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# THIRD REPORT

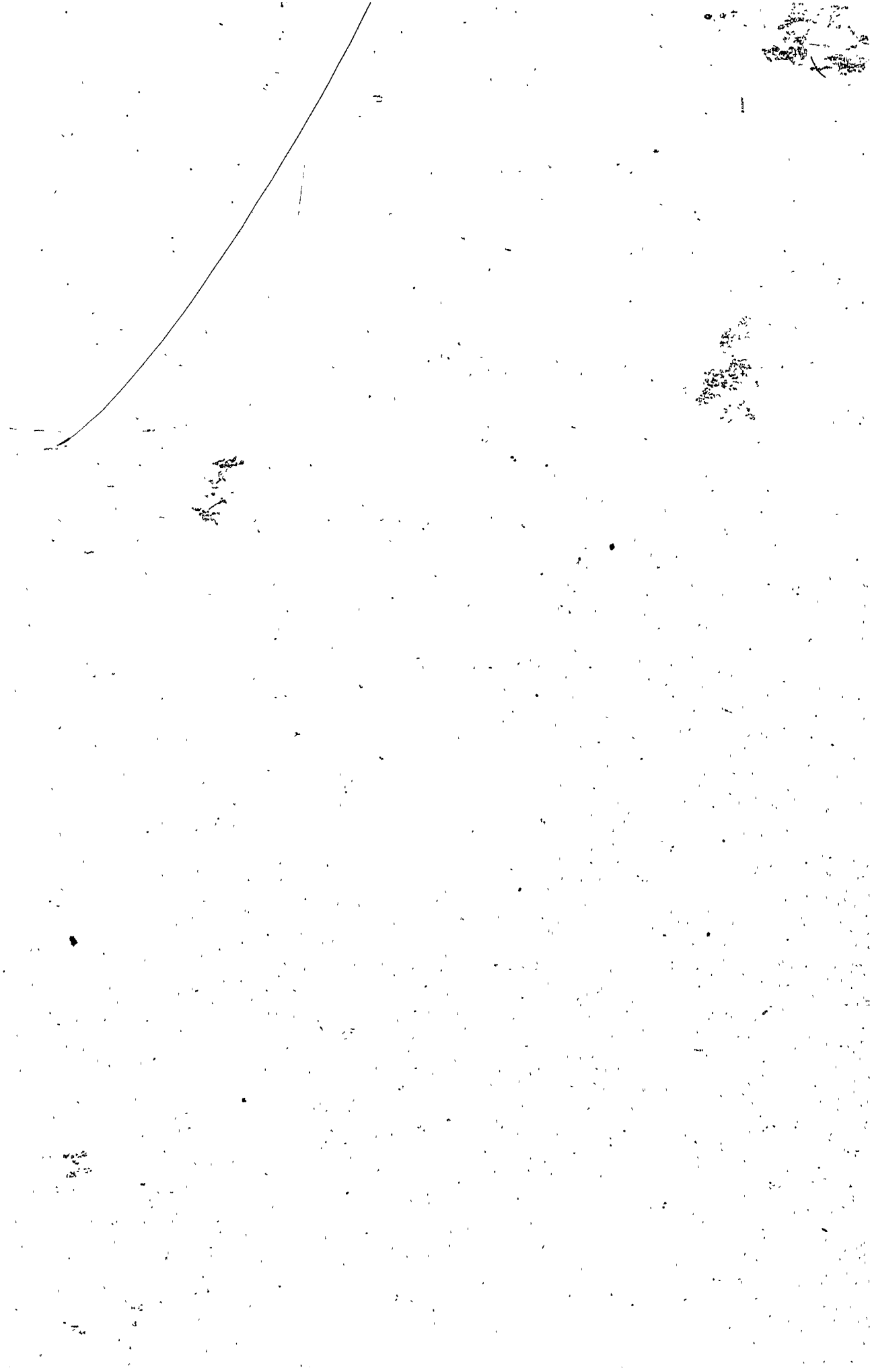
FROM THE

COMMITTEE appointed to  
enquire into the State of the  
Trade to *NEWFOUND-*  
*LAND.*

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*Ordered to be printed 17th June 1793.*

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THE COMMITTEE appointed to enquire into the State of the Trade to *NEWFOUNDLAND*, and to report the same, as it shall appear to them, to the House; and who were empowered to report their Proceedings, from Time to Time, to the House;

**H**AVE made a further Progress in the Matters to them referred, and have examined several other Witnesses, the Substance of whose Evidence is as follows:

AARON GRAHAM, Esquire, being examined, was asked, Whether he had ever been in Newfoundland? he said, Yes, he was Thirteen Years Secretary to the Governors of the Island; he was there from the Year 1779 to the End of the Year 1791.—And being asked, During the Time he was there, what were the Fluctuations of the Trade? he said, Without looking at the printed Returns of the Admirals, he could not give a direct Answer to that Question.—And being asked, Whether he is of Opinion, that the Trade has been in an increasing State since that Period? he said, Yes, after the War was over, it increased very considerably to the Year 1788; he thinks, it was higher during that Year than it ought to be; it fell in consequence of it the next Year very much, and the Year 1791 it increased again; and he thinks, it was in that Year higher than it was before the American War.—And being asked, to explain what he meant by saying, the Trade was greater in the Year 1788 than it would bear? he said, Because he knew the Merchants in many Instances in that Year refused to take Fish of the Boatkeepers for Payment of their Supplies, and whenever that happens, he thinks, it plainly shews, there is too much Fish caught; and he knows, that many of the Boatkeepers that Year, although they had made

3. Voyages

Voyages more successful than they had ever done before, were as much, or rather more distressed than they were in Years when they were not quite so successful.—And being asked, Whether he was of Opinion then, that when he left Newfoundland in the End of the Year 1791, the Fishery was in a prosperous State? he said, Yes.—And being asked, Whether in the Number of Years he was at Newfoundland, did he hear many Complaints from the Merchants or Fishermen on Account of any Restraints or Disadvantages which they professed to labour under? he said, Yes.—And being asked, What were those Complaints? he said, Some were with respect to the Mode of administering Justice; some with respect to the Restrictions with regard to Time of doing their Business at, and the Fees of, the Custom House.—And being asked, Whether those are, generally speaking, the Substance of the Complaints, which he heard from the Merchants and Fishermen? he said, Yes.—And being asked, What were the Complaints which he heard of respecting the Mode of administering Justice? he said, He meant to confine himself in that Observation, more particularly to the Servants than to the Merchants; until the Year 1791, he does not recollect to have heard many Complaints from the Merchants, but many on the Part of the Fishermen, from the Difficulty which they always found in getting their Complaints attended to at all; he believes that all the Merchants concerned in the Trade of Newfoundland will allow, that from the Beginning of the Establishment of a Fishery upon that Island, there have been Courts for the Trial of Civil Actions; at St. John's, it was held by the Governor; at the Out Ports, by the Captains of the Ships of War, who were called the Governor's Surrogates; neither the Governor's nor the Surrogates Powers were doubted, until about the Year 1780, when Governor Edwards had an Action commenced against him, which was tried at Exeter (for a Decision of his made at Saint John's.) That the Witness attended the Trial, and the Matter by the Recommendation of the Judge was left to Arbitration; from that Time he frequently heard, both in Newfoundland and in England, the Powers of the Governor and his Surrogates spoken of as illegally assumed by them; Admiral Campbell, who was Admiral Edwards's Successor, would not sit as a Judge; but the Practice continued by the Surrogates at the Out Ports, until the Year 1788; when Captain Pellew, One of the Surrogates, had an Action commenced against him by Mr. Hutchins of Dartmouth, for a Decision of his (the Captain's) made at the Bay of Bulls. Captain Pellew sent the Attorney's Letter to him (the Witness) desiring to know what was to be done in the Business; the Governor (Admiral Elliot) was then in Scotland, and Admiral Milbanke, who was nominated

as his Successor (but not appointed) being in Town, the Witness took the Liberty of calling upon him, and requested of him, officially, to state the Matter to the Admiralty, and to request, at the same Time, for his own Sake, that the Solicitor of that Board might be directed to take an Opinion upon it for the Guidance of him (the Governor) and the Captains of the Ships of War for the future; the Case was referred to the Law Officers of the Crown, who gave it as their Opinion, that neither the Governor nor his Surrogates, were authorized to sit as Judges in such Cases as that which had been the Ground of Action against Captain Pellew; the Witness should have said, that not only Admiral Campbell, but his Successor also (Admiral Elliot) refused to sit as a Judge for the Trial of Civil Actions; the Consequence was, that the Causes which had been usually tried by the Governor at St. John's, such as Disputes with respect to Accounts Current, &c. were then carried to the Court of Session, and to the Court of Vice Admiralty, for the Merchants found it absolutely necessary that they should be carried somewhere, otherwise they could not proceed with their Business; and it may not be amiss to remark that the Court of Vice Admiralty, even in the Time when the Governors sat as Judges, took Cognizance of such Cases. That although the Court of Session took up this Business for the Convenience of the Trade, yet the Justices knew they had as little or rather less Power to determine in such Cases than the Governor himself had, they therefore did it negligently, rather consulting the Inclination of the Parties, and proceeding as Arbitrators, not as Judges, in such Causes as they undertook to try; the Consequence was, that the Boatkeepers and Fishermen found it very difficult to get attended to at all. The Governors would not tell them that they had not Authority to hear them, but desired them to go to the Magistrates; the Magistrates, if it was not perfectly convenient to them, or if the Complaint was against a Person whom they thought could or would resist this assumed Authority of theirs, desired them to go to the Court of Vice Admiralty, and that Court did or did not attend to it, just as suited the Will of the Judge; and the Witness has known Instances of Boatkeepers being banded backwards and forwards for a whole Season, and not able to get their Business settled at last.

That upon Admiral Milbanke sailing for Newfoundland, he was, on the Day of his Departure from Spithead, furnished by the Board of Admiralty with the Opinion before alluded to. The News of the Prosecution of Captain Pellew had reached the Island before the Admiral; and none of the Surrogates had taken upon them to act as Judges upon their respective Stations. The Court of Session also at

St. John's had ceased to act at that Place; and the Court of Vice Admiralty waited the Admiral's Arrival, to know whether it had a Right to proceed in the old Way; the Admiral would not give them an Opinion upon the Subject, of Course there was a total Stop to the Trial of Civil Actions throughout the Island, which was a very great Prejudice to the Merchants, as the Want of a Court could not fail to injure them very materially. The Admiral having never been in the Island before, asked the Witness's Opinion and Advice, of what was best to be done, knowing there was a Clause in his Commission which authorized him to appoint Judges, and an Article in his Instructions which directed him to take Order in any Matter for the Safety of the Island, which the Witness thought was never in greater Danger than at that Time; he advised him to avail himself of the Clause in his Commission, and appoint a Court under the Denomination of a Court of Common Pleas; he did so; and, that as little Alteration as possible might be made from the old Mode of Proceeding, he appointed the Captains of the Ships of War to be Judges at the Out Ports on their respective Stations, so that they only changed the Name of Surrogate for that of Judge, and continued to do the Business exactly or nearly in the same Manner as they had before been used to do it; the principal Alteration was in the Appointment of the Court at St. John's, where, instead of sitting as a Judge himself, he appointed Three Gentlemen to sit as Judges. The Mode of Proceeding in that Court was by a Jury, to which the Witness never heard any Complaint upon the Spot, beyond that of its being sometimes inconvenient for those who were summoned upon the Jury to give their Attendance; and he believes, and is firmly persuaded, that the violent Memorials transmitted to the Lords of the Committee of Privy Council for Trade, by the Merchants of Dartmouth, Poole, and a Number of other trading Towns of this Kingdom, against that Court, would never have been thought of, if the Gentlemen who signed them had been upon the Spot to have seen the good Effects of the Court; for so far from encouraging People to leave their Business in order to attend it, it was so regulated, that nobody had Occasion to come to it, but those who had Business to do in it; and they were sure to get their Business done in an infinitely shorter Space of Time than they had ever been able to do by any Mode practised before in the Island. The Merchants complained that the Court was constantly sitting; the reverse is the Fact, for it never sat more than twice a Week; that there was One of the Judges every Day from Eleven to One o'Clock, sitting in a Room of the Court House, for the Purpose of arranging and preparing Matter for Trial on the Court Day, is true; this however, so far from being

Matter

Matter of Complaint on the Part of the Merchants, was a very great Convenience to them, for they were regularly served with a Notice of the Time that their Trials were to come on, and had therefore Occasion to attend the Court only at that particular Moment. The Merchants complained in their Memorials, that the Property was under constant Attachment, and thereby subject to great Detriment, and often Loss, to a very great Amount. In this also, they were very much misinformed, for the Attachment was so ordered, that it would be very little Inconvenience (if any) to the Party whose Property it was; the Warrant of Attachment directed the Sheriff to furnish the Defendant with a Copy of the Complaint, and Account of the Plaintiff, and to make a Demand of the Amount; if the Debt was paid, no Attachment took Place; if he meant to stand Trial, and would give Security (for those were the Directions of the Writ) to abide by the Judgment of the Court, still no Attachment took Place; but if Security was refused, the Attachment necessarily took Place; and it becomes a fair Question to ask the Merchants, if Attachments in such Questions did not take Place, what would be their Situation? for, instead of One Action commenced by a Boatkeeper against a Merchant, there are at the least Fifty by Merchants against the Boatkeepers; and if the Fish and Oil of the Boatkeepers were not attached for the Payment of their Debts, the Merchants would not Once out of Twenty Times get a Return for the Supplies that they must necessarily furnish to the Boatkeepers for carrying on the Fishery; and it were absurd to suppose, that a Law could be made to excuse the Merchants from Attachments in such Cases, as, where they become the Complainants, nothing short of Attachment would or could satisfy them. It appears then, that if they are so obstinate as to refuse the Security, which they have in their Power to give, to prevent the Attachment, it is no more than reasonable that they should be subject to the Expence which must necessarily be incurred by putting the Court to the Necessity of issuing the Attachment. That Mr. Ougier, in particular, has complained of the Proceedings of the Court of Common Pleas, in which the Witness feels himself personally concerned; to explain which, the Witness delivered in to your Committee a Letter from Mr. Peter Ougier, dated Dartmouth, July 4th, 1791, to him; and also Mr. Jonathan Ogden's Answer, dated St. John's, Newfoundland, October 28th, 1791, to a Letter sent by the Witness, inclosing Mr. Ougier's Letter; which are hereunto annexed, vide Appendix, N<sup>o</sup> 1, (a) and (b).

Then the Witness further informed your Committee, That Admiral Milbanke, on his Return to England in the Year 1789, re-

ported to His Majesty's Ministers the Steps he had taken in erecting the Court of Common Pleas. That he failed again the next Year, without receiving any Instructions respecting that Court; it therefore continued to act for the Year 1790 in nearly the same Manner it had acted in the Year 1789. That there was One Alteration made, which was, that as the Court, in the First Year of its Proceeding, had in all Cases summoned Juries, in the Second, finding it would be more convenient for the Gentlemen of the Trade to be allowed to make their Election of having their Causes tried with or without a Jury, the Judges consented thereto; and Things went on in a very easy Manner, and much to the Satisfaction of every Body in the Island. Previous to the Admiral's sailing again in 1791, an Act of Parliament passed, for establishing a Court of Civil Jurisdiction in the Island, which was to be held at St. John's only. This very properly alarmed the Merchants, as the Difficulty of coming from the Out Ports to that Place, was in the First Place very great; and before they could possibly obtain a Writ for attaching the Fish and Oil of a Boatkeeper, who might be considerably in their Debt for Supplies for carrying on the Fishery, the latter might, and he knows, in very many Instances did, take the Advantage, and dispose of their Property contrary to the usual Practice of the Fishery, and thereby defrauded their Suppliers (the Merchants) to the Amount of many Thousand Pounds. If there ever was a real Cause of Complaint on their (the Merchants) Parts, it was in that of confining the Court to St. John's alone; and he hesitates not to say, if it had been continued, that it would have been impossible for them to have carried on their Trade in any other Part of the Island; and this leads him to say, he is very sorry they were so hasty in making their Representations to the Board of Trade, in all of which they declared they wanted no Court; therefore, the giving them only One, was coming as nearly to their Wishes as it was possible to do, without actually complying with them; and to themselves alone, therefore, they are indebted for the Inconvenience and Losses they experienced from a Want of the usual Courts at the Out Ports.

Upon the Whole, the Witness thinks, an Establishment nearly similar to the old one, under the Governor and his Surrogates, and which that made by Admiral Milbanke really was, is the best that could be adopted; his principal Aim was, to legalize what had been so long done from Necessity; he neither wished, nor did he make any considerable Alteration.

And being desired to explain more particularly the Sort of  
Court

Court which he thinks should be established in Newfoundland? he said, Every Body must allow, that there has grown out of the Fishery a very extensive Trade, which makes the Business of a Court at St. John's, particularly, much more intricate and troublesome than it was formerly; he is therefore of Opinion, that the Governor should not sit as a Judge, but that a Court should be established there as the Supreme Court of the Island, in which should preside a Gentleman appointed from England. If all Trials are to be determined in it by Juries, there should be no Assessors; but if the Trials are to be without Juries, he thinks that the Governor should have an Authority to appoint two Assessors to assist the Judge. That the Governor should have Power also to appoint the Captains of the Ships of War Judges upon their respective Stations at the Out Ports, who should proceed in the Manner they had been used to do before, under the Denomination of Surrogates, which Experience shews to have been a very good System. From the Surrogates Courts there should be an Appeal to the Supreme Court at St. John's for Sums above £. 30, and from that Court to England for Sums of £100.

The Witness having said, in a former Part of his Evidence, That he has heard Complaints in Newfoundland respecting the Time of doing Business at the Custom House, and the Fees which are paid there, he was desired to state generally what those Complaints were? who said, They have Regulations at the Custom House with regard to the Time of doing their Business of entering and clearing Ships, somewhat similar to those established at Halifax, which in his Opinion cannot fail very often to distress the Trade; for at St. John's particularly, he has known many Instances of Vessels, by not getting out at a particular Moment, detained in the Harbour for Ten Days, or a Fortnight; and he therefore thinks, that the Ships of the Fishery should be allowed to make their Entries, and to get their Clearances at any one Part of the Day, and even at any reasonable Time in the Evening, if they require it—As far as Dispatch depended upon the Governor, in signing of Registers, receiving Claims for Bounties, &c. no Time, not even Breakfast, Dinner, or any other Hours were offered as an Excuse for Delay. The Governor always felt that he went there (as every other should do) to do a great Deal of Business in a short Space of Time; and those whom the Witness had the Honour to serve, may very safely declare that they did not neglect their Duty.

That the Fees he means to particularize, as having caused Complaints

plaints on the Part of the Merchants, are those taken upon what are called Fishing Ships, fitted and cleared out from England according to the Terms prescribed in the Acts of the 10th and 11th of William the III<sup>d</sup>. and the 15th of George the III<sup>d</sup>. by which Acts they are entitled to certain Privileges, and amongst others to an Exemption from Fees at the Custom House at Newfoundland; except One to the Naval Officer, of 2s. 6d. at their Entry, and the like at their Clearance.—And being asked, Whether it is his Opinion, that those Complaints are well founded? he said, As far as relates to the Fees taken upon the Fishing Ships, he thinks they are; for there seems to be a fair Contract made by the Acts above-mentioned, between the Legislature and the Merchants; they are told, that by complying with the Terms of those Acts, in sailing from England with what is called a Fishing Certificate; proving that they have taken a certain Proportion of Green-Men in their Crews, and the Vessel being employed in the Fishery, they should only pay the above-mentioned Fee of 2s. 6d. to the Naval Officer upon making their Entry, and getting their Clearance at Newfoundland; and he thinks, that the Pretence of the Custom House there, that those Vessels, because they do not go upon the Great Bank to catch Fish, are not therefore actually employed in the Fishery, is putting a Construction upon the Act of Parliament which in Reason it will not, and in Point of Policy it ought not, to bear; and it is his Opinion that the Fishing Ships (he means those qualified as above-mentioned) should be relieved from this Imposition; they are a great Nursery for Seamen, and therefore ought not to be discouraged; on the contrary, every Encouragement should be given to induce them to continue the laudable Practice of taking out Green-Men as a Part of the Ship's Complement.—And being asked, Whether the Disputes which solely belong to the Fishery at St. John's, are more intricate than formerly? he said, No, not those solely confined to the Fishery; and on that Account it is, that he is of Opinion, that the Captains of the Ships of War should be continued the Judges at the Out Ports, where the Trade, independent of the Fishery, is not increased in the Proportion it has at St. John's.—And being asked, Whether he thinks the Governor is fully competent to answer all the Purposes of the Fishery, independent of the Trade? he said, Most assuredly; but he would by no Means advise its being put under the Jurisdiction of the Governor again.—And being asked, Whether the Fishery carried on from this Country has increased, or whether he meant, the Trade and Fishery as carried on at Newfoundland, taken aggregately? he said, Yes, both; he thinks the Fishery as well as the Trade carried on from this Country has increased.—

And



And being asked, Whether the British Bankers are increased? he said, He believes there were not so many of them in the Year 1791, nor any Year since the Conclusion of the American War, as there were prior to that War; but if the Returns are properly examined, it will evidently appear, that there were more Ships, and more Men in those Ships, trading to Newfoundland, and more Fish caught there, in Proportion, than in any Year before the American War. By looking at the Admiral's Returns, as printed for the House of Commons, it will appear, that in the Year 1770 there were 629 Ships entered at Newfoundland, and in the Year 1791, there were only 472 Ships; but if the Tonnage be taken for the Quantity of Shipping, it will appear, that the 629 Ships produced only 41,494 Tons, and the 472 Ships 49,921 Tons; of Course, though there appears to be a smaller Number of Ships, there is actually an Increase of Shipping of 8427 Tons, and yet, in the Year 1770, more Ships appear to have entered at Newfoundland, than in any Year previous to the American War. It should also be remarked, that the Number of Ships coming from the Colonies before that War was nearly double to what it was afterwards. It may fairly be presumed too, that the Number of Seamen and Passengers, appearing by the Returns to have gone to Newfoundland in the 629 Ships in the Year 1770, must have been mistated, for upon Examination it will be found, that the Average of each Vessel was only 66 Tons, and that the Average Number of Seamen and Passengers was 22; that is, Ten of the former, and Twelve of the latter. Now it never can be supposed, that a Vessel of only 66 Tons Burthen, in a Trade where the utmost Economy is absolutely necessary, could have been navigated with Ten Seamen; and when Twelve Passengers also appear to have been in every Vessel, it leaves one in no Sort of Doubt that the Return must have been made up from improper Materials, and he accounts for it in this Way: The usual Manner of collecting the Materials from which the Admiral's Returns were Annually made, was, before the Year 1789, very little to be depended upon, as no particular Directions accompanied the Schemes which the Captains of the Ships of War and the Magistrates transmitted to the Admiral, to enable him to make up his General Return, therefore a Mistake in the Number of Men might very easily happen; for the First Question to be asked the Master of a Vessel on his Arrival by the Person filling up the Fishing Scheme is, How many Men have you? And the Second, How many Passengers? Now if the Master, in answering the First, should include the Passengers with the Seamen, which it is very natural to suppose would often happen, and the Person filling up the Scheme should first

of all put down the whole Number of Men, including Passengers, and afterwards the Passengers separately, it follows of Course, that the Return must contain too many Men by the whole Number of Passengers. That this Mistake in the Return of the Men must have happened, he can prove in another way; or, if the Conclusion be denied by the Merchants, it must at least be acknowledged by them, that the Merchants caught their Fish in the Year 1791 at nearly One Half the Expence that they did in the Year 1770, for by the Account it appears, that each Man upon an Average, in the Year 1770, caught only Forty-six Quintals of Fish, and in the Year 1791, Seventy Quintals.—And being asked, Whether the Admiral's Returns, as printed, for the last Three Years, are correct? he said, The printed ones are not correct, but he has Returns in his Hand for the same Period (which are not printed) and which he believes are correct.—And being asked, Why he asserted, that the printed Returns are not correct, but that those which he had in his Hand are correct? he said, Because the printed Returns were made up from Materials collected long before the Fishing Season was over, and therefore are mere Estimates. The Account in his Hand is made up from Accounts taken from the Custom House Books in the different Parts of the Island, after the Fishery was completely over, and when no more Ships could arrive at, or sail from, the Island, nor any further Business be done in the Fishery.

He then delivered in to your Committee an Account of Shipping and Trade Outwards at Newfoundland, for the Years 1787, 1788, 1789, 1790, and 1791, shewing whither the Goods were exported; and also the Directions given for making up the Fishing Returns, which are hereunto annexed. Vide Appendix, N<sup>o</sup> 2. (a) (b)

And the Witness said, That for the Five Years Returns which the said Account contains, he can depend upon its Accuracy. And during Admiral Milbanke's Government, hearing so many Complaints from the Merchants of the Decline of the Trade, in which he (the Witness) thought them unnecessarily alarmed, he got the Three last Years Accounts, signed by the Naval Officer who had made up the General Account, and the Admiral transmitted it to the Board of Trade in a Letter, stating how the Difference between the Two Accounts had arisen, and how much more to be depended upon was the latter than the former Account.—And being asked, Whether he has Reason to know that the various Returns from Newfoundland were incorrect before the Time of Admiral Milbanke? he said, From his Knowledge of the Manner in which the Materials were collect-  
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ed, from which the Admiral's Returns were Annually made up, he can have no Difficulty in saying positively, they must have been always incorrect.—And being asked, Whether he knew what he had stated respecting the Increase of the Fishery of Newfoundland, from being concerned in the Trade only, or from the Returns of the Admirals? he said, He never was, either directly or indirectly, engaged in the Fishery of Newfoundland, and therefore speaks from the Returns he has collected.—And being asked, Whether he speaks from them only? he said, In particularizing Articles he must of Course speak from the Returns; but from the Observations he has made during a Service of Thirteen Years as the Governor's Secretary, and from knowing that many vacant Places which were about the Island being now covered, and Fisheries carried on upon them, he has Reason to believe, and does believe, that when he left the Island in the Year 1791, the Fishery had increased very considerably from his first going there.—And being asked, Of what Use does he think the Custom House at Newfoundland? he said, Within these few Days he has heard that it was asked for by some of the Merchants, and by the Request being complied with by Government, he took it for granted they saw the Reasonableness of it.—And being asked, Whether he knew any other Reason for it? he said, No; for if there is any Part of His Majesty's Dominions where a Custom House is perfectly unnecessary, it is Newfoundland.—The Witnesses having said, That when he left Newfoundland in the Year 1791, the Fishery was in an increasing State, he was asked, Whether he meant the Resident Fishery, or the Fishery from this Country, from his own Knowledge? he said, The Knowledge of any Man, with respect to the Fishery and Trade of Newfoundland, or any other Trade, must be very confined indeed, unless he is allowed to avail himself of the Information which may be given him by other People; he can undertake to say nothing of the Increase or Decrease of the Trade and Fishery of Newfoundland, but from the Information which his official Situation in that Country enabled him to obtain from the Annual Reports which were sent to him from the different Parts of the Island, and from his own daily Observations of what was going on in the Island; such Reports, particularly for the last Three Years, he believes to be as nearly correct as possible, and to contain better Information than any individual Person could have an Opportunity of collecting; drawing a Comparison therefore between the Naval Officer's Return of 1791 (to which he gave the greatest Credit) and the Admiral's Return for the Year 1770, as printed by the House of Commons, the following is the Result:

In the Year 1770, when there appears to have been 649,498 Quintals of Fish caught for the Season, 118,768 Quintals of that Quantity were caught by Bye Boatmen from England; of the Quantity of 751,296 Quintals, sent to Market in the Year 1791, 123,023 Quintals were caught by the Bye Boatmen from England; there was of Course 4,255 Quintals more caught by the Bye Boatmen in 1791 than was caught by the Bye Boatmen in 1770, but there were less caught by the Bye Boatmen in 1791 than in 1773.—And being asked, Whether there is such a Thing as a British Bye Boatkeeper now residing in England, and where to be found? he said, He believes there are a great many Bye Boatkeepers residing in England.—And being asked, Upon what he founded that Belief? he said, He founded it principally upon the Returns made to the Governor, in whose Directions to the Captains of the Ships of War, and the Magistrates, who furnish him with the Materials for making up his General Account, the Boats kept by Bye Boatkeepers are so particularly described; and it appearing that in the Year 1791, 584 of such described Boats were employed in the Fishery, of Course it follows, that there must have been Bye Boatmen to have employed them; and Bye Boatmen are understood to be those who go to and return from Newfoundland Annually.—And being asked, Whether he could of his own Knowledge say, that in the Year 1791, there were any Bye Boatkeepers that went out from this Country? he said, Unless what he got from the Report can be considered as from his own Knowledge, he cannot particularize them; but there is a Matter well worthy the Consideration of the Committee, which is, that a Number of those Men, who began as Bye Boatkeepers, and have been so successful as to be able now to have a Ship or more, and therefore cease to come actually within the Description of Bye Boatmen, still continue in the Trade; and it by no Means follows, that however inclined the Government of this Country may be, or whatever Pains may be taken to encourage that Branch of the Fishery, that it ever could be carried on again in the Manner, or any Thing like to the Extent, that it has been heretofore; for if they should have no other Obstacle to encounter with, the Want of Room alone, with proper Conveniences, must render it difficult, if not altogether impossible.—And being asked, Whether there is no convenient Room in the Harbour of Bonavista? he said, He never was in Bonavista; but he has known many Complaints, not only from Bonavista, but from almost every Port in the Island, laid before the Governor and his Surrogates, by Persons disputing for unoccupied Fishing Rooms; and upon the Question being asked them (which was always done) Whether there

there was not Room sufficient for both Parties? the Answer has been uniformly, and he believes, and indeed knows it to be just, that there might be; but that the Difficulty and Expence of clearing the Ground, and building upon it, would be so great, that it would not answer their Purpose, nor had they wherewithal to carry on such an Undertaking: And it has for many Years past been a common Practice among the Merchants, particularly those who have engaged in the Trade since the American War, to advance Money, and encourage Resident Boatkeepers to build Fishing Rooms, and carry on Fisheries upon them, depending upon the Fish and Oil, with a Mortgage of the Fishing Room taken as a Collateral Security, for the Re-payment of the Money so advanced—Within his own Knowledge a great deal of the Shores of Newfoundland have in this Manner been built upon, to the total Exclusion of Adventurers from Europe; and he thinks himself justifiable in saying, that Six at the least out of every Ten of such Rooms have, in the Course of Five Years after they were first built upon by Boatkeepers, come into the Possession of the Merchants, from the Incapacity of the Boatkeeper to pay his Debts, but by Sale of his Fishing Room; and then he seldom sells it for more than a Fourth Part of the Sum which it cost him in the building.—And being asked, When he spoke of the Merchants in his last Answer, did he mean the Trading Merchants, or the Fishing Merchants? he said, The Trading Merchants, who, however they may have increased the Trade, have certainly at the same Time occasioned great Alteration in the Fishery.—And being asked, Whether the great Increase of the Trading Merchants is not a Detriment to the Merchants carrying on the Fishery, as carried on from Great Britain? he said, He thinks it is, but he does not mean to insinuate that the Fishing Traders have, or ought to have, an exclusive Right to the Trade of Newfoundland.—And being asked, Whether he means by that, that the Fishery from Great Britain, as carried on by the Merchants, has of late Years declined in consequence of the Increase of the Trading Merchants, or does he only mean, that it has not increased in the same Proportion as it would have done if the Trading Merchants had not increased? he said, He does not think that the Trading Merchants have occasioned any Decline of the Fishery from Great Britain; he thinks that the Trade has increased in a very great Degree, but the Fishery not so much in Proportion.—And being asked, Would not the Fishing Rooms now occupied by the Residents at Newfoundland have been occupied by Adventurers from this Country, had they been open? he said, By Bye Boatmen certainly not; for the Mode of carrying on the Fishery has differed so much in

Point of Expence, that he undertakes to say, if a Room was Tomorrow offered to a Boatkeeper upon the Terms that he took Possession of it under the Act of the 10th and 11th of William the III<sup>d</sup>. he would decline it; nay, in the Thirteen Years that he has been Secretary to the Governors of that Island, he has Annually known Applications to be made to the Governor by Masters and Owners of adventuring Ships from Great Britain for unoccupied Spots in Newfoundland; and upon its being observed to them, that if they were properly qualified they had a Right to take Possession without any Grant; their Answers also have uniformly been, that unless they could be allowed to take Possession of it as private Property, and not as Fishing Rooms, as described by that Act, it would be much better for them to hire a Room for the Purpose than to be at the Expence of building for the Season; and it is no more than reasonable to suppose, that if a Master or Owner of a Vessel, having the Ability to erect Fishery Conveniences, could not do it but at a Loss, the poor Boatkeeper, who would have every Thing to buy after his Arrival in the Country, and labouring under many other Inconveniences, could not attempt it at all.—And being asked, Whether the Committee were to understand, that there are convenient Places at Bonavista, if the Profits of the Fishery would pay for clearing them? he said, There certainly must be, in many Parts of Newfoundland, unoccupied Places; but as he said before, with all the Encouragement that could be given by the Government of this Country, Adventurers would not be prudent to build upon them.—And being asked, At what Period did the Profits of the Fishery become too small for the clearing the Ground? he said, When the Expences of the Fishery increased.—And being asked, Was it then his Opinion that the Fishery can bear any further Expence? he said, When he spoke of the increased Expence of carrying on the Fishery, he should have said, of the Trade and Fishery; because the necessary Expences attending the very great Trade that is grown out of the Fishery, if coupled with the Fishery itself, must appear to lessen the Profits of the latter; and he is afraid it is from a Want of this Consideration that the Merchants have been so alarmed about the Decline of the Fishery; for the Trade (he means that Surplus of the Trade not necessary for their respective Fisheries) being a Matter of Speculation, they ought never to account their Losses on that Head as a Diminution of the Profits on the Fishery itself.—And being asked, Whether he means, that the Profits of the British Fishermen are considerable, and of what Nature? he said, He thinks that the Profits of the British Fishery, to those who are in Possession of Fishing Rooms, if they will confine their Exports from this Country to that to the necessary Articles for carrying

rying on their own Voyages, in which he includes the Voyages of such Boatkeepers as it may be necessary for them to engage to make up proper Cargoes for their Ships, and from whom they take Fish and Oil in return for their Supplies, that then it would be found to them a profitable Undertaking.—And being asked, Whether that is not the Mode in which the Trade is carried on from Exeter and the Ports westward? he said, He believes not; he is inclined to think that very few of the principal Merchants confine themselves in the Manner he has spoken of in sending out Cargoes to Newfoundland; most of those at St. John's, if he has not been very much misinformed, not only send out a Sufficiency for themselves and such Boatkeepers: as it is proper they should supply for the Purpose of filling their Ships with Fish and Oil for Market, but they also undertake to purchase, upon Commission, Fish and Oil for Ships not regularly engaged in the Fishery, and for the Payment of which they send also Provisions and other Articles that may be wanted, both by the Europeans and Island Fishermen; nor is it an uncommon Thing to purchase in the Country whole Cargoes of various Articles from the Colonies and West India Islands, which they send to the different Parts of the Island for the Purpose of collecting the Cargoes of Fish so purchased by them upon Commission, and such cannot be done but at a very great Risk.—And being asked, Whether he agrees with Mr. Newman in his Account of the Resident Fishery? he said, He agrees with Mr. Newman, that there is a great Resident Fishery, but that instead of its having increased by any Burthens laid upon the Trade, Mr. Newman himself has declared, that he took the most effectual Means that could be taken to discourage the Fishery carried on by the Bye Boatmen from Europe. Mr. Newman says, that the Resident Fishery (at least that Part of it that he is particularly connected with, by furnishing the Fishermen with Supplies for carrying it on) is carried on without Servants, by the Wives and Children of the Fishermen, and that if there were any Servants among them, he would not supply them at all. Now as the Bye Boat Fishery from Europe cannot possibly be carried on without Servants, it were in vain to encourage People to go from this Country, who were so plainly told that they were to be in such great Danger of starving after they got to that Country.

Mr. Newman says, “ That the Cause of his making this Determination was from the Alteration made by carrying into Execution certain Clauses of an Act of Parliament passed in the 15th of George the III<sup>d</sup>. which subjects the Fish and Oil to the Payment of the Wages of the Fishermen, which he says was  
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not the Case before the passing of that Act." As the Witness was so long Secretary to the Governor, he must know that the Instructions given to the Surrogates (with whose Proceedings the Merchants appear to be well satisfied) contained, before the passing of the Act alluded to (and he believes he may say, from the very First Appointment of a Surrogate) the following Article:

" The Inhabitant Boatkeepers, Servants Wages, are always to  
 " be paid according to their Shipping Papers, in Preference to  
 " Debts and all other Claims; and in case of any Doubt of the  
 " Master's being able to draw good Bills for the Payment thereof,  
 " the Produce of the Voyage must make good the Servant's Wages  
 " in Preference to Debts and all other Demands whatever. And  
 " according to antient Custom, the Servants of the Inhabitant  
 " Boatkeepers are justified in detaining on the Room, the whole  
 " Produce of the Voyage, till the Balance of their Wages shall be  
 " secured to them."

And the Witness further said, That if Mr. Newman says, that although that Instruction was given to the Surrogates, yet it never was carried into Execution by them, he (the Witness) has a Decree made by a Surrogate (which furnishes a Case exactly in Point) who upon hearing the Cause, made the following Decree:

" Decree of Governor Lloyd concerning  
 " Richard Waterman.

" I do decree, That the said R. Waterman's Effects be seized  
 " for the Payment of his Debts, except his and Wife's  
 " Wearing Apparel; and hereby order and direct my  
 " Justices of the Peace in Trinity to appoint proper Offi-  
 " cers to seize them accordingly, and cause an Inventory  
 " to be taken of the said Effects, that every Person con-  
 " cerned may have a just Division of the said Waterman's  
 " Effects, *after his Servants Wages are discharged*, in Pro-  
 " portion to their Demands upon the said R. Waterman,  
 " as far as they will go towards paying them; and when  
 " the *Servants* and Creditors are paid, all such Sums or  
 " Effects as shall remain in your Possession, belonging to  
 " the said R. Waterman, you are to pay and deliver the  
 " same to him, his Orders or Heirs, &c. with his *Servants*  
 " and



“ and Creditors’ Discharge for what they have received  
 “ from you.

“ Given under my Hand and Seal, in the Court held  
 “ by me at Trinity, this 18th Sept’ 1754.

“ JOHN LLOYD.”

And the Witnesses being further examined, was asked, What was the Penalty upon the Servants for leaving their Work before the Act of the 15th of George the Third? he said, There were Two, he believes, at the Discretion of the Governor and Surrogates. The First was by a Reduction of their Wages, by Way of Fine, and the other by corporal Punishment; the latter was most usually practised, and he believes with much better Effect than the other Mode, though in extraordinary Cases both were inflicted.—And being asked, Whether he thinks the Servants were more attentive to the Business of their Masters previous to that Act than they have been since? he said, As he was not in the Country before the passing of that Act, he cannot say whether they were or not, but he might add, from the Observations that he has made, and the official Situation he held, which occasioned his knowing almost all the Complaints that were ever made during the last Thirteen Years upon that Head, there appeared to him to be less Neglect of Duty on the Part of the Servants engaged in the Fishery, than he had ever heard was chargeable to an equal Number of Servants in any other Trade whatsoever; he has known Instances in that Time of very great Neglect by the Servants, and if Punishments could be provided for Individuals, without endangering the whole, the Penalties inflicted by the Act of Parliament fell very short indeed of what those particular Crimes merited; but the Clause should not be supposed to be open to abuse only on the Part of the Servant, but a bad Master may make a much worse Use of it, and he has known that done also, as may be seen by referring to Admiral Milbanke’s Report to the Board of Trade. He offers these Instances only to shew how the Act may be abused by both Parties, not as a Proof that it is so generally by either; but the Clause in Question, or rather the Clause of a subsequent Act of Parliament relating to the same Matter, has been abused much to the Disadvantage of the Fishermen. The Witness observes in the Evidence given by the Merchants, they have taken no Notice of an Act of Parliament passed in the 26th of George the Third, by which the Penalties upon Servants for Neglect of Duty is increased from Two to Five Days Pay for every Day’s Neglect; and since the passing of that Act he allows that there has been more Complaints against Ser-

vants, for Neglect of Duty, than ever were made before, not that he believes (nay he is satisfied of the contrary) that there was more real Neglect to charge them with, but because it is more worth the while of the Master to prosecute for it; and the Way in which the Masters have understood this Clause is, that it gives them the Power to charge it as an Article in the Account, without prosecuting for it at all; and they never fail to make this Charge to the full Extent that the Act of Parliament will allow; for let the Neglect be ever so trifling, he has seldom known the Charge to be less than for the whole Five Days for One. Now it is very well known to those who have been used to the Fishery, that there are Times when a Man's absenting himself from his Master's Duty can be attended with very little Injury; for if he should stay upon the Room it would be difficult for the Master to find any material Employ for him, and this leads him to take the Liberty of suggesting an Alteration, or rather an Addition, that should be made to this Clause (for the Clause itself he very much approves of) which is, that the Act should direct Enquiry to be made before a Surrogate, or Two Justices of the Peace, within Twenty-four Hours after the Offence has been committed, or as soon after as conveniently may be, and a Certificate granted to the Master of the Penalty that should be inflicted, without which he should not be allowed to make a Charge for Neglect in the Servant's Account: As it is now practiced, it happens almost Six Times out of Ten that the Servant never knows any Thing of a Charge for Neglect until he is made acquainted with it by his Account, and that being after the Fishery is over, and the Neglect so charged having perhaps happened at the Beginning of the Season, it is next to impossible for him (however innocent he may be) to prove that Innocence; for the Master, by making a Memorandum of the Time and particular Circumstances, which the other must unavoidably forget, or perhaps never knew, by its not having happened, and by bringing with him Persons who are his Dependents, such as his Cooper, his Clerk, and others, who are very easily persuaded into a Belief of any Thing he shall tell them, he easily makes out his Case, and the poor Servant, if he has no other Disadvantage to labour under, than that his Fellow Servants are all departed the Country, finds it impossible to make a Defence: Besides, as the Injury done by the Neglect depends upon the Weather, and a Variety of Circumstances which can only be properly considered at or near the Time when the Neglect is said to have happened, it becomes very necessary to make the Enquiry immediately, or strict Justice cannot be done to the Parties; and after considering the Matter in various Shapes, in taking it in every Point of View, he sees no better Mode that could be adopted, than by leaving it to  
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the Decision of the Surrogates, or of Two Magistrates, where they can be found, or to One in such Places where Two Justices cannot be had, and authorizing him or them to certify the Value of the Neglect, which should justify the Master to charge it in his Account against the Servant; he means the whole Value of the Neglect, as certified by the Surrogates and Magistrates under the Act of Parliament. It is not at all uncustomary, among the Boatkeepers particularly, for Masters to supply their Servants with so much Rum, that it would appear to be done with a View to make them neglect their Duty, and their not doing it in such Cases would be rather a Matter of Wonder than otherwise. As a Proof that such Things are practised, and that a Man may neglect his Duty, yet should not be subject to the Penalty, he begs leave to offer a Shipping Paper, and an Account Current between the Boatkeeper and his Servant, which your Committee have inserted in the Appendix, N<sup>o</sup> 3.—And being asked, Whether that Account was not between a Resident Master and a Resident Fisherman? he said, He believes it was; but he has known many Instances of the same Kind by European Boatkeepers.—And being asked, Whether he is acquainted with the Bay of Bulls? he said, He never was at it.—And being asked, Whether he knows, that in the Year 1776 there were Nine Merchants and Twenty-eight Bye Boatkeepers carrying on the Fishery in the Bay of Bulls, who have all but Two quitted the Fishery? he said, He was not Secretary to the Governor till 1779, therefore cannot tell who were carrying on the Fishery in the Bay of Bulls in 1776.—And being asked, How many are there now? he said, When he left that Island in 1791, there were Mr. Ougier, Mr. Clapp, and he thinks One of the Brooks's.—And being asked, Whether he knows that Mr. Brooks failed in 1789, and Mr. Clapp in 1790? he said, He knows that Mr. Brooks did not carry on the Fishery himself in 1791, but he believes it was carried on by an Agent for Assignees.—And being asked, Whether he is so well acquainted with all the other Twenty-three Harbours in Newfoundland, and all the minor Creeks, to say there are not convenient Places unoccupied for Ships Rooms? he said, He does not pretend to have a Knowledge of the local Situation of all the Harbours of Newfoundland, because he never visited them all; but his Situation as Governor's Secretary enables him to say, that there is scarcely a Part in Newfoundland unoccupied, that Adventurers from Europe would take Possession of for the Purpose of carrying on a Fishery, without they could be allowed to do it as private Property, and not under the Restrictions of the 10th and 11th of William the IIIrd, and 15th of George the IIIrd, and he has known a great many Adventurers of late Years apply

to the Governor for Grants of such Places as they had fixed upon, saying, unless they could be secured in the Possession of it hereafter, they could not think of expending any Money upon it. In this Way, it certainly may be said, there is almost a complete Monopoly made of the Whole of the Shores of that Island, to the Exclusion of Adventurers from Europe; and he may take upon him to add, that if even the Resident Boatkeepers were to leave the Island immediately, not One Fifth of their Fishing Rooms would be thrown open to the Adventurers; for, on Account of the Debts of the Boatkeepers to the Merchants, they are all assigned to the latter as a Security for those Debts, and have been so for many Years, therefore the getting rid of the Resident Boatkeepers is not making Room for the Bye Boatkeepers from Europe; and unless the Merchants will consent to be guided by the Whole of the Act of Parliament, which they pretend to be so fond of (which would, if carried fully into Execution, take the greatest Part of their Property from them) and not by such Parts only as they have thought could be construed in their Favour, it is in vain for the Government of this Country to offer any Encouragement to new Adventurers; for, from their Want of Room and proper Conveniences for carrying on their Fishery, they could not avail themselves of it on their Arrival in that Island.—And being asked, Whether the Spaces that were relinquished in the Bay of Bulls by the Merchants who broke, are now used in the Fishery? he said, If they are, it is not because they have been taken Possession of as unoccupied Places, but by Persons pretending to have a Right to them from their Connections with Mr. Brooks, who would not suffer an Adventurer from Europe to take Possession, even though no Part of it should be actually by themselves engaged in the Fishery; and he remembers, before he left the Island, there was a Dispute about his Rooms between Persons upon that Ground in the Court at St. John's.—And being asked, Whether that Room of Mr. Brooks's has not fallen 600 *per Cent.* of its Value? he said, He really cannot undertake to say, not knowing whether it was ever offered for Sale, or what was offered for it; but of this he is persuaded, that if they could not carry on a Fishery themselves, nor sell it even for a trifling Consideration, they would still keep Possession, and not give it up to the Public.—And being asked, Whether he ever saw all the public Fishing Rooms fully occupied? he said, At St. John's, to which his Residence with the Governor was confined, No; and for this Reason they remained unoccupied, because the Fishing Admirals (who generally belong to Houses which have a Sufficiency of Room for themselves) have not Occasion for it, nor do they make Use of it, but they still retain their Claim to it, and

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if other Persons want it, they make them pay Rent for it; he means to apply this to the public Rooms at St. John's, and to the Fishing Admirals Rooms in particular.—And being asked, Whether he knows any Thing of the Bankruptcies that have happened, or the Occasion of them? he said, He has known several Failures of Gentlemen engaged in the Newfoundland Trade; but he is by no Means of Opinion that those Failures were occasioned by any Decrease of the Profits of the Fishery, independent of the speculative Trade, which they have injudiciously, he thinks, annexed to and made a Part of it; for if the Fishery alone be attended to, he thinks it is still, as he has said before, a profitable and advantageous Undertaking; and the many large Fortunes that have been acquired in it, is a Proof of the Assertion. He does not mean to say, that new Adventurers will find it so profitable, while the present Monopoly of Rooms continues, and they are put to such Difficulties and Expence in making new Establishments; but if the Whole was to be thrown open, and every Merchant at present engaged in it was to withdraw himself from the Trade (however presumptuous he may appear to be in giving such an Opinion), he will venture to say, that in less than Five Years it would be carried on again to as great an Extent as it is at present, and much more advantageously for this Country.—And being asked, Between what Periods have any Fortunes been made in the Fishery? he said, It is not in his Power to confine himself to the particular Periods in which the Fortunes have been made, but when he knows that a Man from a common Fisherman has, in the Course of a few Years, become an opulent Merchant (and this was the Case with several who are now in very respectable Situations, whose Names he wishes to decline mentioning) he feels no Hesitation in offering it as a Fact to the Committee; and he is the more confirmed in this Opinion, in having, for the Thirteen Years he was Secretary to the Governor, been in the Habit of hearing the Merchants in general complain, that the Fishery was growing so bad that they were resolved to quit it as soon as possible, and yet not One of those that he has heard make that Declaration has in Appearance taken any Step towards carrying his Resolution into Execution.—And being asked, Whether he knows any Instance of a Man having made a Fortune in the Fishery within these last Eight Years? he said, No; he cannot undertake to say, he knows of Men's making Fortunes within the last Eight Years, but even within that Period he has observed the (at least apparent) Prosperity of several Boatkeepers, who, when he first went to Newfoundland, were carrying on the Fishery in a very confined Way. When he spoke of large Fortunes, he alluded to the late Mr.

Welch, of Placentia, who died about the Year 1774, and several others, who before that Time, he had heard (and it could easily be proved) left very large Fortunes behind them, although they, as well as many others, who are now living, and in great Affluence, began as almost common Persons in the Fishery.

Your Committee then called Sir RICHARD KING, Baronet, who informed them, That he is the present Governor of Newfoundland.—And being asked, Whether he had an Opportunity of seeing the Business that passes in the Court of Judicature in Newfoundland? he said, Yes.—And being asked, What is his Opinion of the Propriety of that Business being thrown upon the Governor? he said, He has no Opinion to give upon it.—And being asked, Whether he thinks the Governor is competent to regulate the Affairs of the Fishery and of the Island, if he had proper Authority? he said, He can only judge from Comparisons; that as former Governors had executed that Office, future Governors might do the same.

Mr. THOMAS STREET being then examined, said, He is a Merchant, resident at Poole, trading to Newfoundland, and has been so many Years.—And being asked, Whether he thinks the Establishment of a Custom House at Newfoundland an Injury to the Trade and Fishery of that Island? he said, So far from its being an Injury, he thinks it has been of great Advantage to the fair and lawful Trader.—And being asked, Whether he thinks the Payment of the Fees to the Officers of the Customs, as they are now, and have been received, of such Consequence as to injure the Trade and Fishery? he said, He thinks the Payment of the present Fees of so little Consequence to the Trade in general, that it cannot have materially injured it.—And being asked, What is his Opinion respecting the Appointment of the Officers of the Customs at Newfoundland to be Magistrates? he said, From his Knowledge of the District of Trinity, the Inhabitants there complained last Year, that from the Deputy Collector of the Custom House being debarred from acting as a Magistrate, they had materially suffered; and that it is their Wish that the same Gentleman, who was before in the Commission of the Peace, might be reinstated in that Office; and the Witness has Authority to say, from the Majority of the Gentlemen in the Trade, of the Town of Poole, that it is their Wish that the Officers of the Customs at St. John's should again act as Magistrates.

Magistrates.—And being asked, What Fishery do the Poole People carry on at St. John's? he said, None; but they are generally concerned in the Administration of Justice at St. John's, as the Inhabitants there.—And being asked, Whether they often go to St. John's for Justice? he said, Frequently.—And being asked, Did they so disapprove of the Custom House Officer in Trinity being a Justice, that they preferred going to St. John's to get Justice done them? he said, No; they approved the Custom House Officer being a Justice, but Circumstances oftentimes led them, and will always lead them, to St. John's for Justice.—And being asked, Whether any Thing that has happened at Trinity can come before a Justice at St. John's; which is cognizable by the Justice at Trinity? he said, Frequently their Servants take Opportunities of running away, and going to St. John's; the Magistrates there of course take cognizance of it.—And being asked, Whether he meant to say, that the Justices at St. John's can take Cognizance of what is done at Trinity? he said, Not of what is done at Trinity, but of such Complaints as are laid before them at St. John's. And being desired to state, How a Justice at St. John's can take Cognizance of any Affairs that have happened at Trinity? he said, He does not know an Instance of it, and he does not suppose, it is legal for them to do it.—And being asked, Whether there is no Person of any Respectability residing at Trinity Bay? he said, There are Two Gentlemen now holding Commissions of the Peace at Trinity of Respectability.—And being asked, Whether there are any other Persons of Respectability residing there? he said, He trusts there are many.—And being asked, Whether they are so respectable as to be capable of executing the Office of a Justice of the Peace? he said, The Gentlemen he alludes to are mostly in the mercantile Line, and have hitherto been thought by the Governor (for what Reason he knows not) improper People for Magistrates.—And being asked, Whether there are none others? he said, There are, but perhaps of not sufficient legal Knowledge to act in that Capacity.—And being asked, Whether their being Custom House Officers gives them a legal Knowledge for that Purpose? he said, No; but he is not personally acquainted with any Custom House Officer in Newfoundland, who he does not think equal to that Trust.—And being desired to state an Instance of Neglect in the Two Justices of Trinity Bay last Year; which made a Custom House Officer acting as a Third Magistrate necessary? he said, He could not.—And being asked, Whether there were always, before that time; more than Two there? he said, There were always Three in his Remembrance.—And being asked, Whether he thinks that the laying on a Duty on Rum imported into Newfoundland

Newfoundland would or would not be detrimental to the Trade in general? he said, It certainly would operate to the great Disadvantage of the Trade.—And being asked, Whether he thinks the Trade can at present bear any additional Burthens? he said, He cannot pretend to say what additional Burthens the Trade can bear, but he trusts no additional Burthens will be laid on it.—And being asked, Whether he has had an Opportunity of seeing the Regulating Bill which was offered to the House last Year? he said, Yes.—And being asked, Whether he is of Opinion, that if that Bill, with all its Provisions and Regulations had passed into a Law, the Trade would or would not have suffered? he said, He is confident, that if that Bill had passed into a Law, the Trade would not have long existed, for many Reasons, and he perfectly agrees in the Evidence given by Mr. Jeffery to your Committee.—And being asked, Of what Advantage to the Trade is the Custom House and its Fees? he said, The Advantage of the Custom House is to prevent smuggling. He has never stated that the Fees are an Advantage.—And being desired to state to your Committee, What Smuggling would take Place, or what Revenue would be lost to this Country, if the Custom House was abolished? he said, Smuggling from America of different Kinds of Goods, the Importation of which is at present prohibited. He does not know any Thing of what Revenue may be lost.—And being asked, Whether the Custom House Officers can prevent the smuggling those Goods into all the Out Ports? he said, They can, by Means of their Deputies at this Time acting for them.—And being asked, How many Custom House Officers are there in Newfoundland? he said, He does not know. In Trinity Bay there is a Naval Officer, and also a Collector and Comptroller, but the Collector and Comptroller are in the same Person.—And being asked, What extent of Coast has that Custom House Officer to look after? he said, Above One hundred Miles of Coast.—And being asked, How it is possible then that he should prevent smuggling in all that Extent of Coast? he said, He knows of no Ships that go into any Creeks of that District, except to take in a Cargo of Fish.—And being asked, Whether any Custom House Officers are put on Board the Ships to prevent smuggling on their Arrival? he said, There are none that he knows of.—And being asked, Who is the Collector and Comptroller at Trinity? he said, Mr. John Clinch.—And being asked, Whether he has any other Capacity? he said, He is a Clergyman.—And being asked, If a Ship was to have on Board prohibited Goods, could she not discharge such Goods in many other Harbours and Creeks besides the Harbour of Trinity; and could not a Ship, even in the

Harbour



Harbour of Trinity discharge prohibited Goods in many Parts without being near the Collector? he said, She could.—And being asked, Whether the Ships cleared out according to the Act of Parliament, pay Fees at Newfoundland more than 2 s. 6 d.? he said, He can only speak for the Ships in the Northern Trade; they all pay Fees.—And being asked, Whether it is not a Grievance upon the Trade, for Ships to pay Fees that are cleared out with a Fishing Certificate? he said, He cannot say how far it is a Grievance, but it certainly is a Tax upon the Trade, as far as the Amount of the Fees.—And being asked, Who did the Duty before the Custom House was established? he said, It was done by a Naval Officer.—And being asked, What Fees were paid? he said, He cannot recollect; but they paid the same Sum for Certificates to the Naval Officer they do now.—And being asked, What Amount of Fees do they Annually pay now? he said, He cannot recollect; but he believes about £. 30.—And being asked, Whether they pay more now than they did before? he said, Certainly.

Mr. THOMAS SAUNDERS being called in, and having heard Mr. Street's Evidence read, said, He agrees with him in the Relation he has given, and also in the Statement given in by Mr. Jeffery.—And being asked, Whether he has felt any Inconvenience in his Trade at Placentia, or does he know any others that have felt them, from the disqualifying the Custom House Officers last Year from acting as Magistrates? he said, He has.—And being asked, Who is the Custom House Officer at Placentia? he said, Mr. Brown; he is Collector, Comptroller, Surveyor, Searcher, and Naval Officer, and he is also a Surgeon and Apothecary.—And being asked, What length of Coast has he to take care of? he said, He should suppose about Twenty Leagues, where Vessels generally do go; but there are other uninhabited Harbours where they might go.—And being asked, Of what Consequence is it to the People of Placentia who are Justices at St. John's? he said, It is of none.—And being asked, Whether there are any other Justices at Placentia? he said, There never was but One; but there were Two last Year.—And being asked, Whether there are any People of Respectability besides those he has mentioned in that District? he said, None but Merchants.—And being asked, How many People he supposes are employed at Placentia in the Fishery? he said, About 2000.—And being asked, Whether the Merchants are not of sufficient Respectability for Justices during the Time they remain there? he said, He thinks not.—And being asked, Whether Mr. Brown was a regular bred Surgeon? he said, He does not know. Then,

Sir HUGH PALLISER, Baronet, being examined, was asked, When was he Governor of Newfoundland? he said, From 1764 to 1768 inclusive.—And being asked, Whether he continues to entertain the same Sentiments respecting the Trade and Fishery of Newfoundland, as are contained in his Remarks made to the Board of Trade, dated the 18th of March 1765? he said, He is of the same Way of thinking in general; he remained there Three Years after, and got a more competent Knowledge of Things there, than he had at the Time those Remarks were made, and which in general confirmed those Observations.—And being asked, What are the Consequences he apprehends from an Increase of Residents? he said, It operates to the Prejudice of the Fishery in a public Light, and increases exceedingly the Causes of the Complaint, and the Losses of the Merchants; the Merchants themselves are blameable for encouraging Residents, and giving them too much Credit.—And being asked, Whether he, in the Time of his Government, took any Measures to prevent the Increase of Residents? he said, He did, by every Means in his Power; but that he may not be understood to pass a general Censure on all Persons carrying on the Fishery, he must except a certain Class, of a few Merchants, who carried on the Fishery from this Country, and went out, and returned Home themselves every Year; Gentlemen of the highest Reputation and Credit, with whom he consulted frequently, and in whom he found great Candour and Respect, of whom he never heard any Complaint about Servants, or the like; all Persons of this Description he found agree with him in the Impropriety of the Seamen not being sent home.—And being asked, If Mr. Newman was one of that Description? he said, He remembered a Mr. Newman, a young Man (whom he believes to be the Gentleman who has given his Evidence before this Committee) who might be One of those he has described, but he does not remember having communicated with him much. That he remembers Mr. Olave, Mr. Lester, Mr. Keen, and Mr. Bulley.—And being asked, To describe the Class that did not agree with him in this Opinion? he said, All those who did not carry on the Fishery in that Way, by the Principals themselves.—And being asked, Whether he thinks the carrying on the Fishery by Agents is likely to encourage the Increase of Residents, by the Manner of treating the Men, and not doing Justice to them? he said, It was against the Agents and the Resident Boatkeepers that all Complaints were made by the Men. When Gentlemen were there themselves, he never had any Complaints from their Men.—And being asked, Whether the Measures he took in the time of his Government had the Effect of preventing the Increase

crease of Residents? he said, Certainly so; for it appears there were 3,029 Men less when he left the Island than when he first went there; and there were 6,249 more returned in the last of his Years than in the first.—And being asked, Whether the Regulations made by the Statute of the 15th of George the Third, for securing the Return of Seamen, are not the same, or similar to those he pursued for the same Purpose? he said, He thinks they are, and he is sure they were intended to be so; but he observes, in perusing the Evidence of Mr. Newman, he construes them otherwise; in which he thinks he is mistaken. The Witness observes that Mr. Newman says, that Act does not give Power to punish the Fishermen to the utmost Extent of their Wages; but they certainly are equally liable when they deserve it under that Act, as they were in his Time in consequence of the Methods he adopted.

At the End of the first Year of his Government, seeing the great Complaints of the Masters against the Fishermen, and Fishermen against their Masters, he issued a public Notification, to be put up in every Harbour in the Island, for the Information of the Fishermen, that wherever they were found negligent of their Duty, they would be liable to make good Damages to their Masters to the utmost Extent of their Wages; and this Notice was renewed in every Harbour, in every succeeding Year, in the Month of June; besides this, they were always liable to be taken up as Vagrants if they deserted their Duty; and he believes the Justices often did this. He apprehends the same may be done in both Instances under the Statute of the 15th of George the Third.—And being asked, Whether he thinks these Punishments absolutely necessary for securing the Diligence of the Servants? he said, He does think so; and he also thinks the Necessity is equally absolute, that Masters should pay their Servants in due Time, to enable them to leave the Country, according to the public Notice he gave to all Masters Employers of Men, which was annexed to the above-mentioned Notice to the Fishermen.—And being asked, Whether it was voluntary at that Time in Merchants taking the Men home? he said, The Necessity and Justice of the Measure was so evident, that by the Interference of himself and his Surrogates, it was not resisted; and in the latter Years of his Government it was pretty well complied with; but if he had used Force, he should have thought himself justified by Law under the Acts of the 11th and 12th of William the Third, 8th of George the First, and 2d and 12th of George the Second; he must here observe, that the Misconstruction put upon this Part of the Act of the 15th of George the Third, may have been put into the Heads of some of the Men for the Purpose

Purpose to give Appearance of Cause to complain against that Act, by those who never would pay the Men their Allowances due if they could avoid it.—And being asked, Whether he thinks it would be effectual to oblige the Masters who carry out Men to give Bond to bring them home? he said, He thinks not; it would be too hard upon the Masters of the Passage Ships who do not employ the Men. He thinks the more effectual Way is to oblige the Employers to put them on Board a Passage Ship, and to pay the Master of the Ship their Passage Money at the current Price.—And being asked, Whether there are any Hucksters there? he said, He does not remember any of that Description in his Time, if there are any now they should be discouraged by every possible Means; and Dieters, that is, those who entertain idle Men in the Winter, should not be permitted.—And being asked, Whether he thinks it possible, that the Disputes of the Fishery should be tried in a Court of Civil Judicature? he said, His Opinion is, that it is not within the Reach of human Wisdom to frame Laws applicable to the great Variety of Incidents arising in the Course of a great Fishery, which must ever be determined on the Spot, according to ancient Laws and Customs among themselves. The Prosperity of the Fishery requires speedy, short, and above all unexpensive Issues, in a summary Way.

That Persons put in Authority should be Gentlemen of some Rank and Character, who have a Character to lose, and who can have no Interest or Concern therein, who are Strangers to all Parties, and can have no Motives of Partiality to bias their Judgments and Decisions, contrary to their own Judgment of what is reasonable Justice and Equity between Man and Man, in a summary Way, without Expence to the Parties. Such are the King's Sea Officers, who are changed every Three Years; and none others resident in that Country come within that Description of Consequence and Impartiality. In the Absence of the Governor and his Officers, he thinks the Powers of the Justices ought to be limited to keeping the Peace.—And being asked, What Description of Persons does he think properly qualified to be Justices of the Peace? he said, Persons of the best Character, though they are concerned in the Fishery, have been usually appointed, and they act conjointly with the Governor and his Surrogates.—And being asked, If there are any Persons there of sufficient Abilities and Reputation, and entirely unconnected with the Fishery, would they be proper Persons to act as Justices? he said, Certainly, if the Governor thought them proper to be trusted.—And being asked, Do not the Chief Officers of the Customs come under that Description? he said, That is, according to the Power to be given them, and the Matters that may be brought before them; and he thinks, A Custom

House Officer might be employed to act in Conjunction with the Governor, or to keep the Peace in his Absence, but in no other Way.—And being asked, Whether he thinks a Person who acts as a Searcher in the Customs, is a fit Person to be a Justice? he said, There was no Gentleman of that Description in the Country when he was there. He is unacquainted in what Degree or Light that Custom House Officers of that Rank are considered.—And being asked, Whether he sees any Objection to the Custom House Officers acting as Justices, because they are Officers of the Crown? he said, He sees no Objection to them, limited in the Manner he has before described.—And being asked, If the Justices had more Power, are the Custom House Officers more unfit to be Justices? he said, No, except in Cases coming before them that have any Relation to their Offices or their Fees.—And being asked, Whether the old Mode of Justice was sufficient for the Purposes of the Fishery if legalized? he said, He always thought so, and does so still. He means under the late Acts of Parliament, and the Practice that did prevail before, and in his Time, and which he supposes to have been continued.—And being asked, What would be the Consequences of subjecting the Matters of the Fishery to Courts of Law? he said, He has always been of Opinion, that to subject Matters in that Country, relating to the Fishery, to be determined by the Uncertainty and Delays of the Law, is, he apprehends, impracticable, considering the Extent, the Nature of the Country and Season; and if it was practicable, must prove ruinous by the attendant Expences, which the Fishery cannot bear. The immense Extent of Coast, the Shortness of the Season (for there is no Communication by Land, either Winter or Summer) and the Necessity of every Person being diligent during the Season, and who cannot be interrupted without great Prejudice, all unite to render it impracticable.—And being asked, How is it, that these Things, which are so impracticable with regard to a Court of Law, are not impracticable with the old Modes of administering Justice? he said, The old Mode was, that the Governor and his Surrogates decided Causes in the several Districts upon the Spot, at the Time, without any Interruption to the Fishery or Expence on the Decision.—And being asked, If Courts of Civil Judicature were held upon the Spot in the same Manner, would there be any of those Impracticabilities? he said, If Gentlemen learned in the Law were to be sent to each District in lieu of the Surrogates, they might hold their Courts if it should be thought proper, but the Season is so short that there would not be Time to decide according to the Delays attendant on the Forms of Law; besides, in each District they must have Ships to carry them, with many Boats and Men, and many other under Officers of the Law under their command,

to enable them to do any Business. The King's Ships and Officers cannot be put under their Orders; they have also the Defence of Fisheries and Coast to take Care of; if the King's Officers are to act as Surrogates to a Judge, they will not be more Lawyers than they were before.—And being asked, Whether the Debts of the British Fishery ought or ought not to be recovered at Home? he said, Perhaps it would be better, if all Debts and other Accounts between Merchants and Traders were to be recovered at Home; but this should be without taking away, or curtailing the Authority of the Courts held by the Governor and his Surrogates, to do immediate Justice between the Master and the Men, and to have them sent Home; also to do immediate Justice between the Merchant Supplier for that Season, and the miserable resident Boatkeepers, who are One and all known to be insolvent.—And being asked, What is his Opinion of the Act of the 10th and 11th of William the Third, he said, He thinks many of the Provisions in that Act are obsolete, and that the Powers of the Fishing Admirals are extinct, and therefore the Governors and their Surrogates ought to do, and have for a long Time past done, what the Fishing Admirals, by that Act, had Authority to do, as far as the present State of Things, and the Way the Fishery is now carried on, will admit.—And being asked, Whether it is not his Opinion, that all Ships properly qualified as Fishing Ships, which are engaged in the Fishery, and only carry out Things for the Fishery, ought to be exempt from all Fees, except the 2s. 6d.? he said, Yes; that is, all who are regularly so qualified, and actually employed as Fishing Ships, and all Craft employed by them going Coastwise with Fish, and Goods, Salt, and Necessaries for the Fishery only.—And being asked, Whether it is his Opinion, that Vessels of the above Description ought to be subject to Custom House Hours? he said, Certainly not, but he thinks, a Custom House requisite for the general Purposes of the Trade.—And being asked, What is his Construction of the Clause in the Act of the 15th of George the Third, respecting the Fees on Fishing Ships? he said, He has already given it very full.—And being asked, Whether he thinks the Exception, in the 7th and 8th Sections, respecting Fishing Ships, should be extended to Ships that take out Fishing Certificates but bring Cocketable Goods, or Goods on Freight? he said, Ships so described, which Ships or Men are not actually employed in the Fishery, are not meant to be excepted; but if they are so employed, they should be excepted, no Evasions to be admitted, Ships of this kind are likely to evade the Law, he means, they are to be deemed Fishing Ships, though the Ships are laid up, if the Men are employed in Boats or the Fishery during the Fishing Season.

RICHARD ROUTH, Esquire, Collector of the Island of Newfoundland, being called in, said, During the Time of his late Confinement by Illness, he had made some Observations on the State of the Trade and Fishery of Newfoundland, which he begged to deliver in to your Committee, and the same are as follow:

Desirous of giving the Honourable Committee the best Information in my Power, I humbly beg leave to make the following Observations on the Evidence of the respective Gentlemen on the Subject of the Trade and Fishery of Newfoundland.

The Evidence Mr. William Newman has stated, that the Trade is on the Decline, and in Proof asserts that the Number of Ships are reduced, viz.

|              |     |    |
|--------------|-----|----|
| At Dartmouth | - - | 31 |
| At Plymouth  | - - | 14 |
| At Weymouth  | - - | 3  |
| At Mavigiffy | - - | 3  |
| At Exeter    | - - | 13 |

which I presume to account for as follows:

Messrs. Philip, Leigh, and Co. by trading above their Capital, Ten Times its Amount, had, or employed upwards of Twenty Sail of Ships and Vessels, and failed in consequence thereof; but I trust no One will attribute this Failure to the Decline of the Newfoundland Trade, for the Fact is known to be from imprudent Speculations, and this House is said to have failed for more than £70,000. Messrs. Thomas Trimlett and Co. of Dartmouth failed also for upwards of £50,000, in the Course of Five Years, whilst other Houses, in the same Situation, and with less Capital, realized such Profits and Advantages as satisfied them, and they are opulent and respectable at this Day; this last Bankruptcy is spoken of as one of the most wonderful Events that has occurred in Trade; and as a Proof that it did not arise from any Decline in the Trade, the Brothers of one of the Partners of Thomas Trimlett and Co. are now carrying on a Trade and Fishery in the same Situation, to a manifest Advantage.

These two Failures (with the Death, and Reduction in course, of Mr. French's Trade) at Dartmouth, will, I conceive, make up the Deficiency of Thirty-one Vessels at that Port, as described by  
Mr.

Mr. Newman; but for the Sake of the Argument, I will for a Moment suppose they do not; I then beg Permission to state, that the Houses of Messrs. Andrew Thompson and Co. Crawford and Co. Stevensons and Co. and Stuarts and Rennie, are in the Habit of transacting, from Greenock, Port Glasgow, and other Situations, to Newfoundland, Business nearly equal to Half of the Amount of that from the Port of Dartmouth, to that District of St. John's. It cannot therefore be said, that the Trade, on the whole, declines; for it has increased more from Scotland, than it has declined from Dartmouth, and the other Western Ports, even admitting all that Mr. Newman asserts.

At Plymouth, the Death of Mr. Squires, whose Trade was of Course withdrawn from Newfoundland, will in a great Measure account for the Deficiency of Fourteen Ships, stated by Mr. Newman, in that Port.

At Weymouth there has been no Trade whatever to Newfoundland for Twelve or Fourteen Years, and the Deficiency of Three Vessels in that Port, arose from the Parties retiring from Trade, and no Decline in the Fishery.

At Mavigiffy I remember no Trade whatever during my being Collector of Newfoundland, which is near Twelve Years, and if there was any, I will answer for it, its Failure was not owing to a Decline in the Fishery.

At Exeter, the Deficiency of Thirteen Vessels may be attributed to the Bankruptcies of Mr. Brooks, Mr. Clapp, and Messrs. Dixon and Williams. Mr. Brooks had a small Trade, and a large Family, was unfortunate in many Occurrences; besides, his Boats caught less Fish than formerly, owing to a Scarcity of Fish in that Situation. Mr. Clapp suffered in his Connections in Money Matters in England, and Dixon and Williams, from a Variety of Speculations and unfortunate Connections in other Business, and not from the Decline in the Newfoundland Trade. These Bankruptcies are equal to the Amount stated by Mr. Newman to be £178,000.

But I know too much of the Trade in general, and the Circumstances of Individuals, to admit that the before mentioned Failures are owing to any apparent or certain Decline.

I admit that the Trade has always fluctuated, and it always will; but on an Average of Five Years, will be found nearly the same for the Adventurer.

Speaking



Speaking of Mr. William Newman's particular Trade, he has for many Years had but little Concerns in the Fishery, he has been concerned with Foreign and other Houses abroad, in the Purchase of Cargoes of Fish for the Sake of a Commission, and must be considered a Factor, more than a real Newfoundland Merchant, in its full Extent: Mr. Newman was formerly a Partner of Mr. Roope, and since their Separation, the latter has carried on a large Trade, and lately increased it, which is a Proof that he has not felt the declining State of the Fishery.

Mr. Newman has thought proper to inform the Honourable Committee, "That from the Year 1771 to 1774, both inclusive, the Annual Average of those Four Years was 565 Ships, including all Sorts of Ships; of Men 5,494; Passengers, from England and Ireland, 6,734."

"That he took into his Calculation the Average of the following Years of Peace, after the War, beginning at 1784 to 1791, viz. the Annual Average of Ships is 480, of Men 4,475, of Passengers 4,662. And added, that these Averages, though just, do not, or cannot give a true Idea of the Decrease of Ships or Men, for the following Reason, that the Fishery since the last War had its regular Rise, and has since declined, though still in a State of Peace; therefore the true Account of the Decrease of Ships, Men, and Passengers, must be from the comparative View of 1771 to 1791, which proves the Difference of Ships to be 140; of Men 2,212; of Passengers from England, Ireland, and Jersey, 4,001; that he conceives to be the Decrease of the Trade from Great Britain and Ireland since 1771."

The Explanation on this Point will, I trust, be received as perfectly satisfactory, and shew the Impossibility of Mr. Newman's being correct; during the Four Years of 1771 to 1774, the Trade and Fishery of Newfoundland were supplied as usual with an immense Quantity of Bread, Flour, Rum, and Melasses, and a Variety of other Articles, from the Continent of America, Colonies at that Time dependent on Great Britain, and although I am obliged to depend upon my Memory for the Number of small Sloops and Schooners which the Americans and others employed in this Kind of Traffick, yet I trust they are not over calculated, when I estimate them on an Average at 150 Sail Annually: since the Independence of America, they have of course become Aliens, and cannot trade with Newfoundland but in a clandestine Manner; and

we are now furnished with the Articles of Rum and Melasses, &c. from the West Indies, in Return for Fish sent thither direct from Newfoundland. The Decline in the Trade of 140 Sail of Vessels, with the other Calculations, between the Year 1771 and the Year 1791, is therefore inadmissible, as many other Parts of this Gentleman's Evidence, I trust can be proved and will appear; add to this, that the Ships now employed in the Trade, are I conceive of much greater Burthen than heretofore.

With respect to the great Catch of Fish in 1788, it was increased by the Inhabitants of Bermuda, mistaking the Right of the Fishery, they fitted, at a great Expence, upwards of Twenty Sail of Vessels, and as they were British Subjects, and it was plain, that the Business was founded in Error, the Governor for the Time being was more than usually indulgent to them, which afterwards met with the Approbation of His Majesty's Ministers; but although the Catch on the whole was great during that Year, yet it was not beneficial to the Adventurers; for more Fish being caught than the Markets in Europe could consume, it was ultimately sold at Half its Value, and the Weather being unfavourable to the curing of Fish, its Quality and Value were lessened on that Account. There were near 300,000 Quintals caught this Year above the usual Quantity, and as there was not Shipping sufficient to carry the Quantity caught, to Market that Year, there was of course an extra Number of Ships engaged the following Year, which will account for the additional Number of Vessels employed in the Year 1789.

Mr. Newman has no Doubt lessened his Trade, and as a Proof of it, a Part of his Premises, formerly occupied in the Fishery at St. John's, is now rented by a Gentleman, who keeps an Ironmonger's Shop, contrary to the Laws for the Protection and Regulation of the Fishery; however, others have increased more than Mr. Newman has reduced in the Trade.

The Evidence, Mr. Jeffery, has stated to the Honourable Committee, "That the Custom House of Newfoundland is of no Use; that the Fees are high, and such as were not intended by the Legislature for the Trade to pay." For an Opinion of the Utility of a Custom House and Officers, I humbly presume to hope that this Honourable Committee will please to have Reference to the Right honourable the Lords of the Treasury, who of course will call upon the Honourable Commissioners of the Customs. Those  
Gentlemen

Gentlemen I conceive can give useful Information on that Head; and with respect to the Legality and Propriety of the Custom House Fees, I beg to submit to your Consideration the annexed Narrative on that Head, marked (A.) which I trust will sufficiently prove and explain the many Persecutions the Officers have experienced in Defence of their legal Dues.

The Evidence has asserted, "That a Naval Officer and Comptroller did the Duty of the Revenue at Newfoundland till of late Years." To accuse any Gentleman of Indelicacy or Personality, is not my Intention, but I am utterly at a Loss to understand this Allegation, for I cannot suppose that any Gentleman could carry on an extensive Trade, particularly Mr. Jeffery, without knowing, that there cannot be a Comptroller without a Collector, and that the latter is the superior Officer. I beg leave to assure the Honourable Committee, that this Representation is incorrect, and not founded in Fact, for no such Instance ever existed, of course Mr. Jeffery must have been misinformed.

The State of the Revenue at Newfoundland, which is said by the Evidence not to pay the Expence of collecting it, will appear by the Paper marked (B.) to be also unfounded; and that the Revenue, though small, has increased, and affords in Proportion to the Sum collected a considerable Surplus. It will also appear that there are Seizures made, and if the Officers are supported, I trust they will ultimately support the fair Trader, and cramp the Smuggling of that Island, which I have Reason to think, notwithstanding the Assertion of the Evidence, is very great, and would be greater but for the Establishment of a Custom House and Officers at Newfoundland.

The Evidence also states, "That several Bankruptcies have taken place at Poole;" there have been Three or Four only; and I can assure the Honourable Committee, that none of them have proceeded from any Decline of the Trade of Newfoundland, but from a Variety of other Causes, which if necessary I can explain. The Evidence again states, "that the Fees of Newfoundland have increased, and that a new Charge has lately crept in, even for coming to an Anchor." This Fee is as old as the rest, has ever been received at Halifax in Nova Scotia, from which Establishment we are authorized by Law to demand Fees, exclusive of Bankers, called Fishing Vessels, actually employed in catching Fish; as will also appear by my Narrative marked (A.)

Mr. Jeffery having explained the Nature of the Newfoundland Trade, and the Importance of it, when considered in a National Point of View, has thought proper to represent that the 14th, 16th, and 17th Clauses of the Act of the 15th of the King, has been found to be of the most pernicious Tendency; "so much so, that in Practice " they have been generally disregarded, and never enforced except " from Necessity."

This appears to be a direct Charge against the Conduct of the executive Officers appointed to carry this Law into Execution; and is an unjust Representation, for it must be admitted that Acts of Parliament are meant, and can only operate where and when Offences are committed; and I beg leave to assure the Honourable Committee, that there is but one Instance during the Twenty Years that Mr. Jeffery has carried on the Newfoundland Trade in the District of Trinity, that any Complaint was made, where the Clauses in Question were found necessary to be carried into Execution, and that was against a Planter by the name of Waterman, said to be a very litigious troublesome man; Mr. Jeffery therefore could not have experienced them to be of the Nature complained of, and has probably taken the Opinion of others upon this Occasion for the Fact. I mean not to enter into the Utility or Inutility of the Clauses, I wish only to say, that I have always understood, they were founded upon the invariable Decrees of the late Right honourable Lord Rodney, when he was Governor of Newfoundland.

With respect to Mr. Jeffery, I conceive he is the last Man who ought to say that the Trade declines, for the Reasons therein mentioned; for in the Year 1772, the late Joseph White, Esquire, died, and left his Trade at Trinity in Newfoundland to Six Gentlemen, with the Use of £.33,000, at Three *per Cent. per Annum*; Messrs. Jeffery and Street were Two of the Six, they bought the others out, and at the Expiration of the Fourteen Years, very honourably paid the Principal and Interest to Mr. White's Executor, having, it is well known, a Surplus of as much more; and during the greatest Part of this Period, all the Hardships of the Custom House and Officer's Fees, &c. with the Act of the 15th of the King, so heavily complained of as the greatest Cause of all the Troubles and Losses of Newfoundland, existed in their fullest Extent.

The Truth is, the Trade of Newfoundland has not declined; it has only fluctuated, as it ever has done; with this unpleasant Circumstance (which happened once before about Thirty Years ago, but

But returned again in its usual Course); that from Ferryland to the North Part of Newfoundland there has, for Two or Three Years past, been so much Ice that it is said to have chilled the Water, and occasioned the Fish to take another Direction; but if Mr. Jeffery and other Gentlemen will send their Boats to St. Mary's Bay and Placentia, and the other Situations contiguous (which many have done) they may catch as much Fish as they please; and this was amply proved by the Success of several of the Adventurers at St. John's, who took that Method last Summer: but every Advantage is taken to carry a favourite Point, which, I am bold to assert, if ever effected will prejudice the true Interest of Newfoundland more than any other Measure that could be adopted. Mr. Jeffery and some other Gentlemen in those particular Situations, for the Reason afore-mentioned, may not have made so much Money in the Cod Fishery as usual, but I submit to the Honourable Committee, whether it is ingenuous to attribute to an Act of the British Legislature, and the Establishment of a Custom House, the Effect of natural Causes. Having admitted that the Fishery has failed in some Degree in those Situations where Mr. Jeffery's Trade is carried on, I beg to engage the Attention of the Honourable Committee to Advantages which this Gentleman, and several others in the District of Trinity particularly, derive from the Winter or Seal Fishery, Salmon Fishery, and Fur Trade; and the Advantages also arising from Ship Building, in which every Man that goes to Newfoundland, from Habit, can be made useful when the Fishery slackens or fails, by turning his Labour and Attention to the latter, and is a Part of the great Profits which Mr. Jeffery has on the whole experienced from the Trade of Newfoundland (by which he is become so opulent); and although he talks of retiring from it, he must know it is one of the best Trades carried on from Great Britain, and be doubtful if he will ever find another so good.

Mr. Jeffery has thought proper to state, that he pays £.50 or £.60 Annually to the Custom House for Fees. I believe his Trade last Year was as great as usual, having Nine Vessels, Two of which making double Voyages increases the Number in Point of Fees equal to Eleven, and his Account of Fees was only £.37. 6s. 9d. also for Duties on certain Goods £.24. 7s. 2d. which it seems Mr. Jeffery wishes to call Fees also. He has also stated, that the Fees are from £.4 to £.7 for a Ship. In the Year 1785, the Gentlemen brought a similar Complaint before the Right honourable the Lords Committee of Council for Trade, when among other Charges Mr. Jeffery said, the Officers of the Revenue at Newfoundland had received upwards of £.9 for the Entry and

Clearance of One Vessel; and being called upon to prove the Fact, he shrunk from the Charge, and finally acknowledged he had only heard of it in common Conversation, without being able to tell where, or from whom; and as my Character is of the utmost Importance to me, I hope it will not be thought an unreasonable Request, if I presume to hope this Honourable Committee will call upon Mr. Jeffery to prove, if he ever paid £.7 for the Entry and Clearance of any One Vessel for One Voyage only; if he did, that he may describe the Name of the Vessel, the Master's Name, from whence he arrived, and when it happened, and to whom he paid the Money; for as I am injured in the Assertion, I wish to establish the Fact, that I may obtain Redress from the Person who has committed it.

The Evidence Mr. Newman, having resumed his Examination, states the Grievance of the Custom House Officers and Fees to be very great.—My Narrative will explain that Business, I trust, in the fullest Extent; but as Mr. Newman complains that the Duties of the Collector, Comptroller, and Surveyor are performed by the same Person in the Out Bays, I will endeavour to explain the Cause. On my Appointment to the Office of Collector, it was represented to me, that the Difficulty of finding proper Persons for the Trust was very great, and that if the Person was not acquainted with the Nature and Consequence of his Appointment, he might commit Errors that would be attended with Inconvenience to the Adventurers in the Fishery; willing to avoid this Inconvenience, I complied with the Request of the Trade, appointing such Gentlemen, in Conjunction with the Comptroller, as were thought most worthy of the Trust. Upon this Occasion, I had the Satisfaction of attending to a Recommendation of Messrs. Newman and Ougier; and it is a Matter of Surprise, that these very Gentlemen are now so indelicate as to make my Readiness to serve them and the Trade in general a Subject of Complaint, the Particulars of which, I hope, will have its due Weight with the Honourable Committee.

Mr. Newman is pleased to tell the Honourable Committee, that a Naval Officer had and could do the Duty now performed by the Custom House Officers. In Reply to these Allegations, I beg leave to say, that Naval Officers have not the Power of Revenue Officers, the Duties of the Two Offices being very dissimilar, and indeed incompatible, as the Union would destroy the Check they are on each other.

Mr. Newman too has thought proper to arraign the Conduct of myself and the Comptroller in a very harsh Manner, calling our Veracity in Question respecting a Letter written to the Honourable Commissioners of the Customs, being the Answer and Explanation, on our Parts, to a Charge of the Trade of Dartmouth (which Mr. Newman acknowledges to have been Annual and frequent) respecting our having taken exorbitant Fees, although upon several Hearings on the Subject, the same had been confirmed to us as legal by the Right honourable the Lords of the Treasury, the Right honourable the Lords Committee of Trade, and the Honourable Commissioners of the Customs. The Collector and Comptroller in that Defence had Occasion to represent an Insult offered to them by the Assignee of a Bankrupt's Estate, which is particularly mentioned by the Dartmouth Witnesses. I have no Reason whatever to depart from what was asserted upon that Occasion; and as a Proof that Mr. Leigh, the Gentleman in Question, had committed himself, I beg leave to tell the Honourable Committee, that by Accident I met him at the House of Mr. Lester (One of the Members for the Borough of Poole) in the Year 1791, and he there made an Apology to me, which removed every disagreeable Impression on my Part; since when Civilities have passed between us.

The Evidence also has stated, that the Fees taken by the Custom-house Officers are as follow :

“ A Vessel from England with Sundries for the Fishery, and taking in a Cargo of Fish, or Fish and Oil, in Newfoundland, pays 5*l.* 18*s.* 6*d.* Fees.”

“ A Vessel employed in the Bank Fishery, and not carrying a Cargo of Goods to Newfoundland, but taking in there a Cargo of Fish, or Fish and Oil, pays 12*s.* If the same Vessel loads any other Goods in Newfoundland as Part of her Cargo, it pays 2*l.* 12*s.*”

“ A Vessel from Spain, or Portugal, or Italy, with Salt for the Fishery, and taking in a Cargo of Fish, pays 4*l.* 11*s.* 6*d.*”

“ A Vessel from England or Ireland, which unloads at different Ports at Newfoundland, and after that takes in a Cargo, pays 7*l.* 11*s.* 9*d.*”

“ Coasting Vessels in Newfoundland pay 12*s.*”

To prove that these Particulars are incorrect, I submit the following Statement of the Fees that the Officers can legally demand, and the Collector and Comptroller know not of any more being taken.

A Ship or Vessel arriving with a Cargo, her Entry Inwards will be :

|                                   |   |   |   |   |           |
|-----------------------------------|---|---|---|---|-----------|
| To the Collector                  | - | - | - | - | £. 0 16 6 |
| ----- Comptroller                 | - | - | - | - | 0 7 9     |
| ----- Surveyor                    | - | - | - | - | 0 7 9     |
|                                   |   |   |   |   | 1 12 0    |
| If the Register be recorded, more | - | - | - | - | 0 3 6     |
|                                   |   |   |   |   | 1 15 6    |

|                            |   |   |        |
|----------------------------|---|---|--------|
| Outwards. To the Collector | - | - | 0 18 6 |
| ----- Comptroller          | - | - | 0 12 3 |
| ----- Surveyor             | - | - | 0 12 3 |
|                            |   |   | 2 3 0  |

|                                |   |   |        |
|--------------------------------|---|---|--------|
| If a Bill of Health, Collector | - | - | 0 5 0  |
| Comptroller                    | - | - | 0 2 6  |
| Surveyor                       | - | - | 0 2 6  |
|                                |   |   | 0 10 0 |

|  |       |
|--|-------|
| If a Certificate to Cancel Bond, Collector | 0 2 0 |
| Comptroller                                | 0 1 0 |
| Surveyor                                   | 0 1 0 |
| 0 4 0                                      |       |
| 4 12 6                                     |       |

These are the exact Fees that can be taken by the Officers for a Trading Ship with Cocketable Goods.

A Vessel arriving with Cocketable Goods from England, and afterwards going on the Banks, and actually employed in the Fishery :

|             |   |   |   |        |
|-------------|---|---|---|--------|
| Collector   | - | - | - | 0 16 6 |
| Comptroller | - | - | - | 0 7 9  |
| Surveyor    | - | - | - | 0 7 9  |
|             |   |   |   | 1 12 0 |

|   |       |
|---|-------|
| Outwards. A Banker or Fishing Ship          | 0 2 6 |
| If 2 Manifests in Terms of the Manifest Act | 0 5 0 |
| 0 7 6                                       |       |
| 1 19 6                                      |       |

With



With respect to Coasting Fees at St. John's, we sometimes take 6s. but more frequently give them up altogether. The principal Officers have certainly acted conscientiously in every Part of their Duty, and know not of any Improprieties, particularly on the Subject of Fees; and if they had been made acquainted with any on the Part of others, they would most cheerfully have redressed them: and that such Complaints may not again take place, and the Collector and Comptroller be able to establish to whom these Improprieties belong, I beg most respectfully to repeat my Hope, that the Dartmouth Delegates may also be called upon to prove the Payment to the Custom House Officers of the Sums mentioned for the Entry and Clearance of any One Ship for One Voyage; viz. 5*l.* 18*s.* 6*d.* in the First Case, 2*l.* 12*s.* in the Second, and 7*l.* 11*s.* 9*d.* in the last Case, described by them, which I conceive will better determine the Point than any other Method that can be adopted.

Mr. Newman has observed, that the Trade have no Objection to a Custom House, provided they do not pay Fees to the Officers. I am at a Loss to account for this Objection, and why it should not operate at the Custom Houses in this Kingdom, or indeed any other of His Majesty's Plantations, as much as at Newfoundland; for it is well known that Officers in every Situation must look up to their Fees for the Support of themselves and Families, particularly in a Country like Newfoundland, where the Necessaries of Life are uncommonly scarce and dear, and where, in Time of War, the Price of One hundred Weight of Biscuit out of a Merchant's Store is frequently 30*s.* and fresh Beef and Mutton are purchased at 1*s.* 6*d.* per Pound more frequently than at any other Price. Cloathing also is exorbitantly high, as well as every Necessary of Life. On the Whole, I feel no Reluctance whatever in assuring the Honourable Committee, that I know of no Trade, from its Advantages, more competent to pay Fees than that of Newfoundland, notwithstanding the Idea that the Gentlemen wish to enforce of its general Decline.

This Evidence thinks the giving Bond to bring Home the Men would answer a good Purpose; but I conceive it would be very doubtful, unless there were some Document, and Muster Master, to determine if the Men were on Board, and actually landed in England or Ireland; and after all, such is the Rage for staying in Newfoundland, it would be found a difficult Undertaking to prevent it.

Mr. Newman states also, that the Bounty prevents the Bank Fishery from getting into the Hands of the Residents. I much doubt if any Resident Inhabitant, or indeed any Merchant, has a Right to fit out a Banker from Newfoundland, in Terms of the Act, unless by Implication; and yet Mr. Newman, and many others have done it; but I may venture to say that I do not know Three real Resident Inhabitants able to fit out a Banker, nor do I know of its being done.

I do not presume to offer much of an Opinion relative to the Bounties on Bankers; all I know is, that I have frequently been told from respectable Authority, that to get rid of the Custom House and Officers, &c. they would give up those Bounties, and rather than pay Fees, they would even be willing to give them up, although the Proportion of Fees to the Bounties actually paid cannot, I think, be more than One Third, at all Events not Half.

The Resident Inhabitants at Newfoundland, particularly those in Conception Bay, where Mr. Newman is concerned in Trade, are a more wretched Set of People than I can describe, and in Winter frequently want the common Necessaries of Life. Of Men, Women, and Children in that Bay, who have no other Homes to go to, they are computed to be near 15,000, and I had lately an Opportunity of enquiring of a Gentleman who carries on a small Fishery there, what Sort of Justice was administered to them; he said they were much to be pitied, and very much oppressed; that the Justices lived by their Oppression towards the Inhabitants, but that the Custom House Officer was certainly the most respectable, and did the most good.

Mr. Newman has set forth the general Decline of the Bye Boat Fishery. I have an Appointment from the Governor of Newfoundland to receive the Duty due to the Royal Hospital of Greenwich from the Bye Boatkeepers, and as far as my Recollection serves me, I think that the Revenue has increased on the Bye Boats kept by People from the Ports of Exeter and Dartmouth, &c. since I had the collecting of it, which is Seven or Eight Years, from which I infer the Numbers are not decreased. In short, the saying that the Decline is owing to the Restrictions of a Custom House, or the Establishment of Courts of Justice, is inadmissible; for upon the Face of the Account, on an Average of Five Years, the

the Number of Ships is nearly the same, as will appear by the Paper marked C. If there is any Difference, it is owing to the Reduction of the fishing Vessels called Bankers, and that arises at this Time from this Circumstance, that in the Year 1788, in the District of St. John's (depending on my Memory) there were employed in the Bank Fishery 140 Sail of Vessels, and the Quantity of Fish caught being infinitely beyond the Consume of the Spanish and Portugal Markets (where this Quality of Fish only is saleable) the Adventurers have been cautious in fitting out Bankers, so much so, that last Season there were not, in the District of St. John's, more than Seventy Banking Vessels.

Mr. Newman advances, that Justice was always administered at a small Expence in former Days. As a Proof how incorrect this Statement is, I will relate a Circumstance that occurs to me: When the late Judge of the Admiralty, Mr. Gill, was the Chief Magistrate, agreeably to Mr. Newman's Account—Messrs. Jeffery and Street had a Skiff run away with by some of the Fishermen, their Servants. The Cause was tried at St. John's, and the Judge and Chief Magistrate (for no One in general knew the Capacity he was about to act in) charged them more than the Value of the Boat and Sails; it was more than £. 23. that they paid upon this Occasion; in short, the Enormities were such, that in the Year 1782, I declined being a Justice, because I could not act with such Men as Mr. Newman has described, and who were afterwards disgraced in a public Manner by the Loss of their Appointments, since when I have been a Justice; but some of the Gentlemen, who were Custom House Officers, have acted as Justices from 15 to 20 Years, the Comptroller, Mr. Coke, in particular.

As to Custom House Officers deriving undue Influence from their Situations, it is impossible; there never was an Instance of their sitting in any Cause where they were concerned themselves; and even admitting it possible, I trust they have, to a Man, a proper Sense of the Indelicacy of such a Measure; but there is One Complaint that may be very justly brought against them, viz. that they see the Laws put into Execution, and do their Duty to the utmost of their Power and Abilities, and this I really believe is the only Circumstance that has made them so obnoxious to some of the Gentlemen of Dartmouth and Bristol, who last Year procured the Clause of an Act of Parliament rendering them ineligible to act as Justices of the Peace, without bringing forward any Charge whatever against them; and although I can assure the Honourable  
Committee,

Committee, that I am not solicitous to be a Justice, yet, independent of my present Situation, I think it my Duty to inform them, that I am of Opinion Officers of the Customs should not be excluded from being Justices of the Peace any more in that Country than in this; and indeed, it is more necessary, even for the Security of Government in Newfoundland, as well as for the due Administration of public Justice, particularly in the District of St. John's, whose Inhabitants are computed to be near 5,000 at the End of the Fishing, and who reside there Winter and Summer, and require as much or more Attention to Justice than in any other Situation of His Majesty's Dominions; and with Respect to the Out Bays, I will venture to say, that there are no Persons so proper to be Justices of the Peace; and will dare to assert, that I believe every Governor, who has been to Newfoundland, will be of the same Opinion; for my own Part, a few Years ago I had the Satisfaction to assist in preventing a Riot and Plunder of the most alarming Nature, by a Set of Men who had been defrauded by a Person of St. John's of their Wages; and it is well known, that when the Irish Convicts were landed at Newfoundland, the Town of St. John's would have been burnt and plundered by those Men, but for the Vigilance of the Officers of the Customs.

Mr. Newman states, "that he never knew a Merchant to be a Justice at St. John's;" I remember One Instance only, which was not found to answer the Intention of Justice. Newfoundland is much altered since Mr. Newman's Time, and what might have been a good Plan then, operates very different now; and in the Observations of Twelve Years, I have had repeated Instances of it, particularly with Respect to Justice; it is not such Persons as a Mr. Stripling, who will answer the good Intentions of Government in that Particular; this Man, though a Justice of Peace, kept a Public House, and was a Boatkeeper, but a Person of little or no Education or Information whatever. I submit therefore to the Honourable Committee, if Mr. Newman's Notions of Justice can be very accurate or delicate. For a Moment, I beg Leave to call the Attention of the Honourable Committee to the general Points in Question. The Trade of Newfoundland declines, because there is a Custom House, and the Officers by Law receive legal Fees, the Amount of which, for the whole Island, the Evidence says, is £. 2,000 per Annum. This is a large Calculation, and as well as my Memory serves me, at least a Fifth Part above the Sum; but can it a Minute be conceived that so small a Sum as £. 1,500 or £. 1,600 upon a Trade of £. 500,000 Annually, can be felt by the Adventurers,

turers, who are really numerous; or that a Body of Merchants, for Fifteen or Twenty Years successively, would aim all their Efforts to abolish the Custom House, or the Fees of the Officers, from the Idea that the Trade is not equal to the Burthen of such Expence, when it is known for a Fact to be One of the best Trades carried on from His Majesty's Dominions, and that the principal Adventurers are to a Man opulent in it. To what Cause then can such constant Opposition be attributed? I trust no One will doubt but that there is a hidden Motive, which at present does not appear to the Honourable Committee. I myself have no Doubts upon the Subject, but I fervently hope such Endeavours can never succeed.

Having asserted this Trade to be a good one, I take the Liberty of naming the principal Merchants of Poole, who are opulent, in it. Mr. Lester's immense Fortune is known to the Public in general; next to him Messrs. Saunders and Sweetman are also known to be very respectable and opulent in the Trade. Messrs. Spurrier and Son are known to have succeeded in an eminent Degree also; and Messrs. Jeffery and Street, after a Partnership of 18 or 20 Years, are known also to have divided near or quite £. 40,000, after having paid Mr. White's Executor. Joseph and Moses Neave, upon a small Trade, I can speak from Authority, during the last Two or Three Years, have made at the Rate of £. 2,000 *per Annum*. Messrs. Clarke, Waldron, and Young, and Joseph Garland and Co. have also succeeded. In short there are no Instances of any Losses in the Fishery at Poole. But the Explanation will exculpate the Trade of Newfoundland as the Cause of them, speaking in a general Point of View; it would therefore be a poor Compliment to the Gentlemen of Dartmouth, and other Places, to suppose they were not as competent in every Respect to carry on the Trade to Advantage as any other Adventurers engaged in it, and yet they would fain have the Honourable Committee think so; and this has been the constant Tale since the Year 1772; and yet a few Individuals excepted, who, from bad Agents, or bad Management in themselves, with other concurring Circumstances (in which the Trade itself is out of the Question) have failed, they are in as high Repute, as to Responsibility, as they ever were, and will, I sincerely hope, flourish and become still more opulent, notwithstanding the Custom House, and all the Offences the Officers commit in doing their Duty. It is well known, that all the great Fortunes at Poole, Dartmouth, and other Towns, have been made in the Fishery. The late Joseph White, Esq; died at Poole worth £. 130,000, in the Year 1772; John Green, Esq; £. 40,000, D<sup>o</sup> 1791; Young Green, Esq; £. 20,000, D<sup>o</sup> 1783; Mr. John Slade, £. 70,000, D<sup>o</sup> 1792. A Variety of other Proofs

may be brought, if necessary, to shew that the Trade is still a very good one.

I will now endeavour to describe some of the natural Points on which the Welfare of this Trade depends. The Purchase of Goods in Great Britain with ready Money; constant Attention and Labour, Night and Day, during the Fishing Season; faithful Agents to see the Duty done; the early or late Catch of Fish; if an early one, and good Weather, the Fish gets early to Market, and Remittances arrive soon to enable Individuals to perform their Payments; if a late Catch, the Fish gets late to Market, and if the Adventurer trades beyond his Capital (which is more or less the Case in all Trades) he is of Course pushed for Ways and Means, and as in every other Trade, falls a Victim in Time to the Inconvenience of his Situation. Many to my Knowledge have suffered from this Circumstance, whilst others in the Trade were flourishing, and from its Profits became opulent.

The Gentlemen of the Port of Dartmouth, in some Situations in Newfoundland, may have suffered from the Fish leaving the Coast where their Settlements are; but if they had followed to those Situations, where the Fish were plenty, they would have succeeded as many others have done. On the Whole, I may venture to say, that the Newfoundland Trade exhibits a Proof at present of more Money made, and where Individuals become as rich, or more so, than most other Trades. The Consumption of Newfoundland Fish, at the different Markets, is from 650,000 to 700,000 Quintals, and when the Catch does not exceed that Quantity, I am bold to affirm, that the Adventurers will succeed and get rich. The French Fishery amounts to nearly 200,000 Quintals, which is generally consumed at their own Markets in Europe. There is but one Instance, that I know of their having the Appearance of Rivalship, and that was in the Year 1788, when the Catch was so great, and upon which Occasion they carried about 15,000 Quintals to the Alicante Market.

The American Fishery I also know full well, and I am sure their Expences are so great, that they cannot be considered as Rivals with the Newfoundland Fishery. Look back when the United States of America were a Part of the British Empire; they could not accomplish it then, and I am sure they cannot do it now. I lived Twelve Years in America, where the Fishery was carried on, and can speak from personal Information; but every Thing is brought forth to punish, if possible, the Custom House Officers of  
Newfoundland,

Newfoundland, and to get rid of them; but if ever this takes place, the Smuggling from America will be infinite, for Newfoundland, will be supplied with Beef, Pork, and Rum to a great Amount, which now comes from Ireland and the West Indies, and is a great Branch of the Irish and West India Commerce. In short, Newfoundland will become the St. Eustatia of the Atlantic Ocean; and if I was never to be benefited by the Office I hold there, I should still think the same, and conceive it my Duty to give the Evidence I now do; and I am the more happy to do it in this public Manner, because the Dartmouth Evidence have thought proper to charge me with giving Government unfair and unjust Information, a Charge I utterly deny; and I take this Opportunity of declaring in the most serious and solemn Manner, that I never did, either directly or indirectly, take any Step, or give any Information to its Prejudice; on the contrary, there is no Man who wishes it more Success, or whose general Conduct has been more calculated to shew it; and whilst I feel a Rectitude that has governed my own Conduct, I cannot be so anxious for the Event of Representations, calculated to carry a Point, and which has been agitated at Times for upwards of Eighteen Years without Success.

Mr. Newman has accused the Officers of the Customs of making litigious Seizures, not knowing, perhaps, that Officers of the Revenue in our Situation are only executive Officers, and that it is their Duty to see the Law carried into Force; and if the doing this Part of our Duty brings on us Invectives of that Nature, I shall not feel the Disgrace Mr. Newman, perhaps, wishes to inflict.

In Addition to the Seizures already mentioned, which the Paper (B.) will explain, there is now pending an Appeal for near £. 2,000 (which the King's Proctor assures me must be given in our Favour) which renders every Comment on my Part unnecessary as to the illicit Practices in Newfoundland.

In giving the Honourable Committee a few of the Circumstances that are most important, I shall relate one that came to my Knowledge since I left Newfoundland in November last: A Merchant trading to Newfoundland, and carrying on an extensive Fishery, had a Vessel in an Out Bay last Summer, that landed a Cargo from Europe, and took in another for a Market, without entering or clearing at the Custom House, and on being asked, Why he did so? replied, It's of no Consequence what

we do now, for we disqualified the Custom House Officers last Year from being Justices, and this Year we will turn them out of the Island altogether.

Such is the Situation we are at present reduced to, and such the State of the Island, that all Kind of illicit Practices will have Encouragement, unless we are happy enough to experience the Protection our Case requires.

The Evidence, Mr. Ougier, has thought proper to inform the Honourable Committee, that the Trade was in a flourishing State till the passing the Act of the 15th of the King. I will venture to say, that whatever Utility and Importance the Act of the 10th and 11th of King William the Third may have been in the Infancy of the Fishery, when there were only in each Harbour in Newfoundland a very few Adventurers or Families, perhaps Two or Three at the End of the Fishery residing there, it cannot be deemed sufficient, or in any Way competent to the Regulation of the Trade and Fishery at this Time, or for the internal Regulation of an Island, when there are now hundreds of Inhabitants in every Situation, and some thousands in many; I submit therefore, if an illiterate Man, without Knowledge or Information, for such the Fishing Admirals must and ever have been, is competent to hold Courts and decide between meum and tuum. Many of that Class can scarce read or write, and some I have seen that could only make their Marks. Another Remark I have to make; that admit they were equal to all these Points, they are at Sea, on the Banks of Newfoundland, Seven-eighths of their Time, and cannot attend to the Duties of such their Situation; add to it, they depend too much upon their Employer to be able to decide to disinterestedly as would be necessary; and for these Reasons, I conceive, the Act has been rendered useless and obsolete for many Years.

Another Circumstance; I have known Fishing Admirals take Possession of Ship's Rooms, and receive a Gratuity for giving them up again, a Power the Act could never have intended they should exercise.

Mr. Ougier states the great Decline of Bye Boatkeepers, and sets forth, that "he recollects when it was considered that not less than 250 Men engaged in this Sort of Fishery employed not less than 2500 Men; at this Time he scarce believes there are Twenty Bye Boat Keepers left."



I cannot comprehend or admit this Position, as I suppose in the District of St. John's there cannot be less than One hundred Bye Boatkeepers, and perhaps nearer One hundred and Fifty. Mr. Ougier forgets, that many Bye Boatkeepers have become Ship Holders, and have succeeded in the Fishery beyond Expectation, which is not to be wondered at, when for the last Twelve Years, to my certain Knowledge, they sold their Fish on the Spot for the following Prices, which could not fail of making them opulent, and encourage their Continuance in the Trade.

The Prices of Fish in the District of St. John's, Newfoundland, from the Year 1782 to the Year 1792, both inclusive, viz.

|               |   |      |    |             |              |
|---------------|---|------|----|-------------|--------------|
| The Year 1782 | - | 12/  | to | 13/         | per Quintal. |
| 83            | - | 15/6 | to | 16/         |              |
| 84            | - | 11/6 | to | 12/6        |              |
| 85            | - | 15/  | to | 16/         |              |
| 86            | - | 13/  | to | 14/         |              |
| 87            | - | 16/  | to | 17/         |              |
| 88            | - | 13/6 | to | 10/ and 11/ |              |
| 89            | - | 10/  | to | 11/         |              |
| 90            | - | 10/  | to | 11/6        |              |
| 91            | - | 13/  | to | 14/         |              |
| 92            | - | 15/  | to | 16/         |              |

I have already stated, that the Bankruptcies of People formerly carrying on Trade and Fishery at Bay Bulls were not owing to any Decline in the Fishery; and I trust the Assertion can be made good.

The Bye Boatkeepers, 18 in Number, mentioned as Fishers at Bay Bulls, doubtless removed to other Situations more advantageous in the Fishery.

Mr. Ougier surely does not mean, when he represents, that the Traders are compelled to carry out One Green-Man in Five for Ships, and One Green-Man in Six for Bye Boats, to state it as a Hardship, for it is well known to be otherwise, and that upon the Whole a much larger Proportion of Green-Men than that, are Annually sent to Newfoundland, because it is for the Interest of the Adventurer so to do; the Nation therefore is benefited by this Nursery of Seamen, without inflicting on the Trade any Hardships whatever; where then is the Claim to Indulgences, which no other

Trade under the Protection of this Kingdom have ever asked for? a Trade flourishing in itself, and equal to every Burthen complained of in an eminent Degree.

As I have already described, and I hope satisfactorily, the Case of the Custom House and Officers in the Narrative marked (A,) and otherwise, I will not trouble the Committee with any Remarks in Reply to Mr. Ougier's Comments on that Head; I will only venture to remark on that Part of Mr. Ougier's Evidence, that I never heard of a Season when the Markets Abroad consumed 950,000 Quintals of Fish, and that the Merchants realized the Net Proceeds at the Average Price of 15s. per Quintal.—Why the Consume of Fish should be less now than then at Foreign Markets he doubtless can tell, but I have ever understood, as before set forth, that 700,000 Quintals of Fish was the Extent; however, at all Events, the Custom House and Sir Hugh Palliser's Act could not surely be the Cause which seems to be implied by this Gentleman's Account, that less Fish was either caught in Newfoundland or consumed in Europe.

I must also Notice, that Mr. Ougier complains of having paid £. 14. 17 s. Fees for a Vessel, that by making Three Freights was, in the Eye of the Law, the same as Three Ships, and could not have earned less than £. 1,200 for him during the few Months of the Fishing Season.—Mr. Ougier cannot be ignorant that he must pay Fees for the Entry and Clearance of every Voyage, both at Dartmouth and every other Port in the Kingdom, as well as in the Plantations.

To shew the Honourable Committee how strangely I am impressed at all the Complaints made by the Delegates, I am desirous of relating Mr. Ougier's particular Situation, who in the Year 1775 first entered into the Newfoundland Trade on his own Account, keeping a small Fishery at Bay Bulls, but his chief Traffick was that of purchasing Fish at St. John's; he began with Three Vessels.—No Man, I am told, has lived more hospitably, or done more benevolent Actions to his Friends during this Period, yet he has purchased a considerable Estate, which cost him 5000 Guineas, and his Trade is on the Whole increased, and all this Time the Fishery is represented to be on the Decline, because there is a Custom House, and Fees are received, &c. all which, I trust, will make the same Impression upon this Honourable Committee that it has on myself and others.

Mr. Ougier has represented also that, “ before the passing the  
 “ Act of the 15th of George the Third and subsequent Acts, a  
 “ Fund was found sufficient, by the Methods formerly taken, to  
 “ provide for a Civil Establishment, which was done by Fines  
 “ levied for Offences in the Court of Sessions, &c. and that a  
 “ Surplus of £. 200. 8s. was paid over to the Admiral’s Secretary  
 “ from the Justices of the Peace.”

There is no Part of the Affairs of Newfoundland that requires  
 Explanation more than this Particular.—At the Time pointed out  
 by Messrs. Ougier and Newman, the Magistrates so particularly re-  
 commended and spoken of by them, were Mr. Gill, the Clergyman,  
 Mr. Langman, and Mr. Williams; for the sole Purpose of Fees, they  
 had licensed 108 Public Houses at St. John’s alone, at 4  $\frac{1}{2}$  Guineas  
 per Licence; One Half of this went to the Justices as their Emolu-  
 ments, and the other Half to the public Fund. There were other  
 Means of increasing this Fund, by Fines the most oppressive that  
 ever were heard of; One in particular I beg leave to mention: A poor  
 inoffensive Taylor had for several Days been intoxicated, and was by  
 that Means rendered insane; in this Situation he affronted his  
 Neighbour, a Widow Woman, by improper Language, who, being  
 unacquainted with the real State of the Man’s Mind, applied to the  
 Justices for Redress. The Taylor was summoned to appear at  
 Court; but regardless of every Event, in that Situation, he did not  
 appear—the Consequence was, that he was fined for Contempt of  
 Court £ 150, and his Property attached for the Amount. Thus  
 was this Fund kept up by Oppressions injurious to the Trade at  
 large, and disgraceful to Humanity. It is strange to relate, but this  
 Man, Mr. Gill, for many Years was the Terror of every Body  
 except the Western Gentlemen, against whom he was scarce  
 ever known to decide unfavourably, which was verified in the Ap-  
 peal of a Planter at Bay Bulls, whose Cause was humanely pleaded  
 at Newfoundland by His Royal Highness the Duke of Clarence  
 in the Year 1787, in Consequence of which the poor Man re-  
 covered £ 150, in lieu of being ruined. But since Mr. Gill has  
 been suspended from his Offices, and others have acted as Jus-  
 tices of the Peace, the Public have been freed from every In-  
 stance of Oppression; of course the Fund cannot be kept up.

Although I have stated to the Honourable Committee that the  
 Entry and Clearance of a Vessel may come to £. 4. 12s. 6d. yet  
 I beg to explain, that unless they have many extra Documents it  
 comes to much less, and that the simple Entry and Clearance of a  
 Trading Ship will only be from £. 3. 10s. to £. 3. 15s. which will  
 appear

appear by the Paper marked (D.) being the Particulars of Mr. Jeffery's Fees last Year, who has represented to the Honourable Committee his having paid almost double what he actually did pay. I beg also to state, that although on an Average of Five Years it will appear that the Number of Vessels employed at Newfoundland are 480, yet it will be found that nearly One Half of the Number are Fishing Ships or Bankers, from whom we receive only 2s. 6d. for the first and last Report, except a few that now and then carry cocketable Goods, which will easily prove that the Fees are not equal to what the Delegates have represented. I have stated them at £ 1,500. per Annum, the Amount of which is divided between the Collector, Comptroller, and Surveyor, Seven Deputies, and Two Clerks. Is it possible, therefore, that the Officers can deserve the Appellation given them, or that it can be conceived they have more than enough to maintain themselves and Families? I can assure the Honourable Committee, upon my Word of Honour, that they have not, and that the Fees of Halifax have ever been considered as extremely moderate; in many Situations the Fees are much higher, and in the West Indies at least Six Times as much; it is evident they were founded on the same System of Regulation that other Territories abroad have been, otherwise the Clause of the Act of the 16th of His present Majesty would have been unnecessary, and of course never have passed, to support and protect the Officers in their legal Dues.

I was for some Time at a Loss to determine what the Trade could mean by asserting that the Fees of the Custom House were increased, which Assertion may have probably made an unfavourable Impression on the Minds of this Honourable Committee towards the Persons capable of such unjustifiable Proceedings; the following will, however, I flatter myself, remove every Idea to our Prejudice.

A Collector was the First Revenue Officer that was established at Newfoundland, and received his Fees upon the Precedent of Halifax; soon after a Comptroller was appointed, who also regulated his Fees in a like Manner, as did the Surveyor and Searcher, who was not appointed till the Year 1777 many Years after the Collector and Comptroller, about which Period the Right honourable the Earl of Galloway and my Predecessor Mr. Dun had procured a Patent for working a Copper Mine that was discovered in the Neighbourhood of St. John's, which so much engaged his Attention that he neglected in Part to put into Execution the Directions he had received from the Honourable Commissioners of the Customs, and it became my Duty to perform the same, in the Year 1782, when

when Deputies were appointed in the Out Bays, and the same Fees authorized to be taken by them that the Collector, Comptroller, and Surveyor received at St. John's, which will clearly evince that an Increase of Officers had unavoidably brought on an Accumulation of Fees; so that the whole is a regular Transaction of Office, and really undeserving of the Colouring the Trade have given it.

I am equally surprized at a Report which Admiral Milbanke has made to the Right honourable the Lords Committee of Trade, dated the 20th of February 1790 (which did not come to my Knowledge till a few Days ago) representing that the Officers at Newfoundland are not entitled, or ought not to be, to the Fees which they and their Predecessors have received for so many Years.

If the Admiral had cautiously read the Seventh Section of the Act which he refers to, he would there have found that it was only Ships actually employed in the Fishery that were exempted from the Payment of Fees in Terms of other Acts of Parliament, and that such Vessels were known to be Bankers only, which at Newfoundland I could have proved, I conceive, in a very satisfactory Manner. Or if he had thought proper to have read or annexed the Eighth Section of the said Act of the 15th, he would there have seen, that it was only confined to the Fish and Oil caught in such Vessels actually employed in the Fishery, and that every other Article was liable to the same Restrictions and Regulations as if that Act, had not passed; and clearly proves, that every other Species of Goods, and the Ships in which they were imported or exported, were to pay conformably to the Fees established at the nearest Port to Newfoundland, which at that Time was Halifax in Nova Scotia.

The Admiral in his great Zeal, at this Time, for the Trade, although no Complaint before him, which he readily acknowledges, has affirmed that a Master cannot get his Business done at the Custom House but at particular Hours, &c.—This charge I beg leave to deny in the most positive Terms, and to assure this Honourable Committee, that the Officers have never refused doing Business at the Custom House at any Hours, early and late; sometimes before the Sun has risen, and as late as 12 at Night, have they given their Attendance to serve and oblige the Trade, even without charging any Extra Expence to the Merchant, which is customary in every other Port in the Plantations.

This Representation is the more unexpected, as I conceived the Admiral to have had other Opinions when I paid him his One Third Share of Seizures during the Three Years of his Government, amounting to upwards of £. 900; and indeed it is extraordinary that he should have ventured any Opinion whatever, being quite ignorant of the Trade, and every Circumstance attending it, more particularly too at a Time when he had only passed 52 Days in Newfoundland from his Appointment to the Command there.

Under this Idea, I hope a Representation so unprecedented cannot operate upon the Minds of this Honourable Committee to the Disadvantage of the Officers.

Although I am unwilling to engage so much of your Attention, yet permit me to recapitulate, that there is no Danger of Bankruptcies in the Newfoundland Trade, provided the Parties understand the Nature of the Fishery, and do not trade beyond their Capital too far, or be concerned in adventurous and uncertain Speculations.

That no Trade affords more convincing Proofs of certain Profits, than the Opulence of almost all those who are concerned in it.

That the Average of Five Years Returns from the Custom House at Newfoundland can only, I conceive, give the real State of the Trade, as many Ships are lost, and others sold, which cannot appear immediately; indeed Ship-building has become a Part of the Trade, and many are Annually sent to this Country, after making a Freight to Europe, for the express Purpose of being sold, whilst others are building to go through the same Routine, during which Period the Merchants charter, if they want Tonnage.

That previous to the American War the following Articles were supplied by the Inhabitants of the present United States of that Continent in great Abundance, viz. Pork and Beef, Bread, Flour, Rum, Sugar, Melasses, Pease, and all Kinds of fresh Provisions, such as dead Carcases, &c. even to the most minute Vegetable.

That the said Rum was distilled on the Continent from foreign Melasses, and could be sold for nearly One Half the Price that Rum can be brought from our own Islands in the West Indies; that its pernicious Quality was, and ever must be injurious to the Fishery; that the Annual Consume of such Spirits was from 150,000 to  
200,000

200,000 Gallons, great Quantities of which would be introduced into Newfoundland again, but for the Establishment of a Custom House, and Officers of the Revenue there.

That it is well known that the Merchants do smuggle great Quantities of Pork, and other Articles not allowed by Law, from the United States of America, to the Prejudice of Ireland; and that such illicit Practices can only be suppressed by supporting and protecting the Revenue Officers, and keeping them independent of the Trade; that this Kind of Smuggling is the more easy to accomplish, from the Circumstance that the Subjects of the United States have, by the last Treaty, a Right to come into our Harbours in Pursuit of Bait, which is their Excuse when engaged upon illicit Practices.

That other illicit Practices are at this Time encouraged at Newfoundland, viz. that under the Cargoes of Salt great Quantities of Wine and Oil are illegally introduced into Newfoundland.

That I have lately received Information of this Fact.

That Vessels also come into the Harbours of Newfoundland apparelled like Fishing Ships or Bankers, but in reality laden with the Produce of Europe, to the great Injury of the fair Trader, and His Majesty's Revenue.

That Madeira and Fayal Wines will be introduced in large Quantities into Newfoundland, and from thence to other Situations, to the Prejudice of the Revenue.

That Quantities of Foreign-made Cordage have and continue to be introduced into Newfoundland in the Salt Ships.

That whenever the Officers, in pursuance of their Duty, have done any Thing disagreeable to the Trade, they have been threatened with Complaints upon other Subjects, such as the Loss of their Fees, which have been established to them by Law. That the Repentment of the Trade has constantly been pursued even to the trifling Business of their Appointments as Magistrates, by which the Cause of Justice has been formerly very materially benefited, and the poor Inhabitants of Newfoundland protected from many Oppressions.

That the Resident Inhabitants in Newfoundland are numerous, and amount nearly to 50,000, who have no other Homes—and in the Arrangement of a Police for the Island, I humbly submit this Circumstance to your Consideration.

That the Bye Boatkeepers are decreased only in Proportion to the Risque of supplying them; that formerly, say 20 or 30 Years ago, a Hedger or Ditcher had only to go to Newfoundland, and announce his Intention to keep Boats, and could find People to set him up—at this Time the Trade was a Sort of Barter Account—Bread and Flour was sold at 30s. per Cwt. Pork at £.6. and other Things in Proportion; but if an independent Man traded, and it was a Bill Account, One-third was deducted, or to bring a Bill Account into Barter, Half was added; if the Boat Keeper was not an independent Man, he was sure, in all Probability, to be brought into Debt in One, Two, or Three Years, which Debt always claimed the Preference of future Dealings.

That the Trade is now entirely altered in that particular; for the Merchants found from Experience, that although they apparently had the Person's Labour, yet there being a Discontent on the Side of the Boatkeepers at not always having their Wants supplied at the Store, they had private Dealings with others, and the Fish went to pay for the same. A Merchant therefore, in the present Day, will only deal with independent Boatkeepers, and such only find their Way to Newfoundland—Men whose Dealings are as secure, and whose Bills are paid as punctually as any Merchant who trades to the Island. Many Men therefore, who formerly kept Boats, are now Servants for that very Reason. It will appear therefore, that the Boatkeepers are not reduced in such Numbers as the Western Delegates conceive or represent; at all Events, not from the Causes mentioned by them; but I hold this Position of less Importance than the Delegates, for every Merchant is become a Boatkeeper, and where One Bye Boat is lost many are kept by the Merchants, so that on the Whole the Bye Boat Fishery is increased.

That 30 Years ago very few Bankers were kept; that in the District of St. John's, there were not above 25, and at this Time, the Average of Five Years will shew them to be at least One hundred Sail.

That it is no Hardship for the Parties to send Green-Men to Newfoundland, for every Adventurer employed sends, from interested Motives, Three Times the Number that the Law directs.

That



That it is impossible for the Bank Fishery to get into the Hands of the Resident Inhabitants, because they are all so poor, and dependant on the stationary Merchants, that they must always be under their Influence.

That there never was an Instance, where a Revenue Officer, as a Justice of the Peace, could sit upon any Cause where the Revenue, or himself was concerned; nor is it possible for such a Thing to take Place.

In Addition to the foregoing, I have certain Information of large Quantities of Tea intended to be clandestinely landed at Newfoundland, from the United States of America.

Considerable Quantities of Hats and Felts have formerly been imported from New England, and would at this Time, but for the Vigilance of the Officers at Newfoundland; this particular Article of Smuggling would much injure the English Manufacture of Hats.

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( A. )

THE Custom House at Newfoundland was originally applied for by the Trade, but was not established until the Year 1762. Mr. Hamilton, the First Collector, went out, but found the People and Climate so disagreeable, and the Emoluments so inadequate to his Expectations, that he returned to England the same Year, and resigned; when Mr. Alexander Dun was appointed to succeed him: This Gentleman finding no regular Fees established, had Recourse to the Port of Halifax, in Nova Scotia, for their List, agreeably to the Act of the Fifth of His present Majesty's, Cap. 45. Section 27. which recites "and if no Fees have been received  
 " as aforesaid, by any Officer in any Port in such Colony or Plan-  
 " tation, such Officers shall, from and after the Fifth Day of July  
 " 1765, be tited to such Fees as have been received by the like  
 " Officers in the nearest Port, within any British Colony or Planta-  
 " tion, on or before the said 29th Day of September, 1764." Upon  
 P which

which the Merchants became dissatisfied, and threatened an Abolition of the Office almost as soon as it was established, and for which Purpose frequent Applications were made to the different Governors for the Time being to assist them; to obviate which the Collector and Comptroller represented their Situation to the American Commissioners of Customs, under whose Direction they were at that Time, and received Orders from them to persist in their Demand, and by whom they were officially furnished with the aforesaid Act, the Perusal of which removed every Difficulty that had arisen in the Mind of Commodore Byron, then Governor of Newfoundland, and he supported the Officers accordingly; but notwithstanding these Authorities, a certain Number of Merchants entered into a Combination not to pay any Fees whatever.—About this Time the illegal Practices in Newfoundland increased, and the Officers made several Seizures, which so enraged the Trade, that in February 1772 they presented a Memorial to the Right honourable the Lords of the Treasury, complaining of the Fees, which being referred to the Officers for their Report, the Collector obtained Leave to come to England to reply to the Allegations therein, and after a full hearing, in May 1773, their Lordships dismissed the Complaint; but on the Collector's Return to Newfoundland, the Trade obstinately refused Payment of Fees, and the Governor for the Time being having Doubts if he was authorized to compel the Payment of them, the Collector was obliged to make another Voyage to England.—About this Time the Act of the 15th of His present Majesty was passed, and the Collector called upon to give Information upon the Subject. In the course of this Business, it was represented a Hardship that Fishing Vessels, commonly called Bankers, and fitted out with Green-Men, &c. in Terms of the said Act of the 15th, should pay the same Fees as those Ships and Vessels which carried Merchandize and Cocketable Goods; and Government, willing to gratify them in any Request that appeared reasonable, complied in Part with their Desire, taking from the Officers, on that Description of Vessels actually employed in catching the Fish and carrying no Cocketable Goods whatever, all their Fees, except 2s. 6d. to be paid on the first and last Report, for these Vessels make many Trips in a Season from the Banks into Port and return again; and as this Description of Vessels were numerous, the Collector was allowed an extra Salary as a Compensation for his Losses thereon. The Intention and Meaning of this Act, I trust, will appear by the 7th and 8th Sections, which recite, “ And it is hereby  
“ further Enacted by the Authority aforesaid, That from and after  
“ the First Day of January One thousand Seven hundred and Seven-  
“ ty-six, all Vessels fitted and cleared out as Fishing Ships, in pur-  
“ suance

“ furance of this Act, or of the before mentioned Act, made in the  
 “ Tenth and Eleventh Years of the Reign of the late King Wil-  
 “ liam the Third, and which shall be actually employed in the  
 “ Fishery there, or any Boat or Craft whatsoever employed in  
 “ carrying Coastwise, to be landed or put on Board any Ships or  
 “ Vessels, any Fish, Oil, Salt, Provisions, or other Necessaries,  
 “ for the Use and Purpose of that Fishery, shall not be liable to  
 “ any Restraint or Regulation with respect to Days or Hours of  
 “ Working, nor to make any Entry at the Custom House at New-  
 “ foundland, except a Report to be made by the Master on his First  
 “ Arrival there; and at his clearing out from thence; and that a  
 “ Fee, not exceeding Two Shillings and Six Pence, shall and may  
 “ be taken by the Officers of the Customs at Newfoundland for  
 “ each such Report; and that no other Fee shall be taken or  
 “ demanded by any Officer of the Customs there, upon any  
 “ other Pretence whatsoever relative to the said Fishery, any Law,  
 “ Custom, or Usage to the contrary notwithstanding.

“ Provided always, and be it Enacted, That in case any  
 “ such Fishing Ship or Vessel shall, at her last clearing out from the  
 “ said Island of Newfoundland, have on board, or export any Goods  
 “ or Merchandize whatsoever, except Fish, or Oil made of Fish,  
 “ such Ship or Vessel, and the Goods thereon laden, shall be sub-  
 “ ject and liable to the same Securities, Restrictions, and Regula-  
 “ tions, in all Respects, as they would have been subject and liable  
 “ to if this Act had not been made, any Thing hereinbefore con-  
 “ tained to the contrary notwithstanding.”

Here it was expected that all Controversy would end, but on the  
 Collector's Return to Newfoundland, the Trade still continued to  
 refuse to pay Fees (alleging that His Majesty's Ministers had no  
 Authority to establish a Custom House at Newfoundland) and he  
 was obliged to make another Voyage to England to represent the  
 melancholy Case to His Majesty's Ministers, after suffering the  
 Loss of Emoluments for near Three Years, for which he received  
 a Compensation from Government, and in an Act of the 16th of  
 His present Majesty, a Clause was inserted confirming to the  
 Officers at Newfoundland the like Fees as taken at Halifax, in  
 Nova Scotia, on or before the First Day of January 1768, the Third  
 Section of which recites, “ That the Officers of His Majesty's  
 “ Customs in the said Island of Newfoundland shall be and are  
 “ hereby declared to have been entitled to ask, demand, take, and  
 “ receive such Fees for all Business done by them in the Execu-  
 “ tion of their Duty, as were legally demanded and taken by the  
 “ like Officers of the Customs at the Port of Halifax in Nova  
 “ Scotia, on or before the First Day of January One thousand Seven  
 “ hundred and Sixty-eight,” &c.

This Act put a Stop to the Persecution of the Officers, and the Fees were uniformly paid, agreeably to the Halifax List (except for the Fishing Vessels called Bankers) until the Year 1785, when the Subject was revived again, and another Complaint made, the Merits of which were agitated before the Right honourable the Lords of Trade, in the Month of January of that Year, and the Collector was in London Six Weeks in Attendance; and after a long Hearing of all Parties, their Lordships confirmed the Fees of the Officers as before described; and the Witness from Dartmouth, Mr. Newman, made the following Reply:

“ Then, my Lords, we must submit, and put up with the Inconvenience; and we don't know that it is so very great.”

From that Time we have gone on with more Harmony, only that whenever we have, in the Execution of our Duty, done any disagreeable Thing, or made a Seizure, we have constantly been threatened with another Trial of Strength, either to abolish the Office, or take from us our Fees; and in Order to facilitate this Undertaking, they made a very unfair Representation last Year, desiring a Clause in the Judicature Bill of last Sessions, rendering the Officers of the Customs at Newfoundland incapable, as long as that Act was in Force, from acting as Justices of the Peace, which has been the Means of our being both privately and publicly insulted, and in particular the Comptroller, whose Windows have been broke, and the Life and Comfort of his Family endangered thereby.—They also boast, that their Success in that Particular is One Step towards the Loss of our Fees, if not the Abolition of the Custom House.—It was perfectly understood at the Time, that Fishing Ships meant only Bankers, on board of which the Fish is first caught; and not those Ships that make Freights, carrying in the first Place all Kinds of Goods and Merchandize from Great Britain, and among other Articles those on which Debentures are allowed, by which the Revenue is much concerned. From Newfoundland the Ships are laden with dry cured Fish, on which they make good Freights to the Markets of Spain, Portugal, Italy, &c. and the Islands in the West Indies; the latter Ships were formerly called Sack Ships; but to take Advantage of the Custom House Officers, the Trade aimed at taking out Fishing Certificates, and by that Method, if possible, call them Fishing Ships, whereas there never was any Fish caught on board of them.

Having thus far given the Honourable Committee a History of the Difficulties and Persecutions the Officers have suffered in the Execution of their Duty, permit me to submit the follow-  
ing

ing List of Fees, being a Copy of that received from the Officers of the Port of Halifax, in Nova Scotia (which was confirmed to us by the Right honourable the Lords Committee of Trade in the Year 1785) together with those prescribed by the Act of the 15th of His present Majesty, which alone has governed our Demand; of course we feel a Pleasure arising from being conscious that we have not in any Respect deviated from the before mentioned Authority; and that we trust our Conduct will bear any further Investigation that may be thought necessary.

## LIST OF FEES:

| Particulars.  | Collector. | Comptroller. | Surveyor. |
|---|------------|--------------|-----------|
| A new Register - - - - -  | 14         | 4 4          | —         |
| Endorsing ditto - - - - -   | 2 6        | 1            | —         |
| Recording ditto - - - - -   | 2 6        | 1            | —         |
| Topſail Veſſel Inwards, Entry or<br>Report - - - - -  | 13 6       | 6 9          | 6 9       |
| Ditto outward, ditto - - - - -  | 13 6       | 6 9          | 6 9       |
| Other Veſſels inward, Entry or<br>Report - - - - -  | 10         | 4 6          | 4 6       |
| Ditto Outward, ditto - - - - -  | 10         | 4 6          | 4 6       |
| Sufferance Permit to load or un-<br>load, report Lift Men, each<br>Bond, &c. for each - - - - - | 1 6        | 6            | 6         |
| Cocket, Certificate to cancel Bond,<br>each - - - - -   | 2          | 1            | 1         |
| Bill of Health - - - - -  | 5          | 2 6          | 2 6       |
| Anchorage - - - - -   | 2          | 2            | 2         |
| Coaſters Inwards - - - - -  | 2 6        | 1            | 1         |
| Ditto Outwards - - - - -  | 2 6        | 1            | 1         |
| Manifest - - - - -  | 1 6        | 6            | 6         |
| All Office Entries - - - - -  | 1 6        | 6            | 6         |
| General Warrant - - - - -   | 2 6        | 1            | 1         |

In Addition to the foregoing List of Fees, there is paid to the Governor's Secretary, £. 1. 16s. for Mediterranean Passes, and 10s. 6d. for every Register. The Naval Officer's Fee upon Registers is 6s. 8d.; he has also Fees for the Entry and Clearance of every Vessel, and every Document mentioned in the above List.

Fishing Ships or Bankers, qualified conformably to an Act of the 10th and 11th of King William the Third, or an Act of the 15th of His present Majesty's Reign, are subject only to the Payment of 2s. 6d. to the Officers of the Customs, in lieu of all other Fees for each Report.

N. B. Exclusive of the foregoing Fees, the Officers consider themselves entitled to Gratuities from the Merchants, under the Act of the 6th and 7th of William the Third, for attending upon urgent Occasions, at the landing Goods out of Ships wrecked or stranded on the Coast, and at the landing and reshipping Goods out of and into Ships putting into the Port in Distress to refit, which Gratuities are more or less as the Merchants and Officers agree, and are regulated by the Difficulty attending such Services, viz.

|                |           |    |          |
|----------------|-----------|----|----------|
| Collector from | £. — 10 6 | to | £. 6 6 — |
| Comptroller    | — — 7 6   | —  | 4 14 6   |
| Surveyor       | — — 5 3   | —  | 3 3 —    |

But these Fees we do not remember to have taken at any Time, because we have seen no Ships in Distress, except those as have so much engaged our Humanity as to induce us to be more ready to afford Relief and Assistance to the Parties, than to exact any Gratuity from them.

The Custom House Officers at Newfoundland attend upon the Trade early and late, keeping no Holydays; and even on Sundays, when it has been found beneficial to the Trade, they have never refused their Attendance, and constantly have given them Credit, from the Spring till the Months of November and December, for their Fees, &c. taking then Bills of Exchange, by which they frequently lose Money, and in a recent Case more than £. 50.— Such Circumstances would not be mentioned by the Officers, but to shew that they have not, by any illiberal or oppressive Conduct on their Parts, merited the present, or indeed any Complaint against them; and they have constantly pledged themselves to remove any Difficulties that should arise, provided it could be done with Propriety.

It is hoped, that the Predicament in which the Officers have been and continue to be placed, will be the Means of such future Laws and Regulations for their Protection, as will secure to them that Safety and Justice, which His Majesty's Servants employed in the Revenue enjoy in other Situations, without which the most solemn Decisions will not avail, particularly in Newfoundland, where the Field for an extensive Contraband Trade is greater than can be described, particularly on Debenture Goods, the Produce and Manufactures of Europe, as well as that of the United States of America; and from a Knowledge of the Trade of Newfoundland, and the Experience the present Officers have, it is presumed, that in an Island in which there are such numerous Harbours, such refractory Inhabitants, and at present no established Police, the Officers cannot but meet with infinite Difficulty in the Discharge of their respective Duties.

It is not only the Interest of the fair Trader, but essentially that of the Public, that the Restrictions and Regulations of the Act of Navigation, and the Laws of Trade, should be vigilantly guarded and strictly enforced, if not, the Benefits derived by the Fishery will soon be lessened.

In Addition to the foregoing, I beg to observe, that were the Idea of the Gentlemen of the Trade to take Place, the Fees upon the whole Trade of Newfoundland, would, for all the Officers, be £. 125 per Annum.

I submit therefore to what a humiliating Situation they must be reduced, if such an Arrangement was to take Place.



( B. )

AN ACCOUNT of the REVENUE and EXPENCES of NEW-FOUNDLAND, together with the Seizures made by the Officers there, from the Year 1781 to the Year 1791, both inclusive.

|   | Years.                   | Duties.                   | The King's Share<br>of the Seizures,<br>being $\frac{1}{3}$ of the Whole,<br>as below. | Payments.               |
|---|--------------------------|---------------------------|--|-------------------------|
| Besides the Seizures here mentioned, there is One pending for near Two thousand Pounds, which must be given in Favour of the Crown. | 1781                     | 1,047 12 10 $\frac{1}{2}$ | 7 18 7 $\frac{1}{2}$   | 422 16 — $\frac{1}{2}$  |
|   | 82                       | 474 2 8 $\frac{1}{2}$     |  | 383 15 —                |
|   | 83                       | 727 17 5 $\frac{1}{2}$    |  | 331 5 —                 |
|   | 84                       | 223 7 1                   |  | 349 4 8 $\frac{1}{2}$   |
|   | 85                       | 396 5 7 $\frac{1}{2}$     |  | 410 16 11 $\frac{1}{2}$ |
|   | 86                       | 539 1 1 $\frac{1}{2}$     |  | 410 12 9 $\frac{1}{2}$  |
|   | 87                       | 605 18 5 $\frac{1}{2}$    |  | 469 11 4 $\frac{1}{2}$  |
|   | 88                       | 338 15 9 $\frac{1}{2}$    | 22 13 3  | 380 9 11 $\frac{1}{2}$  |
|   | 89                       | 1,345 16 3 $\frac{1}{2}$  | 194 15 3   | 415 13 —                |
|   | 90                       | 1,004 4 8                 | 188 15 — $\frac{1}{2}$   | 459 3 1 $\frac{1}{2}$   |
|   | 91                       | 428 12 7 $\frac{1}{2}$    | 569 1 5 $\frac{1}{2}$  | 381 5 7 $\frac{1}{2}$   |
|   | 7,131 14 8 $\frac{1}{2}$ | 983 3 8                   | 4,394 13 6 $\frac{1}{2}$   |                         |

( C. )

AN ACCOUNT of the NUMBER of VESSELS, their TONNAGE, and NUMBER of MEN, which entered and cleared in the Ports of NEWFOUNDLAND in the following Years; together with the Quantity of WET and DRY FISH exported therein:

| INWARDS.           |         |        | OUTWARDS.          |         |        | FISH.     |        | YEARS. |
|--------------------|---------|--------|--------------------|---------|--------|-----------|--------|--------|
| Number of Vessels. | Tons.   | Men.   | Number of Vessels. | Tons.   | Men.   | Dry.      | Wet.   |        |
| 426                | 48,783  | 4,002  | 405                | 43,043  | 3,449  | 644,512   | 7,113  | 1787   |
| 441                | 48,505  | 4,146  | 440                | 50,499  | 3,819  | 607,626   | 6,766  | 88     |
| 572                | 64,147  | 5,134  | 614                | 65,381  | 5,174  | 917,048   | 5,691  | 89     |
| 494                | 53,802  | 4,318  | 466                | 51,130  | 3,846  | 684,421   | 6,221  | 90     |
| 451                | 50,338  | 4,273  | 490                | 53,875  | 3,912  | 699,147   | 6,812  | 91     |
| 409                | 44,630  | 3,653  | 447                | 50,408  | 3,765  | 567,675   | 11,298 | 92     |
| 2,793              | 310,005 | 25,526 | <del>2,862</del>   | 314,336 | 23,965 | 4,120,429 | 43,901 |        |

( D. )

AN ACCOUNT of FEES and DUTIES paid by John Jeffery, Esquire, to the Officers of the Customs, for the District of Trinity in NEWFOUNDLAND.

|                               |    |        |
|-------------------------------|----|--------|
| Swift - - - - -               | £. | — 16 6 |
| Myrtle (1st Voyage) - - - - - |    | 3 15 — |
| Ditto (2d Voyage) - - - - -   |    | 3 15 — |
| Neptune - - - - -             |    | 4 1 6  |
| Active (1st Voyage) - - - - - |    | 3 15 — |
| Ditto (2d Voyage) - - - - -   |    | 3 15 — |
| Diligent - - - - -            |    | 3 9 —  |
| Hudson - - - - -              |    | 2 5 3  |
| Portland - - - - -            |    | 2 10 6 |
| Chance - - - - -              |    | 2 4 6  |
| Ranger - - - - -              |    | 4 11 6 |
| Twelve Certificates - - - - - |    | 2 8 —  |

£. 37 6 9

Gallons  
 Per Active, Duty on 5,846 Me-  
 lasses, a. 1 d. per G. - - £. 24 7 2

A long and painful Illness in the Gout will, I hope, apologize for the Incorrectness and Prolivity of the preceding Sheets, written at short Intervals, and with great Perturbation of Mind, being impressed with an Idea that my Attendance on this Honourable Committee would be rendered abortive, and that I should not be enabled to do myself Justice, which brought on frequent Relapses, and for a considerable Time made doubtful my Recovery.

I conclude, with recommending my Cause to the Candour and Protection of this Honourable Committee, requesting also to impress their Minds by repeating how important it is to refer to the Right honourable the Lords of the Treasury, and through them, to the Honourable Commissioners of the Customs, upon a Point of so important a Nature as the Removal of Officers of this Revenue from Newfoundland.

The Danger of suffering foreign Ships to traffic thither, the Opportunities it would afford of committing Frauds in an Island equal in Size to that of Ireland, and surrounded with numerous Harbours calculated for that Purpose; of breaking through all the Laws so admirably calculated to secure the Benefit of the Fishery, and the Consumption of all the Articles used there, to His Majesty's Subjects; and, in short, of rendering null and void all the Regulations that have been so long and so carefully observed to preserve the Benefits to this Country. I repeat, that was I not to be benefited thereby, I have here delivered my unalterable, sincere, and candid Opinion, which is most respectfully submitted.

Mr. ROUTH being then examined, was asked, What are the Salaries of each Individual Custom House Officer in Newfoundland? he said, The Collector £.200 *per Annum*, subject to Taxes and Fees of about £.8 or 10; Comptroller £.50 *per Annum*, subject to Taxes and Fees in the same Proportion; Surveyor and Searcher £.50 *per Annum* net. The Officers in the Out Bays are allowed £.25 *per Annum*, provided they collect £.100 Duty, and if less, they have a Fourth Part.—And being asked, Whether he means by that, the Collector? he said, He means the Person who has his (the Witness's) principal Appointment, and who does all the Duty in the Revenue in the Out Bays.—And being asked, Whether One Officer in all the Out Bays is sufficient? he said, Not, if more can be had.—And being asked, Whether there are no other People in the Island fit for Custom House Officers? he said, This Question he could not with Certainty answer. In some Situations he should hope,

hope, at this Time particularly, there would be others found.—And being asked, Whether he thinks it would be more beneficial to the Trade or the Revenue, if there was only One? he said, The Trade are the best Judges of that.—And being asked, Whether the Trade are better Judges than himself of the Revenue? he said, No.—And being desired to give his Opinion, Whether One Officer doing Three Appointments, or those Appointments properly filled up by Three Persons, is the best? he said, He should prefer Three Persons when they could be found.—And being asked, Whether he ever tried to find them? he said, He has made Enquiries in some Situations, and believes they might have been found; but, wishing to oblige the Trade to the utmost of his Power, the Collector and Comptroller adopted that Measure, not conceiving it to be very important in the whole.—And being asked, Whether One Officer is sufficient to do the Duty in each District, he said, It is not official for One Person to do it, where Three can be found.—And the Question being repeated? he said, No.—And being asked, What Loss has arisen from only One Officer being in those Districts, he said, He does not know of any; he believes every Officer has done his Duty to the utmost of his Power.—And being asked, Whether One Officer has been able to prevent Smuggling in those Districts? he said, He believes it has not; Three would have done it better.—And being asked, Whether he believes much Smuggling has been carried on in those Districts? he said, He is told so.—And being asked, Was there sufficient to induce him to appoint more Officers? he said, If he had wanted Three, in many Situations he could not have got them.—And being asked, Whether he would have appointed them if he could have got them? he said, He would.—And being asked, Was it to oblige the Trade that he did not appoint them, or was it because he could not find them? he said, In the first Instance, to oblige the Trade, but in several Situations they doubtless could not have been found.—And being asked, Whether they could have been found in any, and where? he said, There might have been, perhaps, Two Situations where they might have been found, but as his Object was that of preventing every possible Inconvenience to the Fishery, being at that Time a Stranger in the Country, he was induced to adopt that Measure, without making so strict an Enquiry as he should otherwise have done.—And being asked, Whether the Practice is not the same to the present Moment? he said, Yes; he believes it is.—And being asked, Whether he was not of Opinion formerly, that many Custom House Officers were an Inconvenience to the Fishery? he said, When he was first appointed to the Office he holds at Newfoundland, he was induced to take the Opinion of

others, but Experience has taught him to follow his own; and if the same Attention continues in the Officers of the Customs of doing their Duty at all Seasons, where the Convenience of the Fishery is concerned, he can see no Objection to any Number of Officers that may be thought expedient to restrain the illicit Practices at Newfoundland.—And the Question being repeated? he said, He had not made up his Mind at that Time; he has made it up now, particularly since he came last from Newfoundland, having heard of many illicit Practices; the Business of Newfoundland having been for some Years under the Consideration of Government, he delayed altering the Mode, although he was desirous of doing it.—And being asked, How long he has been Collector? he said, He was appointed in 1781 or 1782.

Mr. GRAHAM being again called in and examined, he referred to Mr. Newman's Evidence, where he says; "The Decrease of Boatkeepers begun in 1777, after Sir Hugh Palliser's Act;" and said, On referring to the Records of the Board of Trade, it will be found, that as far back as 1757, the Governor states, in a Letter, that the Fishing Ships have ceased to bring out their Complement of Green-Men; that they have also ceased to continue the laudable Practice of employing Men upon Shares, have got into a Custom of bringing many Men from Ireland, whom, being Roman Catholics, they treat as they please, seldom pay them any Wages, by which a great Number of them are left in the Country. He states this, in order to shew that the Resident Fishery has not been increased by the Act of the 15th of George the Third, but by the Conduct of the Merchants themselves; and he is clearly of Opinion, that that Act has been the Means Annually of getting out of the Country a Number of Seamen and Fishermen, who would otherwise have staid in it.—And being asked, Was not the Complaint, of Men not being brought out as usual that Year, made in Consequence of their being pressed out of the Ships before they left Europe? he said, He does not know, but the Governor's Letter to the Board of Trade begins with saying, "It having been the Custom for some Time past not to bring out Green-Men;" from which he infers, it had been the Custom for some Time prior to his making the Complaint. It is stated, that many People concerned in the Fishery have become Bankrupts. If it is to be taken for granted, that Mr. Newman knows that these People failed from their unsuccessful Voyages in the Fishery, and not from any other Cause, only because they did fail; he thinks it ought also to be allowed that the Account he has given of People's Success

cess in the Trade, from his having known them carrying it on in a very confined Way, and being now in apparent Affluence, is a Proof of their having been successful. He knows nothing from his own personal Knowledge of the Circumstances of People in the Western Parts, except such of them as he has seen in Newfoundland. William Henley, William Whiteway, John Codner, John Benson, Thomas Gotham, William Farley and Co. James Stokes, Abraham Hington, and Richard Greaves (whose Names are mentioned in the Second Report), are People who, when he first went to Newfoundland, were carrying on the Fishery, he thinks, in a much more confined Way than when he left it; and from the apparent Alteration in their Situation, he has every Reason to believe they had been successful. There are Persons carrying on the Fishery from Ports in the Neighbourhood of Dartmouth, and come out and return Annually.—And being asked, Whether he can form any Idea of the Amount of the Capital of any of these Persons? he said, Certainly not; but he has no Doubt, that whatever it might have been when he first went to Newfoundland, it is now considerably increased.—And being asked, Whether any of these are actually now Bankrupts? he said, He does not think any of them were in 1791.—And being asked, Whether he believes that their apparent Affluence arises from the Fishery only? he said, He believes it does, and knows of no other Means of increasing their Fortunes.

With respect to the Resident Merchants in the same List, Mr. Livingston, Hugh Roe and Son, Marmaduke Hart, Michael Forham, and George Hutchings, he can undertake to say, of his own Knowledge, as far as one Man can know of another's Concerns, that they have increased their Capitals very considerably. The first-mentioned Gentleman, when he went first to Newfoundland, was only concerned in a small Shop, he is now Owner of great Fishing Plantations in Quiddey Viddey, and Stores in St. John's; and also concerned in Trading Ships.

Mr. Hutchings was in a still more confined Situation, and is also now possessed of very considerable Property. Newfoundland does not contain an honest or better Man, and I rejoice at his Success.

Mr. Forham was a Taylor, and is now largely engaged in the Fishery, and appears a Man of considerable Property, by the Stores he has, and the Ease with which he pays his Debts.

It is said, That the Losses of the Merchants having not been owing to any Extravagancy, he considers as such the employing of Agents instead of doing the Business themselves as they used to do; also the great Expences attending the Buildings which are now used for carrying on an extensive Trade, instead of those which are actually necessary for carrying on the Fishery, and which might be erected at a less Expence.—And being asked, Whether there are more Buildings now in Newfoundland than are necessary for the Purpose of carrying on the Fishery? he said, Simply for those Purposes there are; but for the extensive Trade, that has grown out of that Fishery, he does not think there are.

With respect to the different Clauses in the Act of the 15th of George the Third, which are stated to have caused the Decline of the Fishery, he would observe as to the First, that notwithstanding this Act imposes a Penalty only of Five Days Pay for Neglect of One Day, still the Governor and his Surrogates, and the Court of Session, have always construed it in the most liberal Manner; and he has in his Possession the Proceedings of Courts in Newfoundland, against Men for Neglect of Duty, by which it will appear the Courts have by no Means confined themselves to the Penalty directed by the Act, but have, according to former Practice of the Fishery, in Cases which appeared to them to deserve a greater Punishment, exercised their Discretion, and awarded in Proportion to the Offence of the Servant.

In Cases where the Master, on his Part, has been obstinately bent upon depriving the Servant of the Whole of his Wages, under Pretence of its being for Neglect of Duty, without the Offence deserving such a Punishment, then the Courts have taken to their Aid the Act of Parliament, to cut short a Trial which the Obstinacy of the Master might otherwise have extended to a considerable Length.—And being asked, Whether he thinks it necessary to legalize the Authorities the Governor and the Courts have thus assumed? he said, He does not think it has been exercised illegally by those who were legally authorized to hear and determine in such Cases; but that, according to the Act of Parliament, and the Custom of the Fishery, they have exercised this discretionary Power of estimating the Value of a Day's Pay, according to the Time of the Fishing Season, and the Nature of all the Circumstances attending the Offence. As to the Second Clause, it would appear, from the Evidence of the Merchants, as if this had been a new Regulation; but he has already stated his Opinion upon that Head. He looks upon the Resident Fishermen to have as complete



plete a Lien upon the Fish and Oil, notwithstanding what has been said by Mr. Newman, as any other Servants engaged in the Fishery. The Resident Fishery is chiefly carried on by Servants employed, who are paid Wages; and even where it is carried on by Shares, the Courts consider the Servants to be entitled to their Wages out of those Shares, in Preference to all other Demands upon the Fish and Oil, as completely as if it had been an Agreement for so much Wages instead of a Share in the Fish; and to overturn that laudable Custom an Attempt has lately been made, by Way of Trial, to bind the Servants by a written Agreement, to give up their Claim under the Head of Wages, and to allow of the Fish and Oil being first of all appropriated to the Payment of Supplies.

Mr. Graham then delivered into your Committee a Paper as a Proof of this Attempt having been made, which is hereunto annexed. Vide Appendix, N<sup>o</sup> 4.

And he further stated, That from various Instances which he has found in the Records of Newfoundland, it was the ancient Custom of the Fishery for Servants to stop the Fish and Oil upon the Room, whenever they had a Doubt of their Master's being capable of paying them; and as a Proof of the Propriety of such a Custom, he delivered in to your Committee a Paper, which is a Proclamation issued by the Governor of Newfoundland in 1749, shewing, that unless the Servants sometimes exercised this Power, the Fish and Oil would often be taken from their Masters, the Boatkeepers, by the Merchants who had supplied them, and no Means left by which the Boatkeeper could pay them (the Servants) their Wages, which is hereunto annexed. Vide Appendix, N<sup>o</sup> 5.

With respect to the other Clause, the Merchants pretend they would be contented with the Act of William the Third only. He would observe, that if they take the Act, it must be the Whole, and not a Part of it only, and in that Case the greatest Part of the Property now possessed by them must be given up to the public Use; for one Clause expressly says, "That all the Fishing Rooms taken Possession of since 1685 shall be relinquished;" and it would be impossible for most of them now to prove Possession before that Time. There is also a subsequent Clause, forbidding them to take Possession after that Time, except in a certain Way, that is, for the express Purpose of the Fishery; and by another Clause in the Act of the 15th of George the Third, it is directed, "That whenever they cease to carry it on upon such Fishing Rooms as they have taken Possession of, those Fishing Rooms shall ever

“ after become the Property of the Public.” He thinks both Acts are good, and for this Reason, that the Proviso in one gives a Sort of exclusive Right to the Merchants, and encourages them to build, and the other operates as a Check against their making an abusive Use of it, which would often happen, by building private Dwelling Houses, making Gardens, &c. to let for hire, and using, for many other Purposes besides the Fishery, the Ground which would otherwise be useful to Adventurers in it. He has known many Instances of this, as is more fully stated in a Report of Admiral Campbell’s, which he delivered in to your Committee, and is hereunto annexed. Vide Appendix, N<sup>o</sup> 6.

Your Committee again called Mr. ROUTH, who being further examined, was asked, When was he first desirous of appointing more Officers? he said, He could not say.—And being asked, Did he ever represent the Loss to the Revenue, for the Want of proper Officers, to the Commissioners of the Customs? he said, He does not remember whether he did or not.—And being asked, Whether he should not have thought it his Duty, if he had supposed a Loss of the Revenue to have actually existed, to have stated the same, as often as it occurred, to the Commissioners of the Customs? he said, When any Information of that came before him, it would have been his Duty.—And being asked, Whether any Information did ever come before him? he said, Not officially from the other Officers, but he has accidentally heard there were, which he has mentioned occasionally to such Officers of the Revenue as he thought it necessary to inform of it, but he does not recollect if he did it in Writing; under all the Circumstances of Newfoundland, he thought it best to make no Alteration, till Government had made an Arrangement for Newfoundland, supposing he should receive Directions upon it.—And being asked, When did he first hear of the Intention of Government to make a new Arrangement for Newfoundland? he said, He could not remember.—And being asked, How many Custom House Officers does he think necessary to prevent any Practices of Smuggling in Newfoundland? he said, He cannot at this Time determine that Question.—And being asked, Would an Officer be necessary in each Creek to prevent Smuggling? he said, He can only answer that Question by Comparison; it has been so in other Places, and he should hope that it will effectually stop it.—And being asked, What Addition of Salary was added on exempting the Fishing Ships from paying Fees? he said, He has heard that the Collector of that Day was asked, What Compensation he should expect for his Loss on that Description of Vessels, called Bankers, carrying no  
Cocketable

Cocketable Goods, but fitted out according to the Act of the 15th of George the Third, and going directly on the Banks of Newfoundland to fish? and that his Answer was, He could not name a less Sum than £. 100 per Annum.—And being asked, Does he mean by that, all Fishing Ships as are exempted by that Act? he said, He means Bankers.—And being asked, Whether the Word *Bankers* is mentioned in the Act? he said, He believes not, but he understood all Ships actually employed in the Fishery to mean *Bankers*.—And being asked, By whom is the Salary of the Deputy Collectors paid? he said, Under an Order of the Board of Customs.—And being asked, Whether the Deputy Comptrollers at the Out Ports have any Salaries? he said, No, they are paid by an Agreement between the Principal and the Deputy.—And being asked, Whether the Principal has any Salary allowed for them? he said, No.—And being asked, Whether he is obliged to find a Deputy, without being allowed any Thing for him? he said, Certainly.—And being asked, What Emolument does he think would be adequate to all the Officers at Newfoundland? he said, He could not determine.—And being asked, How much a Collector ought to have? he said, He had no Papers respecting it, therefore, cannot determine it at present.—And being asked, Whether he thinks that Smuggling might be materially checked in Newfoundland, by the Addition of the Officers he has spoken of, without having One in every Creek? he said, In some Situations more, in some less; it depends upon the Situation of the Coast.—And being asked, Would not the Business be just as well done, if the Trade, who now pay the Fees for Three Offices to One Person, paid only the Fee for One Office? he said, He could not determine; he has had no Experience as to that Point.—And being asked, What Check can a Comptroller be upon himself as Collector and Surveyor? he said, None.—And being asked, Whether the Business would not then be as well done if he only exercised the Office of Collector? he said, He could not determine.—And being asked, Whether it is possible that a Man, whose Duty it is to be in Three different Places at once, to do the Duty of either properly? he said, He should think he could not.—And being asked, Whether there were any, and what new Fees taken from the Trade, when the Surveyors and Searchers were appointed in 1782? he said, The same Fees as at Halifax for those Officers.—And being asked, Whether the Seal Fishery is Part of the Fishery of Newfoundland? he said, In some Situations it is; Seals are caught on the North Part of Newfoundland.—And being asked, Does the Produce of the Seal Fishery pay Fees? he said, He believes so.—And being asked, Whether he charges Fees on it? he

he said, He believes they pay the same as Trading Ships.—And being asked, If the Naval Officer had the same Power as the Custom House Officer, would he not be competent to do all the Business of the Trade, as far as One Man could do it? he said, He could not tell.—And being asked, Whether there is full Employment for many Officers of the Custom House at St. John's? he said, They consider it their Duty to attend to the Trade whenever they have any Business at the Custom House, but they have still some Leisure Time.—And being asked, Whether those Gentlemen, who hold Three Offices, and are obliged to look after above One thousand Miles of Coast, have full Employment? he said, He could not tell, but he hopes they do their Duty.—And being asked, If there is not sufficient Employment for One Custom House Officer, why does he wish to appoint Three? he said, He does not mean to say, that they are not sufficiently employed in their Duty; if there were Three they could attend to the Coast more properly than One.—And being asked, How many Officers then are necessary? he said, He could not determine.—And being asked, Whether the same Persons execute the Business of the Custom House Officers, as well as the Naval Officers? he said, He believes they do in some Situations; in Two Instances they do not.—And being asked, Whether the Naval Officers are the most proper People to do the Duty of Custom House Officers? he said, He should suppose not.—And being asked, Why did he suffer a Man to hold the Deputy Collectorship after he had the Appointment of Naval Officer? he said, He has no Authority to prevent the Naval Officer from chusing whom he pleases; and as long as the Revenue Officer does his Duty in his Behalf, he has been satisfied.—And being asked, Whether he has appointed the most proper Persons in each District? he said, Yes.—And being asked, Whether the Duties of a Naval Officer and a Custom House Officer are not incompatible? he said, He had already stated that they are.—And being asked, Whether the same Person does not hold all the Offices of the Customs in the Out Ports? he said, Yes.—And being asked, Whether a Custom House Officer is put on board Ships arriving at Newfoundland? he said, Whenever a Ship is under Seizure, or wherever they have Cause to suspect illicit Proceedings, they usually appoint One or more Tidesmen to do that Duty, but not the general Practice to every Ship.—And being asked, How many Ships in an Hundred have Tidesmen put on board them? he said, He could not tell.—And being asked, How long have the Justices he has mentioned to live on their Fees in Conception Bay been appointed? he said, He could not tell.

Mr. GRAHAM being again called in, was asked, Whether he has any further Observations to make on the Trade to Newfoundland? he said, He is still of Opinion, that the Trade and Fishery of Newfoundland is not in a declining State, and he thinks that the Statement which he now begs to deliver in to the Committee, in Addition to that he has already made in a former Part of his Evidence, will shew it.

The said Statement is inserted in the Appendix, No. 7.

And he further said, That the Merchants have brought themselves to believe, that even the supposed Decrease of the European Boatkeepers, and the Increase of the Resident ones, was occasioned by the passing the Act of the 15th of George the Third; the Governor's Letter to the Board of Trade, dated the 28th of October, 1757, (which the Witness spoke of in a former Part of his Evidence) sets that Matter in the clearest Point of View, an Extract of which is as follows!

Extract from Governor Edwards's Letter to the Board of Trade, dated St. John's, 28th October, 1757.

“ It having been a Custom for some time past for the Fishing  
 “ Ships not to bring with them from England their compleat  
 “ number of Green-Men, and a Breach of the laudable Custom  
 “ of allowing Shares of what they make in their Fishing Voyages,  
 “ instead of Wages, they have had Recourse to getting over a great  
 “ number of Irishmen, who, being generally Roman Catholics, they  
 “ use them as they think proper, and seldom pay them any Wages,  
 “ by which many of them are left on the Island, to the great Terror  
 “ and Distress of the Inhabitants, and obliged (as is most of the poor  
 “ laborious People) to engage themselves only for their Provisions,  
 “ in the Winter to labour, and fish for the Summer Season, as they  
 “ supply them with Quantities of Rum, for both which they  
 “ charge them most exorbitant Prices, to the great Distress of  
 “ themselves, Families, and the Fishery and Trade of this Island.”

He also produced to your Committee another Extract of a Letter from the Governor to one of the Magistrates of the Island, viz.

Extract from Governor Edwards's Letter to Charles Garland, Esquire, Justice of the Peace at Harbour Grace, dated St. John's, 13th September, 1757.

“ This Day was presented to me the Balance of an Account,  
 “ of £. 8. 6s. 1d. (due to Thomas Gillard from Joseph Pynn) for

“ last Year; wherein is noted that you had given Orders to deduct  
 “ from Servants, on Account of the bad Voyages, 25 *per Cent.* on  
 “ their Wages; I am astonished to think that a Magistrate, whose  
 “ Place it is to adjust all Differences, and prevent illegal Practices  
 “ of any Kind whatsoever, should be guilty of directing an Action  
 “ of this Nature, and I desire to know how you can justify the  
 “ detaining any Sum from the Wages promised to Servants for  
 “ their Labour, even ascertaining the Voyage to be unsuccessful.”  
 Then,

Mr. GRAHAM being further examined, informed your Committee,  
 That, respecting the Fish and Oil being liable in the first Place to  
 the Payment of the Seamen and Fishermen's Wages, he has only to  
 observe, that it ever was so by the Custom of the Fishery, and that  
 the Act of the 15th of George the Third made no Alteration  
 in that Custom; if the Gentlemen only mean that  
 it should be the Law where Masters will offer good and proper  
 Security for the Payment of their Servants Wages, the Fish and  
 Oil should not be detained in the Room, under that Pretence, he is so  
 far from seeing any reasonable Objection to it, that he thinks it  
 would be a very good Regulation, and tend much to the Peace and  
 Quiet of the Fishery.

As to the Penalty to be inflicted on Servants for Neglect of Duty,  
 the Merchants appear to have misconstrued the Law, which, as it  
 now stands, and particularly if coupled with the old Custom of the  
 Fishery, enables the Courts (and they have constantly practised it)  
 to inflict a much greater Penalty than it would appear that they  
 could upon the Face of the Act of the 26th of George the Third,  
 for in Cases of actual Neglect being proved, the daily Wages  
 are not estimated in Proportion as a Day is to the Whole of the  
 Season, but according to the Value of Labour at the Time the  
 Offence was committed. And the Records of every Court in the  
 Island will furnish Instances to prove that this is the Construction  
 put upon the Act by the Judges of the Courts. According to the  
 Construction he has ever put upon the Act, he thinks the Clause  
 in question a very good One, as it does not in his Opinion, as  
 in the Opinion of the Merchants, operate against the Custom of  
 the Fishery; but in difficult Cases, and in settling Accounts be-  
 tween Masters and Servants, when the Shortness of Time will  
 not permit the Judges to scrutinize, and the Obstinacy of the  
 Master will not allow Reason to prevail with him to reduce the  
 Overcharges, it is of great Assistance to the Judges, and enables  
 them to send many Men out of the Country, who would other-  
 wise be under the Necessity of staying in it.

That

That he is glad to inform the Committee, notwithstanding what appears upon the Face of the Evidence, that the British Merchants do not complain of the Clauses of the Acts of the 15th and 26th of George the Third, which oblige them to pay half the Servants Wages in Money or Bills; but it would not be doing them Justice, if he was not to observe (although the Clause ought not to be repealed) that it operates as a seeming Hardship upon them, for although they cannot supply their Servants to more than the Amount of half their Wages, yet a Huckster may, the Moment after a Servant has received his Bill, exchange it for him, and furnish him with Liquor and Goods to the whole Amount of it; so that the good Intent of the Act, which he takes for granted was to bring the Servants out of the Country, is by this Means frustrated, by Persons who instead of being of Service to the Fishery are very great Nuisances in it. He has no Plan to offer for getting those People out of the Country, nor does he conceive that it would be easy to form one. Admiral Milbanke, whose Attention to the Trade and Fishery was very great, took the only Step that appears upon the Records of the Island to be calculated for reducing (without using Violence) the resident Inhabitants of Newfoundland. The Ideas of the Admiral upon the Subject may be known by the Proclamations he issued, which the Witness delivered in to your Committee, and are hereunto annexed. Vide Appendix, N<sup>o</sup> 8, (a) and (b).

And he further stated, that Admiral Campbell, during his Government, seeing the ill Effects of making Grants to private Persons of Land about the different Places where Fisheries were carried on, strictly forbid the Erection of any new Fences, and gave Permission to all Persons concerned in the Fishery, to take their Brushwood and Stuff from any the most convenient Places where they could find it, and cautioned all Persons pretending to claim any Right in Lands as private Property. Then,

Mr. ROUTH was again called in, and being desired to state to your Committee, the Condition of the Bye Boat Fishery, from the West of England? said, That it appears to him (depending on his Memory) not to have declined so much as represented, but he does not remember their Names, having none of his official Papers with him.—And being asked, Whether he could state with any Certainty that it has not decreased? he said, He could not.—And being asked, Whether any of the Custom House Officers, or their Deputies, have any Concern in the Fishery,

Fishery, directly or indirectly? he said, He could not tell; they have not at St. John's; as to the Out Bays, he has no Information of that Particular.—And being asked, Whether any of them are under Military Command? he said, He believes not.—And being asked, Who is his Deputy at St. John's? he said, Mr. Mackie acts as his Deputy at present; Mr. Ogden acted before him, who was then Surgeon's Mate of the Garrison.—And being asked, Whether he does not know that the Collector at the Bay of Bulls is actually concerned in the Fishery? he said, He does not know; he may be, but he had never any Information of it.—And being asked, Whether he will say that he is not? he said, No, he cannot speak to it.—And being asked, Whether the Collector at Ferryland is not concerned in the Fishery? he said, It is very likely he may be, but he does not know it, he never made any Enquiry about it.—And being asked, Whether he receives regular Returns of Ships from Ferryland and the Bay of Bulls? he said, Yes.—And being asked, Whether he has ever seen in those Returns, the Names of the Collectors of those Districts as concerned in the Fishery? he said, He does not recollect that he has.—And being asked, Whether he can say he has not? he said, He does not remember.—And being asked, Whether the Custom House Officers ever transact Business for Persons concerned in the Fishery? he said, Not that he knows of, unless the Recovery of protested Bills may be called so.—And being asked, Whether any Justice could have been concerned in the Recovery? he said, He believes not.—The Witness having stated, that a Vessel landed one Cargo, and took out another in-Defiance of the Custom House Officers; he was asked, How came that Vessel not to be seized? he said, He received this Information since he left Newfoundland.—And being asked, From whom? he said, It is improper for him to name the Author.—And being asked, Whether the Custom House Officers did their Duty, in not stopping the Vessel? he said, They were ignorant of it, and do not know it at this Hour.—And being asked, Upon what Grounds does he state the Profits and Losses of the Fishery as carried on from England? he said, In some Instances from an Acknowledgment of the Parties concerned.—And being desired to name those Persons? he said, Messrs Saunders and Sweetman, and Mr. Spurrer.—And being asked, Whether they have gained by the Fishery, or Trade, or both? he said, By both, he supposes.—And being asked, Did they express to him, that they gained by the Fishery only? he said, He understood from both, but he does not mean to distinguish how much from the one, or the other.—And being asked, From what Authority does he speak of the Increase or Decrease of the Fishery? he said, From the Tonnage employed.—

And



And being desired to state what that is? he said, The Paper marked (C.) in his Evidence before given will describe it.—And being asked, How many of those Vessels came Annually from Europe? he said, He could not tell; the Account does not discriminate them.—And being asked, How then can he speak accurately, whether there is or is not an Increase or Decrease from Europe? he said, Although the Account does not specify, yet, as far as his Memory serves him, he conceives the Tonnage from Europe was as great as usual; the Returns will doubtless determine.—And being asked, Whether he can state to the Committee the actual Number of Ships employed in the Fishery? he said, Not at this Time, further than the said Paper marked (C.) goes.—And being asked, Whether he will take upon him to say, that notwithstanding all the Returns that have been made by the Admirals and by the Custom House at Newfoundland, and by the Naval Officers, that more than 244 Vessels were employed in the Trade and Fishery from Great Britain in 1792? he said, He could not remember either the Number of Ships or their Tonnage, of the Year 1792, but it may be determined by the Custom House Returns.—And being asked, By whose Desire did he come before this Committee to give Evidence; was it by the Acquiescence of the Board of Trade? he said, He came to justify his own Conduct, and to give such Evidence, with their Acquiescence, as he understood it.—And being asked, Did he take all the Means which were in his Power to give this Committee Information respecting the Number of Ships from Great Britain? he said, A long and painful Confinement by the Gout prevented him from being so particular as he could have wished; but not knowing to what Points his Evidence would lead, he could only be prepared as to the general State of the Trade, and he thought the Paper (C.) contained as much as would be required.—And being asked, Whether then he had not Time from his Indisposition to form his Opinions upon actual Proof? he said, He conceives the Paper (C.) to be the actual Proof of the Ships and Tonnage employed in the Trade.—And being asked, How does that Paper prove that any One Ship sailed from Great Britain? he said, The Paper (C.) will prove that the Tonnage on the Whole was nearly the same; but not having extracted from the general Account the Number of Ships that actually sailed from Great Britain, he cannot speak to that Particular; but he conceives he can obtain it, if necessary.—And being asked, Whether the only Proof he speaks of is that Paper? he said, He speaks from the Contents of that Paper, and his Recollection of the Trade in general.—And being asked, Whether there may not be a Decrease of Men, though there is an Increase of Tonnage?

he said, He could not tell; he is not prepared with the Number of Men particularly employed in the Fishery; the Paper (C.) on the Whole makes it nearly the same, and the Fish caught and exported nearly the same.—And being asked, How many Men does a Ship of 300 Tons take in the Newfoundland Trade? he said, About Fifteen, he believes.—And being asked, How many does a Ship of Fifty Tons take? he said, If she cleared for the Bounty of £.40 she would have Twelve Men on Board.—And being asked, Whether the Ships as numbered in the Account (C.), are distinct Ships, only once enumerated, or are they enumerated as often as they enter and clear in the Season? he said, As often as they enter and clear; some few Ships making Two Voyages.—And being asked, Whether every Ship is, as often as it pays Fees to the Custom House added to the Account as a fresh Ship? he said, Ships pay Fees for every Entry and Clearance, except Bankers, and are entered in that Manner.—And being asked, Whether all Ships paying Fees, are entered in that Manner? he said, All are except Bankers.—The Witness having said, in his former Evidence, that Admiral Milbanke received £.900 as his Third Part of the Seizures made during his Government, and it appears that the whole Amount of the Seizures was only £.983, he was asked, How is this reconciled? he said, In that Account the King's Share only is inserted.—The Admiral's would be as much.—Mr. Routh having also said, That the Situations of Naval Officer and Custom House Officer are incompatible, does he mean by that Expression that they cannot properly be exercised by the same Person? he said, He means that a Naval Officer is not a seizing Officer. He thinks it would be better that they should not be in the Hands of the same Person; but where there are not Plenty of People he does not see how it can be prevented.—And being asked, Whether the Naval Officers have never seized? he said, Not since he has known Newfoundland; he understands they have no such Power. If they ever did, it must have been illegal.—And being asked, How does the Union of the Naval Officer and Custom House Officer in the same Person destroy the Check they ought to have upon one another? he said, He only means if they are considered as being so; he does not consider them as such.—And being asked, Would it be the Duty of the Naval Officer, if he saw the Duty of the Custom House neglected, to take Notice of it? he said, Not more so than any other Man that he knows of; he has no Directions to that Point.

Mr. NEWMAN being again called in, was asked, How does he make out the Items of a Charge of £.5. 18s. 6d. as Custom House

House Fees upon a Vessel from England with Sundries for the Fishery, and taking in a Cargo of Fish and Oil in Newfoundland? he said, The Particulars were never given in by the Collector, though demanded.

Your Committee again called Mr. ROUTH, who being asked, Did he not offer the Trade to make out a printed Bill for each Item for which they paid Fees, provided they would be at the Expence of it? he said, He did, notwithstanding the Items were written up at the Custom House. Then

Mr. OUGIER was called in, and desired to specify the Ship for which he had paid £.4. 19s. 0d. he said, It was the Mercury. There was another small Ship for which he paid £.5. 2s. 0d.; but that was because she discharged Part of her Cargo at One Port and Part at another; and so had the other, for which he paid £.4. 19s. 0d.

In the Year 1776, he paid for a Brig, the Triton, from London and Dartmouth to St. John's and Bay Bulls, 18s. for all Fees in and out,

He then delivered into your Committee an Account paid by his Agent, Edward Lee, for Ships entered at and cleared from Newfoundland, which is hereunto annexed. Vide Appendix, N° 9.

Mr. GRAHAM being again called in, he continued his last Examination, and said, Not to obstruct the Fishermen in taking away such Stuff as they wanted, under Pretence of the Land being inclosed, but to open their Fences, and to let those People pass and repass in whatever Direction they might think most convenient and proper for them to go. Admiral Elliot, ever attentive to the Interests of the Fishery, continued those Regulations; and in consequence of Directions from the Government of this Country, made no other Grant during the Time he was Governor of Newfoundland, than such as was thought for the Encouragement of the Fishery, and which he was authorized to do by his Instructions.

The Form of which Grant the Witness delivered in to your Committee, and is hereunto annexed. Vide Appendix, N° 10.

And he further said, That Admiral Milbanke improved upon the Plan thus laid down by Admiral Campbell, and followed by Admiral Elliot,

Elliot, and extended it for the Prevention of an Increase of the Residents in the Manner he has already stated. In Addition to which, he begged leave to lay before the Committee a Copy of a Letter from the Governor to One of the Inhabitants, in order to shew the Manner in which his Proclamations were enforced; also another Paper, which will serve to shew the very great Caution observed by the Governor in giving Permission for the Erection of Houses for the Use even of the Inhabitants, who were born and had always lived in the Island, which your Committee have hereunto annexed. Vide Appendix, N<sup>o</sup> 11 (a) and (b).—And being further examined, he was asked, Have these Inclosures been made by Residents, or by Persons going to and from Europe Annually? he said, The principal Part of them have been made in consequence of Grants to the Officers of the respective Military Corps doing Duty in the Island, who on their Departure, on being relieved, generally sold it. Admiral Campbell observing the Extent to which this Evil had increased, gave a small Spot of Ground, surveyed and particularly described by the Engineer, to each of the Corps doing Duty at St. John's, directing that the Description of it should be constantly hung up in the Barracks, and the Ground to be delivered over to the succeeding Corps upon every Relief of Troops taking Place; and strictly forbid the Officers and Soldiers to sell the Whole or any Part of it as private Property, or to make any other Claim upon their Successors than a fair Demand for the Value of the Seeds in the Ground. Grants have also been made to Officers in the different Civil Departments, and likewise sold by them as private Property; but if the Regulations already made upon that Head are attended to by succeeding Governors, the Evil cannot possibly increase. The Proclamation issued by Admiral Milbanke, which the Witness has delivered in to the Committee, reduced the Winter Inhabitants of St. John's alone upwards of Eight hundred the First Year.

With Respect to that Part of Mr. Routh's Evidence, which would seem to convey an Idea, that Admiral Milbanke ought not to have made a Report on the Proceedings of the Custom House, as his Ignorance of the Trade, from the Shortness of his Stay upon the Island, made it impossible for him to know any Thing of the Matter, and recommending to the Admiral not to give an Opinion again upon an Act of Parliament, without first carefully reading it, the Witness said he had to observe, That if Mr. Routh had himself done what he recommends to the Admiral to do, he never would have said, in speaking of the Fish and Oil (which should exempt Fishing Ships from paying the Fees over and above the Half Crown to the Naval Officer) that it is expressed in the Act of the 15th of George the Third, that such Fish and Oil should be caught

caught in such Fishing Ships.—For the Words of the Act are “ Provided always, that in case any such Ship or Vessel shall, at her last clearing out from the said Island, have on board or export any Goods or Merchandize whatsoever, except Fish, or Oil made of Fish, such Ship or Vessel, and the Goods thereon laden, shall be subject, &c.” So that it plainly appears, that to exempt a Fishing Ship from the Payment of Fees, she has only to be laden with Fish and Oil (no Matter whether that Fish and Oil may have been taken by herself, or by any of the Inhabitants or Boat-keepers) and if she has no other Goods whatsoever on board, the Custom House is directed (provided she arrived at the Island properly qualified) to let her depart without laying her under any other Restriction than making a Report, and paying the Naval Officer’s Fee; and this only serves to shew that Admiral Milbanke, however ignorant Mr. Routh might think him of the Trade, had been able to inform himself better in a short Space of Time than Mr. Routh could do in the Course of many Years Service.—The Admiral, in speaking of the Hours which the Masters of Fishing Ships were confined to by the Custom House, did not mean to state, that the Collector and every other Officer of the Customs would not devote their Time out of those Hours to the forwarding of the Departure of those Ships; but he meant to say, that by their being obliged to conform to those Hours, and ask as an Indulgence what he thought they might demand as a Matter of Right, they were in Effect to depend upon the Will of the Officers, who no Doubt sometimes did confine them to particular Hours for making their Entries and getting their Clearances; which, if against Law, it became a Hardship, however indulgent the Officers might be on their Parts. For my own particular Part, I believe a more accommodating and obliging Set of Custom House Officers are not to be met with in any Part of His Majesty’s Dominions; but I am clearly of Opinion with the Admiral, that the Privileges of the Fishing Ships ought not to (nor do by Law) stand in need of their Indulgence.

As to the £ 900. mentioned by Mr. Routh in his Evidence, as it was the Admiral’s by Law, the Witness cannot conceive for what Purpose it was introduced; and instead of the Admiral’s Report being unprecedented, it was what he was directed to make by his Instructions; and had he omitted to take Notice of any Thing he thought wrong in the Custom House, or any other Department under his Government, he certainly would not have done his Duty.—And being asked, Was the Report made by Admiral Milbanke of the 31st of December 1790, and his Letter of the 20th of

February 1790, drawn up by him (the Witness)? he said, Yes, and contained his Opinion as to all the Points mentioned in it exactly.—And being asked, What was the Practice, as far as came within his Knowledge, as to the Merchants deducting 40 s. from their Servants Wages for Passage Money? he said, The Practice was, generally to stop it out of their Wages, and charge it as an Article in their Account, as will appear by the Accounts and Agreement given in, which are hereunto annexed. Vide Appendix, N° 12, (a.) (b.) and (c.)—And he said, Where the Servants have served at the Out Ports from which no Passage Vessels sail for Europe, it must very often happen, that by the Servant's being obliged to come to St. John's, or to some other Port from whence Passage Vessels sail, without his Passage Money, which is stopped in the Hands of the Master, he never recovers it again. He has known many Instances of this Kind happen; and also another very bad Effect, from the Master's not being obliged to find a Passage for his Servant, although he is authorized to stop his Passage Money, which is, that the Hucksters prevail upon the Masters to pay to them, on the Servant's Account, the Passage Money, which, instead of being properly applied, is spent in their Shops in Liquor and useles Articles, together with the Wages, and the Servant is left without a Farthing to provide a Passage, for himself. It is through this Means that the Island has so much increased in Winter Inhabitants.

The Merchants have complained, that it would be very hard upon them, not to allow them the Advantage of bringing Home their own Servants. He can undertake to say, that the Governor, and the Captains of Men of War, so far from attempting to injure them in this Point, would upon all Occasions assist them. And he delivered in to the Committee a Letter wrote by himself, by the Governor's Directions, to Mr. Greaves, upon that Subject, which is hereunto annexed. Vide Appendix, N° 13.

And being asked, Whether he has had Occasion to know that the Merchants think themselves authorized by Law to return the Forty Shillings stopped out of the Servant's Wages, in case he does not apply to them for a Passage; and is that Money in Fact retained when the Servants remain in the Island during the Winter? he said, He has known many Instances of Masters having in their Possession Two, Three, and Four Years Passage Money of Servants staying in the Country, and when called upon for it, have answered, that they were ready to pay the Servant's Passage whenever he was inclined to go to Europe. They conceive they are by Law obliged to stop it, and that the same Law obliges them to retain

retain it in their own Hands, even though the Servant should remain in the Country.—And being asked, Whether it is not the Interest of the Merchant, according to this Construction of the Law, that the Servant should remain behind, instead of being brought home? he said, As far as relates to the Forty Shillings it undoubtedly is.—And being asked, Whether it is the Interest of a Merchant to have Passengers come Home in his Ship or not? he said, Certainly, provided he does not leave out any Goods on their Account.—And being asked, If the Servant left behind by his Master chuses to go in another Ship, would not the Master be equally obliged to pay to some other Master the Forty Shillings for his Passage Money, by which Means the Master himself would equally pay the Forty Shillings, and lose the Benefit of his Passage? he said, The Master would certainly be obliged, according to the Custom of the Fishery, to pay some other Master, who might take the Servant Home, his Passage Money; but this does not always take an Advantage from the Servant's own Master, because it very often happens that he has no Passage Vessel to send Home at all—and again if it is left to the Choice of the Servant whether he shall leave the Country or not, and according to the present Law that seems to be the Case, he would Six Times out of Ten stay behind, regardless of the Loss of the Forty Shillings.—And being asked, Whether he thinks, that if a compulsory Power was given to the Masters of Ships, and the Surrogates, and the Justices of the Peace, to compel such Servants not engaged as Winter Servants to return Home, in Addition to the present Provisions of the Act of the 15th of George the Third, that Act would then be sufficient for its Purpose? he said, In many Cases not, because Servants are employed in many Parts of the Island where there are no Passage Vessels.—And being asked, What is his Opinion of the Plan proposed by the regulating Bill of last Year? he said, He is still of Opinion that it is the only one which can effectually rid Newfoundland Annually of the Servants of the Fishery, with this Difference, that if it should be thought a Hardship upon the Servant not to let him have the Difference between the Forty Shillings and the current Price of a Passage, he sees no Reason why it should not be returned to him; but the Servants who will insist upon staying in the Country should have a Penalty imposed upon them.

The Receiver cannot, as the Merchants have said, give a Preference to any Master of a Passage Vessel, who may put up for Passengers; in sending Men on board, for he can know nothing of the Servant's having engaged for a Passage, until the Master of the Vessel produces the Receipt at the Office, which must have been given

given to him by the Passenger, who alone can have the Privilege of making his Choice of the Vessel he is to go in.

It is very easy for every Master to pay the Servant's Passage Money to the Receiver, when they pay the Greenwich Hospital Money (in Notes upon their Merchants, or any of those Kinds of Paper in which the Business of the Island is transacted) the same Person would necessarily be appointed the Receiver of the Passage Money also.—And being asked, Supposing a Merchant to bring Home his own Servant, what Difference would it be to him, whether he retains the Forty Shillings in his own Hands (as he does now) as the Price of the Servant's Passage, or whether (as proposed in that Bill) he pays it, in the first Instance, to the Receiver, and then receives it back from him as a Payment for the Passage of such Servant? he said, It can make none in the World to him; he thinks the Servant ought to be compelled to return to Europe in his Master's Vessel, in Preference to any other, provided his Master's Vessel was ready to bring him Home, and properly provided. Then

Your Committee called Messrs. NEWMAN and OUGIER, who being severally asked, If the Receiver was not allowed any Poundage, would that take away an Objection to the Act? said, Certainly.—And being asked, Have the Merchants any Power now to compel their Servants to go Home in their own Ships, unless the Servants are so bound by their own Agreements? they said, They think they have, by the Act of the 15th of the King.—And being asked, Whether such Power has ever been exercised? Mr. Newman said, He does not know any Instance of its having been exercised; he never knew a Sailor of his refuse to come Home in his Ships.—And they being asked, Whether there is any Thing to be found in the proposed Bill of last Year, which would not leave the Merchant equally at Liberty to bring Home his own Servants, or which would give the Receiver any Power of appointing the Ship in which the Servants were to return? Mr. Ougier answered, As we construed it, yes; he may occasionally have to pay the Passage of 600 Men; the Receiver may call upon him for £. 1,200.—These Men may return in different Ships. The Difficulty then is, how the Receiver can divide that Bill, so as to satisfy every Body; and how would each individual Passenger be able to draw out from the Receiver the exact Sum for his Passage Money, unless the Receiver sends them all Home in One Ship.

Mr.



Mr. GRAHAM being present, desired to explain this Point, and said, The Bill directs, that the Master of the Passage Vessel shall call upon the Receiver for the Payment of the Passage Money, after his Complement of Passengers is completed; the Receiver therefore, regardless of the Amount of the different Bills he has received, was to pay the Master of each Vessel the full Amount for the whole Number of Passengers on Board, therefore he might pay it in One Bill or more as he found convenient; he is not to pay each individual Passenger.—And Mr. Graham being asked, Supposing the Price of the Passage to be 34s. how can the Receiver pay 6s. back again to each Man? he said, Exactly in the same Way it is now done, by the Merchant, namely; the Servants generally want some few Necessaries to take to Sea with them; they know where they are to be purchased, and it is the commonest of all Things for the Merchant to give a Note upon the Person who is to furnish the Servant with these Necessaries for Sums as low as 2s.—And being asked, Whether it is possible to pay them in Money? he said, According to the State of Cash in the Island when he left it, he thinks it is not; nor does he believe, if it could be done, that the Persons selling the Necessaries would always prefer Cash to Bills or Notes. Then

WILLIAM HAY, Esquire (One of the Commissioners of the Customs) being examined, was asked, Whether he thinks there is any Necessity for a Custom House in Newfoundland? he said, Yes; where there are Duties to be received Persons must be appointed to receive them.—And being asked, Whether it is necessary for the Prevention of Smuggling? he said, Yes; certainly.—And being asked, Whether a Custom House is particularly necessary at Newfoundland, from the Probability of the illicit Intercourse with the French and the Americans? he said, He thinks it is, particularly so with Respect to the Americans.—And being asked, Whether it is necessary for the Purpose of carrying the Laws of Trade and Navigation into Execution? he said, Yes, he thinks it is.—And being asked, By what are the Fees at Newfoundland regulated? he said, By those of the Port of Halifax, as they were in 1768.—And being asked, Whether he ever had before the Board of Customs any Complaint of Misconduct or Neglect of Duty of the Officers at Newfoundland? he said, There was a Reference from the Treasury, which he delivered in to your Committee, and is as followeth:

“ A Treasury Letter was received, dated the 3d of February 1790,  
 “ with One from Mr. Fawkener, and a Petition from the Mer-  
 “ chants and Ship Owners, carrying on the Fishery at Dartmouth,  
 “ complaining of the Fees taken by the Officers of the Customs  
 “ in that Island, upon which a Copy of the Return delivered in by  
 “ the Collector and Comptroller to the said Petition was transmitted  
 “ to Mr. Steele, in the Secretary's Letter of the 11th of May  
 “ 1790, wherein he was acquainted, for their Lordships Informa-  
 “ tion, that the said Return appearing to be a fair and candid State-  
 “ ment of the whole Business, the Board were of Opinion that  
 “ transmitting a Copy thereof would supersede the Necessity of a  
 “ Report.”

“ Mr. Rose, in a Letter dated 5th May 1792, transmitted a fur-  
 “ ther Memorial from the Merchants carrying on the Newfound-  
 “ land Fishery, and desired the Board would take the Opinion of the  
 “ Attorney and Solicitor General on the Case.

“ Upon which a Letter written in Return, dated 16th May,  
 “ 1792, signified that no mention having been made as to the Fees  
 “ demanded by the Officers at Newfoundland, the Commissioners  
 “ requested that the Delegates might be called upon to specify the  
 “ Amount of the Fees complained of, and the Instrument or Service  
 “ for which the same are claimed, without which no clear Case can  
 “ be laid before the Attorney and Solicitor General, conformably to  
 “ their Lordships Commands.”

And being further asked, Whether a Custom House would be  
 necessary at Newfoundland, if the Amount of the Duties would not  
 pay the Expence of it, and all the Means they could make Use  
 of were ineffectual to prevent Smuggling? he said, With regard to  
 the first, he conceives that a Custom House would be necessary,  
 though the Duties would not pay the Expence of the Establish-  
 ment; the principal Object of an unproductive Port is to prevent  
 Smuggling: He does not conceive there can be a Custom House  
 that will not prevent Smuggling in some Measure; nor is there a  
 Port in England, however large the Establishment, or however nu-  
 merous the Officers, that can prevent it entirely.—And being  
 asked, What Establishment is necessary in Newfoundland to make  
 the Custom House adequate to its Duties? he said, Having no  
 local Knowledge of the Place, he could not answer the Question.—  
 And being asked, Whether the Committee is then to under-  
 stand, that his Recommendation of the Custom House arises from  
 his Belief that it is adequate to prevent Smuggling? he said, Cer-  
 tainly

tainly not adequate to prevent it entirely; but it is a very considerable Restraint upon it; if the Custom House was absolutely removed, there is no saying to what Extent Smuggling would be carried on; nor what a Scene of Confusion the Place would be in; the Americans would resort there continually in that Case.—And being asked, What Means or Regulations are necessary to prevent Smuggling? he said, That depends upon the Nature of the Coast, and the Nature of the Goods, and the Mode and Manner of carrying on the illicit Trade.—And being asked, Whether 600 Officers would be sufficient? he said, Having no local Knowledge of the Country he could not say.—And being asked, Whether an Officer is not necessary in every Creek? he said, No.—And being asked, Where there is no inland Communication, should there not be a Water Guard to prevent Smuggling? he said, Where it is carried on by Water, a Water Guard is necessary.—And being asked, Whether he has any Idea of the Expence of such a Guard? he said, That must depend upon the Circumstances, as well as of the Number of Officers necessary at the Places where the Guard is to be established.—And being asked, Whether the Expence incurred by this would make it proper to establish such a Guard? he said, This Expence not being known, no satisfactory Answer can be given to that Question; having no local Knowledge of the Place, it is impossible for him to say what Establishment would be necessary, or what the Expence of it would be.—And being asked, Whether it is necessary for an Officer to be put on board every Ship before she discharges? he said; Certainly, if she has dutyable Goods on Board.—And being asked, Whether it is necessary that an Officer should be put on board to see that the Cargo corresponds with the Entry? he said, He believes that to be Part of the Duty of the Collector.—And being asked, Whether there is much Smuggling carried on at Newfoundland? he said, He believes there is a considerable Deal, and it appears to be increasing from the Number of Seizures.—And being asked, Whether those Seizures are from Smuggling, or from Informalities by the Captains of the Ships? he said, Without further Information he could not say.—And being asked, Should Fees be paid to the same Person, under the different Descriptions of Deputy Comptroller, Deputy Collector, Deputy Surveyor, and Deputy Searcher? he said, He takes the Offices of Deputy Collector and Deputy Comptroller to be perfectly incompatible, and not proper to be executed by the same Person.—And being asked, If a Collector orders an inferior Officer to take improper Fees, upon a Complaint thereof, what would the Board do? he said, He does not remember any such Case ever having come before the Board, nor can he say what

the Board would do; but in general the Board do not interfere with respect to Fees. There are general Rules laid down for the Establishment of Offices here, which cannot properly be executed in Newfoundland for Want of proper Persons.—And being asked, Whether a Custom House is necessary for the Purposes of carrying on the Fishery at Newfoundland? he said, He should think it was.—And being asked, How is a Custom House more necessary for the Fishery at Newfoundland than for the Fishery at Labrador? he said, He could not answer that Question, and begged to be understood, that the Evidence he has given is only his private Opinion, and not that of the Board.

JOAH BATES, Esquire, One other of the Commissioners of the Customs, confirmed the Whole of Mr. Hay's Evidence.

Vice Admiral EDWARDS attending, was called in; who requested to rectify a Mistake in his first Examination, where he states, That his last Government was in “1779, 1780, and 1781,” instead of “1788, 1789, and 1790.”

And he further said, That Vice Admiral Milbanke, in his Reports to the Lords of the Committee of Privy Council, made the 31st of December 1789, states, “It would have been imprudent in him, as a young Governor, to risk his Reputation and Fortune in Defence of a Custom (meaning sitting as a Judge in the Court House at St. John's) which, if not a bad one, had never been legally sanctioned, and within his own Knowledge had subjected One of his Predecessors, Vice Admiral Edwards, to a Prosecution at Exeter, which by the Advice of his Counsel he was fain to compromise, rather than bring the Matter to Issue.”—He is sorry that Admiral Milbanke should have entirely mistaken that Suit, the Particulars of which he must by his Report be unacquainted with. Baron Hotham, who tried the Cause (as soon as Admiral Montague, the only Witness for the Plaintiff called, was heard, and Serjeant Grose had cross-examined) recommended to the Witness, as obliging the Plaintiff who was poor, to pay his (the Witness's) Costs, which could be no Object to him (though Treble if he took the Verdict) to consent that an Enquiry might be made of the real Loss of the Nets, &c. of the Plaintiff, and that some Recompence might be made to him for those Things, in lieu of his Costs and Expences; and having

having obtained a Confirmation of the Rights of the Children he had protected, and the Decree he had made, he consented to the Judge's Recommendation, being regardless of his Expences.

In Admiral Milbanke's Letter to Mr. Fawkener, dated the 20th of February 1790, he says, That till the Year 1781, the Governors were supposed competent, sitting as Judges in the Court House at St. John's; but since the Prosecution commenced by the Merchants against Admiral Edwards at Exeter, no such Authority has been exercised by the Governor; why the Governors, from his Time to Admiral Milbanke's, did not act as former ones, he cannot say; but Admiral Milbanke certainly had no Foundation to report, that he (the Witness) was prosecuted by the Merchants, having received the most flattering Marks of their Approbation, by Addresses, and even an Application by the Corporation of Poole, to the Lords of the Admiralty, for his Re-appointment; nor did any Merchant support or join Gotham, the Plaintiff, who was but a common Boatkeeper; but on the contrary, the greatest Part of the Merchants, who had been at Newfoundland, then in the Country, attended voluntarily to be examined, in favour of the Orphans, if necessary.

Mr. ROUTH also attending, was called in, who desired to deliver in to your Committee a Paper containing some further Observations, which is as follows:

Having read the Evidence of Mr. John Waldron, carrying on a Trade and Fishery from Poole to Fortune Bay, reflecting on the Conduct of Mr. Cramer, the Officer of the Customs in that District; representing also that a Naval Officer had and could do the Duty as well as a Custom House Officer; that the Fees of a Ship were (including Certificates to cancel Bonds given in England) about £. 6; and that the Detention of Ships had arisen from Mr. Cramer's Negligence, &c.

In Reply, I beg Leave to observe, That Mr. Waldron, for some Time, was desirous of being the Officer of the Revenue himself for Fortune Bay, and often represented to me how necessary such an Appointment was, particularly on Account of the illicit Practices in that Situation. In Answer, he was informed, that as soon as a proper Person could be found, his Wishes should be adopted; but that I thought it would be out of Course to appoint him being a Merchant. At Length Mr. Waldron found Mr.

Cramer (who by Profession is a Surgeon) and induced him to settle at Fortune Bay, from whence he came with Letters from Mr. Waldron to the Collector and Comptroller at St. John's, representing him as a proper Person to carry the Revenue Laws, &c. into Execution; he was accordingly instructed in the Duties of his Employment, and appointed a Justice of the Peace in Conjunction with Mr. Waldron, which was understood to be a Request of the latter; but in a few Months they disagreed, and Mr. Waldron sent Word to St. John's, that if Mr. Cramer continued to be a Justice of the Peace he would not; and to prevent any further Dispute, the Collector and Comptroller desired Mr. Cramer would give up his Appointment as a Justice, which he immediately complied with, but not on Account of any improper Conduct in that Capacity, that I heard of.

I do not remember to have heard that Mr. Waldron had suffered any Inconvenience from the Detention of any of his Ships, from any official Neglect of Mr. Cramer, though if he had it would not have surpris'd me; for such was the Situation of the latter, that Mr. Waldron's Agent came to his House in the Evening with an armed Force, and without any legal Authority, seized his Person in a violent Manner, and put him in Irons; in which Situation he remained upwards of Three Months, and was not released till the Arrival of Mr. Waldron the ensuing Spring. It is not therefore to be wondered, that the Business of the District was impeded for a Time; and thus it is that most of the Difficulties in Newfoundland have arisen, from Indiscretion and Inaccuracy in the Agents. This violent Outrage in a Christian Country, upon the Person of an Individual, could not be countenanced, and the Agent was suffered to quit the Island before Mr. Cramer could take Measures to obtain Redress. Notwithstanding which Mr. Waldron has repeatedly assured me, that Mr. Cramer's Conduct was much more Satisfactory than it had been, and that he performed his Duty with Attention and Affiduity. As to his taking £. 6. for the Entry and Clearance of any Ship, I have Reason to believe, and I trust, Mr. Waldron is mistaken, as Mr. Cramer would not, I think, on any Account, take more than his legal Dues. I have already represented, that Naval Officers are not Revenue Officers; but admit they were, I am at a Loss to account for the Change of this Gentleman's Opinion. It is evident he did not formerly think a Naval Officer sufficient to suppress the Smuggling of Fortune Bay, or why did he so frequently solicit me upon the Occasion?

The Evidence, Mr. Ougier, having introduced the Memorial of Mr. John Leigh to the Judge of Admiralty at Newfoundland, to prove that the Collector and Comptroller had made an improper Representation of his Conduct in their Letter of 9th April 1790, I beg Leave to subjoin the annexed Paper, marked (E.) as a Copy of what was written upon that Occasion; and I submit, if Mr. Leigh's Memorial in Question does not go to the Point of Accusation mentioned in the Collector and Comptroller's Letter; that his Vessel had been broke open and plundered by the Officers of the Customs, and for which he prayed an immediate Prosecution to be commenced; whereas the Goods were under Seizure, and libelled in the Vice Admiralty Court at the very Time. The whole Procedure on the Part of Mr. Leigh was the greatest Insult that could have been offered in any civilized Country; but it has been so customary a Thing to treat the Officers of His Majesty's Revenue at Newfoundland with Indignity, that the Parties seem, at this Time, to think it perfectly consistent with Propriety. I am concerned beyond Measure, that I have not, in England, the necessary Documents to controvert the Substance of Mr. Leigh's Memorial, which is invidious; the taking Advantage of a little Bill of £.6 or £.7, in the Hands of the Custom House Officers, which undoubtedly ought to have been paid by Mr. Leigh (because the Bankrupt Laws of this Kingdom do not operate in the Plantations, and the Usage of Newfoundland would have secured the Payment of it, had the Sum been of sufficient Consequence to have taken so much Trouble) will amply shew it. On the whole, I submit to the Candour of the Committee, if the paltry Sum of £.6. 15s. (Part of which belonged to the Royal Hospital at Greenwich) could have induced any Set of Men holding respectable Employments under Government, and having Characters to lose, to commit themselves, especially with a Man whose litigious Disposition they must know would lead him to take every possible Advantage. In the Name of all the Officers of His Majesty's Customs, I deny the Charge Mr. Leigh has alledged against them, and if Time can be allowed me, will undertake to disprove the Improprieties the said Memorial contains to their Prejudice; the Business of which is coloured with such Malevolence as to astonish me, and were it possible for me to give this honourable Committee a competent Idea of it, I am sure their Candour would see it in the same Point of View. The Evidence represents, that Mr. John Rogers gave the proper Bond in the Vice Admiralty Court upon this Business; which is also incorrect, for no Bond whatever was given, and the Goods were thought to be forfeited by the Neglect, which the Officers were above taking the Advantage of, because it appeared to have been an Error, and that the Goods were legally imported; so that I trust it will appear

appear that the Officers meant only to have done their Duty, and that too with Civility and Propriety, notwithstanding the Rudeness and Indelicacy of Mr. Leigh's Conduct. The Circumstance of the Ship's Registers being in the Possession of the Custom House Officers, is usual till the Ship clears outward, which also has received its Colouring. The Vessels being adrift too (which might, and I have no doubt did arise from Accident) is highly coloured, like all the Circumstances represented by the Western Evidence to this Committee. It is however evident and plain, that under all the Circumstances of the Complaints against the Officers, they are injured; and I verily believe there is no other Situation abroad where such unprecedented Representations would have been made, or such unmanly Advantages taken; and if Mr. Leigh had been injured in the Premises, the Judge of Admiralty would no Doubt have acted upon it.

The great Desire I have of explaining to the utmost of my Power the Situation of the Officers of the Customs in the Out Bays, leads me to say something further upon that Head, being apprehensive that some of the Gentlemen of this Honourable Committee are impressed with Ideas of Impropriety respecting those Appointments.

The vesting those Powers in One Person is no unusual Thing in all the Plantations where there are Bays and Creeks, because it is more for the Object of suppressing illicit Practices, than for the Collection of Revenue, and the Emoluments being greater to the Individual, it has been the Opinion of many that it would excite a Diligence, as likely or more so, to answer the Purpose intended, than any other Method; the Person so acting may be Deputy Collector and Searcher with the utmost Propriety, it is only then for the Comptroller to find a Person to act for him, which in most Situations at this Time he will readily do. The present Arrangement in the first Place was thought to be for the Convenience of the Trade, who felt themselves obliged at the ready Acquiescence of the Officers. I submit then if they can be considered as deserving of Reproach or Invective at this Time; I trust not, and that the harsh Epithets used to their Prejudice, will be thought on mature Reflection to have been precipitate. And with respect to the Fees, there can be no Doubt but the Agents include the Naval Officers also, and many other Charges, such as Hospital Money, Mediterranean Passes, and the Fee due on Registers to the Governor or Commander in Chief's Secretary, which, though received at the Custom House for the Purpose of saving Trouble to others, have nothing to do with the Officers of the Revenue, and is an unfair Advantage taken



taken of them ; this in Part is evident from the Charge of 12 s. said to be paid by Mr. Leigh for a Vessel's Coasting Fees, 5 s. of which I can positively assert to have been the Fees of the Naval Officer.

The Evidence Mr. Ougier, also mentions his having paid only 18 s. in the Year 1776, for the Brig Triton. It is my Duty to say, that the Officers of the Revenue in the Out Bays, were not appointed till after that Period, so that those Fees, I conceive, only belonged to the Naval Officer.

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( E. )

“ Extract of a Letter from the Collector and Comptroller  
 “ of the Customs at Newfoundland, to the Honourable  
 “ Commissioners of the Customs, dated the 9th April  
 “ 1790.

“ In the Execution of our Duty the last Summer, we made Two  
 “ or Three Seizures, which again incensed the Trade, and produced  
 “ the usual Threats, and indeed some Insults, one of which we pre-  
 “ sume to relate : The Assignee of a Bankrupt's Estate, having sent  
 “ sundry Articles from an Out Bay to St. John's for Sale, we  
 “ thought it our Duty to examine the Vessel, and cause the Master  
 “ to report at the Custom House ; among other Articles were a  
 “ Quantity of Cork, and a Cask of Olive Oil, the legal Importation  
 “ of which being doubtful, the Officers stopped the same, inform-  
 “ ing Mr. Leigh, the Assignee, that they should give him Twenty  
 “ Days to produce the necessary Proof ; but this Gentleman, in-  
 “ stead of considering the Conduct of the Officers, as civil and po-  
 “ lite, commenced an Action against them, in the Vice Admiralty  
 “ Court, for a Theft ; and the Judge, being unacquainted with the  
 “ Laws in this Case, summoned the Officers of the Customs to ap-  
 “ pear to defend themselves, but upon the Collector's informing  
 “ him that the Goods were under Seizure, and libelled at that Time  
 “ in his Court, he clearly saw the Impropriety of the Procedure,  
 “ was sorry he had taken Cognizance of it, and declined further  
 “ proceeding. The Result of this Determination in the Judge,  
 “ was a Threat of future Complaint, not only against him, but  
 “ ourselves, and we were given to understand, that every Exertion

“ would be used to punish us; and the present Complaint is doubt-  
 “ less brought forward, merely to embarrass the Officers without  
 “ any other Intent whatever, for the Collector has good Authority  
 “ to believe, that the Gentlemen expect it will terminate as their  
 “ former Complaints have done.”

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Mr. GRAHAM attending was called in; and being asked, His Opinion concerning Mr. Ougier's Plan for bringing Home Passengers, and concerning the Plan proposed by the Regulating Bill of last Year, he begged leave to state, that Mr Ougier having in his Evidence proposed, “ that the Master of every Ship shall, on his  
 “ Arrival, deliver in Writing on Oath, a true Account of the Num-  
 “ ber of Passengers on Board at the Time of his Arrival (to the  
 “ Governor, or to the Naval Officer or his Deputy at the Port  
 “ where such Ship shall arrive) with a List of their Names, Oc-  
 “ cupations, and Places of Residence in Europe, and that the Mas-  
 “ ter of such Ship do give Bond to the Amount of  
 “ for the Payment of such Passenger or Passengers Passage back to  
 “ Europe at the End of the Fishing Season, such Passenger not  
 “ being himself an Employer in the Fishery, or not being employed  
 “ as a Servant in the Fishery by some Master carrying on a Fishery  
 “ at Newfoundland in that Season. That these Securities be  
 “ given, and received by the Officer appointed without Fee, or  
 “ any Expence whatever to the Parties.” The Witness said, this would be providing for the Return only of the unemployed Servants (and not very securely even for them) who form but a small Part of the whole Number of Passengers carried Annually to Newfoundland; he is of Opinion that the Plan is altogether impracticable, and to shew it in the clearest Manner, he begged Leave to make a Case of it: Suppose a Servant, A. B. is carried in the Jupiter to St. John's, and he goes from thence to Placentia for Employment, but cannot get a Master. The Captain of the Tyger, a Passage Vessel at Placentia, takes A. B. on Board at the End of the Fishing Season, and brings him to England; now how in Reason can the Captain of the Jupiter, or his Sureties, be called upon to pay A. B.'s Passage Home? when it is so easy a Matter (and must no Doubt often happen) for an employed Servant from Burin or any other Port, who knows of A. B.'s being brought out in the Jupiter, to assume his Name in order to get a Passage Home free of Expence; would it not be reasonable for the Captain of the Jupiter to plead that the real A. B. was employed some where in the Fishery, and of course his Passage Home must have been paid by his Master? and if he does plead this,

this, how is the Person of the Passenger taken from Placentia in the Tyger to be identified? Even in Newfoundland, where the Servant might possibly be traced from St. John's to Placentia, it would be attended with infinite Trouble; but if the Captain of the Jupiter should be sued in England, the Proof would still lie upon the Prosecutor, and it would be absolutely impossible for him to recover upon the Bond; but granting that no such Difficulty should arise, he has an Objection to the Bond itself, which ought not to be exacted; for as the Fishery is dependent upon the Arrival of the Irish Passengers for Shoremen, it would prevent most if not all of them from being carried out, if the Masters of the Passage Vessels were to be made accountable for the homeward Passages of all those Servants who are not fortunate enough to find Employment during the Fishing Season. And as the Fishery could not be carried on without this useful Body of Men, called Shoremen, the greatest Care should be taken to secure, not to prevent, the Regularity of their Arrival at Newfoundland; in short, he hardly knows a greater Burthen that could be imposed upon the Trade and Fishery, than the Adoption of this Plan. But for the sake of the Argument, he will grant that it would be proper to take the Bond, and that the Bond so taken would be the Means of bringing Home all the unemployed Servants (whose Inclinations, however, to return Home, for Want of Employment in the County, renders Force with them unnecessary) yet the hired Servants, who are and ought to be the principal Objects of Regulation, are left by this Plan in the same Situation as they stand at present, and it is from the Body of employed, and not from among the few unemployed Servants, that the Inhabitants have hitherto increased, and will ever continue to increase, unless some effectual Method is speedily taken to prevent it. Mr. Ougier having further proposed, "That the Governor of Newfoundland, or his Deputy, be authorized to provide a Passage Home for any such Passenger so unemployed in the Fishery, in any Passage Ship going from Newfoundland to the Country in which such Passenger was before a Resident in Europe, and that the Cost of the Passage or Passages, and every Expence of Sea Stock, and all Accommodation for such Passenger or Passengers so unemployed in the Fishery, shall be paid by the Master or Owner of the Ship in which such Passengers were carried to Newfoundland, or by their Sureties, to the Satisfaction of the Governor or his Deputy, on the same being demanded; on or after the First Day of October of the then Fishing Season." The Witness said, The Governors and their Deputies will no Doubt at all Times do every Thing in their Power for the Benefit of the Fishery,

but

but if compelled to find Passages and Sea Stock for all unemployed Servants (a Kind of Task, however, which he thinks their Situations should exempt them from) it becomes at least necessary to provide a better Mode of Payment than the Security proposed to be given by the Masters of the Passage Vessels; for suppose, as he has already stated (and it must frequently be the Case) that the Servant is sent Home from a Port distant from that where the Bond has been taken, is the Governor or his Deputy to pay the Passage Money, and to buy the Sea Stock out of their own Pockets? if not, who is to furnish the Money? and if they do, and A. B.'s Person should have been mistaken or not known, and the Captain of the Jupiter should put the Prosecutor (whoever he may be) to the Difficulty of identifying it, which he probably may not be able to do, of whom and in what Way is the Governor or his Deputy to recover the Money so laid out in Passage Money and Sea Stock for the Servant? And Mr. Ougier having also proposed, "That the Master of any Ship which intended to bring Passengers to Europe, should be required to inform the Governor or his Deputy of every such unemployed Man, and that such Masters shall be entitled to a Preference of bringing Home such Passengers for whose Passages and Expences such Master shall receive Payment before he leaves Newfoundland; but if Bonds were given in the British Dominions in Europe for the above Purpose, it is presumed it would better answer the End." The Witness said, Why would it be so? does it follow, that the Passage Vessel in which A. B. is brought Home must return to the same Port from whence he was carried out in the Jupiter? and if not, how is it to be proved (in case an Objection should be started) that he ever was on board the Jupiter? and, supposing it to be proved, who is to pay the Passage Money to the Master of the Tyger, who brings A. B. Home, if he does not happen to return to the Port where the Bond has been taken, and from whence A. B. sailed in the Jupiter? And Mr. Ougier having also proposed, "That all the Bills for Servants Wages, whether European Fishermen or Shoremen, be payable to the Person only, to secure his Return to Great Britain and Ireland, except to such Servants who are necessarily left for the Purposes of the Fishery, the Servant being obliged to indorse his Bill before a Magistrate in Great Britain or Ireland." The Witness said, A very pretty Idea this! to a poor Servant, after having worked himself nearly to Death in Newfoundland, is to be obliged, in his Way to Milford, Penzance, or Bristol (not to mention any of the Ports in Ireland) to call at Poole or Dartmouth for his Wages; but independent of this Objection (which, however,

ever, alone is sufficient to shew the Impropriety of the Plan) he will venture to say, that it could not be carried into Effect without destroying totally the Credit of all the Boatkeepers in Newfoundland, and giving an unfavourable Turn to the whole Fishery, which the Merchants themselves would repent of ever after. The Boatkeepers, having no visible Property, deliver their Fish and Oil as it is taken and made by the Servants (who seldom object to its being delivered) to the Merchants; they, in Return, draw Bills for the Payment of the Servants Wages. These Bills are easily negotiated in the Island, and the Servant (if his Bill should be made payable at Dartmouth) can exchange it for One or more of the same Value upon Waterford, or any other Place in Europe to which he belongs, and is about to return; but if he is to go to Dartmouth, and to wait there till the Bill becomes payable, which at the least must be Sixty Days (that being the usual Number they have to run after being presented for Acceptance), and if, after all, it should be protested (which is not an extravagant Idea to entertain) he leaves any Person to judge whether the Servants would not sooner refuse to accept of this Mode of Payment, and resort to the Fish and Oil for their Wages, which, by the existing Laws, and the old and established Custom of the Fishery, they would have a Right to do: however, without reasoning further upon the Subject, he would recommend to the Merchants seriously to consider how far it would be prudent of them to urge a Thing which, in the End, may prevent the Boatkeepers from delivering their Fish and Oil in the regular Manner they now do, and which alone enables them (the Merchants) to make up the Cargoes of their Ships for Market, before the Wages of the Servants are paid. Let the Object of Government be what it may, in contriving Methods for getting out of the Country the Seamen and Fishermen, the Merchants can have no justifiable Plea against paying them their Wages, which being fairly earned, the Servants have a Right to claim the Payment of in any Manner they shall think proper, provided that Manner is consistent with the Law and Usage of the Fishery; and it does not require a Moment's Consideration to perceive, that in any other than the present Method, so admirably secured by the 15th of George the Third, the Servants would never consent, as they now do, to let the Fish and Oil go off the Room, without a Security equal to it for the Payment of their Wages in the Country at the End of the Fishing Season. This could not be considered as an unreasonable Demand on their Parts; and though it may be the Wish of the Government of this Country, as well for the Benefit of the Kingdom, as for the Sake of the Servants themselves, that they, the Servants, should bring Home as

much of their Money with them as possible, yet, if they should choose to spend it all at Newfoundland, the Merchants not being injured by it, cannot of course have a Right to complain; for if they receive the Fish and Oil, the paying for it in any Way is by no Means a Hardship, and that the Payment to be made should be such as will satisfy the Labourer, to whom it of Right belongs, there can be no Question; and he does aver it is the Interest, as it will, no Doubt, be felt to be the Duty of the Nation, to take Care that the present Mode of Payment be not altered, lest the Fishermen should be alarmed, and take it into their Heads (which he is certain would be the Case throughout Newfoundland), that the only Security they have is in the Fish and Oil; and under that Pretence detain it upon the Room, to the great Injury of the Merchants, who would thereby be prevented from sending most of their Ships, at least the early ones, to Market. Besides, the Servant, after earning his Wages by his Labour, may very fairly ask, what Right the Merchant has to put him to any Trouble or Expence in recovering his Money; and both must be unavoidable, if Mr. Ougier's Plan should be adopted; for who, at Penzance or Portsmouth (to say nothing of the Ports in Ireland) would exchange for a Fisherman a Bill which is drawn upon Dartmouth? Not One out of Five hundred of the Dartmouth Bills are paid to Servants who are going to that Port; and if they do not go where their Bills are made payable, how are they to get them accepted? or if they should even be able to get a Friend to do that for them, how are they to subsist until it becomes payable, and how often and how many of them would be tricked out of the greatest Part, if not the Whole of the Value of them before they become due? In short, he is afraid that any Alteration in the present admirable Mode of securing to the Servants the Payment of their Wages, would only tend to disturb their Minds, without producing the smallest Advantage to the Fishery, to compensate so great a Misfortune.

Having said thus much about the Plan proposed by the Merchants, he begged of the Committee to be indulged with Leave to offer his Sentiments upon their Objections to the Regulating Bill of last Year.

Mr. Ougier, Mr. Jeffery, and Mr. Newman have said, "That the Clause of the 15th of George the Third, which directs the Employer to retain Forty Shillings for the Payment of every Servant's Passage Home, has not been complied with, and therefore the proposed Regulation is unnecessary" The Witness said, During the Thirteen Years he was Secretary to the Governor of Newfoundland,

Newfoundland, he hardly ever saw an Account of an Employer against his Servant, in which there was not a Charge of Forty Shillings for the Payment of the Servant's Passage to Europe: and as Servants often serve at Places where there are no Passage Vessels to take them to England or Ireland, and are obliged to go to other Ports to find a Passage Home (leaving there Forty Shillings with the Master where they serve) they must, if the Place where they serve is at any Distance from that where they find a Passage Vessel, run the greatest Risk of losing their Passage Money; and he has known many Instances of Servants applying in one Year to the Governor for Passage Money, which had been stopped from them in some preceding Season; and he has further known Instances of Masters having stopped from the same Servant his Passage Money for One, Two, and Three Seasons running. Mr. Newman has said, "That the Regulating Bill enables the Receiver to make a Job of it, and to give a Preference to the Masters of Passage Vessels." The Witness observed, If ever a Regulation-Bill was free both of Influence or Interest to the Party carrying it into Execution, this is; for the Servant only (and it is proper that it should be so) has the Choice of Place in Newfoundland from whence he will sail; the Choice of Vessel he will sail in; and the Choice of Place in Europe to which he will return. The Master of the Passage Vessel cannot be favoured by the Receiver, for the Servant is the only Person who has a Right to make Choice of the Passage Vessel, the Master of which therefore is totally independent of the Receiver, who on his Part is bound to pay him the Passage Money upon his producing the Passage Note of the Servant, which alone is the Bond of Obligation between the Parties; and insures,

1st. The Return of the Servant, by enabling him to go, with his Money in his Pocket, to any Part of Newfoundland for a Passage, in case there should be no Vessel to take him from the Place where he serves, and at the same Time puts it out of his Power to spend that Money for any other Purpose than for paying of his Passage Home.

2dly. It enables the Masters of Passage Vessels to compleat, and of course to sail sooner with, their Complement of Passengers than they can now do; as before they accept of a Man for a Passenger, they have to enquire who is his Employer, and how the Passage Money is to be paid, which after they know, they must probably be at the Trouble to call Once or Twice for Payment.

3dly. After the Servant has delivered his Passage Note to the Master of the Vessel, he cannot disappoint her sailing by getting  
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on Shore; and agreeing to go with the Master of another Passage Vessel, which is often done when the first has not been able to get Possession of the Passage Money; and on this Account the Island of Newfoundland, between the Discharge of the Servants from the Fishery and the sailing of the Passage Vessels, is a Scene of perfect Riot and Disorder, and he has known a great Number of Instances of Servants getting Possession of their Passage Money from their Employers, under Pretence of having actually taken a Passage (of which they sometimes get a Certificate from the Master of the Vessel) and spending it, together with all their Wages, in these few Days of Riot, and then becoming Dieters for the Winter, having nothing left to pay their Passages Home.

4thly. It renders the Departure of the Passage Vessel certain and easy, by leaving nothing to be done on the Part of the Servant to find himself a Passage, but that of looking out for a Vessel, and very little (compared with what he must now do) on the Part of the Master of the Passage Vessel, to obtain Payment for such Passengers as he may engage to bring Home: And what makes it particularly advantageous is, that the Receiver, who is to pay the Money (instead of being able to make a Job of it) cannot possibly find an Opening in the Plan that will enable him either to defeat the good Intention of the Servants who may be inclined to quit the Country, by allowing them to stay, upon Condition of giving up a Part of the Passage Money (for the Passage Note is the Voucher upon which the Money is to be paid, and that being in the Hands of the Master of the Passage Vessel, the Servant cannot give a Discharge to the Receiver) or to deprive the Master of the Passage Vessel of any Portion of the Money upon any Pretence whatsoever.

Mr. Newman and Mr. Ougier have said, "That the Servants would be greatly injured by being obliged to pay Forty Shillings for a Passage to Europe, when they can sometimes obtain One for Twenty-five Shillings" The Witness said, In Appearance it may be so; but as the Master of the Vessel is by the Bill obliged to have a Proportion of Sea Stock on Board for every Passenger (and as the Passage Home is very uncertain, sometimes a Fortnight, sometimes Six Weeks) it appears to him to be a very fair Bargain between the Parties, and though it may Once in several Years turn out to the Disadvantage of either, it must upon the Whole be beneficial to both; and the Health of the People forms no small Part of this Consideration, which the ulcerated Condition of the Seamen from the Fisheries introduced into the Navy, makes absolutely necessary; he has conversed with many



many of the Fishermen, and found the greater Part of them Attribute their Disorders to bad living in long Passages, and it was no uncommon Thing for him to hear of very narrow Escapes with Life, after the greatest Hardships had been endured, which the Want of Provisions and Water could occasion. If these Considerations are not allowed to operate, and the Servant is to be paid the Difference between the Price of the Passage Home and the Forty Shillings, the Bill will still be a good One, and may easily be carried into Effect; but he has little Difficulty in believing, that when the Matter comes to be understood by the Servants, that they would, instead of opposing it, rejoice exceedingly to find that they were to be insured of a Passage and a proper Sea stock, without the Difficulty of applying to their Employers for the former, or being at the Trouble of procuring for themselves the latter.

Mr. Newman, Mr. Ougier, and Mr. Jeffery, have said, "That it ought not to be carried into Effect, because it would in Time be the Means of those who stay in Newfoundland raising in their Demand for Wages."—The Witness said, This is the very Effect it ought to have, for if it be any Object with Government to get rid of the Resident Inhabitants, a better Method cannot be found, than keeping their Wages constantly below the Wages of the Servants from Europe; and if the Employers find it their Interest to keep Numbers of them in the Country, for the Purpose of Shipbuilding, scaling, &c. that private Interest ought not to stand in the Way of the Interest of the Nation, which must be advanced in Proportion as the Number of Persons returning Annually from the Fishery shall increase.

Mr. Newman, Mr. Jeffery, and Mr. Ougier, have said, "That it is not their Practice, nor do they believe it is a general Practice with others, to stop the Forty Shillings from such Servants as remain in the Island."—The Witness said, To Mr. Newman, Mr. Jeffery, and Mr. Ougier then, and all others who do not stop it, it cannot make any Difference whether they pay the Money into the Hands of the Receiver, or into the Hands of the Servant; but it makes a material Difference to Government; for if the Receiver gets the Money, the Man can be sent out of the Country at any Time, because there is wherewithal to pay his Passage, but if the Servant gets Possession, he very soon makes away with it, and if the Governor should send him Home, it must be at the Expence either of the Government or the Governor himself. The Objection therefore seems to hold good only with the Merchants to the Northward, where Shipbuilding, scaling, and furring, are carried on. How far it may be proper to alter the Bill in Favour of those Merchants

particularly he knows not. They will be best able to explain to Government what Advantages are to be derived from Winter Work, and Government will be best able to judge whether those Advantages are of sufficient Moment to prevent the carrying into Effect a Plan, which in every other Respect appears to be a proper One, and highly necessary to be adopted.

Mr. Ougier has said, " That the Plan is impracticable, if only on Account of the Difficulty which the Receiver would find in paying separately the Servants Passage Money to the Master of the Passage Vessel, as there is but little Cash in the Island, and the Receiver could not be drawing Bills for so many small Sums." — The Witness said, Mr. Ougier, when he made this Objection, must have forgot, that he (the Witness) knew the Method of paying small Debts in Newfoundland; and that if the Receiver had to pay the Passage Money in Sums of Ten, instead of Forty Shillings, it could easily be done, or how do the Receivers of the Greenwich Hospital Duty (which seldom exceeds 3s. 6d. per Man) contrive to make out their Accounts in the easy Manner they do every Year. The Employers (who are generally Boatkeepers, for the Merchants of late have taken Care to remove themselves from the Responsibility of paying the Servants Wages as far as possible) give Notes upon the Merchant who supplies for the Voyage, and he pays in One Sum (or otherwise, as may be convenient to himself) to the Receiver the whole Duty for all the Servants employed by his Planters or Boatkeepers; and in the same Manner might and would be paid the Passage Money, if a Receiver was to be appointed, which the Receiver will not, as One would be led to imagine from the Manner of Mr. Ougier's Objections, have to pay to the Master of the Passage Vessel in small Sums, but in One Sum, if he can, for he is not to see or know any Thing of the Master of the Passage Vessel until the Vessel's Complement of Passengers shall be completed, and the Vessel ready for Sea, and then the whole Amount is to be paid together, and not each Passenger's Forty Shillings separately. In short, there has not yet been an Objection urged, nor a Difficulty started on the Part of the Merchants, which the Execution of the Plan would not immediately shew to be groundless. And if it be an Object with Government (and he thinks the Policy of the Thing must be apparent to every One) that the Fishery of Newfoundland should be encouraged to employ as many Men as possible every Year from Europe, and that the Whole of those employed should be made to return at the End of every Season, he sees no better Method (and is sure that nothing short of it will answer the Purpose) than by exempting the Fishing Ships (namely the Ships carrying out the Green-Men, and being properly

properly qualified in Terms of the Act of the 15th of George the Third) from the Payment of Fees at the Custom House, and obliging the Employers of Servants to pay the Passage Money, which under the Act of Parliament they now retain in their own, into the Hands of a Receiver.

JOHN REEVES, Esquire, Chief Justice of the Island of Newfoundland, being called in, was asked, If he had any Information to give to the Committee respecting the Government, and the Administration of Justice, of the Island of Newfoundland? He desired to be permitted to deliver in the following Paper of Remarks, viz.

I have read over the Evidence that has been delivered, and the Appendix to it. It appears to me, that the Evidence delivered by Mr. Newman and Mr. Ougier is full of Mistakes, and that in many Places there are Facts alledged which are not founded. Many of these have been commented upon by some Gentlemen who have been examined before me, which will make what I have to say less prolix; I shall also confine myself principally to one Head of Enquiry before the Committee; namely, what regards the Administration of Justice; and if I say any Thing respecting the Trade and Fishery, it will only be incidentally.

The Complaints of those among the Western Merchants, who are pleased to join in holding a similar Language, being directed chiefly against the Alterations that have been made in Newfoundland within these last Five or Six Years, it seems extraordinary that they should depute nobody to urge these Complaints but Two Gentlemen, who have not been in the Island since the principal Part of the Grievances complained of have prevailed; one of them has not been there these last Twelve Years; the other not these last Sixteen Years. The oldest of these Grievances, namely, Stat. 15 Geo. III. is hardly within the personal Observation of either of them, as by their own Account it had passed several Years before it was carried into Execution in the Island.—This is the best Way of accounting for the Inconsistencies in the Evidence of these Gentlemen; but I know no Way of accounting for their being employed on a Service for which they were apparently so ill qualified. These Gentlemen carry on their Business at Newfoundland by Agents, in whom they repose an implicit Confidence; and if they themselves are deceived by them, it is not much to be wondered, that they should lay before this Committee as true, what they believe to be so.

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The Committee should understand, that the principal Merit of an Agent at Newfoundland is, to draw as few Bills upon his Principal as possible—in order to compass this, every decent Method is employed to postpone and stave off Payments; this involves them in Suits; they are still less willing to pay the Expences that are incurred in such Suits; Attachments are made to execute the Judgment of the Court; the Agents then write Home to their Principals, complaining of the Courts and of the Judges, and ascribing to Injustice and Oppression what those upon the Spot know is to be imputed only to the Wilfulness and Perverseness of the Party.

Agents who thus embroil the Affairs of their Principals easily find People of the same Temper, and under similar Circumstances, whom they encourage in the same Resistance to the Administration of Justice; and then they have an Opportunity to collect Representations of the like Kind for confirming their Principals in the Belief of their own Story, and that every Misfortune and Loss originates from Courts and Officers of Justice. The Disposition Men have to throw Blame on every Body but themselves induces Principals, who find their Affairs growing worse, to believe that all their Losses are derived from such Causes, and such alone.

To this Source are to be ascribed, I will venture to say, Nine Tenths of the Complaints and Grievances that have lately been made respecting Newfoundland. This Credulity of some Principals at Home, as well as the Perseverance and Assiduity with which they endeavour to press others into the same Belief with themselves, is a most extraordinary Part of the Dispute respecting Newfoundland. Some Instances of this Sort came to my Knowledge before I was connected with the Island, One of which I will take the Liberty of mentioning to the Committee; I will also bring to their Recollection some Cases which are among the printed Evidence; from these it will be better seen in what Sort of Temper these Complaints are made, and to what Sort of Credit they are entitled.

I remember a Complaint made by Mr. Newman to the Board of Trade, of a Judgment given by the Court of Common Pleas against his Agent for £. 12, on a Bill drawn on Mr. Newman by his Agent in Favour of a poor Fisherman, who could neither read nor write. This Bill was refused Payment in England, and was sent the next Year over to Newfoundland, where Payment was likewise refused. As well as I recollect, the Objection made to the Payment in both Places was, that this Man had indorsed the Bill, by making his Mark, without any Attestation being annexed. The Judges of  
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the Common Pleas thought this not a sufficient Objection in a Place where Nine Tenths of those to whom such little Bills are given can neither read nor write; and that if this was established as a Point of Newfoundland Law, it would be a great Obstacle to these poor Men ever being paid at all: They accordingly gave Judgment against the Agent, who being of the Temper I have above described, and not thinking himself justified with his Principal until he had stood out the utmost Process of the Law, refused to comply with the Judgment, which, in consequence, was carried into Execution by an Attachment and Sale of the Effects.

This Proceeding was made a Subject of Complaint at the Board of Trade; the Injustice of the Judgment, and still more the Injustice of the Execution, were urged in the strongest Terms; and the Complainants concluded their Representation with a Prayer (which is the singular Part of this Business for which I principally relate the Story) that all the Judges of the Common Pleas, being Four or Five Persons, together with the Sheriff, should be sent for to England to answer for this high Offence. This Complaint was referred to me as Law Officer of the Board of Trade, to report my Opinion thereon. It is unnecessary to mention what that Report was; but the Opinion I then formed has been confirmed by what I have since seen at Newfoundland.

Suffice it to say, the Board of Trade did not think this either an Error in Judgment, or a Maliciousness of Intention, sufficient to call Five or Six Gentlemen across the Atlantic to answer for the Part they had taken in it.

Another Example of the Disposition and Conduct of these Gentlemen I shall bring to the Recollection of this Committee from among the printed Evidence. It is the Case of an Agent of Mr. Ougier.

An Action was brought against him in the Court of Common Pleas. An Affidavit was made of the Debt, and Mr. Ougier's Goods were attached in the regular Way (see the Papers relating to this in the Appendix to the Second Report); it turned out upon a Trial (but not till after the Jury had taken an Hour to consider the Matter) that the Defendant did not owe the Money. Mr. Ougier has made heavy Complaint of this Proceeding, as if he had suffered unheard of Injustice, because his Goods were attached where it was proved afterwards no Debt was due. The Absurdity of such Complaint

plaint is so plain to every One who hears it, that there is no need to say a Syllable to refute it.

Though Mr. Ougier has been pleased to represent himself to be a Person of too much Credit at Newfoundland to be subjected to the usual Process of Attachment, he will not find any Body in this Kingdom who will think Justice is to be administered with such Partiality. One of the principal Grievances made by Mr. Ougier in this Matter of Complaint was, the Manner in which the Attachment was put on; namely, that it was excessive, and had the Effect of impounding 6 or £.7,000 worth of Goods, for securing 3 or £.400 of Debt, and so putting an utter Stop to his Business. When I was at the Bay of Bulls, where this Transaction passed, I was resolved to enquire into the Facts, in order to satisfy myself, and be able to explain it, should it ever be revived among the extravagant Representations that are made respecting Newfoundland to Persons who have it not in their Power to refute them.

In the Presence of Mr. Lee, Mr. Ougier's Agent, Mr. Armstrong the Deputy Sheriff, and Mr. Ougier's Storekeeper, who was the Winter Agent, and had been the Cause of all the Mischief, I enquired into the whole Transaction; and it appeared to me, upon the Declarations of Armstrong, and the Admissions of the Storekeeper, that true it was, for several Days Mr. Ougier's Stores were not opened by Reason of the Attachment; but that the Attachment was declared by the Deputy Sheriff to be only for a small Sum, and that the Storekeeper might have had Access to the Stores for any Thing he wanted, provided a Sufficiency for that Sum was left; but that the Storekeeper obstinately refused to go near the Storehouse, to see whether he could have Access (as the Deputy stated) declaring, that as the Property was attached, he would have nothing at all to do with it. For this, and for no other Reason was it that Mr. Ougier's Business was kept at a Stand for some Days; but whatever the Interruption might be, I do not conceive that any great Mischief was done to his Affairs by this blameable Conduct of his Deputy Agent, the Appointment of which Description of Persons makes the Affair of Agency more detrimental than it otherwise would be.

Mr. Lee has made an Affidavit of what passed, when I was at the Bay of Bulls; and Mr. Ougier, in his Evidence, has made a Statement of the Matters of that Affidavit; but what he says does not appear to me to correspond with what is sworn in the Affidavit; and I will assure the Committee, that what is sworn in the Affidavit does

does not correspond with the Fact. I might possibly have admitted, that it was hard on Mr. Ougier to have his Goods attached where no Debt was owing, but that need not imply any Blame on the Court, or Officers of it; and if it might be so construed, I had otherwise very plainly expressed my Approbation of their Proceedings, and very severely reprobated the Conduct of the Storekeeper, who by his Frowardness had brought on all that had happened in his Master's Affairs, and in Addition to that, had caused him to be abused by very gross Misrepresentations. What I said upon the Whole of this Subject, namely, of opposing the Process of Courts, and then transmitting to England false and injurious Complaints, was very full and pointed; and I am very much astonished that Lee, to whom it was mostly directed, should make such a Relation, and swear to it.

Another Instance, which shews how much these Gentlemen are abused, and how much they assist in deceiving themselves, is the Case of Thomas Barter. This is another Matter of Complaint against the Officers of Justice, which has been made a Subject of great Clamour, and which I examined into while at St. John's, for the same Reasons as I did the former.

This Examination was in open Court, and my Opinion upon the Matter I wrote at the Bottom of the Man's Petition of Complaint: I hoped by so doing to put an End to an ill-founded Story, and prevent the bad Use that I knew had been made of pretended Grievances like this; but such Men, I see, are not to be so checked; the Matter is again brought forward by Mr. Ougier, who takes upon him to say, "I was deceived and misinformed;" and in order to shew this, he has added to the other Papers Depositions of Persons made since to the Fact, some or all of whom, I believe (but I am not certain) I examined myself in Court. To this is subjoined a scandalous Affidavit made by Barton himself, highly reflecting upon me, and utterly false.

I beg the Committee to attend to this Transaction, as another strong Fact, to shew the Temper as well as Understanding of all the Parties concerned in it. That a Matter heard before a Chief Magistrate upon the Spot, with the Parties present, and brought Face to Face, and that an Opinion upon the Transaction so plainly expressed as mine is, at the Foot of that Complaint, should be brought forward in this Manner for this Committee to review it, upon a Hope that on the Face of these Papers there is any Thing that will induce the Committee to believe that the Judge was in the  
wrong.

wrong and this Man in the right, is so contrary to every Thing I have ever met with, that I am at a Loss what to say upon it.

I understand that none of the Papers which were delivered in by Mr. Ougier, relative to this and the former Case, nor indeed any of the Papers in the Appendix, from Page 31 to 54, were intended by the Committee to be printed; and it is only by Mistake that they got a Place there. As they are there, I have made this Use of them, to shew the Complexion and Character of the Persons concerned in Complaints of this Sort. It is however very much to be wished that these Papers had never got into Print. First, Because, as I humbly submit, they are most of them irrelevant to the Matter now immediately under Enquiry. Secondly, Because they are of a Sort to gratify ill-disposed Men, who obtain all the Triumph they ever looked for in producing them, if they see their Names and Story in Print, and have the transient Gratification, in this Manner, of calumniating Persons in Office and Authority. If these Papers were to go no further than the House of Commons there would be no Harm, but as they are likely to travel to Newfoundland, it ought to be known that they were printed by Mistake, and not because the Committee thought them worthy of such Notice.

Among the Papers thus undesignedly put to the Press, there is a Summons to appear in Court, signed by Mr. D'Ewes Coke, the Comptroller of the Customs. This Paper was delivered in by Mr. Ougier, as appears by the Second Report, without any Introduction, or any Observation to shew for what Purpose he delivered it in. This seems to me a singular Way of furnishing Information. As he has not explained the Design of producing that Paper, we are left to conjecture it. I have no Doubt that he meant the Committee should understand, that the Comptroller of the Customs had issued that Summons as a Justice of the Peace, contrary to the Clause in the Act of last Year, which disqualified the Officers of the Customs from acting as Justices; but the Paper purports to be issued from the Supreme Court, in which the Comptroller of the Customs was competent to be an Officer, if a proper Authority was given him under the Act of Parliament. Whether Mr. Ougier did not perceive this, or whether he did, and thought the Committee would not, they will equally discover what Sort of a Person they have to rely upon.

I have taken the Liberty to premise thus much with Regard to the Conduct of those who appear before this Committee, in order that what they say may be received according to the Credit that shall



shall seem due to them. I shall now go on to examine some of the Facts and Observations which they have ventured to bring before the Committee, and shall proceed to give my Opinion upon the different Points of their Evidence. I shall do this upon the Foundation of such Observations, as I had an Opportunity of making during my Residence in the Island, in the Summer of 1791 and 1792; and I shall derive Assistance from Sources of Information, which are not commonly accessible, but which have an Authority that I trust this Committee will not controvert; I mean the Papers which are to be found among the Books of the Board of Trade, from the Beginning of this Century down to the present Time, consisting of Letters from the different Commanders and Officers of Government, and the Proceedings of the Board respecting the Trade and Fishery of Newfoundland; some of these Proceedings (namely, the Representations of the Board made at different Times to His Majesty) have already been printed by Order of the House of Commons. The Letters, and other Information of which I now speak, are the Materials upon which the Board have formed the Opinions conveyed in such Representations; I trust that these Materials will be received with all the Credit due to Official Papers, and I may venture to assure the Committee, that a Perusal of these Papers will enable them better to form an Opinion upon the Evidence that has been given, and will throw a new Light upon the whole Subject of Newfoundland. In these may be seen what has been the Evil complained of at different Times on both Sides; how much was real, how much pretended; what Remedies have been sought, and what have been applied for the curing of them. Without this Retrospect to the former History of Newfoundland, it is possible the Committee will be misled by a great deal that has been suggested by the Two Gentlemen before-mentioned.

The general Aim of Mr. Newman and Mr. Ougier, throughout the Whole of their Evidence, has been to persuade the Committee that the Trade is ruined by Stat. 15th Geo. III. and Stat. 26th Geo. III. and more especially by the Courts which have been established within these Four or Five Years; that all was Prosperity, Peace, and Content before that Period; that the best Policy for Newfoundland is to be found in Stat. 10th and 11th William III. and that the Rules and Regulations of that Statute, with the Jurisdiction of the Fishing Admirals, aided by the Captains of the Men of War, is the only Government necessary for Newfoundland; and that the Establishment of Justices of the Peace, and more especially of Custom House Officers, are all unnecessary,

unnecessary, and some of them hurtful; finally, that all the Trade with, is to be put again in the Situation where they were placed by the Statute 10th and 11th William III.

This is the Language, and this the Proposal held out by these Gentlemen; it becomes therefore highly important that Parliament, who are to decide what Policy shall be pursued in future with regard to this Trade and Fishery, should be informed what was the State of Newfoundland when it had no other Regulation, than that very one founded on Stat. 10th and 11th William III. which these Gentlemen wish to have restored. I hope, therefore, the Committee will permit me to lay before them some Extracts that I have made from the Papers before alluded to. I submit, that it would be very proper to insert them at Length in the Body of this Evidence, in order that they may be brought under Consideration in a regular Manner, together with the other Matters reported to the House.

It will be seen from these Papers, that it was upon a full Experience of the Inefficacy of the Statute of King William, and not till the Disorders in the Island had become intolerable, that the Crown came to the Resolution to appoint a Governor and Justices of the Peace, which was done in the Year 1728; it will be seen that this new Appointment of a Governor and Justices was as much deprecated, and caused as much murmuring as any of the Regulations that have been made of late Days; and that it was as confidently and as unjustly said at that Time as at the present, that the Consequence of such Establishments would be the Ruin of the Trade and Fishery.

I shall begin with such Papers as relate to the Period previous to the Appointment of the Governor and Justices in 1728, and follow those up with such as relate to the Disputes which arose in consequence of the Appointment of a Governor and Justices.

From the first Set of Extracts it will appear, that the Statute of 10th and 11th William III. was not from the Beginning a Plan of Regulation that was carried into Execution with Effect. The Jurisdiction it gave was inadequate, and the Exercise of it was in every respect blameable. It will also be seen from these Papers, what were the Complaints respecting the Fishery and Trade in general during that Period of Time.

Among the earliest Information of this Sort, I find a Letter from  
Mr.

Mr. George Larkin, written from St. John's, in the Year 1701; this was recently after the passing of the Act, and the Writer goes more fully into many Points of the Trade than the Officers of Government usually did. These Circumstances make this a valuable Paper; and it becomes much more so, when it is considered that Mr. Larkin was a Gentleman bred to the Civil Law, who was sent out for the special Purpose of making Observations in the American Settlements for the Information of Government at Home, as to the State of the Plantations, and the Execution of the Laws of Trade and Navigation.

He begins by saying, that the Rules and Orders of this Act were not so much regarded as he could wish, which he ascribes to there being no Penalties in it. The Trees were rinded, and the Woods destroyed, as much as before passing the Act; and in a few Years he thought there would not be a Stick left fit for the Use of the Fishery within Five or Six Miles of that, or other Harbours. The Flakes that were left standing were most of them made use of by the Inhabitants for firing in the Winter.

He says, the then Admiral of the Harbour of St. John's, a Person of Dartmouth, brought over from England, that Fishing Season, Two hundred and Thirty-six Passengers, all or great Part of which were Bye Boatkeepers, and they were brought under a Pretence of being Freighters, aboard his Ship, though it was only for some few Provisions for their necessary Use. These Persons he had put and continued in the most convenient Stages, &c. in the Harbour, which all along, since the Year 1685, had belonged to Fishing Ships, in so much that several Masters of Fishing Ships had been obliged to hire Rooms of the Planters. These Bye Boatkeepers were most of them, he says, able Fishermen, and there was not one Fresh Man, or Green-man, amongst them, as the Act requires; he says, that this Person, and One or Two more, who constantly used the Fishery, made it their Business, in the Beginning of the Year, to ride from one Market Town to another, in the West of England, on purpose to get Passengers, with whom they made an Agreement, that in case they should happen to be Admirals of any of the Harbours, they would put and continue such Persons as the One he had before described in Fishing Ships Rooms. This, he says, was a very great Abuse and Discouragement to the Adventurers. Besides, these Bye Boatkeepers could afford to sell their Fish cheaper than the Adventurers, which must lessen the Number of Fishing Ships.

There was great Complaint of the New England Men, who for Seven or Eight Years, he says, had resorted to Newfoundland. They had also their Agents in most of the Harbours, and drove an indirect Trade, supplying several Commodities to the Planters which they ought to take from England. Such New England Vessels generally made Two or Three Trips in a Year, with Bread, Flour, Pork, Tobacco, Melasses, Sugar, Lime Juice, and Rum. They sold cheaper in general, but obliged their Purchasers to take certain Quantities of Rum; this the Inhabitants sold to the Fishermen, and so encouraged them to stay behind, and leave their Families in England a Burthen on the Parish. The Inhabitants also sold Rum to their Servants, who run in Debt, and were forced to hire themselves in Payment of their Debts; so that One Month's profuse living, and a pair of Shoes, often left them in Bondage for a Year; and good Fishermen, who deserved Fifteen or Twenty Pounds per Annum, were thus made to serve for Seven Pounds. He says, the New Englanders, at the close of the Year, used to inveigle away a great many Seamen and Servants, with Promises of great Wages; but these Men were often disappointed, and turned Robbers and Pirates. The New England Vessels were said, the last Year, to have taken away Five hundred Men, in this Manner, in Conception Bay only; many of these were headed up in Casks to prevent discovery. He recommends, for preventing this Practice, that the Masters of New England Vessels should give Bond, when they cleared out, not to bring Men from Newfoundland without Leave from the Commodore.

We find, in after times, the Captains of the King's Ships used to oblige every New England Master of a Ship to give such Bond in a Penalty of Five hundred Pounds, with Two Sureties in Two hundred and Fifty Pounds each, not to carry any Persons out of the Island.

As to the Fishery, he did not hear of more than One New England Vessel fishing on the Coast. Indeed it appears that their Fishery was all carried on upon their own Coast, where they had better Fish, and that they looked to Newfoundland for nothing but the Sort of Traffic above mentioned.

He informs us, that the Inhabitants and Planters of Newfoundland were poor, indigent, and withal a profuse Sort of People, that cared not at what Rates they got into Debt, nor what Obligations they gave, so they could have Credit; but the seizing of their Fish for Debt seemed to this Gentleman to be both irregular and unjust,

as to the Time and Manner of doing it; for the Fishermen seeing the Flakes stript before the Fishing Season was half over, were discouraged from proceeding any further, which often proved the Ruin and Overthrow of several Planters Voyages.

Debts used not to be paid till the 20th of August; but for Two and Three Years, he says, the Flakes had been stript by Night, and the Fish carried off in June and July, without weighing; a Second had come, and taken it from the First; the Planter had had Twenty or Thirty Quintals of Fish spoiled in the Scuffle, and the Rest of his Creditors were forced to go without any Satisfaction. The poor Fishermen, who helpt to take the Fish, had, on these Occasions, gone without One Penny of Wages—Salt Provisions and Craft being always payable before Wages; and he expresses Astonishment how the Planters and Inhabitants could procure Hands from England to fish for them, considering how ill they used them.

Where Complaints of this Sort had been made to the Commander in Chief, he had ordered them to redeliver the Fish, and a Dividend to be made; but there being Five or Six and Twenty different Harbours, besides Coves; and it being a great Distance from Bonavista and Fermose to St. John's to make Complaints, the Commander could do little; and the Admirals, he says, did not concern themselves at all, but left all to the Commander. These Admirals, says he, ought to see to the Preservation of the Peace, and good Government, among the Seamen and Fishermen; that the Order and Regulation of the Fishery be put in Execution; and they should keep Journals; but instead of this they were the first to break these Orders, and there was not one of them, where he had been, who had kept any Journal at all.

He observes, that the late Act of King William gave the Planters a Title, and it was a Pity but that they had some Laws and Rules by which they should be governed; though, he says, it was the Opinion of all, since he had come there, that it had been better if all Plantations had been discouraged, for the Island was then become a Sanctuary and Place of Refuge for all People that broke in England. Besides, the Masters of the Fishing Ships encouraged several of their Men to stay behind, persuading them they would soon get Estates there; and this they did merely to save the Charge of their Passage back to England.

It had been customary for the Commander in Chief, upon Complaints made, to send his Lieutenants to the several Harbours and

Coves to decide all Differences and Disputes that happened between Masters of Merchant Ships and the Inhabitants, and between them and their Servants. This Gentleman declares it a Shame to hear how Matters had been transacted upon such Occasions. He that made a Present of the most Quintals of Fish was sure to have the Determination in his Favour. He says, the whole Country exclaimed against the Lieutenants in Captain Poulton and Captain Fairbourne's Time, and did not scruple to declare, that some former Commanders in Chief had been a little faulty. He says, the then Commander, Captain Graydon, had taken much Pains to do the Country Justice, and to settle Religion amongst them, and People seemed well satisfied with him. He says, there had never been any Registry kept of the Orders or Rules that had been made for the good of the Fishery. What one Commander in Chief had established, another had vacated. He says, he had prevailed with the present Commander to leave an Abstract of all such as had been made during his Time.

He says, that Quarrels and Disputes happened after the Fishing Season was over; and in the Rigour of the Winter Season, Masters beat Servants, and Servants their Masters. He therefore recommends, that one of the most substantial Inhabitants should be appointed in every Harbour in the Nature of a Justice, for Preservation of the Peace and Tranquillity among them; and that some one, who understood the Laws, should be sent with the Commander in Chief, or should reside there, as should be thought most convenient, in the Nature of a Judge Advocate, to decide all Differences, and Matters of *meum* and *tuum*, between Masters of Ships, Inhabitants, Planters, and Servants; that this Person should have Power to administer an Oath to Parties, or Witnesses, for Determination thereof in the most summary Way, and that he should be obliged to go every Year to the following Places, viz. Bonavista, Trinity, New Perlican, Old Perlican, Carboneer, St. John's, Bay of Bulls, and Ferryland, and to stay a Fortnight or Three Weeks at each of them. He adds, that such a Person would be useful there for several Purposes, and among others, that a true Account might be had from him how all Matters were transacted at Newfoundland.

The Picture here given of Newfoundland is hardly heightened or varied by any Colouring to be found in the Representations made by successive Commanders. They are usually in the same Strain; the Grievances and Complaints, the Remedies and Expedients are uniformly the same; and it is a remarkable Circumstance in the History of this Trade, that many of the Papers relating to it, whether

ther coming from the Commanders, or from the Merchants and Adventurers, in the Times of King William and Queen Anne, would apply to later Times, as well as to those in which they originated.

One of the Correspondents writes in this Manner: “ The Admirals which are appointed by the Newfoundland Act to decide Differences in Relation to Fishing Rooms, &c. have entirely neglected it in all its Parts. Indeed, at their first Arrival, they claim their Prerogative as by the said Act, as far as it suits with their own Interest, and no further, except a particular Friend of their’s should arrive with a Fishing Ship; in such Case, should the Ships Fishing Rooms of that Harbour be taken up before he arrives, they often remove some Planter or other for him, pretending that the Planter’s Title is not good to the Room he possesses, when the Commanders of Men of War, some Years before, adjudged it to be the said Planter’s Right.”

“ These Things are often done, and several of the Inhabitants Fishing Voyages ruined thereby. It is common, that what is done One Year, in Relation to Fishing Rooms, is contradicted the next; so that the Fishing Rooms are not settled to this very Day. Many Times these Admirals never were in the Land before, nor knew any Thing of the Matter; in which Case some old West Country Master commonly takes Care that the said Admiral do nothing but what he pleases. Those are the Patrons that are commonly called Kings in that Country, who sacrifice other People’s Interest frequently to serve their own. The Admirals are some of the first Men to cut down the Roofs of their Stages, Cook Rooms, and Flakes, which paves the Way for the Inhabitants to follow their Example, who in the Winter Season generally carry away all the Remainder. It is certain the Admirals are seldom or never at Leisure to hear any Complaints whatsoever, except One of their Favourites is the Plaintiff.

“ The Masters of Ships in Newfoundland generally endeavour to force their Goods upon the Inhabitants, especially the poorer Sort, who generally pay dearest. Say they, if he makes a good Voyage, we shall be all paid; and if he does not (says every One to himself) I will be quick enough to get my Payment. By this Means they have a jealous Eye the one over the other. If the Fishing does not prove so good as was expected, some of these Masters will fall upon them before the Fishing Season is Half over, take away their Fish before half made; another comes and takes away his Train; and many Times there comes a  
“ Third

“ Third, who has more Men than they, and takes it away from  
 “ the former ; he that has most Men is sure to have the greatest  
 “ Share. This is a common Practice in Newfoundland. They  
 “ never acquaint the Admirals with this Proceeding before they  
 “ do it, neither do the Admirals trouble themselves with it af-  
 “ terwards. ) But the Consequence lies here ; the Planter’s Men  
 “ will catch no more Fish, because they have no Hopes of  
 “ getting any Wages ; the Planter is ruined, and all the Rest of  
 “ the Creditors unpaid, who, if they had given him the Liberty  
 “ to make his Fishing Voyage, might have paid them all. The  
 “ Merchants of England have suffered exceedingly by this un-  
 “ paralleled Thing, there being no Precedent for it in the whole  
 “ Christian World. I am fully satisfied that by this Thing, and  
 “ the Multiplicity of Liquors imported into Newfoundland Yearly,  
 “ the Trade thereof has suffered more than by the French plun-  
 “ dering it so often in the late Wars.

“ It is most certain, that the Admirals in Newfoundland have  
 “ never taken any Care about the Good of that Trade ; and their  
 “ Reasons generally given for it are, that they come to New-  
 “ foundland to mind their Owner’s Business, and as nothing  
 “ was allowed them for defraying the Charges of keeping  
 “ Courts, they could not do it.”

Another writes thus : “ But what I would more particularly  
 “ represent to their Lordships is the clandestine and illegal Com-  
 “ merce carried on between the New England Men and several of  
 “ the British Masters, especially the Fishing Admirals ; who after  
 “ they have, according to the Act, qualified themselves in England  
 “ for Fishing Ships, depart for France, Spain, or Portugal, where they  
 “ freight with Wines and Brandies, which early in the Year they  
 “ carry directly to Newfoundland, and either dispose of to the  
 “ Planters, or barter with the New England Men for the Produce  
 “ of the Plantations. By these Means Newfoundland is not only  
 “ supplied with these Foreign European Commodities, but it  
 “ is become a Mart, from whence other American Plantations  
 “ are (in Fraud of His Majesty’s Duties) in a good Measure  
 “ furnished.

“ As the Admirals are chiefly concerned in this unfair Trade,  
 “ so their Tyranny and Oppression in the Harbours, where there  
 “ are none of His Majesty’s Ships, is not to be reckoned amongst  
 “ the least Causes of the Decay of the Fishery, those who labour  
 “ in it having learned by Experience, that the Rule of their  
 “ Decision is their private Interest, and that Fishermen are not  
 “ to expect any Justice from them. This contributes to a Scar-  
 “ city



“ city of Men, which occasions Wages to be so extravagant, that  
 “ the Fish which they catch is often not sufficient to pay the  
 “ Servants; and the Inhabitants are thereby so much discouraged,  
 “ that there have not been Half the Number of Boats em-  
 “ ployed by them as formerly.

“ But whatever Redress the corrupt Administration of the Ad-  
 “ mirals is capable of, another great Disadvantage, which the  
 “ Fishery labours under, proceeds from the Country being, during  
 “ its long Winter, without the least Form of Government or  
 “ Order. It is my humble Opinion, that it would be of con-  
 “ siderable Service to it, if some of the Inhabitants were intrusted  
 “ with Commissions of the Peace, for the Administration of  
 “ Justice during that Season.”

Another writes—“ I flattered myself, that as there was no Gari-  
 “ son here (namely at St. John’s) to terrify or interfere, I should  
 “ find a stricter Obedience to the Laws and Regulations that had  
 “ been made for the Government of the Place, and that proper Re-  
 “ gard was shewn to the Authority vested by Law in the Fishing  
 “ Admirals; but on the contrary I find, that through the Ignorance  
 “ of some, and Negligence of more, for some Years past they have  
 “ been so slighted, that unless the Captains of the Men of War are  
 “ present to assist and countenance them at their Courts, their Meet-  
 “ ings would be nothing but Confusion, and their Orders of no Use,  
 “ which is the Reason we are obliged to usurp Power, which I ap-  
 “ prehend does not properly belong to us, of publishing Orders in  
 “ our own Names, to prevent as much as we can the Threats, the  
 “ Rioting, and Disorders, which, to the great Detriment of the  
 “ Fishery, are generally practised in our Absence.

“ The great Misfortune, and which I think is the Origin of all the  
 “ Rest that attend this-Country, is, that nobody in the Winter Sea-  
 “ son is empowered to keep Peace and administer Justice; that the  
 “ sober and industrious are every Day liable to be insulted and rob-  
 “ bed by the idle and profligate, unless they can oppose them with  
 “ greater Force. In the Heads of Enquiry from the Lords Com-  
 “ missioners for Trade and Plantations, there is an Article which di-  
 “ rects the Names of the Persons to be returned them who admi-  
 “ nistered Injustice during the last Winter; but I cannot find that  
 “ we are any where authorized so to empower proper Persons upon  
 “ leaving the Country, which is so well known by every Body, that  
 “ were we to pretend to appoint any body, not the least Regard would  
 “ be shewn them.”

Speaking of Placentia, and the Part surrendered by the French at the Treaty of Utrecht, he says, “ Before the Arrival of the Men of War they are threatened and intimidated into a Compliance with whatever is required of them; the Admiral’s Powers are contemned, their Court represented as ridiculous and invalid, and of course no Justice to be had; but as this has been already represented by Petition from the Masters of Ships, and other Methods, I will not take up your Time by enumerating more Particulars, which would only be a Repetition of what is already sufficiently known to their Lordships. Although I could not settle every Thing in the Order it ought to be, I endeavoured to do all I could; and as I found the Regard to the Fishing Admirals so mightily diminished, as made me justly apprehend Orders from them would be but negligently obeyed, I therefore gave out in my Name such as I found absolutely necessary, the Copies of which I have herewith sent, and have also entered them in a Book, which I have left sealed up with One of the principal Inhabitants, to be delivered to the next Officer that shall come after me, that he may know what I did, and my Reasons for so doing. I beg Leave to say, that if such a Register of the Proceedings of every Officer had been kept ever since we had Possession of the Place, it would not be so difficult to decide every one’s Property, which really, as Things were, I could not pretend to do without running a Risk of doing Injustice.

“ I found Disputes had been very differently decided; sometimes according to the Laws and Customs that were in Force in the Time of the French, and sometimes according to those observed in the other Parts of Newfoundland; for no new Act having passed since the Acquisition of the Place, and no certain Rules presented by the Heads of Enquiry from the Lords of Trade, every one has decided as he thought proper.”

Another says, “ There is another great Occasion of Disorder which always stores up a large Stock of Complaints to perplex us upon our Arrival—the Neglect of deputing somebody to maintain Order in the Winter, or the Want of Power rather to depute somebody for that Purpose, so that the Winter Season is a Sort of Respite from all Obiervance of Law or Government. At that Time, Theft, Murder, Rapes, or Disorders of any Kind whatsoever may be committed, and most of them are committed without Controul, and Time enough given for the Offender to make off; for should any One concern himself to secure the Party, his Design would be withstood as an usurped Authority, and most would take Part with the Offender to suppress the Usurpation, without Regard what  
“ became

" became of the Criminal, or what may be the Consequence of the  
 " Crime; and I have been acquainted with some Cases of this Kind,  
 " so that there seems an absolute Necessity that this Particular  
 " should be provided for, that People may always have somebody to  
 " apply to for Justice; that somebody may always be at hand to  
 " suppress Disorder and Riot, and to have a lawful Power to com-  
 " mand the Assistance of His Majesty's Subjects in the Execution of  
 " a Duty exercised for the Public Good. St. John's is the Metropo-  
 " lis of the Island, and the Discipline which is kept up there, whe-  
 " ther bad or good, will have a great Influence upon all the Rest of  
 " the Harbours. If good Order could be established here, it might  
 " easily be effected in all other Places; and I do not know any  
 " Thing that tends more to Confusion, and proves more prejudicial  
 " to the Fishery, than that Irregularity."

After having spoken of the Oppression from Debts, the Imposi-  
 tion in Prices, the seizing for Payment, and the like, he goes on:—  
 " It is likewise necessary to acquaint their Lordships, that although  
 " it is reasonable for them to believe that the Authority given by  
 " the Statute to the Admirals of Harbours is sufficient to secure  
 " them Peace and Quietness, and to prevent any Disturbances that  
 " may happen to the Detriment of the Fishery, yet the Experience  
 " of any One that has but once known this Trade will affirm, that  
 " was it not for the Yearly Expectation of a Ship of War coming  
 " among them, the Power of their Admirals would be of little Re-  
 " gard; so that one may modestly affirm, they only commence Regu-  
 " lation upon the Arrival of any of His Majesty's Ships, and lay it  
 " down the Moment they are gone; upon which Account several  
 " go and come with the Trade, which Charge I believe they would  
 " gladly be freed from, could they be secure of good Order in the  
 " Winter."

Another writes, " I have made it my particular Care to inform  
 " myself about the Government, that being the material and only  
 " Thing wanting, for without that there is nothing, and with that,  
 " I mean a good Government, there would be every Thing—it  
 " would give a new Life and Spirit to every Thing, for then every  
 " Man would know his own, and no more; every one would know  
 " his Master, and obey, and every one would know his Servant, and  
 " no more; every Servant would do his Master's Work, and every  
 " Master would pay his Servant's Wages without Fraud; he would  
 " know his own Pile of Fish, his Boat, his Stage, his Nets, &c.;  
 " but on the Foot it is now on, he that happens to be the strongest  
 " knows every Thing to be his own, and the weakest knows no-  
 " thing,

“ thing, or had as good as know nothing, except in that little Inter-  
 “ val of Time when His Majesty's Ship or Ships happen to be there;  
 “ and very often the Aggressor absconds, runs into the Woods, and  
 “ flies from Justice until the Ships are gone, and then down he  
 “ comes, and reigns Lord again. This has been done by a great  
 “ many, but especially by one Ford, who had a Power left him by a  
 “ Commander of One of His Majesty's Ships to be Governor of  
 “ Petty Harbour. I have seen and heard so very much of this, that  
 “ I faithfully believe, and I have done myself the Honour in Two  
 “ Letters to my Lords of Trade, to acquaint them, as I here do, that  
 “ no Man living in the Country of Newfoundland is fit to govern;  
 “ for the Set of People that live here are those that cannot live in  
 “ Great Britain, or any where else, but in a Place without Govern-  
 “ ment; and it is my Opinion, without there is a Governor, a man  
 “ of Honour and Justice sent to Newfoundland, I mean a Civil Go-  
 “ vernor, that shall not reside altogether at one Place, but must have  
 “ a Sloop, or some Embarkation, to transport him from Cove to  
 “ Cove, and set Order and Rule amongst them, the Fishery and  
 “ Trade to that Place must fall in a little Time.

“ I have given out several Orders for the Admirals, and the oldest  
 “ Masters and Planters to survey the Stages and Cook Rooms, &c.  
 “ to know what belong to Ship Rooms, and what was Boat  
 “ Rooms, and their Report to me was, that they had not been  
 “ surveyed so long, that there was none, either Admirals, Mas-  
 “ ters, or Inhabitants knew One from another, which was the  
 “ best, and all that I could get on that Head.”

Again—“ For the most Part, the Admirals are for their own  
 “ private Benefit, and not the public Good in general; they have  
 “ some Privileges more than the others, and especially in collecting  
 “ their Debts due to themselves, and very little else is minded of  
 “ the Act of Parliament relating to the Admirals of the Har-  
 “ bours, if they are not compelled by the Commanders of His  
 “ Majesty's Ships of War; and all this is for Want of a Governor  
 “ on the Spot. The Admirals determine Differences, and very  
 “ often they appeal to the Commanders of His Majesty's Ships  
 “ for a final Determination; but stand by that no longer than while  
 “ the Captain is on the Spot.”

Another writes—“ I had several Complaints from the Inhabi-  
 “ tants and others, of Injustice done them by the Admirals, Vice  
 “ Admirals, &c. of their taking their Fish off the Rocks before  
 “ cured, and other Goods, for Debts by them contracted, without  
 “ any

“ any Law or Justice, which has been a common Thing amongst  
 “ them; so that they wholly ruin the Fishery, for the Planters  
 “ have nothing to work with next Year. These Things are done  
 “ by Masters of Ships, when the Admiral has been in Harbour,  
 “ without his Order. By this irregular Proceedings, the strongest  
 “ Man gets all, and the rest of the Creditors nothing; so that the  
 “ next Year, a Planter is forced to hire himself out for a Ser-  
 “ vant.”

Again.—“ As for the People complaining to Admirals of any  
 “ Injustice done them by others, I do not find that any Master of  
 “ a Ship values him, but the strongest Side takes away every Thing  
 “ by Force.”

Another writes.—“ The Admirals prove generally the greatest  
 “ Knaves, and do most Prejudice, being both Judge and Party,  
 “ in hearing Suits for Debt; and when they have saved themselves,  
 “ then they will do Justice to others: so it would be requisite to  
 “ have a civil Government, and Persons appointed to administer  
 “ Justice in the most populous and frequented Places, that they  
 “ may be governed as Britons, and not live like a Banditti, or forsaken  
 “ People, without Law or Gospel, having no Means of Religion;  
 “ there being but One Clergyman in all the Country.”

While the King's Officers, and Persons employed and trusted by  
 the Government, were making such uniform Complaints of the  
 Abuses and Disorders in the Government of Newfoundland, the  
 Merchants Adventurers seem to have been wholly blind to these  
 Irregularities.

In several Representations and Memorials from them, sent in  
 consequence of Letters from the Board of Trade, written in the  
 Year 1715, there are Complaints of Grievances, but those were  
 quite of a different Sort; and if they were removed, they appear to  
 have been wholly unconcerned as to the Continuance of those we  
 have just been recounting.

They complain of the great Quantities of Liquor and Tobacco  
 which had paid no Duty, and were imported by the New England  
 Men, whereby the Fishermen were debauched, and the Fishery  
 generally hindered; that the New England Ships enticed away the  
 Seamen, and were encouraged thereto by a Premium of Forty Shil-  
 lings per Head, given by the Government of New England, for  
 bringing Seamen and Fishermen. They prayed that all Import  
 of Liquor and Tobacco, except from Great Britain, should be pro-  
 hibited,

hibited, and the Articles forfeited; and that the Fishing Admirals should have Power to seize, and to have Half the Forfeiture.

They prayed, that all Store Houses, &c. built by Planters, since 1685, in the Front of Fishing Ships Rooms, towards the Water, should be declared by Act of Parliament to belong to the Ship to which the Fishing Room belonged; this to be enforced by Forfeitures, to be levied by the Fishing Admirals; for better Preservation of Store Houses, Cook Rooms, Stages, &c. &c. they prayed that the Fishing Admirals, at the End of the Season, should inspect them all, and depute some honest and best Inhabitant of the Harbour to take Care that no one presumed to demolish or injure them; and that such Person, so deputed, should receive Twenty Shillings from the Fishing Ship which occupied it next Season.

They propose some strict Regulations, to prevent Aliens and Strangers sending out Ships as English-owned; with a Power to the Fishing Admirals, to administer an Oath to the Masters of Ships, as to the Ownership; and to seize, as forfeited, all foreign Ships; Half the Forfeiture to go to the Person seizing.

They complain, that the French Parts were not so open for Fishing Ships to get Rooms as they should be, Governor Moody and others pretending to have bought the French Plantations; that the Governor had permitted French Ships to come, and had taken all Power out of the Hands of the Fishing Admirals.

In order that the poor labouring Fishermen might not suffer Oppression and Disturbance from any Military or public Officer, or Soldier, they desired that no Military Person, on any Pretence whatsoever, should intermeddle with the Fishery or Fishermen, Inhabitants, or others; nor should let the Soldiers out to hire, nor keep Suttling Houses; nor have, for their private Use, any House out of the Lines of the Fortification, or any Gardens that have served, or may serve for Fishing Rooms, according to the Judgment of the Fishing Admirals of the Harbour.

And, because the Commodores of late Years had taken upon them to keep Courts, and send Warrants to several remote Harbours, for Commanders of Fishing Ships, in the Height of the Season, upon frivolous Complaints of idle and debauched Men, and others, without the Complaint being first heard by the Fishing Admirals, according to Act of Parliament, to the great Prejudice

dice of the Fishery, They prayed, that the Commodore might not in future be permitted to do the like; that all Complaints might be decided by the Fishing Admirals, and that no Commodore should presume to intermeddle with Debts between Merchants, Masters, Planters, and Fishermen, as they had lately done, to the great Prejudice of the Merchants. They pray, that the Ships of War, which were there to protect the Trade, might be obliged to come or send Assistance, in case of Piracy or Mutiny in any of the Harbours.

They pray, that none should retail Liquors to Fishermen, or Persons concerned in the Fishery, but only to their own Servants; that Goods, the Produce or Manufacture of Great Britain, might be exported Duty free, for the Benefit of the Fishery; that all Oil, Blubber, Fins, and Fish, taken or made in Newfoundland, by British Subjects, might be imported Duty free; and that Mediterranean Passes for the Ships carrying Fish might be given gratis.

They pray, that Fishermen should be obliged to fish till the last Day of August, if required by their Masters. The usual Day had been the 20th of August, but the Fish now came later; that Fishing Admirals should have Power to give corporal Punishment to all Persons, of what Degree soever, who profaned the Lord's Day, and all common Drunkards, Swearers, and lewd Persons; that a sufficient Number of Ministers should be sent to the principal Harbours, to instruct the Inhabitants, and that they might be paid from England; the Country being very poor.

Others represented, that it would be proper to add Penalties to Statutes 10th and 11th Will. III.; that Masters of Ships should give Bond to bring back such Persons as they carried out; or, if they went to a foreign Market, to procure others to do it; that Bye Boatkeepers should give Bond to return and bring back all their Servants and hired Men, with the like Proviso, in case of going to a foreign Market; that Masters coming from any Place but Great Britain, should give Bond not to take away any Fishermen or Seamen; the Penalty to be fixed by the Fishing Admirals; that Seamen or Fishermen who refused to return Home, should forfeit all their Wages; that no Master of a Ship, Bye Boatkeeper, or other Person, going or trading to Newfoundland, should give Credit to any Servant or Fisherman to more than Forty Shillings, nor any other Person selling Liquor to more than Five Shillings; that a De-benture or Bounty be allowed on all Beef and Pork, as if exported for Sale, and also for all Bread, Flour, and Malt, that should be  
shipped

shipped off in Fishing Ships bound for Newfoundland. To these Particulars were added the same Complaints about Foreigners interloping in the Fishery, as in the former Memorials. The Mayor of Plymouth, in Answer to the same Sort of Letter from the Board, says, that the Merchants had no other Complaint to make than the Encroachments of Foreigners.

Such were the Representations made by the Officers of the Crown on One Hand, and by the Merchants on the other, respecting the Trade and Government of the Island. I have delivered them in their own Words, and the Committee will decide between them.

In the year 1728, a Governor was appointed, with Authority to issue Commissions of the Peace; I shall now lay before the Committee such Information as will shew the Determination of the Western Merchants to resist any Regulation that had for its Object to put an End to the Anarchy, Injustice, and Oppression which prevailed while there was no Policy or Government for Newfoundland, but such as was provided by Stat. 10th and 11th Will. III.

Mr. Osborn, the Governor, in a Letter from St. John's, in September 1730, gives a lamentable Account of the Success of the new Institution. He says, he had hoped that a proper Submission and Respect would have been paid to the Orders he had given, and to the Magistrates he had appointed; but instead thereof, the Fishing Admirals, and some of the rest of the Masters of Ships and Traders in the Island, had ridiculed the Justices Authority very much, and had used their utmost Endeavours to lessen them in the Eyes of the lower Sort of People, and in some Parts had, in a Manner, wrested their Power from them. The Admirals had brought the Powers given them by the Fishing Act, in Competition with that of the Justices, and had not even scrupled to touch upon that of the Governor. All this Discord proceeded from a Jealousy the Admirals, and the rest of the Masters of Ships had conceived, that their Privileges granted them by Stat. 10th and 11th Will. III. were invaded by these Magistrates; which Power, says he, "Those Admirals could hardly ever be brought to make use of (without it was to serve their own Purposes) before, nor till they saw these Officers established; and they are now," adds the Governor, "doing all they can against these Men, only because they bear this Commission. Indeed," says he, "I find by their Will they would be sole Rulers, and have no Body to controul them in their arbitrary Proceedings. He expostulated with them, but it seemed to serve no other Purpose than to raise their Resentment against  
" him,



“ him, as the Abettor of the Justices. He could not charge the  
 “ Justices with having taken any arbitrary Steps; their Fault  
 “ was rather the contrary, whereas the Admirals were guilty of  
 “ many.”

“ The Commission of the Peace was in general disliked by all  
 “ the Masters of Ships, who were the chief People that opposed most  
 “ of the Steps the Governor had taken; for which Reason, and  
 “ partly from the Indifference of some of the Justices in their  
 “ Offices, who thought they suffered in their Way of Trade, and got  
 “ the ill Will of the People they dealt with, and partly from the  
 “ Incapacity of others, the Commissions of the Peace were but  
 “ indifferently executed. However, the Governor, notwithstanding  
 “ this Opposition, proceeded to make Appointments in Places  
 “ where he had before made none.”

The Prison and Court House at St. John's were nearly finished, and People had very well complied with the Rate. He agreed to a Presentment for a Rate to build a Prison at Ferryland; and he said, he did not doubt but the very Sight of these Two Prisons would in some Measure check many People in their evil Courses.

Memorials were presented to the Governor by the Justices of Saint John's, complaining that they were obstructed in their Duty by the Fishing Admirals, who had taken upon them the whole Power and Authority of the Justices, bringing under their Cognizance all Riots, Breaches of the Peace, and other Offences, and had seized, fined, and whipped at their Pleasure; they had likewise appointed Public Houses to sell Liquor, without any Licence from the Justices. The Admirals told the Justices they were only Winter Justices, and seemed to doubt of the Governor's Authority for appointing; that the Authority of the Admirals was by Act of Parliament, the Governor's only from the Privy Council. This Distinction in the Authority from whence they derived their Power was thought sufficient for the Admirals to presume upon; and the comparative Pretensions of them and the Justices were rated accordingly in the Minds of the ignorant and malicious.

The Towns in the West were not backward to join in this Opposition to the Justices; they complained that the Governor had taken the Power out of the Hands of the Fishing Admirals, and vested it in the Justices, who had proceeded in an arbitrary way to tax the Servants and Inhabitants; had issued out their Warrants not only against Servants, but against the Masters of

Vessels themselves, in the Midst of their Fishery, to their great Prejudice, and in Defiance of the Admirals and the Act of Parliament. They suggested that these Justices were some of them New England Men, and none of them ever coming to England, as the Admirals did, there was no Redress to be obtained against them for their illegal Proceedings. They said, some of the Justices supplied the Fishermen and Seamen with Liquor at exorbitant Rates, though the Merchants would supply them at a moderate Advance. After stating such plausible Topics, which it was well known would always be listened to when Newfoundland was in Question, they prayed, "That such Justices might have no Power during the Stay of the Fishing Ships, but that the Admirals might resume their Authority, and that the Commodore and Captains of Men of War should be ordered to be aiding and assisting to them therein."

I shall not trouble the Committee with any more Information of this Sort; I have perhaps already been too long upon this Head, but it seemed to me to be a very material Part of the Enquiry to ascertain what was the real History of this Stat. 10th and 11th Will. III. upon which the Western Merchants bestow so much Praise. To what I have said, I shall only add an Opinion given by the Board of Trade on this Statute in the Year 1765, and I shall submit what they say upon that Occasion to the Consideration of the Committee.

"They conceived it highly exceptionable in almost every Light in which it could be viewed. The Regulations intended for the Fishery were in general by no Means applicable to the present State of it, and such of them as might be of Use were not enforced by proper Penalties. And, considered as a Regulation of Government and Civil Jurisdiction, this Act," they said, "was the most loose and imperfect that could have been framed, and Necessity had already introduced Deviations from it in many essential Points."

"Without entering into the particular Regulations of the Act, and considering only its principal Imperfection, namely, the Fishery of the Island being altogether changed and varied from what it was when the Act was passed, it appeared to them to be disgraceful to suffer it to remain in the Statute Book; but as they feared it was too late in that Session to enter upon any new parliamentary Regulations, the further Consideration must be deferred for the present, unless His Majesty should be of Opinion that a Repeal of the Act should be moved for, and a short Law enacted,

“ enacted, empowering the King by Proclamation, Order in Council, or Instruction to the Governor, to make such Regulations with respect to this Branch of Commerce as he should, with the Advice of his Privy Council, judge most expedient.”

But nothing was done towards correcting or repealing an Act that had been condemned so often by public and private Opinions of Persons best able to judge of its Merits.

After this View of the State of the Island under the Government of Statute 10th and 11th William III, the Committee will give very little Credit to the Gentlemen who describe those Times in such Terms of Applause. “ Confidence and Harmony” (says One of them) “ subsisted between all Descriptions of People, and Courts were held with Dignity, and had good Effect, from the Example of the Judges, to prevent Animosities and Disputes.” Such Mr. Ougier represents the old System of Newfoundland to have been in former Times.

It appears from these Extracts, that there has always been a Set of Men who have invariably set themselves against every Attempt to introduce Order and Justice into that Island; that these Men have looked upon Newfoundland as their own Property, to be enjoyed exclusively of all the Rest of His Majesty’s Subjects; and that every Thing they have urged at different Times has been to secure these private Interests of their own, independent of any Competition from other Traders, and of any Inspection from Governors and its Officers.

For attaining this End, they have resorted to popular Topics such as “ No Residents” — “ A free Fishery carried on from Great Britain;” but in their Practice it has been found, that they were the First Encouragers of Residency and Population in carrying over the Bye Boatkeepers, who settled there and became constant Residents, from whom the principal Part of the present Inhabitants are descended; and it is confessed by Mr. Newman, that he has been in the Habit of giving Encouragement to those, and those only, who are Residents in the Island. It appears too, that the Freedom they have mostly sought and exercised was that of being free of all Rule and Order themselves, in the Enjoyment of an exclusive Monopoly, and at Liberty to exercise a Dominion over the Boatkeepers and poor Inhabitants, whom they kept in perpetual Thralldom.

I mean this should be confined to a certain Class among the  
Western

Western Merchants, as well in former as in the present Times. No Doubt there were formerly, as I know there are now, Persons of so much Justice and Character as not to be guilty of the Oppressions and Opposition to the Establishment of Order and Government, which I have above described, and who would certainly never condescend to come to this Committee, and endeavour to support such extravagant Propositions, grounded upon such ill-founded Facts and Reasonings as have been heard from these Gentlemen.

I proceed to examine what further has been advanced by these Gentlemen respecting the Judicature of the Island. I cannot help remarking, that the greater Part of what they say originates from personal Considerations; it is mostly applicable to some certain Persons, to some particular Occasion, and it is not founded upon any fair Ground of Complaint; it has in view Men, and not Principles, and thence it receives a Bias, which leads to Contradictions and Inconsistencies.

Mr. Newman and Mr. Ougier happened, through the Misconduct of their Agents (as I have before-mentioned) to be Sufferers in the Court of Pleas; nothing therefore could in their Judgment be worse than the Court of Pleas. Some fair Pretence was to be found out for revenging themselves upon all the Judges and Officers of that Court. Hence the Attack upon the Sheriff, whom they think to disgrace by calling him an American. Hence the Attack upon Mr. Coke and Mr. Ogden, who, they think, may fairly be disqualified from acting as Justices of the Peace, because they are Officers of the Customs. In pursuit of their Object they run into a Round of Contradictions that are curious. First, they alledge that People were called from their Business to attend upon Juries in the Court of Common Pleas. This Objection was the Occasion of their being accommodated with a Court without Jury; they became dissatisfied with that Institution, and they were afterwards allowed a Jury in Causes above £. 10; they are now dissatisfied with this Concession, and want Juries in Causes not under Forty Shillings, To help these Claims they assert, that the Governors used to hear Causes with a Jury; which Assertion I believe not to be true. They are dissatisfied with some particular Cause (as that of the Indorsement of the Bill of Exchange before-mentioned) because it was determined according to the supposed Usage of Newfoundland, and then they contend that all Causes should be determined according to the Law of England. Others again deprecate the Uncertainty, as they call it, of the Law of England, and hope all Causes will be determined according to the Usage

Usage of Newfoundland. They want Appeals to be for less Sums than £. 100, because a Cause under that Sum happened to be decided against Mr. Newman last Year. They have since intimated in a Paper just put into my Hands by Mr. Newman, that they wish to have a whole Year's Time for lodging Appeals, which I suppose is suggested by the Circumstance of a Respondent in an Appeal now pending having prayed the Court, that the Appellant may not have so long a Time as a Year. They desire that the Captains of Ships should determine Causes by the Law of England, and should be answerable to the Government only, and not to the Chief Justice, who happens to be the only Person of all of them likely to know a little about the Law of England.

But it would be endless to recapitulate all the Contradictions and Inconsistencies which follow from this Disposition to cavil at Persons and Things, instead of coming fairly forward to inform the Committee with Impartiality, and upon general Principles. I shall now proceed to examine what they have said respecting the Judicature Act of last Year, and shall begin with the Evidence of Mr. Newman.

In the First Place (Page 26) Mr. Newman prays that Causes exceeding Forty Shillings may be tried by a Jury, if either Party requires it.

The Committee understand, that in the present Bill the Limitation is at £. 10, and it is upon the Requisition of the Defendant only. Respecting this Point, I know from my own little Experience, that nothing is so desirable for a Judge, who consults his own Ease, as that Matters of Fact of what Kind soever should be tried by any Body but himself; it has however been thought, that in Newfoundland it is more for the Convenience of the People that Causes should be tried without bringing so many Persons out of their Employment as are necessary to constitute Juries; and I have no Scruple to give another Reason, which I think a sufficient Objection to Juries; in a narrow Society, like that at St. John's, there is very likely to be little Jealousies that render some Persons very unfit to decide between their Neighbours, and many very unwilling to submit to such a Decision. Owing to these Sentiments, it has happened in Point of Fact, that Juries have very rarely been called together in any Part of Newfoundland, so much so, that at the Quarter Sessions the Justices have long been in the Practice of trying small Offences by a Petty Jury, without a Bill being previously found by a Grand Jury, which they call proceeding by Information. The

summoning of Juries in the Court of Pleas was, I believe, rather a new Thing, and was so treated, while it could be made a Subject of Complaint; but when that Complaint was in some Measure listened to, and a summary Court was established, and the Want of a Jury could be made a Subject of Complaint, then came forward Persons who raised a Cry as if the People of Newfoundland had always tried their Causes in that Way, and were particularly attached to that valuable Piece of English Jurisprudence, of which they were now deprived for the First Time. I am myself able to say something as to the Value the People at St. John's set upon Trials by Jury; of the 4 or 5 Causes that were tried by Jury last Season, the Majority, I believe, of the Defendants intimated, that they would have been better contented with the Opinion of the Judge, than the Verdict of their Neighbours; it is singular too, that the only Appeal from any of my Decisions is in a Cause where the Merits were tried by a Jury, and the Verdict was given against the Defendant. Perhaps I have some little to answer for in this Cause; for the Plaintiff, who was a total Stranger in St. John's, desired the Matter might be tried by a Jury; but the Defendant, who is a Resident Merchant in St. John's, said he would rather it should be tried by me. I recommended to him to pray a Jury himself, in order that the Plaintiff, whatever might be the Event, might go away satisfied with the Administration of Justice at St. John's; to this, after some Deliberation, the Defendant consented. The Defendant, however, was very discontented with the Verdict his Neighbours gave against him in Favour of the Stranger, and has appealed against the Judgment which passed upon the Verdict, though I do not see how he is thereby to obtain Redress. In that Cause, it was in Agitation to have a new Trial; but a whole Morning was spent without Effect in getting together another Jury. In the mean Time I heard the Parties, and it did not appear to me that more Justice could be done by another Trial, and I accordingly refused a new Trial. Upon the Whole, I am of Opinion that Trial by Jury cannot and ought not to be in general Practice at Newfoundland; and I do not know that it can be put on a better Footing than it stands upon in the present Act.

The next Prayer is, that an Appeal may lie in Causes of £. 30, instead of being limited to Causes of £. 100. I am entirely of Opinion against this Proposal for the very same Reasons which Mr. Newman gives for it, Two of which are the Inconvenience and Expence, for both these would be greatly increased by allowing Appeals in such small Sums. In Causes where the Sums are large  
they

they are usually between Merchants, who can better attend to these Matters, who perhaps reside in England, and who at any Rate are better able to bear the Expence and Delay of Appeals; in Causes of smaller Value, it is usually some poor Resident Boat-keeper who is a Party, and who by such an Appeal would be completely deprived of the Effect of his Suit, as he could never prosecute the Matter in this Country. Another Reason given for Appeals in smaller Sums is, that there have been several Decisions where the Party has thought himself much aggrieved. As I hardly ever knew a Suit where Persons of the best Temper did not think themselves aggrieved if the Decision was against them, this appears to me no more a Reason for allowing Appeals in Causes of £.30 than in Causes of Forty Shillings. This is One of the Instances where Mr. Newman has given to the Committee as a public Reason what is only a private Grievance of his own; he alludes to his own Suit with Mrs. Butler. However, Appeals are allowed, not because particular People are aggrieved, but in Order that Grievances may not abound; and the Grievance and general Inconvenience would be much greater in permitting every litigious Man to endeavour to set right what he thought wrong, by an Appeal in petty Causes, than it would be to trust in such Cases to the Discretion of a Judge, who by his Qualifications may be supposed to know what is right, and who can have no Temptation from Interest to do what is wrong. It is upon Considerations probably of this Sort that Appeals are not allowed from any of the Colonies in Sums under £.100; I am therefore of Opinion this ought to stand as it does in the present Act; and I think that the Request for Appeals to be to the Courts at Westminster should not be complied with; for which Opinion I do not give any Reason, except that it is not allowed from any of the Colonies, and I do not see that any Distinction should be made in regard to Newfoundland.

The Alteration prayed by Mr. Newman respecting the Clause of Limitation of Actions I think ought not to be complied with. In the First Place, that is not an *Ex post facto* Law as he chuses to call it; for if the Law of England has been the Rule of Decision in Newfoundland (as they sometimes contend when they mean to found an Argument upon it) then the Limitation of Six Years was the Limitation of Actions in Newfoundland independent of this Clause in the Act of Parliament; and I should certainly have so held it if there had been no such Law passed. In the next Place, the Explanation they require is, in my Judgment, an Explanation that ought not to be made, because it would contribute to perpetuate what the Act meant should be limited to

Six Years. I must again observe to the Committee that the Reason given by Mr. Newman for this Explanation arises out of his own Suit with Mrs. Butler, and is another Instance of his endeavouring to induce the Committee to yield to Considerations that are partial and personal, and cannot fail of misleading those who attend to them; other Persons might want a different Explanation; and after all, any Explanation that is to be made must be subject to the Construction the Court at Newfoundland may put upon it, of which Construction they may perhaps equally complain.

The next Alteration Mr. Newman prays is, that the Fees, if any are to be charged, may be particularized in the Act, because at present they are extravagant. Though Mr. Newman has chosen to say that the judicial and executive Officers Fees are extravagant; he has given no Instance of the former being such, and the Instance he has given of the latter standing as it does without any Explanation, is no Instance at all.

I know that the Court Fees are very moderate, being calculated upon a Scale that makes the Administration of Justice cheaper than any Thing that is to be purchased in the extravagant Town of St. John's.

The Act of Parliament says, that the Officers Salaries shall be in lieu of all Fees and Emoluments; a Regulation that was made in consequence of injurious Complaints by Mr. Newman and Mr. Ougier, who charged the Judges and Officers of the Court of Pleas with encouraging Suits, and multiplying Occasions for paying Fees, which Charges they have repeated in the Evidence given to the Committee. It appeared to me, that the Act had nothing more in View than to remove all Imputation of that Sort, and that it is by no Means intended that Justice should be administered without paying any Fee at all. I thought such a Provision might operate as a Bounty on Litigiousness. I perceived that the Sort of Persons who commenced Suits were well able to pay Fees; and it did not seem to me, that Men like Mr. Newman and Mr. Ougier needed the Privilege of prosecuting their Suits *in forma pauperis*; I accordingly desired Mr. Graham to make out a Table of Fees, which was at length settled in the Form contained in the Paper I now deliver in (which is annexed in the Appendix, N<sup>o</sup> 14.) and I can venture to say this is by much the most moderate Table of Fees to be found in any Court in His Majesty's Dominions; I am sure it will be thought so by the Committee on Comparison with the Prices of Things in this Kingdom, and much more



more will they think it so, if they knew at what extravagant Prices every Thing is sold at St. John's. Mr. Newman and Mr. Ougier must be conscious of this, as they have contented themselves with a mere Insinuation that they are extravagant, lumping them with the Fees of the executive Officer (the Sheriff) against which they more particularly have made their Complaints.

In the Year 1791, when this Table of Fees was settled, I did not think myself at Liberty to make Enquiry into the Fees which the Sheriff took beyond what are assigned him in this Table; he was an Officer appointed by the Governor, and I supposed he had Usage for taking the Fees he did. In the Act of last Session I am authorized to regulate the Sheriff's Fees, and Poundage, which he receives independent of the Table; I accordingly made Enquiry into this Matter: I find that he charges Five Shillings *per Day* for a Bailiff keeping Possession, or travelling by Water, and One Shilling *per Mile* for travelling by Land; he says he takes no Fee for levying Money, which I understand to signify also the attaching of Debts in the Hands of Third Persons; but for levying Goods and Chattels, for selling them, and paying the Money over to the Party, he charges  $2\frac{1}{2}$  *per Cent.* which, he says, is the common Allowance to all Persons who sell Goods by Commission; and these are all the Fees he takes. Comparing these Fees with the Fees paid for the same Business to Sheriffs in England, the Account will stand thus: The Sheriff of London, upon levying Goods, &c. charges  $\text{£} .5$  *per Cent.* upon the First  $\text{£} .100$ , and  $\text{£} .2\frac{1}{2}$  *per Cent.* upon every  $\text{£} .100$  besides, which are higher Fees than the Sheriff of Newfoundland receives for the same Business. The Sheriff of London is allowed Half a Crown *per Day* for a Bailiff being in Possession; but the Difference between this Half Crown and the Five Shillings at Newfoundland must be charged to the Difference in the Price of Labour in the Two Places. We know that in all new Colonies the Price of Labour is greater than in an ancient Country like this; and where there is so much active Industry as in the great Fishery of Newfoundland, the Value of Time and of Labour is still higher. I am told that the Wages to Carpenters and Masons is 4*s.* 5*s.* 6*s.* and 7*s.* *per Day* in Newfoundland; and I know Persons who, in order to have such Artificers upon some reasonable Terms, are obliged to hire them by the Year, at the Rate of  $\text{£} .30$  or  $\text{£} .40$ , besides their keeping. In Newfoundland it is a common Thing to give a Dollar to a Beggar. As to the 1*s.* *per Mile* charged by the Sheriff for a Bailiff's travelling, I know it to be nothing more than the Price paid to a common Messenger. Mr. Newman and

Mr. Ougier know, as well as I, that a Messenger sent from St. John's to the Bay of Bulls over Land, a Distance I believe of 22 Miles, must be paid One Guinea and a Pair of Shoes, which Pair of Shoes, out of a Merchant's Store at St. John's, cost 8s. but might be bought in a Yorkshire Warehouse in London for Two Shillings, or Half a Crown.

The Sheriff of London's  $\text{£. } 5$  *per Cent.* and  $2\frac{1}{2}$  *per Cent.* are Fees for himself as Sheriff, besides which his Bailiff, exclusive of his Half Crown by the Day, charges also to the Party One Guinea for levying the Execution; and to this are added all the subsequent Expences of the Sale and Disposal of the Goods, occasioned by a Broker taking an Inventory, advertising the Property, the Auctioneer making a Sale, his Men attending it, and such other incidental Charges as may necessarily occur before the Money is raised in the Hands of the Sheriff to be paid over to the Party; for all which incidental Trouble it is reasonable that the Sheriff of Newfoundland should likewise make proper Charges; but whether the Charges stated in the Accounts are reasonable or not must depend upon a particular Examination into the several Articles of Charge, and the Circumstances attending them, without which it is impossible to form a Judgment of the Paper delivered in by Mr. John Thomey. It is true, that Thomey spoke to me at Newfoundland about the Sheriff's Charges; I desired him and the Sheriff to talk together, and such Matters as they could not agree upon I would endeavour to settle between them. He was called away to another Part of the Island on his Concerns, and I left the Island without seeing any more of him. He wrote to me, as he truly says, since he has been in England, upon the Subject; but I knew that nothing could be done without the Presence of the Sheriff, either to redress him, or to understand the Nature of the Dispute between them; but these Considerations do not seem to have had any Influence to restrain him from laying these Papers before the Committee, who, without knowing the Facts, or hearing the Sheriff, are not more in a Way of getting to the Bottom of this Transaction than I am. Upon casting my Eye over the Charges, they appear to me to be, in Addition to official Demands, a Mixture of mercantile Dealings, which do not necessarily belong to his Duty as Sheriff; and I am of Opinion, that unexplained as they now stand, they are not a Ground for forming any Judgment as to the Sheriff's Conduct with Regard to Fees in the Execution of his Office.

Should it be thought proper for Justice to be administered at Newfoundland

Newfoundland without Payment of any Fees whatever, though I see no Reason for it, yet it may very well be done, as far as regards the Business of the Court; such small Salaries as would be necessary for the Clerks would not be a great Expence; but it is very different with regard to the Sheriff's Business and Attendance; his Time and Trouble, as well as that of his Bailiffs, the Expence of levying, &c. &c. must be paid for in some Way, but would lead to an Extent of Expence which I should never advise to throw upon the Government. Indeed, it seems to me, that whatever is done with regard to lowering or entirely abolishing Fees, those of the Sheriff cannot well be reduced below what I before stated them to be.

As to particularizing the Fees in the Act of Parliament, I see no other Objection to it than this, that such a Step would shew a Distrust of the Persons who are placed at the Head of the Court, which is not shewn with regard to the same Magistrates in any of the other Colonies; and yet if Men are trusted who go to a distant Country to reside for Years, surely those who return Home at the End of Three Months, and appear here to face every Enquiry, may be trusted. Besides, what has passed in this Examination has made public and fixed the Fees to every reasonable Purpose; nothing that has been insinuated respecting the Sheriff's Accounts could have been prevented or cured by any Act of Parliament.

The next Point which Mr. Newman urges is, that the Clause for disqualifying Custom House Officers from acting as Justices of the Peace may be continued; to which I object for several Reasons.—First, It is another Instance of a Suggestion made with no other View than personal Considerations. These Gentlemen had Reason, as they thought, to be dissatisfied, and they sought such an Occasion as this to be revenged on some of the Judges of the Court, of which Mr. Coke the Comptroller, and Mr. Ogden the Deputy Collector, were the Principal. Secondly, Because there is no Principle which make the Office of Justice of Peace and Comptroller or Collector of the Customs incompatible. One Reason given by Mr. Newman, “that they would thereby be both Judges and Parties,” or as Admiral Edwards expresses it his Evidence, “both Judge and Jury,” is not true; for the Revenue Causes, in which they are concerned, being heard before the Judge of the Admiralty, and the Justices of the Peace have nothing at all to do with them. The other Reason is, I hope, true in Substance, namely, “that the Office of Justice gives them an Influence in the Island;” but it is wrong in the  
Application

Application of it, if Mr. Newman files that Influence "improper." It may be very well for a Merchant to say, that the Presence of a Person, who has Authority to keep the Peace is an "improper Influence," at a Time when the Revenue Laws are to be executed; but every one else knows, that there is a great Convenience in such an Aid, and often a Necessity; and it seems to me peculiarly proper, that a Comptroller of the Customs should have the Authority of a Justice of the Peace, to enable him better to discharge his Duty to the Crown; it is like carrying a Species of Writ of Assistance always in his Pocket. In all this, he only acts as a ministerial Officer, and what has been said about Judge and Jury has been said either ignorantly, or with a Design to mislead the Committee. The Third Objection to this Request is, that there are so few Persons who can properly be invested with the Office, that no new Difficulty should be thrown in the Way, by adding any Disqualification like this. The Custom House Officers should be Persons who are not concerned in the Fishery; so should Justices of the Peace. So difficult is it to find Persons to execute the first Office, that they are obliged, as the Committee have heard, to put the Office of Deputy Comptroller, Deputy Searcher, and Deputy Naval Officer into the Hands of one Person in the Out Ports, because it was thought that the Incompatibility of such Offices (which after all regards the Revenue merely, and is the Affair of the Crown and not of the Merchants) was a less Objection than the Incompatibility of Situation and Circumstances with either of these Offices would be, if put into the Hands of a Person concerned in the Trade and Fishery. If this is not conformable with the Practice in England, it is justified by a great Authority, I mean the Law of Necessity, which must supersede the Law of England, and is the Mother of Usage and Custom in many more Instances than this, in the Island of Newfoundland. To these Offices it has been usual also, in the Out Ports, to add that of Justice of the Peace; which, whatever might be thought of the other Offices, it never entered into the Head of any Man to say was incompatible with either of them. Owing to the disqualifying Clause of last Year, the Governor was put under great Difficulty to find Persons in the Out Ports, whose Situation and Circumstances did not in some Measure disqualify them for executing this Office.

The Committee should also be informed that this Clause was inserted in the Bill of last Year upon the private Suggestion of these very Two Gentlemen, Mr. Newman and Mr. Ougier; and I believe I may venture to say, that those whose Confidence they thus surprised were very soon satisfied they had given too much Credit to the Suggestion.

I cannot

I cannot leave this Subject of the Custom House Officers without acquainting the Committee, that Mr. Coke, the Comptroller of the Customs, is of all Persons the properest to be a Justice of the Peace. He has resided in Newfoundland for Twenty-five Years; he is very well acquainted with the Usages and Customs of the Place; he is extremely fitted for it both by Temper and Understanding; he has been at the Head of the Commission at St. John's for several Years; has acquitted himself to the Satisfaction of all the Governors, and without the least Reproach from the People; and I can say of him, what cannot be said of any One other Justice in Newfoundland, however respectable, that he is perfectly independent of every Body, for he has left off his Practice as a Surgeon, and lives upon his private Fortune, with his Income of Comptroller of the Customs. This last Consideration of being independent, makes him the fittest Person to be employed by Government in that Country.

Another Prayer of Mr. Newman is, that the current Season may be explained to stand from the 30th October in the preceding Year; this is another Instance where Mr. Newman would impose upon the Committee, as general Information, what is in Truth nothing more than a Suggestion furnished by his own private Concerns. I think I remember, but I am not sure, that his Agent at Newfoundland pressed me upon this Point. Mr. Newman, perhaps, may keep his Books from the 30th October to the 30th October; another Man may keep his from the 5th November; another from the 20th November; another from the 1st December, as I believe some do: why then should Mr. Newman's Books be made a Rule for every Body else? I am of Opinion this should remain as it is; and then it will be left to the Construction of the Court, arising out of Circumstances and the Nature of Dealings between Parties, to say what shall be considered as Part of the current or Part of the preceding Year in any particular Case. To lay down any precise Period by Act of Parliament would be doing Mischief.

Mr. Newman desires, that in Cases of Bankruptcies the Creditor may have the same Power as in England. In this Case I do not know exactly what he means; but I should inform the Committee, that in framing the 6th Section of the Act respecting Insolvents, especial Care was taken not to introduce the Word "Bankrupt," nor to make any Reference to the Law of Bankruptcy in England, least any such Wording might draw after it all the complicated System which prevails here, and which is so unfit for the Dispatch of Business at Newfoundland. I think that

Caution was proper, and I think Mr. Newman is now asking for what he does not understand; unless indeed he confines his Demand to relieving Assignees from the Security they are required to give; and if that is his Aim, I should recommend not to comply with it.

I believe I have now remarked upon all the Alterations which Mr. Newman has suggested to be made in the Act of last Year. To these Mr. Newman has added some Observations upon the State of the Judicature previous to the Establishment of new Courts, and has made a Comparison of the ancient Judicature and the new. I am ready enough to agree with him, that in the former State of Things there was less Litigation than now; it is not easy to have Litigation without Courts. Litigation, as he calls it, is most certainly an Evil; but it is an Evil which we are obliged to employ, to expel or prevent another Evil, I mean, Oppression: There has been a long Struggle at Newfoundland between these two Mischiefs; the Merchants never complained of the One, and the poor Inhabitants do not now complain of the other. During the Policy of the Fishing Admirals, there could be no Chance of any Complaint of Litigation; the Law as well as the Power was all on one Side; when these Evils were corrected, in some Degree, by the Exertion of the Governors and Surrogates in later Times, the Check given to Oppression was but temporary, that is, during the Time they were upon the Coast. Gradually the Court of Sessions and the Court of Vice Admiralty assumed a Jurisdiction in Civil Causes; and as these Courts were resident in the Country, they had more Time for the Administration of Justice than the Governor and Surrogates, who were a good deal employed in passing from one Place to another. A little more Check was given to Oppression by Means of these two Courts; however, their Exertions were but feeble; for being conscious that their Authority was only assumed, they found it prudent to hold their Hand, or to lay it on very gently, when a Trader of any Consideration was the Object: I believe, during the Reign of these two Courts, the Merchants had little to complain of; they got more Business done for them than against them, and they had no fair Cause to complain of what they call Litigation. I believe there was never a steady and vigorous Administration and Execution of Justice, sufficient to make the Merchants cry out, till the Institution of the Court of Common Pleas; it was then that People began to find out, that Redress could be had for the Poor as well as the Rich; and it was possible that People might then come forward with many Suits and Complaints. This was

was in the natural Course of Things, and not from any unbecoming Industry of the Judges in that Court to foment Suits, as had been injuriously insinuated. Attornies may contribute to multiply Suits, but it is not in the Power of Judges to do it; and in Newfoundland there are no Attornies.

Now begun what the Merchants call Litigation; now ceased that "Harmony, Peace, and Content, when Parties were perfectly satisfied;" as described by Mr. Newman. The Inconvenience experienced by the Merchants from what they call Litigation, was, I believe, increased, when I went thither in 1791 and 1792; and I must say, that I think it very likely to continue, as long as a Judicature well adapted to the Exigencies of Justice, like the present, shall be open.

If the Merchants complain of this, they should recollect it is brought upon them by themselves; they may say what they please about all Parties being satisfied, but they know that they never let pass an Opportunity, when they felt themselves aggrieved, of insulting the feeble and temporizing Judicatures in the Island. Against Governors and Surrogates, who had a Force under their Command, they seldom ventured to do more than bring Actions against them in England; but against the Justices in the Court of Session, no Threats or ill Language were ever spared. These Liberties were taken, because the Merchants knew, and the Justices were conscious, that their Authority was not founded in Law. It was these Uneasinesses that first caused the Governor to seek a legal Establishment of a Court, and this was attempted in the Court of Common Pleas. They quarrelled with this Court, upon frivolous Pretences, because they had Reason to suspect it was not legal; it became therefore necessary to go a Step farther, and the Parliament was called upon to form a Court for the Island, that might be clear of all Objection as to its Legality. Since this new Establishment has commenced its Career, they have found Reasons to be dissatisfied with it, and are now looking back with Regret to the old Judicature of the Island, which they once treated with so much Contumely.

If the Committee shall think that these Notions "of doing Justice to the Poor as well as to the Rich," ought to be controuled by any Circumstances peculiar to a Fishery, or peculiar to the Fishery of Newfoundland: That the Merchant who lives in England has a Merit, in a national View, which entitles him to have his Interest secured, and his Inclination gratified upon any Terms,  
and

and with any Consequences that may follow: That the Interest of the Boatkeepers, Servants, and other Dependents upon the Merchants, considering they reside at Newfoundland, is less deserving Consideration, and may be partially or wholly postponed, where it interferes with that of the Merchant who resides at Home: Should the Committee be of that Opinion, I have nothing to say in Favour of the new Court; and I think it would be better at once to relieve the Merchants from the Litigation of which they complain, to consign the Boatkeepers to a State of Dependence and Oppression, of which they have not equal Opportunities to complain; and after that is done, perhaps the Merchants may rest quiet, and not a second Time stir up the Vigilance of Government to make Regulations, by repeating Complaints that were always frivolous, and very often unfounded.

I shall now trouble the Committee with a few Remarks on what is said by Mr. Ougier, who bespeaks the Attention of the Committee, by representing himself as possessing a Deputation of a very extraordinary Sort indeed; he does not come, like Mr. Newman, to speak for his Neighbours in the West Country only, but speaks seemingly for the Merchants of Newfoundland, of Scotland, of Ireland, and of England; after which extensive Authority, he gives you this sweeping Clause, "as well as from People in general, not immediately connected in the Trade, knowing its great Utility;" in such a Manner he would make the Committee believe, that what he pleases to say has the Concurrence of every Body concerned in the Trade, or who thinks about it; when it is well known that the Two great Towns in England, those of Poole and Dartmouth, do not agree in the same Plan of Policy, and that many Persons of Ireland and Scotland are concerned in the Trade in a Manner differing from both, and whom Mr. Newman and Mr. Ougier for that Reason do not fail to load with the Imputation of not being Fishermen, but mere Traders. I shall not at present enter upon those Observations on the Trade and Fishery made by Mr. Ougier, in which I am sure this Mixture of supposed Constituents cannot go along with him; and in which I perceive great Mistake and Misrepresentation; but I shall content myself with proceeding to Notice what he has said with regard to the Judicature of the Island.

The great Crime with these Gentlemen is "Residency," and the great Objects of Resentment are the Courts and their Officers, and therefore Mr. Ougier endeavours to fix this high Offence upon the Court and its Officers. He says, "That the Courts, the  
" dependent



“ dependent Clerks, and other Officers, having Families, have tended to increase the Inhabitants of St. John’s, keeping a Number of Female Servants,” &c. This Charge is utterly untrue. The Clerk in the Court of Common Pleas had been a Resident Boat-keeper for many Years at Newfoundland, and upon his failing in Business was appointed Clerk to that Court. The Clerk and Assistant Clerks in the Court instituted in 1791, and also that in 1792, were all young Men who came out in the Admiral’s Ship and returned Home in it, and are now in England. The Sheriff lived there as a Merchant before he was appointed Sheriff. Here then is no Increase of Residence by Reason of the Court. I should not have said thus much upon a Suggestion that appears to me so frivolous, had I not thought it necessary to put the Committee Once more upon its Guard against Persons who pretend to speak of Facts, which it is wholly impossible for them to know, but which they advance with the same Confidence as if they had been resident in the Island.

The History Mr. Ougier has given of the Judicature is not correct, nor is it worth Refutation. On this Occasion he reminds the Committee of the Fees of the Sheriff, and refers to Mr. Thomey’s Account, upon which I have before remarked. He throws in something, however, which shews to the Committee what Mr. Ougier considers as a good Reason for taking any Liberty with the Sheriff; he tells you that the Sheriff is, “ an American.” I believe this to be true. His Father, who now lives in London, was One of those unfortunate Persons, who, at the Beginning of the War, found it necessary to seek an Asylum somewhere, and he settled in Newfoundland. The Sheriff has long been a Merchant at Newfoundland, and is considered as a thriving Man. I am bound to say of the Sheriff, that he is an excellent Officer, unremitting in his Attention, and firm in the Execution of his Duty; and the Establishment of Courts would be ineffective without such a Person as he has shewn himself, to carry their Orders into Execution without any Respect of Persons or Fear of Opposition. He is also a very humane Man, and I am obliged to him for his Suggestions, in some Orders which I made for his Government, in levying Executions upon Boatkeepers and the poorer Sort of People.

It is unnecessary to remark on what Mr. Ougier says, in his Praise of the old Judicature of the Island, after what I have before said on the same Encomiums passed by Mr. Newman; but I shall just remark on the comparative Statement, which Mr. Ougier pleases to make of the old and new Judicatures: He says, “ Before the Laws

“ of late Years, Matters were determined according to the Laws of  
 “ England, since that by Laws very oppressive; before, People’s  
 “ Property was safe, since, it is under continual Attachments; be-  
 “ fore, no Fees of Office, since, Fees that amount to Sums beyond  
 “ the Possibility of any Description.” What Credit does this  
 Gentleman expect to have, when such injurious and unfounded  
 Assertions are detected and refuted? This gross Absurdity has been  
 sufficiently exposed by what I have before laid before the Committee,  
 and I shall now content myself with a Comparison, which I maintain  
 to be as true as the other is false: Thus, “ Before the Regulations  
 “ of late Years, the Administration of Justice was either partial,  
 “ uncertain, or feeble, and the Interposition of the Law was little  
 “ better than the Oppression it ought to correct; since, Matters  
 “ have been determined according to the Law of England, as far  
 “ as it was applicable to the Circumstances of the Island, equally  
 “ with regard to the Rich and the Poor; before, People were safe  
 “ in the Property they plundered from the poor Boatkeepers, since,  
 “ these Plunders have been brought in Question, and as some of the  
 “ Merchants, thinking they can trifle with the Judgment of Courts  
 “ as they used to do, resist their Execution, their Goods are often  
 “ attached, and sometimes sold; before, the Fees of Office, parti-  
 “ cularly those paid by the Poor, were extravagantly high and  
 “ partial, since, the Fees of Office are moderate, and equal to all,  
 “ but they are sometimes remitted to the Poor, though they  
 “ never are to the Rich.” This is the Comparison I think myself  
 justified in making, and opposing to that of Mr. Ougier.

I have Mr. Ougier’s Authority for saying what I have about  
 Fees in the old Judicature; for Mr. Ougier says, that the Admiralty  
 Court had some of its Authority taken from it by Stat. 26th  
 George III. because the Judge imposed improper Fees, “ particu-  
 “ larly on the Servants and the lower Class of People; Half a  
 “ Guinea, for Instance, was charged instead of Half a Crown, for a  
 “ common Summons.” I shall beg the Committee to remark,  
 that this Judge of the Admiralty seems, by Mr. Ougier’s Account  
 to have let off the Merchants at an easier Rate; and indeed it was  
 probably so, otherwise they must have made the same Complaints  
 against him, which they are now making against the Fees of my  
 Court, though I perceive by the Table of Fees, that a common  
 Summons may be had in the Supreme Court for Six Pence, which  
 is only One Fifth of what Mr. Ougier seems to state as a reasonable  
 Demand for the Judge of the Admiralty to have made. But the  
 Merchants who feel so much for the poor Servants, where the  
 Servants need no Compassion at all, and are only made a Pretence  
 to

to cover the Views of the Merchants themselves, never made the least Complaint against the Judge of the Admiralty for exacting high Fees from the Servants. It was upon the Representation of the Governor, and not of the Merchants, that the Judge of the Admiralty was at last removed.

Mr Ougier is as determined to keep up the Idea that Juries made a Part of the old Judicature as Mr. Newman; but the Committee should observe, that this is done with an Equivocation, which shews he meant to insinuate what he knew he could not venture directly to assert. He says, Causes were determined at St. John's, and the Out Ports, according to the Laws of England, with Juries, "when required," by the Governor and Surrogates. The Condition, "if required," is a Salvo which renders this Assertion perfectly true. It is consistent with the Fact of there never having been any such Thing as a Jury in the Island. I believe nobody would ever have thought of "requiring" such a Thing of a Governor; indeed a late Governor (Sir Hugh Palliser) in his Evidence says, that Causes should be determined in a summary Way; and so I take it they always were by the Governor; and I am almost sure it was always so with the Surrogates.

As to the Law of England, which the Merchants sometimes insist has always been, and should hereafter be made the Rule of Decision for the Captains of the Ships of War, I only say, if that has been it may be so again; but at other Times the Merchants insist, that the Custom and Usage of Newfoundland should be the Rule of Decision, and not the Uncertainty of the Law, as they are pleased to term it; and then Mr. Ougier says, of all the Customs and Regulations previous to Stat. 15th George III. being revived and sanctioned by Parliament, as if that Statute had abrogated them, or as if those Customs and Regulations were to be found written in any Book, or could be taken down from the Memory of anybody, so as to be submitted to the Judgment of Parliament, and passed into a Law; all this arises from the same Persuasion, real or pretended, that great Alterations and Innovations have been made in the Policy and Usage of Newfoundland by that Statute, and by the Institution of Courts made since. Courts, in the Nature of them, are not necessarily an Alteration in the Law, but are only the Means and Mode of carrying pre-existing Laws into Execution. The Stat. 15th George III. did little more than make plain and explicit what had before been in Practice; and every Usage and Custom which was so before that Statute is so at this Moment. A great Confusion has been made in this Question by what has been said about

about the Law of England and the Custom and Usage of Newfoundland; I will, with the Leave of the Committee, explain my Notions on this Subject.

It is a peculiar Property of the Law of England to give Sanction and Effect to local Usages and Customs that have prevailed for Length of Time. If the Law of England is the Rule of Decision in Newfoundland, the Customs and Usages of Newfoundland would thereby become established, because the Law of England opens and receives the Customs and Usages of the Place into itself as a Part of it, and the Usage and Custom would then become the Law of the Land by virtue of the Force and Efficacy given to them by the Law of England. I should have thought that would have been the Case if the Parliament had been silent upon the Subject; but to put this Matter beyond all Doubt, it was wisely provided by the Judicature Act of last Year, that the Courts should “ terminate Suits and Complaints of a civil Nature according to the Law of England, as far as the same can be applied to Suits and Complaints arising in the Island of Newfoundland;” upon which Act, and upon the Principles before laid down, I have repeatedly held, that the Custom and Usage of Newfoundland should have the Ascendency whenever they can be ascertained to have the genuine Property of Custom and Usage, and to be clearly distinguishable from Irregularities and Abuses of a partial and local Nature. Conformably with this, hardly a Court Day passed that I had not to enquire and examine of the Persons around me about the Nature of Usages and Customs that were brought in Question. I did this with especial Care, because I am satisfied, that for making People happy no less than for doing Justice, nothing is more necessary than preserving inviolate those Rules of Action to which they have been long habituated. A great many of such Cases I have put into Writing, because I thought, if a Collection of them were made and printed for the Use of the Magistrates and People there, it would contribute more than any Thing to make the Law certain, and enable People better to conduct themselves in all their Dealings. The frequent Change of Governors and Surrogates, the Feebleness and Instability of every Thing relating to Courts, had contributed to introduce the extremest Uncertainty. The Rule of Decision changed almost with every Change of Men, and People have lived in a perpetual Distrust, whether what was Law under their present Rulers would be Law under those who succeeded. I was so struck with the sad Effects of this Fluctuation, that I resolved to make some Collection of the Sort I mention; and if this Plan is pursued, it may very soon grow to a very useful Manual for Magistrates

gistrates in that Country. I know no other Way of collecting together the Usages and Customs of that Place; and when they are thus collected, they will become the Law of the Place, without needing any Sanction from Parliament, in the same Manner as the Law of England is to be found in the Books where Decisions are reported.

Mr. Ougier supposes the public Fund has decreased, because it has been taken from the Justices and placed in the Hands of the Sheriff. It is a Mistake to suppose that it has at all changed Hands. The public Fund is certainly diminished. One Reason for its Diminution is, that there are only Twelve Public Houses in St. John's that now pay for a Licence; whereas heretofore there were 60 or more.

This Diminution in Public Houses was made by His Majesty's Instructions to the Governor, in consequence of Representations made by some Merchants of St. John's, who thought the Number of Public Houses there too great. Another Cause of the Deficiency is, that the Justices have more Delicacy in imposing Fines than they had in those Days, when a System prevailed which seems to have been more agreeable to Mr. Ougier's Notions of Justice than the present.

Mr. Ougier says, he agrees with Mr. Newman in his Objections to the Judicature Act; he also further desires that the Charges of Writs may not be calculated according to the nominal Damages given in the Court, but according to those which are assessed by the Jury; to which I answer, that the Charges of original Writs must be calculated according to the nominal Damages, for there is no other Measure by which to fix the Charge at all. As to Writs of Execution, they are already constantly charged according to the Sum for which Judgment is given, and therefore no Regulation on this Head is necessary.

As to the Distinction, in Cases of Insolvency, between Supplies furnished for the Fishermen and Servants that are "really necessary" and those that are not, I do not see any more Reason for entering into such an Examination, than for prescribing set Prices at which the Merchants shall be obliged to sell their Goods to the Boatkeepers and Fishermen.

As to the Debts of Great Britain being preferred to the Debts of Newfoundland, there is no Difference in the Act between a Case of Insolvency and the Case of a common Action for the Recovery of a Debt; and in the Request here made, Mr. Ougier de-

parts from the Principle the Western Merchants are pressing before the Committee. The Western Merchants are endeavouring to persuade the Committee, that there is no need of Courts at Newfoundland, except during the Fishing Season, for that all Matters of Consequence may be settled by People when they come Home. The Framers of the Judicature Act were of the same Opinion, and therefore it was provided that no Debts should be sued for at Newfoundland, but such as were contracted at the Place, and were absolutely necessary to be decided in the Island, for the Accommodation of those who always reside there; but these Gentlemen, never satisfied, now object to a Provision, which, if they were sincere in their Declarations for a Fishery from Great Britain, they ought to approve.

This is all I have to remark on what Mr. Ougier says relative to the Judicature. I shall only remark on One other Part of his Evidence, which relates to the regulating Bill of last Year. Mr. Ougier thinks it a good Argument against that Bill, that the Cash in the Island would not make a Tenth Part of the Amount of all the Passage Money thereby required to be paid, and that paying it in Bills would cause Intricacies impossible to be regulated. If there was any Sense in what Mr. Ougier here says; it would be as good Reason for not paying any Duties of Customs, for not paying the Greenwich Hospital Money, for not paying Servants Wages, for not paying Servants Passages as they are paid at the present Moment, and for not paying for any One Thing purchased in the Island; for the Committee should be informed, that there is hardly any Money passing at all at Newfoundland; all Business is transacted by Bills drawn upon Great Britain or Ireland; more than Two-Thirds of these consist of Sums from £. 10 down to 30s. and what more Difficulty there could be in a Master drawing Bills for the Passage Money, as proposed by the regulating Bill of last Year, than in drawing them for the Greenwich Hospital Money, or as they now actually draw them for the Passage Money of their Servants, I cannot see. The Merchants themselves know there is not any Difficulty in this Part of the Regulation, and the Difficulties they represent in the other Parts are little more than those which already exist under the Regulations of the Stat. 15th Geo. III.

The Motive for bringing forward the regulating Bill of last Year was this; by Stat. 15th Geo. III. the Hirers and Employers of Seamen and Fishermen are authorized and required to stop Forty Shillings out of the Wages of each of their Servants; in order to purchase him a Passage Home. The Master is then required to procure

cure him a Passage, and to convey him on board Ship, and take a Receipt from the Captain for the Money. Such was the Regulation which was intended for securing to the Mother Country the Return of Seamen, an Object always considered as of Importance on every Occasion when the Fishery had come into Discussion.

This Regulation had, however, been disappointed of its Effect, and greatly abused. The Masters never failed stopping the Forty Shillings, but there the Directions of the Statute have usually been abandoned, and the Money has in many Cases been misapplied. The Statute proceeded upon a Persuasion that every Seaman and Fisherman went out from hence at the Opening of the Season, and returned at the Close of it. But this is by no Means the Truth, nor was it so, I believe, when the Statute passed. There are now reckoned from 20,000 to 50,000 Inhabitants in the Island, who have no other Home. You may be sure all the Males of these are bred to the Fishery in one Way or other. The Numbers who are there employed, and are not Inhabitants, are reckoned at Seven or Eight thousand; but of these latter by much the greater Part do not come out and return the same Year; they return at the End of Two, Three, or Four Seasons, especially the Irish, who, when they come out first, make it a Rule to stay Two Summers and a Winter; and having done that they are very likely to continue longer.

When this is considered, it is easy to see that the Instances where the Master is to apply the Forty Shillings are very few, compared with those where it is not, and where it need not be expended. With regard to all those born in the Island, and indeed all those who by Marriage or a Length of Residence have made that their Home, it is known to the Master that they need no Passage; with regard to those who are really Men of Passage, but who stay a Winter or Two, or more, each Master in his turn may see a Reason for stopping the Passage Money, because that very Summer may by Possibility be the last the Servant will stay in the Country. But in both these Sorts of Instances what becomes of the Money which the Master has stopped? It remains in the Master's Pocket, and it is believed that there is Money enough of this Kind detained Yearly by the Masters out of the Servants Wages to support the whole Government of Newfoundland.

It was to correct this Abuse that the Bill of last Session was framed. The Remedy there intended was, to appoint Receivers, who should collect from every Employer Forty Shillings for each of his Men, which would have been done in the same Manner and with the same Ease as the Greenwich Hospital Money is now collected.

lected. It was meant, that the whole Business of providing Passages should be placed in the Hands of the Receivers; and certain Checks were devised for securing the Departure of the Seamen, the regular sailing of the Passage Vessels, the sufficient victualling of them, and the like. It was meant that the Forty Shillings should be paid back to certain Descriptions of Servants, namely, those born or married in the Island, or having a Child born there, or being *bonâ fide* hired as Winter Servants. Such Persons as staid there, wintering upon their own Hands (who are known by the Name of Dieters) would have forfeited their Forty Shillings as Violators of the Law. These Forfeitures, together with the Savings that might be made in the Price of Passages Home might very fairly have gone to make a public Purse, to be applied to the public Service of the Island. The Savings would have been considerable. They are at present a Source of Profit to the Masters, which I have not yet mentioned; for they are by the Act to stop the current Price of a Passage, not exceeding Forty Shillings; but, in fact, I believe, they always stop Forty Shillings, and I believe I may say as a Fact, that a Passage never amounts to that Sum; they are commonly Thirty-five and Thirty Shillings, and this Season they might have been had for Twenty Shillings.

However, I learn from very good Authority, that in some Parts of the Island, where the Merchants send Men Home in their own Ships, they make them pay Fifty Shillings.

It is not therefore to be wondered, that the Merchants set themselves, with an Unanimity that had never before been seen amongst them, to oppose the regulating Bill. By this Bill, the Power of taxing every One of their Servants Forty Shillings would have been taken from them in the First Instance, and all the Savings and Profits that could be made, where Passages were actually to be provided, would go into other Hands. They considered the Forty Shillings as their own, the Law having authorized them to detain it; and, conscious that they had always grudged every Part of it, which they were sometimes obliged to refund, they could not but feel it as an Injury to lose the Whole.

I brought forward this Point of the Passage Money to be discussed in Court; and so it was several Times, when Merchants, Boat-keepers, and Servants were present. I found that some of the Merchants thought the Forty Shillings of Servants who did not go Home was forfeited to the Master, but there were very few of that Opinion; the Generality confessed they looked upon it as Money which



which could in no Sense belong to the Master, but neither did it belong to the Servant, the Act having clearly taken it from him. Some admitted, that it might belong to Servants of a certain Description, but not to those who broke through the Policy of the Mother Country, in staying in the Island. But they all agreed, that the Disposal of it in such Cases was a *casus omissus* in the Act; there being an Authority and Requisition to stop it, and to lay it out in a Passage, but no Requisition, nor even an Authority to return it to the Servant, or dispose of it in any other Way whatsoever. So that all the Opinions on the Construction of the Act tended, as it seemed to me, to keep as much of this Money as possible from passing out of the Merchant's Pocket.

However, I ventured to put a different Construction upon the Act. I said, although there were no express Words to direct the Disposal of the Money in such Cases, it might plainly be collected, from the Whole of the Clause, in what Manner it was to be disposed, and to whom it belonged. It appears, that the Money is to be stopped for the Use of the Servant himself, to purchase him a Passage Home, but if his Home is in Newfoundland, or if he does not actually have a Passage Home, the special Application of the Money directed by the Statute is not made in one Case, and cannot be made in the other; and the Use for which it was appropriated by the Act not arising, nor calling for it, the Money, in Point of Law, remains in the Master's Hands as Money had and received, or detained, to the general Use of the Servant whenever he pleases to demand it.

Having made up my Mind to this Sense of the Act, I made Orders of Court upon several Masters to pay Forty Shillings, which they had stopped from Servants, Three, Four, or Five Years back; and during my Stay I caused several Sums of Money to be so refunded: In hearing Complaints made by Servants on this Subject, I met with Instances of Servants who had been resident Fifteen Years, and some who were born in the Island, and never had been out of it, who alledged they had constantly had Forty Shillings stopped out of their Wages. But this Matter was so often agitated in Court, so many Examples were made of refunding, and I so plainly instructed the Justices upon this Head, that the Masters, I believe, will hereafter be less bold in keeping the Servants out of the Forty Shillings; at least in those Parts of the Island where there is any Regularity and Firmness in administering Justice; in the rest of it, this Point of Law, like the Fishery Acts, will still go unregarded.

The other Part of that Bill consisted of the Duty upon Rum, on which nothing need be said, except that Rum is so cheap, and for that Reason drunk by the Fishermen in such Profusion, that there seems every Reason for endeavouring to check the Abuse of it, that there formerly was in this Country, to correct the Abuse of strong Liquors; in this Light it appears a fair Object of Taxation.

Upon the whole, it is for the Committee to consider whether this Piece of Regulation for bringing the Seamen Home, should be left as it is at present, in Statute 15th George Third, or whether some such Regulation as that proposed last Year may not be attempted. The Plan proposed by Mr. Ougier seems to have as many Objections to it, as any he can raise against that in the Regulating Bill. Besides, the Committee should be reminded, that the Plan of giving Bond, is an Offer that was made many Years ago, long before Stat. 15th George Third, by the Merchants, and was rejected; no Doubt, from a Conviction that it would be ineffectual; no Doubt that Plan and others had been fully considered, before the Parliament determined upon the One contained in Stat. 15th George Third.

I shall make no further Remarks on the Evidence of Mr. Newman and Mr. Ougier, because I had promised to confine myself principally to what they had said upon the Judicature, and I fear I have already consumed too much of the Committee's Time on this Subject singly. I shall now proceed to take Notice of One or Two Things said by other Gentlemen, who have presented themselves here to be examined, where I see certain Allegations that ought not to pass uncontradicted.

Mr. John Thomey is brought forward by the Western Agents, to exhibit the Account of Charges made against him by the Sheriff, upon the Nature of which I have said enough already. He has also told the Committee of Two Writs of Execution for which he paid Fees to the Amount of £.54. 15s. 6d. a Sum that must startle every Body who hears it mentioned; this Gentleman should have been ingenuous enough to tell the Whole of his Story. These Two Writs were some of those which contained, for aught I know, Thirty or Forty Defendants, and which were lumped together in this Manner at the earnest Solicitation of this very Gentleman, Mr. Thomey, for his Accommodation; they were for the like Reason charged at a much smaller Fee, than if a separate Writ had gone against each Defendant singly. As to refusing to renew them, it was not surprizing that a fresh Writ should be paid for afresh; and

and I think it very likely, if he says so, that a List of small Debts like these would not pay the Costs of Suit. There might be some other Reasons that operated at the Time, which I do not remember; for a Strictness about Fees never was suffered to stand in the Way of Justice.

Notwithstanding what Mr. Thomey has been pleased to say to the Committee about his Losses in the Trade, he held a different Language at Newfoundland, where he insisted that the Newfoundland Concern was a profitable one, and that the Proceeds of it had been employed by his supposed Partner in Bristol in other Concerns which had failed; and he shewed an Account of the Fish and Oil, which he had sent to Market for more than Twelve Years back, that induced me and others to believe what he said. As a further Proof, he has declared to the Committee, he intends to continue in the Trade.

With respect to the Judicature introduced by the Establishment of the new Court, I am satisfied that these Gentlemen do not know the Nature of the Objections they make, nor of the Alterations they propose; and what is more, I am satisfied that they do not express the Sentiments of Persons who have resided at St. John's, and have seen the Manner in which the new Court exercises its Functions. They seem to me, in every Thing they have said, to have yielded to personal Considerations merely, or to certain Conceits, about the Law of England and Juries, which they do not at all comprehend. I believe I may, with perfect Truth, say to the Committee, that under this new Establishment, Justice has been administered more effectually, and more to the Satisfaction of the Majority of People, who were concerned in it, and affected by it, than ever was before seen in that Country; and I believe the People were upon the whole, very glad at length to see a Person on the Bench of Justice, that cared not who was obliged or disobliged by any Thing he said or did; who had more Interest in doing his Duty than shrinking from it by temporizing; and who, coming there only for a Season, they knew must be clear from all those Partialities and Considerations, which it is sometimes so difficult for Residents, placed in the same Situation, entirely to overcome. The Court was not less recommended by the Mode of conducting Business there, the Expence was small, and the Delay was nothing. The Reach it had in the trying and deciding of Causes exceeded that of any other Court; the Parties were heard in Person; they might be examined upon Oath; other Persons who appeared to be interested might instantly be made Parties to the subsisting Suit; and upon Consideration of all the  
Circumstances

Circumstances of the Case, the Court had Authority to make such Order therein as should seem proper, so as to do complete and substantial Justice between all the Parties. This Court altogether appears to me better suited to attaining the Ends of Justice, and to accommodating the Parties, than any other Institution that can be devised. The Committee very well know, that the Law, as practised in this flourishing Kingdom, is not only regarded as the Means of establishing Rights, and redressing Wrongs, but also as a Science, in which great Learning and Ingenuity are exercised; this latter ought to be only a secondary Consideration; but in the Practice of the Law, it has gradually attained the Ascendency. The Argument of Law is frequently more thought of, than the Justice of the Case; hence the Debate and Deliberation, which lead to the Delay and Expence, so much lamented in the Conduct of Suits: But these Excesses do not enter into the Administration of Justice at Newfoundland. Without Counsel or Attornies to make Points or to defend them, the Argument is nothing, and Justice is every thing; to the accomplishing of which the Court is able to proceed, without the usual Formalities and Delays. In this the People of Newfoundland have a Privilege beyond all His Majesty's Subjects. They consume neither Money or Time in prosecuting their Suits.

I will also inform the Committee, that there is in that Country no Imprisonment for Debt; that is, there is no Plaintiff who wishes to imprison the Defendant. It has been usual to require the Plaintiff to make an Allowance to his imprisoned Debtor of (I believe) One Shilling per Day. I thought this a Usage not to be broken in upon, notwithstanding the Act of Parliament authorizes Imprisonment, and makes no Provision for any such Maintenance. During the Year 1791 and the Year 1792, Process was issued against the Person only in One Instance. This Man was put in Gaol. He was treated with this Severity, because it was believed he had Money in Ireland, for which he might draw, and so pay his Debt. He was kept there, I believe, during the Months of November and December, when the Sheriff turned him out of Gaol, because the Plaintiff ceased to pay his Maintenance. This Usage of Newfoundland is well warranted by the Nature of Things in that Island, where Labour is too much wanted to allow of such Causes of Imprisonment, and where Persons are supposed no longer to have a Maintenance, than while they are employed in earning it.

I most strongly recommend this Judicature to be continued at Newfoundland, and think that any Alteration, that would give  
a greater

a greater Play to the Capriciousness and Litigiousness of Parties (which many of the Alterations suggested by Mr. Newman and Mr. Ougier have a Tendency to do) would be making this Court less useful, and less adapted to the State of the Country.

With respect to other Courts, I entirely differ from Mr. Newman and Mr. Ougier, who wish that the Justices of the Peace should have no Authority in Civil Matters; and that when the Governor, Chief Justice, and the Surrogates are gone, there should be no Means whatsoever for recovering Debts. It is true, that the Consequence of the Two Judicature Acts of 1791 and 1792 has been, that no Causes whatsoever have been heard, when the Governor, Chief Justice, and Surrogates were gone; but this has been found extremely inconvenient, and hurtful to many Persons, whatever Reasons those Gentlemen may have for wishing the Administration of Justice to be still suspended. The Merchants of Harbour Grace, when I was there, delivered me a Paper, in which they state how much they were aggrieved by their old Courts being suspended, and pray they may, as heretofore, have a permanent Court of Session. They add these Words, to which I beg the Committee to attend. "It falls particularly hard upon us, who  
 " have never made the least Complaint, or troubled Government  
 " in any Shape whatever, that we should be deprived of that  
 " Court, which we were (but are more so by fatal Experience)  
 " convinced was a salutary one, and answered the desired  
 " Effect." I now deliver in this Petition (which is hereunto annexed, vide Appendix N<sup>o</sup> 15) and I again caution the Committee how they suffer that, which comes only from these two Gentlemen, to be received as the Language of the whole Trade, and of the whole Island. These Gentlemen have indeed (as the Merchants of Harbour Grace truly say) complained and troubled Government, and have heretofore been too much listened to.

Conformably with the Requisition of the above Paper, and with the Wishes and the Necessities of the People resident at St. John's and Harbour Grace, I should recommend, that in the Absence of the Chief Justice and Surrogates, there should be some Court for the Recovery of Debts to any Amount, and for determining Causes of any Sort or Kind; and that there should be an Appeal from such Court to the Supreme Court at St. John's. Some of the Persons to sit in those Courts can, from the Nature of Things, be no other than the very Persons who sat in the Court of Common Pleas, and who have been so misrepresented. I know all the Clamours made against those Gentlemen to be ill-founded; I

know them to be the most fit to be put in the same Station they were then in; and they ought to be placed there, not only for the Advancement of the public Service, but as a Testimony that their Conduct is approved, and that the Servants of Government will always be supported when they deserve it.

Such permanent Courts are necessary, because it is impossible, within the Compass of Time while the Governor, Chief Justice, and Surrogates are there, to hear all the Matters that it would be convenient to the Parties to bring to a Hearing in the Season. The Surrogates leave their Stations about the 20th or 21st of October; the Governor and Chief Justice depart from St. John's by the last Day of October at farthest. The Merchants do not wind up their Accounts till the middle of December, and some of them not till the First Week in January; though there may be a very good Reason why the King's Ships should not be hazarded on that Coast, at so late a Season, there seems to be no good Reason why, upon their Departure, the Business left undone should not be taken up by some Resident Court. It would also be extremely convenient to have some such Court to resort to, if necessary, during the Winter, and at the Opening of the Spring, before the Governor, Chief Justice, and Surrogates arrive: such Courts might prepare Matters, which they did not choose to determine, for the Determination of the Chief Justice and Surrogates, when they arrived; in the mean Time the Country would have all the Benefit which is derived from Courts in other Causes, and some of it even in those. At any Rate, the Stay of the Chief Justice, more especially of the Surrogates, is too short for beginning and ending all the judicial Business of the Island; these may be made extremely useful, as a subsidiary Aid to such permanent Courts, but ought not to be relied upon, in my Opinion, as the only Tribunals for deciding Differences.

The Committee have already been detained too long with what I have said upon the Judicature. I shall endeavour to be very short in the few Observations I have to make on Two or Three Points that have been spoken to by some of the Gentlemen.

Something has been said on the Nature of Property in Newfoundland, and I will lay before the Committee my Opinion upon this Question.

The different Titles under which, it appears, Land may be holden, seems to be reducible to these: by Grant; by Occupancy; and by Act of Parliament. It is very rare that a Title can be traced  
up

up to an original Grant; but where there are any such, it is a Grant either from a Governor or One of his Surrogates. These were made sometimes generally; sometimes to the Grantee for Life; and sometimes to him and his Heirs; they have of late Years been considered as nothing more than Grants during Pleasure, or at most, during the Time the Place granted was used for the Fishery; and Grants of late have been commonly expressed to be during the King's Pleasure, and for the Use of the Fishery. Much, however, of the Ground so granted, is so situated as to be of no Use in the Fishery, and is actually used for growing Hay, and other farming or domestic Purposes. The Grants, whether ancient or modern, contain no Reservations of Rent, or any Acknowledgment or Consideration whatsoever; nor is it believed that any was ever paid for such Grants. Some indeed are to be excepted; namely, where a Piece of Land has been granted in Consideration of another that had been taken from the Grantee for building Forts, or some other public Service; there are several such Grants, and they are considered as the best Titles in the Island, on Account of this Consideration being expressed in them.

Titles by Occupancy I call such where there is no Grant, or any Thing to shew for the original Possession of the Ground as exclusive and private Property; this makes Three Fourths of the Ground that is used and possessed in the Island, more especially in the Out Ports; where being removed from the Eye of Government, they make Inclosures, and carve for themselves almost as they please.

Besides these Modes of possessing Land, there is another which is authorized by the Acts of Parliament relating to Newfoundland; and the before mentioned Tenures by Grant and by Occupancy may possibly be often sanctioned by the Fishery Acts, as far as such Tenures can be brought within the limited Sort of Property conferred by those Acts. The Titles that may stand upon the Authority of Parliament, are such as are within the 3d, 4th, 5th, 6th, 7th, and 8th Sections of Stat. 10th and 11th William III. c. 25, and the 2d Section of Stat. 15th Geo. III. c. 31, compared together. On considering these Regulations, the Meaning of which is not very obvious or plain, it should seem that the Parliament meant to establish Two Sorts of Titles: First, they intended to ratify the Titles to all Land which the Inhabitants had converted into private Property before the Year 1685. Having made the Inhabitants easy in that Point, they required them to yield up all that had been appropriated between that Time and the passing of Stat. 10th and 11th William III. and that none should be appropriated by them in future in Prejudice

Prejudice of Ships coming from Europe; but that Ships coming from Europe, and equipped conformably with the Fishery Acts, should have a Place for curing their Fish for the Season; but that at a subsequent Season the Spot so taken should be open for any other Ship to take, and might thus change its Master every Year. Hence arose what are called Ships Rooms, whether they are such as have long been so denominated, or whether they are any vacant or void Spaces, under Stat. 15th Geo III. which may be taken by any such Ship, the same as reputed Ships Rooms.

These Two Parliamentary Titles, namely, that of Property before the Year 1685, and that of Ships Rooms, though they are in the Letter of them the most defined and sure, yet they are in their Consequences of less Value to Individuals than any of the former.

In the First Place, I do not believe that any Owner of Land can shew a Possession and Property in any Person under whom he Claims subsisting prior to the Year 1685. And although there must be many such, yet not being able to shew their original Title, they can Claim by nothing better than the Occupancy of themselves and their Predecessors, and must be reckoned therefore in that Class of Landholders.

With regard to Ships Rooms, it is easy to see, in the short Mention I have just made of them, that they are quite the Opposite to private Property, and therefore hardly come within the Description of Titles which we are now seeking—Ships Rooms, and all vacant and void Spaces, which may be turned into Ships Rooms by those who chuse so to occupy them, are in common for the first Taker; who may possess One for the Season, at the End of which he must leave it, with all the Improvements he has made (which he is expressly prohibited by the Statute from removing) for some other Person to enjoy the next Season. The Consequence is, that this commonable Part of the Shore is of very little Value, and in some Places of none at all. In those Harbours where a clean Sea-beach is thrown up in great Quantities (as at Ferryland) and they are in the Practice of drying their Fish upon the Beach, a Ship's Room of that Kind is of Use; but in Harbours where there is no Beach, as at St. John's, and Fish cannot be dried on a Ship's Room, without the Expence of building a Flake; there a Ship's Room is not worth taking; and we see in consequence of it, some of the choicest Spots in the Harbour of St. John's lie vacant; no one thinking it worth his while to lay out Money on Ground which belongs to the Public.

However,



However, it must be confessed that since commonable Ground has sunk in Value, there has been less Conscience or Scruple in making Encroachments on it; and it is owing to this that Ships Rooms have been gradually giving way to the Inclosures that are continually streightening them on all Sides. Many were interested in conniving at this; and most People, for the above Reasons, thought it more beneficial to the Public that it should be so appropriated. These Innovations were made long ago, and are now of so long standing that nobody thinks of contesting the Point, unless it is some litigious Man, who seeks only to vex his Neighbour, and then the Claim meets with no Encouragement from a Court.

However, this Change in the State of commonable Ground on the Shore caused Alarm in some Persons who were solicitous to preserve the old System; finding so little remaining unoccupied of what used to be Ships Rooms, they thought the best Method of recovering the System, without disturbing private Rights, by exciting dormant and forgotten Claims, was to create a new Quantity of commonable Ground; and it was accordingly declared by Stat. 15 Geo. III. that all vacant and void Spaces whatsoever should be considered as Ships Rooms.

From this Account of Ships Rooms, and the Change they have undergone, it is easy to see, that a great Part of the Ground, which might have been held for the Season under this Parliamentary Title, has passed into the Class of Land holden by Occupancy, and some of it, though less likely, into that of Land given by Grants from Governors.

Upon the Whole, the Title to an exclusive private Property in Ground must either be by Grant from some Governor or his Surrogate, by Possession before the Year 1685, or by Occupancy; and as Titles of the Second Sort cannot, I believe, be made out, all Titles may be reduced to Grants and Occupancy, the Title to Ships Rooms being rather a Right of Common than a Title to Land.

Whatever may be the original Title to Land, and the Security in it as against the Crown, the Owners as against One another remain undisturbed, and they sell, lease, and mortgage the same as in any other Part of the King's Dominions. Some of these Places, where Storehouses and Dwellings are built, let for very high Rents. Many Persons have such Estates, that bring in from One hundred to Three or Four hundred Pounds per Annum. Some of these live in the Island, some reside in England, and have the Rents remitted to them.

them. There are Instances, where Persons resident in the United States, and become Citizens there, have received Rents from Newfoundland. It is upon Consideration of all these Facts that I thought, and still think; the Crown should receive some Acknowledgment, by Way of Quit Rent, for Ground which is so valuable to the Possessors.

Another Subject is the State of the wild Indians in the interior Parts of the Island.

At a Time when the Legislature is manifesting so much Anxiety for the Protection and Welfare of a People who do not belong to us (I mean the Africans while in their own Country) I make no Doubt of being heard while I say a few Words in Behalf of these poor People, who are a Part of the King's Subjects. These Indians inhabit a Country, the Sovereignty of which is claimed and exercised by His Majesty. Unlike the wandering Tribes upon the Continent, who roam from Place to Place, these People are confined to this Island; and in that View are more peculiarly our own People than any other of the Savage Tribes; they and every Thing belonging to them is in our Power; they can be benefited by none others; they can be injured by none others: In this Situation they are entitled to the Protection of the King's Government, and to the Benefit of good Neighbourhood from His Subjects; but they enjoy neither; they are deprived of the free Use of the Shores and the Rivers, which should entitle them to some Compensation from us; but they receive none; instead of being traded with, they are plundered; instead of being taught, they are pursued with Outrage and with Murder.

It seems very extraordinary, but it is a Fact known to Hundreds in the Northern Part of the Island, that there is no Intercourse or Connection whatsoever between our People and the Indians, but Plunder, Outrage, and Murder. If a Wigwam is found, it is plundered of the Furs it contains, and is burnt; if an Indian is discovered, he is shot at exactly as a Fox or a Bear. This has gone on for Years in Newfoundland, while Indians in all other Parts of the King's Dominions have received Benefit from their Connection with us, either in the Supply of their worldly Necessities by Traffick, or in being initiated in the Principles of Morality and Religion; but such has been the Policy respecting this Island, that the Residents for many Years had little Benefit of a regular Government for themselves, and when they were so neglected, it is not to be wondered that the Condition of the poor Indians was never mended.

When the Indians shew themselves, it is in the Bay of Exploits, and in Gunder-Bay, to the Northward. They come down to get what the Sea Shore affords for Food. This is a lawless Part of the Island, where there are no Magistrates resident within many Miles, nor any Controul, as in other Parts, from the short Visit of a Man of War during a few Days in the Summer; so that People do as they like, and there is hardly any Time of Account for their Actions. The Persons who are best acquainted with the Resort of the Indians, and who are deepest in the Outrages that have been committed upon them, are the Furriers of the Bays I just mentioned, and of the Places thereabouts. Some of these Men have been conversed with last Summer, and I understand, if they were relieved from the Danger of Enquiry into what is past, they would open upon the Subject, and make themselves useful in commencing any new System of Treatment and Conduct.

What then do I propose to be done for these Indians, and what is the Manner in which I propose it should be accomplished? In the First Place, it seems they ought to be protected from Violence, and that ought to be done by executing the present Laws against Offenders. I hope something is already begun towards attaining this, by what I said to the Grand Jury last Year, and the Apprehension expressed, as I understand, by some Furriers, who feared they should be brought to Justice; but in so distant a Part of the Island the Fear of the Law is little Security, and if it is really to be executed, I hardly know the Means of doing it in the present Circumstances of the Island and its Government.

But supposing this attained, does our bare Duty towards these People end here? Separated as they are from all the World but us, is it not incumbent upon us to use the Means in our Power to impart to them the Lights of Religion and civil Society? or at least, Does not our Interest suggest an Advantage that might be derived from a free and unrestrained Trade with them, in which Furs and other Produce might be exchanged for British Manufactures? Should any or all of these Considerations be thought sufficient for endeavouring to conciliate the Confidence of these People, and to open a friendly Intercourse with them, there seems no Difficulty or Hazard in the Undertaking. It is similar to what has already been done on the Labrador Coast with a Race of Savages said to be more untractable, and under Circumstances much less favourable. It is only to chuse between holding out Encouragement to the Moravians to send a Missionary, as they now do to Labrador, or employing the present Furriers, under the Direction of some Person  
who

who has a Talent for such Enterprizes. In both Cases, there should be some small Force; and if One of the Sloops of War upon that Station were to winter in the Bay of Exploits, or Gunder Bay, for protecting such a Project in the Season that is most favourable to it, it would be as much Force as could be needed; but the Mode and Manner of carrying into Execution such a Scheme is for the Consideration of the Committee.

Another Point to which I beg Leave to draw the Attention of the Committee is the present Condition of those who carry on the Fishery on the Coast of Labrador. Although this is not within the Commission of the Governor of Newfoundland, yet it so happens that he is the only Person who is in the Way of knowing any Thing about it. The Ship which is sent round the French Limits never fails of looking in on some Part of the Labrador Coast; and it appears from the Representations of the Captains who command those Ships, that there is great need of some Authority to interpose, and see Justice done between Master and Servant, at least as much need as there ever was at Newfoundland. The Employment and Relation of Persons is the same; the Abuses and Grievances are the same; amongst these is that old One of keeping Servants on the Coast from Year to Year; all which is more uniform and infirmountable, in Proportion as the Merchants are few, and can therefore combine to keep all their People in a more absolute State of Dependence.

The Coast of Labrador is under the Government of Canada; but the Influence it feels from a Center so far removed is very small; in Truth, there is no Government whatsoever on the Coast of Labrador, as I am informed by those who have been there.

This Coast was, after the Peace 1763, put under the Governor of Newfoundland, it being very properly thought that, as a Fishery, it would make a natural Appendage to this Government. But the Governor having set about applying to the Seal Fishery on that Coast the System of Laws made for Newfoundland, which, upon Consideration, were thought not adapted to the Fishery on that Coast, it was judged proper to disjoin it from the Newfoundland Government; and this was accordingly done by Stat. 14 Geo. III. for new modelling the Government of Quebec; and in the same Act, Power was given to His Majesty to reannex it again to the Government of Newfoundland, when he should so please.

It may perhaps be doubted, whether this was the only or the best

best Way of curing the Evil; and it is very much to be wished, that this Measure was reconsidered, and some Plan devised for affording to that deserted Coast, something like the Effect of a Civil Government.

It has been strongly insisted by Mr. Newman and Mr. Ougier, and also by Mr. Jeffery, that the Trade has considerably declined of late Years as a lucrative Employment; but those Gentlemen state Facts, which are of themselves the strongest Evidence to the contrary. They complain, over and over again, of Interlopers in this Trade, whom they call Hucksters and Adventurers, insinuating that they intercept some of the Profits that belong to the regular Merchants alone. They also complain of the great Increase of Residents in the Town of St. John's. In Answer to which I would ask, why should People adventure in the Trade, and why should Multitudes flock to the Island, there to settle and traffic, if the Trade and Fishery were not a flourishing, and a lucrative Employment? In fact, there is every Appearance in the Town of St. John's, that the Trade and Fishery subsist in great Vigour. But these Gentlemen insist upon the contrary, and some Persons who hear them, as strongly insist, that the Merchants ought to be taken at their Word, relative to a Matter in which they themselves are the best Witnesses, and which is plainly evinced by so many Bankruptcies. But I shall contend, that the Merchants are not the better Witnesses for being concerned in the Matter; and that having an Object to attain by such Representation, they should be heard with all the Caution with which interested Witnesses are always heard. Again, their Evidence is opposed to the strongest Testimony from official Accounts, and the Averments of the Officers of Government, who have the best Opportunities of obtaining Information; and I can assure the Committee, that, in looking over the Papers of the Board of Trade, I have seen, for Years back, repeated Representations from the Merchants, alledging that the Trade and Fishery were ruined, and could never recover, if such and such Regulations were made, and these in as strong Terms as any used on the present Occasion, and yet the Trade and Fishery have still gone on, and those Fortunes have been made, which some Persons now living still enjoy. This is an historical Evidence, that shews the Merchants are not entitled to implicit Credit, when they talk of being ruined.

I speak of the Trade in general; I do not mean to deny, that it may, at the present Time, be a losing Concern to some Persons; and it is most probable that unfortunate Individuals were, upon

former Occasions, as well as the present, the Promoters of melancholy Representations, by which they meant to make Government believe, that the whole Trade was ruined, because they were. Mr. Newman and Mr. Ougier state themselves to be considerable Losers, and that their Trade cannot longer be carried on; and yet they would not like to be taken on their Word; and believed to be in the Way to Ruin, though I do not see why they should have the Benefit, in Point of Argument, of being ruined, and be permitted at the same Time to enjoy all the Credit of thriving Men, which they certainly will claim, notwithstanding what they now say; I will take it, if they please to declare so, that themselves, and the whole Town of Dartmouth sustains Losses that are not to be borne without Bankruptcy; but when all this is admitted, it makes nothing to the Point they urge; other Persons have been Bankrupts, and other Towns have been ruined, and the Trade has yet gone on. Biddeford and Barnstaple were once great Towns in this Trade, and have long ceased to employ any Ship at all. Perhaps Dartmouth rose upon the Fall of these Towns, and some others may rise upon the Fall of Dartmouth; and with all these Changes, the Fishery, as a national Concern, may remain the same. We know that the Place of these decayed Towns has been supplied by Adventurers from other Parts of His Majesty's Dominions; Glasgow is one, Waterford is another; from both of these Towns there are very successful Trades carried on, sufficient to raise the Envy of Dartmouth, and make them apprehend, that they shall no longer enjoy an exclusive Trade to Newfoundland. But the new Trading Towns that have come into the Fishery of late Years, these Gentlemen never reckon in the Statements they make; they reckon all the Decrease, and pass over the Increase in Silence.

As to Mr. Jeffery's Disgust, and the Threat he makes of withdrawing from the Trade, he does not mention the Fortune he has raised in it, nor the other Trades, particularly that of Corn, which, as I am informed, he has lately entered into upon the Strength of the Capital acquired in the Fishery; and if he has the Fancy to change the Application of his Capital, I do not know that it proves any Thing, but that he prefers the Novelty, Profit, and Convenience of a Corn Trade at Home, to the old Concern of a Fishery across the Atlantic; which may well be, and yet that Fishery continue as profitable as ever. If Mr. Newman and Mr. Ougier would take the same Resolution with Mr. Jeffery, it might be hoped, that Government would no longer be harrassed with vexatious Complaints about Newfoundland; and I have no doubt their Places would be immediately supplied by Persons of Capital,

Capital, and of a Spirit to carry on the Trade with Success and Advantage to Great Britain; and the Sum Total of the Fishery would in such Case be as great, or greater than ever.

The Truth is, the Newfoundland Trade is thrown much more open than it used to be; instead of being confined to the West Country Merchants, and to those of Poole, and some few other Towns, it has been attempted by Adventurers from different Parts of the King's Dominions. It is in the Memory of several Persons, when the Trade at St. John's was in the Hands of Five or Six Merchants; these Persons brought out sufficient Supplies for the People they employed, either as Servants or Boatkeepers, to catch Fish for freighting their own Ships.

At that Time, no Doubt, the Merchants were able to make those Profits which usually attend a Monopoly; every Body was dependent upon them. At present the Number of Persons who can furnish Supplies, in the Town of St. John's, is so increased, that all Monopoly is broken, and a very active Competition is come it its Place. All the Consequences of Competition have followed; the Prices of Supplies are lowered, and Boatkeepers are less dependent, having more Persons to take their Fish and supply them with Necessaries; hence the Murmur of the Western Merchants against Hucksters and Adventurers, and hence the Notion that the Trade is ruined. It is true that some of the Persons who sell Supplies at St. John's, do not carry on the Fishery, but they sell their Supplies to those who do; the Produce of the Fishery is still the Object of the Trade; Fish and Oil are still the staple Commodities, and I do not see but that Persons who make it their Object to deal in these Articles, must be reckoned among the Encouragers of the Fishery, although they do not themselves engage in keeping Boats or Ships.

I know the Western Merchants hold a high Language respecting their own Concerns, and the Merit they suppose they have in carrying on a British Fishery; they are inclined to consider the Sort of Persons I have before alluded to, as little better than Breakers of the Law, in carrying on the Trade in the Manner they do. I remember a very respectable Merchant of Glasgow being put down, in the Face of the Grand Jury, by an Insinuation from a West Countryman, that he was not so meritorious a Trader at Newfoundland as himself, who was a Fisherman. The poor Gentleman made no Defence; and after that I was not so much surpris'd to see his Name, and that of several others circumstanced like himself, among  
those

those who sign the Paper of Approbation to the Western Delegates, with whom they, most certainly, have no common Cause, but quite the contrary; yet with whom they would gladly live at Peace, and that they know can be purchased on no other Terms than seeming to be one of them, and assisting to bear them out in their favourite Measures.

As to this Mode of carrying on the Trade, whatever the West Countrymen may say against those who practise it, they certainly introduced it themselves. It is well known at Newfoundland, that the most profitable Way of carrying on the Fishery is by supplying Boatkeepers, and taking in Payment for the Supplies the Fish and Oil they catch. It was this induced the Western Merchants, as well as those of Poole, to encourage the Settlement of Persons there many Years ago; as these increased, the Necessity of bringing Men from England must diminish. The Merchants found it their Interest to promote the former, and it was in vain to depend upon Regulations to force them to another Course; Residency and Population have increased, because it is generally held the cheapest and most profitable Way of carrying on the Fishery by Residents; when this was known, it was easily seen that any Man who could land at Newfoundland, with a Cargo of Supplies, was as fitted for carrying on the Fishery as a regular bred Fisherman; from this Observation arose the Number of Adventurers who have of late Years come into the Trade, and who are so much censured by the Western Merchants for following the Example they had set. These new Comers have mostly resorted to St. John's, and to Conception Bay, where there is more Population, and where People are less united, and more at Liberty to engage with any new Merchants that present themselves. In Trinity Bay and Placentia Bay, I believe these new Adventurers make very little Impression.

Whatever may be said by these Gentlemen of the Competition now prevailing at Newfoundland; it appears to me that it must be considered as a Mark of Prosperity, which shews the Trade is in Request. It may happen, indeed, that through this the great Gains of the Trade may change Hands, or it may even happen that the Gains in the Trade may be less to the individual Merchants concerned; but the Boatkeepers, who catch the Fish and Oil, and who thus create the Property by which the Merchant is to thrive, must certainly be Gainers by this Competition, for there are more Bidders for their Fish and Oil, and they have more Chances of getting their Supplies cheap; at any Rate, if the

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Sum Total of Fish caught and of Ships and Men employed is the same, or if they are increased, as appears by what some Gentlemen have said; and if the whole Concern is in the Hands of many Merchants instead of a few (which in a commercial Light is deemed always beneficial) what does it Matter that this or that Man or Town is falling to Decay, or this or that Mode of supplying is practised. These Modes all commence of themselves; they must of themselves change and die away; Fashions of Trade must be taken as they are, and cannot be controuled by Regulations.

With respect to the Population of the Island, and the Increase of Residents, this seems to me an Evil, if it is one, that cannot be so easily cured. I repeat, that the Merchants which pretend so much Zeal against Residents have been and still are the principal Encouragers of Residency; the Resident Boatkeepers are the Hens that lay them their Golden Eggs; so long as they are successful, and are able to pay their Way, no Merchant (with all his supposed Zeal for a Fishery carried on from Great Britain) ever wishes to remove them; but as soon as they run not only repeatedly in Debt (for the most thriving are so, and the Merchant takes pretty good Care to keep them so) but so much behind, Year after Year, as not to afford a Prospect of the Merchant being any longer a Gainer by them, then no Body is so anxious as he is to send them out of the Country to prevent their being burthenome to himself; and some of these are the Instances the Merchants cite, when they say they have brought many Home without taking any Thing for their Passage. The other Instances are of Servants who are grown lazy and unprofitable; but I must have other Testimony than their own Declarations to be brought to believe that this was ever done out of pure Zeal for a Fishery from Britain; and this Want of Faith is not at all removed by the repeated Professions these Gentlemen have made of doing this and that for the Good of the Trade; I have always thought it enough to expect from Merchants, that they pursued their own Interest, and in so doing were useful to their Country, and not that they should, for the public Good, pursue some general Policy which was inconsistent with, and sometimes contrary to their own Interest.

While I was at Trinity Harbour last Summer, I saw a Boat-keeper of Perlican, who, with a Wife and Ten Children, wished to be carried to England to his Parish. The Merchant, by whom he had been supplied till the last Two Years, told me, he had

fallen so in Debt to him that he could not supply him further, and he had offered to convey him and his Family to England, as he saw no Probability of the Boatkeeper retrieving his Affairs. The Boatkeeper, however, wished to try his Luck again, and persuaded a Merchant at Harbour Grace to supply him; he went on for Two Seasons; had no Success, fell deeply in Debt to his new Merchant, and was, when I saw him, in Dread of being refused Supplies for the Winter, and his Family perishing for Want. To escape this he wished to go to England; but the first Merchant now refused what he had before offered; the Man was out of his Hands; he was not bound by that Sort of Honour, which is well understood in the Island, to supply him during the Winter; a Burthen which always falls on the Merchant who has the Fish during the Summer, and not being so bound, he had no need to renew his Offer of conveying the Man and his Family to England. I thought the first Merchant perfectly right; he had done his Duty, while he had any Obligation on him. I mention this only to shew, that something else than Zeal for the Trade is the Motive for sending Home Persons without being paid for so doing.

But this Motive, such as it is, operates only in certain Parts of the Island; in Trinity Bay, for example, it may operate, both with regard to Boatkeepers and Servants, who become burthensome, and for this Reason: The Merchants there are few; every One knows his own Dependents; their own Boatkeepers and Servants must, at any Rate, be maintained by the respective Merchants, and knowing that, the Merchants are solicitous to remove the Evil as soon as it appears, and are ready enough to prevent it. Thus in a small Society private Interest becomes a public Virtue. But it is very different in Conception Bay, and at St. John's, where the Population is larger, and there is less Dependence and Connection between Merchants, Boatkeepers, and Servants. In these Places Merchants may more easily shift off from themselves the Burthen of decayed Boatkeepers and unprofitable Servants upon the Public, to be supported as they can. I believe there are in these Places few Instances of Persons being sent out of the Country upon Considerations either of a public or private Nature, unless by the Interposition of the Magistrates. It is in those Places, particularly at St. John's, that the Application of the Law is more frequently needed, and more resorted to for enforcing the Policy of the Fishery Acts; and it is from the Application of them in these Places, particularly in the latter, that most of the Contests between the Merchants and Courts have arisen; and, what is said by Way of Observation upon them, ought principally to be confined to the Experience of them in those Places.

The Population of Newfoundland has certainly (by the best Accounts) increased considerably of late Years: I take the Beginning of this great Increase to have been at the Time the War with the Colonies broke out; and it has increased, for similar Reasons, still more since the Peace. We find, all through the History of this Government; that Newfoundland was resorted to by the New Englanders, as a Place for procuring Fishermen, Seamen, and Artificers; that Bounties were given for that Purpose by their Government; and that various Means were practised for seducing away our People to that Colony; they have been carried to the Number of Three or Four hundred in a Season. This Drain was always a Subject of Jealousy to the Mother Country, and it always made a Part of the Consideration, when the Probability of Newfoundland becoming populous was debated. Since this Intercourse has been stopped, every Person who does not return to the Mother Country stays in the Island; this of itself must add greatly to the Numbers of the lower Class of People. The Merchants are also increased, at St. John's at least, by Persons who come from the revolted Colonies; but these are few in Number compared with those who have engaged in the Trade of late Years from other Parts of the British Dominions.

That Revolution has made an Alteration in the Value and Importance of Newfoundland, which seems to me never to have been sufficiently considered. It appears to me, that since the Peace 1783, Newfoundland has been more completely our own; that it has been a more genuine British Fishery, and of more Value to the Mother Country, than it ever was before. It is become a Sort of Cul de Sac; what does not stay there must come to Great Britain and Ireland; there is no longer the Competition and Interloping Trade of the New Englanders so much complained of heretofore by the Merchants. I cannot help thinking also, that since Newfoundland is so severed from New England, some of the Topics respecting the Population of the Island, and the Fears about Colonization, deserve less Regard. Notwithstanding the Increase of Inhabitants, Newfoundland is still nothing but a great Ship, dependent upon the Mother Country for every Thing they eat, drink, and wear, or for the Funds to procure them; the Number of Inhabitants seems to me rather to increase this Dependence, inasmuch as their Necessities are thereby increased. They all look to the Sea alone for Support; Nine tenths of the People procure from the Soil nothing but Potatoes; and those who carry Cultivation furthest reap no Produce but what can be furnished by a Garden. In some few Places Hay is cut, but Corn is never thought of; neither the  
Soil,

Soil or the Climate having encouraged the few Attempts that have been made to grow it. The Population, though said to be great, is scattered as thinly as the Products of the Earth. Distant Harbours and Coves, not easily accessible but by Sea, are the Places chosen for Residence, the People of which have little Knowledge, or Connection with one another, to unite them.

The Island is little known, and the Accounts given of the Population are not to be depended on; it is stated from Twenty to Fifty thousand Persons, who have no other Home. Be it as large as the highest of these Statements, I do not myself think it an Object to be apprehended. If any think the Collection of People in the Island has mischievous Tendency, I hope the above Considerations may contribute to ease them a little on this Head. At any Rate, it is a Matter where we are to hope rather for Consolation than Cure; for I do not see how such a Population is to be rooted out, or indeed thinned, so as to make any considerable Diminution. There have been Projects, on former Occasions, when the Island was thought to be overrun with Inhabitants; for sending People to Nova Scotia, and other Places, where Inhabitants were wanted, but I do not remember that these were ever carried into effect.

I cannot help saying, that the grand Means employed to prevent the Increase of Inhabitants has, in my Opinion, contributed to their Increase. It has all along been the Inclination to say, that there should be no Resident Government, because, if there was, Newfoundland would become a Colony. None have been more strenuous than the Western Merchants in keeping up the Cry against a Governor; they have constantly alledged the above Reason, and that Reason has always passed for a good one.

I take the Liberty of doubting whether this Reason was a good one. I never can be brought to think, but that placing a Governor there, whose Business it should be to prevent People settling, would have been a more probable Method of preventing it than continuing the present floating Government, which has no regular Authority to send Persons Home, and which departs from the Island just at the Time when the Seamen and Fishermen are hesitating whether they shall stay the Winter or not, and might be easily turned in their Resolution by the Apprehension of any Interposition from Authority. The Consequence has been, that Newfoundland has been peopled behind your Back; you have abandoned it to be inhabited by any one who chooses, because you thought appointing a Governor would constitute a Colony and encourage Population. The

The Western Merchants, who found out the Reason that "a Governor would make a Colony," knew perfectly well what they were about in urging it; they knew that the Presence of a Governor would interfere with their Plan, which was to go on without Inspection or Controul; they over reached those who heard them, and succeeded in the only Object they proposed to themselves: For in the mean time they, among the rest, proceeded to make all the Advantage they could, by adding to the Number of Residents every Year.

However it may have originated, the Population of the Island is such, as now to need the Controul and the Protection of Magistracy and Officers, like the rest of the King's Dominions. That Magistracy should be raised and strengthened, instead of being exposed to be disregarded and contemned, as has been attempted by some late Proceedings; and in my Opinion, it will never be placed in a Situation to discharge its Functions properly, till there is something more of a resident Government.

The present floating Government seems to me so constituted, as to confer the least possible Advantage of a Government. The Governor's Appointment continues for Three Years, the Term of his Station; the Captains of the Squadron, who are his Surrogates, are often changed during the Station. It happens, therefore, that the Governor has One Year to see and learn, another to execute his Authority with some Knowledge, and a Third Year with some little more.

If the Governor, who is changed every Three Years, has little Time to learn the Peculiarities of the Trade and Fishery, what is to be said of the Captains of Ships, who are often changed before the Station is out? And if you add to this that they all come to the Business of hearing Causes for the first Time in their Lives (unless by some Chance a Captain has been on the Station before) it seems altogether the most singularly contrived System, and most unsatisfactory to every Body concerned in it. It is therefore not to be wondered, that the Governors who succeeded Admiral Edwards, finding they could not determine Causes so easily as he says he did, and less liking than himself to pay a Sum of Money to compromise any Action that might possibly be brought against them for what they did, ceased to hold Courts, and endeavoured to enforce an Observance of the Law, more by their Advice than their Authority. I think their Country owes them great Obligations for undergoing the Trouble and Anxiety so long as they

they did ; and I think the same Thanks are due to the Surrogates, who have to the present Moment, continued to perform the same unpleasant Task in their several Stations. The stepping thus out of their professional Line, can never be submitted to from any other Consideration, than an implicit Obedience to all Commands imposed on them by their superior Officer. I was extremely glad, the last Season, to lend my Assistance in taking off some of this Load from the Surrogates. This I did in Part, during my Visit to Trinity Harbour and Harbour Grace ; and I after did the Whole of the Surrogate's Business at Ferryland, which, however, broke in too much on the Time I ought to have spent at St. John's.

It is to be wished, that the Captains of Ships should still continue to lend their Assistance as Surrogates in the Out Harbours. The Communication from Harbour to Harbour is only by Sea ; and the Force of a Ship of War, may sometimes be wanted to enforce Obedience to Justice. In the Out Ports too, the Questions are of a more simple Nature, usually about Wages or Charges in an Account, either between Master and Servant, or Merchant and Boatkeeper, to which Gentlemen of the Navy may easily give their Attention ; but at St. John's there are many Questions which arise upon complicated mercantile Dealings, which have led to a Length of Enquiry that would not be very agreeable to the Governor, or any of his Surrogates. Indeed all this was experienced before the Governors gave up the vexatious Employment of hearing Causes, and it has very much increased of late Years, since the Town of St. John's has increased in Population, and there has grown to be so much Trade and Traffic, which give Rise to mercantile Questions of various Sorts.

In Truth, the Surrogates are not able to get through the Business they are employed upon, without the Assistance of the Justices who reside on the Spot. I am sure I should not have been able to proceed without the continued Assistance of Gentlemen acquainted with the Place ; during the first Year I was principally assisted by Mr. Graham, who had been Secretary to the Governors for several Years, and by Mr. Coke the Comptroller ; these Two Gentlemen were Assessors in the Court of Civil Jurisdiction. The last Year Mr. Graham was no longer in Office, and the Court had no Assessors, so that I had nothing to depend on, but the voluntary Assistance of Mr. Coke, which he gave me very readily. So long as the present Triennial Government continues, there must be some Person or Persons kept in Office, who from long Habit and Experience

rience may be able to keep alive the Knowledge that is necessary for conducting Affairs with Propriety. There should be a permanent Governor, a permanent Lieutenant Governor, or a permanent Chief Justice; whether any such Person should reside there, or go and return as at present, is a Question of a different Sort.

I shall conclude what I have said, with reminding the Committee, that the Representations made against the late Regulations and Laws, have no Foundation but the Evidence of Persons who never saw the Nature or Effect of them; I mean Mr. Newman and Mr. Ougier, who have not been at Newfoundland, the former since 1778, the latter since 1780, I believe. And that Mr. Jeffery does not pretend to know any Thing of St. John's, where those Regulations principally took Place; that these Representations are answered by Persons who have constantly been on the Spot, Mr. Graham ever since 1778, I believe, and Mr. Routh ever since 1781, I believe, and who therefore speak of their own Knowledge. I say nothing of myself, who have been an Observer of a much shorter Period; but I may truly say, I have spared no Pains, by reading as well as Observation and Enquiry, to inform myself of the History and present State of the Island, as far as related to its Government and Judicature; I believe I have seen more Parts of the Island than any of the Persons who have appeared before the Committee. Last Summer I made a Circuit round to Conception Bay and Trinity Bay; I returned to St. John's, and then made a Visit to Ferryland; I held Courts at all these Places; I made these Excursions to acquaint myself with the Nature of the Trade and Fishery in all its Parts, and of the State of the Island. This seemed to me necessary towards forming a Judgment on the Questions likely to be agitated; and I found it particularly so in talking with the Merchants, who always took Advantage of the Officers of Government, by saying they were acquainted with St. John's only; but the rest of the Island was very different, and they could form no Judgment of the Out Ports. I have, by this Step, acquired a more general Knowledge of the Island, if not so correct a one, as those who have had more Experience: and I am able, in some Degree, to cope with Persons who, when they are beat out of an Argument that applies only to St. John's, shelter themselves in one that is peculiar to the State of the Out Ports, where every one cannot follow them.

I trust the Committee will understand, that the Animadversions I may have had Occasion to make in the Course of these Remarks, are confined wholly and entirely to the Two Gentlemen who

who have appeared before the Committee on Behalf of the Western Merchants. I can assure the Committee, that the general Character and Conduct of the Newfoundland Merchants is very different from what may be collected, either from what those Gentlemen have said, or what I have been obliged to say in Answer to them. They are in general Persons very little disposed to shew Discontent or Dissatisfaction, and the least of any to cavil at Trifles; as far as I saw, from what appeared in Court, I must say they are most ready to conform to any Thing suggested for the Purpose of doing Justice to all Parties with whom they have Dealings; and upon the whole, I never was concerned in any Business that I found more manageable and easy, and this was principally to be ascribed to the Disposition of the Persons who were interested in it.

If there has appeared, in the agitating of the Question of Newfoundland, any Union or Agreement between the Merchants, which gives Colour for those Gentlemen to pretend they represent the Whole of the Trade, I will presume to assure the Committee that this is nothing more than Appearance; the Merchants do, I believe, unite in wishing to ward off the Regulation proposed last Year, which was to oblige all of them to pay the Forty Shillings Passage Money, into the Hands of Receivers appointed by Government; in this and in this only, I venture to say, is there any Union or Concert among the Merchants. It is certainly not a general Wish to have any of the Alterations made which these Gentlemen have proposed, nor is there any general Complaint of the Grievances which these Gentlemen have been pleased to make: Least of all can the Matter contained in the Evidence of these Gentlemen be considered as the general Language of the Merchants, or any Thing more than the Result of their own peculiar Method of thinking; I believe the Merchants in general are very well satisfied with the present Regulations, and also with the present State of the Trade, whatever these Gentlemen may alledge to the contrary. Then —

Mr. REEVES being asked, How many Days was he at Newfoundland? he said, In 1791 we arrived the 10th of September, and departed the 1st of November. In 1792 we arrived the 3d of September, and departed the 30th of October.—And being asked, What is the Expence of the Establishment of the New Court? he said, He does not know, for nothing has yet been paid to any body, nor as far as he knows any Thing settled about it.—And being asked, How many Officers are created by this Court? he



he said, One of the young Clerks belonging to the Ship acted as Chief Clerk the First Year, and several other young Men of the Ship assisted in transcribing Papers. The last Year, Mr. Routh's Son, aged 20 Years, acted as Chief Clerk, and the Writs having been printed in England, there was no need of other Clerks to assist. There is now no need of any other Officer than such Clerk.—And being asked, How many Causes were tried in the Two Years? he said, He has a List (which he received from the Sheriff) of the Causes, the Sums for which they were brought, the Fees paid to the Court and the Sheriff during the Years 1791 and 1792, which he delivered in to your Committee, and is hereunto annexed. (Vide Appendix, N<sup>o</sup> 16.)—And the Witness being further asked, Where is the Power of controuling the Sheriff? he said, The Sheriff he considers as an Officer of the Court, and as such subject to any Order and Direction the Court shall think proper to make, but he is appointed by the Governor.—And being asked, Whether there is any other Way of punishing the Sheriff for Misconduct but in that Court? he said, Yes, the Governor may remove him from his Office.—And being asked, Whether Damages are to be recovered against the Sheriff? he said, Yes, he is liable to any Action for Damages in the Supreme Court, or any other Court, either in Newfoundland or in England, that has Jurisdiction of such Suits.—And being asked, What Funds are in the Sheriff's Hands? he said, He understood the Sheriff to have no public Money in his Hands; but on the contrary, that he was in Advance to the Amount of £. 700, on Account of the Expences of the District: In Consideration of this, he (the Witness) left in his Hands the Fees received, both in the Years 1791 and 1792, in Easement of this Debt.—And being asked, From what Period did the Sheriff become in Advance? he said, He does not know; it was before his Time; he believes it was within the last Two or Three Years preceding.—And being asked, What Monies has the Sheriff received since he (the Witness) has known the Island, and to what Amount? he said, He does not know, but he believes very little, and that must have arisen from Licences for Public Houses in St. John's, and from Fines; and he remembers hearing only of One Fine of £. 10, which was imposed by the Justices on One Thomas Barter, who has been mentioned in the Evidence.—And being asked, What are his Advances on Account of the District? he said, The Maintenance of Felons, and other Offenders, in Gaol; the Support of casual Poor, being Dieters, and Servants, who resort to St. John's from different Parts of the Island.—And being asked, Whether in the Case where he obliged some Matters to refund Four Years Passage Money, did

the Servants return Home? he said, He does not know; but he takes for granted, in all those Cases, the Servant was, at the Time, in Service to another Master, whose Duty it was to see he was sent Home.—And being asked, Did he think that sufficient Security for the Man's Return? he said, It is the only Security the Law has yet provided, but the Regulating Bill of last Year would have given a better.

Then THOMAS IRVING, Esquire, Inspector General of the Imports and Exports of Great Britain and the British Colonies, was called in, and asked, Whether he had any official Means of knowing the Reasons for the Establishment of a Custom House at Newfoundland? he said, In the Year 1767 he was appointed Inspector General of the Imports and Exports in North America, and in that Inspection was included the Port of St. John's, at Newfoundland. About the Year 1773, on his Return from America, certain Papers respecting the Fees taken at the Port of St. John's were referred to him by the Board of Treasury for his Report thereon, and from those Papers, and other Circumstances, he had then an Opportunity of informing himself as to the Causes which induced Government to establish a Custom House at St. John's; he thinks in the Year 1764.—And being asked, What were those Causes? he said, In consequence of various Representations, particularly from Officers commanding Ships of War on the Newfoundland Station, that a clandestine Trade to a very considerable Amount was carried on with Newfoundland, not only by Vessels from Guernsey and Jersey, but also through the Means of the Islands of Miquelon and St. Pierre, in Possession of France. The Subject was referred to the then Board of Trade, and an Enquiry made as to the Facts. And upon a Report from that Board to the Treasury an Establishment of Officers of the Customs was made, and sent over to Newfoundland, in the Summer of 1764.

It was also, to the best of his Recollection, stated by the Board of Trade, that a Custom House Establishment was necessary at St. John's, in Order to keep a more accurate Register of the Trade, and of the State of the Fishery, than could be obtained from the Reports of the Admirals, in their Account commonly called the Fishing Scheme.

It was further stated, that such an Establishment was necessary in order to enable the Traders to obtain necessary Certificates for Recovery

covery of the Drawbacks and Bounties upon Goods exported.—And being asked, Whether he knows what passed relative to the Fees when Mr. Dun was Collector of the Customs there? he said, In consequence of a Representation from (he believes) the Merchants of Poole and Dartmouth, that a Custom House was unnecessary, and more particularly, that the Fees of Office were detrimental to the Fishery, the Subject was fully investigated by the then Board of Treasury, about the Year 1773, and their Lordships determined that the Banking Ships should be exempted from the Payment of Fees, except the Sum of 2s. 6d. upon each Vessel, and an additional Salary of £.100 a Year was, he understood, in consequence, granted to the Collector; but this Exemption did not extend to such Fishing Vessels as carried Cocketable Goods, those Vessels being considered as Traders; and there can be no Doubt of this being their Lordships Intention, because it was then understood that the additional Salary of £.100 a Year would have been by no Means an adequate Recompence to the Officer for the Loss he would have sustained if the Exemption had extended to all Bankers, whether carrying Cocketable Goods or not.—And being asked, Whether there was not a Compensation made by a Sum of Money previous to the Act of the 15th of George the Third, in consequence of the Determination of the Lords of the Treasury? he said, There might be such a Compensation, but he knows nothing of it.—And being asked, Whether the Reasons for a Custom House at Newfoundland are strengthened or weakened by the Independence of America? he said, He is of Opinion they are considerably strengthened from the Independence of America.

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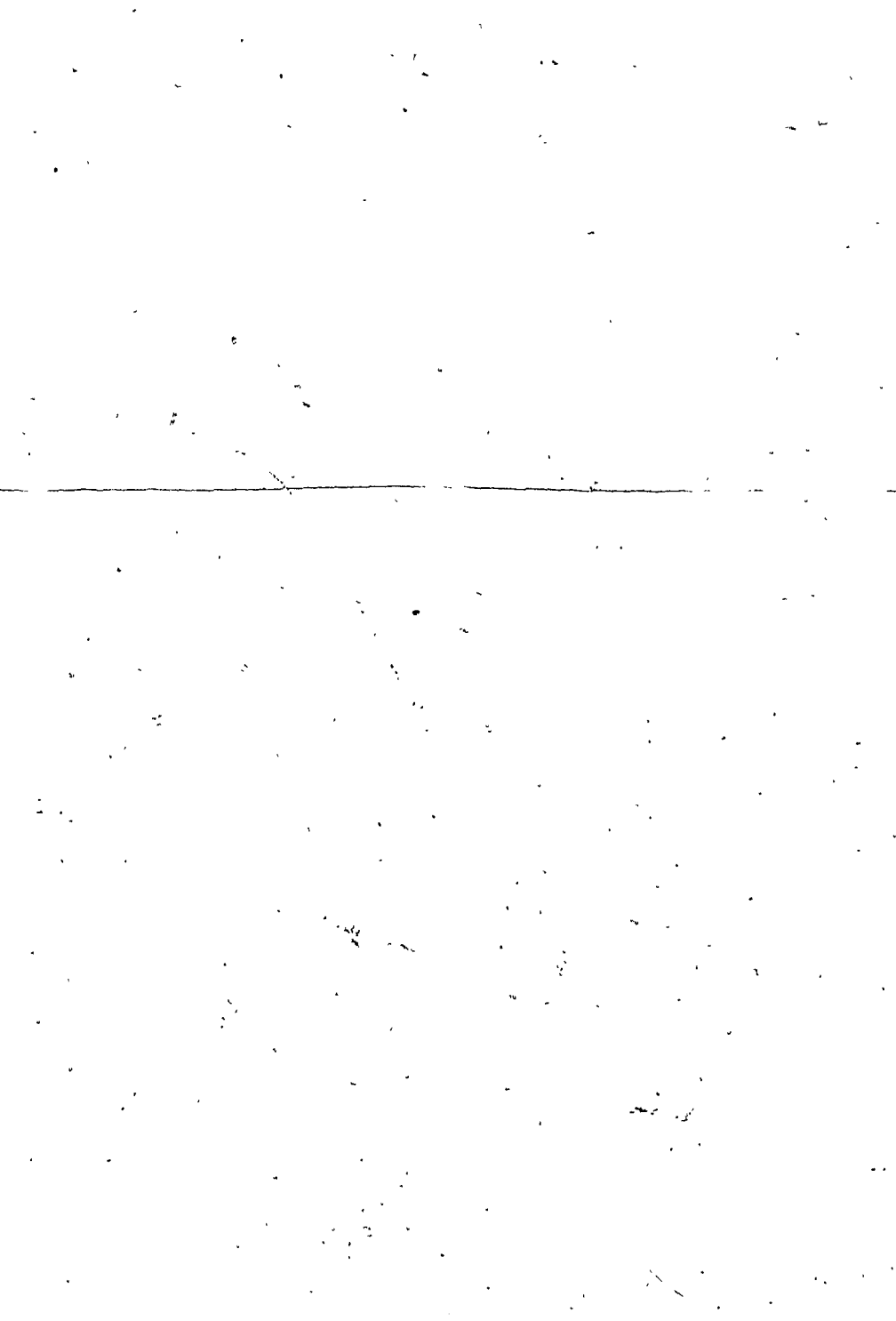
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A P P E N D I X.

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Appendix, N<sup>o</sup> 1. (a.)

LETTER from Peter Ougier, Esquire, to Aaron Graham,  
Esquire; dated Dartmouth, July 4th 1791.

Dear Sir,

AS I suppose you are nearly on your Departure for Newfoundland, I take the Liberty to address you, with my sincerest Wishes for a safe Voyage in Health, and all the Comforts that Newfoundland can produce; and at the End of the Season a safe Return to your Friends and Country. From your Readiness to oblige me on former Occasions, and the Pleasure I have had in my Intimacy with you, I beg to desire you will be so good as to assist my Agent Mr. Edward Lee, at Newfoundland, with your friendly Advice in a Matter that hath caused him a deal of Confusion, and I fear hath materially injured my commercial Concerns in that Island, as well as my different Fisheries, which you know are very considerable.

I have the Copy of an Application or Memorial from Nathaniel Phillips, directed to the Court of Common Pleas, in which he hath sworn that I was indebted to him £. 47. 19 s. 2½ d. for which the Court have laid an Attachment on my whole Property to more than Fifty Times the Amount, kept Possession thereof, prevented my Trade from going on, &c. &c. This was done before the Arrival of my Agent. On his Arrival he petitioned the Court to take his Security to stand Trial, and to defer the Trial till the Arrival of the Governor and yourself. This I hope they have granted him. It is certainly a very serious Matter, and I shall be glad to find the Parties have not gone to too great Lengths. I have no Balance due to Phillips, nor do I ever intend to—In his Affidavit he sets forth, that I am that Sum in his Debt, by my holding the Property of a Person named Denn illegally, which Person he swears was in Debt to him. How the Court could attach on such a Complaint I am at a Loss to guess. I don't find that Denn hath a Claim on me; but by my Newfoundland Books sent here a considerable Balance is due from him to me.

I have been for many Years very extensively concerned in Newfoundland, and this is the First Time that any One ever attempted to call my Conduct before a Court. I have not been ever reproached with doing an Act inconsistent with the Dignity of a Gentleman, or the Character of a Merchant.

The Idea of being charged with Injustice is hurtful to me. The Conduct of the Court, to attach so many Thousands, and to dispossess me of it for a Time (even if the Complainant was on a Footing with me) is very grating, I fear very injurious, and for so trifling a Sum. I expected my Establishments in Newfoundland alone entitled me to a more decent Usage; nor could I have believed, but from such authentic Accounts, that a Resident in Newfoundland, whether in the Commission of the Peace, or in any Situation whatever, would have served me so very indecently. If Denn really had or hath a Demand on me, he ought to have brought his Demand forward; and if Phillips hath a Demand on Denn, it is an Affair between themselves. What I have troubled you so far with is I believe the Case. You will excuse me if I attempt to give you too much Trouble; but where Character and Property are at Stake, I trust to your known Goodness for an Excuse; and again repeat my Request, that you will be good enough to make a most candid Enquiry, then from its Merits give my Agent your kind Advice. I shall be always happy to render you my best Services; and with every good Wish, beg Leave to subscribe myself,

Dear Sir, --

Your obliged and very humble Servant,

P. E T R O U G I E R.

I shall also be obliged if you will please to let the inclosed Letter be delivered.



Appendix, N<sup>o</sup> 1. (b.)

LETTER from Mr. Jonathan Ogden to Aaron Graham,  
Esquire, in Answer to his (inclosing Mr. Ougier's Letter);  
dated St. John's, Newfoundland, October 28th, 1791.

Sir,

IN Answer to your's, inclosing Mr. Ougier's Letter respecting the Suit brought against him by Phillips, Reed, and others, I have to observe, that the Mode of proceeding in Mr. Ougier's Case was exactly similar to every other Cause in our Courts, and from which we could not deviate without an Imputation of Partiality. Oath was made to the Debt, Attachment issued as usual, and Defendant summoned to appear; but as the Agent was not in the Island, the Trial was repeatedly put off until his Arrival, when Defendant did appear by his Agent; a fair and impartial Trial was had by a very respectable Jury, which Jury brought in their Verdict for Defendant with Costs, which Costs are recovered and in the Hands of the Sheriff.

As to his Complaint of a larger Property being attached than the Amount of the Debt, that must have been owing to the Resistance made to the Process by Mr. Ougier's Winter Agent, who locked up all the Stores, and would not suffer the Attachment to be laid. The Deputy Sheriff was consequently under the Necessity of marking the Stores, and of leaving a Person to watch them. The Continuance of the Attachment complained of was likewise owing to the same Obstinacy (I believe from ill Advisers) in refusing to give the required Security to abide by the Judgment of the Court; which being complied with, the Attachment would have immediately been taken off, and which Security was so easily to be procured by a Merchant of so respectable a Character and Credit as Mr. Ougier, that the Court was at a Loss to attribute the Refusal to any other Motive than a Perverseness of Disposition, or a determined Opposition to the Authority of the Court of Pleas; and we were very sorry to observe that this Spirit of Opposition was not in the least mended by the Arrival of Mr. Edward Lee, Agent for the Employ, who also refused giving the required Security, and suffered the Attachment to be continued for a considerable Time after his Arrival, doubtless to the no small Prejudice of his Employer; so that if Mr. Ougier's Interest has suffered in this Cause, he has only to blame the People who had Charge of his Property, and not the Court, whose Proceedings were uniformly the same as in every other Cause that came before them; which Circumstance alone, I trust, would satisfy any unprejudiced Mind, that neither Mr. Ougier's Character as a Merchant, or Dignity as a Gentleman,

Gentleman, has been in the least trespassed upon by the Court: Nor can the Charge of having served him very indecently possibly lie against the Court, unless Mr. Ougier can claim some peculiar Privilege by which he ought to be exempted from the usual Mode of Procefs.

I return you the Letter, and am with much Esteem,

Your very humble Servant,

JON<sup>A</sup> OGDEN.

An ACCOU 1788, 1789, 1790, and 1791.

| Periods distinguished.                | Seal<br>Skins.<br><i>No</i> | Plank<br>and<br>Board.<br><i>Fcet.</i> | Shingles. | Staves. |
|---------------------------------------|-----------------------------|--|-----------|---------|
| From 1st Octo. 1786 to 1st Octo. 1787 | 41,042                      | 11,900                                 | 17,086    | 66,000  |
| 10th Octo. 1787 to 10th Octo. 1788    | 37,420                      | 12,216                                 | —         | 19,514  |
| 10th Octo. 1788 to 10th Octo. 1789    | 25,643                      | 5,500                                  | —         | 18,110  |
| 10th Octo. 1789 to 10th Octo. 1790    | 31,910                      | 5,050                                  | 10,750    | 3,000   |
| 10th Octo. 1790 to 10th Octo. 1791    | 28,964                      | 40,544                                 | 29,000    | 16,948  |
| Total                                 | 164,979                     | 75,210                                 | 56,836    | 123,572 |
| Average                               | 32,995                      | 15,042                                 | 11,167    | 24,714  |

|   |        |        |        |         |
|---|--------|--------|--------|---------|
| To<br>Great Britain, Ireland, Guernsey, and<br>Jersey — — — — | 41,042 | 11,900 | 9,086  |         |
|   | 37,420 | 12,216 | —      | 14,514  |
|   | 25,643 | 4,500  | —      | 18,110  |
|   | 31,910 | 5,050  | 10,750 | 3,000   |
|   | 28,964 | 40,544 | —      | 16,948  |
| To<br>Spain, Portugal, Italy, and Madeira —                   | —      | —      | 4,000  |         |
|   | —      | 1,000  |        |         |
| To<br>The West Indies — —                                     | —      | —      | 4,000  | 66,000  |
|   | —      | —      | —      | 5,000   |
| To<br>Canada, Nova Scotia, and New Brunf-<br>wick — — — —     | —      | —      | 29,000 |         |
|   | —      | —      |        |         |
| To<br>The United States of America —                          | —      | —      |        |         |
|   | —      | —      |        |         |
| Total   | 64,979 | 75,210 | 56,836 | 123,572 |

An ACCOUNT of SHIPPING and TRADE Outwards at NEWFOUNDLAND, for the Years 1787, 1788, 1789, 1790, and 1791.

| Periods distinguished.                | Shipping.       |          |        | Quintals of                       |                      | Salmon.<br>Tierces. | Herrings.<br>Bills. | Oil.   |                   | Seal<br>Skins.<br>No. | Plank<br>and<br>Board.<br>Feet. | Shingles. | Staves. |
|---------------------------------------|-----------------|----------|--------|-----------------------------------|----------------------|---------------------|---------------------|--------|-------------------|-----------------------|---------------------------------|-----------|---------|
|                                       | No of<br>Ships. | Burthen. | Men.   | Dry<br>Cod-fish.                  | Core-fish.           |                     |                     | Tons.  | Gall.             |                       |                                 |           |         |
| From 1st Octo. 1786 to 1st Octo. 1787 | 488             | 52,504   | 4,407  | 692,554 $\frac{1}{2}$             | 21,033               | 2,388               | 777                 | 3,269  | 210               | 41,042                | 11,900                          | 17,086    | 66,000  |
| 10th Octo. 1787 to 10th Octo. 1788    | 536             | 61,967   | 4,799  | 764,069                           | 12,652               | 3,168               | 980                 | 3,949  | 211               | 37,420                | 12,216                          | —         | 19,514  |
| 10th Octo. 1788 to 10th Octo. 1789    | 630             | 67,364   | 5,177  | 894,587 $\frac{1}{2}$             | 16,263 $\frac{1}{2}$ | 3,532               | 320                 | 3,125  | 76                | 25,643                | 4,500                           | —         | 18,110  |
| 10th Octo. 1789 to 10th Octo. 1790    | 527             | 55,424   | 4,270  | 738,976                           | 17,552               | 3,764               | 757                 | 2,331  | 214               | 31,910                | 5,050                           | 10,750    | 3,000   |
| 10th Octo. 1790 to 10th Octo. 1791    | 523             | 58,420   | 4,289  | 751,296                           | 20,825               | 5,016               | 1,725               | 2,122  | 180               | 28,964                | 40,544                          | 29,000    | 16,948  |
| Total                                 | 2,704           | 295,679  | 22,942 | 3,841,483 $\frac{1}{2}$<br>88,325 | 88,325               | 17,898              | 4,559               | 14,799 | 123 $\frac{1}{2}$ | 164,979               | 75,210                          | 56,836    | 123,572 |
| Average                               | 541             | 59,136   | 4,588  | 785,961                           | —                    | 3,579               | 912                 | 2,959  | 229               | 32,995                | 15,042                          | 11,167    | 24,714  |

An ACCOUNT, shewing whither the above Goods were exported.

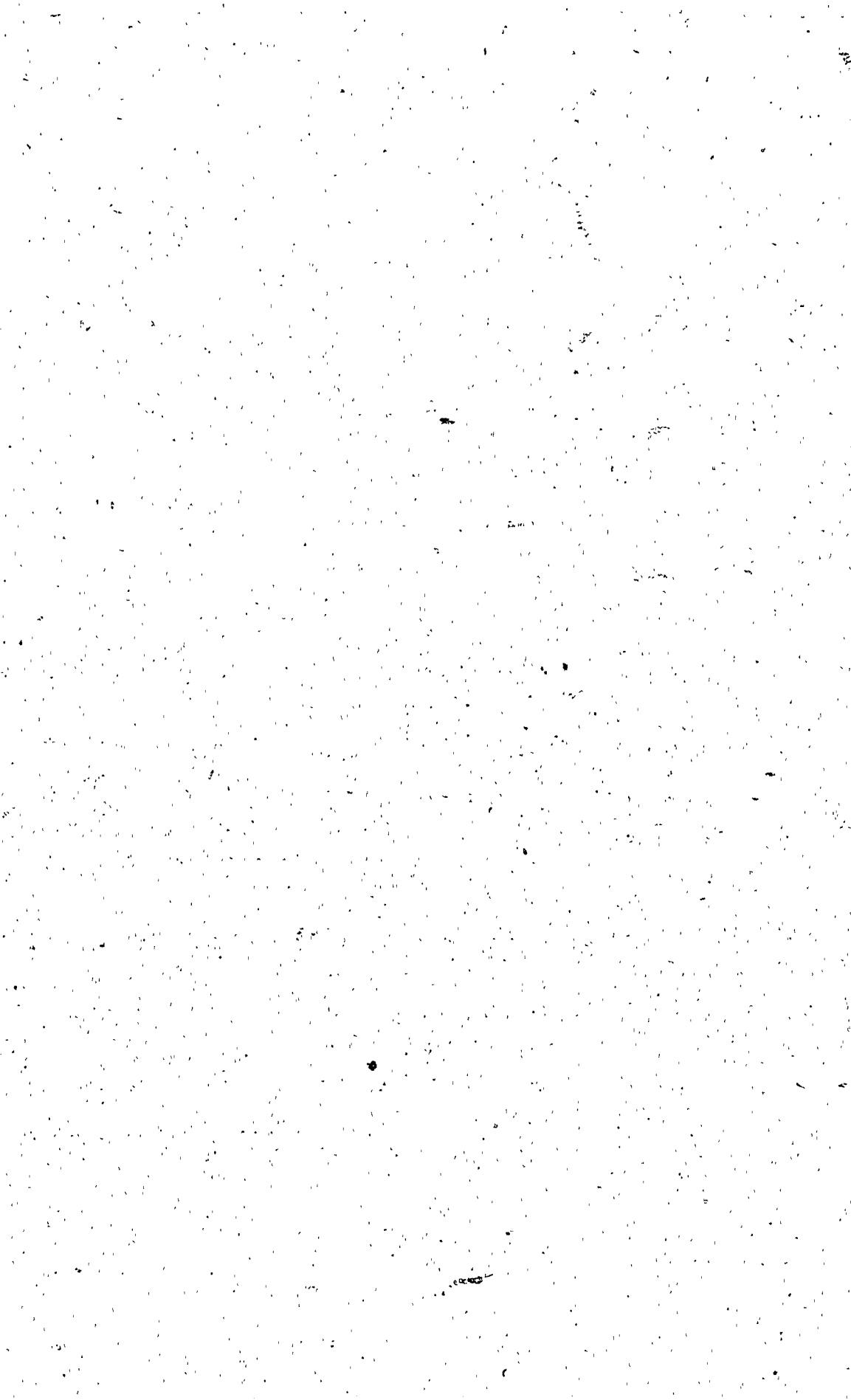
|   |      |       |         |        |                         |        |        |                   |        |     |         |        |        |         |
|---|------|-------|---------|--------|-------------------------|--------|--------|-------------------|--------|-----|---------|--------|--------|---------|
| To<br>Great Britain, Ireland, Guernsey, and<br>Jersey | 1787 | 137   | 9,897   | 1,272  | 15,997                  | 2,333  | 3      | 23                | 3,051  | 145 | 41,042  | 11,900 | 9,086  | —       |
|   | 1788 | 143   | 12,824  | 1,234  | 22,564                  | 12,285 | —      | 100               | 3,721  | 16  | 37,420  | 12,216 | —      | 14,514  |
|   | 1789 | 147   | 12,374  | 1,217  | 24,798                  | 16,263 | —      | —                 | 3,028  | 129 | 25,643  | 4,500  | —      | 18,110  |
|   | 1790 | 126   | 9,761   | 926    | 25,394                  | 17,552 | —      | —                 | 2,313  | 34  | 31,910  | 5,050  | 10,750 | 3,000   |
|   | 1791 | 140   | 10,451  | 1,047  | 29,717                  | 20,825 | —      | 26                | 2,059  | 222 | 28,964  | 40,544 | —      | 16,948  |
| To<br>Spain, Portugal, Italy, and Madeira             | 1787 | 277   | 34,405  | 2,505  | 640,725 $\frac{1}{2}$   | —      | 2,332  | —                 | 180    | 63  | —       | —      | 4,000  | —       |
|   | 1788 | 322   | 41,397  | 2,956  | 717,808                 | 367    | 3,117  | 30                | 218    | 138 | —       | —      | —      | —       |
|   | 1789 | 387   | 45,154  | 3,244  | 807,927                 | —      | 3,479  | —                 | 79     | 253 | —       | 1,000  | —      | —       |
|   | 1790 | 326   | 36,798  | 2,740  | 661,441                 | —      | 3,699  | 56                | 7      | —   | —       | —      | —      | —       |
|   | 1791 | 288   | 36,671  | 2,468  | 664,402                 | —      | 4,694  | 93                | 54     | 185 | —       | —      | —      | —       |
| To<br>The West Indies                                 | 1787 | 35    | 3,599   | 290    | 35,432                  | —      | 53     | 754               | 27     | 109 | —       | —      | 4,000  | 66,000  |
|   | 1788 | 34    | 3,011   | 280    | 23,582 $\frac{1}{2}$    | —      | 51     | 582               | 10     | 57  | —       | —      | —      | 5,000   |
|   | 1789 | 58    | 5,196   | 415    | 61,862 $\frac{1}{2}$    | —      | 53     | 320               | 11     | 133 | —       | —      | —      | —       |
|   | 1790 | 45    | 5,096   | 367    | 51,287 $\frac{1}{2}$    | —      | 62     | 663 $\frac{1}{2}$ | 10     | 180 | —       | —      | —      | —       |
|   | 1791 | 47    | 5,158   | 366    | 57,177                  | —      | 158    | 1,244             | 8      | 29  | —       | —      | 29,000 | —       |
| To<br>Canada, Nova Scotia, and New Brunf-<br>wick     | 1787 | 30    | 3,116   | 246    | 400                     | —      | —      | —                 | 10     | 149 | —       | —      | —      | —       |
|   | 1788 | 31    | 3,973   | 275    | 115                     | —      | —      | 268               | —      | —   | —       | —      | —      | —       |
|   | 1789 | 27    | 2,796   | 189    | —                       | —      | —      | —                 | 5      | 73  | —       | —      | —      | —       |
|   | 1790 | 22    | 2,499   | 163    | 854                     | —      | 3      | 37 $\frac{1}{2}$  | —      | —   | —       | —      | —      | —       |
|   | 1791 | 35    | 4,354   | 294    | —                       | —      | 194    | 362               | —      | —   | —       | —      | —      | —       |
| To<br>The United States of America                    | 1787 | 9     | 1,487   | 94     | —                       | —      | —      | —                 | —      | —   | —       | —      | —      | —       |
|   | 1788 | 6     | 762     | 54     | —                       | —      | —      | —                 | —      | —   | —       | —      | —      | —       |
|   | 1789 | 11    | 1,844   | 112    | —                       | —      | —      | —                 | —      | —   | —       | —      | —      | —       |
|   | 1790 | 8     | 1,270   | 74     | —                       | —      | —      | —                 | —      | —   | —       | —      | —      | —       |
|   | 1791 | 13    | 1,786   | 114    | —                       | —      | —      | —                 | —      | —   | —       | —      | —      | —       |
| Total   |      | 2,704 | 295,679 | 22,942 | 3,841,483 $\frac{1}{2}$ | 88,325 | 17,898 | 4,559             | 14,799 | 123 | 164,979 | 75,210 | 56,836 | 123,572 |



| N° of Article. | 1  | Crews are employed to fish in Boats. in carrying Fish to Market. Islands. |
|----------------|--|---|
| 2              | N° of Bankers — —                                    | Fishing on the Grand Bank.  |
| 3              | Burthen of — —                                       | }   |
| 4              | N° of Men belong <sup>s</sup> to —                   | Fishing Certificates of Fishing Ships—                                    |
| 5              | Passengers from —                                    | }   |
| 6              | N° of Boats kept by —                                | A great Measure depend upon the   |
| 7              | N° of Men employed in the Fishery —                  | }   |
| 8              | Q <sup>ty</sup> of Fish made by —                    | }   |
| 9              | D <sup>ty</sup> exported to —                        | }   |
| 11             | Tons of Oil by —                                     | }   |
| 17             | Winter Inhab <sup>t</sup> distinguish <sup>d</sup> — | 15 Years of Age. —  |
| 19             | Total N° of Persons —                                | — (g:s) without engaging as Winter  |
| 20             | Since last Return —                                  | }   |

DIRECTIONS for making up FISHING RETURNS.

| N <sup>o</sup> of Article. |   |  |  |
|----------------------------|---|--|--|
| 1                          | N <sup>o</sup> of — —                                   | Fishing Ships (not Bankers) —<br>Sack Ships —<br>Ships from the Colonies —   | British Ships qualified according to the Act of the 10th and 11th of William III. whose Crews are employed to fish in Boats.<br>British Ships arriving from Europe, without Fishing Certificates, and are employed only in carrying Fish to Market.<br>British Ships arriving from the British Settlements in America, including the West India Islands.   |
| 2                          | N <sup>o</sup> of Bankers — —                           | European — — —<br>Inland — — —   | Vessels qualified according to the Act of 10th and 11th William III. and employed in fishing on the Grand Bank.<br>Vessels fitted out from some Port of Newfoundland to fish upon the Grand Bank.  |
| 3                          | Burthen of — —  | Fishing Ships (not Bankers) —<br>Bankers — — —<br>Sack Ships — — —<br>Ships from the Colonies —                    | } In Tons.   |
| 4                          | N <sup>o</sup> of Men belong <sup>r</sup> to            | Fishing Ships (not Bankers) —<br>Bankers — — —<br>Sack Ships — — —<br>Ships from the Colonies —                    | } The Crew (only) of Vessels as specified in the Registers of Trading Ships, and the Fishing Certificates of Fishing Ships—<br>Not including Passengers of any Denomination.   |
| 5                          | Passengers from — —                                     | England — — —<br>Ireland — — —<br>Jersey — — —   | } Every Description of Persons, over and above the Complement of the Vessel.   |
| 6                          | N <sup>o</sup> of Boats kept by                         | Fishing Ships — — —<br>Bye Boatmen — — —<br>Inhabitants — — —  | All Boats kept by Merchants who have Fishing Ships, and carry on a regular Trade.<br>All Boats kept by Men arriving from Europe, who have no Fishing Ships, and in a great Measure depend upon the Merchants for Supplies.<br>All Boats kept by Persons residing in Newfoundland.  |
| 7                          | N <sup>o</sup> of Men employed in the Fishery — —       | In Ships — — —<br>In Boats — — —<br>As Shoremen — — —  | Total of the 4th Article.<br>All Men going to Sea in Boats to fish.<br>All Men employed on Shore in curing the Fish, including Merchants and their Clerks.   |
| 8                          | Q <sup>ty</sup> of Fish made by — —                     | Bankers — — —<br>Fishing Ships (not Bankers) — — —<br>Bye Boatmen — — —<br>Inhabitants — — —                       | Fish caught by the Bankers upon the Grand Bank.<br>Fish caught by Boats belonging to the Merchants.<br>Fish caught by Boats belonging to Bye Boatmen.<br>Fish caught by Boats belonging to Persons residing in Newfoundland.   |
| 9                          | D <sup>ty</sup> exported to — —                         | Spain, Portugal, and Italy — — —<br>England — — —<br>West Indies — — —   |  |
| 11                         | Tons of Oil by — —                                      | Bankers — — —<br>Fishing Boats (not Bankers) — — —<br>Bye Boatmen — — —<br>Inhabitants — — —                       | } Same as the Directions to 8th Article.   |
| 17                         | Winter Inhab <sup>ts</sup> distinguish <sup>d</sup> — — | Masters — — —<br>Men Servants — — —<br>Mistresses — — —<br>Women Servants — — —<br>Children — — —<br>Dieters — — — | Men who do not engage as Servants during the Fishing Season.<br>Men who do engage as Servants in the Fishery during the Season, including all Boys of 15 Years of Age.<br>Wives of the above-described Masters, and Women who have Houses and employ Servants.<br>Women not of the foregoing Description, including all Girls of 15 Years of Age.<br>All Boys and Girls under 15 Years of Age.<br>Men who remain in the Island during the Winter (living upon their Summer Wages) without engaging as Winter Servants. |
| 19                         | Total N <sup>o</sup> of Persons — —                     | In the Island this Summer — —  | Including the Totals of 4th, 5th, and 17th Articles.   |
| 20                         | Since last Return — —                                   | Born — — —<br>Dead — — —   |  |





Appendix, N<sup>o</sup> 3. (a).

SHIPPING AGREEMENT between Thomas Leaman and William Collens.

Burin, Oct<sup>r</sup>. 15th 1787, Newfoundland.

THEN I Thomas Leaman agreed and shipped myself with Mr. William Collens for this Winter, and next Summer ensuing, and I am to do the best of my Endeavour for the Good of the Voyage; and in Consideration of my due Performance, I am to have for my Wages the Sum of £. 26 Sterling; and, after allowing my Country Charges, to have the Balance of my Account in good Bills of Exchange. As witness my Hand,

his  
Mr. WILLIAM X COLLENS,  
Mark.

To be clear the 20th of  
September 1788.

Appendix, N<sup>o</sup> 3. (b).

Thom<sup>s</sup> Leaman's Account — Debtor to Mr. Will<sup>m</sup> Collens.

|           |   |                               | £. | s. | d. |
|-----------|---|-------------------------------|----|----|----|
| 1787.     |   |                               |    |    |    |
| 15th Oct. | — | To 1 Quart of Rum             | —  | 1  | 3  |
|           |   | To 10 lb. of Tobacco          | —  | 1  | —  |
| 17th —    | — | To 2 Cotton Shirts            | —  | 18 | —  |
|           |   | To 1 Quart Rum                | —  | 1  | 3  |
| 30th —    | — | To 1 Quart Brandy             | —  | 1  | 3  |
| 12th Nov. | — | To 1 Quart Rum                | —  | 1  | 3  |
|           |   | To 1 Pair of Shoes            | —  | 9  | —  |
|           |   | To 1 Gallon Rum, St. Lawrence | —  | 2  | 6  |
|           |   | To 1 Quart Rum                | —  | 1  | 3  |
| 20th —    | — | To 1 Quart Rum                | —  | 1  | 3  |
| 25th —    | — | To 1 Quart Rum, lb. Soap      | —  | 2  | 3  |
| 29th —    | — | To 1 Quart Rum                | —  | 1  | 3  |
| 2d Dec.   | — | To 1 Quart Rum                | —  | 1  | 3  |
| 7th —     | — | To 1 Quart Rum                | —  | 1  | 3  |
| 8th —     | — | To 1 Quart Rum                | —  | 1  | 3  |
| 9th —     | — | To 1 Quart Rum                | —  | 1  | 3  |
| 17th —    | — | To 1 lb. Tea                  | —  | 5  | —  |
|           |   | To 1 Quart Rum                | —  | 1  | 3  |
| 18th —    | — | To 1 Quart Rum                | —  | 1  | 3  |

|                  |   |  |   |   |   |    |   |
|------------------|---|--|---|---|---|----|---|
| 21st             | — | To 1 Quart Rum   | — | — | — | 1  | 3 |
| 24th             | — | To 2 Quarts Rum  | — | — | — | 2  | 6 |
| 26th             | — | To 1 lb. Sugar   | — | — | — | 1  | — |
| 4th Jan'y. 1788. |   | To 1 Quart Rum   | — | — | — | 1  | 3 |
|                  |   | To 1 Quart Rum   | — | — | — | 1  | 3 |
| 7th              | — | To 1 Quart Rum   | — | — | — | 1  | 3 |
|                  |   | To 1 lb. Pepper  | — | — | — | 5  | — |
| 8th May          | — | To 1 Y <sup>rd</sup> Half Ribbon   | — | — | — | 1  | — |
| 10th             | — | To 1 Quart Melaffes  | — | — | — | 1  | — |
| 11th             | — | To 1 Quart Brandy  | — | — | — | 1  | 3 |
| 18th             | — | To 1 Quart Melaffes  | — | — | — | 1  | — |
| 24th             | — | To 1 Quart Brandy  | — | — | — | 1  | 3 |
| 2d June          | — | To ½ Gallon Gin  | — | — | — | 2  | 6 |
|                  |   | To 1 Quart Melaffes  | — | — | — | 1  | — |
| 10th             | — | To 2 Quarts Brandy   | — | — | — | 2  | 6 |
| 16th             | — | To 1 Quart Ditto   | — | — | — | 1  | 3 |
|                  |   | To 1 Quart Melaffes  | — | — | — | 1  | 3 |
| 30th             | — | To 1 Quart Melaffes  | — | — | — | 1  | 3 |
|                  |   | To your Washing  | — | — | — | 1  | — |
|                  |   | To your Doctoring  | — | — | — | 8  | — |
|                  |   | To your Hospital   | — | — | — | 2  | 6 |
|                  |   | To Neglect of Duty, and upholding and encouraging of 2 Men who ran away in my Debt | — | — | — | 20 | 8 |

£. 27 — 3

Contra — Cr.

By his Summer's Wages — — — £. 26 — —  
Bal<sup>ce</sup> due to William Collens — — — 1 — 3

£. 27 — 3

ACCOUNT as settled by Judgment of the Court.

Wages agreed for per Shipping Paper —  $\begin{matrix} \text{£.} & \text{s.} & \text{d.} \\ 26 & — & — \end{matrix}$

By the 14th Sect. 31st Chap. 15 Geo. III.  
No Employer is to advance to his Servant, in Money, Liquor, or Goods, more than Half the Amount of his Wages —  $\begin{matrix} 13 & — & — \end{matrix}$

Due Thomas Leaman — £. 13 — — which William Collens is to pay immediately, or he will be prosecuted for it, and for the Penalty of the Act, in the Court of Session.

Appendix, N° 4.

Messrs. Dixon, Williams, and C<sup>o</sup> Agreement with Servants.

MEMORANDUM of Agreement made by and between Messrs. Dixon, Williams, and C<sup>o</sup> of St. John's, Merchants, on the One Part, and the Servants of Messrs. Cashey and Curren, -of Quitty Vitty, Boatkeepers, on the other Part ;

Witneffeth,

**T**HAT Michael Power, James Power, Charles O'Bryan, Thomas Sherridan, James Dunphy, Stephen Douglafs, Bryan Lavell,

Do hereby promise and agree, as a Security for the Supplies that may be wanted by their forefaid Masters, Messrs. Cashey and Curren, for the Purpose of their carrying on the Fishery in Quitty Vitty this ensuing Summer; and which the forefaid Dixon, Williams, and C<sup>o</sup> do agree to grant on the Conditions as follows, viz.

That the Whole of the Supply which the said Dixon, Williams, and C<sup>o</sup> may grant them, shall be paid for in whatever Fish, Oil, &c. that may be taken during the Voyage, in preference to any of their Wages.

That is, that they bind themselves, not to lay or cause to be laid any Claim to any such Fish, Oil, Blubber, &c. until such Time as the forefaid Supplies that will be granted by said Dixon, Williams, and C<sup>o</sup> are fully paid up.

And the said Dixon, Williams, and C<sup>o</sup> do hereby agree to receive all such Fish, Oil, Blubber, Herrings, &c. at the then governing Price of its Delivery in St. John's; and which Supplies so given by forefaid Dixon, Williams, and C<sup>o</sup>, shall be at the Price governing in St. John's.

Sign'd,

his

MICHAEL x POWER.

Mark.

Sign'd,

Malcolm Leitch, Witness.

Sign'd,

his

JAMES x POWER.

Mark.

Sign'd,

Robert Sheppard, Witness.

Sign'd,

THOMAS SHERRIDAN.

Sign'd,

DIXON, WILLIAMS, and C<sup>o</sup>.

St. John's, Newfoundland, 11th June, 1790.

*N. B.*—The fore-mentioned James Dunphy and Stephen Douglafs being named in this Agreement by Mistake, they being on the Cutt Tails.

Appendix, N<sup>o</sup> 5.

## GOVERNOR RODNEY'S ORDER.

By George Bridges Rodney, Esq. Governor and Commander in Chief in and over the Island of Newfoundland.

**WHEREAS** it hath been represented to me, that this Trade greatly suffers by the illegal Practice of Violence and Force, frequently committed by the Merchants and Traders residing in the Northern and Southern Parts, who have and still continue by Force and Violence (contrary to Law and Justice) to seize and carry away from divers Inhabitants and Boat-keepers (Debtors) their Fish, Train Oil, Boats, and Craft, thereby rendering them incapable of prosecuting the Fishery to the End of the Season, all which Effects they keep to themselves in particular, without having any Regard to other Creditors; which Force and Violence (if not timely prevented) may be the Ruin of not only the Inhabitants and Fishermen, but of the Trade in general:

And whereas it appears that it has and still continues to be the Practice of this Harbour of St. John's, that if any Inhabitant, Boat-keeper, or others concerned in the Fishery, whether by bad Voyages or any unforeseen Accident, to have been rendered incapable of paying their just Debts, the Creditors have and do still content themselves with a just Proportion of their respective Debts (paying the Servants Wages employed, so as there may be no Manner of Hindrance to the prosecuting the Fishery to the End of the Season) which Creditors generally chuse One to receive the Produce of the Voyage, or make a proportional Division to the respective Creditors according to their Debts:

For preventing all such violent, unlawful, and unjust Proceedings, and the Ruin of many useful Subjects employed in the Fishery, I have and do hereby strictly order, that no Person or Persons whatever do presume to seize or carry away by Force or Violence any Fish, Train Oil, Boats, Craft, or other Effects whatever, from the Rooms of their Debtors, but, according to the ancient Custom, content themselves with such Proportions of their Debts as shall be voluntarily and freely paid and delivered by the Debtors; and where any Doubt shall arise or Suspicion, that the Debtor hath not wherewith to discharge his just Debts and Servants Wages, that then the Creditors do secure (to be by them paid) the Wages due to the Servants employed in the Fishery, that the Voyage may be continued to the End of the Season, and a just Division of the Debtor's Effects be made to each Creditor, in Proportion to their respective Debts.

Whoever therefore shall presume to seize or detain by Force or Violence, or carry away any Fish, Train Oil, Boats, Craft, or other Effects, shall be prosecuted to the Severity of the Law in that Case made and provided.

Given under my Hand, at St. John's, the  
19th August, 1749.

(Signed)

GEORGE BRIDGES RODNEY.

F. W. DRAKE.

By Command of the Governor.

Sam<sup>l</sup> Furzer.

Appendix, N<sup>o</sup> 6.

MINUTE of Council, 25th January 1786; and Admiral Campbell's Answer.

“ THAT Admiral Campbell be desired to convey to their Lordships any further Information he may have to give them, in Addition to what is contained in his Reports to the King's Ministers.”

To the Information which Admiral Campbell has already given to the Lords of the Committee of Council, with respect to the Newfoundland Fishery, he begs Leave to add the following Particulars, which he thinks are worthy of their Lordships Attention.

1st. In the Neighbourhood of St. John's, some Officers of the Army, and others not concerned in the Fishery, have inclosed and improved extensive Tracts of Land; by which Means a great deal of Brushwood, useful in the building of Stages and Flakes, has been destroyed, the Paths leading to the Woods have been interrupted and rendered inconvenient, and the Inhabitants deprived of what had been and ought to be Common Pasturage for their Cattle. To put a Stop to these illegal Practices, the Admiral thought it necessary to publish an Order forbidding the Paths to be interrupted, and authorizing the Fishermen to cut Brushwood and Firewood wherever they may find it, and to carry it through any Inclosures in whatever Direction they may judge most convenient. He would have extended his Order to the Demolition of the Fences; but the Proprietors pleaded Grants from former Governors.

2dly. The Fishery at St. John's has been greatly injured by the injudicious Way in which the People have been suffered to build Dwelling Houses and Retail Shops along the Side of the Water: The Ground best adapted to the curing of Fish is in many Places rendered useless for that Purpose; the Access to the Water is obstructed; and as the Buildings in the principal Part of the Harbour are contiguous to one another, and all of Wood, the Danger to be apprehended from accidental Fire is alarming. To check the Progress of this improper Manner of building, the Admiral judged it necessary to order some Houses to be pulled down, and to forbid in future the building of Dwelling Houses, and making of Gardens, within a certain Distance from the Water. But as the Admiral's Attempts to correct these Abuses will not be effectual for that Purpose, unless they are constantly and regularly enforced, he submits to their Lordships, whether it would not be proper, that the Governor of the Island should be directed to pay unremitting Attention to Objects which appear to be so essentially connected with the Interest of the Fishery.

3dly. Ships Rooms, which are the Places reserved by Law for the Accommodation of the Fishing Vessels which go out Annually from England, are not so useful as they were intended to be. A Man has no Certainty of possessing the same Ship's Room for Two successive Seasons.

They are therefore in many Parts of the Island, particularly at St. John's, neglected and unoccupied. The Admiral is of Opinion, that it would be of Advantage to the Fishery, that such Certainty should be established in the Right of possessing them, as would induce the People to put them in good Order, and make them useful.

4thly. Besides the Inhabitants, many Servants must be left in Newfoundland through the Winter, to take Care of the Merchants Stores, and to keep the Fishing Rooms in good Order; all others ought, if possible, to be compelled, at the End of each Season, to quit the Island; but the Fishing is carried on in scattered Places along so great an Extent of Coast, that any Regulation made for this Purpose cannot easily be enforced. Admiral Campbell directed the Justices of the Peace to take such Steps, consistently with Law, as they might think would be most effectual for obliging all disengaged Servants and Fishermen to depart at the End of the Season; yet he has no Doubt but many such remain there through the Winter, with the View of supporting themselves by cutting Lumber, and supplying the Inhabitants with Firewood.

5thly. The House at St. John's, where Prisoners are confined, and where the Courts are held for the Administration of Justice, is extremely inconvenient for those Purposes, and is besides in so ruinous a Condition, that a new One is absolutely necessary; and as Admiral Campbell knows no Law by which the People concerned in the Fishery can be compelled to defray the Expence of building one, he begs Leave to recommend it to their Lordships, to adopt such Measures as the Case may appear to them to require.

“ On the Conduct of the French, at Newfoundland, in cutting  
 “ Wood or Timber, either in that Part of the Island where they  
 “ have a Right to carry on their Fishery, or on the other Parts of  
 “ the Island where they have no such Right; whether they in any  
 “ Respect exceeded or abused the Permission given them in the  
 “ Two last Seasons, by carrying off unreasonable Quantities of  
 “ Timber, or committing unnecessary Waste; and whether they  
 “ cut any Timber for Ship Building, and endeavoured to carry it  
 “ off to France?”

Captain Farnham, in His Majesty's Ship Winchelsea, was the Two last Seasons stationed between Cape Race and Cape Ray, and had frequent Opportunities of observing the Conduct of the French in cutting Wood in the Bay of Despair, for the Re-establishment of their Houses upon the Islands of St. Pierre and Miquelon; and as no Complaint was made by him or by any other Person, Admiral Campbell has Reason to believe that they confined themselves to the Conditions of the Permission.

In that Part of the Island which is ceded to them by Treaty, the Admiral does not doubt that they cut Timber for building their Scaffolds, and repairing their Fishing Vessels; but he never heard, that on any Part of the Island they cut down Timber for Ship Building.

“ On the Success of the French Fishery for the last Two Seasons; and on the Advantages and Disadvantages they may have in carrying it on; compared with those of our Fishermen.”

For the Particulars of the French Fishery last Season on the Coast of the Island of Newfoundland, Admiral Campbell begs to refer to Captain Lumsdaine's Report, transmitted to the Right Honourable Lord Sydney.

The Admiral is of Opinion, that the Part of the Island on which the English carry on their Fishery, is considerably better adapted for the Purpose than that Part allotted to the French; and as the French are not allowed to winter in the Country, they cannot have their Flakes, Stages, &c. in such excellent Order as the English.

“ On the Conduct of the Judicatures in Newfoundland, particularly that of the Vice Admiralty Court.”

The Governor, by his Commission, is empowered to appoint Commissioners of Oyer and Terminer for the Trial of criminal Offences once a Year, and the Proceedings of that Court are similar to the Proceedings of the same Court in England.

The Justices of the Peace are Men of the best moral Character and Abilities that can be found in the several Districts. By Way of Check upon the Conduct of the Justices, the Ships of the Squadron are stationed at different Parts of the Island, and their Commanders empowered to enquire into and settle Disputes, as well in the First Instance, as in Appeals from the Decisions of the Justices. It very seldom happens that any Appeals are made to the Governor from the Decisions of either the Justices or the Captains of the Ships of War. As a Proof that they pay due Attention to their Duty, the Admiral begs Leave to remark, that notwithstanding the Extent of the Coast, and the Number of People employed in the Fishery, there are fewer Crimes and gross Misdemeanors committed in the whole Island, than in any the smallest County in England.

With regard to the Vice Admiralty Court, the Admiral takes the Liberty of observing, that there is no Appeal from its Decisions, but to the Admiralty Court in England. The Two following Cases however came to his Knowledge in the Course of last Season. 1st. One Mitchel, of Placentia Bay, being considerably in Debt to Andrew Thompson, of St. John's, he assigned to Mr. Thompson a Number of small Debts, due from sundry Persons in the said Bay; amongst the rest was a supposed Debt of Two hundred and Twenty-two Pounds, due from Nicholas Buck to Mitchel. Mitchel, at the Request of Thompson, made Oath to the said Debt, in the Vice Admiralty Court at St. John's, and the Judge immediately issued a Warrant for his Surrogate at Placentia to seize and dispose of Buck's Property for the Payment thereof. Buck pleaded Errors in Mitchel's Account, which, when rectified, would reduce the Balance above One Half. But his Remonstrances were disregarded, and his Effects, to the Value of at least Six hundred Pounds, seized upon and sold; and, what with the Charges of the Court, and the hasty Manner of selling the Goods, the Net Produce did not amount to more than Two hundred and Six Pounds. Buck made his Case known to the Admiral, who advised him to apply to the Admiralty Court in England for Redress.

2d. In a Dispute between Isaac Phillips and Robert Bulley, concerning a Charter Party, Bulley was cast in a certain Sum, but appealed from the Decree of the Vice Admiralty Court to the Admiralty Court in England immediately. Notwithstanding the Appeal, the Judge was proceeding in a very harsh and precipitate Manner to dispose of Bulley's Effects, which if accomplished would inevitably have ruined his Family. It having been suggested to Admiral Campbell, that the Judge had upon the Trial shewn a Degree of Rancour and Spite towards Mr. Bulley, the Admiral advised that good and ample Security should be taken for the Appeal, instead of the Money being paid into Court, which the Judge at last, though with great Difficulty, consented to.

The Fees of the Vice Admiralty Court have been (and the Admiral thinks justly) complained of as exorbitantly high; nor is it likely they will be otherwise, while the Judge has nothing else to depend on for his Support. For this Reason the Admiral is of Opinion, that it would be proper to limit the Fees of the Court, and to allow the Judge a competent Salary.

It does not appear to the Admiral, that there is at present any Court legally established in Newfoundland for trying Actions of Debt and disputed Property, not cognizable either by the Justices of the Peace or the Court of Vice Admiralty; he therefore submits to their Lordships Consideration the Propriety of authorizing the Governor to appoint Judges for that Purpose.



# Appendix, N° 7.

## ADDITIONAL STATEMENT of the Trade and Fishery of Newfoundland, by Mr. Graham.

THE Merchants have all declared, that the Fishery has decreased very much, and is still in a declining State; and Mr. Newman in particular hath said, that a Comparison of the Year 1771 with the Year 1791 will prove the Fact. I believe, however, I have already shewn that the contrary is proved by that Comparison; but as the taking of any Two single Years is not a proper Method for determining the State of so extensive a Trade and Fishery, I shall instead thereof compare the Average of Six Years previous to the American War, viz. 1769, 1770, 1771, 1772, 1773, and 1774, with the last Six Years, 1787, 1788, 1789, 1790, 1791, and 1792, which include an Interval of Eighteen Years.

|             | Ships. | Tons. | Seamen.            | Passengers. | Boats. | Q <sup>t</sup> . of Fish. | Tierces<br>of Salmon. | Gal. of Oil. | Fishing Stages. |
|-------------|--------|-------|--------------------|-------------|--------|---------------------------|-----------------------|--------------|-----------------|
| From 1769   | }      | 580   | 41,448             | 5,715       | 6,924  | 684,746                   | 1,767                 | 718,848      | 1,157           |
| to 1774     |        |       |                    |             |        |                           |                       |              |                 |
| The Average |        |       |                    |             |        |                           |                       |              |                 |
| Each        | 71½    | Tons. | Taken by each Ship |             |        | 1,181                     | -                     | 1,239        | -               |

10 Seamen }  
and 12 Passengers } 22 Men.

Considering the Seamen and Passengers  
all as Fishermen, and dividing the  
whole Quantity of Fish and Oil  
amongst them, it gives to

Each Man - 54 Quintals of Fish, and  
57 Gallons of Oil.

Considering the Passengers as Boatmen,  
and the Boats to have caught all the  
Fish, it gives to

Each Boat - 3 Men, and  
297 Quintals of Fish.





"Ship?" the Master should have said, Twenty-two (meaning 10 Seamen and 12 Passengers, without however explaining his Meaning); and again, in Answer to "What Number of Passengers?" he should have said, Twelve;—it follows of course, that in all such Cases (and there can be no Doubt that they very frequently occurred) there must have been set down too many Men by the whole Number of Passengers.

That such Mistakes could not have been made latterly, will appear from the following Alteration (pointed out in Red Ink) which took Place in the Fishing Scheme in the Year 1789.

|                  |   |                            |  |
|------------------|---|----------------------------|--|
| Number of        | } | Fishing Ships; not Bankers | British Ships qualified according to the Act of 10th and 11th of Wm the III. whose Crews are employed to fish in Boats.  |
|                  |   | Bankers                    | British Vessels qualified according to the Act of 10th and 11th of Wm the III. and employed in fishing upon the Grand Bank.  |
|                  |   | Sack Ships                 | British Ships arriving from Europe without Fishing Certificates, and are employed only in carrying Fish to Market.   |
|                  |   | Ships from the Colonies    | British Ships arriving from the British Settlements in America, including the West India Islands.  |
| Burthen of       | } | British Fishing Ships      | } In Tons.   |
|                  |   | Sack Ships                 |  |
|                  |   | Ships from the Colonies    |  |
| Men belonging to | } | British Fishing Ships      | } The Crew (only) of Vessels as specified in the Registers of Trading Ships, and the Fishing Certificates of Fishing Ships—Not including Passengers of any Denomination. |
|                  |   | Sack Ships                 |  |
|                  |   | Ships from the Colonies    |  |
| Passengers from  | } | England                    | } Every Description of Person, over and above the Complement (or Crew) of the Vessel.  |
|                  |   | Ireland                    |  |
|                  |   | Jersey                     |  |

For the rest of the Scheme, see the Paper marked Appendix, N<sup>o</sup> 2 (b.) delivered in a former Part of my Evidence.

The Merchants, therefore, must acknowledge One of Two Things—Either that the former Part of the Account, from which they pretend to prove a Decrease in the Number of Seamen and Passengers employed in the Fishery, is not to be depended upon; or that they now carry on their Trade at a considerably less Expence than they did before the American War. If they confess the former, they can prove no such Decrease; if the latter, they cannot with any Degree of Reason complain.

Thus far I think I have very fully answered the Gentlemen upon the Subject of a Comparison between the State of the Fishery before and since the American War, as taken from the printed Account of the Governours in the Second Report. I shall now shew the comparative State of the Trade by the Shipping cleared for Newfoundland from the different Ports in England during the same Periods; taken from the printed Accounts of the Custom House, delivered to the Committee by the Assistant Register General of Shipping, dated the 27th of March 1793.

|                             | Cleared from London. |              | Cleared from Poole. |              | Cleared from Dartmouth. |              | Cleared from the Kingdom. |              |
|-----------------------------|----------------------|--------------|---------------------|--------------|-------------------------|--------------|---------------------------|--------------|
|                             | <i>Ships.</i>        | <i>Tons.</i> | <i>Ships.</i>       | <i>Tons.</i> | <i>Ships.</i>           | <i>Tons.</i> | <i>Ships.</i>             | <i>Tons.</i> |
| From 1769 } inclusive.      | 14                   | 1,194        | 71                  | 5,314        | 64                      | 4,295        | -                         | 235          |
| to 1774 }                   |                      |              |                     |              |                         |              | -                         | 16,840       |
| From 1787 } inclusive.      | 18                   | 2,507        | 78                  | 9,775        | 97                      | 8,897        | -                         | 263          |
| to 1792 }                   |                      |              |                     |              |                         |              | -                         | 27,611       |
| Increase in the last Period |                      |              |                     |              |                         |              |                           |              |
|                             | 4                    | 713          | 7                   | 4,461        | 33                      | 4,602        | -                         | 28           |

And, that Mr. Newman may not say I have not followed him closely, I will also shew the Difference between his Two favourite Years, 1771 and 1791.

|      |    |       |    |       |       |    |       |       |     |        |
|------|----|-------|----|-------|-------|----|-------|-------|-----|--------|
| 1771 | -  | -     | 12 | 1,510 | -     | 58 | 4,005 | -     | 212 | 14,871 |
| 1791 | -  | -     | 26 | 3,496 | -     | 83 | 7,254 | -     | 242 | 25,326 |
|      | 14 | 1,986 | -  | 16    | 4,993 | -  | 25    | 3,249 | -   | 30     |
|      |    |       |    |       |       |    |       |       |     | 10,455 |

After making all these Statements, I flatter myself I need not be at any farther Trouble to convince the Committee that the Trade and Fishery of Newfoundland was in a much more flourishing State during the last Six Years than ever it was before.

## Appendix, N° 8. (a.)

## PROCLAMATION AGAINST BUILDING.

By his Excellency Mark Milbanke, Esq. &amp;c.

**W**HEREAS His Majesty, under His Royal Signet and Sign Manual, has been pleased to command me not to suffer any Buildings to be erected (except Fishing Stages, Cook Rooms, Flakes, or such other Erections as shall be absolutely necessary for the curing, salting, drying, and husbanding of Fish) in and about the Town of St. John's, and to direct that in case any Buildings, Erections, Slips, or Fences, already erected or made, shall clearly appear to me to be Nuisances to the Fishery, that the same shall be removed (reasonable Notice being given to the Parties claiming or pretending to any Interest therein, if upon the Spot, or to the Persons in the Possession and Occupation thereof, that they may be put to as little Inconvenience as the Nature of the Case will admit): And whereas, from Enquiry amongst Persons who have been long resident in the Island, and are perfectly acquainted with the real Interest of the Fishery, I find that the harbouring and entertaining of a Number of Men called Dieters is an Evil which requires to be remedied; and that in order effectually to put a Stop to it, many Houses in and about this Town, known to be inhabited by Persons who every Winter harbour and entertain the said Dieters, should be pulled down, or at any Rate that an Increase of them should be prevented for the future: I do hereby give Notice, That if any Person or Persons whatsoever, in or about St. John's, shall from henceforth during the Winter Season harbour or entertain Dieters in their Houses, upon being convicted thereof before One of His Majesty's Justices of the Peace, by the Oath of One or more credible Witnesses or Witnessess, he, she, or they, so offending, shall, by the first Opportunity that offers for Great Britain or Ireland, be sent off the Island; and the House or Houses wherein such Dieters were harboured or entertained shall without Fail be taken down and removed. And the Magistrates are hereby strictly enjoined to employ the Constables in visiting the different Quarters of the Town Once a Month (between the 1st of November and 1st of March in every Year) to enquire of the Inhabitants (of whom the said Constables are hereby authorized to demand such Information) what Number of Persons, and of what Description, inhabit the several Houses, and to make a Report thereof to the Magistrates the First Day of every Month during the said Period; which Reports are to be laid before the Governor every Year immediately on his Arrival at St. John's: And the said Magistrates are hereby required, as they will answer the contrary, not to permit, upon any Pretence whatsoever, but to use such Force as in their Discretion shall appear to be necessary for preventing it, any Buildings to be erected, nor any Fences or other Erections to be made, nor any Houses to be repaired in any Part of the Town, nor

in any Part of the District (except as before excepted) without Permission in Writing from the Governor for the Time being for so doing.

And that the People may not suppose that the Magistrates have a discretionary Power vested in them, to tolerate a Breach of these Orders, they are hereby informed to the contrary; and that it will not even on the Part of the Magistrates be admitted as an Excuse, that Houses have been built or repaired without their Knowledge; for if they do their Duty properly (and it cannot be doubted that they will) the Constables may be so employed as to render it impossible for such a Circumstance to happen. In short, His Majesty's Commands are to be obeyed, the Interest of the Fishery is to be supported, and the most positive Assurance is hereby given that no Person whatsoever will be suffered to infringe the foregoing Regulations with Impunity.

Given, &c. 13th October 1789.

M. MILBANKE.

By Command of the Governor.

A. Graham.

Appendix, N<sup>o</sup> 8. (b)

Governor's Proclamation against Fishermen coming from the  
Out Harbours to winter at St. John's.

By his Excellency Mark Milbanke, Esq. Governor  
and Commander in Chief in and over the Island  
of Newfoundland.

WHEREAS I am informed that after the Fishing Season is over, this Town every Year is burthened with a Number of Men from different Parts of the Island, who having no Engagement for the Winter, nor Inclination to return to Great Britain or Ireland, idle away their Time, destroy the Flakes, &c. and are otherwise a very great Nuisance to the Fishery:

Notice is hereby given, that the Magistrates have received the most positive Directions from me, not to suffer any Seamen or Fishermen, who have been employed in the Fishery at other Places during the Summer, to winter in this Town, unless they shall be regularly shipped as Winter Servants, by Persons residing in the District; and if after this Notice Seamen or Fishermen shall presume to come from other Parts of the Island to this Place, with an Intent to stay here as Dieters during the Winter, they will be punished as Vagrants, and sent back to the Places from whence they come, by the earliest Opportunity that offers.

And the Magistrates of the respective Districts are hereby strictly commanded not to encourage Seamen or Fishermen to leave the Out Ports and come to this Place for the above-mentioned Purpose of wintering here, but to use their utmost Endeavours to prevent it, on Pain of His Majesty's highest Displeasure, and of being dismissed from the Commission of the Peace.

Dated at St. John's Newfoundland, 13th  
October, 1789.

M<sup>K</sup> MILBANKE.

By Command of his Excellency.  
A. Graham.



Appendix, N° 9.

Custom House and Naval Office  
Fees paid by Peter Ougier, on  
the Brig Mercury 1789

June 6th. at Bay Bulls £. 4 19 —  
Sept. 2nd. at Ditto — 4 19 —  
Dec. — at St. John's 4 19 —  
£. 14 17 —

Fees p<sup>d</sup> by P. Ougier, at Custom  
H<sup>o</sup>, B. Bulls, 1777.

Brig Triton — £. — 18 —  
Diana — — 2 6 —  
Royal Oak — — 10 —

Custom H<sup>o</sup> and Naval Office Fees.

Paid by Peter Ougier in Newfoundland, Year 1792.

June 30. Peggy, Fees at B. Bulls £. 4 19 —  
D<sup>o</sup> Coaft-ways — — 6 6 —  
D<sup>o</sup> St. John's — — 12 — —  
£. s. d.  
5 17 6  
Aug<sup>t</sup> 29. Mercury, Fees at B. Bulls — 4 19 —  
Octo. 21. Harmony — D<sup>o</sup> — 4 19 —  
Nov. 8. Peggy — D<sup>o</sup> — 4 19 —  
Dec. 3. Mercury — D<sup>o</sup> — 4 6 6

Bankers 10/. ca. but if go first in with the Land with  
Necessaries for the Fishery, is considered as a Trading  
Ship Inwards, and pays Fees accordingly.

The above Fees were p<sup>d</sup> to Jn<sup>o</sup> Dingle, at Bay Bulls  
(D<sup>r</sup> Collector) who would not furnish a particular  
Acc<sup>t</sup> of Fees, but said he collected the same to the  
above Am<sup>t</sup> by Order of Mr. Routh, Collector of St.  
John's.

Witness my Hand,

EDW D LEE.

Custom H<sup>o</sup> and Naval Office Fees.

Paid by Tho<sup>s</sup> Gibbs and C<sup>o</sup>, in the District of Ferry-  
land, for the Year 1792.

Brig George, Waterford, to Fermuse and  
Abroad — — — £. 5 5 6  
Ship Swallow, Lisbon, to D<sup>o</sup> — D<sup>o</sup> — 5 5 6  
Brig Courier, London, to D<sup>o</sup> — D<sup>o</sup> — 5 5 6  
Brig George, Abroad, to D<sup>o</sup> and Dartm<sup>o</sup> 4 16 6  
Brig Elizabeth, of Dartm<sup>o</sup>, from Dartm<sup>o</sup>  
to Fermuse, and Banking, and Home  
with Passengers — — — 2 5 6  
Brig Elizabeth, of Dover, from Dartm<sup>o</sup>,  
& Banking, and Home in Ballast — — 11 6 6  
Brig Liberty — D<sup>o</sup> — D<sup>o</sup> — D<sup>o</sup> — 11 6 6  
Brig Industry — D<sup>o</sup> — D<sup>o</sup> — D<sup>o</sup> — 11 6 6  
Sloop Dover, Banking in Newfoundland,  
and Home — — — 1 4 6  
Schooner Greenwich, Banking only — — 11 6 6  
Luggar Jane, Coaster in Newfoundland — — 11 6 6

Appendix, N<sup>o</sup> 10.ANQUETIL AND C<sup>o</sup>'S GRANT.

L. S.

By His Excellency John Elliott, Esquire, Governor and Commander in Chief in and over the Island of Newfoundland, &c.

**M**R. Thomas Anquetil, Master of the Fishing Ship Elizabeth, of Jersey, having presented a Petition in Behalf of himself and C<sup>o</sup> to Captain Pellew, of His Majesty's Ship Winchelsea, my Surrogate for the District of Ferryland, setting forth that they have been at the Expence of clearing away an unoccupied Spot of Ground on the North Side of the Harbour of Aquafort, situated between Great Flat Rock, and Little Flat Rock, extending One hundred and Fifty Yards S. E. along Shore, from the S. E. Point of Little Flat Rock Cove, and Two hundred Yards back into the Woods; having also produced a Certificate under the Hands of Messrs. Nicholas Audley, James Keates, and William Hunt, Three very ancient Inhabitants of the said District, testifying that the said Spot of Ground has never in their Remembrance been occupied for the Use of the Fishery; upon which the said Thomas Anquetil and C<sup>o</sup> therefore request I would allow them to erect Fishing Conveniences, and secure them in the quiet and peaceable Enjoyment of the same; and Captain Pellew having certified to me "That the said Spot is vacant and unoccupied, and not "considered as Ships Room," I do hereby grant Permission to the said Thomas Anquetil and C<sup>o</sup> to take Possession of and build Fishing Conveniences upon the said vacant Spot in Aquafort Harbour, and strictly forbid their being interrupted in the quiet and peaceable Enjoyment thereof, so long as they shall continue to occupy the same for the Purposes (only) of curing, salting, drying, and husbanding of Fish, agreeable to an Act of Parliament passed in the 10th and 11th Years of the Reign of King William the Third, intituled, "An Act to Encourage the Trade to Newfoundland;" but if the said Thomas Anquetil and C<sup>o</sup> should desert, and suffer the said Fishing Room to go to Decay, or neglect to make Fish thereon, for One entire Season, then and in that Case it may be occupied by any other of His Majesty's Subjects first arriving from Great Britain, or One of the British Dominions in Europe, who shall take and keep Possession in like Manner, and for the like Purposes (and for no other whatsoever) of carrying on the Fishery agreeable to the afore-mentioned Act of Parliament.

Given under my Hand and Seal, at St. John's, in the Island of Newfoundland, this 8th of October, 1788.

J. ELLIOTT.

By Command of the Governor.

A. Graham.

Appendix, N<sup>o</sup> II. (a.)

LETTER from the Governor to George Hutchings, Esquire;  
dated Government House, St. John's, Newfoundland,  
15th October, 1790.

S I R,

I Have considered your Request respecting the Alteration which you wish to make in your Storehouse, near the Water Side; and as it appears that the Alteration will not be any Ways injurious to the Fishery, you have hereby Permission to make it. As to Alexander Long's House, which has been built contrary to His Majesty's express Commands, made known to the Inhabitants of this Place by my Proclamation of the 13th of last October, it must and shall come-down. The Pretence now set up, of its being intended for a Craft House, serves rather to aggravate than extenuate the Offence; for by the Confession of your Tenant to the Magistrate, who forbid him to go on with the Work after it was begun, as well as to me, when I viewed the House on Saturday last, no such Use was to be made of it, as he said it was intended only as a Covering to his Potatoe Cellar, though there is a compleat Chimney, if not Two in it, and Lodgings for at least Six or Eight Dieters. I shall embrace this Opportunity of warning you against making an improper Use of any other Part of (what you are pleased to call) your Ground; for you may rest assured, that every House or other Building erected upon it hereafter, without the Permission (in Writing) of the Governor for the Time being (except such Buildings and Erections as shall be actually on Purpose for the curing, salting, drying, and husbanding of Fish, which the Fishermen from any Part of His Majesty's European Dominions, qualified agreeable to the Act of the 10th and 11th of William the Third, and the 15th of George the Third, have a Right to erect, without asking Permission) must unavoidably be taken down and removed, in Obedience to His Majesty's said Commands. And it may not be amiss, at the same Time, to inform you, I am also directed not to allow any Possession, as private Property, to be taken of, or any Right of Property whatever to be acknowledged in, any Land whatever, which is not actually employed in the Fishery, in Terms of the afore-mentioned Acts, whether possessed by pretended Grants from former Governors, or from any other (no Matter what) unwarrantable Pretences; therefore it behoves you, with all possible Dispatch, to employ the Whole of the Ground which you now lay Claim to in the Fishery, lest others should profit by your Neglect, and make that Use of it which the Legislature of Great Britain intended should be made of all the Land in this Country, and without which no One has a Right to claim it as his own.

The Sheriff will have Directions about the Removal of the House above mentioned, which you will no Doubt assist him in executing.

I am, &c.

To George Hutchings, Esq.

Appendix,

Appendix, N<sup>o</sup> 11. (b)

PAPERS relating to Barnes's Grant.

St. John's, 7th October, 1790.

SIR,

A HOUSE of mine contiguous to the Church, in which the Sexton lives, being a little in the Way of the new Road now making up to the Garrison, I beg your Excellency's Permission to remove it, in such a Manner as the Chief Engineer shall think proper,

I am

Your Excellency's

most humble Servant,

ANDR<sup>W</sup> BARNES.

1790. Received 10th October.

THE Governor desires Captain Pellew and Captain Waller will examine the House mentioned in this Letter, and report (upon this Paper, which is to be returned to the Governor) whether it stands upon Ground that ought to be used in the Fishery; whether the Sexton, as is stated, lives and ought to live in it; and whether Mr. Barnes is in the Habit of entertaining Dieters in his Houses, or is a proper Man to be indulged with the Permission which he solicits.

## R E P O R T.

WE are of Opinion, the Ground the within House stands upon is not useful to the Fishery; that the Sexton at present lives there; and that there is no Reason that we know of why the Petitioner should not be indulged in building a new House, provided the old Dwelling is removed. Oct<sup>r</sup> 23d 1790.

E<sup>D</sup> PELLEW.  
J<sup>A</sup> WALLER.

Appendix, N° 12 (a.)

D<sup>r</sup> Patherick Needay, in the Count Current with John Stigings and C<sup>o</sup>. C<sup>t</sup>

|                      |                            | £. | s. | d. |    |                                | £. | s. | d. |
|----------------------|----------------------------|----|----|----|----|--------------------------------|----|----|----|
| 1789.                |                            |    |    |    |    |                                |    |    |    |
| May 15.              | To 1 Pair of Shoes, a.     | —  | —  | 7  | —  | By Wages                       | —  | 14 | —  |
| 21.                  | 1 Pair of Boots, a.        | —  | 1  | 1  | —  |                                |    |    |    |
| 22.                  | 4 lb. of Sugar, a. 1/      | —  | —  | 4  | —  |                                |    |    |    |
|                      | 2 Shirts, a. 7/            | —  | —  | 14 | —  |                                |    |    |    |
|                      | 1 Gallon of Rum, a. 6/     | —  | —  | 6  | —  |                                |    |    |    |
|                      | 6 Gallons of Cyder, a.     | —  | —  | 6  | —  |                                |    |    |    |
|                      | 1 Barble and Tared, a.     | —  | —  | 3  | —  |                                |    |    |    |
|                      | 1 lb. of Candles, a.       | —  | —  | —  | 9  |                                |    |    |    |
| June 11.             | ½ Gallon of Rum, a. 6/     | —  | —  | 3  | —  | Wages & Shipping               |    |    |    |
|                      | 1 Quart of Melasses, a. 5/ | —  | —  | 1  | 3  | Paper                          | —  | —  | 14 |
| 27.                  | 1 Quart of Melasses, a. 5/ | —  | —  | 1  | 3  |                                |    |    |    |
| July 5.              | 1 lb. of Tea, a.           | —  | —  | 5  | —  | To be paid (notwith-           |    |    |    |
| 20.                  | 1 Quart of Melasses, a. 5/ | —  | —  | 1  | 3  | standing the Sup-              |    |    |    |
| 26.                  | 1 Quart of Melasses, a. 5/ | —  | —  | 1  | 3  | plies exceed that              |    |    |    |
| Aug. 6.              | 1 Quart of Melasses, a. 5/ | —  | —  | 1  | 3  | Sum). as required              |    |    |    |
|                      | 1 Pair Blanketing Draw-    |    |    |    |    | by Act of Parlia-              |    |    |    |
|                      | ers, a.                    | —  | —  | 5  | —  | ment, 15th Geo. III.           |    |    |    |
| 22.                  | 1 Quart of Melasses, a. 5/ | —  | —  | 1  | 3  | Chap. 31st                     | —  | 7  | —  |
| 27.                  | 1 Quart of Rum, a. 6/      | —  | —  | 1  | 6  |                                |    |    |    |
|                      | 1 Great Coat, a.           | —  | —  | 1  | 3  |                                |    |    |    |
| Sep <sup>r</sup> 19. | 1 Quart of Rum, a. 6/      | —  | —  | 1  | 6  | Mr. Stigings to pay Needay     |    |    |    |
|                      | Doctoring and Hospital     | —  | —  | 13 | —  | the above Sum of Seven Pounds, |    |    |    |
|                      | Cash in England            | —  | 1  | 13 | 1½ | or he will be prosecuted for a |    |    |    |
|                      | Passage Home               | —  | 2  | —  | —  | Breach of the Act of Parlia-   |    |    |    |
|                      | Remittance, 3 Pence        |    |    |    |    | ment.                          |    |    |    |
|                      | & Pound                    | —  | —  | 1  | 2  |                                |    |    |    |
|                      | Exchange                   | —  | —  | 4  | 4  | M <sup>r</sup> MILBANKE.       |    |    |    |
|                      |                            |    |    |    | 5½ | St. John's,                    |    |    |    |
|                      |                            |    |    |    |    | 13th Octo. 1789.               |    |    |    |

Mr. Stigings to pay Needay the above Sum of Seven Pounds, or he will be prosecuted for a Breach of the Act of Parliament.

M<sup>r</sup> MILBANKE.

St. John's,  
13th Octo. 1789.

Mr. Stigings called, 15th Octo. 1789, and consented to pay Needay £. 5, and 40 Shillings for his Passage.

Appendix, N<sup>o</sup> 12. (b.)

D<sup>r</sup> DENNIS BRITT in Acco<sup>t</sup> with Stephen Woolcock.

1788.

Dec. 26. To 9 Bottles Beer, 9/3; Half Pint

Rum, 6 d. — — — 9 6

27. 2 D<sup>o</sup> - D<sup>o</sup> — — — 2 —

1789.

Jan. 4. 13 D<sup>o</sup> - D<sup>o</sup> — — — 13 —

5. 8 D<sup>o</sup> - D<sup>o</sup> — — — 8 —

11. 8 D<sup>o</sup> - D<sup>o</sup> — — — 8 —

12. 11 D<sup>o</sup> - D<sup>o</sup> — — — 11 —

Pair Gloves — — — 1 —

18. 4 Bottles Beer — — — 4 —

25. 6 D<sup>o</sup> - D<sup>o</sup> — — — 6 —

Feb. 2. 2 Quarts D<sup>o</sup> — — — 2 —

3 4 6

4. 2 Yards Linnen, 4/3; 3 Q<sup>ts</sup> Beer,  
3/3; Q<sup>ts</sup> and Half P<sup>t</sup> Rum,

2/ — — — 9 —

8. 6 Bottles Beer — — — 6 —

11. 2 D<sup>o</sup> - D<sup>o</sup> — — — 2 —

15. 2 D<sup>o</sup> - D<sup>o</sup> — — — 2 —

21. Quart Rum — — — 1 6

22. 6 Bottles Beer, 6/3; Hat, 3/3;  
2 lb. Tobacco, 3/3; Tody,

4/ — — — 16 —

25. Quart Beer — — — 1 —

March 8. Bowl Tody — — — 1 —

15. D<sup>o</sup> - D<sup>o</sup> — — — 1 —

17. D<sup>o</sup> - D<sup>o</sup> — — — 1 —

18. 4 D<sup>o</sup> - D<sup>o</sup> — — — 4 —

2 4 6

19. 2 Half Pints Rum and 4  
Bowls Tody — — — 5 —

26. 3 Bowls Tody, 3/3; 2 Half  
P<sup>ts</sup> Rum, 1/3; 1 lb. Tobac-  
co, 1/6 — — — 5 6

3 D<sup>o</sup> - D<sup>o</sup>, and Rum — — — 3 3

1789.

|           |                 |   |   |   |   |
|-----------|-----------------|---|---|---|---|
| March 28. | To 3 Bowls Tody | — | — | 3 | — |
| 29.       | 3 D° - D°       | — | — | 3 | — |
| April 5.  | Tody and Rum    | — | — | 4 | 6 |
| 6.        | 4 Bowls Tody    | — | — | 4 | — |
| 12.       | 2 D° - D°       | — | — | 2 | — |
| 13.       | 2 D° - D°       | — | — | 2 | — |
| 16.       | 1 lb. Tobacco   | — | — | 1 | 6 |
| 23.       | 1 Bowl Tody     | — | — | 1 | — |
| May 3.    | Tody            | — | — | 2 | 6 |
| 10.       | 2 Bowls D°      | — | — | 2 | — |
| 11.       | 1 lb. Tobacco   | — | — | 1 | 6 |
| 13.       | 1 Bowl Tody     | — | — | 1 | — |

1 18 9

|         |                                      |   |   |   |   |
|---------|--------------------------------------|---|---|---|---|
| May 30. | 2 Half Pints Rum                     | — | — | 1 | — |
| June 7. | 1 D° - D°                            | — | — | — | 6 |
| 22.     | 1 Pair Shoes, 7/; 1 lb. Tobacco, 1/6 | — | — | 8 | 6 |
| 28.     | P <sup>r</sup> Cyder                 | — | — | — | 6 |
| July 3. | 1 Q <sup>r</sup> Rum                 | — | — | 1 | 6 |
| 5.      | 2 Q <sup>r</sup> Cyder               | — | — | 2 | — |
| 6.      | 2 lb. Tobacco                        | — | — | 3 | — |
| 19.     | 1 Pair Buckles                       | — | — | 1 | 6 |
|         | 2 Quarts Cyder                       | — | — | 2 | — |
| Aug. 7. | 1 Q <sup>r</sup> Rum                 | — | — | 1 | 6 |
| 9.      | 1 lb. Tobacco                        | — | — | 1 | 6 |
| 16.     | 1 Quart Rum                          | — | — | 1 | 6 |
| 17.     | 1 Quart D°                           | — | — | 1 | 6 |
| 26.     | 1 D° - D°                            | — | — | 1 | 6 |

1 8 —

|                  |                              |   |   |    |    |
|------------------|------------------------------|---|---|----|----|
| 29.              | 1 D° - D°                    | — | — | 1  | 6  |
| 31.              | Pipes, 6d.; 1 Day's Neglect, | — | — | 15 | 11 |
|                  | 15/5                         | — | — | —  | —  |
| Sept. 10 and 11. | 2 lb. Tobacco                | — | — | 3  | —  |
| 14.              | John Brophy's Order on him   | — | — | 11 | 6  |
| 20.              | 4 Quarts Porter              | — | — | 4  | —  |
| 22.              | Quart Rum                    | — | — | 1  | 6  |
| 23.              | 5 Quarts Porter              | — | — | 5  | —  |
| 25.              | 3 Pints Tody                 | — | — | 1  | 6  |
| 26.              | 2 Bowls D° and Half Pint Rum | — | — | 2  | 6  |
|                  | 5 Quarts of Porter           | — | — | 5  | —  |

3 11 5

|     |                          |   |   |   |   |
|-----|--------------------------|---|---|---|---|
| 29. | To Tody                  | — | — | 5 | 6 |
| 30. | D°, 3/; Rum, 6/; Hat, 3/ | — | — | 6 | 6 |

|            |  |   |   |       |                |
|------------|--|---|---|-------|----------------|
| 1789.      |  |   |   |       |                |
| October 1. | 2 Bowls Tody   | — | — | 2     | —              |
| 3 and 4.   | 4 D <sup>o</sup> - D <sup>o</sup> , and 2 Quarts<br>Cyder  | — | — | 6     | —              |
|            | Paid W <sup>m</sup> Midleton                               | — | — | 12    | 6              |
| 7 and 8.   | Tody   | — | — | 2     | —              |
| 9.         | Quart Cyder  | — | — | 1     | —              |
| 11.        | Pint Tody, 6 d.; Pair Shoes,<br>7/; Pair Stockings, 2/6    | — | — | 10    | —              |
|            | 1 Pair Buckles, 1/6.; paid W <sup>m</sup><br>Midleton, 2/4 | — | — | 3     | 10             |
| 12.        | Pair Knee Buckles, 1/; paid<br>Morgan Murphy, 38/          | — | — | 1     | 19             |
| 18 and 19. | 2 Quarts Cyder   | — | — | 2     | —              |
|            |  |   |   | <hr/> |                |
|            |  |   |   | 4     | 10 4           |
|            | Passage as by Act of Parlia-<br>ment                       | — | — | 2     | —              |
|            | Rich <sup>d</sup> Blacklir's ap                            | — | — | 7     | 5              |
|            | Edw <sup>d</sup> Meaney                                    | — | — | —     | 16 6           |
|            |  |   |   | <hr/> |                |
|            |  |   |   | £.    | 26 19 —        |
| 1789.      | Supra  | — | — | —     | C <sup>t</sup> |
| Oct. 20.   | By Wages   | — | — | £. 28 | 10 —           |

Appendix, N<sup>o</sup> 12. (c.)

SHIPPING AGREEMENT between Thomas Davis and George.

Chilson, March 15th, 1790.

THEN agreed and shipt myself with George, to serve him this Summer ensuing in Newfoundland, as a Foreshipman, or any Thing else for the Good of the Voyage; and after doing the best of my Endeavours with the due Performance, I am to have for my Wages Ten Pounds, One Quintal of Fish, One Gallon of Rum, and Forty Shillings to be stopt out of my Wages for my Passage Home next Fall. The Balance of my Account in good Bills of Exchange. As Witness my Hand. I am to be clear the 20th of October.

his.  
THO<sup>s</sup> x DAVIS.  
Mark.



Appendix, N<sup>o</sup> 13.

LETTER from Mr. Graham to Mr. Greaves; dated Government House, St. John's, 23<sup>d</sup> October, 1790.

SIR,

I AM commanded by the Governor to desire you will favor him with a Note, informing him in what (the least) Time your Vessel will be ready to receive and sail from hence with Passengers; the Reason of his Excellency's desiring this Information so soon after having seen you this Morning, is, that Mr. Emmet has just now complained "that his Time of Service has been expired since the 20th Instant; that you will not furnish him with his Accounts, and therefore he cannot return to England (which he is very desirous of doing) in any of the Passage Vessels which are daily sailing from hence, although your Vessel (in which you want him to go) cannot possibly be ready in less than Ten Days or a Fortnight." I am commanded to add, that so far from wishing the Masters should be deprived of the Advantage of carrying Home their Servants in their own Vessels, he thinks it a very proper Thing that the Masters should insist upon having that Indulgence, and will assist them to the utmost of his Power in forcing the Seamen and Fishermen to go Home in that Manner; but, on the other Hand, if the Vessel belonging to the Master, in which he wishes to send Home his Servants, cannot be got ready in a reasonable Time (at the utmost Six or Eight Days) the Governor thinks in that Case that the Servant has a Right to demand his Wages, and to go Home in whatever Vessel he may think fit to take a Passage in. But in either Case the Servant is not justifiable in saying he will not go Home at all; for upon making any such Declaration, the Master will do right (and his Excellency will support him in it) to take a Passage for and force him on Board any Vessel bound to Great Britain or Ireland.

I am, &c.

To Mr. Richard Greaves.

# Appendix, N<sup>o</sup> 14.

## A TABLE of FEES in the Court of Civil Jurisdiction, Newfoundland.

| In Suits   | Under<br>£. 5 | From<br>5<br>to<br>£. 20 | From<br>20<br>to<br>£. 50 | From<br>50<br>to<br>£. 100 | From<br>100<br>to<br>£. 300 | From<br>300<br>to<br>£. 600 | From<br>600<br>to<br>£. 1000 | From<br>1000<br>to<br>£. 2000 | From<br>2000<br>to<br>£. 3000 | From<br>3000<br>to<br>£. 4000 | From<br>4000<br>upwards. |
|--|---------------|--------------------------|---------------------------|----------------------------|-----------------------------|-----------------------------|------------------------------|-------------------------------|-------------------------------|-------------------------------|--------------------------|
| Plaintiff.   |               |                          |                           |                            |                             |                             |                              |                               |                               |                               |                          |
| Complaint  | 6             | 1 6                      | 1 6                       | 2 6                        | 4 6                         | 6                           | 7 6                          | 10 6                          | 10 6                          | 10 6                          | 1 1                      |
| Sum <sup>n</sup> s or Writ<br>Serving D <sup>o</sup> | 6             | 1 6                      | 1 6                       | 2 6                        | 4 6                         | 6                           | 7 6                          | 10 6                          | 10 6                          | 10 6                          | 1 1                      |
| Bail Bond  | 2 6           | 4 6                      | 6                         | 9                          | 15                          | 1 1                         | 1 1                          | 1 1                           | 1 1                           | 1 1                           | 1 1                      |
|  | 2 6           | 3 6                      | 4 6                       | 6                          | 10 6                        | 15                          | 1 1                          | 1 5                           | 1 10                          | 1 15                          | 2 2                      |
| Defendant.   |               |                          |                           |                            |                             |                             |                              |                               |                               |                               |                          |
| Appearance   | 1             | 1 6                      | 1 6                       | 2 6                        | 4 6                         | 6                           | 7 6                          | 9                             | 10 6                          | 12                            | 15                       |
| Plea   | 1             | 1                        | 2 6                       | 2 6                        | 4 6                         | 6                           | 7 6                          | 9                             | 10 6                          | 12                            | 15                       |
| Trial.   |               |                          |                           |                            |                             |                             |                              |                               |                               |                               |                          |
| Plaint. or Defend <sup>r</sup>                       | 2 6           | 3 6                      | 4 6                       | 5                          | 7 6                         | 9                           | 10 6                         | 12                            | 15                            | 17 6                          | 1 1                      |
| Judgment   | 1             | 1                        | 2 6                       | 4 6                        | 6                           | 7 6                         | 9                            | 10 6                          | 12                            | 15                            | 1 1                      |
| Execution  | 2 6           | 4                        | 6                         | 10 6                       | 10 6                        | 1 1                         | 1 1                          | 1 1                           | 1 1                           | 1 1                           | 1 1                      |
| Serving D <sup>o</sup>                               | 1             | 1                        | 2 6                       | 3 6                        | 4 6                         | 6                           | 7 6                          | 9                             | 10 6                          | 12                            | 15                       |
|  | 15            | 1 1 6                    | 1 13                      | 2 8 6                      | 3 12                        | 5 3 6                       | 6                            | 6 17 6                        | 7 11 6                        | 8 6 6                         | 10 13                    |

Appendix, N<sup>o</sup> 15.

To the Worshipful John Reeves, Esquire, Chief Justice of the Supreme Court of Judicature of the Island of Newfoundland.

May it please your Worship;

**WE**, the principal Merchants and Inhabitants trading to, and carrying on the Fishery in the District of Conception Bay, beg Leave to congratulate your Worship on your Arrival; and, perfectly convinced of your Abilities and good Intentions to place the Fishery and Commerce of this Island upon a respectable Footing, and to establish such Courts therein as may be most conducive to the Welfare thereof,

We shall proceed with profound Respect, to point out some of the many Evils and Inconveniencies we are liable to, in the Want of a permanent Court being established to act as usual in this District.

And in order thereto, we shall first state to your Worship, in as concise a Manner as possible, the Mode in which our Trade and Fishery have ever been carried on.

The Boat-keepers, or as they are usually called Planters, are most of them Natives of the Island; they hire their own Servants, and plan out their own Voyages, independent of the Merchant (except being supplied by him) which is not the Case in many Parts, where Master and Crew are in Fact Servants to the Merchant.

In the Month of April (frequently at the Close of the last Fishery) these Planters agree with different Merchants, to supply them with Provisions, Salt, Cloathing, Canvas, Cordage, and other Necessaries for prosecuting the ensuing Fishery, and who in Return are to take all the Fish and Oil they may catch and cure, after paying the Servants Wages; and if any Balance remain due to the Planter, the same is usually paid in Goods or Bills of Exchange, at his Option.

Thus the Merchant begins to issue Supplies many Months before a Fish is taken; and is in Advance from 1 to £. 300 to each Boat-keeper, before he receives the First Payment, which generally commence in September, besides being at the vast Expence (contrary to the Custom of other Parts of the Island, where the Planters bring their Fish and Oil to the Merchant) of employing Boats and Servants to proceed to the different Harbours of the District, and collect the same.

In this precarious Situation, the Merchant has no Security, nor any Dependence but on a good Fishery, and the Honesty of the Planter; which latter is frequently put to the Test, more especially in a bad Season, and unless immediate Redress can be obtained on the Spot, our Trade must be ruined; for whilst we or our Agents go to St. John's, the Fish and Oil is put away, as we have found to our Cost; and the Merchant who risques his Property to a vast Amount for Encouragement and Support of the Fishery, is obliged to sit down with a heavy Loss.

What we conceive renders a permanent Court most essentially necessary with us, is that the Time of winding up our Business, that is to say, settling with Planters whom we have credited for the last Twelve Months, as well with the Servants, cannot possibly commence before the 20 October, and continues until the 25 December; during which Time much Fish have been taken, and it is at that very Time we have most Occasion for Redress from a Court, and that in a speedy Manner, as the Nature of the Case will not admit Delay, the Planter (as we before observed) having it then in his Power clandestinely to remove the Whole or any Part of his Property to our inevitable Loss; and should we or our Agents, at that Season of the Year when the Weather is so tempestuous, be obliged to repair to St. John's, it would frequently happen that we should be detained from our Business Ten Days or more, and thereby not only miss the Property we seeked to recover, but our whole Trade would suffer materially.

Until these Two Years past, our Difficulties in these Respects were obviated by our having constant Access to a Court, which, though only known as the Court of Sessions, did, sanctioned by Custom, hold Plea of all Suits and Complaints of a Civil Nature, and determined the same (in a summary Way, or by Jury) agreeable to the Usage of the Place, and from which Court there lay an Appeal to the Governor.

It falls particularly hard upon us, who have never made the least Complaint, or troubled Government in any Shape whatever, that we should be deprived of that Court which we were (but are more so by fatal Experience) convinced was a salutary one, and answered the desired Effect.

From what hath here been said, as well from your own Knowledge of this extensive District, and the Trade and Fishery carried on therein, we are satisfied your Worship will agree with us, it is absolutely expedient a permanent Court should be established in Harbor Grace, and that to consist of Persons well acquainted with the Customs and Usages of the Country, to proceed much in the same Manner as usual, with as little Expence or Costs as possible to the Trade and Fishery, and from which an Appeal may be made to the Supreme Court in St. John's, where the Amount exceeds a certain Sum.

For the procuring of which Court, we throw ourselves upon your Worship's Protection, relying assured you will readily assist us therein, and that  
you

you will take such necessary Steps to obtain our Request, as you in your Wisdom may think proper.

We are,

with profound Respect,  
your Worship's

most obedient and

most humble Servants,

John Clements.  
James Prendergast.  
James Cawley.  
Rob<sup>t</sup> Parsons.  
John Snow.  
Hen<sup>r</sup> Andrews.  
Isaac Bradbury.  
William Cole.  
William Badcock.  
William Coughlan.  
Timothy Hearn.  
W<sup>m</sup> Drover.  
Robert Smith.  
Thomas Baker.

John Cox.  
Will<sup>m</sup> Pinfent.  
Joseph Furneaux.  
William Hill.  
Barth<sup>m</sup> Corban.  
Philip Beenien.  
Rich<sup>d</sup> Cornish, Junior.  
For John Webb, J<sup>r</sup> & Co.  
W<sup>m</sup> Mullooney.  
Geo. G. Cawley.  
I. Andrews.  
Jonath<sup>n</sup> & Cha<sup>s</sup> Parsons.  
Michal Daly.  
James Macbraire.  
Geo. Davis.  
Henry Thomas.  
W<sup>m</sup> Martin.

Rich<sup>d</sup> Valentine.  
Tho<sup>s</sup> & W<sup>m</sup> Danson.  
Edw. Pike.  
Linthorne & Warn.  
W<sup>m</sup> Henderson.  
J<sup>r</sup> Stretton.  
John Heffernan.  
Tho<sup>s</sup> Lewis.  
John Le Viscont.  
Helier Flooquard.  
For Jones, Romb, Joy, & C<sup>s</sup>.  
John G. Dunbar.  
Darly Harlery.  
Rich<sup>d</sup> Nitt.

Appendix, N° 16.

ACCOUNT of WRITS issued from the COURT CIVIL JURISDICTION, between September 10 and October 31, 1791.

1791.

| N° | Plaintiff.                   | Defendant.        | Sum sued for. | Court Fees. | Sheriff's Fees. |
|----|------------------------------|-------------------|---------------|-------------|-----------------|
| 1  | Alex' Cornack                | John Thomey & Co. | 109 4 9       | 2 7         | 1 8 6           |
| 2  | M <sup>c</sup> Glashan & Co. | Ditto             | 183 5         | 2 7         | 1 8 6           |
| 3  | Hart & Eppes                 | Ditto             | 493 6 10      | 2 7         | 2 17            |
| 4  | Routh & Coke                 | Ditto             | 89 10         | 1 3 6       | 1 5 6           |
| 5  | George & Rob' Rofs           | Ditto             | 27            | 17          | 16 6            |
| 6  | Edward Elmes                 | Ditto             | 44 1          | 17          | 16 6            |
| 7  | James Warfon.                | Ditto             | 1,012 18      | 3 11        | 3 7             |
| 8  | Andrew Thomfon & Co.         | John Trapnell     | 227 16 11     | 1 3 6       | 1 5 6           |
| 9  | Hugh Rowe & Son              | John Thomey       | 40 9 5½       | 1 16 6      | 1 19            |
| 10 | George & Rob' Rofs           | David Shepherd    | 45 14 9       | 17          | 9               |
| 11 | George & Thomas Kough        | John Thomey & Co. | 10 5 3        | 10          | 16 6            |
| 12 | Andrew Thomfon & Co.         | Payne & How       | 10 13 11      | 10          | 12              |
| 13 | Andrew Thomfon & Co.         | Edward Hawkins    | 12            | 10          | 12              |
| 14 | Samuel Chafe                 | Thomas Mudge      | 6             | 10          | 12              |
| 15 | Samuel Chafe                 | Gilbert Widecomb  | 472 5 8       | 2 7         | 2 17            |
| 16 | William Danfon               | John Thomey & Co. | 78 10 5       | 2 7         | 2 17            |
| 17 | John Webb, Jun <sup>r</sup>  | Ditto             | 301 1 4       | 1 3 6       | 1 5 6           |
| 18 | Joseph Bower                 | Ditto             |               | 2 7         | 2 17            |

|    |                                |                             |            |        |        |
|----|--------------------------------|-----------------------------|------------|--------|--------|
| 19 | David Williams                 | Peter Seton                 | 8 7 5½     | 10     | 12     |
| 20 | Mich' Heffernan                | Peter Handrahan             | 14 18 5½   | 10     | 12     |
| 21 | William Newman                 | Sundry Perfons              | 293        | 1 16 6 | 1 19 6 |
| 22 | John Andrews                   | John Kimber & Co.           | 92 12 4    | 1 3 6  | 1 5 6  |
| 23 | Joseph Barter                  | William Bourke              | 41         | 17     | 16 6   |
| 24 | Judith M <sup>c</sup> Grath    | Thomas Wakeham              | 6 15       | 10     | 12     |
| 25 | Mich' Forehan                  | Bart Willis                 | 8 5 10     | 10     | 12     |
| 26 | Mich' Forehan                  | Johua M. Brooks             | 59 7       | 1 3 6  | 1 5 6  |
| 27 | Mich' Salter                   | Rob' Foresight & Co.        | 238 2 3    | 1 16 6 | 1 19   |
| 28 | Andrew Thomfon & Co.           | Thomas Mahony               | 62 18 3    | 1 3 6  | 1 5 6  |
| 29 | Joseph Drover                  | James M <sup>c</sup> Braire | 66         | 17     | 16 6   |
| 30 | Luke Maddock                   | John Thomey & Co.           | 25 14 3    | 17     | 16 6   |
| 31 | John Le Vicount                | Hugh Rowe & Son             | 1,689 17 3 | 3 11   | 3 7 6  |
| 32 | Mich' Forehan                  | John Thomey & Co.           | 71 9 3½    | 1 3 6  | 1 5 6  |
| 33 | John Noble                     | Henry Anthony & Son         | 208 9 8    | 10     | 12     |
| 34 | Phillip Earle                  | John Buffey                 | 12 3 11    | 10     | 12     |
| 35 | Mich' M <sup>c</sup> Carthy    | Hugh Robins                 | 8 2 10     | 10     | 12     |
| 36 | Dan' Noonan                    | George Yard                 | 26 3 2 6   | 8 8    | 4 14 6 |
| 37 | John Thomey & Co.              | Sundry Perfons              | 2,273 6 6  | 5 5    | 3 13 6 |
| 38 | William Henderfon              | Ditto                       | 646 5      | 12 12  | 6 6    |
| 39 | Kemps and Valentine            | Ditto                       | 5,273 14 6 | 17     | 16 6   |
| 40 | James, Le Cras                 | Elias Pekoe                 | 47 12 5    | 10     | 12     |
| 1  | Assignees W <sup>m</sup> Gaden | Bulley & Warren             | 15 3 7     | 10     | 12     |
| 2  | James Le Cras                  | Le Cras & Hanion            | 17 12 7    | 10     | 12     |
| 3  | Thomas Baker                   | J <sup>n</sup> Thomey & Co. | 1 13 4½    | 9      | 9 6    |
| 4  | John Heffernan                 | Sundry Perfons              | 533 2 8½   | 4 14   | 3 3    |
| 5  | Parfons, Studley, & Hurle      | Mullowney & Co.             | 389 3 5    | 10     | 12     |
| 6  | John Williams                  | William Bailey & Co.        | 8 5 6      | 10     | 12     |
| 7  | William Ryan                   | Rob' Foresight              | 23 10 6    | 17     | 16 6   |

ACCOUNT of Writs issued from Court Civil Jurisdiction—continued.

| No | Plaintiff.                        | Defendant.          | Sum paid for. | Court Fees. | Sheriff's Fees. |
|----|-----------------------------------|---------------------|---------------|-------------|-----------------|
| 48 | Andrew Thomson & Co.              | Thomas Sutton       | 544 17 6      | 2 7         | 2 17            |
| 49 | Andrew Thomson & Co.              | John Payne          | 5             | 9           | 9               |
| 50 | Edward Elmes                      | John Dingle         | 91 14 9½      | 3 6         | 5 6             |
| 1  | John Thomey & Co.                 | Sundry Perfons      | 1,074 15 3    | 6           | 4 4             |
| 2  | John Buffey                       | Ditto               | 121 5 6½      | 3 3         | 2 2             |
| 3  | George & Robt Rofs                | Ditto               | 16 10 1½      | 15          | 10 6            |
| 4  | Michl Forehan                     | Henry Brooks        | 9 3 1         | 10          | 12              |
| 5  | Affignees Wm Gaden                | James Vincomb       | 32 11 9       | 10          | 12              |
| 6  | Andrew Thomson & Co.              | Henry Brooks        | 12 3 6        | 10          | 12              |
| 7  | John Sawyer                       | Sundry Perfons      | 27 2 7        | 1 1         | 15              |
| 8  | Andrew Thomson & Co.              | William Middleton   | 56 16 2       | 1 3 6       | 1 5 6           |
| 9  | George Gaden, for Strangman & Co. | Adam M'Glashan      | 90            | 1 3 6       | 1 5 6           |
| 60 | Peter Henry                       | James Keys          | 1 11          | 9           | 9 6             |
| 1  | Thomas Dunn                       | John Rogers         | 5 8 6         | 10          | 12              |
| 2  | Patrick Ryan                      | William Newman      | 3 18 10       | 9           | 9 6             |
| 3  | Mary Dunn                         | Alex' Stuart, & Co. | 18 15 11      | 10          | 12              |
| 4  | Garet Quigley                     | Sundry Perfons      | 97 16 3       | 1 11 6      | 1 5             |
| 5  | Darby Hartery                     | Ditto               | 9 11 10       | 10          | 12              |
| 6  | John Gleeson                      | Thomas Wakeham      | 24 15         | 17          | 16 6            |
| 7  | Patrick Ryan                      | Willm Newman        | 5 17 6        | 10          | 12              |
| 8  | Patrick Ryan                      | John Rogers         | 1,108         | 6 6         | 4 4             |
| 9  | Andrew Thomson & Co.              | Sundry Perfons      | 34 1 7        | 1 1         | 15              |
| 70 | Andrew Thomson & Co.              | Ditto               | 44 14 11      | 1 1         | 15              |
| 1  | Stephen Woolcocks                 | Ditto               |               |             |                 |

|      |                        |                   |           |        |       |
|------|------------------------|-------------------|-----------|--------|-------|
| 2.   | Patrick Kerby          | Sundry Perfons    | 21 15 1½  | 1 1    | 15    |
| 3.   | John Thomey & Co.      | Willm M'Carthy    | 190 16 3  | 1 16 6 | 1 19  |
| 4.   | William Burke          | Sundry Perfons    | 11 1 10   | 10     | 12    |
| 5.   | Thomas Lewis           | Ditto             | 464 19 6½ | 4 4    | 3 3   |
| 6.   | Thomas Mealican        | Patrick Power     | 450       | 17     | 5 6   |
| 7.   | Phillip Hunt           | Thomas Lewis      | 41 2 4    | 10     | 16 6  |
| 8.   | George & R' Rofs       | Michl Lardy       | 7 18 1    | 10     | 12    |
| 9.   | Thomas Shaw            | Richd Cook        | 9 11      | 10     | 12    |
| 80.  | Thomas Meagher         | John Widecomb     | 10 11     | 10     | 12    |
| 1.   | William Newman         | Sundry Perfons    | 42 3 6    | 10     | 12    |
| 2.   | William Prendergast    | Bart Wills        | 8 7 4     | 10     | 12    |
| 3.   | Affignees Wm Gaden     | Adam M'Glashan    | 90        | 17     | 16 6  |
| 4.   | Affignees Wm Gaden     | Alex' Cormack     | 200       | 1 16 6 | 1 19  |
| 5.   | John Folow             | Bart Wells        | 4 10      | 10     | 12    |
| 6.   | Luke Maddock           | Thomas Wakeham    | 8         | 7      | 12    |
| 7.   | Joseph Lowman          | John Woods        | 20 1 6    | 3 6    | 1 5 6 |
| 8.   | John Sawyer            | Joshua Green      | 82 10     | 10     | 12    |
| 9.   | William Ryan           | James Scully      | 5 13 6    | 10     | 12    |
| 90.  | Lewingstone & Forehan  | Sundry Perfons    | 10 16 4   | 10     | 12    |
| 1.   | Thomas M'Grath         | Richard Cook      | 12 18 2   | 10     | 12    |
| 2.   | John and Wm Pinfant    | John Thomey & Co. | 22 17 9½  | 17     | 16 6  |
| 3.   | Andrew Griffin         | William Tucker    | 100       | 3 6    | 9     |
| 4.   | Dixon, Williams, & Co. | Carey & Curran    | 68        | 10     | 12    |
| 5.   | Richard Reed           | Thomas Rice       | 9 12 11   | 3 6    | 1 5 6 |
| 6.   | John Daily             | Hugh Rowe & Son   | 65        | 10     | 12    |
| 7.   | George & R' Rofs       | Michl Heffernan   | 10 16 7   | 10     | 12    |
| 8.   | Phillip Hunt           | Bart Walsh        | 7 19 10   | 16     | 6     |
| 9.   | Cunninghame, S. & Co.  | Sundry Perfons    | 58 16 2   | 1 11 6 | 1 5   |
| 100. | Andrew Thomson & Co.   | Ditto             | 61 3 6½   |        |       |

ACCOUNT of Writs issued from Court Civil Jurisdiction—continued.

| No   | Plaintiff.                 | Defendant.                             | Sum sued for.          | Court Fees. | Sheriff's Fees. |
|------|----------------------------|--|------------------------|-------------|-----------------|
| 101. | Andrew Thomfon & Co.       | Sundry Perfons                         | 2,618 10 $\frac{1}{4}$ | 8 8         | 4 14 6          |
| 2.   | James Winter               | Andrew Thomfon & Co.                   | 15                     | 10          | 12              |
| 3.   | John Lane                  | Henry Whiteway                         | 7 14 11                | 10          | 12              |
| 4.   | John Brophy                | Richard Cook                           | 9 7 6                  | 10          | 12              |
| 5.   | John Thomey & Co.          | Sundry Perfons                         | 183                    | 3 3         | 2 2             |
| 6.   | William Compton            | Andrew Thomfon & Co.                   | 18 4 4                 | 10          | 12              |
| 7.   | James Ingles               | Sundry Perfons                         | 5 14                   | —           | 6               |
| 8.   | Kemps and Valentine        | John Thomey & Co.                      | 90 9 2                 | 1 3 4       | 1 5 6           |
| 9.   | Morgan Murphy              | George Walfh                           | 261 5 11               | 1 16 6      | 1 19            |
| 110. | Robert Grey                | Thomas English                         | 5                      | 5           | 3 9             |
| 11.  | Will <sup>m</sup> Newman   | William Cognan                         | 26 10                  | 10          | 12              |
| 12.  | Will <sup>m</sup> Whitten  | Sam <sup>l</sup> Bully & Co.           | 45                     | 17          | 16 6            |
| 13.  | James Caldwell             | W <sup>m</sup> Mather                  | 14                     | —           | —               |
| 14.  | Nath <sup>l</sup> Phillips | David Shepherd                         | 28 3 4                 | 17          | 16 6            |
| 15.  | William Hendly             | Connel & M <sup>c</sup> Grath          | 6 11 7                 | 10          | 12              |
| 16.  | Nath <sup>l</sup> Phillips | Peter Sexton                           | 10 7 2                 | 10          | 12              |
| 17.  | Parker & Lang              | Sundry Perfons                         | 5 12 3 $\frac{1}{2}$   | 15          | 10 6            |
| 18.  | James Kough                | Sam <sup>l</sup> Lilly                 | 10                     | 10          | 12              |
| 19.  | John Morrison              | Edw <sup>d</sup> M <sup>c</sup> Daniel | 20 10                  | 17          | 16 6            |
| 120. | Thomas Shaw                | Sundry Perfons                         | 5 5 8                  | —           | —               |
| 1.   | Laurance Bovey             | Ditto                                  | 6 16 6                 | 10          | 12              |
| 2.   | Laurance Bovey             | Henry Richards                         | 6 10 2 $\frac{1}{2}$   | 10          | 12              |
| 3.   | John Gleefton              | Thomas Murphy                          | 3                      | 9           | 9 6             |
| 4.   | James Brooks               | Sam <sup>l</sup> Mafon                 | 17 4 10                | 10          | 12              |

|      |                                |                              |                          |          |          |
|------|--------------------------------|------------------------------|--------------------------|----------|----------|
| 5.   | Bath <sup>w</sup> Walfh        | Edith Brooks                 | 8 15 4                   | 10       | 12       |
| 6.   | Martin Purcill                 | William Gaden                | 17 18 6                  | 10       | 12       |
| 7.   | Sarah Martin                   | W <sup>m</sup> Jeffery Dixon | 5 6                      | 16       | 12       |
| 8.   | James Winter                   | William Gaden                | 52 4 1 $\frac{1}{4}$     | 1 3 6    | 1 5 6    |
| 9.   | William Woods                  | William Widecomb             | 34 2 5                   | —        | 9 6      |
| 130. | Thomas Debraley                | James Shortall               | 5                        | 10       | 12       |
| 1.   | Affignees W <sup>m</sup> Gaden | Hugh Rowe & Son              | 110                      | 1 16 6   | 1 19     |
| 2.   | Elenor Gleefton                | Rich <sup>d</sup> Hartery    | 3 17 3                   | 9        | 9 6      |
| 3.   | Stuarts and Renie              | John Sawyer                  | 3 19                     | 9        | 9 6      |
| 4.   | William Ardagh                 | James Roche                  | 12 15 3                  | 10       | 12       |
| 5.   | William White                  | William Gaden                | 13 3 3                   | 10       | 12       |
| 6.   | Francis Sollren Felles         | George Clift                 | 15 18                    | 10       | 12       |
| 7.   | Daniel Keeffe                  | William Gaden                | 8 13 8                   | 10       | 12       |
| 138. | Henry & Ann Cooke              | John Thomey & Co.            | 654 15 4                 | 10       | 12       |
|      |                                |                              | 25,299 2 2 $\frac{1}{2}$ | 164 17 0 | 149 15 9 |



LIST of WRITS issued in the Court of Civil Jurisdiction, after 25th November 1791.

| No | Plaintiff.           | Defendant.         | When issued. | When returnable.       | Sum sued for. | Court Fees. | Sheriff's Fees. |
|----|----------------------|--------------------|--------------|------------------------|---------------|-------------|-----------------|
| 1  | Andrew Thomson & Co. | George Williams    | Novem' 26th. | Thursday, Decem' 26th. | 122 10 1      | 1 16 6      | 1 19 —          |
| 2  | Andrew Thomson & Co. | John Ford          | Decem' 5th.  | —                      | 378 18 5 ½    | 2 7 —       | 2 17 —          |
| 3  | John Sawyer          | Thomas Walsh       | 7th.         | —                      | 25 5 —        | — 17 —      | — 16 6          |
| 4  | Stephen Woolcocks    | Patrick Sullivan   | 10th.        | —                      | 3 19 —        | — 9 —       | — 9 —           |
| 5  | Edward Cannon        | John Ford          | 13th.        | —                      | 8 11 9        | — 10 —      | — 12 —          |
| 6  | John McGrath, Sen'   | Rob' Rofs          | 16th.        | —                      | 47 19 8       | — 17 —      | — 16 6          |
| 7  | Thomas Fitzgerald    | John McGrath, Jun' | 16th.        | —                      | 27 7 2        | — 17 —      | — 16 6          |
| 8  | Rob' McAulfin        | Rob' Rofs          | 16th.        | —                      | 32 13 2 ¼     | — 17 —      | — 16 6          |
| 9  | James Gethings       | George Darcey      | Jan' 3d.     | Monday, Feb' 6th.      | 3 16 —        | — 9 —       | — 9 —           |
| 10 | John McAulfin        | Alex' Sutherland   | 7th.         | —                      | 18 10 4 ½     | — 10 —      | — 12 —          |
| 11 | Patrick Ryan         | William Clapp      | March 27th.  | Thursday, April 5th.   | 11 11 8       | — 10 —      | — 12 —          |
| 12 | Edward Endrick       | Ditto              | April 5th.   | Wednesday, May 2d.     | 10 2 3        | — 10 —      | — 12 —          |
| 13 | Rob' Brine           | —                  | May 1st.     | Monday, 7th.           | 8 6 8         | — 10 —      | — 12 —          |
| 14 | Darby Mahony         | James Gethings     | 8th.         | June 3d.               | 6 — 3         | — 10 —      | — 12 —          |
| 15 | Hugh Rowe & Son      | James Coffigan     | 10th.        | —                      | 21 14 —       | — 17 —      | — 16 6          |
| 24 | Alex' Cormack        | John Heffernan     | 10th.        | —                      | 103 2 10      | 1 16 6      | 1 19 —          |
| 16 | Hugh Rowe & Son      | John Heffernan     | 10th.        | —                      | 30 16 5       | — 17 —      | — 16 6          |
| 17 | Henry Phillips       | Thomas Lewis       | 10th.        | —                      | 12 16 8       | — 10 —      | — 12 —          |
|    |                      | Tim' Donnelly      | 17th.        | —                      |               |             |                 |

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|    |                        |                       |             |                    |           |        |        |
|----|------------------------|-----------------------|-------------|--------------------|-----------|--------|--------|
| 18 | Nath' Phillips         | Thomas Lewis          | 21st.       | —                  | 127 4 3   | 1 16 6 | 1 19 — |
| 19 | Nath' Phillips         | William Clapp         | 21st.       | —                  | 65 4 5    | 1 3 6  | 1 5 6  |
| 20 | William Andrews        | Thomas Willcocks      | 23d.        | —                  | 25 17 3   | — 17 — | — 16 6 |
| 21 | John Gleeson           | Thomas Lewis          | —           | —                  | 66 12 —   | 1 3 6  | 1 5 6  |
| 22 | William Danson         | Thomas Lewis          | 26th.       | Monday, July 2d.   | 39 2 9    | — 17 — | — 16 6 |
| 23 | John Wall              | Thomas Lewis          | June 9th.   | —                  | 40 2 9    | — 17 — | — 16 6 |
| 25 | Morgan Murphy          | Jo' Oakley Stone      | 11th.       | —                  | 26 5 4    | — 17 — | — 16 6 |
| 26 | Cunninghame, S. & Co.  | Mich' Henneley        | 12th.       | —                  | 80 16 2   | 1 3 6  | 1 5 6  |
| 27 | Henry Phillips & Co.   | Thomas Lewis          | May 2nd.    | June 4th.          | 28 — —    | — 17 — | — 16 6 |
| 28 | William Gaden          | Thomas Hyde           | August 8th. | Septem' 4th.       | 390 16 8  | 2 7 —  | 2 17 — |
| 30 | Nathan' Phillips       | Thomas Lewis          | 21st.       | —                  | 42 16 2   | — 17 — | — 16 6 |
| 31 | R' Newman & Co.        | James Honan           | 14th.       | —                  | 3 — 4     | — 9 —  | — 9 6  |
| 29 | John Power             | Jeremiah McCarthy     | 24th.       | —                  | 9 — —     | — 10 — | — 12 — |
| 32 | Assignees J. Mullowney | Jn' Heffernan         | June 20th.  | July 2d.           | 220 19 4  | 2 7 —  | 2 17 — |
| 33 | Wm Newman              | John Bushey           | Aug' 30th.  | Monday, Sep' 10th. | 6 17 9    | — 10 — | — 12 — |
| 34 | Wm Newman              | Thomas Hufey          | —           | —                  | 12 — —    | — 10 — | — 12 — |
| 35 | Wm Newman              | James Morgan          | —           | —                  | 10 — —    | — 10 — | — 12 — |
| 36 | Andrew Cassidy         | Mich' Bounfield       | —           | —                  | 20 — —    | — 10 — | — 12 — |
| 37 | Hart and Eppes         | Hugh Robins           | —           | —                  | 240 15 8  | 2 7 —  | 2 17 — |
| 38 | Hy Cook                | Pat' Fliinn           | —           | —                  | 358 5 2   | 2 7 —  | 2 17 — |
| 39 | D <sup>o</sup>         | R <sup>d</sup> Morris | —           | —                  | 180 11 1  | 1 16 6 | 1 19 — |
|    |                        |                       |             |                    | 2,868 — 7 | 40 2 6 | 44 8 — |

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A C C O U N T of Writs issued from the supreme Court of Judicature, between 3 September and 30 October 1792.

| N <sup>o</sup> | Plaintiff.               | Defendant.                | Sum sued for.                  | Court Fees. | Sheriff's Fees. |
|----------------|--------------------------|---------------------------|--------------------------------|-------------|-----------------|
| 1.             | Will <sup>m</sup> Scott  | Henry Cook                | 254                            | 2 2 6       | 1 10            |
| 2.             | Edward Elmes             | Henry Blackmore           | 24                             | 19          | 14              |
| 3.             | Will <sup>m</sup> Newman | George Alford             | 14                             | 13          | 9               |
| 4.             | Joseph Barter            | William Clapp             | 33                             | 19          | 14              |
| 5.             | Richard Routh            | Francis Tree              | 150                            |             |                 |
| 6.             | Thomas Lewis             | J <sup>n</sup> Laughman   | 16 <sup>1</sup> / <sub>4</sub> | 13          | 9               |
| 7.             | Sam <sup>l</sup> Lilly   | Thomas Dunn               | 50                             | 19          | 14              |
| 8.             | Darby Hartery            | Pat <sup>r</sup> Power    | 31                             | 19          | 14              |
| 9.             | Benj <sup>n</sup> Lefter | Rob <sup>t</sup> Baker    | 27                             | 9 3         |                 |
| 10.            | John Jeffery             | William Bugden            | 125                            | 1 11        |                 |
| 11.            | Thomas Fitzgerald        | John Costelloe            | 700                            | 2 2 6       | 1 10            |
| 12.            | Hart and Eppes           | Laurance Bovey            | 1                              | 10 6        | 6               |
| 13.            | Hart and Eppes           | William Bourke            | 41                             | 19          | 14              |
| 14.            | Hart and Eppes           | John Thomey               | 314                            | 2 14 6      | 2 9 6           |
| 15.            | Mich <sup>l</sup> Salter | Thomas M. Cook            | 28                             | 19          | 14              |
| 16.            | Conway Heighington       | Thomas English            | 104                            | 2 2 6       | 1 10            |
| 17.            | Cunninghame, S. and Co.  | Barth <sup>m</sup> Morran | 10                             | 13          | 9               |
| 18.            | Ditto                    | Jos <sup>h</sup> Colfier  | 25                             | 19          | 14              |
| 19.            | Ditto                    | John Neagle               | 23                             | 19          | 14              |
| 20.            | Ditto                    | James Costelloe           | 16                             | 13          | 9               |
| 21.            | Ditto                    | Diddy and Frisby          | 14                             | 13          | 9               |
| 22.            | Ditto                    | Power and Fletcher        | 12                             | 13          | 9               |
| 23.            | Ditto                    | Sam <sup>l</sup> Angel    | 10                             | 13          | 9               |
| 24.            | Ditto                    | Rob <sup>t</sup> French   | 6                              | 13          | 9               |

|     |                                 |                                 |     |                                  |      |
|-----|---------------------------------|---------------------------------|-----|----------------------------------|------|
| 25. | Ditto                           | Power and Canary                | 24  | 2 4                              | 14   |
| 26. | Ditto                           | Jos <sup>h</sup> Butler         | 4   | 18                               | 6    |
| 27. | D'Ewes Coke                     | John Sawyer                     | 10  | 13                               | 9    |
| 28. | Cunninghame, S. and Co.         | James Waterman                  | 5   | 13                               | 9    |
| 29. | Andrew Thomfon and Co.          | John White                      | 51  | 1 6                              | 18   |
| 30. | Pat <sup>r</sup> Power          | Mich <sup>l</sup> Power         | 22  | 2                                | 14   |
| 31. | Ditto                           | Pat <sup>r</sup> Power          | 12  | 15 4 <sup>1</sup> / <sub>2</sub> | 9    |
| 32. | Ditto                           | W <sup>m</sup> Power and Co.    | 11  | 13 10                            | 9    |
| 33. | A. Thomfon and Co.              | George Williams and Co.         | 121 | 10 1                             | 1 10 |
| 34. | Mary Butler                     | William Newman                  | 22  | 11 9                             | 14   |
| 35. | Garret Stack                    | Henry Cook and Co.              | 10  | 12                               | 9    |
| 36. | Sanfon Cooke                    | Henry Cook and Co.              | 44  | 2 1 <sup>1</sup> / <sub>2</sub>  | 14   |
| 37. | Andrew Cassidy                  | Elias Rowe                      | 500 |                                  |      |
| 38. | W <sup>m</sup> Hendly           | Henry Whiteway                  | 7   | 14 11                            | 9    |
| 39. | Cunninghame, S. and Co.         | John Coleman                    | 42  | 12 3 <sup>1</sup> / <sub>2</sub> | 14   |
| 40. | Ditto                           | Peirce Nash                     | 6   | 13 1                             | 9    |
| 41. | Thomas Gotham                   | Thomas Gale                     | 3   | 1                                | 6    |
| 42. | D'Ewes Coke                     | Nash and Clifford               | 12  |                                  | 9    |
| 43. | Pat <sup>r</sup> Power          | James Kenedy                    | 11  | 17 7                             | 9    |
| 44. | Pat <sup>r</sup> Power          | Nich <sup>l</sup> Power         | 16  | 6 6                              | 9    |
| 45. | W <sup>m</sup> Mafters          | Richard Cook                    | 4   | 13                               | 6    |
| 46. | James and Tho <sup>s</sup> Quan | John Costelloe                  | 42  | 4                                | 14   |
| 47. | Parker and Lang                 | M <sup>c</sup> Grath and Daniel | 13  | 2 6                              | 9    |
| 48. | Laurance Bovey                  | Thomas Cox                      | 6   | 12 8                             |      |
| 49. | John Brodrick                   | Joh <sup>n</sup> Butler         | 6   | 5                                | 9    |
| 50. | Rob <sup>t</sup> Newman and Co. | Joseph Cook                     | 6   | 16 6                             | 9    |
| 51. | Hart and Eppes                  | William Keefe                   | 14  |                                  | 9    |
| 52. | John and W <sup>m</sup> Dixon   | John Palmer                     | 217 | 13 4                             | 1 10 |
| 53. | Richard Reed                    | James and M <sup>i</sup> Curly  | 9   | 4                                | 9    |

ACCOUNT of Writs issued from the Supreme Court of Judicature—continued.

| No. | Plaintiff.                 | D. Defendant.            | Sum paid for. | Court Fees. | Sheriff's Fees. |
|-----|----------------------------|--------------------------|---------------|-------------|-----------------|
| 55. | Nathan' Phillips           | John Neal                | 16            | 13          | 9               |
| 56. | Richard Reed               | W <sup>m</sup> Middleton | 46            | 19          | 14              |
| 57. | Newman & Roope.            | Mary Butler              | 97            | 10          | 18              |
| 58. | Nathan' Phillips           | Gilbert Widecomb         | 8             | 13          | 9               |
| 59. | Ditto                      | Rob' Bolland, Jun'       | 5             | 13          | 9               |
| 60. | Ditto                      | William Burke            | 83            | 10          | 18              |
| 61. | John Williams              | Henry Bailey             | 8             | 6           | 10              |
| 62. | John Clements              | Rob' Parsons             | 192           | 2           | 18              |
| 63. | Ditto                      | William Coughlan         | 69            | 10          | 6               |
| 64. | William Keefe              | Mich' Dunn               | 2             | 10          | 6               |
| 65. | Tho' and James, Quan       | Whelan and Murphy        | 16            | 13          | 9               |
| 66. | Gleeson and Barton         | Norris and Pendergraft   | 9             | 13          | 9               |
| 67. | Will <sup>m</sup> Williams | Edith Brooks             | 30            | 13          | 9               |
| 68. | John Gleeson               | Pat' and M. Shea         | 8             | 13          | 9               |
| 69. | Hart and Eppes             | George Burton            | 78            | 10          | 18              |
| 70. | Peter M'Kie                | George G. Cawley         | 4             | 10          | 6               |
| 71. | William Newman             | Sam' Lilly               | 13            | 13          | 9               |
| 72. | Rob' Newman and Co.        | James Noonan             | 3             | 10          | 6               |
| 73. | John Gleeson               | Thomas Lewis             | 88            | 10          | 18              |
| 74. | Nich' Power                | M' Daniel, alias Clark   | 12            | 6           | 6               |
| 75. | Ant' Somersfalt            | Saunders and Sweetman    | 296           | 13          | 9               |
| 76. | Mich' Lahy                 | William Rourke           | 10            | 15          | 9               |
| 77. | James Forbes               | James Farrel             | 9             | 5           | 6               |
| 78. | Morgan Murphy              | Alex' Roach              | 8             | 10          | 18              |

| No.  | Plaintiff.                 | D. Defendant.            | Sum paid for. | Court Fees. | Sheriff's Fees. |
|------|----------------------------|--------------------------|---------------|-------------|-----------------|
| 79.  | Thomas and Ja' Quan        | Dan' Ryan                | 4             | 10          | 6               |
| 80.  | Pat' Power                 | George Alford            | 12            | 13          | 9               |
| 81.  | Le Briton and Moore        | Brown and Furneaux       | 21            | 19          | 14              |
| 82.  | G. and Rob' Rofs           | J <sup>n</sup> Heffernan | 35            | 19          | 14              |
| 83.  | Ditto                      | Tobias Bourk             | 9             | 13          | 9               |
| 84.  | John Noble                 | Rob' Codner              | 6             | 13          | 9               |
| 85.  | William Lilly              | Iaac Bradbury            | 7             | 15          | 9               |
| 86.  | Randall and Co.            | Thomas Fitzgerald        | 13            | 13          | 9               |
| 87.  | John Brodrick              | Pat' Moran               | 10            | 19          | 9               |
| 88.  | Richard Reed               | Philip Leigh and Co.     | 43            | 19          | 14              |
| 89.  | Andrew Thomson and Co.     | Sam' Pursham             | 23            | 19          | 14              |
| 90.  | Stuarts and Renie          | Ryan and Sweeny          | 8             | 13          | 9               |
| 91.  | Stuarts and Renie          | James Smith              | 8             | 13          | 9               |
| 92.  | Stuarts and Renie          | William Glanvill         | 34            | 13          | 9               |
| 93.  | Stephena Woolcock          | Laurence Lane            | 3             | 10          | 6               |
| 94.  | John Heffernan             | John Tobin               | 3             | 10          | 6               |
| 95.  | Ditto                      | David Tobin              | 3             | 10          | 6               |
| 96.  | Ditto                      | Daniel Ryan              | 10            | 13          | 9               |
| 97.  | Ditto                      | Tim' Dwyer               | 3             | 13          | 9               |
| 98.  | John Heffernan             | William Clapp            | 5             | 19          | 14              |
| 99.  | Hart & Eppes               | Rob' Hannah              | 33            | 13          | 9               |
| 100. | Edward Cannon              | John Folow               | 2             | 10          | 6               |
| 101. | Trustees of Coman's Estate | John Folow               | 3             | 12          | 6               |
| 102. | James Mafon                | John Folow               | 8             | 17          | 2               |
| 103. | Livingston & Forehan       | W <sup>m</sup> Lynham    | 18            | 3           | 4               |
| 104. | George Hutchings           | George Westfoton         | 9             | 15          | 4               |
| 105. | James Mafon                | Thomas Wakcham           | 5             | 5           | —               |
| 106. | Edward Cannon              | Pat' Ryan                | 8             | —           | —               |
| 107. | William Henly              | John Quirk               | 13            | 6           | 6               |
| 108. | William Mather             | M'Glashan, R. & Co.      | 49            | 1           | —               |

ACCOUNT of Writs issued from the Supreme Court of Judicature—continued.

| No.  | Plaintiff.              | Defendant.         | Sum sued for. | Court Fees. | Sheriff's Fees. |
|------|-------------------------|--------------------|---------------|-------------|-----------------|
| 109. | James Barnes            | Hart & Eppes       | 7 19          | —           | —               |
| 110. | William Walsh           | Edmund Fling       | 4 12 10       | —           | —               |
| 111. | Luke Maddock            | Sam' Lilly         | 23 15 7       | —           | —               |
| 112. | William Newman          | John Mitchell      | 13 19         | 13          | 9               |
| 113. | R' Brine                | James Vinecomb     | 6 13          | 13          | 9               |
| 114. | Cunninghame, S. and Co. | Philip Leigh & Co. | 59 10         | 1 10 6      | 18 6            |
| 115. | Stephen Brine           | James Dunphy       | 7 10          | —           | —               |
| 116. | Catherine Hayes         | Jane Cook          | 7             | —           | —               |
| 117. | Nathan' Phillips        | John Mitchell      | 3 19          | 10 6        | 6               |
| 118. | Edward Cannon           | John Fox           | 100           | 1 10 6      | 18 6            |
| 119. | Richard Routh           | John' Fox          | 500           | 2 14 6      | 2 9 6           |
| 120. | John Gleeson            | John Thomey        | 8 14 6        | 13          | 9               |
|      |                         |                    | 458 15 6½     | 84          | 58 13 6         |

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