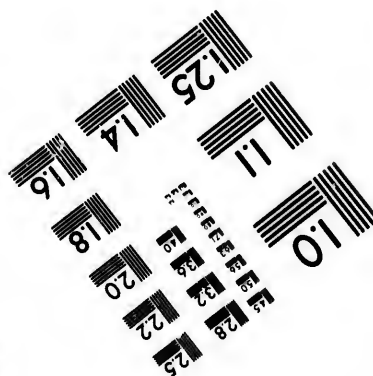
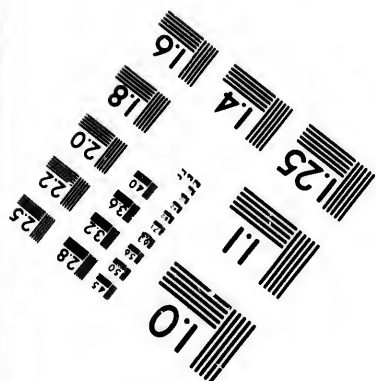
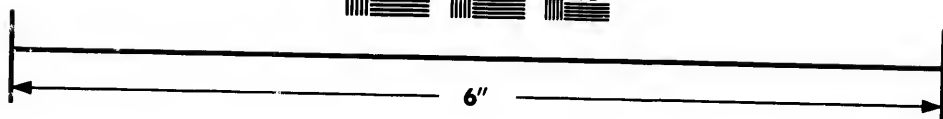
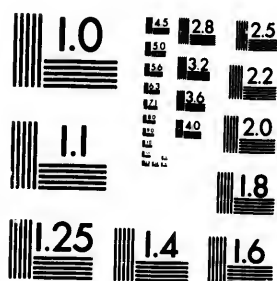


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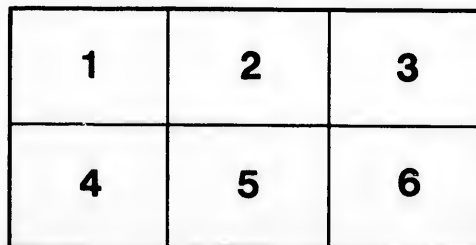
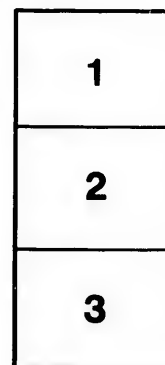
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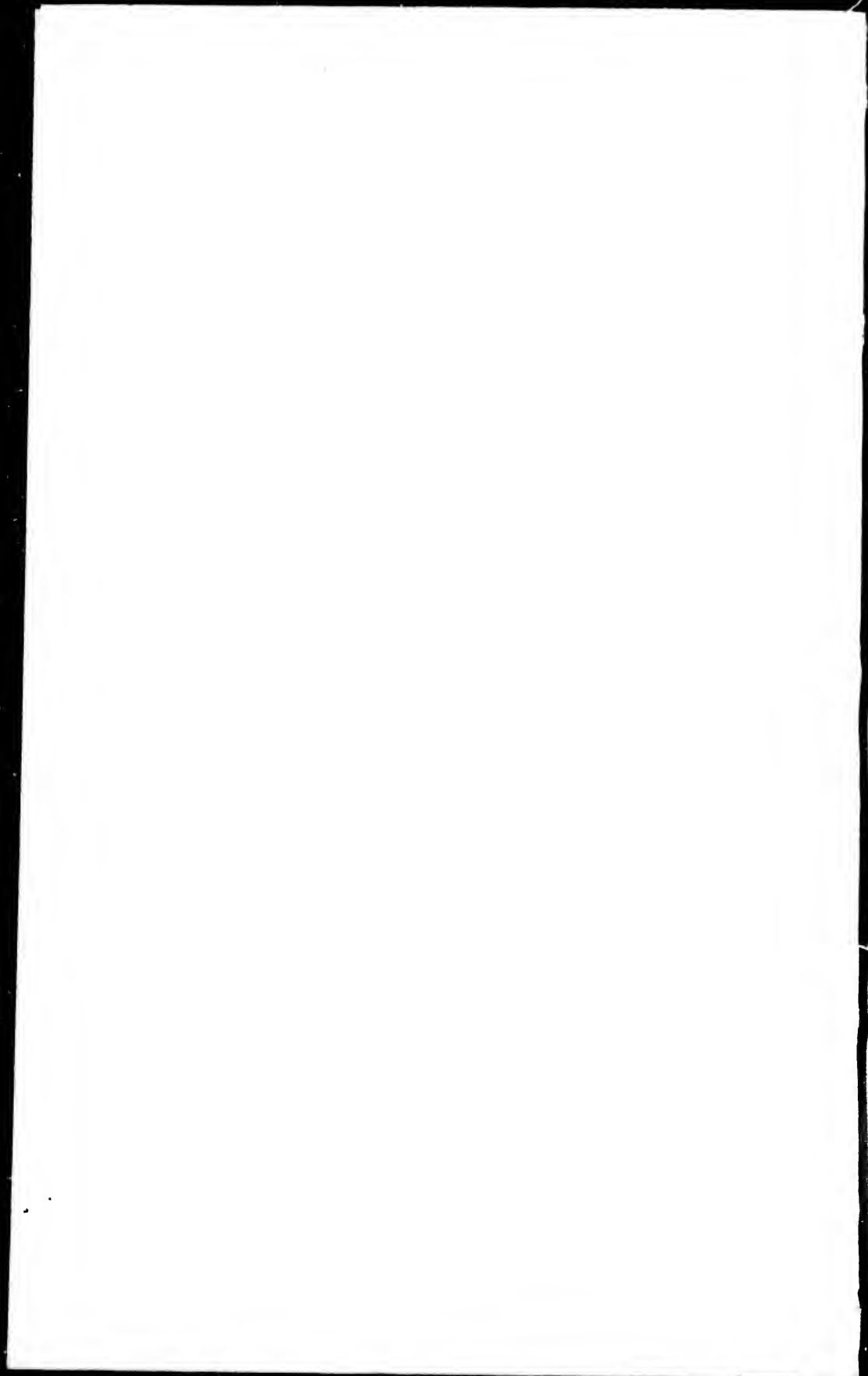
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THE
CRIMINATING COMPLAINT
OF
THE PROPRIETORS
OF
THE ISLAND OF ST. JOHN,
WHOSE LANDS WERE CONDEMNED AND SOLD IN 1781,
ON THE
PRETENCE OF ARREARS OF QUIT-RENTS,
AGAINST
GOVERNOR PATERSON
AND OTHERS;
WITH
THE REPORT
OF THE
RIGHT HONOURABLE THE LORDS OF THE
COMMITTEE OF COUNCIL,
For hearing Complaints, &c. from the Plantations.
AND
HIS MAJESTY'S ORDER THEREUPON.

LONDON:
PRINTED IN THE YEAR M.DCC.LXXXIX.

53821

P E T I T I O N
TO THE
K I N G I N C O U N C I L;
FOR

Leave to prefer Articles of Charge against the Governor and several of the Members of the Council of *St. John's Island*, in the Gulph of *St. Lawrence, North America*; presented in *April 1787*.

TO THE
KING's Most Excellent MAJESTY
in COUNCIL:

The MEMORIAL of your MAJESTY's Liege Subjects, the Proprietors of Lands in the Island of St. John, in the Gulph of St. Lawrence, whose Names are hereunto subscribed,

MOST HUMBLY SHEWETH,

T H A T your Memorialists, deeply and gratefully impressed with your Majesty's condescension, in attending to the repeated Memorials representing their injuries and grievances, and with your Majesty's gracious interposition and benevolent intentions, repeatedly expressed for a redress of the injuries complained of, feel, with the utmost con-

cern, the necessity of laying before your Majesty, in a criminating point of view, the injustice and high misdemeanour of your Majesty's officers in the said island, in their whole deportment and conduct towards your Memorialists, and other the injured and oppressed Proprietors of the said island, and in interference with, and obstructions given to, the carrying into execution the benevolent and gracious commands of your Majesty for our relief;

WE beg leave most humbly to solicit your Majesty's permission to lay before your Majesty's Privy Council, Charges against his late Excellency Walter Patterson, Esq. late Governor, now his Honour the Lieutenant-Governor, of the said island of St. John; Philips Calbec, Esq. your Majesty's Attorney-General in the said island; Thomas Wright, Esq. your Majesty's Surveyor-General in the said island; William Nisbet, Esq. your Majesty's acting Receiver-General in the said island; William Townsend, Esq. Collector of your Majesty's Customs, and Naval Officer of the said island; Captain George Burns, and John Russell Spence, late acting Provost Marshal in the said island; whether as contrivers,
I promoters,

promoters, aiders, or abettors, of injustice and high misdemeanours.

FIRST, In respect to various oppressions used, and practised, against your Majesty's subjects, the Proprietors of lands in the said island, in the condemnation, confiscation, putting up to sale, and purchasing, of several lots of their lands, unwarrantably and illegally, to the great injury and oppression of the Proprietors.

SECONDLY, In respect to violations of known and positive laws, by dispensing with the requirements of public acts, and substituting their own arbitrary orders and regulations, to forward their illegal and oppressive proceedings in respect to the condemnation and sale of these lands.

THIRDLY, In respect to prostitution of the sacred functions of justice to specious and colourable, though ill-founded, warranties, or justifications, of their illegal and oppressive proceedings.

FOURTHLY, In respect to their unjustifiable and interested, concerted, and premeditated schemes,

schemes, for suspending, counteracting, and disobeying, your Majesty's positive commands; graciously intended for the relief of your Majesty's subjects, under the complicated oppressions which had been manifested to your Majesty's Honourable Privy Council:

And, LASTLY, in respect to their contriving, promoting, aiding, and abetting, the framing and passing an Act of Assembly to support and confirm their proceedings, under all their acknowledged illegality and irregularity; and contumaciously consenting thereto, in order to screen themselves under colour of law, though in direct opposition to your Majesty's positive and peremptory commands, and in breach and violation of every principle of justice; to the further and greater oppression of your Majesty's subjects, and the subversion of all order, decency, and good government, in the said island.

CHARGES which your Memorialists are ready to support, and prove, before your Majesty's Privy Council, under the indulgence of your Majesty's royal favour; humbly hoping, that if any misdemeanours of such high criminal

minal import shall, on the inquiry, be found to have existence, your Memorialists will experience your Majesty's further gracious interposition, in dismissing these officers from their respective employments, under such marks of your royal displeasure as are due to their demerits, and in the protection of your Memorialists, and other the injured Proprietors, in all their just rights, and restoring order, and good government, in the said island;

And in such further relief as to your Majesty's wisdom shall seem meet :

And your Memorialists shall ever pray, &c.

Under these five General Heads, twenty specific Articles of Charge were respectively arranged, upon which the Right Honourable the Lords of the Committee of Council for hearing complaints, &c. from the plantations, made the following Report, confirmed by his Majesty in Council.

At

At the COURT at WEYMOUTH,

the 8th of August, 1789.

P R E S E N T,

The KING's most Excellent MAJESTY,

Duke of LEEDS,	Earl of COURTOWN,
Marquis of GRAHAM,	Mr. Chancellor of the Exchequer,
Earl of CHESTERFIELD,	Mr. Secretary GRENVILLE,
Earl HOWE,	Mr. Comptroller.

Whereas there was this day read at the Board a report from the Right Honourable the Lords of the Committee of Council, for hearing complaints, &c. from the plantations, dated the 24th of last month, in the words following, viz.

“ Your MAJESTY having been pleased, by
 “ your order in Council, bearing date the
 “ 4th of May, 1787, to refer unto this Com-
 “ mittee, a Memorial of your Majesty's liege
 “ subjects, Proprietors of lands in the island
 “ of St. John, in the Gulph of St. Lawrence,
 “ whose names are thereunto subscribed, ex-
 “ pressing

“ pressing their just sense of your Majesty’s
 “ gracious interposition, and benevolent in-
 “ tentions, repeatedly expressed for redressing
 “ the injuries complained of by the Memoria-
 “ lists; and submitting, in a criminating point
 “ of view, the injustice and high misdemeanors
 “ of Walter Patterson, Esquire, (late Lieutenant
 “ Governor of the island of St. John) and
 “ others, the Members of your Majesty’s
 “ Council for the said island, namely, Philips
 “ Calbeck, Esquire, your Majesty’s Attorney
 “ General; Thomas Wright, Esquire, your
 “ Majesty’s Surveyor-General; William Nisbett,
 “ Esquire, your Majesty’s acting Receiver-
 “ General; William Townshend, Esquire,
 “ Collector of your Majesty’s customs, and
 “ Naval Officer; Captain George Burns, and
 “ John Russell Spence, late acting Provost-
 “ Marshall in the said island; not only in re-
 “ gard to various oppressions used and practis-
 “ ed against your Majesty’s subjects, Proprie-
 “ tors of land in the said island, in the con-
 “ demnation, confiscation, putting up to sale,
 “ and purchasing, several lots of their lands
 “ unwarrantably and illegally; but also with
 “ respect to their unjustifiable, interested, and
 “ premeditated schemes for suspending, coun-
 B “ teracting,

“ teracting, and disobeying your Majesty’s
 “ positive commands, graciously intended for
 “ the relief of the Memorialists, under the
 “ complicated oppressions, which have been
 “ manifested to your Majesty and your Privy
 “ Council; and, particularly, for that the se-
 “ veral persons before-named, have contrived,
 “ promoted, aided, and abetted, the framing
 “ and passing an Act of Assembly, to support
 “ and confirm their former proceedings, under
 “ all their acknowledged illegality and irregu-
 “ larity, and have contumaciously consented
 “ thereto, in order to screen themselves under
 “ colour of law, though in direct opposition
 “ to your Majesty’s positive and peremptory
 “ commands; and concluding in a prayer,
 “ that, if any misdemeanors of such high cri-
 “ minal import shall, on inquiry, be found
 “ to have existed, your Majesty would be
 “ pleased to dismiss the said officers from their
 “ respective employments, under such marks
 “ of your royal displeasure as are due to their
 “ demerits: The Lords of the Committee,
 “ in obedience to your Majesty’s said order of
 “ reference, did, on the 8th of August, 1787,
 “ take into consideration the said Memorial,
 “ together with a further representation from

“ the Memorialists, specifying more in detail
 “ the several charges against your Majesty’s
 “ said officers, and thought proper to direct
 “ copies of the same to be transmitted to the
 “ parties complained of, and to require them
 “ severally to return their answers to the said
 “ Charges.

“ Before the Lords of the Committee pro-
 “ ceed to offer their opinion to your Majesty
 “ upon the conduct of the parties severally
 “ complained of, they deem it necessary to lay
 “ before your Majesty a state of the case from
 “ the beginning, and of the proceedings had
 “ before your Majesty in Council upon this
 “ subject, and alluded to by the Complainants
 “ in their present Memorial.

“ The Committee find that, in the year
 “ 1774, an Act was passed in the island of
 “ St. John entitled ‘ An Act for the effec-
 “ ‘ tual Recovery of certain of his Majesty’s
 “ ‘ Quit Rents in the Island of St. John,’
 “ which Act was confirmed by your Majesty
 “ in March, 1776.

“ That in the year 1781 another Act was
 “ passed in St. John’s of the like tenor, en-
 “ titled ‘ An Act for enforcing the Payment
 “ ‘ of his Majesty’s Quit Rents due, or which
 “ ‘ might become due, within the said Go-
 “ ‘ vernment; and to authorise the Receiver-
 “ ‘ General to recover the same by Sale of the
 “ ‘ Lands, or otherwise;’ which Act contained
 “ a clause suspending the operation thereof,
 “ until your Majesty’s pleasure should be
 “ known.

“ This Act, together with a letter from
 “ Lord Sydney, at that time one of your
 “ Majesty’s Principal Secretaries of State, upon
 “ the subject thereof, was referred by your
 “ Majesty to the Lords of the Committee; as
 “ was also a Petition on behalf of several
 “ Proprietors of lots of lands in the island of
 “ St. John, whose lots had been proceeded
 “ against, condemned, and sold, under the
 “ first before-mentioned Act passed in 1774.
 “ And the Committee accordingly in July,
 “ 1783, examined into all the proceedings
 “ touching the condemnation and sale of the
 “ said lots; and having heard the Petitioners,
 “ and having also taken into consideration
 “ the

“ the Act passed in 1781, advised your Ma-
 “ jesty to order that the said last-mentioned
 “ Act should lie by, and that directions should
 “ be sent to your Majesty’s Governor, and to
 “ the Receiver of your Majesty’s Quit-Rents,
 “ in the island of St. John, to forbear, until
 “ further orders, any proceedings under the
 “ Act passed in 1774; and the Committee
 “ (having first received the opinion of the
 “ Lords Commissioners of your Majesty’s
 “ Treasury), further recommended in favour
 “ of the Proprietors of lands, a mitigation of
 “ the Quit-Rents, payable to your Majesty
 “ from the first of May, 1783, to the first of
 “ May, 1789; and for and, during the fur-
 “ ther term of ten years to commence from
 “ the said first of May, 1789; and in order to
 “ give further relief to the Proprietors of
 “ lands who might have been aggrieved by
 “ the Act passed in 1774. The Committee
 “ also recommended that a Bill should be
 “ proposed to the Assembly of the island of
 “ St. John, to repeal the said Act passed in
 “ 1774, and to regulate the future proceed-
 “ ings in cases of arrears of Quit-Rents due
 “ to your Majesty, in such manner that the
 “ Proprietors of lands might not have reason
 “ in

“ in future to complain of any hardship im-
 “ posed upon them. And in regard, it ap-
 “ peared to the Committee that many of the
 “ Proprietors, whose lands had been forfeited
 “ and sold under the said Act passed in 1774,
 “ had not notice of the situation in which
 “ their lands stood, and thereby an opportu-
 “ nity of paying up their respective arrears;
 “ and that many others were prevented from
 “ making their payments regularly, by reason
 “ of the war. The Committee further re-
 “ commended that a clause should be inserted
 “ in the new Bill, to be proposed to the
 “ Assembly, to make all the sales of lands,
 “ formerly belonging to the Petitioners, *void-*
 “ *able**, and to allow them to re-enter into
possession

* Though this Report of July 1783 was twenty months after the date of the sales, the Governor and Council had not then transmitted to Britain the Official accounts of their proceedings, and therefore the Lords of the Committee, as well as the Petitioners, were not apprised of the sales being illegal.

The cruelty however, impolicy, and indecent interestedness of the transaction, were sufficiently glaring, and induced their Lordships, as the officers were the sole purchasers, to advise his Majesty to order this summary mode of redress; meaning to restore matters exactly to their former situation, and supposing that the purchasers had paid the purchase-money, which in fact they had not.

But

“ possession of their lands, in case they should
 “ desire it, within a limited time, upon the
 “ payment of the purchase-money, interest, and
 “ charges, incurred by the purchasers; and a fair
 “ allowance for such improvements as might
 “ have been made on the said lands, since the
 “ sale thereof, the purchasers, under the Act
 “ passed in 1774, on their parts accounting
 “ with the Petitioners for the receipts, issues,
 “ and profits. And in order to prevent delay,
 “ or any misconstruction of your Majesty’s
 “ gracious intention for the relief of the Pe-
 “ titioners, the draught of a Bill for the above
 “ purposes was to be prepared and sent over
 “ to your Majesty’s Governor, by one of your
 “ Majesty’s Principal Secretaries of State, with
 “ directions to the Governor to lay the said
 “ draught of a Bill before the Assembly, and

But now, the enormous detail of illegalities, univer-
 sally pervading every step of the condemnation and sales,
 being perfectly ascertained and known, and the purcha-
 sers having held over so many years in a manner exceed-
 ingly aggravating the original injustice, these are not to
 expect the injured Proprietors will acquiesce in the terms
 of restitution proposed in the report of 1783, and pay
 interest for monies which they never received: on the
 contrary, they will in the due course of law exact unlimited
 and unconditional restitution of their property, illegally
 divested, together with the mesne profits.

“ to

“ to propose the passing the same into a law,
 “ and with your Majesty’s permission to him
 “ to give his assent to such law when passed.

“ This advice of the Committee your Ma-
 “ jesty was pleased to approve on the 11th of
 “ July, 1783, and to order the draught of a Bill
 “ to be prepared and sent over to the Gover-
 “ nor, with a signification of your Majesty’s
 “ pleasure, for the relief of the Petitioners,
 “ which was done accordingly; but*, instead
 “ of

* The Governor, and the interested Officers, kept up and concealed the Bill and Royal Order long after having received them in autumn 1783.

At a convenient time he dissolved the actual Assembly of the colony, without having laid the Bill before it, as he had been commanded to do; and in the subsequent election (1st March, 1784,) he left no stone unturned to obtain the return of a subservient party, before whom he might safely lay the Bill for the purpose of being thrown out: in this he was violently supported by Messrs. Callbeck, Wright, Nesbit, Spence, and Burns. Mr. Callbeck declared publicly, at the poll, his resignation of the senior seat in the Council, in order to be returned a Member of the Assembly; and it had been concerted that he should afterwards be appointed Speaker, in order the more effectually to lead it.

Notwithstanding these, and other arts, of which it would require a long statement to give an adequate idea,
 the

“ of obeying your Majesty’s order therein, the
 “ Governor and the Members of the Council
 “ before

the Governor, and his majority of the Council, lost the election, and Callbeck was allowed to resume, not only his seat, but also his former rank, in the Council.

Then it was the Governor, knowing the New Assembly would pass the bill, had recourse to the sanction of his majority in Council for withholding it; and apprehending the interference of the Assembly, who were anxious to pay the due honour to his Majesty’s wishes, he contrived in a few more days a pretence for laying it aside, which was directly contrary to the laws and customs of Parliament.

The resolution in Council to withhold the bill from the Assembly was carried but by a very slender majority: the minority wished to have their own dissent entered on the minutes, lest they should undeservedly appear to have countenanced the disobedience of the Governor; but the Governor and his majority over-ruled it, and the minutes, transmitted by the Governor to office, and certified as a true extract by Spence, the acting clerk of the Council, express, notwithstanding, that the resolution passed unanimously. There was also produced on the Governor’s part, at the hearing in April 1785, a paper, certified to be a true extract by the said Spence, as clerk of the Council, and purporting to contain the opinion and arguments then used in Council by the Chief Justice against sending the bill to the Assembly, though it is irrefragably proved that the Chief Justice was one of the minority, which had strenuously urged the laying of the bill before the Assembly.

“ before-named, (excepting only William
 “ Townsend, Esquire, who was not present
 “ in Council at the time), came to a resolu-
 “ tion on the 20th of March, 1784, that an
 “ humble petition and remonstrance should
 “ be prepared, and submitted, to your Ma-
 “ jesty, offering their reasons, why the said
 “ draft of a bill should not be laid before
 “ the Assembly: and they accordingly de-
 “ termined, that the said bill should be with-
 “ held until your Majesty’s further pleasure
 “ should be known.

base and

This ~~unwarrantable~~ attempt on the Chief
 Justice was either from resentment for not having given
 into the Governor’s views, or in order to colour the re-
 solution with the appearance of a respectable authority
 in it’s favour. He was ignorant of it at the time, and,
 but for the seasonable discovery of the truth, he would
 have been involved in the crimination.

It was thenceforth supposed, prudence would forbid
 any further recourse to the same miserable shift, to say
 nothing stronger of it; but at the final hearing upon
 the crimination Mr. Wright produced the identical ex-
 tract, in order to palliate his own bad conduct, as if he
 had been misled by the opinion of the Chief Justice; it
 was however amply refuted, and, like every other part
 of the defence, it recoiled to the confusion of the delibe-
 rate and conscious authors, and to the credit of the in-
 jured Chief Justice.

“ The

“ The reasons of the Governor and Council
 “ for withholding the said bill from the As-
 “ sembly were not received in England till
 “ some time in the year 1785; and in the
 “ mean time, viz. in August, 1784, another
 “ petition was presented to your Majesty from
 “ some of the Proprietors of lands, complain-
 “ ing of the obstructions they met with in
 “ obtaining possession of their respective lots,
 “ according to the terms of your Majesty’s
 “ above recited order; which petition gave
 “ rise to another proceeding on the subject
 “ before the Lords of the Committee of Coun-
 “ cil for trade and plantations, and * occa-
 “ sioned a letter to be written and sent over,
 “ (by one of your Majesty’s sloops dispatched
 “ expressly for that purpose,) expressing the
 “ surprise of the Committee that the Gover-
 “ nor and Council should not have shewn a

* They always protracted every step of the proceedings
 as long as possible, in order to tire out the complainants,
 and by attendance and expences to drive them from their
 patience and just pursuit; but for the peremptory measure
 of sending out the ship of war to extort their answer, they
 would have found pretences to spin it out for another
 year: the ship returned in February, 1785, nineteen
 months after the bill, and royal order, had been sent out.

[“ greater degree of impatience to justify their
 “ conduct in withholding the bill.

“ The Governor and Council having at
 “ length transmitted the reasons for their con-
 “ duct, the parties on all sides were he-
 “ before the Lords of the Committee of
 “ Council for trade and plantations, who, on
 “ the 25th of April, 1785, reported their
 “ opinion to your Majesty, that the Governor
 “ ought to have convened the Assembly, and
 “ laid before them the draft of a bill, sent
 “ from England in 1783, with all convenient
 “ speed after the same came to his hands, and
 “ that the facts and reasons assigned for not
 “ having so done did not justify the neglect;
 “ and their Lordships thereupon recommend-
 “ ed that your Majesty’s orders should be
 “ sent over, peremptorily requiring the Lieu-
 “ tenant-Governor of the Island of St John
 “ (with which commission Mr. Paterfon had
 “ become invested in consequence of the
 “ division of your Majesty’s provinces of Nova
 “ Scotia and New Brunswick, and the Island
 “ of St. John, having been made an appen-
 “ dage to the province of Nova Scotia under
 “ a lieutenant-governor only) to lay the said
 “ draft

“ draft of a bill before the Assembly; and that
 “ the parties should be at liberty in the mean
 “ time to prosecute (if they should think fit)
 “ their remedy at law for the recovery of
 “ their said lots*.

* The clearest proofs having then been obtained of the illegalities in the sales, the proprietors would accordingly have taken their remedy at law by ejectments for recovering their property, but the Governor suspended the Chief Justice from his office, and substituted Captain Burns, Mr. Wright, and another faithful partizan, in his place: to bring ejectments before them would have been perfectly nugatory: the Governor and Mr. Callbeck having also obtained the Assembly to pass the retrospective act, to render the illegalities in the sales good and valid in law, tended to enable these special judges to indulge their partiality, as the act was immediately in force through the absence of the usual suspending clause until the pleasure of his Majesty in Council should be known, the omission of which in cases affecting private property, public revenue, commerce, and the prerogative, is expressly contrary to the royal instructions; so that the petitioners, differently from his Majesty's subjects in every other part of the British empire, had no competent or impartial Court of Justice to apply to, and they had no resource, but in laying the crimination in order to rid the colony of the principal tyrants, and their understrappers, and so to open the due course of the channel of Government, and of the Courts of Justice.

“ This

“ This report was approved by your Ma-
 “ jesty on the 6th of May, 1785; and your
 “ Majesty’s order thereupon was transmitted to
 “ the Lieutenant-Governor by your Majesty’s
 “ Secretary of State; but before your Ma-
 “ jesty’s order arrived at the Island of St. John,
 “ the Lieutenant Governor had received from
 “ his agent in England a copy of the same,
 “ upon which, in order to frustrate the effect
 “ thereof, he acquainted the Assembly* of
 “ the

* After the Governor had, in the illegal and unconsti-
 tutional manner above alluded to, laid aside the Assem-
 bly of 1784, he did not institute another election for an
 entire year. In the mean time he had allured from
 Nova Scotia some two or three hundred disbanded sol-
 diers under the denomination of loyalists: he attached
 and interested in his cause a sufficient number of these
 by means of the articles of donation allowed to such for
 very different purposes by Government, and with pro-
 mises, which were afterwards but ill performed, of
 parcels of the sold lots. An election was set on foot in
 spring 1785: the tenor of the writ was altered for in-
 terested purposes from that of all former ones: in most
 of the principal settlements it was not proclaimed, and
 a considerable part of the legitimate electors, that did
 attend, were deterred from voting by an armed banditti
 of the disbanded soldiers, occasionally marching up and
 down under the auspices of the majority of the Council:
 the poll was also continued after the expiry of the writ.
 Thus was the Assembly obtained, which they instigated
 to

" the private intelligence he had received,
 " that they might be able to render the
 " same ineffectual by passing an act to con-
 " firm those very sales which, by the said
 " peremptory order from your Majesty, he
 " was directed to call upon the Assembly to
 " rescind; and accordingly, in the month of
 " April, 1786, the Assembly passed an act,
 " entitled ' An act to render . . . good and
 " ' valid in law all and every of the pro-
 " ' ceedings in the years 1780 and 1781
 " ' which in any respect related to, or
 " ' concerned, the suing, seizing, condemn-
 " ' ing, or selling, of the lots or townships
 " ' hereinafter mentioned, or any of them,
 " ' or any part thereof.' And this act being
 " sent up to the Council, Philips Calbeck,
 " Esquire, Thomas Wright, Esquire, Cap-
 " tain George Burns, and John Ruffel Spence,
 " Esquire, who had before advised Mr. Pa-
 " terson to disobey your Majesty's order of the
 " 11th of July, 1783, did, in pursuance of their
 " former conduct, concur in, and pass; and to

to pass this monstrous act, consisting of the Governor's
 most abject tools, and of the lowest refuse of the colony,
 some of whom could neither read nor write.

" this act the Lieutenant-Governor gave his
 " assent, notwithstanding there was no clause
 " therein suspending the operation of the act
 " until your Majesty's pleasure should be
 " known.

" It appears also, by the Journals of the
 " House of Assembly of the Island of St.
 " John, that, on the 8th of November, 1786,
 " the bill, prepared and sent out in pursuance
 " of your Majesty's beforementioned order of
 " the 11th of July, 1783, for repealing the
 " quit-rent act passed in the said Island in
 " 1774, was laid before the Assembly, and
 " on the 10th of the said month of November
 " the Assembly ordered the said bill to lie on
 " the table, and voted an address to the Lieu-
 " tenant-Governor, stating their reasons for
 " not passing the said bill; and it also appears
 " that on the 14th of the said month a pri-
 " vate bill was brought into the Assembly,
 " and was afterwards passed by the Council,
 " and assented to by the Lieutenant Governor,
 " entitled ' An * act for setting aside and
 " ' annulling

* This act, though speciously entitled, was in fact
 insiduously calculated to deter the proprietors from re-
 ceiving

“ ‘ annulling, at the request of the present
 “ ‘ proprietors, the sales, &c. of the herein-
 “ ‘ after enumerated lots and shares of lots
 “ ‘ of lands within this Island, and for repeal-
 “ ‘ ing so much of an act passed in the twenty-
 “ ‘ sixth year of his present Majesty’s reign,
 “ ‘ entitled An act to render good and valid in
 “ ‘ law all and every of the proceedings in the
 “ ‘ years 1780 and 1781, which in any respect
 “ ‘ related to or concerned the suing, seizing,
 “ ‘ condemning, or selling of the lots or town-

ceiving back the lands, and to rivet them more firmly
 than ever in the hands of the illegal purchasers. It was
 enacted with a reserve of all deeds and conveyances
 made, or to be made, by the purchasers, whether for a
 valuable consideration, or by way of free gift or other-
 wise. It placed it in the power of the illegal purchasers
 to exact, what might be, ten times the value of the resi-
 due, under the heads of purchase-money, which had
 never been paid; charges attending the purchase, or
 that might have happened in consequence thereof; and
 monies expended on improvements, or for the purpose
 of improvement; together with the interest of these im-
 positions since 1781. A short period had also been li-
 mited for the redemption even upon these terms, which
 had expired before the notification thereof to the propri-
 etors concerned. Such monstrous acts are deservedly
 disallowed.

D

“ ‘ ships

“ ‘ ships hereinafter mentioned, or any of
 “ ‘ them, or any part thereof, as relates to
 “ ‘ the said lots or townships, or half lots or
 “ ‘ townships of land ;’ which act, together
 “ with the act hereinbefore mentioned, en-
 “ titled ‘ An act to render good and valid in
 “ ‘ law all and every of the proceedings in the
 “ ‘ years 1780 and 1781, which in any respect
 “ ‘ related to, or concerned, the suing, seiz-
 “ ‘ ing, condemning, or selling, of the lots
 “ ‘ or townships hereinafter mentioned, or
 “ ‘ any of them, or any part thereof,’ the
 “ Committee are humbly of opinion ought
 “ to be disallowed.

“ *Such having been the conduct of Mr.*
 “ *Paterfon, this Committee would no doubt*
 “ *have thought it indispensably their duty to*
 “ *have recommended to your Majesty to cause*
 “ *him to be removed from his office of Lieu-*
 “ *tenant-Governor, did it not appear that*
 “ *such removal had already taken place by*
 “ *your Majesty's order; the Committee there-*
 “ *fore do not consider Mr. Paterfon as any*
 “ *longer before the Board. But before the*
 “ *Committee proceed to offer their opinion to*
 “ your

“ your Majesty touching the conduct of the
 “ Members of the Council, who are severally
 “ complained of in the petition now under
 “ consideration, it is necessary to state to your
 “ Majesty that William Townsend, Esquire,
 “ one of the Members complained of in the
 “ said petition, has, by his answer thereto,
 “ denied the charges as applicable to him,
 “ and that the memorialists, by their counsel,
 “ desired that the complaint might be dis-
 “ missed as against the said Mr. Townsend;
 “ with respect to the other Members of the
 “ Council, against whom the charges were
 “ preferred, it is proper also to take notice of
 “ the manner in which the order of this
 “ Committee beforementioned, requiring
 “ them severally to return their answers in
 “ writing to the said charges, has been treated
 “ by them, and to state to your Majesty
 “ that, although the receipt of the order has
 “ been acknowledged by all the parties, no
 “ specific answer thereto has ever been re-
 “ turned by Mr. Calbeck, Captain Burns, and
 “ Mr. Spence.

“ Mr. Wright, by letter dated the 4th of
 “ May last, offered an excuse for his conduct,

“ in this respect, on the grounds of his be-
 “ ing on the point of returning to England
 “ soon after he received the order, and con-
 “ ceiving it more respectful to appear and
 “ answer the complaint against him in per-
 “ son *: and he has since put in a defence,
 “ having at his request been allowed time
 “ for that purpose.

“ Mr. Nisbett, upon whom the order was
 “ served in England, put in his answer in
 “ June, 1788; and Mr. Paterfon, since his
 “ return to England, did on the 29th June
 “ put in an answer to the charges, importing
 “ to be an answer on behalf of himself and
 “ the Members of your Majesty’s Council in
 “ the Island of St. John; but being called
 “ upon by the Committee to know, whether
 “ he undertook to appear in defence of the
 “ said Members of the Council, he declared
 “ that he had no intention to appear for any
 “ of the Council.

* The articles of charge had been served on them in
 November, 1787; and the truth is, that, having studi-
 ously protracted every stage of the proceedings since au-
 tumn, 1783, the few, who now appear, have con-
 sciously and artfully delayed, until they could no longer
 elude.

“ Upon

“ Upon consideration of the whole matter,
 “ *the Lords of the Committee having fully*
 “ *heard the complainants by their counsel, and*
 “ *having maturely examined, and considered,*
 “ *several authentic documents produced by the*
 “ *the complainants to make good their charges,*
 “ *and no counsel having appeared in defence of*
 “ *the Members of the Council of the Island of*
 “ *St. John, the Committee are of opinion, that*
 “ *the said charges are fully proved, and that*
 “ *the Members of the Council, against whom*
 “ *the same were preferred, are guilty of all*
 “ *that has been alledged against them, and do*
 “ *agree humbly to report, as their opinion, to*
 “ *your Majesty, that Philips Calbeck, Esquire,*
 “ *Thomas Wright, Esquire, William Nis-*
 “ *bett, Esquire, Captain George Burns, and*
 “ *John Russel Spence, Esquire, ought to be*
 “ *removed from their seats in your Majesty's*
 “ *Council for the Island of St. John; and*
 “ *moreover, that Philips Calbeck, Esquire,*
 “ *your Majesty's Attorney-General, and Wil-*
 “ *liam Nisbett, Esquire, your Majesty's Act-*
 “ *ing Receiver-General in the said Island,*
 “ *should be dismissed from their respective offices*
 “ *in your Majesty's service.”*

HIS

Upon

His Majesty, taking the said report into consideration, is pleased, with the advice of his Privy Council, to approve thereof, and accordingly to declare his royal pleasure, that the said Philips Calbeck, Thomas Wright, William Nisbett, Captain George Burns, and John Russel Spence, be removed from their respective seats in the Council for the said Island of St. John; and that the said Philips Calbeck be dismissed from his said office of Attorney-General, and the said William Nisbett from the office of Acting Receiver of His Majesty's quit-rents; and the Right Honourable William Wyndham Grenville, one of His Majesty's Principal Secretaries of State, is to receive His Majesty's commands for appointing some other person to be Attorney General of the said Island in the room of Philips Calbeck, Esquire; and also to recommend to His Majesty, at this board, proper persons to supply the vacancies in the Council for the said Island of St. John.

STEPHEN COTTRELL.

From the foregoing Report it
appears, that, from the moment of discovering
the illegalities in the Condemnation & sale of the Lots,
nothing further was necessary for recovering the
Right & possession of them, but to commence
Suits of Ejectment in the Supreme Court of
the Island; but this was rendered impossible
thru the Governor having suspended the
Chief Justice, & substituting his own partial
Juries, as Commissioners, in his place.

To deprive the Governor, Council,
and interested Officers of the public power,
which they thus abused, and to obtain the
Restoration of the Chief Justice, were the Object
of the Criminations, in order to have the due
course of Law and Justice in the Supreme
Court in the trial of the Ejectments:

This has succeeded: the Chief Justice
is restored by an order of the King of
the same date with the above Report
removing the guilty persons from the
Council & Offices.

We have also recent
Advice from the Island of Governor Fanning
having

having about three months ago, at the earnest solicitation of the People, who had become clamorous at the Situation of the Supreme Court, & the Obstacles to the Course of Justice, restored the Chief Justice to the exercise of his office, Subject to the King's pleasure, which the Report just alluded to, concerning his restoration, fortunately confirms.

The Government and the Supreme Court of the Colony being now regulated, what remains to be done is, for each of the injured Proprietors, to Appoint and empower a person to carry on the Ejectments on the Island: The Sales being clearly illegal, there can be no doubt of these Ejectments succeeding very quickly: This is well known: but there is also the following Instance of it in the case of one of these sold Lots.

Mr. Robert Clark, one of the People called Quakers, whose exertions & expence for the original Settlement of the Island, are well known, and whose Lot n^o 49 had notwithstanding been cruelly and unjustly sold in 1781 along with the other Lots, & purchased by Gov^r Paterson, went out to the Island in 1786 to await the issue of our proceedings here for removing the excommunicated Officers, & for opening the due Course of the Supreme Court, as he was unable to stand the Expence of attending here in the mean time.

About ten weeks ago, when Gov^r Fanning unexpectedly expelled Mr. Paterson's Commissioners from the Supreme Court and restored the Chief Justice, Mr. Clark brought an Ejectment for the recovery of his Lot, and carried it, so that he is now

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in possession — and every one else will have the
same Success as fast as they bring on their Ejectments

Under the Ejectments not only the Lots
will revert to the lawful Owners, with all the
Improvements, without paying for the same, but
also all the profits made by the illegal Purchasers
since the day of the Sale in 1781 to the Date of
Judgements on the Ejectments.

Capt. Medenat intends going to
the Island in March or April next in order to
live there: Having conducted the Prosecution
here for the Proprietors, he is willing to continue
his assistance to bring the recovery of their Lots
to a successful conclusion on the Spot — therefore
such, as choose to commit to him the care of the
Ejectments, are requested to do the following
immediately, as otherwise it will cost more
expence to them, & trouble to him.

1st To transmit, as soon as it can be made
out, that it may not be deferred to the last,
a Power of Attorney to him — Such as will
authorise him to execute on the Spot the
Sham or temporary Lease usual in
Ejectments — and to empower him to carry
on the Suit there: This Power of Attorney,
on Account of the particular Nature and
Object of it, must be made out by a person
well versed in these matters, & attested:
any Gentleman of the Law, or perusing
this, will understand what is wanted.

2^{dly} The titles under which the
respective Proprietor is to sue the Ejectments
— such as, the Manor or order of
the

the King in Council for granting the lands originally
And the Grant there upon, if any has been taken
out, must be transmitted along with the Power of
Attorney, in order to be produced in Court for
winning the preferable title of the Plaintiff.
But if the present plaintiff, if Proprietor is not
the original Proprietor, in that case he should
also transmit the Inventory, or deed of Sale,
Conveyance, or lease & Release, by which he
holds the Right, with the original titles
upon which the same is founded. It will
be prudent to register these papers before they
are transmitted to Cap^t. McDonald, in order to
be safe, in case of any accident befalling
the Conveyance of them, or to Cap^t. McDonald
in his passage to the Island.

For the sake of avoiding flaws,
Cap^t. McDonald will wish to get the Declarations
in Ejectment drawn in England by expert
Special Pleaders, & to carry them out with
him in order to be served on the Purchasers
or possessors of the Lots: this will cost a
few Guineas of expence — how many he
cannot ascertain. Therefore he wishes
six Guineas to be remitted to him by each.
If there will be any surplus thereof, it
will be placed to the credit of the further
expence of the Ejectment in the Island:
And it will be necessary for every one to
inform him where he may apply for the future
payment of the remaining expence thereof
when it is concluded & ascertained, as he will

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find it very inconvenient to be in Advance for
the whole, tho every one's share will be but
a trifle.

The following is a matter, that
concerns the public interest.

The 11th & 12th years of King William
which subjects themselves to an action
for damages on the count of the King's Bench
at Westminster for the same reasons they
commit in their own names, the
upon which they have been frequently
successfully prosecuted.

Now there cannot be a more
obvious act of disobedience, than for the
governor and council to have by their
own Authority dispense with a law,
passed by the whole legislature and
confirmed by the King in Council, in
order to Adjudge and themselves to
purchase the Land; and to have
carried on that Adjudgment, and those
sales in a manner, that was inconsistent
and contrary to the Act, by which alone
they could proceed in any such measure,
and by which they profess to proceed.

Not only this, but also when
they found by the decision of the King in
Council, that such conduct was disapproved
of by Government here, in order to screen
themselves

themselves and to retain the lands, they
passed a retrospective Act declaring that
the particular irregularities should be
considered to be legal thenceforth, &
that the Act itself should be pleaded
but in the Act of the Proprietors,
and they at the same time suspended
the Chief Justice from his office,
appointing three of themselves to
act in his place.

Thus, whether by
the Act of Assembly, declaring the
irregularities legal, or by the Suspension
of the Chief Justice & the substitution
of improper persons in his place,
the Proprietors were oppressively
deprived of the impartial chance
of trying their Cause, which is
the undoubted Right of all
British Subjects — And, for the
purpose of reinstating matters,
they were put to the Expence
of the Crimination.

I am well advised, that upon
the said Act of Parliament of the 11th & 12th
years of King William, every Proprietor
will recover in the Court of King's Bench
for these Oppressions — 1st The Expences
of the Suit itself — 2^d The Expence of
the Crimination, which had become
necessary

necessary in the view of Opening the due
course of Justice & Judicial Investigation
which they had so improperly shut - 3rd
the damage accruing by being so many
years kept out of possession by these
oppressive measures - & 4th by the
Amount of the growing and rent's
running in arrears against the
Lands during the Contest, which
they protracted by these Oppressive
Steps.

This Action would be
beneficial in two views: 1st It would
knock Mr. Paterson & his Dismissed
Council down, so as to sicken, and
disable them from giving any trouble
or opposition in the Exchequer -
2nd It would give ^{to} every one such a
sum in damages against them, as
will exceed the Arrears of Rent
between the years 1769 & 1779
which were made the pretence for
selling the Lands, and which Mr. Paterson
and his friends will continue to urge
Government to exact strictly, in
the manner they have repeatedly
opposed the remission thereof. The
payment of these Arrears will pass
thru

thro Mr. Patterson's hands, & the Judgement
for the damages may be tendered in full
payment, & cannot be refused by him.

Therefore having carried on the
Prosecution for the Proprietors as their
agent hitherto, I think it my duty to
inform them of this, and to recommen
d it to them as a grand stroke, which
it were absolutely pity to neglect.

It remains only to point out
the manner best adapted for carrying
it effectually on: viz;

The Proprietors to direct
each his Correspondent in London to
meet together and to Appoint one
Attorney at Law for common use
carrying on the Action for each
one separately & individually; for
it must be a separate Action in the
Name of every one for himself, and
not a joint Prosecution, as in the
Crimination, which was a political
prosecution, and the Proprietors
are not tenants in common.

I would instruct the
Attorney at large in the case, as
I am, to my infinite cost & trouble,
well versed in it, and the one and
the same Instruction would serve for
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the whole — Every one would
pay to the Attorney his own bill,
for I declare I find it so extremely
inconvenient, considering the
diffculty, And the loss in getting
in any part of it, that I must
beg leave to decline meddling
any more in money matters, but
so far as I have already aluded
to respecting the Exectments, which
cannot be carried on without
my taking the chance of being
in disdance in some degree

