To the King's Most Excellent Majesty

in Council;

The Memorial of Henry McCulloh, on behalf of himself, George Augustus Selwyn, Henry Eustace McCulloh, and John Campbell, his Associates in Interest,

Most Humbly Sheweth;

That on the 15th day of March 1745. (N.S.) Eleven Grants each containing 12,500 acres of land, were passed under the Seal of Your Majesties Province of North Carolina to Your Memorialist; also Four other Grants each containing 12,500 acres, to your Memorialist's Children, now in the Claim of the said Henry Eustace McCulloh as the only Survivor of them; also sixteen other Grants, each containing 12,500 acres, to John Selwyn Esquire deceased, now in the Claim of the said George Augustus Selwyn, as his Son and heir at law; and also one other Grant containing 12,500 acres, to the said John Campbell: — in each and every of which grants, was contained an exemption of Quit-rents for Ten years; — and a Condition of Forfeiture as to all such parts thereof, as should not be settled within that Term, in the proportion of One White person for every 200. Acres: — with a Proviso, that no Advantage should be taken of such Lapse, (if any,) until such time as the Crown should think proper to resume the said lands as forfeited, for want of being settled as aforesaid; — the Grantee his heirs and Assigns being still liable to pay Quit-rents for the same, until the Pleasure of the Crown should be declared thereon.

That at the same time, sundry other Grants under the like Conditions, were issued to sundry other persons with whom Your majesty's Memorialist had not any manner of Interest or Concern.

That on the same day, a Grant was also issued to Your Memo.ist for 71,160. Acres on the Head-waters of the North-East branch of Cape Fear River with such exemption as aforesaid, and a Condition of Settlement in the proportion of One White person for every 200 acres.

That in 1754, His late Majesty was pleased by his 85th. Instruction to Mr. Dobbs then Governor of North-Carolina, to direct him to seize and take possession of, (for the use of the Crown,) all such lands contained in the said Grants, as should not at the expiration of the Term of Ten Years, be settled according to the Conditions thereof: — And the said Governor was also directed, to cause proper measures to be taken, to secure the Payment of the Quit-Rents

Quitrents upon all such parts of the said Lands as should at that time, be duly and compleatly settled, by admitting the Tenants holding under the Grantees by deeds or leases, to enter the same in the Auditor's Office, and to Attorn for the payment of Quitrents to the Crown, for the proportions of land they were actually in possession of, under such deeds or leases.—

In 1756, Your Memo.ˡˢ preferred his humble Petition to His late Majesty in Council, praying, that in Consideration of the great obstructions he had met, from Hostilities being commenced in America, His Majesty would be graciously pleased to grant him and his Associates, a further Time for carrying on the said Settlement:— And also, that in consideration of £258A.— formerly deducted from Arrears of Salary due to him,— His Majesty would be pleased to allow that Sum to be sett-off against such Quitrents, as might thereafter arise or become due, for such Lands as he and his Associates should be intitled to, in right of Settlement:— Whereupon, His late Majesty was graciously pleased by his Order in Council, dated 13.ᵗʰ October 1756, to direct Govʳ Dobbs, to defer carrying his said 8A.ᵗʰ Instruction into Execution, until the 25.ᵗʰ of March 1760;— And further by His Royal Warrant from the Treasury, dated in Novʳ 1756,— to direct the Receiver-General of said Province, to sett off the said £258A. Sterling, formerly abated from the Arrears of Your Memorialist's Salary, against the Quitrents of Your Memorialist & his Associates Lands in the said Province.—

That in 1761,— Your Majesty was pleased to renew the said 8A.ᵗʰ Instruction to Govʳ Dobbs,— but the Cherokee-war having broke out immediately after the Treaty with France,— the said Governor could not proceed in this matter, until the latter end of 1762,— nor was it safe to go into those frontier parts of the Colony, as the Indians had scalped many of the Inhabitants on the said Lands, and thrown the Settlement into the greatest Confusion:— but in December 1762. the said Governor appointed Colonels Nathaniel Alexander, and John Frohock to take an account of the Settlers who were actually & bonâ fide resident upon Your Memoˡˢ and his said Associates' Lands on the 25.ᵗʰ day of March 1760,— and to make returns thereof upon their Oaths;— but from the great difficulties which attended this business, the said Returns were not made by them as to Your Memoˡˢ and his two last named Associates lands, until the 9.ᵗʰ day of October 1766, nor as to Mʳ Selwyn's, till the 27.ᵗʰ day of January, and 3.ᵈ day of March 1767.— And the said Governor in April 1763.— also appointed The Honorable John Sampson Esqʳ to proceed and make such return as to the Settlers resident as aforesaid upon your Memoˡˢ Lands on the head of Cape Fear River, on the said 25.ᵗʰ day of March 1760, which return was not made until the 29.ᵗʰ of Novʳ 1766.— Your Memorialist most humbly prays leave to observe, that it evidently appears, there has not been any delay given by him in the Surrender of the unsettled Lands; as nothing could be done on his part, until the Returns were made in pursuance of the said Govʳ Orders in Council, appointing Commissioners for that Purpose; And that as he and his

Associates

Associates are only intitled to such lands as were actually settled on the 25th day of March 1760, they could not possibly receive any benefit, present or future, from the unsettled lands, or from the delay which attended this matter.

Quick-Rents When the quit-rents on your Memos lands came into course of payment, Your Mays Receiver General refused to set off the Quitrents in the manner prescribed by the said Order in Council dated in October 1756, but insisted, that the £258 A. granted to Your Memost, should be applied in discharge of the Quitrents of all the Grantees, who had obtained Grants in pursuance of His late Majesty's Order dated in 1737, and also that Your Memos & his Associates should be answerable for Quit-rents on the forfeited lands, from March 1756. until the Time of the Surrender. —— To obviate said Objections, Your Memost in 1762, most humbly besought Your Majesty, to be graciously pleased to explain the Royal orders in Council which had been given on that head, & that the said Warrant of £258 A. might be sett off only, against the quitrents of such lands as he and his Associates, with whom he had any Interest or Concern, might appear intitled to, in consequence of Settlement: — Whereupon, Your majesty was most graciously pleased, by your Royal Order in Council dated in October 1762, to direct your Governor of Nth Carolina, and all Others whom it might concern, that the said Sum of £258 A should be sett off against the Quitrents of all such lands, as Your Memost and his Associates, with whom he had any Interest or Concern, were intitled to in the said Province of North Carolina, which had, or should become due since the 25th of March 1760, from which time, the quitrents on your Memos & and his Associates said lands were to commence. —

As most humbly conceived, the two apparent Objects of Your Majesty's gracious Intentions under the said Order, were; — 1st — That the £258 A. Due to Your Memost, was only to be applied to the quitrents of such persons with whom he had Interest or Concern; — 2dly — That at the Time of the Surrender of the unsettled lands, Your Memost and his Associates in Interest, were only to pay Quitrents for such lands as they were intitled to, in right of Settlement effected.

In 1766. — the Instructions which had been given to the late Wm Dobbs, were again renewed to the present Govr Wm Tryon, but upon Application made to him to have the unsettled lands surrendered, agreable to the said Instructions, — the afore-mentioned Orders in Council, — and the Returns of Settlement made as aforesaid; — it was alledged, that there were no negative words in the above recited Order in Council in 1762, to exempt your Memost and his Associates in Interest, from the payment of quitrents on the forfeited lands surrendered; & therefore it was insisted, that Your Memost and his said Associates should pay Quitrents for the escheated lands from March 1760, till April 1767, (the Time of the Surrender,) which as humbly conceived, is directly contrary to Your Majesty's Orders and Instructions on that head, and destructive of all hopes of Compensation to the Grantees for their long and heavy exertions; — as they humbly insist that from the various Accidents of the War, and necessary expences, they would under such a Construction, not only suffer a total loss of their labour & time, — but also of very considerable Sums of money. —— However, as there is not any regular Court of Exchequer in Nth Carolina, and as the Court of Common-Pleas, could not

not, as humbly conc^d properly take Cognizance of this Affair, - and your Memo^{ist} Son and Agent being in an ill state of health, and having obtained leave to return home, - he, - humbly convinced of Your Majesty's gracious Intentions as expressed in the said Order, did Agree with the Receiver-Gen^l of Your Majesty's said Province, to give him a Bond in the Penalty of a very considerable sum, to abide by Your Majesty's will & pleasure as to the said order in Council, and to submit himself wholly to Your Majesty's Determination thereon. -

It appears by the Deeds of Surrender of the unsettled escheated parts of the several Grants first mentioned, (lodged in the Secretary's Office of Your Majesties s^d province, authentic Transcripts of which, are transmitted to the R^t Hon^ble the Lords Comm^rs of Trade & Plantations, and dated the 24. day of April 1767,) that Your Memo^{ist} and his abovenamed Associates are only intitled to 129,335 Acres on the whole, in right of Settlement; so that there remains 339,325 Acres, forfeited and surrendered to Your Majesty - And your Memo^{ist} most humbly prays leave to observe, that out of the said 129,335 Acres so remaining to your Memo^{ist} and his Associates, not 16,000 Acres are in their Claim or Possession, the whole of the Remainder having been disposed of in fee on very easy Terms, to the people who were prevailed on to settle thereon, in order to perfect your Memo^{ist} & his s^d Associates title to the Lands reserved.

On the Whole, Your Memo^{ist} most humbly submits, that he and his Asso^{es} have done every thing which could be done, under the Circumstances of a War, which broke out in America, near three Years before it commenced in Europe, and continued with the Cherokee-Nation, (who do not live far distant from the said Lands,) two years after the late Treaty of peace with France; - That the repeated and extra-Official Charges of Arrears of quitrents, which have been often made ag^st them, greatly discouraged many persons from settling on the Lands, - as they were made to believe, they would be answerable for every arrear of quit-rent, and that the Title was only a defeazable title: Your Memo^{ist} also prays leave to submit, that he was given no delay in the surrendering of the unsettled Lands, as it was impossible to do it, until the Gov^r had returns from the Commissioners appointed to make such returns on oath as to the white persons actually settled on the 25. of March 1760, - and that he and his Asso^{es} could not possibly receive any advantage from the said delay, as they were only to enjoy the benefit of so much Land as they were intitled to, in right of the Settlement effected on the s^d 25. of March 1760, and not from any settlement which might take place after that Time. - Your Memo^{ist} also begs leave humbly to observe, that there never was an instance in the said Colony, or in any other of your Majesty's Colonies in N^o America, wherein the Grantees were charged with Arrears of Quit-rents upon escheated Lands: - And that in this case, your Majs gracious Intentions on this head, are clearly expressed under your s^d Royal Order in Council dated in 1762, - But as your Memo^{ist} Agent on behalf of him & his s^d Associates, has given bond in a considerable sum to abide Your Majs^{ts} Will & Construction on the said Order, -

Your Memo^{ist} most humbly prays on behalf of himself and his s^d Associates, - That Your Majesty would be pleased to take the Premisses into Your Royal Consideration; & to order, that your Maj^s gracious purposes under the order in Council in 1756 & 1762, be carried into execution - by directing the Bond so given to abide by Your Maj^s determination as to the quitrents of the escheated Lands surrendered, - to be cancelled; - And that Your Memo^{ist} and his Asso^{es} and the Tenants holding in fee under them, are not at any time to be liable to pay quitrents for any other of the Lands contained in the said Grants, than such proportion thereof, as are reserved to them respectively in right of Settlem^t on the Surrenders: And that Your Memo^{ist} and his s^d Associates, may in a due course of Sett-off of quitrents on the Lands reserved by them, duly receive the balance of the Treasury Warr^t dated in Nov^r 1756, - and for such further Relief as to Your Maj^s in your great Wisdom and Goodness, shall seem meet. And &c. &c. - Henry McCulloh

1st Sept. 1767.

To the Hon.ble Thomas Townshend Esq:

Mc Cullogh

Humbly Submitted to the Consideration

of Mr. Townshend;

The inclosed Memorial contains a full and true state of Mr. Selwyn's Carolina Affair, - and a perusal of it will enable his friends to form a just idea of them, and to refute any Misrepresentations.

Mr. Selwyn if this Application succeeds, is to receive £1500, Sterling, clear of every thing; - if it fails, & he is to pay quit-rents for the lands surrendered, they amount to considerably more than that sum; - and therefore, he is much concerned in Interest, to give his best & assistance to this Affair.

28th Sept: 1767.

King-square-court. Soho.

Memorandum

Submitted to Tho.s Townshend Esq.r

In Consequence of a letter from Mr. Selwyn to the Duke of Grafton, desiring his Countenance to the Memorial; His Grace was so good as to send the letter to Mr. Phil. Sharpe, with a note, directing him to present the Memorial, the first Council, at which his Grace should be present, — and to put him in mind of Mr. Selwyn's letter.

Mr. Selwyn's Interest may much depend on an early Reference to the Board of Trade; — and it is submitted to Mr. Townshend, how far he may conceive it proper to mention the matter of the Reference to His Grace. —

The Auditor of the Plantations, is disposed to give Delay, if possible. —

6th Oct: 1767.

To The Honorable ——

Thomas Townshend Esq.