

[a765]
Whitehall April 5th 1733

My Lord

Having in Obedience to His Majesty's Com-
mands signified to Us by your Grace's Letter of the
27th of the last Month, prepared the Draught of a Com-
mission for Gabriel Johnston Esq^r to be Governour of
North Carolina in America; We herewith inclose the
said Draught to your Grace with Our Representation
thereupon, Which you will be pleased to lay before
His Majesty

We are

My Lord

Your Grace's

Most Obedient and Most
humble Servants

Westmoreland.

J Pelham

Edw. Ashe

= P. Dominique

Orl: Bridgeman

M Bladen

His Grace the Duke of Newcastle.

Endorsed. April 5th 1733 / Board of Trade. / M^r. John: [a768]
ston's Commⁿ as / Gov^r of N^o. Carolina.

[p. 769]

Drawn
by
[unclear]
[unclear]

To the Kings most Excellent Majesty.

May it please Your Majesty.

In Obedience to your Majesty's Commands signified to us by His Grace the Duke of Newcastle's Letter dated the 27th of the last Month, We have prepared the Draught of a Commission for Gabriel Johnston Esq^r: to be Governor of North Carolina in America; Which being in the usual Form, We herewith humbly lay the same before your Majesty; and shall prepare the necessary Instructions for Mr Johnston with all possible Dispatch

Which is most humbly Submitted

Westmoreland.

J Pelham = P. Dominique

Edw: Ashe

Col: Bridgemans

M Bladers

Whitehall.
April 5th 1733 }

Endorsed. April 5th 1733/ Representation of the Board
of Trade with the Dra^t: of a Commission for Gabriel
Johnston Esq^r: to be Gov^r: of North Carolina. / R 9 May 1733/
10th D^o. Read / and App^d [p. 772]

E713

Seals
impressed on
the paper over
the seal

At the Court at St James's

the 10th day of May 1733.

Present

The Kings most Excellent Majesty
in Council -

Upon reading this day at the Board a Representation from the Lords Commissioners for Trade and Plantations together with a Draught of a Commission prepared by the said Lords Commissioners for Gabriel Johnston Esq^r to be Captain General and Governour in Chief in and over the Province of North Carolina in America, which Draught of a Commission being in the usual form - His Majesty in Council was pleased to Approve thereof and to Order as it is here: by Ordered that His Grace the Duke of Newcastle one of His Majestys Principal Secretaries of State do cause a Warrant to be prepared for His Majestys Royal Signature in Order to pass the said Draught of a Commission (which is hereunto annexed) under the Great Seal of Great Britain. -

W. Cary

[George R. _

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Our Will and Pleasure is, that you prepare a Bill for Our Royal Signature, to pass Our Great Seal of Great Britain, in the Words following —] [in another hand]

George the Second by the Grace of God, of Great Britain, France and Ireland King, defend^r of the Faith & so forth To Our Trusty and Welbelov'd Gabriel Johnston Esq^r Greeting. Whereas We did by Our Letters Patents, under our Great Seal of Great Britain, bearing date at Westminster, the ... day of ... in the ... Year of Our Reign; constitute and appoint George Burrington Esq^r Captain General and Govern^r in Chief, in and over Our Province of North Carolina in America, during Our Will and pleasure, as by the said recited Letters Patents, relation being thereto had, may more fully and at large appear: Now know you, that We have revoked and determined, and by these Presents do revoke and determine the said recited Letters Patents, and every clause, Article and thing therein contained. And further Know You, that We reposing especial Trust and confidence, in the prudence, courage and Loyalty of you the said Gabriel Johnston, of Our especial Grace, certain knowledge and mere motion, have thought fit to constitute and appoint, and by these Presents do

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Constitute and Appoint you the said Gabriel Johnston to be Our Captain General and Governor in Chief, in and over Our Province of North Carolina in America.

And We do hereby require and command you, to do and execute all things in due manner, that shall belong unto your said Command, and the Trust We have reposed in you; according to the several Powers and Authorities granted or appointed you, by this present Commission, and the Instructions herewith given you, or by such further Powers, Instructions and Authorities, as shall at any time hereafter be granted or appointed you, under Our Signet and Sign Manual, or by Our Order in Our Privy Council; and according to such reasonable Laws and Statutes as now are in force, or hereafter shall be made and agreed upon by you, with the Advice and Consent of Our Council and the Assembly of Our said Province under your Government, in such manner and form as is hereafter expressed.

And Our Will and Pleasure is, that you the said Gabriel Johnston (after the publication of these Our Letters Patents) do in the first Place take the Oaths, appointed to be taken by an Act passed in the first Year of the Reign, of Our late Royal father of Blessed Memory, Entituled, An Act for the further Security of His Majesty's Person and Government, and the

Succession of the Crown, in the Heirs of the late Prin-
cess Sophia being Protestants, and for extinguishing
the hopes of the pretended Prince of Wales, and his
Open and Secret Abettors; as also that you make and
subscribe the Declaration, mentioned in an Act of
Parliament made in the 25th year of the Reign of
King Charles the Second, Entitled, An Act for pre-
venting dangers which may happen from Popish
Precursors. And likewise that you take such Oath as
is usually taken by the Governors of Our Colonys in
America for the due Execution of the Office and Trust
of Our Captain General, and Governor of Our said Pro-
vince, for the due and impartial Administration of
Justice; And further that you take the Oath required
to be taken by Governors of Plantations, to do their ut-
most that the several Laws relating to the Plantations
be observed; which Said Oaths and Declaration, Our
Council in Our said Province, or any three of the Mem-
bers thereof, have hereby full Power and Authority,
and are required to tender and Administer unto you,
and in your Absence, to Our Lieutenant Governor, if
there be any upon the Place. All which being duly
performed, you shall Administer unto the Members
of Our said Council, as also to Our Lieutenant Gover-
nor, if there be any upon the Place, the said Oaths
mentioned in the said Act Entitled, An Act for the

¹²⁷ further Security of His Majesty's Person and Government, and the Succession of the Crown/in the Heirs of the late Princess Sophia being Protestants and for Extinguishing the hopes of the pretended Prince of Wales and his open and secret Abettors; As also cause them to make and subscribe the aforementioned Declaration, and to administer to them the Oath for the due Execution of their Places and Trusts.

And We do hereby give and grant unto you full power and Authority to Suspend any of the Members of Our said Council, from sitting, Voting and assisting therein, if you shall find just cause for so doing.

And if it shall at any time happen, that by the Death, departure out of Our said Province, Suspension of any of Our said Councillors, or otherwise there shall be a Vacancy in Our said Council: (any three whereof we do hereby appoint to be a Quorum) Our will and pleasure is, that you signify the same unto Us by the first opportunity, that We may under Our Signet and Sign Manual, constitute and appoint others in their stead.

But that Our Affairs at that distance may not suffer, for want of a due number of Councillors if ever it shall happen that there be less than seven of them residing in Our said Province; We do hereby give and grant unto you the said Gabriel Johnston

full power and authority to choose as many Persons ^[p. 81.]
out of the Principal Freeholders, Inhabitants thereof, as
will make up the full Number of Our said Council to
be Seven and no more: Which Persons, so chosen and
appointed by you, shall be to all intents and purposes
Councillors in Our said Province, until either they shall
be confirmed by Us, or that by the Nomination of others
by Us, under Our Sign Manual and Signet, Our said
Council shall have Seven or more persons in it.

And We do hereby give and grant unto you,
full power and Authority, with the Advice and Con-
sent of Our said Council, from time to time, as need
shall require, to Summon and call General Assemblies
of the said Freeholders and Planters within your Gover-
-ment, according to the Laws and Usages of Our said
Province of North Carolina.

And Our will and Pleasure is, that the
persons thereupon duly Elected, by the Major part of
the Freeholders, according to such Laws and Usages
as aforesaid; and of the respective Counties and Places,
and so returned, shall, before their sitting, take the
Oaths mentioned in the said Act, Entituled, An Act
for the further Security of His Majesty's Person and
Government and the Succession of the Crown in the
Heirs of the late Princess Sophia being Protestants,
and for extinguishing the hopes of the pretended

Prince of Wales, and his Open and Secret Abettors: as
also make and subscribe the forementioned Declarations,
[p 782] (which Oaths & Declaration / you shall commissionate
fit persons, under Our Seal of North Carolina to tender
and Administer unto them; (and until the same shall
be so taken and subscribed, no Person shall be capable
of Sitting thro^t Elected) And We do hereby declare, that
the Persons so Elected and qualify'd, shall be called
and deemed the General Assembly of that Our said
Province and Territory of North Carolina.

And that you the said Gabriel Johnston
with the consent of the said Council and Assembly,
or the Major part of them respectively, shall have full
power and Authority to make, constitute and ordain
Laws, Statutes and Ordinances for the publick Peace
Welfare and good Government of Our said Province
and of the People and Inhabitants thereof, and such
others as shall resort thereto, and for the Benefit of
Us, Our Heirs and Successors: Which said Laws, Sta-
-tutes and Ordinances are not to be repugnant, but
as near as may be agreeable to the Laws and Statutes
of this Our Kingdom of Great Britain.

Provided that all such Laws, Statutes
and Ordinances, of what Nature or duration soever,
be within three Months or sooner, after the making
thereof, transmitted unto Us, under Our said Seal of

North Carolina, for Our Approbation or Disallowance of
the same, as also Duplicates thereof by the next Conveyance.

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/ And in case any, or all of the said Laws,
Statutes and Ordinances, not before confirmed by Us,
shall at any time be disallowed and not approved, and
so signified by Us, Our Heirs or Successors, under Our
or their Signet or Sign Manual, or by Order of Our or
their Privy Council, unto you the said Gabriel Johnston,
Or to the Commander in Chief of Our said Province for
the time being; then Such, and so many of the said
Laws, Statutes and Ordinances, as shall be so disallowed
and not approved, shall from thenceforth cease, determine
and become utterly void and of none Effect; any thing
to the contrary notwithstanding.

And to the end that nothing may be passed,
or done by Our said Council or Assembly, to the preju-
dice of Us, Our Heirs and Successors, We will and
Ordain, that you the said Gabriel Johnston, shall
have and enjoy a Negative Voice, in the making and
passing of all Laws, Statutes and Ordinances as aforesaid.

And you shall and may likewise from
time to time, as you shall judge it necessary, Adjourn,
Prorogue and Dissolve, all General Assemblies as aforesaid.

Our further Will and Pleasure is, that you
shall and may keep and use the publick Seal of Our
said Province of North Carolina, for sealing all things

whatsoever, that ought to pass the Seal of Our said Province, under Your Government.

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And We do further give and grant unto you the said Gabriel Johnston, full power and Authority, from time to time, and at any time hereafter, by your self, or by any other to be Authorized by you in that behalf; to Administer and give the Oaths mentioned in the said Act, for the further Security of His Majesty's Person and Government, and the Succession of the Crown in the Heirs of the late Princess Sophia being Protestants; and for extinguishing the hopes of the pretended Prince of Wales, and his open and secret Abettors, to all and every Such person or persons, as you shall think fit, who shall at any time or times pass into Our said Province, or shall be resident or abiding there.

And We do by these presents, give and grant unto you the said Gabriel Johnston, full powers and Authority, with the Advice and Consent of Our said Council, to Erect, constitute and Establish such and so many Courts of Judicature, and publick Justice within Our said Province and Territory; as you and they shall think fit, and necessary for the hearing and Determining of all Causes as well Criminal as Civil according to Law and Equity, and for awarding of Execution thereupon, with all reasonable and necessary Powers, Authorities, Fees and

Privileges belonging therunto; As also to appoint and
commissione fit Person in the Several parts of your
Government, to Administer the Oaths mentioned in
the foresaid Act, as also to tender and Administer the ^[275]
aforesaid Declaration unto such persons belonging to
the said Courts, as shall be obliged to take the same.

And We do hereby Authorize and Em-
power you, to constitute and appoint Judges, and
in cases requisite, Commissioners of Oyer and Ter-
-miner, Justices of the Peace, and other necessary
Officers and Ministers in Our said Province, for
the better Administration of Justice and putting
the Laws in Execution; And to Administer or cause
to be Administered unto them, such Oath or Oaths,
as are usually given within Our Colony of Vir-
-ginia, for the due Execution and performance of
Offices and Places, and for the clearing of Truth
in Judicial Causes.

And We do hereby give and grant
unto you, full power and Authority, where you
shall see cause, or shall judge any Offender or
Offenders in Criminal matters, or for any Fines
or Forfeitures due unto Us, fit Objects of Our Mercy;
to pardon all such Offenders & to remit all such
Offences, Fines and Forfeitures; Treason and Wilful
Murder only excepted; In which case, you shall

likewise have power, upon extraordinary Occasion to grant Reprieves to the Offenders until, and to the intent; Our Royal Pleasure may be known therein.

[276] And We do by these Presents Authorize and Impower you, to collate any person or persons to any Churches, Chappels, or other Ecclesiastical Benefices within Our said Province and Territory aforesaid; to which We Our Heirs and Successors are, or shall be Entitled to collate, as often as any of them shall happen to be void.

And We do hereby give and grant unto you the said Gabriel Johnston, by your self or by your Captains and Commanders, by you to be Authorized, full power and Authority to Levy, Arm, Muster, Command and Employ all persons whatsoever, residing within Our said Province and Territory of North Carolina, and as Occasion shall Serve to March from one Place to another, or to embark them for the resisting and withstanding of all Enemies, Pirates and Rebels both at Land and Sea, and to transport such Forces to any of Our Plantations in America, if necessity shall require, for the Defence of the Same, against the Invasion or attempts of any of Our Enemies, and such Enemies, Pirates and Rebels (if there shall be Occasion) to pursue and prosecute in or out of the Limits of Our said Province, and Plantations, or any of them; And (if it shall so please God) them to vanquish

Apprehend and take, and being taken, according to Law to put to Death, or keep and preserve alive at your discretion: And to execute Martial Law in time of Invasion or other times, when by Law it may be Executed, and to do and execute all and every other thing and things, which to Our Captain General or Governour in Chief doth or ought of right to belong.

And We do hereby give and grant unto you full power and Authority, by and with the Advice and consent of Our said Council of North Carolina, to Erect, Raise and Build in Our said Province and Territory, such and so many Forts and Platforms, Castles, Cities, Boroughs, Towns and Fortifications as you, by the Advice aforesaid, shall Judge necessary, and the same or any of them to Fortify and Furnish, with Ordnance, Ammunition and all sorts of Arms, fit and necessary for the Security and Defence of Our said Province. And by the Advice aforesaid the same again, or any of them, to Demolish or Dismantle as may be most convenient.

And forasmuch as divers Mutinies, and disorders may happen, by persons shipped and employed at Sea, during the time of War; and to the end that such as shall be shipped and employed

at Sea during the time of War, may be better governed
and ordered. We do hereby give and grant unto you the
said Gabriel Johnston full power and Authority, to con-
stitute and appoint Captains, Lieut^s, Masters of Ships,
and other Commanders and Officers, Commissions
to execute the Law Martial, according to the Direc-
tions of an Act passed in the 13th Year of the Reign
of King Charles the 2^d, Entitled, An Act for the
Establishing Articles and Orders, for the regulat-
^[278]-ing and better Government of His Majesty's Navies,
Ships of War and forces by Sea, during the time
of War, and to use such proceedings, Authorities,
Punishments corrections and Executions upon any
Offender or Offenders, who shall be mutinous, Sedi-
tious, disorderly or any way unruly, either at Sea
or during the time of their Abode or residence in
any of the Ports, Harbours or Bays of Our said Pro-
vince and Territory, as the cause shall be found
to require, according to Martial Law, and the said
Directions during the time of War as aforesaid;
Provided that nothing herein contained shall be
construed to the enabling you, or any by your Autho-
rity, to hold Plea, or have any Jurisdiction of
any Offence, Cause, Matter or thing committed
or done upon the High Seas, or within any of the
Havens, Rivers or Creeks of Our said Province and

Territory under your Government, by any Captain, Commander, Lieutenant Master, Officer, Seaman, Soldier or person whatsoever, who shall be in Our Actual Service and Pay in or on Board any of Our Ships of War, or other Vessels acting by immediate Commission or Warrant, from Our Commissioners for executing the Office of Our High Admiral, or from Our High Admiral of Great Britain, for the time being, under the Seal of Our Admiralty. But that such Captain, Commander, Lieutenant, Master, Officer, Seaman, Soldier or other person, so Offending shall be left to be proceeded against and try'd as their Offences shall require, either by Commission under Our Great Seal of Great Britain as the Statute of the 28th of Henry the Eighth directs, or by Commission from Our said Commissioners ^[1709] for executing the Office of Our High Admiral, or from Our High Admiral of Great Britain for the time being, according to the forementioned Act for Establishing Articles and Orders, for the regulating and better Government of His Majesty's Navies, Ships of War and Forces by Sea, and not otherwise, Pro-vided nevertheless that all disorders and misdemeanors committed on Shoar by any Captain, Commander, Lieutenant Master, Officer, Seaman, Soldier or other person whatsoever, belonging to any

of Our Ships of War or other Vessels, Acting by immediate Commission or Warrant from Our said Commissioners for Executing the Office of High Admiral, or from Our High Admiral of Great Britain for the time being, under the Seal of Our Admiralty, may be tried and punished according to the Laws of the Place, where any such disorder, Offences, and Misdemeanors shall be committed on Shore, notwithstanding such Offender be in Our Actual Service and born in Our pay, on Board any such of Our Ships of War or other Vessels, Acting by immediate Commission or Warrant from Our said Commissioners, for Executing the Office of High Admiral, or Our High Admiral of Great Britain for the time being as aforesaid, so as he shall not receive any Protection for the Avoiding of Justice for such Offences committed on Shore, from any pretence of his being Employed in Our Service at Sea.

And Our further Will and Pleasure is, that all publick money raised, or which shall be raised, by any Act hereafter to be made within Our said Province, be issued out by Warrant from you by and with the advice and consent of the Council, and disposed of by you, for the support of the Government, and according to the Laws of Our said Province of North Carolina and not otherwise.

And We do likewise give and grant

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unto you, full power and Authority, by and with the Advice and consent of Our said Council, to settle and agree with the Inhabitants of Our said Province, for such Lands, Tenements and Hereditaments as now are, or hereafter shall be in Our power to dispose of; and them to grant to any person or persons upon such Terms and under such moderate Quit Rents Services and acknowledgements, to be thereupon reserved unto Us, as you by the Advice aforesaid shall think fit: Which said Grants are to pass and be sealed, by Our Publick Seal of Our said Province, and being entered upon Record by such Officer or Officers, as are or shall be appointed thereunto, shall be good and effectual in Law, against Us Our Heirs and Successors.

And We do hereby give and grant unto you the said Gabriel Johnston, full power to order & appoint Fairs, Markets and Markets, as also such and so many Ports, Harbours, Bays, Havens and other Places for convenience and security of Shipping, /And for the better loading, and unloading of Goods and Merchandizes, as by you with the Advice and consent of the said Council, shall be thought fit and necessary. 12797

And We do hereby require and command all Officers and Ministers, Civil and

Military, and all other Inhabitants of Our said Province & Territory, to be Obedient, Aiding and Assisting unto you the said Gabriel Johnston in the Execution of this Our Commission, and of the powers and Authorities herein contain'd; and in case of your Death or Absence out of Our said Province, to be Obedient, Aiding and Assisting unto such person as shall be appointed by Us, Our Heirs and Successors to be Our Lieutenant Governor or Commander in Chief of Our said Province, to whom We do therefore by these presents, give and grant all and Singular the powers and Authorities herein granted, to be by him executed and enjoyed, during Our Pleasure, or until your Arrival within Our said Province, and whom We do hereby require to take all such Oaths and make such Declaration, as are herein before appointed to be taken and made by you, which said Oaths and Declaration Our said Council in Our said Province or any three of the Members thereof, have hereby full power, and are hereby required to tender and administer.

[E 792]

And if upon your Death or Absence out of Our said Province, there be no person upon the place commissioned or appointed by Us, to be Our Lieutenant Governor or Commander in Chief of Our said Province; Our Will and Pleasure is, that the Eldert Councillor whose Name is first placed in Our said

595.
Instructions to you, and who shall be at the time of your Death or Absence, residing within Our said Province and Territory of North Carolina, shall take upon him the Administration of the Government, and execute Our said Commission and Instructions, and the several powers and authorities therein contained, in the same manner and to all intents and purposes as other Our Governor or Commander in Chief should or ought to do, in case of your Absence, until your return, or in all cases until Our further Pleasure be known therein

And We do hereby declare, Ordain and appoint that you the said Gabriel Johnston shall and may hold execute and enjoy the Office and Place of Our Captain General and Governor in chief, of Our said Province and Territory of North Carolina, with all its Rights, Members and Appurtenances whatsoever, together with all & singular the Powers and Authorities hereby granted unto you for and during Our Will and Pleasure. In Witness whereof We have caused these Our letters to be made Patents Witness & so forth

[And for so doing this shall be your Warrant. Given at Our Court at St. James's ^[P. 77]

7
The Tenth Day of May 1733. in the Sixth Year
of Our Reign —

By His Majesty's Command
Hollis Newcastle

To Our Attorney or
Solicitor General] [in another hand]

^{E 7963} Endorsed. draught of the commⁿ of Gabriel Johnston
Esq^r / Gov^r of North Carolina