. And that on the next day, namely, the twenty-third day of this instant, the answer of the said House of Representatives to the said message was delivered to the said Governor, as he informed this deponent, by two of the members, a true copy whereof is hereto also annexed and marked No. 4. The said members at the same time acquainting the Governor that the House inclined to adjourn to the seventh day of September next, to which he made no objection, since they were determined not to do the business they were summoned for, as the said Governor told this deponent. And this deponent saith that the said House of Assembly did accordingly then separate, having first adjourned to the said seventh day of September next.

RICHARD PETERS.

And the said Governor Hamilton do further certify that I received the said bill, sent the said amendments and written message and received the said answer from the said assembly thereto as above set forth.

In Testimony whereof I, the said Governor Hamilton, hath set my hand and caused the Great Seal of the said Province to be hereunto affixed at Philadelphia, the said thirtieth day of April, in the First Year of the Reign of our Sovereign Lord George the Third, by the Grace of God of Great Britain, France and Ireland, King, Defender of the Faith and so forth and in the Year of our Lord 1761.

JAMES HAMILTON.

30th April, 1761.

From the original in the collection of the Historical Society of Pennsylvania.

## 6.

## CASE.

King Charles the Second, by his letters patent, dated the fourth day of March, Anno Domini 1681, granted the province of Pennsylvania to William Penn, his heirs and assigns, with divers privileges and the powers of legislation and government, in which said patent, among other things, it is contained as follows, to wit: "And we do likewise give and grant unto the said William Penn, and to his heirs and their deputies and lieutenants, full power and authority to appoint and establish any judges and justices, magistrates and other officers whatsoever for what causes soever, for the probates of wills and for the granting of administrations within the province aforesaid; and with what power soever and in such form as to the said William Penn, or his heirs, shall seem most convenient; also to remit, release, pardon and abolish (whether before judgment or afterward) all crimes and offenses whatsoever committed within the said country against the said laws (treason and willful and malicious murder only excepted, and in those cases to grant reprieves until our pleasure may be known there, and to do all and every other thing and things which unto the complete establishment of justice unto courts and tribunals, forms of judicature and manner of proceedings do belong, although in those presents express mention be not made thereof, and by judges by them delegated to award process, hold pleas and to determine all the said courts and tribunals all actions, suits and causes whatsoever, as well criminal as civil, personal, real and mixed, which laws, as aforesaid, to be published, our pleasure is and so we enjoin, require and command shall be most absolute and available in law and that all the liege people and subjects of us, our heirs and successors do observe and keep the same inviolable in those parts so far as they concern them, under the pain herein expressed, or to be expressed; provided nevertheless that the same laws be consonant to reason and not repugnant or contrary, but (as near as conveniently may be) agreeable to the laws and statutes and rights of this our Kingdom of England, and saving and reserving to us, our heirs and successors the re-

ceiving, hearing and determining of the appeal and appeals of all or any person or persons of, in or belonging to territories aforesaid or touching any judgment be there made or given.

By an act of general assembly of the said province passed in the eighth year of King George the First, entitled an act for establishing courts of judicature in this province, it is, among other things, provided as follows, viz.: And be it further enacted by the authority aforesaid, that a competent number of persons shall be commissioned by the Governor or his lieutenant, under the broad seal of this province, who shall hold and keep a court of record in every county, which shall be styled and called The County Court of Common Pleas, and shall be holden four times in every year, at the places where the general quarter sessions shall be required to be holden, viz., at Philadelphia, for the county and city of Philadelphia, on the day called the first Wednesday after the day appointed for the quarter sessions to begin on there, in the months called March, June, September and December; at Bristol, for the county of Bucks, on the eleventh day following, inclusive, and at Chester, for the county of Chester, on the day called the last Tuesday in the months called May, August, November and February. Which said justices, or any three of them (according to the tenor and decision) of their commissions, shall hold pleas of assizes, *scire facias*, replevins and hear and determine all and all manner of pleas, actions, suits and causes, civil, personal, real and mixed, according to the laws and constitutions of this province. And be it further enacted by the authority aforesaid, That every of the said justices shall and are hereby empowered to grant, under the seal of the respective counties, replevins, writs of partition, writs of view and all other writs and process upon the said pleas and actions cognizable in the said respective courts as the occasion may require.

From the time of passing this act the lieutenant-governor of the province constantly issued commissions to a number of gentlemen, constituting them justices of the county court of common pleas during pleasure, until the thirty-third year of King George the Second, when another act was passed in the said province, entitled A supplement to the act, entitled an act for

establishing courts of judicature in this province, a copy of which is herewith laid before you.

Soon after the passing this last act, Mr. Denny, the then lieutenant-governor, issued patents under the Great Seal to five persons, constituting them judges of the County Court of Common Pleas for the county of Philadelphia, during good behavior, in the following form, viz.: George the Second, by the Grace of God of Great Britain, France and Ireland, King, Defendant of the Faith, &c. To all to whom these presents shall come, Greeting: Know ye that we have constituted our chosen and faithful A. B., gentleman, one of the judges of the county court of common pleas for the county of Philadelphia, to hold the same for so long a time as he shall well behave himself therein. In Testimony whereof, &c. \* \* \* \* \*

The said judges, without any other commission, held the court styled the Orphans' Court and exercised all the powers and jurisdictions of the Orphans' Court, under the second section of the last-mentioned act, until the twenty-seventh day of August passed, when the said act was repealed by His late Majesty in Council, by which such parts of the first act for establishing courts of judicature as were repealed by the said supplement were again revived.

After the said repeal and since the demise of His late Majesty, the lieutenant-governor of the province of Pennsylvania issued writs of *supersedeas*, under the Great Seal, to the said five judges, constituted as aforesaid, by patent and made out a new commission to other gentlemen, constituting them justices of the county court of common pleas under the first-mentioned act. But the said five judges refused to resign their seats or pay any regard to the writs of *supersedeas*, contending that their patents have no reference to the supplement, nor are affected by the repeal of the act, but are good at common law, and being during good behavior give them an estate for life and a freehold in their offices, and that their patents cannot be determined or vacated but for misbehavior in their offices.

The Governor, on the contrary, apprehends that patents were granted in virtue of the said supplementary act, and though no express notice is taken of that act or reference to it on the

face of the patents themselves, yet it is conceived they are inseparably connected with the act and, consequently, void by the repeal of it. By the act for establishing courts of judicature, &c., the Governor was to appoint a competent number of gentlemen to be justices of the court and was not limited to the number, but by the supplement he is limited to the number five only. Further, by the first law, persons so appointed were styled justices; by the latter, they are called judges, in which respects the patents pursue the supplement and correspond with it. Moreover, the five patent judges have, without any other commission or authority than is given them by the supplement exercised the jurisdiction of the Orphans' Court (which, by former laws, was exercised by the justices of the quarter sessions), which they could not legally do unless they considered their patents as granted under the act and not at common law.

It is also insisted on the part of the Governor that at common law all judicial offices, though held *quamdiu se bene gesserint*, determined by the demise of the King who granted them. And if it should even be admitted that the patents of the said five judges were not vacated by the repeal of the said supplementary act and that by the statute of 6 Anne, Chap. 7, Section 8th, they did not become void until the end of six months after the demise of His late Majesty, yet it is contended by the express terms of that statute the Governor had a right to remove them within that time and their power as judges ceases on his issuing writs of *supersedeas* for their removal.

Under the circumstances of this case, therefore, your opinion is desired:

First. Whether the patents granted by Governor Denny to the five judges after passing the supplementary act were vacated by the repealing of that act.

Secondly. If such patents should be considered as independent of the act, whether the Governor was not so far restrained by the ancient forms of the commissions used in the said province since the passing of the act for establishing the courts of judicature in the 8th of George the First, which were ever granted during pleasure that he could not grant the office of a

judge or justice of the county court of common pleas during good behavior.

Thirdly. Whether the said patents, granted in the name of the late King to the said judges *quamdū se bene gesserint* did not cease and determine by the demise of His said Majesty; or, if they did not, whether, under the statute of the 6th of Anne, Chap. 7th, the Governor has not legally removed the said judges and put an end to their power by issuing writs of *supersedeas* for that purpose.

#### Opinion.

To the first query, I am of opinion that these patents became *ipso facto* void upon the repeal of the supplementary act, notwithstanding the pretense set up to establish these commissions upon the footing of the common law. They were made out immediately upon the passing of the act. They were made as the act directs, *quamdū se bene gesserint*, and were so made where it was illegal to have granted commissions in any other form, for so long as the act continued unrepealed, the Governor's power of constituting judges was suspended and restrained. They were five in number only, and have exercised jurisdiction in the Orphans' Court. All these considerations prove the judges in question to have been assembly judges and made under the direction of that act.

To the second query. I am of opinion that if, before the supplementary act, the governor had constituted judges to hold during good behavior, the patents would have been good though the Governor, by such a grant, would have been guilty of a breach of his instructions.

To the third query. I am at a loss to know how these commissions came to be made out in the King's name. For Mr. Penn, by the original charter, was empowered to make all the judges and, therefore, I am not sure that these commissions are not void in this respect, as being granted by the King, unless the judges' commissions have usually passed in this form. If, however, these judges are to be deemed the King's judges (which I own I can't well comprehend), I am not satisfied that their commissions would have determined, upon the demise of the Crown.



The grounds upon which that point was determined in the case of the English judges are so peculiarly applicable to them only, that it would not be easy to transfer the same reasoning to the case of any judges in the plantations, so that if the question was reduced to that point I should have great doubt upon it.

C. PRATT.

May 13, 1761.

I think it proper to add that the demise of the Crown can have no effect upon the commissions.

First. Because, although in point of form, the commissions are granted by the King, I am of opinion the judges so made are not the King's judges and, therefore, their patents cannot depend upon the King's life.

Second. Because, if they are considered as assembly judges, they hold under the acts of assembly, which constitutes their tenure; whereas the English judges, made pursuant to the act of settlement, hold still under the King's commission, the construction whereof must be governed by the rules of the common law.

C. PRATT.

June 10, 1761.

From the original in the collection of the Historical Society of Pennsylvania.

#### SECTION IV.

##### 1.

AN ACT FOR STRIKING THE SUM OF SEVENTY THOUSAND POUNDS IN BILLS OF CREDIT AND GIVING THE SAME TO HIS MAJESTY, AND FOR PROVIDING A FUND FOR SINKING THE BILLS OF CREDIT TO BE EMITTED BY VIRTUE OF THIS ACT.

Whereas it hath been represented to this House by the Secretary of State's letter, dated the twelfth day of December, one thousand seven hundred and sixty-one, that, as the King "has nothing so much at heart as to secure and improve the great and important advantages gained since the commencement of this war in North America, and having seen his good dispositions to restore the public tranquillity, entirely frustrated by the insincerity and chicane of the Court of Versailles in the late negotiation, and as nothing can so effectually contribute to the great

and essential object of reducing the enemy to the necessity of accepting a peace on terms of glory and advantage to His Majesty's Crown and beneficial in particular to his subjects in America, as the King's being enabled to employ as immediately as may be, such parts of the regular forces in North America as may be adequate to some great and important enterprise against the enemy;" and, therefore, "in order the better to provide for the full and entire security of His Majesty's Dominions in North America, and particularly of the possession of His Majesty's conquests there during the absence of such part of the regular forces," requests the aids of his loyal and dutiful subjects within this province, we, the representatives of the freemen of the province of Pennsylvania, being desirous to assist His Majesty towards these salutary ends, as far as lies in our power, have cheerfully and voluntarily given and granted, and do hereby give and grant to His Majesty for the purpose hereinafter mentioned, the sum of seventy thousand pounds, over and above the several sums of money heretofore given and granted by the several acts of assembly of this province for the uses of the Crown; and do pray that it may be enacted:

And be it enacted by the Honorable James Hamilton, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That bills of credit to the value of seventy thousand pounds, current money of America, according to an act of Parliament made in the sixth year of the reign of the late Queen Anne, for ascertaining the rates of foreign coins in the plantations of America, shall be prepared and printed, within two months next after the passing of this act, on good, strong paper, under the care and direction of the trustees of the General Loan Office, the charges whereof to be paid by the said trustees out of the first moneys to arise by virtue of this act; which bills shall be made and prepared in the manner and form following, and no other, viz.:

This bill shall pass current for \_\_\_\_\_ within the pro-

vince of Pennsylvania, according to a law of the said province made in the second year of the reign of King George the Third, dated the tenth day of April, one thousand seven hundred and sixty-two.

And the said bills shall have the like escutcheons as in the margin hereof, with other devices on the said bills as the said trustees shall think fit, as well to prevent counterfeits as to distinguish their several denominations; each of which bills shall be of the several and respective denominations following, and no other, viz.:



Five thousand of the same bills, the sum of five pounds in each of them.

Five thousand of the same bills, the sum of three pounds in each of them.

Five thousand of the same bills, the sum of forty shillings in each of them.

Ten thousand of the same bills, the sum of twenty shillings in each of them.

Six thousand of the same bills, the sum of ten shillings in each of them.

Ten thousand of the same bills, the sum of five shillings in each of them.

Ten thousand of the same bills, the sum of two shillings and six pence in each of them.

Ten thousand of the same bills, the sum of two shillings in each of them.

Ten thousand of the same bills, the sum of eighteen pence in each of them.

Ten thousand of the same bills, the sum of one shilling in each of them.

Ten thousand of the same bills, the sum of nine pence in each of them.

Ten thousand of the same bills, the sum of six pence in each of them.

Eleven thousand two hundred and fifty of the same bills, the sum of four pence in each of them.

Fifteen thousand of the same bills, the sum of three pence in each of them.

And the trustees shall use the best of their care, attention and diligence during the printing of the said bills that the number and amount thereof according to the respective denominations aforesaid be not exceeded, nor any clandestine or fraudulent practice used by the printer, his servants or others concerned therein.

And for perfecting the said bills to make them current within this province according to the true intent and meaning of this act, Be it further enacted by the authority aforesaid, That all and every of the said bills of the value of one shilling and upwards, shall be signed by three of the persons following, and all under the value of one shilling shall be signed by one of them and no more: That is to say, Henry Harrison, Joseph Morris, Evan Morgan, Joseph Stretch, Charles Jones, Charles Thomson, Joseph Richardson, Jonathan Evans, Luke Morris, Thomas Say, Thomas Clifford, Joseph Marriot, Samuel Burge, Doctor Charles Moore, William Morris, Junior, Charles Pettit, Daniel Rundle, William Hopkins, John Ord, Isaac Greenleafe, Joseph Saunders, Peter Chevalier, Junior, James Benezet, James Humphreys and Joseph Wharton, Junior, who are hereby nominated and appointed to be signers of the said bills, and shall, before they receive or sign any of the said bills, take an oath or affirmation to the following effect, viz.:

That they shall well and truly sign and number all the bills of credit which shall come to their hands for that purpose by the direction of this act, and the same so signed and numbered will deliver or cause to be delivered unto the trustees of the general loan office of the province of Pennsylvania, pursuant to the directions of this act.

And for avoiding the danger of embezzlement or misapplication of any of the said bills of credit, Be it further enacted by the authority aforesaid, That the said trustees, after the said bills are printed, shall deliver them to the said signers, to be signed and numbered by parcels, for which the said signers, or some of them, shall give their receipt, of all which bills of credit so delivered by the trustees to be signed, true accounts

shall be kept by the signers, who, upon their re-delivery of each or any parcel of the said bills of credit by them signed and numbered, to the trustees of the general loan office, shall take the receipt of of [*sic*] the said trustees, to charge them before any committee of assembly to be appointed for that purpose: And the said signers shall have fifteen shillings apiece for every thousand of the aforesaid bills by them respectively signed and numbered, to be paid by the trustees of the general loan office.

And be it further enacted by the authority aforesaid, That the aforesaid bills of credit to be made as this act directs shall be current bills of this province until the first day of October, one thousand seven hundred and seventy-six, and as such shall, during the said term, be received in payment for the discharge of all manner of debts, rents, sum and sums of money whatsoever, due, payable or accruing upon any, or by reason of any, mortgage, bill, bond, specialty, note, book account, promise or other contract or cause whatsoever, as if the same were tendered or paid in the coins mentioned in such bond or other writing, book account, promise, assumption or any other contract or cause whatsoever and at the rates ascertained in the said act of Parliament, and shall be so received in all payments by all persons whatsoever.

And be it further enacted by the authority aforesaid, That if any person or persons shall presume to counterfeit any of the said bills of credit made current by this act, or shall be aiding or assisting therein, or shall enlarge the sum expressed in any of the said bills, or shall utter or cause to be uttered or offered in payment any such bill or bills, knowing the same to be forged or counterfeited, or the sum or value therein altered, with an intent to defraud any other person, he, she or they so offending, and being thereof legally convicted shall, for every such offense, incur and suffer the same pains and penalties respectively as forgers, counterfeiters or alterers of bills by former acts of assembly now in force, or any of them, are directed to incur and suffer, and the discoverer or prosecutor, by virtue of this present act shall be entitled to like rewards as by the said former acts, or any of them, are directed in respect to the bills thereby made current.

And to the end the said seventy thousand pounds so as aforesaid struck in bills of credit by virtue of this act may be fully sunk and destroyed:

Be it enacted by the authority aforesaid, That the act of general assembly of this province passed in the thirtieth year of his late Majesty's reign, entitled "An act for striking the sum of thirty thousand pounds in bills of credit and giving the same to the King's use and for providing a fund to sink the bills so to be emitted by laying an excise on wine, rum, brandy and other spirits," so far as it relates to the laying an excise upon wine, rum, brandy and other spirits, and all and every clause and clauses therein contained for laying, levying and collecting the same, and all other the fines, forfeitures, penalties, sum and sums of money in and by the said act imposed, laid and particularly set forth and declared, and the annual payments to be paid by the treasurer into the hands of the committees of assembly, shall be and continue in force and be effectual to all intents and purposes for raising, levying, collecting, securing, paying and accounting for the several sum and sums of money hereby imposed, granted, charged or continued and for recovering the forfeitures and penalties and all other matters and things thereunto belonging, for and during the term of ten years from and after the first day of October, which will be in the year of our Lord one thousand seven hundred and sixty-six, and for so long after as until the end of the then next session of assembly, anything in the said act or any other act of general assembly of this province to the contrary notwithstanding.

Provided nevertheless, and be it further enacted by the authority aforesaid, That if the excise to be levied by virtue of this act and the act hereinbefore recited shall not be sufficient, during the term for which it was granted by the said first-mentioned act, and the continuance thereof by this act, to sink the sum of thirty thousand pounds by the said hereinbefore mentioned act struck and issued and defray all incident charges thereon and likewise the further sum of thirty thousand pounds, part of the bills of credit to be struck and issued by virtue of this act, then and in such case the aforesaid act passed in the thirtieth year of the reign of his late Majesty King George the

Second, entitled "An act for striking the sum of thirty thousand pounds in bills of credit, and giving the same to the King's use, and for providing a fund to sink the bills so to be emitted, by laying an excise upon wine, rum, brandy and other spirits," and this present act shall be and continue in full force and virtue until the said first-mentioned sum of thirty thousand pounds, and likewise the further sum of thirty thousand pounds, part of the bills of credit to be struck and issued by virtue of this act, shall be completely sunk and destroyed. And if the said excise shall, within the term of ten years, produce more than the sum of thirty thousand pounds, the incident charges aforesaid being defrayed, the overplus shall be disposed of by act of assembly.

And whereas in and by an act of general assembly of this province passed in the first year of his present Majesty's reign, entitled "An act for appointing certain persons hereinafter named to apply for and receive the distributive shares and proportions which are or shall be allotted to this province out of the sum and sums of money granted or to be granted by Parliament to His Majesty's colonies in America," it was enacted and provided that certain sums of money in the said act mentioned should be paid and discharged out of the bills of exchange to be drawn by the trustees of the General Loan Office by virtue of the said act on John Sergeant, George Aufreere, David Barclay, Junior, and John Barclay, merchants in London, and that the said trustees should, towards sinking the sum and sums of money theretofore granted to His Majesty's use and in abatement of the taxes directed to be laid for that purpose, pay and deliver all the remaining part of the money that should arise by the sale of such drafts or bills of exchange as they, the said trustees, were directed to draw by virtue of the said act within one month after making the said payments, into the hands of the committee of assembly, who should be yearly appointed to settle the public accounts in bills of credit of this province, which said bills of credit the said committees were thereby authorized, enjoined and required to burn, sink and destroy, but forasmuch as it hath been represented to this house that Benjamin Franklin, Esquire, Agent for this province at the Court of Great Britain, in pursuance of an act of general assembly of this

province passed in the thirty-third year of his late Majesty's reign, entitled "An act for appointing an agent to apply for and receive the distributive share and proportion which shall be assigned to this province, of the sum of money granted by Parliament to His Majesty's Colonies in America," hath received the sum of twenty-six thousand, nine hundred and two pounds, eight shillings, being the allotment or proportion made by the Lords of the Treasury of the parliamentary grant to this province for the year one thousand seven hundred and fifty-eight, and hath, with the said money, made large purchases in the public funds, or some of them, which, from the present low price of the said funds or stocks, may render it difficult or impracticable for the said Benjamin Franklin to answer and pay the several bills of exchange drawn upon him, the said Benjamin Franklin, by the trustees of the general loan office in pursuance of an order of the last assembly of the twenty-sixth day of September, one thousand seven hundred and sixty-one, and the said bills so drawn by the said trustees, or some of them, may be protested for non-payment thereof:

For remedying whereof and providing a sufficient sum of money in case of a protest or loss upon any part of the said bills of exchange:

Be it enacted by the authority aforesaid, That John Sargent, George Aufrere, David Barclay, Junior, and John Barclay, and the survivors or survivor of them, shall have power and they are hereby authorized and required, when they have received any sum or sums of money by virtue of the act hereinbefore mentioned, to invest the same in some of the public funds or stocks for the use of this province, with full power to buy or contract to buy of any person or persons whatsoever, upon transferring thereof according to the usual manner of transferring the said stock or stocks, and to pay such sum or sums of money or consideration for the purchase of all such capital stock or stocks upon transferring thereof, and likewise to sell, dispose of and transfer the same for the discharge of any bills of exchange which may be drawn upon them, the said John Sargent, George Aufrere, David Barclay, Junior, and John Barclay, by the trustees of the general loan office in pursuance of this act: All which said capital



stock or stocks so as aforesaid purchased, together with the interest, issues and profits thereof, shall be and remain in the names of them, the said John Sargent, George Aufrere, David Barclay, Junior, and John Barclay, but for the use of this province, subject nevertheless to the drafts and bills of exchange of the trustees of the general loan office, to be drawn by them, the said trustees of the general loan office, or any three of them, as in and by the act hereinbefore mentioned is provided and enacted, anything in the said recited act or any other act or law of this province to the contrary notwithstanding.

Provided nevertheless, and it is hereby further enacted by the authority aforesaid, That the trustees of the general loan office shall and they are hereby required and enjoined, within six months after a peace between the Crowns of Great Britain and France shall be proclaimed within this province, or within four years after the passing of this act, as either of them shall or may first happen, to draw for all and every the sum and sums of money purchased or lodged in the public funds as aforesaid, with the interest, issues and profits thereof, and with part of the same shall purchase bills of credit of this province of the value of forty thousand pounds, part of the money hereby granted to the King's use, which bills of credit, when so as aforesaid purchased, shall be delivered by the said trustees into the hands of the committees of assembly, and by the said committees shall be burnt, sunk and destroyed, and the overplus shall be applied by the said trustees towards sinking, burning and destroying the several sums of money heretofore granted to His Majesty, and in abatement of the taxes directed to be laid for that purpose, as in and by the act hereinbefore mentioned is provided and enacted.

And be it further enacted by the authority aforesaid, That Lynford Lardner, Thomas Cadwalader, Joseph Fox, John Hughes, Joseph Galloway and John Baynton, Esquires, or the major part of them, or the survivors of them, with the consent and approbation of the governor or commander in chief of this province for the time being, shall order and appoint the disposition of the moneys arising by virtue of this act for and towards raising, paying and clothing one thousand effective men (offi-

cers included), to act in conjunction with a body of His Majesty's forces, until the twenty-fifth day of November next ensuing, and for other purposes mentioned and contained in the said last recited act of assembly, and to support such of the late inhabitants of Nova Scotia as are real objects of charity.

And the said Lynford Lardner, Thomas Cadwalader, Joseph Fox, John Hughes, Joseph Galloway and John Baynton, or a majority of them, shall and they are hereby required to draw orders upon the trustees of the general loan office for the purposes aforesaid, which orders so drawn and paid shall be produced to the committee of assembly for the time being, and by them allowed in discharge of so much of the money granted to the King's use by virtue of this act; and the said commissioners, for their trouble in discharging the duties of commissioners hereby required, shall have and receive seventy pounds each, and no more, to be paid in the manner hereinbefore directed for defraying the charges arising upon printing and signing the bills of credit made current by virtue of this act.

And whereas sundry certificates by order of assembly for salaries of officers and services done the public remain yet unpaid through a deficiency of money to such purposes appointed:

Be it therefore enacted by the authority aforesaid, That the trustees of the general loan office shall and they are hereby authorized and empowered, out of the moneys arising by virtue of this act, to pay and discharge all such certificates so as aforesaid drawn for salaries of officers and services done the public, or that shall be drawn to defray the incidental charges and expenses of government for the current year; and to make payment to the owners and possessors of all such provincial notes as were heretofore issued for His Majesty's use, which yet remain unpaid; and likewise such other charges as shall or may accrue upon the treaty or treaties with the Indian Nations agreed to be defrayed by a resolve of this House of the tenth instant; and likewise to make payment for two hundred copies of the late edition of our laws, according to a resolve of the seventeenth of February last, when the said number of copies shall be delivered, to be disposed of in such manner as the assembly shall hereafter direct.

And be it further enacted by the authority aforesaid, That the trustees of the general loan office shall have and receive, for their trouble in receiving and paying the moneys and performing the duties required of them by this act, twenty shillings for every hundred pounds, and no more.

From the original in the collection of the Historical Society of Pennsylvania.

## SECTION V.

## 1.

Amendments to the Bill, entitled "An act for forming and regulating the Militia of the Province of Pennsylvania."

<sup>1</sup> Pages 8 and 9. Dele from the word [shall], exclusive, in the second line of page 8, to the word [Him], inclusive, in the 10th line of page 9, and instead thereof insert as follows, viz., within ten days afterwards return a duplicate of the said lists, under his hand, as the Governor or commander in chief of this province in order the better to enable him to divide the said companies into regiments and to appoint and commissionate a colonel, lieutenant-colonel and major to each regiment and a captain, lieutenant and ensign to each company, which officers so appointed].

Page 10. Dele from the word [and], inclusive, in the eighth line, to the word [commissions], inclusive, in line 11.

Same page, line 13. Dele the words [chosen, certified or].

Same page and line. After the word [as], add the words [a colonel, unless he be possessed of a real estate in this province worth £500, or as lieutenant-colonel unless he be possessed of a real estate worth £400, or as a major unless he be possessed of a real estate worth £300, or double the value in personal estates or as].

Page 12, line 3rd. Dele the words [chosen, certified], and insert the word [appointed].

Same page, line 4. Dele from the word [aforesaid], in the fourth line to the word [but], in the sixth line.

Page 14, line 1. After the word [county], add the words [or city].

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<sup>1</sup> The pages cited in this paper refer to the copy of the bill submitted to the Governor at the time; their retention here is, however, unavoidable.

Page 21, last and penult lines. Dele the words [hereinafter directed to be chosen and appointed].

Page 22. Dele the word [and], inclusive, in the tenth line of the 22nd page, to the word [otherwise], inclusive, in the fifth line of page 25.

Page 26. Dele from the word [the], in the 1st line of page 26th, to the word [governor], in the 9th line of the same page.

Page 26, line 11. After the word [being], insert the words [in order that he may appoint and commissionate a captain, lieutenant and cornet to such troop who, before they enter upon the execution of their respective offices].

Page 29. Dele from the word [and], inclusive, in the antepenult line of the 29th page, to the word [directed], inclusive, in the 4th line of page 33.

Page 34. Dele from the word [To], in the 11th line of page 34, to the word which is in the 5th line of page 35, and instead thereof insert [the Governor and commander in chief of this province for the time being who shall appoint and commissionate a captain, first and second lieutenant for each company].

Page 35, lines 5 and 6. Dele the words [chosen, if approved of, and].

Page 39, line 13. Dele the word [one], and insert the word [three].

Page 40, line 6. Before the word [fifty], insert the words [one hundred and].

Same page, line 13. Dele the word [ten], and insert the word [fifty].

Page 41, line 10. Dele the word [ten], and insert the word [fifty].

Page 43. Dele from the word [officer], in the first line, to the word [shall], in the 9th line, and instead thereof insert the word [or].

Pages 43, 44. Dele from the word [shall], inclusive, in the last line of page 43 to the word [clergy], inclusive, in the first line of page 44, and instead thereof insert as follows, viz.: [by a court-martial shall suffer death or such other punishment as such court by their sentence or decree shall think proper to inflict and pronounce, and be it further enacted by the authority

aforesaid, That when and so often as it may be necessary, the Governor and Commander in Chief of this province for the time being shall appoint and commissionate, under the Great Seal of this province sixteen commissioned officers in each regiment, with authority and power to them, or any thirteen of them, to hold Courts-Martial, of whom a field officer shall always be one and president of the said court, and such Courts-Martial shall and are hereby empowered to administer an oath to any witness in order to the examination or trial of any of the offenses which by this act are made cognizable in such courts and shall come before them, provided always that in all trials by a court-martial by virtue of this act, every officer present at such trial, before any proceedings be made therein, shall take an oath upon the Holy Evangelists, before one justice of the peace in the county where such court is held, who are hereby authorized to administer the same in the following words: That is to say,— I, A. B., do swear that I will duly administer justice according to evidence and to the directions of an act, entitled “An act for forming and regulating the militia of the province of Pennsylvania,” without partiality, favor or affection, and that I will not divulge the sentence of the court until it shall be approved of by the Governor or Commander in Chief of this province for the time being, neither will I, upon any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of the court-martial. So help me God. And no sentence of death or other sentence shall be given against the offender, but by the concurrence of nine of the officers so sworn. And no sentence passed against any offender by such court-martial shall be put in execution until report be made of the whole proceedings to the Governor or Commander in Chief of this province for the time being and his directions signified thereupon].

Page 44, line 13. After the word [officer], add the words [being in the execution of his office].

Same page, line 14. Dele the word [reasonable], and insert the word [lawful].

Pages 44, 45. Dele the words [Forfeit and pay any sum not exceeding five pounds like money] in the last line of the 44th

page and the first and second lines of page 45, and instead thereof insert the words [suffered death or such other punishment as shall, according to the nature of the offense be inflicted by the sentence of a court-martial].

#### Amendments to the rider to the Bill.

Dele the words [by and with the advice and consent of the provincial commissioners], in the last line of the first page and the first and second lines of the second page of the rider.

After the word [province], in the 4th line of the 2nd page, add the word [to].

Dele the words [and commissioners], in the 7th and 8th lines of page 2nd.

#### Further Amendments to the Bill.

Page 45, penult line. After the word [alarmed], add the words [invasion, insurrection or rebellion].

Page 49, line 10. Dele the words [ten shillings] and instead thereof insert the words [ten pounds].

Page 50, line 1. Dele the word [five], and insert the word [fifty].

Page 62. Dele from the word [or], inclusive, in the eighth line, to the word [officers], inclusive, in the eleventh line.

Page 66, line 5. After the word [province], add [and not otherwise].

Page 70, line last and penult. Dele the words [and also distinguishing those].

Page 71, line 2. After the word [arms], add [and have not therefore appeared in his or their company under arms to be instructed in military discipline].

Same page, lines 14, 15, 16. Dele the words [to belong to such religious societies, whose principles are against bearing arms].

Page 73, line 3. After the word [charged], add [with cost of such distress].

[Endorsed] Amendments to the Militia Bill, March 12, 1764.

From the original in the collection of the Historical Society of Pennsylvania.

## SECTION VI.

## 1.

Grey's Inn, 30th May, 1764.

Dear Sir: It gives me very great concern, to see you embroiled with so many difficulties in your government, and engaged in such disputes with a factious assembly, deluded by their leader, Mr. Franklin, who enjoys all these troubles, hoping they will tend to gratify his unjust resentment against the proprietaries, who, to my certain knowledge, have not a wish but for the prosperity of the province and the peace and happiness of the people.

I have read the Pennsylvania Gazette wherein your and their messages are printed, together with all their resolutions. These fully show the temper of the men, and the unjust reflections they cast on the proprietaries are abominable.

In what I shall now write to you, I shall confine myself entirely to the tax bill, the great object between you, and here I must lament that you have not sent over a copy of the bill, so that I must confine myself to what appears in the Gazette upon the messages between you and the assembly.

By the order of council of the second of September, 1760, it appears that the Lords thought the tax bill of 1759 for raising one hundred thousand pounds fundamentally wrong and unjust and that it ought to be rejected unless six alterations could be made in it, enumerated in that order, these Mr. Franklin and Mr. Charles, agents for the assembly, undertook should be rectified in a future act, upon the faith of which the proprietaries consented, and upon the faith of which the Lords advised His Majesty not to reject that bill, and that he might rely upon the undertaking of the assembly of Pennsylvania, by their agents and permit that act (unjust as it was) to stand unrepealed.

Among these six enumerated alterations, the second is the present matter of debate, viz.:

2d. "That the located uncultivated lands belonging to the proprietaries shall not be assessed higher than the lowest rate at which any located uncultivated lands belonging to the inhabitants shall be assessed."

Now the assembly, in their bill, have enacted "That the lo-

cated uncultivated lands belonging to the proprietaries of this province shall not by virtue of this act be assessed higher than the lowest rate at which any located uncultivated lands belonging to the inhabitants thereof under the same circumstances of situation, kind and quality shall be assessed."

Thus the words "under the same circumstances of situation, kind and quality" seem to me to be the only words in dispute between you and the assembly, and the thing in dispute I conceive is this: The act directs that no lands shall be rated higher than fifteen pounds for one hundred acres nor lower than five pounds. Therefore, according to the literal construction of the words of the order of council, the located and unimproved lands of the proprietaries are to be rated at five pounds only, be their situation and quality where and what it will, and this is what you contend for as the meaning of the order. On the other hand, the assembly contend they are to be rated not higher than the lowest rate of the inhabitants, regard being had to the situation and quality. Thus, if the proprietaries and the inhabitants have located and unimproved lands lying contiguous of equal goodness and the inhabitants are rated at ten pounds or fifteen pounds, the proprietaries shall be rated at ten pounds or fifteen pounds also, and not at five pounds only, because other lands of the inhabitants and perhaps of the proprietaries too, in other places, in a worse situation and of a worse quality are rated at five pounds only.

The literal construction of the order is with you, and I do not wonder that after such repeated admonitions from the administration to beware of the encroachments of the assembly, and to support the order of council of the second day of September, 1760, you contended for the literal construction, and requested them to insert the very words of the order in their act. Still less do I wonder, when I recollect that you were present at all those arguments before the Board of Trade and the Privy Council in 1760, when the assembly had found ways to get their favorite acts passed by the Governor, whereby they had usurped the whole application of public money, had endeavored to strip the Crown and the proprietaries of every prerogative, and to tax the proprietaries in the most unequal, unjust, arbitrary and



oppressive manner, upon all which acts that order of council of the second day of September was made.

Upon those agreements, you may remember the proprietaries submitted to be taxed for their quit-rents, for their improved-rents, and also that the lands intruded upon should be taxed (from which they received no advantage), to be paid by the intruders. But they contended with very great reason, that their located unimproved lands (which they did all they could to let, but could not let and, consequently, produced no profit), should not be taxed. Lord Chief Justice Pratt (then attorney-general) was sanguine in his opinion in this, and to this hour thinks that they ought not to have been taxed. However, the Lords were of a contrary opinion, but to prevent the assembly from taxing the proprietaries arbitrarily as they pleased, restrained the tax upon the proprietaries to the lowest rate of any of the inhabitants, and certainly then meant, what you contend for, and I have no doubt but if the point now in dispute had been then thought on, inflamed as they then were, at the usurpations of the assembly, and their injustice to the proprietaries, they would then have fully expressed themselves so as to have left no room for this contest, and declared that the proprietaries should be taxed for these located lands, at the lowest rate of the inhabitants, without regard to situation or quality.

But though this is my opinion, yet I now think it proper to advise the proprietaries to give up this point, and to submit to be taxed according to the lowest rate of the inhabitants, under the same circumstances of situation, kind and quality. For, though the literal construction of the order is what the Lords I verily believe intended, at the time they made it, yet as the Lords of the Privy Council commonly convey their ideas to the province of Pennsylvania by their words, I am not certain that after this length of time, when matters are cool, at least in this country, if this act alone were now to be debated, unaccompanied with any other flagrant acts of the assembly, that the construction might not be put upon it contended for by the assembly. And I never will advise the proprietaries to appear before the King in Council in a dispute with the assembly where they are not (at least in my judgment) clearly in the right and the assembly

in the wrong. Besides, I think it not for the dignity of the proprietaries to admit that they are to be taxed for these lands (for their being taxed at all is now out of the question and not to be debated) and then to contend for the inequality of such tax with respect to themselves.

These are my sentiments upon this question, and these are the sentiments of much wiser and abler men than me [*sic*], and these are the sentiments of the proprietaries who have taken this matter into consideration as soon as the Gazette arrived.

What hath been the fate of the act I don't know, whether the assembly hath complied with you and left out the words "under the same circumstances of situation, kind and quality," or you have complied with them and inserted them. If the former, the proprietaries desire it to be signified (in such manner as you shall think most proper) that the act may be executed according to the construction contended for by the assembly in that respect, and that their located and unimproved lands may be taxed at the lowest rate of the inhabitants under the same circumstances of situation, kind and quality. This is giving the most liberal construction to the order of the council. It is acting agreeable to the dignity of the proprietaries and it is acting agreeable to their inclinations also, (who though they were once advised these lands ought not to be taxed at all), yet now desire (whatever ill treatment they have met with from the assembly) to be taxed in that respect equally with the rest of the inhabitants. I am,

Dear Sir,

Your most faithful, obedient  
and obliged humble servant,

HENRY WILMOT.

[Endorsed in the handwriting of Gov. John Penn.]

Mr. Wilmot,

May 30th, 1764.

From the original in the collection of the Historical Society of Pennsylvania.

Act, taxing all the estates, real and personal, passed in Pennsylvania in June, 1764.”

It cannot be understood. Reference being made therein to all former acts that have ever passed in the province for the taxation of estates.<sup>1</sup>

Objection 1st. It is very difficult to be understood either by those that are to execute it or those that are to be affected by it, as it has many references to the acts that have formerly passed for taxation of estate in this province, repealing some parts, altering others and confirming others. This introduces a confusion into the act, as well as hinders it from being seen in its true light. Sure I am that the Lords of Trade cannot comprehend it without reading over and well studying all former acts.

2nd. It appoints assessors and commissioners to inquire into, rate, assess and tax all estates and puts them under oaths to make fair and just assessments of estates according to their real value and situation; but as this is a downright farce, for almost every branch of property is taken out of their hands and a most oppressive and unjust valuation made of it in the act itself, and the consciences of the assessors are bound down to this valuation, so that the mortgagees have not a right to pledge, but must return a valuation of property that they know greatly will exceed the real value. Wherefore, the assembly, contrary to their duty, have, in an arbitrary manner, made themselves sole judges of the value of estates. Neither the people nor the Governor are allowed to exercise any judgment. The Governor is precluded because the assembly will

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<sup>1</sup>The Lords have always objected to these references and directed that all future acts should have everything in them that was necessary to the execution of the bill expressed in clear and full terms.

not admit of any amendment to a money bill, and the people are precluded because the assessors chosen by them are deprived of the exercise of their judgment, all the material parts of property being rated and valued by the assembly in the act.

3rd. The persons liable to taxation are to give in accounts of their property, and if any part of it be omitted they are to be taxed fourfold and their estates to be sold for this fourfold tax, without any appeal to any court whatever or to the King in Council. And what is still more cruel, there is no provision for ignorance or any other cause of omission, the act expressly saying, if any person shall not give a just and true account and report of the several kinds of property of which he is possessed, mentioned and specified in a sheet left with him by the assessors, he shall forfeit and pay fourfold. Upon the rule established, the property so concealed ought to be rated pursuant to the act<sup>1</sup> \* \* \* \*

4th. \* \* \* \*  
 such lands are bought from the proprietaries for twenty-five pounds ten shillings per hundred acres, and if sold for the payment of the tax would not fetch, in general, more than that, but in no ways would sell for the price at which they are rated in the act. This is a manifest injustice and involves four-fifths of the landed property in the province. For, suppose any parcel of land to be sold to pay the tax, three times as much land must be sold as that on which the tax is to be laid in order to pay the tax.

5th. But to show a still greater iniquity done by the assembly in this unfair taxation of unim-

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<sup>1</sup> Two pages of the original manuscript are missing.

proved estates, which neither in England nor in any other province are subject to taxation at all; the assembly have put the same value on all the parts of cultivated tracts that are left in their natural state, let the laches of the non-improvement be what they will, all such lands are to pay as if they were large tracts of uncultivated lands taken up for mere profit, and this, too, after every part of the estates taxed to the utmost that is in any kind of culture. This is a most monstrous abuse of trust in the assembly and a gross grievance on all people of the poorest sort, because the poorer people are, the less they can cultivate, and yet their uncultivated rated lands will pay more in many instances than their cultivated lands which will not, take the province through, fetch a rent of five pounds a year, and yet must be rated, if the assessors do their duty, at less than the uncultivated parts of the tracts.

This grievance was principally leveled at the proprietaries, who do order particular tracts to be surveyed for the use of the family, but not in the manner asserted by the assembly, in their messages, as if they took up the best; far from it; the people have generally had the first choice and the tracts surveyed to the proprietaries are not of the best lands, but often of the worst sort, both as to product and situation.

6th. The proprietaries' receiver-general, being favored by the Governor by a sight of the bill before it passed, set both in a representation, which was laid by the Governor before the assembly [containing] the alterations about the bill, that the things enjoined to be done by them as agents for the proprietaries were in

practice \* \* \* \* \*  
 and pointed out particularly the shortness of the time allowed to render an estimate of their estate. And yet the assembly, though they allowed this to be free, as will appear in their votes, when printed, would not alter it nor make such changes in the act as the particular circumstances of the proprietaries' estate calls for, but most unjustly put their agents under such limitations and demands as it was impossible to comply with.

7th. The Lords by their judgment manifestly suppose that the assembly could make a fair and regular valuation of property and on such valuation the proprietors should pay equally with the people for their lands according to situation and value. This, the assembly have pretended to comply with, but the fallacy lies in this, that though they have put the people in the same position with the proprietaries, yet they have taken upon them to put a valuation on the estates, and that a very unjust one. The assembly knows that people are apt not to complain of one another, and that though the bulk of the freeholders should not return a just account, yet neither the assessors who are chosen by them nor their neighbors will make any discovery, for this has been and may be proved by divers persons, on oath, to have been the case in a thousand instances in former assessments and that some persons have paid three or four times a greater tax than their neighbors for land of equal value and quality.

The proprietary lands will be examined closely and everything brought to light that relates to them; and they would choose it should be so, provided others were put on the same foot

with them, but as this is not the case they and a few honest men will, by this act, be made to pay to the uttermost farthing while the general run of the landholders will not pay in any kind proportion to them.

8th. The proprietary's appropriated tracts which lie in the place where the Indians have committed their ravages are not exempted from taxation during the time of the war, though those belonging to other people are, which shows manifest partiality in the assembly; a conduct very different from that of the proprietaries who ordered their receiver-general not to take any interest from the people when they should come to take out their patents of location for lands in those circumstances.

9th. All the prerogatives of the Crown are taken away by this act in the very same manner as by former acts, the Governor's concurrence not being had and necessary in drafts upon the treasurer or trustees of the loan office in whose hands the moneys raised by this act are lodged; add to this that the commissioners, five of whom are members of assembly, are only made accountable to the House and the Governor has not the least check upon the accounts. In short, this is the most oppressive act that ever was offered and the serpentine polity lies in this, that the assembly has in words complied with the order of council in those parts that relate to the proprietary estate, but in that way get the proprietary estates absolutely in their power.

Nor did the Governor think himself at liberty, though all these things were mentioned in council, whilst the bill was under consideration, to reject the bill because the Indians had resumed their hostilities.

And Colonel Bouquet, His Majesty's commander in the province of Pennsylvania, who was then in town, declared to the Governor and members of council that the King's business could not be done without the money, and that it was necessary to pass the act, though the proprietaries should suffer in their property, for they might have their remedy from the Crown, who would relieve them on being informed of illegal taxation. But if the duress put upon the Governor from the circumstances the province was in and it may, with proof, be affirmed, this said duress \* \* \* \* has been put upon the Governor and there is reason to think now will be put upon him by the assembly in case the troubles continue, unless their acts be repealed and this \* \* \* \* limiting other things assigned as a reason of the repeal.

The Lords of Trade have formerly intimated as \* \* \* \* and proprietaries' governors have passed acts injurious to the proprietary or the crown where their own estates have been taxed, they cannot say so in this case (nor, indeed, with truth could it be said in any former case), because the Governor, with his eyes open, and under a perfect knowledge that the estates of the proprietaries would be at the mercy of the people, did pass the act, either in that an expedition judged absolutely necessary for the good of the kingdom should not go on for want of the money raised by this act.

In short, as the act is oppressive to all, but more particularly to the proprietaries, and as the King's prerogatives are most obstinately and wittingly continued to be injured by this act in direct violation of the stipulations of them-



selves, it is hoped that somehow or another this act will be opened and its iniquity be made known to the Lords of the Council, that it may be repealed.

As to the injury that may be done to private people, who, in case of repeal, will have so much money lost as is in their hands of this money this will be an eternal stay bar and carries no resource in it because the representatives will be obliged eventually to frame a restitution bill and make the money good to the people.

This is further to be observed that the very next year after the judgment of the King in Council made upon the above, an absolute stipulation on the part of the assemblies agent entered in the council books, the assembly passed another supply act for 100,000 pounds and obliged the Governor, without having the least regard had to the Royal judgment, either as to the proprietary estate or the King's prerogatives, and obliged the then Governor, who was in the same circumstances as to public danger with the present Governor, to pass it, and the proprietaries, whose patience and lenity are not to be conquered, have not protested that act.

[The almost illegible scrawl breaks off here abruptly, the bill in question having been passed by the assembly on the last day of May and Mr. Peters' draft of the governor's objections necessarily not having been drawn up till some time afterwards he has, no doubt, inadvertently misdated the passing of the act.]

From an original paper in the possession of Charles R. Hildeburn.

## SECTION VII.

## 1.

A SUPPLEMENT TO AN ACT, ENTITLED "AN ACT FOR GRANTING TO HIS MAJESTY THE SUM OF FIFTY-FIVE THOUSAND POUNDS, AND FOR STRIKING THE SAME IN BILLS OF CREDIT IN THE MANNER HEREINAFTER DIRECTED, AND FOR PROVIDING A FUND FOR SINKING THE SAID BILLS OF CREDIT BY A TAX ON ALL ESTATES, REAL AND PERSONAL, AND TAXABLES WITHIN THIS PROVINCE.

Whereas by an act of the general assembly of this province, entitled "An act for granting to His Majesty the sum of fifty-five thousand pounds, and for striking the same in bills of credit, in the manner hereinafter directed, and for providing a fund for sinking the said bills of credit by a tax on all estates, real and personal, and taxables within this province," passed in the fourth year of His Majesty's reign,, it was enacted that towards sinking the sum of money granted to His Majesty's use by virtue of (*sic*) of the said act, the located uncultivated lands belonging to the proprietaries should not be assessed higher than the lowest rate at which any located uncultivated lands belonging to the inhabitants should be assessed, and that all lands not granted by the proprietaries within boroughs and towns should be deemed located uncultivated lands and rated accordingly, and not as lots; and whereas, doubts have arisen concerning the meaning of the said clause and the Governor has informed this assembly that the proprietaries have signified to him that they do not wish or desire that their located uncultivated lands in this province should be taxed in any other manner than at the lowest rate at which any such lands belonging to the inhabitants under the same circumstances of situation, kind and quality should be assessed.

Be it therefore enacted by the Honorable John Penn, Esquire, Lieutenant-Governor, under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That the

hereinbefore recited clause of the said act and every part thereof be and is hereby repealed, annulled and made void.

Provided nevertheless and be it further enacted by the authority aforesaid, That the located uncultivated lands belonging to the proprietaries of this province shall not, by virtue of the said act, be assessed higher than the lowest rate at which any located uncultivated lands belonging to the inhabitants thereof, under the same circumstances of situation, kind and quality, shall be assessed, anything in the said act to the contrary notwithstanding.

Amendment to the bill, entitled "A supplement to an act, entitled 'An act for granting His Majesty the sum of fifty-five thousand pounds, &c.'" "

Dele from the word [and], inclusive, in the penult line of page 2, to the word [lots], inclusive, in the 2nd line of page 3.

[A true] transcript from the original bill sent up to the Governor by the assembly (per two members), on Thursday, the 7th of February, 1765.

Examined by me

[Signed.]

JOSEPH SHIPPEN, Jr.,  
Secretary.

From the original in the collection of the Historical Society of Pennsylvania.

#### SECTION VIII.

##### 1.

At the Council Chamber, Whitehall, the 11th of February, 1766.

By the Right Honorable the Lords of the Committee of Council  
for Plantation Affairs.

Whereas the agent for the proprietaries of the province of Pennsylvania did, on the nineteenth day of December last, deliver into the hands of the clerk of the council in waiting thirty-one acts passed in that province in the years 1763, 1764 and 1765.

And whereas His Majesty was pleased, on the tenth of this instant, to refer the said acts to this committee, their Lordships this day took the same into consideration and are hereby

pleased to refer the said acts (which are hereunto annexed) to the Lords Commissioners for Trade and Plantations, to examine into the same and report their opinion thereupon to this committee.

ROBERT WALPOLE.

List of thirty-one acts of assembly of Pennsylvania most humbly presented to His Majesty in Council, being entitled and passed respectively as follows:

1. "An act for regulating the hire of carriages to be employed in His Majesty's service."  
Passed the 8th of July, 1763.
2. "An act for erecting a light-house at the mouth of the bay of Delaware, at or near Cape Henlopen, for placing and fixing buoys in the said river and bay of Delaware, and for appointing commissioners to receive, collect and recover certain sums of moneys heretofore raised by way of lottery, and to appropriate the same to the purposes aforesaid."  
Passed the 30th of September, 1763.
3. "An act to enable the commissioners for paving the streets of Philadelphia to settle the accounts of the managers, and to sue for and recover from several persons such sums of money as are now due and unpaid on account of the several lotteries set up and drawn for paving the streets of the said city."  
Passed the 30th of September, 1763.
4. "An act to continue an act, entitled 'An act for regulating and continuing the nightly watch and enlightening the streets, lanes and alleys of the city of Philadelphia, and for raising money on the inhabitants and estates of the said city for defraying the necessary expense thereof.'"  
Passed the 30th of September, 1763.
5. "An act for granting to His Majesty the sum of twenty-four thousand pounds for the defense and protection of this province, and for other purposes therein mentioned."  
Passed the 22nd of October, 1763.
6. "An act for regulating the officers and soldiers in the pay of this province."  
Passed the 22nd of October, 1763.

7. "An act to prohibit the selling of guns, gunpowder or other warlike stores to the Indians."  
Passed the 22nd of October, 1763.
8. "An act for preventing tumults and riotous assemblies, and for the more speedy and effectual punishing the rioters."  
Passed the 3rd of February, 1764.
9. "An act for the payment of ten thousand nine hundred and forty-seven pounds sterling in certain proportions to several colonies in America."  
Passed the 23rd of March, 1764.
10. "A supplement to the act, entitled 'An act for taking lands in execution for the payment of debts and for confirming partitions in several instances heretofore made.'"  
Passed the 23rd of March, 1764.
11. "An act for the relief of Samuel Wallis, a prisoner in the gaol of Philadelphia, with respect to the imprisonment of his person."  
Passed the 23rd of March, 1764.
12. "A supplement to the act, entitled 'An act for the better settling intestates' estates and for repealing one other act of general assembly of this province, entitled 'An act for amending the laws relating to the partition and distribution of intestates' estates.'"  
Passed the 23rd of March, 1764.
13. "An act for granting to His Majesty the sum of fifty-five thousand pounds and for striking the same in bills of credit in the manner hereinafter directed, and for providing a fund for sinking the said bills of credit by a tax on all estates, real and personal, and taxables within this province."  
Passed the 30th of May, 1764.
14. "An act for regulating the officers and soldiers in the pay of this province and for continuing an act, entitled 'An act for regulating the hire of carriages to be employed in His Majesty's service.'"  
Passed the 30th of May, 1764.
15. "A supplement to the act, entitled 'An act for erecting a light-house at the mouth of the bay of Delaware, at or near

Cape Henlopen and for placing and fixing buoys in the said bay and river Delaware.”

Passed the 22nd of September, 1764.

16. “A supplement to the act, entitled ‘An act for granting to His Majesty the sum of twenty-four thousand pounds for the defense and protection of this province and for other purposes therein mentioned.’”

Passed the 22nd of September, 1764.

17. “An act for raising, by way of lottery, the sum of three thousand and three pounds, fifteen shillings, to be applied to the payment of the arrears of debt due for the finishing St. Peter and St. Paul’s Episcopal churches, in the city of Philadelphia.”

Passed the 22nd of September, 1764. [Should be February 15, 1765.]

18. “A supplement to an act, entitled ‘An act for the relief of insolvent debtors within the province of Pennsylvania.’”

Passed the 2nd of February, 1765.

19. “An act for amending each and every of the acts of assembly of this province heretofore made for embanking and draining several parcels of marshy land, situate in the counties of Philadelphia and Chester, and for repairing and maintaining the banks, dams and sluices thereunto belonging.”

Passed the 15th of February, 1765.

20. “An act for the relief of Walter Davies, a languishing prisoner in the gaol of Philadelphia, with respect to the imprisonment of his person.”

Passed the 2nd of February, 1765.

21. “An act for the relief of James Pearson, in the gaol of Philadelphia, with respect to the imprisonment of his person.”

Passed the 2nd of February, 1765.

22. “A supplement to an act, entitled ‘A supplement to the act, entitled ‘An act for regulating, pitching, paving and cleansing the highways, streets, lanes and alleys and for regulating, making and amending the watercourses and

common sewers within the inhabited and settled parts of the city of Philadelphia.'”

Passed the 15th of February, 1765.

23. “An act the better to enable the persons therein named to hold lands and to invest them with the privileges of natural born subjects of this province.”

Passed the 2nd of February, 1765.

24. “An act for the relief of Robert Lettis Hooper, Junior, a prisoner in the gaol of Philadelphia, with respect to the imprisonment of his person.”

Passed the 2nd of February, 1765.

25. “An act to enable the owners and possessors of a certain piece of marsh or meadow ground hereinafter described, situate in Kingsessing, in the county of Philadelphia, to embank and drain the same, &c.”

Passed the 15th of February, 1765.

26. “An act for opening and better amending and keeping in repair the public roads and highways within this province.”

Passed the 18th of May, 1763.

27. “A supplement to the act, entitled ‘An act for prohibiting the importation of German or other passengers in too great numbers in any one vessel.’”

Passed the 18th of May, 1763.

28. “An act to enable the inhabitants of the borough of Lancaster, in the county of Lancaster, to raise money on themselves for supporting a county [*sic*] of Lancaster nightly watch in the said borough, and for other purposes therein mentioned.”

Passed the 20th of September, 1765.

29. “An act to explain and amend a supplement to the act, entitled ‘An act for the relief of insolvent debtors within the province of Pennsylvania.’”

Passed the 20th of September, 1765.

30. “An act to enable the commissioners hereinafter named to settle the accounts of the managers and to sue for and recover from several persons such sums of money as are now due and unpaid, on account of a lottery set up and drawn

for erecting a bridge over Skippack creek, in the county of Philadelphia, &c.”

Passed the 20th of September, 1765.

31. “An act for the easy recovery of legacies.”

Passed the 20th of September, 1765.

Board of Trade Proprieties, Vol. XXII, Y. 2.

2.

Tuesday, 18th February, 1766.

At a Meeting of His Majesty's Commissioners for Trade and Plantations.

Present:

Earl of Dartmouth,

Mr. Jenyns,

Mr. Rice,

Mr. Dyson,

Mr. Fitzherbert,

Lord Palmerston.

Read an order of the Lords of the committee for plantation affairs, dated eleventh of February, 1766, referring to the board, for their examination and report, thirty-one acts passed in Pennsylvania in 1763, 1764 and 1765.

It appearing that the acts referred by the above mentioned order were presented in council on fifteenth of December last, so that a small part of the term within which the Crown has a power of negative remains unexpired, it was ordered that the said acts should be forthwith sent to Sir Matthew Lamb, for his immediate consideration and report thereupon, with all possible dispatch.

(Signed.)

DARTMOUTH.

Board of Trade Journals, Vol. LXXIV, p. 51.

3.

Lincoln's Inn, 3d May, 1766.

To the Right Honorable the Lords Commissioners for Trade and Plantations.

My Lords: In pursuance of your Lordships' commands, signified to me by Mr. Pownall's letter, wherein you are pleased to



desire my opinion in point of law upon the following acts, passed in the province of Pennsylvania, I have perused and considered the same, viz.:

1. "An act for regulating the hire of carriages to be employed in His Majesty's service."  
This act is expired.
2. "An act for erecting a light-house at the mouth of the bay of Delaware, at or near Cape Henlopen, for placing and fixing buoys in the said bay and river Delaware, and for appointing commissioners to receive, collect and recover certain sums of money heretofore raised by way of lottery, and to appropriate the same to the purposes aforesaid."
3. "An act to enable the commissioners for paving the streets of the city of Philadelphia to settle the accounts of the managers, and to sue for and recover from several persons such sums of money as are now due and unpaid, on account of the several lotteries set up and drawn for paving the streets of the said city."
4. "An act to continue an act, entitled 'An act for regulating and continuing the nightly watch and enlightening the streets, lanes and alleys of the city of Philadelphia, and the raising money on the inhabitants and estates of the said city for defraying the necessary expense thereof.'"
5. "An act for granting to His Majesty the sum of twenty-four thousand pounds, for the defense and protection of this province and for other purposes therein mentioned."
6. "An act for regulating the officers and soldiers in the pay of this province."  
This act is expired.
7. "An act to prohibit the selling of guns, gunpowder or other warlike stores to the Indians."  
This act is expired.
8. "An act for preventing tumults and riotous assemblies and for the more speedy and effectual punishing of the rioters."  
This act is expired. It is agreeable to the act of Parliament, 1st George the First, for preventing riots.

9. "An act for the payment of ten thousand nine hundred and forty-seven pounds sterling, in certain proportions, to several colonies in America."
10. "A supplement to the act, entitled 'An act for taking lands in execution for the payment of debts and for confirming partitions in several instances heretofore made.'"
11. "An act for the relief of Samuel Wallis, a prisoner in the gaol of Philadelphia, with respect to the imprisonment of his person."

This act is of a very unusual nature and although the misfortunes of the person intended to be relieved by it may deserve compassion, yet the case is such that the legislature of this province have no right to interfere in it, being a private concern. The prisoner, Samuel Wallis, was in confinement at the suit of his creditor, and the legislature ought not, upon his petition or of any others on his behalf, release him from confinement without the consent of or satisfaction made to such creditor. It would be of the greatest inconvenience to credit if persons confined for debt can get released without their creditor's consent by application to the legislature, and it is a power they ought not to exercise, and I am of opinion this act should be declared void.

12. "A supplement to the act, entitled 'An act for the better settling intestate's estates, and for repealing one other act of general assembly of this province, entitled 'An act for amending the laws relating to the partition and distribution of intestates' estates.'"

This act makes alterations in an act passed 4th Queen Anne, and repeals another act passed 22nd George the Second and enacts the distribution of intestates' estates, both real and personal, different to the laws of England. But this and the neighboring provinces have passed particular laws relating thereto, which have been usually confirmed; therefore, I must submit this act to your Lordships.

13. "An act for granting to His Majesty the sum of fifty-five thousand pounds and for striking the same in bills of credit

in the manner hereinafter directed, and for providing a fund for sinking the said bills of credit by a tax on all estates, real and personal, and taxables within this province.”

14. “Hire of carriages to be employed in His Majesty’s service.”

This act is expired.

15. “A supplement to the act, entitled ‘An act for erecting a light-house at the mouth of the bay of Delaware, at or near Cape Henlopen, and for placing and fixing buoys in the said bay and river Delaware, and for appointing commissioners to receive, collect and recover certain sums of money heretofore raised by way of lottery, and to appropriate the same to the purposes aforesaid.’ ”

16. “A supplement to the act, entitled ‘An act for granting to His Majesty the sum of twenty-four thousand pounds for the defense and protection of this province and for other purposes therein mentioned.’ ”

17. “An act for raising by way of lottery the sum of three thousand and three pounds fifteen shillings, to be applied to the payment of the arrears of debt due for the finishing St. Peter’s and St. Paul’s Episcopal churches, in the city of Philadelphia, and towards finishing the Episcopal church at Carlisle and the building of an Episcopal church in the towns of York and Reading and repairing the Episcopal church at Molattin, in Berks county, and for repairing the Episcopal church in Huntingdon township, in York county, and for repairing the Episcopal churches at Chichester and Concord, and purchasing a glebe for the church at Chester, in the county of Chester.”

18. “A supplement to an act, entitled ‘An act for the relief of insolvent debtors within the province of Pennsylvania.’ ”

19. “An act for amending each and every of the acts of assembly [of this] province heretofore made for embanking and draining several parcels of marshy lands, situate in the counties of Philadelphia and Chester, and for repairing and maintaining the banks, dams and sluices thereunto belonging.”

20. "An act for the relief of Walter Davies, a languishing prisoner in the gaol of Philadelphia, with respect to the imprisonment of his person."

I have the same objection to this act as to the act No. 11.

21. "An act for the relief of Robert Lettis Hooper, Junior, a prisoner in the gaol of Philadelphia, with respect to the imprisonment of his person."

I have also the same objection to this act as the last.

22. "An act for the relief of James Pearson, a prisoner in the gaol of Philadelphia, with respect to the imprisonment of his person."

I have the same objection to this act as to the last.

23. "A supplement to an act, entitled 'A supplement to the act, entitled "An act for regulating, pitching, paving and cleansing the highways, streets, lanes and alleys and for regulating, making and amending the watercourses and common sewers within the inhabited and settled parts of the city of Philadelphia and for raising of money to defray the expense thereof."'"

24. "An act the better to enable the persons therein named to hold lands and to invest them with the privileges of natural born subjects of this province."

25. "An act to enable the owners and possessors of a certain piece of marsh or meadow ground hereinafter described, situate in Kingsessing, in the county of Philadelphia, to embank and drain the same, to make and keep the outside banks and dams in good repair forever, and to raise a fund to defray the yearly expenses arising thereon."

26. "An act for opening and better amending and keeping in repair the public roads and highways within this province."

27. "A supplement to the act, entitled 'An act for prohibiting the importation of German or other passengers in too great numbers in any one vessel.'"

28. "An act to enable the inhabitants of the borough of Lancaster, in the county of Lancaster, to raise money on themselves for supporting a nightly watch in the said borough, and for other purposes therein mentioned."

29. "An act to explain and amend a supplement to the act, entitled 'An act for the relief of insolvent debtors within the Province of Pennsylvania.'"

30. "An act to enable the commissioners hereinafter named to settle the accounts of the managers and to sue for and recover from several persons such sums of money as are now due and unpaid on account of a lottery set up and drawn for erecting a bridge over Skippack creek, in the county of Philadelphia, and to receive the voluntary donations and subscriptions of the inhabitants towards the better perfecting the said bridge."

31. "An act for the easy recovery of legacies."

This act is for remedying the powers for recovering legacies which, by former acts, in this province were subsisting, but are now expired and as such acts have before received confirmation, I must now submit this act to your Lordships.

Upon perusal and consideration of these acts, I have no other objections thereto in point of law than are before mentioned, and am,

My Lords,

Your Lordships'

Most obedient,

Humble servant,

MATTHEW LAMB.

Board of Trade Proprieties, Vol. XXII, Y. 3.

4.

2nd June, 1766.

Their Lordships then took into consideration thirty-one laws passed in Pennsylvania in the years 1763, 1764 and 1765, together with Sir Matthew Lamb's report thereupon, and after some progress made therein, it was agreed to take them into further consideration to-morrow morning.

Board of Trade Journals, Vol. LXXIV, p. 170.

5.

Tuesday, 3rd June, 1766.

Their Lordships then took into further consideration the laws

of Pennsylvania, mentioned in the minutes of yesterday, and it was ordered that the draft of a report to the Lords of the Committee of Council should be prepared, proposing the repeal of several of the said laws.

Notice having been taken of the time when these laws were presented to the King in council, it was ordered that Mr. Penn should be desired to attend the board on Monday next, in order that the board may have some conference with him on this subject.

Board of Trade Journals, Vol. LXXIV, p. 173.

## 6.

Monday, 9th June, 1766.

Mr. Thomas Penn, one of the proprietaries of Pennsylvania, attending as desired on the subject of the observation made by their Lordships as to the time when the laws passed in that province in 1763, 1764 and 1765 were presented to His Majesty, their Lordships had some discourse with him thereupon and having stated to him the prejudice which might arise to the public interests if the laws of that province, more especially temporary laws of short duration, were not laid before the Crown as soon as possible after their being passed, Mr. Penn acquainted the board with the reasons which had created the delay in this particular case, acknowledging at the same time the justice of their Lordships' observation, and assuring them of a due attention in future to what they recommended.

(Signed.)

DARTMOUTH.

Board of Trade Journals, Vol. LXXIV, p. 178.

## 7.

Friday, 13th June, 1766.

The draft of a report to the Lords of the Committee of Council upon several laws passed in the province of Pennsylvania in the years 1763, 1764 and 1765, having been prepared pursuant to order, and was approved, transcribed and signed.

(Signed.)

DARTMOUTH.

Board of Trade Journals, Vol. LXXIV, p. 191.

## 8.

Whitehall, 13th June, 1766.

To the Right Honorable the Lords of the Committee of His Majesty's most Honorable Privy Council for Plantation Affairs.

My Lords: Pursuant to your Lordships' order, dated the eleventh of February last, we have taken into our consideration thirty-one acts, passed in the province of Pennsylvania in the years 1763, 1764 and 1765, a list of the titles of which acts is hereunto annexed, and having, upon this occasion, consulted Sir Matthew Lamb, one of His Majesty's counsel at law, we beg leave to report to your Lordships that these acts appear to us to fall under one or other of the following general descriptions:

First, such as relate to the expenses incurred and military services necessary to be provided for during the state of hostility with the savages, in which that province was involved, in the year 1763.

Secondly, Such as relate to or operate externally upon the navigation and commerce between Great Britain and that province.

Thirdly, Such as relate to matters of constitutional establishment, operating upon the persons and estates of the inhabitants or contain provisions in respect to insolvent debtors.

Fourthly, Such as are merely of local operation, and have reference to internal police and economy.

The titles of those laws which fall under the first of these descriptions will be found in the annexed list from No. 1 to No. 8, and being calculated to answer a temporary service or exigency were, by their own limitation, or by the nature of their provisions temporary laws and are either expired or have had their full effect and operation.

The titles of the laws which fall under the second description will be found in the annexed list, from No. 9 to No. 11, and are confined to two objects, viz.: the erecting a light-house for the benefit of ships navigating through the dangerous passage of Delaware Bay, and restraining the abuses heretofore committed by captains of ships importing Germans into this province.

When we consider the salutary and humane purposes for which these laws are enacted, it is with concern that we find

ourselves under the necessity of submitting to your Lordships an objection to a particular provision in one of them, by which we conceive the legislature of this province has exceeded its jurisdiction, encroached upon His Majesty's sovereignty, and established a precedent which, if allowed, in the present case, might, in process of time, lead to more unwarrantable exertions of power; for your Lordships will find in the act (No. 10, of which is supplemental to that for erecting a light-house) that a penalty of ten pounds is imposed upon every officer of His Majesty's customs within the said province who shall clear any vessel without a certificate of such vessel having paid the light house duty of six pence per ton, established by this act.

As this is evidently calculated and must necessarily operate to control a constitutional officer of the Crown in the execution of those duties which the laws of trade and navigation require of him, it does, as we conceive, stand liable to the objection above stated in the full extent of it, and, therefore, we beg leave to recommend to your Lordships to advise His Majesty to repeal this law.

This, may it please your Lordships, is the only consideration which induces us to propose the repeal of a law, the object of which is so commendable. At the same time, we think it our duty to submit to your Lordships an observation which has occurred to us in the consideration of these laws, not applying itself either to their particular provisions or the general purposes for which they were enacted, but arising out of a consideration of that general policy by which we conceive the negative which the Crown has reserved to itself upon acts of legislature in the American colonies ought to be governed and directed, and which is at all times necessary to be strictly attended to, in order to prevent those legislatures exceeding the bounds of the authority vested in them by their constitution.

The general policy to which we here mean to refer is that of not allowing the legislatures in the American colonies to pass laws by which the trade and shipping of this kingdom may be affected, either by being subjected to duties and taxes or otherwise cramped or restrained.

The inconveniency and impropriety of allowing such a prac-



tice to prevail has, we find, been frequently heretofore a matter of serious consideration in those departments of government entrusted with the administration of the affairs of the colonies, and that consideration has produced orders and instructions to the governors of those colonies which are under the immediate direction of the Crown, strictly forbidding them to assent to any laws that fall under either one or other of those descriptions without His Majesty's permission for that purpose. These orders and directions have been repeated and enforced as occasion has called for it, and, therefore, seeing that these laws of Pennsylvania now under consideration do, from the nature of their provisions and must, from their operation, affect the trade and shipping of this kingdom in both the cases above mentioned, we should have been wanting in our duty if we had not submitted this observation to your Lordships, not urging it as a reason for the repeal of the laws, seeing that notwithstanding the general rule laid down by the above-mentioned orders and instructions other colonies have, in particular cases, been indulged in passing laws of the same nature; but, submitting it to your Lordships as the ground for such directions as your Lordships may think expedient to advise His Majesty to give to the proprietaries of this province, in order to prevent this practice being further extended and to restrain the legislature of Pennsylvania from exceeding the bounds of their constitutional authority.

The titles of the laws which fall under the third head of description will be found in the annexed list, from No. 12 to No. 22.

To all these laws except the four last, Sir Matthew Lamb has reported to us that he has no objection in point of law, and, though most of them do more or less differ from the laws of this kingdom in like cases, yet, as they do not appear to us to be inconsistent with reason or natural justice and are, we conceive, founded upon local usage and custom, we see no reason why such of them as have not expired by their own limitation may not be allowed to continue in force.

With respect to the four last mentioned laws, Nos. 19, 20, 21, 22, the object of which is to release particular persons confined in the gaol of Philadelphia at the suit of their creditors, we do

agree with Sir Matthew Lamb in opinion that it would be of the greatest inconvenience to credit if persons confined for debt could get released without their creditors' consent, by application to the legislature, and that this is such a power which such a legislature ought not to be suffered to exercise.

It is true, indeed, that the circumstances attending the case of the person to whom the first of these acts refers are of peculiar hardship, under which he could have no relief but by the interposition of the legislative authority, and yet the legislature of Pennsylvania, in granting this relief, appears to have been sensible of the irregularity of the proceeding, adopting, in the preamble of the act itself, the opinion of the inhabitants, merchants and traders of Philadelphia "that it cannot be desirable to make precedents of enlarging debtors from the suits of their creditors." Notwithstanding which, such is the dangerous prevalence of precedents in cases of this nature that in the very next session of assembly, they passed the three other acts above mentioned in favor of three other prisoners for debt, none of whose cases appear to have been accompanied with circumstances of the same peculiar hardship, and two of them not distinguished from cases of a common and ordinary nature.

For these reasons, and in order to check so unusual and irregular a practice, we beg leave to recommend to your Lordships to advise His Majesty to repeal these laws. The titles of the laws which fall under the last-mentioned description will be found in the annexed list, from No. 23 to No. 31.

Upon these laws we have no other observation to make than what is continued in the general description of them and as Sir Matthew Lamb has reported to us that he has no objection to them in point of law, none occurs to us against such of them continuing in force as are not expired by their own limitation.

We are,

My Lords, your Lordships'

Most obedient and most humble servants,

Dartmouth,  
John Roberts,  
Palmerston.

Soame Jenyns,  
William Fitzherbert.