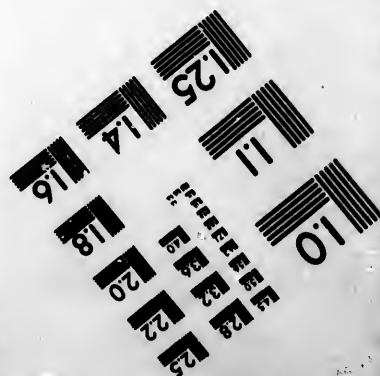
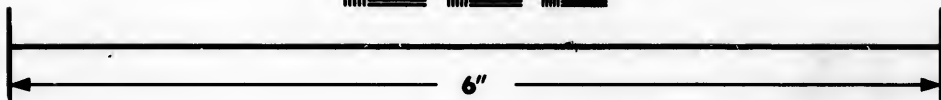
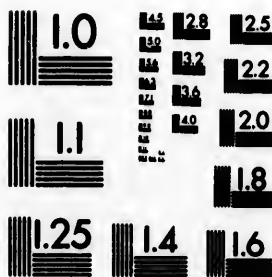


**IMAGE EVALUATION
TEST TARGET (MT-3)**



**Photographic
Sciences
Corporation**

23 WEST MAIN STREET
WESTER, N.Y. 14580
(716) 872-4563

**CIHM/ICMH
Microfiche
Series.**

**CIHM/ICMH
Collection de
microfiches.**



Canadian Institute for Historical Microreproductions / Institut canadien de microreproductions historiques

© 1984

Technical and Bibliographic Notes/Notes techniques et bibliographiques

The Institute has attempted to obtain the best original copy available for filming. Features of this copy which may be bibliographically unique, which may alter any of the images in the reproduction, or which may significantly change the usual method of filming, are checked below.

L'Institut a microfilmé le meilleur exemplaire qu'il lui a été possible de se procurer. Les détails de cet exemplaire qui sont peut-être uniques du point de vue bibliographique, qui peuvent modifier une image reproduite, ou qui peuvent exiger une modification dans la méthode normale de filmage sont indiqués ci-dessous.

- Coloured covers/
Couverture de couleur
- Covers damaged/
Couverture endommagée
- Covers restored and/or laminated/
Couverture restaurée et/ou pelliculée
- Cover title missing/
Le titre de couverture manque
- Coloured maps/
Cartes géographiques en couleur
- Coloured ink (i.e. other than blue or black)/
Encre de couleur (i.e. autre que bleue ou noire)
- Coloured plates and/or illustrations/
Planches et/ou illustrations en couleur
- Bound with other material/
Relié avec d'autres documents
- Tight binding may cause shadows or distortion
along interior margin/
Le reliure serrée peut causer de l'ombre ou de la
distortion le long de la marge intérieure
- Blank leaves added during restoration may
appear within the text. Whenever possible, these
have been omitted from filming/
Il se peut que certaines pages blanches ajoutées
lors d'une restauration apparaissent dans le texte,
mais, lorsque cela était possible, ces pages n'ont
pas été filmées.

- Coloured pages/
Pages de couleur
- Pages damaged/
Pages endommagées
- Pages restored and/or laminated/
Pages restaurées et/ou pelliculées
- Pages discoloured, stained or foxed/
Pages décolorées, tachetées ou piquées
- Pages detached/
Pages détachées
- Showthrough/
Transparence
- Quality of print varies/
Qualité inégale de l'impression
- Includes supplementary material/
Comprend du matériel supplémentaire
- Only edition available/
Seule édition disponible
- Pages wholly or partially obscured by errata
slips, tissues, etc., have been refilmed to
ensure the best possible image/
Les pages totalement ou partiellement
obscurcies par un feuillet d'errata, une pelure,
etc., ont été filmées à nouveau de façon à
obtenir la meilleure image possible.

Additional comments:
Commentaires supplémentaires:

Some pages are photoreproductions.

This item is filmed at the reduction ratio checked below/
Ce document est filmé au taux de réduction indiqué ci-dessous.

10X	14X	18X	22X	26X	30X
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12X	16X	20X	24X	28X	32X

The copy filmed here has been reproduced thanks to the generosity of:

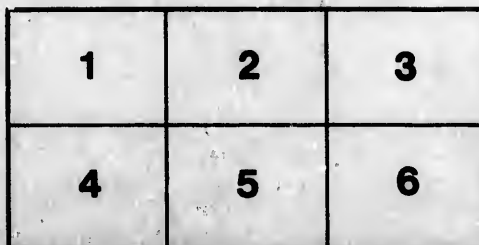
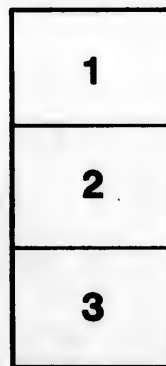
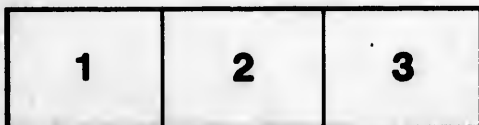
Library of the Public
Archives of Canada

The images appearing here are the best quality possible considering the condition and legibility of the original copy and in keeping with the filming contract specifications.

Original copies in printed paper covers are filmed beginning with the front cover and ending on the last page with a printed or illustrated impression, or the back cover when appropriate. All other original copies are filmed beginning on the first page with a printed or illustrated impression, and ending on the last page with a printed or illustrated impression.

The last recorded frame on each microfiche shall contain the symbol \rightarrow (meaning "CONTINUED"), or the symbol ∇ (meaning "END"), whichever applies.

Maps, plates, charts, etc., may be filmed at different reduction ratios. Those too large to be entirely included in one exposure are filmed beginning in the upper left hand corner, left to right and top to bottom, as many frames as required. The following diagrams illustrate the method:



L'exemplaire filmé fut reproduit grâce à la générosité de:

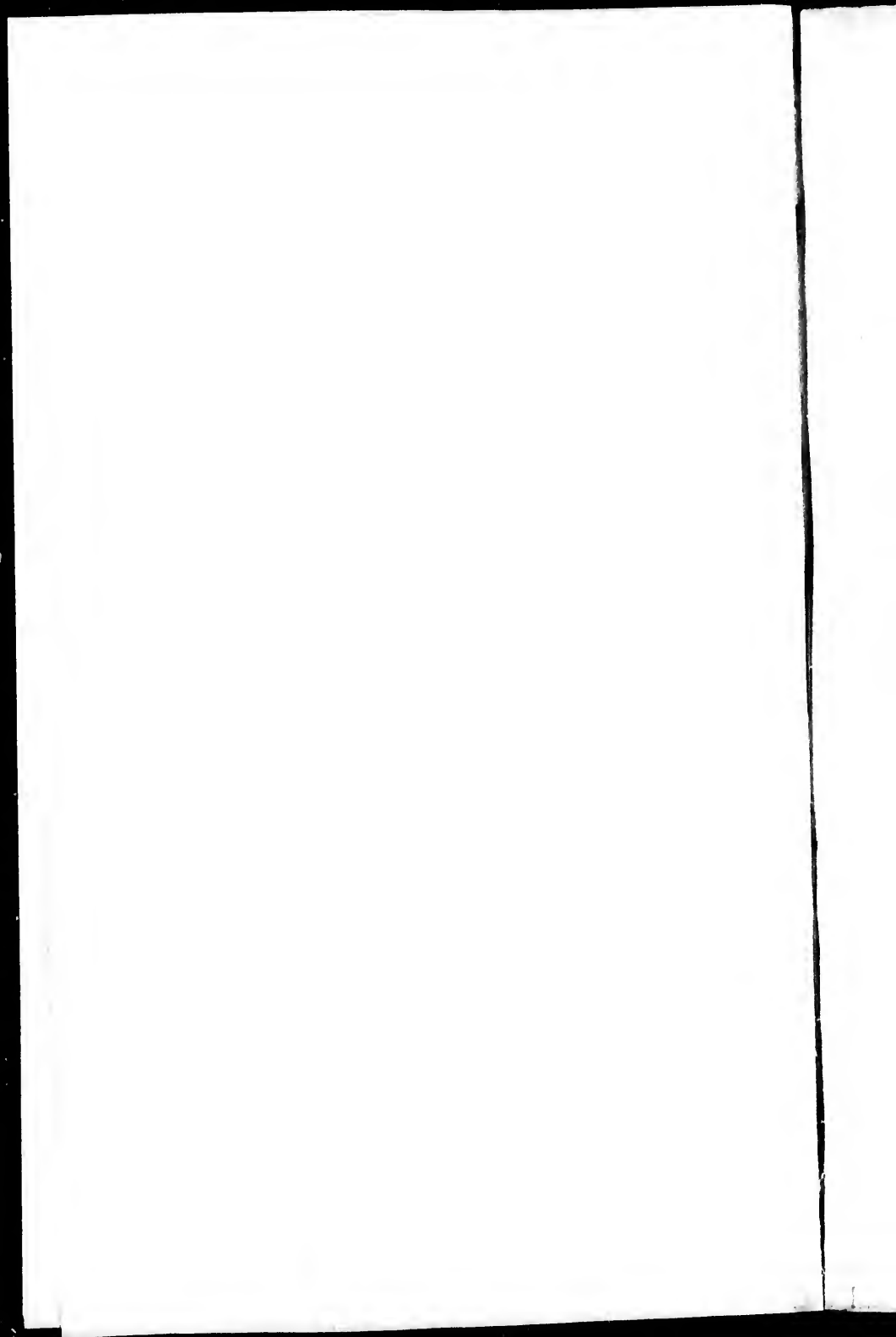
La bibliothèque des Archives
publiques du Canada

Les images suivantes ont été reproduites avec le plus grand soin, compte tenu de la condition et de la netteté de l'exemplaire filmé, et en conformité avec les conditions du contrat de filmage.

Les exemplaires originaux dont la couverture en papier est imprimée sont filmés en commençant par le premier plat et en terminant soit par la dernière page qui comporte une empreinte d'impression ou d'illustration, soit par le second plat, selon le cas. Tous les autres exemplaires originaux sont filmés en commençant par la première page qui comporte une empreinte d'impression ou d'illustration et en terminant par la dernière page qui comporte une telle empreinte.

Un des symboles suivants apparaîtra sur la dernière image de chaque microfiche, selon le cas: le symbole \rightarrow signifie "A SUIVRE", le symbole ∇ signifie "FIN".

Les cartes, planches, tableaux, etc., peuvent être filmés à des taux de réduction différents. Lorsque le document est trop grand pour être reproduit en un seul cliché, il est filmé à partir de l'angle supérieur gauche, de gauche à droite, et de haut en bas, en prenant le nombre d'images nécessaire. Les diagrammes suivants illustrent la méthode.



AN
ANSWER
TO
WAR IN DISGUISE;
OR,
REMARKS
UPON
The New Doctrine of England,
CONCERNING
NEUTRAL TRADE.

“ Illud natura non patiat, ut aliorum spoliis nostras facultates.
“ copias, opes, augeamus : et unum debeat esse omnibus propositum, et
“ eadem sit utilitas uniuscujusque et universarum, quam si bene quisque
“ rapiat, dissolvitur omnis humana consortio.”—CICERO DE ORATORE. 3.

NEW-YORK:

PRINTED BY HOPKINS AND SEYMOUR,
FOR I. RILEY & CO.

And Sold by I. Riley & Co. No. 1, City-Hotel, New-York; Samuel F. Bradford, Philadelphia; Anderson & Jeffries, Baltimore; Cottom & Stewart, Alexandria; Seymour & Woolhopper, Savannah; Edmund Morford, Charleston; Isaac Beers & Co. and Increase Cooke & Co. New-Haven; Hudson & Goodwin, Hartford; William Wilkinson, Providence; Lewis Roussmaniere, Newport; John West, Boston; and Daniel Johnson, Portland

February, 1805.

District of New-York, ss.

BE IT REMEMBERED, That on the twenty-ninth day of
(L. S.) January, in the thirtieth year of the Independence of
the United States of America, ISAAC RILEY, of the said
District, hath deposited in this office the Title of a Book, the
right whereof he claims as proprietor, in the words and figure
following, to wit :

*“ An Answer to War in Disguise ; or, Remarks upon the new
“ Doctrine of England, concerning Neutral Trade.*


“ Illud natura non patiat, ut aliorum spoliis nostras facultates, copias,
“ opes, augeamus : et unum debeat esse omnibus propositum, ut eadem
“ sit utilitas uniuscujusque et universarum, quam si ad se quisque rapiat,
“ dissolvitur omnis humana consortio.”—CICERO DE ORATORE. 3.”

In conformity to the Act of the Congress of the United States,
entitled, “ An Act for the encouragement of learning, by secur-
“ ing the copies of Maps, Charts, and Books, to the authors and
“ proprietors of such copies, during the times therein mention-
“ ed :” And also, to an Act, entitled, “ An Act supplementary
“ to an Act, entitled, “ An Act for the encouragement of learn-
“ ing, by securing the Copies of Maps, Charts, and Books, to
“ the authors and proprietors of such copies, during the times
“ therein mentioned, and extending the benefits thereof to the
“ arts of Designing, Engraving, and Etching, historical and
“ other prints.”

EDWARD DUNSCOMB,

Clerk of the District of New-York.

PREFACE.



THOSE who are in the habit of approving or condemning, more from regard to persons than to things, wish to know the Author before they read a book. In the hope that these sheets may be impartially considered, the writer will not affix his name. He will, however, to obviate unfounded objection, so far gratify the curious, as to say, that he is not a Practitioner of the Law ; he is not a Merchant ; he has no interest in Trade ; he holds no Office ; and has no connexion with those who administer the Government.

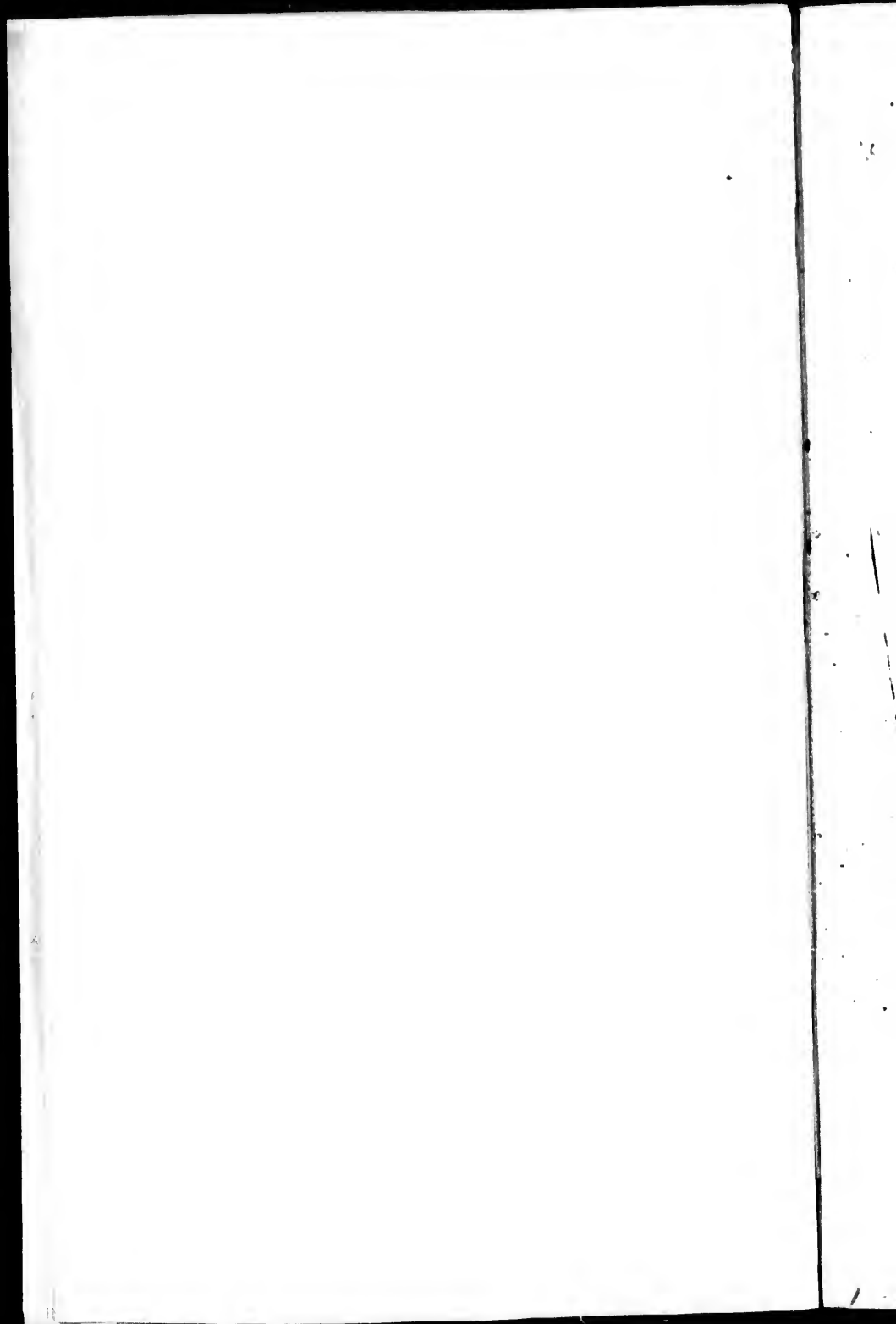
T
w
p
to
li
si
s
E
n
h
t
r
c
n
y

AN ANSWER

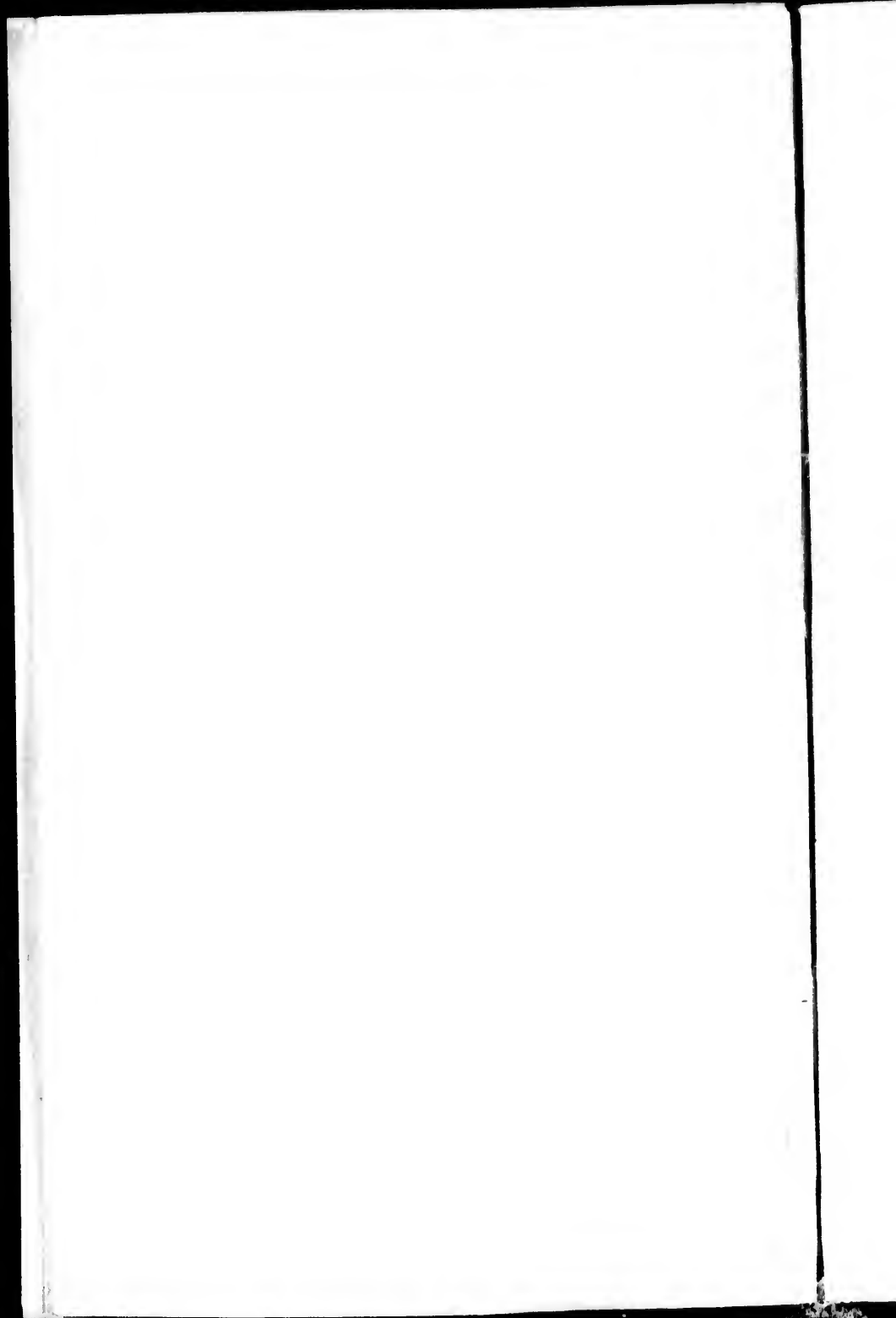
TO

WAR IN DISGUISE, &c.

THE Pamphlet, entitled "War in Disguise," on which we are about to make some remarks, is the production of no mean ability. We have been told, that it was written by direction of the English cabinet. This, however, we do not believe, since it shows a want of that caution and reserve, which usually mark the compositions of public men; our respect also for the British minister, will not permit us to suppose that, even hastily or in a convivial moment, he would assent to the general scope and tenor of this work; much less, that he would initiate its dangerous doctrine, after serious thought and mature deliberation. We shall, therefore, treat the argument with freedom, unrestrained by any of that deference which delicacy would impose, if we believed ourselves addressing, even at second hand, the minister of a great monarch.



In effect, this pamphlet appears to be written in the spirit of a lawyer, stimulated by that of a merchant; and the author, supporting rather a generous client than a deliberate opinion, in the zeal of argument, overleaps the bound of reason. Nevertheless, though we are not blind to defects, we gladly pay our tribute of applause to great part of his work, especially to that which shows, in a manner, equally clear and forcible, the mischiefs resulting from what is called the neutral carrying trade, or what might more properly be called, the covering trade. We fully agree with him, that it is inconsistent with neutral duties, and eventually hostile to neutral rights; that it derogates from the national honour, poisons the public morals, and is injurious alike to our interest and reputation. In this persuasion we believe that, to restrain it, the American Government will honestly and heartily concur in every measure of reason and justice. We acknowledge, with our author, the power of France. And though we shall not pretend to conceal our admiration of those qualities and talents which mark the Emperor Napoleon as the first man of the present age, we shall not deny, that such great power, in such able hands, may be dangerous to the liberties of mankind. We are thankful, therefore, to divine Providence that, in a position which fortifies the sentiment of inexpiable



hostility by the double motive of interest and apprehension, he has placed a nation, whose incalculable resources enable her to display her valour in every quarter of the globe. Whether America should join in this arduous contest, is a question to be decided by those to whom she has intrusted her highest concerns. They will adopt such measures as they shall deem most advisable, under a consideration of every circumstance. And if, from the infirmity incident to man, they should pursue a line of conduct which may (because pacific) appear unwise to the ministers of his Britannic majesty, that conduct cannot justly be made the cause or the pretext of war. In holding out a menace, our author has not, perhaps, considered the ungracious appearance it gives to his argument. Neither has he duly appreciated the American character. The blessing of God on our first contest in arms, made this nation sovereign, free, and independent. Our citizens feel their honourable condition, and, whatever may be their opinion on questions of national policy, will firmly support the national rights. Our government must, therefore, be permitted to judge for itself. No minister, however splendid his talents—no prince, however great his power—must dictate to the President of the United States. We may condemn his measures, but we respect his authority, because we respect ourselves. Let

not this be considered as a false or fastidious display of national sentiment; neither let us be judged by those adventurers who, roaming about in pursuit of illicit gain, offer their conscience for sale at every market. England as well as America, has the misfortune to produce such men. Her achievements in war have not secured her against the scoffs directed at her pursuits in trade. But, while we disdain to join with the profligate Barrere in stigmatizing, as hucksters, a gallant nation, we feel a right to expect a reciprocation of candour and decency.

Having thus, in a way which the occasion seemed to require, discussed some preliminary matter, we shall approach the argument; and having explicitly avowed our opinion respecting the abuse of neutral trade, we shall as explicitly declare, that we consider it our interest to carry the British doctrine (on that subject) as far as reason and justice can, in any manner, permit. The geographical position of the United States, while it enables them to assail with peculiar advantage the colonial commerce of Europe, confines them in a great degree to that species of hostility, when at war with any of the commercial powers. To extend therefore the right of capture, by limiting neutral rights, should be a leading feature of American policy; especially as circumstances resulting from the same position,

must so operate as to make us, when neutral, an exception to the general rule. But though our political and mercantile interests concur to favour the British tenets, we must not, by giving them an extravagant extension, transgress the bounds of reason and justice. For we fully agree with the writer before us, that “ never in the affairs of nations was solid security or true prosperity, purchased at the cost of virtuous principle ;” and we request that this maxim may, in considering the subject now before us, be present to every mind, and impressed on every heart.

The argument being levelled at America, we shall take little notice of instances brought from other countries, which cannot exist here ; and as little shall we notice American cases which show that some corrupt individuals have covered as neutral, by false papers and false oaths, the property of a belligerent. We say, to the adverse belligerent, punish, if you please, by cost and confiscation ; but respect the principles of Justice—punish not one for the crime of another—charge not on all the guilt of a few ;—neither, reviving the puritanical doctrine, that every thing is permitted to the saints, celebrate in Doctors’ Commons your own canonization.

The writer of *War in Disguise*, erects his fabric of argument on what he calls *the rule of the war of 1756*, “ to which (says he) the neutral powers

“ have all assented, in point of principle, by submitting to its partial application.” He afterwards tries to persuade us that, considering Britain as the champion of the liberties of mankind, we ought, in aid of her exertions, to submit to his doctrine. But to urge our submission, on the ground of policy, in the same breath, when the submission of others is quoted as precedent to establish the controverted principle, is presuming a little too much on our want of discernment. Should we admit, for argument’s sake, that a neutral, weak and unarmed, had (from motives of fear or pretexts of policy) submitted to the outrage of an armed and powerful belligerent; still we should deny that such right could be founded on such submission. What! does a wrong unresisted become a right? Can a momentary circumstance form a permanent rule? Will the silence of one prove the assent of all? Or, shall the tameness of pusillanimity fetter the conscience and conduct of the brave? Britain, beware! On your Channel’s southern shore stands a power menacing and gigantic, who can show proofs of submission more general, to claims not more extravagant.

Thus much it seemed meet to say, on a supposition that the rule had been assented to in the manner above stated. But, in fact, it has not. The Dutch, for the confiscation of whose property a royal order was issued in 1758, of a very ex-

traordinary nature, clamoured loudly, and made strong diplomatic representations. The practice (now called a rule) was complained of; the principle on which it was founded, was denied by that nation, against whom it was applied; and neither that nation, nor any other, has ever assented to it—and much less to the conclusions from it, which are now stated. To suppose the claim set up in 1758, by the British government, was any new principle in the law of nations, would alone destroy it; for there can be no new principle in that science. Whether it was a *just* conclusion from the old and acknowledged principles, will be considered in its place. But whether true or false, is immaterial as to other conclusions from the same premises. If these be just, they want no incidental support, and if unjust, no incidental support can avail.

Our author, after citing his favourite doctrine in the words used by Sir William Scott, in November 1799, says, “such were the principles of a
 “rule first practically established by the supreme
 “tribunal of prize, during the war of 1756, only
 “because the case which demanded its applica-
 “tion then first occurred; and it ought to be
 “added, that *the decisions of that tribunal at the*
 “*same period*, were justly celebrated throughout
 “Europe, for their equity and wisdom”—to prove
 which he boldly cites Blackstone, Montesquieu,

and Vattel. But here, instead of the caution of a statesman, we find (to use a gentle term) the address of an advocate. By recurring to Blackstone, we find that (after having mentioned that, in 1748, the Judges of the common Law Courts were added as members to the Court of Appeals in prize causes,) he adds, “such an addition became wholly unnecessary in the course of the war which commenced in 1756, since, during the whole of that war, the Commission of Appeals was regularly attended, and all its decisions conducted by a Judge whose *masterly acquaintance with the Law of Nations*, was known and revered by every state in Europe.” That his talents were known and revered, is one thing: that his *decisions* were celebrated for their equity and wisdom, is another, and a very different thing. Blackstone, to prove the opinion entertained of the Judge’s *knowledge*, quotes Montesquieu and Vattel. These do indeed applaud *the answer made in 1753*, by the English Court, to the reasons assigned by his Prussian Majesty, for not paying the Silesia Loan. But this was three years antecedent to the war of 1756. Montesquieu, writing from Paris in 1753, says of that State paper—“We consider it here as unanswerable.” But what has this to do with the decrees of a Court made in 1758? The sprightly author of the Spirit of Laws, though bred in the Roman

faith, was not so much a Catholic as to believe in the efficacy of Indulgences; still less did he pretend to pontifical power, and sanctify beforehand by the merit of a writer, in 1753, the decisions he might make as a Judge in 1758; decisions too, which, (if predicated on what is now said to have been the rule) were made in the very teeth of that argument which Montesquieu had so much approved. For the answer abovementioned of the English Court, lays down in the outset, and supports in the sequel, as an uncontrovertible maxim, "That whatever is the property of an enemy, may be acquired by capture at sea, but that *the property of a friend cannot be taken, provided he preserves his neutrality.*"

The words of Sir William Scott, above referred to, are, "The general rule is, that the neutral has a right to carry on, in time of war, his accustomed trade, to the utmost extent of which that accustomed trade is capable. Very different is the case of a trade which the neutral has never possessed, which he holds by no title of use and habit in times of peace; and which, in fact, can obtain in war, by no other title, than by the success of the one belligerent against the other; and at the expense of that very belligerent under whose success he sets up his title; and such I take to be the colonial trade, generally speaking."

“ What is the colonial trade, generally speaking? It is a trade generally shut up to the exclusive use of the mother country, to which the colony belongs, and this to a double use—the one that of supplying a market for the consumption of native commodities, and the other, of furnishing to the mother country the peculiar commodities of the colonial regions: to these two purposes of the mother country, the general policy respecting colonies belonging to the states of Europe, has restricted them.

“ With respect to other countries, generally speaking, the colony has no existence. It is possible that indirectly, and remotely, such colonies may affect the commerce of other countries. The manufactures of Germany, may find their way into Jamaica or Guadaloupe, and the sugar of Jamaica or Guadaloupe, into the interior parts of Germany; but as to any direct communication or advantages resulting therefrom, Guadaloupe and Jamaica are no more to Germany, than if they were settlements in the mountains of the moon. To commercial purposes they are not in the same planet. If they were annihilated, it would make no chasm in the commercial map of Hamburg. If Guadaloupe could be sunk in the sea, by the effect of hostility at the beginning of a war, it would be

“ a mighty loss to France, as Jamaica would be to
“ England, if it could be made the subject of a
“ similar act of violence ; but such events would
“ find their way into the chronicles of other coun-
“ tries, as events of disinterested curiosity, and
“ nothing more.

“ Upon the interruption of a war, what are the
“ rights of belligerents and neutrals respectively,
“ regarding such places ? It is an indubitable right
“ of the belligerent to possess himself of such
“ places, as of any other possession of his enemy.
“ This is his common right ; but he has the cer-
“ tain means of carrying such a right into effect,
“ if he has a decided superiority at sea. Such
“ colonies are dependent for their existence, as
“ colonies, on foreign supplies ; if they cannot
“ be supplied and defended, they must fall to the
“ belligerent of course : and if the belligerent
“ chooses to apply his means to such an object,
“ what right has a third party, perfectly neutral,
“ to step in and prevent the execution ? No exist-
“ ing interest of his, is affected by it ; he can have
“ no right to apply to his own use the beneficial
“ consequences of the mere act of the belligerent,
“ and to say, “ True it is you have, by force of
“ arms, forced such places out of the exclusive
“ possession of the enemy, but I will share the
“ benefit of the conquest, and by sharing its be-

“neéis prevent its progress. You have in effect,
 “and by lawful means, turned the enemy out of
 “the possession which he had exclusively main-
 “tained against the whole world, and with whom
 “we had never presumed to interfere; but we
 “will interpose to prevent his absolute surrender,
 “by the means of that very opening, which the
 “prevalence of your arms alone has effected:—
 “supplies shall be sent, and their products shall
 “be exported: you have lawfully destroyed his
 “monopoly, but you shall not be permitted to
 “possess it yourself; we insist to share the fruits
 “of your victories; and your blood and treasure
 “have been expended, not for your own interest,
 “but for the common benefit of others.”

“Upon these grounds, it cannot be contended
 “to be a right of neutrals, to intrude into a com-
 “merce which had been uniformly shut against
 “them, and which is now forced open merely by
 “the pressure of war: for when the enemy, un-
 “der an entire inability to supply his colonies,
 “and to export their products, affects to open
 “them to neutrals, it is not his will, but his ne-
 “cessity that changes the system: that change
 “is the direct and unavoidable consequence of the
 “compulsion of war; it is a measure not of French
 “councils, but of British force.”

Such is the language of that learned and pro-

found civilian, for whom we sincerely feel, and frankly acknowledge, a high respect. But we as frankly *declare*, that if disposed to surrender our judgment to authority, we should seek the *private*, not the judicial opinions of Sir *William Scott*. His uncommon ability and honourable temper might command our confidence, in whatever he should say as a gentleman; but he will himself acknowledge, that he is not entitled to the same credit when speaking as a judge. The reason is obvious: Prize Courts are bound, from their nature and office, to decree according to the orders of their Sovereign. His right to establish, to alter, and to abrogate, the rules and principles of their decisions, is a necessary incident to his power of Peace and War. For it would be absurd and dangerous, that prize courts, by condemning what the Sovereign had directed them to acquit, should involve him in war; or should elude his declaration of war, by refusing to condemn prizes taken from his enemy. The business of a judge, in prize courts, is to weigh evidence so as to ascertain facts; to compare facts with the principles which are to govern his decision; to decree according to the law of nations, when not otherwise directed; and to assign such reasons for his decrees, as may best consist with the honour and dignity of his royal master. That no man can better per-

form, than Sir William Scott, these various, arduous, and important duties, will appear from the opinion just cited, in which every word is weighed. And when we come to consider the reasons and motives assigned in the pamphlet, to support the same opinion, we think it will appear that the Judge has shown no less wisdom in his silence, than by his expressions.

He begins, "The general rule is,"—We pause to put a question : The general rule of what ? We answer, *of the King's Prize Court*. Sir William Scott would not commit his reputation, by saying it was a rule of the law of nations ; for he knew that no such rule could be found in any good writer—and had he said it was a rule of the prize court, it would have been the indirect acknowledgment, that it is not a rule of the law of nations. But afterwards, in the same argumentative decree, he says, "much argument has been employed on grounds of commercial analogy—this trade is allowed—that trade is not more injurious—Why not that to be considered as equally permitted ? The *obvious* answer is, that the *true rule to this Court is the text of the Instructions.*" This, if we understand it, is a full concession of the point in controversy ; for the maxim, *where the reason is the same, the law is the same*, is peculiarly applicable to questions of this sort ;

but Sir William does not attempt, by distinguishing between the cases, to show a difference in the reason to justify a different decision. He refers to the instructions as an *obvious* answer to arguments from analogy. In other words, he says the cases are indeed similar, of course the reason is the same, but the sentence must be different, because those are decided by the law of nations and these by the instructions. This appears to us conclusive; but we will examine what is said to justify the instructions.

“The general rule (says Sir William Scott) is, “that the neutral has a right to carry on in time of war his *accustomed* trade, to the utmost extent of which that *accustomed* trade is capable.” The generosity with which he is kindly pleased to grant this indefinite extension of accustomed trade, is not a mere soothing compliment. He knew the objections to his definition of accustomed *trade*, which he silyly confounds with accustomed *places* of trade. He knew that trade might be, and actually is, limited not only as to the *place*, but as to the *commodities*: he knew that the latter is not unfrequently the more important restraint; and he knew the objections to his rule were insurmountable, had he stopped at the first part of the phrase, confining the neutral, thereby, in time of war, to his accustomed trade. By substituting,

in the course of his argument, the *port* for the *trade*, he contemplated the exclusion of neutrals from that commerce which his government wish to prevent, permitting at the same time that which they wish to encourage. Whether he has succeeded, will appear by applying his doctrines to facts. Take some commodity which England wants, Spanish wool for instance, an article necessary in the manufacture of superfine cloth. This can, by her navigation act, be imported only in British or Spanish ships. *In time of peace*, an American may indeed go from Cadiz to London, but he cannot take with him an article of the growth, produce, or manufacture, of Spain. In time of war, however, it becomes necessary to relax that rigorous system, and permit the importation of articles prohibited in time of peace. Sir William, therefore, would give to the *accustomed* trade every extent of which it is capable. But is it more an *accustomed* trade of the neutral to carry wool from Cadiz to London, than sugar from the Havanna to Hamburg? If in the one case, he had been permitted to carry a single bale, or in the other, a single chest, the idea of extending his accustomed trade might apply; provided always, that, in fair argument, an occasional permission could be admitted as proof of a general practice, when indeed (being only an exception)

it proves the contrary practice to be general. But does England permit the neutral, in time of peace, to import even that single bale of wool? She does not. May we not say then, in Sir William's own language, that, so far as regards our peace trade in wool between Cadiz and London, it is as if these cities were "in the mountains of the moon," that to the purposes of this commerce, "they are not in the same planet," &c. &c. And if this trade in wool does not in peace exist, as it certainly does not; if it be not, as certainly it is not, our accustomed trade, sure no extension of our accustomed trade can reach the carriage of wool.

Sir William's figures of earthquakes and mountains must not be considered as mere flowers of School-boy rhetoric. They are used by a man of sense, to dazzle the fancy and take off the attention from logical disquisition, by the amusements of poetry and eloquence. But if a French or Dutch privateer should capture a neutral taking wool from Cadiz to London, might not the French or Dutch Judge say (adopting the rule and parodying the language of Sir William Scott,) "what is this wooltrade, generally speaking? It is a trade generally shut up against others to the exclusive use of England, and this to a double use; the one that of supplying a market for English commodities, and the other that of furnishing

“ England with that peculiar commodity of the “ Spanish regions.” He might indeed go a little farther, and, as an additional cause of condemnation, say the inhibition of that trade, in time of peace, forms part of the general system called the Navigation Laws, which Britain considers as the basis of her naval power, and has strictly adhered to for more than two centuries. Here then we take our first stand. We deny that municipal regulations established in peace, can in any wise limit the public rights of neutrals, in time of war; averring, and undertaking to prove by numerous examples, familiar to men conversant with the subject, that neutrals have ever carried on in war a commerce interdicted in peace; and that it never has been alleged, or even imagined, that in so doing they were liable to hindrance or molestation, much less to the seizure and forfeiture of ships and goods. We deny that strangers acquire rights against each other by the domestic regulations of commerce or police, which a sovereign may think proper to establish. A prohibition by England to import brandy from France, in any other than French or British bottoms, can, neither in peace nor in war, justify a Spaniard in taking a Dane bound to London with brandy. We insist that a limitation, as to the place where commodities may be laden, is of no greater im-

port, than a limitation as to the commodities themselves. If there be any essential difference which can bear on the question, let it be shown: We see none, and appeal to the common sense of mankind. We insist, therefore, that the rights of a neutral are as perfect when the limitation of place is removed, as when the limitation of commodities is abrogated. His trade is in *both cases* alike; a new and unaccustomed trade. The restraints which France and Spain impose on the commerce of their colonies, give no rights to Britain; still less can she derive rights from the abrogation of those restraints. She pretends no right to make prize of an American carrying on, in time of peace, a contraband (and therefore unlawful) trade with Martinique—how then can she pretend a right to make prize of the same American carrying on in time of war, a permitted (and therefore a lawful) trade with that colony? Will the British government allow that America can rightfully make prize of a British smuggler on the Spanish Main, taken in the breach of Spanish law; or on the coast of Devonshire, taken in the breach of British law? Would she not truly contend, that we acquire no such right by the laws of England or of Spain? If, then, a third party acquires no right against those who trade in defiance of the municipal law, how can he acquire

right against those who trade in conformity to the municipal law? Suppose France and Spain should revive the colonial monopoly, a relaxation of which is said to justify captures; would Britain have a right to take the smuggler in time of war, whom she could not touch in time of peace? And if not, by what perversion of reason and conscience can it be pretended, that a trade is innocent only while it is criminal, and criminal the moment it becomes innocent?

After the display of imagery, by which Sir William has skilfully masked his advance from the premises towards the conclusion, he states it as an indubitable right of the belligerent to take his enemy's colony. This no one will deny. But when he says, he has the certain means of carrying such right into effect, if he has a decided superiority at sea, as it is not a legal question, we may, without any want of deference to his opinion as a judge, take leave to differ with him. We entreat him to recollect that, with every *superiority* at sea his heart could wish, Britain has neither taken, nor is like to take, the French and Spanish colonies. Whatever may be her naval power, therefore, we must wait till time shall disclose the judgment of a higher tribunal than the British prize court, before we determine what she can take. But we readily acknowledge her right to

try what can be done by attack or blockade, and equally acknowledge that neutrals have no right to step in and prevent the effect of either. The law of blockades is well known, but the present question does not turn on that law. Whenever Great-Britain, by force or otherwise, shall conquer a colony (which we suppose to be meant by turning the enemy "out of the exclusive possession,") we shall not dispute, or attempt to share, the rights she may have acquired; but we must be permitted to observe, that *attack* and *conquest* are definite words, of distinct meaning, which must not be confounded. It would be ridiculous to pretend that a Serjeant of Grenadiers, by firing his musket at a fortress, and stiling the bravado an *attack*, had acquired the rights of *conquest*. The learned judge will permit us also to observe, that as, in special regard to his situation, we do not blame, so we presume that he, as an accurate civilian, will not justify, the loose terms of "forcing a place out of the exclusive possession of the enemy;" or the application of such loose terms, as a ground for questioning the rights of that enemy in his own country—a country which he has held for centuries, and continues to hold. In short, we must insist on accurate language in the discussion of national affairs. If, by forcing a place out of exclusive possession, conquest be

meant, let it be so expressed; and what remains will be a question of fact. If conquest be not meant, the terms (as applied) mean nothing. If France does not *exclusively* possess Martinique, let us know who is the joint tenant. If it be Britain, let her perform some act of ownership, issue some order, promulgate some law, for the government or administration, which will not be treated with contempt there, and with ridicule every where.

In pursuing his arguments, Sir William puts in our mouths, as addressed to England, this language: " True it is, you have, by force of arms, forced such places out of the exclusive possession of the enemy; but we will share the benefit of the conquest, and by sharing its benefits, prevent its progress; you have in effect, and by lawful means, turned the enemy out of his possession which he had exclusively maintained against the whole world, and with whom we never presumed to interfere, but we will interpose to prevent his absolute surrender," &c. Indeed, Sir William, we never have used, and never shall use, such language. You Englishmen can take liberties with your mother tongue, which you may not permit to others. When your Hibernian neighbours hazard any thing like a contradiction in terms, you call it a *Bull*. What you

would say of us Yankees, on a similar occasion, we know not; but since it might expose us to ridicule, we shall not speak of your enemy as being turned out of possession before he has surrendered. For the rest, we never presumed to interfere with the French possession of Paris or St. Pierre, any more than with the English possession of London or Kingston; neither shall we presume to interfere with the belligerents in the conquests they may make from each other.

Sir William supposes us to say further: "You have lawfully destroyed his monopoly, but you shall not be permitted to possess it yourself." We make neither of these assertions, much less both of them together; not indeed readily understanding what is meant by the possession of a thing destroyed. If it be permitted to address England in our own words, we say:—Great and generous nation! Proud of our common descent, we rejoice that you so nobly sustain the reputation of our valiant forefathers: speaking the same language, educated in the same habits, the same blood in our veins, the same love of liberty in our hearts, we sympathize in your sentiments, and exult in your glory: we know you will neither crouch under menace, nor be dismayed by danger: take care that you be not misled by flattery and intoxicated by success: listen to the lan-

guage of truth in the voice of a brother : be persuaded that you can no more destroy your enemy's colonial monopoly, than he can destroy your navigation act : the necessity of war leads both you and your enemy to relax the system which each considers it for his interest to preserve in peace : we find our advantage in carrying on the trade which each of you permits, for his own advantage : and we entreat you to consider, that if you exclude us from a trade with the colonies of your enemy, because " it is not his will but his " necessity, that changes his system," your enemy may, on like ground, exclude us from trading with you, in articles which your necessities require—Why then drive us to desperate conclusions, by insisting on principles, neither tenable in argument, nor useful in practice?

In truth, if the colonial trade be inhibited to the neutral, " because it is a direct and unavoidable " consequence of the compulsion of war," every extension of his trade with a belligerent must be equally inhibited ; for it cannot be doubted that such extension is a consequence of the war. We shall not waste time to refute distinctions between consequences direct and indirect, avoidable and unavoidable. As it will not be pretended that a neutral trade with her colonies is *indispensably necessary* to France, so it cannot be called an *una-*

avoidable consequence of the war. The different shades of convenience are considerations proper for the belligerent sovereign, in which the neutral has no concern, and about which he ought not to give an opinion.

Before we leave the argument of Sir William Scott, let us, however, make one remark. He certainly did not mean to justify the French Emperor, should he prohibit the neutral commerce with Britain: yet if such an idea had entered the Emperor's mind, might he not, at the head of his army near Boulogne, have proclaimed, "that it was his indubitable right to possess himself of Great Britain: that he had the certain means of carrying that right into effect," &c. &c. and would the British government consider a conclusion, drawn from those premises, *that nobody should trade with England*, as worthy of serious refutation? Yet, where is the difference, (in reason) between the island of Britain threatened by France, and the island of Martinique threatened by England? If threats could acquire rights, the greatest bragger would be the richest man. We think too highly of England to believe she would rest her claims on the ground of gasconade. But if we turn from the threat to consider the danger, we appeal to the world, whether the danger of Martinique was greater than the danger of Bri-

tain. Nay, we appeal to the testimony of Britain herself, and produce before the tribunal of Europe her negotiations with every court, soliciting aid to ward off the danger to which she was exposed, and the consequent danger to all, if she should be conquered.

From what has been said, it will, we believe, appear that the rule laid down by Sir William Scott, is unknown to the law of nations: that his arguments against extending neutral trade to the colonies and colonial productions of a belligerent, apply with equal force against every other extension of that trade: that these arguments, founded only on the power of a belligerent, will equally justify every other pretension of power—and, therefore, that, resolving justice into force, they are equally subversive of moral principle, and of those maxims of national law which have hitherto been held sacred by the civilized societies of man.

Before we proceed any further with the author of *War in Disguise*, we must take a moment to consider from whence a belligerent derives his right to make prize of a neutral; believing that in its source we shall find its limitation. It is, we confess, a too frequent practice to destroy the human race, merely to gratify the passion or promote the interest of a destroyer. But we believe no tyrant ever yet, in his wildest abuse of power, as-

serted a right to waste, at his pleasure, the lives and fortunes of mankind. It has not, that we recollect, been gravely stated to the world, as a rule of law, that the property of an innocent man may justly be taken from him whenever it is convenient to his powerful neighbour. Pirates indeed have practised according to that principle, but even pirates never published it as a code of maritime law.

It results from the state of war, that the property of an enemy may be acquired by capture at sea, but the property of a friend cannot be taken. If, however, the neutral divests himself of his proper character, and takes part in the war, he may justly be treated according to the character he has assumed. His property then becomes lawful prize. He might as well serve in the enemy's fleet or army, and, when made prisoner, claim his neutral privilege, as claim that privilege for his goods when employed in the war. If therefore he furnishes a belligerent with those means and implements of destruction, which, under the general term of contraband, are variously designated in the several treaties by which it has been defined; or if, when a belligerent has blockaded a town or place, he should attempt to introduce succour or subsistence, the property is lawful prize. In both cases he was engaged in direct

hostility. But these cases excepted, there is no right of capture. A belligerent cannot rightfully complain of the remote and indirect consequences of a lawful act. Neither can he impute as guilt to a neutral, acts in themselves lawful, and which, having no direct tendency to injure the belligerent, imply no hostile intention of the neutral. To make this (if possible) a little more clear, take the following instance: If a neutral should let out his ship to transport soldiers for one of the belligerents, this would mark so distinctly his hostile spirit, as to justify capture and condemnation by the other belligerent. But suppose a neutral ship should meet a transport of the belligerent, sinking from stress of weather, and rescue the troops from impending destruction; would this expose the ship to condemnation? Surely not. Nature revolts at the idea: and a belligerent who should make prize under such circumstances, and justify the decree because of the consequential injury he might sustain from the salvation of his drowning foe, would render himself the object of general execration. The right, then, of capturing neutrals, does not arise either from advantages the belligerent may gain, or from injuries he might otherwise sustain. No: it arises, and in reason can only arise, from the guilt of the neutral himself. Where there is no crime there can be no punish-

ment, and where there is no offence there can be no forfeiture. Miserable indeed must be the condition of man, if those who are invested with power can prescribe their convenience as a rule for the conduct of others; measure out rights and duties by their particular interest; bind up the conscience of such as cannot resist to the conclusions of their own reasoning, however false, and at their sovereign will and pleasure change innocence to guilt! Principles like these are fit only for beasts of prey, and for those enemies of the human race who may, like beasts of prey, be lawfully hunted down and destroyed.

In this place, though not absolutely necessary to our argument, yet not wholly impertinent, we take leave to say one word, on a subject which was agitated with no little spirit in the British parliament, during the French revolution. While the idea of making war against principles was opposed by much argument, and by more ridicule, on one side, it was supported on the other less vigorously than perhaps it would have been, had the public mind been prepared for the proper impressions. So long as opinions and principles are confined to the bosoms of speculative men, magistrates have no right to interfere, and much less foreign nations. When such opinions and principles, carried into practice, endanger the peace or morals

of society, it becomes a duty in the magistrate to repress and punish. Still, however, the concern is of a private and municipal nature. But when a government avows and propagates principles hostile to the peace and safety of others, neighbouring nations should put themselves in a posture of defence; and if such government, regardless of their representations, carry these principles into practice, it is no longer their mere right—it is their bounden duty—to wage war and destroy the principles, by destroying those who avow them, and act agreeably to their dictates. No matter where, or how, or by whom, such principles are promulgated: no matter whether in French or in English, by a Nobleman or a Sans-Culotte: it is the duty of all nations to join for the purpose of suppressing doctrines hostile to mankind. In this faith, we proceed to consider what the writer of *War in Disguise* has alleged, in support of his supposed rule, and of the conclusions he would draw from it, to effect the destruction of our commerce.

In the first place, then, we contend that the British Courts themselves have repeatedly declared, by necessary implication, that there is no such rule in the law of nations. One word, however, as to the rule itself: Enemy's property taken at sea on board the ship of a friend, is lawful prize.

But the enemy may conceal his property under a neutral appearance ; and the pamphlet before us details some of many contrivances which the genius of traffic has devised for that purpose. It is the province of Admiralty Courts to investigate the question of property, and defeat, if they can, such contrivances. To this effect they justly presume every thing in favour of the captor ; because the neutral, if honest, has sufficient proof in his power ; whereas the captor is, from the nature of things, in a less favourable condition. Presumptions, according to the circumstances on which they arise, have different degrees of force, and may be strong enough to carry conviction against direct testimony. Still a court, notwithstanding such conviction, will not decree in the face of evidence. The neutral claim may become a subject of diplomatic discussion, and a decree against evidence would hardly be supported by the government under whose authority it was made. But a numerous class of cases may exist, in which the belligerent shall see himself continually and evidently the dupe of fraud and perjury. Under these circumstances, it is competent for him to establish rules, by force of which such cases shall be decided according to the fact, without regard to the testimony. He will in consequence issue an order broad enough to embrace his object ; and his courts being bound to decree in conformi-

ty, the matter becomes a question between him and the neutral sovereign. If this last should insist, the belligerent must either recede, or take the alternative of war. But it is to be presumed that the neuter, convinced, by a fair representation of facts, that his subjects have fraudulently covered the property of an enemy, will assent to the measure of the belligerent. And if he does, other nations ought not to interfere, even though bound by treaty to support the neuter: because he is the best judge of what concerns his own honour, as well as of the measures best suited to his interest. But as they cannot rightfully interfere, so they cannot be bound by the assumption of one party, or submission of the other; neither can their silence be considered as an acquiescence, much less can it be construed into an assent.

From what has been said, it appears, that a rule, made under peculiar circumstances, for the direction of prize courts, though apparently at variance, may substantially accord with national law; seeing that the object of it is only to make prize of the property of an enemy. This appears to have been the course of reasoning adopted by Great-Britain, in the war of 1756. The Dutch carried to France, produce of French colonies, the property of French subjects. Whatever may have been the appearance, such was the unques-

tionable fact; and certainly this property was lawful prize, by the law of nations. But the Dutch claimed, under a treaty of near a hundred years' standing, the right to secure the goods of an enemy against capture, by virtue of their neutral flag. Proof, therefore, that the cargoes were French property, was not sufficient to make them good prize, when claimed by the Dutch in right of their treaty; wherefore it became necessary to strike at the treaty itself. The arguments on this part of the subject, to show that such cases were or were not contemplated by the treaty, are foreign to our inquiry. Whatever may have been the preponderance of argument, it is an historical fact, that those who then swayed the British councils, declared all these cargoes to be lawful prize of war, and ordered the admiralty courts to condemn them. They were accordingly condemned; and when the States General complained, the British minister, (to cut a knot he could not untie) directed Sir Joseph Yorke to declare that *his Majesty could not get out of the war with safety if neutrals assumed a right of carrying on a trade with the King's enemies, which was not allowed them in time of peace.* Thus we see that a measure, which (even if reconcileable to the law of nations) was a direct violation of positive compact, is justified by the plea of *necessity*. The rule (or, to speak correctly, the practice) of the seven years' war, being

therefore a measure of necessity, can never be applied to ordinary cases; even against the party whose weakness had submitted. To deduce consequences from it now, is as logical as to conclude, that he who has once been acquitted for killing a man in self-defence, has a right to kill every man he meets.

Having thus endeavoured to show how far the practice of England, in the seven years' war, might have been supported by principles of national law, had it not been contrary to express stipulations; let us see whether the British courts have considered it as part of that law. The next war in which England was engaged was the war of our Independence, and there (no instructions then existing to the contrary) the Admiralty courts regularly acquitted neutrals taken under the circumstances which, in the preceding war, had been followed by condemnation. Indeed, their decrees respecting Dutch ships were strictly conformed to the treaty of 1668, which had been *broken* on the ground of *necessity* in the war of 1756; but, the necessity no longer existing, had revived in 1778, with original vigour. Evidently then the British prize courts considered the decisions of the preceding war, as resting solely on the King's special order, and that, not being derived from the law of nations, they were of no authority in cases which arose after that order had ceased to operate.

In the course of last war, three different instructions on this subject were given by his Britannic majesty, to his ships of war and privateers. The first, dated Nov. 1793, in the spirit of those issued in the seven years' war, directed them "to stop and detain for lawful adjudication, all vessels laden with goods the produce of any French colony, or carrying provisions or other supplies for the use of any such colony." The second, of Jan. 1794, directed them, to seize such vessels as were laden with goods the produce of the French West-India islands, and coming directly from any port of the said islands to *Europe*." Finally, the third, of Jan. 1798, directed them to bring in for lawful adjudication, all "vessels laden with the produce of any island or settlement of France, Spain, or Holland, and coming *directly* from any port of the said islands or settlements, to any port in Europe, not being a port of his kingdom or of the country to which the vessel, being neutral, should belong." The courts conformed their conduct (at each successive period) to the instructions thus given; condemning only what fell within their direct and evident meaning. Hence it is evident, that they considered those instructions as infringing the rights which belong to neutrals, by the law of nations, and that the neutral right took effect, when the limitation was with-

drawn : for in neither of these instructions was it declared, that vessels *not* within the description of those the ships of war were directed to seize, should *not* be taken. This was unnecessary : all such were acquitted of course. The prize courts, therefore, spoke to neutrals (by their decrees) this clear and distinct language : We acknowledge that, by the law of nations, you are entitled to the prohibited commerce, and should not hesitate to restore your captured property, but we are bound *by the text of the King's instructions* ; where they do not apply, we shall restore, as we did during the American war ; and as soon, and as far, as the instructions may be withdrawn, so soon and so far we will conform our decrees to the law of nations.

The author of *War in Disguise*, feeling the force of this conclusion, endeavours to obviate it. After acknowledging that the royal instructions become law, when promulgated, he adds, their force in the prize courts will not be disputed, “ except that if a royal order *could be supposed* to militate plainly against the rights of neutral subjects, as founded on the acknowledged law of nations, the judge, it *may be contended*, ought not to yield obedience ; but when the sovereign only interposes to remit such belligerent rights as he might lawfully enforce, there can be no room for any such question.” He then as-

sumes the thing to be proved, viz that the practice of the seven years' war, which the government itself had defended on the ground of necessity, was founded on the law of nations, and endeavours to show that the instructions of 1794 and 1798, were merely remissions of the belligerent right. Those who wish to see his argument, may turn to the book, for we shall not spend time to refute what is palpably unfounded. He may, indeed, if he pleases, *contend* that judges are not bound to obey, for every thing may be *contended*, but the contrary has been *adjudged*. It has, in the strong and pointed terms of Sir William Scott, been *adjudged, that the text of the instructions is the true rule of a prize court*. But, notwithstanding this writer's attempt to reason on possibilities, against facts, he is obliged to acknowledge, that vessels and cargoes captured and condemned subsequently to the instruction of 1793, and previously to the instruction of 1794, were restored by the supreme tribunal, although within the letter and meaning of the former instruction. In so doing, says he, they may be *supposed* to have departed from the rule of the war of 1756. True: it may be *contended*, and it may be *supposed*. But on what other supposition could the supreme tribunal restore? If the captor's claim was founded on public law, merely promulgated by the royal

instructions of 1793, and afterwards limited by the royal bounty in 1794, his right accruing in the interim was perfect. To deprive him of that perfect right, was an act of injustice and tyranny, which cannot be excused on any principle, even of policy; for though political considerations might induce the government to make compensation out of the public treasury to a *favoured* neutral, the captor was entitled to his *lawful prize*. A different course was pursued. The court of appeals *restored the prize*; and therefore not to a *favoured*, but an *injured*, neutral; for courts are the organs of *justice*, not *bounty*, and the captors (or at least some of them) received compensation from the public treasury. "All captors (says our author) "whose *disappointment* would have been attended "with *actual loss*, had reason to be satisfied with "the national liberality and justice." From the conduct of the British government, then, this plain language is clearly to be inferred: The instructions of 1793, conformable to a practice in the seven years' war, were an infringement of neutral right, and gave to cruisers more than they were entitled to by the law of nations; consequently, more than they could reasonably expect or rightfully claim. As soon as the instructions are withdrawn, the unquestionable right of the neutral must be acknowledged. The captor, whose claim was grounded on *favour*, not *right*,

cannot justly complain. But where he has incurred *actual loss*, let him be compensated. Without a tedious examination of cases cited by our author, it is sufficient to observe, that they turn, in general, on the usual question, whether the property be that of a neutral, or the covered property of an enemy? Double papers, false papers, colourable pretexts, and the like, are all evidence of the latter; and, therefore, just cause of condemnation. But let us suppose that not only one case, but one hundred cases, could be adduced to show, that property of innocent men has been condemned by British judges, acting under British instructions: we ask, can the multiplication of instances justify, does it not rather aggravate, the wrong?

The charge against officers in the American customs, as lending the aid of government to the commission of fraud, ought not to have been lightly made. The author will find, on examination, that they act in mere obedience to the law, which has no view to fraud. The usual course of our trade has been to bond the duty and cancel the bond, on payment of a small part, when the goods are exported. If the duties had been paid, in the first instance, and repaid in the second, the case would not have been materially altered. It is not reasonable to expect that custom house of-

ficers of a neutral country, should go out of their way to insert unusual expressions in the clearances they give; especially when those expressions would be of no use to their fellow-citizens, but merely serve as a pretext for condemning their property. Is it just, is it decent, to insinuate against men in high public trust, a charge of abetting fraud, because they will not encourage plunder?

The author has laboured to show what is self-evident, that the frequent recurrence of a suspicious circumstance tends to strengthen suspicion. But when, to elucidate a position so clear, he likens neutrals to pick-pockets, we cannot consider it as a happy allusion. Neither can we admit that an illustration is an argument. And when, from that self-evident position, he attempts to show that the frequent recurrence of circumstances, naturally incident to fair transactions, gives ground to suspect fraud; we not only differ from him, but contend, on the contrary, that a suspicion of fraud would more naturally arise from the defect of those circumstances.

As little can we subscribe to his assertion, that the shipment of colonial produce to Europe, by the importer, is a proof that he imported with intention to make that shipment; inasmuch as Europe is the best market. Merchants aver that, in

distant voyages, the best market can only be known by events ; and that the American market is influenced by that of Europe. Indeed, it appears to us quite natural, that the price of exported articles should be governed by a view to the price likely to prevail, at their arrival in the country to which they are sent. It is equally natural that men of sanguine temper, counting on high markets, should be disappointed, to their loss. And it is notorious that many were ruined in America during the last war, by shipping West-India produce to Europe. Their imprudent speculations raised prices here at first, and afterwards the loss they sustained, together with numerous bankruptcies in the principal port of Germany, reduced prices below the reasonable standard. In that state of things, merchants who had imported with a view to the high price, rather than submit to loss by the decline, sent on their goods to Europe. Let any well informed merchant in the city of London be asked, whether this is not a true state of facts. And let any honest man declare, whether the frequency of such adventures, under such circumstances, conveys to his mind a suspicion of fraud. This we say, on the supposition that our merchants had not a right to import with a view to exportation ; which we by no means concede. Neither will we admit that measures

taken to conceal a lawful intention, for the purpose of eluding lawless power, impeach the integrity of those whose weakness has no other resource than concealment. Shall it be contended that because a prudent man riding near London conceals his purse and watch, the first highway-man he meets has a right to take them away?

Our author has shown, we think, in a satisfactory manner, that an American merchant can (if so disposed) furnish any evidence prize courts may ask, to prove such intention as they may prescribe; and we draw from his demonstration this clear corollary: that it is equally useless and offensive to abandon the clear and simple principles of public law, for the sake of these loose and unfounded notions. Has it been duly considered, that the inquiry into a merchant's intention, pushed to the extent now contended for, is a violation of our sovereignty? Has it been duly considered that the property, when once brought within our dominion, is as completely our own, as if it had been of our own growth and manufacture? Has it been duly considered that, even if acquired in contraband trade, the inquiry cannot properly be made after goods have reached our ports? It has been admitted that, from the time a ship leaves, and until she returns to the ports of her Sovereign, belligerents have a right (notwithstand-

ing any intermediate entries, sales, or dispositions of the cargo, in the ports of other powers,) to consider it as one unfinished voyage, and to make prize, if, in any part of that voyage, she has violated the laws of war. If the belligerent may go on and follow her after she has again left the port of her Sovereign, as if still engaged in an unfinished voyage, when is the voyage to end? Is it to last as long as the ship? Must our government—but we forbear, for we are the advocates of peace.

We come now to that part of the work in which it is proposed that Britain should capture neutrals in the two-fold view of avoiding an inconvenience and gaining an advantage. The sum of what is said to that effect, may be comprised in these few words: my interest is reason, and my will is law; my advocate is power, and I myself am judge. We will, however, run over a few of his propositions.

To excite alarm, he begins by stating, as a singular and comprehensive truth, that, “with the exception only of a very small portion of the coasting trade of their enemies, not a mercantile sail of any description, now enters or clears from their ports in any part of the globe, but under neutral colours.” This is a strong, and we believe, a true statement. The strong infer-

ence may be drawn, that no neutral vessel should be allowed to enter or sail from the ports of their enemy. The author, indeed, does not draw *all* that inference. He has the goodness to confine himself (for the present) to the colonial trade. But if the fact operates on the question, it goes to the full consequence. The advantage to France, the disadvantage to England, and the guilt of the neutral, (if guilt there be) is as great in supplying the produce of the United States, as in supplying the produce of the West-Indies. Bread, beef, and pork, are certainly more useful to the purposes of war, than sugar, coffee, and cocoa. And if the finances of France be the object in contemplation, our *purchase* of wine and brandy must be more beneficial than our *sale* of indigo and cotton. It would indeed be another new position in the public law, that a commerce of luxuries with the belligerent is forbidden, but that of necessaries permitted. Pursuing the same inverse ratio, contraband, no longer the subject of prize, will become the object of reward.

The author complains that “Hamburg, Altona, Lunden, Gottenburgh, and Copenhagen, are supplied and even glutted, with the produce of the West-Indies, and the fabrics of the East, brought from the prosperous colonies of powers

"hostile to England." Premising that we know not of those French, Dutch, and Spanish colonies, which furnish the fabrics of the East, and believe that (with exception of China) the principal manufacturing countries are in possession of England; we take the liberty to recommend a little more caution in the next edition of *War in Disguise*. Sweden, Denmark, and Germany, may not relish a doctrine which would subject their supplies to British monopoly, and oblige them to pay not only the price, but the profit and duty, which Britain may think fit to impose. We somewhat doubt whether Russia would find her account in such an arrangement.

When our author, in the same querulous strain, tells us that the looms and forges of Germany are put in action "by the colonial produce of the enemy," we wish to know whether the honest Germans are to be persuaded to make common cause with England, for the purpose of stopping their own looms and forges! We did not know that the West-Indies supplied iron to German forges; but we know that our cotton may be worked as well in German as in British looms. Perhaps, in pursuing the same course of political justice, our export of American cotton in American ships, will be confined by British power to British ports.

Our author tells us, on the high authority of the

French emperor himself, "that Martinique and Guadeloupe are flourishing so much beyond former examples, that since 1789, they have actually doubled their population." And this he attributes to the trade we carry on with those colonies. We neither dispute the fact nor the inference: nay, we venture to believe that Jamaica would also flourish beyond former example, if permitted to enjoy a free trade with the United States. We believe, moreover, that the British cabinet entertain the same opinion, and support a monopoly injurious to the colony for the exclusive advantage of England, in pursuance of the same system (whether good or bad) which the French had adopted. But we conclude, from the flourishing state of Martinique and Guadeloupe, now that the French monopoly is destroyed, that the commerce of those colonies is not, as formerly, for account of France; because if it were, they would not flourish more now than they did heretofore. Hence we consider it as demonstrated, by the very conclusion our author has himself drawn, that our flag is not, as he pretends, a mere cover of belligerent trade.

He has taken pains to prove that a commission to cover property, is more advantageous to the neutral, than trading on his own account; and thence he deduces a presumption that such neutral, engaging in unaccustomed trade, carries it

on for the belligerent. This, like every other presumption, is to be weighed by the prize court; and we can safely leave it to their consideration. If, however, it be urged in justification of orders to be issued by the government, we are bound to declare, that, in our conception, the fact is different, and will support the adverse presumption. It seems to us an act of idiocy in the belligerent, to give more for covering his property than the profit of the adventure. This would be trading to a certain loss. And, however lightly our author may treat their morals, he will hardly charge either belligerents or neutrals with so great a mercantile sin. One would suppose that this subject, falling so much within the province of common arithmetic, no logic would be needful to show that men will not prosecute a trade that does not pay commissions. But since the author, in the same page, asks whence our merchants have derived "the means of purchasing the costly exports of the Havanna and other Spanish ports?" it is proper to inform him, that our capital is greatly increased by trading *honestly* on our own account, with the colonies of the powers at war, instead of accepting *dishonestly*, a covering commission of small comparative value: that the capital and industry of America have greatly extended her credit; more especially on the exchange of London: and that British capital finds

a valuable employment in subserving our commercial enterprise. If he will have the goodness to ask well informed men in Europe, they will tell him that for half a century the commerce of France and Spain has been supported, in a great degree, by Dutch and English funds. If he will read the parliamentary debates, for the last dozen years, he will see repeated assurances given by British ministers, that the French merchants have been long since ruined by assignats, requisitions, and forced loans; that the Spaniards are wholly exhausted by military expenses, contributions, and paper currency, and that the Dutchmen's purses have, in French presses, been squeezed to the very husks. After such decisive facts, vouched from such high authority, we must be pardoned for expressing, not merely surprise, but astonishment, that any man in England should suppose our trade with the French, Spanish, and Dutch colonies, is supported by the capital of France, Spain, or Holland.

But the writer of *War in Disguise*, after toiling hard to show, (what we venture to assure him is not a fact) that our commerce is but ostensibly neutral, comes forward, in page 102, to his main object: "After all (says he) let it not be supposed that *the important conclusions to which I reason, depend on the fact, that the trade in question is carried on chiefly, or in some degree, on account*

“ of our enemies. *Were the contrary conceded, very little, if any, deduction need on that score be made from the sum of the mischiefs here ascribed to the encroachments of the neutral flag.*” Thus the ground of right is completely abandoned, and the question is confessedly put on the ground of convenience. We enter here our solemn protest, on behalf of ourselves, of other neutral nations, and of all the societies of civilized man : We protest against the violation of principles laid down by the ablest writers, adopted by the wisest princes, and sanctioned by the consent of ages : We desire it may be distinctly understood, that, when we touch this argument in detail, we do not in the least or for a moment admit that it can ever be a proper subject of deliberation with honest men. No; it should be at once rejected in the gross, with general indignation. Since, however, all men are not honest, we hope for pardon in attempting to show that the arguments in support of that pernicious doctrine, are as weak as they are criminal.

In his 105th page, the author calls his reader's attention “ to a single and highly important fact : the produce of the West-Indies (says he) sells cheaper in our enemy's ports, than in our own.” This may be the fact of a moment, arising from some accidental excess of supply beyond the demand, joined to *a want of capital* to purchase on

speculation. If so, it proves nothing. It may also be a general result of three distinct causes : 1st, Superior cheapness of the article at the place of purchase: 2d, Superior cheapness of transportation to the place of sale ; and 3d, Inferior profit taken by the trader. The first cause has, we believe, existed for a long period antecedent to the present war ; but if not, it goes to prove that the war has occasioned distress to the French and Spanish colonies, which could not be wholly alleviated by the neutral intercourse. The second and third causes, merely show our willingness to work for a moderate compensation. This perhaps is the great grievance. We prevent those immoderate gains which might be made, but for our competition. To remove it, the commerce of neutrals, the rights of neutrals, and the public law of nations must be destroyed. Powers of Europe, awake ! America is to be plundered, in order that a tribute may be raised from your subjects, by the commercial rapacity of Britain. Is it for this you pour out the blood of those faithful subjects in her cause ?

Another of our crimes is, that we diminish the profit of sugar refiners, arising, he says, *chiefly* “ from an advance (pending the process) in the “ prices of the raw, and of course of the refined “ commodity.” In other words, we by our industry, diminish the benefits which that *useful*

class of citizens expect from *their monopoly*. Thus, by disappointing the engrosser, we render the article cheaper to the general consumption of British subjects. Our rights, therefore, must be invaded, and our property must be plundered, that refined sugar may become dear in England. And this argument is addressed to the good sense of Englishmen!

Having thus completed the list of grievances and of sufferings, with which the good people of England are afflicted, he proceeds to the benefits which accrue to their enemies. And first, says he, "the hostile treasuries are fed by the same means, with a copious stream of revenue, without any *apparent* pressure on the subject; a revenue which otherwise would be cut off by the war, or even turned into our own coffers." How a revenue could be turned into the coffers of Britain, by leaving the articles neutrals now export, to perish in the colonies of her enemies, we are not so happy as to comprehend or conjecture. Whether the weight of taxes be lessened by taking off only the apparent pressure, we leave to be determined by those who prefer appearances to realities. But we must take the liberty to say, that, in our humble apprehension, the real pressure of taxes can best be borne by foregoing the consumption of useless luxuries. We never have be-

lieved, notwithstanding the fashionable opinion, that power is the appendage of trans-atlantic possessions. We never have believed, that modern refinements and modern delicacies, form the strength and the sinews of a state; still less, that a great and brave nation can be ruined by taking from her the occasions of luxurious extravagance. When the French Emperor's power is attributed to an intercourse with his colonies, by the intervention of a neutral flag; we ask, whether it was by the aid of colonies that Henry the fifth wrested the sceptre of France from the gripe of her feeble monarch? Was it by the aid of colonies that Elizabeth destroyed the armada? Was it by the aid of colonies that Lewis the fourteenth made Europe tremble? Did the power of Spain, under Charles the fifth, rest on colonies? Have those colonies, now so flourishing, added (in modern times) a single nerve to Spanish strength, or a single ray to the old Spanish glory? Did Peter the great—did the immortal Catharine—rely on American islands, cultivated by African slaves, as the base of their colossal dominion? Or was it by the aid of colonial produce, that Frederick bore up against the hostility of almost all Europe? No: it was by genius and discipline, not by sugar and coffee, that he went triumphant through the seven years' war. How weak then the pretext,

opposed to history and experience, that the power of France is dependent on a trade with her colonies: that to cut off the intercourse, maintained by intervention of neutrals, would enfeeble that vast empire; and, therefore, that it is lawful to pursue the doubtful consequence by immediate wrong. Surely, somewhat more than mere assertion should be advanced, not to justify, that is impossible, but to palliate such enormity.

When it is asked from what other source than the continuance of his colonial trade, the French emperor derives his treasure? although we hold ourselves not obliged to answer, because in fair argument the burthen of proof lies on the affirmant, we will assume the double task of showing 1st, some causes of Napolcon's power; and, 2dly, that it does not depend on the West-Indies. The power of England, under Cromwell; of France, under Henry Fourth; and of several other nations, indeed of nations in general, when emerging from civil war, has been, and ever will be, a problem of difficult solution to counting-house politicians. But when it is considered that the broad surface for cultivation remains; that the reduction of private fortunes lessens the expense of luxury; that the conversion of tenants into freeholders, (by confiscation and sale of large estates) leaves a disposable surplus for taxes in

the hands of the cultivator ; that the very destruction of aged and infirm persons, (by the cruelty and distress of civil convulsions) lessens the usual incumbrance on productive labour ; that men inured to toil and accustomed to privations, can spare the fruit of their industry with less inconvenience than such as have been habituated to ease and enjoyment ; and that, in times of disorder and violence, the spirit, genius, talents, and energies, of a nation, are called into action ; and the proper characters thereby designated to fill the various departments of state, war, and finance, we shall no longer be surprised that a country so circumstanced, should yield, under the pressure of military government, more effectual revenue than can (in the usual course of things) be drawn from rich and luxurious nations. The numeric account may indeed be less, but the substantial effect will be greater : labour will be cheaper : and it is not guineas in bank, but men in arms, which form the power ; and, therefore, the real wealth of a nation. Thus we find in the very circumstances relied on by some, to prove that France was tottering on the verge of ruin, a part of that resource which her sovereign employs with such dreadful ability. To this may be added the contributions drawn from other countries, and that pillage which has rendered Europe more pro-

ductive to the French, than even India itself to the British armies. Conceiving that we have fulfilled our first engagement, we proceed to show, secondly, that the power of France does not depend on a commerce with the West-Indies. To do this, we call to our reader's recollection, a simple, well-known fact. St. Domingo, alone more productive than all the other French colonies put together, is completely lost. If, therefore, the articles of colonial produce were the basis of French power, it would, instead of being increased so as to excite alarm, be diminished by at least one half. We appeal to the candour of impartial Englishmen, whether our reasoning, on this point, or that of our adversary, be most conclusive. But even admitting, that what is so clearly demonstrated were merely a matter of doubt, we ask whether conclusions from doubtful premises authorize the violation of unquestionable right?

Our author tells us, "a great part of the Spanish treasure shipped from South-America, may be *reasonably regarded* as nett revenue, passing on the King's account." We know not, neither shall we inquire, whether this presumption be well or ill founded, but will suppose the treasure in question to be the return for bills of exchange drawn by the Spanish treasury on their agents in

Mexico, and sold to neutrals. This, we presume, is taking a case as strong as any the author could have contemplated; and we presume he would not hesitate to declare, not only that dollars paid on those bills should be taken from the neutral, as lawful prize, in the voyage from La Vera Cruz to New-York, but that if they should be landed at New-York, and exported to Hamburg afterwards, they should still be regarded as going towards their original destination; and still be lawful prize. Admitting this doctrine, for a moment, let us look for a similar case. During the last war, it was common for merchants in Hamburg to purchase bills drawn by agents of the British government for public account, to bring from England the dollars raised from the payment of those bills, to employ them in the purchase of similar bills, and so on, as long as the course of exchange would leave a profit. The same practice, under similar circumstances, would doubtless take place in the present or any other war. Would the dollars on their voyage from England to Hamburg, be lawful prize? Will Britain insist on the legality of such capture? Or, to go a little farther; if the Hamburg merchant should ship the dollars to India, would it still be lawful prize? Still infected by the original taint? If the enemy of Britain could take dollars, so cir-

cumstanced, as lawful prize, when going from Hamburg by sea, might he not as justly take them in any other place where he has lawful dominion? And has he not the right necessarily incident, and fully established by the common procedure in prize causes, to take any dollars he may meet with, and call on the neutral owner to show how they came into his possession? Let us take another case. There is in peace, (and if report say true, there is also in war,) a contraband trade between the Spanish colonies and Jamaica. The dollars, when going from those colonies, are unquestionably liable to confiscation; and it so happens, that each of them has a date which would either prove incontestibly, or at least raise the most violent presumption, that they had gone direct from the mines to Jamaica: would Spain, in time of full peace, be permitted to take British vessels leaving the port of Kingston, and confiscate dollars found on board, unless the owner could show they were not the fruit of contraband trade? That they were not imported with a view to re-exportation?

Among the heinous crimes this author has charged to neutral account, one is, that by becoming the carriers for France, French ships are unemployed; wherefore the Emperor can obtain them on easy terms of freight, when he wants

them for his transport service. This is, indeed, an unheard-of offence ; and the more injurious, as military conscriptions, impressment of seamen, and putting of property in requisition, are things wholly unknown in France.

The author also complains, that “ by the licentious use of neutral flags, the enemy is enabled “ to employ his whole military marine in purposes “ of offensive war.” It is unquestionable, that he who has neither commerce nor colonies to protect, is not called on to defend his colonies and commerce : an additional proof, by the way, that these distant possessions rather diminish than increase the power of a nation. Let us, in the true spirit of our author’s reasoning, suppose that Britain, exercising the power attributed to her by the learned Judge, should take all the French, Spanish, and Dutch colonies ; this would but so much the more concentrate their maritime power and enable them “ to employ their whole military “ marine in purposes of offensive war.” It follows, therefore, that her expensive expeditions to the East and to the West, would, if crowned with all the success her fondest wish might desire, only tend to strengthen her enemies. Already she bends under the weight of her vast dominion, and perhaps (at no distant period) may wish, like the wise Augustus, to circumscribe her empire ; but

while her government labours, by extending it, to produce the evil complained of, surely we may be permitted to carry on our lawful trade, even though it should in some small degree contribute to the unavoidable result of their own pursuits.

Another charge brought against neutrals, as being a consequence of their trade, is, that, notwithstanding those fleets, which cover the ocean, some little privateers in the West-Indies, now and then make prize of a British ship. The argument stands thus: Such is the power of the British marine, that if her enemies should fit out *merchant vessels* they would surely be taken: therefore, they do not fit out *merchantmen*: they are *obliged* to employ their seamen: therefore they fit out *privateers*: if neutrals did not trade with them, they would fit out merchantmen to be *certainly taken*: if they fitted out merchantmen to be taken, they could not fit out privateers to take other folks: therefore, it is the fault of neutrals, that they fit out privateers: moreover, *if* the British cruisers had a chance to make rich prizes, they *might* be more alert: *if* they were more alert, they *might* catch those privateers—those privateers are scarce worth catching: therefore, the British cruizers don't look after them: therefore, those privateers, not being hindered, now and then make a prize: therefore it is

the fault of the neutrals, that such prizes are made : This reasoning is conclusive, therefore the consequences drawn from it are self-evident. The neutrals, in carrying on their commerce, could have had no view to their own advantage, which is only a remote and indirect consequence : therefore, they must have been moved by a view to the aforesaid fitting out of privateers, which is a necessary and direct consequence. To act with such a hostile intention, is to take part in the war : to take part in the war, exposes to confiscation : therefore, the neutrals are justly liable to confiscation.—It might be proper to add, like lord Peter in the tale of a tub, this is clear reasoning, and may you all be d—d for a pack of rascals, if you pretend to dispute the conclusion.

Another great injury complained of, is, that no prizes can be made on the enemy, “ the only “ means by which a victorious admiral, when “ raised, as a reward for his illustrious actions, to “ civil and hereditary honours, can hope to support his well-earned rank, and provide for an “ ennobled posterity : ” that the attempt to confiscate neutrals, as the law now stands, is generally a fruitless task, and at any rate attended with tedious litigation, “ an evil peculiarly unpleasant to the ardent mind of a sailor : ” that no captures, except those founded on the breach

of a blockade, "which are of small value," can now be safely relied on: that this is a great discouragement to engaging in the sea service: and therefore, that this valuable class of men "ought not to be shut out from their ancient advantages, or be jostled by every neutral, in pursuit of their lawful game, and so sit down in poverty at the peace." Alas! poor Britain! Having destroyed the commerce of her enemies, she must weep, like poor Alexander, because there is no new world to conquer! The Barbary powers, when they have hunted down all the game of one christian nation, make peace and go to war with another, in pursuit of fresh game. These Barbarians have the candour to avow that *prudent* cause of peace, and this *honourable* motive to war. They have also the good faith to disclaim the law of nations, which they term, in derision, our Christian law. In the new shape the war has now put on, the kind sympathy of our author will, we presume, be extended from the sufferings of seamen to those of their brethren in the land service. With the same mild and gentle temper, from the same charitable and patriotic considerations, and in the same course of just and honourable argument, he will doubtless excite the British soldiers in Germany, to an indiscriminate plunder of friend and foe.

Another sore evil under the sun, is, that from a want of prey, the business of privateering has been discouraged. This mild species of warfare, whose beginning is benevolence, and whose end is virtue, has decayed ; but from no want of moral principle. Good men are still willing to seek wealth, by the plunder and ruin of industrious families ; but their laudable zeal has expired, from the mere want of objects on which it might be displayed ! True it is, that seamen who might have been engaged in this gentle occupation, are now employed in merchant vessels, or public ships of war. But the nation loses one inestimable advantage. The liberal use made of the means of war by men whose native energies had never been repressed by the pedantry of education, and who, in this pursuit of human game, were liberated from the restraints of law, used formerly to furnish occasions for the exercise of diplomatic skill. Thus the genius of statesmen was displayed, matter was furnished for conversation to the various coffee-houses of the metropolis, and, above all, the nation could easily be embroiled with her neighbours, so as to multiply the chances of providing for ennobled posterity of victorious admirals !

The increase of American shipping, though the last, is not the least of those evils our author com-

plains of. America is growing into greatness, and the war seems favourable to her prosperity. That it is so in reality, may be doubted, without incurring the charge of scepticism; but certainly it has that appearance; an appearance alarming to those who would grasp at all trade, while complaining that, for the protection of what they already possess, the navy of Britain must be spread over every sea. To check this envied prosperity of America, blooming on the general felicity of mankind, it is proposed to make war; not in *disguise*, but open and flagrant, as it is unprovoked and unjust. And in order that a conduct so contemptuous of the moral sense, may want no circumstance of insult, not merely to the United States of America, but to every Sovereign in Europe, this war is now prompted, and is hereafter to be defended, on the principle that Great-Britain can in no other way fasten on the necks of other nations, the yoke of her commercial monopoly.

But our author would fain justify the conduct he has recommended, and to that effect, assuming the thing to be proved, (*viz.* the validity of his supposed rule,) he says, "If I should *dictate* to a neighbour, that in crossing *a certain field* which lay between our respective tenements, he and his servants should confine themselves *to a certain path* which I had marked out for the purpose,

“ and if he should for years comply with the re-
 “ striction, or *submit* to be treated as a trespasser
 “ whenever he deviated from it ; I might *consist-*
 “ *ently* enough, if I found the passage a nuisance,
 “ *shut it up* altogether : but it would be grossly
 “ *inconsistent* in him to deny *my right* to the field,
 “ and pretend it was *common* land.” The reader
 will observe, that his right to the field is exactly
 the thing in controversy. If indeed the right were
 his, he might consistently shut it up. But if it
 were a piece of common land, and if, to avoid the
 assaults of a quarrelsome neighbour, I should for
 a while travel over it by the narrow path he had
 prescribed ; and if, presuming on my pusillanimi-
 ty, he should shut up that narrow path, might I
 not lawfully remove the obstruction, and call the
 neighbourhood to my assistance ? The sea is a
 common right to all nations, and the right to trade
 is equally common. Neither the ocean, nor the
 commerce borne on its bosom, can be considered
 as the private property of any one nation : still
 less, will quaint allusions support extravagant
 claims.

The author has more semblance of reason,
 when he says, “ it would be a most extraordinary
 “ and unprecedented situation for two friendly
 “ powers to stand in, if the one had a right to any
 “ thing which is *destructive* to the other.” Here
 it is assumed, that one friendly power cannot

justly do what is destructive to another; a position which must at any rate be so qualified as to reach only cases of *direct* and *evident* destruction. In such cases, the duty of self-preservation gives rights, founded on necessity, which we will presently notice: but these cannot arise from the mere apprehension of remote and contingent injury. The power of Venice, founded on her lucrative trade to Asia, was destroyed by Gama's discovery of the Cape of Good Hope; the commerce of India was thereby turned into a new track, and wholly lost to that republic. But if Venice had insisted that all nations should forgo the benefits to be derived from that discovery, because of the injury she might thereby sustain, the pretence would have been considered as equally insolent and ridiculous. Even in the limited sense of the above position, it admits of exceptions. If my friend puts himself in a situation where the exercise of my perfect right, though injurious, or even destructive to him, is, nevertheless, essential to my own preservation, he cannot expect that, to save him, I should sacrifice myself. But our author, after laying down his maxim, instead of applying it to the extreme case on which it was predicated, viz. national destruction, takes up a different and inferior case, viz. the ruining his *hopes* in the war, and giving his enemy a superiority at sea, which *may* render

England a province of France. If then we take the rule, and the application of it together, it would follow, that a neutral must forego the exercise of his perfect right, whenever, in the opinion of a belligerent, it will ruin his *hopes*, or give to his enemy a superiority which *may* eventuate in conquest. And from this conclusion he goes to another conclusion, which certainly does not follow, viz. that if the neutral will not, in subservience to the belligerent's apprehensions, forego the exercise of a perfect right, the belligerent may lawfully seize and condemn his property. Thus he would make, not the necessity, but the apprehension of a belligerent, equivalent to the guilt of a neutral. That necessity gives rights, is certain; but these rights have their limits, as well as their foundation, in reason. Necessity will authorize whatever will be needful for self-preservation; but no more. The belligerent, therefore, may lawfully take goods going to his enemy, in the course of a lawful trade, provided they be either necessary for his own defence and existence, or that, under existing circumstances, it is dangerous to him that they should reach their destination. But this right, resulting from the unquestionable right of self-preservation, can by no means dispense with the duties of good faith and justice. These bind him, while pursuing his enemy, not to injure his friend: He must, therefore

if he take such goods, pay for them the highest price, with the charges resulting from capture and detention. Under this restriction, the neutral may repose some confidence in the reasoning of a belligerent on his own danger; for it is not to be supposed that he would wantonly exercise an expensive right. Having thus shown how far a belligerent may go, under the plea of necessity, let us suppose the doctrine contended for, by the author of *War in Disguise*, to be adopted into the law of nations, and trace the consequence. May not the French Emperor assert, that the wealth and power of Britain are avowedly founded on commerce; that a great and essential part of that commerce can, in time of war, be carried on by neutrals alone; that such commerce, therefore, contributing manifestly and directly to the power of his foe, is ruinous to his hopes in the war; and that, enabling England to subsidize continental powers, it may eventually give her, on land, the same superiority which she actually enjoys at sea? It cannot be denied that this reasoning is as conclusive, at least, as that of the pamphlet under consideration; neither can it be denied that one of the belligerents has an equal right with his adversary to reason about his own affairs. If then lucrative rights are to accrue from the apprehension of remote and eventual danger, what shall prevent him from putting in his claim? In

his high station, an honourable pride may disdain claims founded in the avowal of fear ; but, should he descend to such abuse of argument, would he not go to his conclusions with force and fairness, equal at least, to what his opponent can display ?

Our author, after much of inferior matter, which we will not notice, because it would be tedious, and because it dissolves and vanishes on the application of sound principles, tells us at last : “ after all that has been or can be said, on “ this important subject, one plain question will “ probably be felt decisive by every equitable “ mind. *Quo animo ?* With what intention did “ the enemy open the ports of his colonies to fo- “ reign flags ? ” To this plain question, we make as plain an answer—the answer which our author himself would dictate. We verily believe it was not done out of any regard for us, but solely with a view to his own interest and advantage. And what then ? Must I, to defend my right, prove that your enemy was actuated by pure love and kindness towards me ? Since when, have states been governed by the dictates of a stark-naked benevolence ? What sort of proof is expected ? What semblance of proof can be given, that a sovereign has absurdly neglected the interest of his own subjects, to promote that of a stranger ? In the common walks of life, we sometimes meet with ill-natured men, who are constantly cavilling

at the conduct of others, and assign criminal motives to innocent or laudable actions. Such miserable motive-mongers are generally despised and detested; but here that hateful, contemptible, captious temper, is recommended as the standard of national justice—if, indeed, it be not a pollution of the sacred name of justice, even to mention the word in connexion with a proposal so enormously flagitious; with the deliberate plan to impute the prudent regard of *one* for his own interest, not to *him*, but to *another*, as guilt; to punish it as guilt. Here is a system audaciously proposed to the world, according to which, a neutral (in pursuing his lawful trade) shall be held not only to prove that he was himself actuated by such motives as a belligerent chooses to prescribe, but also to answer for the motives of an adverse belligerent: a system, according to which, if it should appear only probable, that such belligerent had not been either foolish or mad, but had in his public conduct consulted his own interest, the property of a neutral is to be sacrificed. Such is the closing argument, and such as it is, the writer fails not to triumph, and to conclude, “that the illegality of the commerce is as certain as its mischievous tendency; that to engage in it is to interpose in the war; and that the mer-

“chants who thus grossly violate the duties, have
“no claim to the rights of neutrality.”

Having thus, by his sovereign will, stripped the neutrals of their rights, he calls in, to aid his argument, the ultimate reason of kings. He would extend the horrors of war to regions which it has not yet afflicted. He can view with indifference the scenes of plunder and the fields of blood: nor is he deterred from his fell purpose by the compunctious struggles of humanity. Yet even in the whirlwind of his wrath, though reason and conscience are silent, interest more vigilant whispers to his ear, “our trade might be materially injured by a war with the neutral powers.” Attentive to that voice, and obedient to its monitions, he consoles himself in the hope, and avows the confidence, that a contraband trade now carried on between the English and their enemies, may be extended, by permissions under royal authority, so as to bring to British havens the commodities now transported in neutral ships, and vend British manufactures in the colonies of France and Spain. He holds out this resource, at once to calm apprehension and stimulate avidity. He excites his countrymen to seek in plunder an immediate profit; and, lest they should be deterred by a view of that distress to which their manufacturing towns

would be exposed, he shows how to obviate by guilt the consequence of folly. Fearful, however, that some timorous conscience might catch and spread alarm—fearful that the proud integrity of England should revolt at counsels which lead to crimes,—he adds, “ though I cannot undertake to defend the consistency of licensing to British subjects a trade with the enemy from which we claim a right to exclude neutral nations, yet, should those nations attempt to compel a surrender of that important right by cutting off our commerce, the remedy would be consistent and just.” Thus the criminal circle is complete; and thus the plan becomes perfect. A plan not more profligate than absurd, and which would be ridiculous but for its atrocity. Yet in the moment of proposing this complication of all which can offend the reason, insult the pride, or alarm the conscience of man, he makes an appeal to God. “ Let (says he) our humble confidence be placed in him at whose command nations and empires rise and fall, flourish and decay.” Yes! yes! The fate of empire is in the hand of God: he will punish *here* offending nations, and has wisely ordained that the violent and unjust shall be the certifiers of their own destruction. England! you have solicited continental aid to ward off im-

pending danger: your enemy has declared that his war is a general interest: that it is waged to establish a general right: that you are tyrants of the sea, and, in pursuit of gain, violate the first principles of justice. Is this the language of truth? If it be, how can you ask the aid of man? How can you supplicate the favour of God?

FINIS.

The first edition of **WAR IN DISGUISE**, in 8vo. and the 2d edition, in 12mo. for Sale, wholesale and retail, by **I. RILEY & CO.** No. 1, City-Hotel, Broadway.

that
d to
s of
first
uth?
low

edition,
1, City-

