

THIS power of regulation appears to us to have been pure in its principle, simple in its operation, and salutary in its effects. But for some time past we have observed, with pain, that it hath been turned to other purposes, than it was originally designed for, and retaining its title, hath become an engine of intolerable oppressions and grievous taxations. The argument of an eminent judge, states the point in a similar case strongly for us, in these words.—“ Though it be granted, that the king hath the *custody* of the *havens* and *ports* of this island, being the very *gates* of this kingdom, and is *trusted* with the *keys* of these *gates*; yet the *inference* and *argument* thereupon made, I utterly deny. For in it there is *mutatio hypothesis*, and a *transfition* from a thing of *one* nature to *another*; as the *premises* are of a *power only fiduciary*, and in *point of trust and government*, and the *conclusion* infers a *right of interest and gain*. Admit the king has *custodiam portuum*, yet he hath but the *custody*, which is a *trust* and not *dominium utile*. He hath power to *open* and *shut*, UPON CONSIDERATION OF PUBLIC GOOD TO THE PEOPLE AND STATE, but not to make *gain* and *benefit* by it: the *one* is PROTECTION, the *other* is EXPILATION.” By common law the king may restrain a subject from going abroad, or enjoin him by his chancellor from proceeding at law: But to *conclude*, that he may *therefore take money*, not to restrain or not to enjoin, IS TO SELL GOVERNMENT, TRUST, AND COMMON JUSTICE*.

* Rights of the people, as to impositions.