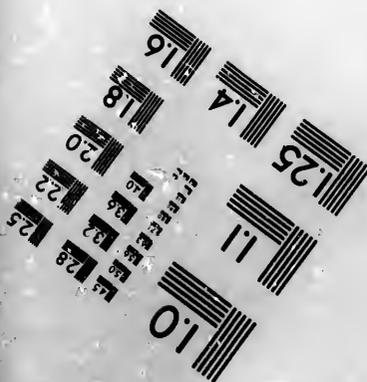
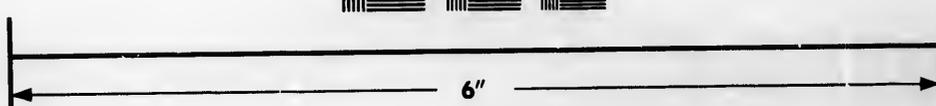
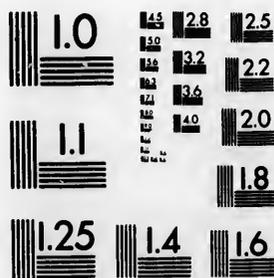


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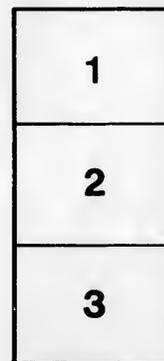
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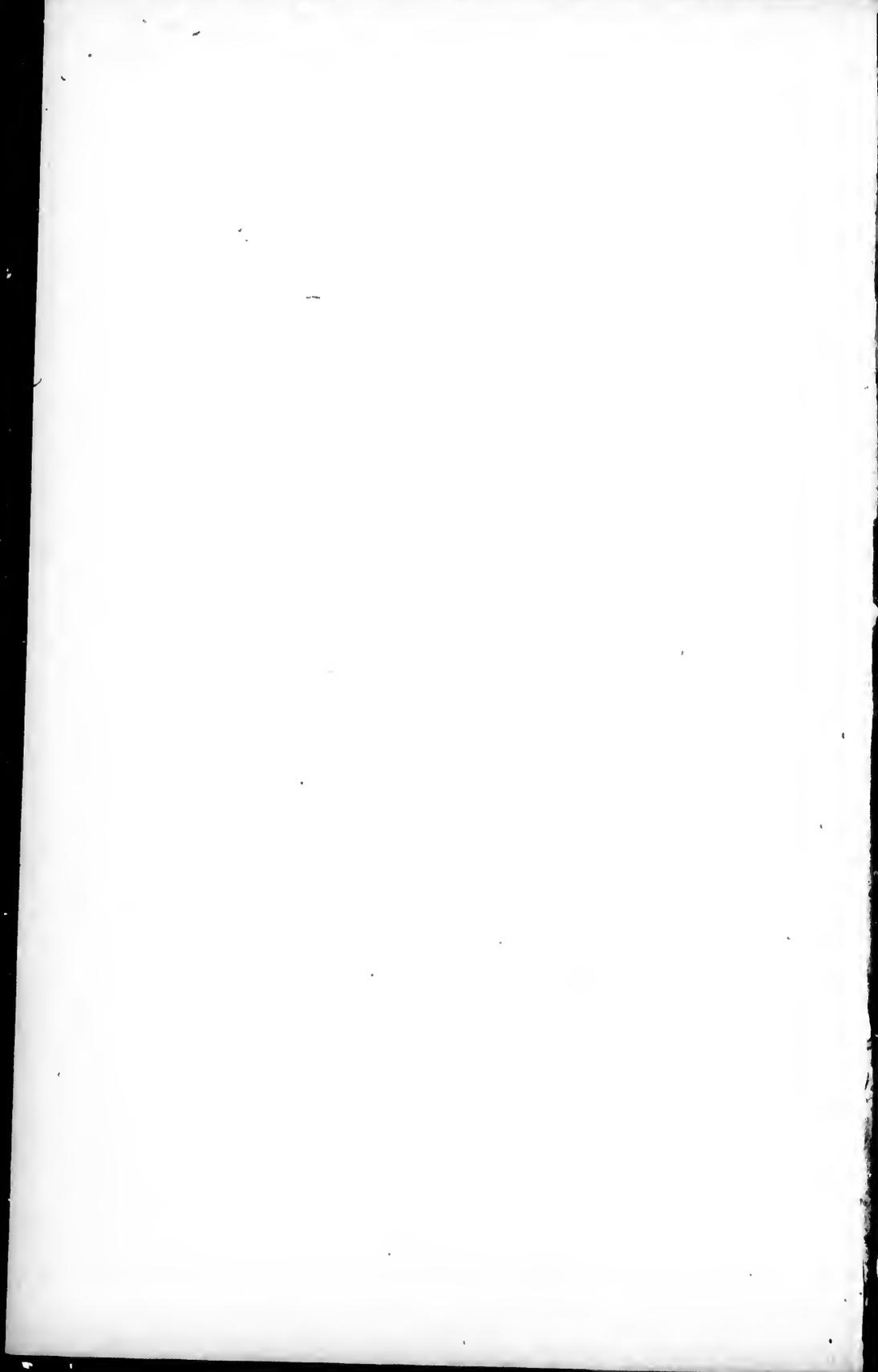
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Trial of HAMPDEN.

THE THIRD EDITION.

D U B L I N :

Printed for JAMES WILLIAMS, at No. 5. in
Skinner-row. MDCCLXIX.

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T H E

C A S E

O F

GREAT-BRITAIN and AMERICA.

THE affairs of Great-Britain and her Colonies, are at a crisis. If our justice or our moderation dictate to us the making any concessions, they should be made whilst they can yet be *imputed* to our moderation, or our justice. The present Session of Parliament should determine upon some permanent system. Great-Britain should fix the Pretensions which she will never relinquish, and the Colonies should have certain information of those claims, which they must submit to. Until such a system be resolved upon,

upon, there will be irresolution, on the one side, and repugnance, on the other; and no system can be stable, that is not founded upon equity, and wisdom.

It is the resolution of the present Ministry, it is said, to impose taxes upon the Colonies, by the authority of the British Parliament, and to *compell* the Colonies to submission. To examine the justice and the policy of those measures, and to suggest others, which appear to be less exceptionable, in each of those particulars, is my object.

The Colonies, by their respective Charters, have not uniformly the same privileges, or the same constitution. But though they differ, in many particulars, they are alike, in the following; namely, That the inhabitants of every one of them, have a right to tax themselves by their representatives, in their provincial assemblies; that none of them vote for representatives, in the British Parliament; and that all of them are to enjoy the freedom of British subjects. In the search for arguments against the Americans, the validity of those charters has not passed unquestioned. I shall say, however, but a little in their support

support, as the attacks have been very weak, and very few. From the earliest times, down to the present, the disposition of foreign territory belonging to Great-Britain, has always been vested in the Executive. It is a power which the Restoration and the Revolution have left unshaken. From the cession of Tangier, to that of Guadaloupe, how frequently has it been exercised? If then the Crown, at the time when it granted the charters, could have ceded the territory (1) of America, to a foreign power, could it not have fixed the terms, on which its present and future inhabitants should continue the subjects of Great-Britain? Where it could have relinquished *all* the authority possessed by Great-Britain, certainly it could relinquish a *part* of that authority. Where it could make a *total alienation*, to enemies even, surely it could make a *modified grant*, to subjects. But suppose that the Crown had not been legally possessed of that power, is there not a term, after which uninterrupted possession confers a right? Have not the Colonists possessed their charters, much longer than

(1) At present it is unalienable from Great-Britain, the charters having annexed it inseparably.

than that term? Have they not dedicated their lives and fortunes to the improvement of that country, from a dependance upon the validity of their title? Have not the British Parliament seen and acquiesced in their doing so? Has not Great-Britain, in her exclusive trade, received a valuable consideration? Surely then it would be monstrous injustice to deprive them of rights so purchased and so confirmed. It has also been urged by some, that the Parliament can *revoke* these charters when it shall think proper; for that it can take away from any city or corporate town, in England, its charter, notwithstanding any length of time it may have enjoyed it. I answer, that if an English city or corporate town had so purchased their charter, as the Colonists have purchased theirs, and had so long possessed it, it would be *unjust* in the Parliament, to rescind, or violate it. But the comparison is totally unfair; for the charter of an English city, or corporate town, and those of the Colonies, besides other material differences, have this essential one, that the former give a Right of representation in the British Parliament, and that the latter do not. If therefore the charter of a British city or borough be rescinded by Parliament, it is rescinded in an assembly which is the repre-

representative of that city or borough. Where a part of England only is concerned, the legislature of England may claim unlimited power, as a body, to which all the rights of Englishmen, are made over and intrusted. But the same reasoning cannot be applied to the charters of the Colonies; the Parliament of England has not the same title to act for them. They are agreements, between England, on the one part, and the Colonies, on the other. In this case, England is one of the contracting parties, and, therefore, cannot act for both. She is a party, and, therefore, cannot be a judge.

The opponents of the Americans admit, that they are intitled to the privileges of British subjects; that they are a free people. Could we determine what these privileges are, and what this freedom, the dispute would be at an end. The American asserts, that he is deprived of the most essential privilege of a Briton, and a free man, if the Colony to which he belongs, can be taxed, by an assembly, in which it is not represented. The advocate for administration, answers, that there are many natives of Great-Britain, herself, who are not represented; for that there are many who have not votes, in the

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choice

choice of representatives, and that the Colonists have no cause to complain, when they are in the same condition, as *many* of the natives of Great-Britain. Would a Colony pretend to a better constitution, than the mother country, from whence she derives it? As this argument has been frequently repeated, I suppose it to be a favourite one with administration; and as it is the only method that has been tried, to reconcile their assertion, that “the British parliament has a right to tax the Colonies,” with their concessions, that the Colonists have the privileges of Britons, and are a free people; let us listen to an American, pleading his own cause, in answer to this argument: “I do not claim a *better* constitution, than my mother country, but in the granting of my own property, I claim *as good* a constitution: you have misrepresented my claims. I have said, that a right of suffrage, in the choice of our representatives, is the most essential of British privileges; but I have *not* said, that *every* Briton enjoys that Right; nor do I require, that every Colonist should enjoy it. There are many Britons, who have no vote, in the election of the House of Commons, so are there many Colonists who have no vote, in

" in the election of our *provincial* represen-
 " tatives ; alledge, if you will, that in being
 " taxed by your Parliament, you are taxed
 " by an *imperfect* representative ; in being
 " taxed by our *provincial* assemblies, we
 " are taxed by a representative *as* imperfect.
 " Our freedom, therefore, in point of taxa-
 " tion, when we are taxed by our *own* as-
 " semblies, is not greater than yours ; it is
 " only equal to it ; our constitution is an
 " image of yours. But if we are to be tax-
 " ed by your Parliament, our constitution
 " no longer resembles yours, and our free-
 " dom is annihilated. If there be many Bri-
 " tons who have *not* a vote, in the choice of
 " their representatives, there are also many,
 " that *have*. The possession of a 40s. free-
 " hold, in Britain, confers the privilege of
 " a vote : the possession of the whole conti-
 " nent of America, does not confer that
 " privilege. Do you not know the infinite
 " difference, between a nation, where *all* have
 " *not* the power of voting for their repre-
 " sentatives, and a nation, where *none* have
 " that power ? The former is *your* condi-
 " tion, and therefore, you are a free people ;
 " the former is what we claim ; the latter is
 " the condition of slaves, and that is what
 " you offer. We claim the privileges of
 " Britons,

“ Britons, and you tell us that we have
 “ them, because we are like those Britons,
 “ who are destitute of the most valuable of
 “ those privileges! We claim the same con-
 “ stitution as Great-Britain, and you offer
 “ us only the *defect* of that constitution, but
 “ deny us its *advantages*. England cannot
 “ be taxed, but by an assembly, where her
 “ land is represented by Knights, her mo-
 “ nied interest by Citizens and Burgeses,
 “ and therefore, she is a free nation. Is then
 “ America on a par with England, in point
 “ of Freedom, if she can be taxed by an As-
 “ sembly, to which her freeholders send *no*
 “ Knights, and her cities *no* Citizens? You
 “ say, that your right of suffrage, is partially
 “ distributed, in Britain; give us then a
 “ right of suffrage, *as* partially distributed,
 “ in America. For this representation, par-
 “ tial and imperfect, as you call it, your
 “ Magna Chartas have been demanded,
 “ your patriots have bled, and your mo-
 “ narchs have been dethroned: Yet this
 “ you deny to the Americans, though you
 “ say to us, Ye have the privileges of Bri-
 “ tons.”

“ But there is yet another defect, in your
 “ argument. For it is not true, that we are
 “ in

" in *as good* a condition as those Britons
 " whom you call unrepresented, and who
 " are not electors: for even *they* have this
 " great advantage, that both the representa-
 " tive, and the electors, pay a part of the
 " tax, as well as those who have no suffrage:
 " whereas, if the House of Commons of
 " England, should tax the Americans, nei-
 " ther the representatives, nor the electors,
 " would pay any proportion of what they
 " imposed upon us; they would not tax,
 " but *untax* themselves. The condition,
 " therefore, of an Englishman, who has no
 " suffrage, when taxed by the British legi-
 " slature, and of an American, taxed by the
 " same authority, are totally dissimilar.
 " Place them in situations which bear *any*
 " similitude, and it will shew, in the strong-
 " est light, the injustice of the present mea-
 " sures. Suppose then, that the Parliament
 " of Britain, should impose a tax, from which
 " themselves, and those who voted for them,
 " should be exempted, and which should
 " be paid intirely by those who had no
 " suffrages; this would bear *some* resem-
 " blance to their taxing the Americans;
 " and would not this be unparalleled in-
 " justice? But if even this (unjust as you
 " must esteem it) were the practice of your
 " Parlia-

“ Parliament, the condition of a non-voting
 “ Englishman would still be infinitely pre-
 “ ferable to ours; for even such a tax as I
 “ have stated, would fall upon the relations,
 “ the friends, the dependents, the tenants,
 “ the manufacturers, the labourers, of Bri-
 “ tish legislators. The legislator would feel
 “ its effects, almost instantaneously; he
 “ would find his own interest immediately
 “ concerned; he would, therefore, use some
 “ moderation. Besides, he is an eye-wit-
 “ ness of their condition, he can judge of
 “ their abilities, he can be wounded at the
 “ sight of their distresses. But he cannot
 “ see our misery, he cannot judge of our
 “ abilities; and his tenants, and his manu-
 “ facturers will feel the *immediate* effects of
 “ our ruin, not in their distress, but in their
 “ exoneration. If, therefore, the legislature
 “ of Britain, should adopt such a system of
 “ unparalleled injustice, with respect to the
 “ non-voting inhabitants of Britain, yet,
 “ even the sufferers by, and the objects
 “ of that injustice, would be happy, in com-
 “ parison of us. Suppose, for a moment,
 “ if you can bear the thought, suppose for
 “ a moment, that your House of Commons
 “ were not elected by you; that they
 “ were an hereditary body, in no wise in-
 “ debted

' debted to your choice ; would you not be
 ' an enslaved, and an unhappy people ? but
 ' even, then, you would be happier than we
 ' are. A body of 500 men, situated in the
 ' midst of seven millions, and taxing those
 ' seven millions, would surely be more
 ' bound to moderation, by fear, if not by
 ' principle, than the same body, assisted and
 ' supported by those seven millions, in tax-
 ' ing two millions, who are at a distance.
 ' To oppress, in one instance, would, at
 ' least, be infamy, if it would not be pu-
 ' nishment ; in the other, they might find
 ' it popularity, they might think it patriot-
 ' ism. Mr. P—tt said (if I mistake not)
 ' that every man in England could huzza at
 ' an election : even that method of expres-
 ' sing one's wishes, is some satisfaction, and
 ' has some influence ; the shoutings of the
 ' people, have had great effects ; and the
 ' very murmurs of Englishmen, had, per-
 ' haps, more share in the repeal of the
 ' stamp act, than the united voice of Ame-
 ' rica. — We cannot even *huzza* at an
 ' election !

' The right of presenting petitions to par-
 ' liament, was deemed of so much impor-
 ' tance, that it was inserted in the Bill of
 ' Rights.

‘ Rights. In this fundamental right, the
 ‘ bulwark against parliamentary oppression,
 ‘ as well as every other, under what disad-
 ‘ vantages do we labour? How different
 ‘ is the effect of a petition, presented by the
 ‘ hands of the injured, enforced by their af-
 ‘ fidity, and recommended by their tears,
 ‘ from that of our *paper-representations*?
 ‘ They are subject to be misrepresented in
 ‘ a thousand ways: they come cold, and you
 ‘ do not feel them; often too late, and you
 ‘ cannot comply with them; and what was
 ‘ done by you, through inattention and
 ‘ mistake, must be maintained, *for dignity*;
 ‘ in a word, they do not strike home,
 ‘ either upon your caution, or your kind-
 ‘ ness; your affections, or your fears. In
 ‘ this particular, the very women and chil-
 ‘ dren of England, have an influence upon
 ‘ Parliament, of which the Americans are
 ‘ destitute. How different is your lot from
 ‘ ours! In the character of an American,
 ‘ to the people of England, I speak. Your
 ‘ frequent elections are a valuable privi-
 ‘ lege to you; what privilege are they to
 ‘ us? At the close of a Parliament, you
 ‘ expect popular measures, from the fears
 ‘ and the hopes of your representatives.
 ‘ But who will find it his interest, to be
 ‘ a friend

' a friend to America? They will wish to
 ' gain the favour of their countrymen, and,
 ' therefore, will burthen America, in order
 ' to disburthen England. What to you is a
 ' valuable privilege, will be to us a source
 ' of repeated oppression. We are more un-
 ' fortunate, even than your Papists. In be-
 ' ing excluded from the right of suffrage,
 ' they are like us; and as they pay dou-
 ' ble land-tax, in that *additional* payment
 ' the resemblance continues; for it is a tax
 ' imposed by men, whom they had no share
 ' in electing, and it is a tax, which those
 ' who impose it, do not pay. In *every* tax
 ' that you lay upon us, we are in the same
 ' situation, that the Papists are in that one.
 ' —But how is your conduct towards *them*,
 ' reconciled to justice? Whilst they refuse
 ' you those assurances of their allegiance,
 ' which the law requires, you say, that they
 ' must not be *intrusted* with the choice of
 ' representatives; (1) and as allegiance is
 ' a quality essential to being a subject, you
 ' do

(1) In the first edition, I mentioned, more largely,
 the motives of our conduct towards the Papists: I men-
 tioned them as the sentiments of others, not as my
 own: but lest I should be misinterpreted, I now omit
 them.

' do not consider them as completely sub-
 ' jects, whilst you doubt their allegiance.
 ' —You tax them, therefore, without their
 ' consent; you exclude them from the
 ' right of suffrage. When you can apply
 ' the same reasoning to us, let us be, like
 ' them, the outcast of legislation. Your
 ' only justification for inflicting these pe-
 ' nalties upon them, is, that you doubt
 ' their being subjects. Your only pretence
 ' for inflicting the same penalties upon us,
 ' is, that we are subjects. *Same* penalties,
 ' did I say? nay, worse; for as they are
 ' inflicted on us, without offence, we can-
 ' not, by a discontinuation of offence, ex-
 ' empt ourselves from these grievances. The
 ' Papist, by becoming a Protestant, can
 ' free himself from this disability, and this
 ' double taxation: but we cannot free our-
 ' selves from this misery, but by ceasing to
 ' be Americans. Besides, your Papists are
 ' connected with their legislators, by rela-
 ' tionship, friendship, neighbourhood, or
 ' dependence. Their possessions, too, are
 ' British, and they must have influence, tho'
 ' they have not votes. And the great right
 ' of petitioning, they possess, with all its
 ' advantages, and can enforce their peti-
 ' tions, by their presence, their assiduity,
 ' their

' their numbers, and their tears. What then
 ' is the freedom, and what are those Bri-
 ' tish privileges, to which you confess we
 ' are intitled? What are those rights, which
 ' we have possessed, above an hundred years,
 ' which we derived from solemn compact,
 ' which we have purchased by the profits
 ' of our trade, and by an unshaken alle-
 ' giance?"

In this reply, which I have put into the
 mouth of a Colonist, I have examined, pret-
 ty minutely, the real extent of American
 liberty, under the present measures. I have
 shewn the *dissimilarity* of their condition to
 our own, and to that of a free people. I
 shall now shew the similarity of their condi-
 tion, to that of those nations, whom we call
 slaves. The author of the Letter to Lord
 Hillsborough, says, *Libertas recipit magis
 et minus; that there are degrees of freedom.*
 I allow it. In what does perfect political
 liberty consist? Some authors define it to
 be, *the power of doing what the laws per-
 mit.* If I do not mistake the meaning of
 this definition, it is clearly erroneous. To
 do what the laws of Turkey permit, cer-
 tainly is *not* liberty. Perfect political li-
 berty consists, rather—in the not being sub-

ject to any laws, but such as we have consented to, by ourselves, or by our representatives. If Britain is but imperfectly represented, it has but an imperfect freedom. But considering the imperfection of every thing human, it may well boast of the excellence of its constitution. There are other nations, the lives and fortunes of whose inhabitants, are dependent upon the will of some person whom they do not elect, and whom they cannot remove; or upon some other country, in the government of which they have no share. France, Spain, and Turkey are instances of the first; Corsica, while it was under the yoke of Genoa, of the second. All such governments are absolute, or despotic; and the people subject to them, we call enslaved. Between their situation and our own, there are, indeed, many degrees. But I defy the author of the Letter to Lord Hillsborough, to shew, that any of those degrees would be enjoyed by the Americans, if measures should be carried to the extremes which we now hear of. I do not say that there is *not* a medium, between a good constitution, and simple despotism; but I say the Americans would not *possess* that medium. He objects to the advocates for America, their asserting, *That if dependence*

ence be enforced, in any the least degree, the Colonists are slaves. Let him not object it to me; my assertion is that they are slaves, if the British Parliament assumes unlimited power over them, *in every particular whatsoever.* If a people can be deprived of their lives and their property, by another person, or another nation, is it not evident that such a people is not free? whether it be by a nation, or by a monarch, is not material. The masters, indeed, are different, but the *government* is equally despotic. The Helots of Sparta were as much slaves, as the subjects of the Grand Signior. Now I defy any person to mention one single power, which the Spartan republic assumed over the Helots, which England does not assume over her Colonies. I would not insinuate that Great-Britain will not govern with greater humanity: but if her power be mildly administered, it will indeed be a *milder* despotism, but it will not therefore be *the less* a despotism. Should we thus address ourselves to a colony of France or Spain: You live under an absolute government; transfer your allegiance to us, and you shall enjoy those privileges, which Great-Britain diffuses through all her dominions. Might it not answer, in these words; *I am*
not

not burthened with taxes in near so great a proportion as your Colonists, but I would consent to pay more than I do, if I were to enjoy a greater degree of freedom. What then are those privileges which you offer to me?" We might say to them, One of the principal privileges shall be this, that you shall not be taxed, except by your own representatives, or else by the Parliament of Britain. Might it not then reply to us? I find then that my representatives are not to be a part of that British Parliament, which is to tax me; were I subject to the absolute dominion of an assembly elected by the provinces and cities in France, should I be one whit more free, than in being subject to the absolute dominion of its monarch? When you spoke to me of privileges, I imagined that you meant that right of suffrage, which is the boast of the British constitution. You give it to me, indeed, in one place, but you will tax me in a place where you will not give it to me. When our own sovereign has taxed his subjects as much as he thinks proper, he will scarcely refuse them the privilege of taxing themselves again, in any manner they please. If you can demonstrate to me that our monarch assumes one single power over us, which
 you

you do not assume over your Colonies, I will hearken to your proposals, but if you cannot, your government is as arbitrary, as that of France; we are less taxed, and as free as your Colonies.

Having examined the real condition of the Colonists, under the present supposed measures, with as much attention as I am capable of, I can find in it no circumstance, which should prevent my asserting that they would be as destitute of freedom, as any nation ever was, or ever can be: now whatever those rights and privileges may consist in, which confessedly belong to the Americans, they certainly do *not* consist in *slavery*, which is the want of every right, and the deprivation of every privilege.

I have shewn that the comparison, between the Americans, and those Britons who have no suffrages, is false; and that if it were true, it would not be argumentative. I have shewn what the freedom of the Americans, does *not* consist in, and I will now endeavour to shew what *are* those privileges, to which they are intitled. I cannot help observing, in this place, that every one who has written against them, has confined his endeavours

vours to the proving which of the British privileges they ought *not* to possess; but not one of them has mentioned those privileges, which they *ought* to enjoy. It is a little suspicious, that those authors, whose profest design is to convince and to conciliate the Colonists, have never once enumerated those advantages, which they are still to enjoy, under parliamentary government. Surely, nothing would be so likely to pacify them, as a recital of the blessings, which are still to remain to them.

But to return: in order that the Americans should enjoy British freedom, it is not sufficient that they should adopt *that part only* of our constitution, which *departs* from the principles of British liberty; they must possess that part which is excellent, as well as that part which is defective, or their liberty is not an image of ours. It is not, therefore, sufficient that an American land-holder should be on a par, with a Briton who has no landed property, or with a British Papist. But that an American *freeholder* should have the same power over his *own* property, as a *British* freeholder has over *his own*. If any man shall object to me, that I have placed the Colonies in a situation *too* equal to their mother-

mother-country; I answer him, that I have done so, only with respect to their *own vested and acquired* property*; and that Americans have as much right to the property of America, when once *acquired and vested*, as *Britons* have to the property of *Great Britain*.

In order that taxation and representation may not be united, in America, the adversaries of America deny that they were united in Britain. And attempts have been made to produce instances of their disunion, taken from different periods of the British constitution. It is not material to my cause, to examine whether those attempts have succeeded. If America be intitled to English privileges, the English constitution, she is intitled to that constitution, as it stood, at the *time* when the Colonies were planted. She is not to have the constitution, that existed in the time of William the Conqueror, or of

* The Americans must relinquish many rights of property; that is, many rights of *acquiring* property; for they must be subject to British navigation laws, and trade-regulations; but the right of *granting* property, already acquired and vested, should be sacred. This should be theirs, safe and intire.

the Saxon heptarchy, or of the Roman government. If England communicated to America her constitution and her privileges, we communicated them such, as she herself, at that time, enjoyed. It was the constitution of England, at that period, that every man possessed of 40*s.* a year, by that free tenure which we call a freehold, should have a vote in electing a member of that assembly, which alone could tax his property; besides certain persons, invested with privileges, in cities and boroughs. This was, and is, the bulwark of English liberty; without this, we should be slaves. This, then, is the constitution, which is communicated to America: let not, therefore, *her* property be taxed, except in an assembly, to which *her* freeholders and electors send a representative. At an earlier period, the privilege of voting in England, was diffused much more universally; it belonged to all who held by a free tenure; that is, to all the *subjects* of England; for those who held by other tenures, were not subjects, but *villani*, or slaves. So intire was the union, at that time, between representation and taxation; but to this constitution, the Colonists have no pretension, as it was not the constitution of England, at the time of their establishment. By the 8th of Hen-

Hen. VI. the right of voting was confined to such freeholders, as had 40s. a year, and thus the more opulent freeholders were entrusted with the rights of all the rest. It appears to me that England, by this change, had *two* kinds of representatives. The richer freeholders represented the *others*, and the House of Commons represented *them*. Thus the opulent freeholders were *representatives of election*, constituted by their circumstances; and the knights were *representatives of legislation*, appointed by suffrage. If there be any justice, in this opinion, all the *subjects* of England, were, either actually, or virtually, represented. But if there be not, and if it be admitted that England was, and is, *partially* represented—give a representation *as* partial, to her Colonies. If Britain be imperfectly represented, she has but an *imperfect* freedom; but if the Colonies have *no* representation, they have no freedom, at all. If Britain has *not* the *best* constitution, which human invention could have suggested; is it a reason that America should have the *worst*?

In the memorable contest with the H—e of P—s, about the right of originating taxes, the C—ns urged; with great force,

their exclusive right, to that privilege. They thought it unreasonable, even, that any part of the taxes, should be increased, or diminished, or that the rates should be examined by the P—rs, *whose proportion in all taxes, in comparison to what the commonalty pay, is very inconsiderable.* I believe the same assembly think these words to contain good sense, at this day ; and it is undoubtedly very reasonable, that those who give the most, should have the greatest share, in modelling the gift. Such were the maxims that were formerly adopted, by that great assembly, and such were the reasonings, on which their greatest privilege is established. Why then do they *now* think it reasonable, that those who pay not an *inconsiderable*, but *no* proportion, should not only originate a tax, but pass it into a law ? Compare the spirit of their former maxims, with that of their present.

“ It is unjust in you, my L—ds, to *begin*
 “ a taxation, of which you pay only a small
 “ proportion ; yet we will *impose* a tax upon
 “ America, of which we pay no proportion,
 “ at all. It is unjust that you, my L—ds,
 “ should even *originate* a tax, upon men, of
 “ whom you are but the lesser number,
 “ though the rest may afterwards refuse it,
 “ if they please. But it is just for us to
 “ enact

“ enact a tax-law for the Colonists, which
 “ they shall *not* have a power to refuse, al-
 “ though we are not any part of them. The
 “ right of proposing taxes, belongs to us as
 “ representatives of the people who pay them,
 “ and yet we will tax a people of whom we
 “ are *not* representatives.”

By *representatives*, I mean men elected and appointed by others, to act for them—In a more extended sense of the words, persons who *act for* others, may be said to represent them, although they be not elected by them. In this sense of the word, an absolute monarch *represents* all his subjects; the council of ten, at Venice, in many instances, represents the state; the king of England, when treating with a foreign state; represents his dominions; and the British parliament, when it makes trade-regulations for the Colonies, may be said to represent them, because it *acts for* them. But it is by *real* and *elected* representatives, that liberty must be preserved; when, therefore, I speak of representatives, in general, I mean such only. The author of *The State of the Nation*, says, “ The supreme legislature represents all the subjects of the state,” that is, the Parliament of Great Britain represent the Colonists. Now there
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are two ways only, by which one person may be said to represent another, either as being *elected* by that other person, or as having a right to act for him. That the British Parliament, or any Part of it, is not *elected* by the Colonies, is too plain to admit of a dispute, it does not, therefore, represent them, in that light; and whether it has a right to *act for* them, is the very point in question; let him not, therefore, take it for granted—I have given my *reasons*, that it *has not*; he has made his *assertion* that it *has*. When he proves that it has a right to *act for* the Colonies, in the article of granting taxes, I shall allow that it represents them, in that instance; or when he proves that it represents them, I shall allow that it has a right to act for them.—He quotes the words of Mr. Locke, “The legislative is the joint power of every member of the society, given up to that person, or assembly, which is legislator.”—The definition is accurate, but the application of it, is not. In every instance, where the joint power of every member of the Colonies, has been given up to the British Parliament, that assembly is undoubtedly their legislator—But it remains for him to prove, that *the right of taxation*, is one of

of those instances. Let him prove it, if he can, but let him not take it for granted.

The same author quotes a statute, the 1st of Ja. I. which says, "That the whole body of the realm, and every particular member thereof, either in person, or by representation upon their own free election, are, by the laws of the realm, deemed to be present in the High Court of Parliament."— He cites this statute, to prove, that every member of the realm, is represented, not in the House of Commons, but in Parliament. In my opinion, he might spare himself the trouble; every one knows that the *Lords* are members of the realm, and every one knows that the Lords are not represented, in the House of Commons. I will readily allow that the Parliament of England, is the representative of England; but does it follow from thence, that it is the representative of the Colonies? surely he would not insinuate that the Colonies are present, in that court, either in person, or by representation upon their own free election.

In order to prove that the parliament has a right to bind the Colonies, in every case whatsoever, the same author asserts its right

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to bind *all the King's subjects*, and he instances the Palatinate of Chester. If the Allegations of the Petition, which he has quoted, be true (that that Palatinate was distinct and separate from the Crown of England, and that their Count held it as freely, as the King of England did his crown) it is evident that the Parliament acted *unjustly*, in binding them; if they be not true, why has he quoted it as an authority? In order to prove that Parliament may bind *all the Dependencie.s* of Britain, he cites *one* instance only, and that *not* of a dependency. And to prove that it would act *justly*, in so doing, he cites an instance, where it acted *unjustly*.

Bills of supply are looked upon, not only as laws, but as free gifts; and, on account of this difference in their natures, they are subject to different forms. The lords cannot originate them, although they also are *legislators*. And when the royal *assent* is given, the royal *thanks* are given, also. The 9th of Henry VIIth, enacts, that the King shall *thank* both Lords, and Commons: but if our Parliament shall tax the Colonists, to whom are the r——l thanks to be addressed? Is he to thank his *British* subjects, for giving him the property of the *Colonists*? Is he to thank
the

other, but reciprocal affection. To extend their commerce, our ancestors encouraged the emigration of British subjects. Their industry abroad was thought more advantageous, than their residence in Britain. As an inducement to forego those privileges which they possessed, or might acquire at home, it was agreed that they should carry English privileges along with them. And as an inducement to become the carriers, and the labourers of England, they were endowed with a desert territory, useful only by the industry they should bestow upon it, and this was given them, as their *wages*. Let not a compact, founded in our interest, purchased by their labour, and confirmed by time, suffer any violation. Let us be content, with our commercial advantages, and those superiorities which they willingly submit to. Let us make them labour for us ; but us not take from them their *wages*, also.

Having considered the justice of the present measures ; let us now examine their policy ; and in this examination, let our sentiments of equity forget to operate. Let us forget that they have rights, or that we have humanity. Let us suppose ourselves entering into an agreement, with a *free* and a *considerable* people, and settling the terms
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of an everlasting union. Or if any one should be of opinion, that neither of these circumstances, are applicable to the Colonies; let us suppose them in their numbers inconsiderable, unaccustomed to liberty, overawed by fear, or humiliated by conquest, and ready to receive any constitution, we please to impose upon them. In such a situation, what reflections should our own interest suggest to us? Though this people be weak, at present, their strength, and their numbers, may increase*; though we ourselves are strong, our strength may decline; though their spirit is depressed, it may revive. They are placed at a great distance from us. We have formidable enemies. Their affections, therefore, are of the utmost importance, and there is no method so certain, of securing their affections, as the making it their interest, to be our friends. We ourselves have a free constitution: if we grant liberty to them, they will be steady to us, because they cannot change, for the better: if we assume unlimited and absolute

* It is whimsical that Mr. Canning mentions the probable increase of the Americans, as an Argument for measures, that must exasperate them.

authority, they will wish to change, because they cannot change, for the worse. The tyranny of a despotic commonwealth, is infinitely worse, than that of a despotic prince. But it is vain to endeavour to deceive them ; though they have never tasted liberty, they will soon become acquainted with its nature. They will perceive the *miser*y of their situation, by the happiness of *ours*. While their garrisons are filled with our soldiers, their harbours with our fleets, and their employments with officers, of our appointment, and while they derive from us a degree of freedom, we shall be secure, both by our own power, and by their affections. They are weak, by their circumstances, let us not make them strong, by their despair. The gradual increase of numbers and of opulence, may add to their force, but that force will sleep, unless it be awakened, by injury : and while we retain an absolute power over their trade, that very increase will depend upon our regulations. Whilst they are happy under our government, their strength and their opulence will be strength and opulence to us ; but, if we oppress them, they will be our weakness, and our danger. The numbers of a people, are not so formidable, as their union, their hatred,

hatred, their fury. If there ever should come a time, when they shall be able to shake off our sovereignty, it will pass unheeded, by a grateful and happy people, But if our dominion be founded *only* in *our* strength, it will subsist no longer than *their* weakness. It is, therefore, evident that we shall hold America, by a better security, if we do not enslave it. But will it afford us as much present emolument? This surely is a consideration, much inferior to the other; it may have more weight with a short-lived and a short-sighted administration; but can never have so much with a thinking nation. Yet let even this be considered; we know that this nation has paid considerable taxes, without any compulsion; and we know that free nations can support greater burdens, than nations equally opulent, that are enslaved. No power, no management, has ever succeeded to tax the latter, as highly as the first; and the efforts of despotism have produced only depopulation, or rebellion. Thus it is by no means certain, that even our present emoluments would be the less, if we extort nothing from them against their own consent. Besides, with how much less *expence* can we secure the allegiance of the willing, than of the unwilling. Amongst the first, a
 militia

militia would be serviceable; amongst the latter, it would be formidable to ourselves. Let us also consider with how much greater eagerness our manufactures will be purchased, by a grateful, than by an exasperated people. We are now at peace with the world; the most rigorous measures may succeed, for the present; but such measures are not the most eligible in themselves, when conducive neither to present advantage, nor future security. The greatest man of his age has told us, that two millions of fellow-subjects, deprived of their liberty, would be fit instruments to make slaves of the rest. Surely there is a justness in his observation; those whom we reduce to *slavery*, cannot wish well to our *freedom*. Let us also consider, that without assuming that despotic authority, which is intolerable to human nature, we may yet retain a power amazingly extensive. A power over the commerce of a nation, affects the merchant, the landholder, and the manufacturer. Though we cannot dive into their purses, to wrest from them what they have *already* acquired, we can prevent their *future* acquisitions. Nay, we can do more; we can make what they possess already, less valuable, by its stagnation. Though the power of *granting*, belong solely to themselves,

selves, they will yet have but little power to *refuse*. Says the author of the *State of the Nation*, "Is it of no importance to the thriving American Colonies, that Great Britain, "finding her incapacity to defend herself, "and protect them also, should be obliged "to confine her fleets and armies to her own "coasts, and leave them exposed to the ravages of a domestic, or the conquest of a "foreign enemy?" Yes, certainly, it is of the utmost importance, and therefore the present supposed measures are as *unnecessary*, as they are unjust; for whilst the Colonies derive from Great Britain the inestimable blessing of liberty, they will strain every nerve, in support of a power, by which that blessing is to be secured. If weakness should ever infect the British empire, its distant dependencies will feel the *first* symptoms of it. For their own preservation they will exert themselves, in a common cause, and for their own sakes they will assist their mother country, whilst by assisting her, they protect themselves. But if we reduce them to a situation more deplorable than that of a French Colony, from that moment our interests are separate, what terms can they expect from *any* enemy, that will be worse than slavery? Our very avarice should direct us
to

to address ourselves to freedom, which is always liberal, rather than to slavery, which never makes any return*. Let this content us: that their increase and their prosperity, shall depend upon our sufferance, and their very existence, upon our protection; that the sea, the common benefit of mankind, may be denied them, that the labour of their hands, the strength and the ingenuity which nature has bestowed upon them, shall be converted to our purposes; but, for our own sakes, let us not discourage that industry, which is to benefit ourselves: what we permit them to acquire, let that be their own.

Thus, on every present, and every future consideration, I should think myself an enemy to Great Britain, should I propose to give worse terms, to a people unendeared by former connections, unacquainted with liberty, and destitute of any claim upon our justice, than those which are demanded for *our fellow subjects*. But it must not, therefore, be forgotten, that they have long been our friends and brothers; and that another system cannot be established, without a violation

* Esprit des Loix.

of national faith, a departure from our justice, and, at one time, perhaps, the shedding of their blood. We should be well assured of the rectitude of our cause, we should advance to the utmost limits of negotiation, before we draw the sword, against our brothers. We shall prevail, with certainty, indeed, but we may not prevail, without a contest. And, though, the force of terror only, may give temporary establishment to our authority, the sword and the executioner must maintain it. From men deprived of every thing that they hold most dear, and deprived of it, by their friends, what may not be expected! Any thing should be expected, except their submission. What then are the ultimate objects of the most oppressive laws, and most sanguinary councils? Will they restore us to that brotherly affection, which infused the same soul, into every part of our empire, or procure us an uncertain quiet, a disaffected submission? Let France expect *such* a submission, from Corsica; by our superiority she will obtain it: and she may well be contented with it—She is accustomed to govern, by fear; and over a people, where heretofore she had no authority, even that influence will be some acquisition. But neither her numerous armies, nor her mighty

F power,

power, nor her vicinity to that devoted island, nor the paucity of its inhabitants, can ensure to her a quiet and an useful possession; while she finds an enemy, in the hearts of the people. But by us, if possible; still less is to be expected: with less disproportioned force, we may encounter a more rooted antipathy. The Corsicans never tasted freedom, under a French administration; she has only *prevented* their emancipation, from the tyranny of Genoa, and will receive them under a milder oppression. But the Americans will be *deprived* of a liberty, which they have already possessed, many years, under the tutelage of Great Britain. A more violent change, a more intolerable perdition. And are these measures *wise*, whose very success has but this for their object, and whose failure is ruin? Are these the principles, by which free men should govern free men? Is this that invincible union, and that firm establishment, by which Britain shall hold the West Indies, in her right-hand, and the East, in her left? Or is this the wisdom which must heal public credit of a thousand wounds, and support the weight of a tottering empire? There may come a time, when the distresses of Great Britain may require the utmost efforts of a grateful people, and

and our posterity may find, by a fatal experience, that the sword was but an ill interpreter of charters ; and that the characters of freedom, will not be less indelible, in the breasts of the Americans, if they be written in the blood of their forefathers. What shall I say of these measures ? That they are so impolitic, that we should reject them, though justice did not condemn them ; that they are so unjust, that we should reject them, were they ever so politic.

These considerations I have presumed to dedicate to the greatest assembly in the world, and to the best of princes. If they carry any conviction along with them, the consequences naturally follow. First, that we should leave the Americans to tax themselves : Secondly, that we should retain to the British Parliament, every power that is not inconsistent with our justice, and their liberty : That a law should be passed, immediately, repealing every act, that taxes the Colonies. I do not propose, that it should contain any counter-declarations, or that the power should, in terms, be disclaimed. It will be sufficient that they be repealed, and that we do not revive the claim. *Let it be buried in oblivion ; let it hang between the con-*

stitutions of both countries, equally pernicious to both, and belonging to neither. Let it be suspended, like the sword of the murderer, in the Grecian law, which was deposited in their temples, as unfit to be handled; and consecrated, as it were, not for its merit, but of-fence.* And lest, at any time hereafter, it may be disputed where the line is drawn, between American liberty, and British jurisdiction, perhaps it might not be improper to declare, in the same law, the supremacy of Britain, and its absolute dominion over navigation and commerce. Can we assert the dependency of the Colonists, in stronger terms, than those of Mr. Otis, a gentleman who is certainly well informed of their sentiments, and who has probably a considerable share in forming them, "That the Parliament of Great Britain has undoubted power, and lawful authority, to make acts, for the general good, which, by naming the Colonies, shall, and ought to be equally binding, as upon the subjects of Great Britain within the realm." Should the Colonists complain, that if this power be re-

* These words were made use of, upon a different occasion; by Mr. H——, the brightest ornament of the Irish Parliament,

served,

served, they have not the same degree of freedom, or all the privileges that are possessed by their British brethren, I shall readily confess that they have not : but it was not intended by their original compact, that they should. If Britain does not reserve to herself an absolute authority, over the trade of her Colonies, not one of the ends will be answered, for which those Colonies were planted : they will not be subservient to the commerce of their mother-country; they will rival and destroy it. And surely we shall not be deemed enemies of their freedom, in adopting the sentiments of its able and interested defender. The power of regulating their commerce, and the right of prohibition, have indeed a most extensive dominion, over the wealth and prosperity of America ; and those demands must be exorbitant, indeed, which can be refused to an assembly possessed of so mighty a prerogative. But there is a material difference, between stopping the acquisition of riches, and the taking away what is already acquired. They have, indeed, but a bitter alternative ; but bitter as it is, *they have an alternative*. Says Mr. Otis, in the true spirit of liberty, “ I had
 “ rather see this (right of prohibition) carried, with a high hand, to the utmost rigour,

“ gour, than have a tax of one shilling, taken
 “ from me, without my consent.”

is much the interest of Britain, to promote the commercial welfare of her Colonies, that they may form a reasonable expectation, that these interests are safely deposited. But on this self-interest, on the wisdom and equity of the British legislature, and on the conciliating moderation of their own conduct, much, very much of their prosperity will depend. Of this moderation we have as yet made no trial. When we desisted from *actual* oppression, we laid its *future* foundations, and the repeal of the stamp act, was attended with the strongest assertions of our *right* of taxation *; assertions which an upright administration never

* The author of the State of the Nation, observes, that the exports to America, in the year subsequent to the repeal of the stamp act, fell short of those in the year preceding it; and he, therefore, blames the conduct of that administration, by whose influence “ the stamp act was repealed, and every other American proposition adopted.” It is a little extraordinary, that men who so strongly asserted our unlimited power over the Colonies, should be said to have adopted “ every American proposition.” The diminution of our exports, should be attributed to our *rejecting* American propositions intended

intended to carry into experiment, but an unhappy compliment, which wisdom and virtue paid to temporization and prejudice. If, impressed with a conviction of their freedom, the Americans have a sense of injury, let not Britons resent the sentiments they have communicated. Let us maturely consider whether we ourselves were not the aggressors. If force is justifiable in destroying those rights, which are derived from time, from compact, and from nature; what is not justifiable for their re-establishment? If the cause of the Americans be just, their firmness is virtue.

tions, rather than to our adopting them. The diminution of our exports, was owing to the discontent of the Americans; that discontent to our claiming a right to tax them. Whether the continuance of that discontent, was owing to the continuation of our claim, or to the repeal of the stamp act, I submit to the judgment of my readers.

THE END.

