

joining County in the State of Massachusetts, came to Moose-Island armed, with two men also armed, in order to collect from the Inhabitants a Poll Tax assessed by the Court at Machias, in the said County of Washington. The Inhabitants resisted the payment of the Tax, alleging that they were summoned to discharge the duties of British subjects on one side, and claimed at the same time as American subjects on the other, and refusing to pay any Tax till it should be settled to which Country they belonged. Cooper upon this began to temporize and persuade them that if they would pay the Tax, they would be acknowledged as American subjects, and that the General Court of Massachusetts would in that case be justified in granting them their Lands: And he further pledged himself to them, that if they would pay the Tax so that he could make a regular return thereof to the Court, he would not again enter upon the Island as Sheriff, until he had procured for them a grant of their Lands from the General Court of Massachusetts. The Inhabitants, not having at that time any grants of their Lands under the British Government, yielded to these terms, and some of them paid the Tax, some refused, and some left the Island.— These were facts of public notoriety at the time, and of which abundant testimony may be at any time produced.

GRANTS of Land were made to those who submitted and took the Oath of Allegiance to the States, and the authority of the British Government was never afterwards actually enforced upon either of the Islands in question: Another circumstance tended to confirm the Americans in the possession of these Islands, which was, that some seizures made by Mr. Leonard, the Prosecutor in this cause, of American vessels found trading at Dudley-Island, contrary to the provisions of the same Statute, upon which the present prosecution is founded, were released to the Claimants, by the recommendation of the Officers of the Government of New-Brunswick, though much against Mr. Leonard's wishes and inclination. This took place in the summer of 1786. The release of these seizures was recommended, not from any doubt of His Majesty's right to the Islands, but because the Americans were in the actual possession of some of them, and it was not thought prudent at that time, to adopt any forcible measures to dispossess them, of which nature these seizures were at that time considered to be.

Thus has the possession of those Islands been wrested from His Majesty; and from that time the Claims and encroachments of the American subjects upon His Majesty's territory and rights in that quarter, have been constantly extending and increasing. Had the same measures been pursued with regard to the Islands, which took place respecting the Claim to the territory between the St. Croix and Magaguadavic, in the years 1784 and 1785, little doubt can be entertained, that the very valuable trade and fisheries now carried on by the Americans in that quarter, to the great injury of the commercial and maritime interests of Great-Britain, would have been in a great measure, if not totally prevented.

In the year 1785, there were only 17 heads of families upon Moose-Island, whereas at this day they probably exceed 200, and they are daily and rapidly increasing. This Island contains about 2700 acres of Land.

From the indulgence they experienced and the silence with which their encroachments were submitted to, the Americans at length, in defiance of the Navigation Act, and of all the other important and salutary provisions of the laws of trade in this respect made, came even to the shores of Campo-Bello Island, and took in their cargoes of Plaster of Paris from the wharves there. Mr. Leonard again interfered: and by the seizure two year's ago, of two American vessels employed in this illicit traffic, and their subsequent condemnation in this Court, a stop was put to a practice so highly unjustifiable.

But no sooner is this spirit of encroachment suppressed in one form, than it starts up with new appearances and still more alarming pretensions; of this, stronger evidence cannot be adduced than is exhibited in the Claim now under the consideration of the Court.

The Claimant for the reasons set forth in his Claim, declares upon his Oath that he believes, that "the waters on which the Sloop was anchored and seized, are wholly within and belong to the United States."

Now the waters here spoken of, are the waters between Dudley-Island on one side, and the Island of Campo-Bello on the other, and these waters can by no possibility belong to, or be wholly within the United States, unless the Island of Campo-Bello, either belongs to or lies wholly within the same States; and we accordingly find that one of the reasons or grounds of the Claimant's belief respecting these waters is—"That the principal channel from the Bay of Fundy into the river St. Croix or Scoodiac, is to the Eastward of the said Island of Campo-Bello, and between Deer-Island and Moose-Island, lying to the Northward thereof."

Thus the Americans are not contented with having wrested from Great-Britain, and with now holding in full sovereignty Moose-Island, Dudley-Island, and Frederick-Island, to which they have not, as will presently be more fully shewn, one spark of right; they are not contented with a right of water-way or navigation through the common and nearest channel