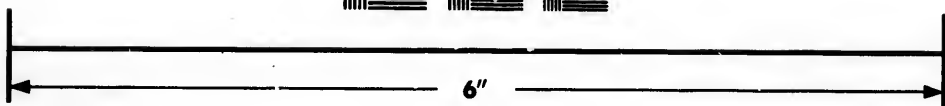
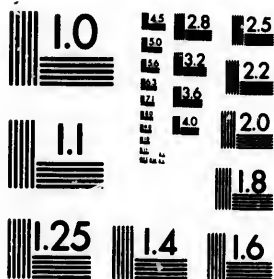


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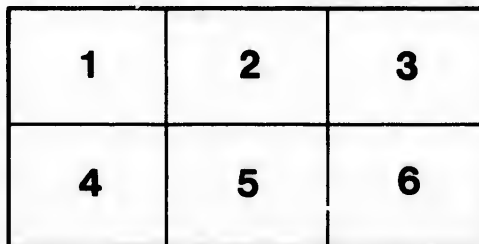
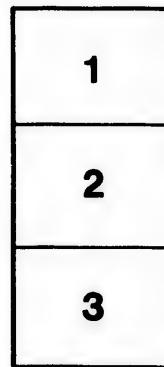
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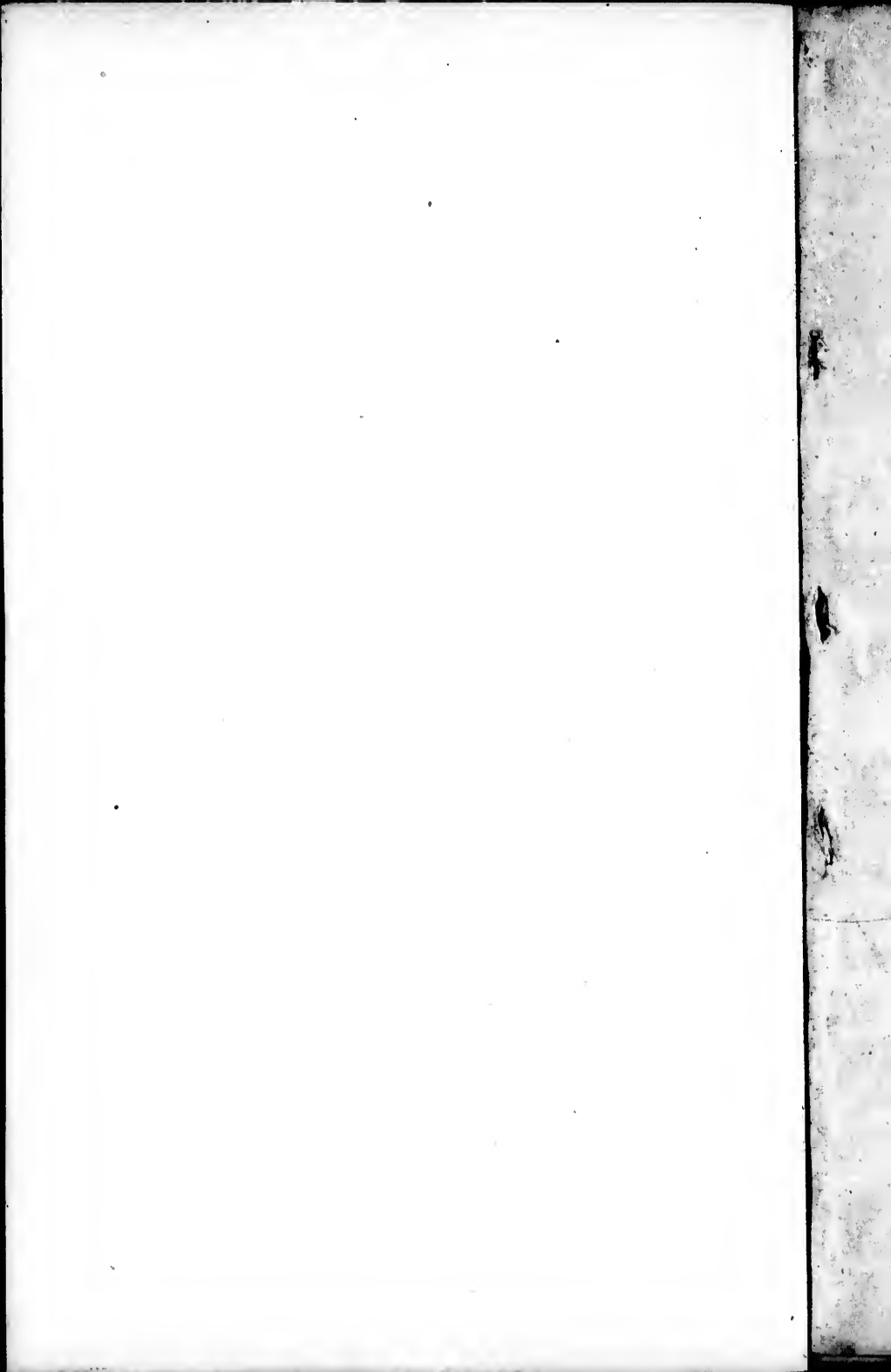
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A N S W E R
FROM THE
ELECTORS OF BRISTOL,
TO
EDMUND BURKE, Esq.

[Price One Shilling and Sixpence.]

E R R A T A.

In Title Page, line 8, for TEH, read THE.

P. 1, line 7, dele *in*.

20, line 29, for " putting them *under*," read
" *out of the protection of the law.*"

31, line 2, dele *un*.

33, line 22, for *masure*, read *measures*.

53, notes, for *Un*. read *An*.

54, line 19, for *our*, read *any*.

81, line 11, for *enough*, read *enow*.

A N
A N S W E R

FROM THE
ELECTORS OF BRISTOL,

TO THE
L E T T E R

OF
EDMUND BURKE, Esq.

ON THE
AFFAIRS OF AMERICA.

L O N D O N :

Printed for T. CADELL, in the Strand.

MDCCLXXVII.

A. N. S. W. R.

1870

1871

1872

1873

1874

1875

1876

1877

A N S W E R, &c.

S I R,

THE Letter which you have done our Sheriffs the honour to write them, "*on the affairs of America,*" they have obligingly communicated to us, conformable to your desire. Although we had already perused, with great attention, the two Acts of Parliament which you inclosed in them, and on which you have written so elaborate and learned a commentary; yet your condescension "*in having pleasure in accounting for your conduct to your Constituents,*" when it was matter of doubt "*whether you was under any formal obligation to it **," hath given us a satisfaction, which we cannot soon, or easily forget. On

* Page 65.

B

our

our reputation, we assure you, that we never will requite the most obliging favours conferred, with a studied neglect; or your inclination to inform and instruct us, by giving "*your opinion on the present state of public affairs,*" with a disrespectful silence. A moment therefore we could not delay, in writing you an answer, on this interesting subject. As "*our talents are not of the great and ruling kind,*" as we are not writers by profession, we have some reason to hope, that if we sacrifice the *flowers* of language to perspicuity, and a studied ambiguity of sentiment to plain and simple sense, we shall find pardon from your goodness. The graces of order, or the regularity of method, are hardly to be expected in an epistolary correspondence; and it shall be our endeavour to follow, with all possible attention, the several pages of your Letter; which, perhaps, we do wrong in considering rather as a vehicle of sentimental Declamation, than a formal, methodical Treatise on the present State of Public Affairs.

We are happy in agreeing with you in opinion, "*that these Acts are similar to all the rest on the same subject; that they operate by the same principle, and are derived from the very same policy*"—a policy nevertheless dictated by necessity, which is governed by no

principle of jurisprudence. We wish not to incur the imputation of tediousness; and we shall not enter into a minute detail of Colonial History, since the æra of the Peace of Paris, in 1762. But, as was foreseen and foretold by the very respectable list of Peers who protested against the repeal of the Stamp Act, every other Statute afterwards enacted by Parliament for the Colonies, was opposed by them with the same vehemence, the same outrage and force, which had proved so successful in procuring the repeal of the Stamp Act: and this conduct, and its success, as examples, were held up to them, and on every new occasion recommended to their practice. Against the operation of the Stamp Act, the ablest advocates for the Colonies contended only for an exemption from *internal taxation*. The repealers of that law very effectually transferred to them that important right. Against the execution of Mr. Townsend's indefensible law for taxing tea, painters colours, &c. your worthy friend the Pennsylvania Farmer strenuously asserted the right of the Colonies *to exemption from external taxation, or even any regulation of trade, where any incidental revenue might arise*. To gratify the Colonies, and, if possible, to remove all cause of discontent, this Act was repealed, the trifling tea duty only excepted. Against the law for permitting the East India Company to export their teas to

the Colonies, a Pupil * of the Farmer's arose, and at once boldly cut the knot which he could not untie, and expressly contended, " *that the Parliament had no right to legislate for the Colonies in any case whatsoever.*" The violences which ensued, the destruction of the tea at Boston, and the wound given to the security of the national commerce in the Colonies, are known to all. It became apparent to every one not linked with Party, or blinded by their " *inveterate partialities* †," that Colonial affairs had arrived at an important crisis at the end of the year 1773; and that this Country was reduced to the exquisite dilemma, of either relinquishing for ever the important rights contained in *your Declaratory Act*, of making laws for the Colonies *in all cases whatsoever*; or of adopting the decisive resolution, of effectually supporting the national rights, the just authority of the laws, and the legal prerogative of the King. The great Council of the Nation chose the latter. The Boston Port Act, That for regulating the Massachusetts' jurisdiction, and others, was the result. And from this wise and spirited resolution, springs the policy of those laws, " *which compleat the number of this sort of statutes to nine* ‡."

As we see not the truth or the extent of your observation, " *That our subjects diminish*

* Mr. Wilson of Pennsylvania, who studied under Mr. Dickenfon.

† Page 23.

‡ Page 3.

“ as our laws *encrease*,” you will not blame us, if we give you not a decisive answer. Inform us, we pray you, if it is your opinion, that because the Colonies, with a temerity peculiar to them, have declared the Colonies independent, they therefore are so; or if every County, Isle, or portion of the Empire, who, from motives of ambition, interest, or resentment, chuse to throw off their allegiance, cease to be the subjects of the Crown? If we have the misfortune to think differently with you on this important constitutional point, we have the satisfaction to know, that our sentiments are perfectly coincident with the law of England, and Lord Coke*, whom you honour with your approbation, where he says, “ *Allegiance is a debt of gratitude, due by every subject, in return for the protection he receives from the moment of his birth, that can neither be forfeited, cancelled, or altered, by any change of time, place, or circumstance, or by any Act but that of the Legislature.*”

It is matter of comfort to us, that against the Letter of Marque Bill “ *you have little to say* †.” We freely confess our only objection is, that it was not enacted a twelve-month before. How long is it since our Factors were

* Coke's 7th Report, p. 7, &c. Vid. Hale's Hist. Pleas of the Crown, vol. i. p. 68, 96.

† Page 4.

obstructed, and driven out of the Colonies with every insult and injury; our property destroyed in their towns, and our ships burnt in their ports? To your candour and knowledge we appeal, if, before this Act was thought of, several of the Colonies had not issued edicts to encourage "*persons to make a naval war upon us,*" by privateers, which we have had too much reason to feel and to remember. How many of our defenceless ships, loaded with the rich produce of the West Indies, had they not carried into their ports, to the encrease of their fortunes, by the diminution of ours? How many of our sailors had they not carried into captivity, or compelled to fight against their Country, which they love? Yet those men you honour with your approbation, and all their actions defend or palliate with those great talents which Nature has blessed you with. What nation on earth, we beg leave to ask you, would have dared thus to insult and injure Old England with impunity, however fallen, as you think, from her ancient power or consequence? But the men whom you feel for so much, even in preference to us, have been taught to trample on the rights of this Country, to despise the authority of the Legislature of the Empire, and to insult our Sovereign. This is called a Contention for Liberty, and as the end is glorious and good, the means of attaining it cannot be bad or wrong.

The

The Act "to empower his Majesty to secure and detain persons charged with, or suspected of treasons committed in the Colonies, or on the seas, or of piracy," appears to you "of a much deeper malignity," and as "a masked proceeding, not very honourable to the justice of the Kingdom." From an attentive perusal of this law, and it is from this only that a true judgment can be formed, we are constrained to differ in opinion with you; and in doing this, we always distrust our own. Nothing more can we find in this Statute, than that persons taken in the act of high-treason committed in the Colonies, or on the seas, or in the act of piracy, or who shall be charged with, or suspected of any of these crimes, and committed by a Magistrate having competent authority, may be detained without bail or mainprize, and without trial, till the 1st January 1778. Such is the language of this law, which seems to us as clear, precise, and accurate, as it was possible for the soundest head to propose. To enquire what was the antecedent law, is a sound rule of construction. Persons accused, or suspected of the crimes of treason or piracy, might have been committed and detained without bail, *until discharged by due course of law*. But it is a singular excellence in the law of England, that the gaols are cleared, and all offenders tried, punished, or delivered, twice every year, London and Middlesex excepted, where the Courts of gaol-delivery being held eight

eight times a year, the offenders are so often punished or discharged. To have proceeded to the trial of persons described by this Act, according to the usual course of law, might have been highly inconvenient. The Congress, with a spirit peculiar to them, had threatened to retaliate on the peaceful and loyal; several persons have been already executed for pretended crimes in Connecticut, Pennsylvania, and Carolina; and what waste of the human species might not have ensued, from the rashness of those men, it is very easy to imagine. To have suffered the offenders to have gone at large, might have been of most evil example. Notwithstanding the provisions of this law, and the terrors of punishment, Cunningham and his associates, probably actuated by the example of the men "*who make a naval war upon us,*" and even without any commission from Mr. Franklin, have taken the Harwich Packet, in which we were greatly interested. How much more noble is it to prevent than to punish crimes! In pity to mankind, what slaughter of our fellow-citizens does not the humanity of this law prevent, by "*detaining the criminal for future trial,*" and, if guilty, "*for ignominious punishment.*"

To what passed "*during its progress through the House of Commons,*" when "*you declined your usual strict attendance,*" you recal our attention. We perfectly recollect, that it was insisted

insisted by those "*Gentlemen, who were of opi-*
nion their exertions in this desperate case might
be of some service," that this Bill totally sus-
 pended the Habeas Corpus Act, the great bul-
 wark of England's liberties; that though its
 language extended only to treasons commit-
 ted on the seas, or in the Colonies, its spi-
 rit might be so directed, as to imprison those
 who had remained peaceable in England; that
 none could say whether any Liberty existed
 in the nation, or if any man was free; and
 that now the liberties of Englishmen were
 held at the will of the Minister. But since
 this Bill became the law of the land, a very
 different language has been very solemnly
 held. The noted Mr. Platt has applied for his
 Habeas Corpus, and liberty, notwithstanding
 this Act; and it was most gravely insisted
 on his behalf; that the language of the law
 was so confused, inaccurate, and bungling,
 as to be perfectly unintelligible; that being
 unintelligible, it could receive no sensible
 construction; and must remain a dead letter;
 that even if it might possibly operate in
 some degree, yet the Habeas Corpus Act
 was not suspended; and the power of the
 King's Bench not being taken away, they
 may still set the party free, by admitting
 him to bail. And now you inform us, that
 "*the main operative regulation of this Act*
is to suspend the common law, and the statute
Habeas Corpus, with regard to all those who
have been out of the realm, or on the high seas,
 within

“ *within a given time* * ;” and that “ *the true danger is, when Liberty is nibbled away for expedients and by parts* † .” Such contradictions your great talents only can reconcile. We beg to recommend to your attention that just observation of our *late worthy Recorder* ‡ , where he says, “ *The leaders of party never blush, and the herd seldom think* || .”

The “ *persons who make a naval war upon us,*” you think, “ *may be Rebels, but not Pirates;*” and to treat them as such, “ *is confounding not only the natural distinctions of things, but the order of crimes.*” Whatever offence this has given you, it is the wisdom of the “ *old cool-headed law*” of England which has made the distinction ; and this Act has introduced no other change, than providing that nothing shall be construed within its meaning, “ *except acts of felony committed on the ships and goods of his Majesty's subjects on the high seas.*” We consider it as a felicity, that we live under a code of criminal law, wherein crimes are more accurately defined, and more precisely ascertained, than in any other upon earth. Nothing is deemed Treason, but what is expressly declared to be such by positive Statute ; and wherein consists the offence of Piracy, is known to every sailor. “ *If any of the King's subjects hostilely invade any of the King's ships,*

* Page 14.

† Page 16.

‡ Foster.

|| Vide his excellent Discourse in support of the Revolution.

which are so many royal castles, this," according to Lord Hale *, " is levying war against the King." But a depredation or robbery on the high seas is piracy; and therefore, says Lord Coke †, " a Pirate is called a Robber, and a Robber upon the sea." But, says he, " if one subject commit Piracy upon another, this is no Treason, though *pirata est hostis humani generis*." The distinction is sensible and plain. To invade hostilely the ships of the King is Treason; to commit a robbery on the ship of a fellow-subject, is piracy; and to blend the one with the other, " is disordering the whole frame of Jurisprudence." You must recollect, that many of the inhabitants of Virginia, of Barbadoes, and Antigua, opposed the pretensions of the Long Parliament, after it had acquired by its policy or force, all power in England. With a vigour peculiar to them, they passed an Ordinance in 1650 †, wherein they declared the People of Virginia, and others then in opposition to them, " NOTORIOUS ROBBERS and traitors;" and we wish to know who will dispute the wisdom of an Assembly that has been celebrated " for having recalled the wisdom and glory of ancient times," by an Historian, whose writings you must have perused with satisfaction, with extacy. As you had so lately perused the writings of Lord Coke, we are astonished that you saw not the

* Hist. Pl. of the Crown, vol. i. p. 154.

† 3d Institute, 113. ‡ Scobell, 1650, ch. 28.

clear distinction which the law of England has made betwixt Treason and Piracy. But the blindest of all are those who will not see.

As the law had made this distinction in the nature and malignity of the crimes of Treason and Piracy, so has it made a very considerable difference in their punishment; though you tell us, "*they are in effect punished with the same death, the same forfeiture, and the same corruption of blood.*" The Pirate is simply hanged by the neck till he is dead; but the punishment of the Traitor is aggravated with the circumstances of being drawn to the place of execution on a hurdle, of being cut down alive, and of having his body mangled. The Traitor forfeits all his *Goods and LANDS*; the Pirate forfeits only his *GOODS*, a very material difference, where the criminal possesses little other property than *lands*. We agree perfectly with you, "*that we never would take from any fellow-creature whatsoever, any advantage—when we cannot soften his punishment.*" But how the criminal is deprived of any benefit, or subjected to any inconvenience, by being deemed a Pirate rather than a Traitor, is what we cannot comprehend, and wish you to explain. In return for the passage you give us on this subject from Lord Coke, *who retained through life a hard unpitiful nature*, we wish to recommend to your attention, a citation from that amiable oracle of the law,
 Lord

Lord Hale, where he says *, "*The Parliament is a Court of the greatest honour and justice, of which none ought to imagine any thing dishonourable.*"

That those offences which may possibly arise from mistaken virtue, are not in the class of infamous actions †, is a sentiment which we cannot possibly approve. When Pierre and his honourable associates were plotting the destruction of the Venetian State, and had resolved

"*To sheathe the sword in every breast they meet;*"

to spare

"*Neither sex, nor age,*

"*Name, nor condition;*"

these excellent patriots considered themselves as men of the purest virtue; and that by the destruction of their country, they would deservedly entail "*eternal honour*" on themselves. The gallant Macheath and his friends were also men of honour; and when they levied contributions on the wealthy, thought they acted a virtuous and a meritorious part. And when John the Painter affixed the match to the national Arsenals, or carried the torch through our city, he thought these actions, so far from being infamous, were perfectly virtuous and praise-worthy. With great confidence, a *Jesuit* might inculcate such morality

* Power of Parliaments, 49,

† Page 6,

on his disciples; but, lest our "purity of manners" are corrupted, we hope in God it will never become fashionable in Bristol, which you do us the favour to consider as "an honest, well-ordered, virtuous city*." We wish our motto always to be, what you inform us: "The honest juridical principles of England were invented for this one good purpose—That what was not just, should not be convenient †."

The professed purpose of the Act, you tell us, is to detain in England for trial those who commit High-Treason in America; and you apprise us, that there is an Act made so long ago as the reign of Henry VIII. "for the trial in this kingdom, of treasons committed out of the realm." This subject we have fully considered, and we submit the result to your superior judgment. Under the ancient law, it was matter of doubt and uncertainty, how treasons committed out of the realm were to be tried. "It wanted trial at common law, according to Lord Coke ‡; and therefore, to establish certainty therein, the Statute Henry VIII. was made ||, which yet remains in force." It was enacted by this law, "That all treasons committed, OR TO BE COMMITTED, out of the realm, shall be enquired of, and determined, either in the King's-Bench, or by a

* Page 66. † Page 8. ‡ 3d Institute, p. 11. 113.

|| 35 Henry, ch. 2.

" *Commission in any County of England*." But, every territory of the Crown, England only excepted, is *without the realm*, within the intention of this law; and " *it was resolved by all the Judges of England*," says Lord Coke *, " *that for a treason done in Ireland, the offender may be tried by the Statute Henry VIII. in England; because Ireland is out of the realm of England*." How much the reign of Elizabeth was disturbed by rebellions in Ireland, you are perfectly informed. For the treasons then committed, many of the offenders were tried in England, conformable to this resolution of all the Judges †. A Peer of Ireland was tried by a Middlesex Jury, and convicted, in the beginning of the reign of Charles I. though he pleaded, that if he was tried in England, he would lose the benefit of his trial by his Peers ‡. The law, therefore, was clearly settled, and perfectly known, at the æra of American Colonization, in the reign of James I. It was established as a fundamental principle of the Virginia constitution by the instructions of James, " *that every offender against the duty of his allegiance, shall be sent to England, there to receive condign punishment* ||." Culpeper was sent to England, charged with raising a rebellion in Carolina, and in 1680, tried in the Court of King's-Bench §; and Sir Peyton

* Page 11. † Ibid. ‡ State Trials, vol. i. p. 181.
 § Vid. Suth's Hist. Virg. § Mod. Univ. Hist. vol. xi.
 P. 424, 425.

Ventris *, who reports his Case, remarks with approbation, that he was tried under the Statute 35 Henry VIII. At the Revolution, King William ordered the Ruling Powers at Boston, to send Sir Edmond Andros and others to England, "*to answer before us what may be objected against them;*" and they were accordingly sent †. And the murderers of Governor Park of Antigua, were sent to England, and there tried and condemned, in the reign of Anne. But, according to the benign spirit of the law of England, the Statute of Henry VIII. seems to have been afterwards construed to extend to those offences only, which were treasons when it was enacted. And accordingly, the several Statutes ‡ of William III. of Anne, and of George II. contain an express proviso, — "*That where any of the offences by this Statute made High-Treason, shall be committed out of the realm, the same may be enquired of in any county in this kingdom, or by the Court of King's Bench.*" That the rebels who committed treasons in Scotland in 1715 and 1745, were tried in England, by virtue of Statutes for that purpose specially made, is known to all. And we now submit it to your judgment, though we are hopeless of making any great impression on "*your inveterate partialities,*" if it does not clearly appear, that the Parliament, from the

* Reports, p. 349.

† Neale's New England.

‡ 13 William, ch. 3. 2 & 3 Anne, ch. 20. 7 Anne, ch. 21. 17 Geo. II. ch. 39.

era of the Revolution, to the present reign, had not adopted it as a fixed principle of policy, "that all foreign treasons shall be enquired of within the realm of England."

"In 1769," you inform us, "Parliament thought proper to acquaint the Crown with their construction of this Act in a formal address, where, in they instructed his Majesty, to cause persons charged with high-treasons in America to be brought into this kingdom for trial:" A measure, however, which you consider "as a mischievous project, most unjust, and most unconstitutional;" and "far from removing difficulties which would impede its execution, you would heap new difficulties upon it." But this resolution of Parliament introduced no new law, nor repealed the old. We have endeavoured to convince you, though without much hope of success, of what was the law, from the settlement of the Colonies to the present reign; and whatsoever it was, notwithstanding this resolution, it continued the same. The unjust violence, and innumerable treasons, committed in the Colonies, antecedent to this "formal address," and which gave rise to it, you do not mention, because it did not suit the argument. Why it is more unjust, or more unconstitutional, to try a Colonial traitor in England, than a Scotch or Irish rebel; or why you would impede the execution of the laws of the land, by heaping new difficulties upon it, as we

D

have

have seen no reason to convince our understanding, we cannot possibly comprehend. Confident assertion, indeed, we have remarked, without your usual energy of language, or any just attention to the "*old, cool-headed, general law,*" the resolution of all the Judges, or the determination of Parliament; and nothing but a confidence which sometimes arises from the greatest knowledge, for you are not "*ashamed to confess, that where you are ignorant, you are diffident **," could have produced a censure of this resolution of Parliament, as "*a new and unconstitutional interpretation †.*"

"*We sympathize with you in a proper horror of all punishments, further than as it serves for an example ‡.*" But, you ask us, To whom does this example of execution in England, for this American rebellion, "apply?" It might apply, we think, and some good purposes answered in England, by restraining the insolencies of the seditious, and the intetted intrigues of the great. We however perfectly agree with you, that it is among such rebellious children that such examples should be made. Nor is there a more common case, than a trial in England, followed by punishment in America. Before the ports of the Colonies were shut against our commerce, by the men whom you admire and patronize,

* Page 46.

† Page 14.

‡ Page 10.

how

how many convicts did not there annually sail from the Severn for America? What happened, we beseech you, in 1715 and 1745? Those who had committed treasons in the farthest Highlands of Scotland, were brought into England for trial; they were not "*condemned unheard,*" they had the "*beneficial trial by jury;*" and none has hitherto been bold enough to assert in the face of the nation and its laws, "*that such persons were executed according to form, but could never be tried according to justice* *." And for punishment, many of them were transported to America; which, we suspect, has been attended with the usual effect, and utility of example. That it was possible to enquire of the crimes of a Colonist in England, and to send him for punishment to the place where the offence was done, according to a very common course of policy, seems not to have occurred to you; though you have told us, how he might be brought from America to England, with your usual energy of diction, and elegance of language, where you say, "*a person is brought hither in the dungeon of a ship's hold: thence, he is vomitted into a dungeon on land* †." If policy shall think proper to transport the convict to the colony, for punishment, why he may not be vomitted from the *dungeon of a ship's hold* to the tree in the field, with the usual decorum, and

* Page 8.

† Ibid.

formality "of the triumphs at Tyburn," is what we wish you to tell.

"That you could not vote," you honestly tell us, "for a Statute, which stigmatizes with the crime of piracy—an unhappy interdicted people* ; because they had been previously put out of the protection of the law.—The Legislature, for the mere NEW CREATED OFFENCE of EXERCISING TRADE, had ordered all their sh^{ops} and goods to be divided as a spoil among the seamen of the navy ; and to treat the NECESSARY REPRISAL of those men, as the crime of piracy, seemed harsh and incongruous." But these reasons, as they appear to our understandings dissatisfactory and inconclusive, we cannot possibly approve. The policy of this Country has been long governed by that of the Colonies. Some violent and precedent conduct of the Colonists, has directed every measure of the Legislature. They had resolved not to trade with Old England, and had carried this into execution, with a strain of the most insulting injustice ; which gave rise to the law prohibiting their commerce with foreign countries. They had refused all obedience to the laws, and with arms in their hands prevented their execution ; and they were reduced to that state, which you are pleased to call "putting them under the protection of the law. But, in truth, the outlaw and the traitor still possess certain legal pri-

* Page 6.

privileges, and are not without the protection of the law; because the former, even while he refuses to recognize the process of law, may apply for and obtain a reversal of his outlawry; and the latter, though he has thrown off his allegiance, still receives every benefit of legal trial. Obedience and protection are reciprocal duties. Let the Colonists return to their duty, and, as other subjects of the Crown, obey the laws of the land; they will no longer be considered as an interdicted people, and they will receive from that moment every protection which the laws can give. The duration and extent of their sufferings depend merely on themselves.

We beg your attention to what you must already know. So early as the Restoration, the Acts of Trade and Navigation, which that illustrious Merchant Sir Josiah Child very properly calls the *Charta Maritima* of England, were enacted, the Colonial Commerce was regulated, and restrained to England; and every nation; and every alien, were totally excluded. In proportion as the policy of these laws has been universally approved, their spirit, during every reign, has been carefully cultivated and enforced. The offender, who exercised trade contrary to the provisions of those salutary laws, incurred the forfeiture of his ship and goods. Yet you consider this as "a mere new created offence," and the offender as neither deserving blame or punishment. Why
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the forfeitures incurred by acting contrary to the laws of trade, may not with as much propriety and justice be divided among the seamen of the navy, who enforce the observance and execution of the law, as distributed to the Governor of a Colony, and the Collector of the Customs; as it is not obvious to intuition, we wish you to explain. The remedy, however, is in the hands of the Colonists themselves; let them cease to endeavour to ruin the Commerce and Manufactures of this Country, and they will instantly be restored to their former important privileges.

Necessary reprisal on what or whom? If this is a "*dispute with the Ministry*," and not "*a quarrel with the nation*," we wish to know why reprisal is necessary; or if made at all, why on us your Constituents? If all reprisal presupposes something already taken, or damage done; unless it can be shewn that we had taken their ships, or destroyed their property, the necessity, or even the propriety of this reprisal on us cannot easily be supported. But we are not conscious that we have ever injured this "*unhappy People*;" unless to give them greater credit than they deserved, or to be their creditors to a greater extent than they seem willing to pay, be an injury, we know not that we have ever done them wrong.

* Page 38-9.

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Whatever offence it may give you, that the necessary reprisal of those men is treated as the crime of Piracy; yet however incongruous you may think it, the wisdom of the law of England has deemed it such. Until they cease to be the subjects of the Crown, their depredations on their fellow-subjects upon the high sea will be adjudged Piracy, and punished as such. That our representatives had voted for them; that you had conferred honour on their cause, by patronizing it; and with those great talents which you possess, had palliated all their conduct which you could not defend; ought at least to have given us some merit with them. Perhaps we are at present too much actuated by what we have felt and suffered, not to consider their conduct towards us any otherwise than "*a strain of the most unnatural cruelty and injustice* *."

A naval war is not only carried on against us by reprisal, but the war is at present carried on in America; though we think not on the usual footing of other wars. Exchange of prisoners has been made, but with little fairness or equality. Those miserable men who have been taken in the act of high treason committed, by fighting against the King's troops, or had been left to perish with hunger or disease in the woods, were sent from Canada

* Page 7.

to their homes, without ransom or condition. Those who had been rescued by the good conduct of a British Officer from the Indians at the Cedars with great difficulty and danger, were discharged, on the express condition of returning as many of the King's troops who had been taken at St. John's. But the Congress, with a policy peculiar to them, afterwards refused to perform the capitulation; a conduct which would have greatly surprized us, if we had not been told, that among the other mischiefs of civil wars, " *they corrupt their morals, and prevent even the natural taste and relish for equity and justice* * . Those who were taken prisoners at New York, the Congress, perfectly consistent with those principles, refused to substist; and General Howe, with a humanity which embellishes the greatest talents, discharged them without ransom or stipulation of return; and others were simply exchanged for those officers and men who had fallen into the hands of the insurgents, before the war could be said to have commenced.

Whether you approve or condemn, praise or censure, this conduct of the King's Generals, we are at a loss to discover. If Administration prepares to act against those who have been exchanged, and thereby " *virtually pardoned, it will exhibit as indecent a piece of injustice,*"

* Page 21.

you say, *as ever civil fury had produced* *; and yet you tell us, “ *that if our enemies are Rebels, the King’s Generals have no right to release them upon any condition whatsoever, and they are themselves as answerable to the law, and as much want pardon, as the Rebels whom they release* †.” If the prisoners exchanged are not thereby *virtually* pardoned, “ *the cartel*,” you inform us, “ *is a cruel fraud; for the life of a man is received, and you ought to return a life for it.*” You consider the soldier who is fighting for the national rights, and in support of the laws, in the same predicament with those who, by contending by force against all law, had incurred the crime of Treason. But here is no fairness or parity in the transaction; the former had not forfeited his life, and to take it away, would be a most indecent piece of injustice; the latter having forfeited his all to the laws, if he was *virtually* pardoned, he received a benefit, in return for which he had nothing to give.

Whenever a rebellion really exists, Government, you say, has not entered into such military conventions, but has declined “ *all intermediate treaty.*” But what happened, we beseech you, in the numerous rebellions in Ireland, from the commencement of Elizabeth’s reign to the capitulation of Limerick?

* Page 11.

† Page 13.

How many Conventions did not her famous Generals enter into? How many intermediate treaties did not the vigorous Administration of Elizabeth make with the Irish Rebels, the conditions of which they generally forfeited? The same policy was pursued in the reign of Charles I. and with a similar success. How many intermediate treaties did not William III. and his Generals enter into with the Irish, antecedent to the final settlement of their affairs by the capitulation of Limerick, which was dictated by a necessity, which in war, as in every thing else, is governed by no principle? But you ask us, "Who has ever heard of CAPITULATION, and exchange of prisoners, in the late rebellion of this kingdom?" Preston in 1715, and Carlisle in 1745, were expressly surrendered upon capitulation. The benefits, however, which are acquired, are more or less, according to the terms of it. If they surrender at discretion, they acquire little more than their lives; and such were the capitulations of Preston and Carlisle. The prisoners were reserved for future legal enquiry into their conduct, and for pardon, or punishment, or acquittal, according to their demerits. To a circumstance which happened at the trials of these men, you seem not to have sufficiently attended. They insisted, that they had been *virtually pardoned* by the capitulation; and the Generals who had reduced them proved, that they had surrendered simply at discretion. The law, therefore,

fore, plainly supposed, that the King's Generals had a right to release them on conditions. Every war must be carried on according to circumstances; and every General must have powers in proportion to his situation. If a simple capitulation at discretion is no virtual pardon, as no promise is made, so neither is a simple discharge without condition.

The Convulsions of a great Empire you could not consider " *as fit matter of discussion under a commission of oyer and terminer* *." The King's Generals, you say, " *had no right to release them upon any conditions whatsoever.*" If the life of a man is not granted by a virtual pardon for the one you receive, it is a cruel fraud, and there is no fairness or parity in the transaction. These strange incongruities must ever perplex those who, without paying a just regard to the old, cool-headed law of England, are altogether governed by their inveterate partialities. But these speculations are perfectly nugatory and vain, and tend only to perplex the ignorant, or confound the uninformed. General pardon has been offered to all; the validity of which there can be no reason to doubt; and those who continue in arms, well know how easy it is to make their peace and obtain forgiveness.

" *We have,*" it seems, " *made war on the Colonies, not by arms only, but by laws :*" But

* Page 13.

whether this policy is right or wrong, we borrowed it from themselves, and we have only followed precedents which they had established. When the Colonies first considered themselves as aggrieved, “ *by an unlimited legislative power of Parliament over them, of which you found them in possession when you first came into public trust,*” how did they procure redress? They entered into associations, which had all the effect of laws, for a suspension of their commerce, which they had been taught to consider as essentially necessary for the very existence of this Country. A measure which you had done so much, by the repeal of the Stamp Act, to render so successful, was adopted, and pursued upon every new occasion, with almost a similar success. These associations “ *rooted in their jurisprudence, and we now taste the fruit of them.*” While they were successful, you deemed them wise, and honoured them with your approbation; but when a similar policy was adopted by the wisdom of the Nation, you then considered it as “ *trampling on some maxim of justice, or some capital principle of wise Government* *.”

The Act on which you have said so much, you have gravely assured us, has suspended the Habeas Corpus with regard to all those who have been out of the realm within a

* Page 20.

given time. But, if you had debated against this Bill in its progress, or if you had ever perused it with attention, you could have formed no such opinion of its contents. Every sound principle of jurisprudence concurs to prevent an extension of its "*operative regulation*," beyond the very letter of it, to other cases equally within its principle. We have already submitted the very accurate language of this law to your superior judgment. Yet you tell us, that all who have been out of the realm within a given time, are objects of the Act: but those only who having been guilty of crimes in the Colonies, or on the seas, and committed by a magistrate having competent jurisdiction, are within the letter or meaning of it. Every inhabitant of the West Indies, or three unoffending Colonies, are objects of this law; but, if they have not committed crimes, they have nothing to apprehend. Every gentleman may travel for health, or education without intriguing with Mr. Franklin, or conveying intelligence of the strength or weakness of the nation. Every sailor who navigates the sea, may surely follow his usual occupation without committing piracy. And yet you inform us, that the gentleman for no other offence than travelling for health, and the sailor for navigating the seas, "*are under a temporary proscription* *." If we did not

* Page 71.

perfectly

perfectly know your integrity, we should suspect your candour; or if your great talents were not universally acknowledged, we might perhaps blame your understanding. That liberty is the general right of all, we perfectly agree with you; and that "the mariner who lands on the quay, ought to rest on the same firm legal ground, as the merchant who sits in the counting-house:" but that the sailor, who having committed a piracy, and merits a gaol, should stand on the same legal ground as the merchant who in innocence has pursued his respectable occupation, we cannot possibly admit.

Having exploded this Act as putting every one under a temporary proscription for no other offence than navigating the seas, you inform us *, that this is the first *partial* suspension of the Habeas Corpus that has been made †; which is far worse than an universal suspension; and the limiting qualification, instead of taking out the sting, sharpens it to a greater degree. Notwithstanding the ingenuity of your reasoning, we must remain of opinion, that *some* liberty is better than *none*; that in proportion as the natural rights of mankind are restrained, a greater or less degree of tyranny is introduced; and that the liberty of all is much less affected by a law which extends to *criminals*

* Page 14.

† Page 15.

only,

only, than if the innocent, by being deprived of their Habeas Corpus, were subjected to unlimited confinement. We suspect, however, that the true objection is, that the suspension was not general. "*The alarm of such a proceeding would then be universal. It would operate as a sort of CALL OF THE NATION.*" An universal alarm, a call of the nation, are things which some men cannot possibly resist; and when the frightened retired into obscurity, the bolder would have risen up into power. But we think it a felicity, that notwithstanding Congressional resolves, and the intrigues of their patrons, an universal tranquillity, attended by an unusual prosperity, reigned in England. Prudence, therefore, adopted what necessity only required; and all that was necessary, or that was carried into execution by this Act was, to detain criminals, particularly described, for a limited time. "*The rest of the people are to continue as they stood before.*" We are happily unconnected with "*State factions,*" and as it is the "*obnoxious*" only who are suspected, we have very little to apprehend.

During the several plots and rebellions, which at various times have disturbed the tranquillity of this Country, from the Revolution to the present reign, laws were made "*to empower his Majesty to secure and detain such persons as shall be suspected of conspiring against his person and government.*" Those were times
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of great heat, and the *violence of State factions* agitated the whole. We feel a very sensible pleasure in comparing the happy tranquillity of our own times, with the condition of those of former days. If those laws really introduced an universal suspension of the Habeas Corpus Act, let us regret the necessity which, for the preservation and safety of the whole, justified their principle. But if none could be deprived of their liberty but *suspected persons*, which are terms known in law, then the suspension of those laws were merely partial, since none were the objects of them but those who had given cause of suspicion. To pursue this enquiry further would lead us into a contention of *mere words*, which we think the most contemptible of any. Whether the suspension was general or partial, those laws were of short duration; when the necessity disappeared, the former liberty returned, which we now happily enjoy.

It is matter of great regret, that you have not debated against this Bill in its progress through the House. What might not have been the good effects of your powers of speech? The same ingenious reasonings which, *out of the House*, you have now employed against it, to prove, how far worse in its consequence, and bad in the principle, is a *partial* than an universal suspension of the Habeas Corpus Act *; how much better

* Page 3.

a total eclipse of liberty is, than a partial freedom * ; and how much more dangerous it is, when liberty is nibbled away by parts, than a rational freedom, which must be limited to be possessed ; must have had the most decisive consequences : And you would have probably had no reason to complain, that all opposition to measures proposed by Ministers, where the name of America appears, is vain and frivolous †.

Although you seem to doubt, whether every thing proposed *against* America is of course in *favour* of Great Britain ‡ ; yet, when it is considered, that the contest is now no longer to be ended by writings or by words ; that a “ *long array of hostile Acts of Parliament* ” have proved unsuccessful ; that with a levity characteristic of them, they have themselves chosen to close the dispute by force, and have disdainfully rejected all treaty that did not admit their independence ; you will pardon us, if we are of opinion, that the measure which militate against America are in favour of Great Britain. We however enjoy hope, notwithstanding “ *your prophecies,* ” that the time is not far distant, when the delusion of the Colonists being dispelled, they will return to their duty and former connections ; when their hopes of foreign aid, and of a successful issue to all

* Page 15.

† Page 55.

‡ Page 18.

contention by force being destroyed, they will again be the peaceful fellow-subjects of the same crown, and governed by the same equal laws. The interests of the two Countries, properly understood, being then the same, we shall entirely agree in opinion with you, that every thing proposed *against* America is not in *favour* of Great Britain.

But you lament, that in the late proceedings you see very few traces of that "*generosity, humanity and dignity of mind, which formerly characterized this nation* *." We shall not propose to your consideration the repeal of the Stamp Act, and of Mr. Townsend's law, for which they were so remarkably grateful. But that you see no generosity in the resolution of Parliament of the 20th of February 1775, who with a real dignity of mind, and with a view, if possible, to prevent a civil war, even after their authority had been denied, and their laws had been forcibly opposed, gave up the important right of taxation, which was the great original cause of all their complaints; that you see no humanity in the general unconditional pardon which has been offered to all who had forfeited every thing to the laws; we think astonishing: Nor can we account for it without considering, that *Civil wars vitiate the politics, and corrupt the morals of*

* Page 21.

mankind * ; and their natural relish for equity being perverted, they no longer view the proceedings of nations or of individuals with impartiality, or characterize them with any fairness or truth.

As we think not the worse of you for declining to participate in this joy, on the present situation of the British affairs ; yet, you have not told us the cause why you censure others, who have thought proper to consider them as objects of triumph to themselves, or congratulation to their Sovereign. If liberty is a general right ; you ought to allow to others, what you claim for yourself, the right of enjoying "*your inveterate partialities.*" Thro' the medium of those partialities, you see the conduct and affairs of this country, "*as a sad*" "*spectacle exhibited to the scorn of Europe.*" Permit others to see them in a very different light. They behold it as a great, flourishing, and wealthy nation, which, under the conduct of prudence and wisdom, has made greater exertions in a contention of the greatest magnitude, than any other nation on earth could make ; instead of being reduced to a servile dependence on her neighbours, with a magnanimity worthy of the first of nations, preparing her mighty natural strength to repel injury, and to command attention ; com-

* Page 21.

plaining of supposed hostilities, and procuring redress; regarded by her allies, and feared by her enemies; and at the same time that chastisement is prepared for the refractory and rebellious, those who shew any inclination to return to their duty, are treated with a generosity, and even humanity, beyond example.

If the employing "*the hireling sword of German boors,*" to support the liberal Government of this free nation, has given you offence, we beg you to inform us, if the same policy was not pursued in the most flourishing days of this kingdom? Who, we beseech you, fought the battles of William III. in support of the glorious Revolution against the Irish? The Danes and Dutch, the Wurtembergers and French refugees. The Dutch fought against the rebels in 1715, and the Hessians fought against them in 1745. In other reigns "*German boors*" were brought into the nation to prevent invasion; and in the last war, the most expensive and glorious of all, the swords of "*German vassals*" fought the battles of this country; America was conquered in Germany. If the continuance of war was unavoidable, since the demands of the Colonists rose in proportion to concession; and treaty proposed, even with condescension, was rejected with disdain; we desire you to tell how an army was to be raised able to contend with "*three millions of subjects seeking protection in the arms of France?*" If the projects of the Congress and

and their abettors had proved successful, in destroying the trade, and ruining the manufactures of the nation, armies, though without discipline, indeed, might very easily have been raised. But, thank God, no loom has been stopped in its shed, or ship laid up in its dock; the mechanic still sings in his shop, and the ploughman whistles after his plough. The lazy and vicious, indeed, recruited the national troops; but, their numbers being few, they were insufficient to augment armies, or to supply regiments. Vigour, therefore, proposed what Wisdom instantly adopted, to take into the service and pay of the State foreign discipline and veterans; a policy which had been found convenient in the most flourishing days of the kingdom, and wiser far, in our judgments, than obstructing trade, or incommoding the manufacturer, by making new levies, which are always more expensive, and seldom so effectual.

You could not easily adapt your mind to the victories communicated by the "*Court Gazettes*;" and the "*glory acquired at the White Plains by Colonel Raille has no charms for you*." But if you found no charms in his glory, what delight must you not have felt in hearing of his unfortunate fate and unhappy end on the fields of Trentown! If you delight not "*in finding Fort Kniphusen in the heart of the British dominions,*" with what extacy
you

you must have heard of the erection of Fort Lee and Washington, and above all of Fort Independence! And if the "barbarous appellations of *strangers*," which you "scarcely know how to pronounce," has given you offence, how charmed must you have been with reading the harmonious names of Washington and Putnam, Macdougall and Wooster!

Notwithstanding those victories, "*our affairs*," it seems, "*are in a bad condition*;" "*America is not conquered*." More, however, has been done than the most intelligent expected. There were difficulties in the transporting so large an army, with its immense train of necessaries and attendants, across the ocean, which no nation but this could have surmounted. The wisest Generals were of opinion, that little more could be done, than collecting together an army in the Fall, to prepare for the campaign of 1777, in the spring. But the abilities of our Officers have successfully executed that which the wisdom of the Minister had planned. Canada has been reconquered; and by the destruction of the Congressional fleet on the Champlain, a way has been opened into New England. The Floridas have been secured; Nova Scotia has been freed and strengthened; Long Island and New York were conquered; the impregnable works

at Kingsbridge were forced without the loss of a man; and the Forts Lee, Washington, and Independence, submitted at discretion. The army penetrated to the Delaware without opposition; the Congress fled; and, if our private intelligence is true, nothing but the severity of winter could have prevented the final dissolution of their power.

But on the most prosperous issue of our arms, you assure us, "*we will not be where we stood when war was called in to supply the defects of political establishment*". If, after having endured all the intermediate evils of war, we cannot stand on better ground, we shall have got a bad bargain indeed. If at the conclusion of war, our factors cannot without insult and obstruction carry on our affairs, and recover our debts; if our ships cannot trade with safety in their ports; if smuggling, the bane of fair trade, cannot be restrained; and if the Acts of Navigation, the great Palladium of national commerce, cannot be executed, enforced, and invigorated, we had better have independence at once. These are the important objects on which we have set our hearts; it is for these that we are at war. "*A revenue,*" you assure us, "*we will never see from America.*" But, as we understand this great original cause of Colonial Grievance was ex-

presly given up to them by the resolution of Parliament of February 1775; if they would have condescended to have entered into communication or treaty as subjects with the national Commissioners, we have reason to think this important point, with others of less import, would have been settled to the mutual satisfaction of all. But if they, as subjects, continue to receive the protection of this Country; let them contribute by supplies to the support of its power; let them give *something*, but in *their own way*; they ought, however, to afford some assistance to Old England; and it is for this too we are at war.

The way to final settlement; we think, with you, is still full of intricate, dark, and perplexed mazes: But as these principally consist in that dark delusion which has overspread the Colonies, and has hitherto prevented them from seeing their own good, or dispassionately pursuing it; and as we have the satisfaction to be told, that “*you should be ashamed to make yourself one of a noisy multitude, to halloo and hearten them into doubtful and dangerous courses**”; we are not without hope, their delusions will soon be dispelled, they will in all soberness return to their duty, and as men of business, *unconnected with Party*, seriously concur with the national Commissioners in a final adjustment of their affairs.

* Page 25.

Every thing that has been done there, we are told, has arisen from a total misconception of the object; and all means of reconciliation with it, even after victory, must depend on a total renunciation of that unconditional submission, which has taken such possession of the minds of violent men. All means, indeed, have hitherto proved unsuccessful; but whether there has been a total misconception of the object, we have some reason to doubt. During almost every Administration in the present reign, a different mode of policy has been pursued, and all equally unsuccessful. A law made during one Administration was repealed by the next, without acquiring their confidence; a new law, made under a third, upon principles which they had formerly admitted; but, grown confident from success, met with a similar opposition; and to remove discontent, was repealed under a fourth Administration, but without attaining the end. Another law was enacted upon a still different principle; but the authority of Parliament to legislate for them in any case, was now expressly denied, and the law was opposed by them with greater outrage. Principles of Legislation had been surrendered to them; but they insisted for a greater concession. Laws had been repealed without receding from principle; but they rose in their demands. They were threatened and soothed; measures of vigour, and those of concession, were proposed,

and all proved equally unsuccessful. We will do you the justice to say, that nothing could have prevented this important crisis of affairs which has arisen in 1773, but a steady pursuit of your principles of Colonial Policy; to repeal without reserve every law of which they complained, and never again to legislate for them in any case whatsoever. But whether this would not have produced an independence of the worst kind, a *nominal* dependence, but *real independence*, we submit to your consideration. They would have then been the subjects of the State, without being bound by its laws; they would have received the advantages of subjects, and the protection of Government, without contributing any thing to its support; and they would have traded whither they pleased; without regard to the Acts of Navigation, which, as there would have remained no power to execute or enforce them, must necessarily have become a dead letter. There is a simplicity in this plan of policy which would have ensured its success; but we wish you to tell, where would have been the advantage of Old England?

Unconditional submission to the laws of the land, we think the duty of every subject; since, in proportion as their obedience is qualified, they cease to be subjects, and acquire a portion of independence. This is the unconditional submission to which men of the greatest

est wisdom and authority in the State have thought the Colonies ought to submit. If conditions are granted while arms are in their hands, the idea of their own power and consequence will remain; and what security would there be, that they will faithfully perform the conditions of peace any longer than they please, or than this Country is able to enforce; since the stability of all Government depends much upon opinion? If the making of peace was confided to you, and every law was repealed of which they had ever complained, and every thing conceded which they had ever required, we beseech you to inform us, what guarantee you or they could give against those powerful motives of mankind, Ambition, Interest, or Resentment. If no rational security can be given, that they would at all times faithfully perform the articles of peace which you had made, the dilemma is plain; they must either be reduced to the unconditional submission which every subject, in every territory of the Crown, owes to the supreme Legislature, or be declared independent.

Although nothing can place us in our former situation, yet "*terms relative to the cause of the war,*" you say, "*ought to be made by authority of Parliament* *." This is a point of great consequence, and we beg a little of your

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patient

patient attention. Wise men have differed with regard to what is the real cause of the war. Some, indeed, have supposed, that Independence was the *real cause* from the beginning, and that exemption from parliamentary taxation was merely a pretence. But if the great original cause of Colonial Grievances, and real cause of the war, was taxation; yet till of late, they professed their readiness to grant money for the public exigencies, by their own Assemblies, in their own way. Upon the peace of 1762, which had secured the Colonies so many important advantages, and in truth had preserved them from the dominion of France, the nation was found immensely indebted, and no small part of it incurred on a Colonial account. These circumstances were communicated to the Colonies by the Minister, through their Agents; and they were informed, that it was not expected of them to pay any part of the interest of the national debt; but some part of the annual expence of the great increased American Establishment they ought to pay, which they might raise by their own Assemblies, in the way most agreeable to them. However reasonable the proposition, or however consistent with their former professions, it was scornfully rejected by some of them, and complied with by none. These facts, which prove beyond doubt that the Colonies were requested to tax themselves, before the passing the Stamp Act, and refused to comply, were carefully concealed

concealed in America, and even almost unknown in England. Three persons* of integrity and understanding, who were ear and eye-witnesses of the transaction, as well as the letters of Assemblies, and of Agents, concur in establishing this singular, and important point in Colonial History; and yet you have asserted, in the face of Parliament and the Nation, that "*these facts happen to be neither true nor possible.*" †

The various steps which were pursued by different Administrations, from this time to the beginning of 1775, to carry into execution the policy, of either inducing or obliging the Colonies to contribute something towards the support of their own establishments, have been already slightly touched, and need not be repeated. To conciliate the affections of the Colonies, and if possible to prevent a civil war, the House of Commons, on the 20th of February 1775, with a generosity, and even condescension, which will always do them honour, passed several resolves, which may be reduced to this single, simple proposition—
 " *That when the Colonial Assemblies shall contribute, according to their circumstances, to the common defence, Parliament will forbear to tax the Colonies.* - If this proposition did not

* Mess. Maduit, Montague, Knox.

† Printed Speeches.

contain all that had ever been claimed; yet much more was conceded than their most sanguine Patrons had ever any reason to expect. Upon this simple proposition, wisdom and prudence might have erected a system of Colonial jurisprudence, which, if not absolutely perfect, might have given satisfaction to all. The authority and omnipotence of the House of Commons, principally arise from the important prerogative of granting money. Why the same or similar effects might not have been derived from this circumstance in the Colonies, we believe no mortal can tell. It was a singular excellence of this proposition, that the appropriation of the expected revenue was specified, which prevented all suspicion of its *“ increasing the means of corruption, without any ease to the public burthens; ”*—it was *“ to be carried to the account of each Province respectively.”* Little evil could have ensued, and mighty good might have followed the adoption of this resolution by the Colonies; yet you opposed it in Parliament, for reasons which we recollect not, if you have ever explained.

Both private intelligence and public information agree, that these Resolutions had the good fortune, which few Parliamentary determinations have met with; it was published in the Colonies without a comment, and two weeks before any private letters, or public speeches

speeches arrived. It seemed to give satisfaction to all, as containing every thing for which they had ever contended. But this satisfaction was of short duration. The usual private letters, with the Parliamentary Speeches, having arrived, they were published with the Resolutions themselves in form; and it was now reprobated with a warmth in proportion to their former approbation. The Governors communicated these propositions of Parliament to the Assemblies, in the usual constitutional way; but, unhappily, they had now got their *cue*; they would hardly do them the honour to read them with attention, and they finally rejected them with disdain. The Congress too, has considered and rejected them; and it is very singular, that in their Declaration of disapprobation, they echoed back the very objections, in almost the same language which had been made to them in Parliament: circumstances which appeared to us, who are unconcerned in the intrigues of the Great, as very extraordinary.

Notwithstanding this want of success, the Parliament, in the beginning of 1776, passed a law to empower Commissioners to grant pardon to the Colonists, to restore them to peace, and to all the privileges of subjects. But, with a peculiar insolence, the Colonists have despised the proffered pardon; and though the Commissioners, with a condescension which
 3 perhaps

perhaps detracted from the national dignity, entreated them to confer on the means of restoring peace, and of redressing all their just grievances; yet, with unexampled temerity, they rejected all mode of treaty that did not presuppose them independent. Such are the terms relative to the cause of the war, which appear to us to have been offered by authority of Parliament, with a moderation which does credit to the Nation, and rejected with an insolence which ever accompanies a power newly acquired.

But you ask us, Have the National Commissioners, whom you very modestly denominate "*the leaders of a faction,*" restored to the King's peace, and to free trade, any men who have submitted? Yes; they have not only offered a general unconditional pardon to all, even to those, the inveteracy of whose crimes had rendered the most obnoxious; but have granted pardon, protection, and security, to those who have submitted, and have declared themselves willing to become the peaceful Subjects of the Crown. They are now at the King's peace, possess their property in security, and enjoy all the privileges of other Subjects, without diminution. But why are they not instantly restored to trade? They enjoy perfect freedom of internal commerce, and even foreign trade, to as great an extent as any Subject of the Crown. We who pre-
served

served our loyalty, are as much excluded from carrying on a foreign trade at New York, as those, who, by their insurrections, had forfeited every thing to the laws. Every part of the Empire feels the evils of war, in a greater or less degree; and we think it unjust to complain of their suffering an inconvenience, when the most peaceful and loyal are in a similar situation. When the necessities of war shall permit, and just policy require, the trade of every port in the Colonies, will be once more laid open to all; they and we will enjoy the same privileges; and then there will be no longer any cause, even for misrepresentation, to assert, “ That the
 “ *American trade from being national, is turn-*
 “ *ed into a personal monopoly, and dealt out in*
 “ *private graces to recompense the incendiaries*
 “ *of war.*”

Never had we heard, 'till you gravely informed us, that there were in this Kingdom several Gentlemen, who, not satisfied with carrying fire and sword into America*, are nearly animated with the same rage against their neighbours; and, not content with the toleration of their own passions, persecute the moderation of their fellow-citizens. We flatter ourselves we fall not under this censure; and we hope you will do us the justice to believe,

* Pages 35, 36.

that not being of the number of those Gentlemen, we abominate every kind of persecution; but especially for political opinions of any kind. That every man in this free Country may think as he pleases on politics, and write what he thinks, without dread of persecution; your Letter, which is now before us, seems to us the strongest of proofs. Some reason we have to believe, that it was owing to the lenity of Government, that "*the intrigues of some men,*" which were perfectly known, had escaped punishment, or even reprehension. We exceedingly admire the ingenuity of your reasonings in favour of toleration; and though they are not altogether applicable to the happy situation of this Country, we apprehend they might do "*Knights service*" in the United States of America; where persecution for political opinions reigns triumphant. Every man in those free States must think, speak, and write according to rule; none dare arraign the wisdom, or the virtue of the ruling powers. There is no opposition-party in that Country, with the invaluable prerogative of reviling, misrepresenting, and insulting those who have happily got into power. How many in that Country have suffered confiscation, imprisonment, and death, for their political opinions! How many do we daily see, who have been driven from their homes and friends into banishment, to, from being of some importance,

portance, are now insignificant; and who from enjoying affluence, are now reduced to poverty, merely because they would not support measures which their consciences could not approve! If the Congress and Committees are not even more ungrateful than we have had reason to think them, they would certainly pay a just regard to your sentiments. As a friend to the general rights of mankind, we beseech you, therefore, to write them on this subject. Let them know, in your forcible and elegant manner, that there is nothing more inconsistent with the natural rights of men, more unreasonable or unjust, more iniquitous, more impolitic, than persecution; and advise them, that tolerated in their own passions, they ought not to inflict what they are not willing to endure.

As we see not its truth, we cannot possibly approve of your sentiment; That GENERAL REBELLIONS *never were* ENCOURAGED, *but are always* PROVOKED *. From our intimate connection with America, we have learned something of its affairs. Antecedent to the Stamp Act, the Colonies or their politics had never been very great objects of public attention; nor had they ever been adopted into the political party-game of this Country: But the vigour and success with which they had

* Page 39.

opposed that law; the decisive influence which their resolutions had on the great commercial and manufacturing interests of this Country; and the great influence which their vehement opposition had; or was supposed to have, in changing a Ministry, or repealing a law; gave them a weight in the political scale, which before they had not possessed; and they were regularly enlisted into the parties of this Country. From this time the Colonies became a scene of political intrigue and management, of great extent and importance. Certain great men, who had observed the utility and effects of Colonial opposition, and that they were capable of direction and management, carefully cultivated a correspondence with their leading men, who were forward enough on their part; and politicians of less pitch and moment, carried on similar intrigues with similar views: And mercantile letters, admired formerly for brevity and precision, were now stuffed with details of public affairs; nor could any merchant or manufacturer hope for success with his correspondent, whose letter contained not a representation of politics, suitable to his passions or his views. Nor were the Colonists backward on their part: They carefully cultivated this correspondence. The thanks of Public Bodies were given to Parliamentary Speakers for their protection, their speeches, and defence; and their pictures were exhibited in their public places to do them honour;

honour ; and a regular Colonial party was formed in England, which you avow and defend *.

The Society of the Bill of Rights became the ostensible Patrons of the Colonies. They transmitted sums of money to enable them to carry on their intrigues and opposition ; they were exhorted by them to persevere in their resistance of Acts of the Legislature, which they declared to be no Parliament. "*Pro-perty,*" say they, in one of their circular letters, "*is the NATURAL RIGHT of mankind. The connection between taxation and representation, is its necessary consequence. The connection is now broken, and taxes are to be levied both in England and in America, by men who are not their respective representatives. Our cause is one. Our enemies are the same. We trust our constancy, and conduct will not differ. Demands which are made without authority, should be heard without obedience.*" Among the signers of this truly patriotic epistle, we find among others, the celebrated names of Glynn and Oliver, Trevannion and Townsend, Mawbey and Sawbridge †. These are some of "*your POLITICAL COMPANY—-with whom for eleven years you have constantly thought and acted ‡.*" This very famous Society, not content with sending them money, and conveying advice to the Colonies, instructed the

* Page 37. † Un. Reg. vol. xiii. p. 224---5. ‡ Page 67. national

national representatives in their behalf. "You shall endeavour," say they, "to restore to America the essential right of taxation by representatives of their own free election; repealing the laws passed in violation of that right since the year 1763; AND THE UNIVERSAL EXCISE, so notoriously incompatible with every principle of British liberty, WHICH HAS BEEN LATELY SUBSTITUTED IN THE COLONIES, for the laws of custom *."

The illustrious JUNIUS condescended to write a Commentary on this singular instruction, which, in truth, wanted none. Instead of telling them what he must have known to be true, or his ignorance was extreme, that this was a mere political falshood, calculated to inflame discontent, he very gravely informed them †, "I am not sufficiently informed on the subject of that excise,—to deliver our opinion upon it;" and he assures them, that "any other revenue laws, but those of excise, would be nugatory in such a country as America." Such were the arts used to promote disorder, and to excite disobedience. Thus encouraged to despise and to resist the authority of Parliament, none ought to be surpris'd that scholars so apt, were not backward to practise the excellent lessons which had been so carefully taught, and

* Lond. Museum, vol. iv. 304.
vol. x. p. 134.

† Pol. Regist.

so warmly inculcated on them. But it was not only public societies, private individuals enforced the same doctrines: "Go on, go on," say they, in Letters which filled all the public papers; "*your friends are daily increasing in England; persevere, and your RESISTANCE will be crowned with success.*" When, in superaddition to those facts, are mentioned public speeches and inflammatory writings, can any mortal hesitate to concur in thinking with us, that the present war with the Colonies was rather ENCOURAGED, than PROVOKED?

But whether encouraged or provoked, the war, it seems, *is now of full two years standing* *; and the *superiority of the former campaign rested wholly with the Colonies* †." That you may form a true judgment of affairs, we mean to trouble you with a brief state of things. There were not wanting many wise and well meaning men, who from the proceedings of the Congress, which met in September 1774, hoped for, and expected a peaceable and final end to Colonial disputes and disturbances. But their wishes and hopes were altogether disappointed, when the Congress, in an evil hour, *most thoroughly* approved of the resolutions of the county of Suffolk, in Massachusetts, avowing their determination to oppose Acts of the Supreme Legislature by force. All their

* Page 57.

† Page 43.

subsequent

subsequent proceedings were unhappily marked by the same spirit. All their grievances, as you inform us, have arisen from the principle of Acts of Parliament ; but to the Legislature, who could only grant them relief, they applied not for redress ; for this would have admitted jurisdiction, which they were not then of a temper to do. To the King, indeed, they petitioned, and complained of a very long list of grievances ; but they knew the King could not grant them the redress which they prayed, and must have had therefore little hope of success. Their former commercial associations were now improved and enlarged ; and with a view to alarm the merchants, and to raise insurrection among the manufacturers in this country, all trade with us was prohibited.

The conclusion of their address to the people of America, desired them *to prepare for the worst* ; words dark and ominous, which sufficiently evince, that even the Congress thought the measures they had pursued were such, that no reasonable hope could be entertained of their success. Without waiting for a redress of their grievances, as they had prayed, or the result of their commercial regulations, almost all the Colonies, immediately after the rising of this Congress, in October 1774, made vigorous preparations for war. In the provinces of the South, the militia was embodied and trained, money was raised, and arms and ammunition were provided.

provided. As the measure of opposing Acts of the Legislature by open and avowed force, originated in Massachusetts, it was now the most forward in preparations for war. The public treasury was seized, and the monies appropriated; magazines of war were provided, and arms and ammunition were procured; and an army of minute men was raised and disciplined for immediate action. The Courts of Justice were shut up by force, with every circumstance of outrage and insult; and all who had shewn any inclination to execute the law, were obliged to seek for refuge with the army in Boston.

The Parliament having in the beginning of 1775, maturely considered Colonial affairs, the two Houses, “*by a majority that will redeem all Acts ever done by majorities,*” resolved, that a part of the King’s subjects in the Massachusetts-Bay, have proceeded so far to resist the authority of the Supreme Legislature, that a rebellion actually exists within the Province. With a view to prevent the rebellion from spreading itself over the other Colonies, the House of Commons, though they had not been petitioned by the Congress, soon after, by their resolution of 20th February 1775, transferred to the Colonists the right of taxation, the original and principal cause of all their grievances. The great plan of the campaign of 1775, if it deserves the name, was here plainly marked. To remove all pretence of insurrection, a great

important concession, relative to the cause of Colonial discontents, was made by authority of Parliament to all; and if this proved ineffectual, the rebellion then existing in the Massachusetts was to be suppressed by force. And if this plan of operations has not met with all the success which its wisdom and moderation merited, it is owing to intermediate change of circumstances in the Colonies, to accident and to intrigues, which could neither be foreseen or prevented.

The temper with which this proposition of conciliation was received in the Colonies, and the disdain with which it was rejected by them, have been mentioned, and need not be repeated. A measure intended to prevent a civil war, was unfortunately the more immediate and accidental cause of its actual existence. Great military magazines having been prepared in Massachusetts in the winter, the General thought it prudent to endeavour to secure or destroy that, without which a war could neither be commenced or carried on; and the skirmish at Lexington was the result. Accident had now furnished the leaders of Insurrection with a pretext, for which they had long waited with anxiety; and the army which they had for some time embodied, and trained, was now brought forth into action. They seized on that which commanded Boston and its harbour, and prudence and self-defence required it should be immediately

immediately regained; and the affair of Bunker's Hill ensued. The army, designed to contend with the *unprepared* strength of Massachusetts; was found little able to cope with the *united* and *prepared* forces of all the Colonies; and to strengthen the army, almost all the troops in America were ordered to Boston. Ticonderago and Crown-Point, guarded only by a few men for the police, before they had heard of a war, were surprized and conquered. Having secured the King's Sloop on the Champlain, they opened a way into Canada. Having a General almost without an army to contend with, they over-ran nearly all that Province; but with a few sailors and recruits, he defended Quebec against their most strenuous efforts. There being only thirty-five men in garrison at Halifax, they invaded part of Nova Scotia; and there being only a company of invalids at St. Augustine, they threatened East Florida. The whole *prepared* strength of the Colonies blockaded five thousand men in Boston. There being no where any army to oppose them, they were universally successful: And thus ended the campaign, "*the superiority of which,*" you tell us, "*rested wholly with the Colonists*.*"

The Colonies having rejected with scorn the terms of conciliation proposed to them by au-

* Page 43.

thority of Parliament ; and not satisfied to act on the defensive, having invaded the Provinces of the Empire ; it became absolutely necessary to carry on the war with effect and earnestness. To conduct the operations of war, a new Secretary for the Colonies, of acknowledged military talents, was appointed in November 1775. An army, however, was not only to be collected, but transported to the scene of action three thousand miles. Vigour, directed by Prudence, will generally overcome every difficulty. A new corps was immediately raised in the North, whose utility experience has demonstrated ; and a large army of foreign veterans were instantly taken into the pay of this Country. A larger fleet and army were sent early in the spring to America, than any nation before had ever transported so far ; and far greater than any other State could have sent. A reinforcement was sent through the ice to Quebec ; and the Canadian army had no sooner arrived, than its invaders immediately disappeared. During the winter, St. Augustine was not only put in a state of security, but Florida was enabled to invade those who had threatened her. Halifax was garrisoned, and perfectly secured. When the main army gathered round General Howe at New York in August, what opposition, we pray you, was made to his power ? The works on Long-Island, which had been constructed with so much labour, were no sooner attacked than deserted ;

deserted; New York, fortified at so great an expence, was instantly surrendered; the works at King's-Bridge, said to be impregnable, were evacuated; and whichsoever way he bent his course, the enemy, without a single effort, retired. We perfectly approve of your censure of those who have characterized the Colonies as cowards. Every national reflection is unworthy of the virtuous and wise. We approve not even of your speaking contemptuously of "*German boors and vassals*;" but we may safely assert, that the Colonial Generals have not displayed the talents of Turenne or Saxe, nor their soldiers exhibited the never-failing spirit and vigour of British grenadiers.

Unless all our information is wrong, we think nothing, but the appearance of winter to their aid, could have prevented a total overthrow of Congressional Power at the conclusion of the last campaign. We have reason to entertain the strongest hope, that the time is not now far distant, when the Congress will cease to exist; when the Colonists, freed from their delusion, will at last perceive, that the power of Old England, notwithstanding the misrepresentations of the designing, or the misconceptions of the ignorant, is still as able to chastise the refractory, as she has been always willing to grant every rational redress to the peaceful; and when, being convinced of this truth, they will in all soberness reassume the character

character of subjects under the mildest Government upon earth.

It would give us the greatest satisfaction to see a FREE GOVERNMENT, and to "any other," you assure us, "*the people of America are wholly averse,*" established in that country. We were of opinion, that to be a subject of the British Crown, was to enjoy the most perfect freedom of which man in a state of Society is capable. You assure us, however, that a FREE GOVERNMENT "*is what the People think so.**" But, alas! while the American party, which you avow and justify, continue to invent falsehoods, to mislead and inflame, and encourages resistance to the Acts of the Legislature, which they declare to be no Parliament, because "*demands which are made WITHOUT AUTHORITY, ought to be heard WITHOUT OBEDIENCE;*" we almost despair of ever seeing such a *free Government* erected in the Colonies "*as the People will think so.*" We are not, however, altogether without hope, that the eyes of the Colonists will at length be opened to their own true happiness and interest, and will no longer consider their CAUSE AS ONE, OF THEIR ENEMIES THE SAME, with interested Party; that they will see how much they have been abused by designing men; that they will be of opinion, that the Govern-

* Page 53.

ment of this Country, which, before this Party existed, and Distrust was awakened, they thought the mildest and most free of any, never had any intention to oppress or aggrieve them; and that hereafter, if grievances arise from the operation of laws made by a Legislature not absolutely perfect, redress may be had without association or insurrection.

Whether the whole Empire has reason to remember, with eternal gratitude, the wisdom of that man who formed the plan of pacification of 1766, we think may be very well doubted. If the repeal of the Stamp Act is the genuine cause of the present unnatural contention, we think little gratitude is due to him, either from the Colonies or Britain. Men of sense and information, who had seen the subsequent discontents which almost immediately broke out after its repeal, and the outrageous opposition which the Colonists have made to every other Act of Parliament respecting the Colonists since that æra, consider that important measure as the remote cause of the present unhappy contentions; and the public voice seems to confirm the truth and propriety of their opinions. At that time, there was no danger of "*rushing headlong into all the calamities of civil war.*" However vehement their opposition, no man in the Colonies then thought or talked of resisting Acts of Parliament by open insurrection. There is a very remarkable

remarkable difference in the publications and sentiments of those days, from these of late and present times. Colonial Printers were then as fearful in publishing doctrines which militated only against the right of *internal taxation*, as they have been forward of late to print declarations against the authority of Parliament, *in every case whatsoever*. The diffidence, timidity, and apprehension of punishment of those times, form a perfect contrast to the forwardness, boldness, and contempt of pardon, which have marked their late proceedings. It was their successful opposition to former laws, without punishment or reprehension; the opinion of their own encrease of power and consequence, and the decrease of both in this Country, which were constantly inculcated on them; and the intrigues of designing men in both countries, who encouraged their resistance, with the hope of gaining from confusion, that ever induced even the most confident Colonist to think of commencing a war with this Country. Even when the present opposition commenced, their principal reliance for success, was on their commercial regulations, which they carried into execution with the greatest rigour, and by which they hoped to distress the trade, and ruin the manufactures of this Country, and thereby to procure a change of men, or a repeal of laws: The great body of the People would have been shocked beyond conception, if a war had been
 even

even hinted to them ; it was by imperceptible degrees, and a thousand arts, that they were at last brought to approve of that measure. The disturbances created by the Stamp Act, however violent, were nothing more than what this and every Country have experienced from similar causes, and might have been easily quieted before they attained to any dangerous height ; and the Act, with a little perseverance and patience, would have executed itself. And if the repeal of the Stamp Act has contributed so much, as for these reasons we think it has, to produce the present war, we can hardly felicitate you on “ *your having the happiness to give your first vote for that pacification* *.”

We cannot possibly agree with you, when you say, “ *our unlimited declaration of Legislative authority produced not a single murder* †.” The Colonial rejoicings, on account of the repeal, were merely temporary. As soon as they had time for recollection, they instantly began to view the expressions, but, above all, the principle of your Declaratory Act, with great jealousy. Far from being gratified by your kindness, when accompanied with this unlimited Declaration of Legislative authority, that it was with the greatest difficulty those who had suffered from the violence of Opposition, though recom-

* Page 62.

† Page 63.

mended by their favourite Ministry, the repealers of the obnoxious Act, could be listened to; and though some procured redress, yet others were totally neglected. The Massachusetts Assembly, notwithstanding the endeavours of the Governor, would pay no kind of regard to the measures recommended to them. And the Address*, which they presented on that occasion to the Governor, is remarkable for that moroseness and fullness characteristic of the People.

This Declaratory Bill, we admit, as it took nothing from them, demanded no recognition of Parliamentary Power, and was nothing more than the mere inefficacious Declaration of a power which, you had so lately shewn you wanted the spirit to enforce, was not immediately opposed: But no sooner was an Act of Parliament passed conformable to its principle, than not only a *single* murmur, but a thousand instantly broke forth. Your friend, the Pennsylvania Farmer, wrote against it; and endeavoured to shew, that it was worse in principle, and more dangerous in its effects, than even the Stamp Act. If the Congress really are what you have assered them to be, the just and equal representative of the Thirteen Colonies, their Declaration must contain the united sentiments of the whole. The Declaration of the Congress, *setting forth the Causes*

* Annual Register, vol. IX. p. 176-179.

and

and necessity of their taking up arms, after stating their grievances at length, exclaims,—“ *But why should we enumerate our injuries in detail? By one Statute it is declared, that Parliament can of right make laws to bind us in all cases whatsoever. What is to defend us against so enormous, so unlimited a power*?*” And they go on to affirm, that the Declaratory Act contains “ *all the grievances of which they complain.*” With what propriety, therefore, it can be affirmed, that this law did not produce a *single murmur* in the Colonies, we cannot possibly comprehend. And it appears most plain to us, if we can believe the Congress themselves, that they are now actually fighting against your Declaratory Act.

You assure us, however, that after the repeal of the Stamp Act, the Colonies “ *fell into their ancient State of unsuspecting confidence in the Mother Country †.*” But all our information agrees, that from the hour of the repeal, the Colonies have not enjoyed one day of perfect quiet and peace; and a distrust went forth, which no sett of men have hitherto found talents to allay. Mr. Townsend’s Act, passed in the subsequent year, occasioned the same uneasiness, and was opposed in a similar manner. The Assembly of New York thought themselves aggrieved by the operation of an

* Vide their Declaration.

† Page 61.

Act passed the session of the repeal of the Stamp Act; and early in 1767, they presented a Petition to Parliament, in which, after acknowledging their gratitude for the tender regard shewn in the last Session for their happiness; yet "*the commercial regulations then enacted, instead of remedying, had encreased the heavy burthens under which the Colony already laboured* *." The commercial regulations, of which they complained, were enacted during the Session in which you gave your first votes; and you must perceive how difficult it is to give satisfaction to a people, after distrust has gone forth among them. And that they had not fallen back into their ancient state of *unsuspecting confidence*, this proceeding of the New York Assembly seems to us the most unequivocal proof.

We are happy to agree in opinion with you, that at the era of the Stamp Act, when you first came into public trust †, the Parliament was found in possession of an unlimited legislative power over the Colonies. We "*could not open the Statute-book without seeing the actual exercise of it more or less, in all cases whatsoever* ‡." By the Statute of Anne, *internal* duties had been levied, for the postage of letters; which were expressly appropriated for the carrying on the war. By the several

* Com. Jour. vol. xxxi. p. 160. † Page 46. ‡ Ibid.

Statutes of Charles II. of William III. of George I. and George II. *external* duties, from their *imports* and *exports*, had been collected by the same Officers of the Customs, as in England; and appropriated, as other duties, for defraying the public expence. The Statute of William III. had expressly repealed their laws, bye-laws, usages and customs. The Statute of George II. had abrogated so much of their common law, as required evidence of a particular kind in their Courts of Justice; and for the convenience of the merchants of England, had introduced a different rule. By the Statute of George II. all the privileges of natural born subjects had been conferred on aliens, and on Jews, in the Colonies. The Act of William III. had prohibited Proprietors of Provinces from disposing of their rights to foreigners. An Act of Charles II. had declared who shall not act as factors, or merchants in the Colonies; and an Act of George II. had declared who shall not act as apprentices in them. By the Statute of George II. their Assemblies had been restrained in an important right of a most delicate kind, that of raising money by issuing paper bills. The Colonists had been prohibited from trading with foreign nations; and aliens were prevented from trading with them, by the Acts of Navigation. Their *internal commerce* had been regulated by the Statutes of William III. and George II. which prohibited the carrying their manufactures from one Colony

Colony to another by land. The Statute of George II. had regulated the manufactures of hats and iron; and the Statutes of George II. had authorized the transporting felons to the Colonies; and the rights of their purchasers were held and secured by these laws. Those several laws had been made; and by them the Colonies had been governed without opposition or complaint. Under them they were happy and free; and the authority of Parliament to make those had never been questioned or denied, antecedent to the PRESENT REIGN.

This unlimited legislative power over the Colonies, was not only exercised by Parliament in all cases, and acquiesced in by the Colonies before the present reign, but the constitutional right to exercise this unlimited power, had been at various times declared by the Courts in Westminster-Hall, and asserted by lawyers the most celebrated for their legal knowledge, and for their attachment to the Constitution. Antecedent to the æra of the Restoration, the Colonies had hardly been objects of public attention, or of judicial discussion. But in the reign of Charles II. the Courts in Westminster-Hall began to take notice of them; they considered them as on a footing with the various other subordinate dependent territories of the Crown, and from time to time declared them, when for that purpose named, bound by Acts of Parliament, as the Supreme
Legislature

Legislature of the Empire *. In the reigns of William III. and Anne, the same doctrines were delivered; and even that illustrious WHIG and *Chief Justice* HOLT held the same language at, and after the Revolution †. And in the two subsequent reigns the same opinions prevailed ‡. During the reign of Anne, those celebrated lawyers Northey and Raymond approved of an Act of Parliament for the express purpose of levying taxes, *internal* and *external*, on the Province of New York. A copy of the Bill, with their names annexed, has been published ||, and clearly shews the opinion of the greatest statesmen and lawyers of those times. In 1722, those great men, Sir Clement Wearg and Sir Philip Yorke held the same language, and indeed took it for granted as a thing indisputable, that the Colonists, as British subjects, might of right be taxed by Parliament. And last, though not least, the “*people’s lawyer*,” Lord Camden, who was Attorney General in the late reign, has given his opinion against that exclusive power of taxing themselves, now claimed by the Colonies: He asserted that “*the constitution of the British House of Commons and an American Assembly differ fundamentally in many respects; and that the latter never will be allowed to assume those privileges which the House of Com-*

* Vaughan’s Rep. 278.---9. Freeman’s Rep. 175.

† Mod. Rep. vol. iv. p. 225. ‡ Williams’s Rep. vol. ii. p. 75. || Review of American Controversy, 190.

“ *mons are justly entitled to here, upon principles*
 “ *that neither can nor must be applied to the*
 “ *Assemblies of the Colonies.*”

The possession of this right had been long, uninterrupted, and continued, from the settlement of the Colonies to the present reign. Upon a similar principle stands the legal prerogative of the Crown, the acknowledged privileges of both Houses of Parliament, and the most indubitable rights of the Legislature. Upon this, or a similar principle, have the glorious Revolution and the present establishment been defended and supported. This possession passed with you for a title. It does so, in all human affairs. But the title was disputed, the right was called in question: And how did *the great man of mediatorial spirit and talents*, who was intrusted with the care and management of this fair inheritance, act? He gave up the possession; he transferred the point in controversy; and then declared he still possessed the right. In the *human affairs* of common life, the man who being in possession of a parental estate, gave it up to a litigious claimant under a protest, declaring, that tho' he had surrendered the possession, he continued to claim the right, would justly be considered as an object for a commission of lunacy. And yet a similar conduct has been celebrated as a *necessary concession of Parliament*, in which *its authority has been preserved, and its honour respected.*

spee'ded. In common life, to give up tamely one disputed right, is to provoke other claims. No sooner had Parliament surrendered one right, than new claims were made with still greater confidence, and prosecuted with more vehemence and vigour. And thus, by pursuing a similar conduct with that of the repeal of the Stamp Act, every right of the legislature and the nation may be given away with equal facility. Greater talents are required to defend successfully a right vigorously attacked, than to surrender it with condescension, and without difficulty.

We are very thankful for your opinion on the present state of public affairs; and altho' it be lengthy and elaborate, we are not entirely certain, such is our want of comprehension, that we always understand the scope of your reasonings, or see the full extent of your opinions. We mean briefly to review some of them; and if we do you wrong from misconception, for it shall not be from the malignity of bad intention, we know your goodness will pardon us, or your great talents will be employed to set us right.

That you think "*our affairs are in a bad condition,*" is most apparent; but we recollect not, that you have any where precisely told us, how they are to be mended. That the way is dark and intricate, and full of treacherous
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mazes, we are very explicitly informed; but you refer us for assistance to those who think they have the clue to lead us out of this labyrinth. And in this time of difficulty and danger, we are unhappy to hear, that you are *unable to lend a helping-band to those who direct the State*. We ought not, however, to despair of the Commonwealth. If you had proposed some clear, and accurate, practical measure of relief, the present state of things considered, it would have given us the greatest satisfaction; how the present war might have been ended, with honour and advantage to Old England, and security, peace, and freedom to the Colonies.

On the subject of Colonial affairs, one opinion, we think, you decided in; That when you first came into public trust, the Parliament had a right to make laws for the Colonies in all cases whatsoever; you found them in possession of this right, which you considered as a title; you thought that a legislative authority, not actually limited, could not be parcelled out, so as to enable us to affirm, that here they can, and there they cannot bind; and YOU COULD NOT SEE HOW ONE POWER COULD BE GIVEN UP, WITHOUT GIVING UP THE REST. And the whole of this authority, as you found it perfect and entire, you wished to keep so.

This title was questioned, this authority denied, and this right impugned. What
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kind of conduct did you hold? You repealed the Stamp Act; and made the Declaratory Law. If the Colonies had objected against the obnoxious tax on principles of expediency, on grounds of mere commercial inconveniency, the law might have been amended; the grievous provisions of it, if there any were, might have been mollified; and even the law itself repealed, without danger. But the Colonies objected to the *principle* of the Bill, as unconstitutional; they denied the authority of Parliament to tax them. To repeal the law totally, unconditionally, and without recognition of any power of Parliament on their part, was therefore to transfer the right. But the Declaratory Law was passed. It *declared* indeed the legislative authority, and nothing more. No recognition of the powers declared, or indeed of any other, was required of any; no means of enforcing it was prescribed; nor were any rescision of the Colonial resolves, denying the right in the strongest terms, required of them. You relinquished the possession to the litigious claimant, and declared you had nevertheless the right; you surrendered the purse, and afterwards insisted, that you might claim it when you pleased. And it may safely be affirmed, for the reasons already submitted to your judgment,—that you gave up THE THING, and preserved THE NAME, and transferred the property in debate, while you retained the lawsuit.

Whether, since this famous æra, you have changed your opinions as to the Parliamentary Power or Right, we have not been able to discover. We incline to think you have some-how insensibly changed your opinion, though we have not observed the cause. For, without supposing this, you cannot easily support your objections to any of the laws which have been since enacted, and complained of as grievances. If the Parliament continued to have the right, the mere principle of those laws cannot be wrong; and from whence you could deduce a grievance, as you have not explained, we cannot possibly comprehend. For their mere operative regulation, abstracted from their principle, has never, that we have heard of, been complained of as excessive, or very inconvenient. A free Government, you have told us, "*is that which the people think so;*" it would seem to us, that according to your declared principles, the grievances arising from those laws consist in this, that "*the people think them so.*" Judging by this rule, it is most difficult to say, what would not be considered as grievances. But the question is not, why *they* think them grievances, for they deny the authority of Parliament; but why you deem them so, thinking as you do, of the *omnipotence* and *indivisibility* of Parliamentary Power, and admitting the validity of the principle; and yet you inform us, "*That all the grievances of which they complain, originate*"
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" *from Parliament.*" If indeed you are of opinion, which we think most probable, that the right declared by your law ought never to have been brought out into common use, then the point is explained.

Habits of soreness, jealousy, and distrust, however, you assure us, have introduced a different state of things, which require a different conduct; and now the entireness of the legislative power of Parliament is to be mutilated, and even the whole right of taxation is to be cut off. But how will this stand with your former principle, that "you cannot see how one power can be given up, without giving up all the rest?" To every objection, however, one answer is ready;—" *any thing rather than a fruitless, hopeless, unnatural civil war.*" That it is a most unnatural war on their side, we admit; for according to your own principles, properly understood, they have not been aggrieved, and they have rejected every mode of treaty and conciliation. That it is a hopeless war we deny; for the war would have ended last campaign, but for the interposition of winter's severities; the King's army is augmented in a greater proportion, than that of the Congress has diminished; and now, with every preparation, they have the whole Summer before them. That it will be a fruitless war, we cannot possibly conceive; unless we suppose an improbability that those in
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power, with example and experience before them, will act a similar part with the repealers of the Stamp-Act; *declare* that the war is over, when it really exists, and give us the *name*, when the *thing* actually remains. The blessings of peace are the fruits of the calamities of war. What all the World, yourself only excepted, will call a *free Government*, we hope to see established in the Colonies, as one of the fruits of the war.— We wish for security to our commerce, an easy mode for the recovery of our debts, by the regulation of their courts of justice; and the great cause of the war settled upon a permanent footing, by giving the Colonists content on the article of taxation; which was left undone at the repeal of the Stamp-Act.

“ *You prefer independency without a war, to independency with it.*” We freely confess, we prefer independency without a war, to the State of the Colonies subsequent to the repeal of the Stamp-Act. For your principle is right—that more is to be expected from her in this State than a **NOMINAL DEPENDENCE**, *accompanied with terror, disgust, and abhorrence. Bodies tied together by mutual hatred, are only connected to their ruin.*—Principles most happily illustrated by the whole tenor of Colonial History, since the æra of your famous repeal. Whatever may become of th: problem

blem respecting *independency*, whether it would, or not, be for the happiness and interest of both Countries; your *mode of pacification*, by *mutilating the entireness of legislative power*, and *cutting off the whole right of taxation*, would necessarily lead to that state of mutual hatred, which would only connect both to their ruin; a state of *nominal dependence*, but *real independence*, will most abundantly produce mutual disgust and abhorrence, and all their attendant evils. If such would be the effects of your *mode of pacification*, it is little worth enquiry, whether it would produce peace if it was adopted? Judging from experience, we think no success would have attended it, when proposed; since nothing but independence, in the late state of delusion, would have given them satisfaction; and they have scornfully rejected every application for treaty or conciliation, that did not admit independence as its first principle.

Not satisfied with *your own mode of pacification*, you would *have parted with more, if more had been necessary*. The principle of *giving up*, seems a very favourite policy of yours: But small are the talents which are necessary to execute this plan of Government. Perhaps all our present contentions arise from it. When the Colonists are taught to believe, that *Free Government* consists in *what the people*

people think so; when an American party, not very remarkable for scrupulosity, shall continue to invent falsehoods, to promote distraction, and be ever ready, on every new occasion, to expose the black side of things; who can possibly tell, what will be the extent of the demands of the Colonists, or where the policy of *giving up* would end? How much more open, candid and honourable, would it be in the American party, instead of conciliatory motions, which for some years have only tended to inflame discontent, and promote distrust, at once to adopt the celebrated policy of a very respectable Dean, and boldly move for the independence of the Colonies. This would bring matters to that point directly, which your mode of pacification, *by giving up*, as demand is made, tends, though *mediately*, to reduce them to, after enduring all the intermediate evils. Thus, the knot, which no sett of men have hitherto been capable to untie, would at once be cut asunder, and the Colonies would instantly be put into that situation of independence as the Dutch, who, you gravely assure us, were *once dependent* on England.

To support their own establishments in peace, and to contribute something to the general defence in war, was the only thing ever expected of the Colonies by any rational man. This was proposed to them by Mr. Grenville,

Grenville, and refused; the same thing, more accurately expressed, and more clearly defined, was offered to them by authority of Parliament, and rejected. We expected not to have our own burthens relieved by their subjections; and we consider not "*this as the pre-text of the war.*" If they had in all quietness allowed the Tea Act to operate, where would have been the great injury to them, or benefit to us? There wanted not precedents enough before; and the danger of evil precedent was therefore a mere groundless pretence, and our burthens would have been little lessened by the produce of its revenue. The Parliament would probably have repealed the law; but they were hampered with your principle, which of late seems, however, to have given you little disturbance; THEY COULD NOT SEE HOW ANY ONE POWER COULD BE GIVEN UP, WITHOUT GIVING UP THE REST. The Colonists BEING ENCOURAGED TO GO ON, persevered in their opposition. Their commercial regulations, when checked by the late Acts of Parliament, recoiled upon themselves, and were found utterly ineffectual; and they had recourse at length to INSURRECTION. To reduce them to the condition of free subjects; to restore a freedom of commerce; and to re-establish the just authority of government and law, circumstances

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being entirely changed, are now the great pretexts of the war.

Of the political company you blush not to have kept for eleven years, little more do we know, than what the news-papers have communicated to all; and the great principle upon which you have constantly thought and acted, during that period, was not altogether unknown to us. We had perused, with satisfaction, your "*thoughts on the cause of the present discontents,*" in which the great political principles of action of "*your company*" are explained at great length, with your wonted ability and address: and the substance of the whole being summed up, seems to us to amount to this simple proposition, that "*the King of this Country ought to be a man of straw, a mere non-entity; and this free Country ruled by a Party.*" Without entering at large into the discussion of this doctrine, it is sufficient for us to know, that this is no part of the law of England, and is not among the "*principles of the Constitution.*" The supreme executive power is invested by our laws in a single person, to whom is committed, in suberviency to the law of the land, the care and protection of the community. And the kingly office, being a great and important TRUST for millions, cannot be discharged without *efficacious* authority, and *substantial*

stantial power. It is the great happiness of Englishmen, that every Subject, without any regard to family, name, or connection, has a right, if in other respects qualified, to fill the first offices in the State. The sons of every merchant and mechanic have the same equal right to trust and power, as the proudest name you mention to us.

Without "*accusing all mankind of corruption,*" we may be allowed to assert, that men in every age, and in every country, placed in similar situations, will ever act similar parts. As we are not permitted by our situation to associate with those "*incomparable persons*" you mention, we have no opportunity "*to scrutinize motives*" as a rule of Judgement. We can only have recourse to the faithful pages of history, written for the instruction of mankind, to find the real motives of action of the politician and the statesman. What bloodshed, we beseech you, what distractions, what tyranny was introduced into the nation in the last century, by the pretences of a party to superior sanctity and patriotism! Your patriot heart must have bled over the perusal of the History of Charles II.'s reign. What unhappiness you must have felt at seeing the most virtuous popular characters intriguing with the natural enemies of Old England; and leaders of

parties, and the great Parliamentary Orators, receiving the wages of prostitution from France! And an attentive perusal of the history of the subsequent reigns, will discover similar intrigues, and similar prostitutions. The eyes of this nation are now opened to their own happiness. Protected in their privileges, and secured in their property, under a just administration of the laws, they view the contentions of the Great with tranquility, and find themselves little interested, whether Titius is IN, or Mævius is OUT.

Perfectly aware that the age is not what we wish, we heartily concur with what is best in our time. With us, we assure you, liberty is in no danger of being unpopular. But it is the liberty of enjoying, in peace and security, those invaluable rights and privileges which were handed down to us under the laws and civil institutions of our fathers; it is the prerogative of being governed by the laws of the land, "*the old, cool-headed law of England,*" and not by party, or by men; and it is not that which the *weak* may be taught by the *designing*, "*to think being free.*" This liberty we are determined to possess, and to defend. Out of these principles we are resolved to be neither persuaded, shamed, or frightened. And you may be assured, we shall not be amongst
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the first to renounce the principles of our Fathers.

We have the honour of being, with all possible consideration,

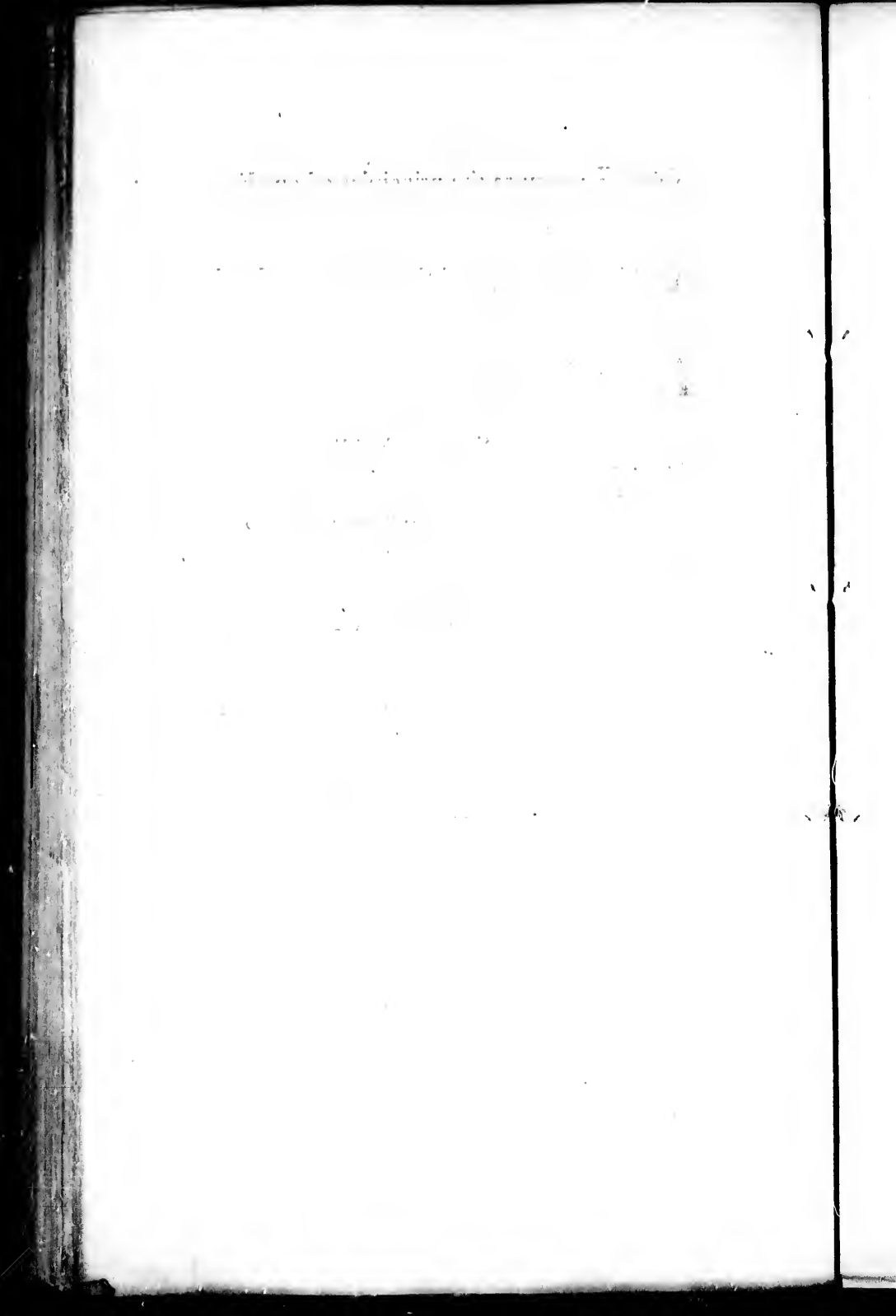
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Your most obliged

MAY 20,
1777.

humble Servants,

ELECTORS of BRISTOL.



A P P E N D I X.

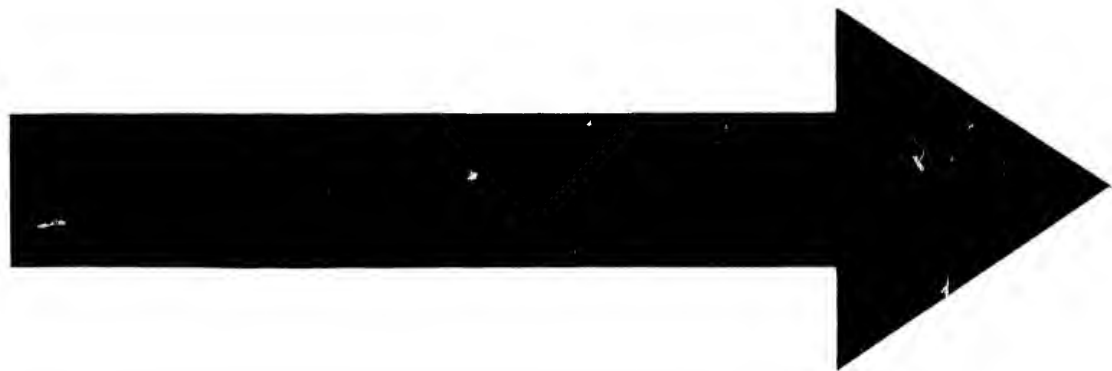
TO confirm the reasonings in the foregoing Answer, it hath been thought proper to publish the following AMERICAN STATE-PAPER, copied exactly from the MARYLAND RECORDS :

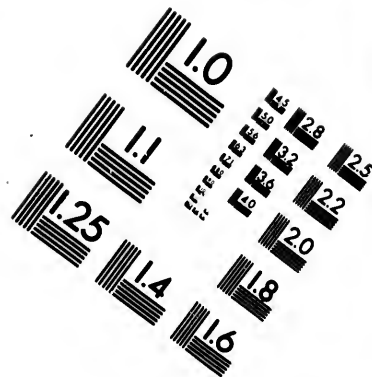
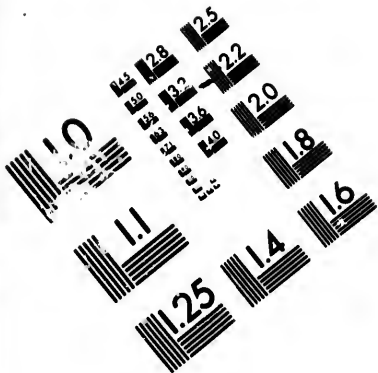
It is the GENUINE OPINION of LORD CAMDEN, when Attorney-General *, as well on the rights of a *Colonial Assembly*, as on the *supreme authority* of the PARLIAMENT; and shews clearly the *opinion* of the greatest Statesmen and Lawyers, on the late disputed points, just before the *commencement of the* PRESENT REIGN.

As to the nomination of Officers by the Lower House:—In my opinion, the sole nomination of those Commissioners, who are new Officers appointed by this Bill, belongs neither to the Proprietary nor the Lower House, *stricto jure*; but, like all other regulations, must be assented to by both, but can be claimed by neither. The Proprietary's charter intitles him to nominate all constitutional Officers, and all others, which by the laws are not otherwise provided for; but I do not conceive my Lord has any original right to nominate new Officers, ap-

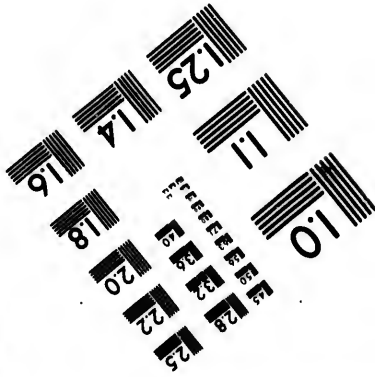
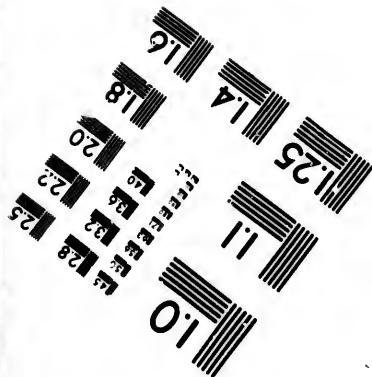
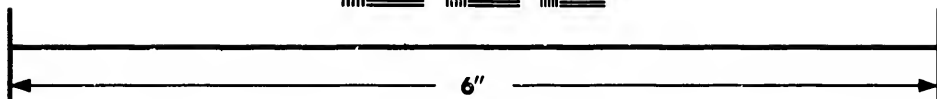
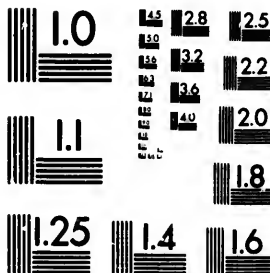
* He was so from 1759 to 1762.

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pointed for the execution of a new law, without the consent of the two Houses; nor, on the other hand, has the Lower House any such independent authority; and therefore, I think, the Upper House are right in withstanding this claim, in which they might be supported by the Proprietary; because it is unreasonable in one branch of the Legislature to assume a power of taxing the other by Officers of their single appointment.

As to the insufficiency of the allowance of the Commissioners of the Loan Office:—My Lord should not meddle with this question, which is proper to be discussed, and settled by the two Houses, as it concerns the quantum of allowance for the Officers, and does not encroach upon any of the Proprietary's rights.

As to the duties required from Lord Baltimore's private Officers, his Agent and Receiver;—here my Lord ought to interpose; for it is a great indignity to compel his Lordship's Agents into a public service, without making them a liberal allowance and compensation for their trouble.

As to that required from the Sheriffs:—This my Lord will leave to be debated by the two Houses.

As to the power of the Upper House, to *examine claims and accounts*:—The Upper House
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are right in making a stand to this clause in the Bill, and should take care how they admit ENCROACHMENTS of this kind, when they are supported by arguments drawn from the exercise of THE LIKE RIGHTS in the HOUSE OF COMMONS HERE. THE CONSTITUTIONS of the TWO ASSEMBLIES DIFFER FUNDAMENTALLY IN MANY RESPECTS. OUR HOUSE OF COMMONS STANDS UPON ITS OWN LAW, the *Lex Parliamentaria*; whereas the ASSEMBLIES IN THE COLONIES are regulated by their representative CHARTERS, *usages*, and the COMMON LAWS OF ENGLAND, and will NEVER BE ALLOWED TO ASSUME those privileges which the HOUSE OF COMMONS ARE ENTITLED TO JUSTLY HERE, upon principles that NEITHER CAN, NOR MUST BE APPLIED to the ASSEMBLIES OF THE COLONIES.

As to the narrowness of the exemption of persons to be Assessors:—My Lord has nothing to do with this.

As to the double tax on Nonjurors:—My Lord would do right to join with the Upper House in opposing this double tax; because it is a *breach of public faith*, and tends to subvert the very foundation of the *Maryland Constitution*; and can be excused by nothing, but a well-grounded jealousy of dangerous practices, and disaffection in the Papists.

As to the clause enabling debtors and tenants to retain :—This is very absurd ; but my Lord need not meddle with it.

As to the tax on Non-residents and Imports :—The Upper House are clearly right in that part of the objection which relates to *British Merchandize* imported ; for I am well satisfied the *Mother Country* will never endure *such an IMPOST UPON THEIR TRADE*. The Province may, by the same rule, *prohibit the importation*, as well as they may *tax the merchandize imported* ; and it seems to be a very UNWARRANTABLE ATTEMPT to make the ENGLISH IMPORTER of goods carried to Maryland, in the way of trade, *pay a tax for the defence of that Province*, for no other consideration but the liberty of trading there, to which they have an ORIGINAL RIGHT, which *cannot be invaded, diminished, or even regulated*, by any thing this Province ever can do.

As to the tax on Tenants for Life :—My Lord will leave this to be settled by the two Houses.

As to the tax on uncultivated lands :—This seems to be a very unreasonable tax, and ought to be resisted by the Proprietary ; because it seems principally on his estate.

As to the tax on plate and ready money :—My Lord has nothing to do with this.

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As to the tax on the Governor:—This is rather an uncivil than unjust tax; and therefore the Upper House would do well to oppose it as far as they may in reason.

Having given you my sense on each of the objections, so far as they have been taken up and maintained by the Upper House in the margin of that part of the Case, I shall only add here a GENERAL PIECE OF ADVICE to Lord Baltimore; that in *this disposition* of the *Lower House* to ASSUME to THEMSELVES any *privilege* which the ENGLISH HOUSE OF COMMONS ENJOY HERE, his Lordship should RESIST ALL ATTEMPTS where they are unreasonable *with firmness*, and SHOULD NEVER ALLOW any ENCROACHMENTS to be established on the *weight of that argument singly*; for I am satisfied, NEITHER THE CROWN NOR THE PARLIAMENT WILL EVER *suffer these Assemblies* to erect themselves into the POWER and AUTHORITY OF THE BRITISH HOUSE OF COMMONS.

(Signed) C. PRATT.

