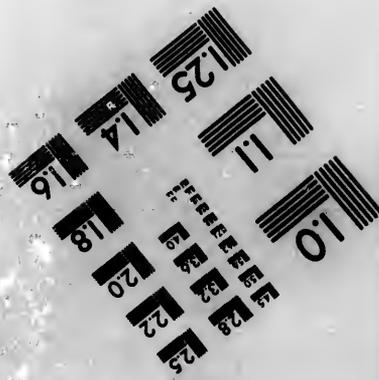
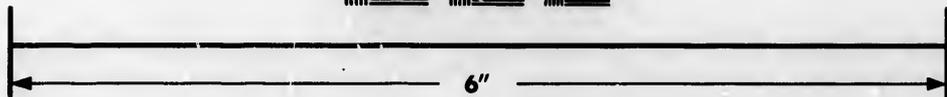
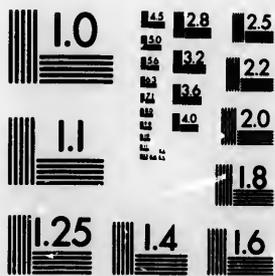


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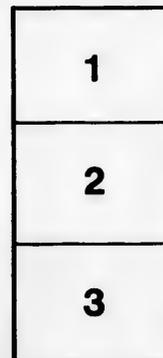
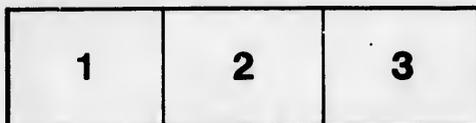
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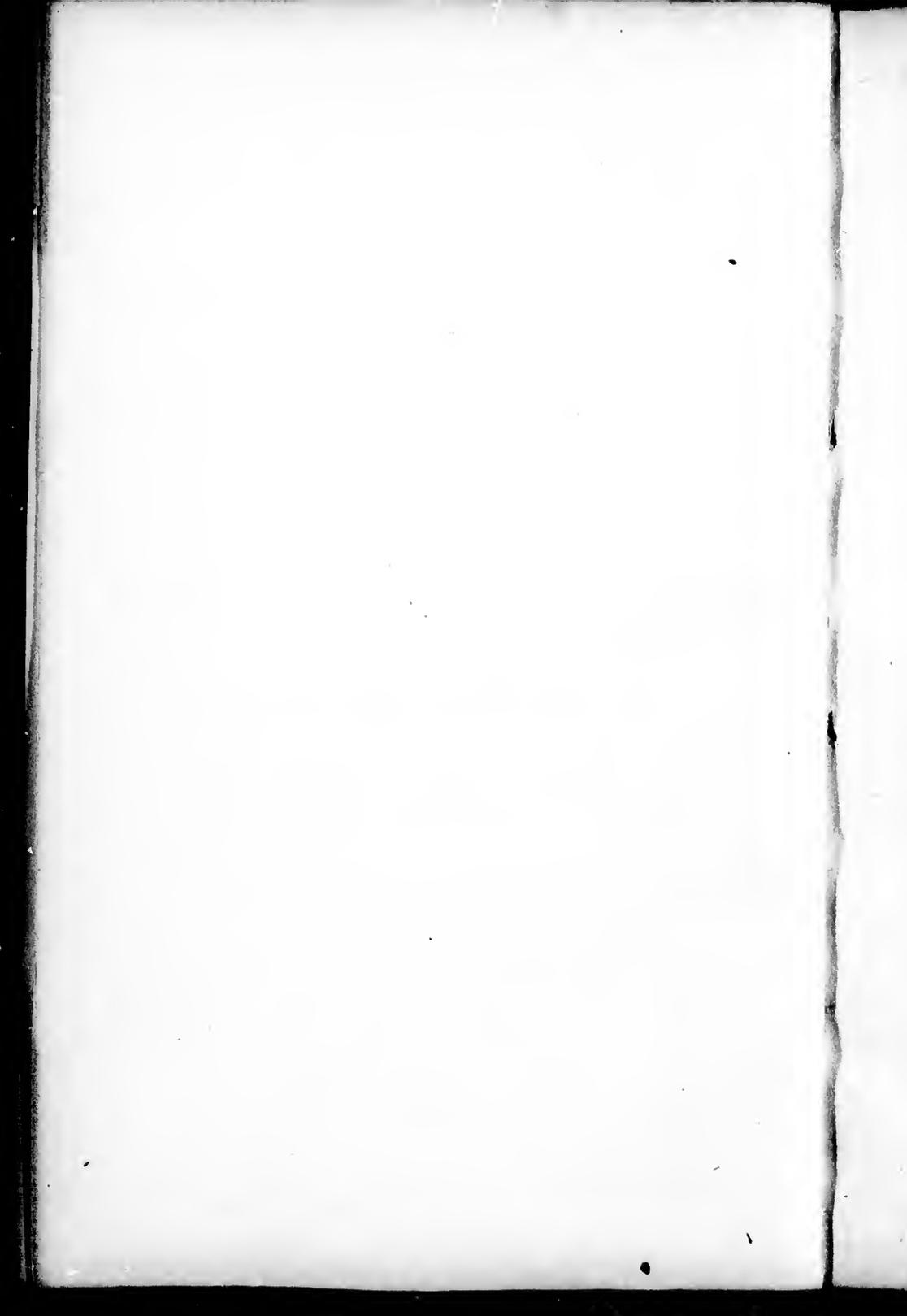
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O b s e r v a t i o n s o n s o m e i m p o r t a n t L a w A u t h o r i t i e s.

JUSTICE AND HUMANITY ARE THE HIGHEST INTERESTS
OF A STATE; AND THE PURSUIT OF THEM, ITS NOBLEST
EFFORT.

*This England never did nor never shall
Lie at the proud foot of a Conqueror;
But when itself did help to wound itself.
"Let unity and peace" come home again;
Come to the three quarters of the world in arms,
And we shall shock them.—Nought can make us rue,
If England to itself do rest but true.* SHAKESPEARE.

L O N D O N,
Printed for W. G W E N, in Fleet-street. 1776.

E R R A T A.

Motto, l. 5, *dele* to.—P. 5, for Europe read Corcyra.—P. 17, at the top for Phil. read Arist. and so change reciprocally for the six next paragraphs.—*Dele* Phil. before the words Can any other.—P. 48, read I do not know much of the sentiments of those out of the house as to America.—P. 54, l. 5, read ruin.—P. 78, for souby read soubz.—P. 82, after contrary. *dele* full point and place, —P. 90, l. 2, after is *insert* his.—P. 90, after cited *put*)—P. 53, *dele* the Parliament when it shall have served; and *corrige* if ever it shall have served.

A

DIALOGUE, &c.

Aristocraticus:

WHEN rebellious Colonies are rising against the parental authority of the mother state, when they are opposing by arms the supremacy of the British Parliament, when they are ingratefully repaying our care; our immense costs; our wars in their defence, with tumult, disloyalty, and treason; when they affect independence; when they league in unnatural assemblies, and a mock legislation; in defiance of all order, justice, and good government; are we to sit patient for ever till they invade us here, till they burn our fleet in the Channel or in the

B

Thames,

Thames, and fire our towns, and invest the metropolis, the palace, and violate that Majesty in person whose laws and authority they have so long and shamefully insulted ; or shall we, in spite of interested, discontented, foolish clamours, in spite of a ridiculous and disorderly resistance, act with a vigour that becomes the dignity of Great Britain, her immense resources, the might of her invincible fleet, the irresistible bravery of her troops, and conduct of her generals : those generals and those troops who have traversed the world with victory ; and shall not that arm which has subdued the power and haughtiness of two of the most formidable monarchies in Europe united against her, chastise the mad insurrections of her infatuated provinces, who owe all their strength to the power they resist, and who must learn that duty by force, which they will not otherwise be taught !—This was the language of *Aristocraticus* in a conversation between him and *Philodemus* ; no
matter

matter where, nor the time or place.
And *Philodemus* replied:

Phil. A man who is pre-possessed on the other side, would perhaps say, not with any force to be sure, but with a little plausibility, that the parental authority is for comfort and support, not terror and cruelty; that the supremacy of Parliament was vested in them for the liberty of the people, not for their oppression; for their security, not their destruction: that if the expences, wars, and care were for the sake of the Colonies, we should permit them to be grateful, by leaving them something they might call their own: that tumult, disloyalty, and treason, were harsh names; but that there was neither disloyalty in their hearts, nor treason in their actions; that they took up their arms unwillingly, and should lay them down with pleasure when they had done justice to the constitution, of which they were co-heirs with us; and, far from a design to invade, wished ardently

for the time when they might, as formerly, fight only in the cause of Britain, and for the common liberty, glory, and safety; and that, if the danger may come home, supposing we should drive them to despair, as I think nothing more probable that that it will; nor any picture of the horrors of such a war at our doors, too exaggerated; is it not proper for their sakes, and our own too, for the peace, safety, and honour of our king and country, to consider, whether it be certain, that in justice and in honour, we are bound to refuse, and risque the driving of them to these lengths?

Arist. Can you doubt it in loyalty or justice?

Phil. If they think it injustice and disloyalty to support the claims of the American Colonies, let them learn, that every Colony while it is well treated, honours the mother state; but when injured is alienated; for not to be slaves were they sent forth,

forth, but to be like those who are left behind*.

This is the language of a people two or three thousand years ago ; it is now the language of America ; and if it is the voice of truth, I am afraid it must speak the same for ever. I am not enquiring whether Europe had an equal right to hold this language ; a better right they could not well have. I will only offer a few parting words, and if no speedy change of measures (for men without that will signify nothing) does at length take place, I must sit down in silence, and mourn over the ruins of my country : with this bitter consolation, that we have made them for ourselves.

Arist. But, Sir, why so angry, unless you mean to be eloquent, and alarm us, as most orators do, with dangers which exist only in imagination.

* Μαζήλωσαν, ὡς πᾶσα ἀποίγια ἐν μὲν πάροισα, τιμᾶ τὴν μητρόπολιν, ἀδικημένη δὲ ἄλλο τριῦται· ἔγὰρ ἐπὶ τῷ δουλοῖ, ἀλλ' ἐπὶ τῷ ἑμοῖοι εἶναι τοῖς λειπομένοισι, ἐκπεμποῦται.

Phil. I do not mean to be eloquent, unless words could rouse a spirit in my countrymen: those whom the actions passing before them do not fill with horror and indignation, have my leave to be cool; I am sure words cannot make them otherwise.

Arist. What would you do then with words: the people are satisfied, the ministry is wise and vigorous, and fruitful in expedients, and inexhaustible in strength, and it is quite in vain to spend your breath in opposition, in favour of a factious, senseless, and ingrateful rabble?

Phil. I believe it is in vain, for if eloquence or arguments, authority of men, reason, or experience, could have convinced them, they would have been convinced long ago; but I would wish to lighten some of the abuse which I find thrown on the Americans, and on those who are called their friends, and who I believe are not their enemies, because they think it inconvenient to become the
enemies

enemies of liberty, and of humanity, and because they think it is the cause of these, the cause of Great Britain, and of mankind.

Arist. They think what is for their interest, I doubt my friend, and bawl and bellow for liberty, and yell out black and bitter days! to be huzza'd by the mob, and finally to get a place.

Phil. If acrimony of language were a proof of guilt, the champions of government have condescended to bestow that proof most plentifully on the friends of America, which is now, I suppose, a name of ignominy, as well as on their American brethren: they will pardon me for calling them their brethren, and I hope so will America.

Arist. You are pleased to be satirical, but America seems tired of the relation, and I doubt will force Great Britain in a little while to disown it.

Phil. America is wronged; she is not ashamed they have ever gloried in the name of

of Britons, as the name of liberty, glory, and virtue, of every praise, and of every blessing.

Arist. And yet they are throwing our government behind our backs, and insulting the laws and constitution on which they are dependent, and to which they owe these blessings, and talk of them much, but know not how to value them.

Phil. It is not true : they love and honour their mother country still, and it may be long I think before they forget her benefits, however injured, however insulted, however misrepresented or mistaken ; but they think, and are persuaded, that they defend the Constitution.

Arist. What I pray is the Constitution but the Parliament ?

Phil. Do you mean to say, what is the effect but the cause, a part but the whole, that the means are to be regarded for themselves, and not for the end ; that the trustees are the absolute owners of the
estate

estate, the guardians the heirs, and the stewards lords over the property committed to them ?

Arist. A great deal of this jargon has been talked, but I do not know why, but to confound and bewilder the people, and turn all constitutions into anarchy. I wish you would explain yourself.

Phil. I thought I had ; but I mean that neither the consuls, nor dictators, nor tribunes, nor kings, were the Constitution at Rome, but means intended to preserve it.

Arist. What then, we are to have one while a Parliament ; one while an House of Commons to call themselves a Parliament, and turn the Lords out of doors ; then a Protector, a King, then a government of saints, and then all the chimeras that Cromwell, Milton, Locke, Montesquieu, Plato, Sidney, Ruffel, and I do not know who of the tribe of enthusiasts, hypocrites, speculatists, and mock patriots,

that have been, and will be, can think of coining?

Phil. I say nothing of Cromwell, but that I believe with Clarendon, he was a great bad man. Milton had his errors, as the sun his spots. You do Locke and Montesquieu great honour to class them with Plato as speculatists and dreamers. Plato would have been glad of their company, and would have thought their dreams the dreams of Jupiter. And while you catch at his absurdities, have you forgot his divine ideas of a future state, of justice, and of assimilation to the Deity; a likeness which I believe we shall sooner reach by doing good than by doing harm. As for Sidney and Ruffel, spoken of as hypocrites, I leave those who can think think them so, to the comfort of the thought. As for the Constitution I do not mean it should change at every breath; I think the Parliament, consisting of the executive power, the Lords and the Representatives

representatives of the people, is an essential part of it : but if the Parliament be an essential part of the Constitution, it cannot go beyond the Constitution : if it does it will not be the Parliament which the Constitution of England knows, but something else.

Arist. But how can the Parliament go beyond the Constitution ? is it not a part of the Constitution ? Look to Lord Coke ; consult Lord Camden, Lord Chatham, and all the ablest advocates (however they are pleased to be so) of America, and ask if the voice of Parliament be not in law the voice of the people, the voice of the Constitution ; if it do not bind persons beyond sea, persons unborn, persons who never heard of the act, because it is the consent of all.

Phil. Certainly.

Arist. Then you are condemned out of your own mouth.

Phil. Do not sing Te Deum before a victory : the voice of Parliament is the

voice of the people, because the people chooses them ; it is the voice of the Constitution, because the Constitution has always said the people shall have a Parliament, shall have men chosen by themselves, and therefore properly representing them ; and if a man goes a voyage, or on his travels, and an act is made, it is an act made by the Representatives he chose himself ; and the moment he sets foot on English ground, he shall as much be bound by all the acts made in his absence, as those when he was present ; for if he had been present he could not have made them with his own lips, unless he were a member. They shall bind people unborn, till those people by their Representatives repeal them, because men who come into society, must be bound by the regulations subsisting in that body of men, amongst whom they live, till they choose to alter them, which it is not fit they should do, by a less power than that which made them ; they have had the
benefits

benefits of laws in which they had no share in making; and they may have their share in remedying the inconveniences.

Arist. Well; and is it fit America should alter our laws by a less power than that which made them? or is her power equal to that of Parliament? But they grasp at every thing.

Phil. She does not think her power equal to Parliament; she can make no laws against the Constitution; but she wishes to obey the Constitution, which she thinks does not permit those to be taxed who are not represented.

Arist. So then all the difference is, that Parliament can make laws against the Constitution, but America, you suppose, cannot.

Phil. I think that Parliament seems as if it supposed it could make laws against the Constitution; and though it derives its power from representation of the people, do something which neither itself by the
Constitu-

Constitution can do, nor the people that it represents.

Arist. How do you mean?

Phil. Suppose there were no Parliament here for a year or two, who should tax the people?

Arist. I do not know, I suppose they could not be taxed.

Phil. Why?

Arist. Because the Parliament is the only power which can tax them.

Phil. But why not the King?

Arist. Because it is against the Constitution.

Phil. Why? when the Parliament is out of the way, is not the power of the state in the King?

Arist. No more than it was before; he can make no laws.

Phil. So then there is a power which can dissolve Parliaments, but cannot supply their place, for the purposes of taxation, without creating them anew?

Arist. I believe it is so. You remember
the

the case of ship money is now universally held not to be law.

Phil. I remember it as a striking instance, where reason, natural justice, and the principles of the Constitution, triumphed over learning, authority, precedent, subtilty, power, and all the specious pretences of expediency and public necessity: thus I used to think of it, and I find so do you. But are not you afraid we were wrong?

Arist. No, surely.

Phil. Why I thought the ground of considering that determination as illegal, was, that no colour of prerogative, no authority of precedents, no arguments of convenience, nor even the specious semblances of national safety, and the necessity of such a power for the defence and honour of the kingdom, could make that law to which the people had not consented?

Arist. Yes; but when there is a Parliament, the people consent because they are represented.

Phil.

Phil. What those who choose the members are represented by them ?

Arist. Yes, and some who do not choose them.

Phil. How are they represented ?

Arist. Virtually.

Phil. Can a whole body of people then be represented virtually ?

Arist. Yes.

Phil. How comes it then that the King, when there is no Parliament, may not virtually represent that Parliament which he has dissolved, and the powers of which must go somewhere; and if he represents them, he may represent the people.

Arist. None but the Parliament can represent the people, and the King cannot represent the Parliament ?

Phil. So I understand; but I ask the reason, and not the fact.

Arist. Because if he did, the people would not be free; and it is against Magna Charta, and many statutes.

Phil. I understand from Lord Coke,
that

that Magna Charta in this point, and most others, is a declaratory act.

Phil. I believe it may.

Arist. Then the King could not have done it before Magna Charta ?

Phil. I suppose not.

Arist. Was there any written law before that, to hinder him ?

Phil. I think not ; at least none that is known.

Arist. Why then I suppose he could not do it, because, as you say, the people would not have been free, as by the Constitution they were and ought, because he cannot represent them as the House of Commons does.

Phil. Can any other man represent them against their consent, or without it, if the King cannot ?

Arist. No.

Phil. Or twenty ?

Arist. No.

Phil. Or five hundred ?

Arist. No.

Phil. Then five hundred would not make a Parliament, if the people did not chuse them ?

Arist. No, nor five thousand !

Phil. But when they are chosen, can they choose any body to represent them, as proxies ?

Arist. No : for Lord Coke says, they are but proxies, and therefore cannot make proxies ; no, not a single member.

Phil. Then it seems a whole people here cannot be virtually represented, that is, by members not of their own choice : this agrees with the rule of law, that the fiction of law always includes equity ?

Arist. It does ; but I don't know a people out of England may not be represented by members not of their own choosing—I want to be inform'd.

Phil. A proxy means an agent, does it not ? to do something for me, which otherwise I must have done myself ?

Arist. Yes.

Phil. Can he do any thing for me which I could not have done myself ?

Arist.

Arist. No; for Lord Coke and common sense will inform us, that a derivative power cannot go beyond the original.

Phil. Could I or all the people in the county where I live, lay a tax on the people of another county ?

Arist. No : for you have not their consent to represent them.

Phil. Can I employ an agent to represent them ?

Arist. No, sure, when you can't do it yourself.

Phil. And so if all the counties but one in the kingdom should send Representatives, and that one county was not permitted to send any, that county could not be taxed.

Arist. May be not.

Phil. Nay sure not ; for you have admitted the Representatives are agents, because they represent the people.

Arist. Right.

Phil. If I make an attorney, proxy, or deputy, will he be your attorney, proxy, or deputy, or mine ?

Arist. Mine, certainly.

Phil. Then I can't appoint a bailiff for your estate without your leave ?

Arist. No : would you think of treating a fellow Englishman as a slave in Turkey !

Phil. Then much less an agent for a county, without leave of the county ?

Arist. Yes.

Phil. And still less for the people, without leave of the people. What are the people ?

Arist. Englishmen and free men.

Phil. Because they are Englishmen they must be free then ?

Arist. God forbid else ! should you like to be born an Englishman, and be a slave !

Phil. Why are they Englishmen ?

Arist. Because they are born in England.

Phil. So an Englishman cannot be born out of England. If he were born in Turkey, he would be a Turk ; if in Caffraria, an Hottentot ; if amongst Swift' Yahoos,

a Yahoo; if in a Russian desert, he would be a Russian bear.

Arist. No, he would be an Englishman still; if he were born of parents who were in the King's allegiance as natural-born subjects.

Phil. He could only be an alien, if born abroad, though he came into England.

Arist. True.

Phil. So then it is not the soil that makes an Englishman; but the sons of Englishmen are Englishmen all the world over?

Arist. Yes; and the sons of aliens, if born in England.

Phil. Is one Englishman entitled to be lord and master over another, as I over you, for instance, because I am here, and you are abroad?

Arist. No; we are all brethren and equals.

Phil. Equals then cannot command equals?

Arist. No: the law and reason says, they cannot.

Phil.

Phil. If one equal cannot command another, perhaps a thousand or five hundred may?

Arist. I do not know.

Phil. How ; for they will still be but equals ! and if one fellow Englishman cannot command another without his consent, fifty may have more force, but they cannot have more right.

Arist. I believe you say true.

Phil. Then I cannot make my equal accept my proxy for his ?

Arist. No.

Phil. We said just now our Representatives were our proxies : then I cannot make my equal accept my Representative for his ?

Arist. True.

Phil. And numbers will make no difference ?

Arist. Allowed already,

Phil. Then all the people here cannot make other people, their equals, elsewhere, accept all or any their Representatives,

as the Representatives of any body there ;
and Englishmen are every where equals.

Arist. I own it.

Phil. Then all the Englishmen here
cannot make the Americans accept our
Representatives as theirs ?

Arist. This looks like proof : but can
so many wise men be mistaken ?

Phil. Do you think the King's Procla-
mations can have the force of a law ?

Arist. No : for it is not a law, unless
the people consent to the making of it.

Phil. And yet there were many wise
men who thought the King's proclama-
tions might have the force of a law ; and
the Parliament enacted they should, in the
reign of Henry VIII.

Arist. Yes.

Phil. Did not the judges determine,
this act did not extend to successors ?

Arist. Yes they did.

Phil. Does not the name of King in-
clude successors ?

Arist. Yes it does.

Phil,

Phil. Did not the judges who determined it, know this ?

Arist. I can't determine.

Phil. What ! did they know that maxim of immemorial antiquity, that the King never dies ?

Arist. Yes, doubtless.

Phil. Why then can that which dies not, be liable to succession, or is it one always ?

Arist. One certainly.

Phil. Then the King is a name equivalent to that of the Royal Dignity, and includes successors and Queens regnant ?

Arist. I think so ; and I believe Plowden, Lord Coke, and Judge Blackstone, tell us so.

Phil. Why then they were mistaken, in supposing it did not extend to successors ?

Arist. Perhaps they might,

Phil. No : but I fancy they thought the Parliament mistaken, in thinking they could give this power to the King ; if they
could

could have done it, they knew successors took it of course.

Arist. It seems rather doubtful.

Phil. Do you think Popery the true religion ?

Arist. No, I do not.

Phil. Yet when Popery was the established religion, laws were made by Parliament, on the supposition of its being true * ?

Arist. Yes.

Phil. Then you think Parliament may be mistaken ?

Arist. Yes.

Phil. If my agent mistakes in a private matter, I will pass it over, if the peace and interest of many others require it; but if he is mistaken in a public matter, whereby the public interest may suffer, and goes beyond his commission, should I wish him to continue his mistake, or require him to retract it ?

* Vide 1 and 2 Philip and Mary, cap. 8, particularly.

Arist. Not to continue in it, surely.

Phil. But if I acquiesced, could I bind other people, who had suffered in their right, by his exceeding his authority ?

Arist. No.

Phil. The Commons of England in Parliament are the Representatives of England ; they are our agents, and not the agents of the people of America.

Arist. True.

Phil. Then if they have acted as if they were their agents, they whose agents they are, should desire them to retract.

Arist. May be so ; but if they do not, the people should acquiesce.

Phil. Would you advise us, or the people, or the Bishops to acquiesce, or the Clergy of England, if the Bishops were not permitted to vote in Parliament ?

Arist. If they were not, it would be hard.

Phil. Yet you know it was proposed, and perhaps you know Lord Clarendon opposed it, because it would be unjust to tax

tax the Clergy, if they were not represented by their own body*.

Arist. He did.

Phil. Well, if it was hard to tax the Clergy who live amongst us, and who may vote at elections, will it not be harder to tax a whole body of people who do not live amongst us, and cannot vote for Representatives?

Arist. I do not know what to say to this; but Lord Camden, and Lord Chatham told them all this, and raised all this stir.

* A bill being brought to take away the Bishops votes in Parliament, and to leave them out in all commissions of the peace, or any thing that had relation to temporal affairs, he was very earnest for the throwing it out, and said, if they were taken out, no body was left to represent the Clergy, which would introduce another piece of injustice no other part of the kingdom could complain of; who being all represented in Parliament, were bound to submit to whatever was enacted there, because it was, upon the matter, of their own consent; whereas if the bill was carried, there was no body left to represent the Clergy.

Vide the Life of Lord Clarendon.

Phil. There needed no ghost to tell them these plain truths. They were Englishmen, and without oracles could know this, and I believe felt and acted on these principles, before either of those Lords had spoken about them. I rather suspect Magna Charta the stat. of 28 E. 1. Reason and plain sense told them this, and that the inconsiderateness of Government, to say the least, obliged them to apply this knowledge to practice. But they are abused for being tempted by Lord Camden and Lord Chatham, as their enemies will have it, and for being disciples of Locke; and I expect soon they will be spoken ill of for being reasonable creatures, that is to say men.

Arist. Well, but they may be represented here.

Phil. How?

Arist. Those who please of them may come and reside here, and vote for Representatives; or if they have property, be Representatives themselves.

Phil.

Phil. An easy method of representation—but pray when they come here and vote, or are themselves chosen, where will they sit?

Arist. Where will they sit?—where our Members sit, in Westminster.

Phil. There will be so many of these American Representatives—but will they be in no danger of being out-voted?

Arist. I cannot say that; any body may be out-voted.

Phil. Yes, even a Prime Minister: but suppose not, did you think our Representatives would answer the end, if they were to transfer themselves and their property to America?

Arist. No: for they would represent America rather than England.

Phil. Would not the case be the same of American Representatives coming here, they would represent England and not America?

Arist. I cannot distinguish; but if there is reason in this, the Americans never saw
it;

it; they are head-strong malicious hypocrites!

Phil. Nay, but you have granted they are Englishmen, our brethren, our equals: when I say that I wish to ease America of the burden of these aspersions, I confess that I do it more for our sakes than theirs: they have suffered, and are to suffer more than words, if our present war proceeds: I wish only that we could think better of them (or perhaps I should have said, speak better of them) than at present some zealous writers and speakers have chosen to do. I believe in truth, that many think much better of them than they speak; or else speak and write without the trouble of thinking or examining. The justice of our war against them may appear differently to others; for myself, I am sorry for the Revolution, and sorry that Magna Charta, or the Bill of Rights, ever passed, if our war against them be a just one; for the same measure
of

of justice seems to me to have been dealt to us, when we had recourse to arms, to deliver ourselves and posterity from its effects; and had Magna Charta, the Revolution, and the Declaration of Rights, besides infinite other statutes to assure us, that neither we nor our posterity, should ever have that kind of justice done to us for the future.

I am sorry too, that an Assembly of Representatives, a Council, and a Governor, were ever established in the Provinces—if this image of a Parliament was in truth no more than a kind of larger parish vestry, as it has very quaintly and candidly been represented. Indeed it will not be quite so good, nor so free a thing, as the vestry of the poorest parish in England; since that is composed of people who tax themselves for the supplies of the parish; and if any other supplies are wanted, tax themselves to them by their borough, or at least their county Representatives;

tatives ; which Representatives go shares with them in the burden ; and if they behave ill, the sufferers know their remedy, for the sufferers are those who choose them, and who are not obliged to choose them again : so that, Mr. Gravedigger of Hindon, if you will, may have a larger power in the disposal of his property, and a freer enjoyment of it, than two millions five hundred thousand of fellow Englishmen on the other side the Atlantic.

Arist. Aye, but they are a great way off!

Phil. The countryman in Italy was satisfied with that reason, for not believing in the Pope: and if it were meant as an argument why they should not believe they ought to be taxed by a body of men, of whom they know little more than of the Pope of Rome, nor so much as of the Bishop of Canada, there might be some solidity in the reasoning : more than I see at present.

Arist. Yes ; but if they do not know
who

who taxes them they are to thank themselves ; they left many enjoyments and privileges ; and this amongst the rest.

Phil. That they left many is certain : and are they therefore to lose all ?

Arist. Yes ; those of which they are become incapable. They cannot be represented here.

Phil. No: they cannot, any more, nay, much less, than the Irish. America therefore ought not to be taxed here, any more, nay, much less, than Ireland.

Arist. But did they not go from England, and settle in America ?

Phil. Yes : and so have many gone from England and settled in Ireland : tax them also.

Arist. No: in our supremacy we tax whom we please, and exempt whom we please.

Phil. But when, except in the case of America, did we ever attempt to tax those whom we did not represent ?

Arist. Why did we not before the time of Henry VIII ?

Phil. The case, the circumstances, and one should hope the times were very different. What became of this when our knowledge of the Constitution, and the necessity of Representation increased, and Wales was settled, and our civil wars ended, we shall see by and by if any be ignorant.

Arist. But have we the less right because we have not exercised it before ?

Phil. No : but when a right is disputed, its never having been exercised for a course of ages, is a strong presumption, where its existence is not necessary and certain, of its non-existence ; especially if the occasions have been frequent, and the temptation strong to exercise it, if it did exist, and the power was not wanting, and the plea specious, and the acquiescence probable ?

Suppose then, Queen Elizabeth, her finances low, her influence over her Parliament vast, and arbitrary ; Spain trembling beneath her nod ; France her ally, her friend, almost her tributary ; the
tyranny

tyranny of the Pope broken ; the United Provinces rising fast into greatness, under her auspices and protection : Ireland smarting under the rod of conquest, and conscious of outrageous cruelties in her resistance to England ; suppose she had stretched the arm of Parliament over that nation, so obnoxious then to resentment, so near, so fatally convinced of her power ; so shaken and divided in itself ; so desolate, helpless, and dejected ? Was there ever a fairer opportunity, a more obsequious Parliament, a people less capable of resistance, a pretence more plausible, (for her own finances were very small) a sovereign less likely to be ever scrupulous, a power more formidable to enforce submission ? Hardly I think ever ; but the example of the United Provinces was too near her.

Arist. No ; but Ireland was too poor.

Phil. The less it had to lose the more negligent it would have been, whether

its own Parliament, or Elizabeth's, were the taxers: and a country, newly conquered, with such circumstances of ferocity in their resistance, had little indulgence to expect, and little opposition to make; the people being probably as much oppressed by their rude and savage defenders, undisciplined, ungoverned, lawless, without order, without notion of liberty, or regular society, as they could be almost even by a foreign Parliament.

But the Americans are not composed of such a set of brutal clans; they have order, knowledge, discipline; they know the ends of society; they know the principles of our common Constitution, they feel them, they have lived and been happy by them; they have no idea of life without them. They cannot think of them so meanly as extrinsic accidental circumstances, which can vest and divest as they change their place. Their fathers were free here: did they go to be slaves?

Did

Did they go that their posterity might inherit slavery? Or went they to be like those whom they left behind? They went for liberty of conscience, and of property. Whatever they had gone for, these would still have clung about them. They were not at liberty to convey these from their posterity; or to surrender the privileges of the Constitution, though only for their own lives; and shall they lose what they crossed unknown seas, and stood all the hazard of savages and climates to retain? When if they had fled as far to avoid freedom, as they did to preserve it, their madness might have punished itself; but could not have given rights over them to the prejudice of others.

Arist. But they lost them necessarily.

Phil. And is servitude a necessary condition of Britons in any quarter of the globe? Or is it not servitude, that another should take what he pleases of mine, without my consent given by myself, or my deputies?

Arist.

Arist. Yes ; for it is the condition of Englishmen here : many of whom have neither a voice in Parliament, nor choose any to vote for them.

Phil. If they are not of any Borough, they pretty easily may ; or if they do not choose that, they cannot help being of some County : and where will they find a County without Representatives ? And what is the property required to make them voters for the County ; about fifty times less than qualifies them to shoot a partridge, and five times less annual income, (freehold indeed) than amounts to the rent of a tenement to gain a settlement. And if they have not this pittance, still they do not stand alone ; they dwell with, they converse with those, who choose Representatives ; and who are so blended with the unrepresented part, that if the represented are not oppressed, it is not easy to oppress, by the same tax, the unrepresented, who inhabit the little huts of the others, and have little to do with
land.

land-tax, window-tax, or even poor's rate, except receiving ; and so far from having contributions raised on them, that they must live by contributions. They cannot tax their rags.

Arist. But do not we tax their beer, their bacon, their cheefe.

Phil. I will add their bread, if you like it. What is the consequence ? They must pay the tax, and the parish must pay it back. Which perhaps is much the case of taxing a country with which one trades.

Besides, this beer, bread, bacon, and cheefe, all these the honest voters eat, drink, and consume ; and in larger quantities than the poor unrepresented miserables. So that if they will tax these poor creatures, they must not only reimburse them, and with interest, when thrown upon the parish ; but they must tax their own beer, bread, bacon, and cheefe ; and not only so, but the members themselves in Parliament must feel
all

all necessaries, and even delicacies and superfluities, rise in proportion.

Arist. This last circumstance indeed, that a tax on one article is in effect a tax on all, is not so immediate and direct in view, as the precedent.

Phil. But I take it to be no less certain.

Arist. Why then this will apply to America; and therefore there is the same security as for ourselves.

Phil. First, I say, a collateral or convenience is not so great a security as a direct one, against the mischief being done: and next, I say, that if it be true, as I am persuaded it is, it will serve not as security against over-taxing them, but a proof of the ill policy of taxing them; if not true that it would produce the inconvenience to us, then there is that reason why it should be dangerous to them; for it will be very unsafe for any people to be taxed by those who do not feel the inconveniency of taxing them in any extent.

Arist.

Arist. But it is now declared we will never tax them beyond what is fit; because it is against our interests.

Phil. Every thing arbitrary is against the interests of the doer; but one might as well suppose nobody would be a bad master, a bad husband, or a bad parent, or any way bad; because to govern by force and fear, where one might and ought by love, is always against one's interest; and to be bad in any case is against our highest interests, temporal and future.

The argument will hold strong the other way too; that the Americans would not resist us without strong cause, or necessity, when they have so much to lose, and nothing of value to gain, by an unnecessary resistance.

But of all wonders, if this be true, why do we not surrender to the King all our liberties, and abolish Parliaments; or to the Parliament, and make this Parliament perpetual, and let them do what

they will will the Constitution : for it certainly is the interest to govern us well, and to keep the Constitution ; for where can they find a better ? But when was it not their interest to govern well, in all those instances, ancient or modern, where kings, nobles, people, have governed ill ?

Arist. But we shall never be so foolish as to oppress them, if we can get nothing by it.

Phil. Are we sure of that ? They think we oppress them now ; and many think so at home ; and none seem to think of gaining much ; and we are likely to lose even beyond numbers, or conjecture.

However, to go farther ; does not a Turk, or a Negro, know, that it is not the rod being always on his back, or his limbs upon the wheel, that makes him a slave, and wretched, for he would soon be out of his pain ; but it is because, if he lives now, if he is out of pain now, if he has a penny in his pocket, or a child to hold in his arms, a wife, or a bed, it is
because

because his lord pleases. And are we so dull, as to think oppression rests only in corporal feeling, and not chiefly, and above all, in the servitude of the will to another man's will; and the property of all I have being his, though the occupance may be mine for life, for a year, for a moment; as he shall think convenient?

Arist. But do we mean to burn their houses, murder their children, ravish their wives, and eat up them and all that is theirs?

Phil. Unless they are obstinate, I suppose.

Arist. Why, even then indeed we do not mean all this; but who knows what may happen.

Phil. I do not suppose we have got the canibal taste yet; and it will be some time before we have stomachs of capacity enough to swallow up America at a gulp. But does not Dr. Johnson, Mr. Wesley, Dr. Tucker, nay and Parliament itself, support the taxation claimed in express terms, on grounds which would reach all this, an absolute, uncontrollable, unlimited,

mitted, boundless right of binding them in all cases whatsoever.

If the power of the Turk, or any power, goes farther than to bind in all cases whatsoever, it will go a stretch beyond possibility; and if we have the power thus far, we insist on the right. And can the taxation of America, other than by America herself, both as to the mode and the quantum be supported, on any other principles? Do we want the money; when will it pay us the war? When will it pay us the expences already incurred?

Arist. We do not want it.

Phil. I am sorry then, that wanting nothing, we choose to put ourselves so near the situation of wanting every thing.

Arist. We only insist on the right.

Phil. When we have forced the acknowledgment of this barren claim, will it be more a right? And are we to wade through blood to wash away the dimness of American apprehension about this supposed right, which we cannot well force them to see; and

and let who will see it, I do not find any is to enjoy.

Arist. We have benefited the Americans at a vast expence !

Phil. Are we to force money from them to pay our benefits? They have benefited us with their arms, with their money, in the common defence, in the reduction of Cape Breton by their sole force ; in aiding us in the conquest of Canada.

Arist. They did it for themselves.

Phil. Doubtless. And poor disinterested Great Britain, saved a country of about four millions of square miles, and with two millions five hundred thousand of her own subjects, and a vast commerce, the nursery and support of our naval strength, solely for the sake of the ingrateful Americans. The truth is, we could not serve ourselves without serving each other ; nor one hurt the other and not itself. I wish Great Britain had never overlooked this truth.

Arist. But their trade is worth nothing.

Phil.

Phil. It does not look much to our credit to have discovered this so late.

Arist. The German, the Dutch, the Russian trade are infinitely more advantageous.

Phil. The Russians begin to help themselves, and will do daily: and though the year before last, I am credibly informed; they sent orders for cloathing of two regiments from England, they have sent last year, I am informed by the same authority; orders for none.

Besides, do we think the American trade will go no where else; if it is lost to us? When the Spaniards lost the United Provinces, they lost not only them, but a great part of their West Indian, and I believe East Indian trade. We, from our situation, should be likely to lose much more. And yet we are pushing every thing by land and sea, and forcing earth, and as it were heaven, to get rid of that, with immense profusion of blood and treasure, which surely, if it is not worth the keeping, will not afford either to be kept, or thrown away so dear.

Arist.

Arist. Yes ; but if we conquer them, as who doubts, they will neither be lost, nor thrown away.

Phil. I doubt that, if we do conquer ; and besides, our conquest it was said in the outset was certain and easy : I doubt we find it now difficult and doubtful. But suppose we had all the towns in America, and every man in America at our mercy, what could we say in justice or in prudence, but if you will trust us ; resume your Constitution, revive your extinguished commerce, if possible, rebuild your towns ; repair your ports ; encrease, multiply ; pay no taxes, for we cannot tax the ruined ; and take money of us, to enable you, two or three centuries hence, to undo a good deal of the mischief we have done ourselves, and you ; and then, if nothing intervenes, and you will live under us, and we lay aside our pretensions, our great grand-children may see their grand-children half as happy as we were before the taxation of America was ever thought

thought of; provided it is never thought of again.

Arist. But they must yield, and all will be soon over.

Phil. This war, I doubt, will first cost many thousand lives; and the conquest be longer in disputing, than the right has been.

Arist. As to the right, the great consideration, however, is still behind. All the lawyers are for us.

Phil. They are not too many in either house; and I do not know much of the sentiments of those in America, out of the house. I suppose they are not all agreed with ministry, in these measures out of doors; because within doors, I think the majority are not with ministry.

Has Lord Camden ceased to be a lawyer? Is the public ignorant of the names of Glynn, Dunning, Feilde? Are these names of no weight, if lawyers are
to

to decide? Has Lord Chatham forgotten, or did he never know, the interests of his country?

Arist. All the men of property, integrity, and independence, are on the side of taxation.

Phil. For shame, let not this be said after these names, but now cited in one profession, and such only of the profession as are in one order of the state, and that extremely thin of them.

Arist. All the Clergy.

Phil. Have they forgot a Shipley?

Arist. All the merchants.

Phil. Except those who have petitioned against the war, or are ruined by it, and too remote to petition; or for some other reason must not, or cannot.

Arist. All the people.

Phil. Witness almost every corporate town in England, many in Scotland; witness the petition from Dublin.

I wish the ministry could see together the names of these few malecontents;

they would be glad that they saw them only upon paper, like our credit and our resources. What those resources are, Dr. Price will teach; or if he is not believed, we must learn of time.

Arist. But what matters the dissatisfaction of the people in England? The funds, a standing army, and, above all, the treasury, will tie up their hands.

Phil. Government methinks ought to shudder at the thoughts of holding a nation, such as ours was, by a tenure more than slavish; the tenure of corruption as well as force; and besides, neither standing armies, nor funds, are eternal; and extreme power, by whatever means acquired, ever has produced, and ever will, its own destruction. Immense revenues, arbitrary contributions, a standing army, a servile, venal, effeminate people, the Roman Emperors had; the remains of the Roman bravery kept them alive till that died, the last of all their virtues, and fated not long to survive the rest, and left them a prey

to a deluge of barbarians, whom their fathers would have disdained for their slaves.

Arist. Yet such governments are quiet, and I do not know whether any despotism is not better than the tyranny of the mob. A free government I think you call it?

Phil. Yes: to be sure such governments are very quiet: there are no insurrections for liberty, no constitutional Revolutions. In Turkey, the throne is transferred to a new despôt, as soon as the former has made a vacancy by the natural disease; the bow-string, ministered by his guards; unless their rare fidelity, as it sometimes happens; should secure him the benefit of escaping that fate; to be burnt in his palace by the rabble.

As for ministers, they have a good time in an absolute government. No impeachments, no long and tedious prosecutions; they may enjoy the favour of the Prince to the last day of their lives; and

to the end of perhaps a fortnight's administration, or possibly half a year's: they may accumulate immense riches, if they will take proper care not to use or enjoy them: and all this at the small cost of being impaled by a brother vizir, on a little billet sent by the sultan, or his mistress, or a vile favourite: their estates confiscated, and all their dependencies and relations extirpated (happy that they can have no children) and this not for treason against the public; for there is nothing public but misery: but for being too rich, too successful, too good (though this fault seldom happens) or too dextrous politicians, or too indolent or active; or because their master does not like their looks; or they forgot one of his three hundred titles; or for some other capital crime which his humour happens to suggest. And whether one man or five hundred is thus absolute, makes no other difference, than that in the last case there are more resentments to fear, and humours

to gratify. And when there is a standing army, and the forces of the treasury, and the security of the public funds, as checks and shackles on the resistance of the people; the Parliament, when it shall have served as a scaffolding for absolute power to build on, for any prince who may choose to build, will soon be knocked down and thrown away, and left to mingle with the other rubbish of an enslaved nation.

We have long time laughed at the doctrine of Locke and Montesquieu, as expiring Rome did at Cato and Brutus. We have laughed at history too; can we yet believe authority of men, precedent, or reason in this simple point, that sovereigns and ministers will be so far from more secure, because the people can form perhaps no regular united plan of resistance, that they will be in the greater danger.

While Rome was free, she restrained all encroachments on the Constitution, without

without shedding of blood : when she was corrupted, and in great part enslaved, then was the Forum filled with slaughter, and Italy, with fury and destruction, and the world with religion. When she was completely enslaved, all was peace, despair, and desolation. Sejanus dragged with a hook through the midst of his broken statues by the mob, his late idolaters : a Caligula stabbed by his guard : a Nero forced to his own death : an Otho, a Vitellius slain, with tumult and contumely : Tiberius, doubtful whether smothered by those who wished him a successor, or his own vices ; Seneca indulged for his services and adulations, with the favour of choosing how to die : Lucan sacrificed, less perhaps for his plot than the crime of making better verses than his master : the bad swept away for being bad, when their vices were of no use ; and the good for being good ; the ministry and the people worshipping their good emperors for
all

all their plagues ; so that as the temporary historian has it, a thanksgiving stood only for a mark of some greater brutality, or more furious massacre ; and as often as exile and murder issued from the command of the prince, heaven was thanked for it, and the tokens formerly of prosperity, were then memorials of the calamity of the public—and even Petronius Arbiter, the master of the pleasures of Nero, was cut off with as little ceremony as the almost more than human character of Thrasea ; and Tigellinus the supplanter of both, (if Thrasea could be said to be supplanted) left to shew, that when compelled to die, he could die as scandalously as he had lived. Emperors, the lords of free men, the deities of flatterers, and the slaves of slaves. So that princes and ministers have a great interest in unbounded wealth, and a standing army. Recollect what has happened in France ; and the attempts of assassination in Portugal, multiplied

tiplied with the cruelty of the punishments. Recollect what kind of insurrections have formerly shaken the throne of Russia; compare the fate of Stephen, I will not say the constant disquietudes of William the Conqueror, with his immense riches, and army of Normans; the disgraceful degradation of John; the end of Edward the second, of Richard the second, of Tresilian, the Spencers, of Mortimer, of Empson and Dudley, of Wolsey, of Jefferies: the time would fail me in reciting the ends of those who have chosen to stand by armies, and corruption, with the limited power of wise and happy princes, and their ministers; and see where the honour and security lies. Compare the spirit with which the Revolution was conducted, with the wars of the barons; the contentions of York and Lancaster; and even with the most moderate of all precedent contests, that which ended with the violent taking off of Charles I. and then,
kings,

Kings, Ministers, and Parliaments, may know, that there is the most danger, and the greatest fury in the conduct of the people, when their servitude is most desperate and abject : and that the most violent and fatal consequences are never more to be feared, than when all seems hushed ; than when public opposition is least practicable : and that a venal and enslaved people, who act not from hope of better times, or love of the Constitution, but hate of those under whom they suffer, will carry their revenge much farther, than a people who know they can resist, and who have power enough to restrain excesses in government, without committing them in the extreme themselves.

A free people punishes no abuses but what they feel and see ; and them regularly and in the ordinary course, not with violence and fury : it is the sharp curb, and the frequent scourge, and insulting heel of power, that makes them ever suspicious and dissatisfied : and it is

the smothered fire that devours what it first can seize upon, unseen and inevitable.

Arist. What then you are the advocate of assassination ?

Phil. No : for it is the producer as well as consequence of arbitrary power, and tends to perpetuate the evil, and to introduce tyrannical expedients for the future, against a remedy which in itself is tinged much with the colour of tyranny.

In Republics, especially small ones, it might sometimes be a good expedient : though even there it was often fatal to the liberties of the people.

In this country, in a great empire, and in a state which ought always to continue a monarchy, though a mixed and limited one, nothing seems more dangerous to the public, or less likely to avail to any good end. I respect the king, not only in a private view, but because the Constitution has wisely provided that respect, in the room of force, as the best bond of government, and security for our liberties.

If

If his ministers offend, supposing the Constitution to exist, there are other means of rectifying their misconduct, provided by the Constitution. If it does not, its revival is not to be hoped from assassinations.

Arist. Is it then from a civil war here?

Phil. I have already said, I am persuaded not; the only consequence is, that if no means of violence will be likely to repair those mischiefs, Ministry, and Parliament, that Parliament which is the constitutional palladium of our liberties; that therefore, for their own sakes, as well as for us, they speedily resort to their proper powers, to remedy this evil, and restore peace and union; or they may suffer together with the nation, from desperate men, what wise men, I believe, know would be unavailing to any probable good, and deprecate earnestly, and cannot think of but with horror.

Arist. But it is the liberty of America, and Great Britain, for which Parliament

is contending : not its own power, or particular interests. “ A king who depends “ on several states for supplies, depends on “ none.”

Phil. It is a wonder on this reasoning, we do not abolish the Irish Parliament, out of zeal for the common liberty. But truly, because the Colonies of America, refractory as we represent them, and republican, and at the distance of a thousand leagues, and some of them larger by much than England, are in danger, like the petty provinces and baronies of France, of vying one with another in the nursing of absolute monarchy, we, out of tenderness to their liberty and property, are to take both under our own disposal, and for fear they should abuse the representation, vested in them with analogy to the principles of our own Constitution, and as a necessary consequence of their partaking of that Constitution, Parliament will grant their money for them; and they shall have nothing to buy slavery with,
but

but shall have it gratis, or not at all, it being so tempting a bargain, and so much seemingly to their palate.

Arist. Psha, what would they do with Representatives but learn corruption?

Phil. Suppose then we should go farther, and say, that the people here shall choose no more Representatives, because many of the electors are mean and interested people; and because, if there should ever be a corrupt Parliament, it may destroy the liberties of the people. I think the argument from the possibility of abuse would serve as well against Parliaments here, as against Representation in America: the misfortune is, it proves too far; it proves they should have nothing; for every power to use any thing, infers a power of abusing it.

One might speak of the danger to our naval power, our interests as a commercial state, and our domestic safety; the danger to all these in carrying on the contest:

contest : only we are assured the Americans will never be suffered to have a fleet, or to be independent.

Arist. What ! and is it possible you can doubt it ?

Phil. I fancy there are many states which would rather see America by itself, than America in union with England. And as to a naval force, we know to what a pitch of rivalry with England the Dutch fleet arrived, in a few years ; and in despite even of the triple alliance of France, Spain, and England. These petty provinces, this speck of earth, which its inhabitants could hardly manage to rescue from the rats and sea, the only enemies they had been used to fight against ; this parcel of lumpish, cold, phlegmatic creatures, these butter-venders, plodders, and turners of the penny, burst forth into a blaze of liberty, power, and glory, such as perhaps neither past times can parallel, nor present have yet approached ; and af-

ter

ter this example, let us say, if we can, that America will never be suffered to have a fleet; or that we can plainly see success and triumph before us; though if we do see them plainly, we might spare this severe proof of them; I should hope without indignity: if we do doubt of success, it is better to leave off while it may yet possibly be thought that we might have conquered, if our humanity had not been greater than our love of such a conquest, our wisdom stronger than our resentments, and our true and permanent interests than our imaginary interests in present.

But let us lose what we may, suffer what we must, and gain as little as we can, still our honour is interested; wretched and dishonourable is such honour!—it has almost consumed our private justice, humanity, and virtue; and made gentlemen do, to be thought gentlemen, what the heart of a savage would relent at, an hangman would be ashamed to do, and
prostituted.

prostitution would blush at ; what a coward, one would think, the basest coward, would hardly do to save his life : thence seductions, murders, adulteries, deceits, falsehoods, treacheries, blasphemies, a neglect of all great and common obligations. And now it is to influence our public conduct. I fear, when we talk of our honour, we are too much convinced we are in the wrong, and not of magnanimity to amend it.

Arist. Surely honour is something : lose that, and we lose all.

Phil. Very true : but I wish there were no honour but honesty. If we are wrong, I know of no honour, but being right as fast as we can : or suppose we were right, I know not of an honour so great as a magnanimous condescension to the prejudice and jealousies of our brethren, in a point worth all their care and concern. An honour against our interests, against justice, against the Constitution, or but doubtful in these great points, I know
not

not how to comprehend. Let us think how noble France looks in our eyes by the acquisition of Corsica ; how great Rome and Carthage appear with plundered provinces, slaughtered citizens, and a desolated world. Let us think whether Spain would have seemed less disgraced by keeping the provinces than losing them by force against her will. Let us think of the Roman Senate to the deputy of Privernum, when they declared vanquished enemies, who could prefer liberty to every thing, worthy of being Romans. Let us think of their behaviour on the secession of the people, when they demanded the restoration of their representatives, the Tribunes : when the generosity of Rome did not quarrel with them for not being a legal assembly ; or object their proposing terms, and fixing conditions, and limiting the supreme legislature ; but condescended to throw the blame on herself, and to declare, that the terms insisted on were so

reasonable, that they thought to have been offered them unasked; and when even the most manifestly unreasonable demands, not suspected, but made, were refused with dignity; but not made grounds of denying the matter in contest. Let us think of our own conduct when we embraced Wales, Chester, Durham, under the arms of an equal representation; and by this just and constitutional conduct, did not debase but raise the dignity of Parliament, and commenced our dawn from darkness and tyranny: this was honour. Honour is not a precarious disputed prize, held with struggle and ill-will for a moment, but a possession for ever. If they are Englishmen and subject, as certainly they are, to the general duties of Englishmen, let us glory that they enjoy those privileges which are inseparable from the duties. Let us say, "the rights of Britons are dear to us every where;" let us say with Cicero,

Cicero,

Cicero*, the laws of liberty we think ought to be retained, not only here where our own Representatives reside, where our other magistrates, where justice is resorted to in great confluence in our courts; where the authority of Parliament resides; where the opinion of the people, their concurrence and observation are upon us; but wherever on earth, in whatever country, the rights of an English citizen be violated, this we think, or ought to think, touches the cause of the common liberty and honour. For let me repeat again, they went from us not to be slaves, but to be like what those were, and are, or ought to be, whom they left behind.

* Retineri enim putatis oportere jura libertatis, non modo hic ubi tribuni plebis sunt; ubi cæteri magistratus; ubi plenum forum judiciorum; ubi senatus auctoritas; ubi existimatio populi Romani & frequentia; sed ubicumque terrarum, & gentium violatum, jus civium Romanorum sit, statuitis id pertinere, ad communem causam libertatis & dignitatis.

Peace, peace, on equal, just, and honourable conditions, is my sincerest wish for the sake of both parties. If we make them moderate and kindly, they will be the more likely to be permanent. The interest of both parties will be the security for keeping them. We are not to treat with natural enemies. We may therefore be condescending without injury to our dignity; and it will be a point of justice to be generous. Those who are not backward to accommodation, are generally thought to have done the wrong: those who are ready to be reconciled, were either originally in the right, or have the merit of what is sometimes more honourable to our nature, to have erred by surprize, or infirmity; and from these no human wisdom, or goodness, is exempt; and to retract on thought and deliberation, on principles of humanity and virtue. The wisest of men and the greatest states have retreated, even from measures of

acknowledged justice and prudence, when they have found unforeseen events would render them impracticable, or make the evil of them greater than the good. America and Great Britain, I fear, can never be permanently happy unless reunited : and may every just means turn to that effect.

I cannot leave the subject without an earnest exhortation, put formerly in the mouth of a great king, upon a very important occasion, yet not so great as this, by one of the first of philosophers, and therefore not the worse for being the first of poets ; and I cannot help indulging an imagination which to find realized would indeed be an unutterable satisfaction : suffer me to imagine that I hear our present Sovereign, as the common father of his people in both countries, uttering these words so full of greatness and humanity ; wretched on either side will they be who are the last to consider them.

“ O hear ! take heed how you impawn our person ;
 How you urge on the tired sword of war :
 We charge you in the name of God, take heed !
 For never two such kingdoms did contend
 Without much fall of blood ; whose guiltless drops
 Are every one a woe, a fore complaint
 ’Gainst him whose wrong gives edge unto the sword,
 That makes such waste on brief mortality.”

Arist. Whether I am convinced or not
 by your arguments, as to the claims of
 America, I cannot say at present : and yet,
 methinks, I am almost half persuaded.
 The words, however, last spoken would
 become any mouth.

Phil. And whose more than his who
 has so often given life where the severity
 of the law has slain ; and who might
 thus give life to thousands—I might say
 ultimately, millions of innocent, faithful,
 and useful subjects here, and in America.
 As to my arguments, there is nothing
 new or uncommon ; for reason, that ray
 of

of the Divinity, is always simple, clear, and uncoloured ; and he who would have newer arguments than those urged before me, I am afraid must have worse. Nor were the arguments of those who have been before me, very new, they were in general as old as the Constitution, and many of them as old as nature.

I wish earnestly, that not by these weak efforts of mine, but by the reason of wise and great men, who have spoken and written upon this most important subject, by consideration of the thousands uniformly acting upon it, in the midst of danger and death ; by the love of our country and of mankind ; by the force of truth, and the power of the divine mercy ; not only you and I, but our rulers, and all the people of this mighty empire, may be almost and altogether persuaded to peace, union, and happiness.

Arist.

Arist. But will America be persuaded if we were ?

Phil. Will she be persuaded to be free at ease, and in happiness, if we are content she should. If that be all your difficulty, I am pretty well satisfied America does not like this war, because it is a war, a war in their own country; a war against their countrymen; against Englishmen. I am farther satisfied that she would think her welfare, and her liberty interested in putting an end to the war; and as I think she will never sheath the sword till she has that liberty which she claims, secured; so I doubt not she will then, if this be done in time, sheath it instantly and gladly, with a hope never to draw it more against us, but to turn it on our enemies when our defence requires.

Arist. But what is this liberty; or how is it to be secured ?

Phil. We are Englishmen, and know our own liberty, what it is by the Constitution

stitution ; this will solve the question as to theirs. And perhaps we shall find, that it is nothing by which we are to lose, but rather that we may gain by it in commerce, in their affections, in glory. As to the means of securing it, much must be done to destroy, but a very little will suffice to settle it, I believe, if we apply ourselves heartily, generously, and speedily.

Arist. But what will be the plan. Do you foresee the intricacy and embarrassment ?

Phil. We must not talk of plans while we hold the sword at their throats : when force is removed, reconciliation may easily take place ; and I think that plan will be the best which is the simplest and most favourable to their liberties, and most for the reputation of our ancient generosity and justice : and, I believe, such a plan has been proposed long ago. Let us have hearts to be reconciled, and we shall not

want wisdom or means. I only beseech of Providence to grant us the will to use them : never was greater need ; never such a nation on such an edge between the extremes of happiness and ruin.

Just as *Philodemus* was speaking, dispatches arrived to *Aristocraticus* ; who departed in haste ; and thus ended the conversation.

ADDENDA.

A D D E N D A.

I HAVE added a note of some *very ancient law authorities*; the originals, and a translation; on which I shall request my reader to cast his eye, as thinking *one* of them *particularly* of *extreme* consequence, to the subject or the foregoing Dialogue, and to *public* consideration.

“Nul home serra lye mes ceux que assentent.”

“No man shall be bound by a law but those who assent.

Livre des Assizes, 44 E. 3. 19. Anno 1370.

“Terra Hibernia inter se habet Parliamentum & omnimodas curias prout in Anglia, & per idem Parliamentum facit leges, & mutat leges; ET NON OBLIGANTUR PER STATUTA IN ANGLIA, QUIA NON HIC HABENT MILITES PARLIAMENT.” 12 R. 3. fol. 12.

“Resolved, per omnes Justiciarios in Camera Scaccarii associatos. Anno 1484.”

“The land of IRELAND hath a Parliament in itself; and by the same they make and change laws. AND THEY ARE NOT BOUND BY STATUTES

MADE IN ENGLAND, BECAUSE THEY HAVE NOT
HERE MEMBERS OF PARLIAMENT."

" Resolved BY ALL THE JUDGES in the Exchequer Chamber, in the year 1484."

" And note, whereas it has been said that the meaning was, that *Ireland* should not be bound unless named, the case is *expressly* the contrary. For, the case was, as you may read, in the Year Book, of goods shipped from Waterford in Ireland, with an intent to unlade at Sluice, in Flanders, and not at Calais; and the bill recites *expressly* the statute of Henry VI. And the statute of 2 Henry VI. chap. 4, says, after reciting the mischief of ships resorting to other ports to unlade, &c. and not to Calais, " Le Roy volant ceux damages & amenuement eviter DE L'AVIS ET REQUEST SUDITZ ad ordinez et establez que toutz les estatuz en faitz et nient repellez soient tenuz et gardez et mys en due execution, et que le entier repair, des lains pealx lanuz quir plumb estain entier ou fonduz appelez thotten-tynne, et du toutz autres merchandises appartenantz a l'estaple passontez hors de roialme d' Engleterre et des paiis de GALES et IRELAND soit au dit lieu de Caleys et a null lieu ailleurs de la mere sur peine de forfaiture, &c. Anno 1463.

" The King willing that all these damages be avoided, BY THE ADVICE AND REQUEST AFORESAID, hath ordained and established, that all
the

the statutes made and not repealed, be held and observed, and put in due execution; and that the general resort for wool, skins, hides, lead, tin, unwrought or cast, called shotten tin, and of other merchandizes appertaining to the staple, tin, be from the kingdom of England, and the counties of Wales and IRELAND, to the said place of Calais, and to none other place, beyond sea, on pain of forfeiture, &c.”

And on the construction of this very statute it was, in which IRELAND is *expressly named*, that it was determined by *all the Judges*, as already mentioned, that IRELAND was not bound; because it had a Parliament and *made and altered laws*; and our statutes would not bind them, *because they had not here Members of Parliament*.

The authority of this case has never once been questioned: it has only been said that the meaning was, our statutes did not bind Ireland, unless expressly named. Ireland *was* expressly named, and yet the determination of all the Judges of England, but twenty-one years after the statute upon which they decided, is, that Ireland was not bound as having Members of her own, and not sending Members to our Parliament. I can hardly think it necessary to shew, that America has a Parliament, makes and alters laws, and does not send Members to our Parliament. The conclusion is unavoidable.

There

There is a case in the 20th Hen. VI. fol. 8. where FORTESCUE says, that the land of Ireland is severed from the kingdom of England: for if a tenth, or fifteenth, be granted *here*, this shall not bind those of *Ireland*, although the king send the said statute into Ireland under his great seal, UNLESS THEY WILL APPROVE IT IN THEIR PARLIAMENT.

“ Et auxi la terre de Ireland est severe del royaume d’ Angleterre : car si un dizme ou quinzime soit grantee icy ceo ne liera ceux d’ Ireland mesque le roi mander’ mesme ce l’ estat’ en Ireland souby son grand seel *si non que ils veulent en leur parlement ceo approuver.*”

Granted on the other side that it would not; because they have not commandment by writ with us to come to parliament; but, say they, it does not prove the land is severed from England; FOR A TENTH GRANTED SHALL NOT BIND THOSE OF DURHAM, NOR OF THE COUNTY PALATINE OF CHESTER.

“ Pur ceo que ils n’ont commandment oue nous per breve de venir al’ parlement. Mes n’est prove que la terre, est severe d’ Angleterre car une disme grantee ne liera ceux de Duresme de le contie palat. de Chester.”

So then it was understood, as far back as the 20th Hen. VI. that a tenth granted by parliament would not bind Chester or Durham; it could not be because of their royal privileges, for they have those privileges still, and yet are taxed; was it because

because they were not named? Surely, when I name England, I name all that is in England. Was it because they were not represented? Surely yes.

In the case in 1 Hen. 7. Hussey chief justice, says, the laws of England shall bind Ireland. The rest of the judges said not much against it, says the reporter; though in the term before, in his absence, some of them, he adds, were of the *contrary* opinion. And I suppose they might say nothing, because what the chief justice had said could not affect the case then in question; for if the laws of England did not bind Ireland, then they were not bound; if they did, they had a licence which was held good. And having already, in the term before, expressed their opinion, that Ireland was not bound by the laws of England, they had no need to say much about it the next term, and therefore they did not say much against the contrary opinion; but I do not find any of them said any thing for it, or assented to it, and they had said enough against it before. But there is a case which I believe has been thought to come in proof of something like what is claimed over America, it is the 3d Hen. 7. fol. 10. and I beg leave to consider it.

The case of the 3d Hen. 7. is something about bringing false money into England knowing it to be counterfeit. And the attorney-general puts a question, whether if any man brings such money out of Ireland, *into England*, knowing it to be counterfeited, it is treason? And they say, that

that Ireland is a member of England, and uses the law of England, and makes money by the king's authority; and if they make bad money in Ireland, it is treason. The case is oddly reported; it seems not a judicial decision: the attorney-general asks a question, the judges answer him. But what is most strange, the answer appears to have no relation to the question; for the question is about bringing bad money, knowing it to be bad, into England; and the answer is about coining money, or counterfeiting money.

As to the question, whether an Irishman coming into England, and bringing there counterfeit money, knowing it to be counterfeit, be guilty of treason when he comes into England, he is certainly bound by all the laws of England while he is here.

As to the case of treason in counterfeiting the coin of England, that it shall be treason though done in Ireland, it was not the case put, as has been already observed; but the judges say, Ireland is a member of England, as if they had said, it is under the same common sovereign, and has the same constitution, and the people of Ireland are the king's subjects; we do not dispute, that both Ireland and America are members of the dominion of the king of England; we do not dispute, but affirm that they are subject to the constitution of England; for we say, they are governed by their own laws and parliaments as England is. They are the king's subjects; we do not doubt it; America does not doubt it;

it : being the king's subjects they naturally owe him allegiance to defend his crown and person, and to acknowledge his constitutional prerogatives, of which the power of coining money is ordinarily, and in times of regular government, one of the chief. I do not suppose that the king's subjects any where can break their natural allegiance while the contract constitutionally subsists between them and their sovereign ; it is an universal duty owing by all the king's subjects in Ireland, America, or Spain, or in the moon if they could, or France ; to coin money without the king's authority, was at common law, an indirect breach of this allegiance ; how it was to be punished would depend on the usage at common law or statutes. The Irish use the laws of England ; yes : and as Fortescue says, the law of England may be made the law of Ireland, if the Irish parliaments approve it ; and I suppose in fact, the law of Ireland, and the custom of Ireland, hath punished counterfeiting of the coin as treason. And it is true also, that no man can make money here, in Ireland, or America, regularly, but by the king's authority. Thus the persons of the Irish and Americans are the king's subjects, and consequently are bound by their allegiance : and the laws of England, which are received and adopted by the parliament of Ireland, or in like manner by America, shall bind them. And this is all I can learn by this last case of Hen. VII. and which I do not wish to controvert, nor see any thing in that or the precedent case to shake the authority of the case of

Rich. I. If it meant more, which I think cannot be proved, it meant contrary. I take it to the two cases of 20 Hen. VI. and 2 Rich. III. which will be the worse for the case, but not for the argument. However, I think it is fairest to construe it as may agree with reason and precedent authorities, and not against them.

It is further observable, that the laws of England were *introduced* into Ireland, as saith lord Coke, *all men agree*, by the IRISH PARLIAMENT itself; and at the *instance* of the Irish in the reign of king Hen. II. who first conquered Ireland; and that the question in 3 Hen. VII. arose, on the 25 Ed. III. cap. 2. and 3 Hen. V. cap. 6. and the 25 Eliz. III. cap. 2. is in *terms declaratory* of the *common law*; and the 3 Hen. V. cap. 6. is in *terms declaratory* of the 25 Edw. III. cap. 2. and the Irish parliament itself had *received* the law of England, as it was *before* the reign of Hen. II. at the *instance* of the *people of Ireland*. So that taking these acts to be *declaratory* of the *common law*, they were declaratory of that law, which the Irish parliament had, by the instance of the people of Ireland, made to be the law of Ireland: and if so, they were *clearly bound* by their *own express* consent.

And as the acts made since Hen. II. and king John, did not extend to Ireland, by a *parliament* holden in *Ireland*, 10 Hen. 7. an act called Poyning's Law was made, by which the statutes made in England *before* that time were by the *authority* of the parliament of Ireland *authorized, proved,*
and

and *confirmed*, in the realm of Ireland. Now I understand authorizing to mean *more* than merely *accepting*; I understand *approving* to mean more than merely being *bound* without consent; and I understand *confirmation* to mean, when a person, who has an interest in the thing, and a *competent* authority, makes that good by his assent and authority, which before existed in *fact*, but not in *right*: or to make what was voidable, as lord Coke expresses it, sure and unavoidable. As where grants and leases of a bishop, not warranted by the statute of 32 Hen. VIII. cap. 28. and other statutes, are *confirmed* by the dean and chapter. Now let us apply. Several statutes had been made by the parliament of England, some where *Ireland* was expressly named, as the 2 Hen. VI. cap. 4. already cited. It was held that Ireland was not bound by them: they were *voidable* in case Ireland would not accept them, and void, in the mean while, as to any particular subject of Ireland as soon as he dissented from them. To remove this difficulty, the people of Ireland, by their parliament, *confirm* these acts. Yes: but it is said, they only confirm such as did not *name Ireland expressly*, or in general words as all other the king's dominions; for the others were good before. It is acknowledged in Calvin's case, that those statutes which did not *name Ireland generally*, or *expressly*, did not *bind* Ireland, they were *no* laws as to Ireland, it is admitted on all hands. The Irish parliament then could not *confirm* these any more than I can confirm to a man who is not in possession

sion an estate which he has not. The laws of England were no laws in Ireland, unless they named Ireland *generally* or *expressly*, that at least is granted. If they named Ireland, they were laws of Ireland in *fact*, but not in right; when they were confirmed by the *Irish* parliament they were laws of Ireland, both by *fact* and *right*; but they could not be confirmed, unless they existed in Ireland before they were confirmed. No laws of England existed in Ireland, as Irish laws, but those which named Ireland generally or expressly; therefore none but these were confirmed; and they were confirmed to make them good when they were not good before: therefore by the plain construction I think of the statute 10 Henry VII. the laws of England since king Hen. II. and king John, expressly naming Ireland, were not good in Ireland till *confirmed* by the Irish parliament. What then is to become of the statutes not naming Ireland before 10 Hen. VII. the Irish *approved* and received them. So they approved those which had not named; they confirmed those which did name them: and they, the Irish parliament, made both sorts the law of Ireland. There might be a third sort, which neither naming Ireland expressly, nor generally, nor being declaratory of the common law, had yet been sent over into Ireland under the great seal: and these the Irish parliament *authorized*, as our parliament in England authorized, as far as they saw good, the canon and civil law. Those *only* which named Ireland, I conceive could be properly

confirmed; and in the reign of Hen. VII. the legal sense and use of words was pretty nicely observed: it follows then, that no laws of England were then understood to bind Ireland, but such as were authorized, approved, or confirmed, by the Irish parliament, which entirely agrees with the authority of the case of Rich. III.

It may be said, this discovery of the case of Rich. III. reaches farther than to disallow the claim of internal taxation. I cannot help it if it does: none of the judges that I find were either impeached or removed for their opinion; though if they had been both and more under Rich. III. it would, perhaps, not have lessened their credit much; nor have been very wonderful, when they had the spirit and firmness to give such an opinion in those times. Neither was it a novel opinion, for I find the same doctrine in the 20 Hen. VI. and held, I suppose, by the name and times by no less an authority than the wise and excellent Fortescue; and I find there were judges of the same opinion in the 1 Hen. VII. Indeed, if I mistake not, it could not be new, unless the constitution, and not only that, but reason and justice were new things. But if it should be thought to affect the navigation acts, it is to be considered, that if the American trade is worth nothing, as it has lately been urged to be worth less than nothing, the navigation acts, if there were no hopes of preserving them, are probably, in this case worth little. Next, if the American trade be, as I believe it, and as merchants
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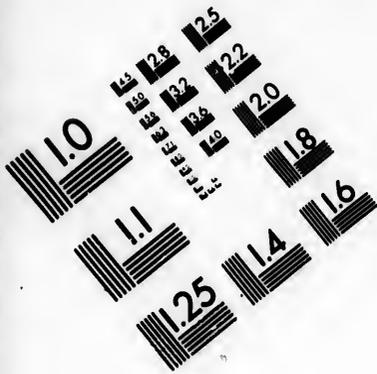
who should know, and ministry I imagine still concur to think ; if it be of high value and importance, I might quote Montesquieu, whose *dixit ipse*, was once strong enough, and who supports his opinion with great appearance, at least, of reason, which I shall always think better even than the best authority, that an open commerce is not worse for a state than a commerce under restrictions : I might quote a passage from that learned, elegant, and discerning author, lord Kaimes, which, I believe, would be strong indeed : I might farther say, that the Americans, if peace returned, would be bound by natural allegiance, not to trade with enemies at war with us, but on the contrary, to defend us and the other dominions of our common sovereign, as they have done, and as they declare themselves willing to do. But if war continues, no body can tell what will become not only of the navigation acts, but of the whole American trade, and to what enemies it might not be forced by resentment and despair of reconciliation.

Lastly, though I cannot say in such a case, that a common error makes law and right, *communis error facit jus* ; yet it makes something that approaches to law and right. The Americans have acquiesced many years in the theory and practice of those acts of navigation ; they have very lately expressed, if I mistake not, an acquiescence in them. If we are desirous of saving this part of our claims less burthenfome, less novel, less invidious, less dangerous infinitely than the rest, to them, and at least

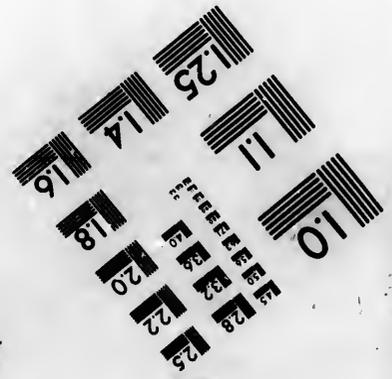
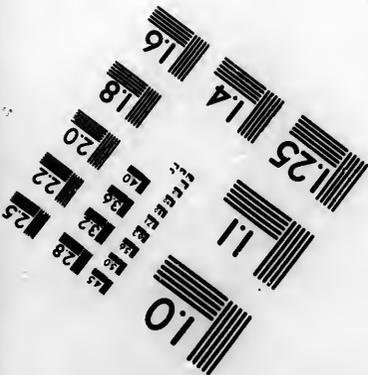
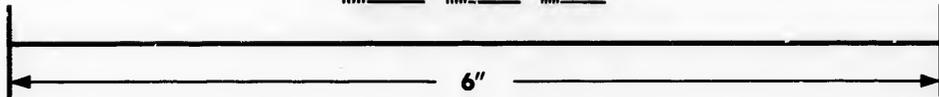
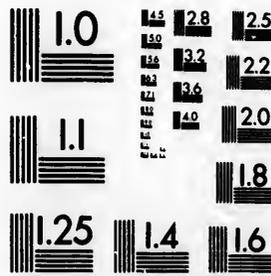
least of more colour of utility to us, let us cease hostilities. The most intrepid statesmen, and bravest soldiers, and men of approved integrity, have cried, in both houses, Cease hostilities. Let solemn *pacta conventa* be made between the British parliament and the provinces, (I am assured that a gentleman of distinguished character, and particularly connected in religious sentiments with one of the greatest of the colonies, looks to this as the surest basis of conciliation and amity); let us do justice, liberally and nobly; recognise their ancient charters, and solemnly secure to them their liberties (an act of dignity worthy of a British king and parliament), fixed and inviolable for ever. We may then, probably, expect, if we are ready to do this speedily, that the Americans will, on these terms, as honourable to us as necessary to them, freely, solemnly, and effectually recognize our acts of navigation in the British dominions, and live free in love and union under one common constitution, and form one empire, united by the strongest and most universal bond of mutual interests and affections, unshaken from within, and by the favour of heaven and our combined strength and resolution, impregnable to all external assaults. This, or any way that may effectuate our common peace, liberty, and happiness, may the Father of peace, of liberty and mankind, and of every good, our deliverer and preserver, prosper and accomplish.

And, perhaps, here I should have closed, but my heart is filled with the anxiety of a son pleading
for





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for the life of his father. My heart would yearn over France or Spain in the situation in which England appears before me. Suffer me to add one case more, that we may judge, if we yet doubt it, what lord Holt would have said upon this question.

I mean to cite the *noble* opinion of that *excellent* lord chief justice in Ashby and White, 6 Mod. Reports. "It is they whose PERSONS, ESTATES, and LIBERTIES are put in the power of the *chosen* member, that ought to have the RIGHT of *voting* for, and *choosing* such member vested in them. And it is not *quatenus* they are a corporation, they can give this power to bind their property, but as they are particular, private, NATURAL PERSONS." Are the persons, estates, and liberties of the Americans to be governed by this rule, or not?

And again, saith lord Holt in the same case :

"I wonder to hear it said, that it is so small a right as any injury offered to it should be unpunishable. Is this a little thing to have the privilege of giving my vote in the election of a person in whose power my life, estate, and liberty lie, obstructed?" Would he not have said, Is it a little thing for my life, estate, and liberty to lay in the power of persons, whom neither I, nor the community in which all these reside, do, or can choose as the *proper* representative of them. And then he says, V. the statute of 33 and 34 Hen. VIII. and 25 Car. II. cap. 5. concerning Chester the one, and the other concerning Durham, and note the words *privileges* and *liberties* in them, as if he had said,

Note,

Note, the legislature well understood when they made this statute, that they did not *give favours, or indulgences*, but *declare antecedent privileges, original, inherent, unalienable RIGHTS of the ESSENCE of FREEDOM*; and therefore, the *property and inheritance of Englishmen every-where*. For, if not *every where*, why in Chester or Durham, who needed them much less than America: if there can be difference of less or greater in absolute essential rights necessary to freedom.

And towards the end, lord Holt says again, " Let us consider wherein the law consists, not in particular instances, but in the reason that rules them, *Ubi eadem ratio ibi idem jus*. Weigh then the *reason* why Englishmen are not bound but by laws made by members of their own choosing; it is not because a charter has said it; it is not because the usage has authorised it; it is even because the constitution requires it; nay, and for a farther yet and still better reason. If James or Charles had *abolished* parliaments, we should have had a *right now* to demand their restoration; if there had never been a parliament from that time to this. If from the creation of the world we had been always *slaves*, always governed without our consent, we should have had a right to insist on being free. But this country hath been immemorially governed by laws of its own making; by representatives of its own choosing: it has been immemorially FREE, GREAT, and HAPPY. England has been the friend, the assertor, the great protectress of liberty, and of the rights of mankind. It is not because a man

is born in London, or York, that he is to choose his representatives ; it is *privilege* and his *liberty* in Chester, in Durham, in Manchester, (for Manchester is in a county, and every county has, and sends representatives) in Ireland and in America. He is a man, and has a *right* to be *free* : he is an Englishman, and his liberty is defined, secured, and pledged to him by statutes and charters almost innumerable. It is interwoven in the common law, and in the inmost recesses of our wonderful constitution, lives in every vein and member ; animates, unites, and sustains the whole. To be an Englishman, and to be partially represented is inconvenient, and, in proportion as the representation is defective, *unjust*. To be an Englishman, and not represented at all but in fiction and shadow, is something that wants a name. By the constitution of the land, the commons are to send particular members chosen BY and FROM THEMSELVES (says lord Holt, in the case just now cited to PARLIAMENT ; and when they are chosen, they have the full POWER and AUTHORITY of them that SENT them." Thus this oracle of the law defines the nature and authority of parliament. Are those members chosen by the Americans who are chosen by and for us ? Are they members or representatives chosen FROM THEM, who are chosen from US HERE, at the distance of a thousand leagues ? And the authority of parliament being *that*, and that *only*, of those who sent them, can *any* or *all* of us, who send members, dream of an authority over America ? V. 2 Salk. fol. 503, 504.

I have thus endeavoured to examine the cases which have been thought to make against America : I hope it is proved, that partly they are nothing to the point ; partly the opinion hasty, doubtfully reported, and not settled or unanimous, and partly founded upon mistake of facts. I hope too it has been shewn, that the case of Rich. III. is *much stronger* than even was supposed : that it amounts to declaring Ireland not bound by an act of our parliament, in which Ireland was expressly named, and expressly intended to be bound. That in the reign of Hen. VI. it was held, not Ireland only was not bound by a grant of tenths, made by our parliament, but not even Chester or Durham. That the legislature by statute of Hen. VII. called Poyning's act, considered the authority of the Irish parliament necessary to bind the people of Ireland : and that there is reason to think they thought it necessary, as much when Ireland was named, as when it was not named : and that the legislature in this acted as Hen. II. the *conqueror* of Ireland, and his successor king John had acted. I might cite lord Hale, that Ed. I. introduced the laws of England into Scotland, gently and gradually with the good will of the people ; or by the express consent of the *parliament of Scotland**. I might make similar observations even farther, perhaps, if necessary. I have observed what lord Holt says of the importance of choosing those on whom the estates, lives, and liberties of a people are to

* History of the Common Law.

depend ; that they should not depend on *those* whom they did not *choose* ; that there is no human power but is limited and circumscribed by law ; and still more strongly by natural justice. I might speak of the *novelty* of taxing the Americans by our parliament. I might speak of the strange taxes to which king William resorted rather than tax them. Not only taxing bachelors (perhaps the most equitable and politic of taxes), but taxing fathers for the death of their sons, wives for their husbands, and raising himself supplies for the war with France out of the grief and calamities befallen to his subjects : nay, taxing *marriages* *. But he came from Holland : he knew the effects of one country taxing and legislating for another. The inconveniencies the people put on themselves by their *own* legislature might be taken off ; the inconveniencies they should put on others, would, perhaps, not be felt till they were without remedy to others and to themselves. I might say we have found, and are likely to find, that the Americans will give more to affection than they will yield to force. I will end by saying we are too *great* to be in danger of ruin but from ourselves ; but it was an advice of no bad policy, though given by an apostle, “ If we bite and devour one another, let us take heed lest we be consumed.” An event, which to avoid, merits all our prayers, all our anxiety, all our candour and prudence, and all our endeavours. And O may England and America unite again, never more to be divided !

* Vide Ruffhead's Appendix, 9th vol.

