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**HOW ENGLAND GOT ITS
MERCHANT MARINE**

HOW ENGLAND
GOT ITS
MERCHANT MARINE
1066-1776

By

HENRY C. HUNTER

COUNSEL FOR

NATIONAL COUNCIL OF AMERICAN SHIPBUILDERS

New York

NATIONAL COUNCIL OF AMERICAN SHIPBUILDERS

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FOREWORD

THE National Council of American Shipbuilders has, as one of its purposes, the dissemination of information concerning merchant marine conditions.

In line with this policy, the Council has sponsored the accompanying survey of the early legislative principles upon which Great Britain founded her shipping supremacy. The book also deals with the origins of the American merchant marine, for the ships of the colonies were an integral and important part of the British mercantile navy, up to the outbreak of the American Revolution, at which period the survey closes.

While the early Navigation System built up in Great Britain and her colonies unquestionably brought her the supremacy of the sea which she had been seeking for centuries, it must be recognized that a body of methods peculiarly adapted to conditions prevailing two or three centuries ago, and abandoned about a hundred years ago by Britain, is not necessarily suitable for use today, although there are certain principles of the system that could probably be adopted with benefit to the American merchant marine. The publication of this survey, therefore, does not imply that the Council favors the adoption by this country of the old Navigation Laws of Great Britain.

A main purpose of the work is that it shall be informative and educational, while giving access in convenient form to the text of the principal old laws and historical records relative to shipping.

This survey has been prepared by Mr. Henry C. Hunter, in collaboration with Mr. Henry C. Wiltbank. Mr. Hunter is counsel for the National Council of American Shipbuilders and

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other shipping organizations, and for many years has made a study of the shipping legislation of the United States and of European countries. Mr. Wiltbank has long been a writer on shipping and foreign trade and is an authority on these subjects.

H. GERRISH SMITH,
President,

National Council of American Shipbuilders.

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PREFACE

To bring together, within the compass of a single volume, the various measures affecting the early development of the English and American merchant marines, is the purpose of this work.

The period dealt with extends from the Norman invasion of England, in 1066, to the outbreak of the American Revolution in 1775. From the latter time, England and the United States were to be bitter rivals on the sea, and the British Navigation Acts were to meet their severest test. The American merchant marine, which had been developed, partly by aid of, and partly in spite of English laws and decrees, was to fight England with her own weapons, to outrival her, and to be the chief element that brought about the annulment of the Navigation Acts of Charles II. by Britain after they had been in use uninterruptedly for two centuries.

Historians and economists generally, have considered the early growth of British shipping from the standpoint of the effects of a few of the so-called "Navigation Acts" only, as laid down in the times of Richard II., Henry VII., Elizabeth, Cromwell, Charles II., and William III. But these were not the only laws giving preference to English shipping, nor were Parliamentary statutes the only source through which the up-building of a powerful British mercantile marine was sought.

The term, "Navigation Acts," has been arbitrarily applied by most writers to the laws just cited; but the scope of the definition of the phrase itself covers a far wider ground. Any law that seeks to give to a country's shipping advantages over the shipping of other countries may be regarded as a navigation

act. Many such laws were enacted in the period under review in England, and in the American Colonies as well.

There were also, however, many measures which, while not directly applying to ships, affected the shipping of the country. Laws relating to shippers, exports and imports, and customs duties frequently came into this class. Acts regulating or prohibiting production sometimes had a marked effect upon the growth of the merchant marine, as, for instance, the laws forbidding the growing of tobacco in England or Ireland, and the importation of foreign grown tobacco. These steps resulted in the steady increase of English and Colonial shipping engaged in trade with the Southern American Colonies.

It has been sought, as far as consistent with the limitations of space, to give the actual text of the various laws, decrees, etc., connected with the development of shipping. Where, however, the phraseology has been too archaic to be readily understandable, the language has been modernized, without any departure from the original meaning. The most important Navigation Acts have been presented in their complete form, and in cases where abridgement has been necessary, it has been the purpose to adhere as closely as possible to the original texts.

One difficulty which writers have encountered in dealing with the earliest statutes and decrees is that, in their original form they appeared in old French and old Latin; from which many of them have never been translated. The Acts of the Privy Council, for example, up to the times of Henry VIII. are not recorded in English. Most collections of the laws and proceedings of Parliament, also, are, to a varying degree, in foreign languages. This difficulty, however, was largely overcome by the British Government, which, about 1810, began the publication of the "Statutes of the Realm" in complete form. In most collections, acts repealed or expired are given

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in a greatly abridged form. One of the greatest selections of old English official documents is that contained in Rymer's "Foedera." This work, however, has never been presented in completely translated form. The same applies to the "Rotuli Parliamentorum," and the records of many of the departments of the English Government. There undoubtedly still remains a large amount of data relating to the early development of English shipping, which is unavailable to students in any form for ready reference.

**HOW ENGLAND GOT ITS
MERCHANT MARINE**

INTRODUCTION

THE history of the progress of England is really the history of the development of her merchant marine. As her shipping expanded her might grew, and through her ships she was able to acquire a far-flung empire. Her naval power was based on the strength of her merchant marine.

If we are to consider England as a single cohesive nation, the starting point will be the invasion of William the Conqueror in 1066. Before that time she had been a constantly changing conglomeration of nationalities, gradually sifting down to a group of kingdoms, and finally merging into one, under Anglo-Saxon domination, in 827 A.D., with Egbert as ruler. There was nothing approaching real unity, however, until the reign of Edgar, 958-975, and even then internal warfare continued. The Danes were to wrest the land from the Anglo-Saxons, and the Anglo-Saxons were to regain it, only to yield it to the Normans. With the Conqueror, England's first settled government as an entity really began.

After William's invasion, six centuries were to elapse before Britain was to gain the supremacy of the sea. And before she attained it that sovereignty was to be won and lost, successively, by Italy, the Hanseatic League, Spain, and Holland. Finally, France was to challenge, and to be vanquished, and the American Colonies were to be lost, and to develop a sea power of their own that was to rival Britain's.

Cut off on all sides from the Continent of Europe by water, England's need of a strong merchant marine was imperative. Her geographical position was at once her strength and her weakness. It was her protection in that, save from Scotland

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and Wales, she could not be invaded by land. On the other hand, there were the problems of isolation to be met. England and the border countries must be self-sufficient to maintain that insularity, or depend upon the chance trade of other countries' ships to supply the needs of existence; and they had little beyond tin and wool with which to attract foreign commerce. Without a merchant marine, the English must remain an agricultural people, cut off from the world, and helpless against invasion from the sea.

Gradually, however, England built up a shipping of its own, defended its coasts, developed a commerce and held its own. From the time of William the Conqueror, no foreign forces came successfully to the shores of England, save those of William Third, whose visitation was by the invitation of the English themselves.

The early history of England is a record of invasion after invasion by sea, with no instance of counterinvasion, and but little resistance against the invading fleets. There are traditions that the first foreign trade was with the Phœnicians and Carthaginians, who came to Britain for tin and lead. England's isolation in early times seems to have been so complete, however, that its written history can hardly be said to have begun until Cæsar sailed there from Gaul, in 55 B.C., and made the country a Roman province. In the middle of the third century, A.D., it is recorded, there were about sixty cities in Britain, and large exports of corn were made. On one occasion, eight hundred vessels are said to have been sent to provide grain for the Roman-ruled cities in Germany. Rome declined and fell, and abandoned Britain about the year 410.

Then came the northern invaders, chiefly Angles, Saxons, Frisians and Jutes; from the Netherlands, northwestern Germany, and southern Denmark. These settled in various parts of England, after subduing the native Britons, Picts and Cale-

donians. In 597, there was another Roman invasion, but this time a peaceful one. Priests from Rome were the invaders, and nearly all England had become Christian by 650. The northern invaders were not commercial, their activities being confined to agriculture, hunting and warfare. The Saxons gained predominance and held it until towards the end of the eighth century. Then the Danes came from Sweden, Norway and Denmark. With their coming, a real foreign commerce sprang up with England, for the first time since the days of Roman occupation. The first Danish invasion was in 787, and the Danes held a contested control until 878 when they were decisively defeated by Alfred the Great, King of the West Saxons. The Saxon power continued for over a hundred years, until, in 980, the Danes, through a new series of invasions, regained sway. In 1017, Canute the Dane became king of all England, and was succeeded by his sons, Harold and Hardicanute. Upon the death of the latter, in 1042, Edward, son of the exiled West Saxon King Ethelred, was chosen as king by the Witenagemote, "As there was no capable man of the Danish line to claim the throne."

Edward's mother was a Norman and he had spent twenty-seven years at the Norman Court before his accession. He chose Normans for his chief Counsellors and appointed many others of them to office in England. When he died, on January 5, 1066, there was a powerful Norman party in England, and the way was paved for the invasion of William the Conqueror. Godwin, Earl of Essex, had held much influence over Edward, and at Godwin's death that influence passed to his son, Harold. Edward, on his death-bed, urged effectively that Harold should be made his successor. Harold reigned for a few troubled months, during which England was threatened with two independent invasions: one from Norway, and the other from Normandy. The Norwegians struck first. Harold mustered

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his forces and defeated these invaders, but while he was fighting them William landed in another part of England with his Normans, and Harold, too far away to resist the landing, met his death a few days later at the Battle of Hastings, which yielded England to the Conqueror.

Amidst all this early confusion of rulership and conflict of customs, there was little chance for any systematic development of England's trade or shipping. Two of the early kings, however, stand out as having made real efforts to enlarge the commerce of their subjects. They were Offa of Mercia, and Alfred the Great.

In 755, Offa sought to raise a sufficient naval force to defend his dominions. He tried to encourage his people to fit out ships of their own and to carry goods in them, rather than leave the trade to foreign vessels. These efforts did not have much result. He had better success when English merchants complained to him of the excessive tolls laid on their goods by the Emperor Charlemagne. Offa retaliated with an embargo on French shipping frequenting his ports, and the matter was adjusted.

When Alfred became King, in 871, what foreign trade England had held had been almost wiped out by the frequent invasions of the Danes. These unruly settlers, however, were skilful shipbuilders and mariners, and the king utilized their services in fitting out and operating a strong fleet for defence. He also induced many of his subjects to take up commercial and maritime pursuits, thus developing a shipping for both trade and war purposes. In addition, he made a decree conferring rank and dignities on those of his subjects who "traveled thrice over the seas" in ships of their own.

Under Alfred, England's shipping was stronger than ever before, and his son and successor, Edward, followed out the

same naval policies until he had acquired a hundred ships for the protection of the coasts and of commerce.

Under Ethelred II., who reigned from 979 to 1016, the Danes and Norwegians burnt London and ravaged England. Ethelred, however, had a law passed which required every owner of a fixed amount of land to furnish a ship for the defence of the country, and thus secured a larger navy than any of his predecessors had had. In this reign, tolls were charged against ships in the coasting trade.

Canute, who took the throne in 1016, maintained about forty vessels for the guard of the coasts and of trade; and under his son, Hardicanute, the navy was increased to seventy-two ships. William of Normandy, however, had to battle with no navy when he brought his forces from France to England.

The fleet with which William the Conqueror brought his invading army across the English Channel, is said by some chroniclers to have numbered as many as a thousand ships, mostly flat-bottomed boats, into which soldiers and horses were crowded. Between ships of war and ships of trade there was little difference in those times. The navy was little more than a means of transport. There was, of course, no ordnance, and fighting at sea consisted mainly in an exchange of arrows by the archers of the fleets, and hand to hand fighting when the vessels came together. Not until the time of Canute had an English fleet fought outside the waters encompassing Britain. That monarch employed his navy in the conquest of Norway.

With the accession of William the Conqueror, Britain had the nucleus of an empire, through the French territory controlled by the new king, and this was increased under the Angevin line, until, at one time, more than half of France was held by England. From then on, however, the French gradually won back their lost territory, and the dream of a Continental European empire ended.

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The possession of French domains, however, was an important factor in the development of the English merchant marine. No longer was the English Channel a boundary between the dominions of rival monarchs; and increased trade with France brought the necessity for a permanent shipping, both for protection and for commercial communication. Bordeaux, the great wine port, was now English, and wine became by far the greatest commodity of importation, while wool furnished the bulk of English exports. England's ships, however, engaged almost altogether in trade with nearby countries, and the more distant commerce was left to the vessels of other nations; with the result that, having shorter voyages to make, English ships were smaller in size and less substantially built than those of her trade rivals. The development of the merchant marine was also hampered by the policy of the earlier kings of England to leave the bulk of the foreign trade in the hands of foreigners.

This sacrifice of the interests of the English people by their own sovereigns was made deliberately, with a view to increasing the royal revenues. The favors granted to foreigners were made at a price, customarily in the form of a loan from foreign merchants. If these obligations were repaid, it was usually through the medium of the customs, and there were times when security was given by turning over to Italian merchants the collection of the duties on English imports and exports. Customs, in one form or another, had been in force long before the coming of William the Conqueror, and at times the receipts from this source amounted to more than half of the entire royal revenue.

Another source of increasing the incomes of the early kings was the issuance, for a price, of special licenses to foreigners exempting them from the payment of heavy duties exacted by law. In addition, the Hanseatic League, by an adroit policy

of catering to the financial necessities of the early English sovereigns, secured permanent privileges, under which, for hundreds of years, down to the reign of Queen Elizabeth, they were permitted to pay even less duties than England's own subjects.

While the English kings could secure money from foreigners, they could hardly expect to obtain a ready supply of ships for the navy from those sources, and the royal funds were not sufficient to provide for any extensive naval construction by the state. Naval needs were met, in a large degree, by the Cinque Ports. Old records show that this practice was in force as early as the reign of Edward the Confessor, and it was elaborated by his successors. At first, there were only the five ports indicated by the title, and these were Hastings, Romney, Wythe, Dover and Sandwich. From time to time, others were added, and, up to the reign of Henry VII., they were required to supply the greater part of the ships and men needed by the Navy. In the time of William the Conqueror, each port was to furnish five ships. In return, the Cinque Ports were granted many exclusive privileges, including exemption from taxation, and the right to have their own law-courts; and they claimed independence of Admiralty jurisdiction.

With so great a share of their revenue derived from a sea trade dominated by foreigners, the early English kings had little incentive to create any system intended to develop England's own merchant marine on a preferential basis. They regarded English trade shipping chiefly as a source of supply for naval needs. If war broke out the merchant marine was simply drafted into service, and sometimes foreign ships in English ports were taken, as well. But instances are not lacking of kings who engaged in foreign commerce, either with ships of their own, or by freighting the ships of others, and, in many cases, foreigners acted either in virtual partnership with

the monarch, or as agents for him. Even vessels of the navy were sometimes used by a king to carry freight to his profit; or to charter to others for trade purposes.

From the coming of William the Conqueror to the first step taken towards giving an actual preference to English ships in their own trade over those of other nations, was a matter of about three centuries. Beginning with Henry III. (1216 to 1272), there are recorded statutes dealing with shippers and with shipments; but without qualifications as to the ships to be used. These early Acts of Parliament furnish a picture of the vacillating foreign trade policy of England, now throwing the gates of trade wide open to foreigners, and now barring them. But even before this, King John had laid the foundation for a strife that was to continue for centuries in England between the alien and native traders. John, in 1215, had signed Magna Charta under duress—he would have put the royal signature to anything that was presented to him; but by giving wide rights to foreign traders and conflictingly wide ones to the traders of London, he provided the basis for a bitter commercial conflict. For the most part, the Londoners fought a losing battle, but in the long end they won.

There were four principal factors to be reckoned with in the sea trade of the early Middle Ages. These were the Italian republics, the association of German cities called the Hanseatic League, the Society of Merchants of the (English) Staple, and the successor to the latter body—the Merchant Adventurers of England.

The great clearing-house for ocean commerce in those times, was in the territory which is now comprised in Belgium. Between them, the Germans and the Italians divided the bulk of the trade. Bruges was the great market. Thither the ships of the Hanse brought the products of Northern Europe, and thither came the galleys of Venice and Genoa, with the mer-

chandise of the Mediterranean and of the Orient. And at Bruges the goods were transshipped. The long voyages were not for English ships until later times. The great bulk of their trade remained with France, in the carrying of wine, and with Bruges and the Low Countries.

Bruges, at the height of its prosperity was the commercial center for practically all Europe. Many countries, including England at times, had their Staple there. The Staples were designated places to which goods were to be brought, weighed or measured, and the customs duties collected. This was chiefly for the purpose of facilitating trade by centralizing it, and to concentrate the collection of the revenues. From time to time the English Staples were shifted, being now in England, and again on the Continent, usually at an English possession; but oftenest at Calais, the longest duration there being from 1392 to 1558, that port being recovered by France in the latter year.

The Merchants of the Staple operated from England, but, in the beginning, the members were all foreigners. It was the first mercantile corporation in England, and there are records of its being in operation even before 1250. In 1296, however, there came into being the Merchant Adventurers Company of England, which was to eclipse the Merchants of the Staple, and to wage a long and bitter struggle with the Hanseatic League, but finally to conquer. By concessions secured from English kings, the Hanse had even greater privileges than the native merchants of England, including the great advantage of lower customs duties, and it was not until the reign of Elizabeth that they lost their hold on the trade of England. For a time this league of German towns—there were over seventy at one period—held the balance of power in Europe. The Hanse made war on its own account, and at a price, and a

heavy one. It was ready to fight for others, or, at times, to sell them ships with which to make war. Its power was strengthened by its control of the bulk of Europe's naval stores, which came from the Baltic; and for centuries it was a power to be reckoned with.

By leaving the carriage of its distant sea trade to the Italians and Hanseatics, and by granting these foreigners greater privileges than the English had, England in the early Middle Ages handicapped the development of its own merchant marine. English ships were comparatively small, for there was no incentive to build large ones, and the advantages bestowed upon foreigners stood in the way of the passage of laws that would increase England's share of its own carrying trade. The merchant marine continued to be regarded chiefly as an adjunct to the navy. Not until the times of the Tudors were really effective measures taken to aid English shipping. Long before then, however, England had developed a principle, which, if wisely applied, would have gone far towards developing and maintaining its merchant marine on an adequate scale. This was the system of the Staple.

There is no clear record of the Staple's origin; but it was apparently in force in the 13th century; and, early in the 14th century, in Edward II.'s reign, a charter was granted to the Merchants of the Staple, permitting them to replace the Staples they had been using, in various places in Flanders, Brabant and Artois, with one Staple at Antwerp.

By the plan, which later was to become common, of restricting to English ships the carriage of the trade from one English possession to another, the early development of the English merchant marine could have been greatly furthered, as all England's exports were required to be taken to the Staple.

The limitation of the coastwise trade to English vessels, however, was not enforced until the times of the Tudors. Under

the Stuarts, England was made the Staple for the trade of the English Colonies in America, with a marked resultant expansion in the British merchant marine. The application of this principle was also made at different times to the wine trade with the English possessions in France, and with success. Not until the reign of Edward III., however, was there any definite national action giving preference to England's own ships.

THE TERRITORIAL GROWTH OF ENGLAND

AN understanding of the growth of the territorial possessions of England is of aid in considering the development of her trade and navigation. Up to the time of the American Revolution, what England conquered she usually held. Her French conquests formed the chief exception. Of the domains brought to the English crown by William the Conqueror, and added to by his successors, only the Channel Islands were to remain permanently English. In the following table it is sought to illustrate the growth of the English dominions under the various sovereigns, the dates indicating when the additional territory was first acquired.

- 1172—(HENRY II.)—Ireland conquered.
- 1283—(EDWARD I.)—Wales subdued.
- 1583—(ELIZABETH)—Sir Humphrey Gilbert takes possession of Newfoundland.
- 1584—Virginia grant made to Sir Walter Ralceigh. First Virginia Company Charter given in 1606, under James I.
- 1605—(JAMES I.)—First West Indian settlement made, at Barbados.
- 1608—Bombay (India) trade begun.
- 1609—The Bermudas settled.
- 1618—Gambia Company makes first English settlement in Africa.
- 1620—First Massachusetts settlement.
- 1623—St. Christopher's (West Indies) settled by the English and French. Not wholly English until 1713.

- 1628—(CHARLES I.)—Nova Scotia settled. Ceded to France in 1632. Regained in 1713.
- 1628—Nevis (in West Indies) settled.
- 1629—New Hampshire grant made.
- 1632—Maryland Charter to Cecilius Calvert.
- 1632—Montserrat and Antigua (West Indies) settled.
- 1633—Bengal (India) trade opened.
- 1635—Connecticut settled.
- 1636—Rhode Island settled.
- 1638—Settlement of Honduras (Central America) and St. Lucia (West Indies).
- 1639—Madras (India) acquired by treaty.
- 1639—Grant of Maine, by Charter.
- 1650—(COMMONWEALTH GOVERNMENT)—Gold Coast (Africa) trade settled.
- 1651—St. Helena settled by the East India Company.
- 1655—Jamaica (West Indies) captured.
- 1663—(CHARLES II.)—Grant of Carolinas made.
- 1664—New York taken from the Dutch. Recaptured by them in 1673; but regained by the English in 1674.
- 1665—English settlement in New Jersey.
- 1666—Bahamas and Virgin Islands settled.
- 1669—Hudson's Bay Company settled in Canada under Charter.
- 1678—Settlement of Turk's and Caicos Islands in the West Indies.
- 1681—Charter granted for Pennsylvania.
- 1704—(ANNE)—Surrender of Gibraltar to the English.
- 1707—Union of England and Scotland.
- 1713—New Brunswick (in Canada) acquired.
- 1733—(GEORGE II.)—Settlement of Georgia.
- 1758—Prince Edward Island (Canada) taken.
- 1759—Ontario and Quebec (Canada) become English.

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1761—(George III.)—Dominica (West Indies) conquered.

1762—St. Vincent and Grenada (West Indies) surrendered to England.

1763—Florida and Alabama ceded.

1763—Tobago (West Indies) acquired.

1764—Agra and Oudh (Provinces of India) secured.

1765—Falkland Islands (South Atlantic) taken.

1766—Saskatchewan (Canada) settled.

EDWARD III.

(Born, November 13, 1312. Reign began January 13, 1327. Died, June 21, 1377. Reigned 50 years.)

ALTHOUGH historians generally credit Richard II. with the creation of the first of England's Navigation Laws, an Act of Parliament in the time of Edward III., (1368), lays the ground for preferential treatment of English shipping. This measure, adopted thirteen years before the first of Richard's Navigation Acts, deals with the regulation of the wine trade. Wine was the chief import of England during the middle ages, and the great bulk of it came from Gascony and Guienne, in France, which were among the domains brought under English rule after the invasion of England by William the Conqueror in 1066, and so remained for several centuries.

Numerous statutes to regulate the commerce in French wine were enacted under the early English kings. The commercial policy vacillated, however, and at times foreigners, and at others the English themselves, were limited in their trade in wines or had absolute monopolies in handling it. By the Act of 1368, a measure which seemed to run to cross purposes, a curb was put upon English merchants, while at the same time it was provided that all English and Gascon ships coming into Gascony should be loaded with wines for England before cargoes could be taken on by foreign ships. Thus seems to have been first established the principle that preference in the trade of England should be given to the ships of that country, and a handicap was placed upon indirect trade in foreign bottoms.

One step of the greatest importance to England's commerce was inaugurated by Edward. He seems to have been the first

monarch to realize the value of having his country manufacture its own wool for export, instead of selling the raw material abroad and buying it back, after it had been converted into fine cloth. Coarse cloth, mainly for domestic use, had been manufactured to some extent in England for centuries; but the Flemings were the masters of Europe in the production of the fine grades.

Edward, in 1331, issued a "Letter of protection" to John Kemp, of Flanders, a woollen cloth weaver, who came over to England, to practice his trade, and, as the "Letter" expresses it, "To teach it to such of our people as shall incline to learn it; the King taking the said Kent, with all his apprentices, servants, goods, and chattels, into his royal protection—and promising the same, likewise, to all others of his occupation, as also to all dyers and fullers, who shall incline to come and settle in England." Seventy families of Walloons at once came over, and from this beginning the industry expanded rapidly.

Under Edward, also, for the first time we are able to frame a picture of the character of England's foreign trade. This is furnished by a record of the Royal Exchequer, showing the country's imports and exports for the year 1354. The exports were valued at £294,184, and the imports at only £38,970, and the figures include the customs duties.

Of the exports, wool accounted for £277,606; coarse cloths and worsteds, £16,482; and leather, £96. As no other exports are given, the figures can hardly be regarded as complete, tin being a conspicuous omission. It is also to be noted that the only evidence of England exporting fine cloths is an item including worsteds; so that, at this date, the bulk of the new manufacturing industry must have been consumed in England itself.

Included in the imports were fine cloths valued at £11,084;

wax, at £816; wine, at £3,842; and "linen cloth, mercery, grocery, and all other wares whatever," at £23,128.

As English ships carried the bulk of the wine trade, it is interesting to note that the total imports of that commodity amounted to 1,829 tons; and as the tonnage of ships at that time was figured on the basis of the space occupied by a ton of wine, it seems evident that the English merchant marine was small in size.

The total customs duties, both inwards and outwards, came to £82,426, to which the imports contributed only £580. Wool and woolfells alone, accounted for £81,846 of the total duties. The bulk of the customs burden at that time, in contrast to more modern policy, fell upon the exports, and the greatest part of the king's revenue, by far, was from wool.

With such a limited foreign trade, it is evident that England at that period could not have profitably employed a large merchant marine; for she was not in a position to compete with other nations in the carrying of commerce between outside countries. Edward, however, made the first real start towards the development of English shipping.

1368.

42ND EDWARD III.

Chapter 8.

English merchants shall not pass into Gascoigne to fetch wines; nor buy wines until landed.

ITEM, It is assented and accorded, for the Profit of the Realm, That no Englishman shall pass into Gascoigne, to seek Wines there, but they shall be brought into England by the Gascons and other Aliens, and thereupon Defence shall be

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made through the Realm: And that no Englishman put in the Hands of the said Gascons or Aliens, nor thither send Gold nor Silver nor other Merchandises, thereof to buy Wines to the Use of Englishmen, upon Forfeiture of the Gold and Silver or Merchandises so put in their Hands or sent; and that all the Ships of England and of Gascoigne that cometh into Gascoigne, shall be first freighted to bring Wines into England before all other; and that no Englishman bargain nor buy such Wines coming into England, before that they be put to Land, according to the Form of (the said Statutes) thereof made: And this Ordinance shall hold place from the Gule of August next ensuing forward; and that no Warrant be made to any Englishman to the contrary.

RICHARD II.

(Born, January 6, 1367. Reign began June 21, 1377.
Resigned September 30, 1399. Died, February 14, 1400.
Reigned 22 years.)

RICHARD II. was a boy of fourteen when the first of the Navigation Acts of his reign was placed on the statute-books. The law of 1381, therefore, is hardly to be regarded as an expression of his personal policy. This Act, which limited the carrying of all exports and imports to English ships at a time when the country's shipping, because of the ravages of war and piracy, comprised, figuratively, hardly more than a handful of merchant vessels, was so drastic that it defeated its own purpose, and had to be radically modified. Had it been enforced in its original form, England would have been unable to carry on foreign trade in any appreciable volume, for lack of vessels of its own.

The Act itself was the outgrowth of simultaneously critical conditions in the naval and commercial situation. To such an enfeebled state had the navy fallen that a French fleet, unchallenged, had sailed up the Thames, past London itself, and had burned English towns along the river and on the coasts. All the English merchant vessels that could be secured had been impressed for the service of the navy, and most of them had been lost. English shipowners had been unable to obtain recompense for their vessels from the Crown, and petitions for legislation that would redress them for their losses poured in upon Parliament from the commercial interests of England. The boy-King's Council conjectured that the limitation of the carrying of England's foreign trade to English-owned vessels

would enlarge the merchant marine, through the purchase of foreign bottoms and the increase of shipbuilding at home. That the Act throttled rather than stimulated foreign trade was indicated in the following year, 1382, when the Statute was modified, by providing that, where English shipping was insufficient for the needs of English merchants, they would be allowed to use foreign vessels.

In the same year, 1382, Parliament granted to the King a Subsidy, in the form of an extra duty on exports and imports, under the express condition that the money should be expended "wholly" upon "the safe keeping of the sea." Through the use of this fund the Crown had the power to pay for the use of merchant vessels and to expand English shipbuilding through orders for new tonnage. That the statutes for freighting English bottoms were enforced, and that there was a measurable increase in the merchant marine, seem to be indicated by the third, and last, Navigation Act of Richard's reign, passed in 1390. This measure, apparently drawn to protect both shipowners and shippers, stipulated that all English merchants should use English vessels only; but that the shipowners should "take reasonable gains for the freight." Apparently, the shipowners had taken advantage of the preference granted them to charge high rates. But the new Act seemingly left it to the English shipper to decide whether the freight charges for English ships were "reasonable," for a year after the passage of the Act of 1390, Parliament petitioned the King that merchants shipping goods in foreign vessels, when English bottoms were available, should forfeit the goods so shipped. The King's response was that the Statute made to cover the case should be enforced. A similar petition and a similar response were made eight years later, in 1399, the first year of the reign of Henry IV.

1381.

5TH RICHARD II.

Statute 1, Chapter 3.

No subject shall import or export merchandises but in ships of the King's liegance.

ITEM, To increase the Navy of England, which is now greatly diminished: It is assented and accorded, That none of the King's liege People do from henceforth ship any Merchandise in going out or coming within the Realm of England, (in any Port,) but only in ships of the King's Liegance; and every Person of the said Liegance, which after the Feast of Easter next ensuing, at which Feast this Ordinance shall first begin to hold place, do ship and merchandise in any other Ships or Vessels upon the Sea, than of the said Liegance, shall forfeit to the King all his Merchandises shipped in other Vessels, where-soever they be found hereafter, or the Value of the same; of which Forfeitures the King will and granteth, that he that duly espieth, and duly proveth that any Person hath any Thing forfeited against this Ordinance, shall have the Third Part for his Labour, of the King's Gift.

1382.

6TH RICHARD II.

Statute 1, Chapter 8.

Where no English ships are to be had, merchants may bring in or carry forth their merchandises in other ships.

ITEM, Though (late) in the same Parliament it was ordained, That none of the King's Liege People, after the Feast of Easter

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next coming, should in any wise ship any Merchandises or Goods to be carried out of the Realm of England, or to be brought within the same Realm, in any Ships, upon pain of Forfeiture of the said Goods and Merchandises, or the Value of the same, except in Ships of the King's Liegance; yet of the Assent aforesaid, It is ordained and granted, That the said Ordinance only have place as long as Ships of the said Liegance in the Parts where the said Merchants shall happen to dwell, be found able and sufficient; so that then they shall be bound to freight the same Ships of the King's Liegance, with their Merchandises, under the Pain aforesaid, before all other Ships; and otherwise it shall be lawful to the same Merchants to hire other Ships convenient, and there to freight them with their Goods and Merchandises, notwithstanding the said first Statute.

1390.

14TH RICHARD II.

Chapter 6.

English merchants shall freight none but English ships.

ITEM, That all Merchants of the Realm of England shall freight in the said Realm the Ships of the said Realm, and not strange Ships; so that the Owners of the said Ships take reasonable Gains for the Freight of the same.

HENRY VI.

(Born, December 6, 1421. Reign began September 1, 1422. Deposed, 1461. Restored, 1470. Died, May 21, 1471. Reigned 40 years.)

ALTHOUGH Henry VI. is not popularly regarded as having taken any important part in the shaping of England's shipping policies, his reign was marked by the adoption of several legal principles establishing precedents which were carried on for many years by his successors. In the beginning of his reign, 1422, when the King was but one year old, a subsidy grant "for the defense of the Realm," (which is not to be found on the Statute-Books, but is in the "Rotuli Parliamentorum," or "Rolls of Parliament") gave a new form of aid to English shipping. This provided that where wool or sheepskins, shipped by English merchants, should be lost at sea, or be taken by enemies, the merchants were entitled to ship an equal amount without paying any subsidy for it.

In Henry's reign, an attempt was also made to prevent foreign ships from bringing to England products of other countries than their own. This first movement to establish the principle that the trade between two countries should be carried on by the people of those countries was not in the form of discriminating duties as adopted by later English monarchs. It is recorded in the Rolls of Parliament for 1439 in the form of a petition from the Commons to the King, voicing English commercial opposition to the growing Italian control of the English import trade. Declaring that formerly the Italians had brought to England in their "carracks and galleys" only the commodities of their own territories, the petition asserted

that now the Italians brought very little of such goods, and that their cargoes were almost exclusively composed of goods from other lands than their own. This practice, it was stated, had caused an exorbitant rise in the prices of the goods, had decreased the King's revenues, reduced the prices of English commodities, and had wrought great injury to "the whole navy." For remedy, it was proposed that no Italian should be allowed to sell in England any merchandise other than that shipped from countries within the Mediterranean. The petition, however, drew only the formal Royal response that "The King will be advised," which was equivalent to a denial. The Italians had long held a position of peculiar privilege under the English monarchs, through repeated loans of large sums of money to the Crown, and there are even recorded instances in which, in order to facilitate repayment, the Royal debtors had turned over the collection of the English customs to the Italians.

Three years later, in 1442, English shipowners secured from Parliament aid in another situation, which had developed to their detriment. Customs officers had taken advantage of their offices to operate ships of their own and to buy and sell merchandise in foreign trade. In addition, they had become agents for merchants, both English and foreign, and the result, it was charged, had not only been injury to the trade of the realm, but also a shrinkage in customs receipts through deceipts, probably effected by falsification of the customs records. Parliament therefore ordained that no customs officer should be the owner of a ship, buy or sell merchandise, have the use of a wharf, or act in any way in conjunction with merchants, under penalty of fines.

But the customs officers apparently had other ways of disturbing trade, for, in 1449, a Statute was enacted, declaring that these officials were daily making illegal seizures of the

ships and goods of the King's subjects, and imposing excessive customs duties, thereby discouraging the merchants from trading, and reducing the royal revenues. The Act provided for the prosecution and penalizing of customs officers guilty of such offenses, the fines to be paid to the merchants aggrieved.

What appears to have been an attempt to increase the use of English ships by English traders through the advantage of a preferential duty is recorded in the Rolls of Parliament for 1453. In a subsidy act of that year there was incorporated a clause to the effect that an English merchant who shipped goods in "any carrack or galley" would be required to pay the same duties as were imposed on foreigners. The complaint against Italian carracks and galleys in the petition of 1439 makes it probable that the discrimination was aimed at Italian shipowners, whose trade was carried on almost exclusively in these vessels, although other nations used the same type of ships on a lesser scale, and there seem to have been a few of them under English ownership. The same provision was a feature of the subsidy acts granted to English sovereigns for many years after the reign of Henry VI.

1439.

18TH HENRY VI.

(Rotuli Parliamentorum.)

Prayeth the Commons, that forasmuch as it is well known by experience of time past, that when the Venetians, Genoese, Lombards, and other merchants of Italy and other countries beyond the Straits of Marrok, brought by their carracks and galleys, and sold here in this Realm, such wines, spicery and merchandises as grew and were of the said countries, and none or few others:

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Eke, when the Spaniards, Portuguese, Bretons, and other merchants of the countries on this side of the said Straits, themselves brought and sold, here in this Realm, grain, oil, wax, iron, fruit, and such other merchandises of the same countries:

And also where the merchants of England, with their ships, might go themselves and buy there such merchandises and bring them into England:

Then all such manner of merchandises were in greater abundance and at better cheapness and price within this Realm, and the Navy and the merchandises of this said Realm were in better state than they ever were or are likely to be while the said Lombards and other merchants of the countries beyond the said Straits have brought and do bring so few merchandises of their own said countries and so many merchandises of the said other countries on this side of the said Straits (as they have done for a long time), not only to their singular advantage, with outrageous increase in price of the said merchandises, sore decrease of the King's customs, and reduction in the price of the merchandises of this Realm; but also to the greater hurt of the whole Navy and the common harm to all of the same Realm.

Wherefore, please it your Highness, (for the betterment of the price of your own commodities and the conservation of your Navy, and for reducing the cost of the merchandises of other lands,) by the assent of the lords spiritual and temporal in this present Parliament assembled, and by authority of the same Parliament, to ordain and establish:

That, after the Feast of Saint Michael next coming, no Italian, or other merchant of the countries beyond the said Straits of Marrok, shall sell within this Realm any other merchandise than is, or shall be, of the countries beyond the said Straits, under pain of forfeiture of the value of all the said merchandises, whereof the King shall have two parts, and

he that informeth first the Treasurer of England or the Barons of the Exchequer shall have the third part of the said forfeiture:

Considering, Sovereign Lord, that then all who are your enemies in any countries on this side of the said Straits will be fain to desire your peace and friendship, or at least to bring hither their merchandises, and carry yours under safe-conducts, as they did formerly, and would do now if the said Ordinance were enacted and enforced; and, likewise, your lieges, under safe-conducts from those parties, would transport and sell the merchandises of your Realm in the said countries, and at first-hand buy merchandises of the same countries, in those countries or else in other places of your obeisance and amity, whereof the merchants of the said countries are conversant.

This Ordinance to endure to the end of ten years after the Feast of Saint Michael next coming.

Response: "The King will be advised."

EDWARD IV.

(Born, April 28, 1422. Reign began, March 4, 1461.
Died, April 9, 1483. Reigned 22 years.)

IN Edward IV., England had a sovereign whose interest in the merchant marine was personal as well as national, and by whom trading vessels were regarded as agencies of profit. The "Merchant King," as he came to be styled, was active in foreign trade almost from the very beginning of his reign. As early as 1463 there are customs records of shipments abroad for his account, and these continued throughout his rule.

In this same year of 1463, while wool was being exported for the account of the King, Parliament petitioned him to "ordain and establish certain statutes and ordinances," among which was one prohibiting any foreigner to ship wool out of the kingdom, and which contained the provision that no one, "other than merchants strangers" (foreigners), should freight any foreign ship with "any merchandises," if sufficient English shipping could be had.

This act, which was in line with the statutes of Richard II., was declared to be effective for three years only, and it was not renewed.

There is no record of its enforcement, and the King himself was one of those who violated the spirit, if not the letter of the law. Exports for the royal merchant's account went abroad, especially to the Mediterranean, in foreign bottoms. But there was a reason for this. The English merchantmen of the time were not built for long voyages and were smaller than the carracks and galleys of Italy. In fact, up to Edward's reign,

practically no English vessels had gone on trading voyages to the Mediterranean; and the King's agents in this commerce were Italians.

Edward's commercial activities, however, were not confined to trading with the Levant. He used English bottoms for carrying cargo to and from the Continent and the Baltic; he built, and bought, and sold ships, used merchantmen for the navy's service and naval vessels for the merchant service, and even hired out some of his ships of war to carry cargoes for merchants. In these ways he succeeded in augmenting the royal income, and in developing England's foreign trade, if not her merchant marine, materially.

1463.

3RD EDWARD IV.

Chapter 1.

No alien shall export wool &c. out of this realm, certain ordinances to be observed by denizens in exporting thereof.

First, because that the chief and principal commodity of this realm of England consisteth of the wools growing within the said realm, and to the intent that sufficient plenty of the said wools may continually abide and remain within the said realm, which may competently and reasonably serve for the occupation of clothmakers of England and all the members and branches of the same, whereby the cities, boroughs and towns, within the same realm fallen in great and piteous desolation, ruin and decay by the occasion of idleness, may be, if God will, multiplied in habitation, and by labor restored to their ancient joy and prosperity, by which the vices and inconveniences may to the pleasure of God be avoided: Our sovereign lord the

King in consideration of the premises, by the advice and assent of the lords spiritual and temporal, and at the request of the Commons aforesaid, hath ordained and established, That,

From the Feast of St. John Baptist next ensuing, no person alien nor stranger born, by him or any other for him, privy or apart, shall buy or ship any manner wools or woolfels, morling or shorling, within any part of this realm of England or Wales, or any of them, carry out of the same Realm or Wales, nor that any person, stranger, alien, or denizen, or any other the King's subjects, from the said feast, shall carry any wool, woolfels, morling or shorling, of the growing of the country or countries on this side of the water of Tees, over the same water towards the North, upon pain of forfeiture of such wools, woolfels, morling or shorling, the one half thereof to be had to the profit and use of our said redoubted sovereign lord the King, and the other half thereof to the use and profit of him or them that shall find and lawfully prove such buying, shipping or carriage contrary to the said ordinance; the wools, woolfels, morling or shorling of the growing of the Countries called Aldertonshire and Richmondshire only except. . . .

(Wools &c. to be exported to Calais only, with exception as to the Northern Countries.)

Moreover, the sovereign lord our King hath ordained and established by the authority aforesaid, that no person inhabiting within this realm of England other than merchants strangers, from the said Feast of St. John shall freight nor charge within this Realm of England or Wales, any ship or other vessel of any alien or stranger with any merchandises to be carried out of the said Realm of England or Wales, nor shall bring into the same, if he may have sufficient freight in the ships or vessels of the denizens of the Realm, upon pain to

forfeit the same merchandises, the one half to our said sovereign lord the King, and the other half to him or them which shall seize the same merchandises.

(The Act to be in effect three years.)

HENRY VII.

(Born, January 4, 1457. Reign began October 30, 1485.
Died, April 21, 1509. Reigned 24 years.)

WITH the coming of the Tudor line of sovereigns, England, for the first time, laid the foundations for a definite, abiding national shipping policy. While the Navigation Acts of Henry VII. were few, they were more effective, and much more sustained, than those of his predecessors. Furthermore, they established the important principle that the ships of a country should be manned by the people of that country, thus providing for greater security in case of war and for a larger supply of native seamen. Subsequent sovereigns continued to recognize this principle as a basic factor in British shipping policy.

In the initial year of Henry's reign, Parliament enacted that the majority of the crew of an English ship must be composed of Englishmen. This Act of 1485 was strengthened two years later by the provision that the master of the ship must also be an Englishman.

That the Navigation Act of 1485 did not originate with Parliament, nor with the King and his Council, but with the commercial interests of England, and especially the wine trade, is indicated by the preamble to the statute. This is in the form of a plea to the Commons, reciting the diminution and decay of the navy and the consequent unemployment of the mariners of the realm, which, it is declared, if not speedily remedied, would leave the country powerless to defend itself. Parliament is therefore besought to pray the King to ordain that no wines of Guienne or Gascony be brought into the English realm, save in British-owned ships, with a majority of the

crew British, upon pain of the forfeiture of wines imported in foreign bottoms.

Apparently the Act was regarded as of an experimental character, for it was specified that it should be in effect only till the beginning of the next Parliament. But the wisdom of the measure must have been demonstrated; for three years later a statute superseding and strengthening its principles was enacted. This time Parliament took the initiative and petitioned the King, again citing the decay of the navy and the idleness of English seamen. The provisions of the previous statute were reenacted, and the requirement that the master of the ship should also be British, was added. Toulouse woad, a French dyeing material, was made subject to the same treatment as wine.

But a still more important feature was incorporated in the second Navigation Act of Henry VII. This applied to all classes of goods, both imports and exports. English subjects were prohibited from having their merchandise carried in foreign vessels, if sufficient British shipping was available. This was in line with the policy of the early Navigation Acts of Richard II., a century before. Henry had secured valuable commercial advantages for England through treaties with other European powers, and his Navigation Act allowing foreigners to use foreign bottoms did not conflict with his treaty obligations.

One of Henry's treaties conferred marked advantages on English shipping in the trade with Italy. This was an agreement, made in 1490, between England and the "Prior of the Liberties and Standard-Bearer of Justice of the people of Florence" (given in "Foedera," vol. 12, page 390).

The Florentines bound themselves to allow no English wool to be brought into their republic, except by English subjects, using English ships. In return, the English were to make oath that they would annually export to Pisa, "as much wool as

the Florentines and other parts of Italy, Venice only excepted, can use or make up." The Venetians were to be allowed to bring from England each year, in their galleys, not more than six hundred sacks of wool, "for the use and employment of the city and dominions of Venice; and not otherwise." The wool for the Florentines was to be "lodged in the city of Pisa, where the factory residence of the English shall be, and where they shall enjoy all the privileges and liberties which either the Pisans themselves, or the citizens of Florence do now, or shall hereafter possess." Furthermore, the republic of Florence pledged that, in any commercial agreements she made with other countries, she would, "to her utmost, strive to have the English included therein."

By this treaty, Florence secured a virtual monopoly of the English wool supplied to the Mediterranean countries; while England obtained a new source of employment for her merchant ships. Up to this time, Florence, Genoa, Venice, and the other Italian cities had transported in their own vessels virtually all the English exports to the Mediterranean, and English ships had hardly begun to travel to those waters.

Commercial difficulties with Venice came to the fore in Henry's reign. The Venetians had taken advantage of the English demand for Malmesey wine by imposing a heavy extra duty on exports of that commodity. Parliament petitioned the King to retaliate, and, in 1491, an act was passed, placing an additional duty on this wine, when imported into England by foreigners. Furthermore, the act fixed a maximum price for the sale of the wine in England, and regulated the wine measure. It was provided, however, that the statute should be effective only as long as Venice continued the imposition of the extra duty.

Henry, who ranks high amongst the "merchant-monarchs" of history, engaged extensively in foreign trade on his own account. He amassed and secreted a large personal fortune

from his ability to drive a hard bargain. After his death, the "royal miser's" hidden hoards yielded up a golden treasure, for his successor. In life, however, he let slip through his fingers the opportunity to acquire all the gold of the Americas. Christopher Columbus, seeking vainly of various European rulers funds to finance the voyage that resulted in the discovery of the New World, sent his brother, Bartholomew, to England to gain Henry's aid. The monarch's hesitancy to part with money on a speculative venture kept Bartholomew waiting long months for an answer. Finally, Henry agreed to outfit the expedition, and Bartholomew hastened to join his brother. He had reached Paris, on the way to Spain, when he received the news that Christopher Columbus had sailed. But for Henry's niggardliness, the whole course of European history would have been changed. To Spain the discovery of the New World brought the temporary supremacy of the seas that it might have given similarly to England. It is idle to speculate on speculative results. The dazzle of the gold might have blinded England's eyes, as it did Spain's, to sound commercial policies; and Britain might never have reached the goal she was to seek for two more centuries, of abiding sea power, gained and retained by the aid of wise laws and regulations.

1485.

1ST HENRY VII.

Chapter 8.

An act against bringing in of Gascoigne wine, except in English, Irish, or Welshmen's ships.

To the right wise and discreet Commons in this present parliament assembled; Please it your great Wisdoms to call to your remembrance of the great minishing and decay that

hath been now of late time of (your) Navy within this Realm of England, and idleness of the Mariners within the same, by which this noble Realm within short process of time, without reformation be had therein, shall not be of ability and power to defend itself, Wherefore (please it your great Wisdoms to pray the King our Sovereign Lord that he, by the advice of his lords spiritual and temporal, and of you his Commons in this present parliament assembled, and by the authority of the same) it be enacted ordained and established that no manner person of what degree or condition that he be of, buy nor sell within this said Realm, Ireland, Wales, Calais, or the marches thereof, or Berwick, from the feast of Michaelmas next now coming, any manner of Wines of the growing of the Duchy of Guienne or of Gascoigne, but such as shall be adventured and brought in English, Irish, or Welshmen's Ship or Ships, and the Mariners of the same English, Irish, or Welshmen, for the more part, or men of Calais, or of the marches of the same; and that upon pain of forfeiture of the same Wines so bought or sold contrary to this Act, the one half of that forfeiture to be to (the King's grace) and that other half to the finder of that forfeiture: This Act and Ordinance to endure between this and the beginning of the next parliament, saving always to the King (all) his prerogative.

1488-9.

4TH HENRY VII.

Chapter 10.

An act against bringing into this realm wines in foreign bottoms.

To the King our Sovereign Lord; Pray the Commons in this present parliament assembled, that where great minishing and

decay hath been now of late time of the Navy of this realm of England, and Idleness of the mariners within the same, by the which this noble Realm within the short process of time, without reformation be had therein, shall not be of ability nor power to defend itself; Wherefore please it your Highness by the advice of the lords spiritual and temporal in this present parliament assembled, and by authority of the same, to ordain, establish and enact, that no manner person, of what degree or condition that he be, convey or bring into this said Realm Ireland Wales Calais or the marches thereof or Berwick, from the feast of the Nativity of Saint John Baptist that shall be in the year of our Lord God MCCCCLxxxx., any manner Wines of the growing of the Duchy of Guienne or Gascoigne, or Woad called Toulouse Woad, but such as shall be conveyed, adventured and brought in Ship or Ships whereof ye Sovereign Lord, or some of your subjects of this Realm of England, Ireland, Wales, Calais, or Berwick be owners, possessors, & proprietors, and the Master, under God, and the mariners of the same Ship or Ships, English, Irish, or Welsh, or men of Berwick, or men of Calais or of the marches of the same, for the more part; upon pain to forfeit the same Wines and Woad, so brought contrary to this act, the one half thereof to your Highness and the other half to him or them that seize the same Wine or Woad. And also to ordain and establish by the said authority, that no person inhabitant within this realm, or other than merchants strangers, from the said feast of Saint John, freight nor charge within this Realm or Wales any Ship, or other Vessel of any Alien or Stranger, with any manner Merchandises to be carried out of this Realm or Wales, or to be brought into the same, if he may have sufficient freight in Ships or Vessels of the denizens of this Realm or in the same port where he shall make his freight; upon pain to forfeit the same merchandises, the one half thereof to you, Sov-

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ereign Lord, and the other half to him or them which seize the same merchandises. Provided alway that this act extend not to any Ship or Ships, having any of the said wares or merchandises, constrained by tempest or Weather or enemies to arrive in any port or place within this your Realm; so that the owners of the said wares and merchandises make thereof no sale within this Realm, other than for victual or repairing of the same Ship or Ships, or tackling thereof, which they of necessity be compelled to make.

HENRY VIII.

(Born, June 28, 1491. Reign began April 22, 1509.
Died, January 28, 1547. Reigned 38 years.)

HENRY VIII. began his reign with the basic principles of England's shipping policy established by law. These were:

The value of the merchant marine to the Navy as a source of supply;

The value of the Navy to the merchant marine as a source of defense;

The development of the merchant marine through the limitation of the carrying of certain imports and exports to English vessels;

The maintenance of a supply of seamen for mercantile and naval purposes, through the requirement that a majority of the mariners on English ships should be Englishmen.

The principle of the staple, as a fixed port to which commodities of the realm should be shipped. As yet, however, no effort had been made to use the staple, per se, as an agency for the expansion of English shipping.

Upon these foundations were built all the principal subsequent Navigation Acts for nearly 350 years, until 1850, when Great Britain abandoned her old shipping policies.

By historians, Henry VIII. has been credited rather for his development of the English navy, than as a constructive force in strengthening the merchant marine. Little attention, in fact, has been given to the record of his accomplishment in

the latter direction. In his reign, however, there was enacted a Navigation Statute covering far more ground than any previous maritime legislation.

But this Act, passed in 1540, had been preceded by other measures under Henry for the benefit of English shipping.

"For the advancement and benefit of navigation and commerce," Henry, in 1512, established the Corporation of the Trinity House of Deptford Strand, whose duties included the examination, licensing and regulation of pilots, as well as supervision over lighthouses, beacons, and buoys, and the settlement of disputes between officers and sailors in the merchant service. Another Trinity House was put in operation at Hull, and, in 1537, a third, at Newcastle-on-Tyne. It was sought to raise the standard of seamanship and to reduce the increasing number of wrecks due to the ignorance of mariners.

In 1515, a statute enacted by Parliament, "For the maintenance of the King's Navy," sought to strengthen the observance of the Navigation Acts of Henry VII., prohibiting the importation of French wine and woad in foreign bottoms. A large number of royal licenses had been issued allowing exemptions from the provisions of the Acts, for a price, and it was charged that Henry VII. had authorized some to aid his own trading ventures. This practice, Parliament declared, was "to the great hurt, prejudice, and decay of the Navy of this realm, and the mariners of the same." All such licenses, therefore, were declared to be void.

"For the prevention of the decay of the navy" might almost be regarded as the theme-song of early English shipping legislation. It appears again in a statute of 1532, concerning the French wine trade. This Act recites the Navigation Laws of Richard II. and Henry VII., "notwithstanding which said good statutes the Navy of this Realm, and the multitude of the Ships of the same, which before this time have been not only a great

surety and defence in time of War, but also a high commodity to all the Subjects of the same for transporting and conveyance of merchandises, is now marvelously decayed and impaired." And, the Act adds, "by occasion thereof," a great multitude of mariners, who had been enabled by the sea to support their wives and children, had been impoverished. "If remedy be not provided in this behalf," Parliament predicted, "within a few years there shall be few English men that shall be expert in the Seas, to the great peril of this Realm and decay of the people of the same."

"In consideration" of these conditions, Parliament continued, "The King's most Royal Majesty, of his most excellent Goodness, having tender respect to the reformation of the premises, is contented and pleased that it be enacted," that the aforesaid statutes should "stand in their full strength, force, and effect."

It was then provided by the Act, that no French wines should be laid on land in England, Ireland or Wales, during the period "between the feasts of Saint Michael the archangel and the purification of our Lady" (covering the winter months). This proviso is said to have been made chiefly to prevent the heavy loss of English wine-ships coming from France during the stormy season. The Act also fixed prices for wine in England and laid down regulations for the wine-trade; but was to be effective only "unto the last day of the next Parliament."

Two years later, in 1534, the foregoing statute was used as the vehicle for the conveyance of extraordinary executive powers to the King. In an "Act whereby the King's Highness hath authority to repeal the Statute made for restraint of Wines to come in before Candlemas," Parliament vested the King with the right, "during his life natural," not only to set aside the law of 1532 by his Proclamation, when he thought fit, but

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also to revive it at will, and the same with regard to any other Acts, or parts of Acts of the Parliament.

This procedure the Act declared to be necessary because statutes affecting the carrying of goods in foreign trade might contravene treaties made by the King with other nations and peace might be "impeached, interrupted, or derogated, contrary to the pacts and agreements." The King's Proclamation, it was declared, should be "of the same quality, force, strength, condition and effect, to all intents and purposes, as if it had been done with all due circumstances by authority of Parliament."

Henry VIII.'s absolute domination over the legislation of his time is illustrated by this Act in which Parliament turned over its own powers to him. Five years later, in 1539, it furnished him with an even more potent weapon by the passage of a statute which gave Henry full authority to issue Proclamations which "were to be obeyed, observed, and kept, as though they were made by Act of Parliament." A fore-runner, somewhat in the line of President Roosevelt's "New Deal."

Henry was thus equipped with tremendous instruments for good or evil; he could help or hamstring English commerce; but, on the whole, the balance was on the constructive, rather than the destructive side. There were times, however, when the political factors outweighed the commercial; when international, rather than national considerations, received the right of way.

In 1539, critical conditions had to be met at home as well as abroad. The monasteries had been destroyed and Catholicism crushed, and rebellion was imminent. War-clouds hung over the Channel and international commercial relations were at the breaking-point.

Henry sought for a weapon of pacification that would create good will. He thought he had found one, and issued a Procla-

mation serving notice that all foreign nations for a period of seven years might trade with England on the same basis as Englishmen did. This stroke abolished the extra customs duties imposed on aliens and placed Britain upon a free trade equality basis. It seems to have had the desired effect in relieving the international situation; so much so that within a year England had reverted to the policy of Protection. This was accomplished by a remarkable document, the Statute of 1540. Thomas Cromwell, who succeeded Cardinal Wolsey as the framer of English policy, is credited with being its author; but, if so, it was a posthumous child, for Cromwell's head was severed by the ax in the Tower only a matter of days before its enactment. Wolsey had been all for international rights, Cromwell for national preference, and national the new measure certainly was. No previous legislation had been penned with such sound consideration of the elements that entered into Britain's maritime situation. The Act went directly to the heart of things.

It began by pointing out the distinctive geographic position of the English people in contrast to those of other European nations. It showed the absolute dependence of Britain upon the sea for communication with the rest of the world. And it stressed the point that that communication could be carried on only through the service of ships.

It went on to show how profitable its merchant marine had been to the whole realm—not only in the advancement of commerce, and in the defense of the nation; but also in furnishing a living to so many of its people, and in being the support and mainstay of the ports of the nation, and of their inhabitants.

And it did not fail to draw a picture of the ever-with-us decline and decay of shipping, with the impoverishment of the shipping population, and an added touch of "towns, villages

and inhabitations near adjoining unto the sea coasts utterly fallen in ruin and decay."

It cited approvingly the Navigation Acts of Richard II. and Henry VII., and Henry VIII.'s reaffirmation of them; notwithstanding which, it was declared, the statutes had been violated, to the injury of the Realm and its people.

The Act of 1540 then broke new ground. Under Richard II. it had been enacted that English shipowners should charge "reasonable" freights; but the vagueness of the ruling left both shipowners and ship-users free to apply their own definitions of "reasonableness," and the result must have been largely to the advantage of foreign shipping. Henry VIII.'s Act fixed specific maximum freight rates for various commodities in various trades, and provided that, if higher freights were collected, the offenders should forfeit double the sums they received, one-half of the penalty to go to the King, and the other half to the informer. In case of war, however, if shipowners' costs were increased thereby, they might raise freight rates. It was also specified that the maximum freights could be reduced by agreement of shipowner and shipper.

The strongest feature of the measure, however, was the system of discriminating duties made available to foreigners who used English ships. For centuries higher duties were charged on merchandise imported and exported by foreigners than on the goods of English subjects. Henry's Act stipulated that aliens who shipped in English bottoms should pay the same duties as natives did. Aliens were not, however, to be allowed to take advantage of the statute on shipments of wool or sheepskins, and it was specified that the Act should not affect the long-standing privileges of the German merchants of the Hanseatic League, provided they used only ships of their own territories or of England.

Other provisions of the measure required shipowners to post

notices of all their sailings in Lombard Street, and placed upon them the responsibility for safeguarding all the goods on board their vessels. In case the cargo was neglected, or there was unduly long delay in sailing, the merchants were privileged to appeal to the Lord High Admiral, who was empowered to execute summary justice.

The schedule of maximum freights laid down in the Act gives an idea of the limited extent of the trading activities of English ships fifty years after the discovery of the New World. Flanders and the Low Countries, the Scandinavian and other Baltic territories, France, Spain and Portugal are mentioned. The Act of 1540 also sought to justify its conflict with the free trade proclamation of the previous year. It was declared that the merchant strangers were now using foreign ships to such an extent that English shipping interests of all classes were greatly impoverished thereby. In October, 1540, a statement was issued showing that, in eighteen months' operation of free trade, the loss of customs revenue had been £15,450, of which London's share alone was £14,000, evidencing the great preponderance of that city in England's foreign trade.

Strong opposition to the new policy of discrimination was manifested on the part of Flanders and of the Netherlands and Spain. For the Hanseatic League of German cities, the Act of 1540 simply served to tighten their stranglehold on the bulk of the foreign commerce of England. For centuries the League had held even greater trading privileges in the Realm than the natives themselves, paying lower customs duties. On exports of woollen manufactures, for instance, they were assessed 15 per cent less than the English. And as they were exempted from the provisions of the new Act their advantage over the Flemings, in the woollen trade, was greatly enhanced. An act of 1534 confirming the privileges of the Hanse and reestablish-

ing its independence of the statutes of Parliament gives an idea of the advantages of their position.

The state papers of the period give many records of the foreign opposition to the Act of 1540. Protests bringing no results, a Flemish decree was issued in December of that year, stating that, in consideration of the fact that in England it was forbidden "to lade goods in any but English bottoms," no one in Flanders should lade goods in English ships. Henry VIII. retaliated in February, 1541, by a proclamation forbidding the export of wool and undressed cloth, cutting the Flemish cloth industry off from supplies of material. The Spanish Ambassador repeatedly urged the Emperor, Charles V., the ruler of Spain and the Netherlands, to revive an old Spanish statute against freighting foreign ships in Spanish ports. In May, 1541, the Ambassador reported that notice had been received in England of such a prohibition by Spain. Prolonged diplomatic negotiations followed, and it was not until late in June, 1542, that an agreement was reached that all the decrees complained of should be annulled on both sides. This again brought the free trade agreement into effect, but it was not renewed upon its expiration in 1546.

Other constructive measures for the benefit of English shipping were recorded on the statute-books in Henry VIII.'s time. He was the first English monarch to recognize definitely the value of the expansion of the fisheries as an aid to the development of the merchant marine.

In 1542, there was enacted a "Bill concerning buying of fish upon the sea," which lamented the decay of the fishing industry and the effects upon the coast towns, which had previously "been able to make among themselves a great number of boats and ships, and also many good mariners to the said boats belonging." This, it was stated, had provided seamen "whenever the King's Grace had need of them," and had kept the

price of fish at reasonable levels. Now, however, it was added, the fishermen "do leave the said craft of fishing and be confederate with Picards, Flemings, Normans and Frenchmen," and buy fish from the foreigners. Penalties were therefore to be imposed on English subjects who bought fish abroad or at sea, to be sold within the Realm; the object being to eliminate the English middlemen and increase the catching of fish by natives. A previous Act, in 1533, aimed to increase the supply of domestic materials for making fish-nets, by requiring the growing of hemp and flax in a fixed proportion to other crops. These statutes were the first of a long line intended to stimulate the English fisheries.

Under Henry also, there was enacted the first comprehensive statute against piracy. This Act, "For Pirates and Robbers on the Sea," was passed in 1535, and lays down a system of legal procedure in cases of "robberies, felonies and murders done upon the seas," the offenders to suffer loss of property, and pain of death without benefit of clergy.

1540.

32ND HENRY VIII.

Chapter 14.

For the maintenance of the navy of England.

Inasmuch as it is evidently and notoriously known that the greater part of this our Sovereign Lord the King's Realm of England, and the confines and dominions of the same, are compassed and environed by and with the great seas, so that neither the King's liege people and subjects of his said Realm, nor yet any other people of any foreign Realms or countries,

can or may convey or transport their wares, goods, merchandises and commodities, into and from the said Realm, by or along the said seas, but only by ships.

And where the Navy or multitude of ships of this Realm in times past hath been and yet is very profitable, requisite, necessary and commodious, as well for the intercourse and course of merchants transporting and conveying their wares and merchandise, as is above said, and a great defense and surety of this Realm in time of war, as well for offense as defense, and also the maintenance of many masters, mariners and seamen, making them expert and cunning in the art and science of shipmen and sailing, and they, their wives and children have had their living of and by the same, and it also hath been the chief maintenance and support of the cities, towns, villages, havens and creeks near adjoining unto the sea coast, and the King's subjects, bakers, brewers, butchers, smiths, ropemakers, shipwrights, tailors, shoemakers, and other victualers and handicraftsmen inhabiting and dwelling near unto the said coasts, have also had by the same a great part of their livings; and the same Navy and multitude of ships is now of late marvelously impaired and decayed, and by occasion thereof not only a great multitude of the King's liege people, which thereby had their living, be now diminished and impoverished, but also the towns, villages and inhabitations near adjoining unto the sea coasts are utterly fallen in ruin and decay;

For reformation whereof, it was ordained and enacted by a statute made in the Fifth Year of the Reign of the Right Noble King Richard II. that none of the King's liege people should ship merchandise in any other ship than in an English ship, upon pain of forfeiture of the said merchandise so shipped;

And that after that, by one other statute made in the Sixth year of the said Most Noble King, it was enacted that for

default of English ships every man might ship merchandises in Stranger's ships;

And after that at a Parliament held at Westminster the Fourth Year of the late Noble King of famous memory, King Henry VII., it was ordained and enacted that no person should carry or bring any wines of Gascony or Guienne or Toulouse Woad into England, Wales, Ireland, Calais or the marches thereof, or Berwick, save in ships of England, Wales, Ireland, Calais, or the marches thereof, or Berwick; and that the master and mariners of the same ships, or the greater part of them, should be of the same countries, upon pain of forfeiture of the said wine and woad;

And after that at a Parliament held at Westminster the 15th day of January, in the twenty-third year of the most noble Reign of our now Sovereign Lord the King Henry the VIII., it was ordained and enacted that the said statutes and every thing in them contained should stand in their full strength, force and effect, so that from thenceforth no person should attempt to do contrary to the tenures of any of the said statutes, upon the pains contained in the same, as in the said statute is more plainly expressed and declared:

Yet notwithstanding, divers and sundry persons, not regarding the maintenance of the said Navy nor yet the commodities and profits coming and growing unto this Realm by occasion of the same, for their own singular lucre and advantage, have not feared and do not dread to offend the said laws and good ordinances;

Wherefore, the King's Majesty, having great zeal and tender respect unto the Commonwealth of this his Realm, willeth that it be enacted by the assent of the lords spiritual and temporal and the Commons in this present Parliament assembled, and by the authority of the same, that the said statutes and all and every thing in them contained shall stand and continue

in their full strength, force and effect: so that from henceforth no person or persons shall attempt to do anything contrary to the tenures and effects of the said good and laudable statutes, upon the pains in the same contained and expressed.

II. And be it further enacted by the authority abovesaid, that, from henceforth the owners, masters and pursers of English ships or other vessels, having the same ships or vessels at the port and haven of the River of Thames at London, and being minded, purposed and agreed to take any freight or lading at the same port into any of the said ships or vessels and from thence to sail with the same directly unto any of the ports beyond the sea hereafter named, expressed and specified, or to any haven, port, or road of charge or discharge, or having the same ships and vessels at any of the said ports beyond the sea, and being contented minded agreed or purposed to take any freight or lading from any of the same places beyond the sea directly unto the said port or haven of the said River Thames at London, or to the road of charge or discharge of the same, shall not at any time hereafter, by any manner or means, take or receive any more or greater sum or sums of money for the freight, transportation conveyance or carriage of any wares, goods or merchandises in their ship or ships, vessel or vessels, into or from any of the said havens or roads of charge or discharge, but only such sum or sums of money and after the rate, quantity and fashion as hereafter in this present Act is mentioned and declared.

First, for the freight of every woollen cloth shipped to Flanders, 8 pence Flemish, and a piece of Flemish money called an English for loadmanage, and for primage of every fardel of the biggest cloth, great or small, 4 pence Flemish;

Also from Flanders to London, for the freight of every such fardel of the biggest sort, 20 shillings Sterling, descending downward to 16 shillings, 13 shillings 4 pence, 10 shillings, or

8 shillings, after the rate and quantity of every such fardel as the owner, shipmaster or purser can agree.

Also, for the freight of a maund of the biggest sort, 6 shillings, 8 pence, Sterling, and so descending downwards.

Also, for the freight of a dry fat of the biggest sort, 6 shillings, 8 pence, and so descending.

Item, for every case of velvet containing 14 pieces of velvet, 5 shillings;

Item, for a bale of silk of six feet in height, 5 shillings;

Item, for a bale of fustian, 20 pence;

Item, for a bale of chamblet, 20 pence;

Item, for a bale of Cologne hemp or thread, 2 shillings;

Item, for a bale of madder, 2 shillings;

Item, for a bale of almonds, 2 shillings;

Item, for a butt of currants, 3 shillings, 3 pence;

Item, for a barrel of nails, 2 shillings;

For a trussing-chest, 2 shillings;

For a sugar-chest, 2 shillings;

For a ton of iron, 2 shillings;

For a hogshead of prunes and dates, 20 shillings;

For a bag of paper (loose) 20 pence;

For every hundred weight of hops, 6 pence;

For a flask of soap, 4 pence;

For pieces of Brazil wood, 1 pence;

With all the averages, loadmanage and primage as of old time accustomed in English ships.

Item, from London to Denmark, the owner of every ship shall have 8 pence Sterling for the freight of every broad woolen cloth shipped to Denmark, and for every said cloth, 3 pence Sterling.

Item, for every roll, pack or maund of rabbit skins, 17 shillings;

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Item, for the primage of every fardel shipped to Denmark,
3 pence;

From Denmark to London, for every last of wheat or rye,
25 shillings, 8 pence;

Item, for every pack, or two half-packs of flax, 30 shillings;

Item, for every pack, or two half-packs of canvas, 30 shil-
lings;

For every last of pitch and tar (14 barrels) 12 shillings;

For every last of osmonds, 8 shillings;

For every bundle of bowstaves, 26 shillings, 8 pence;

For every nest of compters, 18 shillings;

For every last of faggots of iron, 4 shillings;

For every last of ashes, (14 barrels), 11 shillings;

For every fat of sturgeon, 2 shillings;

For every fat of eels, 2 shillings;

For every cage of eels, 4 pence;

For every sack of feathers (the largest sack weighing 900
weight), 18 pence;

For every straw of wax (of 16 hundredweight), 14 shillings;

Item, for loadmanage of every last of the said merchandises,
6 pence, and for the primage of every last, 4 pence.

Item from Bordeaux to London:

For every ton of wine at the first vintage, accounting two
pipes, 4 hogsheads, or 6 tierces for a ton, 18 shillings;

For every ton of wine at the rack vintage, 16 shillings;

For every ton of Toulouse woad, accounting 8 whole bales
or 16 half bales for the ton, 20 shillings, with loadmanage and
primage.

From London to Biscay, outward and homeward, the mer-
chants who take freight in ships shall have, for every five tons,
a fardel of woollen cloth, containing 18 broadcloths, freight
free; and to pay for every cloth laden in addition in the same
ship, 70 maravedis, the which is 11 pence;

From London to all Ports of Portugal and Southern Spain, this side of the Straits, for the freight of every pack or fardel of 16 broadcloths, 2 ducats of 5 shillings Sterling apiece; always provided that the merchant that takes freight in any ship freighted from the said port of London to any of these places shall have for every five tons of freight, one fardel or pack of 15 broad woolen cloths freight free, and for primage and loadmanage of every fardel, 5 pence, with all averages according to the old use and custom of English ships.

From Taule, Aymountey and Lepe, for the freight of every ton of merchandise to London, 20 shillings Sterling; loadmanage and primage after the old use and custom of English ships.

And for the freight of every ton of merchandise freighted to St. Lukes de Baromeda, St. Mary Port, the Bay of Candia, towards London (pesterable wares only excepted), 21 shillings Sterling, and for loadmanage and primage, 6 pence Sterling, with all the averages of old time accustomed, after the old use and custom of English ships.

Also, the freight of every ton of merchandise from the Crane of Seville directly to London, 23 shillings Sterling, and for loadmanage and primage, 6 pence Sterling, with all averages, (etc.).

Also, from Malaga to London, 25 shillings Sterling, and for loadmanage and primage, 6 pence Sterling, (etc.).

III. And further be it enacted, by the authority aforesaid, that if any owner, master or purser of ship or vessel of this Realm, or the Dominions thereof, or any of them, being freighted unto or from the said haven or port, or the River of Thames, or any of the places above rehearsed, do exact or take of any merchant, or his servant, factor, or any of them, any other, greater or larger freight, or sums of money in the name of freight, than is above referred and appointed by this

Act, or otherwise infringe or break the same Act or anything therein contained, that every such person or persons so offending contrary to the form of this statute, shall forfeit and lose double as much as he or they shall so receive and take over and above the rate and sums before rehearsed, the one-half of it to be paid to our Sovereign Lord the King, his heirs and successors, and the other half thereof to be paid to any such person or persons that will sue for the same, by action of debt, bill, information, or otherwise, in any of the King's Courts of Record, in which action no essoin, protection, or wager of law shall be allowed or admitted in any of the Courts above said.

IV. Provided always that this Act and anything therein contained or specified concerning the said rates or sums of the freight before rehearsed, shall not extend to bind or charge any owners, masters, pursers or mariners of any ship or vessel for the freighting or lading thereof into or from any port or haven within this Realm of England, other than the said port of London in manner and form before specified.

V. Provided also, and be it enacted by the authority aforesaid, that at what time any war shall happen to be moved or had between this Realm of England and any other exterior potentates, foreign princes, their realms, or subjects, or between any other outward Kingdoms, by occasion and means whereof the said owners shall be charged more for the furniture of their ships and vessels, or for victualing, greater number of men and artillery, for the sure conducting, conveyance and transportation of the merchandises, goods and wares laden in the same, that then it shall be lawful to the same owners to receive, take and have such larger and greater sum or sums of money, over and above the rates aforesaid for their freight of their ships and vessels, as the merchants and they shall be agreed upon, any thing or things contained and referred in the said rate specified in this present Act, or any other thing in the same

Act contained, to the contrary thereof in any wise notwithstanding.

VI. Provided also, and be it enacted by the authority aforesaid, that, if at any time hereafter it shall be concluded, covenanted, bargained, condescended or agreed, between any merchants, their factors and servants, or any of them, and any owner, master or purser of any ship or vessel of this Realm, or the Dominions of the same, that any such owner, master or purser be contented to receive, have and take any less sum or sums of money under the rates above said, then every such conclusion, bargain, covenant, condescension and agreement shall stand and be good and effectual, any thing or things in the same Act contained to the contrary in any wise notwithstanding.

VII. And where also our Sovereign Lord the King, of his own bounteous liberal mind and princely discretion, now of late hath commanded that no person or persons, being strangers or denizens, conveying or transporting any goods, wares or merchandises into any port, creek or other place of this realm or out of the same, should for a certain time pay any other greater or larger custom and subsidy than his Grace's loving and natural subjects then used and were accustomed to do and pay at that present time (custom and subsidy for wools only excepted), since which commandment so given and known, sundry grievances and complaints have been made, as well to the King's Majesty as also to his most honorable Council, by divers of his Grace's loving subjects, that the merchants strangers and their factors, having exceeding benefit, profit and commodity by reason of the said commandment, have done and do daily lade and convey their goods, wares and merchandises bought within this Realm, from and out of the same in and upon strangers ships of other Realms, in such number at sundry ports, havens, rivers and places of this Realm, and the

Dominions of the same, that the owners of ships their masters, mariners, seamen, shipwrights, and a great multitude of others of his Grace's subjects are greatly impoverished to their extreme losses and damages, whereby no little detriment and decay hath been and is likely to ensue to the said Navy of this his Grace's Realm of England and the Dominions thereof;

For Reformation whereof, his Royal Majesty, of his most excellent wisdom and policy, foreseeing the discommodity, as well of his Navy as of the people, and with most goodly mind intending as well the Commonwealth of his Grace's said Navy and people, doth enact by his most Royal assent and by the assent of the Lords spiritual and temporal and of the Commons in this present Parliament assembled, and by authority of the same, that from henceforth all and every person and persons that is or be strangers or aliens, born out of this Realm of England, or in any other place out of our Sovereign Lord, the King's obeisance, being denizens or not denizens, their factors, attorneys, ministers and servants, that at any time hereafter do lade or shall cause to be laden any wares, goods or merchandises, of what kind, nature or quality soever it shall be, in any ship, bottom or vessel of this Realm of England, commonly called an English ship, bottom or vessel, during the time in the aforesaid proclamation contained, shall not be compelled to pay or cause to be paid any other custom or subsidy, but only according to the said proclamation.

And in case that any stranger or alien born out of this Realm of England or other parts of our said Sovereign Lord the King's obedience, being denizen or not denizen, at any time hereafter freight or lade, or cause to be freighted or laden, any ship, bottom or vessel of any Stranger or outlandish person, with any wares or merchandise from this Realm of England to any outward ports, that then the same Stranger or alien shall settle and pay or cause to be settled and paid to the King, our

Sovereign Lord, his heirs and successors, all such and like customs and subsidies as strangers and aliens born in other realms have used to pay, according to the ancient customs, uses and laws of the Realm of England, any thing in this present Act or in the said proclamation contained to the contrary thereof in any wise notwithstanding.

Provided always, that if there be no such ship or vessel of this Realm of England or the Dominions of the same at or in the Port, haven or place where the said Strangers, aliens or denizens, their servants or factors would freight and lade their wares and merchandises towards the outward regions, that then if the said Strangers or denizens, their factors, attorneys or servants, before he or they do lade, freight or convey the same goods, wares, commodities or merchandises into any strange or stranger's ship or vessel, do notify and declare the same lack or want of the same English ships and vessels unto the Lord High Admiral of England for the time being or his Lieutenant, Deputy, or Deputies, if they or any of them be resident at or in the same port or place of lading, or if the said Lord High Admiral or any such Lieutenant, Deputy or Deputies be not resident at or in the said port or place, then if they make notice or declaration thereof to the customer or Comptroller of the said port or haven, or to their deputy or deputies, and do obtain or cause a certificate to be made under the seal of him to whom such notice and declaration is made, of lack of English ships, as is above said, that then it shall be lawful to the Strangers and denizens, their factors and attorneys, for lack and wanting the said English ships and vessels, to freight and lade their said wares and merchandises in any strange ship or vessel at that time being in the same port or haven, and to pay none other subsidies and customs therefor but as the English merchants, being the King's natural subjects, do use or ought to do by the laws and customs of this Realm of

England, any article or clause to the contrary thereof in this present Act contained in any wise notwithstanding.

VIII. And further be it enacted by authority above said, that all and every owner and owners, master and masters, and other governors of English ships or vessels, or any of them, minding and intending to make any voyage or sailing from the port of London into the parts of beyond the seas with his or their ship or vessel, shall make public notice and declaration of his or their said mind and intent of sailing and voyage in writing, and affix the same unto some post or other open place or places in Lombard Street, there to remain by the space of seven days, declaring in the same writing to what place or port he or they shall so intend to sail and make his or their voyage, and of the name of the ship or ships in the which he or they intend to sail; to the intent that merchants may have perfect knowledge to prepare such wares as they or any of them will have conveyed into such parts beyond the seas, and also that the said owner and owners, master and masters, and other governors, or any of them, intend to make his or their departure from the said port of London after the freighting or lading of the same ship or ships at such time and soon as wind and weather will serve, according to the charter party to be made between the said owner or master and the merchants without protraction of time.

IX. And it is also enacted by the authority above-said, that the said owner and owners, master and masters, and other governor or governors of ships, and every of them, to his or their power and forasmuch as in him or them shall be, shall see and provide that all wares and merchandises which shall be by the said merchants, their factors or servants, or any of them, brought into any ship or vessel shall be honestly and in good order saved and kept.

X. Provided always and be it enacted by the authority above

said, that if any merchant stranger or other find himself aggrieved or damaged by the negligent keeping of the said merchandises or wares, or by long delaying or protracting of them in taking the voyage, by the said owner, his factor, master or any of the mariners of the said ship, otherwise than shall be agreed betwixt the said merchant, his factor, attorney or servant, and master and owner in or by the said charter party, not being hindered by wind or weather, shall and may have his remedy by way of complaint before the Lord Admiral of England for the time being, his Lieutenant or Deputy, against the said owner or owners, master or masters, governor or governors, or his or their factor or factors, which Lord Admiral, for the time being, his Lieutenant or Deputy, shall and may summarily and without delay take such order and direction therein as shall be thought to his or their discretion most convenient and according to right and justice in that behalf.

XI. Provided always that this Act or anything therein contained do not extend to give any liberty, license, benefit, authority, profit or advantage by any manner or means to any person or persons born out of this Realm of England, or any other of our Sovereign Lord the King's dominions, of or for the wools and sheepskins out of the said Realm and any other of his Highness Dominions, or for any longer time or term than in said proclamation or commandment is expressed and declared, any thing in this present Act to the contrary notwithstanding.

XII. Provided always and be it enacted by the authority aforesaid, that neither this Act nor anything therein contained shall extend or be in any wise prejudicial or hurtful to the merchants of the Hanse in Germany, having the house in London, commonly called Guylhalda Theutonicorum, otherwise called the Steel Yard; and in all places as they or any of them should or might have done before the making of this

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Act, and as though this Act had never been made, anything in this Act contained to the contrary in any wise notwithstanding; (so that the same merchants do only lade in such bottoms, vessels and ships as belong to and are of their own ports, territories and dominions privileged, or English bottoms, vessels or ships; and for lack of the same English ships or bottoms, then they or any of them may lade in any strange bottoms, vessels or ships after the same form and manner as they might do before the making of this Act, anything contained in the same to the contrary notwithstanding).

XIII. Provided always that the Lord Admiral nor his deputy or deputies shall in any wise interfere or meddle with the liberties of the five ports and the masters of the same, to execute any authority or jurisdiction to him granted by virtue of this Act, but that the warden of the said five ports for the time being or his deputy shall, or may, by the authority aforesaid, have and enjoy all such authorities, jurisdiction and liberties within the said five ports and members of the same as had been granted to the said High Admiral by virtue of this Act within any other port or place within this Realm, anything in this present Act to the contrary in any wise notwithstanding.

EDWARD VI.

(Born, October 12, 1537. Reign began January 28, 1547. Died, July 6, 1553. Reigned 6 years.)

CONFLICTING policies towards English shipping marked the brief reign of Henry VIII.'s son; but the responsibility rests with the councillors of the young king. Edward VI., dying at sixteen, cannot, despite the precocity attributed to him by some historians, have originated much towards molding the commercial legislation of the realm.

Parliament, in 1548, again turned its attention to the fisheries, and an Act was passed, providing for the strict observance of fast-days. This measure was declared to have a threefold purpose: It was "for the good of men's souls," for "the saving and increasing of much flesh," and "that the fishers might thereby be the rather set on work," the latter with a view to the extension of the national supply of ships and seamen. This was the first of the so-called "Political Lent statutes," by which the regulation of the Englishman's diet was intended to make England mighty at sea.

There were the elements of more substantial aid to the English merchant marine, however, in a decision of Edward's Privy Council in 1552. The tide, long so strongly in favor of the Hanseatic League and its domination of England's foreign commerce, now began definitely to turn against the merchants of the Steelyard. "Having for the last forty-five years had the sole command of our commerce," says an English writer of the day, "they had reduced the price of English wool to one shilling and sixpence a stone. In the preceding year

they exported no fewer than 44,000 woolen cloths of all sorts, whilst all the English merchants together had, in the same year, exported but 1,100 cloths. The Steelyard merchants were also excused from alien's duties, and yet all their exports and imports were made in foreign bottoms; which was a very considerable loss to the nation."

The finding of the Privy Council in the case stated that, although the men of the Steelyard had formerly traded only with their own countries, "they, at present, not only convey English merchandises into the Netherlands and there sell them, to the great damage of the King's own subjects, but they do also import merchandise of all foreign countries, contrary to the true intent and meaning of their privileges."

There was also the complaint that merchants of other foreign countries were allowed to import and export goods of their own, as if they were the property of the Steelyard, thus escaping the payment of proper duties.

For these, and other reasons, the Privy Council annulled the privileges of the Steelyard and placed its merchants on an equal footing with other foreigners.

One result of this reversal of privileges, it is stated, was that, in this same year of 1552, English merchants shipped 40,000 cloths to Flanders. The Hanse, however, was soon to be restored to its old position of practical monopoly; but the Privy Council had struck a blow that was to be followed up later with complete effectiveness.

As against this gain for English shipping, however, Parliament in this same year made a wide breach in the Navigation Laws by "An Act for the repealing of an Act made in the fourth year of King Henry the Seventh, against the bringing in of Wine and Woad in Strangers' bottoms." It was declared the Act in question had failed in its purpose of lessening the prices of wines and woad, and that it had not improved the

shipping of the nation. On these grounds it was enacted that any ship, native or foreign, was free to bring in the commodities named at any time of the year between "February first and October first." For three months of the year (the stormy season) English ships were to retain their carrying monopoly, and this made it possible for the English to control the first wines of the new vintage before they could come into foreigners' hands. It is also to be noted that the Act does not include that part of the Act of Henry VII. which provided that no Englishman should use a foreign ship if English tonnage was available. The Act of Edward, therefore, was by no means a complete repeal.

MARY

(Born, February 18, 1516. Reign began July 10, 1553.
Died, November 17, 1558. Reigned 5 years.)

ALMOST no consideration was given to the aid of merchant shipping in the reign of Mary. An Act of 1554 prohibited the export of wood (which was needed for ship-building), and foodstuffs; but the nearest approach to a marine statute was an elaborate measure enacted by Parliament in 1555, for the regulation of "Watermen and Bargemen upon the River Thames."

Mary, however, lost little time in restoring to the foreigners of the Steelyard the monopolistic privileges which Edward VI.'s Privy Council had taken from them in 1552. In 1553, she made a decree setting aside all the measures taken against them, acting in compliance with the pleas of the ambassadors of the Hanse cities.

ELIZABETH

(Born, September 7, 1533. Began to reign, November 17, 1558. Died, March 24, 1603. Reigned 45 years.)

QUEEN ELIZABETH's reign had scarcely begun when Parliament, at the close of 1558, enacted a statute repealing entirely the Navigation Acts of Richard II. and Henry VII.

By most historians this is regarded as a complete abandonment of the established shipping policies of England. But the Act was more than a mere repeal measure. Drawn, primarily, for political purposes, it declared that the old Navigation Acts had caused great displeasure to foreign princes, who had had retaliatory measures enacted, forbidding the use of other ships than those of their own countries, whereby English merchants had been "sore grieved and endamaged."

The Act of 1558 then proceeded to state that sundry English subjects were given to the practice of entering in the Customs books in their own names the goods of foreigners, thus avoiding the payment of double duties, and defrauding the "Queen's Majesty" in her revenues. For remedy whereof, it was enacted, that all goods (naval stores and corn excepted) shipped in vessels that were not English-owned and did not have a majority of their crews British subjects, should pay the extra duties required of aliens.

This provision went even further than Henry VIII's Act of 1540, which had required foreigners to ship in English bottoms in order to have the benefit of the lower customs duties. Elizabeth's Act applied to English subjects as well as to aliens, and it did not have the clause permitting the use of foreign

ships without penalties if sufficient English shipping was not available. Under Elizabeth, therefore, there was instituted a more sweeping system of preferential duties.

Another section of the Elizabethan Act prohibited any English-owned "hoy or plate" from carrying any goods "beyond the seas." Hoys and plates were small vessels, usually engaged in the coasting trade, and the purpose of the provision seems to have been twofold:

- 1—To prevent coasting vessel owners from competing in foreign trade;
- 2—As a result, to increase the number of larger-sized English ships.

Hoys and plates engaging in foreign trade were made subject to forfeiture under the Act.

It was provided however, that the two associations of English traders operating in foreign commerce—the Merchant Adventurers and the Merchants of the Staple—might, not more than twice in one year, ship cloth and wool in foreign ships if English tonnage was not available, without their being required to pay aliens' duties. The merchants of Bristol were similarly exempted from the payment of extra duty, in consideration of their recent heavy losses of ships through piracy and war seizures.

Further steps for the benefit of English shipping were taken in an Act of 1562. For the first time, the coastwise trade was restricted to English ships, it being provided that no goods of any nature whatsoever were to be carried "from one port or creek of this Realm to another port or creek of the same Realm" in any vessels wholly or partly foreign-owned, upon penalty of the forfeiture of the goods. By another section of the same Act, the statute of Henry VII., which had been repealed in 1558, was reestablished in practically its full force.

Export of certain foodstuffs was also restricted to English bottoms.

Development of the fisheries, with a view to the increase of English ships and English mariners figured largely in the maritime policy of Elizabeth's reign. By the Act of 1562, English subjects were made free to export in English vessels any English-caught fish, without paying customs duty on the same, for a period of four years. No tax or toll was to be taken on any English-caught fish imported by English subjects in English ships. It was made unlawful to buy from any foreigner, or foreign ship, "any Herring being not sufficiently salted, packed and casked."

Every owner of a ship, every "Householder using and exercising the Trade of the Seas by Fishing or otherwise," every "Gunner or Gunners, commonly called Cannoners," and every shipwright became legally entitled to take and keep apprentices, "to be brought up in the said trade or trades," to be bound for ten years or less, and every apprentice so taken must be "above seven years of age."

"And for increase of Provision of Fish," it was enacted in the statute of 1562, which was styled "An Act touching certain Politic Constitutions made for the Maintenance of the Navy," that every Wednesday, as well as every Saturday, was to be observed as a Fish-Day. And, "For the benefit and commodities of this Realm to grow as well in Maintenance of the Navy, as in sparing and increase of Flesh Victual of this Realm," no one was to eat any flesh on Fish-Days, under penalties of fine and imprisonment.

A Statute of Henry VIII., providing for the compulsory sowing of hemp and flax, was revived and strengthened, a whole acre's sowing being required where the previous Act specified a fourth of an acre.

It was stressed that the Act was "Purposely intended and

meant politically for the increase of Fishermen and Mariners, and repairing of Port Towns and Navigation, and not for any Superstition to be maintained in the Choice of Meats." And anyone who should, "by Preaching, Teaching, Writing or Open Speech," hold that the Statute was "of any necessity for the saving of the Soul of Man, or that it is the Service of God," should "be punished, as spreaders of false news are, or ought to be."

The prohibition against coasting vessels, "hoys and plates," engaging in foreign trade, was lifted by the Act of 1562, to the extent that they were now allowed to "cross the seas as far as Caen, in Normandy, and eastward as far as Norway."

In 1571, Parliament extended for six years the privilege to export fish free of duty in English bottoms, "so that such transporting be in vessels with cross-sails." This proviso was apparently aimed at the coasting vessels, which were not so equipped. The Act stated that the freedom from duty had "greatly increased the Navy and Fishermen, and causeth many poor men to be set at work, and is in great likelihood daily to increase the same more and more."

This same Act of 1571 dealt extensively with the fishing industry. It provided that all subjects, "born within this Realm, or within any other your Majesty's Dominions," should be free for six years to import without any penalty "into this Realm, or any other your Highness's Dominions, all such Cods and Lings as they shall happen to take upon the sea by their own fishing in vessels with cross-sails."

It was also sought by the Act, to protect the fishermen of Yarmouth and vicinity, by barring other fishing vessels from that region, on penalty of forfeiture of vessel, tackle and fish, part of the proceeds of the seizure to be devoted to the repair of the "decayed haven" at Yarmouth. This policy of providing for the maintenance of harbors is also laid down in another

section of the Act. This forbids the curing within England, to be sold there, of any fish brought into the Realm by foreigners, or any Scotch or Flemish fish, even if imported by natives. The penalty was the forfeiture of the fish, and the proceeds were to "be employed to the reparation and maintenance of such port, pier or haven as is next to the place where the offence is committed."

Another statute of 1571, entitled "An Act for the Increase of Tillage, and for Maintenance and increase of the Navy and Mariners of this Realm," allowed the export, in English-owned ships only, "bearing cross-sails," of wheat, rye, barley, malt, peas, or beans, when there was a greater supply than necessary for home consumption.

Although guns and gunpowder had been in use for more than two centuries, an Act of 1571, "For the bringing of Bowstaves into this realm," recites that "The use of Archery not only hath ever been, but also yet is, by God's special Gift to the English Nation, a singular Defence of this Realm, and an occasion of many noble Victories, and both a very wholesome Exercise for the Health and Strength of Men's Bodies, and a Maintenance of a great number of the Queen's true Subjects, and Artificers, as Bowyers, Fletchers, Stringers and Arrow-head-Makers." The Act has a bearing upon shipping, for it placed upon foreigners the responsibility for importing a supply of bowstaves in proportion to the other goods brought in for them.

The same statute provided that "All Merchants Strangers using to bring Wares into this Realm from the East Parts, as well from the threescore and twelve Hanse towns, be comprised and meant under the name of and bound as the Merchants mentioned and bound by the said Statute to bring in Bowstaves." This specification of imports from certain regions was due to the fact that the best wood for bows came from the

Baltic countries. Acts of similar purport, to increase imports of bowstaves, had been passed by Parliament in previous reigns.

This year of 1571 marked the enactment of another statute to prevent the encroachment of coasting vessels upon foreign trade. It was now declared that the provision of the Act of 1562, allowing hoys and plates to cross the seas in certain trades, "tendeth greatly to the Decay of Mariners and Ships by the marvelous increase of hoys" (which required very small crews). It was therefore enacted that there should be a revival of the prohibition against hoys and plates crossing the seas in any trades.

For ten years following this, Parliament took no action directly affecting shipping. Then, in 1581, by the 23rd of Elizabeth another fish-statute was enacted. This provided that "no English man or woman, or denizen, should go or send into any other foreign country for the buying or bringing into this Realm any salted fish, or salted herring, or should make agreement with any stranger or other for such bringing of fish." Further, no such fish was to be imported from "any foreign dominion, but by the owners thereof, being aliens, without the procurement of any of the Queen's subjects."

This Act remained in force for sixteen years. In 1597, it was repealed by the 39th Elizabeth, chapter X, "For the Increase of Mariners and for Maintenance of the Navigation." Upon the making of the earlier statute, it was declared, it had been "hoped and expected, that the Fishermen of this Realm would in such sort have employed themselves to Fishing, and to the building and repairing of such store of Boats and Shipping for that purpose, as that they should long ere this time have been sufficiently able to have victualed this Realm with salted Fish and Herrings of their own taking, without any supply of Aliens and Strangers, to the great increase of

Mariners, and Maintenance of the Navigation within this Realm."

Notwithstanding which, the statute continued, "it is since found by experience, that the Navigation of this Land is no whit bettered by means of that Act, nor any Mariners increased nor like to be increased by it." But, "contrarywise, the natural Subjects of this Realm being not able to furnish the tenth part of the same with salted fish of their own taking," accordingly, "the chief provision of the Realm hath, ever since the making of the same Statute, been in the power and disposition of Aliens and Strangers, who thereby have much enriched themselves, greatly increased their Navigation, and (taking advantage of the time) have extremely enhanced the price of that Victual, (fish), to the great hurt and impoverishing of the native Subjects of this Realm." Furthermore, the foreigners "serve the Markets here in very evil sort, by little and little, housing and keeping their Fish as well on this side as beyond the Seas, till the prices be raised to their liking."

As a result, the Act added: "The Merchants of this Realm, having been wholly barred in their Trades of providing of Fish for the service thereof, the Navigation of this Realm, which was intended to be augmented, hath been rather impaired than increased thereby, and the prices of Fish greatly enhanced, to the great and general prejudice of the Subjects."

Accordingly, "For Remedy whereof," it was enacted that, as it was lawful for foreigners as well as natives to export to foreign parts salted fish taken by English subjects, it was not just that the foreigners should have the monopoly of importing foreign fish into England, and the same right was granted to English subjects through the repeal of the necessary parts of the Act of 1581.

In addition, the Act of 1597 allowed English owners of ships, having cross-sails, to take aboard any fish which any for-

eigner had bought from an English subject within the Realm. The English ship might transport the fish abroad, provided the foreigners had paid the necessary customs duties.

It was also provided that aliens should pay on all salted fish brought into the Realm, such extra duties and customs as were imposed in their own countries upon fish from England.

The importance of the development of the fisheries as a chief source of supply of ships and seamen for the merchant marine formed the principal feature of Elizabethan shipping policy, and was carried on by successive English sovereigns. Lord Burleigh, Elizabeth's chief advisor, was responsible for this, as for most of the other shipping-aids provided in the Queen's reign.

To conserve wood suitable for shipbuilding, a statute was enacted in 1558, 1st Elizabeth, chapter XV., providing that, "For the avoiding of destruction and wasting of Timber, no oak, beech, or ash, growing near the sea, be employed as fuel for making iron," under penalty of forty shillings.

This Act was followed in the next year by a Proclamation of Queen Elizabeth against the selling of ships. This declared that "The Queen's Majesty, understanding out of sundry parts of her Realm, and especially such as be nigh to her sea coasts, what great scarcity of Timber there is, and in long time not to be recovered meet for the building of ships, either for her own Majesty's Navy, or for the merchants of her Realm, hath by the advice of her Council, thought meet to command that no manner of person born within her obeisance shall sell, or by any manner or means, directly or indirectly, alienate any manner of ship or vessel, of what burden soever the same shall be, being meet to sail upon the sea, to any manner of person either born or resident out of her Highness's Dominions, as the same will answer at their uttermost peril."

Preservation of timber was again sought in 1581, by the 23rd

Elizabeth, chapter V., providing that no new iron works should be erected within 22 miles of London, nor within 14 miles of the river Thames; nor in several parts of Sussex near the sea. And no wood within these districts was to be converted to coal or other fuel for the making of iron.

In 1585, the 27th Elizabeth, chapter X., required that no new iron works were to be established in Surrey, Kent, or Sussex; and that there should not be used for fuel the "bodies of any timber trees, of one foot square from the stub."

A safeguard against shipwrecks was sought by the 8th of Elizabeth, chapter XIII., enacted in 1565. This recited the dangers arising from the "destroying and taking away of certain steeples, woods, and other marks standing upon the main shores, adjoining to the sea coasts of this Realm of England and Wales." These had served "as beacons and marks of ancient time accustomed for seafaring men, to save them and keep them and the ships in their charge from sundry dangers thereto incident."

Divers ships, it was stated, "Have by the lack of such marks of late years been miscarried, perished, and lost in the Sea, to the great detriment and hurt of the Common Weal, and the perishing of no small number of people."

"For Remedy wherein to be had," it was enacted that the officials of Trinity House should erect at their own cost "such and so many beacons, marks and signs for the sea, in such places of the sea shores and uplands as to them shall seem requisite." A penalty of one hundred pounds was also provided against cutting down or removal of any existing sea-marks.

By a Proclamation of 1575, the Queen ordered that no one should arm or provision any vessel for sea, except for merchandise, passengers, or fishing; and that no seaman subject should serve in any vessel, either English or foreign owned,

except those having a license for the purpose from the Queen or the Lord High Admiral.

A tonnage tax was imposed on all English vessels above twenty tons burden by an Act of 1581 (23rd Elizabeth, chapter VI.). For every voyage, inwards or outwards, threepence was to be paid for every ton of the ship's burden (vessels lading with sea-coals or grindstones excepted); and for every chaldron of sea-coal or grindstone one penny, halfpenny. The tax was to be used towards the repair of Dover Haven.

A final step to increase the supply of timber was taken by an Act of 1593 (35th Elizabeth, chapter XI.). This measure declared that, "Of late years timber is greatly decayed and consumed within this realm, and the want thereof is greatly to be feared and speedily to be provided for." It appears that there had been "great occasion of spending and consuming, by selling of great quantities of timber and converting the same into cloven board for the making of casks," which were then shipped out of the country. But there was great need of wine-casks in the Realm, which were "very serviceable, as well for her Majesty's household and Navy, for victualing of her Highness's ships, and also for victualing of Merchant's Ships, and a great cause of sparing Timber within this Realm."

It was therefore enacted that every person, subject or alien, who exported beer, should, within four months after the exportation, "bring or cause to be brought into this Realm, from the parts beyond the Seas, for every six tuns of beer, two hundred of clap-board fit for to make cask of, in length three foot and two inches at the least, or else the same casks again."

Foreigners were forbidden to export any fish in casks, unless, before shipping them, they had brought into the Realm from foreign parts an equivalent amount of clap-boards or casks; upon pain of forfeiture of the goods shipped.

Elizabeth's reign was marked by the first systematic effort to provide aid for seamen disabled by service. In 1593 (by the

35th Elizabeth, chapter IV.), it was enacted that every parish should be charged with a sum weekly towards the relief of sick, hurt, and maimed mariners and soldiers. In 1597 (39th Elizabeth, chapter XXI.) provision was made for further taxation where the amount produced by the previous Act was not sufficient. The maximum rate for a parish was to be eightpence, and the minimum twopence. Justices of the Peace were authorized to alter the amount of relief of mariners and soldiers.

Perhaps the relief had been abused. In any event, in 1597 Parliament passed an Act (39th Elizabeth, chapter XVII.) "Against Lewd and Wandering Persons pretending themselves to be Soldiers or Mariners." This recited that "Divers Lewd and Licentious Persons, contemning both Laws, Magistrates, and Religion, have of late days wandered up and down in all parts of the Realm, under the name of Soldiers and Mariners, abusing the title of that Honorable Profession, to countenance their wicked behaviors, and do continually assemble themselves, weaponed, in the Highways and elsewhere, in troops, to the great Terror and Astonishment of her Majesty's true Subjects, the impeachment of her Laws, and the Disturbance of the Peace and Tranquility of her Realm. And, whereas many heinous Outrages, Robberies and horrible Murders are daily committed by these dissolute Persons, unless some speedy Remedy be had many Damages are like, by these Means to ensue and grow towards the Common-wealth."

Accordingly, it was directed that all wandering and idle soldiers and mariners, or impersonators, should "settle themselves in some service, labor, or other lawful course of life . . . upon pain . . . to be reputed as felons, and to suffer as in case of felony, without any benefit of clergy to be allowed."

The last shipping statute enacted during the Queen's reign was the first English legislation covering the subject of marine insurance. This Act of 1601 (43rd Elizabeth, chapter XII.)

"Concerning matters of Assurances used among Merchants" declared that it had always been the policy of the Realm to comfort and encourage the Merchant, "thereby to advance and increase the general wealth of the Realm, her Majesty's Customs, and the strength of Shipping, which consideration is now the more requisite, because trade and traffic is not at this present so open as at other times it hath been."

The Preamble draws a picture of the benefits of marine insurance and its value in encouraging foreign commerce. It then declares that of old the insurers had met obligations so justly that few disputes had arisen, and that where any occurred they were settled by "certain grave and discreet Merchants appointed by the Lord Mayor of the city of London. Of late years, however," the Act added, "suits have been carried into her Majesty's Courts, and great charges and delays have resulted."

To remedy this, the Act provided that the Lord Chancellor should annually appoint a special commission to decide insurance cases. This was to be composed of a "Judge of the Admiralty, the Recorder of London, two doctors of the Civil Law, and two common lawyers, and eight grave and discreet merchants," they, or any five of them, to have power to decide cases brought before them.

1565.

8TH ELIZABETH.

Chapter 13.

An act concerning sea-marks and mariners.

Whereas, the master, wardens, and assistants of the Trinity House of Deptford Strand, being a company of the chiefest

and most expert masters and governors of ships, incorporate within themselves, charged with the conduction of the Queen's Majesty's navy royal, are bound to foresee the good increase and maintenance of ships, and of all kind of men traded and brought up by water-craft, most meet for her Majesty's marine service. And forasmuch as by the destroying and taking away of certain steeples, woods, and other marks standing upon the main shores, adjoining to the sea coasts of this realm of England and Wales, being as beacons and marks of ancient time accustomed for seafaring men, to save and keep them and the ships in their charge from sundry dangers thereto incident: Divers ships with their goods and merchandises, in sailing from foreign ports towards this realm of England and Wales, and especially to the port and river of Thames, have by the lack of such marks of late years been miscarried, perished and lost in the Sea, to the great detriment and hurt of the Common Weal, and the perishing of no small number of people.

II. For remedy wherein to be had, be it enacted . . .

(The master, wardens and assistants of Trinity House may, at their costs, from time to time erect such and so many beacons, marks and signs for the sea, in such places of the sea shores and uplands near the sea coasts, as to them shall seem requisite. And the same shall be continued and renewed at their costs.)

IV. And be it further ordained and enacted, That no steeples, trees, or other things now standing as beacons or marks for the sea, whereof to the owner or occupier of the places where the same doth grow or stand, shall be taken down, felled, or otherwise cut down, upon pain that every person by whose procurement or consent such offence shall be committed, shall forfeit the sum of one hundred pounds, (one half to the Queen and the other half to Trinity House.)

V. And further, be it enacted, That all mariners and seafar-

ing men dwelling about the said river of Thames, being thereto licensed by the said master, wardens and assistants, and having sufficient certificate of such license from the said master and wardens, as well between their voyages as at other times, at their wills and pleasures, by force hereof, the better to keep and refrain themselves from folly, idleness and lewd company, and for the relief of them, their wives and children, may freely and quietly exercise and row in their own wherries, or in any other men's wherries by them to be hired, or wherein they shall be hired to work, up and down the said river of Thames, to apply and follow the ordinary passing and carrying of the Queen's Majesty's people to and fro as other watermen, commonly called Wherry-men, of the same river use and accustom to do, without impeachment, hindrance, or let to the contrary. And that such seafaring men shall not thereby be drawn under any other government, than under the said master, wardens, and assistants as they were before; any act, statute, provision, proclamation, ordinance or custom heretofore against the premisses ordained or made in any wise notwithstanding.

1593.

ELIZABETH.

Chapter 8.

An act for avoiding of deceit used in making and selling of twice laid cordage, and for the better preserving of the navy of this realm.

Forasmuch as it is found by common experience, That sundry persons using the trade of making cables, hawsers and other kind of cordage, within this realm, have of late for their private lucre and gain, used to make the same of old, cast and over-worn cables, hawsers and cordage, and yet have craftily and

deceitfully uttered and sold the same, being tarred, as new, good and strong, and as made of new and perfect stuff, covering and hiding the false and corrupt making thereof, by tarring of them before the same be put to sale; by reason whereof, not only divers ships, vessels and goods, as well as her Majesty's, as of sundry her highness's subjects, but also the lives, of divers of her said subjects, have been lost, perished, and cast away:

II. For remedy thereof, and for the avoiding of such great losses, inconveniences and dangers, as might otherwise hereafter ensue by such corrupt, false and deceitful making of cables, hawsers, and other cordage as is aforesaid;

III. Be it enacted . . . That if any person or persons make or cause to be made any cables of any old or over-worn stuff, which shall contain above seven inches in compass, then every person so offending shall forfeit and lose four times the value of every such cable so by him or her made, or caused to be made, as is aforesaid: (2) and if any person or persons shall tar, or cause to be tarred, any hawsers or other cordage made within this realm of such old and over-worn stuff as aforesaid, being of lesser assise, and not containing in compass seven inches, and shall after, by way of retail, sell or put to sale, or cause to be sold or put to sale, the same being so tarred; that every person so offending shall forfeit and lose the treble value of every cable, hawser and other cordage, being of lesser assise, and made of such old and over-worn stuff as aforesaid, which shall be so sold or put to sale, being tarred as is aforesaid: (3) the one moiety of all which forfeitures shall be to the Queen's majesty, her heirs and successors, and the other moiety to such person or persons as will sue for the same by action of debt, bill, plaint, or information, wherein no essoin, protection or wager of law shall be allowed.

IV. And furthermore, that every person which shall in any wise offend against the tenor and meaning of this act, shall be imprisoned for the same during her Majesty's pleasure.

JAMES I.

(Born, June 19, 1566. Began to reign, 1603. Died, March 5, 1625. Reigned 22 years.)

AMERICA comes clearly into the picture, as a factor to be reckoned with in English shipping policy, in the reign of the first of the Stuarts. Five years after the discovery of the New World by Columbus, the Cabots had crossed the Atlantic under a patent from Henry VII., had reached Newfoundland and had skirted the shores of North America as far south as what was to become Maryland. Before 1500, England knew of the Newfoundland fisheries, and English vessels were operating there with increasing frequency in the reign of Henry VIII. Under Elizabeth, in 1584 to 1588, Raleigh had made two voyages to Virginia; but it was not until 1606, under James I., that the first Virginia Charter was granted, or that anything like systematic trading with America was begun by the English. References to "the Dominions" in the statutes of the Tudors indicate that the American fisheries had come under the regulation of Parliament; but England had done little else in the way of exploitation of America, restrained chiefly by a desire not to become embroiled with Spain. With the defeat of the Spanish Armada in 1588, however, conditions changed. Virginia and Massachusetts were under the rule of England in the reign of James.

The first of the Stuarts is another figure taken into slight account by historians in general as a factor in shaping the shipping policies of England. It was James, however, who laid practically the entire foundation for the new maritime

system necessitated by the acquisition of the Colonies. Cromwell and Charles II., who have long been accredited as the originators of the Navigation Acts systematizing the trade with the new Empire, merely built upon this foundation, using little material that had not been created under James.

To trace the gradual development of the Imperial Shipping policy, it will be best to follow the sequence of events. Parliament now enters less into the picture, and it was to serve in even smaller degree in the following reign of Charles I. Through Decrees and Proclamations of King James and Acts of the Privy Council, some of the most important principles were established, with Parliament receding further into the background in matters of commercial regulation as James's reign progressed.

The new ruler was fertile in expedients for the benefit of shipping. In 1604 (by the 2nd of James I., chapter XXIV.), Parliament passed an Act "Against the deceitful and false Making of Mildernix and Powle Davies, whereof Sail Clothes for the Navy and other Shipping are made." Under Elizabeth, a statute had been enacted to prevent the manufacture of inferior cables and hawsers for ships, but the Act of James was the first of a long line of laws dealing with sail-cloth as a British manufacture.

As the statute of 1604 pointed out, "The cloths called Milder-nix and Powle Davies" had not been made in England "with perfect art and skill" until the "two and thirtieth year" of Elizabeth's reign. It appears, from the Act, however, that "upon desire of gain, many of the King's Majesty's subjects, not trained nor brought up in the said art, nor any ways skilful therein," were making badly woven and short-measure Milder-nix and Powle Davies. Also, that "the said clothes do yearly and daily grow worse and worse . . . to the great deceit and hurt of all his Highness's loving subjects that are to use and

employ the same about the sails and other furniture of their ships and sailing vessels, and to the great damage of his Majesty's Navy, the chiefest Strength of this Realm (next to God and his Royal Highness), and in short time are like utterly to overthrow the art and trade of making cloth of this kind within this Realm."

It was therefore enacted that no one should make sail-cloth "who was not trained and brought up in said art and mystery," together with apprentices who should serve for seven years. The sail-cloth was not to be made "of any other stuff than good and sufficient hemp, nor of any length less than three and thirty yards, nor of any less breadth than three quarters of a yard."

In the same Parliament of 1604 (Chapter 29), another was added to the long list of statutes dealing with the fisheries. This was styled "An Act to encourage the Seamen of England to take Fish, whereby they may increase to furnish the Navy of England."

The Preamble set forth the necessity of having a sufficient supply "of Seamen to be ready at all times to serve in the King's Majesty's Navy and the Navy of England, of which the Fishermen of England have ever been the chiefest Seminary and Nursery, which in this latter Age have greatly decayed."

The method proposed for the increase of the navies was the revocation of licenses granted to sick and infirm persons to eat beef, veal, pork, mutton, or bacon during Lent, or upon any fish-day. Butchers were forbidden to kill "beasts" in Lent, except for "Victualling of ships into foreign parts"; and Justices of the Peace were authorized to enter "Victualers' houses," and search for and seize meat during Lent. Penalties were provided also, to be imposed on innkeepers dressing meat during the proscribed period.

The same year saw the issuance of a Proclamation by James

against the selling of English vessels to other countries. "Learning that many ships, with their furniture, have been sold into foreign parts, contrary to law," it stated, "the King doth hereby command that no vessel be sold, save by licence under the Great Seal, under pain of imprisonment. All Admirals, etc., are to carefully inquire, and commit offenders to jail until they appear before the Privy Council on the next Star Chamber day."

By an Act of 1605 (3rd James I., chapter VI.) a blow was aimed at the practice of giving to a few English subjects a monopoly of the trade with certain countries. This statute pointed out that "divers Merchants have, of late, obtained from the King's most excellent Majesty, under the Great Seal of England, a large charter of incorporation for them and their company to trade into the dominions of Spain and Portugal, and are also most earnest suitors to obtain the like from his Majesty for France; whereby none but themselves, and such as they shall think fit, as being mere merchants, shall take benefit of the said charter, disabling thereby all others his Majesty's loving subjects, who during all the time of her late Majesty's wars were, in divers respects, greatly charged for the defence of their Prince and Country, and therefore ought indifferently to enjoy all the benefits of the happy peace."

While Englishmen and Welshmen were thus debarred from the "free enlargement of traffic into the foreign dominions," the Act continued, the Irish and Scotch subjects of the King were under no such restraint. The results, according to the statute, were:

"The manifest impoverishing of all owners of ships, masters, mariners, fishermen, clothiers, tuckers, spinsters, and many thousands of all sorts of handicraftsmen;

"The decrease of his Majesty's customs, subsidies, and other impositions;

"The ruin and decay of Navigation;

"The abating of the prices of our wools, cloths, corn, and such like commodities, arising and growing within this his Majesty's Realm of England;

"The enhancing of all French and Spanish commodities, by reason of the insufficiency of the merchants, they being few in number, and not of ability to keep the great number of our ships and seafaring men at work, and to vent the great store of commodities which this his Majesty's Dominion of England doth yield.

"If these incorporations should continue," the statute added, "all ship-owners and mariners, with divers others, shall be cut off from their ordinary means of maintenance and preserving their estates, . . . and much hurt and prejudice must redound to all his Majesty's loving subjects of this Realm of England." It was therefore decreed, that all the King's subjects were made free to trade into and from Spain, Portugal, and France.

This anti-monopolistic policy, however, was the exception, and not the rule of the times. Spain, Portugal and France were practically the only foreign countries with which the ordinary English subject was free to trade. Incorporated monopolies held the commerce of England in their hands. The commodities exchanged with the Mediterranean countries were under the Levant Company; while the Eastland Company was supreme in the Scandinavian and Baltic trades. The Merchant Adventurers ruled the trade along the coast-line from Denmark to France. In Africa, the Guinea Company was in control, and in the Orient the East India Company. Soon were to come companies organized to trade with the American Colonies and Hudson's Bay. The destiny of the English merchant

marine, therefore, was largely bound up with these monopolies; but there were charter provisions favorable to the development of British shipping.

In 1605, James I., or some of his advisors, formulated an ingenious plan for increasing the cargoes of English vessels. By the 3rd of James I., chapter XI., Parliament promulgated "An Act for the Transportation of Beer over the Seas," which set forth, that:-

"By the transporting of Beer, the custom and poundage that will grow due to the King's Majesty for the same Beer will be much greater than when the barley and malt whereof the said Beer is made are transported." It was also declared that exports of beer would increase the Navy and the mariners of the Realm, "for that one Ship or Boat load of Barley or Malt will, if the same be brewed out into Beer, make four several Ship or Boat loads of the same burden of Beer to be transported." Besides, the tillage of the Realm would "be cherished and increased, by reason of the more speedy and often vent of the Beer than of Barley or Malt." In addition, "Divers Port Towns would be greatly comforted and relieved, many of his Majesty's Subjects thereby employed and set to work, and the trades of Coopers and Brewers would be better enabled to live and maintain themselves, their wives and children, and families."

Therefore, it was enacted, Beer might be exported when the price of malt was not over sixteen shillings a quarter. English subjects were to pay eight shillings, sixpence, impost, and one shilling and sixpence customs on every ton of beer shipped, while for foreigners the rates were fixed at ten shillings impost, and twenty-two pence, halfpenny, customs; giving natives a preferential duty on beer.

In the following year, 1606, James granted the first Virginia Company Charter, a lengthy document, which lays down in one long sentence the nucleus of one of the most important of British shipping policies. Article XVI. of the Charter, reads:

“Moreover, our gracious will and pleasure is, and we do, by these presents, for us, our heirs, and successors, declare and set forth, That, if any person or persons, which shall be of any of the said colonies and plantations, or any other, which shall traffic to the said colonies and plantations, or any of them, shall at any time or times hereafter, transport any wares, merchandises, or commodities, out of any of our dominions, with a pretence to land, sell, or otherwise dispose of the same, within any the limits and precincts of any the said colonies and plantations, shall carry the same into any other foreign country, with a purpose there to sell or dispose of the same, without the licence of us, our heirs, and successors, in that behalf first had and obtained; That then, all the goods and chattels of such person or persons, so offending and transporting, together with the said ship or vessel, wherein such transportation was made, shall be forfeited to us, our heirs, and successors.”

In brief, the Charter established the right of England to control the destination of the trade of its Colonies, and to prevent their goods being shipped direct to foreign countries. The provision was also binding upon anyone in England who sought to ship goods to foreign countries under pretense of sending them to the Colonies. The forfeiture clause was unusually stringent, in that a strict interpretation of it would give to the crown not only the vessel and its cargo, but also all the “goods and chattels” of the offender.

By the second Charter, issued in 1609, the Virginia Com-

pany was authorized to collect extra duties on imports and exports from the Colony by "all and every person or persons whatsoever, . . . not being allowed by the said Company to be adventurers or planters of the said Colony." The duty was fixed at five per cent. If the importers or exporters were not English subjects, but "strangers, not under our obedience," the extra duty was to be ten per cent. These rates were "over and above such subsidy and customs as the said Company or their successors, is, or hereafter shall be to pay." To assure payment, the Virginia Company was authorized "to take and surprise by all ways and means whatsoever," and hold until settlement had been assured, any persons, "with their ships, goods, and other furniture."

These duties were to be effective for twenty-one years, and to be employed wholly for the benefit of the Colony. At the end of that time, the revenue was to go to the Crown.

In 1615, a Proclamation issued by the King prohibited the bringing into the Kingdom of any commodities from the Levant, except by permission of the Levant Company. The same Proclamation cited the Navigation Laws of Richard II., Henry VII., and Henry VIII., and declared that they were to be duly enforced.

The foregoing Proclamation was made on April 17th, and on October 12th another Proclamation was made for the restraint of shipping any commodity in stranger's vessels either into or out of the Kingdom, with special application to wines of the growth of France.

An important ruling was made by the Privy Council on October 24, 1621. This recited the privileges granted by the King to the Virginia Company, which, it was stated, had been given in belief that the company would send its commodities to England, and not communicate them to foreign countries. It was declared, however, that the Privy Council had been in-

formed that the company had settled "their magazine of commodities" to be exported from Virginia, in a foreign country.

It was declared that this course was in no wise to be suffered, "neither in policy nor for the honor of the State, (that being but a colony derived from hence) as also for that it may be a loss unto his Majesty in his customs, if not the hazarding of the trade which in future times is well hoped may be of much profit, use and importance to his Commonwealth."

The Council, therefore, ordered that all tobacco and other commodities from Virginia should not be carried into any foreign ports until they had first been landed in England, and his Majesty's customs paid thereupon. An interval of four months was allowed before the decree should become effective.

The question of the better supply of skilful mariners for the Navy and shipping of England came up again in 1622. A Proclamation issued in that year by the King stated that English mariners in great numbers, without license or sufficient warrant, "put themselves into the service of foreign Princes and States, and of strangers born, whereby his Majesty's Navy and the Realm in general are likely to be deprived of their service when there shall be any needful use thereof." It was then ordered that "no Mariner or Sea-faring-man, Shipwright or Shipcarpenter whatsoever, being his Majesty's subject, do at any time hereafter, without express license of his Majesty, or the Lord Admiral of England for the time being, in writing, enter or attempt to go about to enter into the service of any foreign Prince or State, nor to be employed out of this Realm of any service whatsoever, unless to be in the service of his Majesty or of his Highnesses own liege subjects, upon pain of his Majesty's indignation and displeasure and the utmost severity of his Majesty's laws to be extended against them."

James's concern for the commerce of the kingdom is reflected in an elaborate "commission" of 1622, appointing many

"lords and gentlemen" as a body to inquire into the causes of the "decay of trade" in England, and to suggest remedies therefor.

This step is to be regarded as the nucleus of the system which was to be elaborated under succeeding sovereigns until it developed into the Board of Trade and Plantations, with permanent powers over the commerce and navigation of the Empire. James's recognition of the value of the merchant marine is shown by his admonition to the trade council: "Above other things, to seriously and carefully consider by what good means" shipping might best be maintained, and the supply of seamen increased.

The council is also directed to investigate the status of the laws forbidding the importation of commodities in foreign vessels, "to the end that shipping of other nations may not be employed . . . whilst our own shipping want employment." Further, the board was ordered to ascertain whether it would not be wise to enforce the statutes, "still in force, which enjoin merchant-strangers, as well denizens as not denizens, to employ the proceed of the merchandise they import on the native commodities of this realm, to be exported by them."

James's commission is so enlightening on the commerce and navigation of the period that it is quoted herewith in full:

"The general complaints of our subjects at home, as also by information from our ministers employed in parts beyond sea, that the cloth of this kingdom hath of late years wanted that estimation and vent in foreign parts which it formerly had; and that the wools of the kingdom are fallen much from their wonted values; and trade in general so far out of frame, that the merchants and clothiers are greatly discouraged; so that great numbers of people employed by, and depending on them, want work;" the

landlords fail in their rents, and farmers have not so good means to raise their rents as heretofore they had; ourselves also find the defects thereof, by the decay of our customs, and other duties; and in general, the whole commonwealth suffereth; so, as it is high time to look into the cause of this great decay of trade, and of the commodities of this kingdom, and how to have fit remedies, etc."

Wherefore the King directs them to inquire into the following points, viz.:

"I. Why wool is fallen in price?

"II. How to prevent the exportation of wool and woollen yarn, fullers-earth, and wood-ashes? How Irish wool, not used at home, may be brought into England, and the like of Scottish wool?

"III. How to reduce the many laws in being concerning the regulating of making cloth, some of which contradict each other, into one good general law?

"IV. To regulate the price of dyeing stuffs.

"V. Whether, by any of the orders, restrictions, etc., of the Company of Merchant-Adventurers of England, the prices of woollen cloth are too highly raised beyond sea?

"VI. How far companies or societies of merchants may, or may not be, a cramp on trade, as many do allege? And how far joint-stock companies are beneficial, or otherwise?

"VII. How to remedy the present unusual scarcity of money?

"VIII. To enquire, whether the balance of trade, in general, be not against our nation, by the imports of merchandise exceeding our exports; and how to remedy such an evil? Also to think upon the gain or loss that comes to our Kingdom by the course of exchange now used by our merchants.

"IX. How we may improve our native commodities to the best advantage?"

"X. To avoid vain and unprofitable returns (i.e., imports of the commodities of foreign countries in superfluities?)

"XI. For the better increase of the wealth of the kingdom, and of the importation of coin and bullion from foreign parts, we would have you to consider, what native commodities of this kingdom are of that necessary usefulness to our neighbours that they may fitly return home a proportion of coin and bullion, for a supply of treasure?"

"XII. And, above other things, seriously and carefully consider, by what good means our navy, and the shipping of this kingdom, may be best maintained and enlarged, and mariners bred up and increased.

"And to this end, we require you to take into your mature consideration and judgments these things following, which ourselves conceive to be very good means to attain the end we especially aim at, viz.,

"First, and principally, that the herring fishery upon the seas and coasts appertaining to our own realms, may be undertaken by our common people, for the common good; for the encouragement whereof, we shall always be ready to yield our best assistance.

"Secondly, to the end that shipping of other nations may not be employed for importing foreign commodities, whilst our own shipping want employment, consider how our laws now stand in force for prohibiting merchandise to be imported in foreign bottoms.

"And further advise, if it be not behoveful to put in execution the laws still in force, which enjoin merchant-strangers, as well denizens as not denizens, to employ the proceed of

the merchandise they import on the native commodities of this realm, to be exported by them.

“And, because our merchants trading into the Eastland countries” (i.e., all the south shores of the Baltic Sea) were wont to make good returns by corn, which they have neglected of late, to their own hurt, and the hurt of the kingdom, consider how to give them encouragement, so as our own dominions may be supplied in time of want, and yet, in time of plenty, the husbandry of this realm may not be discouraged.

“Consider also, that whereas our Eastland merchants did formerly lade their ships with undressed hemp and flax, in great quantities, which set great numbers of our people on work, in dressing the same, and converting them into linen cloth; which kind of trade, we understand, is of late almost given over, by bringing in of hemp and flax ready dressed, and that, for the most part, by strangers; how may this be redressed?

“And because the East India Company have been much taxed by many for exporting the coin and treasure of this realm, to furnish their trade withal, or that which would otherwise have come in hither, for the use of our subjects; and that they do not return such merchandise from India as doth recompense that loss unto our kingdom; we authorize you to enquire and search, whether that Company do truly and justly perform their contract with us, concerning the carrying out of money; and by what means that trade, which is specious in shew, may really be made profitable to the public.

“And, as much treasure is yearly spent in linen cloth imported, at dear rates; and for that, if the fishery, so much desired by us, be thoroughly undertaken, and our shipping increased, it will require a much greater production of hemp, for cordage etc. in the fishery; which would set an infinite

number of our people on work: consider how the sowing of hemp and flax may be encouraged.

"Also, how the cloths and stuffs, made of our own wools, may be more frequently worn by our own subjects.

"All which you shall report and certify to the body of our Privy Council, as fast as the severall points shall be duly considered by you."

Another of James's schemes for the betterment of the merchant marine was set forth in a Proclamation of 1623. This project was intended to cause "the increase of tillage, better vending of our native commodities, strength to our shipping, and the breeding of many mariners, by the erecting of magazines of corn." It was ordained that, "upon deliberate advice of our Privy Council," these "magazines" should be erected, "by such merchants and others as shall be willing to adventure therein, at London, Dover, Portsmouth, Southampton, Bristol, Exeter, Plymouth, Ipswich, Lynn, Yarmouth, Hull, York, Newcastle, Chester, Liverpool, and Haverfordwest; and in all the shire-towns of this Realm."

"In times of dearth," it was pointed out, the poorer people were "pinched with the great want and dear prices of corn." The "treasure of the Kingdom," in such times, was "much exhausted in providing of grain from foreign parts."

In times of plenty, on the other hand, "the farmers, by the low prices of corn, are hardly able to support their necessary charges and pay their rents."

The "magazines" were to remedy this, because, "in times of scarcity, they may serve to keep down the price of foreign corn; and in times of plenty may keep up the price of our home corn, at such reasonable rates as will well maintain the husbandman's labor and hold up the gentleman's rents."

English subjects were to be free to import foreign grain for storing in the magazines. They could also lay up English

grain, "but at such times only" as the "most usual prices of English wheat shall be under twenty-three shillings the quarter," and rye and barley at proportionate figures. Grain imported from foreign countries could be freely reexported from the "magazines" when English wheat was selling at not more than forty shillings per quarter, and the other grains in proportion. "But when the prices of English corn are higher, then all foreign corn shall be kept within the said magazines, to be sold only within this realm, for the provision of the same."

When English wheat was under thirty-two shillings the quarter, "no foreign corn should be sold within the Realm for any other purpose but only to be stored in the said magazines, or to be transported beyond sea, paying the due customs and subsidies for the English corn; to the intent that the price of English corn may be held up." This was to be for "the benefit of the farmer," and to "replenish the treasure of the Kingdom" through the exported grain "returning a proportion of coin." Shipping and seamen were to gain through increased employment.

Such a system of granaries had been operated successfully at Amsterdam and Dantzic; but it does not seem to have been carried through in England at this time.

Under James, Colonial legislation dealing with commerce and navigation began to be formulated. A Virginia law of March 5, 1623, foreshadows the application of the old principle of the staple to the trade with the English Colonies. By the Virginia Act it was ordered that "A Proclamation be read aboard every Ship, and afterwards fixed to the masts of such, prohibiting them to break bulk, or make private sales of any Commodity, until they had reached James City, without special order from the Governor and Council." This was intended to facilitate the collection of customs. It is the first American shipping act of any importance.

One line of policy originated by James I., and followed by his successors, deserves attention because of the aid it furnished in strengthening the shipping of England and the Colonies. It is also noteworthy as an instance of how laws affecting a commodity can also affect the merchant marine of a nation.

In 1604, James had published his famous "Counterblast to Tobacco." He was a bitter foe of the "filthy weed," the use of which had spread widely over England since the discovery of the New World.

In the same year in which the "Counterblast" was launched, James issued a decree declaring that while tobacco had at first been used by "the better sort only as physic, to preserve health; it is now excessively taken by riotous and disorderly persons who do spend most of their time in that idle vanity." Besides, "a great part of the treasure of our land is spent and exhausted; . . . and the health of a great number of our people is impaired, and their bodies weakened and made unfit for labor."

All these "enormous inconveniences" were declared "to proceed principally from the great quantity of tobacco daily brought into this our realm, which excess might, in great part, be restrained by some good imposition to be paid upon it." It was therefore decreed that a duty of six shillings and eightpence per pound should be paid on imports of tobacco, in addition to the usual duty of twopence per pound.

As all tobacco at that time came from the Spanish West Indies, the burden of this prohibitive tax did not fall upon the British American Colonies. James had no right to impose duties without the consent of Parliament, but the early Stuarts were not often restrained by legal obstacles.

Some years were to ensue before Virginia was to become a great producer of tobacco. In the meantime England was finding a way to secure a supply without using the high-priced Spanish product. The records of the Privy Council show that

on September 28, 1619, a letter was sent to the Justices of Peace of the County of Middlesex pointing out that England itself had gone into tobacco-raising. "Gardens, yards and such like places in and about the skirts and confines of London," the letter recited, "that have heretofore been used for setting of roots, herbs, and other necessary provisions of food, to the great benefit of the poorer sort of people, do now of late begin to be so generally taken up at high rates, and employed for planting of tobacco, as is like to prove very prejudicial and of ill consequence, in losing the good and useful fruits which those grounds formerly produced."

The Justices were directed to prohibit the raising of tobacco anywheres near the cities of London or Westminster, and to "Limit the tobacco-owners to places further off."

Tobacco was, by now, becoming the mainstay of the early American Colonists, and their appeals were laid before Parliament, in 1621, which body responded with a petition to the King, asking that he prohibit the use of all foreign tobacco not of the growth of the British dominions. James thereupon issued a proclamation, in which he declared:

"Whereas we have, upon all occasions made known our dislike we have ever had of the use of tobacco in general, as tending to the corruption both of the health and manners of our people,

"Nevertheless, because we have been often and earnestly importuned by many of our loving subjects, planters and adventurers in Virginia and the Summer Isles, that, as those Colonies are yet but in their infancy, and cannot be brought to maturity unless we will be pleased, for a time, to tolerate unto them the planting and vending the tobacco of their own growth; we have condescended to their desires.

"We do therefore hereby strictly prohibit the importation of any tobacco from beyond sea, or from Scotland, into England or Ireland, other than from our Colonies beforenamed.

"Moreover, we strictly prohibit the planting of any tobacco either in England or Ireland."

Here was a policy of the utmost benefit to the new Colonies. It not only gave them a monopoly of the supply of tobacco to England and Ireland; but it resulted in the creation of a large trade fleet and aided shipbuilding both in England and in the Colonies. Tobacco-raising was not stamped out in England and Ireland, and to hold it in check required constant effort on the part of the Government, even to the use of force. The home-grown product was much inferior to the Colonial, but it was usable. However, its production never reached a point where it interfered with the steady increase of the output of the Colonies.

1604.

1ST JAMES I.

Chapter 29.

An act to encourage the seamen of England to take fish whereby they may increase to furnish the navy of England.

For the better increase of Seamen, to be ready at all times to serve in the King's Majesty's navy and the navy of England, of which the Fishermen of England have ever been the chiefest Seminary and Nursery, which in this latter Age have greatly decayed:

Be it enacted, That no License or Licenses heretofore made

or granted, or hereafter to be made or granted, to any sick or infirm person or persons to eat Flesh, during the time of his, her or their Sickness or Infirmitie, by force of the Statute of Anno quinto Reginæ Elizabeth, shall from the Feast of Saint Michael next coming be any sufficient Warrant to any such person or persons to eat any Beef, Veal, Pork, Mutton or Bacon in the time of Lent, or upon any day now observed as a Fish day; but that the said sick or infirm person or persons shall, for dressing or eating of such Beef, Veal, Pork, Mutton or Bacon, incur the danger and penalty comprised therefor in the said Statute, notwithstanding any such Licence heretofore granted or hereafter to be granted to the contrary.

II. (Butchers shall not kill beasts in Lent, except for "Victualling of Ships into foreign parts.")

III. (Justices of the Peace, etc., may enter victuallers' houses and search for and seize meat in Lent.)

IV. (Penalties on innkeepers dressing meat in Lent.)

V. "This Act to continue to the end of the first session of the next Parliament."

1621.

PRIVY COUNCIL.

Whitehall, October 24.

Whereas, the King's most excellent Majesty, duly weighing in his princely judgment the great advantages, both of honor and profit, which this crown and state might receive from a settled and well-ordered plantation in Virginia, was graciously pleased, for the better encouragement and furtherance of the undertakers therein, to grant unto them sundry very large immunities and privileges, as not doubting but that they would apply themselves unto such courses as might most firmly in-

corporate that plantation unto this Commonwealth, and be most beneficial to the same, which will best be done if the commodities brought from thence were appropriated unto his Majesty's subjects, and not communicated to foreign countries but by way of trade and commerce from hence only.

Forasmuch as their lordships having been informed that the said undertakers have for private respects settled their magazine of commodities to be brought from Virginia in a foreign country, which course is in no wise to be suffered, neither in policy, nor for the honor of the state (that being but a colony derived from hence) as also for that it may be a loss unto his Majesty in his customs, if not the hazarding of the trade which in future times is well hoped may be of much profit, use and importance to this Commonwealth.

Their lordships, for these and sundry other reasons of state, and upon full hearing of the aforesaid undertakers, now the second time called to the Board, thought fit, and accordingly ordered, that from henceforth all tobacco and other commodities whatsoever to be brought and traded from the aforesaid plantation shall not be carried into any foreign parts until the same have been first landed here and his Majesty's customs paid therefor. Nevertheless for that the factors of the merchants now abroad cannot so suddenly have notice hereof, and that they may have time to vent those commodities which at this present they may have in foreign parts, their lordships were pleased to respite the execution of this present order for four months, which time being expired, their lordships' pleasure is the same should be duly kept and observed.

CHARLES I.

(Born, November 19, 1600. Began to reign March 27, 1625. Died, January 30, 1649. Reigned 24 years.)

In the formulation of shipping policies, Parliament under Charles I. contributed nothing whatever. It even refused the King the revenues for life voted to his predecessors, and fought practically every effort made by him to secure supplies. Unable to bend the Commons to his will, Charles suspended Parliament. Thrown upon his own resources to secure funds for the defence of his Realm, he instituted the system of ship-money taxation, to maintain a navy, and the tide of public resentment swept him to the scaffold.

Under the handicaps with which he was beset, it is somewhat remarkable that Charles should have displayed as live and constructive an interest as he did in the welfare of English shipping. Policies inaugurated by his royal father were carried on by him, and to them he added some of the basic principles upon which were to be built the Navigation Acts of Cromwell and of Charles II., with the Parliamentary support that the first Charles lacked.

In the first year of his reign, the son of James I. struck a new note in shipping policy. This was sounded in a Proclamation, of 1625, "For the well manning and arming the Ships of, or belonging to, this Realm upon their setting forth to Sea."

This set forth, that "His Majesty, in his Princely Wisdom," had well weighed what a "great Encouragement it is, both to his Enemies, and unto Pirates and Robbers, the Common Enemies of all Nations," if they should "Adventure to set to Sea in these perilous times being weakly manned and ill fur-

nished with Arms to resist and repel such as shall assail them."

The King, therefore, "In his Providence and Care for the common Safety of his People," straightly "Charged and commanded," that:

"None of his Highness's subjects should presume to put to Sea any Ship or Pinnace of the Burden of threescore Tons or upwards . . . unless they furnish the same with serviceable Muskets and Bandoliers sufficient for the arming at once of half the Number of all the Persons or Company of and in those Ships; and that there be also provided aboard every such Ship a sufficient Quantity of Match Powder and Bullets for those Shot, according to the Length of their Voyage intended to be made by them."

In addition, all in command of such ships were required to cause the crews "to exercise themselves with the said Muskets, upon such days and at such times as shall be fit and seasonable for the same: that so, by Practice, they may learn the perfect Use of their Arms." These things were "to be duly and carefully observed upon Pain of his Majesty's high Displeasure, and such other Penalty and Punishments as can or may be inflicted upon such as shall presume to contemn his Majesty's royal Command intended for the Safety of his People."

This order seems to have been the origin of the system of Naval Reserves, later put into general use. It was probably planned with a view to give Charles's Navy a supply of men trained for war-service, as well as to prevent captures of English merchant ships.

The King followed this step, in 1626, by another Proclamation, increasing the pay of sailors from fourteen shillings per month to twenty shillings. It also provided for a bounty to be paid for the building of merchant vessels, at the rate of five

shillings per ton for every ship of two hundred tons burden and upward. At times, under Elizabeth and James I., as well as by Henry VII. and Henry VIII., a similar bounty had been given; but Charles doubled the minimum size of the vessel, with a view to stimulating the production of merchantmen for long voyages.

A controversy over herrings between the fishermen of Yarmouth and the merchants of London, in 1626, was responsible for an important maritime ruling by the Privy Council. The farmers of the King's customs, the masters of Trinity House, and various commercial interests took part in the hearings. "Their Lordships" of the Privy Council:

"Having maturely deliberated, and knowing well that the preservation of Shipping and Navigation, and the supporting and encouragement of merchants by the excluding of Strangers from shipping and transporting our commodities in their bottoms is very considerable in reason of State, and is agreeable to several Laws and Statutes of this Realm, in that case provided, have thought fit and ordered:

That no herrings, or any other fish whatsoever, taken by any of his Majesty's subjects upon any of the coasts or places of fishing belonging to this Kingdom, or within the fishings of Newfoundland or New England, shall be from henceforth shipped or transported in any Strangers' bottoms, but in English bottoms only.

In 1628, following consideration by the Privy Council of "divers things for the good and advancement of the Plantation of Virginia, and for the encouragement of his Majesty's subjects there, it was thought fit and ordered that his Majesty should be moved on that behalf to write his gracious letters to the Governor and Colony," promising his royal protection and confirming all privileges previously granted.

In return for which favors, it was stated, the King "expects that all planters and adventurers of that Colony shall return their commodities unto his own Dominions."

The policy, inaugurated under James, and now reasserted under Charles, was intended primarily to prevent the sale of tobacco, which had now become an important commodity, to foreigners, instead of sending it to England. This would mean greater employment for English vessels, for the trade with America was already sizable and on an increasing scale.

Although it seems to have escaped notice, Charles I., in 1629, set in practice the fundamental principle of "Direct Trade"—that the commerce between two countries should be carried on exclusively in the ships of those countries. This was laid down, in especial application to France, and French wines, in the following Proclamation of 1629:

"Whereas, we have been given to understand, by the humble complaint, as well by the Company of French Merchants, as of the Company of Vintners of London, that the quantities of French Wines already imported, and now remaining in this Kingdom, are so great, as that, unless the further importation of such Wines be for a convenient time prohibited, they shall not be able for the support and maintenance of their trade, to make sale of those Wines which do now lie upon their hands.

We therefore, having taken this into our Princely consideration, as also the manifold Inconveniences which already have, and do daily grow by the liberty taken, by occasion of the late disturbance of Free Trade in France, to import Wines in Foreign Bottoms, contrary to our Laws:

By and with the Advice of the Lords and others of our Privy Council, we do hereby strictly charge, prohibit, and command, That no person or persons whatsoever, do at-

tempt or presume to bring or import into this Realm of England, or Dominion of Wales, or into any Port, Haven, Creek, or Place thereof any Wines whatsoever of the growth of France by the First day of February next ensuing.

And further, by the like Advice of our Privy Council, we do hereby publish and declare our Royal Pleasure to be, and do strictly prohibit and command, that no Wines whatsoever shall hereafter be imported into this our Realm, or the Dominions thereof in any foreign Ship, Hoy or other Vessel whatsoever, contrary to the Laws and Statutes of this our Realm, in that behalf made and provided, but only in English Bottoms, upon such Pains and Punishments as by our Laws, or by our Prerogative Royal, can and may be inflicted upon all such Persons who shall at any time hereafter presume to offend herein contrary to our Laws, and contrary to this our Pleasure herein declared.

Nevertheless our intent or meaning is not, but that the French merchants the natural born subjects of our dear Brother the French King, shall have and enjoy the like liberty of bringing in, as well the Wines of France, as other the natural commodities of that Kingdom in any ships or other Vessels of their own building, or appertaining unto themselves, as formerly they have used and enjoyed.

By another Proclamation of 1629, Charles I. strengthened the principle that English ships should be the carriers of English imports and exports. This related to the Eastland Company, which had been established under Elizabeth in 1579. The Company had the sole right to carry to certain Baltic countries English merchandise, as well as the monopoly of bringing into England the products of the same countries, including the

naval stores for which the English were dependent upon the Baltic trade, and which had formerly been controlled by the Hanseatic League.

The operation of the Eastland Company, the Proclamation declared, had been a means "whereby our Kingdom hath been much enriched, our ships and mariners set on work, and the honor and fame of our nation spread and enlarged in these parts."

The Proclamation ratified the privileges of the Company, as granted by Elizabeth, and ordered all customs officers to prevent goods being carried to and from the Baltic countries, except by those authorized to trade by the Eastland Company. Charles, however, revoked the corporation's right to use foreign vessels, in the following sweeping provision:

"We strictly command that the statutes of the fifth of King Richard II., the fourth of King Henry VII., and the thirty-second of King Henry VIII., made against the shipping of merchandise in strangers' bottoms, either inward or outward, be duly put in execution; and that neither the said company, nor any other whatsoever, be permitted to import or export any of the above-named commodities in any but English bottoms, under the penalties in the said statutes contained."

The "above-named Commodities" included exports of "broad-cloth, dozens, kerseys, bays, skins, or suchlike English merchandise," or the import (grain excepted) of any goods of the Baltic countries.

To meet a special contingency, the Privy Council, in 1631, relaxed the order against the carrying of fish in foreign vessels. It appeared that English subjects, "using the fishing of Newfoundland," had, lying on their hands, "great store of Newfoundland fish and pilchards, which they cannot vent here in

England, nor make sale thereof to strangers, unless the said strangers may carry the same in their own vessels." It was therefore decided by "Their Lordships" of the Privy Council, that, "considering that the maintenance of many thousand persons depend upon the fisheries, and that they are a great nursery of seamen and mariners, and an increase of navigation," permission should be given to sell the fish to foreigners, "to be carried away by them in their own vessels, notwithstanding any prohibition of transportation in foreign bottoms."

England's attempts to prevent the Colonies from shipping their products to foreign countries met with opposition and evasion from the start. In 1632 the Privy Council took cognizance of this condition, and issued an open warrant to the "Lords Commissioners of the Admiralty." By this it was recited that ships coming from St. Christopher's, Barbados, the Caribbee Islands, Bermuda, Virginia, and other plantations, "do go into foreign countries with their goods and merchandises, to his Majesty's great loss, and prejudice in his customs." The Admiralty was accordingly ordered to see to it "that all the aforesaid ships and vessels, (when they come upon the coast of England, or shall at any time be met with by any of his Majesty's ships at sea) may come for the Port of London, and there duly to enter and unlade their goods, that his Majesty may not be defrauded of his custom by the evil disposition of any person, or the undue course aforesaid."

Here is a further step in the application of the principle of the staple. Colonial products intended for foreign countries must not only be sent to England first, but must be unladen there. Thus, the Crown would not only be in a position to collect import duties on the goods, but, if they were allowed to be sent to their original destination, customs could again be levied when they were exported from England. The day of the drawback allowance on re-exported commodities had

not yet dawned. The order furnishes another instance of how Cromwell and Charles II., in shaping their shipping policies adopted principles already established under James I. and Charles I.

More stringent action in the case of Virginia was taken by the Privy Council in the following year, 1633, because of the steadily growing commercial intercourse between the Dutch and the inhabitants of that Colony. The Council sent a letter to the Governor and Council of Virginia, requiring them "not to permit any Strangers to trade within that Colony by Shipping, as also to take bond of all the King's subjects there that they shall land their goods here in England, the performance of which directions you may not fail of."

The Privy Council could command obedience, but it could not enforce it. Less than a year after the foregoing orders (on July 14, 1634), it sent a letter to the Governor of Virginia, complaining that:

"Forasmuch as we have been informed that our directions have not been put in due execution, but that some Strangers have lately traded there, and some English ships laden with tobacco have gone directly for Holland, and there sold the same: We cannot but greatly marvel at your neglect. . . ."

"Therefore," the Governor of Virginia was again strictly charged, "in his Majesty's name," to have the directions "fully and carefully executed; whereof we will expect a particular and exact account."

In 1635, the Dutch came into the picture in a new light. The Privy Council was informed "That there lieth now a ship of Holland, of 400 tons, at the Cowes, bound for the Hollanders' plantation in Hudson's River, the officers of which

ship seek to draw as many of his Majesty's subjects as they can to go with them, by offering them large conditions."

To halt this threatened use of English subjects to build up a Dutch Colony in America, the Privy Council issued an order to the Admiralty to stay "all the English, as well in that ship lying there at this time, as in any other that shall hereafter come thither, or into any of his Majesty's ports within your jurisdiction." The Council further directed the Admiralty to suffer no English subject to serve any foreign prince or state, "Without license from his Majesty or this Board."

The growth of the trade of Virginia during the reign of Charles I. was accompanied by the passing of a number of laws of the Colony, dealing with commerce and navigation. In 1631, "Captains, masters and commanders of any ship or ships arriving at the fort at Point Comfort," were commanded by Governor Harvey, in the King's name, "and according to an Act of the Grand Assembly," to sail directly, "with the first wind and weather," to the port of James City. They were further charged to "unlade no goods, nor break any bulk until you shall come to anchor there, upon pain of the loss of the goods, and one month's imprisonment." This was an amplification of the Virginia Act of 1623, and a reaffirmation of the principle of a staple port.

Another Virginia law of the same year, 1631, is evidently intended to prevent sea-losses caused by the use of too small craft. The statute declares that "it is thought fit that no boats be permitted to go and trade to Canada that be not of the burden of ten tons, and have a flush deck, or are fitted with a grating and a tarpaulin."

A "gunpowder duty" Act was also passed by Virginia in this year, to provide for the defence of the Colony. "Every ship or vessel coming out of the ocean," it was enacted, "until further order be taken therein, shall pay after the rate of gun-powder,

and ten iron shot for every hundred tons, for the fort at Point Comfort, and so to be accounted upon, bigger or lesser." This means of providing munitions for defence became a common practice with the American Colonies. In 1632, Virginia required that each incoming vessel should supply the fort with one barrel of gunpowder for every hundred tons of the ship's burden, as well as the "ten iron shot."

Virginia, by an Act of 1632, forbade masters of vessels from transporting out of the Colony any person who had not given notice of his intended departure ten days before sailing. Failure to comply with this provision made the shipmaster liable for all debts standing against the passenger at the time of his departure.

During the reign of Charles the production of merchant vessels in New England became an important industry. This output of the Northern Colonies found a market, not only within their own limits, but in the Southern Colonies also, in the West Indies, and, ultimately, in England itself. In contrast with the growing scarcity of timber in the British Isles, the forests of New England offered an almost unlimited supply.

A Massachusetts law, enacted about 1641, recited that "The Building of Ships is a business of great importance, and for the Common Good, and therefore suitable care ought to be taken that it be well performed, according to the Commendable Course of England and other places." It was ordered that, when any ship was to be built, the owner or builder should, "Before they begin to plank," report to the "Governor, or Deputy Governor, or any two Magistrates," (upon the penalty of ten pounds), "Who shall appoint some able man to survey the work and workmen, from time to time."

Further, "if any Ship-Carpenter shall not, upon his advice, reform and amend anything which he shall find to be amiss," then, upon complaint to the Colonial officials, the latter were

to appoint "Two of the most sufficient Ship-Carpenters of this Jurisdiction, with power to see that the work be performed and carried on according to the rules of their art. And, for this end, an oath shall be administered to them to be faithful and indifferent between the owner and the workman." The "Viewers" were also to have power to "cause any bad timbers, or other insufficient work or materials, to be taken out and amended at the charge of them through whose default it grows."

Tobacco continued to be an important factor of trade under Charles I. This king shared his father's detestation of smoking, but his need for money was stronger than that hatred. In a Proclamation, issued soon after his accession in 1625, Charles took unto himself a monopoly of tobacco, under the guise of aiding the plantations. Methods of farming out the handling of the Colonial product had been tried, and had been prolific of disagreement. Charles's decree, which dealt with conditions in Virginia, proposed to "Settle and assure the particular rights and interests of every planter and adventurer." It stated that:

"Whereas the tobacco of those plantations (the only present means of their subsisting) cannot be managed for the plantations unless it be brought into one hand; whereby the foreign tobacco may be carefully kept out and the tobacco of those plantations may yield a certain and ready price to the owners thereof. To avoid all differences between the planters and adventurers themselves, we resolve to take the same into our own hands, and to give such prices for the same as may give reasonable satisfaction—whereof we will determine at our leisure."

The order of the Privy Council under James I., that no tobacco should be shipped from the British American Colonies

to foreign countries without first being landed in England was not lived up to. On July 7, 1626, the Privy Council sent a letter to the Governor of Virginia, stating that tobacco was being sent direct to the Netherlands and other foreign parts, that the royal revenues were impaired thereby, and that his Majesty was "much offended thereat," considering it in the power of the Virginia Government to prevent such practices. The Governor was commanded to punish the offenders and take effectual steps to end the illegal shipments.

A Proclamation of the following year provided that no Spanish or other foreign tobacco should be imported without a special commission from the King, that even the tobacco of the Colonies was not to be brought to England without royal license, and that, "What shall be so imported shall be delivered to our use, upon such reasonable price as shall be agreed upon." No person in England was to buy any tobacco except from the King's commissioners.

The King also directed certain aldermen of London to seize all foreign tobacco and to buy up for his use "All the tobacco coming from the plantations and to sell the same again, for his benefit."

Meanwhile tobacco-growing went on in England, and the records of the Privy Council continued to record orders to officers to seize and destroy all the illegally grown product. The planters found a new grievance in that Spanish tobacco was being sold in England under the name of Virginia and Bermuda tobacco, and the Council ordered that the offenders should be punished and informers rewarded. Numerous trials were held of persons accused of illegally importing the Spanish product.

The tobacco problem was a vexed one. In addition to trying to prevent the production in England and Ireland, the question of overproduction in the Colonies had to be dealt with. On

August 6, 1628, the Privy Council sent directions to the Government of Virginia to use its best endeavors to "Cause the people there to apply themselves to the raising of more staple commodities, as hemp and flax, rape-seed and madder"; as well as cattle and silk-worms. The Colonial tobacco, it was declared, "Falleth every day more and more to a baser price." The same order again voices the principle that England should be made the Staple for the products of the Colonies.

1625.

1ST CHARLES I.

A proclamation for the well manning and arming the ships of or belonging to this realm upon their setting forth to sea.

His Majesty in his princely Wisdom well weighing what a great Encouragement it is both to his Enemies, and the Enemies of this State, and unto Pirates and Robbers, the common Enemies of all Nations, and what an apparent Danger it will be to his own Subjects if they shall adventure to set to Sea in these perilous times being weakly manned and ill furnished with Arms to resist and repell such as shall assail them, in his Providence and Care for the common Safety of his People, doth hereby straightly charge and command, that none of his Highness Subjects do at any time hereafter presume to put to Sea any Ship or Pinnace of the Burthen of threescore Tons or upwards, out of any Port or Creek of or belonging to this Realm of England, unless they furnish the same with serviceable Muskets and Bandoliers, sufficient for the arming at once of half the Number of all the Persons or Company of and in those Ships, and that they be also provided aboard every such Ship of a sufficient Quantity of Match Powder and Bullets for

those Shot, according to the Length of their Voyage intended to be made by them.

And his Majesty doth further straightly charge and command, that all such as shall have the command of and in every such Ship or Pinnace, do cause their Company whilst they are aboard to exercise themselves with the said Muskets, upon such Days and at such Times as shall be fit and seasonable for the same, that so, by Practise, they may learn the perfect Use of their Arms, and this to be duly and carefully observed, upon Pain of his Majesties high Displeasure, and such other Penalty and Punishments as can or may be inflicted upon such as shall presume to contemn his Majesties royal Command intended for the Safety of his People.

1629.

5TH CHARLES I.

PROCLAMATION.

Whereas, we have been informed that sundry of Our subjects, Masters and Owners of Ships, respecting more their private Gain and Advantage than the public good, and safety of Us, and Our Dominions, do daily sell or otherwise dispose to Strangers and Foreigners their Ships and other Vessels, to the great disservice of Us and of the State, in weakening the Navigation of this Kingdom:

We, taking the same into our Princely consideration, and foreseeing the many inconveniences which will ensue, if the same be not prevented, or the Offenders (if any such shall hereafter be found) be not severely punished, by the advice of our Privy Council, do hereby straightly charge and command:

That none of our subjects, or others living within our obedience, of what Degree, Quality, or Condition soever, do at any time hereafter presume directly or indirectly to sell or alien, or by any way or means to dispose of, any Ship or other Vessel, of what Burthen soever the same shall be, and either being made or built within our Dominions or without, being fit, or which may be made fit to sail upon the Seas, to any manner of person either born or resident out of our Dominions, upon pain of Our high Displeasure, and of the severest penalties and punishments which, by the Laws and Statutes of this Our Realm, or by the Prerogative Royal, can be inflicted upon them.

And Our further Will and Pleasure is, That if any of our Subjects, either natural-Born or made Denizens, knowing any such Offence to be committed, shall not, with all convenient speed, reveal the same to the Body of our Privy Council, that every such person, so concealing his Knowledge of or in the Premises, shall for such his Offence be proceeded against and punished as the principal Offender.

And further, because we understand too well what great Destruction hath of late years been made of Timber fit for Shipping, and how little care and providence hath been used to preserve the same according to Our Laws; We do further straightly charge and command, That all and every Our loving Subjects, in their several places, do preserve all such Timber as shall be fit for Shipping, with their best endeavors, as they tender our favor, and the danger of Our Laws, and would do the Contrary at their utmost perils.

1629.

1ST CHARLES I.

PROCLAMATION.

Whereas, we have been given to understand, by the humble complaint, as well by the Company of French Merchants, as of the Company of Vintners of London, that the quantities of French Wines already imported, and now remaining in this Kingdom, are so great, as that, unless the further importation of such Wines be for a convenient time prohibited, they shall not be able for the support and maintenance of their trade, to make sale of those Wines which do now lie upon their hands.

We therefore, having taken this into our Princely consideration, as also the manifold Inconveniencies which already have, and do daily grow by the liberty taken, by occasion of the late disturbance of Free Trade in France, to import Wines in Foreign Bottoms, contrary to our Laws:

By and with the Advice of the Lords and others of our Privy Council, do hereby strictly charge, prohibit, and command, That no person or persons whatsoever, do attempt or presume to bring or import into this Realm of England, or Dominion of Wales, or into any Port, Haven, Creek, or Place thereof and Wines whatsoever of the growth of France by the First day of February next ensuing.

And further, by the like Advice of our Privy Council, we do hereby publish and declare our Royal Pleasure to be, and do strictly prohibit and command, that no Wines whatsoever shall hereafter be imported into this our Realm, or the Dominions thereof in any foreign Ship, Hoy or other Vessel whatsoever, contrary to the Laws and Statutes of this our Realm, in that behalf made and provided, but only in English Bottoms, upon such Pains and Punishments as by our Laws, or

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by our Prerogative Royal, can and may be inflicted upon all such Persons who shall at any time hereafter presume to offend herein contrary to our Laws, and contrary to this our Pleasure herein declared.

Nevertheless our intent or meaning is not, but that the French merchants the natural born subjects of our dear Brother the French King, shall have and enjoy the like liberty of bringing in, as well the Wines of France, as other the natural commodities of that Kingdom in any Ships or other Vessels of their own building, or appertaining unto themselves, as formerly they have used and enjoyed.

Given at our Court at Nonesuch,
the Seventh day of July.
Per ipsum Regem.

THE CROMWELLIAN ERA

(Began, 1642. Ended, 1660. Lasted 18 years.)

CIVIL WAR gripped England from 1642 until Cromwell defeated the royal troops at Naseby, June 14, 1645, and Charles I. fled. In 1646, the King without a throne surrendered to the Scotch, and in 1647 he was turned over to Parliament, and tried. In 1649 he was beheaded. The Commonwealth government ended in 1653, with Oliver Cromwell taking over the reins as Protector, and his son, Richard, succeeding to that position upon Oliver's death in 1658. In 1660, the Republican form of government gave way to a monarchy, with the Restoration, under Charles II. For eighteen years England had been ruled without a King.

Although English trade during this period was in a more or less chaotic state, especially in relation to the American Colonies, Cromwell's Parliaments laid down systematically the foundations of the English shipping policy that had been given form, rather than effect, under James I. and Charles I. Disturbed commercial conditions had given the Dutch opportunities to make sweeping inroads upon the carrying trade of the British. The Colonies dealt openly with the Hollanders.

In the session of 1642-3, the Grand Assembly of Virginia flung defiance at England's commercial regulations, by the passage of a statute, (Act XXVIII.), which declared:

"It shall be free and lawful for any merchant, factors, or others of the Dutch nation, to import wares and merchandises and to trade or traffic for the commodities of the Colony in any ship or ships of their own, or belonging to the Netherlands."

It appeared that the Dutch merchants had presented a petition to the Assembly, complaining that they were "much discouraged from adventuring hither by reason of the strict course taken here to exact bonds, with security, for the payment of his Majesty's customs at the port of London."

It was accordingly enacted that the Dutch merchants could bring in goods upon presenting "sufficient letters of credit," directed to the Governor of Virginia by London merchants "of known repute and ability," pledging that the Dutch traders would pay the necessary customs in England. Upon which the Dutch merchants would be free to export tobacco from Virginia without entering any bond.

That this statute aroused opposition in England is apparent from another measure, passed by the Virginia Assembly in February, 1644 (Act XV.). This enacted that there be "a free trade and commerce allowed to all his Majesty's subjects within the Kingdom of England," and gave assurance, that:

"It is further thought fit to be explained particularly, because of some questions and doubts that have been made by the Londoners this year tending to a prohibition of trade with them, that it was never intended, but the contrary thereof always assured unto them by divers public acts and proclamations in the Colony."

Furthermore, the Assembly pledged the faith of the Colony for "a continuance of a free and peaceable trade" to English merchants, "so as they demean themselves in a peaceable manner, and be obedient and conformable to the Government."

Dutch ships, however, continued to bring European products to Virginia and to carry Virginia tobacco to Europe at large, and the trade between the Dutch in New Amsterdam and the English in Virginia contributed materially to the expansion of Virginia's own shipping. An American merchant marine was

in the making, and Virginia-built ships in increasing numbers were coming into use. There was also a growing trade with the British West Indies in Colonial bottoms.

In 1645, Massachusetts established duties "for the support of the Government and maintenance of fortifications, for the protecting and safeguarding our harbors, for ourselves, and others that come to trade with us."

This measure imposed tonnage duties on vessels bringing merchandise to Boston or Charlestown, at the rate of sixpence per ton. The master of the ship was also required to pay ten shillings "towards the maintenance of our Fortifications."

It was provided, however, that no English ship, or any ship freighted in England by Englishmen, "nor any vessel of our confederates, or any other parts where our ships are free of customs, imposts, and taxes," should pay the tonnage duties, "but only towards the maintenance of the said fortifications, ten shillings for every ship above the burden of two hundred tons, and eight shillings, sixpence, for all other vessels and ships under that burden."

This policy seems to have been aimed at securing a system of cooperative preferential treatment between the shipping of the colonies, and to have opened the door to reciprocity between New England and the Dutch of New Amsterdam.

Shipping conditions in the American Colonies now aroused Cromwell to action, and were directly responsible for the Navigation Acts which have been generally regarded as the basis of England's maritime supremacy. In actuality, they contained little that was new in principle, but they laid down in more definite form and more enforceable character the shipping policies of the reigns of James I. and Charles I. Attention has been centered on Cromwell's Navigation Act of 1651 as the great force in the development of the English merchant marine; but there were other important shipping statutes under

his regime prior to 1651, namely, those of 1646 and 1650, which dealt with the trade and navigation of the American Colonies. Before Cromwell's time, Government control of shipping had been simple in principle and practice. It now began to be complex, and was to grow more so under Charles II. and William III., as the framework of the regulatory system was broadened to deal with many different phases of commercial conditions.

The shift in England, from monarchical to republican rule, had not been attended by any general change in the sentiment of the Colonies. This was especially true of Virginia and the West Indies, and Barbados had been most defiant in its attitude towards the Commonwealth. These conditions loom large in the background of the Act of 1646.

Purportedly, that measure was designed to grant concessions to the American Colonies. It was styled "Privileges granted to several Foreign Plantations," and it began by reciting that Virginia, the Bermudas, Barbados, and other places of America, had been "much beneficial to this kingdom by the increase of Navigation, and the Customs arising from the commodities of the growth of those Plantations imported into this kingdom."

It then stated that those who had exported goods from England to the Colonies had, "for their better encouragement," been exempted from the payment of customs duties on these shipments.

"For the better advancement of the said Plantations, and encouragement of the Adventurers to the same," the Act granted to any subject, for three years to come, the right of exporting to the Colonies, except to Newfoundland, free of any duty, except the excise, any goods necessary "for the supportation, use and expense of the said several Plantations."

It was stipulated, however, that the exporters should give security to the Commissioners of the Customs, where the goods

were put aboard ship, that the merchandise should really be transported to the Plantations, "and no other places," and should be used there only. It was also provided, that a certificate should be returned from the Colonies, within one year from the lading of the goods in Britain, attesting that the ship had arrived and discharged its cargo.

The Act then recited that there was "great want of servants in the said Plantations, as well for the raising of commodities apt to be produced there, as for defence of themselves from being made a prey to the Natives, or foreign enemies." It was therefore "ordained" that it should be lawful for any "Subjects of this Kingdom" to transport from Britain to the Plantations any persons fit and willing to work as servants. Such servants, however, must have their names registered in the Custom-House; no force was to be used in securing their service; apprentices must not be enticed to desert their masters, and children must not be transported without "express consent of their parents." Certificate was also to be made by the Governor of the Plantation where the servants were landed, that "No fraud be used to carry any such persons to any other place."

The chief purpose of the Act, however, was set forth in its closing provision. This ordered that "none of the Plantations do suffer" any vessel to load Plantation goods and carry them to any foreign parts, "Except in English bottoms." And "Any Plantation offending herein" was to be "Excluded from the benefit of this Ordinance, and shall pay customs, as other merchants do to France, Spain, Holland, and other foreign parts."

The mildness of this Act, in comparison with those that were to follow, is striking.

It merely legalized an existing custom as to duty-free shipments from England to the Plantations; with the

stipulation that official certification should be made that there had been compliance with the Act.

It did not require that exports from the Colonies to foreign countries should be carried in British ships only; but provided that, where foreign bottoms were used, duties must be paid, thus establishing a preferential aid in behalf of national vessels.

It did require, however, that English goods cleared for the Colonies, must be landed and used there, and not forwarded to other parts.

No specific stipulation was made that merchandise exported from England to the Colonies should be carried in British vessels, nor that the vessel should be British-built, and no provision was made as to the nationality of the crew.

The three-year period specified in the Act having expired, the Commonwealth Parliament, in 1650, enacted another statute dealing with Colonial trade. This was quite different in tone from the measure of 1646. The latter Act had served no conciliatory purpose. Hostility to the Cromwellian government had become intensified, and the new Act was really a war measure.

By this Act of 1650, "all manner of persons, foreigners and others," were forbidden "all manner of commerce, traffic and correspondence whatsoever, to be used or held with the Rebels in the Barbados, Bermudas, Virginia, and Antigua, or either of them." Permission was granted to merchant ships, as well as war vessels, to seize the ships and goods of any person, "of what nation soever," who traded, corresponded with, or aided, the rebellious Colonies.

Furthermore, "to hinder the carrying over of any such persons as are enemies to this Commonwealth, or that may prove

dangerous to any of the English Plantations in America," Parliament prohibited all foreign ships "to come to, or trade in" any of the British Colonies, unless a license had first been obtained from Parliament or the Council of State. The Act also gave power to the Commonwealth Government to place Governors in the Colonies, and to do as it should "think fit" politically, to enforce peace and safety. It will be noted that no provision is made that these powers will end with the ending of the uprising which is purported as the purpose of the Act. Nor was its operation limited to the "rebellious" Plantations. In short, it gave Parliament supreme power over the Colonies, including the right to annul any rights given to chartered or proprietary companies.

"All this is hung on the peg of a rebellion in four Colonies," says the "Cambridge History of the British Empire," which adds that there was never a thinner excuse for shutting off the Colonial trade of an Empire than that it was done to prevent the travel of disaffected persons.

In the same year Parliament, by another Act, "Resolved that there shall be settled and sufficient convoys to secure the trade of this Nation." It had been "found," however, that the customs were not sufficient to pay the charge of this, as well as the maintenance of the Navy. It was therefore enacted that, in effect, certain deductions, which had been made in customs duties, should be discontinued, and the equivalent sum should be used for providing convoys for English merchant ships. It was also provided that no master or other officer serving with a convoy should ask for or accept gratuities for any merchant for convoy protection, upon penalty of forfeiting three times the amount of the gratuity received.

The two Acts of 1650 should be considered in conjunction. England was not at war, but she had thrown down the gauntlet in the statute forbidding foreign nations to trade with her

Colonies. If England seized foreign ships, foreign countries could be expected to retaliate in kind, and the statute for providing convoys was doubtless meant to meet the latter contingency. The policy that dictated the Acts was political and military rather than commercial, and there could be no doubt as to the identity of the nation at which it was aimed. Holland was besting English ships in England's own trades, and Dutch sea power had reached a point where it menaced both the commercial and political progress of the new British Empire. Dutch bottoms carried an increasing bulk of British products, and the Dutch acted both as purchasers and distributors of the fruits of English industry. Holland was the world's middleman, having in succession worn down the maritime supremacy of Italy, the Hanseatic League, and Spain, and had forestalled England's efforts for sovereignty of the seas. She could build and operate ships more cheaply than other nations, and therefore could carry cargoes cheaper. Her Colonies challenged England's. She was superior to the English nation in wealth and commercial power, although she produced but a scant share of what she sold. England could not meet her trade competition on even terms. She had tried and failed. But there was one untried field; the two countries had never met in war, and Cromwell was set upon war.

But the Act of 1650, forbidding foreign nations to trade with English Colonies, failed to bring about hostilities. That it had not been meant as a temporary measure is indicated by the fact that it was still on the statute books when Charles II. finally came to the throne in 1660. No seizures of foreign ships seem to have been made under the Act, however, until the close of 1651, and by that time Parliament had forged for Cromwell a more potent cause of war. For all Holland's power, there was a vulnerable side to her supremacy, and England, realizing this, struck a mighty blow at the weak spot.

In fact, Holland's greatest strength was also her greatest weakness. Her commercial sea power had grown out of all proportion to her own commerce. The wares she produced for sale to other countries, and the goods she purchased from other countries for her own use did not form the bulk of her commerce. Re-exports of goods, to which her own industry added nothing, figured largely. But she was not content to be merely the world's jobber. She sought also to be the common carrier of all nations. And the huge indirect commerce she built up, as the deliverer of goods of which she was neither the seller nor the purchaser, ultimately became her undoing. As long as other countries allowed her to serve as a third party in the commerce between themselves, and put up no barriers against free trade, her supremacy was undisputed and unassailable.

It was English realization of this condition that was to wrest sea sovereignty from the Dutch and the Navigation Act of 1651 was the first of a series of blows directed by England at the heart of Holland's commercial supremacy. It also brought the war for which Cromwell was eager, and it is probable that the political, rather than the commercial aspects of the statute led him to support its passage by Parliament. It did not originate with him, but chiefly with Robert Downing, one of the leading advisors of Cromwell, who was later to turn his coat successfully and figure actively in the Councils of Charles II., and in the Navigation Acts adopted under that monarch. Downing was familiar with conditions in the Colonies, for he had spent much time there, and was, indeed, a graduate of Harvard University in the early days of that institution.

The acceptance, by most historians, of the Act of 1651 as a measure primarily intended to aid England's trade is not warranted by the conditions attending its enactment. In fact, the entire Cromwellian era was a period in which political, and not commercial needs were paramount. Cromwell's chief con-

cern was not with imports and exports, but with the production of more ships and more seamen, in order that the sea power of England might be expanded on a military basis. He had seen the results of Charles I.'s efforts to create ships by unpopular taxation. Indeed, Cromwell had come into power as a consequence of that disastrous project. Accordingly no "ship-money" plan could be expected to meet with his sanction. His Government, therefore, fell back upon the shipping policies formulated from time to time under the earlier Stuarts. There had never been any systematic enforcement of these, but they had given promise of effective results; and Cromwell's advisors probably considered that a real enforcement of them would lead to a real expansion of sea-power. If greater employment should be furnished for English shipping, it was to be expected that Englishmen would build more ships at home and buy more ships abroad.

Reasoning along this line seems to furnish an explanation for the omission from the Navigation Act of 1651 of a policy which was later, under the Restoration, to become a most important factor in the development of the British merchant marine. This is the requirement that English ships should be not only English-owned and English-manned; but English-built, as well.

The Act of 1651 makes no mention whatever of the build of ships; although one historian after another has hailed Cromwell as the father of the provision that English ships, to receive national privileges, must be English-built.

Those who have blundered in this respect seem merely to have copied the errors of other historians. In 1765 Adam Anderson published at London a voluminous work entitled "An Historical and Chronological Deduction of the Origin of Commerce," in which he gave, in what purported to be the exact language of the Act, a proviso that no merchandise

should be imported into England from Asia, Africa, and America, "in any but English-built ships." The misquotation cropped up again in David Mcpherson's "Annals of Commerce," published in 1805. It reappeared in W. S. Lindsay's "History of Merchant Shipping," (1876), was incorporated in W. W. Bates's "American Marine," (1895); and still continues to appear at intervals.

If the Commonwealth was to secure an increase in English shipping speedily, that end might be better attained by leaving British subjects free to purchase and operate foreign vessels, rather than to wait for the slower process of building tonnage. And quick action to check the Dutch sea-power was regarded as essential.

The Preamble to the Navigation Act of 1651 seems to make it clear that the benefit of the merchant marine was the purpose of the statute. It contains no mention of trade. The Act is set forth as intended:

"For the increase of the Shipping and the encouragement of the Navigation of this nation, which, under the good Providence and protection of God, is so great a means of the welfare and safety of this Commonwealth." The Statute provides:

1: That no merchandise of Asia, Africa, or America (whether from the English Plantations or any other part) shall be brought into England, Ireland, or any other English possession, except in ships owned by "the people of this Commonwealth, or the Plantations thereof," and whereof the masters and a majority of the mariners are "of the people of this Commonwealth." Importation contrary to the provisions of the Act was made penalizable by the forfeiture of goods and vessel.

By this provision, no goods could be brought to English possessions, by foreigners, from any part of the world, (Europe

excluded) save in ships of England or the English Colonies. Trade with Europe was dealt with in another way, but in one that again effectually crippled the Dutch. To this end, it was enacted:

2: That no merchandise of any part of Europe could be imported into England, Ireland, or the English Colonies, save in vessels owned by the English or by people of the country where the goods were produced, or of "such parts where the said goods can only be, or most usually are, first shipped for transportation." Forfeiture of goods and vessel was also provided for violation of this provision. Foreign goods "brought into this Commonwealth in shipping belonging to the people of this Commonwealth" must be laden only in the country of production, or in the ports where such goods were usually first shipped.

Hereby, Parliament, for the first time established the principle of reserving the carriage of trade between two different countries to vessels owned by the people of those countries. The Hollanders were barred from carrying to England or English Colonies any goods not of their own production. At the same time an opportunity was given to the other European countries to increase their share in the carrying of their own products to English possessions.

3: To increase the supply of English fishing vessels and fishermen, it was provided that no fish, fish oil, or whalebone, such as were usually taken or prepared by "the people of this nation," should be imported into England, or any English possession, unless these commodities had been "caught" in English-owned ships. Furthermore, no fish caught or cured by "the people of this Commonwealth" were to be exported from any English possession,

except in English-owned vessels, with the master and a majority of the crew English. Forfeitures of goods and vessels were to be made in case of violation.

Here again, the Dutch received the brunt of the blow.

4: The Act also reserved the carriage by water, "from one port or creek of this Commonwealth to another port or creek of the same." It declared that it should not be lawful for any person to load or cause to be laden and carried in such trade any goods in any ship which was wholly or partly owned by any foreigner, "unless such as be denizens or naturalized."

Exceptions to the Act were permitted in special cases:

5: English ships could import from East Indian and Mediterranean countries, goods not the product of those countries. They could also carry from Spain and Portugal the products of the colonies of those nations, and silks of Italian origin could be brought from the Spanish and Dutch Netherlands. Finally, the Act was not to apply to bullion, nor to goods seized in reprisal.

The Navigation Act was passed in October, 1651, and in that same month the Commonwealth Council of State dispatched a naval squadron to deal with conditions in the rebellious Colonies. In December, order was restored in Barbados, and the squadron then sailed to Virginia. Its commander, Captain Edward Curtis, was provided with authority from the Commonwealth government to act in conjunction with members of the Council of Virginia. Governor Berkeley had openly espoused the cause of the royalists, and this had been a potent factor in bringing about the passage of the statute of 1650, prohibiting trade with the rebellious Colonies.

When the squadron reached Virginia, in January, 1652, Captain Curtis found Dutch ships trading in the James River in defiance of the Navigation Acts. Berkeley was not disposed to yield, called out the militia and enlisted the aid of the Dutch vessels. Curtis, however, organized his Commission, and a proclamation was issued, declaring that the squadron had not been sent to make war. In March, Berkeley was overruled by his former associates, and an agreement was entered into between the Colony and the Commonwealth.

Virginia agreed to pass no laws in contravention of Parliament. In return, the Commissioners admitted that the yielding was voluntary, and not forced, and conceded the right of Virginia to be free from all duties and impositions except those enforced by the General Assembly. The Commission then went to Maryland and made a settlement with that Colony.

Evidence that the new Navigation Act was enforced, to some extent, at least, in Virginia, is given in an Act of the Grand Assembly of that Colony, passed in July, 1653, involving a Dutch vessel.

According to the record, the ship *Leopoldus*, of Dunkirk, had brought to Virginia "prohibited goods contrary to the Act of Parliament for the Increase of Navigation." The vessel had, therefore, been "adjudged forfeited, with her tackle, apparel, and furniture, to this country, for the use of the Commonwealth of England, and appraised at four hundred pounds sterling." The Assembly, "upon consideration thereof, had disposed of the same as followeth, viz. 250 pounds to our agent, Col. Sam Matthews; 100 pounds to Col. William Clayborne, secretary; 30 pounds to the speaker; 10 pounds to Col. Cornelius Lloyd, and ten pounds to Major Billingsley; for their several services done to the country in the said business."

What the Commonwealth of England got from the seizure is not apparent; but the Assembly found a purchaser for the

seized vessel. The same Act grants "a petition of Lieut. Col. Walter Chiles that the said ship consigned unto him," should be given to him, "as she hath been appraised, being 400 pounds sterling." Whereupon a bill of sale was executed by the Governor of Virginia and the Speaker of the House of Burgesses, making over the vessel, which was of 300 tons, "with her guns, tackle, apparel and furniture . . . to the said Walter Chiles, without any let, hindrance, molestation or disturbance of any person or persons whatsoever claiming any right, title or interest to the said ship in the behalf of this Colony or the Commonwealth of England." The Navigation Act had provided that, in case of such forfeitures, one half of the value of the forfeitures should go to "the use of the Commonwealth," and the other half to those who made the seizure and brought prosecution.

Almost immediately following the passage of the Navigation Act, Holland had sent a deputation to England to solicit the revocation of the Act; but without avail. In April, 1652, war was declared, and it continued until April, 1654, when Cromwell forced upon the Dutch a treaty of peace, one of whose terms was that when Dutch ships thereafter met English ships, the Hollanders should lower their sails, in token of the defeat. The English merchant marine was on the way to sea supremacy, but it had yet some distance to go, for Holland's shipping was still powerful in many trades.

While there is ample evidence that the Act of 1651 was not strictly enforced, nevertheless the English merchant marine grew steadily in size, as did the trade fleets built in the American Colonies. New England was active in the construction of vessels, and Virginia's shipping also expanded materially. On March 10, 1655, the Virginia Assembly passed a statute "For the encouragement of Trade," which enacted that, "All persons inhabiting in this Colony, being sole owners of any

vessels, ships or barques, trading to any lawful port whatsoever, be exempted from all Castle" (gunpowder) "Duties; but if any matter shall arise in question, the oaths of the owners shall be required to make it appear that they are such owners."

A further application of the Staple principle was made in a Virginia Act of March 31, 1655, "For regulating of trade and establishing Ports and Places for Markets." This was described as intended, "to prevent the great inconveniences of trade and commerce in this Colony, the long demurrage of ships, with the great abuse of forestallers whereby the poor inhabitants of this Colony are greatly impoverished."

It was enacted that in every county one or two places, on a river or creek, should be set aside, where the trade of that county should be carried on exclusively. All ships were required to make entry at one of these ports, and discharge and load their cargoes there.

Despite the Navigation Acts, Virginia's trade with the Dutch continued on a large scale. An Act of March 13, 1657, provided that customs duty of ten shillings per hogshead should be paid on tobacco shipped "in any Dutch vessel, or in any other vessel whatsoever, bound for any part of America or elsewhere, excepting such English vessels as are directly bound for England."

In 1659, an Act along the same lines was passed by the Assembly. It was now enacted that "all merchants, masters of ships and mariners, trading to Virginia, and not bound by charter party to return and discharge in any of the English dominions in Europe," should pay ten shillings for every hogshead of tobacco exported. Exemption was given, however, to "All adventurers, inhabitants of this country, trading in bottoms belonging to Virginia." These were made free of the duty, the Act stating that, this would "Tend to the advancement of trade here, the encouragement of the inhabitants to

purchase vessels, and of mariners to make this the place of their residence." This statute established a discriminating duty, even against English vessels, in favor of ships owned in Virginia.

Another law to protect the shipping of the Colony was passed in the same year. This was styled "An Act for Masters of Ships to give Bond for good Abearing." Its Preamble recited that, "Divers masters of ships have, of late years, obstinately and contemptuously behaved themselves towards the laws and government of this country, and . . . contrary to the privileges granted us by our articles of surrender, to have free trade with the nations in amity with the people of England, have molested, troubled and seized divers ships coming to trade with us, to the great prejudice of the country's good and prosperity."

To prevent this, it was required that all masters of ships, arriving from any country, should give bond for two thousand pounds sterling, "Not to molest or trouble any ship in the jurisdiction of Virginia, but to bear themselves peaceably towards all the inhabitants and all others trading here under the protection thereof, and not to infringe, but to yield all due obedience to the laws here established."

Any master who refused to give bond was to be "totally debarred from having any trade in the country," the Act declaring that "Common reason prohibits those to have the profit of the trade that refuse to submit to the laws or endeavor to destroy the privileges of a country they trade with." Anyone trading with the master of a vessel, without having proof that the necessary bond had been given, was to pay a fine of two thousand pounds of tobacco.

This same year of 1659, with the republican regime in England tottering, Virginia passed two other Acts that virtually amounted to declarations of independence of the home

country. The first established the first Court of Admiralty in America, giving the Governor and Council "full power and authority to determine and administer justice in all things pertaining to seafaring that shall appertain, happen, or fall out within the jurisdiction of this Colony." Provision was also made for trial by jury.

The other statute flew in the face of Cromwell's Navigation Acts, by encouraging trade with the Dutch and other European nations, who "were to have equal rights and justice with our own nation in all courts of judicature." This measure declared that "The restriction of trade hath appeared to be the greatest impediment to the advance of the estimation of our present only commodity, Tobacco." The foreigners were to have "Free liberty to trade . . . Provided they give bond and pay the impost of ten shillings laid upon all tobacco exported to any foreign dominions."

"In no part of the public records of Virginia, during the existence of the Commonwealth," says Hening ("Statutes of Virginia"), "is the authority of the Navigation Acts of Parliament recognized. On the contrary, various Acts of the General Assembly prove that the people of Virginia regulated their own commerce."

James I. and Charles I. had, by Proclamations, forbidden the raising of tobacco in England; but the practice had not been stamped out. The Virginia planters complained that this home production not only lessened the customs revenues of England, but had also reduced the sale of the colonial tobacco. Their protests led to the passage, in 1652, of the first Parliamentary Act against the growing of tobacco in England. In 1654, Cromwell and his Council appointed commissioners to see that the Act was executed. Tobacco continued to be the mainstay of the Southern Colonies, and the carrying of it was an im-

portant factor in the development of the merchant marine, hundreds of vessels being employed in this trade.

1642-3.

MARCH.

Laws of Virginia.

Act XXVIII.

Be it also enacted by this Grand Assembly, that it shall be free and lawful for any merchant, factors or others of the Dutch nation to import wares and merchandises and to trade or traffic for the commodities of the colony in any ship or ships of their own or belonging to the Netherlands,

And whereas it is pretended, by a petition exhibited to this Assembly by Dutch merchants, that the nation is much discouraged from adventuring hither by reason of the strict course which is taken here, to exact bonds with security for the payment of his majesty's customs at the port of London, (which security, they being strangers, is very difficult for them to find or procure),

Be it therefore enacted and established by this Grand Assembly and the authority of the same, that, what Dutch merchants shall adventure goods and merchandise into this colony and shall bring in with them good and sufficient letters of credit, directed to the Governor from some merchant or merchants inhabiting within the City of London, of known repute and ability, to this effect, that the said merchant from whom such letters shall come will satisfy to his Majesty's collectors or customers such dues and demands as shall be found due to be paid by them, and is or shall be thought fit to be required from merchants of that nation trading in that commodity within

the kingdom of England or at the port of London, that then it shall be free and lawful for such Dutch merchant to export his tobacco out of the colony, without entering into any bond or obligation for defraying any customs, or without any stop or hindrance, than that he be compelled to charge bills of exchange to satisfy according to the tenor and effect of the letter of credit, And it is further thought fit that this act be transmitted and authenticated under the signet of the Counsel and the hand of the Secretary.

1651.

THE COMMONWEALTH.

An act for increase of shipping, and encouragement of the navigation of this nation.

For the increase of the shipping and the encouragement of the navigation of this nation, which, under the good Providence and protection of God, is so great a means of the welfare and safety of this Commonwealth.

Be it enacted by this present Parliament, and the authority thereof, that from and after the first day of December, One thousand six hundred fifty-one, and from thenceforwards, no goods or commodities whatsoever of the growth, production or manufacture of Asia, Africa, or America, or of any part thereof, or of any islands belonging to them, or any of them, which are described or laid down in the usual maps or cards of those places, as well of the English plantations as others, shall be imported or brought into this Commonwealth of England, or into Ireland, or any other lands, islands, plantations, or territories to this Commonwealth belonging, or in their possession, in any other ship or ships, vessel or vessels whatsoever, but only

in such as do truly and without fraud belong only to the people of this Commonwealth, or the plantations thereof, as the proprietors or right owners thereof; and whereof the master and mariners are also for the most part of them, of the people of this Commonwealth, under the penalty of the forfeiture and loss of all the goods that shall be imported contrary to this Act, as also of the ship (with all her tackle, guns and apparel) in which the said goods or commodities shall be so brought in and imported; the one moiety to the use of the Commonwealth, and the other moiety to the use and behoof of any person or persons who shall seize the said goods or commodities, and shall prosecute the same in any Court of Record within this Commonwealth.

And it is further enacted by the authority aforesaid, that no goods or commodities of the growth, production, or manufacture of Europe, or of any part thereof, shall after the first day of December, one thousand six hundred fifty-one, be imported or brought into this Commonwealth of England, or into Ireland, or any other lands, islands, plantations, or territories to this Commonwealth belonging, or in their possession, in any ship or ships, vessel or vessels whatsoever, but such as do truly, and properly belong to the people of that country or place of which the said goods are the growth, production or manufacture; or to such parts where the said goods can only be, or most usually are, first shipped for transportation; and that under the same penalty of forfeiture and loss expressed in the former branch of this Act, the said forfeiture to be recovered and employed as is herein expressed.

And, it is further enacted by the authority aforesaid, that no goods or commodities that are of foreign growth, production, or manufacture, and which are to be brought into this Commonwealth in shipping belonging to the people thereof, shall then be by them shipped or brought from any other place or

places, country or countries, but only from those of their said growth, production or manufacture, or from those ports where the said goods and commodities can only, or are, or usually have been, first shipped for transportation; and from none other places or countries, under the same penalty of forfeiture and loss expressed in the first branch of this Act, the said forfeiture to be recovered and employed as is therein expressed.

And, it is further enacted by the authority aforesaid, that no sort of cod-fish, ling, herring, pilchard, or any other kind of salted fish, usually fished for and caught by the people of this nation, nor any oil made, or that shall be made, of any kind of fish whatsoever; nor any whale-fins or whale-bones, shall from henceforth be imported into this Commonwealth, or into Ireland, or any other lands, islands, plantations, or territories thereto belonging, or in their possession; but only such as shall be caught in vessels that do, or shall truly and properly, belong to the people of this nation, as proprietors and right owners thereof; and the said fish to be cured, and the oil aforesaid made, by the people of this Commonwealth, under the same penalty of forfeiture and loss expressed in the first branch of this Act, the said forfeiture to be recovered and employed as is therein expressed.

And, it is further enacted by the authority aforesaid, that no sort of cod-fish, ling, herring, pilchard, or any other kind of salted fish whatsoever, which shall be caught and cured by the people of this Commonwealth, shall be, from and after the first day of February, One thousand six hundred fifty-three, exported from any place or places belonging to this Commonwealth, in any other ship or ships, vessel or vessels, save only in such as do truly and properly appertain to the people of this Commonwealth as right owners, and whereof the master and the mariners are for the most part English, under the same penalty of forfeiture and loss expressed in the said first branch

of this present Act, the forfeit to be recovered and employed as is there expressed.

Provided always, that this Act nor any thing therein contained, extend not, or be meant to restrain, the importation of any of the commodities of the Straits or Levant Seas, loaden in the shipping of this nation, as aforesaid, at the usual ports or places for lading of them heretofore, within the said Straits or Levant Seas, though the said commodities be not of the very growth of the said places.

Provided, also that this Act nor anything therein contained, extend not, or be meant to restrain, the importing of any East India commodities loaden in the shipping of this nation, at the usual port or places for lading of them heretofore, in any part of those seas to the southward and eastward of Cabo Bona Esperanza (Cape of Good Hope), although the said ports be not the very places of their growth.

Provided, also, that it shall and may be lawful to and for any of the people of this Commonwealth, in vessels or ships to them belonging, and whereof the master and mariners are of this nation, as aforesaid, to load and bring in from any of the ports of Spain and Portugal, all sorts of goods and commodities that have come from, or any way belonged unto the plantations or dominions of either of them respectively.

Be it also further enacted by the authority aforesaid, that from henceforth it shall not be lawful to any person or persons whatsoever, to load or cause to be loaden and carried in any bottom or bottoms, ship or ships, vessel or vessels whatsoever, whereof any stranger or strangers born (unless such as be denizens or naturalized) be owners, part owners or master, any fish, victual, wares or things of what kind or nature soever the same shall be, from one port or creek to this Commonwealth, to another port or creek of the same, under penalty to every one that shall offend contrary to the true meaning of this

branch of this present Act, to forfeit all the goods that shall be so loaden or carried, the same forfeit to be recovered and employed as directed in the first branch of this Act.

Lastly, that this Act, nor anything therein contained, extend not to Bullion, nor yet to any goods taken, or that shall be taken, by way of reprisal, by any ship or ships, having commission from this Commonwealth.

Provided that this Act, or anything therein contained, shall not extend, nor be construed to extend, to any silk or silk-wares which shall be brought by land from any Ports of Italy, and there bought with the proceed of English commodities, sold either for money or in barter; but that it shall and may be lawful for any of the people of this Commonwealth to ship the same in English vessels, from Ostend, Newport, Rotterdam, Middleburgh, Amsterdam, or any ports thereabouts; the owners and proprietors first making oath, by themselves, or other credible witnesses, before the Commissioners of Customs for the time being, or their deputies, or one of the Barons of the Exchequer, that the goods aforesaid were so brought for his or their own proper account in Italy.

CHARLES II.

(Born, May 29, 1630. Reign began May 8, 1660. Died, February 6, 1685. Length of actual reign, 25 years.)

WITH the Restoration, at one stroke, all the laws of the Cromwellian era were wiped from the statute-books. Charles II. was held to have been the sovereign during the entire period following the execution of his father, and, legally, the year of his enthronement was the twelfth of his reign. Accordingly, the first statutes recorded under his rule are designated as of "12th Charles."

Charles and his advisors would have thrown overboard all the economic policies of Cromwell, as gladly as they annulled the letter of his laws. But they were forced to recognize the Cromwellian principles as furnishing a sound basis for the expansion of the sea power, that was as necessary for England politically, as it was commercially. The fundamentals of the Commonwealth Navigation Acts were not only readopted, they were broadened and strengthened.

It has been usual to regard the shipping policies of Charles II.'s reign as beginning with the Act of 1660 (Chapter 18), "For the encouragement of Shipping and Navigation," but there was an earlier instance of systematized action on the statute books. This is to be found in the first Subsidy Act of Charles (1660, Chapter 4).

Parliament's grant to the King of tonnage and poundage, together with import and export duties on certain kinds of merchandise, was accompanied by an elaborate Book of Rates, fixing the duties and laying down customs regulations.

These regulations contain a number of instances of preferen-

tial duties in favor of English bottoms. They also furnish the first instance of discrimination in behalf of English-built vessels. Earlier English kings had granted bounties for ship-building; but under Charles a different line was taken.

According to the Book of Rates, "All drugs imported directly from the place of growth in English-built shipping are to be rated one-third part of what is charged herein, and no more." Another section made the same stipulation in regard to "All spicery, except pepper." "Estridge wool," in English-built ships, was to be free of duty. Other provisions were:

All sorts of fish, English-taken and brought in English ships, ought to pay no custom, as provided by the Statute of 10th Elizabeth, Chapter 5.

Whale-fins of English taking, imported by the English in English shipping, directly from the place of taking, were subject to a lesser duty than "Whale-fins not of English fishing."

Cotton wool of the English Plantations, free of duty; cotton wool of foreign growth, fourpence a pound.

Foreigners to pay double customs on exports of tin.

Foreigners also to pay double customs on coal, if exported in foreign bottoms; but if in an English ship only fourteen shillings the chalder. Englishmen exporting coal in foreign-built ships to pay aliens' duties.

Liberty was given to foreigners to export Spanish or other foreign wools, provided shipment was made in English bottoms. Confiscation was made the penalty for violation.

In September, 1660, Parliament enacted the first shipping statute of Charles II. The Cromwellian Act of 1651 had been annulled, but its basic principles and much of its phraseology were incorporated bodily in the Act of 1660. The title, "An

Act for the encouragement and increasing of Shipping and Navigation" was practically unchanged from that of the statute of 1651, and the Preamble was almost a word for word reproduction.

By the Act of 1660, no goods *whatever* were to be imported into or exported out of any British possession in Asia, Africa, or America, save in vessels belonging "only to the people of England, or Ireland, dominion of Wales, or town of Berwick-upon-Tweed, or" (which were) "of the build of, and belonging to, any of the said lands, islands, plantations, or territories."

By another provision of the same Act (12th Charles, Chapter 18, Section 3), no goods produced in *any part* of Asia, Africa, or America, were to "be imported into England, Ireland, or Wales, Guernsey, Jersey, or Berwick-upon-Tweed," excepting in ships belonging "*only*" to the people of "England or Ireland, Wales, Berwick-upon-Tweed" (Guernsey and Jersey are omitted), or the people of the British possessions in Asia, Africa, or America. The build of the ship, it will be noticed, is not specified in this section. The use of the word "*only*" in relation to the proprietorship of vessels apparently was intended to bar the use of English ships in which foreigners were part-owners.

By the Act of 1651, only *imports* from Asia, Africa, or America were limited to transportation by British vessels, and no provision was made as to the "build of the ship."

Both Acts sought to increase the supply of British seamen; but where the statute of 1651 required that the masters and mariners of British ships must, "for the most part of them," be British; the law of 1660 made the proportion "three-fourths."

Similar penalties—*forfeiture of the offending ship, with her equipment and cargo*—were exacted by both statutes; but that of Charles sought to gain greater cooperation on the part of Colonial officials. In 1651, it was provided that the proceeds

of the seizure were to be divided equally between the Commonwealth and the informer. In 1660, Parliament enacted that there should be a triple division of the spoils. One third was to go to the Crown, one third to the Governor of the Colony where the ships were seized, and the remaining third to the informer. If the ships were seized in England, two-thirds went to the crown, and one-third to the informer. And in case the seizure was made, at sea or otherwise, by "ships of war, or other ship having commission from his Majesty," one third of the forfeitures was to be allowed to "the Admirals or commanders and their companies."

Generally speaking, the first Navigation Act of Charles II. amplified and strengthened the principles of the Cromwellian statute of 1651.

A supplementary method of seeking to monopolize the trade of the Colonies for England was set forth in Section 2 of the Act of 1660. Under this, no one not English-born, "or naturalized, or made a free denizen," was to be allowed to act as a merchant or factor in the Plantations, upon pain of the forfeiture and loss of all his goods and chattels, "one third to the Crown, one third to the Governor of the Plantation where such person shall so offend; and the other third to him or them that shall inform or sue for the same in any of his Majesty's courts in the Plantations where such offense shall be committed."

England was seeking to overcome the indifference towards her laws in the Colonies, even on the part of her officials, by offering rewards for the enforcement of her statutes. To strengthen this policy, the Act required that all Governors, before entering upon their office, should "take a solemn oath to do their utmost" to have the Act observed. If a Governor should be "willingly and wittingly negligent" in this, he was to be removed from his office.

Provisions for the stimulation of English shipbuilding occur here and there in the Act of 1660. Goods of foreign production "which are to be brought into England, Ireland, Wales, Guernsey, Jersey, or Berwick-upon-Tweed, in English-built shipping, or other shipping belonging to some of the aforesaid places, and navigated by English mariners, as aforesaid," were to be brought only from the country of production or the ports where these goods were customarily first shipped. This is as provided in the Act of 1651, which, however, contained no reference to "English-built shipping." The Act of Charles II. therefore reaffirmed the principle of "Direct Trade."

Cromwell's statute had provided that no fish, fish-oil or whalebone, "usually taken" by the British, should be imported into any British possession, unless taken by British ships, under penalty of forfeiture of vessel and goods. Under the Act of Charles, this stipulation did not apply to all British possessions, but was limited to England, Ireland, Wales and Berwick; and the penalty was changed to making the offender liable to pay double aliens' customs. The provision of the Cromwellian Act forbidding the exportation of salted fish in foreign bottoms was omitted from the Act of 1660.

Charles's statute, however, reenacted almost verbatim, the clauses of the statute of 1651, restricting the coastwise trade to wholly English-owned vessels, and gave it greater force, by making the penalty the forfeiture, not merely of cargo, as under Cromwell, but of ships and guns, and all equipment, as well. No application of the coastwise laws to the Colonies is stipulated in the provision of Charles's Act. Cromwell's statute applied to shipments "from one port or creek of this Commonwealth to another port or creek of the same," leaving some doubt as to whether it was supposed to apply to the Colonies. Charles's Act, however, specifically named England, Ireland, Wales, and Berwick.

No doubt is left by the Act of 1660 as to the inclusiveness of the term "English-built shipping." Section 7 of the statute, defines it as "Shipping built in England, Ireland, Wales, islands of Guernsey or Jersey, or town of Berwick-upon-Tweed, or in any of the lands, islands, dominions, and territories, to his Majesty in Africa, Asia, or America belonging, or in his possession." Thus a further inducement was offered to the Colonies to construct their own vessels and take advantage of the Act. More trade for the Plantations, more customs for the Crown, and greater possibilities for the enforcement of the statute, were the advantages seen by Charles's advisors. Any such "English-built" vessel, according to section 7 of the Act of 1660, was eligible for the preferences accorded in the Book of Rates, provided that the master and three-fourths of the crew were English during the whole voyage; exceptions being allowed for sickness, death, or imprisonment. This last provision, however, was easier of enactment than enforcement, largely because of desertions in overseas ports, where unemployed British seamen were hard to find. Exigencies of war also added to the difficulty.

Another blow was struck at the Dutch carrying trade by the provision in the Act of 1660 that only English vessels might bring to England, Ireland, Wales and Berwick, naval supplies, foreign salt, grain, figs, raisins, prunes, olive oil, sugar, wines, brandy, vinegar, or potash.

It was stipulated by the Act that, "for the prevention of the great frauds daily used in coloring and concealing of aliens' goods," that the above-named commodities, and all goods of Russia and Turkey, if imported in other than English-owned and legally manned vessels, should be subject to the payment of aliens' duties.

Steps were also taken to prevent "all frauds in coloring or buying of foreign ships," by providing that no foreign-built

"You are to take especial care and inquire into the strict execution of the late Act of Parliament entitled, An Act for the encouragement and increasing of Shipping and Navigation, that, as much as in you lies, none of those good ends and purposes may be disappointed for which the said Act was intended and designed."

This same year of 1660 was also marked by the passage of the first Parliamentary Act creating a Post-Office under the Government. Charles I. had established a postal system by Proclamation, and had farmed out the revenues. This practice was followed under Charles II., and more stringent regulations were enacted.

Parliament recited that for the "prevention of many inconveniences happening by private posts," several public post-offices had previously been established, "the well ordering whereof is a matter of general concernment, and of great advantage, as well for preservation of trade and commerce, as otherwise. To the end therefore, that the same may be managed so that speedy and safe despatches may be had," it was enacted that there should be one general post-office, in London, under a "Postmaster General," whence mail should be sent to all parts of the British Isles, "or unto any kingdom or country beyond the seas."

Letters given to masters, mariners or passengers of ships for delivery, were to be turned over to the postmaster's deputies at the first British port town at which the ship first touched. Penalties were provided against any private persons operating any "foot-post, horse-post, coach-post, or packet-boat," to carry mails.

Restriction to English ships of English mail carried by sea was also provided for. The Postmaster General was made liable to a fine of a hundred pounds sterling in every case in

which mail was carried out of England "into any part beyond the seas, in any ship or vessel which is not of English build, and navigated with English seamen."

Under Charles II., England, for the first time, systematically set about the development of its own shipbuilding industry. In the Colonies, and especially in Virginia, there was also recognition of the value of extending protection to shipping. In the session of 1661-2, the Virginia Grand Assembly had passed an Act, providing that:

"For the encouragement of building vessels in this country and the promoting of trade; Be it enacted, that, whoever shall build a vessel of any burden, decked and fitted to go to sea, shall, for every ton of burden the said vessel shall contain, receive, upon proof of her being so built, fifty pounds of tobacco under the public levy."

In the previous session, the Virginia Assembly had enacted the first pilotage statute. It was set forth that, "There had been a general complaint made by masters of ships that we had neither pilots nor beacons to direct them in their bringing their ships upwards." It was then ordered that Captain William Oewin should be the "chief pilot of James River, and that, for his encouragement therein, he shall be paid for the pilotage of all vessels above eighty tons, five pounds sterling if he be employed, and if not employed, forty shillings." Every master of a ship anchoring within Point Comfort was to pay the pilot thirty shillings for beaconage, out of which fund the pilot was to "make, place, and maintain good and sufficient beacons in all necessary places."

Another Virginia Act of the same period gave to Virginia owners of vessels, exemption from the gunpowder duties, as well as from the levy of two shillings per hogshead on tobacco. It was also laid down that the exemptions were to apply only

vessel could be admitted to the privileges of an English ship until the owners had made oath that they were not aliens, that the purchase had been made without fraud, and that no foreigner had any part-ownership in the vessel. Any customs officer or Governor allowing violation of the Act was to be dismissed from his position.

As in the Cromwellian Act, permission was given to import from East Indian and Mediterranean countries, commodities not of the actual production of those places. Charles's statute, however, provided that the ship must be English-built. Like permission was granted in regard to imports from Spain, Portugal and the Azores (covering Spanish and Portuguese Colonial products), but the stipulation as to the build of the ship was not made in this case. The new Act, like the old, was not to apply to bullion or prize goods. Fish caught and cured by the Scotch could be imported directly from Scotland in Scotch-built ships, of which the masters and three-fourths of the mariners were English subjects.

Further restriction of the trade of the Colonies was made by the "Enumerated Articles" provisions of the Act of 1660 (Section 18). No sugar, tobacco, cotton wool, indigo, ginger, fustic or other dyeing wood, produced in "any English Plantations in America, Asia, or Africa," could be shipped anywhere from the Colonies, but to another English Colony, or to England, Ireland, Wales, or Berwick, there to be laid on shore, under penalty of forfeiture of goods and ship.

In addition, no ship was to sail from any of the above-named places to the Colonies until bond had been given to the customs officers that enumerated commodities laden at any of the Plantations should be brought to an English, Irish or Welsh port, or to Berwick, and there landed. Ships coming to the Plantations from other ports must give similar bond to the Governor. As the "Enumerated Articles" included all the

chief Colonial products, direct carriage of the chief output of the Plantations to any foreign country was barred. This made the British Isles the staple market for the English Colonies. A still stronger application of the staple principle was made by Parliament a few years later.

Such, in effect, was the first Navigation Act of Charles, dealing in greater detail with commerce and shipping than any previous English legislation. The statute was to be the center of controversy for a long period to come, but its principles were to prevail for nearly two hundred years. Its obscurities and ambiguities—some of its provisions seem to prohibit the carrying of any commodity in any trade except by British vessels, while others lay down customs exactions for foreign bottoms—were to cause much confusion, but were gradually to be ironed out. While the Act was never fully enforced, the fact remains, that under it there began a steady growth of the British merchant marine that was to continue until the long-coveted sea supremacy was Britain's in actuality.

The importance which Charles II. and his advisors attached to the Navigation Act of 1660 is apparent. Almost immediately following its passage, the following appeared in the minutes of the Privy Council, under date of September 9, 1660:

"This day Mr. Attorney General attended the Board, and with him Mr. Brown, clerk of the Parliament, who brought with him thirteen Acts that have passed both Houses of Parliament, which were read, and passed his Majesty's approbation, in manner following:

"1: An Act for encouraging and increasing Shipping and Navigation, ". . . etc."

Instructions sent to the newly appointed Council for Foreign Plantations, included the following:

secure ships not only larger than ordinary in size, but more readily adaptable for immediate use by the Navy.

A similar purpose is expressed by Section 35 of the Act, requiring that exports to and from any part of the Mediterranean beyond the port of Malaga, should not be carried in a ship that did not have two decks, and not less than sixteen pieces of ordnance, mounted, with two men for each gun, and sufficient ammunition. Goods in ships not so equipped were to pay an extra duty of one per cent over the regular subsidy of tonnage and poundage. An exception was made, however, in the case of exports of fish to the Mediterranean in any English vessel.

A marine insurance Act was also passed in 1662. It had been found that the Act of Elizabeth, in providing that no actions concerning insurance could be effected without at least five Commissioners participating, had greatly delayed the process of law. The new statute reduced the number of judges necessary to three, "Whereof a doctor of the civil law, or a barrister at law of five years standing at the least, be always one." There were a number of minor provisions, including one that the Commissioners should in no case proceed against both person and goods for one and the same debt.

Virginia, in 1662, passed another Act, of "Encouragement of Builders to build Ships in this Country." Every person constructing a small vessel with a deck was to be allowed a bounty of one hundred pounds of tobacco per ton, "Provided those that receive this encouragement shall give caution that the said vessel so built shall not be sold to any, unless to another inhabitant in this country in three years."

A most important declaration of England's policy towards her Colonies was laid down by Parliament in 1663 (15th Charles II., Chapter 7). The mother-country was to be the Staple-Market to which all the goods of the Colonies were to

be sent, and from which the Colonies were to derive their supplies. They were now not only forbidden to export goods to foreign countries, but they could not import them from any non-English territory. The statute was styled "An Act for the Encouragement of Trade," and the commercial policy of the Crown was thus stated:

It was first declared that "His Majesty's Plantations beyond the Seas" were peopled by "His subjects of this his Kingdom of England."

The Act was then stated to be designed "for the maintaining a greater correspondence and kindness between them."

The Colonists were to be brought into "a firmer dependence" upon England, "rendering them yet more beneficial and advantageous unto it," with the following results:

"Further employment and increase of English shipping and seamen;

"Vent of English woolen and other manufactures and commodities;

"Rendering the navigation to and from" the Colonies "more safe and cheap";

Making England "a Staple, not only of the commodities of those Plantations, but also of the commodities of other countries and places for the supplying of them."

And, finally, by way of justification, it was declared that it was "The usage of other nations to keep their plantations trade to themselves."

It was, accordingly, enacted that no goods grown, produced, or manufactured in Europe, should be imported into "any land, island, plantation, colony, territory, or place to his Majesty belonging . . . in Asia, Africa, or America," unless they had been shipped from England, Ireland, Wales, or Berwick,

to ships wholly-owned in Virginia, "and not to such persons as are only partners of vessels, whose other partners dwell in other countries."

To deal with the increasing customs frauds, an elaborate statute (13th and 14th Charles II., Chapter 2) was enacted in 1662. This also dealt, to some extent, with shipping.

Parliament set forth that, "Unlawful and indirect means and devices are daily put in practice, to export and import goods and merchandises prohibited by the laws and statutes of this kingdom, as also to defraud the King's most excellent Majesty of his dues, customs, and subsidies, as well by secret and deceitful designs, as by open force and violence used against the King's Majesty's officers employed in the affairs of the customs."

No ship was to delay in coming to the place of discharge, and elaborate reports relative to the vessel and her cargo were to be made by the master or purser. No ship, foreign or English, was to clear until even more detailed data had been given to the customs, including the tonnage and destination, the equipment of guns and ammunition, and the names of all merchants having cargo aboard. Wide powers of seizure of suspected goods were given.

And, "For the better increase of shipping and navigation," customs officers were directed to furnish a register of all foreign-built ships owned by English subjects, which was to be deposited in the Court of the Exchequer. No ship that had not been built in his Majesty's dominions, Asia, Africa, or America, or that had not been bought before October 1, 1662, was to enjoy "the privilege of a ship belonging to England or Ireland, although owned or manned by English" (prize-ships excepted). All other vessels were to be treated as aliens' ships, and liable to aliens' duties.

By the utilization of such provisions England was, for the

first time, in a position to have a complete and authentic record of her foreign trade, and the exact extent to which foreigners participated in it. She could have at her fingers' ends not merely the character and destination of shipments, but the identity of all the merchants participating in the trade. By the data showing the ownership, tonnage and equipment of vessels she could ascertain the effects of the Navigation Acts.

The Act of 1662 may have resulted in a systematic collection of data, but there seems to have been no systematic use of it. It was not till the end of the century that records showing the proportionate employment of English and foreign ships, and details of the trade with the various countries began to be regularly available. Occasionally a Parliamentary inquiry brought to light official records of foreign commerce for a brief period, and from these it was evident that the English merchant marine was increasing in size.

Contributory to this were the provisions of the Act of 1662 (Section 37), giving preferential customs treatment to ships that should be built "within any of his Majesty's dominions within seven years" from the passage of the Act. Previous bounties for shipbuilding had made it a condition that the vessels must be of at least one hundred tons burden. Under Charles I., the minimum was increased to 200 tons. The Act of 1662 specified no particular tonnage, but required that the ships should have "three decks, or two decks and a half, with a forecastle, and five feet between each deck, mounted with thirty pieces of ordnance at least, and other ammunition proportionable."

Ships so built were to have, for the first two voyages they made, "one tenth part of the customs" on the goods they imported into or exported out of the kingdom. The purpose of the provision was stated to be "The better encouragement of building good and defensible ships." The effect would be to

tempts, of his Majesty's commands for the true observance of the said Act . . . through the daily practices and designs set on foot by trading into foreign parts from Virginia, Maryland, and other his Majesty's Plantations, both by land and sea, as well unto the Monados and other plantations of the Hollanders, as unto Spain, Venice, and Holland." This was attributed to the neglect of the Governors in not enforcing the regulations against foreign-built ships, and in failing to have the necessary bonds taken. It was therefore commanded that the Governors should keep a "perfect account . . . of all ships that shall load there, and return the names, both of the masters and the ships, together with true copies of the bonds, . . . twice in every year unto the officers of the Custom-House in London." Failure to comply would be interpreted by his Majesty as "a very great neglect in you, for which he is resolved to cause the breach of the said Act to be prosecuted according to the tenor thereof, and discharge you from that employment, it being his pleasure that the said law be very strictly observed, in regard it much concerneth the Trade of this kingdom."

Massachusetts officially complied with the mandate by an order of October 20, 1663, appointing deputies to see to it that the Navigation Act was enforced. Officers were named to serve at each of the following groups of ports: 1—Boston and Charlestown; 2—Salem, Marblehead, and Gloucester; 3—The River of Piscataqua, Isle of Shoals, and ports adjacent. They were to collect fees from shipmasters, as follows: "For taking Bond and transcribing the copy, five shillings; For receiving and entering a Certificate, two shillings and sixpence; For giving a Certificate and recording it, two shillings and sixpence." In addition, they were to have "Their part of Seizures, as the Act directeth." Copies of the Order and of the Act of Parliament were directed to be sent "To the four General Govern-

ments of New England, viz., Plymouth, Connecticut, New Haven and Rhode Island."

Incorporated in the same Order is the following provision:

"No Masters of Ships or Seamen, having their Vessels riding within any of our Harbors in this jurisdiction, shall presume to Drink Healths, or suffer any Healths to be drunk within their Vessels by day or night; or to shoot off any gun after the daylight is past, or on the Sabbath day, on Penalty, for every Health, twenty shillings, and for every Gun so shot, twenty shillings. And the Captain of the Castle is hereby enjoined to give notice of this Order to all Ships that pass by the Castle."

Sailors, apparently, were interfering with the peace and quiet of New England at this time. Old England, however, had a graver cause for complaint against English mariners. The never-ending pest of piracy, taking constant toll of merchant ships, and crippling trade, was now aggravated by the twin evils of cowardice and collusion in captures on the part of English mariners. In 1664, Parliament sought to deal with this problem by an Act (16th Charles II., Chapter 6) "To prevent the delivering up of Merchant Ships." English vessels "Were not to be yielded up to Turks or pirates." Penalties were to be imposed on masters who surrendered their ships tamely. Mariners or inferior officers failing to fight were to be punished. Encouragement was given, with a view to efficient defence of vessels, and rewards offered for ships taken by the English. The Act was to continue in force for three years, after which it was revived and greatly amplified by the interesting statute of 1670, which will be dealt with later. The Act of 1664 was soon to be followed by war with England's chief maritime competitor, and "Turks and pirates" were to become inferior enemies for a time.

"and in English-built shipping," whereof the master and three-fourths of the mariners at least were English. The goods must be carried directly to the English plantations.

Permission was given to such ships, however, to lade, in any part of Europe, salt for the New England and Newfoundland fisheries; wines of Madeira and the Azores might be taken from the place of growth; and servants or horses from Scotland or Ireland. In addition, food of the production of Scotland and Ireland might be sent from those parts to the Colonies.

"For the better encouragement of the plantations, and the increase of the shipping and navigation of this kingdom," it was provided that sea-coals could be carried to the Colonies from England, Wales, or Berwick, in English-built and navigated vessels, upon the payment of a special duty, security to be given that the coal should be carried to the plantations and not elsewhere.

The records of the Privy Council shed much light on the efforts made to enforce the principles of the Navigation Acts of Charles II. On occasion, relaxations were made. Under date of, February 13, 1661, the Acts of the Privy Council (Colonial) recite that a report had been received from the Commissioners of Customs, stating that some English merchants, trading with New England, found themselves "much grieved in respect of the strictness of the Act for Navigation."

It was pointed out that New England exports "being generally clove-boards, pipe-staves and other timber, fish, and such commodities, do better vend in other parts than here in England." By the sales of these goods direct to foreign countries, it was declared, "commodities of greater value, from Spain and other parts," were imported into England, "and his Majesty thereby much advantaged in his revenue."

The Privy Council, "upon due consideration whereof,"

authorized the Customs Commissioners to "take bond of the merchants trading to those parts, only to return the proceed of those commodities that they there shall lade, and not bind them up to return the commodities in specie; the said clause in the Act of Navigation notwithstanding."

None of the "Enumerated Articles" specified in the Act of 1660 were products of New England, but came from the Southern Colonies and the West Indies. New England, at this time, was exporting commodities of which England had a sufficient supply; hence, they were not "enumerated." Later, however, New England was to become a source of supply for naval building.

Evasions of the Act were numerous. On August 15, 1662, Sir George Downing reported that English ships were sailing direct from Barbados to Holland, and that Dutch ships were bringing into London, and other English ports, goods prohibited by the Act. The Privy Council thereupon ordered, "That the Lord High Treasurer of England, and the principal officers and Commissioners of his Majesty's Customs do take especial care to see to that part of the Act of Navigation which provides that no ship that loads in any of the Plantations belonging to this Kingdom do go into any foreign part without touching first in England." Seizures of Dutch ships, and protests from Holland, followed. England was on the brink of another Dutch war.

This conflict was to get under way in 1664. On June 24, 1663, the Privy Council sent letters of instruction, "To the several Governors of his Majesty's Plantations in America, viz., Virginia, Maryland, Barbados, St. Christopher's, Nevis, Montserrat, Antigua, Surinam, Jamaica, and New England."

These letters recited, that, despite the provisions of the Navigation Act, and the obligations it laid upon the Governors of the Plantations, there were "Many neglects, or rather con-

chant marine supremacy. They were to continue for a long time, however, as competitors of Britain; but the Navigation Acts and the growing naval strength of England were finally to eliminate them.

Through the loss of their North American possessions the Dutch were deprived of a means of easy evasion of the Navigation Acts. It had not been difficult to carry on a large trade with the English Colonies, by using New York as a depot of transshipment for both Dutch and Colonial goods in trade with Europe, and thus to evade the costlier method of carrying commodities to and from England and landing them there, before they could be sent elsewhere. New Amsterdam was now English territory and Dutch trade there, while not completely cut off, was greatly crippled.

The captured Colony was now named New York, after the Duke of York, and the so-called "Duke of York's Laws" were applied to its government. Among the earliest of these were provisions relating to shipping. In 1664, for instance, the problem of sailors running into debt ashore, being arrested, and delaying the sailings of their ships, was dealt with, as follows:

"To prevent many miscarriages which are frequently committed by sailors, by their immoderate drinking and other vain expenses in ordinaries, whereby the master and owners of the vessels to which they belong are prejudiced, by arresting and detaining such sailors for debts when their ships are ready to set sail," ran the law, "no victualers, innkeepers, or other sellers of wine, beer, or other strong liquors, shall, after the first day of March, 1664, arrest, attach, or recover by law any debt or debts to be made by any sailor or sailors in pay and whose dwellings are not within this jurisdiction, except the master or owner of such ship or vessel, to whom such sailors belong, have given under his hand to discharge the same."

Another law provided that in case of shipwreck "of any vessel belonging either to friend or enemy . . . there shall no violence or wrong be offered or done to their persons or Goods"; but the cargoes were to be preserved. "Also, any whale, or such like great fish, cast upon the shore," was to be taken into the care of the officers of the Colony, and "improved, where it cannot be kept." The perquisite was to be "the fifteenth gallon of oil."

The question of ballast was also dealt with. None was to be "taken from any Town-Shore" without permission, under penalty of sixpence for every shovel full so taken. And no ship was to "cast out any ballast in the channel or other place inconvenient in any harbor within this Government, upon the penalty of ten pounds."

In 1667, Massachusetts discriminated in favor of its own shipping, by a preferential gunpowder duty. This was to be paid by all vessels of above twenty tons, "That trade within our ports, belonging to other places; or if the greater part of the owners thereof are not inhabitants of this jurisdiction." Non-payment was to be penalized by seizure of cargo or of any of the equipment of the ship.

The shipping trade of New England had by now grown to such an extent that, on October 14, 1668, Massachusetts, through the General Court, held at Boston, set up an elaborate "Maritime Code," consisting of twenty-seven articles, and very much in line with the Laws of Oleron and other mediæval codes of shipping regulation. The purpose was set forth by the Preamble, which declared that:

"Whereas, through the blessing of God upon this Jurisdiction, the Navigation and Maritime affairs thereof is grown to be a considerable interest, the well management whereof is of great concernment to the public weal;

But England had anticipated the actual declaration of war by several months by a decisive blow at the Dutch in North America. Charles II. made a grant of the territories colonized by Holland, which were to become New York and New Jersey, to his brother, the Duke of York, who was later to reign as James II. A squadron of ships, carrying 3,000 land forces, attacked and captured New Amsterdam, and the surrounding territory with little difficulty, the Dutch colonists not knowing how imminent war was between their nation and the English.

Another English fleet then sailed against the Dutch possessions in Africa and captured many of them. It was not, however, until the Navy, commanded by the Duke of York, had made prize of 130 merchant ships of the Hollanders, that war was formally declared. It was to last until 1667, and ended practically in a draw, with the Peace of Breda. The Dutch centered their arguments on securing a repeal of the Navigation Laws, which they admitted had been most destructive of their commerce; and they did succeed in having a clause inserted in the Treaty of Peace, to the effect that all merchandise brought down the Rhine, from Germany, to the Staple at Dort, should be deemed the same as if it was the growth of Holland, and might be transported to England in Dutch bottoms. The English, however, stipulated, as a symbol of Dutch defeat, that Holland's ships of war, as well as its merchant vessels, upon meeting any English ships of war in the four seas surrounding Britain, should strike the flag and lower the topsail. The most substantial fruits of the war, however, were the captures of Dutch territory. New York was to come under Dutch control again in 1673, but only for a matter of months, and English supremacy in North America was greatly strengthened.

The exigencies of the Dutch war forced the suspension of provisions of the Navigation Acts, in 1665. Measures had been

taken previously, however, for the protection of English merchant shipping. As early as January 13, 1664, the Privy Council sent instructions to the Governor of Virginia that "All ships coming from thence do associate and return in company," for their better security. "Divers merchants and owners of ships" had "by their humble petition to his Majesty represented, that many vessels had gone to Virginia with goods and servants, and that his Majesty's great occasion for seamen had enforced them to sail under-manned, which may endanger the loss of both ship and goods, especially if they return singly and without association, and should meet with Dutch men of war in the Channel, or elsewhere." No provision seems to have been made for convoys.

An Order in Council of March 6, 1665, relaxed temporarily the provisions of the Navigation Acts. Any English merchant was to be free to use foreign ships, manned by mariners of any nation in amity with England, for importing and exporting goods "to and from any port in England, Ireland, or Wales, or to or from any of his Majesty's Plantations." No commodities, however, were to be imported into the Colonies unless they had been shipped from England, Ireland, or Wales, and were carried directly to the Plantations. All goods taken on board at the Colonies were also to be brought directly to the British Isles. Another Order, of October 20, 1665, however, allowed all merchants trading to foreign parts to bring goods back in foreign bottoms, "Provided that no use or liberty hereof be made or taken in relation to his Majesty's foreign Plantations."

The series of wars between England and Holland marked a long-continued contest for commercial supremacy. The two countries had similar aims, the building of a great Empire through the maintenance of superior sea-power. Both had possessions in Asia, Africa and America; but the Dutch were to be shorn of much of their territory and to lose their mer-

"For the better ordering the same for the future, and that there may be known Laws and Rules for all sorts of persons employed therein, according to their several stations and capacities, and that there may be one Rule for the guidance of all Courts in their proceedings, in distributive Justice," . . . (the laws then following were ordered to be observed).

The close of the war with the Dutch brought an Order from the Privy Council, on August 9, 1667, stating that in view of the fact that the temporary dispensation with several clauses of the Navigation Acts had been followed by a promise that at least six months' notice would be given before they were again put in force, the Attorney General was directed to draft a Proclamation revoking the dispensation.

A glimpse of Charles II. using his ships of war as merchantmen, to the profit of his own purse, is given by an Order in Council, of September 11, 1667. "Speedy" directions were to be given to Sir John Harman "to receive merchants' goods (the freight thereof to be for the King's account), into those twelve or thirteen vessels under his command in America; assuring the captains of the ships that they shall have a third part of the profit thereof." Commercial caution prompted the making of stipulations that "no goods be stowed between decks, nor the ships thereby rendered unfit for service, nor that they delay their voyage home in expectation of freight, lest thereby the expense of victuals and wages exceed the profit to his Majesty."

Efforts to save for the Dutch some of the trade with America are recorded in an Order of the Privy Council, dated October 23, 1667. On that day there was presented a petition of "Peter Stuyvesant, late Governor of the city and fort called Amsterdam, and General of the New Netherlands." Stuyvesant re-

cited that in the articles of surrender, in 1664, he had sworn "Faith and true allegiance to his Majesty," and that it had been agreed that "Any people may come from the Netherlands"; that "Dutch vessels may freely come," and that "Any of the Dutch may freely return home, or send any merchandise home in vessels of their own country." Stuyvesant, accordingly, petitioned that free trade should be allowed as provided by the articles of surrender.

The Privy Council ordered, that, as it was necessary for "trade and commerce to be supported and encouraged in those parts, for the common benefit, which cannot at this time be supplied from hence," permission should be granted to the Dutch for seven years to carry on trade with New York, but with not more than three ships annually.

This concession met with much opposition. On November 18, 1668, the Privy Council acted upon a representation made by the Council of Trade to the King. This set forth that "The merchants are much discouraged in their trade to New York, and are withdrawing their estates thence, by reason of the indulgence granted to the Dutch." This concession, it was declared, would "have an unhappy influence by opening a way for foreigners to trade with the rest of his Majesty's plantations, and preventing the exportation of the manufactures of England, and thereby destroy his Majesty's customs and the trade of this kingdom." It was also claimed that the articles of surrender provided for free trade for a period of six months only.

With "His Majesty approving," the privy council ordered that all passes to Dutch ships to trade from Holland to New York be annulled; but that one ship "of those now preparing in Holland for New York" should have leave to make one voyage "this year." In the following month an additional ship was granted leave to make a voyage.

The period immediately following the Dutch war was fol-

lowed by a number of other special exemptions from the provisions of the Navigation Act. England, except where her customs officers were corrupt, could enforce the law in the ports of the British Isles; but conditions were different in the American Colonies. On January 20, 1669, the Privy Council gave notice that the King had been informed that "several Governors of the Plantations" had been "Wanting to their duty." They were charged with not taking the oath required by the Navigation Acts, with allowing ships to trade to and from the Colonies in violation of the law, and with failing to take bonds and security for ships, as legally required. "For redress whereof," the farmers of the King's customs were ordered to maintain one or more persons in each Plantation, to secure the Governor's oath and to see that the Acts regulating shipping and trade, and for the prevention of customs frauds be enforced.

Following this, on January 27, 1669, the Privy Council gave force to a proposal of the Council of Trade that orders be given to the commanders of ships of the royal navy to seize or arrest any vessel trading to the Plantations contrary to law. It was also sought to obtain the cooperation of the merchant marine, by providing that merchants' ships might be commissioned to make similar seizures. If they did they would be entitled to part of the proceeds of the forfeitures. A better enforcement of the Acts was brought about by these measures, but there was never better than a partial enforcement.

The problem of piracy again pressed for solution at this period. Collusion and treachery on the part of masters of English merchant ships were declared to be growing evils, and in 1670, an Act (22nd Charles II., Chapter 11) was passed "to prevent the delivery up of Merchant Ships, and for the Increase of good and serviceable Shipping." The Act of 1664, along somewhat similar lines, had expired; and there were

now new angles of the question to be dealt with. The situation was outlined by the Preamble to the Act of 1770, which set forth that:

"It often happeneth that masters and commanders of merchant ships do suffer their ships to be boarded, and their goods to be taken out by pirates and sea-rovers, notwithstanding they have sufficient force to defend themselves; whereby not only the merchants are much prejudiced, but the honor of the English navigation is thereby much diminished, and merchants discouraged from lading their goods on board English ships, to the decay of Shipping; in the preservation of which the wealth, honor, and safety of this nation is so much concerned:

"To which (acts) the said masters are encouraged by a practice used towards them by the Turks and others, who, after they have taken out the goods, as an encouragement to masters of ships to yield, do not only restore the ship, with such goods as are claimed by the masters and seamen, but many times pay unto the masters all or some part of the freight, which hath many times caused suspicion of treachery in the said masters, to the great dishonor of the English nation."

For the prevention of this, "and for the better encouragement to merchants, as well foreigners as English, to freight and use English ships," it was provided that if the master of a ship of 200 tons burden or more, having 16 guns or more mounted, surrendered his ship without fighting, that such master should be barred from taking charge of any English ship thereafter. In case the master accepted any money or gift from pirates, then he was to forfeit the money or goods so given, together with his share in the vessel, the same to repay the owners of the goods taken.

No master, being at sea, was to leave his ship in case any Turkish vessel, pirate, or sea-rover was encountered. If the mariners or inferior officers of an English ship refused to fight when ordered by the master, or if they should "utter any words to discourage the other mariners from defending the ship," they were to forfeit their wages, as well as such goods as they had in the vessel, and to be imprisoned for not more than six months. Any mariner who "laid violent hands on his commander, whereby to hinder him from fighting in defense of his ship and goods committed to his trust," was to "suffer death as a felon."

"For better encouragement to captains, masters, officers and seamen to defend their ship," it was enacted that assessment should be made upon the owners of the ship, and of the goods defended, for money to be distributed among the defenders of the vessel, or widows and children of the slain, "having especial regard to the widows and children . . . and to such as shall have been wounded or maimed."

In case an English ship captured a vessel attacking it, then the English officers and men should have the same share of the ship and goods taken, "as is usually practised in private men of war."

Anyone who "wilfully cast away, burnt or otherwise destroyed the ship unto which he belongeth, or procured the same to be done," was to suffer death as a felon.

To encourage the building of English merchantmen capable of repelling the attacks of pirates, and at the same time to increase the reserve of ships equipped for naval service, the Act of 1670 offered special inducements. As in the Act of 1662, builders of three-deck vessels, sufficiently armed, were to receive a bounty of one tenth part of the customs on the first two voyages made. The Act of 1670 also provided that builders of

two-deck vessels above 300 tons burden should receive a bounty of one-twentieth part of the customs.

For the remaining fifteen years of Charles II.'s reign, England's shipping legislation was practically all devoted to attempts to strengthen the provisions of the Navigation Acts and to clear up obscurities and ambiguities under which the terms were being evaded. An Act of 1672 (24th Charles II., Chapter 7) declared that inhabitants of the Colonies were bringing into foreign parts of Europe, and selling to owners of foreign ships, "enumerated commodities," in violation of the law. It was therefore provided that duties on these articles should be collected when they were shipped in the Colonies. Difficulties were also being encountered with Scotland and Ireland, in connection with the provisions of the Navigation Acts, and it was sought to prevent evasions in these countries. The records of the Privy Council during the latter years of Charles's reign contain many instances of the difficulties encountered in the attempts to enforce the Navigation policies.

In the meantime the volume of American Colonial legislation dealing with shipping increased steadily. In 1670, Massachusetts enacted, that, "to prevent Calumny, Reproach and Prejudice to this Colony and the Inhabitants and Trade thereof," no one "Shall henceforth trade or truck with any Vessel that shall arrive upon our Coast, until the same shall come under command and ride in our usual harbors, and have acknowledged the Government as the Law provides, upon the penalties of all such goods traded, and such further punishment as the Court of Assistants shall adjudge."

New York, in the same year, set forth that many complaints had been made that, despite the order that entries and clearances of vessels should be made, and the customs duly paid, there had been observance of it at "this city only." It was ac-

cordingly directed that all vessels going into or coming out of any of the ports of Long Island were to obey the order.

From Virginia, at the same time, came objections that, while that Colony was observing the laws of England, they were being violated in New England, to the prejudice of Virginia. This was asserted by Governor Berkeley, in response to a series of inquiries made by the Council of Foreign Plantations. Answering a question as to "What obstructions do you find to the improvement of the trade and navigation of the plantations within your government?" Berkeley wrote:

"Mighty and destructive, by that severe Act of Parliament which excludes us the having any commerce with any nations in Europe but our own, so that we cannot add to our plantation any commodity that grows out of it, as olive-trees, cotton, or vines. Besides this, we cannot procure any skilful men for one now hopeful commodity, silk; for it is not lawful for us to carry a pipe-stave or a barrel of corn to any place in Europe out of the King's dominions.

"If this were for his Majesty's service, or the good of his subjects, we should not repine, whatever our sufferings are for it; but, on my soul, it is the contrary for both. And this is the cause why no small or great vessels are built here; for we are most obedient to all laws, whilst the New England men break through, and men trade to any place that their interest may lead them."

As to "What advantages or improvements do you observe that may be gained to your trade or navigation?" Berkeley saw none, "Unless we had liberty to transport our pipe-staves, timber and corn to other places besides the King's dominions."

New York, in 1672, sought to create "a greater terror to any person" contemplating stealing a hog, a boat, or a canoe. For the first offence, in addition to a fine, the offender was to

"receive the corporal punishment of having one of his ears cut off, to be an Example to all others." And for the next offense was to have "some more severe punishment, as the Court shall direct or judge meet."

New Jersey, now under English rule, sought to develop a trade independent of New York. In 1679 it was enacted by the General Assembly that one hundred and fifty pounds sterling should be raised "to lie in bank, for the encouragement of any vessel" to come to New Jersey to trade. If the said vessel should be seized by the Government of New York, "For the only cause of trading in this Province, that then this said one hundred and fifty pounds shall be improved for the reparation of any such vessel, according to the true valuation of the same."

A discriminating tonnage duty against all vessels, over twelve tons burden, which were not owned in New England, was imposed by Massachusetts in 1679. The rate was fixed at one shilling per ton, and was to be used for fortifications.

There was little trade unity between the American Colonies, as a group, at this period. Virginia, in 1679, passed an Act prohibiting the importation of "tobaccos into this Colony from Carolina and other parts without the Capes." This was almost immediately followed by another statute, in which Virginia retaliated against Maryland laws forbidding Virginia vessels to trade there without making customs entries and paying fees. Virginia passed a like law, "to stand in force until the Marylanders shall repeal their severe law."

Even the New England Colonies had been discriminating against each other. In 1681, however, New Hampshire held out the olive-branch of reciprocity to Massachusetts, in an Act providing that all Massachusetts vessels might trade freely with New Hampshire and be subject to no greater duties than the vessels of inhabitants, "provided the like order be made by

the General Court of the Massachusetts Colony." This was to apply to all vessels of the two Colonies, whether coming from foreign ports or from ports of the Colonies.

In the same year, New Hampshire had enacted a law providing that any person who should "wilfully, or on purpose, burn any House, Ship, or Bark, or any other vessel of considerable value," should be put to death, "or otherwise grievously punished, as the case and circumstances may require." In 1682, the same Colony fixed this penalty for stealing, or attempting to steal "Any ship, bark or vessel of burden, or any public ammunition," at severe punishment, "according to the nature of such a fact, providing it extend not to life or limb."

Rhode Island's first shipping Act of importance was one establishing a Naval Office in that Colony, under date of May 3, 1682, in accordance with the command of "His Most Gracious Majesty." In addition to taking entries of vessels, and performing "all things belonging to the said Office," the Naval Officers were "To take care that the laws relating to Navigation, or Customs and Duties on goods and merchandize, be duly observed."

Acts of discrimination by Colonies in favor of their own trade continued. Maryland, in 1682, limited the port duties payable by Maryland vessels to five shillings for each entrance and clearance. New Hampshire, in 1683, followed up its previous attempt at conciliating Massachusetts, by an "order restricting the lumber trade by Massachusetts vessels, and granting privileges to vessels of Other Colonies."

This latter measure, ingeniously worded, professed to draw justification from the Navigation Acts of England, at a time when the mother-country was on the eve of annulling the Charter of Massachusetts. The New Hampshire Act paid tribute to the "Good and wholesome laws for the encouragement of Trade and Navigation and the increase of Shipping,"

cited the Proclamations calling upon the Colonial Governments to observe the Acts, and "Particularly His Majesty's Letters to the Colony of the Massachusetts Bay, for the regulation of the abuses in the premises."

Notwithstanding which, declared the Act, "The said Colony have, instead of discountenancing all persons that have infringed the said Laws and Acts, protected and encouraged them in their illegal importations and made their ports places of reception for all foreign prohibited commodities—not only as to what hath been consumed within their own jurisdiction, but, under pretence of loading timber, (which we find very injurious to the trade in this Province), drawing all the ships to Boston, and thereby supplying all the neighboring Colonies, totally to the discouragement of English merchants and mariners."

Accordingly, it was enacted, that Massachusetts vessels, under the burden of 100 tons, should be prohibited from loading "any boards or timber in this Province," under penalty of forfeiture of vessels. At the same time, "For the space of three years next to come, all vessels coming from all other his Majesty's Plantations shall have free liberty to load and carry away any boards, timber or other commodities to any other His Majesty's Plantations, only paying the usual rate for powder."

New York, in 1684, invoked the same laws in "An Act for the encouragement of Trade and Navigation within this Province." The Preamble to this declared, that:

"Forasmuch as others of His Majesty's Plantations in America have, and do, daily receive and reap great benefit and advantage by direct and immediate trade, traffic, and commerce to and from His Majesty's Realm of England, and the importation of goods and merchandise of the growth, produce and manufacture of Europe into this Province from other parts and places hath been and is of

great prejudice and inconvenience to the inhabitants thereof: Be it enacted . . .”

The Act provided that there should be paid to the King an ad valorem duty of ten per cent on all goods grown, produced or manufactured in Europe (except in the English dominions thereof), upon importation into New York. Indirect trade with the other Colonies in European goods was barred by a provision that goods from the King's dominions in Europe must be “directly transported to this Province.” Goods from the West Indies were also to be transported directly to New York to be free of duty; and provision was also made that whale-oil or whale-bone exported from New York must be shipped directly to the British West Indies or to England, or be liable to the ten per cent duty.

Tobacco, as noted, had, by the Navigation Act of 1660, been made one of the Enumerated Articles which must be shipped direct from the Colonies to England, before going to any foreign destination. Another Act of the same year (12th Charles II., Chapter 34) prohibited the “Planting, setting or sowing of tobacco in England or Ireland.”

In the language of the statute, this was done in order that the Colonies and Plantations in America “Be defended, protected, maintained and kept up, and that all due and possible encouragement be given unto them.” It was also declared that, “The strength and welfare of this kingdom do much depend” on the Colonies, “in regard of the employment of a very considerable part of its shipping and seamen, of the vent of very great quantities of its native commodities and manufactures, and also of its supply with several considerable commodities which it was wont formerly to have only from foreigners, and at far dearer rates.”

Tobacco was stated to be a chief product of the Plantations, and one "Upon which their welfare and subsistence, and the navigation of this kingdom, and vent of its commodities thither, do much depend." The tobacco planted in England, the Act recited, "Is not so good and wholesome for the takers thereof, and by the planting thereof, his Majesty is deprived of a considerable part of the revenue arising by customers upon imported tobacco."

Penalties were provided against violations of the Act; but tobacco continued to be grown in England, and, in 1663, the subject was again before Parliament. In the Staple Act of that year (15th Charles II., Chapter 7) it was declared (Section 18) that "The reason why the said planting and making of tobacco doth continue is that the penalties prescribed and appointed by law are so little, as to have neither power or effect over the transgressors thereof." The Act added to the provisions for fines and imprisonment already in force, a forfeiture of ten pounds for every rod or pole of ground planted.

This was followed up by an order of the Privy Council, of July 1, 1663, appointing officials of the customs service to destroy all tobacco grown in violation of the Act, and providing that assistance should be given by "All and every the Sheriffs of the Counties of Gloucester, Worcester, Hereford, Monmouth and Oxford; as also all Justices of the Peace, Mayors, Bailiffs, Constables, and all other his Majesty's officers, both civil and military." Troops of cavalry were ordered out to aid in destroying the homegrown tobacco; but the people could not easily be discouraged, and it was more than thirty years before the raising of tobacco in England was ended. In 1670 Parliament (by the 22nd and 23rd Charles II., Chapter 26) enacted severer penalties, and included all officers who failed to do their duty in destroying the product, and all who refused to assist the

officers. As late as 1689, troops were sent into the Counties of Gloucester, Worcester, Warwick and Hereford, to enforce the Acts.

1660.

12TH CHARLES II.

Chapter 18.

An act for the encouragement and increasing of shipping and navigation.

For the increase of shipping and encouragement of the navigation of this kingdom, wherein, under the good providence and protection of God, the wealth, safety and strength of this kingdom is so much concerned;

Be it enacted by the King's most excellent Majesty, and by the Lords and Commons in this present Parliament assembled, and by the authority thereof, That from and after the first day of December, one thousand, six hundred and sixty, and from thenceforward, no goods or commodities whatsoever shall be imported into, or exported out of, any lands, islands, plantations, or territories to his Majesty belonging or in his possession, or which may hereafter belong unto or be in the possession of his Majesty, his heirs and successors, in Asia, Africa, or America, in any other ship or ships, vessel or vessels whatsoever, but in such ships or vessels as do truly and without fraud belong only to the people of England or Ireland, dominion of Wales, or town of Berwick upon Tweed, or are of the built of, and belonging to, any of the said lands, islands, plantations, or territories, as the proprietors and right owners thereof, and whereof the master and three-fourths of the mariners at least are English; under the penalty of the forfeiture and loss of all

the goods and commodities which shall be imported into, or exported out of, any of the aforesaid places in any other ship or vessel, as also of the ship or vessel with all its guns, furniture, tackle, ammunition, and apparel; one-third part thereof to his Majesty, his heirs and successors; one-third part to the governor of such land, plantation, island, or territory, where such default shall be committed, in case the said ship or goods be there seized, or otherwise that third part also to his Majesty, his heirs and successors; and the other third part to him or them who shall seize, inform, or sue for the same in any Court of Record, by bill, information, plaint or other action, wherein no essoin, protection, or wager of law shall be allowed; and all admirals and other commanders at sea of any of the ships of war, or other ship having commission from his Majesty, or from his heirs or successors, are hereby authorized and strictly required to seize and bring in as prize all such ships or vessels as shall have offended contrary hereunto, and deliver them to the Court of Admiralty, there to be proceeded against; and in case of condemnation, one moiety of such forfeitures shall be to the use of such admirals or commanders and their companies, to be divided and proportioned amongst them, according to the rules and orders of the sea in case of ships taken prize; and the other moiety to the use of his Majesty, his heirs and successors.

II. And be it enacted, That no alien or person not born within the allegiance of our Sovereign Lord the King, his heirs or successors, or naturalized, or made a free denizen, shall from and after the first day of February, which will be in the year of our Lord one thousand six hundred sixty-one, exercise the trade or occupation of a merchant or factor in any of the said places; upon pain of the forfeiture and loss of all his goods and chattels, or which are in his possession; one-third to his Majesty, his heirs and successors; one-third to the governor

of the plantation where such person shall so offend; and the other third to him or them that shall inform or sue for the same in any of his Majesty's courts in the plantation where such offense shall be committed: And all governors of the said lands, islands, plantations, or territories, and every of them, are hereby strictly required and commanded, and all who hereafter shall be made governors of any such islands, plantations, or territories, by his Majesty, his heirs or successors, shall before their entrance into their government take a solemn oath, to do their utmost, that every the aforementioned clauses, and all the said things therein contained, shall be punctually and *bona fide* observed according to the true intent and meaning thereof: And upon complaint and proof made before his Majesty, his heirs or successors, or such as shall be by him or them thereunto authorized and appointed, that any of the said governors have been willingly and wittingly negligent in doing their duty accordingly, that the said governor so offending shall be removed from his government.

III. And it is further enacted by the authority aforesaid, That no goods or commodities whatsoever, of the growth, production, or manufacture of Africa, Asia, or America, or of any part thereof, or which are described or laid down in the usual maps and cards of those places, be imported into England, Ireland, or Wales, islands of Guernsey and Jersey, or town of Berwick upon Tweed, in any other ship or ships, vessel or vessels whatsoever, but in such as do truly and without fraud belong only to the people of England or Ireland, dominion of Wales, or town of Berwick upon Tweed, or of the lands, islands, plantations, or territories in Asia, Africa, or America, to his Majesty belonging, as the proprietors and right owners thereof, and whereof the master, and three-fourths at least of the mariners are English: under the penalty of the forfeiture of all such goods and commodities, and of the ship or vessel in

which they were imported, with all her guns, tackle, furniture, ammunition, and apparel; one moiety to his Majesty, his heirs and successors; and the other moiety to him or them who shall seize, inform, or sue for the same in any Court of Record, by bill, information, plaint, or other action, wherein no essoin, protection, or wager of law shall be allowed.

IV. And it is further enacted by the authority aforesaid, That no goods or commodities that are of foreign growth, production, or manufacture, and which are to be brought into England, Ireland, Wales, the islands of Guernsey and Jersey, or town of Berwick upon Tweed, in English-built shipping, or other shipping belonging to some of the aforesaid places, and navigated by English mariners, as aforesaid, shall be shipped or brought from any other place or places, country or countries, but only from those of the said growth, production, or manufacture, or from those ports where the said goods and commodities can only, or are, or usually have been, first shipped for transportation, and from none other places or countries; under the penalty of the forfeiture of all such of the aforesaid goods as shall be imported from any other place or country contrary to the true intent and meaning hereof, as also of the ship in which they were imported, with all her guns, furniture, ammunition, tackle, and apparel; one moiety to his Majesty, his heirs and successors, and the other moiety to him or them that shall seize, inform, or sue for the same, in any Court of Record, to be recovered as is before expressed.

V. And it is further enacted by the authority aforesaid, That any sort of ling, stock-fish, pilehard, or any other kind of dried or salted fish, usually fished for and caught by the people of England, Ireland, Wales, or town of Berwick upon Tweed; or any sort of cod-fish or herring, or any oil or blubber made, or that shall be made, of any kind of fish whatsoever, or any whale-fins, or whale-bones, which shall be imported into Eng-

land, Ireland, Wales, or town of Berwick upon Tweed, not having been caught in vessels truly and properly belonging thereunto as proprietors and right owners thereof, and the said fish, cured, saved, and dried, and the oil and blubber aforesaid (which shall be accounted and pay as oil) not made by the people thereof, and shall be imported into England, Ireland, or Wales, or town of Berwick upon Tweed, shall pay double aliens custom.

VI. And be it further enacted by the authority aforesaid, That from henceforth it shall not be lawful to any person or persons whatsoever, to load, or cause to be loaden and carried in any bottom or bottoms, ship or ships, vessel or vessels whatsoever, whereof any stranger or strangers born (unless such shall be denizens or naturalized) be owners, part-owners, or master, and whereof three-fourths of the mariners at least shall not be English, any fish, victual, wares, goods, commodities, or things, of what kind or nature soever the same shall be, from one port or creek of England, Ireland, Wales, islands of Guernsey or Jersey, or town of Berwick upon Tweed, to another port or creek of the same, or of any of them; under penalty for every one that shall offend contrary to the true meaning of this branch of this present act, to forfeit all such goods as shall be loaden and carried in any such ship or vessel, together with the ship or vessel, and all her guns, ammunition, tackle, furniture, and apparel; one moiety to his Majesty, his heirs and successors, and the other moiety to him or them that shall inform, seize, or sue for the same, in any Court of Record, to be recovered in manner aforesaid.

VII. And it is further enacted by the authority aforesaid, That where any ease, abatement, or privilege, is given in the Book of Rates to goods or commodities imported or exported in English-built shipping, that is to say, shipping built in England, Ireland, Wales, islands of Guernsey or Jersey, or town

of Berwick upon Tweed, or in any the lands, islands, dominions, and territories, to his Majesty in Africa, Asia, or America belonging, or in his possession, that it is always to be understood and provided, that the master, and three-fourths of the mariners of the said ships at least be also English; and that where it is required that the master and three-fourths of the mariners be English, that the true intent and meaning thereof is, that they should be such during the whole voyage, unless in case of sickness, death, or being taken prisoners in the voyage, to be proved by the oath of the master, or other chief officer of such ships.

VIII. And it is further enacted by the authority aforesaid, That no goods or commodities of the growth, production, or manufacture of Muscovy, or of any of the countries, dominions, or territories, to the Great Duke or Emperor of Muscovy or Russia belonging, as also that no sorts of masts, timber, or boards, no foreign salt, pitch, tar, rosin, hemp or flax, raisins, figs, prunes, olive oils, no sorts of corn or grain, sugar, potashes, wines, vinegar, or spirits called aqua vitæ, or brandy-wine, shall, from and after the first day of April which shall be in the year of our Lord one thousand six hundred sixty-one, be imported into England, Ireland, Wales, or town of Berwick upon Tweed, in any ship or ships, vessel or vessels whatsoever, but in such as do truly and without fraud belong to the people thereof, or some of them, as the true owners and proprietors thereof, and whereof the master and three fourths of the mariners at least are English: And that no currants nor commodities of the growth, production or manufacture of any of the countries, islands, dominions, or territories, to the Ottoman or Turkish empire belonging, shall, from and after the first day of September, which shall be in the year of our Lord one thousand six hundred sixty one, be imported into any of the aforementioned places in any ship or vessel, but which is of

English built, and navigated as aforesaid, and in no other, except only such foreign ships or vessels as are of the built of that country or place of which the said goods are the growth, production, or manufacture respectively, or of such port where the said goods can only be, or most usually are, first shipped for transportation, and whereof the master and three fourths of the mariners at least are of the said country or place, under the penalty and forfeiture of ship and goods, to be disposed and recovered as in the foregoing clause.

IX. Provided always, and be it hereby enacted by the authority aforesaid, That, for the prevention of the great frauds daily used in coloring and concealing of aliens' goods, all wines of the growth of France or Germany, which from and after the twentieth day of October, one thousand six hundred and sixty, shall be imported into any of the ports or places aforesaid, in any other ship or vessel than which doth truly and without fraud belong to England, Ireland, Wales, or town of Berwick upon Tweed, and navigated with the mariners thereof, as aforesaid, shall be deemed aliens' goods, and pay all strangers' customs and duties to his Majesty, his heirs and successors, as also to the town or port into which they shall be imported; and that all sorts of masts, timber, or boards, as also all foreign salt, pitch, tar, rosin, hemp, flax, raisins, figs, prunes, olive oils, all sorts of corn or grain, sugar, pot-ashes, spirits commonly called brandy-wine, or aqua vitæ, wines of the growth of Spain, the islands of the Canaries or Portugal, Madeira, or Western Islands; and all the goods of the growth, production, or manufacture of Muscovy or Russia, which, from and after the first day of April, which shall be in the year of our Lord one thousand six hundred sixty-one, shall be imported into any the aforesaid places in any other than such shipping, and so navigated; and all currants and Turkey commodities which from and after the first day of September one thousand six hundred

sixty-one, shall be imported into any the places aforesaid, in any other than English-built shipping, and navigated as aforesaid, shall be deemed aliens' goods, and pay accordingly to his Majesty, his heirs and successors, and to the town or port into which they shall be imported.

X. And for prevention of all frauds which may be used in coloring or buying of foreign ships, be it enacted by the authority aforesaid, and it is hereby enacted, That, from and after the first day of April, which shall be in the year of our Lord one thousand six hundred sixty-one, no foreign-built ship or vessel whatsoever shall be deemed or pass as a ship to England, Ireland, Wales, or town of Berwick, or any of them belonging, or enjoy the benefit or privilege of such a ship or vessel, until such time that he or they claiming the said ship or vessel to be theirs, shall make appear to the chief officer or officers of the customs in the port next to the place of his or their abode, that he or they are not aliens, and shall have taken an oath before such chief officer or officers, who are hereby authorized to administer the same, that such ship or vessel was bona fide and without fraud by him or them bought for a valuable consideration, expressing the sum, as also the time, place, and persons from whom it was bought, and who are his part-owners (if he have any); all which part-owners shall be liable to take the said oath before the chief officer or officers of the custom-house of the port next to their place of abode, and that no foreigner directly or indirectly hath any part, interest or share therein; and that upon such oath he or they shall receive a certificate under the hand and seal of the said chief officer or officers of the port where such person or persons so making an oath do reside, whereby such ship or vessel may for the future pass and be deemed as a ship belonging to the said port, and enjoy the privilege of such a ship or vessel; and the said officer or officers shall keep a register of all such certificates as he or they shall

so give, and return a duplicate thereof to the chief officers of the customs at London, for such as shall be granted in England, Wales, and Berwick, and to the chief officers of the customs at Dublin, for such as shall be given in Ireland, together with the names of the person or persons from whom such ship was bought, and the sum of money which was paid for her, as also the names of all such persons who are part-owners of her, if any such be.

XI. And be it further enacted by the authority aforesaid, That if any officers of the customs shall, from and after the said first day of April, allow the privilege of being a ship or vessel to England, Ireland, Wales, or town of Berwick, or any of them belonging, to any foreign-built ship or vessel, until such certificate be before them produced, or such proof and oath taken before them: or if any officer of the customs shall allow the privilege of an English-built ship, or other ship to any of the aforesaid places belonging, to any English or foreign-built ship coming into any port, and making entry of any goods, until examination whether the master and three fourths of the mariners be English; or shall allow to any foreign-built ship bringing in the commodities of the growth of the country where it was built, the privilege by this act to such ship given, until examination and proof whether it be a ship of the built of that country, and that the master and three fourths of the mariners are of that country; or if any person who is or shall be made governor of any lands, islands, plantations, or territories, in Africa, Asia, or America, by his Majesty, his heirs or successors, shall suffer any foreign-built ship or vessel to load or unload any goods or commodities within the precincts of their governments, until such certificate be produced before them, or such as shall be by them appointed to view the same, and examination whether the master and three fourths of the mariners at least be English; that for the first offence such offi-

cers of the customs and governors shall be put out of their places, offices, or governments.

XII. Provided always, That this act or any thing therein contained extend not, or be meant, to restrain and prohibit the importation of any of the commodities of the Straits or Levant Seas, loaden in English-built shipping, and whereof the master and three fourths of the mariners at least are English, from the usual ports or places for the loading of them heretofore within the said Straits or Levant Seas, though the said commodities be not of the very growth of the said places.

XIII. Provided also, That this act or any thing therein contained, extend not, or be meant, to restrain the importing of any East India commodities loaden in English-built shipping, and whereof the master and three fourths of the mariners at least are English, from the usual place or places for lading of them in any part of those seas, to the southward and eastward of Cabo bona Esperanza, although the said ports be not the very places of their growth.

XIV. Provided also, That it shall and may be lawful to and for any of the people of England, Ireland, Wales, islands of Guernsey and Jersey, or town of Berwick upon Tweed, in vessels or ships to them belonging, and whereof the master and three-fourths of the mariners at least are English, to load and bring in from any of the ports of Spain, or Portugal, or Western Islands, commonly called Azores, or Madeira, or Canary Islands, all sorts of goods or commodities of the growth, production or manufacture of the plantations or dominions of either of them respectively.

XV. Provided, That this act, or any thing therein contained, extend not to bullion, nor yet to any goods taken, or that shall be bona fide taken, by way of reprisal by any ships belonging to England, Ireland, Wales, islands of Guernsey or Jersey, or town of Berwick upon Tweed, and whereof the master and

three-fourths of the mariners at least are English, having commission from his Majesty, his heirs or successors.

XVI. Provided always, That this act or any thing therein contained, shall not extend, or be construed to extend, to lay aliens' duties upon any corn of the growth of Scotland, or to any salt made in Scotland, nor to any fish caught, saved and cured by the people of Scotland, and imported directly from Scotland in Scotch-built ships, and whereof the master and three-fourths of the mariners are of his Majesty's subjects; nor to any seal-oil of Russia, imported from thence into England, Ireland, Wales, or town of Berwick upon Tweed, in shipping bona fide to some of the places belonging, and whereof the master and three-fourths of the mariners at least are English.

XVII. Provided also, and it is hereby enacted, That every ship or vessel belonging to any of the subjects of the French King, which from and after the twentieth day of October, in the year of our Lord, one thousand six hundred and sixty, shall come into any port, creek, harbor, or road of England, Ireland, Wales or town of Berwick upon Tweed, and shall there lade or unlade any goods or commodities, or take in or set on shore any passengers, shall pay to the collector of his Majesty's customs in such port, creek, harbor or road, for every ton of which the said ship or vessel is of burthen, to be computed by such officers of the customs as shall be thereunto appointed, the sum of five shillings current money of England: And that no such ship or vessel be suffered to depart out of such port, creek, harbor or road, until the said duty be fully paid: And that this duty shall continue to be collected, levied, and paid, for such time as a certain duty of fifty sols per ton, lately imposed by the French King, or any part thereof, shall continue to be collected upon the shipping of England lading in France, and three months after, and no longer.

XVIII. And it is further enacted by the authority aforesaid, That from and after the first day of April, which shall be in the year of our Lord one thousand six hundred sixty-one, no sugars, tobacco, cotton-wool, indigoes, ginger, fustic, or other dyeing wood, of the growth, production, or manufacture of any English plantations in America, Asia, or Africa, shall be shipped, carried, conveyed, or transported from any of the said English plantations, to any land, island, territory, dominion, port, or place whatsoever, other than to such other English plantations as do belong to his Majesty, his heirs and successors, or to the kingdom of England, or Ireland, or principality of Wales, or town of Berwick upon Tweed, there to be laid on shore, under the penalty of the forfeiture of the said goods, or the full value thereof, as also of the ship, with all her guns, tackle, apparel, ammunition, and furniture; the one moiety to the King's Majesty, his heirs and successors, and the other moiety to him or them that shall seize, inform, or sue for the same in any Court of Record, by bill, plaint, or information, wherein no essoin, protection or wager of law shall be allowed.

XIX. And be it further enacted by the authority aforesaid, That for every ship or vessel, which from and after the five and twentieth day of December, in the year of our Lord one thousand six hundred and sixty, shall set sail out of or from England, Ireland, Wales, or town of Berwick upon Tweed, for any English plantation in America, Asia, or Africa, sufficient bond shall be given with one surety to the chief officers of the custom-house of such port or place from whence the said ship shall set sail, to the value of one thousand pounds, if the ship be of less burthen than one hundred tons; and of the sum of two thousand pounds if the ship shall be of greater burthen: That in case the said ship or vessel shall load any of the said commodities at any of the said English plantations, that the said commodities shall be by the said ship brought to some port

of England, Ireland, Wales, or to the port or town of Berwick upon Tweed, and shall there unload and put on shore the same, the danger of the seas only excepted: And for all ships coming from any other port or place to any of the aforesaid plantations, who by this act are permitted to trade there, that the governor of such English plantation shall before the said ship or vessel be permitted to load on board any of the said commodities, take bond in manner and to the value aforesaid, for each respective ship or vessel, that such ship or vessel shall carry all the aforesaid goods that shall be laden on board in the said ship to some other of his Majesty's English plantations, or to England, Ireland, Wales, or town of Berwick upon Tweed: And that every ship or vessel which shall load or take on board any of the aforesaid goods, until such bond given to the said governor, or certificate produced from the officers of any custom-house of England, Ireland, Wales, or of the town of Berwick, that such bonds have been there duly given, shall be forfeited, with all her guns, tackle, apparel, and furniture, to be employed and recovered in manner as aforesaid; and the said governors and every of them shall twice in every year, after the first day of January, one thousand six hundred and sixty, return true copies of all such bonds by him so taken, to the chief officers of the customs in London.

1679.

APRIL 3RD.

New Jersey.

Acts of the General Assembly at Elizabeth-Town, the third day of April, 1679.

Be it Enacted by this Assembly, that there shall be One Hundred and Fifty Pounds raised in a County Rate, to lye in

Bank for the Encouragement of any Vessel to come into the Province to Traffic and Trade with Money, so to remain to be disposed of according to Instructions, bearing Date with these Presents, being left with a Committee chosen and approved of by the Assembly respecting the Premises, which said Rate shall be paid as followeth, viz. Pork, Beef, Tobacco, Wheat or Butter: Pork and Beef by the Barrel; Tobacco by the Hogshead; Wheat by the Bushel, and Butter by the Firkin: And if Occasion for the Disbursement thereof, according to our Instructions, then the said Rate to be paid at or before the first of January next ensuing the Date hereof.

II. We the Deputies are sensible, that in Reason we cannot expect that the Governor and Council are further engaged than what they have declared to this Assembly, under the Hand of their Secretary, in order to the Confirmation of the Concessions of this Province, bearing Date, February the 10th, 1664.

III. Whereas there is an Act made for the sum of One Hundred and Fifty Pounds, for the Security and Encouragement of a Ship or Vessel to come into this Province for Trade, is to be disposed of as hereafter followeth.

That if any one Vessel or Ship shall come into the Province of New Jersey, by way of Sandy-Hook, and shall do and perform such Duties as is proper to be done and performed, in the said Province, viz. Enter and Clear in His Majesty's Custom-House, which is at the Governor's House in Elizabeth-Town where is the King's Customer and Collector of New Jersey, any one Vessel so going out as aforesaid by Sandy-Hook, the said Vessel should be by any of the Government of New York arrested, detained and condemned, and bona fide made Prize of, for the only Cause of Trading in this Province, and not entering and clearing at New York although entered and cleared as aforementioned, in this Province, that then this said One Hundred and Fifty Pounds shall be improved for

the Reparation of any such Vessel, according to the true Valuation of the same. Always Provided, that the said Vessel be not given nor returned to the aforesaid Owner after so made Prize of, either in part or whole, that the said Owner or Owners shall be repaired out of the said One Hundred and Fifty Pounds, according to the true Valuation respecting the Part or Parts so returned.

JAMES II.

(Born, October 15, 1633. .Reign began February 16, 1685. Deposed, November 5, 1688. Died, September 6, 1701. Reigned 3 years.)

As King, James II. added no lustre to the British crown. As Duke of York he had commanded the navy effectively, had brought the Dutch possessions in North America under English rule, and had been active in the affairs of some of the chartered trading companies. In his brief reign, as successor to his brother, however, he did little to further the commercial and maritime development of the British Empire. Religion ruled him, and by religion he sought to rule, was repudiated by his people, and took to flight when no one pursued. The last, and least of the Stuarts, was to end his days in exile, one of the weakest pictures in the gallery of English kings.

One of the first decrees of James's reign dealt with the ever-present problem of the enforcement of the Navigation Laws in the American Colonies. An Act of the Privy Council, of April 29, 1685, couched in rather mild terms, declared that, despite instructions given to the Governors of the Plantations, "Yet, nevertheless, foreign vessels have traded in those parts." For the prevention of which, it was ordered, that, "The captains of such of his Majesty's ships as shall be sent into America, do seize all vessels belonging to strangers, and foreign vessels not made free, which they shall find trading or attempting to trade there contrary to the Acts of Trade and Navigation." The only exception to be allowed was in the case of Spanish vessels, which were to be permitted to buy negro slaves at Jamaica and Barbados, and to bring either money or goods of the

Spanish dominions in America. "Samuel Pepys, Esq., Secretary of the Admiralty" (and the famous diarist), was directed to issue instructions, to the foregoing effect, to the captains of the King's ships.

This order met with opposition in the American Colonies, an instance of which is given in a record of the Privy Council, of October 16, 1685. A letter was received from William Dyre, an "officer of his Majesty's customs at East New Jersey," in which Dyre made complaint "of the abuses and injuries offered to his Majesty in that Province, and particularly of the hard usage he hath met with in prosecuting a Jersey man's sloop, called the Dolphin, trading thither with European goods, having but one English man aboard, and relading with commodities of that country, without producing any certificate, or making entry, as ought to have been done." The Council directed the Attorney General "to bring a Quo Warranto against the Corporation of East New Jersey for the abuses stated."

Parliament, in the same year, 1685, passed An Act to encourage the building of Ships in England (1st James II., Chapter 18). This statute set forth that there had been a great decline in the shipbuilding industry in England, which had been observed "More especially since the laying a duty upon coals brought into the river of Thames." A "more than ordinary decay in the building of ships" had been apparent, "Particularly in Newcastle, Hull, Yarmouth, Ipswich, Alborough, Dunwich, Walderswick, Woodbridge and Harwich, where many stout ships were yearly built for the coal and other trade, which were of great use to his Majesty in time of war, and a nursery for able seamen." Due to the discouragement of trade, however, the Act related, serious conditions had arisen. These were said to have been "Occasioned chiefly by the freedom which foreign ships and vessels, bought and brought into this

kingdom, have enjoyed in the coal and inland trade, equal to that of English-built ships."

As a result of this, it was declared, "The merchant, owners, and others have not been able to build as formerly, which hath caused many of our English shipwrights, calkers and seamen to seek their employment abroad." Thereby, "The building trade is not only wholly lost in several of the aforementioned places, but also the importation of timber, plank, hemp, pitch, tar, iron, masts, canvas, and other commodities used in building and fitting out ships, are greatly lessened, to the apparent prejudice of his Majesty's customs, the loss of a considerable employment for shipping, and, consequently, of all other trades depending thereupon, to the too great advantage of foreign nations."

For remedy, it was enacted that all foreign-built ships bought and brought into England, Wales or Berwick, and used in carrying any goods from port to port, would be required to pay over and above all duties payable by English-built ships, an extra tax of five shillings per ton. Half of this tax was to go to the Seamen's Chest at Chatham, and the other half to Trinity House, for the relief of "Wounded and decayed seamen, their widows and children."

"And whereas," the Act continued, "there are now in England, belonging, or pretending to belong to English owners, many foreign-built ships and vessels which do transport coal and other goods from port to port in England . . . all such foreign ships (which are not free) for every voyage shall pay at the rate of twelvecpence per ton over and above all duties now paid, or that shall hereafter be payable by English-built ships."

No other Acts of importance, relating to shipping, were passed by Parliament in the reign of James, nor is much action of this nature to be found in the records of the Privy Council

during his brief rule. There is a report of that body, under date of July 30, 1687, however, which is of interest as foreshadowing the attention that was soon to be paid by England to the production of naval supplies in the Colonies. The Council received a petition from the Duke of Albemarle, stating that there were in the American Plantations "Such vast quantities of wood that, by reason of the want of laborers, the same cannot be so well cleared from the ground and made fit for use as it might be by saw-mills, which were never yet known or used in those parts, by reason whereof many thousands of acres of land have been hitherto unimproved, to the prejudice of his Majesty's revenue." The Duke asked that Letters Patent be granted to him for the sole right to erect and use saw-mills, "to move either by wind or water," in any of the Plantations in America, except New England, for fourteen years. The petition was granted.

A new martial note in Colonial shipping legislation was struck in the reign of James II. Laws to secure ammunition for the harbor forts had been common; but in 1686 South Carolina passed an "Act for raising three hundred pounds, for building Galleys and for providing store of provisions for the same, for the Defence of the Country." This seems to have been the first attempt at establishing the nucleus for a Colonial navy.

By the Preamble to this Act, it was set forth that: "Our enemy, the Spaniard, hath, in a hostile manner, several times made incursions into this his Majesty's Colony, robbing and burning several of the inhabitants' houses, pillaging their stores, and murdering and carrying away divers of his Majesty's subjects." All this, "or the greater part thereof," it was declared, "hath happened for want of a speedy communication of the alarm to the Northern inhabitants of this country." To have an effective alarm system, it was ordered that beacons should

be erected at various points throughout the Colony and men appointed to tend them, at fifteen pence per day, for which a tax of three hundred pounds was to be raised. Out of this sum, funds were also to be provided for the building and provisioning of galleys "For the public defence and security of this Colony."

New Hampshire was especially active during the reign of James II. in issuing orders affecting shipping and foreign trade. These, to a large extent, reflected the activities of Edward Randolph, who had been sent to New England, as the representative of the crown to see that the Navigation Acts were enforced. An "Order for Shipping-Ports," issued on January 22, 1686, for instance, reads:

"Upon Mr. Randolph's proposing it very necessary for his Majesty's service that Ports be appointed for loading and unloading ships and vessels in this dominion: It was ordered that the several towns, of Boston, Salem, Piscataqua, New Bristol and Newport in Rhode Island be the only allowed Ports in this Dominion."

Supplementary orders of like nature followed, including one of June 18, 1686, whereby, no ships were to discharge any cargo in the Isle of Shoals, "Before they have first entered with the Collector of his Majesty's Customs, and also with the officer for receiving his Majesty's imposts and revenues arising upon wine, rum, etc., imported either in Boston, Salem, or Piscataqua: and that all ships and vessels trading to the eastward of Cape Porpoise shall enter at some of the aforesaid ports, or at the town of Falmouth in the Province of Maine."

Coasting vessels "That freight to other Colonies or Provinces" were ordered "To make a general entry of the contents of their loadings, and pay for their cocket and clearing two shillings and sixpence."

"An Order for the encouragement of surveyors of ships and vessels," made by New Hampshire on June 8, 1686, stated that:

"Whereas in the several Counties and Seaport Towns there have been appointed meet persons for the surveying of ships (either which are building or defective) and damnified goods; it is hereby declared, That the said persons are continued in that service, and for their satisfaction shall receive, each of them, from the Employers, four shillings for every survey made and returned under their hands."

By a New Hampshire regulation of July 26, 1686, a discrimination was made in favor of vessels coming from Rhode Island and Connecticut, in that no gunpowder duty need be paid for them.

The reign of James was marked by no departure from the commercial and maritime policies of the earlier Stuarts. Nor were the principles laid down by them to be abandoned by his successor, William III. Instead, they were to be strengthened and carried on, and the British merchant marine to be brought later to a position of undisputed supremacy.

1685.

1ST JAMES II.

Chapter 18.

An act to encourage the building of ships in England.

Whereas, for some years past, and more especially since the laying a duty upon coals brought into the river of Thames, there hath been observed a more than ordinary decay in build-

ing ships in England, and particularly in Newcastle, Hull, Yarmouth, Ipswich, Alborough, Dunwich, Walderswick, Woodbridge, and Harwich, where many stout ships were yearly built for the coal and other trade, which were of great use to his majesty in time of war, and a nursery for able seamen, but by the discouragement that trade hath ever since lain under, occasioned chiefly by the freedom which foreign ships and vessels, bought and brought into this kingdom, have enjoyed in the coal and other inland trade, equal to that of English built ships; the merchant, owners and others, have not been able to build as formerly, which hath caused many of our English shipwrights, calkers, and seamen to seek their employment abroad, whereby the building trade is not only wholly lost in several of the aforementioned places, and in others very much decayed, but also the importation of timber, plank, hemp, pitch, tar, iron, masts, canvas and other commodities used in building and fitting out ships, are greatly lessened, to the apparent prejudice of his Majesty's customs, the loss of a considerable employment for shipping, and consequently of all other trades depending thereupon, to the too great advantage of foreign nations:

II. Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and the commons in this present parliament assembled, and by the authority of the same, That all foreign-built ships and vessels, which shall from henceforth be bought and brought into the kingdom of England, dominion of Wales, or town of Berwick upon Tweed, and be employed in carrying or transporting any goods or merchandise from port to port as aforesaid, for every voyage shall pay to his Majesty, his heirs and successors, at the port of delivery of the respective lading (before the delivery thereof) over and above all duties now paid, or that shall hereafter be payable by Eng-

lish-built ships, the sum of five shillings per ton, to be collected and received by such person or persons as his Majesty shall appoint in that behalf; one moiety whereof to be for the use of the chest at Chatham, the other moiety to the master, wardens, and assistants of the Trinity House of Deptford Strand, for and towards the relief of wounded and decayed seamen, their widows and children.

III. And whereas there are now in England, belonging, or pretending to belong to English owners, many foreign-built ships and vessels which do transport coals and other goods from port to port in England, as aforesaid, paying no more duty than English ships pay; Be it further enacted by the Authority aforesaid, That all such foreign ships (which are not free) for every voyage shall pay, after the feast of St. Michael, in the year of our Lord, one thousand six hundred and eighty-nine, at the rate of twelve pence per ton over and above all duties now paid, or that shall hereafter be payable by English-built ships, to be disposed of unto the chest of Chatham, and the Trinity House of Deptford Strand, by moieties, as aforesaid, and for the uses before mentioned; which said last mentioned duty of twelve pence per ton also shall be collected and received in manner aforesaid, at their respective ports of delivery of their respective lading, before the delivery thereof.

IV. And be it further enacted by the authority aforesaid That his Majesty shall have the same remedy for receiving and recovering of the duties above mentioned, as are provided in a certain act of Parliament made in the twelfth year of the reign of our late sovereign lord King Charles the Second, intituled, A subsidy granted to the King of tonnage and poundage, and other sums of money payable upon merchandise exported and imported.

V. Provided always, That the said duties of five shillings per ton, or any part thereof, hereby imposed upon such foreign-

built ships, which have been heretofore, or shall hereafter be bought or brought into England, shall not be set to farm to any person or persons for any term or time, or for any rent or certain payment whatsoever, but that the several persons, who shall be appointed to receive the same shall actually receive the said whole duty payable by every such ship, and account for the same as by this act is directed.

NEW HAMPSHIRE PROVINCE.

September 12, 1686.

Sir Edm. Andros, His Instructions.

And that we may be the better informed of the Trade of our said Territory, You are, with the advice and Consent of our Council to take Care that due Entries be made in all Parts of all Goods and Commodities Imported or Exported from thence, and from, and to what Places they come and go. And that a yearly account thereof be transmitted by you unto Us by our High Treasurer or Commissioners of Our Treasury for the time being, and to Our Committee for Trade and foreign Plantations. . . .

You are to give all due encouragement and Invitation to merchants and others who shall bring Trade unto Our said Territory, and in particular to the Royal African Company of England.

And you are to take care that there be no Trading from our said Territory to any Place or part in Africa, within the Charter of the Royal African Company, and you are not to suffer any Ships to be Sent thither without their Leave and Authority. . . .

And whereas we are informed of great Disorders and Dep-

redations daily committed by Pirates and others to the prejudice of Our Allies Contrary to the Treaties between Us and the good Correspondency which ought to be maintained between Christian Princes and States; And there being a Law Passed in Our Island of Jamaica against Such illegal proceedings, Our will and Pleasure is that Such a law, a copy whereof is herewith delivered unto you, be passed within Our Territory and Dominion of New England which you are to transmit unto Us by the first opportunity.

WILLIAM AND MARY.

(William III., born November 4, 1650. Reign began February 13, 1689. Died, March 8, 1702. Reigned 13 years. Mary born, 1662. Died, 1694. Reigned 5 years.)

WILLIAM III., as Prince of Orange and Stadtholder of the Dutch Republic, had been hovering in the background of English sovereignty for years before the follies of James II. left him an open path to the British throne. His mother was Mary, daughter of Charles I. and sister of Charles II. and James II., and this furnished him with the elements of an eligibility to succession that went far with the English people, and was strengthened by his marriage, in 1677, to Mary, eldest daughter of the Duke of York, later James II. From the time of his marriage he kept in close touch with the course of politics in England, a not unnatural procedure in the son-in-law of the then heir-apparent to the English throne. From the beginning of James's reign, William was in touch with the English opposition to the sovereign, and in 1687, he caused to be sent to England a strong statement of disapproval of the religious policies of James. This was enthusiastically received by the English, and, with James's star waning rapidly, the opposition, on June 30, 1688, sent Admiral Herbert to Holland, with a letter inviting William to come over with an army, and secure the "infringed liberties" of England. William was in England on November 5th of that year, and there was nothing to block his way to the throne. James fled precipitately, and William, after a few months of negotiation, was proclaimed joint-sovereign of England in conjunction with his wife.

England's protectionist system ran directly counter to the free-trade policies of Holland; but William molded himself to the pattern of his new domain. In fact, the manner of his accession, and his acceptance of the terms of the English people, placed Parliament in such a strong position that, even if he had sought to, he could hardly have upset the established mercantile system. James was to strike, ineffectively, to regain his throne, through risings in Ireland and Scotland, and William, within a year of his accession, was to declare war upon France, in conjunction with other European powers—a war that was to last until 1697; but, through it all, English trade and shipping were to progress.

One result of the French war was to develop something like an efficient system of convoy protection for English merchant ships. To secure sufficient sailors for the Navy, the crown drew heavily upon the merchant marine, leaving the ships in England's overseas trade undermanned. Embargoes, from time to time, also curtailed the activities of the trading fleet.

The effect of the war was soon felt in the Colonies. On December 21, 1689, for instance, New Hampshire issued an order, declaring that, "for the better safety and convenience of ships and passengers now bound to Europe, it is agreed and ordered that there be a present stop and embargo on all vessels bound to Europe until further order." Colonial ships were also to be drafted for fighting. New Hampshire, on June 14, 1690, "Ordered that Captain Belcher's ship, Captain Cratie's ship, and Captain Parsons' new ship, be taken up forthwith, in order to their being fitted as ships of war for their Majesties' service in the expedition intended for Canada against the common enemy, French and Indians." Ships' guns were also impressed.

Convoy arrangements are described in an Order of the Privy Council, dated September 18, 1690. It was directed that two

ships should be ready to escort the Virginia and Maryland merchant fleet by October 20. Vessels for the West Indies were to have the protection of a man of war, and, for a convoy on the return voyage, the fleets from Barbados, the Leeward Islands, and Jamaica, were each to have one naval vessel. War ships were also to remain in the West Indies for the defense of the islands, and a fourth-rate frigate was to be sent to New York. Convoys were also provided for the English merchant ships sailing to Spain and Portugal.

"Upon the humble request of the merchants trading to the Plantations, his Majesty was pleased, notwithstanding the present embargo, to allow so many ships to go this year to the Barbados, the Leeward Islands, and Jamaica as shall be navigated by 1200 seamen, being English, or accounted such by the Acts of Trade, and no more, besides foreigners. And the like number of ships and English mariners to Virginia." This is set forth in an Order of the Privy Council, of September 21, 1690. Previously, the Council had supported a request of merchants in the Virginia and Maryland trades for convoys, by declaring:

"It is of very great importance to your Majesty's revenue and the safety of your subjects, that such a convoy be granted them as is desired, which we are humbly of opinion may consist of two or more ships of strength to attend the fleet of merchant ships bound for those parts during the whole voyage, which they commonly make in five or six months, the return of those ships usually bringing in no less than three hundred thousand pounds to the revenue of your Majesty's customs."

In the meantime the old difficulties over the enforcement of the Navigation Acts continued. Edward Randolph, now Collector of Customs for his Majesty in New England, sent back

a long series of reports of evasions, and the agents of New England and representatives of the merchants and traders to those parts were summoned before the Board of Trade and Plantations.

Complaints of violations in the West Indies and other places were also numerous. Parliament took a hand in the investigations, and it was decided to draft a new Act of Navigation. The Commissioners of Customs were directed to draw up a bill. They completed their task in January, 1696, and two months later the measure passed Parliament.

The new statute did not depart from the principles of the Navigation Acts of Charles II.; but was designed to strengthen the machinery for their enforcement, especially in the American Colonies, and to broaden Imperial control of the overseas possessions. It was particularly sought to hold a tighter rein over the Colonial Governors. Negligence on their part was made subject to severer penalties, and their appointment by the Colonies was declared subject to veto by the crown. Naval officers appointed by the Governors had also been accused of negligence, and they were now required to give sureties to the Commissioners of Customs in England. The regulations in force in England as to search and seizure of vessels, were, by the Act of 1696, made applicable to vessels in the Colonies, and in every way it was sought to bring about a rigid observance of the Navigation Laws.

The statute (7th & 8th William III., Chapter 22) was entitled "An Act for preventing Frauds and regulating abuses in the Plantation Trade," and its Preamble recited that, notwithstanding the previous Navigation Acts, "Great abuses are daily committed, to the prejudice of the English navigation and the loss of a great part of the plantation trade to this kingdom, by the artifice and cunning of ill-disposed persons."

Additional encouragement to English shipbuilding was extended by the Navigation Act of 1696. By the Act of 1660, trade between the English Colonies and the mother-country was restricted to English-built or English-owned ships. By the Staple Act of 1663, imports into the Colonies were to be carried only in English-built shipping. The Act of 1696, however, provided that BOTH imports and exports should be transported in English-built bottoms.

Parliament did not pass much additional shipping legislation during the reign of William III. In 1694, to aid in raising funds to carry on the war with France, an Act was passed, imposing tonnage duties on vessels importing goods. Rates were quoted for various trades, coastwise shipping included, and these illustrate the scope of British commerce at this period. According to the Act, there was to be paid, "For every ton of the burden or contents of any ship or vessel importing goods, wares or merchandise:

- "From the East Indies, or any parts southward or eastward of the Cape of Good Hope, 30 shillings;
- From Italy or Turkey, 15 shillings;
- From Portugal or Spain, 10 shillings;
- From the West Indies, 10 shillings;
- From Holland, Flanders, etc., 3 shillings;
- From Norway, the Baltic, or the East Countries, 5 shillings;
- From the Mediterranean, 15 shillings;
- From Guinea or Africa, 20 shillings;
- From Hudson Bay, 20 shillings;
- From the Canaries and Madeiras, 10 shillings;
- From Greenland and Russia, 10 shillings;
- From coasters, 6 pence."

It was specified by this Act that the tonnage measurement of vessels should be ascertained in the following manner:

“Every single-decked ship or vessel shall be measured by the length or keel taken within board (so much as she treads upon the ground); and the breadth to be taken within board, by the midship beam, from plank to plank; and the depth of the hold, from the plank below the kelsey, to the under part of the deck plank; and for a two-decked ship (which carries goods between decks) the depth of her hold to be taken, from the plank below the kelsey, to the under part of the upper deck-plank, and the length and breadth as before. Then multiply the length by the breadth, and the product thereof by the depth, and divide the whole by ninety-four, and the quotient will give the true contents of the tonnage.”

“For the better securing of the trade of this kingdom,” it was provided by the same Act that, in addition to “the ships of war for the line of battle, and for convoys to remote parts, at least four ships of the fifth rate and ten ships of the sixth rate,” should be used, “for securing the merchant ships in their going out and returning home.”

War conditions were also responsible for another Act of the same year, 1694 (5th & 6th William and Mary, Chapter 24), “For building good and defensible Ships.” Bounties in the form of customs rebates were to be allowed the builders of vessels that complied with the terms of the statute. Such merchant ships must be of at least 450 tons, and equipped so as to be of immediate use for service in the Navy. The provisions are much more elaborate than those set down in a somewhat similar law under Charles II., and the act of William is worth quoting in full as an instance of the development of merchant shipping in size and equipment.

Meanwhile, the American Colonies were taking steps to protect and develop their own shipping. In June, 1689, New Hampshire acted upon "Information being given that Thomas Hawkins, Thomas Pounds, and others, confederates with them, have lately piratically surprised and taken two vessels within the Massachusetts Bay, the one a ketch belonging to Salem, and the other belonging to Piscataqua, and are supposed to be waiting to commit further robberies."

Accordingly, it was ordered, "That the sloop Resolution, Joseph Thaxter commander, be forthwith fitted with guns, artillery, ammunition, and provisions, and that forty able seamen be shipped upon her, to be speedily sent forth for the securing of the coast and vessels passing in and out upon their lawful business. The said Joseph Thaxter is commissioned to cruise with the said vessel upon this coast in search for the said pirates, and to pursue, surprise, and, in case of resistance and opposition, by force of arms to subdue and kill and destroy them, and such as they take, to bring them and their vessels into Boston, to be proceeded against by the authority, according to law."

To encourage the men "who shall go forth upon that expedition," it was ordered "that they should be upon usual monthly wages, and upon any casualty befalling any by loss of limb, or if otherwise they be maimed, meet allowance and provision shall be made for such."

Virginia, in 1692, passed an Act declaring that, "The present ways and practices of landing and shipping of all sorts of merchandising goods inward, and all tobacco and other goods outwards," made it impossible to safeguard the collection of customs. Frauds, it was stated, were "must practised by greedy and covetous persons, respecting more their private gains and commodities than their duty and allegiance, or the common profit of their Majesties' good subjects, to the apparent diminution of their Majesties' revenues and great discouragement of

such who duly pay the same." Such abuses, the Act declared, "cannot be better prevented than by appointing certain limited ports, wharfs, keys and places, for laying on shore, and loading on board, all goods." Loading or unloading vessels at any place other than those designated by the Act was to be punished by forfeiture of goods, ship, and equipment. The Act constituted another application of the old principle of the Staple to Virginia's sea trade.

New York, in November, 1692, enacted a statute "For the encouraging a Post Office." This records that King William had farmed out the postal revenues from the Colonies in America to one Thomas Neal, and that Neal had turned over the management to one Andrew Hamilton, who now asked the General Assembly of New York to fix postal rates. It was enacted that ninepence should be charged for letters between New York and Boston or Maryland, and a like sum for letters to the West Indies, Europe or other foreign parts. To Virginia the charge was twelve pence. All letters brought by masters or mariners of ships, or passengers, were to be turned over to the postmaster at New York, for delivery.

Massachusetts, in 1693, passed another of its Acts for regulating the building of ships. Surveyors were to be appointed with increased powers. They were "to take care that all the materials be found sufficient and suitable; that the work be strong, substantial, and according to the rules of their art; that all insufficient and defective timbers, planks, or other material be taken out or amended; and they were required to take an oath "To be faithful and indifferent between the builder and the owner." Shipbuilders who failed to follow the directions of the surveyors were to forfeit five shillings to the use of the poor. If they should "Fasten any plank upon any ship or vessel" before a warrant of survey had been obtained and the surveyor had viewed the work, they were to be fined ten pounds.

New Jersey, in 1694, "That the Act for the Trade and Navigation may be duly observed in this Province," passed a statute requiring all decked vessels to make a report at the King's Custom-House at Perth Amboy within twenty-four hours of their arrival in the Province.

New York, in the same year, adopted "An Act for settling the Pilotage for all vessels that shall come within Sandy Hook." The statute recited that "By the late easterly storm there was several sandbanks thrown off at the south of the harbor at Sandy Hook, whereby the entry is rendered very difficult and dangerous to all vessels bound for this port, and requires an attendance of men at the Hook, to be in readiness to pilot them in to safety." Four men were therefore to be appointed, "Who shall constantly attend at some convenient place near the Hook, with a boat to give aid and assistance to all vessels bound for this port, which they are obliged to pilot up as far as the Narrows." The Act fixed rates of pilotage, with preferential fees for "All such sloops as belong to this Province and are coasters upon the main of North America, which shall be understood to extend from Pemaquid (on the north) to Virginia."

"The encouraging of Seamen" was stated to be the purpose of a New York Act of 1695. If "Any tavern keeper, alehouse keeper or victualer within the City and County of New York" trusted any sailor for more than six shillings, no suit or action could be brought for the recovery of the amount credited. All shipmasters were required within forty-eight hours after the arrival of their vessels to furnish the town-clerk with a list of their seamen.

South Carolina, in 1695, passed a law aimed at "Divers persons who heretofore have and now do use to take away and let loose other men's boats and canoes, and to steal grapnels, boat-ropes, sails and oars, to the great loss and damage of the owners." Such offenders were to be liable to corporal punish-

ment and fines. Any negro slave or Indian violating the Act was to receive, for the first offence, "thirty-nine lashes on his or their bare backs," and for the second conviction, to "Forfeit and have cut off from his or their heads, one ear."

Before William III.'s time the Colonies had made laws without any systematic interference on the part of the Crown, although the Charters and Grants contained provisions that all legislation should be subject to the approval of the sovereign. In 1692, however, the Privy Council referred back to the Governor of Virginia two Acts passed in that Colony. "An Act for the Advancement of the Manufactures and Growth of that Country," the Council held, was "Particularly unreasonable, as it contains a clause compelling the merchants trading from England to receive their debts in commodities." After William, much stronger efforts were to be made to control Colonial legislation, and new weight was to be added to the discontent of the Colonies with the attempted domination of England.

William's reign was marked by further efforts to develop the production of naval stores in North America. In 1693, the Privy Council approved the granting of a charter to one Richard Haynes, for a Pennsylvania Company to produce pitch, tar, rosin, etc., for the use of the royal navy. In 1694 the Council authorized Sir Henry Ashurst and Sir Stephen Evans to bring from New England a shipload of naval stores.

Efforts to prevent violations of the Navigation Acts went on steadily. On June 12, 1694, the Privy Council received a report from the Commissioners of Customs, asking for the prevention of ships trading from Virginia, Maryland and Pennsylvania to Scotland and Ireland, contrary to the Acts. On August 9th, Francis Nicholson, royalist Governor, at various times, of Virginia, Maryland and Nova Scotia, was ordered by the Council, "To cause one or more small vessels to be hired, with skilful commanders, for whom he will be answerable, and to appoint

them to cruise upon the coasts of Maryland and Pennsylvania, with power to examine all ships trading to and from those parts, and to inspect the clearings of the said ships in the collectors' books, in order to the discovery of forged docketts and certificates." To defray the charges of the cruising vessels and encourage the commanders, the King agreed to relinquish his third part of the forfeitures made upon seizures by the cruisers.

This action stirred up additional resentment. In 1696, following the passage of the new Navigation Act, the Privy Council directed the sending of two advice-boats to the Plantations, carrying copies of the Act, and orders for its enforcement. Soon after this, on April 29, 1696, the Council announced that it "Would agree to represent to his Majesty, that the public service in the Plantations has suffered very much by the general disagreement between the Governors there and the commanders of the men of war sent to those parts, and, particularly, on account of the irregular impressing of seamen by such commanders, whereby the merchant ships are much disabled in their voyages, and the seafaring men forced to leave their habitations in those parts, to the great hindrance of trade."

One of the last Acts passed by Parliament during William's reign was a statute of 1700 (11th & 12th William III., Chapter 12) for exercising greater control over the Colonial Governors. This set forth that "A due punishment is not provided for several crimes and offences committed out of this his Majesty's realm of England, whereby divers Governors or commanders in chief of plantations and colonies within his Majesty's dominions beyond the seas, have taken advantage, and have not been deterred from oppressing his Majesty's subjects within their respective governments and commands." It was accordingly enacted that such crimes and offenses should be tried in England.

In the same year, Parliament passed an elaborate "Act for the more effectual suppression of Piracy" (11th & 12th William

III., Chapter 7). This recited that the Piracy Act of Henry VIII., by requiring trials of pirates to be held in England, had delayed prosecutions and hampered justice. Therefore, it was provided that such trials could be held on ship-board or in the colonies. The Act also accused "Evil-disposed persons in the plantations and elsewhere," with aiding and abetting pirates. These were to be prosecuted, and, if convicted, to suffer death and loss of goods. Provisions were also made for the distribution to masters and mariners of vessels seizing pirate ships and goods, of the proceeds of the sale of the condemned property. Governors were to assist in bringing the pirates to justice, and Colonial provisions were also made for the distribution to masters and mariners of vessels seizing pirate ships and goods, of the proceeds of the sale of the condemned property. Governors were to assist in bringing the pirates to justice, and if Colonial officials refused to obey the Act, the charter or grant of the offending Colony was to be subject to forfeiture.

Under Charles II. the first real systematized efforts at control of the trade and shipping of the English Colonies had been begun. Under William III. much stricter measures for the enforcement of the laws governing that commerce were laid down. Every effort to put teeth into the Navigation Laws was made. England had now adopted a unified commercial policy, to the principles of which the succeeding sovereigns were to adhere.

1689.

JUNE 11.

New Hampshire.

The resolution to cruise for pirates.

Information being given that Thomas Hawkins, Thomas Pounds, and others, confederates with them, have lately

piratically Surprised and taken two Vessells within the Massachusetts Bay, the One a Katch belonging to Salem, and the other belonging to Piscataqua, and are Supposed to be waiting to commit further Robberies.—

It is Ordered that the Sloop Resolution, Joseph Thaxter Commander, be forthwith fitted with Guns, Artillery, Ammunition, and Provisions, and that forty able Seamen be Shipt upon her, to be speedily sent forth for the Securing of the Coast and Vessells passing in and out upon their lawfull business; The said Joseph Thaxter to be commissioned to cruise with said Vessel upon this Coast, in search for the said Pirates, or others, who, upon Examination and search, shall be found to be upon the like wicked and unlawful design, and to pursue, Surprise, and, in case of resistance and opposition, by force of Armes to Subdue and kill and destroy them, and such as they take, to bring them and their Vessels into Boston, to be proceeded against by the Authority, according to Law.

And for Encouragement to those men who shall go forth in said Vessel upon that Expedition, It is Ordered that they be upon usual monthly wages, and, upon any casualty befalling any of the said men, by loss of Limb, or otherwise be maimed, that meet allowance and provision be made for such. And the Treasurer is Ordered to furnish and Supply all provisions and necessaries for setting forth of said Vessel.

1694.

5TH & 6TH WILLIAM & MARY.

Chapter 24.

An act for building good and defensible ships.

Whereas, the Wealth and Safety of this Nation are much concerned in the Number and Strength of Shipping; Now

for the better Encouragement of building good and defensible Ships,

Be it enacted by the King and Queen's most excellent Majesties, by and with the Advice and Consent of the Lords Spiritual and Temporal and Commons, in this present Parliament assembled, and by the Authority of the same, That all and every person or persons that shall, within the space of Ten years from and after the first day of May One thousand six hundred ninety-four, build or cause to be built, within any of their Majesties Dominions, any Ships or Vessels of three Decks reckoning the Orlop for one with a Fore-Castle, Quarter-Deck and Round-house, and Six Foot between each Deck from Plank to Plank, their Hawswers to be between Decks; the said Ships to be of no less than Four hundred and fifty Ton, and to have no less than Ten Ports of a side between Decks, mounted with two and thirty Pieces of Ordnance close, of which eighteen to be between Decks, the said Guns upon the Lower Deck to be Demi-Culverin of two and twenty hundred weight at least, upon the Upper Deck, Fore-Castle and Steerage, to be also Demi-Culverin of two and twenty hundred weight at least, and those in the Cuddy to be six hundred weight at least, and other Ammunition proportionable; shall, for the first three Voyages which the said Ship or Ships shall make from their Majesties Dominions to any Foreign parts, have and receive to their own proper use and benefit one-tenth part of the Customs commonly called or known by the name of the Subsidy of Tunnage and Poundage, that shall be paid to their Majesties for all such Goods and Merchandises as shall be exported and imported on the said Ship or Ships, to and from this Kingdom; and the Commissioners and Officers of their Majesties Customs are hereby empowered and required to pay the same to the Owner and Owners of the said Ship or Ships accordingly.

II. Provided always, That if at any time after the end of the said three first Voyages any of the said Ships or Vessels, so to be built, as aforesaid, shall be altered, or put into another form of building, whereby they shall become or be made less defensible than they were at first building, that then every such Ship or Vessel, with all the Guns, Tackle, Ammunition and Apparel thereof, shall be forfeited and lost, the one moiety to their Majesties, their Heirs and Successors, and the other moiety to the Informer, to be recovered in any of their Majesties Courts of Record, by Action of Debt, Bill, Plaint or Information.

1696.

7TH & 8TH WILLIAM III.

Chapter 22.

An act for preventing frauds, and regulating abuses in the plantation trade.

Whereas, notwithstanding divers acts made for the encouragement of the navigation of this kingdom, and for the better securing and regulating the plantation trade, more especially one act of parliament made in the twelfth year of the reign of the late King Charles the Second, intituled, An act for increasing of shipping and navigation, another act made in the fifteenth year of the reign of his said late Majesty, intituled an act for the encouragement of trade, another act made in the two and twentieth and three and twentieth years of his said late Majesty's reign, intituled, An act to prevent the planting of tobacco in England, and for regulating and plantation trade, another act made in the twenty fifth year of the reign of his said late Majesty, intituled, An act for the encouragement of the Greenland and Eastland trades, and for the better securing

the plantation trades, great abuses are daily committed to the prejudice of the English navigation, and the loss of a great part of the plantation trade to this kingdom, by the artifice and cunning of ill-disposed persons: For remedy whereof for the future:

II. Be it enacted, . . . That after the five and twentieth day of March, one thousand six hundred ninety-eight, no goods or merchandizes whatsoever shall be imported into, or exported out of, any colony or plantation to his Majesty, in Asia, Africa, or America, belonging, or in his possession, or which may hereafter belong unto, or be in the possession of his Majesty, his heirs or successors, or shall be laden in, or carried from any one port or place in the said colonies or plantations to any other port or place in the same, the kingdom of England, dominion of Wales, or town of Berwick upon Tweed, in any ship or bottom, but what is or shall be of the built of England, or of the built of Ireland, or the said colonies or plantations, and wholly owned by the people thereof, or any of them, and navigated with the masters and three-fourths of the mariners of the said places only, (except such ships only as are, or shall be, taken as prize, and condemnation thereof made in one of the courts of admiralty in England, Ireland, or the said colonies or plantations, to be navigated by the master and three fourths of the mariners English, or of the said plantations as aforesaid; and also except for the space of three years, such foreign-built ships as shall be employed by the commissioners of his Majesty's navy for the time being, or upon contract with them, in bringing only masts, timber, and other naval stores for the King's service from his Majesty's colonies or plantations to this kingdom, to be navigated as aforesaid; and whereof the property doth belong to English men) under pain of forfeiture of ship and goods; one-third part whereof to be to the use of his Majesty, one-third part to the governor of the said

colonies or plantations, and the other third part to the person who shall inform and sue for the same by bill, plaint or information, in any of his Majesty's courts of record at Westminster, or in any court in his Majesty's plantations, where such offense shall be committed.

III. (Goods may be imported and exported in prize ships, the master and three-fourths of the mariners being English.)

IV. (Governors and commanders in chief of English plantations to take oath to observe all the clauses in this and other acts relating to the said plantations. On neglect, to be removed from government and forfeit one thousand pounds.)

V. (Naval officers in the plantations to give securities to the commissioners of customs in England for the performance of their duty, and in default to be disabled.)

VI. And for the more effectual preventing of frauds, and regulating of abuses in the plantation trade in America, be it further enacted, That all ships coming into, or going out of, any of the said plantations, and lading or unlading any goods or commodities, whether the same be his Majesty's ships of war, or merchant ships, and the masters and commanders thereof, and their ladings, shall be subject and liable to the same rules, visitations, searches, penalties and forfeitures, as to the entering, lading, or discharging their respective ships and ladings, as ships and their ladings, and the commanders and masters of ships, are subject and liable unto in this kingdom, . . . And that the officers for collecting and managing his Majesty's revenue, and inspecting the plantation trade in any of the said plantations, shall have the same powers and authorities, for visiting and searching of ships, and taking their entries, and for seizing and securing or bringing on shore any of the goods prohibited to be imported or exported into or out of any of the said plantations, or for which any duties are payable, or ought to have been paid, . . . Also to enter houses or ware-

houses, to search for and seize any such goods; and that all the wharfingers, and owners of keys and wharfs, or any lightermen, bargemen, watermen, porters, or other persons assisting in the conveyance, concealment, or rescue of any of the said goods, or in the hindering or resistance of any of the said officers in the performance of their duty, and the boats, barges, lighters, or other vessels, employed in the conveyance of such goods, shall be subject to the like pains and penalties as are provided in the act made in the fourteenth year of the reign of King Charles the Second, in relation to prohibited, or uncustomed, goods in this kingdom; and the like assistance shall be given to the said officers in the execution of their office, as by the said last mentioned act is provided for the officers in England; and also that the said officers shall be subject to the same penalties and forfeitures, for any corruptions, frauds, connivances, or concealments, in violation of any the before mentioned laws, as any officers of the customs in England are liable to, by virtue of the said last mentioned act; and also that in case any officer or officers in the plantations shall be sued or molested for anything done in the execution of their office, the said officer shall and may plead the general issue, and shall give this, or other custom acts, in evidence, and the judge to allow thereof, have, and enjoy the like privileges and advantages, as are allowed by law to the officers of his Majesty's customs in England.

VII. (One-third of the forfeitures to be to the King, another to the Governor of the plantations, and the other to the prosecutor. Proof to lie on the claimer or owner.)

VIII. And whereas in some of his Majesty's American plantations a doubt or misconstruction has arisen upon the before mentioned act, made in the five and twentieth year of the reign of King Charles the Second, whereby certain duties are laid upon the commodities therein enumerated (which by

law may be transported from one plantation to another for the supply of each other's wants) as if the same were by the payment of duties in one plantation, discharged from giving the securities intended in the aforesaid acts, made in the twelfth, two and twentieth, and three and twentieth years of the reign of King Charles the Second, and consequently be at liberty to go to any foreign market in Europe, without coming to England, Wales, or Berwick: it is hereby further enacted and declared, That notwithstanding the payment of the aforesaid duties in any of the said plantations, none of the said goods shall be shipped or laden on board, until such security shall be given as is required by the said acts, . . . to carry the same to England, Wales or Berwick, or to some other of his Majesty's plantations, and so, toties quoties, as any of the said goods shall be brought to be reshipped or laden in any of the said plantations, under the penalty and forfeiture of said ship and goods.

IX. (Laws, by-laws, usages, or customs of plantations repugnant to this act, declared illegal, null and void.)

X. And whereas great frauds and abuses have been committed by Scotch men and others in the plantation trade, by obtruding false and counterfeit certificates upon the governor and officers in the plantations appointed by his Majesty's commissioners of the customs in England, of having given security in this kingdom to bring the ladings of plantation goods to England, Wales, or town of Berwick upon Tweed; as also certificates of having discharged their lading of plantation goods in this kingdom, pursuant to securities taken in the plantation, and also cocket or certificates of having taken in their ladings of European goods in England, Wales, or Berwick; by means whereof they may carry the goods of Scotland, and other places of Europe, without shipping or lading the same in England, Wales, or Berwick, to his Majesty's plantations, and also carry the goods of the plantations directly to

Scotland, or to any other market in Europe, without bringing the same into England, Wales, or town of Berwick upon Tweed: it is hereby further enacted, That in such cases where the governor or officers appointed by the commissioners of the customs in the plantations shall have reasonable ground of suspicion that such certificates are false or counterfeit (that is to say) that the certificate of having given security in England is false, in such case the governor or officers appointed by the commissioners of customs, shall require and take sufficient security thereof for the discharge of the plantation lading in England, Wales, or town of Berwick upon Tweed; and in such case, where there shall be cause to suspect, that the certificate of having discharged her lading of plantation goods in this kingdom is false or counterfeit, the governor or officers aforesaid shall not cancel or vacate the security given in the plantation, until he or they shall be informed from the commissioners of the customs in England that the matter of the said certificate is true; and if any person or persons shall counterfeit, raise or falsify any cocket, certificate, return, or permit, for any vessel or goods, or shall knowingly or willingly make use thereof, such person or persons shall forfeit the sum of five hundred pounds, to be recovered and disposed of as aforesaid, and the cocket, certificate, return, or permit so counterfeited, raised, or falsified, shall be invalid and of no effect.

XI. (The treasury and commissioners of customs may appoint officers of the customs in any town, port, etc., of the plantations. If legal actions are brought in the plantations, the jury is to be composed of natives of England, Ireland, or the plantations.)

XII. Provided always, That all places of trust in the courts of law, or what relates to the treasury of the said islands, shall, from the making of this act, be in the hands of the native-born subjects of England or Ireland, or of the said islands.

XIII. And whereas, by the said act made in the two and twentieth and three and twentieth years of the reign of his said late Majesty King Charles the Second, the bonds required to be given in the plantations by virtue of such act, for encouraging and increasing of shipping and navigation, are altered, and the word Ireland to be left out of the condition of all such bonds; and by the said act it is enacted and provided, That for such ships or vessels coming from other ports or places, to any of the said plantations, which by the said act for the encouraging and increasing of shipping were permitted to trade there, the governor of such English plantations should, before the said ship or vessel be permitted to load on board any of the commodities in the said act particularly mentioned, take bond in manner and to the value mentioned and directed in the above mentioned act . . . , for each respective ship or vessel, that such ship or vessel shall carry all the aforesaid goods, . . . to some other of his Majesty's English plantations, or to England, Wales, or town of Berwick upon Tweed: but because no provision hath hitherto been made for the returning and producing certificates within some reasonable limited time, of the landing and discharging such goods, according to the condition of the said bonds, and also because many times it hath happened that the sureties taken in the said bonds have been persons not resident in the said plantations, but of uncertain and unknown abodes, the said bonds have proved ineffectual to the good purposes intended by the said acts; be it therefore enacted by the authority aforesaid: That in all such bonds, to be hereafter given or taken in the said plantations, the sureties therein named shall be persons of known residence and ability in the said plantations, for the value mentioned in the said bonds, and that the condition of the said bonds shall be, within eighteen months after the date thereof (the danger of the seas excepted) to produce certificate of having landed and dis-

charged the goods therein mentioned, in one of his Majesty's said plantations, or in England, Wales, or Berwick upon Tweed, otherwise such bond, or copies thereof, being attested under the hand and seal of the governor or commander in chief to whom such bonds were given, shall be in force, and allowed of in any court in England, Ireland, or the plantations, as if the original were produced in court by the prosecutor.

XIV. And whereas, several ships and vessels laden with tobacco, sugars, and other goods of the growth and product of his Majesty's plantations in America, have been discharged in several ports of the kingdoms of Scotland and Ireland, contrary to the laws and statutes now in being, under pretence that the said ships and vessels were driven in thither by stress of weather or for want of provisions, and other disabilities could not proceed on their voyage; for remedy whereof, be it enacted by the authority aforesaid, That from and after the first day of December, one thousand six hundred and ninety-six, it shall not be lawful, on any pretence whatsoever, to put on shore in the said kingdoms of Scotland or Ireland, any goods or merchandise of the growth or product of any of his Majesty's plantations aforesaid, unless the same have been first landed in the kingdom of England, dominion of Wales, or town of Berwick upon Tweed, and paid the rates and duties wherewith they are chargeable by law, under the penalty of the forfeiture of the ship and goods, three-fourths without composition to his Majesty, his heirs and successors, and the other fourth to him or them that shall sue for the same.

XV. Provided, nevertheless, That if any ship or vessel laden as aforesaid, shall by stress of weather be stranded, or by reason of leakiness or other disability, shall be driven into any port or place within the kingdom of Ireland, and shall not be able to proceed on her voyage; then and in such case only the said

goods and merchandises may be permitted to be put on shore, but shall be delivered into the custody and possession of the collector or chief officer of the customs of such port or place where the said ship shall be so stranded or driven into, there to remain until the said goods and merchandises shall, at the charge of the owner thereof, be put on board some other ship or vessel, in order to be transported and carried to some other port or place within the kingdom of England, dominion of Wales, or town of Berwick upon Tweed, the said officer first taking good and sufficient security for the delivery of the same, according to the true intent and meaning of this act.

XVI. And be it further enacted . . . That all persons and their assignees claiming any right or propriety in any islands or tracts of lands upon the continent of America, by charter or letters patents, shall not at any time hereafter alienate, sell or dispose of any of the said islands, tracts of lands, or propertities, other than to the natural-born subjects of England, Ireland, dominion of Wales, or town of Berwick upon Tweed, without the licence and consent of his Majesty, his heirs and successors, signified by his or their Order in Council, first had and obtained; and all governors nominated and appointed by any such persons or proprietors, who shall be entitled to make such nomination, shall be allowed and approved of by his Majesty, his heirs and successors as aforesaid, and shall take the oaths enjoined by this or any other act to be taken by the governors or commanders in chief in other his Majesty's colonies and plantations, before their entering upon their respective governments, under the like penalty as his Majesty's governors and commanders in chief are by the said acts liable to.

XVII. And for a more effectual prevention of frauds which may be used to elude the intention of this act, by coloring foreign ships under English names; be it further enacted by the authority aforesaid, That . . . (after March 25, 1698) . . . no

ship or vessel whatsoever shall be deemed or pass as a ship of the built of England, Ireland, Wales, Berwick, Guernsey, Jersey, or any of his Majesty's plantations in America, so as to be qualified to trade to, from or in any of the plantations, until the person or persons claiming property in such ship or vessel shall register the same as followeth, that is to say, if the ship at the time of such register doth belong to any port in England, Ireland, Wales, or to the town of Berwick upon Tweed, then proof shall be made upon the oath of one or more of the owners of such ship or vessel, before the collector and comptroller of his Majesty's customs in such port: or if at the time of such register the ship belong to any of his Majesty's plantations in America, or to the islands of Guernsey or Jersey, then the like proof to be made before the governor, together with the principal officer of his Majesty's revenue residing on such plantation or island . . . (Oath to include declaration "that no foreigner, directly or indirectly, has any share or part, or interest," in the ship.)

XVIII. (Oath to be attested by the governor or custom officer, registered, delivered to the master of the ship, and a duplicate sent to the commissioners of customs at London. Penalty of forfeiture for ship trading to or from America without having made proof of her build and property.)

XIX. (Prize ships to be registered, with proof that the entire ownership is English, before she shall be allowed the privileges of an English built ship.)

XX. (Fisher-boats, hoys, barges, lighters, or other craft used only in river and coasting trade, not required to be registered.)

XXI. (Ship's name not to be altered without registering anew, and if ship, or share of ship, is sold, such sale shall be indorsed on the register's certificate, to prove that entire property remains in English hands.)

ANNE

(Born, February 6, 1665. Reign began March 8, 1702.
Died, August 1, 1714. Reigned 12 years.)

ANNE was the daughter of James II., and the wife of Prince George of Denmark. England entered the War of the Spanish Succession on May 4, 1702, and peace was not settled until April 11, 1713; so that hostilities continued for almost the entire period of her reign and affected materially the legislation of her time.

The shadow of oncoming war falls across a record of the Privy Council of January 29, 1702. Merchants of London trading to Virginia and Maryland presented a petition to the Council. This pointed out that a "considerable fleet" had already gone to those Colonies, and others were ready to sail—in all, 200 ships or more would be loaded and ready to return to England by the beginning of June. These vessels, the merchants stated, would "pay a considerable sum to his Majesty for customs," and they therefore asked that a convoy of five naval frigates be sent to Virginia to guard the trade-fleet on its return voyage to England. The Council ordered the Lord High Admiral to provide the convoy. The growing extent of the trade with the Colonies is indicated by the fact that two hundred merchant ships were to sail at one time with the products of Virginia and Maryland.

It also seems evident that the practice of arming merchant vessels, in accordance with the Act of 1694, was increasing. There is a Privy Council record of November 26, 1702, granting a petition of "the merchants and owners of the ship Richard and James," engaged in the Virginia trade. This vessel was

"of 350 tons burden, with 24 guns and 40 men," and the petitioners "humbly prayed that, being of good defence, she might not be embargoed by the Governor of Virginia, but might sail from thence to London, as soon as she shall be laden." Prince George of Denmark, as Lord High Admiral, was desired to rule on the petition, and we get a side-light on his character in his report, that "has no objection to the petitioners having their desire granted; which is nevertheless submitted to her Majesty." The Queen "concurred." Similar action was taken in January, 1703, relative to the merchantmen, *Golden Lion*, with twenty-six guns, and the *Baltimore*, with twenty-four; both vessels having already "received letters of marque."

Merchant vessels figured to a considerable extent in the war, and there are many records of seizures and losses. The case of Captain Richard Johnson, master of the brigantine *Betty*, owned in Maryland, is interesting. On June 5, 1707, Captain Johnson's case came before the Privy Council, as the result of a petition made by him to the Lord High Admiral. Johnson set forth that the brigantine, while going from Barbados to Maryland, was captured by a French privateer, the seized vessel being valued at 3,500 pounds.

Johnson, "with his servant, and another English mariner, was put aboard a merchant ship called the *Ortolan*, where he was very ill used; but found an opportunity to surprise the master and crew of the said ship, and carried her with her cargo into Annapolis in Maryland. He delivered the ship to the Governor of that Colony, and she was condemned in the High Court of Admiralty as a perquisite of the Lord High Admiral, and appraised at 1,500 pounds of that country's money." It was claimed by Johnson that he "was at the loss of one hundred pounds, besides the loss of his own ship and cargo, in maintaining the prisoners." He asked that, "for an encouragement of his aforesaid service," that the proceeds of

the prize "be bestowed on him in as beneficial a manner as if he had had a commission," granting his vessel rights as a privateer.

The Admiralty report declared that "the capture was so remarkable, and redounds so much to the honor of the English nation, that it deserves all encouragement and reward possible; and that the petitioner well deserves both ship and lading."

How England sought at this period to protect its trade in the American Colonies is shown by the instructions sent by the Crown on November 16, 1702, to Governor Cornbury of New Jersey, which ran, in part:

"Whereas, great losses have been sustained by our subjects trading to our Plantations in America, by ships sailing from those parts without convoy, or without the company of other ships, which might protect them from our enemies, by which means many of them have been taken by the French in their return to England, you are to take care that during this time of war, no ships trading to New Jersey be permitted to come from thence to England, but in fleets, or under the convoy or protection of some of our ships of war."

Cornbury's Instructions also indicate the growth of the English system for the enforcement of the Trade Acts. He is notified that:

"Whereas Orders have been given for the commissioning of fit persons to be Officers of our Admiralty and Customs in our several Plantations in America; and whereas, it is of great importance to the Trade of this Kingdom, and to the welfare of all our Plantations, that illegal Trade be everywhere discouraged;

"You are therefore to take especial care that the Acts of Trade and Navigation be duly put in execution; and in

order thereunto, you are to give constant protection and all due encouragement to the said Officers in the Execution of their said Offices and Trusts within our Territories under your Government."

War, through the increase of naval needs, was hampering the development of the merchant marine. Now, to a greater extent than ever before, mariners were being impressed to serve on the King's ships, and it grew increasingly difficult to secure crews adequate to man merchant ships. Parliament sought to relieve these conditions in 1703 by an Act (2nd & 3rd Anne, Chapter 6) "For the increase of Seamen, and Better Encouragement of Navigation." It was sought to draft the children of England into sea service. The Preamble set forth that the purpose of the Act was to secure a greater supply of mariners for her Majesty's royal navy, and for carrying on the trade of the kingdom. That, it was stated, would be accomplished:

"By the giving due encouragement to such of the youths of this kingdom as shall voluntarily betake themselves to the sea-service and practice of navigation; and by obliging others, who, by reason of their own or their parents' poverty, are destitute of employment, or any lawful means whereby to maintain themselves."

Justices of the Peace were authorized to bind out any boy of ten years or more, who was, or whose parents were, a charge upon the parish. Such boys were to serve at sea until they were 21. The overseers of the poor were to pay to British ship-masters accepting the service of such lads, "the sum of fifty shillings, to procure necessary clothing and bedding for sea-service of the boy." No such apprentice was to be allowed to enter the service of the Navy before he was 18. "All and every of her Majesty's subjects, being masters or owners of any ship

or vessel used in the sea service," were required to take such apprentices. If they refused they would be subject to a fine of ten pounds to be paid for the use of the poor of the parish offering the boy's services.

Another source of supply was provided by the Act of Anne. This drafted those who, in the language of the statute, were:

"Dissolute and idle persons, rogues, vagabonds and sturdy beggars, who wander up and down, pilfering and begging through all parts of this kingdom, to the great disturbance of the peace and tranquility of this Realm."

It was therefore ordered, that there "be taken up, sent, conducted, and conveyed into her Majesty's service at sea, all lewd and disorderly men servants, and every such person and persons, both men and boys, that are deemed and adjudged rogues, vagabonds, and sturdy beggars (not being felons), by an Act of Parliament made in the nine and thirtieth year of the reign of the late Queen Elizabeth."

That the Act was primarily intended to aid the Navy rather than the merchant marine, is manifest by its proviso that, when the boy apprentices reached the age of eighteen, "At which time they are capable to serve in her Majesty's ships of war," that, therefore, the "owners or masters of such apprentices shall be entitled to able seamen's wages for such of their apprentices as shall, upon due examination, be found qualified for the same." This was to recompense the owners and masters for their "Great charge in educating and bringing up the parish children."

To encourage ships in the coal trade to operate "At more reasonable rates than during this war they have hitherto been," the Act forbade the impressment from each such ship of the master, master's mate, and at least one able seaman. Any naval or other officer making impressment in violation of the Act was

to forfeit to the master or owner of the vessel, ten pounds for every man illegally seized.

Besides the need of seamen, there was urgent necessity for increased supplies of material for the navy. This led to the passage of an Act in 1704 (3rd & 4th Anne, Chapter 10), "For encouraging the importation of Naval stores from her Majesty's Plantations in America." The Preamble stated that, "The royal navy and the navigation of England, wherein, under God, the wealth, safety and strength of this kingdom is so much concerned, depends on the due supply of stores necessary for the same, which being now brought in mostly from foreign parts, in foreign shipping, at exorbitant and arbitrary rates, to the great prejudice and discouragement of the trade and navigation of this kingdom, may be provided in a more certain and beneficial manner from her Majesty's own dominions."

The Act restated the Colonial policy of England by declaring that the plantations in America "Were at first settled, and are still maintained and protected, at a great expense of the treasure of this kingdom, with a design to render them as useful as may be to England, and the labor and industry of the people there profitable to themselves."

It was enacted that bounties should be paid to anyone importing naval stores from the Colonies in English ships. For pitch so imported, a premium of four pounds per ton was to be paid; for rosin or turpentine, three pounds, and for hemp, six pounds. For masts, yards and bowsprits, the allowance was to be one pound per ton. The navy was to have the first opportunity to purchase all such naval stores, which must be of the growth and produce of the Colonies.

For the preservation of the sources of supply it was provided that no young pitch, pine or tar trees, growing wild, should be felled in New England, New York, or New Jersey, on penalty

of five pounds for each offense. The setting fire to any forests in which there were trees prepared for the making of pitch or tar was also made subject to penalties. Furthermore, these naval stores were added to the list of enumerated articles which must be shipped from the Colonies direct to England, and not to any foreign port.

This development of a source of naval stores in the North American Colonies was now to receive increasing attention. Appointment had been made of a "Surveyor of Her Majesty's Woods in New England," and in 1702 the Navy, according to the records of the Privy Council, had contracted for supplies of masts and timber from New England. In 1703, the Council referred to the Admiralty a petition of one John Bridger, who set forth that he had spent seven years in New England, as a Commissioner of the Council, to survey the forests and report upon the available sources for a supply of naval stores. Bridger asked that he be reimbursed for his expenditures in this work. Payment of 2,117 pounds was allowed.

In 1704, application was made to the Privy Council to charter a company for the production of naval stores in Pennsylvania and Carolina.

In 1709, Parliament passed an Act (8th Anne, Chapter 13) reciting "that the premiums and encouragements" (offered by the Act of 1704) "are defective, and that the good and profitable ends by the said Act proposed cannot be attained without sufficient numbers of skilful people, and proper utensils and materials necessary to be employed for raising such naval stores." A sum not to exceed 10,000 pounds was voted for the "subsistence and employment" of such skilful people, and the procuring of the needed utensils and materials.

"An Act for the better securing the Trade of this Kingdom by Cruisers and Convoys" was passed by Parliament in 1707 (6th Anne, Chapter 13). Forty-three ships of war were to be

employed as cruisers, and "For encouragement of the sea-service, officers and seamen of Queen's ships, privateers, &c.," it was enacted that they should be entitled to the entire proceeds from prize ships. Five pounds was to be paid for the capture of every man on board a ship taken from the enemy.

Another Act of the same year (6th Anne, Chapter 37) which was described as being for "The encouragement of the Trade to America," provided that all prize offices in any port or place in America be suppressed. To increase private ships of war it was enacted that enemies' ships and goods captured by British privateers in any sea, creek, haven, or river of America, and adjudged lawful prize "in any of her Majesty's Courts of Admiralty in the Colonies," should be the property of the owners of the privateer and of her men making the capture, and the proceeds should be divided among them. It was also provided that, during the war, privateers or trading ships might be navigated by foreign seamen, "so that one-fourth be British." Foreign seamen serving on board any British ships for two years were to be deemed natural-born. The Queen was authorized to license as privateers, not to exceed twenty ships bought in foreign parts, and at the end of the war they were to have the privileges of English-built ships.

In addition to naval stores, rice and molasses were, during Anne's reign added to the list of Enumerated Articles which must be shipped direct from the American Colonies to England. This was effected by an Act of 1704 (3rd & 4th Anne, Chapter 5).

Under Anne there was an extension of the postal system, with especial reference to the Colonies. An Act of 1710 (9th Anne, Chapter 10) appropriated part of the postal revenues for war funds. It was declared that, "Posts have, at great charges, been established by packet boats between that part of Great Britain called England and the West Indies, and also

on the main land in North America, through most of her Majesty's Plantations and Colonies in those parts, as also the divers parts in Europe, to which no packet-boats were till lately settled."

One "chief letter office" was established in New York for the mainland of North America, and another in the West Indies for those parts. Rates of postage were increased, and, for a letter carried between New York and England, from one to four shillings was charged, according to size. Other charges were increased proportionably. If any mail was "Carried out of Great Britain into any part or place beyond the seas, in any ship or vessel which is not a free ship and navigated with such seamen as by the laws of this land the same are required to be, that then, and in every such case, the postmaster general shall forfeit the sum of one hundred pounds sterling."

A project for the benefit of navigation, which was to run for many years before it accomplished its purpose, was inaugurated by Anne in 1713. An Act of that year (12th Anne, Chapter 15) provided for "A Public Reward for such Person or Persons as shall discover the Longitude at Sea." Ten thousand pounds was to be paid for a method that would determine the longitude "To one degree of a great circle, or sixty geographical miles; fifteen thousand pounds if it determines the same to two-thirds of that distance; and twenty thousand pounds if it determines the same to one half of the same distance."

In the same year, an Act (12th Anne, Chapter 16) sought "The better Encouragement of the making of Sail-Cloth in Great Britain," by increasing the duties on imports of foreign made sail-cloth.

Trade legislation in the American Colonies during the reign of Anne was enacted chiefly in New York. In 1705, however, Virginia added another to its series of Acts fixing staple ports

for the entries and clearances of cargoes. This measure had the approval of the Queen. It not only fixed the ports, wharfs, keys and other places at which imports and exports must be handled, but it recognized the "absolute necessity of warehouses and other convenient buildings for reception of all sorts of goods and persons." To prevent "A smuggling trade (if any such be used here)" the Act required that no goods imported into the Colony, "Servants, slaves and salt excepted, shall be bought or sold while they are water-borne in the sea vessels they were imported in." Eleven ports were named by the Act, and at each port fifty acres of land were to be laid out as the port town, within whose limits trading was to be carried on.

Connecticut, in 1708, passed a law giving "All merchants, traders, and others (not by law prohibited) free liberty to trade within this Colony, and free access with their ships." It was stipulated, however, that all traders and masters of ships should "Strictly observe all Acts of Parliament respecting Trade and Navigation, and also the Laws and Orders of this Government during their abode within the same."

"An Act for Encouragement of Whaling" was adopted by New York in 1708. This measure indicates that Indians were being used in the fisheries; for it provides that "Any Indian that is bound to go to sea a whale-fishing" shall not be sued, arrested, molested, detained, or kept out of that employment by any person, "at any time between the first day of November and the fifteenth day of April following, yearly." Penalties are also provided for any one furnishing the means for, or aiding and abetting any Indian in becoming drunk.

A discriminatory tonnage duty Act was passed by New York in 1709. All vessels entering or clearing were to pay two shillings per ton, with these exceptions:

"Ships, the one half of which, at least, belongs to the inhabitants of this Colony, and coasting sloops belonging

to Massachusetts, Rhode Island, Connecticut and the Jerseys."

These exceptions were changed by a New York Act of 1714. Coasting sloops were now exempted while their navigation was to and from their own parts. Exemption was also given to vessels coming directly from Great Britain, and New York ships, to benefit, must now be "Built in this Colony, or wholly owned by the inhabitants thereof."

During Anne's reign, England made further attempts to gain control over the legislation of the Colonies. In a record of the Privy Council of October 24, 1709, the Board of Trade was directed to recommend to "Mr. Penn" to have all Acts passed in Pennsylvania transmitted for the approval of the Crown, as soon after their passage "As convenient." This was but one step in a long series of controversies with the Colonies over their legislative rights. Acts effective for a limited period often failed to reach England until they had expired. Later, England was to seek to make effective a ruling that no Colonial Act could be put in force until it had received the approval of the Crown, and many statutes of the American Colonies were to be "disallowed."

Another battlefield of contention between the Plantations and the Mother-Country is foreshadowed in a record of the Privy Council within a few months of the death of Anne. On February 20, 1714, the Board of Trade sent to the Council a memorial of the British Crown's agent at Barbados, "Complaining of the great detriment to her Majesty's sugar plantations and the trade and navigation of this kingdom by the importing rum, sugar and molasses from Surinam" (a Dutch Colony) "to New England and other her Majesty's Provinces on the Northern Continent." The Board of Trade asked that this be prevented by law, and the Privy Council ordered the

preparation of a bill "To be offered this Parliament to be passed into an act for prohibiting the aforesaid trade."

Out of this, later, was to grow the celebrated Molasses Act and a long trail of controversies.

1702.

NOVEMBER 16TH.

New Jersey.

Instructions for our right trusty and well beloved Edward Lord Cornbury, our captain general and governor in chief, in and over our province of Nova-Cæsarea, or New Jersey, in America. Given at our court of St. James's, the 16th day of November, 1702, in the first year of our reign.

1. With these our Instructions you will receive our Commission under our Great Seal of England, constituting you our Captain General and Governor in chief of our Province of New Jersey. . . .

And that we may be the better informed of the Trade of our said Province, you are to take especial care that due Entries be made in all ports in our said Province, of all Goods and commodities, their Species, or Quantities, Imported or Exported from thence, with the Names, Burden, and Guns of all Ships importing and exporting the same, also the Names of their Commanders, and likewise expressing from and to what Places the said Ships do come and go, a Copy whereof the Naval Officer is to furnish you with, and you are to transmit the same unto us, our High Treasurer or our Commissioners of our Treasury for the Time being, and to our Commissioners for

Trade and Plantations, Quarterly, and Duplicates thereof by the next Conveyance.

And whereas, great losses have been sustained by our Subjects, Trading to our Plantations in America, by Ships sailing from those Parts without Convoy, or without the Company of other ships, which might protect them from our Enemies, by which means many of them have been taken by the French in their return to England; to the end therefore, that the Ships of our Subjects may be the better secured in their return home, you are to take care that, during this time of War, no Ships Trading to our Province of Nova-Cæsarea, or New-Jersey, be permitted to come from thence to England, but in Fleets, or under the Convoy or Protection of some of our Ships of War, or at such a Time as you shall receive Notice from hence, of their meeting such Convoys, as may be appointed for the bringing them safe to some of our Ports in this Kingdom; and in case of any Danger, you are to expect Directions from hence, what Precautions shall be further necessary for their Security.

You are likewise to examine what Rates and Duties are charged and payable upon any Goods imported or exported within our Province of Nova-Cæsarea, or New-Jersey, whether of the Growth or Manufacture of the said Province or otherwise, and to use your best endeavours for the Improvement of the Trade in those Parts.

And whereas Orders have been given for the Commissionating of fit Persons to be Officers of our Admiralty and Customs in our several Plantations in America; and it is of great Importance to the Trade of this Kingdom, and to the Welfare of all our Plantations, that illegal Trade be everywhere discouraged, you are therefore to take especial care, that the Acts of Trade and Navigation be duly put in Execution; and in Order thereunto, you are to give constant Protection and all due Encouragement to the said Officers of our Admiralty and Cus-

toms, in the Execution of their respective Offices and Trusts within our Territories under your Government.

You are from time to time to give an Account, as before directed, what strength your bordering Neighbours have, be they Indians or others, by Sea and Land, and of the Condition of their Plantations, and what Correspondence you do keep with them.

1704.

3RD & 4TH ANNE.

Chapter 10.

An act for encouraging the importation of naval stores from her Majesty's plantations in America.

Whereas, the royal navy, and the navigation of England, wherein, under God, the wealth, safety and strength of this kingdom is so much concerned, depends on the due supply of stores necessary for the same, which being now brought in mostly from foreign parts, in foreign shipping, at exorbitant and arbitrary rates, to the great prejudice and discouragement of the trade and navigation of this kingdom, may be provided in a more certain and beneficial manner, from her Majesty's own dominions: and whereas her Majesty's colonies and plantations in America were at first settled, and are still maintained and protected, at a great expense of the treasure of this kingdom, with a design to render them as useful as may be to England, and the labor and industry of the people there, profitable to themselves: and of regard to the said colonies and plantations, by the vast tracts of land therein, lying near the sea, and upon navigable rivers, may commodiously afford great quantities of all sorts of naval stores, if due encouragement be

given for carrying on so great and advantageous an undertaking, which will likewise tend, not only to the future employment and increase of English shipping and seamen, but also to the enlarging, in a great measure, the trade and vent of the woolen and other manufactures and commodities of this kingdom, and of other her Majesty's dominions, in exchange for such naval stores, which are now purchased from foreign countries with money or bullion; and for enabling her Majesty's subjects, in the said colonies and plantations, to continue to make due and sufficient returns in the course of their trade; be it therefore enacted; That every person or persons that shall import or cause to be imported into this kingdom, directly from any of her Majesty's English colonies or plantations in America, in any ship or ships that may lawfully trade to her Majesty's plantations, manned as by law is required, any of the naval stores hereafter mentioned, shall have and enjoy, as a reward or premium for such importation, after and according to the several rates for such naval stores, as follows, viz.:

II. For good and merchantable pitch per tun, containing eight barrels, and each barrel to gauge thirty-one gallons and an half, four pounds.

For good and merchantable pitch per tun, each tun containing twenty gross hundreds (net Pitch) to be brought in eight barrels, four pounds.

For goods and merchantable rozin or turpentine per tun,
. . . three pounds.

For hemp, water rotted, bright and clean, per tun, six pounds.

For all masts, yards and bowsprights, per tun, allowing forty foot to each tun, girt measure, according to the customary way of measuring round bodies, one pound.

III. Which several regards or premiums, for each species aforementioned, shall be paid and answered by the commissioners of principal officers of her Majesty's navy, who are

hereby empowered and required to make out a bill or bills, to be paid in course for the same, upon certificate of the respective chief officer or officers of the customs, in any port of this kingdom, where such naval stores shall be imported, as aforesaid, within twenty days after the discharge or unloading of the ship or vessel, ships or vessels, in which such stores shall be imported, upon a certificate or certificates, to be produced to the chief officer or officers of the customs (which certificate or certificates shall be under the hand and seal of the governor, lieutenant governor, collector of her Majesty's customs, and naval officers, or any two of them, residing and being within any of her Majesty's said colonies or plantations) That, before the departure of such ship or vessel, ships or vessels, the person or persons, merchant, trader or factor loading the same, had made oath before them, that the said naval stores, so shipped on board, were truly and bona fide of the growth and produce of her Majesty's said colonies and plantations, (which oath the said governor, lieutenant governor, collector of her Majesty's customs, and naval officers, or any two of them, are hereby authorized to administer) as likewise, upon oath to be made in any port of England, by the master or masters of such ship or vessel, ships or vessels, importing such naval stores, that the same were truly laden on board such ship or vessel, ships or vessels, within some of her Majesty's colonies and plantations in America, and that he or they know or believe that the said naval stores were the produce of the said colonies and plantations.

IV. Provided always, That the reward or premium, hereby granted, shall not be allowed or paid for the importation of such masts, yards, bowsprits, or other naval stores, as are already contracted for by the commissioners of her Majesty's navy.

V. And to the end a particular benefit may accrue hereby to her Majesty's royal navy, and for the better supply of the same with naval stores; be it further enacted, That, upon the importing of any naval stores from her Majesty's said colonies or plantations, for which a reward or premium is hereby granted, the pre-emption or refusal of such naval stores shall be offered and tendered to the commissioners of her Majesty's navy upon landing the same; and if within the term of twenty days after such tender, the said commissioners shall not contract or bargain for the same, it shall and may be lawful for the importer or importers, owner or owners, of the said naval stores, otherwise to dispose of the same for his or their best profit and advantage.

VI. And for the better preservation of all timber for the uses aforesaid, be it further enacted, That, no person or persons within her Majesty's colonies of New Hampshire, the Massachusetts Bay, Rhode Island, and Providence Plantation, the Narragansett Country, or King's Province, and Connecticut in New England, and New York and New Jersey, do or shall presume to cut, fell, or destroy any pitch, pine trees, or tar trees, not being within any fence or actual enclosure, under the growth of twelve inches diameter, at three foot from the earth, upon the penalty or forfeiture of five pounds for each offense, on proof thereof to be made by one or more credible witnesses on oath, before one or more justice or justices of the peace, within or nearest to such place where such offence shall be committed; one moiety to her Majesty; the other moiety to the informer or informers.

VII. And be it further enacted, That, no person or persons, within the said colonies . . . shall wittingly or willingly set fire to any woods, or forests, in which there are any pitch, pine trees, or tar trees, prepared for the making of pitch or tar, without first giving notice to the person or persons, owner or

owners of said trees, who had prepared or ordered the preparing of such trees, or to one of her Majesty's justices of the peace there, on pain of forfeiting ten pounds for each offence.

VIII. Provided always, That the importation of all such naval stores, for which a reward or premium is granted by this act, be subject to the same regulations, restrictions, and limitations, in reference to the shipping and navigating thereof, and such security shall be given for importing the same into England, and subject to such penalties and forfeitures, as the importation of sugar, tobacco, cotton wool, indigo, ginger, fustick, and other dyeing wood, from her Majesty's colonies and plantations, are subject unto.

IX. (The act to continue in force for nine years.)

GEORGE I.

(Born, 1660. Reign began October 28, 1714. Died, June 10, 1727. Reigned 12 years.)

ANNE having died without issue, the English crown went to George, the Elector of Hanover, in Germany, his mother having been a granddaughter of James I. George had fought as a youth in the wars of William III., and had supplied Hanoverian troops to aid England in the War of the Spanish succession. For years he had kept in touch with English politics and had close connections with the Whig party, which was in power. The Tories, for the most part, were adherents of the Stuarts. The Pretender, son of James II., landed in Scotland in 1715, but the rising in his favor was quelled.

Parliament's position had changed greatly since the days of the Tudors, when that body was dominated by the sovereign. The early Stuarts were in almost constant conflict with their Parliaments; but from the Restoration of Charles II. the law-making body grew in power, the King was no longer the dictator of legislation, and for the first time, distinctive political parties came into being. The sovereign had lost the power to convene and dismiss Parliaments at pleasure. Their duration had been fixed, under William and Mary, at three years, and under George I., in 1716, that period was extended to seven years.

For much of George I.'s reign the trade of England was in an unsettled state. The era of wild speculation which culminated in the bursting of the South Sea Bubble in 1721 upset commercial conditions, and there was little of importance done

by Parliament in relation to foreign commerce. Out of the chaos that followed the bursting of the speculative bubble, however, there emerged into political power the figure of Sir Robert Walpole, who, as prime minister, was to be the real shaper of the policies of England. But, with Walpole, corruption on a huge scale entered English politics. What he could not secure by favor, he gained by bribery in Parliament, and in the election of members of that body. In many respects, however, he was an able administrator, and, once the nation had adjusted the unsettlement of the era of speculation, England again prospered.

As regards foreign commerce, George I.'s reign may be said to have been featured by two conflicting elements: The passage of preferential legislation by the Colonies, and the attempts of the Mother-Country to nullify this legislation and strengthen the power of the Crown over its American possessions. Discriminatory laws were becoming common and the Colonies discriminated not only against England, but against each other.

In 1714, New York had exempted from tonnage duties, in addition to its own vessels, coasting sloops of New England and New Jersey, and ships coming directly from England. In 1716, another New York Act removed from the exempt class vessels coming from England, and exempted the ships of the Colony itself only if they had been built there. Colonial ownership was not sufficient for freedom from tonnage dues. It appears, according to the somewhat vague language of the Act, "That ships and other vessels not built in this Colony, do wholly belong to the inhabitants of the same, and before their departure out of this Colony are transferred and made over to Strangers and other persons beyond the seas, with an intent to frustrate the true intent of the" (previous) "Act."

Two years later, in 1718, New York again legislated on this subject, as "There had some disputes arisen," as to exactly

what vessels were exempt from tonnage duties. It was now "Enacted that, ships or other vessels not built in this Colony, though wholly owned by the inhabitants of the same, are and shall be liable to pay the said duty of tonnage, and ships and other vessels wholly owned by the inhabitants of the Kingdom of Great Britain shall be and are hereby excepted from paying the said duty." There is now no mention of the coasting sloops of New England and the Jerseys; but the privilege of exemption is extended to ships owned in Britain. In 1720, however, the coasting sloops are again exempted, as are ships built in the Colony or "Wholly owned by the inhabitants thereof," and "Ships directly from Great Britain," no stipulation now being made as to British ownership.

Pennsylvania, in 1717, passed an "Act for raising a duty upon tonnage of ships and vessels." This tax, which was set at twelve pence per ton, was to apply for three years to "The tonnage of all ships, sloops, and other vessels, the majority of whose owners not being inhabitants of this province, wherein there shall be imported any goods or merchandise."

New Hampshire, in the same year, passed "An Act about Powder-Money," which provided that:

"Every foreign ship or vessel above thirty tons, coming into any port or part of this province from over the sea, to trade or traffic, all or the major part of the owners whereof are not actually inhabitants of this province, shall, every voyage they make, pay two shillings in money per ton, or one pound of good gun-powder for the supply of his Majesty's fort and fortifications in this province."

In 1715, New York had passed a special Act, "For relieving the inhabitants of the Colony of South Carolina from the duties laid and paid in this Colony of New York for such goods, slaves and merchandises as they shall import into this Colony

during the time of six months." The uprising of the Indians in South Carolina had caused many settlers to flee that Colony, and New York seized upon the opportunity to encourage their immigration.

Trade disputes between Massachusetts and New Hampshire were responsible for the passage of a highly discriminatory Act by the former Colony in 1621. According to this statute, "The Government of New Hampshire do exact and take two shillings a thousand for every thousand of boards brought down the river, commonly called Piscataqua River, and transported into this province; though the trees out of which the boards are made grow upon lands within this province, and are cut at mills in the county of York; although the inhabitants of this Government have equal right with the inhabitants of the province of New Hampshire to pass up and down the aforesaid river, by grant and purchase; which exaction therefore is altogether unjust and oppressive."

In retaliation, Massachusetts imposed a tax of five pounds on every hogshead of rum and pipe of wine imported from New Hampshire, and laid a duty of ten per cent ad valorem on all other goods brought from the neighboring Colony, and on all goods exported from Massachusetts to New Hampshire. This is cited as an example of the many tariff wars waged in the Colonies.

In 1724, New York came into conflict with the English customs authorities, stationed there, over efforts to force ships going from one port of the Colony to another to undergo the same regulations as those engaged in sea trade. An Act was passed, reciting that ships had been "Seized, troubled and molested. . . . Notwithstanding such vessels and goods belong to his Majesty's good subjects within this province, and are not designed to be carried out of the same." It was therefore enacted that, no vessel, going from one part of the province to

another, need be entered or cleared, or be subject to customs fees. Anyone who interfered with the vessels' sailing, or demanded or received any fees in connection therewith, was to be subject to a fine of twenty pounds.

A new responsibility was laid upon shipmasters by a New Hampshire law of 1719. This set forth that, "Complaint is made by sundry inhabitants of this Province that they have sustained great damage by masters of ships and other vessels transporting their debtors out of this Province into foreign parts of the world." For remedy, it was provided that no shipmaster should "Receive, harbor, or entertain, conceal or secure on board such ship or vessel, or carry away over sea" any such debtor, under penalty of one hundred pounds.

A monopoly in pilotage was created by a New York Act of 1718. This recited that, Jacob Mauritz and William Kirsten had been appointed pilots for the port of New York, "To take under their care his Majesty's ships of war, and all other ships and vessels requiring a pilot." They had given bond to "Keep an able pilot residing at or near Sandy Point, provided with a sufficient boat, tackle and furniture." And "To the intent that no unskilful person or persons, for gain, may presume to pilot ships and vessels coming into and going out of the port, and to prevent the loss of any ship or vessel bound to or from the port," it was provided that any person not authorized, who should pilot any vessel, was to forfeit three pounds. "When the able and sufficient persons appointed as aforesaid for that purpose, should not be ready at Sandy Point," however, any other person might act as pilot.

A more curious marine monopoly was that of "The fishery of porpoises," granted by the General Assembly of New York to Garret de Graeuw, in 1714. De Graeuw had set forth in a petition to the Assembly, "That, by certain new inventions by him found out, he has perfectly enabled himself, and is

actually ready to the sure and successful carrying on the said fishery." He was given a seven-year monopoly "to carry on the fishery of porpoises and other fishes of that nature, by the said inventions in the seas, harbors, rivers and other waters within this Colony."

Naval officers' fees were fixed by a New Hampshire Act of 1718. For entries of ships "from abroad," eight shillings was the charge, while for the Northern American Colonies, the rate was one shilling and six pence. Ships from the Southern American Colonies and the West Indies apparently were charged the same as those from overseas. Compliance with the Acts of Navigation is indicated by charges of two shillings for examining and recording certificates and bonds in accordance with the Acts.

England's official attitude towards the American Colonial legislation of the period is, perhaps, best reflected in the records of the Privy Council. Royal Charters had vested Colonies with the power to make their own laws, as in the case of Carolina, which furnished an instance in point. In 1717, Carolina had passed a law laying a duty of ten per cent on goods imported. This, of course, affected British manufactures.

In May, 1718, the Privy Council received a report from the Board of Trade, stating that the opinion of the Solicitor General had been sought in regard to the Carolina Act, and that his view was that, as it was not "Consonant to reason, nor agreeable to the laws of Britain, he apprehends the power of making laws by the Charter to the Proprietors is in this instance exceeded." The Privy Council thereupon recommended that the King's pleasure be signified to the Lords Proprietors of Carolina, that they immediately send over to that Province their disallowance of the Act, with directions to the Governor there never to give his assent to any like law for the future.

In July, 1718, the Privy Council disallowed three Virginia Acts which dealt with the trade with Indians. At the same time the Council ordered that instructions be prepared for all his Majesty's Governors, directing them to pass no Act, "Which may any ways affect the trade or shipping of this kingdom, without a clause declaring that the said Acts shall not be in force until they are approved and confirmed by his Majesty."

Massachusetts came in for especial reprobation at the hands of the Council, according to a record of May 26, 1719, because, in the previous year that Colony had passed an Act, which:

"Allowed the importation of all sorts of commodities directly from the place of their growth," (in defiance of the Navigation Acts);

"Charged the said commodities with a double duty if imported from this kingdom, from whence only they can be legally imported;

"Failed to restrain the importation of such goods into that Plantation, to such ships only as by law may trade thither;

"And which, as a further discouragement to the British trade and navigation, lays a duty of tonnage on all shipping, except that of the Massachusetts Bay, and of some few of its neighboring Colonies."

It was recommended by the Council that the law be disallowed, and the Governor directed to notify the Assembly of Massachusetts Bay that their Charter restrained them to making laws not repugnant to the laws of England; and "That they will do well to consider how far the breaking this condition and the laying any discouragements on the shipping and manufactures of this kingdom may endanger their Charter." The Governor was also to be put in mind of the obligations of his oath to enforce the trade and navigation laws, and to

pass no Act without a clause making it of no effect until approved and confirmed by the King.

Virginia legislation was again disapproved in 1724, with the repeal of an Act laying duties on liquors and slaves. The duty of five pounds per head on negroes, the Privy Council held, will reduce the number imported, "And discourage the planting and cultivating naval stores, especially where great numbers of negroes will be wanting."

Resistance in the Colonies to the decrees of the Admiralty Courts established there by England, furnished another problem. On August 7, 1722, the Admiralty reported to the Privy Council that the Governor and Council of Rhode Island had failed to obey the decree of the Judge of the Vice-Admiralty Court of New England, for the sale of a ship and cargo, belonging to one Benjamin Morton of Rhode Island, and having been piratically employed. The Governor and Council had taken possession of the ship and cargo. An order was issued by the Privy Council directing the surrender of the seized property to the Vice-Admiralty Court, and directing the Colonial officials "To be strictly observant to the decrees of that Court for the future, and not to assume to themselves in any wise any right to Admiralty jurisdiction, as they will answer the contrary at their peril." Rhode Island, in the following year, protested against the requirement that the Governor should give bond to enforce the Navigation Acts, alleging "That such directions were inconsistent with the privileges granted in the Charter of Incorporation from King Charles II., and would be attended with very great inconveniences." England, as was to be expected, would not concede the point asked; but the case was another instance of the growing spirit of opposition in the Colonies to the exactions of the Mother-Country.

One Act of Colonial aid was passed by Parliament in this period. In 1726 (by 13th George I., Chapter V.) it was sought

to develop the fisheries of Pennsylvania. The Act described "The Delaware River, Bay and coast of that Province, and the seas adjoining," as being "very commodiously situated for carrying on the fishing trade, as they abound with great quantities of shad, sturgeon, bass, and several other kinds of fish." These could be "made fit for foreign markets, whereby the trade of Great Britain and the inhabitants of the Province would reap considerable benefit." This, in turn, would enable the Pennsylvanians "To purchase more of the British manufactures for their use than at present they are able, by reason of the little trade and produce the said Province affords." But there was difficulty in getting salt for the curing of the fish. This the Act proposed to remedy by relaxing a principle of the Navigation Acts, and allowing the importation of salt into Pennsylvania direct from any part of Europe, provided it was carried in British owned and navigated vessels.

The phraseology of this Act is interesting in that it expresses the essence of England's policy towards her Colonies. They were to be buyers on an increasing scale of the manufactured goods of Britain; and they were to be encouraged only in industries, the products of which did not compete with the products of England.

1721.

AUGUST 23RD.

Massachusetts.

An act for laying sundry duties on such goods as shall be imported into this province, from the province of New-Hampshire, and on such as shall be exported from this province, thither.

Whereas, the Government of New-Hampshire do Exact and Take Two Shillings a Thousand, for every Thousand of Boards

brought down the River commonly called Piscataqua River, and Transported into this Province; though the Trees out of which the Boards are made, grow upon lands within this Province, and are Cut at Mills in the County of York; although the Inhabitants of this Government have equal Right with the Inhabitants of the Province of New-Hampshire, to pass up and down the aforesaid River, by Grant and Purchase; which Exaction therefore is altogether Unjust and Oppressive.

Be it therefore Enacted by His Excellency the Governor, Council and Representatives in General Court Assembled, and by the Authority of the same, That, from and after the Twentieth Day of October next, there shall be paid to the Impost Officer, for the Use of this Government, for every Hogshead of Rum that shall be Imported from the Province of New Hampshire into any Parts of this Government, the Sum of Five Pounds, and so proportionably for greater and lesser quantities; For every Pipe of Wine, the Sum of Five Pounds, and so in proportion for greater and lesser Quantities; For all other sorts of Goods, Wares or Merchandise whatsoever, Ten per Cent. ad Valorem.

And if any Master, or Commander, of any Ship or Vessel, shall Unload any Rum, Liquors, Goods, Wares or Merchandise whatsoever, Imported from the Province of New-Hampshire into any Ports or Harbors within this Province, before he hath made Report to the Impost-Officer of all such Rum, Wine, Goods, Wares or Merchandise whatsoever, and the Value thereof upon Oath, and paid the Duties by this Act enjoyned, he shall forfeit and pay the Sum of One Hundred Pounds, to be recovered by Bill, Plaint or Information, in any of his Majesty's Courts of Record, the one half of the said Forfeiture to be applied for and towards the Support of this His Majesty's Government, the other half to be to and for the Use of him or them that shall Inform and Sue for the same.

And all such Wines, Liquors, Goods, Wares and Merchandise

as shall be Landed before the Duties be paid, shall be liable to be Seized and Confiscated, upon Proof made in any of His Majesty's Courts of Record, to be Disposed of, as by this Act is already provided.

Be it further Enacted by the Authority aforesaid, That there shall be paid for every Barrel of Beef and Pork that shall be Exported from this Province into the Province of New-Hampshire, the Sum of Ten Shillings, and so in proportion for greater and lesser Quantities; For every Hundred Weight of Bread, the Sum of Five Shillings; For every Bushel of Wheat one Shilling; For every Bushel of Indian Corn or Meal Six Pence; and for all other sorts of Goods, Wares and Merchandise, Ten per cent. ad Valorem.

Be it further Enacted, That the Oath to be given by the Importer or Owner of all Rum, Liquors, Goods, Wares or Merchandize as is herein made mention of, shall be in the Words following:

"You A.B. Do Swear, That the Entry of the Goods and Merchandize by you made, contains the true Value, and agreeable to the Invoice herewith Exhibited, and that according to your best Skill and Judgment, is not less than the Real Cost Thereof. So help you God."

Any Law, Usage or Custom to the contrary notwithstanding.

1726.

13TH GEORGE I.

Chapter 5.

An act for importing salt from Europe into the province of Pennsylvania in America.

Whereas the river Delaware, bay and coast of the province of Pennsylvania, in America, and the seas adjoining, are very

commodiously situated for carrying on the fishing trade, and they abound with great quantities of shad, sturgeon, bass, and several other kinds of fish, which may be caught and cured, and made fit for foreign markets, whereby the trade of Great Britain and the inhabitants of the said province would reap considerable benefit, which would enable the said inhabitants to purchase more of the British manufactures for their use, than at present they are able, by reason of the little trade and produce the said province affords, were it permitted for his Majesty's subjects to import salt from Europe into the said province for the curing of their fish withal, in the like manner as is practised in New England and Newfoundland, by virtue of an act of parliament made in the fifteenth year of the reign of King Charles the Second, for that purpose; and whereas, formerly, the northern parts of America were comprehended under the general name of New England, but since have been divided into several provinces and colonies, and bear other distinct names, which occasions a doubt whether salt can be imported into them, without the further aid of parliament, by which a very considerable and beneficial fishery might be carried on there, to the great benefit of your Majesty's subjects in general, may it therefore please your most excellent Majesty, that it may be enacted, and be it enacted . . . That it shall and may be lawful to and for any of his Majesty's subjects to carry and import salt from any part of Europe, into the province of Pennsylvania in America, in British ships and vessels, manned and navigated according to the act of parliament made in the twelfth year of the reign of King Charles the Second, entitled, An act for the encouraging and increasing of shipping and navigation; any law, statute, usage or custom to the contrary in any wise notwithstanding.

GEORGE II.

(Born, 1683. Reign began 1727. Died, October 25, 1760. Reigned 33 years.)

THE second of the Georges had quarreled with his royal father, and the expectation was that his accession would be followed by the elimination of Walpole. Instead, Walpole, by his adroitness, strengthened his position, and, as prime minister, was, for years, the virtual ruler of England. George's recognition of conditions is instanced by his remark: "The ministers are the King." He might have added: "The ministers are Walpole, and so is Parliament."

There was, however, a strong and growing opposition to Walpole; but he retained his power under George II. for fifteen years. In 1739 a popular clamor arose for war with Spain, growing chiefly out of Spain's rigorous rules for trade with its Colonies. Walpole at first opposed war, then entered upon it; but the British met with reverses, and in 1742 he resigned from office. Pelham succeeded him and the system of ministerial domination went on. In 1743 a futile war with France was begun. In 1745 the Stuarts made another effort to regain the English crown. Landing in Scotland, Charles Edward, the son of the Pretender, found strong support there and was led to invade England, but was forced to retreat and abandon his project. In 1748 the war against Spain and France came to an inconclusive end, with the peace of Aix-la-Chapelle.

Parliament enacted much commercial and marine legislation during the reign of George II., but a great part of it was influenced by war conditions. Now, to a greater degree than ever

before, England was confronted with the problem of maintaining its foreign commerce with a merchant marine crippled by a steady drain upon it for naval needs.

Preceding the wars, however, there was legislation with a direct or indirect effect upon the merchant marine. An Act of 1729 (2nd George II., Chapter 35) again took up the question of developing the supply of naval stores from the North American Colonies. "For the better preservation of white pine trees for masting his Majesty's royal navy," it was enacted that no such trees should be cut or destroyed in New England, if they were "of or above the diameter of 24 inches at 12 inches from the ground," unless a royal license had been obtained.

The same Act renewed the system of bounties the production of naval stores, "As it hath been found by experience that the plantations are capable of furnishing sufficient quantities." It also sought to develop the supply of pine and fir masts from Scotland, by offering bounties for the importation of these.

Efforts were also made to increase the supply of British-made sail-cloth, by an Act of 1731 (4th George II., Chapter 27). It was set forth that "The manufacture . . . would be greatly improved in this kingdom, and the exportation of it to foreign parts considerably increased, if the duties payable upon the importation of rough and undressed flax, and the drawback upon the reexportation of foreign sail-cloth or foreign-made sails were taken off, and an additional bounty allowed on all British sail-cloth." All these steps were authorized by the Act, and the manufacturer was required to stamp his name and abode on every piece of sail-cloth. Anyone who maliciously cut off such marks was to be subject to a fine of five pounds.

Sail-cloth was again dealt with by Parliament in 1736, in an Act (9th George II., Chapter 37), which declared that by giving "Further encouragement, . . . this manufacture would be greatly improved and many more of his Majesty's subjects

comfortable supported and maintained." All foreign-made sail-cloth was to be stamped as such at the time of importation; and British sail-makers not stamping their name and abodes on their product were to be fined ten pounds for every piece unstamped. At the same time, a wide market for the British product was provided by the requirement "That every ship or vessel built in Great Britain or in any of his Majesty's plantations in America, shall upon her first setting out, or being first navigated at sea, have or be furnished with one full and complete set of sails made up of sail-cloth manufactured in Great Britain." Infringement of this provision was to be punished by a fine of fifty pounds. The Act extended no benefit to sail-cloth manufactured in the American Colonies.

In 1746, more rigorous provisions were embodied in a statute, (19th George II., Chapter 27), which declared that:

"Not only great numbers of sails made up in foreign parts, made of foreign canvas, are used by masters of ships and vessels for navigating such ships and vessels into this kingdom; but also great quantities of foreign made sail-cloth and canvas, fit for making sails, are imported into, and made and wrought up into sails in, this kingdom, without paying the duty or being stamped, as by former laws is directed."

Accordingly, the customs regulations were tightened, the stamping was to be in large characters, and new penalties were fixed. Every sail-maker in the British possessions in America, as well as in Great Britain, must now stamp his product; but sails brought from the East Indies were to be exempt from duty.

Encouragements to the trade and navigation of the Colonies were the object of several Acts of Parliament during George II.'s reign. In 1730, it was sought to aid New York in de-

veloping its fisheries by a statute (3rd George II., Chapter 12), which practically duplicated the Act of 1726 (13th George I., Chapter 5) allowing the importation of salt into Pennsylvania from any part of Europe, provided it was carried in British ships.

Rice had been added to the list of Enumerated Articles during the reign of Anne, and was required to be carried to England before it could be taken to any foreign destination. An Act of 1730 (3rd George II., Chapter 28) stated that the production of rice in Carolina had increased to such an extent that exportation of it would be greatly enlarged, to "The mutual benefit of this kingdom and the said province, if liberty and license were granted for ships built in, and sailing from Great Britain, to load rice in the said province, and to carry the same directly, to any part of Europe south of Cape Finisterre, without bringing the same first to Great Britain, as the laws now require." This opened a direct trade with Spain and Portugal, and, as the statute pointed out, the rice would reach its destination "More seasonably, and in better condition for the consumption thereof, and prevent the supply being made from other countries."

In the following year, 1731, an Act (4th George II., Chapter 15) was passed permitting the importation, direct from the plantations into Ireland, of all Colonial products except those in the list of Enumerated Articles. This had been prohibited by an Act of William III. The goods, however, must be imported in "British shipping, whereof the master and three-fourths of the mariners at least, are British."

In 1732 an "Act for encouraging the Greenland fishery" (5th George II., Chapter 28) freed from import duties, "Whale fins, oil, or blubber of whales, seal oil, sealskins, or any other produce of seals, or other fish or creatures, taken or caught in the Greenland seas or Davis's Straits, or any other parts of the

seas adjoining, in British ships whereof the master and one-third part at the least of the mariners are British subjects."

It was sought in 1748 to encourage the production of indigo in the American Colonies. An Act for this purpose (25th George II., Chapter 30) recited that such production would be "Advantageous to the trade in this nation, as great quantities are used in dyeing the manufactures of this kingdom; which at present being furnished from foreign parts, the supply of that necessary commodity is become at all times uncertain, and the price frequently exorbitant." The culture of indigo, it was added, "has been found to succeed so well in the provinces of South and North Carolina, that there is reason to hope that by a proper encouragement the same may be increased and improved to such a degree as not only to answer all the demands of his Majesty's British subjects, but to furnish considerable quantities to foreign markets." A premium of sixpence per pound was fixed on the importation of indigo from the British plantations in vessels lawfully entitled to trade, and manned in accordance with law. Imports of foreign-made indigo, or mixed British and foreign, were made subject to forfeiture.

In 1750, Parliament (by the 23rd George II., Chapter 20) decided that it would "Greatly tend to the increase and improvement of the silk manufactures of this kingdom to encourage the growth and culture of silk in his Majesty's dominions in America." It was therefore provided that silk of the growth of the plantations could be imported free, if carried in ships that could lawfully trade.

Another Act of the same year (23rd George II., Chapter 29) had a double purpose. It allowed the importation of pig iron and bar iron from the American Colonies into Great Britain free of duty. But, "That pig and bar iron made in his Majesty's Colonies in America may be further manufactured in this

kingdom," it was provided that "No mill or other engine for slitting or rolling of iron, or any plating forge to work with a tilt-hammer, or any furnace for making steel, shall be erected, or, after such erection, continued in any of his Majesty's Colonies in America." A penalty of two hundred pounds was provided, and Colonial Governors were to see to the enforcement of the Act.

Materials for soap-making being greatly needed in England, which was dependent upon foreign countries for them, an Act of 1751 (24th George II., Chapter 51) allowed pot ashes and pearl ashes made in the British plantations in America to be imported free of duty.

In 1733 Parliament passed what has been termed the most drastic of all the British Trade Acts. Designed for the benefit of West Indian Colonies, it threatened with ruin the trade of the New England Colonies, and New York, New Jersey and Pennsylvania, as well.

Designated as the "Molasses Act," this statute (6th George II., Chapter 13) fixed prohibitive duties on imports into any of the American Colonies of any foreign rum, molasses and sugar. The object was to force the American Colonists to buy the produce of the British West India sugar-planters at much higher prices than they were paying for the same products in the Spanish, French, Dutch and Danish West Indies.

Had this law been enforced, the results would have recoiled with almost as great force upon England as upon the American Colonists, for it was with the proceeds of this West Indian trade that the New England and Middle Colonies paid for the goods they imported from the Mother-Country. While the Southern American Colonies, largely through tobacco and rice, sold England a much greater value of goods than they bought from her, the reverse was the case with the Northern Colonies, who had little to export in the way of raw materials and whose

attempts to manufacture goods for export were crushed by English laws. In addition, the law would deprive them of their very valuable market for foodstuffs, timber and cattle in the non-British West Indies, for they had to take pay for these commodities in rum, sugar and molasses. Furthermore, this West Indian trade had played a large part in developing the shipbuilding industry in the American Colonies and in furnishing employment for their shipping. The American Colonists took the obvious course: they ignored the Act, and England was unable to enforce it.

The Molasses Act had not been adopted hastily. For years the sugar-planters had been besieging Parliament. The North American Colonies were represented too, and various branches of the British Government were almost buried under an avalanche of claims and counterclaims, while an extensive campaign of lobbying was carried on in Parliament. The records of the Privy Council and of the Board of Trade and Plantations bristle with documents relative to the controversy. The history of the Molasses Act is far too voluminous to permit the recital of more than a few outstanding developments in connection with it.

For the attitude of the Northern American Colonies, a New York Act of September 30, 1731, is most illuminating. The Molasses Act had not yet been passed, but it had been before Parliament. Its passage, the New York Statute declared, "Would be of the utmost prejudice to all his Majesty's Colonies on the Continent of America, and more particularly to this, since the same would have deprived it of the means to vent their own large produce, cramped and diminished its own trade and navigation, and lain it under unreasonable difficulties and hardships."

In consequence of such a law, the Act continued, "The merchants, farmers, tradesmen, and other inhabitants within this

Colony, would so far have been unable to purchase such vast quantities of the British manufactures as they already annually do, so that, instead of increasing such consumption, they would scarce have been able to purchase so much of the woollen manufacture alone as is absolutely requisite to defend the said inhabitants against the extreme cold of our long winters."

Furthermore, the Act declared, "Without the silver, gold, cocoa, indigo, cotton wool, dyeing wood, and all the other commodities suitable for the English market which we now procure from the foreign colonies in return or exchange for the produce of this country vented that way, it must very plainly appear that if such a bill passed into a law, this Colony would be unable to purchase and pay for half the quantity of the woollen manufactures it now consumes."

Declaring that the sugar-planters were "Plentifully prepared and fully determined to double their efforts at the next session of Parliament," the Act set forth "That it behooves this Legislature to oppose so fatal a design by all the legal ways and means their poor circumstances allow." It was therefore enacted, that Samuel Barker and five other London merchants, should be appointed to protest to the King, and to employ solicitors, and do what they might find expedient "To ward off the Great Mischief which such a bill if passed into a law would bring upon this numerous and loyal Colony." Two hundred and fifty pounds was appropriated for expenses.

The passage of the Molasses Act, however, did not solve the sugar-planters' problems, nor does it seem to have increased "his Majesty's revenues." The Northern Colonies continued to import sugar, rum and molasses from the foreign West Indies, but they paid little in the way of duty. An Act of Parliament in 1739 (12th George II., Chapter 30) stated that "The planters of the sugar Colonies are unable to improve or carry on the sugar trade on an equal footing with foreign sugar colonies,

without some advantages and relief be given them from Great Britain." The remedy offered by the bill was the relaxation of the Navigation Acts, to give "Liberty to ships built in and sailing from Great Britain, and chiefly owned by the subjects of his Majesty residing in Great Britain, to load sugar in the said Colonies and to carry the same directly to any foreign parts in Europe, first touching at some port or ports in Great Britain (except where such ship goes to the southward of Cape Finisterre)." This allowed direct shipments to Spain and Portugal, and did away with the necessity for landing the sugar in England before taking it to other European countries.

In 1746, "An Act for the better encouragement of the trade of his Majesty's sugar colonies in America" (19th George II., Chapter 30) was passed by Parliament. This provided that no mariner in the carrying trade with the British sugar colonies should be liable to impressment in the Navy.

War's effect upon the sea trade of the times is reflected in a group of statutes passed by Parliament from 1740 to 1744. The 13th of George II., Chapter 3, (1740) is stated to be for the purpose of a "Better supply of mariners to serve in his Majesty's ships of war, and on board merchant ships and other trading vessels and privateers, and for the better carrying on of the present or any future war and the trade of Great Britain during the continuance thereof." Accordingly, British ships could be navigated with foreigners, so at least one-fourth of the crew was composed of British subjects. Foreign seamen serving on British ships for at least two years during the war were to be deemed natural born subjects, and to have all the privileges of British subjects.

Another Act of 1740 (13th George II., Chapter 4) deals especially with the trade to America and cites the case of England against Spain. "The trade of his Majesty's subjects in America," says the Act, "hath for many years been greatly

annoyed by the Spaniards, their undoubted right to navigate in those seas without any molestation hath been unjustly interrupted, on pretences altogether groundless and unwarrantable, divers ships and vessels belonging to British subjects have been seized and confiscated, the sailors have been injuriously imprisoned, and barbarously treated, and the British colors have been insulted in the most ignominious manner."

For better carrying on the war with vigor, for encouraging the officers and crews of privateers, for inducing British seamen in foreign service to return, "And for the more effectual extending and securing the trade of his Majesty's subjects to America and elsewhere," the Act provides that the officers, seamen and soldiers on his Majesty's ships of war shall have the sole interest and property in all the vessels and goods they capture. The owners, officers and men on privateers are to have similar rights in their captures, the King foregoing all his privileges. Where ships of war or privateers were taken from the enemy, five pounds was to be paid for every man on board the enemy ships, and divided among the captors.

A third Act of the same year (13th George II., Chapter 17), sought to increase the supply of mariners for merchant vessels, by granting freedom from impressment for two years to the following, serving in trading ships or privateers; Anyone of 55 years of age or more, anyone under 18, and any foreigner.

In 1741 (by 14th George II., Chapter 38) bounties were offered for mariners to serve voluntarily in the Navy, and widows of seamen killed in the King's service were to receive a year's pay. The same Act set forth that:

"Whereas mariners and seafaring men, taking advantage of the present war with Spain, have insisted on very extravagant wages, by which the trade of the nation and the manning of the royal navy is put under great difficulties; Be it enacted, that" seamen in the merchant service were not to be paid more

than 35 shillings per month. Anyone paying, or agreeing to pay, greater wages was to forfeit, for every such offense, treble the sum paid.

In 1744, "His Majesty being engaged in a just and necessary war against France," it was enacted (17th George II., Chapter 34) that the officers and men of British ships of war and privateers should (as already enacted in regard to Spanish ships) have the sole rights to the French vessels and goods captured.

Shipping and commercial legislation in the American Colonies during the reign of George II. was, in the main, along lines already laid down. A New York Act of June 22, 1734, however, furnishes an interesting instance of the Colonial attitude towards discrimination in favor of its own shipping. New York had had a varied experience, sometimes barring, and again admitting the ships of the Mother-Country to the privileges accorded to the vessels of the Colony itself. These Acts had been of a temporary character, and for a time the policy of discrimination had been abandoned. The Act of 1734, however, laid down these principles:

That, as a result of discontinuing the discriminating tonnage against vessels not owned in the Colony of New York, the Colony's shipping had diminished to a point where outside vessels had almost a monopoly of the carrying trade;

That the other British Colonies imposed extra duties on other than their own vessels, in the form of powder duty or otherwise;

That vessels built in New York were of far greater benefit to this community than outside ships coming there for freight; because money would be kept in the Colony that was being carried away for freight payments; "That

nothing would serve more to relieve the depression in trade than the increase of the Colony's own shipping and navigation."

It was therefore enacted that, a tonnage duty should be levied on all vessels trading with the Colony, with the following exceptions:

Vessels built in the Colony; those wholly owned in the Colony or in Great Britain; coasting vessels sailing between New Hampshire and Cape Henlopen, and whalers while employed in coasting trade.

Under "An Act for supplying powder for the Battery at New London," Connecticut had, in 1729, imposed a duty of from one to eight shillings per ton on clearances of "All vessels not belonging to this Colony."

Other Colonial Acts of this period, affecting shipping, included a Rhode Island law of 1729, under which masters of vessels bringing to the Colony any person (except from Great Britain, Ireland, Jersey and Guernsey) must give bond in the sum of fifty pounds for each person brought in, that they should not become a charge upon the town where they were landed.

Maryland, in 1737, enacted that any person stealing a vessel and removing it more than ten miles from the place where it was stolen, or any aiding or abetting the offence, should suffer death, without benefit of clergy. In 1744, the wilful burning of a vessel was made subject to the same penalty.

"An Act against trusting Mariners," passed by Delaware in 1741, was intended to prevent ships being delayed in sailing because of the arrest of any of the sailors. No tavern-keeper or other person was to trust any mariner for more than ten shillings, unless with the consent of the master or owner of the vessel; and no one trusting a sailor for more than ten shil-

lings was to hinder the sailor from proceeding on the voyage for which he was shipped.

In 1743, New Jersey passed a Conservation Act, stating that:

“By reason of the great quantities of timber being frequently exported out of the Eastern Division of this Colony, the same is grown scarce, and if not timely prevented, there will not be enough left for the necessary use of the said Eastern Division.”

It was therefore enacted that a tax should be laid on all exports of logs or timber,

“That can or may be used in building or repairing of ships, boats, or any other sort of vessels, or any other buildings, the sum of six pence for every solid foot. For all masts, yards, bow-sprits, or any other pieces or parcels of timber that can or may be applied to the said use or uses, the sum of one pence for every solid foot.”

The same Colony, in 1747, enacted a statute for fixing shipping charges, “And for preventing officers from taking export fees.”

For any vessel entering from Europe or the West Indies, for instance, fifteen shillings was to be paid to the Collector and six shillings to the Naval Officer. Other fees were in proportion and the charges for securing a bond for Enumerated Goods was two shillings and six pence.

Rhode Island, in 1749, adopted “An Act for regulating the light house erected upon Beaver-Tail for the benefit of shipping coming into and going out of this Colony.” A light-house keeper was to be appointed who “Shall carefully and diligently attend his duty at all times in kindling the light from sun setting to sun rising and placing them as they may

be so seen by vessels coming into or going out from this Colony."

To support the light house, a tax of eighteen pence per ton was imposed upon all outward bound vessels (except coasters, fishing vessels, wooden-sloops, and vessels bringing stone and sand). The coasting vessels to be exempted, were defined as those using the trading between Rhode Island and Massachusetts Bay, Connecticut, New York and Philadelphia, as well as all such vessels as imported lumber from New Hampshire, or provisions from Maryland and Virginia.

Another light-house Act was passed by Georgia in 1755, to keep the beacon on Tybee Island in repair and to build a house there for the use of the pilot. The Statute declared that the Tybee light was "Of general benefit to all ships or vessels trading to America, and in a special manner to all such who trade to this Province." A tax ranging from fifteen shillings to twenty-seven shillings and six pence was to be paid by all vessels. If the receipts exceeded the amount required for maintaining the light-house, the surplus was to be used for the building of beacons for the defense of the Colony.

Colonial aid in raising war funds may be instanced by three statutes passed in America during the reign of George II. In 1734, a New York Act declared: "It is prudent, if not absolutely necessary, in times of peace, to provide against those dangers that naturally attend a state of war, which the present troubles in Europe seem to threaten and how soon our Mother Countries will be involved in it, and we feel the unhappy consequences of it, the Divine Province can only determine. In order therefore to provide as much as we can for our own defense and to raise money for that purpose," it was enacted that special duties should be paid on imports of cider, pork and beef, and that a tax should be paid for every negro and Indian slave in the Colony.

Massachusetts, in 1745, enacted a statute declaring that it was necessary "For his Majesty's Service, and for the preservation and defense of the trade of this Province, that a ship of Force, mounting twenty carriage guns, be provided and made for that purpose, as soon as possible, and that, in order to purchase such a ship, the Treasury be forthwith supplied with the sum of Eight thousand pounds."

It was stated "That the advantage of such a ship will chiefly accrue to the trade, and it appears but equal and just that the same should be repaid into the Treasury by a tax or duty on ships."

A duty of six pence per ton was laid on all ships excepting the "common coasters and fishing vessels," in the Province. This Act was to continue for seven years, but peace was concluded before the expiration of that term.

Connecticut, in 1757, laid a duty on shipping, for the support of a vessel of war. For inhabitants' ships, owned either in whole or in part by the inhabitants of the Colony, the duty was fixed at from three pence to six pence per ton, while for outside vessels, the rate was one shilling per ton.

The spirit of conflict between the Colonial Governments and the Crown continues to be reflected in the records of the Privy Council during the reign of George II. In April, 1730, the Admiralty sent in a report based on complaints from the officers of the Vice-Admiralty Courts in the Colonies that the provincial judges were obstructing the course of justice by prohibitions against the enforcement of decisions made by the Admiralty courts. Colonial Governors were, accordingly, directed to use their best endeavors to assist the Vice-Admiralty officers.

Complaints that the Governors were hampering the development of the fisheries, by seizures of whaling products on the ground that they were the property of the Government, were made to the Privy Council in December, 1731. Petition was

made that the Governors be forbidden to seize whale-oil or whale-fins, and the Board of Trade and Plantations was instructed to send directions to the Governors, "Not to give any discouragement to the fisheries, but on the contrary to give all proper encouragement to the same."

Disapproval of Colonial legislation by the Privy Council continued on an increasing scale. In May, 1732, the Governors of the Colonies in America were forbid, "Upon pain of his Majesty's highest displeasure, to give their assent for the future to any laws wherein the natives or inhabitants of the respective Colonies under their government are put on a more advantageous footing than those of Great Britain; and that the said Governors should be directed to pay due obedience to his Majesty's royal instructions, whereby he hath been graciously pleased to forbid them to pass any laws by which the trade or navigation of this kingdom may be anyways affected." Colonial legislatures, however, and especially those of Virginia, New York and Pennsylvania, continued to come under the displeasure of the Crown. The spirit of independence, which had been manifest in the Colonies almost from the beginning, continued to grow. George II. was to be the last sovereign to hold intact the British possessions in America.

1733.

6TH GEORGE II.

Chapter 13.

An act for the better securing and encouraging the trade of his Majesty's sugar colonies in America.

Whereas the welfare and prosperity of your Majesty's sugar colonies in America are of the greatest consequence and importance to the trade, navigation, and strength of this king-

dom; and whereas the planters of the said sugar colonies have, of late years, fallen under such great discouragements, that they are unable to improve or carry on the sugar trade upon an equal footing with the foreign sugar colonies, without some advantage and relief be given them from Great Britain; for remedy whereof and for the good and welfare of your Majesty's subjects, we your Majesty's most dutiful and loyal subjects, the Commons of Great Britain assembled in Parliament the several and respective rates and duties herein after mentioned. . . .

Upon all rum or spirits of the produce or manufacture of any of the colonies or plantations in America, not in the possession or under the dominion of his Majesty, which at any time or times within or during the continuance of this act, shall be imported or brought into any of the colonies or plantations in America, which now are or hereafter may be in the possession or under the dominion of his Majesty, the sum of ninepence for every gallon thereof. . . .

(Upon all molasses or syrups of such foreign production or manufacture, sixpence for every gallon thereof.)

(Upon all sugar and paneles, five shillings for every hundred-weight avoirdupois.)

II. (Entries to be made with the customs at the ports of entry in the American plantations or colonies.)

III. (Goods forfeitable if landed before being entered, and may be seized and recovered in the court of admiralty or any court of record there.)

IV. (No sugar, etc. unless of the British plantations, to be imported in Ireland, unless shipped in Great Britain, Penalty, seizure of goods and ship, one half of proceeds to go to informer or prosecutor.)

XIII. (Sugars may be imported from the dominions of Spain and Portugal as formerly.)

June 22, 1734.

NEW YORK.

Chapter 611.

An act to lay a duty of tonnage on the vessels and for the time therein mentioned.

Whereas, it is found by experience that ever since a duty of tonnage, heretofore laid on vessels trading into and out of this colony, has been discontinued, the number of our own shipping has decreased to such a degree that at present the vessels of other ports are becoming almost our only carriers.

And whereas in most or all other British colonies, a greater duty is imposed on vessels not belonging to themselves than those belonging to their own inhabitants, though under the name of powder money or some other denomination.

And whereas it is evident that vessels built or owned here are of far greater benefit to the shipwrights in particular, and to the inhabitants in general, than a much greater number of strangers coming hither for freights, because the money earned by them is carried out of the colony, whereas the earnings of our own vessels and of those that navigate them remains and circulates amongst us.

And whereas nothing can contribute more to retrieve the languishing state of our trade, than the increase of our own shipping and navigation, be it enacted, by the Governor, the Council and the General Assembly, and it is hereby enacted by the authority of the same, that there be, and hereby is given and granted unto his Majesty, his heirs and successors, to and for the use hereinafter mentioned, and to and for no other use and purpose whatsoever a duty of tonnage for the term of six years . . . on all vessels that shall during that time trade in

this colony or bring in or carry out of the same any goods, wares, or merchandises, upon freight or otherwise, the quantity of seven pennyweight and twelve grains of Seville pillar or Mexico plate or the sum in three shillings in bills of credit made current in this colony, for every ton such vessel and vessels shall measure. According to the rule hereinafter mentioned, except on the vessels herein particularly excepted.

And be it enacted by the authority aforesaid, that the following vessels shall be exempted from the said duty of tonnage—to wit, all vessels built within the colony; all vessels wholly owned by the inhabitants of the said colony and the inhabitants of Great Britain; all coasting vessels westward and southward as far as Cape Henlopen, and eastward as far as New Hampshire, including the same, and all whaling vessels, during the time such vessels are employed in coasting or whaling.

And be it further enacted by the same authority, that of all vessels built out of this colony whereof the inhabitants of the said colony shall bona fide have owned in their own right, one-quarter part or more before the first day of May last past, the part or share so owned by such inhabitants shall be exempted from the said duty of tonnage whilst the property thereof remains in such inhabitants; but the part of such vessels not so owned shall be liable to the said tonnage unless owned by the inhabitants of Great Britain. . . .

Be it enacted by the authority aforesaid, That if any master or commander of vessels hereby liable to pay the said duty of tonnage shall neglect or refuse to make report on oath or affirmation . . . it shall be lawful for the person qualified to receive the said duty to cause a sworn shipwright or other fit person, on oath, to repair on board of such vessel immediately, to survey and take the exact dimensions of such vessel and compute the contents of her tonnage according to the rule hereinafter prescribed, and to make report thereof to him ac-

cordingly. And the master or commander of such vessel or vessels shall be subject and obliged to pay not only the full duty of tonnage, but likewise the charge of surveying, which, however, shall not exceed the sum of ten shillings in bills of credit made current in this colony.

(When a master or commander made a short report, he was to be required to forfeit for every ton reported short, two ounces of plate.)

And to prevent disputes concerning the contents of vessels hereby made liable to the said duty of tonnage, be it enacted by the authority aforesaid, that the same shall be computed in the manner following, That is to say, of the length from the forepart of the taffrail to the forepart of the stem three-fourths shall be deemed the length of her keel, which shall be multiplied by her breadth upon the deck at the main or midship beam from the outside planks on both sides, and the product thereof shall be multiplied by half of the said breadth, which shall be deemed the depth of her hold, and the whole divided by ninety-five, and the quotient of such division shall be the contents of the tons of such vessel, if she have only a single deck. But if she have two decks, one half of the depth between decks shall be added to the depth of the hold; and the same being multiplied in the manner above directed the whole is to be divided by the said number of ninety-five, and the quotient of such division shall be the contents of tons of a two deck vessel.

And be it enacted by the authority aforesaid, That all the money to arise by virtue of this act shall remain in the treasury of this colony until the same shall be appropriated for erecting fortifications in the said colony.

GEORGE III.

(Born, June 4, 1738. Reign began October 25, 1760.
Died, January 29, 1820. Reigned 60 years.)

GEORGE III. was cast in a different mold than his two predecessors. They had been called the "Do-Nothing Kings." By contrast, the third George might be styled the "Do-Too-Much-King." His narrow-mindedness and obstinacy paved a difficult path for him. He tried to rule Parliament through his ministers; but he chose weak counsellors to succeed strong ones. Pitt split with the Cabinet over war policies, and retired, and the Whigs gave way to the Tories. George was virtually his own Prime Minister; but not an able one, and his reign was beset with difficulties.

The war with France and Spain ended in 1763, with the increase of the British possessions in America. In 1764, Parliament passed an Act (4th George III., Chapter 15) to "Improve the revenue of this kingdom, and for extending and securing the navigation and commerce between Great Britain and your Majesty's dominions in America, which, by the peace, have been so happily enlarged." For the purpose of "defraying the expenses of defending, protecting and securing" the American possessions, Parliament granted heavy duties on goods imported into the Colonies. Foreign rum or spirits brought into any of the Colonies were made liable to forfeiture, together with the loss of the vessel carrying them. No ship was to be cleared for the Colonies unless the entire cargo had been loaded in Great Britain. Foreign vessels found within two leagues of the coast of any of the British American dominions were liable to forfeiture.

In the same year, two Acts (4th George III, Chapters 26 and 27) were passed to encourage Colonial trade. The first sought to increase supplies of hemp and rough and undressed flax, "as a means of furnishing this kingdom with sail-cloth and cordage (so essentially necessary for the supply of his Majesty's royal navy, as well as for ships employed in the merchants' service) at more reasonable rates than at present." Bounties were to be paid, ranging from four to eight pounds per ton.

The other Act was described by its title as "Granting for a limited time a liberty to carry rice from South Carolina and Georgia directly to any part of America to the southward of the said provinces, subject to the like duty as is now paid on the exportation of rice from the said Colonies to places in Europe situate to the southward of Cape Finisterre." This liberty was to be granted to any vessel built in Great Britain or in the British American Colonies, or belonging to any British subjects. The vessel was required to return to some British Colony within four months from its departure.

Further taxation of the Colonies was to come, and this time in a form that aroused a storm of organized protest in the United States. On March 22, 1765, Parliament passed the Stamp Act (5th George III, Chapter 12) placing a tax on practically every legal and commercial document, pamphlet, newspaper, dice, cards, and other things, issued or used in the American possessions. Colonial legislatures took the stand that the Colonists should control their own taxation, and that a Parliament in which they had no representation had no right to tax them. There was rioting, and attempts to sell the stamped paper were resisted with violence.

Within a year of the passage of the Act, Parliament repealed it (6th George III, Chapter 11), with the statement that its continuance "would be attended with many inconveniences, and may be productive of consequences greatly detrimental to

the commercial interests of these kingdoms." At the same time, however, Parliament, to save its face, passed another Act (6th George III., Chapter 12). This declared that:

"The Colonies and Plantations in America have been, are, and of right ought to be, subordinate unto, and dependent upon the Imperial Crown and Parliament of Great Britain; and that the King's Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons of Great Britain, in Parliament assembled, had, hath, and of right ought to have, full power and authority to make laws and statutes of sufficient force and validity to bind the Colonies and people of America, subjects of the Crown of Great Britain, in all cases whatsoever."

Furthermore, the Act declared that all resolutions, votes and proceedings in the Colonies whereby the authority of Parliament to make laws binding them were denied, were "To be utterly null and void to all intents and purposes whatsoever."

George had strongly opposed the repeal of the Stamp Act, and set his face towards the execution of a more rigorous policy towards the Colonies. There were to be more Acts of taxation, but in 1765 a statute was adopted (5th George III., Chapter 45) to "Improve the trade of the Colonies." This gave bounties on imports of American lumber into Britain for the use of the navy and merchant shipping. Liberty was given to export rice from North Carolina, in the same manner as had already been provided for South Carolina and Georgia. Direct importation of British-American iron was extended to Ireland; and lumber could be carried directly from the Colonies to Ireland, the Madeiras, the Azores, or to any part of Europe south of Cape Finisterre.

A Revenue Act of 1767 (7th George III., Chapter 46) im-

posed a fresh set of duties on imports into the Colonies from Great Britain, including glass, painters' colors, paper, and tea. Again the revenue was to be devoted to the protection and defence of the Colonies. Wide powers of seizure and search were given to "The officers of his Majesty's customs" to enter any house or other place in the Colonies in quest of prohibited goods, and the courts were directed to issue writs of search to this end.

The tax on tea was particularly obnoxious to the Colonies; its importation was resisted, and tea cargoes at Boston were thrown into the harbor. In retaliation Parliament, on March 31, 1774, passed the Boston Port Act (14th George III., Chapter 19). This forbade the landing or loading of any goods there. Already a strong movement had been organized in the Colonies against importing goods from Great Britain. War was now near, and the first hostilities occurred at Lexington in 1775.

Colonial shipping legislation, from the accession of George III. to the beginning of the American Revolution was not extensive. In 1761, New York adopted an Act for a lottery, to raise not over three thousand pounds, "to be applied for and towards purchasing so much of Sandy Hook as shall seem necessary, and thereon to erect a proper light-house as soon as conveniently may be." In 1763, a statute was enacted, laying a duty of three-pence per ton on all vessels coming into the port of New York, excepting whaling vessels while engaged in whaling or coasting, and all coasting vessels of not more than eighty tons, trading and wholly owned within the limits of Cape Henry, westward and southward, and New Hampshire eastward. In 1769, Rhode Island found that "The money raised for the support of the light-house at the present rate of light-money is more than sufficient for that purpose." It was therefore enacted that the light-money be reduced to twopence

per ton upon foreign vessels, and eighteen pence upon each coaster. In 1771, however, the tax was raised to threepence per ton for all vessels except coasters, which were to be taxed two shillings per ton.

Connecticut, in 1770, passed an Act for the encouragement of the whale and cod fisheries, which "Are of great importance, and, if duly encouraged, may prove a source of wealth and real advantage to this Colony, by extending the trade and navigation thereof and increasing seamen." All vessels engaged in these fisheries were made exempt from taxes for each year in which they were employed in fishing at least four months. Their seamen were also to be free of taxation, if inhabitants of the Colony, and to be exempted from working on the public highways.

Georgia, in 1773, adopted an Act fixing fees for public officials. It was provided that the Governor's income should be aided by shipping fees. He was to receive four shillings and threepence for "Signing the despatch of every schooner or sloop," and for all other vessels, seven shillings and one penny. For signing the certificate or register for "A ship or vessels under thirty tons by the rule of the late Act of Navigation," he was to receive three shillings and sixpence, and for those above thirty tons, seven shillings and one penny. The Public Treasurer was to get two shillings and tenpence for every entry and clearance of a vessel, the same for every entry of "An entire cargo of negroes," and for every other entry, nine pence. "For every entry of goods imported from the Northern Colonies, by an Act laying a duty upon such commodities imported," he was to receive one shilling and sixpence.

Many instances of disallowances of Acts passed by Colonial legislatures are to be found in the records of the Privy Council of this period. A report of June 27, 1771, sums up the Imperial policy towards the Colonies. Voicing disapproval of a

South Carolina Act of 1770, "To encourage the making of flax, linen, and thread in this Province," the Council report states that the provision of the Act for giving bounties on flax "is not only proper, but commendable." In addition, however, a bounty of thirty pounds was provided for every hundred weight of linen made in the Colony. "This being a manufacture of this kingdom," says the Council report, "we cannot but be of opinion that the establishment of it in the Colonies ought in sound policy to be discouraged as much as possible."

To encourage the Colonies to provide materials for manufacture which England herself could not produce, but to prevent their engaging in manufacture, even with their own products, was a prime principle of the mercantile policy of the Mother-Country. Under this system, the basic material would be produced in America, transported to the point of shipment, carried to England, sent to the place of manufacture, and the manufactured product used by the Colonies sent back there, with the burden of all the added costs placed on the Colonial purchaser. The fruits of the Colonists' labor were to go to England.

This was but one of the factors that led to the revolt of the American Colonies. England could not seem to realize that policies that worked well in their infancy were no longer wise, now that the Colonies had come of age. To restrain them forever to the soil was impracticable. They had the raw materials, the potentialities for manufacturing them and the shipping with which to carry on an active foreign commerce with the world. The parting of the ways was at hand. Henceforth the merchant marines of America and England were to be regulated, not by one system, but independently; and to contest for the supremacy of the seas.

1765.

5TH GEORGE III.

Chapter 12.

An act for granting and applying certain stamp duties, and other duties, in the British colonies and plantations in America, towards further defraying the expenses of defending, protecting and securing the same; and for amending such parts of the several acts of Parliament relating to the trade and revenues of the said colonies and plantations as direct the manner of determining and recovering the penalties and forfeitures therein mentioned.

Whereas by an act made in the last session of parliament, several duties were granted, continued, and appropriated, towards defraying the expenses of defending, protecting, and securing the British colonies and plantations in America: and whereas it is just and necessary, that provisions be made for raising a further revenue within your Majesty's dominions in America, towards defraying the said expenses: we, your Majesty's most dutiful and loyal subjects, the commons of Great Britain in parliament assembled, have therefore resolved to give and grant unto your Majesty the several rates and duties hereinafter mentioned; and do most humbly beseech your Majesty that it may be enacted, and be it enacted, by the King's most excellent Majesty, by and with the advice and consent of the lords, spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, That from and after the first day of November, one thousand seven hundred and sixty-five, there shall be raised, levied, collected, and paid unto his Majesty, his heirs, and successors, throughout the colonies and plantations in America which now are, or

hereafter may be, under the dominion of his Majesty, his heirs and successors,

For every skin or piece of vellum or parchment, or sheet or piece of paper, on which shall be ingrossed, written or printed, any declaration, plea, replication, rejoinder, demurrer, or other pleading, or any copy thereof, in any court of law within the British colonies and plantations in America, a stamp duty of three pence. . . .

(Note: all legal and official documents, contracts, land grants, pamphlets and newspapers, cards, dice, almanacs, charter parties, and other shipping papers, etc., etc. were made subject to the Stamp Tax.)

XVIII. And be it further enacted by the authority aforesaid That if any person shall forge, counterfeit, erase, or alter, any such certificate, every such person so offending shall be guilty of felony, and shall suffer death, as in case of felony, without the benefit of clergy.

XIX. The penalty of counterfeiting or forging any of the stamps, or the impressions thereof; or making, signing, printing or entering, anything with such counterfeit mark, knowingly, is death.

XX. Counterfeit stamps, &c. after conviction of the party, to be destroyed in open court.

XXI. Penalty of enrolling, &c. any matter or thing not duly stampd, is twenty pounds.

XXII. Counsellors, or others to whom it belongs, neglecting to file or record in due time any matter for which a duty is payable, &c. to forfeit fifty pounds.

XXIII. Penalty of writing, &c. any matter, for which a duty is payable, on paper, &c., whereon other matters, chargeable with a duty, were before written, &c., or fraudulently erasing the names, or other thing therein, or taking off the stamps to use for any other matter, is fifty pounds.

XXIV. Part of all writings, etc. to be upon, or as near to the stamps as may be; on penalty of five pounds.

XXV. The day and year of issuing any writ or process, for which a duty is payable, is to be set down on the writ, and an entry made thereof, on penalty of ten pounds.

XXXII. Persons selling or hawking almanacks, or news papers not being duly stamped to forfeit forty shillings.

1766.

6TH GEORGE III.

Chapter II.

An act to repeal an act made in the last session of Parliament, intituled, an act for granting and applying certain stamp duties, and other duties, in the British colonies and plantations in America, towards further defraying the expences of defending, protecting, and securing the same; and for amending such parts of the several acts of Parliament relating to the trade and revenues of the said colonies and plantations, as direct the manner of determining and recovering the penalties and forfeitures therein mentioned.

Whereas, an act was passed in the last session of parliament entitled, An act for granting and applying certain stamp duties, and other duties, in the British colonies and plantations in America, towards further defraying the expences of defending, protecting, and securing the same; and for amending such parts of the several acts of parliament relating to the trade and revenues of the said colonies and plantations, as direct the manner of determining and recovering the penalties and forfeitures therein mentioned: and whereas the continuance of the said act would be attended with many inconveniences, and may be

productive of consequences greatly detrimental to the commercial interests of these kingdoms; may it therefore please your most excellent Majesty, that it may be enacted; and be it enacted by the King's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, That from and after the first day of May, one thousand seven hundred and sixty-six, the above-mentioned act, and the several matters and things therein contained, shall be, and is and are hereby repealed and made void, to all intents and purposes whatsoever.

1766.

6TH GEORGE III.

Chapter 12.

An act for the better securing the dependency of his majesty's dominions in America upon the crown and parliament of Great Britain.

Whereas several of the houses of representatives in his Majesty's colonies and plantations in America, have of late, against law, claimed to themselves, or to the general assemblies of the same, the sole and exclusive right of imposing duties and taxes upon his Majesty's subjects in the said colonies and plantations; and have in pursuance of such claim, passed certain votes, resolutions, and orders, derogatory to the legislative authority of parliament, and inconsistent with the dependency of the said colonies and plantations upon the crown of Great Britain: may it therefore please your most excellent Majesty, that it may be declared; and be it declared by the King's most

excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, That the said colonies and plantations, in America have been, are, and of right ought to be, subordinate unto, and dependent upon the imperial crown and parliament of Great Britain; and that the King's majesty, by and with the advice and consent of the lords spiritual and temporal, and commons of Great Britain, in parliament assembled, had, hath, and of right ought to have, full power and authority to make laws and statutes of sufficient force and validity to bind the colonies and people of America, subjects of the crown of Great Britain, in all cases whatsoever.

II. And be it further declared and enacted by the authority aforesaid, That all resolutions, votes, and proceedings in any of the said colonies or plantations, whereby the power and authority of the parliament of Great Britain, to make laws and statutes as aforesaid, is denied, or drawn into question, are, and are hereby declared to be, utterly null and void to all intents and purposes whatsoever.

THE GROWTH OF ENGLISH SHIPPING POLICY

FOR more than three centuries following the invasion of William the Conqueror, in 1066, England had nothing approaching a definite maritime policy. Foreigners dominated her foreign commerce, foreign vessels carried the great bulk of her imports and exports. In numbers, and in size, England's ships of trade were inferior to those of many other countries.

In 1368, Edward III., borrowing an old Spanish custom, secured the enactment by Parliament of what may be regarded as the first of England's real Navigation Laws. English vessels, in the wine trade with France, were to have the advantage of taking on their cargoes before foreign vessels would be allowed to load. The law was only a temporary one; but it was the first step in the direction of a policy of preference for national ships over foreign ones; and it was upon the enforcement of this principle that the supremacy of the British merchant marine was to be established.

Nearly three more centuries, however, were to elapse before an effective foundation for true sea power was to be laid. In the interval many Navigation Laws were enacted; but it was a period of theory rather than of practice. Where the Acts were not discarded, they were, for the most part, only intermittently enforced. The essential elements for the development of trade and navigation were recognized, but not until the times of Cromwell were they fused into a system that, ultimately, was to prove effective.

Under the Cromwellian laws, the following broad principles of shipping policy were combined:

1. The coastwise trade of England was reserved to English-owned ships. No foreign vessel was allowed to carry goods from one part of England to another.

2. English ships only, could import products of Asia, Africa or America into England or English possessions.

3. The majority of the crew of an English ship must be English subjects. ("English ships" included the ships of the English colonies.)

4. No goods of European production could be brought into England, save in English vessels, or vessels of the country of production or first shipment of the goods. (This barred indirect trade.)

Under Charles II., the Cromwellian principles were adhered to, and made more stringent. In addition this important principle was established:

That preference in English trade should be given to ships built in England and its possessions.

To this there was subsequently added the principle of the Staple, requiring:

That certain commodities of the colonies could not be shipped from the colonies direct to any foreign country, but must be brought to England.

This affected the principal exports of the Colonies. In 1663, it was enacted that no products of Europe could be imported into the colonies until after they had been brought to England and carried from thence in English-built shipping.

The foregoing series of principles constitute the framework upon which England's shipping policy was constructed. Subsequent enactments, up to the time of the American Revolution, strengthened these principles, but created few new factors.

The shipbuilding industry was aided by the payment of bounties on English-built ships, and shipowners benefited through premiums given for the production of certain commodities in the colonies, as these furnished additional cargoes to be carried.

Thus England instituted a systematic shipping policy that was to prove effective against the competition of all other maritime powers; and, under its operation, the British merchant marine advanced to the point where it carried more than ninety per cent of Britain's sea trade.

As has been stated, the basic policies of Cromwell and Charles II. were not new. They grew out of conditions that had long been recognized. Even before the first Navigation Act—that of 1368—many laws had been formulated for the purpose of regulating trade and traders; but these had not crystallized into any cohesive system. They formed a patchwork of legislation, placing the advantages now on the side of the native merchant, and again, in favor of the foreigner. In Magna Charta, King John granted what might almost be termed conflicting monopolies to the alien traders in England, and to the men of London, where the bulk of the kingdom's trade centered. But in the actual foreign commerce of the country in early times, and especially in the carrying of it by sea, the foreigner was predominant.

To the early English kings, the chief value of the merchant marine was its usefulness as an adjunct to the fighting navy. There were but few of the king's own ships at any time during the early medieval period, and, consequently, merchant ships were the real basis of naval strength. If England's mercantile marine expanded at all during these times—and there are no early records upon which much reliance can be placed—that expansion was made in the face of many handicaps. There seems, also, to have been scant conception of the basis of real

sea power, in which naval and commercial strength must supplement each other.

Even the ancient system of the Cinque Ports, whereby a number of the coast towns were required to provide and maintain a fixed number of vessels for the king's service, was not to be regarded as an undividedly constructive force in the development of merchant shipping. To put it bluntly, the shipowners and mariners of the Five Ports, when they were not engaged in serving the fighting navy, found it more profitable to turn pirates than to carry cargo, and the records show that they pillaged the trading vessels of their own country as freely as those of foreigners. Entrenched behind a shield of sweeping royal privileges, granted in return for their supply of ships for the navy, and clothed with the legal control of their own ports, they were practically immune from punishment. They had no monopoly of piracy, however, for sea robbers of many nationalities swarmed in the Channel and the other waters surrounding Britain, and took a heavy and constant toll of merchant ships. Nominally, there was a system of naval protection for English trade vessels, and Parliament granted subsidies to the kings, to be employed, "wholly on the guard of the seas"; but this did little to check the seizures by pirates and enemies.

Territorial, rather than commercial conquest shaped the policies of the early successors of William the Conqueror. For more than three centuries, monarch after monarch nursed the dream of a great continental European Empire for England, to be established through the broadening and deepening of the wedge of English-controlled territory driven into the coast line of France. Under the Angevin kings, realization seemed at hand, with more than half of France under their control; but the dream was doomed to failure. England's French possessions tapered off, until only the spearhead of Calais remained,

and that was wrested from her clasp in the times of the Tudors. The English effort failed, because it was not based on the effective sea power, whose weapons are not merely fighting ships and fighting men; but also ships of trade and trade for those ships. When Britain finally turned to building up a real sea power, she founded and expanded a real Empire overseas.

Grasping at the shadow of European conquest, the early English kings paid little heed to the matter of commercial supremacy. The financing of the Government was largely dependent upon shipping. Merchant vessels were subject to tolls and taxes, and their cargoes paid duties. But foreigners could be charged higher duties than natives, and as, on the surface, this promised greater revenues from customs, which supplied from a third to a half of the income of the early kings, no very serious effort was made to curb the control of the aliens over the foreign commerce of the realm. The English merchant marine was left to shift for itself. Not one law giving a preference to England's ships was adopted during the reign of William the Conqueror, or of the next nine kings who succeeded him.

Nine English kings—the second William, Stephen, the first Richard, John, three Henrys, and two Edwards—and then, with the third Edward, in 1368, came the already cited law—the first directly intended to give a preference to English ships. It touched only one specialized branch of shipping, and it had little effect. But it marked the beginning of a policy of English preference for English ships. England, because of her insularity, was more dependent upon the water for communication with the outer world than any other nation; but the real urge of the sea had not yet gotten into her blood. Her ships clung closely to the Narrow Seas, carrying wool to Flanders and the Low Countries and bringing wine from France; while the vessels of the Italian republics attended to her commerce

with Southern Europe and the Orient, and the shipping of the Baltic countries to English trade with Northern Europe. Exploration, England left to other nations, and not until a century after colonization had begun in America, Asia, and Africa, did she turn to the beginnings of empire-building. Then, with the growth of her overseas possessions, came the growth of her merchant marine.

In the meantime, she had been gropingly seeking to develop a merchant marine policy. How the framework was slowly assembled, may, perhaps, best be discussed at this point. Gradually it came to be realized that the maintenance of an effective merchant marine must be provided for from the joint consideration of four main factors:

Ships; Mariners; Cargoes and Passengers; Protection.

Out of this realization of fundamentals there were evolved, by slow degrees, measures affecting:

The building of the ship, the materials used, and the labor employed;

The ownership of the vessel;

Its operation;

Its officers and crew;

Its cargo and passengers;

Its availability for naval use;

Its defense, against attack;

Its protection, against perils of the sea, the encroachment of other nations, and legal inequalities;

Exclusive trade, through the principle of the Staple;

Reciprocal commerce and duties, through treaties and agreements.

A country can buy or charter merchant ships from other nations, or it can build them itself. To depend upon foreigners

for its supply of shipping, obviously leaves a country in a dangerous position, especially in case of war. Every great maritime power has been a great builder of ships. The shipyards of a nation are the cradle of its sea-power.

England's failure to recognize the importance of this principle hampered the development of its merchant marine for centuries. Other countries could build ships more cheaply, and operate them more economically. Moreover, England was not in a position to produce sufficient shipbuilding materials of its own. There was not only the problem of a dwindling supply of English timber, but the twin difficulty of securing naval stores. Until the real development of the American colonies began, England was dependent upon the Baltic countries for the great bulk of its naval necessities.

Money supplied by Parliament to the early English Kings could have been largely devoted to the stimulation of the shipbuilding industry in England; but few of the rulers of the realm used even a small portion of the funds for this purpose. There are but scanty records of early medieval shipbuilding in England, and it seems evident that what construction there was, must have been confined chiefly to the Cinque Ports, with their obligation to supply a fixed amount of shipping for the kings' use.

Before the times of the Tudors, no systematic encouragement was given to the English shipbuilding industry. Henry VII. provided bounties for the construction of English vessels of one hundred tons each, and upwards; but not until the period of the later Stuarts was preference given to English-built ships by discriminating duties in favor of their cargoes, or by reserving to them the trade between certain territories. Under the Tudors and the early Stuarts, efforts were begun to regulate the supply of materials used in ship construction, and to maintain a sufficient force of shipbuilding labor.

The earliest preferences were given to ships owned by Englishmen, irrespective of whether the vessel was constructed in English or foreign shipyards. And, until Tudor times, little attention was paid as to whether the ship was wholly owned by Englishmen, or partly owned by them, and partly by foreigners.

Before the reign of Elizabeth, foreign ships were free to carry goods from one English port to another, with the exception that efforts were made at times to limit to English ships the wine trade between the temporary English possessions in France and England itself. Under Elizabeth, however, the coastwise trade was made a monopoly for English bottoms.

To the Tudors, too, belongs the credit of first seeking to have English ships navigated by Englishmen. Originally it was merely required that a bare majority of the crew should be English. This was followed by the stipulation that the master of the ship must also be English; and, finally, under Charles II., at least three-fourths of the mariners must be Englishmen.

This system brought with it the necessity for maintaining a sufficient supply of English mariners. Different methods were tried, but reliance was placed chiefly in the development of the fisheries, which successive sovereigns hailed as the "true nursery and seminary for English seamen." Among other things, it was sought to increase the national consumption of fish, by establishing days upon which no meat was to be eaten. Attempts were also made to bar imports of foreign-caught fish, and to foster a native supply of nets and other equipment for fishing vessels.

At the same time, shipmasters were given wide liberties to secure apprentices, and were even authorized to employ boys of seven years of age and upwards. To make seamanship more attractive, provision was made for bounties to be paid to seamen of vessels capturing prize ships and crews, and aid was

established for those wounded at sea, with pensions to be paid the widows and children of men slain in action.

Protection for English ships and the men in them were also sought. Trinity House was created by Henry VIII. chiefly for the purpose of securing greater skill in navigation, through the regulation of pilots and mariners, and requirements were laid down for the systematic maintenance of lighthouses, beacons and sea-marks. Later merchant vessels were required to be armed, and to have their crews drilled in the use of weapons. Penalties were fixed for masters or mariners who failed to defend their ships properly against attacks of pirates or enemies.

Hand in hand with the necessity for a sufficient supply of English mariners, went the need to secure cargoes for English ships. It was attempted to solve this economic problem largely through the expansion of the fisheries, and, later, by the limitation of the carrying trade between England and its overseas possessions to English ships. Bounties were also offered to increase the production of various articles in the colonies for importation into England.

A long step towards the increase of the merchant marine was taken under Elizabeth, by the abrogation of the privileges which gave to the towns of the Hanseatic League greater advantages in the shipping trade than the English themselves had. It broke the backbone of German supremacy in English sea trade; but it left the Hollanders to be dealt with. Under Cromwell the first successful blow was struck at their position as the chief carriers of the commerce of the world. When their trade with England was limited to the products of their own country, it was the beginning of a series of effective attacks on Dutch shipping. Upon the principle that the trade between two countries should be carried in the vessels of those countries only, England finally established an unshakeable foundation

for the maritime supremacy that was to be hers. It established the principle of reciprocity upon a sound basis for the first time. Previously, reciprocal commercial relations had been in the form of treaties more or less vaguely worded, and, almost without exception, nothing more than scraps of paper, to be disregarded when either party found violation advantageous to itself. There had also been retaliatory reciprocity, with other nations imposing handicaps upon English trade, and England replying in kind, with the stipulation that she would remove her barriers against others when they removed theirs against her; but this policy, in early times, did little to aid English shipping. By and large, the two greatest factors in the development of England's merchant marine were the preferences given to her own vessels, and the prohibition of indirect trade.

Such, in general, is the outline of the early English shipping policy. Its real foundations were laid by the Tudors, and its structure was reared by the Stuarts, and embellished by William III., Anne, and the Georges, who contributed comparatively little of their own, but aimed rather to secure the enforcement of the principles of their predecessors. Before the Tudors, commercial legislation dealt chiefly with the regulation of commodities, with little apparent realization of, or concern for, the value of English shipping in the development of England's foreign trade. To regulate the shipment of the commodities, as well as the production and sale of them, can hardly be said to have been seriously attempted before the reign of Henry VII., the first of the Tudors. Richard II.'s abortive effort to give English ships a monopoly of England's sea trade, by barring foreign ships completely to English merchants, had gotten nowhere; but the Act of Henry VII., although along the same lines, produced results. Both Acts allowed the use of foreign vessels, if freight could not be secured in an English ship; but Henry's law omitted the loop-

hole in the former act, to the effect that the freights charged by English shipowners must be "reasonable." This had left the English shipper to be the judge of what was "reasonable," and he could choose his own means of shipment on his own interpretation.

Richard's interest in shipping was from the naval standpoint, but that of Henry embraced the commercial side, as well; and it was a personal interest. He engaged in trade on his own account and shipped his wares in English vessels. By this means, he amassed a fortune, that, after his death, was found to amount to nearly two million pounds, a vast sum at that time.

For centuries England's chief concern in relation to her foreign commerce had been that it should bring into the kingdom more money than it took out. There seems to have been little realization of the part that shipping plays in the adjustment of the balance of trade, or that freights paid to foreign vessels constituted an export of money, while the earnings of English ships were so much money brought into the kingdom.

By virtue of her large imports of wool in the early part of the medieval period, and of woollen manufactures later, the balance of trade for centuries, with few exceptions, was maintained in England's favor. In 1354, for instance, as is shown by an Exchequer return of Edward III.'s reign, English exports were, in round figures, £212,000 as against only £38,000 for imports. The balance continued, generally, but on a diminishing scale, in England's favor. In the reign of James II., the turning-point was reached. In 1613, exports were valued at £2,487,000, as compared with £2,141,000 for imports, leaving a favorable balance of £346,000. In 1622, however, imports exceeded exports by nearly £300,000. James bestirred himself to counteract this condition through the creation of boards to recommend methods of increasing trade,

and through Parliamentary action, and emphasized the necessity for an increase of English shipping. England continued to be a debtor nation, however, and the economists of the period attributed the cause chiefly to the growth of the Dutch merchant marine. Hostility to Holland was at its height when the Navigation Act of 1651 was adopted, and out of this law, and the similar ones of Charles II., came the wars with the Dutch. With the defeat of the Spanish Armada, in 1588, England had established naval sea power—now she was to achieve commercial strength on the oceans. The colonial possessions that she had not acquired in the times of Elizabeth were now hers, and they were to play a large part in the development of the English merchant marine.

England had entered the field of empire-building late. The Tudor period had been marked by a revolution in world commerce; but the Tudors failed to adjust themselves to the new conditions. The discovery of America, in 1492, followed by that of a sea route to India in 1497, had transformed the course of trade. The Mediterranean powers, who had controlled commerce with the Orient by overland transportation, were shorn of their monopoly. They could not compete with the new all-water carriage of the commodities of the East. Goods that had previously passed through many hands before Italian ships bore them to northern Europe, could now be carried by sea in one operation. The chief occupation of Italy's merchant marine was gone. Her ships were not adapted to the long voyages to the Orient, and she failed to reconstruct her shipping and her shipping methods. Italy's weakness lay in her lack of coordination—it was not a country, but a congeries of small republics and states, and none of those elements had the strength to follow up exploration by colonization in distant lands. The proud fleets of Venice lost their sovereignty of the sea. New worlds, new methods. The Hanseatic League, with

the trade of northern Europe as strongly under its control as that of southern Europe had been dominated by the Italians, carried on for a time. But its weakness, like that of Italy's, was that it was not one powerful nation, but an association of rival trade centers. It, too, neglected exploration and colonization, and by failure to expand its scope, lost its leadership. Spain and Portugal were the first to exploit the new discoveries, and for more than a century the Spanish were to be paramount in the trade of America, and Portugal in that of the Orient. Not until 1591 was an English ship to venture to India. In 1595 the Dutch followed, and in 1601 the French.

Had Portugal been able to support her genius for exploration and exploitation by real military strength, she could have maintained a great empire. Before the discovery of America she had got a footing on the coast of Barbary and in Madeira, had discovered the Azores, and was dominant in the trade of the West Coast of Africa. Even the violence of the elements seems to have been favorable to Portuguese enterprise. An expedition of thirteen ships and 1,200 men sent out, in the year 1500, to establish a colony in India, was driven by a storm to the coast of Brazil. In 1493, Pope Alexander VI. had taken a map of the world and drawn a line from pole to pole, dividing all the discoveries made, and to be made, between Spain and Portugal, giving roughly, all to the east of the line to Portugal and all to the west to Spain. In 1517, Portugal was trading with China, and in 1542, her ships discovered Japan.

But the Dutch were on the heels of the Portuguese, making the rights of discovery yield to the force of arms. One by one they took over most of Portugal's possessions in the Orient and in Africa, and, later, England was to break the Portuguese power in India. Only Brazil was left to Portugal, and, on the wreck of the other Portuguese possessions, Holland strengthened the might of its merchant marine.

In the meantime, Spain, dazzled by the glitter of gold, had devoted its efforts to the exploitation of the mineral resources of the New World, and had neglected, to a great degree, the development of its other products, at the same time doing little to expand its home industries. The gold and silver came to Spain, but not to stay there. They went to the other nations of Europe to pay for the goods which Spanish industry failed to produce. Spain could not maintain a powerful merchant marine on the carrying of precious metals, her naval power was broken by England, and her shipping supremacy was shattered by Holland. A strong contributing factor to the Spanish downfall was her rigid system of governmental control of trade.

Meanwhile, England had been doing little towards establishing new fields of commerce. True, Henry VII., in 1497, had sent out John Cabot, a Portuguese. Cabot discovered Newfoundland, and later sailed along the coast of New England; but the only immediate outcome of that was the development of the Newfoundland fisheries, in which England had as chief competitors the French and Dutch. Elizabeth's reign ushered in an era of exploration by Englishmen; but not until the reign of James I. was there any real effort at establishing the foundations of a British Empire. Under James, the settlement of Virginia, New England and the West Indies was to be carried forward, the East India Company was to be organized, and direct trade with Africa established. Not only were new fields opened up for British ships, but the necessity of a greater merchant marine became imperative.

A contemporary picture of the condition of English shipping at this period is furnished by an essay submitted by Sir Walter Raleigh to James II. in 1603. This was entitled, "Observations concerning the trade and commerce of England with the Dutch and other foreign nations."

"The Dutch," wrote Raleigh, "have as many ships and vessels as eleven kingdoms of Christendom have, let England be one. They build every year near one thousand ships, although all their native commodities do not require one hundred ships to carry them away at once. Yet, although we have all things of our own in abundance for the increase of traffic, timber to build ships, and commodities of our own to lade about one thousand ships and vessels at once, (beside the great fishing), and as fast as they maké their voyages might relade again; yet our ships and mariners decline, and traffic and merchants daily decay."

Raleigh's statements do not seem to have been much exaggerated, except in his contention that England had ample supplies of her own production with which to build ships. Parliament frequently dealt with the question of the country's dwindling resources of timber and sought to find means to preserve what was left. But Dutch shipping continued to carry the bulk of Europe's trade; and the gradual development of the English possessions in America opened a new field to Holland's vessels. Before Cromwell's time they dominated the trade of the New World. The Dutch had shaken off the Spanish yoke, and the power of Spain on the seas was shattered. Her policy of governmental control, at first arrested, and then stifled, the development of the Spanish merchant marine.

Holland's policy was just the reverse. She placed no restrictions on her own ships, or those of other nations, seeking always reciprocal treatment from other countries: the essential principles of free trade.

How the Dutch had thrived under this system was summed up by John de Witt, the Dutch Grand Pensionary, in his book,

"The Interest of Holland," published when England was inaugurating its new shipping laws. Says de Witt:

"Amsterdam is a city of greater traffic, and Holland a richer merchandising country than ever was in the world. . . . Their situation for receiving the fishery, and for a repository for all sorts of merchandise to be afterwards re-shipped to all parts of the world, as demands may offer, and for setting out ships to freight, are great advantages. Then their acquiring the whole spice trade of India, and a great West India trade; their whale fishery; their trade in Italian wrought silks—in short, the Hollanders have well nigh beaten all nations, by traffic, out of the seas, and become the only carrier of goods throughout the world." (Part I, chapter 14.)

Amsterdam, in fact, had become the great storehouse and granary of Europe. The great proportion of the commodities its ships carried were not the products of Holland, however. Not being an agricultural country, she had little to export in the way of foodstuffs, and her manufactures were largely limited to textiles. The strength of her merchant marine was based chiefly on the carrying of non-Dutch commodities. The great bulk of her imports was not intended for Dutch consumption, but for sale to other nations. Holland was a nation of middlemen. Her merchants reaped the profit of the extra handling of the goods; and her ships the double profit of transporting two ways the commodities of which the original sellers and the ultimate purchasers were foreigners. This was one form of indirect trade, and to it she added another: the direct carriage of goods between foreign countries, whereby neither the purchaser nor the seller of the goods profited by the carriage of them. This meant that the freights on the goods, instead of aiding to balance the trade between the

nations directly interested in the transaction, went to pay for the maintenance of a foreign and competitive merchant marine.

England could not hope to build up its merchant marine on the Dutch basis of free trade. Holland was then too firmly entrenched, and she had the overwhelming advantage of building and operating her ships more cheaply than other countries could. But the weakness of the Dutch was, that their strength was too greatly dependent upon the patronage of other nations. She gave to other countries the same freedom that she extended to her own trade; but it was obvious that they could not compete with her on these terms. The factors of cost were all in favor of the Dutch. What Sir Raleigh had pointed out in 1603, was increasingly true fifty years later.

England, therefore, attacked the free trade system with a strong policy of protection. In place of giving equal liberties to the ships of all countries to handle her trade, she gave preference to her own shipping. The brunt of her attack was upon the weakest spot in Holland's armor—the indirect trade. No longer were Dutch ships to be allowed to bring to England or the English possessions any goods that were not the production of the Dutch. At one stroke, a large field of employment for the ships of Holland was eliminated, and later and more stringent regulations narrowed the field still further. In addition, the Dutch were forbidden to act as merchants or factors in the English possessions.

There seems to be a somewhat general impression that the Navigation Acts of Cromwell and Charles II., almost at once, brought about a complete eclipse of the Dutch merchant marine. The Acts did largely eliminate the Hollanders as carriers of British trade; but other nations failed to follow England's lead, and Holland continued to loom large in the sea commerce of other countries. In fact, Sir William Petty, an English economist, in his "Political Arithmetick," written

about 1675, estimated the Dutch merchant marine at 900,000 tons, as compared with 500,000 tons for the English. The figures are probably too large (even if England's coastwise shipping is included), but it is likely that, at that time, Holland's tonnage was about double that of England's. The Dutch, in fact, still had a large volume of merchant shipping at the outbreak of the American Revolution.

What were the effects of the Navigation Acts of Cromwell and Charles II.? The question was a storm-center of controversy from the time of the introduction of the laws into Parliament until long after their enactment. English merchants who had formed trade relations with foreign nations, and foreign merchants established in England and using foreign ships, were the chief complainants. There was also the to-be-expected conflict between the advocates of the new Mercantilist System, which had the Government behind it, and the upholders of free trade doctrines.

The fact is that the new Acts were not immediately effective in expanding the English merchant marine. The purpose of the Cromwellian laws was military rather than commercial, and there was no systematic enforcement of them. Under Charles II. a real effort was begun to put them into effect; but difficulties were encountered, especially in the colonies. The Acts were loosely worded, and, for a time, advantage was taken of their ambiguities. These, however, were straightened out by subsequent enactments; but it was not until the times of William III. that the real expansion of English trade and shipping began. From then on, the steady growth of British commerce was virtually unbroken, save under the exigencies of war.

From the somewhat intermittent official records which are available, some idea can be had of the state of English trade and shipping. For the period before 1700, little data is avail-

able; but, from that year on, comparatively regular returns were made of the values of English exports and imports, and of the tonnage of British and foreign ships clearing from England.

It seems clear, that, before the Cromwellian era, a much greater volume of foreign than of English shipping was employed in England's foreign trade. Shortly after the passage of the Navigation Acts of Charles II., however, twice as much English as foreign tonnage was clearing from English ports. From 1663 to 1669, the average annual clearances were 95,000 tons of British shipping and 47,000 tons of foreign. Towards the close of the reign of James II., 1688, the British tonnage had doubled, but so had the foreign; and the ratio of two tons of English shipping for every one of foreign remained unchanged.

At the end of the reign of William III., however, 273,000 tons of English ships were clearing annually; as compared with 43,000 tons of foreign vessels. The ratio in favor of English shipping was now more than six to one. From then on to the American Revolution, the ratio fluctuated, especially in war times; but just before the outbreak of the American hostilities, in 1775, 767,000 tons of British merchant ships cleared from England, and only 64,000 tons of foreign vessels, a ratio of twelve to one.

As English shipping grew, so grew England's foreign commerce; but here, too, the effects of the Navigation Acts were not immediate. The adverse trade balance of about £300,000 per year in 1622, had grown to nearly two million pounds in 1663. In the intervening period, the annual exports had fallen off about £300,000, while the imports had increased about a million and a half pounds. Ten years after the passage of the Navigation Act of 1660, England's position was a little worse. Her total foreign trade had increased a trifle, but now she was

paying, for the goods of other nations, £132,000 more than she was receiving for her own products. For every pound sterling she took in for merchandise, she paid out more than two pounds. With shipping however, the reverse was the case. With two tons of her own shipping engaged in her foreign trade to every one ton of her creditors' vessels, the favorable balance of England's freight payments was already going far to offset the unfavorable balance of her foreign trade.

After William III, by his Navigation Act of 1696, set up something approaching an effective system for the enforcement of the Acts, England's commercial position improved materially; and this condition was carried much further by the progress in the development of her colonies. In 1669 English imports and exports combined had aggregated about six million pounds. In 1701 this figure was more than doubled, and in place of an unfavorable balance of more than two million pounds she now had a favorable one of a million pounds. From this time on, there was an almost unbroken growth in the favorable balance, and in 1771 it was in excess of £4,300,000.

The development of England's foreign trade before the American Revolution may be traced in the following table, covering the various periods that have been touched upon; the figures representing thousands of pounds sterling:

	<i>Imports</i>	<i>Exports</i>	<i>Total Trade</i>	<i>Trade Balance</i>
1354	38	212	250	+ 174
1613	2,141	2,487	4,628	+ 346
1622	2,619	2,320	4,939	- 299
1663	4,016	2,023	6,039	- 1,993
1669	4,196	2,063	6,259	- 2,133
1701	5,869	6,870	12,739	+ 1,001
1771	12,822	17,161	29,983	+ 5,661

It is impossible to fix accurately the size of the early British merchant marine. According to the "Discourse on the Trade of England" (Dr. Charles Devonport, volume 1, pages 129, 363), it doubled between 1666 and 1688, but no figures are given. Petty's estimate that English shipping aggregated 500,000 tons in 1675 is manifestly wide of the mark, even if it is taken to include coastwise vessels.

The first definite figures seem to be those of 1701-2 (Chambers's "Estimate of the Strength of Great Britain," pages 68, 89, 90). According to these (which are assumed to cover British vessels engaged in non-coastwise trade), there were 3,281 ships, aggregating 261,222 tons, carrying 27,196 men, and the average size was about eighty tons.

At the outbreak of the American Revolution, the merchant marine had grown to nearly a million tons, "as appears in the Register of the Insurers at Lloyd's Coffee House" (Anderson, "Origin of Commerce," 1790 edition, volume 6, page 697). The Register showed, that, out of a total of 979,000 tons of shipping, 605,000 tons were British-built and that the remaining 374,000 tons had been constructed in the American colonies. The total number of vessels was 6,219, of which 3,908 were British-built and 2,311 were the production of the colonies. The American-built vessels averaged slightly larger than the British: 162 tons, as against 155. Ships had doubled in size, and more than trebled in tonnage since 1701.

One effect of the Navigation Acts was to develop a strong shipbuilding industry in the American colonies. Because of the ample supplies of timber there, vessels could be built more cheaply than in the mother country, and many products of New England shipyard found purchasers in England. The development of a supply of naval stores in the colonies was also an aid to American shipbuilders.

The activities of American-built shipping during the colonial period are by no means fully represented in the figures of

tonnage clearing annually from England. Many of the vessels of the colonies never crossed the Atlantic, as a very large number operated exclusively in nearby trade, especially with the West Indies. From three North American ports, in the years 1714-18, for instance, 2,024 vessels sailed, and of these only 210 were bound for Great Britain. (F. W. Pitman, "Development of the British West Indies," 1917, Appendix 7.)

These are dry statistics; but they are the gauges by which we can most accurately measure the course of commerce. In 1663, England's imports and exports, together, amounted to about six million pounds, of which the share of the plantation trade was about ten per cent. (George Chalmers, "An Introduction to the History of the Revolt of the American Colonies.") In 1669, the colonies' share was about nine per cent. They were, however, responsible for about twenty per cent of England's unfavorable balance of trade.

From 1700 onward, Anderson ("Origin of Commerce") gives records from which it is possible to get a clearer and more detailed record of the progress of England's foreign trade. In 1701, the exports and imports, combined, were valued at about thirteen million pounds, of which the share of the English possessions, exclusive of the British Isles, were about three million pounds, or approximately 25 per cent of the total. The balance of trade had by now turned in England's favor; but not by virtue of her trade with her own possessions. Foreign countries, in 1701, bought nearly two million pounds' more worth of goods from her than they sold to her, but from British sources she purchased almost a million pounds' worth more than she could sell them.

In fact, it was not until 1760 that England was able to establish a balance in her own favor in her dealings with her colonists as a whole. In the year just mentioned, England's exports to the colonies exceeded the value of the imports from

them by nearly a million pounds, and in 1771 this favorable balance had risen to more than two million pounds.

Between 1701 and 1771, also, the share of the British possessions in England's foreign trade expanded rapidly. From the three million pounds cited for 1701 the annual total had grown, by 1771, to nearly fourteen million pounds, exclusive of about three and a half million pounds for the British Isles. And, instead of holding about 75 per cent of England's trade, as in 1701, foreign countries, in 1771, had only about 40 per cent.

England's sea trade with her possessions in the period leading up to the Revolution, may be divided into a few groups, comprised of: 1—The colonies that were to be the United States; 2—The British West Indies; 3—The East Indies; 4—The minor possessions in North America and Africa; and 5—The British Isles.

From the outset, the trade with the United States colonies was the most profitable from the standpoint of the Mercantilist System. In 1701, England was already selling more to these colonies than she was buying from them, although the favorable balance of trade with them that year was only a matter of £75,000. In the same year, however, she imported from her West Indies £400,000 more worth of goods than she sold them. With the East Indies, the unfavorable balance was even greater, amounting to over £600,000 pounds. In 1771, England was selling the United States colonies £2,900,000 more in goods than they were disposing of to her, and was holding the unfavorable balance of her East Indies trade to about the 1701 figure. With the West Indies, however, the £400,000 deficit of the last named year, had expanded to £1,600,000 for 1771. England's commerce with the United States colonies alone, brought to her a supply of money that more than coun-

terweighed the unfavorable balances of her dealings with all her other possessions combined.

These balances indicate the trend of trade; but they give no picture of the expansion of the commerce of the English possessions in the formative period before the American Revolution. How great this was may be seen from the following table, showing the total value of England's exports and imports, combined, in trade with her possessions for the years 1701 and 1771. (The figures represent thousands of pounds sterling.)

	1701	1771	Gain
U. S. Colonies	653	5,631	4,978
West Indies	1,071	3,913	2,842
East Indies	884	3,067	2,183
British Isles	617	3,480	2,863
Other Possessions	345	1,240	895

The adverse balances of trade shown are misleading, however, unless the ultimate destination of the goods is considered. A large portion of the imports from the colonies were not intended for consumption in England, but for reexport to foreign countries. Thus, the excess of imports from English possessions went far towards creating a substantial excess of exports from England to Europe. On the other hand, much of England's importation from European countries was re-shipped to the colonies. The principle of the Staple was operating, and English merchants and shipowners were reaping additional profits, and increased employment was being provided for the British merchant marine. The Mercantile System was in full swing, and the chief pillar of that system was the merchant marine, as developed under the Navigation Acts.

British ships and British mariners were the real builders of the British Empire. Through them England acquired her

overseas possessions. Through them she developed her commerce, and transformed herself from the world's debtor to its creditor. Through them she attained economic self-sufficiency and established a mighty navy. British trade was no longer the plaything of foreign nations. Now she had established sea power upon its true basis, in which are combined territories, commerce, and defensive might. Under the system of Navigation Acts, which enforced the principle that a nation must foster its merchant marine, she attained, in a comparatively few years, a power that, under a continuance of old conditions favoring a policy of equality for foreign shipping at the expense of her own, could not have been possible.

The American Revolution plucked the richest jewel from Britain's imperial crown. To the colonies that were to become the United States, England sent cargoes that not only paid for the goods she imported from there, but brought back sufficient gold to much more than offset the heavy balance against her in her trade with her possessions in the East and West Indies. With the loss of the United States colonies went the loss of their ships, representing about one-third of the total British merchant marine. In addition, England was left without a most vital element of sea-power—she no longer controlled the production of the supplies of materials for building her ships, nor of her naval stores, which had come from the North American colonies. Henceforth, she must depend largely upon foreigners, and this blow fell with equal force upon her merchant marine and her navy. The mother country had lost a child, and created a rival who was to be its bitterest competitor, who was to fight her for the supremacy of the seas, using the principles of the Navigation Acts for its chief weapons, and, for a time, using them effectively.

Here, then, we come to the parting of the ways, and the end

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of the first phase of the history of the British merchant marine, and to the beginnings of American shipping as an individual unit. And long years were to elapse before Britain regained the undisputed sovereignty of the seas.

APPENDICES

(A) DEVELOPMENT OF THE NAVIGATION LAWS

How the various precedents of the early shipping policy of England and her possessions originated, and how each principle was developed, is shown in the following summary, which deals separately with each form of preference or protection, giving its treatment chronologically.

ENGLISH SHIPS TO HAVE CARGOES BEFORE FOREIGN ONES

1368—(42nd Edward III., Chapter 8.) Ships of England and Gascony, coming into Gascony, must be freighted with wines for England before any other vessels may be loaded.

ENGLISH SHIPS TO BE USED

1381—(5th Richard II., Statute 1, Chapter 3.) No English subject to export from, or import into England, any merchandise save in English ships.

1382—(6th Richard II., Statute 1, Chapter 8.) Modification, allowing English subjects to use foreign ships where English vessels could not be had.

1390—(14th Richard II., Chapter 6.) Changed to require English merchants to use English ships, provided that the shipowners charged reasonable freights.

1463—(3rd Edward IV., Chapter 1.) Merchant strangers may use foreign ships; but all other inhabitants of England must use English vessels, if they can secure sufficient freighting space in them.

1485—(1st Henry VII., Chapter 8.) No wine of Guienne or Gascony to be sold in England, unless imported in an Eng-

- lish ship. The Act to endure to the beginning of the next Parliament.
- 1488-9—(4th Henry VII., Chapter 10.) Above Act revived, with French woad (dyeing material) made subject to the same regulations as wine.
- 1515—(7th Henry VIII., Chapter 2.) Parliament declares void licenses granting exemption from carrying wine and woad in English ships.
- 1552—(5th and 6th Edward VI., Chapter 18.) Relaxes the above laws, by allowing foreign ships to bring in wine and woad at any time of the year between February 1st and October 1st.
- 1558—(1st Elizabeth, Chapter 5.) Repeals Acts relating to carriage of wine and woad in English ships.
- 1562—(5th Elizabeth, Chapter 5.) Limits the importation of French wine and woad to vessels whereof English subjects shall be "Owners or part-owners." Export of certain cereals limited to wholly English-owned ships.
- 1629—(Charles I.) Royal Proclamation requires English subjects to use English ships, in carrying imports and exports in trade with the Baltic countries.
- 1635—(Charles I.) The Privy Council forbids English subjects to sail to a foreign colony on foreign ships.
- 1651—(Interregnum.) Cromwellian Navigation Act requires all goods from Asia, Africa, or America, to be brought into England or any English possession in English ships.
- 1660—(12th Charles II., Chapter 18.) Ships of England or of English possessions must be used in carrying imports to or exports from English possessions in Asia, Africa, or America. No goods from "Any part" of Asia, Africa, or America, to be imported into England, Ireland, Wales, Jersey, Guernsey, or Berwick, except in ships wholly owned

- in England or English possessions. The Act limits other trades and certain specified commodities to such ships.
- 1696—(7th & 8th William III., Chapter 22.) Ships built in England, Ireland, or the English possessions, must be used in trade of these possessions with one another, or with England, Wales, or Berwick. Prize ships, and vessels employed for three years in carrying naval stores, excepted.

COMPENSATION FOR CARGOES LOST OR CAPTURED

- 1422—(1st Henry VI.) Subsidy Act provides that, if English merchants lose wool or sheepskins through wreck or capture by enemies, they should be allowed to ship an equivalent amount without paying subsidy thereon. This provision was repeated in Subsidy Acts for hundreds of years.

FOREIGN SHIPS TO BRING GOODS OF THEIR OWN COUNTRIES ONLY

- 1439—(18th Henry VI.) Commons petitions the King to sanction an Act requiring Italian merchants to import into England in their "Carracks and galleys," only merchandise of their own lands. The petition was not granted. This seems to have been the first attempt to bar foreign vessels from indirect trade.
- 1629—(Charles I.) Royal Proclamation orders all imports of French wines to be made in English and French vessels only.
- 1651—(Interregnum.) Cromwell's Navigation Act provides that European goods shall be imported into England or any of its possessions only in English vessels, or in vessels owned by the country of origin, or of the parts where the goods are usually first shipped.
- 1660—(12th Charles II., Chapter 18.) All imports into England, Ireland, Wales, Guernsey, Jersey, or Berwick, to be

brought only in English-built shipping, or ships of the country of origin of the goods, or of the places whence they are usually first shipped.

CUSTOMS OFFICIALS NOT TO ENGAGE IN SEA TRADE

1442—(21st Henry VI., Chapter 5.) No one in the customs service to have ships of their own, to have or to occupy any wharf, to buy or sell merchandise, to "meddle with the freighting of ships," to be hosts to any alien merchant, or to act as factors or attorneys for any merchant.

1449—(28th Henry VI., Chapter 5.) No customs officers wrongfully to seize ships or goods, or make impositions upon cargoes.

AIDS TO SHIPBUILDING

1449—(Henry VI.) Bounties first given for the building of English ships. The practice and the payments under it were at first irregular. Under Henry VII., however, five shillings a ton was allowed to builders of vessels of 100 tons and upwards. The payment was usually made in the form of an allowance on customs duties for the first few voyages made by the new vessel. Henry VIII., Elizabeth and James I. followed the same system.

1558—(1st Elizabeth, Chapter 15.) Conservation of timber for shipbuilding sought by prohibiting the use of any oak, beech, or ash, "Growing near the sea," as fuel for making iron.

1562—(5th Elizabeth, Chapter 5.) Shipwrights given power to employ apprentices "Above seven years of age."

1581—(23rd Elizabeth, Chapter 5.) No new iron works to be erected in certain parts of England, and no wood in these parts to be used in iron-making.

- 1585—(27th Elizabeth, Chapter 10.) Further limitation on new iron works. "No bodies of any timber-trees, of one foot square from the stub," to be used for fuel.
- 1593—(35th Elizabeth, Chapter 11.) Loss of timber through export of casks to be offset by requiring importers of beer to bring in fixed quantities of clap-board or casks.
- 1604—(2nd James I., Chapter 24.) Limits manufacture of sail-cloth to skilled workers, and specifies materials and size.
- 1622—(James I.) Prohibition against any English subject serving as a shipwright in any foreign country declared by Royal Proclamation.
- 1626—(Charles I.) Royal Proclamation establishes a bounty of five shillings a ton to those building English vessels of 200 tons and upwards. This doubled the size required for vessels to receive bounty.
- 1641—Massachusetts law requires ships built there to be constructed under the supervision of surveyors to be appointed by the Governor of the Colony.
- 1660—(12th Charles II., Chapter 18.) Requires trade between certain countries, and certain cargoes of specified commodities, to be carried only in ships built in England or in English possessions.
- 1661—(Charles II.) Virginia Act provides bounty for any ship fitted to go to sea, which is built there.
- 1662—(13th & 14th Charles II., Chapter 2.) Customs bounties provided for ships built within British dominions. No tonnage specified, but the ships must have three decks and at least thirty pieces of ordnance.
- 1662—(Charles II.) New Virginia law offers bounties for building of every small vessel with a deck, provided such vessel be sold to no one not an inhabitant of the Colony.

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- 1670—(22nd Charles II., Chapter 11.) Bounty system provided in Act of 1662 (Chapter 2) extended to include two-deck vessels.
- 1685—(1st James II., Chapter 18.) Foreign-built ships used in coastwise trade of England, Wales, or Berwick, to pay higher duties than English-built ships.

ITALIAN VESSELS DISCRIMINATED AGAINST

- 1453—(31st Henry VI.) Subsidy Act requires that any merchant denizen shipping merchandise in "Any carrack or galley," shall pay alien duties. Subsequent Subsidy Acts continued to repeat this provision.

NATIONALITY OF CREW

- 1485—(1st Henry VII., Chapter 8.) Wine of Guienne and Gascony to be imported only in English ships, of which the greater part of the crew must be English.
- 1488-9—(4th Henry VII., Chapter 10.) The masters of the foregoing ships must also be English.
- 1660—(12th Charles II., Chapter 18.) The master and three-fourths of the crews of all English ships must be English.

RETALIATORY DUTIES IMPOSED

- 1491—(7th Henry VII., Chapter 7.) All merchant strangers bringing into England malmesey wine must pay heavy extra duties. English-born exempt. Venice had imposed a high custom on exports of this wine. Henry's Act was to "endure no longer than they of Venice shall set aside the imposition."
- 1597—(39th Elizabeth, Chapter 10.) Aliens to pay, on all salted fish imported into England by them, the same extra duties as were imposed by their countries on fish from England.

- 1660—(12th Charles II., Chapter 18.) French ships entering ports of England, Ireland, Wales, or Berwick, to pay a duty of five shillings per ton until France discontinue levying tonnage duties on English vessels.

PROTECTION OF NAVIGATION

- 1512—Henry VIII. established the Trinity House Corporation of Deptford Strand, to secure greater safety at sea, through the regulation of pilots and provision of lighthouses, beacons, etc. Two other similar organizations were set up by Henry at Hull and Newcastle-on-Tyne.
- 1532—(23rd Henry VIII., Chapter 7.) No French wine to be landed in England during the winter season. This carrying trade was reserved to English ships, and the Act was intended to prevent losses of vessels during the stormy months.
- 1565—(8th Elizabeth, Chapter 13.) Provides penalties for the destruction of beacons and other sea-marks. Trinity House officials authorized to erect new sea-marks.
- 1631—(Charles I.) Virginia law forbids small and not properly equipped vessels to trade with Canada.
- 1660—(Charles II.) Virginia Act establishes pilotage and fixes rates.
- 1685—(1st James II., Chapter 18.) Extra duty imposed on foreign-built ships in coastwise trade to be paid in part to Trinity House.

PROVISIONS AGAINST PIRACY

- 1535—(25th Henry VIII., Chapter 4.) The first comprehensive statute providing legal procedure and punishments in cases of piracy and robbery at sea.

DISCRIMINATING DUTIES IN FAVOR OF ENGLISH SHIPS

- 1540—(32nd Henry VIII., Chapter 14.) Foreigners shipping goods in English bottoms to pay no higher duties than English subjects. German merchants of the Hanseatic League to have the same privilege, if they used English ships, or vessels of their own territories. Foreign vessels could be used if English ships were not sufficient.
- 1558—(1st Elizabeth, Chapter 13.) All goods (corn and naval stores only excepted) not shipped in vessels English-owned and with the masters and the majority of the mariners English must pay alien's duties. This goes further than Henry VIII.'s Act of 1540, by including English as well as foreign shippers, and makes no provision for exemption of foreign bottoms, if enough English tonnage was not available, except in the case of the Merchants of the Staple, the Merchant Adventurers, and the merchants of Bristol.

SHIPPING FREIGHT-RATES FIXED BY LAW

- 1540—(32nd Henry VIII., Chapter 14.) Sets maximum charges for various commodities. Early English laws had required that English shipowners make reasonable rates; but specified no scale of charges. Henry VIII.'s Act allowed higher prices in time of war. It also provided that less than regular rates could be made, upon agreement of shipowners and shippers concerned.

EXPANSION OF FISHERIES TO AID MERCHANT MARINE

Increase of fishing by English subjects was sought as a means of securing a greater number of English ships and English seamen. The first statute to this end was passed in 1542.

- 1542—33rd Henry VIII., Chapter 2.) English subjects forbidden to buy fish abroad or at sea, for resale in England; the object being to increase the catching of fish by Englishmen.
- 1548—(2nd Edward VI., Chapter 6.) First of "Political Lent" statutes. Meatless days ordained, "for the good of men's souls," and that the English fishermen might have more employment.
- 1562—(5th Elizabeth, Chapter 5.) Every Wednesday, as well as every Saturday, to be a fish-day. English subjects free to export in English ships English-caught fish, without paying duty. No tax on imports of such fish, so caught and carried.
- 1571—(13th Elizabeth, Chapter 11.) Above provision relative to export of fish extended, "So that such transporting be in vessels with cross-sails." This proviso seems intended to increase the number of such ships, which were larger than the average. The same Act allows any British-born subject to import without penalty all cod and ling caught by them "in vessels with cross-sails."
- 1581—(23rd Elizabeth, Chapter 7.) No English subject to import foreign-cured fish. Salted fish from foreign countries to be imported by the alien owners only, "Without the procurement of any of the Queen's subjects."
- 1597—(39th Elizabeth, Chapter 10.) Foregoing Act repealed, as it had not "Bettered" English navigation, nor increased the supply of mariners. English subjects made free to import foreign fish. English owners of ships with cross-sails allowed to carry fish bought by foreigners from English subjects within the realm.
- 1604—(1st James I., Chapter 29.) Revokes licenses permitting sick or infirm persons to eat meat during lent, or on any fish-day.

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- 1626—(Charles I.) Privy Council orders that fish caught by English subjects shall be carried in English bottoms only.
- 1631—Foregoing order relaxed to allow surplus of Newfoundland fish to be freighted in foreign bottoms.
- 1651—(Interregnum.) Cromwell Act provides that such fish, fish-oil, or whalebone as usually taken or prepared by the English, must not be imported into England or its possessions, unless caught by English-owned ships. No fish caught or cured by Englishmen to be exported except in English vessels, with the master and a majority of the crew English.
- 1660—(12th Charles II., Chapter 18.) Fish, fish-oil, and whale products not caught in vessels of England, Ireland, Wales, or Berwick, must pay double aliens' duties if imported into those places.

COASTWISE VESSELS NOT TO BE USED IN FOREIGN TRADE

- 1558—(1st Elizabeth, Chapter 13.) English-owned "hoys and plates" (coasting vessels) prohibited from carrying any goods "beyond seas." This seems to have been intended to prevent coastwise ships from competing with English ships in foreign trade, and also to encourage the building of larger vessels.
- 1562—(5th Elizabeth, Chapter 5.) Hoys and plates allowed to "Cross the seas as far as Caen in Normandy and eastward as far as Norway."
- 1571—(13th Elizabeth, Chapter 15.) The Act of 1562 having "tended greatly to the decay of mariners and ships by the marvelous increase of hoys," it was now enacted that no hoy or plate should cross the seas.

TO INCREASE SUPPLY OF MARINERS

- 1562—(5th Elizabeth, Chapter 5.) Shipowners and others "Exercising the trade of the Seas" to be permitted to take apprentices, who must be "Above seven years of age."
- 1622—(James I.) Royal Proclamation forbids any English subject to serve a foreign country as mariner.

COASTING TRADE RESTRICTED TO ENGLISH SHIPS

- 1562—(5th Elizabeth, Chapter 5.) No goods to be carried "From one port or creek of this Realm to another port or creek of the same realm," in any vessel "Whereof any Stranger or Strangers born be owners, shipmasters, or part owners."
- 1651—(Interregnum.) Cromwell's Navigation Act laid down similar provisions, except that it exempted ships partly or wholly owned by foreigners made denizens or naturalized.
- 1660—(12th Charles II., Chapter 18.) Specifies that no goods shall be shipped between any ports and creeks of England, Ireland, Wales, Guernsey, Jersey, or Berwick, in any vessel partly or wholly owned by foreigners, unless made denizens or naturalized.

COMMODITY DISCRIMINATIONS AGAINST
FOREIGNERS

- 1571—(13th Elizabeth, Chapter 14.) All foreign merchants importing goods from the Baltic countries, including the Hanse towns, required to import a fixed quantity of bow-staves.

SHIPPING MONOPOLIES CURBED

- 1605—(3rd James I., Chapter 6.) Denies to any English corporation the right to exclusive trade with Spain, Portugal, or France.

TO INCREASE SHIPS' CARGOES

- 1605—(3rd James I., Chapter 11.) Act to encourage exportation of beer, because it would employ greater cargo space than the materials from which it was brewed.
- 1621—(James I.) Planting of tobacco in England and Ireland forbidden by Royal Proclamation. British Colonies given a monopoly by a prohibition against the importation of any foreign-grown tobacco.
- 1623—(James I.) Royal Proclamation calls for the establishment of a system of granaries, to increase the tillage, shipping and mariners of England. English subjects made free to import foreign grain for storage and reexport.
- 1660—(12th Charles II., Chapter 4.) Parliament sanctions Book of Customs Rates giving preferential duties on specified goods carried in English ships. Foreigners allowed to export foreign wools in English vessels only.
- 1660—(12th Charles II., Chapter 25.) Act establishing a Post Office system under the Government restricts sea-carriage of English mail to English ships.

PRINCIPLE OF THE STAPLE

- 1606—(James I.) First Charter to the Virginia Company provides that goods of the British Colonies must not be shipped from the Colonies to any foreign country.
- 1621—(James I.) The Privy Council orders that all Virginia commodities be landed in England, and customs paid, before being sent to any foreign port.
- 1623—(James I.) Virginia law requires cargo to remain unbroken, and no private sales to be made, until vessels reach James City.
- 1628—(Charles I.) Privy Council directs Virginia colonists to send their commodities to England.

- 1632—(Charles I.) Privy Council order to the Admiralty. Navy vessels, meeting at sea English ships coming from any British plantation, are to cause such ships to come to London and unload their cargoes before going to any foreign country.
- 1633—(Charles I.) Privy Council directs the Virginia Government not to allow any foreigners to trade in the Colony with shipping. English subjects in Virginia to give bond that goods they ship from there shall be landed in England.
- 1643—(Interregnum.) Virginia defies the Staple regulations by passing an Act allowing the Dutch to trade with the Colony in Dutch ships.
- 1646—(Interregnum.) Parliament gives to the West Indian and North American colonists the right to import goods from England free of duty for three years; but security must be given that the goods should be transported to the Colonies only, and proof furnished that they had been received there. No Colony to allow its goods to be shipped in any but English bottoms.
- 1650—(Interregnum.) Parliament forbids any trade with Virginia, Barbados, Bermuda or Antigue, and authorizes seizure of ships and goods contravening the Act. No foreign ship to trade with any British Colony except by license from Parliament or the Council of State.
- 1660—(12th Charles II., Chapter 18.) Requires that the principal products of the British Colonies shall be shipped only to England, or an English possession.
- 1663—(15th Charles II., Chapter 7.) No European goods whatever to be imported into any English possession in Asia, Africa, or America, unless shipped from England, Ireland, Wales, or Berwick, in English-built shipping. Exceptions made as to a few commodities.

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- 1670—Massachusetts law forbids trading with any incoming vessel until it shall have come into harbor and observed the necessary legal formalities.
- 1686—(James II.) New England Colonies fix staple ports for exports and imports.
- 1696—(7th & 8th William III., Chapter 22.) No goods of the Colonies to be taken to Ireland or Scotland until after they have been landed in England, Wales, or Berwick.

DISCRIMINATING DUTIES (VARIOUS)

- 1609—(James I.) Second Virginia Company Charter gives the Company the right to collect extra duties on imports and exports there by anyone not recognized by the Company as adventurers or planters of the Colony. Foreigners to pay double the duties charged English subjects.
- 1667—(Charles II.) Massachusetts imposes discriminating gunpowder duty on all vessels not of that Colony.

DEFENCE FOR MERCHANT SHIPS

- 1625—(Charles I.) Royal Proclamation requires ships to be armed, and crews to be drilled in the use of arms.
- 1650—(Interregnum.) Parliament provides funds for convoys to protect merchant shipping, by setting aside part of the customs duties.
- 1662—(13th & 14th Charles II., Chapter 2.) Bounties provided for building of ships equipped for defence. Ships trading to the Mediterranean must be armed, or pay extra duties on their cargoes.
- 1664—(16th Charles II., Chapter 6.) English vessels "Not to be yielded up to Turks or pirates." Penalties imposed on those masters and mariners not defending their ships properly. Rewards for captures of attacking vessels.

1670—(22nd Charles II., Chapter 11.) Severer penalties enacted for surrender of merchant ships to pirates. Payments to be made to widows and children of English mariners slain in fight.

RECIPROCAL DUTIES

1645—(Interregnum.) Massachusetts imposes tonnage duties on vessels; but exempts ships from "Any parts where our ships are free of customs, imposts and taxes." Ships from England and from other New England colonies also exempted.

FOREIGNERS BARRED FROM SEA TRADE

1660—(12th Charles II., Chapter 18.) No foreigner to trade as a merchant or factor in any of the English possessions in Asia, Africa, or America.

THE ENUMERATED COMMODITIES

1660—(12th Charles II., Chapter 18.) Certain products of the English possessions in Asia, Africa and America not to be shipped thence to any place but "Other English plantations, or to England, Ireland, Wales, or Berwick, there to be laid on shore." The "Enumerated Commodities" were sugar, tobacco, cotton wool, indigo, fustic, or any other dyeing-wood.

PREFERENCES FOR ENGLISH-BUILT SHIPS

1660—(12th Charles II., Chapter 4.) This Act, which grants Subsidies to the King, contains a Book of Rates, which established preferential duties in favour of goods carried in English-built vessels.

"All spicery, except pepper, imported directly from the

place of growth in English-built shipping" is to pay not more than one-third of the usual rates.

"Estridge wool," if imported in English-built ships, is to be free of duty.

1660—(12th Charles II., Chapter 18.) English-built shipping defined as that constructed "in England, Ireland, Wales, islands of Guernsey or Jersey, or town of Berwick-upon-Tweed, or in any of the lands, islands, dominions and territories, to his Majesty in Asia, Africa, or America belonging or in his possession," (and with the master and three-fourths of the mariners, at least, English).

All imports and exports of English possessions in Asia, Africa, and America, to be carried in ships wholly owned by "the people of England or Ireland, dominion of Wales, or town of Berwick upon Tweed, OR are of the *BUILT* of, and belonging to, any of the said lands, islands, plantations, or territories, as the proprietors and right owners thereof." (Section 1.)

All goods of foreign production imported into England, Ireland, Wales, Guernsey, Jersey, or Berwick, must be carried in English-built shipping, or ships belonging to the countries of the origin of the goods or the places whence they are usually first shipped. (Section 4.)

Goods of Turkey must be imported into England, etc., only in English-built ships or in ships *BUILT* in the country of production of the goods, or of the usual places of first shipment, whereof the masters and three-fourths of the mariners at least are of the said country or place. (Section 8.)

"All sorts of masts, timber, or boards, as also all foreign salt, pitch, tar, rosin, hemp, flax, raisins, figs, prunes, olive oils, all sorts of corn or grain, sugar, pot-ashes, spirits commonly called brandy-wine, or aqua vitz, wines of the

growth of Spain, the islands of the Canaries or Portugal, Madeira, or Western Islands, and all the goods of the production of Russia," must be imported into England, etc., must be imported in English-built shipping OR pay aliens' duties. (Section 9.)

1660—(12th Charles II., Chapter 25.) All mail from England to "any part beyond the seas" must be carried in English-built vessels, on penalty of the forfeiture of one hundred pounds sterling by the Postmaster General for every violation. (Section 12.)

1663—(15th Charles II., Chapter 7.) No European goods to be imported into any English possessions in Asia, Africa, or America, unless laden and shipped from England, Wales, or Berwick, in English-built vessels, and carried directly to an English possession. (Exceptions as to salt for the fisheries of New England and Newfoundland, wines of the Madeiras and Azores, and Scotch and Irish horses, servants and victuals, which may be imported directly from the place of origin, but only in English-built vessels. (Sections 6 & 7.)

Sea coals may be shipped from England, Wales, or Berwick, but only in English-built bottoms. (Sections 1- & 11.)

1685—(1st James II., Chapter 18.) Foreign-built ships engaging in English coastwise trade to pay five shillings per ton over and above all duties charged to English-built vessels. (Section 2.)

1696—(7th & 8th William III., Chapter 22.) All imports to and exports from the English possessions in Asia, Africa, and America, to or from another part of the said possessions, or to or from England, Wales and Berwick, must be carried in shipping built in England, Ireland, or the said possessions, and wholly owned by the people thereof.

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(Prize ships, and vessels engaged in carrying naval stores for three years exempted.) (Sections 2 & 3.)

1739—(12th George II., Chapter 30.) Ships built in Great Britain privileged to carry sugar of the British sugar colonies in America, to any part of Europe.

1747—(20th George II., Chapter 45.) Prize ships, legally condemned, to have the privileges of British-built ships.

1756—(29th George II., Chapter 34.) Goods imported in British-built ships, being the property of foreigners, to pay aliens' duties.

(B) BRITAIN'S FOREIGN COMMERCE

(1700-1779)

BY 5-YEAR PERIODS

(In Millions of Pounds Sterling)

<i>Annual Averages</i>	<i>Imports</i>	<i>Exports</i>	<i>Balance of Trade</i>
1700-1704	5.2	6.6	1.4
1705-1709	4.5	6.6	2.1
1710-1714	4.9	7.2	2.3
1715-1719	6.0	7.8	1.8
1720-1724	6.4	8.9	2.5
1725-1729	7.1	10.6	3.5
1730-1734	7.4	11.5	4.1
1735-1739	7.7	11.7	4.0
1740-1744	7.1	11.5	4.4
1745-1749	7.4	11.9	4.5
1750-1754	8.0	13.9	5.9
1755-1759	8.6	13.5	4.9
1760-1764	10.0	15.7	5.7
1765-1769	11.6	14.1	2.5
1770-1774	13.3	16.8	3.5
1775-1779	12.4	14.5	2.1

(C) THE GROWTH OF ENGLISH SHIPPING

As shown by the tonnage of vessels clearing from England at various periods, from the Restoration to the American Revolution. (Anderson, "The Origin of Commerce," ed. 1790, vol. 4, p. 431.) The figures represent thousands of tons of shipping in foreign trade, together with the proportion of British to foreign tonnage:

	<i>British</i>	<i>Foreign</i>	<i>Ratio</i>
The Restoration, 1663-1669, avg.	95	47	2-1
The Revolution, 1688	190	95	2-1
Peace of Ryswick, 1697	144	100	1.4-1
Last years of Wm. III., 1700-1702, avg.	273	43	6.3-1
Wars of Anne:			
1709	243	45	5.4-1
1712	326	29	11.2-1
First of George I., 1713-1715, avg.	421	26	16.2-1
First of George II., 1726-1728, avg.	432	23	18.8-1
Peaceful years, 1736-1738, avg.	476	26	18.3-1
War years, 1739-1741, avg.	384	87	4.4-1
Peaceful years, 1749-1751, avg.	609	51	11.9-1
War years, 1755-1757, avg.	451	73	6.2-1
First of George III.:			
1760	471	102	4.6-1
1761	508	117	4.3-1
1762	480	120	4.0-1
1763	561	87	6.4-1
1764	583	74	7.8-1
1765	651	67	9.7-1
1766	684	61	11.2-1

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	<i>British</i>	<i>Foreign</i>	<i>Ratio</i>
1767	645	63	10.2-1
1768	668	72	9.3-1
1769	709	62	11.4-1
1770	703	57	12.3-1
1771	714	64	11.2-1
1772	716	76	9.4-1
1773	752	55	13.5-1
1774	798	65	12.3-1
1775	767	64	12.0-1
1776	778	72	10.8-1

(D) ENGLAND'S TRADE WITH THE U. S. COLONIES

<i>Imports from—</i>	<i>1701</i>	<i>1771</i>
New England	33	150
New York	18	96
Pennsylvania	5	32
Virginia & Maryland	236	578
Carolina	17	420
Georgia	64
Florida	22
	—	—
Total	309	1,362
<i>Exports to—</i>	<i>1701</i>	<i>1771</i>
New England	86	1,420
New York	32	654
Pennsylvania	12	729
Virginia & Maryland	200	920
Carolina	14	409
Georgia	70
Florida	67
	—	—
Total	344	4,269
<i>Total trade—</i>	<i>1701</i>	<i>1771</i>
New England	119	1,570
New York	50	750
Pennsylvania	17	761
Virginia & Maryland	436	1,498
Carolina	31	829

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<i>Total trade—</i>	1701	1771
Georgia		134
Florida		89
	<hr/>	<hr/>
Total	653	5,631
 <i>Balance of Trade—</i>	 1701	 1771
New England	53	1,270
New York	14	558
Pennsylvania	7	697
Virginia & Maryland	—36	342
Carolina	—3	—11
Georgia		6
Florida		45
	<hr/>	<hr/>
Total	35	2,907

(E) SIR WALTER RALEIGH AS A FREE TRADE ADVOCATE

A REMARKABLE document presented by Raleigh to James I., in 1603, recommends the adoption of an unreserved system of free trade by England to end the domination by Holland of English sea trade. He pointed out that the Dutch,

“By the privileges they allowed to strangers, drew multitudes of merchants to live amongst them, and thereby enriched themselves;

“By their storehouses or magazines of all foreign commodities, upon every occasion of scarcity, they were enabled to supply other countries, even those from whom they bought those very commodities.”

The Dutch, also benefited, said Raleigh—

“By the lowness of their customs;

“By the structure or roominess of their shipping, holding much merchandise, though sailing with fewer hands than our ships could; thereby carrying their goods much cheaper to and from foreign parts than England can; whereby the Dutch gain all the foreign freight, whilst our own ships lie still and decay, or else go to Newcastle for coals.

“By their prodigious fishery, of which they make such vast returns yearly.”

Citing the freedom from customs duties allowed by the Dutch to any newly organized trade, and the liberal trading

policies of France, Denmark and the Hanseatic towns, Ralceigh adds:

"The Hanse towns imitate the Dutch in the said wise regulations, whereby, they, also, abound in riches and all manner of merchandise, have plenty of money, and are strong in shipping and mariners, some of their towns having near one thousand sail of ships.

"The Dutch and other petty states do engross the transportation of the merchandise of France, Spain, Portugal, Italy, Turkey, and the East and West India—all which they carry to Denmark, Sweden, Poland, and other northern parts, and bring back the bulky commodities of those northern regions into the said southern countries.

"England is better situated than Holland for a general storehouse as aforesaid; yet, no sooner does a dearth happen of wine, fish, corn, &c., in England, than forthwith the Embdeners, Hamburgers, and Hollanders, out of their storehouses, lade fifty, or one hundred ships, or more, dispersing themselves round about this kingdom, and carrying away great store of coin and wealth, thus cutting down our merchants, and decaying our navigation, not with their natural commodities, but with those of other countries.

"Amsterdam is never without 700,000 quarters of corn, beside what they daily vent, though none of it be of the growth of their country; and a dearth of only one year in England, France, Spain, Portugal, Italy, &c., is justly observed to enrich Holland for seven years after. . . .

"In the last dearth, six years ago, in England, the Hamburgers, Embdeners, and Hollanders supplied this kingdom from their storehouses; and, in a year and a half, carried away from the three ports of Southampton, Exeter, and Bristol, alone, near £200,000, and from other parts of

this kingdom, more particularly including London, it cannot be so little as £2,000,000 more, to the great decay of your kingdom, and impoverishing of your people, with discredit and dishonor to the merchants, and to the land.

"They" (the Hamburgers, etc.) "have a continual trade into this kingdom with five hundred or six hundred ships yearly with merchandise of other countries, storing them up here until the price rise to their minds; and we trade with not fifty ships into their countries in a year."

Taking up the question of the fisheries, Raleigh declares that, "The greatest fishing that ever was known in the world is upon the coasts of England, Ireland, and Scotland; yet the great fishery is in the Low Countries and other petty states, wherewith they serve themselves and all Christendom." He gives figures, showing that Dutch vessels supplied other countries with fish, annually, to the value of £1,479,000, while English ships carried abroad only £2,480 worth.

As to the number of ships engaged in foreign trade per year at that time, Raleigh gave the following figures:

<i>Trade with</i>	<i>Dutch Ships</i>	<i>English Ships</i>
Baltic	3,000	100
France, Spain, Portugal, Italy . . .	2,000	None
Russia	30	3
	5,030	103
Total		

"That any nation," wrote Raleigh, "should carry away out of this kingdom yearly, great masses of money for fish taken in our seas, and sold again by them to us, must needs be a great dishonor to our nation, and hindrance to this realm."

In addition to controlling the grain supplies of Europe, Raleigh points out:

"The mighty store of wines and salt is in France and Spain; but the great vintage, and staple of salt, are in the Low Countries; and they" (the Dutch) "send near one thousand sail of ships yearly into the Baltic with salt and wine only, beside what they send to other places; and we not one ship in that way.

"The exceeding great groves of wood are in the East kingdoms" (within the Baltic), "but the large piles of wainscot, clapboard, fir, deal, masts, and other timber, are in the Low Countries, where none groweth, wherewith they serve themselves and other parts, and this kingdom; and they have five or six hundred great long ships, continually using that trade, and we none at all.

"The wool, cloth, lead, tin, and divers other commodities, are in England; but by means of our wool, and of our cloth going out rough, undressed and undyed, there is an exceeding manufactory and drapery in the Low Countries, wherewith they serve themselves and other nations, and greatly advance the employment of their people at home, and traffic abroad, and in proportion suppress ours.

"We send into the Baltic countries yearly but one hundred ships, and our trade depends chiefly on three towns there, viz. Elbing, Koningsberg, and Dantzic. But the Low Countries send thither about three thousand ships, trading into every city and port town, vending their commodities to exceeding profit, and lading their ships with plenty of their commodities, which they have twenty per cent cheaper than we, by reason of the difference of the coin; and their fish yields ready money. The Dutch send into France, Spain, Portugal, and Italy, about two thou-

sand ships yearly with those Baltic commodities, and we none in that course. And they trade into all cities and port towns of France, and we chiefly to five or six.

"The Dutch have as many ships and vessels as eleven kingdoms of Christendom have, let England be one. They build every year near one thousand ships, although all their native commodities do not require one hundred ships to carry them away at once. Yet although we have all things of our own in abundance for the increase of traffic, timber to build ships, and commodities of our own to lade about one thousand ships and vessels at once, (besides the great fishing), and as fast as they make their voyages might relade again; yet our ships and mariners decline, and traffic and merchants daily decay.

"God hath blest your Majesty with copper, lead, iron, tin, alum, copperas, saffron, skins, and many more native commodities, to the number of about one hundred; and other manufactures vendible, to the number of about one thousand; besides corn, whereof great quantities of beer are made, and mostly transported by strangers; as also wool and coals."

Taking up the question of a remedy, Raleigh observes:

"That unless there be a scarcity, or high prices, all merchants avoid the parts where great impositions are on merchandise; which places are usually slenderly shipped, ill served, and at dear rates, often in scarcity, and in want of employment for their own people. Whereas, the wise duties of the states above-named draw all traffic unto them, and the great liberty allowed to strangers makes a continual mart. So that, whatever excises, &c., they may lay upon the common people, they are sure ever to ease, uphold, and maintain the merchants by all possible means,

thereby to draw the wealth and strength of Christendom to themselves. And although the duties be but small, yet the vast exports and imports do greatly increase their revenues; which vast commerce enables the common people not only to bear the burden of the excises and impositions laid on them, but also to grow rich.

"In former ages, the city of Genoa had a vastly extended commerce, whither all nations traded, being the storehouse for Italy and other parts. But after they laid so great a custom as sixteen per cent, all nations left trading with them, which made them give themselves wholly to usury; and at this day, we have not three ships go thither in a year. On the other side, the Duke of Florence having, at Leghorn, laid small customs on merchandise, and granted the merchants great privileges, he has thereby made it a rich and strong city, and his state flourishing."

Raleigh concludes with a suggestion that there should be a Council of what he calls State-Merchants, with powers to regulate trade. James, indeed, did proceed along such lines, and the method was later to develop into the system of the Board of Trade and Plantations. Raleigh's advocacy of Free Trade, however, was fruitless—its antithesis, the Mercantilist Doctrine, gaining full sway.

(Raleigh's views are dealt with at some length in Ricardo's "Anatomy of the Navigation Laws," and Anderson's "Origin of Commerce.")

(F) "SUBSERVIENCY THE DUTY OF THE COLONIES"

(A contemporary outline of the policies of the Mercantilist Doctrine in regard to the Colonies, is furnished by one of the leading advocates of Mercantilism, Malachy Postlethwayt, in his book, "Britain's Commercial Interest Explained and Improved," published at London in 1747, from which the following extract is taken.)

Colonies ought never to forget what they owe to their mother country, in return for the prosperity and riches they enjoy. Their gratitude in that respect, and the duty they owe, indispensably oblige them to be immediately dependent on their original parent, and to make their interest subservient thereunto. The effect of that interest, and of that dependency, will be, to procure the mother country: (1) a greater consumption of the productions of her lands: (2) occupation for a greater number of the manufacturers, artisans, fishermen and seamen: (3) a greater quantity of such commodities as she wants: (4) a greater superfluity, wherewith to supply other people.

From the end of the establishment of colonies, result two kinds of prohibitions. First, It is a law founded on the very nature of colonies, that they ought to have no culture or arts, wherein to rival the arts and culture of their parent country. For which reason, a colony incapable of producing any other commodities than those produced by its mother country, would be more dangerous than useful: it would be proper to call home its inhabitants and give it up.

Secondly, colonies cannot in justice consume foreign commodities, with an equivalent for which their mother country

consents to supply them; nor sell to foreigners such of their own commodities as their mother country consents to receive. Every infringement of those laws is a real, though too common, robbery of the mother country's laborers, workmen and seamen, in order to enrich the same classes of men belonging to rival nations, who will sooner or later take advantage of it against those very colonies. Every policy that winks at, or through indolence tolerates such abuses, or that leaves some ports the means of acting contrary to the first design and intent of the institution of colonies, is destructive of the trade and riches of a nation. The true bulwarks of colonies during war, are likewise the bulwarks of their trade in times of peace.

From these principles it follows, that colonies are designed for culture only; and that the navigation occasioned by that culture, belongs to the seamen of the mother country. This maxim cannot be contested; and it would be better to enforce it with rigour, than to suffer it to be too much deviated from by overgreat lenity, or any other means.

Those colonies require, in order to flourish, three kinds of navigation; which may be restrained as occasion requires, either by being limited to certain ports; or by limiting the quantity of goods shipped off.

The first kind of navigation useful, and even necessary to colonies, is their coasting trade. It is productive of a greater communication between every part; and consequently of a greater rivalship either of buyers or of sellers, each of which is equally favourable to culture and commerce. It eases the ship's crews that arrive from Europe, and by degrees accustoms a nation to sail with fewer hands: but such a thing must be the fruit of time, freedom and encouragement.

The second kind of navigation useful in colonies, is that which enables them to carry to each other the commodities of

which they are in mutual want; and with which the mother country cannot supply them.

That navigation may, however, be performed more advantageously by the mother country's ships, if the interest of money be low enough there to fit out ships for long voyages at a moderate expense.

The third branch of navigation useful in colonies, is that which they carry on with foreign colonies, to supply them only with commodities of the product of their mother country, or of their own growth not admitted by their mother country at home, though allowed in the colonies for prudential reasons. If those exportations consist in other commodities; or if the returns for them do not consist in money, cattle, or commodities of which the mother country is in want, the freighters of the ship, as well as its crew, ought to be punished. It is always easy to make proper examples, whenever a state is seriously inclined to set about it.

These three branches of navigation seem to be the only ones that colonies should be permitted to carry on; and those under such restrictions and limitations as the circumstances of things require. It should likewise seem advantageous to oblige them to employ a certain number of slaves in their ships, in proportion to the tonnage of those ships; that the mother country may not lose sight too long of so great a number of seamen, and that the price of their wages may not be enhanced too much. Such a regulation would, at the same time, increase the African trade, and the strength of the colonies, either for attacking or defending.

The four chief ends intended by the establishment of colonies, can never be answered, but in proportion to their populousness and degree of cultivation.

To provide with certainty for their populousness, it is necessary that the first settlement be made at the expence of the

state, who founds the colony: that is to say, such state must furnish the ships to carry the first inhabitants thither, and supply them with provisions, clothes, utensils, and slaves; inheritances must be divided equally between the children, in order to fix there the greatest number of possible inhabitants by the subdivision of fortunes. It is likewise equally necessary, that the condition of the inhabitants be easy and comfortable, to make them amends for their labour and fidelity. For which reason, wise nations draw from their colonies, when once established, no more than what defrays the expense of forts and garrisons; and sometimes are content with the general advantage of trade only.

It would be acting contrary to the very intent of colonies, to settle them by depopulating their mother country. Spain only has experienced that misfortune, because the greatest part of its inhabitants had neither occupation nor ease at home: though, as Sir Josiah Child very justly observes, the inquisition has contributed more to depopulate that monarchy, than all its vast settlements in either Indies. Other nations have sent, from time to time, their superfluous hands, or such as were a burden to society, to their colonies. There is, however, a possibility of colonies being too populous: that would be the case if there was in them a number of idle men (for there should be none such in a colony) or a number of men of which the mother country should feel the want. There may, therefore, be circumstances, under which it would be proper to prevent the inhabitants of the mother country from going to settle whenever they pleased in the colonies in general, or in any one in particular. It would likewise be very proper in some cases, to send such as are willing to go, from one colony, where fortunes begin to grow rare, to another less advanced and flourishing.

It is not enough that a colony be so peopled as to be screened

from insults; but it is farther necessary that the generality of the inhabitants should apply to the first intent of their settlement; that is to the culture of the lands: for if they turned interlopers and applied to that branch of trade only, as the profits attending it are always precarious, the establishment would acquire a less degree of solidity; and even, if the profits were equal on the whole, the mother country would still be a loser in the occupation of her subjects: for gold, silver, and precious stones do not occasion a great navigation between the mother country and her colonies, nor between her and other nations; whereas the like in sugar, indigo, coffee, cotton, tobacco, silk, rice, pitch, tar and furs, commodities whereof part is re-exported, will maintain a vast number of seamen, shipwrights, etc.

Colonies, as we have already said, are intended for cultivation; for which reason those of the inhabitants, who apply to it ought to be most distinguished, because they are most useful. It is likewise just, that they should enjoy in their mother country, some prerogative; which by encouraging should incite them thither from time to time, and facilitate marriages and alliances with them, in order to perpetuate the common bonds of union.

The mainspring of that culture is trade; and the activity of trade depends on the competition or rivalry of merchants. Their ambition will always afford the planter greater assistance, and will make his productions bear a higher price, than would any exclusive company: which, by being exclusive, would be able to command the prices of whatever was bought or sold, and the conditions of payment; not to speak of the odious tricks and vexations practised by the clerks and servants of such companies, without the knowledge of their masters. No plantation colony ever yet did, nor ever will thrive under such management.

Plenty of consumption is the only means of rendering culture profitable; from its profits arises rivalry of cultivators; from that rivalry, lowness of price of a commodity; and from the lowness of price of a commodity, proceeds superiority in that branch of trade.

To procure a plentiful consumption of the productions of a colony, even when dear, the mother country forbids the importation of foreign commodities of the same kind, in order to prevent the rivalry that would result from them. The best method that can be taken to establish that equilibrium, is to grant on the importation of those commodities of the growth of the colonies, such a bounty as may enable the merchants to sell them cheaper than other nations can.

A more natural way should seem to be, to prohibit the use of such foreign commodities, or to raise the duties on them in proportion: but two great inconveniencies attend that method: first, it is not sure of succeeding; men will be tempted to smuggle whenever the profit surpasses the risk; and that risk consists less in the punishment, than in the means of eluding all perquisitions: Secondly, that method may be displeasing to foreign nations and afford them a pretence either to prohibit, or at least to raise on their side, the duties on the commodities of the mother country.

Nations who understand trade are, therefore, satisfied with granting a bounty till the commodity can do without it. Bounties are in fact no more than a subdivision, made among the subjects, of a part of the profits, which the state receives from the daily increase of their riches.

From this evident maxim, and those we before laid down, follows the necessity of prohibiting in a colony the importation of all commodities of foreign growth, which either that colony, or any others belonging to the mother country, may have undertaken to raise. It is plain that it would be discour-

aging the inhabitants to carry them cheap cargoes of a commodity, which they themselves are raising at a great expense.

The views of the mother country ought to extend beyond her own consumption: her assistance is indispensably necessary, until the foreign consumption be thoroughly established. That must be by obtaining the preference of foreigners, who, to give that preference, must find their account in the cheapness of the commodity.

It is, therefore, always on the prices of rival nations that the bounties, or duties whenever the commodity is able to bear any, ought to be regulated.

Its lowness of price will likewise depend on the cheapness of negroes, freight, and interest of money; all which are the effects of the rivalry of merchants; and likewise on the not less essential rivalry of sellers. For it is the price of the returns of the colonies, which constitutes the profits of those who trade thither. Foreigners, to whom the mother country re-exports the commodities of her colonies, look on them as superfluities, and are not easily induced to give an additional value for them: or, to speak more properly, it is the consumer of an article of luxury who gives it its price. If the increase of price of commodities in colonies, be a consequence of the common revolutions of trade, of scarcity, or of plenty, it can be of no long duration; the equilibrium will soon return of its own accord. But if that increase should proceed from want of rivalry in the sellers; or, which would have the same effect, from a rivalry of contraband buyers or interlopers, a cessation of trade, and the ruin of the merchants would be the inevitable consequence.

It absolutely follows, that tolls, servitudes, and all regulations tending to promote exclusions of any kind in a colony, must hurt the culture of that colony, and consequently the riches of the mother country. Small inconveniencies, at first

neglected, and thereby multiplied, have often brought on the unexpected ruin of once very flourishing branches of trade. In proportion as the price of a commodity rises to a certain degree, the profit tempts other nations, or enables them to compete in what they before did not dare to hazard. Their rivalry lessens the price insensibly; that diminution of price is sometimes on a sudden such, that the people, with whom the price of labor is dearest, are unable to bear it, and therefore renounce that branch of trade, of which its rivals possess themselves forever.

From this truth, of which all that have any knowledge of men and past events cannot but be sensible, must be inferred, that whatever tends to lessen the price at which the commodities of a colony can be afforded to foreigners, increases the consumption of those commodities, discourages rival nations, and multiplies every day the riches and branches of occupation of the mother country who sells cheapest.

This reason may even render necessary some abuses, if they are of long standing. The Europeans certainly committed a great fault in suffering sugar to be refined in the colonies where it grows. The English, has been justly charged with setting an example of several wrong steps taken with regard to colonies: that is one: for they were the first who began to refine sugars at St. Christophers. If France had then forbid her colonies doing the same, and had granted bounties or exemptions from duties to make them amends; she would not the less enjoy now a superiority in the sugar trade, and would constantly have employed in that branch of navigation a third more than she has done of ships and sailors, not to speak of other advantages, which she would have thereby obtained. It would be imprudent now to stop the progress of those sugar works, until the lowness of freight and diminution of duties compensate for the difference; for men cannot without being

discouraged, bear to be deprived of a profit they have been used to, and which is thereby become necessary to them. It is true, that it is always in the power of a state, by raising or lowering the duties, to establish, either an equilibrium or a preference in its own commodities, without having recourse to prohibitions or coercive means.

The progress of natural history, and of cheap experiments, are very fit to improve the culture of colonies, and thereby to increase their utility. It would be wrong in anybody to imagine he has at once hit upon the best method either of cultivating his lands, or preparing their productions. The first inhabitants of colonies have seldom been great naturalists, and their successors have been content to grow rich by following the methods practised by their ancestors. It is likewise probable, that the properties of those lands are not known, and that it would not be impossible to multiply their species of productions. The same latitude, and same climate should give one great room to expect the same kinds and qualities of earth, and to be able to procure several commodities, which some countries only are thought to produce; if proper care was but taken to try experiments. What a fund of riches would that nation possess, who should be able to draw from her colonies cochineal, spices, potash, hemp, flax, silk, and what else it might stand in need of for its manufactures in particular.

Lastly, it is necessary to observe, that the culture of the colonies will become more and more precious, in proportion to the increase of ingenious labor in the several parts of Europe. Workmen and sailors will find no chasm in their several occupations, if the inhabitants of the colonies, enriched by the culture of them, are enabled to consume more. Those workmen and sailors will receive their hire in commodities, of which the value will be paid by foreigners. That, and the national

culture together, will, by degrees, become the sole measure of the balance of trade.

Hitherto we have spoken only of the culture of the colonies, and the preference that culture is entitled to as being the first intent of the establishment of colonies; and because, without it, their second intent, trade, could not take effect.

But it ought never to be forgotten, even for a moment, that in seeking to fulfil this first intent, the second was the chief, and most essential thing in view; and that without the second, the first could never have attained perfection. For without trade, the commodities would have had no value; nor would the lands have been cultivated for want of slaves and credit.

Two consequences result from this truth. First, if the original laws made to promote the cultivation of a colony are become detrimental to trade, it is necessary to alter or correct them, by some new regulation, whereby the abuse may be prevented. For it is of importance to a mother country, that the trade of her colonies be advantageous to her; and that it cannot be, if those who carry it on are not secure in it.

Disputes in trade are of the same nature in the colonies, with those which arise in the mother country: the interests of trade cannot be supported in any place whatever, without a thorough knowledge of the particular details relating to it, and the practical ways and means of carrying the same on. For which reason, consuls in the trading towns of those colonies, and representatives of those towns in their mother country, are a very proper means of establishing the necessary equilibrium between their culture and their trade.

A second consequence is, that this perfect equilibrium is equally necessary for the preservation of culture and trade. The culture could not, without ingratitude, disown the endeavour of trade to add to its perfection: nor could, without the continuance of that same trade, be able to support itself. On

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the other hand, trade owes the greatest part of its riches to culture, and stands in need of it, in order likewise to preserve itself. The planter and merchant in the colonies, cannot be too thoroughly convinced, that their mutual success depends on their harmony. Whatever hurts trade, is, in the end, destructive of culture; though the latter may have seemed to be a gainer for some short time: if the culture be prejudiced, trade must insensibly share its losses.

(G) WHY ENGLAND LOST THE COLONIES —A BRITISH VIEW

THE sowing of the seeds of the American Revolution is described, from a contemporary standpoint, in Anderson's "Origin of Commerce" under the year 1765, with the conditions leading up to the passage of the Stamp Act. In the main the commentator's views are in sympathy with the position of the colonists, and form a striking contrast to the absolutism of Malachy Postlethwayt, as cited in Appendix F. The "Origin of Commerce" sums up conditions following the peace of 1763, as follows:

No war was ever terminated with greater glory than that which Great Britain carried on against the combined powers of France and Spain, and which was concluded by the treaty of Paris, in 1763. The power and energy of the British nation had been conducted by the greatest minister, perhaps, that ever guided the councils of any empire; and partaking, as it were, of his active, unconquerable spirit, commanded that succession of victories, both by sea and land, in every part of the globe, which made Europe tremble with astonishment, and dissipated the boasted strength of the house of Bourbon.

At length the peace of 1763 put a final period to this memorable war; and Great Britain became possessed of the immense continent of North America, from the banks of the Mississippi to the shores of Greenland. She acquired several valuable islands in the West Indies, and established herself in the oriental world with such augmented possessions and added strength, as to possess a decided superiority over all other European

nations who carry on any commerce, and possess any settlements in those distant countries.

But while the eye of patriotism gazed with peculiar delight on this splendid scene of British glory, the pervading spirit of political prophecy was not backwards in imparting its apprehensions of that mischief which has since arisen from it.

The entire cession of the French possessions in North America, was a subject of trembling expectation in the minds of many who were by no means in the habit of employing their reason in idle speculations. While this vast extent of country remained in the possession of France it certainly operated as a powerful restraint upon the colonies, and by keeping them in perpetual alarms, obliged them to have continual recourse to the parent state for aid and protection. The acquisition therefore of Canada, &c., by freeing the British North American colonies from all apprehensions on that dangerous quarter, afforded them a security which they had never known; and, of course, gave leisure for the progress of those ideas, which otherwise might have occasionally risen into existence, but would never have attained to any degree of maturity.

While France possessed this ceded territory, she must, in the most confidential moments of peace, have been considered, from her American position, exclusive of all other circumstances, as a natural enemy to British America; and while that idea remained, the connection between Great Britain and her Colonies must be subsisted. The one would have wanted protection, and the other would have required obedience; and these reciprocal obligations would have preserved their union unbroken in every circumstance of it.

Thus the conclusion of the war between Great Britain and France, placed the North American colonies in a situation of advantage which they had never before known, and gave them an unexperienced opportunity to exert all that natural vigor

which they have since manifested. That they should now begin to feel their consequence, was a matter of natural expectation; and that the wish to realise it, in some degree, by enlarging their privileges, or pressing a little on what might be considered as the exuberance of parental authority, should be encouraged among them, was the result of their prosperous and powerful condition.

The advantages which the Americans possessed were numerous; nor did they want a spirit to add to the number of them. Their interior trade, as well as external commerce, was greatly increased; their population augmented, their agriculture extended, and their knowledge enlarged. While they possessed frugality and industry, those two leading principles of private and public prosperity, they could boast an ardent, but well-directed spirit of commercial enterprise; and though they declared a most faithful attachment to Great Britain, and had manifested, on all occasions, a dutiful obedience to its government, yet the republican spirit which had led their ancestors to the American deserts was preserved amongst them with a traditional devotion, particularly in the New England provinces, and remained a latent principle of action, ready to break forth whenever any events should take place which might encourage its exertion. Nor is it a matter of dubious relation, that to attain a state of political independence, was a favorite, as it had been a constant hope, with many persons of character and influence, from the earliest times of their colonization, till it was universally adopted in that contest which obtained it for them.

But this was not all:— The French, long before the commencement of the war in 1756, gave very unequivocal proofs of their desire to effect a separation between England and its North American colonies; and when that war had finally deprived them of all expectation of gaining any point by the

power of their arms, they began to practice those intrigues, and employ those artifices, which have so often served that treacherous nation with better effect than more honourable exertions. They employed their secret, but active emissaries, to disseminate such opinions as were best calculated to raise the political importance of America in the opinion of its inhabitants, and to dispose them to look with a jealous eye on the regulating power of the mother country. Such arts were practiced with perseverance and with success.

The nations of Europe were also growing into what might be considered, by the impartial politician, as a reasonable jealousy of the amazing power of Great Britain, and would have rejoiced to see a limb broken off from that colossal greatness of our country which seemed to bestride the globe.

At this time, therefore, and when all these circumstances were evident to the most common observation, it was surely the true policy of Great Britain to have employed the most temperate measures in her government of the American colonies; and it was at this moment that she began to exercise her power, though not indeed without consideration; for the minister of that period was not in the habit of committing rash actions.

Mr. Grenville possessed an uncommon spirit of industry, great financial knowledge, and unimpeached integrity; but with these, and other eminent qualities, there was a contraction of mind in his character, that was much better suited to the detail of an inferior department than the conduct of a great empire. He felt the weight of debt, amounting at this time to one hundred and forty-eight millions, which oppressed his country, and he looked to the melioration of the revenues as the only mode of relieving it. He was right in principle, but wrong in practice.—He had studied the public revenues with a professional assiduity, and professional ideas seemed to min-

gle in all his regulations concerning them. The methods which were now adopted to prevent smuggling, might not have been attended with any unpleasant consequences, if they had been confined to the coasts of Great Britain and Ireland; but by extending them to the shores of America, they interrupted a commerce, which, though not strictly legal, was extremely advantageous to the colonies. They were therefore in a state of no common discontent on account of the acts of the British Parliament which added to their restraints, when the stamp act appeared to heighten their resentment, and raise a kind of private displeasure into public remonstrance and general opposition.

A number of armed cutters were stationed around the coasts of Great Britain, and the most rigid orders were issued to the commanders of them to act in the capacity of revenue officers. They were enjoined to take the usual custom-house oaths, and to observe the regulations prescribed by them. Thus was the distinguished character of a British naval officer degraded by the employments of a tide-waiter, and that active, zealous courage which had been accustomed to the conquest of an enemy, was now to be exerted in opposing a contraband trade, and to find a reward in the seizure of prohibited commodities.

The clamour against these measures was loud in England; but in America the discontent on the occasion was little short of outrage. As naval gentlemen, the commanders of these vessels were not conversant in the duties of revenue collection, they were therefore oftentimes guilty of oppression; remedies were indeed at hand in England; but as the Lords of the Admiralty or the Treasury could alone rectify any errors, check any violence, punish any injustice, or restore any violated property, it was always extremely difficult, and in many cases almost impracticable, for the Americans to obtain redress.

But bad as this evil was, there arose one, from the same

source, which was still worse. A trade had been carried on for more than a century between the British and Spanish colonies in the new world, to the great advantage of both, but especially the former, as well as of the mother country; the chief materials of it being on the side of the British colonies, British manufactures, or such of their own produce as enabled them to purchase British manufactures for their own consumption; and, on the part of the Spaniards, gold and silver in bullion and coin, cochineal, and medical drugs, beside live stock and mules; which, in the West India plantations, to which places alone these last articles were carried, from their great utility, justly deserved to be considered of equal importance with the most precious metals.

This trade did not clash with the spirit of any Act of Parliament made for the regulation of the British plantation trade; or, at least with that spirit of trade which universally prevails in our commercial acts; but it was found to vary sufficiently from the letter of the former, to give the new revenue officers a plea for doing that from principle of duty, which there was no small temptation to do from the more powerful motives of interest. Accordingly, they seized, indiscriminately, all the ships upon that trade, both of subjects and foreigners; which the custom house officers stationed on shore, either through fear of the inhabitants, a more just way of thinking, or an happy ignorance, had always permitted to pass unnoticed.

As the advantage of this commerce was very much in favour of Great Britain, the Spanish monarchy had always opposed it; guards costas were commissioned to scour the coasts of her American dominions, and to seize every vessel which approached too near them; a duty which they had exercised with such general licence, as to provoke the war which broke out in 1739. The British cruisers seemed to act at this time with

the same spirit in destroying this commerce so that in a short space of time it was almost wholly annihilated.

This circumstance was to the northern colonies a deprivation of the most serious nature.—This traffic had long proved the mine from whence they drew those supplies of gold and silver that enabled them to make copious remittances to England, and to provide a sufficiency of current specie at home. A sudden stop being thus put to such a source of advantage, the Americans expressed the injury they sustained in the harshest terms that a sense of injury could inspire. But in spite of all complaints, the ministry continued to proceed in their unfortunate career, and measures equally offensive to the inhabitants of the North American colonies continued to be successively adopted.

Besides this trade carried on between the British colonies in general, especially those in the West Indies, and the Spanish, there had for a long time subsisted one equally extensive between the British North American colonies in particular, and those of the French West Indies, to the great advantage of both, as it consisted chiefly in such goods as must otherwise have remained upon the hands of the possessors; so that it united, in the strictest sense, all those benefits which liberal minds included in the idea of a well regulated commerce, as tending, in the highest degree, to the mutual welfare of those who were concerned in it.

In these benefits the respective mother countries had, without doubt, a very large share, though it may be impossible to determine which, upon the whole, had the most. We had enough to engage those in power to think it worth connivance, for it certainly was not strictly to law, in consideration of the vast quantity of manufactures it enabled our American colonies to take from us; and this also, in spite of all the clamours which those concerned in our West India trade and possessions

could raise against it, as enabling the French to undersell them in West India produce at the foreign markets. This outcry might indeed be found to arise, in a great measure, from another consideration, which it was not proper for these gentlemen to avow, that of their not getting so good a price as otherwise they might expect, for such part of their produce as they sold in the markets of their mother country, and which, considering the vast demand for it, from even the poor, to whom, from long habit, it has become one of the chief necessities of life, it would have favoured of oppression if it had been permitted to advance in price. But, be that as it may, this trade was suffered to be carried on in the late war between Great Britain and France; directly, by means of flags of truce; and indirectly, through the Dutch and Danish islands; and afterwards through the Spanish port of Monte Christi, in the island of Hispaniola; till, at last, the vast advantages the French received from it above what the English could expect, in consequence of our having, in a manner, laid siege to their West India islands, determined government to put a stop to it.

In doing this, however, they did not think proper to consider it so much in the light of a contraband trade, as in that of a treasonable practice, by supplying the enemy with necessaries, without which it would have been impossible for these valuable islands to hold out so long against our attempt to reduce them. Accordingly, as soon as the conclusion of the war had taken the appellation of treason from this trade, it returned again to its pristine, flourishing condition; and thus it remained, till it sunk beneath the same blow with the trade between us and the Spaniards, whose history we have already related.

This trade not only prevented our North American colonies from being drained of their current cash, by the calls of the mother country upon them, but added greatly to it, so as to make it, in some measure, keep pace with their domestic trade,

which could not but greatly increase in proportion to the remarkable increase of mankind in a part of the world, where the cheapness of land determines so great a part of the inhabitants to the exercise of the rural arts, which are known to be favourable to population.

Though the suppression of that trade which we have just been relating, instead of barely interrupting these supplies of the necessaries and conveniences of life, which the North American colonies were before accustomed to receive in their return for their superfluities and incumbrances, tended visibly, by obstructing their internal commerce, to deprive them, in a great degree, even of those blessings, the sources of which lay between themselves; yet a law was made in the beginning of the last year, which, whilst it rendered legal, in some respects, their intercourse with the other European colonies in the new world, loaded the best part of it with duties so far above its strength to bear, as to render it contraband to all intents and purposes.

Besides, it ordered the money arising from these duties to be paid, and in specie, into the British exchequer, to the entire draining of the little ready money which might be still remaining in the colonies; and within a fortnight after, another law was passed to hinder the colonies from supplying the demand of money for their internal wants, by preventing such paper bills of credit as might be afterwards in them, from being made legal tender in payment; and the legal tender of such bills as were actually subsisting, from being prolonged beyond the periods already limited for calling in and sinking the same.

These new regulations, following each other so rapidly, produced an equal degree of surprize and discontent among the people of North America. Warm and spirited remonstrances were sent to England on the occasion. Among other arguments they alleged, that such restraints upon their trade were

absolutely ruinous, as they tended to put an end to the clearing of their lands, and damped the prosecution of their fisheries. They also asserted, that unless those foreign ports where they deposited the surplus of their corn, and of the provisions of all kinds with which their country abounded, were freely opened to them, they knew not whither to carry them. The British islands in the West Indies were not equal to their consumption, and Great Britain did not want them: it was absolutely necessary, therefore, that some places for the disposal of them should be permitted, where they might fetch a reasonable price.

But such remonstrances, though founded in national policy, were not regarded, and the Americans became determined to unite in a general opposition to the views of the British ministry. Public meetings were held, and resolutions were entered into, to make no further importations from Great Britain but such as unavoidable necessity required; and to encourage, to the utmost of their power, every kind of manufacture that was practicable among themselves. These resolutions were steadily observed in America, and their effects were seriously felt in England; the manufacturers began to express their alarms; and ministers found that trans-Atlantic discontents were re-echoed in their own streets.

It is indeed proper to observe, that all the money arising from the above duties, was to be reserved for defraying the charges of protecting the colonies on which it was levied; and that, at the same time, with the law for restraining the increase of paper money, several new laws were made to encrease and encourage, as well as regulate, the commercial intercourse of our North American colonies with the mother country; such as a bill of granting leave, for a limited time, for carrying rice from the province of South Carolina and Georgia to other parts of America, on paying British duties; a bill for granting a bounty on the importation of hemp, as well as rough and

undressed flax, from the American colonies to Great Britain; and a bill to encourage the whale-fishery on their coasts. But, unfortunately, the effects of all these laws to restrain the foreign, and cramp the domestic trade of the colonies, were certain and instantaneous; whereas the effects of the laws made for their benefit, which might compensate, in some degree, for these evils, was, if not uncertain, at least remote.

The minister, from whose honest, but mistaken intentions to serve his country, proceeded all the regulations and laws relating to the British colonies which we have already mentioned, thought it right that a measure of so much importance and novelty as the passing a law to levy a tax on North America, should not be brought forward without giving the colonies who were to pay the tax, and the members of both Houses, who were to join in passing the act, sufficient opportunity to make it an object of deliberate consideration. He had also another reason for postponing all further proceedings upon the resolution of last session, for imposing a stamp duty in America, which was to give the colonies time to offer a compensation for the revenue such as tax might produce. But this conduct in the minister, which was represented by many as a rare example of political moderation and candour, did not receive such a favorable interpretation from the colonies who were the objects of it. They seemed to consider it as an affront rather than a compliment; and instead of offering a compensation for the proposed duty, some of them transmitted petitions to be presented to the King, Lords, and Commons, positively and directly questioning the authority and jurisdiction of Parliament over their properties.

The vote, indeed, concerning the propriety of laying a stamp duty on the colonies, passed the lower House of Parliament, in the preceding session, without interruption; but the final completion of the object of that vote, in passing it into a law,

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was attended with very serious and able debates, both as to the right of the British legislature to tax the colonies without their concurrence; and, supposing that right to exist, the expediency of exercising it for the purpose in agitation. The bill, however, made its way through both Houses, under the sanction of great majorities; and, at last, his Majesty being indisposed, it received the royal assent by commission.

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