

DEPUTY COMMISSARY

The only significant change in the Prerogative Court after the passage of the above law was the establishment of the office of Deputy Commissary. The difficulties of travel in the newly settled colony imposed a severe hardship on the executors or administrators of estates located at any distance from the capital of the Province. Very early in the history of the probate office, it became customary to issue a special warrant or commission to some reliable person, quite often a justice of the county court, authorizing him to perform a specific duty in a specific case. For example, in 1642, a commission was issued to George Binks empowering him to administer the oath of appraisers to Thomas Greene and Nathan Pope who had been appointed appraisers of the estate of John Cockshott.²⁶ Commissions were also issued authorizing persons to probate wills and swear administrators. None of these commissions were of a general nature. By 1692, the number of commissions being issued had increased to such an extent that the Commissary General was authorized by law to "appoint some able and sufficient person of good repute and a freeholder in every respective County in this Province, to take the probate of any last will or Testament." He was also to grant letters of administration and letters testamentary and swear administrators and appraisers. If any dispute arose, it was to be decided by the Commissary General.²⁷ As a result of this act, a commission to a Deputy Commissary or Agent for each county was issued on August 9, 1692.²⁸ As time passed, the powers of the Deputy Commissaries tended to increase. The law of 1715 even authorized them to allow the accounts of estates valued at less than 50 pounds sterling, provided there was no controversy. Where an estate exceeded 50 pounds, the Commissary General often reverted to the early practice of issuing a special commission allowing the Deputy Commissary to pass the account.

When a will, inventory or account was brought into the office of a Deputy Commissary, he took whatever action was necessary and recorded the instrument in his own books. Periodically he would send or deliver the papers filed in his office and a return of his proceedings in each case to the Prerogative Office, where the wills, inventories and accounts were again recorded and the returns of pro-

²⁶ *Ibid.*, IV, 72.

²⁷ *Ibid.*, XIII, 430.

²⁸ *Testamentary Proceedings* 14A, 3