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O P I N I O N S
ON
INTERESTING SUBJECTS
OF
PUBLIC LAW AND COMMERCIAL POLICY ;
ARISING FROM
AMERICAN INDEPENDENCE.

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BY GEORGE CHALMERS,
AUTHOR OF
POLITICAL ANNALS OF THE REVOLTED COLONIES,
AND OF
AN ESTIMATE OF THE COMPARATIVE STRENGTH OF
BRITAIN.

A NEW EDITION, CORRECTED.

L O N D O N :
PRINTED FOR J. DEBRETT, OPPOSITE BURLINGTON-
HOUSE, PICCADILLY. 1785.

I UNDERSTAND not the World so little as not to know, that he that will faithfully serve his Country, must be content to pass through good report and evil report: Neither regard I which I meet with: TRUTH I AM SURE AT LAST WILL VINDICATE ITSELF, and BE FOUND BY MY COUNTRYMEN, said,

SIR JOSIAH CHILD.

O P I N I O N S

ON

INTERESTING SUBJECTS

OF

PUBLIC LAW AND COMMERCIAL POLICY;

ARISING FROM

AMERICAN INDEPENDENCE.

THE acknowledgment of the Independence of the United States of America was certainly an event of considerable consequence to Great-Britain. To be freed from foreign war is always an object, which cannot be purchased at too high a price, while the national honour forms no part of it. The enjoyment of domestic tranquility, with all its pleasures and advantages, is a blessing of still higher value, which cannot be too much prized; and which ought to be preserved therefore by almost any sacrifice.

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When the Provisional Articles closed the American controversy, which having endured for years, had embittered private enjoyment and disturbed public repose, an unusual calm ensued. But, in a nation, where interest is always active and faction is often malicious; where many communicate their thoughts on state transactions, because every one has a right to do so; the long continuance of quiet is more to be desired, than reasonably to be hoped for.

The situation, at once uncommon and ill-understood, wherein the acknowledgment of Independence had placed Great-Britain and the American States, soon gave rise to many difficult questions of public law and commercial policy. The attention of the world was again roused, by successive publications; which propagated very different opinions and proposed very dissimilar measures. Amid these anxieties many asked for intelligence; some to confirm prepossession; a few to gratify avarice: But, he who, in order to allay that solicitude, instructs himself before he presumes to offer instruction to others, may claim at least a patient perusal, while he discharges the duty, which he owes to a public, at once inquisitive and liberal. The author of the following sheets in this spirit submits his humble sentiments on topics, whereon the well meaning and intelligent have thought very variously, with that freedom which belongs to one, who is conscious of good intentions without interest, and with that plainness of language,

language, which is more studious of perspicuity than ambitious of ornament.

§ I. Previous to any stable regulation of the American trade, by the legislature, it is surely of importance to know, whether the citizens of the American States are now considered by our laws as subjects, or as aliens. Certainty in jurisprudence is doubtless the best preventive of disputes. Yet, is there little said on a question, which is so interesting to the public and to individuals, in the treaty, that acknowledged the Independence of the United States. To point out however what might have been provided on this difficult subject, either by prior act of Parliament, or by subsequent stipulation, would only carry us into a thorny path, leading to a field, unfruitful of amusement or instruction. To examine the face of things as they are is as much the business of Statesmen as it is the duty of legislators to look back only with a regard to the prospect.

The treaty, it must be however allowed, is explicit enough, as to the political associations, that compose THE STATES, which are acknowledged to be free and independent; but it is altogether silent as to THE INDIVIDUALS, who formed those celebrated confederations: It admits the thirteen societies, in their associated capacity, to be sovereign, by relinquishing all claim of government over them: But, it does not explicitly renounce the allegiance of those colonists, who, at the epoch of the peace, were still British subjects, in contempla-

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tion of British law. For, it does not declare, that even the citizens of the United States shall be deemed aliens in future : And, much less does it either except, or disown, those faithful subjects ; who, having refused to renounce their allegiance, were denominated *Nonjurors*, by the American code ; and who, having never done any act inconsistent with their fidelity to the Crown, merited by their hazards at least the accustomed stipulation, that they might dispose of their property, without hindrance, and afterwards retire, without further persecution.

The mere act of residence within the limits assigned to the United States, might have been considered as a misfortune, but it could not have surely been deemed an offence. To submit to a force which they could not resist ; to pay treble taxes that they could not refuse ; are regarded as crimes by no social system, except by the new-fangled laws of South Carolina alone *. It has proved happy for Britain, that her laws declare with the united voice of reason and humanity : " That if enemies or rebels come with a superior force and exact contributions, submission is not so much criminal as prudent, to prevent a public evil of greater magnitude †."

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* The Jacksonborough Assembly of 1782 excluded from the right of citizenship all those, who having made a temporary submission to the British army, were denominated *protection-men*.

† Forster's Crown Law. 8vo. edit. p. 217.

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The faithful American subjects of Great Britain having been born within the King's dominions, were by this circumstance alone constituted freemen of this realm : By their birth within the allegiance of the Crown they acquired a variety of rights, which by our lawyers are emphatically styled their *birth-rights* ; and which can never be forfeited, except by their own misbehaviour, and can never be taken away, but by the will of their fellow-citizens, expressed by act of Parliament. An alien cannot be admitted a freeman of this kingdom without the consent of the community, by an act of naturalization ; neither can an innocent freeman be disfranchised, except by the conjoint voice of the nation by act of Parliament. And the reason of both these rules may be found in the original compact itself ; which provided, that no one should be admitted a contracting party, without the consent of the whole ; which equally declared, that a contracting party should not be deprived of the advantages of the compact, while he faithfully performed his original stipulations. What ought thus to be the fundamental principle of every Government is expressly recognized by THE GREAT CHARTER of England ; whose language can no more become obsolete, than its provisions in favour of the rights of human nature can cease to operate. *No freeman, says the boast of Britain, shall be seized, or imprisoned, or outlawed, or any way destroyed, except by the legal judgment of his Peers, or by the law of the land.* But to expel a meritorious

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ritorious body of men from the society whereof they had once been members is at once to outlaw and destroy them. The American Loyalists faithfully performed their original stipulations ; it was their misfortune surely, and not their crime, that after they had risked and lost more than common subjects, the community did not, in return, yield them the protection, which they had so justly merited, and which had been so often promised them.

If the most insignificant subject cannot then be deprived of the most trivial privilege, without the most positive law, we may confidently infer, that a deserving class of subjects cannot be bereaved of every social right, by mere implication. Two years have scarcely passed away, since wise men and profound lawyers differed in opinion, whether the act of Parliament, empowering the Crown to make a peace or a truce, with the revolted Colonies, enabled the Ministers of the Crown to acknowledge the Independence of the United States. Whatever foundation there might have been for that unhappy difference, the subsequent recognition of the Legislature has removed every future doubt. Yet, had a power been positively given to renounce the allegiance of those colonial subjects, who, in opposition to violence and even to neglect, remained unalterably attached to the British Government, that power has not been by the American Treaty in any manner executed ; as we may learn from its silence, where it ought to have
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spoken in the most audible tone. In confirmation of the general inference, that the before-mentioned loyal persons, who, at the epoch of the peace, remained within the limits of the United States, are still considered as subjects by our laws, judicial authorities might be quoted, if it were thought necessary to cite the decisions of judges for the establishment of doctrines ; which, having been interwoven into our constitution, are taught us in our youth and are imprinted on our hearts.

It is nevertheless a very different consideration, with respect to those Colonists ; who having achieved the late revolution, by their efforts, now form, by their residence, the citizens of the United States. Rights may be undoubtedly forfeited, though privileges cannot be arbitrarily taken away. A man's crimes, or even misconduct, may deprive him of those immunities, which he might have claimed from birth, or derived from an act of the Legislature : He may be outlawed by the sentence of a court of justice, or he may be banished by the united suffrages of his countrymen. The American citizens, who voluntarily abjured their Sovereign, avowed their design to relinquish the character of subjects : The American citizens, who swore fidelity to the Government of their own choice, thereby declared their election, that they would be no longer connected with a State, which had mortified their prejudices rather than bereaved them of rights : And by that conduct and by those offences the revolted Colonists forfeited to the law
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all that the law had ever conferred on them. The American Treaty however acknowledged that avowal: The recognition of Parliament legalized that election. But whether that act of the British Government, or that act of the British Legislature, ought to be construed as a relinquishment of their obedience, or as a pardon of their faults, is a problem, which, at this day, does not merit a formal solution.

The law of England (as we all know) hath divided the residents within the British dominions into two classes; 1st, into that of subjects; 2dly, into that of aliens, who are subdivided into a body denominated denizens; a name, which implies, that they had once been aliens, but had been admitted by their denization, to some of the privileges of subjects.

But the law of England knows nothing assuredly of a *real* subject or *unreal* subject; since the term subject does not admit of the degrees of more or less, of genuine or ungentine: And, every one must consequently be either a subject to all intents, or to no intent. To admit novelties into our language is almost as dangerous, as it is to allow innovations in our law. The captious epithet *real* was prefixed in the Treaty * to the well-known terms

* The American negotiators have at length explained to the world the import of the perplexing expressions *real* British subjects, by their letter to the Congress, dated the 18th of July, 1783, and published in the Pennsylvania Independent Gazette of the 24th of April, 1784: "The British Ministers, say the negotiators, were unwilling to make use of

terms *British* subjects, with design to distinguish those British subjects, who, having been born without the present United States, never permanently resided within them, from those British subjects, who, having fixedly dwelt within the revolted colonies, sacrificed their all at the shrine of their attachments to the British Government. And a narcotick was looked for, it seems, to prevent these meritorious subjects from feeling their wounds, though they had been already wounded beyond cure. But, on whatever motive the British negotiators acted, the American negotiators inserted those unusual expressions into the Treaty, in order to gain a virtual acknowledgment from the British Government, that the British Colonies had always been independent, or had at least been intitled to Independence: in making this virtual acknowledgment the British Government in some measure admitted, that there had existed under the colonial systems two sorts of subjects, British subjects and American subjects; and thereby admitted in some measure the consequence which was probably meant to be drawn from it; that the American loyalists, having been

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any terms that might give uneasiness to the *Refugee Tories*, and the terms *real British subjects* were well understood and ascertained, not to mean, or comprehend *American Refugees*: and it was only a more delicate mode of excluding the *Refugees*, and making a proper distinction between them and the subjects of Britain, whose only particular interest in America consisted in holding lands and property." And thus have we ascertained who are, and who are not *real* British subjects.

American subjects, had incurred confiscation, because, in their active adherence to the British Government, they had violated their allegiance to the United States. The pretension and the admission were both equally irrational and illegal. However, by that signal transaction both parties admitted, that the citizens of the American States were to be regarded in future as aliens.

The American citizens can therefore, by no mode of speech, or by any principle of law, be deemed British subjects; unless those associations of mankind are subjects, who owe no allegiance to the British Crown, or any obedience to the British Government; that allegiance, which is said to include all the engagements owing from subject to Sovereign; that obedience, which is styled emphatically the very essence of law. But, the King of Great Britain has formally relinquished all claim of sovereignty over the United States, and all pretence of government over the American citizens: And the Parliament, by recognizing the act of renunciation, virtually expressed the assent of the community to the expulsion of the American citizens from the social compact, which binds every member of the British State together. The citizens of the American States are not certainly denizens, because they can shew no letters of denization, which indeed would prove, that they had been aliens previous to their denization. Now, he who is neither a subject, nor a denizen, is deemed by the law of England an alien.

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Were we turn over only a few pages of history, we might discover illustrations of the foregoing reasonings, though we should probably find no precedent of a people, who continued English subjects, after the English Government had renounced their obedience. The ancient annals of Scotland will furnish striking examples. When Edward I. by his policy more than by his power, acquired from the meanness of Baliol, and the submission of the nobles, the virtual sovereignty, though not the direct dominion of Scotland, the Scots became by that signal event the fellow subjects of Englishmen: When Scotland, in her turn, regained, by the gallantry or prudence of Bruce, her ancient independence, the Scots immediately became aliens to their too powerful neighbours: Yet the English did not formally renounce the government of a nation, whose obedience they were unable to enforce. And the Scots continued aliens even after the fortunate accession of James I. to the throne of England. Those Scotsmen alone, who were born after that epoch, were considered as fellow subjects of Englishmen, till a much happier event inseparably united the two kingdoms together.

If from our Island we turn our enquiries to the neighbouring continent, we shall find that Normandy and Aquitain, Tournay and Calais, were unfortunately once possessed by the monarchs of England. During that sad period of foreign expeditions and domestic penury, the residents of

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each

each of those countries enjoyed all the privileges of subjects. When each however became successively separated from this realm, the inhabitants of all those foreign dominions became, in their turn, aliens to the Crown. France, too, in an evil hour was conquered by England, during the glorious yet miserable days of our Edwards. The French became by that unhappy event the fellow subjects of Englishmen. And to this hour the British Sovereign enjoys the flattering though unproductive title of King of France: Yet, the French for ages have not been considered as British subjects; since they certainly owe no allegiance to the British Crown, or yield any submission to the British Government. The same stroke of fortune, either adverse or happy, which deprived the residents of all those provinces and towns of the protection of one common Sovereign, broke asunder the bands of allegiance, that had formed the connection between them: For, the English Government being either renounced, or withdrawn, the people continued no longer subjects than their obedience could be asked and enjoined.

Of the truth of the foregoing reasoning the cession of Surinam by Charles II. to the Dutch furnishes a direct proof. By the treaty of Breda, it was agreed, "That both parties should retain with *plenary right of sovereignty, propriety, and possession*, all such lands, islands, and colonies, as either had theretofore gotten, or retained from the other." These expressions are general; yet, indefinite as they

they are, they were deemed of sufficient force to transfer the allegiance of the English colonists in Surinam to the States-General, and the allegiance of the Dutch colonists at New-York to the English Crown. The English inhabitants of Surinam were thenceforth considered, by the ablest statesmen of both countries, as so exclusively the subjects of the United Netherlands, that the King of England could not even interpose as mediator between their new Sovereigns * and them. In this manner were the expressions *plenary right of sovereignty*, construed to have converted colonists, who had once been subjects, into aliens, who could no longer claim the privileges or protection of the parent state. And from this decisive precedent we may infer, that there was no necessity to insert, in the American treaty, a clause, renouncing the allegiance of the colonists, since the sovereignty of the country being relinquished and the government withdrawn, it could answer no good purpose to retain the faith and submission of the people.

It seems thus impossible to repel these general inferences and that legal conclusion, by the most liberal construction, which has ever been made of the various statutes of naturalization from the days of Edward I. to the present. The well known law

* MSS. Memorial of John De Witt, with the answer thereto.

law * of this celebrated conqueror appears to have received an explanation much larger than the narrowness of the words would at first sight justify.— The capacity to inherit, which by them were given to the children, “ Whose *father* and *mother* were at the faith of the King, and who should be born without ligeance of the Crown,” has been enlarged by the Judges who wished to contract the disabilities of aliens, into an act of naturalization †. For, it has been decided, “ That though an English merchant marry a *foreigner* and have issue by her born beyond the sea, that issue is a natural born subject; yet, if an English woman go beyond seas and marry an alien, who have issue born beyond the sea, *that issue are aliens.*”

Such was the law prior to the reign of Anne; though an act ‡ of Parliament was passed soon after the Restoration, in favour of a meritorious class of men, the children of those ardent loyalists, who had followed the fortunes of Charles II. into exile. It was owing more perhaps to momentary passion than to any well-weighed policy, that the statute of Anne § was passed—“ for naturalizing foreign Protestants.” A collateral clause of the act declared, “ That the children of natural born subjects, born out of the ligeance of the Crown, shall
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* 25, Ed. III. Stat. 2. “ Of these that be born beyond the Sea.”

† Molloy Dejure Marit, Book iii, of Aliens.

‡ 29 Cha. II. chap. 6.

§ 7 Ann. Chap. 5.

be deemed natural born subjects of this kingdom.” And the Act recited, as the moving principle of the Legislature, “ That the encrease of people is the means of advancing the wealth and strength of a nation.” General positions in political œconomy always lead to mischievous error. The Parliament discovered ere long, that they had applied the nostrum of a quack in a case, where they should have administered the medicine of a physician. And it became apparent at least to the wise, that giving employment to the idle is the only mode of promoting the encrease of the people, and of advancing the wealth and strength of a nation; while the inviting of foreigners into a country whose present inhabitants are not fully employed, is at once to starve the poor and beggar the rich.— It was partly owing to these causes, and partly to the critical change of the ministry, that the clause of the statute of Anne, which had naturalized all foreign Protestants, was three years afterward repealed*.

Doubts soon arose, it seems, with regard to the construction of the remaining clause, allowing *foreign born* children of *subjects* the privileges of naturalization, which induced the Parliament to pass an Act *to explain it* †. And to effectuate this laudable

* By 10 Ann. chap. 5. The Palatines had flocked to England in great numbers, which furnished party with matter for accusation.

† 4 Geo. II. ch. 21.

able purpose the Statute of 4th George II. enacted, " That all children who had been born out of the ligeance of the Crown, whose *fathers* were natural born subjects, at the time of the birth of such children, shall be deemed natural born subjects." Thus an act of explanation was really converted into an act of restriction. For, the more comprehensive word, *subject*, in the Statute of Anne, was converted, by the Statute of George, into the more restrictive term, *fathers*. And it added various provisos; excluding the children of attainted persons, then being in the actual service of any Prince at enmity with the Crown; and repelling particularly " the children, whose father, at the time of the birth, was liable to the penalties of treason, or felony, in case of returning into this kingdom without licence " Thus, the Statute of the 4th George II. restored the law, as it had for ages been considered from a liberal construction of the Act of Edward III. with restrictive provisos against the issue of delinquent fathers. And from this recapitulation we may reasonably conclude, that since the operation of Edward's law did not prevent whole communities from becoming aliens, when the Government of his feeble successors was overturned or withdrawn, much less can the statute of the 4th George II. save the citizens of the United States, from being regarded by our common law as aliens.

Whether a theoretic problem, which seems to lead to no practical use, merited the time, or the ceremony

ceremony, of so much investigation, is a question that may be readily asked, yet may be easily answered. Political disquisitions, which have no tendency to promote the ends of just Government, by making rulers wiser, or subjects happier, ought doubtless to be avoided, at least by wise and good men, as speculations, idle and unprofitable. Yet, it would doubtless be a circumstance of great practical utility, if it could be determined with reasonable certainty, who are the subjects of the state, during peace, and who are its aliens, in war; in order that treacherous rebels may be clearly distinguished from avowed enemies. The privileges, which belong to subjects are extremely dissimilar to the immunities that appertain to aliens: The treatment, which humanity offers to enemies amid the hostile contests of nations is by justice seldom extended to rebels. And experience hath sufficiently evinced to the most inattentive observer, that dubiousness of law is the never failing source of public disquiet and of private misery. If these general remarks should not be admitted to be decisive, the inconveniences that would follow the denial of them, merit surely the serious attention of wise legislators. If the American loyalists, who remained within the limits of the United States, even after the peace, are still to be regarded as subjects, (as we have endeavoured to evince) they must necessarily be intitled to the peculiar privileges of subjects: They may inherit therefore the lands of their ancestors; they may act as merchants

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chants or as factors in the British plantations; they may as mariners or masters navigate any British vessel; and they may execute any office of profit or trust, or sit in either House of Parliament: And when any of these rights are denied them, (if we except the privilege of sitting in Parliament) they may resort to Westminster Hall for redress of some of their wrongs; where justice is administered happily, according to the principles of rigid law, without regarding the dictates of political convenience. But, if the American citizens are considered as aliens they can only enjoy the more scanty immunities, that to aliens belong: they can by no means claim the invaluable privileges, which the American loyalists must as subjects be thus allowed to possess, in every dominion of Britain; though within the United States even the loyalists must behave as citizens by yielding a local submission, while they continue to reside under the American governments. The confusion in policy, in law, and in practice, which must result from the uncommon circumstance of two distinct classes of men, residing in the same country, yet pretending different rights, within a foreign nation, are all apparent, and ought all to be precluded, by measures of precaution. To a state of anarchy, thus new and embarrassing, it is unnecessary to add, that during the late civil war it has been found sufficiently difficult to man our fleet, from the seamen insiling, that, since they had been born in America, they could not be pressed to
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serve in the British navy. And under the complicated system, which by the contradictory operation of new laws becomes daily more complex, the business of the Custom-house, requires no further perplexities to be added by the difficulty of knowing aliens from subjects.

Men of cautious tempers may be induced by the foregoing reasons to think, that a legislative declaration is necessary, to remove doubts, and to prevent difficulties. It would require only a few words in an Act of Parliament to declare, that the citizens of the United States are aliens to the Crown; and to provide, that all persons, who had been once British subjects and resided within any of the United States, before, or at, the ratification of peace, shall be deemed British subjects, on condition, that such persons shall, before, or on, the day of settle in any of the dominions of the Crown and take the oath of allegiance.

To a clause, thus simple in its creation, yet pregnant in its effect, it is not easy to perceive what could be reasonably objected. Such a clause would not impugn the American treaty: The legislative declaration would rather confirm its principle and give efficacy to its meaning. Such a clause would doubtless shock the prejudices of some persons, who wish to imitate in respect to the United States, that notable policy of Cromwell*, whereby he

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* Cromwell, says Hume, had revived the chimerical scheme of a total conjunction of government, privileges, interests, and

tendered to the cautious Hollanders the privileges of Englishmen, both civil and commercial. It is the established law however, which runs counter to the desires of such persons, working as the law does, on the new situation, wherein nature and their own efforts had placed the American citizens. Such an act of Parliament, with a wisdom which belongs to the legislature, would nearly extinguish the hopes of the visionary men; who flatter themselves, that amid the anarchical changes of the times, the United States may desire to be admitted to a federal union with Britain: and the act would greatly allay the jealousy of those American citizens, who dread the attempts of Britain to regain by intrigue, what she had been unable to effect by force. Wise men act from just reflection and previous concert: The unexperienced alone apply remedies to disorders, that have already made a progress.

2. When the American citizens are in this manner proved by argument, or declared by law, to be aliens, it may be of essential use to inquire, what immunities the law of England allows them within the realm. And we shall probably find, that

and councils, with the United Provinces. This project appeared so wild to the States, that they wondered any man of sense could ever entertain it; and they refused to enter into any conferences with regard to such a proposal. [Hist. 8vo. edit. 7th v. p. 236.]

that on this head of our jurisprudence we may justly boast, among the European nations, of its liberality and its wisdom. Under this conviction Sir Mathew Hale remarked, (and he who thinks with Hale will seldom think wrong) "that the law of England rather contracts than extends the disabilities of aliens." Every civilized system has established the convenient distinction, which the law of England has certainly made, between aliens and subjects; by excluding foreigners from the privileges of natives; and this destination we shall see in the result, the American States have established as a fundamental maxim of their free constitutions. Yet the law of England, with a spirit somewhat disingenuous, allows the alien "to purchase lands, but not to his own use; since the King is thereupon entitled to them:" And the alien can therefore maintain no action in any court of justice, with regard to property, which the law does not allow him to hold. But, he is fully allowed to enjoy even lands for the temporary purpose of traffick; at the same time that he is amply protected in his person, in his effects, and in his reputation. That our great charter should have extended, by a specifick clause, the same security to foreign merchants, as it prescribes for the Liverymen of London, or the Citizens of Dublin, is a happy circumstance, which has gained our commercial system the honour of Montesquieu's praise. And it adds not a little to the just celebrity

brity of our English Justinian *, that he granted a charter of liberties to merchant strangers.

From subsequent laws †, which do not merit less of our commendation, the American citizens may demand, as alien traders, “to be used within the kingdom, as merchant denizens are in other countries.” And the American citizens may insist ‡ “when they come into the realm, that they be honestly entreated as to the payment of taxes.” Notwithstanding this apparent liberality merchant-strangers were till lately subjected in Great Britain, as they are even now in Holland and France, to those alien duties, which the avidity of every state had established in favour of subjects, before the spirit of commerce had softened the manners of mankind. The origin of these duties in Britain may be traced up to the unpolluted source of the foreign merchants voluntary agreement, when they received their charter of liberties from the legislative hand of Edward I. Merchant strangers are still subjected, in the port of London, to several duties of no great burden, which belong to that opulent Corporation; the barbarous origin of which may be conjectured from the barbarism of their appellations; of *scavage* and *package*, of *portorage*

* The Charter of Edward I. is published by Molloy, in his Treatise, naval and commercial, Book ii.

† From the 9 Hen. III. ch. 9. 5 Hen. IV. ch. 7.

‡ By the authority of the 12 Cha. II. ch. 4.

portorage and *water bailage*. By an act of Parliament *, which had the prevention of fraud for its end, the children of aliens are excluded, when under one and twenty years of age, from acting as merchants, or from entering goods at the Custom-house: And alien fathers are thereby precluded from sitting as jurors on the trial of causes respecting the customs; though this exclusion may be regarded by some, as a greater benefit than a disadvantage.

Under the protection of these favourable laws, without the aid of a commercial treaty, the American merchant may securely carry on his traffic: Under their friendly shade the American traveller may inspect our curiosities, or view our arts, without fear of *the droit d'aubain* of other countries; since he may dispose of his effects by testament, or the law will preserve them for his next of kin. Aliens indeed cannot in Britain, more than in any other nation, execute any office of profit or trust, or accept of any grant from the Crown, or sit in either House of Parliament †. But, from the foregoing concatenation of circumstances we may surely infer, than an alien *friend* is altogether considered as the most faithful subject, in respect to the protection of his person, his good-name, and his property; which includes nearly all his rights. And thus much with regard to those privileges and disabilities,

* 13—14 Ch. II. ch. 11. sec. 10—11.

† 12—13 Wm. III. ch. 2. sec. 3. 1 Geo. II. stat. 2. ch. 4.

abilities, which the American citizens as aliens, derive from the operation of the law of England, while they traffick within the realm.

3. We are hence led naturally to mention those exclusions, which result from statute, more than from our common law, as to the external commerce of American traders. As regard to the national defence, by increasing the number of seamen, induced the Parliament, in the last century, to declare*, contrary to the example of other legislatures, that no goods shall be sent coastways in alien-ships; that all vessels shall be deemed *foreign*, except such as shall be built, within the King's dominions, or such as shall be made prize, under specific conditions. The Parliament were led about the same time, by the same motives, to prohibit all foreigners from trading with our transatlantic settlements, and our plantations from trading with foreigners: And in consequence of this law, the American States were excluded, subsequent to the epoch of their independence, from carrying on any commerce with the British colonies, and the British colonies were in the same manner forbidden to carry on any commerce with them. By the act "for encouraging the Newfoundland fishery †;" which enforced

* 12 Cha. II. ch. 18. which was enforced by 7—8 Wm. III. ch. 22.

† 10—11 Wm. III. ch. 25. There is reason to suspect, that Mr. Oswald did not much consider this law, when he negotiated

enforced rather than enfeebled the salutary spirit of that law, no alien or stranger "can take bait or use any sort of trade, or fishing, in that island, or in any of the Bays or fishing places around it." Owing to the prohibition of some of the before-mentioned laws, the American citizens cannot reside as merchants or as factors, or execute any office of trust, within the British plantations. Yet, as foreign Protestants they may regain, by a seven years uninterrupted residence within our remaining colonies, the colonial rights, which belong to British subjects. Without that residence, or an act of naturalization, our traders can employ none of the American citizens as masters or mariners, in the sailing of their ships. And thus much with regard to the questions,—whether the American citizens are considered as aliens by our laws? what immunities are they, as aliens, entitled to within the kingdom? what regulations are they governed by in their external traffick?

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negotiated the American Peace. By the treaty the American citizens were allowed to take any sort of fish at all the fishing places of Newfoundland. But, whether the right to catch fish includes the right to catch bait is a doubt, which the Dutch jurists may answer. A French Statesman, when he wanted to quarrel, would here find a subject for quarrel. And it would be an act worthy of the prudence of Parliament to repeal that statute, as far as it tends to prevent the American States from enjoying the full right of fishing, from a law and a treaty standing opposed to each other; in order to evince to the world with what good faith this nation executes the letter and the meaning of every national agreement.

§ 2. The American Associations having in this manner acquired independence; and the American citizens having thus become aliens to the Crown; it was the laws rather than the government of Great Britain, which, from the date of the peace, attentively viewed both in the exalted situations, that both had established for themselves. The British Government, enjoying happily no dispensing power, could not prevent the operation of the various British laws, which had imposed disabilities and enforced restrictions. And by accurate enquiry we shall probably find, that the British government has been hitherto only anxious to remove the various obstructions, which resentment and retaliation had thrown into the channel of our American trade.

Howmuch-soever the nation may have felt "how sharper than a Serpent's tooth it is to have thankful children,"—it was surely wise in the British Government to forget all the past, when the American commerce was to be regained, if the American commerce in its greatest possible extent be indeed a desirable good. Animated by this worthy spirit the Legislature soon repealed two acts of Parliament*, which the hostile associations of late times had required; because it was deemed "highly expedient, that the intercourse, between Great Britain and the American States, should be immediately opened." The same sense of expediency

* By 23 Geo. III. ch. 26.

pediency gave rise to a second act of Parliament*, which exempted the American vessels from the necessity of producing any certificate or manifest at the Custom-house, and only required such bonds as are usually taken for the faithful exportation of goods intitled to drawbacks or bounties: The same act empowered the King in Council, during a short term, to make temporary regulations for the American trade. Extraordinary as this power was, the law which conferred it may be regarded as one of the wisest in the statute book; because, by avoiding the dangers of "over credulous haste," it furnished the intelligent with opportunities of reviewing a subject, complicated at once, by a consideration of contradictory laws, and by a regard to domestic policy, as well as to foreign interests.

In pursuance of a power, thus uncommon and salutary, the American commerce was soon turned into a more favourable channel than that wherein it had formerly flowed, when the United States constituted British Colonies. We shall see in the most striking light this interesting truth, which is obscure only to those who shut their eyes, by taking two distinct views of our transatlantic trade: 1st, of the exports from Great Britain to the United States: and 2dly, of the imports from the United States to Britain; as both have been regulated by the late proclamations.

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* 23. Geo. III. ch. 39.

1. By the repeal of the prohibitory acts the British traders were left free to renew their former connections, or to engage in new adventures: And the proclamation of the 14th of May, 1783, endeavoured, with the best intentions, though not with the best success, to quicken mutual desire, by communicating additional motives: By it, the same bounties, drawbacks, and exemptions were allowed on merchandizes, which should be exported from Great Britain to the United States as are allowed on goods to any British Colony. The purpose of this regulation was salutary, but the means were perhaps mistaken.

The high duties on importation are the genuine parents of drawbacks. It was soon perceived, at least by the traders who paid the custom, that a foreign commodity, when re-exported to a second market, must be disposed of dearer in proportion to the advance of every charge upon it, or not be sold at all. And hence, a regard to the profit of freights, as much as to the augmentation of sailors, dictated the policy of allowing the merchant to draw back almost the whole of the duty, which he had advanced on the import. Under the prevalence of this salutary system, the colonists purchased every European manufacture and every East India luxury even cheaper than these commodities could be bought in Britain. But to confer this gratification on our planters, required a defalcation from the public revenue of £. 100,000, a year

a year, at the peace of 1763*. And, during the pressures of that moment, it was thought prudent † “to allow no part of the old subsidy to be drawn back on the manufactures of Europe or Asia, which should in future be sent to the Colonies, except on wines, white calicoes, and muslins.” For it was known, or at least supposed, that foreign traders could enter into no competition with British merchants in the markets of the Colonies: And the stopping of so much of the drawbacks, it was hoped, would impose a tax on the planters to the amount of the saving, which should be thereby made in the Revenue. But the drawback was continued by the law on the exports to foreign markets; because, in their fairs, British traders might expect competitors. If this account should be allowed to be accurate, the regulation of the 14th of May, in respect to drawbacks, cannot easily be maintained to be right. And both prudence, and justice, require, that there should be allowed the same drawbacks, bounties, and exemptions on the exports to the United States, as are allowed on the exports to other foreign countries, since such a regulation would certainly be most beneficial to them. If however we determine,

* The value of drawbacks upon each article of foreign goods, which were re-exported by certificate, from England to the continental colonies, in the year ending with 1st of January, 1762, amounted to no less than £. 99,051 7s 1½d.

† By 4 Geo. III. ch. 15.

mine, from an attention to practical effects, more than from the result of theoretick reasonings, we may infer, that the disadvantage of retaining five in the hundred of the value of foreign manufactures has been mean time unfelt, till it was finally removed.

2. From the foregoing discussions, as to the export of our manufactures, we proceed secondly, to recount the various motives, which have been in the same manner given to the American planters, in order to induce them to send their surplus produce to Britain. By the proclamation of the 14th of May, the *unmanufactured* products of the United States were allowed to be imported, in British, or American vessels, by any British subject, or American citizen; paying only the same duties, which our remaining Colonists pay, and that too without the accustomed certificates: And the same proclamation conferred *the full benefit of this order* on such American ships, as had arrived since the 20th of January, 1783. By being thus placed on the favourable footing of British colonists, the American citizens were exempted not only from the payment of those alien duties, which all other aliens paid, but even from those alien duties, that were payable on the merchandize of aliens, when imported in *British* shipping. The admission of American oil, by the same proclamation, however advantageous to the New-England fisheries and detrimental to our own, does not merit much censure; because a regard to this excel-

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lent nursery of British seamen has, by a recent order of Council, rectified a mistaken policy, which arose either from oversight, or from a desire to conciliate.

Liberality of conduct is always right: But, in mercantile regulations it is the more laudable, because we see, in them, the dictates of interest so often preferred to the suggestions of policy. It is to be regretted, that the American citizens received unkindly the exemption from taxes, which all other aliens formerly paid. Such a reception of such a boon might have excited the jealousy of neighbouring nations, whose enmity or regard is of greater importance to us. There are wise men indeed, who think, that the abolition of the alien * duties would promote our commercial interests: There are intelligent persons, who suggest, that the imposing of the alien duties on *alien ships* rather than on *alien merchandize* would augment our naval strength. The sentiments of both may be considered as just, in proportion as we are directed in our desires to the accumulation of riches, or to the acquisition of power. We boast in vain of our religion and liberty, of our laws and our wealth, if our ships are driven from our element as islanders, and we are obliged to make concessions to our foes, who have lately fought us on the ocean with inferior fleets. When the legislators of a naval nation, are about to give encouragement, or protection, to the industry

* The alien duties have been lately abolished, by 24 Geo. III. ch. 16.

industry of their people, they ought to fix their eyes steadily on the seamark, which directs the national efforts to the invigoration of maritime strength, rather than to the encrease of private opulence. And in these considerations of nautical force and public safety, we discover the fundamental principle of the acts of navigation; which, though they were established in opposition to domestic and foreign clamours, have produced so great an augmentation of our native shipping and sailors; and which ought therefore to be sacrificed to no projects of private gain, or desires of particular gratification. The Dutch have indeed pursued a different policy: But, the Dutch have thereby fallen to a state of weakness, which is now the object of pity, or of contempt. It was owing to the want of sailors, and not to the fault of their officers, that the ten ships of the line, which had been stipulated during their late imprudent quarrel with Britain, to join the French fleet, never sailed from port.

An attention to these considerations does not lead us to approve altogether of the measure of allowing the unmanufactured products of the American States to be imported in *American vessels*, without paying the alien duty, while other foreign nations continue to pay it. Much less ought we to approve of the policy of the statute *, which imposed

* 2 Geo. II. chap. 34. sec. 20.

posed the *alien* duty on *alien* goods when imported, in *British* ships? Both measures were adverse to the principle of the acts of navigation, because, however advantageous they may have been to the American citizens, both of them had a tendency to diminish the number of the British shipping and sailors. On the other hand the spirit of those laws requires, that the regulation ought to be reversed, by imposing the alien duty on *British* property when imported in *alien* ships. And urged by similar considerations of self-defence, Sir Josiah Child proposed upwards of a century ago, what must appear very extravagant in the present times,—"That a law be made to impose a custom of at least fifty per cent. on all Eastland commodities, timber, boards, pipe staves, and salt, imported into England upon any ships but *English* built, or at least such as are sailed with an *English* master, and three-fourths *English* mariners."

The foregoing reasonings and that authority were either forgotten, or neglected, when the Privy Council issued the proclamation of the 6th of June, 1783; or perhaps that body was carried away by its anxieties to conciliate American regard, and to regain a long lost trade, which for years had been loudly represented, as the only commerce worthy of our care. It is not so easy to discover the necessity, or the use of that part of the proclamation, which expressly permits the importation of naval stores. By the regulation of the 14th of May, they seem to have been allowed

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a free importation, under the general terms *unmanufactured products*:—For, pitch, tar, and turpentine, masts, yards, and bowsprits, and even indigo, which is equally enumerated, cannot be brought to the place of exportation in any lower state of manufacture, than that wherein they have always been sold. Enumerations, which follow general words, always create doubts where none existed before; while comprehensive descriptions, that follow particular enumerations, only enlarge the rule, without creating a difficulty. The custom-house officers have already had occasion to ask, if pot-ash be an unmanufactured product? It is to be regretted, that our lamented lexicographer did not find the word *unmanufactured* in any of the English classics; since its various use might have established its different meaning. The statute of the 8th George I. has applied to timber, the epithets *wrought* or *unwrought*, whilst the same law, wisely enumerated the various goods, that, in mercantile language, are denominated *lumber*. In vain shall we seek for words sufficiently accurate to convey the idea of allowing the importation of American products, as they come from the soil, almost in their natural state, and yet of excluding such American merchandize, as have in the least undergone the discipline of manufacture. It would therefore be prudent, when the Parliament is about to establish a system for the American trade, to enumerate all those American productions, which good policy may allow to be imported in future;

future; and which may be found in the Inspector General's books, yet would form no long catalogue. That measure may be regarded as salutary, which has a tendency to prevent disputes on the one side and difficulties on the other.

It may be moreover remarked, as to the proclamation of the 6th of June, that this nation has paid on the various articles enumerated in it, when imported from the colonies, upwards of a million and a half, since the bounty was first given, in the reign of Anne: On naval stores from 1706 to 1729 — £. 430,178; from 1729 to 1774 — 1,028,584; and on indigo — — 145,022;

£. 1,583,784.

It is one of the many benefits, which the wisdom of our councils may derive from the independence of the United States, that the bounties, which had thus drawn so vast a sum from the public revenue have now happily ceased*. An attention to our manufactures of cloth has exempted indeed all indigo from the payment of taxes on the importation: But, there are various taxes, which may be distinctly seen in the book of rates, collected on
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* Those bounties expired on the 24th of June, 1781.— But, had the United States continued British Colonies, a desire to gratify them would have continued the bounties; as indeed the exemption from duties may be now regarded as a bounty of an inferior kind, which operates against the importers of European commodities of the same nature.

pitch, tar, and turpentine, masts, yards, and bowsprits, when introduced from any European nation, together with the alien duties, when these cumbrous commodities are fetched in foreign ships*. It is apparent then, that all these taxes became payable, by operation of law, on the import of American naval stores, from the moment wherein the United States were admitted to be independent: It is equally plain, that it was the proclamations before mentioned, which suspended the energy of the law and the collection of the duties. And Great Britain thereby conferred a benefit on the American States, by with-holding something from her revenue, and by risking, through a desire to gratify them, the resentment of her more powerful neighbours. Great Britain at the same time conferred another favour on the United States of no small importance to a country, which is every where covered with timber. While the bounties are withdrawn, by the admission of independence, the proclamation exempted American wood from those duties, which are payable on the import of wood from the rivers of Germany and the shores of the Baltic. It was probably known, that the imports of European lumber, for the use of the builder, had undersold the American, even when the bounties were paid. And it was perhaps deemed prudent to preserve, by exempting American lumber from

* See the volume compiled by Messrs. Sims and Frewin, under the directions of the Commissioners of the Customs, and published in 1782.

from duties, a slight competition in the domestic market, between Europe and America, in the sale of their wooden products.

But, as indigo has been exempted from taxes, by a regard to our dyers, the argument appears much stronger for freeing from customs every species of naval stores, whether of the product of Europe, or America, from a respect, which is much more due to our shipwrights and coopers: The dyers and workers in wool may augment our opulence; but the carpenters and coopers contribute to our safety. And thus we perceive, that the British Government has looked with no inimical eye towards America, since the happy moment, wherein the peace established irrevocably the independence of the United States.

If this truth required any confirmation we should find sufficient proofs in the orders of council, whereby the introduction of American tobacco was regulated. By the proclamation of the 6th of June that most ancient branch of our colony commerce was re-established on the same ground, whereon it had flourished for ages before the revolt: And by it the importation of tobacco was allowed, either in British or American ships, on paying 5 per cent. of the value, and on giving bond for the payment of all other duties at a future day. But, the war had produced a variety of new regulations, with a succession of additional taxes. And when the approach of peace opened a prospect of the renewment of traffick, it soon became apparent, that

that to carry on the commerce of tobacco would require a greater capital than any traders choose to deposit at the Custom-house, in hopes of consequential gains. It was owing to these reasons probably that the Privy Council issued a second proclamation on the 5th of November 1783, allowing American tobacco to be imported into London, Bristol, and Liverpool, into Cowes, Whitehaven, and Greenock*, on giving bond, as well for the Old Subsidy of 5 *per cent.* before mentioned, as for other duties; and securing the commodity under the King's locks, till the importer should want it for domestic consumption or foreign supply.

These proclamations seem thus to have established the same regulation, which the tobacco Colonies had ardently prayed for in 1732, and which Walpole certainly intended to grant, by his famous excise scheme, till he was stunned by clamour and overpowered by violence. The planters had often seen and sometimes felt, that in proportion as the British merchants advanced their money for taxes, the charges on the merchandize were raised, till by enhancing the expences, the ultimate sale of the tobacco did not repay the original labour. And the Assemblies solicited the Parliament for the privilege of placing the commodity under the King's locks, on giving bond for the payment of the duties at a subsequent day: But, their solicitations were defeated by the interested opposition of the

* Lancaster has been since added to the former list.

the tobacco factors, more than by the unwillingness of the Legislature*. In this manner has there been lately established a beneficial regulation of tobacco, which had been in this manner denied by our factions to colonists, yet has been spontaneously granted by our good sense to foreigners, who had surely no claim on our kindness. While every encouragement was thus given to the importation of American tobacco we strengthened the laws, for preventing the growth of tobacco in Britain, which it had been found so difficult to enforce

* The Assembly of Virginia sent Sir John Randolph to England, in 1732, to solicit a similar regulation, which was however then exploded as an excise, since the officer was empowered to inspect the tobacco in the warehouse. In the subsequent year the same Assembly transmitted an address to the King, thanking his Majesty for the countenance he had given the Colony on that occasion;—"And though unfortunate for them (said they) that their interests and the interests of those, whose opposition prevailed, were irreconcilable, they had abundant reason to admire his Majesty's justice and constancy, when no clamour, how universal soever, could change his good purposes, or divert his detestation of fraud, however disguised and supported by names and sounds."—The Ministers of that day thought it prudent to suppress the latter part of the Address, which reflected on Sir John Barnard and his coadjutors, who had disappointed, by their opposition, the prayer of the Assembly. Yet, the Virginia Assembly were lately the first to declare commercial hostility against Great Britain, on account of the West-India regulations; though the Virginians could not know indeed, in December, of the order of the 5th of November preceding, which did not arrive in America, till the 6th of February

enforce during the last century; as our farmers thought it for their interest to rear tobacco on their own fields. And by this means the American planters possess a double monopoly of this great article of traffic; the British landholder cannot raise it on British ground; the British consumer cannot import it from Portugal or Spain, since the duties payable on Spanish and Portuguese tobacco amount nearly to a prohibition.

In superaddition to the beforementioned measures, which have thus removed every obstruction from the flow of our American trade, may be stated the proclamation of the 5th of September 1783, which administered no small facility to practical business. This order directed, that all those bonds, which our commercial laws had required for the prevention of fraud, might be cancelled by producing certificates of the performance from any Naval Officer, or Magistrate, of the United States. And in this liberal manner, and by the above recited proclamation, has the trade between Great Britain and the United States been opened and encouraged on the part of this nation. In the wide circle of commerce, complicated as it is by the taxes and restrictions, which avarice and jealousy have imposed, there is not to be found a traffic, so just in its policy, and so unrestrained in its vent, as the traffic, which now runs free and full in its course between this kingdom and the American States. The practical result has amply justified the previous policy, which had for its
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means, protection and freedom. An unexampled export of our manufactures has been made during the last year to the United States; a correspondent consignment hath followed from them to Britain, of almost all the surplus products of the Southern government, which had not been sold by the growers. And hence the American factors, who had settled in Holland and France, during the war, have lately been obliged to remove into Britain, in order to follow the commerce, which had given them employment and wealth. Recent experience hath shewn them, what they might have inferred from their former knowledge, that London must necessarily be the American mart. It is an additional proof of the validity of the foregoing reasonings, that none of those, who have been studious to detect faults and forward to expose them, have objected any thing to the beforementioned regulations, except one writer indeed, who insists, *That the authors of them have displayed unusual timidity and caution.*

But, *timidity* and *caution*, which the wise will not think blameable qualities, few have found either in the credits lately given to the American citizens, or in the regulations of the commerce between the British West-Indies and the American States. This last measure appears to have alone raised any clamour. The West-India trade was regulated by the proclamation, dated the 2d of July, 1783; which is said to be "founded on gross misinformation;" which is censured by the American letter
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writer, "As a system derogatory to the honour, degrading to the spirit, and injurious to the interests of a great people." Facts however ought always to be fairly stated before faults should ever be imputed. Let us in this spirit examine the Proclamation, which has thus given rise to controversy, and which has at once incited the complaints of the West-India planter and the resentment of the American citizen. It directs 1st, That pitch, tar, turpentine, hemp and flax, yards, bowsprits, staves, heading, boards, timber, shingles, and every other species of timber, and also horses, neat cattle, sheep, hogs, poultry, and all other kinds of live stock, and live provisions, pease, beans, potatoes, wheat, flour, bread, biscuit, rice, oats, barley and all other grain, being the product of the United States, may be imported into any of the West-India Islands, by *British subjects, in British ships*: It allows, 2dly, That rum, sugar, molasses, coffee, cocoa-nuts, ginger, and pimento, may, in the *same manner* and by the *same persons*, be sent from the British West-Indies to the United States, upon payment of the same duties and liable to the same regulations, as if the same articles were cleared at the Custom-house for any British Colony. Of a subject so interesting, because it involves in its discussion the safety of the empire, let us take two distinct views: 1st. As the Proclamation affects the American States; and 2dly, As it concerns the British West-Indies.

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1. The connection between the various Colonies of the American Empire of Britain arose assuredly from their being territories of the same State. The moment the Independence of the United States was recognized, they became thereby foreign countries with regard to the remaining Plantations of Britain: And the citizens of the one and the planters of the other, who had once been fellow-subjects of the same community, became in the same moment aliens with respect to each other. The acts of Parliament, which prohibited all future commerce, except in British ships, between regions that had once been bound in the same compact, only enforced the original system, which the law of nations had always enjoyed*. It requires only a short recapitulation to trace up the rise of that system to its true source. The policy of Spain, says the great Bacon, was to keep the trade of the Indies under such lock and key, as both confederates, yea, and subjects, were excluded of commerce unto those countries; such a vigilant dragon is there that keepeth the golden fleece. Portugal, who pursued discovery with

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* The West-India Committee have surmised, rather than insisted, that by the Freeport Act of the present reign the people of Jamaica may import all the merchandizes of the United States, which, the Committee, with a marvellous perversion of law and common sense, declared to be *foreign Colonies*: But, the United States have been admitted by the world to be *sovereign*, and consequently cannot be the Colonies of any other sovereign power, which would suppose that they are still subordinate.

equal steps, caught the jealous spirit of Spain.— France and England, who followed both at the distance of a century, adopted the flattering, because exclusive example of both. And thus, *it became a fundamental law of Europe*, says Montequieu, *that all traffic with a foreign Colony shall be regarded as a mere monopoly*: Hence, continues that celebrated jurist, it is likewise acknowledged, *that a commerce between the Mother Countries does not include a permission to trade with their Colonies*. When Great Britain recognized the sovereignty of the United States and declared in the face of the world, *that we are at peace with each other*, this declaration gave the United States no right to trade to her Plantations, or even to fish on her coasts.

On the law of nations, thus established and known, the French securely relied, when they entered into treaty with the United States, in February, 1778. But, the Dutch, suspicious from sense of weakness, or guided by characteristic caution, inserted an express stipulation, in their Treaty of October, 1782, “That the United States shall leave the States General the peaceable enjoyment of their rights, in the countries, islands, and seas, in the East and West-Indies, without molestation.” Great Britain preferred the confident policy of France to the scrupulous attention of Holland; as it did not probably occur to the wisest of our statesmen, that when the American States should be admitted into the community of nations, they would, by their conduct, much more than by their words,

words, refuse obedience to the law of all civilized nations. Yet, confidence in one's own title has seldom been construed into an admission of its invalidity. And we may therefore conclude, that Great Britain enjoyed from the date of the peace as much right as Denmark or France, Portugal or Spain, to regulate her own plantations; since there is no positive provision in the treaty to repel the general inferences of law.

Nevertheless the proclamation of the 2d of July, 1783, which permitted British subjects to transport in British ships the West-India commodities to the United States and to carry their most useful products in return; which thus conferred many benefits on the United States, though not every benefit; has been declared by some of these States “to be inconsistent with the rights of free trade.” The American governments then, not the American mobs, claim *the right of free trade* with the transatlantic settlements of Spain, Portugal and France, as much as with the plantations of Britain. But, let us enquire, whence do they derive this new pretension? From the law of Nature? No. Every independent Community has a right indeed, in virtue of its natural liberty, to trade with those *who shall be willing to trade with it*; and to molest it in the exercise of this right is an injury. But though every one has a right *to traffic with those who are willing*; yet, says Vattel, every Sovereign State may decline a commerce which is dangerous, or even disadvantageous; and has consequently

consequently full power to determine for itself what is useful, or unalutary; It may accept therefore, or refuse, any commercial overtures from foreigners; without giving them a pretence to accuse it of injustice, or demand a reason for such refusal, much less to make use of compulsion or threats. Do the American governments then claim the right of free trade from the law of nations? They certainly cannot. Colonies are the offspring of Society, during that period of refinement, which the prevalence of the commercial spirit supposes. And by the consent of all the European nations, it was early established, (as we have already seen) that the sovereignty as well as the traffick of every plantation should exclusively belong to the State which had formed it. The law of nations therefore, which is only the original consent and continual practice of nations, has prohibited the intercourse of one foreign country with the colonies of all other foreign countries. And a free trade with an American Colony of consequence never existed. Thus, while the American governments claim the rights of a free trade with the British plantations, they virtually avow their purpose to disregard the law of Nature as well as of nations, which, by treaty or by implication, has regulated universal trade, and with it the conventions of all public bodies.

Whatever extravagance the American populace may commit, contrary to their genuine interests, the American politicians would do well to inquire,

inquire, before they violate public decorum, whether they have been wronged, by the commercial policy, which Britain has continued rather than adopted, in respect to her own plantations. The most ignorant of the American Lawyers will instruct their countrymen, that they may feel an inconvenience without suffering an injury; while the world shall consider every wrong to be an unjust deprivation of some previous right. But, what American right was infringed when Great Britain denied to the American citizens a direct trade, in their own ships, to the British colonies? While Great Britain allowed her laws to operate on the American States, as foreign countries, she only did that which other European powers continue to do. Portugal and Spain have excluded from their colonies the American traders with a jealousy peculiar to both: France indeed has granted to her American allies a petty participation in her West India commerce, which, as far as suited her convenience, they always enjoyed. From Britain the United States were certainly entitled to justice, but not surely to favour: Yet it was no inconsiderable benefit, which Britain conferred on them, and which no European nation enjoys, when she suspended the rigorous operation of those laws, that prevented even British merchants from sending in alien ships the products of the United States directly to the British West Indies, or the produce of the West Indies immediately to the United States. When the Spaniards lately imprisoned the American traders

at the Havannah, because they dreaded their intrigues; when the French, in order to effectuate their policy, at the same time confined the American navigators, sailing for Hispaniola in quest of markets, to Cape Nichola-Mole; the American citizens probably sighed in secret, but they did not avow resentment, or threaten retaliation*. Thus, an inconvenience may be felt, though no wrong may be done. When good sense shall have triumphed over vulgar prejudice we may reasonably hope, that the American Philosophers will teach their followers, that having manfully gained the wished-for blessings of a free and equal station, among the powers of the earth, they ought to suffer patiently the embarrassments, which every where result from greatness. A little opposition, or even
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* We learn from Hispaniola, says the New-York Journal of the 1st of July, 1784, "That all American vessels were obliged to leave that island before the 10th of April last. All vessels found in any of the ports of Hispaniola (the Mole excepted) are subject to confiscation, if they have on board more sugar and coffee, than is thought necessary for the voyage. In consequence of which many vessels have left Hispaniola, their cargoes by no means completed. And that at the Mole *Rum* and *Molasses* (the only articles they were allowed to carry away) had risen to a price higher than ever was known in that island." This regulation was altered by a new edict in December 1784. But, it is impossible to follow the successive regulations of the French government for the West-India islands, because they vary every month. The late letters from the Grenades, however, assure us, that the French had seized four thousand barrels of American flour at Martinico, in order to favour their own importation from Old France.

a still less degree of adversity, will instruct the American governments, that they ought to pay some deference to the municipal rules of other sovereign powers; because they flatter their own vanity of independence, when they conform to the regulations, which other independent States may think fit to establish.

But, whatever measure the American Congress and Assemblies may choose to adopt, the interest of the American planters, who form by much the most numerous body, will furnish Great-Britain with the best security for the good behaviour of the whole. To send traders to purchase the lumber that they clear from their lands, and to carry away the corn and cattle, which they raise on their fields, can surely be thought no great injury, far less insult, to any community: Nor, can it be deemed any great disadvantage to the American planters to send them abundant supplies of rum, sugar, molasses, and other necessary products of the West-India islands. The American people, "who have seldom wandered widely from their interest," are fully aware, that it is demand and supply, which regulate the prices in every market. They already perceive, that their chief advantage consists, in having in their ports many sellers of the goods which they may want to buy, and many buyers of what they may wish to sell; that to exclude the traders of any one country, or description, would amount to a permission to the favoured traders to
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raise their prices against every buyer and to sink them against every seller. The planters can therefore derive no benefit from the exclusion of any one class of traders (were the proposal even to come from the merchants of Boston, New-York, or Philadelphia, of Baltimore, or Charles-Town,) which would form a monopoly in favour of the few against the many, by sacrificing the agricultural interest to the mercantile. Though the American merchants might gain, by such exclusive projects, the American planters are only interested, in having a competition, in their markets, between buyers and sellers of various countries, and therefore of various views.

From the foregoing reasonings we may surely infer, that the Assemblies of Virginia and Maryland acted contrary to the genuine interests of their constituents, when the one resolved, That no *British* ship should import the produce of the West-Indies, and the other imposed on every *British* vessel a tax of three shillings sterling the ton: When the other Assemblies concurred generally with both, in the resolution of arming the Congress with power over commerce, for the purpose of retaliation, or redress, they equally sacrificed the real advantage of their country to their own resentments. But, revenge is merely a momentary passion, while avarice is the most obstinate affection of the mind. Cool calculation will ere long discover, that were the West India traffic wholly cut off, the planters would certainly lose a market for their provisions and lumber of
the

the annual value of half a million; the American commonwealth would moreover be deprived of a yearly balance of £. 350,000; which is payable in bullion on that branch of business, at a time too that specie does not abound among them. And still more, by that determination the Assemblies would at once raise Canada and Nova-Scotia from the ground, and execute that measure, which wise men wish for, as the system that Great Britain ought spontaneously to adopt.

2. From investigations with respect to the manner wherein the American citizens are interested, either individually, or collectively, by the late regulations of the American trade; we are led, secondly, to discuss the various ways, in which the West-Indies may be affected by the proclamation of the 2d of July, 1783. Like the American citizens the West-India planters complain, with still less propriety, not so much, that the proclamation did not give them many advantages, as that it did not give them every advantage. The laws forbade them to carry on any commerce in the ships of the United States; yet, the West Indians clamour, because they were only allowed to traffick in *British* ships: They are permitted to send their rum, sugar, molasses, and other products to the American markets, and to bring the most material of the American produce in return; yet, are they dissatisfied, because they are not moreover allowed to employ *American* ships; without considering how much the permission would enervate the naval strength

of Britain, whereon they themselves rely for defence. It is not uncommon to see men carried away by their present passion to their ultimate ruin: When the West-Indians beheld, with too favourable eyes the revolt of the Colonists, they might have foreseen, that forcible opposition to the laws, and even to the legislature, would probably end in absolute independence:—When the West-Indians, by their clamours, confirmed the purpose of the revolted colonies, little did they perceive, that success would convert fellow-subjects into enemies, during war, and into aliens, in peace.

Yet, the Committee of West-India planters and merchants now represent: “That the permission of American ships, as heretofore, freely to bring the produce of the American States to the Sugar Islands, and to take back the produce of our islands in return, is *obviously essential*.” With deference to such respectable authority, it may yet be asserted, that the West-India planters and merchants, did not always argue thus. Many years have not passed away since their predecessors cast the Continental Colonists the gauntlet of defiance. When the West-India planters applied to Parliament, in 1731, for protection against the smugglers of the Northern colonies, they as confidently stated*, “That there are persons still living, who very well

* Anderf. Chron. Com. 2 v. p. 336.

well remember, when there were very great quantities of provisions and other requisites for planting, sent from *Old England* to our sugar colonies, because at that time our continent colonies were not fully able to supply them.” Nevertheless we are now told by the same authority, that the plantations of the South and North *were settled with design to satisfy each others wants*. Thus, we behold the West-Indians of 1731, stand opposed to the West-Indians of 1783, with the contradictoriness of men, who sacrifice oftener at the shrine of Interest than in the temple of Consistency.

From history we may learn indeed, that Old England hath successively furnished all her transatlantic settlements with every necessary for planting. When the Parliament prohibited*, in 1663, the direct importation into the British colonies of *foreign* commodities, being the growth of Europe, the law expressly provided, that horses and *victual* of the product of Scotland and Ireland might be transported thence to the plantations. The term *victual* carries with it so large a meaning in our language, as well as in our laws, that it includes “all stores for the support of life.” And from that early epoch of our colonization, horses and victual have been constantly sent from Ireland and Scotland to the British West Indies—From a querulous pamphlet, which, when published, in

1689,

* By 15 Cha. II. chap. 7.

1689, was entitled, *The Groans of the Plantations*, we may learn not only the cause * of their complaints, but also the course of their supplies, at the æra of the Revolution. Amidst all their groans, the West-Indians then declared, " we have our horses from England; the bread we eat, is of English flour; we take great quantities of English beer, and of English cheese and butter: we sit by the light of English candles: moreover we take thousands of barrels of Irish beef." More moderate in their desires, because they were less opulent than the West-Indians of 1784, the West-Indians of 1689, " were well contented to be confined to England only, for those things that England doth produce."

The

* The West-Indians had then two causes of complaint; the tax upon sugar, which was, for the first time, imposed by the 1st Ja. II. ch. 4. and the acts of navigation, which had always confined their commerce to England: Yet, the West-Indians have prospered and groaned ever since. Their prosperity we may, indeed, infer from the subjoined detail of the value of their imports and exports, to and from England at the two extremities of a period of eighty years:

	Value of imports, from the W. Indies.	Value of exports, to the W. Indies.
Ten years average, ending with 1710, }	£. 629,128	£. 313,039.
Do ending with 1780,	2,943,955	1,279,572.

What a marvellous progress in growth does this statement exhibit: Yet, what continual clamours of decline have we heard, during all that period!

The Continental Colonists soon supplied themselves, and gradually supplanted the English merchants, in the West-India markets. Sir Josiah Child, saw the rivalry begin, during the reign of Charles II. and warned the nation of the consequences. Dr. D'Avenant beheld its progress, amid the wars of William III. and vainly urged the interposition of the Legislature. While the British landholders were at a vast expence, in taxes and debts, defending the colonies, during every contest since the Revolution, the colonial landholders entered into a too successful competition with their protectors, in every port, during peace; nay, even supplied with provisions the enemies of both in war. The colonists were regarded as fellow-subjects, who merited not only defence, but favour. The landholders of Britain allowed meanwhile, a double monopoly to be established against themselves: They first, permitted the West-Indians to furnish their own markets, with all things from the continental colonies; they indulged the West-Indians, secondly, with the sole supply of the British markets, for rum, sugar, and their other products. But, though our kindness, rather than our interests, allowed to our continental colonists, a competition in every market; surely, our policy ought not to permit those who were once subjects, but are now aliens, to act as rivals in the commerce of the British West-Indies, which the British nation is still bound to defend. The French do not act in this manner: And yet, the West-

West-India regulations of France, are by all the world commended.

We shall nevertheless be pertinaciously told: "That the admission of American ships into the West-India ports, is *obviously essential*: That Great-Britain must at last submit." These are at least confident words. The term *obviously* supposes, that the general assertion admits of no controversy: And the word *essential*, signifies that the nature of the grievance allows no alleviation. The continental colonists, when on the eve of a revolt, in the same manner thought, that their traffic was obviously essential to the West-Indians; and therefore prohibited all commerce between them. Yet, eight years experience hath evinced, contrary to malignant speculation, that it is possible for the West-Indies to exist and to prosper, were the United States doomed to perpetual sterility. It is the mercantile spirit which brings the buyers and sellers of distant countries together. Merchants are sufficiently studious to discover the demands of every market; that they may profit, by supplying them. The traders of Great-Britain and Ireland seized the opportunity, which the factious folly of the Americans had furnished, to revive and extend the business, that had enriched their fathers, during happier times. Even during a consuming war, when vast fleets and armies were fed beyond the ocean, Great-Britain and Ireland sufficiently supplied all those necessaries, which the West-Indians did not readily find in their own oeconomy.

Their

Their superabundance even furnished the army that General Grant conducted to their aid, with several months provisions. And the fleet too sometimes partook in what the planters had to spare. The following custom-house entries will shew sufficiently, whence that abundance was drawn, at the beginning, at the middle, and at the end of the war.

I

Of

OF SALTED PROVISIONS there were exported from England alone:

	Irish Beef. Barrels.	Irish Pork. Barrels.	English Beef and Pork. Barrels.	Total Barrels.	English Bacon. Fitches.	English Tripe. Kegs.
In 1773	1195	383	259	1,787	558	306
In 1780	9844	3471	4480	17,795	3369	1582
In 1783	9848	3959	3619	16,526	5188	2559

Contrast with these quantities the West India supply of Beef and Pork from the revolted colonies, according to an average of three years, ending with 1773, ——— 14,992

OF PICKLED FISH there were exported from England only:

	Red Herrings. Barrels.	White Ditto. Barrels.	Total. Barrels.	Pilchards. Hogheads.	Salmon. Barrels.
In 1773	514	1876	2390	211	5
In 1780	1816	7281	9097	1188	109
In 1783	2840	15060	17900	313	35

Contrast with these the West-India supply of pickled fish from the revolted colonies, according to an average of three years, ending with 1773, 16200

From England only there were exported of BUTTER, CHEESE, and BEER:

	Irish Butter. Hund. weight.	English Ditto. Firkins.	English Cheefe. Hund. weight.	Beer. Tons.
In 1773	1195	92	3247	1881
In 1780	9844	274	3660	2042
In 1783	3195	522	4475	3170

With the last-mentioned products of our fields we find little from the revolted Colonies to contrast, because of butter, cheese and beer, they imported more than they sent out*. From the foregoing entries, with all their defects, it is sufficiently clear, that Great Britain had regained the supply of the articles contained in them, and that, as to those necessaries, the West India demand was amply answered. The planters derived ground provisions from that best of all resources, their own diligence and attention. And their measure of all things was probably filled up from the prizes, which even hostility conducted to their ports. But it was from the embarrassments, which their affected friends intended to throw in their way, that the West-Indians learned a lesson of the greatest importance for every people to know, that no community ought to depend on its neighbour, for what the necessities of life require. The country, which is *physically* dependent on another, must soon become *politically* dependent on it.

If indeed the admission of American vessels into the West-India ports were essential to the furnishing

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* There were exported from Ireland to the British Colonies, Continental and West-Indian, according to an average of the years 1773-4-5:

Of Beef	—	68,990 Barrels.
Pork	—	25,964 Barrels.
Tongues	—	3,332 Dozens.
Butter	—	36,644 Cwt.
Cheese	—	1,317 Do.

ing of the unhappy negroes with food, benevolence would drop a tear over the wants of human nature, and justice would grant what policy might wish to deny. The question however does not turn on the pivot of supplying the West India Lords with their usual luxuries, or the West-India slaves with their accustomed needs. The proclamation has provided, that both shall be supplied in the most *reasonable* manner, having at once an attention to private convenience, and to public safety: But, the West-Indians contend, that they ought to be accommodated in the most *profitable* manner, having a regard to their own interest alone. And we have seen, that three abundant markets, namely, Great-Britain, and Ireland, in Europe, and Newfoundland, Canada, and Nova Scotia, in America, had been already opened, when the proclamation added the United States as a fourth. True indeed, neither the proclamation, nor the law commanded traders to *supply the West-India wants*. It was sufficient, that the laws and the proclamation removed every hindrance. All systems presume, that it is the business of merchants to discover the necessities of mankind, and to ransack the earth for the means of gratification. The traders have actually found means, since the peace, as they had already done, during the war, to accommodate the West-Indies abundantly. Almost every letter, by every packet, communicates the welcome news of plentiful markets. And it is a decisive confirmation of the truth

truth of private intelligence, and of public report, that those who have clamoured the most have brought no incontrovertible evidence of an existing necessity. Thus, the measure of admitting the American vessels into the West-India ports, results at last into a mere consideration of mercantile profit, or into a gratification of private passion, though at the hazard of the public welfare.

The pretension of the West-Indians, which can consequently be no more considered as a claim of necessity, or of justice, has been run out by the ingenuity of men into various modifications of demand and supply. It has been suggested by some, that were the United States to prohibit all traffick with the British West-Indies, the best market for the products of both would be in future cut off. By others it has been confidently said, that were this event to take place, the Continental Colonies, which still belong to Britain, would soon be able to supply the void. And a third class of men, with a bolder spirit insist, that the only inquiry should be, whether the British West-Indies can find suitable markets on the face of the earth, without regarding the United States, or even our remaining plantations, any more than if they did not exist.

§. 3. In order to discover all the distinct shades of truth, which may be contained in each of the foregoing propositions, it is intended to consider the difficult subject, under three distinct heads, in their order: 1st, Whence can the British West-Indies

Indies be supplied with provisions and other necessaries, if the United States should deny their aid; 2dly, Whence can the West-Indies be furnished with lumber, or timber, wrought and unwrought, for the various uses of the cooper and builder; and 3dly, Whence will the West-Indians find consumption for their rum and other luxurious productions, if the United States should reject them.

1. An inquiry into the state of population in the British West-India Islands may be regarded as rather curious than useful, when the amount of their consumption can be nearly ascertained by facts. The Board of Trade reported to the House of Lords, in 1734, that the number of white men was then 36,201. If we suppose that they have doubled in half a century, by whatever means, the present white inhabitants may be calculated at about 72,000 souls. Mr. Glover, who very ably pleaded the cause of the West-Indians, before the House of Commons, in 1775, roundly stated the number of Negroes at rather more than 400,000. If we admit the foregoing conjectures to be nearly the truth, it cannot be surely inferred, that seventy-two thousand masters, with four hundred thousand slaves, form a community of sufficient bulk, to whose gratifications the interest and even independence of the nation ought to be sacrificed. The planters and slaves exist in a state of society extremely analogous to the situation of Europe, during the feudal times; And like the Barons and their

their vassals, in the infancy of agriculture, the West Indians consume great quantities of salted provisions. From the revolted Colonies they received of

BEEF and PORK.

In 1771—13,511 barrels.

72—12,575

73—18,890

An annual demand of 14,992 barrels was doubtless a considerable quantity: Yet, from Ireland alone the West-Indies may be furnished with greater supplies of salted beef and pork than they can consume; as we may learn from the statement on the subsequent page*.

* See the note on page 59.

* From

* From the United States there were exported, according to an average of six years, ending with 1773,

Beef and pork, the beef at 28s. per barrel, and pork at 40s. in all
 25,926 barrels.
 Hams - 1107 barrels, 6d. per lb.
 Butter - 1179 cwt. £. 2 : 10s. per cwt.

* From Ireland there were exported, according to an average of seven years, ending with 1777.

Beef - 195,605 barrels, at £. 1 : 12s. per barrel.
 Pork, 55,240 at 2 : 0
 250845 barrels.
 Bacon 19,125 fitches at 15s. per cwt.
 Butter 267,212 cwt. at 2 : 5s. 6d. per cwt.

[64]

* The detail of Irish provisions was taken from Mr. A. Young's Tour in Ireland: The American account is from the inspector of import and exports books. Let us contrast the above-mentioned prices, with the prices current of the same articles at Baltimore, the great mart of the middle States, in May 1784; converting the currency to sterling at 66 $\frac{2}{3}$; namely,
 Beef, American £. 2 5 0 per barrel.
 Beef, Irish 1 16 0 per ditto.
 Pork, American 3 12 0 per ditto.

Pork, Irish—none
 Hams ———
 Fitches ———
 Butter, American ———
 Butter, Irish ———

0 0 6 per lb.
 0 0 5 $\frac{1}{2}$ per lb.
 0 0 9 per lb.
 0 0 10 $\frac{1}{4}$ per lb.

Yet, the unexampled severity of the preceding Winter may have operated on all these prices.

[65]

Thus, by contrasting the whole quantities of those different kinds of salted provisions, which were exported from Ireland and the United States, about the same time, we see such a superiority in the Irish market over the American, as to leave the merchant little room for choice. The Irish supply is vastly greater; the prices are nearly equal; yet it must be observed, that the Irish barrel is somewhat smaller, while the quality is infinitely preferable. Considering how much our West-India vessels have hitherto wanted freights, and how commodious the ports of Ireland are to the shipping from the Western coast of Britain, the salted provisions of Ireland may be thence transported cheaper to the West Indies than from the nearer shores of the American States. And the Irish beef and pork and butter, were always preferred in the West India markets, and even in the markets of the revolted Colonies. Britain too, we have seen, can furnish no inconsiderable quantity of all these articles. To preserve the supplying of salted provisions to Britain and Ireland, by excluding the competition of the United States, was the ruling principle of the late regulations. And thus from the independence of the revolted Colonies have we gained all the profits of the supply, and the still more important advantage of the freights.

The wisdom of those regulations, and the benefits which Britain must necessarily gain from that signal event, will appear in a still clearer light, if we take a comprehensive view of our fisheries; which,

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as the best nursery of our seamen, are so worthy of our care.

The subjoined detail, containing a sketch of the Newfoundland fishery, during two distant years of peace, which immediately followed two consuming wars, will enable the reader to determine how far the revolt of the colonies has deprived Great Britain of this valuable fishery, according to the prophecy of 1775.

	in 1764	in 1784.
The number of British fishing ships	—	141
Trading ships	—	97
	<hr/>	<hr/>
	238	296
American ships	205	50
	<hr/>	<hr/>
Tons of British fishing ships	14,819	
Trading ships	11,924	
	<hr/>	
	26,743	28,832
Of American ships	13,837	4,202
	<hr/>	<hr/>
Number of men in British fishing ships,	—	1,933
Ditto in British trading ships	—	1,039
		} 3,585
Number of passengers from England	—	1,639
Ditto from Ireland	—	2,451
		} 3,187

Number

Number of souls who remained, during the Winter in Newfoundland	—	10,226	10,821
		<hr/>	<hr/>
Number concerned in the fishery	—	17,288	17,593
Quintals of Cod exported to foreign markets	—	470,188	497,884
		<hr/>	<hr/>

Such was the general amount of a fishery which has at all times received, because it always merited, much of our legislative regulation. But, in extending encouragement to that most useful class of subjects, the preference ought surely to be given to the fishers, who go yearly from Britain and Ireland, in opposition to those, who reside and carry on a sedentary fishery: For, if the use of a nursery is to supply the public with sailors, when the dangers of war require their aid, it is in vain to breed seamen, whose services cannot easily be commanded when they are most wanted. Useful regulations ought to be preferred to pecuniary bounties. And no encouragement can preserve the fishery if a speedy and constant sale is not found for the fish, when it is cured. From the Independence of the American States we have regained the market of the British West-Indies, which the wisdom of our Councils may easily regulate and preserve, for our own fishers alone.

K 2 These

But this statement will not be admitted to be a genuine account of the relative importance of the British and American fishery, by those who know, that the New Englanders purchased much of their fish at Newfoundland, which they afterwards exported to foreign markets. And a comparative view of both these fisheries is subjoined, in order to shew more distinctly, which of them forms the great mart, whence the British West-Indies may be amply supplied,

Fish exported from Newfoundland, Canada, and Nova Scotia.

	Quintals.
In 1771—To Britain and Ireland,	17,481
South of Europe, &c.	604,975
West-Indies, British and foreign	—
	18,426
	—————
Add the fish bought by the New Englanders at Newfoundland, which appears from the Custom house entry to have been imported coastways	67,012
	—————
Whole produce of the now British fishery	707,914

Fish exported from the now United States.

	Quintals.
In 1771—To Britain and Ireland	2,000
To South of Europe, &c.	131,882
To West-Indies, British and foreign	—
	196,993
	—————
Deduct the fish bought by the New English at Newfoundland and afterwards exported from their own ports	67,012
	—————
Whence we perceive, the whole produce of the American fishery to have only been	263,863

Thus, we see, that the revolted Colonies had engrossed almost the whole of the West-India markets. And thus we perceive from what source the British West-Indies may be most amply supplied with fish, when we consider, that their whole consumption amounted only, to about 161,000 quintals of dried and 16,178 barrels of pickled fish, if we may judge from an average of three years importation, ending with 1773; and when we reflect too, that the general price at Newfoundland was seven shillings the quintal, while it was usually nine at Boston.

That we enjoyed a considerable fishery not only at Newfoundland, but also on the American coasts, before New England was planted, is a melancholy truth, which we might learn from the debates in Parliament, during the year 1621, if Sir Josiah Child had not recorded the fact, during the reign of Charles II. and lamented the impolicy of permitting it. The American charters, which were granted by Charles I. are all remarkable for a cautious clause, reserving to the residents of England and Ireland the right of fishing in the bays and harbours of the Colonies and drying the fish on their lands*. The ardent people, who formed the settlement of New England were soon driven by their

* This clause was probably inserted from the declared sense of the House of Commons; that the English fisheries were of more national importance than the Colonies. See the Parliamentary Debates 1621 throughout.

their necessities to begin the labours of the fisher. The hardy inhabitants of the Western Coasts of England, who used annually to resort to the American shores, found too powerful competitors in the planters, who had emigrated from Dorset, Devon, and other Western parts of England; whose superior advantages in their new situation, converted ere long an annual fishery from England into a stationary one, at the distance of three thousand miles. With a similar spirit the New Englanders engaged in the fisheries of Newfoundland, though not with the same exclusive success. And in proportion as that enterprising people became competitors with the fishers of Britain, during her civil and foreign wars, their rivalry narrowed the nursery, which had been destined to furnish the British navy with a hardy race. For, the American seamen, like the British, could not be pressed into the public service, since they were exempted, not so much by act of Parliament*, as by the spirit of the country.

Owing to the before-mentioned causes, the British trader had long ceased to have much direct trade from Newfoundland to the British West-Indies. For, it appears from an average of the years 1771-2-3, that there were only sent to the West-India market, directly from Newfoundland, 3922 quintals, 769 hogheads and 67 barrels of fish, tho' the West-India demand required (as we have seen)

L 161,000

* 6 Ann. ch. 37. sec. 9.

161,000 quintals of dried, and 16,178 barrels of pickled fish. To so great an extent had the New-Englanders engrossed that profitable business, together with the chief supply of the Newfoundland fisheries. They thereby enjoyed all the gains of double freights and double profits on the commodities. They sent to Newfoundland in the first place, molasses, sugars, and other products of the West-Indies, together with provisions, and immense quantities of rum from their own distilleries. In return, they carried away the fish into their own ports, where the whole was sorted, and whence much of the inferior kind was afterwards sent to the West-Indies, for supplying the consumption of the slaves. Of this gainful traffick the revolt deprived the Americans, with other greater benefits. And during the war a direct trade, between Newfoundland and the British West-Indies, was opened, which proved equally advantageous to both. A market was even found for the refuse fish in the free ports of the foreign islands. And thus, what the Americans lost, in pursuit of their object, British subjects have gained * and may keep, unless we reject the favours, which fortune has thrown in our way.

Scotland is said to have enjoyed a considerable fishery in ancient times. It did not however descend

* The supply of provisions, of West-India products, and of lumber, which were annually sent from the revolted Colonies to Newfoundland, was formerly prodigious and required many ships

to the epoch of the Union; which was dreaded and opposed by the Dutch*; because their commercial jealousy suspected, that the wealth of England would be employed, in urging the Scotch to resume and regain the fisheries, which their misfortunes, or evil habits had lost. What the Dutch thus foresaw and feared actually happened in time. The Parliament wisely gave a bounty, in 1750, of thirty shillings a ton, on such busses as should be employed in the white herring fishery, under specific qualifications. Before the year 1768, the Parliamentary bounty had created 263 busses, carrying 12,556 tons, which were navigated by 2,898 men, who caught 28,162 barrels of herrings †. It

L 2 was

ships to carry it. That traffick had dwindled, in 1784, to the cargoes of six British vessels, which brought the very inconsiderable supplies, that are subjoined :

- Flour — 221 barrels,
- Bread — 10 barrels, 448 kegs, 1230 cwt.
- Oatmeal — 8 casks,
- Butter — 12 kegs,
- Chocolate — 9 boxes,
- Apples — 46 barrels,
- Poultry — 17 dozen,
- Sheep — 21 number,
- Cattle — 117 number,
- Onions — 3069 bunches,
- Molasses — 92 hogheads,

No Rum, and a small quantity of Lumber and Naval Stores.

* As we know from a memorial of Dr. D'Avenant to Lord Godolphin, in the Paper-office.

† A detail from the Custom-house.

was probably, from a fishery, thus created by a wise measure, which ought alone to evince to the United States what the wealth of Britain can do, when employed on her own improvement, that Scotland exported to the West-Indies of HERRINGS;

In 1767	—	—	8,273	Barrels
In 1768	—	—	10,830	
In 1769	—	—	8,435	

besides tusk, ling and salmon, in much smaller quantities. The amount had perhaps been greater had the competition of the revolted Colonies been less. When that competition was removed, by the war, England alone sent supplies of pickled fish to the British West-Indies fully equal to the consumption, as hath been already proved *. The British fish fetched a higher price than the American, because they are of higher relish and more capable of preservation. The extension of circumjacent fisheries, and the improvement of internal wastes are the only objects, which greatly merit the bounties of the British nation; owing to the nature of its defence and frequency of attack. But, the best bounty, because the cheapest and most successful, is the opening and extending of markets, wherein there shall be no competitors. Whether the British fisheries, European and American, can supply

* See before p. 56. There were moreover sent from Scotland, in 1779, no fewer than 25,767 barrels of Herrings, exclusive of Ling, Salmon, &c. though in no great quantities.

supply the British West-Indies with 161,000 quintals of dried, and 16,200 barrels of pickled fish; whether this cargo ought to be supplied by British subjects, exclusive of American citizens; are questions, which he would be idle, who should sit down to answer.

It will be found perhaps much more difficult to procure for the West-Indies an adequate supply of live provisions and live stock, which the proclamation properly allowed to be sent them from the United States, if the American governments should, in their anger, prohibit the export in *British* ships. The necessary cargo is not a small one; as we may learn from the following detail:

LIVE STOCK,
Exported from the now United States to the British West-Indies,

	Horses, No.	Cattle, No.	Sheep and Hogs, No.	Poultry, dozen.
In 1771,	— 2170	— 1148	— 4812	— 1007
72,	— 2220	— 1296	— 3693	— 939
73,	— 2768	— 1203	— 5320	— 799

Yet the numbers of each kind are not beyond the supply which the British dominions can furnish. Horses, we know, have been sent to the West-Indies from Britain and Ireland, during every age, in proportion probably, as they were not excluded by the competition of the revolted Colonies. Since the epoch of Independence low priced horses have been actually exported from Scotland. In the two and twenty years, ending with 1771, there were exported

exported from England, though not wholly to America, no fewer than 29,131 horses*. There seems then no reason to doubt, but the bogs of Ireland, the mountains of Scotland, and the heaths of Cornwall, will produce garrons enow to answer the full demand of four and twenty hundred, without prostituting the hunters of Yorkshire to the drudgery of the mill. Mules are sent to the West-Indies from the West of England. From the peace of 1763, Canada supplied the Southern settlements with many serviceable horses, by the route of Lake Champlain, which were sometimes exported to the West Indies; but Canada sent none by the River St. Laurence: The channel of the Champlain being now obstructed, the surplus number will assuredly form a part of the mixed cargoes, which will now be sent directly to the British West Indies, in prosecution of a more vigorous commerce. The forests of Nova Scotia have hitherto bred few horses. When the energy of the new settlers shall have banked out the tide, we may reasonably expect, that their meadows will raise horses sufficient to supply even the wants of neighbours, from their Eastern harbours, which, stretching far into the ocean, court the traffick of every country.

The fields, which, from their herbage, produce horses, will equally rear cattle of every other kind. Canada and Nova Scotia have not yet supplied the West

* See the Annual Register, 1773.

West Indies with any number of oxen. Commerce, like every thing else, must have its beginning and its end. Virginia and New England were originally stocked with the ox and the sheep from England. Both however gained from her in less than forty years the supply of the West Indies, which they, with the other revolted Colonies, chiefly enjoyed previous to the late civil war.—Canada and Nova Scotia have yet to learn how to form that miscellaneous cargo, consisting of provisions alive and salted, of lumber, and of almost every thing, which the necessities, rather than the elegancies of life, require. Till both have acquired the pedling arts of their neighbours (and it were to be wished that every part of the British dominions would practise a pedling more than a magnificent commerce) Ireland alone can supply from her most luxuriant pastures the full demand of cattle for the West India market, since Ireland annually exported, according, to an average of seven years, ending with 1777, four thousand and forty live stock, exclusive of hogs*. From the coast of Barbary the West Indies were often supplied with sheep; and from the Cape de Verd Islands they were sometimes furnished with cattle and Indian corn. It is of greater nautical importance to Britain, to send sheep and oxen to the West Indies, from the Barbary Coast and the
Cape

* Appendix to Mr. A. Young's Tour in Ireland, which contains many interesting details.

Cape de Verd's, than from Nova Scotia or Canada; because the chief care of Britain, on this occasion, should be, to find outward freights for the West India vessels, consisting of six hundred and eighty sail; to make that business profitable now, which was formerly unprofitable, owing to the greater bulk of the homeward than the outward loadings: And in this measure all parties are equally interested, because if ships are fully freighted to the West Indies they can transport the West India products the cheaper to Britain. Lastly; if the West Indians shall continue too high-minded to raise their own poultry, they may find feeders in Bermudas: And Bermudas alone can send them all the poultry, which their luxuries may crave, since the Bermudeans sent them 741 dozen, in 1772; as part of an accustomed cargo*.

If from the offspring of pasturage we turn our attention to the products of agriculture, we shall find the flour of wheat to have been an article, which the West Indians consumed in great quantities, though their slaves were seldom allowed to taste it.

Of FLOUR and BREAD

there were exported to the British West Indies;

In 1771,	—	136,388	barrels,	4,515	kegs
72,	—	126,229	—	4,960	
73,	—	134,638	—	3,624	

*The Inspector's Books.

If

If the United States should refuse their former supplies, the considerable quantity*, which was thus consumed in the British West-Indies, must be collected from various sources. Nova Scotia has hitherto had no surplus of flour, or of wheat to spare. The agriculture of Canada was, for several years after the conquest, overshadowed by the superior advantages of the middle colonies. It was the cheapness of the Canadian wheat, owing to the absence of buyers, which induced the Philadelphia merchants to become speculators in the market of Quebec, for supplying directly the demands of Portugal and Spain. And Canada actually exported †

	Bushels wheat.	Barrels of flour.
In 1772,	— 154,807	— 720
73,	— 264,916	— 7,091
74,	— 460,818	— 6,991
75,	— 175,059	— 7,115
78,	— 14,175	— 20,521

The Canadians, like their Southern neighbours, have acquired an energy from the war, which, like them, they will carry into all the operations of peace. To argue, that the Canadians, because they were once indolent and poor, are never to become active and opulent, is to insist that the

M affairs

* The Inspector's Books.

† Inspect. Gen. Books.

affairs of the world do not run continually in a progress; that children never become men; that every people have not their beginning, their rise, and their decline. The historian will find no great difficulty, in pointing out the exact period, when each of the revolted Colonies exported a less quantity of wheat and flour, than Canada actually sent out, as its surplus, in 1772. When the United States, in their spirit of resentment, rather than retaliation, shall have withdrawn the competition of their citizens; when a constant demand shall have operated as an encouragement to the manufacturing of wheat; then will Canada supply both Newfoundland and the British West Indies with a sufficient quantity of flour, which when well packed keeps for years. The frosts of Canada, the storms of St. Lawrence, the fogs of Nova Scotia, have all been mentioned triumphantly, as natural infelicities, which must for ever prevent Canada and Nova Scotia from becoming considerable, in agriculture, or great in trade. The mildness of the Winter of 1783-4 in Nova Scotia, while the rivers and bays of the United States, as far as Carolina, continued frozen till the beginning of March, ought to moderate that triumph in future. The same North-West wind, which renders it so difficult for vessels to ascend the St. Lawrence, after the middle of October, facilitates the navigation outwards. And Halifax might easily be converted into a depository for all the surplus products of Nova Scotia and Canada; which might afterwards be
sent

sent out, during every season, as demand required, from that most commodious of all the American harbours. Halifax is said to be the most commodious port, because it is not only at all times open, but it happily stretches about five degrees to the Eastward of Chesapeake Bay; the North-West wind, which drives with irresistible violence so many ships from the coast of the United States, carries them safely to Halifax, by a side-long pressure; and the Gulf stream conveys every vessel from the South, during the calmer weather, by an easy sail along the American shores to this most secure retreat.

Whatever productions, the ploughs of Canada, or Nova Scotia, may ever yield, Great Britain will surely be able to furnish all the flour of wheat, which the British West-Indies can ever require, if from our experience we may form any expectation. Even young men may remember since England supplied the coasts of the Mediterranean, as well as the shores of the Baltic, with wheat. During that flourishing period of our agriculture, from 1740 to 1757, England exported annually * about 750,000 quarters of corn, which at the low prices of that time, brought into the nation £.1,300,000. Such plenty, alas! and such profit from Corn, we have not for some years known. However unfavourable the seasons may prove, there is reason to
M 2 hope

* An. Reg. 1772.

hope, from the improved state of our agriculture, that Great-Britain will be able to spare wheat flour enough to supply the wants of a community of seventy thousand masters. For, there were actually exported to the British West-Indies from England alone :

	Wheat flour.	Oatmeal.	Bread.
	Quarters.	Quarters.	Cwt.
In 1773 —	0	18	404
1780 —	35,907	758	32,587 *
1783 —	4,090	125	6,657

The quarter of meal must weigh 276lbs: So we may regard every quarter as only a greater barrel. From these Custom-house entries, with all their imperfections, we see clearly enough the effect of the American competition when it existed, and when it had ceased. Whatever may be the system which the Parliament shall adopt, with regard to corn, it will be wise to continue the permission, which has for some years been given †, to export grain and other provisions to the British West-Indies, like the indulgence that has usually been granted to Man, Guernsey, and Jersey. We are

* Even from Scotland, there were exported in 1779, of
wheat flour, — 2,475 Quarters.
Oatmeal, — 177 Do.
Bread, — 5,254 Cwt.

† By 23 Geo. III. ch. 6. this permission was continued to the 1st of May 1784; and has, by an act of the last session, been further continued.

are very apt to copy the French fashions, while we too seldom adopt the French policy. What the French practice even now is, we may learn from the edict of the Viscount de Damas, in July 1783, which has been lately cited as so favourable to the United States; and which yet permits— “ Their merchants to furnish our Colonies (of France) with every kind of their commodities, that our nation cannot supply us with.” We ought not to hesitate a moment then, in recurring to the original principle of colonization, which consisted, in supplying all that the plantations might want, and that Britain could furnish, exclusive of every other country. And thus we perceive, how great a favour the Congress would confer upon Britain, were that body to prohibit the export of flour to the British West-Indies; and how great a benefit Britain conferred on the American citizens, when she allowed flour to be exported from the United States to the British West-Indies in *British* ships.

It will be much more difficult to find for the West Indies a sufficient supply of rice and Indian corn, which are both said to be absolutely essential. Of rice there were only imported in the British West-Indies, if we may judge from a three years average, ending with 1773, 20,563 barrels *. Of Indian corn there were equally required, if we may determine from a similar average, 401,471 bushels.

* The Custom-house entries.

bushels*. Rice was in a great measure a luxury of the rich; and the Indian corn of the Continental Colonies was chiefly expended in the feeding of horses, and other labouring cattle. It is not then so much to be lamented, that from the United States, rice and Indian corn can alone be procured in sufficient quantities. And, every community, which thus depends on rivals, ought to look for substitutes when it can no longer find supplies. Every house-wife can find a thousand substitutes for rice, when she wishes to gratify the rich: And pease, beans, oats and barley, we know, feed the horses of other countries. The oats, which were raised in the American States, were of a kind too light, and the pease were too subject to the ravages of the fly to afford much food: And oats and beans were chiefly supplied from

* The Custom house entries. Indian corn was the only article of provisions, which was unreasonable in its price, according to the latest accounts from the West Indies. It was as high as 5s. 10d. sterling, per bushel, at Antigua, in April: But, it was about the same time as high as 4s. sterling the bushel in Virginia; as 7s. sterling in South Carolina; and corn was selling in the Baltimore market, on the 18th of May 1784, at 3s. sterling the bushel. All these high prices were owing to the severity of the preceding winter, when the planters were obliged to feed their cattle with the corn which they used to export; Virginia and South Carolina were obliged, by the scarcity of provisions, to lay an embargo on the export. [New York Journal, 17th June, 1784.]

from Britain, even before the revolt put an end to the colonial competition. From England alone there were actually sent to the British West-Indies;

	Barley qrs.	Pease. qrs.	Beans. qrs.	Oats. qrs.	Wheat. qrs.	Rye. qrs.
In 1773	3	356	9,089	16,615	0	350
In 1780	256	1,116	12,291	8,006	1,146	1,116
In 1783	146	755	7,360	6,129	8	755*

From these Custom-house entries we see clearly, by contrasting the exports of the three years, the effect of competition between Great-Britain and the American States. The revolted Colonies had gradually circumvented the Parent Country, in supplying the British West-Indies, with all the productions of agriculture. The British yeomanry, burdened with the payment of rents, tythes, and poor-rates, could not contend with the American yeomanry, who were exempted from all these taxes, and who at the same time paid much lighter public taxes. And Mr. Arthur Young very ably proved, in 1774, by an examination of particulars †, that the American farmer could not only supply the West-India market with flour, much cheaper than the English farmer could do; but, could

* There were even exported from Scotland, to the British West-Indies, in 1779,

Of Pease and Beans	—	1,327	Quarters.
Oats	—	1,052	Do.
Barley	—	44	Do.
Wheat	—	4	Do.

† Political Arithmetic.

could even exclude the English farmer from supplying the domestic markets of Britain with wheat. It is curious to remark how near to each other the events of the late war have brought the prices of provisions in America and in Britain. The current rates at the two great marts of Philadelphia and London, in December, 1783, may be compared, by the following detail :

	Philadelphia prices.	London prices.
Of fine flour per cwt.	£. 0 15 9	£. 0 16 0
Of common ditto	0 13 0	0 14 0
Of mefs beef per barrel	2 2 6	2 2 6
Of mefs pork	3 0 0	2 8 0
	<u>£. 6 11 3</u>	<u>£. 6 0 6</u>

It is a remarkable fact, that the prices of all things have been uncommonly high in the United States, since the peace. It is probable, however, that the London and Philadelphia prices cannot continue long to run thus parallel to each other*; though the freights may still be cheaper from London than from Philadelphia: The advantages of the American farmer, notwithstanding the additional burdens of independence, will continue so superior, in respect to rents, tythes, and poor-rates over the British farmer, that the American must ere long overpower the British in every competition.

* The subjoined detail will evince the truth of the position in the text, that the American prices of grain are already fallen

petition. But, whatever may be the difference in the price to the West Indians, this is but a small equivalent, which they ought to pay to the British consumer for enjoying the exclusive supply of Sugar, rum, and other West India products. But, the American citizens having now ceased to be fellow-subjects, ought certainly to be excluded from a right and a benefit, which we had formerly relinquished in favour to them. The British farmers next to the British sailors are the men, who are the most worthy of the protection of the British legislature: The one class fights our battles: the other supplies us with food: The farmers are therefore entitled to the preference in supplying the West India markets with all the productions of agriculture: The sailors are still more entitled to the employment, which arises from additional freights. And the public will gain in the exact proportion, as the interest of these two most useful bodies of men are promoted.

N The

fallen much lower than the British, and will probably continue much lower:

	At London, 18th May, 1784.	At Baltimore, the mart of the middle States; 18th May, 1784.
Wheat	£. 2 8 1 per qr.	£. 1 12 0 per qr.
Pease	1 13 2 ditto,	1 4 0 ditto.
Beans	1 8 6 ditto.	1 4 0 ditto.
Barley	1 6 9 ditto.	0 16 9 ditto.
Oats	1 0 5 ditto.	0 8 8 ditto.

Yet, salted provisions were at the same time much higher in the Baltimore market, than in the London.

The West Indians however, like every other people, ought to be chiefly supplied with ground provisions, by their own diligence and care. Let every island follow the example of the Jamaica Assembly when it enacted*: "That owners of plantations shall have at all times one acre of ground well planted with provisions for every five negroes, and so proportionably, under the penalty of forty shillings, for every acre wanting." The law has long expired; but the salutariness of the rule has in a good measure continued the practice; And Jamaica, considering its superior extent and populousness, of all the West India islands, requires the smallest supply of provisions from abroad. Virginia and Maryland are the States which chiefly supply the West Indies with corn: Yet, during almost a century, after the successive settlement of each, their Assemblies constantly enforced by penalties the planting of grain in opposition to tobacco †. The planters of both at length discovered, that on the same plantation, with the same number of negroes, they could raise a crop of wheat, in addition to the usual crop of tobacco †. And the West Indians ought to adopt the principle,

* Laws 1684.

† The laws of Virginia, though it had been settled in 1607, directed in 1663: That two acres of corn should be yearly planted for each tythable, tending a crop; and that the planting of one acre of wheat should excuse the planting of two acres of corn: [Laws, p. 42.] And considerable encouragement was giving to the building of water-mills in 1705. [Laws p. 294.] Maryland passed similar laws, 1682, ch. 1. 1705, ch. 16.

and profit from the result of this discovery; which alone consists, in making the best use of their own advantages. Without the law of Jamaica the other islands had been driven by necessity to adopt the practice, of raising on their own fields much ground provisions. And this policy is so useful to the master, and agreeable to the slave, that it ought to be extended and enforced by the West India Legislatures: This rural œconomy is useful to the master, because money saved is money gained, which depends on no contingencies: It is pleasant to the slave, because, while he labours his own field, and tends his own plantains, potatoes, and yams, he thinks he is free. Why then should the West Indians resist a measure, which promises profit to themselves and happiness to the men, without whose labour they would be obliged themselves to toil.

Yet, the West India merchants and planters represented to the King's Ministers in April, 1783: "That in several of his Majesty's Sugar Colonies there are still great tracts of uncultivated lands, of which, although a considerable part would undoubtedly under adequate encouragement be settled with sugar works, yet there will remain considerable quantities, which from soil or situation are unfit for the culture of sugar, though very fit for that of indigo, coffee, cocoa and tobacco, if proper encouragement were given thereto." And the encouragement thus anxiously asked by them is the distribution of bounties from the taxes of Britain,

which are collected from our industrious classes. They ought to be told, that we wish not so much for their indigo and coffee, their cocoa and tobacco, as that they would, instead thereof, raise food for their slaves. Let their Assemblies encourage by bounties, or enforce by penalties, the raising of the most needful kind of provisions on their own islands. Let them adopt every possible mode of supply rather than be dependent on rivals, or by sacrificing the acts of navigation, enervate the best defence of Britain, who lately protected them from conquest.

2. Having thus shewn, that it is possible to supply the British West Indies with provisions without the American States; and that it is the interest of Britain to supply them without these States; it is now proper to advert secondly to the commerce of lumber, which the necessities of the builder and cooper require. The present demand is great; as we may learn from the following detail of the former supply:

There were exported from the United States to the British West Indies in 1771;

Pine and oak boards, planks	}	21,271,955 feet
lathing, &c. —		
Hoops —	—	1,958,411 numb.
Staves and heading —	—	7,200,000 numb
Pine timber —	—	200 tons
Oak timber —	—	95 tons
		<hr/>

Exclusive

Exclusive of smaller articles this cargo was certainly of a bulk, which required many ships to carry it: And without the aid of the American States it will not be easy to find an adequate supply for so large a demand. Canada and Nova Scotia, for some years before the revolt, had furnished the British West Indies with some lumber of the various kinds. Both these colonies had however been depressed by too powerful competitors, and both continued feeble; the one from its paucity of people; the other from the inveteracy of its habits: And both wanted what is of the greatest consequence for every community to possess, *energy* and *capital*. The face of both these extensive countries is luxuriantly covered with timber trees, and both of them are every where intersected by navigable rivers. In Canada the people had before the revolt erected great numbers of saw-mills of a cheap and commodious construction: In Nova Scotia, it is hoped the settlers, by following now their example, will ere long convert their boundless forests into fruitful fields. Canada has been lately confined within narrower limits, which will restrain the accustomed roving of its woodmen; who as they encrease in numbers will want employment; and who will therefore direct their future diligence to domestic occupations with the force, which compression always produces. The extensive shores of the Bay of Fundy (where the proper wood for lumber abounds with even the white oak, so prized for its closeness of grain) have been

been at length settled by a great body of men; from whose energy of character and knowledge of the business, scantlings for the builder and staves for the cooper may be expected in abundance, as they convert the well earned rewards of their loyalty into productive farms. Nor, could the same quantity of products be expected indeed from the twenty-six thousand people, who inhabited Nova Scotia before the late war, as from the superior industry and wealth of the sixty-six thousand fishers and farmers, who now reside in that flourishing province. If the Congress, incited by the clamours of interested traders, should prohibit the export of lumber to the British West-Indies, the prohibition would operate as a bounty to Canada and Nova Scotia, by clearing the markets of overpowering competitors, and by creating a demand, which, owing chiefly to competition, they were formerly unable to supply. But, the planters, who choose the American Legislatures, are too much benefited from finding a market for the timber, which lies heavy on their lands, to give us any well grounded reason to hope, for a measure so peculiarly advantageous to the British dominions.

If however, resentment should in the struggle prove too powerful for prudence, and contrary to their genuine interests, the United States should prohibit the export of lumber to the British West-Indies, it will be proper to look for adequate supplies from every quarter of the globe. The search

would

would not be difficult were the real advantage of Britain the point to be simply considered. The naval policy of Britain requires, that the British West-Indies should be supplied with lumber from the rivers of Germany and the shores of the Baltic, even in preference to Canada and to Nova Scotia. For, it was the opinion of Sir Josiah Child, which the experience of a century hath verified; "That there is nothing more prejudicial and in prospect more dangerous to any mother kingdom than the encrease of shipping in their plantations and provinces." And from the register of shipping at Lloyd's Coffee-house we may learn, that the Colonists have begun to build ships in Nova Scotia and Canada, and that the British merchants have constructed, since the revolt, vessels of three hundred tons at Newfoundland, and smaller ones on the inhospitable coast of Labradore. Whether the nautical interests of the kingdom would be promoted the most, by the building of ships at Poole, (since it is the merchants at Poole who chiefly build ships at Newfoundland and Labradore) or at Newfoundland, is a question which does not merit any answer: Nor, is it necessary to enquire, whether Britain would be most benefitted, by fetching the wood from Newfoundland, or by sending thither the iron and sails. For, in this manner it is, says Montesquieu, that Holland has its quarries and its forests. And thus are we led to infer, that neither the petty profits of the West-Indians, who enjoy monopolies enow, nor

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a considerable advantage to our remaining colonists, who may convert their trees into potash, ought for a moment to be considered when the domestic encrease of shipwrights, sailors, and coopers, is the object in contemplation. The colonies were originally settled to promote the navigation of England, by creating a great employment for ships. To allow the plantations (as they have been allowed for a century and a half) to enter into a competition with the mother country, in ship-building and navigation, was absurdly to sacrifice the important end to the inconsiderable means. The fisheries of New England were, in this view of the subject, a nuisance in the British empire; a nuisance great in proportion to their extent and continuance. The making of acts of Parliament to protect the New England fishers and the colonial sailors from being pressed into the public service, like other British fishers and seamen, was to augment that nuisance, instead of abating it.--Sailors, who reside at the distance of three thousand miles, were they subject to the press, are of little use to Britain, because their services cannot be commanded, when they are wanted most. For this reason the sailors and fishers of Nova Scotia and Canada are entitled to no favour from Britain. And still less are the American seamen, who continue our rivals in peace, and will be our enemies in war, entitled to any indulgence, when that favour is to be conferred by depriving our own sailors of employment, and the nation consequently of their service.

service. When the West Indians are urged to allow their slaves to raise their own food for themselves they constantly plead, that the planting of sugar promotes the navigation of Britain. But, when they insist, that the American citizens shall be allowed to supply them with lumber in *American ships*, even of the smallest size, they would sacrifice the *end to the means*. And the West Indians little reflect, amid their cares for themselves, that in proportion as they carry their wishes into effect they lessen the usefulness of the West Indies to Britain, and in the same degree withdraw the only consideration which they can give for her defence of them.

It ought to be the constant object of Britain, then, considering that her glory and defence arise chiefly from her ships and her sailors, to ransack the earth for lumber and to supply the West-Indies from her own ports. Were this measure carried carefully into practice it would be found to lead to the profit of individuals as well as to the safety of the State. The navigation, which was created, by transporting annually the surplus products of the West Indies to Britain, is doubtless of great importance, from its magnitude, and may be rendered much more useful, by its regulation. This truth we shall see in the most striking light, by attentively viewing the subjoined detail of the West-India shipping, which was formed from a minute inspection of the entries at the Custom-house

house *: And it contains an accurate abstract of the number of vessels, which appears from the registers of shipping to have been cleared from each respective island, during a year of unexampled export, distinguishing the British from American built shipping :

Islands.	Brit. ships.	Am. ships.	Brit. tons.	Am. tons.
Jamaica	- 145	- 136	- 26,906	- 15,847
Barbadoes	- 47	- 13	- 6,546	- 1,172
St. Kitt's	- 35	- 20	- 6,494	- 2,310
Antigua	- 28	- 22	- 4,073	- 2,290
St. Vincent's	25	9	3,042	1,100
Tobago	- 6	- 3	- 615	- 320
Montserrat	- 10	- 9	- 1,437	- 1,043
Nevis	- 18	- 0	- 2,851	-
Grenades	- 51	- 49	- 7,717	- 5,942
Dominica	- 32	- 21	- 3,933	- 2,433
<hr/>				
British	- 397	- -	- 63,614	
American	- 282	- -	- 32,457	
<hr/>				
Tot. in 1772,	- 679	- -	- 96,071	

From this detail, which is only instructive in proportion to its accuracy, and which to be able thus

* Some men from the suggestions of sceptical minds delight in all the various shades of uncertainty. Such men are never more gratified than in finding errors in the Custom-house books, because the establishment of error has an essential tendency to create universal doubt. But, in these books there is

thus to submit to the Public required no small research, we may make many reflections. From it we see the relative importance of each of those islands to our navigation and the commercial magnitude of the whole. Tobago indeed we have lost; but, it was the least we could lose. Of the six hundred and seventy-nine vessels, which were in this manner required to transport the great West-India cargo of 1772 to Britain, much more than one third had been built in our Colonies, though they only contained a little more than one-half of the tonnage of those that had been built in Britain. To so great an extent had we resigned the most useful of all our manufactures to our Colonists,

O 2 contrary

is assuredly much truth as well as some falsehood: The entries of uncustomed goods are doubtless liable to much imposition, and are therefore obnoxious to much objection, as proofs. The entries of the number of ships, which clear in any port in any year, contain as much certainty as generally is found in human affairs. Every vessel, which any where loads, and all the vessels which loaded in the West-India islands, during any given year, must have necessarily cleared, and every vessel is entered accordingly to the description given of her in her own register; namely, *where she was built and who are her owners.* In this transaction interest has no object in propagating falsehood. And consequently when the Custom-house lists of all vessels, which entered outwards in any year from the British West-Indies, are carefully inspected, we gain all the certainty which, in such details, any reasonable inquirer would wish to have. In this manner were the West-India Custom-house returns inspected by two very competent persons, in order to come at the result mentioned in the text.

contrary to the remonstrances of the wisest men of their time. We have been sufficiently solicitous about the manufactures of wool, of hats, and of iron, in the Colonies: but we have cared little, during the last century, for the more important manufacture of ships. This had been a melancholy remark, were it not that we may derive consolation from reflecting, how much the public wisdom may convert misfortunes into benefits. We may now regain the business of ship building to no small extent, which our imprudent kindness had given away: Our safety requires, that we ought to retain every advantage, which a signal revolution has happily thrown in our way.

Of those six hundred and seventy-nine vessels, which though registered at ninety-six thousand tons, carried at least one hundred and twenty eight thousand tons, it is admitted, that one half failed to the West-Indies without a freight, or that each ship carried only half a lading. The loss from this circumstance formerly, and the gain to be made now, by finding full freights for our outward bound ships, may be very easily calculated. If the average of the outward freight is allowed to be 40s. the ton, we may find by an easy calculation, that the freights on sixty-four thousand tons would amount to one hundred and twenty-eight thousand pounds. To men indeed who permit their minds to dwell on splendid projects of commerce, or who gain thousands from a job, even this annual gain to an opulent nation will appear very inconsiderable.

But

But it is the duty of the Legislature of a nation who runs too much into a magnificent trade, to promote an economical one. If that employment of capital, which was formerly unproductive, can be rendered, by proper measures, more fruitful, we may surely presume, that an augmentation of capital would necessarily follow additional gains. Merchants, who formerly became owners of ships in the West India trade with reluctance, would now purchase shares with alacrity. The number of vessels would increase with the competition of traders. And in this manner would Great Britain, by supplying the West-Indies with lumber from her own ports, regain the building of ships and invigorate that branch of her navigation, which the continued competition of her Colonies for upwards of a century had bowed down and broken.

But to the most salutary measure objections may be easily raised at the call of interest. "If it were possible, say the West India Committee, to confine the intercourse between the Sugar Colonies and America to British built ships, is it quite so clear, as men imagine, that we have ships to carry it on, or can keep up such a stock of British shipping in the merchants ships, as would be wanted?" Considering this question as an important one (and an important one it surely is) those gentlemen do not rely on general reasoning, but appeal to the decisive inferences of authentic facts. In pursuance of their plan they have brought

brought before the Public the register of shipping, which are constantly surveyed and weekly transmitted for the use of that very respectable body of men, the Insurers at Lloyd's Coffee-house. This register, containing a return of the name of every ship, its tonnage and age, *the place where built*, the owner, the usual trade wherein employed, with other more minute particulars of its quality, is very useful to them: And comprehending, as it does, almost all the ships, which are employed in the *foreign* trade of Britain, it furnishes a very good comparative estimate of the number and nature of our shipping, at any two given epochs, within the last six and twenty years, the period of its existence. The Committee, by using the register of 1775, which comprehends the reports of 1772--3--4 and part of 1775, chose the æra of the greatest extent of navigation, which had ever transported the surplus products of England. For, from the register of shipping at the Custom-house, we know, that, according to a three years average ending with 1751, which was an age of commercial prosperity beyond former example, there were cleared outwards only ;

Tons Eng.	Tons For.	Tot. Tons.
609,798	- 51,386	- 661,184

Yet there entered outwards, according to a three years average

ending with 1774,	- 756,187	- 65,630	- 821,817
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It was at this epoch of nautical greatness, that the Committee thought proper to inspect the Register

gister and to publish the result. The public had been still more obliged to them, had they ransacked the Register, since the peace, and equally published their researches, that the world might have enjoyed the satisfaction of contrasting two such signal æras together. What the Committee thus declined to do has been actually done. And the Register of 1783, which contains the reports of 1781-2-3 has been examined with the most minute care ; in order to form a comparison between a peaceful period of unexampled prosperity and a hostile period of uncommon embarrassments. And the following detail contains :

A COMPA-

A COMPARATIVE VIEW of the Shipping, which were employed in the *Foreign Trade* of Britain, at the Commencement and End of the late War, as they appear in the Register of the Insurers at Lloyd's Coffee-house, distinguishing the British from the American built Ships.

The Shipping of 1772-3-4.		The Shipping of 1781-2-3.	
British built ships	3,908, their tonnage 605,545	British built ships,	3,848, their tonnage 708,346
American ditto	2,311, ditto — 373,618	American ditto	2,334, ditto — 225,439
	<u>6,219</u>	Deficiency in	<u>933,785</u>
		1,037 and	<u>45,478</u>
	<u>979,263</u>		<u>979,269</u>
			<u>104</u>

It is thus apparent, that of the whole deficiency of there were only wanting, in 1783, of *British* ships and of *American* ships

Yet, that the total inferiority of the period of war to the period of peace amounted only to 102,701 British tons; while there was an increase of 148,179 American tons and a decrease of 45,478 tons;

Such is the result of a comparison, which ought surely to inspire no despondence even into the most fearful minds. The West-India Committee very well remark: "That the tonnage of both is much below the truth, being the tonnage the ships were registered at; that it follows, as far as this survey extended, the American shipping in the foreign trade of Britain amounted to a good deal more than half as much as the British." Had they inspected the Register of 1783, they would have seen, what indeed was not altogether within their plan, that the British shipping had increased by the exclusion of the American, during the calamities of war, no less than 102,701 tons. Of this exhorting prospect let us take another view. There were assuredly vast fleets, which, though built by British shipwrights, were not included in the surveys of 1781-2-3, because they had not touched at any British port; because they were insured by the Government, who made use of them as transports. From the report of the Commissioners of Public Accounts we know, that there were employed at New-York by the Quarter-master General, the Barrack-master, the Commissary General, in the four years, ending with 1780, no fewer than 611 vessels, carrying 44,016 tons. Were this fleet brought to the account of 1783, it would complete the defective quantity of tonnage, though not the defective number of ships. Many of those vessels, or perhaps a greater number, remained till November, 1783, to perform the melancholy ser-

vice of final evacuation. And all those, or many of those, have again entered into the merchants employments, since that signal epoch, and properly fill the void, which the happy exclusion of the American ships had left. But, what is that puny fleet to the vast navy *, which was constantly employed during the years 1781-2-3, by the Victualling Office, by the Ordnance Office, by the Navy Office? And from an inspection of Lloyd's Register we may learn, that all these transports could not have been surveyed; because the few transports, which appear to have been reported, consisted of those vessels, that were employed by the private contractors for various supplies. When all those, or the half of those, which had been employed by the public boards, are brought to account, who shall say that there was any deficiency in 1783?

It is nevertheless asserted, that the deficiency was not supplied by British ships; but by vessels foreign built, of which the Northern nations supplied the far greater number. If it is hereby meant to affirm, that much more has happened now, than had always happened, amid former hostilities,

* Intelligent men have calculated the number of vessels, which had been hired of the traders as transports in the public service, and have been lately discharged, at "upwards of a thousand." Nor, can this be deemed improbable when we consider, that there had been actually employed no fewer than 611 vessels at New-York alone.

hostilities, the witness testifies of facts, which he knows not to be true. We have been driven by all our wars to employ foreign ships, in exact proportion to our naval embarrassments and even to our success by land. More than one half of the commerce of England was carried on in foreign shipping, during King William's wars: For it was found impossible to man the Navy without stopping the coast trade, owing to the scarcity of seamen. We employed no great number of foreign ships, during the long course of hostilities, which ensued upon the accession of Q. Anne, because our glories by land in some measure protected our ships by sea. The Spanish war of 1739 increased the quantity of foreign tonnage cleared outwards from 26,000 tons, during the previous peace, to 87,000 tons, amid the subsequent hostilities. The French war of 1755, produced similar effects: The foreign tonnage rose from 51,000 in 1750, to 73,000 in 1756-7, and to 120,000 tons in 1762. Such was the progressive force of our navigation at the epoch of the revolt, that our shipping continued to increase during the three years of the American war. It was the French interposition, which forced up the foreign tonnage, from 64,000, in 1775, to 98,000, in 1778, and to 139,000 tons, in 1779. The foreign tonnage rose still higher, during the Dutch war. Entangled as we were, by our Colonies, pressed by the French, attacked by the Spaniards, fought by the Dutch, and bullied by the armed neutrality; it is not surprizing, tha

our traders sought shelter under foreign flags. But, it has been shewn * to the conviction of reasonable men, that however our navigation and traffic may be depressed by war, both constantly spring up on the return of peace with still greater force.

The foregoing truth we might even collect from Lloyd's Register of 1783; which shews, that the British capital, which had created and sustained the vast shipping of Britain, at the epoch of the revolt, far from being lessened, had actually been augmented by the war; because that capital had been productive, and merchants naturally throw their surplus stocks into the stream of commerce which, as it flows, washes grains of gold from its banks. How many fortunes were there in fact made, by supplying the government with transports, and even with armed ships, amidst the pressures of war. Now, it is a productive capital, which, with the energy of compound interest, produces gradually still greater capitals. And it is this constant accumulation of capital in the hands of the industrious classes, which for a century has produced, notwithstanding the waste of successive wars, our flourishing agriculture, our various manufactures, our extensive commerce, and our vast navigation.

After all this elaborate enquiry, it may be properly asked, if there could have possibly been *three*
and

* See The Estimate of the Comparative Strength of Britain, for the facts and the inference mentioned in the text.

and twenty hundred American built vessels engaged in the foreign trade of Britain, during the years 1772—3—4—5? There may have been indeed very ancient ships, that had been again and again rebuilt: And Lloyd's register proves this to have been the fact from the most accurate reports, which speak of American ships, that had been built in 1762, and even before it. The following detail, which was carefully extracted from the records of American built shipping, will confirm sufficiently the notices of the register, as well as the foregoing inferences from it.

An

From this accurate abstract of most authentic records *, we see the full extent of the colonial ship-building, which was rapidly encreasing at the æra of the late revolt. If all the vessels, which were yearly registered and sent to sea, from the colonies, had been annually introduced into the foreign

* With a truly sceptical temper, which often proceeds from ignorance more than from captiousness, some men object even to those authentic records, which were kept by the American Register of Shipping; as not containing the exact number of ships that were built in the colonies. A few remarks will shew with what propriety this objection is made. 1st. No vessel that had been built in the plantations, could possibly sail from them without a register; as we know from the statute of 7 and 8 of Wm. III. ch. 22. which established the following regulations.—2dly. The necessary register could not be obtained for a new built ship, till the builder, or other owners, made oath before the Collector of the Port, as to the place where it had been built, with other circumstances; till the same ceremony was performed before the Governors.—3dly. When these essential proceedings were concluded, the Collector entered the ship in his book; whereof he gave a *certificate* to the owners, which, when signed by the Governor, constituted what was called among seamen, *The Ship's Register*.—4thly. The Collector was bound to transmit to the office of the Register General, a duplicate of all those certificates, which he regularly entered in his books.—5thly. It was from these books, that the abstract in the text was carefully taken, and which must consequently contain the exact number of vessels, that had been registered in the plantations, during the specified years, though not the precise quantity of tons, which the owners had an interest to conceal, yet may be easily inferred, by making a reasonable addition to the given sum.

An account of all such vessels as were built and registered, in the continental colonies, with the islands of Bahamas and Bermudas, during six years, distinguishing each year, and the top-sail vessels from the sloops and schooners:

When Registered.	Top-sails.	Their Tons.	Sloops, &c.	Their Tons.	Total Vessels.	Total Tons.
In — 1768	157	19,098	329	10,354	486	29,452
69	114	11,247	336	10,213	450	21,460
70	130	11,216	385	12,982	515	24,198
71	131	14,695	847	10,580	478	25,275
72	184	19,854	373	12,569	557	32,423
73	212	24,500	426	13,529	638	38,029
Average of 6	928	100,610	2,196	70,227	3,124	170,837
	155	16,768	366	11,704	520	28,473

From

foreign trade of Britain, they could have only amounted to *five hundred and twenty*. If the shipwrights of the colonies had supplied our traders, which is most likely, with their top-sail vessels alone, the annual augmentation of American ships had only amounted to one hundred and fifty-five. To those who delight, in tracing the minute variations of commerce, it will afford no small gratification to be told, that the American citizens have lately purchased several British built vessels in the Thames; in order to enable them to carry on the trade between the United States and the British West-Indies. And thus, if we wisely adhere to our laws, shall we, in our turn, supply the Americans themselves with ships.

When the statement of our shipping was exhibited by the West-India Committee, as it appeared in Lloyd's register, immediately before the war; when something like a demonstration was given of our inability to fill up the places of *two thousand American ships*; all these struck well meaning minds as a Gothic ruin, which inspires melancholy sentiments, and at the same time forces the unwelcome recollection, that all things must fall. But, that frightful fabrick has been now more nearly examined, and it is at length found to be one of those magnificent and massy structures, which noblemen, whose extent of opulence is equal to their pride of family, sometimes erect on the Gothic plan; and which either gratifies the beholder by its novelty, or exhilarates by the appearance

pearance of uncommon wealth and great skill, combined together.

Having thus been assured, "*That the American shipping employed in the foreign trade of Britain amounted to a good deal more than half the British,*" we shall find some advantage, perhaps a little amusement, in running up succinctly to the original cause of the lamented effects. The year 1638 is the epoch of the arrival of the first New-England built ship in the Thames; as we may know from the books of Privy Council. Amid the distractions of the subsequent civil wars, the New-Englanders became the carriers of the West-India products to England; as appears by the news-papers of those times, which are preserved in the Museum. The Act of Navigation confirmed their right to do so, by declaring American built ships to be completely English. Sir Josiah Child soon after that declaration, warned the nation of the dangerous tendency of allowing colonies to build ships for their mother country. Dr. D'Avenant remonstrated prophetically in 1698: "If we should go to cultivate among the American plantations, the art of navigation, and teach them to have a naval force, they may set up for themselves, and make the greatest part of our West-India trade precarious; besides many other evils, in encouraging them to do so, it would carry from hence a great number of artificers, which in case of a war would be wanting in England."

Of D'Avenant's prophecy, we have lived, alas! to

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See the fulfilment. But, writers wrote then, as writers write now, without much effect on public councils.

During the wars of Anne, the Parliament encouraged the Colonists to execute those very nautical projects, which these two able statesmen had shewn to be absurdly dangerous. The shipwrights of the River came up to Whitehall, in 1725, with a complaint, that their business declined and their workmen emigrated, because the plantations furnished England with ships. Their petition was referred to the crown lawyers: But, the lawyers answered, they might as well complain of ship-building at Bristol; for the American built ships were English. The answer of the lawyers was sent to the Board of Trade for their advice: And they advised, "To lay a duty of five shillings a ton on all American built vessels, which should be employed in the *foreign* trade of Britain. The Ministers did nothing in the end. And the shipwrights remained quiet, though they found their complaints to be unavailing, because faction did not mingle in their grievances. Those who look below the surface of public affairs, as they run down the current of time, will not be surprized, when they are told; That neither the lawyers, the Board of Trade, the Ministers, nor the carpenters, knew the true ground of the grievance, which consisted in this: The plantation built ships were admitted into the ports of Britain, with all the exemptions of British; but, the British built ships, when

when they arrived in the Colonies, were liable to tonnage duties, and to other taxes from which their own vessels were altogether exempted. And thus the Colony carpenters enjoyed a double monopoly, against the British shipwrights. The Colony carpenters entered into free competition with the British shipwrights in all the dominions of the Crown and even beyond them; while the British shipwrights could enter into no competition with the Colony carpenters, in their own ports. And we have seen the melancholy effects, which had flowed from the fountain of those causes, before the epoch of the late civil war.

The independence of the American States has happily freed the empire from *the evil*, for which the Ministers of George the First could find no remedy, however much it distressed one of the most important of our industrious classes. Yet, is it proposed to introduce this embarrassing evil anew. And it is pressed on the public, upon pretexts as untrue in fact, as they are unphilosophical in principle: That we have not capital enough; that we have not sufficient materials; that to exhaust the timber of the kingdom, which is proper for large ships, would at least be impolitic; and that to build vessels with imported timber, will never answer. Yet, it is at the same time admitted, that the demand for a new stock of ships will be gradual, as the American vessels, and the late transports wear out.

It is an uncontrovertible answer to all the foregoing objections, that the inconvenience is gradu-

ally to approach, which will furnish opportunities enow to provide sufficient relief. We shall want capital indeed, if we allow the merchants of London and Bristol, of Liverpool and Glasgow, to do now, what they formerly did, to send agents and money to our remaining colonies, or to the American States, to build ships for our foreign trade. The laws, as they now operate, (provided no alteration is made) will force our traders to employ that capital, which formerly enriched the industrious classes in the present United States, to give employment and food to the *real* British subjects, who reside on the Creeks of Wales and Rivers of Scotland. At the obscure ports of Wales (a country which abounds with excellent timber for ship-building) many ships have been built, during the war, as we may learn from Lloyd's Register itself. And since the peace, ship timber has been found in commodious parts of Scotland, where trees were supposed never to have grown. By thus excluding American competitors, we shall augment the race of shipwrights, and the public as well as private interests will be promoted, by introducing gradually from Scotland and Wales, competitors even into the Thames, by means of their cheaper fabricks. It was owing to a similar competition among the Dutch, that they were enabled to build such a multitude of ships, by appropriating the timber of woodier countries; and were thereby induced to carry the products of the earth at lower freights, than any people in Europe. The foregoing considerations, with regard to this interesting

part

part of our domestic œconomy, will influence (it is hoped) the wise government of an island, which depends so entirely on shipping, to take off the taxes, which are payable on the import of naval stores of every kind, since they ought surely to be deemed the *raw materials* of the most important of our manufactures*.

But

* It may be agreeable to men of business, as well as to men of speculation, to be informed of the *present rates* of ship-building, in the Southern harbours of England; as they were communicated by an intelligent person, who made a tour with a view to discover the ship-yard, the cheapest and best.

In the RIVER and BRITISH CHANNEL:

At Gravesend, Broad Stairs, Dover, and

Folkestone, ——— £.8 0 0 per ton.

At Hurstake, Cowes, Southampton,

Weymouth, Tingmouth, Bridport,

Topsham, Shorham, Dartmouth and

Cawfand, — £.7 0 0 to 7 10 0

In the BRISTOL CHANNEL, (English side.)

At Biddeford and Barnstable, — 6 10 0

In the BRISTOL CHANNEL, (Wales)

At Newenham, Gatecomb, Chepstow,

Newport, Hyth, and Swansey, 6 10 0 to 7 10 0

For these prices the workmen engage to compleat the hull with joiner's work, carved work, and the work of painters, glaziers, &c. without any extra charge. All those ship-yards (and indeed all the ship-yards of the kingdom) have been full of employment, since the peace. It is this fulness which erects many other ship-yards. And it is the establishment of *new* ship-yards, which, by means of competition, reduces the price of manufacture to the lowest possible point. We are told, " That the ship-builders of New-England will con-
tract

But, let us return to the proposed measure of supplying the British West Indies with lumber, whence we have wandered wide, in answer to objections of no little weight. For, it had been vain to propose the furnishing of our West Indies with lumber from our own ports, if we have not a sufficiency of shipping. The requisite lumber may be divided into two kinds; that which is demanded by the builder; and that which is required by the cooper; and it is intended to discuss briefly each of them in its order. It is well known that the larger pieces, which are required for the construction of mills and for similar purposes, are found on the West India islands, where timber, close of grain and difficult of manufacture, grows in great abundance: It is consequently the lighter scantlings and boards, which the planters import from afar. And they may find merchants enow in London, who will contract to supply them from the Baltic on the following terms:

One

contract to build ships at £.3 sterl. per ton, including the joiner's work." If an American built ship will last *seven* years, and a British built ship *twenty-one*; why then the British ship-building will prove cheapest at last. On such occasions it not worth while to dispute about *farthings*. Even after the American built ships had arrived in the Thames they used to require expensive additional joiners work, &c. on the hull.

One ton, or 40 cubic feet, of fir timber	
will be delivered in the Thames, during peace, at	— — — £.1 8 10
The sawing of one ton by hand, supposing four cuts to be made, which will produce nine scantlings, will cost	0 4 0
The freight of one ton to the West Indies, considering how many loadings are wanted, may be deemed high at	0 18 0
	<hr/>
	£.2 10 10
Charge of loading and unloading	— 0 2 6
	<hr/>
	£.2 13 4
But, deduct the duty on import, on the supposition that it is drawn back	0 3 4
	<hr/>
The cost of delivering one ton in the West Indies	— — — £.2 10 0
	<hr/>
Deals 12 feet long 1 and half inch thick, and 120 in number will be equally delivered in the Thames, at	— £.7 10 0
Charge of loading and unloading	0 3 0
Freight of 120 to the West Indies	— 2 0 0
	<hr/>
	£.9 13 0
But, deduct the custom-house duty, which is the same on 120 deals of 3 inches thick, and 20 feet long	— 1 13 0
	<hr/>
Cost of 120 deals in the West Indies	8 0 0
	<hr/>
	Something

Something doubtless would be saved were the ships permitted to sail directly from the place of loading to the West-Indies: But, the giving of that indulgence would open a very large door. If a regard to our domestic quiet would permit us to erect saw mills; to be worked either by wind, or water, or steam, the West-Indians might be supplied on still cheaper terms: And were we in superaddition to that great facility to allow all duties on import to be regularly drawn back, which is altogether consistent with our modern policy, we might furnish the markets of Spain and Portugal with those bulky articles, which are sent them at present, by the Dutch, who fetch them from Norway and the Baltic. During the reign of Anne, we first gave bounties to our Colonists, for supplying us with naval stores and wood, that we might not be dependent on Denmark and Sweden: The time is now come, when the Americans may force us by their ingratitude, to give bounties to Denmark and Sweden, that we may be independent of the United States. Such are the revolutions of the world: It is the business of wise men to make the most of them, as the world rolls on; And such is the consequence of constantly running into extremes: We favoured and encouraged our colony commerce; and we debilitated other branches of business, by withdrawing capital, and investing it in our plantation trade; till the extent of our colony commerce, became a deplorable evil. We all remember how much our manufacturers used

to

to be frightened by the non-importation agreements of late times; which were indeed instigated by our own party-men: But, let us shew the United States, by the firmness of our conduct, that we can supply the West-Indies, independent of them; that we shall consider every tax laid by the American Assemblies on the importation of British manufactures, as a desirable measure, for lessening the evil of extravagant exports, and unbounded credits; the continuance of which we may find cause to lament.

We ought to learn from the New-Englanders, and even from the French, how to form those miscellaneous cargoes, which are so commodious to the West-India buyer as well as to the British seller. We might ballast our West-India ships with slate and tiles, for the coverings of houses. The lower hold might be filled with beef and other salted provisions. The flour, meal, pease, beans, and oats, ought all to be packed in puncheons, ready prepared for the filling of rum: The tightness of such packages would long preserve these perishable articles in a sultry climate, by excluding the causes of corruption. Rum puncheons, that should be thus sent as packages, without the payment of freight, might be afforded at 25s. each; which is as cheap as could reasonably be wished for. A thousand other articles might in the same frugal manner be sent to the West-Indies, for supplying their wants. They furnish themselves timber, which is easily converted into hogsheads for sugar; Where this

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resource

resource failed they might make very good packages for sugar from deals of Norway. Let no man deride this Dutch œconomy. It is surely the duty of the Legislature to check magnificent projects of commerce and unfrugal operations in shipping; when that salutary measure may be easily executed, by remaining inactive and silent, notwithstanding the efforts of visionary theorists, or the clamours of interested colonists. And it ought to be constantly remembered, that the frugality of the French, from the peer to the peasant, will ultimately degrade the greatness of Britain; if the most rigid œconomy is not observed in our modes of life, the working of our manufactures, the transactions of our commerce, the regulation of our Colonies, as well as in the administration of our Government.

While a spirit of moderation prevails in a trading nation, says the profound Sir James Steuart, it may rest assured that in as far as it excels the communities, with whom it corresponds in this particular, so far will it increase the proportion of its wealth, power and superiority over them. To gain these great objects in modern times, a prudent legislator must inspire his people with a spirit of emulation, in the exercise of temperance, œconomy and an application to labour and ingenuity. It was with a view to these salutary objects, that it has been anxiously urged to extend the manufacture of ship-building in Britain; and that it was lately proposed to enlarge the business of

of coopers, by furnishing the West-Indians with ready made casks. For, it was recollected, that the fitting of our fleets had been retarded, by the combination of carpenters, at the commencement of the late war; and that both public and private bodies had been obstructed, by similar agreements among the coopers; at a time too when the journey-men coopers on the Thames, were receiving for their labour fifteen shillings a day, without having raiment for themselves, or shelter for their wives. When a body of troops were sent from the Clyde, in 1776, Scotland could not furnish coopers enow to answer the speedy demand for packages, though slaves abounded: And the intelligent and active men, who were entrusted with the victualling of that body of troops, were obliged to collect coopers from the most distant parts of England. An armament therefore may be delayed, or even defeated, amid the pressures of war, by the paucity, or combination of coopers, which may be produced equally by the incitement of our factions, or by the money of our foes. But, combinations can only be prevented by augmenting the numbers of the defective classes: The augmentation of numbers, can alone be gained by additional employments: And thus combinations among tradesmen may be prevented, or beat down, by raising up many competitors among the extravagant workmen, whose services are most wanted, both in peace and war. It is surely wiser to guard by foresight against public disappointments, than to

folace our misfortunes by the downfall of a Minister, who may have been merely unable, from the paucity or combination of coopers, carpenters and sailors, to execute a measure without the reach of possibility.

But in opposition to the proposed measure of supplying the West-Indians with lumber, from the ports of Britain, which has been shewn to be only a recurrence to the first principle of colonization, we shall be confidently told: "That then the sugar would not be worth to the grower, the expence of raising it." Let us first admit the fact to be true; and secondly enquire, what would be the disadvantage to Great-Britain. Is it the interest of Britain that British subjects should possess estates, of the boasted value of fifty millions, which, while situated in another hemisphere, are more profitable to the owners than estates within the kingdom? Is it the interest of any country, that the attention of its people should be constantly fixed upon a richer world? From sad experience Spain will answer; it is not. Or, is it not the peculiar interest of Britain, under her present circumstances, to turn the whole energy of her opulent and industrious classes upon herself, with a view to domestic occupations, and national improvements; most certainly it is. But, it is further urged, that by having beyond an extensive ocean, settlements which must occupy our people in the supplying them, and which require many ships to bring their products away, the transatlantic plantations

plantations become thus more advantageous to the State, than if they were placed in the circumjacent seas. Be it so. Yet, if the supply and the freights are relinquished by Britain, what will remain as compensations for the irreparable diminution of her laborious people, and the vast expence of defending distant dominions, which are impotent in themselves, and yield no revenue or resource?

If an accidental scarcity should induce the West-Indians to apply to the neutral islands, in their neighbourhood, for what they may want; if avarice should induce them to continue a practice, which accident began; Great-Britain would be thereby driven to the unhappy dilemma of either depriving the West-Indies of vessels proper for such a traffic; or of declaring them independent. If the West-Indians expect protection from Great-Britain, they must study to be useful to her.

3. But, while the usefulness of the British West-Indies continues, they thereby merit (and thereby alone merit) every aid, and every facility which Great-Britain can give, consistent with her naval policy and domestic interests. The American States furnished formerly an extensive market for the peculiar products of the British West-Indies; as the West-Indies offered constant markets for much of the productions of the American States; who without the West-Indies would not easily find places of sale for all the surpluses of an extensive agriculture. Thus were they mutually advantageous to each other, though it might be easily proved,

proved, that the balance of benefits flood on the side of the revolted Colonies: And thus may we see, that it would be inconvenient to both to lose the gainful custom of each other; though the greatest gain may be bought at too high a price. Rum was the article of chief demand of the one, and supply of the other: And rum is the bewitching commodity, for which if the United States, by changing their tastes should refuse to consume it, it would be very difficult to find an adequate market. This unfortunate truth we may learn from the following Custom house entries: There were imported into the revolted Colonies from the West Indies;

In 1770	—	3,250,060 gallons
71	—	2,180,060
72	—	3,332,750
73	—	3,049,298
Annual average	—	2,953,042.

This was doubtless a large quantity; which however was not all consumed in the country; since much was again exported, by means of a circuitous commerce. We may guess, rather than infer, the real extent of the consumption, by deducting the amount of the quantity sent out, from the number of gallons, which we have seen already brought in from the British West Indies. And by attending to the following detail we shall discover the genuine measure of each particular country's supplies from the America ports.

RUM

0248

RUM EXPORTED FROM THE UNITED STATES:

	1770		1771.		1772		1773	
	West Ind.	New Eng.	West Ind.	New Eng.	West Ind.	New Eng.	West Ind.	New Eng.
	Gallons.	Gallons.	Gallons.	Gallons.	Gallons.	Gallons.	Gallons.	Gallons.
To Britain	36,632	600	4,015	3,602	4,674	117	10,963	961
Ireland	10,704	7,931	4,875	4,560	20,259	1,815	23,250	1,240
South of Europe, &c.	9,251	45,310	2,140	38,962	640	37,914	6,688	68,412
Africa	—	292,966	120	234,317	9,832	371,334	530	419,366
West - Indies, Spanish Main, &c.	1,020	2,574	860	5,151	1,915	6,115	2,078	12,057
Nova Scotia, Canada and Newfoundland,	52,712	590,748	36,873	550,514	47,736	520,525	50,716	608,025
	110,319	940,129	48,883	837,106	85,056	937,820	94,225	1,110,061

Average of annual export 1,041,149

Such is the view which the Custom-house entries exhibit of the vast commerce of Rum; yet, were there doubtless considerable quantities, both imported and sent out, of which there were no regular reports. The provincial duty in Canada gave rise there, as taxes have done in more vigilant governments, to the frauds of smuggling, to no small extent. It is known that the New-Englanders supplied the fisheries of Newfoundland with many hogheads of that exhilarating spirit, which were not entered at the custom-house. And it is equally certain, that the New-Englanders used to smuggle the rum of their own distilleries, in abundance, together with small quantities of West India, into the Orkney and Shetland Islands, and even upon the shores of Wales. It is surely no inconsiderable advantage, which the wisdom of our councils may draw from the independence of the United States, that the British West Indies will now enjoy the sole supply of the vast consumption of Nova Scotia, Canada and Newfoundland; which with the augmentation of the people and their power to consume must grow daily greater: And, in fact, the supplies of the United States were no sooner stopped than rum was sent in exuberance to all those settlements from the West Indies and even from Britain. The West Indies, or perhaps the British distilleries, will now profit from furnishing our African factories with no inconsiderable quantity of a liquor, which the Africans, with the rage of every uncivilized people, prize beyond gold itself; and

and which was chiefly supplied before the revolt from the New England stills.

But a market for many gallons must nevertheless be found, if the anger of the United States should prove too powerful for their desires of gratification. The consumption of West-India products by the Irish has rapidly increased with the accumulation of their number and wealth: And this truth we may infer from the subjoined detail*.

The annual consumption, according to a seven years average, ending

		Rum. Gal.	The Sugar Cwt.
with 1763,	was	543,817	— 0
1770		1,558,067	— 158,846
1777		<u>1,729,662</u>	<u>— 196,500</u>

From this detail we may reasonably expect, that Ireland, having now gained a free trade with the world and a direct trade with the West-Indies, must consume greater quantities of both these articles, in proportion as she happily enjoys greater blessings. Among the numerous improvements, in finance and in commerce, which Britain is preparing to make, under the influence of a mind of great extent and energy, we may presume, that the traffic of rum will be extended, either by lowering the duties, or by changing the mode of collection, or above all, by suppressing the frauds of

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* From the Appendix of M. A. Young's Tour in Ireland.

the smuggler. Every grievance of which the West-Indies have lately complained has arisen not from actual sufferings, but from mere speculation about future ones. The demand for all their products has been great, since the peace, and the price has continued high in proportion. The West-Indians have not so much to fear from the threats of the United States: For, though their Congress may possibly resolve, yet their citizens will continue even afterwards to smuggle, as they formerly did: They smuggled British manufactures, from Holland and New-York, contrary to the severest prohibition, during a rancorous war: They now smuggle their flour into the Havannah, in the face of imprisonment and death. For the sugar, molasses, and other West India products, it will not be difficult to find adequate markets, by means of the vast circle of the British trade with the world. And thus much with regard to the manner in which the West-Indies have been hitherto affected, or are likely to be affected, by the recent regulations of the Privy Council*.

The inconveniencies, which necessarily arise from sudden changes in the political œconomy of such a nation as Britain, whose affairs become daily more complex, from the clash of different interests, ought to be regarded with anxiety and prevented

* The Custom-house books evince, that there has been a vast export of Rum from the British West-Indies, during the year 1784, to the American States, and an unexampled quantity to our remaining Colonies.

revented with care. With what dread was the threatened annihilation of our American trade by the Congress, in 1774, viewed by the boldest of our Statesmen, who thought they saw the whole manufacturers of England already arrived at Whitehall. Yet, never did an event, which threatened such devastations in its course, pass away with so little mischief and so much silence, because its effects were unfelt. And in proportion as it added to our stock of experience, it conferred many benefits on the nation, which that memorable measure was intended to convulse. But, though we have thus acquired an indubitable privilege to be confident, we can have no reason to relinquish our prudence and our caution. It is impossible to foresee all the commercial difficulties, which may still arise, though none have been hitherto felt, from the independence of the United States. And it is surely wise, though experience hath taught us to think little of American threats, to enquire what consequences, either good or evil, would result to the general commerce and navigation of Britain, from the admission of American ships into the British West-Indies.

Great-Britain from a regard to her safety has long excluded the ships of aliens from carrying on her trade from port to port, on her shores, and from Britain to Guernsey, and to the other circumjacent islands. The coast-trade, next to our internal traffic, merits the greatest encouragement, because the sailors employed in it are most *within*

call, by their returning most frequently into domestic harbours. And owing to the exclusion of foreigners, the ships, which were employed before in the *coast trade*, were to the ships engaged in the *foreign* commerce of England, as 220,000 tons are to 335,000, exclusive of repeated voyages. If the shores of the British West-Indies may be regarded as the coasts of the empire, though not of the realm, their navigation ought to be considered as within the meaning, if not within the letter of the law. And the admission of the American vessels, either great or small, into the West India ports would amount, in effect, to the impolicy of allowing the Dutch to carry coals from Newcastle to London.

The regulation of the Statute of Charles II * whereby alien ships were excluded from the trade of our coasts, arose from three essential principles; 1st, It preserved the profit of freights to the nation individually; 2dly. By forming a nursery of seamen it contributed to the safety of the people collectively;—3dly. By preventing aliens from knowing accurately our harbours and our bays with the shoals and the rocks, which obstruct the approach of an unskilful enemy, this circumstance alone contributes to augment the thousand advantages, which result in war, from the ignorance of the foe. Of all these in their order, as they each apply

* 12 Cha. II. Chap. 18. Sec. 6. But, this salutary regulation was first established by 5 Eliz. Chap. 5. Sec. 8.

apply to the admission of the American vessels into the British West Indies.

1st. The profit of freights is of greater importance to Britain than the mines of Potosi are to Spain, because the one strengthens, while the others enfeeble the unhappy nation to which they belong. Whence may we infer of how much advantage it is to preserve and extend the navigation of the West-Indies, which, from the bulkiness of their products, that we bring home, and their supplies that we send out, employ many ships. There were engaged in the traffic between the United States and the British West-Indies, immediately preceding the revolt, no fewer than 1610 vessels (including repeated entries) which bore 115,634 tons: which were navigated by 9718 men; and which transported the vast American cargo of the value of half a million: And this intercourse the West India Committee assure us, “was carried on almost wholly in American bottoms.”

Ingenious men have calculated the value of these freights in various ways: Say they, lumber, being of little worth, in proportion to its bulk, and occupying two thirds of the tonnage outwards, was carried at the high rate of a hundred *per cent.* on the original cost, while the freight of provisions, cumbersome as they are, amounted to nearly as much. The West-India Committee confirm this calculation, by remarking, “that the American vessels brought their bulky commodities to our consumption at perhaps the cheapest rate possible,
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but still the expence of its transportation exceeded its original value." Yet, it is proposed, as a mode of calculation, more accurate and specific, to allow 45 per cent. on the value of the outward cargo of £. 500,000, including the accustomed charges of wages, interest, tear, and wear, and provisions, and then the freight would amount to £. 225,000 : to charge five per cent. on the value of the inward cargo to the United States, amounting to £. 400,000, and the freight inwards would be £. 20,000 : And the whole profits on the outward and inward freights must necessarily be £. 245,000. The same ingenious men moreover insist from actual trial, that were the freights calculated upon the tonnage in the accustomed mode, the deduction would give nearly the same sum. If the value of these freights should amount to nearly £. 245,000, it cannot surely admit of a question, whether so large an yearly profit ought to be relinquished to aliens, or preserved to subjects : In the one case it would augment the wealth of our active rivals : in the other it would swell the flocks of our own merchants.

If contrary to our genuine interests we should however allow the American citizens the freights amounting thus to £. 245,000 a year, they would carry off that considerable sum in bullion, since the balance on the general payments is much in their favour : If, on the other hand, the freights should be paid to British ship owners they would naturally invest the amount in trade, by purchasing the

the products of the country. Were the American vessels admitted, the American citizens would not only carry off the freights in bullion, but, they would gain the profit on the cargo : By excluding our rivals, British subjects, who sustain the British Government, will naturally gain both, with the factorage and other profits. If the good sense of the nation should decide, (and it generally decides right at last) that British vessels shall alone carry on that extensive trade, it must consequently follow, that a proportional quantity of shipping must always be found. The amount of that supply we may determine from the subjoined " Account of the number of vessels, their tonnage and men, which were employed in trading between the revolted Colonies, and the British West-Indies, according to a three years average, ending with 1773, and rating each vessel but once every year :"

	Ships.	Tons.	Men.
Employed in the trade, between the American States and the British West-Indies	533	38,544	3339
To which may be properly added one half for other American-owned vessels, which were employed in the Honduras, and other branches of West-India trade	266	19,272	1669
	799	57,816	5008

Great as this number of ships is it has been shewn, that Britain can furnish them; and that Britain ought, in good policy, to build them. Of the sagacious œconomy of Holland, which imports the materials of ship-building, it is said, that were the innumerable buffes, which are annually employed in fishing, to return without any success, the community would be greatly benefitted, by the gains that had accrued to the numerous classes, who had been concerned in the original outfit. But, certain it is, that were the freights of the before-mentioned vessels to yield no gain to the traders, the landowners of Britain would derive no less advantage from the sale of their timber than from the consumption of the various workmen, who must be necessarily engaged in the fitting of ships: While the land owners are thus benefitted, by furnishing materials and food, the manufacturers of cloth will derive as great profit from supplying the same workmen with raiment. It was owing to these considerations, that Sir Josiah Child remarked upwards of a century ago: "Where much shipping
 " is employed, whatever becomes of the merchant,
 " who drives the trade, multitudes of people will
 " be certain gainers; as his Majesty and his officers of custom, besides, shipwrights, butchers,
 " brewers, bakers, rope-makers, porters, seamen,
 " manufacturers, carmen, lightermen, and all
 " other artificers, who depend on trade and shipping; *which indeed, more or less, the whole kingdom doth.*"

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Of the seven hundred ships, (to write in round numbers) which were requisite to transport the West India products to Britain, we have seen one half of them sailing thither without a freight. It is now apparent, that the late regulations have given the same ships two chances for freights, where they had not formerly one: 1st. The exclusion of the American ships will furnish them with direct loadings of lumber and provisions for the British West Indies; 2dly, The owners may carry a cargo of dry goods (as the finer manufactures are called) for the ports of the United States; and may transport thence a loading of lumber and provisions: This operation would form a circuitous voyage, which of all others, are the most profitable, because something is gained by every loading. It is apparent how much the export of our manufactures would be thus promoted, by carrying them at the smallest possible freight: British vessels have actually entered into competition with the American, since the peace, in this business, and even carried away the cargoes from them, by under-bidding them on 'Change. 3dly, If the Congress should prohibit, or obstruct, this circuitous transportation, British ships would notwithstanding have one option more, while the American ships are excluded from the West India ports: they might call at Corke for salted provisions; they might touch on the Barbary coast for mules and sheep; they might visit the Cape de
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Verd's for corn and cattle: And they might in superaddition carry a cargo to Gibraltar, or the Streights, to Portugal, or the Canaries. All this is possible; and all this by proper management might be made extremely gainful, were the minuteness of our diligence equal to the great extent of our capitals. In this manner would the community be benefitted by the profits of freights, with the attendant factorage; which, by adding gradually accumulation to accumulation, imperceptibly swells the commercial stocks of the kingdom.

But, to these salutary measures it has been stoutly objected by the West India Committee, that the vessels usually employed in that traffic are too large and come too seldom; so that their operations would produce either an overstock, by the quantity which they commonly bring, or a famine, by the delay of their arrival: And to avoid these difficulties, great in appearance, though none in reality, it is proposed to admit the American vessels of the smaller size, carrying fifty tons and under. But, if the frequent return of little ships are as essential to the domestic supply of the British West Indies, as pedlars are to Poland, they ought to look for substitutes if they cannot get the principals. And he who diligently enquires seldom misses his genuine object. The Bermudeans are the Dutch of the American world, who fetch from the North what the South may require, and who carry the luxuries

of the South to gratify the palates of the North. They were engaged in this gainful business by their situation, placed as they happily are in the center, between the American Continent and the American Islands; and they were driven to it by their necessities, settled as they are on a barren rock, which diligence alone can fructify. At the commencement of the late civil war, the Bermudeans annually employed in the West India trade upwards of one hundred quick sailing sloops, which carried about four thousand tons*: And of these admirable vessels they were accustomed to build every year from forty-five to fifty of the cedars, which spring up luxuriantly amid a waste of rocks. In these vessels the Bermudeans used formerly to send the West-Indies, British and foreign, the following commodities, wherever they may have found them †.

PROVISIONS.

Of Indian corn	—	3,600 bushels.
Yams	—	16,880 lbs.
Pease and beans	—	600 bushels.
Rice	—	15,720 barrels.
Onions	—	151,000 ropes.
Poultry	—	741 dozen.

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* Inspector General's Books.

† Inspector General's Books.

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Of oak boards and plank	3,300	feet.
Pine ditto	—	152,653 do.
Clapboards	—	3,170 no.
Hoops	—	2,300 no.
Shingles	—	229,000 no.
Staves	—	28,900 no.

The Bermudeans, since the peace, have engaged once more in this beneficial business, with the attention and diligence of traders, who are obliged to follow an economical commerce: And the Bermudeans have already gained, in exact proportion to the greatness of their efforts. Let not the West Indians, while wallowing in wealth, deride the services and aid of those little men, who being subjects, at least as quiet and still more active, merit equal protection.

Bermudas derives an importance from its situation, which has not been hitherto understood; and it now demands an attention to its security, in war, that before the Colonial revolt it did not require.

2dly. From the foregoing detail it is sufficiently evident what a fruitful nursery for ship-wrights, and mariners, and coopers, the enjoyment of many freights will always furnish the public. And nothing can be added, to what Sir Josiah Child has so sensibly said: "This Kingdom being an island, it is our interest, as well for our preservation,

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as our profit, not only to have many seamen, but to have them, as much as may be with-
in call, in a time of danger."

3dly. The free admission of the American navigators into the West-India ports, by giving them accurate knowledge, would bring with it no flight danger to the community, or small inconvenience to our commerce. We all remember what advantages it gave the Americans in supporting their revolt, that they were perfectly acquainted with our European and West-Indian coasts; that they spoke the same language; and that their persons and dress were nearly alike. To allow them to retain that knowledge, while it is dangerous to us, can never be right. During peace they would inveigle the British Seamen into the American service. During war they would furnish our enemies with pilots for every hostile invasion. Acquainted with every island and with every harbour, and speaking the same dialect, the American navigators, with the morality of seamen, would one day enter the West-India ports as friendly traders; the next they would land on the coast as predatory plunderers: By the first operation they would discover the weakness of the land: By the second they would carry away the Negroes from the fields, and cut the ships from the Bays. Not content with plunder by land, the American privateers would prowl among the shoals of the Bahamas, for the West-India traders, who, as they returned through the neighbouring freights, might

might be dispersed by storm, or might be unconvoyed by accident. From such a state of things the danger to the West-Indian planters, and inconvenience to the British ship owners are manifest. But it is not so easy to calculate the additional premiums, which the insurers would ask to save harmless the unfortunate trader, during a war of treachery, as well as of force.

Nor are these all the disadvantages that would unavoidably result to the commerce and navigation of the British empire, by admitting the American navigators into the West-India ports. The West-Indians loudly clamoured in 1731, "That the Northern Colonists carried away considerable quantities of cash to the French Islands, where with they bought rum, sugar, and molasses." That this complaint was founded we may suppose, from its being always continued. The French then were supplied with bullion, which ought to have been remitted to Britain, in payment of debts. That cash was often carried to the continental colonies is a fact, which may be proved, by the direct evidence of the Inspector General's books: And the truth is confirmed, by the state of the balance of trade between them. The value of the annual cargo, which was usually sent by the revolted Colonies to the British West-Indies amounted, according to a three years average, ending with 1773, to £.500,000; the West-India products, which were carried away in return,

turn, amounted at £.400,000; and the freights to £.245,000, besides their profits. Hence, the balance of trade between them rose to £.345,000. This is not a small sum to be carried off from the British dominions; and which would have been otherwise transmitted to Britain, perhaps in liquidation of balances. Were there £.345,000 yearly imported in bullion, this influx would probably be sufficient to feed the stream of our circulation; which, like the flow of our Thames, ought to run—

"Gentle, yet not dull;

Strong without rage, without o'erflowing full."

The vast concatenation of payments, public as well as private, depends on the fulness and flow of that circulation. The prosperity of our manufactures and trade; the invigoration of our credit, essentially depend on the punctuality of these payments. The industrious classes are all enabled by manufacture, and traffic, and confidence, to accumulate savings, (and their accumulations have long supported the pillars of the State) which gradually augment the commercial capital of the kingdom. And in this manner is it of the greatest consequence to the general commerce of the empire to exclude the American vessels from the West-India ports.

Of a subject, thus interesting, because our safety and our opulence are both involved in its discussion, let us take another view. To those who delight in tracing the varieties of human character, or in marking

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marking the minute occurrences of human transactions, nothing has ever appeared more striking, or unaccountable, than the difference, in policy and success, between the British West-Indies and the French. The British were bred in the lap of luxury; the French were reared in the school of misfortune: The first were gratified with a government of freedom and indulgence; the second were ruled by a system of regulations and rigor. The French planter entered the West-India world with feeble efforts, because he was depressed by penury; he gradually added to his little stock by his care; his attentive profits, however small in the beginning, added accumulation to accumulation; which enabled the careful cultivator to convert a plantation of coffee, that required few hands, into a larger one: And in this manner, the French West-Indies rose up with a rapidity and vigour, which astonished the inattentive and ignorant; while the British West-Indians, who formed a character the direct reverse of the French, were constantly asking protection and encouragement from the mother country. But, it is impossible to support the indolent and careless, the proud and the magnificent, who began the world perhaps with borrowed money, on usurious interest. The French planters found capitals in their own resources: The British found capitals in England. And the British West-Indians have been at all times greatly indebted to Britain for the money, which settled and improved their sugar-works, and which though
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withdrawn from productive occupations at home, could not be easily brought back from abroad. Fifty million are now said to be employed in the West-India estates: But, if that vast sum, or even the half of it, could at this moment be invested in domestic employments, how much more would it promote the commercial prosperity of Britain. To recover debts in our colonies has been always a difficult measure, which sometimes attracted our legislative care, though without success. And to admit the Americans into the West-India ports is to augment a deplorable evil, by enabling the planters to send those products to the American States, which ought to have been transmitted to Britain, in part of payment of the interest and principal of their British Debts.

Of these engaging topics let us take a parting view. The New Englanders have long grown rich, by practising a peddling trade with the revolted Colonies, and with the West-India Islands. The miscellaneous cargoes, wherewith they supplied the American world, were composed of the various petty articles, which a dispersed people cannot easily want, yet cannot readily fetch. If the American navigators are admitted into the West-India ports, the New Englanders will extend this gainful traffic, and the other American Traders, invited by their gains, will follow their successful example. The free intercourse which they now have with France, Holland, and Hamburg, not only in their own ships, but, those

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of foreigners, will greatly facilitate that traffic. Thus the American citizens will supply the West-India planters with the silks of France, with the groceries of Holland, and with the linens of Germany, in opposition to the manufactures of Britain, to whom they are in this view of the subject, the most dangerous rivals. The British woollens are unsuitable to the sultriness of the West-India climate, and the British linens and cottons will be rejected for the cheaper linens of Germany, and the more shewy fabricks of France. Interest will in this manner concur with vanity to support the smuggler against the preventive officer. And in this manner will the manufactures of Britain be depressed, and the morals of the planters corrupted, while the salutary object of colonization will be circumvented, if not destroyed.

Having thus introduced rivals to our domestic manufactures, the American traders would ere long equally interrupt our East-India commerce. They have lately sent a vessel from Philadelphia to China. And having thus made a beginning, they will be carried forward in their enterprising progress, by the markets which they will find in the West-Indies, in opposition to the more expensive supplies of our own East-India Company. " To
 " wink at such proceedings, said Doctor D'Ave-
 " nant, in 1698, has been lately the practice of
 " corrupt Governors; and if speedy care be not
 " taken, these abuses will grow too inveterate, or
 " too big for correction. So that in process of
 " time,

" time, these colonies (if they fall into the prac-
 " tice of trading independently of England) may
 " erect themselves into independent common-
 " wealths, or piratical societies, which at last we
 " shall not be able to master; by which means
 " the plantations that are now a main branch of
 " our wealth, may become a strength to be turned
 " against us." And in the various ways before-
 mentioned would the commerce and navigation
 of Britain be injured, nearly in the proportion,
 wherein the American vessels should be admitted
 to traffic in the West-India ports.

§. 4. The attentive reader having thus seen the channel of our American trade freed from every obstruction, and such salutary regulations established, as require few amendments, is at length impatient to know, what necessity there is for a commercial treaty with the United States, or what advantages it would bring to Great-Britain, were it already agreed on. And it is therefore proposed to answer questions, which involve our domestic quiet and foreign interests, by a very short discussion.

The origin of commerce may be traced up to that most early epoch, the introduction of property among mankind. When the individual was allowed to appropriate, what supplied his wants, or promoted his convenience, he acquired a right, that could not be divested, without his consent, which introduced trade, or by force, that gave rise to war. In this manner men, from observing

each other's needs, and respecting the possessions of each, learned the arts of mutual commutation, by finding an equivalent, which by an easy progress settled into traffic with all its varieties. Freedom is essential to commerce, because consent is always implied: When compulsion is introduced warfare in the same moment begins. Yet, the liberty of all must necessarily arise from the restraint, which is imposed on the appetites of each, as it is the clash of many wills, that produces anarchy, the worst foe of freedom. And hence we may infer the truth of the celebrated position of Montesquieu, that the constraint of the merchant is *not* the constraint of trade.

The association of many individuals, to regard each others rights, and to redress each others wrongs, formed a community. The various modifications of mens passions, their likes and dislikes, gave rise to many communities. But, as the compacts, which bound the associators together, no further restrained mens previous privileges, than was essential to the being and end of the compact, it necessarily followed, that the community collectively enjoyed the rights of individuals separately. Societies learned ere long, that they too had wants, which could only be satisfied, by sending equivalents to circumjacent tribes. And hence arose the commerce, between neighbouring communities, and by means of navigation, between the most distant ones. In this new communication, the same liberty of choice, and the
same

same restraint of appetite prevailed, as there had existed in the traffic of individuals. Hence, though every state had a right to communicate its wants and to offer its equivalents for the supply of them, yet every other body of men possessed the same privilege of judging with regard to the value of these equivalents, by setting a higher price on its surplus products, which it may even refuse to sell, when the buyer acts unreasonably.

From these simple principles the writers on the law of nations have justly inferred, that the right of trading with a foreign country is a right, necessarily *imperfect*, since the one party has the same privilege to determine for itself, whether such a commerce would be detrimental, as the other had to offer its equivalents, adopting reason as the guide, because nothing which is unreasonable can ever be right. But, every society being obliged, says Vattel, to trade with others, only as far as it can without being wanting to itself, the success of the transaction will always depend on the judgment which each State shall form of what it can and ought to do in particular cases: The freedom of trade depending generally on the judgment of the two parties must be always uncertain, and the right of commerce must consequently be ever imperfect. Upon the foregoing grounds were *commercial treaties* introduced among mankind, in order to secure a constant rule and punctual transactions, which could no longer be broken or varied, without incurring the blame of infringing a
compact,

compact, that both parties had voluntarily formed. Such is the source to which jurists trace up the origin of commercial treaties, which, it is apparent, may in their formations narrow the general right of traffic, and may, in the result prove disadvantageous to both parties, by relinquishing often more than had been gained, and by sometimes creating disputes about the breach of stipulations.

Every nation having thus a full right to regulate its own commercial affairs, by the rule of what is advantageous, or hurtful, may make those treaties of commerce, which its interest requires, and which implies the approbation of another, or it may regulate its foreign, as well as domestic, trade, by its municipal law, which is founded on its own sense of utility, without asking the world's consent. But that regulation alone is properly said to be just and commendable, which is formed with a tenderness for the wants and supplies of mankind, having a regard to the bounds of possibility, and the reasonableness of the measure. And hence it is apparent, that the true mode of judging of every proffered treaty is its salutariness, or dangers, its usefulness, or disadvantage.

There are persons who ask for a commercial treaty with the American States, without considering for a moment, whether it would be hurtful or convenient; and without inquiring, how far our laws have already established every regulation which our interest requires. Writers have submitted to the world sketches of such projects of traffic, between

between the two countries, as they thought would be the most beneficial and wise, were the Legislature to enact them into rules, that all should be required to obey. It were to be wished, that the same writers had published the draught of a commercial treaty with the American States, that every one might have examined its principles, and approved or condemned its stipulations, as they had stood the test of usefulness, or of disadvantage.

In order to supply this defect, let us suppose that the French commercial treaty of 1778 with the American States, and the Dutch treaty with the same people, had been offered as a pattern for our acceptance, we should discover by no very minute examination of the before mentioned treaties, that we have already granted to the American citizens, either by the treaty which admitted their Independence, or by the operation of our laws, more favourable terms than either the French or Dutch conceded to their American allies, during the happy moment, that the contracting parties were fondest of each other. If we look into the treaties we shall see this truth in a very strong light. And we shall at the same time discover how far a commercial treaty with the American government is either necessary, or would be advantageous.

The British, French, and Dutch treaties with the American States are founded upon similar principles. The French in perfect equality; the Dutch in reciprocal utility; and the British in liberal equity. By the French and Dutch Treaties it was mutually

mutually agreed: " Not to grant any particular favour, in respect of commerce and navigation which shall not become common to the other." From this stipulation, which, from the simplicity of its language, sets all construction at defiance, it is manifest, that the United States can grant to Great Britain no special immunities, whatever price she might be willing to pay for them: They cannot grant to Great Britain the exclusive privilege of alone supplying them with her woollens and hardware, in consideration of our admitting their vessels into the ports of the British West-Indies. Such exclusive privileges ought not to be accepted, were it in the power of the United States to confer them, because monopolies are always viewed with jealousy, at the same time that they are seldom enjoyed to their full extent. The United States have therefore no boon to grant, which ought to be regarded as an equivalent for commercial privileges, that might be disadvantageous to Britain. And in conformity to this reasoning, the two Commonwealths of America and the Netherlands have avowed, as the basis of their Commercial Treaty, " That all burdensome preferences are the usual sources of debate, embarrassment, and discontent."

It is stipulated by Article 3, 4, 5, of the French and Article 2d of the Dutch Treaty—" That the people of the Contracting Powers shall pay no more, or greater imposts, in the ports of each other than the most favoured nations pay, and shall enjoy every

every exemption in trade and navigation, whether in sailing from port to port, in the same country, or in navigating thence to foreign nations." But, we have already seen, that the American citizens, as merchant strangers, are entitled by our laws * to the privilege of paying no other duties at our Custom-house, than denizens pay in the most friendly ports: We have seen too, what is still more beneficial to them, that by our regulations, since the peace, the American States are freed from payment of all taxes on the importation of their unmanufactured products. Whether the Commercial Treaties with France and the Netherlands, or the spontaneous regulations of Britain, convey, in this respect, the greatest exemptions and most valuable privileges to the United States, is a question which does not merit an answer. France, indeed, and Holland, have allowed the American citizens, as they allow all other aliens, on the payment of superior duties to subjects to participate in their coast trade, which Britain has absolutely denied to them, as she had long denied to every other alien. As regard to her defence and safety established this useful regulation. And the respect due to the law of nations forbids any foreign power from taking umbrage at a domestic measure, so prudent in its origin and so salutary in its consequences.

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By

* From 9 Hen. III. ch. 9; 5 Hen. IV. ch. 7; and the 12 Char. II. ch. 4. requires, that aliens shall be honestly entreated as to the payment of taxes, at the Custom-house.

By the 9th Article of the French Treaty, the ships and mariners of the Contracting Powers were restrained from fishing in any of the havens, creeks, roads, coasts, or places of the others, under the penalty of confiscation; and the United States moreover stipulated not to molest the French in fishing on the Banks or in the vicinity of Newfoundland. On the delicate subject of fishing the Dutch were cautiously silent. On the other hand, by our Treaty of Peace with the United States, they were allowed the full right of fishing on the Banks of Newfoundland, on the shores of Nova-Scotia and Labradore, with the beneficial freedom of drying their fish on the unoccupied coasts of both. The difference then to the United States between the British and French Treaties, amounts to this, whether the granting or refusing of a favour, is the most advantageous and kind.

The *droit d'aubaine* is relinquished by France, and the right of disposing by testament is acknowledged by Holland. The Dutch, with their usual policy, have allowed liberty of conscience and of sepulture. But the French are silent on these subjects of religious scrupulosity. The Dutch thought it of importance to stipulate, that parties may employ their own factors or attornies; that ship-masters may be allowed to manage their own affairs, and may load and unload with the freedom of subjects. Were a British statesman to boast of such stipulations as these he would incite the ridicule of the wits without insuring the approbation of the grave.

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The law of England, (as we have already seen,) allows every alien friend to dispose of his effects by testament, or preserves them for his next of kin. The rights of conscience have been at length recognized; and have been happily adopted into our liberal system. The melancholy privilege of burial our humanity denies neither to the Jew, the Turk, nor the Infidel. And in a country which has been honourably denominated, *The Land of Liberty*, every stranger may exert his own diligence, or use the address of an agent, or, if he thinks proper, engage the abilities of a lawyer. The jurisprudence of the United States fully coincides with the laws of Great Britain, in all these respects. And by all those stipulations the United States gained from France and Holland, who were not exactly informed of American usage, considerable immunities, without granting specific equivalents: For, the mere protection of law, which cannot be denied, can with no propriety be deemed the communication of benefits.

We may equally apply the foregoing remarks to the various stipulations of these treaties in cases of shipwreck; and in the protection which is agreed to be given to ships when pursued by pirates; to the option which is allowed the owners in the breaking of bulk*. In these unfortunate cases of shipwreck,

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* By 28 Ed. III. chap. 13. sec. 3. and 20 R. II. ch. 4. no ships shall be constrained to come into port, or restrained in selling their goods.

the humanity of the law of England has adopted the memorable declaration of CONSTANTINE: "If any ship be at any time driven on shore by tempest let the owner have it; for what right has my Exchequer in another man's calamity." This sentiment, so worthy of a great Prince, has been adopted and enforced by our own Edward I. * The zeal of our Parliament for the rights of human nature hath declared him a felon, who shall plunder a stranded ship, and him, who with greater malice, shall exhibit false lights on purpose to bring navigators into danger: And these declarations, equally humane as wise, are little more than the revival of the virtuous laws of Henry II. whom no monarch need be afraid to copy. By the Statute of 31 Henry VI. ch. 4. which, for the honour of our laws remains still unrepealed, it was enacted, "That if any of the King's subjects attempt, or offend upon the sea, or within the King's obedience, against any stranger, in amity, or under safe conduct, especially by attacking his person or robbing him of his goods, the Judges may cause full restitution and amends to be made to the party injured." And by a modern statute † it is declared to be piracy to correspond with pirates, or to board forcibly any merchant vessel, though without forcing, or carrying her off, and destroying, or throwing overboard any of her goods. Let

* By 3. Ed. I. ch. 4.
 † 8 Geo. I. ch. 24.

no foreign navigator think that he needs any commercial treaty to entitle him to full protection from pirates, in the seas and ports of Britain. In a country, where the people have made it an article of their Charter to give security to *foreign merchants*, no alien *friend* need fear for the safety of his person, his property, or his reputation. And he may even learn from Montesquieu, "That in Britain he has no occasion to lose an infinite deal of time at the Custom-house; where he has no use for a particular commissioner either to obviate all the difficulties of the farmers, or to submit to them." Whether, consequently, on this head of the subject, the treaties of Holland and France, or the laws of Great Britain, are the most honourable in their origin, the most efficacious in their operation with regard to the American States, is a question, which requires surely no further illustration.

But, the more to facilitate the commerce of the United States, France has stipulated to grant them one or more free ports, in Europe, and to continue to them the free ports, which had been already opened in the French West Indies *. If that is a free port, where goods may be freely landed without paying a duty, Great Britain has already established

* A letter from Hispaniola, dated the 26th of March, 1784, and which was published in the Maryland Journal of the 14th of May, 1784, says, "That in future, Cape Nochola Mole is to be the only port in this island for American ships. But, this has since been suppressed as a free port."

blished various free ports within the Kingdom. In them the tobaccos of the United States may be landed without any expence: And all their other unmanufactured products, which prudence allowed them to bring, may be entered without payment of duties. What France then only stipulated to do, Great Britain has actually done: in the United States there are higher duties collected on the shipping and goods of aliens than on those of citizens: In Britain the American citizens pay no taxes on the importation of their merchandizes: And of consequence Great Britain has done more for the American States by her laws, than France and Holland have done by their treaties. When these States had obtained at length, what they had long wished and lately fought for, the laws of Great Britain indeed interposed a bar, between her remaining Colonies and them. But, the British Government opened a great market in the British West Indies for the products of the American citizens, by softening the rigour of those laws, in favour to them, while all other foreigners were notwithstanding wholly shut out. In this view of the subject, the admitting a qualified importation amounted to a qualified free port, which is all that the French have allowed. The design of the act of navigation, says D'Avenant, was to make those Colonies as much dependent as possible upon their mother country. To admit the American ships into the British West Indies, contrary to the policy of that law, is to establish an universal
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free port and with it the independence of the West India islands. And we have learned from experience, what indeed we might have known without the cost of a hundred millions, that the absolute independence of our transatlantic territories is much more advantageous to Britain than their nominal dependence: In the one case, she enjoys all their commercial advantages, without the weighty burthen of their defence: In the other, she is subjected to the vast charge of protecting them, without enjoying any greater benefit from their trade, than all the world enjoys.

We have now fairly compared the commercial advantages, which the American States derive, on the one hand, from their late treaties with Holland and France, and on the other, from the established laws of Great Britain. Let justice decide according to the representations of candour, from which of these sources the American governments might draw the greater benefits, were gratitude placed in the chair of prejudice.

There are indeed, in the American treaties with France and Holland, a variety of stipulations relative to a state of hostilities. But, war is not the business of life. And every man, either prudent or humane, ought to wish, that it were less frequent in its recurrence and less extended in its duration. Yet, in Britain, treaties either to regulate its commencement, or to direct its operations, are by no means necessary. And our laws already contain every regulation, that a wise people

ple ought to desire, or a cautious people ought to grant. "All merchants, says OUR GREAT CHARACTER, shall be safe and secure in coming into England, and going out of England, and staying and travelling through England, as well by land as by water, to buy and to sell, without any unjust exactions, according to ancient and right customs, except in time of war, and if they be of a country against us. And if such are found in our dominions, at the beginning of a war, they shall be apprehended, without injury of their bodies and goods, until it be known to us, or to our chief justiciary, how the merchants of our country are treated in the country at war against us; and if ours are safe there, the others shall be safe in our country." This is the clause which hath justly conferred celebrity on England. And of this signal constitution Britons may boast in every quarter of the globe, where ships sail, or merchants trade. Now, who will say, that he can form a treaty, more salutary in its principle, or more judicious in its means, than the declaration, which our vigorous ancestors demanded and obtained, at that memorable epoch, in favour of merchants and trade.

But, while it is admitted, that the American citizens will derive a thousand benefits from the emanations of our system, it may be properly asked, what security do British subjects enjoy from the laws of the United States? Is there mutual return? It may be answered, Yes: For, it may easily be shewn,

shewn, that the fundamental laws of the United States are exactly analogous to the fundamental laws of Great Britain, in all those rules, which give security to the citizen, and protection to the stranger.

The laws of a people, whatever they may be, are the liberties, to which they are the most attached, and which they defend with the greatest ardour. The common law, the ancient statutes of England, had been all carried by the English settlers, into the American colonies, as their birth-right, or afterwards adopted by usage, or sometimes recognized by the positive acts of their subordinate legislatures. It is surely curious to trace the operation of that principle, amidst the unnatural contests of the parent and her children, about their mutual rights. And we shall find by no long research, that the revolted colonists have interwoven the laws of England into the very texture of their fundamental constitutions, while their animosities were the most warm and rancorous.

We may learn the truth of that position, from an examination of what each of the United States thought proper to do, when they were about to form governments for themselves. The constitutions of New Hampshire and Massachusetts expressly provided, "that all laws theretofore used shall remain in force till altered." Rhode Island and Connecticut retained their ancient forms and laws, which had been at all times sufficiently democratic and even independent. New-York declared, "that such

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parts of the common law and statutes of England and acts of Assembly, as formed the law of the province on the 9th of April, 1775, shall continue the laws of the Commonwealth." New Jersey followed implicitly the example of New-York, as it had almost always done. Pennsylvania has made the declaration of rights part of her fundamental constitutions. The Delaware State reserved expressly the common and statute law, as they had been formerly adopted and practised. Maryland declared, "that her citizens were entitled to the common and statute law of England, which had been used and approved, in the province." Virginia, with a zeal which shewed more of her enmity than her prudence, directed that the executive powers of government should be exercised according to the laws of the Commonwealth, but should under no pretence exercise any power or prerogative by virtue of any law, statute or custom of England: Yet, this declaration formed a direction to the Virginian Governors rather than a system for the Virginian Judges. And we may presume that the general web of their jurisprudence had been woven of the warp of common law and woof of ancient statutes. We may infer this from their general revival* in 1663, when the assembly "endeavoured in all things, as near as the capacity and constitution of the country would admit, to adhere to those excellent and often refined laws

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* Laws, p. 1.

of England, to which they acknowledged all reverence and obedience." Yet, the principal Virginians were too prudent to leave it in doubt how far their ancient laws should operate even after the revolt: and the Assembly passed an act, in 1776, declaring, "that all the laws formerly in force should continue, till abrogated." North Carolina with greater prudence intertwined *The Declaration of Rights* about the root of her fundamental constitution: And with equal wisdom enacted expressly, in 1777, "that the common and statute law theretofore used should continue in force." South Carolina declared, by her original association, "that all laws then practised should remain till repealed." Georgia adopted into her original compact nothing more than *the Habeas-Corpus Act*: But, if we may believe, the affirmation of her Chief Justice Walton*, "the law of England has been studded into the Georgian system." And thus have we found, that the *often refined* laws of England have been studded into all the American systems. The American youth still continue to read Coke upon Lyttelton as their text-book; and the experienced practiser continues under their new forms to quote the various reporters of what has been said and decided in Westminster-hall; to which American Judges still pay all the reverence, which is due to the collected wisdom of those voluminous depositaries of civil knowledge and legal

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science.

* Georgia Gazette, 13 May, 1784.

science. And thus the general jurisprudence of England and the United States must consequently be very nearly the same, however different the forms of their government may be, or however dissimilar the tone of their Courts of Justice.

Having in this manner established the general principle, we may properly enquire, how it applies to British subjects, as to imposing disabilities, or giving them protection. If the American citizens are aliens in England, British subjects must necessarily be aliens within the United States. If any government was ever founded in actual compact, the constitution of the United States must be allowed to have originated from the hallowed source of positive stipulation. But, persons, who were no parties to the American associations, can never be entitled to the privileges resulting from the American compacts, to members of them. The people of Europe, who were quiet spectators of the struggle for independence, are consequently aliens to the United States. Much more are British subjects, who opposed the formation of those confederacies, aliens to the American governments. And in fact we find the European people considered by the legislative and judicial powers of the American governments altogether as aliens, who are entitled to none of the immunities of their citizens, since they owe them no obedience. And it was the peace, which converted British subjects, who had been alien *enemies*, into alien *friends*. Now, every privilege and protection, which be-
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long to the American citizens, as alien friends, in Britain, equally appertain to British subjects, as alien friends, within the American States, with respect to the security of their persons, their property, and their reputation; because the laws of both countries are thus substantially the same*.

And

* It ought not be concealed, because it militates against the doctrines maintained in the text, that Walton, the Chief Justice of Georgia, and his associates, determined, since the peace, that Perkins, a British merchant, and alien *friend*, could not support an action of debt against a citizen. [Georgia Gazette, 13 May, 1784.] That decision seems however to have been universally reprobated. It may gratify a reasonable desire of information to see the opinion of Mr. Stirk, the Attorney-General, and Mr. Stephens, another Georgia lawyer, which was taken the 10th of May, 1784; and published on that signal occasion, in the same Gazette:

“ The judgment of the Chief Justice and his associates, given in Chatham county last term, (relative to the privilege of British merchants, who remained in Savannah after the evacuation, of suing the citizens of this State) may be looked upon as laudable, but transient characters, *although British subjects*, who have arrived since, claim that right from the duties which they pay to the State, over and above those paid by other merchants, who reside here. Should the fountain of justice be stopped against them, and they prohibited from prosecuting for their lawful demands, all commerce will be annihilated, and the greatest distress to the citizens will follow. By the *statute* law of England, *which is also in full force in this State*, aliens are allowed under that Government to maintain actions for personal chattels. Aliens (even British subjects) in the State of South Carolina are allowed to sue the citizens and are entitled to a jury *medietate lingue*, in suits against them, if they choose. There have been even
transient

And the jurisprudence of both countries giving thus mutual protection to the inhabitants of both, seems to preclude the necessity of a commercial treaty, which would be less revered in its stipulations, and less powerful in its effects; which would be more liable to cavil, and consequently more apt to produce contest.

But, if the established laws of the two countries in this manner, exclude the necessity of a commercial treaty, we may yet inquire, whether it would be advantageous, or useful. "It has been observed of this nation, said D'Avenant, in 1698, that we have lost by treaties, what we had gained by valour; that we have been constantly outwitted in the stipulations we have made with foreign States and Princes, as well concerning

" *interest*

transient Courts allowed them: And this seems to be founded on the privileges aliens are entitled to in all countries, *except where they are particularly prevented*. Aliens may trade as freely as other people, though subject to higher duties, and as they are not considered as citizens in this State pay duties accordingly."

When the Chief Justice had admitted, by his decision, that the laws of England were studied into the Georgian system, he could not, as a logician, or a lawyer, deny the inevitable inference of law: That an alien *friend*, could maintain an action of debt, in the tribunals of Georgia. Little did Mr. Walton reflect, amid the clamours of the times, which ought to have inspired him with caution, rather than rashness, that judgments against apparent right are considered by every law as sufficient causes for granting letters of reprisal.

" *interest as dominion*: And it is very evident, that they who could never face us in the field, have over-reached us in the cabinet; and all along we have seemed stronger in a battle than in council." The unequal agreements of the Portugal treaty, of 1703, had been a sufficient justification of D'Avenant's remark had not more modern treaties confirmed it. And it is owing to the wailings of impatience, the roar of ignorance, or to the incitements of interest, that our statesmen are constantly driven from their better purpose into improvident compacts, and are often obliged to sacrifice the real interest of their country to their own quiet. This is a degeneracy however, against which virtuous resolution ought always to struggle. And this is a motive for placing the subject of commercial treaties in every possible light; as some of them may catch the eye of inattention, or others of them may detect the dark designs of avarice, or of faction.

It is surely a previous question of no small moment, whether there at present exists under the American governments, any power, which can lawfully conclude a commercial treaty. By the ninth article of the American confederations the Congress are invested with the *sole and exclusive* right, (nine States being represented in Congress) of entering into treaties and alliances; provided that no treaty of commerce shall be made, whereby the legislative power of the respective States shall be restrained, from imposing such imposts on foreigners, as their own

people

people pay; or whereby each State shall be hindered from prohibiting the exportation, or importation, of any species of goods whatever. These contradictory stipulations created however no new absurdity in the American history and jurisprudence. We all remember the famous resolves of their colonial representatives in Assembly, during late turbulent times: We the Delegates have the *sole right* of imposing taxes on the good people of this province, *with the consent* of the Upper House, and Governor. By article the 6th, no State, without the consent of the Congress can send any embassy to, or receive any embassy from, any King, Prince, or State, or enter into any conference, agreement, alliance, or treaty with them. In this explicit manner, have the jealousies of the United States prevented the establishment of a competent power under their confederation, for the concluding of commercial agreements. And this inevitable conclusion is amply confirmed by recent experience, which hath shewn us the individual States busily, perhaps factiously, employed, in empowering the Congress to regulate commerce, for the special purpose of retaliation, or redress.

Yet, though armed with all those powers, either general or particular, the Congress lately sat from November 1783 to June 1784, without executing any measure of retaliation or redress, on the perplexing subject of their West India trade. They, on this occasion, made use of their accustomed intrigues, to incite the traders to clamour for prohibitions,

bitions, or at least restrictions. Meetings of merchants were held, in different States, in pursuance of instigatory letters, to consider of means to invigorate the Congress, by adding the force of previous assent to the noise of popular complaint. Yet, fearing perhaps the renewal of non-importation agreements, or regarding more their genuine interests, the traders resolved *in secret*: That Britain, when regulating her colonial commerce, had done nothing more than what Spain, Portugal, and France, continued to do; that though they felt an inconvenience from the West India restrictions, yet they could not justly complain of an injury; and that it would be wiser to consider of modes of circumvention than to adopt measures of force. In the end the Congress did nothing, in order to enable individuals to find means to promote, each his particular interest.

The Congress however, in May, 1784, entered into certain resolutions*, by which they probably intended

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* The Continental Journal of Boston, dated the 3d of June, 1784, contains the following resolves and *recommendations* of Congress: "That it be recommended to the Legislatures of the several States to vest the United States, in Congress assembled, (nine States to be represented in Congress and assenting) *for the term of fifteen years*, with power to prohibit any goods, wares, and merchandizes, from being imported into, or exported from any of the States, in vessels belonging to, or navigated by the subjects of any potentat with whom these States shall not have formed treaties of commerce; and also with the power, during the same term,

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intended, to hold up to the eyes of Europe the appearance of their former promptitude and vigour, while their apparent energy concealed the most incurable irresolution and impotence. Like other limited powers the Congress easily find an excuse when they feel themselves unable to act. When they thought proper to delay the forming of any arrangement of garrisons for the western and northern posts they declared in February last the reason to be; that *nine States* had been then only represented for a few days, nor could that matter be considered till *the States become more attentive to keeping up a full representation in Congress* *. When they are pressed by the incapacity of paying either the principal or interest of their debts, they very coolly, but *truly*, avow †, that some of the States have either refused, declined, or modified their recommendation for taxes. Experience since the peace, were we to disregard what happened during the war, ought to convince all reasonable men how impossible it is to procure the assent of thirteen democratic assemblies, much more of four and twenty

of prohibiting the subjects of any foreign Kingdom, or Empire, unless authorized by treaty, from importing into the United States any goods, wares, or merchandize, which are not the produce or manufacture of the dominions of the Sovereign, whose subjects they are."—Such is the issue of the Congress's pregnancy!

* Same Continental Journal.

† By their Budget 1784.

twenty *, to any measure which involves the complicated interests of all: And the dissent of one State, like the *veto* of Poland, effectually prevents the success of the most earnest recommendations; because the powers given by the respective assemblies are generally qualified with a proviso, *that the other assemblies likewise concur*. And while some of the States lately imposed restrictive duties on commerce, Connecticut and New Jersey *opened free ports*, with a contradictory purpose and more certain benefit to themselves.

But, let us admit, that the Congress are already invested with all the powers, which they have thus requested of the Thirteen States, what character we may ask, would they exhibit to the eyes of Europe: They would doubtless appear to Russia, who has refused to enter into treaty with them, and to other powers, who have not yet thought it necessary, or found it convenient, to form any commercial compacts, as a bully, who with a pen in one hand, and a sword in the other, declares: *You shall treat, or you shall not trade*. But the coward alone submits to the uplifted cudgel: And the people, who allow their opponent to write the terms of peace, or of commerce, while the sword is brandished over the tablet, confess to the world, that they are in the last stage of decline. To those

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however,

* Which number includes Vermont and the ten States, that have been lately established in the vast country, which is bounded by the Ohio, the Mississippi, and the Lakes.

however, who know the Congress the best, that famous assembly, in the character, which they have thus chosen to assume for themselves, will more likely appear to resemble the boy, who was humorously exhibited by Reynolds, in the dress and figure of Harry VIII. and who impressed the mind with the idea of a personage of *great bulk with little force.*

The agents of Congress sometimes act, as if they thought the world were ignorant of their affairs, and were unacquainted with their jurisprudence. This truth we might even collect from those clauses of the French and Dutch treaties, which stipulate several benefits in favour of the United States, without any other equivalent than the protection of laws, which cannot be denied to alien friends. The French however are now fully informed of their habits and laws, as we may learn from the following anecdote. In order to gain from Mons. De Vergennes an extension of commerce, or additional guarantees, the Congress agents flattered lately, and sometimes soothed, and at length attempted to bully the great Minister of a powerful nation: Why, Gentlemen, said Mons. de Vergennes contemptuously, you talk, as if you thought I were unacquainted with your powers and with the inability of your Congress to grant ampler one's; or as if I knew not, that the treaty, which I have already made with you, will be no longer kept, than the Congress stands in need of his Majesty's bounty, or than the individual States find an interest

terest in fulfilling * it." Without the sagacity of De Vergennes we may infer indeed, from the terms of the confederation, that every assembly possesses a reserved right to impose as high customs on foreigners, as shall at any time be paid by their own people, notwithstanding any treaty; and that every state may prohibit the import, or restrain their export, of any goods, even contrary to the most common stipulations, which can be made by the general Congress. So inconsistent is the exercise, or even existence, of two sovereign powers, much more *thirteen, or four and twenty* sovereign powers, at one and the same time, within the same empire. While the Congress can neither impose taxes, nor regulate trade, they ought to be regarded as a body of men, with whom it is illusory and idle to think of forming a commercial treaty.

* The result of the negotiation mentioned in the text, was given to the world in the following extract of a letter, which was dated from Paris, the 2d of August, 1784, and soon after published in the Gazettes. "The treaty which the American Congress had attempted to negotiate with France, relative to the new guarantee is at a stand. France probably foresees, that the Americans will make but bad allies, as they must be perpetual hangers on. The United States being now unanimously declared independent, and detached from the English Government; the French have had their ends, and do not seem desirous to seek further."—If France shall at last be found to have only cut the chain, which linked thirteen ponderous bodies about the shoulders of this nation, she shall in the end have no great cause for triumph.

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If the faithful performance of a solemn Treaty is an object of any consequence to a great nation, jealous of the honour of sovereignty, it must be surely of use to inquire minutely, how the late treaty with the Congress has been executed, before we enter into any new one. The Articles of Peace, which were concluded with the United States, on the 30th of November, 1782, were denominated *Provisional*, because it was agreed that they should not constitute a *Treaty*, till terms of peace were agreed on between Great Britain and France. When the French Treaty was soon after settled, the Articles that had been thus Provisional, became at once obligatory; and formed consequently the rules of conduct for the Contracting Powers. It was in conformity to this reasoning, that the French Preliminary Treaty was formally published, when it arrived at Philadelphia on the 24th of March, 1783, as the Provisional Articles had been announced to the American world by Congress, twelve days before: It was in conformity to the foregoing reasoning, that the Congress proclaimed a cessation of arms on the 11th of April, 1783; when hostilities immediately ceased and the prisoners were not long after discharged. And the general position, That the Provisional Articles bound the Congress from the day on which they received them, and bound the citizens of the United States from the moment those Articles were made known to them, is conformable to the law of nations and is confirmed by the practice of the civilized world." "A Treaty

" of Peace, says Vattel, binds the contracting parties from the moment of its conclusion, unless it is otherwise stipulated. When no term is assigned for the accomplishment of the Treaty, common sense dictates, that every point should be executed as soon as possible. And the faith of Treaties equally excludes from the execution of them all neglect, all dilatoriness, and all deliberate delays."

The recommendations, which had been stipulated to be *earnestly made* by Congress: and which ought consequently to have been issued with all *convenient speed*, were studiously delayed, notwithstanding the dictates of the law of nations, and the requests of the British Commander of the American army*. The violences, which succeeded the cessation of arms, even prevented the evacuation of New York, as had been agreed by Treaty. And the persecution, which ensued against the unfortunate sup-

* Sir Guy Carleton wrote the Congress a letter, on the 17th of August, 1783; wherein he informed them, that he had received orders to evacuate New York; but, that the violence which had broke out immediately after the cessation of arms had retarded that measure; And he expressed his concern, "That the Congress had thought proper to suspend to this *late hour* the recommendations stipulated by the Treaty, in the punctual performance of which the King and his Ministers have expressed such entire confidence." The Congress never took any notice of this letter, or of several others to the same purpose; because it was impossible to answer incontrovertible facts, whence inevitable inferences had been drawn.

them consistent with the rules of justice, and the spirit of reconciliation."

We shall be enabled to judge of the truth of these broad positions, by a very short discussion. It is a peace-making principle of the law of nations, that every treaty of peace, unless there be positive provisions to the contrary, extinguishes virtually all wrongs, which had been done during the previous war, so that they shall not be deemed causes of future dispute. Yet, the American Legislatures* seem all to have directed, even after the re-establishment of amity, that accounts shall be taken of devastations committed by the British army, during the course of seven years hostilities. With whatever view this Legislative direction was given, the principle whence it proceeded, is undoubtedly hostile. And it was cautious, though unnecessary in our negotiators, to stipulate expressly by the American Treaty, that no prosecutions shall be commenced in future against persons, for the part they had taken in the war, or on that account suffer any future damage. Yet, contrary to this sanction, the Government of New-York have empowered their citizens by a law, denominated in their jurisprudence, *the Trespas Act*, to sue any persons

* Virginia act, October, 1783, ch. 10. "For continuing an act to ascertain the losses and injuries sustained from the depredations of the enemy within this State." The peaceful Pennsylvania took the lead in this hostile measure. And Carolina, Georgia, and others followed the example of both.

persons for injuries done to property, during the war, and to subject any one who, while the British army garrisoned New-York, had resided in any house only for a day to the rent for seven years. This in the energetic language of Phocion*, was *to enact a civil war*: And some persons have actually been imprisoned, under the authority of this law, and others have been obliged to flee. With a similar spirit the government of South Carolina set aside, since the peace, the decisions of the Court of Police, which had been erected, while Charles Town was occupied by British troops; and British subjects who had purchased property under its decisions or had appealed to its equity, have been condemned in damages, and have been either imprisoned, or forced to abandon their families and affairs; though by the laws of war the conquest of the country carries with it the peaceful right of governing the people, by proper judicatories.

In the same spirit the assembly of South Carolina passed an act, in pursuance of the recommendation of Congress, and the requests of the Governor, for restoring out of about six hundred † confiscated estates, one hundred and twenty-four, on specific

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* The title of two able defences of the treaty, which have been published, in opposition to the spirit of the times, by the late Secretary of General Washington, Colonel Hamilton; a gentleman, whose pen is as powerful as his sword.

† The Jacksonborough act of 1782, attainted about two hundred persons by name, and upwards of four hundred more by description.

conditions. Yet, let us attend to two only of the most essential ones: 1st. It is directed by the act as a *previous* condition, "That the parties, their attorneys or agents, should make a true return upon oath of their estates, real and personal, in order that the commissioners should cause assessment of twelve *per cent.* on the real value of such estates to be paid *in specie*, before the first day of March, 1784, with an addition of two *per cent.* to the Commissioners of Confiscation: 2dly, The law gave to the purchasers of confiscated property an option to relinquish or retain it, and in this last case the owner is only allowed to receive in satisfaction the securities, that had been given in payment by buyers, or *indents*, a species of paper money, which, with the usual fate of American paper, had already been depreciated four-fifths of its original value. In this manner were the parties obliged to pay before the first of March fourteen in the hundred of the genuine value of their estates in *real* money; yet to receive in satisfaction *fictitious* money at a future day. And in this manner did the Assembly of South Carolina fulfil * the treaty and regard

* That there was no real purpose to execute the treaty, or to comply with the Congress, may be indeed inferred, from the public notice, which the Commissioners gave in April last, pursuant to an ordinance of Assembly, dated the 26th of March, 1784, for amending and explaining the Confiscation Act. The State Gazette gave notice "to all purchasers of confiscated property, where titles have *not been already made*, to apply for such titles and give the necessary security, on or before

regard the recommendations of Congress, which admitted not of partial modifications, since all had been agreed to be restored. Well may the persons, who have been thus infidiously restored, exclaim:

And be these juggling fiends no more believed,
That palter with us in a double sense,
That keep the word of promise to our ear,
And break it to our hope.

With an analogous spirit Massachusetts has in a great measure followed the example of South Carolina, "by making distinctions of a similar nature." The assembly of March, 1784, recited*, 1st; "That whereas by the sixth article of the treaty made between the United States and Great Britain it is provided, that no further confiscations shall be made:" It is therefore enacted, 2dly; that the lands which any of the persons aforementioned held in fee simple, or by a lesser estate, on the 19th day of April, 1775, and *have not* by the act entitled, "An act to confiscate the estates of certain notorious conspirators against the government and liberties of the inhabitants of the late province, now State of Massachusetts-Bay;" or who by judgment had on due process of law on such estates

before the 26th day of May next, (1784,) otherwise such property *will again be sold at public sale*, and the former purchasers made liable to all expences."

* The act was published in the Boston Independent Chronicle of the 1st of April, 1784.

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estates been confiscated, nor have been pledged by government for money borrowed, or sold by Agents according to the laws of the State for the payment of debts, due from absentees, or have been made liable to pay any annual charge for the support of any poor person, shall be delivered up to the parties, who respectively owned such lands last before the 19th of April, 1775; or to any person claiming under them respectively; provided such claimants are not included in the act aforesaid, made in the year 1778, who shall have the privilege of disposing of the same within the space of three years." The words of the law were given, to enable every one to judge for himself. A large body of men, who were deemed to hold principles and possess dispositions incompatible with the safety of the Commonwealth, were by the same law excluded from returning to Massachusetts: A less obnoxious class was allowed to reside upon obtaining a licence from the Governor, which was to continue no longer in force than till the meeting of the next assembly.

Yet, the treaty stipulated, for the restoration of *all confiscated rights*; and for the admission even of those who had borne arms against the States, to solicit restitution; and for a revision of such acts of assembly as prevented reconciliation: The treaty expressly provided, moreover that *there shall be no future confiscations*; and that no person shall suffer future damage for the part which he acted during the war. It was surely a commendable rule of the
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old-fashioned writers on the law of nations, that plain words shall be construed according to their usual import and that just agreements shall be executed according to the obvious meaning of the Contracting Powers. But, to exclude men, who ought by the treaty to be admitted; to deny restitution of those rights, which were to be restored to former owners; and to add additional penalties to laws, which were to be made more consistent with justice; all these are the novel constructions, which our fashionable Philosophers recommend to be given to our American treaty. *Confiscation*, says Bacon, *is the act of transferring the forfeited goods of criminals to public use*. The Legislative declaration then prescribed merely the mode: The sale of the confiscated property and the application of the price to the service of the State formed the real transfer of the goods to the public use, much more than the law. To provide by treaty, that no additional modes should be enacted, at an epoch, when there remained no persons, or things, whereon subsequent laws could work, was surely no reasonable act. The express stipulation, that there should be no future confiscation ought to be therefore construed, since it was certainly meant, to signify no future appropriation of the forfeited property, and every detention ought to be deemed a new transfer of the things to be restored from the obnoxious individual to the more delinquent state.

If candour is as laudable as a virtue, as chicanery is despicable as a vice, the avowed con-
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duct of New York must be much more approved, than the pretended compliance of South Carolina and Massachusetts, or even than the contemptuous silence of other States. They have all refused virtually : But, to deny bluntly is at least more manly than to feign a fulfilment which is not meant.— After two months consideration, the New York assembly resolved, on the 30th of March, 1784: “ That, as on the one hand, the rules of Justice do not require, so on the other hand the public tranquility will not admit, that such adherents, who have been attainted should be restored to the rights of citizenship, and that there can be no reason for restoring property, which has been confiscated, *as no compensation is offered on the part of Great Britain, for the damages sustained by this State from the devastations of the war* : And that, while the legislature entertain the highest sense of national honour and the sanction of treaties and of the deference, which is due to the advice of the United States in Congress, they find it inconsistent with their duty to comply with the recommendation of the said United States, on the subject of the 5th article of the Definitive Treaty ; Therefore resolved by both houses, that the Governor be desired to transmit these resolutions to Congress.” This is a language, which cannot be made plainer by commentaries.*

While

* The New York Assembly, in pursuance of their principle, passed an act on the 12th of May, 1784,—“ *for the speedy sale of the forfeited estates* :” And the commissioners of

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While this intemperate spirit reigns in the American legislatures, we are apologetically told, *that many refugees have been restored in different parts of America.*

It is admitted, that a few persons may have been restored to some of their rights, because having been moved by consideration of age, of sex, or infirmities, they had committed no greater crime against the Commonwealths, than that of deserting them, when danger approached.— But, these are not the faithful subjects who were prompted, by their spirit, to face tumult and bloodshed ; and who were engaged, by their loyalty, to risque their persons and property by drawing their swords, in support of the rights of Britain. And these last are the men, whom we have seen expelled, and excluded, and destroyed, by every mode of persecution, contrary to the most solemn treaty, in the face of the world*.

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of confiscation advertized on the 4th of June, 1784, various confiscated estates for sale at a future day. [New York Journal, of 1st July, 1784.]

* Several of those loyal persons, who have returned to the United States, since the peace, were arrested by American creditors, though their property and credits had been taken away by the State. Other loyal persons, who remain in Britain, are sued by the American creditors here, though the confiscated effects had been appropriated to the payment of American debts, and they are disqualified from suing their debtors in the American courts. Thus, were the friends of Britain thrown into the bed of Procrustes.

The mind is naturally led to compare times, either happy, or disastrous, which seem nearly alike in their political features. King William had scarcely achieved the Revolution, when the persecuted Protestants of France looked for shelter in England, in considerable numbers, and found it. In the fate of unhappy strangers, who ran thus under the wings of England, the Parliament interested themselves, and thereby gained for England the celebration of the world, by bountifully supplying their needs amid greater embarrassments of war, and finance, than have occurred at any time since. The Irish nobility and gentry, who were attached to England, and supported the Revolution, were attainted by the Irish Parliament of the abdicated monarch, equally sought protection at that æra from England, which was still more amply given by Parliament, since their claims were stronger.

Three thousand five hundred French refugees, asked the charity of the nation; and received £.15,000 a year, during King William's reign.* On the other hand, the Irish loyalists, claimed from the justice of parliament, and from its equity received not only immediate aid, but ultimate compensation.†

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* Com. Journal, 10 v. p. 116. Hist. of Debts, part ii. p. 1.

† Com. Journal, 10 v. p. 204—12—217—29. Vol. 13, p. 291—3. Vol. 15, p. 36—48—68—344.

The French were *refugees*: The Irish were *loyalists*. But, in what a more favourable light, ought every friend of the British empire to regard those meritorious subjects, who far from shrinking from danger, amidst the late troubles, or concealing their sentiments, supported the rights of the English Government, with their property, their talents, and their arms; and have thereby incurred the forfeiture of their estates, and remain still in banishment without hope of restoration; as the American assemblies have totally disregarded both the treaty and the recommendations of Congress.

Yet, strong as their claim is from the irmerits and sufferings, it is greatly strengthened by the solemn promise of the King and Parliament. Their natural inclination was strengthened by the Parliamentary resolutions of 1766*. Their ardour was incited by the Secretary of State's private instructions; whereby Governors were exhorted, *to offer every encouragement to those, who appeared in principle adverse to the proceedings of the malcontents.* Their apprehensions amid dangers were removed, by the Royal proclamations of August, 1775; which gave assurances, "*that none ought to doubt the protection, which the law will afford to their loyalty and zeal.*" And after all these previous incitements they were called forth into action, by the mani-

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* Com. Journ. 50 vol. page 603. Wherein we may see the Commons resolve: "*That those loyal subjects, who had assisted in carrying the Acts of Parliament into execution, are entitled to the protection and favour of that House.*"

fecto of the Royal Commissioners, in June, 1776, which declared, "That due consideration shall be had to the meritorious services of all persons, who shall assist in restoring the public tranquility, and that every suitable encouragement shall be given to those who shall promote the re-establishment of legal government." And in this manner was the faith of the King and Parliament pledged, and the pride of the people engaged in the face of the world, to grant honest recompence to American *loyalists*, as soon as—"diligent and impartial enquiry"—shall have established the truth of each particular claim.—Yet, candour ought frankly to confess, That it was not to have been expected of men, who had given mutual wounds and received mutual injuries, that they would soon forgive or forget one another. And from this active principle of human nature, wise men early inferred, what experience hath recently proved, that the treaty, in respect to the recovery of confiscations, would never be executed. Governments, at least ancient ones, have learned to suppress passion, which would disable them from discharging such essential duties, as the restraining of the resentments of individuals, and the granting of universal right. In this considerate spirit Great Britain has acted since the epoch of independence, with respect to the United States. What returns the American Government have made in those cooler cases, wherein their sense of injury did not lead their Legislatures astray, it is now proper to ask.

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The treaty of peace (as we all know) expressly stipulated, *that there should be no lawful impediment to the recovery of debts, on either side.* It required, as it is said, no small address and perseverance to procure this salutary stipulation from a people, who have never been famous for facilitating the payment of debts. And the time is now come, when we ought to inquire how they have performed it: In Georgia, the Chief Justice, with his associates, determined (as hath been already shewn) that a British Merchant, being an alien *friend*, could not maintain an action for debt, though they had pronounced, with the same breath, *that the laws of England had been studded into the Georgian system.* The South Carolina Assembly with a bolder spirit passed an act, on the 16th of March, 1784; for preventing the commencement of suits for debts contracted by any citizen previous to February, 1782; and for postponing ultimate payment by several liquidations till January, 1789. Urged perhaps by the same necessities the North Carolina Assembly passed an act, in May, 1783, to prevent the recovery of debts theretofore contracted, till after the expiration of a year. Equally necessitous, but perhaps more confident, the Virginian Assembly passed an act, even after they had received the Definitive Treaty, "to suspend the issuing of executions for four months from December, 1783, and to the end of the subsequent Assembly." The American Legislatures, who may have concurred with these States, in similar measures, may equally plead,

that

that the necessity, which drives, defends. Whether Grotius or Puffendorf, Burlamaqui or Vattel, would have admitted this justification, for an evident breach of a positive treaty, is a question, which it is not at present worth while to ask. Colonel Hamilton, the Confidential Secretary of their own Washington, has told the American citizens, with a loud voice, on the authority of some of these jurists: "That the wilful infraction of a single article annuls the whole, since every clause must stand, or fall together. If Britain should regard the treaty as broken,—can we renew the war? We know; and all the world knows, it is out of our power.—There is a certain evil attends our intemperance, namely, a loss of character in Europe: For our Ministers write, that our conduct hitherto, in this respect, has done us infinite injury; and has exhibited us in the light of a people, destitute of government, on whose engagements of course no dependence can be placed *."

We have been thus led round a circle of large circumference, in order to come at the general result, which has been in this manner drawn by Phocion. And it must now be admitted, that there ought to be a strong necessity, or a very apparent use, to justify the measure, of entering into

* See the two pamphlets of Phocion; which were expressly written by an able pen to give efficacy to the recommendations of Congress.

into a new treaty with States, who have not even by their own acknowledgments, performed the old. Of the existence of that necessity, or of that use it may be proper to make a few remarks. The stipulation, which expressly promised, that there should be no lawful impediment to the recovery of debts, has been attended, as we have seen, with no great effect, in the practice of merchants. Wise men, who had seen, during every age, the same necessities prevailing in the Colonies, whose Legislatures threw in similar obstructions to the recovery of debts, have been heard to observe: That the only point of commercial policy, which had the semblance of utility, would be an effectual provision for the speedy liquidation of debts, which must always be due from the American States to Britain. And doubtless a stipulation of this kind (if we had any security for its performance) would be of great importance to a commercial people, who have never set any bounds to the number, or length of the credits, which they have always given to those distant customers. In confirmation of that remark it has been moreover mentioned, as the greatest infelicity, which perhaps has resulted to Britain from the independence of her colonies, that it had virtually repealed the statute *; which enabled British merchants to prove their debts before any Mayor of any corporation, and subjected all property to the payment of all debts.

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* 5 Geo. II. ch. 7.

The observation is in some measure just: But the inference cannot be admitted in all its extent. It has been established as a foundation, whereon much may be built, that the United States had wisely established it as a rule for the government of their courts of justice, *to regard all laws of England theretofore used and approved, as still in force.* But, the statute of George II. beforementioned, had been long used and approved. And unless the Judges, in the absurd spirit of Walton, the Georgian Chief-justice, do violence to their own system, that law must be allowed in every tribunal; not from the vigour of the British Legislature, but from the wisdom of their own adoption. The establishment of this inference, however, and the introduction of a convenient practice under it, must ultimately depend on the temper of the Judges and the approbation of the people. The American lawyers before they admit, or reject, a construction, which must prove beneficial to both countries, would do well to remember, that the Courts of Westminster-hall have been lately empowered, by the Legislature, to facilitate the suitors and to give scope to justice, by sending commissions to every corner of the earth, to examine evidences and to procure proofs. Great-Britain and the United States, from their mutual dealings, are equally interested in this great improvement of juridical forms, because it may often be equally convenient to bring testimony from America to Britain, as to send proofs from this country to that.

And

And thus may the apprehensions of merchants be calmed on the interesting enquiry, how their American debts are now to be ascertained.

Were an intelligent person desired to sketch a Commercial Treaty with the United States, having some regard to the foregoing considerations, he would probably find himself extremely perplexed to discover or to create stipulations, which lead to any use, or which are dictated by any necessity. Such a person would probably recollect, that it is some necessity or some usefulness, which ought to form the basis of all commercial treaties: That every nation, having a right to judge of that usefulness and of that necessity, may approve or reject the equivalents, which had been offered for requested immunities, without giving cause of offence, or reason for explanation: And that to establish again by Treaty what had been formerly established by law is no reasonable action; any more than it would be a wise measure to make a new act of Parliament in a case where an old one already existed; which abstracted from its legislative indecency, always creates doubts and introduces difficulties, that did not exist before. Were such a person afraid of the ridicule, which generally attends those, who gravely propose to do that which had already been effectually done, he would probably be induced by his fears, however he might be governed by his prudence, to consider, whether the laws have not more amply provided for the ease and freedom of the American trade, than the Treaties, which the United States have concluded with Holland and

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France. And when he turned his attention to the actual state of the commerce between Great-Britain and the American States, as it has been lately regulated, on liberal principles, he would perhaps discover little to amend, and consequently little to propose, as the foundation of a supplemental treaty.

He to whom shall be assigned the difficult task of making a Commercial Treaty with the United States will find his chief embarrassments to arise from the regulation of the exports from that country to Britain. He will see they have been already allowed the free importation, even in their own ships*, of all their *unmanufactured* products, which includes almost all their surpluses, on paying the same duties as are paid on such commodities when brought in British ships from the British Plantations. Their naval stores and their lumber are peculiarly exempted from duties; And they are allowed the sole supply of tobacco on terms of the greatest facility. But, the United States, it seems, are not content: They desire to send all their commodities to Britain, the productions of their fishery as well as the produce of their agriculture; since they lay no restraint on the importation of British manufactures, which thus, they argue, find a prodigious vent. Yet, both parties will do well to remember, that it is mutual convenience more than fancied reciprocity, which ought to form the basis of all commercial treaties.

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* The act 24 Geo. 3. ch. 16. did not repeal the alien duties, as to goods brought in *foreign* ships.

Our supposed Negotiator may be thence led to enquire how such a proposal, were it carried into effect, would affect our industrious classes, who all merit protection, but some of them particular favour. Such of them as contribute to our defence in war deserve greater attention from the State, than those who augment our opulence in peace. Whence, we ought to rank our industrious people in the following order of merit: The sailors are the men who deserve most of our care, because they are the great protectors of every other class, in the enjoyment of their freedom from the attacks of the foe. The next in order, and second in merit, are our shipwrights and other artificers, who are connected with the outfit of ships, because they are the builders of our *wooden walls*, and without them even the gallant efforts of the sailors are vain.— The farmers stand third in rank, if not the first, because they furnish every other class with food. And the workers in wool, whose peculiar interests have been too often preferred to the general good, can only be ranked in the fourth place. If convenience then be the rule of disapprobation, or assent, in forming treaties of commerce, it can never be right to admit the oil and fish of New England, because her citizens consume many of the manufactures of wool, since this measure would sacrifice the interest of the two most meritorious classes to the gratification of the fourth. But, let us for the accommodation of argument suppose, that the New-Englanders offered to disregard their

agreements with Holland and France, and to admit *exclusively* the woollen manufactures of Britain, it may be asked, would such a monopoly be for the real interest of Britain, were it truly carried into effect? We shall best answer this interesting question, by asking several other questions. Do not the Memoirs of Wool in this Island evince, that the manufacturers of wool have too often tyrannized over every other class, and even dictated to the Legislature; that they have often disturbed the public repose by their clamours, and sometimes broken the peace by their tumults? * Did not these disorders proceed from the previous impolicy, of vesting too much capital in one branch of business, and employing too many hands in one kind of manufacture; whereby the same evil was introduced into the community, as if a wen were on purpose created on the body natural, which might begin with mortification and end with death. In this view of the subject would it be for the real advantage of Britain, were the whole world to give her the *exclusive privilege* of supplying it with the fabrics of wool? was it not prudent in the Legislature to encourage the weavers of silk, of cotton, and linen, as competitors to the weavers of wool, with the wise design to *draw gradually hands from a superabundant class* to employments of a somewhat different kind, whose numbers should not be so great as upon any want of occupation to lead

* See Smith's excellent Memoirs of Wool throughout.

lead to groundless alarm and even to dangerous tumult. May we not thence infer it to be the duty of wise Legislators to keep up continually an exact balance among the industrious classes of a commercial and naval nation, so that none of them shall have too many hands or any of them too few. Would not the supposed New England proposal counteract this salutary policy, and necessarily tend to introduce an evil rather than a good? And thus have we discussed in a paragraph a difficult subject of political economy, which ought indeed to occupy a volume.

But however free and advantageous the commerce may be between Great Britain and the United States, the rights of trade between the two mother countries gives no pretence for traffic with colonies, if we may rely on the weighty decision of Montesquieu, or the still weightier dictates of common sense. Like the system of other European powers the laws of Great Britain forbade all foreigners to trade with our transatlantic settlements: Our Government relaxed the rigour of those laws, in kindness to our Colonies and favour to the American States. Yet the proclamation of the 2d of July, 1783, is said *to have come upon both as a thunder clap*. And the moment of surprise had no sooner passed away with the cloud, than modes of circumvention, and even measures of recal were pursued with the ardour of men, who are urged at once by faction and interest. The arts which had produced the Colonial revolt were naturally adopted.

adopted. And insligatory letters were written to the United States, as well as to the West-Indies, to join in concerted clamour and to adopt various measures to gain their different ends. But, intrigues, which have been detected and exposed, are no longer dangerous. And the admission of the American vessels into the West India ports must be gained by treaty, since the force of threats have failed.

It is now time to ask what are the equivalents which they offer for the boon that they beg; as in every operation of commerce something must be given for something. The American States have precluded themselves, by treaty, from granting to Britain any peculiar facility in trade. It has been suggested rather than shewn, that the grant of any exclusive supply of any of the manufactures of Britain would be hurtful rather than beneficial to her genuine interests; would be an evil rather than a good. But, we offer you large markets for your manufactures, say the American States: We give you large credits, says Britain; British traders furnish you with capital, in proportion to the debts you detain from them; and they open moreover an extensive sale for all your unmanufactured products. Are we not customers to your tradesmen for the annual amount of three million, nay of six million, of sterling pounds, subjoin the American States: The question is not, Britain replies, whether you are a *great* customer, but whether you are a *good* one: British merchants have sense

sense enough to know, that they grow rich by supplying not *one great* customer, but *many small* one's: British Statesmen see clearly enough, that neither the interest nor safety of a manufacturing country can ever consist in trafficking with one community to so vast an extent, that any accidental failure, or purposed non-importation, would occasion outcries and convulsions; whereby one of the greatest of nations might be subjected disgracefully to her customers and debtors.

It must afford consolation to every honest mind to be informed, that, in the present state of American trade, it is plainly impossible for the American States to take any legislative step, without promoting the commercial interest of Britain. Were they to stop the whole of their exports to the British West-Indies, they would thereby give a bounty to Canada, Nova Scotia, and Newfoundland; and they would by this means force Britain into that system of supply and navigation, which she is prevented from adopting spontaneously, by the prejudices of the many, rather than by the reasonings of the few. Were the United States to impose taxes on the import of British manufactures, this step would equally lead to the real advantage of Britain: If the taxed articles should be necessaries the American consumer would pay the duty: If they should be only luxuries, which the American citizen would do well not to consume, Britain ought not in prudence to send the goods that cannot be speedily paid for. If the Congress should

should be even enabled to go the full length of enacting, *that the State, which will not treat, shall not trade*; the interest of Britain would equally be promoted: For, to the amount of the necessaries, the merchants of Britain would continue to send, as they sent them during the war, by Flanders, by Holland, or by France; whose wealthier and more punctual traders would become our paymasters, who are more under our eye: And to transmit the United States greater cargoes of such luxuries as they do not want and cannot possibly pay for, can be justified by no maxim of mercantile policy. By prudent perseverance, in measures moderate and just, much has already been gained. To derive every possible advantage from the American trade nothing more is wanting, than for the nation to be quiet and the Parliament to sit still. For, the interest of individuals on both sides will finally regulate the demand and the supplies, without the interference of the Legislature, or the help of a commercial treaty.

F I N I S