

Appendix, No.

the countries adjoining to the Bay granted to them by their charter; yet have connived at or allowed the French to encroach, settle, and trade, within their limits, on the south side of the Bay, to the great detriment and loss of Great Britain.

That the petitioners, being desirous to pursue the discovery of the passage to the Southern Ocean of America by land or by water, will engage not only to prosecute the same until it be thoroughly discovered as far as practicable, but also to settle and improve the land in all the countries on that northern continent, by making alliances with, and civilising the natives, and incorporating with them, and by that means lay a foundation for their becoming Christians, and industrious subjects of his Majesty; and also extend the British trade into the heart of that northern continent around the Bay, and into such countries as they may discover beyond it in the Western Ocean; and to use their utmost endeavours to prevent the French encroachments upon the British rights and trade in that continent.

In order therefore to enable the petitioners to prosecute and bring to perfection so valuable a discovery, and to civilise the natives and settle the lands without loss of time; and that the trade and settlement of such extensive countries may not be longer delayed, or perhaps for ever lost to his Majesty and his successors, by the encroachments of the French,—

The petitioners most humbly pray, that His Majesty would be graciously pleased to incorporate the petitioners and the other subscribers for finding out the said passage, or such of them and such other persons as they shall engage in the said undertaking, and their successors for ever, and grant to them the property of all the lands they shall discover, settle, and plant, in a limited time, in the northern continent of America adjoining to Hudson's Bay and Straits, not already occupied and settled by the present Company of Adventurers trading to Hudson's Bay, with the like privileges and royalties as were granted to the said Company: and that His Majesty would be pleased to grant unto the petitioners (during the infancy of their settlements) an exclusive trade, for such a term of years as may be granted to discoverers of new arts and trade, to all such countries into which they shall extend their trade by land or by water, not already granted by Act of Parliament to other companies, reserving to the present Company of Adventurers trading to Hudson's Bay all the forts, factories, and settlements they at present occupy and possess, with a reasonable district round each of their possessions and factories; or that his Majesty would be pleased to grant the petitioners such other relief and encouragement as to his Majesty in his great wisdom should seem meet.

We have taken the same into consideration, and have been attended by Counsel both in behalf of the petitioners, and the Hudson's Bay Company, who oppose the petition as it interferes with their charter.

The petitioners insisted on two general things: that the Company's charter was either void in its original creation, or became forfeited by the Company's conduct under it.

That the petitioners have, by their late attempts to discover the north-west passage and navigation in those parts, merited the favour petitioned for.

As to the first, the petitioners endeavoured to show, that the grant of the country and territories included in the Company's charter was void for the uncertainty of its extent, being bounded by no limits of mountains, rivers, seas, latitude or longitude, and that the grant of the exclusive trade within such limits as there were, was a monopoly, and void on that account.

With respect to both these, considering how long the Company have enjoyed and acted under this charter, without interruption or encroachment, we cannot think it advisable for His Majesty to make any express or implied declaration against the validity of it, till there has been some judgment of a court of justice to warrant it; and the rather, because, if the charter is void in either respect, there is nothing to hinder the petitioners from exercising the same trade which the Company now carries on; and the petitioners own grant, if obtained, will itself be liable, in a great degree, to the same objection.

As to the supposed forfeiture of the Company's charter by nonuser or abuser, the charge upon that head is of several sorts, viz.: That they have not discovered, nor sufficiently attempted to discover, the north-west passage into the South Seas or Western Ocean:

That they have not extended their settlements through the limits of their charter:

That they have designedly confined their trade to a very narrow compass; and have for that purpose abused the Indians, neglected their own forts, ill-treated their own servants, and encouraged the French.

But on consideration of all the evidence laid before us, by many affidavits on both sides (herewith enclosed), we think these charges are either not sufficiently supported in point of fact, or in a great measure accounted for from the nature or circumstances of the case.

As to the petitioners' merit, it consists in the late attempts made to discover the same passage; which, however as yet unsuccessful in the main point, may probably be of use hereafter in that discovery, if it should ever be made, or in opening some trade or other, if any should hereafter be found practicable; and have certainly lost the petitioners considerable sums of money.

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