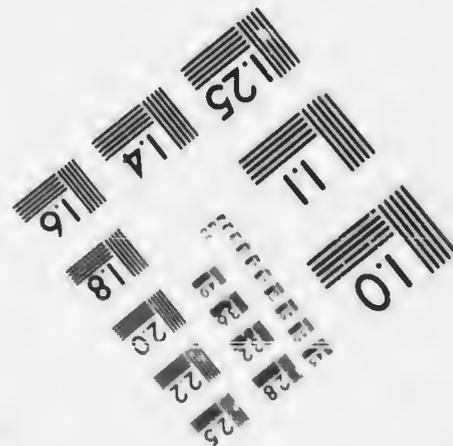
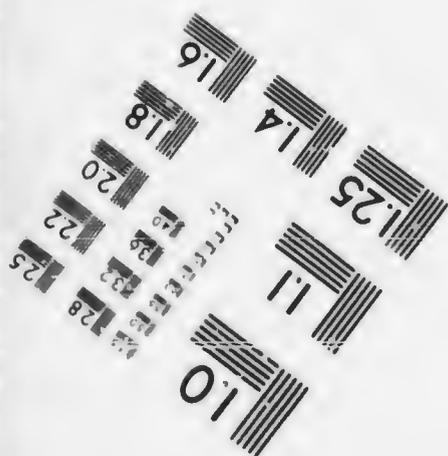
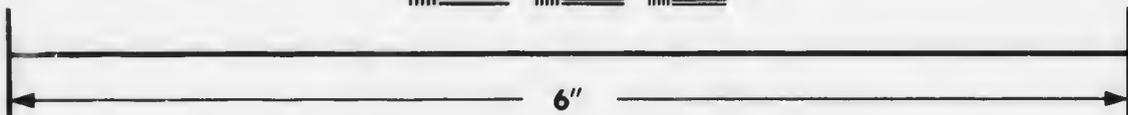
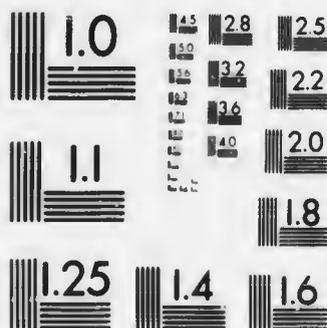


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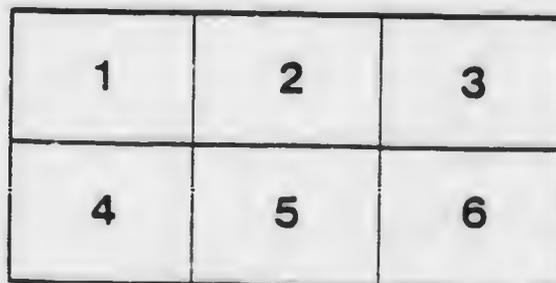
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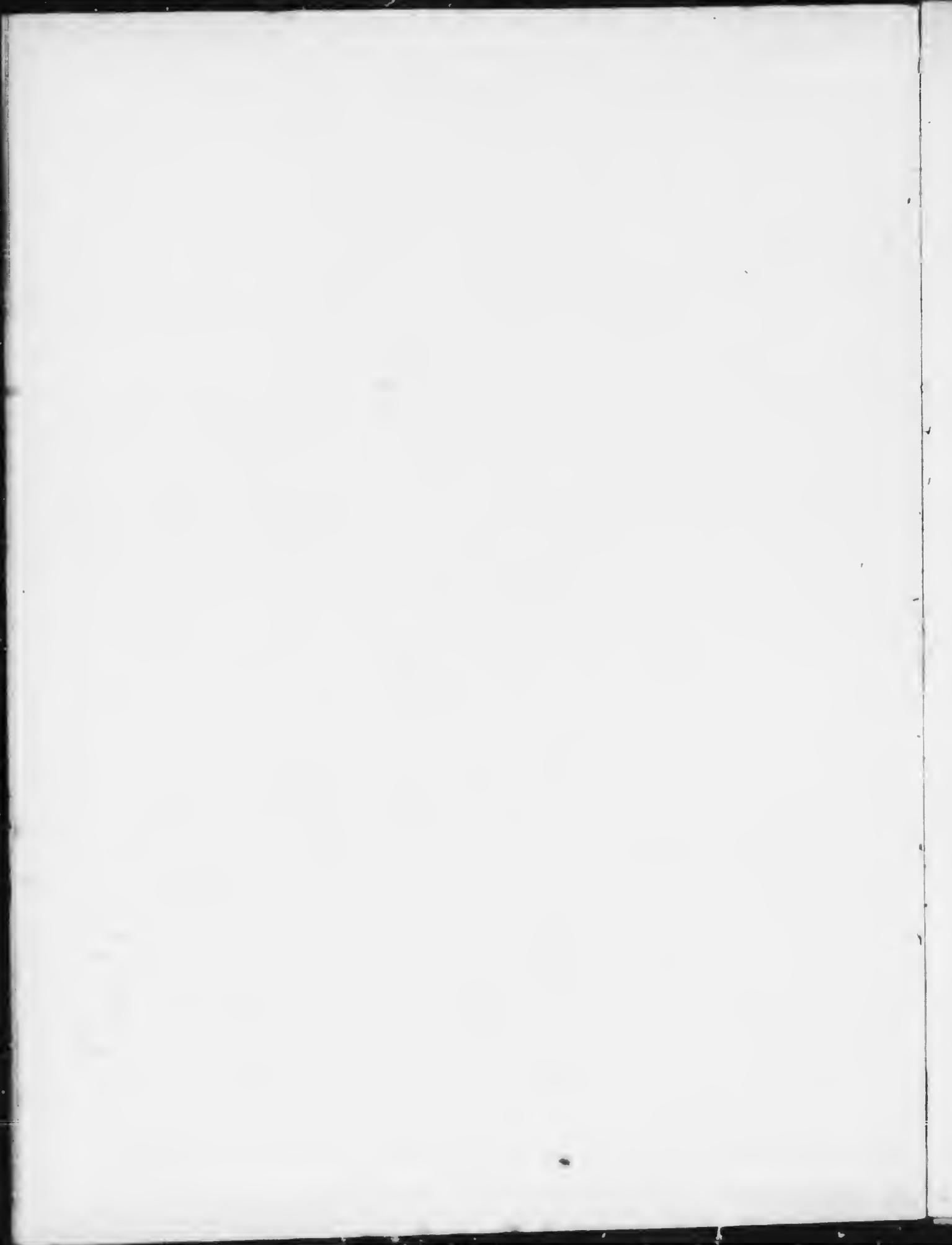
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R E M A R K S

O N

An ACT of PARLIAMENT,

P A S S E D

In the 15th YEAR of His MAJESTY's Reign,

O N T H E C R E D I T

Of Vice Admiral Sir HUGH PALLISER's Information,

I N T I T U L E D,

“ An ACT for the Encouragement of the FISHERIES
“ carried on from GREAT BRITAIN, IRELAND,” &c.
to NEWFOUNDLAND, &c.

For the Repeal or Amendment of which,

A PETITION from the MERCHANTS concerned has this Session
been presented to the HOUSE OF COMMONS.

To which is annexed,

An authentic and complete STATE of the FISHERY in 1771.

Shewing at One View

The Number of Ships, Vessels, Boats, and Men, employed; the Quantity of Fish caught, and Oil made that Year, at each of the different Ports, Harbours, and Bays, in *Newfoundland*, and the Isles adjacent.

By WILLIAM AUGUSTUS MILES.

L O N D O N,

Printed for H. PAYNE, opposite Marlborough-House, Pall-Mall. 1779.

[Price Two Shillings.]

THE UNIVERSITY OF CHICAGO

PHILOSOPHY DEPARTMENT

PHILOSOPHY 101

LECTURE NOTES

1998

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IT is unnecessary to illustrate at this period the importance of the fishery at Newfoundland to Great Britain: It is sufficient to observe, that the commercial and political advantages which result from it are innumerable; and that, considering it as a nursery for seamen, as affording maintenance and employment to a number of industrious manufacturers and laborious poor, and finally, that it is a source of inexhaustible wealth, every attention should be paid to it, and all possible care taken to preserve and encourage it.

It has therefore been the invariable policy of government to provide for the annual return of the seamen and fishermen, and on no occasion to consider Newfoundland as a colony, nor to admit of its being cultivated. The act which was passed in the 10th and 11th of William and Mary, "To encourage the Trade to Newfoundland," has ever been thought sufficient for that purpose; and the merchants and others concerned in the fishery have also been very well satisfied with the regulations which it provided for their conduct and observance: but it was reserved for the ingenuity of Sir Hugh Palliser to discover, at the distance almost of a century, that this act was faulty and defective; representations were continually transmitted by him to the ministry, and it is, perhaps, from that time, he may date the foundation of that fortune which has raised him above the level, only to render his disgrace the more certain and conspicuous.

When

When America revolted from her allegiance, and manifested a design to become INDEPENDENT, it was judged expedient to restrain her from fishing on the Banks of Newfoundland; and a bill was accordingly brought into parliament, to confine the right of fishing to his majesty's subjects residing in the British dominions in Europe.

The construction and management of this bill was principally submitted to Sir Hugh Palliser, in consequence of his having had the command at Newfoundland for several years, and on that account supposed to have acquired a thorough and competent knowledge of the fishery. It sometimes happens, that Government is obliged to rely on the veracity of an individual, and on this occasion it was natural to apply to Sir Hugh Palliser for information.

His rank and situation gave him abundant opportunities to learn the true state of this invaluable branch of national commerce; and from the whole of his conduct on that service, it appears, that he was very careful and industrious to investigate every particular circumstance relative to the fishery. It is therefore less astonishing, that he should have been honoured with the entire confidence of ministry. It is only to be lamented, that the legislature has been betrayed into the approbation of measures at once injurious to their country, and oppressive to individuals.

The total exclusion of America from the fishery held out advantages to the merchants at home, specious and irresistible: several of them were flattered by the idea of engrossing the whole of the West India market, which till then had been supplied from Boston, and the northern colonies; who were considered as rivals, and of course detested.

It is allowable to distress our rivals in trade, and this is the spirit of commerce: It is, however, worthy of observation, that monopolies are at once universally sought after and reprobated.

We do not like to see our neighbours better off than ourselves, and this is one of the characteristics of human nature. Hence it is, that the merchants who were prevailed upon to give their support to this bill, being blinded by interest, were inattentive to
the

A D V E R T I S E M E N T.

v

the latent mischiefs which it contained, and which on a future day were to break forth and operate to their prejudice. The prospect of immediate gain renders us indifferent to distant danger. A temporary advantage should neither be neglected nor abandoned; and self-interest must be pursued though thirty thousand of our fellow-creatures expire by famine in Indostan, or, thrown out of employ in America, are left to the dreadful alternative of starving, or of taking up arms against their country! It is neither my intention to revert to the barbarities of my countrymen in Asia, nor to examine the equity and policy of the present contest with America. Humanity wishes to draw a veil over the one, and the world and posterity will decide on the other.

The object of this address is to apologize to parliament for the severity and freedom of the following observations on an act of their own; and which they unquestionably intended for the encouragement of the fishery.

Sacred as it is the duty of a good citizen to respect the laws of society in general, and of his own country in particular, I trust that an exception will be allowed me in the present instance, and that it will be permitted to consider Sir Hugh Palliser as the *sole author and contriver* of those clauses, which the merchants have unanimously complained of, and for a repeal or an amendment of which, they have petitioned the House of Commons.

I do not mean to reflect either on the capacity or conduct of ministers. They applied for information where they had a right to expect they might find it; and if they have been imposed upon, they are unfortunate, but not criminal. Sir Hugh Palliser proceeded to Newfoundland, with an unfavourable opinion of the merchants concerned in the fishery; with an opinion too general to have been just, and highly incompatible with the dignity of his local character. Thus prejudiced, it is no wonder that he should disagree with them, or that they should resent his behaviour. All ranks of people were displeas'd; he was first troublesome, then oppressive, and finally, ridiculous in prescribing to the merchants what quantity, and what species of provisions they should allow their servants.

b

The

The novelty of this regulation was matter of surprize and offence to all ; but it enabled them to judge of his political principles, and, while it proved an unpardonable ignorance of the laws and constitution of his country, it manifested a disposition to be wanton and tyrannical, if he had possessed the means.

How far a man with such sentiments is entitled to a seat in a free assembly, I shall leave to the decision of his constituents at the next general election. Transcripts of this extraordinary mandate were sent to the different ports and harbours in Newfoundland, accompanied with peremptory orders for its being immediately and punctually complied with ; but instead of obedience, it met with mockery and contempt ; a reception which it certainly deserved, and which indeed is due to proclamations of every denomination, when it is considered that they imply, and tend to establish, an absolute right of authority in *one man* over the multitude.

Sir Hugh Palliser, possessed of the confidence of the ministry and of parliament, was left at full liberty to insert what clauses his experience might suggest, for the better regulation of the fishery ; and in order to render the bill palatable, the preamble of it was followed by several bounties, which are as unworthy the munificence of a wealthy and commercial nation, as they are beneath the acceptance of the poorest adventurer in the trade. From the poverty of the sums offered, one would imagine that it was a display of the generosity of an individual, and not of a rich and potent kingdom. The bounties consequently have never been thought worth pursuing, and even if they had, the conditions enjoined, and the difficulty attending the collecting them, would alone render them useless *. The act expressly declares, that none but British-built vessels shall be entitled to any of the bounties ; and when it was mentioned to Sir Hugh Palliser that most of the vessels employed in the fishery were plantation-built, he replied, that it would be sufficient if they were owned

* Vide the first Remark.

and navigated by British subjects in the British dominions in Europe: but if he had been sincere, why was he not explicit? The act is positive, as all laws ought to be, lest those, who are entrusted with the execution of them, should have an interest in explaining them. This provision would have created neither trouble nor difficulties; but Sir Hugh Palliser was apprehensive, perhaps, that, if the bill came under a particular and critical examination, an opposition would be made to it, and his regulation and advice totally rejected.

That the fishery is considerably reduced, is a truth not to be disputed. It has certainly suffered from the calamities of war, as well as from the act passed in the year 1774; yet the one is only a temporary evil; but the other, unless repealed, remains, and must eventually and finally destroy it, by rendering the prosecution of it dangerous and unprofitable to those who are qualified to conduct it.

From a state of the fishery, which I have subjoined to this publication, it appears, that upwards of one hundred sail of banking vessels were fitted out from the port of St. John's in 1772; and the last year only eleven sail were equipped for the banks, most of which were taken or pillaged by privateers. A decrease of one hundred sail of vessels at one port is an alarming circumstance, especially as the outfit of each vessel, exclusive of the hull, appears by the following estimate to amount to two hundred and seven pounds, fifteen shillings, and four-pence; to which may be also added, the necessaries and manufactories requisite for the seamen and fishermen, allowing each man, at the lowest calculation, the sum of four pounds ten shillings for boots, shoes, linen and woollen cloathing, which he consumes every season.

viii A D V E R T I S E M E N T.

An estimate of the outfit of a vessel to fish on the Banks.

	£.	s.	d.
4 grofs of hooks, at 8s.	—	—	1 12 0
6 dozen of lines, at 20s.	—	—	6 0 0
2 ditto of twine, at 12s.	—	—	1 4 0
Six anchors, weight 1 ton	—	—	34 0 0
Hawfers, 1 t. 10 cwt. at 21s.	—	—	31 10 0
1000 yards of canvass, at 1s. 1d.	—	—	54 3 4
Seamen and shoremen 14, and their maintenance for 8 months, at 6d. <i>per diem</i> , <i>per man</i> .	—	—	79 8 0
			£. 207 17 4

An estimate of the outfit of the shallops, employed to fish near the harbours and bays in Newfoundland.

	£.	s.	d.	
160 yards of sail-cloth, at 1s.	8	0	0	} The nets are liable to damage; but these articles with care may serve for 3 years, consequently one-third of them are consumed annually.
Making of ditto, at 2d. <i>per yd</i> .	1	6	8	
3 herring nets at 45s.	—	6	15 0	
Capling iayne	—	10	10 0	
56 lbs. of new cordage	—	0	17 0	
2 twice laid roads, wt. 6: 0: 0				
at 21s.	—	6	6 0	
1: 2: 0 ditto of 1 ½ and 2 inches				
at 21s.	—	1	11 6	
4 grofs of hooks, at 5s. 6d.	—	1	2 0	
4 dozen of lines, at 6s.	—	1	4 0	
6 splitters and gutters, at 8d.	—	0	4 0	
Iron-work, such as thimbles, hooks, pews, gaffs, and nails, for erecting stages, flakes, &c.	—	1	13 0	
An anchor, wt. 84 lbs. at 5d.	—	1	15 0	
Total for each boat,	—	£. 41	4 2	

It

A D V E R T I S E M E N T. ix

It appears from the state of the Fishery, which is subjoined to these remarks, that there were 2288 boats or shallops fitted out; in 1771, from the different ports, harbours, and bays, in and about Newfoundland; and each shallop, on an average, is allowed to take in a season three hundred quintals of fish, which produce thirty-six gallons of oil, and to employ seven men. In the same year we find 244 banking vessels; and each banker, at the lowest computation, takes ten thousand quintals of fish, and makes two tons of oil; but during the last year not above half the number of vessels were sent to the banks. The number of boats were also considerably diminished, and consequently there has been less demand for our manufactures at home, less fish and oil carried to market, and a number of men thrown out of employ. The army and navy have indeed received them with open arms; but, when our manufacturers are forced to turn soldiers and sailors, we have no great reason to be pleased with our situation. A decay of trade presages a decay of empire. It is commerce which has given Great Britain all her consequence and grandeur; it has been commerce alone which has enabled her to establish her authority in the four quarters of the habitable globe, and rendered her at once the terror and admiration of the world. It ^{was} therefore with infinite concern I found that this important and invaluable trade was so considerably diminished; and I trust I shall not be reproached with having written with an indecent or intemperate warmth on a subject so interesting to this country, especially when the occasion of this extraordinary decrease is considered; and then perhaps even Sir Hugh Palliser, on whose conduct I have delivered my sentiments so freely, may have reason to thank me for my moderation.

Unconnected as I am with trade, it will possibly be expected that I should account for the very active part which I have taken in a matter where I can have no immediate interest; and the necessity of explaining the motives of my conduct is the greater, since occasion may be taken to attribute them to the influence of party. It has, indeed, become fashionable of late years to stigmatize as rebels, or at least as republicans, all those who do not
implicitly

A D V E R T I S E M E N T.

implicitly approve of the measures of government, as if the present ministers were at once omniscient and infallible; and that those, who were not *for them*, must absolutely as a natural consequence be *against them*.

I do not wish to deny them those divine attributes with which their friends in the abundance of their zeal have so prodigally, and in my opinion so prematurely, complimented them; but I think that a latitude should be allowed to us in politics as well as in religion, or the exercise of our patience will be as necessary as that of our faith.

The part, however, that I have taken implies no censure either on ministers or on parliament. The command at Newfoundland had been entrusted to a man who busied himself in fancying he discovered evils which in fact never existed, in finding fault where no blame could be laid, and in proposing regulations which proved a disposition to be officious and troublesome, without a capacity to be useful.

On my arrival last summer at Newfoundland, it was my first care to enquire into the state of the fishery: I compared it with those of former years, and found it was considerably diminished*; the causes of it were explained to me, with the whole history of Sir Hugh Palliser's administration. The general interest which every individual of this country has, or ought to have, in the preservation of its commerce, would alone have justified my com-

* A list of ships which arrived at the port of St. John's, in Newfoundland, with the imports of rum and molasses, and the exports of fish, from the above port; for the years 1776 and 1777. Extracted from the custom-house account.

Years.	Ships.		Rum.	Molasses.	Fish.
	No.	Tonnage.	Gallons.	Gallons.	Quintals.
1776	178	12,498	197,770	60,439	207,793
1777	144	10,210	83,204	19,468	201,114
Decrease only in one year at one port.	of 34	2,288	14,566	45,971	6,679

municating

A D V E R T I S E M E N T. xi

municating the situation of the trade to his majesty's ministers; but the following application from the merchants finally determined me; and if I have been zealous and indefatigable in bringing this business before parliament, it is because I am an implacable enemy to every species of oppression and injustice, and wish to see the fishery carried on with its former vigor and prosperity.

L E T T E R I.

SIR,

St. John's, Aug. 1, 1778.

The merchants and others engaged in the fishery at Newfoundland, having resolved to transmit a memorial to the right honourable Lord George Germaine, setting forth the many oppressions to which they are exposed; and as they are informed, that you mean to embark the first opportunity for England, I am directed to enquire if you will do them the favour to present it to his lordship on your arrival in London.

I have the honour to be, SIR,

Your very humble servant,

JOHN ROGERS, junior.

Mr. WM. AUG. MILES.

L E T T E R II.

SIR

I should ill deserve the confidence which you offer to repose in me, if I was to hesitate a moment on the subject of your letter, dated the 1st instant. You will therefore do me the favour to assure the merchants and others, concerned in the Newfoundland fishery, that I will very cheerfully charge myself with their memorial, and present it to Lord George Germaine immediately after

after my arrival in London, where, if I can be of any further service to the trade, I hope they will command me, without ceremony or reserve.

I have the honour to remain,

Your most obedient humble servant,

St. John's Harbour,
August 2, 1778.

WM. AUGUSTUS MILES.

To Mr. JOHN ROGERS, Junior.

L E T T E R III.

SIR,

St. John's, 5th Aug. 1778.

The readiness with which you have undertaken to present our memorial to the right honourable Lord George Germaine, deserves our warmest acknowledgements, as does your offer of future services. We take the liberty to avail ourselves of your generosity, by requesting you to describe to his lordship the deplorable and melancholy state of the Newfoundland fishery at present; and that you will also take such measures on your arrival in England, as you may judge necessary for the relief of our grievances; wishing you a pleasant and expeditious passage to Europe. We have the honour to remain, in behalf of ourselves and the rest of the memorialists,

Your most obliged,

and most obedient servants,

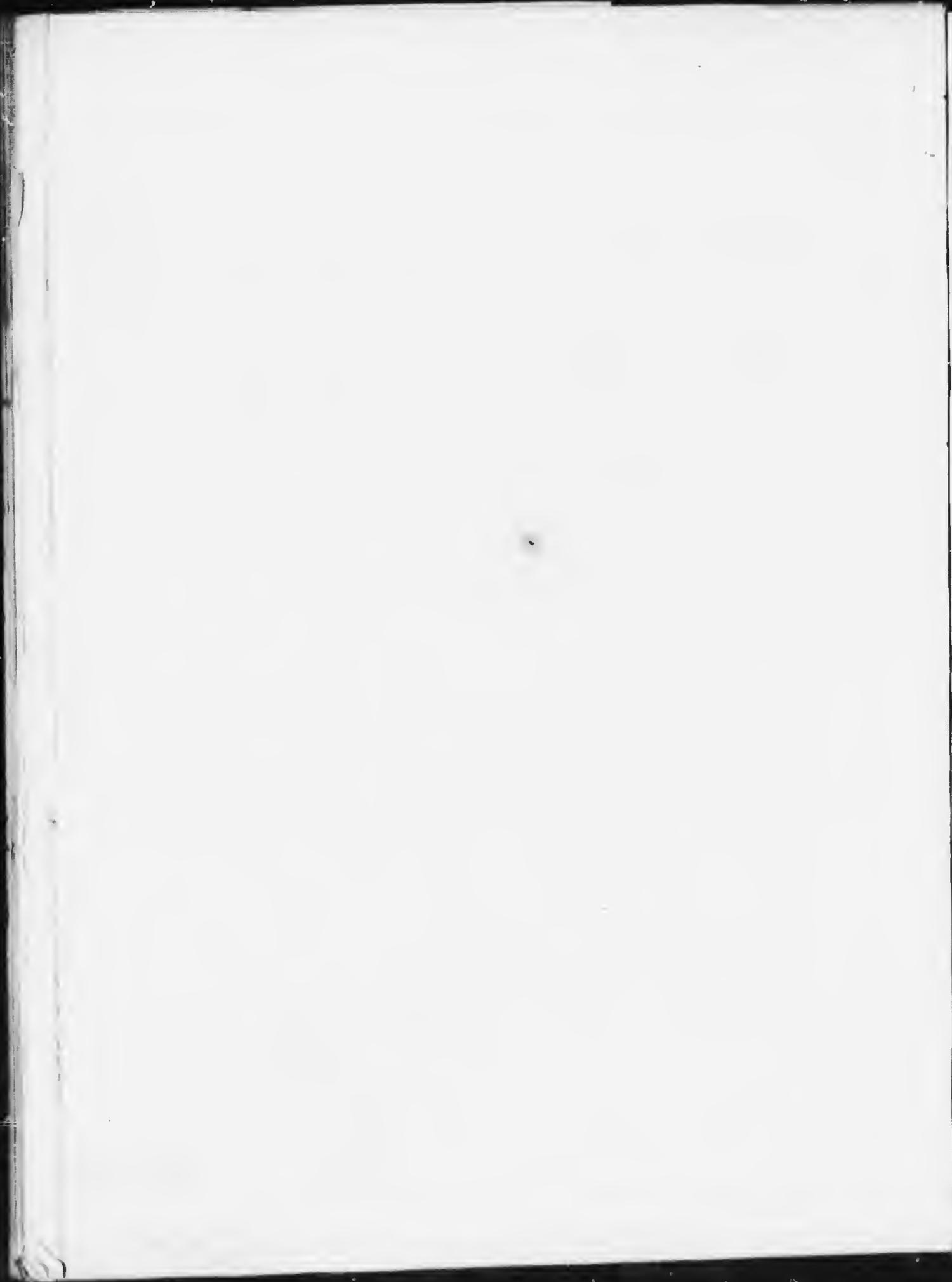
JOHN ROGERS, junior.

ALEX. M'CLURE.

SAM. WEBBER.

To Mr. WM. AUG. MILES.

A G E.



R E M A R K S

On an A C T, &c.

ABSTRACT OF THE ACT.

“ THAT, from and after the First Day of *January*, One thousand seven hundred and seventy-six, the respective Bounties herein-after mentioned shall be paid and allowed annually, for Eleven Years, for a certain Number of Ships or Vessels employed in the *British* Fishery on the Banks of *Newfoundland*, under the Limitation and Restrictions herein-after expressed; that is to say, such Vessels shall appear by their Register to be *British* built, and owned by His Majesty's Subjects residing in *Great Britain* or *Ireland*, the Islands of *Guernsey*, *Jersey*, or *Man*;

REMARK I.

THE conditions annexed to this clause render it entirely useless, as most of the vessels employed in the fishery at *Newfoundland* are plantation-built; and when this was mentioned to Sir Hugh Palliser, he replied, that the clause would have a *liberal* construction, and that no distinction should be made, provided the vessels were owned and navigated by *British* subjects residing in *Great Britain*. This promise of indulgence,

B

ABSTRACT.

Man; and be of the Burthen of Fifty Tons or upwards, and navigated with not less than fifteen Men each, three-fourths of whom, besides the Master, shall be His Majesty's Subjects; and in other respects qualified, and subject to the same Rules and Restrictions as are described by an Act, made in the Tenth and Eleventh Years of the Reign of the late King *William the Third*, intituled, *An Act to encourage the Trade to Newfoundland*; and shall be fitted and cleared out from some Port in *Great Britain* after the said First Day of *January*, One thousand seven hundred and seventy-six, and after that Day in each succeeding Year, and shall proceed to the Banks of *Newfoundland*; and having catched a Cargo of Fish upon those Banks, consisting of not less than Ten Thousand Fish by Tale, shall land the same at One of the Ports on the Southern or Eastern Side of the Island of *Newfoundland* between *Cape Ray* and *Cape de Grat*, on or before the Fifteenth Day of *July* in each Year; and shall make One more Trip at least to the said Banks, and return with another Cargo of Fish catched there to the same Port; in which Case, the Twenty-five Vessels first arriving at the said Island of *Newfoundland*, from the Banks thereof, with a Cargo of Fish catched there, consisting of Ten Thousand Fish by Tale at the least, and after landing the same at One

REMARK.

dulgence, contrary to the direct letter of the law, was neither modest nor sincere, but appears to have been intended to prevent any opposition from the merchants.

With respect to the Bounties, they have never, except in one or two instances, been claimed; after which they were given up, as impracticable as well as insignificant. The greatest sum allowed does not exceed FORTY POUNDS; to obtain which, it is enjoined among other things, that the vessels must be navigated by fifteen men, which are three more than are ever employed even in the largest vessels, consequently the wages and maintenance of these extra men would almost amount to the whole Bounty, as will appear by the following estimate:

Wages for three additional men, at 7 <i>l.</i> each	l. s. d.
for the season, - -	21 0 0.
Provisions for three men from 1 st May to the end of Sept. in all 153 days, at 6 <i>d.</i> per diem each, -	11 9 6

£. 32 9 6

And after having incurred this expence, they are not certain of success: But waving these objections

ABSTRACT.

One of the Ports within the Limits before mentioned in *Newfoundland*, shall proceed again to the said Banks, and return to the said Island with another Cargo of Fish, shall be intitled to Forty Pounds each."

consideration; and this difficulty, which is far from being chimerical, did not perhaps occur at the time of passing the Bill, though it would certainly have appeared and created innumerable dissensions among the fishermen, if the bounties had held out to them sufficient encouragement. The trouble and ceremony, required in collecting them, has also contributed to render the clause useless. The Act only admits the first twenty-five vessels to claim the Forty Pounds; and supposing this sum to be a matter of temptation, we may reasonably conclude, that a spirit of emulation would prevail among the masters and crews of vessels; and that, eager to serve their employers, they would endeavour to get their cargoes, and arrive within the time prescribed. Let us then imagine, that forty vessels have caught the quantity of fish required (and this conjecture is far from being strained, when it is recollected that the island till lately had between 3 and 400 sail of vessels employed annually on the Banks); and that they have arrived at their respective ports in the night, and at the same time; how is their right to the bounty to be decided? In the great zeal of these people to claim it, and apprehensive of losing it after all their labour and dispatch, it is very possible that they may antedate their arrival. It is seldom that his Majesty's ships are in any of the out-ports; nor are there officers appointed at all of them; and those that are appointed are themselves concerned in the fishery, or at least are so connected with it, as to have an interest in deciding partially, where a matter of doubt arises. The enraged master and his crew perhaps repair to a magistrate, and make an affidavit of the time of their arrival, and of landing the fish; and here is a door opened to perjury, with an invitation almost too strong for vulgar minds to resist.

I.

REMARK.

jections for a moment, and allowing that the balance amounting to 7/. 10s. 6d. is an object to the merchants, yet the difficulty of deciding to whom the bounties are due, deserves some

Animosities

Animosities and quarrels, arising from jealousy and envy, would also happen; and there is no answering for the discretion and humanity of men, inflamed by disappointments and acting under the influence of avarice, especially of men in their situation of life, and in a country where no regular police has ever been established for the preservation of the peace of society. Perhaps eighty or a hundred vessels may be ready to push for the first bounty (I confine myself to the *first*, as the others will not even defray the extra expences); and the half of them may probably land their fish at the same time. Yet it is evident, that twenty-five of them *only* can be intitled to the 40*l.* and to whom can the right of priority be allowed, when all of them claim it?

ABSTRACT.

“ And be it further enacted, by the Authority aforesaid, That for the better Accommodation of the Persons belonging to Vessels employed in the *Newfoundland* Fishery, it shall and may be lawful for the Masters and Crews belonging to any Vessels fitted out and employed in that Fishery in pursuance of this or any other Act, to occupy and use, for the Purpose of curing, salting, drying, and husbanding their Fish, any vacant or void Space whatever on any Part of *Newfoundland* which is not then occupied and used for the said Fishery, without any Let, Disturbance, or Hindrance, from any Person or Persons whatsoever, although such unoccupied Places may not before have been reputed Ships Rooms; and all such unoccupied Places shall from henceforth be deemed and taken to be Ships Rooms, any Custom or Usage to the contrary notwithstanding.”

REMARK II.

This clause excludes the heirs, executors, or assigns, of those who may die in *Newfoundland* from all right of property in the fishing rooms and habitations of which they may die possessed, if they should remain unoccupied during *One Season*; and as it may sometimes happen, that their heirs, executors, or assigns, cannot possibly go out to *Newfoundland*, or send out sufficient authority to others, to act for them within the time prescribed, the property so left becomes alienated, and the family, and the creditors of the deceased (if he should have died insolvent), are liable to sustain a considerable injury. The necessity therefore of enlarging the time arises from its being equitable and just that the property of the subject should be secured to him.

ABSTRACT.

“ And it is hereby further enacted, by the Authority aforesaid, That from and after the First Day of *September*, One thousand seven hundred and seventy-five, it shall and may be lawful for any Person or Persons to import into this kingdom any raw and undressed Seal Skins taken and caught by the Crews of Vessels belonging to and fitted out either from *Great Britain, Ireland*, or the Islands of *Guernsey, Jersey*, or *Man* respectively, and whereof the Captain or Master and Three-fourths at the least of the Mariners are His Majesty's Subjects, or by Persons employed by the Masters or Owners of such Vessels, without paying any Custom, Subsidy, or other Duty for the same, any Law or Usage to the contrary notwithstanding.

Provided always, That nothing in this Act shall extend, or be construed to extend, to give Liberty of importing any such Seal Skins Duty-free, unless the Captain or Person having the Charge or Command of such Ship or Vessel importing the same shall make Oath before the Collector or other principal Officer of the Customs at the Port of Importation (who is hereby authorized and required to administer such Oath), that all the Skins imported in such Ship or Vessel were really and *bona fide* the Skins of Seals taken and caught by the Crews thereof,

REMARK III.

The seals being caught in the winter, when no ships or vessels can venture on the coast, render it impossible that the masters of them can take this oath without being guilty of perjury, as they are absolutely required to swear that the skins on board of their vessels were, *bona fide*, caught by the crews of their vessels, or by the crews of some other vessels properly qualified. How can a man take this oath who has not wintered in Newfoundland? Yet the act requires that he should. And as *Custom-house oaths* (as they are called in derision throughout the mercantile world) are disregarded, or at least regarded only as matters of form, at once troublesome and unnecessary; they comply with the law, commit perjury without ceremony or reserve, and when men become accustomed to trifle with oaths in one instance, their reverence and regard for them, in every other, will depend more upon their interest and convenience, than upon any obligations of morality or religion. These observations are not made for the purpose of
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ABSTRACT.

thereof, or by Persons employed by the Master or Owner of such Ship or Vessel, or of some other Ship or Vessel qualified as aforesaid."

ABSTRACT.

" And whereas, in several Acts, passed in the Eleventh and Twelfth Years of *William* the Third, the Eighth of *George* the First, and Second and Twelfth of *George* the Second, Provision has been made to prevent Seamen and Mariners in the Merchant Service being wilfully left beyond Sea, and to secure and provide for their return Home to such Part of His Majesty's Dominions whereto they belong: And whereas, for want of such Provisions being extended to Seamen and Fishermen going out as Passengers to *Newfoundland*, and hired and employed in the Fisheries carried on there, great Numbers of them remain in that Country at the End of every Fishing Season, who would otherwise return Home, and some of them have frequently turned Robbers and Pirates; for Remedy of which Evil, be it enacted, by the Authority aforesaid,

That no Person or Persons whatsoever shall, from and after the First Day of *January*, One thousand seven hundred and seventy-six, employ, or cause to be employed, at *Newfoundland*, for the Purpose of carrying on the Fishery there, any Seaman or Fisherman going as Passengers, or any Seaman or Fisherman hired there, without first entering into an Agreement or Contract in

REMARK.

cavilling, but merely to point out the great danger to be apprehended to morals and society in having recourse to oaths upon every occasion.

REMARK IV.

This clause, which was certainly well designed, has become almost ineffectual by the great advance of seamen's wages and of provisions, which will not enable the owners of ships and vessels to take passengers home at the rate proposed by parliament. — Indeed it is evident that they would lose if they did; and as the clause does not compel them, they have refused the forty shillings; the consequence of which will be, that many of the fishermen and seamen must remain in *Newfoundland*, who would (agreeably to the intention of the legislature) have returned to Great Britain or Ireland.

Writing with every such Seaman or Fisherman, declaring what Wages such Seamen or Fisherman is to have, and the Time for which he shall serve, which shall be signed by both Parties; wherein it shall be stipulated (amongst other Things) that the Person so hiring or employing shall be at Liberty to reserve, retain, and deduct, and he is hereby authorised, required, and directed, to reserve, retain, and deduct out of the Wages of every Person so hired or employed, a Sum of Money equal to the then current Price of a Man's Passage Home, not exceeding Forty Shillings for each Man, which Money such Hirer or Employer shall, at the End of each Fishing Season, or at the Expiration of the covenanted Time of Service of such Seaman or Fisherman, pay, or cause to be paid, to the Master of a Passage or other Ship, who shall undertake or agree to carry such Seaman or Fisherman Home to the Country whereto he belongs, and shall also convey such Seaman or Fisherman to and on Board such Passage or other Ship, taking the Master's Receipt for the Passage-money, which Receipt he shall immediately thereupon deliver to such Seaman or Fisherman."

ABSTRACT.

" And be it further enacted, by the Authority aforesaid, That no Hirer or Employer of any such Seaman or Fisherman shall pay or advance, or cause to be paid or advanced, to such Seaman or Fisherman, in Money, Liquor, and Goods, or either of them, during the Time he shall be in his Service, more than One-half of the Wages which shall at any Time be due to him; but such Hirer or Employer shall, and is hereby required and directed, immediately at or upon the Expiration of every such Man's covenanted Time of Service, to pay either in Money, or in good Bills of Exchange, payable either in *Great Britain or Ireland*, or in the Country to which such Seaman or Fisherman belongs,
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REMARK V.

This clause, which appears to have proceeded from the purest benevolence, would have had more merit, if it had been dictated by candor and a spirit of justice, instead of prejudice. Sir Hugh Palliser regarded every merchant concerned in the Newfoundland fishery as a consummate knave; and, to the illiberality of this idea, he added the indecency of avowing it. This prejudice he pretended to justify by the iniquity of some individuals, who, in their extreme eagerness to improve their fortunes, manifested a total contempt of all decency and honesty. Their rapine and in-justice

ABSTRACT.

the full Balance of his Wages, except the Money herein-before directed to be retained for his Passage Home; and it shall not be lawful for any such Hirer or Employer to turn away or discharge any such Seaman or Fisherman, except for wilful Neglect of Duty, or other sufficient Cause, before the Expiration of his covenanted Time of Service; and in case the Hirer or Employer of any such Seaman or Fisherman shall refuse or neglect to comply with any of the Terms herein-before mentioned, or shall otherwise offend against this Act, every such Person so offending shall forfeit and pay, for every such Offence, besides the Balance that shall be due to such Seaman or Fisherman, the Money herein-before directed to be retained for his Passage Home, the Sum of Ten Pounds, to the Use of such Person or Persons who shall inform or sue for the same."

avarice and villainy of some of the merchants required a check, more powerful than that of their consciences: but this clause has only transferred the evil; it has not destroyed it. The publicans and hucksters should also have been restrained from giving credit beyond a certain sum; and this would have effectually answered the humane intention of parliament, though it would not have corresponded altogether perhaps with the wishes of the gentleman who has the merit of having introduced the bill.

But the difficulty of complying with this clause, will best appear from an explanation of the engagements which the mer-

REMARK.

justice were indeed universally complained of, and furnished Sir Hugh Palliser with an opportunity to introduce this clause, which has more severity than utility in it. It has, however, answered his expectations; It has mortified and distressed the whole body of merchants; but it has not relieved the fishermen and seamen, whose cause he would be thought to have espoused. They are not secured from fraud; their employers are restrained indeed from advancing them above a certain sum, but the hucksters and publicans reap the benefit of this restraint, by giving them unlimited credit, and obtaining their bills of exchange in the fall of the year, under the pretence of discounting them. It cannot be denied, but that the

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chants are under the necessity of making with their people, who would, contrary to the benevolent intention of the legislature, be much oppressed, if the strict letter of the law was to be observed.

The fishery being extensive and complicated, a variety of men are employed, to whom from five to thirty pounds are given for the season; and if those who engage for the former sum were to receive no more than the *half* of what may be due to them, after deducting what is required by the act for the payment of their passage home, they could not possibly equip themselves with sufficient cloathing, and without which cloathing their employers would be deprived of their service. The merchant therefore must either supply them with money, or furnish them with cloathing, and in either case he violates the act, and subjects himself to the penalty of ten pounds; which sum, as it affords a temptation to the profligate and indigent, may be sued for and recovered by the very man whom he has assisted.

ABSTRACT.

“ And be it further Enacted, by the Authority aforesaid, That all the Fish and Oil which shall be taken and made by the Person or Persons who shall hire or employ such Seaman or Fisherman shall be subject and liable, in the first Place, to the Payment of the Wages of every such Seaman or Fisherman.”

evident, that the merchant who furnishes the vessel with sails and rigging to proceed on her voyage, with materials for the fishery, and, finally, with provisions for the maintenance of the seamen and fishermen, is intitled to payment; but this clause establishes a preference, in case of insolvency, where it is not due, because this insolvency may be occasioned by the negligence of the very men who are the objects of parliamentary compassion, and who can claim and receive twenty shillings in the pound.

REMARK VI.

The partiality and injustice of this clause are obvious; and it appears to have been dictated by the same spirit as the preceding one, without the same plausibility. That the labourer is worthy of his hire, is a truth as evident as any problem in Euclid; and it is to the full as

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while those who have been at the expence of the whole outfit of the vessel are obliged to receive a dividend which may not be worthy their acceptance. The loss of their debt may reduce them to bankruptcy; and, as trade is so complicated, it is impossible to answer how far their failure may operate on others. This is not the only mischief. A number of industrious poor may be thrown out of employment, and their respective parishes perhaps become charged with their maintenance, or that of their helpless families.

This could not possibly happen to the seamen and fishermen at Newfoundland, even allowing that they lose the whole amount of what may be due to them. Their situation would not be affected, nor their credit impaired. They would suffer a temporary loss, which they would not feel beyond the moment, except they had wives and children to support. Besides, this clause tends to encourage idleness among them, and has very frequently been productive of great inconveniences to their employers. There are abundance of instances in which the fishermen have caught fish and oil sufficient to cover their wages, and, secured by this clause, have afterwards neglected the remainder of the season; insolence too has been added to injustice, and they have refused to suffer the fish and oil to be taken out of store till their wages have been paid, or secured to them to their own satisfaction.

ABSTRACT.

“ And be it further Enacted, by the Authority aforesaid, That in case any such Seaman or Fisherman shall at any Time wilfully absent himself from his Duty or Employ, without the Leave and Consent of his Hirer or Employer, or shall wilfully neglect or refuse to work according to the true Intent and Meaning of such Contract or Agreement, he shall for every Day he shall

REMARK VII.

The end proposed by this clause is defeated by the poverty of the Fine, which, instead of operating as a check to negligence, idleness, and disobedience, encourages them. Seamen or fishermen may combine together, and by absenting themselves ten days from their duty in the fishing season, ruin their

ABSTRACT.

shall so absent himself, or neglect or refuse to work as aforesaid, forfeit Two Days Pay to such Hirer or Employer; and if any such Seaman or Fisherman shall wilfully absent himself from his said Duty or Employ for the Space of Five Days, without such Leave as aforesaid, he shall be deemed a Deserter, and shall forfeit to such Hirer or Employer all such Wages as shall at the Time of such Desertion be due to him (except so much as is herein-before directed to be reserved and retained for the Purpose of paying his Passage Home); and it shall and may be lawful to and for the Governor of *Newfoundland*, or his Surrogates, or the Commissary of the Vice Admiralty Court for the Time being, or for any Justice of the Peace in *Newfoundland*, to issue his or their Warrant or Warrants to apprehend every such Deserter, and on the Oath of One or more credible Witness or Witnesses to commit him to Prison, there to remain until the next Court of Session which shall be holden in pursuance of the Commission of the said Governor for the Time being; and, if found guilty of the said Offence at such Session, it shall and may be lawful to and for the said Court of Session to order such Deserter to be publicly whipped as a Vagrant, and afterwards to be put on board a Passage Ship, in order to his being conveyed back to the Country whereto he belongs.

REMARK.

their employer, who has no remedy under the authority of the Act but the right of detaining twenty days pay, which at the very utmost calculation cannot exceed three pounds. This sum, it must be confessed, can be no object of loss or gain to either party; and as it does not afford a sufficient recompense for the injury which an individual may sustain, there can be no doubt but the wisdom and justice of parliament will acknowledge the necessity of securing the merchants from fraud and oppression, as well as the seamen and fishermen who are employed by them. It is also provided, in the clause above-mentioned, that seamen and fishermen shall be deemed deserters if they absent themselves *five days* from their employers without leave; but this absence of five days must be in *immediate succession*, which not only leaves the merchants or hirers of seamen or fishermen exposed to the same injury as before, but also to insult, as a troublesome scoundrel has it in his power to evade the intention of the legislature by returning to his duty on the fourth or fifth day, and abandoning it again on the sixth.

ABSTRACT.

“ And be it further Enacted, by the Authority aforesaid, That from and after the First Day of *January*, One thousand seven hundred and seventy-six, the Penalties and Forfeitures inflicted by any Act of Parliament relating to the Trade or Revenues of the *British Colonies* or Plantations in *America*, which shall be incurred in the said Island of *Newfoundland*, shall be sued for, prosecuted, and recovered, in the Court of Vice Admiralty having Jurisdiction in the said Island, and in no other; and if any Person or Persons shall think him or themselves aggrieved by any Judgement, Sentence, or Determination, of any Court of Vice Admiralty, or other Court having Jurisdiction in *Newfoundland*, upon any Suit or Prosecution commenced there for any Penalty or Forfeiture inflicted by any Act of Parliament relating to the Trade or Revenues of the *British Colonies* or Plantations in *America*, it shall and may be lawful for such Party to appeal from such Judgement, Sentence, or Determination, in the first Instance, to the proper Court of Admiralty in *Great Britain*, or to His Majesty in Council; and that no Appeal shall in such Case lie or be brought in any other Court or Jurisdiction whatsoever, any Law, Custom, or Usage, to the contrary notwithstanding.”

badness of the cause, and a mercenary or a greedy man has an interest in abusing the trust reposed in him, exclusive of which it may be made subservient to his prejudices, by administering to his resentments as well as to his necessities or avarice.

REMARK VIII.

The judge of the vice admiralty court takes upon him to decide in all pleas of trespass and actions of debt contracted on shore as well as on board of ships; and on an affidavit being made before a magistrate, he issues a warrant not only for the seizure of the property of the defendant, but for the sale of it, to satisfy the demands of the plaintiff, and this even in the first instance without examining into the truth or falsehood of the oath, the equity of the demand, or having the parties before him.

The grand barrier which the constitution had provided for the security of property is entirely destroyed, and an authority assumed incompatible with the genius and equity of our laws. A field is at once opened for fraud and perjury on one side, and for oppression and injustice on the other; and the more danger is to be apprehended from the usurpation of this power, because, no salary being annexed to the office, the emoluments of it depend upon the fees, which may be proportioned to the goodness or

To the Honourable the Commons of Great Britain, in
Parliament assembled.

The humble Petition of several Merchants and Traders
engaged in the Fishery at Newfoundland, and on the
Banks thereof, on behalf of themselves and others,
concerned in the said Fishery,

Sheweth,

That an act made in the 15th year of the reign of his present
majesty, intituled, " An act for the encouragement of the
" fisheries carried on from Great Britain, Ireland, and the British
" dominions in Europe; and for securing a return of the fisher-
" men, sailors, and others, employed in the said fisheries, to
" the ports thereof, at the end of the fishing season," has been
attended with many hardships and inconveniences, which your
petitioners apprehend were not foreseen at the time of passing the
said act, some of which they beg leave to recommend to the at-
tention of this honourable house, humbly conceiving, that they
need only be pointed out, in order to their being redressed: That,
by the said act, the heirs and assigns of your petitioners are ex-
cluded from all property in their fishing-rooms or habitations
beyond the expiration of one season after the decease of the pro-
prietor, if such rooms or habitations remain unoccupied during
that period; and your petitioners beg leave to observe, that it is
sometimes absolutely impossible, and oftentimes highly incon-
venient, for such heirs or assigns either to go themselves to New-
foundland, or to send sufficient power to others to act for them
within the time prescribed; and humbly apprehend, " the said
" time should be enlarged, or abolished, in order more effectually
" to secure such property to the heirs and assigns of such pro-
" prietors:" That, by the said act, the hirer or employer of any
seaman or fisherman is prohibited from paying to such seaman or
fisherman, during the time he shall be in his service, more than
one-half of the wages that shall at any time be due to him, under
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pain of forfeiting ten pounds to any person who shall inform or sue for the same; which provision in the said act cannot be complied with, without manifest inconvenience, as your petitioners are under a necessity of engaging a variety of men and boys, to whom they give from five pounds to thirty pounds, for the season; and if those who contract for the former sum were to receive no more than half of what may be due to them, after deducting what your petitioners are compelled (by the said act) to detain for their passage home, they could not possibly equip themselves with sufficient cloathing, without which their employers would be deprived of their service; and should the merchant furnish them with common necessaries, or the means of securing such necessaries, he not only subjects himself to the loss of the overplus so advanced, but to the penalty of ten pounds, which the very man, to whom he has generously advanced this overplus, may sue for and recover: That, by the said act, all fish and oil, which shall be taken and made by any person or persons who shall hire or employ seamen or fishermen, is subject and liable in the first place to the payment of the wages of every such seaman or fisherman, which provision (in case of insolvency) may subject the other creditors of the insolvent to very great loss, while the man who may have occasioned this insolvency, by their negligence or disobedience, can claim and receive the whole money due to them:

That, your petitioners apprehend, the penalty inflicted by the said act on seamen and fishermen for wilful neglect of duty (being only a forfeiture of two days pay for every day such seaman or fisherman shall wilfully neglect or refuse to work) affords impunity to offenders, instead of restraining the idle and dissolute; and beg leave to observe, that the absence of a boat's master for one day may probably occasion the loss of ten or fifteen pounds, while the only recompence the owner can obtain under this act is no more than six shillings.

And your petitioners apprehend, that this provision has produced effects very different from the intention of the legislature, and has repeatedly proved prejudicial to the interest of individuals.

That the said act has in other particulars been found inconvenient; and your petitioners apprehend, that, unless the same be

repealed

repealed or amended, the said trade will, in the course of a very few years, be inevitably ruined, to the great loss of individuals, and detriment to the commercial interest of Great Britain.

Your petitioners humbly pray this honourable house to take the premises into consideration, and to grant them such relief as in their great wisdom shall seem necessary.

Gregory Jackson,	John Bouden,
James Bully,	Nicholas White,
Jn. Niner,	Daniel Codrier,
Jn. Farley,	John Bulley,
Robert Nickels,	Joseph Boanstan,
Nicholas Mudge,	John Bradford,
John and James Gofs,	Tho. Whitborn,
John Penfon,	Thomas Lyde,
Webber and Henlys,	John Trowett,
Henry Brooks,	David Sweetland,
Cocking and Bulley,	Harvey and Ashfo
Luckem and Row,	Wm. Bartlett,
Tho. Gotham,	Jn. Follett, junior,
Ja. Jackson,	Jn. Yowlden,
Wm. Studley,	Henry Bailey,
Wm. Bailey,	Oades Bailey,
Robert Chorley,	Isaac Follett,
James Rich,	James Stokes,
Wm. Gibbs,	Tho. Brand,
Richard Chant,	John Matthews,
Samuel Lang,	Wm. Membery,
Peter Varwell,	Walter Squire,
Henry Sparke,	Andrew Griffin.
For Arth. French and Co. Dottin Channill.	
Wm. Graves, junior, &c. R. Hutchings,	
Robert Sparke,	Jn. Rogers, sen. and Co.

