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RELATIONS BETWEEN ENGLAND AND THE
AMERICAN COLONIES, 1607-1625

by

JOSEPHINE OKTABEC
B.A., Montana State University, 1943

Presented in partial fulfillment
of the requirements for the degree of
Master of Arts

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1953

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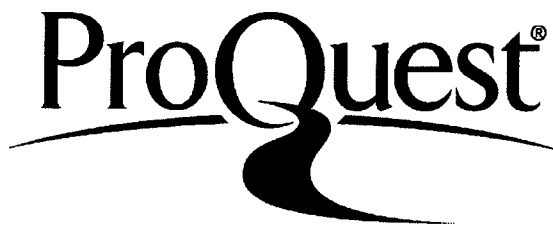
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CHAPTER I

THE GOVERNMENT OF THE NORTHERN AND SOUTHERN COLONY IN AMERICA, 1607-1609

King James retained considerable control over the first permanent English colony in America.¹ With the grant to the Plymouth and London Companies of 1606, the first attempt was made by the Crown to regulate somewhat the anticipated settlement and government of the colony.² By the charter the patentees were granted the land lying along the coast of North America between thirty-four and forty-five degrees north latitude, and the islands adjacent to or within one hundred miles of the coast.

The patentees divided themselves into two companies and colonies "for a more speedy accomplishment of their said intended plantation and habitation." Sir Thomas Gates, Sir George Somers, Richard Hakluyt, Edward-Maria Wingfield, and other adventurers of London and elsewhere who might from time to time join them, were known as the first colony. This group was to plant its settlement between thirty-four

¹Greene, E. B., The Provincial Governor in the English Colonies of North America (Harvard University Studies, VII), (New York, 1907), 2.

²Osgood, H. L., "The Corporation as a Form of Colonial Government," in Political Science Quarterly, Vol. II (1896), 265.

and forty-one degrees north latitude along the coast of Virginia. The second group made up of Thomas Hanham, Raleigh Gilbert, William Parker, George Popham, and others of Plymouth, or from elsewhere who might join them, were known as the second colony. The second colony was to settle between thirty-eight and forty-five degrees north latitude.³ Each colony was to have "all the lands, woods, soil, grounds, havens, ports, rivers, mines, minerals, marshes, waters, fishing, commodities, and hereditaments, whatsoever" from the place of settlement one hundred and fifty English miles along the coast of Virginia toward the west and southwest or south, including the islands within one hundred miles of the coast and fifty English miles to the east, northeast, or north, including the islands within one hundred miles of the coast. The colonies should not be within one hundred miles of one another. No other English subjects should be allowed to settle "behind" them toward the mainland without license from the council of the said colonies.⁴

This grant of land was not made in such a way that the patentees could regrant it to the settlers. The charter provided that the grants of land would be made by the king through letters-patent under the great seal to those persons in whose behalf a petition was presented by the council of

³Brown, Alexander, Genesis of the United States (New York, 1890) I, 53; Commager, H. S., Documents of American History, 5th ed. (New York, 1949), 8.

⁴Brown, I, 54-55; Commager, 9.

the colony in which they resided or with which they were connected.⁵

The charter named the industries in which the colonists might engage. Gold, silver, and copper could be mined and used in any way beneficial to the colony, but the king was to receive one-fifth of the gold and silver and one-fifteenth of the copper mined.⁶ The colonists were given the power to coin money for use among themselves in the colonies or in trade with the natives. The councils in the colonies were to decide what metal to use for these coins, and the kinds of coins to make.⁷

The king expected the colonists to explore the neighboring territory. The Royal Council⁸ ordered Captain Newport⁹ before he returned to England to spend two months in the exploration and to load his ships with the products of the country.¹⁰

The charter gave the patentees the right to exclude any one who did not have a license from them to settle within their jurisdiction. They had permission to defend their

⁵Osgood, loc. cit., 266.

⁶Commager, 9; Brown, I, 59; Purchas, Samuel, His Pilgrims (Glasgow, 1906), XVIII, 403.

⁷Osgood, loc. cit., 268.

⁸The council appointed by the king to manage the affairs of the colony to be resident in or around London.

⁹Newport had the sole charge of the voyages to the Virginia colony at Jamestown.

¹⁰Osgood, loc. cit., 268.

plantation and colony in any way necessary. They could exclude any outsiders from trading within the limits of their colony. If British subjects wished to trade, they could do so with the consent of the patentees and upon payment of two and one half per cent of the value of anything they bought or sold.¹¹ If the traders were from a foreign country, they were obliged to pay five per cent of the value of such wares as they bought or sold. The colony and plantation that collected such a tax on the trade might use the money in any way for the advancement of the colony. This privilege of taxing the trade and keeping the revenue was granted to the patentees for a period of twenty-one years. After that the revenue was to go to the king.¹²

For a period of seven years the planters of the two Virginia colonies were allowed to ship goods, chattels, armor, munitions, and furniture needed by the people in the colony, and also food, apparel and defense materials from England, free of customs, subsidy, or other duties. If any person from either colony should take goods from England to either of the colonies at any time thereafter, with the pretense of selling them there, and then without license from the king sell them in a foreign country, he would have his ship and goods confiscated.¹³

¹¹Records of the Virginia Company, edited by Susan Kingsbury, (Washington, 1906), I, 19; Brown, I, 59; Commager, 10.

¹²Brown, I, 60; Commager, 10.

¹³Brown, 61.

The king warned that if any members of either of the two colonies robbed the subjects of any friendly Christian king or prince, or other British subjects, the offender would be given a limited period of time in which to make full restitution. If in that set time, the offender did not do so, then the king would "put those persons out of our allegiance and protection." The said king, prince, or British subject might then punish the offenders.¹⁴

Any British subjects living in the colonies, and also any children born there, were to "have and enjoy all liberties, franchises, and immunities, within any of our other dominions, and to all intent and purposes, as if they had been abiding and born within our realm of England."¹⁵

Under the patent of 1606, the whole of North America between thirty-four and forty-five degrees north latitude was claimed by the king of England. This entire territory was placed under the management of one council, the Royal Council for Virginia.¹⁶ The charter of 1606 gave no governmental powers to the patentees. To carry out the governing of Virginia, three councils were created by the charter. The first, whose thirteen members were appointed by the Crown, was called the Royal Council or Our Council for Virginia.

¹⁴Ibid., 61-62.

¹⁵Brown, I, 60-61; Commager, 10.

¹⁶Egerton, H. E., A Short History of the British Colonial Policy (London, 1908), 25. Commager, 9.

The king had the right to increase the number of councillors if he so desired.¹⁷ Among the thirteen appointed to that first Royal Council for Virginia were Sir Thomas Smith, Sir Francis Popham, and Sir Fernando Gorges who figure prominently in colonial affairs. This council was to be resident in or near London.¹⁸ It was given "the Superior Managing and Direction, only of, and for all matters that shall or may concern the Government as well of the said several colonies as of, and for any other Place or Port within the aforesaid Precincts."¹⁹ It had "full authority at our pleasure, in our name, and under us, to give directions to the councils of the two colonies for the good government of the people to be placed in these parts."²⁰

During the first three years the colony was "distinctly a creature of the king," for the affairs were conducted by the king through his Royal Council for Virginia, which he appointed and which was responsible to him.²¹ The fundamental documents came from the king, the Privy Council, or the Royal Council for Virginia. All the instructions to

¹⁷Kaye, P. L., The Colonial Executive Prior to the Restoration (Johns Hopkins Studies in Historical and Political Sciences, Series 18, numbers 5 and 6), (Baltimore, 1900), 14.

¹⁸Brown, I, 66.

¹⁹Commager, 9; Kaye, 18; Osgood, loc. cit., 267.

²⁰Egerton, 66.

²¹Records of the Virginia Company, I, 11.

the officers had the sign manual, and the reports from Newport and his associates were addressed to the Royal Council for Virginia.²² This council gave detailed instructions to Captain Newport for the conduct of the first expedition and advice on the establishment of the first town.²³

On March 9, 1607, the king issued an ordinance enlarging the Royal Council.²⁴ The members of the Royal Council for Virginia requested that the king enlarge the number of councillors because they were scattered and did not always find it convenient to attend the meetings. There was to be a certain number of them present at the meetings for consultations. The subjects of the several colonies offered the names of several persons whom they wished added to the Royal Council. The king appointed sixteen men to be members of the Royal Council in behalf of the first colony. Among the sixteen, Thomas Smith, Edwin Sandys, and Thomas Roe were again named.²⁵ On behalf of the second colony the king named ten additional members.²⁶

These two groups together with the men appointed as the first Royal Council now constituted the Royal Council for

²²Records of the Virginia Company, I, 21.

²³Ibid., 19; Osgood, loc. cit., 268.

²⁴Brown, I, 91-94; Calendar of State Papers, Colonial Series, 1574-1660, edited by W. N. Sainsbury, (London, 1860), I, 5.

²⁵Brown, I, 92. In a footnote Brown states that he thinks these three names, Grevil, T. Smith, and Palmer, had been misplaced in copy. Neither of these were members of the first colony.

²⁶Ibid., I, 94.

Virginia.

We doe grant unto our said Council for Virginia, that they or any twelve of them att the least for the time being, whereof six att least to be members of one of the colonies, and six more at least to be members of the other colony, shall have full power and authority to ordaine, nominate, elect, and choose any other person, or persons, at their discretion to be and to serve as officer or officers, to all officers and places, that shall by them be thought fitt and requisite for the businesses and affairs of our said Council, and concerning the Plantation or Plantations aforesaid, and for the summoning, calling, and assembling of the said Council, together when need shall require, or for summoning and calling before the said Council any of the adventurers or others which shall passe on unto the said several Colonies to inhabit or to traffick there or any other such like officer, or officers, which in time shall or may be found of use, behoofe, or importance unto the Council aforesaid. . . shall have full power and authority from time to time to continue or to alter or change the said officers and to elect and appoint others in their roomes, and places, to make and ordain acts and ordinances for the better ordering, disposing and marshalling of the said several colonies.²⁷

The king reserved the right to name members of the councils for the First and Second Colonies, to be resident in each of the colonies.

The Virginia Council, consisting of thirteen members, was appointed by the Royal Council for Virginia in accordance with the instructions and orders from the king.²⁸ "The Royal Council for Virginia for the time being, shall nominate and appoint the first several councillors of these several councils

²⁷Ibid., I, 94-95.

²⁸Ibid., I, 76.

which are to be appointed for those several colonies, which are to be made plantation in Virginia and America."²⁹ Each of these councils was to have a seal of its own.

Some of the members of the two councils for the colonies were also patentees or were closely connected with the venture. Changes in the membership of the Virginia Council could be made from time to time, "according as shall be directed and comprised in the same instructions."³⁰

Each of the councils in the colony by a majority vote elected one of its own members to serve as president for one year only. The president or any member of the council in the colony might be removed from office for just cause, at any time, by the vote of the majority of the councillors. In the case of the death or removal of any councillor or the president, the colony council was to elect a new president or councillor, provided that the number of councillors never exceeded thirteen.³¹ The Royal Council for Virginia instructed the Virginia Council to give the president two votes in case of a tie on any question that should come before the president and council.³²

The council of the colony "shall govern and order all

²⁹Ibid., I, 67. In some of the references this council is called "Our Council for Virginia" or the "Royal Council." It will be referred to in this paper as the "Royal Council."

³⁰Ibid., I, 55.

³¹Ibid., I, 67.

³²Kaye, op. cit., 15.

matters and causes, which shall arise, grow or happen, to or within the same several colonies, according to such laws, ordinances, and instructions as shall be in that behalfe."³³ The president and council had the authority to make any laws, not contrary to the laws of England, that would insure peace and better government for the colony and the people.³⁴ The president and council had the authority to decide civil and lesser criminal cases.³⁵ Persons were punished for drunkenness, idle loitering, vagrancy, rebellion, conspiracy, murder, manslaughter, and adultery. Many of these offenses were punishable by death, and these, "without the benefit of clergy, except in case of manslaughter, in which clergie was allowed."³⁶ The president and council chose a jury of twelve men to hear the case, and to decide whether the person was guilty or not. The president and council pronounced the kind of sentence that they believed fit the crime. A summary of these cases was recorded in a book kept for just this purpose. The reason for punishment or the sentence given was included in the summary. This summary was signed by the ones who pronounced the punishment. A reprieve to the guilty person could be issued by the president and council, but in case the guilty person was condemned to death, the pardon had

³³Brown, I, 55; Kaye, 14; Osgood, loc. cit., 267.

³⁴Brown, I, 73; Egerton, 27.

³⁵Records of the Virginia Company, I, 19.

³⁶Brown, I, 69.

to come from the king.³⁷

The colony council was given the power to coin money for use between the people of the two colonies and in the trade with the natives. It was to determine which metal to use and what kinds of coins to make. The council of the several colonies could approve mining, and the search for minerals, within the colony and also "on the backside of it." The council could use its share of the gold and silver for the benefit of the colony, but the king was to receive one fifth of the gold and silver and one fifteenth of the copper so mined.³⁸

"The true word and service of God and the Christian faith is to be preached, according to the doctrine, rights and religion now established within the realm of England," not only in the colony but among the natives that lived nearby. Anyone found guilty of trying to influence the people from the Christian faith or from their allegiance to the king was to be imprisoned until he reformed or else was to be sent to England to be punished.³⁹

One person of each colony was to be selected by the president and council to be the treasurer or cape merchant for that colony. The cape merchant took charge of commodities which were brought into the colony and also those that were

³⁷Ibid., 70.

³⁸Ibid., I, 58.

³⁹Ibid., I, 68.

taken from the colony storehouse.⁴⁰ The president and council also selected two or more persons from within the colony to be clerks of the storehouse. One of these men was to keep a book in which were to be recorded all the commodities that were received into the storehouse, and the other one kept a record of all the commodities that were taken out of the storehouse.⁴¹

It is apparent that the colonists had nothing to say about the government of their colony. The governing body in the colony was the president and the council, and the council had more authority than the president, because it could remove him from office. The council in the colony received orders and instructions from the Royal Council in England, which in turn received instructions from the king.⁴²

The adventurers of the first or southern colony were to select from among themselves "one or more companies, each company to consist of three persons, who shall reside in or near London or some place chosen by the council of the colony." These companies were to take charge of the goods taken from England to the colony and also goods brought from the colony to England. The same arrangement was made for the second or northern colony, except that this company was to be in or near Plymouth.⁴³

⁴⁰Ibid., I, 71.

⁴¹Ibid., I, 72.

⁴²Kaye, 14-15.

⁴³Brown, I, 73.

The persons who were to be admitted to the colony must take an "oath of obedience" to the king.⁴⁴ The members of the Virginia Council took the same type of oath of loyalty as the members of the Privy Council had to take.⁴⁵

In his instructions to the Virginia Council, the king asked the councillors to try to Christianize the natives. They might have dealings with the friendly ones. In so doing they might bring them into the Christian fold sooner. The president and the council were given the power to punish any wrongdoers among the natives.⁴⁶

The Royal Council for Virginia advised the settlers to make their settlement on a navigable river, and if the river forked to choose the one coming from the northwest "for that way they will sooner find the other sea." It would be better if they settled about one hundred miles inland on that river. In this way they would have a better opportunity to trade with the natives, and also be more safe from any enemy coming by sea. For further protection they were to erect a fort at the mouth of the river and leave a few men and a boat there. In case of the approach of an enemy, these men could warn the settlement situated further up the river. The colonists were not to allow the natives to settle between themselves and the ocean.⁴⁷

⁴⁴Ibid., I, 73.

⁴⁵Ibid., I, 75.

⁴⁶Ibid., I, 74.

⁴⁷ Ibid., I, 82-83.

The colonists were to be divided into three groups. One of the groups was to do the necessary building in the settlement such as the storehouse and other buildings of public use. One group was to break sod and plant crops. Of the third group ten were to guard the mouth of the river, and the remainder to explore the surrounding country. This party was to be led by Captain Newport and Captain Gosnold. In their exploration the men were to note the sources of the river. If the source was a lake, it might be the passage to the ocean to the west--the East India Sea. If the explorers used natives as guides, they were to keep an eye on them so that they would not slip away and leave the men stranded in an unknown region. The party was to keep account, with the aid of a compass, of how far it journeyed in each direction.⁴⁸ This was a precaution in case the native guides should desert. The Englishmen were not to trust the guides to carry the guns, for the guides might run off with them and use them on the settlers.⁴⁹ The Royal Council also advised the colonists not to reveal the death of any of their men killed or sick. If the natives thought the English ordinary men, they might become bold and attack the settlements.⁵⁰

The colonists were cautioned against the sailors who, when paid for the voyage, might take advantage of the Indians

⁴⁸Brown, I, 83-84.

⁴⁹Harrison, G. B., A Jacobean Journal (New York, 1941), 348-349.

⁵⁰Brown, I, 84.

in trade and thus spoil the colonists' chances of developing friendly commerce. Some person or persons were to be appointed by the president and council in the colony to take charge of the trade with the natives.

The storehouse and other buildings of public use were to be built first. Everyone was to help in building these, and then to build the houses of the individual colonists. The village was to be built around a market place, all the "streets meeting there." The buildings were to be built in straight lines with wide streets.

The Virginia Council was instructed to send by Captain Newport, upon his return to England, a detailed report on their activities. It was to contain a description of their location, what commodities they found, what type of soil, and the kinds of trees found in the forest. No one was allowed to return from the colony to England unless permission was obtained first from the president and council in the colony. The people in the colony were instructed not to write discouraging accounts home, so that people in England would not be afraid to go to Virginia.⁵¹

The Royal Council for Virginia appointed Captain Christopher Newport to have sole charge of the first expedition to the first colony of Virginia with the colonists.⁵² Newport was to choose the necessary captains, soldiers, and mariners for the voyage. He had in his charge all the muni-

⁵¹Ibid., I, 85.

⁵²Ibid., I, 86; Purchas, XVIII, 405.

tions, victuals, and all other provisions sent by the company to the colony. If Captain Newport should die before Virginia was reached, the masters of the ships were to take the ships to the coast of Virginia.⁵³

The first group of colonists under Newport's charge left Blackwell, England, December 19, 1606. The orders for the government of the colony along with the names of the first colony council, appointed by the Royal Council to be His Majesty's Council for the First Colony in Virginia, were locked in a box to be opened within twenty-four hours after the party landed in Virginia.⁵⁴ One hundred and five men went on the first voyage. The principal persons going were: Master Edward-Maria Wingfield, Captain Bartholomew Gosnold, Captain John Smith, Captain John Ratcliffe, Captain John Martin, Captain George Kendall, Master Robert Hunt, a minister, Master George Percy and Captain Gabriel Archer.⁵⁵

Captain John Smith, from the Canaries, was restrained as a prisoner upon the scandalous suggestions of some of the chiefs, envying his repute, who fained he intended to usurpe the government, murder the council and make himself king, and his confederates were dispersed in all three ships, and that divers of his confederates revealed it would affirm. . . yet so well he demeaned himself in this business, as all the company did see his innocense, and adversarie's malice. . . but being so apparently disproved beget a general hatred in the hearts of the company against such Commanders; but the good doc-

⁵³Brown, I, 86.

⁵⁴Ibid., I, 77; Purchas, XVIII, 460.

⁵⁵Harrison, 347; Purchas, XVIII, 461.

trine and exhortation of our Preacher Hunt reconciled them, and caused Captain Smith to be admitted to Counsell.⁵⁶

John Smith was admitted to the Virginia Council on June 20, 1607.

Edward-Maria Wingfield was elected the first president of the Council in Virginia,⁵⁷ and Gabriel Archer served as secretary.⁵⁸ The president and the members of the council had to take the following oath:

I shall to the best of my skill and knowledge uprightly and duly execute all things committed to my care and charge according to such directions as are or shall be given unto me from His Majesty, his heirs, or successors, or their Privy Council, or his or their Counsel for Virginia according to the tenour, effect and true meaning of His Majesty's letters patent, and of such articles and instructions as are set down by his highness under His Majesty's Privy seal for and concerning the government of the said colony and my uttermost best faith and allegiance unto the King's Majesty, his heirs and lawful successors, as shall assist and defend all jurisdiction and authorities granted unto his and annexed unto the Crown as against forrain princes, persons, and potentates whatsoever be it by act of Parliament or otherwise, and generally in all thing I shall do as a true and faithful servant and subject, ought to do to His Majesty. So help me God.⁵⁹

Wingfield was removed from office as president after serving only four months, from May 13, 1607, to September 10,

⁵⁶Ibid., 462-463; Arber, Edward, (ed.) Travels and Works of Captain John Smith (Edinburgh, 1910), I, 93.

⁵⁷Hart, A. B., American History Told by Contemporaries (New York, 1924), I, 211.

⁵⁸Andrews, C. M., The Colonial Period of American History (New Haven, 1938), I, 99.

⁵⁹Brown, I, 78-79.

1607.⁶⁰

On September 10, 1607, Mr. Ratcliff, Mr. Smith, and Mr. Martyn, came to the president's tent with a warrant, subscribed under their hand, to depose the president, saying they thought him unworthy to be eyther president or of the council and therefore discharge him of both.⁶¹

Tyler⁶² says that the settlers suspected Wingfield of being a Catholic.

September 1607, at which time Captain Wingfield, having ordered the affairs in such sort that he was generally hated of all, in which respect with one consent he was deposed.⁶³

The rest seeing the President's project to escape these miseries in our Pinnacle by flight (who all this time had neither felt want nor sickness) so moved our dead spirits, as wee deposed him; and established Ratcliffe in his place.⁶⁴

The Council of the colony had the authority by its charter to depose the president or any council member by a majority vote. Ratcliffe was not very well liked either; being "of weak judgment in dangers, and lesse industry in peace," he left most of the managing of the colony's affairs to Captain John Smith.⁶⁵

The conditions in the colony were deplorable, so that

⁶⁰Hart, I, 211; Arber, I, lxxiv.

⁶¹Hart, I, 213.

⁶²Tyler, L. G., Narratives of Early Virginia (Original Narratives of Early American History Series) (New York, 1907),

⁶³Ibid., 37.

⁶⁴Purchas, XVIII, 465.

⁶⁵Ibid., XVIII, 465; Arber, I, 96.

Smith forced the men to work or drove them into the wilderness.⁶⁶ The first settlers that came were not the type that would work hard to make the colony a success. In spite of Smith's efforts quarreling and bickering continued. There were also factional disputes, so the company realized that the government of the colony would have to be changed.

All this time our old tavern (referring to trade conducted despite the orders of the council) made as much of all them that had either money or ware as could be desired; by this time they were become so perfect on all sides as there was then times more care to maintaine their damnable and private trade then to provide for the colony things that were necessary. Neither was it a small policy in the mariners, to report in England wee had such plenty, and bring us so many men without victuals, within six or seven weeks after the ships returne, of two or three hundred hatchets, chissels, mattocks and pickaxes, scarce twenty could be found; for pike-heads, knives, shot, powder or anything they could steale from their fellows was vendible.⁶⁷

Captain Newport remained in the colony about five weeks and sailed for England on June 22, 1607.⁶⁸ While Newport remained in Virginia, he and John Smith with twenty men explored the James River to the falls. They found nothing of importance.⁶⁹ Again during the winter John Smith explored the surrounding country. He was a prisoner of the Indians for a time, and when he returned to Jamestown the colony was

⁶⁶Purchas, XVIII, 526; Arber, I, lxxv.

⁶⁷Tyler, 158.

⁶⁸Purchas, XVIII, 463, 416.

⁶⁹Arber, I, 6-7.

in confusion.⁷⁰ From the time Newport left until his return with the first supplies on January 4, 1608, there was continual quarreling in the colony,⁷¹ and about half of the men had perished. Among those was Bartholomew Gosnold, a member of the Virginia Council,⁷² who died August 22, 1607.⁷³ By the time differences were settled, it was too late to plant crops, the food was bad, and the hot weather brought diseases.⁷⁴

On September 10, 1608, by the election of the council and the request of the company, Captain John Smith received the letters patent and became the president of the colony.⁷⁵ John Smith and Ratcliffe were the only two left in the colony of the original council for Virginia. Mathew Scrivener was sent from England to be a member of the council.⁷⁶ Newport returned for the second time to England on April 10, 1608, and ex-president Wingfield and Archer went with him.⁷⁷

⁷⁰Gardiner, S. R., History of England from the Accession of James I to the Outbreak of the Civil War, 1603-1660 (London, 1883), I, 56.

⁷¹Arber, I, 23; Andrews, Colonial Background, I, 100.

⁷²Rose, J. H., (ed.) Cambridge History of the British Empire (Cambridge, 1929), I, 80.

⁷³Purchas, XVIII, 418.

⁷⁴Gardiner, I, 55.

⁷⁵Purchas, XVIII, 493; Arber, I, 121; Gardiner, I, 56.

⁷⁶Ibid., I, 56.

⁷⁷Arber, I, lxxxvii, 105.

Captain Newport returned to Virginia with the second supply in the autumn of 1608. He had been instructed by the Royal Council to stay in Virginia until he found a lump of gold, the route to India, or some of the members of Raleigh's lost colony.⁷⁸

The goods brought to the colony from England were placed in the hands of the cape merchant and his two assistants. The duty of these men was to keep track of all goods brought into the colony, and then to apportion it out to the colonists. They also kept account of the materials sent from the colony to England. Studely was the first cape merchant. When he died, John Smith succeeded him. Since this regular channel of getting provisions was a slow one, many of the colonists traded illegally with the sailors of the ships which brought the supplies.⁷⁹

⁷⁸Ibid., I, 12; Bruce, P. A., Economic History of Virginia in the Seventeenth Century (New York, 1907), I, 17.

⁷⁹Bassett, J. S., "The True Relation between the Virginia Planter and the London Merchant," American Historical Association, Report, 1901, I, 554.

CHAPTER II

THE GOVERNMENT OF VIRGINIA, 1609-1612

The government as set up under the charter of 1606 proved inefficient and unsuccessful.¹ The affairs in the colony were not progressing as profitably and peacefully as had been expected, so the Virginia Company asked for a new charter. The Company wanted more direct authority to secure larger investments. It took from February 17, 1609, until May 23, 1609, to write, sign, and seal the document. This time each planter's and adventurer's name was written in the charter. The grant was made to Robert, Earl of Salisbury; Thomas, Earl of Suffolk; Henry, Earl of Southampton; William, Earl of Pembroke; Henry, Earl of Lincoln; and others, incorporated under the name of "The Treasurer and Council of Adventurers and Planters of the City of London for the first colony of Virginia."² By the charter of 1609 King James gave up his authority in the Virginia Colony. Maybe he had lost interest in it since it had not accomplished what he had expected, that is, to find gold and the northwest passage or perhaps he gave it up to pacify Spain.³

The members of the Virginia Company elected the

¹Greene, 33

²Brown, I, 206-208.

³Records of the Virginia Company, I, 22-24.

treasurer and the council at a meeting called for that purpose.⁴ This group had "full authority" to manage the colony's affairs.⁵ Shares were offered for subscription to be paid in cash by the adventurers who remained in England, and by personal service by the planters who went to Virginia. Each shareholder became a member of the company.⁶ Half of the land in Virginia was to be the property of those who adventured money and the other half of the planters who went to Virginia. Those halves were to be divided among each one's members.⁷ This joint management which began in 1609 was to last seven years. Then the land was to be divided among the colonists so they could profit from their labors.⁸ The money paid by the adventurers was to be spent on the settlement, and any surplus was to be divided or turned into a fund for seven years. During this period of seven years all the settlers made was to go to the company, while the settlers themselves were maintained by the company. At the end of the period each shareholder should receive a grant in proportion to the amount of stock he held.⁹ Any one who invested money

⁴Becker, C.L., Beginning of the American People (Boston, 1915), I, 58.

⁵Records of the Virginia Company, I, 22-24.

⁶Becker, I, 58.

⁷Records of the Virginia Company, I, 14.

⁸Andrews, C. M., Our Earliest Colonial Settlements (New York, 1933), (Hereafter cited as Colonial Settlements), 41.

⁹Egerton, 30.

in the company in the future would be entered in the record book and could enjoy all the privileges along with those named in the charter.¹⁰

The first part of the second charter repeated all the articles and provisions of the first one, 1606.¹¹

The members of the Virginia Council in England and other officers were to be elected from among those who were members of the company. These council members were to live near enough to London so that they could attend the council meetings.¹¹

The second charter enlarged the grant of land to the Treasurer and Company.

All those lands, countries, and territories situated in that part of America called Virginia from Cape Comfort along the coast two hundred miles North and South, from sea to sea, West and Northwest, and all islands lying within one hundred miles along the coast.¹²

The company had the same privileges of soils, havens, ports, mines, pearls, precious stones, quarries, roads, rivers, water, fishing, commodities, jurisdictions, royalties, within the territory as mentioned in the first charter. One fifth of all gold and silver mined was to be paid to King James.

The Treasurer and Company, or the majority of them,

¹⁰Brown, I, 236.

¹¹Ibid., I, 209; Commager, 10.

¹²Brown, I, 229-30; Commager, 11.

according to the charter might assign portions of the lands to the colonists, either the adventurers or the planters. Persons giving special service should be given some land as reward.¹³ The clergyman and doctors were the ones to be given this grant of land or any one else that performed some outstanding service for the colony.¹⁴

The management of the colony was left to the Treasurer and Council in England. The names of the first council members were included in the patent, as was the name of the first treasurer, Sir Thomas Smith.¹⁵ The second charter ended the double government of the colony by doing away with the council resident in the colony. The Virginia Council in London had the power to appoint all the officers needed for governing the colony. The members of the first council named by the king were: the Earl of Southampton, Earl of Pembroke, Lord de la Warr, Sir Thomas Smith, Sir Oliver Cromwell, Sir Thomas Gates, Sir Edwin Sandys, and forty-four others.¹⁶ After the initial appointment by the king, the members of the council were to be elected by the members of the company at a meeting for this special purpose.¹⁷

¹³Brown, I, 230-231.

¹⁴Egerton, 29.

¹⁵Wallis, J. P., "Early Colonial Constitutions," Royal Historical Society, Transactions, New-Series, (London, 1896) X, 63.

¹⁶Brown, I, 231-232.

¹⁷Ibid., I, 232-233.

Each newly appointed councillor "shall take his oath from the Lord High Chancellor of England, the Lord High Treasurer of England, or the Lord Chamberlain of the king's household." There was also a provision made in the charter for a deputy treasurer. "If the treasurer is ill or absent from the city, he may appoint one of the council to be deputy treasurer with the same powers as Treasurer."¹⁸

The London Council was given the power to name the governors and other officers that would be needed to carry on the government of the colonies. It could likewise dismiss any of the officers who proved to be unsatisfactory.¹⁹ The London Council could make the laws for the colony, "not only within the colony but upon the seas coming and going to and from the colony," that they thought would be good for the colony and its people.²⁰

As soon as the newly appointed governor reached Virginia the former president and council, elected under the letters patent of 1606, were automatically discharged. The former president and all of the former officers were instructed to obey the new governor.²¹

The Treasurer and Council or any four of them,

¹⁸Hazard, I, 66.

¹⁹Brown, I, 235; Egerton, 29.

²⁰Brown, I, 233.

²¹Ibid., I, 234; Commager, 11.

providing the treasurer was one of them, might admit new members to the council or get rid of the old ones. The same provisions for expelling intruders that were included in the first charter, were included in the second one.

The colony was to be free of subsidies and customs for a period of twenty-one years and free of all taxes and impositions forever. Upon all imports and exports five per cent of the value was to be paid on all goods imported into England, according to the ancient trade of merchants, provided the goods were exported within thirteen months after they were imported, that is, after the first landing of the goods within any part of these dominions.²²

The duty on imports for the English who were not members of the Company was increased from two and one half per cent of the value to five per cent, and the duty on imports of foreigners was increased from five per cent to ten per cent of the value.²³

The Treasurer was the executive head of the Company as well as of the colony. He was authorized to preside at the London Council meetings, carry on the correspondence between the Company and the colony, and to manage the business that the Company had to transact with the Crown. He was to make an annual report to the Company.²⁴

²²Brown, I, 235; Egerton, 29.

²³Brown, I, 235; Egerton, 29.

²⁴Osgood, loc. cit., 269.

The second charter granted to the Treasurer and
Company

. . . full and absolute power and authority, to correct, punish, pardon, govern, and rule, and all such subjects of us, as shall, from time to time adventure themselves in any voyage thither, or that shall. . . inhabit in the colony. . . according to such order, ordinance, constitutions. . . as by our said council. . . shall be established, and in defect thereof, in case of necessity, according to good judgment of the governor and officers. . . as well in criminal and capital cases, civil and marine. . . as well as the statute. . . be agreeable to laws, government and policy of England. Martial law to be enforced in case of rebellion.²⁵

Since the charter of 1609 did away with the council in the colony, the governor, subordinate to the London Council, had sole and absolute²⁶ executive power in the colony as well as the "functions of government which the charter provided."²⁷ The governor and often most of the lesser officers were appointed in England, if not by the king at first, by the company. Commissions to the governor, letters of instructions to him, and the second charter formed the body of laws for the administration of the colony. The governor could appoint some of the officers, and had control over the officers except those appointed by the Council in London. Thus the governor was virtually a dictator in the colony.²⁸

²⁵Brown, I, 235-236; Commager, 11-12.

²⁶Egerton, 28.

²⁷Kaye, 10-11.

²⁸Andrews, Colonial Period, 107-108.

Sir Thomas Gates was appointed, in 1609, "sole and absolute governor" of Virginia by the Council in London.²⁹ A few days before the ships sailed, the governor called a meeting of the captains, masters, and pilots to make arrangements as to the course they would take. At this meeting each master of a ship received sealed instructions in case the fleet might be separated on the journey. If the ships lost sight of the Admiral, the flagship, they were to keep away from the West Indies. Instead they were to sail for Bermuda and wait seven days for the rest of the fleet.³⁰

Upon his arrival in Virginia, Governor Gates was to call a meeting of the former president, officers, and all the colonists. At this meeting his commission was to be read to them. Everyone was instructed to obey the new letters patent. Gates was to get the former letters patent, instructions, books, and all the records of former proceedings, and do with them what he thought best.³¹

The London Council appointed a number of men to act as advisers of a local council to the governor. Those appointed were Sir George Somers, Captain John Smith, Captain John Ratcliffe, Captain Peter Seiriant, Mathew Scrivenor, secretary, Captain John Martin, Captain Richard Waldve, Captain Ward, and Master Fleetwood.³²

²⁹Records of the Virginia Company, III, 12; Brown I, 365.

³⁰Ibid., I, 345-346.

³¹Records of the Virginia Company, III, 13-15.

³²Ibid., 13-15.

This group of advisers or council in Virginia, unlike the council in Virginia under the old charter, had no power over the governor. The governor had "full authority upon just cause to exclude any of them from the execution of any place whatsoever and to depute another thereunto until signification unto us be here made."³³ The governor had the power to make laws and pass ordinances at his discretion according to the authority vested in him by his commission.

The governor was responsible for seeing that the Christian religion was taught to the natives according to the Church of England. Popery and atheism were to be punished. The English language and manners were to be taught to a number of the Indian children. If it were necessary, the children could be taken from their homes and made prisoners to accomplish this.

Gates and his men were to choose a more healthful place than Jamestown for the main settlement, a place that had sunshine, was not swampy, and where there would be a good supply of water. The chief food storehouse and munitions depots were to be moved to the new settlement. The London Council felt that Jamestown was too easily accessible to the enemy, but that it could be used as the principal seaport.

There were to be three settlements, including Jamestown. Each settlement was to have a church, storehouse, and land cleared for planting. A commander was appointed for each

³³Ibid., 13-15.

settlement to see that the work was done. The settlement was to be planned in such a way that it was neat, orderly, and convenient, and the street to the storehouse was to be paved.³⁴

In order to discourage the enemy from settling between the sea and the English settlement, the colonists were to build a fort near the sea. A few men provided with boats were to be garrisoned at this fort. The boats would enable these men to warn the settlement of the approach of any enemy.

The London Council's instructions warned Gates about Powhatan. "If it shouldn't be wise to imprison him, then force him and his people to acknowledge James I." Gates was to demand a tribute of corn or skins from every lord of a province. This, I am sure, refers to the natives. The natives were to be watched so that they did not destroy the corn fields and steal or kill the cattle. The colonists were advised to make friends with the Indians who lived farther away because they would be less apt to have trouble with them.

One or two men, truncmasters, in each settlement were to be chosen to carry on the trading with the Indians. It seemed better to have the Indians come to the settlement than to have the colonists go among the Indians to trade. In this way it would appear that the colonists were doing the Indians a favor by trading with them. No one else but the truncmasters were to carry on the trade with the natives, unless

³⁴Ibid., 14-17.

it was necessary to get food and clothing. The colonists were to set a price on their commodities. The cape merchant or an officer of the storehouse would supervise the truncmasters. These men would keep an accurate record of all the transactions.³⁵

The colonists were asked not to trade weapons to the Indians. The governor was to impose strict laws and penalties regarding such trade. The colonists were not to teach the Indians how to make weapons or any art of the blacksmith trade. They were not to let the Indians even watch a blacksmith work for fear they might learn by watching.

An overseer of the workmen was to make a report each week to the captain of the fort, and each month to make such a report to the governor. "Goods and provisions obtained above expenses may be received and entered into the cape merchant's books and then stored for public use."

About fifty men in a group under the leadership of a captain were to be trained for defense. This training was to be done when convenient for the men.

The men that worked within or near the settlement were to eat in a public eating house. To avoid trouble among the workmen, the governor was to see that a proper diet was furnished. The men were to be summoned to meals and to their work by the ringing of a bell. Those that worked away from the settlement were to have food sent with them to save time.

³⁵Ibid., 17-20.

All the letters written by the colonists to their families and friends in England were to be put into a box and sent first to the Council in London. The company did not want discouraging letters sent home. Evidently the London Council censored the mail and then forwarded it to the recipient. The ships that returned to England were to bring back commodities of value. The company wanted to make some profit on its investment.

The governor was also given the authority to settle disputes. Webbe, one of the colonists, complained against Captain John Ratcliffe. The governor was to call these men into his presence and hear both sides of the story and then decide whether Ratcliffe was guilty and see that justice was done.

Richard Potts, David Wiffin, P. Ginnet, and John Travernor had requested permission from the London Council to return to England. Gates was instructed to grant them permission. Thomas Wittingham was selected to take Travernor's place as cape merchant.

In case Gates should die on his way to Virginia, the council in the colony was to open the "black box" marked with the figure one and sealed with "our seal wherein they shall find our determination concerning the successor to the government." In His Majesty's name the council was to "command every person within the colony. . . due obedience to him so named according unto his commission unto him directed, as they

will answer to ye contrary at their uttermost peril."³⁶

Governor Gates with a fleet of seven ships and two pinnaces set sail from Falmouth on June 8, 1609. The governor, Sir George Somers, and Captain Newport were in the Admiral, the flagship. John Ratcliffe, Gabriel Archer and Martin were returning to Virginia. Each one was a captain of a ship.³⁷ These men had been deposed in the colony and sent to England the previous year.³⁸

When the fleet was about one hundred and fifty leagues from the West Indies, in the Gulf of Bahama, it was dispersed by a storm.³⁹ One ship was lost at sea and the Admiral with Gates, Somers, and Newport on board was wrecked on the Bermudas.⁴⁰ These three men stayed in Bermudas until May 10, 1610, when they set sail for Virginia and arrived at Jamestown May 23, 1610.⁴¹ The ships under the command of Archer, Webb, Martin and Ward reached Virginia August 11, 1609. Ratcliffe's ship arrived on August 15, and Moon's three days later.⁴²

In a letter to the Earl of Salisbury, the Lord High

³⁶Ibid., 20-24.

³⁷Arber, I, xcv, xcvi.

³⁸Purchas, XVIII, 529-538.

³⁹Arber, I, xcv, xcvi.

⁴⁰Gardiner, II, 60.

⁴¹Andrews, Colonial Period, I, 109.

⁴²Arber, I, xcv, xcvi.

Treasurer of England, Ratcliffe wrote: "we heard all the Counsell were dead, but Captain John Smith, the president, who reigned, sole governor, without assistants and would at first admit no counsell but himself." This letter was written October 4, 1609, before Gates arrived from Bermuda.⁴³

John Smith refused to give up the presidency because none of those who had come had commissions from the Council in London to take over.⁴⁴ Ratcliffe, Archer, and Martin continually worked against Smith,⁴⁵ not respecting Smith's orders and breaking the rules regarding the treatment of Indians.⁴⁶ In the same letter to Salisbury Ratcliffe said they had elected George Pearcy president, and Martin, Ratcliffe, and Master West, a brother of Lord de la Warr, to the council of the colony.⁴⁷

Some gunpowder on a ship exploded and burned John Smith severely. This added to the trouble with the newcomers, induced Smith to return to England, in October, 1609, on the ship that brought the colonists.⁴⁸

After Smith left there was no recognized authority. Every man did as he pleased. The provisions that had been

⁴³Brown, I, 334.

⁴⁴Andrews, Colonial Period, I, 109.

⁴⁵Arber, I, 166-167.

⁴⁶Gardiner, II, 60-61.

⁴⁷Arber, I, xcvi; Brown, I, 334.

⁴⁸Arber, I, 166-167; Gardiner, II, 61.

brought from England and those that were in the colony were wasted. The Indians attacked the settlement. When Smith left in October there were four hundred and ninety men in the colony but six months later only sixty were left.⁴⁹

Evidently the ship that returned to England in 1609 reported the conditions in the colony to the London Council. The council appointed Sir Thomas West, Lord de la Warr, to be governor of Virginia. The London Council also decided to be more careful as to the kind of people that were sent to the colony. The colonists must now give proof of their religion, their ability to get along with others, and that they could perform some kind of useful work.⁵⁰

On May 23, 1610, Sir Thomas Gates and Sir George Somers reached Virginia from the Bermudas with one hundred and fifty men. Since they had food only for sixteen days, the men decided to leave the colony. The Indians had refused to bargain with the white men. The Englishmen would try to get to Newfoundland and hope to find passage home on some fishing vessels. As they came out into Chesapeake Bay, they met Lord de la Warr's ship and turned back to Jamestown with him.⁵¹

The London Council issued a commission as governor for life to Thomas West, third Lord de la Warr, on February 28,

⁴⁹Ibid., 60-61.

⁵⁰Brown, I, 352-353.

⁵¹Purchas, XVIII, 539; Gardiner, II, 62; Andrews, Colonial Period, 112.

1610. He did not arrive in Virginia until June 9, 1610.⁵² Lord de la Warr had been a member of the Council for Virginia, London Council, in 1609.⁵³ Lord de la Warr brought with him provisions from England. He sent George Somers and Samuel Argall back to the Bermudas for food, and Sir Thomas Gates to England for more supplies. The governor had the authority to stop the violence and restore peace with the Indians. The colonists seemed willing enough to work under the governor's directions. He divided the men into groups of fifteen with a captain appointed in charge of each group. De la Warr became ill after six months in Virginia and returned to England on March 28, 1611. Captain George Percy, a deputy, was left in charge of the colony. Permission was given to Lord de la Warr to leave the colony if he so desired and to appoint someone to take his place. This appointee was to exercise the same powers that were given to the governor.

During de la Warr's short stay in the colony, he selected members for his council and organized the government.⁵⁴

On the trip to Bermuda Argall and Somers became separated. Argall became lost and finally reached Sagadahoc where he fished for cod. He returned to the colony and was then sent up the Patowomeck River to trade with the Indians.

⁵²Purchas, XVIII, 539; Kaye, 17.

⁵³Stock, I, 21, note.

⁵⁴Purchas, XVIII, 539; Gardiner, II, 62.

On this trip he found Henry Spelman who had come to Virginia in October 1609.⁵⁵ After his return to Jamestown, Argall returned to England with Lord de la Warr on March 28, 1610.⁵⁶ Somers, too, missed the Bermudas and reached Sagadahoc. He over taxed his strength and died on November 9, 1611.⁵⁷

On August 1, 1610, Gates returned from England with men, provisions, munitions and cattle.

The London Council's commission to Lord de la Warr repeated the powers and authority vested in the governor found in the letters patent. When de la Warr arrived in the colony, the former governor and council were to cease functioning. De la Warr was to be known as Lord Governor and Captain General of Virginia and Colonies. He was to govern by "directions, orders, and instructions issued by the London Council and in defect of such information, rule by his own discretion."⁵⁸

Governor de la Warr was given the authority by his commission to appoint such officers as he thought necessary. He appointed Sir Thomas Gates, lieutenant-general.⁵⁹ Sir George Somers was made admiral; George Percy, captain;

⁵⁵Spelman wrote Relations that are included in Arber.

⁵⁶Arber, I, 172.

⁵⁷Ibid., 172.

⁵⁸Brown, I, 376-379; Greene, 207-213.

⁵⁹Records of the Virginia Company, III, 26. He was made lieutenant-governor.

Ferdinando Wenman, master of ordinance; Newport, vice-admiral; William Strachey, secretary-recorder;⁶⁰ and Sir Thomas Dale, marshall.⁶¹ These men, except Dale, were named in the instructions.

Besides the power and authority which were given to the governor by the London Council in addition to his commission, the London Council also gave him "instructions, orders and constitution by way of advice." These instructions plus those that had been given to Gates, when he came as governor, were to constitute the basis for government of the Virginia Colony.⁶²

Lord de la Warr was in command of the personnel and passengers of the fleet of three ships bound for Virginia. Like Gates, he was warned to stay away from any land claimed by the king of Spain, unless he obtained permission first from the governor of the particular place.

Upon his arrival in the colony he was to call a meeting of the governor and officers of Virginia including the ones who came with him. His commission was to be read to this assembled group. After the reading of his commission, the governor was to administer "the oath of supremacy whereby they shall manifest their obedience and loyalty to His Majesty and you" and at this same time "give general commandment that all former private or public quarrels, grievances, or grudges

⁶⁰Brown, I, 407.

⁶¹Records of the Virginia Company, III, 26.

⁶²Ibid., 25.

be from thenceforth from amongst them utterly abandoned and forgotten."⁶³

The ships were to be sent back to England as soon as possible with sturgeon and other fish, and any valuable land commodities to repay the company for its outlay.

The governor was advised to have the people plant food crops, such as corn and root crops. He was to form groups of fifty men each for military training under the direction of a captain. Religious worship and the punishment of atheists was again stressed. The teaching of the Christian religion to the Indians was encouraged. The English language and manners were to be taught to the Indian children, who were to be taken from their homes if necessary, and "in case they shall be willful and obstinate, send three of four to England and we may endeavour their conversion here."⁶⁴ In case of civil justice the governor was to act as a counsellor rather than judge. No trade was to be allowed with any ships unless they presented a permit from the Council in London.

The governor was to send an exploring party to the "northeast, south, and southeast beyond the falls, a ten or twelve day journey." Upon the party's return the governor was to send a complete report of this venture to the Council in London.

⁶³Ibid., 26.

⁶⁴Ibid., 27-28.

De la Warr was to take care of all reports that were sent to England. As in the instructions to Gates, all letters to England were to be put into one box and sent directly to the London Council. "At the arrival and return of every ship you endeavour to know all the particular passages and information given on both sides and advise accordingly."⁶⁵

With the execution of the second charter, King James practically gave up his authority over the Virginia Colony to the council for the colony resident in England which was elected from among the members of the Company. The executive head of the Company and the colony was the Treasurer. He transacted all the business matters for the Company as well as for the colony. There was no council and president in the colony as under the first charter, instead there was to be a governor with absolute power. The governor's authority was based on his commission and letters of instructions that the Company might send out from time to time. The London Council appointed a number of men to act as advisers to the governor but they had no power over the governor as the council had had under the first charter over the president.

⁶⁵Ibid., 28.

CHAPTER III

GOVERNMENT OF THE VIRGINIA COLONY, 1612-1625

The Treasurer and the Virginia Company requested a new charter from the king and it was granted on March 12, 1612. Since the second charter had been granted in May, 1609, the Somers Islands (Bermudas) had been discovered. Realizing the value of these islands, the Virginia Company wanted them included in its territory. There was dissatisfaction among many of the members of the Virginia Company because they had no part in forming the Company's policies.¹ The stockholders seldom met and felt that they had no influence in the council.² Under the second charter the Virginia Company did not have enough authority to keep its employees in line³ or to apprehend or punish offenders, mutinous seamen, or abusive colonists.⁴ It was also constantly faced with financial problems.⁵ For these reasons the Earls of Salisbury and Suffolk and other members of the Company asked for and received a new patent.⁶

¹Andrews, Colonial Period, I, 117.

²Andrews, Colonial Settlements, 35-36.

³Brown, II, 551.

⁴Andrews, Colonial Settlements, 35-36.

⁵Andrews, Colonial Period, I, 117.

⁶Calendar of State Papers, Colonial, 1574-1660, edited by W. Noel Sainsbury, (London, 1860).

The third charter repeated the items of the former two charters and added several new ones. The boundaries were extended

to include all the islands lying within three hundred leagues of the continent, and being within the forty-one and thirty degrees north latitude, provided that the said islands are not actually possessed or inhabited by any other Christian prince, and not within the bounds of the Northern Colony.⁷

This gave the Somers Islands to the Virginia Company.

The names of all the persons who invested money in this venture were listed in the charter, so that "posterity may hereafter know who have adventured and had not been sparing of their purse."⁸ There was a great increase in the numbers of stockholders, many of them interested primarily in making a profit.⁹

By the terms of the new charter the Royal Council for Virginia was to be made up of former council members plus fifteen additional ones. Among these new ones were the Earl of Montgomery, Lord Paget, William Cavendish and Thomas Dale.¹⁰ Nine members were added between 1613 and 1618 of whom the more prominent ones were Lionel Cranfield and Robert Johnson. Between 1617 and 1618 nine more were named, one of which was George Yeardley who later became the governor of

⁷Hazard, I, 72-81; Brown, II, 541; Commager, 12.

⁸Hazard, I, 72-81; Brown, II, 549.

⁹Andrews, Colonial Settlements, 38.

¹⁰Hazard, I, 75, names only Montgomery, Paget, and John Harrington.

Virginia. In 1619 seven were added including the Earl of Warwick, Nathaniel Rich and John Ferrar.¹¹

The meetings of the Treasurer and the Company were designated as Courts. There were two types of these. According to the charter, meetings were to be held once a week or oftener if necessary. This court was to be made up of five members of the Royal Council of which one was to be the Treasurer or his deputy and not less than fifteen of the "generality". This Court was to deal with any minor problems that might come up. For matters of greater importance there were to be held "Four Great and General Courts of the Council of Virginia" on the last Wednesday of winter, spring, summer and fall terms. This Great or Quarter Court had the power to choose the council and appoint officers for the government of Virginia and make the laws. It could exclude from the company all persons who did not pay their "adventure" or subscription.¹² By 1624 there were one thousand members in the company and frequently two hundred of these came to the court meetings.¹³ Some of the members of the Royal Council were also members of Parliament, namely; Sandys, Southampton, Warwick, N. Ferrar and Pembroke.¹⁴ Over one hundred of the members of the Virginia Company were members

¹¹Hazard, I, 72-81; Brown, II, 549.

¹²Hazard, I, 72-81; Brown, II, 549-550; Commager, 13.

¹³Kaye, 21.

¹⁴Brown, II, 802-803.

of Parliament. The judges at Westminster or elsewhere were to favor suits brought by the company against members who did not pay their subscriptions.

The Company had the right to take in new members and to encourage people to migrate to Virginia. Necessities sent to the colony were to be duty free for seven years.¹⁵ Everyone going to Virginia was to take an oath of supremacy and allegiance. The officers in the colony had to take an oath "to faithfully discharge the matters submitted to them for the good of the colony."

Some persons had been paid by the company to go to the colony to work and then refused to go. Some who had been employed in Virginia by the company and had been "mutinous, seditious, and guilty of misdemeanors" came back to England without permission or, having been sent from the colony to England, had shown no respect for the Virginia Council in London. They had made slanderous reports on the country, government and officers in an attempt to ruin the colony. The former council had not had enough authority to prosecute such persons, so under the new charter the council or any two of them, the Treasurer or his deputy being one, by warrant could apprehend such persons, try them, and if guilty, "bind them over with good sureties for their good behavior" or else send them back to the colony to be tried and punished there as the governor and his council saw fit.

¹⁵Ibid., 550.

In order to help the colony financially, the Treasurer and the Company had the authority to hold one or more lotteries¹⁶ to continue for one year from the date of opening. After the expiration date, other lotteries might be set up at the pleasure of the king and not otherwise. The king could give the Company officials six months' notice to finish up the lottery before terminating it. These lotteries could be held in London or in any city of England. The Treasurer and Company might choose the necessary officers to take charge of the lottery. Such officers were to take an oath for "good behavior and true dealing" so that the investors would not be defrauded. The Royal Council for Virginia was given the right to publish proclamations in their name concerning the lotteries, and the local officials were required to help make the lottery a success.¹⁷

¹⁶Information on the organization and conduct of the lotteries is not available. Books and rolls were provided.

Records of the Virginia Company, I, 93.

The first Great Lottery was drawn from June 29 to July 20, 1612, and the second Great Lottery was drawn in November of 1615. In the first Great Lottery there were 5000 in prizes given, the greatest prize was 1000 plate. Brown, II, 568-570, 765. For the second Great Lottery the receipts came in slowly; so the company appealed to the Privy Council for help. The council urged that the companies in the city support the lottery. For this lottery the prizes were to be paid in plate or goods. If any one brought in 3 ready cash, he would receive a silver spoon or six shillings eight pence in money. The prizes ranged from 45,000 crowns to 2 crowns. Brown, II, 860-765.

The lotteries were held in a building built especially for this purpose at the west end of St. Paul's. Ibid., 570.

¹⁷Ibid., 552-553.

With the charter of 1612, all the economic and political control of the colony was placed in the hands of the Virginia Company which selected officials both for the Company and the colony, passed the necessary laws for the colony, and issued instructions to the colonial officials.¹⁸ The king did not interfere with the colony until after the expiration date of free trade, 1619. The trade, particularly in tobacco, offered some possibility of revenue for the king, and so he became interested.¹⁹

In the election of 1619, Thomas Smith, who had been the treasurer of the Virginia Company for twelve years, lost the election to Sir Edwin Sandys. Sandys and the Earl of Warwick, Robert Rich, figured out a scheme by which they removed Smith from office.²⁰ Warwick promised Sandys the support of his group in this election if Sandys's group would support Butler as governor of the Somers Islands.²¹ Some of the members of the company did not want to come out into the open against Smith, as they would have to if they voted as previously, by the raising of hands;²² therefore they used

¹⁸Craven, W. F., Dissolution of the Virginia Company, (New York, 1932), 29-31.

¹⁹Records of the Virginia Company, I, 24.

²⁰Andrews, Colonial Settlements, 39-40.

²¹Craven, 85-86.

²²Ibid., p. 86; Lefroy, J. H., History of the Bermudas or Somers Islands, (Hakluyt Society) (London, 1882), 131.

the secret ballot for the first time.²³ This episode was the beginning of open, personal rivalries and factional disputes in the company.²⁴ At this same time Thomas Smith was elected governor of the Somers Islands Company. Now one faction had control of the Virginia Company and the other controlled the Somers Islands Company.²⁵

Sandys remained in office for about one year. He was unpopular with the king because he opposed the king's wishes in the House of Commons. In the election of 1620 the king recommended any of these men for office: Thomas Smith, Thomas Roe, Robert Johnson, or Maurice Abbott.²⁶ The company decided that the king was interfering in its free election, and postponed the election until the next Quarter Court. In the meantime the company sent a committee to the king to request a free election.²⁷ The king answered that in recommending the men he did not mean to infringe on their liberties,²⁸ but wished only that they would elect someone who might "at all times and occasions have free access to his

²³Ibid., 131; Craven, 86.

²⁴Andrews, Colonial Settlements, 39.

²⁵Craven, 87. November 25, 1612 the Virginia Company sold the Somers Islands for 2000 to some of its members, namely, Pembroke, Southampton, Montgomery, Walden, R. Rich, T. Smith, E. Sandys, N. Ferrar, R. Martin, and others. Brown, I, 443; II, 594. By March of 1614 the Somers Island Company had four hundred members. Ibid., II, 681.

²⁶Records of the Virginia Company, I, 348.

²⁷Ibid., 357.

²⁸Ibid., II, 34-35.

royal person."²⁹ In order not to go entirely contrary to the king's wishes, the company decided to enter two men recommended by the king and two chosen by the company to stand for office. As a result Southampton was elected treasurer and Nicholas Ferrar became the deputy treasurer. The king showed his displeasure over the election by stating that he thought merchants were better fitted for the governing of a plantation because they were more experienced in business.³⁰

In the election of 1622 the king again sent five names each for treasurer and deputy. He assured the company again that he was not trying to infringe on its liberties. This time the company again entered two of the men recommended by the king and one chosen by the company. Southampton and N. Ferrar were re-elected.³¹

In 1612 some members of the Virginia Company bought the rights to the Somers Islands. They then organized a separate company for which they obtained a charter from the king in June, 1615. The members of this company were Southampton, Pembroke, Paget, Cavendish, R. Rich, T. Smith, E. Sandys, Richard Martin, Nicholas Ferrar and others. This new company was known as "the Governor and Company of the City of London for a plantation of Somers Islands."³² Smith was

²⁹Ibid., I, 384.

³⁰Ibid., II, 34-35.

³¹Ibid., 28-29.

³²Brown, II, 770-771.

elected its treasurer and remained in control of the company until 1621.³³

In 1617 a dispute arose within the Somers Islands Company over the imprisonment of the agent for the Rich family in the islands. The governor of the islands was supported in his action by Thomas Smith.³⁴ In the election of governor in 1619 for the Somers Islands, Robert Rich, the Earl of Warwick, wanted some one who would be friendly toward the Rich interests, so he proposed Nathaniel Butler. Smith wanted Captain Southwell, and Edwin Sandys entered the name of his brother, George. The Sandys group threw its influence to elect Butler because the Warwick group had helped to elect Sandys treasurer of the Virginia Company in 1619.³⁵ This trouble in the Somers Islands Company was carried into the Virginia Company because some men were members of both companies.³⁶

Other problems came before the Virginia Company that caused the members to take sides. From May 15, 1617, to November 18, 1618, the Virginia Colony was managed by the deputy governor, Samuel Argall, a friend of Warwick. Complaints came to England of his mismanagement. It was reported that he forced the bond servants, who had served their time,

³³Craven, 84.

³⁴Ibid., 85.

³⁵Lefroy, 130; Craven, 85-86.

³⁶Andrews, Colonial Period, I, 119.

to work for his benefit. He was said to have sold the cattle held as public property in the colony and pocketed the money,³⁷ and to have permitted the ship's masters to buy tobacco freely from the "magazine". When Argall left in 1619, the property of the colonists and the company had been left to waste.³⁸ Sandys claimed that Argall governed by personal greed.³⁹ Thomas Smith, treasurer of Virginia Company, had heard complaints against Argall and asked de la Warr, governor of Virginia, to send him home and to confiscate his goods for the company. Argall sent the goods to England under another name and consigned them to other men.⁴⁰ When Sandys became treasurer, he insisted that Argall be called to account, but Warwick protected him.⁴¹ Warwick was reported to have sent a ship to Virginia to pick up Argall and his booty before Yeardley, the new governor, arrived there.⁴² The dispute over Argall caused the break in the Sandys-Warwick coalition, and also caused a split in the Virginia Council. On June 26, 1620, Nathaniel Rich presented a petition to the Virginia Council in Argall's name.⁴³

³⁷Records of the Virginia Company, II, 55-56.

³⁸Egerton, 75-76.

³⁹Craven, 37.

⁴⁰Records of the Virginia Company, II, 403-405.

⁴¹Ibid., 400-402.

⁴²Ibid., 403-405.

⁴³Craven, 121-123.

Argall had agreed to come and be tried by his picked committee of the council. This action was not approved because he could choose his friends to be on the committee.⁴⁴ By May 22, 1622, Argall had made no satisfaction for the loss to the company in Virginia, and was asked to show his accounts and submit an answer.⁴⁵ The committee, which had been appointed on May 22 to call Argall to account, had done nothing by June 6, so it was told to prepare a report for the next court meeting of the company.⁴⁶ Still by July 3 the committee had done nothing,⁴⁷ and when Argall left England the trial was suspended.⁴⁸

Warwick's⁴⁹ privateering brought him into trouble with the East India Company, of which Thomas Smith was governor,⁵⁰ and also with a faction of the Virginia Company. King James, looking for additional revenue, granted patents in 1615 to English subjects permitting them to serve foreign princes. In this instance James was giving aid to the Duke of Savoy in a round-about way. "He permits his subjects to serve other princes, and afterward they will secretly prevent

⁴⁴Records of the Virginia Company, I, 375.

⁴⁵Ibid., II, 375.

⁴⁶Ibid., 55-56.

⁴⁷Ibid., 78-80.

⁴⁸Ibid., 403-405.

⁴⁹Lord Rich was made the first Earl of Warwick in 1618 and his son Robert became the fourth Lord Rich. When the first earl died in 1619, Robert, the fourth Lord Rich, became the second Earl of Warwick.

⁵⁰Andrews, Colonial Period, I, 39.

them from serving anyone but his Highness," the Duke of Savoy. The patent from the Duke of Savoy permitted Lord Rich, the first Earl of Warwick, to prey upon Spanish ships as enemies of Savoy, on land or in free ports without paying customs or impositions, except the ten per cent booty.⁵¹ Robert Rich, son of the first Earl of Warwick, sent two ships on a pirate venture in 1616, contrary to the orders of King James which were issued at the request of Gondomar, the Spanish ambassador. The ships, one of them the Treasurer, plundered Spanish as well as native ships in the West Indies.⁵² Yeardley, the governor of Virginia, was notified by the Virginia Company to investigate the activities of these ships. When the Treasurer came to Virginia in 1618, Yeardley ordered the ship seized, but the captain learned of Yeardley's intentions and escaped to the Somers Islands. In so doing he left one of the minor officers behind. Upon being questioned by the governor of Virginia, the officer confessed to robbing Spanish ships. This information was made known by Sandys to the Virginia Company in London.⁵³ Without first notifying Warwick, Sandys called a meeting of the Virginia Company Court and read the letter from Yeardley. Sandys said it was the court's duty to acquaint the Privy Council of these doings.⁵⁴

⁵¹Calendar of State Papers, Venetian, 1613-1615, edited by Allen B. Hinds, (London, 1907), 300, 347.

⁵²Calendar of State Papers, Venetian, 1617-1619, (London, 1909), 224.

⁵³Craven, 129-131.

⁵⁴Craven, W. F., "The Earl of Warwick, A Speculator in Piracy," Hispanic American Review, X (1930), 457-479.

N. Rich did not think that it was up to the company to register a complaint, but that the Spanish should do so, and then the company would be forced to make restitution.⁵⁵ The Privy Council was notified on February 25, 1620, of the Treasurer's activities. The Privy Council claimed that the Spanish agent in London received satisfaction for this act.⁵⁶ The trouble over this ship caused a break between Sandys and Warwick. Warwick then joined forces with the Smith faction.

At the same time that Warwick's ships were operating in the West Indies, two of his ships were also in the Red Sea where they gave chase to a ship of the Great Mogul's mother. The ships of the East India Company appeared on the scene and prevented the capture of the ships.⁵⁷ Thomas Roe and others were trying to establish trade with the East.⁵⁸ Roe said, "It's hard to explain the difference, to these people, of a merchant and pirate if both from the same nation."⁵⁹ This affair caused hard feelings between Warwick and the East India Company of which Thomas Smith was the governor. This company took Rich's prize from him and returned it to the owner. Rich was called to account by the East India

⁵⁵Craven, Dissolution of the Virginia Company, 133.

⁵⁶Acts of the Privy Council, Colonial Series, 1613-1680, edited by W. L. Grant and James Monro, 30.

⁵⁷Craven, loc. cit., p. 461.

⁵⁸Craven, Dissolution of the Virginia Company, 83.

⁵⁹Craven, loc. cit., p. 462.

Company.⁶⁰

More trouble and factional dispute was added to the Virginia Company over a private patent that it issued with sundry privileges to Captain John Martin before 1618.⁶¹ In the reform of 1618, the patent was recalled with a promise of a new one which would conform to the new policy regarding private grants. In the private patent, the patentee had had the right to govern the people on his plantation.⁶² With his brother-in-law, Julius Caesar, an influential member of the Privy Council, Martin received the support of some of the Privy Council, who were Sandys's opponents, in presenting a petition to the king concerning this matter.⁶³ On May 20, 1622, a committee of the Virginia Company asked Martin to put his grievances in writing.⁶⁴ This problem was discussed at the meeting of the Virginia Court on May 22. Cavendish reported on June 5 that an answer on the Martin petition had been given to the king. At the meetings of the Virginia

⁶⁰Calendar of State Papers, Domestic, 1619-1623, (London, 1858), 8, 16.

⁶¹Records of the Virginia Company, I, 594-595. Martin was a member of His Majesty's first council in Virginia and also master of the ordnance.

As a result of the long service he had been granted privileges that made him virtually independent of the colonial government. When he refused to give up his patent, the colonial government refused him a seat in the assembly. Wertenbaker, 37-38.

⁶²Craven, Dissolution of the Virginia Company, 117-118.

⁶³Records of the Virginia Company, II, 594-595; Craven, Dissolution of the Virginia Company, 119.

⁶⁴Records of the Virginia Company, II, 9-10.

Court on November 18, 22, December 4, January 29 and May 5 the problem of Martin's patent was discussed. Martin wanted his old patent returned, but the company would not do so; instead it wanted to give him a new one with "ample privileges." In the court meeting of February 2, 1624, it was reported that the "differences between Virginia and Captain John Martin were well composed." The Royal Commissioners⁶⁵ for Virginia asked the Virginia Company to write a letter in Martin's behalf to the colony. The land formerly possessed by him was to be restored.⁶⁶ On December 19, 1623, the Privy Council wrote to the governor and company of Virginia, recommending that "more than ordinary respect should be had of him," and that he and all under his command should be free from oppression and allowed peaceably to enjoy their land and goods.⁶⁷

November, 1616, was the time when all the money accumulated by trade was to be divided. The profit was so small that the recompense was made by distributing land.⁶⁸ The plantation of the company in Virginia was in a poor state, because the exclusive growth of tobacco led to a shortage of food.⁶⁹ The period of indenture for some of the oldest

⁶⁵The commissioners appointed by the king to take charge of the Virginia colony.

⁶⁶Records of the Virginia Company, II, 509-510.

⁶⁷Calendar of State Papers, Colonial, I, 55.

⁶⁸Craven, Dissolution of the Virginia Company, 43.

⁶⁹Ibid., 37.

inhabitants expired in that year and those who remained in the colony were allotted land.⁷⁰ In 1618, the Virginia Company's debt was between eight and nine thousand pounds. Few new adventurers joined and sixteen thousand pounds of the previous subscriptions remained uncollected.⁷¹ There were only about two hundred out of the four hundred in the colony who could carry on husbandry. The colony was weak and the treasury empty, so the company decided to set up private plantations called "hundreds".⁷² The Warwick faction attended meetings of the company only when their interests were involved until 1622 when the fight over the tobacco contract came up. Smith and Warwick joined forces because of the Somers Islands and tobacco.⁷³

The condition of the colony made the breach wider between the factions in the company. Sandys's group accused Thomas Smith, the former treasurer of the Virginia Company, of mismanagement of the colony. They claimed that great sums of money had been brought in for the use of the colony and were spent in such a manner that the colony did not receive full benefit.⁷⁴ Sandys, as treasurer of the company, appointed

⁷⁰Ibid., 35-36.

⁷¹Records of the Virginia Company, I, 390.

⁷²Ibid., 350. A "hundred" was a small aggregation of townships united by common responsibility for good behavior of its people. The smallest area to administrate justice, which possessed a court. Responsible men owned the property. Fiske, 227.

⁷³Craven, Dissolution of the Virginia Company, 145.

⁷⁴Lefroy, 128-129.

a group including Danvers, Wroth and J. Ferrar, to audit the company's books during Smith's tenure of office.⁷⁵ The auditors refused to meet at Smith's home, which displeased him very much,⁷⁶ complained about the condition of the accounts, and voiced it around that there was no hope of making a correct accounting. Smith claimed the trouble in auditing was due to the lack of experience on the part of the auditors. This led to disputes in the court meetings.⁷⁷ Smith wanted the auditing speeded up.⁷⁸ He asked that three of his friends, Handford, Abdy, and Abbott, be added to the group of auditors to make sure that he received a square deal. Sandys complied with Smith's wishes but added that Danvers, Wroth, and himself would be needed for a quorum, and insisted nothing should be concluded without the consent of two of these three men mentioned.⁷⁹ On June 9, 1619, the Virginia Court decided that Smith's accounts from the beginning in 1607 to November 20, 1616, should be likewise audited, although that had already been done previously by a committee of sixteen men. Smith wanted the books audited only since November 20, 1616,⁸⁰ and offered to make satisfaction

⁷⁵Records of the Virginia Company, I, 213.

⁷⁶Ibid., 225; Lefroy, 128-129.

⁷⁷Ibid., 129.

⁷⁸Records of the Virginia Company, I, 212.

⁷⁹Ibid., 217.

⁸⁰Ibid., 225; Craven, Dissolution of the Virginia Company, 107.

to the company for the amount of the shortage found. Being the treasurer of the Virginia Company, governor of the Somers Island Company, and also of the East India Company at the same time, Smith left much of the work to lesser officers. By July 7, 1620, the auditors accomplished almost nothing; so it was decided to divide the accounts into four parts: receipts and money adventured, receipts from lotteries, receipts from the sale of goods imported from the colony, and disbursements. The auditors were also divided into four groups, each of which was assigned to audit one part of the accounts.⁸¹ At the court meeting of November 13, Wroth reported that he found no record of the lotteries,⁸² and asked Smith for the lottery books.⁸³ Ferrar said that he found no mention at all in the books of goods brought from Virginia. Keightly said that he did not know how to begin on the disbursements. He could find no warrants to show how the money was to be spent. The company asked Smith for the warrants, but he did not know what had happened to them. The Earl of Southampton, the treasurer, asked them to proceed with the auditing. It was again brought out in the meeting that Smith was willing to make good the amount of shortage that had come from his officials "whom he had trusted and who proved untrustworthy."⁸⁴ By February 5, 1623, the

⁸¹Records of the Virginia Company, I, 383.

⁸²Ibid., 417.

⁸³Ibid., 572.

⁸⁴Ibid., 417, 418.

auditing still was not completed. Smith told Sackville that Sandys was saying that he, Smith, owed the Virginia Company money. Smith wanted to know why the company did not collect, because he was able to pay it. Smith also told Sackville that he was anxious to have the accounts audited, but that he was getting no results although his books had been turned in. Two of Smith's friends were present at this time and they reported that according to their audit the company owed Smith 500. Sackville reported this conversation at the meeting of the company and asked that the auditing be speeded up.⁸⁵ Finally, on February 2, 1624, the auditors decided that Smith owed the company 800.⁸⁶

The "magazine",⁸⁷ operated practically as a separate company, was the customary way to supply the colony's needs. The management of this was also attacked by the Sandys faction. The auditors found that money was due the "magazine" from Robert Johnson, the director.⁸⁸ The auditors for the "magazine" found a discrepancy between Johnson's accounts

⁸⁵Ibid., II, 259-260.

⁸⁶Ibid., II, 507.

⁸⁷A "Society of Particular Adventurers for Traffique with the people in Virginia in joint-stock." It had the right to furnish the supplies to the colony and divide the profit from this business among its adventurers, according to the investment of each one. R. Johnson and T. Smith were the chief investors. The "magazine" was administered by a director and five assistants. Craven, Dissolution of the Virginia Company, 34.

⁸⁸Records of the Virginia Company, I, 243.

and those of the cape merchant in the colony.⁸⁹ Sandys claimed that the company's money had been illegally used for the "magazine".⁹⁰ On November 3, 1619, the Virginia Company asked the Privy Council to call the officers of the "magazine" before it and request that they give up the account books. The company requested Southampton, the treasurer, to be present at this meeting.⁹¹ At the meeting of the Virginia Court on November 15, the "magazine" was blamed for the dissension in the company. Wolstenholme, one of the auditors, was asked to call a meeting of some members of the company to examine the accounts.⁹² The Virginia Court was informed on November 17 that the case was to be argued before the Privy Council.⁹³ Keightly, one of the auditors, reported on December 15, 1619, that he and his committee audited the accounts and had never found books in better order. A careful account had been kept of all goods sent to the colony.⁹⁴ On January 1, 1620, the Virginia Company decided to dissolve the "magazine".⁹⁵

⁸⁹Ibid., II, 218-219. The cape merchant exchanged goods for tobacco. He probably received the tobacco at a higher price than the company could sell it for in England. Craven, op. cit., p. 113.

⁹⁰Craven, Dissolution of the Virginia Company, 34, 113.

⁹¹Records of the Virginia Company, I, 260.

⁹²Ibid., II, 263.

⁹³Ibid., I, 273.

⁹⁴Ibid., I, 286.

⁹⁵Ibid., I, 293.

The squabbling between the two factions in the Virginia Company had been going on for about four years. At the court meetings on February 3 and 5, 1623, N. Ferrar, the deputy, expressed the king's wish that their verbal differences might be ended and that they tend to the business of the colony.⁹⁶

In April, 1623, Johnson and his associates presented a petition to the king complaining of the mismanagement of the colony during the last four years. This petition was the reason for calling a meeting of the company on April 12. The members requested a copy of the said petition from Johnson, but he said that he had none. The petition, he claimed, was not against the company. Sackville informed the court that the petition compared the government of the past four years, under Sandys, to the former time, under Smith. He continued that the petition claimed there was much dissension and oppression of the adventurers and planters, and that the only commodity raised was tobacco. The court presented a petition to the king in answer to this one. It asked the king to request the Privy Council to investigate the accusations and to determine whether the government of the company was guilty or not. In a letter to the king the company enclosed a "True declaration of the state of the company and the carriage of the business." All that had been accomplished in the past four years was mentioned in this paper. More people had been

⁹⁶Ibid., II, 216-217, 253.

sent to the colony than before, there were more cattle in the colony, the old debt had been paid, and some industries had been set up. The company tried to explain its position on the tobacco contract and the salaries to the officers who would take charge. The petition claimed that there was liberty of speech in its court meetings, but that some of the members left the meetings because they lasted until a late hour due to the amount of business that had to be taken care of. All the important business was transacted in the Quarter Courts. These meetings, they claimed, were peaceable and that the government followed the letters patent. The Virginia Company asked for a hearing before the Privy Council with Johnson and his associates present.⁹⁷

The planters and adventurers of Virginia and Somers Islands, in a petition to the king, asked that he appoint a commission to investigate the true state of the Virginia colony from the time Smith left its government, in 1619, to the present. They asked that this commission determine what money was collected, by whom, how procured and how spent, and that it find out what abuses and injuries had been done to the planters and adventurers. Upon his return to England from the Somers Islands in 1623, Butler⁹⁸ wrote an account of the Virginia Company entitled "Unmasked face of our colony at Virginia as it was in the winter of 1622." On his way

⁹⁷Ibid., II, 346-363.

⁹⁸Warwick was instrumental in getting Butler elected governor of the Somers Islands in 1619. Ibid., 406-409.

home Butler had spent the winter of 1622 in Virginia. In his account, Butler claimed that the settlement was unhealthy due to the poor location; that the seaport was not good; that no place was provided for newcomers; that the shortage of food was serious; houses were poor, defense insufficient and there were no commodities for sale. Of over ten thousand people sent to the colony only about two hundred were left. This report was read at the meeting of the Virginia Court on April 23, 1623. The Company would ask some of the people who had been to Virginia about the conditions. The treasurer asked all present not in opposition to meet as a committee to discuss the affairs of Virginia.⁹⁹ At the meeting on April 30, a report was made of the conditions in Virginia. Former planters of the colony, masters of ships and mariners reported, upon questioning, that the location was habitable, the water in the harbor deep enough for ships, the houses satisfactory, palisades erected for protection, and blamed the Indian massacre of 1622 for the lack of a guest house and commodities.¹⁰⁰ In answer to Johnson's petition the Company claimed that the tyrannical laws used in Virginia were made by Smith while he was treasurer and sent to the colony without the consent of the Company. The Company also blamed Johnson as director of the "magazine" for the lack of commodities, and claimed that Johnson set prices only on tobaccos and sassafras.¹⁰¹

⁹⁹Ibid., II, 374-377.

¹⁰⁰Ibid., 381-387.

¹⁰¹Ibid., 393-399.

On April 17, 1623, the Privy Council, ordered by the king, heard the complaints of the two factions led by Warwick and Southampton.¹⁰² The Privy Council thought it best that a commission should be appointed to examine into the state of the colony from the very beginning. This commission was to investigate what money was collected, by whom, how it was spent, and to find whether any abuses had been committed. Who was selling and bartering the food at high prices, the "magazine" or private individuals? The commission was to try to find a better way to manage the colony. The Privy Council warned the Company not to mention the trouble in the company in letters being sent to Virginia.¹⁰³ The Company wrote a general letter which was to be sent to the colony, but the Privy Council would not approve it because it failed to mention the "king's favor toward the colony."¹⁰⁴ On April 28, 1623, the Privy Council sent a letter to the governor and council in Virginia requesting that they try to get along and be more careful of the situation and conditions.¹⁰⁵ The letter advised the colony that the king was studying the problems of Virginia and the Somers Islands.¹⁰⁶

¹⁰²Calendar of State Papers, Domestic, 1619-1623, 562.

¹⁰³Acts of the Privy Council, Colonial, I, 58-60; Calendar of State Papers, Colonial, I, 42-44.

¹⁰⁴Acts of the Privy Council, Colonial, I, 61.

¹⁰⁵Ibid., 62-63.

¹⁰⁶Calendar of State Papers, Colonial, I, 45.

On May 9, 1623, a commission consisting of William Jones,¹⁰⁷ Nicholas Fortescue, Henry Bouchier, Henry Spiller, Francis Groften, Richard Sutton, and William Pitt was named by the king to examine into the whole business of Virginia from the beginning to the present.¹⁰⁸ The Royal Commission was given the power and authority to read and study all the charters, letters patent, proclamations and orders given to the company. It was to find if any and what laws, orders or constitutions had been made contrary to the charters or patents; what abuses, negligence, corruptions and fraud had been put into practice; and whether any wrongs or injuries had been committed against the planters and adventurers and by whom. It was to learn what sums of money had been levied or collected by contributions from the adventurers, gifts of money received, the amount collected from the lotteries, who received the money and how it was used. The Royal Commission was to set down ways to be used for the better government and prevention of misgovernment. The members of the commission had the authority to interview members of the Virginia Company, to request patents, proclamations, commissions, warrants, orders and books of account to be brought in for study. Finally, the Royal Commission was to report to the Privy

¹⁰⁷William Jones was a Justice of Our Court of Common Pleas. Records of the Virginia Company, IV, 575-580. None of the members of this commission were members of the Virginia Company, Brown, II, 1027.

¹⁰⁸Rymer, Foedera, XVII (London, 1617), 490; Calendar of State Papers, Colonial, I, 44.

Council on its progress.¹⁰⁹

On May 13, 1623, Lord Cavendish, Edwin Sandys and Nicholas and John Ferrar each was ordered confined to his home until further orders from the Privy Council. These men were responsible for writing false charges against Warwick and some of his friends.¹¹⁰ The Privy Council had ordered the Virginia Court not to meddle with controversial matters which were to be referred to the Royal Commission. Some of the company, including the chief officers, had not complied. Both the Virginia and the Somers Islands Companies were called to a meeting. The accusations which were read tended to defame Warwick's side. Warwick requested the Privy Council to settle it; so Cavendish, Sandys, and the two Ferrars were summoned before the Privy Council. These men were to bring the accusations in writing.¹¹¹

The next day there was to have been an election of officers for the Virginia Company, but Secretary Calvert sent a note to the Earl of Southampton stating that the king commanded him not to hold the election until he was granted permission.¹¹²

¹⁰⁹Rymer, XVII, 490-492; Hazard, I, 155-158; Records of the Virginia Company, IV, 575-580.

¹¹⁰Acts of the Privy Council, Colonial, I, 63-64; Calendar of State Papers, Colonial, I, 45; Records of the Virginia Company, IV, 131-151.

¹¹¹Records of the Virginia Company, IV, 170-172; Acts of the Privy Council, Colonial, I, 63-64.

¹¹²Calendar of State Papers, Domestic, 1619-1623, 583; Calendar of State Papers, Colonial, I, 46.

The Privy Council had requested the books of the Virginia Company, so Collingwood, the secretary of the company, delivered them on April 21, 1623.¹¹³ On May 7 the company asked that the books be returned because they were needed.¹¹⁴ On May 22, the Privy Council ordered that the charters, books, letters and patents be brought to the royal commissioners because all of the materials had not been turned over to the Privy Council. The clerk of the Privy Council was to give those he had to the Royal Commissioners. It also ordered that all letters from Virginia be delivered to the Royal Commission first, to dispose of them as it saw fit.¹¹⁵

Cavendish reported to the Privy Council that the Virginia Company had sent meal to the colony and that the private plantations were being supplied by private persons.¹¹⁶ The Privy Council believed this was not sufficient and that a general contribution from everyone in the company, in proportion to his stock, was needed.¹¹⁷ It ordered that the food sent to the colony be sold at a reasonable price.¹¹⁸

¹¹³Records of the Virginia Company, IV, 123..

¹¹⁴Records of the Virginia Company, II, 410-411.

¹¹⁵Acts of the Privy Council, Colonial, I. 64-65; Calendar of State Papers, Colonial, I, 46.

¹¹⁶Acts of the Privy Council, Colonial, I, 66; Calendar of State Papers, Colonial, I, 47.

¹¹⁷Ibid., I, 49; Acts of the Privy Council, Colonial, I, 66.

¹¹⁸Ibid., I, 66.

In a letter of June 30 Conway wrote to Calvert that the king wished the Privy Council to meet daily on the Virginia Company business until it was finished.¹¹⁹ The king, he said, complained of the frequent absence of the more important members which caused a delay, and asked that the Privy Council speed its work.¹²⁰ The Privy Council set down rules, on July 2, for the betterment of the Virginia government. By its orders forts were to be built in more healthful places, guest houses were to be erected for the sick and newly arrived settlers, and churches and schools were to be established. The best places for settlement were to be picked and these were to be close together for protection. Ships and boats were to be maintained at a common charge. The men of the colony were to be divided into three groups, one was to work on the public projects, one to carry on the planting, and the third to look after the defense of the colony and do some exploring. The government in Virginia was to provide defense against the Indians. The company in London was asked to send men to the colony who were experienced in government to act as commanders. In all matters of importance the directions from the Privy Council were to be followed. The Privy Council asked that the government in Virginia reform its method of electing its councilors.¹²¹

¹¹⁹Calendar of State Papers, Domestic, 1619-1623, 624; Calendar of State Papers, Colonial, I, 47.

¹²⁰Calendar of State Papers, Domestic, 1619-1623, 624.

¹²¹Calendar of State Papers, Colonial, I, 47-48.

In a message of July 3 to the Lord Treasurer, Middlesex, Secretary Conway said that the Privy Council was to investigate carefully whether the Virginia Company refused to comply with the king's wishes on the ground that it was bound by its laws and asked whether this was only a convenient excuse. He went on to say that the attorney-general would inspect the company's commissions and behavior and inquire whether in such conduct as they used to the king the company's commission had not been made void.¹²² Conway in a letter to the Lord President of the Privy Council, Mandeville, asked how the Virginia Company planned to enforce its rules for the better government. Did the company make a pretext of its constitution so it could refuse to comply with the king's command?¹²³

On July 1, the Royal Commissioners presented an abstract of a letter sent from Virginia to the Privy Council. The council ordered that a court of the Virginia Company be called to hear the letter and on the same day to inform the Privy Council how they planned to handle the situation. In its answer the company promised to send the needed supplies to Virginia. It had been proposed to reestablish the "magazine," but the court had come to no definite decision on the matter. Since the company was given such a short notice, it would like additional time so that the full court might have a chance to

¹²²Calendar of State Papers, Domestic, 1623-1625, 4;
Calendar of State Papers, Colonial, I, 48.

¹²³Calendar of State Papers, Domestic, 1623-1625, 35;
Calendar of State Papers, Colonial, I, 51.

meet. Some of the subscribers had not paid their subscriptions and the company asked the Privy Council to suggest some way it could collect this money.¹²⁴ Three days later N. Ferrar reported to the Virginia court that the Privy Council had not been satisfied with its answer. The Council wanted something more definite as to what the company planned to do about Virginia. The company decided to re-open the "magazine." Cavendish wished the court would draw up a short "declaration" to be presented to the Privy Council, in which it would be stated that the present condition in Virginia was not the fault of the present government of the company in London.¹²⁵ On July 9, N. Ferrar gave the "declaration" to the Privy Council. He also reported that the company would send supplies to Virginia through the "magazine," and that the private adventurers would send supplies to their plantations. The Privy Council did not think this was enough. The whole company should be forced to contribute, according to each man's share, to the raising of the stock.¹²⁶ On July 28, in an answer to Conway's letter, Mandeville said that the Virginia Company had been ordered to send food to Virginia and to deliver an account to the Privy Council of the provisions sent. The attorney-general was to examine the former letters patent and also the findings of the Royal Commission-

¹²⁴Records of the Virginia Company, II, 458-460.

¹²⁵Ibid., 461.

¹²⁶Ibid., 463.

ers so that the king might terminate the present patent and issue a new one. In the meantime, according to the king's directions, the Privy Council was to draw up rules for the better government of Virginia.¹²⁷

Coventry, the attorney-general, and Heath, the Solicitor general, sent a written report to the king on July 31, indicating that the Virginia Company had sent them an account of what had been done to relieve the colony. The two men had studied the patents of the company and the report of the Royal Commissioners. It was apparent to them that there had been some irregularities, and they believed the king was justified in recalling the charter. Coventry and Heath recommended that, as soon as the form of government had been worked out, the king should by proclamation "command the forbearance of the execution of those letters patent, and authority thereby committed to the company," and urged that if the Company did not give up the patent voluntarily, the Crown then institute legal proceedings to recover the old patent.¹²⁸ The king postponed any action on the Virginia affair until the Privy Council returned to town.¹²⁹

The king said that he was glad to take Virginia into his care, and appointed Grandison, Carew and Chichester of the Privy Council to write such rules as they thought were

¹²⁷Calendar of State Papers, Domestic, 1623-1625, 35; Calendar of State Papers, Colonial, I, 51.

¹²⁸Ibid., I, 51.

¹²⁹Ibid., 51; Calendar of State Papers, Domestic, 1623-1625, 45.

needed to regulate the Virginia colony.¹³⁰ On October 2, the king requested that Mandeville proceed with the Virginia Company affair,¹³¹ and the next day Mandeville wrote to Conway, secretary of state, that he had called the Virginia Company to meet with the Privy Council on October 8.¹³² On that day the deputy and others of the Virginia Company met with the Privy Council. They were informed that the king intended to take Virginia into his consideration due to the miscarrying of the government. The company was assured that the interest of the adventurers and private persons would be preserved. The king had decided to issue a new charter. He would also appoint the first governor and twelve assistants to be resident in England. After the initial appointment the assistants would present three names and the king would choose one to be governor. The new assistants would be chosen by the majority of the existing members. The names of the new assistants were first to be presented to the king for approval. The governor and six of the assistants were to be chosen biennially. There would also be a governor and twelve assistants resident in Virginia, to be appointed by the governor and assistants in England with the approval of the king.¹³³ The governor and assistants of Virginia would be

¹³⁰Acts of the Privy Council, Colonial, I, 67; Calendar of State Papers, Colonial, I, 51.

¹³¹Calendar of State Papers, Domestic, 1623-1625, 86.

¹³²Ibid., 88; Calendar of State Papers, Colonial, I, 52.

¹³³Acts of the Privy Council, Colonial, I, 68-69; Records of the Virginia Company, II, 469; Calendar of State Papers, Colonial, I, 52.

responsible to the governor and assistants in England who in turn would be responsible to the Privy Council. Like grants of lands, franchises and benefits were granted as formerly. The deputy, Ferrar, was to call a meeting of the Virginia Company and present this plan to it and return an answer immediately.¹³⁴

Ferrar called the meeting of the Virginia Company on October 15 and explained the king's plan for the colony. Since this was just an ordinary court, and all important business was to be transacted at a Quarter Court, the company asked for the time on the answer to be extended until the Quarter Court could meet on November 19.¹³⁵ About eight of the company signified their willingness to surrender the charter then, but the rest wanted to wait until November to decide.¹³⁶ Mandeville informed Conway on October 17 that the king wished to change only the form of the government and not to interfere with the private interests.¹³⁷ Two days later Conway instructed Mandeville to attend to the affairs of the Virginia Company.¹³⁸ The Privy Council ordered the deputy,

¹³⁴Records of the Virginia Company, II, 469; Acts of the Privy Council, I, 68-69.

¹³⁵Ibid., 473-475; Calendar of State Papers, Colonial, I, 52-53.

¹³⁶Records of the Virginia Company, II, 470-471.

¹³⁷Calendar of State Papers, Domestic, 1623-1625, 97; Calendar of State Papers, Colonial, I, 53.

¹³⁸Calendar of State Papers, Domestic, 1623-1625, 99.

Ferrar, and others representing the Virginia Company to meet with the Lords of the Council on October 20, and deliver their answer whether they would surrender the patent and accept a new one as explained to them on October 8.¹³⁹ At the meeting on the 20th, the Privy Council again assured the Virginia Company that it had no prejudice to private interests but only planned a change in the government for the good of the colony. Some ships were ready to sail with food and provisions to Virginia, so the Privy Council gave them permission to leave.¹⁴⁰ Ferrar had called an extraordinary court of the Virginia Company on October 20, as he had been directed by the Privy Council. He and a committee had presented the letter to the council asking for an extension of time. The lords did not like this answer and ordered the company to bring in an answer on Monday, the 20th. If it did not surrender the patent the attorney-general was directed to take the necessary steps to revoke it.¹⁴¹ The vote was nine for surrendering the patent and more than thirty against. The results were sent to the Privy Council.¹⁴²

The orders for the change of government for the colony were to be published in Virginia by John Pory.¹⁴³ Francis

¹³⁹Calendar of State Papers, Colonial, I, 52.

¹⁴⁰Acts of the Privy Council, I, 71.

¹⁴¹Calendar of State Papers, Colonial, I, 53.

¹⁴²Ibid., 53; Records of the Virginia Company, II, 473-475.

¹⁴³Calendar of State Papers, Colonial, I, 53.

Wyatt, the governor of Virginia, wrote to the Privy Council on February 28, 1624, that the king's order on the change of government had been published. Wyatt recommended that the governor to be sent to the colony should not have absolute authority but be restrained by a council. He suggested the name "council" be used instead of "assistants." He believed that the governor and his council in Virginia were limited too much by the instructions from England. Wyatt requested that the General Assembly in Virginia be retained.¹⁴⁴

On October 24, 1623, the Privy Council appointed John Harvey, John Jefferson, John Pory, Abraham Percey and Samuel Mathews to secure the following information in Virginia: (1) the number of public and private plantations with the number of inhabitants on each one; (2) the provisions that had been made for fortifying the plantations; (3) the number and type of houses there were in the colony; (4) the number of arms and mounted ordnances that the colony had; and (5) the number of cattle, the amount of corn or other food products, boats, bridges, and public works that were found in the colony.¹⁴⁵

The Virginia Company petitioned the king on May 7, 1623, to command the Royal Commission to proceed with the examination of the company.¹⁴⁶ On May 12, Cavendish, the governor of the Somers Islands, appointed a committee to

¹⁴⁴Ibid., 58.

¹⁴⁵Ibid., 53; Acts of the Privy Council, Colonial, I, 71-72.

¹⁴⁶Records of the Virginia Company, II, 410-411.

prepare the defense for the Royal Commission. On the 18th Warwick, Cavendish, Danvers, N. Ferrar and four others were added to the committee.¹⁴⁷

On May 14, Sackville, Killigrew and Danvers were selected to meet with the Royal Commissioners. The Virginia Company wanted the Royal Commissioners to consider the "unmasking of Virginia" by Butler and also the "declaration" on Argall and Butler.¹⁴⁸ On the 15th Collingwood, secretary to the company, and three others were appointed to take the letters patent, proclamations, commissions, warrants, records, orders, accounts and the like to the Royal Commissioners and then bring them back to the company.¹⁴⁹ On October 8, 1623, the Privy Council ordered the Royal Commissioners to continue their study of the Virginia and Somers Islands affairs and at some convenient time to make a report to it.¹⁵⁰

At the Virginia Company court meeting of November 11, 1623, N. Ferrar reported that he and some of the company had been served a writ of "quo warranto"¹⁵¹ out of the King's Bench by the attorney-general. The company was going to pay the cost of this suit out of the general stock of the

¹⁴⁷Ibid., 441.

¹⁴⁸Ibid., 429-430.

¹⁴⁹Ibid., 431-432.

¹⁵⁰Acts of the Privy Council, Colonial, I, 67. Calendar of State Papers, Colonial, I, 52.

¹⁵¹"quo warranto" was to determine by what authority they claimed to be a company and to have and use these liberties and privileges as listed in the "quo warranto."

company.¹⁵² At the Quarter Court on November 19, the proceedings of the courts of October 15, 20, 22, and November 12, were ratified. The court agreed that the Grand Committee¹⁵³ formerly appointed should take charge of the "quo warranto" business. The company petitioned the Privy Council for the return of the books so that the case could be prepared.¹⁵⁴ The few of the company who were willing to give up the patent petitioned the Privy Council that the cost of the suit should be paid by the members against whom the "quo warranto" was brought and not out of the public stock.¹⁵⁵

Governor Wyatt wrote from Virginia on March 2, 1624, to the special commission, appointed October 24, 1623, by the Privy Council, that "We have already given thanks to the king for his tender care over us." The governor, council and assembly in Virginia had answered the letters and orders of the Privy Council. When the time should come to consent to the surrender of the patent, they would send their answer. Wyatt believed that the change in government was based on misinformation.¹⁵⁶

On April 21, 1624, the Lord Treasurer, Middlesex, and

¹⁵²Records of the Virginia Company, II, 478-479.

¹⁵³The Grand Committee was made up of all the members of the company who were not in opposition.

¹⁵⁴Records of the Virginia Company, II, 494-495.

¹⁵⁵Ibid., 504-505; Acts of the Privy Council, Colonial, I, 76.

¹⁵⁶Calendar of State Papers, Colonial, I, 59.

the Chancellor the Exchequer sent to the Virginia Court a petition which the king had received from some of the planters in Virginia. The king had given it to the lord treasurer and the chancellor so that they might find a way to relieve the colony of oppression by the company. The king suggested some relief on the impost. The petitioners had stated that the colony was much worse off than it had been when they paid no duty. The people had suffered famine, sickness and massacre. Impositions and levies had been laid by the company on the colony. They also objected to the imposition to be paid the king on tobacco.¹⁵⁷ On this same day a petition by the treasurer of the Virginia Company which was to be sent to the House of Commons was read. The first part of the petition reviewed all the accomplishments of the company. Then

Humbly entreating this Honorable House to take into your consideration this distressed colony and oppressed company and to be pleased to receive from such of his Majesty's Council for Virginia as have been appointed by us the company a full relation of those oppressions and grievances which though in sundry kinds had either their original or strength from the now Lord Treasurer out of his private and most unjust ends, not only to almost the utter overthrow of this noble work but also to the deceit of His Majesty in his profit and great prejudice of the whole kingdom in the matter of trade, and dangerous consequences to the liberty of their persons.

They asked the Commons to find some way to remedy the situation.¹⁵⁸ The petition was read in the Commons on April

¹⁵⁷Records of the Virginia Company, II, 520-521.

¹⁵⁸Ibid., 528.

26, and a committee was appointed to study the trouble.¹⁵⁹ The Commons did not even get started on the Virginia affair, for the king sent a letter to the Speaker of the Commons two days later requesting that they not trouble themselves with the Virginia business. It might renew the factions of the company and disturb the peaceful proceedings of the parliament.¹⁶⁰ He and the Privy Council would try to settle the trouble.¹⁶¹

The Virginia Company accused the Royal Commission of being partial. It accused Count Gondomar, the Spanish ambassador to England, and also his successor of exerting influence on the king in order to destroy the plantation. The company claimed that Cranfield, Lord Treasurer, had sent Sandys out of town when he was needed in town for questioning on his own conduct and also the conduct of the former governor.¹⁶²

The "quo warranto" proceedings against the company were started November 23, 1623. The date for pleading the case was set for January 20, 1624. Coventry, the attorney-general, said that the defense did not show sufficient cause and he asked that the company be dissolved. The Royal Court set April 11, 1624, as the day of judgment, but it was post-

¹⁵⁹Stock, 64-66; Calendar of State Papers, Colonial, 61.

¹⁶⁰Calendar of State Papers, Domestic, 1623-1625, 227. Some members of the Virginia Company were also members of the House of Commons.

¹⁶¹Calendar of State Papers, Colonial, I, 60, 61, 62.

¹⁶²Ibid., 61-62; Calendar of State Papers, Domestic, 1623-1625, 237.

poned until May 24, 1624. Chief Justice Ley handed down the decision to N. Ferrar and John Danvers that the company had not shown sufficient proof of their rights to the privileges that it claimed; therefore it was convicted of usurpation of privileges.¹⁶³ On June 16 the charter was declared void by the chief justice.¹⁶⁴

Since the charter had been revoked and the Virginia Company no longer had charge of the colony, the king on June 24 appointed another Royal Commission. This one was made up of the Lords Mandeville, Paget and Chichester, and also Thomas Smith, Robert Johnson and eleven others. This Royal Commission for Virginia was to take charge of the government of the colony. Any six, of which two must be members of the Privy Council, could transact the affairs.¹⁶⁵ These commissioners were to report their proceedings to the king and receive instructions from him. The king still planned to renew the charter with alterations in the government.¹⁶⁶ Two days later the Royal Commissioners for Virginia asked the deputy of the Virginia Company to bring in to them all the account books, patents, invoices and other papers. They asked the company to make an accounting of all the stock, debts, dues on account, merchandise and profits on the land belonging

¹⁶³Craven, Dissolution of the Virginia Company, 317-318.

¹⁶⁴Brown, II, 1027.

¹⁶⁵Acts of the Privy Council, Colonial, I, 78.

¹⁶⁶Calendar of State Papers, Colonial, I, 62.

to the public of the Virginia Company, and a report made to the king and his commissioners.¹⁶⁷

On July 3, 1624, the king appointed a special commission consisting of Privy Councillors and others to help plan a new patent for the Virginia Company. It was to be patented as a company for trade and not for government of the colony. In this way the king hoped to avoid a vaction that had grown up in the company and also the "popularness" of the government, both of which displeased the king.¹⁶⁸

The Royal Commission for Virginia, which had been appointed June 24, was to examine how the colony stood in the point of livelihood and government. It was to find out how the money that had been collected had been used. This commission reported that many of the people had died or had been killed by Indians. Those that remained were in great need. The commission reported that many staples could be grown in Virginia but that this had not been done. This last was blamed on the Virginia Company in England.¹⁶⁹

On July 15, the Privy Council appointed a commission of fifty-six for "the well settling of the colony of Virginia."¹⁷⁰ Among those named were Mandeville, Chichester,

¹⁶⁷Ibid., 62; Acts of the Privy Council, Colonial, I, 78-79.

¹⁶⁸Calendar of State Papers, Domestic, 1623-1625, 292; Calendar of State Papers, Colonial, I, 83.

¹⁶⁹Rymer, XVII, 610-611.

¹⁷⁰Ibid., 611-612; Brown, II, 1027.

Calvert, Conway, Weston, J. Caesar, Edmonds and Suckling of the Privy Council, and also Thomas Smith, R. Heath, Gorges, W. Rich and S. Argall, "unto you or any six whereas, one must be of the Privy Council, to take into their consideration Virginia." This Privy Council Commission was to study all the problems, such as the safety of the people, the strength of the place, the government that was to be exercised there, and the managing of the colonial affairs in England. This commission was to take charge of the public plantation and also to be responsible for sending supplies to the colony. It was given authority to call into conference adventurers and planters, and was to make note of the items which it thought should be in the new charter that would be necessary and convenient for the settling of that colony and establishing a government for it. If any people were willing to join in raising joint-stock or "magazine" to be sent to the colony, such persons should be given a voice in ordering, managing and disposing of it. The Virginia Company's seals, charters, letters, patents, grants and instructions were to be turned over to this commission. The commission would be in force until it was advised in writing to the contrary.¹⁷¹

The next day Mandeville wrote to Conway that the Privy Council Commissioners had arranged to meet every Thursday at Thomas Smith's home. All the papers of the Virginia Company

¹⁷¹Nymer, XVII, 611-613.

were to be left in the clerk's custody for the use of the commission. At the next meeting the commission would consider the "state of the plantation." Anyone going to or sending goods to Virginia was to report to the commission and receive instructions from it. Mandeville requested that the king not permit any ships to go to Virginia until the question of the government was settled, because the news of the dissolution of the former government might cause confusion in the colony. The commissioners planned to meet every day until the affairs were settled. On July 19 Conway wrote to Mandeville that the king approved of the commissioners' proceedings in the matter concerning the Virginia Company.¹⁷² At the end of the month Heath wrote to Conway that the commissioners thought it wise that the king should send a commission to some of the leading inhabitants in Virginia for present government of the colony. He enclosed a form ready for the king's signature.¹⁷³

Governor Wyatt and the council and assembly of Virginia advised the king that they had learned of his care of the plantation. They enclosed a "true declaration" covering the period from 1611 to 1624. They hoped that their present form of government in the colony would be continued, and expressed the hope that the king would not let the government of Virginia fall into the hands of Thomas Smith or some of

¹⁷²Calendar of State Papers, Colonial, I, 64.

¹⁷³Ibid., 65.

his friends.¹⁷⁴

The Royal Commissioners for Virginia made a report on the conditions in the colony on August 26, 1624. It placed the blame on the governor of the company who had the power to direct the company's affairs. The commissioners believed that, if the government as set up in 1606 had been followed, matters would have been better. Under the charter of 1612, there were too many fingers in the government. The commissioners advised that by a commission from them "we appoint and authorize such other discreet persons residing in Virginia, as we should think fit to be our present council for ordering, managing, and governing affairs in that colony until some settle course is established."¹⁷⁵ The king upon this advice named Sir Francis Wyatt, governor of Virginia, and Francis West, George Yeardley, George Sandys, Roger Smith, Ralph Hamor, John Martin, John Harvey, Sam Mathews, A. Perry, Madison and Claybourne to be the council for Virginia.¹⁷⁶ The governor of Virginia and council were given "full power and authority incident to governor and council to direct, govern, correct, and punish the subjects now in Virginia."¹⁷⁷ The governor and council were to use the former instructions that had been sent to Virginia and such as should

¹⁷⁴Ibid., 65-66.

¹⁷⁵Rymer, XVII, 620.

¹⁷⁶Wyatt, West, Yeardley, Sandys, Smith, and Hamor had been on the council before. Rymer, XVII, 621.

¹⁷⁷Ibid., 620.

be sent in the future as the basis for their government.¹⁷⁸

On September 15, 1624, Wyatt was granted permission to return to England to attend to private business. During his absence Yeardley was to act as deputy governor, and in case of his death then Harvey was to act. If neither of these lived the deputy governor could be chosen by the majority of the council.¹⁷⁹

There was no permanent settlement of the affairs of the Virginia colony before the death of King James in March 1625.

¹⁷⁸Ibid., 619-621.

¹⁷⁹Calendar of State Papers, Colonial, I, 69; Calendar of state papers, Domestic, 1623-1625, 339.

CHAPTER IV

GOVERNMENT OF THE NORTHERN COLONY, 1609-1625

On May 31, 1607, the Gift of God commanded by Captain George Popham and the Mary and John commanded by Captain Raleigh Gilbert set sail with one hundred and twenty people from Plymouth for the northern colony of Virginia. The party landed August 19, 1607, at the mouth of the Sagadahoc River, now called the Kennebec, on the peninsula of Sabino.¹ They chose Sagadahoc because Gosnold, one of the members of the group, had reached this region on a previous voyage and made favorable reports about it.²

The same orders and instructions that were given to the members of the first colony for Virginia were also given to the members of the second colony for Virginia, the northern colony. The orders and instructions and the names of the colony council members were in a locked box, to be opened within twenty-four hours after the landing of the party.³

¹Adams, James T., The Founding of New England, (Boston, 1921), 50; Strachey, William, "An Account of the Popham Colony," Massachusetts Historical Society Collections, series 4, Vol. I, 23. Captain George Popham was a nephew of Sir John Popham, Lord Chief Justice. Raleigh Gilbert was the sixth son of Humphrey Gilbert and a nephew of Sir Walter Raleigh. Andrews, Charles M., Colonial Background of the American Revolution, (New Haven, 1924), 81.

²Drake, Samuel A., The Making of New England, (New York, 1895), 33.

³Andrews, Colonial Background, 99.

When the group made its landing on August 19, 1607, a sermon was preached; then the orders and the president's commission were read. George Popham was chosen the first president. Captain Gilbert, James Davies, Richard Seymor, a minister, Richard Davies, and Captain Harlow were sworn in as assistants.⁴

As was ordered in the instructions, the colonists were to explore the surrounding country, so Gilbert and a few men went on an expedition to the westward. They had no success in finding the northwest passage.⁵

Captain Davies was sent back to England in the Mary and John⁶ about October, 1607. When Davies returned to the colony, he learned that the president of the colony, George Popham, had died on February 5, 1608.⁷ Davies brought with him news of the death of Sir John Popham, the Lord Chief Justice of England. Sir John had been one of the most influential members of the northern colony,⁸ and had been largely responsible for the idea of public plantations as against a private venture.⁹ Sir John Gilbert of England,

⁴Strachey, 240.

⁵Ibid., 241-242.

⁶Ibid., 245.

⁷Burrage, Henry, Early English and French Voyages in Original Narratives on Early American History, (New York, 1906), 418; Strachey, 246; Brown, I, 145.

⁸Adams, 52.

⁹Andrews, Charles M., Colonial Period of American History, (New Haven, 1938), 89.

Raleigh Gilbert's brother, had also died, and now Raleigh must return to England to settle his brother's estate.¹⁰

On December 13, 1607, more than half of the colonists had returned to England.¹¹ Since some of the most prominent men of this venture had died, and the weather was very cold, the remaining ones decided to return home,¹² with Raleigh Gilbert, in October of 1608. By the death of Popham the plantation was deprived of its head, and many of the colonists were homesick and discontented.¹³ The settling of the colony and becoming prosperous was not as easy as some of them had imagined. The men returned to England in the ship brought by Captain Davies and in the pinnace Virginia which they had built.¹⁴

The members of the Plymouth Company, Northern Colony for Virginia, attempted no settlements in their colony after 1608 until Sir Ferdinando Gorges and his associates requested a new patent from King James on March 3, 1620.¹⁵ The Virginia Company raised objection to one clause in the patent, so that it did not pass the seals until November 3, 1620.

¹⁰Adams, 52; Strachey, 246.

¹¹Brown, I, 193.

¹²Hubbard, William, "General History of New England to 1680," Massachusetts Historical Society Collections, series 2, Vol. V, 36.

¹³Drake, 39.

¹⁴Burrage, 419.

¹⁵Documents Relative to the Colonial History of the State of New York, edited by E. B. O'Callaghan (Albany, 1853) III, 2-4; Beer, Origins, 271.

It objected to the clause that anyone not of the Council of New England should be allowed to visit the coast of New England. By more protests that were finally carried into Parliament, the patent was not delivered until June 12, 1621.¹⁶ The battle in Parliament against monopolies was at this time at its height. Buckingham, a favorite of the king, was chosen president of the Council for New England. Mom-
pesson, a great monopolist, was also a member of the company.¹⁷

The Virginia Company had had two patents since its first one. Its territory had been enlarged with a definite boundary, along with certain liberties, privileges and immunities; therefore Gorges and his associates also asked for a new patent. They wanted a definite boundary so that there would be no dispute with the Virginia Colony, and the same privileges that the Virginia Company and colony enjoyed. The Plymouth Company patentees assured the king that they had explored the coast between forty and forty-five degrees north latitude, and that they had found no settlement made by either another Christian nation or the natives. The natives had either died of plague or had been killed by other savages. The boundary set by the patent was from forty to forty-five degrees north latitude and from sea to sea.

The name of the colony was to be changed from the

¹⁶Acts of the Privy Council, Colonial Series, 1613-1680, I, 40-41.

¹⁷Doyle, John A., English in America, (New York, 1907), I, 25.

Northern Colony for Virginia to New England in America. For the better government of New England in America, the king with the advice of the Privy Council appointed a council, a corporate body, of forty men to be known as "the Council established at Plymouth, in the county of Devon for planting, ruling, ordering, and governing New England in America."

This council was to meet at Plymouth¹⁸ in the county of Devon. The king named to this council the Duke of Lenox, the Marquis of Buckingham, the Marquis of Hamilton, the Earls of Pembroke, Arundel, Bath, Southampton, Salisbury and Warwick, Viscount Maddington, Lord Zouch, Lord Sheffield, Lord Gorges, Sir Edward Seymour, Sir Robert Manselle, Sir Edward Zouch, Sir Dudley Diggs, Sir Thomas Roe, Sir Ferdinando Gorges, Sir Francis Popham, Sir John Brook, Sir Thomas Gates, Sir Richard Hawkins, Sir Richard Edgemonde, Sir A. Apsley, Sir Warwick Hale, Sir Richard Catchmay, Sir John Bouchier, Sir Nataniel Rich, Sir Edward Gates, Sir Giles Mompesson, Sir Thomas Wroth, Mathew Suttcliffe, Robert Heath, Henry Bouchier, John Drake, Raleigh Gilbert, George Chudley, Thomas Hamon and John Argall.¹⁹

The Council for New England was empowered to fill any vacancies in the council which might occur, but the number was not to exceed forty members. From among the council mem-

¹⁸Hazard, Ebenezer, Historical Collections, (Philadelphia, 1792), I, 103-106.

¹⁹Hazard, 106. A number of these councillors were the king's officials and courtiers. Andrews, Colonial Period, I, 322.

bers, one was to be elected president for a term determined by the council. Each new councillor was to take an oath before either the Lord Chancellor of England, the Lord High Treasurer, or the Lord High Chamberlain of the king's household. The Council for New England was granted a common seal engraved according to its specifications, one for its use in England and one for the governor of the colony in New England.²⁰

Other persons could get permission from the Council for New England to trade in its territory and it could grant land to planters. The Council had the authority to issue any orders, laws and instructions so long as they were not contrary to the laws of England. The governor in the colony had full power, as the county lieutenants in England enjoyed, to use martial law in case of rebellion. Any goods shipped from the kingdom to the colony and then reshipped to a foreign country would be confiscated as well as the ship involved.²¹

All the land between forty and forty-five degrees north latitude from sea to sea, as well as ports, rivers, fishing, mines, minerals and other commodities were granted to the Council for New England, provided that these did not belong to any other Christian king or were within the bounds of the southern colony. This land was to be held as "of our

²⁰Hazard, I, 109.

²¹Ibid., 110.

manor of East Greenwich in Kent."²² The Council for New England was to pay the king one fifth part of all the gold and silver found. The Council had permission to transport to the colony English subjects as well as foreigners who would be willing to become English subjects. It had the right to ship any commodities needed by the colonists, provisions for defense, or goods for trade with the people already there. It was to pay no subsidies or customs for seven years on goods sent to the colony or brought from there to England or any of its dominions. The company was free from taxes and impositions for a period of twenty-one years,²³ except the five per cent of value due for customs upon merchandise brought into England or any of its dominions. Upon payment of the five per cent, the merchandise could then be re-exported to any foreign country without paying any further customs, tax or duty provided that the goods were exported within thirteen months after they arrived in England. The council was to assign such portions of lands that were formerly granted to English subjects, but in so

²²East Greenwich is the old name for modern Greenwich which is located four miles below London bridge. The king lived here most of the time. The court and officials lived where the king did. It had been the custom to use this expression and James followed the custom. Cheyney, Edward P., "The Manor of East Greenwich in County of Kent," in American Historical Review, XI, (1905-1906), 29-35.

²³Hazard, I, 99. Orders of Council dated July 23, 1620, provided that the colony was "to be free of customs and subsidies for a like term of years (meaning the same as Virginia) and of impositions after so long a time as His Majesty shall please to grant unto them."

doing they were to take into consideration the amount of each one's adventure or special service rendered to the colony.²⁴

The officials in the colony, appointed by the Council for New England, had full power and authority over the colony. These officers could resist by force of arms, either by land or sea, the attempt of anyone to settle or trade there without the permission from the Council for New England. Not even English subjects not members of the company were permitted to trade in New England, either directly or indirectly, without the written license from the governing body of New England. Any person so doing was to be punished by imprisonment and the loss of his ships and goods. The Council for New England or its officers in the colony had the authority to seize the ships and goods. One half of the confiscated goods went to the Council and the other half went to the king. King James promised to give no grants, license or authority to any person to trade in New England without their first getting permission from the Council.²⁵

King James gave the Council for New England six months to pay one half of the customs and subsidies due if they made such a request, with security, to the farmers of the customs. If the goods were not sent to New England, then the customs must be paid first.²⁶

²⁴Hazard, I, 112.

²⁵Ibid., I, 113-114.

²⁶Ibid., 114.

The president of the council or his deputy was to administer the oath of allegiance and supremacy to any persons who went to the colony. If any one returned to England without first securing permission from the governor of the colony, or was sent to England for misconduct, or if one made scandalous reports of the colony and the government, the president or his deputy was to have him seized. If such a person were caught in England, he might be sent back to the colony for trial. Anyone from the colony in New England or licensed by the Council for New England who robbed, at sea or on land, any other English subject or its allies would also be subject to punishment. The guilty party would be forced to make restitution or satisfaction to one so offended. If this was not done in a limited time, the council was empowered to "put such persons out of our allegiance or protection." This was the king's order. Then the ruler of the offended party could prosecute the offender.²⁷

No permanent colony was settled in New England until the Pilgrims came on November 11, 1620.²⁸ The Pilgrims sent their agents, Cushman and Brewster, from Holland to London in the fall of 1617 to deal for a patent with the Virginia Company.²⁹ At the same time they also sent agents, John Carver

²⁷Ibid., 115-117.

²⁸Hubbard, 14.

²⁹Bradford, William, "History of the Plymouth Plantation," in Massachusetts Historical Society Collections, (Boston, 1856), series 4, III, 29.

and Robert Cushman, to the king.³⁰ The Pilgrims wanted to obtain from the king an assurance of the freedom of religious worship. Through the efforts of the Secretary of State, Naunton, the Pilgrims obtained a promise of "no molestation,"³¹ "that he would connive at them, and not molest them, provided they carried themselves peaceably."³²

The quarrels within the Virginia Company in 1619, delayed the issuing of the patent.³³ By the advice of friends the Pilgrims had the patent taken out in the name of John Wincob, who had planned to go along with them.³⁴ As it turned out they did not make use of this patent because they landed outside the Virginia Company's territorial grant.

Some of the people who had promised to adventure money withdrew after the patent was obtained because they wanted the colony planted in Guiana. Some of them wanted to go elsewhere in North America.³⁵ The people who were going from England sold their property and put the money into a common stock of the colony.³⁶ Thus was created a joint-stock with the ones who adventured money to share the expenses but did -

³⁰ Palfrey, J. G., History of New England during the Stuart Dynasty, (Boston, 1858), I, 151.

³¹ Hubbard, 45.

³² Bradford, 29.

³³ At this time the trouble was over the election of Sandys instead of Thomas Smith as the treasurer of the company. Hubbard, 47.

³⁴ Ibid., 41.

³⁵ Ibid., 45.

³⁶ Ibid., 47.

not leave England.³⁷

The Pilgrims left Plymouth, England, on September 6, 1620, for Delaware Bay³⁸ but on November 11, 1620, they reached Cape Cod which was outside the Virginia Company's grant made by the king in 1612.³⁹ Before landing on December 21, 1620, the Pilgrims signed an agreement called the Mayflower Compact.

Do by these presents solemnly and mutually, in the presence of God and one another, covenant and combine ourselves together into civil body politic, for our better doing and preservation, and futherance of the ends aforesaid; and by virtue hereof to an act, constitute, and forme such just and equal laws, ordinances, and constitutions, and officers from time to time, as shall be thought most meet and convenient for the general good of the colony; into which we promise all due submissions and obedience.⁴⁰

Since the group landed outside the limits of their patent, the leaders had no authority over the people, so they had all the men sign this agreement. Soon after landing John Carver was chosen governor.⁴¹ Carver died in April, 1621, and then William Bradford was elected governor.⁴²

In the spring the Mayflower returned to England. The

³⁷Palfrey, 153.

³⁸Innes, Arthur D., The Maritime and Colonial Expansion of England under the Stuarts, 1603-1714, (London, 1930) 15.

³⁹Bradford, 77.

⁴⁰Hubbard, 53; Palfrey, 156; Bradford, 89-90.

⁴¹Hubbard, 53.

⁴²Ibid., 67.

Pilgrims sent an order to their solicitors to get them a patent from Gorges.⁴³ Unaware of Carver's death, Weston, one of their agents in England, in a letter to Governor Carver written July 6, 1621, reported that "We have procured you a charter, the best we could, better than your former, and with less limitations."⁴⁴ This patent obtained by John Pierce, an adventurer,⁴⁵ and his associates, which was in trust for the Pilgrims, was dated June 1, 1621,⁴⁶ and was brought to New England on November 9, 1621.⁴⁷

On April 20, 1622,⁴⁸ John Pierce obtained another patent in the name of the Pilgrims for a larger grant from the Council for New England. He had planned to keep this one and "allow the Pilgrims what he pleased, hold them as tenants."⁴⁹

The elements were against Pierce. In the first attempt at crossing the Atlantic, the ship sprang a leak and he was forced to turn back. On the second try, the party encountered a fierce storm.⁵⁰ The adventurers in England

⁴³Gorges, Brief Narration, 73.

⁴⁴Bradford, 107; "First Plymouth Patent," in Massachusetts Historical Society Collections, series 4, II, 156.

⁴⁵Palfrey, 194.

⁴⁶"First Plymouth Patent," p. 156.

⁴⁷Palfrey, 193.

⁴⁸Ibid., 209.

⁴⁹Bradford, 138-39; Hubbard, 80-81.

⁵⁰Ibid., 80-81.

pleaded with Pierce to assign the patent to the Pilgrims.⁵¹ When the adventurers in England learned of the fraud, they complained to the Council for New England. The question was studied at a meeting, and Pierce's new patent was cancelled.⁵² Pierce later sued the Pilgrims in the chief courts of England and even brought the problem into parliament.⁵³

Since the Council for New England was having trouble over the fishing, Captain Francis West was commissioned admiral of New England and he arrived in June, 1623.⁵⁴ In September, Robert Gorges, with a grant from the Council for New England for an area on Massachusetts Bay, came as governor general of the country. He was to try to restrain the unlicensed fishermen. Francis West, Christopher Levett, and the governor of Plymouth, Bradford, and any others that he might choose, were to act as Gorges's council.⁵⁵

In the summer of 1623, because it lacked money to carry on the venture, the Council for New England decided to

⁵¹Ibid., 82; Bradford, 139-140. "Pierce assigned the patent to them for 500." Ibid., 157. Palfrey, p. 210, note 2, does not believe that Pierce was paid the 500.

⁵²Palfrey, 210.

⁵³Bradford, 140.

⁵⁴Ibid., 141. An admiral of a colony had the responsibility of the company's ships, which conducted the trade between England and the colony, to prevent interlopers in trading and fishing, and in some cases to collect the license fees from the fishermen. Crump, Helen, Colonial Admiralty Jurisdiction in the Seventeenth Century, (New York, 1931), 29-30.

⁵⁵Bradford, 148.

divide the region by lot among the twenty patentees.⁵⁶

Soon after 1624, the partnership of the Council for New England was dissolved. The majority of the Londoners broke off connections with the colony. Three years later the Plymouth Colony bought out the rights of the English adventurers for 1800.⁵⁷

It was fortunate for the Plymouth Colony that it had its patent in New England. When the trouble over the Virginia patent was at its peak, the king also wanted the Plymouth Colony to turn in its patent. The Pilgrims refused to do so and it is apparent that James had no way of forcing the Pilgrims to obey his command.

⁵⁶Deane, Charles, "New England," Narrative and Critical History of America, (Boston, n.d.), III, 305.

⁵⁷Egerton, 43.

CHAPTER V

CONTROL OF THE TOBACCO TRADE BY THE CROWN

King James had a personal dislike for the use of tobacco. In a proclamation against its use, he claimed that it weakened the body and made people unfit for work, and that money wasted on tobacco would be better spent for necessities.¹ The king and the London Council for Virginia tried to discourage the planting of tobacco in the colony. James, however, became a little more interested in it when trade in tobacco promised additional revenue.²

Up to this time, 1614, the tobacco trade had been in the hands of the Spanish. Spain regarded the exporting of tobacco from Virginia as an encroachment on its rights.³ James's animosity to Virginian tobacco growing may have been influenced by Spain because at this time, 1622, the marriage negotiations between Charles, Prince of Wales, and the Spanish Infanta were in progress.⁴ James collected £50,000 yearly from the Spanish tobacco trade.⁵ This was more than

¹Rymer, XVI, 601-602.

²Records of the Virginia Company, I, 15.

³Durham, 230-231.

⁴Fiske, John, Old Virginia and Her Neighbors, (New York, 1899), I, 195.

⁵Notestein, et al, ed., Commons Debates in 1621, (New Haven, 1935), IV, 217.

he collected from the Virginia-grown tobacco.⁶

On October 17, 1604, King James issued his first proclamation affecting the collections of customs on tobacco. The customs officials were ordered after October 26, 1604, to

take from all merchants, English or strangers, and others who shall bring tobacco into this realm, within any port, the sum of six shillings and eight pence per pound over and above the two pence per pound usually collected. You shall in our name charge all collectors and other officers that they are not to allow any tobacco at any time hereafter to be brought into this realm of England, Dominion of Wales, and the Town of Barwicke, by any one either English or foreign before the customs and impositions specified are paid first. If any merchant, English or foreign, should bring any tobacco before such payments be first made, he shall forfeit the tobacco and be penalized and punished.⁷

Nine years later, the king took the sole importation of tobacco into his own hands, and then issued letters patent or grants to individuals who offered him the best revenue from the tobacco trade.⁸

John Rolfe seems to have been the first one to experiment with the growing of tobacco in Virginia, and he sent the first consignment of it to England in March, 1614.⁹ From then on tobacco became the staple crop, much to the disgust of the Virginia Council in London and the king. Production

⁶Durham, 230-231.

⁷Hazard, I, 49-50.

⁸Calendar of State Papers, Domestic, 1611-1618, 214.

⁹Andrews, Colonial Period, I, 126. John Rolfe's object was to obtain goods from England in exchange for tobacco. Tobacco became the chief export because it returned more for the

of tobacco on a large scale was regarded with disfavor because tobacco was considered a luxury. The people found it an easy money crop and so raised it instead of sufficient food crops. Governor Dale's regulation ordered that each farmer must plant two acres of corn each for himself and his manservants and only then could he plant any tobacco.¹⁰ The tobacco was raised partly by the company on its public lands, partly by private associates, and to some extent by private individuals. This arrangement was the cause of some trouble later.

A company known as the Society of Particular Adventurers for the Traffic with Virginia was formed in London in 1614. This company, also referred to as the "Magazine," was directed by Robert Johnson, an alderman of the city, and was subordinated to the Virginia Company. This "Magazine" eventually went bankrupt.¹¹

King James granted to Edmond Peshall and Edward White, on March 29, 1615, the right to import tobacco for a period of ten years. These two men were to select the individuals who were to sell the tobacco for them. The patentees were to pay two shillings per pound import duty, in addition to paying

labor required for its production than anything else. Holmes, George K., "Some Features of Tobacco History," in American Historical Association Report (Washington, 1923), I, 395-407.

¹⁰Durham, 230.

¹¹Andrews, Colonial Period, I, 126-127.

the king £3500 the first year and thereafter £7000 yearly.¹² The patentees had free access to the customs books, and power to search for and seize smuggled tobacco. The Orders in Council on May 26, 1615, stipulated that the two shilling imposition was not to be collected until June 1, 1615. On July 24, 1615, the two shilling imposition was withdrawn and six pence per pound was added to the custom duty. The patentees were to pay £200 yearly for the new rate.¹³

The Privy Council on May 5, 1616, ordered an imposition of two shillings, beginning June 1 of that year, on every pound of tobacco imported into England. As a result of this order the Council for Virginia in London petitioned the Privy Council for an extension on the time that goods from Virginia could be brought in free, that is, longer than that allowed by their charter, or else to let the goods come in free, as specified by the charter, until 1619. The Privy Council refused to allow the company to import tobacco duty free after the date specified in its charter.¹⁴

The Lord High Treasurer, Lionel Cranfield, offered to the Virginia Company, on June 8, 1619, the farming of tobacco if it would pay twelve pence a pound customs and £8000 rent. On June 13 of the same year, the Virginia Company petitioned against the twelve pence rate. The petition was heard before

¹²Calendar of State Papers, Domestic, 1611-1618, 280.

¹³Notestein, VII, 52-53.

¹⁴Acts of the Privy Council, I, 14.

the Lords Commissioners, and on July 21 it was referred to Cranfield. The Virginia Company was advised that some of its members should attend the Privy Council meeting at which this problem would be discussed.¹⁵ The Virginia Company agreed to the king's demand of the nine pence per pound above the usual three pence a pound to be paid for a period of five years in consideration of the prohibition of tobacco planting in England. This proposal was taken up at the Quarter Court of the Virginia Company on January 12, 1620. The Virginia Council requested that the agreement be entered as an act of the Privy Council in the Lords Commissioners' Record, otherwise it might prove difficult at the end of the five years to withdraw the nine pence duty. The company feared that this extra duty might be expected of them from then on. The Quarter Court appointed a committee to go to the clerk of the Privy Council to witness that the agreement was recorded and to obtain a duplicate copy for the files of the company. On January 16, 1620, this committee and the Treasurer of the Virginia Company reported that the agreement had been duly recorded. The committee brought to the meeting a copy of the agreement as it appeared on the Book of Acts of the Lords Commissioners.¹⁶

On July 13, 1619, while the negotiations were going on, Jacob, the collector of tobacco customs, took 20,000

¹⁵Notestein, XVII, 454-455.

¹⁶Records of the Virginia Company, I, 292, 296; Notestein, VII, 455.

pounds of tobacco from the Virginia Company because it refused to pay the twelve pence a pound duty. This was twice the Book of Rates imposition which was six pence the pound. According to the company's charter the tobacco was suppose to be free from impositions, save the five per cent. The Virginia Company petitioned the Lords Commissioners and sent Warwick, W. Rich, Johnson and Brooke as a committee to meet with the commissioners.

At the Quarter Court held July 21, 1619, Johnson reported that the committee met with the commissioners, but they referred them to Cranfield and the attorney general. These two men were out of town, so nothing could be solved. Johnson asked to be relieved of his place and Warwick, Gates and three others were chosen to meet with the two gentlemen.¹⁷

The Virginia Company sent a petition to the Privy Council dated November 3, 1619, in which they reviewed the privileges granted to them by their letters patent, and the loss they had had by the long delay. The company had offered to leave half of the tobacco with Jacob, but he refused all approaches to an agreement. He had even refused to hand over the tobacco at the request of the Privy Council. The latter had sent Jacob a letter on December 6, and demanded that he deliver the tobacco to its owners. The Virginia Company agreed to pay the duty which the Privy Council "shall set

¹⁷Records of the Virginia Company, I, 245-248.

according to the company's letters patent."¹⁸ On December 15, Edwin Sandys, Treasurer of the Virginia Company, went before the Privy Council with the company's petition dated November 3, concerning Jacob and the company's tobacco. Jacob was present at the meeting. The attorney general delivered to the Privy Council his opinion that the company by its letters patent was free from impositions.¹⁹ The Privy Council ordered by another letter, dated December 12, that Jacob charge the company only the amount that was due.²⁰ James granted, for life, to Jacob and his son a patent on April 18, 1618, for collecting the impositions on tobacco.²¹ A year later the king granted them an increase of subsidies for tobacco for five years.²²

In 1619 the king issued letters patent to Francis Nicholls, Jaspar Leake and Philip Eden, establishing an office of garbling tobacco for thirty years for a consideration of £100 yearly.²³ Garbling of tobacco consisted of cleaning, sealing and stamping with the grade on the package.²⁴ A proclamation by James on the same day prohibited,

¹⁸Ibid., 258-281.

¹⁹Ibid., 281.

²⁰Notestein, VII, 454.

²¹Calendar of State Papers, Domestic, 1611-1618, 535.

²²Records of the Virginia Company, I, 245-248; Calendar of State Papers, Domestic, 1619-1623, 27.

²³Ibid., 47.

²⁴Notestein, VII, 58.

after the date of the letters patent, the sale of tobacco of any kind before customs and imposts had been paid. The tobacco was to be inspected, graded and sealed by the garbling officer. This man was paid four pence per pound by the one whose tobacco he handled. The men named on the grant were empowered to appoint officers in ports to watch for tobacco and to search ships in English ports, warehouses and cellars to see if tobacco was being smuggled in or graded and sealed.²⁵ Tobacco was being smuggled into England, so James issued a proclamation enforcing the patent issued to Nicholls and his associates.²⁶

The members of the Virginia Company protested against all of these monopolies and restrictions imposed on colonial trade, and carried the case to parliament in 1619, but with no success.²⁷

James issued a proclamation on December 30, 1619, prohibiting the planting of tobacco in England, Wales and Ireland, insisting that the home grown variety was more "unwholesome than that imported." This restriction, it was hoped, would help the colonies.²⁸

In an Extraordinary Court held February 22, 1620, the Virginia Council agreed to send to the House of Commons a

²⁵Brigham, 16; Rymer, XVIII, 191.

²⁶Calendar of State Papers, Domestic, 1619-1623, 71.

²⁷Stock, 1, 28-34; Durham, 232.

²⁸Calendar of State Papers, Domestic, 1619-1623, 107; Brigham, 19.

petition against the proclamation on the sale and importation of tobacco by certain patentees, namely, Roe and others. This same proclamation had also prohibited the sale of ungarbled tobacco from the Somers Islands. The Somers Island Company was required to pay four pence a pound for garbling tobacco.²⁹ In the petition the company claimed that the king had not only "stinted them to too scant a proportion but restrained them from selling the tobacco just brought in from the Somers Islands because they could not sell it without seal." The seal was placed on the package after the tobacco had been garbled.³⁰

The king granted a patent³¹ to three men for the sole importing of tobacco for seven years. In return the men promised to pay the king £16,000 rent the first year, and £20,000 a year thereafter. At the end of the year the patent was given up by the above patentees and assumed by Jacob.³²

On June 29, 1620, the king issued a proclamation that after July 10, 1620, ships could not bring in tobacco unless carrying the men holding a patent for more importation of tobacco. Anyone who had ten pounds or more of tobacco on hand was required to bring it in to the "Hawke and Fessant" at Cornhill in London to be sealed and marked. No tobacco

²⁹Records of the Virginia Company, I, 442-443.

³⁰Ibid., II, 343-343; Notestein, VII, 456.

³¹The patent was issued to Thomas Roe, Mr. Leate, and Mr. Canning and associates.

³²Notestein, VII, 453, 455, and 457.

was to be bought or sold that was not marked or sealed. Officers of the customs were to enforce this rule. They had permission to search ships, seize any smuggled tobacco, and apprehend the "bringers" and "buyers".³³ This same proclamation prohibited the planting of tobacco in England after August 2, 1621.³⁴

The Virginia Company's Council sent a protest on July 12, 1620, against the restraint of importation of tobacco. Southampton received a reply from the king stating that "it was not his meaning to grant any thing that might be prejudicial to any of the both plantations." The king referred the petition to the Privy Council, which requested that a committee from the company meet with it. Among those chosen on this committee were Edward Sackville, Edwin Sandys and Deputy Ferrar. The Privy Council allowed the Virginia Company to import 55,000 pounds of tobacco each year. This amount would not take all the crop from both the Virginia Colony and the Somers Islands, so the Virginia Company allowed the Somers Islands Company to export the 55,000 pounds to England, and the Virginia Company would arrange to send their tobacco to Flushing, Holland.³⁵

The Privy Council learned that the Virginia Company

³³Rymer, XVII, 233-234; Calendar of State Papers, Domestic, 1619-1623, 158; Notestein, VII, 455; Brigham, 28-30.

³⁴Hazard, I, 43.

³⁵Records of the Virginia Company, I, 398; Records of the Virginia Company, II, 402-406; Notestein, VII, 455.

had planned to ship its tobacco to Holland. At the Court held by the Company on October 15, 1621, a letter was read from the Privy Council concerning this business. The council wanted to know whether the company was shipping its commodities to England or had set up a "magazine" in Amsterdam. To this inquiry the company answered that it never had sent commodities to Amsterdam but had sent tobacco to Middlesborough, Holland, because it was restrained by the king's proclamation from bringing it into England. The company would like its former privilege of bringing commodities into England and then of reshipping them elsewhere; but it did not like to be forced to bring them all in and pay customs on all, its reason being that there was not a market in England for all the commodities, among them the poorer grade of tobacco, for which it could find a market elsewhere. The company had no power to sell the commodities of private planters nor to forbid them to trade with the ships that came to the colony. These private planters had started a trade with Ireland in which they exchanged tobacco for cattle. The company was willing to trade with England if it would benefit both the colony and England.³⁶ By order of the Privy Council on October 24, 1621, tobacco and all commodities from Virginia were to be brought first to England and the duty paid on them, and then they could be reshipped to foreign

³⁶Records of the Virginia Company, I, 526-529.

countries.³⁷ This order would not be put into effect for four months so that the company could sell those commodities in the foreign magazine. After the expiration of the four months, the order was to be observed.³⁸ If the tobacco was transported within six months, the customs duties were to be refunded to the company.³⁹

On July 30, 1620, the Privy Council sent a request to the Commissioners of the Treasury, asking the Lord Treasurer to make a contract with Thomas Roe, Abraham Jacob and their associates and with Francis Hurdman and William Budd for the importing of tobacco. The grant was made soon after and was to run for one year in spite of the proclamation of June 29, 1620, forbidding the importation. The company was to pay the usual customs and impositions to the farmers of the customs. The tobacco was to be stamped with two seals. The patentees had the privilege to sell it as they pleased.⁴⁰

The patent for tobacco "even by his majesty's own books, is a monopoly and so fit to be damned." This argument was brought forth in the House of Commons on February 28, 1621. Some of the members of the Commons thought the patent

³⁷Calendar of State Papers, Colonial, I, 26; Notestein, VII, 459; Acts of the Privy Council, I, 49.

³⁸Acts of the Privy Council, I, 49.

³⁹Notestein, IV, 217.

⁴⁰Records of the Virginia Company, I, 141, II, 365; Notestein, VII, 455-456; Calendar of State Papers, Domestic, 1619-1623, 169-170.

should be brought in and cancelled.⁴¹ The Commons advised that no foreign tobacco should be imported because Virginia needed the trade.⁴² Edwin Sandys thought "it a double profit to bring tobacco from Virginia instead of Spain because it would help the colony and also money would not go to a foreign country."⁴³

Roe and the patentees did not think they would have time to sell their imported tobacco, and so the committee on tobacco allowed them until the first of October, upon their promise to import only what had been contracted. The patentees would have a year from the following Michaelmas to sell the tobacco above eight shillings per pound.⁴⁴ The bill restraining importation of foreign tobacco was passed on May 25, 1621.⁴⁵ This bill also specified that others than shopkeepers were not to sell tobacco above eight shillings a pound. The shopkeepers might sell it for ten shillings per pound. The people of England were permitted to plant their own tobacco for their own use but if any one sold such tobacco he would forfeit the product and pay a fine of "10 for every rodd." This law was to be in force for seven years

⁴¹Notestein, V, 263, 529.

⁴²Ibid., 76-78; Great Britain, Parliament, Journal of the House of Commons, (London, n.d.), I, 81-82.

⁴³Stock, I, 28-29.

⁴⁴Commons Journal, I, 62.

⁴⁵Ibid., 627.

and after that the import duty to the king was to be raised to six pence over and above five shillings a pound.⁴⁶ The Lord High Treasurer granted, on July 30, 1621, a "warrant of assistance as needed for the suppressing of the import and sale of tobacco so brought in and sold by the patentees."⁴⁷

A petition from Ralph Hamor and William Tucker was read in the House of Commons on April 23, 1621, in which they complained against the monopoly⁴⁸ granted to Roe and others⁴⁹ for the sole importation of tobacco. Some of the colonists would not agree to the orders, of twelve pence the pound, set down by the Master of Wards and Edwin Sandys which had been agreed upon. The feeling in the House of Commons was that "We have not the power to order the patentees shall accept the rate agreed upon by the Master of Wards."⁵⁰ This petition was then referred to the Star Chamber.⁵¹ Roe and Jacobs had the grants from the king for the management of the

⁴⁶Notestein, VI, 168, IV, 351, II, 389.

⁴⁷Acts of the Privy Council, I, 44.

⁴⁸Stock, I, 34.

⁴⁹Calendar of State Papers, Domestic, 1619-1623, 170.

⁵⁰Commons Journal, I, 586.

⁵¹Acts of the Privy Council, I, 32-33. The Court of Star Chamber was a meeting of the Privy Council for a specific purpose. There was a difference in the time, the place, and procedure from the Privy Council meetings. The Chief Justice of the Court of King's Bench and two other justices were also present. Cheyney, Edward P., "The Court of Star Chamber," in American Historical Review, XVIII, 727-750.

tobacco trade.⁵² When the complaints from the Virginia Colony and the company came in, Jacob was to bring in his patent to the committee for tobacco in parliament.⁵³

Cranfield, the Lord Treasurer, wrote to Buckingham on December 4, 1621:

I have agreed for this year with the farmers of tobacco for £8000 and have told them to bring in 60,000 pounds of Spanish tobacco and have left Virginia and Somers Islands free to bring in without restraint, and his Majesty is to have the benefit of the impost. The clamour in parliament of £12,000 per year spent in Spanish tobacco is now satisfied, by restraining the import to 60,000 pounds will cost £7000. Virginia and Somers Islands cannot complain they are left free trade.⁵⁴

On February 2, 1622, the Privy Council gave an order for a tobacco contract to be made between the Lord Treasurer, on behalf of the king, and the Virginia Company.⁵⁵ The contract was drawn up on June 29, 1622,⁵⁶ and provided that:

(1) the Virginia Company would have the sole right to import tobacco into England and Ireland; (2) the king by proclamation was to prohibit any others from importing tobacco under penalty of confiscation; (3) tobacco planting was to be prohibited in England and Ireland under penalty; (4) the company was to pay six pence duty for roll tobacco and four pence

⁵²Notestein, III, 51.

⁵³Stock, 35.

⁵⁴Goodman, 211.

⁵⁵Records of the Virginia Company, I, 164.

⁵⁶Ibid., II, 58-59.

for leaf tobacco, and was to pay the king the profit from one fourth of the tobacco imported to the amount of 20,000, and if it did not amount to that, the company was to make up the difference, but not to exceed one third of the profit; (5) the company and the king were to share the cost of the customs; (6) the company was to have the sole managing and sale of the tobacco, which must be consigned to one person, and the company was to appoint the officers in charge who were to make an account of the business to the king; (7) the transportation costs were to be paid by the king and the company, proportionately, although this was changed later so that the king paid no share of the freight, but did pay one third of the cost of handling, lading, tending, curing, and sorting, and one third of the salary of the officers and one third of the cost of law suits resulting in the recovery of tobacco and debts; (8) the king was to try to prevent the undue importation of tobacco by other means and to prohibit more than the allowance of Spanish tobacco to be imported, the limit on which had been set at 40,000 pounds;⁵⁷ (9) the money collected from penalties and confiscated tobacco which was sold was to be divided equally among the king, the informer and the company; (10) this contract was to begin the next Michaelmas and was to run for a period of seven years; (11) the contract was for the profit and the benefit of both the king and the company; (12) if any tobacco was confiscated

⁵⁷Ibid., II, 85-96.

before next Michaelmas, it was to be exported and sold elsewhere; (13) a price limit was set for the company and the retailers: the company could not sell above eight shillings a pound and the retailers could not sell above ten shillings a pound.⁵⁸

The question of the contract was discussed at the General Court of the Virginia Company on June 5, 1622. It had been discussed by the treasurer of the company, Southampton, and some of the members of His Majesty's Council for Virginia, and also by the Governor and Assistants of the Somers Islands Company. At this General Court it was decided to appoint a committee, composed of the treasurer, Southampton, Edwin Sandys, N. Ferrar and five others to study the contract. The committee was to choose one of its number to report from time to time to Cranfield, Lord High Treasurer.⁵⁹

The proposed tobacco contract was again discussed, this time at the Preparative Court of the Virginia Company on July 1, 1622. Sandys suggested that the contract be divided into "heads" and debated. The problem of the Spanish tobacco, the garbling patent given by the king to individuals, and the amount due the king were discussed. The court agreed to the 40,000 pounds of Spanish tobacco to be imported. It was decided to leave the garbling as it stood, and it agreed on the one third part for the king. Sandys was chosen to

⁵⁸Ibid., 85-86.

⁵⁹Ibid., 36-38.

draw up the articles of the tobacco contract and to present them to Cranfield the next day. If the Lord Treasurer agreed to them, the contract would be taken up at the Quarter Court of the Virginia Company two days later.⁶⁰ At this court meeting the exceptions to the contract were worked out, and it was accepted by all the members present except one. The contract then was sent to the Lord Treasurer, Cranfield.⁶¹

The same tobacco contract was also presented to the Somers Island Company, on July 17, 1622. Sandys reported at the Virginia Company's Ordinary Court that the Somers Island Company had agreed to all the articles except the one on customs. The latter company thought that it would be better if the six pence and four pence duties were paid as the tobacco was importer than to be "tied to pay a certainty of so great a sum of money as the medium come unto."⁶² The plan of the Virginia Company was that the two companies should pay, in each of the three years of the contract, a sum equal to the average of what had been due, under the rates named, in the seven years preceding. The Virginia Company agreed that the Somers Island Company was presenting the better bargain, and so it agreed to draw up the contract according to the Somers Island Company's wishes.⁶³

⁶⁰Ibid., 65-72.

⁶¹Ibid., 80-88.

⁶²Ibid., 97.

⁶³Sackville, Edward, "Lord Sackville's Papers Respecting Virginia 1613-1631," American Historical Review, XXVII, (1921-1922), 738-739.

The discussions on the tobacco contract continued in the Virginia Company Courts on November 6, 20, 22, 1622. At the last meeting the managing of the tobacco business was discussed, and Edwin Sandys and John Ferrar were nominated director and treasurer, respectively.⁶⁴ These officers were to be voted on at the next Quarter Court of the company.

At an Extra-ordinary Court held for the Virginia Company and a Quarter Court for the Somers Island Company held on November 27, 1622, the contract, which had been previously signed by the Lord Treasurer, was ratified. At this same meeting the list of officers, chosen by ballot,⁶⁵ with their respective salaries, was announced. The salaries totaled £2500. The principal officers were to be the director, deputy director, treasurer and bookkeeper. The salaries were to be paid from the proceeds of the tobacco monopoly. Pro and con discussion of the salaries followed, but the list was approved as presented. Edwin Sandys was elected the director and John Ferrar the treasurer. A committee of eight⁶⁶ to assist an extraordinary committee of ten⁶⁷ served without pay, and minor officials were chosen from the

⁶⁴Records of the Virginia Company, II, 121, 137-145.

⁶⁵Ibid., IV, 36.

⁶⁶The members of the committee were Bennet, Barber, Caswell, Wheatly, Gifford, Withers, Mellinge and G. Smith.

⁶⁷The members of the committee were Lord Paget, Lord Maynard, Edw. Sackville, John Brooke, John Danvers, Henry Mildmay, Gibbs, wrote, John Smith and R. Smith.

Virginia Company personnel.⁶⁸

Even though the contract had been ratified by three Quarter Courts of each company, it did not please all the members of either company. Mr. Wrote raised an objection to the large salaries paid to the officers of the monopoly. The arguments in the December meeting of the Virginia Company were heated. Mr. Wrote claimed the company was already in debt and he could see no way to raise such a large sum of money. He claimed that this was put over "fouly and disorderly" and that some of the other members thought likewise.⁶⁹ The Lord Treasurer said that the "pretense was against the high salaries, but before it was against the body of the contract."⁷⁰ The company was split into factions over this contract. On the side of the opposition were the Earl of Warwick, N. Rich, R. Johnson, Samuel Wrote, Byng and Canning, while defending the contract were the Earl of Southampton, Cavendish, Edwin Sandys, the Ferrars and John Danvers.⁷¹

The quarreling continued, so the opposition appealed to the Lord Treasurer. He notified the company that he wanted the problems cleared up before he would proceed any further with the contract. The opposition claimed that they were "over awed and durst not speak" of the contract during the

⁶⁸Records of the Virginia Company, II, 147-157.

⁶⁹Ibid., 162-177.

⁷⁰Ibid., IV, 32.

⁷¹Andrews, Colonial Period, 163.

discussions in their meetings. On February 24, 1623, Sandys reported on his meeting with the Lord Treasurer. At this meeting the governors and deputies of both companies were present, Danvers on the one side and Warwick, N. Rich, Johnson, wrote, Byng and Canning in opposition. These latter claimed the contract "prejudiced" to the colonies. The Lord Treasurer heard both sides but made no decision, so the company was to proceed with the contract anyway.⁷² The report of the meeting with the Privy Council and members of both factions was made at the Court meeting on March 5, 1623. Speaking for the Somers Island Company and for the contract at the Privy Council meeting were Cavendish and others. For the Somers Island Company and against the contract were Warwick, N. Rich and others. Those for the contract representing the Virginia Company were Edwin Sandys and the Ferrars, and against the contract were Thomas Smith, Johnson, Byng and others. Byng of the opposition said that they were "overawed by threatening word" if they did not yield to the contract and that they must "quit the plantation." The Earl of Southampton's actions are described as:

Finding unwillingness in the company to yield to so hard a bargain, set him down in his chair, pulling his hat over his eyes, and folding his arms across and leaning backward in his chair, as if all were lost, which kind of behavior frightened the company to yield, it being concealed from them that the contract was offered by the Lord Treasurer in His

⁷²Records of the Virginia Company, II, 296-298.

Majesty's name.⁷³

Cavendish explained "quit the plantation" to mean that if the Company did not accept the sole importation of tobacco some one else would, and then the Company would be worse off as they knew from past experiences. The people could not make a living because the returns would be so small that they might just as well "quit the colony," but the plantation would not be taken from them. The Lord Treasurer explained that Sandys and his group did not claim the contract a "good bargain," but it seemed a better way than they had before to carry on the tobacco business. Some of the members of the company had also lost a great deal of money in the "Magazine." Errors were made in rating of the tobacco, and since the price was based on the grade, many lost money in that way.⁷⁴

The opposition sent a petition to the Privy Council in which it stated its case against the contract. It claimed that there would be little profit for either the king or the company because the poor quality of tobacco would bring a small price. The heavy charge laid on the tobacco by the contract would be responsible for sending it to foreign markets and not to England, thus causing both the king and the company to be the losers. Only about one of ten members of the company had given their approval to the contract. Many

⁷³Ibid., 302-303.

⁷⁴Ibid., 304-305.

of these felt forced to consent. It would hinder the populating of the colony because the cost thus far had been five or six pounds of tobacco per person and by the contract it would be raised to ten pounds. The sale of Spanish tobacco seemed to be the chief consideration of the contract in which private individuals and not the company would profit. The rise in price of duties would encourage smuggling. Since the planters could reap only about thirty pounds of tobacco a year, they would not make much if one third went to the king, plus the handling expenses. That would leave the individual about ten pounds to sell.⁷⁵

The plurality of voices should conclude the good of other men without their consent to be put into joint-stock at coming home of a ship whereas the adventure outward was by men not in joint-stock which if it shall be admitted to take place will be ruin of trade.

The trip to and from the colony took about two months. If an individual trader went to the colony on his own, and during his absence the contract was put in force, upon his return he would be forced into the joint-stock. The opposition felt that the company could not afford to pay the salary of the officers.⁷⁶ "Yet by vote of such as are least interested and of those men themselves who are to receive it, was carried by plurality of voices."⁷⁷ The king's share of the cost would

⁷⁵Ibid., IV, 53-57.

⁷⁶Ibid., 53-57.

⁷⁷Ibid., 55.

be £800 or £900 a year for his third of the salary. This might be more than his share of the tobacco would net. The colonists exchanged their tobacco for necessities because this proved the better way than to sell the tobacco for cash and then pay cash for the merchandise needed. All the tobacco grown in Virginia was not of the same quality and those who had a better quality of tobacco would lose money because all the tobacco would be sold together. Their experience in a joint-stock company had not been successful; therefore they hoped that they would not be forced into one without their consent. The opposition thought it better if each one sold his own product.⁷⁸

After the contract had been debated pro and con, Cavendish thought that the Lords of the Council were satisfied that the company was not worse off than before. The Lord President of the Council, Viscount Mandeville, impressed upon Cavendish and Sandys that the company must bring its tobacco to England. The Privy Council seemed pleased with Sandys's side, and advised that the company should have the contract confirmed as it had agreed or some other one on which it might agree.⁷⁹

Sandys reported at a Court meeting that the Lord President of the Privy Council, Mandeville, had asked the opposition whether it had any other plan for managing the importa-

⁷⁸Ibid., 55-57.

⁷⁹Ibid., II, 301-305.

tion of tobacco. John Wolstenhome proposed that each one bring in the amount he wished, from the colony or Spain, and then do with it as he pleased. Another one proposed that the company and plantation pay the twelve pence a pound duty on the tobacco and not bother with salaries for the officers. Sandys and his group opposed the idea of being forced to bring the tobacco into England.⁸⁰

On April 17, 1623, the Privy Council again heard both sides of the question. It appointed a commission to study the problem of the Virginia plantation from its inception. Then on April 28, the Privy Council decided that "if the contract did not proceed in the manner agreed, it would tender to the utter overthrow and subversion of said plantation, and accordingly ordered the contract concerning tobacco to be dissolved."⁸¹

At the Virginia Company Court held on April 17, 1623, Lord Cavendish reported that the Privy Council requested that no mention of the trouble over tobacco in the company be made in letters sent either to Virginia or the Somers Islands. Nathaniel Rich wrote a letter, dated April 21, 1623, to Virginia and sent it to the Lord Treasurer for approval.⁸² The main points of his letter were: the tobacco contract had been dissolved; tobacco was to be imported only

⁸⁰Ibid., 305-318.

⁸¹Acts of the Privy Council, Colonial, I, 58-62.

⁸²Records of the Virginia Company, II, 365, 368.

from Virginia and the Somers Islands plus 40,000 pounds from Spain for a short time; all the tobacco was to be shipped to England; the colony was to call a general assembly to pass such an act; the king consented to lower the customs and imposts from twelve to nine pence a pound; the king had appointed a committee to make a study of the Virginia problem; the colonists were requested to plant staples and silkworms instead of tobacco; the colony was to send a report to the king which would include the name of each colonist, his age, kind of employment, place of residence, and also what kind of houses were in the colony, churches, guest houses, bridges, number of cattle; and the kind of food that was grown in Virginia.⁸³ The letters from the Virginia and Somers Island Companies were read by the Privy Council on April 28th and were not approved because "they did not pursue the former direction given by the Board, which was to certify in their several letters to the plantations of His Majesty's great grace and favor towards both of the plantations."⁸⁴ Rich did not think the lowering of the customs from twelve to nine pence a pound would help the colony, since the colonies never sold more than one third of their tobacco in the kingdom. He thought the colony would be better off to pay the twelve pence and bring in as much as it wished.⁸⁵

⁸³Ibid., IV, 124-126.

⁸⁴Acts of the Privy Council, Colonial, I, 61.

⁸⁵Records of the Virginia Company, IV, 155-156.

In February, 1624, the planters from Virginia sent a petition of grievances to the king. They claimed that the price of tobacco was low because so much tobacco was imported from Spain, and requested the king to abate the impost of six pence a pound. The six pence impost, plus three pence customs, plus the other charges made the profit so small that the planters could not afford to purchase the supplies to be shipped to Virginia and they could not send more people to the colony. They, the planters, also asked the king to free them from future impositions by the Virginia Company. The king referred the petition to the Lord Treasurer and the Chancellor of the Exchequer to arrange for some relief on the impost and to make some arrangement with the company about the oppressions. The Lord Treasurer, Middlesex, sent the petition to the Virginia Company because it concerned them, and ordered the company to make an answer to the charges in writing.⁸⁶

The deputy of the Virginia Company asked the petitioners from the planters in Virginia to set down in writing the grievances that they had referred to in the petition. This they promised to do but the next day they told the deputy that they would rather tell their grievances to the Lord Treasurer and the Privy Council. The petitioners finally handed in some grievances in writing to the company but they refused to sign their names to them. The deputy

⁸⁶Ibid., II, 520-521.

decided not to read them to the Court of the Virginia Company because, of the nine listed, only one referred to the company, the rest to the governor and the council in Virginia. The grievances against the company had to do with some meal that had been sent to Virginia to keep the people from starving. The colonists were to pay just the cost of the meal and the transportation charges, but the petitioners claimed that the cape merchant, Harte, sold the meal at high cost to the planters. The Virginia Company proved that this accusation was not true.⁸⁷

On April 21, 1624, the Treasurer and Council for Virginia petitioned the House of Commons to

take into your consideration this distressed colony and oppressed company and to receive from such His Majesty's Council for Virginia, being members of your Honorable House, as have been appointed by us the company, a full relation of those oppressions and grievances which though sundry kinds (have us they doubt not to make evident) had either their original or strength from the new Lord Treasurer out of his private and most unjust ends, no only to almost the utter overthrow of this noble work but also to the deceit of his majesty in his profit and to the great prejudice of the whole kingdom in matter of trade and dangerous consequence to the liberty of their person, and thereupon according to your most grave wisdom to devise some remedy for removing of the impediment repressing of the abuses encouraging adventurers and finally for the establishment of the colony.⁸⁸

On April 26, 1624, this petition was read in the House of Commons. At first some of the members objected to considering

⁸⁷Ibid., 521-525.

⁸⁸Ibid., 528.

the petition; but finally a committee was appointed to hear it. This committee was to meet in the Star Chamber and any member of the company who was also a member of the Commons was invited to attend the meeting.⁸⁹ On April 28, 1624, the king wrote to the Speaker of the House asking that the Commons not trouble themselves with the petition from the Virginia Company because he and the Privy Council would work out a settlement. This problem might renew the factions in the company and disturb the peace in the House of Commons. The petition by general resolution was withdrawn.⁹⁰

Solicitor General Heath wrote to Sir Robert Harley on May 20, 1623, to take opinions of the bill for the prohibition of Spanish tobacco, that was to be proposed in the Commons. Heath went on to say that the kingdom lost £100,000 a year by importing tobacco from Spain. He thought that its importations could be prohibited without a breach of treaty with that country. The king had promised the tobacco trade to the Virginia Company by which his own revenue would be increased £50,000 per year.⁹¹

Four days later Sandys reported to the House of Commons on the Spanish trade. He said that England lost £100,000 a year, because the two countries now exchanged commodities for tobacco, whereas before the Spanish had paid in silver

⁸⁹Ibid., 530.

⁹⁰Calendar of State Papers, Domestic, 1623-1625, 250.

⁹¹Stock, 68; Commons Journal, I, 779.

for goods imported from England. He moved that a petition of "grace" and not "grievance" be sent to the king. The petition was ordered, and was drawn up by Sandys and Ferrar.⁹² On May 26 Sandys again brought up the Spanish tobacco problem. It was recommitted to Solicitor General Heath and five others.⁹³ Two days later the committee reported that tobacco not grown in the dominions "is found to be one of the greatest occasions of disordering trade and want of money within the kingdom." Therefore they petitioned the king to stop its import. This petition from the Commons to the king, May 28, 1624, avowed that the Spanish pay for "our commodities with smoke." England had lost one and one-half million in money in the last fifteen years. Also, England under-sold its own commodities for the tobacco. The petition requested of the king to prohibit the importation of tobacco from Spain in favor of his own dominions.⁹⁴

At the Quarter Court of the Virginia Company on June 7, 1624, it was decided to present a petition, drawn up by the deputy and three other members, to the king. The petition requested that in the bill being prepared in the Commons for "the good of trade" and the plantation, the promise made by the Privy Council of the sole importation by the company

⁹²Stock, 69; Commons Journal, I, 794; Calendar of State Papers, Domestic, 1623-1625, 254.

⁹³Stock, 70; Commons Journal, I, 712, 796. The other members of the committee were Diggs, Palmes, Wentworth, Noy and N. Rich.

⁹⁴Stock, 71-72; Records of the Virginia Company, IV, 478-479.

of tobacco, April 28, 1623, should be particularly mentioned. This promise was made after the dissolution of the tobacco contract.⁹⁵ James, at the request of the Commons and the planters of Virginia, asked Solicitor General Heath, with the help of Secretary Conway and Sir Richard Weston, to draw up a contract with the Governor and Company of Virginia and the Somers Islands Company for the importation of tobacco.⁹⁶

The Virginia and Somers Islands Companies carried on trade with the Low Countries. One of the adventurers asked the Privy Council that either it or the king issue an order to the governor of Virginia forbidding this trade. A proclamation against such trade had been issued previously. The petitioner feared that the new contract would be in jeopardy.⁹⁷

Secretary Conway wrote to Lord President of the Privy Council on July 19, 1624: "The king approves the proceedings in the Virginia business. The restraint of importing foreign tobacco is to be considered. He expects some difficulties to be encountered."⁹⁸ On September 29, 1624, James issued a proclamation that "We, by our royal power, utterly

⁹⁵Ibid., II, 541.

⁹⁶Calendar of State Papers, Domestic, 1623-1625, 290.

⁹⁷Records of the Virginia Company, IV, 488-489; Calendar of State Papers, Domestic, 1623-1625, 290.

⁹⁸Ibid., 305.

prohibit the use of all foreign tobacco, not grown in our dominions." If any one imported foreign tobacco, it would be forfeited and the offenders would be punished. No tobacco was to be planted in England. No one was to buy or sell tobacco that did not come from either Virginia or the Somers Islands. Those who had lately imported foreign tobacco and paid no duty or subsidies on it could not sell it after March 20, 1625. Within forty days after March 25, any foreign tobacco that was on hand might be exported by any one without payment of subsidy or duty. If any one had foreign tobacco on hand, he was to bring it to the customs house in London, or a place or city designated, between October 20, 1624, and December 1 of that year, to be marked and sealed free of charge. Any tobacco not sealed and marked would be confiscated and forfeited to the crown. Merchants were warned against mixing Spanish with colonial tobacco. The colonies were asked to send only good tobacco to the custom house in London, and here it would be sealed and marked free of charge. The king requested an accurate account of the tobacco to be kept by the masters of the ships, who would be held responsible for their crews. All the tobacco must be shipped in English vessels. The king would appoint officers to search the ships, shops, cellars and warehouses for possible smuggled tobacco, who would receive one half of the fine imposed on the offenders. The tobacco would be burned and the offender would pay one half of the price of the real

value of the tobacco to the one who had seized it.⁹⁹

On November 9, 1624, the commission for searching and sealing tobacco was issued to Edward Ditchfield and five associates.¹⁰⁰ This group was to see that the king's proclamation of September 29, 1624, was obeyed. It was their job to mark and seal the tobacco already in the kingdom and also that which would be imported. Each roll of tobacco was to be sealed at one end with the seal engraved with "the Scuchin, of our arms of England, Scotland, and Ireland, and the other end to be sealed with the seal engraved with Lyon crowned."¹⁰¹

It was brought to the king's attention by the Commission for Virginia and a petition from the planters and adventurers that the proclamation of September 26, 1624, prohibiting the importation of foreign tobacco was not being obeyed. James renewed the proclamation on March 2, 1625. The king had made a contract with Ditchfield and the others to be his agents for receiving the tobacco at such a price to be given the planters as had been agreed upon. The agents further agreed

to give us such sums of money more as may give us reasonable satisfaction for that loss, which otherwise we should sustain in our customs and duties, and enable us to bear that charge, which we have undertaken yearly to disburse for general

⁹⁹Rymer, XVII, 622-624; Brigham, 35-41.

¹⁰⁰The five other men were Reuben Bourne, Richard Morrer, William Perkyns, George Bromley and Edward Bennet.

¹⁰¹Rymer, XVII, 633-635.

defense and support of the plantation.¹⁰²

The tobacco illegally brought into England and seized was to be brought to London, and if seized in Ireland it was to be taken to Dublin. One half of the reasonable value of the confiscated tobacco was to go to the informant and the tobacco itself was to be exported by the king's agents to a foreign market.

By a former proclamation no one was to sell foreign tobacco in England after March 25, 1625, and before the end of forty days after that date, any that was on hand should have been exported. The king commanded his agents to search for illegal tobacco after March 25, to make an account of the quantity and what the owners intended to do with it. The owners might export it in the forty day period and then make a report to the king's agents. Any tobacco found after that date would be seized and the offenders punished. The people were to report any one that offered to sell Spanish tobacco. The authorities were to take the offender into custody and seize the tobacco. The treasurer, commissioners of the treasury, or the chancellor of the exchequer was to award as many commissions to "fit" persons as were needed to examine the offenders. The Court of Star Chamber or the Court of Exchequer was to pass punishment and assess the fines. If the illegal tobacco was not or could not be found or taken, then the offender was to pay the agents the full

¹⁰²Ibid., 669-672; Brigham, 42-49.

value of it. If sailors brought in tobacco, they should be punished and the masters of the ships should forfeit to the king the value of the tobacco, and the ships would be tied up until the forfeiture was paid. Anyone who might hinder the officers from doing their duty would be brought in before the treasurer, chancellor of the exchequer, or the Privy Council and this body would pronounce the punishment.¹⁰³

The grocers, apothecaries and druggists of London petitioned the Privy Council on March 25, 1625, for an extension of time in which they could sell their marked and sealed foreign tobacco, or else to take it off their hands at the price the petitioners paid for it. They claimed that they had obeyed the proclamation of September 29, 1624. The Privy Council referred the petition to the Commissioners for the Plantations who were to call in the king's tobacco agents and these petitioners to try to reach an agreement.¹⁰⁴

The king tried to make a new contract with the Virginia and Somers Island Companies. The terms of this new contract were to be:¹⁰⁵ (1) the Virginia and Somers Island Companies be given letters patent for the sole importing of tobacco into England and Ireland; (2) foreign tobacco was not to be imported "under pain of confiscation"; (3) the king was to prohibit the growing of tobacco in both England and Ire-

¹⁰³Rymer, XVII, 669-672; Brigham, 42-49.

¹⁰⁴Acts of the Privy Council, I, 85.

¹⁰⁵Records of the Virginia Company, IV, 549-551.

land; (4) one fourth of the imported tobacco was to be sold at six pence a pound, and out of these proceeds the customs of three pence a pound was to be paid on all the imported tobacco, and the king was to be paid £10,000, the rest of the proceeds to be used for defraying the cost of managing, ordering the contract and helping the colonies; (5) the company wanted the right to approve the officers who would have charge of the handling of the tobacco; (6) the company promised to bring in only as much as it thought necessary and no more; (7) if necessary it would ask the king to help it recover any debt; (8) the king would not grant any licenses to retailers; (9) any tobacco that might be confiscated was to be divided among the king, the company, and the informer, which the company believed would yield £10,000 for the first year and £3000 a year more for customs, an amount the company thought sufficient for the king.

Nothing came of this proposal because the Virginia Company soon thereafter became involved in the dispute which resulted in the loss of its charter.

CHAPTER VI

THE CONTROL OF FISHING BY THE CROWN

Fishing voyages had been made after 1608 to the New England coast both from England and from the Virginia Colony.¹ Between 1607 and 1620 Sir Ferdinando Gorges had sent fishing and exploring voyages to this region. In 1615 John Smith was sent out in command of two vessels equipped by Gorges. Smith's vessel was forced to return due to a storm but the second vessel had a successful fishing trip.² Sir Francis Popham of the Plymouth Company had sent the company's ships to fish and trade in New England. This enterprise proved profitable.³ When the Virginia Colony at Jamestown was near starvation in 1610, Argall, who had been sent to Bermuda but became lost and ended up at Sagadahoc, found cod which he brought back to Jamestown.⁴ From then on fishing expeditions were sent regularly from Virginia to New England.⁵ John Smith had explored the coast of New England,

¹Beer, George Louis, The Origins of the British Colonial System, 1578-1660, (New York, 1908), 271.

²Hakluyt, Extra series, V, xviii-xix; Preston, Richard A., "Fishing and the Plantation," American Historical Review, XLV, (1939-1940), 29.

³Hakluyt, Extra series, V, xvii.

⁴Purchas, XVIII, 539.

⁵Osgood, Herbert L., American Colonies in the Seventeenth Century, (New York, 1904), I, 99.

and in 1616 wrote of the value of the New England fisheries.⁶ More and more fishing voyages were made to this coast. Smith wanted to establish a fishing colony, and tried to sell his idea in England but met with little success.⁷ Fairly permanent fishing stages were built on the islands of Damaruscive and Monhogan and at Pemaquid Point in Maine where a few men remained during the winter. Spanish, French and Dutch ships stopped here for salt, water, fuel and repairs.⁸

John Delbridge, planning to settle a colony in Virginia, requested, on December 1, 1619, permission of the Virginia Court in London to fish at Cape Cod to help pay expenses. Gorges, who had been a member of the Royal Council for Virginia from the first and also had an interest in the Plymouth Company, objected. He claimed that since Delbridge was going to fish within the boundaries of the Northern Colony for Virginia (Plymouth), he should get permission from him.⁹ Delbridge then asked the Court of the Virginia Company to take some action on the problem of fishing in New England which was forbidden to any one but the patentees of New England by Gorge's patent.¹⁰ Sandys, the treasurer of the

⁶Hakluyt, Extra series, V, xvii.

⁷Preston, loc. cit., 33.

⁸Andrews, The Colonial Period, I, 96.

⁹Brown, II, 376; Records of the Virginia Company, I, 277.

¹⁰Ibid., I, 410.

Virginia Company, claimed that by their former patents both companies had the right to fish within each other's boundaries. Gorges contended that each company was limited within its own boundaries. The two sides decided to refer the problem to a committee which was to be made up of members from both companies to examine the letters patent of the said companies and to try to settle the dispute.¹¹ Gorges claimed that such fishing voyages infringed on the rights of the Plymouth Company as granted in its first charter.

This dispute over Delbridge's license and the increasing importance of fishing in New England determined Gorges and his associates to ask the king for a new charter.¹² Therefore they petitioned the king and the Lords of the Privy Council for a new patent. This petition was referred to two members of the Privy Council, the Duke of Lenox and the Earl of Arundel. The latter suggested that a Court of the Virginia Company be called to consider the difficulties the two companies were having over the fishing rights in New England. If the trouble could not be settled in the Virginia Court then the Company was to send its objections to the Privy Council. The Virginia Court discussed the patent but came to no decision. It therefore wrote its opinions and chose a committee of Sandys, Davers, Harbert and Keightley to meet with the Privy Council.¹³ On March 29, 1620, Sandys reported

¹¹Ibid., I, 277.

¹²Beer, 272.

¹³Records of the Virginia Company, I, 321-322.

that he and his committee had met with Lenox and Arundel. Gorges and some of his associates were also present. The lords of the Privy Council heard both sides of the question and were "pleased neither to allow or disallow entirely the one part or the other but set down an order that seemed fittest to their lordships, to obtain a copy of the patent."¹⁴

At the court meeting of the Virginia Company held on May 11, 1620, the Company, "finding itself grieved" because it was barred from the fishing that had been granted it, decided to petition the king. Some of the members of the Company who were also members of the Privy Council were asked to deliver it to the king.¹⁵ At the July 7 meeting Sir John Davers and Sir Thomas Roe were appointed to write a letter to the king asking that he preserve the fishing at Cape Cod free to both companies as was intended by the first patent. This letter was to be presented to the next meeting of the court.¹⁶

Neither the Virginia Company nor the Council for New England was satisfied with the decision of Lenox and Arundel, so the matter was brought before the Privy Council again on July 21 of that year. This board approved the decision given by its two members on March 16, 1620,¹⁷ and it was "ordered

¹⁴Ibid., I, 329.

¹⁵Ibid., 339-340.

¹⁶Ibid., 397.

¹⁷Deane, Charles, "New England" in Narrative and Critical History of America (Boston, n.d.), III, 297.

by the board that the two colonies fish within each others boundaries with limitation that only for sustentation of the colony and transportation to the colony."¹⁸

Sandys told the Virginia Court on November 4, 1620, that the patent for New England had passed the seals. He claimed that parts of it were in contradiction to the Privy Council's order of the previous June,¹⁹ which allowed the Virginia Colony the right to fish "only for necessity of sustentation and transportation of people to the colony." Now by the new patent the Virginia Company was entirely excluded from fishing in the waters bordering New England without first getting a license from the Council for New England. The Virginia Company asserted that this was contrary to the first patent.²⁰ Sandys claimed also that the Gorges fishing monopoly had already cost the company £6000. Fishing was one means of paying the expense of sending settlers to the Virginia Colony. The Virginia Court decided to have Roe present a petition to the king. On November 13, 1620, Roe reported to the court that the king had said, "If anything in the patent is prejudicial to Virginia, it was surreptitiously done, without my knowledge, and he had been abused thereby, by those that pretended otherwise unto him."²¹ The king

¹⁸Acts of the Privy Council, Colonial, 1613-1680, 40-41.

¹⁹This must be the order set down in July, 1620, for I could find no entry in the Acts of the Privy Council under the date June, 1620.

²⁰Records of the Virginia Company, I, 411.

²¹Ibid., 416; Deane, loc. cit., 297.

therefore asked the Lord Chancellor that if the patent had not passed the seals, to hold it, and, if it had passed, then not to deliver it until he could study the problem.²²

On November 15, 1620, the Earl of Southampton told the Virginia Court that he and some others had met with the Lords of the Privy Council to report the company's objections to Gorges's patent. The Privy Council had had a conference with Gorges and had affirmed that renewal of either or both of the patents should be by the mutual agreement between the Companies and consent of the Privy Council.²³ The council ordered that Gorges's patent be given to the Lord Chancellor to keep according to the king's command. The Virginia Company was to continue upon its privilege in former grant and fish in the New England bounds.²⁴ On November 18, the Privy Council ordered that Gorges's patent be delivered with an amendment to the effect that both colonies would have the right to dry nets, prepare fish and take what wood was needed in New England.²⁵

Gorges complained of outsiders coming into New England waters to fish, so on September 28, 1621, the Privy Council sent letters to the mayors, merchants and ship owners of the west coast towns to warn them that if "any person shall

²²Records of the Virginia Company, I, 416.

²³The Virginia Company was making plans to obtain a new patent.

²⁴Records of the Virginia Company, I, 428.

²⁵Deane, loc. cit., 299.

presume to attempt to do any thing in that behalf contrary to His Majesty's grant, he is to expect no less than the due execution thereof, as such further punishment as is fit to be inflicted upon those that shall continue against His Majesty's royal authority."²⁶

Gorges sent to the mayor of Bristol, along with a letter from the Privy Council, the "Articles and Orders Concluded on by the President and Council for the Affairs of New England." The mayor passed these on to the Society of Merchant Ventures in Bristol, but since many of its members were absent, no action was taken on the matter. The mayor reported to Gorges that the merchants expressed the hope that if they wished to fish in New England they would be permitted to do so upon payment to the New England Council of a certain per cent of the profit.²⁷ The merchants of Bristol then wrote to their members in Parliament, John Whitson and John Guy, asking that they get a copy of Gorges's patent, and study it to learn whether he really had the rights which he claimed. The two men asked Gorges whether the President and Council for New England had the power to restrain them from fishing on the coast of New England. Gorges answered, "It is not so mentioned in the patent." All the land between forty

²⁶Documents Relative to the Colonial History of the State of New York, edited by E. B. O'Callaghan, (Albany, 1853), III, 5.

²⁷Christy, Miller, "Attempts toward Colonization; The Council for New England and the Merchant Ventures of Bristol, 1621-1623," American Historical Review, IV, (1898-1899), 686-691.

and forty-eight degrees north latitude was granted to the Council for New England with all privileges and, since fishing could not be carried on without the use of land, they would need written permission. When asked how much he would charge for the cargo of a hundred ton ship, he said, "Ten per cent of it." Later he added that for every thirty tons of shipping he would have a man taken to New England with a ten-pound value of provisions laid out as decided upon. The charges of the man's transportation going over would be deducted.²⁸

On November 18, 1621, the Privy Council ordered that Gorges's patent be delivered to him, amended to provide that each colony have the freedom of shore for drying of nets, taking and preparing the fish, and use of wood.²⁹

In the Virginia records under the date of June 18, 1621, the petition which was sent to the king regarding the fishing was referred to the Lords of the Privy Council. The Lords heard and debated both sides of the question, and by consent of both colonies confirmed two former orders. The one of March 16, 1619, agreed upon by Lenox and Arundel, and the other one of July 21, 1620, ordered that the two colonies should fish at sea within the limits of each other reciprocally, and only for the sustentation of the colony and the transportation of planters. The fishermen were to be allowed

²⁸Christy, loc. cit., 392-393.

²⁹Neale, loc. cit., 299;

the use of the shore for drying nets, preparing the fish, and the use of wood necessary, by the assignment of the governor at a reasonable rate.³⁰ The Privy Council also ordered that the patent of the northern colony be renewed, but the Virginia Company was allowed to see it.³¹ On July 28, 1621, the Privy Council ruled that "It is intended and so ordered that the agreement made by this board between them and New England and Virginia shall in all respects be duly observed by either party."³²

Within three days after the Privy Council's order, the Virginia Company issued commissions for fishing in New England to Thomas Smith, John Huddleston, Daniel Gates and Thomas Jones. These men were to fish without bothering the private possessions of anyone.³³

Fishermen continued to fish in New England without license. On February 12, 1622, the mayor of Plymouth wrote to the Lord Treasurer asking that he enforce the fishing regulations as ordered by the Privy Council. Evidently Gorges had threatened to confiscate the fishermen's ships and goods if they fished without a license.³⁴ On October 23, 1622, the Council for New England presented a petition to the Privy

³⁰Documents Relative to the State of New York, III, 4.

³¹Records of the Virginia Company, III, 459-460.

³²Documents Relative to the State of New York, III, 5.

³³Records of the Virginia Company, III, 513-525.

³⁴Calendar of State Papers, Domestic, 1619-1623, 344.

Council stating that it was having trouble with interlopers. The petition repeated the king's order that English subjects not adventurers or planters were forbidden to come to the New England coast. The Privy Council had also written letters to the west coast towns requesting that their inhabitants conform to His Majesty's wishes. Some English subjects had come to New England the previous year and deposed some of the planters from their fishing places. The Privy Council ordered that the attorney-general prepare a proclamation for the king's signature prohibiting all persons from the coast according to the royal grant.³⁵

Captain Francis West was commissioned admiral of New England by the Council for New England in November, 1622, and was sent to New England in the hope that he could stop the illegal trading and fishing. A fishing license was to be obtained from the Council for New England for a sum of money. West had little or no success, for the fishermen were stubborn and strong.³⁶

The parliament was adjourned from June 4, 1621, until November 14 of that year. When it convened after the recess, it adjudged Gorges's charter a grievance.³⁷ Parliament was prorogued from December 19, 1621, to February 19, 1624. Five days after the Commons reassembled, Mr. Heale reported that

³⁵Documents Relative to the State of New York, III, 11.

³⁶Deane, loc. cit., 304.

³⁷Preston, loc. cit., 38-39.

some ships from Plymouth and Barnstable had been arrested by a warrant from the admiralty because they had been fishing in New England. This had been done on the strength of Gorges's patent. Neale wanted the trial of these ships postponed until the bill for freer fishing was passed. It was decided to request Gorges to bring in his patent.³⁸ Another member, Dr. Gooch, thought the patent was profitable to the kingdom. He maintained that all English subjects could have a part in the adventure. Many of the prominent men in government had a share in the venture, among them the Duke of Buckingham. Glanville replied that the subjects might go there, but once there they must be regulated by the company and get out the best they knew how. He believed that the Duke of Buckingham was taken in by misinformation. Coke said that it was no more scandalous for the Duke to be involved than it was for the king who had granted the patent.³⁹

Gorges was called into the Commons in February, 1624.⁴⁰ Sir Edward Coke, the chairman of the committee on grievances, informed Gorges of the committee's decision that he should

³⁸Stock, 57; Deane, loc. cit., 307.

³⁹Stock, 57-58.

⁴⁰Gorges, Ferdinando, "A Brief Narration" in Massachusetts Historical Society Collections, series 3, VI, 66-67, gives the date as 1621. The parliament was recessed from June 4, 1621 to November 14, 1624. "Gorges was warned to appear here the first day of the next access and to bring his patent or a copy. This was December 18, 1621." Commons Journal, 1, 669.

bring his patent to the Commons.⁴¹ Gorges answered, "For my own part I was but a particular person and inferior to many to whom the patent was granted, having no power to deliver without their consent. Neither in truth is it in my custody." He believed the patent was still in the crown office where it had been left.⁴² Since the patent was undertaken for the advancement of religion, enlargement of the kingdom, increase of trade, and the employment of many people, Gorges did not think it could be considered a grievance. He did acknowledge that there was some profit from the fishing, but insisted that such profit was used in settling the colony. He was willing to submit the patent to the Commons. Gorges asked for a copy of the objections to his patent and for a counsel to be allowed him. These were granted. A committee was appointed to read the contract and pick out all the parts it considered contrary to the law of England.⁴³ Gorges maintained that if the plantation was not supported, the fishing would be lost to the French, Spanish and the Dutch. He noted that the manners and behavior of the fishermen was more than savage. They not only sold liquor and arms to the Indians but also cheated the Indians in trade.⁴⁴ The Smith faction of the Virginia Company supported

⁴¹Gorges, loc. cit. 66-67.

⁴²Ibid., 66-67.

⁴³Stock, 57-58.

⁴⁴Gorges, loc. cit., 70.

Gorges. Some of the patentees in the Council for New England were influential at court, namely, Buckingham, Lenox, Arundel, Pembroke and Hamilton.⁴⁵

Coke, the chairman of the committee on grievances, made his report to the Commons on March 15, 1623. The counsel for Gorges insisted that the patentees did not deny any one the right to fish but did deny them the right to take timber and the use of the land. The counsel also offered that if any clause was a disadvantage to the kingdom, the patentees would be willing to withdraw it. They felt that the king had the right to make what regulations he wished.⁴⁶

The committee for grievances in the Commons and the patentees debated some alterations. The former insisted that any punishment administered should be according to the laws of England. The patentees were willing to amend that clause in the patent which gave them "the power of expelling by the force of arms such as shall disturb, etc., forbidding to visit the coast upon the pain of confiscation." The restraining of traffic the Virginia Company thought was dishonorable to the king.⁴⁷ Coke reported that the clause "no subject of England shall visit the coast, upon pain of forfeiture of ships and goods" was yielded to by the patentees. The Council for New England would agree to allow English fishermen to

⁴⁵Osgood, 101.

⁴⁶Stock, 58.

⁴⁷Ibid., 59.

fish on their coast. Other things incidental to fishing such as, drying of nets, the salting of fish, taking of wood for fuel and repairing of ships, were also allowed.⁴⁸ There were some differences of opinion in the Commons over the taking of timber. Should the fishermen take the logs from anywhere or only at the convenience of the planters?⁴⁹

Again on April 28 Coke reported that the committee on grievances had studied Gorges's patent. He believed a sub-committee should be appointed to study the patent and draw up in some form the grievances found in it to be presented to the king the next day. A sub-committee of eleven headed by Coke was selected to do this.⁵⁰ This special committee particularly considered unlawful the two clauses "no man visit New England," which would overthrow the freedom of fishing and trade, and "penalty of confiscation," which the committee believed would require an act of parliament. Besides this "some fishermen had been sued in the Admiralty upon the pretense of this patent."⁵¹ On May 23, 1624, Coke reported that the committee on grievances had condemned the patent because of the "none should visit the fishing" clause.⁵² On May 25 the amendments to the patent were read

⁴⁸Ibid., 59; Commons Journal, I, 771.

⁴⁹Stock, 60-61.

⁵⁰Commons Journal, I, 771.

⁵¹Stock, 66.

⁵²Ibid., 69.

in the Commons and allowed.⁵³

The House of Commons finally decided on May 21 to draw up a petition concerning the Gorges patent and present it to the king. They particularly mentioned that by the patent of November 3, 1620, the king had prohibited all other English subjects from visiting the New England coast without a license from the Council for New England "upon the pain of confiscation." By so doing he kept the English fishing away from there. The petition stated that the fishing industry was beneficial in that it brought in money and food, increased commerce, and trained mariners. The petitioners believed that this restraint was contrary to the laws of England and did damage to the kingdom. The grievance had been examined in the present parliament. Gorges and his counsel had been called to defend the patent which they could not do.⁵⁴

Gorges and his counsel yielded that the subjects could fish with incidentals to fishing. The committee asked the king to declare the patent void and against the majesty's laws in so far as it provided for prohibiting free fishing and incidentals thereunto, confiscation of ships and goods, restraints, and penalties concerning free fishing.⁵⁵

Three days later the Solicitor and thirty others were to present these grievances to the king.⁵⁶ The next day the

⁵³Commons Journal, I, 711.

⁵⁴Cobbet, William, Parliamentary History of England, 1066-1813, (London, 1806), I, 1489-1490.

⁵⁵Stock, 70-71.

⁵⁶Ibid., 70-71; Commons Journal, I, 714.

Solicitor reported that he had presented the petition to the king, and had asked that the king give his answer before the parliament adjourned. The king did so and the Solicitor took the answer in writing:⁵⁷

It shall be free for all the king's subjects to visit the coasts of New England, freely to fish yielding only to the proprietors and tenants of the places where the fisherman shall make his stage a reasonable recompense for wood and timber which they shall there take in fit places, and if anything in the patent be against the law, it shall be reformed.⁵⁸

But the House of Commons resolved "that no copy to be made of the king's answer, but to be returned to Mr. Solicitor because not issued by the King's warrant."⁵⁹ Solicitor-General Heath reported that the king assented to a number of petitions for redress of general grievances, but the one on fishing is not specifically mentioned in his report.⁶⁰

Parliament was prorogued from May 29, 1624, until November 2, 1624, and then due to much sickness it was postponed.⁶¹ The death of the king on March 27, 1625, automatically dissolved Parliament, so nothing more was done about the charter at this time. The matter was brought up again during Charles's reign.

⁵⁷Ibid., I, 798.

⁵⁸Stock, 72.

⁵⁹Commons Journal, I, 715, 798.

⁶⁰Calendar of State Papers, Domestic, 1623-1625, 259.

⁶¹Ibid., 352.

Because the Privy Council had not settled the fishing question to the satisfaction of either the Virginia Company or the Council for New England, the problem was brought before parliament in 1621.⁶² The Sandys faction asked the Commons on April 17 of that year to pass an act to allow for freer fishing on the coast of Newfoundland, Virginia and New England. As already mentioned, this faction pointed out that fishing was beneficial to the kingdom. The law as drafted read,

That it shall and may be lawful to and for all and every subject of England forever to go, repair, and come into the sea coasts and places aforesaid and every of them freely there to fish, also to have priority and election of places convenient in order as they shall respectively arrive for splitting, and salting fish of all kinds. Also for doing all things thereunto incident to fishing, also timber, wood, fuel, sufficient for repairing of ships, building of boats, to be used in fishing, making and repairing staves.⁶³

On April 25 Sandys opened the debate on the bill for freer fishing. He maintained that New England had a grant for the sole privilege of fishing in its water. The king had been made aware of this and was holding up the patent. Sandys favored the right of all the king's subjects to be free to fish there.⁶⁴ The group supporting the bill said that the

⁶²Brown, II, 902.

⁶³Commons Journal, I, 578; Notestein, VII, 202-204. The wording is a bit different and more is given, but there is no change in thought. It ends with "Thence the ships and goods freely and quietly return without unlawful molestations, restrain of any persons there inhabiting."

⁶⁴Deane, loc. cit., 298; stock, 35.

fishing industry brought £100,000 into the kingdom yearly in coin, by the sale of fish in Spain, whereas it cost the kingdom nothing and provided employment for ships and men.⁶⁵

The bill was committed to Sandys, and a full hearing was ordered to be held in the Exchequer Chamber.⁶⁶ Secretary Calvert thought "this bill not proper for this house (Commons) because it concerns a country not annexed to the crown, and that the fishermen must be ruled by laws."⁶⁷ He wanted the word "unlawful" added to the word "molestations".⁶⁸

John Smith and F. Gorges were two of the four on this committee.⁶⁹ On May 24, 1621, the bill was ordered engrossed. The bill had been read twice and was ready for the final reading when parliament was recessed from June 4, 1621, to November 14, 1621.⁷⁰ When it reconvened in November the men from the western towns of Bristol, Plymouth, Dartmouth, Barnstable and Keymouth wanted to hurry the bill through the House.⁷¹ The bill was passed on December 1, 1621.⁷²

⁶⁵Commons Journal, I, 591-592.

⁶⁶Deane, loc. cit., 298.

⁶⁷Stock, xl.

⁶⁸Commons Journal, I, 626.

⁶⁹Stock, 40.

⁷⁰Deane, loc. cit., 299.

⁷¹Gorges received his patent while parliament was recessed. The Privy Council had stayed his ships that were ready to go to New England. Commons Journal, I, 640. The Lord Treasurer gave order that the ships may go presently, without stay. Commons Journal, I, 641.

⁷²Ibid., 654; Notestein, V, 410.

Nineteen days later James dissolved parliament. The House of Lords' Journal showed no action on this bill.⁷³

Parliament was called into session again on February 19, 1624, and five days later Mr. Neale brought up the bill for freer fishing in America. The first reading of the bill in this session was presented on the next day.⁷⁴ On March 15 the bill was again read and then given to Edwin Coke, chairman, and a committee of twenty-three to study.⁷⁵ On April 10 the bill was again reported, and an amendment offered by Mr. Guy was read. The bill was then recommitted. All of those interested were asked to meet on April 16 in the Exchequer Chamber.⁷⁶ On April 15 the bill was referred to Wentworth,⁷⁷ who two weeks later reported the bill for freer fishing back to the Commons. The amendment was twice read, and the bill was ordered to be engrossed.⁷⁸ The next day the bill was read for the third time, but the debate on it was postponed until the following day.⁷⁹ The debate was not renewed, however, until May 3. Two provisos to be added to the bill were read. Secretary Calvert feared that the free fishing would

⁷³Stock, 57, note 2.

⁷⁴Commons Journal, I, 673.

⁷⁵Ibid., 686.

⁷⁶Ibid., 762.

⁷⁷Ibid., 767.

⁷⁸Ibid., 777, 692.

⁷⁹Ibid., 694.

cause the overthrow of the plantations in America and that the cutting of wood within a quarter of a mile of any habitation was prejudicial to the planters. Both of these provisos were killed, but the bill was passed.⁸⁰ The next day the Commons sent twelve bills to the House of Lords and this bill for freer fishing was among them.⁸¹ The House of Lords probably did not get around to acting on the bill, because the parliament was recessed on May 29 to November 2, and then again until February 15, 1625, due to the plague, and then again postponed. On June 6, 1624, Chamberlain wrote to Carleton that the parliament had passed thirty-four acts but many that were more desired were stopped.⁸² He might well have included among the latter the bill to provide for freer fishing in American waters.

⁸⁰Ibid., 697.

⁸¹Stock, 69.

⁸²Calendar of State Papers, Domestic, 1623-1625, 267.

CHAPTER VII

CONCLUSION

With the issuance of the first charter the king had retained control over the government of the colony in America. He appointed the Royal Council members and also the members of the council resident in Virginia and New England. When the Virginia Company saw that the colony was not as profitable as had been expected, it asked for a new charter. In this charter the king gave up much of his control over the colony, and in the third charter he gave up all control over the colony. The government of the Virginia colony was entirely in the hands of the Treasurer and Company.

With the third charter the membership of the company was greatly increased, and according to the charter all the members of the company were to have a voice in the government and the policy making for the company and the colony. At some of the court meetings of the company there were as many as two hundred members present. With such a large attendance there were bound to be differences of opinions which led to discord in the company proceedings.

The tobacco trade was the first cause of great friction among the members of the company. The company objected to the payment of the subsidies and impositions levied by the king. The king granted monopolies to private individuals for

the garbling and selling of the tobacco. The company was obliged to pay these individuals a certain amount for the garbling of the tobacco. The company objected because it left a small profit for the company. When the king tried to negotiate a contract for the marketing of the tobacco with the company, the members of the company could not agree on the terms. Some of the members objected to the salaries that were proposed for the officers that would have charge of the tobacco trade.

The problem of fishing caused a rift between the Council for New England and the Virginia Company. The Virginia Company wanted the House of Commons to pass a bill for freer fishing in New England. The Commons did so, but the House of Lords did not act upon it. It was not settled before King James died in March 1625.

Some of the trouble within the Virginia Company was caused by jealousy and rivalry among some of its more prominent members, namely Sandys and Smith. Each man had his supporters.

There was so much bickering within the Virginia Company Court meetings that some of the members asked the Privy Council and the king to help them bring about some harmony. The king appointed a commission to study the charter of the company and the orders issued by the king. The commission was to determine what was to be done. As a result of the findings of this commission "quo warranto" proceedings were brought against the company. Chief Justice Ley declared the

charter void. The colony in Virginia would be under the jurisdiction of the king and the Privy Council. The king would appoint the members of the Royal Council for the Virginia Company. This Royal Council would be responsible to the king and the Privy Council. Thus the members of the Virginia Company lost control of their company and also of their colony in Virginia.

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