

ven to this country, calculated to encourage its settlement, promote its interests and increase its consequence, if the advantages to be derived from it are duly attended to and secured.—The existing laws, I humbly conceive, are sufficient for the purpose, if properly enforced; but should I be mistaken in this, I hope that the discussion of this cause will give rise to other regulations from competent authority, which will enable us fully to avail ourselves of a source of prosperity, which promises ere long to be incalculable in its extent and beneficial consequences.

I mean not however to urge these as considerations to the Court, in pronouncing its decree in this cause, if the law be not with me;—but if I am warranted in the principles I have endeavored to establish, and the deductions I have drawn from those principles, it is just and fair to enforce my argument, by stating the mischiefs and inconveniences that would result from the establishment of the claim now before the Court.

WELL might this trade be thought an object of sufficient magnitude to merit the attention of the General Assembly of the Province; the same view of the subject and the same reasons which I here humbly submit to the consideration of the Court, induced them to apply for the most effectual means of annihilating this trade by an act of Parliament, to prevent the landing of Plaster of Paris exported from these Provinces, in any part of the United States, to the Northward and Eastward of Portland, in the State of Massachusetts, though it is much to be doubted whether any place to be named for this purpose to the Northward and Eastward of Connecticut river, would prove an effectual remedy for the evils complained of.

I come now to the point of the cause from which I set out, namely, the charge in the libel, that the Cargo of the sloop Falmouth, now under prosecution, was *laden* on board the said Sloop in the County of Charlotte, in the Province of New-Brunswick, and within the jurisdiction of this honorable Court on the 22d October last, the same Sloop being a foreign built vessel, not owned by His Majesty's subjects nor navigated according to Law.

THAT the Sloop is not British, but foreign built, and owned and navigated by foreigners, is admitted on all hands.

THE only remaining question then is, whether this cargo was laden on board the Sloop within this Province.

I might possibly be justified in insisting that the Claimant can no longer be permitted to controvert this fact, having submitted to the jurisdiction of the Court; and that he should have availed himself of this ground of defence by a plea in abatement to its jurisdiction; for this Court can have no jurisdiction of this cause unless the offence charged has been committed within the limits of this Province; but waving this, I will briefly recapitulate the evidence there is in the cause of this fact.—It has then been shewn,

1. That all the Islands between which the waters flow, in which the Sloop was laden, belong to Great-Britain as a part of the ancient Province of Nova-Scotia, and as such expressly reserved by the Treaty of 1783.

2. That the King's charter, erecting and establishing the County of Charlotte, and the act of the General Assembly of the Province for dividing this County into Towns and Parishes, have confirmed this fact by expressly including all these Islands within this County, and within the Parish of West Isles in the same County.

3. That if the right to these Islands can be in any manner affected by the declaration of the Commissioners under the 5th article of the Treaty of Amity, Commerce and Navigation, respecting the mouth of the river St. Croix, (which I have endeavored to shew it cannot be) this declaration confirms and establishes this right in Great-Britain.

4. That not only all these Islands belong to Great-Britain, but that of necessary consequence the waters in question flowing between them also belong to Great-Britain.

5. That admitting for the sake of the argument, the possession which has been taken by the subjects of the United States of three of these Islands, to wit, Moose Island, Dudley Island, and Frederick Island, to be equivalent to a title to these Islands in the United States, nevertheless, by the established principles of the law of nations, even in that case they can claim no right to any part of these waters beyond the middle line between Dudley Island and Moose Island, in their possession on the one side, and Campo-Bello Island in the possession of Great-Britain, on the other.

6. That even this claim by the same principles can extend to a right of water-way or navigation only, and not to a right of carrying on trade with British subjects and their vessels in those waters.

7. That admitting even that the United States have a right to trade in this manner as well as to navigate on their side of such middle line, it is proved by all the testimony in the cause, that the Sloop in question was clearly on the British side of such middle line, and therefore without the protection of the law.

PRESUMING then that the Court will be of opinion that the cargo of the Sloop FALMOUTH was laden on board, within the limits of this Province.