

ments cannot well be conceived, than is exhibited in the instance of this foreign clearance.

It may not be improper here to remark the absurdity of the application of the epithet *neutral* to these or any other waters in a similar situation; so far from being *neutral*, or belonging to *neither* power, by the Claimant's own shewing, they must be considered for the accomplishment of his purposes as wholly and altogether *British*. But although what is contended for on the part of the Claimant, would not render these waters *neutral*, it would nevertheless operate to the extent of making them to be *free ports* in the territories of both nations, in which the operation of all the Laws of both Countries would be completely annihilated; which is a state that it has hitherto required the act of the Supreme Legislature of a nation to create within its dominions.

BEFORE I quit this part of the argument, I must again bring to the recollection of the Court, that my whole reasoning upon the testimony in the cause has been predicated upon a supposition, for the sake of the argument, that the *possession* of Moose, Dudley, and Frederick Islands, the three Islands in question, by the subjects of the United States, is equivalent to a *title* in the present discussion.

BUT when it is taken into consideration that these Islands do of *right* belong to Great-Britain in full property, and that the possession of them has been wrongfully taken and withheld by the subjects of the United States, the argument becomes infinitely stronger respecting the waters in question; for it would be an extravagant position, that a *wrongful possession de facto* of these Islands, should give a *constructive* possession *de jure* to the whole or to any part of these waters.

It remains now in some way to account for the agreement made by the Custom-House officers of the two Governments, and the foreign clearance, which have been disclosed in the testimony in this cause, in doing which we must retrace the Plaister trade to its origin, and consider its magnitude and importance at the present day.

It is well known that the mines or quarries of Plaister of Paris in the upper parts of the Bay of Fundy within the British Provinces of Nova-Scotia and New-Brunswick, are inexhaustible.

It is equally well known that it is now become almost an indispensable article in agriculture in all the United States to the Westward and Southward of Connecticut; barren and exhausted soils by the aid of this Plaister, as a manure, become fertile and productive, and are so permanently improved by it, that many of the land-holders there have been known to say that, rather than be without it, they would give for it twenty dollars, and some go so far as to say fifty dollars per ton.

FROM the first settlement of this Province the British vessels here have been employed in carrying this article to that part of the United States, where it has been in so great demand: for several years it commanded a very considerable price; ten or twelve years ago, it brought from ten to twelve dollars per ton in New-York and Philadelphia; and if British subjects in British vessels were, as they ought to be, the sole carriers of it to the places of its consumption, it would without doubt, prove a source of wealth to these Provinces, of encouragement to their settlement, and to their commercial and maritime concerns, and consequently become important to the interests of the British empire.

It is ascertained that in the year 1791, the Plaister trade had not commenced at Passamaquoddy; even so lately as in the year 1794, only about 100 tons of this article were imported from the upper parts of the Bay of Fundy to Campo-Bello; in the year 1795 about 250 tons: from that time to this it has been gradually increasing, and the average is now, from the best information that can be had upon the subject, very little, if at all, short of 14,000 tons per annum.

It appears from the testimony of the Clerk of the British Custom House at Passamaquoddy, "that during the present year there have been imported into Passamaquoddy from Nova-Scotia about 10,000 tons in 50 vessels by a computation from the Custom-House books in his possession," and we know that there was a considerable suspension of this trade in the course of the summer, occasioned by a fear of impressment from His Majesty's Sloop of War, the *Busy*, which was for some time stationary there.

FROM a correct account kept in the year 1802, it appears that from the 20th March, to the 20th of December in that year, there were 13,155 tons thus imported, and that there were several other vessels so importing it in that year not included in that account; from whence there is good reason to believe that the annual average does not fall much short of 14,000 tons.

A respectable witness on the part of the Claimant, states, "that he thinks the *great demand* has been the cause why the Plaister is not now landed at Campo-Bello, as the British vessels have now the opportunity of loading the American vessels in the stream;" so that it appears on all hands that this is a very increasing trade.

WE know that many British vessels from this Port of Saint John are constantly employed