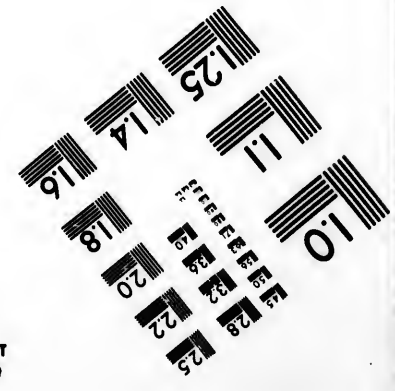
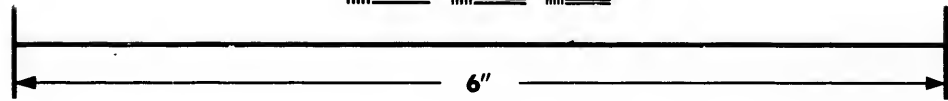
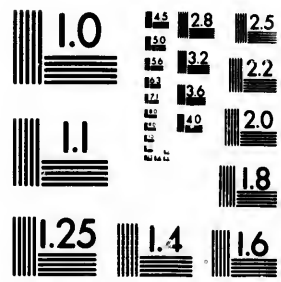


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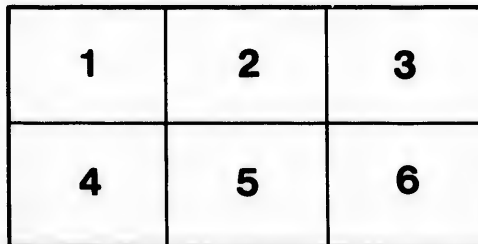
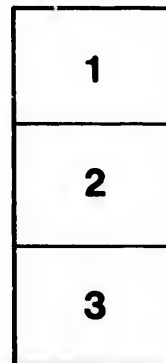
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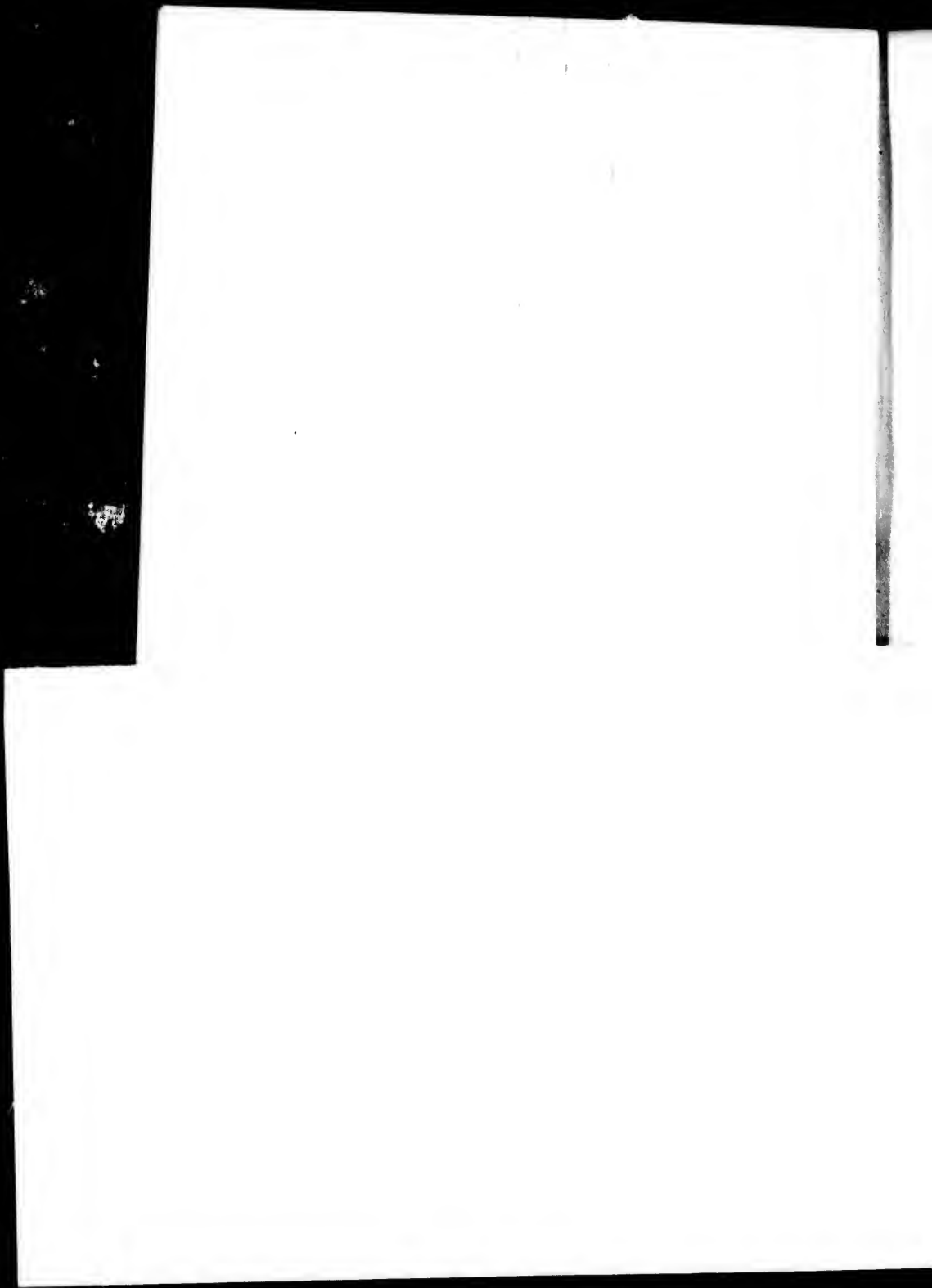
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REPORT

OF

THE RIGHT HONOURABLE

THE LORDS OF THE COMMITTEE

OF

HIS MAJESTY'S

MOST HONOURABLE PRIVY COUNCIL,

ON CERTAIN COMPLAINTS AGAINST

LIEUTENANT GOVERNOR FANNING,

AND OTHER OFFICERS

OF HIS MAJESTY'S GOVERNMENT

IN THE ISLAND OF ST. JOHN.

1792

3

At the Court at Saint James's,

the 1st of August 1792,

P R E S E N T

THE KING'S MOST EXCELLENT
M A J E S T Y,

Earl of Chatham,
Lord Grenville,
Lord Hawkefbury,

Visc. Macartney,
Mr. Secretary Dundas,
Mr. Steele.

WHEREAS there was this day read, at the Board, a Report from a Committee of the Lords of His Majesty's Most Honorable Privy Council, dated the 14th of last month, in the words following; viz.

YOUR

“ YOUR MAJESTY having been pleased, by
“ your order in Council, of the 29th of July, 1791,
“ to refer unto this Committee a letter from the Right
“ Honorable Henry Dundas, one of your Majesty’s
“ Principal Secretaries of State, to the Lord President
“ of the Council, transmitting a memorial of the
“ proprietors of land in the island of St. John, in the
“ gulph of St. Lawrence, and merchants trading
“ thereto and therein, complaining of Edmund
“ Fanning, Esq. Lieutenant Governor, Peter Stewart,
“ Esq. Chief Justice, Joseph Aplin, Esq. Attorney
“ General, and William Townshend, Esq. Collector
“ of the Customs and Naval Officer, in the said island
“ of St. John; to which memorial were likewise
“ subjoined specific charges against the said several
“ officers; and humbly praying your Majesty to
“ grant the Petitioners such speedy and effectual
“ relief as should seem expedient for them:—The
“ Lords of the Committee, in obedience to your
“ Majesty’s said order of reference, did, on the 9th
“ of September, 1791, take the said memorial and
“ specific charges into consideration, and were at-
“ tended by the Complainants, who laid before the
“ Committee sundry depositions and proofs, in
“ support of their said charges; and the Committee
“ thereupon thought proper to order, that a copy of
“ the said memorial and specific charges, as also of

“ the said depositions and proofs, should be trans-
 “ mitted to the said Edmund Fanning, Esq. to be
 “ by him communicated to the said Peter Stewart,
 “ Esq. and the other parties complained of; with
 “ directions that they should severally return their
 “ answer thereto, in writing, with such further
 “ depositions and proofs on both sides as they might
 “ think fit to offer: and the answers to the said
 “ specific charges, and the depositions and proofs
 “ taken on both sides, having been accordingly trans-
 “ mitted and laid before the Committee, they have
 “ met several times, and have been attended by
 “ Counsel on both sides; and having maturely con-
 “ sidered the charges against your Majesty’s said
 “ officers, with their answers thereto, and the
 “ evidence on both sides, their Lordships do agree
 “ humbly to report to your Majesty, that, before they
 “ proceed to examine the matter of these charges,
 “ they think it proper to state the manner in which
 “ they are brought before them:—The memorial
 “ presented to your Majesty carried the appearance
 “ of a complaint in the names of a considerable
 “ number of merchants and proprietors belonging
 “ to the island; but before it came to be heard, out of
 “ eighteen that originally assembled to consider of
 “ this business, twelve of this meeting begged their
 “ names might be withdrawn, as the complaint had
 “ been

“ been preferred without their consent ; so that six *
“ only remained as prosecutors, the rest disowning
“ the whole proceeding.”

“ The general charge against the Defendants is,
“ that they, the Lieutenant Governor, the Chief
“ Justice, the Attorney General, and the Collector
“ of the Customs, had formed a destructive Com-
“ bination to govern the Island at their pleasure ;
“ and, with this view, had jointly, as well as se-
“ parately, oppressed all those who opposed them-
“ selves to the arbitrary designs of the officers of this
“ government; and the memorial states these persons
“ throughout as associates and confederates.”

“ Having laid this general charge, the memorial
“ proceeds to specify the several crimes they have
“ committed, under distinct heads ; all of which
“ are brought as proofs of the great and general
“ charge of the aforesaid Combination.”

* That is, Joseph Kirkman, Brewer, in St. Giles's; Samuel Yachney, Fish-man, Bedford Street, Covent Garden; John Harris, a Butler in the City, now a Bankrupt; all late partners of John Cambridge; Alexander Fletcher, Chief of the Patterfon Faction, in the Island; John Hill, formerly a Blacksmith at Topham, and lately a trader to the island, and a furious partisan of the Patterfon Faction; and John Cambridge, formerly an obscure Chair-maker in St. Martin's Lane, and now a trader to the Island.

“ This

“ This charge, if proved, is a high misdemeanour.”

“ The Committee therefore expected to have seen
“ either express proof of the alleged combination
“ or some circumstances from whence a strong pre-
“ sumption of such combination must arise; but
“ no evidence of this sort has been produced:—
“ On the contrary, it does not appear, from any
“ thing in this whole accusation, that any two of
“ these gentlemen ever exchanged a word with each
“ other, except when they met in Council; nor is
“ there any proof of such a combination, from
“ words or writing, spoke or written, by any of
“ these Defendants; so that the proof rests altogether
“ upon the separate facts that are alleged.”

“ And as this is the real or pretended ground of
“ the whole accusation, if the facts, brought forward
“ to prove it, have no such political connexion, the
“ charges should have been separate, and each delin-
“ quent made responsible only for his own acts;
“ whereas, by this joint charge, they are made to
“ unite in a common defence, and are necessarily
“ drawn into a joint vindication of each other's
“ conduct, in matters that have no relation to their
“ own case.”

“ The Committee then, upon the strictest
 “ review of all the specific charges, are of
 “ opinion, not only that the aggregate of
 “ them is void of any proof of such a Com-
 “ bination as is alleged, but that the specific
 “ charges, taken separately, are fully answered,
 “ AND THAT THE WHOLE ACCU-
 “ SATION IS GROUNDLESS; and this
 “ will appear by examining each charge by
 “ itself, which, together with their own opi-
 “ nion, the Committee beg leave humbly to
 “ lay before your Majesty.”

FIRST CHARGE.

“ The Lieutenant Governor is accused for dis-
 “ solving the Assembly upon his first arrival.—The
 “ Committee are of opinion he did right, because
 “ that was the very Assembly which, in conjunction
 “ with Lieutenant Governor Patterson, had passed
 “ an act to confirm the sales made under the illegal
 “ confiscations, in disobedience to your Majesty’s
 “ orders.”

SECOND CHARGE.

“ That, when upon the election of Members
 “ upon this first dissolution the Sheriff had returned,
 “ that

“ that the poll had been disturbed by military interference, and that he could not venture to re-
 “ turn them as duly elected, the Lieutenant Gover-
 “ nor is accused for issuing a new writ for a fresh
 “ election.”

“ At this time the whole Assembly, consisting of
 “ eighteen members, were all chosen, under one
 “ writ, by all the voters in the island; and the ob-
 “ jection made by the Sheriff went to the whole re-
 “ turn, so that there could be no judge of this return,
 “ the election of all being equally impeached.”

“ Upon this new case the Lieutenant Governor
 “ ordered a case to be laid before the Chief Justice,
 “ and the Attorney General, for their opinion. The
 “ Chief Justice thought the whole void; and that
 “ there ought to be a new election. The Attorney
 “ General differed. The Committee are clearly of
 “ opinion, that the opinion of the Chief Justice was
 “ correctly right; but these accusers criminate the
 “ Lieutenant Governor for not following the opi-
 “ nion of the Attorney General, which was wrong,
 “ and bring this as a proof of an unlawful com-
 “ bination.”

T H I R D C H A R G E .

“ That he altered the mode of Election without
“ authority.”

“ Instead of one election of the whole number,
“ under one writ, the Lieutenant Governor directed
“ the election to be made, under six different writs,
“ and divided the representation, by which four were
“ to be chosen, for each of the three counties, and
“ two for each of the royalties of George Town,
“ Prince’s Town, and Charlotte Town.”

“ It is clear, that the mode, first adopted by Lieu-
“ tenant Governor Patterson, was in no respect con-
“ formable to your Majesty’s instructions; and it is
“ as clear, that the other mode, directed by Lieute-
“ nant Governor Fanning, is perfectly agreeable to
“ those instructions, and was not taken up by him-
“ self, but unanimously recommended by the Coun-
“ cil, and has never been complained of since.”

“ Another charge brought to prove the said com-
“ bination, is, that the Lieutenant Governor did
“ unlawfully displace the Sheriff, Mr. Mac Millan;
“ and appointed for that year, namely, the year 1787,
“ three

“ three different persons, Mr. John Stewart, Captain
 “ Hayden, and Mr. Robertson.”

“ When Lieutenant Governor Fanning arrived in
 “ the island, to take the government upon him,
 “ upon Mr. Patterson’s dismissal, he was opposed by
 “ the latter.”

“ Mr. Mac Millan, the Sheriff, being a friend of
 “ Lieutenant Governor Patterson, would not attend
 “ at the Council Chamber, to hear the proclamation
 “ read, which contained a notice to the inhabitants
 “ of his appointment ; but departed from thence in
 “ defiance of your Majesty’s instructions. For this,
 “ as well as other objections, Lieutenant Governor
 “ Fanning removed him from the office ; which he
 “ conceived he might do, if there had been no such
 “ objection against him ; for, by the law of the island,
 “ the Shrievalty, which is an annual office, is to be
 “ appointed in this manner. The Senior Judge de-
 “ livers a list of three persons, on a particular day ;
 “ one of which three the Lieutenant Governor is
 “ to fix upon for the execution of the office. Mr.
 “ Mac Millan’s year was expired, and the Senior
 “ Judge had not delivered his list of three persons.
 “ Therefore, the appointment devolved upon the
 “ Lieutenant Governor, as your Majesty’s Repre-
 “ sentative.”

“ The

“ The two first accepted the office upon condi-
 “ tion to resign it, which they did; and then the
 “ third was appointed for the remainder of the year;
 “ and they all in their turn gave the proper security.”

“ And, though it is alleged by the complainants
 “ that these appointments were made for the purpose
 “ of obtaining a return of members to serve his own
 “ purposes, there is no other evidence of such a mo-
 “ tive but the mere allegation; and it is most posi-
 “ tively denied, not only by the Lieutenant Governor,
 “ but by Captain Hayden, who was the Sheriff and
 “ returning officer who made the void return.”

“ Then, again, the Lieutenant Governor is accused
 “ for proroguing the Assembly returned in 1787;
 “ and at last dissolving them.”

“ The Lieutenant Governor answers, and it is
 “ not denied, that there was no business, during
 “ that time, that made it expedient to call them to-
 “ gether; that, upon their first meeting, though
 “ they sat thirty days, they had passed but one bill;
 “ that every meeting is expensive to the Government,
 “ as well as to the members; and that no application
 “ was ever made to him, during all that time, to call
 “ them together. And, as to the dissolution, it ap-
 “ pears

“ appears that one third of the Assembly was either ab-
 “ sent or disqualified ; that the speaker was too ill to
 “ attend ; and that, upon submitting this state of
 “ the Assembly to the Council, they were unani-
 “ mously of opinion, that the Assembly ought to be dis-
 “ solved ; so that here, as well as in all the antecedent
 “ charges, the Council are implicated in the same
 “ crime, as equally combining to serve the Lieute-
 “ nant Governor’s Faction.”

“ The last charge against the Lieutenant Governor,
 “ to prove the combination, is, that he prorogued
 “ the last Assembly, in 1790, upon the day appointed
 “ for the trial of an election petition, against three
 “ of the persons returned for King’s County, though
 “ the witnesses for the petitioners were assembled at
 “ a considerable expence.”

“ It is alleged, by the Lieutenant Governor, that
 “ this prorogation was not of his motion, but re-
 “ quested by the Assembly ; that the reasons stated in
 “ the Assembly for desiring this prorogation were,
 “ that there had been a sudden thaw, which, if it
 “ continued, would make it dangerous for the mem-
 “ bers to return to their own homes ; that the public
 “ business was finished ; and that several declared they
 “ would stay no longer ; and, in fact, two gentlemen
 “ went

“ went home that very day, and another the day
 “ after ; that it was probable, if the Committee sat
 “ to try the election, there would not in the end be
 “ a sufficient number left to present the bills, and the
 “ business of the whole Session would be lost ; and
 “ that the Council had requested him to comply with
 “ the wishes of the Assembly.”

“ None of these facts are denied, or the reasoning
 “ answered. And it is proper to observe here, that
 “ the Petitioners against this return for King’s
 “ County, instead of proceeding to the trial of this
 “ election at a subsequent sessions, withdrew their
 “ Petition.”

“ Another charge against the Lieutenant Govern-
 “ nor, is, that he, having a share in all confiscations
 “ from breaches of the laws of trade, and frauds on
 “ the customs, appointed the Controller of the Cus-
 “ toms to be Sheriff ; thereby vesting the power of
 “ returning juries to try these causes ; in which he,
 “ himself, with the Lieutenant Governor, were to
 “ be substantially parties interested.”

“ This charge was abandoned at the hearing by the
 “ Council. It is totally unsupported with proof.
 “ The Lieutenant Governor, however, in his de-
 “ fence,

“ fence, produced precedents of other persons hold-
“ ing both the offices; and it appears, beside, in fact,
“ that there was not one jury impanelled by Mr.
“ Douglas, to try any such cause, during the whole
“ of his Shrievalty.”

“ Having gone through the several charges against
“ the Lieutenant Governor, the Committee will
“ proceed to consider those against the Chief Justice,
“ with as much brevity as the nature of the case will
“ admit.”

“ The first three charges relate to a transaction in
“ the time of Lieutenant Governor Patterson, and
“ cannot be connected with any of these, which are
“ brought to prove a Combination with Lieutenant
“ Governor Fanning.”

“ That transaction came before this Board, and
“ took up a great deal of time, and ended at last in
“ an order to dismiss several persons from their
“ offices. The Complaint was for illegally confiscat-
“ ing lands belonging to several of the proprietors;
“ and disobedience to your Majesty's orders, to lay be-
“ fore the Assembly a draught of a bill to remedy this
“ ~~injunction.~~ *injustice.*

C

“ Upon

“ Upon that occasion the Chief Justice was at first
 “ named as one of the delinquents ; but afterwards,
 “ they being satisfied that the Chief Justice had con-
 “ stantly opposed that measure, they struck out his
 “ name. And now the Complainants attempt to re-
 “ vive those proceedings, upon the ground of some
 “ words, said to be spoken by him at the time he op-
 “ posed the measure in Council, which, whether
 “ true or false, the Committee think ought not to
 “ be brought forward at such a distance of time, after
 “ the whole is closed, for no better purpose than to
 “ censure a person, whom the former Complainants,
 “ who were the injured proprietors, and more in-
 “ terested than any of the present accusers, have in
 “ effect acquitted, by dropping the prosecution against
 “ him.”

“ The fourth charge was passed by, as it had already
 “ undergone an examination at this Board.”

“ Which brings the Committee to the fifth charge.”

“ The introduction to this part of the accusation
 “ is so remarkable, that the Committee think it ne-
 “ cessary to state it verbatim.”

“ That the Chief Justice, being joined in faction
 “ with the present Lieutenant Governor, the Attor-
 “ ncy General, and the Collector of the Customs,
 “ has

“ has made his office of Chief Justice instrumental to
“ the purpose of that faction, by perverting the law
“ in his judgements, disregarding and refusing evi-
“ dence, screening and protecting the Attorney Ge-
“ neral against the accusations brought before him in
“ his Court, and misdirecting and influencing juries
“ to give verdicts, unfavorable and unjust, to those
“ who did not fall-in with the views of their faction,
“ in defiance of law and fact.”

“ These the Memorialists acknowledge to be ge-
“ neral accusations ; but they are ready and able to
“ prove it in many precise and specific articles,
“ from which they select, and particularly charge,
“ these which follow.”

“ The Committee did not expect that the Com-
“ plainants, after they had selected these specific
“ facts, to prove their general charge, would have
“ produced general evidence of the Chief Justice’s
“ general conduct in the administration of justice ;
“ but that, after proving these select particulars,
“ they would have left the general character of his
“ mal-administration to be inferred from these in-
“ stances.”

“ A general charge of misconduct, unsupported by
 “ facts, would have been rejected ; but, as the Com-
 “ plainants, in the introduction to their specific
 “ charge, have arranged his general misconduct as a
 “ Judge, the Chief Justice has thought it neces-
 “ sary, in his defence, to examine a multitude of wit-
 “ nesses to his general demeanour in that office. Be-
 “ sides this, the Complainants have, by additional
 “ evidence, produced likewise a multitude of new
 “ depositions, many of them containing new facts ;
 “ all of which, on both sides, the Committee have
 “ laid aside for the reason given at the close of this
 “ report, and have proceeded to examine the specific
 “ facts.”

1st Fact. That, in an indictment of assault and
 “ battery against one Lawlor, he summed up the
 “ evidence partially against the Defendant ; but that,
 “ however, the Jury acquitted him.”

“ Five of the Jury, together with Mr. J. Robin-
 “ son, his colleague, deny the charge ; at the same
 “ time, they acknowledge that others of the Jury
 “ support it ; and some, even of those who before had
 “ disproved it, were prevailed on afterwards to con-
 “ tradict their first affidavit.”

“ This

“ This charge, of partial summing up, could only
 “ be proved by stating the evidence on both sides;
 “ and the specific charge to the Jury; which not
 “ being done, the Committee dismiss this charge as
 “ not proved.”

“ The second specific charge against the Chief
 “ Justice is for partiality in favour of the Attorney
 “ General, in the hearing of a charge preferred
 “ against him by Mr. Cambridge. Here again all
 “ the evidence is general.”

“ Some of the articles, they say, the Chief Justice
 “ would hear; others he would not, without specify-
 “ ing any. That the Attorney General used impro-
 “ per language to Mr. Cambridge, and was not re-
 “ proved.”

“ But, though the Chief Justice might have passed
 “ over this charge as specifying nothing; yet he has
 “ answered it, by stating the nature of this hearing,
 “ which chiefly consisted of mal-practice, in taking
 “ double fees, &c. That he heard the whole com-
 “ plaint, without any partiality; in which he is sup-
 “ ported by Mr. Robinson, and Major Gray, the
 “ two assistant Justices; who add, that, with respect
 “ to improper language, there was much on both
 “ sides, so that the Court was obliged to interfere.”

“ This Charge, therefore, the Committee think
“ proper to pass over.”

THIRD SPECIFIC CHARGE.

“ That he suffered, in a cause of Debrisay and
“ Patterson, improper evidence to be given, &c. The
“ answer is, that in that cause the Chief Justice was
“ a Witness, and therefore abstained from giving any
“ opinion, or taking any part in it as a Judge; and
“ this is confirmed by Major Gray, the Assistant
“ Judge, who swears that he himself summed up the
“ Cause to the Jury.”

“ Fourth specific charge against the Chief Justice,
“ for an illegal opinion, in refusing to admit the evi-
“ dence of a set-off.”

“ The answer is, the judgement is appealed
“ from.”

“ The Committee take leave to observe, that this
“ cause has been since heard before a Committee of
“ Council; who were of opinion, the Chief Justice's
“ decision, as the cause stood upon the pleadings be-
“ low, was strictly and legally right; but that, under
“ the circumstances of the case, the Defendant
“ should,

“ should, upon payment of costs, be admitted to
 “ plead a set-off; and that, for that purpose, the
 “ cause should be remitted: which report your Ma-
 “ jesty has been pleased to confirm.”

FIFTH SPECIFIC CHARGE.

“ This is for admitting a deed in evidence, without
 “ proof, as an ancient deed. This, like the others,
 “ may or may not be an erroneous opinion. The
 “ Chief Justice, however, offered to seal a bill of
 “ exceptions, which was not accepted; but the De-
 “ fendant, Mr. Cambridge, was not hurt; for, the
 “ Jury found a verdict in his favour. Afterwards,
 “ upon motion, a new trial was granted; and
 “ the verdict in the second trial went for the Plaintiff.
 “ If the party has been injured, his remedy is in the
 “ courts of law.”

“ Sixth specific charge is for threatening one of the
 “ Jury with punishment, if he did not agree with his
 “ brothers. Here, too, is a flat contradiction in the
 “ evidence. Mr. Robinson, the Assistant Judge, with
 “ six of the Jury, swear they heard no such words;
 “ and, in the opinion of the Committee, the weight
 “ of the evidence is in favor of the Chief Justice.”

SEVENTH SPECIFIC CHARGE.

“ The Chief Justice is accused, for refusing, upon
 “ motion, to grant a new trial, in a cause, Cam-
 “ bridge against Clark. The case was, after the Jury
 “ had delivered their verdict, the Counsel for the
 “ Defendants prayed leave to appeal; which was
 “ granted, and entered upon record. The Chief
 “ Justice was of opinion, the cause was removed by
 “ the appeal, and not before the Court. The Lieu-
 “ tenant Governor, upon application, said the cause
 “ was not before him; yet, in point of law, the
 “ Committee apprehend the cause was removed by
 “ the allowance of the appeal; and the hands of the
 “ Court tied up till the appeal was withdrawn, which
 “ was not done. This, however, at the most, was
 “ but an error in judgement.”

EIGHTH SPECIFIC CHARGE.

“ This is a charge against the Chief Justice, for
 “ refusing to hear a challenge made to one of the
 “ Jurors by the Defendant Mr. Cambridge, though,
 “ at the same time, he admitted a challenge, made by
 “ the Prosecutor, to be tried.”

Mr.

“ Mr. Cambridge’s challenge was upon the ground
“ of affinity; which was known at the time the special
“ Jury was struck in the presence of the parties and
“ their attorneys, and therefore came, in the opi-
“ nion of the Chief Justice, too late.”

“ The objection to the other was, that he was a
“ servant to Mr. Cambridge; but that was not known
“ at the time; the proof, however, failed, and he
“ was sworn.”

“ This too, if illegal, might have been corrected
“ by a motion for a new trial; and the verdict would
“ have been set aside.”

COMPLAINT AGAINST THE ATTORNEY GENERAL.

“ There are five charges against the Attorney Ge-
“ neral.”

“ The Committee will begin with the fifth, as it
“ will throw a light upon the others.”

“ This contains two separate facts.”

“ First, That, being employed for Cambridge and
“ Bowley to foreclose a mortgage, he, the Attorney
D “ General,

“ General, promised Mr. Walter Berry, a junior mortgagee, so to draw the bill that he might easily defeat it; and that he would instruct Mr. Berry how to do it.”

“ Second, That Mr. Spence, the Mortgageor, having entered into a Bond to Cambridge and Bowley, he, the Attorney General, their Counsel, did advise the same Mr. Walter Berry to sell the Mortgageor's goods, to prevent their execution.”

“ These two facts are proved only by Mr. Walter Berry.”

“ The Attorney General has given a full answer to all this accusation, by a narration of the whole transaction; and the case is proved by indisputable documents.”

“ It appears, by this case, that the Attorney General performed his duty to his client skilfully, and honestly; and at last obtained a sale of the Mortgageor's goods, notwithstanding the fraudulent sale made of them by Mr. Walter Berry, the witness, who was then Sheriff, to disappoint Messrs. Cambridge and Bowley, who never suspected the Attorney General of betraying their cause, but brought a complaint before the Lieutenant Govern-
“ nor

“ nor and Council against this Mr. Walter Berry,
 “ not only for the fraudulent sale, but for opposing
 “ the Coroner with force and fire-arms in the execu-
 “ tion of a writ to seize and sell the goods belonging
 “ to the Mortgageor. Mr Berry, in his defence, charged,
 “ as he has done here, the Attorney General, for hav-
 “ ing advised the fraudulent sale; but, after a full
 “ hearing, the Council not only condemned Mr.
 “ Walter Berry, but dismissed him from his office
 “ of Sheriff, and cleared the Attorney General from
 “ this imputation. The same Mr. Walter Berry,
 “ afterwards, in a subsequent memorial, acknow-
 “ ledges his fault, and begs pardon, not only for his
 “ misconduct, but for his reflexion and false charge
 “ against the Attorney General.”

“ All this while Cambridge and Bowley were upon
 “ good terms with the Attorney General, and ene-
 “ mies to Mr. Berry; and, in this very proceeding,
 “ not only acquiesced in the acquittal of the Attor-
 “ ney General, but prosecuted this Mr. Berry to a
 “ dismissal of him from his office of Sheriff. But,
 “ afterwards, when they quarrelled with the Attor-
 “ ney General, they took up this very Walter Berry,
 “ whom they themselves had discredited, to be their
 “ friendly witness, not to exculpate himself from
 “ his own misconduct, but to revive his original
 D 2 “ charge

“ charge against the Attorney General, who had been
“ acquitted by the Council.”

“ This charge is, therefore, entirely groundless.”

“ The fourth charge, which the Committee took
“ next under their consideration, is similar to the
“ former.”

“ That the Attorney General, as Counsel and At-
“ torney for Cambridge and Bowley, not only deserted
“ the cause he was concerned in for them, but dis-
“ closed his Client's secrets to Mr. Grandin the Ad-
“ versary's Attorney, and instructed him how to de-
“ feat the Plaintiffs in the recovery of their demand.”

“ This is proved by Mr. Macgowan, the subsequent
“ Attorney for Cambridge and Bowley ; and by Mr.
“ Grandin, the Adversary's Counsel.”

“ But the affidavit is quite as general as the charge,
“ neither stating the action, nor pointing out any one
“ particular wherein the Attorney General had dis-
“ closed his Client's secrets ; or how, or in what
“ manner, he had instructed the Adversary's Counsel
“ to defeat the Plaintiffs' demand.”

“ On

“ On the contrary, the Attorney General not only
“ denies the charge, but states the cause, the history of
“ the proceedings, the reason why he desisted from
“ being any longer concerned for Mess. Cambridge
“ and Bowley, and the assistance he gave Mr. Mac-
“ gowan, the subsequent Attorney, how to proceed,
“ by giving him all the light he could upon the sub-
“ ject, and delivering up to him all the papers.”

“ And Mr. Grandin, the only witness, to prove
“ his revealing his Client's secrets, has been struck
“ off the Roll of Attorneys for misconduct.”

“ This account of the transaction is not replied
“ to; and the principal facts are confirmed by Mr.
“ Charles Stewart.”

“ This charge is, therefore, groundless.”

THE THIRD CHARGE.

“ That one Samuel Braddock, having retained the
“ Attorney General, he, in part, conducted his
“ cause; and afterwards deserted him, and conducted
“ the cause of his adversary.”

“ The

“ The answer to this is a denial, accompanied with
“ a narrative of the advice he gave Mr. Braddock,
“ upon an application to him, and refusing to be con-
“ cerned for him.”

“ The fact disputed in this charge is the gift of a
“ guinea, as a retaining fee.”

“ Walter Berry, the witness mentioned in the fifth
“ charge, is the only witness to this fact.”

“ The guinea, according to his account, was not
“ paid in specie, but credited in an account between
“ him and Aplin; so that Braddock knows no more
“ of this fact than Walter Berry told him.”

“ The rest of the evidence turns upon the affirma-
“ tion, or denial, of Berry and Braddock, of the
“ payment of this retaining fee.”

“ The examination of this fact came twice before
“ the Supreme Court. Once, at a time after the ac-
“ tion was commenced, during the suspension of Mr.
“ Chief Justice Stewart, when Braddock demanded, in
“ Court, the assistance of the Attorney General; and
“ called Mr. Berry, then in Court, to prove the retainer.
“ Mr. Charles Stewart swears, that at this time Mr.
“ Berry

“ Berry denied the assertion of Braddock, who said,
“ Berry had informed him he had retained Aplin.”

“ This is not denied, in the reply, by either Berry
“ or Braddock.”

“ The other time this came before the Court was
“ upon the complaint of Mr. Cambridge against the
“ Attorney General, when Mr. Stewart was restored.
“ Upon this occasion the fact disputed is, whether
“ Braddock declared he had, or that he had not, been
“ retained.”

“ To the former declaration four witnesses have
“ made affidavit; to the latter, only two, Mr. Robinson the Assistant Judge, and Mr. Haffard; but
“ the Committee, knowing none of the parties, are
“ not able to determine which are to be believed. No
“ money was paid; but credit given for it, in an account between Berry and the Attorney General;
“ nor is it said whether the fee was given for advice,
“ or as a retainer in the cause. This fact depends
“ altogether upon the evidence of Berry, above-mentioned, who, as Mr. Charles Stewart has sworn,
“ has himself contradicted this very fact.”

“ The Committee are therefore of opinion, this
“ charge is not proved.”

“ The first and second charges are confined to
“ words spoken by the Attorney General; the first,
“ in a conversation with Mr. John Hill; the second,
“ in a conversation with Mr. Robertson.”

“ By the first set he is charged with saying to Mr.
“ Hill, that, as Cambridge and Bowley had taken
“ part against such men as the Governor wished to
“ have chosen, he advised the said Hill to take ad-
“ vantage of that against them, by extending his
“ trade, as they would be obliged to leave the island.”

“ 1st, The words are denied by the Attorney Ge-
“ neral, who gives a very particular account of the
“ meeting between them, with all the conversation
“ that passed; none of which is denied in reply by
“ Mr. Hill.”

“ 2d, Berry, to whom Mr. Hill says he told
“ this conversation the moment he left the Attorney
“ General, is not brought forward to confirm it.”

“ The set of words in the second charge is a de-
“ claration to Mr. Robertson in a private conver-
“ sation.”

“ Mr.

“ Mr. Robertson having, as Sheriff, attached the
 “ goods of one Manwaring, the Attorney General
 “ expressed a wonder that the other creditors of
 “ Manwaring submitted to the operation of the
 “ Law, and taking Robertson aside said, by keeping
 “ in with these fellows we could always have a jury
 “ to our minds.”

“ The Committee do not well understand the
 “ meaning of these words, “ who these fellows are”
 “ that are alluded to ; there are none spoken of but
 “ the other creditors of Manwaring ; and how they
 “ should be able to procure friendly juries the
 “ Committee cannot comprehend.”

“ The words are denied by Mr. Aplin ; and Mr.
 “ Robertson, who is the only witness produced to
 “ prove them, can hardly be believed, when we
 “ compare a letter written by him to the same At-
 “ torney General a year afterwards, wherein he,
 “ upon the vacancy of the Attorney’s Office, ad-
 “ vises Mr. Aplin to apply for it, saying, he may
 “ command his interests, and will cheerfully sacri-
 “ fice a month to it, if necessary.”

“ This friendly offer of his services, to recommend
 “ a man to the first office at the bar, is hardly con-
 E “ silent

“ dissent with a belief that the same man had used
“ words that, in his opinion, made him unfit to
“ practise at the bar in any situation.”

“ The Committee, upon the whole, are of opi-
“ nion, that these, as well as all the other charges,
“ are fully and fairly answered.”

“ And they beg leave to close with this remark,
“ that admitting them all to be true, there is not
“ among them one that has the least reference to
“ any such Combination, as the Complainants make
“ the ground-work of their accusation against all the
“ defendants jointly.”

“ There is but one charge in effect against the
“ Collector, which consists of certain declarations
“ made by him at one time to Mr. Hill, and at
“ another to Mr. Steele: these words are made to
“ state, that the Lieutenant Governor was united to
“ them; namely, the Stewarts and Attorney Gene-
“ ral; and to recommend it to Mr. Hill, to unite
“ with them, that Cambridge and Bowly were to be
“ harrassed, and forced to quit the island; that he,
“ as naval officer, could promote, or obstruct, his
“ trade.”

“ And

“ And Mr. Steele is produced as a witness, to prove
“ other declarations, that, as Hill had refused his aid
“ to the party, he, the Collector, would distress
“ him to the utmost of his power.”

“ These words, if they had been followed by acts,
“ and those acts proved, would certainly have made
“ good the general charge of a factious conspiracy
“ in all the Defendants ; but no such are produced
“ before the Committee.”

“ The words, if true, are certainly the evidence of
“ a very profligate and corrupt heart ; and, though
“ they are by no means sufficient to criminate the
“ other parties, would, as against the Collector him-
“ self, though they are words and no more, prove
“ him unfit to serve your Majesty in any capacity
“ whatsoever.”

“ But they are as fully and positively denied, as
“ they are charged ; and, in that case, the oaths on
“ both sides being equivalent, the charge cannot
“ be considered as proved.”

“ Besides, the Collectors, denial is materially aided
“ by the evidence of Mr. Owen ; who says, he was,
“ during Mr. Townshend's visit at Lewis Town,

“ where this conversation is said to have passed, in
 “ company with the Collector at all times when
 “ they were together, at breakfast, dinner, and
 “ supper, and never heard one word of politics
 “ pass between them.”

“ Upon the whole, the Committee are of opi-
 “ nion, which they humbly beg leave to submit to
 “ your Majesty, that the complaint ought to be
 “ dismissed.”

“ The Committee cannot conclude, without
 “ taking notice of a very unwarrantable attempt of
 “ the Complainants to introduce a vast body of
 “ evidence against the Defendants, which they had
 “ no opportunity of answering.—When the com-
 “ plaint first came to this Board, with the affidavits
 “ in support of it, the Committee ordered it to
 “ be transmitted to the Island; and the Defendants
 “ were, within a certain time, to deliver their
 “ answer, together with a copy of their evidence,
 “ to the Complainants, who had the liberty to reply,
 “ and they were to deliver their reply within a cer-
 “ tain time; and then the whole was to be imme-
 “ diately sent over to England. Under this liberty
 “ of

“ of reply, the complainants thought fit to load their
 “ first accusation with new matter and new facts *.”

“ But the Committee have taken no notice of
 “ these additional complaints.”

HIS MAJESTY, *taking the said Report into consideration, was pleased, with the advice of his Privy Council, to approve thereof; and to order, that the said several Complaints be, and they are hereby, dismissed this Board.*

STEPHEN COTTERELL:

* The greatest part of this additional evidence has since been found to be fabricated by the malevolent and unprincipled agents of the Complainants; for, on a very general cross-examination, the witnesses examined by them have deposed, that they never swore, or meant to swear, to the facts contained in the said additional affidavits, brought forward by the Complainants. And it was very unfortunate, that these cross-examinations did not arrive till the hearing was over: for they would have disclosed to their Lordships and the world the most malicious and wicked plot, on the part of the Complainants, and their emissaries, to ruin the Defendants, that was ever devised by the malignity of mankind.

